

**PAM/T 96-27
BoCC SPONSORED
EAR ADDENDUM AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585*

June 3, 1998

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR**

**COMPREHENSIVE PLAN AMENDMENT
PAM/T 96-27**

T	This Document Contains the Following Reviews:
T	Staff Review
T	Local Planning Agency Review and Recommendation
T	Board of County Commissioners Hearing for Transmittal
T	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
T	Board of County Commissioners Hearing for Adoption

ORIGINAL STAFF REPORT PREPARATION DATE: May 20, 1997

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

2. REQUEST:

Amend the Future Land Use Map, Map 1 and Goal 16 and its subsequent objectives and policies, to reflect the effect of the incorporation of the Town of Fort Myers Beach.

B. BACKGROUND INFORMATION

This amendment was initiated by the Evaluation and Appraisal Report Addendum Report as adopted by the Board of County Commissioners on February 1, 1996. This report contained the following:

Goal 16: Fort Myers Beach

Fort Myers Beach became incorporated on December 31, 1995. Goal 16 of the Lee Plan was adopted to "manage growth, development and redevelopment throughout the Fort Myers Beach Plan area which includes the entire Fort Myers Fire District". The Town of Fort Myers Beach contains the majority of the property affected by this goal and its objectives and policies. A review of Goal 16 and its subsequent objectives and policies is needed to determine their applicability to the portions of the Fort Myers Beach Fire District that have not been incorporated into the Town of Fort Myers Beach. An amendment to the Future Land Use Map, Map 1, will also be required to remove the Town of Fort Myers Beach from the areas affected by Goal 16.

Recommendation: Amend, in the 1996 amendment cycle, the Future Land Use Map 1, Goal 16 and subsequent objectives and policies, to reflect the effect of the incorporation of the Town of Fort Myers Beach.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that the Board of County Commissioners transmit to the Department of Community Affairs the proposed deletion of the Fort Myers Beach planning area boundary from Map 1 of the Lee Plan (see Attachment 1) and the proposed following text amendments to the Future Land Use Element, Community Facilities and Services Element; the Conservation and Coastal Management Element; and the Ports, Aviation and Related Facilities Element:

~~**GOAL 16: FORT MYERS BEACH:** To manage growth, development, and redevelopment throughout the Fort Myers Beach plan area, which includes the entire Fort Myers Beach Fire District, the boundaries of which are indicated upon the Future Land Use Map. To maintain and enhance the area's unique natural resources, quality of life, public and private infrastructure (including roads, public transit, wastewater treatment facilities, potable water transmission system, surface water management system, beach accesses, historic resources, and other community facilities). To ensure that residents and visitors will have adequate protection or evacuation opportunities in the event of a hurricane or other natural disaster and to ensure the ability to reconstruct all necessary facilities, public and private, in the event that a disaster occurs. (In the event of conflicts between policies contained under Goal 16 and policies contained elsewhere in this plan, the most restrictive shall apply, except for the buildback policy.) (This Goal and its Objectives and Policies were Added by Ordinance 91-19) (Amended by Ordinance No. 94-30)~~

~~**OBJECTIVE 16.1: NATURAL RESOURCES.** The county shall review its regulations and policies and administrative actions to insure that they preserve and enhance the estuarine, upland, scenic, and wetland resources of Estero Bay, Hurricane Bay, Ostego Bay, San Carlos Island, Matanzas Pass, Black Island, Little Estero Island, and any area of the mainland which drain into Estero Bay, Hurricane Bay, or Ostego Bay. No further functional degradation of estuarine and wetland resources shall take place. (The county shall attempt to improve the water quality of Estero Bay to Class II [shellfish standards as defined in Florida Administrative Code (F.A.C.) 17-3] by the year 2000 and shall accomplish the improvement by 2005. (Amended by Ordinance 92-35) (Amended by Ordinance No. 94-30)~~

~~**POLICY 16.1.1:** By 1997 the county shall, with recommendations from an advisory committee, affected elements of county government, and other affected persons, further develop and implement a Matanzas Harbor Management Plan. The scope of this plan shall include the designation of a managed mooring area; the regulation of trash and wastewater disposal; and establishment of a research facility designed to meet the needs of marine environmental sciences, marine education, marine research and study of the estuarine and intertidal environment of waters unique to Lee~~

~~County, specifically, Estero Bay, Ostego Bay and Hurricane Bay. This plan will provide mechanisms and standards for the strict enforcement of health, safety and welfare regulations throughout the Estero Bay and Matanzas Harbor area, regulations for the protection of marine resources; and the initiation and operation of a marine research/educational facility that would provide public access as determined by a final master plan. (Amended by Ordinance 92-35) (Amended by Ordinance No. 94-30)~~

POLICY 16.1.2.: ~~The county shall enforce and strengthen regulations prohibiting those discharges that will degrade the water quality so as to improve the water quality of Estero Bay to Class II (shellfish standards as defined in F.A.C. 17-3) by the year 2005 through the acquisition of wetlands, monitoring of water quality, enforcement of adopted standards, careful control of development, and eliminating those discharges into the Estero Bay watershed which presently or potentially degrade water quality. (Amended by Ordinance No. 94-30)~~

POLICY 16.1.3.94.1.3: The county shall, with recommendations from ~~a Fort Myers Beach advisory committee~~ the Waterways Advisory Committee (or successor agency) and other affected agencies and persons, on an as needed basis, make application to the Army Corps of Engineers, and all other agencies as required, to maintain, where environmentally and economically feasible, existing channels and passes to the Gulf of Mexico at their authorized and/or historic depths. The county shall support the efforts of private individuals or groups to maintain established depths in private canals and waterways through the establishment of Municipal Service Benefit Units (MSBUs) to fund such private efforts, unless the county has determined such efforts to be detrimental to the environment.

POLICY 16.1.4 83.3.3: The county shall support the renourishment of ~~the beaches of Estero Island~~ through the use of environmentally responsible methods. ~~Funding mechanisms for the renourishment may include but are not limited to the use of parks impact fees, public metered parking proceeds, tourist development taxes, Municipal Service Benefit Units (MSBUs), and beachfront property assessments, as long as the title to accreted lands remains public. The county shall study the use of and attempt to utilize dredge spoil from any channel maintenance projects as renourishment material.~~

POLICY 83.3.2: The costs of beach renourishment programs shall be borne by the beneficiaries of those programs. Funding mechanisms for the renourishment may include but are not limited to the use of parks impact fees, public metered parking proceeds, tourist development taxes, Municipal Service Benefit Units (MSBUs), and beachfront property assessments, as long as the title to accreted lands remains public. (Amended by Ordinance No. 94-30)

POLICY 16.1. 5: ~~The county shall support the establishment of a bottom fishing restriction zone, extending from the mean high water line to the statutory limit, in order to protect endangered, threatened, or species of special concern which utilize the beach areas for mating and/or nesting.~~

POLICY 16.1.6 74.2.1: The county shall study the costs and benefits of extending the Estero Bay Aquatic Preserve to include major inland tributaries (Hendry, Mullock, and Spring Creeks, and the Estero and Imperial Rivers) by ~~1995~~ 2005. (Amended by Ordinance No. 94-30)

~~**POLICY 16.1.7:** New transportation and parking facilities and improvements to existing transportation and parking facilities shall be designed and built to prevent the runoff of stormwater into the water of the Fort Myers Beach area without proper treatment.~~

~~**OBJECTIVE 16.2: LAND USES.** County regulations, policies, enforcement activities, and discretionary actions shall recognize the unique characteristics of Fort Myers Beach with regard to existing residential, commercial and resort development, vehicular access, seasonal infrastructure demands, and proposed future development/ redevelopment in the Fort Myers Beach Fire District. Future land uses shall conform to the Future Land Use Map.~~

~~**POLICY 16.2.1:** Within the Urban Community land use category the following restrictions shall apply:~~

~~c Commercial development shall not expand or intrude into residential neighborhoods.~~

~~c All commercial rezonings shall be required to rezone to the Commercial Planned Development zoning category.~~

~~c Residential density shall be limited to 6 units per acre except as allowed by footnote 10 of Table 1, Summary of Residential Densities.~~

~~c The county shall develop a zoning plan for the district;~~

~~a. To address non-conforming and incompatible land uses.~~

~~b. To eliminate or correct outdated zoning classifications.~~

~~c. To address traffic circulation and parking problems.~~

~~d. To achieve economic revitalization through elimination of blight.~~

~~e. To protect adjacent residential neighborhoods.~~

~~f. To provide for affordable housing.~~

~~Until that zoning plan is adopted, property which has existing commercial zoning can be developed or redeveloped consistent with that zoning and the Lee Plan. (Amended by Ordinance No. 94-30)~~

- ~~**POLICY 16.2.2:** Within the Suburban land use category, in order to protect neighborhood character, no rezonings to commercial shall be allowed.~~
- ~~**POLICY 16.2.3:** The county shall study amending the Zoning Regulations by December 31, 1995 to limit the height of new buildings in the area to 35 feet above flood elevation level. The amendment may exempt certain non-habitable public safety or communications structures, and shall not be applied in a manner contrary to the buildback policy. (Amended by Ordinance No. 94-30)~~
- ~~**POLICY 16.2.4:** Future amendments to this plan shall be evaluated according to the standard in Policy 79.2.1 to ensure that existing and planned shelter and evacuation facilities can be provided. (Amended by Ordinance No. 94-30)~~
- ~~**OBJECTIVE 16.3: TRANSPORTATION.** The county shall prepare and approve plans for transportation improvements and incorporate these improvements in the capital facilities plan, such improvements to be completed by 1995. (Amended by Ordinance No. 94-30)~~
- ~~**POLICY 16.3.1:** The Fort Myers Beach CRA Plan shall include plans for the undergrounding of utilities, where financially feasible. (Amended by Ordinance No. 94-30)~~
- ~~**POLICY 16.3.2:** As part of the transit design process, the county shall consider ways to establish pull-overs and turn-offs for the pick-up and discharge of passengers from all trolley and mass transit vehicles and requiring that such pick-up and discharge be done only at specified transit stops.~~
- ~~**POLICY 16.3.3:** The Fort Myers Beach CRA Plan will be amended by 1995 to include service delivery plans. (Amended by Ordinance No. 94-30)~~
- ~~**POLICY 16.3.4:** The county shall continue to make and implement specific recommendations for the improvement and enhancement of traffic movement throughout the Fort Myers Beach area. (Added by Ordinance No. 94-30)~~
- ~~**POLICY 16.3.5:** Lee County shall implement the following interim improvements to help alleviate traffic congestion in the plan area:~~
- ~~1. Accelerate the widening of San Carlos Boulevard to 5 lanes from the Pine Ridge Road area to Main Street, possibly by using county funds, with reimbursement by the FDOT at a later date.~~
 - ~~2. Work with FDOT to have right turn deceleration lanes and tapers constructed on San Carlos Boulevard when San Carlos Boulevard is widened to 5 lanes.~~

~~3. When San Carlos Boulevard is widened, retain and signalize through access between San Carlos Drive and San Carlos Boulevard.~~

~~4. Limit vacations of rights-of-way and easements to preserve future access and to provide future areas for water retention and storm water filtration necessary for road widening.~~

~~5. Removing encroachments and hazards on the public rights of way. (Amended by Ordinance No. 94-30)~~

~~**POLICY 16.3.6:** Under no circumstances shall the four laning of Estero Boulevard be considered as a desirable means of improving traffic circulation on Estero Island.~~

~~**POLICY 16.3.7:** Prior to the expenditure of public funds for the construction of new parking facilities within the Ft. Myers Beach Study Area, an analysis of the relationship of the facility to the level-of-service on constrained and backlogged roads shall be undertaken, in order to determine if the location, size and function of the facility is appropriate and consistent with the adopted CRA plan and the Traffic Circulation element of the Lee Plan. (Amended by Ordinance 92-35) (Amended by Ordinance No. 94-30)~~

~~**OBJECTIVE 16.4: COMMUNITY FACILITIES.** Lee County Utilities shall continue to improve its service to the Fort Myers Beach plan area. (Amended by Ordinance No. 94-30)~~

~~**POLICY 16.4.1 34.1.9:** By 1994, the county shall Lee Utilities will continue to identify those properties within the Fort Myers Beach Fire Control District that are not fully connected to the wastewater collection system and require them to connect. (Amended by Ordinance No. 94-30)~~

~~**POLICY 16.4.2 32.1.11:** Continue to encourage new and existing developments in the Fort Myers Beach Plan area to utilize the Fort Myers Beach/Iona-McGregor sewer system's dual water system. (Amended by Ordinance No. 94-30)~~

GOAL 34: SANITARY SEWER INFRASTRUCTURE. To protect the public health and environmental quality by encouraging and ensuring the provision of sanitary sewer service and wastewater treatment and disposal throughout the future urban areas of the unincorporated county and to Fort Myers Beach.

~~**OBJECTIVE 16.5: RECREATION AND BEAUTIFICATION.** County regulations, policies and discretionary actions shall preserve and enhance the scenic, historic, and recreational values existing with the Fort Myers Beach plan area.~~

- ~~———— **POLICY 16.5.1:** By 1995, the county shall develop and implement a plan for the identification and acquisition of remaining vacant or otherwise available beachfront properties and environmentally critical areas for public use. (Amended by Ordinance No. 94-30)~~
- ~~———— **POLICY 16.5.2:** The county shall establish and fund a continuous program for the removal of trash and debris from the beachfront and bay accesses within the Fort Myers Beach plan area.~~
- ~~———— **POLICY 16.5.3:** The county shall continue its ambitious program of surveying and reconstructing beach access points on Estero Island.~~
- ~~———— **POLICY 16.5.3:** The county shall work with the Florida Department of Environmental Protection to insure that the development of Black Island/Lovers Key State Park will preserve its natural setting to the fullest extent possible by maintaining the passive nature of existing and planned park facilities in keeping with neighboring Carl Johnson Park. The county shall provide mass transit to these parks. (Amended by Ordinance No. 94-30)~~
- ~~———— **POLICY 16.5.5:** The county, in cooperation with the Beach CRA, shall strive to improve the appearance of Fort Myers Beach by landscaping public property and rights-of-way with native vegetation and by encouraging private participation through technical assistance and matching grants. (Amended by Ordinance No. 94-30)~~
- ~~———— **POLICY 16.5.6:** The county shall, by 1995, propose acceptable alternatives to asphalt/concrete paving for public/private driveway and parking lot areas and landscaped areas, to provide better percolation and less run-off of stormwater. (Amended by Ordinance No. 94-30)~~
- ~~———— **POLICY 16.5.7:** The county shall, as part of its Historic Preservation program, inventory historic resources and designate those historic resources pursuant to Lee County's Historic Preservation Ordinance.~~
- ~~———— **POLICY 16.5.8:** Continue to maintain and enforce boating speed restrictions in Estero Bay and along the beachfront. (Amended by Ordinance No. 94-30)~~
- ~~———— **POLICY 16.5.9:** Park planning shall match less-intensive recreational and open space uses to environmentally sensitive and pristine resources; and match user-based facilities to less sensitive or more urbanized land.~~
- ~~———— **POLICY 16.5.10:** Maximum conservation of native vegetation, land forms, wetlands, native habitats, bay water quality, marine grass beds, shellfish beds, and mangroves shall be a priority in providing access to these resources and in the development of parks or recreation facilities.~~

- ~~———— **POLICY 16.5.11:** Recreation areas shall have a minimum of impervious surfaces.~~
- ~~———— **POLICY 16.5.12:** Sidewalks, bike paths and mass transit routes shall be designed to provide convenient and safe access to all recreational facilities in the area.~~
- ~~———— **POLICY 16.5.13:** The Beach CRA will consider funding the position of Fort Myers Beach Code Enforcement Coordinator, whose responsibility shall be the prompt enforcement of all applicable building and zoning codes, life and safety codes, and all other applicable ordinances, policies, and codes necessary for the protection of the public health, safety and welfare. (Amended by Ordinance No. 94-30)~~
- ~~———— **OBJECTIVE 16.6: INTERGOVERNMENTAL COORDINATION AND CITIZEN PARTICIPATION.** For the purposes of gathering information regarding Fort Myers Beach and making policy recommendations to the County Commission, Lee County shall maintain the active participation of a Fort Myers Beach advisory committee.~~

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

Fort Myers Beach on Estero Island is no longer one of Lee County’s unincorporated population centers but an incorporated town with its own planning and permitting rights and responsibilities. It is important to note that in accordance with the town charter, the Town of Fort Myers Beach has jurisdiction over 1,000 feet of bay and gulf waters and as a result would have jurisdiction over areas proposed for natural resource protection under Goal 16. The charter of the Town of Fort Myers Beach describes the town’s boundaries as follows:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County that is located and situated within Estero Island, including a corporate limit line offshore 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and structures exclusively attached thereto.

Objective 16.1 and its policies deal with natural resource protection issues. This objective and some of its policies are applicable outside the jurisdiction of the Town of Fort Myers Beach. All other objectives and policies apply solely within the jurisdiction of the Town of Fort Myers Beach. These objectives and policies are no longer appropriate in the Lee Plan which applies only to the unincorporated portions of the county, except for Policy 16.4.1 which should be added to the policies of Objective 34.1 and Policy 16.4.2 which should be added to the policies of Objective 32.1.

Map 1 of the Lee Plan contains the planning boundary line for Fort Myers Beach as referenced in Goal 16. References to Fort Myers Beach now refer to the jurisdictional boundaries of the newly

incorporated Town of Fort Myers Beach. Since the text for Goal 16 is either being deleted or reworded to apply to the county, this boundary line is no longer necessary or relevant in the Lee Plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

In 1991, Goal 16 and its Objectives and Policies were added to the Future Land Use Element of the Lee Plan to address the special concerns of Fort Myers Beach. On December 31, 1995, the Town of Fort Myers Beach became the fourth incorporated municipality in Lee County. Goal 16 and its Objectives and Policies which apply to the new jurisdiction of the Town of Fort Myers Beach are no longer appropriate in the Lee Plan and should be considered by the Town of Fort Myers Beach for inclusion in their comprehensive plan. The Fort Myers Beach planning boundary on Map 1 of the Lee Plan should be deleted as it would no longer be relevant. Goal 16 objectives and policies which are applicable countywide should be relocated to other appropriate goals of the Lee Plan. Goal 16 objectives and policies are discussed individually below:

1. Objectives and Policies Which Apply Only to Ft. Myers Beach

- a. **Policies 16.1.5 and 16.1.7** are natural resource policies which are specific to the jurisdiction of the Town of Fort Myers Beach and should be deleted from the Lee Plan.
- b. **Objective 16.2 and Associated Policies** provide for land use regulations, policies, enforcement activities, and discretionary actions specific to Ft. Myers Beach. These duties are now the responsibility of the Town of Ft. Myers Beach.
- c. **Objective 16.3 and Associated Policies** requires Lee County to plan for transportation improvements for incorporation into the Lee County Capital Improvement Plan. This duty is now the responsibility of the Town of Ft. Myers Beach.
- d. **Objective 16.5 and Associated Policies** require Lee County to provide for regulations, policies, and discretionary actions related to recreation and beautification within the jurisdiction of Ft. Myers Beach. These duties are now the responsibility of the Town of Fort Myers Beach.
- e. **Objective 16.6** requires that Lee County maintain a Fort Myers Beach citizen advisory committee for intergovernmental coordination and citizen participation. This duty is now the responsibility of the Town of Ft. Myers Beach. Lee County's role is shifted to participating in intergovernmental efforts with municipalities as addressed in the Intergovernmental Coordination Element of the Lee Plan.

2. Objectives and Policies Which Apply County-wide

Natural resource policies which are applicable in the unincorporated county and which are not addressed elsewhere in the Lee Plan should be retained. These include Policies 16.1.3, 16.1.4 (portion), and 16.1.6. These policies should be updated, revised as necessary for county-wide application, and relocated under appropriate natural resource objectives in other elements of the Plan as follows:

- a. **Policy 16.1.3** should be renumbered as Policy 94.1.3 and added to the Ports, Aviation and Related Facilities Element under Objective 94.1 - Channel Dredging which states: "*The county shall maintain the support facility and service systems of existing ports.*".
- b. **Policy 16.1.4**, as currently written, contains three related but distinct policy statements:

The first sentence is partially addressed by Policies 83.3.1:1 and 83.3.1:4, which state that the county will provide beach renourishment plans for Estero Island. The first sentence should delete the specific reference to Estero Island and be renumbered as Policy 83.3.3.

The second sentence of Policy 16.1.4 regarding funding mechanisms should be added to the end of Policy 83.3.2 which states "*The costs of beach renourishment programs shall be borne by the beneficiaries of those programs*".

The third and last sentence of Policy 16.1.4, "*The county shall study the use of and attempt to utilize dredge spoil from any channel maintenance projects as renourishment material.*", is addressed in the following Lee Plan policies and therefore should be deleted:

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

3. Collecting information on available sources of beach-quality sand for renourishment, concentrating on areas which will have minimal impacts on the county's fisheries; and
8. Preparing a sand preservation plan that emphasizes the importance of maintaining beach quality sand within the littoral system and discourages ocean dumping of usable sand from channel dredging.

POLICY 94.1.1: The county shall monitor the maintenance of support facility and service systems of existing ports, with responsibility for:

- C Coordination between the U.S. Army Corps of Engineers and Lee County on the timing of maintenance dredging on federally maintained channels.

- C Coordination with the U.S. Army Corps of Engineers on the location and placement of the spoil material that result from maintenance dredging activities, with use of this material for beach renourishment where needed and financially feasible.
- C Assessing the possibility of instituting a private channel maintenance assessment on properties benefiting from the channels.

3. Duplicated Objectives and Policies

Objective 16.1, Policy 16.1.1, and Policy 16.1.2 deal with natural resource issues which apply to the unincorporated county. These issues are addressed in other objectives and policies of the Lee Plan and are therefore recommended to be deleted. The duplicated objectives and policies are presented below:

- a. **Objective 16.1: Natural Resources:** The content of this objective is addressed in the following existing objectives and policies of the Conservation and Coastal Management Element:

OBJECTIVE 77.1: RESOURCE MANAGEMENT PLAN. The county shall continue to implement a resource management program that ensures the long-term protection and enhancement of the natural upland and wetland habitats through the retention of interconnected, functioning, and maintainable hydroecological systems where the remaining wetlands and uplands function as a productive unit resembling the original landscape. (Amended by Ordinance No. 94-30)

POLICY 77.2.10: Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas shall protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

OBJECTIVE 78.1: WATER QUALITY MONITORING. Establish baseline conditions in all estuarine systems, including pollutant and freshwater loadings by 2000, and maintain an ongoing water quality monitoring program. Maintain communication with other local, state, and federal estuarine water quality studies to ensure that the latest data and recommendations are available. (Amended by Ordinance No. 94-30)

POLICY 78.1.1: The Lee County Division of Natural Resources Management (or its successor) shall monitor estuarine water quality and be responsible for...(4.) Recommending actions that are intended to maintain or improve water quality in the estuaries to meet the Department of Environmental Protection's criteria for the appropriate class water body and preserve the "approved for shellfish harvesting" classification where applicable, while attempting to return viable "closed" (due to water quality) shellfishing areas to an "approved" status.(Amended by Ordinance No. 94-30)

OBJECTIVE 78.2: WATERSHED MANAGEMENT PLANS. By 1996, establish procedures for reviewing all new upland development in terms of its impacts on estuarine systems. Prepare estuarine watershed management plans which maximize stormwater retention and treatment, with priority to the Estero Bay watershed. (Amended by Ordinance No. 94-30)

- b. **Policy 16.1.1:** This policy is duplicated in Policy 94.6.3 of the Ports, Aviation and Related Facilities Element as follows:

POLICY 94.6.3: By 1997, the county shall, with recommendations from an advisory committee, affected elements of county government and other affected persons, further develop and implement a Matanzas Harbor Management Plan. The scope of this plan shall include the designation of a managed mooring area; the regulation of trash and wastewater disposal; and establishment of a research facility designed to meet the needs of marine environmental sciences, marine education, marine research and study of the estuarine and intertidal environment of waters unique to Lee County, specifically, Estero Bay, Ostego Bay and Hurricane Bay. This plan will provide mechanisms and standards for the strict enforcement of health, safety and welfare regulations throughout the Estero Bay and Matanzas Harbor area, regulations for the protection of marine resources; and the initiation and operation of a marine research/educational facility that would provide public access as determined by a final master plan. (Added by Ordinance No. 94-30)

- c. **Policy 16.1.2:** The content of this policy is addressed in Policy 78.1.1.4 of the Conservation and Coastal Management Element. Policy 78.1.1.4 is presented under Objective 16.1 above.
- d. **Objective 16.4 and Policy 16.4.2:** The incorporation of the Town of Fort Myers Beach does not change the service responsibilities of Lee County Utilities for the Fort Myers Beach/Iona sewer system service area. The intent of Objective 16.4 and Policy 16.4.2 is addressed generally in Goal 34 of Section b., Sanitary Sewer, of the Community Facilities and Services Element. Policy 34.1.1 specifically addresses the service area for the Fort Myers Beach/Iona sewer system. The words “and Ft. Myers Beach” should be added to the end of Goal 34 to recognize the continued responsibility of Lee County Utilities to provide sewer service to Ft. Myers Beach. With this change, Objective 16.4 and Policy 16.4.2 are unnecessary duplication and should therefore be deleted.

Goal 34 and its attendant objectives and policies are presented below.

GOAL 34: SANITARY SEWER INFRASTRUCTURE. *To protect the public health and environmental quality by encouraging and ensuring the provision*

of sanitary sewer service and wastewater treatment and disposal throughout the future urban areas of the unincorporated county.

OBJECTIVE 34.1: *The county shall ensure the provision of acceptable levels of sanitary sewer service throughout the future urban areas of the unincorporated county, either directly by Lee County Utilities or a utility authority, or indirectly through franchised utility companies.*

POLICY 34.1.1: *The Board of County Commissioners hereby establishes service areas for the Fort Myers Beach/Iona sewer system, the South Fort Myers sewer system, the East Lee County sewer system, and the Matlacha sewer system throughout which it will provide standard service as required by demand, and within which it will challenge applications by private sanitary sewer utilities to obtain a Certificate of Operation from the Florida Public Service Commission and reject all applications for a county franchise therein. These service areas are illustrated in Map 7. Within the Fort Myers urban reserve area, the service areas shown on the map are subject to modifications in accordance with existing and future interlocal agreements. (Amended by Ordinance No. 93-25)*

POLICY 34.1.2: *The minimum acceptable level-of-service standard (see Policy 70.1.3) for sanitary sewer connections to Lee County Utilities shall be: (Amended by Ordinance 92-35)*

c available basic facility capacity (see glossary) to treat and dispose of a volume of wastewater equal to 200 gallons per day per equivalent residential connection (ERC) for the peak month, except that facilities serving only mobile home residential structures shall have a capacity of 150 gallons per day and facilities serving only travel trailer residential structures shall have a capacity of 120 gallons per day.

POLICY 34.1.3: *The Board of County Commissioners encourages all private utilities to set a minimum acceptable level of service to be adopted herein for use in the concurrency management system within their respective franchised or certificated areas. After the effective date of this plan or September 1, 1989, whichever is later, if the county has not adopted such standards into this plan, the standards adopted for Lee County Utilities' sanitary sewer systems shall apply in those certificated or franchised areas and will be used in enforcing concurrency regulations (see Policy 70.1.3).*

After the deadline set above any private utility that cannot meet the Level-of-Service standards set forth for Lee County Utilities shall have the opportunity to petition for

a Plan Amendment for a revised Level-of-Service requirement for the specific private utility plant if it can be proved that such utility has sufficient plant and system capacity to properly service its franchised or certificated area. The proof shall be in the form of properly documented daily flow reports, occupancy rates or related statistical information, and any other necessary information that may be pertinent to the justification of the requested action, to establish a new individual Level-Of-Service standard. This data should be for a period covering at least the last two prior years. (Amended by Ordinance 92-35)

POLICY 34.1.4: *The Board of County Commissioners urges all utilities to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards and with the capacity to service the demand so generated and will meet or exceed the minimum requirements of the Department of Environmental Protection, the Department of Health and Rehabilitative Services, U.S. Environmental Protection Agency, or any local ordinances which exceeds the foregoing. Each utility is encouraged to advise the planning and utility engineering staffs of the county regarding system expansions or modification to ensure coordination with other utilities and with all other issues of public interest and to prevent duplication of facilities and services. (Amended by Ordinance 92-35) (Amended by Ordinance No. 94-30)*

POLICY 34.1.5: *County development regulations shall be amended to specify that no county development order under the Development Standards Ordinance for a residential development more intense than 2.5 dwelling units per gross acre, or for any commercial or industrial development that generates more than 5,000 gallons of sewage per day, shall be issued in any franchised or certificated sanitary sewer service area, without a connection to such service if capacity is available at the minimum acceptable level of service anywhere within 1/4 mile of the development. This policy shall in no way exempt any development of any size from meeting the levels of service required for concurrency under Policies 34.1.2 and 70.1.3. (Amended by Ordinance No. 93-25)*

POLICY 34.1.6: *No permit shall be issued allowing any utility to use a public right-of-way or to cut a pavement in a public right-of-way to extend service outside of its certificated or franchised area or to extend service into an area allocated to another utility, unless the other utility concurs in writing. This shall be enforced along municipal and state rights-of-way by interlocal agreement and memorandum of agreement as required.*

POLICY 34.1.7: *In allocating Industrial Development Revenue Bond capacity, the county shall give highest priority to private sanitary sewer utilities proposing to construct basic facilities and/or to provide or upgrade infrastructure serving developed areas and antiquated subdivision undergoing redevelopment.*

POLICY 34.1.8: *County development regulations shall be amended to specify that any change in use or intensity in an approved development order shall be subject to compliance with Policy 34.1.5. (Added by Ordinance No. 93-25)*

OBJECTIVE 34.2: *The county shall maintain and enforce such ordinances as are necessary to require the connection of commercial and larger residential establishments to such public or private central utility systems when those systems are available for service. (Amended by Ordinance No. 94-30)*

POLICY 34.2.1: *It is hereby declared that in the interests of preserving public health and of preserving and enhancing environmental quality, it is in the public interest to abate and cease use of septic tanks and wastewater treatment package plants where and when central sewer is available.*

POLICY 34.2.2: *With the cooperation of the respective utility firms or agencies, the county shall maintain a program for the abatement of septic tanks and package plants in areas in which sewer is presently available and in areas encompassed by assessment districts established for upgrading sewer availability. (Amended by Ordinance No. 94-30)*

POLICY 34.2.3: *The county shall encourage utilities to maintain or plan sufficient treatment capacity for near-term (2 years) availability to provide capacity for unserved development surrounded by existing areas with sewer service.*

OBJECTIVE 34.3: *The county shall ensure that the disposal of grease and septage are either recycled as a beneficial product or disposed of properly. (Amended by Ordinance No. 94-30)*

POLICY 34.3.1: *The county shall maintain regulations that prohibit the disposal of grease and septage by landspreading or other means without first being properly treated to ensure that these products are either recycled as a beneficial product or disposed of properly. (Amended by Ordinance No. 94-30)*

Policy 16.4.2 is also addressed on a county-wide basis by Community Facilities & Services Element Policy 32.1.6 as follows:

***POLICY 32.1.6:** Development regulations shall continue to require that any development shall pay the appropriate fees and connect to a re-use water system if such system is near or adjacent to the development and has sufficient surplus to supply the development. Development regulations shall be amended further as follows: (Amended by Ordinance 91-19)*

4. Other

Policy 16.4.1 should be revised to recognize that the policy is being implemented on a continuing basis by Lee County Utilities. The most appropriate place to relocate this policy is to add it to the policies under Objective 34.1 as "Policy 34.1.9".

B. CONCLUSIONS

Due to the incorporation of Fort Myers Beach, it is appropriate to delete from the Lee Plan Goal 16, its attendant Objectives and all Policies except Policies 16.1.3, 16.1.4, 16.1.6, and 16.4.1. Objectives 16.1 and 16.4 and Policies 16.1.1, 16.1.2, 16.4.2, and the last sentence of Policy 16.1.4 are addressed elsewhere in the Lee Plan and should be deleted. Policies 16.1.3, 16.1.4 (portion), and 16.1.6 can be applied county-wide and should be retained in the Lee Plan. Policies 16.4.1 and 16.4.2 should be updated and relocated with similar policies under Objectives 34.1. and 32.1, respectively. The delineation of the Fort Myers Beach planning area should be removed from Map 1 of the Lee Plan.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit this plan amendment to the Department of Community Affairs.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARINGS: May 29, 1997 and June 12, 1997

A. LOCAL PLANNING AGENCY REVIEW

On May 29, 1997, the LPA reviewed staff's recommendation to eliminate the Fort Myers Beach goal in its entirety. Several LPA members stated that some of the policies, such as the natural resource policies, could be applied to the unincorporated parts of the county if placed elsewhere in the plan. In particular, Objective 16.1 and Policies 16.1.3, 16.1.4, and 16.1.6 should be retained elsewhere. Several LPA members discussed concerns about keeping Policy 16.1.2 due to the lack of supporting data and the feasibility of implementing the policy. Staff reviewed a variety of study efforts underway which may provide the data needed to determine if and when Policy 16.1.2 could be feasible. The LPA directed staff to restudy the natural resource policies to determine which ones should be retained and to revise dates and policies as necessary to refer to the county as a whole.

