

**CPA2001-09
PRIVATELY SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

*Lee County Planning Division
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January 9, 2003

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2001-00009**

Text Amendment

Map Amendment

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: April 18, 2002

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

BAYSHORE STEERING COMMITTEE c/o Larry Frappier
1901 Pine Echo Rd.
North Fort Myers, FL 33917

2. AGENT:

Mike Roeder c/o Knott, Consoer, Ebelini, Hart & Swett, P.A.

3. REQUEST:

Amend the Future Land Use Element text of the Lee Plan to incorporate the recommendations of the Bayshore Steering Committee, establishing a Vision Statement, Goal and subsequent Objectives and Policies specific to the Bayshore Community.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. REVISED RECOMMENDATION: Subsequent to the April 22 LPA public hearing, staff and the applicant discussed, on several occasions, revised language for the proposed Bayshore Lee Plan Amendment. After considering concerns raised at the March 25 and April 22 LPA public hearings, staff suggestions, and public comments on the proposal, the applicant submitted a revised Goal and Objective, and several new or revised policies. Staff generally supports the revisions as they are listed below. Old language that remains unchanged from the previous public hearings is shown underlined. New or revised language is shown double underlined or in strike thru. Language that was previously shown in strike-through has been omitted by the applicant and is not shown below. The strike-through language shown below is a result of staff recommendations for modification to the revised language submitted by the applicant. Contrary to the Local Planning Agency (LPA) recommendation, staff recommends that the following language be transmitted to the Florida Department of Community Affairs:

VISION STATEMENT:

The Bayshore Community, bounded by I-75, SR 31, the Caloosahatchee River and Charlotte County, is predominantly a rural residential area of single family homes on large acreages, small horse farms, citrus groves, and plant nurseries, interspersed by some larger cattle grazing operations. There are also scattered single family subdivisions and mobile homes on smaller lots which provide for a full range of housing prices. There is limited urban infrastructure and commercial uses. By and large, the residents of Bayshore want to see this land use pattern maintained. The vision of the future would include slow but steady growth with the building of larger single family homes on 2 ½ to 5 acre tracts, as well as some higher density development in the Outlying Suburban category (i.e. up to two units per acre with proper zoning), and continued support for the infrastructure necessary for the owners and breeders of horses. The protection of environmental resources and the maintenance of a wholesome family atmosphere is desired, as well as the protection of existing agricultural and equestrian activities. One community project that could serve these ends would be the development of an equestrian park in the community.

GOAL 20: BAYSHORE COMMUNITY. To protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, while excluding incompatible uses that are destructive to the character of this rural residential environment. For the purposes of this goal and related objectives and policies, the boundaries of the Bayshore Community will be I-75 on the west, SR 31 on the east, the Caloosahatchee River on the south and the Charlotte County line on the north.

OBJECTIVE 20.1: LAND USE. The existing land use designations of the Lee Plan (as of September 30, 2001) are appropriate to achieving the goal of the Bayshore Plan. No land use map amendments to a more intensive category will be permitted after *scrivener will insert effective date of policy, if adopted*, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners.

POLICY 20.1.1: Retail commercial activity ~~shall~~ will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the Land Development Code.

POLICY 20.1.2: “Minor” commercial will be as defined in the Lee Plan and will not include commercial stables or tack and feed stores. The existing 7.1 acre +/- retail commercial center at 10440 Bayshore Road and the .66 acre +/- retail commercial property at 19451 SR 31 will be deemed consistent with this Policy 20.1.1, but will not be permitted to expand beyond their existing building footprints.

POLICY 20.1.3: No new industrial activities or industrial rezonings are permitted.

POLICY 20.1.4: No new mining uses or commercial excavations are permitted.

OBJECTIVE 20.2: TRANSPORTATION. All road improvements within the Bayshore Community considered by the County will address the community’s goal to maintain its rural character and give preference to alternatives that allow existing roads to function at their current capacity.

~~**POLICY 20.2.1:** Routine maintenance of existing County roads will be continued.~~

POLICY 20.2.21: Any expansion of the state arterial roadways should include physically-separated provisions for bicyclists/pedestrians.

POLICY 20.2.32: Road capacity improvements needed within the Bayshore Community to serve demands generated outside the community will be designed to minimize the impacts on the community and its rural character.

POLICY 20.2.43: If a need to extend Del Prado Boulevard east of I-75 through the Bayshore Community is demonstrated, the corridor evaluation must include alternatives to using the existing Nalle Grade Road alignment. The evaluation will address (but not be limited to) access, safety and community character issues. Alternatives will be presented at evening public workshops within the Bayshore community.

OBJECTIVE 20.3: SEWER AND WATER. Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road. Central water service for enhanced fire protection will be encouraged where economically feasible.

POLICY 20.3.1: Central sewage service will be encouraged for existing high density developments south of Bayshore Road and for new developments that are required to provide such service under the provisions of Standard 11.2 of the Lee Plan.

POLICY 20.3.2: No landowner will be required to connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes an intensity that exceeds the thresholds in Standards 11.1 and 11.2 of the Lee Plan.

OBJECTIVE 20.4: PARKS AND RECREATION. The County will explore, with the support of the residents of Bayshore, the feasibility of establishing an equestrian park as the primary recreation facility for this community.

POLICY 20.4.1: The support of the Bayshore residents may include assistance with development and maintenance of such a recreation facility.

2. ORIGINAL RECOMMENDATION (superseded): Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, with the modifications proposed by staff. Staff's recommended language is provided below, with recommended changes from the applicant's language highlighted in strike-thru or double underline format.

VISION STATEMENT:

The Bayshore Community, bounded by I-75, SR 31, the Caloosahatchee River and Charlotte County, is predominantly a rural residential area of single family homes on large acreages, small horse farms, citrus groves, and plant nurseries, interspersed by some larger cattle grazing operations. There are also scattered single family subdivisions and mobile homes on smaller lots which provide for a full range of housing prices. There is limited urban infrastructure and commercial uses. By and large, the residents of Bayshore want to see this land use pattern maintained. The vision of the future would include slow but steady growth with the building of larger single family homes on 2 ½ to 5 acre tracts, and continued support for the infrastructure necessary for the owners and breeders of horses. The protection of environmental resources and the maintenance of a wholesome family atmosphere is desired, as well as the protection of existing agricultural and equestrian activities. One community project that could serve these ends would be the development of an equestrian park in the community.

GOAL 20: BAYSHORE COMMUNITY. To protect the existing rural, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, while ~~excluding incompatible uses, such as mining,~~ that are destructive to the character of this rural residential environment. For the purposes of this goal and related objectives and policies, the boundaries of the Bayshore Community will be I-75 on the west, SR 31 on the east, the Caloosahatchee River on the south and the Charlotte County line on the north.

