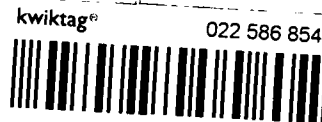




**BOARD OF COUNTY COMMISSIONERS**



Writer's Direct Dial Number: **(239) 479-8585**

Bob Janes  
District One

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Ray Judah  
District Three

Tammy Hall  
District Four

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District Five

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County Manager

David M. Owen  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

June 15, 2005

Ray Eubanks, Administrator, Plan Review and Processing  
Florida Department of Community Affairs  
Bureau of State Planning  
Plan Processing Section  
2555 Shumard Oak Boulevard  
Tallahassee, FL. 32399-2100

Re: Amendments to the Lee Plan  
Transmittal Submission Package for the 2004/2005 Regular Amendment Cycle

Dear Mr. Eubanks:

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 2004/2005 Regular Amendment Cycle to the Lee Plan. The Local Planning Agency held public hearings for these plan amendments on the following dates: January 24, 2005; March 28, 2005; April 25, 2005; and May 23, 2005. The Board of County Commissioners transmittal hearing for the plan amendments was held on June 1, 2005. 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 in mid-October, after the 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  
(239)479-8585  
Fax (239)479-8319  
Email: [connops@leegov.com](mailto:connops@leegov.com)

Included with this package, per 9J-11.006, are three copies of the proposed amendments, 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  
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

## **2004/2005 LEE PLAN AMENDMENT CYCLE**

### **SUMMARY OF PLAN AMENDMENT CONTENT AND EFFECT**

- CPA2004-02**      Estero Outdoor Display - This is a privately initiated amendment that will affect property located in the Estero Planning Community. The amendment proposes to revise Policy 19.2.5 by adding the sentence "Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard."
- CPA2004-08**      Oak Creek - This is a privately initiated amendment located in the North Fort Myers Planning Community. The applicant, S.W. Florida Land 411, LLC, proposes to amend the Future Land Use Map series for a specified approximate 27.25 acre tract of land to change the classification shown on Map 1, the Future Land Use Map, from "Rural" to "Suburban." The amendment also proposes to amend the Future Land Use Map series for a specified approximate 17.81 acre portion of land to change the classification shown on Map 1, the Future Land Use Map, from "Suburban" to "Rural." The amendment represents a land use classification "swap" that has very minor impacts.
- CPA2004-09**      Captiva - This is a Board sponsored amendment to Goal 13 of the Lee Plan. The amendment proposes to add five new policies specific to Captiva. The amendment also proposes to amend Goal 84 – Wetlands.
- CPA2004-12**      Boca Grande - This is a Board sponsored amendment that proposes to revise the Vision Statement for Boca Grande and add a new Goal, Objectives and Policies specific to Boca Grande.
- CPA2004-13**      I-75 and S.R. 80 Interchange – A publicly initiated plan amendment evaluating the future land use designations of the Interstate 75 and State Road 80 Interchange. The proposal amends the Future Land Use Map to redesignate approximately 39 acres of land located in the southeast and southwest quadrants of the interchange area from Intensive Development, Suburban, and Urban Community to General Commercial Interchange. The proposal also amends the Future Land Use Map to redesignate approximately 41 acres of land located in the northeast quadrant from General Commercial Interchange to Urban Community.
- CPA2004-14**      Coastal High Hazard Area Density - This is a publicly sponsored amendment to amend the Conservation and Coastal Management Element to consider limiting the future population exposed to coastal flooding while considering applications for rezoning in the Coastal High Hazard Area. The amendment clarifies the applicability of existing Policy 75.1.4, which addresses the Lee Plan amendment process, and proposes to add a new Policy, which addresses zoning requests located in the Coastal High Hazard Area.
- CPA2004-15**      Fort Myers Shores Table 1b Update - This publicly initiated plan amendment will adjust the Planning Community Year 2020 Allocations Table 1(b) to reflect amendments made to the Lee Plan Future Land Use Map proposed by the Caloosahatchee Shores Community Plan and adopted by the subsequent plan amendment. The proposed changes will maintain the current population

accommodation of the Fort Myers Shores Planning Community. The re-allocation between future land use categories reflects development activity in the Planning Community area that has demonstrated an increased level of planned development zoning activity in the area between the Orange River and the Caloosahatchee River and a lesser amount of activity in the area west of Interstate 75. No recommended changes have been proposed to the commercial or industrial allocations.

