



# SPIKOWSKI PLANNING ASSOCIATES

November 28, 2006

Mary Gibbs, Director  
Lee County Department of Community Development  
1500 Monroe Street, P.O. Box 398  
Fort Myers, FL 33902-0398

RE: GREATER PINE ISLAND COMMUNITY PLAN UPDATE

Dear Mary:

With this letter I am submitting another revision to the implementing regulations for the Greater Pine Island Community Plan Update, replacing the previous draft that we had submitted on September 27, 2006.

This draft includes revisions and clarifications that respond to comments from your staff meeting on October 18. As before, we have highlighted in red all phrases or paragraphs that have been revised since the 9-27-06 draft. Underlining still means text that would be added to the current LDC; struck language would be deleted from the current LDC.

There are two draft ordinances attached. The first contains all the LDC changes. The second would amend Ordinance 88-11 concerning signs in public rights-of-way. In the previous draft, these were combined into a single ordinance.

I am attaching a matrix with your staff's comments on the 9-27-06 draft and our response to each, with explanations for those cases where we don't agree with the recommendations.

Please review this draft and advise us when you are ready to proceed through the public hearing process.

Sincerely,

William M. Spikowski, AICP

“Staff reviewed the revised draft to the Greater Pine Island Community Plan dated September 27, 2006 and offer the following comments from our meeting. Comments and suggestions from the meeting of October 18, 2006 are referenced accordingly by page number and are as follows:”

Page old new	LDC Section old new	Staff Comment:	Greater Pine Island Response:
all	all	The sections will need to be renumbered because starting with Section 33-501 may not provide sufficient room for the Estero regulations to grow if it becomes necessary. Recommend starting with 33-700 or 33-1000.	Changed as requested; this new section of the document has been renumbered to start with 33-1000.
5	33-501	Suggested redraft language... The purpose of this article is to establish standard for the Greater Pine Island Planning Community (See, appendix I, Map 5). These standards are intended to carry our Lee Plan Goal 14 and related objectives and polices in order to accomplish the vision for the future of the Greater Pine Island Community. The purpose of these standards is to maintain an equilibrium between modest growth, a fragile ecology, and a viable and productive agricultural community. These standard reflect and effort to manage future growth based on the remaining traffic capacity on the existing narrow road link to the mainland, while maintaining a reasonable opportunity for hurricane evacuation.	See Note #1 below. The other suggestions in this redraft have been incorporated.
6	33-502	Suggested redraft language... <b>Sec. 33-502. Applicability and community boundary.</b> (a) <i>Applicability.</i> The standard in this article apply to all development within the Greater Pine Island Planning Community as depicted on Lee Plan Future Land Use Map 1, Page 2. This map is included in this code in appendix I as Map 5. Does this mean redevelopment, rezoning, special exceptions???? (b) <i>Legal description.</i> The Greater Pine Island Planning Community encompasses all of Pine Island, Little Pine Island, West Island, Porpoise Point Island and other small adjacent islands, more particularly described as follows:..... (Maybe the legal should be in the appendix with the map.)	The wording of 33-1002 has been modified and the legal description has been moved to Appendix I with the map as suggested. See Note #1 below.
6	33-503	Suggested redraft language... The following definitions are in addition to those set forth in other chapters of this Code and are applicable to the provision set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definition set forth below will control. Otherwise the definition contained elsewhere in this Code will control.	This wording has replaced the previous introductory paragraph.

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6	33-503	Definitions – Continued agricultural use on existing farmland - Map 21 does not identify all farmlands on Pine Island.	Lee Plan Policy 14.6.1 commits the county to maintaining Map 21 as showing “all existing farmland on Pine Island.” Map 21 may be updated in the future, but it appears to be quite accurate. Our definition of “continued agricultural use on existing farmland” intentionally refers to Map 21 so that the Lee Plan’s incentives apply to all of these properties, but not to other properties which may be put into temporary agricultural use in the future simply to take advantage of the incentives.
7	33-511(2)b.	Qualify what insignificant or trivial means....Staff suggests using the word de minimus	Switching to Latin wouldn't make the answer any clearer! In any case, Ordinance No. 06-20 now defines “de minimus transportation impact” as 1% of a road's maximum volume, far too high to be used here. “Insignificant or trivial” could be converted to a specific number of trips, but the administrative ease of that approach would be outweighed by the loss of elected officials' ability to use reasonable discretion of community benefit vs. added congestion when making close calls under this policy.
7	33-511(2)c.	Change positions to employees.	Changed as requested.
7	33-511	This section is still under review by the CAO...comments will be forthcoming.	The Ord. 06-20 amendments to 2-48 have been added to 33-1011(c), then shown as being replaced by the underlined language in 33-1011(c)j–ii.
8	33-511(4)c.	Change 365 days after the original application to 12 months after submittal.	Changed as requested.
9	33-521(1)	What does the term “new development” mean? Does it include redevelopment/remodels? Does it include development in accordance with existing straight zoning category? What happens if they are not proposing a change to the existing street layout, which does not meet the standard, do they have to comply?	This section would modify Chapter 10, so in the absence of a new definition in Chapter 33, Chapter 10's definitions would apply. To clarify this section, the term “new development” has been replaced by “new street” so that it wouldn't apply to remodeling or to development or redevelopment that doesn't construct a new street (regardless of zoning status).
9	33-521(1)	Is the category d standard ok? This is what the Lee Plan allows for MUDs.	The MUD standard is too lenient to use for access to a new street; the wording has been clarified accordingly and now uses the same terminology as 10-296.
9	33-521(1)	Is the upgrade required considered a site related improvement?	It's hard to imagine such an upgrade NOT being considered a site-related improvement, but we'd rather not change the existing county standards for determining when an improvement is site-related.
9	33-521(1)	Insert “as specified in Section 10-296” in the 5 <sup>th</sup> line after county standards.	Changed as requested.
9	33-521(1-2)	Renumber 1 to (a) and 2 to (b).	In Chapter 33, Municode uses (a) as the first subdivision of a section and (1) for the first item in a list such as this one. Municode will adjust this when codifying these changes; we have no real preference, but were just trying to follow the established format. (If we change it here, we should change it throughout this entire document.)

Page old new	LDC Section old new	Staff Comment:	Greater Pine Island Response:
9	33-521(2)	Who will make the decision: the Lee County engineer or the DOT director? (Adm. code says the engineer makes the traffic calming device calls) sounds like this is setting up the ability to place traffic calming on public roadways.....how does DOT feel about this provision?	Administrative Code AC-11-14 makes the DOT director responsible for traffic calming decisions on public roadways. The responsibility may be delegated within DOT, but the current language keeps the codes internally consistent.
9	33-521(2)	What happens if the engineer/director does not find any traffic calming devices acceptable – can he refuse to employ/approve them?	Yes; this language has been reworded to be clearer that traffic calming devices on county-maintained streets must be acceptable to the transportation director.
9	33-522	You say this version is a move and modify of 10-416(d)(9). However section 10-416 should stay where it is and new provisions should be adopted into chapter 33 to accomplish what is being proposed.	10-416(d)(9) will stay where it is; 33-1022 was described as being “relocated” but that meant only the one sentence of 10-419(d)(9) that contains the GPI standard. The reference has now been corrected to minimize any confusion caused by the previous wording.
9	33-522	Does the proposed version apply to platting of already approved development or only future/new subdivisions	The existing LDC is vague on this question. Lee Plan Policy 14.1.5 was recently revised to say “this requirement will not apply to existing subdivided lots” – that’s the reason for the new language in 33-1022 that this requirement does not apply “to land that has already been lawfully subdivided into building sites.”
9	33-522	Insert the mean high waterline to the 5 <sup>th</sup> line after the and delete waterbody.	Changed as requested.
10	33-523(f)	Consider creating a deviation section that ties back into Sec. 10-104 and 34-145. Also, the Dev. Services Director does not have the ability to grant deviations from Chapters 30 & 34...this responsibility belongs to other directors.	This language has been reworded to only apply to deviations that can be granted to Chapter 10 (see 10-104).
11	33-531	Rename to Agricultural clearing in Greater Pine Island planning community	See Note #1 below.
11	33-531(4)b.	change last sentence to Trees must be planted at a minimum of 8-foot on center.	Changed as requested.
12	33-531(7)	Does this mean for agricultural exemption only...please clarify.	This new language in (7) makes a distinction between agricultural exemptions: -1- Exemptions where native vegetation has already been removed from the 50-foot buffer area — they would NOT have to plant or maintain the 50-foot buffer. -2- Exemptions for forestry or native pastureland WOULD have to comply with the 50-foot buffer requirement when they seek a notice of clearing to expand their agricultural activities.
12	33-541(1)	The county still has the same concerns on the sign language as previously stated.	Duly noted.
12	33-541	Who gets to chose the fix?	— The billboard owner would have to request an off-site directional sign and offer to pay for it (most would NOT qualify for this option, but (1) reminds them that this option may exist). — If the county doesn’t have records that demonstrate legal nonconformity,

Page old new	LDC Section old new	Staff Comment:	Greater Pine Island Response:
			then the sign's owner may choose to submit evidence.
12	33-541	Has DOT agreed to provide a replacement location for billboard within the county right-of-way?	DOT does not support the off-site directional sign program, but if the BoCC approves it, DOT will administer it.
12	33-541	How do we know which nonconforming billboards can stay and which can't?	If a billboard qualifies for nonconforming status, it can stay. If not, it cannot stay.
12	33-541	Is there an approval that must be obtained? When must it be obtained?	No action is required for 24 months, but it would be advisable for sign owners to not wait until that time to produce evidence of nonconforming status. If DCD wants to establish a special procedure for this, they can, but our assumption is that they'll handle nonconforming determinations as part of the normal course of code enforcement.
12	33-541	When is the "continual compliance" measured from?	(from when the sign was first placed)
12	33-541	This section sounds like an amortization provision that will cost the county \$\$\$\$\$. Do you know how many signs are involved that are "illegal" or must be "brought into compliance". What is the approximate cost of this provision to the county	This provision does not attempt to amortize previously legal signs. Billboards have not been legal on Pine Island for decades; only a small number remain, but they grow in size on a regular basis — most were very modest in size when originally constructed, but the Hurricane Charley recovery really put them on steroids! We do not know how many of them might be even marginally nonconforming. The cost to the county will be part of normal code enforcement activities.
12	33-542	Suggested redraft language... A wall mounted identification sign may be placed on a building that is closer than 15 feet to the front property line, if the building was constructed with all appropriate county permits and the sign otherwise meet the requirements of section 30-153.	Changed as requested.
13	33-543	Delete the end of the last sentence starting with ("...as measured").....this is redundancy.	It may be a redundancy to Lee County LDC experts who are truly "in the know," but it would be a valuable cross-reference to other users of this code.
13	33-544	Suggested redraft language... Internally illuminated box signs are limited to a maximum sign area of 12 square feet per establishment. <del>Internally illuminated box signs are signs that are mounted against or project from a building and which have translucent surfaces which are electronically illuminated from within.</del> Signs consisting of individual letters or symbols that have their own internal illumination are not subject to this special size limitation. For purposes of this section, an internally illuminated box sign means a sign comprised of translucent surfaces electronically illuminated from within that is mounted against, or projects from, a building wall.	Changed as requested.

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13	33-545	Has DOT agreed with this? See comments regarding Ord.. 88-11	Lee DOT has indicated they don't support this item and they may express that opinion at the LDC public hearings. The BoCC was made aware of DOT's position during the Lee Plan hearings and may or may not adopt this code language section (same with the proposed changes to Ord. 88-11). This is mentioned in Lee Plan Policy 14.4.4.
15	Table 33-552	Tables are not consistent with the Lee Plan and are still confusing	These tables reflect the Lee Plan precisely – we cannot find any inconsistencies. The tables were reformatted into single tables as requested by county staff, but we would be happy to revert to the previous format, or are open to other suggestions for presenting this complex data in an understandable way.
17	Table 33-522	Note (4)b.- still not correct per previous comments.	This note is written to encourage preservation of the few isolated freshwater wetlands on Pine Island. They are generally not shown on the FLUM, but by treating their preservation the same as we'd treat upland preservation under Coastal Rural, landowners would be given an incentive to preserve them. This kind of incentive was suggested by county staff at our earlier meetings and has been actively supported by engineering consultants who work for developers of rural lands on Pine Island.
18	33-552(c)	(c) is not clear..is this to a substitute prior to DO or is it in lieu of a DO?	(c) results in a DO, but it contains the extra review process described in (c)(1) ("compliance...may be confirmed by issuance of a development order using the process described in ch.10, modified as follows"). We welcome any suggestions about how to say this more clearly.
18	33-552(c)	Is this strictly for residential? If so, it needs to say this.	Yes it is – the word “residential” has been added to the opening sentence for clarity. (Commercial development can also be approved through a DO, but only if proper zoning is in place – this subsection only applies to land zoned AG-2.)
21	33-553(3)d.	Insert “as specified in Section 10-296” in the 5 <sup>th</sup> line after county standards.	Changed as requested.
25	33-555	Change should to must and change wills to must.	Changed as requested.
26	33-555(6)	Who will monitor the bank? County prefers not to do this because there is no staff to do this and there are no standards. Are you writing the Administrative Code? If not, this paragraph should be deleted. Change may to will.	We have no plans to draft the administrative code at this time – unless a landowner expresses a serious interest, there's no reason to bother – it would just cause further delays in getting the base LDC amendments adopted. If this subsection inspires someone to propose a restoration bank, then the county would have to decide whether to propose an administrative code to make it possible and address issues about how it would be paid for. (This section shouldn't say “will” because the county may never exercise this option.)
28	33-561	Delete this section....Section 33-4 will control this provision.	Legally, 33-4 will cover the county when a code user protests that they didn't know about this regulation. But the point of 33-1061 is to tell code users in advance that there is a special regulation for the islands about the height of wireless communication facilities. The wording in 33-1061 is a simple courtesy that we think should stay in the new code. (Because these special regulations apply to more than just Pine Island, they cannot be relocated into Chapter 33.)

