

WALK ON #2

ATY

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20060030

1. ACTION REQUESTED/PURPOSE: Convene the Comprehensive Plan Annotations Committee pursuant to Lee Plan Section XIII, Subpart C., "Legislative Interpretations of the Plan" and direct the Committee to present its findings and interpretation(s) for the question relating to the County's implementation of Policy 14.2.2 of the Plan.

2. WHAT ACTION ACCOMPLISHES: Provides the Board with staff's formal interpretation of a specific policy in the Plan for future legislative action by the Board to add as an annotation to the Policy.

3. MANAGEMENT RECOMMENDATION: Convene the Annotations Committee to address the public's questions relating to the County's implementation of Policy 14.2.2 of the Plan.

4. Departmental Category:

WO #2

5. Meeting Date:

01-17-2006

6. Agenda:

7. Requirement/Purpose: (specify)

8. Request Initiated:

<input type="checkbox"/>	Consent
<input checked="" type="checkbox"/>	Administrative
<input type="checkbox"/>	Appeals
<input type="checkbox"/>	Public
<input checked="" type="checkbox"/>	Walk-On

<input type="checkbox"/>	Statute	
<input checked="" type="checkbox"/>	Ordinance	89-02, as amended
<input type="checkbox"/>	Admin. Code	
<input type="checkbox"/>	Other	

Commissioner	
Department	County Attorney
Division	
By: David M. Owen County Attorney	

9. Background:

A question has been raised by Pine Island representatives concerning the current County staff interpretation and implementation of Policy 14.2.2 of the Lee Plan relating to traffic counts on Pine Island Road for current and future residential development.

The Lee Plan provides a mechanism (Section XIII, Subpart C.) whereby a specified staff committee and the Local Planning Agency ("LPA") review and make findings with respect to County staff's interpretation(s) of the subject Policy and either find them to be consistent with the verbiage and intent of the Policy or inconsistent and in error. Under the Plan procedure, the Board is then the final legislative body to decide the validity of the interpretation(s) under review, which are adopted by Board Resolution at a regular meeting and then become an annotation to the Policy for future use.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
					1/13/06	1/13/06	1/13/06	1/13/06	TSilblau

11. Commission Action: AS AMENDED 1/13/06
 Approved JAMES/S
 Deferred (3-1)
 Denied
 Other

CO. ATTY.
FORWARDED
TO CO. MGR.
1-13-06 11:50 AM

1-13-06
11:55
1-13-06
1:00

PROPOSED SCHEDULE

- Committee meetings will be conducted during the weeks of:
January 30, 2006
and
February 6, 2006
[actual dates and location(s) to be determined].
- Written recommendations of the Committee transmitted to the LPA on February 20, 2006.
- Regular meeting of the LPA on February 27, 2006.
- Written recommendations from the LPA for scheduling to the Board of County Commissioners due on March 2, 2006.
- March 14, 2006, Board considers adoption of a Resolution either accepting, amending or rejecting the findings and interpretation(s) of County staff and the LPA concerning Policy 14.2.2 of the Lee Plan [regular Agenda, Administrative item].

**SUPPLEMENT TO SECTION XIII, c. A. OF THE
LEE PLAN FOR THE ANNOTATION COMMITTEE**

1. Organization

- The Committee's meetings will be advertised and minutes will be taken.
- The Committee's meetings will be open to the public.
- No verbal input will be taken from the public at the Committee's meetings.
- Written documents from the public addressing the issue(s) before the Committee will be accepted at the meetings up to the conclusion of the final meeting.
- The Pine Island presentation of its interpretations from the Board's January 9, 2006 Management & Planning meeting will be incorporated into the Committee's final document package.
- Two meetings of the Committee will be held.
- Proper decorum by the public at the Committee meetings will be strictly observed.

