

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 34-1495(c) – PROVIDE CROSS-REFERENCES AND MAINTAIN CONSISTENCY WITH OTHER CODE CHANGES

- e. 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 [effective date of plan update] must comply with the additional regulations in section 34-655. Lots created before [effective date of plan update] 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 standards 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 during 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]

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>

(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 in order to increase the standard maximum density on the entire property.

- a. Land uses are restricted in permanently preserved native habitat in accordance with subsection (d) below, and in restored native habitat in accordance with subsection (e) below.
- b. New roads and surface water management systems, including retention/detention lakes, berms, and ditches, may not be placed in the preserved or restored portion of the on-site uplands except as provided by subsection (d) 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. Lands that are designated “Wetlands” rather than “Coastal Rural” on the Future Land Use Map are not counted either in the base acreage or in the preserved or restored acreage. However, the additional dwelling units that the Lee Plan allows for lands designated “Wetlands” (1 DU/20 acres) 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.
 2. Lands that are designated “Coastal Rural” but which are determined by permitting agencies to be wetlands are counted in the base acreage and may be counted as permanently preserved native habitat or restored native habitat provided that all requirements of this section are met.

(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. This provision would allow

preserved or restored acreage on one parcel to increase the density on another parcel that is included in the same development application. However, the resulting density on any single parcel or on any contiguous parcels may not exceed one dwelling unit per acre (1 DU/1 acre).

- (4) A proposed development on land that is zoned AG-2 and is designated Coastal Rural by the Lee Plan is not required to rezone the property provided that the proposed development complies with all regulations in this code, including all of section 34-655. The determination of actual maximum densities and the compliance of the application and its supporting documentation with this section may be confirmed during the development order process described in ch. 10.
- (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 or variances can never be granted to increase the densities in Table 34-655.
 - b. Example of deviations that can be considered during the “planned development” process include:
 1. Permitted uses and property development regulations other than those provided in subsection (f) of this section;
 2. Alternative methods of committing to preservation or restoration of native habitat;
 3. Substitution of permanent reforestation that doesn’t meet all of the requirements of this section for “permanently preserved native habitats” or “restored native habitats.”
 4. Infrastructure more suited to country living, such as narrower streets, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.

(d) **Permanently preserved native habitats.** For the purposes of this section, “permanently preserved native habitat” means uplands that the landowner guarantees will be preserved as native habitat that will remain permanently as open space, in exchange for increasing the standard maximum residential density on the entire property, with all residential units placed on other uplands. A development proposal under this section must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements:

- (1) **Land uses in preserved habitat.** 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.
 - a. Portions of these native habitats may be used as buffer strips and wooded portions of golf courses provided those areas have a minimum dimension of 25 feet and are protected by the same conservation easement as the remainder of the native habitat.
 - b. Permanently preserved native habitat may contain up to the following percentages:
 1. Facilities for passive recreation such as hiking trails, bridle paths, boardwalks, or fishing piers, up to 2% of the preserved or restored area.
 2. Lakes, up to 5% of the preserved or restored area.
 3. Commercial or non-commercial agriculture, up to 10% of the preserved or restored area.
- (2) **Hydrologic restoration.** Interruptions of original water flows must be corrected to ensure proper hydrologic conditions for the long-term survival of the permanently preserved native habitat. For instance, ditches or berms that interfere with natural surface and ground water flows must be eliminated (unless mitigation is possible, for instance by placing multiple culverts through berms to restore sheet flows).
- (3) **Removal of invasive exotic plants.** The following highly invasive exotic plants

must be removed from the area being preserved. 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:

