

2004 EVALUATION AND APPRAISAL REPORT

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Lee County Board of County Commissioners Sponsored Evaluation
and Staff Analysis**

**BoCC Adopted EAR Document
as adopted at the
August 26th Public Hearing**

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INTRODUCTION

Summary Profile

Lee County is a rapidly urbanizing county located in the southwest portion of the state. The County is a coastal county and is bordered by Charlotte County on the north, Collier County on the south, and Hendry County on the east. The Gulf of Mexico is located to the west. The County contains a variety of urban uses as well as rural activities. Lee County is home to numerous regional functions, such as the Southwest Florida International Airport. The land area of the County is approximately 814 square miles. The current population of Lee County, according to the University of Florida Bureau of Economic and Business Research (BEBR), is 495,088 (April 1, 2003 Estimate).

Major geographic and natural features located wholly or partially in the County include the Caloosahatchee River, numerous barrier and other islands, Charlotte Harbor, Pine Island Sound, Matlacha Pass, Estero Bay, and the Flint Pen/Corkscrew Swamp (Crew Lands). The Caloosahatchee River runs through Lee County with approximately $\frac{1}{2}$ of the land area north of the river, and approximately $\frac{1}{2}$ of the land area south of the river. The County contains 5 incorporated jurisdictions: The City of Fort Myers; The City of Sanibel; The City of Cape Coral; the Town of Fort Myers Beach, and; The City of Bonita Springs. The County contains several state roads as well as an interstate highway, I-75.

Purpose

The purpose of the evaluation and appraisal report (EAR) for the Lee County Comprehensive Plan, The Lee Plan, is to look back over the past since the last EAR was adopted and evaluate how well the plan is serving Lee County. As the Florida Department of Community Affairs "A Guide to Preparing an Evaluation and Appraisal Report" provides, this is a time for Lee County to consider what kinds of changes have taken place and how or if the plan could or should be modified because of these changes. The purpose of the EAR document as provided by the above mentioned Guide is to:

Identify major issues for the community.

Review past actions of the local government in implementing the plan since the last EAR.

C Assess the degree to which plan objectives have been achieved.

C Assess both successes and shortcomings of the plan.

C Identify ways that the plan should be changed.

C Respond to changing conditions and trends affecting the local community.

C Respond to the need for new data.

C Respond to changes in state requirements regarding growth management and development.

C Respond to changes in regional plans.

• *Ensure effective intergovernmental coordination.*

The purpose of the EAR as contained within the Florida Statutes is more fully discussed below.

STATUTORY CONTEXT OF THE REPORT

Florida Statutes require that Counties have an “ongoing” comprehensive planning program. In fact, F.S. 163.3191 requires each local government to “adopt an evaluation and appraisal report (EAR) once every 7 years.” The stated Statutory purpose is to assess the progress in implementing the local government’s comprehensive plan. F.S. 163.3191 requires the “evaluation process to respond to changes in state, regional, and local policies on planning and growth management and changing conditions and trends, to ensure effective intergovernmental coordination, and to identify major issues regarding the community’s achievement of its goals.”

F.S. 163.3191 also provides that the local government identify the major issues with input from state agencies, regional agencies, adjacent local governments, and the public. This statute provides the following concerning the intended nature of the report:

The report is intended to serve as a summary audit of the actions that a local government has undertaken and identify changes that it may need to make. The report should be based on the local government’s analysis of major issues to further the community’s goals consistent with statewide minimum standards. The report is not intended to require a comprehensive rewrite of the elements within the local plan, unless a local government chooses to do so.

F.S. 163.3191 also requires an assessment of various other items including:

- C population growth;
- C the extent of vacant and “developable” land;
- C the financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element;
- C relevant changes to the state comprehensive plan, the requirements of Florida Statutes, the minimum criteria contained in chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the most recent evaluation and appraisal report update amendments;
- C an assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved;
- C an identification as to whether unforeseen or unanticipated changes in circumstances have resulted in problems or opportunities with respect to major issues identified in each element and the social, economic, and environmental impacts of the issue;
- C a brief assessment of successes and shortcomings related to each element of the plan; and,
- C a summary of the public participation program and activities undertaken by the local government in preparing the evaluation and appraisal report.

F.S. 163.3191 provides that the EAR must identify “any actions or corrective measures” such as proposed plan amendments to address the major issues that have been identified and analyzed in the report. This statute includes such items as:

- C new population projections;
- C new or revised planning timeframes;

- C a revised future conditions map or map series;
- C an updated capital improvement element; and,
- C any new or revised goals, objectives, and policies to address the major issues.

This statute also requires an assessment of the coordination of the comprehensive plan with existing public schools. The assessment is meant to measure “the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decision making processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities.”

According to the statutes, the evaluation must also consider the appropriate water management district’s regional water supply plan approved pursuant s. 373.0361. The statute provides that “the potable water element must be revised to include a work plan, covering at least a 10-year planning period, for building any water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible.”

Lastly, F.S. 163.3191 requires that “if any jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs. This part of the statutes provides that “the local government must identify strategies to address redevelopment feasibility and the property rights of affected residents. The statute provides that “these strategies” may include the authorization of redevelopment “up to the actual built density in existence on the property prior to the natural disaster or redevelopment.”

F.S. 163.3191 also includes a provision that specifies that “Voluntary scoping meetings may be conducted by each local government. Lee County staff hosted 2 meetings with various state, regional, and local government agencies as well as a series of public workshops to define the major issues. The next section of this report provides a summary of the process Lee County utilized to generate the major issues to be evaluated in the EAR process.

The Florida Administrative Code, at the time of Lee County’s last EAR, included minimum criteria for EARs. This section of the Administrative Code, 9J-5.0053, has been repealed. At the time of this writing, the Florida Administrative Code does not include any minimum criteria for EARs.

The purpose of this document is to provide the required EAR as specified by the above mentioned Florida Statutes. The document is also meant to identify potential amendments to the Lee Plan based on this evaluation. This document also responds to the issues that have been raised by the public.

SUMMARY OF PUBLIC PARTICIPATION AND VOLUNTARY SCOPING MEETINGS

On January 31, 2003 Planning staff met with the State Department of Community Affairs (DCA), the Regional Planning Council, Charlotte and Collier County staff, two cities, and several review agencies to discuss the 2004 E.A.R. process. During that meeting DCA outlined a general process for the E.A.R. that included: public and review agency input; consensus on a final list of major issues to address in the E.A.R.; a period of time to research and draft the report; approval of the E.A.R. by the Lee County Board of County Commissioners (BoCC) and DCA; and finally, a period of eighteen months to amend the Lee Plan in accordance with those actions recommended in the approved report. DCA also handed out a list of perceived major issues common to south Florida, as a starting point.

During the months of March and April of 2003, planning staff held nine public workshops. Each of the public workshops was held in a different planning community to encourage countywide resident involvement. According to sign-in records, one hundred and ten citizens attended the public workshops. Staff notes that additional persons did attend these workshops but failed to sign in. Table 1, E.A.R. Public Meetings, provides general information concerning the effort to involve the public in generating the major issues to be addressed by the evaluation process. This Table is provided below:

TABLE 1: E.A.R. PUBLIC MEETINGS

Date of Meeting	Location of Meeting	Type of Public Meeting	No. of non-staff attendees signed in
March 24, 2003	DCD/Public Works Building Downtown Fort Myers	Citizen	12
March 26, 2003	Pine Island Library Pine Island	Citizen	3
April 1, 2003	Riverdale Branch Library East Fort Myers	Citizen	8
April 3, 2003	North Fort Myers Library North Fort Myers	Citizen	17
April 8, 2003	South County Regional Library Estero	Citizen	13
April 10, 2003	East County Regional Library Lehigh	Citizen	22
April 14, 2003	Civic Association Captiva	Citizen	11

April 15, 2003	Community Center Boca Grande	Citizen	23
April 29, 2003	Edison Community College Iona/McGregor	Citizen	1
May 1, 2003	DCD/Public Works Building Downtown Fort Myers	Public Safety Agency	9
May 5, 2003	DCD/Public Works Building Downtown Fort Myers	Agency	11
May 12, 2003	DCD/Public Works Building Downtown Fort Myers	Lee County Government Department/Division	9
June 23, 2003	Regional Planning Council North Fort Myers	Agency Scoping	18

There were two additional staff meetings:

County Planning Staff with Review Agencies and the Department of Community Affairs for an introduction to the new EAR. process and requirements on January 31, 2003.

County Planning Staff and Division of Forestry Staff on April 22, 2003.

During May of 2003, Planning held two review agency workshops, and one County department/division workshop. All workshops were advertised and open to the public. The Florida Division of Forestry also met with staff to propose changes to building and landscape code regulations, as part of that agency's continued efforts to reduce the threat of wildfires in Lee County.

Staff compiled a list of all issues suggested during the public and agency outreach. Many of the suggestions were not, in and of themselves, major issues but did point toward large issues. Staff took the list of suggested issues and consolidated them into twelve major issue groups.

The Draft Major Issues List compiled by staff contained three parts (Part I., II., III.). The twelve major issue group headings formed the basis for Part I. Staff broke each of the proposed major issues into several primary topics. Parts II described evaluation topics required by state statute to be included in the E.A.R. process. Part III was a statement that the EAR process will require assistance from a variety of outside agencies, to provide necessary data and analysis.

Staff presented the Draft Major Issue List at the Local Planning Agency (LPA) June meeting on June 23, 2003 and at a review agency scoping meeting that same day. Staff then revised the Major Issues List, primary topics, in order to accommodate additional issues identified during the LPA review and agency scoping meeting. The resulting Major Issues List was approved by the Lee County Board of County Commissioners (BoCC) on July 8, 2003 and formed the basis of the August 6, 2003 Letter of Understanding between the Department of Community Affairs and Lee County.

Meetings with the LPA and BoCC, as well as the June agency scoping meeting, were all publically advertised and open to the public. The County's outreach also included a presence on the internet. All upcoming workshops and public meetings were listed on Lee County's website. The website included a time-line of the E.A.R. process and a list of input received to date from the public and review agencies.

Throughout the public and agency input period, planning staff routinely sent out E.A.R. updates by email to all people who regularly receive the Department of Community Development Newsletter, as well as to those people who signed-in with an email address at any EAR. workshop. Review agencies, the LPA and Lee County departments/divisions were updated regularly by email or mail.

Public and agency input was very useful in helping staff to assess what issues impact citizens most during day to day life, and especially to help identify important connections between issues. Staff has attempted to address all topics of concern that were raised through the public workshops.

BOCC APPROVED MAJOR ISSUES LIST FOR THE 2004 EAR

The BoCC approved Major Issues List includes 12 major issues. These 12 major issues also have several sub-issues contained under the major issue heading. These 12 major issues and sub-issues are reproduced below:

EVALUATE:

- 1.) Transportation
 - a.) Level of Service
 - b.) North/South and East/West Corridors
 - c.) Bike and Pedestrian Facilities
 - d.) Roadway Landscaping
 - e.) Service Roads
 - f.) Transit Level of Service
 - g.) Roadway Geometrics

- 2.) Lehigh Acres
 - a.) Commercial Development/Capture trips within community
 - b.) Road Connectivity
 - c.) Aquifer Recharge

- 3.) Intergovernmental Coordination, Interdepartmental Coordination
 - a.) Predictability of regulation and review
 - b.) City/County, County/County coordination regarding annexation, public services, and roadway landscaping, water quality and supply

- 4.) Density Reduction/Groundwater Resource Areas
 - a.) Effectiveness of DR/GR regulations
 - b.) Allowable uses in DR/GR areas

- 5.) Regulatory Environment
 - a.) Resource Protection
 - b.) Enforce Existing Regulations
 - c.) Incorporation of New Urbanist approach into policy
 - d.) Keeping LDC amendments concurrent with Lee Plan amendments
 - e.) Effectiveness of existing anti-sprawl regulations
 - f.) Developing a higher standard for research, data, and analysis
 - g.) Provision of Public Facilities (non-transportation)

- 6.) Public Safety
 - a.) Wildfire Safety Building Regulations
 - b.) An overall update of public safety policies

- c.) Level of Service
- 7.) Hurricane Evacuation/Shelter
 - a.) Strengthening hurricane preparedness through Lee Plan policy
 - b.) Shelter vs. Evacuation
- 8.) Schools
 - a.) School Concurrency
 - b.) Appropriate scale of schools (community centers)
 - c.) Local schools with sidewalk access
- 9.) Water Quality, Air Quality, and Natural Resources
 - a.) Sustainable water resource use and retention
 - b.) Environmental quality of local waterways
 - c.) Flood prevention
- 10.) New Urbanism, Smart Growth
 - a.) Effectiveness of current Mixed Use regulations and provisions
 - b.) Incentives for Smart Growth
 - c.) Incentives to promote diversified economy
- 11.) Open Space, Preserve & Parks
 - a.) Interconnected open space/parks/public facilities
 - b.) Conservation 2020 lands (impacts to tax base, distribution county-wide)
 - c.) Gated open space vs. public open space
 - d.) Regulations regarding native and non-native species
 - e.) Beach preservation as a natural resource and public facility
 - f.) Success of efforts to create wildlife corridors
 - g.) Park/Preserve Level of Service
- 12.) Design, Density, Community Values
 - a.) Current density allocation vs. County's long-term development goals
 - b.) Current design regulations vs. County's long-term development goals
 - c.) Affordable housing
 - d.) Current sign regulations including billboards
 - e.) Golf Courses/environmental impacts vs. economy
 - f.) Parking regulations
 - g.) Increased impervious surface
 - h.) Policy regarding development approvals that are vacant, outdated and incompatible
 - i.) Water dependent uses and boating regulations

Staff provides an evaluation of each of these major issues in the following sections of this report. After the discussion concerning the major issues, staff provides a discussion concerning other relevant EAR issues including revised population estimates, an identified need for 2 new future land use categories, and a discussion concerning the proposed Regional Water Supply Plan.

MAJOR ISSUE #1: TRANSPORTATION

a.) Level of Service

Some of the public comment on this issue related to wanting improvements to specific facilities or more roads in a particular area based on *today's* conditions. However, this does not necessarily warrant a change to the comprehensive plan. The long range transportation plan is developed based on growth projections for the entire County for a particular horizon year (currently 2020), which are translated into road network needs for peak season conditions. The Lee County Metropolitan Planning Organization is just beginning the process to update the plan to the horizon year 2030. The planning process determines, based on projected growth, what specific improvements are needed to address connectivity in Lehigh Acres or whether the Hancock Bridge Parkway Extension makes sense (to address two specific comments).

One of the comments cited a lack of minor collector roads as a problem. In an ideal world, the road network for Lee County would reflect the hierarchy of road types, with examples of freeways/expressways, major arterials, minor arterials, major collectors, minor collectors and local streets. However, the long range planning process and the dedication of available transportation revenues are focused on the most significant road types, from major collectors up. The computerized travel demand model that is used to develop the long range plan is too coarse to adequately test and determine the need for minor collectors, and the County does not have sufficient funding to try and build minor collectors, given the needs on the major road system. The only real means for establishing more of these types of roads is through the development approval process, requiring developers to build them as site-related improvements to disperse their traffic impacts. Policies already exist in the plan to require developers to address their site-related impacts.

The most significant public comments in relation to this Evaluation and Appraisal Report relate to concerns about level of service conditions, particularly on the Lee County portions of the Florida Intrastate Highway System (FIHS). Lee County is one of the fastest growing areas in the state and in the country, and the traffic volumes have increased as the population has increased. However, Lee County also does everything within its means to expand the area transportation network, maximizing the local option gas tax assessments allowed by state law and charging road impact fees to new development. In the 10 year period from the 1989/1990 fiscal year to the 1998/1999 fiscal year, Lee County spent over \$350 million dollars on major transportation improvements and added almost 200 lane miles to the system. The current adopted five-year capital improvement program (FY 2003/04 to 2007/08) includes another \$225 million worth of transportation improvements.

The level of service conditions are reported annually for all major road segments in the County's Concurrency Management Report, making it possible to compare conditions from 1997 when the last Lee County EAR was done to 2003. Some adjustment is necessary to allow for an apples-to-apples comparison. The calculations of service volumes (capacities) have changed over time, and the format for evaluating traffic conditions has changed (from peak season, peak hour, two-way to peak season, peak hour, peak direction). One other significant change has occurred in that time as well, a shift in 2000 from a district summing transportation concurrency management system to a link-by-link system. To allow for comparison of how conditions have changed under the two systems, the year 2000 conditions have also been provided.

Rather than prepare an elaborate table showing changing conditions on every major road link included in the concurrency reports, staff has attempted to create a County-wide summary. Below is a table that summarizes the change in County-wide conditions from the 1997 report (which is based on the 1996 traffic counts) to the 2000 report (based on 1999 counts), and from the 2000 report to the 2003 report (based on the 2002 counts), with the volumes and capacities equalized to peak season, peak hour, peak direction conditions to allow for comparison.

TABLE 1.1
CHANGE IN TRAFFIC CONDITIONS OVER TIME
COUNTYWIDE

YEAR	TRAFFIC VOLUMES	VEHICLE MILES	CAPACITY AVAILABLE	VEHICLE MILES AVAILABLE	% SURPLUS CAPACITY
1996	407,966	567,599	908,995	1,436,020	60.5%
1999	550,238	770,607	997,800	1,522,020	49.4%
2002	586,151	913,120	1,071,600	1,711,730	36.4%

The last column is intended to be a representation of how County-wide conditions have changed over time, reflecting a comparison of overall traffic (expressed as vehicle miles) to available capacity (expressed as vehicle miles available). It reflects both the increase in traffic volumes and the additional capacity the County has been creating. Although the vehicle miles traveled in Lee County have increased by 60.9% since the 1997 report, that has been partially offset by the County's ambitious road building program. That is why, even though there has been an overall decrease in the percentage of surplus capacity within the overall system from 1996 to 2002, that decrease has only been 24.1%, not anywhere near the percentage increase in traffic. Breaking those numbers down further using the mid-year when the County's concurrency system changed, the vehicle miles traveled increased 35.8% from 1996 to 1999 while the percentage of surplus capacity decreased only 11.1%, and the vehicle miles traveled increased 18.5% from 1999 to 2002 while the percentage of surplus capacity decreased only 13.0%.

Because the Florida Intrastate Highway System (FIHS) is a priority for the state, the Florida Department of Community Affairs felt it was important for the evaluation in the change in conditions for those roads to be identified separately, rather than being treated as part of the overall system. There are two FIHS facilities within unincorporated Lee County, I-75 and the portion of SR 80 east of I-75. Below is a separate table identifying the change in conditions for those two roadways from 1996 to 1999 and from 1999 to 2002.

TABLE 2.1
CHANGE IN TRAFFIC CONDITIONS OVER TIME
I-75 AND SR 80
(PEAK SEASON, PEAK HOUR, PEAK DIRECTION)

ROAD	FROM	TO	1996		2000		2002	
			VOLUME	LOS	VOLUME	LOS	VOLUME	LOS
I-75	Collier Co. line	Bonita Beach Rd.	3407	B	4553	C	6104	D
	Bonita Beach Rd.	Corkscrew Rd.	3407	B	4553	C	6231	D
	Corkscrew Rd.	Alico Rd.	4404	C	5131	C	6231	D
	Alico Rd.	Daniels Pkwy.	3787	C	6186	D	6613	E
	Daniels Pkwy.	Colonial Blvd.	3982	C	5018	C	5993	D
	Colonial Blvd.	SR 82	4638	C	4512	C	6089	D
	SR 82	Luckett Rd.	4954	C	4640	C	5946	D
	Luckett Rd.	SR 80	4954	C	4640	C	5946	D
	SR 80	SR 78	3968	C	4183	C	6498	E
	SR 78	Charlotte Co. line	3570	B	2531	B	3139	B
SR 80	I-75	SR 31	1810	B	2365	B	2226	B
	SR 31	Buckingham Rd.	2000	C	2237	B	2322	B
	Buckingham Rd.	Hickey Creek Rd.	1168	B	1323	B	1398	B
	Hickey Creek Rd.	Hendry Co. line	1168	C	825	C	933	C

I-75 has remained 4 lanes throughout this time period, while the portion of SR 80 from I-75 to SR 31 has been 6 lanes, and the portion from SR 31 to Hickey Creek Road has been 4 lanes. The last section of SR 80 from Hickey Creek Road to the Hendry County line was 2 lanes, but is actually under construction now by FDOT to make it 4 lanes. Reviewing the table, the volumes on SR 80 have increased slightly, but the volumes on I-75 have gone up fairly significantly. This is not unexpected given the overall growth in Lee and Collier Counties and the interstate's role as a regional north-south roadway. It is important to note that the level of service standard for I-75 is in the process of changing, because it is defined in part by the urban area boundaries and those boundaries are expanding to encompass most of the interstate in Lee County based on the 2000 Census. That will change the level of service standard for the interstate from "C" to "D".

The most significant traffic increases on the interstate have been from the Collier County line to Corkscrew Road, from Alico Road to Daniels Parkway, and from SR 80 to SR 78 (across the Caloosahatchee River). However, parallel roadways have either been built, are under construction or are under design by the County or the State, and FDOT has completed a PD&E Study for widening the interstate from SR 951 in Collier County to SR 78 in Lee County and has portions programmed for six-laning. The County has made a commitment in the comprehensive plan to provide parallel roads for the interstate, in Policy 23.3.6, which reads:

POLICY 23.2.6: In order to help protect the interregional and intrastate travel functions of Interstate 75 as part of the Florida Intrastate Highway System, and provide alternatives for local traffic use, Lee County will implement a system of parallel reliever roads, consistent with Transportation Map 3A.

County Planned/Programmed Parallel Improvements

Livingston/Imperial/Three Oaks Corridor (West Side)

Collier Co. line to Bonita Beach Rd.	New 4L	Recently completed
Bonita Beach Rd. to E. Terry St.	New 4L	Design & ROW underway, CST programmed in FY 04/05 (joint project with City of Bonita Springs)
E. Terry St. to Bonita Bill Dr.	New 4L	Design & ROW underway, CST programmed in FY 04/05 (joint project with City of Bonita Springs)
Bonita Bill Dr. to Williams Rd.	New 4L	Completed in 2002 by The Brooks DRI as part of its mitigation
Williams Rd. to Corkscrew Rd.	New 4L	Completed in 2003
Corkscrew Rd. to Alico Rd.	4L Widening	Design & ROW underway, CST programmed in FY 04/05
Alico Rd. to Daniels Pkwy.	New 4L	First mile to be built by developer for impact fee credits, remainder under Design, CST programmed in FY 06/07.

Six Mile Cypress Parkway/Ortiz Avenue Corridor (West Side)

N. of Daniels to S. of Winkler	4L Widening	Design programmed in FY 05/06 and CST in FY 07/08
S. of Winkler to Challenger Blvd.	4L Existing	
Challenger Blvd. to Colonial Blvd.	6L Existing	
Colonial Blvd. to SR 82	4L Widening	Design & ROW programmed in FY 06/07, CST not yet programmed
SR 82 to Luckett Rd.	4L Widening	Not yet programmed, in 2020 Plan

Plantation Road/Shoemaker Boulevard Corridor (West Side)

Six Mile Pkwy. to Daniels Pkwy.	4L Widening	Not yet programmed, in 2020 Plan
Daniels Pkwy. to Idlewild St.	4L Widening	Not yet programmed, in 2020 Plan
Idlewild St. to Colonial Blvd.	New 4L	Design programmed in FY 04/05, ROW in FY 05/06, and CST in FY 06/07
N. of Colonial Blvd. to SR 82	New 4L	Under CST (joint project with City of Fort Myers)
SR 82 to Michigan Link	4L Widening	Under CST by City of Fort Myers

Sandy Lane/Oriole Road Corridor (West Side)

Old 41 to Corkscrew Rd.	New 2L	Corridor alignment study underway, portion to be built as 4L by Coconut Point DRI, remaining phases not yet programmed
Corkscrew Rd. to Broadway	2L Existing	
Broadway to Miami St.	New 2L	Corridor alignment study underway, remaining phases not yet programmed
Miami St. to Alico Rd.	2L Existing	
Alico Rd. North 1 mile	New 2L	Not in 2020 Plan, proposed by developer

CR 951 Extension Corridor (East Side)

Immokalee Rd. to Alico Rd.	New 4L	PD&E Study underway to determine feasibility and permitable alignment, no other phases programmed
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Ben Hill Griffin Parkway/Treeline Avenue Corridor (East Side)

Corkscrew Road to S. of Alico Rd.	4L Existing	
S. of Alico Rd. to Alico Rd.	6L Widening	CST anticipated in FY 04/05 by Gulf Coast Town Center DRI
Alico Rd. to Daniels Pkwy.	New 4L	Under CST by Port Authority
Daniels Pkwy. to S. of Colonial	New 4L	CST programmed in FY 07/08, to be advanced by Arborwood DRI
S. of Colonial to Colonial	4L Existing	
Colonial Blvd. to SR 82	New 2L	Not yet programmed, in 2020 Plan

State Planned/Programmed Parallel/Direct Improvements

(SR 739) Metro Parkway/Fowler/Evans/Business 41 Corridor (West Side)

US 41 to Six Mile Cypress Pkwy.	New 6L	CST to start by end of 2004
Six Mile Pkwy. to Daniels Pkwy.	6L Widening	Design underway through County advancement, ROW programmed in FY 04/05, CST not yet programmed
Daniels Pkwy. to N. of Winkler	6L Widening	Design programmed in FY 07/08, remaining phases not yet programmed
N. of Winkler to Kennesaw	New 6L	Design complete, ROW programmed in FY 2006/07, CST phase not yet programmed
Kennesaw to SR 82	3L One-Way Pair	Evans Ave. conversion CST programmed in FY 05/06, Fowler St. conversion not yet programmed
SR 82 to SR 78	6L Existing	
SR 78 to Littleton Rd.	4L Widening	CST underway (by County)
Littleton Rd. to US 41	4L Widening	Not yet programmed, in 2020 Plan

Interstate 75

Collier Co. line to Corkscrew Rd.	6L Widening	Design underway, ROW programmed in FY 05/06, CST programmed in FY 07/08
Corkscrew Rd. to Daniels Pkwy.	6L Widening	Design underway, ROW programmed in FY 05/06, CST programmed in FY 07/08
Daniels Pkwy. to SR 80	6L Widening	Design programmed in FY 04/05, ROW programmed in FY 07/08, CST anticipated in FY 09/10
SR 80 to SR 78	6L Widening	Design programmed in FY 06/07, ROW anticipated in FY 10/11, CST not yet programmed

Regarding the interstate projects, there is also discussion about possibly pursuing more than 6 lanes, through the use of tolls charged on the added lanes. The State's PD&E Study for the interstate identified an ultimate configuration of 6 regular lanes and 4 special use lanes by 2030, and the use of tolls might allow the special use lanes to come on line much sooner than they otherwise would. The State's Turnpike Enterprise is currently conducting a feasibility study on the possibility of toll lanes, and Lee County has investigated the possibility of establishing an Expressway Authority to pursue such a project. The State also has improvements programmed or planned at particular interchanges along the interstate.

Lee County will continue to work through the Lee County MPO to plan for the needed improvements to serve future growth, and prioritize the state/federal transportation expenditures to address level of service needs, as well as programming its own funds to serve such needs.

No revisions to the County's comprehensive plan are necessary to address this issue.

b.) North/South and East/West Corridors

Again, many of the public comments on this issue were related to wanting more such roads to serve a particular area based on *today's* conditions, or wanting more roads for hurricane evacuation purposes. However, this does not necessarily warrant a change to the comprehensive plan. The long range transportation plan identifies all of the needed north-south and east-west roads for the year 2020 based on projected peak season travel demand. The issue may be more one of timing, when particular north-south or east-west corridors come on line, but that is driven by level of service conditions and available funding.

Roads are not included in the long range plan solely to serve hurricane evacuation needs, although that benefit can be an additional consideration when weighing whether to include particular facilities in the plan. The addition of new roads or expansion of existing roads in the plan to serve forecasted peak season travel demand needs is generally viewed as beneficial to hurricane evacuation opportunities within the County, especially since hurricane season is the off-season. Hurricane evacuation is also included as a consideration when prioritizing projects from

the long range plan for budgeting in the five-year capital improvement program, as stated in Policy 23.2.4 of the Lee Plan, as follows (*emphasis added*):

POLICY 23.2.4: The following priorities are established for improving the existing and future road system, in addition to the priorities in Policy 70.1.1:

- Priority will be given to the construction, maintenance, and reconstruction, where necessary, of roadways needed to serve existing development, *including hurricane evacuation needs*.
- Roads operating at or below the adopted level of service standard as specified in Policy 22.1.1 and projected to have additional traffic, will be improved or parallel facilities will be constructed consistent with Transportation Map 3A before other new roads are constructed in uncongested areas or improvements are made to roads operating at or better than their adopted level of service standard.

No revisions to the County’s comprehensive plan are necessary to address this issue.

c.) Bike and Pedestrian Facilities

The public comments on this issue called for more paths in general, more bike/ped linkages to parks and other public infrastructure, more sidewalks around schools, more off-road greenway trails, and more vegetative buffers along paths. The County’s commitment to bicycle/pedestrian facilities is well outlined in the comprehensive plan, as reflected in Map 3D of the Transportation Plan Map series and the following policies:

POLICY 25.4.2: The county will develop a safe and interconnected bicycle/pedestrian system in unincorporated Lee County to meet the users’ needs for transportation and recreation, consistent with the Bikeways/Walkways Facilities Plan (Map 3D). The system will provide facilities between residential, work, school, shopping, and recreation areas. Map 3D represents a desired future network unrestricted by jurisdictional responsibility or funding availability. The county is not obligated to build all the facilities depicted on the map.

POLICY 25.4.3: Safety considerations for pedestrians and cyclists will be incorporated into the design of segments and intersections of arterials and collectors.

POLICY 25.4.4: County implementation of the relevant portions of the system as shown in Map 3D will be through incorporation of bicycle/pedestrian facilities where possible in the construction plans of new and expanded roadways, requirements for new development to install facilities, federal and state grant applications, and annual County funding of improvements.

POLICY 25.4.5: The County will establish as priorities for its annual bicycle/pedestrian funding program the development of a network of bicycle/pedestrian facilities on arterial and collector roadways as identified on Map 3D and the connection of public schools to established residential neighborhoods. The county will establish priorities with assistance from the Bicycle/Pedestrian Advisory Committee.

The existing policies directly address most of the public comments. Map 3D identifies bike/ped improvements to some 150 major road segments, and those segments form the basis for the annual priority list developed by the Bicycle/Pedestrian Advisory Committee (BPAC). The priority list is the basis for spending the annual allocation of about \$1.4 million for retrofitting facilities to County roads (expected to increase to \$1.9 million beginning in FY 04/05). Besides the projects on the map, BPAC also considers specific requests from neighborhoods and school representatives for facilities on local roads, and often includes them. In fact, the prioritization criteria used by BPAC for ranking projects includes proximity to schools, bus routes, parks, libraries, post offices, shopping centers, and population centers, roadway crash data, volumes and speed, network interconnections, and citizen support.

The County's annual funding process is in addition to the facilities normally installed with any major road improvement the County undertakes, and the funding provided by the state for facilities on its roads. In addition, the County requires developers to put in facilities within their projects and on arterials and collectors on which they front. Besides the County's Transportation Department efforts, the County's Parks & Recreation Department has just initiated a greenway trails program and is currently developing a major facility along the Ten Mile Canal. Overall, the County has a very aggressive bicycle/pedestrian program.

The one public comment not covered with the existing bicycle/pedestrian policies and programs is the request for more vegetative buffers along paths. This is actually a landscaping issue, and is addressed in the next section.

No revisions to the County's comprehensive plan are necessary to address this issue.

d.) Roadway Landscaping

The public comments related to this issue were fairly general, asking for improved landscaping along roadways and sidewalks. The County has a fairly aggressive program to add landscaping to major roadways, and also now requires extensive vegetative buffering and landscaping for private development along roadways. The County's program is already outlined in Objective 25.3 and related policies of the Transportation Element of the Lee Plan, as follows:

OBJECTIVE 25.3: ROADWAY LANDSCAPING. The county will implement a landscaping program for Lee County roadways utilizing the guidelines for design implementation and long term maintenance set forth in the Lee County Roadway Landscape (LeeScape) Master Plan adopted on October 27, 1998.

POLICY 25.3.1: The LeeScape Master Plan is a long term operating document and guide for the landscape development and maintenance along designated arterial and collector roadways within Lee County.

POLICY 25.3.2: The LeeScape Master Plan includes a range of landscaping levels for targeted roadways, from a “core level” to enhanced conditions that may be added to projects over time. The “core level” planting design emphasizes tree canopy, which provides high visibility and shade and establishes an overall site framework. As increased capacity for maintenance is available, or as priorities for enhancement are mandated on special roadways, additional levels of landscaping may occur. The typical designs identified for urban and rural roadway cross-sections consider safety as well as beauty.

POLICY 25.3.3: The Roadway Landscape Advisory Committee has been established to advise County staff on the update and implementation of the LeeScape Master Plan.

The County provides funding for the program in two ways: it now adds a landscaping phase to all major road improvement projects in its capital improvement program, and it has a separate project in the program to fund landscaping retrofits to roads that aren’t otherwise going to be improved (at \$500,000 a year). There is also a grant program for local groups to seek funds to landscape a particular County road segment, funded at \$100,000 a year. The landscaping program is funded using ad valorem dollars instead of transportation dollars (i.e., local option gas taxes or road impact fees). Beyond the normal level of funding, the Lee County Board of County Commissioners last year added an additional \$2 million in surplus general revenues to the retrofit budget, to allow for an intensification of the core level of landscaping for certain roads, and set aside funds from a utility fee to add landscaping to much of US 41.

The County’s program mostly focuses on County roads, but the Florida DOT has initiated a similar funding effort in response to local interest in landscaping roads. The Florida DOT now also programs a separate landscaping phase along with its major road improvements in its Five-Year Work Program, to cover installation costs (if the appropriate local government makes the commitment for maintenance). A retrofit grant of \$200,000 is also available each year for local governments that want to install landscaping on state road segments.

Although Objective 25.3 references the original adoption date of the LeeScape Master Plan, the plan was updated on August 28, 2001, so that date will need to be changed. Other than that, **no further changes to the County’s comprehensive plan are necessary to address this issue.**

e.) Service Roads

This issue as raised in the public input phase of the EAR suggested the need for service roads along arterials for business use, specifically referencing US 41. The County’s comprehensive plan already includes a couple of policies which address this, as noted below (*emphasis added*).

POLICY 25.1.1: The through traffic capacity of the county's expressways, arterials, and collectors will be protected by:

- Regulating accesses to collector and arterial streets to the extent permitted by state law.
- Providing sufficient distance between land access and expressway/freeway interchanges.
- Spacing signalized intersections on arterials and collectors for efficient traffic signal operation.
- Prohibiting on-street parking on arterials and collectors except in areas designated by the Board of County Commissioners.
- *Developing a system of parallel access or frontage roads along identified collectors, arterials and limited access facilities.*
- Requiring access to arterials and collectors to be designed, funded, or built to meet forecasted use needs, including turn lanes, acceleration and deceleration lanes, and funding for future signalization.

POLICY 25.1.3: The county will utilize a combination of methods to maintain the connection separation standards, including but not limited to *requiring access roads*, interconnections between developments, cross-access easements, continuous right-turn lanes, and other appropriate methods. The proper application of these various methods, and when any exceptions to the standards may apply, will be specified in the county's land development code. *The county will maintain an Access Road Location Map identifying where access streets are the preferred method of maintaining the connection separation standards.*

The Access Road Location Map is developed and maintained by Lee County DOT, and shows both existing and proposed access road and reverse access road locations. In the last major update of the map in 1998, the number of arterials and collectors identified as desiring access roads in the future was reduced, because the access roads are eligible for road impact fee credits and that could potentially affect the County's revenue stream and therefore its ability to complete the major road projects identified in the 2020 Financially Feasible Plan. However, much of US 41 through unincorporated Lee County is still on the map, as well as parts of Colonial Boulevard, Daniels Parkway and Metro Parkway. The County codes also call for each development project to be reviewed on a case-by-case basis, and where access is an issue, provision of an access road may still be required, even if the development fronts on a road not shown on the Access Road Location Map.

No revisions to the County's comprehensive plan are necessary to address this issue.

f.) Transit Level of Service

The nature of the public comments on this issue emphasized the need to focus on transit for special needs groups, links to schools, and land use/density issues to support transit.

The first comment is addressed up front in the Mass Transit sub-element of the Transportation Element, in the overarching goal and in one of the objectives and policies. Those portions read (*emphasis added*):

GOAL 28: MASS TRANSIT SERVICE. Provide public transit service to residents and visitors (*especially the transportation-disadvantaged population*) in and between the concentrated population centers of Lee County, and ensure that this service is integrated with other modes of transportation.

OBJECTIVE 28.4: COORDINATION. All mass transit plans will be coordinated with state, regional, and other local governmental agencies *and special needs groups*, such as the administration of Florida Gulf Coast University (on those matters that could impact the University).

POLICY 28.4.2: *Provide transit service accessibility to elderly and handicapped residents and to others with special needs.*

Clearly, transit for special needs groups is already an emphasis in the comprehensive plan, and Lee Tran spends significant funds each year to meet the ADA requirements for access to the fixed route bus service for people of need who live within 3/4 mile of a route. It also includes a 100% handicapped-accessible fleet. In addition, Lee County has had to dip into general fund reserves for the last two years to help keep the Community Transportation Coordinator, established under state law to service the transportation disadvantaged, in operation. Lee Tran is proposing to modify Goal 28 to remove the reference to the transportation-disadvantaged population, not because that no longer an emphasis but to make clear the goal of providing transit service applies to the entire population. Also, Policy 28.4.2 is proposed to be modified to simply replace the word “handicapped” with the word “disabled”, to better reflect modern language usage. These proposed changes are included in Section II of this EAR.

The issue of utilizing the County’s transit system for public school access is still under debate, through the County’s Smart Growth effort. Since the School Board is an independent jurisdiction with its own transportation fleet, the coordination needed to utilize the fixed-route bus system to serve some portion of the school access need is not something the County can force through the comprehensive planning process. However, the County is willing to work with the School Board in any way we can and the September, 2003 update of the Lee County Transit Development Plan (TDP) identified as a strategic initiative exploring partnering opportunities with the Lee County School Board.

The density issue is also one being considered in the Smart Growth process. Basic planning theory is that higher densities can help support mass transit. However, much of the County has already been platted and zoned, dictating a relatively low density pattern for most of it. While there may be some opportunities for redevelopment to higher densities along key corridors such as US 41, increasing density in already crowded areas creates resistance from neighbors and is difficult to achieve. The density issue would be addressed in the Land Use Element rather than the Transportation Element. Using the 2020 growth projections based on current land use patterns, the 2020 Financially Feasible Plan calls for moderate growth in the county-wide transit system. The

2003 TDP identified a goal of incorporating transit design and amenities into road improvements, and has identified a strategic initiative of continuing to work with the MPO to incorporate transit design and amenities when road improvements are made to state, county, and local road segments. There have been on-going studies and discussions over the last two years about the future governing structure and financing of the mass transit system, which is currently not supported by any of the cities, and Lee County is exploring the possibility of establishing an independent transit authority. There is also a goal and a strategic initiative identified in the 2003 TDP that looks to establish LeeTran as a partner in the comprehensive planning and Land Development Code updates of the Cities of Fort Myers, Cape Coral, Fort Myers Beach and Bonita Springs.

No revisions to the Transportation Element of the County's comprehensive plan are necessary to address this issue.

g.) Roadway Geometrics

The public comments under this category asked for mapping areas where traffic calming will be necessary and referenced obsolete highways, especially rural to urban transition areas.