On June 12, 1997, staff presented recommended revisions to the staff report for PAM/T 96-27 in response to the direction given at the May 29th hearing (See Attachment 2). Objectives and policies of Goal 16 which could only apply to Fort Myers Beach or which are duplicated elsewhere in the Lee Plan are still recommended to be deleted. Others are recommended to be reworded as necessary and relocated to appropriate sections of the plan. In addition to the natural resource policies, staff recommended that Policy 16.4.1 pertaining to utility service be retained under Objective 34.1. One LPA member stated that Policy 16.4.2 should be modified by deleting the term "In the Fort Myers Beach plan area," and putting it as a new, separate policy under Lee Plan Objective 34.1. Staff suggested placing it under Objective 32.1 which addresses reuse. The Chairman suggested that staff could handle the change internally and bring these revisions directly to the Board.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit this amendment with modifications suggested by the LPA.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by the staff and as modified by the LPA on June 12, 1997.

C. VOTE:

CARRON DAY	ABSENT
RICHARD DURLING	AYE
EARL HAMILTON	AYE
RONALD INGE	AYE
BILL SPIKOWSKI	AYE
GREG STUART	AYE
MATT UHLE	AYE

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: November 5, 1997

A. BOARD REVIEW: Public testimony was received which objected to the removal of certain policies from Goal 16. The speaker stated that some of the objectives and policies proposed for deletion because of the incorporation of Fort Myers Beach could still apply to San Carlos island. The Planning Director stated that a small portion of the Fort Myers Beach planning area, including San Carlos island, is located outside the boundaries of the Town of Fort Myers Beach. Under the staff recommendation, GOPs which are being deleted because they only apply to the planning area would no longer apply to this area. The Planning Director offered to work with the San Carlos CRA to resolve their concerns. Staff pointed out a correction to the staff report: Objective 16.5 on page 6 should be struck out.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

- 1. BOARD ACTION:** The Board voted to transmit the staff report as corrected. The Board directed staff to work with the San Carlos Community Redevelopment Agency to review deleted policies which may be appropriate to continue to apply to San Carlos.

- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board concurred with the staff findings of fact as modified by the LPA.

C. VOTE:

JOHN ALBION	AYE
ANDREW COY	AYE
RAY JUDAH	AYE
JOHN MANNING	AYE
DOUG ST. CERNY	AYE

D. SUBSEQUENT STAFF REVIEW AND REVISED RECOMMENDATIONS:

Following this Board hearing, staff met with representatives of the San Carlos Local Redevelopment Planning Committee. These meetings were conducted to review proposed deleted policies to determine which ones may be appropriate to retain so that they continue to apply to the San Carlos

Island portion of the Fort Myers Beach Planning Area. It was determined from these meetings that Policies 16.3.2, 16.3.7, 16.5.11 and 16.5.12 would be appropriate to keep in the Lee Plan for San Carlos Island. These policies should be relocated from Goal 16 to the existing Goal 12 for San Carlos Island.

The staff recommendation is revised accordingly. The amendment should be adopted as transmitted except to NOT delete Policies 16.3.2, 16.3.7, 16.5.11, and 16.5.12 as originally proposed. Instead, these policies should be relocated under a new Objective in Goal 12: SAN CARLOS ISLAND. The proposed text amendments to create Objective 12.2 and to relocate these policies under this new objective should be revised in Part I.,C.,1. of this staff report as follows:

OBJECTIVE 12.2: To manage growth, development, and redevelopment on San Carlos Island. To maintain and enhance the area's quality of life and public and private infrastructure.

POLICY ~~16.3.2~~ 12.2.1: As part of the transit design process, the county shall consider ways to establish pull-overs and turn-offs for the pick-up and discharge of passengers from all trolley and mass transit vehicles and requiring that such pick-up and discharge be done only at specified transit stops.

POLICY ~~16.3.7~~ 12.2.2: Prior to the expenditure of public funds for the construction of new parking facilities within ~~the Ft. Myers Beach Study Area~~ San Carlos Island, an analysis of the relationship of the facility to the level-of-service on constrained and backlogged roads shall be undertaken, in order to determine if the location, size and function of the facility is appropriate and consistent with the adopted CRA plan and the ~~Traffic Circulation~~ Transportation ~~e~~Element of the Lee Plan.

Note: PAM/T 96-30 combines the Traffic Circulation Element into a new Transportation Element.

POLICY ~~16.5.11~~ 12.2.3: Recreation areas shall have a minimum of impervious surfaces.

POLICY ~~16.5.12~~ 12.2.4: Sidewalks, bike paths and mass transit routes shall be designed to provide convenient and safe access to all recreational facilities in the area.

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: February 5, 1998

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The DCA had no objections, recommendations, or comments concerning this amendment.

B. STAFF RECOMMENDATION

Adopt the amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: May 27, 1998

A. BOARD REVIEW: The Board provided no discussion on this amendment and there was no public input. This item was approved on the administrative agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

- 1. BOARD ACTION:** The Board voted to adopt this amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	AYE
ANDREW COY	AYE
RAY JUDAH	AYE
JOHN MANNING	AYE
DOUG ST. CERNY	ABSENT