

**State of Florida
Department of Community Affairs
Areas of Critical State Concern
Implementation Status Report – Big Cypress Swamp Area**



**Thaddeus L. Cohen, AIA
Secretary
November 2006**

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AREAS OF CRITICAL STATE CONCERN
Status of Compliance with Chapters 163 and Chapters 380, Florida Statutes

PART 1 – SUMMARY AND RECOMMENDATION

Introduction – The Program in General

Florida's Areas of Critical State Concern Program was adopted by the Florida Legislature in the early 1970's as Section 380.05, Florida Statutes, pre-dating Florida's Growth Management Act. The program was created to provide a coordinated approach for land development in areas possessing resources of state significance and thus provide a means to protect the resources through adequate planning, adoption of land development regulations and provision of adequate infrastructure. At the time of the program's creation, most local governments in Florida did not have adequate local plans to address future growth and provide for protection of resources of state significance.

Designated Areas

Since the program's inception, five areas have been designated: Big Cypress Area, the Green Swamp, the City of Key West, the Florida Keys Area; and the Apalachicola Bay Area (including the City of Apalachicola, the City of Carrabelle and unincorporated Franklin County, excluding Alligator Point).

This report addresses the status of the Big Cypress Swamp area with regard to its comprehensive plan, land development regulations, administration of the critical area program, level of compliance with growth management laws, and a recommendation as whether to continue the designation.

Big Cypress Designation

The Big Cypress ACSC, which includes portions of Collier County and a small section of swamp located in Miami-Dade County along Alligator Alley, was designated by the Big Cypress Conservation Act of 1973, Section 380.055, Florida Statutes. The Area contains, and has significant impact upon, environmental and natural resources of regional and statewide importance. Designation of the area was deemed desirable and necessary to conserve and protect its natural resources and scenic beauty, and to enable an agreement between the State of Florida and the United States government, wherein the state would contribute toward the cost of acquisition of land and water areas and related rights and interests within the area proposed as the Big Cypress National Preserve, Florida.

Status of Implementation

Adoption and administration of regulations governing the Big Cypress Area is under the jurisdiction of Collier County.

- Collier County's Comprehensive Plan was adopted in July 1991. Its first Evaluation and Appraisal Report (EAR) was found sufficient in July 1996, and its second EAR was found sufficient in December 2004. The next EAR is due in 2011.

- Collier County has adopted land development regulations that are being enforced on privately-owned property in support of the County's adopted comprehensive plan.
- The Collier County Comprehensive Plan and Land Development Regulations include guidelines and policies regulating development within the Big Cypress ACSC. The guidelines and policies are identical to, and are therefore consistent with, the State guidelines for the ACSC.
- All development orders issued for projects within the Big Cypress ACSC are transmitted to the State of Florida, Department of Community Affairs for review, with the potential for appeal to the Administration Commission pursuant to the Florida Administrative Code
- Very little development occurs in Big Cypress, with the exception of a vested Development of Regional Impact site, located at Port of the Islands.
- Most of the land in the Big Cypress area is in federal ownership. A significant portion of the non-federally-owned land is in state ownership. These state and federal lands are designated as "conservation" on the Collier County Future Land Use Map (FLUM). The remainder the land is mainly in agricultural use and designated as such on the FLUM. There are three small enclaves of urban residential uses.
- The entire Big Cypress Swamp area is in a Water Resource Caution Area, under which additional standards are set by the Water Management District.
- Agricultural land use development, primarily citrus production, located in Collier County, north of the Big Cypress Preserve but within the State designated Area of Critical State Concern, is extensive and expanding to State Road 29. Under Section 380.05, Florida Statutes, agricultural site alterations are not defined as "development" and such lands are not subject to the site alteration limitations under the Department rule that regulates development in the Big Cypress ACSC. Furthermore, under Chapter 28-25.004 Agricultural Exemption, the use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products, raising livestock or for other purposes directly related to all such uses are exempt from the regulations within the Big Cypress ACSC.
- Inasmuch as agricultural land uses are not considered development under the ACSC law, the potential exists for land without the Big Cypress Swamp designation to be rezoned for residential development once the agricultural use is terminated. The Department will initiate a dialogue with the private land owners to encourage restoration of these lands to their natural state and to provide appropriate policies in the local planning framework, to be utilized by the local government if an agricultural use is terminated.

The Department has not taken any appeals or filed any Notices of Violation in the Big Cypress area during the last 14 years. Collier County is adequately implementing its plan and land development regulations. Concerns that might arise related to non-agricultural re-use of land can be addressed through Department assistance to the local government.

