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# **SPIKOWSKI PLANNING ASSOCIATES**

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## **MEMORANDUM**

**TO:** Greater Pine Island Land Use Plan Implementation Committee  
**FROM:** Bill Spikowski  
**DATE:** June 5, 2003  
**SUBJECT:** MEETING OF JUNE 11, 2003

The next regular meeting of the Greater Pine Island Land Use Plan Implementation Committee will be held on Wednesday, June 11, 2003, at 7:00 PM. This meeting will be held at St. John's Episcopal Church at 7771 Stringfellow near Flamingo Bay.

I am attaching a copy of Lee County Ordinance 03-03 that adopted the Greater Pine Island Community Plan Update. This adopted language contains some changes from the language originally proposed in the plan document, so please refer to this ordinance for the exact language that is now in the Lee County Comprehensive Plan.

Also attached is the draft contract between Lee County and the Greater Pine Island Civic Association that will provide funds to support this project. This contract was approved by the Board of County Commissioners on May 27 and is now being signed by both parties. The only change to this draft is that the completion date of July 2003 is being changed to July 2004 (see page 6 of 7).

As indicated in this contract, there are seven sets of amendments to Lee County's Land Development Code that are required to implement the community plan update. I am attaching an early draft of two sets of those amendments, which would implement Policies 14.3.3 and 14.3.5.

Please review these amendments carefully prior to the June 11 meeting so that we can discuss them at that time.

**ATTACHMENTS:** Lee County Ordinance 03-03  
Contract Approved by Lee County on May 27, 2003  
"Implementing Policy 14.3.3" (3 pages)  
"Implementing Policy 14.3.5" (4 pages)

LEE COUNTY ORDINANCE NO. 03-03  
(Greater Pine Island Community Plan)  
(CPA2001-18)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE “LEE PLAN,” ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-18 (PERTAINING TO THE GREATER PINE ISLAND COMMUNITY PLAN) APPROVED DURING THE COUNTY’S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND FUTURE LAND USE MAP; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF “THE LEE PLAN”; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (“Lee Plan”) Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners (“Board”); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for private individuals to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency (“LPA”) held public hearings pursuant to Florida Statutes and Lee County Administrative Code on March 25, and April 22, 2002; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 5, 2002. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2001-18 pertaining to the Great Pine Island Community Planning Effort to the Florida Department of Community Affairs (“DCA”) for review and comment; and,

WHEREAS, at the September 5, 2002 meeting, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC Report on November 22, 2002; and,

WHEREAS, at a public hearing on January 9, 2003, the Board moved to adopt the proposed amendment to the Lee Plan adopting the Greater Pine Island Community Plan more particularly set forth herein.

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

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "2001/2002 Regular Comprehensive Plan Amendment Cycle CPA2001-18 Greater Pine Island Community Plan Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, as revised by the Board of County Commissioners on January 9, 2003, known as CPA2001-18. CPA2001-18 amends the Plan to incorporate the recommendations of the Greater

Pine Island Community Planning effort including changes to Goal 14 and subsequent Objective and Policies specific to the Greater Pine Island Community, changes to Policy 1.4.7 and amendments to the Future Land Use Map. The specific amendments adopted are:

A. The establishment of a new “Coastal Rural” future land use category as described in new Policy 1.4.7 on Exhibit 1.

B. Reclassify all land on Pine Island now designated as “Rural” to “Coastal Rural” as shown on Map 1. (Exhibit 2 of this ordinance)

C. Amend the Future Land Use Map series to reclassify 157 acres of agricultural land between Bokeelia and September Estates from “Outlying Suburban” to “Coastal Rural” as shown on Map 2. (Exhibit 3 of this ordinance)

D. Replace the existing vision statement for Pine Island in Chapter I of the Lee Plan with the new vision statement as shown on Exhibit 1.

E. Modify Policies 14.1.5, 14.1.7, 14.2.2, 14.2.3, and 14.3.3 as shown on Exhibit 1.

F. Add new Policies 14.1.8, 14.2.4, 14.3.5, 14.4.3, 14.4.4, 14.4.5, and 14.5.4 as shown on Exhibit 1.

The corresponding Staff Reports and Analysis, along with all attachments for this amendment including the Greater Pine Island Community Plan Update dated September 30, 2001 are adopted as “Support Documentation” for the Lee Plan.

### SECTION THREE: LEGAL EFFECT OF THE “LEE PLAN”

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

#### SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

#### SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

#### SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with

Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Janes, who moved its adoption. The motion was seconded by Commissioner St. Cerny, and, when put to a vote, the vote was as follows:

|                   |     |
|-------------------|-----|
| Robert P. Janes   | Aye |
| Douglas St. Cerny | Aye |
| Ray Judah         | Aye |
| Andrew Coy        | Aye |
| John Albion       | Aye |

DONE AND ADOPTED this 9<sup>th</sup> day of January 2003.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Michelle S. Cooper  
Deputy Clerk

BY: Ray Judah  
Chairman

DATE: 1/9/03

Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office



Exhibits:

1. Text amendments to the Lee County Comprehensive Land Use Plan.
2. Map 1 depicting the Coastal Rural Future Land Use Category on Pine Island.
3. Map 2 depicting 157 acres changed from the Outlying Suburban Future Land Use Category to the Coastal Rural Future Land Use Category.

## B. BOARD OF COUNTY COMMISSIONER'S TRANSMITTAL LANGUAGE:

### VISION STATEMENT:

~~Pine Island - This community includes the major islands of Pine Island, Little Pine Island, and Matlacha, the surrounding smaller islands, and the previously mentioned enclaves in the City of Cape Coral. This community has an overall identity of Pine Island; however, there are four sub-community centers within the overall community. The four areas within the Pine Island Community are: Bokeelia at the northern tip, St. James City at the southern tip of the island, and Matlacha which is a small island between the mainland and Pine Island. The Pine Island community is similar to the other island communities in that the residents leave the islands to satisfy many of their commercial needs. However, unlike the other island communities, Pine Island does not have a substantial amount of tourist-oriented commercial. Since the Pine Island community does not contain the gulf front beaches the other island communities have, this is not expected to change during the life of the plan. This community will add a small amount of new commercial by 2020 to meet the daily needs of residents; however, Pine Island community residents will still satisfy most of their commercial needs outside of their community. The population of this community will also grow from 8,400 permanent residents in 1996 to approximately 9,700 residents in 2020 and a total seasonal population of nearly 15,000. Pine Island is also different from the other island communities in that it has a much higher percentage of non-seasonal residents.~~

Pine Island - This community includes Greater Pine Island as described under Goal 14 along with surrounding smaller islands and some unincorporated enclaves near Cape Coral. Its future, as seen by Pine Islanders, will be a matter of maintaining an equilibrium between modest growth on the one hand and a fragile ecology on the other. Pine Island will continue to be a haven between urban sprawl approaching from the mainland and the wealth of the outer islands; a quiet place of family businesses, school children, and retirees enjoying the bounties of nature; a place devoid of high-rises, strip malls, and gated communities. Traffic constraints caused by the narrow road link to the mainland will limit future development, allowing the islands to evacuate from storms and protecting natural lands from unsustainable development. Wildlife and native vegetation will be protected; loss of wildlife habitat will be reversed; sidewalks and bike paths will connect neighborhoods for young and old alike. Architectural standards for commercial buildings will encourage "Old Florida" styles, and historic buildings will be treasured. Pine Island will continue to be a place where people and nature exist in harmony, a place not very different from what it is today, an island as state-of-mind as much as a physical entity, its best features preserved and enhanced. Pine Islanders are historically vigilant about protecting their community and will work to ensure that their plans are carried out.

**POLICY 14.1.5:** New development, including "planned development" rezoning approvals and, new subdivisions, and agriculture, that adjoining state-designated aquatic preserves and associated wetlands and natural tributaries must provide preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands. This requirement will not apply to existing subdivided lots. For agriculture, this requirement:

- will be implemented through the notice-of-clearing process in chapter 14 of the land development code;

- will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands; and
- if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing.

**POLICY 14.1.7:** The county will continue to investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This will include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility. Lee County will design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay if grant funding can be obtained and if property owners are willing to cooperate with the study. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County will assess the feasibility of various corrective measures.

**POLICY 14.1.8:** The county reclassified all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation was to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide land owners with maximum flexibility while accomplishing these public purposes.

