

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20030049

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt by Resolution an amendment to Lee County Administrative Codes 13-6 and 13-7, pertaining to public participation and procedures relating to Comprehensive Plan Amendments to reflect statutory changes to Florida Statutes, Chapter 163.

WHY ACTION IS NECESSARY: Conforms Lee County Administrative Code to the Statutory requirements pertaining to compiling information on public participants in the Comprehensive Planning process.

WHAT ACTION ACCOMPLISHES: Requires County to provide a sign up sheet for members of the public who desire advance notice of the publication of DCA's Notice of Intent.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT # A12A

3. MEETING DATE:
01-28-2003

4. AGENDA:

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

STATUTE 163.3184(7)

ORDINANCE

ADMIN. CODE 13-6, 13-7

OTHER

6. REQUESTOR OF INFORMATION:

A. COMMISSIONER

B. DEPARTMENT County Attorney

C. DIVISION Donna Marie Collins, Assistant

BY: Donna Marie Collins, Assistant
County Attorney

7. BACKGROUND:

Florida Statutes Chapter 163, Part II, pertains to county and municipal planning. Subsection 163.3184 was amended during the recent legislative session to require the Dept. of Community Affairs (DCA) to mail a "courtesy information statement" to all persons providing their names and addresses to the local government at the transmittal hearing or the adoption hearing of a proposed amendment to the local comprehensive plan where the local government has provided those names and addresses to DCA.

The proposed amendment to Administrative Code 13-6 will require County staff to provide a sign up sheet at the Board transmittal and adoption hearings so that the list of names and addresses can be forwarded to the DCA. DCA will then send a courtesy informational statement prior to the publication of its Notice of Intent to find the proposed amendments in compliance. The proposed amendment to Lee County Administrative Code 13-7 informs citizens of their right to receive the courtesy informational statement if they provide their name and address to the County during a transmittal or adoption hearing of Comprehensive Plan Amendments. The County will also send to DCA the name and address of members of the public who provide written comments on proposed comprehensive plan amendments between the transmittal and adoption hearing.

CONTINUED ON PAGE 2

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>Joseph</i>	OA	OM	RISK	GC	<i>DR</i> 1-14-03
					<i>RK</i>	<i>1/14/03</i>	<i>1/13/03</i>	<i>1/13/03</i>	

10. COMMISSION ACTION:

APPROVED

DENIED

DEFERRED

OTHER

CO. ATTY.
FORWARDED TO:
CO. ADMIN
1/13/03 11:45

RECEIVED BY
COUNTY ADMIN. *RK*
1-13-03
2:30
COUNTY ADMIN.
FORWARDED TO: *DE*
1/14/03

Blue Sheet #:

Page No.: 2

Subject: Lee County Administrative Codes 13-6 and 13-7

AC 13-6 and 13-7 were amended in 2001 to reflect similar requirements that were adopted by the legislature on a temporary basis. During the past legislative session, the Florida legislature amended the statutes to incorporate the requirement as a permanent feature of the local *comprehensive land use process*.

The proposed amendments to Administrative Codes 13-6 and 13-7 have been reviewed and recommended to go forward by the Land Development Code Advisory Committee.

Attachments: 1) Proposed amendments to Administrative Codes 13-6 and 13-7

2) Draft Resolution providing for an amendment to the Lee County Administrative Code

LEE COUNTY RESOLUTION NO. 03-

A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF CERTAIN AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, a political subdivision of the State of Florida; and,

WHEREAS, the Board of County Commissioners enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80, Florida Statutes, which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

WHEREAS, the Board has enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

WHEREAS, Lee County Ordinance No. 97-23 at Section III provides for amendments to the Lee County Administrative Code by Resolution of the Board of County Commissioners at regularly scheduled Board of County Commissioners' meetings; and,

WHEREAS, certain amendments to the Lee County Administrative Code are now proposed, and the Board of County Commissioners finds that the proposed amendments are acceptable, serve a public purpose and are consistent with the terms and conditions of Lee County Ordinance No. 96-01, the Lee County Charter.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

