



SPIKOWSKI PLANNING ASSOCIATES

May 3, 2007

**RE: GREATER PINE ISLAND LAND DEVELOPMENT CODE AMENDMENTS
Public Hearing on May 8th at 5:05 PM**

Dear County Commissioners:

On May 8th you will conduct the first public hearing on proposed LDC amendments to implement the Greater Pine Island Community Plan Update. This update was begun in 1999 and was adopted by Lee County in January 2003 (see attached letter with a capsule history of this planning process).

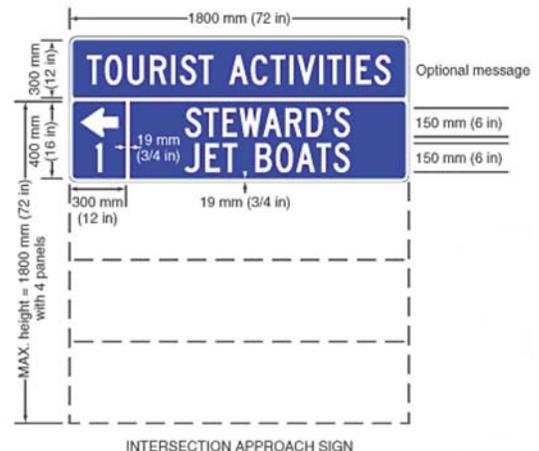
Mary Gibbs has provided you with a summary of the major issues that have not been resolved to date. We offer the following comments and recommendations on each item, using the same numbering system as her memo:

1. Directional Signs (Sec 33-1045)

This section would authorize standardized directional signs along Stringfellow for businesses that are not visible from the right-of-way. This is rarely an issue in most parts of Lee County, but Stringfellow runs down the center of Pine Island while many businesses are along the water (marinas, restaurants) or off the main road (nurseries, groves). At present, some of these businesses rely on illegal or questionable billboards to help their customers locate their establishments. The Greater Pine Island Chamber of Commerce has identified fewer than ten locations along Stringfellow where businesses might qualify for a directional sign under our proposed program.

Lee DOT objects to our program on numerous grounds and has refused to schedule a public hearing for the companion legislation needed to authorize this program. I am attaching a copy for your information; without being aware of the contents of that legislation, you would be unable to evaluate the Pine Island proposal.

The Florida legislature has just approved a similar program that would apply to 34 rural counties, without any opposition from Florida DOT. Several other states already operate such programs. Like our program, these signs would be placed in the right-of-way, under the control of DOT (but completely at the expense of the businesses). I am attaching the Senate staff analysis and the legislation and reproducing here an illustration from that report showing a sign that would qualify under all transportation regulations.



We are fully confident that, despite its opposition, Lee DOT will be able to carry out this program effectively along Stringfellow, if the board so directs. Should the governor sign the new legislation, Lee DOT would have the option of using the state's regulations to carry out this program.

Our proposal has been endorsed by the LPA and the LDC Advisory Committee.

OUR RECOMMENDATION: Adopt Section 33-1045 as shown on page 15.

2. **Billboards (Sec 33-1041)**

Staff objects to eliminating illegal billboards on Pine Island, citing "legal concerns about identifying illegal and nonconforming billboards."

We are aware of the difficulties that the staff will have in evaluating existing billboards to determine whether or not they are legal. Due to poor record-keeping, the results will be imperfect even with everyone's best efforts. But decades have passed since billboards were outlawed on Pine Island. The time is long past for Lee County to make a concerted effort to document legally nonconforming billboards and begin code enforcement efforts against patently illegal billboards. The County Attorney asserts that county staff already has full authority under Section 30-55 to act as requested, but this authority has not been exercised to date and we have no reason to expect anything different in the future, unless Section 33-1041 or similar language is adopted by the board.

OUR RECOMMENDATION: Adopt proposed Section 33-1041 on pages 14–15, which directs staff to address billboard issues on Pine Island over the next 24 months.

3.a **Density in Coastal Rural Areas (Sec 33-1052)**

3.b **Concurrency and Traffic-Based Growth Limitations (Sec. 33-1011)**

Both the Pine Island proposal and the staff alternative attempt to address the same difficult issue: what happens when two sets of growth management tools apply to the same properties?

