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MEMORANDUM

TO: Greater Pine Island Land Use Plan Implementation Committee
FROM: Bill Spikowski
DATE: September 30, 2003
SUBJECT: MEETING OF OCTOBER 8, 2003

The next regular meeting of the Greater Pine Island Land Use Plan Implementation Committee will be held on Wednesday, October 8, 2003, at 7:00 PM. This meeting will be held at St. John's Episcopal Church at 7771 Stringfellow. The church is immediately north of Flamingo Bay and less than three miles south of Pine Island Center.

There are seven sets of amendments to Lee County's Land Development Code that are required to implement the Greater Pine Island community plan update. At the June 11 meeting we reviewed early drafts of two sets of those amendments, which would implement Policy 14.3.3 on building heights and Policy 14.3.5 on neighborhood connectivity. At the August 13 meeting we reviewed two more sets of amendments to implement Policy 14.1.5 regarding wetland buffers and Policy 14.4.4 regarding signs.

On October 8 we will review the fifth and sixth sets of amendments, for the 810/910 traffic rules and the Coastal Rural category (except for the restoration standards, which have not yet been drafted). These amendments are quite complex; the attached drafts are preliminary and are intended to stimulate a discussion about the best ways to implement these policies.

The attached drafts follow the same format as the earlier sets: they begin with the full text of the specific policy being implemented, then a summary of which sections of the land development code need to be amended, followed by the actual code text, with proposed new text underlined and existing text that would be repealed ~~struck through~~.

Please review these drafts prior to the October 8 meeting so that we can discuss them then.

ATTACHMENTS: *Preliminary agenda for October 8 meeting*
Draft minutes from April 9, June 11, and August 13, 2003
"Implementing Policy 14.2.2" (3 pages)
"Implementing Policies 1.4.7 and 14.1.8" (10 pages)

Greater Pine Island Land Use Plan Implementation Committee

Wednesday, October 8, 2003, 7:00 PM
St. John's Episcopal Church, 7771 Stringfellow, St. James City

1. Call to order (Chairperson Barbara Dubin)
2. Review of minutes from previous meetings:
 - a. April 9, 2003
 - b. June 11, 2003
 - c. August 13, 2003
3. Implementation of Policy 14.2.2 — 810/910 Traffic Rules
4. Implementation of Policies 1.4.7 & 14.1.8 — Coastal Rural
5. Remaining steps toward implementation
 - a. Restoration standards for “Coastal Rural” land use category
 - b. Commercial building design standards
6. Set date and time for next meeting (7:00 PM on November 12 or on December 10)
7. Adjournment

Greater Pine Island Land Use Plan Implementation Committee
April 9, 2003 Meeting Minutes

The meeting began at 7:10 p.m. Barbara Dubin introduced Jim Mudd, the Lee County Planner who will be attending all of the meetings. She then introduced Mohsen Salehi, the GPI Plan's Traffic Expert, followed by Bill Spikowski, our Professional Planner. The meeting was then turned over to Bill Spikowski.

Mr. Spikowski stated that now the plan was approved by both the County and the Dept. of Community Affairs, the plan must be implemented by members of the Committee coming up with appropriate language which must be adopted into the Lee County Land Use Codes. He explained the numerous steps through which the new GPICA Land Use Plan had to proceed. The last steps were approval by the DCA and a time period thereafter of 21 days for any legal challenge to be filed. An challenge was filed by Russell Seti, on March 30, 2003, who basically objects to the whole plan including building heights, the 50' buffer and sections against gated communities. Mr. Seti will get an Administrative Hearing, but both the state and the county are supportive of the plan. The Plan will not go into effect until this challenge is settled.

Mr. Spikowski stated that we received grants of \$10,000 from the DCA, \$20,000 from the Elizabeth Ordway Dunn Foundation and \$5,000 in seed money from the Lee County Board of County Commissioners. We are presently seeking \$20,000 from the county in order to implement the 7 following points (included in more detail in the attachment):

Coastal Rural – 1 unit/10 acres or 10 units/10 acres if 70% preserved;
50' buffer from preserves, also create new process for Agriculture.

Traffic Count & rules – can't be vague.

Height limitations – does it include towers or not?

Walled communities

Architectural standards for commercial bldgs.

Sign regulations.

Other programs which should be addressed if money and time permit are unusable and bad zoning; historic site survey with help from the Historic Society and a state grant; and a grant funded septic tank program.

Noel Andress said paving of roads should be prioritized and Elaine McLaughlin brought up opportunities for public parks. However, Bill Spikowski stated these points could be part of the next round of amendments in the land use plan.

Mohsen then gave his traffic report which stated that we have surpassed 810 round trips, peak hour, peak day and are nearing 910. We have reached 872. We could throw out 3 mos from last year and add 3 mos from this year or stick to the yearly report as is. There is no distinction between cars and 18-wheelers. Should trucks be counted differently? Noel brought up the point that the rules should be in the land use codes when we reach 910. These rules must be specific including the application dates of development orders, so we can set a definite cut-off date.

