



# PLANNING DIVISION

M E M O R A N D U M



# LEE COUNTY

SOUTHWEST FLORIDA

**to:** Board of County Commissioners

**from:** Paul O'Connor, AICP, Director, Division of Planning  
*POC*

**subject:** Lee County's 2001/2002 Regular Comprehensive Plan Amendment Cycle

**date:** December 23, 2002

Attached are the agenda and staff reports for the public hearing to be held beginning at 9:30 A.M. on Thursday, January 9<sup>th</sup>, 2003. This is an adoption hearing for the 2001/2002 Comprehensive Plan Amendment Cycle. The Board of County Commissioners transmitted the 2000/2001 Lee Plan amendments to the State for review on September 19, 2002. The Department of Community Affairs (DCA) issued its Objections, Recommendations and Comments (ORC) Report on November 22, 2002. The DCA did not pose any objections or recommendations to any of the 15 transmitted amendments. The DCA did provide one comment regarding CPA2001-10, the Captiva Island Community Planning Effort. The comment points out that proposed Policy 21.9, which states that "mangroves on Captiva Island should be protected," is vague and should be revised to establish guidelines on how they should be protected. Per the DCA's comment, staff is proposing modified language in order to satisfy the Captiva residents desire to further protect mangroves on the island.

Three other amendments have been revised to reflect recent updates that have occurred since the transmittal hearing. The next revised amendment is CPA2001-12, which adds a specific access management plan to Policy 1.3.8 for Alico Road in the vicinity of the I-75 interchange, and adds the maps of the specific access management plans to the Future Land Use Map series. 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.

CPA2001-28, which amends the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program, has also been revised to reflect the latest tables approved by the Board at the budget meetings. The changes to the tables occurred after the plan amendment transmittal hearings and are updated in the attached staff report..

The final amendment that is being modified since the transmittal hearing is CPA2001-27. This amendment adds a new Objective and Policy 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 been meeting with the public and state agencies on issues raised at the Transmittal hearing. Staff has revised the proposed language in the attached staff report 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.

Other than these 3 amendments that will require modifications as noted above, the remaining documents were simply updated to reflect that there were no objections, recommendations, or comments by the DCA.

If you have any questions regarding the adoption hearing, do not hesitate to call me at 479-8309.

cc: *Donald Stilwell, County Administrator*  
*Mary Gibbs, Director, Department of Community Development*  
*Minutes*  
*Lee Cares*  
*Tim Jones, Assistant County Attorney*  
*Donna Marie Collins, Assistant County Attorney*  
*Janet Watermeier, Director, Economic Development*  
*Dave Loveland, DOT*  
*Diana Parker, County Hearing Examiner*  
*Wayne Daltry, Smart Growth Director*

**January 9, 2003  
9:30 A.M.  
AGENDA**

- 1. Call to order; Certification of Affidavit of Publication**
- 2. Community Plan Agenda**
- 3. Public Comment on Consent Agenda**
- 4. Consent Agenda:**
  - **Items to be pulled for discussion by the Board**
  - **Motion to approve the balance of items**
  - **Consideration of items pulled for discussion**
- 5. Adopt the following ordinance which adopts the consent agenda items:**

**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.**

- 6. Administrative Agenda**
- 7. Adjourn**

## COMMUNITY PLAN AGENDA

### A. CPA 2001-10

Amend the Lee Plan to incorporate the recommendations of the Captiva Island Community Planning effort, establishing a Goal and subsequent Objectives and Policies specific to the Captiva Island community.

### B. Adopt the following ordinance which adopts CPA 2001-10:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-10 (PERTAINING TO THE CAPTIVA ISLAND COMMUNITY PLAN) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

### C. CPA 2001-09

Amend the Future Land Use Element text of the Lee Plan to incorporate the recommendations of the Bayshore Steering Committee, establishing a Vision Statement, Goal and subsequent Objectives and Policies specific to the Bayshore Community.

### D. Adopt the following ordinance which adopts CPA 2001-09:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-09 (PERTAINING TO THE BAYSHORE COMMUNITY PLAN) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

### E. CPA2001-18

Amend the Future Land Use Element of the Lee Plan, text and Future Land Use Map series to incorporate the recommendations of the Greater Pine Island Community Planning effort, establish a new Vision Statement, establish a revised Goal 14, amend subsequent Policies specific to Greater Pine Island, amend Objective 1.4 "Non-Urban Areas" by establishing a new "Coastal Rural" future

land use category and amend the Future Land Use Map series to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates and to reclassify all "Rural" designated land to "Coastal Rural."

