
SPIKOWSKI PLANNING ASSOCIATES

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

telephone: (239) 334-8866
fax: (239) 334-8878

e-mail: bill@spikowski.com
web site: www.spikowski.com

MEMORANDUM

TO: Greater Pine Island Land Use Plan Implementation Committee
FROM: Bill Spikowski
DATE: February 26, 2004
SUBJECT: MEETING OF MARCH 4, 2004

The next regular meeting of the Greater Pine Island Land Use Plan Implementation Committee will be held on Thursday, March 4, 2004, 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.

A preliminary agenda for this meeting is attached. The main topic for this meeting is a final review of proposed implementing language for three of the seven policies in the Greater Pine Island Community Plan Update. (Final language for the remaining four policies was tentatively approved at the January 14 meeting.)

Each attached draft follows the same format: it begins with the full text of the specific policy being implemented, then summarizes which sections of the land development code need to be amended, concluding with the actual text of the proposed code, with suggested new text underlined and existing text that would be repealed ~~struck through~~.

Also attached is a summary of changes to the proposed implementing language for these three policies since the committee's prior review.

ATTACHMENTS: *Changes to code since previous review by committee*
Preliminary agenda for March 4 meeting
Draft minutes from meeting on January 14, 2004
"Implementing Policy 14.3.3" (building height limits, 4 pages)
"Implementing Policy 14.4.3" (design standards for commercial buildings, 6 pages)
"Implementing Policies 1.4.7/14.1.8" (Coastal Rural, 14 pages)

Changes to code since previous review by committee

Implementing Policy 14.3.3 (building height limits)

The committee reviewed a previous draft on January 14; these are the only changes:

1. Page 4 (of 4), subsection (5)a. has been added to define the geographic area that is affected by these height limits.
2. Page 4, subsection (5)c. has been added to address height of structures that don't have a roof.

Implementing Policy 14.4.3 (design standards for commercial buildings)

The committee reviewed a previous draft on December 10; these are the only changes:

3. Page 1 (of 6), existing definitions from section 10-601 are now shown in this document (no changes are being proposed to these definitions).
4. Page 5, new subsection (d) has been added on building size and character.
5. Page 6, subsection (e) has been added on windows.
6. Page 6, other new subsections have been renumbered (but not changed).

Implementing Policies 1.4.7/14.1.8 (Coastal Rural)

The committee reviewed a previous draft on November 12; these are the only changes:

7. Page 7 (of 14), subsection (d)(5)c. now requires the management plan to describe acceptable forestry practices in the preserved habitats, such as prescribed burning, selective thinning, and replanting.
8. Page 8, new subsection (e)(3) contains restoration standards for native midstory and understory plants where pine flatwoods are being restored.
9. Page 8, new subsection (e)(4) contains criteria for measuring the success and completion of restoration of pine flatwoods.
10. Page 9, subsection (g)(3) has been renamed "local street standards" and has been edited slightly.
11. Page 12 is entirely new. Section 34-1495 in the existing code summarizes density restrictions adopted in the 1980s for certain parts of Greater Pine Island; the new language underlined on page 12 adds cross-references to new regulations in other parts of this code that are being adopted to implement the new plan update.

Greater Pine Island Land Use Plan Implementation Committee

Wednesday, March 4, 2004, 7:00 PM
St. John's Episcopal Church, 7771 Stringfellow, St. James City

1. Call to order (Chairperson Barbara Dubin)
2. Approval by committee members of minutes from January 14 meeting (Barbara Dubin)
3. Review of final implementing language for the following policies (Bill Spikowski):
 - a. Policy 14.3.3 (height limits)
 - b. Policy 14.4.3 (design standards for commercial buildings)
 - c. Policy 1.4.7/14.1.8 (Coastal Rural)
4. General comments from the public
5. General comments from committee members (Barbara Dubin, Noel Andress, Bill Mantis, Anna Stober, Elaine McLaughlin, and Phil Buchanan)
6. Set date and time for additional meeting, if needed (7:00 PM on Thursday, May 6)
7. Adjournment

Draft Minutes of January 14, 2004

Greater Pine Island Land Use Implementation Committee Meeting

The meeting was called to order by Chairperson Barbara Dubin at 7:02 P.M. at St. John's Episcopal Church in St. James City. Attendees pledged allegiance to the flag. There were 61 attendees.

A roll call of all committee members was taken. Five members (Andress, Buchanan, Mantis, Stober, Dubin) were present. Elaine McLaughlin was absent (teaching a course at FGCU).

The December minutes were then discussed. Phil Buchanan asked for two changes to be made:

- Page 2, paragraph 5, lines 6 & 7, change "round trip, peak hour, peak day traffic count" to "annual average round trip peak hour traffic count."
- Page 3, line 2, change "state rule for wetlands" to "county rule for wetlands."

Noel Andress asked for the following change:

- Page 2, paragraph 8, lines 2 & 3 change "Class D or better county road" to "county-approved road."

Noel Andress then made a motion to approve the Minutes with these corrections, which was seconded by Phil Buchanan and unanimously approved by the five committee members in attendance.

The meeting was then turned over to Bill Spikowski, who stated that tonight we would be looking at the final drafts of 5 of the 7 policies in the Greater Pine Island plan update. He stated that the final decision on adopting these regulations lies in the county's hands.

POLICY 14.1.5 — BUFFERING

Bill Spikowski stated that the definition of "aquatic preserves" is given on page 2. This rule applies to agriculture and new development orders near aquatic preserves, excluding man-made canals and water more than ½ mile from an aquatic preserve.

Ken Keller asked if only "approved" man-made canals should be included. Bill Spikowski stated that man-made canals are excluded because most lots alongside canals are too shallow to provide the extra buffer. Few records exist to indicate which canals were approved and which were not.

