



**CPA2000-25  
BoCC SPONSORED  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**BoCC Adoption Document**

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(941) 479-8585*

**January 10, 2002**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2000-25**

☒

**Text Amendment**

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**Map Amendment**

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

STAFF REPORT PREPARATION DATE: March 16, 2001

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

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

**2. REQUEST:**

Amend the Parks, Recreation and Open Space Element by amending the language of Goal 52, and adding a new Objective and Policies to Goal 52, Development Requirements, clarifying the purpose of open space in non-residential projects. The request does not increase the required amount of open space. The allocation of open space in relation to preserving indigenous plant communities and large native trees is to be evaluated at the time of zoning review.

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

- 1. REVISED STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1.:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent policies are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**2. LPA RECOMMENDED LANGUAGE:** The LPA recommends that the Board of County Commissioners transmit this proposed amendment with the following language:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space ~~for their future residents~~ for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

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**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**3. ORIGINAL STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

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**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

- Goal 52 of the Lee Plan, as it currently reads, could be interpreted as requiring open space for residential developments, but not for commercial or industrial developments.
- Section 10-415 of the Lee County Land Development Code (LDC) clearly contains open space requirements for commercial and industrial developments, although they are less than those for residential developments.
- The proposed Lee Plan Policies do not increase the amount of required open space.
- It has been the experience of Planning staff, through the planned development rezoning review process, that many applications are requesting deviations from the open space requirements for commercial and industrial developments, without sufficient justification.
- The LDC requires less open space for commercial and industrial developments than for residential developments, even though the intensity of use is generally higher for commercial and industrial projects.
- The importance of functional open space in commercial and industrial developments is equal to or more than in residential developments due to the impacts that commercial and industrial uses have on the land.
- Land containing large native trees without the associated understory do not meet the LDC definition of indigenous plant community, however, the preservation of large native trees within projects is important to the quality of development and provides a consistent quality of life for the community.
- Preservation of indigenous plant communities and native trees provides benefits to the general public as well as to wildlife.
- The proposed open space policies do not increase the cost of development, and can reduce the landscaping cost by using the existing native vegetation to meet the LDC required buffers and trees.

#### **C. BACKGROUND INFORMATION**

Goal 52 of the Lee Plan currently requires new developments to provide adequate open space for their future residents. By stating that the open space is for future residents, implies that open space is only encouraged in residential developments. The LDC requires open space in commercial and industrial developments, although the requirements are generally less than those for residential developments. It has become apparent to staff, through zoning deviation requests to reduce open space within commercial and industrial developments, that there is a need to clarify the purpose and importance of open space in nonresidential projects within the Lee Plan. While the open space requirements for commercial and industrial projects are less than for residential projects, the intensity of use for

commercial and industrial projects is much greater, potentially leading to more negative environmental impacts. The Lee Plan as currently worded does not emphasize the need for open space in non-residential projects to provide a sound basis for requiring open space during the rezoning process. This proposal does not increase the required amount of open space. The proposed amendment to Goal 52 seeks to provide clarification of open space design in all projects during the rezoning process to insure the quality of indigenous plant communities and/or native tree preservation within open space areas.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

Currently, **Chapter V, Parks, Recreation and Open Space**, only addresses open space requirements of residential developments under Goal 52 and the associate objective and policies. It was likely unintended that Goal 52 of the Lee Plan does not directly address the importance of open space in non-residential developments because the issue is incorporated into other areas of the Lee Plan as well as in the LDC. It is important to revise Goal 52 to clearly state the importance that is placed on the provision of open space within commercial and industrial development.

The Lee Plan contains language within the land use policies of Goals 6, 7, and 77 that address design of projects to achieve visual harmony, screening, buffering, protection of natural resources, and maintaining water quality. These policies are as follows:

- Policy 6.1.3 requires commercial planned developments to arrange uses as an integrated and cohesive unit in order to provide visual harmony and screening and protect natural resources.
- Policy 6.1.6 requires land development regulations requiring commercial development to provide adequate and appropriate landscaping, open space, and buffering.
- Policy 7.1.1 requires that applications for industrial development be evaluated by staff with particular attention to buffering and screening, impacts and effects on environmental and natural resources, and impacts on water quality.
- Policy 7.1.2 requires industrial planned developments to arrange uses as an integrated and cohesive unit in order to promote compatibility and screening, and protect natural resources.
- Policy 7.1.8 requires land development regulations requiring industrial uses to be adequately buffered and screened from adjacent existing or proposed residential areas so as to prevent visual blight and noise pollution.
- Policy 77.2.9 requires the county to maintain regulations, incentives, and programs for preserving and planting native plant species.

The provision of open space in non-residential developments is consistent with the policies listed above. Open space provides pervious land area for buffering, visual relief, landscaping, surface water

treatment, and preservation of existing native trees and plant communities. LDC Section 10-412 states the purpose and intent of LDC Division 6, Open Space, Buffering and Landscaping, is to improve the aesthetic appearance of commercial, industrial and residential developments through the requirement of minimum open space and landscaping in ways that compliment the natural and built environment. This section makes it clear that open space in commercial and industrial developments has the same importance as open space in residential developments.

The functions of open space in non-residential developments are many. In Urban Land Use Planning by Kaiser, Godschalk, and Chapin (4<sup>th</sup> Edition, 1995), the authors list examples of the services performed by open space including: water storage and purification, dispersal of atmospheric pollution, flood control, erosion control, topsoil accumulation, wildlife breeding and spawning, and wildlife and plant habitat (p. 295). The importance of these services is magnified in non-residential developments because they generally produce more negative environmental impacts than residential developments. Open spaces in non-residential developments also have a positive impact on surface water quality. Non-residential uses are generally located in the most urbanized areas with a high percentage of impervious surface. As areas of impervious surface increase, the volume of water infiltrating the soil is reduced and, consequently, more water flows off-site and unabated into natural surface waters. Open spaces can serve to filter the stormwater within the property and reduce the amount of off-site stormwater runoff. This function is particularly important in a coastal area such as Lee County, where there are greater possibilities for surface water contamination.

Many properties within Lee County contain large, native trees with pastureland as the only understory. These areas do not meet the LDC definition of indigenous vegetation community. However, it is important to preserve large, native trees even when the understory portion of the plant community is not present. Large trees provide visual relief and cooling in the urban environment that it would take decades for the code required trees to achieve. The LDC currently encourages the retention of native trees by offering protected tree credits for native trees retained on-site with a minimum four inch caliper. These credits apply toward meeting the general and buffer tree requirements. There is limited success at the time of local development order review to have the developer revise the site design to retain native trees.

Lee County has taken a number of steps to improve the aesthetics of developing areas and insure a consistent quality of life throughout the county. In December of 1998 the Board of County Commissioners (BOCC) adopted a revised landscape code and architectural standards. The landscape code revisions addressed buffering and landscape standards. Projects subject to these revisions are just beginning to be completed. The improvements to commercial and industrial sites are noticeable, and staff has received positive comments from citizens.

Additionally, the BOCC committed to a substantial street landscaping program in 1998 (advisory committee established 1996) to prioritize roadway corridors and establish landscaping designs. The LeeScape street-landscaping program has \$500,000 budgeted for the design and installation of landscaping each year along county maintained roadways. The first project completed was the landscaping of Daniels Parkway from Ben Pratt/Six Mile Cypress Parkway to the Southwest Florida International Airport. Lee County Department of Transportation has also planted native trees adjacent to the sidewalk along Gladiolus Parkway along Lakes Park to Summerlin Boulevard.

The County's Community Redevelopment Agency (CRA) efforts have resulted in additional landscaping on roadways in the community. The table below provides a summary of these projects:

<b>Community</b>	<b>Amount Expended</b>	<b>Year Built</b>	<b>Project Location</b>
Bonita Springs	\$3.5 million	1998-1999	Old 41
Tice/Ft. Myers Shore	\$462,673	2000	S.R. 80 (Phase I & II)
Tice/Ft. Myers Shore	\$240,580 (estimated)	2001	S.R. 80 (Phase III & IV)
Lehigh Acres	\$243,108	2000	Lee Boulevard
Lehigh Acres	\$280,000		Homestead Road
San Carlos Island	\$47,426	2000	
North Fort Myers	\$555,553	2000	Old 41 - N. Tamiami Trail
North Fort Myers	\$222,996	2001 (under Const.)	Bayshore Road

The proposed Lee Plan Objective 52.3 and subsequent policies are important to include in the Lee Plan to emphasize and clarify the county's commitment to insuring development occurs in an aesthetically pleasing manner while maintaining the natural character of Lee County as much as possible. The open space design objective and policies emphasize the importance of considering the natural features of the site in relation to preserving native trees and plant communities, providing visual relief, and buffering neighboring properties. The open space plan is most appropriately addressed at the zoning review stage instead of the development order review time since it is earlier in the design process and there is more flexibility to address the open space issues inherent to the specific property and development proposed. Addressing these issues at zoning review will enhance the final site designs submitted as local development orders, and increase the success of protecting Lee County's natural character. Additionally, in the case of Planned Development rezoning, the review process establishes a Master Concept Plan that establishes the permitted uses of the site as well as the location of open space and buffer areas.

The landscaping and architectural standards that were updated in 1998 did not address open space. It has become apparent through the rezoning process that it is necessary to clarify the importance of open space design. This proposal provides policies to clearly state open space design criteria. Some of the buffering and landscaping requirements may be met through designing the open space to preserve native trees and plant communities. The landscape, open space and architectural standards do not prohibit the development of the property nor do they eliminate uses.

Planning staff includes an attachment demonstrating the visual relief achieved by providing preserves retaining large, native trees along rights-of-way and within developments(see Attachment A).

Lee Plan Policy 110.6.1 directs county staff to generally assess the impact of any proposed regulation which potentially imposes new costs to taxpayers and private businesses. Currently open space needs to be factored in when the development order plan is designed, therefore, no additional cost should be generated by including the open space design on the Master Concept Plan. The proposed open space design criteria can reduce the landscaping costs through preserving existing native vegetation to meet the buffering and landscaping requirements. The required open space area remains as adopted in LDC Section 10-415. Additional lands are not required to be set aside as open space. Therefore the same amount of development area will be available on the parcel.

The BOCC established minimum open space requirements for residential, commercial and industrial developments per LDC Section 10-415. Residential developments are required to provide the greatest amount of open space at 35% for small projects and 40% for large projects to meet the needs of the residents. Commercial developments are required to provide slightly less open space at 20% for small projects and 30% for large projects to provide visual relief in the urban environment and sufficient surface water management areas. Industrial developments are required to provide the least amount of open space at 10% for small projects and 20% for large projects to provide adequate buffering and screening, as well as sufficient surface water management areas. These various open space requirements show that the LDC acknowledges the need and purpose of open space in non-residential developments. This amendment is meant to revise Goal 52 of the Lee Plan to be consistent with the existing LDC standards in terms of acknowledging the importance of open space in commercial and industrial projects. The amendment also provides the development community with guidance for designing open space within proposed projects.

## **B. CONCLUSIONS**

The purpose of open space in a development is to provide pervious land area to achieve appropriate buffering, visual relief, landscaping, surface water treatment, and preservation of existing native trees and plant communities. Open space in non-residential developments functions as it does in residential developments. Goal 52 of the Lee Plan currently does not treat all types of open space equally, addressing only residential open space. This is not consistent with other provisions of the Lee Plan or with the LDC. Goal 52 of the Lee Plan should be modified to recognize the importance of open space in non-residential development.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment as contained in Part I.B.1.

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

DATE OF PUBLIC HEARING: March 26, 2001

#### **A. LOCAL PLANNING AGENCY REVIEW**

Staff presented the proposed amendment to Goal 52 to include language clarifying open space within commercial and industrial developments; to add an objective regarding open space design to be addressed a zoning review; and to require preservation of large native trees within open space areas when native plant communities are not present. Staff noted that addressing open space and preservation requirements during zoning review allows more time to establish quality open space and preserves.

One LPA member was concerned with the language “we will continue to review or continue to require” under Objective 52.2 and Policy 52.1.2. The Department of Community Affairs wants objectives to be measurable. Staff concurred, but stated that the language reflects the County’s intention to keep the provisions in the land development code.

The LPA noted that the proposed amendment uses “encourage”, and wanted clarification on how the county encourages. Staff explained that some encouragement consists of credits given to preserve areas based on acreage and width to encourage larger preserve tracts.

Another issue raised was if the requirement to provide half of the open space as preservation area was consistent with the LDC. Staff verified that is the current LDC preservation requirement.

One member of the LPA was concerned that staff’s evaluation alluded to the need for more open space within commercial and industrial developments. Staff replied that the issue is not amount, but the quality of open space. Larger green areas with mature native trees provides more visual relief and cooling effect than the currently required 10-foot trees. Staff is asking for a critical evaluation of the site and adjacent uses to designate open space and preserve areas where they make the most impact.

A follow-up question by the LPA was how staff analyzed that the proposed policies would not adversely affect the cost of development. Staff replied that the recommended language does not increase the amount of open space required, and that preserved trees may be used to meet LDC landscape requirements actually reducing landscape costs.

One member had concern that the language should be in the LDC not the Lee Plan. Two members believed the policies should be in the Lee Plan to avoid problems during zoning review.

One LPA member noted that the preservation of trees is a good amendment, however, a standard should be established to determine which trees to preserve. It was suggested that the appropriate place for such standards is the LDC. Staff concurred, and stated that it was anticipated that LDC language would need to be amended to implement these open space and preservation policies.

The LPA had concerns over the use of "must" within the preservation policies. The main concern was that deviations or variances would not be granted. Discussion resulted in revision to the proposed language for Policy 52.3.1 to read as follows:

Any new development with existing indigenous vegetation must is encouraged to provide half of the required open space as existing native plant communities. ~~Properties with existing native trees without associated native groundcover or understory must~~ Any new development with existing native trees without associated native ground cover or understory is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

One member of the public supported the proposal. This person indicated that it was important for Lee County to remain special, and not turn into a "concrete jungle." It was noted that people like to visit Sanibel where there is a strong tree ordinance. Also noted was the value of shade and percolation.

Another member of the public stated that originally he was opposed to the proposed language. However, he believes quality open space is important and the revised language addresses his concern over the ability to seek a deviation or variance from the preservation requirement. Additional concern was noted that the new requirement to preserve native trees should be separated from the indigenous preservation requirement, and incentives offered to preserve trees. It was recommended that the language requiring adequate widths to preserve and allow for continued growth and viability be deleted. Concern was also raised over encouraging preservation along rights-of-way. He believed that Policies 52.3.2 through 3.5 should be addressed in the LDC.

An LPA member asked for a legal opinion on where the language should be incorporated. The assistant county attorney summarized the importance of including open space and preservation policies in the Lee Plan. He indicated that without such policies attorneys and planners can argue that there's no requirement in the plan to have open space in commercial areas. The county attorney added that "since the zoning process is a quasi-judicial process - substantial, competent evidence, et cetera - you get through that process and, you know, the judges across the street are going to agree. It's not there; you can't require it. So I think we need policies in the plan that make it clear what we're trying to do...we have other policies in the plan that say you must submit TIS's at certain times...That's a submittal requirement. You must submit other things during the zoning process. Those are some other requirements that are in the plan. They're general enough that they're deemed appropriate and important enough that they're deemed appropriate to be in the plan. I don't truly believe that these policies are designed or will function as some additional burden that is not going to be able to be handled in the development community. I think they will be very beneficial in the long run."

