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MEMORANDUM

TO: Greater Pine Island Land Use Plan Implementation Committee
FROM: Bill Spikowski
DATE: January 6, 2004
SUBJECT: MEETING OF JANUARY 14, 2004

The next regular meeting of the Greater Pine Island Land Use Plan Implementation Committee will be held on Wednesday, January 14, 2004, at 7:00 PM. This meeting will be held at St. John's Episcopal Church at 7771 Stringfellow. The church is immediately north of Flamingo Bay and less than three miles south of Pine Island Center.

A tentative agenda for this meeting is attached. The main topic for this meeting is a final review of proposed implementing language for five of the seven policies in the Greater Pine Island Community Plan Update. (Final language for the remaining two policies will be discussed at the following meeting.)

Each attached draft follows the same format: it begins with the full text of the specific policy being implemented, then summarizes which sections of the land development code need to be amended, concluding with the actual text of the proposed code, with suggested new text underlined and existing text that would be repealed ~~struck through~~.

Also on the agenda is a brief discussion of written answers to several complex questions that were asked at the meeting of December 10 (see attached copy) and an opportunity for general public comments.

ATTACHMENTS: *Preliminary agenda for January 14 meeting*
Draft minutes from meeting on December 10, 2003
"Implementing Policy 14.1.5" (buffer strips around new agricultural land, 7 pages)
"Implementing Policy 14.2.2" (810/910 traffic rules, 4 pages)
"Implementing Policy 14.3.5" (neighborhood connectivity, 4 pages)
"Implementing Policy 14.3.3" (building height limits, 4 pages)
"Implementing Policy 14.4.4" (business signs, 10 pages)
Responses to four questions about the GPICA settlement proposal

Greater Pine Island Land Use Plan Implementation Committee

Wednesday, January 14, 2004, 7:00 PM
St. John's Episcopal Church, 7771 Stringfellow, St. James City

1. Call to order (Chairperson Barbara Dubin)
2. Approval by committee members of minutes from December 10 meeting (Barbara Dubin)
3. Review of final implementing language for the following policies (Bill Spikowski):
 - a. Policy 14.1.5 (buffer strips around new agricultural land)
 - b. Policy 14.2.2 (810/910 traffic rules)
 - c. Policy 14.3.5 (neighborhood connectivity)
 - d. Policy 14.3.3 (building height limits)
 - e. Policy 14.4.4 (business signs)
4. Discussion in response to questions about GPICA settlement proposal
5. General comments from the public
6. General comments from committee members
7. Set date and time for next meeting (7:00 PM on Thursday, March 18) — to review final implementing language for Policies 1.4.7/14.1.8 (Coastal Rural) and Policy 14.4.3 (design standards for commercial buildings)
8. Adjournment

Draft Minutes of Dec. 10, 2003

Greater Pine Island Land Use Implementation Committee Meeting

The meeting was called to order by the Vice Chair, Noel Address, at 7:05 P.M. at St. John's Episcopal Church near St. James City. Attendees were asked to pledge to the flag.

A roll call of all committee members was taken. All six Greater Pine Island Land Use Implementation Committee members were present (Address, Buchanan, McLaughlin, Mantis, Stober, Dubin). There were 102 people in attendance. The meeting was then turned over to Bill Spikowski.

The first topic of the evening was Implementing Policy 14.4.3 (pages 32-36) – a new policy on Commercial Design Standards. It was left to Pine Islanders to draw up potential design standards; the county will adopt the standards if they are found acceptable. The first 4 pages consist of Lee County's current design standards and guidelines for commercial buildings, including illustrations. Page 5 is a first draft for Greater Pine Island, which would add one new section to the standards. Two subsections are not completed yet, but hope to have them done by the January meeting.

Mike Shevlin – Will this involve specific styles such as Spanish or Mediterranean? Bill Spikowski – No definite style, just things like metal roofs that are often used on Pine Island.

M. McCoy – Is this a new Policy in the PI Plan? Bill Spikowski -- Yes it is new. We could enforce these with an Architectural Review Board or just write the rules and have county staff enforce them; he suggested we keep it simple and just write the rules.

Elaine McLaughlin asked about size of parking lots. How does this effect the new plan? Bill Spikowski said it would encourage redevelopment and fixing up. Balance size of business with parking lots.

Mike Shevlin asked about material used for parking lots. Bill Spikowski stated that the county should encourage the use of shell and gravel for percolation but no new rules are being proposed here.

Bill Spikowski suggested using lots of glass and metal roofs and otherwise allowing considerable variety.

Dave Lukasek asked if we want a certain look or not. Bill Spikowski said we should work into it slowly. PI is more eclectic than somewhere with a specific architectural style.

Ed Anderson mentioned Sun Trust & Dairy Queen. Bill Spikowski said we should avoid standardized buildings. Subway did a good job of fitting in and not using their usual standardized building design.

M. McCoy – Who would enforce the rules? Bill Spikowski stated that the county would enforce the rules, and that height restrictions are the same for both commercial and residential buildings.

Jack Brugger – With respect to the Century 21 building on the corner of PI and Stringfellow Roads, what is considered as the “front”? Bill Spikowski said he would study the current definitions of “front” and consider whether a change was needed for Greater Pine Island .

Breese Glennon – If someone wants to make changes to these regulations, how would that be handled? Bill Spikowski – Someone can request a variance or deviation. Variances are heard by the Hearing Examiner, deviations are ruled on by both the Hearing Examiner and the County Commissioners as part of a rezoning.

Noel Andress asked for a motion to approve the Minutes of the November 12, 2003 GPI Comprehensive Land Use Plan Implementation Committee Meeting. There were no changes to the minutes. A motion was made to approve by Phil Buchanan, seconded by Bill Mantis and the motion carried by a voice vote.

Phil Buchanan then gave a history of Pine Island. In the 1960’s there were no regulations. Zoning began on PI around 1962, but it was not effective. 2 years ago there were 6,675 platted lots and hundreds of unusable commercial acres. The land use plan can’t take away the right to build one house on a platted lot.

In 1980 the state passed a Growth Management Act. In the mid 1980s PI tried to control growth and the first real Greater Pine Island Land Use Plan was approved in 1989 based on the capacity of Pine Island Road. Originally the language referred to 80% and 90% of the road capacity. However, the Dept. of Community Affairs asked for actual numbers and these percentages were translated to 810 and 910. We reached 810 (round trip, peak hour, peak day traffic count) in 1998. Under the 1989 Plan, once 810 was reached there could be no rezoning. We expect to reach 910 by February of 2004. Under the 1989 plan that means no new residential developments, once the 910 traffic count has been reached.

The Bert Harris Act was passed in 1995. The 810-910 traffic rule was part of the Greater PI Land Use Plan, which was approved in 1989. Therefore the Bert Harris Act does not apply to the 810-910 Rule. However, in the new Greater PI Land Use Plan, which was unanimously approved by the Commissioners on Jan. 9, 03, the 810-910 regulations were eased. Under the new Plan, once 810 is reached in-fill is allowed in the urban area and once 910 is reached a developer can build 1/3 of the density instead of no new residential development orders under the old 910 rule.

Under the old rule if you had 100 acres of Ag land you could get 1 unit/acre. Under the new rule, if you cluster your development on 30% of the land and preserve or restore the other 70%, you can still get your 1 unit per acre.

Noel Andress stated that if you divided your property into 5 or more lots you would have to get a development order and that each lot must have 100’ on a Class D or better county road.

Mohsen Salehi, transportation consultant, stated that everything was based on the Level of Service of Pine Island Road in Matlacha. Level of Service A is free flow. Level of Service F is standing still. Road capacity starts with the number of lanes. PI Road has two lanes. Another factor is the more driveways, the less the capacity of the road. Hurricane evacuation is an important factor for Greater Pine Island.

John Lauderdale asked if someone could combine his wetlands with uplands to get more density. Phil Buchanan stated that he could get 1 unit per acre if he clustered

and preserved or restored part of his land. However, wetlands are a totally different category. The state rule for wetlands is 1 unit per 20 acres.

Phil stated that the Dept. of Community Affairs intended to approve the Greater Pine Island Land Use Plan. However, Mr. Setti intervened within the required period and we now have an Administrative Hearing scheduled for February. Mr. Setti wants four more villages on PI, some in the mangroves.

Phil stated that there are now 3 settlement agreements on the table. One is from Mr. Setti, a second is from the growers who suggested that the new land use plan be rescinded and reexamined. The third has been submitted by the Greater Pine Island Civic Assoc.

The GPICA proposal is a response to local landowners. Farming is important and that we would like to protect it. On the attached "Proposed Revision to Policy 1.4.7" there are two columns of densities, one for preservation and restoration; the other for continued agricultural uses. Farming is desirable, but not as much as preservation/restoration. The preservation/restoration chart requires a conservation easement and the farming chart requires a farm easement – the land must remain in farming forever. Since the roads are dirt on farms the density under the old plan was mostly 1 unit per 2.5 acres.

Dave Lukasek asked if Ag land could be developed. Noel Address stated that single family residences could be built on property zoned AG-1, AG-2 and AG-3.

OPEN FORUM

The next part of the meeting was an open forum about planning in Greater Pine Island.

Matt Uhle had 3 questions. What density would result under the proposed formulas if a landowner had both natural lands and farmland that he would be willing to place under a conservation easement and a farm easement respectively? Would the proposed farm easement compel a landowner to continue farming the property if he no longer wishes to do so, or does it merely restrict future development rights on that part of the property? How would the sliding scale work for a landowner who agreed to preserve or farm a percentage of the property between the percentages listed in the chart in Policy 1.4.7 – would the resulting density be interpolated, or rounded down, or rounded up? Bill Spikowski agreed to examine these questions and respond to Matt Uhle's questions.

Dan Stevens won't force his kids to farm. He doesn't like clustering and would prefer to develop estates. Bill Spikowski stated that with a farm easement he could sell to someone who wants to farm, the land would not be restricted to his family.

Mike Shevlin – what is clustering? Bill Spikowski stated that it is single family residences on 1/3 acre lots, like in other areas of Pine Island. If someone wants condos, they will need to rezone. Under the preservation option, the owner gives a conservation easement over the preserved area.

Bob Glennon – There are many small groves of 5 acres or less. One extra unit would mean a lot. He spoke about giving rewards for clustering, especially greater density.

