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MEMORANDUM

TO: Greater Pine Island Land Use Plan Implementation Committee
FROM: Bill Spikowski
DATE: November 4, 2003
SUBJECT: MEETING OF NOVEMBER 12, 2003

The next regular meeting of the Greater Pine Island Land Use Plan Implementation Committee will be held on Wednesday, November 12, 2003, 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.

There are seven sets of amendments to Lee County's Land Development Code that are required to implement the Greater Pine Island community plan update. At the June 11 meeting we reviewed early drafts of two sets of those amendments, which would implement Policy 14.3.3 on building heights and Policy 14.3.5 on neighborhood connectivity. At the August 13 meeting we reviewed two more sets of amendments to implement Policy 14.1.5 regarding wetland buffers and Policy 14.4.4 regarding signs. On October 8 we reviewed the fifth and sixth sets of amendments, for the 810/910 traffic rules and the Coastal Rural category (except for the restoration standards, which had not yet been drafted).

At the November 12 meeting, we will review revised and expanded drafts for the same subjects that were discussed on October 8: the 810/910 traffic rules and the Coastal Rural category (now including a first draft of restoration standards). Please review these drafts prior to the November 12 meeting so that we can discuss them then; a list of major changes from last month is attached.

The attached drafts follow the same format as the earlier sets: they begin with the full text of the specific policy being implemented, then a summary of which sections of the land development code need to be amended, followed by the actual code text, with proposed new text underlined and existing text that would be repealed ~~struck through~~.

ATTACHMENTS: *List of major changes from October drafts to November drafts*
Preliminary agenda for November 12 meeting
Draft minutes from meeting on October 8, 2003
Letter from Bill Spikowski to Barbara Dubin dated October 10, 2003
"Implementing Policy 14.2.2" (3 pages)
"Implementing Policies 1.4.7 and 14.1.8" (13 pages)
MESIC PINE FLATWOODS (from chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service)

Major changes from October draft to November draft

PAGE:	SECTION:	DESCRIPTION OF CHANGE:
2 of 3	2-48(1-2-3-4)	Clause added to each subsection to clarify that these standards apply to all of Greater Pine Island, not just west of the permanent count station
2 of 3	2-48(2)a	Added size descriptions for “minor rezonings”
2 of 3	2-48(2)b	Clarified language to indicate that adding traffic in the PEAK direction was the standard that proposed rezoning would be measured against
3 of 3	2-48(5)	Added a new final clause requiring proper zoning for any expansions to existing recreational vehicle parks.
3 of 13	34-654	Note#6 changed from January 9, 2003 to “effective date of plan update”
5 of 13	34-655(c)(2)c	Now allows any preserved property that is determined by a permitting agency to be a wetland to be counted as preserved “Coastal Rural” land
5 of 13	34-655(c)(3)	Language added to clarify that noncontiguous “Coastal Rural” parcels can be combined in a development application for density purposes, provided the density on any single parcel does not exceed 1 DU per acre
5 of 13	34-655(c)(5)b	Eliminated language that set minimum lot sizes to be the same as the current zoning district (that subject is now addressed in 34-655(g)(2)). New language has been added that would allow alternate reforestation methods to be considered through the “planned development” rezoning process.
6 of 13	34-655(d)(1)	Added language that allows certain additional land uses in preserved areas (passive recreation up to 2%; lakes up to 5%; agriculture up to 10%)
6 of 13	34-655(d)(2)	Added hydrologic restoration requirements for land being preserved
6 of 13	34-655(d)(4)	Conservation easement language has been revised
6-7 of 13	34-655(d)(5)	Long-term management plan now required for preserve areas
7 of 13	34-655(d)(6)	Added details of how the preserved areas could be owned
7-8 of 13	34-655(e)	This subsection on restoration standards now discusses hydrologic restoration and reintroduction of native trees. Still to be drafted: reintroduction of other native plants, and criteria for determining the success of restoration.
8 of 13	34-655(f)	This new subsection would allow a flatwoods restoration bank to restore large parcels of habitat on Pine Island, with credits for this restoration sold to other landowners who wish to increase their density but not to restore habitat on their own site.
8 of 13	34-655(g)(2)	New language would allow clustered homesites to be developed without rezoning land from its current AG-2 zoning, provided that all preservation/restoration requirements have been met.
8 of 13	34-655(g)(3)	New language would allow local streets to be narrower than the suburban widths now required for new development everywhere else in the county, and would encourage streets to be paved with new types of asphalt or concrete that are porous (in order to reduce surface water runoff).
10 of 13	34-695	Note #5 changed from January 9, 2003 to “effective date of plan update”
11 of 13	34-715	Note #7 changed from January 9, 2003 to “effective date of plan update”