- a. Melaleuca (*Melaleuca quinquenervia*)
 - b. Brazilian pepper (*Schinus terebinthifolius*)
 - c. Australian pine (*Casuarina* spp.)
 - d. All other Category I invasive exotic species listed by the Florida Exotic Pest Plant Council.
- (4) **Conservation easement.** The guarantee of preservation must include a perpetual conservation easement granted to a governmental body or agency or to a qualified charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property.
 - a. This conservation easement must be a right or interest in real property which is appropriate to retaining the land in predominantly its natural forested condition as suitable habitat for native vegetation and wildlife in accordance with this section and which prohibits or limits the activities described in F.S. § 704.06, as such provisions now exist or as may be amended.
 - b. The agency or entity accepting the easement must have its principal place of business or a permanent branch office in Charlotte, Lee, or Collier County.
 - c. This agency or entity must explicitly consent to enforce the easement’s obligations in perpetuity.
 - d. The guarantee of 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.
 - (5) **Management plan.** The guarantee of preservation must also include a fully funded long-term management plan that will accomplish the following goals for the area being preserved:
 - a. The open space must be maintained in perpetuity against the reestablishment

- of invasive exotic plants and must be kept free of refuse, debris, and pests.
- b. The open space must be managed to maintain a mosaic of plant and habitat diversity typical of the ecological community being preserved. A reference source describing the native habitats found in Greater Pine Island is available in chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service.
 - c. The management plan shall describe acceptable forest management practices such as prescribed burning, selective thinning, and replanting. If the management plan does not include prescribed burning to mimic the historic fire regime, the plan must propose an alternative method for selectively thinning flammable understory plants.

(6) Ownership of preserved habitats. The underlying ownership of these permanently preserved native habitats may be transferred to a homeowners' or condominium association or may be retained by the original landowner or another private party.

- a. If the ownership of this land and the management commitments are to be transferred to a homeowners' or condominium association, this transfer must be accomplished through a covenant that runs with the land in the form of, but not limited to, a homeowners' or condominium association or such other legal mechanisms as will guarantee that the permanently preserved native habitats will be managed in accordance with these regulations. Legal documents that provide for the continued management will be accepted only after they are reviewed and approved by the county attorney's office as complying with this section.
- b. Alternatively, a landowner who wishes to retain ownership of this land or convey it to a different party must present evidence of a permanent funding source to carry out the

management responsibilities, which may include bonds or trust funds sufficient to pay for the ongoing management in accordance with these regulations. Legal documents that provide for the continued management will be accepted only after they are reviewed and approved by the county attorney's office as complying with this section.

(e) *Restored native habitats.* For the purposes of this section, "restored native habitat" means uplands that the landowner commits to restoring and permanently preserving as open space in exchange for increasing the standard maximum residential density on the entire property, with all residential units placed on other uplands. The restoration goal is to initiate the re-creation of native habitats that had been typical of Greater Pine Island and to establish conditions suitable to their long-term maturation and regeneration. Restored native habitats must meet all of the requirements of section 34-655(d), plus the following requirements:

- (1) **Hydrologic restoration.** In addition to the correction of interruptions of original water flows as described in subsection (d)(2) above, the site's hydrologic regime must be appropriate for the ecological community being restored. A reference source describing the native habitats found in Greater Pine Island and their natural hydrologic conditions is available in chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service.
- (2) **Reintroduction of native trees.** Native trees must be planted and must be of species typical of the native habitat being recreated, as set forth in the Multi-Species Recovery Plan. For example, the dominant tree species in mesic pine flatwoods, the most common native upland habitat on Pine Island, will be longleaf and slash pines.
 - a. Site preparation must include removal of non-native vegetation that will compete with newly planted trees.
 - b. Trees must be planted in clusters or random patterns rather than rows.

Bare-root or containerized seedlings may be planted using standard forestry techniques. The target density of trees is between 50 and 200 trees per acre, depending on species and the type of habitat being recreated.

- c. Fertilization may be required at time of planting to ensure survival of seedlings. Weed control is required for at least two years after planting.

(3) Reintroduction of native midstory shrubs and understory plants. In addition to the introduction of native pine trees as mentioned in subsection (2) above, midstory and understory species shall be planted.