OBJECTIVE 20.1: The existing land use designations of the Lee Plan (as of September 30, 2001) are appropriate to achieving the goal of the Bayshore Plan. No land use map amendments to a more intensive category will be permitted after ~~the adoption of this amendment~~ *{scrivener will insert effective date of policy, if adopted}*, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners.

POLICY 20.1.1: Retail commercial activity shall be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the Land Development Code.

POLICY 20.1.2: “Minor” commercial will be as defined in the Lee Plan and will not include commercial stables or tack and feed stores. ~~In addition,~~ The existing 7.1-acre +/- retail commercial center at 10440 Bayshore Road and the 0.66-acre +/- retail commercial property at 19451 S.R. 31 will be deemed consistent with this objective Policy 20.1.1, but will not be permitted to expand beyond its their existing building footprints.

POLICY 20.1.3: No new industrial activities or industrial rezonings are permitted.

POLICY 20.1.4: No new mining uses or commercial excavations is are permitted.

OBJECTIVE 20.2: TRANSPORTATION. ~~To protect and maintain the rural character of the Bayshore community, no new arterial or collector roads will be constructed nor existing collector roads widened or extended, with the exception of the widening of Bayshore Road in the future. Public transportation expenditures shall be limited to routine maintenance and bike paths and/or bridle paths. New local roads may be constructed with private funds or municipal service taxing or benefit units.~~

POLICY 20.2.1: ~~This objective does not preclude the widening of State Road 31 or I-75 since they are not entirely contained within the boundaries of the Bayshore Community Plan.~~

POLICY 20.2.2: ~~The widening of arterial roads shall include provision for bike paths/sidewalks.~~

OBJECTIVE 20.32: SEWER AND WATER. ~~Given the desire to maintain a low residential density, new central sewage service is not economically feasible and should be discouraged north of Bayshore Road. Central water service for enhanced fire protection will be encouraged where economically feasible.~~

POLICY 20.32.1: Central sewage service will be encouraged for existing high density developments south of Bayshore Road, and for new commercial developments that require such service in the Outlying Suburban land use category that are required to provide such service under the provisions of Standard 11.2 of the Lee Plan.

POLICY 20.32.2: No landowner will be required ~~to hook into~~ connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes commercial intensity that exceeds the thresholds provided in Standard 11.1 and 11.2 of the Lee Plan.

OBJECTIVE 20.43: PARKS AND RECREATION. The County will explore, with the support of the residents of Bayshore, the feasibility of establishing an equestrian park as the primary recreation facility for this community.

POLICY 20.43.1: The support of the Bayshore residents may include assistance with development and maintenance of such a recreation facility.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The proposed amendments to the Lee Plan were initiated by a group of Bayshore residents who were concerned that the existing Lee Plan does not provide adequate protection of their rural lifestyle.
- One particular case, a proposed mine near the intersection of Nalle Road and Nalle Grade Road, made many Bayshore residents begin to question Lee County's existing land use policies.
- The Bayshore planning effort originated as a grass-roots effort by citizens of the Bayshore area who took an active interest in the County's current policies regarding land use issues in their community. The proposed amendments have been driven by the interests of the community.
- Currently, the Lee Plan contains few regulations that are specific to the Bayshore Community.
- The Board of County Commissioners has provided support to several community planning efforts in Lee County over the past year.
- The Bayshore Community planning process consisted of two public meetings, one on June 6th, 2001, and one on June 5th, 2002. The first meeting was attended by approximately 400 residents, at which time the proposed amendments were presented by the planning consultant to the residents. The residents in attendance voted on each proposed goal, objective, and policy, and all were found by the majority of people in attendance to be acceptable. The second meeting was attended by approximately 120 residents, at which time the revisions to the proposed amendments were presented by members of the committee to the residents. The language was approved by a majority of the residents.
- This community planning effort was fully funded by the residents of the Bayshore Community. The community received no financial support from the County in this planning effort.
- Mining uses and/or commercial excavations are incompatible with the rural residential character of the Bayshore Community.

C. BACKGROUND INFORMATION

The proposed privately initiated plan amendment was formally submitted to staff on September 25, 2001. This amendment is a grass roots effort originating from the Bayshore Community. Staff believes that the Bayshore Community planning process originated as a result of a rezoning application that proposed to establish a

commercial mine near the intersection of Nalle Road and Nalle Grade Road. Many residents of the community opposed the mine on the basis that it was incompatible with the existing land uses in the area. During the course of the review of this mining application, the Bayshore residents began to believe that the existing Lee Plan did not effectively represent the interests of their particular community. The mining case developed a general interest in zoning and land use planning issues in the Bayshore area, and prompted the community to review the existing planning and zoning regulations. The Bayshore Community did not believe that the existing Lee Plan did enough to protect their rural lifestyle, and decided to initiate this amendment to the Lee Plan in order to add specific goals, objectives, and policies that are specific to the Bayshore area.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The proposed privately-initiated amendment application was received by the County on September 25, 2001. The amendment is text-only, and is not proposing any changes to the Future Land Use Map. Planning staff provided copies of the proposed amendment and requested comments from various County departments, including:

- Public Safety
- EMS Division
- Lee County Sheriff
- Natural Resources Division
- Lee Tran
- Parks and Recreation
- School District of Lee County
- Lee County Department of Transportation
- Development Services Division
- Environmental Sciences Division
- Lee County Port Authority
- Economic Development
- Public Works Department
- Utilities Division
- Zoning Division
- Bayshore Fire District

Due to the limited scope of the proposed amendments, many of the above-listed agencies did not have any specific comments concerning the Bayshore Plan, but for those that did comment, staff has incorporated their comments into the staff analysis.

Staff's review of the proposed amendment focuses on the vision statement and the subsequent goals, objectives, and policies, and how they fit in with the existing Lee Plan and other County regulations

Lee County DOT Review

Lee County Department of Transportation (LCDOT) has reviewed the proposed Bayshore Community Plan and has provided written comments dated April 17, 2002 (see Attachment 1). LCDOT had indicated a concern about proposed Objective 20.2, which attempts to prohibit any future arterial or collector road widenings or expansions, other than the widening of Bayshore Road in the future. Lee County DOT has identified the following roads that would be subject to this objective:

Arterials

Bayshore Road
State Road 31

Major Collectors

Leetana Drive (SR 78 to Pritchett Parkway)
Nalle Grade Road (Slater Road to Nalle Road)
Nalle Road (SR 78 to Nalle Grade Road)
Pritchett Parkway (Leetana Drive to Rich Road)
Rich Road (Slater Road to Pritchett Parkway)

Minor Collectors

Deal Road (Durrance Road to Old Bayshore Road)
Durrance Road (SR 78 to Deal Road)
Old Bayshore Road (SR 78 to SR 31)
Palm Creek Drive (SR 78 to Deal Road)

None of these roads have been identified for improvement in the latest version of the 2020 Financially Feasible Transportation Plan, but the extension of Nalle Grade Road west to a new interstate interchange and the Del Prado Boulevard extension has been identified as a need by 2020, if additional funds are available. Also, an extension of Nalle Grade Road east to State Road 31 has been suggested as something to consider in a proposed corridor alignment study for the Del Prado extension and new interchange. The eastern extension of Nalle Grade Road would improve area traffic circulation, access to a new interstate interchange, and hurricane evacuation capacity. Neither the eastern or western extensions of Nalle Grade would be possible if the proposed Objective 20.2 is adopted. This objective limits the County's ability to explore all options in developing a regional road network.

