

Agenda Item Summary

1. ACTION REQUESTED/PURPOSE: Adopt by resolution an amendment to Lee County Administrative Code 13-7 pertaining to public participation and procedures relating to Comprehensive Plan amendments to enhance notice of pending requests to amend the Future Land Use classification of property.

2. WHAT ACTION ACCOMPLISHES: Provides for mailed notice and posting of property to alert surrounding property owners and community organizations of pending requests to amend the Future Land Use Classification of nearby property so that they may have a greater opportunity to participate in the County review and consideration process.

3. MANAGEMENT RECOMMENDATION: Approve amendment to Administrative Code.

4. Departmental Category: A12A **5. Meeting Date:** 10-11-2005

6. Agenda:		7. Requirement/Purpose: (specify)		8. Request Initiated:	
<input type="checkbox"/> Consent	<input type="checkbox"/> Statute			Commissioner	
<input checked="" type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance			Department <u>County Attorney</u>	
<input type="checkbox"/> Appeals	<input checked="" type="checkbox"/> Admin. Code <u>13-7</u>			Division <u>Land Use</u>	
<input type="checkbox"/> Public	<input type="checkbox"/> Other			By: <u>Donna Marie Collins</u>	
<input type="checkbox"/> Walk-On				<u>Donna Marie Collins</u>	

9. Background:
 The proposed amendment to Administrative Code 13-7 is intended to enhance the notice of pending requests to amend the Future Land Use classification of property. The revisions provide for courtesy notices to be given to surrounding property owners and the community beyond the publication notice required by Statute. Specifically, the enhanced notice will consist of the following:

1. Surrounding property owners, interested homeowner associations, and similar community organizations for the local community area will receive mailed notice of the request when the application to amend the Future Land Use Map is found sufficient by staff.
2. The property that is the subject of the request will be posted 15 days prior to the LPA hearing.
3. Interested homeowner associations and similar community organizations will receive mailed notice within 10 days of the Board Transmittal hearing (if applicable).
4. Interested homeowner associations, similar community organizations, individuals attending the LPA or Board Transmittal hearings, as well as individuals requesting notice of further action on the request will receive mailed notice within 10 days of the final Board Adoption hearing.

The proposed amendments to Administrative Code 13-7 have been reviewed and recommended to go forward by the Executive Regulatory Oversight Committee and the Local Planning Agency.

Attachments: 1) Proposed Amendment to Administrative Code 13-7
 2) Draft Resolution providing for an amendment to the Lee County Administrative Code

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.	
				<u>[Signature]</u>	<u>RK917</u>	<u>[Signature]</u>	<u>RK62R697</u>	<u>[Signature]</u>	<u>9-8-05</u>

11. Commission Action:
 Approved
 Deferred
 Denied
 Other

CO. ATTY.
 FORWARDED
 TO CO. ADMIN.
9/7/05 8:45

RECEIVED BY
 COUNTY ADMIN: [Signature]
9-7-05
11:25
 COUNTY ADMIN
 FORWARDED TO: [Signature]
9/8/05
4PM

LEE COUNTY RESOLUTION NO. _____

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

WHEREAS, the Board of County Commissioners 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 to be made 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 Section 13-7 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 hereby 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 Lee County Administrative Code 13-7 (attached hereto as Exhibits A), providing for enhanced notice and posting of property that is the subject of a request to amend the Future Land Use Classification is approved, and is 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 a court of competent jurisdiction, the decision of the court will not affect or impair the remaining provisions of this Resolution. It is 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 _____ 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Donna Marie Collins
Office of the County Attorney

Attachments: Exhibit A Proposed Amendment to Lee County AC-13-7

**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, 1/28/03
	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, Lee County Administrative Code 13-6, and as set forth below:

- a) Notice of an Application to Amend the Future Land Use Classification of Property.

- i. Within 15 working days after finding an application to amend the Future Land Use Classification of Property sufficient for review, the County will mail a Notice to all property owners within 500* feet of the property subject to the proposed change, and to those homeowners associations or similar community

*Where there are less than 10 property owners within 500 feet of the property subject to the proposed amendment to the Future Land Use Classification, mailed notice will be provided to all property owners within 750 feet of the subject property.

organizations in the local community where the amendment to the Future Land Use Map is proposed. The Notice will be sent by regular mail. The Notice must include the following:

- (1) the general location or street address (if available) of the subject property (a specific legal description is not required); and,
- (2) an area location map, at a suitable scale, depicting the subject property in relation to the surrounding neighborhood, sufficiently referenced to known major street or other physical boundaries in the surrounding area so as to be clearly identifiable to the general public; and,
- (3) the name and telephone number of the property owner or the property owners representative or agent; and,
- (4) the name and telephone number of the DCD staff person who can answer questions concerning the application; and,
- (5) the location where the application file is available for public inspection; and,
- (6) a brief description of the substantive request with sufficient detail to advise the public as to what the application may encompass.

ii. For purposes of Notice to timeshare unit owners included on the property owner list required as part of the application, Notice will be sufficient if mailed to the timeshare association and not to the individual unit owners.

iii. The applicant must provide the County with a variance report that identifies all property owners within the area described in Section A.2.a)i, including mailing labels. The applicant must prepay the cost of providing Notice in accordance with this Code as a condition of sufficiency.

iv. DCD will collect and maintain a list of interested homeowner associations and similar organizations for the local community areas in Lee County. The list will be for use in providing courtesy notice of pending projects within the local community area of the County where the project is located. DCD is not required to solicit organizations to create local community lists.

v. In the event the variance report demonstrates mor than 100 property owners within 500 feet of the property, written notice of the application will only be sent to the entities identified in Section A.2.a)iv, above.

b) Posting.

At least 15 calendar days before the Local Planning Agency hearing, the applicant must, in accordance with the instructions outlined by the Department of Community Development (DCD):

- i. Post the sign supplied by DCD indicating the action requested by the applicant, the date of the Local Planning Agency hearing, and the County assigned case number; and,
 - ii. Make a good-faith effort to maintain the signs in accordance with the instructions supplied along with the signs in places selected to provide maximum visibility and exposure to the public, and in readable condition until a final decision has been rendered on the requested action; and,
 - iii. Prior to the Local Planning Agency hearing on the proposed amendment, submit an Affidavit attesting to the applicant's compliance with the posting requirements; and,
 - iv. The signs must remain in place until after the final Board adoption hearing on the application to amend the future land use classification of the subject property.
- c) Notice of Board of County Commissioner Hearings. The County will mail a copy of the notice of the Board Transmittal and Adoption Hearings to those local homeowner associations and local community organizations referenced in Section A.2.a.iv. of this Code, in addition to all members of the public who attended the LPA hearing on the proposed amendment, as well as individuals requesting written notice of future hearings on the proposed amendment to the Future Land Use Classification. Notices will be sent by regular mail no later than 10 calendar days before the public hearing.
- i. The applicant must prepay the cost of providing all mailed notices in accordance with this Code as a condition of scheduling the item for consideration by the Board.
3. Posted and Mailed Notices, described in Section A.2. above is a courtesy to the public and is not jurisdictional. Accordingly, the County's failure to post, mail, or to timely mail such notice or failure to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

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 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.

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.