**POLICY 14.2.2:** In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800,675 additional dwelling units, the county will ~~consider for adoption~~ keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of these regulations would be to appropriately~~ will reduce certain types of approvals at established thresholds prior to the ~~adopted level of service standard~~ capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

- When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak hour, annual average two-way trips, the regulations will provide restrictions on will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.
- When traffic on Pine Island Road between Burnt Store Road and Stringfellow boulevard reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land

Development Code~~the Development Standards Ordinance~~), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

The 810 and 910 thresholds were based on 80% and 90% of level-of-service "D" capacity calculated using the 1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.

**POLICY 14.2.3:** In addition to the enforcing the restrictions in the Policy 14.2.2, the county will take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures will be evaluated:

- The construction of left-turn lanes at intersections with local roads in Matlacha, or a continuous third lane.
- Improvements to Burnt Store Road and Pine Island Road to the east of Burnt Store that will prevent premature closure of those roads during an evacuation, closures which now limit the number of Greater Pine Island and Cape Coral residents able to evacuate.

**POLICY 14.2.4:** The county will make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland that was completed in 2001.

**POLICY 14.3.3:** The county's zoning regulations with Land Development Code will continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions will not be measured from minimum flood elevations nor will increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.

**POLICY 14.3.5:** The county will amend its land development code to provide specific regulations for neighborhood connectivity and walls and gates on Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These regulations would require interconnections between adjoining neighborhoods wherever feasible and would no longer allow perimeter walls around larger developments.

**POLICY 14.4.3:** The county will expand the commercial design standards in its land development code to provide specific architectural and site design standards for Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These

standards would promote but not mandate rehabilitation over demolition; require smaller rather than larger buildings; avoid standardized franchise buildings; preserve mature trees wherever possible; place most parking to the side and rear; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles. The new commercial design standards will reflect the different characteristics of Bokeelia, Pineland, Matlacha, and St. James City.

POLICY 14.4.4: The county will expand its current sign regulations to include specific standards for Greater Pine Island (if an acceptable proposal is submitted by the Greater Pine Island community. These standards would reduce the size of ground-mounted signs, discourage or disallow internally lit box signs, allow wall signs on buildings near the right-of-way, and allow small directional signs on Stringfellow Road for businesses not visible from the road.

POLICY 14.4.5: The county will establish a prioritized schedule for an effort to rezone land to zoning districts that properly reflect its development potential under the Lee Plan.

POLICY 14.5.4: The county will update its historic sites survey of Greater Pine Island if an update is determined to be needed. The county will consider formal local designation of additional historic buildings, especially in St. James City, Pineland, and Bokeelia, and will identify potential buildings or districts for the National Register of Historic Places.

**Proposed new comprehensive plan policy establishing a new non-urban designation on the County's Future Land Use Map:**

The following proposed policy will be necessary to implement the requirements of Policy 14.1.8 listed above.

POLICY 1.4.7: The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats on the remainder of the property. The standard maximum density is one dwelling unit per ten acres (1DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site in accordance with the chart below. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:

| <u>Percentage of the on site uplands that are preserved or restored native habitats</u> | <u>Maximum density</u> |
|---|------------------------|
| <u>0%</u>   | <u>1 DU/ 10 acres</u>  |
| <u>5%</u>   | <u>1 DU/ 9 acres</u>   |
| <u>10%</u>  | <u>1 DU/ 8 acres</u>   |
| <u>15%</u>  | <u>1 DU/ 7 acres</u>   |
| <u>20%</u>  | <u>1 DU/ 6 acres</u>   |
| <u>30%</u>  | <u>1 DU/ 5 acres</u>   |
| <u>40%</u>  | <u>1 DU/ 4 acres</u>   |
| <u>50%</u>  | <u>1 DU/ 3 acres</u>   |
| <u>60%</u>  | <u>1 DU/ 2 acres</u>   |
| <u>70%</u>  | <u>1/ DU/ 1 acre</u>   |

**MAP 1  
CPA 2001-18**

*Proposed Future Land Use*  
August 29, 2002

**Legend**

**FUTURE URBAN AREAS**

-  Urban Community
-  Suburban
-  Outlying Suburban
-  Public Facilities

**NON-URBAN AREAS**

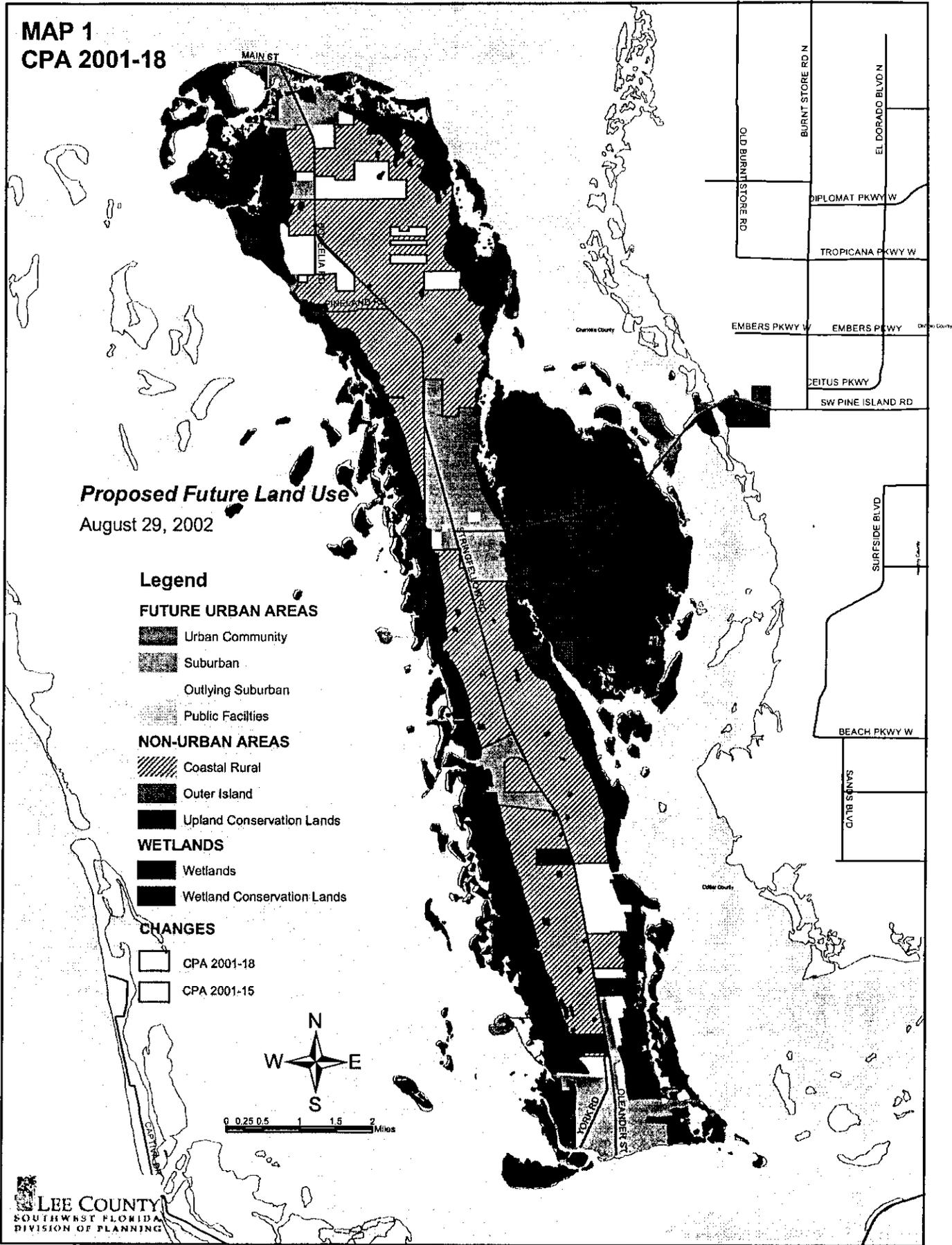
-  Coastal Rural
-  Outer Island
-  Upland Conservation Lands