Other questions raised by an islander were how many dump trucks can Matlacha bridge handle; weight within limits?; law enforcement; speed on Stringfellow. Mohsen said State checked bridges on a regular basis. Noel asked about pavement management. Mohsen said paving is done on a prioritized basis.

Bill Spikowski asked if we should stick to DOT tried and true methods? Mohsen said stick with it or otherwise objections from DOT. Bill Spikowski said maybe we should acknowledge flaws but, it is basically okay. Noel suggested we clearly delineate what we used in adopting the 810-910 Rule. Phil Buchanan said we should not tinker with the 810-910 rule or DOT methodology.

Jim Mudd suggested that we might want to add more members to the Committee.

Stuart Winston was interested in how he could divide his 10 coastal rural acres and get 3 units. Noel stated that any subdivision must have 100' frontage on a Class D County Road, can't access through another small residential lot or street. Bill Spikowski said that in a coastal rural area preservation must be guaranteed. One way of doing this was by a conservation easement.

Bill Spikowski then discussed posting the appropriate notices for meetings and posting drafts of subjects of the up-coming meetings at the Pine Island Library, one location in Matlacha and on Bill's web site.

Bill Spikowski then conducted the election of the Chair of the Committee. Barbara Dubin was nominated by Noel Andress, seconded by Phil Buchanan and unanimously elected.

Barbara Dubin took over the meeting and asked for nominations for Vice Chairman. Elaine McLaughlin nominated Noel Andress, seconded by Phil Buchanan and unanimously elected.

The meeting was adjourned at 8:05 p.m.

**GPI Land Use Plan Implementation Committee Meeting Minutes
June 11,2003**

The meeting was called to order by Chairperson Barbara Dubin at 7:05 P.M. at St. John's Episcopal Church in St. James City. The meeting was immediately turned over to Bill Spikowsky, our Principal Planner.

On May 27, 2003, the Lee County Board of County Commissioners unanimously approved a county grant of \$20,000 to be used for implementation of the newly approved GPI Land Use Plan.

A legal challenge by Russell Setti, concerning our newly approved Land Use Plan, has been filed against the FL Dept. of Community Affairs (DCA). Lee County is presently negotiating with Mr. Setti. An Administrative Hearing, which was set for June 10, 11 and 12, has been postponed. The new Administrative Hearing date will be picked by a judge and the hearing will be very legalistic. Setti must prove that he is correct. The DCA must also prove that they were correct in approving the plan. The Plan will not be in effect until the legal challenge is resolved.

As long as you comply with the previous plan, you can get a permit. However, in matters of rezoning the Commissioners can use the fact that there is a new plan. The County refused to renew Village Link's development order. However, Villages of Pine Island was approved before there were time limits put on development orders. At the June 10 BOCC meeting, the Commissioners stated that a Hearing Examiner must take public input. After it is heard by the Hearing Examiner, can it be appealed to BOCC? That decision will be made shortly.

There is now a move not to change Land Development codes so often. They want to change them every 1½ years. However, an exception is being made for our community plan.

Policy 14.3.3 Building Heights. There should be a format for changing policy. Changes should be cross- referenced to make sure rules are understood. They must be clear and concise. Some previous loopholes no longer apply. Do we want communication towers included in height limitations? Our plan presently states that heights pertain to industrial as well as residential development. Recent County tower regulations gave the barrier islands a 25' height limitation for towers. P.I. was not included. We need to work on the issue of communication tower heights. Put PI's tower regulations in Sect. 34-1441 et seq.

Policy 14.3.5 Neighborhood Connectivity (Walled Developments). Must connect roads, but not create a raceway through the neighborhood next door.

The only reason for roads not connecting is where there are physical barriers such as canals or wetlands. There should be special rules in the codes for PI Developments. There should be no high walls or gates between developments or along the road. Kim Trebatowski says there may be a problem in some instances (such as next to or behind commercial development which presently require walls). There should be no gates or walls which interfere with movement of cars between developments/neighborhoods. This issue needs work. A solution could be the number of residences or blocks.

The topics for the next meeting will be Directional Signs and the "Coastal Rural" land use category.

We must come up with the best possible solution for directional signs, or Lee County DOT will throw this section of the plan out. They are not happy to have to mow around the signs and are worried about liability.

Coastal Rural needs a great deal of work. We must consider design standards for roads (county road regulations recently increased width of all roads). Restoration is an issue. People are concerned about the cost. The solutions need to work and be reasonable. We shall get biological and other special help. We need to define what we mean by restoration. The standards should not be punitive or else we will be faced with a Bert Harris suit. We need a standard to work from. What does this plan for restoration mean? Who owns the preserved land? All homeowners within the development with a conservation easement? Who will monitor the conservation easement? Phil Buchanan says the county is not monitoring conservation easements. Bill Spikowski intends to confer with Mr. Anderson, Kevin Erwin and Dick Workman for help. Conservation easements will need constant monitoring.

