

**CPA2009-05
COMMERCIAL FUTURE
LAND USE CATEGORY
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

DCA Transmittal Document

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June 16, 2010

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2009-00005**

Text Amendment

Map Amendment

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: January 15, 2010

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE:

A. SPONSOR:

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

2. REQUEST:

Amend the Future Land Use Element Policy 1.1.10 (Commercial Future Land Use Category), 28.2.11, and 29.1.8 to clarify the intended maximum permitted Floor Area Ratio (FAR) within specific portions of the North Fort Myers and Fort Myers Shores planning communities. Clarify the definition of FAR in the Glossary.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION:

Staff recommends that the Board of Commissioners transmit the proposed language:

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.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Commercial Future Land Use Category Specifies a Floor Area Ratio (FAR) of 1.0.
- A FAR of 1.0 may be inappropriate for certain areas as the resulting development may cause level of service concerns on surrounding roads.

- The Fort Myers Shores planning community has a lower FAR for those areas designated Commercial within the community boundary.
- CPA2007-56, which adopted the North Fort Myers Community Plan, intended to include a FAR restriction of 0.26 for the Commercial future land use category.
- The Commercial Future Land Use Category in the North Fort Myers Community Plan was intended to mandate the lower FAR on the area along the south side of Pine Island Road between Orchid Road and Barrett Road.
- The portion of the Fort Myers Shores Planning Community located north of SR 80 and east of South Olga Road designated with the Commercial Future Land Use Category already has a maximum FAR requirement of 0.25.
- In previous amendments, a FAR measure has been used to limit commercial intensity in specific areas in response to concerns raised by the Department of Community Affairs.
- The Glossary section of the Lee Plan contains a definition of Floor Area Ratio (FAR). The definition is not clear if multiple commercial buildings are going to be developed.

C. BACKGROUND INFORMATION

In February 2009, the Board of County Commissioners adopted Lee Plan amendment CPA2007-56. Part of this amendment changed the future land use category for a portion of the North Fort Myers planning community to Commercial. No restriction was placed on the permitted maximum FAR in the Commercial category beyond the FAR of 1.0 as defined in Policy 1.1.10. The adopted amendment intended to restrict the FAR of this area to 0.26 but did not explicitly contain this language. This figure was agreed to by Staff and the landowners and their representatives.

The Florida Department of Community Affairs has in the past used Rule 9J-5.005(6) to establish the need for explicit commercial intensity regulations.

PART II - STAFF DISCUSSION

A. STAFF DISCUSSION

Staff realized after the last amendment cycle that there were some discrepancies in the policies adopted during that cycle. There was potential confusion where two policies might seem to contradict each other. In addition, a specific measure of intensity was not explicitly adopted as part of the North Fort Myers Community Plan as originally intended.

CPA2007-56 was originally to include the FAR of 0.26. This was intended to address the transportation issues that were created by the Commercial future land use area. The agreed to FAR measure was designed so that the proposed commercial development will not exceed or maximize the level of service

specified for Pine Island Road or the adjacent local roads. However, this change was not implemented and this proposed amendment will correct that oversight by creating a new Lee Plan Policy (28.2.11) within Goal 28, North Fort Myers.

Lee Plan Policy 29.1.8 addresses the portion of the Fort Myers Shores Planning Community that is designated with the Commercial future land use category. The policy requires that the Commercial designated areas will have a maximum FAR of 0.25. The policy currently has no reference to the Commercial future land use category as it is defined in Policy 1.1.10. The proposed new language for Policy 29.1.8 will cross reference the FAR requirement with it's source, Policy 1.1.10.

Staff is also recommending that the last sentence of Policy 29.1.8 be deleted. The Glossary section of the Lee Plan already contains a definition of FAR. In addition, staff is recommending several minor changes to the FAR definition to clarify applicability to developments with multiple commercial buildings.

Lee Plan Policy 1.1.10 defines the Commercial future land use category. It lists the standard maximum permitted FAR as 1.0. But it does not currently make reference to the lower FAR permitted in the areas defined by the proposed Policy 28.2.11 and current Policy 29.1.8. The proposed new language would cross-reference these policies and prevent confusion about the maximum permitted FAR for these areas in the future.

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

DATE OF PUBLIC HEARING: January 25, 2010

A. LOCAL PLANNING AGENCY REVIEW

One LPA member noted that a certain portion of the recommended language was proposed to be struck out but was not. Staff stated that it was a scrivener error. Another LPA member asked how the FAR values of .25 and .26 were reached. Staff stated that the values were the result of a DOT study of traffic impacts. These values were the levels of development that could be created without negatively affecting the levels of service for nearby roads. The LPA member expressed concern that the lowered FAR would render the subject property not economically feasible. Staff stated that a FAR of .25 was typical for commercial development in Lee County. The LPA member stated that a higher FAR could result in higher intensity which has certain advantages. Staff stated that many of the LPA members' points would be addressed in the upcoming Lee Plan EAR process. Another LPA member asked about the staff report claim that this FAR was agreed to by land owners and residents. Staff stated that it was. Another member asked if it was appropriate to put a FAR in the Lee Plan rather than the Land Development Code. Staff stated that since the FAR was the result of level of service issues, it needed to be addressed by the Lee Plan to satisfy the Department of Community Affairs. One member asked about the effect of the Commercial future land use category on mixed use development. Staff stated that the Commercial category was not intended to support mixed use but to allow greater intensity of commercial uses in areas where residences might be inappropriate, such as the Coastal High Hazard Zone. Another member stated that the reduced FAR was done with the approval of the general population of the affected planning communities. Staff stated that this amendment was intended to "clean up" a previous amendment and is not a response to an objection by DCA.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommended that the Board of County Commissioners transmit the proposed amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	AYE
CINDY BUTLER	AYE
CARIE CALL	AYE
JIM GREEN	AYE
MITCH HUTCHCRAFT	AYE
RONALD INGE	AYE
VACANT	

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

DATE OF TRANSMITTAL HEARING: June 16, 2010

A. BOARD REVIEW:

The proposed amendment was heard as part of the consent agenda. The Board of Commissioners provided no comment on the amendment. No member of the public spoke on the amendment.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

The Board voted to transmit the proposed amendment as part of the Consent Agenda.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board accepted the findings of fact as advanced by staff and the Local Planning Agency.

C. VOTE:

BRIAN BIGELOW	AYE
TAMMARA HALL	AYE
RAY JUDAH	AYE
FRANK MANN	AYE
VACANT	

**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

C. 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:

BRIAN BIGELOW	_____
TAMMARA HALL	_____
RAY JUDAH	_____
FRANK MANN	_____
VACANT	_____