Page old new	LDC Section old new	Staff Comment:	Greater Pine Island Response:
28	33-562 33-1062	Rename to Density limitations and the special provisions proposed in Sec. 34-1495(3) should be placed into Chapter 33. The regulations provided are from 34-1295(3) and need to be modified.	Changed as requested.
28	33-563 33-1063	Does this exclude buffer walls under Sec. 10-416?	The specific terminology and reference to 34-1743 were meant to exclude buffer walls from this rule. A sentence has now been added to specifically exclude buffer walls.
28	33-564 33-1064	Proposed language with comments embedded in all caps.. <u>Entrance gates or gatehouses cannot interfere with movement of cars between neighborhoods (see section 33-521). Entrance gates or gatehouses can be used to control access only to a single block; for purposes of this section, a "single block" means the length of any street from a dead-end or cul-de-sac to the first intersecting street and which provide access to 5 or fewer existing or potential dwelling units. An entrance gate to a single block must be designed in such a manner that t least one vehicle can pull safely off the intersecting street while waiting to enter. These regulations supercede conflicting regulations governing entrance gates and gatehouses in section 34-1748(1). THIS STATEMENT IS NOT NECESSARY AS THE PROVISIONS OF 33-4 MAKE THIS HAPPEN.</u>	When push comes to shove, the county would win in court by pointing out the "gotcha" rule in 33-4. We're trying to avoid the pushing and shoving by alerting code users that there's a potential conflict in the code that is being resolved by this sentence in favor of 33-1064. This is another simple courtesy that we think should stay in the new code.
28	33-564 33-1064	Entrance gates for non-residential uses are permitted ONLY?? in accordance with section 34-1748(4). IF THE "ONLY" IS NOT CORRECT, THEN THIS STATEMENT IS NOT NECESSARY AS IT IS JUST A REDUNDANCY.	Changed as requested.
28	33-564 33-1064	Entrance gates to individual RESIDENTIAL?? lots or agricultural properties are not affected by this section. MAKE CLEAR THAT ENTRANCE GATES CANNOT INTERFERE WITH SINGLE-FAMILY DRIVEWAYS.	Changed as requested.
28	33-565 33-1065	Delete this section...Section 33-4 will control this provision, unless there is a proposed change from the existing regulations.	33-1065 now contains the GPI height regulations that were formerly in 34-2175(4), as recommended further below.
30	10-294	The proposed language creates an unnecessary redundancy that Chapter 33 was created to avoid.	See Note #2 below.
30	10-296	The proposed language creates an unnecessary redundancy that Chapter 33 was created to avoid.	See Note #2 below.
31	10-416(e)	Subsection (e) does not exist.	The subsections are now lettered correctly.
31	10-416(e)(9)	Change "and as described in section 33-502 of this code" to "and set forth in section 33-502"	Changed as requested.
31	10-416(e)(9)	and delete the whole last sentence starting with Where...	Changed as requested.
31	10-621	The proposed language creates an unnecessary redundancy that	See Note #2 below.

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		Chapter 33 was created to avoid	
32	35	The proposed changes address areas outside the Greater Pine Island Planning Community. This appears inappropriate.	In the existing code, the rule in 14-377(a)(7) has been modified for the coastal islands by the later addition of (a)(9). The new sentence proposed for (a)(7) points out this modification – it doesn't change any rules, it merely makes the code a bit less mysterious.
34	36	Should be moved to Chapter 33 and deleted from this section.	The special tree rules in 14-377(c) aren't exclusive to Greater Pine Island, they're common to the coastal islands, except for the existing modification for GPI in (c)(3). It seems better to leave the existing GPI modification here than separating it from the rule it modifies by a move to Chapter 33. Although it could work either way, we have added a simple reference in 33-1032 as probably the least redundant approach.
34	36-37	The references to additional requirements in Chapter 33 is a redundancy that should not be adopted.	The first two sentences we had proposed adding to 14-412(i) were for the county's sake -- although the term "notice of clearing" is defined (vaguely) in 14-374, 14-412 never comes out and says that a notice of clearing can be issued in lieu of an individual tree removal permit. However, since these two sentences have been deemed redundant and they have no direct impact on Greater Pine Island, they have been removed from the latest draft. Regarding the remaining sentence in 14-412(i), see Note #2 below.
35	37	The proposed language creates an unnecessary redundancy that Chapter 33 was created to avoid	See Note #2 below.
36	38	The proposed language takes out the timing/enforcement element of the regulations.	The latest draft restores the words "Applications and permit approvals" to the beginning of 30-56, as requested. However, the phrase "associated with projects" is vague and implies that the sign rules in Chapter 33 would not apply to new signs for existing buildings. We are open to other suggestions for making 30-56 work for all areas that will be governed by Chapter 33.
36	38	Change to Greater Pine Island Planning Community	See Note #1 below.
36	38	The proposed regulations are a reference to Chapter 33 that is not necessary given the provision of Sec. 3-56.	See Note #2 below.
38	40	The proposed regulations are a reference to Chapter 33 that is not necessary given the provision of Sec. 3-56.	See Note #2 below.
40	42	The proposed language creates an unnecessary redundancy that Chapter 33 was created to avoid.	See Note #2 below.
41	43	The proposed language creates an unnecessary redundancy that Chapter 33 was created to avoid. Instead of adding Note 6 include in the special not or regulations box a reference to Chapter 33	Note 6 is already just a reference. If the reference is shortened, it will send many users of the code on unnecessary searches to determine to whom the reference applies.
42	44	The proposed language creates an unnecessary redundancy that Chapter 33 was created to avoid. Instead of adding Note 6 include in the special not or regulations box a reference to Chapter 33	See preceding comment.
43	45	The proposed language creates an unnecessary redundancy that	See preceding comment.

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44	46	34-935 The proposed change to (d) should not be included here but instead be added into Chapter 33.	See Note #2 below.
45	47	34-1444 The [firs] proposed change to (b)(3) should not be included here but instead be added into Chapter 33.	The substance of this regulation has been relocated to 33-1061 as requested; see Note #2 regarding the cross-reference.
45	47	34-1444 The proposed changes [changes to final sentence of (b)(3)] appear to amend the regulations for property outside the Greater Pine Island Area which may not be appropriate.	The proposed changes to the final sentence of (b)(3) are intended to simplify and clarify, but not change, the regulations in (b)(3). In case county officials decide to retain the existing final sentence, we have clarified this matter for Greater Pine Island alone by restating this requirement in 33-1061.
45	47-48	34-1495 This section should not be included here but instead be added into Chapter 33.	Changed as requested.
46	48; 28-29	34-1495(3)f. 33-1062(f) TDR can be done internally on non-contiguous properties.. This should say land outside of Greater Pine Island. This conflicts with the compromise.	This subsection has been moved to 33-1062(f) and reworded to avoid any conflicts with the compromise Lee Plan amendment.
47	48	34-1748 The proposed language creates an unnecessary redundancy that Chapter 33 was created to avoid.	See Note #2 below.
48	49	34-2171(a)1 Delete Captiva Island and Gasparilla Island..This should be for Greater Pine Island only.	See Note #3 below.
48	49	34-2171 The proposed changes the provisions applicable to other planning communities.	See Note #3 below.
48	49	34-2174 The proposed changes the provisions applicable to other planning communities.	See Note #3 below.
49	50-51	34-2175 The reference to Greater Pine Island should be removed from this section as this section should be added into Chapter 33.	Changed as requested.
49	50-51	34-2175(5)e. What does this mean and why is this included? Are you trying to use this for the fire station? If so, why not just exempt public facilities from this section?	This subsection has been relocated to 33-1065(5). It was not written for a fire station, but that's an example of where it could be used. Another is a cell phone tower that serves the whole island (as opposed to a tower that serves only a single business). Another would be a county EMS station. We considered exempting all public facilities, but as in the cell phone tower example, public services are sometimes provided by the private sector.
50	51	34-3273(3) This section should be deleted as it is covered by Chapter 33.	Changed as requested.
51	-	88-11 Ordinance 88-11 cannot be included with this LDC amendment since it is not in the LDC. It needs to be a stand alone amendment. Talk to DOT about that process.	Changed as requested. These regulations have been moved into a standalone ordinance that would amend Ordinance 88-11. The two ordinances should proceed together through the public hearing process.

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?	?	FYI...There are still problems regarding the format of the document. The format must be the same as the other sections in the LDC. Staff along with the County Attorney's Office will continue to work with you.	

**NOTE #1:** In the Lee Plan, the term “planning community” refers to the 22 sub-areas delineated on Map 16, which was created for the 2020 density allocations provided in Table 1(b). Goal 14 of the Lee Plan applies to “Greater Pine Island,” which is a clearly defined PORTION of the “Greater Pine Island Planning Community.” It would be misleading to use a phrase in the LDC that has a contradictory meaning in the Lee Plan – the two phrases refer to different geographic areas. ALSO: apparently the Estero regs in Chapter 33 of the LDC apply to the entire Estero Planning Community as shown in the Lee Plan; that’s not the case for Greater Pine Island, and with the possible exception of Lehigh Acres, will not be the case for any of the other communities proposing special LDC requirements.

**NOTE #2:** One person’s redundancy is another person’s helpful cross-reference. Moving all GPI regulations into Chapter 33, including all the GPI regulations that have been in effect for decades, is a major change in the format of this code. Without the cross-references, code users won’t be advised to look in the unfamiliar Chapter 33 for these regulations. These cross-references are brief and unobtrusive and should not be removed from the draft of this code. If staff or the county attorney’s office wants to argue against the use of cross-references during the public hearings, that’s fine and of course we’ll live with the outcome whatever it is.

**NOTE #3:** The height regulations in Chapter 34 are an agglomeration of regulations adopted since the 1960s. They are difficult to understand because of some internal contradictions. The proposed language resolves those contradictions in an understandable manner with simple cross-references. Our goal was to fix these problems just for Greater Pine Island, but by limiting the fixes to JUST Greater Pine Island, we would be creating new ambiguities (“If there’s a cross-reference for Greater Pine Island but not for Captiva and Gasparilla, that must have some meaning or the authors wouldn’t have written it that way”).

ORDINANCE NO. 07-\_\_

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE CHAPTERS 2, 10, 14, 30, 33, AND 34 REGARDING GREATER PINE ISLAND;

AMENDING CHAPTER 33, **PLANNING** COMMUNITY **PLANNING REGULATIONS**, ARTICLE I PERTAINING TO GENERAL STANDARDS FOR PLANNING COMMUNITIES (§§33-1 THROUGH 33-5); CREATING ARTICLE III, GREATER PINE ISLAND, CREATING DIVISION 1 IN GENERAL, PURPOSE AND INTENT (§33-1001); APPLICABILITY AND **COMMUNITY** BOUNDARY (§33-1002); DEFINITIONS (§33-1003); CREATING DIVISION 2 SPECIFIC STANDARDS MODIFYING CHAPTER 2, "ADMINISTRATION," GREATER PINE ISLAND CONCURRENCY AND TRAFFIC-BASED GROWTH LIMITATIONS (§33-1011); CREATING DIVISION 3 SPECIFIC STANDARDS MODIFYING CHAPTER 10, "DEVELOPMENT STANDARDS," PROPOSED STREET LAYOUT (§33-1021); DEVELOPMENT ABUTTING AN AQUATIC PRESERVE (§33-1022); COMMERCIAL BUILDING DESIGN STANDARDS (§33-1023); CREATING DIVISION 4 SPECIFIC STANDARDS MODIFYING CHAPTER 14, "ENVIRONMENT AND NATURAL RESOURCES," AGRICULTURAL CLEARING IN GREATER PINE ISLAND (§33-1031); **TREE REMOVAL (§33-1032)**; CREATING DIVISION 5 SPECIFIC STANDARDS MODIFYING CHAPTER 30, "SIGNS," NONCONFORMING OFF-SITE DIRECTIONAL SIGNS AND BILLBOARDS (§33-1041); WALL-MOUNTED IDENTIFICATION SIGNS (§33-1042); GROUND-MOUNTED IDENTIFICATION SIGNS (§33-1043); INTERNALLY ILLUMINATED BOX SIGNS (§33-1044); OFF-SITE DIRECTIONAL SIGNS (§33-1045); CREATING DIVISION 6 SPECIFIC STANDARDS MODIFYING CHAPTER 34, "ZONING," CREATING SUBDIVISION I LEE PLAN'S "COASTAL RURAL" DESIGNATION, PURPOSE AND INTENT. (§33-1051); RESIDENTIAL DENSITY LIMITATIONS (§33-1052); DEVELOPMENT STANDARDS (§33-1053); PERMANENTLY PRESERVED NATIVE HABITAT (§33-1054); RESTORED NATIVE HABITAT (§33-1055); CONTINUED AGRICULTURAL USE ON EXISTING FARMLAND (§33-1056); CREATING SUBDIVISION II OTHER CHANGES TO ZONING REGULATIONS, MAXIMUM HEIGHT OF WIRELESS COMMUNICATION FACILITIES (§33-1061); DENSITY **LIMITATIONS** (§33-1062); RESIDENTIAL PROJECT FENCES **AND WALLS** (§33-1063); ENTRANCE GATES (§33-1064); MAXIMUM HEIGHT OF BUILDINGS AND STRUCTURES (§33-1065); LOTS OF RECORD IN "COASTAL RURAL" (§33-1066); AND

AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE II CONCURRENCY MANAGEMENT SYSTEM, GREATER PINE ISLAND CONCURRENCY (§2-48); CONCURRENCY MANAGEMENT INFORMATION SYSTEM (§2-50); AND

AMENDING CHAPTER 10, DEVELOPMENT STANDARDS, ARTICLE I IN GENERAL, GENERAL REQUIREMENTS (§10-7); ARTICLE III DESIGN STANDARDS AND REQUIREMENTS, DIVISION 2 TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES, CONTINUATION OF EXISTING STREET PATTERN (10-294); STREET DESIGN AND CONSTRUCTION STANDARDS (§10-296); ARTICLE III DESIGN STANDARDS AND REQUIREMENTS, DIVISION 6

OPEN SPACE, BUFFERING AND LANDSCAPING, LANDSCAPE STANDARDS (§10-416); ARTICLE IV DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS, GREATER PINE ISLAND (§10-621); AND