Objective 20.2 limits road improvements to "routine maintenance." LCDOT questions what is meant by "routine maintenance" in this objective. The Bayshore community and Lee County might differ on their opinion of what constitutes routine maintenance of a road. LCDOT also disagrees with the statement in Objective 20.2 that implies that public transportation funds will be spent on bridle paths, noting that County transportation funds have never been and likely never will be spent to develop bridle paths.

LCDOT has recommended that Objective 20.2, Policy 20.2.1 and 20.2.2 be deleted from the proposed community plan. Planning staff agrees with this recommendation and believes that this objective and policies, if

adopted, would hinder the County's long range transportation planning efforts for the Bayshore Area and for the entire county.

Fire District Review

The Bayshore Fire Protection and Rescue Service District has reviewed the proposed Bayshore Community Plan and has provided written comments dated December 13, 2001 (see Attachment 2). The District had a concern about the proposed new objective (Objective 20.2) that would preclude the construction of new arterial or collector roads, and the expansion of existing collector roads. District staff was concerned that a limitation on road improvements would hinder their ability to function effectively as a fire district. The response times of the fire crews are directly impacted by the condition of the roads on which their fire trucks travel. For this reason, the District specifically opposes any new policies that would prohibit the County from making planned road improvements, as needed.

School District Review

The School District of Lee County has reviewed the proposed Bayshore Community Plan and has provided written comments dated December 6, 2001 (see Attachment 3). According to district staff, the proposed plan amendments would not have any significant impact on the School District's ability to address the educational needs of the community.

Planning Staff Comments on Proposed Goals, Objectives, and Policies

VISION STATEMENT:

The Bayshore Community, bounded by I-75, SR 31, the Caloosahatchee River and Charlotte County, is predominantly a rural residential area of single family homes on large acreages, small horse farms, citrus groves, and plant nurseries, interspersed by some larger cattle grazing operations. There are also scattered single family subdivisions and mobile homes on smaller lots which provide for a full range of housing prices. There is limited urban infrastructure and commercial uses. By and large, the residents of Bayshore want to see this land use pattern maintained. The vision of the future would include slow but steady growth with the building of larger single family homes on 2 ½ to 5 acre tracts, and continued support for the infrastructure necessary for the owners and breeders of horses. The protection of environmental resources and the maintenance of a wholesome family atmosphere is desired, as well as the protection of existing agricultural and equestrian activities. One community project that could serve these ends would be the development of an equestrian park in the community.

Staff Comment: Staff is in agreement with the applicant on the proposed Vision Statement.

GOAL 20: BAYSHORE COMMUNITY. To protect the existing rural, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, while excluding incompatible uses, such as mining, that are destructive to the character of this rural residential environment. For the purposes of this goal and related objectives and policies, the boundaries of the Bayshore

Community will be I-75 on the west, SR 31 on the east, the Caloosahatchee River on the south and the Charlotte County line on the north.

Staff Comment: Staff does not believe that mining should be specifically called out as being an incompatible use. There are many other incompatible uses that could be destructive to the character of the existing rural residential environment. Mining has been addressed through proposed Policy 20.1.4, which prohibits new mining uses and commercial excavations. The specific reference to mining in Goal 20 is duplication of Policy 20.1.4, and staff recommends that it be deleted as shown above.

OBJECTIVE 20.1: The existing land use designations of the Lee Plan (as of September 30, 2001) are appropriate to achieving the goal of the Bayshore Plan. No land use map amendments to a more intensive category will be permitted after the adoption of this amendment {scrivener will insert effective date of policy, if adopted}, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners.

Staff Comment: For purposes of clarity, staff believes that Objective 20.1 should reference the effective date of the objective rather than the adoption of this amendment. If the objective is adopted, staff will insert the effective date into the policy as shown above. Also, once the amendment is adopted, it can no longer be referred to as an amendment in the Objective language, but should instead be referred to as an objective within the Lee Plan. Staff recommends the changes shown above.

POLICY 20.1.1: Retail commercial activity shall be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the Land Development Code.

Staff Comment: Staff has no comments on this policy, and agrees with the proposed language.

POLICY 20.1.2: “Minor” commercial will be as defined in the Lee Plan and will not include commercial stables or tack and feed stores. ~~In addition,~~ The existing 7.1-acre +/- retail commercial center at 10440 Bayshore Road and the 0.66-acre +/- retail commercial property at 19451 S.R. 31 will be deemed consistent with this objective Policy 20.1.1, but will not be permitted to expand beyond its their existing building footprints.

Staff Comment: This policy is simply a reflection of the existing Lee Plan provisions under Goal 6. It restates what Goal 6 already says and adds a specific reference to make existing retail property consistent with the proposed policy 20.1.1. Staff generally agrees with this policy, but there are a couple of items that should be clarified. With regard to the reference to the property at 10440 Bayshore Road, staff recommends adding a specific reference to the size of this parcel (7.1 acres) because it is possible that more land could be added to this parcel while maintaining the same street address. Staff simply wants additional assurance that this particular development parcel will not expand in the future. Staff has also discovered another existing retail commercial property at 19451 S.R. 31 that is used as a convenience store. This property is in the DR/GR land use category

and is zoned C-1. Staff believes that this property should also be deemed consistent with Policy 20.1.1 since it is pre-existing. Additionally, staff believes that it is somewhat confusing to say that the property will be deemed consistent with “this objective,” because it seems like the policy should actually refer to proposed Policy 20.1.1, and not Objective 20.1. Staff recommends modifying this reference as shown above.

POLICY 20.1.3: No new industrial activities or industrial rezonings are permitted.

Staff Comment: This proposed policy will have implications for existing property in the Bayshore area. According to the County’s existing land use data (see Attachment 4), there is one parcel in the Bayshore community that contains an industrial use. This parcel is about 2 acres in size and contains an open-air warehouse that is used for the wholesale of produce. The property is zoned AG-2 and is located in the Rural land use category. If this use is truly industrial in nature, then its expansion would be prohibited by this policy.

