

IMPLEMENTING POLICIES 1.4.7 & 14.1.8

NEW LEE PLAN POLICY 1.4.7:

POLICY 1.4.7: The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats on the remainder of the property. The standard maximum density is one dwelling unit per ten acres (1DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site in accordance with the chart below. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:

<u>Percentage of the on site uplands that are preserved or restored native habitats</u>	<u>Maximum density</u>
<u>0%</u>	<u>1 DU/ 10 acres</u>
<u>5%</u>	<u>1 DU/ 9 acres</u>
<u>10%</u>	<u>1 DU/ 8 acres</u>
<u>15%</u>	<u>1 DU/ 7 acres</u>
<u>20%</u>	<u>1 DU/ 6 acres</u>
<u>30%</u>	<u>1 DU/ 5 acres</u>
<u>40%</u>	<u>1 DU/ 4 acres</u>
<u>50%</u>	<u>1 DU/ 3 acres</u>
<u>60%</u>	<u>1 DU/ 2 acres</u>
<u>70%</u>	<u>1/DU/ 1 acre</u>

NEW LEE PLAN POLICY 14.1.8:

POLICY 14.1.8: The county reclassified all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation was to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide land owners with maximum flexibility while accomplishing these public purposes.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT THESE POLICIES:

- a. Modify 34-2 – CORRECT THE DEFINITION OF GREATER PINE ISLAND IN 34-2
- b. Modify Tables 34-654, 34-695 and 34-715 – PROVIDE NEW FOOTNOTES TO THESE TABLES REGARDING NEW MINIMUM LOT SIZES IN “COASTAL RURAL”
- c. Create 34-655 – CREATE A NEW SECTION TO DEFINE THE EFFECT OF THE “COASTAL RURAL” DESIGNATION ON LAND DEVELOPMENT
- d. Modify 34-3273 – ADD LANGUAGE THAT ALLOWS CONSTRUCTION OF ONE HOME IN “COASTAL RURAL” ON EACH LOT THAT WAS CREATED PRIOR TO THIS PLAN (WITHOUT SPECIAL RULES FOR PRESERVATION OR RESTORATION)

COMPOSITE CODE CHANGES TO IMPLEMENT THESE POLICIES:

CHAPTER 34
Zoning
ARTICLE I, IN GENERAL

Sec. 34-2. Definitions.

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

...

Greater Pine Island means all of Pine Island, Little Pine Island, West Island, Porpoise Point Island and other small adjacent islands, more particularly described as follows: Sections 25, 26, 35 and 36, Township 43 South, Range 21 East; also Sections 28, 29, 30, 31, 32, ~~and 33~~ and 34, Township 43 South, Range 22 East; also Sections 1, 12, 24 and 25, Township 44 South, Range 21 East; also, all of Township 44 South, Range 22 East, less Sections 1, 2, 11, 12, ~~13~~, and 24, and less those portions of Section 13 lying in the City of Cape Coral; and certain portions of Section 24, lying northeast or toward the mainland from Porpoise Point Island; also, those portions of Section 18 of Township 44 South, Range 23 East lying outside the City of Cape Coral; also, all of Township 45 South, Range 22 East, except those portions of Sections 12, 13 and 24, lying on the mainland; also, Sections 1, 2, 3, 4, 5, 9, 10, 11 and 12, Township 46 South, Range 22 East; also Sections 6 and 7, Township 46 South, Range 23 East.

...

[no other changes to section 34-2]

CHAPTER 34
Zoning
ARTICLE VI, DISTRICT REGULATIONS
Division 2, Agricultural Districts

Sec. 34-651. Purpose and intent.

The purpose of the agricultural districts is to provide areas for the establishment or continuation of agricultural operations, with residential uses being permitted only as ancillary to agricultural uses, and to accommodate those individuals who understand and desire to live in an agricultural environment.

Sec. 34-652. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in the AG districts for any purpose other than as provided in section 34-653, pertaining to use regulations for agricultural districts, and section 34-654, pertaining to property development regulations for agricultural districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

Sec. 34-653. Use regulations table.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS
FOR AGRICULTURAL DISTRICTS
[no changes required]

Sec. 34-654. Property development regulations table.

