



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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JEB BUSH
Governor

THADDEUS L. COHEN, AIA
Secretary

December 20, 2004

The Honorable Douglas St. Cemy
Lee County Board of County Commissioners
P. O. Box 398
Fort Myers, Florida 33901

LEE COUNTY
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Re: Lee County's Adopted Evaluation and Appraisal Report
Resolution Number 04-08-86

Dear Chairman St. Cemy:

The Department has completed its **90-Day Sufficiency Review** of the adopted Evaluation and Appraisal Report (EAR) for Lee County, adopted on August 26, 2004, by Resolution Number 04-08-86. The Department has determined the adopted EAR to be **Insufficient** because it does not fulfill the requirements of Section 163.3191(2), Part II, F.S.

The issues identified with the EAR pertain to insufficient evaluation of the changes in population and land area, the extent of vacant and developable land, the financial feasibility of implementing the plan, and changes to Chapter 163, F.S. and Rule 9J-5, F.A.C. The report also did not sufficiently evaluate the successes and shortcomings of each element of the comprehensive plan. Several subject matters were identified as major issues to be evaluated by the County. However, the evaluation of these issues generally failed to assess the extent to which objectives and policies related to those issues were implemented, whether implementation was effective in achieving the desired ends, and whether any changes are needed to enhance the effectiveness of the plan with regard to those issues. Please, see the attached report for the details of the identified sufficiency issues. The report provides guidance regarding how the EAR should be revised to sufficiently address the identified concerns.

With respect to the alternative transportation concurrency proposal that the County discusses in the EAR, the Department is willing to consider the approach following further discussions with the County. The Department's staff will initiate a meeting with the County to this effect subsequent to your receipt of this letter.

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2798 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-24.02

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850)488-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850)413-8989

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850)488-7856

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Please note that the County has one year, from the date of this letter, within which to adopt a revised EAR. The Department's staff is available should you require additional assistance in addressing the issues identified in the attached report. If you have any questions, please do not hesitate to call Bernard O. Piawah, Principal Planner, at (850) 922-1810.

Sincerely,



Charles Gauthier, AICP
Chief, Comprehensive Planning

CG/bp

cc: Mr. Paul O'Connor, Director, AICP, Lee County Planning Department
Mr. David Burr, Executive Director, Southwest Florida Regional Planning Council

**LEE COUNTY'S ADOPTED EVALUATION
AND APPRAISAL REPORT**

90-DAY SUFFICIENCY REVIEW

December 20, 2004

FINAL SUFFICIENCY ISSUES

The Department has identified the following issues that the Lee EAR needs to further address in order to be determined Sufficient.

A. Community-wide Assessment Issues:

1. Population growth and changes in land area [163.3191(2)(a)]

Population Growth: The County did not conduct a sufficient assessment of the changes in population that took place during the planning timeframe. The historical account of the changes in population that took place as well as the County's current population is not documented in the report. The information the County provided focused on the difference between the population projections made by the University of Florida for the County at the time of the previous EAR and the updated projections the University has just made in 2004 for years 2005, 2010, and 2015. The report concluded that due to the difference in updated projections, the County should revise the plan to incorporate the new projections. While the incorporation of the new population projections for the County into the comprehensive plan is the proper thing to do, the County also needs to assess the changes in population that occurred between 1990 and 2000, and disaggregate the growth into the Planning Communities to identify the relative growth trends. It is on the basis on this type of information that land use allocations in the various planning communities could be made.

Recommendation: Include, in the EAR an analysis of the changes in population that occurred in the County during the planning timeframe, and distribute the population growth among the various Planning Communities, so as to identify the trend in population growth in each Community that will guide future land use decisions. The projected population of the County should also be distributed among the various Planning areas based on the observed trend in population growth.

Changes in Land Area: This topic is not directly addressed in the EAR. While the appendix includes a list of annexation, no analysis is included discussing the implication of those annexations and recent incorporations on the County's land allocations, development potentials, and the ability to provide public facilities and services.