On the traffic calming issue, the installation of traffic calming devices or measures is much like traffic signals - it is not projected and mapped as part of the long range planning process, it is based on an evaluation of existing conditions at a particular, limited area where a problem has been identified. The long range plan focuses on major roads (arterials and collectors), on which County policy prohibits instituting traffic calming measures as stated in County Administrative Code AC-11-14 (Traffic Calming in Residential Areas). The administrative code says, "Roads which are functionally classified as arterial roads have the primary purpose of serving through traffic. Use of these roads by the general public is encouraged; and therefore, *no traffic calming measures intended to decrease such usage will be adopted.*" The code goes on to say. "Roads which are functionally classified as collector roads have a primary purpose of gathering traffic from local roads and delivering it to other collector roads or to arterial roads. *No traffic calming measures which would prevent such roads from being used for this purpose will be adopted.*"

As outlined in the administrative code, traffic calming is an issue for neighborhoods and local streets, which are not the focus of the County's long range transportation plan and its maps. The long range plan is developed using a travel demand model that only includes the major road system; it is not a refined enough tool to code in every neighborhood street and estimate how much traffic will be on them and determine if traffic calming might be warranted at some point in the distant future. If citizens in a neighborhood feel they have a particular traffic problem that can be addressed by instituting traffic calming measures, there is a process outlined in the administrative code for them to submit their request to the County DOT's Traffic Section, which will evaluate the problem and determine an appropriate solution.

Although mapping of potential traffic calming needs is not appropriate or practical for the long range plan, there are specific policies in the plan that recognize the need to protect neighborhoods from cut-through traffic. The related policy statements are (*emphasis added*):

POLICY 24.1.3: County development regulations will require the interconnection of adjacent existing or future residential developments. Where a developer proposed private local streets with access control, he may propose an alternate means of interconnection provided the means does not require all local traffic to use the arterial network. *All interconnections will be designed to discourage use by through traffic.*

POLICY 24.1.4: Main access points from new development will not be established where traffic is required to travel through areas with significantly lower densities or intensities (e.g. multifamily access through single-family areas, or commercial access through residential areas) *except where adequate mitigation can be provided.*

POLICY 26.1.3: *For those neighborhoods where too much through traffic is a problem, the county will study (and implement when warranted) neighborhood traffic control plans to protect residential areas from the harmful impacts of excessive traffic.*

POLICY 26.1.4: Local streets will be used to mitigate existing arterial or collector congestion problems only as a last resort. Planning new corridors through such areas will be undertaken *in conjunction with reimbursement for losses and safety and buffering program for remaining residents.*

On the obsolete highway issue, the comment apparently stemmed from a land use and safety concern about urban pockets popping up along rural highways. However, most roads where this might be an issue are state highways, and the state goes through a detailed evaluation of a roadway during the Project Development & Environment (PD&E) Study to determine the appropriate cross-section. The cross-section can be different for different parts of the road, depending on right-of-way limitations and surrounding conditions. Of course, right-of-way costs and limitations are balanced against construction costs when considering the different cross-section types, but safety and community impact are also part of the equation.

No revisions to the County's comprehensive plan are necessary to address this issue.

SECTION II (1) - Transportation

Evaluation of Existing Transportation Element

The goals, objectives and policies are generally kept current through the annual comprehensive plan update process, so outdated references should be at a minimum. The following goals, objectives and policies of the Transportation Element need to be updated.

GOP TO BE UPDATED: 21.1.1

CURRENT LANGUAGE: (As adopted October 23, 2003)

POLICY 21.1.1: *The Lee County Metropolitan Planning Organization’s 2020 Financially Feasible Plan Map series is hereby incorporated as part of the Transportation Map series for this Lee Plan comprehensive plan element. The MPO 2020 Financially Feasible Highway Plan Map, as adopted December 8, 2000 and as amended through June 20, 2003, is incorporated as Map 3A of the Transportation Map series, with one format change as approved by the Lee County Board of County Commissioners on March 23, 1999. The format change is a visual indication (with shading) that alignment options for the County Road 951/Bonita Grande Drive extension are still under consideration, consistent with Note 2. The shaded area on the map identifies the limits of the alternatives analysis for the CR 951 Extension PD&E Study. Also, the comprehensive plan amendment analysis for the Simon Suncoast (Coconut Point) DRI identified the need for improvements at key intersections on US 41 from Koreshan Boulevard to Alico Road to address the added impacts from the project for the year 2020, and a mitigation payment has been required as part of the DRI development order. Lee County considers the following intersection improvements to be part of Map 3A and will program the necessary funds to make these improvements at the point they are required to maintain adopted level of service standards on US 41:*

<i>Intersection</i>	<i>Improvements</i>
<i>US 41/Constitution Boulevard</i>	<i>Southbound Dual Left Turn Lanes</i>
<i>US 41/B & F Parcel</i>	<i>Northbound, Southbound, Eastbound, and Westbound Dual Left Turn Lanes</i>
<i>US 41/Sanibel Boulevard</i>	<i>Southbound Dual Left Turn Lanes</i>
<i>US 41/Koreshan Boulevard</i>	<i>Southbound and Westbound Dual Left Turn Lanes</i>

REASON FOR UPDATING: The MPO’s 2020 Financially Feasible Plan has been updated three more times since the June 20, 2003 date referred to in the policy, most recently on February 20, 2004, so the policy will need to be updated to refer to the most recent version of the MPO plan. There likely will not be any more amendments to the February 20th version, because the MPO is gearing up the major update of the plan and extension to the year 2030, which has to be completed by the end of 2005. That map will be incorporated into the Lee Plan when the overall Lee Plan horizon year is extended to 2030.

RECOMMENDATION: Update Policy 21.1.1 to refer to the February 20, 2004 version of the MPO’s 2020 Financially Feasible Transportation Plan, or the most recent version at the time the comprehensive plan amendments go forward.

GOP TO BE UPDATED: 22.1.1

traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions will be calculated using K-100 factors and “D” factors from the nearest, most appropriate permanent traffic count station.

REASON FOR UPDATING: As evidenced by the table, the FDOT level of service standards for FIHS roads vary depending on the urban areas boundaries. New boundaries were established based on the 2000 Census, with some opportunity for adjustment based on growth since 2000. On October 17, 2003, the Lee County MPO approved FDOT’s recommended adjusted urbanized area boundary for the Bonita Springs-Naples Urbanized Area. On November 21, 2003, the Lee County MPO approved FDOT’s recommended adjusted urbanized area boundary for the remaining two urbanized areas and one urban cluster falling either entirely or partly within its present metropolitan planning area boundary, namely the Cape Coral Urbanized Area, the Lee County portion of the Sarasota-Bradenton Urbanized Area, and the Lehigh Acres Urban Cluster. Based on those approvals, all of I-75 in Lee County south of SR 78 falls within the urban area boundaries, and the portion north of SR 78 to just north of Slater Road is within the transitioning urban area, with the remaining portion in rural. The urban designation along SR 80 now extends east of Buckingham Road to Old Olga Road, with the rest rural.

RECOMMENDATION: Update the FIHS level of service standards in Policy 22.1.1 to reflect the new urbanized area and transitioning area boundaries.

GOP TO BE UPDATED: 22.1.4

CURRENT LANGUAGE:

***POLICY 22.1.4:** Lee County will continue to use the 2000 Highway Capacity Manual and the 1998 Florida Department of Transportation Level of Service Manual to calculate levels of service, service volumes, and volume-to-capacity ratios.*

REASON FOR UPDATING: While the 2000 Highway Capacity Manual is still the most recent version of that document, FDOT’s Level of Service Manual has been updated. We now use the 2002 FDOT Quality Level of Service Handbook.

RECOMMENDATION: Update Policy 22.1.4 to refer to the latest version of FDOT’s Level of Service Manual, known as the “2002 FDOT Quality Level of Service Handbook”.

GOP TO BE UPDATED: 22.3, 22.3.1, 22.3.2, 22.3.3, 22.4, 22.4.1, 22.4.2, 22.4.3

CURRENT LANGUAGE:

***OBJECTIVE 22.3: TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEM.** Lee County will utilize a transportation concurrency management system consistent with the requirements of Chapter 163.3180, F.S., and Rule 9J-5.0055, F.A.C.*

POLICY 22.3.1: *Lee County will measure concurrency on all roads on a roadway segment-by-segment basis, except for constrained roads and where alternatives are established pursuant to Chapter 163.3180, F.S., and Rule 9J-5.0055, F.A.C.*

POLICY 22.3.2: *Lee County will continue to annually identify roadway conditions and available capacity as part of its concurrency management report. The report will identify both existing traffic conditions and forecast traffic conditions. The available capacity for existing conditions will include the added capacity of roadway improvements programmed in the first three years of an adopted County Capital Improvement Program or State Five-Year Work Program.*

POLICY 22.3.3: *All proposed development activity (local development order requests), except that which affects constrained roads and roads subject to concurrency alternatives, will be reviewed against the available capacity identified in the annual concurrency report based on existing conditions. If capacity is available, a concurrency certificate may be issued, good for three years; otherwise no concurrency certificate will be issued.*

OBJECTIVE 22.4: TRANSPORTATION CONCURRENCY ALTERNATIVES. *Where appropriate, Lee County will employ alternatives to standard segment-by-segment transportation concurrency measurements consistent with the requirements of Chapter 163.3180, F.S. and Rule 9J-5.0055, F.A.C.*

POLICY 22.4.1: *Based on short-term forecast conditions, Lee County in 2000 will investigate the creation of a Transportation Concurrency Exception Area in Lehigh Acres.*

POLICY 22.4.2: *Based on short-term forecast conditions, Lee County in 2000 will investigate the creation of a Transportation Concurrency Management Area in Estero.*

POLICY 22.4.3: *Concurrency vesting (i.e., a long-term concurrency certificate) may be granted for DRIs under limited circumstances in accordance with Chapter 163.3180(12), F.S., and including up to a 10-year time limitation, a limitation on changes to the DRI development parameters over time, and the execution of a local government development agreement in which the developer agrees to pay his full proportionate share/impact fee obligation up front.*

REASON FOR UPDATING: In September, 1990, Lee County and the Florida Department of Community Affairs (FDCA) entered into a settlement agreement related to a challenge of Lee County's 1989 Evaluation & Appraisal Report and related comprehensive plan amendments. In the EAR some failing roads that would take time to be upgraded were identified (as backlogged roads) and some additional expected failures by the year 2000 were projected. In recognition of the time needed to program the necessary road improvements, FDCA allowed Lee County to operate under an alternative transportation concurrency management system that took a more system-wide approach instead of focusing on the condition of individual road links. That system essentially divided the County into the eight zones also used as road impact fee districts, and summed the total traffic on all

the major road segments within that district and compared it to the total capacity for all those links within that district. The expected traffic from a development proposal within that district was compared to the available surplus capacity, and as long as the surplus capacity was not exceeded, then a concurrency certificate could be issued. The settlement agreement allowed this “district summing” approach to remain in place until December 31, 2000, after which Lee County was to return to a segment-by-segment (or link-by-link) concurrency approach. The link-by-link approach means the condition of the immediately adjacent road link determines whether a development proposal receives a concurrency certificate.

During the ten years Lee County used this special transportation concurrency system, Lee County maximized its transportation revenues (updating its road impact fees, instituting the maximum local option gas tax levies allowed by state law, and expanding its toll facilities) and the backlogged and projected roads were addressed with direct or parallel improvements, either by the County or another entity such as FDOT. Also, some of the projected failures did not materialize by 2000. As noted in Section I.(1)(a) of this EAR, the County spent over \$350 million on transportation improvements in this time frame and added almost 200 lane miles to the system. While the amount of surplus capacity County-wide went down, it went down at a much lower rate than the overall increase in traffic.

As Lee County approached the end of 2000 and its commitment to return to a link-by-link transportation concurrency system, it began discussions with FDOT and FDCA about alternatives to such a system. Although there are some alternatives to a link-by-link concurrency system currently specified in state law, they aren’t generally applicable for an entire County but are applied in limited geographic areas, because they are tied to goals like promoting urban infill development and mass transit usage. There are over 20 Transportation Concurrency Exception Areas in existence in the state, which is the reason concurrency hasn’t stopped development in the most congested parts of our state like Miami or Orlando. Basically these alternatives don’t lead to a transportation solution, they just allow the level of service conditions to be ignored. Lee County’s point of view is that a transportation network should be evaluated regionally or as a system because that is how it operates, and focusing on the condition of one individual road segment really doesn’t make sense. The County prepared a position paper explaining this concept, provided in the Appendix (New Directions in Transportation Concurrency), and in September, 2000 met with the Secretaries of FDCA and FDOT in Tallahassee. The Secretaries agreed with the concept in general, but wanted to see a more specific proposal and a demonstration of how the State’s interests (i.e., the FIHS roads) were going to be protected.

By March of 2001, Lee County had prepared a more specific outline of an alternative concurrency proposal. The proposal was different than the district summing approach the County had previously used, instead linking to the long-range transportation plan developed by the Metropolitan Planning Organization (MPO). That plan, developed using the FSUTMS computerized travel demand model and growth projections for the County, estimates the overall road network needed to meet the expected growth demands for the next 20 years. It is a regional-level system, broken down into the needed network independent of costs (the Needs Plan) and a network constrained by the expected available revenues (the Financially Feasible Plan).

The alternative concurrency concept essentially recognized that the Needs Plan identified the road network needed to accommodate all expected growth, so regular, measurable progress toward achieving that plan should allow growth to continue (as long as the proposed growth was consistent with what was assumed to develop the plan). Since it is a regional plan with many financial participants (the State, the County and the Cities), not all of the burden is on the County. The expectation would be that all participants would commit to fund their part, and that a cooperative effort would be made to fully fund the Needs Plan. The proposal also included a discussion of pursuing a variance from FDOT on the FIHS level of service standards for I-75, although the County later decided not to do that.

This alternative concurrency proposal was discussed with FDOT and FDCA staff during the next two years, and after a lot of questions and some promising comments, there was a suggestion that the County make its proposal part of an agreement between FDCA and the County under the State's innovative planning provisions. County staff drafted an agreement with its concurrency proposal, and transmitted it to FDCA for consideration in February, 2003 (provided in the Appendix). Four months later, County staff was finally able to set up a conference call to discuss the agreement with FDCA staff, only to find out they hadn't actually read it. FDCA staff's initial reaction was positive but they wanted to consider it some more and discuss it with the new FDCA Secretary, so a follow-up conference call was scheduled the following week. In the follow-up discussion, FDCA staff decided they needed answers to a number of questions and could not definitively say they would support the proposal even if all the questions were answered, so negotiations ended and the County decided to pursue the issue through the EAR.

FDCA staff provided their questions in a letter dated June 30, 2003. The questions are included below in italics, with the County's response.

1. What were the results of the first use of this approach in the 1990's? Were the goals achieved? Was growth consistent with projections? Was LOS achieved and maintained?

This and other questions highlight some of the frustration Lee County has experienced in debating this area-wide concurrency approach for the last four years, because FDCA has apparently not fully read our proposal and is operating under the assumption that we are returning to the district summing approach we used during the 1990's. As evidenced by the summary of our proposal in the Appendix, we are NOT suggesting a return to the district summing approach, we are instead creating a new approach linked to the MPO's long range planning process, and emphasizing progress on implementing actual transportation improvements. Therefore, FDCA's questions are irrelevant.

2. How is "... a financially feasible road network that is as close as practical to the MPO 20-year needs plan" an appropriate substitute for the transportation concurrency requirements of Rule 9J-5? Does it address the same facilities subject to concurrency? Will LOS be measured by use of peak hour? The alternative concurrency management system must ultimately demonstrate that LOS on all required roadways will be achieved and maintained within the planning timeframe of the alternate system.

Subparagraph 9J-5.0055(1), F.A.C., states as a general requirement that each local government shall adopt a concurrency management system to ensure the "availability of public facilities and services necessary to serve new development". The MPO's long range plan identifies the road network needed to serve all expected development through the plan horizon (currently 2020). Subparagraph 9J-5.0055(2)(a)(1) says public facilities and services subject to concurrency include roads as defined in subparagraph 9J-5.019(4)(c).1, which basically says the comprehensive plan has to include a policy to establish level of service standards for "roads and public transit facilities within the local government's jurisdiction". The MPO plan, which is also Map 3A of the Lee Plan Transportation Map Series, identifies the needed improvements on all the major roads (arterials and collectors) within the County, as well for the County's transit system.

Regarding the question about measuring LOS by use of peak hour, we intend to still have the peak season, peak hour level of service standards for individual roadways, because we will still be measuring conditions and using that information as the basis for determining the timing of improvements. However, in the context of a concurrency system, as the basis for determining whether to allow development to continue to move forward, the measure will be the progress being made on implementing the long range plan. Since the long range plan identifies the needed transportation improvements to maintain levels of service through the planning timeframe of the Lee Plan, then this alternative approach would satisfy the last statement.

3. Has a specific list of improvements been identified and is there a schedule for their construction? Have costs been identified, and a financially feasible plan developed to pay for them? If not, should this be put in place before the alternate system goes into effect?

Clearly, the question implies a lack of understanding of the MPO planning process and the implementation through State's Five Year Work Program and the local governments Capital Improvement Programs (CIPs). The specific list of improvements IS the MPO plan, and their schedule is by 2020. The MPO also develops an interim year plan, identifying which of its overall list of improvements would be needed sooner rather than later, by the year 2010. When the MPO updates its plan to 2030 it will also have an interim year 2015 plan. The implementing agencies (FDOT, the County and the Cities) then work from those lists and develop a five-year budget of improvements, using the revenues they have available. FDOT's Work Program is guided by priorities developed by the MPO Board, which is made up of local elected officials. The County develops its five year CIP working from the MPO plans, the list of problem segments identified in its annual Concurrency Management Report, and a short-term projection of traffic conditions. By definition the five-year programs are financially feasible. On the longer-range side, the MPO approves both a Needs Plan and a Financially Feasible Plan. The Financially Feasible Plan is developed by costing out all of the improvements within the MPO Needs Plan and comparing it to expected transportation revenues.

4. We agree with DOT that all local governments within the MPO area must participate and commit in their CIP to a financially feasible plan to fund their proportionate share of improvements in accordance with the schedule. We also believe that DOT must commit to funding their portion of the improvements.

This is not a question so no response is required.

5. *How will new development and comprehensive plan amendments be determined within growth projections? How will this be monitored and controlled? A mechanism like the intergovernmental body DOT recommends may be needed.*

The two questions are actually explained in the submittal to FDCA. The MPO plan is developed based on County-wide growth projections. In the past, each jurisdiction within the MPO's boundaries was responsible for its own growth projections, and those were compiled and fit within agreed-upon Countywide control totals (which reflect the BEBR forecasts as the State prefers). For the upcoming plan update, the growth forecasts will be developed using a land use allocation model, to improve consistency in forecasting methodology.

As explained in the Appendix, development applications will be reviewed to determine if their proposed density and intensity of use are within the model assumptions. If they are, then they are presumed to be concurrent. If they aren't, then some model testing will need to be done to see if the proposal creates needs beyond those planned. The developer would then have the option of committing to funding the additional improvement or getting a government jurisdiction to do so, waiting until the next major plan update is done with new growth forecasts, reducing his development request to fit within the existing forecasts, or being subject to a link-by-link concurrency determination. The new concurrency system would not override specific measures adopted into the Lee Plan that tie allowable growth to road capacity, such as Policy 14.2.2 which applies to Greater Pine Island.

An additional intergovernmental body is not necessary. The MPO is already an existing intergovernmental body.

6. *How will the LOS averaging work?*

As noted, we are not using an LOS averaging approach.

7. *How will the ability of one or more local governments to opt out of the regional alternative concurrency system affect regional averaging and financial feasibility?*

Again, we are not using regional averaging, and a local governments choice of how to implement concurrency doesn't affect the MPO's development of a financially feasible plan. The plan is still developed based on overall needs and the projected revenues from each jurisdiction.

8. *An agreed upon methodology for monitoring traffic must be adopted by the local government. Again, this sounds like a responsibility for the intergovernmental body.*

We already have an agreed upon methodology for monitoring traffic. The Lee County Department of Transportation continually collects traffic data from 58 permanent count stations located throughout the County, and also periodically counts another 312 locations, all of which are reported annually. The annual traffic counts go into the annual Concurrency Management Report, which also considers traffic added by approved but not yet built development. Creation of another governmental body is not necessary.

9. *The alternative concurrency system should not go into effect until the above issues have been addressed and incorporated into an interlocal agreement and into the comprehensive plans.*

The proposal would not be implemented until it was incorporated into our comprehensive plan.

10. *What kind of transportation demand techniques and land use strategies will Lee County and other local governments employ in support of this alternate concurrency system?*

Again, the concurrency system is based on actually implementing the improvements called for in the long range plan, which is based on the growth projections for the County. The County already has some policies in its comprehensive plan related to transportation demand techniques, but they would be implemented as appropriate to improve the overall transportation system, not really in support of this proposed concurrency system. The County's Smart Growth Committee is discussing how to strengthen the land use-transportation link, and the County may pursue land use strategies to better support transit usage in the future.

RECOMMENDATION: Update the transportation concurrency references under Objectives 22.3 and 22.4 to reflect the establishment of an areawide concurrency system using the MPO's planning process and progress toward implementing that plan, as summarized in the Appendix.

GOP TO BE UPDATED: 23.2.3

CURRENT LANGUAGE:

***POLICY 23.2.3:** Except in circumstances of overriding need as determined by the Board of County Commissioners, roadway improvements (other than maintenance activities) for county roads within a municipality will not be included in the CIP unless that municipality is a full participant in the county's impact fee program for roads.*

REASON FOR UPDATING: This policy has been part of the Lee Plan for many years and there no longer is documentation explaining its purpose, but staff speculates that it was added to the plan in the mid-1980's when the County first adopted impact fees as a way of making sure the cities also adopted impact fees, to level the development playing field. Today, only the City of Fort Myers is technically a full participant in the County's road impact fee program, but they actually collect the fees themselves and keep them, much like the other cities do. The Town of Fort Myers Beach and the City of Bonita Springs have adopted mirror versions of the County's impact fee ordinance, and the City of Cape Coral has its own ordinance. Only the City of Sanibel doesn't charge impact fees, but it is also near buildout and doesn't have any road improvements planned on the island by the year 2020, and the only County road on the island is actually maintained by the City under interlocal agreement. The policy no longer seems necessary from the standpoint of ensuring city collection, and in fact unnecessarily handcuffs the County when it comes to budgeting funds to improve County roads within the cities.

RECOMMENDATION: Delete Policy 23.2.3.

GOP TO BE UPDATED: 25.3

CURRENT LANGUAGE:

OBJECTIVE 25.3: ROADWAY LANDSCAPING. *The county will implement a landscaping program for Lee County roadways utilizing the guidelines for design implementation and long term maintenance set forth in the Lee County Roadway Landscape (LeeScape) Master Plan adopted on October 27, 1998.*

REASON FOR UPDATING: The LeeScape Master Plan has been updated since its original adoption date referred to in the objective, on August 28, 2001.

RECOMMENDATION: Update Objective 25.3 to refer to the version of the LeeScape Master Plan as updated on August 28, 2001.

GOP TO BE UPDATED: 28

CURRENT LANGUAGE:

GOAL 28: MASS TRANSIT SERVICE. *Provide public transit service to residents and visitors (especially the transportation-disadvantaged population) in and between the concentrated population centers of Lee County, and ensure that this service is integrated with other modes of transportation.*

REASON FOR UPDATING: The Lee Tran staff has proposed an addition to the goal that stresses minimizing the number of automobile trips on the roads as the basis for providing the public transit service. They also have proposed deleting the transportation-disadvantaged reference in the goal, to emphasize that its purpose is for the entire population.

RECOMMENDATION: Update Goal 28 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.1.1

CURRENT LANGUAGE:

POLICY 28.1.1: *Provide opportunities for bicycle and pedestrian interface with mass transit, through the linkage of bicycle/pedestrian facilities and bus stops and the installation of bicycle racks on buses.*

REASON FOR UPDATING: The Lee Tran staff has proposed substituting the word “access” for “opportunities”, since that is really what the policy is emphasizing. They are also proposing to delete the phrase “and the installation of bicycle racks on buses”, since all of their buses are already outfitted with bike racks.

RECOMMENDATION: Update Policy 28.1.1 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.1.2

CURRENT LANGUAGE:

***POLICY 28.1.2:** Maintain efforts to provide for the construction of bus shelters and bus turn-off lanes on adjacent arterials and collector roadways where needed.*

REASON FOR UPDATING: The Lee Tran staff has proposed clarifying the policy by referring to “pull-off bays” instead of “turn-off lanes”, and specifying that they be implemented at far-side locations on streets with a speed limit of 45 mph or greater, which is their standard practice.

RECOMMENDATION: Update Policy 28.1.2 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.1.4

CURRENT LANGUAGE:

***POLICY 28.1.4:** Investigate the development of multi-modal transfer facilities, various ride-sharing techniques, paratransit service, and vanpooling to complement conventional public transit service especially where major trip generators or attractors exist or are proposed. Investigate incentives and disincentives to promote Multiple Occupancy Vehicle use and to discourage traffic during the peak hour.*

REASON FOR UPDATING: The Lee Tran staff has proposed substituting the word “Continue” for the word “Investigate” in the first sentence, since such activities are in fact underway. They have also proposed to substitute the word “Establish” for the word “Investigate” in the second sentence, to make clear we are moving in that direction.

RECOMMENDATION: Update Policy 28.1.4 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.1.5

CURRENT LANGUAGE:

***POLICY 28.1.5:** Study and implement alternative fixed route service, referred to as “Deviated Fixed Route Service” to make the mass transit system more attractive to non-users.*

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the phrase “referred to as Deviated Fixed Route Service”, since that title is no longer used. Alternatives can include a number of things other than varying the fixed route, so the phrase is too limiting.

RECOMMENDATION: Update Policy 28.1.5 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.1.6

CURRENT LANGUAGE:

POLICY 28.1.6: Consider the needs and contributions of mass transit service when considering amendments to the Future Land Use Map.

REASON FOR UPDATING: The Lee Tran staff has proposed to revise the policy focus by deleting the phrase “Consider the needs and contributions of” and substituting “Provide the density requirements for efficient”. This change directly addresses the public comments summarized under section I(1)(f). The LPA suggested using the word “Consider” instead of “Provide,” since there may be some areas where it would be detrimental to increase density even if it benefits mass transit.

RECOMMENDATION: Update Policy 28.1.6 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.1.9

CURRENT LANGUAGE:

POLICY 28.1.9: Lee Tran will coordinate with the Port Authority to monitor the feasibility and operation of the current public transit service to the Southwest Florida International Airport.

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the phrase “monitor the feasibility and operation of” and substituting “provide high quality”. This reflects the fact that transit service is currently provided to the airport.

RECOMMENDATION: Update Policy 28.1.9 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.2.1

CURRENT LANGUAGE:

POLICY 28.2.1: Through county development regulations and where a rational nexus can be established, require that developments provide:

- *Bus accommodations such as dedicated transfer/loading areas, adequate lane widths and turn arounds;*
- *Bus shelters with route information displays;*

- *Bicycle storage areas near major bus stops; and*
- *Walkways for access to bus stops.*

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the phrase “and where a rational nexus can be established”, since that language isn’t really necessary given governing case law. They are also proposing to add after “developments” the phrase “with a Suburban Area density or higher” and after “provide” the phrase “the following, all of which will meet the Americans with Disability Act requirements”. This establishes a density threshold for the transit accommodation requirements and recognizes that the ADA requirements must be considered.

RECOMMENDATION: Update Policy 28.2.1 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.3.2

CURRENT LANGUAGE:

***POLICY 28.3.2:** Seek out new and innovative funding sources which will cause Lee Tran to become less dependent on public funding for operation.*

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the phrase “sources which will cause Lee Tran to become less dependent on” and substituting “to supplement”. This recognizes that public funding will inevitably be part of the mix for Lee Tran’s operation, but suggests the public funds can be supplemented with other sources.

RECOMMENDATION: Update Policy 28.3.2 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.3.4

CURRENT LANGUAGE:

***POLICY 28.3.4:** Use the citizens advisory committee (CAC) of the Lee County MPO to bring more public input into the system’s decision-making process.*

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the word “more”, to reflect that the CAC is the primary source for public input into Lee Tran’s operation on a normal basis. It should be noted that Lee Tran does a much more extensive public involvement effort, including on-board surveys, when updating its Transit Development Program every three years.

RECOMMENDATION: Update Policy 28.3.4 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.4

CURRENT LANGUAGE:

OBJECTIVE 28.4: COORDINATION. *All mass transit plans will be coordinated with state, regional, and other local governmental agencies and special needs groups, such as the administration of Florida Gulf Coast University (on those matters that could impact the University).*

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the phrase “such as the administration of Florida Gulf Coast University (on those matters that could impact the University)”. It is not necessary to provide a specific example in the objective, which should remain more general.

RECOMMENDATION: Update Objective 28.4 as proposed by Lee Tran.

GOP TO BE UPDATED: 28.4.2

CURRENT LANGUAGE:

POLICY 28.4.2: *Provide transit service accessibility to elderly and handicapped residents and to others with special needs.*

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the word “handicapped” and substituting the word “disabled”, to better reflect the now standard language reference.

RECOMMENDATION: Update Policy 28.4.2 as proposed by Lee Tran.

GOP TO BE UPDATED: 29.1.3

CURRENT LANGUAGE:

POLICY 29.1.3: *Develop transit system alternatives and evaluate them against institutional procedures and constraints.*

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the last half of the policy after “alternatives” and substituting the language “to fixed route bus service, such as High Occupancy Vehicle Lanes, Bus Rapid Transit and Light Rail”. Any alternative proposed is going to have to be evaluated against “institutional procedures and constraints”, so it is not necessary to specify that in the policy, and the added language emphasizes that the search is for alternatives to the fixed route bus service and provides examples.

RECOMMENDATION: Update Policy 29.1.3 as proposed by Lee Tran.

GOP TO BE UPDATED: 29.2.2

CURRENT LANGUAGE:

POLICY 29.2.2: Investigate additional funding programs other than from ad valorem taxes to implement the desired transit system alternatives, with full consideration given to establishing a dedicated source of funding for mass transit.

REASON FOR UPDATING: The Lee Tran staff has proposed deleting the phrase “other than ad valorem taxes”, and deleting the word “alternatives” and substituting “system”. The changes make clear that the emphasis is finding alternative funding sources to fund the entire transit system, however that may be ultimately defined.

RECOMMENDATION: Update Policy 29.2.2 as proposed by Lee Tran.

GOP TO BE UPDATED: 31.1.1

CURRENT LANGUAGE:

POLICY 31.1.1: The county will assess any potential involvement by the Lee County Port Authority in the siting of future proposed natural gas pipelines.

REASON FOR UPDATING: The Port Authority staff has proposed deleting this policy. At one time, there was a proposal for a gas and oil pipeline to be located in Lee County with a terminal at the Southwest Florida International Airport. A terminal is no longer proposed, and TECO has now brought a natural gas line into and around Lee County, so the Port Authority no longer has a potential role.

RECOMMENDATION: Delete Policy 31.1.1 as proposed by the Port Authority.

GOP TO BE UPDATED: 31.3.2

CURRENT LANGUAGE:

POLICY 31.3.2: The county will encourage Seminole Gulf Railway Corporation or other rail providers, as appropriate, to provide rail access to the ports where feasible.

REASON FOR UPDATING: The Port Authority staff has proposed adding the phrase “and the Southwest Florida International Airport” after the word “ports,” to include the airport as a potential rail linkage since so much freight comes in there.

RECOMMENDATION: Update Policy 31.3.2 as proposed by the Port Authority.

GOP TO BE UPDATED: 31.3.5

CURRENT LANGUAGE:

POLICY 31.3.5: The county will prepare a coordinated intermodal transportation management program for surface and water transportation.

REASON FOR UPDATING: The Port Authority staff has proposed adding the phrase “and air” after the word “water”, to make clear that aviation would be part of any intermodal transportation management program.

RECOMMENDATION: Update Policy 31.3.5 as proposed by the Port Authority.

GOP TO BE UPDATED: 32.1.2

CURRENT LANGUAGE:

POLICY 32.1.2: The development potential of Southwest Florida International Airport will continue to be increased by the acquisition of additional land for runway/taxiway/environmental mitigation use, in accordance with the Port Authority’s Capital Improvement Program.

REASON FOR UPDATING: The Port Authority staff has proposed deleting the word “increased” and substituting the word “protected”, deleting the phrase “runway/taxiway/environmental mitigation use” and substituting the phrase “runway and taxiway, road access, storm water management, and environmental mitigation use”, and deleting the phrase “in accordance with” and substituting the phrase “consistent with the adopted Airport Master Plan and”. The changes makes clear that the airport has already acquired the additional lands that it planned to, and will be protecting the development potential of those lands with an expanded definition of what constitutes development. The change also references the Airport Master Plan as a guiding document, which is actually the basis for the Capital Improvement Program.

RECOMMENDATION: Update Policy 32.1.2 as proposed by the Port Authority.

GOP TO BE UPDATED: 32.1.4

CURRENT LANGUAGE:

POLICY 32.1.4: The Port Authority has continued to investigate commercial and industrial potentials at Page Field and at Southwest Florida International Airport through market surveys

and the solicitation and receipt of acceptable proposals for land lease at fair market value as well as efforts to cultivate appropriate public/private partnerships in pursuing these potentials.

REASON FOR UPDATING: The Port Authority staff has proposed deleting the phrase “has continued” and substituting the word “will continue”, as a grammatical correction.

RECOMMENDATION: Update Policy 32.1.4 as proposed by the Port Authority.

GOP TO BE UPDATED: 32.2

CURRENT LANGUAGE:

OBJECTIVE 32.2: DEVELOPMENT COMPATIBILITY. *The county and Port Authority will evaluate development proposals for property located within the vicinity of existing aviation facilities to ensure compatibility, to preclude obstructions to aircraft operations, and to protect airport capacities.*

REASON FOR UPDATING: The Port Authority staff has proposed adding the phrase “land use” after the word “ensure”, to make clear that land use compatibility is the focus of the objective and the related policies.

RECOMMENDATION: Update Objective 32.2 as proposed by the Port Authority.

GOP TO BE UPDATED: New Policy 32.2.6

CURRENT LANGUAGE:

None, new policy.

REASON FOR UPDATING: The Port Authority staff has proposed adding a new policy which would read “Through an interlocal agreement, the Port Authority and the City of Fort Myers will continue to coordinate the review of new land uses that have the potential to create tall structure obstructions to aviation within the City of Fort Myers.” The City has jurisdictional responsibility for some of the property around Page Field, so the Port Authority is pursuing an interlocal agreement to allow them the opportunity to review and comment on development proposals in that area.

RECOMMENDATION: Add Policy 32.2.6 as proposed by the Port Authority.

GOP TO BE UPDATED: 32.3.3

CURRENT LANGUAGE:

***POLICY 32.3.3:** Maximum use of airport facilities should be ensured before developing expansions or new facilities.*

REASON FOR UPDATING: The Port Authority staff has proposed adding the phrase “expanding or” after the word “before”, and deleting the phrase “expansions or”, to improve how the policy reads.

RECOMMENDATION: Update Policy 32.3.3 as proposed by the Port Authority.

GOP TO BE UPDATED: 32.4.3

CURRENT LANGUAGE:

***POLICY 32.4.3:** The Port Authority will coordinate surface transportation planning for Page Field and the Southwest Florida International Airport with the county Department of Transportation and the Florida Department of Transportation to ensure adequate access to the airports.*

REASON FOR UPDATING: The Port Authority staff has proposed adding the phrase “the Lee County Metropolitan Planning Organization” after the word “with”, since the MPO is the primary entity that does transportation planning for Lee County. The County and State DOT’s participate in the MPO planning process, but are primarily implementing agencies. Lee Tran staff has suggested that Lee Tran should be also specified as a entity with which coordination should take place, to properly allow for bus service to the airports.

RECOMMENDATION: Update Policy 32.4.3 as proposed by the Port Authority and Lee Tran.

GOP TO BE UPDATED: 32.5.1

CURRENT LANGUAGE:

***POLICY 32.5.1:** The Port Authority will continue to coordinate plans for existing and proposed aviation facilities with appropriate transportation agencies such as the Federal Aviation Administration, Metropolitan Planning Organization, the Florida Department of Transportation, and the Lee County Department of Transportation.*

REASON FOR UPDATING: The Port Authority staff has proposed adding the phrase “the Transportation Security Administration” to the policy, as another entity with which coordination is required. Lee Tran staff has also asked that the policy specify coordination with Lee Tran as well.

RECOMMENDATION: Update Policy 32.5.1 as proposed by the Port Authority and Lee Tran.

GOP TO BE UPDATED: 32.6.6

CURRENT LANGUAGE:

POLICY 32.6.6: The county will not approve of a temporary or permanent structure found to be a potential obstruction unless the proponent of the structure agrees to comply with Port Authority and Federal Aviation Administration stipulations regarding notices, structure placement, marking, and lighting.

REASON FOR UPDATING: The Port Authority staff has proposed adding the word “of”, to improve how the policy reads.

RECOMMENDATION: Update Policy 32.6.6 as proposed by the Port Authority.

GOP TO BE UPDATED: 32.7

CURRENT LANGUAGE:

OBJECTIVE 32.7: COORDINATION OF ELEMENTS. Coordinate the expansion of existing airport and the proposed siting of any new airports with the Future Land Use and Conservation and Coastal Management elements.

REASON FOR UPDATING: The Port Authority staff has proposed adding “s” to “airport, to make it a plural reference since Lee County has two public airports, Page Field and the Southwest Florida International Airport.

RECOMMENDATION: Update Objective 32.7 as proposed by the Port Authority.

GOP TO BE UPDATED: 32.7.3

CURRENT LANGUAGE:

POLICY 32.7.3: The Port Authority will abide by all other relevant parts of this comprehensive plan in the construction and operation of the airport, especially the Future Land Use, Conservation and Coastal Management, and Transportation elements.

REASON FOR UPDATING: The Port Authority staff has proposed deleting the phrase “the airport” and substituting the phrase “Page Field Airport and the Southwest Florida International Airport”, to specifically acknowledge both of Lee County’s public airports.

RECOMMENDATION: Update Policy 32.7.3 as proposed by the Port Authority.

Smart Growth Committee Review

1. Transportation.
 - a. Level of Service. No SG recommendations regarding the normal application of Level Of Service for roadways.
 - b. N/S and E/W corridors. No SG recommendations on these directly, but strong support for maintaining the integrity of hurricane evacuation routes.
 - c. Bike and Pedestrian Facilities. Considerable commentary and several recommendations for non-POV transportation options, specifically mentioning bike and pedestrian.
 - d. Roadway Landscaping. Roadway landscaping is not directly referenced, but there are recommendations regarding a public information program on the importance of landscaping, and there are several recommendations regarding not using exotics, and promoting the elimination of harmful exotics. REMEDY: Propose identifying in the LeePlan back up materials the estimated funds the County spends in exotics management by the CDOT, Natural Resources, Parks and Recreation, and Human Services (7 Neighborhoods)
 - e. Service Roads. There are recommendations for interconnecting adjacent parcels. REMEDY: The CDOT and DCD undertake an assessment of neighboring commercial area interconnects that could be pursued, and interconnects with residential areas, either pedestrian or vehicle.
 - f. Transit LOS. There are recommendations promoting increased transit service, and interconnects with other non-POV modes.

Roadway Geometrics. No particular recommendations on this subject from Smart Growth initiative. It was generally recognized that there is tension between the best engineering principles for traffic movement, and the goals for compact and walkable urban areas.

Summary

Upon review staff concluded that no revisions were necessary to address Level of Service, North/South and East/West Corridors, Bike and Pedestrian Facilities, Roadway Landscaping, Service Roads, Transit Level of Service or Roadway Geometrics. The following goals, objectives and policies of the Transportation Element need to be updated: Policy 21.1.1 to refer to the February 20, 2004 version of the MPO's 2020 Financially Feasible Transportation Plan, or the most recent version at the time the comprehensive plan amendments go forward; FIHS level of service standards in Policy 22.1.1 to reflect the new urbanized area and transitioning area boundaries; Policy 22.1.4 to refer to the latest version of FDOT's Level of Service Manual, known as the "2002 FDOT Quality Level of Service Handbook"; transportation concurrency references under Objectives 22.3 and 22.4 to reflect the establishment of an area wide concurrency system using the MPO's planning process and progress toward implementing that plan; delete Policy 23.2.3.; Objective 25.3 to refer to the version of the LeeScape Master Plan as updated on August 28, 2001; Goal 28, Policy 28.1.1, 28.1.2, 28.1.4, 28.1.5, 28.1.6, 28.1.9,

28.2.1, 28.3.2, 28.3.4, 28.4, 28.4.2, and 29.2.2 as proposed by Lee Tran; delete Policy 31.1.1 as proposed by the Port Authority; Policy 31.3.2, 31.3.5, 32.1.2, 32.1.4, 32.3.3, 32.6.6, 32.7.3 and Objective 32.2, 32.7 as proposed by the Port Authority; add Policy 32.2.6 as proposed by the Port Authority; and Policy 32.4.3, 32.5.1 as proposed by the Port Authority and Lee Tran.