Property development regulations for agricultural districts are as follows:

TABLE 34-654. PROPERTY DEVELOPMENT REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Minimum lot dimensions and area:	Note (1)			
Minimum lot area:	Notes (2) and (6)			
Interior lot	34-2221, 34-2222	4.7 acres	39,500 sq. ft.	20,000 sq. ft.
Corner lot	34-2221, 34-2222	4.4 acres	33,600 sq. ft.	20,000 sq. ft.
Minimum lot width (feet)		300	100	100
Minimum lot depth (feet)		300	130	130
Minimum setbacks:				
Street (feet)	Notes (3) and (4), 34-2191 et seq., 34-1261 et seq.	Variable according to the functional classification of the street or road (see section 34-2192), but in no case less than 50 feet in the AG-1 district.		
Side yard (feet)		25	15	15
Rear yard (feet)	34-2191 et seq.	25	25	25
Water body (feet):	34-2191 et seq.			
Gulf of Mexico		50	50	50
Other		25	25	25
Special regulations:				
Animals, reptiles, marine life	34-1291 et seq.			
Consumption on premises	34-1261 et seq.			
Docks, seawalls, etc.	34-1863 et seq.			
Essential services	34-1611 et seq.			
Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142			
Fences, walls, gatehouses, etc.	34-1741 et seq.			
Nonroofed accessory structures	34-2194(c)			
Railroad right-of-way	34-2195			
		Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
Maximum height (feet)	34-2171 et seq.	35	35	35
	Note: Bonita Beach, Captiva, Estero and San Carlos Islands, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).			
Maximum lot coverage (percent of total lot area)		25%	25% (5)	25%

Notes:

- (1) Certain projects in agricultural districts may fall within the density reduction/groundwater resource areas of the Lee Plan. In such areas, additional density and use restrictions are applicable. Permitted land uses in density reduction/groundwater resource areas include agriculture, mineral or limerock extraction, conservation uses, and residential uses at a maximum density of one dwelling unit per ten acres. Individual residential parcels may contain up to two acres of wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetlands.
- (2) Any lot created in the Rural Community Preserve land use category (as delineated by policy 17.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way.
- (3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.
- (4) Special street setback provisions apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b)(3) and (4).
- (5) For nonconforming lots, as defined in section 34-3271, the maximum lot coverage will be 40 percent.
- (6) All lots in the Coastal Rural land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after January 9, 2003, must comply with the additional regulations in section 34-655. Lots created before January 9, 2003, do not need to comply with the additional regulations in section 34-655 (see section 34-3273(a)(3)).

Sec. 34-655. Greater Pine Island.

(a) Purpose and intent. In 2003 Lee County reclassified most rural lands in Greater Pine Island to a new Coastal Rural designation on the Future Land Use Map. This designation provides landowners with flexibility while accomplishing the following public purposes:

- (1) To provide a clearer separation between rural and urban uses on Greater Pine Island;
- (2) To discourage the unnecessary destruction of native upland habitats; and
- (3) To avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland.

(b) Conversion from rural land uses. The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats on the remainder of the property. The standard maximum density established by the Lee Plan is one dwelling unit per ten acres (1 DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site in accordance with Table 34-655.

(c) Interpreting Table 34-655. For purposes of interpreting Table 34-655, the following shall apply:

- (1) Table 34-655 contains two columns of adjusted maximum densities:
 - a. The first density column, titled “If < 910 trips in Matlacha,” indicates the adjusted maximum densities that correspond to various levels of uplands preservation or restoration for the time period before the restrictions in section 2-4(3) of this code take effect.
 - b. The second density column, titled “If > 910 trips in Matlacha,” indicates the adjusted maximum densities that correspond to various levels of uplands preservation or restoration for the time period after the restrictions in section 2-4(3) of this code have taken effect. [NOTE: four alternatives are shown in this draft for this second density column]
- (2) The left column in Table 34-655 describes the percentage of on-site uplands that must be permanently preserved or restored as native habitats [POSSIBLE ALTERNATE: “permanently preserved as native habitats or reforested”] in order to increase the standard maximum density on the entire property.