Recommendation: Revise the report to provide an assessment of the changes in land area and discuss the implication of those annexations and recent incorporations on the County's land allocations, development potentials, and the ability to provide public facilities and services

2. Location of existing development in relation to future anticipated plan [163.3191(2)(d)]

Lee County's EAR did not address this subject.

Recommendation: Please provide an assessment of the location of existing development in relation to the amount of, and pattern of development as anticipated in the plan or as amended by the most recent EAR update amendments

3. The extent of vacant and developable land [163.3191(2)(b)]

Lee County's EAR did not address this subject

Recommendation: Please provide an assessment of the extent and location of vacant and developable land in the County for each land use category using maps and tables, if necessary to convey the information. This type of analysis is critical to understanding the future land needs of the County, as well as the availability of land to support the anticipated growth of the County.

4. The financial feasibility of providing infrastructure to meet anticipated growth [163.3191(2)(c)]

Lee County's EAR did not address this subject

Recommendation: Provide an assessment of the financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain the adopted level of service standards. For those capital facilities that are subject to concurrency, indicate whether the adopted level of service standards have been met or not, throughout the planning timeframe and also indicate how the County's ability to fund various facility improvements for water, sewer, roads, recreation facilities, and drainage are directly related to meeting of the adopted LOS standards. The analysis should also project the County's infrastructure needs for the new planning timeframe.

5. A brief assessment of the success and shortcomings related to each element of the comprehensive plan [163.3191(2)(h)]

Lee County's EAR did not address this subject

Recommendation: Please provide a brief assessment of the success and shortcomings relating to each element of the comprehensive plan.

6. Changes to Chapter 163 and Rule 9J-5, FAC since last EAR [163.3191(2)(f)]

The report did not identify the changes to the Chapter 163 and Rule 9J-5, FAC that took place since the previous EAR and indicate whether or not the County has addressed or still needs to address those changes. The report simply states that, "the County has either complied with all legislative changes that have occurred, or is in the process of making changes in accordance with latest legislative requirements." Based on this response it is difficult to assess the extent to which the County has complied with all the changes that occurred since the previous EAR. If the changes have been addressed, the EAR should indicate where and when it they were addressed.

Recommendation: Revise the Report to identify each change that has occurred to the law since the previous EAR, and indicate the extent to which the change has been addressed in the comprehensive plan. The EAR should also identify the changes that have not been addressed and indicate how they will be addressed.

7. Identification of the Planning Actions and Corrective Measures to be Undertaking to address the problems associated with the Major Issues including Recognition of the necessary update to be made to the Plan [163.3191(2)(i)]

The EAR does not identify all the necessary updates that would have to be made to the plan such as a revised future conditions map or map series, an updated capital improvement element.

Recommendation: Using the information developed in response to Chapter 163.3191(2)(a) & (b), identify future land use allocations needs for the new planning timeframe and also include in the report all necessary updates that would have to be made to the plan such as a revised future conditions map or map series, and an updated capital improvement element. The EAR should also include public facility projections for the new planning timeframe.

B. Evaluation of Major Issues:

8. An assessment of the objectives within each element of the plan that pertain to each identified major issue to determine if and the extent to which they have been achieved, and indicating whether unforeseen or unanticipated circumstances have resulted in problems or opportunities with respect to the major issues and the social, economic, and environmental impacts of the issue [163.3191(2)(g)]

The County identified 12 major umbrella topics, with 51 sub-parts as the major issues. The major topics are transportation, Lehigh Acres, intergovernmental coordination, density reduction/groundwater resource areas, regulatory environment, public safety, hurricane evacuation, schools, water quality, new urbanism, open space, and community values. The County did not assess whether plan objectives and implementing policies within each element, as they relate to each major issue, have been achieved, and

whether unforeseen or unanticipated circumstances have resulted in problems or opportunities with respect to each major issue and the social, economic, and environmental impacts of the issue. The following is the Department's comments on some of the major issues.