Requirements for Removal of Designation

The Department reviews three basic requirements to consider and recommend to the Governor and Cabinet, sitting as the Administration Commission, the removal of designation of an Area of Critical State Concern:

1. Adoption of adequate comprehensive plans consistent with the Principles for Guiding Development and periodic evaluation of the plan.
2. Adoption of adequate land development regulations to implement the plan and the Principles for Guiding Development.
3. Administration of the plans and regulations in a manner that ensures protection of resources and demonstrates proper implementation based upon Department review and monitoring of issuance of permits and development orders and absence of legal action filed by the Department.

In addition, the Department reviews any specific requirements for the Area that were included in the legislation or rulemaking designation actions. These requirements, and the local government's response to them, are detailed in the Status Report Summary table following this section.

Recommendation for Removal of Designation

Based on the local government's progress in addressing regulatory requirements related to the Area of Critical State Concern designation and relevant land use planning requirements pursuant to Chapter 163, Part II, Florida Statutes, as summarized in the following section, the Department recommends that the Administration Commission initiate rule making to remove the designation for the following local government:

Big Cypress Swamp Area of Critical State Concern (Collier; Miami-Dade County)

PART 2 – TABULAR STATUS REPORT SUMMARY
BIG CYPRESS SWAMP AREA OF CRITICAL STATE CONCERN

**FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, DIVISION OF COMMUNITY PLANNING
BIG CYPRESS SWAMP AREA OF CRITICAL STATE CONCERN
STATUS REPORT SUMMARY**

Community	Section 380.05, F.S. Purpose of Designation	Principles for Guiding Development Florida Administrative Code	Adequate Comprehensive Plans	Adequate Land Development Regulations	Adequate Structure for Plan Administration	Outstanding Issues
			Chapter 163, Florida Statutes Rule 9J-5, Florida Administrative Code	Chapter 380.05, F.S. Land Development Regulations		
BIG CYPRESS AREA, COLLIER COUNTY	<p>Protection of habitat for threatened and endangered species.</p> <p>Protection of upland and marine resources.</p> <p>To conserve and protect the natural resources and scenic beauty of the Big Cypress Area of Florida (380.055 F.S.)</p>	<p>28.25.006 Site Alteration</p> <p>Site alteration is limited to 10% of the total site size, and installation of nonpermeable surfaces shall not exceed 50% of any such area. However, a minimum of 2,500 square feet may be altered on any permitted site.</p> <p>Except for roads, any nonpermeable surface greater than 20,000 square feet shall provide for release of surface run off, collected or uncollected, in a manner approximating the natural surface water flow regime of the area.</p> <p>Soils exposed during site alternation shall be stabilized and retention ponds or performance equivalent structures maintained to retain run off and siltation on the construction site.</p> <p>No mangrove trees or salt marsh grasses shall be destroyed or otherwise altered.</p> <p>Fill areas and related dredge or borrow ponds shall be aligned substantially in the direction of local surface water flows.</p> <p>Man-made lakes, ponds shall be constructed with a maximum slope of 30 degrees to a depth of six feet of water.</p> <p>Finger canals shall not be constructed in the Critical Area.</p>	<p>Policy 6.2.3</p> <p>Collier County shall implement a comprehensive process to ensure wetlands and the natural functions of wetlands are protected and conserved. The large connected wetland systems shall be protected through various Land Use Designations and Overlays.</p> <p>Big Cypress Area of Critical State Concern Overlay (ACSC) The land development regulations contained in the ACSC Overlay District on the Future Land Use Map provide standards that facilitate the goal of directing higher intensity land uses away from wetland systems. The development standards for the ACSC Overlay specify that site alterations shall be limited to 10% of the total site. A large percentage of the land contained within the ACSC is also within the Conservation Designation and thus is subject to the land use limitations of that Land Use Designation.</p> <p>Policy 7.1.1</p> <p>Incompatible land uses are directed away from listed species and their habitats.</p> <p>Big Cypress Area of Critical State Concern Overlay (ACSC) The land development regulations contained in the ACSC Overlay district provide standards that facilitate the goal of directing incompatible land uses away from listed species and their habitats.</p>	<p>2.03.07 Overlay Zoning Districts</p> <p>5. In accordance with 380.05, F.S. and chapter 73-131 Laws of Florida, the administrative commission instituted regulations for the Big ACSC. The purpose of these regulations is to conserve and protect the natural, environmental, and economic resources of the Big Cypress area. Furthermore, these regulations are to provide a land and water management system that will preserve water quality, provide for the optimum utilization of the limited water resources of the area, facilitate orderly and well-planned development, and protect the health, safety and welfare of residents of the state. The Florida Administrative Code establishes criteria for site alteration, drainage, transportation facilities and structure installation. These regulations are implemented in section 4.02.14. An overlay zoning classification to be known as Area of Critical State Concern/Special Treatment Overlay shall be designated.</p> <p>4.02.14 Development in the ACSC-ST District</p> <p>-site alteration, drainage, transportation and structure installation regulations are an exact duplication of the State guidelines for the ACSC</p>	<p>No Appeals or Violations for 14 years.</p>	<p>In cooperation with Collier County, development of a plan for reclamation of lands used for agriculture should the agricultural use be discontinued.</p>