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

### **1. RECOMMENDATION:**

The LPA recommended transmittal of the amendment as revised below:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

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**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

The majority of the LPA members determined that Policies 52.3.2 through 52.3.5 would be more appropriately addressed in the LDC.

**C. VOTE:**

<b>NOEL ANDRESS</b>	<u>Aye</u>
<b>SUSAN BROOKMAN</b>	<u>Opposed</u>
<b>BARRY ERNST</b>	<u>Aye</u>
<b>RONALD INGE</b>	<u>Aye</u>
<b>GORDON REIGELMAN</b>	<u>Aye</u>
<b>VIRGINIA SPLITT</b>	<u>Aye</u>
<b>GREG STUART</b>	<u>Aye</u>

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

DATE OF TRANSMITTAL HEARING: August 29, 2001

**A. BOARD REVIEW:** One Board member commented the staff proposed amendment defines what Lee County has been trying to accomplish with its open space regulations. He also stated that it was important to receive the open space assessment at time of rezoning. This amendment was transmitted as part of the administrative agenda.

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

1. **BOARD ACTION:** The Board approved transmittal of staff's revised recommendation to DCA for their review.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board supported staff's findings of fact.

**C. VOTE:**

<b>JOHN ALBION</b>	<u>Aye</u>
<b>ANDREW COY</b>	<u>Aye</u>
<b>BOB JANES</b>	<u>Aye</u>
<b>RAY JUDAH</b>	<u>Aye</u>
<b>DOUG ST. CERNY</b>	<u>Aye</u>

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

DATE OF ORC REPORT: November 21, 2001

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

The DCA had no objections, recommendations or comments concerning this amendment.

**B. STAFF RESPONSE**

Adopt the amendment as transmitted.

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

DATE OF ADOPTION HEARING: January 10, 2002

**A. BOARD REVIEW:** The Board of County Commissioners provided no discussion on the amendment. The item was considered as part of the consent agenda.

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

1. **BOARD ACTION:** The Board of County Commissioners voted to adopt the amendment as previously transmitted. This item was voted on as part of the Board's consent agenda.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff.

**C. VOTE:**

**JOHN ALBION**

Aye

**ANDREW COY**

Absent

**BOB JANES**

Aye

**RAY JUDAH**

Aye

**DOUG ST. CERNY**

Aye

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**Attachment A**

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March 21, 2001

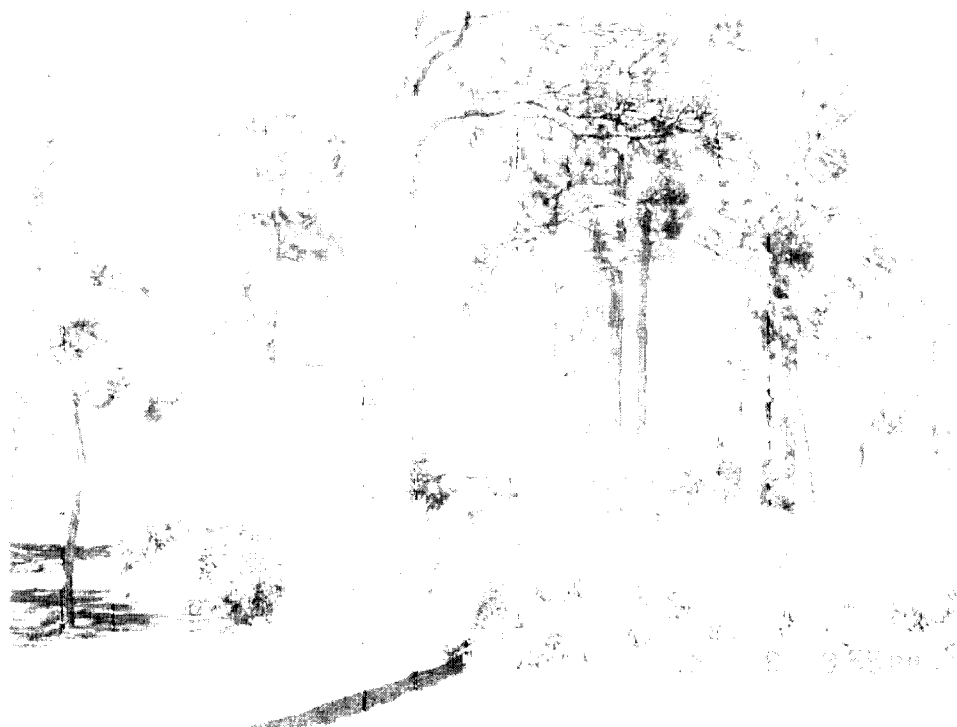


Photo 1 - View of the Cypress Trace Plaza Eckerd from Cypress Lake Drive  
The native vegetation along the road frontage provides visual relief without blocking the view of the store



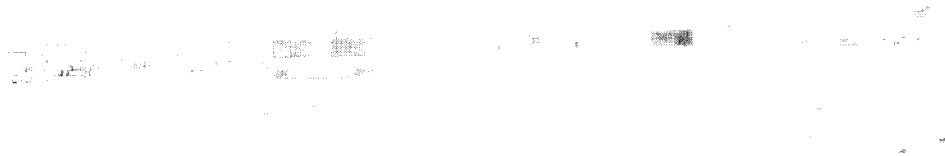
Photo 2 - View of Cypress Trace Plaza entrance from U.S. 41. The project identification sign is in clear view with the preserve area provided along the road frontage



Photo 3 - Native vegetation preserved along Cypress Lake Drive.



Photo 4 - Cypress Trace Plaza large buffer area with native vegetation preserved along Cypress Lake Drive



6 4:07 PM

Photo 5 - Corner of Summerlin Road and Cypress Lake Drive. The pine flatwoods were removed from the commercial portion of the development.



6 5:01 PM

Photo 6 - Commercial development along Cypress Lake Drive. Mature native vegetation was removed in favor of new planting adding to developer expense and reducing the function of the open space.

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DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2000-25**

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**Text Amendment**

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**Map Amendment**

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

STAFF REPORT PREPARATION DATE: March 16, 2001

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

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

**2. REQUEST:**

Amend the Parks, Recreation and Open Space Element by amending the language of Goal 52, and adding a new Objective and Policies to Goal 52, Development Requirements, clarifying the purpose of open space in non-residential projects. The request does not increase the required amount of open space. The allocation of open space in relation to preserving indigenous plant communities and large native trees is to be evaluated at the time of zoning review.

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

- 1. REVISED STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1.:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent policies are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**2. LPA RECOMMENDED LANGUAGE:** The LPA recommends that the Board of County Commissioners transmit this proposed amendment with the following language:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

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**OBJECTIVE 52.3:** New developments must are encouraged to use innovative open space designs to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing native vegetation. This objective and subsequent policies policy are to be implemented through the zoning process.

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**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**3. ORIGINAL STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

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**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

- Goal 52 of the Lee Plan, as it currently reads, could be interpreted as requiring open space for residential developments, but not for commercial or industrial developments.
- Section 10-415 of the Lee County Land Development Code (LDC) clearly contains open space requirements for commercial and industrial developments, although they are less than those for residential developments.
- The proposed Lee Plan Policies do not increase the amount of required open space.
- It has been the experience of Planning staff, through the planned development rezoning review process, that many applications are requesting deviations from the open space requirements for commercial and industrial developments, without sufficient justification.
- The LDC requires less open space for commercial and industrial developments than for residential developments, even though the intensity of use is generally higher for commercial and industrial projects.
- The importance of functional open space in commercial and industrial developments is equal to or more than in residential developments due to the impacts that commercial and industrial uses have on the land.
- Land containing large native trees without the associated understory do not meet the LDC definition of indigenous plant community, however, the preservation of large native trees within projects is important to the quality of development and provides a consistent quality of life for the community.
- Preservation of indigenous plant communities and native trees provides benefits to the general public as well as to wildlife.
- The proposed open space policies do not increase the cost of development, and can reduce the landscaping cost by using the existing native vegetation to meet the LDC required buffers and trees.

#### **C. BACKGROUND INFORMATION**

Goal 52 of the Lee Plan currently requires new developments to provide adequate open space for their future residents. By stating that the open space is for future residents, implies that open space is only encouraged in residential developments. The LDC requires open space in commercial and industrial developments, although the requirements are generally less than those for residential developments. It has become apparent to staff, through zoning deviation requests to reduce open space within commercial and industrial developments, that there is a need to clarify the purpose and importance of open space in nonresidential projects within the Lee Plan. While the open space requirements for commercial and industrial projects are less than for residential projects, the intensity of use for

commercial and industrial projects is much greater, potentially leading to more negative environmental impacts. The Lee Plan as currently worded does not emphasize the need for open space in non-residential projects to provide a sound basis for requiring open space during the rezoning process. This proposal does not increase the required amount of open space. The proposed amendment to Goal 52 seeks to provide clarification of open space design in all projects during the rezoning process to insure the quality of indigenous plant communities and/or native tree preservation within open space areas.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

Currently, **Chapter V, Parks, Recreation and Open Space**, only addresses open space requirements of residential developments under Goal 52 and the associate objective and policies. It was likely unintended that Goal 52 of the Lee Plan does not directly address the importance of open space in non-residential developments because the issue is incorporated into other areas of the Lee Plan as well as in the LDC. It is important to revise Goal 52 to clearly state the importance that is placed on the provision of open space within commercial and industrial development.

The Lee Plan contains language within the land use policies of Goals 6, 7, and 77 that address design of projects to achieve visual harmony, screening, buffering, protection of natural resources, and maintaining water quality. These policies are as follows:

- Policy 6.1.3 requires commercial planned developments to arrange uses as an integrated and cohesive unit in order to provide visual harmony and screening and protect natural resources.
- Policy 6.1.6 requires land development regulations requiring commercial development to provide adequate and appropriate landscaping, open space, and buffering.
- Policy 7.1.1 requires that applications for industrial development be evaluated by staff with particular attention to buffering and screening, impacts and effects on environmental and natural resources, and impacts on water quality.
- Policy 7.1.2 requires industrial planned developments to arrange uses as an integrated and cohesive unit in order to promote compatibility and screening, and protect natural resources.
- Policy 7.1.8 requires land development regulations requiring industrial uses to be adequately buffered and screened from adjacent existing or proposed residential areas so as to prevent visual blight and noise pollution.
- Policy 77.2.9 requires the county to maintain regulations, incentives, and programs for preserving and planting native plant species.

The provision of open space in non-residential developments is consistent with the policies listed above. Open space provides pervious land area for buffering, visual relief, landscaping, surface water

treatment, and preservation of existing native trees and plant communities. LDC Section 10-412 states the purpose and intent of LDC Division 6, Open Space, Buffering and Landscaping, is to improve the aesthetic appearance of commercial, industrial and residential developments through the requirement of minimum open space and landscaping in ways that compliment the natural and built environment. This section makes it clear that open space in commercial and industrial developments has the same importance as open space in residential developments.

The functions of open space in non-residential developments are many. In Urban Land Use Planning by Kaiser, Godschalk, and Chapin (4<sup>th</sup> Edition, 1995), the authors list examples of the services performed by open space including: water storage and purification, dispersal of atmospheric pollution, flood control, erosion control, topsoil accumulation, wildlife breeding and spawning, and wildlife and plant habitat (p. 295). The importance of these services is magnified in non-residential developments because they generally produce more negative environmental impacts than residential developments. Open spaces in non-residential developments also have a positive impact on surface water quality. Non-residential uses are generally located in the most urbanized areas with a high percentage of impervious surface. As areas of impervious surface increase, the volume of water infiltrating the soil is reduced and, consequently, more water flows off-site and unabated into natural surface waters. Open spaces can serve to filter the stormwater within the property and reduce the amount of off-site stormwater runoff. This function is particularly important in a coastal area such as Lee County, where there are greater possibilities for surface water contamination.

Many properties within Lee County contain large, native trees with pastureland as the only understory. These areas do not meet the LDC definition of indigenous vegetation community. However, it is important to preserve large, native trees even when the understory portion of the plant community is not present. Large trees provide visual relief and cooling in the urban environment that it would take decades for the code required trees to achieve. The LDC currently encourages the retention of native trees by offering protected tree credits for native trees retained on-site with a minimum four inch caliper. These credits apply toward meeting the general and buffer tree requirements. There is limited success at the time of local development order review to have the developer revise the site design to retain native trees.

Lee County has taken a number of steps to improve the aesthetics of developing areas and insure a consistent quality of life throughout the county. In December of 1998 the Board of County Commissioners (BOCC) adopted a revised landscape code and architectural standards. The landscape code revisions addressed buffering and landscape standards. Projects subject to these revisions are just beginning to be completed. The improvements to commercial and industrial sites are noticeable, and staff has received positive comments from citizens.

Additionally, the BOCC committed to a substantial street landscaping program in 1998 (advisory committee established 1996) to prioritize roadway corridors and establish landscaping designs. The LeeScape street-landscaping program has \$500,000 budgeted for the design and installation of landscaping each year along county maintained roadways. The first project completed was the landscaping of Daniels Parkway from Ben Pratt/Six Mile Cypress Parkway to the Southwest Florida International Airport. Lee County Department of Transportation has also planted native trees adjacent to the sidewalk along Gladiolus Parkway along Lakes Park to Summerlin Boulevard.

The County's Community Redevelopment Agency (CRA) efforts have resulted in additional landscaping on roadways in the community. The table below provides a summary of these projects:

<b>Community</b>	<b>Amount Expended</b>	<b>Year Built</b>	<b>Project Location</b>
Bonita Springs	\$3.5 million	1998-1999	Old 41
Tice/Ft. Myers Shore	\$462,673	2000	S.R. 80 (Phase I & II)
Tice/Ft. Myers Shore	\$240,580 (estimated)	2001	S.R. 80 (Phase III & IV)
Lehigh Acres	\$243,108	2000	Lee Boulevard
Lehigh Acres	\$280,000		Homestead Road
San Carlos Island	\$47,426	2000	
North Fort Myers	\$555,553	2000	Old 41 - N. Tamiami Trail
North Fort Myers	\$222,996	2001 (under Const.)	Bayshore Road

The proposed Lee Plan Objective 52.3 and subsequent policies are important to include in the Lee Plan to emphasize and clarify the county's commitment to insuring development occurs in an aesthetically pleasing manner while maintaining the natural character of Lee County as much as possible. The open space design objective and policies emphasize the importance of considering the natural features of the site in relation to preserving native trees and plant communities, providing visual relief, and buffering neighboring properties. The open space plan is most appropriately addressed at the zoning review stage instead of the development order review time since it is earlier in the design process and there is more flexibility to address the open space issues inherent to the specific property and development proposed. Addressing these issues at zoning review will enhance the final site designs submitted as local development orders, and increase the success of protecting Lee County's natural character. Additionally, in the case of Planned Development rezoning, the review process establishes a Master Concept Plan that establishes the permitted uses of the site as well as the location of open space and buffer areas.