R. Owens – Can you get credit if you have a lake? Bill Spikowski – may or may not get credit for lake or part of it. If someone could buy a number of smaller parcels around Pine Island, they could be combined to create a new village. Our objectives are to reduce build-out population; discourage clearing; protect aquatic preserves; discourage more sprawling large lot subdivisions; and maintain the rural character of Pine Island. It's hard to meet all these objectives at once.

John Lauderdale asked about small Ag lots. Bill Spikowski said that if someone had a 2 or 5 acre lot before the new land use plan, they can still build one house just like they could under the old plan.

Jack Brugger spoke about South Florida Water Management District requirements. He said 45% of 100 acre would go to water management and parking and roads. If you had to preserve 70%, the number of units would be halved. Also federal flood elevations were raised in Naples and may be raised here too, which would make it difficult to build within our current rules of 38' or 45' above mean high tide. He also stated that we are taking away the land of Mr. Dean. Bill Spikowski stated that no one is trying to take anyone's land and very little parking is needed for single-family lots, just a driveway.

Dave Lukasek stated that it looked as if they wanted to put as many units on the land as they possibly could. Bill Spikowski stated that it depends on 810/910, zoning, etc.

Matt Uhle asked whether the LDC road requirements would be on the whole parcel or on the part being developed. Bill Spikowski agreed to look into this question and respond to Matt Uhle later.

Breese Glennon asked who was required to maintain the conservation area. Bill Spikowski said that the landowner could retain ownership or deed it to a homeowners association, but one or the other would be responsible for maintaining the land. The recipient of the conservation easement is responsible for ensuring through inspections that the easement terms are met.

Another attendee asked why the lots couldn't be one acre lots with the individual homeowner being responsible for preserving 70% of their lot. Bill Spikowski stated that dealing with individual homeowners is not practical through a conservation easement, some owners may try to fudge the rules and it would be impossible to constantly monitor every homeowner.

Noel Andress stated that when you divide into 1-4 lots you must have survey. If subdivided into 5 or more lots you must have a development order which must be approved by the county.

Tom Grabowski asked about tax incentives? Phil Buchanan stated that in order to get a tax incentive you must freely donate property. There would be no tax deduction for an easement donated due to a legal requirement. However, using 70% of the land for farming should give the owner lower real estate taxes because that land could never be developed.

Honey Seidler talked about preserving land others have farmed. There should be taxes and a special bank to buy farm land.

Samantha Andress brought up a 100 acre farm and what the old and new 810/910 rules would mean. Bill Spikowski said that under the old 810 rule there would be no rezoning allowed. The new 810 rule is more lenient and allows some in-fill rezonings in

urban areas. Under the old 910 rule, when you reach the 910 there could be no further residential development orders. Under the new 910 Rule, you could lose only 2/3 of what you could have developed before reaching 910, but you will not be denied all residential orders.

Jack Brugger stated that he was an attorney with lots of time and could hold the plan up in court. He stated that credits should be allocated to property owners, that the plan was taking away value and penalizing property owners. He again brought up the idea of new flood elevations and how the height regulations should anticipate this change.

Bill Spikowski stated that he was getting the help of a forester to finish the standards for preservation. The land owner should be subject to inspection for a period of time to make sure the plants are becoming established. When plants reach a certain stage of maturity, they should be okay. There will be certain criteria that must still be met, one of which is periodic removal of exotic vegetation.

Tom Munz said that in most clustered developments, the land around the clusters of houses is used for parks and playgrounds. Bill Spikowski stated that clustering is often used that way, but the Greater Pine Island cluster regulations would mainly preserve native habitats.

Barbara Dubin mentioned that she had lived in a clustered community in Connecticut. Many people who come to Pine Island are ready to retire and don't want large parcels of land to take care. The clustered community she lived in was surrounded by native trees, plants, hiking trails and a large pond. There was an abundance of wildlife including all kinds of birds, fox, deer and bobcats, a beautiful place to live.

Dan Stevens was worried about the danger of fires on the property. Bill Spikowski spoke about the need for planned periodic burns or mechanical methods of reducing fuel loads in pine forests.

Bill Spikowski said conservation subdivisions and clustering were common in the northeast, the question here is what conservation subdivisions would do for Pine Island.

Bob Glennon said unmanaged conservation area will be a mess with exotics taking over. Bill Spikowski agreed that conservation areas must be managed so that exotic vegetation cannot ruin them.

The next GPI Land Use Implementation Meeting will be held at 7:00 P.M. on Wednesday, January 14, 2004 at St. John's Episcopal Church.

A motion to adjourn the meeting was made by Bill Mantis and seconded by Anna Stober and the meeting was adjourned at 9:15 P.M.

Respectfully submitted,

Barbara K. Dubin

IMPLEMENTING POLICY 14.1.5

RECENT CHANGES TO LEE PLAN POLICY 14.1.5:

POLICY 14.1.5: New development, including “planned development” rezoning approvals, and new subdivisions, and agriculture, that adjoining state-designated aquatic preserves and associated wetlands and natural tributaries shall provide must preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands. This requirement will not apply to existing subdivided lots. For agriculture, this requirement:

- will be implemented through the notice-of-clearing process in chapter 14 of the land development code;
- will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands; and
- if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.1.5:

- a. “New development, including “planned development” rezoning approvals, new subdivisions, and agriculture, that adjoin state-designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands.” – MODIFY 1-2, 10-416, and 34-935.
- b. “For agriculture, this requirement...will be implemented through the notice-of-clearing process in chapter 14 of the land development code...” – ADD NEW PROVISIONS TO 14-374, 14-377, and 14-312.
- c. “For agriculture, ...will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands...” – ADD NEW PROVISIONS TO 14-377 and 14-312.
- d. “For agriculture, ...if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing. – ADD NEW PROVISIONS TO 14-377 and 14-312.

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.1.5:

CHAPTER 1 General Provisions

Sec. 1-2. Rules of construction and definitions.

(a) In the construction of this Land Development Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless inconsistent with the manifest intent of the Board of County Commissioners. The rules of construction and definitions in this section do not apply to any section of this Land Development Code that contains any express provisions excluding their application, or where the subject matter or context of such section may be repugnant thereto.

(b) Generally. *[no changes required]*

(c) The following words, terms and phrases, when used in this Land Development Code, will have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

...

State-designated aquatic preserves and associated wetlands and natural tributaries means:

- (1) The following aquatic preserves as designated by the state of Florida:
 - a. Gasparilla Sound-Charlotte Harbor Aquatic Preserve, and
 - b. Matlacha Pass Aquatic Preserve, and
 - c. Pine Island Sound Aquatic Preserve;
plus
- (2) All wetlands, as defined in article IV of chapter 14 of this code, that adjoin any portion of these aquatic preserves; plus
- (3) All bays, lagoons, creeks, and other waterways that adjoin any portion of these aquatic preserves, but excluding man-made canals.

For the purpose of this definition, any portion of a wetland or natural tributary lying farther than 1/2 mile from the nearest point in an aquatic preserve will not be deemed to be an associated wetland or natural tributary.

...

[no other changes to section 1-2]

CHAPTER 10 Development Standards ARTICLE III, DESIGN STANDARDS AND REQUIREMENTS Division 6, Open Space, Buffering and Landscaping

Sec. 10-416. Landscape standards.

(a) **General.** *[no changes required]*

(b) **Building perimeter plantings.** *[no changes required]*

(c) **Landscaping of parking and vehicle use areas.** *[no changes required]*

(d) **Buffering adjacent property.**

(1) – (8) *[no changes required]*

(9) Development abutting natural waterway.

Except where a stricter standard applies for the Greater Pine Island Area (as defined in Goal 14 of the Lee Plan and as described in section 34-2 of this code), there must be a 25-foot wide vegetative buffer landward from the mean high water line of all nonseawalled natural waterways. Where a proposed new development, including planned development rezoning approvals and new or subdivisions, is located in the Greater Pine Island Area abutting state-designated aquatic preserves and associated wetlands and natural tributaries, as defined in chapter 1 of this code, the width of the required buffer will be 50 feet landward from the water body and wetlands and the applicant must preserve or plant indigenous native vegetation throughout this buffer; however, these special requirements do not apply to portions of marinas that provide direct water access, or to land that has already been lawfully subdivided into building sites.

Existing vegetation within the buffer area must be retained. The removal or control of exotic pest plants must not involve the use of heavy mechanical equipment such as bulldozers, front end loaders, or

hydraulic excavators, unless approved at the time of development order.
(10) – (11) [no changes required]

CHAPTER 14
Environment and
Natural Resources
ARTICLE V, TREE PROTECTION

Sec. 14-374. Definitions.

(a) The following words, terms and phrases, and their derivations, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. When not inconsistent with the context, words in the present tense include the future and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

...

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

...

[no other changes to section 14-374]

Sec. 14-377. Exemptions from article.

(a) This article does not apply to the following:

- (1) Removal of trees on the following lands as specified in this subsection:
 - a. This article shall not apply to the removal of trees, other than trees worthy of preservation, on lands classified as agricultural land for ad valorem taxation purposes pursuant to F.S. § 193.461(3)(b). Trees, other than trees worthy of preservation, may be removed from agriculturally zoned lands only after the owner or his agent procures a notice of clearing from the administrator (see section 14-412(i) for procedures and for special

requirements that apply to proposed agricultural activities in Greater Pine Island). However, if an application to rezone the subject lands is filed within three years from the date when the most recent notice of clearing was issued, and the rezoning is granted, the applicable minimum open space requirements of chapter 10 shall be satisfied in the following manner: [no changes required]

- b. Land used for bonafide agricultural purposes that meets the criteria of or has been designated as wetlands.
 - c. If the property is located in the critical areas for surface water management, and is not used for bona fide agricultural purposes, indigenous vegetation shall not be cleared in areas that serve as listed species occupied habitat as defined in chapter 10, article III, division 8. The following shall apply: [no changes required]
 - d. If the property is located in the critical areas for surface water management, indigenous vegetation shall not be cleared within 25 feet of the mean high-water line or ordinary high-water line, whichever is applicable, of any natural waterway listed in appendix F. Indigenous vegetation may be cleared selectively to allow the placement of docks, pipes, pumps and other similar structures pursuant to applicable county ordinances.
- (2) The removal of trees on public rights-of-way conducted by or on behalf of a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public rights-of-way or in the performance of its official duties.
 - (3) The removal of a protected tree that is dead or which has been destroyed or damaged by natural causes beyond saving or which is a hazard as the result of an act of God and constitutes an immediate peril to life and property.
 - (4) The removal of trees by duly constituted communication, water, sewer or electrical utility companies or federal, state or county agency, engineer or surveyor,

working under a contract with such federal, state or county agency or when such tree removal is done as a governmental function of such agency.