AMENDING CHAPTER 14, ENVIRONMENT AND NATURAL RESOURCES, ARTICLE I IN GENERAL, ~~COMMUNITY~~ PLANNING ~~COMMUNITY~~ REGULATIONS (§14-1); ARTICLE V TREE PROTECTION, DEFINITIONS (§14-374); EXEMPTIONS FROM ARTICLE (§14-377); ISSUANCE OF PERMIT (§14-412); AND

AMENDING CHAPTER 30, SIGNS, ARTICLE I IN GENERAL, DEFINITIONS AND RULES OF CONSTRUCTION (§30-2); ARTICLE II ADMINISTRATION AND ENFORCEMENT, NONCONFORMING SIGNS (§30-55); ~~COMMUNITY~~ PLANNING ~~COMMUNITY~~ REGULATIONS (§30-56); ARTICLE IV RESTRICTIONS BASED ON LOCATION, PERMANENT SIGNS IN COMMERCIAL AND INDUSTRIAL AREAS (§30-153); BILLBOARDS (§30-183); AND

AMENDING CHAPTER 34, ZONING, ARTICLE I IN GENERAL, DEFINITIONS (§34-2); COMPLIANCE WITH SPECIFIC ~~COMMUNITY~~ PLANNING ~~COMMUNITY~~ REQUIREMENTS (§34-6); ARTICLE II ADMINISTRATION, DIVISION 6 APPLICATION AND PROCEDURES FOR CHANGES, PERMITS, INTERPRETATIONS AND APPROVALS, GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-202); ARTICLE IV PLANNED DEVELOPMENTS, DIVISION 3 DESIGN STANDARDS, GENERAL STANDARDS (§34-411); ARTICLE VI DISTRICT REGULATIONS, DIVISION 2 AGRICULTURAL DISTRICTS, PROPERTY DEVELOPMENT REGULATIONS TABLE (§34-654); DIVISION 3 RESIDENTIAL DISTRICTS, PROPERTY DEVELOPMENT REGULATIONS TABLE (§34-695); PROPERTY DEVELOPMENT REGULATIONS TABLE (§34-715); ARTICLE VI DISTRICT REGULATIONS, DIVISION 9 PLANNED DEVELOPMENT DISTRICTS, PROPERTY DEVELOPMENT REGULATIONS (§34-935); ARTICLE VII SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 11 WIRELESS COMMUNICATION FACILITIES; PERMISSIBLE WIRELESS FACILITY LOCATIONS (§34-1444); ARTICLE VII SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 12 DENSITY, SUBDIVISION II RESIDENTIAL DEVELOPMENT, DENSITY LIMITATIONS FOR SPECIFIC AREAS (§34-1495); ARTICLE VII SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 17 FENCES, WALLS, GATES AND GATEHOUSES, RESIDENTIAL PROJECT WALLS (§34-1743); ENTRANCE GATES AND GATEHOUSES (§34-1748); ARTICLE VII SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 30 PROPERTY DEVELOPMENT REGULATIONS, SUBDIVISION II HEIGHT, MEASUREMENT (§34-2171); ADDITIONAL PERMITTED HEIGHT WHEN INCREASED SETBACKS PROVIDED (§34-2174); HEIGHT LIMITATIONS FOR SPECIAL AREAS (§34-2175); ARTICLE VIII NONCONFORMITIES, DIVISION 4 NONCONFORMING LOTS, CONSTRUCTION OF SINGLE-FAMILY RESIDENCE (§34-3273); AND

AMENDING APPENDIX I TO ADD MAP 5, GREATER PINE ISLAND COMMUNITY PLAN; AND

PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code, which contains regulations applicable to the development of land in Lee County; and

WHEREAS, the Board of County Commissioners amended the Greater Pine Island Community Plan, codified under Goal 14 of the Lee Plan, effective December 21, 2004, and made further amendments effective January 9, 2006; and

WHEREAS, these plan amendments included policies that should be implemented through amendments to the Lee County Land Development Code; and

WHEREAS, the Board of County Commissioners, through the creation of LDC Chapter 33, has begun to centralize LDC provisions that are applicable only to certain planning communities within the county; and

WHEREAS, a new Article III of LDC Chapter 33 will allow most Greater Pine Island community planning regulations to be centralized within the Land Development Code; and

WHEREAS, certain existing regulations applicable only to Greater Pine Island and currently found in LDC Chapters 2, 10, 14, 30 and 34 will be more readily understood and uniformly applied if relocated to the new Article III of LDC Chapter 33 and/or cross-referenced between chapters; and

WHEREAS, the Land Development Code Advisory Committee reviewed the proposed amendments to the Code and recommended \_\_\_\_\_; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code and recommended \_\_\_\_\_; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on \_\_\_\_\_, and found them consistent with the Lee Plan, as indicated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

## SECTION ONE: AMENDMENT TO LDC CHAPTER 33, ARTICLE I

The Lee County Land Development Code is hereby amended to modify Article I of Chapter 33 as follows; ~~deleted text is identified with strike through~~ and ~~additional text is identified with underlining~~:

### Chapter 33

### ~~PLANNING~~ COMMUNITY PLANNING REGULATIONS

#### ARTICLE I. IN GENERAL

##### Sec. 33-1. Purpose and Intent.

The purpose of this chapter is to adopt the guidelines and provisions a ~~planning~~ community believes is necessary to achieve the Goals, Objectives and Policies set forth in the Lee County Comprehensive Plan applicable to ~~each~~ recognized individual ~~planning~~ communities located within unincorporated Lee County. These provisions are intended to enhance, not replace, the regulations contained in the balance of this Code, unless regulations for a particular community clearly provide otherwise.

##### Sec. 33-2. Applicability.

The following articles apply to the ~~planning~~ communities in unincorporated Lee County that are specifically identified in the Lee Plan. Each article covers an individual ~~planning~~ community, or specifically identified portion of a community, that has chosen to pursue adoption of ~~guidelines~~ standards for the particular community.

##### Sec. 33-3. Effect of LDC provisions.

Development within the ~~planning~~ communities affected by this chapter must comply with all Lee County regulations, including the provisions of this Code. The ~~planning~~ community ~~planning~~ guidelines standards are intended to supplement regulations in this Code, unless regulations for a particular community clearly provide otherwise.

##### Sec. 33-4. Conflict.

A conflict between the provisions of this chapter and the balance of this Code will be resolved in accordance with the following. The provisions of the Lee Plan in effect at the time of the conflict is discovered will control. If the Lee Plan is silent with respect to the issue, then the ~~most restrictive provision~~ standards articulated in this chapter will control. If the Lee Plan and this chapter are silent with respect to an issue, then the provisions within the balance of this Code will control.

**Sec. 33-5. Deviations/variances.**

Deviations and variances from the provisions set forth in each article may be achieved under the ~~guidelines~~ standards set forth by the particular community. If the article does not contain a specific provision related to variances and deviations, then the relevant provisions in chapters 10 and 34 will apply.

**Sec. 33-6. Appeal.**

Appeal of the application or interpretation of this chapter must be filed and processed in accord with section 34-145(a).

**Sec. 33-7 - 33-50. Reserved.**

**SECTION TWO: AMENDMENT TO LDC CHAPTER 33,  
ADDING ARTICLE III**

The Lee County Land Development Code is hereby amended to create a new Article III of Chapter 33 as follows. Portions of this article include the renumbering and amendment of existing LDC provisions pertaining to Greater Pine Island. The existing section of the renumbered provision is identified parenthetically; in order to highlight amendments to the existing/renumbered LDC text, deleted text will appear struck thru and additional text will be underlined. Wholly new sections pertaining to the Greater Pine Island are completely underlined.

**Chapter 33**

**~~PLANNING~~ COMMUNITY PLANNING REGULATIONS**

**ARTICLE III. GREATER PINE ISLAND**

**DIVISION 1. IN GENERAL.**

**Sec. 33-1001. Purpose and intent.**

The purpose of this article is to establish standards for Greater Pine Island, which includes Pine Island, Matlacha, and several surrounding islands and certain unincorporated enclaves west of Cape Coral (see Appendix I, Map 5). These standards are intended to carry out Lee Plan Goal 14 and related objectives and policies in order to accomplish the vision for the future of Greater Pine Island. The purpose of these standards is to maintain an equilibrium between modest growth, a fragile ecology, and a viable and productive agricultural community. These standards reflect an effort to manage future growth based on the remaining traffic capacity on the existing narrow road link to the mainland while retaining a reasonable opportunity for hurricane evacuation.

**Sec. 33-1002. Applicability and **community** boundary.**

The standards in this article apply to all development within Greater Pine Island as depicted on the Lee Plan Future Land Use Map 1, Page 2. Appendix I of this code includes this map as Map 5 and also includes a legal description of Greater Pine Island, which encompasses all of Pine Island, Little Pine Island, West Island, Porpoise Point Island, and other small adjacent islands.

**Sec. 33-1003. Definitions.**

The following definitions are in addition to those set forth in other chapters of this code and are applicable to the provision set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this code, then the definition set forth below will control. Otherwise the definition contained elsewhere in this code will control.

**Continued agricultural use on existing farmland** means existing farmland that is identified on Map 21 of the Lee Plan and that will be committed to continued agricultural use, in exchange for increasing the standard maximum residential density on the entire property, with all residential units placed on other uplands. See section 33-1056.

**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. See section 33-1054.

**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. See section 33-1055.

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

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

For the purpose of this definition, any portion of a wetland or natural tributary lying farther than ½ mile from the nearest edge of an aquatic preserve will not be deemed to be an associated wetland or natural tributary.

**Secs. 33-1004—33-1010. Reserved.**

**DIVISION 2. SPECIFIC STANDARDS MODIFYING**  
**CHAPTER 2, “ADMINISTRATION”**

**Sec. 33-1011 2-48. Greater Pine Island concurrency and traffic-based growth limitations.** *[relocated from section 2-48 and modified as indicated]*

Concurrency compliance and traffic-based growth limitations for property located in Greater Pine Island, as identified on the future land use map and described in section 33-1002 of this code, will be determined in accordance with the level of service and restrictions set forth in Lee Plan policies 14.2.1 and 14.2.2 to the extent the policies provide additional restrictions that supplement other provisions of this code article. These policies require the following:

- a. The minimum acceptable level of service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is level of service D on an annual average peak-hour basis and level of service E on a peak-season peak-hour basis using methodologies from the 1985 Highway Capacity Manual Special Report 209. This standard will be measured at the county’s permanent count station #3 on Little Pine Island at the western edge of Matlacha and will apply to all of Greater Pine Island.
- b. In addition, when traffic on Pine Island Road at the western edge of Matlacha between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings in Greater Pine Island that increase traffic on Pine Island Road may not be granted. During the rezoning process only, three types of exceptions to this rule may be considered:
  - i. Minor rezonings on infill properties surrounded by development at similar densities or intensities. A minor rezoning under this exception may not rezone more than 5 acres of land or have a net effect of allowing more than 15 additional dwelling units.
  - ii. Rezonings that would have insignificant or trivial effects on traffic flows at the western edge of Matlacha during peak periods in the peak (busier) direction, or would have positive effects by reducing trips during those peak flow periods.
  - iii. Rezonings to accommodate small enterprises that promote the natural features or cultural heritage of Greater Pine Island. Small enterprises are those that operate with five or fewer full-time employees.
- c. When traffic on Pine Island Road at the western edge of Matlacha between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted for land in Greater Pine Island unless measures to maintain the adopted level of service at the western edge of Matlacha can be included as a condition of the development order. The effect of this restriction on

~~residential density must not be more severe than restricting density to one-third the maximum density otherwise allowed on that property.~~ As an alternative to maintaining the adopted level of service, the following options are available to landowners:

- i. Except in the Lee Plan’s “Coastal Rural” land use category, ~~reducing the residential density on the property for which a development order is sought to one-third of the maximum density otherwise allowed by the Lee Plan and this code.~~
  - ii. In the Lee Plan’s “Coastal Rural” land use category, ~~reducing the residential density on the property for which a development order is sought to the levels in the columns III or V of Table 33-1052 (see section 33-1052 of this code).~~
- d. The standards in subsections (2) and (3) of this section will be interpreted and applied as follows:
- i. Traffic counts will be taken from the county’s permanent count station #3 on Little Pine Island at the western edge of Matlacha.
  - ii. For purposes of the regulations in this section, the 810-trip and the 910-trip thresholds will be considered to be exceeded upon approval by the board of county commissioners of the annual concurrency management inventory of available capacity of public facilities in accordance with section 2-50 of this code.
  - iii. Landowners may be in the process of obtaining residential development orders at the time that a formal determination is made that the 910-trip threshold has been exceeded. For such properties, the 180-day period for resubmittal of supplemental or corrected application documents (see section 10-110(b)) will not be shortened by this determination. Such residential development orders must be diligently pursued and obtained ~~within 12 months after submittal~~ or the application will have to be modified to comply with the rules that apply after the 910-trip threshold has been exceeded.
    - (1) Additional development rights may not be appended to a request for a development order during this period.
    - (2) This allowance does not extend to tracts of land in large phased projects that are proposed for future development but for which a development order has not been sought in the current application.
    - (3) Residential development order applications that were submitted as of March 14, 2006, will be processed in accordance with Resolution 06-03-24 which annotated the Lee Plan on March 14, 2006.
- e. Expiring development orders in Greater Pine Island cannot be extended or renewed unless they are modified to conform with the regulations in effect at the time of extension or renewal.
- f. The restrictions in subsections (2) and (3) will not be interpreted to affect ongoing developments whose final phases are already platted in accordance with F.S. ch. 177, provided that no new lots are added and that the number of

allowable dwelling units is not increased. These restrictions also will not be interpreted to affect expansions to existing recreational vehicle parks to serve additional transient RVs if such expansions were explicitly approved by Lee County under Ordinance No. 86-36 (see section 34-3272(1)d.) and the land is properly zoned for this purpose.

**Secs. 33-1012—33-1020. Reserved.**

**DIVISION 3. SPECIFIC STANDARDS MODIFYING  
CHAPTER 10, “DEVELOPMENT STANDARDS”**

**Sec. 33-1021. Proposed street layout.**

For all new streets in Greater Pine Island, the proposed street layout must be fully integrated into the county maintained street system of the surrounding area. These requirements apply equally to new county maintained and privately maintained streets.

