



STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS  
NOTICE OF INTENT TO FIND THE  
CITY OF FORT MYERS  
COMPREHENSIVE PLAN AMENDMENTS IN COMPLIANCE  
DOCKET NO. 03-1-NOI-3603-(A)-(I)

The Department gives notice of its intent to find the Amendments to the Comprehensive Plan for the City of Fort Myers adopted by Ordinance No. 3119 on May 19, 2003, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted City of Fort Myers Comprehensive Plan Amendments and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Fort Myers City Hall, Planning Department, 2<sup>nd</sup> Floor, 2200 Second Street, Fort Myers, Florida 33901.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Amendments to the City of Fort Myers Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice, and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and a copy mailed or delivered to the local government. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

If a petition is filed, other affected persons may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.

-s-Charles Gauthier, AICP

Chief, Bureau of Local Planning

Department of Community Affairs

Division of Community Planning

2555 Shumard Oak Boulevard

Tallahassee, Florida 32399-2100



**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

(941) 479-8309

Writer's Direct Dial Number: \_\_\_\_\_

Bob Janes  
District One

January 23, 2003

Douglas R. St. Cerny  
District Two

Ray Judah  
District Three

Ray Eubank, Administrator  
Florida Department of Community Affairs  
Division of Community Planning  
Bureau of Local Planning  
2555 Shumard Oak Boulevard  
Tallahassee, FL. 32399-2100

Andrew W. Coy  
District Four

John E. Albion  
District Five

Donald D. Stilwell  
County Manager

James G. Yaeger  
County Attorney

Re: Amendments to the Lee Plan  
Adoption Submission Package (DCA No. 02-2) for the 2001/2002 Regular Comprehensive  
Plan Amendment Cycle

Diana M. Parker  
County Hearing  
Examiner

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.011, this submission package constitutes the adopted 2001/2002 Regular Comprehensive Plan Amendment Cycle to the Lee Plan (DCA No. 01-1), known locally as CPA 2001-09, CPA 2001-10, CPA 2001-11, CPA 2001-12, CPA 2001-15, CPA 2001-18, CPA 2001-22, CPA 2001-23, CPA 2001-24, CPA 2001-27, CPA 2001-28, CPA 2001-31, CPA 2001-32, CPA 2001-33, and CPA 2001-35. The adoption hearing for these plan amendments was held at 9:30 am on January 9, 2003.


Included with this package, per 9J-11.011(5), are three copies of the adopted amendments, supporting data and analysis, and the following seven adopting ordinances: Ordinance No. 03-01, Ordinance No. 03-02, Ordinance No. 03-03, Ordinance No. 03-04, Ordinance No. 03-05, Ordinance No. 03-06, and Ordinance No. 03-07. Also included, per F.S. 163.3184(7) and (15), is the required sign in form allowing a courtesy informational statement to interested citizens. By copy of this letter and its attachments I certify that this amendment has been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT), the Department of Environmental Protection, the Florida Department of State, the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

The initial staff reports for the proposed amendments were sent to the DCA with a transmittal cover letter dated September 19, 2002. All amendments previously reviewed by the Department in this current cycle of amendments were adopted by the Board of County Commissioners. Changes have occurred in CPA 2001-12, CPA 2001-10, CPA 2001-27, and CPA 2001-28. CPA 2001-12 has been revised since the time of transmittal. The connection between Three Oaks Parkway and Oriole Road has been revised and has been coordinated with the adjacent property owners. One revision to CPA 2001-10 was made in response to comments raised by the Department in the ORC Report. The Board of County Commissioners adopted the amendment with the deletion of Policy 21.9,

regarding the protection of mangroves on Captiva Island. The Board has directed staff to look further into applying such a policy county wide. In amendment CPA 2001-27 a new Objective and Policy have been added to the Community Facilities and Services Element of the Lee Plan regarding the incorporation of green infrastructure into the surface water management systems of proposed developments as well as providing definitions for green infrastructure and flow-way in the Glossary. Since transmittal, staff has met with the public and state agencies on issues raised at the Transmittal hearing. Staff has revised the transmitted language as a result of those meetings. The revisions to the subject amendment were sent to the DCA for review on November 8, 2002 prior to the issuance of the ORC Report and were adopted by the Board. CPA 2001-28 has added a new table reflecting the new 2003/2007 fiscal year to the CIP. The Board of County Commissioners adopted CPA 2001-12, CPA 2001-10, CPA 2001-27, and CPA 2001-28 with the noted changes.

