

Lee County Board Of County Commissioners

Agenda Item Summary

Blue Sheet No. 20060242

1. ACTION REQUESTED/PURPOSE: Adopt a resolution approving a proposed interpretation of Lee Plan Objective 14.2 and Policy 14.2.2, relating to interpretation and implementation of the Pine Island 810/910 rule.

2. WHY ACTION IS NECESSARY: The Board of County Commissioners must render the final decision as to the correct interpretation of provisions of the Lee Plan. (Chapter XIII, Lee Plan)

3. MANAGEMENT RECOMMENDATION: Adopt the resolution.

4. Departmental Category: 04 **5:00 PM PH 2**

5. Meeting Date: **03-14-2006**

6. Agenda:

<input type="checkbox"/>	Consent
<input type="checkbox"/>	Administrative
<input type="checkbox"/>	Appeals
<input checked="" type="checkbox"/>	Public - 5:00 PM
<input type="checkbox"/>	Walk On

7. Requirement/Purpose:
(Specify)

<input type="checkbox"/>	Statute	
<input type="checkbox"/>	Ordinance	
<input type="checkbox"/>	Admin. Code	
<input checked="" type="checkbox"/>	Other	Lee Plan
<input type="checkbox"/>		Chapter XIII

8. Request Initiated:

A. Commissioner	N/A
B. Department	Community Development
C. Division	Planning
By:	Paul O'Connor, AICP, Director
	<i>POC 2/28/06</i>

9. Background:

The Board of County Commissioners requested a legislative interpretation of the provisions of Policy 14.2.2. The Comprehensive Plan Annotation Committee held two advertised public meetings, on February 2, and February 9 of 2006, interested parties were allowed to participate via written comments. The committee offered both a majority and minority opinion. The Local Planning Agency heard the matter at its February 27, 2006 meeting and voted 3 to 2 to accept the minority opinion, with one LPA member absent and one position vacant.

Attachments

- Annotation Committee Majority Opinion
- Annotation Committee Minority Opinion
- Excerpt from the Lee Plan "Legislative Interpretations of the Plan"
- Annotation Committee Support Documentation
- Annotation Committee Minutes
- Draft Resolution to Adopt the Interpretation

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager
<i>Mary Gibbs</i>	N/A	N/A	N/A	<i>Leah...</i>	<i>QA 3/2/06</i>	<i>ADM 3/2/06</i>	<i>Risk 3/4/06</i>	<i>GC 3/6/06</i>	<i>HS 3/2/06</i>

11. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY	
COUNTY ADMIN:	
FORWARDED TO:	
<i>3/2/06</i>	
<i>4:30 PM</i>	

Rec. by CoAtty	
Date:	<i>3/14/06</i>
Time:	<i>2:47 PM</i>
Forwarded To:	

RESOLUTION 06-03-__

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA WHICH ADOPTS AN INTERPRETATION OF THE COMPREHENSIVE PLAN PERTAINING TO GREATER PINE ISLAND CONCURRENCY.

WHEREAS, the Board of County Commissioners of Lee County, Florida adopted a Comprehensive Plan known as the "Lee Plan" by Ordinance No. 89-02 which became effective on March 1, 1989; and

WHEREAS, the Lee Plan provides for procedures for legislative interpretations of the Plan as set forth in Chapter XIII, Section c; and

WHEREAS, a request for interpretation of Objective 14.2 and Policies 14.2.1 and 14.2.2 were considered by the Comprehensive Plan Annotations Committee; and

WHEREAS, the majority of the Annotation Committee recommended approval of the proposed interpretation set forth herein; and

WHEREAS, on February 27, 2006, the Local Planning Agency reviewed the proposed interpretation and recommended approval of the minority opinion; and

WHEREAS, the Board of County Commissioners has determined that the Annotation Committee's majority opinion regarding the proposed interpretation of the Lee Plan is the correct interpretation to be applied to the effected provisions of the Lee Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:

Given the language of Lee Plan Objective 14.2 and Policies 14.2.1 and 14.2.2, the current County staff interpretation and implementation of those provisions with regard to review and approval of development orders, as described in the record of proceedings by the Annotations Committee, is consistent with the intent and purpose of those policies and objectives.

The foregoing resolution was adopted by the Lee County Board of County Commissioners upon a motion made by _____ and seconded by _____ and, upon being put to a vote, the result was as follows:

Robert P. Janes _____
Douglas R. St. Cerny _____
Ray Judah _____
Tammara Hall _____
John E. Albion _____

DONE AND ADOPTED this ____ day of March 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Tammara Hall, Chairwoman

Approved as to form by:

Office of the County Attorney

COMPREHENSIVE PLAN ANNOTATIONS COMMITTEE RECOMMENDATION

The Comprehensive Plan Annotations Committee met in public sessions on February 2nd and 9th 2006 to consider an annotation of Policy 14.2.2. and Objective 14.2.

QUESTION:

Given the language of Lee Plan Objective 14.2 and Policies 14.2.1 and 14.2.2, is the current county staff interpretation and implementation of these provisions with regard to review and approval of development orders consistent with their intent and purpose.

MAJORITY ANSWER: Yes

LEE PLAN LANGUAGE:

OBJECTIVE 14.2: ROAD IMPROVEMENTS. The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Amended by Ordinance No. 00-22)

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209. (Amended by Ordinance No. 00-22)

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

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

the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

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

DISCUSSION:

When interpreting a statute or ordinance it is necessary to start with the plain meaning of the language. The plain meaning will control in any attempt to understand and apply the ordinance. (Rollins v. Pizzarelli, 761 So. 2d 294, Fla. 2000) Clearly, the subject language is not a model of clarity or simplicity since it has created much controversy which has led to the need for this annotation. However, it is possible to determine some clear direction and purpose in the language. In order to do this, it is necessary to understand some of the rules that govern the writing of comprehensive plans.

In the context of a comprehensive plan under Florida Statutes, Goals, Objectives and Policies have a specific purpose. Rule 9J-5 of the Florida Administrative Code specifies this purpose as follows:

"Goal" means the long-term end toward which programs or activities are ultimately directed.

"Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

"Policy" means the way in which programs and activities are conducted to achieve an identified goal.

Keeping in mind the above, it seems clear that the Objective and Policies recognize the limited opportunities for improvement or expansion of vehicular access to Pine Island and the existence of thousands of separate parcels or lots that are likely to be improved with houses in the future thereby creating the need for close monitoring of future development and creation of restrictions on future development in order not to overload the existing and foreseeable road capacity to handle future traffic impacts. To accomplish this, Policy 14.2.1 clearly sets a level-of-service standard for Pine Island Road that is more strict than the level-of-service standard adopted for other roads countywide; and, Policy 14.2.2 directs the county to adopt regulations designed to maintain this higher level of service. Policy 14.2.2 also provides guidance and limitations for the regulations that must be adopted to

implement this portion of the Plan. Thus, it is clear that the Plan language is not self implementing, but relies on the regulations to be adopted to carry out its purpose. Certainly this assumes that the regulations that are ultimately adopted will be consistent with the Plan.

Pursuant to the mandate of the Objective and Policies, the county did adopt Section 2-48 of the Land Development Code (LDC), on October 24, 1991 without negative comment, that reads as follows:

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map, 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.
- (2) When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that increase traffic on Pine Island Road may not be granted. When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.

Pursuant to this section of the LDC, the staff determined that when the county's concurrency management report showed that the traffic on Pine Island Road reached the specified 910 threshold, then all new residential development order applications anywhere in Greater Pine Island would have to demonstrate that they meet both the county's general concurrency requirements and an additional test for their impacts on Pine Island Road with regard to the stricter level-of-service standard specified in Policy 14.2.1.

For example: Normally, a project located along Stringfellow Boulevard would only have to meet the county-wide standard traffic concurrency test on Stringfellow Boulevard at the point where its traffic impacts that road. The "910 rule" as now implemented by the staff would test this project for traffic concurrency based on the county-wide standard at the same place on Stringfellow Boulevard **and also** on Pine Island Road at the point specified in Policy 14.2.1 (under the higher standard also specified in Policy 14.2.1.) If the

development fails either test then the development order will be denied.

It is important to note that the staff uses the same methodology as used countywide for both traffic concurrency tests, except for the use of the higher level-of-service standard as specified in the Plan. This is because staff determined that there is nothing in the Plan language that would mandate some different methodology, nor is there any specific direction in the language as to how such a methodology is to be applied. This methodology is described as follows:

Transportation concurrency analysis is performed on a project by project basis at time of local development order review in order to determine whether there is sufficient available capacity on the adjacent arterial or collector road network to accommodate new trips to be generated by the project at the time that the impact will occur. Development Services maintains an estimate of the "existing" peak hour, peak season, peak direction traffic volumes on each link of the arterial and collector road system that are reported on the Annual Traffic Count Report published by Lee County DOT. The link by link existing traffic volumes, the estimated volume for the current year, estimates of future volumes from approved development orders and building permits and the maximum Level of Service (LEVEL-OF-SERVICE) capacity volume for each link are accepted by the Board of County Commissioners in the Annual Concurrency Management Inventory and Projection Report. Once this report is accepted, the reported volumes and capacities become regulatory tools in Concurrency evaluations performed for new projects.

Applicants for development order approval are required to submit a Traffic Impact Statement (TIS) for review by County staff. The TIS provides an estimate of both the annual average daily and peak hour trips that the project will generate. The peak hour trips are calculated for both the a.m. and p.m. peak hours; are further identified as to whether they are entering trips or exiting trips and then distributed to the surrounding roadway network in order to assess potential impacts and to determine if improvements to the system are required to mitigate those impacts.

For purposes of concurrency evaluation, the 100th highest peak hour, peak season, peak direction trip volume is calculated and then added to the "existing" traffic volume for the first arterial or collector link to which the project is contributing trips as reported in the most recent Concurrency Report. If the sum of these volumes does not cause the mandated Level of Service (LEVEL-OF-SERVICE) capacity of the link to be exceeded, then a Certificate of Concurrency will be issued which is valid for a period of 3 years from date of issue.

If the sum of the volumes exceeds the LEVEL-OF-SERVICE standard for the link, then the Concurrency Certificate cannot be issued unless:

1. The roadway link had been declared "constrained", operates at LEVEL-OF-SERVICE "F" and the volume to capacity ratio does not exceed 1.85, or
2. Improvements to the impacted roadway link are funded in either a Municipal, County, or State Capital Improvement Program (CIP) within the first three (3) years of the adopted CIP, or
3. The project's development intensity (number of units or building square footage) is reduced such that the Level of Service standard is not exceeded.

The principal arguments that have been made against the use of the county-wide

methodology are that the Plan language, especially in Objective 14.2, requires that the county reserve capacity on Pine Island Road for the future use of the existing 6,675 vacant lots or parcels that could be built upon; and that the Plan language requires the staff to deviate from the standard methodology by using the technique of cumulative counting of the trips from pending or approved development orders (which also functions as a reservation of capacity) so that the level-of-service standard for Pine Island Road (currently 1,130 trips) will not be exceeded by even one trip. There are several problems with these arguments.

First: Neither the Plan language, nor the LDC language contain any reference to a requirement to reserve road capacity for future units that may or may not ever be constructed. The county has intentionally rejected the capacity reservation/cumulative counting concept in its traffic concurrency system. Our experience has shown that many projects are speculative and either never get built, or are not developed as originally approved (typically with fewer units). Reserving capacity for such speculative projects would penalize legitimate and perhaps needed projects that are ready to be constructed by keeping them from being built or unfairly rewarding speculative developers by giving them an opportunity to sell their development rights at exorbitant prices to developers who are ready to build.

Second: If the language is interpreted to require a reservation of capacity for existing or approved vacant parcels, this would have resulted in an immediate moratorium on all development in Greater Pine Island in 1988 at the time the Plan language was adopted. This result is not supported by the language of the Plan nor by the record from the adoption hearing in 1988. The language in the Plan establishes thresholds for gradual restriction of development and a higher level-of-service standard for traffic concurrency. The staff has implemented this language in a manner consistent with the Plan.

Third: Even if the currently used non-cumulative methodology does result in a potential for exceeding 1,130 trips on Pine Island Road, the actual number of additional trips will be very low to negligible compared to the approximately 3,290 trips that would be added by the 6,675 vacant existing parcels. Concurrency, as required by Florida law and implemented in the Lee Plan, does recognize that there are certain pre-existing rights that cannot be denied even if a particular level-of-service standard may be exceeded if these rights are exercised. There is no practical way, short of widespread moratoriums, to avoid this situation. Neither State law nor the Lee Plan contemplate stopping all development in order to provide some type of preference for these pre-existing rights that may or may not be exercised.

In summary, Policy 14.2.2, in the context of Objective 14.2 and the rest of the Plan, does establish a higher standard of traffic concurrency for Greater Pine Island as well as gradual thresholds for applying this standard. The County Commission has adopted appropriate regulations in the LDC to implement the Policy and county staff have been and are properly enforcing these regulations.

ATTACHMENTS:

Minority Report

David Loveland Handouts from 2/2/06 and 2/9/06

Management & Planning Committee 8/2/04 Agenda Form with attachments

Paul O'Connor Memo 2/1/06 to Annotations Committee

Paul O'Connor Handouts from 2/9/06

Paul O'Connor Memo 10/31/04 to Board of County Commissioners

Re: Implementation of the 810/910 Rule

Timothy Jones Memo 7/30/04 to Board of County Commissioners

Re: Pine Island Concurrency

Peter J. Eckenrode Handouts and Memo 2/2/06 to David Owen Re: Transportation

Concurrency Review

David Depew Handout 2/9/06

Power Point Slides copies of presentation by the Greater Pine Island Civic

Association, Inc. Entitled: The Pine Island Land Plan, Objective 14.2 and the

810/910 Rules

Copies of Letters and Emails from interested persons

Transcript of 10/7/1988 Board of County Commissioners Public Hearing

PINE ISLAND ANNOTATION

Question: *Does the current staff interpretation and implementation of Policy 14.2.2, specifically the “910” provision, comply with the legislative intent of Goal 14, Objective 14.2, and Policy 14.2.2?*

Minority Opinion: *The current staff implementation with some adjustments will comply with the goal, objective and policy referenced above. These adjustments include cumulative counting of residential development order traffic and restricting density to one-third the maximum allowable.*

Intent of “910 Rule”

Before answering the question about Policy 14.2.2, the intent of Goal 14 and Objective 14.2 must be examined. This has been an issue of concern for years. The Pine Island community, through the Civic Association, prepared one of the very first Community Plans in the county in the 1980s. One of the major issues at that time was hurricane evacuation and the limited road capacity serving Pine Island Road as it affected both daily travel and hurricane evacuation. Pine Island is accessed by a 2-lane arterial road over several two-lane bridges (one of which is a drawbridge) and a causeway. Goal 14 of the Lee Plan, states in part:

To manage future growth on and around Greater Pine Island so as to maintain the island’s unique natural resources and character and to insure that island residents and visitors have a reasonable opportunity to evacuate when a hurricane strike is imminent. (Emphasis added)

Measures to determine whether Goal 14 is being achieved were provided in Objective 14.2, which states:

The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Emphasis added)

In practice, this monitoring has included all three components required by Objective 14.2: 1) continuous monitoring of traffic levels from the current population using a permanent traffic counter in Matlacha; 2) a reanalysis approximately 5 years ago of the amount of development on previously approved land that has yet to be built (6,675 vacant lots now, down from 6,800 in 1989), and 3) potential traffic from new development approvals, which is tabulated by staff on a regular basis. The distinction is that staff does not use the

cumulative totals of the traffic from new development approvals, as appears to be intended by this objective.

Policy 14.2.2 further mentions giving “priority to the property rights previously granted by Lee County for about 6,675 additional dwelling units”. To provide this priority, measures to gradually limit future development approvals are to be implemented that would reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road being reached. These measures are commonly known as the “810” and “910” rules. (The “810” rule is not the subject of this annotation and is only mentioned to illustrate that restrictions were contemplated by the County Commission to manage growth. The 810 rule is now in place and enforced.)

The “910” rule of Policy 14.2.2 states:

When traffic on Pine Island Road reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

When these provisions are interpreted as a whole, the intent is to restrict residential development orders once the 910 traffic volume threshold has been reached, in an attempt to “leave room” for future traffic from the 6,675 vacant lots that will be built over time. The wording of the policy does not say that the county must *stop* issuing development orders (despite that being the general understanding for 17 years), but it does say that restrictions are to be imposed “until (road) improvements can be made” and that the restrictions cannot be more severe than reducing density to one-third the maximum density otherwise allowed.

Through the settlement agreement with the state, DCA required that specific numbers (810 and 910) be put into the plan in place of the originally proposed formula. The plain language in the goal, objectives and policies never references the number “1130” (the number supported by the majority opinion), it only references “910”. Deriving “1130” requires one to interpret the 10 word phrase in Policy 14.2.2 “or other measures to maintain the adopted level of service” as superior to the other phrases in the paragraph. Additionally, if one were to interpret the phrase as superior, one would still need to go back to a prior page, to interpret Policy 14.2.1 as meaning LOS D/E, and then perform traffic calculations not contained anywhere in the Plan, to arrive at the “1130” number. The use of “1130” is not supported by a complete reading of the plan, nor by its legislative intent.

Current Implementation of the “910 Rule”

Some adjustments to current practices are needed to properly review future residential development orders in light of the wording and legislative intent of the Lee Plan.

The current procedure countywide is to analyze traffic impacts created by each proposed development separately when reviewing the site plan (development order), as if no other pending projects exist. The question here is whether the County Commission intended for Pine Island to be treated differently, and whether residential development orders should be considered separately, or cumulatively as suggested by Objective 14.2.

It is the minority opinion that the traffic impacts of projects should be counted cumulatively now that the 910 level has been reached. To do otherwise is not logical in a situation where roads cannot be widened as growth occurs. For example, assume that Pine Island Road can accommodate 200 more trips before the capacity is reached. Under the current system, one development that generates 201 trips would be denied, yet 5 separate projects each generating 199 trips (for a total of 995 trips) would all be approved. This method is not supported by the Plan wording and cannot be attributed to legislative intent.

Under the current system, building permits for the vacant platted lots will continue to be issued, even when the Level of Service on Pine Island Road reaches LOS F. With no restrictions on building permits for these vacant lots, no plans to build a new bridge to Pine Island, and no substantive reduction of residential development orders, the Plan policies would essentially be meaningless.

A new sentence limiting the restrictions to one-third the maximum allowable density was adopted by the County Commission in January 2003 and became effective on December 24, 2004. The minority opinion is that this one-third restriction is self-implementing.

Final Note

If the minority opinion is accepted, the County Commission may wish to decide whether to give special consideration to pending development order applications that are complete but are being held in abeyance pending the outcome of this annotation process, in the interest of fairness.

6. Where appropriate and necessary all administrative interpretations rendered by the designated persons (or upon appeal, approved by the Board of County Commissioners) will be incorporated into the Plan during the next amendment cycle. (Amended by Ordinance No. 94-30, 00-22)

c. Legislative Interpretations of the Plan

In order to apply the plan consistently and fairly, it will be necessary from time to time to interpret provisions in the plan in a manner which insures that the legislative intent of the Board of County Commissioners which adopted the plan be understood and applied by subsequent boards, county employees, private property owners, and all other persons whose rights or work are affected by the plan. When the plan is interpreted, it should be done in accordance with generally accepted rules of statutory construction, based upon sound legal advice, and compiled in writing in a document which should be a companion to the plan itself. These goals will be accomplished by the procedures which are set forth below:

A. COMPREHENSIVE PLAN ANNOTATIONS COMMITTEE.

The Director of Community Development, the Planning Director, and the County Attorney will together be empowered to sit as the Comprehensive Plan Annotations Committee. In each instance, these persons may designate one or more subordinates to serve in their place, but only one vote may be cast by or on behalf of each of the aforementioned officials. The purpose of the committee is to make written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. If the committee cannot recommend an interpretation unanimously, then both a majority and minority recommendation will be made to the Local Planning Agency. Similarly, if the committee cannot reach a majority position with respect to an interpretation, then each official will submit a separate recommendation to the Local Planning Agency. In accomplishing its work, the committee will operate as follows:

1. Organization

The committee will meet regularly at such times and places as it may choose. Its meetings will be either private or open to the public, or a combination thereof, as the committee chooses. The committee will have total discretion in this matter. No public notices of its meetings will be required. It may invite to its meetings such persons as it believes will best assist it in its work. It is intended that the committee will function in an informal workshop atmosphere, with emphasis to be placed on the timely production of concise, written recommendations to the Local Planning Agency in response to requests for interpretations of specific provisions in the plan. The County Attorney will be responsible for reducing the recommendations of the committee in writing, unless he is in the minority, in which case the Planning Director will be responsible for reducing the majority recommendation to writing. In every case, the Planning Director will be responsible for delivering the recommendations to the Local Planning Agency on a timely basis as part of the published agenda of the Local Planning Agency.

2. Requests for Interpretations

Requests for interpretations will be placed before the Comprehensive Plan Annotations Committee by any one of its three members in response to a question raised by the Board of County Commissioners, collectively or by any one commissioner, by any member of the county

administration who is responsible for administering the plan, by the Local Planning Agency, by the Lee County Hearing Examiner, or by any applicant for a type of development regulated by the plan. In each case, the Planning Director will be responsible for reducing the questions to writing and, to the extent possible, linking them to specific plan provisions which might affect the answer.

(Amended by Ordinance No. 00-22)

B. Local Planning Agency

Upon receiving the recommendations from the Comprehensive Plan Annotations Committee, the Local Planning Agency will review the same and forward them to the Board of County Commissioners with such comments and recommendations of its own that the Local Planning Agency believes to be appropriate. (Amended by Ordinance No. 00-22)

C. Board of County Commissioners

Upon receiving the recommendations of the Comprehensive Plan Annotations Committee, with such other comments and recommendations as the Local Planning Agency submits with the committee's recommendations, the Board of County Commissioners will render a final decision as to the correct interpretation to be applied. This interpretation will be that which is adopted by absolute majority of the Board of County Commissioners and, upon being reduced to a board resolution drafted by the County Attorney in response to the board majority, it will be signed by the Chairman and recorded in the county's Official Records. The Planning Director will be responsible for maintaining copies of all such resolutions in a single document which will be appropriately indexed and provided to all persons upon request. The document will be updated regularly and the latest version thereof furnished to all persons requesting copies of the plan itself. (Amended by Ordinance No. 00-22)

D. Legal Effect of Annotations

Any provision of the plan specifically construed in accordance with the foregoing procedures may not be re-interpreted or modified except by a formal amendment of the plan itself. Once formally adopted in accordance with these procedures, the annotation will have the force of local law and all persons will be placed on constructive notice of it. Any development orders issued in reliance on legislative interpretations of this plan are subject to challenge under the provisions of Section 163.3215, Florida Statutes. (Amended by Ordinance No. 00-22)

d. Plan Amendment Procedures

This plan, including the Future Land Use Map, may be amended with such frequency as may be permitted by applicable state statutes and in accordance with such administrative procedures as the Board of County Commissioners may adopt.

Sections of this plan may be renumbered or relettered, and typographical errors which do not affect the intent, may be authorized by the County Administrator, or his designee, without need of Public Hearing, by filing a corrected copy of same with the Clerk of the Circuit Court.

(Amended by Ordinance No. 94-30)

**MINUTES REPORT
ANNOTATIONS COMMITTEE
THURSDAY, FEBRUARY 2, 2006**

Committee Members Present:

David Owen, County Attorney
Mary Gibbs, Director, Community Development
Paul O'Connor, Director, Division of Planning

Lee County Government Representatives Present:

Peter Eckenrode, Director, Development Services
David Loveland, Manager, Transportation & Planning, DOT
Timothy Jones, Chief Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Gerald Campbell, Public Safety
Debbie Carpenter, DCD Administrative Services, Recorder

Public Present

Matt Uhle	Michael Caren
Phil Buchanan	Sally Tapager
Mildred Schindler	Bill Spikowski
Kami Corbett	Kevin Greten
John Cauthen	Tom Lehnert
Glen Roberts	

INTRODUCTION

Mr. David Owen called the meeting of the Annotations Committee and its process on the Pine Island Plan to order at 2:05 p.m. on February 2, 2006. The meeting was held in the East Room, 2120 Main Street, Fort Myers, Florida. He stated that the meeting had been duly advertised, a copy of the Affidavit of Publication had been given to the recording secretary and the original copy was on file with the office of Public Resources and available to anyone that wanted to view it.

Mr. Owen stated that the purpose of the meeting was to address a question that had arisen over the past four to six months regarding implementation of certain parts of the Pine Island portion of the Lee Plan. Following presentation to the Board by the Pine Island Civic Association by one of its representatives on January 9, 2006, the board directed staff to assemble an annotations committee, as provided for by the Comprehensive Plan, in order to develop a written annotation on the policy subject to objection, for subsequent transmittal to the Local Planning Agency (LPA) for its review and comment and then to the Board of County Commissioners (BoCC) for their review and consideration. The BoCC is the final arbiter with respect to any determinations of the Lee Plan and will make the final decision following this process.

Mr. Owen stated that this was the first meeting and there would be a follow up meeting on Thursday, February 9th for the purpose of addressing any unanswered issues, adding

additional documents from staff and/or the public to the record, and finalizing the discussions between the committee members for the purpose of determining the points necessary to develop the written annotation. Subsequent to that, the annotation will be written in draft form for the purpose of transmittal to the Local Planning Agency (LPA) for review and comment at their meeting scheduled for February 27, 2006 and thereafter to the BoCC for their review and consideration at their regular meeting in the board chambers on Tuesday, March 14, 2006 at 9:30 a.m.

There was an introduction of committee members and staff present. Mr. David Owen, County Attorney, Mary Gibbs, Director of Community Development and Paul O'Connor, Director of the Division of Planning, present as members of the annotations committee. Staff present to address the issues included Gerald Campbell from the Division of Public Safety, Donna Marie Collins, Assistant County Attorney, Land Use Division, Mr. Tim Jones, Chief Assistant County Attorney, Land Use Division, Mr. David Loveland, Manager, Transportation and Planning of DOT and Mr. Peter Eckenrode, Director of Development Services for the Department of Community Development.

Mr. Owen stated that he was knowledgeable about the Lee Plan but not the particulars with respect to the Pine Island component. He had five distinct points that he wanted to address prior to development of the written document:

1. A description of the policy 14.2.2. to be addressed by Mr. Tim Jones.
2. A discussion involving concurrency. Concurrency for the county in general, as a result of the adoption of the Lee Plan, then specifically concurrency relative to Pine Island and the application of Chapter 2 of the Land Development Code where that concurrency is implemented pursuant to the Plan. To be addressed by Mr. Jones, Mr. Eckenrode and Mr. Loveland.
3. Lee County DOT calculations for the 910 threshold to be addressed by Mr. Loveland.
4. Discussion about development review with respect to Pine Island; a review of the process, the applications, what was current, how many trips were left. (Mr. Eckenrode)
5. Public safety considerations, primarily those issues that were raised through the course of discussions going back to October of 2005 when there was a workshop relative to hurricane evacuation and Pine Island Road, and those will be addressed by Mr. Gerald Campbell.

Ms. Gibbs asked for clarification about when public input would be accepted. Ms. Collins asked if there had been any formal submittal for consideration by the committee that had been presented by the public. Mr. Owen stated that he had received e-mails and some letters either by mail, electronically or hand delivered and that those written submittals were designed to let those individuals who wished to participate, either in person at a meeting or not, to send in their thoughts relative to the discussions of the committee. Those documents will be appended to the final report of the annotation itself and will be considered by the committee in the writing of the annotation. The cutoff for any writings will be at the end of the second meeting, which would be on February 9th at approximately 4:00 p.m. or whenever the meeting concludes. Any written input received to date until the

close of business of the committee on February 9th, will be received, accepted and considered by the committee and ultimately considered by the LPA and the BoCC.

Mr. Owen stated that meeting was an informal process as dictated by the Comprehensive Plan. There would be no public input at either meeting. Public input can be given at the LPA or the BoCC meetings.

Mr. Owen recognized Mr. Jones and asked that he review the policy of 14.2.2 and its history and references.

Mr. Jones first acknowledged Mr. O'Connor's memo of October 31, 2005 addressed to the Board of County Commissioners. Mr. Jones stated he planned to refer to it frequently. To establish the context, Mr. Jones stated that as a result of the Growth Management Act of 1985, the land use controls and regulations, reviews and approvals, became a "top down" process in the state of Florida. Locally that meant that the process first starts with the Comprehensive Plan that typically sets a framework, in general or specifically, of the goals, objectives and policies as designed in the Plan for growth and land development in the county. From the comprehensive plan, land development regulations are developed to implement the goals, objectives, and policies of the Plan itself and to govern the day-to-day operation of development in the county. The Plan is generally designed to be an overall set of philosophies, goals and guiding criteria. There may be instances however, where there are specific statements, such as in the Pine Island portion or others, that specify requirements (an example of which is height limitations on development) that cannot be varied and essentially forbids any land development regulations that would change that requirement. In this case, the policy being discussed is 14.2.2 and its subparagraphs, and what is generally referred to as the 910 rule. Mr. Jones reviewed the policy in depth as it related to Greater Pine Island and the policies specific to the island's goal of maintaining its unique natural resources and character and to ensure that island residents and visitors have a reasonable opportunity to evacuate when a hurricane strike is imminent. The objectives within that overall goal as outlined in 14.2.2, speak of road improvements and specifically say that the County will continually monitor traffic levels on Pine Island Road to "ensure that the sum of the current population, plus the development on previously approved land, plus new development approvals will not exceed the capacity of existing committed roadways between Pine Island and the mainland of the County". Mr. Jones said the introductory paragraph of 14.2.2 recognizes property rights previously granted by Lee County for about 6,675 additional dwelling units and states that the County would keep in force effective development regulations which would address growth on Pine Island and which would implement measures that would gradually limit further development approvals once certain thresholds were reached so that measures could be taken before road capacity was reached. The 910 rule states that the threshold at which that must happen is 910 peak hour, annual average two way trips and that restrictions must be made on further issuance of residential development orders, (pursuant to Chapter 10 in the Land Development Code) or other measures must be made to maintain the adopted level of service until improvements can be made in accordance with the Plan. Mr. Jones stated that during the last round of amendments to the Pine Island Plan, the following statement was added: "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". Prior to the addition of that statement, the rule was that once a certain point

was reached no further development orders would be issued for residential units. Mr. Jones said it appeared that the addition of that statement was an effort to say that there was no longer an ultimate end of issuance of development orders but that one-third of what the maximum density would otherwise be allowed. Mr. Jones reviewed other provisions and compliance of the Lee Plan as it related to land use categories in Pine Island and elsewhere in the county. He stated that the 810 rule which limits rezonings, was already in effect and for all intents and purposes, had effected a severe limitation on rezonings on Pine Island. He said that 14.2.2 states that once a certain threshold was met, measures must be taken to limit development in such a way that the adopted capacity of the road would not be exceeded. Mr. Jones stated that the adopted capacity for Pine Island Road was defined in 14.2.1. and that 910 trips was not the adopted capacity but was the threshold warning signal at which to start implementing the requirements of policy 14.2.2 as regards to the 910 rule.

Mr. Owen asked for a clarification of the 910 rule where it said "when the traffic on Pine Island Road reaches 910, regulations will provide restrictions, or other measures to maintain the adopted level of services *until* improvements can be made in accordance with this plan". Mr. Owen asked what improvements were being referred to? Was it that which was referred to 14.2.3? Or were there other improvements that could be made in accordance with the plan? He stated that if this were an absolute bar, he did not think that the word "until" would be there. He noted that there were provisions that allowed for things to take place, such as a reduction of densities in one form or another, and he was curious as to what improvements could be made in accordance with the Plan. He said it looked like there were fewer options now than what was considered several years before, but that they were not insubstantial, such as calling for the construction of left turn lanes at intersections of Matlacha and improvements to Burnt Store and Pine Island Roads. There was more discussion about previous versions of 14.2.3 and the types of improvements then versus now.

Mr. Jones stated that as part of the concurrency regulations, a traffic analysis has to be submitted for review and checked on a link by link basis against the link of road that the development would impact. If the impact of the development exceeds the available capacity, then staff looks at what improvements could be made to that roadway to increase the capacity to accommodate that traffic. He said it could be done a couple of ways. One was to look at the county's capital improvement program to see if improvements were planned for that link within certain guidelines and the other was through the concurrency management process. He stated that the capital improvement program and concurrency were inter-related because the Concurrency Management Report forecasts areas of concerns which can be planned for in the capital improvement program. If improvements are already in the capital improvements program and they are within a certain time frame, then they get to be counted in that development's concurrency evaluation. If the improvements are not within that time frame then a developer can choose to wait until the improvements are done or could choose to finance the improvements to the road. In answer to Mr. Owen's question, Mr. Jones said there are fewer options now for the types of improvements that can be made in order to maintain the adopted level of service because some of those options such as 3 or 4 laning the road, widening or putting in a new bridge, are simply no longer feasible.

For the public's benefit, Mr. Owen stated documents referred to here that will become part of the basis for the annotation and included in the record and made available to anyone wishing to read them. There will be a log which will identify a series of older memoranda as well as other documents and the clerk will be provided a copy of them as well.

Mr. Jones reviewed the Land Development regulations (LDC) that have been adopted by the county specifically referred to in Chapter 2, article 2 which created the framework for how concurrency works, how it would be tested, what certificates mean, what would be issued; how it appears generally and the special provisions made with regards to Pine Island. That special provision appears in Section 2-48 Greater Pine Island Concurrency and it says that concurrency compliance with properties located in Greater Pine Island as identified on the Future Land Use Map 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. Mr. Jones said that it was important to note that this regulation recognizes that the Pine Island plan, Section 14 of the Lee Plan and its objectives and policies, does in fact provide additional restrictions with general concurrency policies contained in the Lee Plan. The whole section pertains to all of unincorporated Lee County in terms of how concurrency will be done. It then states that Pine Island may have additional regulations to be complied with and tested for. The first is a minimum acceptable level of service standard on Pine Island Road between Burnt Store and Stringfellow Boulevard as a Level of Service (LOS) D on an annual average peak hour basis; an LOS D on a peak season, peak hour basis using methodologies from the 1985 Highway Capacity Manual Special Report 209. Mr. Jones stated that was significant because other properties in Lee County have a different level of service standard. They are measured on the most recent highway capacity manual and generally at a minimum acceptable level of service E, not D. So it establishes, confirms and re-states that there is a special roadway capacity requirement on Pine Island Road which is more restrictive than what applies to the rest of Lee County for concurrency purposes. The second portion of that section states "When traffic on Pine Island Road between Burnt Store and Stringfellow reaches 810 peak hour, annual average two way trips, rezonings that increase traffic on Pine Island Road may not be granted." Mr. Jones stated that although this was related to the 810 rule, it was worth noting that this language was somewhat more restrictive than what was in the policies and the plan but has clearly been implemented. He stated that the language in the Plan provides that it will restrict further rezonings which will increase traffic and that the concept follows through into the 910 rule which is addressed in this regulation by saying that when traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak hour, annual average two way trips, residential development orders will, pursuant to Chapter 10, not be granted. He stated that the language in the plan says it will provide "restrictions on further issuance or other measures" to maintain the adopted level of service or that a development order will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order. He went on to discuss additional interpretations of the language in the Lee Plan that recognized that development orders would not be issued unless it could be shown that measures to maintain the adopted level of service capacity could be implemented. He reviewed specific language in 14.2.3 about measuring capacity. Mr. Jones stated that the language was such that there were things might be done and was not intended as "a brick wall". Mr. Jones went

on to talk about Matlacha and the character of that area and how there were provisions in the plan that allows us to maintain the character of what is now this "former" fishing village.

Mr. Owen asked Mr. Jones to comment on the transcript from the transmittal hearing in 1989 and provide the committee with any pertinent verbiage in that document. That document will be part of the committee's record.

Mr. Jones stated that when the issue was first raised in the summer of 2004, he reviewed the public hearing records from November 7, 1988 which was when the board was considering the Pine Island Plan as proposed by the Pine Island Civic Association. Mr. Eugene Boyd was the speaker for the civic association at the time and Mr. Bill Spikowski was the County's principal administrative staff person in charge. Mr. Jones said that from the transcript, it was clear that the 910 rule was not intended to mean that once 910 trips were reached everything would stop - no more development orders issued. Based on the language used in the transcript, it was intended to be a threshold for a gradual reduction of development prior to reaching the full capacity of the road. Mr. Jones read from the testimony of Mr. Boyd on Page 19 of the transcript, end of line 14 that said, "in light of this there are only two ways that we could come up with in order to keep the density down anywhere near what people were asking. One of these is complete prohibition of bonuses on Pine Island and the other is a reduction of density when agricultural land is subdivided. Anything else we could think of we feel imposes too much restriction on people's property rights". On Page 21, starting at line 15, Mr. Boyd said "we will inevitably be accused of wanting building moratorium no matter what I say and all I can say is this is not the goal of any of us. We do not agree with Mr. Ciccarone's often stated contention that compliance of 9J5 (that is a reference to Florida Administrative Code 9.J.5.) has to lead to building moratorium. We think we can get, that the county can have, a good plan which does not lead to building moratorium and that which will meet the requirements of the state growth management legislation". Mr. Jones said that the whole objective was not written to create a moratorium and was not the goal of the program. In the transcript beginning at Page 109, the commissioners were discussing this issue with Mr. Spikowski and talked about it being tied to the level of service, and on page 111 starting at line 11, Mr Spikowski said "the law mandates you set a standard and the day you exceed it, you stop everything. What you're trying to do is not do that and that's the reason for 16.2.2 (which is currently 14.2.2) when we're getting close to that, instead of merely going along to the last day, we are saying that we are going to be watching it and we are going to stop rezoning larger tracts when we are getting close. That's a way that people who have existing lots, existing development orders can go ahead and finish development rather than closing their eyes to the problem". And lastly on Page 114, the Board chairman asked the County Attorney's office to voice their opinion on policy 16.2.2 and Mr. Paul Chipok, the assistant county attorney in attendance at the meeting said, starting at line 10 " I would tend to agree with Mr. Spikowski on that. That this serves more as an early warning system for the particular facility and I see no problem with that." In other words legally that it was an appropriate thing to do. Mr. Jones felt that the county attorney at the time was confirming what Mr. Spikowski had said in terms of it being an early warning system.