- (1) New streets in a proposed development must be connected to existing county maintained streets in the adjacent area, and to likely extensions of existing county maintained streets, unless physical barriers such as canals or wetlands preclude such connections. Primary access to a proposed development may not use an existing privately maintained street unless that street is upgraded to a county maintained street as specified in section 10-296 at the developer’s expense.
- (2) Gates or guardhouses may not be used to block the movement of cars except as provided in sections 33-1064 or 34-1748(4). However, traffic calming measures may be employed to slow vehicles and to deter excessive cut-through traffic. On county maintained streets, traffic calming methods must be acceptable to the director of transportation.

**Sec. 33-1022. Development abutting an aquatic preserve. *[the non-underlined text is being relocated from section 10-416(d)(9) and modified as indicated]***

Where a proposed new development, including planned development rezoning approvals and new or subdivisions, is located in the Greater Pine Island Area abutting state-designated aquatic preserves and associated wetlands and natural tributaries, as defined in section 33-1003, the width of the required buffer will be 50 feet: landward from the mean high waterline and edge of wetlands and the applicant must preserve or plant indigenous native vegetation throughout this buffer. Where indigenous native vegetation must be planted, the standards and criteria in section 33-1031(4)–(5) will be acceptable. These special requirements do not apply to portions of marinas that provide direct water access, or to land that has already been lawfully subdivided into building sites.

**Sec. 33-1023. Commercial building design standards.**

(a) **Applicability.** This section provides additional design standards and guidelines for commercial buildings in Greater Pine Island. These additional standards and guidelines are applicable to all new development and to renovations and redevelopment as provided in section 10-602, except as modified by this section. Where the standards or guidelines in this section conflict with other standards of this code, this section will control.

(b) **Purpose and intent.** The standards in this section implement Lee Plan Policy 14.4.3 by expanding on the commercial design standards for unincorporated Lee County as found in article IV of chapter 10.

(c) **Building size and character.** New commercial buildings are limited to 10,000 square feet of floor area **per building** unless a larger size is approved by variance or by deviation in a commercial planned development. Any larger buildings approved by variance or deviation must be designed to minimize the appearance of a single large box or a standard franchise design.

(d) **Windows.** The following rules apply to windows on all primary facades (as defined in section 10-601).

- (1) Transparent windows must be installed along a minimum of 30 percent of each primary facade.
  - a. All window glass, whether integrally tinted or with film applied, must transmit at least 50% of visible daylight.
  - b. Private interior spaces such as offices may use operable interior blinds for privacy.
- (2) New window openings must be rectangular and oriented vertically, except for transom windows over doors.
- (3) The bottoms of all new window openings must be no higher than 30 inches above the finished floor elevation.
- (4) New windows must contain visible sills and lintels on the exterior of the wall.
- (5) New windows must have their glazing set back at least 3 inches from the surface plane of the wall, or set back at least 2 inches when wood frame construction is used.

(e) **Metal roofs.** Sloping roofs must use metal for all finished surfaces; however, this requirement does not apply to buildings that have been designated as historic pursuant to ch. 22 of this code.

(f) **Mature trees.** The development services director may grant deviations from the technical standards **in chapter 10** to accommodate the preservation of existing mature trees on a development site.

- (1) To qualify for a deviation, the tree being preserved must be at least six inches in diameter at a height of 4½ feet and must not be an invasive exotic plant as defined by section 10-420.

- (2) The deviation requested must not compromise the public health, safety, or welfare as determined by the development services director.

(g) ***Parking lots.*** Except in the Matlacha historic district and except for marinas anywhere in Greater Pine Island, no more than a single row of parking spaces may be located between the primary facade of a building and the front lot line. In addition, at least one half of all parking spaces provided on a site must be located further from the front lot line than the plane of a primary facade that is closest to the front lot line.

**Secs. 33-1024—33-1030. Reserved.**

**DIVISION 4. SPECIFIC STANDARDS MODIFYING  
CHAPTER 14, “ENVIRONMENT AND NATURAL RESOURCES”**

**Sec. 33-1031. Agricultural clearing in Greater Pine Island.**

Notices of clearing for agricultural purposes in Greater Pine Island must comply with the following additional requirements in accordance with Policy 14.1.5 of the Lee Plan:

- (1) Agricultural land that adjoins state-designated aquatic preserves and associated wetlands and natural tributaries (see section 33-1003) must preserve or create a 50-foot-wide native vegetated conservation buffer area between all agricultural lands and the natural waterbody and associated wetlands.
- (2) The purpose of this conservation buffer is to capture or slow the movement of sediments, fertilizers, pesticides, pathogens, and heavy metals that may be concentrated in stormwater runoff and to allow for increased biodiversity and improved wildlife habitat.
- (3) Stormwater runoff that is discharged through this conservation buffer must be routed through an indirect discharge such as an overflow or spreader swale or similar conveyance of a sufficient dimensions to reduce discharge velocities to historic rates or rates less than two feet per second.
- (4) This conservation buffer area must be maintained as a forested buffer but may contain a grassed filter strip of up to 15 feet wide. A maintenance plan must be provided to control invasion of exotic vegetation. If native vegetation does not currently exist in the remainder of the buffer, native tree cover must be established within three years of issuance of the notice of clearing.
  - a. For purposes of this subsection, native tree cover means the planting and subsequent maintenance of longleaf pine, South Florida slash pine, and/or native oak trees at average spacings typical of indigenous pine flatwoods on Pine Island.
  - b. These trees must be Florida No. 1 or better grade, no less than four feet in height at time of planting, and with a guaranteed 80 percent survivability for a period of five years. **Trees must be planted on 8-foot centers or closer.**
- (5) Additional recommended design criteria are available in “Conservation Practice Standards” from the National Resources Conservation Service:
  - a. Standard 391 (Riparian Forest Buffer).

- b. Standard 393 (Filter Strip).
- (6) These conservation buffer regulations will not be construed in a manner that violates the Agricultural Lands and Practices Act, F.S. § 163.3162, or the Florida Right-to-Farm Act, F.S. § 823.14.
- (7) These conservation buffer regulations will not apply to the removal of trees, other than trees worthy of preservation, on lands classified as agricultural land for ad valorem taxation purposes pursuant to F.S. § 193.461(3)(b) provided the agricultural classification had been granted for an agricultural use that had previously removed native vegetation from the 50-foot-wide buffer area. Land with an agricultural classification for uses such as forestry or native pastureland will be required to comply with these conservation buffer regulations to qualify for a notice of clearing for expanded agricultural activities.

**Sec. 33-1032. Tree removal.**

Special regulations governing the removal of protected trees from single-family lots can be found in section 14-377(c).

**Secs. 33-1033—33-1040. Reserved.**

**DIVISION 5. SPECIFIC STANDARDS MODIFYING**  
**CHAPTER 30, “SIGNS”**

**Sec. 33-1041. Nonconforming off-site directional signs and billboards.**

Some billboards remain in place in Greater Pine Island despite the longstanding prohibition against billboards and other off-site advertising and directional signs. These signs may have been nonconforming signs or they may have been illegal signs. By [insert date, exactly 24 months after adoption of this section], all remaining billboards must be brought into compliance by one of the following means:

- (1) Some billboards may be replaced with off-site directional signs installed in rights-of-way by Lee County Department of Transportation pursuant to section 33-1045.
- (2) Some billboards may continue to qualify for nonconforming status and can remain in place, subject to the restrictions in section 30-55(b)(1)–(b)(4).
- (3) All billboards in Greater Pine Island that cannot demonstrate continual compliance with the nonconforming standards of chapter 30 are illegal and must be removed (see section 30-55(b)(5)), except where the billboard is deemed a lawfully erected sign that is protected from removal pursuant to F.S. 70.20.

**Sec. 33-1042. Wall-mounted identification signs.**

A wall-mounted identification sign may be placed on the front wall of a building that is closer than 15 feet to the front property line provided the building was lawfully constructed and the sign otherwise meets the requirements of section 30-153.

**Sec. 33-1043. Ground-mounted identification signs.**

Commercial and industrial establishments wishing to place a ground-mounted identification sign pursuant to section 30-153(3)a.2-3-4 are limited to a maximum sign area of 48 square feet and a maximum height and width of 12 feet (as measured in accordance with sections 30-91—30-92).

**Sec. 33-1044. Internally illuminated box signs.**

Internally illuminated box signs are limited to a maximum sign area of 12 square feet per establishment. Signs consisting of individual letters or symbols that have their own internal illumination are not subject to this special size limitation. For purposes of this section, an internally illuminated box sign means a sign comprised of translucent surfaces electrically illuminated from within that is mounted against, or projects from, a building.

**Sec. 33-1045. Off-site directional signs.**

The Lee County Department of Transportation may fabricate, install, and maintain off-site directional signs in the right-of-way of Stringfellow Road and Pine Island Road in Greater Pine Island for qualifying businesses and organizations if appropriate amendments are made to Lee County's Commercial Use of Rights-of-Way Ordinance, Ordinance No. 88-11, as may be amended from time to time. Off-site directional signs that are not approved in accordance with the provisions of Ordinance 88-11 may not be installed in public rights-of-way by any party.

**Secs. 33-546—33-1050. Reserved.**

**DIVISION 6. SPECIFIC STANDARDS MODIFYING**  
**CHAPTER 34, "ZONING"**

**Subdivision I. Lee Plan's "Coastal Rural" designation**

**Sec. 33-1051. Purpose and intent.**

Lee County has reclassified all formerly "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 in Greater Pine Island;
- (2) To discourage the unnecessary destruction of native upland habitat;
- (3) To encourage continued agricultural use on existing farmland; and
- (4) To avoid placing more dwelling units on Pine Island than can be served by the limited road capacity to the mainland.

**Sec. 33-1052. Residential density limitations.**

(a) **Standard and adjusted densities.** The "Coastal Rural" areas will remain rural except for portions of properties where smaller residential lots are permitted in exchange for permanent commitments to preservation or restoration of native upland habitat or to continued agricultural use of existing farmland.

- (1) The standard maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per ten acres (1 DU/10 acres); however, see sections 33-1066 and 34-3273 regarding nonconforming lots.
- (2) Maximum densities may increase in accordance with Table 33-1052 as higher percentages of uplands portions of a site are permanently committed in one of the following ways:
  - a. Land uses are restricted in native habitat that is permanently preserved on upland portions of a site (see columns II and III of Table 33-1052 and section 33-1054).
  - b. Land uses are restricted in native habitat that is restored and then permanently preserved on upland portions of a site (see columns II and III of Table 33-1052 and section 33-1055).
  - c. Existing farmland that is identified on Map 21 of the Lee Plan and is limited in the future to agricultural uses (see columns IV and V of Table 33-1052 and section 33-1056).

**Table 33-1052  
ADJUSTED MAXIMUM DENSITIES  
FOR PRESERVED / RESTORED HABITAT  
AND FOR CONTINUED AGRICULTURAL USE**

Percentage of the on-site uplands that are: • <u>preserved or restored native habitat; -or-</u> • <u>for continued agricultural use on existing farmland</u>	<b>Adjusted Maximum Densities</b>			
	<u>If undeveloped land will be permanently preserved or restored as native habitat:</u>		<u>If undeveloped land will be continued in agricultural use on existing farmland:</u>	
	<u>If &lt; 910 trips in Matlacha (from Policy 1.4.7)</u>	<u>If &gt; 910 trips in Matlacha (see 33-1011)</u>	<u>If &lt; 910 trips in Matlacha: (from Policy 1.4.7)</u>	<u>If &gt; 910 trips in Matlacha (see 33-1011)</u>
I	II	III	IV	V
<u>0% to 4.99%</u>	<u>1 DU/10 acres</u>	<u>1 DU/ 30 acres</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/ 30 acres</u>
<u>5% to 9.99%</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 27 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 27 acres</u>
<u>10% to 14.99%</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 24 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 27 acres</u>
<u>15% to 19.99%</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 21 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 27 acres</u>
<u>20% to 29.99%</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 18 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 24 acres</u>
<u>30% to 39.99%</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 15 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 21 acres</u>
<u>40% to 49.99%</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 12 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 18 acres</u>
<u>50% to 59.99%</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 15 acres</u>
<u>60% to 69.99%</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 9 acres</u>
<u>70% or more</u>	<u>1 DU/ 1 acre</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 6 acres</u>

ALTERNATIVE "A"

ALTERNATIVE "A"

Percentage of the on-site uplands that are: • <u>preserved or restored native habitat; -or-</u> • <u>for continued agricultural use on existing farmland</u>	<b>Adjusted Maximum Densities</b>			
	<u>If undeveloped land will be permanently preserved or restored as native habitat:</u>		<u>If undeveloped land will be continued in agricultural use on existing farmland:</u>	
	<u>If &lt; 910 trips in Matlacha (from Policy 1.4.7)</u>	<u>If &gt; 910 trips in Matlacha (see 33-1011)</u>	<u>If &lt; 910 trips in Matlacha: (from Policy 1.4.7)</u>	<u>If &gt; 910 trips in Matlacha (see 33-1011)</u>
I	II	III	IV	V
<u>0% to 4.99%</u>	<u>1 DU/10 acres</u>	<u>1 DU/ 24 acres</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/ 24 acres</u>
<u>5% to 9.99%</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 21 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 21 acres</u>
<u>10% to 14.99%</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 18 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 21 acres</u>
<u>15% to 19.99%</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 16 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 21 acres</u>
<u>20% to 29.99%</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 14 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 18 acres</u>
<u>30% to 39.99%</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 11 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 16 acres</u>
<u>40% to 49.99%</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 14 acres</u>
<u>50% to 59.99%</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 11 acres</u>
<u>60% to 69.99%</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 7 acres</u>
<u>70% or more</u>	<u>1 DU/ 1 acre</u>	<u>1 DU/ 2.8 acres</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 5 acres</u>

ALTERNATIVE "B"

ALTERNATIVE "B"

[NOTE: Four alternatives are shown in this draft for Table 33-1052. Prior to adoption of these regulations, the Board of County Commissioners must select one of these alternatives or establish different density levels for columns III and V. The density levels shown as Alternative "A" are the most stringent density limitations allowed by the Lee Plan; each successive alternative is less restrictive.]

