



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

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Writer's Direct Dial Number: (941) 479-8309

Bob Janes
District One

November 5, 2003

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Ray Eubank, Administrator
Florida Department of Community Affairs

Andrew W. Coy
District Four

Division of Community Planning
Bureau of Local Planning

John E. Albion
District Five

2555 Shumard Oak Boulevard
Tallahassee, FL. 32399-2100

Donald D. Stilwell
County Manager

Re: Amendments to the Lee Plan

James G. Yaeger
County Attorney

Adoption Submission Package (DCA No. 03-2) for the 2002/2003 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 2002/2003 Regular Comprehensive Plan Amendment Cycle to the Lee Plan (DCA No. 03-2), known locally as CPA 2002-02, CPA 2002-04, CPA 2002-06, CPA 2002-08, CPA 2002-11, CPA 2002-13, CPA 2002-15, CPA 2002-19, and CPA 2002-22. The adoption hearing for these plan amendments was held at 9:30 am on October 23, 2003.

Included with this package, per 9J-11.011(5), are three copies of the adopted amendments, supporting data and analysis, and the following three adopting ordinances: Ordinance No. 03-19, Ordinance No. 03-20, and Ordinance No. 03-21. 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 July 3, 2003. 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 2002-02, CPA 2002-13, and CPA 2002-19. CPA 2002-02 has been revised to address the objections raised by the DCA. Staff and the applicant have negotiated a compromise that has resulted in additional text changes. Revisions to CPA 2002-13 were also made. At the time that the transmittal staff report was prepared, it was noted that additional amendments to the MPO's highway map were being considered. The MPO has in fact adopted a revised plan in a public hearing process on June 20, 2003 and staff is reflecting the most recent version of the MPO's plan in Maps 3A, 3B and 3H, and in Policy 21.1.1. CPA 2002-19 has replaced a new table reflecting the new 2004/2008 fiscal year to the CIP. The Board of County Commissioners adopted 2002-02, CPA 2002-13, and CPA 2002-19 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

LEE COUNTY ORDINANCE NO. 03-19
(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 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; 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 January 27, March 24, April 28, and May 28, 2003; 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 June 25, 2003. At that hearing, 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 hearing on June 25, 2003, 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 September 5, 2003; 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 October 23, 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 "2002/2003 Regular Comprehensive Plan Amendment Cycle Consent Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2002/2003 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 October 23, 2003, known as: CPA2002-06, CPA2002-08, CPA2002-11, CPA2002-13, CPA2002-15, CPA2002-19, and CPA2002-22.

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:

CPA2002-06 (Outlying Suburban Residential Allocations)

Amend Table 1(b), Planning Community Year 2020 Allocations, by correcting the Outlying Suburban Allocation for the Alva Community.

CPA2002-08 (Conservation Lands)

Amend the Future Land Use Map Series, Map 1, by updating the Conservation Lands Future Land Use Categories.

CPA2002-11 (Buckingham Potable Water)

Amend Goal 17, Buckingham, of the Future Land Use Element by adding language that allows the extension of water lines to serve the Buckingham Rural Community Preserve on a voluntary basis, with cost of extension to be paid by the petitioner. Amend Map 6, Future Water Service Areas, to show the Buckingham Rural Community Preserve to be within the Future Water Service Areas of the County. Amendment Map 7, Future Sewer Service Areas, to add certain public facility sites (Gulf Coast Center and Tice Fire Station) to the Future Sanitary Sewer Service Area Map.

CPA2002-13 (Financially Feasible Transportation Map)

Amend the Transportation Maps of the Future Land Use Map Series and related policy references to reflect the most recent Lee County MPO 2020 Financially Feasible Transportation Plan Map.

CPA2002-15 (Constrained Roads)

Update Table 2(a), Constrained Roads/State and County Roads, to eliminate Old U.S. 41, which is now a City of Bonita Springs road.

CPA2002-19 (Capital Improvements Program)

Amend the Capital Improvements Element (Tables 3 and 4) to reflect the most recently adopted Capital Improvement Program.

CPA2002-22 (Policy 100.2.3. Text Update)

Amend Policy 100.2.3. of the Housing Element by replacing the outdated reference to the "special permit" approval process with the current process of "special exception."

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	Absent
John Albion	Aye

DONE AND ADOPTED this 23rd day of October 2003.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: *Insa S. Pierce*
Deputy Clerk

BY: *Ray Judah*
Chairman

DATE: 10/23/03



Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office

Charlie Green
Clerk of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

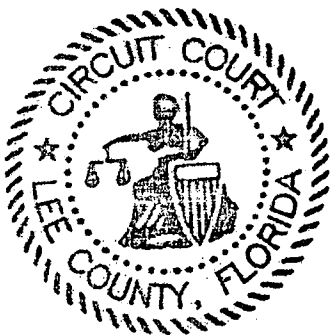
I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing, is a true and correct copy of Ordinance No. 03-19, adopted by the Board of Lee County Commissioners, at their meeting held on the 23rd day of October 2003 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 27th day of October 2003.