Dan Stevens asked about a canal that had been on his property for 30 years. Bill Spikowski stated that this 50' buffer rule would not apply to man-made canals, only to natural waterways.

Phil Buchanan asked if a grandfather clause was needed. Bill Spikowski stated that this new rule would only apply to new Ag and that an extra sentence could be added if needed to clarify this further.

Honey Seidler asked about mosquito canals. Bill Spikowski said this does not apply to any canals, even for mosquito canals/ditches.

Noel Address brought up understory plantings. Bill Spikowski said that the design criteria are on page 6.

Matt Uhle asked if anything in this draft was inconsistent with state statutes. Bill Spikowski said he didn't think anything was inconsistent, but if a judge or county attorney reads it differently, their decision would control. Phil Buchanan agreed that this language does not interfere with the Right to Farm Act. Noel Address said that if you have 10 acres consisting of 8 acres improved and 2 acres in natives, then you must still get a clearing permit.

Jack Gaddy brought up sheet flow and how the existing ditches along the roads run pollutants directly into canals. Bill Spikowski said that existing problems can be fixed with retrofitting, which is beyond the scope of these regulations; it could be the focus of future land use amendments.

John Brugger asked if this buffering applied to existing lots and development orders already approved through the life of the development order. Bill Spikowski said that this applies only for new development orders, and to existing development orders only if they expire without having been used.

Phil Buchanan asked why an Ag property with a self-contained water management system should provide a 50' buffer. Bill Spikowski said that even self-contained water management systems have overflow points.

Phil Buchanan made a motion to approve the language for Policy 14.1.5 as presented, seconded by Anna Stober. The motion carried 5-0.

POLICY 14.2.2 — TRAFFIC (810-910 RULES)

Bill Spikowski introduced the proposed language, which applies to all of Matlacha as well as Pine Island. On page 2, (2) b. states that when applying the 810/910 rule, traffic flow in the busiest direction is what's important. However, the triggering of the 810/910 rule is based on traffic in both directions.

On Pages 3 & 4, under Sec. 2-50, the annual concurrency inventory must be reviewed and approved by the Board of County Commissioners before the 910 rule goes into effect. On page 3, under (4) c., an applicant has 6 months from the submittal date of a complete application for a development order for resubmittal of supplemental or corrected application documents. Page 2, (2) a. discusses minor rezonings; and page 2, (2) c. encompasses rezonings of small enterprises that promote the natural features or cultural heritage of Greater Pine Island.

Matt Uhle stated that he represents the Glennons and Soaring Eagle. He does not support losing 2/3 of the density upon reaching 910. Bill Spikowski noted that under the old rule there is no further residential development allowed once 910 is reached; under the new rule there is only up to a 2/3 reduction. Phil Buchanan stated that this was not a density reduction.

Noel Address brought up the minimum use determination on page 3, under (4)c.

Bill Spikowski described three types of permitting: a full development order for new subdivisions; a limited-review development order for subdividing up to four lots; and the minimum use determination, which says that if it was legal to build one house on a lot before the land use plan, you can still build one now.

Noel Andress didn't think the Limited Review Development Order was administered by the County in this way. Bill said he understood it differently than Noel. Phil Buchanan said that under a Minimum Use Determination, you pay a fee of \$150 and can pass the approval on to a future lot owner (it doesn't expire).

Dan Stevens does not want to lose 2/3 density. He's tired of a few people telling him what he can do. Bob Glennon asked why 1/3 density was chosen. Bill Spikowski said it was chosen to be less restrictive than no residential development under the old Plan, but still to recognize the limited road capacity to Pine Island.

Bob Glennon asked about the use of the 1965 Traffic Manual. Bill Spikowski explained the policy reasons for that method having been retained.

Dave Lukasek said that no density is being taken. He asked why there is such a window of time between 910 being reached and when it goes into effect? Bill Spikowski said that development orders are complicated and expensive to rush through.

Brian Green said it seems that we are trying to appease Ag owners. How many dwellings on Ag land can be built besides the 6,500 lots already platted on the island? Bill Spikowski said no one had calculated the potential number of units on Ag land, but that road capacity is in big trouble even without counting future units on Ag land.

Jack Brugger said there is inadequate supporting data behind this plan. Phil Buchanan replied that the data supporting this plan is in the document itself.

Phil Buchanan made a motion to approve the language for Policy 14.2.2, which was seconded by Barbara Dubin and approved by a 5-0 committee vote.

POLICY 14.3.5 — WALLS AND GATES

Page 4, e. now clarifies the previous statement that entrance gates or gatehouses can be used to control access to only a single block. This rule would apply to both public and private streets. Streets in a new development must connect to existing streets.

Bob Glennon says he may want to enclose an area of private streets, and asked why this plan supports gridded streets over curving streets. Bill Spikowski replied that nothing here says that new streets must be straight or gridded. New streets can be curved, but they must be connected. Only a single block could be gated, not a whole development.

Bill Mantis said that there is a practical benefit to connectivity, which is that there will be less traffic forced out onto Stringfellow Road.

Honey Seidler asked if this is only for future development. Bill Spikowski said this rule was not retroactive, it would apply only to future development.

Dan Stevens said he doesn't like this rule or the others proposed here and he doesn't see why a few people should tell him what he can and cannot do. Phil Buchanan said that this plan was developed by a multitude of people spending thousands of hours in its development. Anna Stober said that large groups of people from various segments of the population participated in the planning process, and that everyone was invited to participate.

Barb Dubin then made a motion to approve the language for Policy 14.3.5, which was seconded by Bill Mantis and approved by the committee by a 5-0 vote.