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BIG CYPRESS SWAMP AREA OF CRITICAL STATE CONCERN
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			Chapter 163, Florida Statutes Rule 9J-5, Florida Administrative Code	Chapter 380.05, F.S. Land Development Regulations		
BIG CYPRESS AREA, COLLIER COUNTY	<p>Protection of habitat for threatened and endangered species.</p> <p>Protection of upland and marine resources.</p> <p>To conserve and protect the natural resources and scenic beauty of the Big Cypress Area of Florida (380.055 F.S.)</p>	<p>28.25.006 Site Alteration</p> <p>Site alteration is limited to 10% of the total site size, and installation of nonpermeable surfaces shall not exceed 50% of any such area. However, a minimum of 2,500 square feet may be altered on any permitted site.</p> <p>Except for roads, any nonpermeable surface greater than 20,000 square feet shall provide for release of surface run off, collected or uncollected, in a manner approximating the natural surface water flow regime of the area.</p> <p>Soils exposed during site alternation shall be stabilized and retention ponds or performance equivalent structures maintained to retain run off and siltation on the construction site.</p> <p>No mangrove trees or salt marsh grasses shall be destroyed or otherwise altered.</p> <p>Fill areas and related dredge or borrow ponds shall be aligned substantially in the direction of local surface water flows.</p> <p>Man-made lakes, ponds shall be constructed with a maximum slope of 30 degrees to a depth of six feet of water.</p> <p>Finger canals shall not be constructed in the Critical Area.</p>	<p>CONTINUED</p> <p>Policy 3.1 (b) Protect environmentally sensitive lands and provide for open space. This shall be accomplished in the Rural Fringe Mixed Use District through various Land Use Designations that restrict higher intensity land uses and require specific land development standards for the remaining allowable land uses and through the adoption of permanent NRPA Overlays and integration of State of Florida Big Cypress Area of Critical State Concern regulations into the Collier County Land Development Code.</p>	<p>2.03.05 Open Space Zoning District B. Conservation District "CON". The purpose and intent is to conserve, protect, and maintain vital natural resource lands within unincorporated Collier County that are owned primarily by the public. All proposals for development in the CON district must be subject to rigorous review to ensure that the impacts of the development do not destroy or unacceptably degrade the inherent functional values. The CON district includes such public lands as Everglades National Park, Big Cypress National Preserve, portions of the Big Cypress Area of Critical State Concern, etc. The CON district corresponds to and implements the conservation land use designation on the future land use map of the Collier County GMP.</p> <p>3.05.00 VEGETATION REMOVAL, PROTECTION, AND PRESERVATION A. The purpose of this section is the protection of vegetation within the County by regulating its removal</p> <p>4.02.14 Development in the ACSC-ST District - site alteration regulations are an exact duplication of the State guidelines for the ACSC</p>	<p>No Appeals or Violations for 14 years.</p>	<p>In cooperation with Collier County, development of a plan for reclamation of lands used for agriculture should the agricultural use be discontinued.</p>

**FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, DIVISION OF COMMUNITY PLANNING
BIG CYPRESS SWAMP AREA OF CRITICAL STATE CONCERN
STATUS REPORT SUMMARY**