ALTERNATIVE "C"

Percentage of the on-site uplands that are: <ul style="list-style-type: none"> <li>• <u>preserved or restored native habitat; -or-</u></li> <li>• <u>for continued agricultural use on existing farmland</u></li> </ul>	Adjusted Maximum Densities			
	If undeveloped land will be permanently preserved or restored as native habitat:		If undeveloped land will be continued in agricultural use on existing farmland:	
	If < 910 trips in Matlacha (from Policy 1.4.7)	If > 910 trips in Matlacha (see 33-1011)	If < 910 trips in Matlacha: (from Policy 1.4.7)	If > 910 trips in Matlacha (see 33-1011)
I	II	III	IV	V
0% to 4.99%	1 DU/10 acres	1 DU/ 17 acres	1 DU/ 10 acres	1 DU/ 17 acres
5% to 9.99%	1 DU/ 9 acres	1 DU/ 15 acres	1 DU/ 9 acres	1 DU/ 15 acres
10% to 14.99%	1 DU/ 8 acres	1 DU/ 13 acres	1 DU/ 9 acres	1 DU/ 15 acres
15% to 19.99%	1 DU/ 7 acres	1 DU/ 12 acres	1 DU/ 9 acres	1 DU/ 15 acres
20% to 29.99%	1 DU/ 6 acres	1 DU/ 10 acres	1 DU/ 8 acres	1 DU/ 13 acres
30% to 39.99%	1 DU/ 5 acres	1 DU/ 8 acres	1 DU/ 7 acres	1 DU/ 12 acres
40% to 49.99%	1 DU/ 4 acres	1 DU/ 7 acres	1 DU/ 6 acres	1 DU/ 10 acres
50% to 59.99%	1 DU/ 3 acres	1 DU/ 5 acres	1 DU/ 5 acres	1 DU/ 8 acres
60% to 69.99%	1 DU/ 2 acres	1 DU/ 4 acres	1 DU/ 3 acres	1 DU/ 5 acres
70% or more	1 DU/ 1 acre	1 DU/ 2.7 acres	1 DU/ 2 acres	1 DU/ 4 acres

ALTERNATIVE "C"

ALTERNATIVE "D"

Percentage of the on-site uplands that are: <ul style="list-style-type: none"> <li>• <u>preserved or restored native habitat; -or-</u></li> <li>• <u>for continued agricultural use on existing farmland</u></li> </ul>	Adjusted Maximum Densities			
	If undeveloped land will be permanently preserved or restored as native habitat:		If undeveloped land will be continued in agricultural use on existing farmland:	
	If < 910 trips in Matlacha (from Policy 1.4.7)	If > 910 trips in Matlacha (see 33-1011)	If < 910 trips in Matlacha: (from Policy 1.4.7)	If > 910 trips in Matlacha (see 33-1011)
I	II	III	IV	V
0% to 4.99%	1 DU/10 acres	1 DU/10 acres	1 DU/ 10 acres	1 DU/10 acres
5% to 9.99%	1 DU/ 9 acres	1 DU/ 9 acres	1 DU/ 9 acres	1 DU/ 9 acres
10% to 14.99%	1 DU/ 8 acres	1 DU/ 8 acres	1 DU/ 9 acres	1 DU/ 9 acres
15% to 19.99%	1 DU/ 7 acres	1 DU/ 7 acres	1 DU/ 9 acres	1 DU/ 9 acres
20% to 29.99%	1 DU/ 6 acres	1 DU/ 6 acres	1 DU/ 8 acres	1 DU/ 8 acres
30% to 39.99%	1 DU/ 5 acres	1 DU/ 5 acres	1 DU/ 7 acres	1 DU/ 7 acres
40% to 49.99%	1 DU/ 4 acres	1 DU/ 4 acres	1 DU/ 6 acres	1 DU/ 6 acres
50% to 59.99%	1 DU/ 3 acres	1 DU/ 3.5 acres	1 DU/ 5 acres	1 DU/ 5.5 acres
60% to 69.99%	1 DU/ 2 acres	1 DU/ 3.0 acres	1 DU/ 3 acres	1 DU/ 4.5 acres
70% or more	1 DU/ 1 acre	1 DU/ 2.5 acres	1 DU/ 2 acres	1 DU/ 3.5 acres

ALTERNATIVE "D"

**NOTES TO TABLE 33-1052:**

- (1) Column I describes the percentage of on-site uplands that must be permanently preserved or restored as native habitat (columns II and III), or existing farmland that must be committed to continued agricultural use (columns IV and V), in order to increase the standard maximum density on the entire property by various increments.
- (2) Columns II and IV, titled "If < 910 trips in Matlacha," indicate the adjusted maximum densities that correspond to various levels of upland commitments during the time period *before* the traffic-based growth limitations in section 33-1011 of this code take effect. The densities in this column are taken from Lee Plan Policy 1.4.7.
- (3) Columns III and V, titled "If > 910 trips in Matlacha," indicate the adjusted maximum densities that correspond to various levels of upland commitments for the time period *after* the traffic-based growth limitations in section 33-1011 of this code have taken effect.
- (4) All percentages in column I are based on the acreage of uplands that are designated "Coastal Rural":
  - a. Lands that are shown as "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 dwelling units that the Lee Plan allows for "Wetlands" (1 DU/20 acres) may be added to the number of dwelling units allowed for uplands by columns II through V, provided that the conservation easement described in section 33-1054(4) includes those wetlands.
  - b. Lands that are designated "Coastal Rural" but which are determined by permitting agencies to be wetlands are counted in the base acreage in column I and may be counted as permanently preserved native habitat or restored native habitat provided that all requirements of this section are met. The dwelling units that the Lee Plan allows for wetlands (1 DU/20 acres) may be added to the number of dwelling units allowed for uplands by columns II through V, provided that the conservation easement described in section 33-1054(4) includes those wetlands.

(b) 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 acreage on one parcel that is preserved or restored as native habitat, or existing farmland that is committed to continued agricultural use, 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).

(c) Rezoning is not required for a proposed residential development on land that is zoned AG-2 and designated “Coastal Rural” by the Lee Plan provided that the proposed development will comply with all regulations in this code, including all of this article.

(1) The determination of actual maximum densities and the compliance of the application and its supporting documentation with this section may be confirmed by issuance of a development order using the process described in ch. 10, modified as follows:

- a. Additional application requirements will be established by the director. At a minimum, these requirements will include:
  - 1. A mandatory pre-application meeting.
  - 2. Narrative description of the process used to determine the best areas on the site to remain undeveloped (see section 33-1053(4)).
  - 3. For applications proposing narrower streets in conformance with section 33-1053, proposed cross-sections of right-of-way and lane widths, supported by a sealed statement from a professional engineer.
  - 4. For applications proposing permanent preservation of native habitat:
    - i Map clearly delineating native habitat to be preserved, with precise acreage computations of habitat being preserved including the extent of other allowable land uses within preserved habitats (section 33-1054(1)).
    - ii Description of interruptions of original water flows and intended corrections (section 33-1054(2)).
    - iii Plan for removing and controlling invasive exotic plants (section 33-1054(3)).
    - iv Draft of the proposed conservation easement including identification of proposed grantee(s); for grantees other than Lee County, include a statement from the grantee that it will consent to accept and enforce the easement’s obligations in perpetuity (section 33-1054(4)).
    - v Long-term management plan for the preserved habitat (section 33-1054(5)).
    - vi Identification of proposed ownership of preserved habitat and the funding plan for permanent management responsibilities (section 33-1054(6)).

5. For applications proposing restoration of native habitat in conformance with section 33-1055, include all the requirements for permanent preservation of native habitat, plus:
    - i Analysis of the suitability of the site's hydrologic regime for the ecological community being restored (section 33-1055(1)).
    - ii Plan for reintroduction of native trees (section 33-1055(2)).
    - iii Plan for reintroduction of native midstory shrubs and understory plants (section 33-1055(3)).
    - iv Plan for monitoring the success of restoration (section 33-1055(4)).
    - v Proposed financial guarantees if the landowner wishes to begin development prior to successful completion of the restoration (section 33-1055(5)).
  6. For applications proposing continued agricultural use on existing farmland in conformance with section 33-1056:
    - i Plan for removing and controlling invasive exotic plants (section 33-1056(2)).
    - ii Draft of the proposed conservation easement including identification of proposed grantee(s); for grantees other than Lee County, include a statement from the grantee that it will consent to accept and enforce the easement's obligations in perpetuity (section 33-1056(3)).
  - b. An additional application fee will be established by the director to cover review costs for these complex applications. This fee may not exceed the fee for a planned development rezoning application.
  - c. The normal timeframe for review of residential development orders will be extended as needed to allow thorough yet timely review of all applications submitted in accordance with this article.
- (2) 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 33-1052.
  - 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 section 33-1053.
    2. Reforestation methods that do not meet all of the technical requirements of this section for "permanently preserved native habitat" or "restored native habitat" but which will achieve the same ends.
    3. Infrastructure more suited to country living, such as narrower streets, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.
  - c. The special application requirements in section 33-1052(c)(1)a. must supplement this code's requirements for planned development applications.

**Sec. 33-1053. Development standards.**

If a landowner chooses to increase the standard maximum density of “Coastal Rural” land as provided by this division, development standards will apply as follows:

- (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 article.
- (2) **Property development regulations and permitted uses:**
  - a. For individual lots that are created on “Coastal Rural” land based on increases above the standard maximum density of one dwelling unit per ten acres:
    1. Lots that are 39,500 square feet or larger in area must meet all property development regulations that apply to the AG-2 zoning district including lot width and depth, setbacks, special regulations, building height, and lot coverage. Use regulations for these lots will be the same as for all lots in the AG-2 zoning district.
    2. Lots that are smaller than 39,500 square feet must meet all property development regulations that apply to the RS-1 zoning district including lot width and depth, setbacks, special regulations, building height, and lot coverage. Use regulations for these lots will be the same as for all lots in the RS-1 zoning district.
  - b. Native habitat that is being preserved or restored in order to qualify for increases above the standard maximum density will be governed by section 33-1054 instead of the regular AG-2 regulations.
  - c. Existing farmland that is being committed to continued agricultural uses in order to qualify for increases above the standard maximum density will be governed by section 33-1056 in addition to the regular AG-2 regulations.
- (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 2.5 acres or smaller.
    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 privately maintained 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, or in accordance with *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT<400)* published by AASHTO.

- c. Privately maintained 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 county standards **as specified in section 10-296** or the alternate standards set forth in subsection b. above.
- (4) **Locational standards:** The following approach and guidelines must be used to determine the best areas on the site to remain undeveloped and to be developed:
- a. Begin by identifying potential areas to remain undeveloped:
    - 1. For native habitat being preserved or restored: healthy, diverse, or unusual native 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.
    - 2. For existing farmland being committed to continued agricultural use: existing surface water management infrastructure; availability of irrigation water; large contiguous acreage relative to potential conflicts with adjoining non-agricultural land uses; history of successful agricultural production; 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.

### **Sec. 33-1054. Permanently preserved native habitat.**

A development proposal that requests an increase to the standard maximum residential density for committing to “permanently preserved native habitat,” as that phrase is defined in section 33-1003, must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements:

- (1) **Land uses in preserved habitat.** Native habitat that is counted as preserved for the purposes of Table 33-1052 cannot be part of any 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 40 feet and are protected by the same conservation easement as the remainder of the native habitat.
  - b. Land with new or existing roads cannot qualify as permanently preserved native habitat, but up to the following percentages of other land uses may be permitted:

1. Facilities for passive recreation such as hiking trails, bridle paths, boardwalks, or fishing piers, up to 2% of the preserved area.
  2. Buffers, lakes, and utilities, up to 10% of the preserved area.
  3. Commercial or non-commercial agriculture, up to 10% of the preserved 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.** 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 mean the same plants as described in section 10-420.
- (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. This conservation easement must acknowledge that all residential and commercial development rights have been transferred away from the portion of the property subject to the conservation easement.
  - c. The agency or entity accepting the easement must be acceptable to Lee County.
  - d. This agency or entity must explicitly consent to enforce the easement's obligations in perpetuity. This requirement does not apply to a secondary or tertiary back-up grantee that is empowered, but not obligated, to enforce the terms of the easement.
  - e. Unless Lee County is the entity accepting the easement and consenting to enforce its obligations in perpetuity, Lee County must be named in the easement as a back-up grantee that is empowered, but not obligated, to enforce the terms of the easement.

- (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 preserved habitat must be kept free of refuse, debris, and pests and must be maintained in perpetuity against the reestablishment of invasive exotic plants. The management plan must describe how invasive exotic plants will be prevented from being reestablished within the preserved habitat.
  - b. The preserved habitat 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 must 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.
  - d. The management plan must specify how the preserved habitat will be demarcated through fencing or other means to clearly identify preserved habitat without unnecessary blockage of recreational usage or wildlife movement.
- (6) **Ownership of preserved habitat.** 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 or governmental entity.
- 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 that is binding on the homeowners or condominium association and their members (and not changeable by them), 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.