Greater Pine Island Land Use Plan Implementation Committee

Wednesday, November 12, 2003, 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 October 8 meeting
3. Discussion of October 10 letter from Bill Spikowski
4. Discussion on implementing Policy 14.2.2 — 810/910 Traffic Rules
5. Discussion on implementing Policies 1.4.7 & 14.1.8 — Coastal Rural
6. Remaining steps toward implementation:
 - a. Commercial building design standards
 - b. Review of final language for all other policies before formal submittal to Lee County
7. Set date and time for next meeting (7:00 PM on December 10 or January 14)
8. Adjournment

Minutes of Oct. 8, 2003
Greater Pine Island Land Use Implementation Committee Meeting

The meeting was called to order by the Chairperson, Barbara Dubin at 7:05 P.M. at St John's Episcopal Church in St. James City. Attendees were reminded that this meeting was being held in a sanctuary and that people should conduct themselves accordingly. A rollcall of all committee members was then taken. Present were Noel Andress, Phil Buchanan, Bill Mantis and Barbara Dubin. Elaine McLaughlin and Anna Stober were absent. Bill Spikowski, Mohsen Salehi and Jim Mudd were introduced.

The Chairperson then asked for motions to approve the minutes of the previous meetings of April 9, June 11 and August 13, 2003. Phil Buchanan stated that Mr. Setti's name was misspelled in the second paragraph of the April 9 Minutes, and should be corrected. He then made a motion to approve the April 9 minutes, which was seconded by Bill Mantis and approved by the attendees. In the June 11 Minutes Phil asked for removal of the sentence "The DCA must also prove that they were correct in approving the plan." He then made a motion to approve the June 11 Minutes, which were seconded by Noel Andress and approved by the attendees. Mr. Buchanan, in the August 13 Minutes asked for removal of the sentence "It was clarified that one cannot get an agricultural exemption unless the land is under a bona fide agricultural operation." He then made a motion for approval of the August 13 Minutes, seconded by Bill Mantis and approved by the attendees. It was suggested that all future Minutes be signed.

The meeting was then turned over to Bill Spikowski. He gave a short history of Planning on Pine Island. The first time Pine Island was an entity in the Lee County Land Use Plan was in 1984. The first large Pine Island Land Use Plan was approved in 1989 with amendments around 1992, 1993 or 1994. An update was begun in 1999 by the Greater Pine Island Civic Association and other Pine Islanders. It was adopted by the Local Planning Agency, forwarded to the Fl. Dept. of Community Affairs by the Lee County Commissioners and then unanimously approved by the Lee County Commissioners. Since the new plan has been "challenged", it is not presently in effect. There will be an Administrative Hearing between Feb 2-6, 2004. The Administrative Hearing Judge will give his opinion and, if approved, the new plan will go into effect shortly thereafter. Now we are drafting detailed rules for the Plan even though it is not in effect, and may even need to make changes and amendments.

Dan Stevens, a nursery owner who has lived on PI for 31 years totally disagrees with the plan. He never reads the Eagle and did not attend the meetings. In response Phil Buchanan stated that the new plan makes changes to ease up the stringent rules of the 1989 Plan.

Abby Martinez bought 40 acres next to Island Acres and wants to build houses with picket fences, but now "His dreams are gone." Noel Andress stated that he could still divide land into homesites, if he clusters his housing, which is more economically feasible. Buckingham is now considering adopting ideas similar to those in the Pine Island Plan.