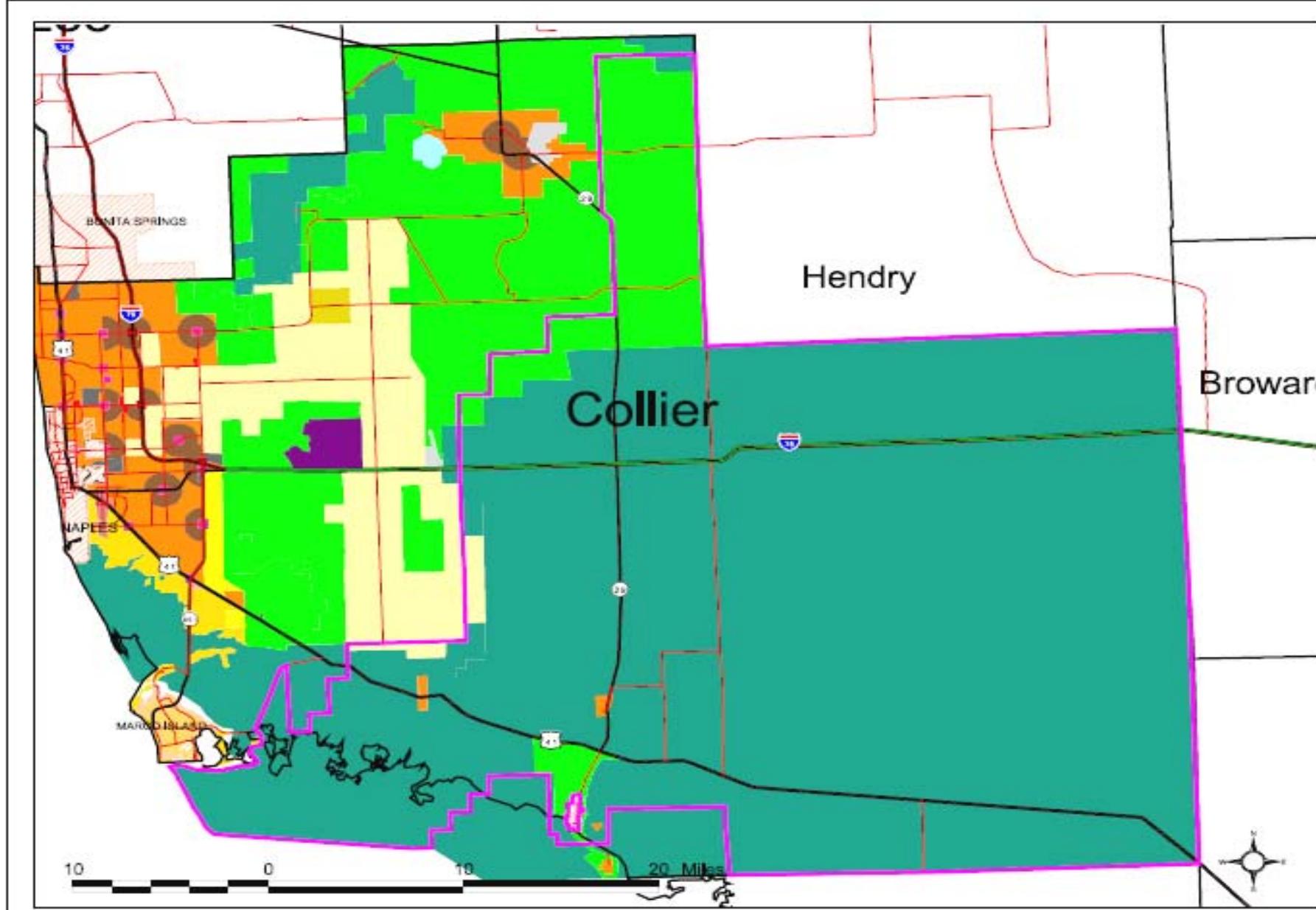
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Legend

- BIG CYPRESS ACSC COLLIER
- MUNICIPALITIES (FGDL - 2005)
- COLLIER CO. FUTURE LAND USE MAP**
- Agriculture Rural Mixed Use
- Estates Designation
- Rural Settlement Area Subdistrict
- Urban Residential Fringe Subdistrict
- Urban Coastal Fringe Subdistrict
- Urban Residential Subdistrict
- Residential Density Center
- Bayshore/Gateway Triangle Redevelopment
- Goodlette/Pine Ridge Commercial Int'l District
- Livingston Road / Saxonwood Lane Commercial Int'l Subdistrict
- Livingston Road Commercial Int'l Subdistrict
- Livingston/Pine Ridge Commercial Int'l Subdistrict
- Vanderbilt Beach/Collier Blvd Commercial Subdistrict
- Beachchange Activity Center Subdistrict
- Henderson Creek Mixed Use Subdistrict
- Mixed Use Activity Center Subdistrict
- Orange Blossom Mixed Use District
- Rural Industrial District
- Industrial District
- Study Area
- Conservation Designation
- Water
- Incorporated Area