1. The above preamble is accepted and approved as true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The proposed amendments to the Lee County Administrative Code AC 13-6 and 13-7 (attached hereto as Exhibits "A" and "B"), are approved, and are hereby directed to be incorporated into the Lee County Administrative Code as indicated in the amendments.
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution are held unconstitutional by any court of competent jurisdiction, the decision of such court will not affect or impair the other remaining provisions of this Resolution. It is hereby declared to be the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.
4. This Resolution will become effective immediately upon its adoption by the Board of County Commissioners.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

ROBERT P. JANES _____
DOUGLAS R. ST. CERNY _____
RAY JUDAH _____
ANDREW W. COY _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED this ____ day of _____, 2003.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

Attachments:

Exhibit "A" - Proposed Amendment to Lee County Administrative Code 13-6

Exhibit "B" - Proposed Amendment to Lee County Administrative Code 13-7

Exhibit "A"

ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Development/Planning/Zoning	CODE NUMBER: AC-13-6
TITLE: Annual Plan Amendment Procedure to the Lee (Comprehensive) Plan	ADOPTED: 3/29/89
	AMENDED: 3/7/90 5/16/90 5/29/91 1/22/92 4/1/92 7/8/92 9/1/93 2/16/94 1/4/95 7/24/01
	ORIGINATING DEPARTMENT: County Attorney/Planning

PURPOSE/SCOPE:

To provide a procedure for annual amendments to the Lee County Comprehensive Plan (the Lee Plan).

POLICY/PROCEDURE:

A. A proposed amendment to the Lee Plan can be only one of the following:

1. A REGULAR AMENDMENT
2. A DRI AMENDMENT
3. A SMALL SCALE DEVELOPMENT AMENDMENT
4. A SPECIAL AMENDMENT
5. AN EMERGENCY AMENDMENT

B. For purposes of these regulations, the following definitions apply:

1. "REGULAR AMENDMENT" means proposed amendment(s), submitted by any of the following for consideration during the Plan amendment regular yearly cycle which is scheduled so that there is only one set of "regular amendments" adopted each calendar year:
 - a. Any person, upon filing with the Director of Planning (hereinafter called the "Director") a specific proposal for amendment(s) on such forms as the Director prescribes and upon payment of the appropriate fee as determined by Administrative Code. Filings must be accompanied by all documents, exhibits, and written analyses which the applicant intends to offer in support of the proposed amendment;
 - b. The Board of County Commissioners, by an affirmative vote of three or more Commissioners;
 - c. The Director, with the prior approval of at least three County Commissioners made by an affirmative vote in a public meeting or hearing; or

- d. The Local Planning Agency (hereinafter called the "LPA"), by an affirmative vote of a majority of the quorum present with the subsequent timely approval of at least three Lee County Commissioners made by an affirmative vote in a public meeting or hearing. These LPA suggested amendments must include amendments resulting from the Evaluation and Appraisal report pursuant to Section 163.3, Florida Statutes.
2. "DRI AMENDMENT" means a proposed amendment which is directly related to a proposed Development of Regional Impact or Florida Quality Development consistent with Sections 163.3187(1)(b), 380.06 (6), and 380.061, Florida Statutes.
 3. "SMALL SCALE DEVELOPMENT AMENDMENT" means a proposed amendment, which is directly related to proposed small scale development activities, as defined in, and consistent with, Section 163.3187(1)(c), Florida Statutes.
 4. "SPECIAL AMENDMENT" means a proposed amendment, which is directed by an affirmative vote of three or more Commissioners for the limited purpose of amending the Lee Plan in response to:
 - a. A directive of the Administrative Commission pursuant to Section 163.3184(11), Florida Statutes; or
 - b. A challenge to the Lee Plan under 163.3184(9) or (10), Florida Statutes, when such amendment would avoid litigation or further proceedings under Chapter 163, Part II, Florida Statutes; or
 - c. A request from the Board of Regents of the Florida State University System to amend the Lee Plan to provide for the development of a state university and associated endowment and support areas; or
 - d. A request by the County Administrator to amend the Comprehensive Plan.
 5. "EMERGENCY AMENDMENT" means a proposed amendment, which is required to address an "emergency" as that term is defined in Section 163.3187(1)(a), Florida Statutes.