If you have any questions, or if I can be of any assistance in this matter, please feel free to call me at the above telephone number.

Sincerely,  
**DEPT. OF COMMUNITY DEVELOPMENT**  
**Division of Planning**



Paul O'Connor, AICP  
Director

All documents and reports attendant to this adoption are also being sent, by copy of this cover, to:

David Burr  
Interim Director  
Southwest Florida Regional Planning Council

Mike Rippe, District Director  
FDOT District One

Executive Director  
South Florida Water Management District

Plan Review Section  
Department of Environmental Protection

Florida Department of State

Florida Fish and Wildlife Conservation Commission

The Department of Agriculture and Consumer Services, Division of Forestry



**Charlie Green**  
**Clerk of Circuit Court**  
**Lee County, Florida**

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. 03-04, adopted by the Board of Lee County Commissioners, at their meeting held on the 9th day of January, 2003.

Given under my hand and seal, at Fort Myers, Florida, this 15th day of January, 2003.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By *Michèle B Cooper*  
Deputy Clerk



FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM  
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 03-02

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Comprehensive Planning

SECONDARY KEYFIELD

DESCRIPTOR: Land Use Planning

OTHER KEYFIELD

DESCRIPTOR: Planning

ORDINANCE DESCRIPTION: 2001/2002 Lee Plan Amendment

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: 89-02, as amended AMENDMENT #2: \_\_\_\_\_

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: \_\_\_\_\_ ; REPEAL #3: \_\_\_\_\_  
REPEAL #2: \_\_\_\_\_ ; REPEAL #4: \_\_\_\_\_

(Others Repealed: List All That Apply): \_\_\_\_\_

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: \_\_\_\_\_

KEYFIELD 1 CODE: \_\_\_\_\_ KEYFIELD 2 CODE: \_\_\_\_\_

KEYFIELD 3 CODE: \_\_\_\_\_

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ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: \_\_\_\_\_ ; REPEAL #3: \_\_\_\_\_  
REPEAL #2: \_\_\_\_\_ ; REPEAL #4: \_\_\_\_\_

(Others Repealed: List All That Apply): \_\_\_\_\_

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: \_\_\_\_\_  
KEYFIELD 1 CODE: \_\_\_\_\_ KEYFIELD 2 CODE: \_\_\_\_\_  
KEYFIELD 3 CODE: \_\_\_\_\_

LEE COUNTY ORDINANCE NO. 03-04  
(Consent Ordinance)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE LAND USE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED ON THE CONSENT AGENDA DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND MAPS; PURPOSE AND SHORT TITLE; LEGAL EFFECT; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "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; and,

WHEREAS, the Lee County Board of County Commissioners, 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 public hearings pursuant to Chapter 163, Part II, Florida Statutes, and the Lee County Administrative Code on March 25, April 22, July 22, and August 26, 2002; and,

WHEREAS, the Board of County Commissioners, pursuant to Florida Statutes and the Lee County Administrative Code held a public hearing for the transmittal of the proposed amendments on September 4 and 5, 2002. At those hearings the Board approved a motion to send, and did later send, the proposed amendment to the Florida Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the transmittal hearings on September 4 and 5, 2002, 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 November 22, 2002; and,

WHEREAS, the Board moved to adopt the proposed amendments to the Lee Plan set forth herein during its statutorily prescribed public hearing for the plan amendments on January 9, 2003.

**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 a series of public hearings to consider proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the certain amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as amended, will continued to be the "Lee Plan." **This ordinance may be referred to as the "2001/2002 Regular Comprehensive Plan Amendment Cycle Consent Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE (Consent Agenda Items)

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on January 9, 2003, known as: CPA2001-11, CPA2001-15, CPA2001-22, CPA2001-23, CPA2001-24, CPA2001-31, CPA2001-32, CPA2001-33, and CPA2001-35. The aforementioned amendments amend the text of the

Lee Plan including the Future Land Use Map series, the Transportation Map series, and the tables of the Lee Plan. A brief summary of the content of those amendments is set forth below:

**CPA 2001-11**

Amend the Future Land Use Element, Policy 1.2.2, the Airport Commerce descriptor policy, to broaden the allowable uses and to establish relationships and criteria for those uses.

