

Greater Pine Island Civic Association

P.O. Box 478
St. James City, Florida 33956

March 12, 2004

Paul O'Connor, Planning Director
Lee County Department of Community Development
1500 Monroe Street, P.O. Box 398
Fort Myers, FL 33902-0398

Dear Mr. O'Connor:

With this letter I am submitting drafts of implementing regulations for the Greater Pine Island Community Plan Update. These regulations were prepared in accordance with the agreement between Lee County and the Greater Pine Island Civic Association that was approved on May 23, 2003.

The community panel for this project met eight times, most recently on March 4, 2004. On March 4, the panel voted to share these tentative drafts with Lee County even though further investigation into restoration matters is on-going, particularly into potential costs for replanting and ongoing maintenance. Depending on the outcome of those investigations and other factors, modifications to these regulations may be advisable.

We would welcome careful review of these regulations by county staff at your earliest convenience. We stand ready to assist Lee County in finalizing these additions to the Land Development Code.

Our formal progress report is attached. No further payments are due to the Greater Pine Island Civic Association under our agreement.

Sincerely,

Barbara K. Dubin, planning panel chair

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) A proposed development on land that is zoned AG-2 and is designated Coastal Rural by the Lee Plan is not required to rezone the property provided that the proposed development complies with all regulations in this code, including all of section 34-655. The determination of actual maximum densities and the compliance of the application and its supporting documentation with this section may be confirmed during the development order process described in ch. 10.

- (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. A development proposal under this section must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements:

- (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, depending on species and the type of habitat being recreated.

- 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, or that restoration has been partially completed and that monitoring reports are required only for the incomplete portion of the restoration.

- (5) Financial guarantees.** If a landowner wishes to begin development prior to successful completion of the restoration, completion must be assured in the same manner that off-site improvements or on-site subdivision improvements may be guaranteed pursuant to section 10-154 of this code.

(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]*

IMPLEMENTING POLICY 14.1.5

RECENT CHANGES TO LEE PLAN POLICY 14.1.5:

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

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

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.1.5:

- a. “New development, including “planned development” rezoning approvals, new subdivisions, and agriculture, that adjoin state-designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands.” – MODIFY 1-2, 10-416, and 34-935.
- b. “For agriculture, this requirement...will be implemented through the notice-of-clearing process in chapter 14 of the land development code...” – ADD NEW PROVISIONS TO 14-374, 14-377, and 14-312.
- c. “For agriculture, ...will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands...” – ADD NEW PROVISIONS TO 14-377 and 14-312.
- d. “For agriculture, ...if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing. – ADD NEW PROVISIONS TO 14-377 and 14-312.

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.1.5:

CHAPTER 1 General Provisions

Sec. 1-2. Rules of construction and definitions.

(a) In the construction of this Land Development Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless inconsistent with the manifest intent of the Board of County Commissioners. The rules of construction and definitions in this section do not apply to any section of this Land Development Code that contains any express provisions excluding their application, or where the subject matter or context of such section may be repugnant thereto.

(b) Generally. *[no changes required]*

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

...

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

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

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

...

[no other changes to section 1-2]

CHAPTER 10 Development Standards ARTICLE III, DESIGN STANDARDS AND REQUIREMENTS

Division 6, Open Space, Buffering and Landscaping

Sec. 10-416. Landscape standards.

(a) **General.** *[no changes required]*

(b) **Building perimeter plantings.** *[no changes required]*

(c) **Landscaping of parking and vehicle use areas.** *[no changes required]*

(d) **Buffering adjacent property.**

(1) – (8) *[no changes required]*

(9) Development abutting natural waterway.

Except where a stricter standard applies for the Greater Pine Island Area (as defined in Goal 14 of the Lee Plan and as described in section 34-2 of this code), there must be a 25-foot wide vegetative buffer landward from the mean high water line of all nonseawalled natural waterways. Where a proposed new development, including planned development rezoning approvals and new or subdivisions, is located in the Greater Pine Island Area abutting state-designated aquatic preserves and associated wetlands and natural tributaries, as defined in chapter 1 of this code, the width of the required buffer will be 50 feet landward from the water body and wetlands and the applicant must preserve or plant indigenous native vegetation throughout this buffer; however, these special requirements do not apply to portions of marinas that provide direct water access, or to land that has already been lawfully subdivided into building sites.

Existing vegetation within the buffer area must be retained. The removal or control of exotic pest plants must not involve the use of heavy mechanical equipment such as bulldozers, front end loaders, or

hydraulic excavators, unless approved at the time of development order.
(10) – (11) [no changes required]

CHAPTER 14
Environment and
Natural Resources
ARTICLE V, TREE PROTECTION

Sec. 14-374. Definitions.

(a) The following words, terms and phrases, and their derivations, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. When not inconsistent with the context, words in the present tense include the future and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

...

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.

...

[no other changes to section 14-374]

Sec. 14-377. Exemptions from article.

(a) This article does not apply to the following:

- (1) Removal of trees on the following lands as specified in this subsection:
 - a. This article shall not apply to the removal of trees, other than trees worthy of preservation, on lands classified as agricultural land for ad valorem taxation purposes pursuant to F.S. § 193.461(3)(b). Trees, other than trees worthy of preservation, may be removed from agriculturally zoned lands only after the owner or his agent procures a notice of clearing from the administrator (see section 14-412(i) for procedures and for special requirements that apply to proposed

agricultural activities in Greater Pine Island). However, if an application to rezone the subject lands is filed within three years from the date when the most recent notice of clearing was issued, and the rezoning is granted, the applicable minimum open space requirements of chapter 10 shall be satisfied in the following manner: [no changes required]

- b. Land used for bonafide agricultural purposes that meets the criteria of or has been designated as wetlands.
 - c. If the property is located in the critical areas for surface water management, and is not used for bona fide agricultural purposes, indigenous vegetation shall not be cleared in areas that serve as listed species occupied habitat as defined in chapter 10, article III, division 8. The following shall apply: [no changes required]
 - d. If the property is located in the critical areas for surface water management, indigenous vegetation shall not be cleared within 25 feet of the mean high-water line or ordinary high-water line, whichever is applicable, of any natural waterway listed in appendix F. Indigenous vegetation may be cleared selectively to allow the placement of docks, pipes, pumps and other similar structures pursuant to applicable county ordinances.
- (2) The removal of trees on public rights-of-way conducted by or on behalf of a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public rights-of-way or in the performance of its official duties.
 - (3) The removal of a protected tree that is dead or which has been destroyed or damaged by natural causes beyond saving or which is a hazard as the result of an act of God and constitutes an immediate peril to life and property.
 - (4) The removal of trees by duly constituted communication, water, sewer or electrical utility companies or federal, state or county agency, engineer or surveyor, working under a contract with such federal, state or county agency or when

such tree removal is done as a governmental function of such agency.