Major Issue #1: Transportation: Transportation was identified as a major issues with seven sub-parts namely: level of service, north/south and east/west corridors, bike and pedestrian facilities, roadway landscaping service roads, transit level of service, and roadway geometries.

1. **Level of Service Standards:** With respect to level of service standards, the Report provides a county-wide summary of the traffic volume on the County's roadways in 1996, 1999 and 2002, indicating any surplus capacity that existed. However, providing a countywide summary of traffic conditions does not address the major issue of how well the level of service standards have been maintained on the County's road network as identified on the Future Transportation Map. Furthermore, the evaluation does not identify the roadway segments on which problems exist, or existed and analyze why. In addition, the evaluation does not address how land use approvals have been linked to, and coordinated with transportation planning and the type of land use adjustments that would be needed in order to maintain or achieve better coordination between the future land uses pattern of the County and transportation planning. It is also not clear in the report the extent to which the goals, objectives and policies in the plan that specifically relate to the maintenance of the adopted level of service standards have been effective in helping the County achieve and maintain adopted LOS standards during the evaluation period.

Recommendation: Revise the report to: 1) identify the roadways on which level of service problems exist, or existed and provide an analysis discussing why there were problems and how they might better be dealt with in the future. 2) provide an assessment of how land use approvals have been coordinated with transportation planning and the type of adjustments that will be done to achieve better coordination; and 3) identify, and analyze the effectiveness of the specific goals, objectives and policies in the Transportation, Future Land Use, and Capital Improvements Elements that pertain to coordination of land use with transportation planning, and achieving and maintaining the adopted LOS standards. With respect to the FIHS roadways, provide an assessment of the extent to which the parallel reliever roads that the County has constructed have reduced traffic on the FIHS

2. **Bike and Pedestrian Facilities:** The EAR does not provide an assessment of the success of the County's bike/pedestrian programs and whether any changes are needed in order to achieve the intended purpose. Furthermore, it is not clear in the report, if bike/pedestrian links have been completed between the land uses cited in the Policy 24.4.2, and also where these facilities have been constructed to provide greater interrelationship and connection between uses. In addition, no information is provided in the report to allow the assessment of the progress in implementing Map 3D, and the policies cited in the report pertaining to bikes and pedestrian facilities. This type of assessment is particularly

important considering the function of bike/pedestrian paths to general transportation network of the County.

Recommendation: Provide an assessment of the success and failure of the County's bike/pedestrian programs and the extent to which they have helped provide alternative transportation pathways that have relieved traffic on the major roadways and promoted communication between land uses. Based on this assessment recommend appropriate changes, or reprioritization of programs, to better achieve objectives.

3. **Service Roads:** Service roads are a functional part of the County's roadway network; yet, no assessment of the progress made in the County during the evaluation period to provide service roads for the major arterial and collected roads in the County including US 41, Colonial Boulevard, Daniel Parkway, and Metro Parkway has been provided.

Recommendation: Revise the report to include an assessment of the condition and availability of service roads in the County. The assessment should document the progress made since the previous EAR relative to the objective targets in the comprehensive plan, and where necessary include recommendation for amendments that would facilitate progress.

4. **Transit Level of Service:** Although this section is titled "Transit LOS Standards" no information on the transit LOS, as well as an assessment of how well they are being achieved have been provided. It is difficult to judge from the EAR the extent of progress made in providing public transit in the County and its contribution towards achieving the County's overall transportation strategy. Also, the extent to which the land use pattern of the County supports the transit system is not assessed.

Recommendation: Revise the report to assess the extent to which the transit LOS standards have been achieved, indicating the condition at the time of the previous EAR and the condition at the present time so as to establish the trend. The extent to which objective targets established in the plan have been achieved should also be documented. Also, identify the major attractors and/or generators of transit in the County and the additional strategies, if necessary, including land use adjustments, to be undertaken to support the transit system.