**CPA 2001-15**

Amend the Future Land Use Map series, Map 1, by updating the Conservation Lands land use categories.

**CPA 2001-22**

Amend the Future Land Use Map Series, Map 12, the Water Dependent Overlay (WDO) Zones, by evaluating and updating the status of the overlay areas and the Goals, Objectives, and Policies that pertain to the WDO.

**CPA 2001-23**

Evaluate and amend the Future Land Use Map series, Map 20, the Agricultural Overlay and Goal 9, Agricultural Land Uses, and its subsequent objectives and policies.

**CPA 2001-24**

Update Table 2(b), Recommended Operational Improvements on Constrained Roads.

**CPA 2001-31**

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.

**CPA 2001-32**

Amend the Intergovernmental Coordination Element and the Community Facilities Element to bring the elements into compliance with the provisions of F.S. Chapter 163.3177

**CPA 2001-33**

Amend the Build Back Policy of the Procedures and Administration Element by replacing references to the term "cost" with the term "value."

**CPA 2001-35**

Review all elements of the Lee Plan, and replace, where applicable, references to the Lee County Regional Water Supply Authority with Lee County Utilities or the Division of Natural Resources in conjunction with the County taking over the responsibilities of the Water Supply Authority.

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

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 of County Commissioners 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, 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 Albion, who moved its adoption. The motion was seconded by Commissioner Janes, and, when put to a vote, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Aye
John Albion	Aye

DONE AND ADOPTED this 9<sup>th</sup> day of January 2003.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Michelle S. Cooper  
Deputy Clerk

BY: Ray Judah  
Chairman

DATE: 1/9/03

Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office





**CPA 2001-11  
BoCC SPONSORED  
AMENDMENT  
TO THE**

---

LEE COUNTY COMPREHENSIVE PLAN

---

**THE LEE PLAN**

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BoCC Adoption Document

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*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 2001-11**

✓	<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 the DCA Objections, Recommendations, and Comments (ORC) Report</b>
✓	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF ANALYSIS PREPARATION DATE: August 23, 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

**2. REQUEST:**

Amend the Future Land Use Element, Policy 1.2.2, the Airport Commerce descriptor policy, to broaden the allowable uses and to establish relationships and criteria for those uses.

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

**1. REVISED RECOMMENDATION:**

Staff concurs with the changes proposed by the Local Planning Agency. The language recommended for transmittal is as follows:

**POLICY 1.2.2:** The Airport Commerce areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2020. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; offices; research and development activities; ground transportation and airport-related terminals or transfer facilities; and hotels/motels, meeting facilities, retail uses are permitted within hotels/motels, and other hospitality services. Ancillary retail commercial uses, intended to support the surrounding business and industrial land

uses, are allowed if they are part of a Planned Development of 10 or more acres in size and are limited to 1,000 square feet per acre of Airport Commerce land within the Planned Development. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone 3. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Retail commercial uses in this category are only permitted within hotels and motels. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area. Residential uses are only permitted in this category to the extent described in Chapter XIII.

**2. ORIGINAL RECOMMENDATION:**

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

**POLICY 1.2.2:** The Airport Commerce areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2020. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; offices; research and development activities; ground transportation and airport-related terminals or transfer facilities; and hotels/motels, meeting facilities, ~~and other hospitality services.~~ Ancillary retail commercial uses, intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development of 10 or more acres in size and are limited to 1,000 square feet per acre of Airport Commerce land. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone 3. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Retail commercial uses in this category are only permitted within hotels and motels. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to



be necessary to protect potential groundwater resources in the area. ~~Residential uses are only permitted in this category to the extent described in Chapter XIII.~~

### 3. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Providing for Commercial Retail uses in Airport Commerce allows the County to better use the airport to attract new business in order to promote economic growth and diversification.
- Flexibility in the planning requirements for future business and industrial lands in the Airport Commerce category is of paramount importance.
- Commercial functions located within business and industrial parks provide beneficial services to employees.
- The Lee County Land Development Code provides that caretakers residences can be approved in association with an industrial development.
- The reference to “and other hospitality services” is not a defined term.
- The LDC does not have this as a use group or a defined use. Staff recommends that this phrase be removed from the category.

### C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. The proposed amendment will amend the Lee Plan by modifying the Airport commerce future land use category descriptor policy to broaden the allowable uses and to establish relationships and criteria for those uses.

