

LEE COUNTY ORDINANCE NO. 10-34
(Commercial FLUC Amendment)
(CPA2009-00005)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2009-00005 (PERTAINING TO FLOOR AREA RATIOS IN PORTIONS OF THE COMMERCIAL FUTURE LAND USE CATEGORY) APPROVED DURING THE COUNTY'S 2009/2010 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on January 25, 2010; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on June 16, 2010. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2009-00005 pertaining to the Floor Area Ratios in portions of the Commercial Future Land Use Category Amendment to the Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the June 16, 2010 meeting, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on August 27, 2010; and,

WHEREAS, on October 20, 2010, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:
SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed text amendments to the Lee Plan. The purpose of this ordinance is to adopt text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "2009/2010 Regular Amendment Cycle Floor Area Ratio Commercial FLUC Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2009/2010 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board on October 20, 2010, known as CPA2009-00005. CPA2009-00005 amends the Floor Area Ratios for specific property in the Commercial Future Land Use Category located in North Fort Myers and Fort Myers Shores.

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan.

Note: Underscored text represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

POLICY 1.1.10: The Commercial areas are located in close proximity to existing commercial areas or corridors accommodating employment centers, tourist oriented areas, and where commercial services are necessary to meet the projected needs of the residential areas of the County. These areas are specifically designated for commercial uses. Residential uses, other than bona fide caretaker residences, are not permitted in this future land use category except to the extent provided in Chapter XIII of the Plan. The Commercial areas are areas where residential uses are not expected or compatible due to the nature of the surrounding land uses and their location along major travel corridors. The commercial designation is intended for use where residential development would increase densities in areas such as the Coastal High Hazard Areas of the County or areas such as Lehigh Acres where residential uses are abundant and existing commercial areas serving the residential needs are extremely limited.

The requisite infrastructure needed for commercial development is generally planned or in place. New developments in this category must connect to a potable water and sanitary sewer system. Commercial retail developments, hotels and motels, banks, all types of office development, research and development, public, and other similar development will predominate in the Commercial areas. Limited light industrial uses are also permitted, excluding outdoor storage type uses. Any redesignation of land to the Commercial land use category should occur along major travel corridors and at road intersections. The planned development rezoning process must be used to prevent adverse impacts to the surrounding areas and to ensure that appropriate site development regulations are incorporated into the development plans of each site. A maximum Floor Area Ratio (FAR) of 1 will be used as an index of intensity of development in the commercial category. Lee Plan Policies 28.2.11 and 29.1.8 specify portions of the North Fort Myers and Fort Myers Shores Planning Communities, where the maximum permitted FAR is 0.26 and 0.25 respectively. Development in this future land use category is not required to comply with the site location criteria provided in Goal 6 when appropriate site development regulations are incorporated into the planned development.

POLICY 28.2.11: Floor Area Ratio (FAR) maximums in the Commercial Future Land Use Category described in Lee Plan Policy 1.1.10, located south of Pine Island Road between Orchid Road and Barrett Road will be 0.26.

POLICY 29.1.8: Floor Area Ratio (FAR) maximums ~~will be~~ in the Commercial Future Land Use Category described in Lee Plan Policy 1.1.10, located north of SR 80 and east of South Olga Road will be a maximum of 0.25. FAR represents the relationship of the size of a building to its site area. ~~Calculated by taking the size of parcel in square feet divided by four equals the floor area of the building.~~

FLOOR AREA RATIO (FAR) - A measure of intensity expressing the maximum allowable floor area permitted on a lot. The FAR is equivalent to the total floor area of all commercial buildings divided by the total area of the lot, expressed in square feet. The FAR represents the relationship of the developed square footage of the lot to the square footage of the site.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184(9), Florida Statutes, or until the Administrative Commission issues a final order determining the adopted amendment to be in compliance in accordance with 163.3184(10), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Manning, who moved its adoption. The motion was seconded by Commissioner Judah. The vote was as follows:

DONE AND ADOPTED this 20th day of October 2010.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: Insa L. Purice
Deputy Clerk

BY: Tammara Hall
Tammara Hall, Chairwoman

DATE: 10/20/10



Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office

STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing, is a true and correct copy of Ordinance No. 10-35, adopted by the Board of Lee County Commissioners, at their meeting held on the 20th day of October, 2010 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 21 day of October 2010.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By:



Deputy Clerk