- (5) The removal of trees by duly constituted communication, water, sewer or electrical utility companies in or adjacent to a public easement or right-of-way, provided such removal is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that such removal is conducted so as to avoid any unnecessary damage or removal of trees.
- (6) The removal of trees protected by this article, other than a tree worthy of preservation, by a state-licensed land surveyor in the performance of his duties. The removal of trees protected by this article in a manner which requires clearing a swath of greater than three feet in width shall require approval of the administrator prior to such a removal and clearance.
- (7) The removal of protected trees on a lot zoned for single-family residential use or being used lawfully as a single-family residence or mobile home where the residence or proposed residence is located on a lot no greater than five acres in area. However, this exemption does not apply on the coastal islands listed in subsection (c) below.
- (8) The removal of protected trees, other than a tree worthy of preservation, on the premises of a licensed plant or tree nursery or tree farm where such trees are intended for sale in the ordinary course of the licensee's business.

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

(c) The exemptions herein for single-family residential use in subsection (a)(7) above do not

apply to land located on the following coastal islands: Gasparilla Island, Cayo Costa Island, North Captiva Island, Captive Island, Buck Key, Greater Pine Island, Lover's Key Group of Islands, Black Island, Big Hickory Island, and Little Hickory Island (Bonita Beach).

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

Sec. 14-412. Issuance of permit.

(a) **Submission of application.** Application for a permit to remove any protected tree defined in this article shall be submitted to the administrator, in writing, on a form provided by the administrator, accompanied by a written statement indicating the reasons for removal.

(b) **Authority of administrator.** The administrator shall have the authority to issue the permit and to inspect all work performed under any permit issued under this article.

(c) **Required information.** All applications to remove any protected tree defined in this article shall be on forms provided by the administrator. Where an application has been submitted to the administrator for the removal of more than five trees, no tree removal permit shall be issued by the administrator until a site plan for the lot or parcel has been reviewed and approved by the administrator, which shall include the following minimum information:

- (1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of the structures and improvements, if any.
- (2) A tree location map for the lot or parcel, in a form acceptable to the administrator. For the removal of five trees or less, an on-site examination by the administrator's designee shall be made in lieu of the tree location map requirement.
- (3) Any proposed grade changes that might adversely affect or endanger any trees on the lot or parcel, together with specifications reflecting how the trees can be safely maintained.
- (4) Any proposed tree replacement plan.

(d) **Criteria for granting.** The administrator shall approve a permit for issuance for the removal of any protected tree if the administrator finds one or more of the following conditions is present:

- (1) Trees which pose a safety hazard to pedestrian or vehicular traffic or threaten to cause disruption to public utility services.
- (2) Trees which pose a safety hazard to existing buildings or structures.
- (3) Trees which prevent reasonable access to a lot or parcel so long as the proposed access point complies with all other county regulations.
- (4) Diseased trees which are a hazard to people, buildings or other improvements on a lot or parcel or to other trees.
- (5) Trees so weakened by age, storm, fire or other injury as to, in the opinion of the administrator, jeopardize the life and limb of persons or cause a hazard to property.
- (6) Trees which prevent the lawful development of a lot or parcel or the physical use thereof.
- (7) The administrator may require that a tree protected by this article be relocated on the same lot or parcel in lieu of removal.

(e) **Submission of site plan when building permit not required.** Where a building permit issuance is not required because no structures are to be constructed and no other development of the lot is to occur, any person seeking to remove a tree protected under this article shall first file a site plan with the administrator meeting the requirements of subsection (c) of this section prior to receiving a tree removal permit from the administrator.

(f) **Inspection of site.** The administrator may conduct an on-site inspection to determine if any proposed tree removal conforms to the requirements of this article and what effect, if any, removal of the trees will have upon the natural resources, as identified in the Lee Plan, of the affected area prior to the granting or denying of the application. A permit fee will be required for the removal or relocation of any tree protected under the provisions of this article and shall be paid at the time of issuance of the permit. The fees established will be set in accordance with the county administrative code and paid to the administrator. Such fees are hereby declared to be necessary for the purpose of processing the application and making the necessary inspection for the administration and enforcement of this article.

(g) **Approval or denial.** Based upon the information contained in the application and after investigation of the application, the administrator shall approve or deny the application, and, if approved, the administrator is the party so designated by the Board of County Commissioners to issue the permit for a period not to exceed one year and to collect the permit fee.

(h) **Conditions.** The administrator may attach conditions to the permit relating to the method of identifying, designating and protecting those trees which are not to be removed in accordance with subsection (g) of this section. A violation of these conditions shall automatically invalidate the permit. Special conditions which may be attached to the permit may include a requirement for successful replacement of trees permitted to be removed with trees of the same size, compatible species and same number.

(i) **Notice of clearing.** Upon receipt of all necessary documents, the administrator may issue a notice of clearing in lieu of an individual tree removal permit. A notice of clearing will be the preferred method of confirming that proposed agricultural activities conform with the exemption criteria in section 14-377(a). Notices of clearing for agricultural purposes in Greater Pine Island must comply with the following additional requirements in accordance with Policy 14.1.5 of the Lee Plan:

- (1) Agricultural land that adjoins state-designated aquatic preserves and associated wetlands and natural tributaries.

as defined in chapter 1 of this code, must preserve or create a 50-foot-wide native vegetated conservation buffer area between all agricultural lands and the natural waterbody and associated wetlands.