One Greater Pine Island tool is the sliding-scale density options for Coastal Rural property; the other is the "910 Rule," which triggered density reductions once traffic on Pine Island Road reached 90% of its capacity.

Our original proposal included four density alternatives for Coastal Rural property (see pages 17 and 18). Alternative A would be the strictest, imposing both tools to their maximum effect. Alternatives B, C, and D are increasingly less strict. The Greater Pine Island Civic Association has been supporting Alternative C.

The staff alternative on page 19 would simply eliminate the 910 Rule on all Coastal Rural property. Coastal Rural makes up nearly half of all land on Pine Island! Eliminating the 910

Rule over that much land is preposterous and contrary to all prior efforts of Lee County and Greater Pine Island residents to deal with the simple fact that only 10% of road capacity remains available while a vacant buildable lot already exists for nearly every built lot on Pine Island.

This staff proposal is the single most critical threat to Greater Pine Island and must be rejected if the community plan is to retain any effectiveness at managing future growth.

The Local Planning Agency has recommended a simplified version of Alternative C. We concur with their recommendation.

OUR RECOMMENDATIONS:

- Accept the LPA recommendation on page 16, which is to adopt GPI Alternative C (see page 18), with columns II and IV deleted and the phrases referring to 910 at the top of columns III and V deleted.
- Adopt proposed Section 33-1011(c) as shown on page 12 without the staff alternative.

4. New Process to Review DOs without Rezoning in Coastal Rural (33-1052)

Staff wants all Coastal Rural clustering proposals to go through the Planned Development rezoning process so that the public can provide input on each application and the Board of County Commissioners will retain direct oversight.

Both reasons are laudable; however, we believe that the Coastal Rural rules are clear enough to be implemented without the need for rezoning, and that public input on the clustering concept has already taken place during the formulation of the Greater Pine Island community plan. We believe that eliminating the time-consuming public hearing process would be a strong incentive to landowners to accept the new rules.

Our position is supported by both the LPA and the LDC Advisory Committee.

OUR RECOMMENDATION: Reject the staff alternatives in Section 33-1052(c)(1) on page 20 and Sections 33-1052(c)(1)b–c and (c)(2) on page 22.

5. Long Term Maintenance of Habitat (Sec 33-1054, 33-1052)

The only remaining issue here is whether to require a permanent funding source for long-term management of preserved or restored habitat when it qualifies for density bonuses. The county attorney's office objects to this requirement, deeming it "burdensome" on developers.

All serious restoration and preservation efforts require long-term maintenance. Distressingly, exotic plants will invade nearly every kind of natural habitat in Lee County. With regular monitoring and control, these plants can be eliminated with only minor expense. If left uncontrolled, they often will destroy the entire habitat. The total loss of Little

Pine Island to exotics in only 25 years, and the subsequent expensive restoration, are clear proof of the need for continual exotic control on Greater Pine Island.

No private or public conservation agencies believe that real preservation will occur without continuing control of invasive exotics. An illustration of the importance of long-term management: the state required Mariner Properties to create a Little Pine Island Preservation Trust Fund to ensure that the island would never again be allowed to fall victim to exotic infestation. This interest generated by this fund will be used on to pay for the annual costs of maintenance and monitoring of Little Pine Island's habitats.

We are open to alternative language or even a different concept than we have proposed, but this issue is too important to be simply ignored.

Habitat that is preserved or restored in Coastal Rural will be protected by a conservation easement but will probably be owned by a homeowners' or condominium association. The ability of those associations to fund exotic control through regular assessments is a viable long-term funding source. We are merely seeking to allow other arrangements that could provide similar long-term management for these habitats.

OUR RECOMMENDATION: Reject the county attorney's changes to the language supported by staff in Section 33-1052(c)(1)a.4.vi on page 21, in Section 33-1054(e) on page 27, and in Section 33-1054(f)(2) on page 28.

We look forward to answering any questions on these or other matters on May 8.

