

**CPA2010-14  
MIXED USE OVERLAY  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

Lee County Board of County Commissioners  
Sponsored Amendment and Staff Analysis

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BoCC Public Hearing Document  
for the  
September 28<sup>th</sup> 2011 Public Hearing

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**September 14, 2011**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2010-14**



Text Amendment



Map Amendment

| <b>This Document Contains the Following Reviews:</b> |  |
|--|--|
| ✓  | <b>Staff Review</b>  |
| ✓  | <b>Local Planning Agency Review and Recommendation</b>       |
| ✓  | <b>Board of County Commissioners Hearing for Transmittal</b> |
| ✓  | <b>Staff Response to Review Agencies Comments.</b>           |
|  | <b>Board of County Commissioners Hearing for Adoption</b>    |

STAFF REPORT PREPARATION DATE: April 18, 2011

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

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

- 2. REQUEST:** Amend Lee Plan Objective 4.3.1 to refer to the Land Development Code Chapter 32: Compact Communities; Adopt Lee Plan Policy 4.2.7 and revise Objective 6.1 to exempt commercial development within the Mixed Use Overlay from the site location standards of Lee Plan Policy 6.1.2 when implementing the provisions of Chapter 32; Amend Lee Plan Map 1, Page 6 the Mixed Use Overlay to match the Lehigh Acres Downtown Specialized Mixed-Use Node.

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

**1. RECOMMENDATION:**

Planning Staff recommends that the Board of Commissioners **adopt** the text and map changes proposed in this amendment.

*Policy 4.2.7: Development located in the Mixed-Use Overlay applying Chapter 32 - Compact Communities of the Lee County Land Development Code will not be subject to the site location standards listed in Policy 6.1.2 and 6.1.2.7.*

**Objective 6.1:** ~~All~~ Development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11, and other provisions of this plan.

**Policy 6.1.2:** ~~All~~ Commercial development must be consistent with the location criteria in this policy except where specifically excepted by this policy or by Policy 6.1.7, ~~or~~ in Lehigh Acres by Policy 32.2.4 ~~Policies 1.8.1 through 1.8.3~~, or located in the Mixed Use Overlay utilizing Chapter 32 – Compact Communities of the Land Development Code.

No Changes in numbers 1 through 6

7. *The location standards specified in Subsections 1-4 will apply to the following commercial developments: shopping centers; free-standing retail or service establishments; restaurants; convenience food stores; automobile dealerships; gas stations; car washes; and other commercial development generating large volumes of traffic. These location standards will not apply to the following: banks and savings and loan establishments without drive-in facilities; hotels or motels; marinas; general, medical, or professional offices; industrial, warehouse, or wholesale development; clubs, as defined in Chapter 34 of the Land Development Code (commercial clubs excepted); and other similar development. The distinction in this subsection between these two major types of commercial uses does not apply in Lehigh Acres, where commercial uses are permitted in accordance with Policy 32.2.4. ~~Policies 1.8.1 through 1.8.3~~. These location standards will not apply to property in the Mixed Use Overlay when Chapter 32 – Compact Communities of the Land Development Code is applied.*
8. *No Change*
9. *The location standards in this policy are not applicable in the Interchange land use category, or in Lehigh Acres where commercial uses are permitted in accordance with Goal 32, within the Captiva community in the areas identified by Policy 13.2.1, or within the Commercial Future Land Use category when appropriate site development regulations are incorporated into the planned development, ~~or~~ in Area 9 of the University Community Conceptual Master Plan, or within the Mixed Use Overlay when utilizing Chapter 32 – Compact Communities of the Land Development Code.*

Lee Plan Policy 4.3.1 states that the county will make amendments to the Land Development Code to create a mechanism to implement the development form criteria listed in Policies 4.3.2 through 4.3.7 under Objective 4.3. On June 8, 2010 the Land Development Code was amended to include Chapter 32 - Compact Communities which satisfied the requirements of Lee Plan Policy 4.3.1. Since these amendments were completed, the Lee Plan language in Policy 4.3.1 should be revised.