- (5) The removal of trees by duly constituted communication, water, sewer or electrical utility companies in or adjacent to a public easement or right-of-way, provided such removal is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that such removal is conducted so as to avoid any unnecessary damage or removal of trees.
- (6) The removal of trees protected by this article, other than a tree worthy of preservation, by a state-licensed land surveyor in the performance of his duties. The removal of trees protected by this article in a manner which requires clearing a swath of greater than three feet in width shall require approval of the administrator prior to such a removal and clearance.
- (7) The removal of protected trees on a lot zoned for single-family residential use or being used lawfully as a single-family residence or mobile home where the residence or proposed residence is located on a lot no greater than five acres in area. However, this exemption does not apply on the coastal islands listed in subsection (c) below.
- (8) The removal of protected trees, other than a tree worthy of preservation, on the premises of a licensed plant or tree nursery or tree farm where such trees are intended for sale in the ordinary course of the licensee's business.

(b) Any final development order or other final approval issued by the county which was granted after January 27, 1983, but before the effective date of the ordinance from which this article is derived may, at the discretion of the administrator, be exempted from compliance with this article, to the extent that the restrictions imposed by this article conflict with the approvals given in the final development order or other final approval, in which case the final development order or other final approval shall supersede this article as to those areas in conflict.

(c) The exemptions herein for single-family residential use in subsection (a)(7) above do not apply to land located on the following coastal islands: Gasparilla Island, Cayo Costa Island, North Captiva Island, Captive Island, Buck Key, Greater Pine Island, Lover's Key Group of Islands, Black Island, Big Hickory Island, and Little Hickory Island (Bonita Beach).

- (1) The tree permit will be incorporated into the building permit for the site. Review of the tree removal will follow the criteria listed in sections 14-411 and 14-412. For clearing prior to building permit issuance, as a separate tree permit application must be submitted for review and compliance with sections 14-411 and 14-412. No tree permit is required for the annual removal of five trees or less from any single-family residential lot that contains an existing single-family dwelling unit.
- (2) As part of the tree permit site inspections, department of community development staff will also review understory or subcanopy plants and protected species for retention or relocation within the site.
- (3) For Greater Pine Island only, a tree removal permit will be required only on parcels or lots zoned or used for residential purposes that are two acres in size or greater.

Sec. 14-412. Issuance of permit.

(a) **Submission of application.** Application for a permit to remove any protected tree defined in this article shall be submitted to the administrator, in writing, on a form provided by the administrator, accompanied by a written statement indicating the reasons for removal.

(b) **Authority of administrator.** The administrator shall have the authority to issue the permit and to inspect all work performed under any permit issued under this article.

(c) **Required information.** All applications to remove any protected tree defined in this article shall be on forms provided by the administrator. Where an application has been submitted to the administrator for the removal of more than five trees, no tree removal permit shall be issued by the

administrator until a site plan for the lot or parcel has been reviewed and approved by the administrator, which shall include the following minimum information:

- (1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of the structures and improvements, if any.
- (2) A tree location map for the lot or parcel, in a form acceptable to the administrator. For the removal of five trees or less, an on-site examination by the administrator's designee shall be made in lieu of the tree location map requirement.
- (3) Any proposed grade changes that might adversely affect or endanger any trees on the lot or parcel, together with specifications reflecting how the trees can be safely maintained.
- (4) Any proposed tree replacement plan.

(d) **Criteria for granting.** The administrator shall approve a permit for issuance for the removal of any protected tree if the administrator finds one or more of the following conditions is present:

- (1) Trees which pose a safety hazard to pedestrian or vehicular traffic or threaten to cause disruption to public utility services.
- (2) Trees which pose a safety hazard to existing buildings or structures.
- (3) Trees which prevent reasonable access to a lot or parcel so long as the proposed access point complies with all other county regulations.
- (4) Diseased trees which are a hazard to people, buildings or other improvements on a lot or parcel or to other trees.
- (5) Trees so weakened by age, storm, fire or other injury as to, in the opinion of the administrator, jeopardize the life and limb of persons or cause a hazard to property.
- (6) Trees which prevent the lawful development of a lot or parcel or the physical use thereof.
- (7) The administrator may require that a tree protected by this article be relocated on the same lot or parcel in lieu of removal.

(e) **Submission of site plan when building permit not required.** Where a building permit issuance is not required because no structures are to be constructed and no other development of the

lot is to occur, any person seeking to remove a tree protected under this article shall first file a site plan with the administrator meeting the requirements of subsection (c) of this section prior to receiving a tree removal permit from the administrator.

(f) **Inspection of site.** The administrator may conduct an on-site inspection to determine if any proposed tree removal conforms to the requirements of this article and what effect, if any, removal of the trees will have upon the natural resources, as identified in the Lee Plan, of the affected area prior to the granting or denying of the application. A permit fee will be required for the removal or relocation of any tree protected under the provisions of this article and shall be paid at the time of issuance of the permit. The fees established will be set in accordance with the county administrative code and paid to the administrator. Such fees are hereby declared to be necessary for the purpose of processing the application and making the necessary inspection for the administration and enforcement of this article.

(g) **Approval or denial.** Based upon the information contained in the application and after investigation of the application, the administrator shall approve or deny the application, and, if approved, the administrator is the party so designated by the Board of County Commissioners to issue the permit for a period not to exceed one year and to collect the permit fee.

(h) **Conditions.** The administrator may attach conditions to the permit relating to the method of identifying, designating and protecting those trees which are not to be removed in accordance with subsection (g) of this section. A violation of these conditions shall automatically invalidate the permit. Special conditions which may be attached to the permit may include a requirement for successful replacement of trees permitted to be removed with trees of the same size, compatible species and same number.

(i) **Notice of clearing.** Upon receipt of all necessary documents, the administrator may issue a notice of clearing in lieu of an individual tree removal permit. A notice of clearing will be the preferred method of confirming that proposed agricultural activities conform with the exemption criteria in section 14-377(a). Notices of clearing for agricultural purposes in Greater Pine Island

must comply with the following additional requirements in accordance with Policy 14.1.5 of the Lee Plan:

- (1) Agricultural land that adjoins state-designated aquatic preserves and associated wetlands and natural tributaries, as defined in chapter 1 of this code, must preserve or create a 50-foot-wide native vegetated conservation buffer area between all agricultural lands and the natural waterbody and associated wetlands.
- (2) The purpose of this conservation buffer is to capture or slow the movement of sediments, fertilizers, pesticides, pathogens, and heavy metals that may be concentrated in stormwater runoff and to allow for increased biodiversity and improved wildlife habitat.
- (3) Stormwater runoff that is discharged through this conservation buffer must be routed through an indirect discharge such as an overflow or spreader swale or similar conveyance of a sufficient dimensions to reduce discharge velocities to historic rates or rates less than two feet per second.
- (4) This conservation buffer area must be maintained as a forested buffer but may contain a grassed filter strip of up to 15 feet wide. A maintenance plan must be provided to control invasion of exotic vegetation. If native vegetation does not currently exist in the remainder of the buffer, native tree cover must be established within three years of issuance of the notice of clearing.
 - a. For purposes of this subsection, native tree cover means the planting and subsequent maintenance of longleaf pine, slash pine, and/or native oak trees at average spacings typical of indigenous pine flatwoods on Pine Island.
 - b. These trees must be Florida No. 1 or better grade, no less than four feet in height at time of planting, and with a guaranteed 80 percent survivability for a period of five years.
- (5) Additional recommended design criteria are available in "Conservation Practice Standards" from the National Resources Conservation Service:
 - i. Standard 391 (Riparian Forest Buffer).

b. Standard 393 (Filter Strip).

- (6) These conservation buffer regulations will not be construed in a manner that violates the Agricultural Lands and Practices Act, F.S. § 163.3162, or the Florida Right-to-Farm Act, F.S. § 823.14.

CHAPTER 34 Zoning

ARTICLE VI, DISTRICT REGULATIONS Division 9, Planned Development Districts

Sec. 34-935. Property development regulations.

The provisions of this section do not apply to PRFPDs. Property development regulations for PRFPDs are set forth in section 34-941.

(a) *Minimum area for planned developments.* [no changes required]

(b) *Minimum setbacks of structures and buildings from development perimeter boundaries.* [no changes required]

(c) *Uses permitted within required perimeter setback.* [no changes required]

(d) *Planned developments on in Greater Pine Island.* Where the proposed planned development is within the Greater Pine Island area and adjoins state-designated aquatic preserves ~~or~~ and associated wetlands and natural tributaries, as defined in chapter 1 of this code, a 50-foot-wide native vegetated buffer area must be provided between any structure or building and the water body and wetlands. the mean high-water line of the water body shall be provided. Indigenous native plants within this buffer must be maintained or planted.

(1) These requirements do not apply to:

- a. Portions of marinas that provide direct water access, or
- b. Land that has already been subdivided into building sites.

(2) No deviation from ~~this~~ these requirements shall be permitted except under extreme circumstances in which the requirements would have the effect of prohibiting all reasonable use of the property.