C. APPLICANTS REQUESTING AMENDMENT TO THE LEE PLAN:

If the proponent of an amendment to the Lee Plan has an ownership interest in any real property affected by an application to amend the Plan, such interest must be disclosed in the same manner as required of zoning applicants in Section 34-201(b)(2) of the Lee County Land Development Code (LDC): If the applicant is acting as agent or attorney for a principal, the principal's interests shall be disclosed in the same manner as required of zoning applicants in Section 34-201(b)(2) of the LDC. This subsection does not apply to governmental applicants.

D. REGULAR AMENDMENTS will be processed in accordance with the following schedule:

1. REGULAR AMENDMENTS may be proposed at any time up until September 30th of any calendar year. Applications received on October 1st or after will be reviewed as part of the following year's Regular Amendments.
2. The Director will analyze each proposed amendment and prepare staff recommendations for consideration by the LPA and the Board of County Commissioners. The Director will schedule at least one public hearing before the LPA and provide for the two public notices required by

Section 163.3164(18), Florida Statutes. This hearing will be known as the LPA Transmittal Hearing.

3. At the LPA Transmittal Hearing, the LPA will review the Director's analysis and make a recommendation to the Board of County Commissioners. The recommendation will be to transmit, transmit with specific modifications, or not transmit each proposed amendment. In order to receive a favorable recommendation for transmittal, the majority of the quorum present must vote for the transmittal. If no such affirmative vote is obtained, including those instances where the vote results in a tie vote or those instances where the quorum is not maintained once a hearing is commenced, the recommendation of the LPA will be conclusively presumed to be a recommendation not to transmit the proposal and will satisfy the requirements of Section 163.3174(1) and (4)(a), Florida Statutes.
4. The report of the LPA must consist of the staff report, modified to reflect the vote of each LPA member, along with a brief explanation of each vote if the member chooses to explain it. These explanations may be handwritten in the interest of expediency.
5. The Director will also schedule at least one public hearing before the Board of County Commissioners and arrange for the advertisements required by Section 163.3184(15)(b) and (c) and, as applicable, Section 163.3187(11)(c)(3), Florida Statutes. This hearing will be known as the Transmittal Hearing. The Commissioners will decide whether to transmit any or all of the proposed amendments to the Florida Department of Community Affairs, hereinafter referred to as the "DCA." The transmittal report of the Commissioners must include the staff report, staff's recommendations, the decision of the LPA and the final decision of the Board to transmit or transmit with modifications any or all of the proposed amendments. Failure of the Board to make a decision, by an affirmative vote of not less than a majority of its total membership, to transmit or transmit with modifications, a specific amendment will be construed as an affirmative vote not to transmit the amendment and cause that proposal to be deleted from whatever report is transmitted to the DCA and other agencies specified in F.S. 163.3184(3)(a).
6. At the Transmittal Hearing, the Commissioners will decide whether to transmit with specific modifications, or not transmit any or all of the proposed amendments to the Department of Community Affairs. The County staff will provide a sign-in form at the transmittal hearing for persons to provide their names and mailing addresses. The sign-in forms will advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the State Land Planning Agency's Notice of Intent.
7. In accordance with F.S. 163.3184(3)(a) and (b), the Director must deliver the transmittal report to the DCA and other specified agencies. In addition, the Director must deliver a list of the names and addresses of persons who provide that information to the County at the transmittal hearing. If a request to review the proposed amendment is made to the DCA by persons described in F.S. 163.3184(6) within 45 days after transmittal, the Director will determine the anticipated date for the adoption hearing based on the review schedule described in Florida Statutes, Sections 163.3184(4)-(7). The Director will then schedule and advertise the public hearing in accordance with Section 163.3184(15). If there is no request to review the proposed amendment, the Director will schedule and advertise the public hearing to adopt the amendment in accordance with Section 163.3184(15), Florida Statutes.
8. If a no request to review the proposed amendment is not made pursuant to F.S. 163.3184(6), the Board of County Commissioners will hold a public adoption hearing in the manner prescribed in F.S. 163.3184(15) and the applicable procedural rule. If a request to review the proposed amendment was made to the DCA by persons described in F.S. 163.3184(6) or was

