

kwiktag®

022 562 377



**CPA 2001-31
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

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

January 9, 2003

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-31**

✓	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
✓	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 15, 2002

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 AND
DIVISION OF PUBLIC SAFETY

2. REQUEST:

Amend Policy 80.1.7 of the Conservation and Coastal Management Element by updating the policy to reflect a new percentage for replacement values and revising the target date when development regulations will require implementation of this policy.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Staff recommends that the Board of County Commissioners transmit this proposed amendment. The specific language modifications that staff recommends is provided below:

POLICY 80.1.7: ~~By 1995, Maintain the current county development regulations will requiring~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty (20)~~ twenty five (25) percent of its replacement value and which has recorded ~~one or more~~ one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978 a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The policy currently has an outdated implementation date of 1995. The policy has been incorporated into existing county regulations and the policy should be updated to reflect this fact.
- The amendment will reflect a new percentage for replacement values which is consistent with the Federal Emergency Management Agency's current threshold.
- The amendment updates the policy language by using the term repetitive losses as defined by the Federal Emergency Management Agency as well as the Lee County Land Development Code.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. Policy 80.1.7 was originally adopted in August of 1992 as part of the 1991/1992 Regular Comprehensive Plan Amendment Cycle. At the time the policy was proposed, existing buildings in flood plain areas could be improved or reconstructed without meeting the current codes and standards at that time as long as the project did not exceed 50% of the building's value. Lee County staff found that a more effective way of providing flood protection for older buildings was requiring compliance with flood plain management regulations when requested improvements were less than 50% of the building's value, bringing more non-conforming buildings up to flood protection standards. As shown above in the strike-through/underline proposed language, the originally adopted policy used a lower threshold for substantial improvements for any building that has suffered a recorded flood loss of \$1,000.00 or more and reduced the threshold from more than 50% to more than 20% of the building's replacement value. Staff is proposing the changes noted above as an update to Policy 80.1.7 of the Conservation and Coastal Management Element of the Lee Plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The proposed amendment to Policy 80.1.7 removes the 1995 target date of incorporating the Policy into County regulations. At this time the Lee County Land Development Code addresses these issues through Sections 6-405 and 6-472. The amendment also changes modifications to buildings from 20% to 25% of its replacement value which is consistent with the Federal Emergency Management Agency's current threshold. Additionally the amendment changes the policy language from 'one or more losses of \$1,000.00 or more' to a repetitive loss as defined by the Federal Emergency Management Agency. This change will allow flood insurance funds available in an increased cost of construction clause in flood insurance policies to be used to bring these buildings into compliance. It also significantly reduces the number of properties that would have to comply with these provisions through the definition of repetitive loss, which means two or more, rather than the current one or more. The definition of repetitive loss, as defined by the Federal Emergency Management Agency and the Lee County Land Development Code is reproduced below:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the

average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Staff can now narrow down repetitive losses with the County's current database as well as the fact that repetitive loss is easier to prove due to the record of added claims, provided through the Federal Emergency Management Agency's yearly records.

Again, as noted above, the Lee County Land Development Code addresses these issues through sections 6-405 and 6-472. Section 6-405 defines repetitive loss as follows:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Section 6-405 also defines substantial improvement as follows:

Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure, the cost of which equals or exceeds, over a five-year period, a cumulative total of 50 percent of the market value of the structure:

- (1) before the repair or improvement is started; or*
- (2) If the structure has been damaged and is being restored, before the damage occurred.*

For purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are necessary solely to ensure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the state inventory of Historic Places, or designated as a historic resource, individually, or as a contributing property in a historic district, under chapter 22.

As noted in the above citation, the definition for substantial improvements includes the term repetitive loss.

Section 6-472 requires that any new residential construction or substantial improvements be elevated to the base flood elevation. Section 6-472, Specific standards, is reproduced below:

In all areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions are required:

(1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall apply to manufactured homes that are to be placed or substantially improved on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (3) of this section.

As can be noted from these Land Development Code Citations, the intent of Policy 80.1.7 has been incorporated into the county development regulations.