(e) **Minimum lot size, dimensions and setbacks.** [no changes required]

(f) **Height of buildings.** [no changes required]

(g) **Open space.** [no changes required]

IMPLEMENTING POLICY 14.2.2

RECENT CHANGES TO LEE PLAN POLICY 14.2.2:

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about ~~6,675~~ 6,800 additional dwelling units, the county will ~~consider for adoption~~ keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of~~ These regulations will ~~would be to appropriately~~ reduce certain types of approvals at established thresholds prior to the ~~adopted level-of-service standard~~ capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches 810 peak hour, annual average two-way trips, the regulations will ~~provide~~ restrictions on further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.
- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

The 810 and 910 thresholds were based on 80% and 90% of level-of-service "D" capacity calculated using the 1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.2.2:

- a. "When traffic on Pine Island Road reaches 810 peak hour, annual average two-way trips, the regulations will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island." – MODIFY CONCURRENCY REGULATIONS IN 2-48 AND 2-50

- b. "The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property." – MODIFY CONCURRENCY REGULATIONS IN 2-48(3)
- c. "These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36." – ADD NEW LANGUAGE TO CONCURRENCY REGULATIONS IN 2-48(6)

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.2.2:

CHAPTER 2
Administration
ARTICLE II, CONCURRENCY
MANAGEMENT SYSTEM

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map and described in section 34-2 of this code, will be determined in accordance with the level of service and restrictions set forth in Lee Plan policies 14.2.1 and 14.2.2 to the extent the policies provide additional restrictions that supplement other provisions of this article. These policies require the following:

- (1) The minimum acceptable level of service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is level of service D on an annual average peak-hour basis and level of service E on a peak-season peak-hour basis using methodologies from the 1985 Highway Capacity Manual Special Report 209. This standard will be measured at the county’s permanent count station on Little Pine Island at the western edge of Matlacha and will apply to all of Greater Pine Island.
- (2) In addition, when traffic on Pine Island Road at the western edge of Matlacha between ~~Burnt Store Road and Stringfellow Boulevard~~ reaches 810 peak-hour annual average two-way trips, rezonings in Greater Pine Island that increase traffic on Pine Island Road may not be granted. Three types of exceptions

to this rule may be considered during the rezoning process:

- a. Minor rezonings on infill properties surrounded by development at similar densities or intensities. A minor rezoning under this exception may not rezone more than 5 acres of land or have a net effect of allowing more than 15 additional dwelling units.
 - b. Rezonings that would have inconsequential effects on traffic flows at the western edge of Matlacha during peak periods in the peak (busier) direction, or would have positive effects by reducing trips during those peak flow periods.
 - c. Rezonings to accommodate small enterprises that promote the natural features or cultural heritage of Greater Pine Island.
- (3) When traffic on Pine Island Road at the western edge of Matlacha between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted for land in Greater Pine Island unless measures to maintain the adopted level of service at the western edge of Matlacha can be included as a condition of the development order. As an alternative to maintaining the adopted level of service, the following options are available to landowners:
- a. Except in the Lee Plan’s Coastal Rural land use category, a reduction in residential density on the property for which a development order is sought to one-third of the maximum density

- otherwise allowed by the Lee Plan and this code.
- b. In the Lee Plan’s Coastal Rural land use category, a reduction in residential density on the property for which a development order is sought to the levels in the third column of Table 34-655 (see section 34-655 of this code).
- (4) The standards in subsections (2) and (3) of this section will be interpreted and applied as follows:
- a. Traffic counts will be taken from the county’s permanent count station on Little Pine Island at the western edge of Matlacha.
- b. For purposes of the regulations in this section, the 810-trip and the 910-trip thresholds will be considered to be exceeded upon approval by the board of county commissioners of the annual concurrency management inventory of available capacity of public facilities in accordance with section 2-50 of this chapter.
1. This inventory must contain an analysis of the previous year’s traffic count data as reported in the Department of Transportation’s annual Traffic Count Report.
 2. This analysis will determine if the reported number of Annual Average Daily Trips (AADT) multiplied by the percentage for the busiest peak flow (AM or PM) exceeds 810 or 910 respectively.
 3. If this analysis concludes that one or both of these thresholds were exceeded during the previous year, the corresponding restrictions for all of Greater Pine Island that are described in subsections (2) and (3) will take effect immediately upon approval of the inventory and will remain in effect until approval of the following year’s inventory.
- c. Landowners may be in the process of obtaining residential development orders at the time that a formal determination is made that the 910-trip threshold has been exceeded. For such

properties, the 180-day period for resubmittal of supplemental or corrected application documents (see section 10-110(b)) shall not be shortened by this determination. However, no further 180-day periods may be granted.

1. Additional development rights may not be appended to a request for a development order during this period.
2. This allowance does not extend to tracts of land in large phased projects that are proposed for future development but for which a development order has not been sought in the current application.

(5) Expiring development orders in Greater Pine Island cannot be extended or renewed unless they are modified to conform with the regulations in effect at the time the extension or renewal is granted.

(6) The restrictions in subsections (2) and (3) will not be interpreted to affect ongoing developments whose final phases are already platted in accordance with F.S. ch. 177, provided that no new lots are added and that the number of allowable dwelling units is not increased. These restrictions also will not be interpreted to affect expansions to existing recreational vehicle parks to serve additional transient RVs if such expansions were explicitly approved by Lee County under Ordinance No. 86-36 (see section 34-3272(1)d.) and the land is properly zoned for this purpose.

Sec. 2-50. Concurrency management information system.

(a) The director will compile, publish and update, at least once each year, beginning no later than October 1, 1990, an inventory of the maximum, utilized and available capacity of public facilities for which minimum regulatory levels of service are prescribed in the Lee Plan. This inventory must also contain a projection of future demand on the facilities due to anticipated growth and additions to capacity based upon construction in progress or under contract. This inventory must also contain the Greater Pine Island analysis as

described in section 2-48(4). The inventory must be reviewed and approved by the Board of County Commissioners and, upon approval, will establish the availability and capacity of each facility to accommodate impacts from further development. This inventory will bind the county to the estimates of available capacity described in the inventory. Once approved by the board, these estimates will empower the director to issue concurrency certificates for development permits requested where the estimates reasonably demonstrate sufficient infrastructure capacity will be available to serve all developments reasonably expected to occur during the period of time approved by the board.

(b) The director will maintain a current cumulative list of all development orders issued by the county. The list will include the date of issuance of each development order.

(c) The director will maintain a list of all certificates issued pursuant to this article, or a copy of each certificate in chronological order by date of issuance in lieu of a list. These records may be removed to storage once the most recent certificate on the list is six months old.

IMPLEMENTING POLICY 14.3.5

NEW LEE PLAN POLICY 14.3.5:

POLICY 14.3.5: The county will amend its land development code to provide specific regulations for neighborhood connectivity and walls and gates on Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These regulations would require interconnections between adjoining neighborhoods wherever feasible and would no longer allow perimeter walls around larger developments.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.3.5:

- a. "These regulations would require interconnections between adjoining neighborhoods wherever feasible...." ADD NEW PROVISIONS TO 10-294(b), 34-411(d) & (r), AND 34-1748(1)(e).
- b. "These regulations would ... no longer allow perimeter walls around larger developments." DELETE GREATER PINE ISLAND FROM 34-1743(c)

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.3.5:

CHAPTER 10
Development Standards
ARTICLE III, DESIGN STANDARDS
AND REQUIREMENTS
Division 2, Transportation,
Roadways, Streets and Bridges

Sec. 10-294. Continuation of existing street pattern.

(a) The proposed street layout shall be coordinated with the street system of the surrounding area. Streets in a proposed development shall be connected to streets in the adjacent area where required by the director of development review to provide for proper traffic circulation.

(b) For all new development on Greater Pine Island, the proposed street layout must be fully integrated into the street system of the surrounding area. These requirements apply equally to public and private streets.

- (1) Streets in a proposed development must be connected to existing streets in the adjacent area, and to likely extensions of existing streets, unless physical barriers such as canals or wetlands preclude such connections.
- (2) Gates or guardhouses may not be used to block the movement of cars except as provided in section 34-1748(1)e. However, traffic calming measures acceptable to the director of transportation may be employed to slow vehicles and to deter excessive cut-through traffic.
- (3) "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

CHAPTER 34
Zoning
ARTICLE IV, PLANNED DEVELOPMENTS
Division 3, Design Standards

Sec. 34-411. General standards.

(a) All planned developments shall be consistent with the provisions of the Lee Plan.

(b) All planned developments, unless otherwise excepted, shall be designed and constructed in accordance with the provisions of all applicable county development regulations in force at that time.

(c) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water.

(1) In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian and cyclist activity and community interaction.

(d) The tract or parcel shall have access to existing or proposed roads:

(1) In accordance with chapter 10 and as specified in the Lee Plan traffic circulation element or the official trafficways map of the county;

(2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of

service on specific roads have been established in the Lee Plan; and
(3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.

(4) Planned developments on Greater Pine Island must also connect to existing streets in the adjacent area and to likely extensions of existing streets, as provided in section 10-294(b). “Greater Pine Island” means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

(e) – (q) *[no changes required]*

(r) Planned developments on Greater Pine Island must meet all of the special standards contained in this code and in the Lee Plan for Greater Pine Island. “Greater Pine Island” means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

CHAPTER 34
Zoning
ARTICLE VII, SUPPLEMENTARY
DISTRICT REGULATIONS
Division 17, Fences, Walls,
Gates and Gatehouses

Sec. 34-1743. Residential project walls.

(a) Definition: For purposes of this section, a residential project fence means a wall or fence erected around a residential subdivision (but not individual lots) or development of ten or more dwelling units.

(b) A residential project fence or wall:

(1) May be a maximum height of eight feet around the perimeter of the project upon a finding by the development services director that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

(2) May include architectural features such as columns, cupolas, fountains, parapets, etc.,

at a height not to exceed twice the fence or wall height provided they are compatible with the project and abutting properties.

- (3) Must be landscaped on the exterior side (between the wall and the abutting property or street right-of-way) with a minimum of five trees per 100 lineal feet and shrub hedges.
 - a. Hedges must be planted and maintained so as to form a 36-inch high continuous visual screen within 1 year after time of planting.
 - b. Trees adjacent to a right of way must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms adjacent to the right of way will add design flexibility and reduce conflicts.
- (4) Must be constructed to ensure that historic water flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.
- (5) May not be permitted until proper documents have been recorded providing for the maintenance of the project fence and landscaping.

(c) Residential project fences or walls are not permitted on Greater Pine Island. "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

Sec. 34-1748. Entrance gates and gatehouses.

The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

- (1) An entrance gate or gatehouse that will control access to property 24 hours a day may be permitted provided that:
 - a. It is not located on a publicly dedicated street or street right-of-way; and
 - b.
 1. Appropriate evidence of consent from all property owners who have the right to use the subject road or from a property owner's association with sufficient authority is submitted; and
 2. If it is to be located within a planned development, it must be an approved use in the schedule of uses; and
 - c. The gate or gatehouse is located*:
 1. A minimum of 100 feet back from the intersecting street right-of-way or easement; or
 2. The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting public or private street while waiting to enter; or
 3. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.
- * Where, in the opinion of the director of development services, traffic volumes on the intersecting street are so low that interference with through traffic will be practically non-existent, the director may waive or modify the locational requirements set forth in (1)c. above. If the intersecting street is county-maintained, then the Director of Lee County Department of Transportation

must concur. The decision to waive or to modify the locational requirements is discretionary and may not be appealed.

