



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING AGENDA
and
LEE COUNTY COMPREHENSIVE PLAN

Wednesday, November 18, 2015

9:30AM

DCI2015-00005
Z-15-027

3550 COLONIAL BLVD AUTOMOBILE

DCI2015-00004
Z-15-025

CORKSCREW FARMS

CPA2015-00006

TREELINE 200 - TRANSMITTAL

CPA2014-00001

WATER SUPPLY WORK PLAN - TRANSMITTAL

CPA2015-00008

CAPITAL IMPROVEMENT ELEMENT - TRANSMITTAL

NOTICE
OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing on Wednesday, November 18, 2015 in the Board Chambers at 2120 Main Street, Ft. Myers, FL. Beginning at 9:30am, the Board will consider zoning applications and proposed amendments to the Lee County Comprehensive Plan (Lee Plan) for the following cases.

Zoning Cases

DCI2015-00005

3550 COLONIAL BLVD AUTOMOBILE

Rezone 9.79± acres from Special Commercial Office (CS-1) to Commercial Planned Development (CPD) to permit a maximum 65,000 square foot building for an automobile dealership, including showroom, parts and service department and a maximum of 300,000 square feet of outdoor vehicle display. Maximum building height proposed is 35 feet. No development blasting is requested. Development will connect to public potable water and sanitary sewer service.

Located at 3550 Colonial Blvd., Fort Myers Planning Community, Lee County, FL

DCI2015-00004

CORKSCREW FARMS

Rezone 1,361.1± ac. from Agriculture District (AG-2) to Residential Planned Development (RPD) to permit the development of up to 1,325 dwelling units, with maximum building heights of 45 feet. There is also a concurrent application to amend the Lee County Comprehensive Plan, CPA2015-00001, for text and map amendments. The proposed development will connect to public potable water and sanitary sewer service. No development blasting is proposed.

Located at 17501 Corkscrew Rd., SE Lee County Planning Community, Lee County, FL.

Copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Zoning Division, 1500 Monroe St., Ft. Myers, FL. Telephone 533-8585 for additional information.

If you did not appear before the Hearing Examiner or otherwise become a participant for that case in which you wish to testify, the law does not permit you to address the Board of County Commissioners.

Statements before the Board of County Commissioners regarding the zoning case will be strictly limited to testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

Lee County Comprehensive Plan (Lee Plan) Amendment

Interested parties may appear at the meeting and be heard with respect to the proposed plan amendments. Contact Janet Miller of the Lee County Division of Planning at 239-533-8585 for further information on obtaining a record.

CPA2015-00006

TREELINE 200

Amend Lee Plan Policy 1.3.2 and Table 1(a) to allow for multi-family residential uses within the General Interchange future land use category. Amend Table 1(b), Year 2030 Allocations, to accommodate residential development within the General Interchange future land use category.

CPA2014-00001

WATER SUPPLY WORK PLAN

Incorporate the Lee County Water Supply Facilities Work Plan into the Lee Plan as required by Florida Statute §163.3177(6)(c).

CPA2015-00008

CAPITAL IMPROVEMENT ELEMENT

Amend Lee Plan Capital Improvement Element Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 to allow future revisions to Lee Plan Tables 3, 3(a), and 4 by ordinance as permitted by Florida Statute §163.3177(3)(b).

If a participant decides to appeal a decision made by the Board of County Commissioners with respect to any matter considered at this hearing, a verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

Persons with disabilities who need an accommodation to participate in the hearing should contact Jamie Princing at 1500 Monroe St., Ft. Myers, FL 33901 (239-533-8585 or at jprincing@leegov.com). To ensure availability of services, please request accommodation as soon as possible, but preferably five or more business days prior to event. Persons using a TDD may contact Jamie Princing through the Florida Relay Services, 711.

CPA2015-00008

CAPITAL IMPROVEMENT

ELEMENT

Summary Sheet

Capital Improvement Plan, CPA2015-08

Request: Amend Lee Plan Capital Improvement Element Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 to allow future revisions to Lee Plan Tables 3, 3(a), and 4 by ordinance as permitted by revised Florida Statute (F.S.) §163.3177(3)(b).

Location: The proposed amendment is a text amendment.

LPA Motion:

The LPA recommended that the BOCC *not transmit* staff's recommendation. The motion was called and passed 5-0.