Ms. Gibbs asked for clarification concerning the comment on page 114, because it appeared that they were talking about the 810 rule because earlier on that page it said "when Pine Island reaches 80% of level of service D" . Mr. Jones confirmed that it did refer

specifically to the 810 rule but that the language was the same with reference to the 910 rule. Mr. Jones said the board was asking for clarification, at no time were they told by Mr. Boyd or anyone associated with the civic association or by the county staff, that what either of those sections meant was that we would just stop issuing development orders. He said the transcript does not even say that rezonings should be stopped - only that they would be tapered off in order to avoid future problems.

Mr. O'Connor had also highlighted that area and had a question about the interpretation. Mr. Jones stated that he had not listened to the actual tapes and that transcripts do not always provide an intent of a speaker. Ms. Gibbs stated that she read that section as being about the 810 rule, not the 910. Mr. Jones said that there might be tapes from that time period and Mr. Owen suggested making an effort to locate the tapes to try get a clearer understanding of the intent in this section.

Mr. Owen recognized Mr. Eckenrode and asked for an explanation of how concurrency in the county works generally with respect to road function, and then to talk about the concurrency for Pine Island with respect to the 810 and 910 rule. Mr. Eckenrode said the concurrency process is done in accordance with procedures outlined both in the Lee Plan, in the Land Development Code and are also described in some length in the annual Concurrency Management Inventory Report. The analysis is always performed on a by-project basis at the time that development order applications are submitted in order to determine whether or not there is sufficient available capacity on the first arterial or collector road to which a project is going to contribute traffic and that the link will be able to accommodate the traffic at the time when those impacts are going to occur. As part of the preparation of the concurrency report, Development Services maintains a database which contains the existing peak hour, peak season, peak direction traffic volumes on each link of the arterial and collector system from information provided in the annual DOT traffic count report. The database also maintains estimated volumes for the current year for which the concurrency report is being adopted as well as projected future volumes where development orders that are issued during that period are factored in. Mr. Eckenrode stated that an important function of the concurrency management report was to provide an in-depth planning tool, especially when development order trips are factored in, for the capital improvement planning program when looking at road improvement needs and he said the concurrency management report has done a good job of providing that function. Many of the roadway improvements projected for County roads, were as a result of the early warning from the Concurrency Management Report because it identified where development activities would occur. He said that once the Board adopts the annual Concurrency Management Report, which contains all of the volumes and projections, it then becomes the basis for use as a regulatory tool in the application of concurrency reviews on a project-by-project basis. When applicants apply for a development order they are required to supply a traffic impact statement (TIS) and that TIS provides an estimate of the number of trips, both daily trips as well as peak hour trips that the project is projected to generate. Mr. Eckenrode gave an explanation of the components of the TIS and what the review entails and said that for purposes of concurrency evaluation, the peak hour numbers that are given in the TIS on a project-by-project basis, are converted over into the 100th highest, peak hour, peak season, peak direction trip volume.

Mr. Owen asked how the standard concurrency approach is enhanced by Pine Island component of the Lee Plan with respect to their concurrency approach. Mr. Eckenrode explained that the peak hour trips are those that will have the greatest impact on a road, in other words worst case scenario. Mr. Loveland stated that the policies of the Lee Plan set the level of service standard for the major roads in Lee County and those standards are defined as peak season, peak hour, peak direction. For most roads, the county uses a level of service standard E which is a relatively low standard. Mr. Loveland went on to discuss the different conversion methods, how traffic counts are collected and reported and talked about the 100th highest hour that Mr. Eckenrode referenced and said that is a state standard. It assumes of all the peak hours that are measured for a road for a whole year on average, that the 100th highest number (and there are 99 higher) is a representative value of a peak hour in the peak season. Ms. Gibbs asked why the 100th hour was used and Mr. Loveland stated that it was a generally accepted practice throughout the state and what most local governments use. Ms. Gibbs asked for an explanation of peak direction. Mr. Loveland stated that in a peak hour there is usually some kind of directional split where the traffic is heavier in one direction than another. The Comp Plan directs that the 100th highest hour be used to measure the peak season and peak hour conditions. That is what is reflected in the concurrency report and roadway conditions are measured against those standards.

Mr. Owen asked for clarification about a development coming in, that “they have to get above that not under it”. In other words the TIS has to report what contribution their project will have for the 100th highest peak hour peak direction, and Mr. Owen understood that if that took the road below level of service E then things would have to be done to fix the problem and Mr. Loveland confirmed that was correct.

Ms. Gibbs asked whether this discussion was about Pine Island or all of Lee County and Mr. Eckenrode stated that this was applicable to Lee County in general. County-wide then, she asked how a TIS would be reviewed when a development order was submitted and what information was transferred into the Concurrency Report. Mr. Eckenrode stated that there were several different volumes reported in the TIS. Mr. Eckenrode stated that it was the 100th highest peak hour, peak season, peak direction volume that would be used as the count. The 100th highest peak hour peak season peak direction volume is going to be determined for each project individually as it comes in and there is a methodology used to do that. That volume is reported as shown in the tables at the end of the concurrency report. He went on to explain how the volumes are reported in the Concurrency Management Report and how those numbers are evaluated against a certain level of service as reported for each link in the Concurrency Management Report. He reviewed some of the options available in the event that the numbers exceed the stated capacity. Options would be to reduce the development intensity parameters so that the number of trips drop below (on a project-by-project basis) the Level of Service E capacity, or determine if the project is occurring on a link where improvements to increase the capacity on that link are included for construction within the first three years of the five year capital improvement plan. There would also be the choice for a developer contributed improvement to that road as a site related improvement rather than wait until the County does the improvement.

Mr. O'Connor had a question about the Concurrency Report. He said the number that the TIS generates, what is called in the Concurrency Management Report and as noted in last year's report the 2004 100th highest hour, is added to the existing volume that was counted in the last DOT count. Mr. O'Connor asked how building permits issued would be applied. First, Mr. Eckenrode explained that the 2004 100th highest hour volume is the "existing volume" and whenever that term is used, either in the Concurrency Management Report or in Lee Plan policy 3.3, that is what "existing volume" represents. Other information reported in the annual Concurrency Management Report (as shown in the last report) the column entitled "Estimated 2005 100th highest hour volume" is the existing volume *plus* approved building permits (not development orders). He said that building permits are a good indicator that something has converted from a development order. The development order volume is reflected in the last column which is the "Forecast Future Volume" and is the sum of existing volume (again from the 2004 100th highest existing column) plus approved development orders - which may or may not ever be built. Ms. Collins asked and Mr. Eckenrode confirmed that those numbers are reset every year. Once a certificate of occupancy is issued for a building permit, a trip will come off of the Estimated 2005 column and will be reported in 2006 as one less because it will be assumed that the trip will show up in the traffic count and therefore be reflected in the existing volume. The forecast future volume consists of existing trips plus trips from approved development orders. Mr. Jones commented that this generalized process is all specified in the comprehensive plan. The methodology comes from the comp plan and has been done that way since approximately 1989 at the time that concurrency management came into being. Ms. Collins asked what links the volumes were being checked against. Mr. Eckenrode stated that for Lee County generally, the volumes are checked against the "first collector or arterial link that the project will contribute traffic to". Large projects located directly on an arterial or collector link, may affect more than one link, but only the first link is examined. That is the link-by-link concurrency base.

Mr. Loveland said there had been a different reporting system from 1990 to 2000 but that the numbers were still reported on a link-by-link basis. Mr. Eckenrode said that reporting in this way helped to be able to accurately plan where roadway improvements were going to be needed on a link-by-link basis and Mr. Loveland stated that when putting together the county's five year capital improvement program this forecast volume - which shows a projected condition that may ultimately be failing, is a primary input and a key planning tool for adding roadways to the capital improvement program. Mr. Owen asked that Mr. Loveland provide further written explanation and he said that he would do so.

Mr. Jones asked Mr. Eckenrode how a development a mile south of Pine Island Center, would be tested for concurrency, absent the 910 rule. Mr. Eckenrode stated that development order review on Pine Island would be treated the same way as it was being done everywhere else in Lee County " i.e.; that we would be looking at the Stringfellow Road link only". To clarify, Mr. Jones stated that the review would include trips that the project put on Stringfellow Road, not the trips put on Pine Island and Mr. Eckenrode said that was correct. Mr. Eckenrode said that since September 2004, the date the Board adopted the Concurrency Management Report that stated that the 910 volume had been exceeded, all development orders within the Pine Island Planning Community had been reviewed not only for impact to the link to which they directly contribute trips, i.e. Stringfellow if the project was located on Stringfellow, but reviewed also for impacts that

would contribute to the Pine Island link between Stringfellow and Burnt Store, as well (in other words a dual review). Mr. Jones and Mr. Eckenrode talked about those circumstances where it might be possible that a development would pass concurrency on Stringfellow but not pass it when tested on Pine Island and there was further discussion about available capacities and how it applied specifically to Pine Island, the dual review and the 910 rule. Ms. Collins asked how long the dual review of concurrency has been done. Mr. Eckenrode stated that he had sent a memorandum to engineers and consultants and posted a notice in the Community Development newsletter on October 1, 2004. Therefore, anything submitted since September 14, 2004, the date on which the board adopted the Concurrency Report that showed the 910 volume exceeded, every development order submitted since that time has been reviewed on that dual basis. Trips are applied not only to Stringfellow Road but also to Pine Island Road. Ms. Gibbs asked how many development orders had been issued since that date in September. Mr. Eckenrode stated that a total of six (6) residential development orders had been approved since that date for a total of 101 trips. Those trips are based on the annual average peak hour two way trips and the total number of units applicable to the 101 trips was 105.

Mr. O'Connor asked Mr. Eckenrode about the second measure for Pine Island Road and the fact that it was a different methodology. Mr. Eckenrode clarified that two reviews were being done, one because it was necessary to track how many trips that particular project was going to contribute to the initial link and that was based on the 100th highest peak hour so that the tables could be kept updated for future planning purposes; then a different volume is used when measuring trips contributing to Pine Island Road as mandated under the Plan and which is based on average annual peak hour two way volume.

Mr. Owen asked Mr. Loveland to discuss the calculations for the 910 thresholds, and because there had been discussion about the numbers 910 and 1130, review how that was calculated.

Mr. Loveland said that as Mr. Eckenrode had stated, the measures for Pine Island were slightly different than what is done for the rest of the county. For the rest of the county peak season, peak hour, peak direction condition is used, for Pine Island based on the 810/910 calculation and the level of service reference in 14.1.1, it refers to annual average peak hour; instead of peak season, it is annual average but still peak hour. The level of service standard itself does not specify whether it is two way or peak direction, but the assumption is that it is two way for our calculations because the original 810/910 calculations were based on two way traffic conditions. Mr. Loveland talked about the annual average daily traffic counts and how conversions are done to adjust the numbers to be either annual average peak hour conditions or 100th highest hour type. Mr. Loveland said that as Mr. Eckenrode mentioned, the 910 threshold was officially recognized as being exceeded with the adoption of the September 2004 Annual Concurrency Report and Mr. Loveland had prepared a table that listed the results from the last five concurrency reports and explained that it reported what comes out of the concurrency report, both on the standard approach for all of the other county roads and then the unique Pine Island situation which involves how that existing volume relates to both the 810/910 threshold and then as referred to in Policy 14.2.2. He went on to review the specifics of the policy and to discuss the methods used to measure level of service. The policy refers to calculating the level of service using the methods from the 1985 Highway Capacity Manual.

Mr. Loveland said the Highway Capacity Manual as published by the Transportation Research Board, is the professionally recognized means for calculating a roadway capacity and that the 2002 Highway Capacity Manual is the latest version. He explained that there was another term for capacity known as maximum service volume. For each road, conditions are measured on a letter grade basis of A thru F with A being good and F being bad. The maximum service volume or capacity for each of those grades has been calculated and when comparing traffic to that, when the service volume is exceeded then the level goes down. In other words when you pass the maximum service volume for a LOS "C", then the condition becomes "D". He talked about the different calculations and how conditions vary. FDOT provides the software to calculate those maximum service volumes based on the methods from the Highway Capacity Manual. The software is updated periodically and the updates can change the results. The software comes in three modules - one for freeway type facilities not used here; one for signalized arterials and then one for uninterrupted types of facilities which is called High Plan. The High Plan is what is actually used for the Pine Island situation because the whole segment from Burnt Store Road to Stringfellow, a 5-1/2 mile section, is measured and treated as one segment, and there is an uninterrupted flow condition until the end and no signals in the middle. That software relies on the specific roadway conditions such as number of through lanes, medians, separate left turn lanes, the posted and freeflow speeds on the roadway, what percentage of no passing zones are on the link, all those are factored into that capacity calculation in the software. The service volumes are calculated at the various levels of service for all the major roadways in Lee County, except I-75, using Lee County-specific inputs. Mr. Loveland said that the policy limitations says specifically to use the '85 version of the Highway Capacity Manual. He said the latest version of FDOT software that was run was on the '85 Capacity Manual methods was back in 1999 and that software was no longer available. Mr. Loveland provided a memo entitled "Source of 1130 Capacity Calculation for Pine Island Road between Burnt Store Road and Stringfellow Boulevard" which summarized in bullet points the general information, along with the input calculation table from April 1999. That was where the 1130 came from. The 1130 represented the LOS D two way, peak hour capacity as last calculated using the methods based on the 85 Highway Capacity Manual, done in 1999. The 85 Manual will be used until the policy reference is changed. Ms. Gibbs said that when she did the calculations for the 80% and 90%, it was different than the 1130. Mr. Loveland stated that figures noted as 80% and 90% of the LOS D capacity were calculated back in 1989, so that capacity calculation was a different number than it was in 1999. 1999 was the last time it was done using the 85 Highway Capacity Methods. Ms. Gibbs said she had seen a reference to a "65" Manual and Mr. Loveland stated that the 1989 calculation, back when 80% of the LOS D became 810 and 90% of LOS D became 910 was based on the 1965 Highway Capacity. He said between 1989 and 1999 the methods used were based on the 65 Highway Capacity Manual that were subsequently changed to the 85 Highway Capacity Manual.

Mr. Owen asked if the reference to the 65 Highway Capacity Manual in 14.2.2 in the last paragraph was a correct statement? Mr. Owen thought that it was a typographical error. Mr. Loveland stated that the reference to the 65 Highway Manual was correct because it was a historical summary of where the 810 and 910 came from. Mr. O'Connor asked if the 85 manual was available in 1988 or 1989 and wondered by the Pine Island Study had the 2 different references. Mr. Loveland stated that there was a lag between the time when the 85 capacity manual was published and when it actually came out and then a further

delay waiting for FDOT to create the software with those methods that could be used for capacity calculations.

Mr. Jones asked for confirmation that the 810 / 910 threshold numbers were determined by using the 65 Highway Capacity Manual in 1989 and they represented 80% and 90% of that LOS D in 1989. The traffic, ultimately the maximum service volume, as defined for Pine Island Road, was based on the 85 Capacity Manual LOS D and that is what is in 14.2.1. so he said the trigger (a threshold) is based on a different manual than the actual capacity on which the road is based. Mr. Loveland said he had asked the board through the plan amendment process if they were interested in changing those 810/910 thresholds because they were based on an older manual and they indicated that they wanted to treat those numbers as absolute regardless of the basis for their calculation. Without the benefit of a calculator, Mr. Jones had done a written calculation which showed that 90% of the 1130 would be 1017. That would mean that the 910 number was actually less than 90% of 1130. So Mr. Jones said he thought the 910 was a trigger point or threshold before you get to the 90%.

Mr. Owen asked Mr. Eckenrode - "where are we today?" Mr. Eckenrode stated that the numbers reported in the last Concurrency Management Report published in June 2005 showed the annual average peak hour two way volume at 938 trips. Since the last Concurrency Management was published several development orders have been issued and will show, based on where we are right now, that the future forecast volume, if we were to stay with the 938, would be at 1039 trips. Thus taking the 938 trips as reported in the last Concurrency Management Report, adding the 101 trips that have been added with new development orders to date equals 1039. Ms. Collins wanted to confirm that this was the number in the "Future Forecast Column" and Mr. Eckenrode said that was correct. Mr. Eckenrode stated that as Mr. Loveland reported in his handout, based upon the converted volumes for 2005, the number will be down slightly and so it looks like the number for existing volume will be reflected at 921. Ms. Gibbs asked for a clarification of that and wanted to know where that information came from. Mr. Loveland said he had obtained the 2005 traffic count from the permanent count station on Little Pine Island. Even though those numbers have not been published yet, he obtained the 2005 traffic count so that they could be included in the table for information purposes. It will not be a part of the regulatory standard until it becomes a part of the adopted Concurrency Management Report but based on that data, the 2005 count actually went down slightly. Ms. Gibbs asked if there was a specific reason - possibly hurricane related, but Mr. Loveland didn't know. He said that there is some volatility of the traffic counts and that from year to year they go up or down slightly, and there are changes in the conversion factors as they are converted to 100th high hour and peak direction that can also vary from year to year and end up with the numbers slightly different. His other comment was that he would not recommend that growth management regulations be tied to capacity calculations, but that was how it was done now.

Mr. Owen asked Mr. Eckenrode about the numbers and what it all meant. Mr. Eckenrode said that there were some development orders in the pipeline that were edging us closer to those numbers. He said there had not yet been any building permits issued on those new development orders. Mr. Owen asked if those DO's were in the "forecast" column and Mr. Eckenrode confirmed that they were. He said that the forecast also included

commercial trips from commercial development orders not just residential, and that was why the number was 1037. Ms. Gibbs asked for clarification because the total she had was 1039 and how could adding commercial make the total less? Mr. Eckenrode said that the 1037 was based on a traffic count of 921 which is the newest count number, versus the 938 which was the last published number, and the difference between them would be the commercial number. Ms. Gibbs asked how many trips then would be left using the 921 and he said there would be 219 left. Using the current process, any project with more than 219 trips would not be approved unless they were scaled back. Any development order with up to 219 trips could be approved under the process currently in place. Mr. Eckenrode said that two projects of 218 trips could come in and get approved based on the current methodology and that there was no cumulative count; it was done on a project-by-project basis. If a particular project did not contribute enough trips on its own to cause the level of service capacity to be exceeded, the development order would be issued. Ms. Collins asked if that was a county-wide application and Mr. Eckenrode confirmed that was how it was done everywhere. Ms. Collins stated that she understood that in Pine Island, we were testing that standard in two locations. Mr. Eckenrode stated a project could contribute 220 trips if it accesses Stringfellow Boulevard and could be approved absent the 910 rule but because it contributed 220 to Pine Island Road it would not be approved, or the development would be required to reduce the intensity to be sure that the level of service capacity was not exceeded. Mr. Jones stated that on the other hand, a development that put 220 on Stringfellow might not put 220 on Pine Island because there could be a certain number of trips that when distributed would be going to either end of the island and not out. Mr. Jones said that the TIS could ultimately determine that second point (where vehicles are going) and that the volumes reported for Pine Island Road for projects that access Stringfellow, could account for less Pine Island trips because they were going to be internal capture (in other words going to a destination on island that doesn't affect that link) or they are going to Bokeelia or to St. James City. The method being used for Pine Island is what is used for any development on Greater Pine Island including Matlacha. Mr. Jones said that there is a restriction on development on Pine Island that is more significant than the concurrency testing method for the rest of the county. Mr. Jones asked if Mr. Eckenrode would characterize that as a significant restriction due to the additional testing for Stringfellow and Pine Island Road. Mr. Eckenrode said he would not characterize it as significant.

Mr. O'Connor had a question about the fact that policy 14.2.1 had two levels of service listed - LOS "D" on the annual average peak hour basis, and LOS "E" on peak season peak hour basis but that the tables seemed to indicate that we were using LOS "D" and he asked if that was more restrictive? Mr. Loveland stated that that LOS D is more restrictive. Mr. O'Connor referenced footnote 1 which indicated that "E" equals 2140 trips. So if Pine Island Road did not have this more strict level of service and since most roads in Lee County are at E, then it otherwise be at 2140 trips? Mr. Loveland clarified that would be a two way condition. Mr. O'Connor said he was trying to determine if the LOS D was a significant change from what the other roads would be classified. Mr. Loveland stated that based on the 1999 calculations, using peak direction and using the 85 manual, 1290 would be the peak direction and peak hour "D" capacity. Mr. Loveland did not have the latest FDOT software calculations but would provide those at the next meeting.

Mr. Owen asked for comments from Mr. Gerald Campbell relative to hurricane evacuation because the issue had been raised and was a reasonable concern for Pine Island.

Mr. Campbell talked about the day-to-day traffic flow and day-to-day traffic management tools available for Pine Island. He said that in an evacuation there are a number of tools that are available that would not be appropriate or convenient to solve problems on a day-to-day basis. In an evacuation, the goal is to move everyone out of harms way to safety before the onset of tropical storm force winds. One tool that is available every day is Intelligent Transportation Systems through DOT. There is a traffic camera at Burnt Store and Pine Island which monitor traffics on a real time basis to see how many people are going off the island at any given time, and as problems arise then law enforcement specific resources are available to help the process along. The other tool available for evacuation is a one-way plan for Pine Island Road. Emergency Management and Public Safety have had discussions and done some informal planning with the Sheriff's office to go through the steps of what it would take to do that. Mr. Campbell said that it would be feasible to do that on Pine Island Road because for most of that road there is limited access and egress, and side streets are not so much an issue, and there are long sections of straight road where it would be relatively easy to do. However, it is not the preferred course of action because there are still hazards such as having people go the wrong way against traffic, but that it is something that is available should the need arise. He said that after reviewing the data for hurricane season 2004 and 2005, Pine Island Road did not seem to create a significant bottleneck or huge traffic issues during the evacuations, or anywhere in the county. He said Hurricanes Charley and Wilma have given us the opportunity to improve the computer models based on behavior studies to determine more what people will really do versus what the models thought they would do. He said though that we had also not evacuated 200,000, 300,000 or 400,000 people for any of these storms. Somewhere in the neighborhood of 66,000 to 100,000 were evacuated for Charley and Wilma.

He said his department works with DOT and reviews developments more for road construction issues. He said the biggest concern was moving people out and for that they rely on DOT to give them the numbers and determine what the roads can handle. He said they look at how many developments are in a particular area and what can be done to move people out or shelter those people. He said there were options available to collect fees as part of evacuation mitigation that can be used for traffic improvement devices when it is not feasible to widen or build a road or do some other road improvements. He said it was his understanding that DOT has in their capital improvement process, a number of continuing upgrades to the Intelligent Transportation System directly on Pine Island Road, including more cameras and dynamic message signs where live, up-to-date evacuation information can be given to people as they get on the road. Mr. Owen asked specifically about the 2004 and 2005 season and the Matlacha bridge, and wondered about any tie ups or problems as a result of the bridge going off Pine Island Road and getting into the north Cape. Mr. Campbell stated that there are always anecdotal reports of problems but after conversations with DOT, Florida Highway Patrol and the live evaluations that were done of those areas, it was not seen as an issue. He said that it was not to say that there wasn't heavy traffic at some points that were not accounted for, but it was not seen as an evacuation issue on those roads.

He said that once evacuations begin, there is the option to lock down the bridges and that means that those bridges are closed to marine traffic so that evacuating vehicles are free to pass without the interruption of having to wait for a vessel to pass through. Again, they did not see any huge evacuation issues in any of the areas where mandatory evacuations were ordered. Mr. Owen asked if there was a percentage for the people that left Pine Island when they were notified to evacuate, against what was anticipated should have come off as a result of the notifications. Mr. Campbell said that there were no firm numbers but there were plans to do a study. There were a few informal survey results that indicated that a considerable number of people either did not hear the evacuation order or chose not to abide by that order. There were people that stayed that should not have but he did not have those numbers. He also said that the computer models basically show everyone leaving at once and all on the road at the same time. In reality and in the public informational messages, people are advised to leave early and that serves to alleviate some of the traffic at the last minute and avoid what the computer models basically give as a shotgun type start of an evacuation. There were a number of people who took the advice and left before the mandatory evacuations were ordered.

Mr. Owen stated that the meeting would be reconvened on February 9th to address some other issues and to get some additional materials from DOT. There will be more discussion with Mr. Eckenrode and he planned to have some pointed questions. The committee will then deliberate with respect to the direction to take in putting the package together. Other documents that have some material bearing on the opinion and direction of staff for the last 10 or 15 years on this subject that will have an impact on where the committee goes with respect to reaching its decision in writing the annotation, will be identified and included in the record and will be made available to everyone once the document is produced.

Mr. O'Connor had one additional question about the grading system (A, B, C, D and E) for the maximum service volume. He asked if the maximum service volume was E, then was that the maximum volume that the road could carry, or were there more cars that could go on that roadway? Mr. Loveland stated that theoretically the maximum service volume of E is the full capacity, but that is a theoretical concept. "You can get more cars on the road but they may not be moving very fast". Mr. Loveland said level of service "F" is more like a parking lot.

The meeting was adjourned at 4:15 to be reconvened on Thursday, February 9 at 2:00 p.m. at the same location.

**MINUTES REPORT
ANNOTATIONS COMMITTEE
THURSDAY, FEBRUARY 9, 2006**

Committee Members Present:

David Owen, County Attorney
Mary Gibbs, Director, Community Development
Paul O'Connor, Director, Division of Planning

Lee County Government Representatives Present:

Peter Eckenrode, Director, Development Services
David Loveland, Manager, Transportation & Planning, DOT
Timothy Jones, Chief Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Gerald Campbell, Public Safety
Debbie Carpenter, DCD Administrative Services, Recorder

Public Present

Kevin Greten	Phil Buchanan
Glen Roberts	Kami Corbett
William Ridolf	Roger Wood
Matt Uhle	David Depew
Mike Carr	Chuck Basinait
Sally Tapager	Bill Spikowski

INTRODUCTION

Mr. David Owen called the meeting of the Annotations Committee on the Pine Island Plan to order at 2:05 p.m. on February 9, 2006. The meeting was held in the East Room, 2120 Main Street, Fort Myers, Florida. He stated that the meeting had been duly advertised, a copy of the Affidavit of Publication had been given to the recording secretary and the original copy was on file with the office of Public Resources and available to anyone that wanted to view it.

Mr. Owen reviewed the issues discussed at the last meeting and provided for the record a compilation of the documents received at and referred to at the meeting of 2/2/06.

He said there would be two major points that he wanted to address at the meeting and that was for Mr. Loveland to address a question concerning traffic counts and for Mr. Eckenrode to review 14.2.2 and address how it was being implemented by staff.

Mr. Owen asked Mr. Loveland to address the traffic count issue as raised in an e-mail from Mr. Buchanan.

Mr. Loveland stated that the reduced traffic count as mentioned at the last meeting was the number that was taken from the Permanent Count Station 3 and had not be altered by him

in any way. He provided the committee with documentation of data collected from 2001 thru 2005, and which indicated that the AADT (Annual Average Daily Traffic) had decreased in 2005. Mr. Loveland spoke about the process for collecting the traffic counts and the variables that can affect the conversions of those numbers.

Mr. Owen reviewed the objectives as set out in Mr. O'Connor's memo dated October 31, 2005 and the Florida Code rule 9J-5 which states in part: that the "objective" means a specific, measurable and immediate end that is achievable" to continually monitor traffic on Pine Island Road. There was a discussion about what "development" meant with respect to previously approved land and how unbuilt units are counted with respect to concurrency and trip counts.

Mr. Eckenrode reviewed the concurrency process and provided some examples as it applied to the rights of a vested lot. When asked if road capacity was reserved for vested lots the answer was no, and more discussion followed concerning platted lots and how staff has addressed development of those previously approved lots in the concurrency process.

Mr. Owen asked how 14.2.1 and 14.2.2 were being implemented and Mr. Eckenrode reviewed those policies.

Mr. O'Connor had done extensive research and provided the committee with copies of documents that provided a history of how the policy had evolved over time. He reviewed the specifics of the language (originally 16.2) in 14.2 and the various iterations of the policy through time.

Mr. O'Connor provided a copy of the yellow sheet from the Management & Planning meeting of August 2, 2004 requesting Board discussion of the Pine Island Concurrency Issue. At that time there was a discussion about what needed to happen once the 910 level was reached and the Board direction was to finalize and adopt the Concurrency Report as soon as possible. The Concurrency Report was adopted in September of 2004 and more restrictive measures were put into place when addressing concurrency on Pine Island.

Mr. O'Connor reviewed a portion of the September 30, 2001 "Greater Pine Island Community Plan Update" which stated that the county would gradually limit development on Pine Island as Pine Island Road began to approach its capacity.

Mr. Jones stated that when looking at Pine Island Road if it was viewed in the same light as other constrained roads in the county what staff had been doing was "far more restrictive".

Ms. Gibbs stated that she had concerns with the language of the policy; that it was not clear, was complicated and contradictory. The policy was written 17 years ago and no one here now was involved at that time to help piece it all together. She said what she saw was that the language did not say to stop development, but did call for restrictions. Her opinion was that the language was vague and provided no real guidance for concurrency, but that staff had been consistent with how it was done county-wide. She addressed several other

issues, including cumulative concurrency, restricting residential development orders to offset the fact of the platted lots, and Policy 14.2.2 being self-implementing.

Mr. Owen asked for a consensus from the committee on what direction it should take and there was discussion about amending and expanding the specific wording of the Proposed Annotation question.

Mr. O'Connor's opinion was that the language in the objective was not clear but that County staff was implementing it consistently.

Ms. Gibbs stated that the way staff was implementing the policy was consistent with what was being done county-wide but that it was not consistent with the intent of the policy.

Mr. Owen stated that all three agreed that the language was not clear. His opinion was that based on the evidence, staff has made a reasonable interpretation based on the verbiage. Staff had been consistent and had made a valiant effort of interpreting the vague language.

Because Mr. Owen and Mr. O'Connor were in agreement, Mr. Owen will prepare the Majority Report and Ms. Gibbs will prepare a Minority Report. The report with all substantiating data must be submitted to Mr. Owen on or before February 20th in order to have it ready for LPA review on February 27, 2006.

The annotations package with input and comments from the LPA will go to the Board on March 14, 2006.

Mr. Owen asked for any final comments from the committee and staff. Mr. Loveland provided a spreadsheet showing the most recent conversion calculations as discussed and requested at the last meeting.

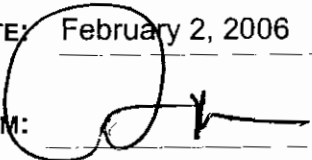
Hearing no additional comments or questions, the meeting was adjourned at 3:55 p.m.

Annotation Committee
Support Documentation

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: February 2, 2006

To: David Owen
County Attorney

FROM: 
Peter J. Eckenrode
Director

RE: TRANSPORTATION CONCURRENCY REVIEW

The purpose of this memorandum is to provide a brief overview of the procedures utilized by Development Services in the application of the policies and regulations provided in the Lee Plan and the Land Development Code (LDC) with regard to Transportation Concurrency. The memo will identify the methods used to determine project specific impacts in unincorporated Lee County generally and will also discuss the methods utilized on Pine Island in order to comply with the provisions of the Lee Plan Objective 14.2 and its associated policies commonly referred to as the 810/910 Rule.

Transportation concurrency analysis is performed on a project by project basis at time of local development order review in order to determine whether there is sufficient available capacity on the adjacent arterial or collector road network to accommodate new trips to be generated by the project at the time that the impact will occur. Development Services maintains an estimate of the "existing" peak hour, peak season, peak direction traffic volumes on each link of the arterial and collector road system that are reported on the Annual Traffic Count Report published by Lee County DOT. The link by link existing traffic volumes, the estimated volume for the current year, estimates of future volumes from approved development orders and building permits and the maximum Level of Service (LOS) capacity volume for each link are accepted by the Board of County Commissioners in the Annual Concurrency Management Inventory and Projection Report. Once this report is accepted, the reported volumes and capacities become regulatory tools in Concurrency evaluations performed for new projects.

Concurrency Evaluation Process in Unincorporated Lee County

Applicants for development order approval are required to submit a Traffic Impact Statement (TIS) for review by County staff. The TIS provides an estimate of both the annual average daily and peak hour trips that the project will generate. The peak hour trips are calculated for both the a.m. and p.m. peak hours; are further identified as to whether they are entering trips or exiting trips and then distributed to the surrounding roadway network in order to assess potential impacts and to determine if improvements to the system are required to mitigate those impacts.

For purposes of concurrency evaluation, the 100th highest peak hour, peak season, peak direction trip volume is calculated and then added to the "existing" traffic volume for the first arterial or collector link to which the project is contributing trips as reported in the most recent Concurrency Report. If the sum of these volumes does not cause the mandated Level of Service (LOS) capacity of the link to be exceeded, then a Certificate of Concurrency will be issued which is valid for a period of 3 years from date of issue.

If the sum of the volumes exceeds the LOS standard for the link, then the Concurrency Certificate cannot be issued unless:

1. The roadway link had been declared "constrained", operates at LOS "F" and the volume to capacity ratio does not exceed 1.85, or
2. Improvements to the impacted roadway link are funded in either a Municipal, County, or State Capital Improvement Program (CIP) within the first three (3) years of the adopted CIP, or
3. The project's development intensity (number of units or building square footage) is reduced such that the Level of Service standard is not exceeded.

Concurrency Evaluation Process on Pine Island

On September, 14 2004 the Board of County Commissioners accepted the 2003-2004/2004-2005 Concurrency Inventory and Projections Report which indicated that the average annual peak hour, two way volume on Pine Island Road had exceeded 910 trips. All residential development order applications submitted after that date have been reviewed for conformance with the provisions of the 810/910 Rule. Prior to September 2004, concurrency evaluations for Pine Island projects were performed as outlined above for Lee County projects.

Since September 2004, Concurrency reviews have been performed using the same basic procedures outlined above but with the following difference:

- Traffic Impact Statements are now being required to address impacts to available capacity on the initial arterial or collector link to which the project will contribute trips, and also are required to evaluate project impacts to available capacity on Pine Island Road.

This additional analysis has provided the ability to monitor impacts from projects which do not directly access Pine Island Road, a level of scrutiny not in place prior to the 910 volume being reached. It will also serve to provide restrictions on the issuance of new development orders once the LOS capacity is reached on Pine Island Road.

cc: Mary Gibbs, Director, Dept. of Community Development
Paul O'Connor, Director, Planning

PJE/pkh


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MEMORANDUM

FROM
DEPARTMENT OF TRANSPORTATION
PLANNING PROGRAM

DATE: October 28, 2005

TO: Paul O'Connor
Planning Director

FROM: 
David M. Loveland, Manager

RE: **Level of Service Calculations**
Pine Island Road between Stringfellow Road and Burnt Store Road

I am supplying this memo to assist you in your response to issues and questions raised at the Public Workshop of August 19th, regarding the meaning and implementation of the provisions of Lee Plan Objective 14.2 and its subsequent policies, commonly referred to as the 810/910 Rule.

The annual statement of conditions on the critical segment of Pine Island Road, between Burnt Store Road and Stringfellow Road, is published in the County's Concurrency Management Report, prepared by the Division of Development Services. The annual roadway conditions for the segment are measured by the County's Department of Transportation (DOT) using a permanent traffic count station on Little Pine Island (as referenced in Policy 14.2.2). The standard roadway condition is reported by DOT in its annual Traffic Count Report as annual average daily traffic in two directions (two-way). Policy 14.2.1 states that the level of service standard for the western end of Pine Island Road is "D" on an *annual average peak hour* basis and "E" on a *peak season peak hour* basis. A p.m. peak hour factor, or ratio of p.m. peak hour traffic to daily traffic, is determined from information from the permanent count station, and applied to the annual average daily count to estimate annual average peak hour two-way conditions. That factor will actually vary slightly each year based on the information reported from the permanent count station, as evidenced by the 7.80% ratio used in 2003 versus the 7.71% ratio in 2004. As reported in the June, 2005 Concurrency Management Report (page 48), the annual average daily traffic volume reported at the Little Pine Island permanent count station was 12,168 vehicles, which when multiplied by the peak-to-daily ratio of 7.71% results in an estimate of 938 vehicles on an *annual average peak hour two-way* basis. Clearly, this exceeds the 810 and 910 thresholds identified in Policy 14.2.2, putting the rezoning and development order review strategies in effect, and leading back to the level of service standard specified in Policy 14.2.1.

To determine roadway conditions throughout Lee County, the existing traffic count (not projected) is compared to the roadway capacity at the adopted level of service standard. Lee County DOT calculates the roadway capacities for all County-maintained roadways. The state-of-the-art practice for determining the maximum service volumes (or capacities) for a roadway at various levels of service derives from the Highway Capacity Manual published by the Transportation Research Board. The Florida DOT makes available to local governments a software package for calculating roadway capacities, which relies on the methodologies from the Highway Capacity Manual. The software has three modules that can be used to calculate the capacities, depending on the type of roadway. FREEPLAN is FDOT's conceptual planning software for freeways or multi-lane divided roadways with at least two lanes for exclusive use of traffic in each direction and full control of ingress and egress; ARTPLAN is FDOT's software for major signalized roadways; and HIGHPLAN is FDOT's software for two-lane and multi-lane uninterrupted flow highways with points of access not fully controlled. There are no traffic signals to interrupt the traffic flow on Pine Island Road between Stringfellow Boulevard and Burnt Store Road, other than the signal at the eastern end point, so Lee County DOT relies on HIGHPLAN for the calculation of roadway capacities for this segment.

That software package relies on inputs based on the specific roadway conditions to calculate the conditions. Examples of inputs in HIGHPLAN include the number of through lanes, the existence of a median, the existence of separate left turn lanes, the posted and free flow speeds, the percentage of no-passing zones, and the surrounding area type (rural, urban). FDOT provides standardized inputs based on statewide conditions, but encourages changes to those inputs based on more specific local data. Lee County DOT uses more specific local data as inputs for capacity calculations for all the major road segments in the County. The segment of Pine Island Road from Stringfellow Road to Burnt Store Road is 5.5 miles long, with varying conditions in relation to the requested inputs. Therefore, Lee County DOT averages some of the conditions such as the posted speed over that entire segment to use as inputs into the software. We do not simply utilize the conditions in the worst portion of a road segment (such as Matlacha) as the basis for inputs in a capacity calculation.

Lee County DOT uses the latest FDOT software, which is currently based on the methodologies from the 2000 Highway Capacity Manual, to calculate the roadway capacities for all other roads in Lee County; however, Policy 14.2.1 requires that the level of service condition on Pine Island Road between Stringfellow Road and Burnt Store Road is to be calculated using the methodologies from the 1985 Highway Capacity Manual. The last version of FDOT's software used by Lee County that was based on the 1985 Highway Capacity Manual methods was from 1999. The 1999 run for the western end of Pine Island Road identified the two-way service volume as 1130 at level of service "D" and 2140 at level of service "E". Comparing the annual average peak hour two-way traffic of 938 to the capacity of 1130 at the standard of "D" shows that the standard has not yet been exceeded.

Some residents of Pine Island have recently raised the issue of a flaw discovered in FDOT's newer software, and have argued that with the inclusion of a software "patch" provided by the University of Florida, the resultant capacity at level of service "D" would be much lower than 1130. However, this flaw is related to a methodology that was revised in the 1997 and 2000

versions of the Highway Capacity Manual and was not part of the methodology based on the 1985 Highway Capacity Manual. While FDOT intends to release a new version of its software soon with this flaw corrected, we do not know at this time how it might affect the capacity calculation for Pine Island Road, and the issue is moot because the current comprehensive plan policy language clearly requires the use of the 1985 Highway Capacity Manual methods. Based on the policy requirement, the Pine Island Road traffic will continue to be measured against the 1130 capacity at level of service "D", unless and until the policy language is changed. Lee County DOT staff has actually proposed a change in Policy 14.2.1 to clarify the level of service standard and to reference the 2000 Highway Capacity Manual, for consideration in the next comprehensive plan amendment cycle.

It is also worth noting that the state, through FDOT or the Florida Department of Community Affairs, does not dictate how local governments are to do their level of service calculations; FDOT simply provides the level of service software as a tool that local governments can choose to use. The local governments are simply required to do their evaluations in a professionally-acceptable manner, and using FDOT's software helps Lee County meet that objective. It is also important to emphasize that the guiding language in this process is the current adopted comprehensive plan language, not language from earlier settlement agreements that have since been superseded or general state definitions.

Pete
FYI - distributed
to Mary as
well 10/4/04

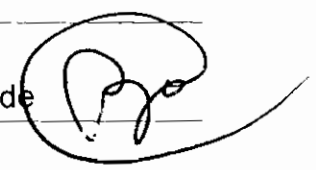
MEMORANDUM
FROM THE
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF DEVELOPMENT SERVICES

DATE: October 1, 2004

To: Engineers & Land Use Attorneys

FROM: Peter J. Eckenrode

Director



RE: IMPORTANT INFORMATION
PINE ISLAND CONCURRENCY ISSUE - TIS CHANGES

The Concurrency Management Report was adopted by the Board of County Commissioners on September 14, 2004. The report shows that the annual average peak hour two-way threshold volume of 910 Vehicles Per Hour (VPH) has been exceeded. Consequently the provisions of Lee Plan Policies 14.2.1 and 14.2.2 and Land Development Code Section 2-48 are now in effect.

In order to properly evaluate the impact of new development on Pine Island Road, Traffic Impact Statements submitted in connection with new residential development order applications must include a projection of the number of peak hour trips that the project will add to Pine Island Road link between Burnt Store Road and Stringfellow Boulevard.

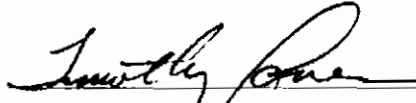
The document is available online at <http://www.lee-county.com/dcd1/AnnualReports/Concurrency.pdf>. Please contact Mike Carroll at 479-8347 or by e-mail at carrollcm@leegov.com if you have any questions.

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: July 30, 2004

TO: Board of County Commissioners

FROM:



Timothy Jones
Chief Assistant County Attorney

RE: Pine Island Concurrency

The purpose of this memorandum is to provide legal analysis to assist the Board in its discussion of this subject at the Management and Planning Committee Meeting on Monday, August 2, 2004. We expect the following legal issues to be central to the discussion of Pine Island Concurrency:

1. *Are the provisions of Policy 14.2.2. of the Lee Plan self implementing?*

The answer to this question is "no." The language of the Lee Plan policy clearly contemplates, and requires, that regulations will be adopted to implement the policy itself. These regulations have, in fact, been adopted and are codified in Section 2-48 of the Land Development Code (LDC).

2. *Does the 910 rule, as stated in the Lee Plan and as implemented in the LDC, prohibit the approval of any new development order for residential development on Pine Island?*

The answer to this question is "no." The Lee Plan and the LDC clearly contemplate that the 910 rule is a threshold or "warning light" that causes the County to use heightened scrutiny of development order applications for new development on Pine Island. The 910 number itself represents 90 percent of the adopted level of service capacity for trips on Pine Island Road at the time the rule was adopted. Therefore, additional development may be approved that results in more than 910 trips on Pine Island Road.

3. *May the County use new information that is not part of the 2003 approved concurrency report to enforce concurrency limitations before the Board reviews and approves the 2004 annual concurrency report?*

The answer to this question is "no." The Lee Plan, through Objective 22.3 and the policies thereunder, as well as the LDC, through the provisions of Chapter 2, provide for the adoption of a concurrency report. This report is an inventory of available capacity of public facilities

Re: Pine Island Concurrency

and it must be reviewed and approved by the Board of County Commissioners at least annually. Only after this approval is the County staff authorized to apply the findings of the report in the concurrency review of applications for development permits. If the County attempts to use new information before it is incorporated in a properly approved annual concurrency report the County will be acting without proper legal authority and will be subject to potential liability.

4. *Can the County change the regulations to provide that the 910 threshold number of trips is instead a maximum allowable number of trips, thus stopping all development above that number?*

The answer to this question is "yes." However, if the County does make this change, it will create significant liability for the County under the Bert Harris Act.

5. *Does the designation of a small segment of Pine Island Road as "constrained" affect or change the requirement that the concurrency report be approved before new information is used to enforce concurrency limitations on Pine Island?*

The answer to this question is "no." The required concurrency report also determines the available capacity of constrained road segments. New information regarding capacity on constrained road segments may not properly be used to enforce concurrency limitations until the report is approved by the Board.

We believe that the above analysis addresses the central legal issues in this discussion. Please do not hesitate to contact me if you have any questions or if you desire additional legal analysis.

TJ/amp

Distribution: Robert P. Janes, Commissioner, District #1
Douglas St. Cerny, Commissioner, District #2
Ray Judah, Commissioner, District #3
Andrew Coy, Commissioner, District #4
John Albion, Chairman, Commissioner, District #5

cc: Bob Gray, Deputy County Attorney
Mary Gibbs, Director, Department of Community Development
Donna Marie Collins, Assistant County Attorney

HIGHPLAN 2002 Conceptual Planning Analysis

Description/File Information

Filename	HP_preview.xml	Date Prepared	08/25/2005
Program	HIGHPLAN	Version	1.2.0
Analyst	Wu	Agency	LCDOT
Road Name	Pine Island Rd	From/To	Stringfellow to BSR
Analysis Type	Segment	Peak Direction	Westbound
User Notes		Study Period	K100

Facility Data

Roadway Variables				Traffic Variables			
Area Type	Rural undeveloped	# Thru Lanes	2	AADT	12200	% Heavy Vehicles	5
Class	4	Terrain	Level	K	.094	Base Capacity	1700
Posted Speed	45	Median	No	D	.56	Local Adj. Factor	.9
Free Flow Speed	50	Left Turn Lanes	No	PHF	.925	Adjusted Capacity	1075
Pass Lane Spacing	N/A	% NPZ	50				

LOS Results

v/c Ratio	0.63	Density	N/A	PTSF	92.00	ATS	34.00	% FFS	69.0	LOS	E
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Service Volume Tables

	A	B	C	D	E
Lanes	Hourly Volume In Peak Direction				
1	0	100	300	530	1010
2					
3					
4					
Lanes	Hourly Volume In Both Directions				
2	0	170	540	940	1800
4					
6					
8					
Lanes	Annual Average Daily Traffic				
2	0	1800	5700	10000	19200
4					
6					
8					
Lanes	Maximum v/c Ratio				
1	0.00	0.10	0.30	0.52	1.00
2					
3					
4					

D. Lovelands
Handout
2/9/06

**PERMANENT COUNT STATION 3
PINE ISLAND RD W OF MATLACHA PASS**

2005 AADT = 11900 ≈ 11928
 $K_{-100} = 0.0967$ *Area*

Monthly ADT as a % of Annual ADT

January	117%
February	126%
March	123%
April	112%
May	101%
June	89%
July	87%
August	88%
September	84%
October	82%
November	97%
December	100%

K-100 factor
 $11,928 \times 0.0967 = 1,153$
 $1,153 \times 0.52 = 600$
D-factor

Day of Week as a % of Annual ADT

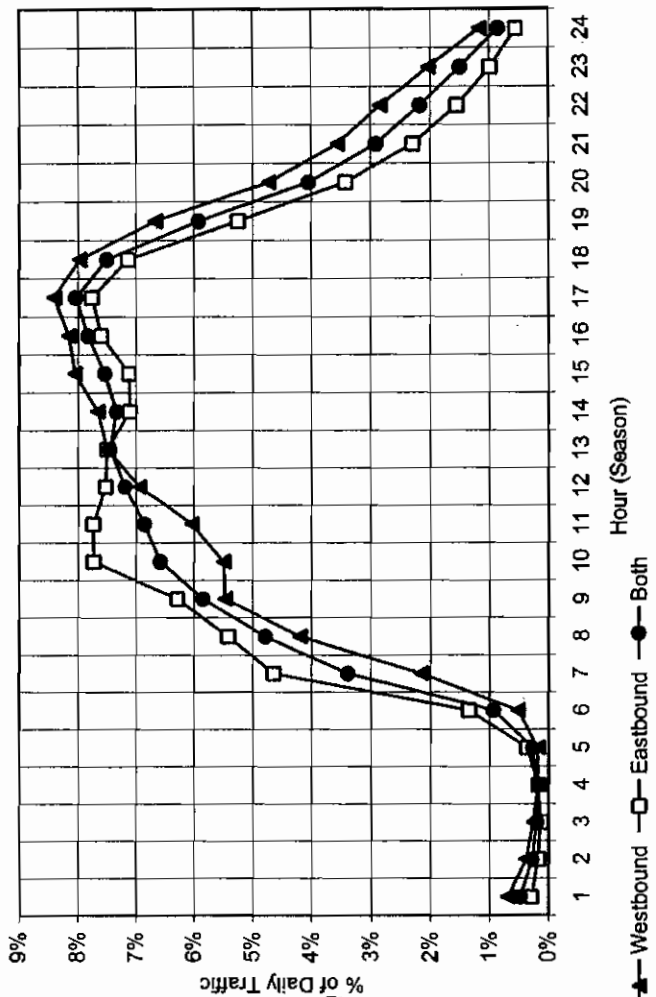
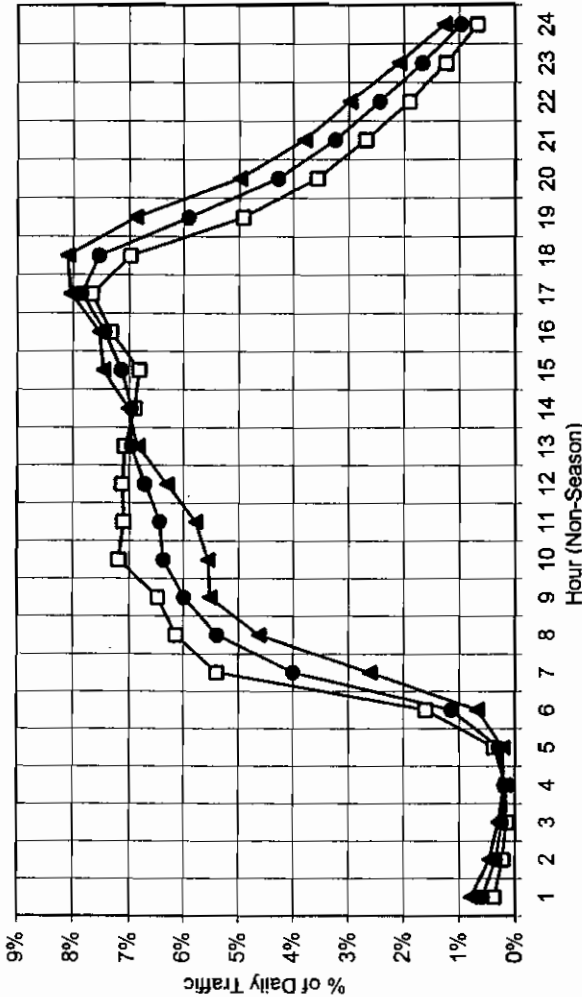
Monday	102%
Tuesday	106%
Wednesday	107%
Thursday	107%
Friday	111%
Saturday	91%
Sunday	77%

1000 CARS IN 5 years (NOT DRAINAGE)

Weekday Peak Flow Characteristics

Peak Flow between 7 a.m. and 9 a.m.	Non-Season	Season
1) as a % of weekday traffic	5.7%	4.1%
2) directional Split (peak direction)	Eastbound 61%	Eastbound 61%
Peak Flow between 4 p.m. and 6 p.m.	7.7%	7.8%
1) as a % of weekday traffic	52%	52%
2) directional Split (peak direction)	Westbound	Westbound

**PERMANENT COUNT STATION 3
PINE ISLAND RD W OF MATLACHA PASS**



*D. Lovelands HANDOUT
2/9/06 MTC.*

**PERMANENT COUNT STATION 3
PINE ISLAND RD W OF MATLACHA PASS**

2004 ADT = 12200

Monthly ADT as a % of Annual ADT

January	111%
February	122%
March	122%
April	109%
May	94%
June	87%
July	86%
August	93%
September	84%
October	94%
November	99%
December	104%

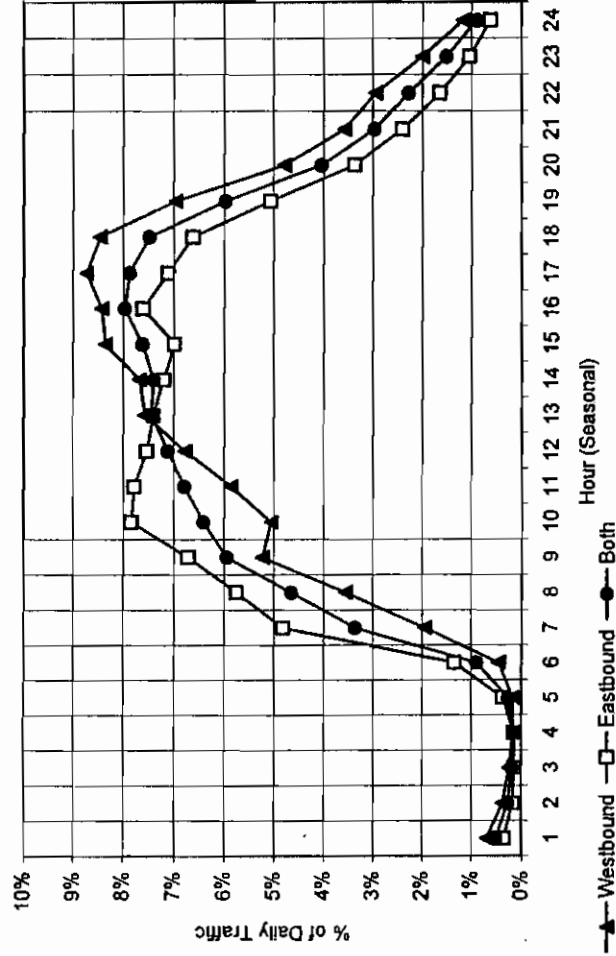
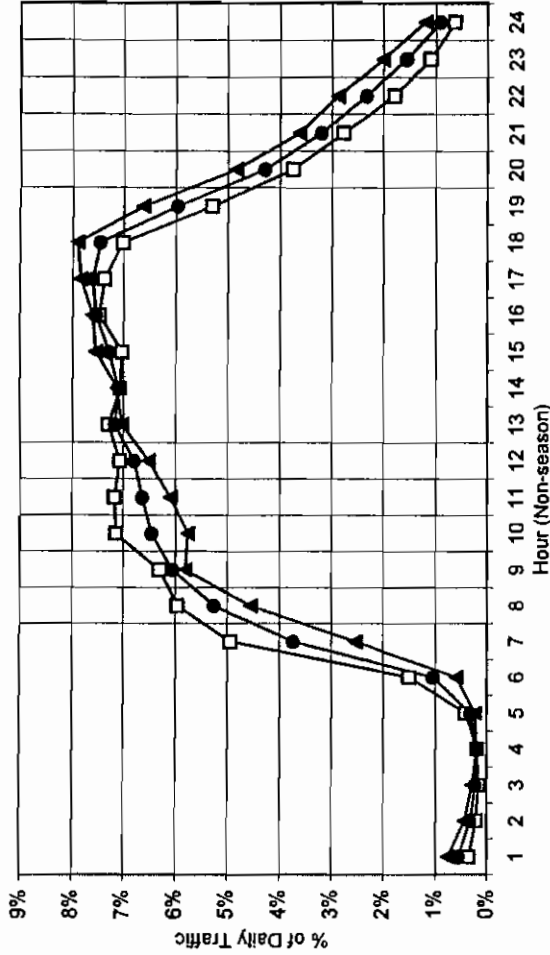
Day of Week as a % of Annual ADT

Monday	101%
Tuesday	106%
Wednesday	108%
Thursday	109%
Friday	110%
Saturday	91%
Sunday	78%

Weekday Peak Flow Characteristics

Peak Flow between 7 a.m. and 9 a.m. as a % of weekday traffic	Non-Season	Season
1) as a % of weekday traffic	4.5%	4.0%
2) directional Split (peak direction)	Eastbound 61%	Eastbound 66%
Peak Flow between 4 p.m. and 6 p.m. as a % of weekday traffic	7.5%	7.7%
2) directional Split (peak direction)	Westbound 52%	Westbound 56%

**PERMANENT COUNT STATION 3
PINE ISLAND RD W OF MATLACHA PASS**



**PERMANENT COUNT STATION 3
PINE ISLAND RD WEST OF MATLACHA PASS
2003 AADT = 11500
K factor= 0.095**

1. Monthly ADT as a % of Annual ADT

January	110
February	122
March	120
April	108
May	96
June	88
July	87
August	87
September	86
October	96
November	98
December	102

2. Day of Week ADT as % of Annual ADT

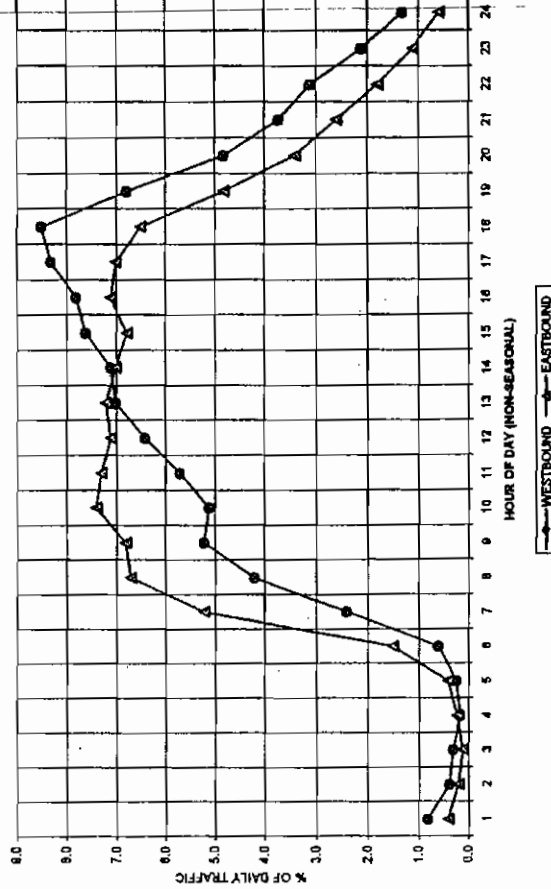
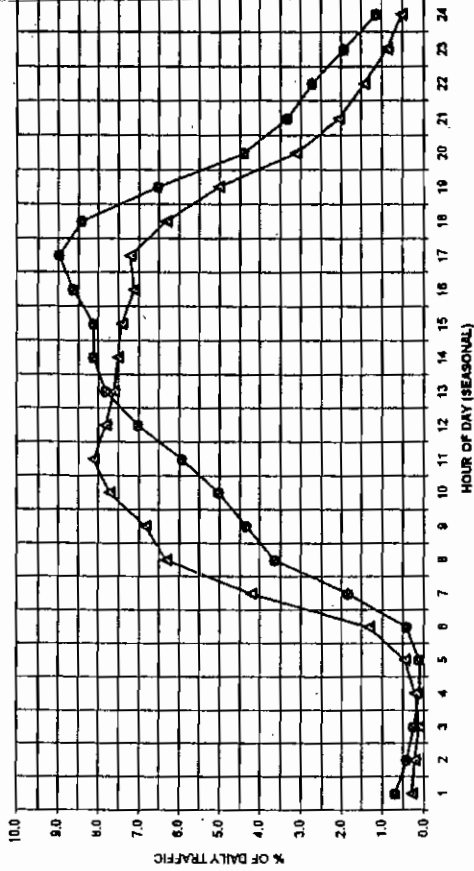
Monday	101
Tuesday	106
Wednesday	106
Thursday	105
Friday	111
Saturday	91
Sunday	80

3. Peak Flow Characteristics

Peak Flow Characteristics	Non-Season	Season
a) Peak Flow between 7 am and 9 am		
(1) as a % of weekday traffic	6	5
(2) directional Split	59 % EB 41 % WB	62 % EB 38 % WB
b) Peak Flow between 4 pm and 6 pm		
(1) as a % of weekday traffic	8	8
(2) directional Split	45 % EB 55 % WB	44 % EB 56 % WB

NOTE: THE USUAL PEAK PERIODS, 7-9 & 4-6, MAY NOT BE THE ACTUAL PEAKS AT THIS STATION, CHECK THE GRAPHS

**STA #3 PINE ISLAND RD
WEST OF MATLACHA PASS**



**PERMANENT COUNT STATION 3
PINE ISLAND RD WEST OF MATLACHA PASS
2002 AADT = 11200**

1. Monthly ADT as a % of Annual ADT

January	113
February	124
March	122
April	108
May	95
June	81
July	87
August	87
September	85
October	95
November	98
December	105

2. Day of Week ADT as % of Annual ADT

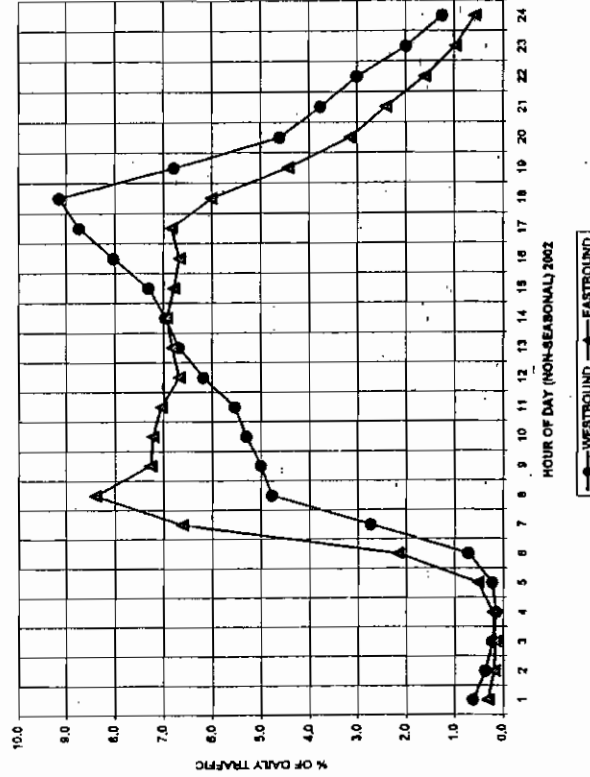
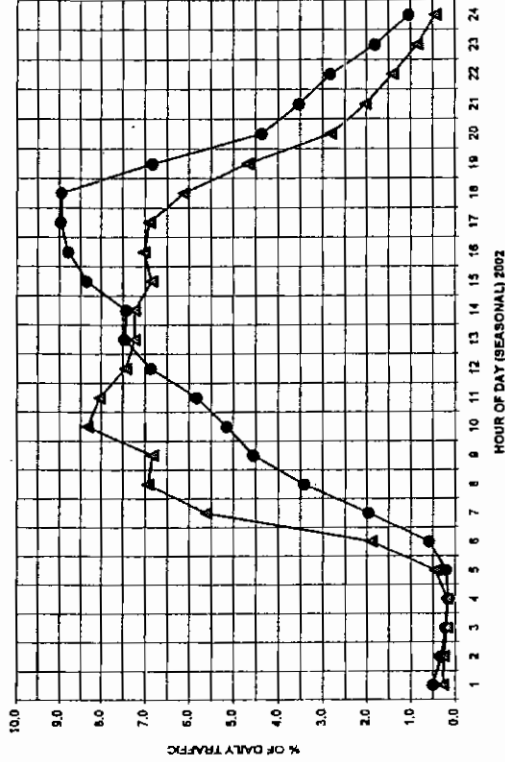
Monday	101
Tuesday	104
Wednesday	106
Thursday	106
Friday	110
Saturday	93
Sunday	80

3. Peak Flow Characteristics

	Non-Season	Season
a) Peak Flow between 7 am and 9 am		
(1) as a % of weekday traffic	6	5
(2) directional Split	62 % EB 38 % WB	64 % EB 36 % WB
b) Peak Flow between 4 pm and 6 pm		
(1) as a % of weekday traffic	8	8
(2) directional Split	42 % EB 58 % WB	42 % EB 58 % WB

NOTE: THE USUAL PEAK PERIODS, 7-9 & 4-6, MAY NOT BE THE ACTUAL PEAKS AT THIS STATION, CHECK THE GRAPHS

**STA #3 PINE ISLAND RD
WEST OF MATLACHA PASS**



**PERMANENT COUNT STATION 3
PINE ISLAND RD WEST OF MATLACHA PASS
2001 AADT = 10900**

1. Monthly ADT as a % of Annual ADT

October	92
November	97
December	100
January	115
February	127
March	124
April	108
May	95
June	88
July	85
August	66
September	83

2. Day of Week ADT as % of Annual ADT

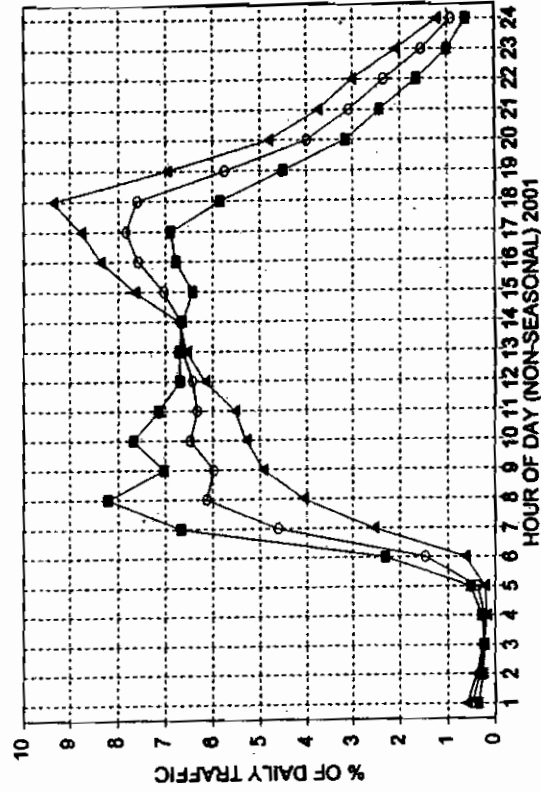
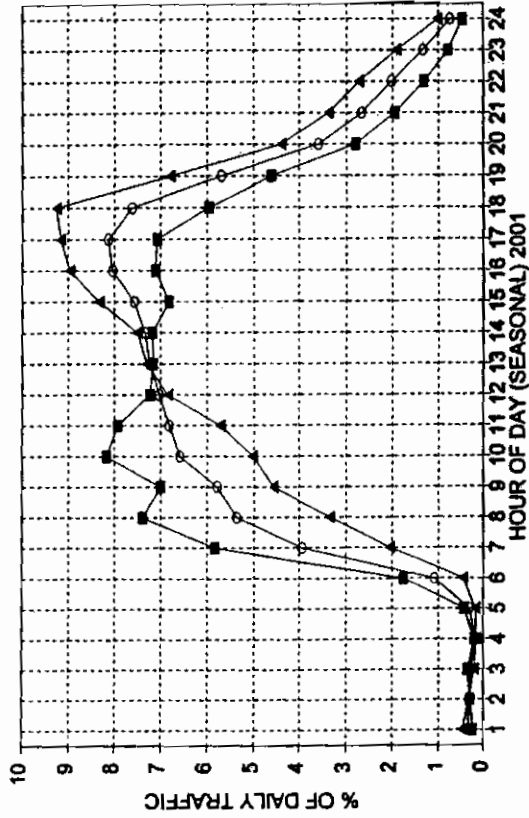
Monday	102
Tuesday	105
Wednesday	106
Thursday	105
Friday	111
Saturday	93
Sunday	80

3. Peak Flow Characteristics

Peak Flow Characteristics	Non-Season	Season
a) Peak Flow between 7 am and 9 am	6	6
(1) as a % of weekday traffic	63 % EB	65 % EB
(2) directional Split	37 % WB	35 % WB
b) Peak Flow between 4 pm and 6 pm	8	8
(1) as a % of weekday traffic	42 % EB	42 % EB
(2) directional Split	58 % WB	58 % WB

NOTE: THE USUAL PEAK PERIODS, 7-9 & 4-6, MAY NOT BE THE ACTUAL PEAKS AT THIS STATION, CHECK THE GRAPHS

**STA #3 PINE ISLAND RD
WEST OF MATLACHA PASS**



Legend: ■ EASTBOUND ▲ WESTBOUND ○ COMBINED

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT
DIVISION OF PLANNING

DATE: February 1, 2006

TO: Annotations Committee

FROM: Paul O'Connor

Paul O'Connor, AICP, Director

RE: ^{14.2.1} ~~Annotation~~ of Lee Plan Policy ^{14.2.2}

In accordance with the Procedures and Administrative Element of the Lee Plan, the Planning Director is responsible for reducing an annotation question to writing.

Question: ~~Does~~ the current County Staff interpretation and implementation of the provisions of Policy 14.2.2 comply with the legislative intent of the policy as adopted by the Board of County Commissioners?

Current Staff Implementation: Policy 14.2.2 consists of two strategies to further Objective 14.2 (see attached excerpt from the Lee Plan). The policy gradually limits certain types of development approvals at established thresholds prior to the capacity of Pine Island Road being reached. Both of the established thresholds have been reached and both strategies are now enforced.

The first strategy is applied during the rezoning process. It restricts further rezonings which would increase traffic on Pine Island Road through Matlacha. This policy is ultimately enforced by the Board of County Commissioners as you approve or deny rezoning requests on Pine Island.

The second strategy of Policy 14.2.2 is applied administratively during the Development Order (DO) review process. It provides restrictions on the further issuance of residential development orders to assure that the unique level of service for Pine Island Road, adopted by Policy 14.2.1, is maintained. In order to assure that a DO in the Greater Pine Island area does not cause Pine Island Road to fall below the established level of service standard, the required traffic impact statement must also identify the projects impacts to Pine Island Road, in addition to the standard test conducted on the first collector or arterial road that is impacted by the DO. Any DO that contributes sufficient peak hour trips such that the level of service standard on Pine Island Road (stated in Policy 14.2.1 as "D" on an annual average, peak hour basis or "E" on a peak season, peak hour basis) would be exceeded cannot be approved as submitted.

cc: *Tim Jones, Assistant County Attorney*
Pete Eckenrode, Director of Development Services
David Loveland, Transportation Planning Manager
Matt Noble, Principal Planner

EXCERPT FROM THE LEE PLAN

OBJECTIVE 14.2: ROAD IMPROVEMENTS. The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Amended by Ordinance No. 00-22)

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209. (Amended by Ordinance No. 00-22)

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

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

The 810 and 910 thresholds were based on 80% and 90% of level-of-service "D" capacity calculated using the 1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36. (Amended by Ordinance No. 00-22, 03-03)

**MANAGEMENT & PLANNING COMMITTEE
AGENDA REQUEST FORM
COMMISSION DISTRICT #CW**

INITIATED BY: **Mary Gibbs**
 Director, Community Development

REQUESTED BY County Commission

TITLE OF ITEM FOR THE AGENDA
Pine Island Concurrency Issue

1. DESCRIPTION AND OBJECTIVE OF THE ISSUE

At the BOCC meeting of 7/27/04, the Board requested this item be scheduled at the August 2nd M & P meeting. The issue relates to concurrency for Greater Pine Island. See attached background sheet as well as the attached memo from the County Attorney's office and the memo from the Department of Transportation.

2. PROPOSED POLICY, PROCEDURE OR PLAN OF ACTION

Greater Pine Island has a separate concurrency management requirement. The main issue is when that requirement is to be enforced: immediately when the DOT Traffic Count Report is completed, or when the County's Concurrency Management report is adopted by the Board. See the attached legal memorandum from the County Attorney's Office for further information. Three options are provided below to address the issue.

3. OPTIONS (List Advantages/Disadvantages of Each Option Listed)

1. Update the 2004 Concurrency Management report in November. (Status quo option)
2. Update the Concurrency Management report as soon as possible.
3. Update the transportation section only of the Concurrency Management report as soon as possible.

4. FINANCIAL IMPACTS/FUNDING SOURCE

Depends on option chosen.

5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS

Option 2.

6. MANDATED? Y N BY WHAT AUTHORITY?

DEPARTMENT DIRECTOR SIGNATURE	COUNTY ADMINISTRATOR SIGNATURE	MEETING DATE	TIME REQUIRED
		8/2/04	15 Mins.

2/9/06

GREATER PINE ISLAND CONCURRENCY ISSUE

The County's Comprehensive Plan contains a special concurrency requirement for Greater Pine Island when certain traffic thresholds on Pine Island Road are reached. These are contained in Policies 14.2.1 and 14.2.2. The policies are reproduced below:

***POLICY 14.2.1:** The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.*

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

- *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.*
- *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 the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. (Amended by Ordinance No. 00-22)*

These policies are implemented in the Land Development Code (LDC) under Section 2-48 which reads:

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map, 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.

(2) When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that increase traffic on Pine Island Road may not be granted. When traffic on Pine Island

Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.

The Lee Plan, in Policy 22.3.2, requires the County “to annually identify roadway conditions and available capacity as part of its concurrency management report.” LDC Section 2-50 further implements this provision, requiring the County to “publish and update, at least once each year” a Concurrency Management report. The LDC goes on to state that the “inventory must be reviewed and approved by the Board of County Commissioners.”

The 2003 Concurrency Management report utilized the 2002 Traffic Count Report to determine the peak hour, annual average two-way trips on Pine Island Road. This concurrency report indicated that the peak hour, annual average two-way trips were at 896 trips.

The County Department of Transportation issued its 2003 Traffic Count Report in February of 2003. This report indicates average daily traffic of 11,500 trips on Pine Island Road (count station 3, west of Matlacha Pass). This daily count is then converted to peak hour, annual average two-way trips. Please refer to the attached memorandum from Dave Loveland regarding this conversion. The 2004 Concurrency Management report will utilize this revised trip count in its transportation section. Typically, updates to the Concurrency Management report are presented to the Board for their adoption in November.

Two issues have recently arisen regarding these policies. The first issue is when are the provisions of Policy 14.2.2 to be enforced, when the traffic counts are completed or when the Concurrency Management report is formally adopted by the Board. In accordance with the LDC the Concurrency Management report is considered enforceable when it is annually adopted by the Board.

The second issue concerns the effect of traffic reaching or exceeding the 910 trip count threshold. As stated in Policy 14.2.2 the “regulations will provide restrictions on the further issuance of residential development orders...or other measures to maintain the adopted level of service.” The adopted level of service is established by Policy 14.2.1. That policy in part provides that the minimum level of service is “established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis.” LDC Section 2-48(2) provides that “residential development orders...will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.” In other words, the 910 threshold is a trigger that requires residential development order applications to be reviewed to assure that the project’s impacts don’t exceed the two tiered level of service standards identified by Policy 14.2.1. Residential development order applications, received after the 910 threshold is exceeded in an adopted Concurrency management report, will be required to analyze the project’s impacts to the level-of-service for Pine Island Road. Development orders that are issued will be conditioned to assure that the two tiered level of service standards are not exceeded.

Memo

To: Mary Gibbs, Community Development Director

From: David Loveland, Manager, Transportation Planning

Date: July 30, 2004

Subject: **CONVERSION OF 2003 TRAFFIC COUNTY ON PINE ISLAND ROAD
TO ANNUAL AVERAGE PEAK HOUR TWO-WAY CONDITION**

I am writing to clarify the unofficial estimate of traffic on Pine Island Road, based on the conversion of the annual average daily traffic (AADT) count from Lee County DOT's 2003 Traffic Count report. As you know, the comprehensive plan establishes some thresholds regarding how rezonings and development orders on Pine Island should be reviewed, which are 810 and 910 *annual average, peak hour, two-way* trips. That is a unique and unusual measure of conditions, since we use *peak season, peak hour, peak direction* trips for the statement of conditions on all other County roads.

Typically my staff provides the conversion to annual average, peak hour two-way trips for the western end of Pine Island Road, and to peak season, peak hour, peak direction trips for all other roads to your staff sometime after the Traffic Count is published, and your staff uses those numbers, with the addition of traffic from projects with approved building permits, to estimate existing conditions for the annual concurrency management report. Based on the 2003 Traffic Count report as published in February, 2004, the AADT for Pine Island Road at Matlacha Pass (Permanent Count Station #3) is 11,500 trips (this is a rounded number). The AADT represents an annual average condition in both directions for a typical day, with that average calculated from the counts for every day of the year at the permanent count station. Since the AADT already represents annual average, two way conditions, it simply has to be converted from a daily condition to a peak hour condition to get to the measure used for the 810/910 standard. Since we use the p.m. peak hour for all other road measurement standards (instead of the a.m. peak hour), my staff simply applied the p.m. peak hour factor published in report for Permanent Count Station #3 of 8% (also a rounded number). This resulted in an estimate of 920 annual average, peak hour, two-way trips, over the 910 threshold.

However, after further review and internal discussion, it was noted that the 8% peak-to-daily ratio was as a percent of *weekday* traffic, exclusive of weekend conditions. As noted above, the AADT comes from traffic counted 7 days a week, 365 days a year. To be more technically appropriate, the peak-to-daily ratio should be based on a full-week condition. DOT's Traffic Section reviewed the permanent count station information and pulled the full-week p.m. peak hour information, resulting in a 7.8% peak-to-daily ratio instead of 8%. They also provided us the non-rounded AADT number of 11,543. Applying the more appropriate peak-to-daily ratio to

the non-rounded AADT number, we get an estimate of annual average, peak hour, two-way trips on the western end of Pine Island Road of 900, under the 910 threshold. Nevertheless, considering the amount of variability in measuring traffic, the threshold has essentially been reached in all practicality. It may also be more clearly reached in the concurrency report, with traffic added from approved building permits.

A table that shows the annual average, peak hour, two-way calculation is attached. Because Policy 14.2.2 of the Lee Plan refers to maintaining the adopted level of service standard once the 910 threshold is officially reached, and Policy 14.2.1 states that the adopted level of service standard is "D" on an annual average, peak hour basis and "E" on a peak season, peak hour basis, as measured using the 1985 Highway Capacity Manual method, the table also includes conversions to peak season, peak hour conditions. We've also included two-way and peak direction estimates for both conditions, since Policy 14.2.1 doesn't specify which of those is part of the standard. Included in the table is a volume-to-capacity (V/C) calculation as well; a V/C ratio exceeding 1.00 would indicate that the standard is being exceeded.

We would note that the reference to the 1985 Highway Capacity Manual method is outdated, since that manual is no longer published, and the FDOT software we use to calculate capacities has been updated to reflect the newer 2000 Highway Capacity Manual methods. Therefore we have also included a table showing the same conversions and V/C ratio calculations but using the newer capacity calculations. It would be our recommendation that Policy 14.2.1 be updated to instead refer to the 2000 Highway Capacity Manual and the 2002 Florida Department of Transportation Quality Level of Service Handbook.

Please let me know if you need additional information.

cc: Tim Jones, Chief Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Pete Eckenrode, Development Services Director
Paul O'Connor, Planning Director
Mike Carroll, Concurrency Manager
Scott Gilbertson, DOT Director
Steve Jansen, DOT Traffic Section

**CONVERSION OF 2003 AADT FOR PERMANENT COUNT STATION #3
(PINE ISLAND ROAD @ MATALCHA PASS)**

	CONVERTED COUNT	CAPACITY BASED ON 1985 HCM METHODODOLOGY CAPACITY @ LOS	V/C RATIO
Annual Average Peak Hour Two-Way (basis for 810/910 rule) 2003 AADT x Full-Week Peak Hour Factor =	900	1130	0.80
Annual Average Peak Hour Peak Direction 2003 AADT x Full-Week Peak Hour Factor x Annualized Directional Split =	500	680	0.73
Peak Season Peak Hour Two-Way 2003 AADT x 100th Highest Hour (K-100) Factor =	1097	2140	0.51
Peak Season Peak Hour Peak Direction 2003 AADT x 100th Highest Hour (K-100) Factor x Seasonal Directional Split =	614	1290	0.48

	CONVERTED COUNT	CAPACITY BASED ON 2000 HCM METHODODOLOGY CAPACITY @ LOS	V/C RATIO
Annual Average Peak Hour Two-Way (basis for 810/910 rule) 2003 AADT x Full-Week Peak Hour Factor =	900	1300	0.69
Annual Average Peak Hour Peak Direction 2003 AADT x Full-Week Peak Hour Factor x Annualized Directional Split =	500	750	0.67
Peak Season Peak Hour Two-Way 2003 AADT x 100th Highest Hour (K-100) Factor =	1097	1620	0.68
Peak Season Peak Hour Peak Direction 2003 AADT x 100th Highest Hour (K-100) Factor x Seasonal Directional Split =	614	940	0.65

Road Constraints

Access to Pine Island was strictly by boat until 1926 when the causeway carrying Pine Island Road was built through the mangrove islands that became Matlacha. With road access, modern development became practical.

For many decades, this two-lane road was sufficient to meet all demands placed upon it. Although there have been occasional discussions about a second bridge to Pine Island, the hurdles facing such a plan have always been insurmountable.

Appendix A of this plan contains a complete discussion of transportation constraints affecting Pine Island. The remainder of this section is excerpted from Appendix A.

Constraints on access to Pine Island

As the years progressed, traffic on Pine Island Road has continually increased. By general county standards, the current congestion would warrant plans to widen it to four lanes.

However, in 1989 Lee County formally designated Pine Island Road through Matlacha as "constrained," meaning that the road cannot (or should not) be widened for the preservation of the scenic, historic, environmental and aesthetic character of the community. Since that time, Lee County has also designated the heart of Matlacha as a historic district, further protecting it from road widening that would damage its character.

The decision not to widen a constrained road can obviously increase congestion. Because counties are required by state law to set maximum levels of congestion on every road, a very high level had to be set for all constrained roads. This normally causes only minor problems, because other parallel roads can handle much of the overflow traffic.

On Pine Island Road the traffic levels theoretically allowed on constrained roads could have had alarming consequences because it would legally indicate that there was road capacity to develop vast tracts of vacant Pine Island land. To avoid this problem, the county chose to modify a 1988 proposal from the Greater Pine Island Civic Association to gradually limit development on Pine Island as Pine Island Road began to approach its capacity. The proposal would have prohibited rezoning of additional land for development when 80% of road capacity was used up, and prohibited approvals of new subdivisions, even on land already zoned, when 90% was used up. This proposal ultimately was adopted as Policy 14.2.2, which restricts rezonings when traffic on Pine Island Road reaches 810 trips per hour and restricts other approvals at 910 trips (see full text of Policy 14.2.2 on page 3).

Since 1990, traffic on Pine Island Road in Matlacha has increased by about 22%. Figure 1 shows the averages for each year, with a visual comparison to the 810 and 910 thresholds. The 810 threshold was surpassed in 1998, 1999, and 2000.

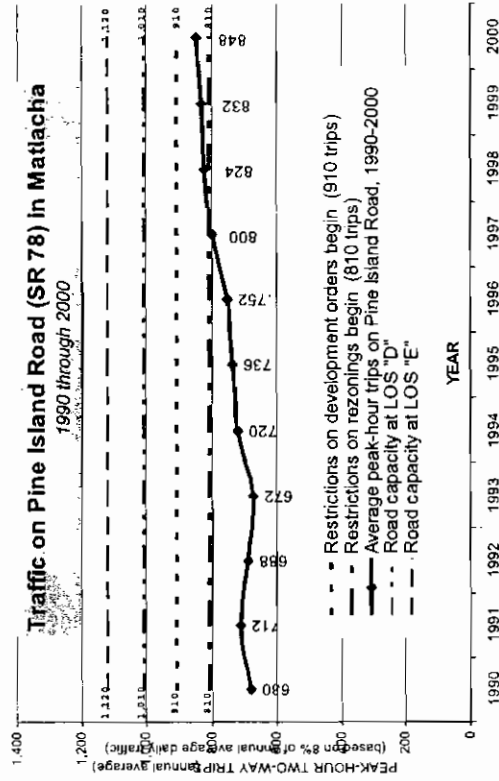


Figure 1. Traffic on Pine Island Road in Matlacha, 1990 through 2000

Raul OC HANAUET

Paul Sikowski Project
for P.I. Com

APPENDIX A: TRANSPORTATION DATA AND ANALYSIS

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Access to Pine Island was strictly by boat until 1926 when the causeway carrying Pine Island Road was built through the mangrove islands that became Matlacha. With road access, modern development became practical.

For many decades, this two-lane road was sufficient to meet all demands placed upon it. Although there have been occasional discussions about a second bridge to Pine Island, the hurdles facing such a plan have always been insurmountable.

Constraints on access to Pine Island

As the years progressed, traffic on Pine Island Road has continually increased. By general county standards, the current congestion would warrant plans to widen this road to four lanes, and funds to do so would be found by juggling Lee County's capital improvements budget. In fact, this widening would be necessary.

tated by Lee County's concurrency standards, which require that all development and building permits be stopped once traffic on a road exceeds the road's full capacity, a congestion level known as "Level of Service E" (LOS "E").

However, Lee County has formally designated certain roads that cannot (or should not) be widened as "constrained." According to Lee Plan Objective 22.2: "Reduced peak hour levels of service will be accepted on those constrained roads as a trade-off for the preservation of the scenic, historic, environmental and aesthetic character of the community." The Matlacha section of Pine Island Road has been designated as "constrained" since 1989.¹⁹ Since that time, Lee County has also designated the heart of Matlacha as a historic district, further protecting the community from road widening that would damage its character (see map of historic district on page 26).

The 810/910 rule in Lee Plan Policy 14.2.2

Origin of Policy 14.2.2

In 1989, Lee County was negotiating with the state over details of its new comprehensive plan, including the concept of constrained roads. Much of the controversy centered around another constrained (but much more heavily congested) road, Estero Boulevard at Fort Myers Beach. Community sentiment there strongly favored enduring the road congestion rather than widening Estero to four lanes, in part because the congestion was limited to the winter season when there was no hurricane evacuation threat. To reflect that sentiment, Lee County decided to sanction very extreme levels of congestion on constrained roads.²⁰

¹⁹ Pine Island Road from Shoreview Drive west to Little Pine Island, according to Lee Plan Table 2(a)

²⁰ Specifically, 85% more traffic than the roads were designed to handle would (at least theoretically) be allowed.

For most of Lee County's islands, a "constrained" designation on their access road caused few or no problems. At Fort Myers Beach, nearly all land was already developed, and the existing traffic congestion was accepted as the price of a prosperous tourist economy. Bonita Beach, Captiva, and Boca Grande were nearly at build-out and under strict growth controls, so loosening the road standards would not increase traffic congestion. Sanibel, as its own city, would not be affected at all.

Only on Pine Island could the "constrained" designation have had alarming consequences. On Pine Island, vast tracts of land were still undeveloped; and the seasonal population extremes, while significant, weren't as great as the other island communities, leaving a larger percentage of Pine Island's population subject to summertime evacuations.

To avoid these effects on Pine Island, Lee County needed to supplement the constrained designation to keep it from allowing more development than the road system could handle. The county chose to modify a 1988 proposal from the Greater Pine Island Civic Association which was designed to gradually limit development on Pine Island as Pine Island Road began to approach its capacity. The proposal would have prohibited rezoning most additional land for development when 80% of road capacity was used up, and prohibited approvals of new subdivisions, even on land already zoned, when 90% was used up.²¹

Those percentages were based on the road's capacity at LOS "D," which at the time was defined as representing:

"...high-density, but stable, flow. Speed and freedom to maneuver are severely restricted, and the driver or pedestrian experiences a generally poor level of comfort and convenience."

²¹ *Pine Island Land Use Study - Issues and Recommendations*, prepared by Carron Day for and with the assistance of the Greater Pine Island Civic Association, January 1988.

*Small increases in traffic flow will generally cause operational problems at this level.*²²

✓ Under the conditions existing on Pine Island Road, LOS "D" was defined by Lee County as occurring when 1,010 vehicles per hour used the road during the busiest hours in the winter.

✓ To make sure that these limits wouldn't be ignored when they were reached, the state land planning agency insisted that the Lee Plan convert those percentages to specific vehicle counts at the nearest permanent traffic count station, which is located on Little Pine Island at the western edge of Matlacha. Thus, 80% was converted to 810 vehicles per peak hour, and 90% was converted to 910 vehicles.²³ These levels were then adopted into law as Lee Plan Policy 16.2.2 (later renumbered to 14.2.2).

Physical changes to Pine Island Road since 1989

During 1991 and 1992, Lee County reconstructed Pine Island Road from Burnt Store Road to Stringfellow Road. The county elevated flood-prone segments and widened the travel lanes to twelve feet. Within Matlacha, French drains were installed and the pavement was extended beyond the travel lanes in some places for parking. Outside Matlacha, the shoulders were widened to eight feet (four feet of which was paved) and the drainage ditches were improved.

These improvements had already been designed by late 1989 and a consultant to Lee County had analyzed whether they would increase the traffic-handling capacity (known as the

²² *Support Documentation for the Traffic Circulation Element*, for revisions adopted January 31, 1989, prepared the Lee County Division of Planning and Department of Transportation and Engineering, pages III-5, III-6, and III-10.

²³ *Proposed 1990 Revisions to the Lee Plan, Volume 1, Traffic Circulation Element*, prepared by David Plummer and Associates, September 1990, pages III-4 and B-6.

"service volume") of Pine Island Road. If they would have actually increased the road's capacity, the 810 and 910 figures might have been increased accordingly. The consultant concluded that they would not increase capacity:

"The reconstruction currently underway on Pine Island Road west of Burnt Store Road will raise the elevation of the roadway and widen the lanes to standard widths. Neither of these improvements will, according to the 1985 Highway Capacity Manual, affect the service volumes."²⁴

Current traffic conditions on Pine Island Road

Since 1990, traffic on Pine Island Road in Matlacha has increased by about 22%. Figure A-1 shows the average counts for each year, with a visual comparison to the 810 and 910

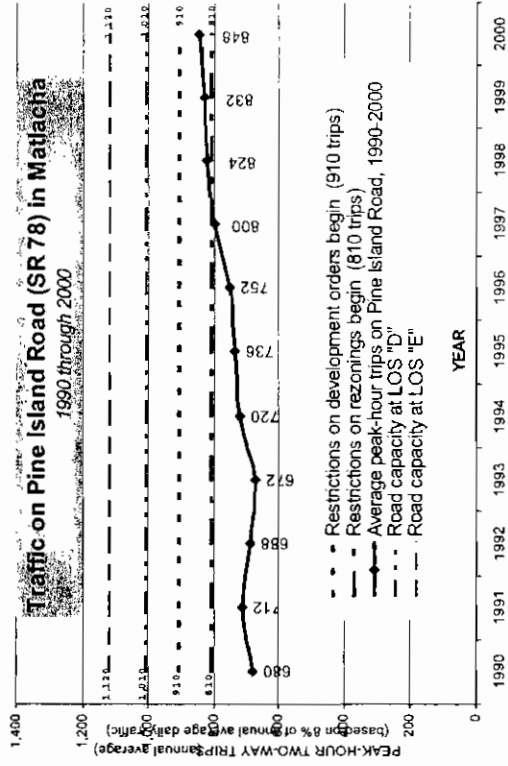


Figure A-1, Traffic on Pine Island Road in Matlacha, 1990 through 2000

²⁴ Proposed 1990 Revisions to the Lee Plan, Volume 1, Traffic Circulation Element, prepared by David Plummer and Associates, September 1990, page B-4.

thresholds in Policy 14.2.2. The 810 threshold was surpassed in 1998, 1999, and 2000.

These significant traffic increases occurred during a decade where there was relatively little new subdivision or condominium development on Pine Island. Population increases resulted mostly from the construction of new homes on pre-existing vacant lots. Other traffic increases may have resulted from difficult-to-quantify changes in tourism or commuting patterns.

The largest traffic flows through Matlacha are eastbound during the morning rush hours and westbound during the afternoon rush hours, as shown in Figure A-2. Afternoon peaks are slightly higher than morning peaks. This pattern is similar year around, with the peaks more pronounced during the less busy months.

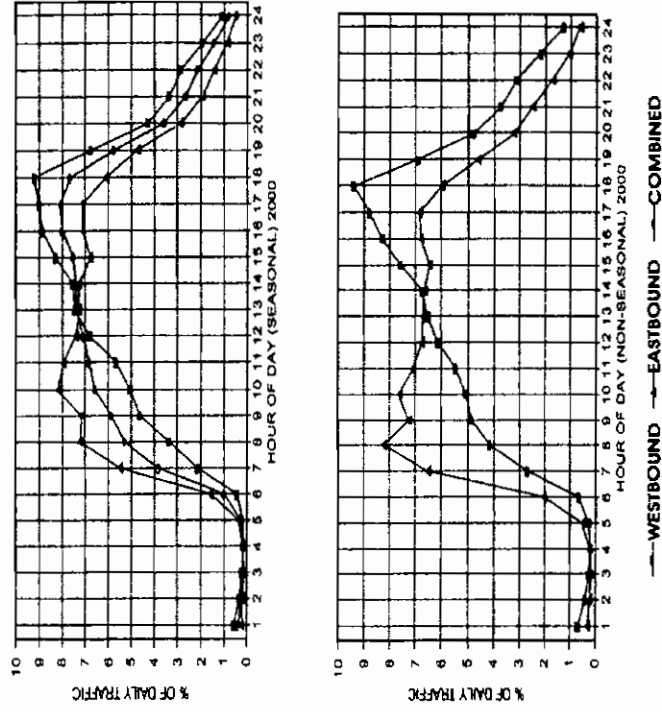


Figure A-2, Directional flow and hourly variations in Matlacha, 2000T

**MANAGEMENT & PLANNING COMMITTEE
AGENDA REQUEST FORM
COMMISSION DISTRICT #CW**

INITIATED BY: **Mary Gibbs**
Director, Community Development

REQUESTED BY County Commission

TITLE OF ITEM FOR THE AGENDA
Pine Island Concurrency Issue

1. DESCRIPTION AND OBJECTIVE OF THE ISSUE

At the BOCC meeting of 7/27/04, the Board requested this item be scheduled at the August 2nd M & P meeting. The issue relates to concurrency for Greater Pine Island. See attached background sheet as well as the attached memo from the County Attorney's office and the memo from the Department of Transportation.

2. PROPOSED POLICY, PROCEDURE OR PLAN OF ACTION

Greater Pine Island has a separate concurrency management requirement. The main issue is when that requirement is to be enforced: immediately when the DOT Traffic Count Report is completed, or when the County's Concurrency Management report is adopted by the Board. See the attached legal memorandum from the County Attorney's Office for further information. Three options are provided below to address the issue.

3. OPTIONS (List Advantages/Disadvantages of Each Option Listed)

1. Update the 2004 Concurrency Management report in November. (Status quo option)
2. Update the Concurrency Management report as soon as possible.
3. Update the transportation section only of the Concurrency Management report as soon as possible.

*Concurrency Manual
UPDATED 9/04*

4. FINANCIAL IMPACTS/FUNDING SOURCE

Depends on option chosen.

5. STAFF RECOMMENDATIONS, AND JUSTIFICATION FOR RECOMMENDATIONS

Option 2.

6. MANDATED? Y N BY WHAT AUTHORITY?

DEPARTMENT DIRECTOR SIGNATURE	COUNTY ADMINISTRATOR SIGNATURE	MEETING DATE	TIME REQUIRED
		8/2/04	15 Mins.

*PAUL O'CONNOR
2/9/06*

GREATER PINE ISLAND CONCURRENCY ISSUE

The County's Comprehensive Plan contains a special concurrency requirement for Greater Pine Island when certain traffic thresholds on Pine Island Road are reached. These are contained in Policies 14.2.1 and 14.2.2. The policies are reproduced below:

***POLICY 14.2.1:** The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.*

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

- *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.*
- *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 the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. (Amended by Ordinance No. 00-22)*

These policies are implemented in the Land Development Code (LDC) under Section 2-48 which reads:

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map, 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.*
- (2) *When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that increase traffic on Pine Island Road may not be granted. When traffic on Pine Island*

Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.

The Lee Plan, in Policy 22.3.2, requires the County “to annually identify roadway conditions and available capacity as part of its concurrency management report.” LDC Section 2-50 further implements this provision, requiring the County to “publish and update, at least once each year” a Concurrency Management report. The LDC goes on to state that the “inventory must be reviewed and approved by the Board of County Commissioners.”

The 2003 Concurrency Management report utilized the 2002 Traffic Count Report to determine the peak hour, annual average two-way trips on Pine Island Road. This concurrency report indicated that the peak hour, annual average two-way trips were at 896 trips.

The County Department of Transportation issued its 2003 Traffic Count Report in February of 2003. This report indicates average daily traffic of 11,500 trips on Pine Island Road (count station 3, west of Matlacha Pass). This daily count is then converted to peak hour, annual average two-way trips. Please refer to the attached memorandum from Dave Loveland regarding this conversion. The 2004 Concurrency Management report will utilize this revised trip count in its transportation section. Typically, updates to the Concurrency Management report are presented to the Board for their adoption in November.

Two issues have recently arisen regarding these policies. The first issue is when are the provisions of Policy 14.2.2 to be enforced, when the traffic counts are completed or when the Concurrency Management report is formally adopted by the Board. In accordance with the LDC the Concurrency Management report is considered enforceable when it is annually adopted by the Board.

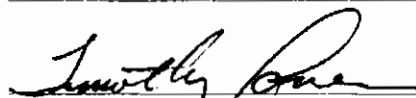
The second issue concerns the effect of traffic reaching or exceeding the 910 trip count threshold. As stated in Policy 14.2.2 the “regulations will provide restrictions on the further issuance of residential development orders...or other measures to maintain the adopted level of service.” The adopted level of service is established by Policy 14.2.1. That policy in part provides that the minimum level of service is “established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis.” LDC Section 2-48(2) provides that “residential development orders...will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.” In other words, the 910 threshold is a trigger that requires residential development order applications to be reviewed to assure that the project’s impacts don’t exceed the two tiered level of service standards identified by Policy 14.2.1. Residential development order applications, received after the 910 threshold is exceeded in an adopted Concurrency management report, will be required to analyze the project’s impacts to the level-of-service for Pine Island Road. Development orders that are issued will be conditioned to assure that the two tiered level of service standards are not exceeded.

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: July 30, 2004

To: Board of County Commissioners

FROM:



Timothy Jones
Chief Assistant County Attorney

RE: **Pine Island Concurrency**

The purpose of this memorandum is to provide legal analysis to assist the Board in its discussion of this subject at the Management and Planning Committee Meeting on Monday, August 2, 2004. We expect the following legal issues to be central to the discussion of Pine Island Concurrency:

1. *Are the provisions of Policy 14.2.2. of the Lee Plan self implementing?*

The answer to this question is "no." The language of the Lee Plan policy clearly contemplates, and requires, that regulations will be adopted to implement the policy itself. These regulations have, in fact, been adopted and are codified in Section 2-48 of the Land Development Code (LDC).

2. *Does the 910 rule, as stated in the Lee Plan and as implemented in the LDC, prohibit the approval of any new development order for residential development on Pine Island?*

The answer to this question is "no." The Lee Plan and the LDC clearly contemplate that the 910 rule is a threshold or "warning light" that causes the County to use heightened scrutiny of development order applications for new development on Pine Island. The 910 number itself represents 90 percent of the adopted level of service capacity for trips on Pine Island Road at the time the rule was adopted. Therefore, additional development may be approved that results in more than 910 trips on Pine Island Road.

3. *May the County use new information that is not part of the 2003 approved concurrency report to enforce concurrency limitations before the Board reviews and approves the 2004 annual concurrency report?*

The answer to this question is "no." The Lee Plan, through Objective 22.3 and the policies thereunder, as well as the LDC, through the provisions of Chapter 2, provide for the adoption of a concurrency report. This report is an inventory of available capacity of public facilities

Re: Pine Island Concurrency

and it must be reviewed and approved by the Board of County Commissioners at least annually. Only after this approval is the County staff authorized to apply the findings of the report in the concurrency review of applications for development permits. If the County attempts to use new information before it is incorporated in a properly approved annual concurrency report the County will be acting without proper legal authority and will be subject to potential liability.

4. *Can the County change the regulations to provide that the 910 threshold number of trips is instead a maximum allowable number of trips, thus stopping all development above that number?*

The answer to this question is "yes." However, if the County does make this change, it will create significant liability for the County under the Bert Harris Act.

5. *Does the designation of a small segment of Pine Island Road as "constrained" affect or change the requirement that the concurrency report be approved before new information is used to enforce concurrency limitations on Pine Island?*

The answer to this question is "no." The required concurrency report also determines the available capacity of constrained road segments. New information regarding capacity on constrained road segments may not properly be used to enforce concurrency limitations until the report is approved by the Board.

We believe that the above analysis addresses the central legal issues in this discussion. Please do not hesitate to contact me if you have any questions or if you desire additional legal analysis.

TJ/amp

Distribution: Robert P. Janes, Commissioner, District #1
Douglas St. Cerny, Commissioner, District #2
Ray Judah, Commissioner, District #3
Andrew Coy, Commissioner, District #4
John Albion, Chairman, Commissioner, District #5

cc: Bob Gray, Deputy County Attorney
Mary Gibbs, Director, Department of Community Development
Donna Marie Collins, Assistant County Attorney

Memo

To: Mary Gibbs, Community Development Director

From: David Loveland, Manager, Transportation Planning

Date: July 30, 2004

Subject: **CONVERSION OF 2003 TRAFFIC COUNTY ON PINE ISLAND ROAD TO ANNUAL AVERAGE PEAK HOUR TWO-WAY CONDITION**

I am writing to clarify the unofficial estimate of traffic on Pine Island Road, based on the conversion of the annual average daily traffic (AADT) count from Lee County DOT's 2003 Traffic Count report. As you know, the comprehensive plan establishes some thresholds regarding how rezonings and development orders on Pine Island should be reviewed, which are 810 and 910 *annual average, peak hour, two-way* trips. That is a unique and unusual measure of conditions, since we use *peak season, peak hour, peak direction* trips for the statement of conditions on all other County roads.

Typically my staff provides the conversion to annual average, peak hour two-way trips for the western end of Pine Island Road, and to peak season, peak hour, peak direction trips for all other roads to your staff sometime after the Traffic Count is published, and your staff uses those numbers, with the addition of traffic from projects with approved building permits, to estimate existing conditions for the annual concurrency management report. Based on the 2003 Traffic Count report as published in February, 2004, the AADT for Pine Island Road at Matlacha Pass (Permanent Count Station #3) is 11,500 trips (this is a rounded number). The AADT represents an annual average condition in both directions for a typical day, with that average calculated from the counts for every day of the year at the permanent count station. Since the AADT already represents annual average, two way conditions, it simply has to be converted from a daily condition to a peak hour condition to get to the measure used for the 810/910 standard. Since we use the p.m. peak hour for all other road measurement standards (instead of the a.m. peak hour), my staff simply applied the p.m. peak hour factor published in report for Permanent Count Station #3 of 8% (also a rounded number). This resulted in an estimate of 920 annual average, peak hour, two-way trips, over the 910 threshold.

However, after further review and internal discussion, it was noted that the 8% peak-to-daily ratio was as a percent of *weekday* traffic, exclusive of weekend conditions. As noted above, the AADT comes from traffic counted 7 days a week, 365 days a year. To be more technically appropriate, the peak-to-daily ratio should be based on a full-week condition. DOT's Traffic Section reviewed the permanent count station information and pulled the full-week p.m. peak hour information, resulting in a 7.8% peak-to-daily ratio instead of 8%. They also provided us the non-rounded AADT number of 11,543. Applying the more appropriate peak-to-daily ratio to

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Traffic.doc

the non-rounded AADT number, we get an estimate of annual average, peak hour, two-way trips on the western end of Pine Island Road of 900, under the 910 threshold. Nevertheless, considering the amount of variability in measuring traffic, the threshold has essentially been reached in all practicality. It may also be more clearly reached in the concurrency report, with traffic added from approved building permits.

A table that shows the annual average, peak hour, two-way calculation is attached. Because Policy 14.2.2 of the Lee Plan refers to maintaining the adopted level of service standard once the 910 threshold is officially reached, and Policy 14.2.1 states that the adopted level of service standard is "D" on an annual average, peak hour basis and "E" on a peak season, peak hour basis, as measured using the 1985 Highway Capacity Manual method, the table also includes conversions to peak season, peak hour conditions. We've also included two-way and peak direction estimates for both conditions, since Policy 14.2.1 doesn't specify which of those is part of the standard. Included in the table is a volume-to-capacity (V/C) calculation as well; a V/C ratio exceeding 1.00 would indicate that the standard is being exceeded.

We would note that the reference to the 1985 Highway Capacity Manual method is outdated, since that manual is no longer published, and the FDOT software we use to calculate capacities has been updated to reflect the newer 2000 Highway Capacity Manual methods. Therefore we have also included a table showing the same conversions and V/C ratio calculations but using the newer capacity calculations. It would be our recommendation that Policy 14.2.1 be updated to instead refer to the 2000 Highway Capacity Manual and the 2002 Florida Department of Transportation Quality Level of Service Handbook.

Please let me know if you need additional information.

cc: Tim Jones, Chief Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Pete Eckenrode, Development Services Director
Paul O'Connor, Planning Director
Mike Carroll, Concurrency Manager
Scott Gilbertson, DOT Director
Steve Jansen, DOT Traffic Section

**CONVERSION OF 2003 AADT FOR PERMANENT COUNT STATION #3
(PINE ISLAND ROAD @ MATALCHA PASS)**

	CONVERTED COUNT	CAPACITY BASED ON 1985 HCM METHODOLOGY CAPACITY @ LOS	V/C RATIO
Annual Average Peak Hour Two-Way (basis for 810/910 rule) 2003 AADT x Full-Week Peak Hour Factor =	900	1130	0.80
Annual Average Peak Hour Peak Direction 2003 AADT x Full-Week Peak Hour Factor x Annualized Directional Split =	500	680	0.73
Peak Season Peak Hour Two-Way 2003 AADT x 100th Highest Hour (K-100) Factor =	1097	2140	0.51
Peak Season Peak Hour Peak Direction 2003 AADT x 100th Highest Hour (K-100) Factor x Seasonal Directional Split =	614	1290	0.48

	CONVERTED COUNT	CAPACITY BASED ON 2000 HCM METHODOLOGY CAPACITY @ LOS	V/C RATIO
Annual Average Peak Hour Two-Way (basis for 810/910 rule) 2003 AADT x Full-Week Peak Hour Factor =	900	1300	0.69
Annual Average Peak Hour Peak Direction 2003 AADT x Full-Week Peak Hour Factor x Annualized Directional Split =	500	750	0.67
Peak Season Peak Hour Two-Way 2003 AADT x 100th Highest Hour (K-100) Factor =	1097	1620	0.68
Peak Season Peak Hour Peak Direction 2003 AADT x 100th Highest Hour (K-100) Factor x Seasonal Directional Split =	614	940	0.65

- 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.

(Amended by Ordinance No. 00-22, 03-03)

POLICY 14.1.6: The county will continue to purchase environmentally sensitive areas, rare and unique uplands, eagle nesting areas, and archaeological and historic sites on Greater Pine Island in accordance with the priorities set out in this plan. (Amended by Ordinance No. 94-30, 00-22)

POLICY 14.1.7: Lee County will design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay if grant funding can be obtained and if property owners are willing to cooperate with the study. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County will assess the feasibility of various corrective measures. (Amended by Ordinance No. 94-30, 00-22, 03-03)

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. (Added by Ordinance No. 03-03)

OBJECTIVE 14.2: ROAD IMPROVEMENTS. The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Amended by Ordinance No. 00-22)

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209. (Amended by Ordinance No. 00-22)

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

PAUL O'C
2/9/06

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

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

(Amended by Ordinance No. 00-22, 03-03)

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

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

(Amended by Ordinance No. 94-30, 00-22, 03-03)

POLICY 14.2.4: The county will make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland that was completed in 2001. (Added by Ordinance No. 03-03)

OBJECTIVE 14.3: RESIDENTIAL LAND USES. County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies. (Amended by Ordinance No. 94-30, 00-22)

POLICY 14.3.1: Due to the constraints on future development posed by the limited road connections to mainland Lee County, bonus densities of any kind are not permitted in Greater Pine Island. This prohibition includes housing density bonuses, off-site transfers from environmentally critical areas, and transfer from on-site wetlands at rates above the standard density rates for environmentally critical areas.

THE LEE PLAN

2000 CODIFICATION

As Amended through December 2000



LEE COUNTY
SOUTHWEST FLORIDA

Department of Community Development
Division of Planning
P.O. Box 398
Fort Myers, FL 33902-0398

Paul O'C
Handout 2/9/06

POLICY 14.1.7: The county will continue to investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This will include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility. (Amended by Ordinance No. 94-30, 00-22)

OBJECTIVE 14.2: ROAD IMPROVEMENTS. The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Amended by Ordinance No. 00-22)

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209. (Amended by Ordinance No. 00-22)

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800 additional dwelling units, the county will consider for adoption development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. The effect of these regulations would be to appropriately reduce certain types of approvals at established thresholds prior to the adopted level-of-service standard being reached, as follows:

- 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.
- 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 the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.

(Amended by Ordinance No. 00-22)

POLICY 14.2.3: The county will take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measure will be evaluated:

- The construction of left-turn lanes at intersections with local roads in Matlacha, or a continuous third lane.

(Amended by Ordinance No. 94-30, 00-22)

OBJECTIVE 14.3: RESIDENTIAL LAND USES. County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies. (Amended by Ordinance No. 94-30, 00-22)

POLICY 16.1.4:

County staff shall develop a proposal for a taxing mechanism for Greater Pine Island to finance the purchase of native uplands, environmentally sensitive areas, and archaeological and historic sites for preservation, wildlife habitat, and compatible recreational uses. Such funds could be used in conjunction with parks impact fees and other funds (private, county, state, and federal) where appropriate.

POLICY 16.1.5:

The county shall investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This shall include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility.

OBJECTIVE 16.2: ROAD IMPROVEMENTS.

The county shall continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County.

POLICY 16.2.1:

The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard shall be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.

POLICY 16.2.2:

In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800 additional dwelling units, the county shall consider for adoption development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. The effect of these regulations would be to appropriately reduce certain types of approvals at established thresholds prior to the adopted level-of-service standard being reached, as follows:

- When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak hour, annual average two-way trips, the regulations shall provide restrictions on further rezonings which would increase traffic on Pine Island Road.
- When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak hour, annual average two-way trips, the regulations shall provide restrictions on the further issuance of residential development orders (pursuant to the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.

POLICY 16.2.3:

The county shall improve Pine Island Road between Burnt Store Road and Stringfellow Boulevard by the year 1993 as follows:

- Elevate the flood-prone segments.

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DCA
Revisions

Paul O'Connell
Handout

2/9/86

- Widen the traffic lanes to twelve feet.
- Widen and improve the shoulders.
- Improve the intersection at Stringfellow Boulevard.

POLICY 16.2.4:

The county shall take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures shall be evaluated:

- The construction of a bicycle lane which could serve as an emergency vehicle lane during an evacuation, thus freeing both traffic lanes for the evacuating population.
- The construction of two additional lanes around Matlacha.
- The construction of left-turn lanes at intersections with local roads in Matlacha, or a continuous third lane.

✓ **POLICY 16.2.5:**

The county shall evaluate the buildout capacity of Pine Island after the adoption of this plan, and determine the necessary right-of-way widths for arterial roads and the locations where frontage roads will be needed, and then modify county regulations so that only necessary roadway reservations are required.

OBJECTIVE 16.3: RESIDENTIAL LAND USES.

County regulations, policies, and discretionary actions shall recognize certain unique characteristics of Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies.

POLICY 16.3.1:

Due to the constraints on future development posed by the limited road connections to mainland Lee County, bonus densities of any kind are not permitted in Greater Pine Island. This prohibition includes housing density bonuses, off-site transfers from environmentally critical areas, and transfer from on-site wetlands at rates above the standard density rates for environmentally critical areas.

POLICY 16.3.2:

When warranted by actual construction and occupancy of homes, existing substandard subdivisions may become subject to Municipal Service Taxing or Benefit Districts to provide roads, drainage, and other public facilities.

POLICY 16.3.3:

The county shall retain the current building height limitations as adopted by ordinance.

POLICY 16.3.4:

The county Zoning Ordinance shall be revised to allow storage of commercial fishing equipment at a fisherman's private residence as a permitted use in residential districts on Pine Island. Reasonable restrictions not having the effect of prohibiting such storage may be developed.

~~in conjunction with parks impact fees and other funds (private, county, state, and federal) where appropriate.~~ The county shall continue to purchase environmentally sensitive areas, rare and unique uplands, eagle nesting areas, and archaeological and historic sites on Greater Pine Island in accordance with the priorities set out in this plan.

POLICY 1614.1.57:

The county shall continue to investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This shall include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility.

OBJECTIVE 1614.2: ROAD IMPROVEMENTS.

The county shall continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County.

POLICY 1614.2.1:

The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard shall be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.

POLICY 1614.2.2:

In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800 additional dwelling units, the county shall consider for adoption development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. The effect of these regulations would be to appropriately reduce certain types of approvals at established thresholds prior to the adopted level-of-service standard being reached, as follows:

- When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak hour, annual average two-way trips, the regulations shall provide restrictions on further rezonings which would increase traffic on Pine Island Road.
- When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak hour, annual average two-way

PAUL O'CONNOR
HANDOUT

2/9/04

trips, the regulations shall provide restrictions on the further issuance of residential development orders (pursuant to the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.

POLICY 16.2.3:

~~The county shall improve Pine Island Road between Burnt Store Road and Stringfellow Boulevard by the year 1993 as follows:~~

- ~~• Elevate the flood-prone segments.~~
- ~~• Widen the traffic lanes to twelve feet.~~
- ~~• Widen and improve the shoulders.~~
- ~~• Improve the intersection at Stringfellow Boulevard.~~

POLICY 1614.2.43:

The county shall take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures shall be evaluated:

- ~~• The construction of a bicycle lane which could serve as an emergency vehicle lane during an evacuation, thus freeing both traffic lanes for the evacuating population.~~
- ~~• The construction of two additional lanes around Matlacha.~~
- The construction of left-turn lanes at intersections with local roads in Matlacha, or a continuous third lane.

✓ **POLICY 16.2.5:**

~~The county shall evaluate the buildout capacity of Pine Island after the adoption of this plan, and determine the necessary right-of-way widths for arterial roads and the locations where frontage roads will be needed, and then modify county regulations so that only necessary roadway reservations are required.~~

OBJECTIVE 1614.3: RESIDENTIAL LAND USES.

County regulations, policies, and discretionary actions shall recognize certain unique characteristics of Greater Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies.

POLICY 1614.3.1:

Due to the constraints on future development posed by the limited road connections to mainland Lee County, bonus densities of any kind are not

GOAL 16: GREATER PINE ISLAND. To manage future growth on and around Pine Island so as to maintain the island's unique natural resources and character and to insure that island residents and visitors have a reasonable opportunity to evacuate when a hurricane strike is imminent. For the purposes of this plan, the boundaries of Pine Island are indicated on the Future Land Use Map.

OBJECTIVE 16.1: NATURAL RESOURCES. County regulations, policies, and discretionary actions shall permit no further degradation of estuarine and wetland resources and no unnecessary loss of native upland vegetation and wildlife habitat.

POLICY 16.1.1: The county shall not approve or support any new artificial channels in natural waters around Pine Island.

POLICY 16.1.2: Maintenance dredging of old channels and canals may be permitted in those cases where the original channel (or canal) depth and width can be accurately determined.

POLICY 16.1.3: New "planned development" rezoning approvals and new subdivisions adjoining state-designated aquatic preserves and associated natural tributaries shall provide a 50-foot-wide vegetated buffer area between the development and the waterbody.

POLICY 16.1.4: County staff shall develop a proposal for a taxing mechanism for Greater Pine Island to finance the purchase of native uplands, environmentally sensitive areas, and archaeological and historic sites for preservation, wildlife habitat, and compatible recreational uses. Such funds could be used in conjunction with parks impact fees and other funds (private, county, state, and federal) where appropriate.

POLICY 16.1.5: The county shall investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This shall include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility.

OBJECTIVE 16.2: ROAD IMPROVEMENTS. The county shall continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County.

POLICY 16.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season peak hour basis. This standard shall be measured at the county's permanent count station on Little Pine Island using the methodology described in the Traffic Circulation element.

POLICY 16.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800 additional dwelling units, the county shall consider for adoption development regulations which address growth on Pine Island and which implement measures to gradually limit future development

OBJECTED TO
BY DCA
2/9/06

PAUL O'CONNOR
HANDOUT

approvals. The effect of these regulations would be to appropriately reduce certain types of approvals at established thresholds prior to the adopted level-of-service standard being reached, as follows:

- When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 80% of LOS "D" (annual average peak hour), the regulations shall provide restrictions on further rezonings which would increase traffic on Pine Island Road.
- When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 90% of LOS "D" (annual average peak hour), the regulations shall provide restrictions on the further issuance of residential development orders (pursuant to the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.

POLICY 16.2.3: The county shall improve Pine Island Road between Burnt Store Road and Stringfellow Boulevard by the year 1993 as follows:

- Elevate the flood-prone segments.
- Widen the traffic lanes to twelve feet.
- Widen and improve the shoulders.
- Improve the intersection at Stringfellow Boulevard.

POLICY 16.2.4: The county shall take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures shall be evaluated:

- The construction of a bicycle lane which could serve as an emergency vehicle lane during an evacuation, thus freeing both traffic lanes for the evacuating population.
- The construction of two additional lanes around Matlacha.
- The construction of left-turn lanes at intersections with local roads in Matlacha, or a continuous third lane.

POLICY 16.2.5: The county shall evaluate the buildout capacity of Pine Island after the adoption of this plan, and determine the necessary right-of-way widths for arterial roads and the locations where frontage roads will be needed, and then modify county regulations so that only necessary roadway reservations are required.

OBJECTIVE 16.3: RESIDENTIAL LAND USES. County regulations, policies, and discretionary actions shall recognize certain unique characteristics of Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies.

MEMORANDUM

2005 OCT 31 PM 3:48

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT
DIVISION OF PLANNING

RECEIVED BY
LEE CO. ATTORNEY

DATE: October 31, 2005

TO: Board of County Commissioners

FROM:



Paul O'Connor, AICP, Director

RE: **Implementation of the 810/910 Rule**

This is a response to issues and questions raised at the Public Workshop of August 19th, regarding the meaning and implementation of the provisions of Lee Plan Objective 14.2 and its subsequent policies, commonly referred to as the 810/910 Rule. This memorandum is intended to explain staff's understanding and the current implementation practices. The full text of the objective and its policies are attached for further information. Also attached is a memorandum from David Loveland, Transportation Planning Manager, Department of Transportation, that explains how the Level of Service for Pine Island Road, between Burnt Store Road and Stringfellow Road, is calculated.

Comprehensive plans, under Florida Statutes and Rules, consist of goals, objectives and policies. Rule 9J-5, the State's Minimum Criteria Rule for Comprehensive Plans, includes the following definitions of these Terms:

"Goal" means the long-term end toward which programs or activities are ultimately directed.

"Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

"Policy" means the way in which programs and activities are conducted to achieve an identified goal.

Goal 14: Greater Pine Island, strives in part to "manage future growth on and around Greater Pine Island so as to maintain the island's unique natural resources and character." This goal is achieved by establishing objectives that mark progress towards that goal. Objective 14.2 calls for the monitoring of traffic levels to insure that the capacity of roadways between Pine Island and the mainland are not exceeded. The objective itself is not a program or activity. In accordance with the hierarchy established by the minimum criteria rule, the policies contained under objective 14.2,

identify the programs and activities that are intended to achieve that objective and ultimately the goal.

In order to further Objective 14.2, Policy 14.2.1 establishes a unique level of service for Pine Island Road between Burnt Store Road and Stringfellow Road that is different than other roadways in Lee County. The policy actually identifies two level of service standards, "D" on an annual average, peak hour basis or "E" on a peak season, peak hour basis, but doesn't specify whether the standards are based on two-way traffic or peak direction traffic. Other roads in Lee County are subject to a single level of service standard, mostly level of service "E" on a peak season, peak hour, peak direction basis. Policy 14.2.1 also requires measurement of Pine Island Road's condition to compare to the adopted standards using the methodology from the 1985 Highway Capacity Manual. The 1985 Highway Capacity Manual is no longer in use, replaced by the 2000 Highway Capacity Manual, and the newer methodology is used for calculating the condition on all the other roads in Lee County. Again, Pine Island has a unique situation, with Policy 14.2.1 establishing the level of service standard (or standards) for the key segment of Pine Island Road and that standard is used for the implementation of Policy 14.2.2 described below.

Policy 14.2.2 consists of two strategies to further the objective. The policy gradually limits certain types of development approvals at established thresholds prior to the capacity of Pine Island Road being reached. Both of the established thresholds have been reached and both strategies are now enforced.

The first strategy is applied during the rezoning process. It restricts further rezonings which would increase traffic on Pine Island Road through Matlacha. This policy is ultimately enforced by the Board of County Commissioners as you approve or deny rezoning requests on Pine Island. This is a public hearing process and enforcement of this provision has not been the subject of the recent discussion.

The second strategy of Policy 14.2.2 is applied administratively during the Development Order (DO) review process. It provides restrictions on the further issuance of residential development orders to assure that the unique level of service for Pine Island Road, adopted by Policy 14.2.1, is maintained. In order to assure that a DO in the Greater Pine Island area does not cause Pine Island Road to fall below the established level of service standard, the required traffic impact statement must also identify the projects impacts to Pine Island Road, in addition to the standard test conducted on the first collector or arterial road that is impacted by the DO . Any DO that contributes sufficient peak hour trips such that the level of service standard on Pine Island Road (again, stated in Policy 14.2.1 as "D" on an annual average, peak hour basis or "E" on a peak season, peak hour basis) would be exceeded cannot be approved as submitted.

Development Review staff has received 13 applications for Developments Orders (DO's) on Pine Island subsequent to the 910 threshold being exceeded. The transportation impacts of these DO's are being reviewed as explained above. As stated in the attached memo from David Loveland, the current annual average peak hour two-way trips are estimated at 938 trips and the two-way service volume for level of service "D" is 1130 trips. None of the approved or pending DO's would cause the 1130 level of service "D" on Pine Island Roar to be exceeded on its own.

To date, 5 of the 13 DO's have received final approval. The approved DO's represent 90 dwelling units and generating an additional 59 peak hour trips on Pine Island Road. The remaining 8 DO's are still under staff review. They represent 671 dwelling units and are calculated to add an additional 268 peak hour trips on Pine Island Road. The total number of dwelling units, from the approved and pending DO's, equals 761 and the total number of new peak hour trips on Pine Island Road is forecast at 327 trips.

This memorandum represents how staff has implemented the provisions of Objective 14.2. If the Board has concerns with staff's interpretation, chapter 13 of the Lee Plan contains procedures for legislative interpretations of the plan.

cc: *Donald Stilwell, County Manager*
David Owen, County Attorney
Tim Jones, Assistant County Attorney
Mary Gibbs, Director of Community Development
Pete Eckenrode, Director of Development Services
David Loveland, Transportation Planning Manager

EXCERPT FROM THE LEE PLAN

OBJECTIVE 14.2: ROAD IMPROVEMENTS. The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Amended by Ordinance No. 00-22)

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209. (Amended by Ordinance No. 00-22)

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

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

The 810 and 910 thresholds were based on 80% and 90% of level-of-service "D" capacity calculated using the 1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36. (Amended by Ordinance No. 00-22, 03-03)

MEMORANDUM

FROM
DEPARTMENT OF TRANSPORTATION
PLANNING PROGRAM

DATE: October 28, 2005

TO: Paul O'Connor
Planning Director

FROM: 
David M. Loveland, Manager

RE: **Level of Service Calculations**
Pine Island Road between Stringfellow Road and Burnt Store Road

I am supplying this memo to assist you in your response to issues and questions raised at the Public Workshop of August 19th, regarding the meaning and implementation of the provisions of Lee Plan Objective 14.2 and its subsequent policies, commonly referred to as the 810/910 Rule.

The annual statement of conditions on the critical segment of Pine Island Road, between Burnt Store Road and Stringfellow Road, is published in the County's Concurrency Management Report, prepared by the Division of Development Services. The annual roadway conditions for the segment are measured by the County's Department of Transportation (DOT) using a permanent traffic count station on Little Pine Island (as referenced in Policy 14.2.2). The standard roadway condition is reported by DOT in its annual Traffic Count Report as annual average daily traffic in two directions (two-way). Policy 14.2.1 states that the level of service standard for the western end of Pine Island Road is "D" on an *annual average peak hour* basis and "E" on a *peak season peak hour* basis. A p.m. peak hour factor, or ratio of p.m. peak hour traffic to daily traffic, is determined from information from the permanent count station, and applied to the annual average daily count to estimate annual average peak hour two-way conditions. That factor will actually vary slightly each year based on the information reported from the permanent count station, as evidenced by the 7.80% ratio used in 2003 versus the 7.71% ratio in 2004. As reported in the June, 2005 Concurrency Management Report (page 48), the annual average daily traffic volume reported at the Little Pine Island permanent count station was 12,168 vehicles, which when multiplied by the peak-to-daily ratio of 7.71% results in an estimate of 938 vehicles on an *annual average peak hour two-way* basis. Clearly, this exceeds the 810 and 910 thresholds identified in Policy 14.2.2, putting the rezoning and development order review strategies in effect, and leading back to the level of service standard specified in Policy 14.2.1.

To determine roadway conditions throughout Lee County, the existing traffic count (not projected) is compared to the roadway capacity at the adopted level of service standard. Lee County DOT calculates the roadway capacities for all County-maintained roadways. The state-of-the-art practice for determining the maximum service volumes (or capacities) for a roadway at various levels of service derives from the Highway Capacity Manual published by the Transportation Research Board. The Florida DOT makes available to local governments a software package for calculating roadway capacities, which relies on the methodologies from the Highway Capacity Manual. The software has three modules that can be used to calculate the capacities, depending on the type of roadway. FREEPLAN is FDOT's conceptual planning software for freeways or multi-lane divided roadways with at least two lanes for exclusive use of traffic in each direction and full control of ingress and egress; ARTPLAN is FDOT's software for major signalized roadways; and HIGHPLAN is FDOT's software for two-lane and multi-lane uninterrupted flow highways with points of access not fully controlled. There are no traffic signals to interrupt the traffic flow on Pine Island Road between Stringfellow Boulevard and Burnt Store Road, other than the signal at the eastern end point, so Lee County DOT relies on HIGHPLAN for the calculation of roadway capacities for this segment.

That software package relies on inputs based on the specific roadway conditions to calculate the conditions. Examples of inputs in HIGHPLAN include the number of through lanes, the existence of a median, the existence of separate left turn lanes, the posted and free flow speeds, the percentage of no-passing zones, and the surrounding area type (rural, urban). FDOT provides standardized inputs based on statewide conditions, but encourages changes to those inputs based on more specific local data. Lee County DOT uses more specific local data as inputs for capacity calculations for all the major road segments in the County. The segment of Pine Island Road from Stringfellow Road to Burnt Store Road is 5.5 miles long, with varying conditions in relation to the requested inputs. Therefore, Lee County DOT averages some of the conditions such as the posted speed over that entire segment to use as inputs into the software. We do not simply utilize the conditions in the worst portion of a road segment (such as Matlacha) as the basis for inputs in a capacity calculation.

Lee County DOT uses the latest FDOT software, which is currently based on the methodologies from the 2000 Highway Capacity Manual, to calculate the roadway capacities for all other roads in Lee County; however, Policy 14.2.1 requires that the level of service condition on Pine Island Road between Stringfellow Road and Burnt Store Road is to be calculated using the methodologies from the 1985 Highway Capacity Manual. The last version of FDOT's software used by Lee County that was based on the 1985 Highway Capacity Manual methods was from 1999. The 1999 run for the western end of Pine Island Road identified the two-way service volume as 1130 at level of service "D" and 2140 at level of service "E". Comparing the annual average peak hour two-way traffic of 938 to the capacity of 1130 at the standard of "D" shows that the standard has not yet been exceeded.

Some residents of Pine Island have recently raised the issue of a flaw discovered in FDOT's newer software, and have argued that with the inclusion of a software "patch" provided by the University of Florida, the resultant capacity at level of service "D" would be much lower than 1130. However, this flaw is related to a methodology that was revised in the 1997 and 2000

versions of the Highway Capacity Manual and was not part of the methodology based on the 1985 Highway Capacity Manual. While FDOT intends to release a new version of its software soon with this flaw corrected, we do not know at this time how it might affect the capacity calculation for Pine Island Road, and the issue is moot because the current comprehensive plan policy language clearly requires the use of the 1985 Highway Capacity Manual methods. Based on the policy requirement, the Pine Island Road traffic will continue to be measured against the 1130 capacity at level of service "D", unless and until the policy language is changed. Lee County DOT staff has actually proposed a change in Policy 14.2.1 to clarify the level of service standard and to reference the 2000 Highway Capacity Manual, for consideration in the next comprehensive plan amendment cycle.

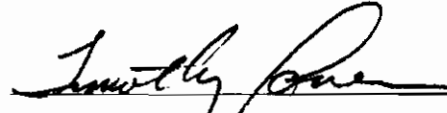
It is also worth noting that the state, through FDOT or the Florida Department of Community Affairs, does not dictate how local governments are to do their level of service calculations; FDOT simply provides the level of service software as a tool that local governments can choose to use. The local governments are simply required to do their evaluations in a professionally-acceptable manner, and using FDOT's software helps Lee County meet that objective. It is also important to emphasize that the guiding language in this process is the current adopted comprehensive plan language, not language from earlier settlement agreements that have since been superseded or general state definitions.

MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY

DATE: July 30, 2004

To: Board of County Commissioners

FROM:



Timothy Jones
Chief Assistant County Attorney

RE: Pine Island Concurrency

The purpose of this memorandum is to provide legal analysis to assist the Board in its discussion of this subject at the Management and Planning Committee Meeting on Monday, August 2, 2004. We expect the following legal issues to be central to the discussion of Pine Island Concurrency:

1. *Are the provisions of Policy 14.2.2. of the Lee Plan self implementing?*

The answer to this question is "no." The language of the Lee Plan policy clearly contemplates, and requires, that regulations will be adopted to implement the policy itself. These regulations have, in fact, been adopted and are codified in Section 2-48 of the Land Development Code (LDC).

2. *Does the 910 rule, as stated in the Lee Plan and as implemented in the LDC, prohibit the approval of any new development order for residential development on Pine Island?*

The answer to this question is "no." The Lee Plan and the LDC clearly contemplate that the 910 rule is a threshold or "warning light" that causes the County to use heightened scrutiny of development order applications for new development on Pine Island. The 910 number itself represents 90 percent of the adopted level of service capacity for trips on Pine Island Road at the time the rule was adopted. Therefore, additional development may be approved that results in more than 910 trips on Pine Island Road.

3. *May the County use new information that is not part of the 2003 approved concurrency report to enforce concurrency limitations before the Board reviews and approves the 2004 annual concurrency report?*

The answer to this question is "no." The Lee Plan, through Objective 22.3 and the policies thereunder, as well as the LDC, through the provisions of Chapter 2, provide for the adoption of a concurrency report. This report is an inventory of available capacity of public facilities

Re: Pine Island Concurrency

and it must be reviewed and approved by the Board of County Commissioners at least annually. Only after this approval is the County staff authorized to apply the findings of the report in the concurrency review of applications for development permits. If the County attempts to use new information before it is incorporated in a properly approved annual concurrency report the County will be acting without proper legal authority and will be subject to potential liability.

4. *Can the County change the regulations to provide that the 910 threshold number of trips is instead a maximum allowable number of trips, thus stopping all development above that number?*

The answer to this question is "yes." However, if the County does make this change, it will create significant liability for the County under the Bert Harris Act.

5. *Does the designation of a small segment of Pine Island Road as "constrained" affect or change the requirement that the concurrency report be approved before new information is used to enforce concurrency limitations on Pine Island?*

The answer to this question is "no." The required concurrency report also determines the available capacity of constrained road segments. New information regarding capacity on constrained road segments may not properly be used to enforce concurrency limitations until the report is approved by the Board.

We believe that the above analysis addresses the central legal issues in this discussion. Please do not hesitate to contact me if you have any questions or if you desire additional legal analysis.

TJ/amp

Distribution: Robert P. Janes, Commissioner, District #1
Douglas St. Cerny, Commissioner, District #2
Ray Judah, Commissioner, District #3
Andrew Coy, Commissioner, District #4
John Albion, Chairman, Commissioner, District #5

cc: Bob Gray, Deputy County Attorney
Mary Gibbs, Director, Department of Community Development
Donna Marie Collins, Assistant County Attorney

For purposes of concurrency evaluation, the 100th highest peak hour, peak season, peak direction trip volume is calculated and then added to the "existing" traffic volume for the first arterial or collector link to which the project is contributing trips as reported in the most recent Concurrency Report. If the sum of these volumes does not cause the mandated Level of Service (LOS) capacity of the link to be exceeded, then a Certificate of Concurrency will be issued which is valid for a period of 3 years from date of issue.

If the sum of the volumes exceeds the LOS standard for the link, then the Concurrency Certificate cannot be issued unless:

1. The roadway link had been declared "constrained", operates at LOS "F" and the volume to capacity ratio does not exceed 1.85, or
2. Improvements to the impacted roadway link are funded in either a Municipal, County, or State Capital Improvement Program (CIP) within the first three (3) years of the adopted CIP, or
3. The project's development intensity (number of units or building square footage) is reduced such that the Level of Service standard is not exceeded.

Concurrency Evaluation Process on Pine Island

On September, 14 2004 the Board of County Commissioners accepted the 2003-2004/2004-2005 Concurrency Inventory and Projections Report which indicated that the average annual peak hour, two way volume on Pine Island Road had exceeded 910 trips. All residential development order applications submitted after that date have been reviewed for conformance with the provisions of the 810/910 Rule. Prior to September 2004, concurrency evaluations for Pine Island projects were performed as outlined above for Lee County projects.

Since September 2004, Concurrency reviews have been performed using the same basic procedures outlined above but with the following difference:

- Traffic Impact Statements are now being required to address impacts to available capacity on the initial arterial or collector link to which the project will contribute trips, and also are required to evaluate project impacts to available capacity on Pine Island Road.

This additional analysis has provided the ability to monitor impacts from projects which do not directly access Pine Island Road, a level of scrutiny not in place prior to the 910 volume being reached. It will also serve to provide restrictions on the issuance of new development orders once the LOS capacity is reached on Pine Island Road.

cc: Mary Gibbs, Director, Dept. of Community Development
Paul O'Connor, Director, Planning

GREATER PINE ISLAND CONCURRENCY ISSUE

The County's Comprehensive Plan contains a special concurrency requirement for Greater Pine Island when certain traffic thresholds on Pine Island Road are reached. These are contained in Policies 14.2.1 and 14.2.2. The policies are reproduced below:

***POLICY 14.2.1:** The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.*

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

- 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.*
- 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 the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. (Amended by Ordinance No. 00-22)*

These policies are implemented in the Land Development Code (LDC) under Section 2-48 which reads:

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map, 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.*
- (2) When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that*

increase traffic on Pine Island Road may not be granted. When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.

The Lee Plan, in Policy 22.3.2, requires the County “to annually identify roadway conditions and available capacity as part of its concurrency management report.” LDC Section 2-50 further implements this provision, requiring the County to “publish and update, at least once each year” a Concurrency Management report. The LDC goes on to state that the “inventory must be reviewed and approved by the Board of County Commissioners.”

The 2003 Concurrency Management report utilized the 2002 Traffic Count Report to determine the peak hour, annual average two-way trips on Pine Island Road. This concurrency report indicated that the peak hour, annual average two-way trips were at 896 trips.

The County Department of Transportation issued its 2003 Traffic Count Report in February of 2003. This report indicates average daily traffic of 11,500 trips on Pine Island Road (count station 3, west of Matlacha Pass). This daily count is then converted to peak hour, annual average two-way trips. Please refer to the attached memorandum from Dave Loveland regarding this conversion. The 2004 Concurrency Management report will utilize this revised trip count in its transportation section. Typically, updates to the Concurrency Management report are presented to the Board for their adoption in November.

Two issues have recently arisen regarding these policies. The first issue is when are the provisions of Policy 14.2.2 to be enforced, when the traffic counts are completed or when the Concurrency Management report is formally adopted by the Board. In accordance with the LDC the Concurrency Management report is considered enforceable when it is annually adopted by the Board.

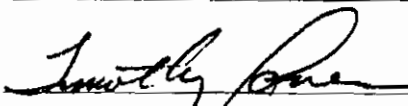
The second issue concerns the effect of traffic reaching or exceeding the 910 trip count threshold. As stated in Policy 14.2.2 the “regulations will provide restrictions on the further issuance of residential development orders...or other measures to maintain the adopted level of service.” The adopted level of service is established by Policy 14.2.1. That policy in part provides that the minimum level of service is “established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis.” LDC Section 2-48(2) provides that “residential development orders...will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.” In other words, the 910 threshold is a trigger that requires residential development order applications to be reviewed to assure that the project’s impacts don’t exceed the two tiered level of service standards identified by Policy 14.2.1. Residential development order applications, received after the 910 threshold is exceeded in an adopted Concurrency management report, will be required to analyze the project’s impacts to the level-of-service for Pine Island Road. Development orders that are issued will be conditioned to assure that the two tiered level of service standards are not exceeded.

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: July 30, 2004

TO: Board of County Commissioners

FROM:



Timothy Jones
Chief Assistant County Attorney

RE: Pine Island Concurrency

The purpose of this memorandum is to provide legal analysis to assist the Board in its discussion of this subject at the Management and Planning Committee Meeting on Monday, August 2, 2004. We expect the following legal issues to be central to the discussion of Pine Island Concurrency:

1. *Are the provisions of Policy 14.2.2. of the Lee Plan self implementing?*

The answer to this question is "no." The language of the Lee Plan policy clearly contemplates, and requires, that regulations will be adopted to implement the policy itself. These regulations have, in fact, been adopted and are codified in Section 2-48 of the Land Development Code (LDC).

2. *Does the 910 rule, as stated in the Lee Plan and as implemented in the LDC, prohibit the approval of any new development order for residential development on Pine Island?*

The answer to this question is "no." The Lee Plan and the LDC clearly contemplate that the 910 rule is a threshold or "warning light" that causes the County to use heightened scrutiny of development order applications for new development on Pine Island. The 910 number itself represents 90 percent of the adopted level of service capacity for trips on Pine Island Road at the time the rule was adopted. Therefore, additional development may be approved that results in more than 910 trips on Pine Island Road.

3. *May the County use new information that is not part of the 2003 approved concurrency report to enforce concurrency limitations before the Board reviews and approves the 2004 annual concurrency report?*

The answer to this question is "no." The Lee Plan, through Objective 22.3 and the policies thereunder, as well as the LDC, through the provisions of Chapter 2, provide for the adoption of a concurrency report. This report is an inventory of available capacity of public facilities

Re: Pine Island Concurrency

and it must be reviewed and approved by the Board of County Commissioners at least annually. Only after this approval is the County staff authorized to apply the findings of the report in the concurrency review of applications for development permits. If the County attempts to use new information before it is incorporated in a properly approved annual concurrency report the County will be acting without proper legal authority and will be subject to potential liability.

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The answer to this question is "yes." However, if the County does make this change, it will create significant liability for the County under the Bert Harris Act.

5. *Does the designation of a small segment of Pine Island Road as "constrained" affect or change the requirement that the concurrency report be approved before new information is used to enforce concurrency limitations on Pine Island?*

The answer to this question is "no." The required concurrency report also determines the available capacity of constrained road segments. New information regarding capacity on constrained road segments may not properly be used to enforce concurrency limitations until the report is approved by the Board.

We believe that the above analysis addresses the central legal issues in this discussion. Please do not hesitate to contact me if you have any questions or if you desire additional legal analysis.

TJ/amp

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Douglas St. Cerny, Commissioner, District #2
Ray Judah, Commissioner, District #3
Andrew Coy, Commissioner, District #4
John Ablon, Chairman, Commissioner, District #5

cc: Bob Gray, Deputy County Attorney
Mary Glbbs, Director, Department of Community Development
Donna Marie Collins, Assistant County Attorney

Memo

To: Mary Gibbs, Community Development Director

From: David Loveland, Manager, Transportation Planning

Date: July 30, 2004

Subject: **CONVERSION OF 2003 TRAFFIC COUNTY ON PINE ISLAND ROAD TO ANNUAL AVERAGE PEAK HOUR TWO-WAY CONDITION**

I am writing to clarify the unofficial estimate of traffic on Pine Island Road, based on the conversion of the annual average daily traffic (AADT) count from Lee County DOT's 2003 Traffic Count report. As you know, the comprehensive plan establishes some thresholds regarding how rezonings and development orders on Pine Island should be reviewed, which are 810 and 910 *annual average, peak hour, two-way* trips. That is a unique and unusual measure of conditions, since we use *peak season, peak hour, peak direction* trips for the statement of conditions on all other County roads.

Typically my staff provides the conversion to annual average, peak hour two-way trips for the western end of Pine Island Road, and to peak season, peak hour, peak direction trips for all other roads to your staff sometime after the Traffic Count is published, and your staff uses those numbers, with the addition of traffic from projects with approved building permits, to estimate existing conditions for the annual concurrency management report. Based on the 2003 Traffic Count report as published in February, 2004, the AADT for Pine Island Road at Matlacha Pass (Permanent Count Station #3) is 11,500 trips (this is a rounded number). The AADT represents an annual average condition in both directions for a typical day, with that average calculated from the counts for every day of the year at the permanent count station. Since the AADT already represents annual average, two way conditions, it simply has to be converted from a daily condition to a peak hour condition to get to the measure used for the 810/910 standard. Since we use the p.m. peak hour for all other road measurement standards (instead of the a.m. peak hour), my staff simply applied the p.m. peak hour factor published in report for Permanent Count Station #3 of 8% (also a rounded number). This resulted in an estimate of 920 annual average, peak hour, two-way trips, over the 910 threshold.

However, after further review and internal discussion, it was noted that the 8% peak-to-daily ratio was as a percent of *weekday* traffic, exclusive of weekend conditions. As noted above, the AADT comes from traffic counted 7 days a week, 365 days a year. To be more technically appropriate, the peak-to-daily ratio should be based on a full-week condition. DOT's Traffic Section reviewed the permanent count station information and pulled the full-week p.m. peak hour information, resulting in a 7.8% peak-to-daily ratio instead of 8%. They also provided us the non-rounded AADT number of 11,543. Applying the more appropriate peak-to-daily ratio to

the non-rounded AADT number, we get an estimate of annual average, peak hour, two-way trips on the western end of Pine Island Road of 900, under the 910 threshold. Nevertheless, considering the amount of variability in measuring traffic, the threshold has essentially been reached in all practicality. It may also be more clearly reached in the concurrency report, with traffic added from approved building permits.

A table that shows the annual average, peak hour, two-way calculation is attached. Because Policy 14.2.2 of the Lee Plan refers to maintaining the adopted level of service standard once the 910 threshold is officially reached, and Policy 14.2.1 states that the adopted level of service standard is "D" on an annual average, peak hour basis and "E" on a peak season, peak hour basis, as measured using the 1985 Highway Capacity Manual method, the table also includes conversions to peak season, peak hour conditions. We've also included two-way and peak direction estimates for both conditions, since Policy 14.2.1 doesn't specify which of those is part of the standard. Included in the table is a volume-to-capacity (V/C) calculation as well; a V/C ratio exceeding 1.00 would indicate that the standard is being exceeded.

We would note that the reference to the 1985 Highway Capacity Manual method is outdated, since that manual is no longer published, and the FDOT software we use to calculate capacities has been updated to reflect the newer 2000 Highway Capacity Manual methods. Therefore we have also included a table showing the same conversions and V/C ratio calculations but using the newer capacity calculations. It would be our recommendation that Policy 14.2.1 be updated to instead refer to the 2000 Highway Capacity Manual and the 2002 Florida Department of Transportation Quality Level of Service Handbook.

Please let me know if you need additional information.

cc: Tim Jones, Chief Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Pete Eckenrode, Development Services Director
Paul O'Connor, Planning Director
Mike Carroll, Concurrency Manager
Scott Gilbertson, DOT Director
Steve Jansen, DOT Traffic Section

**CONVERSION OF 2003 AADT FOR PERMANENT COUNT STATION #3
(PINE ISLAND ROAD @ MATALCHA PASS)**

	CONVERTED COUNT	CAPACITY BASED ON 1985 HCM METHODOLOGY CAPACITY @ LOS	V/C RATIO
Annual Average Peak Hour Two-Way (basis for 810/910 rule) 2003 AADT x Full-Week Peak Hour Factor =	900	1130	0.80
Annual Average Peak Hour Peak Direction 2003 AADT x Full-Week Peak Hour Factor x Annualized Directional Split =	500	680	0.73
Peak Season Peak Hour Two-Way 2003 AADT x 100th Highest Hour (K-100) Factor =	1097	2140	0.51
Peak Season Peak Hour Peak Direction 2003 AADT x 100th Highest Hour (K-100) Factor x Seasonal Directional Split =	614	1290	0.48

	CONVERTED COUNT	CAPACITY BASED ON 2000 HCM METHODOLOGY CAPACITY @ LOS	V/C RATIO
Annual Average Peak Hour Two-Way (basis for 810/910 rule) 2003 AADT x Full-Week Peak Hour Factor =	900	1300	0.69
Annual Average Peak Hour Peak Direction 2003 AADT x Full-Week Peak Hour Factor x Annualized Directional Split =	500	750	0.67
Peak Season Peak Hour Two-Way 2003 AADT x 100th Highest Hour (K-100) Factor =	1097	1620	0.68
Peak Season Peak Hour Peak Direction 2003 AADT x 100th Highest Hour (K-100) Factor x Seasonal Directional Split =	614	940	0.65

Pages From 2005 Concurrency Report

"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 rezoning which would increase traffic on Pine Island Road.

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 the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan."

Land Development Code

"When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour, annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can included as a condition of the development order." [LDC 2-48(2)]

Based on the 2004 Traffic Count Report (which utilizes counts for calendar year 2004), the number of peak hour, annual average, two-way trips for last year was 938 (up slightly from 937 the previous year). This year's number was converted from the Annual Average Daily Traffic using a 7.71% peak-to-daily ratio and a 365 day average of 12,168 trips. The very slight variation in numbers compared to last year's report is for two reasons: (1) the conversion factors vary slightly from year to year, based on information from the nearest permanent traffic count station, and (2) the report last year was done in September, and utilized the first eight months of calendar year 2004 which included the peak season. This report therefore only includes the last four months of 2004.

In accordance with the "810" rule in Policy 14.2.2, there have been restrictions on rezonings that could increase traffic on Pine Island Road. These restrictions should be continued. Additionally, the "910" rule of Policy 14.2.2 referenced above, is now in effect. This requires the adopted level of service standard to be maintained when considering residential development orders. The adopted level of service standard for Pine Island is specified in Policy 14.2.1 of THE LEE PLAN, which reads as follows:

"The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209."

The adopted level of service standard is being closely monitored.

Estero Boulevard

The Town of Fort Myers Beach has adopted a different methodology for measuring the level of service on Estero Boulevard Policy 7-I-2 of the Comprehensive Plan for the Town of Fort Myers Beach states:

to provide parallel road improvements to reduce the LOS impacts on the Interstate prior to the anticipated widening of I-75 in FY 2007/08.

I-75 from Corkscrew Road to Alico Road. The LOS standard is C but the existing LOS is E. The widening of Three Oaks Parkway to four (4) lanes is funded by the County in 2004/05 and the US 41 six-laning is funded by FDOT in 2009/10 to provide parallel road improvements to reduce the LOS impacts on the Interstate prior to the anticipated widening of I-75 in FY 2007/08.

I-75 from Alico Road to Daniels Parkway. The LOS standard is C but the existing LOS is F. The construction of the Treeline Avenue Extension as a four (4) lane facility was recently completed. Metro Parkway Extension is funded for construction in 2004/05. Three Oaks Parkway North Extension is funded in 2009/10. These facilities will provide parallel road improvements to reduce the LOS impacts on the Interstate prior to the anticipated widening of I-75 in FY 2007/08.

I-75 from Daniels Parkway to Colonial Boulevard. The LOS standard is C but the existing LOS is E. Treeline Avenue Extension is funded by a private developer in 2004/05 and the Plantation Road four-lane Extension and the Six Mile Parkway four-laning are funded in 2006/07 to provide parallel road improvements to reduce the LOS impacts on the Interstate prior to the anticipated widening of I-75 in FY 2009/10.

I-75 from Colonial Boulevard to Dr. Martin Luther King Boulevard. The LOS standard is C but the existing LOS is E. The Shoemaker Boulevard four-lane Extension from Colonial Boulevard to Dr. Martin Luther King Boulevard is currently under construction. This facility would provide parallel road improvements to reduce the LOS impacts on the Interstate prior to the anticipated widening of I-75 in FY 2009/10.

I-75 from Martin Luther King Blvd to Luckett Road. The LOS standard is C but the existing LOS is E. The Ortiz Avenue four-laning from Dr. Martin Luther King Boulevard to Luckett Road is funded in FY 2008/09. This facility would provide parallel road improvements to reduce the LOS impacts on the Interstate prior to the anticipated widening of I-75 in FY 2009/10.

I-75 from Luckett Road to Palm Beach Boulevard. The LOS standard is C but the existing LOS is E. The Ortiz Avenue four-laning from Luckett Road to Palm Beach Boulevard is funded in FY 2009/10. This facility would provide parallel road improvements to reduce the LOS impacts on the Interstate prior to the anticipated widening of I-75 in FY 2009/10.

Pine Island Road

There are specific references in the LEE PLAN and the Land Development Code which could affect the approval of rezoning cases or development orders that affect specific roadway links. These are:

Lee Plan

Policy 14.2.2 relating to Greater Pine Island, states in part:

TRANSPORTATION

ROAD CAPACITY INVENTORY

Lee County examines each individual roadway link to determine the ability of the road system to provide the minimum Level of Service (LOS) standard established in THE LEE PLAN, on an "Existing" basis (2004 100th Highest Hour column in Road Link Volumes Table) and a short-term projects "Future" basis (Estimated 2005 100th Highest Hour column in Road Links Volume Table) as well as a "Forecast" basis (Future Forecast Volume column in Road Links Table). The "Existing" Level of Service is based upon the 2003 Traffic Count Report. At the beginning of 2005, there were three (3) segments (three [3] links) of the County road system that provided a Level of Service below the established standard on an "Existing" basis. These county road segments are listed below.



The completed last portion of Pondella Road widened to four lanes as seen from the west end near the intersection with Pine Island Road.

ROAD	FROM	TO	LOS		Comment
			2004	Future	
Estero Blvd.	Tropical Shores Way	Center Street	F	F	Constrained Facility ⁽¹⁾
McGregor Blvd. (2 links)	Winkler Rd.	Colonial Blvd.	F	F	Constrained Facility ⁽²⁾

⁽¹⁾ This is a constrained facility in the Town of Fort Myers Beach. Policy 7-1-2 of the Comprehensive Plan for the Town of Fort Myers Beach states: "The peak capacity of Estero Boulevard' congested segments is 1,300 vehicles per hour." This standard was not exceeded in 2004 and will not be exceeded in 2005. The County has agreed to jointly fund a feasibility study with the Town of Fort Myers Beach regarding a dedicated trolley lane on Estero Boulevard.

⁽²⁾ This is a constrained facility which is partially in the City of Fort Myers. The volume to capacity (v/c) ratio on McGregor Boulevard from Winkler Road. to Tanglewood Boulevard. is 1.14, and from Tanglewood Boulevard. to Colonial Boulevard. is 1.10. These volume to capacity ratios are well below the maximum of 1.85 allowed on constrained facilities. The design of a turn lane improvement at the primary bottleneck point (McGregor/Colpnial intersection) has been funded in the current year of FDOT'S work program, to be undertaken by the City of Fort Myers. The ROW/Construction phase remains a high priority.

The following roadway link on the State system may fail to meet the FDOT standard of LOS E in the future as projects continue to develop.

ROAD	FROM	TO	LOS			Planned Improvement
			2004	2005	Future	
Immokalee Road (S.R. 82)	Lee Boulevard	Commerce Lakes Drive	D	E	F	County advancing PD&E to 2005/06. Gunnery Road 4L in 2005/06.

The following county roadway link meets the LOS standard now but may not meet it in the future as projects that have been approved continue to develop. This link could become a problem if the capacity is not increased or if road projects providing alternative routes are not constructed.

ROAD	FROM	TO	LOS			Planned Improvement
			2004	2005	Future	
Plantation Road	Six Mile Cypress Parkway	Daniels Road	B	E	F	Metro Parkway 6L funded by FDOT in 2009/10.

The Lee County Department of Transportation continues to update the calculations of the maximum service volumes for Level of Service A through E. The maximum service volumes are based on the existing roadway characteristics plus any changes that are a part of an improvement that has been programmed for construction in the first three (3) years of the adopted 5-year Lee County Capital Improvement Program or the Florida DOT Work Program. The maximum service volumes are also sensitive to small changes in signal timing and will need to be continually updated, at least every two years.

The Division of Development Services will maintain an estimate of the "Existing" Peak Hour, Peak Season, Peak Direction traffic on each link of the arterial and collector road system for which Average Daily Traffic (ADT) is reported in the annual Traffic Count Report. The ADT for a link will be converted to the Peak Hour, Peak Season, Peak Direction traffic using adjustment factors provided by LCDOT. To these initial traffic volumes, additional peak hour, peak direction traffic will be added as new building permits are issued. The result will become the "Estimated" Peak Hour, Peak Season, Peak Direction traffic for that link for the following year. Peak hour, peak direction traffic from a proposed development will be added to the "Existing" traffic when the Development Order is approved to show an estimate of the "Forecast" traffic on that link. As building permits for that project are issued, the appropriate traffic will be added to the "Estimated" volume. Periodically, the "Estimated" volume and the "Forecast" volume will be purged of those building permits which received a Certificate of Occupancy during the same period reported in the annual Traffic Count Report. The "Forecast" volume representing traffic levels if all projects are fully constructed will also be projected. Updated "Existing," "Estimated" and "Forecast" volumes will be reported in the Concurrency Management Report.

The impacts from a proposed new building or development will be evaluated against the available capacity as determined by the "Existing" conditions in the most recent Concurrency Management Report. If there is sufficient capacity to maintain the Level of Service Standard, a Concurrency Certificate Number will be assigned to the project which will be valid for a period of three (3) years from date of issuance.

This system will not be used for links that are part of Concurrency alternative areas such as constrained roads, Transportation Concurrency Management Areas, Transportation Concurrency Exception Areas, or on links subject to Long Term Concurrency Management Systems, if adopted.

Pine Island Road

There are specific references in the LEE PLAN and the Land Development Code which could affect the approval of rezoning cases or development orders that affect specific roadway links. These are:

Lee Plan

Policy 14.2.2 relating to Greater Pine Island, states in part:

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 rezoning which would increase traffic on Pine Island Road.

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 the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.

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Based on the 2004 Traffic Count Report (which utilizes counts for calendar year 2004), the number of peak hour, annual average, two-way trips for last year was 938 (up slightly from 937 the previous year), calculated from an annual average daily traffic of 12,168 and a peak-to-daily ratio of 7.71%. The 938 trips exceed the "910" threshold. The very slight variation in numbers compared to last year's report is for two reasons: (1) the conversion factors vary slightly from year to year, based on information from the nearest permanent traffic count station, and (2) the report last year was done in September, and utilized the first eight months of calendar year 2004, including the peak season - this reported condition simply adds the last four months of 2004.

In accordance with the "810" rule in Policy 14.2.2, there have been restrictions on rezonings that could increase traffic on Pine Island Road. These restrictions should be continued. Additionally, the "910" rule of Policy 14.2.2 referenced above is now in effect. This requires the adopted LOS standard to be maintained when considering residential development orders. The adopted LOS standard specified in Policy 14.2.1 of THE LEE PLAN is being closely monitored.

Constrained Roads

Policy 22.2.2 addresses the maximum volume to capacity ratio to be allowed on constrained roads. It states:

A maximum volume-to-capacity (v/c) ratio of 1.85 is established for the constrained roads identified in Table 2(a) that lie in the unincorporated area. No permits will be issued by Lee County that cause the maximum volume-to-capacity ratio to be exceeded or that affect the maximum volume-to-capacity ratio once exceeded. Permits will only be issued when capacity enhancements and operational improvements are identified and committed for implementation that will maintain the volume-to-capacity ratio on the constrained segment at or below 1.85.

Based on traffic counts for 2004 the highest volume to capacity ratio on a constrained facility was 1.15 on Estero Boulevard in the Town of Fort Myers Beach. McGregor Boulevard from Winkler Road to Tanglewood Boulevard had a volume to capacity ratio of 1.10 and from Tanglewood Boulevard to Colonial Boulevard had a volume to capacity ratio of 1.14. Estero Boulevard between Voorhis Street and Tropical Shores Way had a volume to capacity ratio of just under 1.00. U.S. 41 from College Parkway to South Road had a volume to capacity ratio of 0.95. All other constrained facilities had a volume to capacity ratio of less than 0.90 and lower than the previously identified facilities. None of these facilities should approach a volume to capacity ratio of 1.85 during the year 2005.

Estero Boulevard

The Town of Fort Myers Beach has adopted a different methodology for measuring the level of service on Estero Boulevard. Policy 7-I-2 of the Comprehensive Plan for the Town of Fort Myers Beach states: *"The peak capacity of Estero Boulevard's congested segments is 1,300 vehicles per hour. The minimum acceptable level-of-service standard for Estero Boulevard shall be that average monthly traffic flows from 10:00 A.M. to 5:00 P.M. during each month do not exceed that level for more than four calendar months in any continuous twelve month period. Measurements from the Permanent Count Station at Denora Boulevard shall be used for this standard."*

Lee PLAN

GOALS 14 & 37

- 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.

(Amended by Ordinance No. 00-22, 03-03)

POLICY 14.1.6: The county will continue to purchase environmentally sensitive areas, rare and unique uplands, eagle nesting areas, and archaeological and historic sites on Greater Pine Island in accordance with the priorities set out in this plan. (Amended by Ordinance No. 94-30, 00-22)

POLICY 14.1.7: Lee County will design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay if grant funding can be obtained and if property owners are willing to cooperate with the study. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County will assess the feasibility of various corrective measures. (Amended by Ordinance No. 94-30, 00-22, 03-03)

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. (Added by Ordinance No. 03-03)

OBJECTIVE 14.2: ROAD IMPROVEMENTS. The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Amended by Ordinance No. 00-22)

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209. (Amended by Ordinance No. 00-22)

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

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

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

(Amended by Ordinance No. 00-22, 03-03)

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

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

(Amended by Ordinance No. 94-30, 00-22, 03-03)

POLICY 14.2.4: The county will make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland that was completed in 2001. (Added by Ordinance No. 03-03)

OBJECTIVE 14.3: RESIDENTIAL LAND USES. County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies. (Amended by Ordinance No. 94-30, 00-22)

POLICY 14.3.1: Due to the constraints on future development posed by the limited road connections to mainland Lee County, bonus densities of any kind are not permitted in Greater Pine Island. This prohibition includes housing density bonuses, off-site transfers from environmentally critical areas, and transfer from on-site wetlands at rates above the standard density rates for environmentally critical areas.

corridors on the Official Trafficways Map if necessary. (Amended and Relocated by Ordinance No. 99-15)

POLICY 36.2.3: The Official Trafficways Map is intended to show existing and planned transportation corridors which are needed to ensure county-wide continuity of the future road system. Review for voluntary compliance with these corridors will occur at the time of approval and issuance of local development orders and development permits, as defined in Section 163.3164(6) and (7), respectively, Florida Statutes. (Amended and Relocated by Ordinance No. 99-15)

POLICY 36.2.4: Transportation corridors contained in local development orders, planned development approvals, or DRI development orders will be reviewed by the county to determine compliance with the corridor needs shown on the Official Trafficways Map. Conflicts with these corridors and the corridors contained on the Official Trafficways Map will be identified and mutual resolution of these conflicts will be encouraged. (Amended by Ordinance No. 98-09, Relocated by Ordinance No. 99-15)

POLICY 36.2.5: Standards for use and development permits within Official Trafficways Map corridors will be specified in county zoning and development regulations in a manner consistent with these policies. (Amended and Relocated by Ordinance No. 99-15)

POLICY 36.2.6: The county will identify those existing and planned transportation corridors on the Official Trafficways Map under the highest development pressure. The county will then establish the precise center lines and roadway widths so that adequate (but not excessive) right-of-way widths for ultimate buildout are available. (Amended by Ordinance No. 98-09, Amended and Relocated by Ordinance No. 99-15)

GOAL 37: LEVEL OF SERVICE STANDARDS. Establish and maintain specified levels of service on state and county roads within unincorporated Lee County and the roads the county maintains within the municipalities, including those level of service standards adopted by Rule by the Florida Department of Transportation for Florida Intrastate Highway System (FIHS) facilities. (Amended by Ordinance No. 98-09, 99-15, 00-08)

OBJECTIVE 37.1: GENERAL STANDARDS. From time of plan adoption, new facilities will be added at a rate equal to growth demands. (Amended by Ordinance No. 99-15)

POLICY 37.1.1: The minimum acceptable peak hour, peak season, peak direction roadway levels of service (see also Policy 95.1.3) will be as follows:

Peak Hour/Peak Season/Peak Direction	
State & County Roads (Non-FIHS Roads)	
Arterials	E
Collectors	E
Freeways (non-FIHS system)	D
FIHS Roads ⁽¹⁾	
I-75	
- Collier Line to Charlotte Line (Transitioning Area)	C ⁽²⁾
(Urbanized Area)	D ⁽²⁾

SR 80	
- I-75 to Buckingham Road (Transitioning Area) (Urbanized Area)	C ⁽²⁾ D ⁽²⁾
- Buckingham Road to Hickey Creek (4L) (Rural Area) (Transitioning Area) (Urbanized Area)	B ⁽²⁾ C ⁽²⁾ D ⁽²⁾
- Hickey Creek to Hendry County (2L) (Rural Area) (4L) (Rural Area) (Transitioning Area) (Urbanized Area)	C ⁽²⁾⁽³⁾ B ⁽³⁾ C ⁽²⁾ D ⁽²⁾

- ⁽¹⁾ The County may seek variances to the level of service standards for the FIHS facilities as authorized under Section 120.542, F.S. If granted, the level of service standards for I-75 and SR 80 will be as approved by FDOT in the Order Granting Petition for Variance.
- ⁽²⁾ If any portion of I-75 or SR 80 is determined to be within an urbanized area over 500,000 people based on the year 2000 Census by FDOT pursuant to applicable rules, then the standard becomes "D" for any such area. If any portion of SR 80 east of Buckingham Road is determined to be within a transitioning urbanized area based on the year 2000 Census by FDOT pursuant to applicable rules, then the standard becomes "C" for any such area.
- ⁽³⁾ If the portion of SR 80 east of Hickey Creek is multi-laned and remains in the rural area after the year 2000 Census then the standard becomes "B".

The minimum acceptable level of service as specified above for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Policies 14.2.1 and 14.2.2.

For minimum acceptable levels of service determination, the peak season, peak hour, peak direction condition will be defined as the 100th highest volume hour of the year in the predominant traffic flow direction. The 100th highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions will be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station. (Amended by Ordinance No. 98-09, 99-15, 00-08)

POLICY 37.1.2: Link-specific service volumes (capacities) have been established for arterials and collector roadways based on specific Lee County conditions, for use in the annual concurrency monitoring report. Because these service volumes are heavily dependent on existing geometrics, signal timing and spacing, variables subject to considerable change over time, the link-specific service volumes are appropriate only for short-term analyses (five years or less, as measured from the date of the last update of those service volumes). Lee County has also developed generalized service volumes for future year analyses. The Lee County Department of Transportation is responsible for keeping both sets of service volumes up to date. Preparers of Traffic Impact Statements for DRIs, rezonings and development orders and other transportation analyses must use the most appropriate and up-to-date set of service volumes, as determined by the Lee County Department of Transportation. (Amended by Ordinance No. 98-09, Amended and Relocated by Ordinance No. 99-15)

POLICY 37.1.3: Lee County will continue to maintain its permanent and periodic traffic count program on state and county arterials and collectors in Lee County as the basis for determining

existing roadway conditions. (Amended by Ordinance No. 98-09, Amended and Relocated by Ordinance No. 99-15)

POLICY 37.1.4: Lee County will continue to use the 2000 Highway Capacity Manual and the 1998 Florida Department of Transportation Level of Service Manual to calculate levels of service, service volumes, and volume-to-capacity ratios. (Amended by Ordinance No. 98-09, Relocated by Ordinance No. 99-15)

OBJECTIVE 37.2: CONSTRAINED ROADS. Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will be deemed "constrained" and therefore will not be widened. Reduced peak hour levels of service will be accepted on those constrained roads as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. (Amended by Ordinance No. 99-15, 00-08)

POLICY 37.2.1: Constrained roads are identified in Table 2(a). (Added by Ordinance No. 99-15, Amended by Ordinance No. 00-08)

POLICY 37.2.2: A maximum volume-to-capacity (v/c) ratio of 1.85 is established for the constrained roads identified in Table 2(a) that lie in the unincorporated area. No permits will be issued by Lee County that cause the maximum volume-to-capacity ratio to be exceeded or that affect the maximum volume-to-capacity ratio once exceeded. Permits will only be issued when capacity enhancements and operational improvements are identified and committed for implementation that will maintain the volume-to-capacity ratio on the constrained segment at or below 1.85. (Amended and Relocated by Ordinance No. 99-15, Amended by Ordinance No. 00-08)

POLICY 37.2.3: For each constrained road identified in Table 2(a), an Operational Improvement Program is hereby established. This program identifies operational and capacity-enhancing improvements that can be implemented within the context of that constrained system. The Operational Improvement Program for constrained roads is identified in Table 2(b). (Amended and Relocated by Ordinance No. 99-15, Amended by Ordinance No. 00-08)

OBJECTIVE 37.3: TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEM. Lee County will utilize a transportation concurrency management system consistent with the requirements of Chapter 163.3180, F.S., and Rule 9J-5.0055, F.A.C. (Added by Ordinance No. 99-15, Amended by Ordinance No. 00-08)

POLICY 37.3.1: Lee County will measure concurrency on all roads on a roadway segment-by-segment basis, except for constrained roads and where alternatives are established pursuant to Chapter 163.3180, F.S., and Rule 9J-5.0055, F.A.C. (Amended by Ordinance No. 98-09, Amended and Relocated by Ordinance No. 99-15, Amended by Ordinance No. 00-08)

POLICY 37.3.2: Lee County will continue to annually identify roadway conditions and available capacity as part of its concurrency management report. The report will identify both existing traffic conditions and forecast traffic conditions. The available capacity for existing conditions will include the added capacity of roadway improvements programmed in the first three years of an adopted County Capital Improvement Program or State Five-Year Work Program. (Added by Ordinance No. 00-08)

POLICY 37.3.3: All proposed development activity (local development order requests), except that which affects constrained roads and roads subject to concurrency alternatives, will be reviewed against the available capacity identified in the annual concurrency report based on existing conditions. If capacity is available, a concurrency certificate may be issued, good for three years; otherwise no concurrency certificate will be issued. (Amended and Relocated by Ordinance No. 99-15, Amended by Ordinance No. 00-08)

OBJECTIVE 37.4: TRANSPORTATION CONCURRENCY ALTERNATIVES. Where appropriate, Lee County will employ alternatives to standard segment-by-segment transportation concurrency measurements consistent with the requirements of Chapter 163.3180, F.S. and Rule 9J-5.0055, F.A.C. (Added by Ordinance No. 00-08)

POLICY 37.4.1: Based on short-term forecast conditions, Lee County in 2000 will investigate the creation of a Transportation Concurrency Exception Area in Lehigh Acres. (Added by Ordinance No. 00-08)

POLICY 37.4.2: Based on short-term forecast conditions, Lee County in 2000 will investigate the creation of a Transportation Concurrency Management Area in Estero. (Added by Ordinance No. 99-15, Amended and Relocated by Ordinance No. 00-08)

POLICY 37.4.3: Concurrency vesting (i.e., a long-term concurrency certificate) may be granted for DRIs under limited circumstances in accordance with Chapter 163.3180(12), F.S., and including up to a 10-year time limitation, a limitation on changes to the DRI development parameters over time, and the execution of a local government development agreement in which the developer agrees to pay his full proportionate share/impact fee obligation up front. (Added by Ordinance No. 00-08)

GOAL 38: CAPITAL IMPROVEMENTS PROGRAMMING. Provide an objective, predictable, and fully funded program for the construction of roadway improvements, consistent with all portions of this comprehensive plan. (Amended by Ordinance No. 99-15)

OBJECTIVE 38.1: REVENUES. A wide variety of innovative financial planning techniques will be considered to fully develop the facilities depicted on the Transportation Maps and satisfy the travel demand needs of Lee County. (Amended by Ordinance No. 98-09)

POLICY 38.1.1: The county will maintain an effective and fair system of impact fees to insure that development creating additional impacts on arterial and collector roads pays an appropriate fair share of the costs to mitigate its (off-site) impacts. (Amended by Ordinance No. 99-15)

POLICY 38.1.2: Credit may be given against future impact fees for the dedication of rights-of-way and the construction of road improvements that are included in the 5 year CIP and for roads identified on the future Transportation Map (Map 3A). Other non-site related road improvements may be eligible for credits based on the criteria in the Lee County Land Development Code. The amount of credits will be governed by the provisions of the Lee County Land Development Code. No credits will be granted for those improvements determined to be site related. (Amended by Ordinance No. 98-09, 99-15)

POLICY 38.1.3: Roads impact fees will be reviewed regularly and updated when necessary to reflect travel characteristics and construction and right-of-way costs and to determine if the capital impacts of new growth are met by the fees. (Amended by Ordinance No. 99-15)

accordance with Article VII. The Hearing Examiner is not responsible for the enforcement of compliance agreement obligations.

(Ord. No. 98-03, § 1, 1-13-98)

Secs. 2-3—2-40. Reserved.

ARTICLE II. CONCURRENCY MANAGEMENT SYSTEM

Sec. 2-41. Statutory authority.

The Board of County Commissioners has authority to adopt this article pursuant to article III of the constitution of the state and F.S. chs. 125, 163 and 380.

(Ord. No. 91-32, § 2, 10-16-91)

Sec. 2-42. Applicability of article.

This article applies to the unincorporated area of the county.

(Ord. No. 91-32, § 3, 10-16-91; Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-43. Intent of article.

This article is intended to implement the requirements imposed by rule 9.J-5.0055, Florida Administrative Code; objectives 22.3 and 22.4 and policies 70.2.1 and 70.1.3(1) through 70.1.3(6) of the Lee Plan; and F.S. §§ 163.3177(10)(h), 163.3202(1) and (2)(g), 163.3167(8), and 163.3180. (Ord. No. 91-32, § 4, 10-16-91; Ord. No. 94-28, § 2, 10-19-94; Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-44. Purpose of article.

The purpose of this article is to ensure that public facilities and services needed to support development are available concurrent with the impacts of such development by providing that certain public facilities and services meet or exceed the standards established in the capital improvements element in the Lee Plan and required by F.S. §§ 163.3177 and 163.3180, and are available when needed for the development, while protecting the vested rights of persons guaranteed them by the Constitution of the United

States of America, the state constitution and the laws of the state, and acknowledged by the state legislature in F.S. § 163.3167(8).

(Ord. No. 91-32, § 5, 10-16-91; Ord. No. 94-28, § 2, 10-19-94)

Sec. 2-45. Definitions.

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

Board of County Commissioners means the Board of County Commissioners of Lee County, Florida, acting in a public meeting.

Building permit means an official document or certification that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

Certificate of concurrency compliance means the certification issued by the director pursuant to section 2-46(d). This certification means that the director has determined that there is or will be sufficient public facilities to serve the development for which a development permit has been requested without violating the minimum concurrency standards set forth in the Lee Plan.

Certificate of concurrency exemption means the certification issued by the director pursuant to section 2-46(b). This certification means that the director has determined that a type of development order, or a specific development order issued for a proposed development permit, is exempt from the concurrency levels of service requirements of the Lee Plan. The issuance of a certificate of concurrency exemption does not exempt a developer from submission of project data required by the director unless specifically set forth in the certificate. Submission of project data assists the county in monitoring anticipated impacts on public facilities for the purposes of maintaining an inventory to evaluate new requests for development.

Concurrency certificate means a certificate of concurrency compliance, a certificate of concur-

rency exemption, a concurrency variance certificate or a conditional certificate of concurrency compliance.

Concurrency variance certificate means the certification issued by the director pursuant to section 2-51. This certification means that the director has determined that a variance from the strict concurrency requirements of the Lee Plan must be granted with respect to a specific development permit to avoid the unconstitutional taking of property without due process of law.

Conditional certificate of concurrency compliance means a certificate issued by the director pursuant to section 2-46(j). This certification means that the director has determined that:

- (1) A development permit, which otherwise would violate the minimum concurrency requirements of the Lee Plan, can be issued consistent with the Lee Plan if certain conditions are attached to the permit; or
- (2) The application for concurrency review is complete but for a particular document that can be submitted prior to the issuance of a building permit or certificate of occupancy.

Constrained roads means those roadway segments that cannot or will not be widened due to community scenic, historic, aesthetic, right-of-way or environmental constraints.

Developer means any person, including a governmental agency, undertaking any development.

Development means the carrying out of building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels. It is intended to have the same meaning given in F.S. § 380.04.

Development order means any order granting or granting with conditions an application for a development permit.

Development permit means a building permit, subdivision approval, certification or variance or other official action of local government having the effect of permitting the development of land. This definition conforms to that set forth in F.S.

§ 163.3164(7), except that it does not include zoning permits, zoning variances, rezoning, special exceptions, preliminary plan approvals, and special permits which, by themselves, do not permit the development of land.

Director means the county manager, or any other person designated by the county manager to exercise the authority or assume the responsibilities given the director in this article.

Equivalent residential connections means the total number of meter equivalents using the methodology of the state public service commission. This term is synonymous with the term "equivalent residential units" used by the state public service commission.

Final development order means a development order issued pursuant to chapter 10 or a final development order issued pursuant to Lee County Ordinance No. 82-42, as amended.

Hearing examiner means an officer appointed by the Board of County Commissioners to hear all matters and exercise all duties set out in chapter 34, article II.

Lee Plan means the county comprehensive plan which was adopted pursuant to F.S. ch. 163 on January 31, 1989, and effective March 1, 1989, and all subsequent amendments thereto.

Long term transportation concurrency management system means a financially feasible system to ensure that existing deficiencies are corrected within a specified time frame and to establish priorities for addressing backlogged facilities in special concurrency district or areas.

Mobile home move-on permit means an official document or certification authorizing a purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tiedown of a park trailer in a mobile home zoning district. Mobile homes and park trailers are defined in chapter 34.

Permanent traffic means the traffic that a development can reasonably be expected to generate on a continuing basis upon completion of the development. It does not mean the temporary construction traffic.

Planned development rezoning means any rezoning to a planned development zoning district pursuant to chapter 34.

Preliminary development order means a preliminary development order issued pursuant to Ordinance No. 82-42, as amended.

Preliminary plan approval means a type of site plan approval pursuant to chapter 10 that does not authorize development and to which no concurrency vesting attaches.

Regulatory standards means the minimum acceptable level of service as set forth in the Lee Plan, policy 70.1.3, subsections 1 through 6.

Rule 9J-5.0055 means the rule and any subpart thereof published in the Florida Administrative Code.

Transportation concurrency exception areas means areas designated under the Lee Plan that allow exceptions to the transportation concurrency management requirement to promote urban infill development, urban redevelopment, or downtown revitalization.

Transportation concurrency management areas means compact geographic areas designated under the Lee Plan with existing or proposed multiple, viable alternative travel paths or modes for common trips, which employ the use of an area-wide level of service standard and an accommodation and management of traffic congestion for the purpose of promoting infill development or redevelopment in a manner that supports more efficient mobility alternatives.

(Ord. No. 91-32, §§ 6, 7, 10-16-91; Ord. No. 94-28, § 3, 10-19-94; Ord. No. 99-22, § 1, 12-14-99)

Cross reference--Definitions and rules of construction generally, § 1-2.

Sec. 2-46. Concurrency certification.

(a) *Review for compliance with level of service requirements.* All applications for final development orders and building permits must be reviewed by the director for compliance with the

level of service requirements set forth in the Lee Plan. Exceptions to this provision are development permits that are:

- (1) specifically exempted from concurrency review by county administrative code AC 13-9;
- (2) granted pursuant to a concurrency variance certificate under section 2-51;
- (3) a concurrency exemption certificate applies under section 2-49;
- (4) related to development pursuant to a development order issued under F.S. §§ 380.06 and 380.061, and the DRI development order separately provides for concurrency compliance and analysis; or
- (5) granted pursuant to a developer agreement in effect pursuant to Ordinance No. 90-29, as amended, and the development agreement makes separate provision for concurrency compliance and analysis.

Upon application and payment of the application fee set by the Board of County Commissioners by administrative code, the director will determine whether the public facilities and services listed in F.S. § 163.3180 needed to support the development will be available concurrent with the impacts of that development, or whether the development should be exempted from such a determination, either because the development will not have an impact on the public facilities and services or because the applicant for the development permit has a vested right to receive it.

(b) *Determination of exemption.* Certain types of development permits do not cause additional impacts on public facilities and services. These development permits should be exempt from concurrency compliance. Those development permits are set forth in an administrative code. It is not necessary for the director to issue a certificate of exemption for development permits listed in the administrative code. For development permits not listed in the administrative code, the director will be guided by the standards set forth in this article. If the director finds that the standards for exemption have been satisfied, he will certify his findings by a written statement,

that identifies the development permit for which the specific determination of exemption has been made. The director's statement must recite the basis for his determination by reference to the facts upon which he is relying and the sections of this article he finds to be controlling. The director's statement will be known as a certificate of concurrency exemption, will identify a development order or will be limited to the exact development permit application for which he has issued his certificate. Applications for amendments to a development order granting a development permit for which a certificate of concurrency exemption has been issued will require another, separate concurrency review by the director.

(c) *Consideration of impacts.* If the director determines that a development permit is not exempt from the minimum concurrency requirements of the Lee Plan, the director will consider the impact the development will have on potable water, sanitary sewer, surface water management, solid waste disposal, parks and recreation and roadway facilities. The director will consider the type and intensity of use of the proposed development in relation to the demands the use can reasonably be expected to make on those facilities and the times when the demand can reasonably be expected to occur during the course of the development. When measuring the expected impacts of a development, the director will include only the impacts of permanent traffic (see definitions) and other similar continuing infrastructure demands of the development. The director will disregard temporary impacts such as fire flow tests. The director may rely upon studies, measurements or calculations prepared by qualified professionals, or upon generally accepted guidelines, rules, formulas, studies or other theories developed by professional experts working or publishing in this field of inquiry, or upon relevant historical trends or experiences, or upon related rules and standards adopted by other governmental agencies, or upon any combination of these sources. The burden of disproving the accuracy of the director's determination lies with the person who disputes it.

To promote uniformity in the application of this subsection, the director may prepare administrative rules prescribing the methodology by which

the impacts of a proposed development will be determined. Those rules will be set forth in an administrative code adopted by the Board of County Commissioners.

(d) *Determination of sufficient capacity.* Once the director has considered the impacts of a proposed development in accordance with subsection (c) of this section, he will then determine whether there will be sufficient capacity for these facilities to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established for these facilities and services in the Lee Plan. Except for traffic impacts, which will be determined in accordance with the policies under objectives 22.3 and 22.4 of the Lee Plan, the director will add the expected impacts of the development to the levels of use of the facility at the time of the determination. Anticipated additional use will be derived from other reasonably foreseeable factors. If this sum is less than the capacity of the facility in question to operate during the effective period of a certificate of concurrency compliance at the minimum regulatory levels of services prescribed in the Lee Plan and the development's projected traffic is in compliance with objectives 22.3 and 22.4 of the Lee Plan, the director will certify the conclusion by a written statement. The written statement will identify the development in question and the development permit for which the certification has been made. The director's statement will be known as a certificate of concurrency compliance and is limited to the exact development permit application for which he has issued his certificate. Applications for an amendment to a development order granting a development permit for which a certificate of concurrency compliance has been issued will require another, separate concurrency review by the director.

(e) *Means of measuring level of service in relation to location of development.* When measuring the availability of a public facility to serve a development, the level of service at which the facility is operating or is expected to operate will be measured in relation to its location to the development as follows:

- (1) *Potable water.* Supply and treatment capacity will be based on the number of

equivalent residential connections of the utility that will provide service to the development. The pressure in the distribution system will be measured at the point where the service enters the development or at the point from which the service will be extended.

- (2) *Sanitary sewer.* The treatment and disposal capacity will be based on the number of equivalent residential connections of the utility that will provide service to the development. The capacity of the collection system will be measured at the point where the service enters the development or at the point from which the service will be extended.
- (3) *Surface water management.* Runoff will be measured at the points of discharge into an ultimate positive outfall beyond the outer edge of the development or at the nearest natural outfall.
- (4) *Solid waste disposal.* Capacity of the disposal facility will be measured in pounds (or equivalent volume) and applied countywide.
- (5) *Parks and recreation.* The quantity of regional parks will be measured in acres and applied to the total permanent and seasonal resident population in the county. The quantity of community parks will be measured in acres within the unincorporated area of the county and applied within each community park impact fee district to the permanent resident population within the unincorporated portion of that district.
- (6) *Roads.* Concurrency on all roads will be determined on a roadway segment-by-segment basis consistent with the level of service standards set forth in Lee Plan Policy 22.1.1., except where the Board has designated constrained roads and created transportation concurrency management areas, transportation concurrency exception areas, or long-term transportation management systems pursuant to Florida Administrative Code 9J-5.0055.

(f) *Determination of capacity of potable water, sanitary sewer or solid waste facilities.* In determining the capacity of potable water, sanitary sewer or solid waste facilities, the director must include the capacity of all facilities as they exist at the time the development permit will be issued, plus other facilities that are guaranteed in an enforceable development agreement. An enforceable development agreement may include but is not limited to development agreements pursuant to F.S. § 163.3220, or an agreement or development order issued pursuant to F.S. ch. 380. The director, in accordance with section 2-46(j), is also authorized to issue certificates of concurrency compliance subject to the condition that at the time of issuance of a certificate of occupancy, the necessary facilities must be in place and available to serve the new development.

(g) *Determination of adequacy of surface water management system.* In determining the adequacy of a surface water management system, the director will rely upon the reviews performed by the department of community development, the division of development services and the South Florida Water Management District. The adequacy of a surface water management system will be conclusively demonstrated upon the issuance of a surface water construction and operating permit by the South Florida Water Management District.

(h) For parks and recreation facilities, the development must meet one of the following two standards:

- (1) At the time of development order or permit is issued, the necessary facilities and services must be in place or under actual construction; or
- (2) A development order or permit is issued with a stipulation that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated to or acquired by the local government; and
 - a. The necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more

than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted Lee County five-year schedule of capital improvements; or

- b. At the time the development order or permit is issued, the necessary facilities and services are the subject of a binding executed agreement that requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or
- c. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to F.S. § 163.3220, or an agreement or a development order issued pursuant to F.S. ch. 380, to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent.

(i) *Determination of road facility capacity.* In determining the capacity of a road facility, the director will include existing roadways and committed improvements, as provided in Policy 22.3.2 of the Lee Plan.