The new 810-910 rule cuts density to 1/3 rather than the old rule's no new developments at all when traffic reaches 910. People are assuming the worst.

The Bert Harris suit by the mining industry was discussed. Did they ever get permission for the mine in the first place? They can presently mine to a lesser depth than the 90 foot depth that they want. Courts won't probably enforce in the most punitive way. If it is punitively enforced, the laws will probably be changed.

It was decided to hold the next GPI Land Use Implementation Committee meeting at 7:00 P.M. on Wed., August 13, 2003 at St. John's Episcopal Church.

The meeting was adjourned at 8:30 P.M.

The attached material was given all in attendance.

Minutes

Greater Pine Island Land Use Plan Implementation Committee

Saint John's Episcopal Church

August 13, 2003

The meeting was called to order at 7pm by Vice Chair Noel Andress, in the absence of Chair Barbara Dubin. The topic for the evening was Wetland Buffers and Business Signs. The meeting was turned over to Consultant Bill Spikowski.

Mr. Spikowski distributed a packet of information on Wetland Buffers and Business Signs, which also included Docket Sheet 03-1275 Russell M. Setti & Eagles Landing at Pine Island, Inc. vs. Lee County and Department of Community Affairs. Mr. Spikowski stated that he expects the hearing will be in September or October in Fort Myers. All parties will be represented by Lawyers. The issue is: Did Lee County act properly in adopting this plan? Is there a sound basis for the plan? Is it based on data and analysis?

Composite Code Changes to Implement Policy 14.1.5: Agricultural Buffers

Mr. Spikowski walked through the changes and asked, Is this version right for us? Does it make sense to implement it? What does this mean for agriculture? An agricultural buffer is the last opportunity to purify the water by stopping the flow of pesticides and herbicides. If the water management district requires riparian buffers, then this section will not be necessary. Any new or expanded operation will be required to meet the rules of the code. Existing operations will not.

It was suggested that we need a clear definition of associated wetlands and of native tree cover. It was clarified that one cannot get an agricultural exemption unless the land is under a bona fide agricultural operation. There was much discussion about clearing and agricultural exemptions where the agricultural operation covers only a portion of the property.

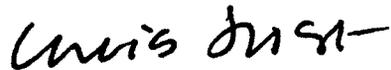
Implementing Policy 14.4.4: Business Signs

Mr. Spikowski explained that there are two types of business signs; one on a business and one on a right of way for the purpose of directing customers to a business. Currently, the latter signs are not allowed. This change would allow small directional signs for businesses that meet certain criteria. There are about ten places on the island where businesses meet the criteria and signs could be placed. A single business could have a sign if located on a single site. One sign would list all the businesses in a shopping center. A maximum size of 48 square feet was taken from the guidelines of the City of Cape Coral. It was agreed that this size needs to be refined.

There was a discussion of the illegal signs and billboards on the island, for which there is no enforcement. If this change is implemented, then enforcement would require the illegal signs to be removed.

The next Land Use Committee Meeting will be held on October 8th at 7pm at St. John's Episcopal Church. The topic will be The Coastal-Rural Land Use Category and the 810/910 Traffic Rules and how they interrelate with the Coastal-Rural category.

Respectfully Submitted,

A handwritten signature in black ink that reads "Chris Trost". The signature is written in a cursive, slightly slanted style.

Chris Trost

IMPLEMENTING POLICY 14.2.2

RECENT CHANGES TO LEE PLAN POLICY 14.2.2:

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 ~~6,800~~ 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 ~~will~~ would be to appropriately 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 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.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.2.2:

- a. “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.” – MODIFY CONCURRENCY REGULATIONS IN 2-48(2) and (4)

- b. "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." – MODIFY CONCURRENCY REGULATIONS IN 2-48(3) and (4)
- c. "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." – MODIFY CONCURRENCY REGULATIONS IN 2-48(5)

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.2.2:

CHAPTER 2
Administration
ARTICLE II, CONCURRENCY
MANAGEMENT SYSTEM

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map and described in section 34-2 of this code, will be determined in accordance with the level of service and restrictions set forth in Lee Plan policies 14.2.1 and 14.2.2 to the extent the policies provide additional restrictions that supplement other provisions of this article. These policies require the following:

- (1) The minimum acceptable level of service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is level of service D on an annual average peak-hour basis and level of service E on a peak-season peak-hour basis using methodologies from the 1985 Highway Capacity Manual Special Report 209. This standard will be measured at the county's permanent count station on Little Pine Island at the western edge of Matlacha.
- (2) When traffic on Pine Island Road at the western edge of Matlacha between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that increase traffic on Pine Island Road may not be granted. Three types of exceptions to this rule may be considered during the rezoning process:

- a. Minor rezonings on infill properties surrounded by development at similar densities or intensities;
- b. Rezonings that would have inconsequential effects on peak traffic flows through Matlacha, or positive effects through trip reductions during the peak flow periods; and
- c. Rezonings to accommodate small enterprises that promote the natural features or cultural heritage of Greater Pine Island.