The only other area in the Bayshore Community where industrial uses would be allowed is within the General Interchange area at Bayshore Road and I-75. The General Interchange land use category allows limited light industrial uses, which would now be prohibited by this new policy. There is no existing industrial zoning in these areas, however, so a rezoning would be required in order to establish any new industrial uses. Such a rezoning would be prohibited by this new policy. There is a potential for conflict between Policy 20.1.3 and the General Interchange descriptor policy (Policy 1.3.2). The proposed policy may change development expectations for property owners at the Bayshore/I-75 interchange, in that the light industrial uses currently allowed by the Lee Plan in this area would now be precluded by this policy. Staff believes that the proposed Policy 20.1.3 would control in this case because it is the more restrictive policy and it only applies to a specific sub-area of the County. Staff is in agreement with the applicant on the proposed policy.

POLICY 20.1.4: No new mining uses or commercial excavations is are permitted.

Staff Comment: Staff is generally in agreement with this proposed policy, but is recommending minor changes to the applicant’s language as shown above. Staff does not believe it was the applicant’s intent for this policy to shut down existing commercial excavations, therefore staff modified the policy so that it prohibits *new* commercial excavations.

~~**OBJECTIVE 20.2: TRANSPORTATION.** To protect and maintain the rural character of the Bayshore community, no new arterial or collector roads will be constructed nor existing collector roads widened or extended, with the exception of the widening of Bayshore Road in the future. Public transportation expenditures shall be limited to routine maintenance and bike paths and/or bridle paths. New local roads may be constructed with private funds or municipal service taxing or benefit units.~~

Staff Comment: As stated previously in this report, DOT staff strongly opposes this objective. Staff believes that a prohibition on new road construction and existing road widenings or extensions has several potential negative impacts for the County. This policy limits County-wide and regional transportation planning efforts because of the desires of one sub area of the county to limit future growth. The prohibition on road network improvements also impacts the fire district’s ability to provide timely service to its citizens. The proposed

objective also prevents future road improvements that would improve hurricane evacuation times for the County. Additionally, staff anticipates confusion over what would constitute a routine maintenance project. This has not been defined. Also, the County does not, and likely will never, expend transportation funds for the development of bridle paths. For these reasons, LCDOT staff recommend the deletion of the proposed Objective 20.2.

~~**POLICY 20.2.1:** This objective does not preclude the widening of State Road 31 or I-75 since they are not entirely contained within the boundaries of the Bayshore Community Plan.~~

Staff Comment: Staff does not oppose this policy by itself, but given the opposition to the parent objective, staff is also recommending the deletion of Policy 20.2.1.

~~**POLICY 20.2.2:** The widening of arterial roads shall include provision for bike paths/sidewalks.~~

Staff Comment: Once again, staff does not oppose this policy by itself, but given the opposition to the parent objective, staff is recommending the deletion of Policy 20.2.2.

OBJECTIVE 20.32: SEWER AND WATER. Given the desire to maintain a low residential density, new central sewage service is not economically feasible and should be discouraged north of Bayshore Road. Central water service for enhanced fire protection will be encouraged where economically feasible.

Staff Comment: Staff is generally in agreement with the proposed objective, but recommends the minor modification shown above in order to make the intent of the objective more clear. It should also be noted that there are some areas north of Bayshore Road that are currently connected to central sewer service. Staff therefore recommends modifying the proposed objective to state that *new* central sewage service is discouraged north of Bayshore Road. This change would account for the existing areas on central sewer.

POLICY 20.32.1: Central sewage service will be encouraged for existing high density developments south of Bayshore Road, and for new commercial developments that require such service in the Outlying Suburban land use category that are required to provide such service under the provisions of Standard 11.2 of the Lee Plan.

Staff Comment: Standard 11.2 of the Lee Plan requires that central sewer service be provided for any residential development that exceeds 2.5 dwelling units per acre, and any commercial or industrial development that generates more than 5,000 gallons of sewage per day. The Outlying Suburban areas of the Bayshore community would only allow up to 2 dwelling units per acre under the existing Lee Plan, which would not trigger the central sewer requirement. New industrial developments are not permitted under the proposed Bayshore Plan, so industrial developments will not trigger the central sewer requirement. New commercial development, however, might exceed the threshold for central sewer. Staff believes that the applicant recognized this fact, and attempted to account for this situation in the proposed policy. Staff recommends taking the applicant's language a step further, and adding a specific reference to Standard 11.2 in order to make it clear that central sewer will be *required* for any development that exceeds the thresholds contained in Standard 11.2. Without this additional language, it may appear that the County simply *encourages* central sewer service in these areas, when in fact,

it may be required under Standard 11.2. Staff recommends the changes to the applicant's language as shown above.

POLICY 20.32.2: No landowner will be required to ~~hook into~~ connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes commercial intensity that exceeds the thresholds provided in Standard 11.1 and 11.2 of the Lee Plan.

Staff Comment: Once again, staff wants to ensure that the existing Standard 11.1 for water and Standard 11.2 for sewer will not be superceded by this policy. Staff understands the intent of the policy that existing landowners will not be required to hook into new water or sewer lines, but staff believes it should be made clear that, if new development is proposed which exceeds the thresholds contained in Standards 11.1 and 11.2, and central water and sewer are available, the new development will be required to hook into the system. As stated previously, there are no areas in the Bayshore Community that would allow residential densities that would exceed the threshold. Staff recommends that additional language be added to the proposed policy as shown above.

OBJECTIVE 20.43: PARKS AND RECREATION. The County will explore, with the support of the residents of Bayshore, the feasibility of establishing an equestrian park as the primary recreation facility for this community.

Staff Comment: Staff has no comment or objection to the inclusion of the proposed objective.

POLICY 20.43.1: The support of the Bayshore residents may include assistance with development and maintenance of such a recreation facility.

Staff Comment: Staff has no comment or objection to the inclusion of the proposed policy.

B. CONCLUSIONS

Staff has reviewed the proposed Bayshore amendment, and is in agreement with the majority of the new goals, objectives, and policies. Staff believes that most of the new regulations generally support the community vision as stated in the proposed Vision Statement. In some cases, staff thought that certain policies should be clarified or reworded in order to simplify future implementation, and these clarifications have been proposed in strike-out and double underline form in Part I Section B of this report. With regard to the proposed transportation objective and policies, staff is strongly opposed to the adoption of any Lee Plan regulations that would limit the County's ability to develop a sound regional road network. Staff believes that Objective 20.2 and its subsequent policies would hinder local and regional transportation objectives, and should not be transmitted. Staff believes that the balance of the proposed amendment should be transmitted as modified by staff.

C. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners transmit the proposed amendment with staff's recommended language as shown in Part I, Section B.1. of this report.

PART III - LOCAL PLANNING AGENCY REVIEW

DATE OF PUBLIC HEARING: March 25, 2002

A. LOCAL PLANNING AGENCY REVIEW

The Local Planning Agency held an informational hearing on this date, no staff report was presented and no formal action took place by the LPA. The stated purpose of the hearing was to brief the LPA members on the status of the request, allow the applicant to discuss the proposal, and to allow the public to have the opportunity to provide comments concerning the proposed language. Planning staff introduced the proposed request to amend the Future Land Use element of the Lee Plan. Staff stated that the request was being made by the Bayshore Steering Committee and that their request is to establish a new goal and subsequent objectives and policies. Staff distributed revised language that had recently been submitted by the applicant. Staff noted that the Bayshore Community had been incorporated into Lee Plan Map 16 in the previous amendment cycle. Staff also stated that staff had met with members of the Steering Committee a week or so in advance of the LPA hearing to continue discussing the proposed language. Staff informed the LPA that staff had suggested to the Steering Committee that it would be appropriate to include a vision statement as one was not included with the previous amendment or with this proposal. Staff indicated that the formal staff report would be provided for the next months LPA public hearing.

The applicant's consultant provided a brief presentation to the LPA. This consultant provided background information to the LPA, he stated that the Steering Committee spent last summer developing a community plan for their area, which is privately funded. He also noted that the County has looked at Bayshore in the past. He provided that there were very extensive studies of the Bayshore area in 1982 and in 1987 and that these were briefly covered in the background report attached to the request. He noted that all of the "previous studies have pointed in the same direction, and that is that this is a very rural, low density type of area, has serious flooding problems, and that the people that live there want to keep it that way." The consultant then proceeded to review recent language changes as a result of several discussions with planning and transportation staff. The consultant noted the similarities to the Buckingham plan and that the amendment was keeping the land use categories and densities the same as they are today. He also noted that mining and commercial excavations were not appropriate in the Bayshore community as the area had mostly been divided into ten acre, five acre, and two and a half acre residential tracks. The consultant further provided that Section 20.2 caused some controversy because of the extension proposed for Nalle Grade east of 31. He stated that the community believes this extension is not needed and would cause serious dysfunction to the area. He noted that the community has no objection to the extension of Del Prado Boulevard to I-75, jut to a continued extension to the east.

One member asked for a clarification concerning proposed Objective 20.1 concerning "overriding public necessity" and "super majority." The consultant responded that its not a super majority, it requires votes by three commissioners. This LPA member also asked if the County had undertaken some type of comprehensive mining project? Staff responded that staff is undertaking such a study. This LPA member then asked the County attorney if one of the three DRGR permitted uses be a precarious action without the type of data and analysis that the County is developing. The County Attorney responded that they would have to examine it closely. The County Attorney agreed with this LPA member that, from a legal perspective, it would be prudent to have a

detailed analysis before going forward with precluding that type of use. This member also asked if Goal 20 should refer to rural residential to be more exact and because “there’s a lot of residential out there.” This member also asked how many meetings or town forums or public hearing type processes were held. The consultant responded that there were four Steering Committee meetings and one large public event. This LPA member asked if the four Steering Committee meetings were “notified.” The consultant responded: “no, this is a privately-funded plan.”

One LPA member asked if there were people at these meetings that identified any concerns with the plan as proposed. The consultant responded “Yes,” and he indicated that the transportation policies had generated quite a bit of discussion and that about 25 people voted against them “because some felt that it was too restrictive to say no widening, no extension. He also indicated that people on the other side of the issue indicated that the problem is speed and that if the roads are widened or made better, then people will just go even faster. This LPA member also referred to “a lot of mines out on Highway 31 and asked if “the community feels there’s not any areas that would be appropriate for mining within this planning area.” The consultant responded that the planning area is mostly divided up into smaller parcels and that the existing mines are in Charlotte County and are probably meeting a local need for that material. He also indicated that “We’ve never heard any interest” in doing a mine on the “big ranch land near I-75.”

One LPA member noted that he thought flooding is the biggest issue out in that area and that should receive a major part of the focus. The consultant respond with the following: “And we agree. That’s why the natural environment really re-enforces this land use pattern because with the flooding, you really don’t want any more density than what you’re getting right now.”

One member asked what efforts were made to reach some of the larger land owners. The consultant responded that he could not tell you for sure if every large track owner was notified, he did not have anybody come and complain from that perspective. He also noted that the Steering Committee took care of that detail.

At this point in the public hearing the LPA chairman asked for public input in the order of the request cards that he had received. One member of the public indicated that he was not in favor of this amendment as “people had relied upon the comprehensive plan since 1985 and future roadways.” This person also asked for clarification as to whether or not plan amendments could be made if this proposal was incorporated into the plan. One LPA member noted that there is a new criteria that seemingly elevate public interest considerations and “that the language is probably similar to what’s in the Lee Plan for DRGR.” Staff clarified that it is very similar to the Buckingham language. This member of the public expressed concerns with eliminating mining and industrial uses. This member of the public also stated that there were large land owners that were not contacted. One LPA member asked about the earlier comment by this member of the public concerning future roadways. This person responded that “There’s a comprehensive road use map, Henderson Grade Extension, Pritchett Parkway Extension, all these roads are designated so that everyone since 1985 knew where they were going. This LPA member then asked planning staff what roads this proposal would directly effect, excluding Bayshore, I-75, and State Road 31. Planning staff responded that the citizen was, believed to be, referring to the Official Traffic Ways map, which showed a far greater number of roads than what the County ever really planned on constructing. Lee

County DOT staff responded that there are not any roads that are being affected from the standpoint of 2020. DOT staff noted that the Official Traffic Ways map has a longer horizon than 2020.

Another member of the public addressed the LPA and noted that he had not been notified about the June 6th meeting but that he had learned about it from an ad in the news paper. He noted that the Steering Committee was self appointed and that they were upset over the mine request and that the proposal is a knee-jerk reaction to his mine proposal.