**Policy 4.3.1:** ~~During 2008, adopt amendments to Developments within the Mixed Use Overlay conforming to Chapter 32 - Compact Communities of the Land Development Code, will be deemed as meeting the principles listed this objective. that support New urbanism principles and address issues including: building placement, volume and façade; pedestrian amenity requirements; parking location and requirements; open space and buffer requirements; creating~~

~~inviting, human-scale streetscapes; and concurrent phasing of residential and non-residential uses. The amendments will include diagrams and visual examples that explain concepts contained in the regulations and that show clearly examples of elements that are desirable and those that are not. Minimum densities and non-residential Floor Area Ratios (FAR's) will be established.~~

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

- The Commercial Site Location Standards, Goal 6, focus on reducing the impacts on traffic flow and capacity from commercial developments generating large volumes of traffic.
- Projects within the Mixed Use Overlay following the design principles listed under Lee Plan Goal 4 will be scaled to the pedestrian, contain a high level of connectivity and small block sizes, and higher levels of internal trip capture due to the mixture of uses.
- The Mixed Use Overlay was knowingly placed in areas not meeting the criteria outlined in Goal 6 - Policy 6.1.2.
- The mixed use development “Downtown Estero” (DCI2009-00010) required a special case finding to exempt the project from the Site Location Standards of Policy 6.1.2. A special case finding will be required in all future zoning cases that do not meet the location standards if the current Lee Plan language is not amended.
- On June 8, 2010 the Land Development Code was amended to include Chapter 32, Compact Communities which satisfied the requirements of Lee Plan Policy 4.3.1 that amendments be made to the LDC supporting the principles of “New Urbanism”.
- Lee Plan Policy 32.2.4 currently exempts development within the mixed-use nodes of Lehigh Acres from the site location standards of Policy 6.1.2.
- Lee Plan Policy 32.2.1 recognizes the special status of Downtown Lehigh Acres as a specialized mixed-use node within the larger Lehigh Acres community.
- The Mixed-Use Overlay shown on Lee Plan Map 1 Page 6 of 8 is inconsistent with the Downtown Lehigh Acres mixed-use node. Aligning the Overlay with the node removes an internal inconsistency in the Lee Plan.

## **C. BACKGROUND INFORMATION**

### **Commercial Site Location Standards/Mixed Use Overlay**

The original 1984 Lee Plan included policies for reviewing commercial locations. These policies were expanded in the 1989 Lee Plan to include what are now called the “Commercial Site Location Standards.” These standards are intended to preserve roadway capacity and reduce conflicts on the road network from high trip generating uses. The site location standards require access to multiple streets with at least one being classified greater than a minor collector road.

Minor commercial uses must have access to at least a major collector road while neighborhood commercial or greater must have access to at least one arterial road. Methods to protect the traffic-carrying capacity of roads include limiting access, right-of-way setbacks, turn lanes and frontage roads for commercial development.

The 2004 Evaluation and Appraisal Report was adopted August 26, 2004 by the Lee County Board of County Commissioners. This report adopted recommended amendments to the Lee Plan to promote Smart Growth, New Urbanism, Mixed Use, Traditional Neighborhood Development and Transit Oriented Development. This form of development stresses livable/complete streets, promoting a balance between pedestrians and traffic and a reduced emphasis on vehicular traffic. Amendments to the Lee Plan to implement the recommendations of the Evaluation and Appraisal Report were processed in the 2005/2006 regular amendment cycle. Two amendments (CPA2005-35 and CPA2005-37) dealt with the mixed use development recommendations in the Evaluation and Appraisal Report. The Lee Plan Glossary was updated by the adoption of CPA2005-35 while new Objectives, Policies, and a Map were added through the adoption of CPA2005-37. The new map (The Mixed Use Overlay Lee Plan Map 1 Page 6) depicts areas in Lee County where the proposed compact style of development could be promoted. Objectives 4.2 and 4.3 were added under Goal 4 “Development Design” (now “Sustainable Development Design”) to address location and development guidelines for this type of development. The development principles stress the building form and placement on the street and the location guidelines stress connectivity, internal trip capture, and access to transit. Objective 4.2 and Policy 4.2.1 are reproduced below:

***Objective 4.2: Mixed-Use Overlay – Designate areas on the Future Land Use Map for Mixed-Use, Traditional Neighborhood, and Transit Oriented development patterns.***

***Policy 4.2.1: The County will maintain an overlay in the future land use map series identifying locations desirable for mixed use that are located in close proximity to: public transit routes; education facilities; recreation opportunities; and, existing residential, shopping and employment centers. Appropriate locations will have a positive impact on transportation facilities though increased transit service, internal trip capture, and reduced travel distance (preference will be given to locations serviced by multiple transit routes). An analysis showing the number of existing and potential residential units within the immediate and extended pedestrian shed (measured through connections and delineating pedestrian barriers) will be considered in identifying appropriate locations.***

One of the criteria used for selecting areas to be included in the overlay was access to transit. Transit access is provided to properties that do not meet site location standards. Infill and redevelopment sites were also considered appropriate for the Mixed Use Overlay, particularly those with connections to neighboring properties. Many of these sites that are located on transit routes also do not meet the site location standards. Properties that do meet site location standards are by nature located at major intersections where compact development patterns will be more challenging to create. Therefore, the properties included in the Mixed Use Overlay were not limited to those meeting the site location standards although the retail component of this form of development was considered an essential component.