- (3) When traffic on Pine Island Road at the western edge of Matlacha ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service at the western edge of Matlacha can be included as a condition of the development order. As an alternative to maintaining the adopted level of service, the following options are available to landowners:
 - a. Except in the Lee Plan's Coastal Rural land use category, a reduction in residential density on the property for which a development order is sought to one-third of the maximum density otherwise allowed by the Lee Plan and this code.
 - b. In the Lee Plan's Coastal Rural land use category, a reduction in residential density on the property for which a development order is sought to the levels in the third column of Table 34-655 (see section 34-655 of this code).

- (4) The standards in subsections (2) and (3) will be measured as follows:
- a. Traffic counts will be taken from the county's permanent count station on Little Pine Island at the western edge of Matlacha.
 - b. For purposes of the regulations in this section, the 810-trip and the 910-trip thresholds will be considered to be exceeded once Lee County's Department of Transportation issues its annual Traffic Count Report with data from the preceding calendar year if that data indicates that Annual Average Daily Trips (AADT) multiplied by the percentage for the busiest peak flow (AM or PM) exceeds 810 or 910 respectively. If one or both of these thresholds are exceeded each year, the corresponding restrictions in subsections (2) and (3) will be in effect until the issuance of the next annual Traffic Count Report.
 - c. A property or portion thereof will be allowed an additional six months after issuance of an annual report indicating that the 910-trip threshold has been exceeded to obtain a development order without the restrictions in subsection (3) if a complete application had been filed for the development order prior to issuance of the report.
 - 1. This allowance does not extend to tracts in phased projects that are reserved for future development.
 - 2. Development orders issued under this allowance cannot be extended or renewed unless they are modified to conform with the regulations in effect at the time the extension or renewal is granted.

- (5) The restrictions in subsections (2) and (3) will not be interpreted to affect legitimate ongoing developments whose final phases are already platted in accordance with F.S. ch. 177, provided that no new lots are added and that the number of allowable dwelling units is not increased. These restrictions also will not be interpreted to affect expansions to existing recreational vehicle parks to serve additional transient RVs if such expansions were explicitly approved by Lee County under Ordinance No. 86-36 (see section 34-3272(1)d.).

IMPLEMENTING POLICIES 1.4.7 & 14.1.8

NEW LEE PLAN POLICY 1.4.7:

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

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

NEW LEE PLAN POLICY 14.1.8:

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

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT THESE POLICIES:

- a. Modify 34-2 – CORRECT THE DEFINITION OF GREATER PINE ISLAND IN 34-2
- b. Modify Tables 34-654, 34-695 and 34-715 – PROVIDE NEW FOOTNOTES TO THESE TABLES REGARDING NEW MINIMUM LOT SIZES IN “COASTAL RURAL”
- c. Create 34-655 – CREATE A NEW SECTION TO DEFINE THE EFFECT OF THE “COASTAL RURAL” DESIGNATION ON LAND DEVELOPMENT
- d. Modify 34-3273 – ADD LANGUAGE THAT ALLOWS CONSTRUCTION OF ONE HOME IN “COASTAL RURAL” ON EACH LOT THAT WAS CREATED PRIOR TO THIS PLAN (WITHOUT SPECIAL RULES FOR PRESERVATION OR RESTORATION)

COMPOSITE CODE CHANGES TO IMPLEMENT THESE POLICIES:

CHAPTER 34
Zoning
ARTICLE I, IN GENERAL

Sec. 34-2. Definitions.

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

...

Greater Pine Island means all of Pine Island, Little Pine Island, West Island, Porpoise Point Island and other small adjacent islands, more particularly described as follows: Sections 25, 26, 35 and 36, Township 43 South, Range 21 East; also Sections 28, 29, 30, 31, 32, ~~and 33~~ and 34, Township 43 South, Range 22 East; also Sections 1, 12, 24 and 25, Township 44 South, Range 21 East; also, all of Township 44 South, Range 22 East, less Sections 1, 2, 11, 12, ~~13~~, and 24, and less those portions of Section 13 lying in the City of Cape Coral; and certain portions of Section 24, lying northeast or toward the mainland from Porpoise Point Island; also, those portions of Section 18 of Township 44 South, Range 23 East lying outside the City of Cape Coral; also, all of Township 45 South, Range 22 East, except those portions of Sections 12, 13 and 24, lying on the mainland; also, Sections 1, 2, 3, 4, 5, 9, 10, 11 and 12, Township 46 South, Range 22 East; also Sections 6 and 7, Township 46 South, Range 23 East.

