

**PAT 96-29
BoCC SPONSORED
EAR ADDENDUM AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

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June 3, 1998

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
PAT 96-29**

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

STAFF REPORT PREPARATION DATE: June 5, 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 Element, Policy 17.1.2, to further clarify the size, location and /or maximum permitted commercial square footage of the Buckingham commercial node.

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 17: Buckingham

Goal 17 was adopted to manage the future growth in the Buckingham area. Policy 17.1.2 establishes a commercial node in which all commercial activities are to be located. Concern over the size, location and square footage limit of the node has been expressed by residents and property owners in the area. They requested that the Board of County Commissioners direct staff to re-evaluate the node in the forthcoming amendment cycle.

Recommendation: *During the 1996 amendment cycle, re-evaluate the size, location and square footage limitation of the commercial node established by Policy 17.1.2.*

Planning staff received a privately initiated request to expand the Buckingham commercial node on January 31, 1996. The applicant, Tri-County Community Bank of Lehigh Acres, sought to expand the node "so that there might be commercial evenly on the four corners of the node." The applicant's representative appeared before the Board of County Commissioners EAR Addendum Report Adoption Hearing on February 1, 1996. At this hearing the applicant requested that this expansion of the node be included in the Addendum Report. Planning staff supported sponsoring this amendment. The Board of County Commissioners concurred and included the Buckingham commercial node re-evaluation in the Adopted Addendum Report.

Since this action, the original applicant, Tri-County Community Bank of Lehigh Acres, has verbally indicated to planning staff that they are no longer interested in pursuing the expansion of the Buckingham commercial node.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that Lee Plan Policy 17.1.2 be amended as follows:

POLICY 17.1.2: The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road shall be designated as the commercial node for the Buckingham area. No new commercial activities shall be located outside of this commercial node. ~~There shall be no more than 10,000 square feet of retail space and no more than 20,000 square feet of commercial space in total.~~ All new commercial developments in the node are required to provide a minimum of 30% open space. This commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. (Amended by Ordinance No. 94-30)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The general store area, the intersection of Orange River Boulevard and Buckingham Road, is the logical area to locate the commercial node in Buckingham. The square footage restriction of Policy 17.1.2 is overly restrictive given the existing uses, amount of vacant land in the node, and the planning horizon of the Lee Plan. Adding the word **new** clarifies the stated intent of the Buckingham Sector Plan that the commercial node is the correct location for new commercial activities in the community. Adding the word **new** to the policy's second sentence clarifies that existing commercial activities located outside of the node are occurring and will be allowed to continue as non-conforming uses. Requiring a larger percentage of open space is in keeping with the rural nature of the community.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The original Buckingham Sector Plan identified that "there has always been a small commercial center at the corner of Orange River Boulevard and Buckingham Road." This report further provided that "a general store has been in this location for almost 100 years." The sector plan designated this general area as "the future commercial hub of Buckingham." The sector plan further provided that the plan would prohibit new commercial activity within the Buckingham area that is not located within the node. Planning staff in 1991 concurred with the Buckingham Preservation Committee's proposed policy for the relatively small commercial node. Staff stated that "Since this has been the historical location for a general store, it is logical to continue to locate commercial activity in that same area."

This commercial node was adopted into the Lee Plan in 1991 by Ordinance 91-19. This node language was clarified and modified by the EAR amendments as adopted by Ordinance 94-30. The current Lee Plan contains the following policy that defines the Buckingham commercial node:

POLICY 17.1.2: *The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road shall be designated as the commercial node for the Buckingham area. No commercial activities shall be located outside of this commercial node. There shall be no more than 10,000 square feet of retail space and no more than 20,000 square feet of commercial space in total. This commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. (Amended by Ordinance No. 94-30)*