Bill Spikowski stated that we got grants from Florida DCA for \$10,000, Ordway-Dunn Foundation for \$20,000 and from Lee County for \$5,000. When we come up with the proposed rules, there will be several public meetings. There are 7 parts to the plan. Tonight we will discuss Traffic (3 pages) and Coastal Rural (10 pages).

TRAFFIC - POLICY 14.2.2 (attached, pages 1-3)

A traffic counter is located in the road next to the Sandy Hook restaurant in Matlacha. The 1989 Plan said the road through Matlacha was already crowded, but not at capacity. There are already 6,000 approved lots and some development orders that have been approved and are active. The new plan will not effect them. The 1989 Plan stated upon reaching 910 there would be no new residential developments (too strict). The new Plan states that in the worst case development should be reduced to 1/3 of the previous density.

Page 1 shows County approved provisions. The 1989 plan stated that there could be no rezonings once the 810 threshold was reached. We surpassed that threshold in 1998. Page 2, (2) a, b, & c show exceptions to the 810 rule under the new Land Use Plan, changes made to ease up on the stringent rules of the 1989 Plan. Do we need to make it more specific or keep it general? Keeping track of peak hour, peak direction traffic count.

Phil Morrison asked if hurricane traffic is important. Bill Spikowski said that we are already in trouble in a hurricane based on peak hour traffic.

Dan Foote asked what 910 peak hour meant. Mohsen Salehi explained the formula for estimating round trip/peak hour traffic and his studies also included peak direction. We reached 810 in 1998 which went into effect in 1999 (upon publication of the traffic count report by Lee County DOT) and will surpass 910 in 2003 by the time the 2003 traffic count report is published (roughly on or about the end of March 2004).

Noel Andress: If subdividing property into more than 4 lots, you must get a development order under standard county rules.

Earl Scott asked if you divide property, what are the implications? Bill Spikowski stated that he would lose his Ag exemption, must put in a new road and would increase his taxes.

Page 3 explains traffic rules. (5) on Page 3 explains the already platted lots on 2 parcels in Cherry Estates. No new lots can be added.

Page 2 (3) a and b discuss how the 910 rule effects Coastal Rural.

Deb Lytle was concerned about wildlife on undeveloped lot/lots in middle of small development. Bill stated that the county was willing to buy wildlife habitat under Conservation 2020.

Dave Lukasek stated that there could be Public Hearings and Rezonings. There was a discussion on rezoning and what is minor? Bill Spikowski said that these regulations could define what minor means.

Matt Uhle asked why the 1/3 density rule was left at the most restrictive level.

Noel Andress stated that if one had 40 acres to divide into 1 acre lots you would need paved streets. Not feasible today – cost prohibitive.

Sally Tapager questioned where traffic counter should be. It is next to Sandy Hook restaurant. Bill explained it has always been there but the new rules would apply to all of Matlacha as well as Pine Island, not just west of the traffic counter.

Bill Spikowski explained “Concurrency”. The rules under (2) on page 2 explain exceptions under the new plan, further easing the old 1989 Plan (810 Traffic Rule).

Dan Foote asked about the traffic at the east side of Matlacha. It is not counted by the traffic counter at the Sandy Hook. Mohsen Salehi said the traffic restrictions would probably be more severe if the Matlacha traffic were counted.

COASTAL RURAL POLICIES 1.4.7 & 14.1.8 (attached pages 1-10)

All previously designated rural land plus 157 acres north of Pink Citrus were designated “Coastal Rural” in the new Land Use Plan. Trying for a balance between land owners rights and overall rights of everyone. Can farm and clear. Density will be 1 unit/10 acres. If you restore the land, you can attain 1 unit/acre maximum if you preserve or restore 70% of the land (other attainable densities are on chart on Page 1). Real estate agents say things have changed – land prices have increased since the plan was adopted. It is also costly for sewers.

Noel Andress stated that LDC Code Restoration Amendments have not been formulated. What is included in open space – wooded/natural areas of golf courses, retention ponds, etc.? Most successful development has created open space.

Coastal Rural is a new designation and is only on Pine Island. However, North Fort Myers in some areas and southeast Lee County has a density of 1/10 acres.

Page 2 contains a legal description of Greater Pine Island.