**F. Adopt the following ordinance which adopts CPA2001-18:**

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-18 (PERTAINING TO THE GREATER PINE ISLAND COMMUNITY PLAN) APPROVED DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND FUTURE LAND USE MAP; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

## CONSENT AGENDA

- A. 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.
- B. CPA 2001-15**  
Amend the Future Land Use Map series, Map 1, by updating the Conservation Lands land use categories.
- C. 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.
- D. 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.
- E. CPA 2001-24**  
Update Table 2(b), Recommended Operational Improvements on Constrained Roads.
- F. 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.
- G. 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
- H. 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."
- I. 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.

## **ADMINISTRATIVE AGENDA**

### **A. CPA 2001-12**

Modify Policy 1.3.8 to create specific access management plans for Alico Road, Bonita Beach Road, and Lockett Road in the vicinity of I-75 (follow-up to PAT 99-27). In addition, include access management maps in the Future Land Use Map series.

### **B. Adopt the following ordinance which adopts CPA 2001-12:**

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-12 (PERTAINING TO THE CREATION OF SPECIFIC ACCESS MANAGEMENT PLANS FOR ALICO ROAD, BONITA BEACH ROAD, AND LUCKETT ROAD IN THE VICINITY OF I-75 AND TO INCLUDE ACCESS MANAGEMENT MAPS IN THE FUTURE LAND USE MAP SERIES) APPROVED DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND ACCESS MANAGEMENT MAPS; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

### **C. CPA 2001-27**

Amend Community Facilities and Services Element, Goal 40: Coordinated Surface Water Management and Land Use Planning on a Watershed Basis to add a new Objective and Policy regarding incorporation of green infrastructure into the surface water management systems of proposed developments, and provide definitions for green infrastructure and flow-way in the Glossary.

### **D. Adopt the following ordinance which adopts CPA 2001-27:**

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-27 (PERTAINING TO THE ADDITION OF A NEW OBJECTIVE AND POLICY UNDER GOAL 40 REGARDING THE INCORPORATION OF GREEN INFRASTRUCTURE INTO THE SURFACE WATER MANAGEMENT SYSTEMS OF PROPOSED DEVELOPMENTS AND TO THE ADDITION OF TWO DEFINITIONS TO THE GLOSSARY FOR "GREEN INFRASTRUCTURE" AND "FLOW-WAY") APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

**E. CPA 2001-28**

Amend the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program.

**F. Adopt the following ordinance which adopts CPA 2001-28:**

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-28 (PERTAINING TO TABLES 3 AND 4 OF THE CAPITAL IMPROVEMENT ELEMENT) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**



LEE COUNTY ORDINANCE NO. 03- \_\_\_\_\_  
(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 \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and, when

put to a vote, the vote was as follows:

Robert P. Janes

Douglas St. Cerny

Ray Judah

Andrew Coy

John Albion

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

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chairman

DATE: \_\_\_\_\_

Approved as to form by:

\_\_\_\_\_  
Donna Marie Collins  
County Attorney's Office

**CPA 2001-31  
BoCC SPONSORED  
AMENDMENT  
TO THE**

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LEE COUNTY COMPREHENSIVE PLAN

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**THE LEE PLAN**

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BoCC Public Hearing Document  
for the  
January 9<sup>th</sup> Adoption Hearing

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

**November 22, 2002**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA 2001-31**

✓	<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 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 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.

**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:

**POLICY 80.1.7:** ~~By 1995, Maintain the current county development regulations will requiring~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty (20)~~ twenty five (25) percent of its replacement value and which has recorded ~~one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978 a repetitive loss as defined by the Federal Emergency Management Agency~~ will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)



## 2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The policy currently has an outdated implementation date of 1995. The policy has been incorporated into existing county regulations and the policy should be updated to reflect this fact.
- The amendment will reflect a new percentage for replacement values which is consistent with the Federal Emergency Management Agency's current threshold.
- The amendment updates the policy language by using the term repetitive losses as defined by the Federal Emergency Management Agency as well as the Lee County Land Development Code.