**CPA2004-16**

**Pine Island Compromise** - This is a proposed public plan amendment to address several issues that have been raised concerning portions of the previous Pine Island plan amendment. The amendment proposes to amend the Future Land Use Map series, Map 1, for specified parcels of land (totaling approximately 157 acres) located in the Bokeelia area south of Barrancas Avenue and north of Pinehurst Road. The request is to change the Future Land Use classification shown on Map 1 from "Coastal Rural" to Outlying Suburban." The amendment also proposes to amend the Pine Island Vision Statement and Goal 14 to recognize the value of preserving agricultural activities on the island. In addition, the amendment modifies Policy 1.4.7, the Coastal Rural Policy, to allow the retention of active or passive agriculture in lieu of habitat restoration to regain density. The amendment also proposes to correct an oversight by amending Housing Element Policy 100.2.3 to incorporate a reference to the Coastal Rural future land use category. The amendment incorporates a new map, proposed Map 21, depicting existing farmland on Pine Island. The amendment includes a new definition for "mixed use buildings." The proposed amendment also takes a first step in stimulating a market for the use of Pine Island TDRs by modifying the definition of "Density" in the Plan.

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Mr. Ray Eubanks, Administrator  
Plan Review and Processing  
Bureau of State Planning/Plan Processing Section  
2555 Shumard Oak Boulevard  
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## Comprehensive Plan Citizen Courtesy Information List

Local Government:

Lee County

Hearing Date:

June 1, 2005

Type Hearing:

☒ Transmittal (Proposed)

☐ Adoption

☐ Local Planning Agency

DCA Amendment Number: N/A

**Please Print Clearly**

By providing your name and address, you will receive information concerning the date of publication of the Notice of Intent by the Department of Community Affairs.

Citizen Name	Address, City, State, Zip Code	✓ Check Appropriate Response(s)		Identify Amendment which is of Interest
		Written Comment	Spoken Comment	
Richard J. Purcell	135 Meta St. FT. Myers, FL 33905	✓	✓	CPA - 2004-13 CPA - 2004-01 <del>CPA - 2004-01</del>
Mr. A. D. Ali	17140 Oak Creek Rd. Alva, FL 33920	✓		River Hall / Hawk's Haven
Bob Iverson	Old Hickory GCC 14401 Old Hickory Blvd FT. MYERS, FL 33912	✓	✓	CPA 2004-04
Sandra Ellett	6971 Slater Pines Dr N Ft Myers FL 33917	✓		Oak Creek.
Walter Fluegel	4715 SW 24 PL Cape Coral, FL 33914	✓	✓	All

Citizen Name	Address, City, State, Zip Code	✓ Check Appropriate Response(s)		Identify Amendment which is of Interest
		Written Comment	Spoken Comment	
Glenn Hedmon	PO Box 2266 Pineland, Fla 33945	✓	✓	Pine Island
James and Alicia Waller	17270 Oak Creek Rd Alva, FL 33920	✓		River Hall Development
G JOHN SHARPles	2299 SYCAMORE ST ST. JAMES CITY		✓	PINE ISLAND
Phil Buchanan	3861 GALT IS AVE ST JAMES CITY, FL		✓	Pine Island
BARBARA K. Dubin	16185 Bowline ST Bokelia, FL 33922		✓	PINE ISLAND
Jennifer A. Bonifield	3277 Fruitville Rd., Unit Sarasota FL 34237 E			Pine Island
Gary Davis	2248 Date St. St James City, FL 33956	✓	✓	Pine Island
D.W. WOLSEY JR	14630 CEMETERY RD FT MYERS FL 33915			RIVER HALL HAWKS HAVEN