POLICY 14.3.3 — HEIGHT RESTRICTIONS

Bill Spikowski said that cell tower restrictions are covered on pages 1 and 2 and basically follows the new county rules for barrier islands: use "stealth" (concealed) techniques for any antenna over 35', rather than building new towers. Stealth antennas can be in church steeples or concealed as flag poles. Another good approach, but not suitable for Pine Island, is to put antennas in or on high buildings instead of on separate towers.

The criteria is covered on page 4 in (5) a. which states that exceptions may only apply where it is necessary to maintain or improve the health, safety, or welfare of the general public.

Noel Andress suggested that page 1, (b) (1) should include industrial zoning along with Ag. Bill Spikowski clarified that (b)(1) applied to broadcast antennas, not cell phone towers.

Bob Glennon asked about ham radio antennas. Bill Spikowski said that ham radio antenna are sometimes 50-75 feet high. Bill also stated that 35' is somewhat low for ham radio antennas.

Mike Dorsey stated that in Australia, cell phone antennas were on top of traffic lights.

John Brugger said flood elevations were raised from 8 feet to 9 feet. With a 38-foot height limitation on Pine Island it would be difficult for him to build a multi-story house with a pitched roof. He would have to use flat roofs. He wants to change the rule to 38' above flood elevation.

Bill Spikowski said that the county is the agency that adopts the federal flood regulations. As far as he knows the regulations haven't changed the heights for Pine Island since 1984.

Phil Buchanan sees no problems with 38' height regulation for buildings. However, cell phone service in Bokeelia is not good and a large tower may be needed. He suggested it is a safety issue. Bill Spikowski suggested that the applicant for the tower could use stealth techniques or seek a variance.

Dave Lukasek suggested that a 35' tower near the shore would provide line-of-sight communications since you can see 32 miles to the horizon.

Phil Buchanan stated that some people have VHF marine or ham radio antennas on their roofs but apparently the existing rules are not being enforced. He then stated that there were some safety issues that should be addressed and suggested that we hold off on approval of Policy 14.3.3 pending further review.

POLICY 14.4.4 — SIGNS

Pages 7 & 8 deal with new limits on the size of business signs, and also encourages signs for businesses not visible from the main road by allowing discreet small signs in the right-of-way. County DOT has helped draft the regulations but they have been opposed to the concept. It will be up to the county whether they will approve these new sign ordinances.

Phil Buchanan made a motion to approve the wording for Policy 14.4.4, which was seconded by Noel Andress and approved by the committee by a vote of 5-0.

OTHER BUSINESS

Bill Spikowski said that included in the packet for this meeting are formal responses to four questions asked at the last meeting about the GPICA settlement proposal.

Phil Buchanan said he didn't think that abandonment of a farm is a real problem, since it can always be leased for a different Ag purpose.

Bill Spikowski stated that we needed to discuss these issues; if a settlement is reached, the answers might end up in a paragraph in the coastal rural description in the land use plan.

John Brugger stated that with the free trade agreement with Mexico, the same thing may happen to palm trees as has happened with tomatoes and oranges.

Dave Lukasek said that the land use plan can be changed if Ag disappears from Pine Island.

NEXT MEETING

The next meeting of the Greater Pine Island Land Use Implementation Committee was announced for 7:00 P.M. on Thursday, March 4, 2004 at St. John's Episcopal Church.

The meeting was adjourned at 8:40 P.M.

Respectfully submitted,

Barbara K. Dubin

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)
- e. ADD GREATER PINE ISLAND TO OTHER ISLANDS LISTED IN 34-1444(B)(3) FOR PURPOSES OF REGULATING TOWER HEIGHTS

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.3.3:

CHAPTER 34

Zoning

ARTICLE VII, SUPPLEMENTARY DISTRICT REGULATIONS

Division 11, Wireless Communication Facilities

Sec. 34-1444. Permissible wireless facility locations.

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

in accordance with the requirements of section 34-1453 for a variance.

(b) Exceptions:

- (1) Broadcast antenna-supporting structures in excess of 250 feet will only be allowed within an agricultural zoning district by variance in accordance with the requirements of section 34-1453. Broadcast studios are not allowed in the agricultural zoning district and must comply with all other applicable zoning and development regulations.
- (2) All antennas proposed to be mounted on existing buildings or structures must apply for administrative review as set forth in section 34-1445(b).
- (3) On the barrier islands, Greater Pine Island, and within the outer island future land use

areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in section 34-2175, whichever is less. ~~The provisions set forth in section 34-2174 are applicable only to~~ For stealth wireless communication facilities only, these height limitations may be increased by one foot for each one-half foot that every required street, side, and rear setback is increased.

- (4) Wireless communications facilities are prohibited in the Density Reduction - Groundwater Resource (DR/GR) Future Land Use areas, wetlands, environmentally critical zoning districts and areas readily visible from the University Window Overlay, except for:
- Stealth wireless communication facilities;
 - Surface-mounted and flush-mounted antennas; and
 - Collocations.

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

CHAPTER 34
Zoning
ARTICLE VII, SUPPLEMENTARY
DISTRICT REGULATIONS
Division 30, Property Development Regulations

Subdivision II. Height

Sec. 34-2171. Measurement.

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

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

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

Sec. 34-2172. 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.~~

- a. “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.
- b. The provisions of section 34-2174(a) do not apply to Greater Pine Island.
- c. Structures without roofs will be measured to the highest point on the structure.
- d. No deviations from these height restrictions may be granted through the planned development process.
- e. Any variances from these height restrictions require all of the findings in section 34-145(3) plus these additional findings:
 1. The variance must be fully consistent with the Lee Plan, including its specific provisions for Greater Pine Island.
 2. 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).