- a. These species shall include at least five of the following:
 - 1. wiregrass (*Aristida stricta* var. *beyrichiana*),
 - 2. tarflower (*Bejaria racemosa*),
 - 3. wax myrtle (*Myrica cerifera*),
 - 4. fetterbush (*Lyonia lucida*),
 - 5. rusty lyonia (*Lyonia ferruginea*),
 - 6. gallberry (*Ilex glabra*),
 - 7. saw palmetto (*Serenoa repens*), or
 - 8. cabbage palm (*Sabal palmetto*).
- b. Additional native species may be substituted for the species listed above with the consent of the Florida Department of Environmental Protection, the Southwest Florida Water Management District the Florida Fish and Wildlife Conservation Commission, or Lee County.
- c. No single species should comprise more than 25% of the total number of plants installed.
- d. At least 50% of the acreage being restored must be planted with midstory and understory plants.
 - 1. Plants should be placed in groupings or clusters throughout the area to be restored at an average spacing of 3 feet.
 - 2. Plants to be used should consist of containerized plants or tubelings of not less than 4½ inches in depth.
- e. Site preparation may be necessary to adequately prepare the site for planting. Site preparation may include

such activities as roller chopping, bush hogging, prescribed burning, herbiciding, or other recognized vegetation management activities.

(4) Criteria for success of restoration.

Plantings of native trees and midstory and understory plants shall be monitored annually to assure a minimum 80% survival of the required number of each species planted.

- a. Monitoring shall be performed for a minimum of three years after initial planting.
 - 1. Monitoring shall be done by a qualified biologist, ecologist, forester, or natural areas manager.
 - 2. Monitoring shall consist of transects or fixed area plots placed in a uniform grid pattern throughout the restoration site.
 - 3. Enough plots or transects shall be placed to achieve an accuracy level of +/- 10% at an 80% confidence interval.
- b. If the survival falls below 80% for a particular species, that species or another species permitted above shall be replanted to achieve at least the 80% threshold.
- c. Annual monitoring reports shall be submitted to the director. After reviewing a monitoring report for the third or later year for methodology and accuracy, the director is authorized to issue a finding that the restoration has been successfully completed and that no further monitoring reports are required, or that restoration has been partially completed and that monitoring reports are required only for the incomplete portion of the restoration.

- (5) Financial guarantees.** If a landowner wishes to begin development prior to successful completion of the restoration, completion must be assured in the same manner that off-site improvements or on-site subdivision improvements may be guaranteed pursuant to section 10-154 of this code.

(f) **Flatwoods restoration bank.** As an additional alternative to restoring native habitats on-site or on contiguous or non-contiguous parcels combined into a single development application, Lee County may adopt an administrative code that sets forth the requirements for a third party to preserve or restore degraded upland habitats on large parcels on Pine Island. Credits for this restoration work could be sold to other landowners in Greater Pine Island who wish to increase their allowable density in accordance with Table 34-655.

- (1) The restored land must meet all of the conditions for restored native habitats in subsection (e) in addition to the requirements of the administrative code.
- (2) The administrative code will determine the assignment of restoration credits in a manner that is proportional to the ecological value of the restoration. Credits can sold once the restoration has proven successful according to criteria set forth in the code
- (3) Lee County will not be involved in any way in establishing the financial value of restoration credits.

(g) **Development standards.** If a landowner chooses to increase the standard maximum density of “Coastal Rural” land as provided by this section, the following standards will govern the portion of the property that may be developed.

- (1) **General standards:** All requirements of this code remain in effect except as modified through the “planned development” rezoning process or as otherwise provided in this section.
- (2) **Permitted uses and property development regulations:**
 - a. Individual lots that exceed all size and dimensional requirements for lots in an AG-2 zoning district are governed by all regulations for the AG-2 district, including permitted uses and property development regulations.
 - b. Individual lots that do not meet all size and dimensional requirements for lots in an AG-2 zoning district are governed by all regulations for the RS-1 zoning district, including permitted uses and property development regulations.

c. The portion of the site being preserved will be governed by the standards in this section.