The landscaping and architectural standards that were updated in 1998 did not address open space. It has become apparent through the rezoning process that it is necessary to clarify the importance of open space design. This proposal provides policies to clearly state open space design criteria. Some of the buffering and landscaping requirements may be met through designing the open space to preserve native trees and plant communities. The landscape, open space and architectural standards do not prohibit the development of the property nor do they eliminate uses.

Planning staff includes an attachment demonstrating the visual relief achieved by providing preserves retaining large, native trees along rights-of-way and within developments(see Attachment A).

Lee Plan Policy 110.6.1 directs county staff to generally assess the impact of any proposed regulation which potentially imposes new costs to taxpayers and private businesses. Currently open space needs to be factored in when the development order plan is designed, therefore, no additional cost should be generated by including the open space design on the Master Concept Plan. The proposed open space design criteria can reduce the landscaping costs through preserving existing native vegetation to meet the buffering and landscaping requirements. The required open space area remains as adopted in LDC Section 10-415. Additional lands are not required to be set aside as open space. Therefore the same amount of development area will be available on the parcel.

The BOCC established minimum open space requirements for residential, commercial and industrial developments per LDC Section 10-415. Residential developments are required to provide the greatest amount of open space at 35% for small projects and 40% for large projects to meet the needs of the residents. Commercial developments are required to provide slightly less open space at 20% for small projects and 30% for large projects to provide visual relief in the urban environment and sufficient surface water management areas. Industrial developments are required to provide the least amount of open space at 10% for small projects and 20% for large projects to provide adequate buffering and screening, as well as sufficient surface water management areas. These various open space requirements show that the LDC acknowledges the need and purpose of open space in non-residential developments. This amendment is meant to revise Goal 52 of the Lee Plan to be consistent with the existing LDC standards in terms of acknowledging the importance of open space in commercial and industrial projects. The amendment also provides the development community with guidance for designing open space within proposed projects.

## **B. CONCLUSIONS**

The purpose of open space in a development is to provide pervious land area to achieve appropriate buffering, visual relief, landscaping, surface water treatment, and preservation of existing native trees and plant communities. Open space in non-residential developments functions as it does in residential developments. Goal 52 of the Lee Plan currently does not treat all types of open space equally, addressing only residential open space. This is not consistent with other provisions of the Lee Plan or with the LDC. Goal 52 of the Lee Plan should be modified to recognize the importance of open space in non-residential development.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment as contained in Part I.B.1.

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

DATE OF PUBLIC HEARING: March 26, 2001

#### **A. LOCAL PLANNING AGENCY REVIEW**

Staff presented the proposed amendment to Goal 52 to include language clarifying open space within commercial and industrial developments; to add an objective regarding open space design to be addressed a zoning review; and to require preservation of large native trees within open space areas when native plant communities are not present. Staff noted that addressing open space and preservation requirements during zoning review allows more time to establish quality open space and preserves.

One LPA member was concerned with the language “we will continue to review or continue to require” under Objective 52.2 and Policy 52.1.2. The Department of Community Affairs wants objectives to be measurable. Staff concurred, but stated that the language reflects the County’s intention to keep the provisions in the land development code.

The LPA noted that the proposed amendment uses “encourage”, and wanted clarification on how the county encourages. Staff explained that some encouragement consists of credits given to preserve areas based on acreage and width to encourage larger preserve tracts.

Another issue raised was if the requirement to provide half of the open space as preservation area was consistent with the LDC. Staff verified that is the current LDC preservation requirement.

One member of the LPA was concerned that staff’s evaluation alluded to the need for more open space within commercial and industrial developments. Staff replied that the issue is not amount, but the quality of open space. Larger green areas with mature native trees provides more visual relief and cooling effect than the currently required 10-foot trees. Staff is asking for a critical evaluation of the site and adjacent uses to designate open space and preserve areas where they make the most impact.

A follow-up question by the LPA was how staff analyzed that the proposed policies would not adversely affect the cost of development. Staff replied that the recommended language does not increase the amount of open space required, and that preserved trees may be used to meet LDC landscape requirements actually reducing landscape costs.

One member had concern that the language should be in the LDC not the Lee Plan. Two members believed the policies should be in the Lee Plan to avoid problems during zoning review.

One LPA member noted that the preservation of trees is a good amendment, however, a standard should be established to determine which trees to preserve. It was suggested that the appropriate place for such standards is the LDC. Staff concurred, and stated that it was anticipated that LDC language would need to be amended to implement these open space and preservation policies.

The LPA had concerns over the use of “must” within the preservation policies. The main concern was that deviations or variances would not be granted. Discussion resulted in revision to the proposed language for Policy 52.3.1 to read as follows:

Any new development with existing indigenous vegetation ~~must~~ is encouraged to provide half of the required open space as existing native plant communities. ~~Properties with existing native trees without associated native groundcover or understory must~~ Any new development with existing native trees without associated native ground cover or understory is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

One member of the public supported the proposal. This person indicated that it was important for Lee County to remain special, and not turn into a “concrete jungle.” It was noted that people like to visit Sanibel where there is a strong tree ordinance. Also noted was the value of shade and percolation.

Another member of the public stated that originally he was opposed to the proposed language. However, he believes quality open space is important and the revised language addresses his concern over the ability to seek a deviation or variance from the preservation requirement. Additional concern was noted that the new requirement to preserve native trees should be separated from the indigenous preservation requirement, and incentives offered to preserve trees. It was recommended that the language requiring adequate widths to preserve and allow for continued growth and viability be deleted. Concern was also raised over encouraging preservation along rights-of-way. He believed that Policies 52.3.2 through 3.5 should be addressed in the LDC.

An LPA member asked for a legal opinion on where the language should be incorporated. The assistant county attorney summarized the importance of including open space and preservation policies in the Lee Plan. He indicated that without such policies attorneys and planners can argue that there’s no requirement in the plan to have open space in commercial areas. The county attorney added that “since the zoning process is a quasi-judicial process - substantial, competent evidence, et cetera - you get through that process and, you know, the judges across the street are going to agree. It’s not there; you can’t require it. So I think we need policies in the plan that make it clear what we’re trying to do...we have other policies in the plan that say you must submit TIS’s at certain times...That’s a submittal requirement. You must submit other things during the zoning process. Those are some other requirements that are in the plan. They’re general enough that they’re deemed appropriate and important enough that they’re deemed appropriate to be in the plan. I don’t truly believe that these policies are designed or will function as some additional burden that is not going to be able to be handled in the development community. I think they will be very beneficial in the long run.”

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

### **1. RECOMMENDATION:**

The LPA recommended transmittal of the amendment as revised below:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

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**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

The majority of the LPA members determined that Policies 52.3.2 through 52.3.5 would be more appropriately addressed in the LDC.

### **C. VOTE:**

<b>NOEL ANDRESS</b>	<u>Aye</u>
<b>SUSAN BROOKMAN</b>	<u>Opposed</u>
<b>BARRY ERNST</b>	<u>Aye</u>
<b>RONALD INGE</b>	<u>Aye</u>
<b>GORDON REIGELMAN</b>	<u>Aye</u>
<b>VIRGINIA SPLITT</b>	<u>Aye</u>
<b>GREG STUART</b>	<u>Aye</u>

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

DATE OF TRANSMITTAL HEARING: August 29, 2001

**A. BOARD REVIEW:** One Board member commented the staff proposed amendment defines what Lee County has been trying to accomplish with its open space regulations. He also stated that it was important to receive the open space assessment at time of rezoning. This amendment was transmitted as part of the administrative agenda.

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

- 1. BOARD ACTION:** The Board approved transmittal of staff's revised recommendation to DCA for their review.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board supported staff's findings of fact.

**C. VOTE:**

**JOHN ALBION**

Aye

**ANDREW COY**

Aye

**BOB JANES**

Aye

**RAY JUDAH**

Aye

**DOUG ST. CERNY**

Aye

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

DATE OF ORC REPORT: November 21, 2001

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

The DCA had no objections, recommendations or comments concerning this amendment.

**B. STAFF RESPONSE**

Adopt the amendment as transmitted.

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

DATE OF ADOPTION HEARING: January 10, 2002

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**JOHN ALBION**

**ANDREW COY**

**BOB JANES**

**RAY JUDAH**

**DOUG ST. CERNY**

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**CPA2000-25  
BoCC SPONSORED  
AMENDMENT TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**Attachment A**

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March 21, 2001



Photo 1 - View of the Cypress Trace Plaza Eckerd from Cypress Lake Drive. The native vegetation along the road frontage provides visual relief without blocking the view of the store.



Photo 2 - View of Cypress Trace Plaza entrance from U.S. 41. The project identification sign is in clear view with the preserve area provided along the road frontage.



Photo 3 - Native vegetation preserved along Cypress Lake Drive

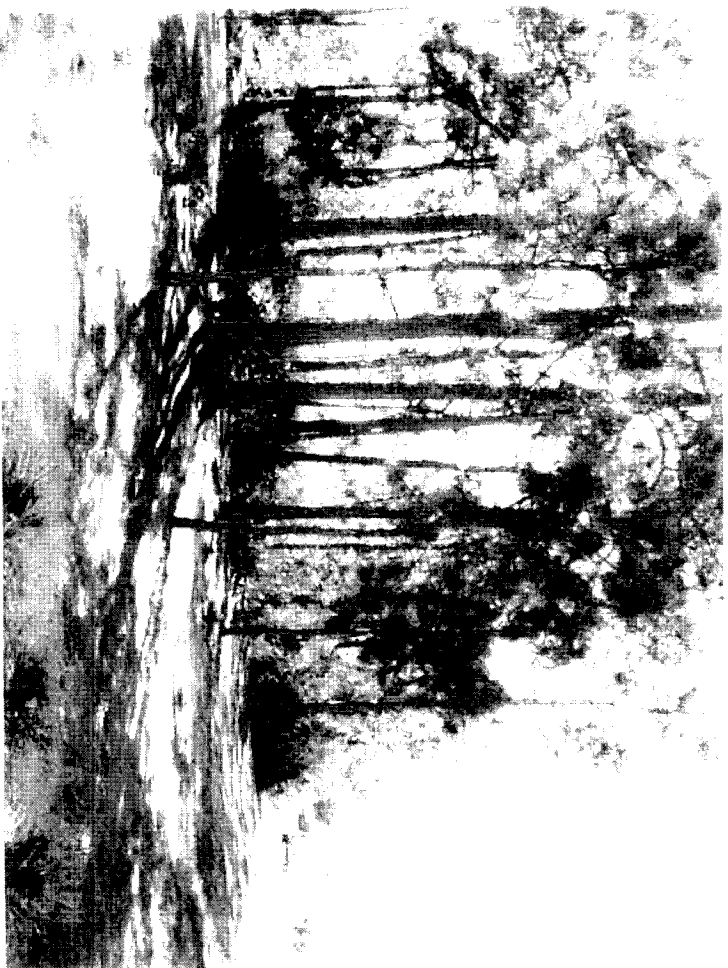


Photo 4 - Cypress Trace Plaza large buffer area with native vegetation preserved along Cypress Lake Drive



6-107 PH

Photo 5 - Corner of Summerlin Road and Cypress Lake Drive. The pine flatwoods were removed from the commercial portion of the development.



6-107 PH

Photo 6 - Commercial development along Cypress Lake Drive. Mature native vegetation was removed in favor of new planting adding to developer expense and reducing the function of the open space.

**CPA2000-25  
BoCC SPONSORED  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**DCA Transmittal Document**

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(941) 479-8585*

**August 29, 2001**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
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STAFF REPORT PREPARATION DATE: March 16, 2001

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REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

**2. REQUEST:**

Amend the Parks, Recreation and Open Space Element by amending the language of Goal 52, and adding a new Objective and Policies to Goal 52, Development Requirements, clarifying the purpose of open space in non-residential projects. The request does not increase the required amount of open space. The allocation of open space in relation to preserving indigenous plant communities and large native trees is to be evaluated at the time of zoning review.

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

- 1. REVISED STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1.:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent policies are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**2. LPA RECOMMENDED LANGUAGE:** The LPA recommends that the Board of County Commissioners transmit this proposed amendment with the following language:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must are encouraged to use innovative open space designs to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing native vegetation. This objective and subsequent policies policy are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**3. ORIGINAL STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

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**OBJECTIVE 52.3:** New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses. This objective and subsequent policies are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must provide half of the required open space as existing native plant communities. Properties with existing native trees without associated native groundcover or understory must provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

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**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

- Goal 52 of the Lee Plan, as it currently reads, could be interpreted as requiring open space for residential developments, but not for commercial or industrial developments.
- Section 10-415 of the Lee County Land Development Code (LDC) clearly contains open space requirements for commercial and industrial developments, although they are less than those for residential developments.
- The proposed Lee Plan Policies do not increase the amount of required open space.
- It has been the experience of Planning staff, through the planned development rezoning review process, that many applications are requesting deviations from the open space requirements for commercial and industrial developments, without sufficient justification.
- The LDC requires less open space for commercial and industrial developments than for residential developments, even though the intensity of use is generally higher for commercial and industrial projects.
- The importance of functional open space in commercial and industrial developments is equal to or more than in residential developments due to the impacts that commercial and industrial uses have on the land.
- Land containing large native trees without the associated understory do not meet the LDC definition of indigenous plant community, however, the preservation of large native trees within projects is important to the quality of development and provides a consistent quality of life for the community.
- Preservation of indigenous plant communities and native trees provides benefits to the general public as well as to wildlife.
- The proposed open space policies do not increase the cost of development, and can reduce the landscaping cost by using the existing native vegetation to meet the LDC required buffers and trees.

#### **C. BACKGROUND INFORMATION**

Goal 52 of the Lee Plan currently requires new developments to provide adequate open space for their future residents. By stating that the open space is for future residents, implies that open space is only encouraged in residential developments. The LDC requires open space in commercial and industrial developments, although the requirements are generally less than those for residential developments. It has become apparent to staff, through zoning deviation requests to reduce open space within commercial and industrial developments, that there is a need to clarify the purpose and importance of open space in nonresidential projects within the Lee Plan. While the open space requirements for commercial and industrial projects are less than for residential projects, the intensity of use for

commercial and industrial projects is much greater, potentially leading to more negative environmental impacts. The Lee Plan as currently worded does not emphasize the need for open space in non-residential projects to provide a sound basis for requiring open space during the rezoning process. This proposal does not increase the required amount of open space. The proposed amendment to Goal 52 seeks to provide clarification of open space design in all projects during the rezoning process to insure the quality of indigenous plant communities and/or native tree preservation within open space areas.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

Currently, **Chapter V, Parks, Recreation and Open Space**, only addresses open space requirements of residential developments under Goal 52 and the associate objective and policies. It was likely unintended that Goal 52 of the Lee Plan does not directly address the importance of open space in non-residential developments because the issue is incorporated into other areas of the Lee Plan as well as in the LDC. It is important to revise Goal 52 to clearly state the importance that is placed on the provision of open space within commercial and industrial development.