(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 14.4.3

NEW LEE PLAN POLICY 14.4.3:

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.

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.4.3:

- a. “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...” – ADD THESE PROVISIONS TO 10-621

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.4.3:

CHAPTER 10
Development Standards
ARTICLE IV, DESIGN STANDARDS
AND GUIDELINES FOR COMMERCIAL
BUILDINGS AND DEVELOPMENTS

Sec. 10-601. Definitions.

The following words, terms or phrases, when used in this article only, will have the following meanings ascribed to them:

Arcade means a roof, similar to an overhang or canopy but where the outer edge is supported by a line of pillars or columns.

Awning means a cover of lightweight material such as canvas, plastic, or aluminum, extending over a single doorway or window, providing protection from the elements.

Canopy, attached means a permanent structural cover affixed to and extending from the wall of a building, protecting a doorway or walkway from the elements.

Canopy, detached means a freestanding structure which covers a walkway or service area.

Facade means the exterior faces of a building.

Facade, primary means any facade of a building facing an abutting street. On a corner lot, each wall facing an abutting street is considered a primary facade. If a building is angled to an abutting street, both walls roughly facing the street are primary facades.

Overhang means the structural projection of an upper story or roof beyond the story immediately below.

Parapet means the part of an exterior wall that extends above the roof.

Portico means an architectural entry feature structurally supported by columns or arches and protecting a doorway or walkway from the elements.

Shopping center means a multiple-occupancy building or complex wherein the predominant tenants are retail businesses and offices.

Wall, front means the wall closest to, and running roughly parallel to, the front lot line. On a corner lot, there are two front walls.

Sec. 10-620. Design standards and guidelines for commercial buildings.

(a) **Purpose and intent.** The purpose and intent of these provisions is to maintain and complement the street scape by requiring that buildings be designed with architectural features and patterns that provide visual interest consistent with the community’s identity and local character while reducing the mass/scale and uniform monolithic appearance of large unadorned walls. (See Illustration 4 below.) Due to inherent problems in the CRA overlay district, compliance with the CRA overlay district design guidelines may substitute for the criteria set forth in this section.

(b) **Building/view orientation standards.** Buildings must be oriented to maximize pedestrian access, use and view of any adjacent navigable water bodies.

(c) **Facades.**

(1) **Wall height transition.** New buildings that are more than twice the height of any existing building within 300 feet must be designed to provide a transition between buildings of lower height. (See Illustration 5 below.)

(2) **Architectural design.**

a. All primary facades of a building must be designed with consistent architectural style, detail and trim features.

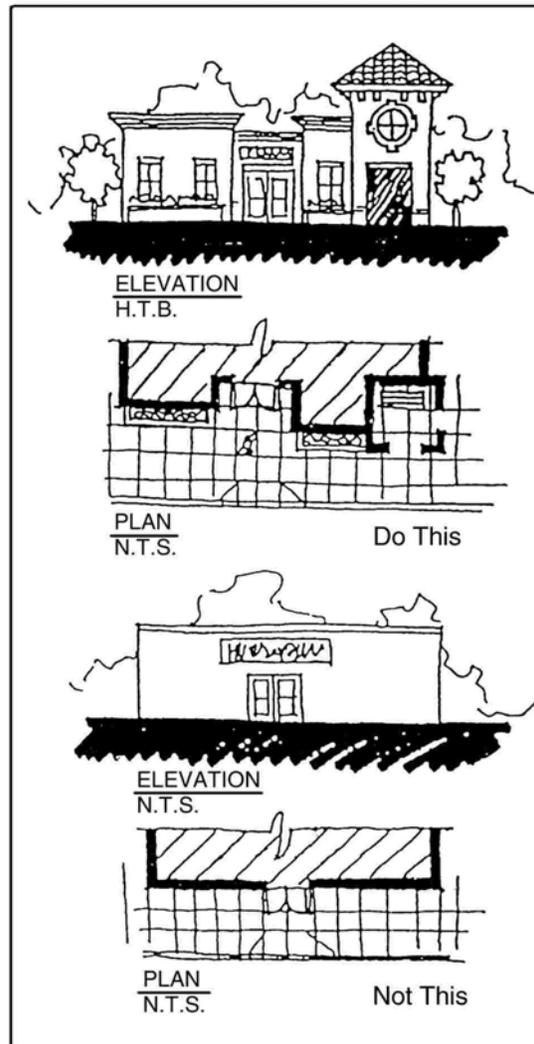


ILLUSTRATION # 4

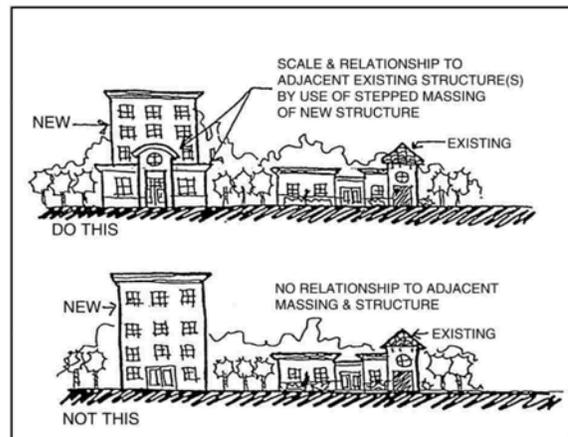


ILLUSTRATION # 5

b. Buildings must provide a minimum of three of the following building design treatments integrated with the massing and style of the buildings. (See Illustrations 6 and 7 below.) If awnings, canopies and overhangs are used they must conform to a unified plan of compatible colors, shapes and materials.