Major Issue #3: Intergovernmental Coordination: The subject of intergovernmental coordination was identified as a major issue by the County. The EAR narrated the meetings that the County's staff regularly participates in with the MPO, the Water Management District, and the Environmental Science Department of the County. The Report also discusses the annexation activities of the municipalities. However, no assessment of the effectiveness of the existing intergovernmental coordination mechanisms of the plan today in comparison to their effectiveness at the time of the previous EAR has been provided. Essentially, the Report does not document the coordination mechanisms that have worked well during the past years and those that have not worked in order to identify areas in need of improvement.

Recommendation: Revise the report to assess the effectiveness of the existing intergovernmental coordination mechanisms, and documenting the mechanisms that have worked and the ones that have not worked, in order to identify areas in need of improvement.

Major Issue # 4: Density Reduction/Groundwater Resource: The effectiveness of the land use designation known as the Density Reduction/Groundwater Resource (DRGR) was identified as one of the major issues in Lee County to be evaluated. As a category, it allows residential use at one unit per 10 acres and a variety of other uses, including mining and private recreation uses. According to the report, the category was created for two reasons: 1) to put a cap on density in order to reduce the carrying capacity of the County's Future Land Use Map; and 2) to protect the County's underground water system. The report concludes that the two purposes were achieved since there have been very few developments within the DRGR since its creation. The County has not provided a sufficient evaluation of this land use category considering its importance to the County.

According to the report, mining had the most impact on the DRGR, yet the extent to which mining has affected other resources within the DRGR are not addressed. The impact of mining is presented based on the number of development orders (D.O) issued. This is insufficient because it does not accurately account for the impact of mining in terms of the amount of land involved in each DO, the cumulative impact of the mined areas, the characteristic of the mined areas, and the location of mining activities in the DRGR. In the absence of this type of assessment it is difficult to account for the impact mining and other activities in the DRGR have had since the previous EAR.

The EAR also stated that the evaluation of the allowed uses within the DRGR would take place following the completion of a study of the DRGR that has been commissioned by the County. Deferring the evaluation of the DRGR to a future study is insufficient because the County is required to use the EAR process to evaluate the changing conditions of the major issues (i.e., the trend) since the past EAR, and to evaluate the extent to which objective measures and benchmarks established in pertinent objectives and policies of the plan relating to the major issues have been achieved.

Although the historical reasons for creating the DRGR were: 1) to put a cap on density in order to reduce the carrying capacity of the County's Future Land Use Map; and 2) to protect the County's underground water system, the importance of the DRGR goes beyond just those two purposes, to include the protection of natural resources in general, in fact resource protection is another major issue identified by the County and should be evaluated in relation to the DRGR. For example, the DRGR is home to various plant communities and wildlife including the endangered Florida Panthers, in view of this several objectives that pertain to the land area of the DRGR and the ecological system that make up the DRGR should have been evaluated to establish the extent to which they been achieved, or failed to be achieved utilizing the most recent and best available data. These objectives include Objective 77.1, relating to the implementation of natural resource protection programs to ensure the long-term protection of uplands and

wetland habitats; Objective 77.2 regarding the protection of plant communities; Objective 77.3 regarding the maintenance and enhancement of the diversity of the County's ecological systems, and Objective 77.4 regarding the protection of threatened and endangered species.

Recommendation: Include in the EAR, a thorough assessment of the DRGR relative to the impact of human activities on the systems and functions embraced by the DRGR designation. The assessment should document the change in condition since the previous EAR, and the extent to which all objectives in the plan pertaining to the systems and related functions of the DRGR have been achieved, including the evaluation of the objectives cited above. The analysis and assessment should utilize the most recent and best available information and should provide maps of the mined areas, the number of acres mined since the last EAR, and cumulative impact of mining and other activities on the resources of the DRGR area.