made by the DCA itself per F.S. 163.3184(6)(b), the Board of County Commissioners will have 60 days from the date of receipt of the review report to hold a public adoption hearing. At the adoption hearing, the Board must determine whether to adopt, or adopt with modifications, or determine that it will not adopt each proposed amendment pursuant to Section 163.3184(7), Florida Statutes. Failure to ~~so~~ adopt will be deemed to be a decision "not to adopt" an amendment, as that term is used in Section 163.3184(7), Florida Statutes. If a request to review is filed and the DCA's written comments to Lee County contain any objections or recommendations for modifications, the Director ~~shall~~ will make a written request to the DCA that the DCA participate in the public hearing held pursuant to Section 163.3184(7), Florida Statutes, for consideration of adoption of the proposed amendments. County staff will provide a sign-in form at the adoption hearing for persons to provide their names and mailing addresses. The sign-in form will advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the DCA's Notice of Intent.

9. Nothing contained herein may be construed to discourage or prohibit the LPA or Board of County Commissioners from conducting additional workshops or public hearings at any time during this the comprehensive plan amendment process provided that all such workshops or hearings are properly noticed.
10. The County will provide submit to DCA with the names and addresses of persons who provided that information about themselves completed the sign-in form at the transmittal or adoption hearing on the proposed amendments. ~~(This subparagraph will expire on July 1, 2002, unless extended by the Florida Legislature):~~ The County will add to the sign-in form, the name and address of any person who submits written comments concerning the proposed plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing.

E. SMALL SCALE AMENDMENTS will be processed in accordance with the following schedule:

1. SMALL SCALE AMENDMENTS may be proposed at any time during a calendar year unless:
 - a. The cumulative effect of the amendment taken with other small scale amendments will exceed 60 acres during the calendar year; or
 - b. The proposed amendment involves the same property which was the subject of another amendment during the same calendar year; or
 - c. The proposed amendment involves property within 200 feet of property under the same ownership which was the subject of another comprehensive plan amendment during the preceding twelve months.

If any of the above conditions exist at the time of application the processing of the application must be held in abeyance until the following regular amendment cycle and processed as a regular amendment or must be held in abeyance until the above conditions no longer apply.

2. The Director must analyze the proposed small scale amendment and prepare staff recommendations for consideration by the LPA and the Board of County Commissioners. The Director will schedule a public hearing before the LPA to be followed by a single public hearing before the Board of County Commissioners during which the Board may adopt the proposed amendment. All hearings must be scheduled on a regular LPA or Board of County Commissioners meeting date. The Director must submit a staff report and recommendation

on the proposed amendment prior to the scheduled LPA hearing. The adoption hearing must be advertised under the provisions of Section 163.3187(1)(c)2., Florida Statutes.