Sincerely,

Bill Spikowski
(on behalf of the Greater Pine Island Civic Association)

Attachments:

- Letter with capsule history of this planning process
- Proposed amendment to Ordinance 88-11, "Commercial Use of Rights-of-way"
- Florida Senate staff analysis for SB 882, "Tourist-Oriented Directional Signs"
- SB 882 (not yet signed by the governor)



SPIKOWSKI PLANNING ASSOCIATES

January 31, 2007

RE: ADDITIONAL BACKUP FOR FEBRUARY 9, 2007, AGENDA

TO: LDC Advisory Committee Members

As additional backup for your February 9th agenda, you are being provided with a copy of the original Greater Pine Island Community Plan Update. This document explains the comprehensive plan changes that were proposed for Greater Pine Island in September 2001, most of which were ultimately adopted into the Lee Plan. Many of these changes are being implemented through the land development code amendments you will be reviewing on February 9.

This community planning effort began in late 1999 and has been supported by a community planning grant from the Board of County Commissioners and a technical assistance grant from the Florida Department of Community Affairs. Over the past three years we have been working with county staff and the county attorney's office to refine these land development code amendments. We are excited that the public hearing process has finally begun.

- DCA technical assistance grant: May 29, 2001
- Community plan submission to Lee County: September 30, 2001
- Lee Plan adoption of Greater Pine Island amendments: January 9, 2003
- BOCC code-writing grant: May 27, 2003
- LDC submission: March 12, 2004
- Lee Plan "compromise" amendment to Greater Pine Island provisions: October 12, 2005
- LDC resubmission: June 30, 2006
- LDC resubmission: September 27, 2006
- LDC resubmission: November 28, 2006

Further information about this planning process is available at: www.spikowski.com/pineisland.htm

We look forward to hearing your comments and suggestions on these drafts on February 9th.

Sincerely,

Bill Spikowski, AICP

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

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation and Economic Development Appropriations Committee

BILL: SB 882

INTRODUCER: Senator Fasano

SUBJECT: Tourist-oriented Sign Program

DATE: April 24, 2007 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------------|----------------|-----------|------------------|
| 1. | <u>Eichin</u> | <u>Meyer</u> | <u>TR</u> | Favorable |
| 2. | <u>Herrin</u> | <u>Yeatman</u> | <u>CA</u> | Favorable |
| 3. | <u>Weaver/Kastroll</u> | <u>Noble</u> | <u>TA</u> | Favorable |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill provides for the establishment of a tourist-oriented directional sign program within the Florida Department of Transportation (FDOT or department) to provide traveler guidance to tourist-oriented businesses in rural counties. The bill provides local governments with the option to participate in the program. Authority is given to FDOT to adopt rules in conjunction with the program.

This bill creates s. 479.262, F.S.