## PART II - STAFF ANALYSIS

### A. STAFF DISCUSSION

#### HISTORY

Objective 1.2 of the Lee Plan defines the purpose of the Southwest Florida International Airport area as it relates to the accommodation of certain uses in and around the airport. Objective 1.2 is reproduced below:

***OBJECTIVE 1.2: SOUTHWEST FLORIDA INTERNATIONAL AIRPORT AREA.** Designate on the Future Land Use Map adequate land in appropriate locations to accommodate the projected growth needs of the Southwest Florida International Airport and the business and industrial areas related to it, as well as research and development activities not necessarily related to the airport, through the year 2020. These categories are also considered Future Urban Areas.*

This objective establishes that the County must accommodate the projected growth needs of the airport and the business and industrial areas related to it for the year 2020 planning horizon. The area around the airport is required to be used for airport growth and the growth of airport-related business and industry.

While Objective 1.2 requires the area around the airport to accommodate airport related business and industry, the Airport Commerce descriptor policy outlines in more detail the types of uses that should surround the airport. The Airport Commerce category is described in Policy 1.2.2 as shown below:

***POLICY 1.2.2:*** *The Airport Commerce areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2020. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; offices; research and development activities; ground transportation and airport-related terminals or transfer facilities; and hotels/motels, meeting facilities, and other hospitality services. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. Retail commercial uses in this category are only permitted within hotels and motels. Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area. Residential uses are only permitted in this category to the extent described in Chapter XIII.*

The 1984 Lee Plan contained a similar future land use category for lands near the then Southwest Florida Regional Airport. In 1986 that category was amended to include "light manufacturing or assembly" as allowable uses. The category description was again modified in the 1989 Lee Plan to allow "ancillary commercial uses" within areas so designated.

When the County underwent the early Evaluation and Appraisal Report (EAR) in 1993 and 1994, Objective 1.2 and Policy 1.2.2 were the subject of some revisions. Regarding Objective 1.1 the EAR commented and recommended the following:

*This objective needs to be updated to reflect the new time frame for the Plan and the new name of the airport. The precise location of the property needed for the southern expansion of the airport is not known at this time; the expansion cannot, therefore, be depicted on the map as of the date of this EAR. The amount of land designated for the airport and airport-related uses is shown (sic) on Figures 11-14.*

**RECOMMENDATION:** *Change 2010 to 2020 and "Regional" to "International."*

More significant changes were proposed for Policy 1.2.2. The EAR commented and recommended the following:



*The date must be changed to reflect the new planning horizon. The reference to "mixed use" developments could give rise to the interpretation that all developments in this category must have a variety of uses. Zoning cases involving retail uses in this category have caused problems. All developments in this category are reviewed for consistency with the special environmental regulations in the Six Mile Cypress Watershed Basin Ordinance.*

**RECOMMENDATION:** *Change the date to 2020. Delete references to "mixed use" developments. Delete the reference to "ancillary" commercial uses and replace it with a statement prohibiting retail commercial uses except inside hotels and motels.*

During the EAR amendments to the Lee Plan, the Future Land Use Map was amended to convert approximately 1,400 acres from Density Reduction/Groundwater Resource to Airport Commerce. These 1,400 acres were located south of the airport, east of I-75, and north of Alico Road, in the area closest to the University. The addition of this acreage created additional opportunities for development activities requiring close proximity to the airport such as distribution centers, warehouse facilities, and services and accommodations for traveling professionals. This recent expansion of the Airport Commerce area ensured that adequate land would be available for airport related activities in the future. Following concerns raised by the Department of Community Affairs over this conversion of land from Density Reduction/Groundwater Resource to Airport Commerce, the language relating to sections 1, 2 and 6 regarding the protection of ground water resources was also added.

During the last round of Lee Plan amendments, Objective 1.2 was amended to include the particular reference to research and development activities that are not specifically related to the airport. This amendment was in response to the concern that development in the University Community future land use category, which specifically allowed such uses, was not adequately addressing this need.

## **ANALYSIS**

The existing Airport Commerce lands in Lee County are limited to the cluster bordering Southwest Florida International Airport. There is no other land in the county designated Airport Commerce. The Airport Commerce lands are an ideal place for business and industry in Lee County because of their close proximity to the airport, Interstate 75, and Florida Gulf Coast University. Additionally, airport noise zone restrictions further limit the type of development that can occur in this area. Allowable uses within these areas are generally limited to commercial and industrial. Industries choosing to locate in this area can benefit greatly from their proximity to two of the main economic engines in Lee County. They can draw on the resources of both the airport and the University.