1. Awnings or attached canopies;
2. Overhangs;
3. Porticos;
4. Arcades, minimum of eight feet clear in width;
5. Peaked roof forms;
6. Display windows along a minimum of 50 percent of front walls and any other wall alongside a pedestrian walkway;
7. Clock or bell towers; or
8. Any other treatment which the development services director finds meets the intent of this section:

and on large projects one of the following site design elements: or

1. Integration of specialty pavers, or stamped concrete along the building's walkway. Said treatment must constitute a minimum of 60 percent of walkway area;
2. Fountains, reflection ponds or other water elements, a minimum of 150 square feet in area for every 300 lineal feet of primary facade length; or
3. Any alternative treatment or combination of the above elements that the development services director finds meets the intent of this section.

(3) *Corner lots.* In addition to the above, corner lots at an intersection of two or more arterial or collector roads must be designed with additional architectural embellishments, such as corner towers, or other such design features, to emphasize their location as gateways and transition points within the community.

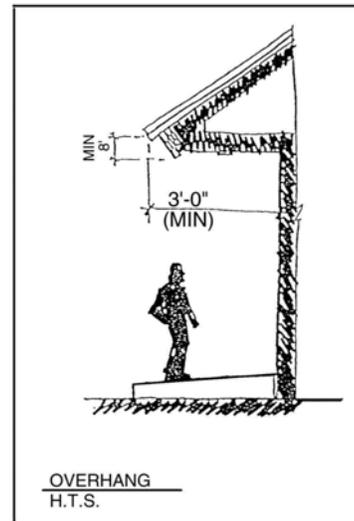


ILLUSTRATION #6

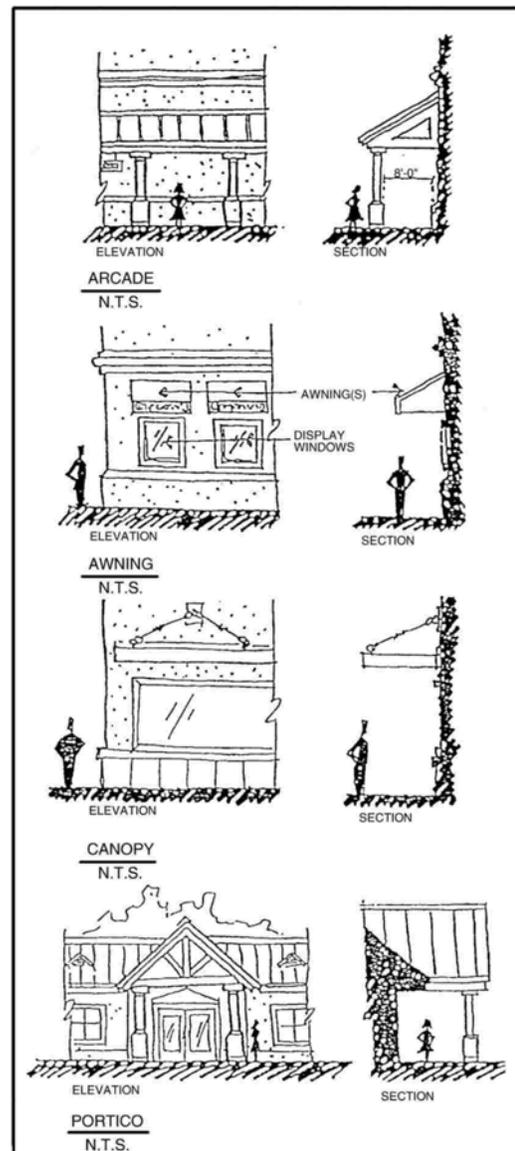


ILLUSTRATION # 7

(d) **Roof treatments.**

(1) *Purpose and intent.* Variations in roof lines must be used to add interest to, and reduce the massing of buildings. Roof features and materials must be in scale with the building's mass and complement the character of adjoining and/or adjacent buildings and neighborhoods. The following standards identify appropriate roof treatments and features.

(2) *Roof edge and parapet treatment.* The roof edge and/or parapet must have a vertical change from the dominant roof condition, in two locations. At least one such change must be located on a primary facade. (See Illustration 8 below.)

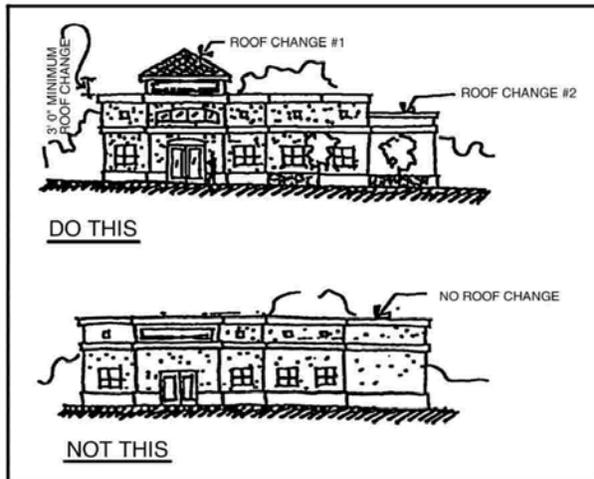


ILLUSTRATION #8

(3) Roofs must be designed to also meet at least two of the following requirements:

- a. Parapets used to conceal roof top equipment and flat roofs;
- b. Three or more roof slope planes per primary facade. (See Illustration 9 below);
- c. Sloping roofs, which do not exceed the average height of the supporting walls, must have an average slope equal to or greater than 4V:12H but not greater than 12V:12H;
- d. Additional vertical roof changes with a minimum change in elevation of two feet (flat roofs must have a minimum of two changes): or