3. Following the public hearing, the LPA must make a recommendation to the Board of County Commissioners either to adopt, not adopt, or adopt with specific modifications the proposed amendment. Failure of the LPA to recommend, by an affirmative vote of not less than a majority of the quorum present of any particular proposed amendment, for whatever reason (including the inability to maintain a quorum once public hearings are commenced), will be conclusively presumed to be a recommendation not to adopt the proposal and will satisfy the requirements of Section 163.3174(1) and (4)(a), Florida Statutes.
4. The report of the LPA must be incorporated into the staff report and must be delivered to the Board of County Commissioners prior to the scheduled Commission hearing. The Staff report must reflect the vote of each LPA member, along with a brief explanation of his or her vote if he or she chooses to explain it. These explanations may be handwritten in the interest of expediency.
5. At the adoption hearing, the Board of County Commissioners will decide whether to adopt, or adopt with modifications, the proposed amendment. Failure of the Board to make an affirmative decision, by an affirmative vote of ~~not less than~~ a majority of its total membership, to adopt, or adopt with modifications, a proposed amendment will cause that proposal to be defeated. Failure to ~~so~~ adopt will be deemed to be a decision "not to adopt" an amendment, as that term is used in Section 163.3184(7), Florida Statutes. County staff will provide a sign-in form at the adoption hearing for persons to provide their names and mailing addresses. The sign-in form will advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the DCA's Notice of Intent.
6. Within ten working days of adoption, the Director must forward a copy of the adopted small scale amendment to the DCA for review. In addition, the Director must provide DCA with the names and addresses of all persons who ~~provided that information to the County at the LPA and Board~~ completed the sign-in form at the adoption hearings or who submitted written comments on the proposed small scale amendment to the Plan. Unless otherwise requested by affirmative vote of not less than a majority of the total membership of the Board of County Commissioners, the DCA will not undertake the agency review process described in Section 163.3184(3)-(6). Upon completion of the abbreviated review process, the DCA will issue its notice of intent. The processes described in Sections 163.3184(8)-(13) and 163.3189 will govern the effective date of any plan amendments adopted as Small Scale amendments.
7. Nothing contained herein will be construed to discourage or prohibit the LPA or Board of County Commissioners from conducting additional workshops or public hearings at any time during this the comprehensive plan amendment process provided that all such workshops or hearings are properly noticed.
8. For amendments adopted pursuant to the abbreviated review described in Section 163.3187(1)(c)3., a person must have submitted oral or written comments, recommendations, or objections to the local government during the period of time between the date of advertisement of the public notice and the conclusion of the public hearing in order to qualify as an affected person.

F. DRI AMENDMENTS may be initiated by the Local Planning Agency or the developer and considered by the local governing body at the same time as an application for development approval or notice of proposed change. DRI Amendments will be processed in accordance with the following schedule:

1. No later than the date of a preapplication conference on an application for development approval or a proposed change, the developer must give written notification of the intent to amend the Lee Plan to the Regional Planning Council, the DCA, and Lee County.
2. The requested plan amendment must be filed with the Director, on such forms as he requires and must include sufficient data and analysis upon which the County can determine whether to transmit the comprehensive plan amendment pursuant to section 163.3184, F.S. The fee for a DRI amendment will be the same as for regular amendments as established in the applicable Administrative code.
3. The Director must advertise the public hearing for the LPA Transmittal Hearing and the Board Transmittal Hearing within 30 days of the filing of the application for development approval or request for a proposed change. The determination to transmit, transmit with modifications, or to not transmit the plan amendment must be made within 60 days from the date of initial filing unless the developer requests an extended time frame.
 - a. The Director must analyze the proposed amendment and prepare staff recommendations for consideration by the LPA and the Board of County Commissioners. The Director must schedule at least one Public hearing before the LPA. This hearing will be known as the "LPA Transmittal Hearing."
 - b. At the LPA Transmittal Hearing, the LPA will review the Director's analysis and make a recommendation to the Board of County Commissioners. The recommendation will be to transmit, transmit with specific modifications, or not transmit the proposed amendment. In order to receive a favorable recommendation for transmittal, the majority of the Quorum present must vote for the transmittal. If no such affirmative vote is obtained, including those instances where the vote results in a tie vote or those instances where the quorum is not maintained once a hearing is commenced, the recommendation of the LPA will be conclusively presumed to be a recommendation not to transmit the proposal and will satisfy the requirements of Section 163.3174(1) and (4)(a), Florida Statutes.
 - c. The report of the LPA will consist of the staff report modified to reflect the vote of each LPA member along with a brief explanation of each member's vote if the members chose to explain it. The explanations may be handwritten in the interest of expediency.
 - d. The Director must also schedule at least one public hearing before the Board of County Commissioners and arrange for advertisements in accordance with Section 163.3184(15) (b) and (15)(c) and, when applicable, Section 163.3187(1) (c)(3), Florida Statutes. This hearing will be known as the "Transmittal Hearing." The Commissioners must decide whether to transmit, transmit with specific modifications, or not transmit the proposed amendment to the DCA. The transmittal report of the Commissioners must include the staff report, staff's recommendations, the decision of the LPA and the final decision of the Board to transmit or transmit with modifications the proposed amendment. Failure of the Board to make a decision, by an affirmative vote of not less than a majority of its total membership, to transmit or transmit with modifications, the amendment shall be construed as an affirmative vote not to transmit. The County staff will provide a sign-in form at the transmittal hearing for persons to provide their names and mailing addresses. The sign-in forms will advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the State Land Planning Agency's Notice of Intent.
4. In accordance with F.S. 163.3184(3)(a) and (b), the Director must deliver the transmittal package to the DCA and other specified agencies. If a request to review the proposed