As with the Industrial Development future land use category, it is understood that in order to broaden the county's economic base, certain lands need to be reserved for uses that won't be viable until closer to the end of the planning horizon. This is especially true for uses that need proximity to the airport. As the Lee County economy matures, it is important to preserve these lands for the future business and industrial uses that will depend on this proximity. In a previous Lee Plan amendment, staff evaluated the need for commercial and retail development in the areas of the county designated Industrial Development. The Industrial development areas of the county are similar in nature to the Airport Commerce area.

The Industrial Land Use Needs study prepared by Thomas H. Roberts & Associates, August 18, 1983, recognized that "as 'industrial parks' continue evolving into 'light industrial/research/business parks' they will also include a scattering of retail, trade, services, and other employment." This report discussed at length the need for Lee County to attract new industry. The report also stressed the need to provide "flexibility" as it is virtually impossible to predetermine the precise requirements of future individual plants.

The Urban Land Institute (ULI) notes in the Institute's Business and Industrial Park Development Handbook that the "modern business park has evolved due to the accelerating shift of the economy from one driven by basic, heavy manufacturing to one driven by information, finance, and technology." The Handbook further notes that this evolution "has been in response to a new competitive environment that is far more demanding in terms of architectural quality and flexibility, site and landscape design, land use variety and controls, and amenities." The Handbook states that the uses found in the typical business/industrial parks have changed dramatically. The Handbook provides that "a range of new uses" are being accommodated in "countless variations" including corporate, industrial, back offices, research and high-technology facilities, showrooms, mini-warehouses, incubator spaces, as well as supporting retail activities such as restaurants, hotels, and recreational amenities. The Handbook states that these "new" uses are emerging as increasingly important elements of the business park environment. ULI provides that this trend is based on an awareness that businesses and their employees generate a demand for goods and services beyond what they can provide themselves. Commercial functions located within business parks provide beneficial services to both employees and visitors.

The removal by the EAR of "ancillary commercial uses" from the list of allowable uses, along with the strict limitation of retail uses to those inside hotels and motels, was a fairly drastic change. As eluded to in the EAR analysis, this revision was in response to several zoning applications that had proposed retail commercial as their primary use. There was a concern that if commercial development was allowed as the primary use in the Airport Commerce designated lands, these lands could be lost to speculative commercial rezonings. If this were to happen, the intended primary uses of these lands, as business and industrial areas related to the airport, would be lost.

Given the relative remoteness of the Airport Commerce areas of the county, staff believes it would be logical to allow limited amounts of retail and service orientated commercial uses to serve the needs of the business and industrial uses envisioned for the area.

The Lee Plan should also be flexible in allowing free standing minor retail commercial uses that are designed to support the surrounding business and industrial land uses. These free standing uses can provide beneficial services to both employees and visitors to industrial areas. These uses should, however, be limited and minor in scale so as to not preempt the availability of land for business and industrial airport related uses.

Planning staff also believes that limited freestanding retail commercial uses designed to support the surrounding business and industrial uses should be provided by Policy 1.2.2. In keeping with the County's historic action to maintain these areas for business and industrial uses, planning staff believes that these freestanding uses should be limited to 10% of the total land area of the Airport Commerce category. This



limitation will provide an assurance that commercial uses will not preempt business and industrial uses on a large scale in the Airport Commerce area.

In addition, the Lee County Land Development Code (LDC) provides that caretakers residences can be approved in association with an industrial development. For example, caretaker's residences can be approved as special exceptions in the IL, IG, and IPD zoning districts. Staff believes that Policy 1.1.7 should allow caretakers residences. These residences are important and should be acknowledged by the Lee Plan.

Finally, the current reference to "and other hospitality services" is not a defined term. The LDC does not have this as a use group or a defined use. Staff recommends that this phrase be removed from the category.

## **B. CONCLUSIONS**

Providing for these uses in Airport Commerce allows the County to better use the airport to attract new business in order to promote economic growth and diversification. Flexibility in the planning requirements for future business and industrial lands in the Airport Commerce category is of paramount importance. Commercial functions located within business and industrial parks provide beneficial services to employees.

The Lee County Land Development Code provides that caretakers residences can be approved in association with an industrial development.