...

[no other changes to section 34-2]

CHAPTER 34
Zoning
ARTICLE VI, DISTRICT REGULATIONS
Division 2, Agricultural Districts

Sec. 34-651. Purpose and intent.

The purpose of the agricultural districts is to provide areas for the establishment or continuation of agricultural operations, with residential uses being permitted only as ancillary to agricultural uses, and to accommodate those individuals who understand and desire to live in an agricultural environment.

Sec. 34-652. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in the AG districts for any purpose other than as provided in section 34-653, pertaining to use regulations for agricultural districts, and section 34-654, pertaining to property development regulations for agricultural districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

Sec. 34-653. Use regulations table.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS
FOR AGRICULTURAL DISTRICTS
[no changes required]

Sec. 34-654. Property development regulations table.

Property development regulations for agricultural districts are as follows:

TABLE 34-654. PROPERTY DEVELOPMENT REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Minimum lot dimensions and area:	Note (1)			
Minimum lot area:	Notes (2) and (6)			
Interior lot	34-2221, 34-2222	4.7 acres	39,500 sq. ft.	20,000 sq. ft.
Corner lot	34-2221, 34-2222	4.4 acres	33,600 sq. ft.	20,000 sq. ft.
Minimum lot width (feet)		300	100	100
Minimum lot depth (feet)		300	130	130
Minimum setbacks:				
Street (feet)	Notes (3) and (4), 34-2191 et seq., 34-1261 et seq.	Variable according to the functional classification of the street or road (see section 34-2192), but in no case less than 50 feet in the AG-1 district.		
Side yard (feet)		25	15	15
Rear yard (feet)	34-2191 et seq.	25	25	25
Water body (feet):	34-2191 et seq.			
Gulf of Mexico		50	50	50
Other		25	25	25
Special regulations:				
Animals, reptiles, marine life	34-1291 et seq.			
Consumption on premises	34-1261 et seq.			
Docks, seawalls, etc.	34-1863 et seq.			
Essential services	34-1611 et seq.			
Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142			
Fences, walls, gatehouses, etc.	34-1741 et seq.			
Nonroofed accessory structures	34-2194(c)			
Railroad right-of-way	34-2195			
		Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
Maximum height (feet)	34-2171 et seq.	35	35	35
	Note: Bonita Beach, Captiva, Estero and San Carlos Islands, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).			
Maximum lot coverage (percent of total lot area)		25%	25% (5)	25%

Notes:

- (1) Certain projects in agricultural districts may fall within the density reduction/groundwater resource areas of the Lee Plan. In such areas, additional density and use restrictions are applicable. Permitted land uses in density reduction/groundwater resource areas include agriculture, mineral or limerock extraction, conservation uses, and residential uses at a maximum density of one dwelling unit per ten acres. Individual residential parcels may contain up to two acres of wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetlands.
- (2) Any lot created in the Rural Community Preserve land use category (as delineated by policy 17.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way.
- (3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.
- (4) Special street setback provisions apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b)(3) and (4).
- (5) For nonconforming lots, as defined in section 34-3271, the maximum lot coverage will be 40 percent.
- (6) All lots in the Coastal Rural land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after January 9, 2003, must comply with the additional regulations in section 34-655. Lots created before January 9, 2003, do not need to comply with the additional regulations in section 34-655 (see section 34-3273(a)(3)).

Sec. 34-655. Greater Pine Island.

(a) **Purpose and intent.** In 2003 Lee County reclassified most rural lands in Greater Pine Island to a new Coastal Rural designation on the Future Land Use Map. This designation provides landowners with flexibility while accomplishing the following public purposes:

- (1) To provide a clearer separation between rural and urban uses on Greater Pine Island;
- (2) To discourage the unnecessary destruction of native upland habitats; and
- (3) To avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland.

(b) **Conversion from rural land uses.** The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats on the remainder of the property. The standard maximum density established by the Lee Plan is one dwelling unit per ten acres (1 DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site in accordance with Table 34-655.

(c) **Interpreting Table 34-655.** For purposes of interpreting Table 34-655, the following shall apply:

- (1) Table 34-655 contains two columns of adjusted maximum densities:
 - a. The first density column, titled “If < 910 trips in Matlacha,” indicates the adjusted maximum densities that correspond to various levels of uplands preservation or restoration for the time period *before* the restrictions in section 2-4(3) of this code take effect.
 - b. The second density column, titled “If > 910 trips in Matlacha,” indicates the adjusted maximum densities that correspond to various levels of uplands preservation or restoration for the time period *after* the restrictions in section 2-4(3) of this code have taken effect. *[NOTE: four alternatives are shown in this draft for this second density column]*
- (2) The left column in Table 34-655 describes the percentage of on-site uplands that must be permanently preserved or restored as native habitats *[POSSIBLE ALTERNATE: “permanently preserved as native habitats or reforested”]* in order to increase the standard maximum density on the entire property.