MAJOR ISSUE #2: LEHIGH ACRES

Perceived Issues:

- 1) **Lack of commercial development to support the burgeoning residential population.**
- 2) **Poorly focused or timed development, resulting in symptoms of sprawl.**
- 3) **Substantial challenges to the provision of public safety services and facilities, deficits in infrastructure.**
- 4) **Disproportionately high share of the number of tax default lots in the County.**
- 5) **Aquifer Recharge (Please see “Water Quality, Air Quality, and Natural Resources” and “Density Reduction/Ground Water Recharge” major issue segments of the E.A.R.)**

Discussion of Issues Within The Context of Existing Comprehensive Plan Goals And Policies:

Lehigh Acres is a more than 95 square mile area, or 11.8% of Lee County’s total land area, providing land for approximately 131,935 potential housing units at buildout. Though the current population in Lehigh Acres is only estimated at 38, 943 inhabitants, compared to the overall 495,088 inhabitants of Lee County, that population represents an increase of approximately 5,500 inhabitants since the year 2000, according to the Bureau of Economic and Business Research, 2003 Population Estimates. Lee County commissioned a report to project the buildout population of Lehigh Acres. The report is entitled “*Population Model to Forecast Population Growth of Lehigh Acres Over Time to Buildout.*” According to that document the population at buildout for Lehigh Acres is over 303,000.

Lehigh Acres has become a popular choice for new family homes that are in the low to moderate price range. The median home value in Lehigh Acres rose between census years 1990 and 2000 from approximately \$65 thousand to approximately \$90 thousand. Just over 50% of the housing in Lehigh Acres was valued between \$60 and \$100 thousand in the year 2000, with nearly 88% being valued at \$125 thousand or less. In comparison, the countywide mean home cost was approximately \$113 thousand in the year 2000, with 32% of the housing being valued between \$60 and \$100 thousand and 57% of the housing valued at \$125 thousand or less.

A substantial portion of the new residential development in Lehigh Acres has located sporadically throughout the community rather than slowly fanning outward from the developed core. That tendency toward dispersed development is heightened by the limited expansion of water/sewer infrastructure by the utility franchise; the low price of outlying parcels; and the fact that the majority of the lots were platted prior to 1972, and are thus permitted to have a well and septic tank on less than ½ acre. From January 1, 2001 to January 4, 2004, over 1,500 septic tank permits were issued by the Department of Health for development in Lehigh Acres.

Lee Plan Policy 5.1.9 calls for the County to “consider by 1996 the provision of incentives and requirements for the reassembly, redesign, and replatting of vacant platted residential lots that are not suitable for timely, safe, and efficient development; and re-evaluate the effects of the single-family residence provision and the privately funded infrastructure overlay on the county’s ability to provide incentives for reassembly, redesign, and replatting.” So far the policy has had limited impact on County development regulations, but it is quite relevant to development challenges facing Lehigh Acres today. As the community begins to quickly develop, the need to consider such

proactive policy tools becomes more pressing.

The 2000 Census records show Lehigh Acres to have a significantly higher proportion of families with young children and a significantly lower proportion of elderly compared to the countywide population. Without proper planning that one dimensional growth will become even more pronounced in Lehigh Acres. The large proportion of single family home lots and single family zoning in Lehigh Acres does not facilitate a mix of residential development types that is necessary to support a thriving community with a diversity of ages, family size, and socio-economic levels. There are few readily developable sites for assisted living units, apartments or condominiums.

a.) Commercial Development/Capture Trips Within Community

The abundance of single family home lots and single family zoning in Lehigh Acres is not the only factor that generates a one dimensional social demographic in Lehigh Acres. The deficit of commercial development, and developable commercial lands, within the community means that residents must commute to work, school, shopping and entertainment.

Objective 1.8 Lehigh Acres Commercial Uses, added in 1998 in response to recommendations from the 1994 E.A.R. and addendum, attempts to direct commercial growth to appropriate areas while taking into consideration the development challenges specific to Lehigh Acres. Challenges addressed include small lot size, a somewhat disconnected road system, and close proximity between residential properties and properties zoned for commercial development.

While the Commercial Overlay policies have been successful in keeping commercial uses from encroaching into residential areas, they have had little impact in promoting lot assembly or commercial development. Only three lot assembly groups, comprising of a total of 13 platted lots, have attained commercial zoning since the adoption of Policy 1.8.3 into the Lee Plan in 1998. Conversely, a substantial number of single family homes have been built on land designated as commercial or lot assembly on the Commercial Overlay.

The demographic data indicate that Lehigh Acres has become a major growth area for affordable and moderately priced family housing. The population, increasingly comprised of young families, will have substantial needs for public services such as schools, parks, public safety, and mass transit. There is a shortage of commercial infrastructure to support the basic needs of the Lehigh Acres population at buildout, according to the *Population Model to Forecast Population Growth of Lehigh Acres Over Time to Buildout* report. If not corrected, these shortages will undermine Lehigh Acres' growth potential with long travel times, a disproportionately low level of public facilities, and a living environment that lacks community character due to the disconnect between the social, work, and home life of its residents.

Recommendations:

Goals for the 2004 E.A.R. and Amendment Cycle for Lehigh Acres:

- Shape the timing and location of future development in Lehigh Acres to enable the efficient provision of public services.

- Establish regulatory measures and incentives to enable and encourage commercial development that is in balance with Lehigh Acres' residential development through buildout.
- Establish regulatory measures and incentives to promote the development of diverse housing options.
- Provide efficient roadway and bike/pedestrian connections to allow local trips to be accomplished without entry onto collector or arterial roads.
- Institute a strategy and time-line to return the approximately seven thousand lots currently in tax default to contributing properties.

Strategies:

Adopt a Master Plan for Lehigh Acres

A master plan should be crafted for Lehigh Acres and adopted into the Lee County Comprehensive Plan. Such a plan is necessary to coordinate the numerous and diverse projects that are needed, planned, or already underway in Lehigh Acres.

The citizen initiated community planning process, such as was employed to direct growth in Estero and Pine Island, is a terrific way to address specific concerns of a discrete community. However, the land area of Lehigh Acres is vast, and the issues facing Lehigh Acres vary greatly between the developed core and the seemingly rural outreaches.

Lehigh Acres is forecasted to house 15% of Lee County's citizens by the year 2020, up from 8% in 2000. How the region develops will have a major impact on such County and Regional issues as workforce housing, traffic congestion, public facility budgets, hurricane evacuation routes, and sustainable water supply. In light of such potential impacts, it may be in the best interests of the County and Lehigh Acres residents to for County staff to initiate a Lehigh Acres Master Planning process that is supported by County resources and focused heavily toward local community involvement in the process.

The Master Plan should illustrate a vision for Lehigh Acres at buildout, and establish working phases toward that level of development. A well thought out plan of action will assist Lehigh Acres' future citizen initiated planning efforts by acknowledging discrete communities within Lehigh Acres, and by providing a sound technical framework for the long-term development of the overall area.

Necessary Ingredients of the Lehigh Acres Master Plan:

Density Nodes

Lehigh Acres should be developed with at least four density nodes located in the west, central, northeast, and southeast. Each of the density nodes should have a phasing plan designed to promote the coordinated development of residential, commercial, and public facility infrastructure.

Density Corridors

Density Corridors should be designated where density nodes are connected by major roadways, along routes where higher densities/intensities are appropriate. Conditions necessary to development of the density corridors include adequate capacity to provide public services including water and sewer, transit, and urban levels of public

safety services. Density corridors should be included in the mixed use overlay, and should provide incentives to promote higher densities balanced with commercial development to serve the surrounding area.

Incentives/Disincentives to Accomplish Centralized Development

Incentives to encourage centralized development, and disincentives to discourage sprawling development practices, should be outlined in the Comprehensive Plan and detailed in the Land Development Code. Appropriate incentives might include: county procedural and financial assistance to extend water and sewer service within target density zones; increased transit service within target density zones; administrative procedure to increase density/intensity levels for properties within target density zones; adoption of a viable mixed use zoning district.

Disincentives to development in outlying areas might include: the requirement that a lot be a minimum of ½ acre to allow new placement of a well and septic tank on premises; fire safe landscape requirements for development in outlying areas that have heightened risk for wildfire; requirement that all development receiving county dispersed grants or county expedited permit processing for affordable housing in Lehigh Acres be located within a target density zone.

Return Tax Default Lots to the Tax Role or Acquire the Lots for Future Public Facilities

An important element to effective growth planning in Lehigh Acres is the re-incorporation of default lots onto the tax roles. When possible the County should acquire tax certificate lots where a lot matches a designated site on the Public Facilities Long Range Plan. Recent increases in property values in Lehigh Acres have sparked a large increase in the purchase of tax default lots by the public. The window of opportunity for the County to acquire and assemble these lots may be closing.

Additionally, efforts should be made, through the mixed use district and other regulatory means, to alleviate some of the burdens associated with substandard lot size or poor access that may have contributed to the abandonment of lots. Improved road connectivity, the Meadow Road access plan, and an increased water/sewer service area will help to make a number of lots more feasible for development.

Some necessary community uses will require larger parcels than are offered by the current platted structure including some forms of commercial development, public facilities, and alternative housing. Where parcels are owned by one entity, or multiple consenting entities, the vacation/replat process is relatively simple. The County should investigate incentives to encourage private industry to participate in lot assembly/replatting where the ultimate use of the property will promote the balance of commercial, housing type diversity, and public facility development in Lehigh Acres.

Public Facilities Long Range Plan

The Lehigh Acres master plan should include the locations of existing public facilities and target areas for all future anticipated public facility sites including, at minimum: schools, fire stations, sheriff stations, EMS stations, parks/open space, libraries, and preservation. Having a location map of existing and target public facility sites will allow County Lands to make the best use of offers to donate land to the county, acquire tax default properties,

and to direct private sector proposals to allocate land for mitigation of development impacts. The public facilities long range plan for Lehigh Acres should be developed in coordination with the Public Works project mitigation plan.

Public Transit Long Range Plan

A large component to an effective long-term plan in Lehigh Acres, particularly with focused density zones, will be public transit. Lehigh Acres will need a transit system that serves, at minimum, the major corridors connecting Fort Myers, the developed Lehigh Acres center, and each phased density node. A substantial portion of the Lehigh Acres center is already served by Route 110 which connects Lehigh Acres to Fort Myers.

In order to establish effective mixed use corridors, a second transit line will eventually be needed serving sections of SR82 and Gunnery; connecting to Route 110 and the City of Fort Myers; connecting to Route 60 and the SW Florida International Airport.

The Lee Transit Division "Lee County Five-Year Transit Development Plan 2004-2008 & 2009-2013" offers two improvements in Lehigh Acres that could serve to fortify mixed use corridors in that community. The proposed transit improvements are: 1) decrease the headway on Route 110 from 150 minutes to 50 minutes, during two phases, over a ten year period; 2) add a Lehigh Acres Circular route in year 2009 which would have a 60 minute headway and would provide connectivity within Lehigh Acres. The planned transit improvements have tremendous potential to support new business development and increased residential growth in the designated density nodes and corridors. The eventual, relatively dense development along those corridors will also help the Lehigh Acres transit routes be more cost efficient.

Lee Transit staff should be included in the master planning process in order to devise a mixed use corridor and a detailed transit plan that are mutually supportive. It will also be important to make Lehigh Acres routes fixed to allow transit to be truly incorporated into the master plan, and to allow new Lehigh Acres residents to locate their homes and businesses where there is dependable access to/from work.

Water/Sewer Service Long Range Plan

Viable commercial development, density nodes, and mixed use density corridors will require a sound long-range water and sewer infrastructure plan. Many commercial uses generate a level of sewer discharge that is not consistent with the use of a septic system for the small platted lots existing in Lehigh Acres. Rather than spread commercial projects over several parcels to create an adequate land area for septic and well, commercial uses should be compact. Compact commercial development combined with focused density will allow the provision of public services and facilities in Lehigh Acres to be more financially feasible. Public water and sewer service is a tremendous incentive to development and should be coordinated with the phased plans for density nodes and corridors.

Update to the Lehigh Acres Commercial Overlay

There are several updates needed on the 1996 Lehigh Acres Commercial Overlay. The overlay should be updated to reflect the successful assembly of lots for commercial development. The overlay must also be updated

to accurately reflect potential commercial sites, by removing the commercial overlay designation where residential neighborhoods have been built.

The existing Reclaimed Strip designation of the Commercial Overlay should also be addressed. The Commercial Overlay currently designates strips of parcels along SR82 and Gunnery Road, that are not within 330ft of an intersection, as reclaimed strip. The reclaimed area was established to allow time for an access management plan to be created on SR82 and Gunnery Road that would address the anticipated impacts of commercial development on narrow lots. If the lots had been allowed to develop without an access plan in place, a large number of access points may have been granted onto SR82 and Gunnery Road, creating a dangerous pattern of ingress and egress on those roadways.

b.) Road Connectivity

The Gunnery Road access plan has been completed and adopted by the Board of County Commissioners. That plan designated specific access points onto Gunnery Road, using Gretchen Ave. as an access road. This corridor should be taken out of the Reclaimed Strip, and shown as potential commercial land.

Meadow Road runs parallel to SR82, largely uninterrupted, east to the county line. The original Lehigh Acres Study designated Meadow Road as the most viable way to provide access to the SR82 frontage lots (the reclaimed strip) without giving lots individual access to SR82. Meadow road will need surface maintenance and widening in order to effectively serve as an access road. Prior to removing the reclaimed strip classification, an access management plan should be adopted for Meadow Road, and all necessary improvements should be completed. Staff recommends that the portion of Meadow Road commencing south of the intersection of SR82 and Lee Blvd. and extending to the intersection of SR82 and Gunnery Road be completed first, with phased development thereafter. (See Access Management Plan below)

The commercial zoning for the entirety of the reclaimed strip is C-2, a fairly intensive commercial district, which allows some uses that may be incompatible with the residential parcels directly behind the commercial strip. Some permitted uses include convenience stores, manufacturing, fast food restaurants with drive through, and 24 hour ATMs.

A mixed use overlay and zoning category should be designed and adopted for those areas of Lehigh Acres that are part of designated density corridors and for those lots originally placed within the reclaimed strip. The mixed use zoning district may be available to other areas of the County, but should be designed with the specific needs of these two areas of Lehigh Acres in mind. Specifically, the mixed use plan should designate appropriate commercial uses to abut residential neighborhoods; delineate property development regulations that facilitate mixed use development; and provide density/intensity incentives to catalyze the mixed use growth process. The incentives will additionally serve to mitigate any perceived reduction in development potential where properties are to be rezoned from C-2 to Mixed Use. The mixed use district will help to minimize automobile travel needed to accommodate purchases, entertainment, and employment for the surrounding residential communities.

Adopt a Meadow Road Access Management Plan

Staff recommends that an access management plan be developed for Meadow Road. The access plan should include new local road intersections allowing regular access onto SR82 and a driveway intersection spacing plan. Most of the lots in the reclaimed strip along SR82 are 50' wide. These parcels are currently zoned C-2. Both the existing C-2 designation and the proposed mixed use designation require a management plan along Meadow Road to develop with safe and convenient access.

As a state road, SR82 cannot be regulated by the County. There are currently no plans at the state level to create an access management plan for SR82. The County can best serve to protect SR82 as an evacuation route and commute corridor by requiring that all development along Meadow Road have driveway access to Meadow Road; and by creating public access from Meadow Road to SR82 that meets the State's minimum access standards. The Meadow Road management plan will preserve the integrity of SR82 by providing sufficient local road access to allow the State to reject individual access applications where they would exceed state separation spacing requirements.

The anticipated cost for necessary improvements to Meadow Road is estimated at \$248,382 according to Lee County DOT staff. That price includes surface maintenance/repair and widening of the road from 18' to 24' within the existing right-of-way. The estimated cost to add a sidewalk to the roadway, within existing right-of-way, is \$324,500 (\$22 per linear foot for a 5' wide sidewalk). Yearly roadway maintenance expenditures in Lehigh Acres normally run about \$1 million out of the \$4 million spent countywide. Unbuilt platted right-of-way and vacant tax certificate lots, which connect Meadow Road to SR82, should be used where possible to create access points on the Meadow Road Management Plan.

Provisions for neighborhood interconnection via local and collector roads

In addition to the local road interconnections required to give Meadow Road access to SR82, interconnections are needed throughout Lehigh Acres where efficient traffic flow is interrupted by canals and unbuilt segments of platted roads. A desired roadway map should be drafted which includes notation of existing road ROW and pavement widths; and the locations of unbuilt platted ROW.

Provisions for interconnection of pedestrian/bike paths

Where building a new road is not feasible, but adjacent neighborhoods are disconnected by the existing roadway pattern, the County should provide (or encourage private sector developers to provide) pedestrian/bike path linkages. These pedestrian/bike linkages are especially important where public facilities and potential commercial centers are disconnected from adjacent neighborhoods. Every effort should be made to take advantage of existing unbuilt platted road easements; drainage facilities owned by the county or the water control district; tax default lots; and publicly owned lands. Where possible, pedestrian and bike ways should be incorporated into the long range park plan.

Coordinate efforts of stakeholders to make the Lehigh Acres planning process successful.

There are numerous technical and review entities that have projects planned or currently underway in Lehigh Acres. An effective plan for Lehigh Acres will need to take a comprehensive approach that includes input and

expertise from the technical/review stakeholders as well as substantial input and direction from the citizen stakeholders of the Lehigh Acres Community and Lee County.

c.) Aquifer Recharge

In response to a recommendation from the Smart Growth Committee, the County requested proposals and entered into a contract with a consulting team to study the Groundwater Resource aspects of the County. The study will also include an analysis of the limestone resources of the County. The study, due at the end of the year, will result in a computer model of the sub surface conditions of the County. The main purpose of this current study is to provide the County with a state of the art groundwater flow model. The model will simulate 2030 surficial demand projections to determine impacts on recharge, water resource and environmental features. This study will assess the aquifer recharge potential of the Lehigh Acres area.

Smart Growth Committee Review

2. Lehigh Acres: A draft report has been received from Ryffel/Van Buskirk. It forecasts a buildout population of 303,451 (date, sun grows cold) but more urgently 80,388 in 2015—a more than doubling over current populations.
 - a. Commercial Development/Capture Trips. The report notes a severe shortfall of lands that would provide a balance in land use for the community. In effect any lands not platted becomes “targeted” for any non-residential use. The report forecasts for buildout shortages of 1296 acres for commercial, 320 acres for industrial, 2622 acres for parks, and 724 acres for schools. However, the land shortfalls in the aggregate approaches critical by 2015, since the overall land shortage in buildout needs is triple the lands available or in use. Regarding “capture” the imbalance for the community as a whole is exacerbated at virtually any subcommunity level other than Lehigh core areas due to uninterrupted broad stretches of residential lands. These have virtually no capability for capture of trips for any purpose whatsoever. The few county collectors and arterials will quickly become overburdened by the travel demands that should be satisfied by “local” road which have no “local” opportunities available. **REMEDY:** Initiate plat assemblies in areas with collector and arterial road access.
 - b. Road Connectivity. Although Lehigh Acres is a series of grid plats, with some few variations, connectivity within the plats is poor. Drainage works is the primary reason for poor connectivity. Whether small drainage ditches that could be bridged by relatively small culverts, or large canals that would require large box culverts or bridge works, few roads are connected across such drains. This leads to parts of plats being isolated with few access points from the collector or arterial system. Any areas with crossings become the defacto collector system, whether designed for that purpose or not. **REMEDY:** Establish an MSBU that begins bridging these drainage works according to some methodological system of evaluation, tied where appropriate to replatting proposals.
 - c. Aquifer Recharge. Portions of Lehigh Acres are recognized to recharge the Sandstone Aquifer, Lee County’s most significant intermediate aquifer. In places, the Sandstone is also the surficial aquifer for Lehigh Acres. All of Lehigh Acres is a recharge area for the surficial aquifer. Lee County has undertaken

an update of its groundwater resources study, and Lehigh Acres is being singled out for assessment due to its land use designations in the Sandstone Aquifer area. REMEDY: Depends upon study findings.

Summary

Staff recommends that a master plan be crafted for Lehigh Acres and adopted into the Lee County Comprehensive Plan. The plan would require the follow components: Density Nodes, Density Corridors, Incentives/Disincentives to Accomplish Centralized Development, Return Tax Default Lots to the Tax Role or Acquire the Lots for Future Public Facilities, Public Facilities Long Range Plan, Public Transit Long Range Plan, Water/Sewer Service Long Range Plan, and an Update to the Lehigh Acres Commercial Overlay. The following transportation improvements would also be needed: the adoption of a Meadow Road Access Management Plan, provisions for neighborhood interconnection via local and collector roads, provisions for interconnection of pedestrian/bike paths, and coordinate efforts of stakeholders to make the Lehigh Acres planning process.

MAJOR ISSUE #3: INTERGOVERNMENTAL & INTERDEPARTMENTAL COORDINATION

a.) Predictability of regulation and review:

Lee County participates in a number of intergovernmental activities involving a variety of the County's Departments. For example several County Departments, such as the Department of Transportation and the Department of Community Development, provide technical staffing to support the planning efforts of the Lee County Metropolitan Planning Organization (MPO). The MPO seeks to coordinate and implement a long range transportation plan for the County. County staff also coordinates planning activities with the staff of the Regional Planning Council.

One of the concerns expressed at the EAR public involvement meetings was the predictability of regulation and review, with a special emphasis on environmental issues. In an effort to respond to this concern, staff is providing a more detailed discussion about the efforts being made to coordinate environmental reviews.

The Division of Environmental Sciences (ES) staff hold biweekly staff meetings to discuss projects and policies with both review and enforcement staff attending. The review staff meets biweekly to confirm consistency in review and discuss questions regarding the application of regulations to development order review, Vegetation Removal Permitting, Certificate of Compliance inspections, Notice of Violation inspections, and planned development zoning. Enforcement staff conduct biweekly meetings as well to discuss projects and application of regulations. In addition to the various staff meetings, there is on-going dialogue amongst staff members to insure predictability of review. Additionally, an ES staff member attends the Division of Development Services and Division of Zoning staff meetings to insure consistent application of Lee Plan and Land Development Code (LDC) policies and procedures regarding development order and zoning review processes.

ES staff attends the monthly interagency coordination meetings at the South Florida Water Management District (SFWMD) where projects are discussed in relation to county, state and federal regulations. The US Fish and Wildlife Service, US Army Corps of Engineers, US Environmental Protection Agency, Florida Fish and Wildlife Conservation Commission, SFWMD, Florida Department of Environmental Protection, Lee County, Collier County, Estero Bay Aquatic Preserve, Rookery Bay National Estuary Preserve, and Conservancy of Southwest Florida staff members attend these meetings. The discussions result in understanding of permitting issues for each agency, and allows for coordination of review so agencies are cooperating in application of regulations. The SFWMD and Lee County staff have agreed to conduct joint meetings with applicants when requested by the applicant or staff to address major permitting issues that involve both agencies. These interagency meetings provide consistent review and assists the applicants with the permitting process.

ES staff confers with other county departments and divisions during the development order and zoning review process when these departments and divisions responsibilities cross over into the proposed projects or regulations. ES staff coordinates with the following county departments and divisions on a regular basis:

- Division of Zoning staff on planned development, special exception, administrative amendment, and variance reviews.

- Division of Development Services staff on development order review and Certificate of Compliance inspections.
- Division of Natural Resources staff on issues relating to flow-way protection, flood plain encroachment, and flood prone areas.
- Division of Planning staff on issues relating to the Lee Plan in regard to planned development zoning and development order review.
- Department of Parks & Recreation staff on issues relating to Conservation 2020 Lands and parks adjacent to proposed developments.

b.) City/County, County/County coordination regarding annexation, public services, and roadway landscaping, water quality and supply

Annexations

There are currently five municipalities in Lee County. They are: the City of Fort Myers; the City of Cape Coral; the City of Sanibel; the Town of Fort Myers Beach; and, the City of Bonita Springs. The latter two municipalities, Fort Myers Beach and Bonita Springs, incorporated subsequent to the last Lee Plan EAR. The Town of Fort Myers Beach began on December 31, 1995 and the City of Bonita Springs started on December 31, 1999. Since 1988 the Cities have or proposed to annex approximately 16,850 acres of unincorporated Lee County.

The City of Fort Myers

Lee County and the City of Fort Myers had an interlocal agreement that established an Urban Reserve Area. The Urban Reserve Area consisted of those lands deemed most appropriate for annexation. The agreement could be ended with notification from either party to the other. The agreement was terminated by the City when it decided to annex lands outside of the agreement area.

Included in the original Urban Reserve Area were three enclaves, Maravilla, Dunbar and Belle Vue. Significant progress was made in the reduction of these enclaves in 2003 when the City, working with multiple County Departments, annexed two enclaves, Dunbar and Belle Vue. There were months of meetings formulating the interlocal agreement that led to the annexations. The transition from county services to municipal services was factored over several different time frames. The City Council took advantage of a recent amendment to Chapter 171 of the Florida Statutes and only held a referendum in the area to be annexed. The inclusion of these two areas in the City's boundary has corrected a number of real and perceived problems.

Since 1993 the City of Fort Myers has been aggressively pursuing voluntary annexations. Several of these annexations have resulted in an increase in both density and intensity from the County's Future Land Use designation. One fairly recent annexation has affected a significant number of acres of land designated by the

County for Airport Commerce activities. These properties will now be developed in the City as gated golf course communities. Since 1991 the City of Fort Myers has annexed some 10,072 acres.

The City of Bonita Springs

In the Intergovernmental Coordination Element the City of Bonita Springs comprehensive plan contains an objective, Objective 2.5, that states:

Resolution of land use, natural resource, infrastructure and other issues prior to annexation.

Contained under that objective is a policy that directs the City to identify and implement joint planning areas with Lee County to resolve land use, natural resource and related issues prior to annexation of land. The policy also identifies the process the City should undertake to establish an interlocal agreement with the County. In addition, the Bonita Springs City Charter contains a provision that prohibits the annexation of land that is located in the Estero Fire and Rescue District until 2005. The Estero Fire and Rescue District lies to the north of the City of Bonita Springs. The City and County are currently negotiating an interlocal agreement to act as an interim agreement until the prohibition time is reached.

Since its incorporation the City has annexed over 5 sections of land to its east. Three of these sections were designated as Rural by the Lee Plan. One section was annexed prior to the adoption of the City's comprehensive plan and was given a designation of Moderate Density Mixed Use/Planned Development. This category allows a density of six dwelling units per acre with an additional three units per acre if affordable housing is provided. The other two sections are currently in the plan amendment process. The property owner is requesting the same designation.

Over two sections of land designated as Density Reduction/Groundwater Resource by the Lee Plan have also been annexed. There is no pending land use change for these lands. They are, however, included in a Density Reduction/Groundwater Resource study currently being conducted by the City.

The City of Bonita Springs is approximately four and one-half years old. In those four and one-half years the City has annexed some 3,299 acres.

The City of Cape Coral

Annexation activities of the City of Cape Coral have been less aggressive than those of the previous two cities. Annexations up until 2003 have helped to reduce some of the existing enclaves of unincorporated land within the City's limits. In 2003, through a voluntary annexation, the city added approximately 187 acres. The parcel was contiguous to the City for approximately 460 feet across the right-of-way of State Road 78. The Lee Plan categorized the property as mostly Outlying Suburban with some 275 feet along S. R. 78 shown as intensive development. The City has placed approximately 24 acres in the Pine Island Road District and 117 acres in the Multi-Family Residential District.

The City of Cape Coral has recently increased its interests in voluntary annexations. The City is looking to expand its commercial and industrial base with these lands. There are approximately 4,848 acres of lands designated as Open Lands by the Lee Plan that the City could potentially annex. The City is actively pursuing annexation of a portion of this land. One property has recently filed four separate voluntary annexation applications requesting over 2,600 acres of Open Lands and Wetlands be added to the City. To date the City has annexed some 845 acres.

City of Sanibel and the Town of Fort Myers

There have been no annexations to either the City of Sanibel or the Town of Fort Myers. These island communities have shown no interest in annexing unincorporated lands.

Conclusions

The Lee Plan has sufficient Objectives and policies to address coordination of annexations. Interlocal agreements, however, are not binding and can be withdrawn or simply not entered into. Annexation has and will continue to change lands identified as non-urban by the Lee Plan to urban designations. Amending Lee Plan policies will not address this issue. There are three courses of action. The first is to enter into serious agreements with the municipalities interested in annexations. History, however, has shown that this may not address the issue.

The second possibility is to amend the Lee County Charter to require the County's consent on any voluntary annexations. In November of 2000 Pinellas County adopted a Charter Amendment that established limits on the voluntary annexation of land outside of identified planning areas. This turned out to be a partial solution as it does not regulate annexations of areas without registered voters. In that situation, the consent of the owners of more than 50% of the property to be annexed can approve the annexation.

The third solution is completely out of the County's control. This would take amendments to Chapter 171 giving counties more control over annexations in general. Various proposals have been offered by both sides of the issue. The most recent version of Senate Bill 452 addresses some of these issues in a county friendly way. The Bill did not get to the Senate floor this session.

The Lee Plan Planning Community Map and Table 1(b) Planning Community Year 2020 Allocation Table should be amended to reflect the changing municipal boundaries.

Landscaping

During the EAR public workshops members of the public brought up the issue of County/City coordination related to landscaping. Countywide roadway landscaping in Lee County was initiated by the creation of the Roadway Landscape Advisory Committee in August 1996. The Committee with a consultant's assistance and public input drafted the LeeScape Master Plan, which was adopted by the Lee County Board of County Commissioners in October 1998. Since 1996, several roadway landscape projects have been completed in city limits of Bonita Springs, Fort Myers and Cape Coral and several more are planned for these cities. The completed and proposed landscape projects show the need for more coordination between Lee County and these municipalities and the potential to continue similar landscape designs.

Some examples of successful coordination of roadway landscaping projects with Lee County and municipalities that have been completed include Veterans Parkway/Colonial Boulevard, Hancock Bridge Parkway, Cape Coral Parkway and Del Prado Boulevard. Lee County Department of Transportation (DOT) coordinated the design, installation and maintenance of the landscaping of Colonial Boulevard with the City of Fort Myers. The City of Cape Coral was a participant in a non-profit group which coordinated the design, installation and maintenance of landscaping Hancock Bridge Parkway, Cape Coral Parkway and Del Prado Boulevard. Lee County provided either all or matching funds for these roadway landscaping projects. However, two landscape projects were recently installed without the input of Lee County DOT or the Roadway Landscape Advisory Committee, the I-75 interchange of Bonita Beach Road and Martin Luther King (SR82). These projects were funded by the Cities and grants from the Florida Department of Transportation.

Other roadway landscape projects are proposed within or bordering these municipalities. Lee County is coordinating the design, installation and maintenance of landscaping on Imperial Road Extension and portions of Bonita Beach Road within the City of Bonita Springs. The City has requested enhancements of this landscaping and has provided the funding for it. In contrast, Lee County is providing the design for landscaping of South Tamiami Trail from Corkscrew Road to Old 41 Road. The City has not been coordinating its design with Lee County for the landscaping of South Tamiami Trail south of Old 41.

The coordination of municipalities and Lee County can be improved for the South Tamiami Trail as well as other projects in Lee County. Coordination with the cities' beautification committees and the Roadway Landscape Advisory Committee will potentially improve the roadway character of all of Lee County. The Board of County Commissioners has discussed the allocation of cell phone communication taxes for roadway landscaping. Currently there is 9 million dollars in reserve from this tax and the Roadway Landscape Advisory Committee has approved it to be used on US 41 throughout 26 miles of Lee County. Coordination with the cities is imperative for this landscaping to work.

Water Supply

Another topic brought forward involved the intergovernmental coordination of water supply. Lee County's coordination of water supply with Cities within Lee County exist through inter-local agreements. Lee County Utilities (LCU) has existing inter-local agreements with the cities of Cape Coral and Fort Myers as well as Bonita Springs Utilities. These agreements address the delivery of finished water between the respective systems. They detail the location of points of delivery (interconnects), the rates charged for finished water and other pertinent conditions. These agreements address the transfer of water in both directions.

Lee County Utilities has many large diameter interconnects between its system and those of the cities and utilities mentioned above. For the most part, these interconnects were intended to be utilized in emergency situations. However, the large number and sizes of these interconnects allow for longer term, reliable transfer of water between the various systems. These interconnects are designed to allow for the transfer of water in both directions.

Lee County Utilities frequently meets with representatives of the Cities and Utilities listed above to coordinate the water supply and delivery needs of each utility. The purpose of these meetings is to assess the needs of each entity and identify ways to cooperatively assist each other in meeting demands for potable water. With respect to water supply in particular, the various utilities in Lee County participate in the updates to the South Florida Water Management District's Lower West Coast Water Supply Plan. During these updates the District coordinates the various supply options with all the utilities together.

The following are two recent examples of coordination efforts made between LCU and other surrounding utilities. Approximately one year ago Bonita Springs Utilities (BSU) began production from its newly constructed R.O. water plant. The BSU facility presently has excess capacity. At nearly the same time, Lee County Utilities acquired Gulf Environmental Services' (GES) water system and service area, which abuts the BSU system. Shortly after acquiring GES, LCU realized that some of the GES water facilities were sub-standard and needed to be taken off line, leaving the GES system with a shortfall in supply. Knowing BSU had excess capacity LCU immediately contacted BSU and negotiated an agreement to purchase some of BSU's surplus water. Similarly, during a recent meeting between the City of Cape Coral and LCU, City representatives expressed a need for water in a portion of Cape Coral that the City was not prepared to serve. Realizing LCU would soon have some excess capacity at a newly constructed water plant in North Fort Myers, LCU agreed to provide water to the City until they could provide adequate treatment and transmission facilities to that area presently served by LCU.

Smart Growth Committee Review

3. Intergovernmental Coordination, Interdepartmental Coordination. Every recommendation of the Smart Growth Committee included consideration of the interdepartmental and intergovernmental coordination needs. The Smart Growth initiative is to be phased out and its principles are to be a discipline for each appropriate line department, and its recommendations are to be pursued with other governmental agencies.
 - a. Predictability of regulation and review. The recommendations addressed more the issues of incentives, and inclusion of affected community planning groups at the beginning of the process. This inclusion was expected to lead to more reliable development approvals. REMEDY: For areas with approved by BoCC Community Plans, DCD maintain a website (or web links) for such groups along with notification process for them to review development and County project proposals. Develop a "standardized" agenda/format/process for agents of development or County projects to follow in presenting information to such groups.
 - b. Coordination regarding annexation, public services, roadway landscaping, water quality and supply. All these issues except for annexation were addressed by Smart Growth recommendations. Specific recommendations were made to cities, which would apply for annexed areas. REMEDY: Present to Charter Commission the issue of coordinating between the Cities and County in annexations and service provisions. Consider requesting each mainland city amend its charter for such purposes.

Summary

The Lee Plan has sufficient Objectives and policies to address coordination of annexations. Interlocal agreements, however, are not binding and can be withdrawn or simply not entered into. Annexation has and will continue to change lands identified as non-urban by the Lee Plan to urban designations. Amending Lee Plan policies will not address this issue. There are three courses of action: (1) enter into serious agreements with the municipalities interested in annexations; history, however, has shown that this may not address the issue, (2) amend the Lee County Charter to require the County's consent on any voluntary annexations (3) make amendments to Chapter 171 giving counties more control over annexations in general.

MAJOR ISSUE #4: DENSITY REDUCTION/GROUNDWATER RESOURCE AREAS

Background

The Density Reduction/Groundwater Resource future land use category was incorporated into the Lee Plan as part of the implementation of the 1990 Stipulated Settlement Agreement between Lee County and the Florida department of Community Affairs (DCA). The Settlement Agreement required that the Future Land Use Map be amended to lower the allowable density in a new water resource category to one dwelling unit per ten acres in three specified areas of the County. The three areas were described as: most non-urban land east of Interstate 75, southeast of the airport, and south of State Road 82; all non-urban land located north of the City of Cape Coral between Burnt Store road and U.S. 41; and, all non-urban land lying east of U.S. 41 and bounded on the south by a line lying two miles south of the Charlotte County line.

There were two underlying reasons for the inclusion of this new future land use category. The first was a desire to protect the County's shallow aquifers. The second was part of the response to reduce the carrying capacity of the County's overall Future Land Use Map.

Prior to the adoption of the Stipulated Settlement Agreement the Lee County Division of Natural Resources proposed to protect the shallow aquifers, in part, with an amendment to the Future Land Use Map. This amendment, Plan Amendment Map/Text 89-19 (PAM/T 89-19), was initiated by the Board of County Commissioners on May 3, 1989. The staff proposal was for the creation of a new future land use category called "Groundwater Resource." In order to protect the shallow aquifers, the amendment proposed a reduction in density to one dwelling unit per five acres. The new future land use category was to be applied to "most uplands now designated "Rural" and "Open Lands" that lie north of the future urban areas of Bonita Springs, east of I-75, southeast of the "Airport Commerce," "Airport," and "New Community" and south of S. R. 82." The Local Planning Agency reviewed the proposal on September 14, 1989 and recommended that the Board of County Commissioners adopt the proposed map amendment. This amendment, along with others, was scheduled to go to Board of County Commissioners public transmittal hearings on October 24 and 25, 1989. Prior to those public hearing the terms of the Stipulated Settlement Agreement were reached. The pending round of amendments were put on hold and the County began the process of implementing the agreement

The portion of the Stipulated Settlement Agreement that addressed this issue was drafted in light of much of the substance of PAM/T 89-19. There were, however, several changes to the original proposal included in the settlement. The allowable density was further reduced to one dwelling unit per ten acres. Additional lands were also added, the area north of the City of Cape Coral and the non-urban area east of U.S. 41 within two miles of the Charlotte County line. These changes were included to partially address the carrying capacity problem of the Future Land use Map. These additional changes ultimately lead to the inclusion of the words "Density Reduction" in the title of the Policy. The Board of County Commissioners adopted the Stipulated Settlement Agreement plan amendment in September of 1990. The DCA issued its Notice of Intent to find the amendment in compliance in late October, 1990.

Amendments to the DR/GR

Subsequent to the adoption of the DR/GR category there have been a limited number of amendments that affected lands designated with this category. The first change resulted from a privately initiated Future Land Use Map amendment filed in September, 1990. The request was to re-designate approximately 45 acres of DR/GR land to the Outlying Suburban future land use category, a future urban category. The amendment was designated PAM 90-29 and the property was located north of Bonita Beach Road and east of I-75 in Section 32 Township 47 South, Range 26 East. The justification for the amendment was the fact that the property had been and currently was being utilized as migrant worker housing. Staff was reluctant to support this map amendment for several reasons. The final resolution to this application resulted in the adoption of a new policy in the Lee Plan Housing Element. Staff realized that farming was a permitted use in the DR/GR category and that with farming comes farm workers. The new policy allowed the consideration of seasonal and migratory housing in the three future land use categories in which farming activities could reasonably be expected. The new policy, adopted in July of 1991, states:

POLICY 100.2.3: Housing for farm workers, as defined by ss 420.503 Florida Statutes, may be permitted in the Rural, Open Lands, and Density Reduction/ Groundwater Resource land use categories without respect to the density limitations that apply to conventional residential districts. The density of such housing is limited to 50 occupants per acre of actual housing area and will be reviewed on a case-by-case basis during the planned development or Special Permit zoning process. The applicant must demonstrate that impacts of the farm worker housing will be mitigated.