TABLE 34-655.
ADJUSTED MAXIMUM DENSITY

<u>Percentage of the on-site uplands that are preserved or restored native habitats</u>	<u>-----Adjusted Maximum Density-----</u>				
	<u>If < 910 trips in Matlacha:</u>	<u>-----If > 910 trips in Matlacha:-----</u>			
		<u>Alternative A:</u>	<u>Alternative B:</u>	<u>Alternative C:</u>	<u>Alternative D:</u>
<u>0% to 4.99%</u>	<u>1 DU/10 acres</u>	<u>1 DU/ 30 acres</u>	<u>1 DU/ 24 acres</u>	<u>1 DU/ 17 acres</u>	<u>1 DU/10 acres</u>
<u>5% to 9.99%</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 27 acres</u>	<u>1 DU/ 21 acres</u>	<u>1 DU/ 15 acres</u>	<u>1 DU/ 9 acres</u>
<u>10% to 14.99%</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 24 acres</u>	<u>1 DU/ 18 acres</u>	<u>1 DU/ 13 acres</u>	<u>1 DU/ 8 acres</u>
<u>15% to 19.99%</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 21 acres</u>	<u>1 DU/ 16 acres</u>	<u>1 DU/ 12 acres</u>	<u>1 DU/ 7 acres</u>
<u>20% to 29.99%</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 18 acres</u>	<u>1 DU/ 14 acres</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/ 6 acres</u>
<u>30% to 39.99%</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 15 acres</u>	<u>1 DU/ 11 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 5 acres</u>
<u>40% to 49.99%</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 12 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 4 acres</u>
<u>50% to 59.99%</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 3.5 acres</u>
<u>60% to 69.99%</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 3.0 acres</u>
<u>70% or more</u>	<u>1 DU/ 1 acre</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 2.8 acres</u>	<u>1 DU/ 2.7 acres</u>	<u>1 DU/ 2.5 acres</u>

- a. Land uses are restricted in permanently preserved native habitat in accordance with subsection (d) below, and in restored native [reforested?] habitat in accordance with subsection (e) below.
 - b. Roads and surface water management systems, including retention/detention lakes, berms, and ditches, may be not be placed in the preserved or restored portion of the on-site uplands except as provided by subsection (e) below.
 - c. All percentages in the left column in Table 34-655 are based on the acreage of uplands that are designated “Coastal Rural.”
 - 1. Wetlands, as defined in section 14-292, are not counted either in the base acreage or in the preserved or restored acreage.
 - 2. Additional dwelling units that the Lee Plan allows for on-site wetlands may be added to the number of dwelling units allowed for uplands by Table 34-655, provided that the conservation easement described in subsection (d) includes those wetlands.
 - (3) Two or more contiguous or noncontiguous “Coastal Rural” parcels may be combined into a single development application for purposes of computing the actual maximum density allowed on those properties.
 - (4) The determination of actual maximum densities may be confirmed during the development order process in ch. 10 provided that the proposed development complies with all regulations in this code.
 - (5) A proposed development that would deviate from this code, except for administrative deviations in accordance with section 10-104, must seek approval through the “planned development” rezoning process prior to obtaining a development order pursuant to ch. 10.
 - a. Deviations and variances can never be granted to the percentages or densities outlined in Table 34-655.
 - b. Example of deviations that can be considered during the “planned development” process include:
 - 1. lot sizes below the minimums in the property’s current zoning district;
 - 2. alternative methods of committing to preservation or restoration of native habitat;
 - 3. infrastructure more suited to country living, such as narrower roads, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.
- (d) ***Permanently preserved native habitat.*** For the purposes of this section, “permanently preserved native habitat” means uplands that the property owner commits to preserving as native habitats that will remain permanently as open spaces, in exchange for increasing the standard maximum residential density, with all residential units placed on the remainder of the property.
- (1) The commitment to preservation may take the form of a perpetual conservation easement pursuant to F.S. § 704.06 granted to a governmental body or agency or to a charitable corporation or trust whose purposes include protecting natural, scenic, or open spaces values of real property, provided that the entity being granted the easement consents to enforce the easement’s obligations in perpetuity. The commitment to preservation may take a different form if it provides equivalent protection and is approved by Lee County through a deviation in a planned development rezoning.
 - (2) The underlying ownership of these native habitats may be retained by the original landowner or may be transferred to a third party such as a homeowners’ association.
 - a. No portion of the native habitats that are counted as preserved for the purposes of Table 34-655 may overlap individual lots or parcels on which development is permitted.
 - b. Portions of these native habitats may be used as buffers, nature trails, and wooded portions of golf courses provided these areas have a minimum dimension of 25 feet and that uses of this land is limited to....