II. Present Situation:

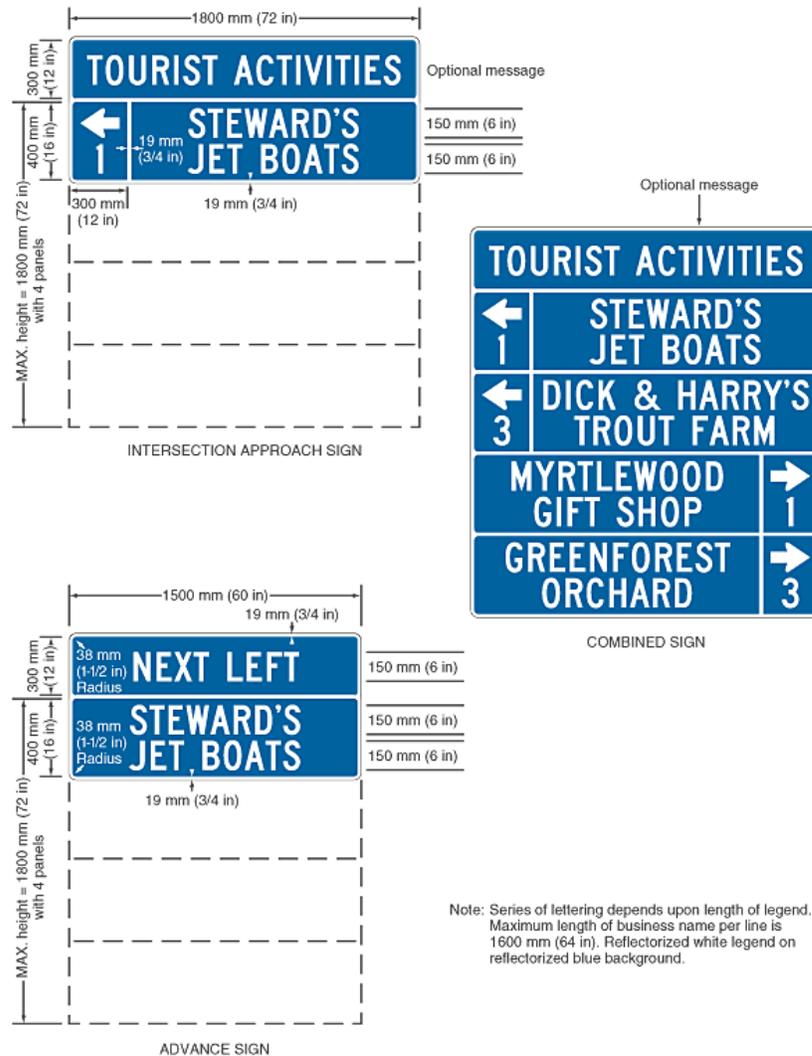
FDOT is responsible for controlling outdoor advertising signs on the national and state highway systems. Counties and municipalities regulate outdoor advertising on roads under their respective jurisdictions. While FDOT regulates the location, size, height, spacing and lighting of signs, the FDOT has no authority to regulate the content of advertising messages on signs. The outdoor advertising regulatory program is based on federal law and regulations, as well as state statute and rule. Federal law is set forth in the Highway Beautification Act. Federal regulations can be found at 23 C.F.R., s. 750. State laws are found in ch. 479, F.S. In addition to the state statutes, FDOT has adopted administrative rules to interpret the intent of the statute for the general public. Chapter 14-10, Florida Administrative Code, provides the department rules which govern outdoor advertising. FDOT cannot issue a permit for an outdoor advertising sign which is not allowed by local ordinances.

Manual on Uniform Traffic Control Devices

To maintain the uniformity necessary for safety, the Federal Highway Administration publishes the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD defines the standards used by road managers nationwide when installing and maintaining traffic control devices on all streets and highways. In addition to regulatory, warning, and guide signs, the MUTCD also provides standards and guidance for specific service signs, recreational and cultural interest area signs, emergency management signing, and tourist-oriented directional signs.

According to the MUTCD, tourist-oriented directional signs are guide signs with one or more panels that display the business identification of and directional information for business, service, and activity facilities. A facility is eligible for tourist-oriented directional signs only if it derives its major portion of income or visitors during the normal business season from road users not residing in the area of the facility. Tourist-oriented directional signs may only be used on rural conventional roads and may not be used in urban areas or at interchanges on freeways or expressways. The signs may display the business identification of and directional information for eligible facilities. Each panel must be rectangular and must have a white legend and border on a blue background. The content of the legend on each panel is limited to the business identification and directional information for not more than one eligible business, service, or activity facility. Promotional advertising is not permitted.

MUTCD Examples of Tourist-oriented Directional Signs



Based on engineering judgment, the hours of operation may be included on the panels. Appropriately sized logos for specific businesses, services, and activities may also be used; however, logos resembling official traffic control devices may not be permitted.

To be eligible for tourist-oriented directional signing, a facility must comply with applicable state and federal laws concerning the provisions of public accommodation without regard to race, religion, color, age, sex, or national origin. States must adopt a policy or rule complying with these provisions and also include:

- A definition of tourist-oriented business, service, and activity facilities.
- Eligibility criteria for signs for facilities.
- Provision for incorporating Specific Service signs into the tourist-oriented directional signs as required.
- Provision for covering signs during off seasons for facilities operated on a seasonal basis.
- Provisions for signs to facilities not located on the crossroad when such facilities are eligible for signs.

- A definition of the immediate area. The major portion of income or visitors to the facility should come from road users not residing in the immediate area of the facility.
- Maximum distances to eligible facilities. The maximum distance should be 5 miles.
- Provision for information centers (plazas) when the number of eligible sign applicants exceeds the maximum permissible number of sign panel installations.
- Provision for limiting the number of signs when there are more applicants than the maximum number of signs permitted.
- Criteria for use at intersections on expressways.
- Provisions for controlling or excluding those businesses which have illegal signs as defined by the Highway Beautification Act of 1965 (23 U.S.C. 131).
- Provisions for states to charge fees to cover the cost of signs through a permit system.
- A definition of the conditions under which the time of operation is shown.
- Provisions for determining if advance signs will be permitted, and the circumstances under which they will be installed.