NOEL ANDRESS	<u>AYE</u>
TIMOTHY BROWN	<u>AYE</u>
DENNIS CHURCH	<u>ABSENT</u>
JIM GREEN	<u>AYE</u>
RICK JOYCE	<u>AYE</u>
DAVID MULICKA	<u>ABSENT</u>
GARY TASMAN	<u>AYE</u>

Staff Recommendation:

Staff continues to support the initial staff recommendation, and recommends that the Board of County Commissioners transmit the proposed amendment to the Capital Improvements Element.

Public Concerns:

No members of the public addressed the LPA concerning the proposed amendment.



**COMPREHENSIVE PLAN
AMENDMENT**

**CPA2015-08
CAPITAL IMPROVEMENTS
ELEMENT UPDATE**

County-Initiated Amendment

**Board of County Commissioners
Transmittal Hearing Staff Report**

11/18/2015

**LEE COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING SECTION**

**STAFF REPORT
COMPREHENSIVE PLAN AMENDMENT
CPA2015-08**

Text Amendment

Map Amendment

This Document Contains the Following Reviews	
<input checked="" type="checkbox"/>	Staff Review
<input checked="" type="checkbox"/>	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to Review Agencies' Comments
	Board of County Commissioners Hearing for Adoption

Staff Report Publication Date: October 16, 2015

**PART I
APPLICATION SUMMARY**

A. PROJECT NAME:

Capital Improvements Element Update

B. APPLICANT:

Lee County Board of County Commissioners

C. REPRESENTATIVE:

Lee County Department of Community Development, Planning Section

D. PROPOSED LEE PLAN AMENDMENTS:

Amend Lee Plan Capital Improvement Element Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 to allow future revisions to Lee Plan Tables 3, 3(a), and 4 by ordinance as permitted by revised Florida Statute (F.S.) §163.3177(3)(b).

PART II STAFF DISCUSSION AND ANALYSIS

The Lee Plan is required to have a Capital Improvements Element that includes a schedule of the capital improvements which are to be funded. The schedule is determined by the Capital Improvement Program (CIP) – a five-year plan of all public facility development projects to be undertaken based on facilities needed to meet current and projected deficiencies. Capital improvements are defined by the Lee Plan as the acquisition of land, real property, a physical facility, or the construction of a physical facility. Capital improvements include major infrastructure facilities such as roads, bridges, parks, libraries, utilities, and general government facilities. The Lee County Board of County Commissioners (BOCC) adopt the CIP in conjunction with the county's annual operating budget. The following tables constitute the state required schedule of capital improvements to be incorporated into the Lee Plan:

- **Table 3: Total Project List.** A list of the funding for various Lee County projects over the next five years. These projects are nominated by various departments to meet projected level of service needs and are approved by the BOCC as part of the annual budget. Some projects address existing deficiencies while others are intended to address projected deficiencies during the ensuing five-year period.
- **Table 3(a): Lee County School District Five-Year Capital Improvement Program.** The five-year work plan of the Lee County School District that identifies their capital needs and is annually adopted by the Lee County School Board.
- **Table 4: Total Revenue and Project Summary.** A summary of the total revenue and expenditures for the projects listed in Table 3.

Following adoption of the CIP, to keep the Lee Plan consistent with the CIP, a separate county-initiated Lee Plan amendment has historically been required to incorporate these tables into the Lee Plan. In 2011 F.S. §163.3177(3)(b) was amended to allow the adopted five-year capital improvement schedule to be incorporated into the Lee Plan by ordinance as opposed to a separate county-initiated Lee Plan amendment. The statute states that *“modification to update the 5-year capital improvement schedule may be accomplished by ordinance and may not be deemed to be amendments to the local comprehensive plan.”* Incorporating the CIP into the Lee Plan by ordinance eliminates superfluous reviews of the already adopted capital improvement schedule and thereby streamlines the process. The proposed amendments to Policies 95.1.1, 95.1.5, 95.1.6, 95.5.1 and 95.5.2 will align the procedures of the Lee Plan with those allowed by the state. The proposed amendments to the Capital Improvements Element Policies are identified in Attachment 1.

PART III
CONCLUSIONS, FINDINGS OF FACT, AND RECOMMENDATION

CONCLUSIONS:

The amendments to the Capital Improvements Element will simplify the process for incorporating into the Lee Plan the CIP tables adopted by the annual operating budget by the BOCC. The proposed amendments, as identified in Attachment 1, will allow future incorporation of updated CIP tables into the Lee Plan consistent with the process allowed by F.S. §163.3177(3)(b).

FINDINGS OF FACT:

Based on the analysis provided in this report, staff makes the following findings of fact:

- F.S. §163.3177 requires that each local government adopt a Capital Improvements Element.
- F.S. §163.3177(3)(b) provides that modifications to update the five-year capital improvement schedule may be accomplished by ordinance rather than a plan amendment.
- The proposed amendments will streamline the process for incorporating updated CIP tables into the Lee Plan consistent with Florida Statutes.