(3) The commitment to preservation must also include:

a. The following highly invasive exotic plants must be removed from the area being preserved or restored. Methods to remove and control invasive exotic plants must be included on the development order plans. For purposes of this subsection, invasive exotic plants to be removed include:

1. Melaleuca, *Melaleuca quinquenervia*
2. Brazilian pepper, *Schinus terebinthifolius*
3. Australian pine (*Casuarina* spp.)

b. The area being preserved as open space must be maintained by the property owner against the reestablishment of invasive exotic plants in perpetuity and must be kept free of refuse, debris, and pests. This commitment can become a requirement of a homeowners' association. *Evidence of bonds, trust funds, or other committed funding source for ongoing maintenance, including maintenance against the reentry of invasive exotic plants, must be presented to....*

(e) **Restored native habitat.** For the purposes of this section, "restored native [reforested?] habitat" means uplands that the property owner commits to permanently preserving as open space in exchange for increasing the standard maximum residential density, with all residential units placed on the remainder of the property. This commitment must include all of the requirements of section 34-655(d), plus one of the following forest regeneration options:

- (1) **OPTION 1: Active reforestation** by planting native pine seedlings that are adapted to Pine Island conditions (using conventional or modified silvicultural techniques) – [DETAILS TO BE PROVIDED HERE]
- (2) **OPTION 2: Natural regeneration** using native seedbank (similar to ongoing Little Pine Island wetland restoration/mitigation bank) – [DETAILS TO BE PROVIDED HERE]
- (3) **OR [suggested by Edd Dean]: Retain existing palm or tropical fruit groves and**

allow gradual conversion to native trees and shrubs – NEED TO DEVELOP DETAILS]

(4) **OR [not allowed by current plan, but also suggested by Edd Dean]: Retain existing palm or tropical fruit groves as operating farms. This might include:**

- a. Agricultural easements placed on portion of property to remain forested
- b. Retention of all stormwater runoff
- c. [NEED TO DEVELOP DETAILS]

(f) **Development standards.** If a landowner chooses to increase the density of "Coastal Rural" land as provided by this section, the following standards shall govern the portion of the property that may be developed.

(1) **General standards:** Except as otherwise provided in this section or as modified through the "planned development" rezoning process, all requirements of this code, including permitted land uses and property development regulations for the property's zoning district, shall remain in effect.

(2) **Locational standards:** The following approach shall be used to determine the best locations for area on the site to be preserved and to be developed:

a. Begin by identifying potential areas to remain as open space: healthy, diverse, or unusual vegetation (such as mature pine trees, oak hammocks, or dense saw palmetto); listed species habitat; historic/archaeological sites; unusual landforms; wet or transitional areas; etc.

b. Next, identify potential areas for homesites: locations near existing developed areas or adjoining existing streets (or logical street extensions); areas with fewer natural resource values; areas that can be served with minimal extensions of infrastructure; areas that would provide views of preserved open spaces; etc.

(3) [ADD FURTHER DETAILS HERE]

Secs. 34-6565--34-670. Reserved.

CHAPTER 34
Zoning
ARTICLE VI, DISTRICT REGULATIONS
Division 3, Residential Districts

Sec. 34-695. Property development regulations table.

Property development regulations for one- and two-family residential districts are as follows:

**TABLE 34-695. PROPERTY DEVELOPMENT REGULATIONS
FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS**

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	
Minimum lot area and dimensions:	34-2221, 34-2222, 34-2142					[all other districts remain unchanged]
Single-family detached:	<u>Note 5</u>					
Lot area (square feet)		4,000	43,560	6,500	7,500	
Lot width (feet)		40	100	65	75	
Lot depth (feet)		75	200	75	100	
Duplex: <i>[no changes required]</i>						
Two-family attached: <i>[no changes required]</i>						
Minimum setbacks: <i>[no changes required]</i>						
Special regulations: <i>[no changes required]</i>						
Maximum height (feet) <i>[no changes required]</i>						
Maximum lot coverage (percent of total lot area) <i>[no changes required]</i>						

Notes:

- (1) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted by variance only. See section 34-2191 et seq.
- (2) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b).
- (3) Accessory buildings and uses can be located closer to the front of the property than the main building, but must comply with all other setback requirements for accessory building uses.
- (4) No side yard setback required from common side lot line for two-family attached.
- (5) All lots in the Coastal Rural land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after January 9, 2003, must comply with the additional regulations in section 34-655. Lots created before January 9, 2003, do not need to comply with the additional regulations in section 34-655 (see section 34-3273(a)(3)).

Sec. 34-715. Property development regulations table.