Page 3, footnote (6) John Cammick stated that the date should be changed to the effective date of the new Land Use Plan. There was a consensus to make this change.

Page 4 (b) refers to Table 34-655. More land preserved/restored, more units allowed.

Page 4 – Table. Option A cuts density by 2/3. Options B, C, and D are more lenient.

Under old 910 Rule (10 acres) no new development. Under the new 910 (10 acres) can build at 1/3 density.

Bob Glennon had a question about creating open space. If they preserve the land does it have to have bike paths and preserve areas open to the public? Bill Spikowski stated that it was not public and could be under the homeowners’ association. Phil Buchanan talked about a conservation easement. Make sure the terms of the easement are followed.

Noel Andress stated that the IRS does not recognize conservation easements for tax breaks unless a donation is completely voluntary. However, there probably would be a tax reduction by the Lee County tax assessor for the land included in the easement.

Page 6. What happens to land preserved? Can part be a tree farm? At present it must be preserved as native habitat. Restoration can be expensive. Can part of the land be used for farming? This will be discussed next month.

Sherrie Philips asked about wetlands. Bill stated that the density of wetlands was 1 unit/20 acres in 1994, and this density is still in effect.

Phil Buchanan stated that Corps of Engineers wetlands are sometimes uplands. Non-contiguous pieces should be considered.

John Cammick suggested transfers and putting development near the road.

People shouldn't be allowed to transfer melaleuca swamps as if they were natural land.

Bob Glennon said that traffic is growing faster than development. Many people are sightseers. Bill Spikowski stated that inland lots are now more costly. He also said that the Census Bureau does surveys on seasonal use, but the numbers are not reliable. There is no good data on seasonal use.

Phil Buchanan said that better growth figures come from electrical and water hook-ups.

Noel stated that an average of 100 houses have been built per year.

Ed Anderson said that the new Burnt Store extension has brought more people to western Cape Coral and the Pine Island area. "Build a road and they will come."

Sally Tapager said that we could expect the population of Cape Coral to be 200,000 within the next 10 years. We can expect more people on Pine Island too.

In Coastal Rural – single family or multi-family? Bill Spikowski said most is zoned single family.

Noel Andress said the Burnt Store Road will be 4 or 6 laned. There are already large new developments planned for along Burnt Store Road. We must act now to preserve our quality of life.

Deb Lytle asked about the Pine Island Water Company providing water for these developments and about the prospect that all unincorporated areas of Lee County must become incorporated. Bill Spikowski stated that Lee County Commissioners have never shown any interest in incorporating all unincorporated areas and that Greater Pine Island residents own the water company.

Noel Andress pointed out that there is no more capacity at the sewer plant at the present time, but the plant can be expanded if injection wells are completed.

If you have an existing lot that can be built on under the 1989 Plan, it can be built on under the new plan.

Phil Buchanan related that alternatives A&D on the chart on Page 4 are bad. A is too harsh and D is too lenient. The alternative should be B or C.

Bob Glennon asked how the area for Coastal Rural was selected. Bill stated that all rural designated land was selected plus 157 acres north of Pink Citrus because most of it is farm land. Also, there are no active development orders on this land.

Noel Andress stated that the maximum number of people in Lee County under the growth rules will be approximately 1.5 million. There is a maximum of growth and allocation for each county.

Bob Glennon asked about changing the 910 number and how would it effect the density. Bill Spikowski stated that the County's and the Commissioners' credibility would be affected if you change the 910 Rule. When you reach a certain threshold, you can't just raise the number or nobody would believe that the plan will ever be serious.

Noel Andress stated that there is a quota for building in the Florida Keys which is accomplished by a lottery. We didn't want this on Pine Island. Everyone in the planning process is trying to be fair.

The next GPI Land Use Implementation Meeting will be held at 7:00 P.M. on November 12, 2003 at St. John's Episcopal Church. The topic will be conservation/preservation requirements.

The meeting was adjourned at 9:07 P.M. There were 91 people in attendance.