- d. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.
 - e. For Greater Pine Island only, an entrance gate or gatehouse can be used to control access only to a single block. Entrance gates or gatehouses cannot interfere with movement of cars between neighborhoods (see section 10-294(b)).
 1. “Greater Pine Island” means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.
 2. For purposes of this subsection, a “single block” means the length of any street from a dead-end or cul-de-sec to the first intersecting street and which provides access to no more than 25 existing or potential dwelling units.
- (2) Access for emergency vehicles must be provided.
- a. Any security gate or similar device that is not manned 24 hours per day must be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles.
 - b. If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.
- (3) Extension of fences or walls to an entrance gate or gatehouse. A fence or wall may be extended into the required setback where it abuts an entrance gate or gatehouse, provided vehicle visibility requirements (see section 34-3131) are met.
- (4) Entrance gates that are installed solely for security purposes for non-residential uses, and that will remain open during normal working hours, are not subject to the location requirements set forth in (1)c. above and are not required to be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles. However, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

IMPLEMENTING POLICY 14.3.3

RECENT CHANGES TO LEE PLAN POLICY 14.3.3:

POLICY 14.3.3: The county's Land Development Code zoning regulations will continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions will not be measured from minimum flood elevations nor will increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.3.3:

- a. "No deviations from these height restrictions may be granted through the planned development process." – ADD THIS PROVISION TO 34-2175(5)
- b. "These height restrictions will not be measured from minimum flood elevations..." DELETE GREATER PINE ISLAND FROM 34-2171(1)
- c. "...nor will increases in building height be allowed in exchange for increased setbacks." ADD PROVISIONS TO 34-2174 & 34-2175(5) THAT EXEMPT GREATER PINE ISLAND FROM THESE INCREASES IN BUILDING HEIGHT
- d. "Industrial buildings must also comply with these height restrictions." DELETE THE EXEMPTION FOR INDUSTRIAL BUILDINGS FROM 34-2175(5)
- e. ADD GREATER PINE ISLAND TO OTHER ISLANDS LISTED IN 34-1444(B)(3) FOR PURPOSES OF REGULATING TOWER HEIGHTS

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.3.3:

CHAPTER 34

Zoning

ARTICLE VII, SUPPLEMENTARY DISTRICT REGULATIONS

Division 11, Wireless Communication Facilities

Sec. 34-1444. Permissible wireless facility locations.

(a) Except as provided below, a wireless communications facility may be permitted only in accordance with Table 34-1447 and the provisions of this chapter. Regardless of the process required, the applicant must comply with all submittal, procedural and substantive provisions of this chapter. Variances or deviations from the requirements of this division may be granted only

in accordance with the requirements of section 34-1453 for a variance.

(b) Exceptions:

- (1) Broadcast antenna-supporting structures in excess of 250 feet will only be allowed within an agricultural zoning district by variance in accordance with the requirements of section 34-1453. Broadcast studios are not allowed in the agricultural zoning district and must comply with all other applicable zoning and development regulations.
- (2) All antennas proposed to be mounted on existing buildings or structures must apply for administrative review as set forth in section 34-1445(b).

IMPLEMENTING POLICY 14.3.3

- (3) On the barrier islands, Greater Pine Island, and within the outer island future land use areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in section 34-2175, whichever is less. ~~The provisions set forth in section 34-2174 are applicable only to~~ For stealth wireless communication facilities only, these height limitations may be increased by one foot for each one-half foot that every required street, side, and rear setback is increased.
- (4) Wireless communications facilities are prohibited in the Density Reduction - Groundwater Resource (DR/GR) Future Land Use areas, wetlands, environmentally critical zoning districts and areas readily visible from the University Window Overlay, except for:
- Stealth wireless communication facilities;
 - Surface-mounted and flush-mounted antennas; and
 - Collocations.

The design of any facility proposed in these areas must be reviewed in accordance with the provisions of section 34-1445 and section 34-1447.

CHAPTER 34

Zoning

ARTICLE VII, SUPPLEMENTARY DISTRICT REGULATIONS

Division 30, Property Development Regulations

Subdivision II. Height

Sec. 34-2171. Measurement.

(a) Except as provided in this subdivision, the height of a building or structure is measured as the vertical distance from grade* to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of gable, hip and

gambrel roofs, and to the highest point of any other structure (excluding fences and walls).

* For purposes of this subdivision, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.

- (1) In areas within the Coastal Building Zone and other flood prone areas (as defined in Chapter 6 Articles III and IV of the LDC), height of a building is the vertical distance from the minimum required flood elevation to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, to the mean height level between eaves and ridge of gable, hip and gambrel roofs. However, this substitution of “minimum required flood elevation” for “average grade” does not apply to Captiva Island, Gasparilla Island, or Greater Pine Island (sections 34-2175(2), (4), and (5) respectively).
- (2) Fences, walls, and buffers are measured in accordance with section 34-1744 and section 10-416.

Sec. 34-2172. Reserved.

NOTE: The provisions of sections 34-2173 and 34-2174 do not apply to satellite earth stations and amateur radio antennas (section 34-1175) or wireless communication facilities (section 34-1441, et seq.), except for stealth facilities.

Sec. 34-2173. Exception to height limitations for certain structural elements.

(a) The following structural appurtenances may exceed the height limitations stipulated in the applicable districts for authorized uses, without increasing setbacks as required in section 34-2174:

- (1) Purely ornamental structural appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles or monuments.

- (2) Appurtenances necessary to mechanical or structural functions such as chimneys and smokestacks, water tanks, elevator and stairwell enclosures, ventilators, and bulkheads; AM and FM radio and television masts, aerials, and antennas; fire and hose towers, utility transmission and distribution structures, cooling towers, aircraft control towers or navigation aids, forest fire observation towers, and barns, silos, windmills or other farm structures when located on farms.

For satellite earth stations and amateur radio antennas - refer to section 34-1175.

For wireless communication facilities, refer to section 34-1441 et seq.

(b) The permitted exceptions to the height limitations may be authorized only when the following conditions can be satisfied:

- (1) The portion of the building or structure permitted as an exception to a height limitation may not be used for human occupancy or for commercial purposes.
- (2) Structural exceptions to height limitations may only be erected to the minimum height necessary to accomplish the purpose it is intended to serve, and no higher.
- (3) If the roof area of the structural elements permitted to exceed the height limitations equals 20 percent or more of the total roof area, they will be considered as integral parts of the whole structure, and therefore not eligible to exceed the height limitations.

Sec. 34-2174. Additional permitted height when increased setbacks provided.

(a) Subject to conditions set forth in section 34-2175, any building or structure may be permitted to exceed the height limitations specified by the zoning district regulations in which the property is located provided every required street, side, and rear setback is increased by one-half foot for every one foot by which the building or structure exceeds the specified height limitation.

(b) In zoning districts that do not specify a maximum height limitation, the increase to

setbacks stated in this section will apply to all buildings or structures exceeding 35 feet in height.

(c) The additional height in exchange for increased setbacks that is permitted by this section may not be used on Upper Captiva Island, Captiva Island, Gasparilla Island, Greater Pine Island, and all other islands (sections 34-2175(1), (2), (4), (5), and (6) respectively).

Sec. 34-2175. Height limitations for special areas.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

- (1) **Upper Captiva Island.** The height of a structure may not exceed 35 feet above grade (base flood elevation). The provisions of section 34-2174(a) do not apply to Upper Captiva Island. No variance or deviation from the 35-foot height restriction may be granted.

In addition to compliance with all applicable building codes (including Fire and Life Safety codes), any building with two or more stories or levels must provide an exterior stairway from the uppermost levels (including "widow's walks" or observation decks) to the ground OR a one-hour fire rated interior means of egress from the uppermost levels (including "widow's walks" or observation decks) to the ground.

- (2) **Captiva Island.** No building or structure may be erected or altered so that the peak of the roof exceeds 35 feet above the average grade of the lot in question or 42 feet above mean sea level, whichever is lower. The provisions of section 34-2174(a) do not apply to Captiva Island. No variance or deviation from this height restriction may be granted.
- (3) **San Carlos Island.** The height of a structure may not exceed 35 feet above grade, except as provided for in section 34-2174. If seaward of the coastal construction control line, elevations may

exceed the 35-foot limitation by three feet for nonconforming lots of record.

(4) ***Gasparilla Island conservation district.***

No building or other structure may be erected or altered so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

(5) ***Greater Pine Island.*** No building or structure may be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower. ~~The term "building or structure," as used in this subsection, does not include a building or structure used for an industrial purpose.~~ The provisions of section 34-2174(a) do not apply to Greater Pine Island. No deviations from these height restrictions may be granted through the planned development process. Any variances from these height restrictions require all of the findings in section 34-145(3) plus these additional findings:

- a. The variance must be fully consistent with the Lee Plan, including its specific provisions for Greater Pine Island.
- b. The relief granted by the variance must be the minimum required to offset the specific exceptional or extraordinary conditions or circumstances that are inherent to the property in question. The only exception is where the relief is required to maintain or improve the health, safety, or welfare of the general public (not just the health, safety, or welfare of the owners, customers, occupants, or residents of the property in question).

"Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

(6) ***All other islands.*** The height of a structure may not exceed 35 feet above grade (base flood elevation). Except as

provided in subsections 34-2175 (3), ~~(4)~~, ~~and (5)~~; the provisions of section 34-2174(a) do not apply to islands. No variance or deviation from the 35-foot height restriction may be granted.

(7) ***Airport hazard zone.*** Height limitations for the airport hazard zone are set forth in article VI, division 10, subdivision III, of this chapter.

Secs. 34-2176--34-2190. Reserved.