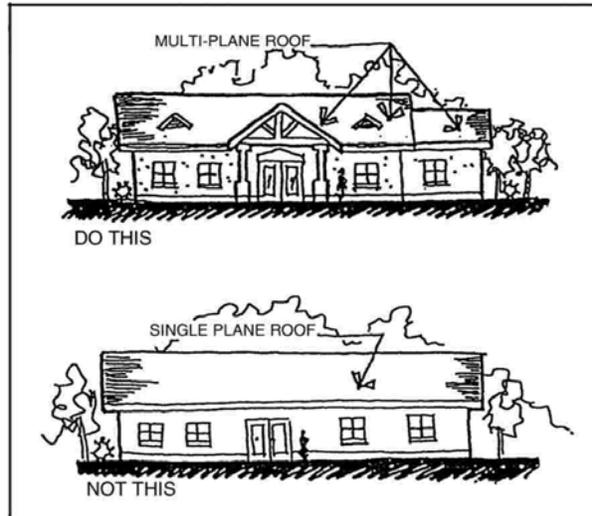


ILLUSTRATION #9

- e. Three-dimensional cornice treatment which must be a minimum of ten inches in height with a minimum of three reliefs.

(4) *Prohibited roof types and materials.* The following types of materials are prohibited:

- a. Roofs utilizing less than or equal to a 2V:12H pitch unless utilizing full parapet coverage or mansard; and
- b. Mansard roofs except roofs with a minimum vertical distance of eight feet and an angle between 45 and 70 degrees from horizontal.

(e) *Detail features.* The design elements in the following standards must be integral parts of the building's exterior facade and must be integrated into the overall architectural style. These elements may not consist solely of applied graphics, or paint.

- (1) *Blank wall areas.* Building walls and facades, must avoid large blank wall areas by including at least three of the design elements listed below, in a repeating pattern. At least one of the design elements must repeat horizontally.
 - a. Texture change;
 - b. Material change;
 - c. Architectural features such as bandings, bays, reveals, offsets, or projecting ribs. (See Illustration 10 below);

- d. Building setbacks or projections; or,
- e. Pattern change.

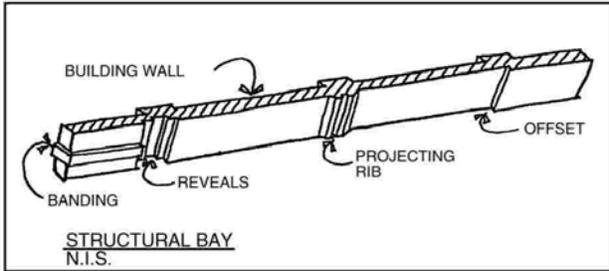


ILLUSTRATION #10

- (2) *Materials.* Exterior building materials contribute significantly to the visual impact of a building on the community. They must be well-designed and integrated into a comprehensive design style for the project.
 - a. The following exterior building materials can not be used on more than 50 percent of the building facade area:
 1. Plastic or vinyl siding except to establish the “old Florida” look;
 2. Corrugated or reflective metal panels;
 3. Tile (prohibition does not apply to roofs);
 4. Smooth, scored or rib faced concrete block;
 5. Any translucent material, other than glass; or
 6. Any combination of the above.
 - b. Building trim and accent areas, consistent with the overall building, are limited to ten percent of the affected wall area, with a maximum trim width of 24 inches.

Sec. 10-621. Greater Pine Island.

(a) *Applicability.* This section provides additional design standards and guidelines for commercial buildings in Greater Pine Island. Greater Pine Island is identified on the future land use map and is described in section 34-2 of this code. These additional standards and guidelines are applicable to all new development and to renovations and redevelopment as provided in section 10-602, except as modified by this section. Where the standards or guidelines in this section conflict with other standards of this article, this section shall control.

(b) *Purpose and intent.* The standards in this section implement Lee Plan Policy 14.4.3 by expanding on the commercial design standards for unincorporated Lee County. These additional standards for Greater Pine Island encourage rehabilitation of existing buildings; 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 vernacular commercial buildings.

(c) *Rehabilitation of existing buildings.* The standards and guidelines in this article apply to additions and renovations to, or redevelopment of, an existing building where the cumulative increase in total floor building area exceeds 75% of the square footage of the existing building being enlarged or renovated, instead of when exceeding 50% of the square footage as required by section 10-602(b) for the remainder of unincorporated Lee County.

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

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

- (1) Transparent windows must be installed along a minimum of 30 percent of each primary facade.

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

(f) ***Metal roofs.*** Except in the Matlacha historic district, sloping roofs must use metal for all finished surfaces.

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

- (1) To qualify for a deviation, the tree being preserved must be at least six inches in diameter at breast height and must not be an invasive exotic tree as defined by section 10-420.
- (2) The deviation requested must not compromise the public health, safety or welfare in the opinion of the development services director.

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

Secs. 10-622~~1~~—10-629. Reserved.

IMPLEMENTING POLICIES 1.4.7 & 14.1.8

NEW LEE PLAN POLICY 1.4.7:

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

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

NEW LEE PLAN POLICY 14.1.8:

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

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT THESE POLICIES:

- a. Modify 34-2 – CORRECT THE DEFINITION OF GREATER PINE ISLAND IN 34-2
- b. Modify Tables 34-654, 34-695 and 34-715 – PROVIDE NEW FOOTNOTES TO THESE TABLES REGARDING NEW MINIMUM LOT SIZES IN “COASTAL RURAL”
- c. Create 34-655 – CREATE A NEW SECTION TO DEFINE THE EFFECT OF THE “COASTAL RURAL” DESIGNATION ON LAND DEVELOPMENT
- d. Modify 34-1495(c) – PROVIDE CROSS-REFERENCES AND MAINTAIN CONSISTENCY WITH OTHER CODE CHANGES

- e. Modify 34-3273 – ADD LANGUAGE THAT ALLOWS CONSTRUCTION OF ONE HOME IN “COASTAL RURAL” ON EACH LOT THAT WAS CREATED PRIOR TO THIS PLAN (WITHOUT SPECIAL RULES FOR PRESERVATION OR RESTORATION)

COMPOSITE CODE CHANGES TO IMPLEMENT THESE POLICIES:

CHAPTER 34
Zoning
ARTICLE I, IN GENERAL

Sec. 34-2. Definitions.