EXCEPT: Lee Comprehensive Plan
Section XIII, "Procedures & Administration"

6. Where appropriate and necessary all administrative interpretations rendered by the designated persons (or upon appeal, approved by the Board of County Commissioners) will be incorporated into the Plan during the next amendment cycle. (Amended by Ordinance No. 94-30, 00-22)

✓ c. Legislative Interpretations of the Plan

In order to apply the plan consistently and fairly, it will be necessary from time to time to interpret provisions in the plan in a manner which insures that the legislative intent of the Board of County Commissioners which adopted the plan be understood and applied by subsequent boards, county employees, private property owners, and all other persons whose rights or work are affected by the plan. When the plan is interpreted, it should be done in accordance with generally accepted rules of statutory construction, based upon sound legal advice, and compiled in writing in a document which should be a companion to the plan itself. These goals will be accomplished by the procedures which are set forth below:

A. COMPREHENSIVE PLAN ANNOTATIONS COMMITTEE.

The Director of Community Development, the Planning Director, and the County Attorney will together be empowered to sit as the Comprehensive Plan Annotations Committee. In each instance, these persons may designate one or more subordinates to serve in their place, but only one vote may be cast by or on behalf of each of the aforementioned officials. The purpose of the committee is to make written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. If the committee cannot recommend an interpretation unanimously, then both a majority and minority recommendation will be made to the Local Planning Agency. Similarly, if the committee cannot reach a majority position with respect to an interpretation, then each official will submit a separate recommendation to the Local Planning Agency. In accomplishing its work, the committee will operate as follows:

1. Organization

The committee will meet regularly at such times and places as it may choose. Its meetings will be either private or open to the public, or a combination thereof, as the committee chooses. The committee will have total discretion in this matter. No public notices of its meetings will be required. It may invite to its meetings such persons as it believes will best assist it in its work. It is intended that the committee will function in an informal workshop atmosphere, with emphasis to be placed on the timely production of concise, written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. The County Attorney will be responsible for reducing the recommendations of the committee in writing, unless he is in the minority, in which case the Planning Director will be responsible for reducing the majority recommendation to writing. In every case, the Planning Director will be responsible for delivering the recommendations to the Local Planning Agency on a timely basis as part of the published agenda of the Local Planning Agency.

2. Requests for Interpretations

Requests for interpretations will be placed before the Comprehensive Plan Annotations Committee by any one of its three members in response to a question raised by the Board of County Commissioners, collectively or by any one commissioner, by any member of the county

administration who is responsible for administering the plan, by the Local Planning Agency, by the Lee County Hearing Examiner, or by any applicant for a type of development regulated by the plan. In each case, the Planning Director will be responsible for reducing the questions to writing and, to the extent possible, linking them to specific plan provisions which might affect the answer.

(Amended by Ordinance No. 00-22)

B. Local Planning Agency

Upon receiving the recommendations from the Comprehensive Plan Annotations Committee, the Local Planning Agency will review the same and forward them to the Board of County Commissioners with such comments and recommendations of its own that the Local Planning Agency believes to be appropriate. (Amended by Ordinance No. 00-22)

C. Board of County Commissioners

Upon receiving the recommendations of the Comprehensive Plan Annotations Committee, with such other comments and recommendations as the Local Planning Agency submits with the committee's recommendations, the Board of County Commissioners will render a final decision as to the correct interpretation to be applied. This interpretation will be that which is adopted by absolute majority of the Board of County Commissioners and, upon being reduced to a board resolution drafted by the County Attorney in response to the board majority, it will be signed by the Chairman and recorded in the county's Official Records. The Planning Director will be responsible for maintaining copies of all such resolutions in a single document which will be appropriately indexed and provided to all persons upon request. The document will be updated regularly and the latest version thereof furnished to all persons requesting copies of the plan itself. (Amended by Ordinance No. 00-22)

D. Legal Effect of Annotations

Any provision of the plan specifically construed in accordance with the foregoing procedures may not be re-interpreted or modified except by a formal amendment of the plan itself. Once formally adopted in accordance with these procedures, the annotation will have the force of local law and all persons will be placed on constructive notice of it. Any development orders issued in reliance on legislative interpretations of this plan are subject to challenge under the provisions of Section 163.3215, Florida Statutes. (Amended by Ordinance No. 00-22)

d. Plan Amendment Procedures

This plan, including the Future Land Use Map, may be amended with such frequency as may be permitted by applicable state statutes and in accordance with such administrative procedures as the Board of County Commissioners may adopt.

Sections of this plan may be renumbered or relettered, and typographical errors which do not affect the intent, may be authorized by the County Administrator, or his designee, without need of Public Hearing, by filing a corrected copy of same with the Clerk of the Circuit Court.

(Amended by Ordinance No. 94-30)