STAFF RECOMMENDATION:

Staff recommends that the Board of County Commissioners **adopt** the proposed amendments to Policy 95.1.1, Policy 95.1.5, Policy 95.1.6, Policy 95.5.1 and Policy 95.5.2 as identified Attachment 1 to this staff report.

**PART IV
LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: October 26, 2015

A. LOCAL PLANNING AGENCY REVIEW:

Following a brief presentation concerning the proposed amendment, one LPA member asked what role the LPA would have in the CIP process. Staff replied that the LPAs role has been eliminated consistent with state statute. The LPA discussed the importance of providing an additional public forum for review of the CIP. As an alternative, the LPA requested that the CIP be made an agenda item for their review prior to its adoption by the Board of County Commissioners.

A motion was made to recommend that the Board not transmit the proposed amendment. The motion was called and passed by a 5 to 0 vote.

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

- 1. RECOMMENDATION:** The Local Planning Agency voted to recommend that the Board of County Commissioners NOT transmit the proposed amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA stated that the amendment would reduce public opportunities to participate in the CIP process.

C. VOTE: To not transmit: **5-0**

NOEL ANDRESS	AYE
TIMOTHY BROWN	AYE
DENNIS CHURCH	ABSENT
JIM GREEN	AYE
RICK JOYCE	AYE
DAVID MULICKA	AYE
GARY TASMAN	ABSENT

D. STAFF RESPONSE TO LPA RECOMMENDATION:

Staff continues to support the initial staff recommendation, and recommends that the Board of County Commissioners transmit the proposed amendment to the Capital Improvements Element.

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

DATE OF TRANSMITTAL HEARING: November 18, 2015

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

BRIAN HAMMAN	_____
LARRY KIKER	_____
FRANK MANN	_____
JOHN MANNING	_____
CECIL PENDERGRASS	_____

Text Amendments:

POLICY 95.1.1: CAPITAL IMPROVEMENTS PROGRAM (CIP). ~~The county will annually prepare and adopt a Capital Improvements Program showing all public facility development projects to be undertaken during the ensuing five-year period. The county will also annually evaluate and update this Capital Improvements element to incorporate the schedule of capital improvements adopted as part of the annual operating budget. The schedule must show all public facility projects to be undertaken during the ensuing five-year period.~~ The following policies will govern the development of the CIP:

a. Preparation of the CIP:

1. Each county department having responsibility for public facilities for which levels of service have been set under this plan will annually review existing facilities, level-of-service standards, and current and projected deficiencies using the level-of-service standards contained in this plan, the established minimum geographic units for each facility, and the latest population projections from the Planning Division. Based on identified current and projected deficiencies, each department will prepare a capital improvements program based on facilities needed to meet these deficiencies.
2. Staff and members of the Board of County Commissioners will communicate with the general public in this process to ascertain the perceived need for each kind of public facility in each commission district and planning district. Ensure that all large CIP projects include broad public education efforts and information exchange as a component for securing public support.
3. A proposed CIP will be presented by the County Administrator in conjunction with the presentation of the proposed annual operating budget. The proposed CIP will be "balanced" (i.e., proposed expenditures will not be greater than the amount of revenues available to fund the expenditures, on a fund-by-fund basis). Attached to the proposed balanced CIP will be a report of the projects designated as needed, but which cannot be funded.
4. ~~The proposed CIP will be reviewed by the Local Planning Agency (LPA), which will consider the consistency of the proposal with the Comprehensive Plan and the effect of the CIP on the growth management objectives of the county.~~
54. ~~The proposed CIP, along with the report of the Local Planning Agency, will be reviewed by the Board of County Commissioners.~~ The Board of County Commissioners will by resolution adopt a CIP at approximately the same time as the adoption of the annual operating budget. The annual operating budget

must be consistent with the first year of the adopted CIP. The schedule of capital improvements adopted as part of the annual operating budget will be incorporated into the Lee Plan annually by ordinance.