Prepared by:
GIS Lab
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Requested by:
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Date Created:
September 28, 2006



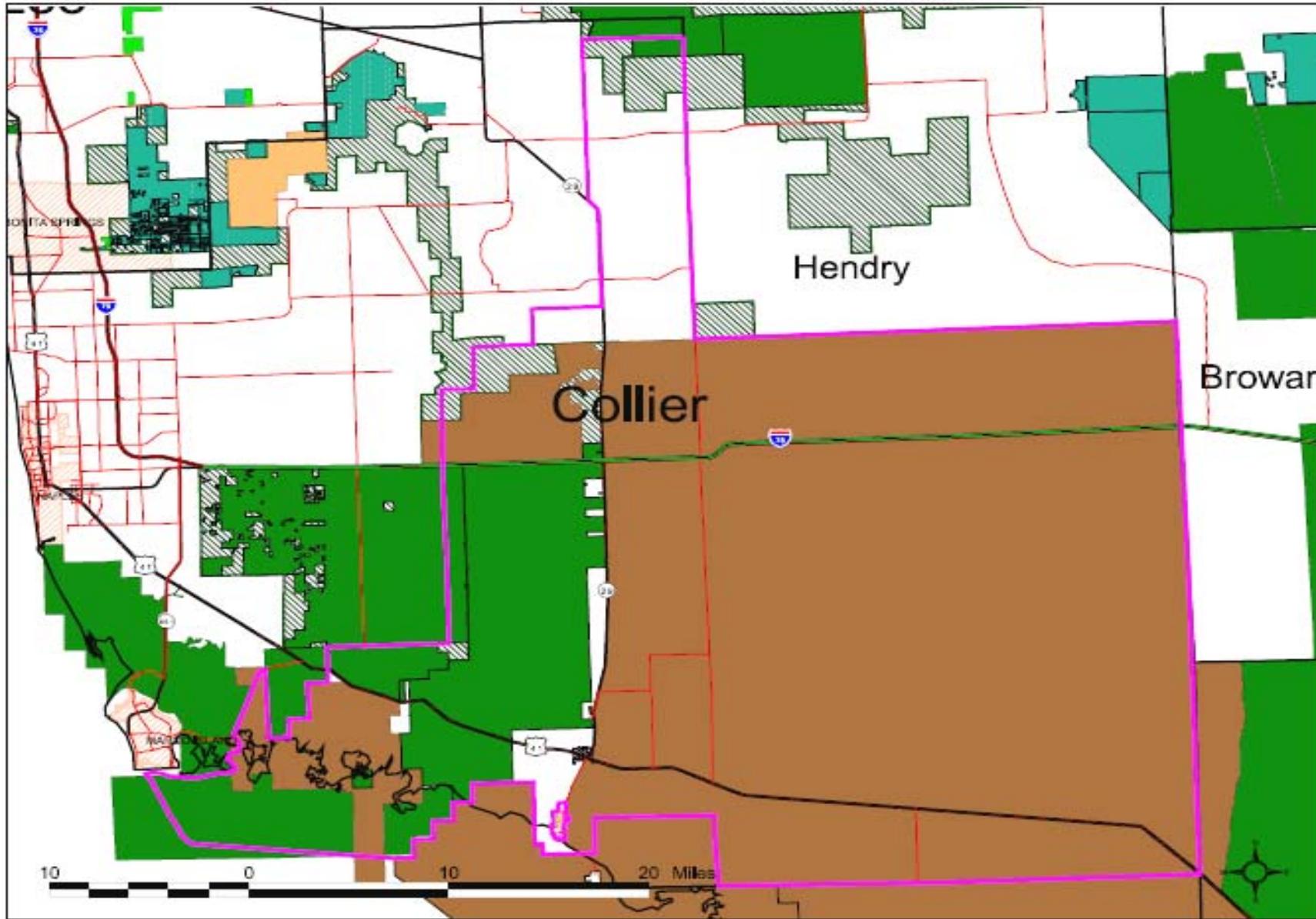
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**Big Cypress ACSC -
Future Land Use Map**



**Florida Department of
Community Affairs**
Division of
Community Planning



Legend

- Big Cypress ACSC Collier
- CONSERVATION AREAS (2005)**
- Federal
- State
- Water Management District
- County
- Municipality
- Private
- FLORIDA FOREVER PROJECTS (2005)
- MUNICIPALITIES (FGDL - 2006)