**Sec. 33-1055. Restored native habitat.**

A development proposal may request an increase to the standard maximum residential density for committing to “restored native habitat,” as that phrase is defined in section 33-1003. 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, regeneration, and sustainability. Restored native habitat must meet all of the requirements of section 33-1054, plus the following requirements:

- (1) **Hydrologic restoration.** In addition to the correction of modified water flows and quality as described in section 33-1054(2), 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 restored, 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 South Florida slash pines; the dominant tree species in mesic temperate hammocks will be live oaks and cabbage palms.
  - 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 mature trees is between 300 and 500 trees per acre, depending on species and the type of habitat being recreated. Therefore seedling trees are to be planted on an average of 8-foot centers.
  - c. Fertilization and watering-in **are** required at time of planting to ensure survival of seedlings, with spot irrigation beyond planting. Exotic and problematic plant monitoring and control is required for at least five 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 must be planted.
  - a. These species must 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 Lee County.
  - c. No single species **may** comprise more than 25% of the total number of plants installed.
  - d. All of the acreage being restored must be planted with acceptable midstory and understory plants.
    - 1. Plants **must** be placed in groupings or clusters throughout the area to be restored at an average spacing of 3 feet.
    - 2. Plants to be used **must** consist of containerized plants or tubelings of not less than 4½ inches in depth. Direct seeding may also be a viable alternative to planting with the approval of Lee County.
  - e. Site preparation may be necessary to adequately prepare the site for planting. Site preparation may include such activities as re-contouring, disking, 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 must be monitored annually to assure a minimum density of 300 trees per acre and 80% survival of midstory and understory species (with no supplemental plantings for two years following the third year after the initial planting).
- a. Monitoring must be performed for a minimum of five years after initial planting. Monitoring must be done by a qualified biologist, ecologist, forester, or natural areas manager subject to approval by Lee County. Monitoring must be conducted in accordance with the following general vegetation monitoring methods:
    - 1. Ground cover and midstory vegetation **must be** sampled using the point intercept methodology. A 300± feet long transect is established in representative portions of the sampled area. A measuring tape is stretched along the transect and the plants occurring directly below the tape are recorded at 3± feet intervals along the transect. Ground cover species include woody vegetation less than three feet in height and all non-woody plants. Bare ground and open water are also recorded in this manner.
    - 2. To facilitate an intensive and accurate sampling of planted trees, the “line strip” (belt transect) technique **must** be used. These transects are at the same locations as the ground cover monitoring transects. The belt transects are 300 feet in length and 33 feet in width. Within each belt transect, the height and canopy cover of each planted tree is recorded. Water depths and qualitative notes on the condition of each tree **must** also be recorded.
    - 3. Other vegetation monitoring methods may be utilized with the prior approval of Lee County.
  - b. Annual monitoring reports must be submitted to the director. After reviewing a monitoring report for the fifth 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.
  
- (6) **Flatwoods restoration bank.** As an additional alternative to restoring native habitat 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 33-1052.
  - a. The restored land must meet all of the conditions for restored native habitat in this section in addition to the requirements of the administrative code.
  - b. The administrative code will determine the assignment of restoration credits in a manner that is proportional to the ecological value of the restoration using a functional assessment method acceptable to Lee County. Credits can be sold once the restoration has proven successful according to criteria set forth in the code
  - c. Lee County will not be involved in any way in establishing the financial value of restoration credits.

**Sec. 33-1056. Continued agricultural use on existing farmland.**

A development proposal that requests an increase to the standard maximum residential density for committing to “continued agricultural use on existing farmland,” as that phrase is defined in section 33-1003, must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements:

- (1) **Land uses.** Existing farmland that is committed to continued agricultural uses under this section is limited to those uses allowable under the applicable agricultural zoning category assigned to the land, plus the following additional restrictions:
  - a. Residential and commercial development is not permitted because those development rights have already been transferred by the landowner to other property.
  - b. The conservation easement applicable to the property may contain further restrictions on land uses.
  
- (2) **Removal of invasive exotic plants.** Invasive exotic plants must be removed. Methods to remove and control invasive exotic plants must be included on the development order plans. The farmland must be maintained in perpetuity against the reestablishment of invasive exotic plants and must be kept free of refuse, debris, and pests. For purposes of this subsection, invasive exotic plants mean the same plants as described in section 10-420.
  
- (3) **Conservation easement.** To qualify for an increase to the standard maximum residential density on the entire property, the portion of the site being committed to continued agricultural use must be placed under a perpetual conservation easement that meets the requirements of section 33-1054(4), except that instead of committing to retain the land in predominantly its natural forested condition as suitable habitat for native vegetation and wildlife, the perpetual conservation easement must commit to conserve the land as open space that is available for farming by the landowner or lessees of the landowner. The easement must also define the latitude for construction, modification, or demolition of structures necessary for farm operations without approval by the easement holder.

**Secs. 33-1057—33-1060. Reserved.**

## Subdivision II. Other Changes to Zoning Regulations

### Sec. 33-1061. Maximum height of wireless communication facilities.

The overall height of wireless communications facilities must not exceed the height limitations set forth in section 33-1065. For stealth wireless communication facilities only, these height limitations may be increased by one foot for each one-half foot that every required street, side, and rear setback is increased.

### **Sec. 33-1062. Density limitations.** *[the non-underlined text is being relocated from section 34-1495(3) and modified as indicated]*

~~(a) Table 1(a) of the Lee Plan contains special density restrictions for Greater Pine Island that would affect rezonings that would allow in excess of 3 dwelling units per gross acre. (3) Greater Pine Island. a. For the Matlacha, Bokeelia and St. James City areas, currently classified in the Lee Plan as 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, whichever is lower.~~

~~(b) Those portions of Greater Pine Island that are classified in the Lee Plan as "Coastal Rural" have special density restrictions as set forth in section 33-1051 et seq. 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.~~
- ~~(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, whichever is lower.~~

~~(c) Residential densities in Greater Pine Island may be further restricted in accordance with concurrency and traffic-based growth limitations in section 33-1011.~~

~~(d) e. Housing density bonuses are not permitted in Greater Pine Island (see section 34-1511). 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. This prohibition includes housing density bonuses, off-site transfers from environmentally critical areas, and~~

~~(e) Transfers from on-site wetlands at rates above the standard density rates for environmentally critical areas are not permitted in Greater Pine Island.~~

~~(f) Land in Greater Pine Island may not receive TDR units in accordance with article IV of chapter 2 (see section 2-148), but density transfers within Greater Pine Island may~~

be permitted in accordance with 33-1052(b) and through a new Pine Island TDR program contemplated by the policies under Lee Plan Objective 14.6.

**Sec. 33-1063. Residential project fences and walls.**

New residential project fences or walls are not permitted in Greater Pine Island (see section 34-1743). This restriction does not affect buffer walls that may be required by section 10-416.

**Sec. 33-1064. Entrance gates.**

Entrance gates or gatehouses cannot interfere with movement of cars between neighborhoods (see also section 33-1021).

- (1) Entrance gates or gatehouses can be used to control access only to a single block and may not be located on a publicly dedicated street or street right-of-way.
  - a. For purposes of this subsection, a "single block" means the length of any street or accessway from its end or cul-de-sac to the first intersecting street and which provides access to 5 or fewer existing or potential dwelling units.
  - b. An entrance gate to a single block must be designed in such a manner that at least one vehicle can pull safely off the intersecting street while waiting to enter.
  - c. These regulations supersede conflicting regulations governing entrance gates and gatehouses in section 34-1748(1).
- (2) Entrance gates for non-residential uses only that will remain open during normal working hours are permitted in accordance with section 34-1748(4).
- (3) Fencing around individual lots and agricultural properties is governed by general county regulations and is not affected by this section.

**Sec. 33-1065. Maximum height of buildings and structures.** *[the non-underlined text is being relocated from section 34-2175(4) and modified as indicated]*

~~(4) *Greater Pine Island*: No building or structure may be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower. The term "building or structure," as used in this subsection, does not include a building or structure used for an industrial purpose.~~

- (1) The provisions of section 34-2171(a)(1) that allow the substitution of "minimum required flood elevation" for "average grade of the lot in question" do not apply to Greater Pine Island.
- (2) The provisions of section 34-2174(a) that allow taller buildings in exchange for increased setbacks do not apply to Greater Pine Island.
- (3) Structures without roofs will be measured to the highest point on the structure.
- (4) No deviations from these height restrictions may be granted through the planned development process.
- (5) Any variances from these height restrictions require all of the findings in section 34-145(b)(3), with the sole exception being where the relief is required to

maintain or improve the health, safety, or welfare of the general public (not just the health, safety, or welfare of the owners, customers, occupants, or residents of the property in question).

**Sec. 33-1066. Lots of record in “Coastal Rural.”**

One single-family residence may be constructed on a 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 the lot was lawfully created before December 21, 2004, the effective date of “Coastal Rural.” See section 34-3273.

## SECTION THREE: AMENDMENT TO LDC CHAPTER 2

Lee County Land Development Code Chapter 2 is hereby amended as follows, with deleted text identified with ~~strike through~~ and additional text identified with underlining:

### Chapter 2

#### ADMINISTRATION

#### ARTICLE II. CONCURRENCY MANAGEMENT SYSTEM

##### **Sec. 2-48. Greater Pine Island concurrency.**

See special standards for Greater Pine Island in Chapter 33. [all existing language in this section is being relocated to section 33-1011 and modified as shown in Section Two of this Ordinance.]

##### **Sec. 2-50. Concurrency management information system.**

(a) The director will compile, publish and update, at least once each year, beginning no later than October 1, 1990, an inventory of the maximum, utilized and available capacity of public facilities for which minimum regulatory levels of service are prescribed in the Lee Plan. This inventory must also contain a projection of future demand on the facilities due to anticipated growth and additions to capacity based upon construction in progress or under contract. This inventory must also contain the Greater Pine Island analysis as described in section 33-1011(4). The inventory must be reviewed and approved by the Board of County Commissioners and, upon approval, will establish the availability and capacity of each facility to accommodate impacts from further development. This inventory will bind the county to the estimates of available capacity described in the inventory. Once approved by the board, these estimates will empower the director to issue concurrency certificates for development permits requested where the estimates reasonably demonstrate sufficient infrastructure capacity will be available to serve all developments reasonably expected to occur during the period of time approved by the board.

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

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

**SECTION FOUR: AMENDMENT TO LDC CHAPTER 10**

Lee County Land Development Code Chapter 10 is hereby amended as follows, with deleted text identified with ~~strike through~~ and additional text identified with underlining:

**Chapter 10**

**DEVELOPMENT STANDARDS**

**ARTICLE I. IN GENERAL**

**Sec. 10-7. General requirements.**

(a) through (c) *[no change]*

(d) Community ~~planning~~ ~~community~~ regulations. Development order applications and approvals for projects located within the following ~~planning~~ communities must also comply with the regulations set forth in chapter 33 pertaining to the specific ~~planning~~ community.

- (1) Estero Planning Community
- (2) Greater Pine Island

(e) through (h) *[no change]*

**ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS**

**DIVISION 2. TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES**

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

The proposed street layout shall be coordinated with the street system of the surrounding area. Streets in a proposed development shall be connected to streets in the adjacent area where required by the director of development review to provide for proper traffic circulation. Proposed street layouts in Greater Pine Island must meet the modified standards in section 33-1021.

**Sec. 10-296. Street design and construction standards.**

(a) through (o) *[no change]*

(p) Greater Pine Island. Section 33-1053 provides modified street design standards for Greater Pine Island.

**ARTICLE III, DESIGN STANDARDS AND REQUIREMENTS**

**DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING**

**Sec. 10-416. Landscape standards.**

- (a) **General.** *[no changes required]*
- (b) **Building perimeter plantings.** *[no changes required]*
- (c) **Landscaping of parking and vehicle use areas.** *[no changes required]*
- (d) **Buffering adjacent property.**
  - (1) – (8) *[no changes required]*
  - (9) Development abutting natural waterway. Except where chapter 33 provides a stricter standard applies for the Greater Pine Island Area (as defined in Goal 14 of the Lee Plan and set forth in section 33-1002 of this code), there must be a 25-foot wide vegetative buffer landward from the mean high water line of all nonseawalled natural waterways. ~~Where a proposed planned development or subdivision, is located in the Greater Pine Island Area abutting state-designated aquatic preserves and associated natural tributaries, the width of the required buffer will be 50 feet.~~ *[previous sentence relocated to and expanded in section 33-1022]* Existing vegetation within the buffer area must be retained. The removal or control of exotic pest plants must not involve the use of heavy mechanical equipment such as bulldozers, front end loaders, or hydraulic excavators, unless approved at the time of development order.
  - (10) – (11) *[no changes required]*

**ARTICLE IV, DESIGN STANDARDS AND GUIDELINES  
FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS**

**Sec. 10-621. Greater Pine Island.**

Section 33-1023 provides additional design standards and guidelines for commercial buildings in Greater Pine Island.

**Secs. 10-622—10-629. Reserved.**

**SECTION FIVE: AMENDMENT TO LDC CHAPTER 14**

Lee County Land Development Code Chapter 14 is hereby amended as follows, with deleted text identified with ~~strike through~~ and additional text identified with underlining:

**Chapter 14**

**ENVIRONMENT AND NATURAL RESOURCES**

**ARTICLE I. IN GENERAL**

**Sec. 14-1. Community planning regulations.**

Activities in the following communities must also comply with the regulations set forth in chapters pertaining to the specific community.

- (a) Estero Planning Community
- (b) Greater Pine Island

**Secs. 14-21—14-40. Reserved.**

**ARTICLE V. TREE PROTECTION**

**Sec. 14-374. Definitions.**

(a) The following words, terms and phrases, and their derivations, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 33-1002 of this code.  
*[no other changes to section 14-374]*

**Sec. 14-377. Exemptions from article.**

- (a) This article does not apply to the following:
  - (1) Removal of trees on the following lands as specified in this subsection:
    - a. This article shall not apply to the removal of trees, other than trees worthy of preservation, on lands classified as agricultural land for ad valorem taxation purposes pursuant to F.S. § 193.461(3)(b), except as provided for proposed agricultural activities in Greater Pine Island in section 33-1031. Trees, other than trees worthy of preservation, may be removed from agriculturally zoned lands only after the owner or his agent procures a notice of clearing from the administrator. However, if an application to rezone the subject lands is filed within three years from the date when the most recent notice of clearing was issued, and the rezoning is granted, the applicable minimum open space requirements of chapter 10 shall be satisfied in the following manner: *[no changes required]*

- b. Land used for bonafide agricultural purposes that meets the criteria of or has been designated as wetlands.
  - c. If the property is located in the critical areas for surface water management, and is not used for bona fide agricultural purposes, indigenous vegetation shall not be cleared in areas that serve as listed species occupied habitat as defined in chapter 10, article III, division 8. The following shall apply: *[no changes required]*
  - d. If the property is located in the critical areas for surface water management, indigenous vegetation shall not be cleared within 25 feet of the mean high-water line or ordinary high-water line, whichever is applicable, of any natural waterway listed in appendix F. Indigenous vegetation may be cleared selectively to allow the placement of docks, pipes, pumps and other similar structures pursuant to applicable county ordinances.
- (2) The removal of trees on public rights-of-way conducted by or on behalf of a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public rights-of-way or in the performance of its official duties.
  - (3) The removal of a protected tree that is dead or which has been destroyed or damaged by natural causes beyond saving or which is a hazard as the result of an act of God and constitutes an immediate peril to life and property.
  - (4) The removal of trees by duly constituted communication, water, sewer or electrical utility companies or federal, state or county agency, engineer or surveyor, working under a contract with such federal, state or county agency or when such tree removal is done as a governmental function of such agency.
  - (5) The removal of trees by duly constituted communication, water, sewer or electrical utility companies in or adjacent to a public easement or right-of-way, provided such removal is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that such removal is conducted so as to avoid any unnecessary damage or removal of trees.
  - (6) The removal of trees protected by this article, other than a tree worthy of preservation, by a state-licensed land surveyor in the performance of his duties. The removal of trees protected by this article in a manner which requires clearing a swath of greater than three feet in width shall require approval of the administrator prior to such a removal and clearance.
  - (7) The removal of protected trees on a lot zoned for single-family residential use or being used lawfully as a single-family residence or mobile home where the residence or proposed residence is located on a lot no greater than five acres in area. However, this exemption does not apply on the coastal islands listed in subsection (c) below.
  - (8) The removal of protected trees, other than a tree worthy of preservation, on the premises of a licensed plant or tree nursery or tree farm where such trees are intended for sale in the ordinary course of the licensee's business.

