

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (941) 479-8585

Bob Janes
District One September 19, 2002

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

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

Re: Amendments to the Lee Plan
Transmittal Submission Package for the 2001/2002 Regular Amendment Cycle

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.006, this submission package constitutes the transmittal of the proposed 2001/2002 Regular Amendment Cycle to the Lee Plan. The Local Planning Agency held public hearings for these plan amendments on the following dates: March 25, 2002; April 22, 2002; July 22, 2002; August 26, 2002. The Board of County Commissioners transmittal hearing for the plan amendments was held on September 4, 2002 and September 5, 2002. Per 9J-11.006(1)(a)(3), Lee County is requesting that the Department review the proposed amendments and provide an Objections, Recommendations, and Comments (ORC) Report. The proposed amendments are not applicable to an area of critical state concern. The Board of County Commissioners has stated its intent to hold an adoption hearing upon receipt of the ORC Report.

A summary of the plan amendment content and effect is attached to this letter. The name, title, address, telephone number, facsimile number, and email address of the person for the local government who is most familiar with the proposed amendments is as follows:

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
(941)479-8585
Fax (941)479-8319
Email: occonnops@leegov.com

Included with this package, per 9J-11.006, are six copies of the adopted amendment, and supporting data and analysis. By copy of this letter and its attachments I certify that these amendments have been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT),

the Department of Environmental Protection, Florida Department of State, Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning



Paul O'Connor, AICP
Director

All documents and reports attendant to this transmittal 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

2001/2002 LEE PLAN AMENDMENT CYCLE

SUMMARY OF PLAN AMENDMENT CONTENT AND EFFECT

- CPA 2001-09** Amends the Future Land Use text by adding a new Vision Statement, Goal, Objectives and Policies specific to the Bayshore Community. The Policies generally address Land Use, Transportation, Sewer and Water, and Parks and Recreation. The intent of the amendment is, in part, to provide for slow and steady growth in the Bayshore Community and to prevent incompatible uses such as mining and intense commercial uses from developing in the community.
- CPA 2001-10** Amends the Future Land Use text by adding a new Goal, Objective and ten Policies specific to the Captiva Island Community. The policies address such things as establishing a landscaping code for Captiva, creating a document clearing house to aid residents in monitoring development requests, a requirement for owners or agents for any rezoning, variance, or special exception to hold a public informational session on Captiva and a policy for Lee County to encourage and support efforts by Captivans to develop and submit ordinances that help maintain the historical character of the land. This is a privately initiated amendment sponsored, in part, by Lee County Government.
- CPA2001-11** Amends 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. 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. In addition Policy 1.2.2 is being amended by removing "and other hospitality services" due to the fact that it is not a defined term. The LDC does not have this as a use group or a defined use. Also, the Lee County Land Development Code (LDC) provides that caretakers residences can be approved in association with an industrial development, therefore Policy 1.2.2 is being amended to allow caretakers residences.
- CPA2001-12** The amendment adds to Policy 1.3.8 a specific access management plan for Alico Road in the vicinity of the I-75 interchange, and adds maps of the specific access management plans to the Future Land Use Map series. The addition of specific access management plans for the four County-maintained roads that connect to the interstate allows for a recognition of already-existing conditions and previous development approvals, rather than relying on the generalized spacing standards included in Policy 1.3.8. This action is a follow-

up to PAT 99-27, which added the specific access management plan for Corkscrew Road. Future amendments are anticipated to add the specific access management plans for Luckett Road and Bonita Beach Road.