**WETLANDS**

-  Wetlands
-  Wetland Conservation Lands

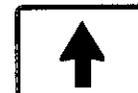
**CHANGES**

-  CPA 2001-18
-  CPA 2001-15

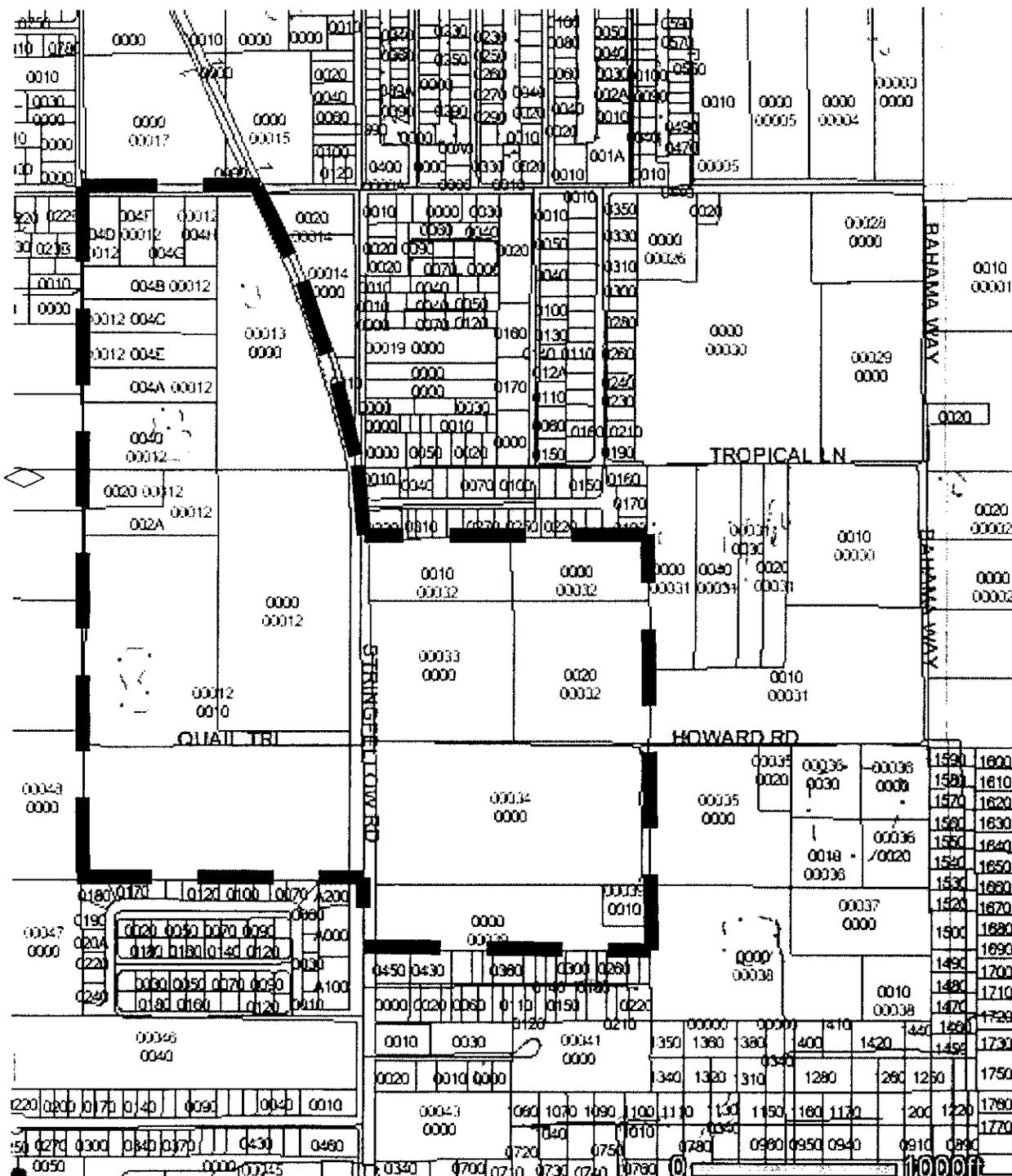


# MAP 2, CPA 2001-18

SHOWING 157 ACRES BEING CHANGED FROM "OUTLYING SUBURBAN"  
TO "COASTAL RURAL" IN S.T.R. 31-43-22 IN BOKEELIA, FLORIDA



**NORTH**



DIVISIONS OF FLORIDA DEPARTMENT OF STATE  
Office of the Secretary  
Division of Administrative Services  
Division of Corporations  
Division of Cultural Affairs  
Division of Elections  
Division of Historical Resources  
Division of Library and Information Services  
Division of Licensing  
MEMBER OF THE FLORIDA CABINET



FLORIDA DEPARTMENT OF STATE  
**Ken Detzner**  
Secretary of State  
DIVISION OF ELECTIONS

HISTORIC PRESERVATION BOARDS  
Historic Florida Keys Preservation Board  
Historic Palm Beach County Preservation Board  
Historic Pensacola Preservation Board  
Historic St. Augustine Preservation Board  
Historic Tallahassee Preservation Board  
Historic Tampa/Hillsborough County  
Preservation Board  
RINGLING MUSEUM OF ART

January 17, 2003

Honorable Charlie Green  
Clerk of Circuit Court  
Lee County  
Post Office Box 2469  
Ft. Myers, Florida 33902-2469

Attention: Ruth Frymier, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated January 15, 2003 and certified copies of Lee County Ordinance Nos. 03-01 through 03-07, which were filed in this office on January 17, 2003.

Sincerely,

Liz Cloud, Chief  
Bureau of Administrative Code

LC/mp

2003 JAN 21 AM 10:53  
RECEIVED  
MAYNARD'S OFFICE

**Lee County Board Of County Commissioners  
Agenda Item Summary**

**Blue Sheet No. 20030501**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Execute a Community Planning Agreement with the Greater Pine Island Civic Association to provide public financial support to develop Land Development Code regulations for Pine Island.

**WHY ACTION IS NECESSARY:** Section 3.1 of Administrative Code 13-3 requires contract approval by the Board of County Commissioners.

**WHAT ACTION ACCOMPLISHES:** Sets forth requirements for the issuance of grant money to the Greater Pine Island Civic Association to help pay for development of Land Development Code regulations specific to the Pine Island Community.

**2. DEPARTMENTAL CATEGORY:**  
COMMISSION DISTRICT # 1

**5:00 #4**

**3. MEETING DATE:**

**05-27-2003**

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE **13-3**
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER**
- B. DEPARTMENT** Community Development
- C. DIVISION** Planning
- BY:** Paul O'Connor, AICP, Director

**7. BACKGROUND:**

The Greater Pine Island community has submitted a request for financial support to the Board of County Commissioners. The applicant is requesting public funding in accordance with Administrative Code (AC) 13-3, Section 3. The applicant proposes to develop regulations for the Greater Pine Island Community that will implement the portions of the Pine Island Community Plan that were adopted into the Lee Plan with the intent that its recommendations will be incorporated into the Land Development Code. This request to the Board for \$20,000 of County funds would pay for approximately 35% of the total estimated project cost.

Obtaining this grant is contingent upon the Greater Pine Island Civic Association complying with the terms and conditions of the contract and the provisions of Administrative Code 13-3. It is understood by all parties that the community planning effort: is subject to the Florida laws on Open Government; must provide an adequate opportunity for public participation; must provide reasonable notice of all meetings pertaining to the planning effort; and, that all meetings of the Community Panel must be open to the public. The Civic Association must also maintain both recorded and written minutes of all its full meetings.

To date, the Pine Island community planning effort has cost about \$52,000 for the Lee Plan amendment that was adopted by the Board in January, 2003. Lee County provided \$5,000 seed money for that effort. The Pine Island Community also received a \$10,000 Department of Community Affairs technical assistance grant and a \$20,000 grant from the Elizabeth Ordway Dunn Foundation. The remaining \$17,000+ was paid for by the Greater Pine Island Civic Association.

Per AC 13-3, Section 2.3, staff finds that the request is sufficient for presentation to the Board of County Commissioners. Planning Division Staff recommends that the Board of County Commissioners enter into this grant contract with Greater Pine Island Civic Association.

**Attachments:**

- Grant Contract
- Map of Greater Pine Island
- Administrative Code 13-3
- Application Materials

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

| A<br>Department<br>Director | B<br>Purchasing<br>or Contracts | C<br>Human<br>Resources | D<br>Other | E<br>County<br>Attorney | F<br>Budget Services |             |             |             | G<br>County Manager |
|-----------------------------|---------------------------------|-------------------------|------------|-------------------------|----------------------|-------------|-------------|-------------|---------------------|
| N/A                         | N/A                             | N/A                     | N/A        | [Signature]             | [Signature]          | [Signature] | [Signature] | [Signature] | [Signature]         |

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

**Rec. by CoAtty**  
Date: **4/30/03**  
Time: **1:15 PM**  
Forwarded To:

**RECEIVED BY**  
ADMIN. **TD**  
**5-1-03**  
10:00  
FORWARDED TO: **BH**  
**5/1/03**

## GREATER PINE ISLAND

### COMMUNITY PLANNING AGREEMENT BETWEEN LEE COUNTY AND GREATER PINE ISLAND CIVIC ASSOCIATION

#### RECITALS

- A. The Board of County Commissioners recognizes that unincorporated Lee County consists of many diverse communities with various visions on how their community should develop.
- B. The residents of Pine Island have expressed a desire to undertake a community planning effort to prepare recommendations for amendments to the Lee County Land Development Code (LDC) applicable to the Pine Island Community that may ultimately be incorporated into the LDC.
- C. The Greater Pine Island Civic Association (GPICA) has approached the County requesting planning funds to be used for expenditures incurred to prepare and submit recommendations for amendments to the LDC.
- D. Lee County Administrative Code 13-3 requires communities who seek planning funds from the County to enter into a contract to govern the disbursement and use of public money on the community planning effort.