The next proposed change for lands designated DR/GR started in 1991. A privately initiated Future Land Use Map, designated PAM/T 91-14, requested that all of Sections 1, 2, and 3 of Township 48 South, Range 26 East be re-designated to the Outlying Suburban category. The applicant argued that this property was currently being used for row crops and was not a groundwater recharge area. It was argued that this use was in fact a water consumer. In August of 1992 the Board of County Commissioners adopted a Future Land Use Map change for this property to the Rural category. This change was challenged by the DCA and an Administrative Hearing process was initiated. Following long debate between the owner's representatives and the DCA, a settlement was reached. The settlement required that several pages of policies be added to the Lee Plan to specifically address development issues on this land. The amendment adopting this settlement language was adopted in August of 1997. Section 3 was annexed into the City of Bonita Springs and included in their comprehensive plan as Moderate Density Mixed Use/Planned Development. Sections 1 and 2 were subsequently annexed into the City of Bonita Springs and are the subject of a pending City plan amendment.

There were two additional privately initiated map amendments in 1992 requesting re-designation from DR/GR to Rural. Neither of these were adopted. Also in the 1992/1993 round of Lee Plan amendments was a Board of County Commissioner initiated amendment to consider the addition of golf courses as an allowable use in the DR/GR. Both the LPA and Board of County Commissioners voted not to transmit these amendment for review by the DCA.

1992 Special Amendment - Florida Gulf Coast University

In 1991 the Florida Legislature amended Section 240.2011 of the Florida Statutes by adding a new subsection 11 which states, "A University with a main campus in Southwest Florida." This significant amendment added a tenth state sponsored university. The amendment took effect on May 3, 1991, and propelled Lee County into a year of site offers, debate, controversy, resolutions, embellished site offers and ultimately site selection. Lee County supported the location of the new university in Lee County, however, the County was not the entity responsible for selecting the actual site. That was the job of the state appointed Site Selection Committee. The committee concluded that the site offered by ALICO Inc., along with numerous enhancements, was the best site and recommended it to the Board of Regents. The Board of Regents agreed and this decision ultimately led to consideration of an amendments to the County's comprehensive plan. The ALICO site was located in the DR/GR category and it was understood that several changes would be needed to accommodate the soon to be developing campus.

Following a long and very public process, the University Community future land use category was developed and proposed for the University proper and for the lands between the university and Corkscrew and Alico Roads. The amendment was transmitted for review by the DCA. The DCA issued an extensive Objections, Recommendation and Comments (ORC) report, objecting in part to the conversion of DR/GR land to University Community. Through negotiation and compromise resolution to the DCA objection was reached and the amendments, including the conversion from DR/GR to University, were adopted in October of 1992. The DCA found them in compliance in December of that same year.

1993/94 EAR Based Amendment

As part of the 1993/94 Evaluation and Appraisal Report the county hired the consulting firm of Henigar & Ray, Inc. to conduct a study to determine the maximum densities that could be permitted in the DR/GR without jeopardizing existing and future water supplies. The study, based on a compilation of previous water studies, considered only the protection groundwater and recharge and did not address all factors addressing density and intensity decisions.

The Henigar & Ray study concluded that the DR/GR area consisted of three sub-areas. The study mapped these areas as Area A, B, and C, see the Appendix. According to the study, Area A "had the highest potential for development of the water table aquifer for future water supply needs (due to its transmissivity): contains the primary recharge area for the water table aquifer; the Lower Tamiami aquifer and portions of the Sandstone aquifer; and, contains all the area with the highest wellfield development potential in the Lower Tamiami aquifer and portions of the Sandstone aquifer." Area B was described as having "approximately the same potential for recharge of the water table aquifer" and as containing "much of area favorable for development of the Sandstone aquifer." Due to the areas "lower potential for the development potential of the watertable aquifer, this area, from a ground water perspective, is considered more suitable for urban/suburban development than Area A." Area C was seen as "the most suitable, from a ground water protection viewpoint, for urban/suburban type development."

Based on the findings of the study and other planning factors, staff recommended that lands located in Area A and B remain as DR/GR. Staff also recommended to allow higher densities for three specific areas of the existing DR/GR that were located in Area C. Staff recommended that these three areas be reclassified into a new future land use category called "Open Lands." This new future land use category has a standard density of one dwelling unit per ten acres with a maximum density of one dwelling unit per five acres if it developed as a Planned Development. The Larger of the three areas is the Area C located between Burnt Store Road and U.S. 41 north of Cape Coral, known locally as the Yucca Pen area. It should be noted that much of these lands, approximately 70%, have been acquired by the State as part of the Charlotte Harbor Pine Flatwoods project. The other two areas were the Area C's located on the eastern and western most DR/GR areas located within two miles of the Charlotte County line. These areas were also given the Open Lands designation. This future land use designation remains the current category for these areas today. It should be noted that only uplands were reclassified the new Open Lands category, Wetland areas retained their Wetland classification.

The 1993/94 EAR proposed several other Future Land Use Map amendments. Only one other map amendment proposed a change to the DR/GR. This amendment, referred to as Area AC, was located north of Alico Road, south of the airport, and approximately one mile east of I-75. The parcel consisted of approximately 1,400 acres. There was little justification in the EAR itself and the amendment was objected to by the DCA. The property owner, ALICO Inc., prepared a comprehensive response to DCA's objections. The response included amending the language of Policy 1.2.2, the Airport Commerce descriptor policy. Staff recommended adoption of the amendment and the Board of County Commissioners adopted the amendment, along with many other EAR based amendment in November of 1994.

Several of the EAR based amendments, including Area AC, were found not to be in compliance by the DCA. This started an Administrative Hearing procedure and the amendments did not take effect. Negotiations between the County, the DCA and the intervening parties did not reach a resolution. The Governor and Cabinet, sitting ad the Florida Water and Land Adjudicatory Commission, adopted the Final Order No. AC-96-011 on July 23, 1996. The Final Order accepted the Area AC Future Land Use Map change. The Area AC amendment, along with the other EAR based amendments went into effect.

The acceptance of the Area AC amendment was conditioned upon adopting two new policies. The first, Policy 2.4.3, discourages Future Land Use Map amendments and identifies four specific analytical requirements that must be met for any further amendments from the DR/GR land use category. The second, Policy 2.4.4, requires that the County evaluate amendments that expand employment centers in light of Area AC. These amendments, and three others unrelated to Area AC or the DR/GR, were adopted in March of 1997, effective April 2, 1997.

As a result of the EAR amendments there are now two distinct areas of DR/GR in the County. The northern most area lies within two miles of the Charlotte County line approximately four miles west and five miles east of State Road 31. The general area, including the designated Wetlands, comprises some 11,809 acres. The DR/GR in the southeast portion of the county is a much larger area. This general area, including the designated Wetlands, comprises some 96,386 acres. Together there are slightly over 96,995 acres in these two generalized DR/GR areas.

Small Scale Amendment

In August of 1995 an application for a Small Scale Amendment was submitted. This amendment requested a change from DR/GR to Rural for a seven acre parcel located at the intersection of Old Bayshore Road and State Road 31. The request centered around the applicants desire to develop a convenience store and two dwelling units on the property. The property had Community Commercial (CC) zoning which it received back in 1979 and 1982. A Natural Systems Assessment and an evaluation of the water resources accompanied the application. The land had been cleared and was being used for grazing. Staff recommended adoption of the proposed change. The Board of County Commissioners concurred and adopted the amendment in January of 1996. There were no objections to the amendment.

Golf Courses in the Density Reduction/Groundwater Resource

In September of 1998 a privately initiated amendment to allow Private Recreation Uses, including Golf Courses, to be located in the DR/GR was submitted. The comprehensive plan amendment was assigned the case number PAT 98-08. The golf course issue had been previously reviewed and rejected by the Board of County Commissioners back in February of 1992. This proposal was very controversial and received a great deal of scrutiny from both staff and the environmental community. Ultimately, a set of best management practices were reached. These practices were incorporated into the Lee Plan and into the County's Land Development Regulations. The location of Private Recreation Facilities in the DR/GR category were limited by the inclusion of Map 4. The amendment was adopted in November of 1999 and was found in compliance and went into effect on January 19, 2000.

Lehigh Acres Commercial Land Use Study

The Lehigh Acres Commercial Land Use Study was commissioned in 1995 to analyze the imbalance of commercial land in Lehigh Acres and to recommend community-wide solutions. Its final report was issued in May 1996. It included a broad series of recommendations to retrofit Lehigh Acres with an appropriate balance of land for retail and service uses. The study concluded, in part, that there was a severe lack of viable commercial land. One of the study's recommendations was to reclassify 133 +/- acres in the southerly half of the future State Road 82/Daniels Parkway intersection from DR/GR category to Central Urban and Wetlands categories. This land was located at the intersection of Gunnery Road and State Road 82. The Capital Improvement Program included an additional arterial road, the Daniels Parkway extension, that would also intersect this property. Increasing the commercial potential of this property was deemed necessary to help make up for some of the identified deficit. The amendment was adopted by the Board of County Commissioners in March of 1997. The amendment was found in compliance by the DCA and became effective April 2, 1997.

Southwest Florida International Airport

In September of 1999 the County initiated an amendment to the Future Land Use Map to change 2,857± acres of property from the DR/GR category to the Airport category. The property located adjacent to the Southwest Florida International Airport was all owned by Lee County. The change was to accommodate a new midfield terminal for expanded airport operations and eventually for the proposed parallel runway.

The then Southwest Florida Regional Airport site was designated as "Airport" on the original FLUM. By 1989, when an evaluation and appraisal report was completed for the Lee Plan, it was acknowledged that the existing site and facility might be inadequate by the year 2010, which was the time horizon of the Lee Plan. The total annual enplanement and deplanement passengers had each exceeded 1.6 million (3.2 million total passengers) by the end of 1989 while the adopted projection for the annual enplaned passengers in 1995 was under 1.6 million. Likewise, the total freight in 1989 was 3692 tons and the 2005 projection was 3600 tons. This shows that the airport activity exceeded all projections governing the original master plan. The Airport Master Plan Update was completed in February 1992 and supplemented with the Parallel Runway Length and Separation Refinement study in July 1993. In 1993 Lee County began its next Evaluation and Appraisal Report process for the Lee Plan. Due to land acquisition timing considerations during this EAR process, the Airport Future Land Use Category was not amended to reflect the current master plan, although the objective and policy for the airport were amended to include the new plan horizon of 2020. Also in 1993 RSW began international air carrier service and the airport was renamed to Southwest Florida International Airport. This change in conditions also required additional considerations to be accommodated by the Lee Plan.

In 1995 the Port Authority obtained FAA approval of an amended Airport Master Plan to allow for the continued expansion of the airport and began a detailed examination of expansion alternatives. Annual enplanements reached almost 2.2 million in 1997 and capacity problems at the existing terminal prompted some modifications in 1998 that included relocation of a previously-approved concourse and passenger loading gates. Also in 1998, detailed planning began for the new Midfield Terminal Complex, as recommended from the Master Plan update's review of expansion alternatives.

The change from DR/GR to Airport and Wetlands was adopted by the Board of County Commissioners in November of 2000. The DCA had no objections, recommendations, or comments concerning this amendment. The amendment was found in compliance and went into effect on December 26, 2000.

Miromar Lakes Development of Regional Impact

The Miromar Lakes Development of Regional Impact (DRI) included a minor change to the DR/GR future land use category. The DRI was expanding its size and wanted to utilize some 20 acres of DR/GR land fronting on a lake made by previous mining activities. The amendment originally proposed no offsetting change. Staff and the DCA objected to a lack of mitigation for the amendment. Approximately 20 acres was changed from DR/GR to the University Community future land use category. To offset this change approximately 172 acres of University Community to the Conservation Lands future land use category. Approximately 21 acres of this change went to the Conservation Lands - Uplands future land use category and the remaining 1525 acres went to the Conservation Lands - Wetlands future land use category.

Groundwater Resource & Mining Study

In response to a recommendation from the Smart Growth Committee, the County requested proposals and entered into a contract with a consulting team to study the Groundwater Resource aspects of the DR/GR. The study will also include an analysis of the limestone resources of the County. The study, due at the end of the year, will result in a computer model of the sub surface conditions of the County. The main purpose of this current

study is to provide the County with a state of the art groundwater flow model. The model will simulate 2030 surficial demand projections to determine impacts on recharge, water resource and environmental features. This model will be used to assess and quantify potential commercial mining impacts. The study will also identify and map known flow-ways and sub-basins in the County.

a.) Effectiveness of the Density reduction/Groundwater Resource Category

As stated earlier there were two underlying reasons for the creation of the DR/GR future land use category. The first was a desire to protect the County's shallow aquifers. The second was part of the response to reduce the carrying capacity of the County's overall Future Land Use Map.

Planning staff has analyzed two components of development activity in the DR/GR areas. Staff looked at rezoning and Development Order activity. Development Order information is available from the Department of Community Development Permit Tracking Database. Staff collected all of the Development Order numbers that were located in the areas designated as DR/GR. The data dates from 1984. In all there were 104 Development Orders (DO's) issued for properties located in the DR/GR. See the Table entitled "Development Orders Issued in the DR/GR Category" attached.

The biggest impacts were from DO's that permitted mining activities. There were 31 DO's issued for mining activities. Not only is mining an allowable use in the DR/GR category, it produces an important raw material for the County's development industry.

There were 16 DO's issued for residential ponds. There were 13 DO's issued for infrastructure projects. These DO's include such projects as; improvements at the Lee County Corkscrew Wellfield, roadway improvements; the Kehl Canal weir structure replacement; and, various Florida Power and Light electrical substations.

Staff also looked at rezoning activities and Special Exceptions in the DR/GR areas. This information was available back to 1994. Since that time there were 33 rezonings that were of a magnitude to be considered Developments of County Impact (DCI's). As with the DO's, the rezonings with the most impacts were for excavation operations. There have been three applications for Private Recreation Facilities Planned Developments (PRFPD). These PRFPD were for golf courses as allowed under PAT 98-08, discussed earlier. One of these cases has been put on hold since early 2003.

There has only been one rezoning for a new Residential Planned Development (RPD) since the adoption of the DR/GR category. This application was for 13 residential lots on an approximately 166 acre site. Application has been made for a DO on this property. The DO is still in the review process.

Conclusions

The lack of major development activities, other than mining operations, is evidence that the DR/GR category has been an effective tool in protecting the surficial aquifers and reducing development in this area of the County. Pending the completion of the ongoing Groundwater Recharge & Mining Study, it would be premature to propose any substantive amendment to the DR/GR. The County has shown a commitment to the DR/GR future land use

category. It is the County's intent to analyze the scientific results of the study and determine if modifications to the County's Land Development Code are appropriate.

b.) Allowable Uses in DR/GR Areas

As indicated in the description of the DR/GR category, the allowable uses are “agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres.” Once the Groundwater Resource & Mining Study is completed, the county will be in a better position to evaluate allowable land uses in the DR/GR. At this time, no change in the allowable uses are contemplated.

Smart Growth Committee Review

- 4. Density Reduction/Groundwater Resource Areas. The Smart Growth Department is one of the three Departments working together on the special update of the Groundwater Resources study, which in turn will lead to the reassessment of the Density Reduction category.
 - a. Effectiveness of DR/GR regulations. This subject is being addressed in the resource analysis.
 - b. Allowable Uses in DR/GR area. This will be addressed in Phase II of the assessment.

Summary

The lack of major development activities, other than mining operations, is evidence that the DR/GR category has been an effective tool in protecting the surficial aquifers and reducing development in this area of the County. Pending the completion of the ongoing Groundwater Recharge & Mining Study, it would be premature to propose any substantive amendment to the DR/GR. The County has shown a commitment to the DR/GR future land use category. It is the County's intent to analyze the scientific results of the study and determine if modifications to the County's Land Development Code are appropriate.

MAJOR ISSUE #5: REGULATORY ENVIRONMENT

a.) Resource Protection

Comments on several topics regarding the regulatory environment of resource protection were mentioned during the public participation process. Several focused on topics such as the cumulative effects on natural resource systems through the permitting review processes, the preservation of land, and wetland regulations. As described further under the *Water Quality, Air Quality, and Natural Resources* section of this document, the implementation of the Natural Resources Mitigation Plan, once adopted, will enhance the ability for the permitting process to address cumulative impacts and resource protection. Regional resources will be prioritized for preservation and restoration for maximum benefit to the ecosystem in lieu of the current piecemeal mitigation process. The Master Mitigation Plan has identified areas most important for preservation and restoration.

The public comment on this topic also suggested that the Mitigation Plan should be added to the plan as an update to the Conservation element. The County Master Mitigation Plan will, once adopted, be a component of the County's Comprehensive Plan implementation. Implementation includes Administrative Code incorporation, capital budget direction, and land development code reform. Upon completion of the Mitigation Plan, further evaluation will be necessary in developing amendments to the Lee Plan.

In addition, the public inquired about what kinds of lands have been preserved. The Land Development Code requires open space to be provided based on the type and size of a development. Fifty percent of the required open space must be provided through the preservation of existing indigenous plant communities and/or existing native trees, furthering Policy 52.3.1 of the Lee Plan as reproduced below. Single family developments consisting of lots 6,500 square feet or larger with a maximum lot coverage of 45% do not require open space, indigenous preservation, or preservation of existing native trees.

***POLICY 52.3.1:** Any new development with existing indigenous vegetation is encouraged to provide half of the required open space as existing native plant communities. Any new development with existing native trees without associated native groundcover or understory is encouraged to provide half of the required open space with areas containing existing native trees. The planting of native shrub species within native tree protection areas is encouraged. (Added by Ordinance No. 02-02)*

The preservation of indigenous plant communities and listed species habitat are reviewed during the County's planned development zoning and development order process, implementing Goal 77 of the Lee Plan. Goal 77 addresses the management of ecosystems in order to maintain and enhance native habitats, flora and faunal species diversity, water quality, and surface water. Objectives of this goal cover resource management, plant communities, and wildlife/endangered species. Special emphasis is placed on the preservation of coastal wetlands, coastal and interior hammocks, Rare and Unique Uplands within the coastal planning area, and listed species habitat.

The Land Development Code encourages the preservation of indigenous upland plant communities by offering credits based on acreage and width. Additional credits may be granted if the preserve abuts an off-site preserve; the preserve is Rare and Unique uplands; the preserve abuts a natural waterway; or the preserve abuts a roadway. These regulations implement the Lee Plan policies under Objective 77.2: Plant Communities. Objective 77.2 specifically directs the protection of remnant tracts of natural plant communities.

The Land Development Code has facilitated this objective further by revising the code to require the preservation and/or relocation of existing native trees when a property contains trees but does not consist of a complete indigenous plant community. Emphasis is placed on retaining heritage trees (live oak, south Florida slash pine, and longleaf pine with a 20-inch or greater caliper at dbh). This regulation furthers Goal 52 of the Lee Plan to provide appropriate open space within developments. Goal 52 directs development design to require new development to provide adequate open space for appearance, environmental quality, and the preservation of native trees and plant communities.

Another topic brought forth was how post-mine landscaping should be addressed. As discussed further under the *Density Reduction/Groundwater Resource Areas* section, the County is in the process of undergoing a Groundwater Resource/Mining Study evaluating the DR/GR areas of the county. Post-mine landscaping should be compatible with the recommendations of this study in order to preserve the natural infiltration capabilities of pre-development conditions. Where possible, enhancements to public water supply sources are encouraged with overall water budget in consideration. Additionally, current Lee Plan Policy 10.1.5 under the future land use goal Natural Resource Extraction supports efforts to connect borrow lake excavations into an interconnected system in order to enhance habitat, recreational and educational opportunities, as well as environmental benefits to the community. Policy 10.1.5 is reproduced below:

POLICY 10.1.5: *Lee County will support efforts by government, community leaders, and the extractive industry owners and businesses to seek incentives that will help to facilitate the connection of natural resource extraction borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, provide for human recreation, educational and other appropriate uses, and/or strengthen community environmental benefits. (Amended by Ordinance No. 99-15, 02-02)*

The public comment also included exploring the possibility of eliminating development approvals for old projects that were never developed and that are no longer compatible with the surrounding area. The current development standards in Chapter 10 of the County's Land Development Code address the duration of an approved development order as well as extensions on development orders. Section 10-115 states that a development order will be valid for a period of 6 years specifically for those items approved and the development order will become inactive when the certificate of compliance is issued for the last phase of a phased project. This section specifies that in order for a development order to remain active, significant construction activity must commence and construction of the project to build-out must be actively pursued. It continues that if a project is under construction when the development order duration has elapsed, the developer must obtain an extension or continue the construction to build-out without construction inactivity exceeding 18 months. Additionally, a

development order's concurrency certificate is only effective for three years from approval. This requires a developer to renew this certificate every three years ensuring that the project meets level-of-service standards for infrastructure needs.

Section 10-123 addresses extensions of development orders and states that the director of development services may grant two year extensions of time for a development order providing that certain circumstances are met, including that the development order must be in compliance with the Lee Plan and all other county land development regulations. While in no case may extensions be approved that would extend a development order for more than 10 years from original approval.

These county regulations prevent more than two extensions to be granted while allowing a development that is actively pursuing construction at the time the development order has elapsed to continue construction as long as inactivity does not exceed 18 months. The regulations prevent old projects that were never actively pursued from being developed without the submittal and approval of an entirely new development order that is in compliance with the Lee Plan and all other land development regulations. This prevents the development of projects that could no longer be compatible with the surrounding area after years of inactivity. Section 10-123 does provide the developer with the option to contest the denial of an extension request by requesting that the Board of County Commissioners grant the extension, again providing that certain circumstances are met including compliance with current regulations.

Public comment also focused on the bacteriological impairment of waterways. The public stated that the impairment of waterways is causing the loss of shellfish waters and making beaches less attractive and biologically productive. In response to this issue, the impairment of waterways are being defined and cleaned-up through the State's Total Maximum Daily Load (TMDL) process and National Pollutant Discharge Elimination System (NPDES) program. Corrective action plans are required for each waterbody with verified impairments including bacteria if so found. Currently the Department of Environmental Protection (DEP) has identified Lee County waters in or around Sanibel Island and Pine Island as bacteriological impaired waterbodies. Areas around Pine Island have been more specifically identified as Pine Island Sound and Matlacha Pass. Once the water body segments have been identified the DEP develops a Basin Management Action Plan to be implemented by DEP and the local government in order to implement clean-up. Additionally, the NPDES program requires local governments to comply with the Federal Clean Water Act regarding stormwater management.

b.) Enforce Existing Regulations

Staff received several comments from the Public concerning the County's efforts to enforce existing regulations. Staff notes that County regulations are enforced in a variety of processes such as the rezoning process, development order process, building permit process, and the code enforcement process. New development is required to be consistent with the Lee Plan and the Lee County Land Development Code. Staff in this section of the report will respond to public comments concerning the County enforcing existing regulations.

One comment made by a member of the public, at the April 8, 2003 Public Workshop (located at the South County Regional Public Library) was that the County should enforce the existing Future Land Use Map (FLUM).

This member of the public further stated that the County should not allow changes to the FLUM that permit more intensive development. Planning staff responds that the County policy is to allow private landowners to submit plan amendments. This issue is addressed by Lee Plan Objective 2.4 and Policy 2.4.1 and are reproduced below:

OBJECTIVE 2.4: FUTURE LAND USE MAP AMENDMENTS. Regularly examine the Future Land Use Map in light of new information and changed conditions, and make necessary modifications.

POLICY 2.4.1: The county will accept applications from private landowners or non-profit community organizations to modify the boundaries as shown on the Future Land Use Map. Procedures, fees, and timetables for this procedure will be adopted by administrative code. (Amended by Ordinance No. 94-30)

Staff also notes that the Florida Statutes and Administrative Code envision that local jurisdictions will amend their comprehensive plans. Staff believes this policy is the correct policy and that individual requests should be evaluated on their individual merits.

Another comment made by the public was that code enforcement needs to be stepped up and that the process for reporting code violations is not clear. Staff responds that the code enforcement process is mainly complaint driven. Inquiries or complaints concerning code violations are made to Code Enforcement by calling **344-5895** between the hours of 7:30 a.m. and 5:00 p.m. Complaints are normally investigated within three (3) business days. The activities code enforcement investigates include the following:

- Abandoned vehicles
- Blasting
- Building without permits
- Excavations
- Licensed & unlicensed contractors
- Unsafe buildings
- Lot mowing
- Rights of way/road obstructions
- Signs
- Substandard housing conditions
- Trash
- Zoning/illegal land use

Environmental violations include the un-permitted clearing of trees or other vegetation, un-permitted dredging or filling of wetlands, and non-compliance with development approval requirements and protected species issues. Environmental violations should be reported directly to Environmental Sciences at **479-8351**.

Noise complaints may be made directly to the Sheriff's office by calling **332-3456**.

Complaints regarding illegal dumping and trash pick-up may be made by calling the Lee County Department of Solid Waste at **338-3302**.

Contractor Licensing

All persons contracting to provide construction services in Lee County, except state certified contractors, must have a local Certificate of Competency. Without an appropriate active Certificate of Competency, a construction contractor or subcontractor cannot legally contract to provide construction services in Lee County. Certificate of Competency applications are available at the Code Enforcement office. All applicants are required to meet certain criteria, including but not limited to, construction experience, examination and financial responsibility. The Lee County Construction Licensing Board reviews all applications and grants approval to applicants meeting the requirements set out by County regulations. Once the Construction Licensing Board approves an application and the applicant provides Lee County with documentation of the occupational license, workers compensation and liability insurance along with the \$35 sponsorship fee, a Certificate of Competency is issued. All Certificates of Competency are renewable annually in the month of September. Information regarding the types of certificates available, examinations, experience requirements and fees is available by calling 344-5895. To file a complaint against or obtain information concerning a specific contractor call 344-5895.

Interesting Facts about Code Enforcement for 2003

- Monitored contractor licensing for over 4,000 state and local contractors.
- Renewed over 2,500 local contractor licenses and issue over 500 new contractor licenses.
- Handled code enforcement of County codes requiring 31,000 inspections and 17,000 re-inspections.

c.) Incorporation of New Urbanist Approach into Policy

Please see discussion under Major Issue # 10: New Urbanism, Smart Growth.

d.) Keeping LDC Amendments Concurrent with Lee Plan Amendments

Several member of the public raised a concern that LDC amendments should be adopted concurrent with Lee Plan amendments. For Example, one public participant at the April 1, 2003 Public Workshop at the Riverdale Branch of the Lee County Public Library system commented that “zoning regulation changes should run concurrent with the Lee Plan changes they seek to implement.” Staff responds that it is typical that the Lee Plan amendment issues are addressed up front, and that after any plan issues have been addressed, then any necessary LDC amendments are dealt with. There is, however, no regulation that precludes a private party from proposing amendments to both the Lee Plan and the LDC at the same time.

e.) Effectiveness of Existing Anti-Sprawl Regulations

Please see discussion under Major Issue # 10: New Urbanism, Smart Growth.

f. Developing a Higher Standard for Research, Data, and Analysis.

This comment was directed at the Density Reduction/Groundwater Resource DR/GR study that is currently underway. The concern was that only the best science and data be utilized in that study. The study, which is the first phase in assessing the DR/GR category, is a state of the art endeavor. Please see the discussion under Major issue Number 4, Density Reduction/Groundwater Resource Areas.

g. Provision of Public Facilities (Non-Transportation)

New development is required to provide all internal infrastructure as part of the development order process. This includes those systems that may be dedicated to the county for maintenance such as water and sewer lines. In addition the county maintains an impact fee program that addresses, transportation, regional parks, community parks, fire, emergency medical services and schools. Public facilities not currently addressed by the impact fee program include libraries, sheriff services, storm water, and solid waste. Library impact fees have been discussed by the Board of County Commissioners. At this time staff has not been directed to move forward with this issue. Sheriff services are currently being addressed through the increase in tax bas generated by the county's expanding urban areas. Lee County initiated a storm water utility in the early 1990's. The utility is still in existence, but is not active at this time. A feasibility study, reassessing the need for this utility is currently underway. Solid waste is an enterprise fund, collecting fees that pay for its operation.

Smart Growth Committee Review

5. Regulatory Environment. The Committee provided several recommendations on this subject. The Committee did not recommend the County reinstate a local permit system, but was strongly recommending that the County be deeply involved in influencing other agency permit processes by compelling an understanding of the Lee County planning goals and strategies.
 - a. Resource Protection. Numerous recommendations were made on the subject of protection of air, water, habitat, coastal, and estuarine resources.
 - b. Enforce Existing Regulations. This was a recommendation of the Committee, along with enhanced or reliable monitoring and reporting. REMEDY: Annually identify in the Budget the fiscal effort being made (through staff and equipment and reports) the monitoring efforts the County proposes to undertake, by Public Works, DCD, Human Services, and the Health Department.
 - c. Incorporating New Urbanist approach into policy. Numerous recommendations were provided in this regard.
 - d. LDC amendments concurrent with LeePlan amendments. The SG Committee had no recommendations on this.
 - e. Effectiveness of existing anti-sprawl regulations. The Committee supports urban boundary concept and the DR/GR concept.
 - f. Developing a higher standard for research, data, and analysis. The SG recommends the "better science" approach to the applicable decisions in several recommendation areas. REMEDY: The annual budget identify the areas in which research funding is being set aside, and which management policies the research funding is going to examine.

Provision of Public Facilities. The SG recommendations presumed current concurrency issues continue, and had recommendations for others of importance.

Summary

As described further under the *Water Quality, Air Quality, and Natural Resources* section of this document, the implementation of the Natural Resources Mitigation Plan, once adopted, will enhance the ability for the permitting process to address cumulative impacts and resource protection. The Lee County Land Development Code requires that new development be consistent with its standards and those set forth by the Lee Plan, it also requires that open space be provided based on the type and size of a development, and it encourages the preservation of indigenous upland plant communities by offering credits based on acreage and width. Thus, no changes are needed based on public concerns surrounding these issues. The public stated that the impairment of waterways is causing the loss of shellfish waters and making beaches less attractive and biologically productive. In response to this issue, the impairment of waterways are being defined and cleaned-up through the State's Total Maximum Daily Load (TMDL) process and National Pollutant Discharge Elimination System (NPDES) program.

MAJOR ISSUE #6: PUBLIC SAFETY

a.) Wildfire Safety Building Regulations

Discussion of Issues within context of existing Comprehensive Plan goals and policies:

Wildfire risk as depicted by the “levels of concern” layer in the Fire Risk Assessment System (Florida Division of Forestry) combines four general factors in making its risk determination: fire history, fuel types pertinent to fire behavior, environmental effects (including structures) and the cost of suppression. Using this criteria, many areas, both developed and undeveloped, fall in the high and extreme wildfire risk category. Unless successful mitigation strategies are employed, areas of extreme and high wildfire risk will continue to grow proportionately as the density of housing increases.

Weather patterns influence the ability to quickly bring a wildfire under control. As weather patterns fluctuate, the risk of fire can vary greatly from year to year. In 1999 more than 4,100 acres were consumed in 153 wildfires; in 2000 over 3,000 acres in 175 fires; in 2001 over 3,600 acres in 148 fires; and in 2002 over 600 acres in 66 fires. The range of fire is from a high of 22,328 in 1981 and a low of 633 acres in 2002 (Division of Forestry, April 2003). Since 1981, Lee County has averaged 3,958 acres lost to wildfires each year.

Wildfire is a naturally occurring phenomenon in southwest Florida. Fire is important for the maintenance of Florida’s ecosystems: re-nourishing the soil, providing opportunity for new growth, and is even necessary to the germination process of many native plants. Wildlife depends on fire to thin habitat to create better nesting and enhance forage in their habitat. The problem of wildfire is continued human residential development expanding into high/extreme risk areas. This area where vegetative areas meet residential areas is called the wildland-urban interface (WUI). In fact there are three types of WUI. An interface community is one where the structures directly abut the wildland fuels. An intermix community has structures scattered throughout a wildland area. In an occluded community structures abut an island of wildland fuel – often a park or open space area. (US Forest Service: Identifying the Nation’s Wildland-Urban Interface Communities: A Guide for State and Federal Land Managers) All of these WUI situations present wildfire mitigation difficulties. As property values in Lee County continue to escalate and property become more scarce, homes will continue to extend further into the wildland-urban interface areas.

Issues to consider with the wildland-urban interface areas:

An increasing deficit in affordable housing means that many new home builders are seeking less expensive lots that are distant from urban facilities and often surrounded by vacant lots that are covered in vegetation prone to wildfires.

Land adjacent to preserves, as well as property adjacent to vacant forested land, has become a sought after commodity, functioning as a free aesthetic improvement for homeowners, resulting in an increasing number of residences being constructed adjacent to these lands.

Each additional residence located within a highly flammable vegetated area, or adjacent to such a

vegetated area, makes wildfires more difficult to put out and makes managed burns exponentially more difficult to guide and contain. Augmenting the difficulty in fighting these fires is the fact that most of the structures threatened are not constructed to wildfire safety standards.

These issues are challenges which add to the difficulty in containing wildfires and which increase the number of firefighters and the amount of equipment required. These demands ultimately result in higher costs to federal, state, and local agencies involved in this type of protection.

One of the most effective and economically viable methods to prevent disastrous wildfires is to manage forest lands with prescribed burns. This practice reduces vegetative fuel buildups (such as undergrowth, tree falls, invasive exotics) before an area is vulnerable to a major wildfire.

Many new home owners locating adjacent to managed preserves are not aware that prescribed burns are used in maintenance of the lands. Such home owners may take the position that the external impacts of prescribed burns, including smoke, noise, heat, and decreased aesthetic value, are a nuisance to the residential use of their property.

Current Lee Plan policies require that new development (with the exception of single family homes, mobile homes, duplexes, and agricultural structures) be “located in an established fire district in an area provided with public water” and have adequate fire protection available (Policies 45.2.1; 7.1.7; 10.1.4; 16.2.6). The exclusion of these residential structures is particularly troublesome as such non-urban service areas are often in urban wild-land interface zones. Lack of wildfire prevention measures, and a lack of infrastructure to deliver water to fire fighters on site when wildfires (or residential fires) occur, may become an increasingly dangerous combination as residential development moves east and north into sparsely developed portions of the County.

Two objectives in the Lee Plan allow, but do not require, the expansion of public water into future rural areas of Bayshore and Buckingham for the purpose of enhanced fire protection, among other purposes (Objectives 20.3 and 17.3). While these policies may be helpful for large developments or existing communities wishing to extend potable water, they do little to resolve the fire protection issue for the majority of the Rural, Open Lands, and DRGR areas that are not scheduled to receive urban type public services, where expansion of water service would not be financially viable for the normal development pattern.

The Florida Division of Forestry has recommended that the County adopt Firewise building and site design requirements into the Comprehensive Plan. These design issues are outline in NFPA 1144 as adopted by reference by the Florida Fire Chiefs in the Fire Prevention Code. The Firewise program is based on two main standards: fire resistant building materials and defensible space around buildings.

Florida Statute 553.73 Florida Building Code has stringent requirements related to the addition of building code restrictions in local territories that are more restrictive than the State Building Code, with the purpose being to maintain a growth industry that is consistent across the state. There are a number of building materials that can be used to reduce the risk of fire, but are not currently required in new construction. Though an amendment to the statewide building code, to require firewise materials in new residential construction and firewise retrofits for

existing dwelling units, would be an extensive process it may be a way to address the wildfire risk issue on a regional basis.

For specific areas that are at risk for wildfire locally, it seems likely that a combination of approaches will alleviate much of the local wildfire risk. Viable approaches might include: incentives /disincentives designed to focus density into urban nodes, requirements in landscape planning, incentives to promote use of fire resistant construction materials, and public education for fire safety.

Defensible space is an efficient option for increased wildfire safety, but there are several challenges related to this concept including lot size, existing County environmental initiatives, and code enforcement. Defensible space requires that a substantial amount of the vegetation within 30 and up to 100 feet from a home be reduced or located such that a stop gap is created between surrounding vegetative fuel and the residence. Such a stop gap can be difficult to achieve in sparsely developed subdivisions, particularly small lot subdivisions, where there is not a common ownership interest in creating and maintaining firewise conditions.

Defensible space also calls for less flammable vegetation on site and the use of irrigation. Challenges to coordinating defensible space with existing County environmental initiatives include: reduced water retention where residential lands are more extensively cleared; increased capacity demand on well water where irrigation is used outside of public utility areas; and the reduction of a number of native species that are highly flammable including Palmetto and Wax Myrtle.

The difficulty of code enforcement in outlying areas is an important issue to consider regarding landscape regulations. First, code enforcement in Lee County is generally complaint driven. In order for fire safety landscape regulation to be effective, enforcement would have to be pro-active rather than reactive. As a pro-active measure, code enforcement to fire risk areas would create a tremendous expense due to necessary increases in staff and vehicles. A second consideration is that for properties that are vacant, and have low economic value, a requirement to maintain firewise landscape could increase the expense of property ownership to a point that parcels are allowed to go into tax default.

Recommendations:

1. Create a policy in the Comprehensive Plan that establishes prescribed burning as a tool, employed by the County and other management agencies on appropriate publically owned lands and other managed conservation lands, to prevent uncontrolled wildfires and to reduce the potential for damage to lives and property associated with uncontrolled wildfires. External impacts including smoke, noise, heat, and reduced aesthetic value, will not be considered a nuisance to surrounding property owners when a prescribed burn is administered by a management authority that has permit approval (from the Florida Department of Agriculture and Consumer Services Division of Forestry) and is completed in accordance with standard burn management procedures required by state statute.
2. Amend the Comprehensive Plan and the Land Development Code to address wildfire in a way that creates an appropriate balance between wildfire safety concerns; environmental concerns; affordable

housing initiatives; and the public costs of wildfire prevention, protection, and post-disaster recovery.

b.) An overall update of public safety policies and,

c.) Level of Service

In this next section staff provides a review of law enforcement, emergency medical services and fire suppression policies of the Lee Plan.

1. Law Enforcement

Perceived Issues:

Provide overall update to existing Comprehensive Plan objectives and policies related to law enforcement in Lee County.

Evaluate how increases in population and changing development trends impact budget and infrastructure needs.

Provide overall update to existing Comprehensive Plan objectives and policies related to law enforcement in Lee County.

OBJECTIVE 49.1: Planning and Budgeting. *By 1995, evaluate the effects of both private development and public service provision of services on law enforcement. (Amended by Ordinance No. 94-30)*

The Sheriff's Department has researched the effects of private development and public provision of services on law enforcement. The results were used by the Sheriff's Department to build an operating plan which attempts to forecast and address the impacts of such factors on the department. The most recent version of that plan is the "Lee County Sheriff's Office Five-Year Strategic Plan: FY 2002-2006."

The Sheriff's Office has requested that the Strategic Plan be incorporated into the Lee County Comprehensive Plan by reference. The Strategic Plan will be updated every five years.

POLICY 49.1.2: *The county in collaboration with the Lee County Sheriff will study the development of workable standards and criteria upon which to project long-range law enforcement needs. (Amended by Ordinance No. 00-22)*

The Sheriff's Office is currently working to prescribe an appropriate target Level of Service which takes the following factors into consideration: response times, population changes, number of cases per officer, arrest rates, and time spent in proactive measures. The Sheriff's Strategic Plan includes performance measures intended to help the Office assess the degree of success and efficiency in meeting long-range and short-range objectives.

POLICY 49.2.2: *The county will cooperate with the Sheriff to evaluate the need for substation facilities in the Lehigh Acres and Alico Road/Corkscrew Road areas, the East Fort Myers/Fort Myers Shores and Pine Island Center areas. (Amended by Ordinance No. 94-30, 00-22)*

The Sheriff's Office has completed construction of the East District Station in Lehigh Acres. The SR80 Fort Myers Shores and Pine Island substation facilities have been closed. The Sheriff's office is actively working to place two additional substation sites in the south and west portions of the County.

POLICY 49.2.3: *The county will expand as necessary the existing substation facilities located in Bonita Springs, Fort Myers Beach, and North Fort Myers. (Amended by Ordinance No. 00-22)*

This policy is similar to the preceding policy, 49.2.2. Staff recommends that both policies be combined into one.

In order to promote the efficient use of county financial resources, there will be fewer substations which will be located in larger buildings, serving larger areas. During the E.A.R. amendment process, the Sheriff's Office may establish appropriate evaluation measures to determine future comprehensive plan policy standards for development of new substations and expansion of existing substations.

Evaluate how increases in population and changing development trends impact budget and infrastructure needs.

Road infrastructure and traffic congestion as they relate to response times.

The Sheriff's Office reports that the continued increase in traffic congestion, combined with a lack of adequate cross county corridors, has a substantial impact on call response times. The increased response times necessitate an increase in Sheriff Department staff to maintain adequate police protection in the County. An arresting officer is off patrol while he returns to the station to book a suspect.