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

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

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

**Sec. 14-412. Issuance of permit.**

- (a) **Submission of application.** *[no changes proposed]*
- (b) **Authority of administrator.** *[no changes proposed]*
- (c) **Required information.** *[no changes proposed]*
- (d) **Criteria for granting.** *[no changes proposed]*
- (e) **Submission of site plan when building permit not required.** *[no changes]*
- (f) **Inspection of site.** *[no changes proposed]*
- (g) **Approval or denial.** *[no changes proposed]*
- (h) **Conditions.** *[no changes proposed]*
- (i) **Greater Pine Island.** Notices of clearing for agricultural purposes in Greater Pine Island must also comply with section 33-1031.

## SECTION SIX: AMENDMENT TO LDC CHAPTER 30

Lee County Land Development Code Chapter 30 is hereby amended as follows, with deleted text identified with ~~strike through~~ and additional text identified with underlining:

### Chapter 30

#### SIGNS

##### ARTICLE I. IN GENERAL

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

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

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

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 33-1002 of this code.

*[no other changes to section 30-2]*

##### ARTICLE II. ADMINISTRATION AND ENFORCEMENT

###### Sec. 30-55. Nonconforming signs.

(a) *Status. [no changes proposed]*

(b) *Loss of legal nonconformity.*

- (1) A legal nonconforming sign shall become an illegal sign which must comply with this chapter if: *[no changes proposed]*
- (2) When a sign face remains blank, which is defined as void of advertising matter, for a period of 12 months it loses its nonconforming status and must be treated as a sign which must comply with all the requirements of this chapter. Signs displaying an "available for lease" message or similar message and partially obliterated signs which do not identify a particular product, service or facility are considered to be blank signs.
- (3) A nonconforming sign that has lost its legal nonconforming status shall be immediately brought into compliance with this chapter, or the sign shall be removed.
- (4) The existence of an illegal sign or a legal nonconforming sign does not constitute a hardship warranting the issuance of a variance from the provisions of this chapter.

- (5) Certain nonconforming off-site directional signs and billboards in Greater Pine Island lost their nonconforming status upon adoption of section 33-1041.

**Sec. 30-56. Community planning community regulations.**

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in chapters pertaining to the specific planning community.

- (a) Estero Planning Community
- (b) Greater Pine Island

**ARTICLE IV. RESTRICTIONS BASED ON LOCATION**

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

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

- (1) **Calculation of total permissible area.** *[no changes proposed to this subsection]*
- (2) **Nonresidential subdivisions and multiple-occupancy complexes with more than five establishments.**
  - a. **Identification sign.** A nonresidential subdivision or a multiple-occupancy complex of more than five establishments shall be permitted one ground-mounted identification sign along any street which provides access to the property as follows:
    - 1. One square foot of sign area per face shall be permitted for every one linear foot of frontage, provided that: *[no changes proposed to this subsection]*
    - 2. The maximum height of any identification sign shall be 24 feet.
    - 3. Except as provided in subsection (2)a.1.iv of this section, the identification sign may be illuminated with a steady light, but the sign shall not be animated.
    - 4. Identification signs shall be set back a minimum of 15 feet from any street right-of-way or easement, and ten feet from any other property line. In no case shall an identification sign be permitted between a collector or arterial street and a frontage road. (See modified standard for Greater Pine Island in section 33-1042.)
  - b. **Directory signs.** Nonresidential subdivisions and multiple-occupancy complexes of more than five establishments shall be permitted to place a directory sign on the same structure as the project identification sign, subject to the following limitations: *[no changes proposed to this subsection]*

- c. **Individual occupants within multiple-occupancy complex.** Individual offices, institutions, business or industrial establishments located within a multiple-occupancy complex shall not be permitted individual ground-mounted identification signs, but may display wall-mounted, marquee or under-canopy signs as follows: *[no changes proposed to this subsection]*
- (3) **Individual office, institution, business or industrial establishments, and multiple-occupancy complexes with five or less establishments.** The following regulations shall apply for any office, institution, business or industrial establishment which is not located within a multiple-occupancy complex and to all multiple-occupancy complexes containing five or less establishments:
- a. Every individual office, business or industrial establishment, and a multiple-occupancy complex of five or less establishments, shall be allowed one ground-mounted sign. (See modified standards for Greater Pine Island for subsections (3)a.2–3–4 in sections 33-1043.)
    - 1. If the establishment has 50 feet or less frontage on a public right-of-way, the maximum sign area shall be 32 square feet, and the sign shall be located no closer than five feet to any side property line.
    - 2. If the establishment has over 50 feet and up to 100 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 64 square feet, provided that no ground-mounted sign shall be closer than five feet to any side property line.
    - 3. If the establishment has over 100 feet and up to 300 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 72 square feet, and the sign shall be set back a minimum of ten feet from any side property line.
    - 4. Establishments having over 300 feet of frontage on a public right-of-way shall be permitted up to 96 square feet of sign area, and the sign shall be set back a minimum of ten feet from any side property line.
    - 5. Establishments having frontage on more than one public right-of-way may be allowed one additional ground-mounted sign on the secondary frontage of not more than 24 square feet in area.
    - 6. On corner lots, the occupant may be allowed one single ground-mounted sign rather than two separate ground-mounted signs (one per street frontage) provided the total sign area of the ground-mounted sign does not exceed 1 1/2 times the maximum size permitted on any one street frontage.
    - 7. In multiple-occupancy complexes of five or less occupants, ground sign area not identifying the complex should be divided equally among the occupants.
  - b. Maximum height of a ground-mounted identification sign shall be 20 feet.
  - c. Identification signs may be illuminated, but shall not be animated.
  - d. Wall-mounted, marquee or canopy signs may be displayed provided the total sign area of such signs plus any permitted ground-mounted identification sign does not exceed the total permitted sign area for the property based upon the calculations set forth in subsection (1) of this

section, provided that not more than ten percent of any wall area may be used for signage. (See modified standards for Greater Pine Island in chapter 33.)

- e. Identification signs shall be set back a minimum of 15 feet from any right-of-way or easement. In no case shall an identification sign be permitted between a collector or arterial street and a frontage road. (See modified standard for Greater Pine Island in section 33-1042.)
- (4) **Hospitals or other emergency medical facilities.** *[no changes proposed to this subsection]*
- (5) **Electronic changing message centers.** *[no changes proposed to this subsection]*

### **Sec. 30-183. Billboards.**

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

- (1) **Location.** *[no changes proposed to this subsection]*
- (2) **Separation.** *[no changes proposed to this subsection]*
- (3) **Size.** *[no changes proposed to this subsection]*
- (4) **Height.** *[no changes proposed to this subsection]*
- (5) **Setbacks.** *[no changes proposed to this subsection]*
- (6) **Roof signs.** *[no changes proposed to this subsection]*
- (7) **Copy area.** *[no changes proposed to this subsection]*
- (8) **Maximum number of signs per structure.** *[no changes proposed to this subsection]*
- (9) **Illumination.** *[no changes proposed to this subsection]*
- (10) **Revolving signs.** *[no changes proposed to this subsection]*
- (11) **Variances and deviations.** *[no changes proposed to this subsection]*
- (12) **Landscaping for billboards on Alico Road, west of I-75.** *[no changes proposed to this subsection]*
- (13) **Billboards in Greater Pine Island.** See special standards for Greater Pine Island in section 33-1041.

## SECTION SEVEN: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is hereby amended as follows, with deleted text identified with ~~strike through~~ and additional text identified with underlining:

### 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 ~~and 12, 13~~, ~~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, less Sections 6, 7, 8, 17, 18, 19, 20, 29, 30 and 31, and less~~ 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]*

##### Sec. 34-6. Compliance with specific **community planning** requirements.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in chapter 33.

- (1) Estero Planning Community
- (2) Greater Pine Island

##### Secs. 34-76—34-50. Reserved.

## ARTICLE II. ADMINISTRATION

### DIVISION 6. APPLICATION AND PROCEDURES FOR CHANGES, PERMITS, INTERPRETATIONS AND APPROVALS

#### **Sec. 34-202. General submittal requirements for applications requiring public hearing.**

(a) *All applications.* Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the county, the director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the director prior to submitting the application. A copy of the request and the director's written response must accompany the application and will become a part of the permanent file.

(1) through (9) *[no change]*

(10) *Compliance with specific requirements.* If the subject property is located in one of the following **planning** communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in chapter 33.

- a. Estero Planning Community
- b. Greater Pine Island

(b) *[no change]*

## ARTICLE IV. PLANNED DEVELOPMENTS

### DIVISION 3. DESIGN STANDARDS

#### **Sec. 34-411. General standards.**

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

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

(c)– (q) *[no changes proposed]*

(r) Planned developments in Greater Pine Island must meet all of the special standards contained in this code and in the Lee Plan for Greater Pine Island; see specific standards in article III of chapter 33.

## ARTICLE VI. DISTRICT REGULATIONS

### DIVISION 2. AGRICULTURAL DISTRICTS

#### 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
<b>Minimum lot dimensions and area:</b>	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
<b>Minimum setbacks:</b>		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.		
Street (feet)	Notes (3) and (4), 34-2191 et seq., 34-1261 et seq.			
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
<b>Special regulations:</b>		Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
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			
<b>Maximum height (feet)</b>	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).			
<b>Maximum lot coverage (percent of total lot area)</b>		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 December 21, 2004 must comply with the additional regulations in section 33-1052. Lots created before December 21, 2004 are not required to comply with the additional regulations in section 33-1052 (see section 34-3273(a)(3)).

### 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	[all other districts remain unchanged]
<b>Minimum lot area and dimensions:</b>	34-2221, 34-2222, 34-2142 <u>Note (5)</u>					
Single-family detached:						
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>						
<b>Minimum setbacks:</b> <i>[no changes required]</i>						
<b>Special regulations:</b> <i>[no changes required]</i>						
<b>Maximum height (feet)</b> <i>[no changes required]</i>						
<b>Maximum lot coverage (percent of total lot area)</b> <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 December 21, 2004 must comply with the additional regulations in section 33-1052. Lots created before December 21, 2004 are not required to comply with the additional regulations in section 33-1052 (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
<b>Minimum lot area and dimensions:</b>	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>		<i>[no changes required]</i>				
<b>Minimum setbacks:</b> <i>[no changes required]</i>						
<b>Special regulations:</b> <i>[no changes required]</i>						
<b>Maximum height (feet)</b> <i>[no changes required]</i>						
<b>Maximum lot coverage (percent of total lot area)</b> <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 December 21, 2004 must comply with the additional regulations in section 33-1052. Lots created before December 21, 2004 are not required to comply with the additional regulations in section 33-1052 (see section 34-3273(a)(3)).

**ARTICLE VI. DISTRICT REGULATIONS**

**DIVISION 9. PLANNED DEVELOPMENT DISTRICTS**

**Sec. 34-935. Property development regulations.**

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

- (a) **Minimum area for planned developments.** *[no changes required]*
- (b) **Minimum setbacks of structures and buildings from development perimeter boundaries.** *[no changes required]*
- (c) **Uses permitted within required perimeter setback.** *[no changes required]*
- (d) **Planned developments on in Greater Pine Island.** Where the proposed planned development is within the Greater Pine Island area and adjoins state-designated aquatic preserves ~~or~~ and associated wetlands and natural tributaries, as defined in section 33-1003, the special standards in section 33-1022 will apply. ~~a 50-foot-wide vegetated buffer area between any structure or building and the mean high-water line of the water body shall be provided. No deviation from requirement shall be permitted except under extreme circumstances in which the requirement would have the effect of prohibiting all reasonable use of the property.~~
- (e) **Minimum lot size, dimensions and setbacks.** *[no changes required]*
- (f) **Height of buildings.** *[no changes required]*
- (g) **Open space.** *[no changes required]*

**ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS**

**DIVISION 11. WIRELESS COMMUNICATION FACILITIES**

**Sec. 34-1444. Permissible wireless facility locations.**

(a) Except as provided below, a wireless communications facility may be permitted only in accordance with Table 34-1447 and the provisions of this chapter. Regardless of the process required, the applicant must comply with all submittal, procedural and substantive provisions of this chapter. Variances or deviations from the requirements of this division may be granted only in accordance with the requirements of section 34-1453 for a variance.

- (b) Exceptions:
- (1) Broadcast antenna-supporting structures in excess of 250 feet will only be allowed within an agricultural zoning district by variance in accordance with the requirements of section 34-1453. Broadcast studios are not allowed in the agricultural zoning district and must comply with all other applicable zoning and development regulations.
  - (2) All antennas proposed to be mounted on existing buildings or structures must apply for administrative review as set forth in section 34-1445(b).
  - (3) On the barrier islands, Greater Pine Island (see section 33-1061), and within the outer island future land use areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in section 34-2175, whichever is less. ~~The provisions set forth in section 34-2174 are applicable only to~~ For stealth wireless communication facilities only, these height limitations may be increased by one foot for each one-half foot that every required street, side, and rear setback is increased.
  - (4) Wireless communications facilities are prohibited in the Density Reduction - Groundwater Resource (DR/GR) Future Land Use areas, wetlands, environmentally critical zoning districts and areas readily visible from the University Window Overlay, except for:
    - a. Stealth wireless communication facilities;
    - b. Surface-mounted and flush-mounted antennas; and
    - c. Collocations.