65. The adopted CIP ~~will~~ may be reviewed by the Board of County Commissioners during periodic public meetings, ~~to be held at least quarterly, called to discuss the status of CIP projects. Staff will be required to provide the Board with a status report on all ongoing CIP projects prior to these meetings.~~ The Board may amend the CIP at these meetings by resolution after making findings of fact that the amendment is consistent with the priorities in this policy and with the Lee Plan in general. ~~Where an amendment to the CIP affects the first year, the annual operating budget will also be amended so as to remain consistent with the CIP.~~
76. All estimates of facility or service demand used to develop specific facility plans or any annual update of the capital improvements program will be based on the specific volume and location of demand represented by developments for which local and DRI Development Orders were issued prior to the effective date of this plan, as well as more general estimates of population and land use intensity.

b. Priorities for the CIP:

Where needs based on current and/or projected deficiencies exceed revenues projected to be available, projects will be included according to certain priorities which are listed below. In addition, these priorities will be considered in reviewing proposals to amend the CIP.

1. Projects that remove a direct and immediate threat to the public health or safety;
2. Projects that are directed by a court order or otherwise by law;
3. Projects that are essential for the maintenance of the county's investment in existing infrastructure;
4. Projects that remove a service level deficiency that affects developed areas; and
5. Projects that provide new or additional facility capacity for undeveloped Future Urban areas.

For the purpose of ranking projects in categories 4 - 5 that fall into the same category, the following will be considered:

- (a) Priorities found elsewhere in this plan, including, but not limited to, Objective 2.3 and Policies 36.1.5, 37.3.3, 38.1.7, 38.2.1, 38.2.4, 38.2.6, 40.2.2, 40.2.6, 76.1.2, and 109.1.3; and

- (b) Whether the facility is needed to satisfy a regulatory or a non-regulatory level of service requirement in this element.

Other factors that may be considered in ranking projects that are otherwise equal in priority include (in no particular order of significance):

- (a) Whether the project competes with other facilities that have been or could reasonably be provided by other governmental entities or the private sector;
- (b) The revenue-generating potential of the project;
- (c) Offers of donations of lands and/or services by the private sector and/or other governmental entities; and
- (d) The size and number of similar projects in each of the county's planning and commission districts.

c. Effect of the CIP:

1. After adoption of the CIP, no public facility project will be constructed by the county, nor will land be acquired for such project, except in conformity with the adopted CIP.
2. It is the intent of this plan to actively pursue the development of any public facility project once it has been included in the CIP. Any CIP amendment which delays or cancels a project should only be made after consideration of:
 - (a) Changes in facility needs based on more up-to-date population projections;
 - (b) Changes in revenues compared with previous projections; and
 - (c) Changes in adjusted level of service standards.
3. The county will consider and may accept dedication of facilities contributed to the county. Where contributed facilities are not provided by county funds, they need not be included in the CIP prior to acceptance. The county may, however, establish procedures for including contributed facilities in the CIP where inclusion in the CIP is a requirement of the Concurrency Management System. (Amended by Ordinance No. 94-30, 00-22, 07-16)

No amendments proposed to Policy 95.1.2 to Policy 95.1.4

POLICY 95.1.5: In accordance with Florida Statute §163.3177(3) ~~Section 9J-5.016(4)(a)1.~~, ~~Florida Administrative Code~~, Table 3 contains a schedule of capital improvements, extracted from the most recently adopted CIP and incorporated into the Lee Plan by ordinance. ~~Lee County Capital Improvements Program.~~ This

schedule provides, by operating department and type of improvement, a list of projects identified by project number and descriptive name, with the proposed annual budget and five-year total expenditures. Table 3A provides the location of the project by Planning District, the plan criteria by ~~CIE~~ priority numbers established in (from Policy 95.1.1(b)), and specific references to the Lee Plan policies which require or encourage the proposed capital project. (Amended by Ordinance No. 94-30)

POLICY 95.1.6: In accordance with Florida Statute §163.3177(3) Section 9J-5.016(4)(a)2., ~~Florida Administrative Code~~, Table 3 is hereby provided as the required list of projected costs and revenue sources by the type of public facility. Additional information may be obtained by consulting the annual update of the Lee County Capital Improvements Program or the Lee County annual fiscal year budget document. (Amended by Ordinance No. 94-30)

No amendments proposed to Objective 95.2 to Objective 95.5

POLICY 95.5.1: The County will annually incorporate by ordinance into the Capital Improvements Element the School District's annually adopted Five-Year Capital Facilities Plan. ~~The County adopts by reference the Lee County School District 2008-2009 Work Plan adopted by the Lee County School District on September 23, 2008.~~ (Added by Ordinance No. 08-17; Amended by Ordinance No. 08-27)

POLICY 95.5.2: The County, in conjunction with the School District, will annually review the Public School Community Facilities and Services Element and maintain a long-range public school facilities map series, including the existing schools and ancillary facilities and the planned general location of schools and ancillary facilities for the five-year planning period and the long-range planning period. (Added by Ordinance No. 08-17)