IMPLEMENTING POLICY 14.4.4

NEW LEE PLAN POLICY 14.4.4:

POLICY 14.4.4: The county will expand its current sign regulations to include specific standards for Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These standards would reduce the size of ground-mounted signs, discourage or disallow internally lit box signs, allow wall signs on buildings near the right-of-way, and allow small directional signs on Stringfellow Road for businesses not visible from the road.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.4.4:

- a. "These standards would reduce the size of ground-mounted signs..." – MODIFY 30-153(3)a.8
- b. "... discourage or disallow internally lit box signs..." – MODIFY 30-153(3)d
- c. "... allow wall signs on buildings near the right-of-way..." – MODIFY 30-153(2)a.4 & 30-153(3)e
- d. "... and allow small directional signs on Stringfellow Road for businesses not visible from the road." – ADD PROVISIONS FOR DIRECTIONAL SIGNS TO 30-181(c) & TO ORDINANCE 88-11; REPLACE EXISTING BILLBOARDS BEING USED AS DIRECTIONAL SIGNS BY ADDING 30-55(b)(5) & 30-183(13).

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.4.4:

CHAPTER 30

Signs

ARTICLE I, IN GENERAL

Sec. 30-2. Definitions and rules of construction.

(a) In case of any difference of meaning or implication between the text of this chapter and any other law or regulation, this chapter shall control.

(b) The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

[no other changes to section 30-2]

CHAPTER 30

Signs

ARTICLE II, ADMINISTRATION AND ENFORCEMENT

Sec. 30-55. Nonconforming signs.

(a) *Status.* Every sign, as of the effective date of the ordinance from which this chapter is derived, which is a permitted legally existing sign shall be deemed a legal nonconforming sign. A permitted sign means a sign that was constructed or is in place with a valid permit from the county. All nonconforming signs shall be subject to the provisions of this section. All existing signs which are not legal nonconforming signs must comply with the terms of this chapter.

- (1) A nonconforming sign may not be enlarged or altered in a way which increases its nonconformity.
- (2) Nothing in this section shall relieve the owner or user of a legal nonconforming

sign or owner of the property on which the legal nonconforming sign is located from the provisions of this chapter regarding safety, maintenance and repair of signs. Any repair or refurbishing of a sign that exceeds 25 percent of the value of the sign in its preexisting state shall be considered as an act of placing a new sign and not an act of customary maintenance. It shall be the responsibility of the permittee to provide the division of community development with adequate proof of the cost of such work in the form of an itemized statement of the direct repair cost, whenever such information is requested by the division.

- (3) If any nonconforming sign is destroyed to an extent of 50 percent or more of its assessed value at the time of destruction, the sign shall not be replaced or repaired, in part or in full, except upon full compliance with this chapter.
- (4) A replacement billboard structure may be rebuilt in its present location provided that the structure is in compliance with the following conditions:
 - a. Pursuant to the application for replacement, two legal nonconforming billboard structures shall be removed in exchange for the right to reconstruct one replacement billboard structure.
 - b. One of the structures which is to be removed must be located on the same site as the replacement billboard structure. If only one structure is located on the site of the replacement sign, another nonconforming billboard structure must be removed from another location within the unincorporated area of the county.
 - c. The replacement billboard structure must meet all current county height, size and setback requirements.
 - d. The land use category in which the replacement sign is to be erected shall be the less restrictive of the two land use categories where the two removed nonconforming billboard structures were located. If the land use category is the same for both nonconforming billboard structures, the replacement structure may be located at either site. For purposes of this section, the

following hierarchy of land use categories should be used to determine the least restrictive land use categories, with the most appropriate categories listed in descending order:

1. Intensive development, industrial development, airport commerce and interchange areas;
 2. Central urban and urban community;
 3. Suburban and outlying suburban;
 4. Rural, outer islands and density reduction/groundwater resources; and
 5. Environmentally critical areas (resource protection area and transitional zones).
- e. Upon approval of the application for replacement and completion of the conditions specified in this subsection, the replacement billboard structure shall be deemed in conformance with this chapter.
 - f. No replacement billboard structure may be located in the locations designated in section 30-183(1)b.

(b) ***Loss of legal nonconformity.***

- (1) A legal nonconforming sign shall become an illegal sign which must comply with this chapter if:
 - a. More than 50 percent of the sign is removed or unassembled for a period of more than six months.
 - b. The sign is altered or relocated in any manner which increases its nonconformity or causes it to be less in compliance with the provisions of this chapter. A change in copy of a sign listed as a prohibited sign by this chapter is presumed to be an alteration which increases nonconformity; such a copy change on a prohibited sign is prohibited. To establish that the nonconformity is not increased by replacing copy on a sign, other than on a changeable copy sign (where it is presumed that changing copy cannot increase nonconformity) or a prohibited sign (where a change of copy is never allowed), a sealed statement from a state-certified engineer certifying that the sign meets

the structural integrity required by the current applicable building code shall be submitted to the building official in those instances when engineering documents are required for original placement of such a sign. All signs for which a change of copy is permitted shall be made to conform with the requirements of this chapter by April 1, 1993, or any such sign shall lose its legal nonconforming status and shall be removed.

- c. Repair or refurbishing exceeds 25 percent of the value of the sign in its preexisting state.
 - d. The sign is replaced, except as provided in subsection (a)(4) of this section.
- (2) When a sign face remains blank, which is defined as void of advertising matter, for a period of 12 months it loses its nonconforming status and must be treated as a sign which must comply with all the requirements of this chapter. Signs displaying an "available for lease" message or similar message and partially obliterated signs which do not identify a particular product, service or facility are considered to be blank signs.
 - (3) A nonconforming sign that has lost its legal nonconforming status shall be immediately brought into compliance with this chapter, or the sign shall be removed.
 - (4) The existence of an illegal sign or a legal nonconforming sign does not constitute a hardship warranting the issuance of a variance from the provisions of this chapter.
 - (5) Certain nonconforming off-site directional signs and billboards in Greater Pine Island lost their nonconforming status upon adoption of section 30-183(c). These signs became illegal signs at that time and must be removed within 12 months after adoption of section 30-183(c).
 - a. Qualifying businesses that have used nonconforming billboards as off-site directional signs may replace these billboards with new off-site directional signs located in the right-of-way in accordance with section 30-183(c).
 - b. All other billboards must be removed within 12 months after adoption of

section 30-183(c) unless their owners can demonstrate that the billboard has been in continual compliance with the requirements of this code for nonconforming signs (see section 30-183(b)(1)–(b)(4).

CHAPTER 30

Signs

ARTICLE IV, RESTRICTIONS BASED ON LOCATION

Sec. 30-153. Permanent signs in commercial and industrial areas.

In order to provide fair, equal and adequate exposure to the public, and to prevent a single property owner from visually dominating neighboring properties with signs, all nonresidential uses are limited to a total permissible sign area in accordance with the provisions of this section.

(1) Calculation of total permissible area.

Except as specifically provided in section 30-6(1)w, total permitted sign area for any nonresidential use shall be calculated at the ratio of 20 square feet of sign area for every ten linear feet, or major fraction thereof, of frontage on a street which affords vehicle access to the property, subject to the following limitations:

a. *Single frontage.*

1. For uses with 50 feet or less frontage, maximum permitted sign area shall be 100 square feet.
2. For uses with over 50 feet but less than 100 feet of frontage, maximum permitted sign area shall be 150 square feet.
3. For uses with from 100 to 330 feet of frontage, maximum permitted sign area shall be 300 square feet.
4. For uses with over 330 feet of frontage, maximum permitted sign area shall be 400 square feet.

b. *Multiple frontage.*

1. *Corner lots.* Uses located on corner lots may utilize up to the maximum sign area allowed for each frontage providing vehicle access. No transfers of allowable

area may be made from one frontage to another. See subsection (2)a of this section for exceptions.

2. *Parallel street frontage.* Uses with frontage on two streets which do not form a corner lot shall be allowed sign area credit for the second street as follows:

- i Both streets collector or better.

When both streets serve as collectors or better and public access is available from both streets, each street frontage shall be computed as provided in subsection (1)a of this section. However, no transfers of allowable area may be made from one frontage to the other. (Example: a use located on a through lot between old and new U.S. 41.)

- ii *One street collector or better and one street local.* When a use fronts on two streets, one of which is classified as a local street, the following limitations shall apply:

(a) If the property across the local street is residential or institutional, or if the primary use on either side of the local street within that block is residential, the sign area allowance on the local street shall be limited to 25 square feet, regardless of frontage. (Example: property front has primary access to U.S. 41 but also borders a local street behind the property.)

(b) If the property across the local street is commercial or industrial, and the street provides vehicular access to the subject property, sign area allowance shall be the same as provided in subsection (1)a of this section. No transfer of allowable area may be made from one street to

the other. (Example: a business establishment located in a commercial or industrial area.)

- iii *Both streets local.* When a use borders on two local streets, full sign area credit shall be allowed for the street that provides the primary vehicle access. The second street shall be limited to a sign area of 25 square feet. No transfers of allowable sign area shall be made from one street to the other. (Example: a permitted establishment in a primarily residential area.)

- iv *Frontage roads.* Where a business fronts upon a collector or better street but is separated by a frontage road, the allowable sign area shall be treated as though the frontage road was not there.

(2) Nonresidential subdivisions and multiple-occupancy complexes with more than five establishments.

a. *Identification sign.* A nonresidential subdivision or a multiple-occupancy complex of more than five establishments shall be permitted one ground-mounted identification sign along any street which provides access to the property as follows:

1. One square foot of sign area per face shall be permitted for every one linear foot of frontage, provided that:
 - i No sign shall exceed 200 square feet in area per sign face.
 - ii Only one identification sign shall be permitted along any street frontage of less than 330 linear feet. A second identification sign may be permitted if the frontage along any one street exceeds 330 linear feet, provided that the total combined sign area of both signs does not exceed 300 square feet.