(3) **Local street standards:**

- a. Section 10-296(d) of this code provides standards for new local streets that vary based on residential density levels. For development orders that subdivide residential lots from “Coastal Rural” land, these local street standards will be interpreted as follows:
 1. “Category C” streets must be provided for residential lots that are smaller than 2.5 acres.
 2. “Category D” streets may be provided in lieu of Category C streets for residential lots that are larger than 2.5 acres.
- b. Right-of-way and lane widths for local streets may be narrower than the standards set forth in section 10-296 for Category C and Category D streets provided the widths are selected in accordance with the criteria in *Traditional Neighborhood Development Street Design Guidelines* or *Neighborhood Street Design Guidelines* (or successor recommended practices) published by the Institute of Transportation Engineers.
- c. Local streets defined by section 10-296 as Category C streets may have a wearing surface of porous (pervious) asphalt or concrete, in lieu of the other surface options provided in chapter 10. Porous paving can increase the infiltration of stormwater and reduce the need for separate stormwater infrastructure.
- d. Dead-end streets are generally not permitted but may be unavoidable due to adjoining wetlands, canals, or preserved areas. When the director deems a dead-end street to be unavoidable, the dead end must be provided with a cul-de-sac or other termination that is designed in accordance with these same criteria.

- (4) **Locational standards:** The following approach and guidelines must 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. Then 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.

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 [effective date of plan update] must comply with the additional regulations in section 34-655. Lots created before [effective date of plan update] 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					
Multiple-family: <i>[no other changes required]</i>	<u>Note 7</u>					
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 [effective date of plan update] must comply with the additional regulations in section 34-655. Lots created before [effective date of plan update] do not need to comply with the additional regulations in section 34-655 (see section 34-3273(a)(3)).

CHAPTER 34
Zoning
ARTICLE VII, SUPPLEMENTARY
DISTRICT REGULATIONS
Division 12, Density
Subdivision II, Residential Development

Sec. 34-1495. Density limitations for specific areas.

Except as may be specifically permitted by the Lee Plan, maximum densities are hereby limited as follows:

- (1) **Captiva Island.** Maximum density permitted on Captiva Island is three dwelling units per gross residential acre.
- (2) **Gasparilla Island.** Maximum density permitted on Gasparilla Island is three dwelling units per gross residential acre. Refer to Laws of Fla. ch. 83-385 for a description of affected properties.
- (3) **Greater Pine Island, as identified on the future land use map and described in section 34-2 of this code.**
 - a. For the Matlacha, Bokeelia and St. James City areas; which are currently classified in the Lee Plan as Urban Community, Suburban, or Outlying Suburban, future urban areas, maximum density permitted shall be as set forth for the zoning district in which located, or that which is permitted for the land use category in which located, or as further restricted in accordance with the traffic restrictions described in section 2-48, whichever is lower.
 - b. For all other areas:
 1. No land, except as provided in subsection (3)a of this section, shall be rezoned to any zoning district permitting more than three dwelling units per gross acre or as further restricted by:
 - i the land use category in which the property is located, or
 - ii in accordance with the traffic restrictions described in section 2-48.
 2. Land currently zoned for more than three dwelling units per gross acre shall be allowed a density in excess of three dwelling units per gross acre provided that all other applicable regulations are met, and provided further that no density shall be allowed above that which is permitted for the land use category in which the property is located, or which is permitted by the zoning which was in effect for the property as of November 25, 1986, or as further restricted in accordance with the traffic restrictions described in section 2-48, whichever is lower.
 - c. With regard to Matlacha, Bokeelia, St. James City and all other areas, due to the constraints on future development posed by the limited road connections to the mainland area of the county, bonus densities of any kind are not permitted in Greater Pine Island.
 1. This prohibition includes housing density bonuses, off-site transfers from environmentally critical areas, and transfers from on-site wetlands at rates above the standard density rates for environmentally critical areas.
 2. However, this prohibition does not affect any special transfer allowances provided for Coastal Rural areas in section 34-655.

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 [effective date of plan update]; 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]*