III. Effect of Proposed Changes:

The bill establishes a tourist-oriented directional sign program to provide directions to businesses, services, and activity centers in rural counties. Signs on the state highway system must comply with the federal standards established in the tourist-oriented directional sign program outlined in the MUTCD.

Eligible counties are defined by s. 288.0656, F.S., which defines a “rural community” as a county with a population of 75,000 or less; or a county with a population of 100,000 or less that is a contiguous to a county with a population of 75,000 or less. Currently there are 34 counties eligible for this program. Counties are responsible for sign construction, maintenance, and operation of the program. The bill authorizes counties and municipalities to establish permit fees to offset the associated costs of the program. The bill does not create a proprietary or compensable interest in any sign site or location. Permits may be terminated or signs relocated, as necessary, for construction, improvement of transportation facilities, or improved traffic control or safety.

FDOT is authorized to adopt rules to establish qualifications, construction standards, sign sites, and other criteria.

The bill takes effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

County participation in the tourist-oriented directional sign program is discretionary.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Counties may establish permit fees sufficient to offset program costs.

B. Private Sector Impact:

Tourist-oriented businesses and facilities electing to participate in the program may be assessed an indeterminate permit fee.

C. Government Sector Impact:

Counties may establish permit fees sufficient to offset program costs.

VI. Technical Deficiencies:

There is a reference to “county or local government” on page 1, lines 23 and 26, of the bill and the term “local government” includes counties.

The bill also refers to a rural county as identified in s. 288.0656, F.S. The term “rural community” is defined in s. 288.0656(2)(b), F.S., rather than “rural county” and the term does include municipalities within counties that meet the population thresholds.

VII. Related Issues:

None.

By Senator Fasano

11-597B-07

See HB 431

1 A bill to be entitled

2 An act relating to tourist-oriented directional

3 sign program; creating s. 479.262, F.S.;

4 providing for the establishment of the program

5 in rural areas; specifying criteria for the

6 program; permitting establishment of fees to

7 offset costs; providing that a directional sign

8 site or location does not create a proprietary

9 or compensable interest; providing termination

10 of directional sign permits and change in

11 location sites; providing for adoption of

12 rules; providing an effective date.

13

14 Be It Enacted by the Legislature of the State of Florida:

15

16 Section 1. Creating section 479.262, Florida Statutes,

17 to read:

18 479.262 Tourist-oriented directional sign program.--

19 (1) A tourist-oriented directional sign program to

20 provide directions to rural tourist-oriented businesses,

21 services, and activities may be established in rural counties

22 identified by criteria and population in s. 288.0656 when

23 approved and permitted by county or local government entities

24 within their respective jurisdictional areas at intersections

25 on rural and conventional state, county, or municipal roads. A

26 county or local government which issues permits for a

27 tourist-oriented directional sign program shall be responsible

28 for sign construction, maintenance, and program operation in

29 compliance with subsection (3) for roads on the state highway

30 system and may establish permit fees sufficient to offset

31 associated costs.

1 (2) This section does not create a proprietary or
2 compensable interest in any tourist-oriented directional sign
3 site or location for any permittee on any rural and
4 conventional state, county, or municipal roads. The department
5 or the permitting entity may terminate permits or change
6 locations of tourist-oriented directional sign sites as
7 determined necessary for construction or improvement of
8 transportation facilities or for improved traffic control or
9 safety.

10 (3) Tourist-oriented directional signs installed on
11 the state highway system shall comply with the requirements of
12 the federal Manual on Uniform Traffic Control Devices and
13 rules established by the department. The department may adopt
14 rules to establish requirements for participant qualification,
15 construction standards, location of sign sites, and other
16 criteria necessary to implement this program.

17 Section 2. This act shall take effect July 1, 2007.

18
19
20
21
22
23
24
25
26
27
28
29
30
31