Citizen Name	Address, City, State, Zip Code	✓ Check Appropriate Response(s)		Identify Amendment which is of Interest <del>CPA 2004-13</del>
		Written Comment	Spoken Comment	
Sharon Bowman	260 Alameda Ave Ft Myers FL 33905	✓	✓	CPA 2004-13 Item F.
Neale Monty	6650 Penton Blvd Ft Myers FL 33912		✓	Oak Creek
W. D. R. R. R.	13350 MORNING STAR AVE BOKEELIA FL	✓		
BREESE GLENNON	16280 BOWLINE ST. BOKEELIA, FLA. 33922	✓	✓	P.I. COMPROMISE — 8/10/9/10
Eileen + Vinny Brennan	243 Connecticut Ave. Ft Myers 33905		✓	CPA 2004-13
David W. Deper	2216 Altamont Ave. Ft. Myers, FL 33901		✓	<del>CPA</del> CPA-2004-12 CPA-2004-08
Nancy Thompson	2661 Bocilla Ln Bokeelia FL 33922	—		
MIKE RASLER	1525 HENDRY ST FT MYERS 33901	✓	✓	ALL



Citizen Name	Address, City, State, Zip Code	✓ Check Appropriate Response(s)		Identify Amendment which is of Interest
		Written Comment	Spoken Comment	
Vincent and Eileen Brennan	243 Connecticut Ave. Fort Myers, FL 33905	✓		CPA2004-13

**CPA 2004-14**  
**CONSIDERATION OF REDUCED DENSITY**  
**IN THE COASTAL HIGH HAZARD AREA**  
**BOCC SPONSORED AMENDMENT**  
**TO THE**

---

**LEE COUNTY COMPREHENSIVE PLAN**

---

**THE LEE PLAN**

**Publically Initiated Application  
and Lee County Staff Analysis**

---

**DCA Transmittal Document**

---

*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(239) 479-8585*

**June 1, 2005**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA 2004-14**

☒

**Text Amendment**

☐

**Map Amendment**

<input checked="" type="checkbox"/>	<b>This Document Contains the Following Reviews:</b>
<input checked="" type="checkbox"/>	<b>Staff Review</b>
<input checked="" type="checkbox"/>	<b>Local Planning Agency Review and Recommendation</b>
<input checked="" type="checkbox"/>	<b>Board of County Commissioners Hearing for Transmittal</b>
<input type="checkbox"/>	<b>Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report</b>
<input type="checkbox"/>	<b>Board of County Commissioners Hearing for Adoption</b>

ORIGINAL STAFF REPORT PREPARATION DATE: March 21, 2005

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

Lee County Board of County Commissioners, represented by the Lee County Division of Planning.

**2. REQUEST:**

Amend the Lee Plan's Conservation and Coastal Management element Policy 75.1.4 to consider limiting the future population exposed to coastal flooding while considering applications for rezoning in the Coastal High Hazard Area.

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

- 1. RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed Lee Plan amendment to the Florida Department of Community Affairs for their review. This recommendation has been updated to include the LPA recommended language.

## **Recommended Text Changes:**

**POLICY 75.1.4:** Through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories ~~(or assignment of minimum allowable densities where density ranges are permitted)~~ in order to limit the future population exposed to coastal flooding.

**POLICY 75.1.5:** Zoning requests located in the coastal high hazard area will be considered for reduced or minimum density assignments, in accordance with their future land use category density range. This evaluation should be done in concert with an evaluation of other individual characteristics such as compatibility with existing uses, desired urban form, and availability of urban services.

## **2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- Goal 75, and notably Policy 75.1.4, are contained within the existing Conservation and Coastal Management element of the Lee Plan.
- A Conservation and Coastal Zone element was contained in the 1984 Lee Plan. The 1984 plan did not include Goal 75 and subsequent policies.
- The State of Florida adopted the 1985 Local Government Comprehensive Planning and Land Development Regulation Act and the 1986 Department of Community Affairs Minimum Criteria for Review of Local Government Comprehensive Plans and Determination of Compliance.
- The 1984 Conservation and Coastal Zone element was substantially revised and slightly renamed to meet these new requirements as a result of the 1988 Lee County Coastal Study. As a result, Goal 75 and subsequent Objectives and Policies were incorporated into the Lee Plan.
- The 1988 Coastal study recognized the importance of balancing coastal development with limiting public expenditures to limit the exposure to storm hazards.
- The 1988 Coastal Study proposed three major goals to manage land use in the "Coastal Study Area." The proposed goals were "aimed at Resource Protection, Protection of Life and Property, and Limitation of Public Expenditures in Hazard Areas."
- The policy has been the subject of some debate as to the meaning or applicability of the parenthetical phrase.
- The assignment of density for a particular property happens in several instances, once when the property is included in a Future Land Use category, and when the property is zoned to allow specific uses.