NOW, THEREFORE, THE PARTIES HERETO AGREE as follows:

1. Geographic Area. This agreement pertains to the Greater Pine Island community planning effort to prepare recommendations for amendments to the LDC for a geographical area known as Greater Pine Island which includes Pine Island, Little Pine Island and Matlacha as pictured in Exhibit A.
2. Deliverables. The GPICA is responsible for preparing and submitting recommendations for amending the LDC and for providing representation for the Pine Island Community at all public hearings throughout the amendment process. The intent of the parties is that the County may ultimately incorporate the proposed amendments into the LDC. The parties agree that the recommendations will include data and analysis to support proposed amendments and will specify all sources of any additional revenue required to implement said proposals.

3. Eligibility for Public Funds. The parties agree that Lee County will provide the GPICA with up to \$20,000 in planning funds that will be used solely for expenditures incurred by the community in the preparation and submission of proposed amendments to the LDC and as payment for representation at various public hearings throughout the LDC amendment process. Total disbursements from the County will not exceed \$20,000.

4. Applicability of Lee County Administrative Code. The parties agree that the community planning effort will be governed by the regulations set forth in Lee County Administrative Code 13-3 entitled "Administrative Procedures Governing Community Planning Efforts Receiving Financial Support From the BOCC." Lee County Administrative Code 13-3 is attached hereto as Exhibit B.

5. Applicability of Florida's Public Records and Open Meetings Laws.

A. Open Government

1. The parties agree that the community planning effort is subject to Florida laws on Open Government. Accordingly, all meetings of the Pine Island Community and its subcommittees will be open to the public. Moreover, the Pine Island Community will provide an adequate opportunity for public participation in the Pine Island community planning effort. In addition, the GPICA will encourage and allow the participation of residents, property owners, the school district, and other interested parties at all meetings and workshops on the community planning effort.
2. The GPICA will provide reasonable notice of all meetings pertaining to the community planning effort.
3. Notification of meetings and workshops will include the posting of meeting date, time, and location of the meeting/workshop in accordance with Section 5, Lee County Administrative Code 13-3.
4. The parties agree that subcommittees consisting of members of the GPICA and other community members may meet for the purpose of information gathering, information sharing, and the exploration of common concerns. Subcommittee meetings are also required to be publicly noticed. Common concerns explored by the subcommittees must be presented to the full community panel during a properly

noticed public meeting consistent with Section 5 of Lee County Administrative Code 13-3.

5. The GPICA must maintain minutes of its meetings in accordance with Section 5, Lee County Administrative Code 13-3.

B. Public Records

All records created in connection with the community planning effort must be retained by the GPICA for three years following the date of submission of a completed Land Development Code amendment submittal. The records will be considered public records as defined by Chapter 119, Florida Statutes.

7. Record Keeping. The GPICA panel must retain all financial, supporting documentation, and other records necessary to document the community planning effort and expenditures during the term of this agreement. If any litigation, claim, negotiation, audit, or other action involving the records are initiated prior to the expiration of a three-year period, the records must be retained for an additional one year after the final resolution of the action and final resolution of all issues that arise from the action.

8. Assurance, certification, and compliance. The GPICA agrees that:

- A. It will comply with Chapter 760, Florida Statutes, and Lee County Ordinance 00-18 that prohibit discrimination in employment on the basis of race, color, national origin, sex, religion, disability, or marital status.
- B. Products or materials purchased with public funds will be procured in accordance with the provisions of 403.7065, Florida Statutes, which refers to the procurement of products or materials with recycled content.
- C. It will comply with the Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.
- D. It will notify Lee County of any significant change in the organization of the GPICA.

9. Disbursement of Public Funds.

- A. Lee County will disburse up to \$20,000 to the GPICA during the term of this agreement, subject to the provisions pertaining to return of funds and suspension and termination of the agreement. (See paragraph 12.) The GPICA agrees to spend the public funds only on items set forth in the scope of work and schedule of deliverables set forth in the document attached as Exhibit C. The County will disburse money upon the receipt and approval of a completed payment request report. The payment request report must include documentation to support the disbursement. If the GPICA fails to submit a payment request report, disbursements will be delayed until the receipt of a report. The County reserves the right to approve or disapprove payment requests.

Copies of supporting documentation must be attached to the payment request report. The County may require additional supporting documentation before agreeing to disburse money.

- B. Unsupported/unallowable costs. The County has the option to defer payment to the GPICA during the period of a County audit or monitoring due to questionable items. If, as a result of the audit or monitoring, unallowable or unsupported costs are found, no further disbursements will be made until the full amount of overpayment is remitted to Lee County or the County accepts a repayment agreement.

10. Audits, Monitoring, and Records.

- A. Monitoring. The GPICA agrees to permit County employees to inspect records, papers, and documents to be assured of satisfactory performance with the terms and conditions of this agreement. The monitoring is a limited scope of review and does not relieve the GPICA of its obligation to manage the public monies disbursed by the County in accordance with Lee County Administrative Code 13-3 and sound management practices.

Following this monitoring, the County may deliver to the GPICA a written report regarding the status of compliance with the terms and conditions of the agreement. The panel must rectify all noted deficiencies within the specified period of time indicated in the monitoring report or provide the County with a reasonable and acceptable justification for not correcting the noted shortcomings. The GPICA's failure to correct or justify the deficiencies

within the time specified by the County may result in the withholding of future disbursements or termination of the agreement.

- B. Audit and Inspections. The GPICA will make all records and items included on financial statements available for audit or inspection purposes during normal business hours and as often as County deems necessary. The Clerk of Courts internal audit division and Lee County have the right of timely and unrestricted access to books, documents, papers, and other records of the panel that are pertinent to the agreement in order to make audits, examinations, excerpts, transcripts, and copies of those documents.

11. Risk Management. The GPICA will defend, hold harmless, and indemnify the County from and against all liability, loss, claims, damages, costs, attorneys fees, and expenses that the County may sustain, incur, or be required to pay either by reason of the loss of or improper use of money disbursed or to be disbursed hereunder including, but not limited to, fraud, embezzlement, or dishonesty on the part of any person represented or employed by the GPICA, or by reason of the intentional or negligent act of the GPICA or its agents, representatives, or employees.

12. Suspension/Termination. The County reserves the right to suspend the disbursement of money for failure to comply with this agreement. The County may cancel this agreement by giving 24 hours written notice to the GPICA by certified mail following a determination by the Board of County Commissioners that the cancellation is in the best interest of the people of Lee County. Neither party will have further obligations under this agreement as of the date of cancellation unless specified otherwise in the termination notice. The GPICA may cancel this agreement by giving 72 hours prior written notice to the County by certified mail. The County's obligation to make further disbursements under this agreement will cease as of the effective date of termination.

13. Reports

- A. GPICA agrees to prepare a report outlining the progress of the LDC amendment effort and deliver the report to the County with each request for disbursement of funds.
- B. A closeout report is due 60 days after the termination of the agreement or upon final action by the Board of County Commissioners on proposed amendments to the LDC.

C. If the required reports are not sent to the County or not completed in a manner acceptable to the County, the County may withhold further disbursements until the reports are completed.

14. Duration of agreement. Parties agree that the GPICA will deliver proposed LDC amendments for consideration by the Lee County Planning Division no later than July 2003 unless this agreement is terminated beforehand as specified in Paragraph 12.

15. Notice. The parties agree all notices provided under or pursuant to this agreement will be in writing either by hand delivery or first class certified mail, return receipt requested, to the representative identified below and at the address set forth below. The name and address of the County representative: Paul O'Connor, Director, Planning Division, Department of Community Development, 1500 Monroe Street, P. O. Box 398, Fort Myers, Florida 33902-0398. The name and address of the representative of the Greater Pine Island Civic Association responsible for the administration of this agreement is: William Stanley, President of the Greater Pine Island Civic Association, P.O. Box 741, St. James City, FL 33956. In the event different representatives or addresses are designated by either party after the execution of this agreement, notice of the new information will be provided in accordance with this section.