- CPA2001-15** Amends the Future Land Use Map (FLUM) series to include in the Conservation Lands category those lands acquired by Lee County, the State of Florida (TIITF), and the private conservation foundation, the Calusa Land Trust, and reclassify an FDOT maintenance yard from the Conservation Lands FLUM category to the Public Facilities FLUM category.
- CPA2001-18** Amends the Future Land Use text by replacing the existing Vision Statement with new language, and by adding new policies and amending existing policies specific to the Pine Island Community. Amends the Future Land Use Map by creating a new Coastal Rural Land Use Category. Highlights of the Plan are the creation of the Coastal Rural Land Use Category which will replace the Rural designation on Pine Island and replace an additional 157 acres of land currently in the Outlying Suburban designation. Another policy changes the way development orders will be allocated once the 910 vehicle trip calculation has been reached. Other policies address changes to the sign regulations, architectural and site design standards, riparian areas, septic drainfields and historic building designation on Pine Island.
- CPA2001-22** Amends Map 12 of the Future Land Use Map Series, 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 zones. This amendment addresses 40 WDO zones, of which 6 are proposed for amendment. The remaining zones do not present compelling reasons for amendment. As currently codified, the Lee Plan Goals, Objectives, and Policies sufficiently address WDO concerns.
- CPA2001-23** Amends the Future Land Use Map series, Map 20, The “Contiguous Agricultural Parcels Over 100 Acres” map by updating the overlay to reflect current conditions. Changes to the map include mapping lands that are currently in agricultural use and meet the other criteria outlined in Objective 9.1 (as proposed in this amendment). Objective 9.1 is being amended to clarify the criteria for selecting properties to be included on the overlay map. The existing Lee Plan language does not match the parcels that are shown on the current overlay. The adopted 1994 Overlay included parcels that were smaller than 100 acres; however, Objective 9.1 states “Place all existing active and passive agricultural uses on all parcels in excess of 100 acres...” The revised language clarifies that Ag parcels less than 100 acres in size will only be included on the overlay if they are contiguous to other Ag uses resulting in an “Ag Area” larger than 100 acres. The new language clarifies that properties must be outside of Future Land Use Categories that are anticipated to develop with urban uses during the life of the plan. Finally, language is added to require this overlay to be reviewed every 2 years.

CPA2001-24

This amendment simply updates Table 2(b), Recommended Operational Improvements on Constrained Roads, to reflect the latest thinking on operational improvements for the constrained roads. The table is also being expanded to include all of the constrained roads, whether an operational improvement is identified at this time or not, to avoid any confusion when comparing to Table 2(a) (the list of constrained roads). A note is also being added to make clear that, even if no specific operational improvement is identified in the table at this time, operational improvements may be determined to be necessary in relation to specific development requests.

CPA2001-27

Amends the Community Facilities and Services Element, Goal 40: Coordinated Surface Water Management and Land Use Planning on a Watershed Basis by adding a new Objective and Policy regarding incorporation of green infrastructure into the surface water management systems of proposed developments, and providing definitions for green infrastructure and flow-way in the Glossary. Incorporating green infrastructure and flow-ways into surface water management design will help protect the groundwater and surface water in Lee County. Also, green infrastructure furthers Lee County's efforts in achieving EPA's non-degradation water quality criteria for stormwater discharges to designated Outstanding Florida Waterways and compliance with future total maximum daily loads established for impaired water-bodies.

CPA2001-28

Amends the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program. Lee Plan Policy 70.1.1 requires a Capital Improvements Program to be prepared and adopted on an annual basis. Florida Statute 163.3177(3)(b) requires that the Capital Improvements Element of the comprehensive plan be amended annually to reflect the modifications of the adopted Capital Improvement Program (CIP). This amendment incorporates the most recently adopted CIP in the Capital Improvements Element.

CPA2001-31

Amends 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. At this time the Lee County Land Development Code addresses these issues through Sections 6-405 and 6-472. The amendment also changes modifications to buildings from 20% to 25% of its replacement value which is consistent with the Federal Emergency Management Agency's current threshold. Additionally the amendment changes the policy language from 'one or more losses of \$1,000.00 or more' to a repetitive loss as defined by the Federal Emergency Management Agency. The intent of the policy has been recorded into the county regulations.

CPA2001-32

Amends the Intergovernmental Coordination Element and the Community Facilities Element to bring the element into compliance with the provisions of F.S. Chapter 163.3177. In order to comply with the provisions of F.S. Chapter 163.3177 the Lee Plan should be amended to include a new policy in the Intergovernmental Coordination Element, under Goal 109, that refers to Goal 46: Education as the source for coordinating the comprehensive plan with the plans of the school board. Staff also recommends that a new policy, under Goal 46: Education, be adopted to address the coordination of population projection planning.

CPA2001-33

Amends the Build Back Policy of the Procedures and Administration Element by replacing references to the term "cost" with the term "value." The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14. Both of the terms "replacement cost" and "replacement value" are found in the Post Disaster Ordinance. By replacing the current term "replacement cost" with the term "replacement value," structure damage will be defined to account for variability in the market, such as labor and materials.