Impacts of population increase and dispersed density to response times, infrastructure and staffing needs. The growth in population has also increased response times, particularly where that growth has been in outlying and lower density areas of the County. Increased travel distance results in an increased response times just as in the case of increased traffic congestion. This condition has created a demand for more sheriff department personnel.

An example of this is a call to eastern Lehigh, where recent development activity has been pronounced. A response time to outlying areas of Lehigh can exceed the small window of time needed to appropriately deal with an emergency situation.

Recommendations:

Through the E.A.R. amendment process, the Lee Plan should be amended to ensure that law enforcement staffing and infrastructure needs are adequately identified and supported by policy to accommodate the level of crime prevention and service to the public that is necessary to sustain a high quality of life as Lee County continues to develop.

The E.A.R. process should initiate an amendment which will evaluate the need to revise current objectives and policies to incorporate references to the Sheriff Department's Annual Report and Five Year Strategic Plan, and to provide for the incorporation of the findings of those reports in the Lee Plan.

The Lee Plan should be amended to include provisions for adequate facilities to meet the needs of the growing population. This revision should address the needs throughout the County and include provisions to address the desirability of reducing expenditures through the sharing of County resources.

The transportation concerns of the Sheriff's Department should be addressed by the Lee Plan during the E.A.R. amendment cycle.

2. Emergency Medical Services

Perceived Issues:

Overall update of public safety policies.

Level of Service

Discussion of Issues within context of existing Comprehensive Plan goals and policies:

GOAL 47: SERVICE PROVISION. *To ensure the efficient provision of public services to health care facilities.*

OBJECTIVE 47.1: EMERGENCY MEDICAL SERVICES. *The county will maintain and improve the Emergency Medical Services Division to keep up with new population growth and technological advancements. As part of this effort, the county will cooperate with and assist the independent fire districts and other units of government who operate first-provider rescue services to maintain those services in the face of new population growth and technological advancements.*

POLICY 47.1.1: *The 9-1-1 emergency telephone system and centralized dispatcher program will be evaluated as to possible improvements.*

POLICY 47.1.2: *The county will encourage and facilitate the inclusion of other jurisdictions in cooperative service extensions of centralized communication and dispatch systems.*

County Emergency Management staff has expressed that, "The current goal covering health care service provision does not recognize the increased role that the independent fire districts have taken in providing EMS service. While two fire districts have historically furnished ambulance service (Fort Myers Beach and Lehigh Acres), eight other districts or city fire departments now assist Lee County EMS by providing ALS (advanced life support) non-transport services in their areas (Bonita, Estero, San Carlos Park, South Trial, Sanibel, Fort Myers, Cape Coral and Iona McGregor). This change was brought about by the need to assure that current response times standards are met and by the desire of the boards governing the independent fire districts to provide this level of service to their constituents."

POLICY 70.1.3: MINIMUM ACCEPTABLE LEVEL-OF-SERVICE STANDARDS. *Level-of-service (LOS) standards will be the basis for planning the provision of required public facilities within Lee County. Some of these standards will be the basis for determining the adequacy of public facilities for the purposes of permitting new development. The "Minimum Acceptable Level*

of Service" will be the basis for facility design, for setting impact fees, and (where applicable) for the operation of the Concurrency Management System (CMS). Two classes of standards are established. "Regulatory" standards are those which apply to facilities identified in state law as being essential to support development. These consist of facilities for the provision of potable water, sanitary sewer, disposal of solid waste, stormwater management, community and regional parks, and transportation. (It is the intent of this element that these standards will be the same as those established in the various relevant plan elements. If there are discrepancies between standards contained in the elements and standards as set forth herein, the standards as set forth herein will govern.) The second class, "non-regulatory" standards, are those which apply to other facilities for which the county desires to set standards for its own use; compliance with these standards will not be a requirement for continued development permitting.

NON-REGULATORY STANDARDS

9. Emergency Medical Service: 3.18 advanced life support ambulance stations per 100,000 population with a five and one half (5 1/2) minute average response time.

As addressed by County Emergency Management staff, “The standard presently used is not in step with current EMS performance measures. Primary factors now used to measure EMS systems include “out of chute time” as well as response times based on the percentage of time that units arrive on scene within a defined benchmark time-frame. These measures more directly correlate to mortality and morbidity than a per capita population factor and average response time.

A recently enacted National Fire and Protection Association standard (NFPA 1710/1720) requires EMS systems to have an ambulance unit providing advanced life support (ALS) on scene in eight minutes or less, 90% of the time or better. It also requires an ambulance out-of-chute or dispatch/call processing time of sixty seconds or less. The Commission for Accreditation of Ambulance Services also requires an ALS unit on-scene in nine minutes or less, 90% of the time with an out-of-chute time of less than or equal to two minutes, 90% of the time or better. The County recently adopted an ordinance (02-19) that recognizes these standards as a basis for the Board of County Commissioners to decide whether to issue a Certificate of Public Convenience and Necessity for additional EMS service.”

Recommendation:

Initiate an amendment to evaluate revising Lee Plan objectives and policies to reflect the current and anticipated methods of providing services, and to reference level of service standards set by the National Fire and Protection Association.

3. Fire Protection

Issues:

Overall update of public safety policies.

Level of Service

Discussion of Issues within context of existing Comprehensive Plan goals and policies:

The Lee County Fire Chief’s Association had several comments and suggestions regarding existing Lee Plan policies. Concerns were primarily related to distance between fire service facilities and new development; adequate water supply and pressure; effective emergency communications and dispatch; coordination between Fire Districts and the Department of Community Development.

Distance between fire service facilities and new development

Current Lee Plan policies address fire protection in areas that are not within established fire service areas or that are not within areas with public water service:

***OBJECTIVE 45.2: AREAS OUTSIDE THE EXISTING FIRE SERVICE.** Insure that county development orders outside the established fire service areas are granted only if fire service expansions or other mitigation measures are approved concurrently.*

***POLICY 45.2.1:** All new development (excluding single -family, mobile home, duplex, and agricultural structures) should be located in an established fire district in an area provided with public water. Provisions in the Land Development Code that require adequate fire protection systems in areas where no public water is available will be maintained. (Amended by Ordinance No. 94-30, 00-22)*

Fire District staff comments were as follows: Consider a prohibition on developments beyond five road miles of a fire station. Consider revising [Objective 45.2] to include a plan to have all “built upon” lands within Lee County protected by a fire district.

The issue of distance between fire service facilities and new development is one of balance. Growth in outlying areas such as the DRGR and the far reaches of Lehigh is often too spread out to make efficient use of Fire District funding. A prohibition on development that is more than five miles away would have to be tied to a plan for phased development to ensure that private property rights are only postponed to allow for the orderly, well planned development of Lee County, not lost entirely to the impacted property owners. Such a growth management tool has a place in smart planning as it would help to create demand for increased density in developed areas, support the efficient, phased installment of water and sewer utilities, and allow for the efficient expansion of transportation infrastructure.

Unless such a distance requirement was implemented as part of a larger growth management strategy, it would be quite easy to manipulate the regulation such that fire stations were built leapfrog across the County to accommodate development demand, rather than focus the demand into phased orderly growth. An additional difficulty with the implementation of a distance limitation is that the outlying areas of the County, particularly the outskirts of Lehigh Acres, have become a common area for affordable housing. While it is true that better affordable housing options would be close to work and daily travel destinations, any phased growth plan would need to deal with the inherent increase in land prices associated with limiting the growth boundary.

Adequate water supply and pressure

Current Lee Plan policies address appropriate fire flow standards:

***POLICY 45.1.2:** Reexamine the fire flow and pressure standards for water facilities that are contained in Chapter 10 of the Land Development Code on a periodic basis to ensure that they are in compliance with recognized engineering standards. (Amended by Ordinance No. 94-30)*

***POLICY 45.1.3:** When cost-effective and technically feasible, existing potable water systems will be refitted to current fire flow standards.*

Fire District staff comments were as follows:

There are requirements for fire flow for properties at the time of permitting however, there are no mechanisms in place to require that they be maintained.

Consider requiring all new development to be protected by municipal water supplies.

Consider requirement for a countrywide minimum uniform fire sprinkler design pressure for new suppression systems to account for water pressure reductions mandated during drought conditions.

Effective emergency communications and dispatch

Current Lee Plan policies address the importance of the 911 emergency communications system:

***POLICY 45.1.7:** Maintain and, where feasible, enhance the "911" emergency communications system to improve communications with the fire districts. (Amended by Ordinance No. 94-30)*

Fire District staff comments were as follows:

Consider requiring "big-box" and other higher density buildings to be provided with radio signal boosting technology to insure emergency communications between dispatch center, command units and operating crews (police, fire and EMS issue).

Consider inclusion of desirable service standards for receiving and handling of emergency service requests by dispatch center.

There is a safety risk where emergency teams are unable to communicate, due to signal interference, between the inside and outside or from opposing sides of a big-box building. At the outset, this appears to be an issue simply fixed by installing radio signal boosters into new big-box buildings and possibly providing for retrofits on existing buildings. There may be issues that would need to be addressed regarding property rights, ownership of signal boosters, and maintenance responsibilities. This request would best be handled as a change to the LDC or by

specific ordinance of the Board of County Commissioners. The Ordinance or LDC amendment process should include both emergency service staff and developers of the big-box type of building.

The request to include desirable service standards, as defined by NFPA, for receiving and handling of emergency service requests was addressed in the Police Enforcement section of this document.

Coordination between Fire Districts and the Department of Community Development

Current Lee Plan policies address coordination and cooperation between the Fire Districts and the Department of Community Development:

***POLICY 45.1.4:** Refer requests for rezonings and development reviews to independent fire districts for comments and recommendations (when requested by the individual districts).*

***POLICY 45.1.5:** Refer requests for rezonings and development reviews to independent fire districts for comments and recommendations (when requested by the individual districts).*

***POLICY 45.1.6:** Provide technical assistance to fire districts (when requested) on site selection and continue to assist the districts in the rezoning process. (Amended by Ordinance No. 94-30)*

***POLICY 45.3.3:** The county will notify all independent fire districts of all written interpretation of fire code matters. (Amended by Ordinance No. 00-22)*

Fire District staff comments were as follows:

Consider a provision for expedited Development Order reviews for essential public safety facilities (fire, EMS and law enforcement).

Smart Growth Committee Review

6. Public Safety. The Committee has received recommendations regarding examination of consolidation of fire service.
 - a. Wildfire Safety. The Committee provides recommendations regarding rehydration strategies to reduce likelihood of runaway wildfires. REMEDY: The Department of Public Safety, in conjunction with area Fire Districts and Departments, and the Florida Division of Forestry, provide an annual report on the nature and improvement of the wildfire hazard, along with recommended actions.
 - b. Overall Update of public safety policies. The Committee had several recommendations regarding pedestrian and bicycle safety designs. One noted one was the recognition that sidewalks actually should lead a person to the structure, rather than end at the entrance road.
 - c. Level of Service. None specifically discussed.

Summary

With regards to Public Safety Lee County staff will do the following: (1) create a policy in the Comprehensive Plan that establishes prescribed burning as a tool, employed by the County and other management agencies on certain publicly owned lands and other managed conservation lands, to prevent uncontrolled wildfires and to reduce the potential for damage to lives and property associated with uncontrolled wildfires, (2) amend the Comprehensive Plan and the Land Development Code so that new development adjacent to an existing preserve or other managed public property must provide a specified buffer of defensible space between any residential building and the property boundary, (3) amend the Comprehensive Plan and the Land Development Code so that all new parks or preserves that will abut any existing residential development must provide a specified buffer of defensible space between the vegetated preserve and the preserve property line or, with documented approval of the adjacent residential property owner, adequate defensible space between the approved residential building(s) and the park/preserve's vegetative fuel, (4) make information about wildfire risk and prescribed burn management practices readily available to the public via Lee County TV programming and the Lee County Government website, (5) adopt the 2003 Updated Florida Department of Forestry Wildfire Risk Area Map into the Comprehensive Plan as a basis to identify properties within Extreme and High wildfire risk zones, (6) require an advisory affidavit, signifying receipt of the wildfire prevention/risk advisory pamphlet, to be signed by any applicant requesting a permit or development order to construct new residential units within the extreme or high wildfire areas of the County, (7) In areas that are sparsely developed but have a Future Land Use Category that anticipated and urban level of density at buildout, incentives should be used to direct development density-to-density nodes and away from fringe areas, in order to reduce the number of new homes located in high wildfire risk zone, and (8) the County should identify the elements of a defensible space that could meet County development goals including wildfire safety.

MAJOR ISSUE #7: HURRICANE EVACUATION/SHELTER

a.) Strengthening hurricane preparedness through Lee Plan policy

Background

Lee County's hurricane vulnerability presents an extreme situation in addressing hurricane safety in such a rapidly growing area, for the following reasons:

A large portion of the land area is expected to flood in a category three land falling hurricane event and almost 90% of the county's population live in this area.

Very few large tracts of land with appropriate utilities are available outside the county's category four and five area to support shelter development without additional development taking place that may, in turn, encourage urban sprawl.

A significant number of the county's population is aged or infirmed.

Regional hurricane evacuation times are extremely high and major interregional evacuation routes are either limited and/or prone to flooding during a hurricane event.

Currently, less than ten percent of the county's public hurricane shelter spaces are available to the public during a category three land falling hurricane event.

Adjacent inland county public shelter space is either extremely limited and/or must be used by a large number of their residents living in mobile/manufactured housing.

Large portions of the county are vested for development through Chapters 163 and 380, Florida Statutes, development orders and vested rights determinations.

Discussion

What We Have Today

The Lee Plan contains several goals, objectives and policies speaking to hurricane safety. These statements identify the population at risk to be addressed, establish levels of service for evacuating and sheltering those at risk, and sets forth policies governing current roadway and sheltering standards.

Lee Plan Evacuation Provisions:

***Glossary: POPULATION AT RISK.** All people located within an area defined by the vulnerability zone of a Category 3 storm hazard in the month of November. The latest Southwest Florida Region Hurricane Evacuation Study will be used to designate the vulnerability zone of a Category 3 storm hazard.*

POLICY 23.2.4: *The following priorities are established for improving the existing and future road system, in addition to the priorities in Policy 70.1.1:*

- *Priority will be given to the construction, maintenance, and reconstruction, where necessary, of roadways needed to serve existing development, including hurricane evacuation needs.*

Roads operating at or below the adopted level of service standard as specified in Policy 22.1.1 and projected to have additional traffic, will be improved or parallel facilities will be constructed consistent with Transportation Map 3A before other new roads are constructed in uncongested areas or improvements are made to roads operating at or better than their adopted level of service standard. (Amended by Ordinance No. 98-09, 99-15)

POLICY 25.2.5: *A special roadway signalization, direction, and clearing plan will be developed and kept up to date to insure that any necessary hurricane evacuation along county roadways has maximum favorable roadway operating conditions. (Amended by Ordinance No. 99-15)*

GOAL 79: EVACUATION AND SHELTER. *To provide evacuation and shelter capabilities adequate to safeguard the public against the effects of hurricanes and tropical storms*

OBJECTIVE 79.1: EVACUATION. *By 1995, evacuation times will be restored to 1987 levels using the 1987 Southwest Florida Regional Hurricane Plan Update as guidance; and by 2010, the clearance time portion of evacuation time will not exceed 18 hours.*

POLICY 79.1.1: *The county will assess the impact of all new residential development upon the projected hurricane evacuation network and upon projected hurricane evacuation times, and will require mitigation either through structural (on-site, off-site shelter) provisions or through non-structural methods or techniques. (Amended by Ordinance No. 00-22)*

POLICY 79.1.2: *By 1995, periodic updates of the hurricane evacuation portion of the Comprehensive Emergency Management Plan will be coordinated with computer transportation modeling to identify critical roadway links. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 79.1.3: *Critical roadway links causing congestion on evacuation routes for Category 1 through 3 hurricanes, including S.R. 78, will receive high priority for capital improvement expenditures. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 79.1.4: *New or replacement bridges on evacuation routes spanning major or marked navigable waterways will be designed, constructed, and operated to adequately accommodate the*

safe and timely evacuation needs of both motor vehicle and marine traffic. (Amended by Ordinance No. 99-15, 00-22)

Lee Plan Shelter Provisions:

POLICY 46.3.12: *The county will cooperate with the School Board to encourage consideration in the design and construction of new schools that they may be expected to serve as hurricane evacuation and emergency shelters. (Amended by Ordinance No. 00-22)*

OBJECTIVE 79.2: SHELTER. *By 2010, adequate shelter space will be available for the population in the Hurricane Vulnerability Zone at risk under a Category 3 storm.*

POLICY 79.2.1: *The percentage rate of the evacuation population to be used as the basis for in-county and on-site shelter demand will be twenty-one (21) percent of the population at risk in the Hurricane Vulnerability Zone under a Category 3 storm hazard scenario except for those developments with Lee County approved Hurricane Management Plans. This rate will also be the target shelter capacity for a program to provide an emergency shelter supply within Lee County by the year 2010. (Amended by Ordinance No. 92-35, 00-22)*

POLICY 79.2.2: *By 1995, the county will implement a program designed to meet the level of service in Policy 79.2.1 by 2010. Components of this program may include:*

1. *Funding of the All-Hazards MSTU;*
2. *An impact fee or fee in lieu for new residential developments, with appropriate credits for the construction of on-site shelters outside of category 1 areas;*
3. *Mandatory on-site shelters for new residential developments (including mobile home and recreational vehicle parks) over a specified size threshold and outside Category 1 areas of the Hurricane Vulnerability Zone; and*
4. *Any available state funds. (Added by Ordinance No. 94-30)*

POLICY 79.2.3: *By 1995, on-site shelters will be required to meet standards established by the county, including provision of adequate shelter space, elevation above Category 3 hurricane storm surge flooding levels, adequate windproofing, glass protection, emergency power where needed, water supplies, and other basic needs. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 79.2.4: *On-site shelters for the general public must not be built on barrier or coastal islands. (Amended by Ordinance No. 00-22)*

POLICY 79.2.5: *By 1995, the county will determine the feasibility of evacuating residents from the Category 1 area to vertical shelters within residential, commercial, and industrial sites in the Category 2, 3, 4, and 5 areas of the Hurricane Vulnerability Zone. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 79.2.6: *Upon adoption of Rule 9J-2, F.A.C., the county will petition the Florida Department of Community Affairs to designate Lee County as a "special hurricane preparedness district" so that shelter alternatives not consistent with state-wide policies can be implemented. (Amended by Ordinance No. 00-22)*

b.) Shelter vs. Evacuation

Evacuation: Table 7.1 summarizes the most current hurricane evacuation times from the Southwest Florida Hurricane Evacuation Study produced by the Southwest Florida Regional Planning Council. The figure presents this data in hours by category storm and track direction for Lee County. When comparing these time frames with the LOS standard in Objective 79.1, only the exiting hurricane evacuation times fall within the expected 18 hour standard.

A closer examination of the times reveals that the standard is exceeded during a Category 3 or higher storm in all evacuation zones north of the Caloosahatchee River west of I-75, where limited route capacity increases the clearance times for these zones. In the remainder of the county, areas vulnerable to hurricane forces fall below the current evacuation standard. Planned improvements to SR 80, SR 78, Daniels Road, U.S. 41 and Bonita Beach Road may result in a reduction of overall evacuation times when compared to current figures.

The Lee Plan allows "vertical evacuation" as an option to use in reducing these evacuation times. This involves intentionally leaving people in areas likely to flood from hurricanes in suitably constructed buildings. While the County has provisions for this, implementing it has been hampered by lack of resources to secure these facilities when used and liability issues taken on by the property owner when they allow the use of their structure for this purpose. Recent studies suggest that parking garages may be suitable vertical refuge sites for evacuees unable to find safe shelter.

Shelter: The County has implemented a program using ad valorem dollars and land development regulations to meet the LOS contained in the Lee Plan. Map 7.1 presents the County's current shelter inventory. Table 7.2 shows the Hurricane Shelter Deficit for the last six years by listing the total county population, shelter spaces needed according to current Lee Plan requirements, shelter spaces available, and the resulting shelter deficit. It also lists the estimated population increase over the six-year period, the number of shelter spaces added over the same time period, and the difference in the shelter deficit number. Based on the data presented, the shelter deficit increased to almost 42,000 spaces by 2003, and the shelter mitigation projects completed continue to lag behind the present population growth rate being experienced by Lee County.

Table 3 identifies the additional shelter deficit we could see over the next five years at the current growth rate and rate of expenditures allocated to correct both the current and future hurricane shelter deficit. The table

summarizes the additional deficit numbers and costs to alleviate it, based on an assumed growth of 3.2% annually over the next five years. The cost needed to alleviate the deficit in the year 2008 was determined by using two different costs per square foot figures (\$10.00 & \$12.50) to simulate increased future costs, and multiplying these values by the 20 sq. ft. per shelter space requirement.

In sum, depending on the cost value chosen, between \$7.5 and \$9.4 million in additional expenditures may be needed by 2008 to bring the shelter deficit in line with current service levels. The table also lists the breakdown by current funding source that would be needed to meet this additional expenditure.

Other Goals, Objectives and Policies Addressing Hurricane Safety

The plan also endorses a program to reduce development density in exposed coastal high hazard areas, requires adequate planning for development exposed to hurricane forces, and addresses mitigating future disaster potential through appropriate planning instruments and development regulations.

OBJECTIVE 80.1: DEVELOPMENT REGULATIONS. *By 1995, all development regulations will be reviewed and revised to require that the vulnerability of future development in the A-Zone (as defined by the Federal Emergency Management Agency) be reduced. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 80.1.1: *Regulations and incentives will be examined for additional setbacks in critical erosion areas, conservation and enhancement of dunes and vegetation, floodproofing of utilities, and appropriate requirements for structural wind resistance and floodplain management.*

POLICY 80.1.2: *The county will not permit new or expanded mobile home or recreational vehicle development on barrier islands or in V-Zones as defined by the Federal Emergency Management Agency. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 80.1.3: *By 1995, all new residential development of more than 50 units will be required to provide continuing information to residents concerning hurricane evacuation and shelters, through the establishment of a homeowners' or residents' association. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 80.1.4: *By 1995, all new residential development of more than 100 units will be required to formulate an emergency hurricane preparedness plan; this plan is subject to the approval of the Lee County Division of Public Safety. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 80.1.5: *By 1995, the county will prepare and adopt a flood plain management plan. The plan will analyze the flooding problem of the unincorporated areas of Lee County, inventory the flood hazard area, review possible activities to remedy identified flooding problems, select appropriate alternatives, and formulate a schedule for implementation. (Amended by Ordinance No. 92-35, 94-30, 00-22)*

POLICY 80.1.6: *Maintain the provisions of the Flood Plain Management Ordinance that interpret the 50% improvement threshold as cumulative for any improvement, modification, addition or reconstruction project to an existing building or structure identified as part of a repetitive loss property by the Federal Emergency Management Agency (FEMA). A repetitive loss property is defined as one for which two or more National Flood Insurance Program (NFIP) losses of at least \$1000.00 each have been paid since 1978. (Amended by Ordinance No. 92-35, 94-30)*

POLICY 80.1.7: *Maintain the current county development regulations requiring that any building that is improved, modified, added on to, or reconstructed by more than twenty five (25) percent of its replacement value and which has recorded 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, 03-04)*

Development Regulations: These goals, objectives and policies have been implemented successfully either through the land development code or administrative rule. The County adopted a flood plain management/hazard mitigation plan in 1999. This plan is currently being revised to meet new federal and state requirements for receiving federal and state mitigation dollars. Administrative codes have also been enacted to require new developments to address planning and public information requirements. Recent disaster history with coastal storms and stormwater flooding events suggest that these development regulations have helped reduced damages to new construction. However, current requirements for replacing mobile homes in existing parks may continue to expose property unnecessarily to storm damages, particularly in those mobile home communities where potential flood damages exceed three or more feet between ground elevation and current elevation requirements.

The plan also requires post disaster mechanisms through a post-disaster strategic plan and ordinance structure.

GOAL 81: POST-DISASTER REDEVELOPMENT. *To provide for planning and decision-making to guide redevelopment during the response and recovery period following major emergencies, such as tropical storms and hurricanes.*

OBJECTIVE 81.1: POST-DISASTER STRATEGIC PLAN. *By 1995, the county will formally establish post-disaster institutions and procedures to guide county actions following a natural or technological disaster. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 81.1.1: *The plan will maintain a Recovery Task Force to work with state and federal emergency officials, assess damage, review emergency actions, prepare a redevelopment plan, and recommend needed changes to the Strategic Plan and to this comprehensive plan. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 81.1.2: *The plan will maintain guidelines for determining priorities for the acquisition of storm-damaged property in hazard-prone areas. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 81.1.3: *The plan will establish principles for repairing, replacing, modifying, or relocating public facilities in hazard-prone areas. (Amended by Ordinance No. 00-22)*

POLICY 81.1.4: *The applicable portions of the Comprehensive Emergency Management Plan will be modified to comply with these policies, and will contain step-by-step details for post-disaster recovery operations. (Amended by Ordinance No. 00-22)*

OBJECTIVE 81.2: POST-DISASTER ORDINANCE. *Maintain an ordinance that implements (where necessary) the Post-Disaster Strategic Plan, and provides regulations that may be needed following a natural or technological disaster. By 1995, the Recovery Task Force will recommend amendments to the Post-Disaster Strategic Plan. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 81.2.1: *The ordinance will continue to provide for enactment of a temporary moratorium on rebuilding not immediately needed for the public health, safety, and welfare (e.g., to allow repairs to water, power, fire, police, and medical facilities; debris removal; stabilization or removal of structures in danger of collapsing; and minimal repairs to make dwellings habitable). (Amended by Ordinance No. 94-30, 00-22)*

POLICY 81.2.2: *The ordinance may incorporate a redevelopment plan for hazard-prone areas where such a plan would minimize repeated exposures to life-threatening situations.*

POLICY 81.2.3: *The ordinance will implement the county buildback policy (see Procedures and Administration Section). (Amended by Ordinance No. 94-30, 00-22)*

Post Disaster Redevelopment: This effort has been successfully completed with the adoption of the County's Post Disaster Ordinance (Ord. No. 95-14 and subsequent updates) and Comprehensive Emergency Management Plan. The emergency plan contains a section presenting the community's post-disaster strategic plan. Administrative codes implementing key elements of this plan have also been adopted.

CONCLUSIONS

Evacuation

Current goals, objectives and policies address population increase impacts on hurricane evacuation times, except for evacuation zones north of the Caloosahatchee River and west of I-75. Planned improvements to SR 80, SR 78, Daniels Road, U.S. 41 and Bonita Beach Road may result in a reduction of overall evacuation times when compared to current figures.

Roadway, intersection and other transportation improvements, such as intelligent transportation systems, should focus on improving evacuation times in this identified area.

Evacuation of isolated coastal areas (Fort Myers Beach, Sanibel and Captiva Islands, Pine Island and the Outer Coastal Islands) will require special plans to improve evacuation efficiency.

Out of county evacuation traffic movement policy should focus on moving traffic south and east to the Southeast Florida coastline rather than into inland areas north of Lee County.

Shelter

Current goals, objectives and policies addressing the provision of adequate shelter resources cannot keep pace with current growth rates. Options resolving the impacts created by residential development on hurricane shelter availability should be considered further in order to address the incremental impact on the hurricane preparedness program.

- Upon the evaluation of the growing hurricane shelter deficit, one or more of the following options should occur.
- Redefine the core level of service for shelter resources and/or expand zones. Currently Policy 79.2.1 of the Lee Plan requires that 21% of the population at risk in the Hurricane Vulnerability Zone under a Category 3 storm hazard will be used as the basis for shelter demand and as the target for shelter supply by the year 2010.
- Improve the availability of hurricane shelter projects. Possibilities for increasing the potential number of buildings used for shelter include the use of Greyfield projects, parking garages, and the use of new commercial developments located outside of the coastal high hazard area.
- Improve the contractor management resources currently available to monitor hurricane shelter projects.
- Increase the funding levels discussed above currently allocated to developing hurricane shelter resources.
- Update the calculations used for impacts on hurricane shelter availability. The calculations in the Land Development Code were formulated in 1990 and currently require 20 square feet of floor area per space.
- Increase the use of vertical refuge structures to house evacuees, which may require commandeering powers at the local level to implement.

Development Regulations

- Current goals, objectives and policies are adequate.

- Policy 80.1.6 should be amended given the recent language change made to Policy 80.1.7.
- Address the elevation of replacement mobile home units in existing mobile home sites where the ground elevation is more than three feet lower than the 100-year floodplain elevation requirement.

**Table 7.1
Lee County Current Hurricane Evacuation Times**

<u>HAZARD RESPONSE SCENARIO- LANDFALLING</u>	<u>ESTIMATED TIME TO EVACUATE</u>
Category 1	10.5 – 15 Hours
Category 2	13.5 – 17 Hours
Category 3	21– 25 Hours
Category 4/5	24.5 – 29 Hours
<u>HAZARD/RESPONSE SCENARIO- EXITING</u>	<u>ESTIMATED TIME TO EVACUATE</u>
Category 1	
Category 2	6 – 10 Hours
Category 3	11– 14 Hours
Category 4/5	14– 17.5 Hours
<u>HAZARD/RESPONSE SCENARIO – PARALLELLING</u>	<u>ESTIMATED TIME TO EVACUATE</u>
Category 1	9 – 14.5 Hours
Category 2	11 – 14 Hours
Category 3	18 – 21 Hours
Category 4/5	21 – 24 Hours

Source: Southwest Florida Regional Planning Council

**Table 7.2
Lee County Hurricane Shelter Deficit**

Year	Total County Population	Shelter Spaces Needed	Shelter Spaces Available	Shelter Deficit
1998	405,637	60,480	22,453	38,027
1999	417,114	62,192	27,192	35,000

2000	440,888	65,736	27,192	38,544
2001	454,918	67,828	27,192	40,636
2002	475,445	70,889	30,442	40,447
2003	492,165	73,382	31,483	41,899
				Spaces Needed
Difference in Population Between 1998 – 2003:			86,528	12,901
Shelter Spaces Added Between 1998 - 2003:			9,030	9,030
Increase to shelter deficit:				3,871

**Table 7.3
Future Hurricane Shelter Deficit and Cost**

Anticipated Costs to Correct Future Hurricane Deficit & Cost Allocation by Funding Source				
			Additional Cost to	Additional Cost to
	Base		Correct	Correct
	Year	Population	Deficit	Deficit
	2003	2008	at \$10.00 sq. ft.	at \$12.50 sq. ft.
Total Population	492,165	576,124		
Population Seeking Shelter	21%	21%		
Shelter Spaces Needed	73,382	85,900		
Available Shelter Space (current and planned)	31,483	48,283		
Shelter Deficit	41,899	37,617		
Total Shelter Deficit (Base Year + 2008)		37,617	\$7,523,418	\$9,404,272
Cost to Address Deficit - By Funding Source				
All Hazards Protection District MSTU	% of Pop			
Deficit to address based on total population	78.80%	29,642	\$5,928,453	\$7,410,566
(includes city of Cape Coral and Unincorporated Lee County)				
General Revenue				
Deficit to address based on population	21.20%	7,975	\$1,594,965	\$1,993,706
(includes all other incorporated areas)				

County Total	100.00%	37,617	\$7,523,418	\$9,404,272
Notes:				
1. Population estimates are for the entire County, including municipalities and assumes a 3.2% annual increase over the five year period.				
2. Shelter deficit values based on 71% of the population estimate and 21% of those seeking public shelter, less the current available shelter space in a Category 3 Hurricane.				
3. Planned shelter space for the year 2008 includes ten new schools, five school upgrades and the Bonita Springs YMCA facility.				
4. Cost based on square footage cost multiplied by 20 sq. ft., the standard shelter space size.				
Data Sources:				
Population Projections: US Census 2000				

Smart Growth Committee Review

- 7. Hurricane Evacuation/Shelter. This subject generated considerable discussion in the Smart Growth Forums.
 - a. Strengthening Preparedness through LeePlan policy. The recommendations were specific to evacuation routes.
 - b. Shelter versus evacuation. The Committee discussed whether shelter space ought to be a concurrency issue, or evacuation times. Neither was developed into a recommendation. However, Carrying Capacity was developed into a recommendation.

Summary

Planned improvements to SR 80, SR 78, Daniels Road, U.S. 41 and Bonita Beach Road may result in a reduction of overall evacuation times when compared to current figures. Roadway, intersection and other transportation improvements, such as intelligent transportation systems, should focus on improving evacuation times in this identified area. Evacuation of isolated coastal areas will require special plans to improve evacuation efficiency. Upon the evaluation of the growing hurricane shelter deficit, one or more of the following options should occur: a) redefine the core level of service for shelter resources and/or expand zone, b) improve the availability of hurricane shelter projects, c) improve the contractor management resources currently available to monitor hurricane shelter projects, d) increase the funding levels discussed above currently allocated to developing hurricane shelter resources, e) update the calculations used for impacts on hurricane shelter availability, f) increase the use of vertical refuge structures to house evacuees, which may require commandeering powers at the local level to implement. Policy 80.1.6 should be amended given the recent language change made to Policy 80.1.7. Address the elevation of replacement mobile home units in existing mobile home sites where the ground elevation is more than three feet lower than the 100-year floodplain elevation requirement.

MAJOR ISSUE #8: SCHOOLS

Background

The responsibility of Managing the public schools in Lee County falls to the Lee County School District and elected Lee County School Board. It is Lee County's policy to coordinate planning efforts with the School District through the sharing of data and other resources. The County also works with the school district to co-locate facilities when feasible. Goal 46 of the Lee Plan states that the County will assist the Lee County School Board with the planning, development, and siting of new schools through school location planning, cooperation and sharing of data, and policies related to land use compatibility. In August 2002, the County entered into an inter-local agreement with the School District and the 5 municipalities to better coordinate public school facilities planning and land use planning. This agreement is pursuant to Section 163.01, Section 163.3177(3)(h)2., and Section 235.193(7), F.S.

a.) School Concurrency

Since the inter-local agreement was signed by all of the affected parties on August 20, 2002, Lee County has been asked to review 12 proposed school sites. Lee County DCD/Planning staff reviewed these sites for compliance with the Lee Plan and provided comments to the School District Staff. The Lee County Board of County Commissioners has also appointed a planner from the School District to the Local Planning Agency as a non-voting member.

Recommendation: Lee County DCD/Planning staff should continue to assist the Lee County School District staff by reviewing proposed school sites for consistency with the Lee Plan. Lee County should continue to encourage participation from the school district on the Local Planning Agency.

b.) Appropriate scale of schools (community centers)

Lee County school sites are chosen by a variety of methods. Some sites are acquired through purchase negotiations and others may be acquired through a development agreement. All sites are required to meet standards imposed by the State of Florida. School locations are also guided by policies in the Lee Plan. Selected sites have been located in accordance with these policies. One Lee Plan Policy (46.3.3) encourages the acquisition of sites "large enough" to accommodate projected increases in enrollment. This policy could be interpreted to support larger school sites. While large sites may be appropriate in certain locations and circumstances, research has shown there are benefits to limiting the size of educational facilities.

Goal 46 of the Lee Plan commits the County to assist the school board in the siting and development of new schools. Policy 46.3.4 as well as the 2002 inter-local agreement with the school board demonstrates the County's desire to work with the school board in the co-location of schools and parks. One successful demonstration of this effort is the location and development of new schools at Veterans Park in Lehigh Acres.

Recommendation: During the EAR amendment cycle, initiate an amendment to the Lee Plan to evaluate the impacts of Policy 46.3.3. This evaluation should include an evaluation of the appropriate size of schools and their connection to the surrounding neighborhoods.

c.) Local Schools with sidewalk access

A review of schools in Lee County shows that the majority do have sidewalk facilities leading to the building from the surrounding neighborhoods. In addition, Policy 46.3.7 of the Lee Plan does require new residential developments to provide pedestrian and bicycle access for school children. Also, Section 10-256 (b) (2) b.2. states:

“When any portion of a proposed residential subdivision is located within one-quarter mile (as measured along the principal perimeter street) of an existing or proposed pedestrian generator such as schools, parks, playgrounds, shopping centers or employment centers, or transit facilities, the developer must construct a bikeway or pedestrian way not less than 8 feet in width within the existing road right-of-way connecting the subdivision to the pedestrian generator. This section will not require the purchase of right-of-way or easements where none exist and will only apply where the required new facility can be constructed along a collector or arterial road.”

Recommendation: Lee County should continue to support the development of sidewalks and other pedestrian/bicycle facilities to provide access to new and existing school facilities. Research noted in Major Issue 10 of this report addresses the issue of providing canopy coverage for pedestrian facilities and the cooling effects that result. Lee County should study this effect and determine if regulations should be modified to make provisions to enhance pedestrian ways to and from school sites. It should be noted that the school schedules result in children using these facilities in the “heat of the day”.

Smart Growth Committee Review

8. Schools. The Smart Growth initiative singled out the school district as a critical player in the establishment or reaffirmation of community character, as well as a special interest area for land use and transportation planning.
 - a. Concurrency. The Smart Growth Committee endorses the continuation of impact fees for school facilities, but otherwise did not take a position favoring the addition of schools to the list of concurrency issues.
 - b. Appropriate scale of schools (community centers). The Smart Growth initiative endorsed and developed recommendations for the smaller scale “neighborhood school” concept. It strongly endorsed the school becoming a broader public facility when the class day has ended, and on weekends, to the extent that additional public agencies should participate in the funding and O/M costs these enhanced activities require. **REMEDY:** Lee County BoCC and the Lee County School Board should develop a strategy for multiple use of school structures, with supplemental Lee County or other agency funding. Some of this is going on now.
 - c. Local Schools with sidewalk access. The Smart Growth initiative endorsed and developed recommendations for sidewalk access to schools, with the school board continuing the walk on school property. Recent photographic essays demonstrates that often such sidewalks on school property end

at the property line or does not extend from adjacent residential areas. Sidewalk construction is a priority of the County, but has difficulty in being practical if residential neighborhoods have no orientation for sidewalks or for access to adjacent schools (or other uses adjacent to the residential area). **REMEDY:** Continue the sidewalk program, ensuring connections to schools from residential areas are prioritized.

Summary

Upon review it is recommended that staff continue to assist School District staff by reviewing school sites for consistency with the Lee Plan and encourage participation from the district on the Local Planning Agency. During the EAR based amendment cycle an amendment should be initiated to evaluate the impacts of Policy 46.3.3. Lee County should also support the development of sidewalks and pedestrian/bicycle facilities providing access to school facilities as well as researching canopy coverage.

MAJOR ISSUE #9: WATER QUALITY, AIR QUALITY, AND NATURAL RESOURCES

Policies addressing natural resources can be found throughout the Lee Plan. In fact, the protection and management of natural resources make up a considerable portion of Lee Plan policy. Policies reinforcing the protection and management of natural resources can be found in the Community Facilities and Services, Capital Improvements, and Conservation and Coastal Management Elements of the plan, as well as in the Future Land Use Element. There are also provisions for more specific land uses such as recreational facilities in the Density Reduction/Ground water Resource (DR/GR), natural resource extraction activities, and industrial land uses. Staff recognizes that a review of the outdated references throughout these particular policies will be necessary as part of the EAR based amendment cycle.