- (2) The purpose of this conservation buffer is to capture or slow the movement of sediments, fertilizers, pesticides, pathogens, and heavy metals that may be concentrated in stormwater runoff and to allow for increased biodiversity and improved wildlife habitat.
- (3) Stormwater runoff that is discharged through this conservation buffer must be routed through an indirect discharge such as an overflow or spreader swale or similar conveyance of a sufficient dimensions to reduce discharge velocities to historic rates or rates less than two feet per second.
- (4) This conservation buffer area must be maintained as a forested buffer but may contain a grassed filter strip of up to 15 feet wide. A maintenance plan must be provided to control invasion of exotic vegetation. If native vegetation does not currently exist in the remainder of the buffer, native tree cover must be established within three years of issuance of the notice of clearing.
 - a. For purposes of this subsection, native tree cover means the planting and subsequent maintenance of longleaf pine, slash pine, and/or native oak trees at average spacings typical of indigenous pine flatwoods on Pine Island.
 - b. These trees must be Florida No. 1 or better grade, no less than four feet in height at time of planting, and with a guaranteed 80 percent survivability for a period of five years.
- (5) Additional recommended design criteria are available in "Conservation Practice Standards" from the National Resources Conservation Service:
 - i. Standard 391 (Riparian Forest Buffer).
 - b. Standard 393 (Filter Strip).
- (6) These conservation buffer regulations will not be construed in a manner that violates the Agricultural Lands and Practices Act, F.S. § 163.3162, or the Florida Right-to-Farm Act, F.S. § 823.14.

CHAPTER 34

Zoning

ARTICLE VI, DISTRICT REGULATIONS Division 9, Planned Development Districts

Sec. 34-935. Property development regulations.

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

(a) *Minimum area for planned developments.* [no changes required]

(b) *Minimum setbacks of structures and buildings from development perimeter boundaries.* [no changes required]

(c) *Uses permitted within required perimeter setback.* [no changes required]

(d) *Planned developments on in Greater Pine Island.* Where the proposed planned development is within the Greater Pine Island area and adjoins state-designated aquatic preserves or and associated wetlands and natural tributaries, as defined in chapter 1 of this code, a 50-foot-wide native vegetated buffer area must be provided between any structure or building and the water body and wetlands. ~~the mean high-water line of the water body shall be provided.~~ Indigenous native plants within this buffer must be maintained or planted.

(1) These requirements do not apply to:

- a. Portions of marinas that provide direct water access, or
- b. Land that has already been subdivided into building sites.

(2) No deviation from ~~this~~ these requirements shall be permitted except under extreme circumstances in which the requirements would have the effect of prohibiting all reasonable use of the property.

(e) *Minimum lot size, dimensions and setbacks.* [no changes required]

(f) *Height of buildings.* [no changes required]

(g) *Open space.* [no changes required]

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 AND 2-50

- 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)
- 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." – ADD NEW LANGUAGE TO CONCURRENCY REGULATIONS IN 2-48(6)

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 and will apply to all of Greater Pine Island.
- (2) In addition, when traffic on Pine Island Road at the western edge of Matlacha between ~~Burnt Store Road and Stringfellow Boulevard~~ reaches 810 peak-hour annual average two-way trips, rezonings in Greater Pine Island that increase traffic on Pine Island Road may not be granted. 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. A minor rezoning under this exception may not rezone more than 5 acres of land or have a net effect of allowing more than 15 additional dwelling units.
 - b. Rezonings that would have inconsequential effects on traffic flows at the western edge of Matlacha during peak periods in the peak (busier) direction, or would have positive effects by reducing trips during those peak flow periods.
 - 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 for land in Greater Pine Island unless measures to maintain the adopted level of service at the western edge of Matlacha can be included as a condition of the development order. 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) of this section will be interpreted and applied 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 upon approval by the board of county commissioners of the annual concurrency management inventory of available capacity of public facilities in accordance with section 2-50 of this chapter.
1. This inventory must contain an analysis of the previous year’s traffic count data as reported in the Department of Transportation’s annual Traffic Count Report.
 2. This analysis will determine if the reported number of Annual Average Daily Trips (AADT) multiplied by the percentage for the busiest peak flow (AM or PM) exceeds 810 or 910 respectively.
 3. If this analysis concludes that one or both of these thresholds were exceeded during the previous year, the corresponding restrictions for all of Greater Pine Island that are described in subsections (2) and (3) will take effect immediately upon approval of the inventory and will remain in effect until approval of the following year’s inventory.
- c. Landowners may be in the process of obtaining residential development orders at the time that a formal determination is made that the 910-trip threshold has been exceeded. For such properties, the 180-day period for

resubmittal of supplemental or corrected application documents (see section 10-110(b)) shall not be shortened by this determination. However, no further 180-day periods may be granted.

1. Additional development rights may not be appended to a request for a development order during this period.
2. This allowance does not extend to tracts of land in large phased projects that are proposed for future development but for which a development order has not been sought in the current application.

(5) Expiring development orders in Greater Pine Island cannot be extended or renewed unless they are modified to conform with the regulations in effect at the time the extension or renewal is granted.

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

Sec. 2-50. Concurrency management information system.

(a) The director will compile, publish and update, at least once each year, beginning no later than October 1, 1990, an inventory of the maximum, utilized and available capacity of public facilities for which minimum regulatory levels of service are prescribed in the Lee Plan. This inventory must also contain a projection of future demand on the facilities due to anticipated growth and additions to capacity based upon construction in progress or under contract. This inventory must also contain the Greater Pine Island analysis as described in section 2-48(4). The inventory must be reviewed and approved by the Board of County

Commissioners and, upon approval, will establish the availability and capacity of each facility to accommodate impacts from further development. This inventory will bind the county to the estimates of available capacity described in the inventory. Once approved by the board, these estimates will empower the director to issue concurrency certificates for development permits requested where the estimates reasonably demonstrate sufficient infrastructure capacity will be available to serve all developments reasonably expected to occur during the period of time approved by the board.

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

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

IMPLEMENTING POLICY 14.3.5

NEW LEE PLAN POLICY 14.3.5:

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

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.3.5:

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

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.3.5:

CHAPTER 10
Development Standards
ARTICLE III, DESIGN STANDARDS
AND REQUIREMENTS
Division 2, Transportation,
Roadways, Streets and Bridges

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

(a) The proposed street layout shall be coordinated with the street system of the surrounding area. Streets in a proposed development shall be connected to streets in the adjacent area where required by the director of development review to provide for proper traffic circulation.

(b) For all new development on Greater Pine Island, the proposed street layout must be fully integrated into the street system of the surrounding area. These requirements apply equally to public and private streets.

- (1) Streets in a proposed development must be connected to existing streets in the

adjacent area, and to likely extensions of existing streets, unless physical barriers such as canals or wetlands preclude such connections.

- (2) Gates or guardhouses may not be used to block the movement of cars except as provided in section 34-1748(1)e. However, traffic calming measures acceptable to the director of transportation may be employed to slow vehicles and to deter excessive cut-through traffic.
- (3) "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

CHAPTER 34
Zoning
ARTICLE IV, PLANNED DEVELOPMENTS
Division 3, Design Standards

Sec. 34-411. General standards.

