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Pine Island moratorium remains on hold

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Lee County commissioners on Monday decided against a moratorium on residential developer orders for Pine Island.

Had they chosen to implement a policy in the Lee County Comprehensive Plan concerning Pine big developments would have been halted indefinitely from building any more subdivisions.

The commissioners were looking into a moratorium because peak traffic amounts had exceeded "910" rule, which was the gauge being used to cut back building on the island. High peak time means problems for evacuating the island in case of a hurricane.

The term "910" equates to 910 vehicles passing a certain point on Pine Island Road during the hour of the day. There are 920 cars hitting that point currently.

Now, commissioners want to see the traffic report as soon as possible, instead of waiting until they normally release the numbers in December.

Because of the high traffic count, commissioners met on Monday with the option of putting a moratorium on residential development. Instead, they want to see the traffic report in mid-September.

Commissioner John Albion wants to take on the controversial issue carefully.

"There are a lot of bells and whistles which could go off if this is not handled right," Albion said at the board management and planning workshop Monday. "If we have a moratorium, all sorts of problems — including possible Bert J. Harris implications — could arise if this is not done correctly."

Called the Bert J. Harris Jr. Private Property Rights Protection Act, the 1995 law provides relief for property owners who are unable to get the fair use out of their property because of a government that doesn't take the land. However, officials believe the land plan predates Bert Harris.

Albion is worried about "opening a Pandora's Box," when it comes to Bert Harris property rights by denying developers the right to build.

The commissioners say once they have the current 2004 traffic count numbers in their hands, they

Lee County made the decision in 1989 to slow development on Pine Island as capacity on Pine Road through Matlacha was reached. This was designed as a precautionary measure so the island could be safely evacuated in the case of a hurricane.

Because there is no viable way to expand the road or build an additional bridge, the 1989 plan to all residential development rights.

Once traffic through Matlacha used 90 percent of the road's capacity, the county committed to slow

Several of the commissioners seemed worried that Monday's decision might cause developers to

Phil Buchanan of the Greater Pine Island Civic Association does not believe new applications will be approved and only the filed applications are in play.

"Stopping new developments when 910 is met, and it was met in early 2003, means very simply when developments already approved and in progress are completed, Pine Island Road will be at capacity," Buchanan said. "That's good planning, and that's why the 910 rule was written the way it is in the 1989."

Mary Gibbs from the Community Development office explained that if a developer knocked down

Developer Robert Gunther of Highpoint Tower Technology has three of the four major island projects waiting for approval. One project in Bokeelia removed 170 trailers and plans to put up 34 high-rise

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condominiums in their place. That sort of project could get approved. However Gunther's big plans for

Gunther could not be contacted for comment.

Commissioner Ray Judah favored the idea of a moratorium at the meeting.

"Clearly when the policy was implemented, it was to ensure protection during hurricane evacuation," Judah said. "This is not a cautionary light or a warning; it's a stop sign."

Albion is still wary this issue may cause the county a few legal battles and addressed county attorneys directly.

"This is very tricky waters. You mess this up and we could have a lawsuit on our hands about someone being harmed by Bert J. Harris implications."

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