16. Applicable Law. This agreement will be construed under the laws of the State of Florida and the venue for any actions arising out of this agreement will lie in Lee County.

In witness thereof, Lee County and the East Lee County Council have executed this agreement:

Attest: Clerk of Court

Lee County

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

By: \_\_\_\_\_  
Chairman  
Board of County Commissioners

Date: \_\_\_\_\_

Greater Pine Island Civic Association

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

William Stanley,

Title: President

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by  
(date)

William Stanley, President, Greater Pine Island Civic Association, a Florida Not for Profit corporation, on behalf of the corporation. He is personally known to me or has

produced \_\_\_\_\_ as identification.  
(type of identification)

\_\_\_\_\_  
(Signature of person taking acknowledgment)

\_\_\_\_\_  
(Name typed, printed, or stamped)

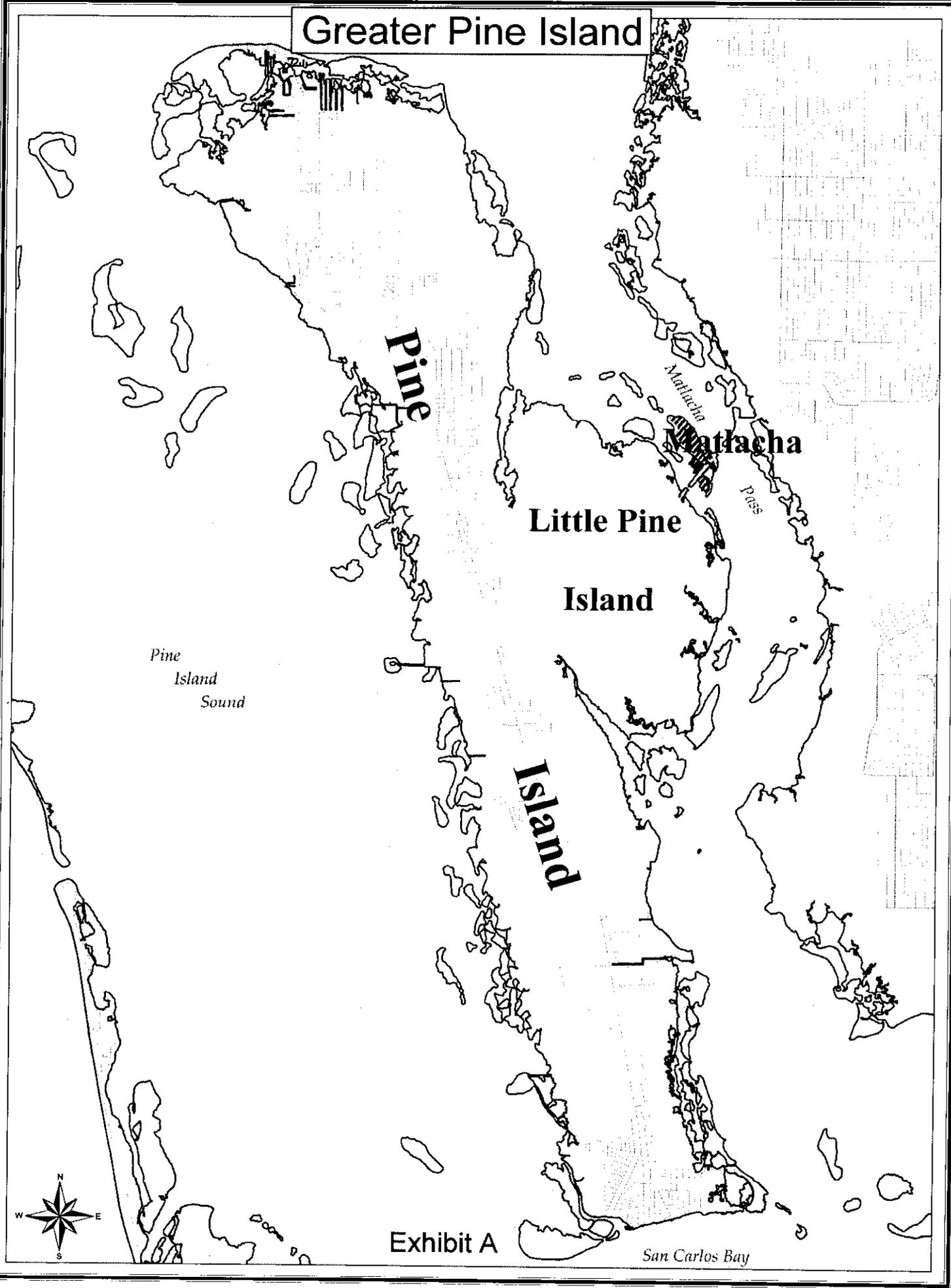
(Title or Rank)

(Serial Number, if any)

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant County Attorney

**Greater Pine Island**



**Little Pine  
Island**

**Matlacha**

*Pine  
Island  
Sound*

**Island**

**Exhibit A**

*San Carlos Bay*

**EXHIBIT B  
ADMINISTRATIVE CODE  
BOARD OF COUNTY COMMISSIONERS**

|  |   |
|--|---|
| <b>CATEGORY:</b> Development/Planning/Zoning   | <b>CODE NUMBER:</b> 13-3  |
| <b>TITLE:</b> Administrative Procedures Governing Community Planning Efforts Receiving Financial Support from the BOCC | <b>ADOPTED:</b> 6/26/01   |
|  | <b>AMENDED:</b>   |
|  | <b>ORIGINATING DEPARTMENT:</b><br>Department of Community Development |

**Purpose/Scope:** To provide procedures and criteria for community planning effort and to establish the minimum acceptable criteria for community plans in order to be eligible for public financial support.

**Policy/Procedure:** The Board of County Commissioners recognizes that unincorporated Lee County consists of many diverse communities with various visions of how their community should develop. The intent of a community plan is to propose goals, objectives, and policies applicable to a specific area of the County that may ultimately be incorporated into the Lee Plan. Upon completion of a community planning effort the information gathered and the common concerns identified will be considered for a formal amendment to the Lee Plan.

The following procedures are established by the Board of County Commissioners to assure public confidence in the grass root planning effort when public funds are provided to encourage the development of community plans by the residents of a community:

**Section 1. Definitions:**

- 1.1. "Community Panel" means the collection of community residents who volunteer to act as the group responsible for coordinating and overseeing the community planning effort. The Community Panel is encouraged to represent a wide variety of the community, including citizens, local business people, landowners, developers, and civic leaders. The Community Panel initiating a community planning effort must be a legal entity, either already existing or established expressly for the purpose of conducting the planning effort. The Community Panel may also be a committee or subset of a legal entity. If the Community Panel receives public funds from the Board of County Commissioners, they will be responsible for the financial accountability of the public funds granted for use in the community planning effort. The Community Panel is not an advisory body to the Board of County Commissioners. Their planning product is a compilation of the common concerns of the community containing suggested amendments to the Lee Plan and/or the Land Development Code to address those concerns.
- 1.2. "Planning Funds" means a grant, not to exceed \$25,000, that will be used for certain expenditures incurred by the Community Panel in the preparation of and the submission of the community plan.
- 1.3. "Seed Money" means an initial grant of public money, authorized by the Board of County Commissioners, to be used to initiate a community plan. Seed money will be disbursed only after the Community Panel has entered into a written grant agreement with the County describing the scope of the community plan and the limitations on the use of the grant.