Planning staff has reviewed the existing land uses in the Buckingham commercial node. Planning staff found that 9,460 square feet of retail commercial uses exist in the node. The node also contains approximately 7 acres of vacant land. Thus, given the current restrictions of Policy 17.1.2, only an additional 540 square feet of retail commercial space could be developed in the node. In addition, only a total of approximately 10,000 square feet of additional non retail commercial uses could be developed in the node. This means that potentially the majority of the vacant land in the node would be prevented from developing retail commercial uses. Planning staff finds that this is overly restrictive for a comprehensive plan that has a planning horizon of the year 2020. From a planning perspective this makes no sense and could potentially cause adverse impacts such as increased traffic impacts when residents are forced to drive out of the community to satisfy their commercial needs. Planning staff recognizes that this is already occurring as residents utilize commercial developments, such as the commercial center located at Buckingham Road and State Road 80, that are located outside of the community. It is a laudable goal, however, to try to minimize these impacts by permitting expanded commercial activities on properties already deemed as appropriately located for these kinds of uses.

Planning staff believes that the second sentence should reflect that no **new** commercial activities shall be located outside of the node. Adding the word **new** clarifies the stated intent of the Buckingham Sector Plan that the commercial node is the correct location for new commercial activities in the community. Staff notes that there are existing commercial activities, such as several nurseries, the Hut restaurant, and the Buckingham Bar, occurring outside of the present node. Adding the word **new** to the sentence clarifies that existing commercial activities located outside of the node are occurring and will be allowed to continue as non-conforming uses. Staff further notes that if these non-conforming uses were destroyed by fire or natural disaster, the use could be rebuilt under the build-back policy of the Lee Plan.

As stated in the Background Information section of this report, the party that was interested in expanding the node has indicated to staff that they are no longer interested in expanding the Buckingham commercial node. Staff, however, has had a dialogue with the Buckingham Conservancy, Inc., a group of concerned Buckingham residents. Planning staff in fact attended the March Conservancy monthly meeting in which the topic of the node was discussed. This citizen group recommends that the square feet restrictions of this policy be replaced by a requirement that all new commercial developments provide a minimum of 30% open space. The Land Development Code (LDC) Section 10-413 requires large projects to provide 30% open space. Planning staff agrees that by requiring a larger percentage of open space is in keeping with the rural nature of the community.

B. CONCLUSIONS

The general store area, the intersection of Orange River Boulevard and Buckingham Road, is the logical area to locate the commercial node in Buckingham. The square footage restriction of Policy 17.1.2 is overly restrictive given the existing uses, amount of vacant land in the node, and the planning horizon of the Lee Plan. Adding the word **new** clarifies the stated intent of the Buckingham Sector Plan that the commercial node is the correct location for new commercial activities in the community. Adding the word **new** to the policy's second sentence clarifies that existing commercial activities located outside of the node are occurring and will be allowed to continue as non-conforming uses. Requiring a larger percentage of open space is in keeping with the rural nature of the community.

C. STAFF RECOMMENDATION

Planning staff recommends that the square footage limitation in Policy 17.1.2 be replaced with a minimum open space requirement. The specific language is contained in Part I, C.1.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: June 12, 1997

A. LOCAL PLANNING AGENCY REVIEW

One LPA member questioned whether the 30 percent open space requirement would work or whether this percentage would make any small commercial parcels undevelopable. A member of planning staff responded that he did not believe so. This member of staff further added that this requirement would not present a design problem.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit the amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by the staff.

C. VOTE:

CARRON DAY	ABSENT
RICHARD DURLING	ABSENT
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: One member of the Board brought attention to the proposed language so that there is no problem with how this wording would be interpreted. This Board member provided the following discussion: "...there's an insertion there of language that says all new commercial developments in the node are required to provide a minimum of 30 percent open space; and to me all new commercial developments means small and large, but I don't know if there's an attorney out there that's going to say wait a minute, the board generally depicts two different types of commercial development, one large, one small. In this case we mean large and small. I'm wondering if it's helpful to incorporate in parentheses large and small commercial developments." This Board member asked the Assistant County Attorney what he thought. The Assistant County Attorney replied that "unless the staff tells me otherwise, I assume all means all. The Board member added that if the staff confirms that all means all and we confirm that here today, that's the way it's going to be interpreted by us. Planning staff confirmed that's what staff means. All means all. Another Board member put into the record - no exceptions.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted to transmit this amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff and the LPA.

C. VOTE:

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

**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. This item was approved on the consent 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