

**PAT 96-36
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 96-36**

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: October 27, 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 Conservation and Coastal Management Element, Objective 77.6: Southern Bald Eagles, and its subsequent policies, to reflect the reclassification of the southern bald eagle from endangered to threatened status and to be consistent with the 1995 Land Development Code amendment.

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. The report contained the following:

In June, 1994, the U.S. Environmental Protection Agency reclassified the Southern Bald Eagle from an endangered species to a threatened one, allowing some rules to be relaxed in protecting the species. The number of nesting pairs in Florida grew from 88 in 1973 to 601 in 1991. In response, the LCBCC adopted changes to its eagle protection regulations in early 1995 to change the Eagle Technical

Advisory Committee process from adversarial to more of a consensus building practice. Incentives are now offered to developers to establish buffer zones around active nests.

Recommendation: Southern Bald Eagle. Objective 77.6 should be revised to be consistent with the 1995 ordinance amendments.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that Objective 77.6 and Policies 77.6.2 and 77.6.3 be amended as follows:

OBJECTIVE 77.6: SOUTHERN BALD EAGLES. ~~By 1995, amend the county's ordinance protecting southern bald eagle habitat to provide an optimum mix of incentives and regulations for protecting buffer areas around nests. (Amended by Ordinance No. 94-30)~~ The county will continue to monitor Southern bald eagle nesting activity and offer incentives to conserve buffer areas around Southern bald eagle nests.

POLICY 77.6.2: The county Eagle Technical Advisory Committee ~~shall~~ will continue to conduct ~~annual assessments~~ nest monitoring through the nesting season for all known eagle nests in Lee County. Information from these assessments shall be used to modify, as needed, the adopted nest guidelines and to adopt guidelines for new eagle nests documented in Lee County. (Amended by Ordinance No. 94-30)

POLICY 77.6.3: The Committee ~~shall investigate ways~~ will continue to inform land owners and the general public of proper practices to minimize disturbances to eagle nests. (Amended by Ordinance No. 94-30)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

Objective 77.6 and the three implementing policies will reflect the 1995 amendments to the Southern bald eagle protection regulations located in Chapter 14, Division 3 of the Land Development Code (LDC). This LDC amendment clarified the intent of the eagle code and provided clarity to management plan requirements and incentives. The county continues to provide staff and legal support to the Eagle Technical Advisory Committee (ETAC). ETAC members are Board of County Commissioner appointed and must be knowledgeable regarding eagle biology.

This proposed amendment reflects the ongoing nature of nest monitoring and information dissemination functions of the ETAC.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Objective 77.6 and Policies 77.6.1, 77.6.2 and 77.6.3 of the Conservation and Coastal Management Element of the Lee Plan presently provide a target date of 1995 to complete amendments to the eagle protection

regulations with the Land Development Code. The eagle protection amendments were approved by the Board of County Commissioners on January 4, 1995.

It should be clarified from the earlier background information that the U.S. Fish and Wildlife Service initiated the reclassification of the Southern bald eagle changed from endangered to threatened. This reclassification does reflect the recovery of the species and the success of conservation efforts. The species reclassification did not change the role Lee County provides in the monitoring of Southern bald eagle nests or efforts to assist landowners in the conservation of the bird on privately owned lands.

As stated above, in 1995 the Southern Bald Eagle protection regulations, located in Chapter 14, Division 3 of the Land Development Code (LDC), were amended. This LDC amendment clarified the intent of the eagle protection code and provided clarity to management plan requirements, including incentives.

The county continues to provide staff and legal support to the Eagle Technical Advisory Committee (ETAC). ETAC members are Board of County Commissioner appointed and must be knowledgeable regarding eagle biology. This proposed amendment reflects the ongoing nature of nest monitoring and information dissemination functions of the ETAC.

In the 1995-1996 nesting season, a total of forty-four (44) Southern Bald Eagles were fledged from a total of thirty-five (35) active nest territories. The preliminary results of the 1996-1997 nesting season in Lee County indicate from thirty-five (35) to forty (40) eagles have fledged.

The nest data collected by Department of Community Development (DCD) staff and ETAC members is provided to the U.S. Fish and Wildlife Service and the Florida Game and Fresh Water Fish Commission staff. DCD staff and ETAC members have collected nest data since the mid 1980's. This data is extremely valuable in the preparation of future management plans for any given nest site.

B. CONCLUSIONS

As stated above, in 1995 the Southern Bald Eagle protection regulations, located in Chapter 14, Division 3 of the Land Development Code (LDC), were amended. This LDC amendment clarified the intent of the eagle protection code and provided clarity to management plan requirements, including incentives.

The county continues to provide staff and legal support to the Eagle Technical Advisory Committee (ETAC). ETAC members are Board of County Commissioner appointed and must be knowledgeable regarding eagle biology. This proposed amendment reflects the ongoing nature of nest monitoring and information dissemination functions of the ETAC.

Objective 77.6 and Policies 77.6.1, 77.6.2 and 77.6.3 should be revised to reflect the 1995 Land Development Code amendments.

C. STAFF RECOMMENDATION

Planning staff recommends that Objective 77.6 be amended to clarify the county's role in monitoring nesting activity and offering incentives to conserve buffer areas around Southern Bald Eagle nests. Planning staff recommends that Policies 77.6.2 and 77.6.3 be amended to reflect the ongoing nature of the ETAC program. The specific plan 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

On June 12, 1997, the Local Planning Agency held a public hearing to receive public comment on this proposed amendment. No one from the public commented on the proposal. One LPA member objected to the removal of the term "regulation" from Objective 77.6.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

The LPA concurs with the finding of fact as advanced in the staff report and recommends that the Board of County Commissioners transmit this amendment.

C. VOTE:

CARRON DAY	ABSENT
RICHARD DURLING	AYE
EARL HAMILTON	AYE
RONALD INGE	AYE
BILL SPIKOWSKI	NAY
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: There was no public testimony or Board discussion on this plan amendment.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board approved the transmittal of this plan amendment to DCA.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board concurred with 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	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