The Lee County Division of Natural Resources has been charged with the responsibility of managing and protecting the County's surface water and groundwater resources through the implementation of several programs that address flood protection, water quality, pollution prevention and water conservation. Just recently they were awarded funds from the Charlotte Harbor National Estuary Program to implement an air quality monitoring program.

a.) Sustainable water resource use and retention

Lee County has been actively involved with water resource planning and working collaboratively with the South Florida Water Management District (SFWMD) in updating the Water Supply Plans and Minimum Flows and Levels documents to preserve this precious resource to meet current and future demands. In addition, staff is actively involved with the Comprehensive Everglades Restoration Plan (CERP) process to insure that water supply deliveries from Lake Okeechobee and other storage options address the needs of our region. The County has also designated portions of Lee County as DRGR which establishes lower density development to promote the natural infiltration capabilities of areas most suitable for aquifer recharge. This area is being reviewed to insure the latest and best available information is being used to verify or confirm this designation. Besides these major activities, Lee County promotes greater conservation of our water resources through education on low use fixtures, rain gage sensors, drought tolerant landscaping and use of the mobile irrigation lab. According to SFWMD records, Lee County has one of the lowest per capita consumption rates in the State.

b.) Environmental quality of local waterways

Lee County conducts extensive monitoring of its local waterways. Monthly grab samples are taken from most natural creeks and streams and tested for a host of pollutants including nutrients and metals. At many sites, there are over 10 years of data available. This information is uploaded to the Environmental Protection Agency's (EPA) STORET data management system. The State Department of Environmental Protection (DEP) and EPA are using this information and others to identify impaired waters. This will be used to establish Total Maximum Daily Loads or TMDLs, which are threshold limits of pollution that a waterbody can assimilate and still meet its designated use, i.e. fishing, swimming, and shellfish harvesting. An action plan is then developed to set goals and priorities on how the desired water quality can be achieved. Cleaner water will be achieved through several initiatives such as more stringent water quality regulations for new development, construction of filter marshes and other regional water quality improvements, retrofit of older development with best management practices (BMPs),

pollution prevention, National Pollutant Discharge Elimination System (NPDES) permit implementation, and increased maintenance on both public and private stormwater facilities. In addition there is considerable work being done by several agencies on defining links between water quality and the biological health of our estuaries.

c.) Flood prevention

Lee County receives over 55 inches a year of rainfall. Unfortunately most of it occurs during the summer months at an intensity that often brings flooding. Rainwater accumulates along a very flat natural terrain and moves by sheetflow to lower areas. As water progresses downstream and flows along a steeper gradient, it accumulates into creeks and streams with a more defined floodplain before entering its final outfall such as Estero Bay or the Caloosahatchee River. Typically, the carrying capacity for a creek between its banks is approximately equivalent to a 1-2 year storm event. Therefore, any larger storm must rely on flow outside the banks and within a wider flood plain.

Lee County has developed a Surface Water Management Master Plan that defines flood protection capacity for most of the County's streams, creeks and rivers. The focus of the Master Plan has been on the trunk conveyance systems and Levels of Service have been established for each with suggested improvements where necessary to bring capacity up to the 25 year- 3 day storm event. In many instances, clogged and/ or encroached waterways and undersized culverts/ bridges at crossings have been identified as the major constrictions to flood capacity. Lee County has funded capital improvements when possible to provide enhanced capacity in accordance with the Master Plan. In addition, Lee County maintains a system of canals, ditches through a dedicated Operations Division and cleans and snags natural creeks and streams when funding is available. Yet, several areas in Lee County continue to flood each summer including the North Ft Myers, Orange River and Briarcliff areas among others. The majority of flooding occurs in the older platted homesites where a stormwater system was neither designed nor constructed.

Lee County's core level of service has been focused on the trunk stormwater system and its major tributaries. Neighborhood level of flooding had been the responsibility of homeowners associations or individual homeowners if none exist. The South Florida Water Management District is the primary permitting agency for stormwater management. Facilities must be designed and constructed in accordance with regulatory standards. Maintenance of these facilities are a condition of the permit and are subject to enforcement if found out of compliance. Non-permitted facilities present the most difficult situation. However, Lee County has provided technical assistance upon response to an established Request For Action program. Lee County has also made several attempts in creating a stormwater utility to provide funding for a core level of service beyond current efforts without success.

Water Quality, Air Quality, and Natural Resources, the Future

In general, the Lee Plan's objectives and policies appear adequate in addressing the enhancement, restoration or preservation of our water quality, air quality and natural resources. Lee County plays a cooperative role with several state, federal and local agencies whom share the same mission. Of significant importance is Lee County's development of a Master Mitigation Plan (Environmental Quality Investment and Growth Mitigation Strategic Plan).

The purpose of this Master Mitigation Plan is to provide a master strategy by which critical environmental features continue to be preserved; needed growth infrastructure is provided “safe harbor” approaches for mitigation which in turn enables the budgeting process to be reliable; and degraded resources important for the public health, safety, and welfare are restored.

The County Master Mitigation Plan will, once adopted, be a component of the County’s Comprehensive Plan implementation. Implementation includes Administrative Code incorporation, capital budget direction, and land development code reform.

Lee County has recently embarked on a groundwater resource study as part of an updated analysis of the DRGR area. This will provide valuable water resource information and will further our sustainable resource goals.

In addition, Lee County has adopted Lee Plan language that incorporates the restoration and preservation of our historic flow-ways. This will have a significant positive effect on the environmental quality of our waterways. Also the monitoring effort continues to be enhanced so that our performance can be measured.

Flooding will continue to be a significant issue that affects our homes, businesses and roadways. Efforts will continue to provide an adequate trunk stormwater conveyance system as all upstream properties are dependent on its flood carrying capacity for its own efficiency. Planning will move towards analyzing localized flooding problems so that the permitting agencies and individual landowners will have a blueprint for solutions and to prevent further problems from new development. Lee County will complete a feasibility study for the possible implementation of a stormwater utility. A public focus group will be formed to provide guidance.

Smart Growth Committee Review

9. Water Quality, Air Quality and Natural Resources.
 - a. Sustainable water resource use and retention. The Smart Growth Committee recommendations promote reexamining the “Carrying Capacity” concept. The Smart Growth Initiative, in conjunction with Natural Resources and Tourism Development Council, and at the direction of the Board of County Commissioners, has been pursuing the establishment of reservations of water for the Caloosahatchee River. The BoCC, Natural Resources, and the County Attorney’s Office, has been supporting Charlotte County in its efforts to establish an EIS for water use in the Peace River basin.
 - b. Environmental quality of local waterways. In association with Natural Resources, the Smart Growth Initiative is supporting the development of the Lee Master Mitigation Plan, and supporting the Estero Bay Nutrient Partnership. Both of these are in partial response to the impaired waters designations of various rivers and bays within Lee County. The Smart Growth Initiative has recommendations in support of these activities.
 - c. Flood Prevention. The Initiative recognized the “flood problem” is in part aggravated by designing system according to storm events, and that when the storm event condition is beyond that engineered, the system fails. To that end, there are recommendations for flow way protection (don’t impede flows),

water storage restoration (don't try to drain too much), and remediation of old underdesigned system (fix misengineered problems), all of which reduce the potential of flooding. The Committee noted a problem with sludge disposal in the floodplain, since flooding discharges this material into the receiving water bodies.

Summary

In general, the Lee Plan's objectives and policies appear adequate in addressing the enhancement, restoration or preservation of our water quality, air quality and natural resources. Once adopted, the County Master Mitigation Plan will be a component of the County's Comprehensive Plan implementation.

Lee County has also recently embarked on a groundwater resource study as part of an updated analysis of the DRGR area. This study will provide valuable water resource information and will further our sustainable resource goals. Staff recognizes that a review of the outdated references throughout these particular policies will be necessary as part of the EAR based amendment cycle.

MAJOR ISSUE #10: NEW URBANISM, SMART GROWTH

BACKGROUND

During the EAR public workshops the issues of New Urbanism and Smart Growth were discussed by the citizens in attendance. Staff recorded these comments and grouped them into 2 primary areas, 10a.) Effectiveness of current Mixed Use regulations and provisions, and 10b.) Incentives for Smart Growth.

The Board of Lee County Commissioners authorized the creation of the county's Smart Growth Department and an 18-member Smart Growth Advisory Committee in October 2001. The Smart Growth Advisory Committee held its inaugural meeting April 25, 2002 to officially begin the county's Smart Growth process. The goal of Lee County's Smart Growth program is to achieve a good balance between community livability, economic viability, and environmental sensitivity. New Urbanism will further this goal by providing alternative choices in development patterns.

Introduction

In communities across the nation, there is a growing concern that current development patterns, dominated by what some call "sprawl," are no longer in the long-term interest of our cities, existing suburbs, small towns, rural communities, or wilderness areas. Though supportive of growth, communities are questioning the economic costs of abandoning infrastructure in the city, only to continue to build it elsewhere. They are questioning the social costs of the mismatch between new employment locations in the suburbs and the available work force in the city. They are questioning the wisdom of abandoning "brownfields" in older communities, consuming the open space and prime agricultural lands at the suburban fringe, and polluting the air of an entire region by driving farther to get places.

Smart growth recognizes connections between development and quality of life. In general, smart growth invests time, attention, and resources in restoring community and vitality to center cities and older suburbs. Smart growth is town-centered, is transit and pedestrian oriented, and has a greater mix of housing, commercial, and retail uses. It also preserves open space and many other environmental amenities.

New Urbanism promotes the creation of mixed use developments with an active 24/7 environment within activity nodes that are easily accessible to the local residents. This mix of uses promotes walking and reduces the reliance on the private occupancy vehicle to achieve most trips for work, daily needs, social life, and services. The New Urbanism trend goes by other names, including neo-traditional design, transit-oriented development, and traditional neighborhood development.

New Urbanism and Smart Growth share many of the same concepts. New Urbanism is a tool in helping smart growth become a reality.

Resources

Duany Plater-Zyberk & Company were the primary pioneers of New Urbanism as it is understood today. In addition to their own publications, their efforts were a catalyst for many other planners, architects, designers, and activists which produced a substantial amount of media about these topics.

Charter of the New Urbanism¹

Envisioned by six leading architects including Peter Calthorpe and Andres Duany, the Charter was adopted by the Congress of New Urbanism in 1996. The document addresses public policy in the following statement:

“We advocate the restructuring of public policy and development practices to support the following principles: neighborhoods should be diverse in use and population; communities should be designed for the pedestrian and transit as well as the car; cities and towns should be shaped by physically defined and universally accessible public spaces and community institutions; urban places should be framed by architecture and landscape design that celebrate local history, climate, ecology, and building practice.” (See the Appendix for the entire charter and principles)

The Transect

As seen in “New Urbanism: Comprehensive Report & Best Practices Guide” and many other New Urbanism resources, the Transect is a valuable tool which was crafted by Andres Duany and Elizabeth Plater-Zyberk. It is used to categorize the elements of the human environment on a scale from urban to rural based on the form of the walkable, interconnected, mixed-use, transit-supportive neighborhood. These resources can be used to evaluate the Lee Plan’s effectiveness in promoting this style of development. A comparison of existing Lee Plan Future Land Use Categories and the Transect is included within this section of the EAR.

The Transect is a system of classification that is a progressing range from rural-to-urban components. It provides the basis for a new system of zoning, one that integrates elements of the natural environment. The Transect, in a visual format, provides an alternative development pattern from the typical modernist pattern that is transportation and zoning oriented. Adopting the principles of the Transect will foster developments with diverse and creative character. Each of the Transect Categories; Rural (Reserve & Preserve), Neighborhood Edge, Neighborhood General, Center, and Core; has detailed provisions for density, thoroughfare dimensions and design, block dimensions, the design of parks, appropriate building frontages, the mix of uses, building design, parking, and other aspects of the human environment. Most of these provision are best implemented through Lee County’s Land Development Code which contains detailed requirements about the design aspects of new development. However, the Lee Plan should contain the policy guidance that directs changes to the LDC to incorporate these concepts, in addition to addressing the mix of uses and densities as it does now. The other aspects of the human environment are less tangible and can be addressed in other areas of the Lee Plan, other county policies & regulations and through community plans created by the residents they impact. The community planning process typically results in amendments to the Lee Plan and ultimately the Land Development Code.

¹ Charter of the New Urbanism, The Congress of the New Urbanism, 1998.

Key Issues in New Urbanism²

Mixed Use: A mix of shops, offices, apartments, and homes on site. Mixed-use within neighborhoods, within blocks, and within buildings.

Diversity: Neighborhoods should be diverse in use and population; people of various ages, classes, cultures, and races.

Sprawl: Low-density, land-consumptive development prevented by New Urbanism.

Neighborhoods: Mixed housing; A range of types, sizes and prices in closer proximity to schools and workplaces.

Communities: Discernable center and edge; Public space at center; Importance of quality public realm; public open space designed as civic art; Contains a range of uses and densities within 10-minute walk;

Transect planning: Highest densities at town center; progressively less dense towards the edge.

Pedestrians: Pedestrian-friendly design (buildings close to street; porches, windows & doors; tree-lined streets; on street parking; hidden parking lots; garages in rear lane; narrow, slow speed streets) encourages a greater use of bicycles, rollerblades, scooters, and walking as daily transportation.

Street Connectivity: Streets can be straight or curved but are well-connected internally within neighborhoods and are connected externally to two or more collector or arterial roads.

Transit: A network of high-quality transportation systems connecting cities, towns, and neighborhoods together.

Design: Emphasis on beauty, aesthetics, human comfort, and creating a sense of place; Special placement of civic uses and sites within community. Human scale architecture & beautiful surroundings nourish the human spirit.

Key Issues in Smart Growth³

Community Quality of Life: A framework to build community and help create and preserve sense of place done through the provision of housing and transportation choices, urban green spaces, recreational and cultural attractions, and policies and incentives that promote mixed-use neighborhoods; this can be tied into New Urbanist concepts of community and mixed-use

Design: The creation of communities that offer health, social, economic, and environmental benefits for all through the promotion of resource-efficient building and community designs, green building practices, low-impact development, and mixed-use and walkable neighborhoods, similar to those advocated by New Urbanism.

Economics: Community-based small business investment and development is encouraged, as it adds to the variety of local employment opportunities and helps attract new business and industries.

Environment: Many current environmental challenges—air and water pollution, global warming, habitat fragmentation and conversion—are due in part to the way in which neighborhoods, communities, and metropolitan areas have been built during the past half-century; this can be linked to New Urbanist concerns about containing sprawl.

² New Urbanism. www.newurbanism.org.

³ Smart Growth Network. www.smartgrowth.org.

Health: Through resource-efficient building design and offering transportation options such as mass transit, bike lanes, and pedestrian walkways, health threats from air and water pollution as well as indoor air contaminants are reduced.

Housing: Housing options for diverse lifestyles and socio-economic levels are promoted through mixed-use, affordable housing and compact development that revitalizes neighborhoods and provides an alternative to automobile-dependent communities.

Transportation: By promoting new transportation choices and transit-oriented development, public health and environmental quality are protected, energy is conserved, and quality of life improved.

Lee Plan Definitions

Clustering: A development design technique that concentrates a group of buildings or uses in specific areas to allow the remaining area to be used for open space, buffering, joint-parking, recreation, water management, or protection of environmentally sensitive areas.

This does not guarantee a reduced dependency on the Personal Occupancy Vehicle (POV).

Density: For the purpose of calculating gross residential density, the total acreage of a development includes those lands to be used for residential uses, and includes land within the development proposed to be used for streets, and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies contained within the residential development. Land for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included.

This has proven problematic for proposed mixed use buildings and has led to a segregated use pattern of development.

Future Urban Areas: Those categories on the Future Land Use Map which are designated for urban activities: Intensive Development, Central Urban, Urban Community, Suburban, Outlying Suburban, Industrial Development, Public Facilities, Airport, Airport Commerce, Industrial Interchange, General Interchange, General Commercial Interchange, Industrial Commercial, Interchange, University Village Interchange, Mixed Use Interchange, University Community, and New Community.

Intensity: A measurement of the degree of non-residential uses of land based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation, or floor area ratios.

Land Use: The development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under the adopted Comprehensive Plan or element or portion thereof, land development regulations, or a land development code, as the context may indicate.

Mixed Use: The development, in a compact urban form, of land or building or structure with two or more different but compatible uses, such as but not limited to: residential, office, industrial and technological, retail, commercial, public, entertainment, or recreation.

Open Space: Land, public or private, which may be either unoccupied or predominately unoccupied by buildings or structures, having use for parks, recreation, water management, vegetation, agriculture, conservation, protection or preservation of water resources, historic or scenic resources, green space, green belts, natural rivers and streams, forests, wetlands, beaches and dunes, wildlife habitat, preserves, sanctuaries, reserves and refuges, and air and water.

This could be improved with a definition of both urban and suburban open space.

Additional policy needs to be added to the Lee Plan to discourage open space placement where it discourages interaction between compatible uses that should be related. Clarify in a Lee Plan policy the difference between (1) buffering incompatible adjacent uses, and (2) integrating compatible or complementary adjacent uses.

Planned Development: A development that is designed and developed as a cohesive, integrated unit under single ownership or unified control which permits flexibility in building siting, mixture of housing types or land uses, clustering, common functional open space, the sharing of services, facilities, and utilities, and protection or enhancement of environmental and natural resources. A "planned development" may be for residential, commercial, industrial, or other specific purposes, or a combination thereof. The Lee County zoning regulations define the various types of "planned developments."

Urban Sprawl: The uncontrolled, premature, or untimely expansion and spreading out of urban levels of density or intensity into outlying non-urban areas.

Benefits of New Urbanism

Studies have shown that New Urbanism benefits residents, businesses, developers, and local governments:

- C **Benefits to Residents:** By combining places to live, work, and play, new urbanism communities enhance the quality of life. Through the creation of pedestrian friendly communities, a healthier lifestyle is promoted.
- C **Benefits to Businesses:** Proximity and compact development allow for less driving, making businesses more attractive to the surrounding residents, increasing the overall sales. Businesses also benefit from new urbanism design, in that it contains live-work units that can house potential employees and/or customers.
- C **Benefits to Developers:** Since new urbanism promotes higher density mixed-use projects, they are attractive to developers, providing more leasable square footage thus, more income potential. As a result of their compact nature, mixed-use projects reduce dependency on the automobile and can lower the costs of utilities.

- C **Benefits to Municipalities:** Due to the fact that less money is spent per capita on infrastructure and utilities, new urbanism communities are able to support a stable, appreciating tax base. This substantial benefit combined with those qualities listed above; give new urbanism communities a better overall image. The Research Institute for Housing America has reported that infrastructure cost savings for smart growth versus traditional growth is approximately \$1,800 per dwelling unit⁴.

Additional studies have been conducted to show the overall benefits of more compact, pedestrian-friendly living environments:

- C **Density & Transit:** An 1993 study by the Federal Transit Authority specifies that the minimum density necessary to support 30 minute bus service is 7 units per acre (UPA) and at 30 units per acre 10 minute services becomes possible. The study further states the threshold for employee based local bus service is approximately 50-60 employees per acre and developments should have floor-to-area ratios (FAR) greater than 2. Table 10.1 depicts the average units per acre (UPA) and average FAR calculated from the Planning Division’s existing land use inventory for the Future Urban Areas of Lee County. UPA has been calculated based on net residential acres, which is different than the Lee Plan calculation that is based on gross acres. This results in a higher UPA than would be assumed for Lee Plan purposes. Employee per acre information is not available for Lee County by Future Land Use Category; however, the average FAR in Lee County has been calculated from the inventory using net commercial acres. A considerable number of studies are available that recommend the densities needed to support mass transit systems.

Future Urban Area	Average	Average
Intensive Development	7.73	0.21
Central Urban	4.84	0.17
Urban Community	4.71	0.14
Suburban	4.18	0.13
Outlying Suburban	3.94	0.14
Public Facilities		0.16
Industrial Development	5.31	0.20
New Community	4.99	0.33
Interchange Areas		0.17
Airport Commerce		0.06
Airport		0.07
University Community	4.16	0.03

- C **Pedestrian Shed:** A common tenant of new urbanism developments is to create a “pedestrian shed” defined as being “From the core commercial areas and transit stop over an area that is an average of ½ mile in radius represents a 10 minute walking distance along streets”⁵ (Western Australian Planning Commission, 1998). Communities that follow this standard have more successful transit systems and more pleasant pedestrian environments.

- C **Tree Canopy:** Safety can be enhanced along pedestrian/bicycle facilities with amenities that also create a more inviting corridor such as shade trees planted between the sidewalk and the roadway. Incorporating a tree canopy along pedestrian facilities would also improve the “friendliness” of the facility. A Study conducted by NASA revealed a 30E temperature disparity between the parking lot and the “tree

⁴ Linking Vision With Capital, Research Institute for Housing America, Report No. 01-01, September 2001

⁵ Transportation Tech Sheet – Ped Sheds, Congress for the New Urbanism, May 31, 2001

island” in a Huntsville, AL mall.⁶ This issue is not addressed by Lee Plan Policies. Another element of a new urbanism project is the connection between the project and adjacent projects.

New Urbanist Projects

A compilation new urbanism projects derived from many sources including The Congress of New Urbanism (CNU) and The New Urban News, indicates there are approximately 800 projects that are classified as new urbanism in the United States. Of these, 96 are in the state of Florida, and within Lee County, there are 3 projects that have been or could be classified as new urbanism, the Downtown Cape Coral Plan (by Dover Kohl and Associates), the Fort Myers Beach Plan (by Dover Kohl, Chael Cooper, and Spikowski Planning Associates), and the Downtown Fort Myers Plan (by DPZ). There are no projects listed that are located in the unincorporated areas of Lee County. There are areas of the county that are examples of “old urbanism”. For instance, the older parts of Boca Grande; and neighborhoods surrounding Old 41 in Bonita Springs. The “old urbanism” areas in Lee County have been studied and discussed in the existing mixed use projects section of this report.

Projects included on this list are those that have been planned to incorporate the New Urbanism/Neo-traditional Planning principles. The first and one of the most noteworthy is the Seaside development in the Florida Panhandle that broke ground in 1981. Seaside has profoundly altered conventional views on streets, neighborhoods, and towns. It has stimulated the recovery of traditional American urban planning principles, and helped revive the notion of public life in community planning. The Seaside Institute, located in the Seaside development, is a non-profit organization promoting the building of community in cities and towns through design, education, and the arts. The institute offers a variety of educational and cultural programs, including forums and conferences that focus on community enhancement, the built and natural environment, in addition to urban planning and architecture.

Comments from the EAR public workshops indicated that residents are interested in seeing this type of project in Lee County. Therefore, a review of relevant Lee County regulations (from the Lee Plan and Land Development Code) has been completed to determine the extent that current policies and/or regulations have precluded new urbanism projects from becoming viable options in the unincorporated areas of the county. The review focused on how existing regulations related to the Charter of New Urbanism, the Transect, and Key Issues.

Lee Plan Future Land Use Map Categories

There are many existing Goals, Objectives, and Policies within the Lee Plan that mention “mixed use”. It is noted that mixed use does not ensure a New Urbanism development; however, it is considered a key component of New Urbanism. The Lee Plan Future Land Use Map categories have been grouped into five major headings:

1. Future Urban Areas

⁶ Dr. Jeffrey C. Luvall and Dr. Dale Quattrochi, What's hot in Huntsville and what's not: A NASA thermal remote sensing project. NASA's Global Hydrology and Climate Center, 1996.

2. Interchange Areas
3. New Community
4. Airport Areas
5. Non-Urban Areas

Although some mixed-use development can take place in all five groups of categories, the Future Urban Areas and New Community are the most suitable for mixed-use development as contemplated by the New Urbanism and Smart Growth movements.

Future Urban Areas:

Lee County Future Urban Areas are the areas where New Urbanism development should be particularly encouraged and will be given provision of public infrastructure based on criteria in the Capital Improvements Element of the Lee Plan. These Areas designate categories of varying intensities providing a full range of urban activities based upon soil conditions, historic and developing growth patterns, and existing or future availability of public facilities and services.

Future Urban Areas are classified into eight categories: Central Urban, Urban Community, Intensive Development, Suburban, Outlying Suburban, University Community, Public Facilities, and Industrial Development. While these categories do allow for a mix of uses (with the exception of Public Facilities and Industrial) none specifically require the New Urbanism style of development. Policy 1.1.2 (Intensive Development) specifically calls for “...*Planned mixed-use centers of high-density residential, commercial, limited light industrial...*” Likewise, the Central Urban and Urban Community categories allow the same uses as listed in the Intensive Development category and are differentiated by a lower maximum residential density and no specific mention of mixed-use developments. The Suburban and Outlying Suburban categories exclude industrial uses and limit commercial development to neighborhood centers; however, there is no prohibition on mixing the uses within a project. The University Community (Florida Gulf Coast University) category clearly promotes mixed use centers.

Interchange Areas:

These areas, located around 7 of the interstate interchanges in the county, are considered part of the “Future Urban Area” of Lee County. Special attention has been given to these areas to ensure the maximum beneficial use of their unique locations, aiming to minimize the conflicts between local traffic and the interstate related traffic. Objective 1.3 states that “*Each interchange area is designated for a specific primary role: General, General Commercial, Industrial Commercial, Industrial, University Village, and Mixed Use.*” The sixth category (Mixed Use) was added in January 2000 to allow residential uses in the interchange area within truly integrated mixed use developments. When the only property with the designation was re-designated to Outlying Suburban this designation was deleted from the plan in March 2002. The Lee Plan does not preclude the Interchange Areas from mixed used developments; however, there is clear intent that development in these areas should focus on vehicular traffic and uses that serve the traveling public. In addition, no new residential uses, other than ancillary caretakers units or those specified in Ch. 13 of the Lee Plan, are allowed in the interchange areas.

New Community:

Coming closest of any of the Future Land Use Map categories to matching the principles of new urbanism, New Community areas must be a large-scale multi-use master planned community that are capable of being developed with a balance of residential and non-residential uses. They are developed as freestanding economic units and will not impose negative fiscal impacts on the county. The only area with this designation in Lee County is the Gateway Development (located east of I-75 between SWFIA and Lehigh Acres) which began in 1980. The development is not considered a self-contained community and generates considerable commuter trips, though it has not demonstrated a need for bus service.

Southwest Florida International Airport Area:

The two Airport Area designations are Airport and Airport Commerce. The Airport subgroup designates the properties owned by Lee County and used for the Southwest Florida International Airport operation. Ongoing airport expansion provides a unique opportunity to expand the mix of uses to incorporate non-residential uses and further diversify the county's economy. Though mixed use developments are not precluded in these areas, their focus is on uses that enhance the airport operation.

Non-Urban Areas:

The non-urban areas of the county would be the least viable areas for new urbanism style developments due to the fact that allowable densities and intensities would inhibit many of the benefits of this style of development. Based on the Transect, these areas of the county would best fit into the "*Rural Reserve and Preserve*" tier. Of the six subgroups in the Non-Urban category, four allow a mix of uses, providing for uses that are needed to serve the rural community. Policies are neutral on the issue of mixing residential uses and commercial activities. The Rural Community Preserve, the Buckingham community, includes specific provisions for the quantity and location of commercial activities. This approach could be incorporated into other community plans and used to create community nodes that adhere to new urbanism principles.

Environmentally Critical areas include two subgroups: Wetlands and Conservation Lands Wetlands. The Density Reduction/Groundwater Resource designation does not allow commercial uses other than those existing at the time of the creation of the category. Notably, 7 of the 8 commercial uses that exist in DRGR areas are associated with another use, typically residential. The final Non-Urban category is Conservation Lands (uplands), which designates areas in public ownership used for conservation purposes. The Conservation Lands designation applies primarily to those areas that are owned by outside government agencies.

The Transect applied to Lee County

All the Lee Plan Future Land Use Map categories contain subgroups that can accommodate mixed use. A review of these designations in conjunction with the transect (matching the Lee Plan designation with a transect category) has been completed by listing the transect category and the Lee Plan designations that best fit this category:

Core	Core development promotes mixed use buildings and residential densities greater than 15 units per acre, found in a the downtown of a major city. Development patterns in Lee County have shown that no existing Lee Plan designation, given current market conditions, supports this transect category.
Center	Centers are defined as smaller downtowns or main streets with 2 to 4 story buildings and densities of 15 units per acre or higher. While this density range is higher than allowed in the standard density range of any Lee Plan designation, the other activities describe for the Center would best fit the Intensive Development and Central Urban categories.
General Edge Neighborhood	The residential density recommended for this transect category is closer to Edge Neighborhood resembles Lee Plan designations for Suburban and Outlying Suburban. However, the commercial activity allowed in the Suburban designation is greater than what is described for this transect category and the residential density in the Outlying Suburban designation is lower than prescribed by the transect.
Rural Reserve & Preserve	Non-Urban categories would correspond with this transect category, Rural, Rural Community Preserve, Outer Islands, and possibly Open Lands resemble Reserve transect. DRGR and Conservation Lands-Upland designations would more closely correspond to Preserve.
Districts	Districts are urbanized areas specialized around activities that are generally not compatible within a neighborhood; a good example would be the airport. The transect advocates that these areas benefit from transit system service. Lee Plan Designations of Airport, Public Facilities, University Community (the campus portion), Airport Commerce, and Industrial Development resemble this transect category. Airport Commerce and Industrial Development areas are included with this category since they preclude residential uses.

Mixed Use Planned Development

The Mixed Use Planned Development (MPD) is a zoning district that does not allow single use projects. It was created to implement the Lee Plan Policies under Goal 4, Objective 4.1 and specifically Policies 4.1.3 through 4.1.6 as written in 1991. The criteria for a MPD are:

- 1) All mixed use planned developments must meet or exceed at least two of the following thresholds:
 - A residential or mobile home development of 150 or more dwelling units.
 - A commercial development or activity which is either located on a parcel of five or more acres or which may include 50,000 square feet or more of floor area.
 - An industrial development or activity which is located on a parcel of five or more acres or which may include 50,000 square feet or more of floor area.

- A community facility development of five or more acres.

2) Mixed use developments containing residential uses should be designed to capture within the development a substantial percentage of the vehicular trips that are projected to be generated by those uses at the project's buildout.

3) The master concept plan for a mixed use development must clearly indicate the land area to be used for each of the qualifying thresholds, as well as the uses proposed within each of the designated areas.

To meet the criteria for consideration as an MPD projects must contain two of the uses listed under number 1 above. These criteria do not require the allowed uses to be interrelated or ensure that the projects will create the pedestrian oriented atmosphere expected in a new urbanism project. It is noted that creating this atmosphere was not the stated goal when the MPD district was developed.

Effectiveness of MPD Zoning Districts

The planning division inventory of the 750± planned developments shows 26 MPD projects and 54 planned development projects that are a combination of 2 of the other planned development districts (ie, RPD/CPD, CPD/IPD).

The approval of an MPD project does not require the different uses be constructed concurrently. This has resulted in portions of the MPDs to be completed and the site for the second use remaining vacant. There is also no requirement that interconnections between the uses are provided. The requirements of the district state that the design “should” capture trips but this is not an absolute requirement of the district.

Without a required interconnection between the uses, a residential/commercial MPD project may resemble an RPD/CPD project. In fact, the district regulations do require that the master concept plan clearly indicate the areas and uses that qualify this as an MPD.

The MPD process does not eliminate the requirement for buffers between uses. If appropriate, a deviation from the buffer requirement may be granted to reduce or vary from the existing standards. The buffering of uses in a mixed-use project does not promote pedestrian access within or between projects; however, the modification of buffers to address the pedestrian connectivity is not commonly included in the MPD approval.

A more common deviation was found to be the elimination of the “street stub” requirement. A street stub is supposed to be provided to allow access between existing or future projects and improve traffic and pedestrian circulation between adjoining uses. When such circulation is provided, fewer vehicular trips must use the overburdened arterial network.

A site check of a sample of substantially completed MPDs revealed that the trend for these projects was to include gated residential areas without a direct interconnection between the uses that would reduce the automobile usage or would allow adjoining uses to function complementary to each other. Thus the primary purpose of

“mixed-use development” tends to be absent even in projects for which the MPD category was specifically chosen. Sidewalks are generally provided within the development areas, but strong connections of those facilities to the external sidewalk/bike path facilities are, paradoxically, almost totally absent. Provisions for a Lee Tran stop are generally present; however, neither pedestrian connections nor bike racks are available at these stops. Without pedestrian or bicycle facilities connecting transit stops to actual destinations, public transit will never be a viable alternative to the private vehicle.

Since the MPD district is viewed as the best alternative for promoting the new urbanism pattern of development, these deficiencies should be addressed and a mechanism to correct past omissions should be investigated. To encourage more developments of this nature, incentives should be built into to this process. Two key incentives that were offered from the development community are the speed of the approval process and the increased density of projects.

To speed the process, the applicant would have to agree on more specific lists of uses that interrelate and meet the intent of the district. The Lee Plan and the LDC would need to be amended to specifically address the uses and scale of uses that would be appropriate for the new urbanism/mixed-use. For example, the type and amount of commercial should be related to the residential uses. With the additional specificity, staff and the public could have a higher “comfort level” for the quality of the built project.

An amendment to the Lee Plan and LDC could also address the incentive for higher densities. The issue of density calculations for mixed use buildings would need to be resolved through these amendments. Based on past reviews, this would also reduce the review process time. The increased density incentive would need to be tightly related to a number of key benefits for the community as a whole. Such issues could include relationships to the transit system, creating neighborhood enhancements, pedestrian scale and friendliness, and a reduction on the demand for built infrastructure.

Mixed Use Parcels in Lee County

Lee County Planning Division has completed an evaluation of parcels of land containing multiple uses. Seventy-four parcels have been identified as mixed-use. Since development in the Town of Fort Myers Beach and the City of Bonita Springs was regulated by Lee County’s comprehensive plan, zoning regulations, and development ordinance standards prior to the city’s incorporation, they were included in this evaluation. The typical mixed-use parcel is a combination of residential, retail, and/or office uses in multiple buildings located throughout the county and not isolated to any particular future land use category(s). However, four significant cluster areas have been identified: Boca Grande, Palm Beach Boulevard (near the Fort Myers City Limits), San Carlos Boulevard (near Fort Myers Beach), and Business 41 (N. Tamiami Trail in North Fort Myers). These areas consist of some of the oldest developments (structures) in the county. Characteristics of mixed use parcels:

- Sixty-eight of the mixed-use parcels in Lee County were developed prior to the adoption of the Lee Plan in 1984.
- With a median year built of 1963, the majority of the structures on mixed-use parcels predate most land development ordinances.

- No mixed-use parcels are located in a Planned Development
- Five mixed-use parcels occur within the non-urban Future Land Use Categories of Rural, Rural Community Preserve, and Density Reduction/Ground Water Retention.
- Thirty-five of the mixed-use parcels occur within one-quarter mile of at least one other mixed-use parcel. The balance of these parcels occurs in isolation.
- Sixteen of the seventy-four mixed-use parcels do not have any sidewalks within one-quarter mile.
- A total of twenty mixed-use parcels have no access to a bus route.

Mixed Use Parcels in Lee County

Table 10.2

Planning	Mixed Use	Mixed-use in	Multiple
Iona/McGregor	15	8	7
North Fort Myers	11	1	10
Fort Myers	10	3	7
Bonita Springs	8	3	5
Boca Grande	7	3	4
Pine Island	4	1	3
South Fort Myers	4	2	2
Alva	3	0	3
Fort Myers	3	1	2
Daniels Parkway	2	0	2
Fort Myers*	2	1	1
Lehigh Acres	2	1	1
Buckingham	1	0	1
San Carlos	1	0	1
Southeast Lee	1	0	1
Bayshore	0	0	0
Burnt Store	0	0	0
Cape Coral*	0	0	0
Captiva	0	0	0
Estero	0	0	0
Gateway/Airport	0	0	0
Sanibel*	0	0	0

*Note: Lee County does not track data for the Cities of Cape Coral, Fort Myers, and Sanibel. There are areas in these

The four clusters of mixed-use parcels are located in the Iona/McGregor, Fort Myers Shores, North Fort Myers, and Boca Grande planning communities. The Bonita Springs planning community has a large number of mixed-use parcels scattered along various roads (Bonita Beach Rd, US 41, and Old US 41) and are not clustered in any one singular area.

The Boca Grande, Palm Beach Boulevard, San Carlos Boulevard, and Business 41 cluster areas contain twenty-two of the seventy-four mixed use parcels in the county. The four clusters are located in Future Land Use Map Categories that allow higher residential densities.

Mixed Use Cluster Areas in Lee County

Table 10.3

Cluster Areas	Planning Community	FLUC	Average Year Built
Palm Beach	Fort Myers Shores	Intensive Development	1955
Boca Grande	Boca Grande	Urban Community	1944
San Carlos Blvd	Iona/McGregor	Industrial Development, Urban Community	1959
Business 41	North Fort Myers	Intensive Development,	1960

The Boca Grande cluster is in the “downtown” area of the Gasparilla Island Historic District and not located along a major arterial highway. This creates a more pedestrian-friendly atmosphere than the other three clusters that are located along state highways. The Palm Beach Blvd, San Carlos Blvd, and N Business 41 clusters also have connections to LeeTran service and a sufficient inventory of sidewalks. They are, however, developed in a fairly spread-out suburban design that would not be classified as new urbanism. A final characteristic is that none of the mixed-use parcels built after 1984 are located within these defined cluster areas.

An additional review of uses within Traffic Analysis Zones (TAZ) was initiated to identify which areas of the county currently have a fair mix of uses already existing. The TAZ geography was chosen based on availability of data, average size of zones, and the fact that these zones are bordered by and not dissected by major road features that would inhibit pedestrian crossings. The selection criteria included having some residential uses, some commercial and/or industrial uses, and it was considered favorably if the TAZ contained some public uses. Commercial uses were preferred over industrial uses if both did not exist and a TAZ was not considered to have mixed uses if there were only residential and public uses existing. Also, a mix of commercial and industrial uses were not considered to meet the purpose of this review. From approximately 770 zones, 52 were identified as having some degree of a mix of uses meeting the criteria above. This number does not reflect any areas within the cities of Fort Myers, Cape Coral, or Sanibel since the county does not maintain an existing land use inventory for these areas. These 52 TAZ’s have been grouped into 10 areas based on adjacency and have been expanded to include additional TAZ’s in order to create logical boundaries for more analysis. This study needs to be completed to determine which of these areas could truly be considered a good interactive mix of uses that does or could promote pedestrian and bicycle transportation.

10a.) Effectiveness of current Mixed Use regulations and provisions

1. EAR Workshop Concerns

- C Mixing uses to provide more convenient access to work and school
- C Increasing density in the urban core while protecting rural lands
- C Improving transportation networks for bike, pedestrian, and transit access; focus on transit-oriented development

Recommendation: During the EAR Amendment cycle, initiate an amendment to promote developments that will enhance pedestrian and transit accessibility at scales and densities that make these modes of transportation feasible. Complete the TAZ study of mixed use areas in Lee County to determine what tools could be established to foster more mixed use development in areas where this development pattern currently exists.

2. Current Effective Regulations and Provisions

- C Mixed-use developments are promoted by Goal 4 of the Future Land Use Element. In 1991, Objective 4.1 was amended to promote the creation of mixed-use developments, including direction to establish a variety of TND zoning districts. Other Future Land Use Element goals and their subsequent objectives and policies discuss site designs encouraging creative sites with mixed uses to reduce the impact on collector and arterial roads.
- C Goal 19, which is specific to the Estero Community, has recommended that the Land Development Code be made to promote more mixed-use developments, specifically along “Corkscrew Road” (Estero Blvd).
- C The Economic Element of the Lee Plan encourages mixed-use developments stating that a broad mix of flexible densities and development types will be responsive to the needs of Lee County residents by providing a mix of housing types, sizes, and costs and result in a reduction of substandard housing units.
- C Policies in the Economic Element of the Lee Plan encourage diverse cultural facilities and a diverse mix of housing types, sizes, prices, and rents. One strategy specified to implement this policy is to maintain mixed-use land use categories in the Future Land Use Element.
- C The University Community goal advocates a pedestrian network, as one of the alternative modes of transportation and project designs and must link related land uses through the use of an alternative mode of transportation to reduce the automobile traffic.
- C Estero Community goal is followed by policies that encourage pedestrian interconnections between commercial.
- C The Transportation sub-element includes policies that demonstrate Lee County’s commitment to maintaining a mass-transit system. Other policies in the plan promote the location of higher density residential projects near transit service and introduce the idea that higher density developments benefit the transit system.

The Lee Plan does not specify the desired minimum density required to support public transportation

- C Sec. 10-441. Applicability of division (Except as provided in section 10-443), all proposed developments which are wholly or partially within one-half mile of a public transit route, as shown in the mass transit element of the Lee Plan, and which meet or exceed one of the thresholds set forth in this division, shall

be required to provide public transit facilities as set out in this division. Sec 10-442 and 10-443 map out the criteria for developments and the exemptions.

Recommendation: During the EAR Amendment cycle, initiate an amendment that will modify/ add polices to strengthen the effectiveness of the existing regulations that promote mixed-use developments and neighborhoods.