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

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

(c) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water.

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

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

(1) In accordance with chapter 10 and as specified in the Lee Plan traffic circulation element or the official trafficways map of the county;

(2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of

service on specific roads have been established in the Lee Plan; and
(3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.

(4) Planned developments on Greater Pine Island must also connect to existing streets in the adjacent area and to likely extensions of existing streets, as provided in section 10-294(b). “Greater Pine Island” means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

(e) – (q) *[no changes required]*

(r) Planned developments on Greater Pine Island must meet all of the special standards contained in this code and in the Lee Plan for Greater Pine Island. “Greater Pine Island” means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

CHAPTER 34
Zoning
ARTICLE VII, SUPPLEMENTARY
DISTRICT REGULATIONS
Division 17, Fences, Walls,
Gates and Gatehouses

Sec. 34-1743. Residential project walls.

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

(b) A residential project fence or wall:

(1) May be a maximum height of eight feet around the perimeter of the project upon a finding by the development services director that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

(2) May include architectural features such as columns, cupolas, fountains, parapets, etc.,

at a height not to exceed twice the fence or wall height provided they are compatible with the project and abutting properties.

- (3) Must be landscaped on the exterior side (between the wall and the abutting property or street right-of-way) with a minimum of five trees per 100 lineal feet and shrub hedges.
 - a. Hedges must be planted and maintained so as to form a 36-inch high continuous visual screen within 1 year after time of planting.
 - b. Trees adjacent to a right of way must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms adjacent to the right of way will add design flexibility and reduce conflicts.
- (4) Must be constructed to ensure that historic water flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.
- (5) May not be permitted until proper documents have been recorded providing for the maintenance of the project fence and landscaping.

(c) Residential project fences or walls are not permitted on Greater Pine Island. "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

Sec. 34-1748. Entrance gates and gatehouses.

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

- (1) An entrance gate or gatehouse that will control access to property 24 hours a day may be permitted provided that:
 - a. It is not located on a publicly dedicated street or street right-of-way; and
 - b.
 1. Appropriate evidence of consent from all property owners who have the right to use the subject road or from a property owner's association with sufficient authority is submitted; and
 2. If it is to be located within a planned development, it must be an approved use in the schedule of uses; and
 - c. The gate or gatehouse is located*:
 1. A minimum of 100 feet back from the intersecting street right-of-way or easement; or
 2. The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting public or private street while waiting to enter; or
 3. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.

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

- waive or to modify the locational requirements is discretionary and may not be appealed.
- d. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.
 - e. For Greater Pine Island only, an entrance gate or gatehouse can be used to control access only to a single block. Entrance gates or gatehouses cannot interfere with movement of cars between neighborhoods (see section 10-294(b)).
 1. “Greater Pine Island” means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.
 2. For purposes of this subsection, a “single block” means the length of any street from a dead-end or cul-de-sac to the first intersecting street and which provides access to no more than 25 existing or potential dwelling units.
- (2) Access for emergency vehicles must be provided.
- a. Any security gate or similar device that is not manned 24 hours per day must be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles.
 - b. If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.
- (3) Extension of fences or walls to an entrance gate or gatehouse. A fence or wall may be extended into the required setback where it abuts an entrance gate or gatehouse, provided vehicle visibility requirements (see section 34-3131) are met.
- (4) Entrance gates that are installed solely for security purposes for non-residential uses, and that will remain open during normal working hours, are not subject to the location requirements set forth in (1)c. above and are not required to be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles. However, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

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.

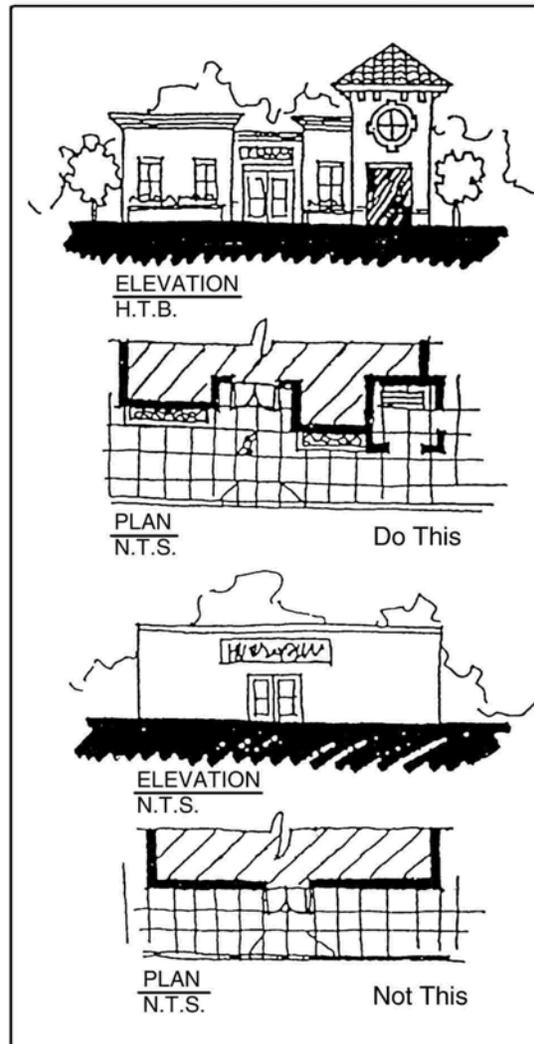


ILLUSTRATION # 4

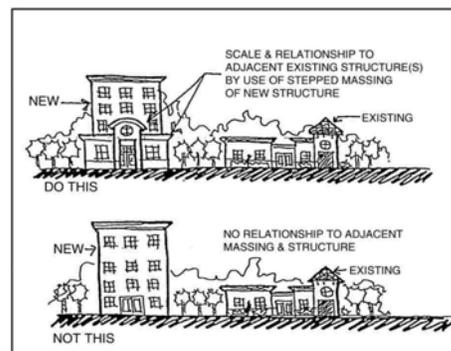


ILLUSTRATION # 5

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.