- At the October 19, 2004 regular Board of County Commissioners meeting, Commissioner Judah suggested that the provisions of Policy 75.1.4 should apply during the rezoning process and not only through the Lee Plan amendment process.

## C. BACKGROUND INFORMATION

### 1. EXISTING GOAL 75, OBJECTIVE 75.1, AND SUBSEQUENT POLICIES:

**GOAL 75: PROTECTION OF LIFE AND PROPERTY IN COASTAL HIGH HAZARD AREAS.** *To protect human life and developed property from natural disasters. (See also Goal 80.) (Amended by Ordinance No. 94-30)*

**OBJECTIVE 75.1: DEVELOPMENT IN COASTAL HIGH HAZARD AREAS.** *Development seaward of the 1991 Coastal Construction Control Line will require applicable State of Florida approval; new development on barrier islands will be limited to densities that meet required evacuation standards; new development requiring seawalls for protection from coastal erosion will not be permitted; and allowable densities for undeveloped areas within coastal high hazard areas will be considered for reduction. (Amended by Ordinance No. 92-35, 93-25, 94-30, 00-22)*

**POLICY 75.1.1:** *County policy regarding development seaward of the updated 1991 Coastal Construction Control Line will be re-evaluated approximately every five years beginning in 1995 to assess the adequacy of policies and practices developed by the Department of Environmental Protection. (Amended by Ordinance No. 92-35, 94-30, 00-22)*

**POLICY 75.1.2:** *Rezoning to allow higher densities will not be permitted on barrier and coastal islands if the capacity of critical evacuation routes would thereby be exceeded (see Objective 79.1). (Amended by Ordinance No. 92-35, 00-22)*

**POLICY 75.1.3:** *Shoreline development in V Zones will be protected from coastal erosion, wave action, and storms by vegetation, setbacks, and/or beach renourishment, rather than by seawalls or other hardened structures which tend to hasten beach erosion (see also policies under Objective 83.2). Repairs of lawfully constructed, functional, hardened structures as defined in F.S. Chapter 161 may be allowed subject to applicable state and local review and approval. (Amended by Ordinance No. 92-35, 00-22)*

**POLICY 75.1.4:** *Through the Lee Plan amendment process, land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories (or assignment of minimum allowable densities where density ranges are permitted) in order to limit the future population exposed to coastal flooding. (Amended by Ordinance No. 92-35, 94-30, 00-22)*

### 2. BACKGROUND DISCUSSION:

At the October 19, 2004 regular Board meeting, Commissioner Judah suggested that the provisions of Policy 75.1.4 (consideration of reduced density in the Coastal High Hazard Area) should apply during the rezoning process, and not only through the Lee Plan amendment process. The official meeting minutes contain the following:

*DENSITY IN COASTAL HIGH HAZARD AREAS* - Commissioner Judah requested appropriate language in the Comprehensive Plan (Comp Plan) to allow the Board to identify proposed increases in density in the coastal high hazard areas and discourage it; noted that the Comp Plan contains language pertaining to amendments to the Comp Plan, not zoning cases; and directed the County Attorney's Office to formulate the appropriate language in an amendment for the Board to consider during the next round of amendments. Discussion ensued concerning the proper committees and departments that would participate in creating this amendment. Commissioner Albion requested an update in two months.

Staff prepared a Board of County Commissioners Agenda Item Summary ("the Bluesheet") for the November 9, 2004 Board meeting date to initiate a Lee Plan amendment to reevaluate this issue. The Bluesheet provided that "Approving this action will allow staff to perform a reevaluation of this policy in the current Lee Plan amendment cycle." The Bluesheet further provided that "The focus of this reevaluation will be the merits of considering lower densities within the coastal high hazard areas during the rezoning process."

## PART II - STAFF ANALYSIS

### A. STAFF DISCUSSION

#### INTRODUCTION

Goal 75, and notably Policy 75.1.4, are contained within the existing Conservation and Coastal Management element of the Lee Plan. In 1984 a Conservation and Coastal Zone element was incorporated into the Lee Plan. This plan did not include Goal 75 and subsequent policies. Subsequent to Lee County adopting the 1984 Lee Plan, the State of Florida adopted the 1985 Local Government Comprehensive Planning and Land Development Regulation Act and the 1986 Department of Community Affairs Minimum Criteria for Review of Local Government Comprehensive Plans and Determination of Compliance. The 1984 Conservation and Coastal Zone element was substantially revised and slightly renamed to meet these new requirements as a result of the 1988 Lee County Coastal Study.