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

## 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.** *[no change proposed]*
- (2) **Gasparilla Island.** *[no change proposed]*
- (3) **Greater Pine Island.** See density limitations for Greater Pine Island in section 33-1062.
  - a. ~~For the Matlacha, Bokeelia and St. James City areas, currently classified in the Lee Plan as 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, 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.~~
  - 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, 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. 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.~~

## ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

### DIVISION 17. FENCES, WALLS, GATES AND GATEHOUSES

#### Sec. 34-1743. Residential project walls.

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

(b) A residential project fence or wall: *[no changes proposed]*

(c) Residential project fences or walls are not permitted in Greater Pine Island (see section 33-1063).

#### Sec. 34-1748. Entrance gates and gatehouses.

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

- (1) An entrance gate or gatehouse that will control access to property 24 hours a day may be permitted provided that:
  - a. *[no changes proposed]*
  - b. *[no changes proposed]*
  - c. *[no changes proposed]*
  - d. *[no changes proposed]*
  - e. See special standards for Greater Pine Island in section 33-1064.

- (2) Access for emergency vehicles must be provided. *[no changes proposed]*
- (3) Extension of fences or walls to an entrance gate or gatehouse. *[no changes proposed]*
- (4) Entrance gates that are installed solely for security purposes for non-residential uses, and that will remain open during normal working hours, are not subject to the location requirements set forth in (1)c. above and are not required to be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles. However, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

**ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS**

**DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS**

**Subdivision II. Height**

**Sec. 34-2171. Measurement.**

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

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

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

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

(a) Subject to conditions set forth in section 34-2175, any building or structure may be permitted to exceed the height limitations specified by the zoning district regulations

in which the property is located provided every required street, side, and rear setback is increased by one-half foot for every one foot by which the building or structure exceeds the specified height limitation.

(b) In zoning districts that do not specify a maximum height limitation, the increase to setbacks stated in this section will apply to all buildings or structures exceeding 35 feet in height.

(c) The height increases described in subsections (a) and (b) may not be used on Upper Captiva Island, Captiva Island, Gasparilla Island, Greater Pine Island, and all other islands (sections 34-2175(1), (2), (4), (5), and (6) respectively).

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

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

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

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

- (2) **Captiva Island.** No building or structure may be erected or altered so that the peak of the roof exceeds 35 feet above the average grade of the lot in question or 42 feet above mean sea level, whichever is lower. The provisions of section 34-2174(a) do not apply to Captiva Island. No variance or deviation from this height restriction may be granted.
- (3) **San Carlos Island.** The height of a structure may not exceed 35 feet above grade, except as provided for in section 34-2174. If seaward of the coastal construction control line, elevations may exceed the 35-foot limitation by three feet for nonconforming lots of record.
- (4) **Gasparilla Island conservation district.** No building or other structure may be erected or altered so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

- (5) **Greater Pine Island.** See height limitations for Greater Pine Island in section 33-1065. No building or structure may be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower. The term "building or structure," as used in this subsection, does not include a building or structure used for an industrial purpose.
- (6) **All other islands.** The height of a structure may not exceed 35 feet above grade (base flood elevation). Except as provided in subsections 34-2175 (3); (4), and (5); the provisions of section 34-2174(a) do not apply to islands. No variance or deviation from the 35-foot height restriction may be granted.
- (7) **Airport hazard zone.** Height limitations for the airport hazard zone are set forth in article VI, division 10, subdivision III, of this chapter.

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

## ARTICLE VIII. NONCONFORMITIES

### DIVISION 4. NONCONFORMING LOTS

#### 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), see special standards for lots in the "Coastal Rural" land use category in section 33-1066.

(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.

## **SECTION EIGHT: AMENDMENT TO LDC APPENDIX I**

Lee County Land Development Code Appendix I is hereby amended as follows:

Map 1: titled "Estero Planning Community, Corkscrew/Sandy Lane Overlay"

Map 2: titled "Estero Planning Community, US 41 Overlay"

Map 3: titled "San Carlos Island Overlay District"

Map 4: titled "San Carlos Island Zoning Overlay"

Legal Description for San Carlos Island Overlay District

Map 5: titled "Greater Pine Island Community Plan" *[see attachment, which includes map and legal description on separate pages]*

## **SECTION NINE: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

## **SECTION TEN: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

**SECTION ELEVEN: CODIFICATION AND SCRIVENER’S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word “ordinance” can be changed to “section”, “article” or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

**SECTION TWELVE: EFFECTIVE DATE**

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_ who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, being put to a vote, the vote was as follows:

ROBERT P. JANES  
BRIAN BIGELOW  
RAY JUDAH  
TAMMARA HALL  
FRANK MANN

DULY PASSED AND ADOPTED THIS day of \_\_\_\_\_, 2007.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

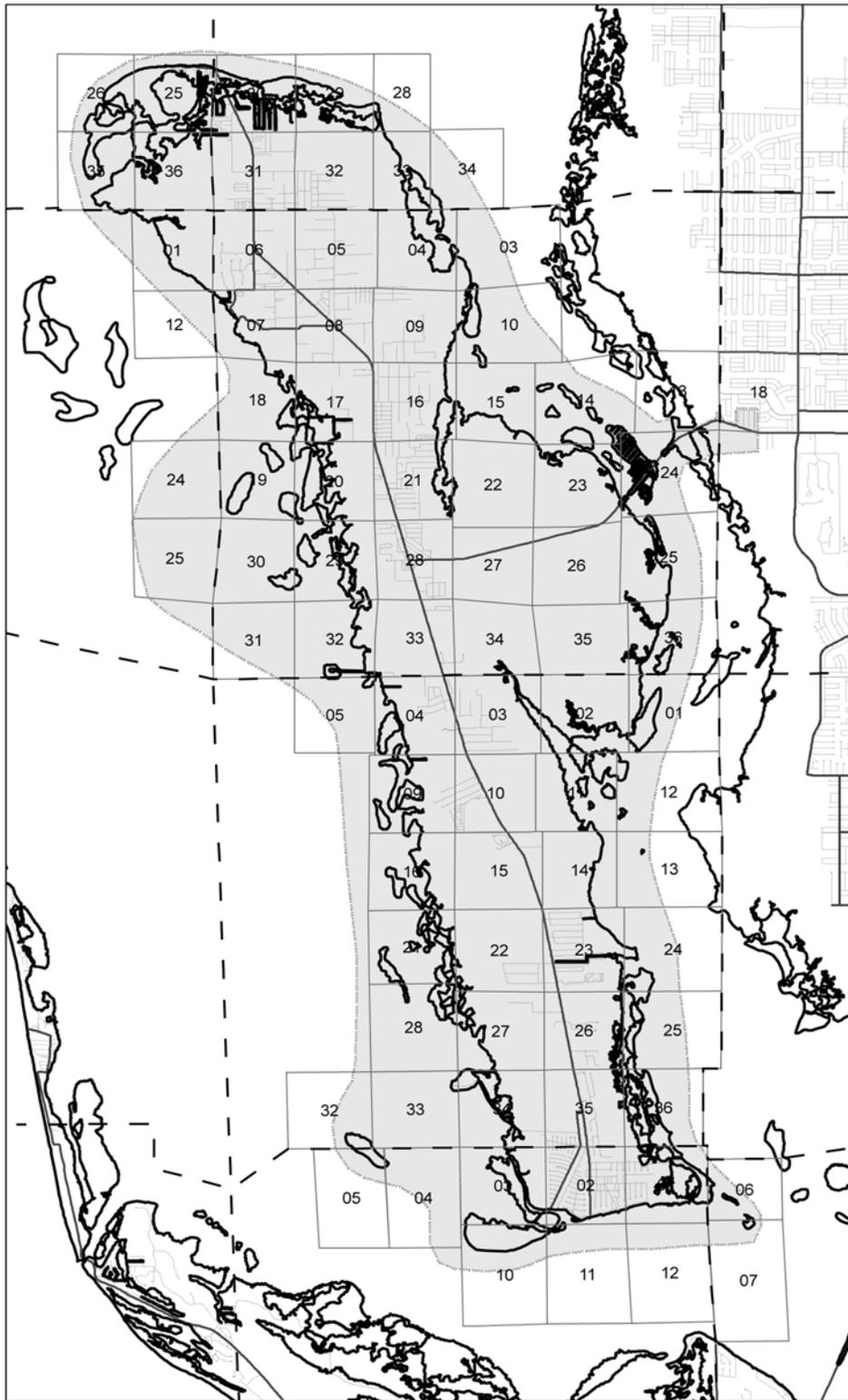
By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

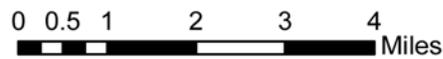
By: \_\_\_\_\_  
Dawn E. Perry-Lehnert  
Office of County Attorney

ATTACHMENT:

Appendix I, Map 5, titled: Greater Pine Island Community Plan



-  Greater Pine Island Boundary From Lee Plan Map 1
-  Section Numbers and Lines (see 33-502)
-  Township and Range Lines
-  Edge of Open Water
-  Major Roads
-  Streets



Map 5 - Greater Pine Island Community Plan

**GREATER PINE ISLAND**  
**LEGAL DESCRIPTION**  
**TO ACCOMPANY MAP 5**

***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, 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, and 12, and less those portions of Section 13 lying in the City of Cape Coral; 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, less Sections 6, 7, 8, 17, 18, 19, 20, 29, 30 and 31, and less those portions of Sections 12, 13 and 24, lying on the mainland; also, Sections 1, 2, 3, 4, 5, 10, 11 and 12, Township 46 South, Range 22 East; also Sections 6 and 7, Township 46 South, Range 23 East.

ORDINANCE NO. 07-\_\_

AN ORDINANCE AMENDING LEE COUNTY'S "COMMERCIAL USE OF RIGHTS-OF-WAY ORDINANCE," ORDINANCE 88-11 AS AMENDED, EXCEPTIONS (§5), DIRECTIONAL SIGNS (GREATER PINE ISLAND ONLY) (§5-G), PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners amended the Greater Pine Island Community Plan, codified under Goal 14 of the Lee Plan, effective December 21, 2004, and made further amendments effective January 9, 2006; and

WHEREAS, new Lee Plan Policy 14.4.4 anticipates certain changes to county codes to allow small directional signs on Stringfellow Road for businesses not visible from the road; and

WHEREAS, Lee County has adopted regulations governing the commercial use of right-of-way through Ordinance 88-11 and subsequent amendments; and

WHEREAS, certain amendments are needed to these regulations to carry out the intent of Lee Plan Policy 14.4.4; and

WHEREAS, the Land Development Code Advisory Committee reviewed the proposed amendments to the Code and recommended \_\_\_\_\_; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code and recommended \_\_\_\_\_; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on \_\_\_\_\_, and found them consistent with the Lee Plan, as indicated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

# **SECTION ONE: AMENDMENT TO LEE COUNTY'S "COMMERCIAL USE OF RIGHTS-OF-WAY ORDINANCE," ORDINANCE 88-11 AS AMENDED**

Section 5 of Lee County's "Commercial Use of Rights-of-Way Ordinance," Ordinance 88-11 as amended, is further amended as follows; ~~deleted text is identified with strike-through~~ and additional text is identified with underlining:

## **SECTION 5: EXCEPTIONS**

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

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

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

1. "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 33-1002 of the Lee County Land Development Code.
2. "Qualifying businesses and organizations" means one of the following types of for-profit, non-profit, or governmental entities currently operating in Greater Pine Island on a parcel of land that does not have road frontage on CR 767 (also known as Stringfellow Road, Oleander Street, and Main Street) or on CR 78 (also known as Pine Island Road):
  - a. Motels/hotels/bed-and-breakfast inns
  - b. Restaurants
  - c. Retail sales and personal services
  - d. Marinas
  - e. Farms or nurseries regularly offering retail sales
  - f. Transient RV parks
  - g. Educational, cultural, and religious institutions

- h. Governmental agencies
  - i. Other tourist-oriented businesses
  - j. “Qualifying businesses and organizations” will not include residential or mobile home communities and will not include any entities that are not regularly open to the public.
- 3. Qualifying businesses and organizations may apply for a single off-site directional sign to be fabricated, installed, and maintained by the Lee County Department of Transportation in the right-of-way of Stringfellow Road or Pine Island Road.
  - a. Each directional sign will be placed just ahead of the nearest street that intersects with Stringfellow Road or Pine Island Road.
  - b. The exact location and placement of each sign will be determined by the DOT in accordance with established clear zone standards and based on additional operational and safety factors for each sign location. If no acceptable location can be found for a requested sign, the application fee will be refunded.
  - c. Directional signs for up to three businesses may be placed on each pair of sign supports. If additional signs are needed, an additional set of sign supports will be installed if sufficient space is available. DOT reserves the right to place a single directional sign when multiple qualifying businesses or organizations are located in the same building complex or subdivision.
  - d. Each directional sign will contain only the name of the qualifying business or organization, a directional arrow, and optionally the appropriate international symbol (such as lodging, food, marina, camping, library, etc.). Lee County DOT will determine the size of the sign and the font size and type for its lettering, and after consultation with the applicant may shorten the name to ensure legibility to motorists.
  - e. Applications must be made on forms provided by DOT and must be accompanied by the application fee as specified in the External Fees and Charges Manual (Administrative Code 3-10). An additional fee must be paid annually for the anticipated average cost to maintain and mow around each sign.

## **SECTION TWO: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

## **SECTION THREE: SEVERABILITY**

It is the Board of County Commissioner’s intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

**SECTION FOUR: CODIFICATION AND SCRIVENER’S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word “ordinance” can be changed to “section”, “article” or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

**SECTION FIVE: EFFECTIVE DATE**

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_ who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and, being put to a vote, the vote was as follows:

ROBERT P. JANES  
BRIAN BIGELOW  
RAY JUDAH  
TAMMARA HALL  
FRANK MANN

DULY PASSED AND ADOPTED THIS day of \_\_\_\_\_, 2007.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chairman

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Dawn E. Perry-Lehnert  
Office of County Attorney