The term "and other hospitality services" should be removed from the category description.

## **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners transmit an amended Lee Plan Policy 1.2.2 that provides additional flexibility in accommodating commercial and retail uses in the Airport Commerce land use category. This policy should also acknowledge caretaker residences as an appropriate use in the Airport Commerce category and the phrase "and other hospitality services" should be removed. The proposed text changes are shown in Part I.B.1. of this report.

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

DATE OF LPA PUBLIC HEARING: August 26<sup>th</sup>, 2002

**A. LOCAL PLANNING AGENCY REVIEW**

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

**1. RECOMMENDATION:**

The LPA recommended that the Board of County Commissioners transmit the language recommended by staff with the following additions.

1. Insert the words "retail uses are permitted within hotels/motels" following the phrase ...and hotels/motels, meeting facilities.
2. Add the words "within the Planned Development" following the phrase ...limited to 1,000 square feet per acre of Airport Commerce land.

The recommended language is as follows:

**POLICY 1.2.2:** The Airport Commerce areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2020. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; offices; research and development activities; ground transportation and airport-related terminals or transfer facilities; and hotels/motels, meeting facilities, retail uses are permitted within hotels/motels, and other hospitality services. Ancillary retail commercial uses, intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development of 10 or more acres in size and are limited to 1,000 square feet per acre of Airport Commerce land within the Planned Development. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone 3. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. ~~Retail commercial uses in this category are only permitted within hotels and motels.~~ Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled,

"Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area. ~~Residential uses are only permitted in this category to the extent described in Chapter XIII.~~

Planning staff concurs with the proposed LPA changes.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA concurs with staff's basis and recommended finding of fact.

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>Absent</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 TRANSMITTAL HEARING: September 5, 2002

**A. BOARD REVIEW:**

Staff gave a brief presentation to the Board of County Commissioners to update them on the Local Planning Agency's recommendation. Staff informed the Board of the LPA's recommendation to add the words "within the Planned Development" following the phrase "...limited to 1,000 square feet per acre of Airport Commerce land." Due to an oversight, Staff did not convey the second LPA recommendation to insert the words "retail uses are permitted within hotels/motels" following the phrase "...and hotels/motels, meeting facilities.

It is Staff's intent to correct the inadvertent omission of the second LPA recommended change to the policy at the time of adoption. The Department of Community Affairs staff is encouraged to review and comment on the Board transmitted language, below, as well as on the LPA recommended language shown in Part I. B. 1. of this report.

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

1. **BOARD ACTION:** The Board voted to transmit the amendment as updated by the staff presentation.

The Board transmittal language is as follows:

**POLICY 1.2.2:** The Airport Commerce areas are commercial and industrial lands adjacent to the airport needed to accommodate projected growth through the year 2020. These areas will include developments consisting of light manufacturing or assembly, warehousing, and distribution facilities; offices; research and development activities; ground transportation and airport-related terminals or transfer facilities; and hotels/motels, meeting facilities, ~~and other hospitality services.~~ Ancillary retail commercial uses, intended to support the surrounding business and industrial land uses, are allowed if they are part of a Planned Development of 10 or more acres in size and are limited to 1,000 square feet per acre of Airport Commerce land within the Planned Development. Residential uses, other than bona fide caretaker residences, are not permitted in this category except to the extent provided in Chapter XIII of the Plan. Caretaker residences are not permitted in the Airport Noise Zone 3. Because this area is located within the Six Mile Cypress Basin and is also a primary point of entry into Lee County, special environmental and design review guidelines will be applied to its development to maintain the appearance of this area as a primary point of entry into Lee County. ~~Retail commercial uses in this category are only permitted within hotels and motels.~~ Property in Section 1 and the east ½ of Section 2, Township 46 South, Range 25 East, and in Section 6, Township 46 South, Range 26 East, must be rezoned to a planned development zoning category prior to any development other than the construction of essential public services. During the rezoning process, the best

environmental management practices identified on pages 43 and 44 of the July 28, 1993 Henigar & Ray study entitled, "Groundwater Resource Protection Study" will be rebuttably presumed to be necessary to protect potential groundwater resources in the area. ~~Residential uses are only permitted in this category to the extent described in Chapter XIII.~~

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the basis and finding of fact of staff and the LPA.

C. **VOTE:**

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

**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 Florida Department of Community Affairs 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 ADOPTION 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:**

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