The 1988 Lee County Coastal Study was the result of a collaboration of a consultant team and Lee County staff. The study involved both collection of new data and the compilation of existing data. The study provided a definition and map of the "Coastal Study Area." The study also examined "projected coastal area growth" and "potential buildout" which equated to an increase of 99,384 dwelling units over the 1986 inventory total of 61,410 dwelling units. In addition, the study covered the following aspects of the coastal study area: Economics, Land Use and Growth Management, Ecological Inventory and Analysis, Estuarine Water Quality, Beach and Dune Systems, Hurricane Evacuation and Hazard Mitigation, and Intergovernmental Relations.

Current Policy 75.1.4 originated in a recommendation that was contained in the "Coastal Area Land Use and Growth Management" Chapter of the 1988 Lee County Coastal Study. The stated purpose of this Chapter is reproduced below:

#### Purpose

*The purpose of this chapter is to inventory existing land uses and to analyze the effects of future land uses within the Coastal Study Area, and to recommend goals, objectives, and policies needed to achieve sound coastal land use patterns under the comprehensive plan. According to Florida law, these land use patterns must account for protection of coastal resources from development, and for protection of human life and limitation of public expenditures in areas subject to destruction by natural disasters. The chapter reviews existing land use for each planning district within the Coastal Study Area and discusses projected future land use in each district at two periods: 1) the year 2010 and, 2) buildout -- the future time when the area has been fully developed. It recommends goals, objectives, and policies to balance land development, resource protection, disaster protection, and public expenditures.*

The Chapter discusses existing land uses and potential uses allowed by the respective Lee Plan land use categories in the different portions of the study area. The Chapter also notes, by then designated Planning Districts important planning considerations such as hurricane evacuation, storm hazard mitigation, provision of adequate infrastructure and resource protection issues unique to the district. The Chapter provides the following discussion concerning "Land Use and Infrastructure Issues:"

*Lee County has a very extensive, highly developed, and complex coastal area. The Coastal Study Area includes some 163 square miles of land, or about a fifth of the land area of the County. Because so much of the County lies within the 100 year flood zone, coastal management issues have a dominant role in overall land use planning and growth management. Despite extensive areas of protected wetlands, the Coastal Study Area includes some 40% of the 1985 tax base of the County; 16% of this tax base is located in the V (Velocity) Zone, the shoreline area most vulnerable to storm hazards. Because such a high proportion of the existing development is subject to coastal flooding, disaster management issues play a large role in land use planning and growth management. Finally, the complex geography of the Coastal Study Area with its barrier and sound coastal islands, its multiple rivers and bays, and its salt and freshwater wetlands, requires a sophisticated planning process that blends land use and environmental management with progressive public policymaking.*

*Because Lee County is subject to coastal storm and hurricanes, its land use and growth management policies must account for these potential natural disasters. While not a frequent target of hurricanes, the Lee shore has been struck in the past and prudence requires that the possibility of future strikes be considered in land use and coastal management policy. Because of uncertainty about the exact location and force of future hurricanes, plans for mitigating or reducing the negative impacts of such strikes are usually based on two time frames: 1) before the storm, when general mitigation measures may be taken, and 2) after the storm, when the worst is known about specific destruction and plans can be adjusted on the basis of actual damage assessments.*

The Chapter then provides a brief discussion concerning "Pre-Storm Hazard Mitigation and Development Management:"

*In the face of certain future coastal storms and likely future sea level rise, the dynamic barrier islands and beaches will be unstable platforms for urban development. Different policies are needed for the undeveloped barriers, which should be conserved in their natural state, exempted from public infrastructure investments, and allowed to retreat before wave forces; and for the developed barriers, which require a balance of conservation, beach replenishment, and development management to ensure protection of coastal resources, property, and human life. Similarly, the developed coastal sound islands, while not exposed to the same wave action as the barriers, also require a balance of conservation and development management to avoid overloading the carrying capacity of both ecological and manmade systems (such as evacuation routes).*