One member of the Bayshore Steering Committee addressed the LPA. This person stated that “Mostly I guess there are people that are doers and people that stand by and don’t do and we were one of the doers and got involved in it.” This committee member stated that the request did initially start with the mining issue and what could possibly happen in the community, and that the Steering Committee was “spun off” “so that we could try to address and protect what we’ve all bought into in the Bayshore area.” This speaker noted that both of the previous public speakers were provided information and that one of them actually attended the June 6th 2001 public meeting. This Steering Committee member noted that there were approximately 400 to 500 people in attendance and that “very few, if any were against the policies.” This person stated that “so this is really just a plan, just a simple version of a plan to try to keep what we’ve all bought into out there...whether it’s a living off of horses or farming or citrus or just a hobby, that’s the area we’ve chose and we’ve all spent a lot of money there and we’re not trying to hinder the County from maintaining our roads or helping us with our water problem and we would love to see that. But we don’t want to see the widening of our roads. We don’t want to see the extension of them.” One member of the LPA asked this speaker if the Steering Committee would mind delaying consideration of the mining prohibition and have staff address the issue with the wider study. The Steering Committee member replied that there’s no industrial on the east side of I-75 and the industrial zoning that’s on the west side of I-75 is really the place to develop it. One LPA member stated that he thought that “there are a few things that are missing in the plan.” The items mentioned were (1) revised language to incorporate the transportation planning that has been made already in that area; (2) a need for a “interchange area plan” for the proposed Del Prado interchange area; (3) inventory of any suitable industrial land within the planning area; (4) more contact with the large land owners; and, (5) assessment of the location of potentially mineable materials. The Steering Committee member responded that “the issue of the roads is way beyond 2020.” He also pointed out the Committee’s concern related to the extension of Naul Road and that State Route 31 is not a good hurricane evacuation route due to frequent flooding and the lack of any planned improvements. He also stated that the Committee has mailed the land owners and that “we would be happy to have them participate with us.” He again stated that there is no industrial land within the area and that there was industrial lands located on the west side of I-75.

Another member of the Steering Committee addressed the LPA and stated that she was a 27 - year resident of the area, and a 42 - year resident of Lee County. This Committee member pointed out that “I moved to that area for the rural life style. She indicated a desire to preserve the rural area. She also stated that they had “been doing broad based mailings to make sure the land owners receive notice.”

A representative from the “Babcock Florida Company” addressed the LPA. This representative read the following prepared statement: “Babcock Florida are long time land owners in the area. Babcock believes that

issues such as hurricane evacuations and regional access are critical and transportation officials and planning experts must have the ability to respond to such needs. Therefore, Babcock objects to the limiting – any limits to the improvements of State Road 78.”

Another member of the Steering Committee addressed the LPA and expressed support for the amendment. This Steering Committee member noted that he “bought into that rural area and this plan really talks or speaks to a very small area.” This individual questioned why the community would “want to throw an industrial park in the center of 13,000 acres that is primarily made up with equestrian owners.” The speaker referred to an earlier speaker’s knee-jerk reaction comment and stated that a lot of people were concerned with children riding on horses in the area when blasting would occur at the proposed mine. He provided that activity could “spook a horse and injure a child, or injure an adult for that matter.”

PART IV - LOCAL PLANNING AGENCY CONTINUED REVIEW

DATE OF PUBLIC HEARING: April 22, 2002

A. LOCAL PLANNING AGENCY REVIEW

One LPA member disclosed that he had been contacted by “a number of people both for and against.” Discussion concerning member contacts occurred and it was decided that each member would disclose these contacts after the staff presentation and before the public hearing. Planning staff provided a brief presentation concerning the request. Staff reviewed the staff report, proposed language changes, and the overall staff recommendation that the amendment should be transmitted to the Florida Department of Community Affairs. Staff also highlighted the changes to the transportation polices.

One LPA member raised the prohibition of mining issue and his concern that mining is one of only three permitted uses in the DRGR. This member asked whether or not staff believed this issue should be looked at in a countywide context and where staff is on that issue. Staff responded that staff supported the policy that would preclude mining in the community. Staff referred to attachment #4 of the staff report which provides the generalized existing land use map for the community. Staff stated that this attachment demonstrates that the community has been subdivided into large lot estates. Staff stated that the land use pattern demonstrates that a mine has a large compatibility hurdle and staff believes that a mine would fail “the compatibility test” when viewing the location of existing residential uses and the widespread nature of the residential uses. This LPA member asked if the applicant provided attachment 4. Staff responded that staff generated the map utilizing the County’s existing land use database. Staff pointed out that there are only a couple of areas in the community in which there are larger land tracts. Staff identified parcels in the northwest corner of the community along I-75, the proposed mine site (Chateau Estates), properties along Pritchett Parkway, and properties in the northeast corner of the community along State Road 31. Staff also stated that mining in the planning area did not pass the compatibility test given the existing pattern of residential uses in the community.

One LPA member asked if the community plan attempted to integrate itself with countywide issues such as surface water management. Staff responded that surface water management had not been addressed as part of

this plan. This LPA member also stated that there was no data and analysis presented addressing septic system usage in the community and “the systematic high water tables of the Bayshore area.” Staff responded that staff did struggle with the sewer and water language as staff does not like to discourage these types of services. Staff did note that the objective would not preclude more intense developments from actually “hooking up” to these services.

One LPA member observed that he thought interstate/interchange areas were to serve the traveling public, not to serve neighborhood commercial and community commercial objectives. Staff noted that there are other intersections that would be able to accommodate neighborhood commercial needs. Staff explained that the General Interchange land use category does allow general retail uses, although those uses might not be neighborhood type commercial. This LPA member asked if the applicant attempted to do a commercial land study that “matches the population rate to the downscale of commercial opportunities in this area.” Staff responded that no analysis was done. Staff further provided that the plan amendment incorporates the rural community character. In further clarification staff stated the following: “So more so than a strict data and analysis of trying to make the Bayshore community be some holistic type community where they can do their neighborhood commercial shopping, they are willing to, in their rural lifestyle, have to make that trip into town to the grocery store to get those kinds of items and that’s part of the rural character that they are trying to preserve.” Staff also provided that most of these neighborhood commercial services are available in relative proximity to the community.

One LPA member asked about the public participation process and whether or not the proposal meets state requirements for data and analysis. Staff responded that they believe that it does.

One LPA member referred to Policy 20.1.2 and asked if this was the first time that staff cited specific street addresses in the comprehensive plan. Staff did not know of any other instance or any other way to address this issue. Staff did not want to create a problem, such as discouraging further investment by the property owners.

Two Local Planning Agency members asked several questions concerning Objective 20.1, specifically relating to the language that states that no land use map amendments will be amended to a more intensive category after a specified date unless a finding of overriding public necessity is made by three County Commissioners. The questions were related to the process that would be used in the finding; whether this requirement is appropriate for small scale amendments; if the language is unique or similar to language already in the Plan. Staff responded that the plan amendment process would be utilized, going through the LPA, and a majority vote of the Board of County Commissioners with a finding of overriding public necessity. Staff also responded that the finding would be appropriate for small scale amendments. For existing similar Lee Plan language staff discussed Objective 17.1, and Density Reduction/Groundwater Resources language.