## **Section 2. Initiation of a Community Planning Effort:**

- 2.1. Residents wishing to serve as a Community Panel that is eligible to receive financial support from the County, must have at least one preliminary meeting with Planning Division staff to discuss the proposed community planning effort.
- 2.2. Following initial discussion with the Planning Division, the Community Panel must develop a written Community Planning Proposal that must contain, at a minimum:
  - a. The proposed name of the Community Panel including a list of the people who will act as the initial Community Panel, and information regarding its organization and composition, including, if applicable, a copy of its current budget and a list of its board of directors. (The membership of the Community Panel may be increased thereafter);
  - b. Copies of completed Form 1 "Statement of Financial Interests" for the previous year and, when applicable: Form 2 "Quarterly Client Disclosure" for the previous four quarters from those people wishing to act as the Community Panel and from any consultants that have been retained by the Community Panel to assist in the community planning effort;
  - c. A preliminary boundary description or a map of the area of the unincorporated County that the plan intends to cover;
  - d. An overview of the main issues that the planning effort intends to address and the expected resources needed to address the issues;
  - e. A preliminary timetable for the planning effort including target dates for project milestones such as completion of a visioning effort, completion of the data and analysis, workshops and public meetings, compilation of a draft study, and study completion date;
  - f. A description of the methods and procedures to be used to foster the maximum amount of public participation in the planning process;
  - g. A good faith estimate of the expected full cost of the planning effort;
  - h. A statement indicating the percentage of the projected costs that will be provided through the County funds; and,
  - i. A tangible demonstration that the planning effort will operated in a financially sound manner.
- 2.3. Planning staff will review and comment on the Community Planning Proposal to determine if it is sufficient for presentation to the Board of County Commissioners. Planning staff may require additional information, clarifications, or revisions to assure that the minimum requirements of this code have been met. Planning Staff will make a recommendation as to whether a Community Planning Proposal is sufficient to proceed before the Board of County Commissioners.

## **Section 3. Obtaining Seed Money and Planning Funding:**

- 3.1 Once a Community Planning Proposal is determined by Planning staff to be sufficient, staff will initiate a blue sheet to bring the proposal, which includes a proposed grant agreement requesting the use of public funds, to a Public Hearing at a regularly scheduled Board of County Commissioner meeting. The grant agreement will set forth the terms and conditions that must be

fulfilled prior to obtaining the Planning Funds and the seed money, if included in the request.

- 3.2. At the Public Hearing the Board of County Commissioners will solicit input from members of the community and the public in general.
- 3.3. Following public comment, the Board of County Commissioners will consider by motion whether to enter into the contract with the Community Panel.

#### **Section 4. Seed Money, Planning Funds and Additional Grant Funding Assistance:**

- 4.1. The Board of County Commissioners may initially authorize a grant of up to \$5,000 ("seed money"), to facilitate a community planning effort. No money will be disbursed by the Board until the required grant agreement is approved. The "seed money" will be disbursed pursuant to the written grant agreement between the County and the Community Panel. All disbursements of "seed money" will be deducted from the maximum amount of funds for which the Community Panel may be eligible.
- 4.2. A subsequent disbursement of public money Planning Funds will be available in accordance with the terms and conditions of the grant agreement. The County grant will be based on the size and scope of the planning effort and the Community Panel's ability to complete the effort. In no event may the total amount of funds disbursed exceed \$25,000.
- 4.3. All grants of public funds must be used solely for the creation of the community plan. Acceptable uses of these public funds will include: payment of professional consulting services; advertising of public meetings/workshops; and copying of draft and final documents. Public funds may not be used for the rental of office space, purchase of supplies such as computers and software, or phone service. Before receiving any funds, the Community Panel must document how the funds will be utilized to the Lee County Department of Community Development, Planning Division.
- 4.4. The County will have unrestricted access to all records of the Community Panel pertaining to the community planning effort. The County may conduct audits of the financial records of the Community Panel. Before disbursing a grant of Planning Funds, the County must independently ensure that the proposed expenditure is in accordance with the regulatory requirements set forth in this Code and may enlist the Clerk of the Courts to perform an audit of the Community Panel. The head of the Community Panel must attest that the entity has complied with the provisions of the grant agreement and this Code.
- 4.5. County Planning Staff will assist the Community Panel in identifying additional funding sources to support the community planning efforts such as state or philanthropic grants.

#### **Section 5. Public Participation:**

- 5.1. The Community Planning effort is subject to the Florida laws on Open Government. Therefore, there must be an adequate opportunity for public participation in the community planning effort, the Community Panel must encourage and allow the participation of residents, property owners, the school district, and other interested parties. In order to effectuate this purpose, reasonable notice of all meetings pertaining to the community planning effort must be provided to the public. All meetings of the Community Panel must be open to the public.
- 5.2. Proper notification of meetings of the full Community Panel will include the posting of the meeting date and time in several public places including, but not limited to local libraries, post offices,

banks, supermarkets, chambers of commerce, civic associations, and community recreation areas. In addition, these public meetings must be noticed in a local paper that is published daily or weekly. All posted and published notices must provide the date, time, and location of the public meeting. In lieu of a display advertisement, the notice could take the form of an article in a similar publication that provides the date, time, and location of the public meeting.

- 5.3. The Community Panel must maintain both recorded and written minutes of all of its full meetings. All records of the Community Panel pertaining to the community planning effort will be deemed public records and open for personal inspection by any person.
- 5.4. The Community Panel may establish sub-committees consisting of members of the Community Panel and/or other community members for the purpose of information gathering, information sharing, and the exploration of common concerns. The sub-committee meetings are required to be publicly noticed and recorded. The common concerns explored by the sub-committees must be presented to the full Community Panel at an informational sharing session during a properly noticed public meeting as outlined in section 5.2 above.

### **Section 6. Minimum Community Plan Requirements.**

- 6.1. The Community Panel's suggested additions or revisions to the Lee Plan must be based on sufficient data and analysis to support the proposed amendments. Original data collection by the Community Panel to support the vision and unique character of a community is encouraged but not required.
- 6.2. Where data augmentation, updates, or special studies or surveys are deemed necessary by the Community Panel, appropriate methodologies must be clearly described or referenced and must meet professionally accepted standards for those methodologies.
- 6.3. The Community Panel's suggested additions or revisions to the Lee Plan must be based on resident and seasonal population estimates and projections. Resident and seasonal population estimates and projections must be those provided by the Planning Division, or can be generated by the Community Panel. If the local Community Panel chooses to base its community plan on its own projections, a detailed description of the rationale for this choice must be included in the Plan.
- 6.4. If a community plan includes suggested new Capital Expenditures or mandates County actions that will require additional or new public expenditure, the community plan must identify the funding source to achieve these expenditures.

### **Section 7. Submittal Requirements:**

- 7.1. A completed Lee Plan Amendment Application form. ( applicable comprehensive plan amendment fees will not be required.)
- 7.2. All text and maps submitted with a community plan must be in a format and size that is easily reproduced.
- 7.3. All maps included in the community plan must include major natural and man-made geographic features, and city and county lines, when applicable, and must contain a legend indicating a north arrow, map scale, and date.
- 7.4. As part of any proposed Comprehensive Plan Amendment, the Community Panel must provide a

written summary on the extent of citizen participation in the planning effort. At a minimum, the citizen participation report must include the following information:

- a. Details of methods the Community Panel used to notify and involve the public. The dates, location, and attendance of all meetings and workshops where citizens were invited to discuss the planning effort;
- b. Copies of all published and posted notices for meetings. A copy of the letters used for mailings, as well as the dates the letters were mailed and numbers of intended recipients. Copies of newspaper articles and newsletters discussing the community planning efforts.
- c. Copies of all Agency Minutes for all meetings and workshops;
- d. Copies of notices, newsletters, or other written materials distributed during the community planning effort;
- e. A tally of the number of people who participated in the process, and if possible, the names of those who attended meetings and workshops;
- f. A summary of the issues and concerns expressed by the participants in the planning effort;
- g. The substance of the issues and concerns;
- h. A description of how the agency has addressed or intends to address the issues and concerns expressed during the planning effort;
- i. A description of the issues and concerns the Community Panel does not intend to address and why;
- j. Copies of correspondence, including e-mail and facsimile transmittals; and
- k. The names and addresses of the members of the Community Panel and all consultants retained to assist the Community Panel, and their additional Form 1 and Form 2 disclosures for the time periods through the date of submittal of the Community Panel's suggested additions or revisions to the Lee Plan.

**Section 8. Community Plan Amendment Review Process:**

- 8.1 Following submittal of suggested amendments to the Lee Plan, Planning Division staff will conduct a complete evaluation and analysis of the proposal.
- 8.2 Lee County will consider comprehensive plan amendments suggested in community plans as part of the regular yearly amendment process. Those amendments will be reviewed, evaluated and considered in the same manner as any other proposed Lee Plan amendment. This review will follow the procedures and public notification required by Florida Statutes section 163.3187 and Lee County Administrative Code 13-6: Annual Plan Amendment Procedure to the Lee Plan.
- 8.3 The Board of County Commissioners reserves the right to adopt, not adopt or modify any and all of the community plan's suggestions.

