



September 24, 2004

Chairman John Albion
Lee County Board of County Commissioners
P.O. Box 398
Fort Myers, FL 33902

Re: Hanson Report/Lee County Defense of the Greater Pine Island Community Plan Update

Dear Chairman Albion and Lee County Commissioners:

We are writing to you today to urge your continued support for and defense of the Greater Pine Island Community Plan Update when you discuss the matter at the September 28 Commission meeting. The Conservancy believes that the Pine Island Plan is an excellent example of community planning that preserves the environment and the quality of life of the unique Pine Island Community. The Plan represents a broad consensus, and it faced little opposition when it sailed through the County and State approval processes. Given this support, it is puzzling that the County's litigation strategy seems intent upon sabotaging the Plan. It would set a bad precedent for community planning in Lee County and the State of Florida if threats of Bert Harris claims so easily defeat the will of the Pine Island Community.

As eloquently expressed in the Plan and as acknowledged by the unanimous vote of the Commission in adopting the Plan, Pine Island is a unique community warranting a different planning approach that preserves a pristine environment and quality of life that are rapidly disappearing in other parts of the County. The Conservancy strongly supports community-based planning, and the Pine Island Plan, developed with extensive public participation, is one of the best examples in the State.

We are not sure why the Hanson Report was commissioned, but it seems to have been designed to play into the hands of the challengers of the Pine Island Plan. The report contradicts findings by County staff in the adoption process, who stated in the Staff Report (Jan. 9, 2003, p. 25-26):

The proposed amendment does not necessarily reduce allowable density on a subject site. Proposed Policy 1.4.7 creates a criteria that must be utilized to obtain approvals for the maximum permissible density of 1 dwelling unit per acre. This criteria is a sliding scale of dwelling units per acre based upon the percentage of a total sites preservation or restoration of native habitats. An applicant with a site that contains 100% indigenous vegetation can achieve the same density as is permitted under the Rural designation by limiting impacts to the vegetation to 30% of the site. An applicant with a totally cleared site with no native habitat would have to restore 70% of the site to achieve the same density as is permitted under the Rural designation. As the Update report notes, the sliding scale allows the property owners to choose any point on the scale. While this does increase development costs, it affords the property owner the ability to achieve the maximum density allowed under the Rural designation.

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Staff recognizes the likely constraints on the roadways in the event of a possible evacuation. A reduction of density would be beneficial in limiting congestion of the evacuation route. Staff weighed this factor with the Bert Harris Act implications in recommending that the Future Land Use Map be amended.

Not only does the Hanson report contradict the staff analysis, but it is also based upon erroneous assumptions that significantly inflate the speculative economic loss of certain property owners. These errors were addressed quite effectively in the critique of the Hanson Report that was prepared by attorneys for the Responsible Growth Management Coalition and submitted to the County Attorney's Office.

The most important point made by RGMC, with which we concur, is that the existing Lee Plan already constrains availability of maximum density on lands designated Rural on Pine Island through the operation of Policy 14.2.2, which restricts rezonings and residential development orders once traffic on Pine Island Road reaches certain thresholds. The implementation of this Policy was the subject of the September 14 meeting of the Commissioners. The Plan Update would actually relax these restrictions in two ways: (1) by providing exceptions to the 810 rezoning restriction; and (2) by providing the possibility of increasing density to at least one-third of the maximum density allowed after the 910 threshold has been exceeded. Therefore, the Pine Island Plan Update does not devalue property as compared to existing conditions, and it does not take any "existing uses" or "vested rights" or "inordinately burden property" as compared to the existing Plan.

The preservation and restoration of native habitat on Pine Island through the new Coastal Rural land use designation is critical in maintaining populations of endangered and threatened species on the island and in preserving the rural quality of life enjoyed by the residents of the island. It promotes clustering and open space percentages that are typical of environmentally sensitive developments in other parts of the County.

In summary, the Pine Island Community worked hard with extensive public participation to

develop a vision for its future. That vision was encapsulated in the Plan Update that was unanimously adopted by the Lee County Commission and supported by the Department of Community Affairs. To retreat from this Plan now would be a repudiation of the vision of the Pine Island Community and of the community planning process itself.

If you have any questions regarding our position, feel free to contact me at 403-4222 or GaryD@Conservancy.org.

Sincerely,

Gary Davis, Director
Environmental Policy