Goal 6 of the Lee Plan was written at a time when the separation of uses was considered one of the best land use planning policies and this policy conflicts with integrated mixed use

developments. Therefore, many of the policies under Goal 4 now conflict with other Lee Plan policies that were written with the aspiration of buffering uses from each other and not integrating them together. One specific conflict is the site location standards found in Lee Plan Policy 6.1.2. These standards encourage auto-dependent forms of development and have no provisions for mixed-use design. It has been recognized that constraints in other locations of the county render these standards to not be applicable. Policy 6.1.2.7 provides a list of uses that must meet these standards and Policy 6.1.2.9 provides a list of areas where these standards do not apply. These portions of Policy 6.1.2 are reproduced below:

7. *The location standards specified in Subsections 1-4 will apply to the following commercial developments: shopping centers; free-standing retail or service establishments; restaurants; convenience food stores; automobile dealerships; gas stations; car washes; and other commercial development generating large volumes of traffic. These location standards will not apply to the following: banks and savings and loan establishments without drive-in facilities; hotels or motels; marinas; general, medical, or professional offices; industrial, warehouse, or wholesale development; clubs, as defined in Chapter 34 of the Land Development Code (commercial clubs excepted); and other similar development. The distinction in this subsection between these two major types of commercial uses does not apply in Lehigh Acres, where commercial uses are permitted in accordance with Policies 1.8.1 through 1.8.3.*
9. *The location standards in this policy are not applicable in the Interchange land use category, or in Lehigh Acres where commercial uses are permitted in accordance with Goal 32, within the Captiva community in the areas identified by Policy 13.2.1, or within the Commercial Future Land Use category when appropriate site development regulations are incorporated into the planned development, 13.2.1, or in Area 9 of the University Community Conceptual Master Plan.*

A recent mixed use planned development rezoning named “Downtown Estero”, (DCI2009-00010) is within the Mixed Use Overlay and is designed consistent with the principles. Goal 4 of the Lee Plan. Portions of this site do not meet the site location standards in Policy 6.1.2 for Community Commercial. A special case finding was made in this rezoning case to exempt the project from these standards.

### **Mixed Use Overlay/Land Development Code**

The Lee Plan language adopted in CPA2005-37 included a policy directing implementation by amending the Land Development Code to include form based code provisions. Lee Plan Policy 4.3.1 is reproduced below:

***Policy 4.3.1:** During 2008, adopt amendments to the Land Development Code that support New urbanism principles and address issues including: building placement, volume and façade; pedestrian amenity requirements; parking location and requirements; open space and buffer requirements; creating inviting, human-scale streetscapes; and concurrent phasing of residential and non-residential uses. The amendments will include diagrams and visual examples that explain concepts contained in the regulations and that show clearly examples of elements that are desirable and those that are not. Minimum densities and non-residential Floor Area Ratios (FAR’s) will be established.*

On June 8, 2010 the Land Development Code was amended by Ordinance 10-25 to include “Chapter 32 - Compact Communities.” This code was developed as part of the implementation phase of the Southeast Lee County Density Reduction/Groundwater Resource amendment to the

Lee Plan (CPA2008-06). The code is a form based code that meets the criteria of Objective 4.3 and subsequent policies and satisfies the requirement of Policy 4.3.1.

### **Lehigh Acres Specialized Mixed Use Nodes**

The Lee Plan was amended by the Lee County Board of County Commissioners on March 3, 2010 to include a new Goal 32 which addresses the special issues facing the large, pre-platted community identified in the recommendations of the Lehigh Acres Community Plan. One identified issue is the need for increased commercial opportunities and the desire of the residents to create commercial centers at different scales for a more attractive community. In addition to the new Goal, Objectives, and Policies, the amendment to the Lee Plan (CPA2008-07) amended the Future Land Use Map by re-designating approximately 193 acres of the “downtown” area from Central Urban to Intensive Development and to add a new page 8 “Lehigh Acres Community Plan Overlays”. The overlays include 3 classifications of “Specialized Mixed Use Nodes” (Police 32.2.1) that are intended to promote the same form of development encouraged by the Mixed Use Overlay. The Mixed Use Overlay covers all but 23 acres of the Downtown node which is intended to be the largest of the mixed use nodes in Lehigh where the most intensity and diversity will be found in the community. This node has been identified as a priority area for implementing the mixed use concept in the Lehigh Acres community. Additionally, Policy 32.2.4 exempts these nodes from meeting the commercial site location standards in Policy 6.1.2. Policies 32.2.1 and 32.2.4 are reproduced below:

***Policy 32.2.1:** Specialized mixed use nodes will be classified in three sub-categories. These sub-categories are identified on Map 1, Page 8 of 8 of the Lee Plan as Downtown Lehigh Acres, Community Mixed-Use Activity Centers, and Neighborhood Mixed-Use Activity Centers.*

***Policy 32.2.4:** The site location standards described in Policy 6.1.2 do not apply within areas designated as specialized mixed use nodes*

## **PART II – STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

The Lee Plan currently does not state that the site location standards do not apply when the project is located within the Mixed Use Overlay and is designed to follow the principles in Objective 4.2. Since the form of development anticipated with the adherence to the principles in Objective 4.2 will be oriented and scaled to the pedestrian with smaller block sizes and greater connectivity, the Overlay was never intended to be restricted by the Site Location Standards found in Policy 6.1.2. Retail is a key component of the mixture of uses intended for this type of project and the fact that all of the areas in the overlay do not meet these standards demonstrates this fact. However, for clarity, a new policy is being proposed for this objective. In order to promote the principles encouraged in Goal 4 at appropriate locations within the County, a new policy needs to be added to Objective 4.2. Additionally, amendments to the existing language in Goal 6 are proposed to add clarification to the issue. The word “All” starts both Objective 6.1 and Policy 6.1.2 when subsequent language lists exceptions for certain locations and uses. Scrivener errors in the existing text refer to Lee Plan Policies that were relocated to the new Lehigh Acres Goal 32.

### **Proposed Text Changes for Site Location Standards**

To address the conflicts between the objectives and policies under Goal 4 and Goal 6 the following additions and changes are being proposed. These specific changes include adding a new policy, Policy 4.2.7, modifications to Objective 6.1 and Policy 6.1.2 to clarify commercial site location standards with regard to the Mixed Use Overlay.

*Policy 4.2.7: Development located in the Mixed-Use Overlay applying Chapter 32 - Compact Communities of the Lee County Land Development Code will not be subject to the site location standards listed in Policy 6.1.2 and 6.1.2.7.*

*Objective 6.1: All ~~development~~ development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11, and other provisions of this plan.*

*Policy 6.1.2: All ~~commercial~~ commercial development must be consistent with the location criteria in this policy except where specifically excepted by this policy or by Policy 6.1.7, ~~or~~ in Lehigh Acres by Policy 32.2.4 ~~Policies 1.8.1 through 1.8.3~~, or located in the Mixed Use Overlay utilizing Chapter 32 – Compact Communities of the Land Development Code.*

*No Changes in numbers 1 through 6*

- 7. The location standards specified in Subsections 1-4 will apply to the following commercial developments: shopping centers; free-standing retail or service establishments; restaurants; convenience food stores; automobile dealerships; gas stations; car washes; and other commercial development generating large volumes of traffic. These location standards will not apply to the following: banks and savings and loan establishments without drive-in facilities; hotels or motels; marinas; general, medical, or professional offices; industrial, warehouse, or wholesale development; clubs, as defined in Chapter 34 of the Land Development Code (commercial clubs excepted); and other similar development. The distinction in this subsection between these two major types of commercial uses does not apply in Lehigh Acres, where commercial uses are permitted in accordance with Policy 32.2.4. ~~Policies 1.8.1 through 1.8.3~~. These location standards will not apply to property in the Mixed Use Overlay when Chapter 32 – Compact Communities of the Land Development Code is applied.*
- 8. No Change*
- 9. The location standards in this policy are not applicable in the Interchange land use category, or in Lehigh Acres where commercial uses are permitted in accordance with Goal 32, within the Captiva community in the areas identified by Policy 13.2.1, or within the Commercial Future Land Use category when appropriate site development regulations are incorporated into the planned development, ~~or~~ in Area 9 of the University Community Conceptual Master Plan, or within the Mixed Use Overlay when utilizing Chapter 32 – Compact Communities of the Land Development Code.*

### **Proposed Text Changes for Mixed Use Overlay Implementation**

Lee Plan Policy 4.3.1 states that amendments to the Land Development Code to provide a mechanism needed to implement the development form criteria listed in Policies 4.3.2 through



4.3.7 under Objective 4.3 will be made by the county. On June 8, 2010 the Land Development Code was amended to include Chapter 32 - Compact Communities which satisfied the requirements of Lee Plan Policy 4.3.1. Since these amendments were completed, the Lee Plan language in Policy 4.3.1 should be revised.