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

...

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

...

[no other changes to section 34-2]

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

Sec. 34-651. Purpose and intent.

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

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

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

Sec. 34-653. Use regulations table.

Use regulations for agricultural districts are as follows:

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

Sec. 34-654. Property development regulations table.

Property development regulations for agricultural districts are as follows:

TABLE 34-654. PROPERTY DEVELOPMENT REGULATIONS FOR AGRICULTURAL DISTRICTS

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

Notes:

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

Sec. 34-655. Greater Pine Island.

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

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

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

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

- (1) Table 34-655 contains two columns of adjusted maximum densities:
 - a. The first density column, titled “If < 910 trips in Matlacha,” indicates the adjusted maximum densities that correspond to various levels of uplands preservation or restoration during the time period before the restrictions in section 2-4(3) of this code take effect.
 - b. The second density column, titled “If > 910 trips in Matlacha,” indicates the adjusted maximum densities that correspond to various levels of uplands preservation or restoration for the time period after the restrictions in section 2-4(3) of this code have taken effect. [NOTE: four alternatives are shown in this draft for this second density column]

TABLE 34-655.
ADJUSTED MAXIMUM DENSITY

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

(2) The left column in Table 34-655 describes the percentage of on-site uplands that must be permanently preserved or restored as native habitats in order to increase the standard maximum density on the entire property.

- a. Land uses are restricted in permanently preserved native habitat in accordance with subsection (d) below, and in restored native habitat in accordance with subsection (e) below.
- b. New roads and surface water management systems, including retention/detention lakes, berms, and ditches, may not be placed in the preserved or restored portion of the on-site uplands except as provided by subsection (d) below.
- c. All percentages in the left column in Table 34-655 are based on the acreage of uplands that are designated “Coastal Rural.”
 1. Lands that are designated “Wetlands” rather than “Coastal Rural” on the Future Land Use Map are not counted either in the base acreage or in the preserved or restored acreage. However, the additional dwelling units that the Lee Plan allows for lands designated “Wetlands” (1 DU/20 acres) may be added to the number of dwelling units allowed for uplands by Table 34-655, provided that the conservation easement described in subsection (d) includes those wetlands.
 2. Lands that are designated “Coastal Rural” but which are determined by permitting agencies to be wetlands are counted in the base acreage and may be counted as permanently preserved native habitat or restored native habitat provided that all requirements of this section are met.

(3) Two or more contiguous or noncontiguous “Coastal Rural” parcels may be combined into a single development application for purposes of computing the actual maximum density allowed on those properties. This provision would allow

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

(4) 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 or variances can never be granted to increase the densities in Table 34-655.
- b. Example of deviations that can be considered during the “planned development” process include:
 1. Permitted uses and property development regulations other than those provided in subsection (f) of this section;
 2. Alternative methods of committing to preservation or restoration of native habitat;
 3. Substitution of permanent reforestation that doesn’t meet all of the requirements of this section for “permanently preserved native habitats” or “restored native habitats.”
 4. Infrastructure more suited to country living, such as narrower streets, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.

(d) ***Permanently preserved native habitats.***
For the purposes of this section, “permanently preserved native habitat” means uplands that the landowner guarantees will be preserved as native habitat that will remain permanently as open space, in exchange for increasing the standard maximum

residential density on the entire property, with all residential units placed on other uplands.

(1) Land uses in preserved habitat. No

portion of the native habitats that are counted as preserved for the purposes of Table 34-655 may overlap individual lots or parcels on which development is permitted.

- a. Portions of these native habitats may be used as buffer strips and wooded portions of golf courses provided those areas have a minimum dimension of 25 feet and are protected by the same conservation easement as the remainder of the native habitat.
- b. Permanently preserved native habitat may contain up to the following percentages:
 1. Facilities for passive recreation such as hiking trails, bridle paths, boardwalks, or fishing piers, up to 2% of the preserved or restored area.
 2. Lakes, up to 5% of the preserved or restored area.
 3. Commercial or non-commercial agriculture, up to 10% of the preserved or restored area.

(2) Hydrologic restoration. Interruptions of original water flows must be corrected to ensure proper hydrologic conditions for the long-term survival of the permanently preserved native habitat. For instance, ditches or berms that interfere with natural surface and ground water flows must be eliminated (unless mitigation is possible, for instance by placing multiple culverts through berms to restore sheet flows).

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

- a. Melaleuca (*Melaleuca quinquenervia*)
- b. Brazilian pepper (*Schinus terebinthifolius*)
- c. Australian pine (*Casuarina* spp.)

d. All other Category I invasive exotic species listed by the Florida Exotic Pest Plant Council.

(4) Conservation easement. The guarantee of preservation must include a perpetual conservation easement granted to a governmental body or agency or to a qualified charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property.