3. Missing/Deleted Components

- C The original Lee Plan language included Policies 4.1.3 through 4.1.6 that directed amendments to the LDC to create 2 conventional zoning categories (“Planned Village” and “Traditional Neighborhood”) for mixed-use projects and to reduce other obstacles to mixed-use projects. The Lee Plan was to be amended to incorporate the findings of a study on incentive to encourage mixed-use projects. These four policies were deleted during the 1994 EAR process. The analysis included in the 1994 EAR lists the reasons for deletion as that the policy had been implemented or was not feasible to implement as prescribed in the existing language. Since the 1994 EAR was adopted, a considerable amount of research has been completed that indicates that small mixed-use projects are desirable and should be encouraged especially as infill developments.
- C The Mixed-Use Interchange category, added in 2000 then deleted in 2002, did not require developments to be new urbanism but it did call for developments to be mixed-use with required interconnections between the residential and non-residential components. It also allowed for residential densities to be calculated on the total land area and inclusion of non-residential uses in the same building, which did not reduce the allowed number of units.
- C There is no incentive regarding the commercial uses or the uses in the neighborhood centers relating to the neighborhood where they will be locating. While it may be the county’s desire to encourage this form of development, current Lee Plan policies have not proven successful in accomplishing this goal. The policies do not ensure that the commercial uses are related to the surrounding residential neighborhoods. Therefore, providing alternative incentives that encourage this form of neighborhood development should be explored.
- C The Lee Plan makes provisions for “Neighborhood Commercial” and “Minor Commercial” areas, the concept of establishing commercial areas within neighborhoods and in new urbanism fashion is not discussed.
- C The Mixed-Use Interchange category, now non-existent, did not require for residential and non-residential uses to be related to each other or at compatible scales and intensities.
- C The Land Development Code regulations primarily address the design regarding pedestrian connections along major arterials and collectors and not within the actual development. Policies in the transportation element emphasize the need to provide connections between residential, school, recreation, shopping, and work areas but there is no consideration given to making these connections a pleasant experience for the pedestrian/cyclist.

Recommendation: During the EAR Amendment cycle, initiate an amendment, supported by ongoing research, to add policies to the Lee Plan similar to those deleted in the previous EAR. The amendment should address the strengths and weaknesses of existing and previous mixed regulations. Consideration should also be given

to prior regulations and evaluate the weaknesses in those regulations. The new policies should incorporate appropriate incentives for developers while assuring that the benefits from new urbanism projects are realized. The benefits that should be stressed should include but not be limited those listed above. Given the interest in this topic, there is an ongoing release of findings from new research which should be incorporated in the proposed amendment. For example, the June 2004 issue of New Urban News devoted a major portion of the issue to street connectivity.

Recommendation: During the EAR Amendment cycle, initiate an amendment, to clarify definitions that relate to new urbanism. The definition of density should be amended to allow for the calculation of allowable units to include all upland acreage within a qualifying mixed use/new urbanism project. A distinction between the definition for “neighborhood commercial” which is applied to site location standards and commercial that is appropriate with a neighborhood needs to be included in the Lee Plan. The current definition for mixed use should be amended to include the concept mixing uses vertically in the same building and horizontally within a pedestrian shed (compatible uses that encourage enhance pedestrian traffic). The definition of open space should be expanded to address appropriate urban and suburban open space issues. A definition of “Pedestrian Shed” should be added to the Glossary of the Lee Plan.

Recommendation: During the EAR Amendment cycle, initiate and amendment to study the impacts of open space on pedestrian oriented developments. The study should include the impacts of providing canopy coverage and other “comfort” features withing the pedestrian pathways of these projects.

4. Issues that Need to be Addressed

- C Lee Plan policies that require buffers have been implemented through the buffering requirements included in Chapter 10 of the Land Development Code. While deviations from these standards are allowable through the planned development process, there are no stated policies guiding the use of buffers within mixed-use projects where interconnections are desirable.
- C The Lee Plan makes provisions for a mixture of uses in the Future Land Use categories; however, the frequent references to buffers have not encouraged the neighborhood structure described above or that would be anticipated in a new urbanism community. Given the typical schedule of uses approved for planned developments (LDC Ch. 34), nearly all planned developments may “potentially” include uses that conflict with neighboring developments. While buffers may enhance the urban area, especially where uses are conflicting, they also should be designed to maintain connectivity between the uses and reduce the dependence on the personal vehicle.
- C Policy 2.6.2 lists the protection of residential neighborhoods as one of the components of redevelopment activities. “Protection” is consistently interpreted as buffering.
- C Policy 5.1.5 states that existing and future residential uses will be protected from the encroachment of “potentially” incompatible uses.
- C The current Lee Plan policies focus on the protection and preservation of existing and future neighborhoods, primarily the single use residential neighborhoods.

- C The conclusion drawn from the review of Lee Plan policies that address neighborhoods is that in an effort to “protect” the residential neighborhood. The Lee Plan may inadvertently preclude the creation of vibrant mixed-use neighborhoods
- C The county places emphasis on establishing pedestrian/bicycle facilities adjacent to the major vehicular corridors that puts the pedestrian next to four or more lanes of traffic.

Recommendation: During the EAR amendment cycle, initiate an amendment to revise or add policies to address buffering and open space within and between mixed-use projects. This amendment should determine the feasibility of promoting shared open space between projects, placing open space in locations that will enhance the non-vehicular modes of transportation.

Recommendation: During the EAR process, add policies to the Future Land Use Element to provide incentives for projects that include schedules of uses that are inherently compatible by nature due to (but not limited to) the activities size, scale, orientation, and design. The incentives should be given to projects that clearly demonstrate a certain level of self-sufficiency. As a guide, a list of uses considered potentially compatible if limited to an appropriate scale should be created and added to the appendix of the Lee Plan.

10b.) Incentives for Smart Growth

1. EAR Workshop Concerns

- C Development should be concentrated where public facilities and infrastructure already exist
- C Every attempt should be made to conserve environmentally sensitive land and provide open space in new developments
- C Green development practices should be further explored and utilized

2. Current Effective Regulations and Provisions

- C As explained in Goal 1, the Lee Plan notes that sprawl should be prevented in favor of more cost-effective patterns of development. Incorporating policies and regulations that bring new urbanism projects to Lee County would also further this goal.
- C The Lee Plan recognizes that all areas are not appropriate for intense commercial centers and limits the size of commercial developments in the Suburban and lower density categories. In these areas of the county, commercial development is limited to neighborhood centers defined as less than 100,000 square feet in size on less than 10 acres of land. Additionally, single use projects greater than 5 acres are not considered neighborhood commercial. The non-urban categories allow for non-residential uses that support the rural community. These policies indicate the county’s goal to efficiently locate uses that are compatible in scale. However, as defined in the Lee Plan, “neighborhood commercial” and “minor commercial” do not guarantee developments that are compatible within neighborhoods. The level of commercial described may require a service area much larger than the immediate neighborhoods to support the operation
- C The Lee Plan promotes pedestrian activity within a project and also providing facilities along road

corridors that link these projects.

- C The Lee Plan has always promoted pedestrian movement within developments. Goal 4 “Development and Design – General” promotes the efficient and safe the flow of vehicles and pedestrians on the internal street system.
- C Policy 4.1.2 states “*Development designs will be evaluated to ensure that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development.*” The Land Development Code regulations primarily address the design regarding pedestrian connections along major arterials and collectors
- C Objective 2.1 states “Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.

3. Missing/Deleted Components

- C Lee Plan does not require that the pedestrian facilities within a project be linked to the facilities built along the road corridors nor are there any policies that require the facilities address the safety of the pedestrian/cyclist.

4. Issues that Need to be Addressed

- C Open space, The LDC classifies open space as common or private and requires all lots in a planned development to include at a minimum of 10% open space. This requirement may be infeasible if the goal of the project is to create a vibrant mixed-use “downtown” project where parcels/buildings are individually owned. The new urbanism principles would embrace the common open space idea especially within non-residential developments. It is noted that deviations from these requirements may be approved during the rezoning process.

Recommendation: During the EAR amendment cycle, initiate and amendment to address non-residential uses that, at the correct scale, support a residential neighborhood and can be considered appropriate to locate within a neighborhood with reduced buffering requirements.

Recommendation: During the EAR amendment cycle, initiate and amendment to amend Goal 4 and its subsequent objectives and policies to promote the development of an efficient and inviting pedestrian/bicycle network within and between projects. A goal of these networks should be to promote vibrant mixed use neighborhoods within a 5 to 10 minute pedestrian shed. Links to other modes of transportation should be included, however, connections between projects should not be limited to facilities located along major collectors and arterial roadways.

Recommendation: During the EAR amendment cycle, initiate an amendment to the Lee Plan that will add language to direct changes to the LDC regarding the placement of open space to allow more flexibility in lot coverage within mixed-use developments (not to be confused with a mixed-use planned development).

Amended language should specify the intent is to promote greater connectivity and interaction between supporting land uses and to create a more pleasing walkable urban form. This amendment should not allow a reduction of street tree canopy coverage.

Smart Growth Committee Review

10. New Urbanism, Smart Growth. The Smart Growth Initiative Committee concluded the development of its initial set of recommendations in a presentation to the Lee County Board of County Commissioners at its Management and Planning Meeting on December 1st. (To be an appendix to the EAR. These recommendations are supported by workshop workbooks and the minutes of the workshops and preparatory and successive meetings). The Initiative Committee is currently working on a set of targeted implementation strategies (commonly in conjunction with other County departments) for those recommendations that have existing policy support. These include the Lehigh Acres population growth assessment, the Lee County Master Mitigation Plan, the Groundwater Resource Assessment, the Babcock Ranch acquisition, and various regional watershed initiatives with major focus on the Caloosahatchee River quantity and quality flow. The Initiative is also focusing on assisting the Department of Community Development in the various Community Planning initiatives, which are strongly endorsed by Committee recommendations.

a. Effectiveness of current Mixed Use Regulations and provisions. The current regulations are ineffective. This is in part because we (all of us) do not encourage neighboring disparate parcels to try to integrate uses, so there is little experience in getting uses within a developing site to integrate. When the “speed of the approval” is the driving force, the simpler mono-cultural approach is preferred by the private sector. Redevelopment and infill proposals may give the opportunity to assess where regulations are unnecessarily inhibiting mixed uses. Similarly, the increasingly recognized critical imbalance of land uses in Lehigh Acres may provide impetus to get more mixes of uses out of remaining unplatted parcels. REMEDY: Develop a “beta test” project to assess how current regulations help or hinder mixed use development.

b. Incentives for Smart Growth. These are discussed but not really articulated. More attention has been given to finance options. Two examples of incentives for redevelopment have been given—public funding of parcel access improvements (funding through traffic safety dollars) and public funding of stormwater remediation/drainage issues (due to impaired water designations of receiving water bodies). Support for continued funding of Community Plans and some discussion of administrative support for standing Community Planning Organizations (that meet basic criteria) has been voiced. Numerous recommendations identify the concept of incentives, but details would come from implementation proposals. REMEDY: Develop or assess a “beta test” to examine whether and which types of incentives are appropriate for new development and for redevelopment and for infill.

Incentives for diversified economy. The Smart Growth Initiative Committee recommends more attention be given to the existing economy, since there has not been a strategy proposed, or a desire voices, for an economic base “shift.” The Smart Growth Initiative supports the continuation of the

tourism and retirement bases of the current economy, and strongly recommends all base shift proposals, whether deliberate or accidental (such as neglect of critical tourism and retirement economic infrastructure) be publicly evaluated. With the “Baby Boomers” being the next wave of retirement, and the information age providing these “Boomers” (with all their discretionary wealth) an opportunity to relocate anywhere they feel meets their needs, the Lee County economy depends upon successful competition for tourism and retirement to be its economic base for the foreseeable future. This includes from the land use recommendations the occupation of vacant housing as much as new construction, and reuse of commercial areas. Regarding the Community Character recommendations, this explains the attention given to health care and the “active community” health initiative. Regarding the Transportation recommendations, the concerns for the economic stability explains the attention to non-POV alternatives. Regarding the Water and Environmental recommendations, the concerns for economic stability explain the attention given to the diversity of environmental resources that support outdoor recreation and background environmental conditions. Most incentives were believed to be needed to promote the stability of our current economy, and remediation of problems relating to that. The Tourism Development Council has focused additional resources in 2004 on stabilizing and remediation of problems affecting tourism. REMEDY: Undertake a strategic assessment of our continued ability to compete and meet tourism and retirement economic (and social) needs.

Summary

The following issues regarding New Urbanism and Smart Growth need to be addressed: (1) the LDC does not provide specific guidelines for the use of buffers within mixed use developments; Lee Plan needs to address the potential conflict of buffers used within mixed use developments. (2) Lee Plan focuses primarily on the preservation and protection of the single family neighborhood while neglecting the exploration of more mixed use/New Urbanism developments (3) the pedestrian and bicycle standards set forth by the Lee Plan are not necessarily in the best interest of those traveling by foot or bike, giving preference to the automobile and often putting others in unsafe conditions, and (4) open space standards in the Lee Plan limit density and the potential for vibrant mixed use downtown environments; the Plan fails to distinguish between urban and rural open spaces. The Smart Growth Initiative Committee is currently working on a set of targeted implementation strategies for those recommendations that have existing policy support. These include the Lehigh Acres population growth assessment, the Lee County Master Mitigation Plan, the Groundwater Resource Assessment, the Babcock Ranch acquisition, and various regional watershed initiatives with major focus on the Caloosahatchee River quantity and quality flow.

MAJOR ISSUE #11: OPEN SPACE, PRESERVE & PARKS

a. Interconnected Open Space/Parks/Public Facilities

Goal 60 is the directly relevant section of the Lee Plan. Specifically, Lee Plan Policies 60.1.2 through 60.1.4 directly state intent to interconnect parks in Lee County.

***POLICY 60.1.2:** Parks will be linked to bike paths and other parks where feasible. (Amended by Ordinance No. 00-22)*

***POLICY 60.1.3:** The feasibility of converting canal, railroad, and power line easements and rights-of-way into linear parks will be explored by county staff. (Amended by Ordinance No. 00-22)*

***POLICY 60.1.4:** The feasibility of initiating a county Greenways system linking parks, open spaces, linear parks, bike paths, and natural streams and sloughs will be explored by county staff. (Amended by Ordinance No. 00-22)*

Lee County DOT has instituted a Bike/Pedestrian path program to create paths within the county vehicular Rights of Way. This program was created in November 1989 by Lee County Resolution 89-11-50 and amended by Lee County Resolution 00-06-11 in June 2000. The program consists of an eleven member advisory committee whose duties are intended to promote the use of bicycle and pedestrian paths. One of these duties is to review and update the Bikeways/Walkways Facilities Plan. This plan was adopted into the Lee Plan as Map 3D, Unincorporated Bikeways/Walkways Facilities Plan. This program is funded by impact fees and a portion of the county gas tax.

In addition, the Lee County Land Development Code section 10-256 requires that new development help create the bike and pedestrian trails depicted in the Bikeways/Walkways Facilities Plan. This is required of any new development that fronts along a roadway that is scheduled by the plan to receive new bike or walking paths. This is reinforced by Administrative Code AC-11-9, which requires that local development orders must provide bicycle and pedestrian facilities consistent with the Lee County Land Development Code. This can be accomplished either by the developers constructing the facilities themselves or by a payment in lieu of construction.

Lee County Parks and Recreation is currently creating a linear park within the right of way of Ten-Mile Canal. At its greatest extent, this park would start north of the intersection of Ten-Mile Canal and Colonial Boulevard and extend south to Mullock creek. The park is still in the planning and design stage. Public input has been received by the Parks and Recreation department and still being considered in the planning and design of the park.

The Parks and Recreation department has also created a preliminary Greenways map showing efforts to create interconnections between the various public parks throughout Lee County. The Ten-Mile Canal Park will be the backbone of this Greenways system. Like the Ten-Mile Canal Park, the Greenways program is still in the

planning and design phase.

In addition to land parks, Lee County Parks & Recreation has created a kayak and canoe trail called the Great Calusa Blueway. The first phase of this trail connects Bowditch Point on Fort Myers Beach to Bonita Beach in Bonita Springs. It travels through several creeks and rivers along its route. The second phase of the trail will extend from Bunche Beach to the northern boundary of Lee County. The trail has numerous accesses and avoids marked powerboat channels.

b.) Conservation 2020 lands (impacts to tax base, distribution County-wide)

This topic emerged from the community meeting in North Fort Myers. A few residents expressed concern that the County is “targeting” the North Fort Myers area for purchasing of lands for the Conservation 20/20 program. Their concern was that this was stifling development in the North Fort Myers area and adversely impacting the local tax base. By increasing the value of their property, they were concerned that their land taxes would also increase.

The Conservation 20/20 program does not use a quota system or other arbitrary methodology to determine which nominated parcels of land to acquire. Nor does the program attempt to distribute acquisitions based on a predetermined spatial pattern. The program is open to willing sellers only, so the County does not determine the location of the proposed acquisitions, willing sellers do. Staff notes that land purchased through this program in the North Fort Myers Planning Community is not used to mitigate private development anywhere in the County.

Properties are nominated by willing sellers to be purchased by Conservation 2020. Conservation 2020 does not take properties through eminent domain. Nominated properties are initially evaluated with seven criteria which are: documented environmentally sensitive lands, water resource value, contiguity to other preserve areas, ease of access and management, development potential, sale price below market value and matching funds from an outside source. CLASAC must approve four of these seven criteria for the nominated property to move on to secondary review.

During the secondary review, County staff and CLASAC members inspect the nominated property and evaluate it by assigning points in a more detailed matrix of the seven initial criteria. If the nominated property has enough points compared to other nominated properties, CLASAC recommends to the BoCC pursue for acquisition. Once the BoCC has approved CLASAC's recommendation, County staff negotiates the purchase with the willing seller of the nominated property. Once the County staff have agreed to a purchase price with the willing seller, the BoCC approves the contract for sale.

Conservation 2020 has purchased seven properties with a total of 3,665 acres in the North Fort Myers planning community. Two large properties were purchased in North Fort Myers planning community, Prairie Pines Preserve and Caloosahatchee Creeks Preserve, that total over 3,000 acres. These two properties were ranked highly by CLASAC because of their size, wildlife habitat, significance for water resources and sales price.

As noted previously, several North Fort Myers citizens expressed a concern that increased property values will result in overly burdensome taxation on existing lots. This concern has been partially addressed since 1993 by the Save Our Homes Amendment. Article VII, Section 4(c) of the Florida Constitution provides:

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

The amendment became effective in 1993 and was first used on January 1st 1995. Since then, official homesteads have increased in assessed value no more than 3% annually. Note that this amendment only applies to lots with a homestead exemption. Other properties are still assessed normally.

Origin of the Conservation 20/20 program

A group of citizens, concerned about the rapid loss of environmentally sensitive lands to development, successfully lobbied to include a straw ballot referendum on the November 1996 election ballot. That referendum asked voters whether or not they were willing to increase their property taxes by ½ mil (50 cents per 1,000 property valuation) to buy, improve, and manage conservation lands critical to water supply, flood protection, wildlife habitat, and passive recreation. The referendum passed by a majority in every precinct. The referendum was non-binding, however. The BOCC established a land acquisition program to fulfill the voter's directives. That program has become known as "Conservation 20/20", a name coined by the citizen group that pushed for the program to reflect their vision of the future. It is important to note that the BOCC mandated the program would only pursue properties with willing sellers and that the BOCC's power of eminent domain would not be used. The continuation of the program is annually evaluated by the BOCC.

The Conservation 20/20 Program objective is to put into the public domain private lands that provide the following public benefits:

- C Sustain native plant and animal populations;
- C Help protect people and property from flooding;
- C Help replenish our underground drinking water supply;
- C Help to improve or sustain the water quality of our coastal bays, inlets, and sounds;
- C Provide eco-tourism opportunities; and
- C Provide local environmentally-oriented recreational and educational opportunities

The Conservation 20/20 program is reflected in Lee Plan Policy 77.1.1 (4.c):

Policy 77.1.1(4.c) Beginning in 1997, the County will adopt and implement a program to acquire and manage lands critical to water supply, flood protection, wildlife habitat, and passive recreation. The program will be funded by an ad valorem tax of up to 0.50 (1/2) mil annually for a period not to exceed seven years. A fifteen member advisory group to be called the Conservation Lands Acquisition and Stewardship Advisory Committee (CLASAC) will develop and implement the program. Ten percent of the funds will be used to manage the lands acquired.

When a parcel of land is acquired, it does not automatically become designated conservation land in the Lee Plan. This occurs when the Future Land Use Map is amended to include the subject property in the Conservation Lands category listed under Lee Plan Policy 1.4.6. There is currently 71,464.9 acres designated as Conservation Lands on the Future Land Use Map.

Since 1998, the Conservation 20/20 program has acquired 55 properties that total 11,220 acres. Whenever the CLASAC committee deems it appropriate, purchased lands are proposed to be included in the Conservation Lands future land use category. Since the program's inception, there have been three Lee Plan amendments that redesignated newly acquired lands from their former Future Land Use category to the Conservation Lands category: CPA2000-09, CPA2001-15 and CPA2002-08.

The plan doesn't actually mention Conservation 20/20 by name. It does mention CLASAC, the citizen advisory committee appointed by the Board of County Commissioners to make recommendations on which properties to pursue for acquisition and on stewardship of acquired properties under the Conservation 20/20 program. The Lee Plan does have various policies with the intent of land preservation and conservation through acquisition. These are:

Policy 74.1.2 The County will continue to support the preservation of environmentally sensitive areas in the coastal planning area by land acquisition. (Amended by Ordinance No. 94-30, 00-22)

Policy 77.2.8 Promote the long-term maintenance of natural systems through such instruments as conservation easements, transfer of development rights, restrictive zoning, and public acquisition (Amended by Ordinance No 94-30)

Policy 77.4.2. Conserve critical habitat of rare and endangered plant and animal species through development review, regulation, incentives, and acquisition.

Policy 77.11.2 Encourage state land acquisition programs to include known panther and black bear corridors. The corridor boundaries will include wetlands, upland buffers, and nearby vegetative communities which are particularly beneficial to the Florida Panther and Black Bear (such as high palmetto and oak hammocks). (Amended by Ordinance No 94-30, 00-22)

Policy 77.11.6 In any vegetative restoration projects conducted by Lee County for land acquired due

to its environmental sensitivity (such as Six Mile Cypress Stand and the Flint Pen Strand), plant lists will include species that provide forage for the prey of the Florida panther and forage for the black bear. (Amended by Ordinance No. 00-22)

Policy 87.1.8 *The County will support the acquisition and protection of the Flint Pen Strand as a major water retention and aquifer recharge area. (Amended by Ordinance No. 94-30, 00-22)*

c.) Gated Open Space vs. Public Open Space

Many of the new residential communities in the County are being developed as “gated communities.” The open space and recreational facilities of these communities are limited to the residences and their guests. At one of the EAR workshops someone questioned what affect this had on “public open space.” Open space has two basic components, the open space associated with a particular development, and the open space provided by regional parks, community parks and conservation areas. The first type of open space is intended to provide sufficient light, air, undeveloped land, and natural features to address the impacts of the developed area. In addition to these open lands, the projects provide a contribution, through park impact fees, to provide public open spaces. Therefore, the open space provided by gated or open communities satisfy the intended purpose of the County’s open space requirements.

d.) Regulations regarding native and non-native species:

Lee Plan Objective 77.2 sets the County policy that Lee County will maintain and routinely update an inventory of natural plant communities and will protect at various suitable locations remnant tracts of important and representative natural plant communities within Lee County. Policies under this Objective direct the county to maintain regulations requiring the preservation of native plant communities, incorporating native plants into development, controlling invasive exotic plants, and protection of mangrove systems.

Regulations have been adopted into the LDC which address the preservation of native plant communities, landscaping with native plants, prohibiting the planting of certain invasive species for LDC required landscaping, and requiring the removal of five invasive exotic species from development sites. These regulations have resulted in the preservation of a variety of native plant communities throughout the developed portions of the county. Additionally, the landscaping standards require 75% native trees and 50% native shrubs. These requirements have expanded peoples knowledge of southwest Florida plants and ecosystems while reducing the amount of irrigation and fertilizer needed to maintain the landscaping in good health. The removal of invasive exotic species has enhanced the quality of the native plant community preserves, and reduced the seed source of these noxious plants. The Lee Plan Policy that directs the adequate protection of mangrove systems has allowed county staff to evaluate the appropriateness of proposed developments within these coastal mangrove systems thus increasing the protection of mangroves.

e.) Beach preservation as a natural resource and public facility:

Beaches in Lee County and the State of Florida represent a valuable natural resource as well as a unique public facility. Beaches provide the economic engine of tourism, habitat for wildlife, and a nearly continuous linear park. Given the benefits provided by our beaches, it is important that a regulatory and management strategy be in place to protect and preserve this resource.

Approximately one third of the beaches in Lee County are classified as critically eroded by the Florida Department of Environmental Protection. This designation implies that the beach has eroded to a point where valuable resources are at risk. This can include the loss of recreational opportunities, loss of storm damage protection, or loss of habitat such as forage areas for migrating shore birds and nesting beaches for sea turtles. As critical erosion areas are identified, feasibility studies are undertaken to determine what if anything can be done to address the situation. Projects are implemented where economically justified and environmentally and technically possible.

The status of the shoreline is monitored regularly to evaluate changes in erosion trends. As new data become available, it is important to update the management strategy, particularly as it relates to restoration or renourishment projects. Some of the existing language in the Lee Plan should be updated to reflect the best available data.

Currently the Lee Plan contains several Goals, Objectives, and Policies relating to coastal beaches. Policies are found within the Future Land Use, Parks Recreation and Open Space, Conservation and Coastal Management, and Economic elements of the plan. The following is a list of those policies specifically related to beaches.

Future Land Use Element

POLICY 13.1.4: *Lee County will continue to support the effort of the Captiva Erosion Prevention District, a beach and shore preservation authority under provisions of Chapter 161, Florida Statutes, to preserve, protect and maintain Captiva's beaches using environmentally responsible methods. (Added by Ordinance No. 03-01).*

Parks, Recreation, and Open Space

GOAL 57: MAINTAINED WATER ACCESSES. *To improve access to public beaches and other bodies of water.*

OBJECTIVE 57.1: WATER ACCESS STANDARD-ACQUISITION. *The county will maintain its current inventory of water accesses and will acquire additional water accesses whenever and wherever economically feasible ("non-regulatory" desired future level of service, see Policy 70.1.4). (Amended by Ordinance No. 94-30, 00-22)*

POLICY 57.1.1: *The county will continue to pursue grants and other initiatives such as the "Save Our Coast" program as funding sources for additional water accesses. (Amended by Ordinance No. 94-30, 00-22)*

OBJECTIVE 57.2: WATER ACCESS STANDARD-DEVELOPMENT. *Lee County will retain the current inventory of water accesses and develop and/or redevelop at least 3 water accesses per year*

("non-regulatory" minimum acceptable level of service, see Policy 70.1.3). (Amended by Ordinance No. 94-30, 00-22)

POLICY 57.2.1: *The development of each water access will be evaluated on an individual basis in order to provide the correct level of development for each site. Development of water accesses will vary from simple signage on some to parking areas, beach crossovers, and dune restoration on others.*

POLICY 57.2.2: *Lee County will provide parking at all water accesses where such development is appropriate and feasible. (Amended by Ordinance No. 00-22)*

OBJECTIVE 57.3: INVENTORY OF WATER ACCESSES. *Lee County will continue to research and maintain available data to determine if there are any additional publicly owned water access which could be added to the current inventories. This research will include the Gulf of Mexico frontage as well as the back bays. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 57.3.1: *Lee County will reclaim any water accesses which are legally county owned property. This reclamation process will include removing any encroachments that have been placed in the access. (Amended by Ordinance No. 94-30, 00-22)*

Conservation and Coastal Management Element

GOAL 83: COASTAL PLANNING AREAS. *To conserve, maintain, and enhance the natural balance of ecological functions in the coastal planning area, with particular emphasis on the protection of beach and dune systems so as to retain their contribution to storm protection, natural resources, and economic development. (Amended by Ordinance No. 94-30)*

POLICY 83.1.5: *Lee County will protect and conserve the following environmentally sensitive coastal areas: wetlands, estuaries, mangrove stands, undeveloped barrier islands, beach and dune systems, aquatic preserves and wildlife refuges, undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities, and marine grass beds. (Amended by Ordinance No. 00-22)*

OBJECTIVE 83.2: SHORELINE STABILIZING SYSTEMS. *Lee County will continue to encourage the construction of environmentally compatible shoreline stabilizing systems where stabilizing systems are needed. (Amended by Ordinance No. 00-22)*

POLICY 83.2.1: *Construction of environmentally compatible shoreline stabilizing systems will be allowed along the active gulf beach where necessary for the protection of shorelines from erosion. (Amended by Ordinance No. 00-22)*

OBJECTIVE 83.3: BEACH AND DUNE SYSTEMS. *Lee County will continue to implement a beach preservation and management plan through the Lee County Coastal Advisory Council or successor agency. (Amended by Ordinance No. 98-09)*

POLICY 83.3.1: *The Division of Natural Resources Management, or successor agency, will be responsible for the beach and dune management program. This program will include:*

1. *Preparing beach and dune management plans, with priority to the critical erosion areas:
 - a. *south-central and southern portion of Gasparilla Island.*
 - b. *northern North Captiva Island.*
 - c. *all of Captiva Island.*
 - d. *north end of Bonita Beach.**
2. *Coordinating with the Captiva Erosion Prevention District in preparing beach and dune management plans for Captiva Island and northern Sanibel Island.*
3. *Collecting information on available sources of beach-quality sand for renourishment, concentrating on areas which will have minimal impacts on the county's fisheries.*
4. *Preparing renourishment plans for eroding areas where public facilities and access exist, including central-south Gasparilla Island, south end of Captiva Island, and northwest and central-south Estero Island.*
5. *Recommending regulations and policies to restrict hardened coastal engineering structures such as groin fields and seawalls, protect eroding coastal areas and sand dunes, and discourage development of undeveloped coastal barriers.*
6. *Maintaining a central clearinghouse for information on beach and dune studies and recommendations by both public and private organizations.*
7. *Educating citizens and developers about the costs and benefits of alternative beach and dune conservation approaches.*
8. *Preparing a sand preservation plan that emphasizes the importance of maintaining beach quality sand within the littoral system and discourages ocean dumping of usable sand from channel dredging.*
9. *Lee County will continue to participate in the Federal Shore Project as the local sponsor and will coordinate beach renourishment activities for the Estero Island segment with the Town of Fort Myers Beach. (Amended by Ordinance No. 94-30, 98-09, 00-22)*

POLICY 83.3.2: *The costs of beach renourishment programs will be borne by the beneficiaries of those programs. Funding mechanisms for the renourishment may include but are not limited to the use of parks impact fees, public metered parking proceeds, tourist development taxes, Municipal Service Benefit Units (MSBUs), and beachfront property assessments, as long as the title to accreted lands*

remains public. (Amended by Ordinance No. 94-30, 98-09, 00-22)

POLICY 83.3.3: *The county will support the renourishment of beaches through the use of environmentally responsible methods. (Amended by Ordinance No. 98-09, 00-22)*

OBJECTIVE 94.1: DREDGE SPOIL DISPOSAL. *The county will continue to participate with other responsible agencies in the location and placement of spoil material. (Amended by Ordinance No. 98-09)*

POLICY 94.1.1: *The county will coordinate with the U.S. Army Corps of Engineers on the location and placement of spoil material that result from maintenance dredging activities with use of this material for beach renourishment where needed and financially feasible. (Amended by Ordinance No. 98-09)*

Economic Element

POLICY 110.1.8: *Lee County will ensure a continued commitment of a portion of the Tourist Development Tax to be used for beach and shore-related improvements such as restoration and erosion control, renourishment, future beach acquisition, fishing piers, and beach access points, beach parking facilities, and maintenance. (Amended by Ordinance No. 00-22)*

Conclusion

The Conservation and Coastal Management Element as amended is effective and appropriate. Beginning for fiscal year 1998-1999, the County has compiled a master list of all projects in publicly accessible beach areas that have been designated as critically eroded. Each project has been evaluated over a ten-year period including estimated schedules and costs for budget purposes. Each viable project is in some phase of implementation (design, permitting, or construction). County staff as well as the Coastal Advisory Committee reviews the projects. Permitting coordination with the Florida Department of Environmental Protection, US Fish and Wildlife Service, and the Army Corps of Engineers ensures that projects are technically feasible, economically justified, and environmentally sound. All channel dredging projects in or adjacent to inlets over the last ten years have placed all beach compatible sand in the littoral system.

Staff has concluded that the policies contained in the Lee Plan adequately address beach preservation as a natural resource and public facility. Staff recommends amending the Lee Plan by updating the listed critical erosion areas currently under beach and dune management plans in order to update the Lee Plan with the latest available information.

f.) Success of Efforts to Create Wildlife Corridors

The Land Development Code requires fifty percent of required open space for new developments to be provided as existing indigenous plant communities or native tree preserves when the complete plant community is not present. Incentives have been established to provide large, contiguous preserves by giving 110% to 160% credit based on size, width and location of a preserve. Incentives of 10% credit are given to have a preserve abut an off-site preserve or natural waterway. For example, a 20 acre preserve with a minimum width of 150 feet abutting an off-site preserve or natural waterway would be credited as 32 acres toward the required indigenous preservation area. Also, through the planned development review process staff may negotiate, or

when appropriate condition, the location of an indigenous preserve to provide connectivity to off-site preserves or insure preserves wider than the minimum 25-foot wide required natural waterway buffer. This results in larger, contiguous natural areas that are intended to perform as wildlife corridors. Additionally, there is a 150% credit incentive to preserve habitat occupied by Lee County listed species which helps to protect wildlife impacted by development.

Lee County's Conservation 20/20 conservation land acquisition program has added some 11,000 acres of preserved land within Lee County. The criteria established for ranking the appropriateness of acquiring a piece of property includes points for being adjacent to an existing preserve, and points for having endangered or threatened species present. These criteria help to provide larger, contiguous wildlife habitat areas throughout the county.

The Office of Smart Growth, the Departments of Public Works, Transportation and Community Development have been working with a number of other departments and agencies to develop a mitigation plan for future anticipated Capital Improvement Program project impacts to wildlife habitat and wetlands. The mitigation plan is meant to develop a more predictable way of off-setting unavoidable impacts. With the help of the Estero Bay Agency on Bay Management and Southwest Florida Regional Planning council, there has been a mapping effort to locate the best areas for mitigation. These areas provide the best areas for connecting existing preserves and natural waterways.

g.) Park/Preserve Level of Service

Issue: Improve maintenance of existing public parks.

At some of the public scoping meetings held throughout the County, members of the public expressed a desire to see improved maintenance of the county's parks and public spaces.

The Lee County Parks and Recreation department currently bears the responsibility for maintaining the County's park system. Many projects are done through the Capital Improvement Plan (CIP). This includes non-routine activities such as resurfacing ball courts or building repairs. Funding for these projects comes through the Parks and Recreation Departments dedicated Capital Improvement Fund. The CIP is updated every year and adopted into the Lee Plan as tables 3 and 4. Goal 62 in the Parks, Recreation, and Open Space element of the Lee Plan outlines the capital improvement measures the County takes to maintain the public park system.

GOAL 62: CAPITAL PLANNING. *To plan, budget, and fund a comprehensive park system that properly meets the needs for the future of Lee County.*

OBJECTIVE 62.1: *To plan, budget, and fund a comprehensive park system that properly meets the needs for the future of Lee County.*

POLICY 62.1.1: *The adopted Capital Improvements Program reflects the*

distribution of park facilities throughout the unincorporated county. The use of community park impact fee districts provides a mechanism to distribute facilities based on population, travel patterns, and existing facilities. (Amended by Ordinance No. 94-30)

POLICY 62.1.2: *The Capital Improvements Program will identify how park impact fees, other earmarked capital funds, and all general funds are to be used for capital projects.*

POLICY 62.1.3: *Land development will be required to bear a proportionate cost of the provision of new or expanded parks required by such development. Park impact fees are the most equitable means of capturing these costs. Lee County will therefore require impact fees for regional and community parks. (Amended by Ordinance No. 00-22)*

POLICY 62.1.4: *The county will periodically review the parks impact fee ordinance and park impact fee districts to determine if changes are warranted. Such review will include an analysis of land/development costs, administrative costs/changes, and population/ development pattern changes. (Amended by Ordinance No. 94-30, 00-22)*

One example of Parks and Receptions efforts is the current push to rehabilitate Lakes Regional Park. This rehabilitation includes removal of invasive exotics as well as renovation of existing park structures.

Routine maintenance such as mowing grass on ball fields or cleaning park buildings is funded through the Parks and Recreation departments regular operating budget. The revenue for the operating budget comes from Municipal Service Taxing Units (MSTU) for community facilities while the regional and unique park facilities receive money from the County general fund.

The Lee County Parks and Recreation Department currently addresses the maintenance needs of Lee County satisfactorily. With the current budget, Parks and Recreation expect no problems addressing the maintenance needs of Lee County in the foreseeable future. Any specific maintenance problems that the public may have can and should be handled through the Parks and Recreation Department rather than the Lee Plan.

Smart Growth Committee Review

11. Open Space, Preserves, and Parks.
 - a. Interconnected open space/parks/public facilities. The Smart Growth Initiative recommendations endorse the greenway, blueway, and trail initiative. The Lee Master Mitigation Plan maps some of the parcels needed for interconnection.
 - b. Conservation 20/20. The Smart Growth Initiative endorses the continuation of Conservation 20/20.

The Initiative endorses Conservation 20/20 considering the Lee Mitigation Plan maps as one area for review for acquisition or sale from willing sellers.

c. Gated Open Space. No comment made by the Initiative.

d. Regulations regarding native and non-native species. The Smart Growth Initiative recommendations promotes the removal of harmful exotics. The Multispecies Recovery Plan of Everglades Restoration calls for similar eradication, and there are two separate efforts, addressing exotic plants and wildlife, that can be accessed through www.sfrestore.org. See 1d above for remedy.

e. Beach Preservation. No direct comment made by the Initiative, other than protection of economic base resources (which include beaches).

f. Success of efforts to create wildlife corridors. The CREW lands continue to expand, in part through Southern CREW expansion, let by the SFWMD, some through Conservation 20/20 purchases, some through the strategic location of private mitigation banks, and some through purchases through the CREW Trust itself. (Written as immediate past Chair, CREW Trust). The Babcock acquisition effort has as one reason the expansion of wildlife corridors.

Park/Preserve LOS. No comment by the Initiative.

Summary

Regarding beach preservation as a natural resource, staff has concluded that this topic is adequately addressed by the policies contained in the Lee Plan. Staff recommends amending the Lee Plan by updating the listed critical erosion areas currently under beach and dune management plans in order to update the Lee Plan with the latest available information.

MAJOR ISSUE #12: DESIGN, DENSITY, COMMUNITY VALUES

a.) Current Density Allocation vs. County's long-term Development Goals

b.) Current Design Regulations vs. County's Long-term Development Goals

These issues are best addressed by the EAR in its entirety. These issues are also being addressed in a variety of other forums as well, such as through the Smart Growth Initiative and other ongoing studies.

c.) Affordable housing

As Lee County continues to grow, the population and demand for affordable housing also increases. Lee County will be contracting with a consultant to prepare an update of the Lee County Housing Needs Assessment. Additional Goals, Objectives and Policies may be added to the Housing Element of the Lee Plan in response to the issues raised by the Needs Assessment.

The County also convened an Ad Hoc Affordable Housing Incentives Committee, which prepared a list of recommendations to increase homeownership; the document prepared is dated February 2, 2002. Lee County commissioned a study "The Public Costs of Inadequate Affordable Housing in Lee County, Florida" by Deborah Halliday dated September 2002. Consideration will be given to updating the Housing Element as to whether to include any issues raised by these documents that are not being addressed in the Housing Element of the Lee Plan.

Lee County has started a Smart Growth initiative. The Housing Element will be updated to encourage the implementation of affordable housing programs in a manner compatible with Smart Growth.

Through its State Housing Initiatives Partnership (SHIP) program Lee County is encouraging affordable housing providers to use the principles of Universal Design in their plans in order to provide barrier free housing. Lee County's Housing Element will reflect these efforts and encourage their continuing implementation.

The county will explore the possibility of developing an ongoing program to acquire tax delinquent parcels for the construction or rehabilitation of affordable housing.