*Mainland areas subject to coastal flooding constitute a large proportion of existing and future development within the County. The shoreline of most of this area is now protected under the Lee Plan through designation of the coastal wetlands as very low density Resource Protection (environmentally critical) Areas. These wetlands must be strictly protected from urban development in the future, and conservation practices extended inland through drainage basin plans that recognize the interconnected nature of coastal natural resource systems. Future land development in all areas subject to coastal flooding must be regulated to ensure that public expenditures are not unduly exposed to storm hazards, that measures are taken to protect people and property, and that natural systems are conserved and enhanced.*



Thus the 1988 Coastal study recognized the importance of balancing coastal development with limiting public expenditures to limit the exposure to storm hazards. The 1988 Coastal Study proposed three major goals to manage land use in the "Coastal Study Area." The proposed goals were "aimed at Resource Protection, Protection of Life and Property, and Limitation of Public Expenditures in Hazard Areas." The study numbered the recommended Goals and Policies sequentially and the subject of this staff report (Policy 75.1.4) appeared under Goal 2, Protection of Life and Property and was numbered as Policy 2.1.4. This Policy is reproduced below:

*Policy 2.1.4: Land use designations of undeveloped areas within the A Zone shall be considered for reduced density categories or assignment of minimum allowable densities where density ranges are permitted, in order to limit the future population exposed to coastal flooding and hurricane damage.*

Staff prepared a draft Conservation and Coastal Management Element and presented the draft element at a series of Local Planning Agency (LPA) Public Hearings during 1988. The draft element was numbered in a different fashion than today. The specific policy subject to this amendment was discussed through this process. For example, at the May 19, 1988 LPA Public Hearing, Mr. Matt Uhle addressed the LPA in part stating the following:

*The next one I'm concerned about is objective 5.1 which refers to densities within vulnerable A-zone areas being reduced where possible. The A-zones, I'm sure you all know, are almost all the property that we have on the coastward side of U.S. 41 and includes very large areas which are designated as being in urban service areas. I have grave concerns about a policy that says that densities within those areas will be reduced where possible. First of all it seems inconsistent with the whole thrust of the plan, secondly there are no standards in here at all, so if you own property in an A-zone and this policy is adopted you're looking at some sort of vague policy saying, well sometime in the future the government may try to reduce your density but maybe not, who knows.*

*I have serious problems with that. That's kind of implemented in policy 5.1.4, which is "land use designations of undeveloped areas within the A-zone shall be considered for reduced density categories."*

Mr. Mike Roeder also addressed this topic at the same public hearing:

*Another point was brought up about the idea of reducing densities in the A-zone where possible. This underlines a conflict that was pointed out in the 1984 plan, which is that when you overlay the urban service categories on the flood hazard zones you get a pretty neat fit and that seems to be an internal inconsistency in the whole plan. In the preface to the 1984 plan they tried to address that and basically talked around the problem without resolving it. This new policy seems to bring it up to the forefront again in saying we'll try and reduce densities because of flooding and at the same time all the other elements of the plan say we want to concentrate population where we have the infrastructure and services. It's a large problem that needs some more attention because the two elements are working at cross purposes.*

The staff produced a revised draft element and the draft was discussed at the June 10, 1988 LPA Public Hearing. At this Public Hearing Mr Matt Uhle again addressed this topic:

*The second thing that I'm concerned about is that the language about lowering densities in A zones has been watered down to some extent, but it's still there. In objective 5.1, in policy 5.1.5, it still maintains that the A zones include most of the valuable and developable land in Lee County, and that all these policies are going to do is give a lot of people a lot of fears about what's going to happen to their property without creating any real standards about when and if it's going to happen. I really don't think that that language ought to remain in the policy.*

In response to a member of the public asking staff to clarify the intent of the proposed policy, Mr. Bill Spikowski provided:

*We've included a new introductory sentence that says, "though the Lee Plan amendment process." There was fear at the last meeting that this would be a staff determination or something. We wanted to make it clear that this is through the formal plan amendment process.*

In a later response to a question raised by an LPA member, Mr. Spikowski in part provided the following:

*...But the intent of the change here is indicating that the plan amendment process is where that should be since there is reference to the lower ends of the density ranges. It implied that when you come in to get your development order under existing zoning, you'd get strong-armed and we don't want that impression to remain.*

Staff believes the important point is that it was not staff's intent to apply the proposed policy to existing zoned property. A slightly modified version of this recommended language was adopted (January 31, 1989) into the 1989 Lee Plan. This Policy is reproduced:

***Policy 75.1.5:*** *Through the Lee Plan amendment process, land use designations of undeveloped areas within the A Zone shall be considered for reduced density categories (or assignment of minimum allowable densities where density ranges are permitted) in order to limit the future population exposed to coastal flooding and hurricane damage.*

The policy language has changed slightly as a result of two amendments. The first changes occurred during the 1993/1994 EAR process. The reference to "A Zone" was amended to "coastal high hazard areas" and the reference to "hurricane damage" was eliminated. The published EAR document carries no explanation for these changes. The second amendment replaced the word "shall" with the word "will."