At this point in the hearing the LPA members disclosed communications that the members had with the public on this topic. The Chairman of the Local Planning Agency then opened the meeting for public testimony. The planning consultant representing the Steering Committee distributed revised language and provided a brief presentation concerning the request. The planning consultant referred the LPA to the background report, Attachment D of the application. The consultant highlighted changes made as a result of the previous LPA

hearing. The consultant addressed flooding and stated that was one of the reasons why the low density pattern is appropriate. The consultant discussed mining and the conclusion that it is not an appropriate use in the community. The consultant also addressed commercial uses and noted that there were 53 acres of land “under the planning table for commercial in this area, and given the slow rate of growth...we feel that’s more than enough for the commercial needs.” The consultant also discussed transportation issues. The consultant also announced that the Steering Committee would host another community wide public meeting at the civic center on June 5th and that every land owner would be notified by mail.

In addition to the planning consultant mentioned above, a total of thirty four persons spoke. Twenty persons stated their support for the proposed amendment. Ten persons stated their opposition to the proposed amendment. One local land use attorney representing the Babcock Florida Company stated that his client was not opposed to the Bayshore plan with the exception of Objective 20.2. One local consultant representing Southwest Florida Transportation Initiative (SWFTI) stated that SWFTI was opposed to Objective 20.2, but otherwise have no position on the other elements of the plan. One local land use attorney and local consulting engineer stated that the County should exempt a pending rezoning project that is located in the community from these regulations.

One member of the public raised an issue that one member of the LPA, Mr. Greg Stuart, might have a conflict of interest in these proceedings and asked the County Attorney’s office for some direction. A discussion was held concerning the nature of this conflict. The Assistant County Attorney felt that there was a conflict of interest under the rules of ethics. It was stated that Mr. Stuart would need to disclose the conflict of interest and abstain from voting.

After the public presentations a lengthy discussion ensued between the LPA, the planning consultant, and the staff regarding transportation, the public participation process, and the applicant working further with County staff to resolve issues. The LPA deferred further action on the item to a time and date to be announced in the future.

**PART V - LOCAL PLANNING AGENCY
CONTINUED REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: June 10, 2002

A. LOCAL PLANNING AGENCY REVIEW

Planning staff provided a brief presentation concerning the proposed amendment. Staff discussed the major changes that occurred to the proposed language since the last LPA hearing. Staff noted that the language pertaining to transportation changed substantially and that staff had worked with the applicant in arriving at the now proposed language. Lee County DOT staff noted that the language now recommended was “a good compromise” and does not preclude the County from doing long range planning.

The Steering Committee's planning consultant also provided a brief presentation concerning the revised amendment language. The consultant also stated that additional background information has been submitted to address the various issues that the LPA members have raised in the past hearings. The consultant also provided a discussion of the community wide meeting held by the Steering Committee on June 5th. The consultant stated that everybody at the June 5th meeting was asked to fill out a card and vote on the plan. The consultant reported the results as: 87 votes in favor (including 11 households where two people voted on one ballot); 11 negative votes; and, 4 undecided votes.

The Chairman of the LPA opened the meeting to public comment and a total of twenty-one persons spoke in turn. Fourteen persons stated their support for the proposed amendment. Two persons stated their opposition to the proposed amendment. Four persons stated their preference that the plan language should be stronger. Several of the speakers noted that they had voted against the proposal at the June 5th public meeting only because of there desire for stronger language.

One member of the LPA stated that he felt that all of the concerns that have been raised by the LPA and staff were adequately addressed. He also believed the public notification issues and transportation issues had been addressed. This LPA member made a motion to recommend transmittal of the Bayshore Community plan as outlined in the June 6, 2002 memorandum from Matt Noble. The motion was seconded and discussion took place. The motion failed on a vote of 2 to 2.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** Per Administrative Code AC-13-6, the recommendation of the LPA is to **not** transmit the proposed amendment. Administrative Code AC-13-6 provides that in "those instances where the vote results in a tie vote...the recommendation of the LPA will be conclusively presumed to be a recommendation not to transmit the proposal and will satisfy the requirements of Section 163.3174(1) and (4)(a), Florida Statutes."

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:**

C. VOTE:

NOEL ANDRESS	NAY
MATT BIXLER	AYE
SUSAN BROOKMAN	AYE
RONALD INGE	NAY
GORDON REIGELMAN	ABSENT
ROBERT SHELDON	ABSENT
GREG STUART	ABSENT

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

DATE OF TRANSMITTAL HEARING: September 4, 2002

A. BOARD REVIEW:

Staff presented a summary of this amendment before the Board on September 4, 2002. Fifty members of the public addressed the Board concerning the proposed amendment. Eight members of the public stated their opposition to the proposed amendment. They generally expressed concerns about property rights, and that additional study was needed prior to any adoption. Forty-two members of the public spoke in favor of the amendment. Six persons recommended that the language of "up to two units per acre with proper zoning" in the Outlying Suburban future land use category be removed from the proposed Vision Statement. These persons felt such language would encourage higher densities. All in favor of the amendment emphasized maintaining their current quality of life by maintaining the Bayshore rural area. Most in favor of the amendment noted their concerns over the impacts mining would create in the area. Others promoting the plan also voiced their concerns over the availability of utilities such as sewer and water, finding that such provisions would encourage the development of the area. The Board did discuss some language offered by a local engineer concerning stormwater management. The County Attorney offered an opinion that this language could not be transmitted as it had not been reviewed by the LPA. After some discussion the Board voted to transmit the amendment with Policy 20.1.4 subject to the results of a mining study performed by staff as well as some minor revisions to Objective 20.3, Policy 20.3.1, and Policy 20.3.2.

The Board voted to transmit the proposed amendment per the staff recommendation as contained above in Part I, B.1. with the exception of Objective 20.3, Policy 20.3.1, and Policy 20.3.2. The Board transmitted the following language for these items:

OBJECTIVE 20.3: SEWER AND WATER. Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road within the future non-urban land use categories. Central water service for enhanced fire protection will be encouraged where economically feasible.

POLICY 20.3.1: Central sewage service will be encouraged for existing and future high density and intensity developments south of Bayshore Road within the future urban land use categories and for new developments that are required to provide such service under the provisions of Standard 11.2 of the Lee Plan.

POLICY 20.3.2: No landowner will be required to connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes an intensity that exceeds the thresholds in Standards 11.1 and 11.2 of the Lee Plan.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

- 1. BOARD ACTION:** The Board voted to transmit the proposed amendment to the Florida Department of Community Affairs.
- 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

BOB JANES

AYE

RAY JUDAH

AYE

DOUG ST. CERNY

AYE

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

DATE OF ORC REPORT: November 22, 2002

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The Department of Community Affairs provided no objections, recommendations, or comments concerning the proposed amendment.

B. STAFF RESPONSE

Adopt the amendment as transmitted to the Florida DCA.