TABLE 34-655.
ADJUSTED MAXIMUM DENSITY

<u>Percentage of the on-site uplands that are preserved or restored native habitats</u>	<u>Adjusted Maximum Density</u>				
	<u>If < 910 trips in Matlacha:</u>	<u>If > 910 trips in Matlacha:</u>			
		<u>Alternative A:</u>	<u>Alternative B:</u>	<u>Alternative C:</u>	<u>Alternative D:</u>
<u>0% to 4.99%</u>	<u>1 DU/10 acres</u>	<u>1 DU/ 30 acres</u>	<u>1 DU/ 24 acres</u>	<u>1 DU/ 17 acres</u>	<u>1 DU/10 acres</u>
<u>5% to 9.99%</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 27 acres</u>	<u>1 DU/ 21 acres</u>	<u>1 DU/ 15 acres</u>	<u>1 DU/ 9 acres</u>
<u>10% to 14.99%</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 24 acres</u>	<u>1 DU/ 18 acres</u>	<u>1 DU/ 13 acres</u>	<u>1 DU/ 8 acres</u>
<u>15% to 19.99%</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 21 acres</u>	<u>1 DU/ 16 acres</u>	<u>1 DU/ 12 acres</u>	<u>1 DU/ 7 acres</u>
<u>20% to 29.99%</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 18 acres</u>	<u>1 DU/ 14 acres</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/ 6 acres</u>
<u>30% to 39.99%</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 15 acres</u>	<u>1 DU/ 11 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 5 acres</u>
<u>40% to 49.99%</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 12 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 4 acres</u>
<u>50% to 59.99%</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 3.5 acres</u>
<u>60% to 69.99%</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 3.0 acres</u>
<u>70% or more</u>	<u>1 DU/ 1 acre</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 2.8 acres</u>	<u>1 DU/ 2.7 acres</u>	<u>1 DU/ 2.5 acres</u>

- a. Land uses are restricted in permanently preserved native habitat in accordance with subsection (d) below, and in restored native [reforested?] habitat in accordance with subsection (e) below.
 - b. Roads and surface water management systems, including retention/detention lakes, berms, and ditches, may be not be placed in the preserved or restored portion of the on-site uplands except as provided by subsection (e) below.
 - c. All percentages in the left column in Table 34-655 are based on the acreage of uplands that are designated “Coastal Rural.”
 - 1. Wetlands, as defined in section 14-292, are not counted either in the base acreage or in the preserved or restored acreage.
 - 2. Additional dwelling units that the Lee Plan allows for on-site wetlands may be added to the number of dwelling units allowed for uplands by Table 34-655, provided that the conservation easement described in subsection (d) includes those wetlands.
 - (3) Two or more contiguous or noncontiguous “Coastal Rural” parcels may be combined into a single development application for purposes of computing the actual maximum density allowed on those properties.
 - (4) The determination of actual maximum densities may be confirmed during the development order process in ch. 10 provided that the proposed development complies with all regulations in this code.
 - (5) A proposed development that would deviate from this code, except for administrative deviations in accordance with section 10-104, must seek approval through the “planned development” rezoning process prior to obtaining a development order pursuant to ch. 10.
 - a. Deviations and variances can never be granted to the percentages or densities outlined in Table 34-655.
 - b. Example of deviations that can be considered during the “planned development” process include:
 - 1. lot sizes below the minimums in the property’s current zoning district;
 - 2. alternative methods of committing to preservation or restoration of native habitat;
 - 3. infrastructure more suited to country living, such as narrower roads, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.
- (d) ***Permanently preserved native habitat.*** For the purposes of this section, “permanently preserved native habitat” means uplands that the property owner commits to preserving as native habitats that will remain permanently as open spaces, in exchange for increasing the standard maximum residential density, with all residential units placed on the remainder of the property.
- (1) The commitment to preservation may take the form of a perpetual conservation easement pursuant to F.S. § 704.06 granted to a governmental body or agency or to a charitable corporation or trust whose purposes include protecting natural, scenic, or open spaces values of real property, provided that the entity being granted the easement consents to enforce the easement’s obligations in perpetuity. The commitment to preservation may take a different form if it provides equivalent protection and is approved by Lee County through a deviation in a planned development rezoning.
 - (2) The underlying ownership of these native habitats may be retained by the original landowner or may be transferred to a third party such as a homeowners’ association.
 - a. No portion of the native habitats that are counted as preserved for the purposes of Table 34-655 may overlap individual lots or parcels on which development is permitted.
 - b. Portions of these native habitats may be used as buffers, nature trails, and wooded portions of golf courses provided these areas have a minimum dimension of 25 feet and that uses of this land is limited to....