### C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 25, 2001. Policy 80.1.7 was originally adopted in August of 1992 as part of the 1991/1992 Regular Comprehensive Plan Amendment Cycle. At the time the policy was proposed, existing buildings in flood plain areas could be improved or reconstructed without meeting the current codes and standards at that time as long as the project did not exceed 50% of the building's value. Lee County staff found that a more effective way of providing flood protection for older buildings was requiring compliance with flood plain management regulations when requested improvements were less than 50% of the building's value, bringing more non-conforming buildings up to flood protection standards. As shown above in the strike-through/underline proposed language, the originally adopted policy used a lower threshold for substantial improvements for any building that has suffered a recorded flood loss of \$1,000.00 or more and reduced the threshold from more than 50% to more than 20% of the building's replacement value. Staff is proposing the changes noted above as an update to Policy 80.1.7 of the Conservation and Coastal Management Element of the Lee Plan.

## PART II - STAFF ANALYSIS

### A. STAFF DISCUSSION

The proposed amendment to Policy 80.1.7 removes the 1995 target date of incorporating the Policy into County regulations. 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. This change will allow flood insurance funds available in an increased cost of construction clause in flood insurance policies to be used to bring these buildings into compliance. It also significantly reduces the number of properties that would have to comply with these provisions through the definition of repetitive loss, which means two or more, rather than the current one or more. The definition of repetitive loss, as defined by the Federal Emergency Management Agency and the Lee County Land Development Code is reproduced below:

*Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the*

*average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.*

Staff can now narrow down repetitive losses with the County's current database as well as the fact that repetitive loss is easier to prove due to the record of added claims, provided through the Federal Emergency Management Agency's yearly records.

Again, as noted above, the Lee County Land Development Code addresses these issues through sections 6-405 and 6-472. Section 6-405 defines repetitive loss as follows:

*Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.*

Section 6-405 also defines substantial improvement as follows:

*Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure, the cost of which equals or exceeds, over a five-year period, a cumulative total of 50 percent of the market value of the structure:*

- (1) before the repair or improvement is started; or*
- (2) If the structure has been damaged and is being restored, before the damage occurred.*

*For purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.*

*This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.*

*The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are necessary solely to ensure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the state inventory of Historic Places, or designated as a historic resource, individually, or as a contributing property in a historic district, under chapter 22.*

As noted in the above citation, the definition for substantial improvements includes the term repetitive loss.

Section 6-472 requires that any new residential construction or substantial improvements be elevated to the base flood elevation. Section 6-472, Specific standards, is reproduced below:

*In all areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions are required:*

*(1) Residential construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. This shall apply to manufactured homes that are to be placed or substantially improved on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (3) of this section.*

As can be noted from these Land Development Code Citations, the intent of Policy 80.1.7 has been incorporated into the county development regulations.

## **B. CONCLUSIONS**

The current policy was created initially to model the 20% figure after what the Federal Emergency Management Agency would be bringing about as a threshold. Today the Federal Emergency Management Agency uses a 25% threshold and the Lee Plan policy should reflect this. The intent of the policy has been recorded into the county regulations.

## **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 Policy 80.1.7, as provided in the Conservation and Coastal Management Element of the Lee Plan be modified as follows:

**POLICY 80.1.7:** ~~By 1995; Maintain the current~~ county development regulations ~~will requireing~~ that any building that is improved, modified, added on to, or reconstructed by more than ~~twenty~~ ~~(20) twenty five (25)~~ percent of its replacement value and which has recorded ~~one or more National Flood Insurance Program (NFIP) flood losses of \$1000.00 or more since 1978~~ a repetitive loss as defined by the Federal Emergency Management Agency will be brought into compliance with current regulatory standards for new construction. (Amended by Ordinance No. 92-35, 94-30, 00-22)

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

DATE OF PUBLIC HEARING: April 22, 2002

**A. LOCAL PLANNING AGENCY REVIEW**

Planning staff provided the LPA a brief presentation concerning the amendment. Staff stated that the amendment reflects a new percentage for replacement values and a revision to the target date for implementation. Staff provided that the intent of the policy has been incorporated into the Land Development Code, and the Lee Plan should reflect this fact. Staff also stated that the 25 percent replacement value is consistent with the Federal Emergency Management Agency.

The LPA provided no discussion concerning the proposed amendment.

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

1. **RECOMMENDATION:** The Local Planning Agency recommends that the Board of County Commissioners transmit the proposed amendment to the Florida Department of Community Affairs.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained 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 PUBLIC 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:**

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

**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 DCA 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 PUBLIC HEARING: January 9, 2003

**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**

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