B. CONCLUSIONS

The current policy was created initially to model the 20% figure after what the Federal Emergency Management Agency would be bringing about as a threshold. Today the Federal Emergency Management Agency uses a 25% threshold and the Lee Plan policy should reflect this. The intent of the policy has been recorded into the county regulations.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that Policy 80.1.7, as provided in the Conservation and Coastal Management Element of the Lee Plan be modified as follows:

POLICY 80.1.7: ~~By 1995, Maintain the current~~ county development regulations ~~will requireing~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty~~ ~~(20)~~ twenty five (25) percent of its replacement value and which has recorded ~~one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978~~ a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

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

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided the LPA a brief presentation concerning the amendment. Staff stated that the amendment reflects a new percentage for replacement values and a revision to the target date for implementation. Staff provided that the intent of the policy has been incorporated into the Land Development Code, and the Lee Plan should reflect this fact. Staff also stated that the 25 percent replacement value is consistent with the Federal Emergency Management Agency.

The LPA provided no discussion concerning the proposed amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit the proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the staff report.

C. VOTE:

NOEL ANDRESS	AYE _____
MATT BIXLER	AYE _____
SUSAN BROOKMAN	AYE _____
RONALD INGE	AYE _____
GORDON REIGELMAN	AYE _____
ROBERT SHELDON	AYE _____
GREG STUART	AYE _____

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

DATE OF PUBLIC HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

JOHN ALBION	<hr/> AYE <hr/>
ANDREW COY	<hr/> ABSENT <hr/>
BOB JANES	<hr/> AYE <hr/>
RAY JUDAH	<hr/> AYE <hr/>
DOUG ST. CERNY	<hr/> AYE <hr/>

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

DATE OF ORC REPORT: November 22, 2002

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

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

B. STAFF RECOMMENDATION

Adopt the amendment as transmitted.

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

DATE OF PUBLIC HEARING: January 9, 2003

A. **BOARD REVIEW:** The Board provided no discussion on this amendment. This item was approved on the consent agenda.

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

1. **BOARD ACTION:** The Board voted to adopt the amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff.

C. **VOTE:**

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

**CPA 2001-31
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**BoCC Public Hearing Document
for the
January 9th Adoption Hearing**

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

November 22, 2002

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-31**

✓	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 15, 2002

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 AND
DIVISION OF PUBLIC SAFETY

2. REQUEST:

Amend Policy 80.1.7 of the Conservation and Coastal Management Element by updating the policy to reflect a new percentage for replacement values and revising the target date when development regulations will require implementation of this policy.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Staff recommends that the Board of County Commissioners transmit this proposed amendment. The specific language modifications that staff recommends is provided below:

POLICY 80.1.7: ~~By 1995;~~ Maintain the current county development regulations ~~will requireing~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty~~ (20) twenty five (25) percent of its replacement value and which has recorded ~~one or more~~ one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978 a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The policy currently has an outdated implementation date of 1995. The policy has been incorporated into existing county regulations and the policy should be updated to reflect this fact.
- The amendment will reflect a new percentage for replacement values which is consistent with the Federal Emergency Management Agency's current threshold.
- The amendment updates the policy language by using the term repetitive losses as defined by the Federal Emergency Management Agency as well as the Lee County Land Development Code.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. Policy 80.1.7 was originally adopted in August of 1992 as part of the 1991/1992 Regular Comprehensive Plan Amendment Cycle. At the time the policy was proposed, existing buildings in flood plain areas could be improved or reconstructed without meeting the current codes and standards at that time as long as the project did not exceed 50% of the building's value. Lee County staff found that a more effective way of providing flood protection for older buildings was requiring compliance with flood plain management regulations when requested improvements were less than 50% of the building's value, bringing more non-conforming buildings up to flood protection standards. As shown above in the strike-through/underline proposed language, the originally adopted policy used a lower threshold for substantial improvements for any building that has suffered a recorded flood loss of \$1,000.00 or more and reduced the threshold from more than 50% to more than 20% of the building's replacement value. Staff is proposing the changes noted above as an update to Policy 80.1.7 of the Conservation and Coastal Management Element of the Lee Plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The proposed amendment to Policy 80.1.7 removes the 1995 target date of incorporating the Policy into County regulations. At this time the Lee County Land Development Code addresses these issues through Sections 6-405 and 6-472. The amendment also changes modifications to buildings from 20% to 25% of its replacement value which is consistent with the Federal Emergency Management Agency's current threshold. Additionally the amendment changes the policy language from 'one or more losses of \$1,000.00 or more' to a repetitive loss as defined by the Federal Emergency Management Agency. This change will allow flood insurance funds available in an increased cost of construction clause in flood insurance policies to be used to bring these buildings into compliance. It also significantly reduces the number of properties that would have to comply with these provisions through the definition of repetitive loss, which means two or more, rather than the current one or more. The definition of repetitive loss, as defined by the Federal Emergency Management Agency and the Lee County Land Development Code is reproduced below:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the

average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Staff can now narrow down repetitive losses with the County's current database as well as the fact that repetitive loss is easier to prove due to the record of added claims, provided through the Federal Emergency Management Agency's yearly records.