Prepared by:
GIS Lab

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Date Created:
September 28, 2006



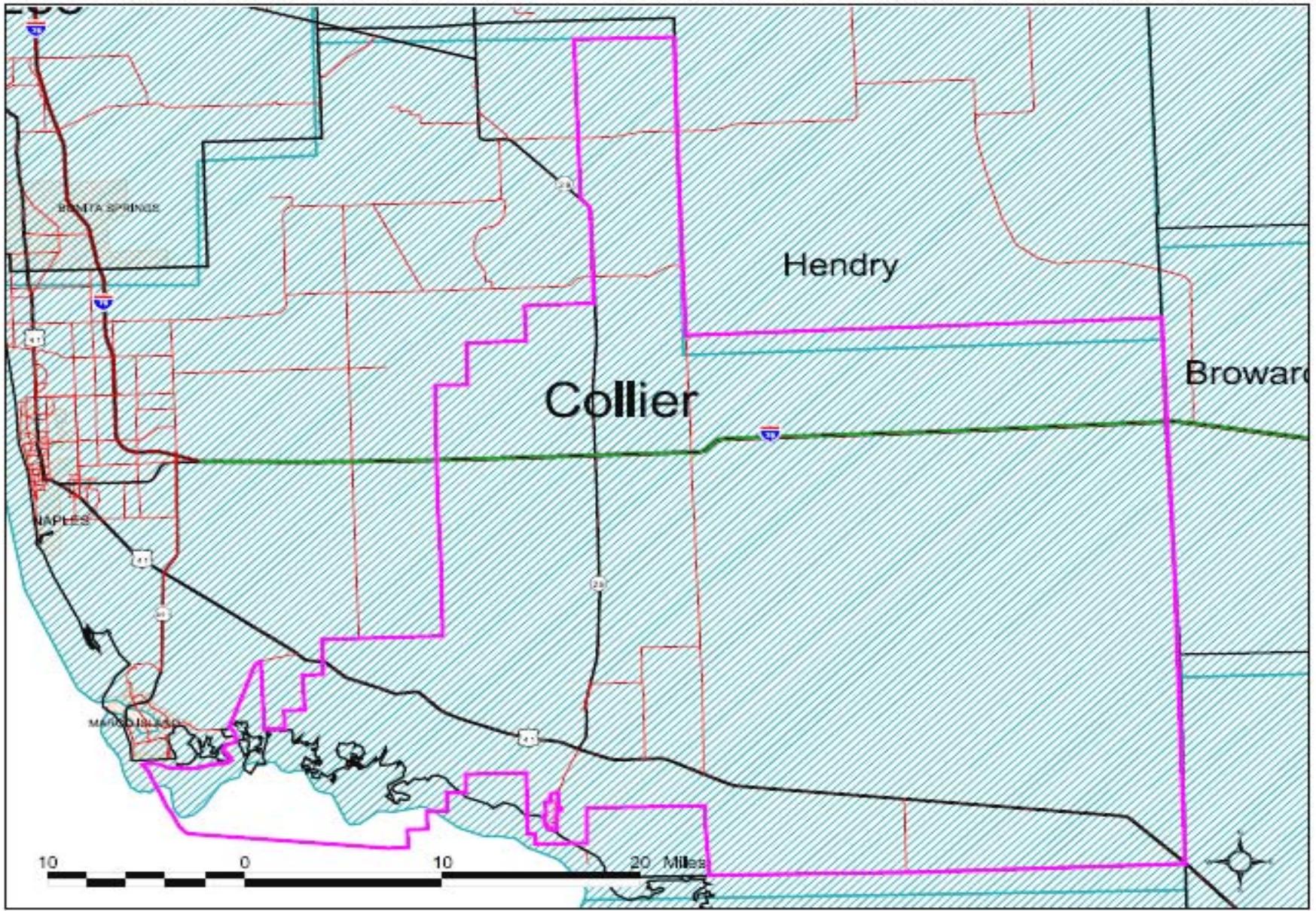
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Big Cypress ACSC Conservation Lands

**Florida Department of
Community Affairs**

Division of
Community Planning



Legend

- BIG CYPRESS ACSC COLLIER
- PRIORITY WATER RESOURCE CAUTION AREAS
- MUNICIPALITIES (FOOL - 2006)

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Big Cypress ACSC - Priority Water Resource Caution Areas



Florida Department of
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Division of
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