The policy has been the subject of some debate as to the meaning or applicability of the parenthetical phrase. Staff recognizes that the assignment of density for a particular property happens in several instances, once when the property is included in a Future Land Use category, and when the property is zoned to allow specific uses. At the October 19, 2004 regular Board of County Commissioners meeting, Commissioner Judah suggested that the provisions of Policy 75.1.4 should apply during the rezoning process and not only through the Lee Plan amendment process. Staff believes that this makes sense and does not impact properties that already have achieved zoning approvals. Staff believe it is appropriate to consider a rezoning proposal in light of the individual and surrounding properties characteristics. Staff recommends that the Lee Plan be amended as depicted below:

**POLICY 75.1.4:** Through the Lee Plan amendment process, future land use designations of undeveloped areas within coastal high hazard areas will be considered for reduced density categories ~~(or assignment of minimum allowable densities where density ranges are permitted)~~ in order to limit the future population exposed to coastal flooding.

**POLICY 75.1.5:** Zoning requests located in the coastal high hazard area will be considered for reduced or minimum density assignments, in accordance with their future land use category density range.

This proposed language separates the issue, allowing consideration during the plan amendment process and during any rezoning process.

## **B. CONCLUSIONS**

The proposed amendment represents a minor adjustment in Board policy. The proposed policy represents sound Board policy to evaluate through the zoning process individual properties circumstances. This evaluation should be done in concert with an evaluation of other individual characteristics such as compatibility with existing uses, desired urban form, and availability of urban services.

## **C. STAFF RECOMMENDATION**

Staff recommends that the Board of County Commissioners transmit the proposed plan amendment to the Florida Department of Community Affairs for their review.

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

DATE OF PUBLIC HEARING: March 28, 2005

**A. LOCAL PLANNING AGENCY REVIEW**

Staff provided a brief summary concerning the amendment.

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

1. **RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit the proposed amendment. The LPA recommends adding the last sentence from the Staff Report section B. Conclusions to the end of proposed Policy 75.1.5. The LPA recommended language for Policy 75.1.5 is as follows:

**POLICY 75.1.5:** Zoning requests located in the coastal high hazard area will be considered for reduced or minimum density assignments, in accordance with their future land use category density range. This evaluation should be done in concert with an evaluation of other individual characteristics such as compatibility with existing uses, desired urban form, and availability of urban services.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As contained in the Staff Report.

**D. VOTE:**

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>ABSENT</u>
DEREK BURR	<u>AYE</u>
RONALD INGE	<u>AYE</u>
CARLETON RYFFEL	<u>ABSENT</u>
RAYMOND SCHUMANN	<u>AYE</u>
VACANT	<u>          </u>

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

DATE OF TRANSMITTAL HEARING: June 1, 2005

**A. BOARD REVIEW:** Staff provided a brief overview of the proposed amendment. Staff noted that the proposal is to split the consideration into two distinct policies, one addressing the Lee Plan amendment process, and one addressing the re-zoning process. Staff indicated its support for the Local Planning Agency (LPA) added language, the last sentence in proposed Policy 75.1.5.

One member of the public stated his support for the amendment including the LPA language. This individual provided that the location of a property in the Coastal High Hazard Area should only be one factor "considered" in determining a properties ultimate density, and that the LPA added language achieves this.

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

- 1. BOARD ACTION:** The Board voted to transmit the proposed amendment, as recommended by the staff and local planning agency, to the Florida Department of Community Affairs for their review.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the finding of facts as advanced by the staff report.

**C. VOTE:**

<b>JOHN ALBION</b>	<u>AYE</u>
<b>TAMMY HALL</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>

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

DATE OF ORC REPORT:

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
- B. STAFF RESPONSE**
- C. 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**

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