The Lee Plan contains language within the land use policies of Goals 6, 7, and 77 that address design of projects to achieve visual harmony, screening, buffering, protection of natural resources, and maintaining water quality. These policies are as follows:

- Policy 6.1.3 requires commercial planned developments to arrange uses as an integrated and cohesive unit in order to provide visual harmony and screening and protect natural resources.
- Policy 6.1.6 requires land development regulations requiring commercial development to provide adequate and appropriate landscaping, open space, and buffering.
- Policy 7.1.1 requires that applications for industrial development be evaluated by staff with particular attention to buffering and screening, impacts and effects on environmental and natural resources, and impacts on water quality.
- Policy 7.1.2 requires industrial planned developments to arrange uses as an integrated and cohesive unit in order to promote compatibility and screening, and protect natural resources.
- Policy 7.1.8 requires land development regulations requiring industrial uses to be adequately buffered and screened from adjacent existing or proposed residential areas so as to prevent visual blight and noise pollution.
- Policy 77.2.9 requires the county to maintain regulations, incentives, and programs for preserving and planting native plant species.

The provision of open space in non-residential developments is consistent with the policies listed above. Open space provides pervious land area for buffering, visual relief, landscaping, surface water

treatment, and preservation of existing native trees and plant communities. LDC Section 10-412 states the purpose and intent of LDC Division 6, Open Space, Buffering and Landscaping, is to improve the aesthetic appearance of commercial, industrial and residential developments through the requirement of minimum open space and landscaping in ways that compliment the natural and built environment. This section makes it clear that open space in commercial and industrial developments has the same importance as open space in residential developments.

The functions of open space in non-residential developments are many. In Urban Land Use Planning by Kaiser, Godschalk, and Chapin (4<sup>th</sup> Edition, 1995), the authors list examples of the services performed by open space including: water storage and purification, dispersal of atmospheric pollution, flood control, erosion control, topsoil accumulation, wildlife breeding and spawning, and wildlife and plant habitat (p. 295). The importance of these services is magnified in non-residential developments because they generally produce more negative environmental impacts than residential developments. Open spaces in non-residential developments also have a positive impact on surface water quality. Non-residential uses are generally located in the most urbanized areas with a high percentage of impervious surface. As areas of impervious surface increase, the volume of water infiltrating the soil is reduced and, consequently, more water flows off-site and unabated into natural surface waters. Open spaces can serve to filter the stormwater within the property and reduce the amount of off-site stormwater runoff. This function is particularly important in a coastal area such as Lee County, where there are greater possibilities for surface water contamination.

Many properties within Lee County contain large, native trees with pastureland as the only understory. These areas do not meet the LDC definition of indigenous vegetation community. However, it is important to preserve large, native trees even when the understory portion of the plant community is not present. Large trees provide visual relief and cooling in the urban environment that it would take decades for the code required trees to achieve. The LDC currently encourages the retention of native trees by offering protected tree credits for native trees retained on-site with a minimum four inch caliper. These credits apply toward meeting the general and buffer tree requirements. There is limited success at the time of local development order review to have the developer revise the site design to retain native trees.

Lee County has taken a number of steps to improve the aesthetics of developing areas and insure a consistent quality of life throughout the county. In December of 1998 the Board of County Commissioners (BOCC) adopted a revised landscape code and architectural standards. The landscape code revisions addressed buffering and landscape standards. Projects subject to these revisions are just beginning to be completed. The improvements to commercial and industrial sites are noticeable, and staff has received positive comments from citizens.

Additionally, the BOCC committed to a substantial street landscaping program in 1998 (advisory committee established 1996) to prioritize roadway corridors and establish landscaping designs. The LeeScape street-landscaping program has \$500,000 budgeted for the design and installation of landscaping each year along county maintained roadways. The first project completed was the landscaping of Daniels Parkway from Ben Pratt/Six Mile Cypress Parkway to the Southwest Florida International Airport. Lee County Department of Transportation has also planted native trees adjacent to the sidewalk along Gladiolus Parkway along Lakes Park to Summerlin Boulevard.

The County's Community Redevelopment Agency (CRA) efforts have resulted in additional landscaping on roadways in the community. The table below provides a summary of these projects:

<b>Community</b>	<b>Amount Expended</b>	<b>Year Built</b>	<b>Project Location</b>
Bonita Springs	\$3.5 million	1998-1999	Old 41
Tice/Ft. Myers Shore	\$462,673	2000	S.R. 80 (Phase I & II)
Tice/Ft. Myers Shore	\$240,580 (estimated)	2001	S.R. 80 (Phase III & IV)
Lehigh Acres	\$243,108	2000	Lee Boulevard
Lehigh Acres	\$280,000		Homestead Road
San Carlos Island	\$47,426	2000	
North Fort Myers	\$555,553	2000	Old 41 - N. Tamiami Trail
North Fort Myers	\$222,996	2001 (under Const.)	Bayshore Road

The proposed Lee Plan Objective 52.3 and subsequent policies are important to include in the Lee Plan to emphasize and clarify the county's commitment to insuring development occurs in an aesthetically pleasing manner while maintaining the natural character of Lee County as much as possible. The open space design objective and policies emphasize the importance of considering the natural features of the site in relation to preserving native trees and plant communities, providing visual relief, and buffering neighboring properties. The open space plan is most appropriately addressed at the zoning review stage instead of the development order review time since it is earlier in the design process and there is more flexibility to address the open space issues inherent to the specific property and development proposed. Addressing these issues at zoning review will enhance the final site designs submitted as local development orders, and increase the success of protecting Lee County's natural character. Additionally, in the case of Planned Development rezoning, the review process establishes a Master Concept Plan that establishes the permitted uses of the site as well as the location of open space and buffer areas.

The landscaping and architectural standards that were updated in 1998 did not address open space. It has become apparent through the rezoning process that it is necessary to clarify the importance of open space design. This proposal provides policies to clearly state open space design criteria. Some of the buffering and landscaping requirements may be met through designing the open space to preserve native trees and plant communities. The landscape, open space and architectural standards do not prohibit the development of the property nor do they eliminate uses.

Planning staff includes an attachment demonstrating the visual relief achieved by providing preserves retaining large, native trees along rights-of-way and within developments(see Attachment A).

Lee Plan Policy 110.6.1 directs county staff to generally assess the impact of any proposed regulation which potentially imposes new costs to taxpayers and private businesses. Currently open space needs to be factored in when the development order plan is designed, therefore, no additional cost should be generated by including the open space design on the Master Concept Plan. The proposed open space design criteria can reduce the landscaping costs through preserving existing native vegetation to meet the buffering and landscaping requirements. The required open space area remains as adopted in LDC Section 10-415. Additional lands are not required to be set aside as open space. Therefore the same amount of development area will be available on the parcel.

The BOCC established minimum open space requirements for residential, commercial and industrial developments per LDC Section 10-415. Residential developments are required to provide the greatest amount of open space at 35% for small projects and 40% for large projects to meet the needs of the residents. Commercial developments are required to provide slightly less open space at 20% for small projects and 30% for large projects to provide visual relief in the urban environment and sufficient surface water management areas. Industrial developments are required to provide the least amount of open space at 10% for small projects and 20% for large projects to provide adequate buffering and screening, as well as sufficient surface water management areas. These various open space requirements show that the LDC acknowledges the need and purpose of open space in non-residential developments. This amendment is meant to revise Goal 52 of the Lee Plan to be consistent with the existing LDC standards in terms of acknowledging the importance of open space in commercial and industrial projects. The amendment also provides the development community with guidance for designing open space within proposed projects.

## **B. CONCLUSIONS**

The purpose of open space in a development is to provide pervious land area to achieve appropriate buffering, visual relief, landscaping, surface water treatment, and preservation of existing native trees and plant communities. Open space in non-residential developments functions as it does in residential developments. Goal 52 of the Lee Plan currently does not treat all types of open space equally, addressing only residential open space. This is not consistent with other provisions of the Lee Plan or with the LDC. Goal 52 of the Lee Plan should be modified to recognize the importance of open space in non-residential development.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment as contained in Part I.B.1.

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

DATE OF PUBLIC HEARING: March 26, 2001

#### **A. LOCAL PLANNING AGENCY REVIEW**

Staff presented the proposed amendment to Goal 52 to include language clarifying open space within commercial and industrial developments; to add an objective regarding open space design to be addressed a zoning review; and to require preservation of large native trees within open space areas when native plant communities are not present. Staff noted that addressing open space and preservation requirements during zoning review allows more time to establish quality open space and preserves.

One LPA member was concerned with the language “we will continue to review or continue to require” under Objective 52.2 and Policy 52.1.2. The Department of Community Affairs wants objectives to be measurable. Staff concurred, but stated that the language reflects the County’s intention to keep the provisions in the land development code.

The LPA noted that the proposed amendment uses “encourage”, and wanted clarification on how the county encourages. Staff explained that some encouragement consists of credits given to preserve areas based on acreage and width to encourage larger preserve tracts.

Another issue raised was if the requirement to provide half of the open space as preservation area was consistent with the LDC. Staff verified that is the current LDC preservation requirement.

One member of the LPA was concerned that staff’s evaluation alluded to the need for more open space within commercial and industrial developments. Staff replied that the issue is not amount, but the quality of open space. Larger green areas with mature native trees provides more visual relief and cooling effect than the currently required 10-foot trees. Staff is asking for a critical evaluation of the site and adjacent uses to designate open space and preserve areas where they make the most impact.

A follow-up question by the LPA was how staff analyzed that the proposed policies would not adversely affect the cost of development. Staff replied that the recommended language does not increase the amount of open space required, and that preserved trees may be used to meet LDC landscape requirements actually reducing landscape costs.

One member had concern that the language should be in the LDC not the Lee Plan. Two members believed the policies should be in the Lee Plan to avoid problems during zoning review.

One LPA member noted that the preservation of trees is a good amendment, however, a standard should be established to determine which trees to preserve. It was suggested that the appropriate place for such standards is the LDC. Staff concurred, and stated that it was anticipated that LDC language would need to be amended to implement these open space and preservation policies.

The LPA had concerns over the use of “must” within the preservation policies. The main concern was that deviations or variances would not be granted. Discussion resulted in revision to the proposed language for Policy 52.3.1 to read as follows:

Any new development with existing indigenous vegetation ~~must~~ is encouraged to provide half of the required open space as existing native plant communities. ~~Properties with existing native trees without associated native groundcover or understory must~~ Any new development with existing native trees without associated native ground cover or understory is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

One member of the public supported the proposal. This person indicated that it was important for Lee County to remain special, and not turn into a “concrete jungle.” It was noted that people like to visit Sanibel where there is a strong tree ordinance. Also noted was the value of shade and percolation.

Another member of the public stated that originally he was opposed to the proposed language. However, he believes quality open space is important and the revised language addresses his concern over the ability to seek a deviation or variance from the preservation requirement. Additional concern was noted that the new requirement to preserve native trees should be separated from the indigenous preservation requirement, and incentives offered to preserve trees. It was recommended that the language requiring adequate widths to preserve and allow for continued growth and viability be deleted. Concern was also raised over encouraging preservation along rights-of-way. He believed that Policies 52.3.2 through 3.5 should be addressed in the LDC.

An LPA member asked for a legal opinion on where the language should be incorporated. The assistant county attorney summarized the importance of including open space and preservation policies in the Lee Plan. He indicated that without such policies attorneys and planners can argue that there’s no requirement in the plan to have open space in commercial areas. The county attorney added that “since the zoning process is a quasi-judicial process - substantial, competent evidence, et cetera - you get through that process and, you know, the judges across the street are going to agree. It’s not there; you can’t require it. So I think we need policies in the plan that make it clear what we’re trying to do...we have other policies in the plan that say you must submit TIS’s at certain times...That’s a submittal requirement. You must submit other things during the zoning process. Those are some other requirements that are in the plan. They’re general enough that they’re deemed appropriate and important enough that they’re deemed appropriate to be in the plan. I don’t truly believe that these policies are designed or will function as some additional burden that is not going to be able to be handled in the development community. I think they will be very beneficial in the long run.”

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

### **1. RECOMMENDATION:**

The LPA recommended transmittal of the amendment as revised below:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must be encouraged to use innovative open space designs to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing native vegetation. This objective and subsequent policies policy are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

The majority of the LPA members determined that Policies 52.3.2 through 52.3.5 would be more appropriately addressed in the LDC.

### **C. VOTE:**

<b>NOEL ANDRESS</b>	<u>Aye</u>
<b>SUSAN BROOKMAN</b>	<u>Opposed</u>
<b>BARRY ERNST</b>	<u>Aye</u>
<b>RONALD INGE</b>	<u>Aye</u>
<b>GORDON REIGELMAN</b>	<u>Aye</u>
<b>VIRGINIA SPLITT</b>	<u>Aye</u>
<b>GREG STUART</b>	<u>Aye</u>

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

DATE OF TRANSMITTAL HEARING: August 29, 2001

A. **BOARD REVIEW:** One Board member commented the staff proposed amendment defines what Lee County has been trying to accomplish with its open space regulations. He also stated that it was important to receive the open space assessment at time of rezoning. This amendment was transmitted as part of the administrative agenda.

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

1. **BOARD ACTION:** The Board approved transmittal of staff's revised recommendation to DCA for their review.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board supported staff's findings of fact.

C. **VOTE:**

**JOHN ALBION**

Aye

**ANDREW COY**

Aye

**BOB JANES**

Aye

**RAY JUDAH**

Aye

**DOUG ST. CERNY**

Aye

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

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

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
  
- B. STAFF RESPONSE**

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

DATE OF ADOPTION HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**JOHN ALBION**

**ANDREW COY**

**BOB JANES**

**RAY JUDAH**

**DOUG ST. CERNY**

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**CPA2000-25  
BoCC SPONSORED  
AMENDMENT TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**Attachment A**

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March 21, 2001

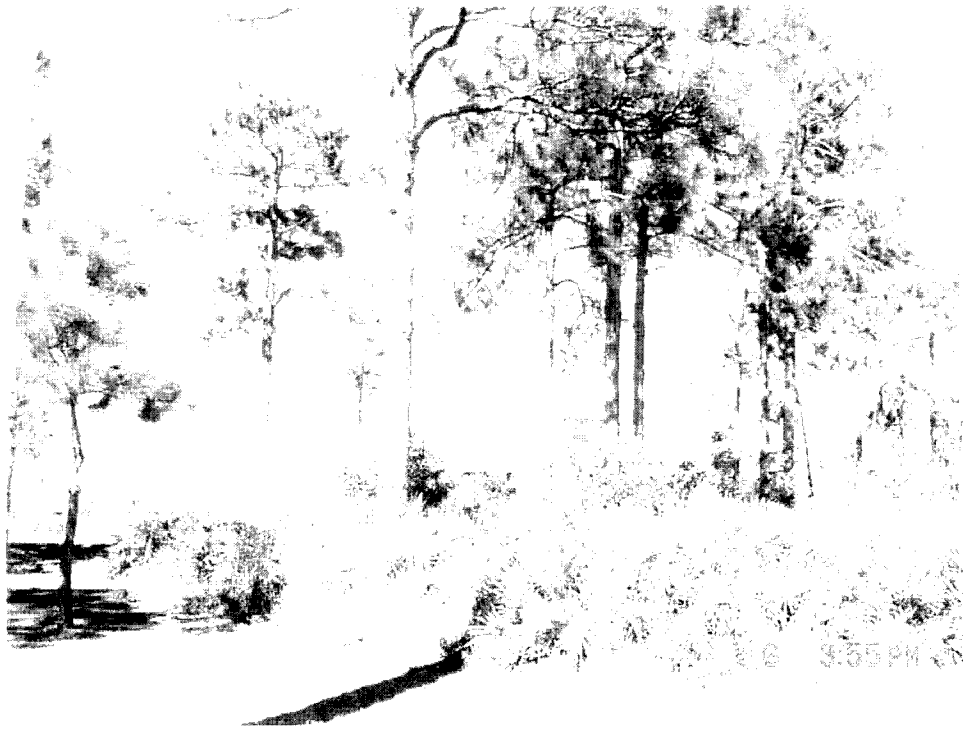


Photo 1 - View of the Cypress Trace Plaza Eckerd from Cypress Lake Drive. The native vegetation along the road frontage provides visual relief without blocking the view of the store.