Again, as noted above, the Lee County Land Development Code addresses these issues through sections 6-405 and 6-472. Section 6-405 defines repetitive loss as follows:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Section 6-405 also defines substantial improvement as follows:

Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure, the cost of which equals or exceeds, over a five-year period, a cumulative total of 50 percent of the market value of the structure:

- (1) before the repair or improvement is started; or*
- (2) If the structure has been damaged and is being restored, before the damage occurred.*

For purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are necessary solely to ensure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the state inventory of Historic Places, or designated as a historic resource, individually, or as a contributing property in a historic district, under chapter 22.

As noted in the above citation, the definition for substantial improvements includes the term repetitive loss.

Section 6-472 requires that any new residential construction or substantial improvements be elevated to the base flood elevation. Section 6-472, Specific standards, is reproduced below:

In all areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions are required:

(1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall apply to manufactured homes that are to be placed or substantially improved on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (3) of this section.

As can be noted from these Land Development Code Citations, the intent of Policy 80.1.7 has been incorporated into the county development regulations.

B. CONCLUSIONS

The current policy was created initially to model the 20% figure after what the Federal Emergency Management Agency would be bringing about as a threshold. Today the Federal Emergency Management Agency uses a 25% threshold and the Lee Plan policy should reflect this. The intent of the policy has been recorded into the county regulations.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that Policy 80.1.7, as provided in the Conservation and Coastal Management Element of the Lee Plan be modified as follows:

POLICY 80.1.7: ~~By 1995, Maintain the current~~ county development regulations ~~will requireing~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty~~ twenty five (25) percent of its replacement value and which has recorded ~~one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978~~ a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

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

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided the LPA a brief presentation concerning the amendment. Staff stated that the amendment reflects a new percentage for replacement values and a revision to the target date for implementation. Staff provided that the intent of the policy has been incorporated into the Land Development Code, and the Lee Plan should reflect this fact. Staff also stated that the 25 percent replacement value is consistent with the Federal Emergency Management Agency.

The LPA provided no discussion concerning the proposed amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit the proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the staff report.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
ROBERT SHELDON	<u>AYE</u>
GREG STUART	<u>AYE</u>

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

DATE OF PUBLIC HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

- 1. BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

JOHN ALBION	<hr/> AYE <hr/>
ANDREW COY	<hr/> ABSENT <hr/>
BOB JANES	<hr/> AYE <hr/>
RAY JUDAH	<hr/> AYE <hr/>
DOUG ST. CERNY	<hr/> AYE <hr/>

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

DATE OF ORC REPORT: November 22, 2002

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

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

B. STAFF RECOMMENDATION

Adopt the amendment as transmitted.

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

DATE OF PUBLIC HEARING: January 9, 2003

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

**CPA 2001-31
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

DCA Transmittal Document

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

September 4, 2002

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-31**

✓	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 15, 2002

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 AND
DIVISION OF PUBLIC SAFETY

2. REQUEST:

Amend Policy 80.1.7 of the Conservation and Coastal Management Element by updating the policy to reflect a new percentage for replacement values and revising the target date when development regulations will require implementation of this policy.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Staff recommends that the Board of County Commissioners transmit this proposed amendment. The specific language modifications that staff recommends is provided below:

POLICY 80.1.7: By 1995, Maintain the current county development regulations with requiring that any building that is improved, modified, added on to, or reconstructed by more than twenty (20) percent of its replacement value and which has recorded one or more National Flood Insurance Program (NFIP) flood losses of \$100,000 or more since 1978 a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The policy currently has an outdated implementation date of 1995. The policy has been incorporated into existing county regulations and the policy should be updated to reflect this fact.
- The amendment will reflect a new percentage for replacement values which is consistent with the Federal Emergency Management Agency's current threshold.
- The amendment updates the policy language by using the term repetitive losses as defined by the Federal Emergency Management Agency as well as the Lee County Land Development Code.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. Policy 80.1.7 was originally adopted in August of 1992 as part of the 1991/1992 Regular Comprehensive Plan Amendment Cycle. At the time the policy was proposed, existing buildings in flood plain areas could be improved or reconstructed without meeting the current codes and standards at that time as long as the project did not exceed 50% of the building's value. Lee County staff found that a more effective way of providing flood protection for older buildings was requiring compliance with flood plain management regulations when requested improvements were less than 50% of the building's value, bringing more non-conforming buildings up to flood protection standards. As shown above in the strike-through/underline proposed language, the originally adopted policy used a lower threshold for substantial improvements for any building that has suffered a recorded flood loss of \$1,000.00 or more and reduced the threshold from more than 50% to more than 20% of the building's replacement value. Staff is proposing the changes noted above as an update to Policy 80.1.7 of the Conservation and Coastal Management Element of the Lee Plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The proposed amendment to Policy 80.1.7 removes the 1995 target date of incorporating the Policy into County regulations. At this time the Lee County Land Development Code addresses these issues through Sections 6-405 and 6-472. The amendment also changes modifications to buildings from 20% to 25% of its replacement value which is consistent with the Federal Emergency Management Agency's current threshold. Additionally the amendment changes the policy language from 'one or more losses of \$1,000.00 or more' to a repetitive loss as defined by the Federal Emergency Management Agency. This change will allow flood insurance funds available in an increased cost of construction clause in flood insurance policies to be used to bring these buildings into compliance. It also significantly reduces the number of properties that would have to comply with these provisions through the definition of repetitive loss, which means two or more, rather than the current one or more. The definition of repetitive loss, as defined by the Federal Emergency Management Agency and the Lee County Land Development Code is reproduced below:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the

average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Staff can now narrow down repetitive losses with the County's current database as well as the fact that repetitive loss is easier to prove due to the record of added claims, provided through the Federal Emergency Management Agency's yearly records.

Again, as noted above, the Lee County Land Development Code addresses these issues through sections 6-405 and 6-472. Section 6-405 defines repetitive loss as follows:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Section 6-405 also defines substantial improvement as follows:

Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure, the cost of which equals or exceeds, over a five-year period, a cumulative total of 50 percent of the market value of the structure:

- (1) before the repair or improvement is started; or*
- (2) If the structure has been damaged and is being restored, before the damage occurred.*

For purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are necessary solely to ensure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the state inventory of Historic Places, or designated as a historic resource, individually, or as a contributing property in a historic district, under chapter 22.

As noted in the above citation, the definition for substantial improvements includes the term repetitive loss.

Section 6-472 requires that any new residential construction or substantial improvements be elevated to the base flood elevation. Section 6-472, Specific standards, is reproduced below:

In all areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions are required:

(1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall apply to manufactured homes that are to be placed or substantially improved on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (3) of this section.

As can be noted from these Land Development Code Citations, the intent of Policy 80.1.7 has been incorporated into the county development regulations.

B. CONCLUSIONS

The current policy was created initially to model the 20% figure after what the Federal Emergency Management Agency would be bringing about as a threshold. Today the Federal Emergency Management Agency uses a 25% threshold and the Lee Plan policy should reflect this. The intent of the policy has been recorded into the county regulations.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that Policy 80.1.7, as provided in the Conservation and Coastal Management Element of the Lee Plan be modified as follows:

POLICY 80.1.7: ~~By 1995, require~~ Maintain the current county development regulations ~~with requiring~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty~~ twenty five (25) percent of its replacement value and which has recorded ~~one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978~~ a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

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

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided the LPA a brief presentation concerning the amendment. Staff stated that the amendment reflects a new percentage for replacement values and a revision to the target date for implementation. Staff provided that the intent of the policy has been incorporated into the Land Development Code, and the Lee Plan should reflect this fact. Staff also stated that the 25 percent replacement value is consistent with the Federal Emergency Management Agency.

The LPA provided no discussion concerning the proposed amendment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit the proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the staff report.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
ROBERT SHELDON	<u>AYE</u>
GREG STUART	<u>AYE</u>

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

DATE OF ADOPTION HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

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

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

DATE OF ORC REPORT: _____

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**

- B. STAFF RECOMMENDATION**

**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

**CPA 2001-31
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Transmittal Document
for the
September 4th Public Hearing

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

August 16, 2002

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-31**

✓	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 15, 2002

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 AND
DIVISION OF PUBLIC SAFETY

2. REQUEST:

Amend Policy 80.1.7 of the Conservation and Coastal Management Element by updating the policy to reflect a new percentage for replacement values and revising the target date when development regulations will require implementation of this policy.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Staff recommends that the Board of County Commissioners transmit this proposed amendment. The specific language modifications that staff recommends is provided below:

POLICY 80.1.7: By 1995, Maintain the current county development regulations will requireing that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty~~ (20) twenty five (25) percent of its replacement value and which has recorded ~~one or more~~ National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978 a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The policy currently has an outdated implementation date of 1995. The policy has been incorporated into existing county regulations and the policy should be updated to reflect this fact.
- The amendment will reflect a new percentage for replacement values which is consistent with the Federal Emergency Management Agency's current threshold.
- The amendment updates the policy language by using the term repetitive losses as defined by the Federal Emergency Management Agency as well as the Lee County Land Development Code.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. Policy 80.1.7 was originally adopted in August of 1992 as part of the 1991/1992 Regular Comprehensive Plan Amendment Cycle. At the time the policy was proposed, existing buildings in flood plain areas could be improved or reconstructed without meeting the current codes and standards at that time as long as the project did not exceed 50% of the building's value. Lee County staff found that a more effective way of providing flood protection for older buildings was requiring compliance with flood plain management regulations when requested improvements were less than 50% of the building's value, bringing more non-conforming buildings up to flood protection standards. As shown above in the strike-through/underline proposed language, the originally adopted policy used a lower threshold for substantial improvements for any building that has suffered a recorded flood loss of \$1,000.00 or more and reduced the threshold from more than 50% to more than 20% of the building's replacement value. Staff is proposing the changes noted above as an update to Policy 80.1.7 of the Conservation and Coastal Management Element of the Lee Plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The proposed amendment to Policy 80.1.7 removes the 1995 target date of incorporating the Policy into County regulations. At this time the Lee County Land Development Code addresses these issues through Sections 6-405 and 6-472. The amendment also changes modifications to buildings from 20% to 25% of its replacement value which is consistent with the Federal Emergency Management Agency's current threshold. Additionally the amendment changes the policy language from "one or more losses of \$1,000.00 or more" to a repetitive loss as defined by the Federal Emergency Management Agency. This change will allow flood insurance funds available in an increased cost of construction clause in flood insurance policies to be used to bring these buildings into compliance. It also significantly reduces the number of properties that would have to comply with these provisions through the definition of repetitive loss, which means two or more, rather than the current one or more. The definition of repetitive loss, as defined by the Federal Emergency Management Agency and the Lee County Land Development Code is reproduced below:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the

average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Staff can now narrow down repetitive losses with the County's current database as well as the fact that repetitive loss is easier to prove due to the record of added claims, provided through the Federal Emergency Management Agency's yearly records.

Again, as noted above, the Lee County Land Development Code addresses these issues through sections 6-405 and 6-472. Section 6-405 defines repetitive loss as follows:

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Section 6-405 also defines substantial improvement as follows:

Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure, the cost of which equals or exceeds, over a five-year period, a cumulative total of 50 percent of the market value of the structure:

- (1) before the repair or improvement is started; or*
- (2) If the structure has been damaged and is being restored, before the damage occurred.*

For purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are necessary solely to ensure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the state inventory of Historic Places, or designated as a historic resource, individually, or as a contributing property in a historic district, under chapter 22.

As noted in the above citation, the definition for substantial improvements includes the term repetitive loss.

Section 6-472 requires that any new residential construction or substantial improvements be elevated to the base flood elevation. Section 6-472, Specific standards, is reproduced below:

In all areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions are required:

(1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall apply to manufactured homes that are to be placed or substantially improved on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (3) of this section.

As can be noted from these Land Development Code Citations, the intent of Policy 80.1.7 has been incorporated into the county development regulations.

B. CONCLUSIONS

The current policy was created initially to model the 20% figure after what the Federal Emergency Management Agency would be bringing about as a threshold. Today the Federal Emergency Management Agency uses a 25% threshold and the Lee Plan policy should reflect this. The intent of the policy has been recorded into the county regulations.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that Policy 80.1.7, as provided in the Conservation and Coastal Management Element of the Lee Plan be modified as follows:

POLICY 80.1.7: ~~By 1995, Maintain the current~~ county development regulations ~~will requireing~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty~~ twenty five (25) percent of its replacement value and which has recorded ~~one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978~~ a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

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

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided the LPA a brief presentation concerning the amendment. Staff stated that the amendment reflects a new percentage for replacement values and a revision to the target date for implementation. Staff provided that the intent of the policy has been incorporated into the Land Development Code, and the Lee Plan should reflect this fact. Staff also stated that the 25 percent replacement value is consistent with the Federal Emergency Management Agency.

The LPA provided no discussion concerning the proposed amendment.

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

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit the proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the staff report.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
ROBERT SHELDON	<u>AYE</u>
GREG STUART	<u>AYE</u>

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

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

DATE OF ORC REPORT: _____

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**

- B. STAFF RECOMMENDATION**

**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