CHARLIE GREEN,
Clerk of Circuit Court
Lee County, Florida

By:


Deputy Clerk



**CPA2002-15-T
CONSTRAINED ROAD
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

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

October 23, 2003

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2002-15-T**

Text Amendment

Map Amendment

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 10, 2003

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DEPARTMENT OF TRANSPORTATION

2. REQUEST:

Update Table 2(a), Constrained Roads/State and County Roads, to eliminate Old 41, which is now a City of Bonita Springs road.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: DOT staff recommends that the Board of County Commissioners transmit the proposed amendment incorporating the changes identified in the attached update of Table 2(a), as provided under Part IIC, the Staff Recommendation portion of this report.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Objective 22.2 indicates that certain roadway segments have been deemed “constrained” due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, and will not be widened.
- The designation has only been applied to those roadways that fall under the County’s comprehensive plan jurisdiction, namely State and County-maintained roadways.
- The list of constrained roads is identified in Table 2(a) of the Lee County comprehensive plan.
- The list of constrained roads includes Old 41 in the City of Bonita Springs.
- Per the “INTERLOCAL AGREEMENT BETWEEN LEE COUNTY AND CITY OF BONITA SPRINGS REGARDING OWNERSHIP, JURISDICTION, OPERATION AND MAINTENANCE OF CERTAIN LOCAL ROADS”, as executed on September 19, 2000, ownership and maintenance responsibility for Old 41 was transferred from Lee County to the City of Bonita Springs.
- Table 2(a) needs to be revised to delete Old 41 now that it is no longer a County responsibility.

C. BACKGROUND INFORMATION

The designation of roadways as “constrained” and the application of the County’s related policies and regulations is intended to apply only to those roadways that fall under the County’s jurisdiction, namely State and County-maintained roadways. The designation and related rules do not apply to City streets, which would instead be governed by each City’s comprehensive plan requirements and regulations. As noted in the Findings of Fact, responsibility for Old 41 was transferred from the County to the new City of Bonita Springs via an interlocal agreement executed in September of 2000. The list of constrained roads in Table 2(a) of the County’s comprehensive plan still includes Old 41, so the table needs to be amended to delete that facility. Table 2(b) of the Lee Plan, the related list of operational improvements for constrained roads, was already amended last year to remove any references to Old 41, as part of CPA2001-24.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Attached to this staff report is a proposed update of Table 2(a), with additions highlighted with underlining and deletions highlighted in strike-through format. The lone proposed change is the deletion of Old 41.

B. CONCLUSIONS

Table 2(a) of the Lee Plan should be updated to reflect the transfer of jurisdictional responsibility of Old 41.

C. STAFF RECOMMENDATION

DOT staff recommends that the Board of County Commissioners transmit the proposed plan amendment, incorporating the changes identified in the attached update of Table 2(a).

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

DATE OF PUBLIC HEARING: April 28, 2003

A. LOCAL PLANNING AGENCY REVIEW

DOT staff briefly introduced this item. There were no comments from the public and no questions from the LPA.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA unanimously recommended that the Board of County Commissioners transmit this proposed amendment, on a motion by Mr. Address and a second by Mr. Bixler.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
DAN DeLISI	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>ABSENT</u>
	<u> </u>

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

DATE OF TRANSMITTAL HEARING: June 25, 2003

A. BOARD REVIEW: This item was part of the consent agenda and was not pulled for discussion by the Board, and there were no comments from the public.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted unanimously to transmit this amendment as part of the consent agenda approval, on a motion by Commissioner Albion and a second by Commissioner St. Cerny.

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

C. VOTE:

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

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

DATE OF ORC REPORT: September 5, 2003

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The DCA had no objections, recommendations or comments concerning this amendment.

B. STAFF RESPONSE

Adopt the amendment as transmitted.

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

DATE OF ADOPTION HEARING: October 23, 2003

A. BOARD REVIEW:

This item was part of the consent agenda and was not pulled for discussion by the Board, and there were no comments from the public.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted unanimously to adopt the amendment as part of the consent agenda, on a motion by Commissioner Albion and a second by Commissioner Janes.

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

C. VOTE:

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

**TABLE 2(a)
CONSTRAINED ROADS
STATE AND COUNTY ROADS**

ROADWAY	SEGMENT	MAINTENANCE RESPONSIBILITY	CONSTRAINED CONDITIONS
Captiva Road	Blind Pass/South Seas Plantation	County	ROW, Scenic, Aesthetic, Environmental
Daniels Parkway	Metro Parkway/I-75	County	ROW
Estero Boulevard	Center Street/Big Carlos Pass	County	ROW, Scenic, Aesthetic
Hickory Boulevard	Big Carlos Pass/Bonita Beach Road	County	Scenic, Aesthetic, Environmental
McGregor Boulevard (SR 867)	Colonial Boulevard/College Parkway	State	ROW, Scenic, Aesthetic, Historic, Environmental
Pine Island Road (Matlacha)	Shoreview Drive/Little Pine Island	County	ROW, Scenic, Aesthetic, Environmental
San Carlos Boulevard (SR 865) (Matanzas Pass Bridge)	Center Street/Main Street	State	ROW, Scenic, Aesthetic, Environmental
US 41	South of Daniels Road/North Airport Road	State	ROW
Old 41	Bonita Beach Road/Terry Street	County	ROW, Scenic, Aesthetic, Historic
Gulf Boulevard	Boca Grande	County	Scenic, Aesthetic, Historic, Environmental

(Amended by Ordinance No. 98-09, 00-08, 03-19)

Table 2(a) - Page 1 of 1