Photo 2 - View of Cypress Trace Plaza entrance from U.S. 41. The project identification sign is in clear view with the preserve area provided along the road frontage.



Photo 3 - Native vegetation preserved along Cypress Lake Drive.

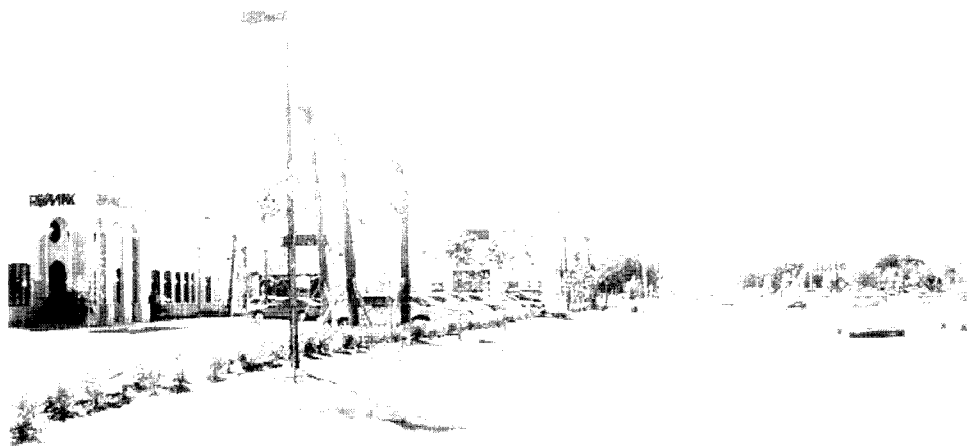


Photo 4 - Cypress Trace Plaza large buffer area with native vegetation preserved along Cypress Lake Drive.



6 4:07 PM

Photo 5 - Corner of Summerlin Road and Cypress Lake Drive. The pine flatwoods were removed from the commercial portion of the development.



6 4:11 PM

Photo 6 - Commercial development along Cypress Lake Drive. Mature native vegetation was removed in favor of new planting adding to developer expense and reducing the function of the open space.

**CPA2000-25  
BoCC SPONSORED  
AMENDMENT  
TO THE**

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LEE COUNTY COMPREHENSIVE PLAN

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**THE LEE PLAN**

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BoCC Public Hearing Document  
for the  
August 29<sup>th</sup>, 2001 Public Hearing

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(941) 479-8585*

**August 1, 2001**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2000-25**

☒

**Text Amendment**

☐

**Map Amendment**

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

STAFF REPORT PREPARATION DATE: March 16, 2001

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

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

**2. REQUEST:**

Amend the Parks, Recreation and Open Space Element by amending the language of Goal 52, and adding a new Objective and Policies to Goal 52, Development Requirements, clarifying the purpose of open space in non-residential projects. The request does not increase the required amount of open space. The allocation of open space in relation to preserving indigenous plant communities and large native trees is to be evaluated at the time of zoning review.

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

- 1. REVISED STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1.:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent policies are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**2. LPA RECOMMENDED LANGUAGE:** The LPA recommends that the Board of County Commissioners transmit this proposed amendment with the following language:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must are encouraged to use innovative open space designs to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing native vegetation. This objective and subsequent policies policy are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

**3. ORIGINAL STAFF RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

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**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

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**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

- Goal 52 of the Lee Plan, as it currently reads, could be interpreted as requiring open space for residential developments, but not for commercial or industrial developments.
- Section 10-415 of the Lee County Land Development Code (LDC) clearly contains open space requirements for commercial and industrial developments, although they are less than those for residential developments.
- The proposed Lee Plan Policies do not increase the amount of required open space.
- It has been the experience of Planning staff, through the planned development rezoning review process, that many applications are requesting deviations from the open space requirements for commercial and industrial developments, without sufficient justification.
- The LDC requires less open space for commercial and industrial developments than for residential developments, even though the intensity of use is generally higher for commercial and industrial projects.
- The importance of functional open space in commercial and industrial developments is equal to or more than in residential developments due to the impacts that commercial and industrial uses have on the land.
- Land containing large native trees without the associated understory do not meet the LDC definition of indigenous plant community, however, the preservation of large native trees within projects is important to the quality of development and provides a consistent quality of life for the community.
- Preservation of indigenous plant communities and native trees provides benefits to the general public as well as to wildlife.
- The proposed open space policies do not increase the cost of development, and can reduce the landscaping cost by using the existing native vegetation to meet the LDC required buffers and trees.

#### **C. BACKGROUND INFORMATION**

Goal 52 of the Lee Plan currently requires new developments to provide adequate open space for their future residents. By stating that the open space is for future residents, implies that open space is only encouraged in residential developments. The LDC requires open space in commercial and industrial developments, although the requirements are generally less than those for residential developments. It has become apparent to staff, through zoning deviation requests to reduce open space within commercial and industrial developments, that there is a need to clarify the purpose and importance of open space in nonresidential projects within the Lee Plan. While the open space requirements for commercial and industrial projects are less than for residential projects, the intensity of use for

commercial and industrial projects is much greater, potentially leading to more negative environmental impacts. The Lee Plan as currently worded does not emphasize the need for open space in non-residential projects to provide a sound basis for requiring open space during the rezoning process. This proposal does not increase the required amount of open space. The proposed amendment to Goal 52 seeks to provide clarification of open space design in all projects during the rezoning process to insure the quality of indigenous plant communities and/or native tree preservation within open space areas.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

Currently, **Chapter V, Parks, Recreation and Open Space**, only addresses open space requirements of residential developments under Goal 52 and the associate objective and policies. It was likely unintended that Goal 52 of the Lee Plan does not directly address the importance of open space in non-residential developments because the issue is incorporated into other areas of the Lee Plan as well as in the LDC. It is important to revise Goal 52 to clearly state the importance that is placed on the provision of open space within commercial and industrial development.

The Lee Plan contains language within the land use policies of Goals 6, 7, and 77 that address design of projects to achieve visual harmony, screening, buffering, protection of natural resources, and maintaining water quality. These policies are as follows:

- Policy 6.1.3 requires commercial planned developments to arrange uses as an integrated and cohesive unit in order to provide visual harmony and screening and protect natural resources.
- Policy 6.1.6 requires land development regulations requiring commercial development to provide adequate and appropriate landscaping, open space, and buffering.
- Policy 7.1.1 requires that applications for industrial development be evaluated by staff with particular attention to buffering and screening, impacts and effects on environmental and natural resources, and impacts on water quality.
- Policy 7.1.2 requires industrial planned developments to arrange uses as an integrated and cohesive unit in order to promote compatibility and screening, and protect natural resources.
- Policy 7.1.8 requires land development regulations requiring industrial uses to be adequately buffered and screened from adjacent existing or proposed residential areas so as to prevent visual blight and noise pollution.
- Policy 77.2.9 requires the county to maintain regulations, incentives, and programs for preserving and planting native plant species.

The provision of open space in non-residential developments is consistent with the policies listed above. Open space provides pervious land area for buffering, visual relief, landscaping, surface water

treatment, and preservation of existing native trees and plant communities. LDC Section 10-412 states the purpose and intent of LDC Division 6, Open Space, Buffering and Landscaping, is to improve the aesthetic appearance of commercial, industrial and residential developments through the requirement of minimum open space and landscaping in ways that compliment the natural and built environment. This section makes it clear that open space in commercial and industrial developments has the same importance as open space in residential developments.

The functions of open space in non-residential developments are many. In Urban Land Use Planning by Kaiser, Godschalk, and Chapin (4<sup>th</sup> Edition, 1995), the authors list examples of the services performed by open space including: water storage and purification, dispersal of atmospheric pollution, flood control, erosion control, topsoil accumulation, wildlife breeding and spawning, and wildlife and plant habitat (p. 295). The importance of these services is magnified in non-residential developments because they generally produce more negative environmental impacts than residential developments. Open spaces in non-residential developments also have a positive impact on surface water quality. Non-residential uses are generally located in the most urbanized areas with a high percentage of impervious surface. As areas of impervious surface increase, the volume of water infiltrating the soil is reduced and, consequently, more water flows off-site and unabated into natural surface waters. Open spaces can serve to filter the stormwater within the property and reduce the amount of off-site stormwater runoff. This function is particularly important in a coastal area such as Lee County, where there are greater possibilities for surface water contamination.

Many properties within Lee County contain large, native trees with pastureland as the only understory. These areas do not meet the LDC definition of indigenous vegetation community. However, it is important to preserve large, native trees even when the understory portion of the plant community is not present. Large trees provide visual relief and cooling in the urban environment that it would take decades for the code required trees to achieve. The LDC currently encourages the retention of native trees by offering protected tree credits for native trees retained on-site with a minimum four inch caliper. These credits apply toward meeting the general and buffer tree requirements. There is limited success at the time of local development order review to have the developer revise the site design to retain native trees.

Lee County has taken a number of steps to improve the aesthetics of developing areas and insure a consistent quality of life throughout the county. In December of 1998 the Board of County Commissioners (BOCC) adopted a revised landscape code and architectural standards. The landscape code revisions addressed buffering and landscape standards. Projects subject to these revisions are just beginning to be completed. The improvements to commercial and industrial sites are noticeable, and staff has received positive comments from citizens.

Additionally, the BOCC committed to a substantial street landscaping program in 1998 (advisory committee established 1996) to prioritize roadway corridors and establish landscaping designs. The LeeScape street-landscaping program has \$500,000 budgeted for the design and installation of landscaping each year along county maintained roadways. The first project completed was the landscaping of Daniels Parkway from Ben Pratt/Six Mile Cypress Parkway to the Southwest Florida International Airport. Lee County Department of Transportation has also planted native trees adjacent to the sidewalk along Gladiolus Parkway along Lakes Park to Summerlin Boulevard.

The County's Community Redevelopment Agency (CRA) efforts have resulted in additional landscaping on roadways in the community. The table below provides a summary of these projects:

<b>Community</b>	<b>Amount Expended</b>	<b>Year Built</b>	<b>Project Location</b>
Bonita Springs	\$3.5 million	1998-1999	Old 41
Tice/Ft. Myers Shore	\$462,673	2000	S.R. 80 (Phase I & II)
Tice/Ft. Myers Shore	\$240,580 (estimated)	2001	S.R. 80 (Phase III & IV)
Lehigh Acres	\$243,108	2000	Lee Boulevard
Lehigh Acres	\$280,000		Homestead Road
San Carlos Island	\$47,426	2000	
North Fort Myers	\$555,553	2000	Old 41 - N. Tamiami Trail
North Fort Myers	\$222,996	2001 (under Const.)	Bayshore Road

The proposed Lee Plan Objective 52.3 and subsequent policies are important to include in the Lee Plan to emphasize and clarify the county's commitment to insuring development occurs in an aesthetically pleasing manner while maintaining the natural character of Lee County as much as possible. The open space design objective and policies emphasize the importance of considering the natural features of the site in relation to preserving native trees and plant communities, providing visual relief, and buffering neighboring properties. The open space plan is most appropriately addressed at the zoning review stage instead of the development order review time since it is earlier in the design process and there is more flexibility to address the open space issues inherent to the specific property and development proposed. Addressing these issues at zoning review will enhance the final site designs submitted as local development orders, and increase the success of protecting Lee County's natural character. Additionally, in the case of Planned Development rezoning, the review process establishes a Master Concept Plan that establishes the permitted uses of the site as well as the location of open space and buffer areas.

The landscaping and architectural standards that were updated in 1998 did not address open space. It has become apparent through the rezoning process that it is necessary to clarify the importance of open space design. This proposal provides policies to clearly state open space design criteria. Some of the buffering and landscaping requirements may be met through designing the open space to preserve native trees and plant communities. The landscape, open space and architectural standards do not prohibit the development of the property nor do they eliminate uses.

Planning staff includes an attachment demonstrating the visual relief achieved by providing preserves retaining large, native trees along rights-of-way and within developments(see Attachment A).

Lee Plan Policy 110.6.1 directs county staff to generally assess the impact of any proposed regulation which potentially imposes new costs to taxpayers and private businesses. Currently open space needs to be factored in when the development order plan is designed, therefore, no additional cost should be generated by including the open space design on the Master Concept Plan. The proposed open space design criteria can reduce the landscaping costs through preserving existing native vegetation to meet the buffering and landscaping requirements. The required open space area remains as adopted in LDC Section 10-415. Additional lands are not required to be set aside as open space. Therefore the same amount of development area will be available on the parcel.

The BOCC established minimum open space requirements for residential, commercial and industrial developments per LDC Section 10-415. Residential developments are required to provide the greatest amount of open space at 35% for small projects and 40% for large projects to meet the needs of the residents. Commercial developments are required to provide slightly less open space at 20% for small projects and 30% for large projects to provide visual relief in the urban environment and sufficient surface water management areas. Industrial developments are required to provide the least amount of open space at 10% for small projects and 20% for large projects to provide adequate buffering and screening, as well as sufficient surface water management areas. These various open space requirements show that the LDC acknowledges the need and purpose of open space in non-residential developments. This amendment is meant to revise Goal 52 of the Lee Plan to be consistent with the existing LDC standards in terms of acknowledging the importance of open space in commercial and industrial projects. The amendment also provides the development community with guidance for designing open space within proposed projects.

## **B. CONCLUSIONS**

The purpose of open space in a development is to provide pervious land area to achieve appropriate buffering, visual relief, landscaping, surface water treatment, and preservation of existing native trees and plant communities. Open space in non-residential developments functions as it does in residential developments. Goal 52 of the Lee Plan currently does not treat all types of open space equally, addressing only residential open space. This is not consistent with other provisions of the Lee Plan or with the LDC. Goal 52 of the Lee Plan should be modified to recognize the importance of open space in non-residential development.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment as contained in Part I.B.1.

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

DATE OF PUBLIC HEARING: March 26, 2001

#### **A. LOCAL PLANNING AGENCY REVIEW**

Staff presented the proposed amendment to Goal 52 to include language clarifying open space within commercial and industrial developments; to add an objective regarding open space design to be addressed a zoning review; and to require preservation of large native trees within open space areas when native plant communities are not present. Staff noted that addressing open space and preservation requirements during zoning review allows more time to establish quality open space and preserves.

One LPA member was concerned with the language “we will continue to review or continue to require” under Objective 52.2 and Policy 52.1.2. The Department of Community Affairs wants objectives to be measurable. Staff concurred, but stated that the language reflects the County’s intention to keep the provisions in the land development code.

The LPA noted that the proposed amendment uses “encourage”, and wanted clarification on how the county encourages. Staff explained that some encouragement consists of credits given to preserve areas based on acreage and width to encourage larger preserve tracts.

Another issue raised was if the requirement to provide half of the open space as preservation area was consistent with the LDC. Staff verified that is the current LDC preservation requirement.

One member of the LPA was concerned that staff’s evaluation alluded to the need for more open space within commercial and industrial developments. Staff replied that the issue is not amount, but the quality of open space. Larger green areas with mature native trees provides more visual relief and cooling effect than the currently required 10-foot trees. Staff is asking for a critical evaluation of the site and adjacent uses to designate open space and preserve areas where they make the most impact.

A follow-up question by the LPA was how staff analyzed that the proposed policies would not adversely affect the cost of development. Staff replied that the recommended language does not increase the amount of open space required, and that preserved trees may be used to meet LDC landscape requirements actually reducing landscape costs.

One member had concern that the language should be in the LDC not the Lee Plan. Two members believed the policies should be in the Lee Plan to avoid problems during zoning review.

One LPA member noted that the preservation of trees is a good amendment, however, a standard should be established to determine which trees to preserve. It was suggested that the appropriate place for such standards is the LDC. Staff concurred, and stated that it was anticipated that LDC language would need to be amended to implement these open space and preservation policies.

The LPA had concerns over the use of "must" within the preservation policies. The main concern was that deviations or variances would not be granted. Discussion resulted in revision to the proposed language for Policy 52.3.1 to read as follows:

Any new development with existing indigenous vegetation must is encouraged to provide half of the required open space as existing native plant communities. ~~Properties with existing native trees without associated native groundcover or understory must~~ Any new development with existing native trees without associated native ground cover or understory is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

One member of the public supported the proposal. This person indicated that it was important for Lee County to remain special, and not turn into a "concrete jungle." It was noted that people like to visit Sanibel where there is a strong tree ordinance. Also noted was the value of shade and percolation.

Another member of the public stated that originally he was opposed to the proposed language. However, he believes quality open space is important and the revised language addresses his concern over the ability to seek a deviation or variance from the preservation requirement. Additional concern was noted that the new requirement to preserve native trees should be separated from the indigenous preservation requirement, and incentives offered to preserve trees. It was recommended that the language requiring adequate widths to preserve and allow for continued growth and viability be deleted. Concern was also raised over encouraging preservation along rights-of-way. He believed that Policies 52.3.2 through 3.5 should be addressed in the LDC.

An LPA member asked for a legal opinion on where the language should be incorporated. The assistant county attorney summarized the importance of including open space and preservation policies in the Lee Plan. He indicated that without such policies attorneys and planners can argue that there's no requirement in the plan to have open space in commercial areas. The county attorney added that "since the zoning process is a quasi-judicial process - substantial, competent evidence, et cetera - you get through that process and, you know, the judges across the street are going to agree. It's not there; you can't require it. So I think we need policies in the plan that make it clear what we're trying to do...we have other policies in the plan that say you must submit TIS's at certain times...That's a submittal requirement. You must submit other things during the zoning process. Those are some other requirements that are in the plan. They're general enough that they're deemed appropriate and important enough that they're deemed appropriate to be in the plan. I don't truly believe that these policies are designed or will function as some additional burden that is not going to be able to be handled in the development community. I think they will be very beneficial in the long run."

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

### **1. RECOMMENDATION:**

The LPA recommended transmittal of the amendment as revised below:

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.2.1:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must are encouraged to use innovative open space designs to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing native vegetation. This objective and subsequent policies policy are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Properties Any new development with existing native trees without associated native groundcover or understory must is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

The majority of the LPA members determined that Policies 52.3.2 through 52.3.5 would be more appropriately addressed in the LDC.

### **C. VOTE:**

<b>NOEL ANDRESS</b>	<u>Aye</u>
<b>SUSAN BROOKMAN</b>	<u>Opposed</u>
<b>BARRY ERNST</b>	<u>Aye</u>
<b>RONALD INGE</b>	<u>Aye</u>
<b>GORDON REIGELMAN</b>	<u>Aye</u>
<b>VIRGINIA SPLITT</b>	<u>Aye</u>
<b>GREG STUART</b>	<u>Aye</u>

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

DATE OF TRANSMITTAL HEARING: August 29, 2001

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**JOHN ALBION**

**ANDREW COY**

**BOB JANES**

**RAY JUDAH**

**DOUG ST. CERNY**

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

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

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
- B. STAFF RESPONSE**

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

DATE OF ADOPTION HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**JOHN ALBION**

**ANDREW COY**

**BOB JANES**

**RAY JUDAH**

**DOUG ST. CERNY**

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**CPA2000-25  
BoCC SPONSORED  
AMENDMENT TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**Attachment A**

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March 21, 2001



Photo 1 - View of the Cypress Trace Plaza Eckerd from Cypress Lake Drive. The native vegetation along the road frontage provides visual relief without blocking the view of the store.



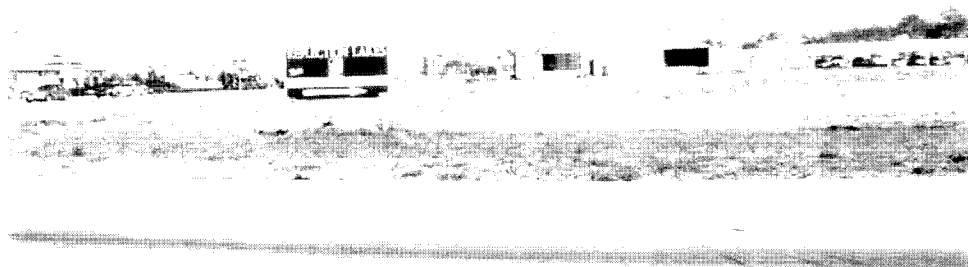
Photo 2 - View of Cypress Trace Plaza entrance from U.S. 41. The project identification sign is in clear view with the preserve area provided along the road frontage.



Photo 3 - Native vegetation preserved along Cypress Lake Drive.



Photo 4 - Cypress Trace Plaza large buffer area with native vegetation preserved along Cypress Lake Drive.



6 4:07 PM

Photo 5 - Corner of Summerlin Road and Cypress Lake Drive. The pine flatwoods were removed from the commercial portion of the development.



6 4:01 PM

Photo 6 - Commercial development along Cypress Lake Drive. Mature native vegetation was removed in favor of new planting adding to developer expense and reducing the function of the open space.

**CPA2000-25  
BoCC SPONSORED  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**LPA Public Hearing Document  
for the  
March 26<sup>th</sup>, 2001 Public Hearing**

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(941) 479-8585*

**March 21, 2001**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2000-25**

☒

**Text Amendment**

☐

**Map Amendment**

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

STAFF REPORT PREPARATION DATE: March 16, 2001

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

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

**2. REQUEST:**

Amend the Parks, Recreation and Open Space Element by amending the language of Goal 52, and adding a new Objective and Policies to Goal 52, Development Requirements, clarifying the purpose of open space in non-residential projects. The request does not increase the required amount of open space. The allocation of open space in relation to preserving indigenous plant communities and large native trees is to be evaluated at the time of zoning review.

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

- 1. RECOMMENDATION:** Planning staff recommends that Goal 52 and Objective 52.1 be amended as follows. Planning staff further recommends adding a new objective and policy under Goal 52 to specifically address open space in commercial and industrial developments.

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for their future residents for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

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**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

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**OBJECTIVE 52.3:** New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses. This objective and subsequent policies are to be implemented through the zoning process.

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**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native tree preservation areas.

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

- Goal 52 of the Lee Plan, as it currently reads, could be interpreted as requiring open space for residential developments, but not for commercial or industrial developments.
- Section 10-415 of the Lee County Land Development Code (LDC) clearly contains open space requirements for commercial and industrial developments, although they are less than those for residential developments.
- The proposed Lee Plan Policies do not increase the amount of required open space.
- It has been the experience of Planning staff, through the planned development rezoning review process, that many applications are requesting deviations from the open space requirements for commercial and industrial developments, without sufficient justification.
- The LDC requires less open space for commercial and industrial developments than for residential developments, even though the intensity of use is generally higher for commercial and industrial projects.
- The importance of functional open space in commercial and industrial developments is equal to or more than in residential developments due to the impacts that commercial and industrial uses have on the land.
- Land containing large native trees without the associated understory do not meet the LDC definition of indigenous plant community, however, the preservation of large native trees within projects is important to the quality of development and provides a consistent quality of life for the community.
- Preservation of indigenous plant communities and native trees provides benefits to the general public as well as to wildlife.
- The proposed open space policies do not increase the cost of development, and can reduce the landscaping cost by using the existing native vegetation to meet the LDC required buffers and trees.

## **C. BACKGROUND INFORMATION**

Goal 52 of the Lee Plan currently requires new developments to provide adequate open space for their future residents. By stating that the open space is for future residents, implies that open space is only encouraged in residential developments. The LDC requires open space in commercial and industrial developments, although the requirements are generally less than those for residential developments. It has become apparent to staff, through zoning deviation requests to reduce open space within commercial and industrial developments, that there is a need to clarify the purpose and importance of open space in nonresidential projects within the Lee Plan. While the open space requirements for commercial and

industrial projects are less than for residential projects, the intensity of use for commercial and industrial projects is much greater, potentially leading to more negative environmental impacts. The Lee Plan as currently worded does not emphasize the need for open space in non-residential projects to provide a sound basis for requiring open space during the rezoning process. This proposal does not increase the required amount of open space. The proposed amendment to Goal 52 seeks to provide clarification of open space design in all projects during the rezoning process to insure the quality of indigenous plant communities and/or native tree preservation within open space areas.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

Currently, **Chapter V, Parks, Recreation and Open Space**, only addresses open space requirements of residential developments under Goal 52 and the associate objective and policies. It was likely unintended that Goal 52 of the Lee Plan does not directly address the importance of open space in non-residential developments because the issue is incorporated into other areas of the Lee Plan as well as in the LDC. It is important to revise Goal 52 to clearly state the importance that is placed on the provision of open space within commercial and industrial development.

The Lee Plan contains language within the land use policies of Goals 6, 7, and 77 that address design of projects to achieve visual harmony, screening, buffering, protection of natural resources, and maintaining water quality. These policies are as follows:

- Policy 6.1.3 requires commercial planned developments to arrange uses as an integrated and cohesive unit in order to provide visual harmony and screening and protect natural resources.
- Policy 6.1.6 requires land development regulations requiring commercial development to provide adequate and appropriate landscaping, open space, and buffering.
- Policy 7.1.1 requires that applications for industrial development be evaluated by staff with particular attention to buffering and screening, impacts and effects on environmental and natural resources, and impacts on water quality.
- Policy 7.1.2 requires industrial planned developments to arrange uses as an integrated and cohesive unit in order to promote compatibility and screening, and protect natural resources.
- Policy 7.1.8 requires land development regulations requiring industrial uses to be adequately buffered and screened from adjacent existing or proposed residential areas so as to prevent visual blight and noise pollution.
- Policy 77.2.9 requires the county to maintain regulations, incentives, and programs for preserving and planting native plant species.

The provision of open space in non-residential developments is consistent with the policies listed above. Open space provides pervious land area for buffering, visual relief, landscaping, surface water treatment, and preservation of existing native trees and plant communities. LDC Section 10-412 states the purpose and intent of LDC Division 6, Open Space, Buffering and Landscaping, is to improve the aesthetic appearance of commercial, industrial and residential developments through the requirement of minimum open space and landscaping in ways that compliment the natural and built environment. This section makes it clear that open space in commercial and industrial developments has the same importance as open space in residential developments.

The functions of open space in non-residential developments are many. In Urban Land Use Planning by Kaiser, Godschalk, and Chapin (4<sup>th</sup> Edition, 1995), the authors list examples of the services performed by open space including: water storage and purification, dispersal of atmospheric pollution, flood control, erosion control, topsoil accumulation, wildlife breeding and spawning, and wildlife and plant habitat (p. 295). The importance of these services is magnified in non-residential developments because they generally produce more negative environmental impacts than residential developments. Open spaces in non-residential developments also have a positive impact on surface water quality. Non-residential uses are generally located in the most urbanized areas with a high percentage of impervious surface. As areas of impervious surface increase, the volume of water infiltrating the soil is reduced and, consequently, more water flows off-site and unabated into natural surface waters. Open spaces can serve to filter the stormwater within the property and reduce the amount of off-site stormwater runoff. This function is particularly important in a coastal area such as Lee County, where there are greater possibilities for surface water contamination.

Many properties within Lee County contain large, native trees with pastureland as the only understory. These areas do not meet the LDC definition of indigenous vegetation community. However, it is important to preserve large, native trees even when the understory portion of the plant community is not present. Large trees provide visual relief and cooling in the urban environment that it would take decades for the code required trees to achieve. The LDC currently encourages the retention of native trees by offering protected tree credits for native trees retained on-site with a minimum four inch caliper. These credits apply toward meeting the general and buffer tree requirements. There is limited success at the time of local development order review to have the developer revise the site design to retain native trees.

Lee County has taken a number of steps to improve the aesthetics of developing areas and insure a consistent quality of life throughout the county. In December of 1998 the Board of County Commissioners (BOCC) adopted a revised landscape code and architectural standards. The landscape code revisions addressed buffering and landscape standards. Projects subject to these revisions are just beginning to be completed. The improvements to commercial and industrial sites are noticeable, and staff has received positive comments from citizens.

Additionally, the BOCC committed to a substantial street landscaping program in 1998 (advisory committee established 1996) to prioritize roadway corridors and establish landscaping designs. The LeeScape street-landscaping program has \$500,000 budgeted for the design and installation of landscaping each year along county maintained roadways. The first project completed was the landscaping of Daniels Parkway from Ben Pratt/Six Mile Cypress Parkway to the Southwest Florida International Airport. Lee

County Department of Transportation has also planted native trees adjacent to the sidewalk along Gladiolus Parkway along Lakes Park to Summerlin Boulevard.

The County's Community Redevelopment Agency (CRA) efforts have resulted in additional landscaping on roadways in the community. The table below provides a summary of these projects:

Community	Amount Expended	Year Built	Project Location
Bonita Springs	\$3.5 million	1998-1999	Old 41
Tice/Ft. Myers Shore	\$462,673	2000	S.R. 80 (Phase I & II)
Tice/Ft. Myers Shore	\$240,580 (estimated)	2001	S.R. 80 (Phase III & IV)
Lehigh Acres	\$243,108	2000	Lee Boulevard
Lehigh Acres	\$280,000		Homestead Road
San Carlos Island	\$47,426	2000	
North Fort Myers	\$555,553	2000	Old 41 - N. Tamiami Trail
North Fort Myers	\$222,996	2001 (under Const.)	Bayshore Road

The proposed Lee Plan Objective 52.3 and subsequent policies are important to include in the Lee Plan to emphasize and clarify the county's commitment to insuring development occurs in an aesthetically pleasing manner while maintaining the natural character of Lee County as much as possible. The open space design objective and policies emphasize the importance of considering the natural features of the site in relation to preserving native trees and plant communities, providing visual relief, and buffering neighboring properties. The open space plan is most appropriately addressed at the zoning review stage instead of the development order review time since it is earlier in the design process and there is more flexibility to address the open space issues inherent to the specific property and development proposed. Addressing these issues at zoning review will enhance the final site designs submitted as local development orders, and increase the success of protecting Lee County's natural character. Additionally, in the case of Planned Development rezoning, the review process establishes a Master Concept Plan that establishes the permitted uses of the site as well as the location of open space and buffer areas.

The landscaping and architectural standards that were updated in 1998 did not address open space. It has become apparent through the rezoning process that it is necessary to clarify the importance of open space design. This proposal provides policies to clearly state open space design criteria. Some of the buffering and landscaping requirements may be met through designing the open space to preserve native trees and plant communities. The landscape, open space and architectural standards do not prohibit the development of the property nor do they eliminate uses.

Planning staff includes an attachment demonstrating the visual relief achieved by providing preserves retaining large, native trees along rights-of-way and within developments(see Attachment A).

Lee Plan Policy 110.6.1 directs county staff to generally assess the impact of any proposed regulation which potentially imposes new costs to taxpayers and private businesses. Currently open space needs to be factored in when the development order plan is designed, therefore, no additional cost should be generated by including the open space design on the Master Concept Plan. The proposed open space design criteria can reduce the landscaping costs through preserving existing native vegetation to meet the buffering and landscaping requirements. The required open space area remains as adopted in LDC Section 10-415. Additional lands are not required to be set aside as open space. Therefore the same amount of development area will be available on the parcel.

The BOCC established minimum open space requirements for residential, commercial and industrial developments per LDC Section 10-415. Residential developments are required to provide the greatest amount of open space at 35% for small projects and 40% for large projects to meet the needs of the residents. Commercial developments are required to provide slightly less open space at 20% for small projects and 30% for large projects to provide visual relief in the urban environment and sufficient surface water management areas. Industrial developments are required to provide the least amount of open space at 10% for small projects and 20% for large projects to provide adequate buffering and screening, as well as sufficient surface water management areas. These various open space requirements show that the LDC acknowledges the need and purpose of open space in non-residential developments. This amendment is meant to revise Goal 52 of the Lee Plan to be consistent with the existing LDC standards in terms of acknowledging the importance of open space in commercial and industrial projects. The amendment also provides the development community with guidance for designing open space within proposed projects.

## **B. CONCLUSIONS**

The purpose of open space in a development is to provide pervious land area to achieve appropriate buffering, visual relief, landscaping, surface water treatment, and preservation of existing native trees and plant communities. Open space in non-residential developments functions as it does in residential developments. Goal 52 of the Lee Plan currently does not treat all types of open space equally, addressing only residential open space. This is not consistent with other provisions of the Lee Plan or with the LDC. Goal 52 of the Lee Plan should be modified to recognize the importance of open space in non-residential development.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment.

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

DATE OF PUBLIC HEARING: March 26, 2001

**A. LOCAL PLANNING AGENCY REVIEW**

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

**1. RECOMMENDATION:**

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

**C. VOTE:**

**NOEL ANDRESS**

**SUSAN BROOKMAN**

**BARRY ERNST**

**RONALD INGE**

**GORDON REIGELMAN**

**VIRGINIA SPLITT**

**GREG STUART**

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

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

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**JOHN ALBION**

**ANDREW COY**

**BOB JANES**

**RAY JUDAH**

**DOUG ST. CERNY**

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

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

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
- B. STAFF RESPONSE**

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

DATE OF ADOPTION HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

**JOHN ALBION**

**ANDREW COY**

**BOB JANES**

**RAY JUDAH**

**DOUG ST. CERNY**

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**CPA2000-25  
BoCC SPONSORED  
AMENDMENT TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**Attachment A**

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Photo 1 - View of the Cypress Trace Plaza Eckerd from Cypress Lake Drive  
The native vegetation along the road frontage provides visual relief without blocking the view of the store



Photo 2 - View of Cypress Trace Plaza entrance from U.S. 41. The project identification sign is in clear view with the preserve area provided along the road frontage



Photo 3 - Native vegetation preserved along Cypress Lake Drive



Photo 4 - Cypress Trace Plaza large buffer area with native vegetation preserved along Cypress Lake Drive



Photo 5

Photo 5 - Corner of Summerlin Road and Cypress Lake Drive. The pine flatwoods were removed from the commercial portion of the development



Photo 6 - Commercial development along Cypress Lake Drive. Mature native vegetation was removed in favor of new planting adding to developer expense and reducing the function of the open space.

linked out at REIS lunch

5-8-01

File

CPA 2000-

24

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25

### Regulatory Alert – Lee County Openspace Comprehensive Plan Amendments

In the coming months of May and June, Lee County Planning Staff will be proposing two new amendments to the Lee Plan. These two amendments propose to further regulate the character and location of open space in commercial projects and industrial projects while setting the stage to eventually increase the amount of regulated open space. The two amendments are -- CPA 2000-25 Goal 52 Open Space Standards and CPA 2000-24 Goal 40 Isolated Wetlands.

The Goal 52 Open Space comprehensive plan amendment is based upon the Staff premise that commercial and industrial developments do not have enough open space. The amendment calls for significant new regulatory policies and standards. Key standards include the designation of existing freestanding trees as native open space areas, the “encouragement” of placing in the front of non-residential projects regulated open space and existing trees, and to require a review of the Land Development Code as it pertains to minimum non-residential open space standards. It is this last standard that sets the stage to increase the amount of regulatory commercial open space.

The Goal 40 Isolated Wetlands comprehensive plan amendment is aimed at encouraging the incorporation of isolated wetlands into a projects surface water management system. Staff wants to “encourage” (i.e., mandate) the preservation of isolated wetlands in front of commercial and industrial projects for visual relief and other purposes. The policy is a direct result of the Fiddlesticks Publix Shopping Center zoning case, where Lee County Staff directed the applicant to set aside hundreds of thousands of dollars of commercial real estate out parcels for visual relief.

The two proposed Lee Plan amendments are based upon many questionable assumptions and reflect ongoing pro-regulation, anti-business governmental trends. The underlying basis of these proposals have been addressed by code reforms supported by the business community, including Roadway Landscaping Buffers and Architectural Design Standards. Furthermore, the Isolated Wetland amendment directly contradicts the widely accepted principal and benefits of preserving large-scale wetland systems and not small, isolated wetlands. By changing the rules so as to insure freestanding trees are regulated and that more native open space and isolated wetlands are set aside in front of commercial and industrial projects, the valuation of these lands will be diminished. In so doing, transactional values and property use will be reduced. Please call the BOCC and tell them *to not transmit these two amendments*. The BOCC needs to hold off on non-urgent Lee Plan amendments and Land Development Code rules that cannot be firmly linked to demonstrable public health, safety and welfare considerations. Finally, a regulatory “time-out” is needed so as to permit the Smart Growth initiative to evaluate continuous Staff initiated regulatory efforts so as to come up with a better rule making process.

- Bob Janes @ (941) 335 – 2224 <http://www.co.lee.fl.us/askyourcommissioner.asp>
- Doug St.Cerny @ (941) 335 – 2227 <http://www.co.lee.fl.us/askyourcommissioner.asp>
- Ray Judah @ (941) 335 – 2223 <http://www.co.lee.fl.us/askyourcommissioner.asp>
- Andy Coy @ (941) 335 – 2226 <http://www.co.lee.fl.us/askyourcommissioner.asp>
- John Albion @ (941) 335 – 2225 <http://www.co.lee.fl.us/askyourcommissioner.asp>

## STAFF LANGUAGE

**GOAL 52: DEVELOPMENT DESIGN REQUIREMENTS.** To require new developments to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

**OBJECTIVE 52.1:** Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of their residents.

**OBJECTIVE 52.2:** Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

**POLICY 52.1.2:** The county must continue to review the open space requirements of the Land Development Code to determine if these requirements should be modified in any way to best meet the objectives of open space requirements within new commercial and industrial developments.

**OBJECTIVE 52.3:** New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses. This objective and subsequent policies are to be implemented through the zoning process.

**POLICY 52.3.1:** Any new development must provide half of the required open space as existing native plant communities. Properties with existing native trees without associated native groundcover or understory must provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged.

**POLICY 52.3.2:** Open space areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

**POLICY 52.3.3:** The county encourages new developments to incorporate existing native plant communities and/or native trees along proposed and/or existing rights-of-way.

**POLICY 52.3.4:** The county encourages new developments to incorporate large, contiguous open space areas in the development design.

**POLICY 52.3.5:** Proposed planned developments must submit an open space design plan with an assessment of the existing native plant communities and native trees. The open space design plan must delineate the indigenous preserves and/or native trees preservation areas.



STUART AND ASSOCIATES  
Planning & Design Services  
LEE COUNTY  
RECEIVED

April 30, 2001

01 MAY -2 PM 1:58

COMM. DEV./  
PUB. WRKS. CNTR.  
SECOND FLOOR

Doug St Cerny, Chairman  
Lee County Board of County Commission  
PO Box 398  
Ft. Myers, FL 33902

Janet Watermeier  
Smart Growth Executive Committee  
Lee County Economic Development Office  
2180 West First Street, #306  
Fort Myers, FL 33901

5/1/01 ✓ Cop to: Paul O'Connor  
Matt Noble

LEE COUNTY  
RECEIVED

01 MAY -2 PM 1:45  
Return to M.G.

COMM. DEV/  
PUB. WRKS. CNTR.  
SECOND FLOOR

Re: Reflections on Smart Growth and Growth Management Efforts

Dear Doug:

I am taking this opportunity to further discuss my December 2000 Horizon Council Smart Growth letter. In that letter I communicated to the BOCC and the Smart Growth Executive Committee what I believe are five essential smart growth management principals for Lee County. For your convenience, these principals are incorporated into the text of this letter. Currently there are a number of actions, efforts and proposed new regulations that directly and significantly pertain to smart growth management and Lee County's future. Hence, I would like to advance a discussion aimed at incorporating these efforts into the Smart Growth initiative. For your convenience, I am attaching selected pages of the Arnold Committee Report, the 11 April Stuart correspondence to Paul O'Connor, and a satellite photo of SE Lee County.

Principal 1 -- To promote an urban form characterized by a clear and distinct separation between urban and rural land uses.

Currently there are a number of discussions and planning actions that pertain to this principal. For example, for the past year there have been ongoing discussions by the ad hoc Greenways Committee. It is my understanding that these efforts relate to implementing the Density Clustering Land Use Recommendation Six of the Arnold Committee Report (see attached). After speaking with Dick Anderson, a founder and active participant of the Greenways Committee, it is my understanding that the group is winding down its activities. This will probably correspond with Lee County Staff initiating a review process of the committee's recommendations for Fall 2000 comprehensive plan amendment. Given the critical nature of Density Reduction Groundwater Resource urban development concerns embedded within the DR/GR clustering issue, I respectfully request that the BOCC now direct the Greenway effort into the Smart Growth initiative. This action would correspond with directing staff to hold off on any comprehensive plan amendment(s) pertaining to DR/GR density clustering and other regionally significant urban and regional growth management issues until such issues are addressed through the Smart Growth initiative. In so doing, one will secure credible standing for Smart Growth while enhancing greater community involvement.

Principal Two -- To protect our estuaries through a well-funded, long-term public land acquisition program supported by and with good science.

I respectfully request that the BOCC makes sure that at the appropriate time the 2020 land acquisition be again put to referendum. This should be complimented by strong public communication efforts identifying the nature of the program, it's benefits and lands acquired. It may also be appropriate to reintroduce the Lee Plan policy that directs the County to commit to conservation lands acquisition. Finally, I commend your efforts in holding the line at 10% maintenance. Given the unmet public land needs, I agree with your perspective that strong and continued emphasis needs to be placed on first acquiring conservation lands. The County can afford deferring for a reasonable amount of time the maintenance of these new public lands. The County cannot afford to dilute the funds needed for acquisition. .

Principal Three -- Within the context of advancing a quality built environment and economical services and infrastructure, to recognize the limits of growth and the importance of land and water resource stewardship.

Refer to the discussion regarding Principal One and the April Stuart and Associates letter to Paul O'Connor. The County Road 951 corridor alignment is as much a planning and growth management project as it is a transportation project. Consequently, efforts relating to that future road need to be integrated into the Smart Growth initiative. I hold the opinion that the Smart Growth effort holds great promise to the general citizens of Lee County. Consequently, I respectfully request that the BOCC instruct Staff to use the Smart Growth initiative to address these multiple and overlapping transportation, environmental resource, surface water management and urban form growth management issues. Given the regional issues involved, community consensus on the corridor alignment and growth management plan is paramount.

Principal Four -- To understand that increased rural land development pressures and diminished economic opportunities and freedom are a direct result from "not in my backyard" attitudes.

This principal is as much a public educational issue. Again, the Smart Growth initiative presents an ideal forum for involving and mutually educating our community. Consequently, we should initiate a dialogue with the print media so as to obtain free public advertising of Smart Growth meeting dates and forums. This would be as a public service from the media to the citizens of Lee County. It would support the ongoing goal of open and transparent governmental processes.

Principal Five -- Smart growth practices must be supported by smart rules based upon fairness, reasonableness, predictability and administrative efficiency.

I hold the opinion that the business community will buy off on many Smart Growth principals and practices if they are supported by smart rules. All rules need to be based upon fairness, reasonableness, predictability and administrative efficiency. To that end there continues to be an ongoing regulatory push towards more rules and regulations. For example, this Spring and early Summer the BOCC will be asked by Staff to review and transmit two new open space comprehensive plan amendments (CPA 2000-25 Goal 52

Open Space and CPA 2000-40 Isolated Wetlands). The BOCC needs to understand that these new staff initiated amendments are not urgently needed and are based on many questionable assumptions. For example, the underlying basis of these Staff initiated proposals have been significantly addressed by recent Land Development Code reforms and programs such as and including roadway landscaping buffers and Architectural Design Standards. Furthermore, the Isolated Wetland CPA 2000-24 proposal directly contradicts the widely accepted principal and benefits of preserving large-scale wetland systems and not small isolated wetlands. To that end I respectfully request that the BOCC instruct Staff to hold off on non-urgent Lee Plan amendments and Land Development Code rules that cannot be firmly linked to demonstrable public health, safety and welfare considerations. A regulatory "time-out" is needed so as to permit the Smart Growth initiative to evaluate continuous Staff initiated regulatory efforts and the relationship of these ongoing efforts to smart growth. For example, it is entirely possible that new rule making processes may evolve from the Smart Growth initiative. Again I believe the development community will buy off on many principals and practices if they are supported by streamlining rules and regulations. But more piling on of new and unwarranted regulations will be counter productive to many of the big issues facing Lee County.

Thank you for the opportunity of allowing me to present my thoughts. May the best of fortune be with you.