*~~Policy 4.3.1: During 2008, adopt amendments to Developments within the Mixed Use Overlay conforming to Chapter 32 - Compact Communities of the Land Development Code, will be deemed as meeting the principles listed this objective. that support New urbanism principles and address issues including: building placement, volume and façade; pedestrian amenity requirements; parking location and requirements; open space and buffer requirements; creating inviting, human-scale streetscapes; and concurrent phasing of residential and non-residential uses. The amendments will include diagrams and visual examples that explain concepts contained in the regulations and that show clearly examples of elements that are desirable and those that are not. Minimum densities and non-residential Floor Area Ratios (FAR's) will be established.~~*

### **Proposed Map Change for Downtown Lehigh Node**

The Mixed Use Overlay and the Lehigh Acres Community Plan Overlays depict overlapping but not identical areas for the Downtown area of Lehigh Acres. The Downtown has been identified in the Lehigh Acres planning process as a priority area for this form of development. The proposed map amendment to Lee Plan Map 1 Page 6, the Mixed Use Overlay, will expand the overlay in this area to include all of the properties in the Downtown Specialized Mixed Use Node, Lee Plan Map 1 Page 8. The proposed map change does not remove areas in the Mixed Use Overlay that are not in the Specialized Mixed Use Nodes.

## **B. CONCLUSIONS**

When the Mixed Use Overlay was developed, it was not intended to apply the location criteria in Policy 6.1.2 to developments following the New Urbanism principles listed in the policies under Objective 4.2. Adding an additional policy under Objective 4.2 and amending Objective 6.1, Policy 6.1.2.7 and Policy 6.1.2.9 will remove the conflicting language in the Lee Plan. Including the additional areas within the Lehigh Acres Downtown Specialized Mixed Use Node will add consistency between these two overlays that both promote a new form of development for projects in Lee County where new urbanism principles and traditional neighborhood design are being encouraged.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners **transmit** the proposed amendment. The specific modifications are contained in Part I.B.1.

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

PUBLIC HEARING DATE: April 25, 2011

**A. LOCAL PLANNING AGENCY REVIEW**

Planning staff gave a brief summary of the proposed amendment. The LPA provided no comments concerning the proposed amendment. No members of the public appeared or addressed the proposed amendment.

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

- 1. RECOMMENDATION:** The Local Planning Agency recommends that the Lee County Board of County Commissioners **transmit** the amendment as proposed.
  
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by Staff.

**C. VOTE:**

|                               |               |
|-------------------------------|---------------|
| <b>NOEL ANDRESS</b>           | <b>AYE</b>    |
| <b>CINDY BUTLER</b>           | <b>AYE</b>    |
| <b>JIM GREEN</b>              | <b>AYE</b>    |
| <b>MITCH HUTCHCRAFT</b>       | <b>ABSENT</b> |
| <b>RON INGE</b>               | <b>AYE</b>    |
| <b>JACK MEEKER</b>            | <b>AYE</b>    |
| <b>CAROL E. NEWCOMB-JONES</b> | <b>AYE</b>    |

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

DATE OF TRANSMITTAL HEARING: June 13<sup>th</sup>, 2011

**A. BOARD REVIEW:**

The proposed amendment was heard as part of the Consent Agenda. The Board of Commissioners provided no comment on the proposed amendment. No member of the public appeared or provided comments concerning the proposed 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:**

|                      |            |
|----------------------|------------|
| <b>BRIAN BIGELOW</b> | <u>AYE</u> |
| <b>TAMMARA HALL</b>  | <u>AYE</u> |
| <b>RAY JUDAH</b>     | <u>AYE</u> |
| <b>FRANK MANN</b>    | <u>AYE</u> |
| <b>JOHN MANNING</b>  | <u>AYE</u> |

**PART V – REVIEWING AGENCIES’ OBJECTIONS,  
RECOMMENDATIONS, AND COMMENTS**

DATE OF DCA COMMENTS: July 29, 2011

**A. COMMENTS FROM STATE AGENCIES**

No reviewing agencies provided comments concerning the proposed amendment that need to be addressed.

**B. STAFF RECOMMENDATION**

Staff recommends that the Board of County Commissioners adopt the proposed amendment as transmitted.

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

DATE OF ADOPTION HEARING: September 28<sup>th</sup>, 2011

**A. BOARD REVIEW:**

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

**1. BOARD ACTION:**

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

**C. VOTE:**

|                      |       |
|----------------------|-------|
| <b>BRIAN BIGELOW</b> | _____ |
| <b>TAMMARA HALL</b>  | _____ |
| <b>RAY JUDAH</b>     | _____ |
| <b>FRANK MANN</b>    | _____ |
| <b>JOHN MANNING</b>  | _____ |