- a. This conservation easement must be a right or interest in real property which is appropriate to retaining the land in predominantly its natural forested condition as suitable habitat for native vegetation and wildlife in accordance with this section and which prohibits or limits the activities described in F.S. § 704.06, as such provisions now exist or as may be amended.
- b. The agency or entity accepting the easement must have its principal place of business or a permanent branch office in Charlotte, Lee, or Collier County.
- c. This agency or entity must explicitly consent to enforce the easement's obligations in perpetuity.
- d. The guarantee of preservation may take a different form if it provides equivalent protection and is approved by Lee County through a deviation in a planned development rezoning.

(5) Management plan. The guarantee of preservation must also include a fully funded long-term management plan that will accomplish the following goals for the area being preserved:

- a. The open space must be maintained in perpetuity against the reestablishment of invasive exotic plants and must be kept free of refuse, debris, and pests.
- b. The open space must be managed to maintain a mosaic of plant and habitat diversity typical of the ecological community being preserved. A reference source describing the native habitats found in Greater Pine Island is available in chapter 3 of the Multi-Species Recovery Plan for South

Florida, published by the U.S. Fish & Wildlife Service.

- c. The management plan shall describe acceptable forest management practices such as prescribed burning, selective thinning, and replanting. If the management plan does not include prescribed burning to mimic the historic fire regime, the plan must propose an alternative method for selectively thinning flammable understory plants.

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

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

- b. Alternatively, a landowner who wishes to retain ownership of this land or convey it to a different party must present evidence of a permanent funding source to carry out the management responsibilities, which may include bonds or trust funds sufficient to pay for the ongoing management in accordance with these regulations. Legal documents that provide for the continued management will be accepted only after they are reviewed and approved by the county attorney's office as complying with this section.

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

(1) Hydrologic restoration. In addition to the correction of interruptions of original water flows as described in subsection (d)(2) above, the site's hydrologic regime must be appropriate for the ecological community being restored. A reference source describing the native habitats found in Greater Pine Island and their natural hydrologic conditions is available in chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service.

(2) Reintroduction of native trees. Native trees must be planted and must be of species typical of the native habitat being recreated, as set forth in the Multi-Species Recovery Plan. For example, the dominant tree species in mesic pine flatwoods, the most common native upland habitat on Pine Island, will be longleaf and slash pines.

- a. Site preparation must include removal of non-native vegetation that will compete with newly planted trees.
- b. Trees must be planted in clusters or random patterns rather than rows. Bare-root or containerized seedlings may be planted using standard forestry techniques. The target density of trees is between 50 and 200 trees per acre.
- c. Fertilization may be required at time of planting to ensure survival of seedlings. Weed control is required for at least two years after planting.

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

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

(4) Criteria for success of restoration. Plantings of native trees and midstory and understory plants shall be monitored annually to assure a minimum 80% survival of the required number of each species planted.

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

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

- (1) The restored land must meet all of the conditions for restored native habitats in subsection (e) in addition to the requirements of the administrative code.
- (2) The administrative code will determine the assignment of restoration credits in a manner that is proportional to the ecological value of the restoration. Credits can sold once the restoration has proven successful according to criteria set forth in the code.

(3) Lee County will not be involved in any way in establishing the financial value of restoration credits.

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

(1) **General standards:** All requirements of this code remain in effect except as modified through the “planned development” rezoning process or as otherwise provided in this section.

(2) **Permitted uses and property development regulations:**

- a. Individual lots that exceed all size and dimensional requirements for lots in an AG-2 zoning district are governed by all regulations for the AG-2 district, including permitted uses and property development regulations.
- b. Individual lots that do not meet all size and dimensional requirements for lots in an AG-2 zoning district are governed by all regulations for the RS-1 zoning district, including permitted uses and property development regulations.
- c. The portion of the site being preserved will be governed by the standards in this section.

(3) **Local street standards:**

- a. Section 10-296(d) of this code provides standards for new local streets that vary based on residential density levels. For development orders that subdivide residential lots from “Coastal Rural” land, these local street standards will be interpreted as follows:
 - 1. “Category C” streets must be provided for residential lots that are smaller than 2.5 acres.
 - 2. “Category D” streets may be provided in lieu of Category C streets for residential lots that are larger than 2.5 acres.
- b. Right-of-way and lane widths for local streets may be narrower than the standards set forth in section 10-296

for Category C and Category D streets provided the widths are selected in accordance with the criteria in *Traditional Neighborhood Development Street Design Guidelines* or *Neighborhood Street Design Guidelines* (or successor recommended practices) published by the Institute of Transportation Engineers.

- c. Local streets defined by section 10-296 as Category C streets may have a wearing surface of porous (pervious) asphalt or concrete, in lieu of the other surface options provided in chapter 10. Porous paving can increase the infiltration of stormwater and reduce the need for separate stormwater infrastructure.
- d. Dead-end streets are generally not permitted but may be unavoidable due to adjoining wetlands, canals, or preserved areas. When the director deems a dead-end street to be unavoidable, the dead end must be provided with a cul-de-sac or other termination that is designed in accordance with these same criteria.

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

- a. Begin by identifying potential areas to remain as open space: healthy, diverse, or unusual vegetation (such as mature pine trees, oak hammocks, or dense saw palmetto); listed species habitat; historic/archaeological sites; unusual landforms; wet or transitional areas; etc.
- b. Then identify potential areas for homesites: locations near existing developed areas or adjoining existing streets (or logical street extensions); areas with fewer natural resource values; areas that can be served with minimal extensions of infrastructure; areas that would provide views of preserved open spaces; etc.

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

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

Sec. 34-695. Property development regulations table.

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

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

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

Notes:

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

Sec. 34-715. Property development regulations table.

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

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

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

Notes:

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

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

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

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

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

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

Sec. 34-3271. Nonconforming lot defined.

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

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

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

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

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

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

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

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

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

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

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

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

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

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