DRAFT
Respectfully submitted,

Barbara K. Dubin

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October 10, 2003

Barbara Dubin, Chairperson
Greater Pine Island Land Use Plan Implementation Committee
16185 Bowline Street
Bokeelia, Florida 33922

Dear Barbara:

I have had several requests for clarification of the statements I made at the Greater Pine Island meeting on October 8 that the new plan update, once it becomes effective, would be more favorable to many landowners than the plan that is currently in effect. I would like to explain more fully in this letter.

The 1989 Lee Plan established the 810/910 traffic thresholds for Pine Island Road through Matlacha. The 810 threshold was surpassed beginning in 1998 and since that time has forbidden any rezonings "...which would increase traffic on Pine Island Road." The new plan update, once it becomes effective, would moderate that strict position by allowing several categories of exceptions to this ban on rezonings: "... 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 ... rezonings for small enterprises that promote the nature and heritage of Greater Pine Island." (SOURCE: Amended Policy 14.2.2) This clearly is more lenient than the current plan.

We expect the 910 threshold to be surpassed either this coming February or the following February. Once that occurs, the existing plan does not permit any further residential development orders, without which new subdivisions cannot be created. This applies to all of Greater Pine Island, not just the rural areas. The new plan update, once it becomes effective, eliminates the ban on residential development orders and replaces it a density reduction that cannot "...be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property." (SOURCE: Amended Policy 14.2.2) Again, while still quite restrictive, this is clearly more lenient than the current plan.

In addition to these new allowances, there are some totally new rules in the plan update. Some, like the restrictions on gating new subdivisions or the new commercial design standards, have not been controversial even with most affected landowners. The one new rule that has become quite controversial is the establishment of the "Coastal Rural" land use category for all of the land that had previously been designated "Rural" plus 157 acres of farmland just south of Bokeelia.

Ms. Barbara Dubin
October 10, 2003
Page 2 of 2

The existing "Rural" category limits density to 1 dwelling unit (DU) per acre, which under current agricultural zoning requires 1-acre cookie-cutter lots on paved roads, or 2.5-acre lots on unpaved roads, neither of which are very desirable forms of development. Pine Island already has quite a surplus of large vacant lots without amenities!

For large landowners, perhaps the best news about the new plan is that clustering future residential units on smaller lots would now be possible without even rezoning the land. The bad news is that landowners who don't want to cluster future residential units and would prefer to build on larger lots (and thus consume more land) can build fewer total units under the new plan.

The new clustering allowance is a win for the environment by not converting so much land into residential lots; a win for landowners because development costs for smaller lots are lower than for 1-acre lots; and a win for Pine Islanders who are concerned about traffic on Pine Island Road because some landowners will choose not to cluster and will accept the lower density that would now result from that decision.

Many landowners agree with me that the new "Coastal Rural" rules are on the balance more favorable to them than the previous "Rural" rules and their large-lot agricultural zoning. It is possible that some other landowners have taken the opposite position because the wording I wrote for the new plan describes these rules in negative terms, without articulating the benefits to landowners. The plan states that under "Coastal Rural," the base density is reduced to 1 DU per 10 acres, but landowners have the option to preserve (or restore) various percentages of their land in exchange for the right to increase their density and put their homes on lots that are smaller than a full acre. In exchange for maximum preservation (or restoration) of 70% of their land, a landowner can recover his previous density of 1 DU per acre but place those homes on smaller lots on the remaining 30% of their land.

A real fly in the ointment here, however, is what happens in "Coastal Rural" after the 910 threshold is surpassed. A literal reading of the plan yields the strictest possible interpretation: the sliding scale for preservation/restoration remains, but the scale itself slides, on the low end, from 1 DU per 30 acres (1 per 10 times 1/3) to, on the high end, 1 DU per 3 acres (1 per 1 times 1/3). I believe that the result of this interpretation is too restrictive on "Coastal Rural" landowners. On October 8 I proposed three other potential interpretations that could be placed into Lee County's land development code. None of us know yet which interpretation will be recommended by the Greater Pine Island Land Use Plan Implementation Committee or which will ultimately be adopted by the Lee County Commission, but I hope we find a moderate position on this issue and also on the thorny issue of restoration standards for land that has already been cleared.

Please circulate this letter to anyone who may find it of interest.

Sincerely,

Bill Spikowski

cc: Members of Land Use Plan Implementation Committee