CPA2001-35

Amends all elements of the Lee Plan, where applicable, by replacing 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 Lee County Regional Water Supply Authority is referenced in several instances throughout the Lee Plan with regard to their role in water resource issues. The Lee County Regional Water Supply Authority was officially dissolved as of June 30, 2001. Most of the functions of the Lee County Regional Water Supply Authority have been taken over by Lee County Utilities and Lee County Division of Natural Resources.

**CPA 2001-33
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

DCA Transmittal Document

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585*

September 4, 2002

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA 2001-33**

✓	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 15, 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 AND
DIVISION OF PUBLIC SAFETY

2. REQUEST:

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

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

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

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement cost value of the structure may be reconstructed at (but not to exceed).....

1. Structures damaged less than 50% of their replacement cost value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.

2. Structures damaged more than 50% of their replacement cost value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with.....

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14
- The proposed change will make the terminology in the Lee Plan consistent with that used in the ordinance.
- The term used should clearly reflect the intent of the Policy.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14 as to how the terms replacement cost versus the term replacement value should be interpreted. The proposed change will make the terminology in the Lee Plan consistent with that used in the ordinance.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Currently the Build Back Policy of the Procedures and Administration Element refers to the term replacement cost throughout the policy language. Staff proposes correcting the term by replacing "cost" with "value" which will correct the measurement used to determine a structure's damage in the provisions of the Build Back Policy through the definition of replacement value found in the Lee County Post Disaster Ordinance No. 95-14. Replacing the term will make the Lee Plan consistent with the intent of the policy. Both replacement cost and replacement value definitions, as provided in the Lee County Post Disaster Ordinance, are reproduced below:

"Replacement Cost" means the actual cost to repair, reconstruct, rebuild, or replace a damaged structure. It will not include the following parts of a structure or items not considered a permanent part of the structure: building plans, surveys, permits, sidewalks, pools, screens, sheds, gazebos, fences, furniture and carpeting. For purposes of this Ordinance, the replacement cost will be compared to the structure's replacement value to determine the percent of the structure damaged.

"Replacement Value" of a structure means the market building value contained in the Lee County Property Appraiser's File multiplied by one of the following factors:

1. 120% in a major disaster, or
2. 150% in a catastrophic disaster

The structure's owner may opt to establish replacement value by hiring a state certified property appraiser rather than use the formula stated in this definition.

The term used should clearly reflect the intent of the Policy. When developing the Post Disaster Ordinance, which implements the Build Back Policy, staff found they were working with a different

measure to determine if provisions of the Build Back Policy would go into effect under certain circumstances. Both of the terms “replacement cost” and “replacement value” are found in the Post Disaster Ordinance. By replacing the current term “replacement cost” with the term “replacement value,” structure damage will be defined to account for variability in the market, such as labor and materials.

B. CONCLUSIONS

Making the noted changes to the Build Back Policy will allow language differences between the Lee Plan and the Lee County Post Disaster Ordinance to be clarified, reflecting the actual thought process and implementation of the policy. The correction will improve the consistency of the documents and will assist in avoiding misinterpretations of the policy itself.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this proposed amendment. This recommendation is based upon the previously discussed issues and conclusions of this report. Staff recommends that the Build Back Policy, as provided in the Procedures and Administration Element be modified as follows:

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement ~~cost~~ value of the structure may be reconstructed at (but not to exceed).....

1. Structures damaged less than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.
2. Structures damaged more than 50% of their replacement ~~cost~~ value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with.....

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

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided a brief presentation concerning the proposed amendment. Staff stated that this amendment will clear up differences between the Lee Plan and the contents of the post disaster ordinance. One LPA member asked staff to elaborate on the difference between value and cost. Staff responded that value accounts for market factors, such as labor and materials. One member asked what was used to define the value. Staff responded that the Land Development Code defined replacement value, which is what the Lee County Property Appraiser's office has on file multiplied by 120% in major disasters or 150% in a catastrophic disaster.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit this proposed amendment to the Florida Department of Community Affairs.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As advanced by staff in the staff report.

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>AYE</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 ADOPTION HEARING: September 4, 2002

A. BOARD REVIEW: The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

JOHN ALBION

AYE

ANDREW COY

ABSENT

BOB JANES

AYE

RAY JUDAH

AYE

DOUG ST. CERNY

AYE

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RECOMMENDATION

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

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY