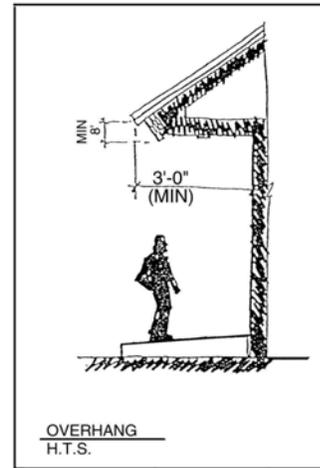


ILLUSTRATION #6

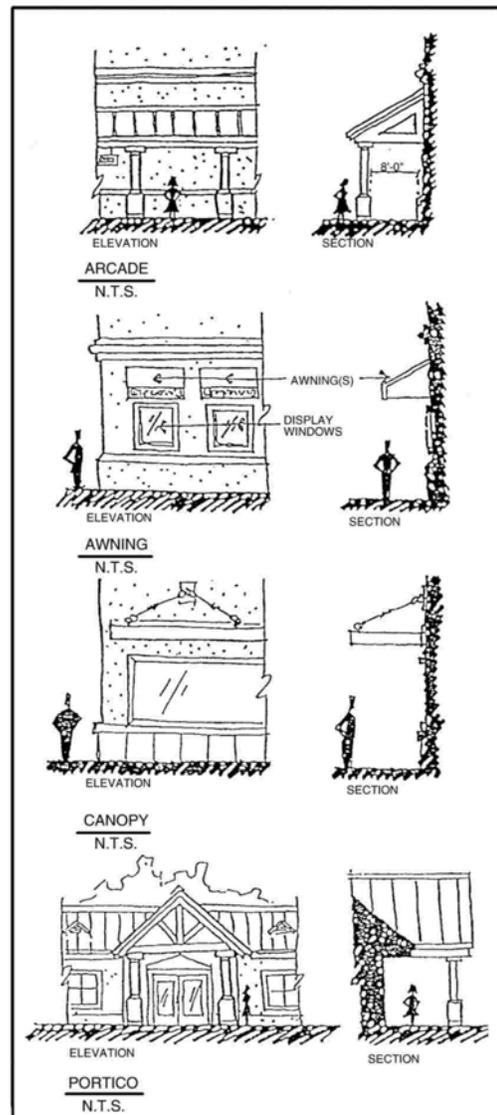


ILLUSTRATION # 7

(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.)

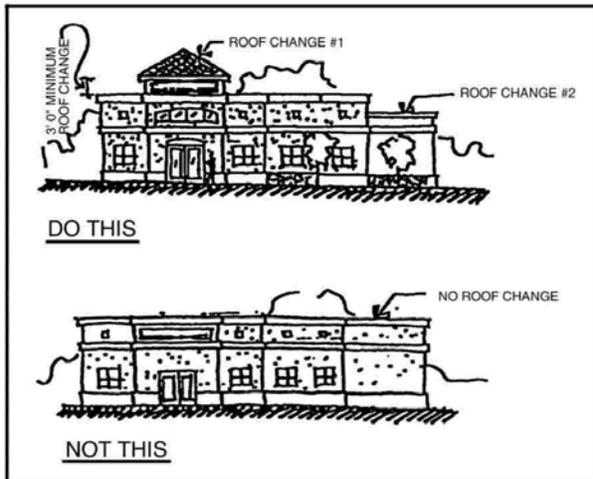


ILLUSTRATION #8

(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

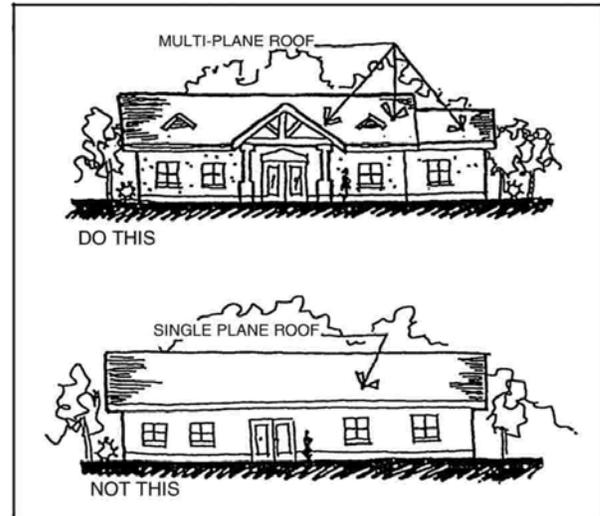


ILLUSTRATION #9

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.

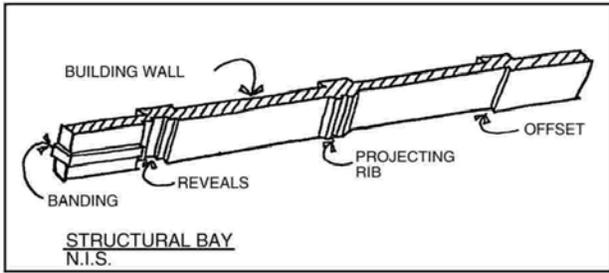


ILLUSTRATION #10

- (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 is approved by variance or by deviation in a commercial planned development. Any larger buildings approved by variance or deviation must be designed to minimize the appearance of a single large box or a standard franchise design.

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

(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~~4~~—10-629. Reserved.

IMPLEMENTING POLICY 14.4.4

NEW LEE PLAN POLICY 14.4.4:

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

SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.4.4:

- a. "These standards would reduce the size of ground-mounted signs..." – MODIFY 30-153(3)a.8
- b. "... discourage or disallow internally lit box signs..." – MODIFY 30-153(3)d
- c. "... allow wall signs on buildings near the right-of-way..." – MODIFY 30-153(2)a.4 & 30-153(3)e
- d. "... and allow small directional signs on Stringfellow Road for businesses not visible from the road." – ADD PROVISIONS FOR DIRECTIONAL SIGNS TO 30-181(c) & TO ORDINANCE 88-11; REPLACE EXISTING BILLBOARDS BEING USED AS DIRECTIONAL SIGNS BY ADDING 30-55(b)(5) & 30-183(13).

COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.4.4:

CHAPTER 30

Signs

ARTICLE I, IN GENERAL

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

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

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

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.

[no other changes to section 30-2]

CHAPTER 30

Signs

ARTICLE II, ADMINISTRATION AND ENFORCEMENT

Sec. 30-55. Nonconforming signs.

(a) *Status.* Every sign, as of the effective date of the ordinance from which this chapter is derived, which is a permitted legally existing sign shall be deemed a legal nonconforming sign. A permitted sign means a sign that was constructed or is in place with a valid permit from the county. All nonconforming signs shall be subject to the provisions of this section. All existing signs which are not legal nonconforming signs must comply with the terms of this chapter.

(1) A nonconforming sign may not be enlarged or altered in a way which increases its nonconformity.

(2) Nothing in this section shall relieve the owner or user of a legal nonconforming

sign or owner of the property on which the legal nonconforming sign is located from the provisions of this chapter regarding safety, maintenance and repair of signs.

Any repair or refurbishing of a sign that exceeds 25 percent of the value of the sign in its preexisting state shall be considered as an act of placing a new sign and not an act of customary maintenance. It shall be the responsibility of the permittee to provide the division of community development with adequate proof of the cost of such work in the form of an itemized statement of the direct repair cost, whenever such information is requested by the division.

- (3) If any nonconforming sign is destroyed to an extent of 50 percent or more of its assessed value at the time of destruction, the sign shall not be replaced or repaired, in part or in full, except upon full compliance with this chapter.
- (4) A replacement billboard structure may be rebuilt in its present location provided that the structure is in compliance with the following conditions:
 - a. Pursuant to the application for replacement, two legal nonconforming billboard structures shall be removed in exchange for the right to reconstruct one replacement billboard structure.
 - b. One of the structures which is to be removed must be located on the same site as the replacement billboard structure. If only one structure is located on the site of the replacement sign, another nonconforming billboard structure must be removed from another location within the unincorporated area of the county.
 - c. The replacement billboard structure must meet all current county height, size and setback requirements.
 - d. The land use category in which the replacement sign is to be erected shall be the less restrictive of the two land use categories where the two removed nonconforming billboard structures were located. If the land use category is the same for both nonconforming billboard structures, the replacement structure may be located at either site. For purposes of this section, the following hierarchy of land use

categories should be used to determine the least restrictive land use categories, with the most appropriate categories listed in descending order:

1. Intensive development, industrial development, airport commerce and interchange areas;
 2. Central urban and urban community;
 3. Suburban and outlying suburban;
 4. Rural, outer islands and density reduction/groundwater resources; and
 5. Environmentally critical areas (resource protection area and transitional zones).
- e. Upon approval of the application for replacement and completion of the conditions specified in this subsection, the replacement billboard structure shall be deemed in conformance with this chapter.
 - f. No replacement billboard structure may be located in the locations designated in section 30-183(1)b.

(b) ***Loss of legal nonconformity.***

- (1) A legal nonconforming sign shall become an illegal sign which must comply with this chapter if:
 - a. More than 50 percent of the sign is removed or unassembled for a period of more than six months.
 - b. The sign is altered or relocated in any manner which increases its nonconformity or causes it to be less in compliance with the provisions of this chapter. A change in copy of a sign listed as a prohibited sign by this chapter is presumed to be an alteration which increases nonconformity; such a copy change on a prohibited sign is prohibited. To establish that the nonconformity is not increased by replacing copy on a sign, other than on a changeable copy sign (where it is presumed that changing copy cannot increase nonconformity) or a prohibited sign (where a change of copy is never allowed), a sealed statement from a state-certified engineer certifying that the sign meets the structural integrity required by the current applicable building code shall

be submitted to the building official in those instances when engineering documents are required for original placement of such a sign. All signs for which a change of copy is permitted shall be made to conform with the requirements of this chapter by April 1, 1993, or any such sign shall lose its legal nonconforming status and shall be removed.

- c. Repair or refurbishing exceeds 25 percent of the value of the sign in its preexisting state.
 - d. The sign is replaced, except as provided in subsection (a)(4) of this section.
- (2) When a sign face remains blank, which is defined as void of advertising matter, for a period of 12 months it loses its nonconforming status and must be treated as a sign which must comply with all the requirements of this chapter. Signs displaying an "available for lease" message or similar message and partially obliterated signs which do not identify a particular product, service or facility are considered to be blank signs.
- (3) A nonconforming sign that has lost its legal nonconforming status shall be immediately brought into compliance with this chapter, or the sign shall be removed.
- (4) The existence of an illegal sign or a legal nonconforming sign does not constitute a hardship warranting the issuance of a variance from the provisions of this chapter.
- (5) Certain nonconforming off-site directional signs and billboards in Greater Pine Island lost their nonconforming status upon adoption of section 30-183(c). These signs became illegal signs at that time and must be removed within 12 months after adoption of section 30-183(c).
- a. Qualifying businesses that have used nonconforming billboards as off-site directional signs may replace these billboards with new off-site directional signs located in the right-of-way in accordance with section 30-183(c).
 - b. All other billboards must be removed within 12 months after adoption of section 30-183(c) unless their owners can demonstrate that the billboard has been in continual compliance with the

requirements of this code for nonconforming signs (see section 30-183(b)(1)–(b)(4).

CHAPTER 30

Signs

ARTICLE IV, RESTRICTIONS BASED ON LOCATION

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

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

(1) **Calculation of total permissible area.**

Except as specifically provided in section 30-6(1)w, total permitted sign area for any nonresidential use shall be calculated at the ratio of 20 square feet of sign area for every ten linear feet, or major fraction thereof, of frontage on a street which affords vehicle access to the property, subject to the following limitations:

a. *Single frontage.*

1. For uses with 50 feet or less frontage, maximum permitted sign area shall be 100 square feet.
2. For uses with over 50 feet but less than 100 feet of frontage, maximum permitted sign area shall be 150 square feet.
3. For uses with from 100 to 330 feet of frontage, maximum permitted sign area shall be 300 square feet.
4. For uses with over 330 feet of frontage, maximum permitted sign area shall be 400 square feet.

b. *Multiple frontage.*

1. *Corner lots.* Uses located on corner lots may utilize up to the maximum sign area allowed for each frontage providing vehicle access. No transfers of allowable area may be made from one frontage to another. See subsection (2)a of this section for exceptions.