(j) *Issuance of finding upon failure to qualify for certificate of concurrency compliance.*

- (1) If a proposed development permit fails to qualify for a certificate of concurrency compliance under the criteria set forth in subsections (a) through (i) of this section, the director will issue a finding that the proposed development will meet concurrency requirements if it is subject to the condition that the facilities and services which will be necessary to serve the development, will be in place when the impacts of the development occur without degrading the level of service of these facilities below the minimum level pre-

scribed in the Lee Plan. When no solution can be identified to provide for the additional facility capacity required, the certificate will either be limited to reflect the then-available facility capacity, or the application denied. If the director issues such a finding, to be known as a conditional certificate of concurrency compliance, no development permit may be issued unless it contains on its face the statement that the permit is issued subject to the condition that additional facilities to serve the development must be in place when the impacts of the development occur.

- (2) The conditional certificate of concurrency compliance must identify the minimum additions to the then-existing facilities that must be built and operating, in addition to planned facilities meeting the criteria set forth in subsections (f), (g), (h) and (i) of this section, before further development permits will be issued. If a developer proposes to develop in stages or phases so that facilities and services needed for each phase will be available in accordance with the standards set forth in this article, the director may issue a conditional certificate of concurrency compliance that establishes related periods of time when additional development permits will be granted if the additional facilities, identified by the director as being the minimum additions to existing or planned facilities needed to serve each phase, are built and operating.
- (3) Development permits issued based on conditional certificates of concurrency compliance must specify the next level or levels of permitting that may be granted before the condition or conditions of the permit must be satisfied.
- (4) The director may also issue a conditional certificate of concurrency compliance where the proposed development will meet concurrency requirements provided certain documents, not submitted with the initial application, are subsequently delivered to the director, or the proposed final devel-

opment order is subject to the review of other county agencies and therefore likely to change, thereby requiring further concurrency review.

(k) *Validity of certificates of concurrency compliance and conditional certificates of concurrency compliance.* Certificates of concurrency compliance and conditional certificates of concurrency compliance are valid for three years from the date they are issued or for the remaining tenure of the underlying final development order or development permit, whichever is less.

(l) *Validity of development permits.*

- (1) Except for building permits, development permits which have been issued based upon a valid certificate of concurrency compliance or a conditional certificate of concurrency compliance will be valid for a period of three years from the date the certificate was granted or for the normal duration of the development permit, whichever is less. This will enable the developer to begin the work permitted or to apply for additional development permits not inconsistent with the permit issued, using the concurrency certificate from the issued permit to satisfy the concurrency review requirements for the additional permits. Approval by the Board of County Commissioners of an extension to the term of a development permit, other than a building permit, will automatically constitute the issuance or extension, as the case may be, of a concurrency certificate for three years or the period of the extension, whichever is less.
- (2) Building permits issued based upon a valid concurrency certificate will be valid for the normal duration of the building permit, so long as the permit is applied for while the certificate of concurrency compliance or conditional certificate of concurrency compliance is valid, the permit application is substantially complete, and the building permit is ultimately issued in the normal course. The original permit

may not be extended more than twice without triggering new concurrency review.

- (3) If a building permit for which such an application has been filed is not issued within six months of the expiration date of the applicable concurrency certificate, a rebuttable presumption will arise that the building permit has not been issued within the normal course as that term is used in this subsection.

(m) *Director's action not appealable pursuant to state law.* The director's action in issuing a concurrency certificate is not a development order which can be appealed pursuant to F.S. § 163.3215.

(n) *Requirements for activity affecting constrained roads.* Concurrency compliance for land development activity affecting constrained roads will be determined in accordance with Lee Plan objective 22.2 to the extent these policies provide additional restrictions that supplement other provisions of this article. The requirements of these policies are as follows:

- (1) A maximum volume to capacity (v/c) ratio of 1.85 for all constrained roads.
- (2) The director may not issue permits that cause the maximum volume to capacity ratio to be exceeded or that affect the maximum volume to capacity ratio once exceeded.
- (3) Once the maximum volume to capacity ratio is achieved, permits may only be issued where capacity enhancements and operational improvements have been identified and commitments to implement those improvements are made that will maintain the volume to capacity ratio on the constrained segment at or below 1.85.
(Ord. No. 91-32, § 8, 10-16-91; Ord. No. 94-28, § 4, 10-19-94; Ord. No. 97-10, § 1, 6-10-97; Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-47. Concurrent development orders.

(a) *Final development orders and amendments or extensions thereto.* A request or application for a final development order, an amendment to a final development order or an extension of a final

development order may be accepted by the director, the hearing examiner or the Board of County Commissioners prior to issuance of a valid concurrency certificate for the exact plan of development for which approval is sought. However, no final development order, final development order amendment or final development order extension may be granted for a development that will cause more intensive impacts than those assumed by the director when issuing his concurrency certificate unless the development in question is resubmitted for review for compliance with the level of service requirements of the Lee Plan. If an amendment to a final development order, already approved for concurrency purposes, results in a reduction of anticipated impacts on public facilities and services, the director must approve the amendment unless to do so would be inconsistent with the Lee Plan.

(b) *Building permits and mobile home permits.* The director may not accept or approve application for a building permit or mobile home move-on permit unless it is exempt from the requirements of this article set forth in section 2-46(b) or accompanied by a valid concurrency certificate issued specifically for the structure for which permit approval is sought. Building permits or mobile home move-on permits will not be granted for structures that will cause more intensive impacts than those assumed by the director when issuing his concurrency certificate.

(c) *Subdivision plats.* An application for approval of a plat prepared in accordance with F.S. ch. 177 may be accepted by the director, but may not be approved by the Board of County Commissioners unless it is accompanied by a valid concurrency certificate issued specifically for the exact plan of development for which approval is sought. No plat may be approved for a development that would cause more intensive impacts than those assumed by the director when issuing his concurrency certificate.

(d) *Other development permits.* No other development order may be issued by the director, or by any other county official, for a development permit not included in subsections (a) through (c) of this section, when the order would permit an impact on facilities and services for which level of

service standards have been adopted in the Lee Plan, unless the director has first issued a valid concurrency certificate.

(e) *Review of planned development rezoning applications.* In addition to the mandatory provisions of this article, the director is authorized at the request of the applicant, to review planned development rezoning applications. In those cases where the director has determined that an approval could lead to excessive impacts on public facilities and services needed to support the development, he may issue an advisory opinion setting forth the basis of his determination. Approval of a development application subject to such an advisory opinion must contain conditions to mitigate the identified impacts. Those conditions may include reduction of density or intensity, phasing of the project to match its impacts with planned expansion of public facilities, required improvements to public facilities or other similar mitigating measures.

(f) *Developments of regional impact.* Application for final local development orders on property located within a development of regional impact are subject to the concurrency levels of service requirements of the Lee Plan unless the DRI is vested pursuant to section 2-49(c) or 2-49(d). (Ord. No. 91-32, § 9, 10-16-91; Ord. No. 94-28, § 5, 10-19-94; Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map, 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.

- (2) When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that increase traffic on Pine Island Road may not be granted. When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.

(Ord. No. 91-32, § 13, 10-16-91; Ord. No. 97-10, § 1, 6-10-97)

Sec. 2-49. Vested rights.

(a) No person has a vested right, by virtue of a development order issued on or after March 1, 1989, to receive a subsequent development order where the development permitted by the subsequent order would have an impact on the public facilities and services listed in F.S. § 163.3180(1), and for which regulatory levels of service are established in the Lee Plan.

(b) No person has a vested right, by virtue of any development order issued prior to March 1, 1989, to receive a subsequent development order without first submitting an application to the director for a formal determination of vested status and issuance of a certificate of concurrency exemption.

(c) Persons owning DRI development orders issued prior to March 1, 1989, are vested to complete developments in accordance with the specific provisions of those development orders, including mitigation of all impacts, without having to comply with the concurrency levels of service requirements of the Lee Plan, regardless of whether they have commenced development or have continued in good faith. The vested status of

these DRI development orders will terminate on the expiration/termination date of the DRI development order.

- (1) A determination of vesting pursuant to this subsection does not exempt a developer from submission of project data required by the director. Submission of project data assists the county in monitoring impacts on infrastructure as development progresses.

- (2) Any development orders vested pursuant to this subsection amended on or after March 1, 1989, will be subject to all concurrency requirements on those portions of the development changed. However, if an amendment to a DRI development order vested pursuant to this subsection results in a reduction of anticipated impacts on public facilities and services, the director, in his discretion, may find that the proposed amendment does not impair the overall vested status of the development.

- (3) Notwithstanding 2-49(c)2., DRI development orders vested pursuant to this subsection, subsequently amended to extend the build out or termination dates by seven or more years from the original dates, will be subject to all concurrency level of service requirements of the Lee Plan. The amendment to the DRI development order to extend the expiration/termination date must be final prior to the expiration or termination date set forth in the development order.

(d) DRI's approved subsequent to March 1, 1989, may be vested to complete development in accordance with the terms of the development of regional impact development order for 10 years under the following circumstances:

- (1) The transportation mitigation assessment amount has been determined by the Board of County Commissioners based on recommendations by County staff.
- (2) The developer agrees to pay the full transportation mitigation assessment amount in advance through a time-certain schedule specified in a local government devel-

Residential Development Orders Under Review on Pine Island

Name of Project	Case Number	Submittal Date	# of Dwelling Units	Review Status	# Peak Hour Trips to Pine Island Road
HPT Estates	DSS2003-00280	12/31/03	347	3 rd D.O. resubmittal responding to staff denial comments was received on 12/9/05. Currently under staff review	192
Cherry Estates RV Park	DSS2004-00205	7/27/04	49	2 nd D.O. resubmittal denied on 12/1/05. Awaiting applicant response to staff comments	17
Bokeelia Harbor Resort.	DSS2004-00208	8/4/04	30	2 nd D.O. resubmittal denied on 11/4/05. Awaiting applicant response to staff comments	(49)
Stringfellow Road Multi-family	DSS2004-00214	8/12/04	29	2 nd D.O. resubmittal responding to staff denial comments was received on 12/22/05. Currently under staff review	15
Turtle Cay	DSS2005-00047	2/9/05	62	3 rd D.O. resubmittal denied 01/23/06. Awaiting applicant response to staff comments.	29
Bokeelia Back Club Condo	DSS2005-00288	9/22/05	10	1 st D.O. resubmittal responding to staff denial comments was received on 1/4/06. Currently under staff review.	7
Demere Preserve	DSS2005-00290	09/27/05	76	1 st D.O. submittal denied on 12/5/05. Awaiting applicant response to staff comments	60
Orchid Cove at Pine Island	DSS2005-00354	12/13/05	156	1 st D.O. submittal made on 12/13/05. Currently under staff review	70
Harbourwalk Village	DSS2006-00004	01/12/06	56	1 st D.O. submittal made 01/12/06. Currently under staff review	46

Tortuga Place Subdivision	DOS2006-00008	01/17/06	34	1 st D.O. submittal made 01/17/06. Currently under staff review	30
Paw Paw Subdivision	DOS2006-00010	01/17/06	33	1 st D.O. submittal made 01/17/06. Currently under staff review	29
Marinawalk	DOS2006-00014	01/23/06	10	1 st D.O. submittal made 01/23/06. Currently under staff review	6
Total Dwelling Units			892		
Total Avg Annual Peak Hour Two - Way Trips					452

**Residential Development Orders approved on Pine Island
after September 2004**

Name of Project	Case Number	Approval Date	# of Dwelling Units	# Peak Hour Trips to Pine Island Road
Calusa Cove Subdivision	DOS2004-00239	5/13/05	12	13
Calusa Ridge Subdivision	DOS2004-00194	5/27/05	45	37
Coconut Inlet Subdivision	DOS2004-00182	7/8/05	15	14
Lassers Palm Grove SD	DOS2004-00223	9/14/05	7	11
Lassers Rose Place	DOS2004-00224	10/10/05	11	12
Lago De Maria SD	DOS2004-00189	11/21/05	15	14
Total Dwelling Units			105	
Total Avg Annual Peak Hour Two-way Trips				101

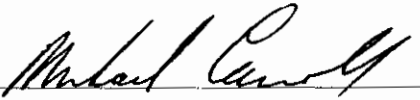
Last Revision Date 2/2/06

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MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: January 12, 2006

TO: Pete Eckenrode
Director, Development Services

FROM: 
Mike Carroll
Development Review Manager

RE: TRIP GENERATION ON PINE ISLAND

You have asked me to estimate the traffic impacts that would occur if all of the lots on Pine Island which are of record but still undeveloped were to be developed with a single family home. I have attached a print of the trip generation from McTrans which uses the trip generation equations from the ITE manual TRIP GENERATION.

The peak directional trip generation is the a.m. peak hour exiting traffic. There would be 3511 vehicles per hour (vph) generated. If we assume that 10% of these trips would be going to a destination at the nearest end of the island (i.e. near Bokeelia or St. James City) there would be

$$\begin{array}{r} 3511 \text{ vph} \\ - 351 \text{ vph} \\ \hline 3160 \text{ vph a.m. peak direction trips} \end{array}$$

that would be headed towards the center of the island. Assuming that the increased population would lead to an increase in businesses on the island that would attract 20% of the trips generated on the island there would be

$$\begin{array}{r} 3160 \text{ vph} \\ - 720 \text{ vph} \\ \hline 2460 \text{ vph} \end{array}$$

that would be headed to destinations off of the island. Added to the estimated 2005 100th highest hour volume of 649 vph would bring the total 100th highest hour to 3109 vph. That volume would require a six lane facility which would provide LOS C.

Michael Carroll

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The high total trip generation occurs during the p.m. peak hour with a total trip generation of 4701 vph. Again if we assume If we assume that 10% of these trips would be going to a destination at the nearest end of the island there would be

$$\begin{array}{r} 4701 \text{ vph} \\ - \underline{470} \text{ vph} \\ 4230 \text{ vph} \end{array}$$

that would be headed towards the center of the island. Assuming again that the increased population would lead to an increase in businesses on the island that would attract 20% of the trips generated on the island there would be

$$\begin{array}{r} 4230 \text{ vph} \\ - \underline{940} \text{ vph} \\ 3290 \text{ vph} \end{array}$$

that would be headed to destinations off of the island. Added to the annual average p.m. peak hour volume of 938 vph would bring the annual average two way p.m. peak hour to 4228 vph. That volume would require a six lane facility as well which would provide LOS D.

Summary of Trip Generation Calculation
 For 6675 Dwelling Units of Single Family Detached Housing
 January 12, 2006

	Average Rate	Standard Deviation	Adjustment Factor	Driveway Volume
Avg. Weekday 2-Way Volume	7.43	0.00	1.00	49594
7-9 AM Peak Hour Enter	0.18	0.00	1.00	1170
7-9 AM Peak Hour Exit	0.53	0.00	1.00	3511
7-9 AM Peak Hour Total	0.70	0.00	1.00	4682
4-6 PM Peak Hour Enter	0.44	0.00	1.00	2962
4-6 PM Peak Hour Exit	0.26	0.00	1.00	1739
4-6 PM Peak Hour Total	0.70	0.00	1.00	4701
AM Pk Hr, Generator, Enter	0.18	0.00	1.00	1218
AM Pk Hr, Generator, Exit	0.52	0.00	1.00	3467
AM Pk Hr, Generator, Total	0.70	0.00	1.00	4685
PM Pk Hr, Generator, Enter	0.45	0.00	1.00	2984
PM Pk Hr, Generator, Exit	0.25	0.00	1.00	1679
PM Pk Hr, Generator, Total	0.70	0.00	1.00	4663
Saturday 2-Way Volume	8.18	0.00	1.00	54598
Saturday Peak Hour Enter	0.48	0.00	1.00	3214
Saturday Peak Hour Exit	0.41	0.00	1.00	2738
Saturday Peak Hour Total	0.89	0.00	1.00	5952
Sunday 2-Way Volume	8.83	0.00	1.00	58930
Sunday Peak Hour Enter	0.31	0.00	1.00	2085
Sunday Peak Hour Exit	0.28	0.00	1.00	1849
Sunday Peak Hour Total	0.59	0.00	1.00	3934

Note: A zero indicates no data available.

The above rates were calculated from these equations:

24-Hr. 2-Way Volume:	$LN(T) = .92LN(X) + 2.71, R^2 = 0.96$
7-9 AM Peak Hr. Total:	$T = .7(X) + 9.43$
	$R^2 = 0.89, 0.25 \text{ Enter, } 0.75 \text{ Exit}$
4-6 PM Peak Hr. Total:	$LN(T) = .9LN(X) + .53$
	$R^2 = 0.91, 0.63 \text{ Enter, } 0.37 \text{ Exit}$
AM Gen Pk Hr. Total:	$T = .7(X) + 12.05$
	$R^2 = 0.89, 0.26 \text{ Enter, } 0.74 \text{ Exit}$
PM Gen Pk Hr. Total:	$LN(T) = .89LN(X) + .61$
	$R^2 = 0.91, 0.64 \text{ Enter, } 0.36 \text{ Exit}$
Sat. 2-Way Volume:	$LN(T) = .94LN(X) + 2.63, R^2 = 0.93$
Sat. Pk Hr. Total:	$T = .89(X) + 10.93$
	$R^2 = 0.9, 0.54 \text{ Enter, } 0.46 \text{ Exit}$
Sun. 2-Way Volume:	$T = 8.83(X) + -9.76, R^2 = 0.94$
Sun. Pk Hr. Total:	$LN(T) = .89LN(X) + .44$
	$R^2 = 0.88, 0.53 \text{ Enter, } 0.47 \text{ Exit}$

Source: Institute of Transportation Engineers
 Trip Generation, 7th Edition, 2003.

TRIP GENERATION BY MICROTRANS

2/9/06

from: David
D. Spew

POLICY 15.3.4:

Whenever parks impact fee districts are re-evaluated, consideration shall be given to modifying the district which includes Bonita Springs to more closely conform to the study area of the Bonita Study Group.

The Community Park district boundaries in Bonita were amended to be consistent with the boundaries of the Bonita study area.

RECOMMENDATION: Delete the policy.

OBJECTIVE 15.4: HISTORIC RESOURCES.

During 1989, Lee County shall begin to formally designate historic district(s) and structures and archaeological sites in and near Bonita Springs.

The historic district described in the objective was rejected by the affected property owners. Individual structures, however, have been designated in accordance with the Historic Preservation Ordinance.

RECOMMENDATION: Revise the objective to read as follows:

Lee County shall continue to designate historic structures in Bonita Springs in accordance with the Historic Preservation Ordinance.

POLICY 15.4.1:

In conjunction with the establishment of a historic district in the Old U.S. 41 area, the county shall cooperate with and aid local efforts to redevelop the old downtown area (including identifying funding mechanisms) in order to build community pride, attract tourism, and improve the area's economic condition.

The historic district was not established, but the Bonita Springs CRA is performing the same function.

RECOMMENDATION: Delete the reference to the district and add a reference to the CRA.

GOAL 16: GREATER PINE ISLAND.

To manage future growth on and around Pine Island so as to maintain the island's unique natural resources and character and to insure that island residents and visitors have a reasonable opportunity to evacuate when a hurricane strike is imminent. For the purposes of this plan, the boundaries of Pine Island are indicated on the Future Land Use Map.

The goal accurately reflects the aspirations of the residents of Pine Island.

RECOMMENDATION: Change all references to "Pine Island" to "Greater Pine Island."

OBJECTIVE 16.1: NATURAL RESOURCES.

County regulations, policies, and discretionary actions shall permit no further degradation of estuarine and wetland resources and no unnecessary loss of native upland vegetation and wildlife habitat.

The objective should contain a specific reference to Greater Pine Island. Additional implementing policies are suggested below.

RECOMMENDATION: Revise the objective to read as follows:

County regulations, policies, and discretionary actions affecting Greater Pine Island shall...

Add a new policy stating the following:

Lee County shall map the seagrass beds around Greater Pine Island, and shall regulate boating activities around Greater Pine Island and marina siting on Greater Pine Island in such a way as to prevent the net loss of seagrasses due to "prop dredging."

Add a new policy stating the following:

Lee County shall, by 1996, explore the possibility of estimating the aerial extent and maturity of mangroves in Greater Pine Island for the purpose of providing baseline data necessary to ensure that the cumulative impact of mangrove alteration does not decrease the combination of aerial extent and maturity of mangroves relative to the baseline data.

POLICY 16.1.1:

The county shall not approve or support any new artificial channels in natural waters around Pine Island.

This policy is an appropriate way to implement Objective 16.1.

RECOMMENDATION: Replace "around Pine Island" with "within one mile of Pine Island" and prohibit new canals, as well.

POLICY 16.1.2:

Maintenance dredging of old channels and canals may be permitted in those cases where the original channel (or canal) depth and width can be accurately determined.

POLICY 16.1.3:

New "planned development" rezoning approvals and new subdivisions adjoining state-designated aquatic preserves and associated natural tributaries shall provide a 50-foot-wide vegetated buffer area between the development and the waterbody.

These policies are acceptable as written.

RECOMMENDATION: No change.

POLICY 16.1.4:

County staff shall develop a proposal for a taxing mechanism for Greater Pine Island to finance the purchase of native uplands, environmentally sensitive areas, and archaeological and historic sites for preservation, wildlife habitat, and compatible recreational uses. Such funds could be used in conjunction with parks impact fees and other funds (private, county, state, and federal) where appropriate.

While county funds were used to purchase an environmentally sensitive parcel west of Bokeelia and a vacant tract with an eagle's nest north of St. James City, the proposal to create a special taxing mechanism for the protection of Pine Island's natural resources died for lack of support.

RECOMMENDATION: Revise the policy to read as follows:

The county shall continue to purchase environmentally sensitive areas, rare and unique uplands, eagle nesting areas, and archaeological and historic sites on Pine Island in accordance with the priorities set out in this plan.

POLICY 16.1.5:

The county shall investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This shall include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility.

A central sewer system does not appear to be feasible for these areas at this time; however, it may be necessary within the 26-year horizon of the revised plan.

RECOMMENDATION: Revise the policy to state "The county shall continue to investigate..."

OBJECTIVE 16.2: ROAD IMPROVEMENTS.

The county shall continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County.

The objective is acceptable as written. Traffic levels on Pine Island Road are monitored and are included in the annual concurrency inventory.

RECOMMENDATION: No change.

POLICY 16.2.1:

The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard shall be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.

POLICY 16.2.2:

In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800 additional dwelling units, the county shall consider for adoption development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. The effect of these regulations would be to appropriately reduce certain types of approvals at established thresholds prior to the adopted level-of-service standard being reached, as follows:

- *When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak hour, annual average two-way trips, the regulations shall provide restrictions on further rezonings which would increase traffic on Pine Island Road.*
- *When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak hour, annual average two-way trips, the regulations shall provide restrictions on the further issuance of residential development orders (pursuant to 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 extraordinary treatment of Pine Island Road in these policies is justified by the absence of other hurricane evacuation routes for Pine Island, Matlacha, and a large portion of Cape Coral.

RECOMMENDATION: No change.

POLICY 16.2.3:

The county shall improve Pine Island Road between Burnt Store Road and Stringfellow Boulevard by the year 1993 as follows:

- *Elevate the flood-prone segments.*
- *Widen the traffic lanes to twelve feet.*
- *Widen and improve the shoulders.*
- *Improve the intersection at Stringfellow Boulevard.*

This policy has been accomplished.

RECOMMENDATION: Delete the policy.

POLICY 16.2.4:

The county shall take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures shall be evaluated:

- *The construction of a bicycle lane which could serve as an emergency vehicle lane during an evacuation, thus freeing both traffic lanes for the evacuating population.*
- *The construction of two additional lanes around Matlacha.*
- *The construction of left-turn lanes at intersections with local roads in Matlacha, or a continuous third lane.*

The construction of two additional lanes around Matlacha would be prohibitively expensive. The existing pavement already accommodates emergency vehicles and two lanes of traffic. The last proposal has not been fully evaluated.

RECOMMENDATION: Delete the first two items from the policy.

POLICY 16.2.5:

The county shall evaluate the buildout capacity of Pine Island after the adoption of this plan, and determine the necessary right-of-way widths for arterial roads and the locations where

frontage roads will be needed, and then modify county regulations so that only necessary roadway reservations are required.

The county no longer requires right-of-way reservations (see the General Discussion in the Traffic Circulation element EAR).

RECOMMENDATION: Delete the policy.

OBJECTIVE 16.3: RESIDENTIAL LAND USES.

County regulations, policies, and discretionary actions shall recognize certain unique characteristics of Pine Island which justify different treatment of existing and future residential areas than in mainland Lee County, as described in the following policies.

This objective accurately reflects the eclectic nature of the implementing policies.

RECOMMENDATION: Change "Pine Island" to "Greater Pine Island."

POLICY 16.3.1:

Due to the constraints on future development posed by the limited road connections to mainland Lee County, bonus densities of any kind are not permitted in Greater Pine Island. This prohibition includes housing density bonuses, off-site transfers from environmentally critical areas, and transfer from on-site wetlands at rates above the standard density rates for environmentally critical areas.

This policy, including the unusual limitation on on-site wetland density transfers, is supported by the hurricane evacuation concerns expressed in Goal 16 and the presence of large tracts of wetlands adjoining property designated Urban Community on the Future Land Use Map.

RECOMMENDATION: No change.

POLICY 16.3.2:

When warranted by actual construction and occupancy of homes, existing substandard subdivisions may become subject to Municipal Service Taxing or Benefit Districts to provide roads, drainage, and other public facilities.

This policy is acceptable as written.

RECOMMENDATION: No change.

POLICY 16.3.3:

The county shall retain the current building height limitations as adopted by ordinance.

It would be more appropriate to describe these limitations in the policy.

RECOMMENDATION: Revise the policy to read as follows:

The county's zoning regulations shall continue to state that no building or structure on Greater Pine Island shall 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.

POLICY 16.3.4:

The county Zoning Ordinance shall be revised to allow storage of commercial fishing equipment at a fisherman's private residence as a permitted use in residential districts on Pine Island. Reasonable restrictions not having the effect of prohibiting such storage may be developed.

This policy has been accomplished.

RECOMMENDATION: Revise the policy to reflect the county's ongoing commitment to maintain the current zoning ordinance provisions.

OBJECTIVE 16.4: COMMERCIAL LAND USES.

County regulations, policies, and discretionary actions shall recognize certain unique characteristics of Pine Island which justify different treatment of existing and future commercial areas than in mainland Lee County, as described in the following policies.

POLICY 16.4.1:

The designated Future Urban Area at Pine Island Center is targeted for most future commercial and industrial uses, as permitted by other portions of this plan.

POLICY 16.4.2:

Commercial development at other locations on Pine Island should be limited to marinas, fish houses, minor commercial uses to serve local residents, and uses to serve island visitors. Such development shall be sited and designed to minimize disruptive influences to the greatest degree possible.

The county prepared a commercial nodes plan amendment for Pine Island in 1989 as part of a comprehensive study of commercial uses on Pine Island. The results of that study were revised several times in light of input at public hearings. The Board

of County Commissioners declined to transmit the Nodes Amendment in the 1992-93 amendment cycle.

RECOMMENDATION: Change "Pine Island" to "Greater Pine Island" in Objective 16.4 and Policy 16.4.2. Add a sentence requiring area J on Map 10 to be used solely for commercial purposes to Policy 16.4.1 for the reasons described in Exhibit G (Area J, pages 28-30) of this EAR.

POLICY 16.4.3:

Existing marinas and fish houses indicated on the Future Land Use Map as having water-dependent overlay zones shall be reclassified by the county to commercial and industrial marine zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.

This policy has been accomplished.

RECOMMENDATION: Delete the policy.

OBJECTIVE 16.5: HISTORIC RESOURCES.

During 1989, Lee County shall begin to formally designate historic districts and structures and archaeological sites on and around Pine Island.

This objective represents an ongoing commitment on the part of the county. Matlacha has been designated as an historic district.

RECOMMENDATION: Revise the objective to read as follows:

Lee County shall continue to formally designate historic resources and archaeological sites on and around Pine Island.

POLICY 16.5.1:

Historic districts shall be considered at Bokeelia, Pineland, and Matlacha.

The county has established an historic district for Matlacha and has designated structures in Bokeelia and elsewhere on Pine island.

RECOMMENDATION: Revise the policy to read as follows:

The county shall continue to recognize Matlacha as an historic district, with an emphasis upon preserving the historic commercial fishing uses that give the community its unique character.

POLICY 16.5.2:

Public acquisition of historic structures and archaeological sites shall be considered in conjunction with other public purposes such as parks or preservation of environmentally sensitive lands.

This policy is acceptable as written.

RECOMMENDATION: No change.

POLICY 16.5.3:

The county shall evaluate the effects of county regulations (such as zoning, road setbacks, and other development regulations) on designated historic districts and other districts of local concern, and shall modify such regulations where warranted.

The Historic Preservation Ordinance provides for administrative relief from zoning and development regulations in historic districts upon good cause shown. No other regulatory relief is necessary. Parking waivers in Matlacha have been extremely controversial.

RECOMMENDATION: Revise the policy to read as follows:

"... and shall modify such regulations where necessary to protect both the interests of owners of historic structures and the health, safety, and welfare of the general public."

GOAL 17: GASPARILLA ISLAND.

To provide the necessary facilities and regulations so that the remaining unbuilt portions of the island can be developed consistent with its unique character and hurricane vulnerability. For the purposes of this plan, the boundaries of Gasparilla Island are indicated on the Future Land Use Map.

The current goal adequately expresses the county's aspirations regarding Gasparilla Island.

RECOMMENDATION: No change.

The Pine Island Land Plan

Objective 14.2 and the 810/910 Rules

Presented by the Greater Pine Island Civic Association, Inc.

Dr. N. A. M. B. ...

1/9/20

Introduction

Purposes of this briefing:

Outline the history and intent of the provisions

Identify problems in implementation

The Challenges Faced in the 1980's

Policy Alternatives

- Option (1) Build another bridge to Pine Island?
- Option (2) Four-lane Pine Island Road through Matlacha?
- Option (3) Restrict Development on Pine Island?

Build Another Bridge to Pine Island?

Problem One: Financing

Cost in 100's of millions (at least several times Sanibel bridge cost of \$128 million)

Limited use means tolls would not meet bonding requirements

Build Another Bridge to Pine Island?

Problem Two: Permitting

(see aerial photo of Greater Pine Island)

Bridge would have to cross Matlacha Aquatic Preserve

Both bridge terminals and road approaches would cross State Buffer Preserve mangrove areas

Pine Island end would terminate in state and federal designated Little Pine Island Mitigation Bank

Florida Constitution and state and county laws protect these areas

Florida Constitution

Article 10, Section 18

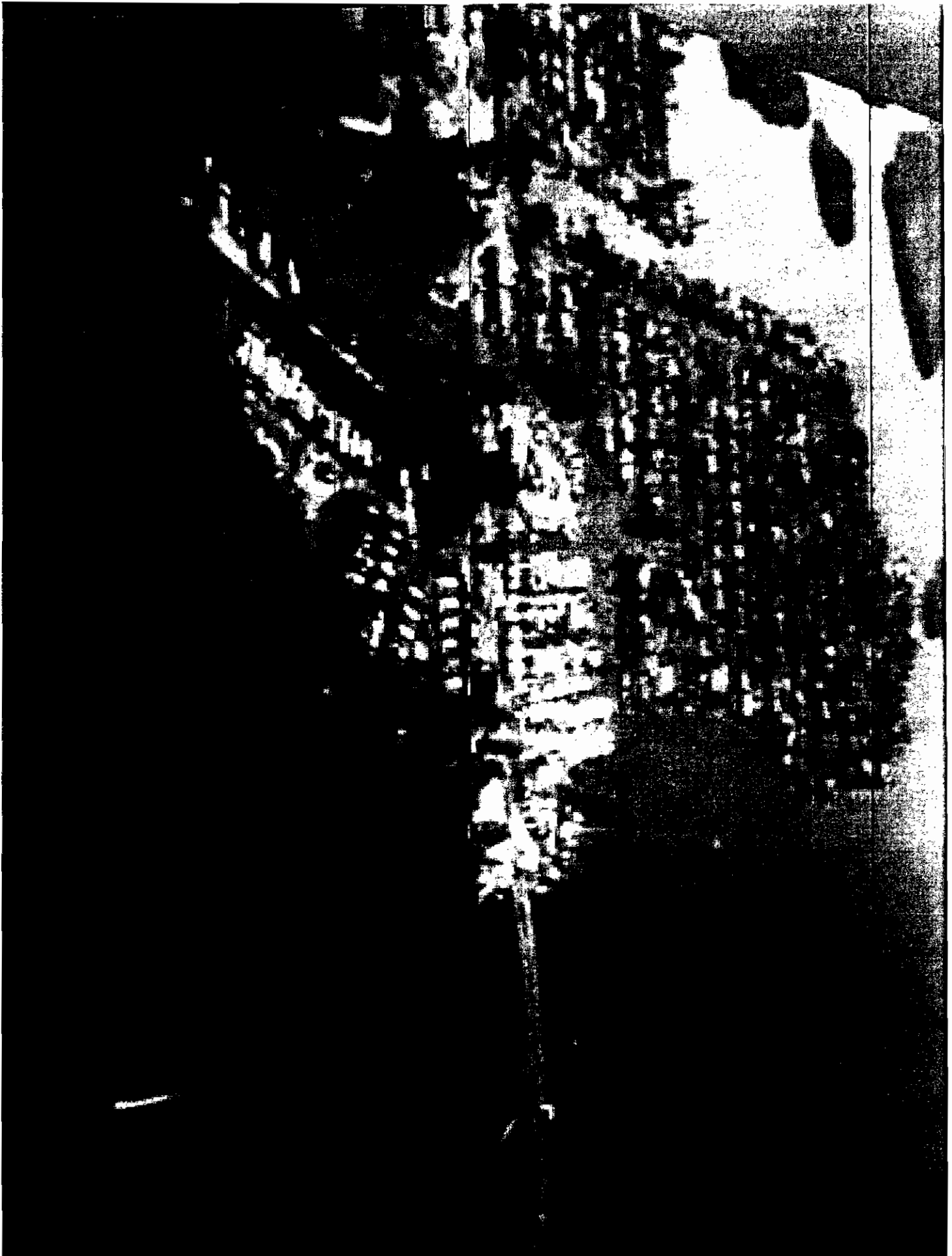
Disposition of conservation lands—The fee interest in real property held by the state and designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

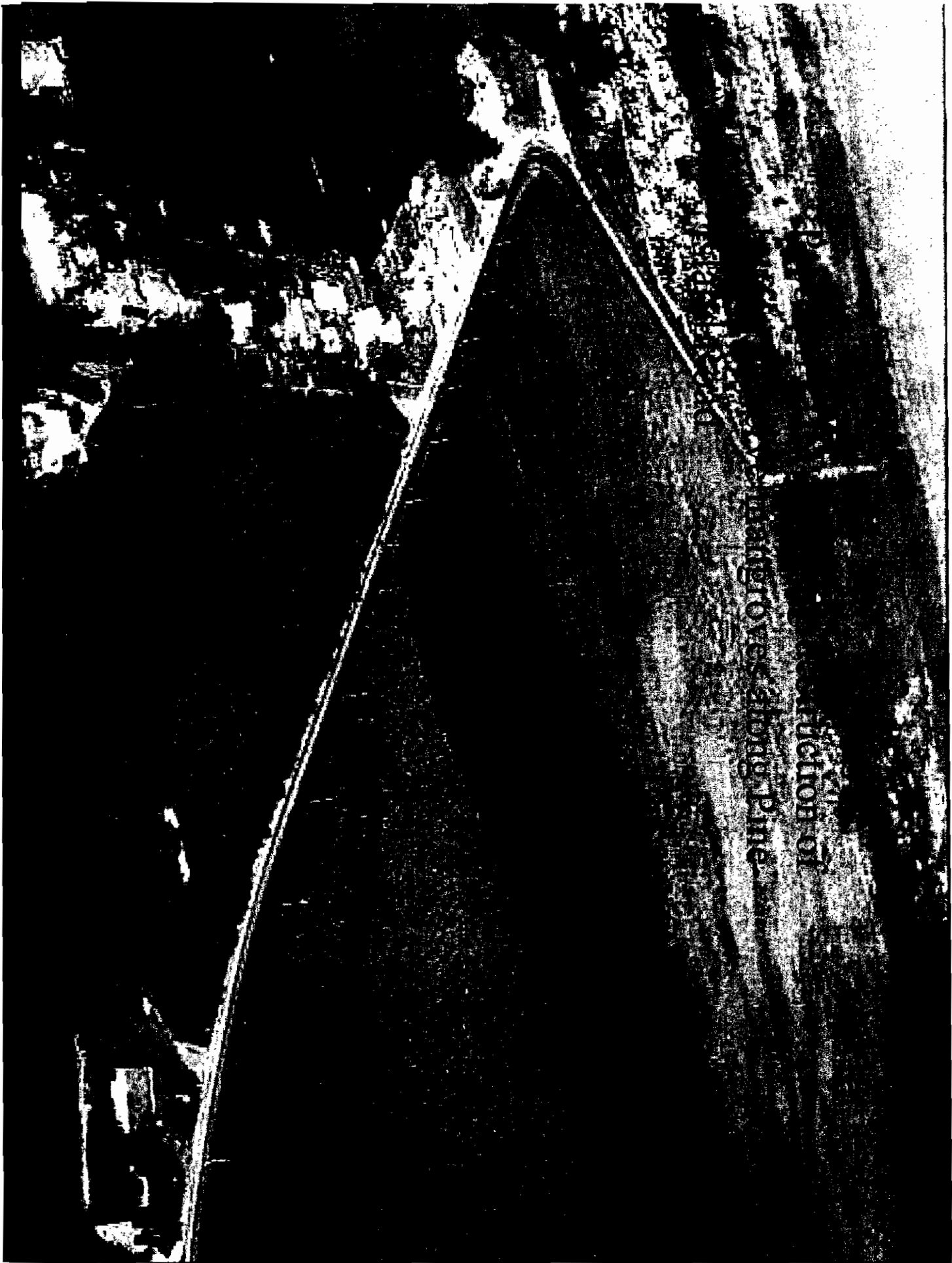
Alternative (1): Build Another Bridge
to Pine Island?