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# **SPIKOWSKI PLANNING ASSOCIATES**

EXHIBIT C

1617 Hendry Street, Suite 416  
Fort Myers, Florida 33901-2947

telephone: (941) 334-8866  
fax: (941) 334-8878

e-mail: [bill@spikowski.com](mailto:bill@spikowski.com)  
web site: [www.spikowski.com](http://www.spikowski.com)

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April 9, 2003

Jim Mudd, Principal Planner  
Lee County Department of Community Development  
P.O. Box 398  
Fort Myers, Florida 33902-0398

Dear Mr. Mudd:

This letter contains the required information to apply to Lee County for a planning grant to begin implementing the Greater Pine Island Community Plan Update. This information is organized in accordance with Section 2.2 of Administrative Code 13-3.

**2.2.a:** The proposed name of the community panel is the "Greater Pine Island Land Use Plan Implementation Committee." The initial members of this panel are:

- Noel Andress
- Phil Buchanan
- Barbara Dubin
- Bill Mantis
- Elaine McLaughlin
- Anna Stober

This panel will held its first meeting on Wednesday, April 9<sup>th</sup>, at 7:00 P.M. at St. John's Episcopal Church in St. James City. A budget has not yet been adopted, but this letter can serve as the preliminary budget for the panel.

**2.2.b:** Each of these members has already filed their financial disclosure forms with Bernice Feliciano at the Office of the Supervisor of Elections. Enclosed with this letter are the Form 1 and Form 2 financial disclosure forms for myself and for Mohsen Salehi.

- 2.2.c:** The area that is affected by this community plan and its implementing regulations is shown on page 19 of the September 30, 2001 final report. This is the same area that has been affected by the Lee Plan's Greater Pine Island provisions since 1989.
- 2.2.d:** The purpose of this planning grant is to begin implementing the Greater Pine Island Community Plan Update.

The first phase of implementation is to prepare the specific regulations that Lee County needs to adopt into its Land Development Code. These seven tasks are shown in bold type in the attached list of newly adopted Lee Plan policies:

1. POLICY 1.4.7 (& POLICY 14.1.8): New "Coastal Rural" land use category
2. POLICY 14.1.5: New land clearing regulations near aquatic preserves
3. POLICY 14.2.2: New regulations for the 810/910 traffic limits
4. POLICY 14.3.5: Neighborhood connectivity, walls, and gates
5. POLICY 14.3.3: Strengthen building height limits
6. POLICY 14.4.3: Modified commercial design standards for Greater Pine Island
7. POLICY 14.4.4: Modified sign regulations

The second phase of implementation is to begin the following tasks. These three tasks are shown in italics in the attached list:

8. POLICY 14.1.7: Design a program to assess the condition of septic tank drainfields
9. POLICY 14.4.5: Propose a prioritized schedule of land requiring rezoning
10. POLICY 14.5.4: Assess the status of the historic sites survey

The requested grant of \$20,000 will allow the completion of the entire first phase and will allow the second phase to begin. No commitment can be made to complete the second phase at the proposed funding level.

- 2.2.e:** The preliminary timetable for the first implementation phase is as follows:
- The target date for submitting a complete draft of implementing regulations to Lee County is six months after approval of the planning grant
  - The final date for submitting these regulations is nine months after approval.
  - After submission of the draft language, the community panel will assist with potential revisions during the county's normal review processes until the LDC amendments are formally adopted.

All work under this planning grant is anticipated to be completed within eighteen months after approval of the planning grant. As stated above, work on the second implementation phase will be dependent on funds remaining after completion of the first phase.

- 2.2.f:** The community panel is expected to meet at least monthly until the regulations are submitted, and as needed thereafter. These meetings will be public meetings and will be advertised in accordance with Administrative Code 13-3.

The procedures to be followed will be similar to those used in preparing the community plan update: Drafts of individual regulatory concepts and actual language will be

circulated prior to meetings of the community panel to allow time for preliminary review by panel members and others who express an interest, to be followed by detailed discussion at the actual meeting. Redrafts will follow as needed and will be resubmitted to the community panel for review. Continuous input will be sought from county staff and the general public.

**2.2.g:** The amount of work that can be completed in this project is limited by the maximum size of this planning grant (\$20,000). The primary consultant will be William Spikowski, AICP, who has agreed to perform the services outlined herein at the same discounted rate as was charged for the Community Plan Update itself (\$85 per hour plus out-of-pocket expenses). In addition, Mohsen Salehi may perform transportation services. These services will be invoiced to the community panel on a monthly basis. The community panel may decide to obtain additional consulting services from other providers and will pay for such services from the \$20,000 planning grant or from other sources. Unless additional funds are obtained, the community panel cannot commit to completing the second implementation phase as described above.

**2.2.h:** This planning effort to date has cost about \$52,000. The source of these funds has been:

- Lee County seed money grant (2000): \$5,000
- DCA technical assistance grant, administered by Lee County (2001): \$10,000
- Elizabeth Ordway Dunn Foundation, grant administered by the Florida Wildlife Federation (2000-01): \$20,000
- Remainder paid by the Greater Pine Island Civic Association: \$17,000+

The percentage of costs that would be provided from county funds has been just under 10% to date. If the proposed \$20,000 planning grant is awarded by Lee County, the percentage would rise to about 35%.

**2.2.i:** The Greater Pine Island Community Plan Update is a tangible demonstration of the ability of those involved to conceptualize a complex public planning project and bring it to a successful completion, while maintaining high professional standards and involving extensive public input.

If any further information is required, please contact me.

Sincerely,



William M. Spikowski, AICP

## ATTACHMENT

### TASK 1

POLICY 1.4.7: The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats on the remainder of the property. **The standard maximum density is one dwelling unit per ten acres (1DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site in accordance with the chart below. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:**

| Percentage of the on site uplands that are preserved or restored native habitats | Maximum density |
|--|-----------------|
| 0%   | 1 DU/ 10 acres  |
| 5%   | 1 DU/ 9 acres   |
| 10%  | 1 DU/ 8 acres   |
| 15%  | 1 DU/ 7 acres   |
| 20%  | 1 DU/ 6 acres   |
| 30%  | 1 DU/ 5 acres   |
| 40%  | 1 DU/ 4 acres   |
| 50%  | 1 DU/ 3 acres   |
| 60%  | 1 DU/ 2 acres   |
| 70%  | 1/DU/ 1 acre    |

*[NOTE: DETAILED REGULATIONS WILL BE NEEDED TO IMPLEMENT THIS POLICY, INCLUDING MODIFICATIONS TO THE AG-2 ZONING DISTRICT]*

### TASK 2

POLICY 14.1.5: New development, including "planned development" rezoning approvals, new subdivisions, and agriculture, that adjoin state-designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands. This requirement will not apply to existing subdivided lots. For agriculture, this requirement:

- will be implemented through the notice-of-clearing process in chapter 14 of the land development code;
- will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands; and
- if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing.

## ATTACHMENT

### TASK 8

POLICY 14.1.7: *Lee County will design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay if grant funding can be obtained and if property owners are willing to cooperate with the study. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County will assess the feasibility of various corrective measures.*

### TASK 1

POLICY 14.1.8: The county reclassified all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation was to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide land owners with maximum flexibility while accomplishing these public purposes.

### TASK 3

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 additional dwelling units, **the county will keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals.** These regulations will reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

- When traffic on Pine Island Road reaches 810 peak hour, annual average two-way trips, the regulations will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. **These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.**
- When traffic on Pine Island Road reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. **The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.**

The 810 and 910 thresholds were based on 80% and 90% of level-of-service "D" capacity calculated using the 1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update. **These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.**

## ATTACHMENT

POLICY 14.2.3: In addition to the enforcing the restrictions in the Policy 14.2.2, the county will take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures will be evaluated:

- The construction of left-turn lanes at intersections with local roads in Matlacha.
- Improvements to Burnt Store Road and Pine Island Road to the east of Burnt Store that will prevent premature closure of those roads during an evacuation, closures which now limit the number of Greater Pine Island and Cape Coral residents able to evacuate.

POLICY 14.2.4: The county will make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland that was completed in 2001.