2. *Parallel street frontage.* Uses with frontage on two streets which do not form a corner lot shall be allowed sign area credit for the second street as follows:
 - i Both streets collector or better. When both streets serve as collectors or better and public access is available from both streets, each street frontage shall be computed as provided in subsection (1)a of this section. However, no transfers of allowable area may be made from one frontage to the other. (Example: a use located on a through lot between old and new U.S. 41.)
 - ii *One street collector or better and one street local.* When a use fronts on two streets, one of which is classified as a local street, the following limitations shall apply:
 - (a) If the property across the local street is residential or institutional, or if the primary use on either side of the local street within that block is residential, the sign area allowance on the local street shall be limited to 25 square feet, regardless of frontage. (Example: property front has primary access to U.S. 41 but also borders a local street behind the property.)
 - (b) If the property across the local street is commercial or industrial, and the street provides vehicular access to the subject property, sign area allowance shall be the same as provided in subsection (1)a of this section. No transfer of allowable area may be made from one street to the other. (Example: a business establishment located in a commercial or industrial area.)
 - iii *Both streets local.* When a use borders on two local streets, full sign area credit shall be allowed for the street that provides the primary vehicle access. The second street shall be limited to a sign area of 25 square feet. No transfers of allowable sign area shall be made from one street to the other. (Example: a permitted establishment in a primarily residential area.)
 - iv *Frontage roads.* Where a business fronts upon a collector or better street but is separated by a frontage road, the allowable sign area shall be treated as though the frontage road was not there.
- (2) **Nonresidential subdivisions and multiple-occupancy complexes with more than five establishments.**
- a. **Identification sign.** A nonresidential subdivision or a multiple-occupancy complex of more than five establishments shall be permitted one ground-mounted identification sign along any street which provides access to the property as follows:
 1. One square foot of sign area per face shall be permitted for every one linear foot of frontage, provided that:
 - i No sign shall exceed 200 square feet in area per sign face.
 - ii Only one identification sign shall be permitted along any street frontage of less than 330 linear feet. A second identification sign may be permitted if the frontage along any one street exceeds 330 linear feet, provided that the total combined sign area of both signs does not exceed 300 square feet.
 - iii On corner lots, the developer may either place one identification sign on both streets providing access as stipulated in subsections (2)a.1.i and ii of this section,

3. *Under-canopy signs.* Signs attached to the underside of a canopy shall have a copy area no greater than four square feet, with a maximum letter height of six inches, subject to a minimum clearance height of eight feet from the sidewalk, and shall be mounted as nearly as possible at a right angle to the building face, and must be rigidly attached.
 4. *Sign content.* No sign permitted by this subsection (2)c shall contain any advertising message concerning any business, goods, products, services or facilities which are not manufactured, produced, sold, provided or located on the premises upon which the sign is erected or maintained.
- d. ***Interior directional signs.*** Directional signs interior to a multiple-occupancy complex of five or more establishments or to a nonresidential subdivision may be permitted subject to the following:
1. Interior directional signs shall not exceed ten feet in height and 32 square feet in total sign area;
 2. Individual tenant panels not exceeding four square feet in area may be affixed to the interior directional sign structure provided that the total sign area does not exceed 32 square feet;
 3. Signs shall be located in a manner which will not adversely obstruct safe visibility between moving vehicles or vehicles and pedestrians;
 4. Signs shall not be visible from outside the complex premises.
- (3) **Individual office, institution, business or industrial establishments, and multiple-occupancy complexes with five or less establishments.** The following regulations shall apply for any office, institution, business or industrial establishment which is not located within a multiple-occupancy complex and to all multiple-occupancy complexes containing five or less establishments:
- a. Every individual office, business or industrial establishment, and a multiple-occupancy complex of five or less establishments, shall be allowed one ground-mounted sign.
 1. If the establishment has 50 feet or less frontage on a public right-of-way, the maximum sign area shall be 32 square feet, and the sign shall be located no closer than five feet to any side property line.
 2. If the establishment has over 50 feet and up to 100 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 64 square feet, provided that no ground-mounted sign shall be closer than five feet to any side property line.*
 3. If the establishment has over 100 feet and up to 300 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 72 square feet, and the sign shall be set back a minimum of ten feet from any side property line.*
 4. Establishments having over 300 feet of frontage on a public right-of-way shall be permitted up to 96 square feet of sign area, and the sign shall be set back a minimum of ten feet from any side property line.*
 5. Establishments having frontage on more than one public right-of-way may be allowed one additional ground-mounted sign on the secondary frontage of not more than 24 square feet in area.
 6. On corner lots, the occupant may be allowed one single ground-mounted sign rather than two separate ground-mounted signs (one per street frontage) provided the total sign area of the ground-mounted sign does not exceed 1 1/2 times the maximum size permitted on any one street frontage.
 7. In multiple-occupancy complexes of five or less occupants, ground sign area not identifying the

complex should be divided equally among the occupants.

8. *Establishments in subsections (3)a.2-3-4 above that are located in Greater Pine Island and wish to place a ground-mounted sign are limited to a maximum sign area of 48 square feet (see section 30-91) and a maximum height and width of 12 feet (see section 30-92).
 - b. Maximum height of a ground-mounted identification sign shall be 20 feet.
 - c. Identification signs may be illuminated, but shall not be animated.
 - d. Wall-mounted, marquee or canopy signs may be displayed provided the total sign area of such signs plus any permitted ground-mounted identification sign does not exceed the total permitted sign area for the property based upon the calculations set forth in subsection (1) of this section, provided that not more than ten percent of any wall area may be used for signage. For Greater Pine Island only, internally illuminated box signs mounted on or projecting from a building are limited to a maximum sign area of 12 square feet per establishment.
 - e. Identification signs shall be set back a minimum of 15 feet from any right-of-way or easement.
 1. This requirement will not be construed to forbid a wall sign that meets the size limitations of this section from being placed on the front wall of a building that is lawfully closer than 15 feet to a front property line.
 2. In no case shall an identification sign be permitted between a collector or arterial street and a frontage road.
- (4) **Hospitals or other emergency medical facilities.** *[no changes required]*
- (5) **Electronic changing message centers.** *[no changes required]*

Sec. 30-181. Off-site directional signs.

- (a) **Residential developments.**

- (1) **Location; size.** Off-site, nonilluminating directional signs for subdivisions or residential projects shall be permitted along arterial and collector streets within 500 feet of the nearest intersection involving a turning movement to locate the development, subject to the following:
 - a. For a development proposing a single sign to serve the traveling public from two directions, the sign shall not be closer than 50 feet from the intersection and shall not exceed 64 feet in area.
 - b. For a development proposing two signs, one on each side of the intersection, the sign shall be a minimum of 100 feet from the intersection and shall not exceed 32 square feet in area.
- (2) **Number of signs; separation.** No subdivision or residential development shall be permitted more than two off-site directional signs, and no off-site directional sign shall be located closer than 100 feet to any other off-site directional sign.
- (3) **Setback.** Off-site directional signs shall be set back a minimum of 15 feet from any street right-of-way.
- (4) **Height.** No off-site directional sign shall exceed a height of eight feet.
- (5) **Copy area.** Off-site directional sign copy message shall be limited to the name of the development and directions to the development entrance. No advertising shall be permitted.