- iii On corner lots, the developer may either place one identification sign on both streets providing access as stipulated in subsections (2)a.1.i and ii of this section, or he may place one sign in the corner with a total sign area based upon the total frontage of both streets provided the maximum sign area shall not exceed 300 square feet per face.
 - iv Where a nonresidential subdivision has more than one entrance from the same street, one additional identification sign not exceeding 16 square feet in area, not illuminated, and displaying the name of the development only may be permitted at each additional entrance.
2. The maximum height of any identification sign shall be 24 feet.
 3. Except as provided in subsection (2)a.1.iv of this section, the identification sign may be illuminated with a steady light, but the sign shall not be animated.
 4. Identification signs shall be set back a minimum of 15 feet from any street right-of-way or easement, and ten feet from any other property line.
 - i This requirement will not be construed to forbid a wall sign that meets the size limitations of this section from being placed on the front wall of a building that is lawfully closer than 15 feet to a front property line.
 - ii In no case shall an identification sign be permitted between a collector or arterial street and a frontage road.
- b. **Directory signs.** Nonresidential subdivisions and multiple-occupancy complexes of more than five establishments shall be permitted to place a directory sign on the same structure as the project identification sign, subject to the following limitations:
1. Each directory sign must be of the same background and lettering and color scheme.
 2. Theaters may advertise on permitted identification signs provided the theater's copy area does not exceed 25 percent of the total permissible sign area.
 3. The maximum size of sign area for all directory and ground identification signs shall not exceed the size and height limitations as written in subsection (2)a of this section. It shall be the responsibility of the developer to assure adequate space on the directory and identification sign for each tenant. Failure to provide space shall not be grounds for any occupant to request or obtain a variance from the provisions of this section.
- c. **Individual occupants within multiple-occupancy complex.** Individual offices, institutions, business or industrial establishments located within a multiple-occupancy complex shall not be permitted individual ground-mounted identification signs, but may display wall-mounted, marquee or under-canopy signs as follows:
1. **Wall signs.**
 - i Wall signs are permitted on any wall facing a collector or arterial street or parking lot provided that the total sign area of the wall sign and any attached marquee or canopy sign does not exceed ten percent of the wall area.
 - ii Where the wall abuts residentially zoned property or a delivery vehicle accessway, wall signs shall be limited to a maximum size of 24 square feet in area.
 2. **Marquee signs.** Marquee signs are permitted only on marquees or canopies otherwise lawfully

permitted or in existence. Marquee signs shall not extend horizontally beyond the edges of the canopy or marquee to which they are attached or from which they are suspended.

3. *Under-canopy signs.* Signs attached to the underside of a canopy shall have a copy area no greater than four square feet, with a maximum letter height of six inches, subject to a minimum clearance height of eight feet from the sidewalk, and shall be mounted as nearly as possible at a right angle to the building face, and must be rigidly attached.
4. *Sign content.* No sign permitted by this subsection (2)c shall contain any advertising message concerning any business, goods, products, services or facilities which are not manufactured, produced, sold, provided or located on the premises upon which the sign is erected or maintained.
- d. *Interior directional signs.* Directional signs interior to a multiple-occupancy complex of five or more establishments or to a nonresidential subdivision may be permitted subject to the following:
 1. Interior directional signs shall not exceed ten feet in height and 32 square feet in total sign area;
 2. Individual tenant panels not exceeding four square feet in area may be affixed to the interior directional sign structure provided that the total sign area does not exceed 32 square feet;
 3. Signs shall be located in a manner which will not adversely obstruct safe visibility between moving vehicles or vehicles and pedestrians;
 4. Signs shall not be visible from outside the complex premises.

- (3) **Individual office, institution, business or industrial establishments, and multiple-occupancy complexes with five or less establishments.** The following regulations shall apply for any office, institution, business or industrial establishment which is not located within a multiple-occupancy complex and to all multiple-occupancy complexes containing five or less establishments:
 - a. Every individual office, business or industrial establishment, and a multiple-occupancy complex of five or less establishments, shall be allowed one ground-mounted sign.
 1. If the establishment has 50 feet or less frontage on a public right-of-way, the maximum sign area shall be 32 square feet, and the sign shall be located no closer than five feet to any side property line.
 2. If the establishment has over 50 feet and up to 100 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 64 square feet, provided that no ground-mounted sign shall be closer than five feet to any side property line.*
 3. If the establishment has over 100 feet and up to 300 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 72 square feet, and the sign shall be set back a minimum of ten feet from any side property line.*
 4. Establishments having over 300 feet of frontage on a public right-of-way shall be permitted up to 96 square feet of sign area, and the sign shall be set back a minimum of ten feet from any side property line.*
 5. Establishments having frontage on more than one public right-of-way may be allowed one additional ground-mounted sign on the secondary frontage of not more than 24 square feet in area.
 6. On corner lots, the occupant may be allowed one single

ground-mounted sign rather than two separate ground-mounted signs (one per street frontage) provided the total sign area of the ground-mounted sign does not exceed 1 1/2 times the maximum size permitted on any one street frontage.

7. In multiple-occupancy complexes of five or less occupants, ground sign area not identifying the complex should be divided equally among the occupants.
8. *Establishments in subsections (3)a.2–3–4 above that are located in Greater Pine Island and wish to place a ground-mounted sign are limited to a maximum sign area of 48 square feet (see section 30-91) and a maximum height and width of 12 feet (see section 30-92).
 - b. Maximum height of a ground-mounted identification sign shall be 20 feet.
 - c. Identification signs may be illuminated, but shall not be animated.
 - d. Wall-mounted, marquee or canopy signs may be displayed provided the total sign area of such signs plus any permitted ground-mounted identification sign does not exceed the total permitted sign area for the property based upon the calculations set forth in subsection (1) of this section, provided that not more than ten percent of any wall area may be used for signage. For Greater Pine Island only, internally illuminated box signs mounted on or projecting from a building are limited to a maximum sign area of 12 square feet per establishment.
 - e. Identification signs shall be set back a minimum of 15 feet from any right-of-way or easement.
 1. This requirement will not be construed to forbid a wall sign that meets the size limitations of this section from being placed on the front wall of a building that is lawfully closer than 15 feet to a front property line.
 2. In no case shall an identification sign be permitted between a

collector or arterial street and a frontage road.

- (4) **Hospitals or other emergency medical facilities.** *[no changes required]*
- (5) **Electronic changing message centers.** *[no changes required]*

Sec. 30-181. Off-site directional signs.

- (a) **Residential developments.**
 - (1) **Location; size.** Off-site, nonilluminating directional signs for subdivisions or residential projects shall be permitted along arterial and collector streets within 500 feet of the nearest intersection involving a turning movement to locate the development, subject to the following:
 - a. For a development proposing a single sign to serve the traveling public from two directions, the sign shall not be closer than 50 feet from the intersection and shall not exceed 64 feet in area.
 - b. For a development proposing two signs, one on each side of the intersection, the sign shall be a minimum of 100 feet from the intersection and shall not exceed 32 square feet in area.
 - (2) **Number of signs; separation.** No subdivision or residential development shall be permitted more than two off-site directional signs, and no off-site directional sign shall be located closer than 100 feet to any other off-site directional sign.
 - (3) **Setback.** Off-site directional signs shall be set back a minimum of 15 feet from any street right-of-way.
 - (4) **Height.** No off-site directional sign shall exceed a height of eight feet.
 - (5) **Copy area.** Off-site directional sign copy message shall be limited to the name of the development and directions to the development entrance. No advertising shall be permitted.

(b) *Semipublic bodies.* Off-site directional signs for semipublic bodies will be allowed subject to approval of the director or his designee, provided that:

- (1) **Number of signs.** No semipublic body shall be allowed more than two off-site directional signs. Signs serving two or more semipublic bodies and located at the same intersection shall use the same support structure as necessary.
- (2) **Location.** Signs shall be located along arterial and collector streets at the nearest intersection involving a turning movement to locate the organization.
- (3) **Height.** No off-site directional sign shall exceed a height of eight feet.
- (4) **Size; content.** Sign area shall be limited to four square feet, and signs shall contain only the name and logo of the semipublic body and a pointing arrow indicating the turn toward the organization.
- (5) **Design generally.** Off-site directional signs shall be of a construction and design approved by the director.
- (6) **Location in right-of-way.** Off-site directional signs may be allowed in the right-of-way with approval of the county engineer, based upon local and state highway safety standards, and shall be subject to future removal by the county.

(c) *Greater Pine Island only.* The Lee County Department of Transportation will fabricate, install, and maintain off-site directional signs in the right-of-way of Stringfellow Road and Pine Island Road in Greater Pine Island for qualifying businesses and organizations, as provided in Lee County's Commercial Use of Rights-of-Way Ordinance, Ordinance No. 88-11, as may be amended from time to time. Off-site directional signs that do not qualify for subsections (a), (b), or (c) of this section are not permitted.

Sec. 30-183. Billboards.

Billboards are permitted along I-75; and Alico Road, west of I-75; and Metro Parkway, from Daniels Parkway to Ben C. Pratt/Six Mile Cypress Parkway; and any arterial street within the county subject to the following limitations:

(1) **Location.**

- a. Except as otherwise provided in this section, billboards are permitted in any zoning district provided the area is shown on the county comprehensive plan as intensive development, industrial development, interchange areas or airport commerce. Arterial streets must be designated on the existing functional classification map, as in effect on March 20, 1991.
- b. No billboard will be permitted along:
 1. Ben C. Pratt/Six Mile Cypress Parkway.
 2. Summerlin Road.
 3. McGregor Boulevard.
 4. Daniels Parkway/Cypress Lake Drive corridor from McGregor Boulevard to SR 82, which includes Cypress Lake Drive, Daniels Parkway, the proposed Daniels Parkway extension, Fuel Farm Road, portions of Chamberlin Parkway and any other roads which are not stated in this subsection but are located within such corridor.
 5. Colonial Boulevard east of I-75.
 6. Alico Road east of I-75.
 7. Koreshan Boulevard.
 8. Corkscrew Road.
 9. Treeline Avenue Corridor from Daniels Parkway to Bonita Beach Road. This prohibition includes Ben Hill Griffin Boulevard and any other roads which are not stated in this subsection but are located within this corridor. This prohibition specifically contemplates the future renaming of Treeline Avenue.
 10. Pine Ridge Road.
 11. South Pointe Boulevard

- (2) **Separation.** Minimum distance separation will be as follows:
- Within industrial/business and intensive business areas, 2,000 feet from any other billboard on the same side of the street.
 - Within interchange areas, 1,320 feet from any other billboard on the same side of the street.
 - Within airport commerce areas, 2,000 feet from any other billboard on the same side of the street.

No billboard may be located closer than 100 feet to any intersection with another arterial road.

- (3) **Size.** No billboard may be less than 72 square feet in area per face or more than 400 square feet in size. Embellishments may not extend more than four feet from the top edge or more than two feet from any one side edge. On Alico Road, west of I-75, billboards may not exceed 380 square feet in size.
- (4) **Height.** Billboards may not exceed a height of 20 feet when placed at the sign setback line set forth in subsection (5) of this section, except that, for every two feet the sign is placed back from the required setback line, the height of the sign may be increased by one foot, to a maximum height of 30 feet.
- (5) **Setbacks.** All billboards must be set back a minimum of ten feet from any property line and any building as measured between the closest point of the sign to the property line or building.
- (6) **Roof signs.** Billboards are prohibited on any roof portion of any building.
- (7) **Copy area.** The billboard advertisement shall cover the entire copy area of the billboard.
- (8) **Maximum number of signs per structure.** Each billboard structure shall be limited to a single sign, which may be single- or double-faced, but side-by-side or vertically stacked (double-tier) signs shall be prohibited.