amendment is made to the DCA by persons described in F.S. 163.3184(6) within 45 days after transmittal, the Director will determine the anticipated date for the Adoption Hearing based on the review schedule described in Florida Statutes, Sections 163.3184 (4) - (6) The Director will then schedule and advertise the public hearing on adoption in accordance with Section 163.3184(15). If there is no request to review the proposed amendment, the Director will schedule and advertise the public hearing to adopt the amendment in accordance with Section 163.3184(15) Florida Statutes.

5. If no request to review the proposed amendment is made pursuant to F.S. 163.3184(6), the Board of County Commissioners must hold a Public Adoption Hearing in the manner prescribed in F.S. 163.3184(15) and applicable procedural rule. If a request to review the proposed amendment is made to DCA by persons described in F.S. 163.3184(6) or is made by DCA itself per F.S. 163.3184(6)(b), the Board must hold the public hearing on adoption of the transmitted amendment no sooner than 30 days after receipt of DCA's response. At the adoption hearing, the Board must determine whether to adopt, or adopt with modifications, or determine that it will not adopt the proposed amendment pursuant to Section 163.3184(7), Florida Statutes. Failure to ~~so~~ adopt will be deemed to be a decision "not to adopt" the amendment, as that term is used in Section 163.3184(7), Florida Statutes. If a request to review is filed and the DCA's written comments to Lee County contain any objections or recommendations for modifications, the Director will make a written request to the DCA that the DCA participate in the public hearing held pursuant to Section 163.3184(7) Florida Statutes, for consideration of adoption of the proposed amendment. County staff will provide a sign-in form at the adoption hearing for persons to provide their names and mailing addresses. The sign-in form will advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the DCA's Notice of Intent.
6. The Board of County Commissioners must hear the application for development approval or the proposed change and the Lee Plan amendment at the same hearing pursuant to Section 380.06(6)(b)(6). The motion to approve an application for development approval or a proposed change must be taken separately from the motion to approve the requested plan amendment. The determination to adopt will require an affirmative vote of not less than three members of the Board of County Commissioners. Failure to receive such an affirmative vote will cause that proposal to be defeated. Failure to ~~so~~ adopt will be deemed to be a decision "not to adopt" an amendment, as that term is used in Section 163.3184(7), Florida Statutes.
7. The Director must forward a copy of the adopted comprehensive plan amendment to DCA for review. In addition, the Director must provide DCA with the names and addresses of all persons who ~~provided that information to the County at the LPA and Board~~ completed the sign-in form at the transmittal and Board adoption hearings on the proposed comprehensive plan amendment. The County will add to the sign-in form, the name and address of any person who submits written comments concerning the proposed plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing.
8. The appeal process for the County DRI Development Order must follow the provisions of Section 380.07 and the compliance process for comprehensive plan amendments must follow the provisions set forth in Section 163.3184, Florida Statutes.

G. SPECIAL AMENDMENTS will be processed in accordance with the following schedule:

1. SPECIAL AMENDMENTS may be proposed by the Board of County Commissioners by affirmative vote of three or more Commissioners at any time to either respond to a directive

of the Administrative Commission, a request from the Board of Regents of the State University System, or in an attempt to avoid litigation or challenge pursuant to Sections 163.3184 (9) or (10), Florida Statutes.