(b) **Semipublic bodies.** Off-site directional signs for semipublic bodies will be allowed subject to approval of the director or his designee, provided that:

- (1) **Number of signs.** No semipublic body shall be allowed more than two off-site directional signs. Signs serving two or more semipublic bodies and located at the same intersection shall use the same support structure as necessary.
- (2) **Location.** Signs shall be located along arterial and collector streets at the nearest intersection involving a turning movement to locate the organization.
- (3) **Height.** No off-site directional sign shall exceed a height of eight feet.
- (4) **Size; content.** Sign area shall be limited to four square feet, and signs shall contain only the name and logo of the semipublic body and a pointing arrow indicating the turn toward the organization.
- (5) **Design generally.** Off-site directional signs shall be of a construction and design approved by the director.
- (6) **Location in right-of-way.** Off-site directional signs may be allowed in the right-of-way with approval of the county engineer, based upon local and state highway safety standards, and shall be subject to future removal by the county.

(c) **Greater Pine Island only.** The Lee County Department of Transportation will fabricate, install, and maintain off-site directional signs in the right-of-way of Stringfellow Road and Pine Island Road in Greater Pine Island for qualifying businesses and organizations, as provided in Lee County's Commercial Use of Rights-of-Way Ordinance, Ordinance No. 88-11, as may be amended from time to time. Off-site directional signs that do not qualify for subsections (a), (b), or (c) of this section are not permitted.

Sec. 30-183. Billboards.

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

(1) Location.

- a. Except as otherwise provided in this section, billboards are permitted in any zoning district provided the area is shown on the county comprehensive plan as intensive development, industrial development, interchange areas or airport commerce. Arterial streets must be designated on the existing functional classification map, as in effect on March 20, 1991.
- b. No billboard will be permitted along:
 - 1. Ben C. Pratt/Six Mile Cypress Parkway.
 - 2. Summerlin Road.
 - 3. McGregor Boulevard.
 - 4. Daniels Parkway/Cypress Lake Drive corridor from McGregor Boulevard to SR 82, which includes Cypress Lake Drive, Daniels Parkway, the proposed Daniels Parkway extension, Fuel Farm Road, portions of Chamberlin Parkway and any other roads which are not stated in this subsection but are located within such corridor.
 - 5. Colonial Boulevard east of I-75.
 - 6. Alico Road east of I-75.
 - 7. Koreshan Boulevard.
 - 8. Corkscrew Road.
 - 9. Treeline Avenue Corridor from Daniels Parkway to Bonita Beach Road. This prohibition includes Ben Hill Griffin Boulevard and any other roads which are not stated in this subsection but are located within this corridor. This prohibition specifically contemplates the future renaming of Treeline Avenue.
 - 10. Pine Ridge Road.
 - 11. South Pointe Boulevard

(2) Separation. Minimum distance separation will be as follows:

- a. Within industrial/business and intensive business areas, 2,000 feet

from any other billboard on the same side of the street.

- b. Within interchange areas, 1,320 feet from any other billboard on the same side of the street.
- c. Within airport commerce areas, 2,000 feet from any other billboard on the same side of the street.

No billboard may be located closer than 100 feet to any intersection with another arterial road.

- (3) **Size.** No billboard may be less than 72 square feet in area per face or more than 400 square feet in size. Embellishments may not extend more than four feet from the top edge or more than two feet from any one side edge. On Alico Road, west of I-75, billboards may not exceed 380 square feet in size.
- (4) **Height.** Billboards may not exceed a height of 20 feet when placed at the sign setback line set forth in subsection (5) of this section, except that, for every two feet the sign is placed back from the required setback line, the height of the sign may be increased by one foot, to a maximum height of 30 feet.
- (5) **Setbacks.** All billboards must be set back a minimum of ten feet from any property line and any building as measured between the closest point of the sign to the property line or building.
- (6) **Roof signs.** Billboards are prohibited on any roof portion of any building.
- (7) **Copy area.** The billboard advertisement shall cover the entire copy area of the billboard.
- (8) **Maximum number of signs per structure.** Each billboard structure shall be limited to a single sign, which may be single- or double-faced, but side-by-side or vertically stacked (double-tier) signs shall be prohibited.
- (9) **Illumination.** Billboards may be illuminated provided that, if external lighting such as floodlights, thin-line or gooseneck reflectors are used, the light source shall be directed onto the face of the sign and shall be effectively shielded so as to prevent beams or rays of light from being directed into any portion of the street right-of-way.
- (10) **Revolving signs.** Billboards may be a revolving sign as defined in this chapter,

but shall not consist of animation or flashing devices.

(11) **Variations and deviations.** No variations or deviations from subsections (1) or (6) through (10) may be granted.

(12) **Landscaping for billboards on Alico Road, west of I-75.** *[no changes required]*

(13) **Billboards in Greater Pine Island.** Some billboards remained in place in Greater Pine Island despite the longstanding prohibition against billboards and other off-site advertising and directional signs. These signs may have been nonconforming signs or they may have been illegal signs. Within 12 months after adoption of section 30-181(c) into this chapter, all remaining billboards must be brought into compliance by one of the following means:

- a. Some billboards may be replaced with off-site directional signs installed in rights-of-way by Lee County Department of Transportation pursuant to section 30-181(c).
- b. Some billboards may continue to qualify for nonconforming status and can remain in place, subject to the restrictions in section 30-153(b)(1)–(b)(4).
- c. All billboards in Greater Pine Island that cannot demonstrate continual compliance with this chapter's nonconforming standards are illegal and must be removed (see section 30-153(b)(5)).

AMEND LEE COUNTY'S "COMMERCIAL USE OF RIGHTS-OF-WAY ORDINANCE," ORDINANCE 88-11 AS AMENDED, AS FOLLOWS:

SECTION 5: EXCEPTIONS

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

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

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

- 1. "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of the Lee County Land Development Code.
- 2. "Qualifying businesses and organizations" means one of the following types of for-profit, non-profit, or governmental entities currently operating in Greater Pine Island on a parcel of land that does not have road frontage on CR 767 (also known as Stringfellow Road, Oleander Street, and Main Street) or on CR 78 (also known as Pine Island Road):
 - a. Motels/hotels/bed-and-breakfast inns
 - b. Restaurants
 - c. Retail sales and personal services
 - d. Marinas
 - e. Farms or nurseries regularly offering retail sales
 - f. Transient RV parks
 - g. Educational, cultural, and religious institutions
 - h. Governmental agencies
 - i. Other tourist-oriented businesses

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