- (9) **Illumination.** Billboards may be illuminated provided that, if external lighting such as floodlights, thin-line or gooseneck reflectors are used, the light source shall be directed onto the face of the sign and shall be effectively shielded so as to prevent beams or rays of light from being directed into any portion of the street right-of-way.

- (10) **Revolving signs.** Billboards may be a revolving sign as defined in this chapter, but shall not consist of animation or flashing devices.

- (11) **Variations and deviations.** No variations or deviations from subsections (1) or (6) through (10) may be granted.

- (12) **Landscaping for billboards on Alico Road, west of I-75.** *[no changes required]*

- (13) **Billboards in Greater Pine Island.** Some billboards remained in place in Greater Pine Island despite the longstanding prohibition against billboards and other off-site advertising and directional signs. These signs may have been nonconforming signs or they may have been illegal signs. Within 12 months after adoption of section 30-181(c) into this chapter, all remaining billboards must be brought into compliance by one of the following means:
- Some billboards may be replaced with off-site directional signs installed in rights-of-way by Lee County Department of Transportation pursuant to section 30-181(c).
 - Some billboards may continue to qualify for nonconforming status and can remain in place, subject to the restrictions in section 30-153(b)(1)–(b)(4).
 - All billboards in Greater Pine Island that cannot demonstrate continual compliance with this chapter’s nonconforming standards are illegal and must be removed (see section 30-153(b)(5)).

AMEND LEE COUNTY'S "COMMERCIAL USE OF RIGHTS-OF-WAY ORDINANCE," ORDINANCE 88-11 AS AMENDED, AS FOLLOWS:

SECTION 5: EXCEPTIONS

The commercial use of the right of any road, street, or highway with the county road system is expressly prohibited, except that the commercial uses listed below may occur in the public rights-of-way, but only in compliance with the requirements and conditions set forth herein:

- A. County permitted or Sponsored Special Events** *[no changes proposed]*
- B. Newspaper Vending Racks or Machines** *[no changes proposed]*
- C. Bus Benches** *[no changes proposed]*
- D. Utilities** *[no changes proposed]*
- E. Commercial Loading or Unloading** *[no changes proposed]*
- F. Mobile Food Vendors** *[no changes proposed]*
- G. Directional Signs (Greater Pine Island only)**

The Lee County Department of Transportation will fabricate, install, and maintain off-site directional signs in the right-of-way of Stringfellow Road and Pine Island Road in Greater Pine Island for qualifying businesses and organizations.

1. "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of the Lee County Land Development Code.
2. "Qualifying businesses and organizations" means one of the following types of for-profit, non-profit, or governmental entities currently operating in Greater Pine Island on a parcel of land that does not have road frontage on CR 767 (also known as Stringfellow Road, Oleander Street, and Main Street) or on CR 78 (also known as Pine Island Road):
 - a. Motels/hotels/bed-and-breakfast inns
 - b. Restaurants
 - c. Retail sales and personal services
 - d. Marinas
 - e. Farms or nurseries regularly offering retail sales
 - f. Transient RV parks
 - g. Educational, cultural, and religious institutions
 - h. Governmental agencies

- i. Other tourist-oriented businesses
- j. "Qualifying businesses and organizations" will not include residential or mobile home communities and will not include any entities that are not regularly open to the public.

3. Qualifying businesses and organizations may apply for a single off-site directional sign to be fabricated, installed, and maintained by the Lee County Department of Transportation in the right-of-way of Stringfellow Road or Pine Island Road.
 - a. Each directional sign will be placed just ahead of the nearest street that intersects with Stringfellow Road or Pine Island Road.
 - b. The exact location and placement of each sign will be determined by the DOT in accordance with established clear zone standards and based on additional operational and safety factors for each sign location. If no acceptable location can be found for a requested sign, the application fee will be refunded.
 - c. Directional signs for up to three businesses may be placed on each pair of sign supports. If additional signs are needed, an additional set of sign supports will be installed if sufficient space is available.
 - d. Each directional sign will contain only the name of the qualifying business or organization, a directional arrow, and optionally the appropriate international symbol (such as lodging, food, marina, camping, library, etc.). Lee County DOT will determine the size of the sign and the font size and type for its lettering, and after consultation with the applicant may shorten the name to ensure legibility to motorists.
 - e. Applications must be made on forms provided by DOT and must be accompanied by the application fee as specified in the External Fees and Charges Manual (Administrative Code 3-10). An additional fee must be paid annually for the anticipated average cost to maintain and mow around each sign.

Responses to four questions about the GPICA settlement proposal

Question #1: What density would result under the proposed formulas if a landowner had both natural lands and farmland that he would be willing to place under a conservation easement and a farm easement respectively?

Answer: I hadn't thought that this situation would occur but actually it probably would, maybe fairly often. Rather than letting this dangle, it would make sense to figure out the conceptual answer right now. How about: a landowner can get one density transfer from land subject to a conservation easement, and another transfer from land subject to a farm easement, and if both kinds of easements were granted, the number of DUs that are transferred from each can be combined on the developable remainder of the property.

Question #2: Would the proposed farm easement compel a landowner to continue farming the property if he no longer wishes to do so? Would an actual easement be required instead of a simple recordable document acknowledging that development rights have been transferred off the farm easement property?

Answer: The GPICA settlement refers to "farm easements" which is intended to mean the same thing as "agricultural easement" or "agricultural conservation easement."

These easements are not common in Florida but are rather well known many other places around the country. They are legal agreements with an "easement holder" (often a government agency) where the landowner agrees that farmland will be used predominantly for agricultural purposes in perpetuity and thus gives up the right to develop that land.

Depending on their purpose, farm easements are sometimes sold, sometimes donated (with positive tax consequences), and sometimes swapped for density transfers (the option we are proposing for Greater Pine Island). I am attaching a few articles that provide a broad picture of how farm easements are used in other parts of the country.

Under Florida law, agricultural easements and conservation easements are closely related. Section 704.06 F.S. sets forth basic required elements for a conservation easement to be enforceable, but allows great flexibility to accommodate special requirements of those granting or accepting conservation easements. For instance, farming could be specifically prohibited or specifically allowed under easements that meet these statutory requirements.

Under the proposed revisions to Policy 1.4.7, a farm or agricultural easement would be required if a landowner chooses to transfer density from farmland to a developable part of the property. My understanding is that 704.06 creates an enforceable mechanism for restraints on future land uses."

Our draft of LDC 34-655 has been using the standard term "conservation easement" to indicate the type of restriction that would be required to qualify for the highest density transfers under Policy 1.4.7. If we agree on the settlement, we would amend that to start using the term "farm easement" or "agricultural easement" to indicate a lesser restriction that would allow farming forever. These farm easements would not require restoration of native forested conditions.

For our purposes, a farm easement would have to limit the farm from being converted into a mine, golf course, or other non-residential use that would be contrary to the purposes for which Policy 1.4.7 allows the density transfer — which is to keep land on Pine Island available for farming. It is not our intention that the easement would provide unnecessary restrictions on

farming practices, or would even *mandate* continued farming, since we can't anticipate what crops or practices might be biologically or economically viable at various times in the future. Obviously there is a balance to be met here that I'm inclined to leave to the LDC; but if your clients strongly wanted this balance to be defined in the Lee Plan, we could try to accomplish that.

It would be in no one's interest to include any provisions that might cause farming to be abandoned. Besides the obvious and severe financial effects of abandonment on the landowner, abandonment could quickly lead to infestation by exotic vegetation, with negative impacts to surrounding land. If we can't ensure that this won't be the end result, I don't see how we'd ever be able to sell this concept to Lee County, let alone to Pine Islanders of any persuasion. We are interested in finding a solution that will work for everyone and are open to suggestions on all details.

Question #3: How would the sliding scale work for a landowner who agreed to preserve or farm a percentage of the property between the percentages listed in the chart in Policy 1.4.7 — would the resulting density be interpolated, or rounded down, or rounded up?

Answer: I don't believe that Lee County has ever recognized fractional DUs. If a density computation results in 13.7 DUs, one gets to build 13 DUs, not 14. Using this same concept, I drafted Table 34-655 to round the Greater Pine Island densities down to the nearest whole density number. Unless the Lee Plan policy and/or Table 34-655 were written to clearly give a different result, this same "rounding down" answer would apply to land placed under a farm easement.

I've tried to keep these complex regulations as simple as possible, thus excluding complications like interpolation. I hadn't considered whether interpolation under Policy 1.4.7 might make a substantial difference on large parcels. If we were to introduce interpolation, it would be further complicated by the fact that the sliding scale in Policy 1.4.7 is not linear. However, I think we could find a way to amend the plan to allow interpolation if that would make the difference between settling the plan challenges or continuing to argue with each other.

Question #4: How would the LDC road requirements apply to one of these cluster developments — would the density be measured on the entire parcel, or just on the developed portion? Under some development scenarios, the roads would have to be paved if the measurement was done on the basis of the developed parcel, but not the entire parcel.

Answer: On reflection, I see that this is an issue that needs to be addressed in the implementing regulations whether or not the settlement proposal is pursued. The current LDC allows rural (unpaved) roads for lots larger than 2.5 acres; I had assumed that these same rules would require the smaller lots in clustered development to have paved roads (although these rules would be eased somewhat by the new language in 34-655(g)(3) allowing narrower pavement and ROW widths).

However, you have brought up an important point because the LDC doesn't actually say "2.5-acre lots"; it says "development of 0.4 or less dwelling units per acre" without specifying gross or net density (see 10-296(d)). I have just drafted a technical fix for this ambiguity that will make it clear that the rural (unpaved) roads are still allowed for lots larger than 2.5 acres, and that smaller lots still require paved roads (but with the relaxed width requirements). This is based on my assumption that unpaved roads would not be sufficiently durable for clustered lots, but that the wide suburban rights-of-way required today for clustered lots would be equally unsuitable for Pine Island – wide roads are expensive to build and they are out-of-character in a rural area.