Major Issue #5: Regulatory Environment:-

The Provision of Public Facilities: The provision of non-transportation related public facilities have been identified as one of the major issues to be evaluated. No data and analysis have been provided which assesses the effectiveness of the objectives and policies in the plan with respect to the County's ability to provide public facilities and services such as water, sewer, recreational and open space, drainage and other facilities. For example, new developments are required to provide internal infrastructure; however, the success or failure of that program has not been assessed. The County maintains an impact fee program whose success or failure has not been assessed and documented in the Report. Furthermore, the report does not assess the adequacy of the funds derived from the impact fees to fund needed facilities.

Recommendation: Revise the EAR to address the extent to which the County has been successful in providing all non-transportation related infrastructure relative to the level of service standards and other objective measures established in the comprehensive plan.

Major Issue #7: Hurricane Evacuation/Shelter: The EAR did not evaluate the accomplishment of the objectives and policies in the plan pertaining to this issue. While it appears that there are problem associated with maintenance and reduction of clearance time, it is unclear if the situation has gotten better or worse during the evaluation period. It is also not clear in the Report whether the land use activities in the County have resulted in increased population concentration in the coastal high hazard area. Similarly, the County is not supposed to subsidize private development in the coastal high hazard area; however, the extent to which relevant objectives and policies pertaining to this purpose has been achieved is not addressed in the Report.

Recommendation: Revise the report to provide an assessment of the extent to which the objectives in the plan pertaining to hurricane evacuation have been achieved. Specifically, document clearly if clearance time has been maintained or reduced, and also show how the actions to be taken during the coming planning period will ensure that clearance time is maintained. Also assess the extent to which the objectives and policies in the plan pertaining to the directing of population concentrations away from the coastal high hazard area, and the subsidization of development in the coastal high hazard area has been achieved.

Major Issue #9: Water Quality etc: Water quality was identified as one of the major issues; however, the extent to which the quality of the water, air and other resources in the County has changed since the previous EAR is not documented in the Report.

Recommendation: Revise the report to include an analysis of the changing condition of the water, air and other natural resources in the County since the previous EAR utilizing the most recent and best available data. The Report should document the extent to which pertinent objectives and policies in the plan been achieved during the planning timeframe.

Major Issue # 12: Item c:- Affordable Housing: Affordable housing was identified as one of the major issues. On this issue the report states that as the County has grown larger, so has the demand for affordable housing. No information is provided on the existing condition of affordable housing (i.e., the size of the demand and supply at the time of this EAR) in comparison to the condition at the time of the previous EAR.

Recommendation: Include in the EAR an adequate assessment of affordable housing. The assessment should document the existing condition in terms of demand and supply and compare it to the condition at the time of the previous EAR in order to document the trend and evaluate the extent to which the objective benchmarks established in the comprehensive plan was achieved during the planning timeframe.

9. Identification of the planning actions or corrective measures to be undertaking to address the problems associated with the major issues, including a recognition of the necessary updates to be made to the plan [163.3191(2)(i)J

The EAR recognizes the fact that the plan will need to be updated to establish a new planning horizon (i.e., change from 2020 to 2030). The report also recognizes the fact that new population projections will have to be incorporated into the plan. Other updates that the County would need to make to its plan are not properly identified in the EAR.

Recommendation: Revise the report to provide a summary of the amendments and all the updated that the County intends to make to the plan during the EAR-based amendment process.

C. Special Topics:

10. An assessment of the success and failure of coordinating future land uses and residential development with the capacity of planned schools, the projections of populations, and the planning and siting of schools [163.3191 (2)(k)];

This item is not specifically addressed as required. However, the topic of school was identified as a major issue to be addressed in the EAR. The County did a very abbreviated evaluation of schools as a major issue whereby they indicated that they work with the School Board to collocate schools. Reference is made to Goal 46 of the Lee Plan that calls on the County to assist the School Board in locating schools. The report also states that through the interlocal agreement for school planning, the County has been asked to review 12 proposed school sites. No comparison is made in the report between the condition of today and the condition at the time of the previous EAR, relative to the objectives in the plan. Also, the success and failure of coordinating future land use and residential use, in particular, with the capacity of planned schools as well as with the projected population is not addressed.

Recommendation: Revise the Report to adequately address this issue.