(3) The commitment to preservation must also include:

a. The following highly invasive exotic plants must be removed from the area being preserved or restored. Methods to remove and control invasive exotic plants must be included on the development order plans. For purposes of this subsection, invasive exotic plants to be removed include:

1. Melaleuca, *Melaleuca quinquenervia*
2. Brazilian pepper, *Schinus terebinthifolius*
3. Australian pine (*Casuarina* spp.)

b. The area being preserved as open space must be maintained by the property owner against the reestablishment of invasive exotic plants in perpetuity and must be kept free of refuse, debris, and pests. This commitment can become a requirement of a homeowners' association. *Evidence of bonds, trust funds, or other committed funding source for ongoing maintenance, including maintenance against the reentry of invasive exotic plants, must be presented to....*

(e) **Restored native habitat.** For the purposes of this section, "restored native [reforested?] habitat" means uplands that the property owner commits to permanently preserving as open space in exchange for increasing the standard maximum residential density, with all residential units placed on the remainder of the property. This commitment must include all of the requirements of section 34-655(d), plus one of the following forest regeneration options:

- (1) **OPTION 1: Active reforestation** by planting native pine seedlings that are adapted to Pine Island conditions (using conventional or modified silvicultural techniques) – [DETAILS TO BE PROVIDED HERE]
- (2) **OPTION 2: Natural regeneration** using native seedbank (similar to ongoing Little Pine Island wetland restoration/mitigation bank) – [DETAILS TO BE PROVIDED HERE]
- (3) **OR [suggested by Edd Dean]: Retain existing palm or tropical fruit groves and**

allow gradual conversion to native trees and shrubs – NEED TO DEVELOP DETAILS]

(4) **OR [not allowed by current plan, but also suggested by Edd Dean]: Retain existing palm or tropical fruit groves as operating farms. This might include:**

- a. Agricultural easements placed on portion of property to remain forested
- b. Retention of all stormwater runoff
- c. [NEED TO DEVELOP DETAILS]

(f) **Development standards.** If a landowner chooses to increase the density of "Coastal Rural" land as provided by this section, the following standards shall govern the portion of the property that may be developed.

(1) **General standards:** Except as otherwise provided in this section or as modified through the "planned development" rezoning process, all requirements of this code, including permitted land uses and property development regulations for the property's zoning district, shall remain in effect.

(2) **Locational standards:** The following approach shall be used to determine the best locations for area on the site to be preserved and to be developed:

a. Begin by identifying potential areas to remain as open space: healthy, diverse, or unusual vegetation (such as mature pine trees, oak hammocks, or dense saw palmetto); listed species habitat; historic/archaeological sites; unusual landforms; wet or transitional areas; etc.

b. Next, identify potential areas for homesites: locations near existing developed areas or adjoining existing streets (or logical street extensions); areas with fewer natural resource values; areas that can be served with minimal extensions of infrastructure; areas that would provide views of preserved open spaces; etc.

(3) [ADD FURTHER DETAILS HERE]

Secs. 34-6565--34-670. Reserved.

CHAPTER 34
Zoning
ARTICLE VI, DISTRICT REGULATIONS
Division 3, Residential Districts

Sec. 34-695. Property development regulations table.

Property development regulations for one- and two-family residential districts are as follows:

**TABLE 34-695. PROPERTY DEVELOPMENT REGULATIONS
FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS**

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	
Minimum lot area and dimensions:	34-2221, 34-2222, 34-2142					[all other districts remain unchanged]
Single-family detached:	<u>Note 5</u>					
Lot area (square feet)		4,000	43,560	6,500	7,500	
Lot width (feet)		40	100	65	75	
Lot depth (feet)		75	200	75	100	
Duplex: <i>[no changes required]</i>						
Two-family attached: <i>[no changes required]</i>						
Minimum setbacks: <i>[no changes required]</i>						
Special regulations: <i>[no changes required]</i>						
Maximum height (feet) <i>[no changes required]</i>						
Maximum lot coverage (percent of total lot area) <i>[no changes required]</i>						

Notes:

- (1) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted by variance only. See section 34-2191 et seq.
- (2) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b).
- (3) Accessory buildings and uses can be located closer to the front of the property than the main building, but must comply with all other setback requirements for accessory building uses.
- (4) No side yard setback required from common side lot line for two-family attached.
- (5) All lots in the Coastal Rural land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after January 9, 2003, must comply with the additional regulations in section 34-655. Lots created before January 9, 2003, do not need to comply with the additional regulations in section 34-655 (see section 34-3273(a)(3)).

Sec. 34-715. Property development regulations table.