Property development regulations for multiple-family residential districts are as follows:

TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10
Minimum lot area and dimensions:	34-1493, 34-1494, 34-2221, 34-2222, 34-2142					
Single-family detached: <i>[no other changes required]</i>	<u>Note 7</u>	<i>[no changes required]</i>				
Duplex, two-family, townhouse: <i>[no other changes required]</i>	<u>Note 7</u> 34-713	<i>[no changes required]</i>				
Multiple-family: <i>[no other changes required]</i>	<u>Note 7</u>	<i>[no changes required]</i>				
Nonresidential uses: <i>[no changes required]</i>						
Minimum setbacks: <i>[no changes required]</i>						
Special regulations: <i>[no changes required]</i>						
Maximum height (feet) <i>[no changes required]</i>						
Maximum lot coverage (percent of total lot area) <i>[no changes required]</i>						

Notes:

- (1) Minimum lot size is 6,500 square feet. However, the maximum permitted density shall not exceed the density permitted for the land use category in which the property is located.
- (2) Minimum lot size is 7,500 square feet. However, the maximum permitted density shall not exceed the density permitted for the land use category in which the property is located.
- (3) 14,000 square feet for the first two dwelling units plus 6,500 square feet for each additional dwelling unit in the same building.
- (4) Modifications to required setbacks for arterial or collector streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.
- (5) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b).
- (6) No side setback is required from common lot line for two-family attached or townhouse.
- (7) All lots in the Coastal Rural land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after January 9, 2003, must comply with the additional regulations in section 34-655. Lots created before January 9, 2003, do not need to comply with the additional regulations in section 34-655 (see section 34-3273(a)(3)).

CHAPTER 34
Zoning
ARTICLE VIII, NONCONFORMITIES
Division 4, Nonconforming Lots

Sec. 34-3271. Nonconforming lot defined.

For purposes of this division, the term “nonconforming or substandard lot” means a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

Sec. 34-3272. Lot of record defined; general development standards.

For the purposes of this division only, a lot of record is a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

- (1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:
 - a. The date that a deed for the lot is lawfully recorded in the public records of the county;
 - b. The date that a subdivision plat has been lawfully recorded in the public records of the county, if the lot is a part of the subdivision;
 - c. The date that a site plan for a development was approved by the Board of County Commissioners pursuant to resolution, as long as the development subsequently recorded a subdivision plat that has been approved by the Board of County Commissioners in the public records of the county, if the lot is a part of the subdivision; or
 - d. In the case of mobile home or recreational vehicle parks... *[no changes required]*

- (2) The remaining lot after condemnation shall be deemed a lot of record in accordance with section 34-3206.
- (3) Lots of record may be developed subject to the following provisions:
 - a. All other regulations of this chapter must be met.
 - b. No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that abutting lots of record may be combined and redivided to create larger dimension lots as long as such recombination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.
 - c. For mobile home or recreational vehicle lots of record, the following will also apply: *[no changes required]*
- (4) The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner.

Sec. 34-3273. Construction of single-family residence.

- (a) A single-family residence may be constructed on a nonconforming lot of record that:
 - (1) Does not comply with the density requirements of the Lee Plan, provided the owner receives a favorable single-family residence determination (also known as “minimum use determination”) in accordance with the Lee Plan. Such nonconforming lots are exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements.
 - (2) Does comply with the density requirements of the Lee Plan, as long as the lot:
 - a. Was lawfully created prior to June 1962 and the following conditions are met:
 1. Lots existing in the AG-2 or AG-3 zoning district require a minimum width of 75 feet, a minimum depth of 100 feet and a lot area not less than 7,500 square feet.

2. Lots existing in any other zoning district which permits the construction of a single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.
 - b. Is part of a plat approved by the Board of County Commissioners and lawfully recorded in the public records of the county after June 1962.
- (3) In Greater Pine Island only, in addition to the options in subsections (a)(1) and (2), one single-family residence may be constructed on a nonconforming lot of record in the Lee Plan's "Coastal Rural" land use category (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan), provided that:
- a. The lot was created before January 9, 2003; and
 - b. The lot would have qualified for a single-family residence determination (minimum use determination) in accordance with the Lee Plan prior to that date.

Sec. 34-3275. Commercial or industrial use.
[no changes required]

(b) The use of a nonconforming lot of record for a residential use other than a single-family dwelling unit is prohibited except in compliance with the lot width, lot depth, lot area, and density requirements for the zoning district.

(c) Neither a guest house nor servants' quarters is permitted on a single lot of record less than 7,500 square feet in area, or which is occupied by a dwelling unit or units other than one single-family residence.

(d) Minimum setbacks for structures permitted under subsections (1) or (2) above, are as follows:

- (1) Street setbacks must be in accordance with section 34-2192.
- (2) Side setbacks must be ten percent of lot width, or five feet, whichever is greater.
- (3) Rear setbacks must be one-fourth of the lot depth but do not need to be greater than 20 feet.

Sec. 34-3274. Placement of mobile home or recreational vehicle on lot. *[no changes required]*