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

DATE OF ADOPTION HEARING: January 9, 2003

A. BOARD REVIEW: Staff presented the staff recommendation to adopt the amendment as transmitted to the DCA. One Board member asked several questions concerning the proposal and Burt Harris implications. This Board member stated that Policies 20.1.2, 20.1.3, and 20.1.4 have been identified as having Burt Harris implications. The Assistant County Attorney stated that any regulatory action of the County that changes the currently foreseeable reasonable expectations for development on a parcel creates liability for takings. The Assistant County Attorney further provided that zoning is not the benchmark for the Burt Harris Act. Staff provided a handout that identified 5 existing commercially zoned properties that are located outside of the commercial nodes as identified by proposed Policy 20.1.1.

After further discussing the hand-out, the chairman called for public input. Several members of the public spoke in support of the amendment. One person expressed concern about a piece of commercial property that he owned. Staff responded that the property in question was located within one of the commercial nodes as specified by proposed Policy 20.1.1. The Assistant County Attorney asked to clarify the intent of the first sentence in Policy 20.1.2. The Assistant County Attorney, in part, stated that it was his “understanding that the sense of this first sentence is that commercial stables or tack and feed stores are exempt from commercial site location standards.” The Assistant County Attorney proposed modifying this first sentence to read as follows: “Commercial stables or tack and feed stores are exempt from meeting commercial site location standards.” The planning consultant for the Bayshore Steering Committee stated that “I think we would have no problem with that if it makes it clearer.”

The Board further discussed the existing (non-County owned) commercially zoned properties that are located outside of the commercial nodes as identified by proposed Policy 20.1.1. The Board decided to “exempt” two of the identified parcels. The first parcel is the “Farm Store” parcel, zoned CN-1, located at the intersection of Durrance Road and Bayshore Road. The second parcel, zoned C-1A, located at the intersection of Slater Road and Nalle Grade Road.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

- 1. BOARD ACTION:** The Board voted unanimously to adopt the transmittal language with revisions to Policy 20.1.2. The revised policy reads as follows:

Policy 20.1.2: Commercial stables or tack and feed stores are exempt from meeting commercial site location standards. The existing 7.1 acre +/- retail commercial center at 10440 Bayshore Road, the 0.66 acre +/- retail commercial property at 19451 SR 31, the 0.83 +/- acre retail commercial property at 17270 Durrance Road, and the 0.36 +/- acre retail commercial property described in resolution Z-72-93 which is part of the property at 6600 Nalle Grade Road will be deemed consistent with Policy 20.1.1.

The amendment was approved as part of the Board's Community Plan agenda. The final adoption language is shown in Part VIII, Item D below.

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
BOB JANES	AYE
RAY JUDAH	AYE
DOUG ST. CERNY	AYE

D. FINAL ADOPTION LANGUAGE:

VISION STATEMENT:

The Bayshore Community, bounded by I-75, SR 31, the Caloosahatchee River and Charlotte County, is predominantly a rural residential area of single family homes on large acreages, small horse farms, citrus groves, and plant nurseries, interspersed by some larger cattle grazing operations. There are also scattered single family subdivisions and mobile homes on smaller lots which provide for a full range of housing prices. There is limited urban infrastructure and commercial uses. By and large, the residents of Bayshore want to see this land use pattern maintained. The vision of the future would include slow but steady growth with the building of larger single family homes on 2 ½ to 5 acre tracts, as well as some higher density development in the Outlying Suburban category (i.e. up to two units per acre with proper zoning), and continued support for the infrastructure necessary for the owners and breeders of horses. The protection of environmental resources and the maintenance of a wholesome family atmosphere is desired, as well as the protection of existing agricultural and equestrian activities. One community project that could serve these ends would be the development of an equestrian park in the community.

GOAL 20: BAYSHORE COMMUNITY. To protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, while excluding incompatible uses that are destructive to the character of this rural residential environment. For the purposes of this goal and related objectives and policies, the boundaries of the Bayshore Community will be I-75 on the west, SR 31 on the east, the Caloosahatchee River on the south and the Charlotte County line on the north.

OBJECTIVE 20.1: LAND USE. The existing land use designations of the Lee Plan (as of September 30, 2001) are appropriate to achieving the goal of the Bayshore Plan. No land use map amendments to a more intensive category will be permitted after *{scrivener will insert effective date of policy, if adopted}*, unless a finding of overriding public necessity is made by three members of the Board of County Commissioners.

POLICY 20.1.1: Retail commercial activity will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the Land Development Code.

POLICY 20.1.2: Commercial stables or tack and feed stores are exempt from meeting commercial site location standards. The existing 7.1 acre +/- retail commercial center at 10440 Bayshore Road, the 0.66 acre +/- retail commercial property at 19451 SR 31, the 0.83 +/- acre retail commercial property at 17270 Durrance Road, and the 0.36 +/- acre retail commercial property described in resolution Z-72-93 which is part of the property at 6600 Nalle Grade Road will be deemed consistent with Policy 20.1.1.

POLICY 20.1.3: No new industrial activities or industrial rezonings are permitted.

POLICY 20.1.4: No new mining uses or commercial excavations are permitted.

OBJECTIVE 20.2: TRANSPORTATION. All road improvements within the Bayshore Community considered by the County will address the community's goal to maintain its rural character and give preference to alternatives that allow existing roads to function at their current capacity.

POLICY 20.2.1: Any expansion of the state arterial roadways should include physically-separated provisions for bicyclists/pedestrians.

POLICY 20.2.2: Road capacity improvements needed within the Bayshore Community to serve demands generated outside the community will be designed to minimize the impacts on the community and its rural character.

POLICY 20.2.3: If a need to extend Del Prado Boulevard east of I-75 through the Bayshore Community is demonstrated, the corridor evaluation must include alternatives to using the existing Nalle Grade Road alignment. The evaluation will address (but not be limited to) access, safety and community character issues. Alternatives will be presented at evening public workshops within the Bayshore community.

OBJECTIVE 20.3: SEWER AND WATER. Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road within the future non-urban land use categories. Central water service for enhanced fire protection will be encouraged where economically feasible.

POLICY 20.3.1: Central sewage service will be encouraged for existing and future high density and intensity developments south of Bayshore Road within the future urban land use categories and for new developments that are required to provide such service under the provisions of Standard 11.2 of the Lee Plan.

POLICY 20.3.2: No landowner will be required to connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes an intensity that exceeds the thresholds in Standards 11.1 and 11.2 of the Lee Plan.

OBJECTIVE 20.4: PARKS AND RECREATION. The County will explore, with the support of the residents of Bayshore, the feasibility of establishing an equestrian park as the primary recreation facility for this community.

POLICY 20.4.1: The support of the Bayshore residents may include assistance with development and maintenance of such a recreation facility.