Property development regulations for multiple-family residential districts are as follows:

TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10
Minimum lot area and dimensions:	34-1493, 34-1494, 34-2221, 34-2222, 34-2142					
Single-family detached: <i>[no other changes required]</i>	<u>Note 7</u>	<i>[no changes required]</i>				
Duplex, two-family, townhouse: <i>[no other changes required]</i>	<u>Note 7</u> 34-713	<i>[no changes required]</i>				
Multiple-family: <i>[no other changes required]</i>	<u>Note 7</u>	<i>[no changes required]</i>				
Nonresidential uses: <i>[no changes required]</i>		<i>[no changes required]</i>				
Minimum setbacks: <i>[no changes required]</i>						
Special regulations: <i>[no changes required]</i>						
Maximum height (feet) <i>[no changes required]</i>						
Maximum lot coverage (percent of total lot area) <i>[no changes required]</i>						

Notes:

- (1) Minimum lot size is 6,500 square feet. However, the maximum permitted density shall not exceed the density permitted for the land use category in which the property is located.
- (2) Minimum lot size is 7,500 square feet. However, the maximum permitted density shall not exceed the density permitted for the land use category in which the property is located.
- (3) 14,000 square feet for the first two dwelling units plus 6,500 square feet for each additional dwelling unit in the same building.
- (4) Modifications to required setbacks for arterial or collector streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.
- (5) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b).
- (6) No side setback is required from common lot line for two-family attached or townhouse.
- (7) All lots in the Coastal Rural land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after January 9, 2003, must comply with the additional regulations in section 34-655. Lots created before January 9, 2003, do not need to comply with the additional regulations in section 34-655 (see section 34-3273(a)(3)).

CHAPTER 34
Zoning
ARTICLE VIII, NONCONFORMITIES
Division 4, Nonconforming Lots

Sec. 34-3271. Nonconforming lot defined.

For purposes of this division, the term “nonconforming or substandard lot” means a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

Sec. 34-3272. Lot of record defined; general development standards.

For the purposes of this division only, a lot of record is a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

- (1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:
- a. The date that a deed for the lot is lawfully recorded in the public records of the county;
 - b. The date that a subdivision plat has been lawfully recorded in the public records of the county, if the lot is a part of the subdivision;
 - c. The date that a site plan for a development was approved by the Board of County Commissioners pursuant to resolution, as long as the development subsequently recorded a subdivision plat that has been approved by the Board of County Commissioners in the public records of the county, if the lot is a part of the subdivision; or
 - d. In the case of mobile home or recreational vehicle parks... *[no changes required]*

- (2) The remaining lot after condemnation shall be deemed a lot of record in accordance with section 34-3206.
- (3) Lots of record may be developed subject to the following provisions:
 - a. All other regulations of this chapter must be met.
 - b. No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that abutting lots of record may be combined and redivided to create larger dimension lots as long as such recombination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.
 - c. For mobile home or recreational vehicle lots of record, the following will also apply: *[no changes required]*
- (4) The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner.

Sec. 34-3273. Construction of single-family residence.

- (a) A single-family residence may be constructed on a nonconforming lot of record that:
- (1) Does not comply with the density requirements of the Lee Plan, provided the owner receives a favorable single-family residence determination (also known as “minimum use determination”) in accordance with the Lee Plan. Such nonconforming lots are exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements.
 - (2) Does comply with the density requirements of the Lee Plan, as long as the lot:
 - a. Was lawfully created prior to June 1962 and the following conditions are met:
 - 1. Lots existing in the AG-2 or AG-3 zoning district require a minimum width of 75 feet, a minimum depth of 100 feet and a lot area not less than 7,500 square feet.

2. Lots existing in any other zoning district which permits the construction of a single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.
 - b. Is part of a plat approved by the Board of County Commissioners and lawfully recorded in the public records of the county after June 1962.
- (3) In Greater Pine Island only, in addition to the options in subsections (a)(1) and (2), one single-family residence may be constructed on a nonconforming lot of record in the Lee Plan's "Coastal Rural" land use category (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan), provided that:
- a. The lot was created before January 9, 2003; and
 - b. The lot would have qualified for a single-family residence determination (minimum use determination) in accordance with the Lee Plan prior to that date.

Sec. 34-3275. Commercial or industrial use.
[no changes required]

(b) The use of a nonconforming lot of record for a residential use other than a single-family dwelling unit is prohibited except in compliance with the lot width, lot depth, lot area, and density requirements for the zoning district.

(c) Neither a guest house nor servants' quarters is permitted on a single lot of record less than 7,500 square feet in area, or which is occupied by a dwelling unit or units other than one single-family residence.

(d) Minimum setbacks for structures permitted under subsections (1) or (2) above, are as follows:

- (1) Street setbacks must be in accordance with section 34-2192.
- (2) Side setbacks must be ten percent of lot width, or five feet, whichever is greater.
- (3) Rear setbacks must be one-fourth of the lot depth but do not need to be greater than 20 feet.

Sec. 34-3274. Placement of mobile home or recreational vehicle on lot. *[no changes required]*