2. The Director will be responsible for preparing an analysis and recommendations on all Special Amendments. The Director will also arrange the scheduling of the LPA hearing(s) and Board transmittal hearing(s) and arrange for the advertising of those public hearings as required pursuant to 163.3164(18) and 163.3184(15)(b) and (c), Florida Statutes, respectively.
3. The Board of County Commissioners at the time of the initial vote directing preparation of the Special Amendments will direct the County Attorneys staff to work in concert with the Director to establish an outline of the time frames for the Director's preparation of analysis and recommendations, LPA review and reports, and Board transmittal hearing(s).
4. The LPA must hold a public hearing within the time frame established in subsection 3, review the director's analysis and recommendations and Commissioners within the time frame established by the Board pursuant to subsection 3. The LPA report will consist of the Staff report, with the vote of each LPA member noted thereon, along with a brief explanation of his or her vote if he or she chooses to explain it. These explanations may be handwritten in the interest of expediency.
6. The Commissioners at the transmittal hearing(s) must decide whether to transmit a particular proposed amendment to the DCA for their written comments pursuant to section 163.3184(3)(b), Florida Statutes. The report of the Board of County Commissioners must include the staff report, staff's recommendations, the decision of the LPA and the final decision of the Board to transmit, or transmit with modifications, each proposed amendment. Failure of the Board to make an affirmative decision, by an affirmative vote of not less than a majority of its total membership, to transmit, or transmit with modifications, a specific amendment will cause that proposal to be deleted from whatever report is transmitted to the DCA and other agencies specified in F.S. 163.3184(3)(a). The County staff will provide a sign-in form at the transmittal hearing for persons to provide their names and mailing addresses. The sign-in forms will advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the State Land Planning Agency's Notice of Intent.
7. In accordance with F.S. 163.3184(3)(a) and (b), the Director must deliver the transmittal package to the DCA and other specified agencies. If a request to review the proposed amendment is made to the DCA by persons described in F.S. 163.3184(6) within 45 days after transmittal, the Director must determine the anticipated date for the adoption hearing based on the review schedule described in F.S. 163.3184 (4) - (7). The Director must then schedule and advertise the public hearing in accordance with F.S. 163.3184(15). If there is no request to review the proposed amendment, the Director will schedule and advertise the public hearing to adopt the amendment in accordance with F.S. 163.3184(15).
8. If there is no request to review the proposed amendment(s) pursuant to Section 163.3184(6), Florida Statutes, the Board of County Commissioners will hold a public adoption hearing in the manner prescribed in Section 163.3184(15) and the applicable procedural rule. If a request to review the proposed amendment was made to the DCA by persons described in Section 163.3184(6) or was made by the DCA itself per Section 163.3184(6)(b), the Board of County Commissioners will have up to have up to sixty (60) days from the date when the written comments are received, to adopt, or adopt with modifications, or determine that it will not adopt each proposed amendment reviewed by the DCA. Failure to so adopt will be deemed to be a decision "not to adopt" an amendment as that term is used in Section 163.3184(7),

Florida Statutes. If a request to review is filed and the DCA's written comments to Lee County contain any objections or recommendations for modifications the Director will request, in writing, that the DCA participate in the public hearing held pursuant to Section 163.3184(7), Florida Statutes. County staff will provide a sign-in form at the adoption hearing for persons to provide their names and mailing addresses. The sign-in form will advise that any person providing the requested information will receive a courtesy informational statement concerning publications of the DCA's Notice of Intent.

9. The Director must forward a copy of the adopted comprehensive plan amendment to DCA for review. In addition, the Director must ~~provide~~ submit to DCA with the names and addresses of all the persons who provided that information to the County at the LPA and Board completed the sign-in form at the adoption hearings on the proposed ~~smale~~ small scale amendment to the Plan. The County will add to the sign-in form, the name and address of any person who submits written comments concerning the proposed plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing.
10. Nothing contained herein will be construed to discourage or prohibit the LPA or Board of County Commissioners from conducting additional workshops or public hearings at any time during this process provided that all such workshops or hearings are properly noticed.
11. There will be a maximum of one grouping of Special Amendments per calendar year. Special Amendments are not required to occur every year. Adoption of a grouping of Special Amendments will be one of the two times amendments are permitted to be adopted per calendar year pursuant to Section 163.3187(1), Florida Statutes.