The county will explore the feasibility of instituting linkage fees or other fees to finance the construction of affordable housing.

d.) Current sign regulations including billboards

Two general comments regarding signs were received at the EAR public workshops. 1. The county should evaluate current sign laws and change laws to more intensively regulate signs; and 2. The County should limit billboards.

The Lee Plan does not address the regulation of signs and billboards. Signs and billboards are regulated by Chapter 30 of the county's Land Development Code. The Lee Plan could contain language directing staff to reevaluate the county's sign regulations, but that would not necessarily be required for the county to do so. Chapter 30 of the Land Development Code could be amended either by privately initiated efforts or by

direction from the Board of County Commissioners, for example.

Three community planning efforts have resulted in Lee Plan policies that the Board of County Commissioners have adopted that address signs. Those policies pertain to Caloosahatchee Shores, Greater Pine Island and Estero and are listed below along with a discussion of the county's progress in implementing those policies.

Caloosahatchee Shores

***NOTE:** The Caloosahatchee Shores amendment was adopted as Goal 13 of the Lee Plan. Subsequent to the adoption hearing the Captiva amendment was assigned Goal 13. The Caloosahatchee Shores amendment will be renumbered when the Lee Plan is next codified.

POLICY 13.1.1: *By the end of 2004, the Caloosahatchee Shores community will draft and submit regulations for Lee County to review and consider for amendment or adoption as Land Development Code regulations that provide for enhanced landscaping, signage and architectural standards consistent with the Community Vision.*

The Caloosahatchee Shores community is working on amendments to the Land Development Code that have been identified in the Lee Plan as a result of their community planning efforts.

Pine Island

The Board of County Commissioners has also adopted Policy 14.4.4 for the Greater Pine Island Community. That policy is listed below.

POLICY 14.4.4: *The county will expand its current sign regulations to include specific standards for Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These standards would reduce the size of ground-mounted signs, discourage or disallow internally lit box signs, allow wall signs on buildings near the right-of-way, and allow small directional signs on Stringfellow Road for businesses not visible from the road.*

The Pine Island community has submitted recommendations for Land Development Code revisions to the county. Those recommendations include changes to Chapter 30, Lighting and to several other issues identified in Lee Plan Goal 14: Greater Pine Island. County staff is reviewing those recommended changes.

Estero

Policy 19.1.1 pertaining to the Estero Community reads as follows:

POLICY 19.1.1: *By the end of 2002, the Estero Community will draft and submit regulations or policies for Lee County to review, amend or establish as Land Development Code regulations that provide for enhanced landscaping along roadway corridors, greater buffering, shading of parking areas, signage and lighting consistent with the Community Vision, and architectural standards. (Added by Ordinance No. 01-05)*

The Estero Community has submitted and The Board of County Commissioners has adopted Land Development Code regulations that address all of the issues identified in Policy 19.1.1. Further, the Estero community has submitted additional Land Development Code revisions to the county. Those additional revisions are being reviewed by staff at this time.

The county could consider a Lee Plan policy that directs staff to reevaluate the effectiveness of chapter 30 and to determine if revisions are necessary. At this time; however, consideration of Lee Plan policies relating to signage are being evaluated through community based planning efforts. No attempt has been made by communities that have worked on community plans to further restrict billboards.

e.) Golf Courses/Environmental Impacts vs. Economy

A concern was raised at a EAR workshop that the proliferation of Golf Courses in the County was “destroy the natural environment and instal artificial ones.” Golf course development runs the gamut from intensely managed courses with few natural areas outside of the turf managed area to courses designed with the natural environment utilizing best management practices. The courses clearly have direct and secondary impacts to the local economy. The evaluation and appraisal process is ill equipped to analyze the economic impact of these courses. Staff has been making every effort to assure that golf course development is consistent with known best management practices.

f.) Parking regulations

Two comments regarding parking were received at the EAR public workshops. 1. The county should amend the parking regulations to require vehicular connections between adjacent commercial parking lots and to require safe pedestrian connections to commercial buildings from adjacent parking lots. 2. The County should amend the parking regulations to allow more grass parking in lieu of pavement.

Parking regulations are primarily located in Chapter 34 of the Lee County Land Development Code with additional regulation located in Chapter 10. The Lee Plan has several policies that address, but do not directly regulate parking requirements. Two policies that address comment #1 listed above are Policy 6.1.3 and Policy 6.1.12.

POLICY 6.1.3: Commercial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as commercial planned developments designed to arrange uses in an integrated and cohesive unit in order to:

- C provide visual harmony and screening;*
- C reduce dependence on the automobile;*
- C promote pedestrian movement within the development;*
- C utilize joint parking, access and loading facilities;*
- C avoid negative impacts on surrounding land uses and traffic circulation;*
- C protect natural resources; and*
- C provide necessary services and facilities where they are inadequate to serve the proposed use.*

(Amended by Ordinance No. 94-30, 00-22)

POLICY 6.1.12: *Encourage the upgrading or revitalization of deteriorating commercial areas (consistent with approved CRA plans, where applicable), but prohibit the expansion or replacement of commercial uses which are inappropriately located or that have an adverse impact on surrounding residential and non-residential uses. Such revitalization includes, but is not limited to: store-front renewal, sign control, and the provision of common parking areas and consolidated access. (Amended by Ordinance No. 94-30)*

Through the community planning process, two communities have submitted and the Board of County Commissioners have adopted policies pertaining to parking requirements that are specific to their respective areas. Those two communities are Estero and Caloosahatchee Shores.

GOAL 19: ESTERO.

POLICY 19.2.6: *Lee County encourages commercial developments within the Estero Planning Community to provide interconnect opportunities with adjacent commercial uses in order to minimize access points onto primary road corridors; and residential developments to provide interconnect opportunities with commercial areas, including but not limited to bike paths and pedestrian access ways. (Added by Ordinance No. 02-05)*

Lee County is in the process of reviewing proposed Land Development Code revisions specific to the Estero Community. Included in that proposed revision to the LDC is the following language that would implement Policy 19.2.6:

Interconnects. Adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic. All adjacent parking lots must connect. Interconnects between parking lots are not intended to satisfy the criteria for site location standards as outlined in Policy 6.1.2(5) of the Lee Plan.

***NOTE:** The Caloosahatchee Shores amendment was adopted as Goal 13 of the Lee Plan. Subsequent to the adoption hearing the Captiva amendment was assigned Goal 13. The Caloosahatchee Shores amendment will be renumbered when the Lee Plan is next codified.

GOAL 13: CALOOSAHATCHEE SHORES.

POLICY 13.2.4: *Commercial developments within the Caloosahatchee Shores Community must provide interconnect opportunities with adjacent commercial uses in order to minimize access points onto primary road corridors; and residential developments should provide interconnect opportunities with commercial areas, including but not limited to bike paths, pedestrian access ways and equestrian trails.*

Lee County may consider a county-wide parking lot interconnect requirement in the Land Development Code should the Estero and Caloosahatchee Shores policies listed above prove successful.

Pedestrian access to commercial buildings is addressed in Chapter 34 and Chapter 10 of the Land Development Code as follows:

Sec.34-2015(2)e. In any parking lot where more than one tier of parking spaces will be developed, a pedestrian system must be provided which accommodates safe and convenient pedestrian movement.

Sec. 10-610(d) Pedestrian walkways.

- (1) *Pedestrian access standards. Pedestrian ways, linkages or paths internal to the project must be designed and constructed to provide access between parking areas and building entry(s) and from the building entry(s) to surrounding streets, external sidewalks, and out parcels. The pedestrian ways, linkages or paths must provide a safe access through the project from external sidewalk facilities or bus stops to the building entry. The building area must be equipped with bike storage facilities (i.e., bike racks).*

If external sidewalk facilities are identified on the official bikeways/walkways facilities plan, but are not in existence at the time of development, then the project must construct the internal pedestrian ways, linkages or paths up to the property line, and external sidewalks consistent with section 10-256. Use of the pedestrian ways/linkages or paths as open space is subject to the limitations set forth in section 10-415(d)(2)d.

At the discretion of the director of development services, pedestrian ways, linkages or paths provided internal to the development that provide separate ingress/egress for pedestrian and bicycle traffic, may qualify for a reduction in the parking space requirement set forth in section 34-2020. Reductions (credit) may be granted as follows:

*0 to 1,000 sq. feet of path - no credit
1,001 to 2,000 sq. feet = one space
2,001 to 3,000 sq. feet = two spaces
3,001 to 4,000 sq. feet = three spaces
4,001 or more sq. feet = four spaces maximum.*

- (2) *Pedestrian ways may be incorporated within a required landscape perimeter buffer in compliance with section 10-416(d)(4) Note (11). Shared pedestrian walkways are encouraged between adjacent commercial projects.*

(Ord. No. 98-28, § 2, 12-8-98; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 03-16, § 3, 6-24-03)

In response to comment #2 regarding amending the parking regulations to allow more grass parking in lieu of pavement, the county currently allows grass parking for low turnover uses and for churches. Occasional overflow parking is also allowed on grass surfaces. It is not anticipated that the county will amend its regulations to allow parking on grass surfaces for higher turnover uses.

g.) Increased Impervious Surface

Lee County is a rapidly developing urban center. Changes in land use from undeveloped open lands to an urban form necessarily bring an increase in impervious surfaces. In large part, the County relies on the rules and permitting requirements of the South Florida Water Management District (SFWMD). The SFWMD protects the supply and the quality of water resources through the issuance of Environmental Resource Permits (ERP). An ERP covers activities such as dredging and filling in wetlands, constructing flood protection facilities, providing stormwater containment and treatment, site grading, and other activities affecting state waters. A Lee County Development Order will not be issued without proof that a proposed development has an approved ERP.

In addition to the ERP permitting requirements, recent amendments to the Lee Plan strive to protect and preserve green infrastructure. Objective 40.5 and its subsequent policies are reproduced below:

OBJECTIVE 40.5: INCORPORATION OF GREEN INFRASTRUCTURE INTO THE SURFACE WATER MANAGEMENT SYSTEM. *The long-term benefits of incorporating green infrastructure as part of the surface water management system include improved water quality, improved air quality, improved water recharge/infiltration, water storage, wildlife habitat, recreational opportunities, and visual relief within the urban environment. (Added by Ordinance No. 03-06).*

POLICY 40.5.1: *The County encourages new developments to design their surface water management systems to incorporate best management practices including, but not limited to, filtration marshes, grassed swales planted with native vegetation, retention/detention lakes with enlarged littoral zones, preserved or restored wetlands, and meandering flow-ways. (Added by Ordinance No. 03-06)*

POLICY 40.5.2: *The County encourages new developments to design their surface water management system to incorporate existing wetland systems. (Added by Ordinance No. 03-06)*

POLICY 40.5.3: *The County encourages the preservation of existing natural flow-ways and the restoration of historic natural flow-ways. (Added by Ordinance No. 03-06)*

POLICY 40.5.4: *The County will continue to identify and map flow-ways as part of the Lee County Surface Water Management Plan. The Plan provides a general depiction of watersheds and their trunk and major tributaries and has been expanded to some degree in the DRGR area. As new information is assembled, the Plan will be updated for public use. Due to its magnitude and need for site specific information, not all flow-ways will be shown. (Added by Ordinance No. 03-06)*

POLICY 40.5.5: *The County will continue to coordinate the review of flow-ways with the other regulatory agencies and assist in the development of incentives and /or credits for implementation of regional surface water management systems that address flood protection, water quality/ environmental enhancement and water conservation. (Added by Ordinance No. 03-06)*

Taken together these permitting and planning requirements help to ensure that the urbanization of the County's lands, and the subsequent increases in impervious surface, does not harm water quality and quantity.

h.) Policy Regarding Development Approvals that are Vacant, Outdated and Incompatible

During the public workshops a concern was expressed that was directed to developments with approvals extending back several years. The concern, at that time centered on several Developments of Regional Impact (DRI's) that were approved in the early 1980's and not under constructed until the late 1990's or even the early 2000's. A workshop participant questioned if such an old approval was still relevant. These developments had gone through the normal DRI approval process and some had extended buildout dates via the Notices of Proposed Change process.

This issue has been addressed in the Land Development Code. Section 34-381 states that a Planned Development Master Concept Plans become vacated if a development order for a substantial portion of the project are not approved within five years of the date of the approval of the Planned Development. When a Master Concept plan is vacated, the vacated area of that plan will remain zoned planned development, but no additional development can occur or be approved until a new master concept plan is approved, the original master concept plan is reinstated; or the property is rezoned by the Board of County Commissioners.

i.) Water Dependent Uses and Boating Regulations

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Summary

As Lee County continues to grow, the population and demand for affordable housing also increases. Lee County will be contracting with a consultant to prepare an update of the Lee County Housing Needs Assessment. Additional Goals, Objectives and Policies may be added to the Housing Element of the Lee Plan in response to the issues raised by the Needs Assessment. Consideration will also be given to updating the Housing Element based on issues raised by the Ad Hoc Affordable Housing Incentives Committee and the study titled "*The Public Costs of Inadequate Affordable Housing in Lee County, Florida.*" The county will explore the possibility of a program to acquire tax delinquent parcels for affordable housing and the feasibility of instituting linkage fees or other fees to finance the construction of affordable housing. Regarding sign regulation, the county will consider a Lee Plan policy that directs staff to reevaluate the effectiveness of chapter 30 and to determine if revisions are necessary.

OTHER FUTURE LAND USE ELEMENT ISSUES

Revised Planning Horizon

Planning staff recognizes a need to amend the Lee Plan to change the planning horizon of the plan from the year 2020 to 2030. Lee County is required to have a metropolitan Planning Organization by federal law. Federal law also requires that the MPO maintain at least a 20 year planning horizon. Given the difficulties in doing major plan updates, staff is recommending a planning horizon adjust of 10 additional years versus moving the horizon to the year 2025. Planning staff recommends that the Lee Plan be amended to move the planning horizon from the year 2020 to 2030.

Revised Population Projections

The Lee Plan's current population projections were adopted on June 3, 1998. The Florida Statutes (163.3191(2)(a)) require local jurisdictions to discuss changes in population since the plan was adopted or last amended.

Included in the previous EAR Addendum Amendments, Planning staff conducted a review of adopted population projections from the Evaluation and Appraisal Report (EAR) against the annual population estimates from the Bureau of Economic and Business Research's (BEBR) for the years since the previous EAR projection was adopted. This review showed that the EAR population projections were exceeding the annual population estimates. The EAR projections were completed in 1993 and included population projections for every half decade. By 1995 these projections were exceeding the annual BEBR estimate by more than 10%. Planning Staffs review also showed that the EAR projections were between 25% and 35% higher than the BEBR projections by the year 2020.

The estimates done by staff in the spring of 1997, which included four more years of historical data, showed that Lee County's population growth projections were more closely following the BEBR "Mid-Range" population projections. The BEBR "Mid-Range" projections are also being used by other agencies and by other County divisions to develop long range plans. Most notable would be the MPO's use of these numbers for the update of the 2020 Transportation Plan. Therefore, the Division of Planning based the re-evaluation of the Year 2020 Overlay on the BEBR Mid-Range population projections. As stated previously, these projections were adopted by the Board of County Commissioners on June 3, 1998.

Since the Board of County Commissioners adoption of the population projections, BEBR has issued revised population projections annually. The latest projections were issued by BEBR in February 2004. These latest projection are significantly higher than the adopted projections. For example the adopted projection for the year 2005 is 467,300, while the February 2004 BEBR mid-range projection for the year 2005 is 523,900, a difference of 56,600 persons. The following table provides the adopted projections and the latest BEBR mid-range projections.

BEBR Mid-Range Projections
Table 13.1

Year	Adopted Projections	Latest BEBR Projections
2005	467,300	523,900
2010	511,400	592,700
2015	556,500	660,400
2020	602,000	728,000

Clearly, the Lee Plan needs to be amended to reflect revised population projections. As a consequence of revising the County’s population projections and adjusting the Plan’s planning horizon to the year 2030, the Acreage Allocation Table, Lee Plan Table 1(b), needs to be amended to reflect the latest population projections.

Lee County Vision And The Future Land Use Element

The Lee Plan, consistent with the requirements of Florida Statutes, contains a vision statement for Lee County that attempts to predict what the County will “look like” in the year 2020. This vision statement takes into account the projected population increases forecasted for Lee County. The Vision statement provides the major assumptions, aspirations, and goals upon which the Lee Plan is based. These include:

- C that growth patterns will be dictated by a Future Land Use Element that will not change dramatically over the time frame of the Plan.
- C The county will protect its natural resource base in order to maintain a high quality of life for its residents and visitors.
- C The county's traditional economic base will be diversified in order to increase the percentage of high-paying jobs, reduce tax burdens on residents, and enhance the stability of the community.
- C Cultural, educational and recreational opportunities will expand dramatically as the result of the county's increased urbanization.
- C Increased urbanization will require a commensurate investment in the county's physical and social infrastructure.

The Vision statement also contains individual vision statements for 22 Planning Communities. Land use allocations of the Plan are based on these Communities. In response to grassroots planning efforts, the Board of County Commissioners has redefined the Planning Communities. The next section of the report provides a summary of these grassroots planning efforts.

Community Planning

Lee County has made a commitment to provide both professional and financial assistance to citizen initiated, grass-roots planning efforts for communities throughout the county. Several community plans have been completed and have been incorporated into the Lee Plan in the form of a Goal, Objectives and Policies specific to each community. Lee County has endorsed those planning efforts and recognizes that having only policies that apply county-wide does not adequately address the needs and desires of individual communities.

To date, the Board of County Commissioners have adopted policies that are specific to six separate communities. Those planning areas are Captiva, Pine Island, Bayshore, Caloosahatchee Shores, Buckingham and Estero. Other communities that have completed community plans or are in various stages of the process are Alva, Palm Beach Boulevard, Page Park, Lehigh Acres and Boca Grande. Lee County policies are evaluated and are either tailored to the individual communities or are created anew.

A brief discussion of community planning efforts in Lee County is an important part of the evaluation and appraisal of the Lee Plan. Provided below is a summary of the adopted Lee Plan language for the six communities listed above.

CAPTIVA - The Lee Plan Goal for Captiva that was adopted by the Board of County Commissioner is followed by a brief discussion of the adopted policies along with additional efforts the community is undertaking to implement that goal.

GOAL 13: CAPTIVA. *To maintain and enhance the historic pattern of development on Captiva, consisting of unobtrusive, low-density residential use in an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic. The purpose of this goal is to provide policies to confirm and reinforce that historic pattern. (Added by Ordinance No. 03-01).*

Policies that were adopted by the Board of County Commissioners to reinforce the Captiva Goal include a restriction on rezoning of property, structure height limitations, directives to enhance landscaping and buffering requirements above what is required elsewhere in Lee County and a directive for the county to take measures to improve water quality in Pine Island Sound and the Gulf of Mexico adjacent to Captiva Island.

Captiva has a seasonal population with many of its residents spending spring and summer months at locations north of Florida. To address that situation and to keep the residents of Captiva better informed about county affairs several policies were adopted to improve public participation.

The residents of Captiva continue to work on planning for their community and have submitted additional policies specific to the island for consideration by the county. They are also working on revisions to the county's Land Development Code to implement the adopted Lee Plan policies.

GREATER PINE ISLAND - The Lee Plan Goal for Greater Pine Island is listed below followed by some background information and further efforts the community is undertaking.

GOAL 14: GREATER PINE ISLAND. *To manage future growth on and around Greater Pine Island so as to maintain the island's unique natural resources and character and to insure that island residents and visitors have a reasonable opportunity to evacuate when a hurricane strike is imminent. For the purposes of this plan, the boundaries of Greater Pine Island are indicated on the Future Land Use Map. (Amended by Ordinance No. 94-30).*

The County adopted a number of Objectives and Policies specific to Pine Island in 1994. Those policies addressed natural resources on the island, road improvements, residential and commercial land uses and historic resources. Around six years later the Pine Island community began work to update their community plan and submitted to the county sweeping changes to the Pine Island section of the Lee Plan that were adopted by the Board of County Commissioners in January of 2003. Although those adopted changes are not in effect at this time due to a pending administrative hearing, the Pine Island Community has been working for the last year on Land Development Code changes to implement the newly adopted policies.

BAYSHORE - Goal 20 for the Bayshore community is listed below followed by a summary of Board adopted policies.

GOAL 20: BAYSHORE COMMUNITY. *To protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, while excluding incompatible uses that are destructive to the character of this rural residential environment. For the purposes of this goal and related objectives and policies, the boundaries of the Bayshore Community will be I-75 on the west, SR 31 on the east, the Caloosahatchee River on the south and the Charlotte County line on the north. (Added by Ordinance No. 03-02).*

In an effort to maintain and enhance the rural character of the Bayshore community, the Board of County Commissioners adopted policies that limit commercial activity to specific nodes in the community and prohibit industrial activities and mines. Other policies intended to minimize negative impact on the community in the

event of future road and sewer & water improvements were adopted. The county also agreed to explore the feasibility of establishing an equestrian park for the Bayshore Community.

CALOOSAHATCHEE SHORES - Below is the Caloosahatchee Shores Goal that was adopted by the Board of County Commissioners. A discussion of the adopted policies and changes to the county's Future Land Use map follows.

***NOTE: The Caloosahatchee Shores amendment was adopted as Goal 13 of the Lee Plan. Subsequent to the adoption hearing the Captiva amendment was assigned Goal 13. The Caloosahatchee Shores amendment will be renumbered when the Lee Plan is next codified.**

***GOAL 13: CALOOSAHATCHEE SHORES.** To protect the existing character, natural resources and quality of life in Caloosahatchee Shores, while promoting new development, redevelopment and maintaining a more rural identity for the neighborhoods east of I-75 by establishing minimum aesthetic requirements, planning the location and intensity of future commercial and residential uses, and providing incentives for redevelopment, mixed use development and pedestrian safe environments. This Goal and subsequent objectives and policies apply to the Caloosahatchee Shores boundaries as depicted on Map 1, page 2 of 5 in the Appendix.*

The recently adopted Caloosahatchee Shores amendment to the Lee Plan contains several objectives and policies, Future Land Use Map changes and a change to the definition of density in the Lee Plan that will help shape how the community's built environment will develop and redevelop in the future. Objectives address community character, commercial and residential uses, mixed use development, community facilities and public participation.

Two Future Land Use Map changes were adopted, as recommended by the community and by staff. The first change is at the intersection of SR 80 and SR 31 from Suburban to Urban Community. That change will allow for very intense commercial development at that intersection. In order to help effectuate that outcome, the intersection was also identified on Map 19 of the Lee Plan - Commercial Site Location Standards.

The second Future Land Use Map change converted approximately 75 acres located generally south of Drawdy Road and east of Buckingham Rd. from the Suburban Future Land Use Category to the Outlying Suburban Future Land Use category, limited to 3 dwelling units per acre, and for approximately 928 acres located south of the above mentioned tract of land and east of Buckingham Road from the Rural Future Land Use Category and the Suburban Future Land Use Category to the Outlying Suburban Future Land Use Category, limited to 2 dwelling units per acre. That map change is intended to distribute future development more evenly throughout the area.

The community was desirous of mixed-use development, both within the same structure and within the same project and the Lee Plan now provides incentives for that type of development to occur within three areas of the community.

POLICY 13.4.2: *Mixed-use developments, as defined in the Lee Plan and mixed-use developments containing both commercial and residential uses within the same structure that provide for an integration of commercial with residential uses with pedestrian linkages are strongly encouraged at the commercial nodes of SR 80 and SR 31 and SR 80 and Buckingham Road, as well as the commercial strip between First Street and SR 80 in Fort Myers Shores. With the exception of SR 80 and SR 31, which will be allowed densities consistent with the Urban Community future land use designation, mixed-use developments will be limited to six dwelling units per acre at those locations.....*

That policy, combined with the following change to the Lee Plan definition of density provide significant incentives for the development community to construct mixed use developments at those locations.

.....Within the Caloosahatchee Shores community in the areas identified by Policy 13.4.2 commercial development that includes commercial and residential uses within the same project or the same building do not have to exclude the commercial lands from the density calculation.

If those changes prove successful the county may consider similar mixed-use designated areas elsewhere in the county.

The community is currently working on Land Development Code revisions to implement the newly adopted Lee Plan policies.

BUCKINGHAM - Following is the Lee Plan Goal for the Buckingham community and a description of the effects of the resulting policies.

GOAL 17: BUCKINGHAM. *To manage the future growth in the Buckingham area; to preserve the existing agricultural land use pattern; to diversify the choice of housing for Lee County by maintaining and enhancing the historic rural character; and to protect the unique historical and environmental values of the Buckingham Community. For the purposes of this plan, the precise boundaries of Buckingham are indicated on the Future Land Use Map. (Added by Ordinance No. 91-19, Amended by Ordinance No. 00-22)*

Similar to Bayshore, Buckingham residents wanted to preserve the rural nature of their community. The Buckingham amendment restricts commercial development to specific areas within the community. The

amendment also requires a one acre minimum residential lot size and places restrictions on the extension of utilities and on the extension of roads within the Buckingham Rural Preserve.

ESTERO - Following is the Board adopted Goal for the Estero community and a brief discussion the resulting objectives and policies.

***GOAL 19: ESTERO.** To protect the character, natural resources and quality of life in Estero by establishing minimum aesthetic requirements, managing the location and intensity of future commercial and residential uses, and providing greater opportunities for public participation in the land development approval process. This Goal and subsequent objectives and policies apply to the Estero Planning Community as depicted on Map 16. (Added by Ordinance No. 02-05)*

The Estero Goal contains six objectives that address community character, commercial and residential land uses, natural resources, public participation and community facilities. The community was aware that Estero was going to be quickly converted from what was a very rural area only less than a decade ago to a thriving residential and commercial center in Lee County. Policies contained in the Estero Lee Plan amendment are intended to control the placement and aesthetics of new development and direct substantial community involvement in the land development process.

The owner or agent for all new planned development in Estero is required to conduct on public informational session where the owner or agent will provide an overview of the project for any interested citizens. Since the adoption of the Estero Goal, dozens of informational meetings have been conducted, and the community has taken some control over the development that has and will occur.

To implement many of the ambitious policies contained in the Estero Goal, the Board of County Commissioners has adopted Land Development Code revisions pertaining to building design, site design, landscaping and buffering requirements and signage. The community continues to work on refining the Land Development Code and is considered by many to be a model for community planning in Lee County.

Community Planning Conclusion:

Most of the Goals, Objectives and Policies in the Lee Plan address county-wide issues. In an attempt to create a unique identity for themselves, many communities in Lee County have chosen to develop objectives and policies specific to their neighborhoods. The process requires broad based community involvement. Citizens undertaking community planning activities are provided both professional and financial assistance from the county. Planning efforts involve carefully evaluating Lee Plan policies that may affect their communities in both positive and negative ways.

This is an ongoing process, and planning for these communities never really ends. Comprehensive plans are “living” documents that are constantly evaluated and changed, as needed, to address issues that affect the citizens of Lee County. Community Planning in Lee County is citizen initiated and requires a tremendous time and work commitment from residents, consultants and county staff alike.

Lee County continues to support Community Planning and will continue close scrutiny of the Lee Plan and to tailor Goals, Objectives and Policies that address the needs and desires of its residents.

Future Land Use Categories

Besides the twelve major issues discussed above, staff has recognized a need to create 2 additional Future Land Use Categories. The first is to create a commercial only Future Land Use Category. The second is to create a new Future Urban Land Use Category that limits development to a maximum of 2 dwelling units per acre. Planning staff is recommending that the EAR based amendments include a further evaluation of including these two proposed categories in the Future Land Use Element of the Lee Plan.

Commercial Land Use Category

Planning staff has recognized the need for a commercial use land use category that does not allow residential uses. In the recent past several Lee Plan amendment applications (for example CPA 2003-01 and CPA 2001-08) were filed seeking commercial uses in areas within the coastal high hazard area. This raised a concern of potentially increasing residential densities within the coastal high hazard even though the applicants stated residential uses were not sought or expected to be developed on those parcels. Creation of a Commercial category that allows retail, office, research and development, and limited light industrial uses, would allow these developments to occur in appropriate areas within the coastal high hazard area (and other areas as well) without impacting hurricane evacuation times and further burdening the County’s shelter deficit.

Sub-Outlying Suburban Future Land Use Category

Recent private Lee Plan amendment requests have sought development densities of 2 dwelling units per acre by seeking the Outlying Suburban designation with a footnote on Table 1(a) limiting residential densities to 2 dwelling units per acre. For example, CPA 2002-02, the “Estero 60” privately initiated plan amendment included language modifying both the Outlying Suburban descriptor policy, Policy 1.1.6 and Table 1(a). The modifying language, as adopted by the Lee County Board of County Commissioners is reproduced below (adopted changes highlighted by bolding and underlining):

POLICY 1.1.6: The Outlying Suburban areas are characterized by their peripheral location in relation to established urban areas. In general, these areas are rural in nature or contain existing low-density development. Some, but not all, of the requisite infrastructure needed for higher density development is generally planned or in place. It is intended that these areas will develop at lower residential densities than other Future Urban Areas. As in the Suburban Areas, higher densities, commercial development

greater than neighborhood centers, and industrial land uses are not permitted. The standard density range is from one dwelling unit per acre (1 du/acre) to three dwelling units per acre (3 du/acre). Bonus densities are not allowed. In the Outlying Suburban area in North Fort Myers east of I-75, **a portion of San Carlos Groves in San Carlos/Estero planning community**, and in the Buckingham area (see Goal 17), the maximum density permitted is two dwelling units per acre (2 du/acre).

1. **For Lots 6 -11, San Carlos Groves Tract, Section 20, Township 46 S, Range 25 E of the San Carlos/Estero area:**
 - a. **The property may be developed at a gross density of one dwelling unit per acre; however, a gross density of up to two dwelling units per acre is permitted through the planned development zoning process, in which the residential development is clustered in a manner that provides for the protection of flowways, high quality native vegetation, and endangered, threatened or species of special concern. Clustered development must also connect to a central water and sanitary sewer system.**
 - b. **A maximum of one hundred and twenty (120) residential dwelling units, along with accessory, and accessory active recreation uses are permitted through the use of clustering and the planned development zoning process. The dwelling units and accessory uses must be clustered on an area not to exceed thirty two (+32) acres, which must be located on the northwestern portion of the property. No development may occur in the flowway, with the exception of the improvement of the existing road access from the site to Pine Road. The remainder of the property will be designated as preserve/open space, which can be used for passive recreation, and environmental management and education. In addition, the developer will diligently pursue the sale or transfer of the preserve/openspace area, along with development rights for thirty (30) of the maximum one hundred and twenty (120) residential dwelling units, to the State, County, or other conservation entity.**

Table 1 (a)

SUMMARY OF RESIDENTIAL DENSITY¹

(No Change to the Table 1 (a), One change to the footnotes of Table 1 (a))

CLARIFICATIONS AND EXCEPTIONS

(No Change to footnotes 1 through 5)

⁶In the Outlying Suburban category north of the Caloosahatchee River and east of Interstate-75, north of Pondella Road and south of Pine Island Road (SR 78); **Lots 6-11, San Carlos Groves Tract, Section 20, Township 46 S, Range 25 E of the San Carlos/Estero area**; and in the Buckingham area (see Goal 17), the maximum density is 2 du/acre....

As Table 1(a) footnote 6 provides, the 2 dwelling unit per acre restriction already applies to several relatively large areas in the North Fort Myers planning community and a smaller area in the Buckingham planning community.

Planning Staff believes that a new category should be created to accommodate a future urban land use category that has a maximum density of 2 dwelling units per acre. Planning staff recommends that the EAR based amendments include an amendment to establish such a category.

Consideration of The Regional Water Supply Plan

As noted earlier, section 163.3191(2)(1), F.S. provides that a local government's EAR must consider the appropriate water management district's regional water supply plan. This section states that:

“the potable water element must be revised to include a work plan, covering at least a 10-year planning period, for building any water supply facilities that are identified in the element as necessary to serve existing and new development and for which the local government is responsible.”

At this time Lee County is in the process of adopting an amendment, locally known as CPA2003-07, that incorporates the county's Water Supply Facilities Work Plan into the Potable Water sub-element of the Lee Plan. The amendment was transmitted to the Department of Community Affairs (DCA) on December 22, 2003 as part of an amendment packet which included one other proposed amendment. The DCA has assigned the reference number 04-1 to the amendment packet and it is currently under review. Staff expects to hold the local adoption hearing for the amendment sometime in May 2004. The amendment proposes new text and text changes to several elements of the Lee Plan as well as proposing a Water Supply Facilities Work Plan and a new Table based on the Work Plan for adoption. The work plan covers a planning period out to the year 2025 and will fulfill the EAR requirement directing local government's to consider the appropriate water management district's regional water supply plan. The DCA Objections, Recommendations, and Comment Report (ORC) was issued on March 6, 2004. No objections were identified. The amendment will be adopted following the submittal of this EAR.

Coastal High Hazard Area Redevelopment Following a Disaster

As noted above, F.S. 163.3191(2)(m) requires local jurisdictions located within Coastal High Hazard areas to evaluate whether or not past governmental actions have impaired the property rights of current residents when redevelopment occurs following a natural disaster such as a hurricane. This section of the statutes is reproduced below:

(m) If any of the jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs, including, but not limited to redevelopment following a natural disaster. The property rights of current residents shall be balanced with public safety considerations. The local government must identify strategies to address redevelopment feasibility and the property rights of affected residents. These strategies may include the authorization of redevelopment up to the actual built density in existence on the property prior to the natural disaster or redevelopment.

The Lee Plan has several existing provisions that address this section of the statutes. For example, the Procedures and Administration Chapter of the Lee Plan, Chapter 13, includes a “Build-back Policy” as well as a “Single-Family Residence Provision.” These provisions assure that the property rights of current residents and property owners are protected in the event of a natural disaster such as a hurricane. The “Build-back Policy” is reproduced below:

F. Build-back Policy

Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50% of the replacement value of the structure may be reconstructed at (but not to exceed) the legally documented actual use, density, and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage; provided, however, that the affected structure, as rebuilt or replaced, complies with all applicable federal and state regulations, local building and life safety regulations, and other local regulations which do not preclude reconstruction otherwise intended by this policy.

In order to reconstruct at the legally documented previous use, density, and intensity, a building permit must be applied for within five years after the date of destruction. The date of destruction must be legally documented. Such documentation may include a local, state, or federal declaration of disaster; a fire or police department report on the event; or any insurance claims filed as a result of the destruction. If a building permit is not applied for within five years of the destruction, the property will then become subject to current regulations on use, density, and intensity.

In accordance with this policy, the post-disaster ordinance (Objective 81.2) will provide that:

- 1. Structures damaged less than 50% of their replacement value at the time of damage can be rebuilt to their original condition, subject only to current building and life safety codes.*
- 2. Structures damaged more than 50% of their replacement value at the time of damage can be rebuilt to their original square footage and density, provided that they comply with:*
 - a. federal requirements for elevation above the 100-year flood level;*
 - b. building code requirements for floodproofing;*
 - c. current building and life safety codes;*
 - d. state Coastal Construction Control Lines; and*
 - e. any required zoning or other development regulations (other than density or intensity), unless compliance with such regulations would preclude reconstruction otherwise intended by the buildback policy.*
- 3. The ordinance may establish blanket reductions in non-vital development regulations (e.g. buffering, open space, side setbacks, etc.) to minimize the need for individual variances or compliance determinations prior to reconstruction.*
- 4. The ordinance may establish procedures to document actual uses, densities, and intensities, and compliance with regulations in effect at the time of construction, through such means as photographs, diagrams, plans, affidavits, permits, appraisals, tax records, etc.*
- 5. No provision is made to redevelop property containing damaged structures for a more intense use or at a density higher than the original lawful density except where such higher density is permitted under current regulations.*

As can be discerned from this policy, Lee County will allow structures to be rebuilt to the original condition that existed prior to the natural disaster event. The policy provides for a 5 year window from the natural event to allow for a building permit. After this 5 year period the property would “become subject to current regulations on use, density, and intensity.”

The Lee Plan also protects private property rights by providing for an “Administrative Interpretations of the Plan” process. The Lee Plan limits administrative interpretations to three general areas: whether or not the single-family residence provision applies; whether an area has been (or should have been) designated Wetlands on the basis of a clear factual error; and, clarification of land use map boundaries as to a specific parcel of property. The single family provision protects the rights of owners owning properties that are not in compliance with the density requirements of the Lee Plan given consistency with specified criteria. Qualifying property owners are permitted to construct a single family dwelling unit on qualifying properties as a “minimum use” to avoid a takings issue.

Manatee Protection Plan

Lee County is currently creating a manatee protection plan (MPP) with the purpose for countywide comprehensive protection of the West Indian Manatee. The plan seeks to reduce boat related manatee mortality, protect manatee habitat, promote boating safety, and increase public awareness of the need to protect manatees and their environment in Lee County. The MPP is also intended to satisfy the new requirements of Florida Statutes 370.12(2)(t). Florida Statutes (F.S. 370.12(2)(t)3.) requires Lee County to incorporate the “boating facility siting element” of the MPP into the Lee Plan. Staff recommends that an amendment be included in the EAR round of amendments to accomplish this task.

Lee Plan Chapter XI - Economic Element

The Economic Element was adopted as an optional element (as authorized by F.S. 163.3177 (7) (j)) on September 20, 1993. The optional element was included in the plan following direction from the Board of County Commissioners to establish policies to help diversify the economy of the County. The traditional sectors of the local economy, construction and tourism, could not be relied on to carry the County’s economy into a balanced and diversified future. In association with the adoption of the Economic Element, the County established the Office of Economic Development and created the Horizon Council, an advisory body for economic matters. The element has provided measured success in its effort to diversify the economy of Lee County. The Office of Economic Development has provided a Summary Table (see Appendix) of the various efforts at company relocation and job creation. For example, since 1996, 49 companies, employing 2,961 persons were assisted in relocating into Lee County.

The element has remained substantially in the same state as it was when originally adopted. There have been some minor revisions, such as replacing the word shall with will, may or must. An initial review of the element, along with discussions with Economic development Staff, have indicated that a fresh look at the element is warranted. Staff believes that amendments to this element, to update data and policy direction should be initiated in the round of amendments following the EAR.

Lee Plan Chapter XIII - Procedures and Administration

Staff believes a plan amendment should be initiated to review Lee Plan Chapter XIII. Specifically, the Single-Family Residence Provision should be reviewed. Staff has recognized several issues with the current process such as: the Lee Plan not being consistent with the County minimum acceptable road standard as provided in the LDC; not requiring a minimum use determination (MUD) on lots that have an existing dwelling unit; not requiring a MUD on lots within specific subdivisions (such as the Island Harbors subdivision in Matlacha) that are essentially built-out by incorporating some other methodology such as an overlay; and, consolidation of the process which is divided between the County Attorney's Office and the Department of Community Development.

Statutory Changes

Staff has reviewed Administrative Code 9J-5 and Chapter 163 of the Florida Statutes for legislative changes that have occurred since the last Evaluation and Appraisal Report was completed in 1996. Lee County updates the Comprehensive Plan and the Land Development Code on an annual basis to reflect any regulatory changes. The County has either complied with all legislative changes that have occurred, or is in the process of making changes in accordance with the latest legislative requirements.

As example, F.S. 3177(6)(j) required local governments to adopt a transportation element to address a number of issues including traffic circulation, public transportation, ports, aviation and related uses. Lee County amended its comprehensive plan to comply with those regulations shortly after the legislation was adopted.

Recently the Florida Legislature enacted House Bill 293 which changed the due date for the water supply plan required by section 163.3191(2)(l), F.S. As discussed under the Consideration of the Regional Water Supply Plan section of this document, prior to this change Lee County was in the process of adopting an amendment, locally known as CPA2003-07, that incorporates the county's Water Supply Facilities Work Plan into the Potable Water sub-element of the Lee Plan. The Legislature has extended the due date for the plan to December 1, 2006. Although Lee County has prepared a water supply plan and no objections were identified in DCA's ORC Report, staff will be recommending that the Board of County Commissioners delay adopting the work plan until after the regional water supply plan is revised in 2005. This will allow the County's water supply plan to reflect the most updated information.

F.S. 163.3177(6)(h)4 required local governments and the school board to execute an inter-local agreement. That requirement has been satisfied. In fact, Lee County was one of the counties that participated in the pilot program in conjunction with the State of Florida, and the Department of Community Affairs to address inter-local agreements.