### TASK 5

POLICY 14.3.3: The county's Land Development Code will continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. **No deviations from these height restrictions may be granted through the planned development process. These height restrictions will not be measured from minimum flood elevations nor will increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.**

### TASK 4

POLICY 14.3.5: **The county will amend its land development code to provide specific regulations for neighborhood connectivity and walls and gates on Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These regulations would require interconnections between adjoining neighborhoods wherever feasible and would no longer allow perimeter walls around larger developments.**

### TASK 6

POLICY 14.4.3: **The county will expand the commercial design standards in its land development code to provide specific architectural and site design standards for Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These standards would promote but not mandate rehabilitation over demolition; require smaller rather than larger buildings; avoid standardized franchise buildings; preserve mature trees wherever possible; place most parking to the side and rear; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles. The new commercial design standards will reflect the different characteristics of Bokeelia, Pineland, Matlacha, and St. James City.**

## ATTACHMENT

### TASK 7

**POLICY 14.4.4: The county will expand its current sign regulations to include specific standards for Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These standards would reduce the size of ground-mounted signs, discourage or disallow internally lit box signs, allow wall signs on buildings near the right-of-way, and allow small directional signs on Stringfellow Road for businesses not visible from the road.**

### TASK 9

*POLICY 14.4.5: The county will establish a prioritized schedule for an effort to rezone land to zoning districts that properly reflect its development potential under the Lee Plan.*

### TASK 10

*POLICY 14.5.4: The county will update its historic sites survey of Greater Pine Island if an update is determined to be needed. The county will consider formal local designation of additional historic buildings, especially in St. James City, Pineland, and Bokeelia, and will identify potential buildings or districts for the National Register of Historic Places.*

# IMPLEMENTING POLICY 14.3.3

## RECENT CHANGES TO LEE PLAN POLICY 14.3.3:

**POLICY 14.3.3:** The county's Land Development Code zoning regulations will continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions will not be measured from minimum flood elevations nor will increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.

## SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.3.3:

- a. "No deviations from these height restrictions may be granted through the planned development process." – ADD THIS PROVISION TO 34-2175(5)
- b. "These height restrictions will not be measured from minimum flood elevations..." DELETE GREATER PINE ISLAND FROM 34-2171(1)
- c. "...nor will increases in building height be allowed in exchange for increased setbacks." ADD PROVISIONS TO 34-2174 & 34-2175(5) THAT EXEMPT GREATER PINE ISLAND FROM THESE INCREASES IN BUILDING HEIGHT
- d. "Industrial buildings must also comply with these height restrictions." DELETE THE EXEMPTION FOR INDUSTRIAL BUILDINGS FROM 34-2175(5)

## COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.3.3:

### *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. 34-2172. Reserved.**

NOTE: The provisions of sections 34-2173 and 34-2174 do not apply to satellite earth stations and amateur radio antennas (section 34-1175) or wireless communication facilities (section 34-1441, et seq.), except for stealth facilities.

**Sec. 34-2173. Exception to height limitations for certain structural elements.**

(a) The following structural appurtenances may exceed the height limitations stipulated in the applicable districts for authorized uses, without increasing setbacks as required in section 34-2174:

- (1) Purely ornamental structural appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles or monuments.
- (2) Appurtenances necessary to mechanical or structural functions such as chimneys and smokestacks, water tanks, elevator and stairwell enclosures, ventilators, and bulkheads; AM and FM radio and television masts, aerials, and antennas; fire and hose towers, utility transmission and distribution structures, cooling towers, aircraft control towers or navigation aids, forest fire observation towers, and barns, silos, windmills or other farm structures when located on farms.

For satellite earth stations and amateur radio antennas - refer to section 34-1175.

For wireless communication facilities, refer to section 34-1441 et seq.

(b) The permitted exceptions to the height limitations may be authorized only when the following conditions can be satisfied:

- (1) The portion of the building or structure permitted as an exception to a height limitation may not be used for human occupancy or for commercial purposes.
- (2) Structural exceptions to height limitations may only be erected to the minimum height necessary to accomplish the purpose it is intended to serve, and no higher.
- (3) If the roof area of the structural elements permitted to exceed the height limitations

equals 20 percent or more of the total roof area, they will be considered as integral parts of the whole structure, and therefore not eligible to exceed the height limitations.

**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 additional height in exchange for increased setbacks that is permitted by this section 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.** 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.~~ The provisions of section 34-2174(a) do not apply to Greater Pine Island. No deviations from these height restrictions may be granted through the planned development process. Any variances from these height restrictions require all of the findings in section 34-145(3) plus these additional findings:  
a. The variance must be fully consistent with the Lee Plan, including its specific provisions for Greater Pine Island.

b. The relief granted by the variance must be the minimum required to offset the specific exceptional or extraordinary conditions or circumstances that are inherent to the property in question. The only exception is 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).

"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 34-2 of this code.

(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.**

# IMPLEMENTING POLICY 14.3.5

## NEW LEE PLAN POLICY 14.3.5:

**POLICY 14.3.5:** The county will amend its land development code to provide specific regulations for neighborhood connectivity and walls and gates on Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These regulations would require interconnections between adjoining neighborhoods wherever feasible and would no longer allow perimeter walls around larger developments.

## SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.3.5:

- a. “These regulations would require interconnections between adjoining neighborhoods wherever feasible....” ADD NEW PROVISIONS TO 10-294(b), 34-411(d) & (r), AND 34-1748(1)(e).
- b. “These regulations would ... no longer allow perimeter walls around larger developments.” DELETE GREATER PINE ISLAND FROM 34-1743(c)

## COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.3.5:

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

(a) 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.

(b) For all new development on Greater Pine Island, the proposed street layout shall be fully integrated into the street system of the surrounding area.

- (1) Streets in a proposed development shall be connected to existing streets in the adjacent area unless physical barriers such as canals or wetlands preclude such connections.
- (2) Gates or guardhouses may not be used to block the movement of cars; however, traffic calming measures acceptable to the director of transportation may be

employed to slow vehicles and to deter excessive cut-through traffic.

- (3) “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 34-2 of this code.

### 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) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately

accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water.

(1) In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian and cyclist activity and community interaction.

(d) The tract or parcel shall have access to existing or proposed roads:

- (1) In accordance with chapter 10 and as specified in the Lee Plan traffic circulation element or the official trafficways map of the county;
- (2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of service on specific roads have been established in the Lee Plan; and
- (3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.
- (4) Planned developments on Greater Pine Island must also connect to existing streets in the adjacent area, as provided in section 10-294(b). “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 34-2 of this code.

(e) – (q) *[no changes required]*

(r) Planned developments on Greater Pine Island must meet all of the special standards contained in this code and in the Lee Plan for Greater Pine Island. “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 34-2 of this code.

### **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:

- (1) May be a maximum height of eight feet around the perimeter of the project upon a finding by the development services director that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.
- (2) May include architectural features such as columns, cupolas, fountains, parapets, etc., at a height not to exceed twice the fence or wall height provided they are compatible with the project and abutting properties.
- (3) Must be landscaped on the exterior side (between the wall and the abutting property or street right-of-way) with a minimum of five trees per 100 lineal feet and shrub hedges.
  - a. Hedges must be planted and maintained so as to form a 36-inch high continuous visual screen within 1 year after time of planting.
  - b. Trees adjacent to a right of way must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms adjacent to the right of way will add design flexibility and reduce conflicts.
- (4) Must be constructed to ensure that historic water flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.
- (5) May not be permitted until proper documents have been recorded providing for the maintenance of the project fence and landscaping.

(c) Residential project fences or walls are not permitted on Greater Pine Island. “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 34-2 of this code.

**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. It is not located on a publicly dedicated street or street right-of-way; and
  - b.
    1. Appropriate evidence of consent from all property owners who have the right to use the subject road or from a property owner's association with sufficient authority is submitted; and
    2. If it is to be located within a planned development, it must be an approved use in the schedule of uses; and
  - c. The gate or gatehouse is located\*:
    1. A minimum of 100 feet back from the intersecting street right-of-way or easement; or
    2. The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting public or private street while waiting to enter; or
    3. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.

\* Where, in the opinion of the director of development services, traffic volumes on the intersecting street are so low that interference with through traffic will be practically non-existent, the director may waive or modify the locational requirements set forth in (1)c. above. If the intersecting street is county-maintained, then the Director of Lee County Department of Transportation

must concur. The decision to waive or to modify the locational requirements is discretionary and may not be appealed.

- d. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.
  - e. For Greater Pine Island only, an entrance gate or gatehouse cannot control access to more than a single block and cannot interfere with movement of cars between neighborhoods (see section 10-294(b). "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 34-2 of this code.
- (2) Access for emergency vehicles must be provided.
    - a. Any security gate or similar device that is not manned 24 hours per day must 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.
    - b. 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.
  - (3) Extension of fences or walls to an entrance gate or gatehouse. A fence or wall may be extended into the required setback where it abuts an entrance gate or gatehouse, provided vehicle visibility requirements (see section 34-3131) are met.
  - (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.