H. EMERGENCY AMENDMENTS will be processed in accordance with the following schedule:

1. EMERGENCY AMENDMENTS may be proposed at any time by affirmative vote of all of the members of the Board of County Commissioners. Pursuant to Section 163.3187(1)(a), Florida Statutes, Emergency Amendments will be limited to those items which qualify as an "emergency" and such Emergency Amendments may occur at any time as they are excepted from the two amendments per calendar year limitation.
2. EMERGENCY AMENDMENTS will follow the same schedule for review and adoption as established for Special Amendments in Section G.2. through G.10. herein, with the exception that Emergency Amendments will require affirmative vote of all the members of the Board of County Commissioners for approval at the transmittal and adoption hearings

Exhibit "B"
ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Development/Planning/Zoning	CODE NUMBER: AC-13-7
TITLE: Public Participation Procedures Relating to Comprehensive Plan Amendments	ADOPTED: 1-25-89
	AMENDED: 1/4/99, 7/24/01
	ORIGINATING DEPARTMENT: County Attorney

PURPOSE/SCOPE:

It is the intent of the Florida Legislature and the Lee County Board of Commissioners that the public participate in the comprehensive planning process to the fullest extent possible. Toward this end, the County adopts the procedures set forth below that are designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property.

POLICY/PROCEDURE:

BE IT ORDAINED BY THE COUNTY COMMISSION OF LEE COUNTY, FLORIDA

The following procedures are established by the Board of County Commissioners of Lee County, Florida, pursuant to Section 163.3181, Florida Statutes, and Rule 9J-5.004, Florida Administrative Code, so as to provide for public participation in the Comprehensive Plan Amendment Process.

A. NOTICE

1. Notice to Real Property Owners of Official Actions that will Affect Their Property

Real property owners must be put on notice of proposed Lee County Comprehensive Plan Amendments that will affect the use of their property by the methods set forth in Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code 13-6.

2. Notice to the General Public

The general public must be kept informed of amendments to the Lee County Comprehensive Plan through the notice provisions provided for in Chapter 163, Part II, Florida Statutes, and Lee County Administrative Code 13-6.

B. PUBLIC COMMENTS TO PROPOSED LEE COUNTY COMPREHENSIVE AMENDMENTS

1. Written Comments

The public may provide written comments on proposed Comprehensive Plan Amendment at any time up to and including three (3) days before the date of a public hearing at which consideration of the amendment is scheduled. Written comments may be submitted to the Director of Planning. Upon receiving a written comment, the Director of Planning will acknowledge its receipt by returning a letter of receipt to the commentator. Written

comment may also be presented at any public hearing provided that the commentator supplies at least ten (10) copies of such comments to LPA, or to the Board of County Commissioners, whichever is applicable, so as to ensure sufficient distribution of the comments to necessary persons for review, analysis and consideration. The County will also forward the name and address of any person who submits written comments on the proposed plan or plan amendment during the time period between the commencement of the transmittal hearing and the end of the adoption hearing to DCA at the time of the adopted amendment.

2. Oral Comments

The public may provide oral comments on a proposed amendment at any public hearing on the amendment. The right to comment will be subject to reasonable time limits imposed by the Chairman. Comments that are irrelevant, immaterial, repetitive, spurious, defamatory, or out of order, will not be allowed.

3. Those persons submitting oral ~~or written~~ comments who provide their names and addresses to the County on the sign-in form provided in the Chambers will be included on a list prepared by the Director that will be forwarded to DCA at the time of transmittal of the adopted amendment.

4. Persons who submit written comments or who provide their name and address on the sign-in form will receive a courtesy informational statement from DCA that includes the name of the newspaper where the Notice of Intent will appear, the approximate date of publication, the ordinance number of the plan amendment, and a statement that affected persons have 21 days after the actual date of publication of the notice to file a petition. ~~(This subparagraph will expire on July 1, 2002.)~~

C. CONSIDERATION OF AND RESPONSE TO PUBLIC COMMENT

The Board of County Commissioners will review all public comments, written and oral, prior to its final vote on a particular proposed amendment. Oral comments made only before the LPA need not be reviewed by the Board unless the commentator supplies the Board with a transcript of those oral comments. To the extent possible, staff will incorporate public comments into their analysis for presentation to the Board of County Commissioners. The final actions taken by the LPA and by the Board of County Commissioners will constitute their response to all public comments. However, their response may be supplemented as the record shall reflect.