Sincerely,



Greg Stuart, AICP

GS/sm/LPA/SmartGrowth/ SmartGrowthGreenways1

CC: Carol Hudler, Publisher  
Smart Growth Executive Committee  
Mary Gibbs, Director  
Dick Anderson

Attachments



**STUART AND ASSOCIATES**  
Planning & Design Services

April 11, 2001

Paul O'Connor  
Lee Co. Department of Community Development  
P.O. Box 398  
Ft. Myers, FL 33902

Re: Goal 13 & The April LPA Hearing

Dear Paul,

To serve as a follow-up regarding last months LPA Hearing, the intent of this letter is to respond to Staff's Goal 13 amendment request. It is my understanding that you are requesting ideas to identify policies and improvements to be incorporated into the Lee Plan based upon the soon to be vacated Bonita Springs Goal 13. Consequently, I would like to request that the policies and standards embedded in Map 3A, The 2020 Financially Feasible Transportation Plan be restated and incorporated into other portions of the Lee Plan so as to be more specific.

Derived from Policy 13.1.1, I request that Planning Staff rewrite the policy and incorporate it within the Transportation Circulation Objective 21.1 Transportation Map. My suggestion is --

*By the year 2003 Lee County shall evaluate alternate corridor alignments for the County Road 951/Bonita Grande extension from the South Lee County line to Corkscrew Road. The alternate corridor alignment evaluation process shall place equal emphasis on traffic carrying capacity, wetland and other environmental impacts, surface water management considerations and the potential for urban sprawl and related costs. The alternative corridor evaluation shall at a minimum include but not be limited to the following alternate corridor alignments.*

- 1) The CR951 Extension north from Bonita Beach Road corridor;*
- 2) The CR951 to Bonita Beach Road west to Bonita Grande Road north corridor;*
- 3) The CR951 Extension north from Bonita Beach Road as a no access high-speed toll road from Bonita Beach Rd. to Corkscrew Road corridor.*

Derived from the Map 3A policy statement pertaining to access prohibition north of Section 18, Township 47S, Range 26E, I request that Planning Staff restate and add to that policy a new policy within Objective 2.1 Development Location. My suggestion is –

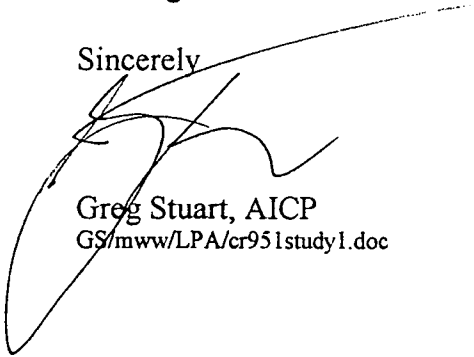
*By the year 2003 Lee County shall evaluate the adequacy of the County Road 951/Bonita Grande extension corridor's access prohibitions and specifically examine shifting the Section 18 prohibition line southward. This evaluation will be based upon growth management and environmental impact considerations including their secondary in cumulative effects on wildlife wetlands water management systems and urban sprawl potential. The evaluation will include analyzing the feasibility of combining an access prohibition line with a Bonita Grande Extension Urban Service Line.*

Derived from the Map 3A policy statement pertaining to access prohibition north of Section 18, and its inherent understanding of restricted access, I request that Planning Staff add a new policy within Objective 2.1 Development Location. My suggestion is –

*The county will not accept right-of way donations in exchange for access connections for any County Road 951/Bonita Grande Extension corridor.*

I hope that this correspondence presents a direction for staff to pursue with regard to the Fall 2001 amendment process. I look forward to discussing this issue at the April LPA Hearing.

Sincerely



Greg Stuart, AICP

GS/mww/LPA/cr951study1.doc

## **ARNOLD COMMITTEE REPORT AND RECOMMENDATIONS**

### **I. BACKGROUND**

The creation of the Arnold Committee resulted due to permit considerations involving Federal agencies, and due to a challenge to permits pending issuance from the South Florida Water Management District (SFWMD) for construction of the Florida Gulf Coast University. The Florida Gulf Coast University siting process conducted through 1991-2 resulted in the selection of a site by the Florida Board of Regents (the "Alico site"). Siting studies indicated that the site had its natural environment heavily impacted by nearby mining operations, hydrologic alterations and exotic vegetation infestation. Federal agencies, however, had concerns about the direct and secondary impacts that construction would have upon sensitive on-site and off-site natural resources. Further, challengers to the SFWMD permits also raised concerns that this University would introduce more intense urban uses to a rural area, an issue that also concerned Federal entities.

Negotiations over permit issuance led to a settlement agreement that called for the creation of the Arnold Committee and an assessment of overall land uses and natural systems, environmental protection, and mitigation tools. The assessment in turn would lead to recommendations for action, and the creation of an Agency for Bay Management for Estero Bay. This committee, the Arnold Committee is the vehicle by which the settlement agreement is satisfied. The committee is a non-regulatory advisory body made up of private citizens and landowners, along with representatives of non-profit groups and several levels of government.

The primary charge of the "Arnold Committee" was to develop a set of recommendations for the different management entities that would result in a coordinated program of sustained resource management for Southeast Lee County and Estero Bay. At its heart, land-use planning is about connections. Some of these connections are functional: whether avoiding overt conflicts between incompatible land uses, or trying to ensure geographic balance between residential, commercial, and industrial lands. Other connections are physical: understanding the interaction and need for movement of people, drainage, power, drinking water, and wildlife. Most of all, planning is about balance, trying to bind the things our society builds (or conserves) into a mutually supportive whole. The Arnold Committee has undertaken its efforts seeking appropriate connections and a balance between public and private needs.

## **VIII. RECOMMENDATIONS**

### **A. Land Use Recommendations**

#### **Future Land Uses in Southeast Lee County:**

1. Lee County's primary agricultural region is its southeast quadrant, an integral part of southwest Florida's extensive agricultural economy. Although some conflicts will always arise between agriculture and other important land uses, the public goal should remain as assuring long-term coexistence of agriculture, mining, and natural lands in southeast Lee County.
2. Ecological Sustainability is a priority land use concern and must be a fundamental criteria for land use decisions within the Arnold Committee Study Area and the flowways from the study area to Estero Bay.
3. Limerock mining is another important part of Lee County's economy. Because limerock extraction must displace large portions of the natural landscape, the precise nature of mining plans will irrevocably shape the landscape of southeast Lee County. Florida's new "life-of-the-mine" permitting process will have far-reaching impacts on southeast Lee County, and local concerns over potential impacts should be expressed in the early stages of that process so that acceptable mining and mitigation plans can be developed and permitted.
4. Every effort should be expended by government, community leaders, and the rock mining industry owners and businesses to seek incentives and permitting initiatives to plan and connect rock mining borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, human recreation and community environmental benefits from such a system.
5. The Lee County Regional Water Supply Authority should again take an active role in coordinating future water supply needs, or an alternative arrangement for the cooperative development of wellfields should be carried out in the immediate future. In the absence of positive action towards either alternative, Lee County should take the lead by commissioning an independent analysis of the prudence of allowing this public planning function to be delegated (even by default) to private entities.
6. Evolutionary changes should be considered to the Lee Plan's "Density Reduction/Groundwater Resource" category which maintain protection of important groundwater and other natural resources in non-urban areas of Lee County; discourage the proliferation of urban sprawl by maintaining a clear separation of urban and non-urban uses, to clarify its description, and provide some additional flexibility, such as clustering, to landowners who preserve important natural habitats. Lee County should consider adopting both of the following cluster ideas:
  - The maximum density level may be increased to one dwelling unit per five acres (1 du/5 acres) under the following circumstances:
    - i. Lots for individual dwelling units range from 1 to 3 acres each;
    - ii. The total land used for lots, waterbodies, and common facilities and infrastructure does not exceed 30% of the total acreage;

- iii. The remaining uplands not used for individual lots and common infrastructure will provide valuable wildlife habitat, as determined by the County Manager or his designee; and
  - iv. The remaining uplands are protected by a permanent conservation easement acceptable to Lee County.
- Potential dwelling units may also be transferred from one parcel to another noncontiguous parcel under the following circumstances:
    - i. Both the sending and the receiving parcels must be located in the Groundwater Resource areas;
    - ii. The resulting density of the receiving parcel may not exceed 1 du/acre, and no lots for individual dwellings may contain less than ½ acre of land;
    - iii. The receiving parcel must have direct access to an arterial or collector street;
    - iv. The receiving parcel may not be on land shown as a future wellfield in a master plan of the Lee County Regional Water Supply Authority or a public water supply provider;
    - v. The maximum number of dwelling units that may be transferred to the receiving parcel shall be computed by dividing the number of acres on which the owner's development rights will be permanently extinguished by 10, except where the County Manager or his designee determines that the sending parcel will provide valuable wildlife habitat, in which case the number of acres of such habitat would be divided by 5; and
    - vi. Transferred development rights may not be used to obtain a development order on the receiving parcel until a conservation easement acceptable to Lee County that has the effect of permanently extinguishing the rights of the owner of the sending parcel and all successors in interest to develop the sending parcel (or the affected portion thereof) for urban purposes has been recorded in the public records of Lee County.

Note: The suggested language for both clustering options contained in this report will need to be expanded by Lee County to include explicit criteria concerning the proximity of clustered dwelling units to urban facilities and some priorities for the character and location of lands that would be preserved.

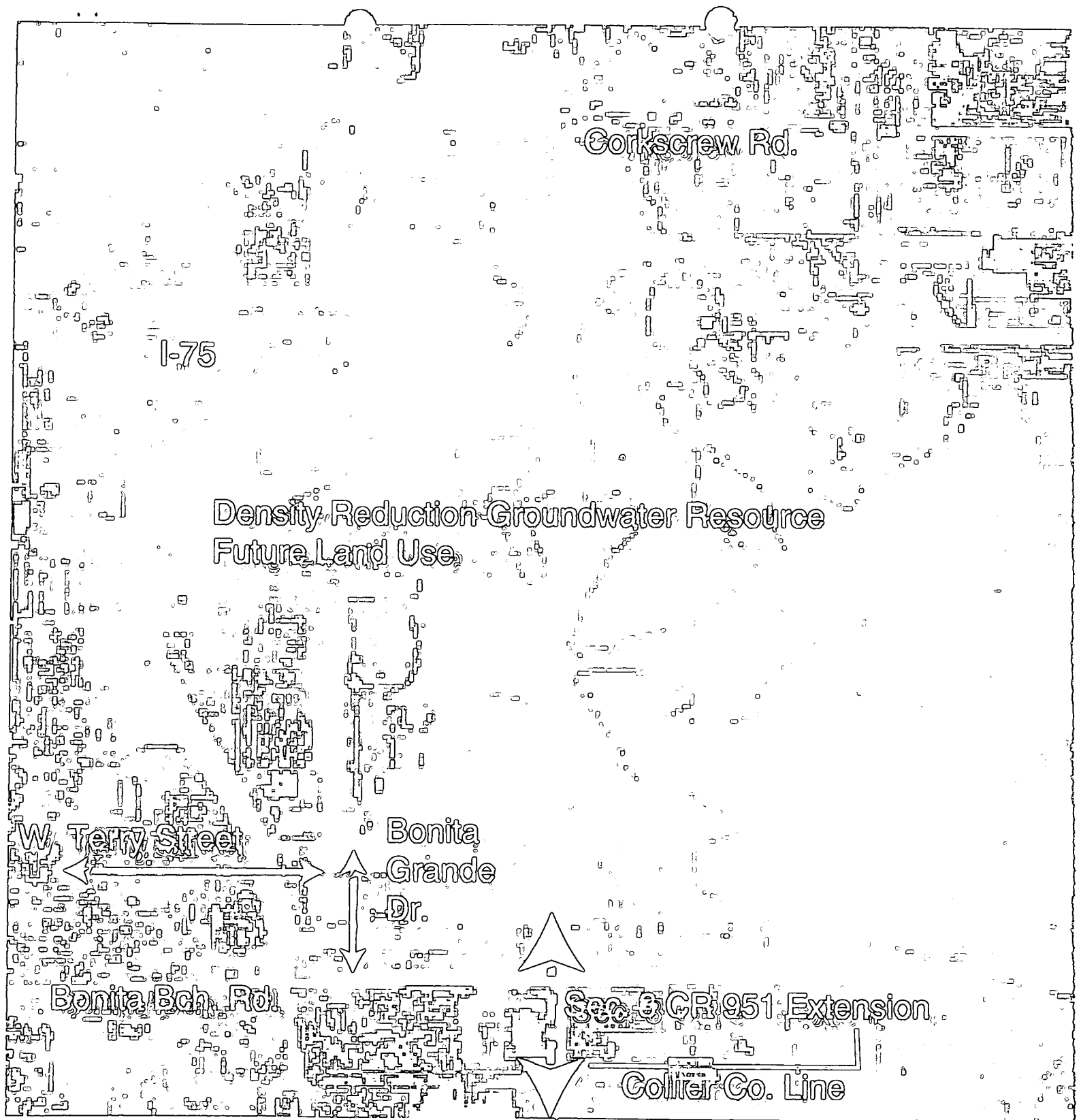
- 7. The Lee Plan's "university village" plus other designated urban land near I-75 currently are more than adequate for the residential and commercial growth that will be needed for the healthy development of the Florida Gulf Coast University through the year 2020.
- 8. The Lee Plan should not prematurely change the current line of separation between urban and non-urban uses, however, Lee County should amend the Lee Plan to include a policy or policies to discourage further land use amendments in the Arnold Study Area which increase density or intensity of land uses.
- 9. The Lee Plan's future land use map should be amended to reflect the future limits of the Southwest Florida International Airport.

### **Regional Transportation Planning:**

10. The MPO system has proven to be a successful example of intergovernmental coordination and deserves continued support at all levels of local and state government.
11. Transportation planning should extend as far into the future as accepted transportation planning methodology will support.
12. Future roads may be needed in southeast Lee County due to population pressures from the north, west, and south. Planning for such roads is complicated by wetlands and existing and approved development that limit future road alignments, and by the development-inducing potential of roads. Lee County should investigate ways to minimize the growth-inducing effects of new roads in southeast Lee County while ensuring, through legal means, that land uses allowable under the current Lee Plan do not preclude roads that might be needed to serve urban development permitted by that plan.
13. Lee County should plan for and provide for the acquisition of right-of-way for a suitable corridor for a future road connecting Alico Road to Lehigh Acres.
14. Lee County should allow itself maximum flexibility to minimize the cost of right-of-way for future roads. A single amendment to its current ordinances should provide for a negotiation process that could result in case-by-case relief from development regulations in exchange for needed rights-of-way, avoiding condemnation and the risks of regulatory inverse condemnation.
15. Lee County should establish policies in its comprehensive plan on long-term road needs in southeast Lee County, including:
  - a. care in planning for roads that may induce unwanted urban growth;
  - b. the option of widening I-75 beyond six general-purpose lanes and/or the construction of a new north-south arterial road near and parallel to I-75;
  - c. a plan to provide a measure of protection for future road corridors; and
  - d. protection of natural systems by planning for avoidance of major natural flowway systems and the high cost of extensive bridging these systems if crossings are critical.

### **Flood Control Efforts in South Lee County:**

16. The proposed levee and interceptor canal east of I-75 should not be built either as a flood control measure or a transportation corridor, or combination of both, unless all other best available management methods for surface water management are determined to be infeasible and:
  - a. a clear need is demonstrated for such a facility; and
  - b. it is found to be financially feasible (including costs for acquisition, construction, and mitigation for all off-site impacts); and



## SE Lee County Density Reduction Groundwater Resource Area

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05/22/00