Conclusion:

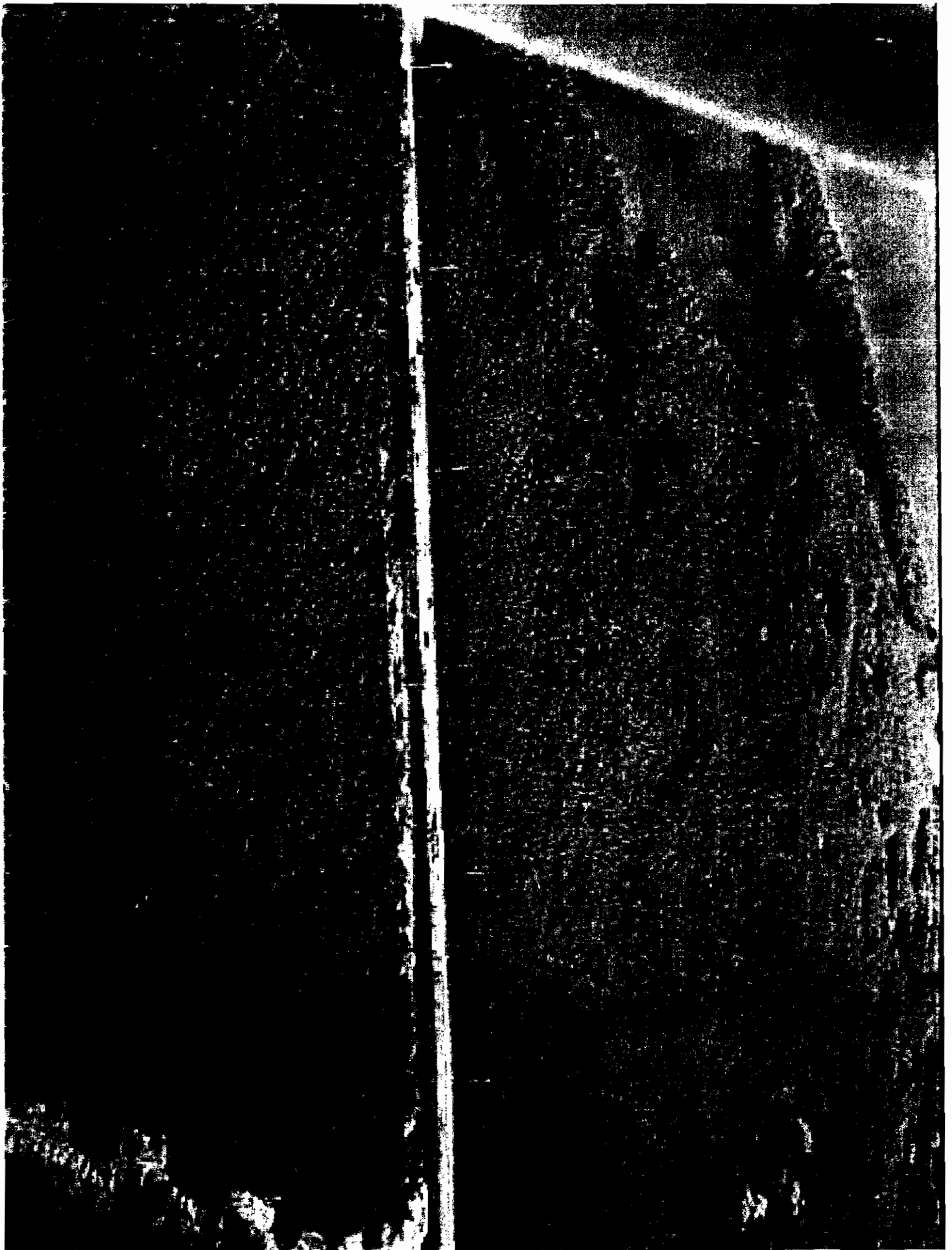
Alternative (1) is not feasible

Alternative (2): Four-lane Pine Island
Road through Matlacha

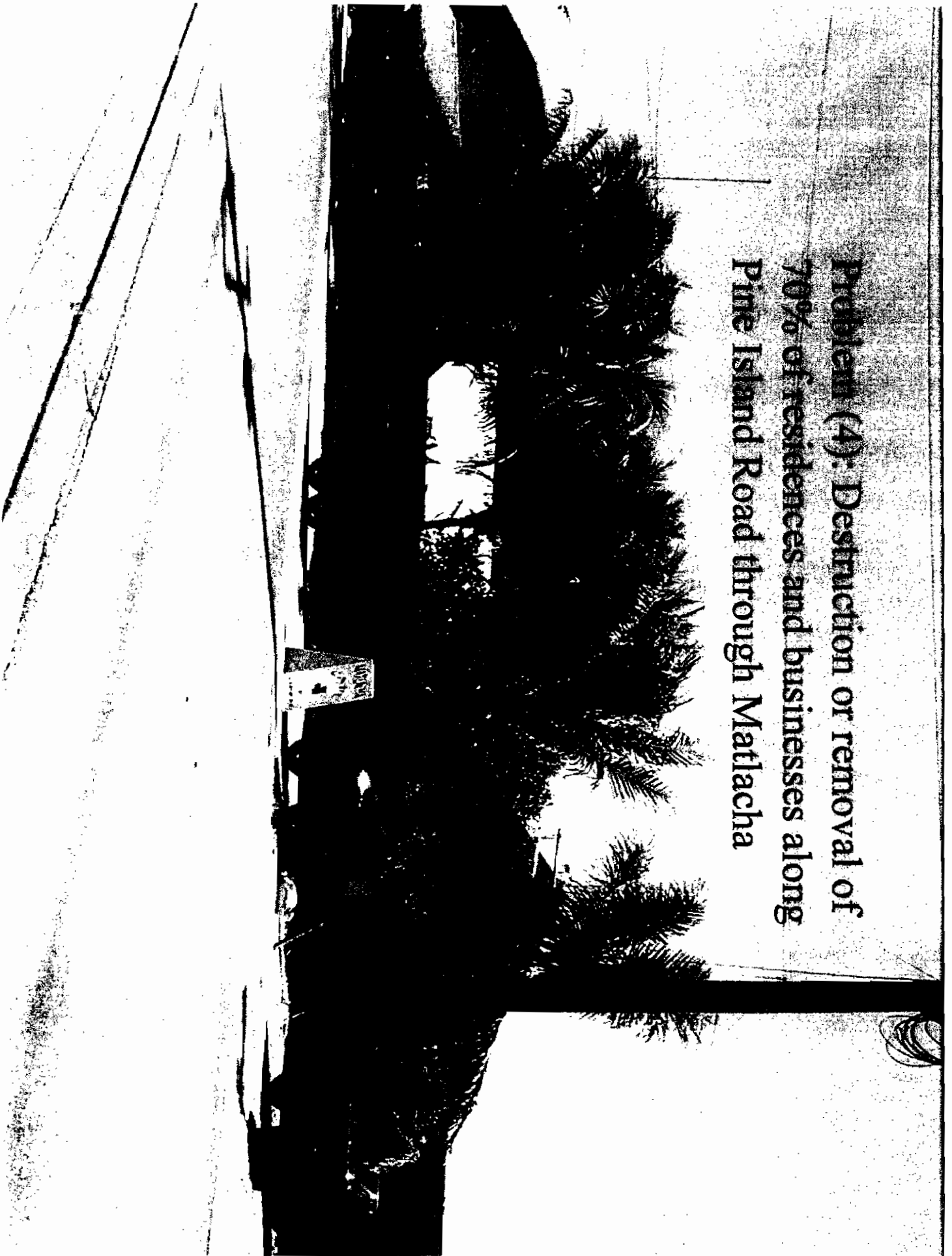


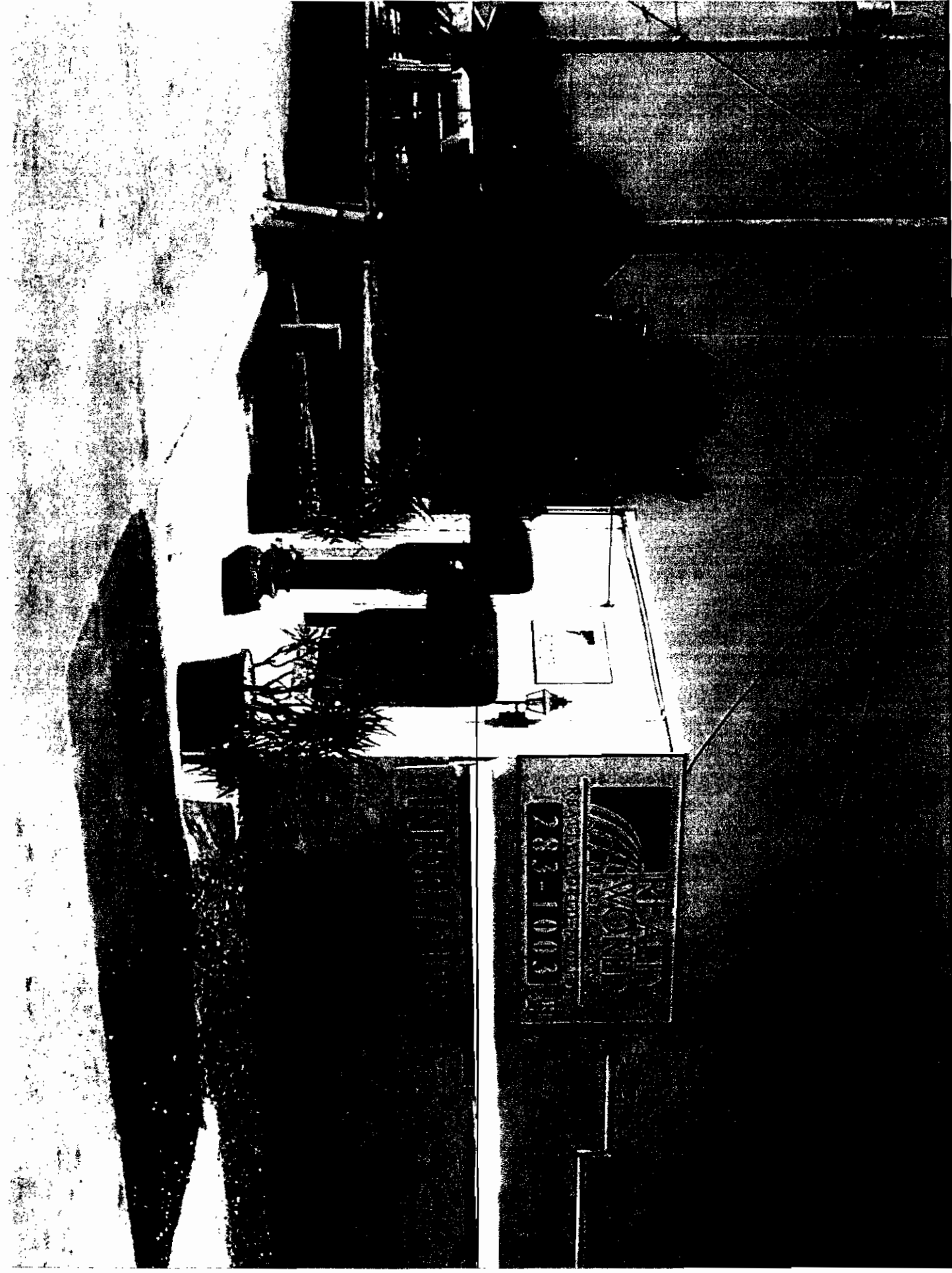


THE
FICTION OF
MARGUERITE YOURS



**Problem (4): Destruction or removal of
70% of residences and businesses along
Pine Island Road through Matlacha**





Alternative (2): Four-lane Pine
Island Road through Matlacha?

Alternative (2) not feasible

Option (3): Restrict Development on Pine Island?

Only remaining feasible option

Serves to preserve rural and environmentally-sensitive character of Pine Island

Consistent with federal, state and county laws, including other Lee Plan provisions
Does not create liability under Bert Harris Act

Actions in 1989/1990

GPICA proposed Objective 14.2 and implementing 810 and 910 rules to BOCC (For historical details, defer to Ellie Boyd, Bill Spikowski, Commissioner Judah, all of whom were heavily involved)

BOCC Accepts

DCA holds insufficient for lack of specificity and refers to ALJ

DCA/Lee County settlement agreement sets final terms of provisions (changing 80%/90% to 810/910)

BOCC Adopts in 1990

Objective 14.2

The county will continually monitor traffic levels on Pine Island Road to insure that the sum of the current population plus development on previously approved land plus new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County.

[Emphasis added. Note that the directive requires that a cumulative count (a running total) be kept of the traffic produced by each development order

Policy 14.2.2 (810/910 rules)

In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800 [changed to 6,675 in 2003] additional dwelling units, the county will keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. These regulations will reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha.

[Emphasis added. Note that both the purpose clause and the underlined condition again require cumulative traffic counts.]

Policy 14.2.2 Continued (810 rule]

- 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.

LDC, Sec. 2-48: When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that increase traffic on Pine Island Road may not be granted.

14.2.2. continued (910 rule)

- When traffic on Pine Island Road reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.

[Emphasis added. Note that this is the fourth time cumulative traffic counts are required.]

LDC, Sec. 2-48

When traffic on Pine Island Road between Burrnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.

[Emphasis added. Note that this is the fifth time cumulative traffic counts are required. As originally written, this provision was a moratorium.

810/910 milestones met in
1998/2003

810 traffic count was met in 1998 and has
been documented in concurrency reports
since 1999

910 traffic count was met in 2003 and has
been documented in concurrency reports
since 2004

Greater Pine Island Community Plan Update

- ❑ Sponsored by Greater Pine Island Civic Association
- ❑ Financed by sale of civic association building and other fundraisers plus generous support from Lee BOCC, DCA, RGMC, Elizabeth Ordway Dunn Foundation, and Florida Wildlife Federation
- ❑ Conducted through dozens of public meetings attended by hundreds of people, some 85 newspaper articles and advertisements
- ❑ Submitted to Lee BOCC on September 28, 2001
- ❑ Held “sufficient” by DCA and adopted by BOCC on January 9, 2003
- ❑ Implementation delayed by intervenor suit until 24 December 2004

2003 changes to the 810/910 rules

Following text added to 810 rule in 2003: 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.

Following text added to 910 rule in 2003: 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 2003 changes also included numerous other provisions such as the creation of the coastal rural future land use category which served as part of a package to replace and mitigate the harshness of the previous 810/910 rules.

Pine Island Plan Implementing Committee

In 2003/2004, Lee County created a Pine Island Land Plan Implementing Committee which drafted Land Development Code provisions to implement the 2003 changes to the Lee Plan.

Those provisions were submitted to Lee County on March 12, 2004, but have not yet been acted upon. Some of the implementing provisions supply more mitigation to the harshness of the former 810/910 rules.

Pine Island Plan Compromise

On October 12, 2005, the BOCC accepted for final adoption a set of amendments to the Pine Island Plan. These amendments, referred to as the Pine Island Plan Compromise, made no changes to 14.2 or the 810/910 rules, but did make numerous other changes designed to be beneficial to large property owners.

Problems relating to Implementation of Objective 14.2 and 810/910 rules

The staff is willing to fully implement Objective 14.2 and the 810/910 rules but reluctant to do so without clear BOCC guidance. That's the purpose of this hearing today.

Lee County staff current procedure pending that guidance is to continue to approve rezonings and development orders (in same manner as other areas in Lee County) until actual traffic on Pine Island Road surpasses capacity, which they estimate at 1,130 trips. The current practice does not apply cumulative traffic counts. If cumulative counts were applied, we would have already exceeded 1,130 trips.

Problems relating to Implementation of Objective 14.2 and 810/910 rules

GPICA Position:

Lee Plan provisions that direct staff to take certain actions are binding on the staff (just as other provisions are binding on the development community and Lee County citizens)

14.2 and the 810/910 rules mean exactly what they say and constitute binding law, including the cumulative count provisions

Florida Law

Florida Statute 163.3194: After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

Implications for the Future

14.2 and the 810/910 rules are the first Smart Growth initiative in Lee County to go to the implementation phase. Failure to implement these provisions would:

- (1) threaten the integrity of the entire Smart Growth program
- (2) provide a means of escape for anyone seeking to avoid Lee Plan provisions
- (3) seriously complicate future DCA reviews of Lee Plan changes as well as funding by the Florida legislature
- (4) violate the promise made to 6,675 lot owners on Pine Island that they can build a residence on their lot
- (5) lead to Bert Harris claims and other expensive court actions

Implications for the Future

(continued)

(6) Failure to implement Pine Island public policy option three would force (by default) a revisit to alternatives one or two, that is, the construction of another bridge to Pine Island, or the conversion of Pine Island Road to four-lanes, neither of which is feasible

Final Thoughts

The 14.2/810/910 rules represent almost 20 years of work and heavy emotional and political investment by a lot of people, as well as hundreds of thousands of dollars.

This board has in all cases to date voted 5 to 0 to support the Pine Island Plan. We appreciate that. However, unless the staff implements its provisions, the Pine Island Plan means nothing. The same could reasonably be said for the remainder of the Lee Plan and the entire Smart Growth movement. Arguably, the real issue here is the rule of law in Lee County.

For all of these reasons, the GPICA strongly recommends that BOCC guidance to the county staff be that implementation of Objective 14.2 and the 810/910 rules be consistent with the wording and intent of those provisions, specifically including the provisions requiring cumulative traffic counts.

[We are not asking that any existing development orders or other previous actions be rescinded or changed, only that cumulative traffic counts be applied so as to avoid exceeding the capacity of Pine Island Road.]

Thank You

Subj: Pine Island Plan Annotation Committee
Date: 2/4/2006 4:05:38 PM Eastern Standard Time
From: SallyTropiccruz
To: GibbsMX@bocc.co.lee.fl.us
CC: OwenD.LeePO01.Leedom1@leegov.com, OconnoPS@bocc.co.lee.fl.us

Mary Gibbs, David Owen, Paul OConnor

I attended the first meeting of the Annotation Committee last Thursday, wherein staff attempted to bring you all up to speed on the 810/910 Rule. Although I was not a member of the Greater Pine Island Civic Associations Land Use Plan committee I was an active participant for three years at the planning meetings. Please uphold and support the Pine Island Land Use Plan as attempts are made to figure out how the County is counting traffic.

I wish to comment on two things discussed at this meeting.

1. ANY development orders on Greater Pine Island, Stringfellow Road and all other roads must be measured in the traffic count as connecting to Pine Island Road. Otherwise I get this image of people coming on the island once, building a house on Stringfellow or any other road and doing nothing but driving up and down north and south without ever leaving the island. This assumption would be ridiculous.

2. If traffic count allows for a development order of 218 more cars bringing the traffic count to its maximum, how could you issue two simultaneous development orders with both of them adding the 218 count?

These comments are respectfully submitted for your evaluation and consideration.

Sally Tapager

President, Greater Pine Island Chamber of Commerce, resident of Pine Island, and owner of a tourism oriented business on Pine Island

Thursday, February 09, 2006 America Online: SallyTropiccruz

Owen, David M.

From: Glen Roberts [glenroberts@earthlink.net]
Sent: Wednesday, February 08, 2006 11:53 PM
To: O Connor, Paul S.
Subject: FW: Lee Plan Annotation Committee regarding Objective 14.2 of the Lee Plan

Glen Roberts
glenroberts@earthlink.net
Why Wait? Move to EarthLink.

----- Original Message -----

From: Glen Roberts
To: Paul O'connor
Sent: 2/8/06 11:32:58 PM
Subject: Lee Plan Annotation Committee regarding Objective 14.2 of the Lee Plan

Mr. O'Connor

As a resident of Pine Island and a registered voter and tax payer in Lee County I am concerned about the lack of implementation of the Pine Island Plan Objective 14.2. Objective 14.2 as you are aware is also known as the 810/910 rule.

I was at the the January 9th County Commissioners meeting where it was made obvious that the Plan Objective 14.2 was not being implemented and in fact was being ignored. As a resident of Lee County I can expect that the employees of Lee County follow all laws in effect. The current inaction of County Staff does a disservice to the residents of Pine Island.

Now that the County Commissioners have directed the formation of an annotation committee, I request that the committee review Objective 14.2 without bias and make the recommendation that the Pine Island Plan Objective 14.2 be implemented as written.

Respectfully,

Glen Roberts
glenroberts@earthlink.net
Why Wait? Move to EarthLink.

Owen, David M.

From: Zsuzsanna Weigel [ZWeigel@knott-law.com]
Sent: Wednesday, February 08, 2006 8:25 AM
To: Owen, David M.; Gibbs, Mary ; O Connor, Paul S.
Subject: 910 RULE ANNOTATION
Attachments: Jan31 910 memo.pdf

Attached please find Matt Uhle's memo of January 31, 2006.

Zsuzsanna Weigel
Legal Assistant to Matthew D. Uhle
Knott, Consoer, Ebelini, Hart & Swett, P.A.
239-334-2722
ZWeigel@knott-law.com

2/8/2006

Knott, Consoer, Ebelini
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Use Planning
Michael E. Roeder, AICP

MUhle@knott-law.com

MEMORANDUM

TO: Annotations Committee

FROM: Matt Uhle

DATE: January 31, 2006

RE: 910 Rule Annotation

Having considered the GPICA's argument and reviewed the Lee Plan and the relevant supporting data and analysis, I have the following comments:

1. It appears that the issue has been narrowed to a narrow methodological question--whether the County is obligated to consider the latent traffic impacts of approved development orders and vested lots in calculating the amount of available capacity on Pine Island Road.
2. The GPICA takes the position that Policy 14.2.2 contains a direction to the County to deviate from its usual standard and to include these latent impacts. That argument is clearly incorrect. Policy 14.2.2 does not address any narrow issues of concurrency methodology: it requires the County to take specified actions to amend the regulations to reduce density by no more than two-thirds once the 910 threshold has been reached.
3. The fact that Policy 14.2.2 contains a reference to the need to protect the owners of vested lots has no legal significance, because it does not specifically direct the County to change its concurrency methodology in the manner suggested by the GPICA. The current interpretation of the policy also provides additional protection to the owners of the vested lots by expanding the geographic area that is subject to a concurrency review relative to the LOS on Pine Island Road. It cannot be shown, therefore, that the current interpretation is inconsistent with the intent of the policy.

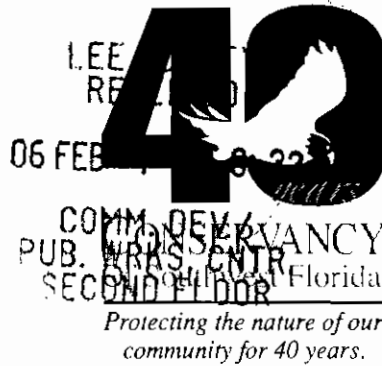
4. Objective 14.2, on the other hand, does contain a specific discussion of the methodology that must be used to calculate the amount of available capacity on Pine Island Road. The GPICA's argument on this point is, therefore, a closer question.
5. It is quite clear from Objective 14.2 that existing traffic and the projected traffic from the project that is under review must be considered in the analysis. That is, of course, consistent with the County's overall concurrency management system. The ultimate issue revolves around the meaning of the term "plus development on previously approved land."
6. The County's position is that "development on previously approved land" is a reference to outstanding building permits, which are considered on a County-wide basis in the concurrency management system. The GPICA apparently believes it also includes development orders and trips that are attributable to vested lots.
7. The current interpretation is the preferred one, for the following reasons:
 - a. It is more logical to adopt an interpretation that is consistent with the County's overall concurrency management system than one that deviates from it in the absence of a clear direction to the contrary. No such direction exists in the Lee Plan.
 - b. I have examined the 1988 Pine Island Plan and the 2003 Update. Neither contains any statement of legislative intent on this issue.
 - c. If the latent impacts of the vested lots had been counted against available capacity in 1989, there can be very little doubt that Pine Island Road would have been over capacity as soon as Objective 14.2 became effective.
 - d. The County does not count latent traffic from approved development orders because many of these projects are speculative and are never built. Building permit activity on Pine Island has not increased substantially on an annual basis during the period that the Pine Island Plan has been in effect. There can be little doubt that the 910 Rule in and of itself has been a powerful incentive for property owners with little or no immediate interest in developing their land to file applications in order to avoid losing development rights and, therefore, value. As a result, there is actually more reason to believe that residential development orders on Pine Island are speculative and will not ultimately create traffic than exists for similar approvals for property in other areas of the County.

8. If the GPICA's interpretation of the Lee Plan is accepted, the County does not have regulations in place to address its implications. Any attempt to create a moratorium will run afoul of the language in Policy 14.2.2 which explicitly prohibits regulations which are more severe than a two-thirds reduction in density. Any effort by the staff to automatically apply the maximum two-thirds reduction is similarly unauthorized by the policy, which leaves the amount of the reduction in the hands of the Board of County Commissioners.

MDU/zw

Collier County
1450 Merrihue Drive
Naples, Florida 34102

Phone 239.262.0304
Fax 239.262.0672



Lee County
2123 First Street, Suite F
Fort Myers, Florida 33901

Phone 239.275.0330
Fax 239.275.7089

Ms. Mary Gibbs
Director of Community Development
1500 Monroe St., Ft Myers, FL 33901

January 30, 2006

Re: Annotation Committee for Pine Island Community Plan Policies 14.2.1, 14.2.2

Dear Annotation Committee:

The Conservancy of Southwest Florida appreciates the opportunity to provide comments on the interpretation of the road concurrency provisions in the Pine Island Community Plan. The Conservancy and its members are actively involved in the preservation of Pine Island and in the effective implementation of the Pine Island Community Plan. We believe the only valid interpretation of Policies 14.2.1 and 14.2.2 would require the current implementation of restrictions on approvals of both new rezonings and new development orders.

The Lee Plan Policies in question state as follows:

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.

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

- When traffic on Pine Island Road reaches 810 peak hour, annual average two-way trips, the regulations will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings

for small enterprises that promote the nature and heritage of Greater Pine Island.

- When traffic on Pine Island Road reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

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

While Policy 14.2.1 establishes a minimum level of service (LOS) for Pine Island Road, it is clear that Policy 14.2.2 takes precedence over this minimum LOS for purposes of approval of new rezonings and new development orders when the 810/910 thresholds are exceeded. The reason for this is stated in Policy 14.2.2: “[i]n order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 additional dwelling units.” In other words, the Policy is crafted to prevent new developments from consuming the remaining capacity on Pine Island Road, while giving preference to existing approved dwelling units that have not been built. Policy 14.2.2 also makes it clear that restrictions should be imposed when the 810/910 thresholds are exceeded “prior to the capacity of Pine Island Road being reached (emphasis added),” preventing the remaining road capacity from being consumed by new developments.

It is a rudimentary principle of statutory construction that ordinances are to be interpreted to give effect to all of their provisions, and not construed to render any part of the ordinance ineffective. Interpreting these policies as restricting rezonings and development orders only when the minimum LOS is exceeded would violate this principle of statutory construction by rendering Policy 14.2.2 ineffective.

The most recent Lee County Concurrency Management Report (Lee County DCD, June 2005) makes it clear that “[b]ased on the 2004 Traffic Count Report (which utilizes counts for calendar year 2004), the number of peak hour, annual average, two-way trips for last year was 938 (up slightly from 937 the previous year).” Because this traffic volume exceeds the 810 threshold, there is no question that new rezonings which increase traffic should be stopped, although Policy 14.2.2 provides some mitigation. Because the volume exceeds the 910 threshold, there should be restrictions on the further issuance of residential development orders or other measures to maintain the adopted level of service. These restrictions are mitigated in the Plan by allowing at least one-third of the density otherwise allowed on the property. Development orders may still be approved but the overall density of the development may be reduced by up to two-thirds.

Finally, even if the policies are interpreted to give 14.2.1 precedence over 14.2.2, the minimum LOS D has for all practical purposes been exceeded, requiring the imposition of restrictions on development orders. The attached letter from Bill Spikowski with a memo from transportation planning consultant Moshen Salehi demonstrates that the traffic count measured as stated in the Pine Island Community Plan is currently at LOS D (940 on an annual average peak hour basis).

In conclusion, we request that the Annotation Committee recommend to the Lee County Commission that Policies 14.2.1 and 14.2.2 be interpreted according to their plain language and in the manner which gives full effect to both policies. The 810 and 910 thresholds and LOS D have been reached, and the policies should be interpreted to prevent increased traffic resulting from new developments on Pine Island.

If you have any questions about these comments or would like to discuss them, please contact Alissa Bierma at 239-275-0330.

Sincerely,

A handwritten signature in black ink that reads "Nicole Ryan". The signature is written in a cursive, flowing style.

Nicole Ryan
Governmental Relations Manager

Cc: Paul O'Connor, Director of Planning
David Owen, County Attorney

SPIKOWSKI PLANNING ASSOCIATES

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

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

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

March 17, 2005

Mary Gibbs, Director
Lee County Department of Community Development
P.O. Box 398
Fort Myers, Florida 33902-0398

RE: GREATER PINE ISLAND'S "910 RULE"

Dear Mary:

Lee County is now implementing the "910 Rule" in Lee Plan Policy 14.2.2 and we understand there are differing opinions as to how this rule should be implemented.

We do not agree with one opinion, which is that no practical effects will be felt by applicants for residential orders until the levels of service described in Policy 14.2.1 have been reached (as opposed to those described within Policy 14.2.2). However, in order to understand the effects of such an interpretation, we have conducted some research that you will find to be critical, because there was a technical flaw in the software that FDOT had supplied to Lee County for converting the level-of-service grades into actual traffic counts. Please review the attached memorandum for further details.

Once this software flaw is corrected, it appears that there will be no need to determine which of the differing opinions about the "910 Rule" should prevail inasmuch as the practical effects are about the same. I would like to sit down with you and other county staff members to discuss this matter after you have reviewed the attached material. (The software "patch" can be obtained from Mohsen Salehi or directly from Professor Scott S. Washburn at the University of Florida.)

Sincerely,

William M. Spikowski AICP

cc: David Loveland, Lee County DOT
Scott S. Washburn, University of Florida



*Salehi Consulting Services/4786 Harbour Cay Blvd
Fl. Myers, Florida 33919
Tel: (239) 994-1320/Fax: (239) 433-1092
MnSalehiAICP@aol.com*

Memo

To: Bill Spikowski
From: Mohsen Salehi
Date: March 4, 2005
Subject: Lee Plan Policy 14.2.1 & HCM 2000 Based FDOT HighPlan Software

Lee County has formally acknowledged that traffic counts on Pine Island Road exceed the 910 threshold established in Lee Plan Policy 14.2.2, with the latest published figures indicating a count of 937.¹

However, some county staffers have expressed the opinion that the "910 Rule" will have little practical effect on the issuance of further residential development orders because they read Policy 14.2.1² as controlling over Policy 14.2.2.³ Policy 14.2.1 refers to levels of service

¹ *Concurrency Management: Inventory and Projections, 2003/2004-2004/2005, page 6*

² *"POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard shall be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209."*

³ *"POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 additional dwelling units, the county will keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. These regulations will reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:*

- *When traffic on Pine Island Road reaches 810 peak hour, annual average two-way trips, the regulations will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give*

that are expressed differently than Policy 14.2.2: "LOS "D" on an annual average peak hour basis and LOS "E" on peak season, peak hour basis." Lee DOT is also recommending that these levels of service be evaluated using the newer 2000 Highway Capacity Manual (2000 HCM) methodology, as opposed to the 1985 HCM that is cited in Policy 14.2.1.

You asked to me to research the meaning of the levels of service in Policy 14.2.1 in case this interpretation of the "910 Rule" becomes official county policy. In addition, you asked what would be the implications of changing Policy 14.2.1 to refer to the 2000 HCM instead of the 1985 HCM, because Lee County DOT is proposing to make such a change in an upcoming amendment to Policy 14.2.1.

One would expect these assignments to be quite simple, but that has not turned out to be the case.

In a July 30, 2004, Memo to Lee DOT indicated the levels of service in Policy 14.2.1 to result in a figure of 1130 (using 1985 HCM) and 1300 (using 2000 HCM) for determining annual average peak hour two-way (copy attached). I contacted Lili Wu of Lee DOT to find out how these figures had been generated. He provided me a printout showing the 1300 value (based on 2000 HCM software provided by Florida DOT, HighPlan version 1.0); no printout for 1985 HCM showing the 1130 value was available. It is my understanding that Lee DOT runs the software once to determine the resulting values, then prints out the results and uses the printed values in their subsequent work for concurrency and other purposes.

I then obtained this same HighPlan software from the FDOT web site and ran it to verify and understand the Lee DOT results. The version of the software I downloaded was newer than the one used by Lee County (version 1.2 vs. version 1.0). Since both versions were based on the same formulas, the results should have been the same, but they were not. Most strikingly, this model produces a different result after the input values were "saved," indicating a technical flaw or bug in the model itself.

I brought this problem to FDOT and subsequently their consultant Prof. Washburn's attention. He acknowledged that "there was definitely an issue with the functioning of the analysis type...". He further sent me a "patch" (i.e., an application file, highplan.exe, to fix the problem that I had brought to his attention). He also mentioned: "I am not sure we will be doing an official update on the FDOT website as I have been working on a separate version that will likely replace this version in the near future." I "patched" the software only to encounter other minor problems that are as yet unresolved, but which should little practical effect.

Transportation professionals would not knowingly use a model that produces incorrect results. Unfortunately these models are somewhat like black boxes, so the "correct" result is sometimes not immediately apparent.

preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.

- *When traffic on Pine Island Road reaches 910 peak hour, annual average two-way trips, the regulations shall provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.*

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

Based on my analysis and my e-mail exchanges with Professor Washburn, I believe the correct value for interpreting Policy 14.2.1 is 940⁴ (or 950⁵) for LOS "D" on an annual average, peak hour basis. With or without the "patch" supplied by Prof. Washburn, Lee DOT staff are more than likely to arrive at results similar to my results using the latest version available (1.2) on the FDOT website. Marginal differences are to be expected if yet-to-be-published 2004 Traffic Count Report data is utilized, even with adjustments made for converting weekday to weekly (i.e., full -week) peak flow.

Assuming my analysis is correct, the values generated for Policy 14.2.1 are quite close to the 910 figure in Policy 14.2.2 and even closer to the 937 actual traffic count as report in the latest concurrency report. As a result, it may end up making little or no practical difference how the county (or the courts) ends up interpreting the relationship between Policies 14.2.1 and 14.2.2.

Also, since we cannot identify any working software for the 1985 HCM, it should make no practical difference whether Policy 14.2.1 is amended to refer to the 2000 HCM or not. There should be no issues with using the 2000 HCM to compute values as long as the errors in the earlier versions of the FDOT software, as acknowledged by FDOT consultant Prof. Washburn, are taken into account.

Please let me know if further explanation or clarification is needed.

⁴ Using Lee County DOT values for K factor and D factor

⁵ Using FDOT default values for AADT, K factor, and D factor as recommended on page 114 of the FDOT 2002 Quality/Level of Service Handbook

Brenda Anderson

LEEE COUNTY
RECEIVED

PO Box 247 Pineland, FL 33945

239-283-1878 (H) 863-675-3903 (W) 863-675-3903 (F) 863-675-3903 (PAX) 19

E-mail: brenda1040@hotmail.com

COMM. DEV./
PUB. WRKS. CNTR.
SECOND FLOOR

January 30, 2006

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Re: 1989 Pine Island Use Plan

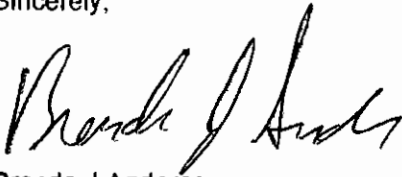
Dear Ms. Gibbs:

As chairperson of the Lee County Board of County Commissioner's Annotation Committee, I would like you to consider that the intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan.

Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Please ensure that the County implements the 910 rule to carry out the clear intent of Objective 14.2.

Sincerely,



Brenda J Anderson,
Resident of Pine Island

CC: Paul O'Connor
David Owen

LETTER TO THE ANNOTATION COMMITTEE

LEE COUNTY
RECEIVED
06 Feb 1991 1:19 PM
COM. PUB. WORKS SECON.
DIRECTOR

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Dear Ms. Gibbs:

As a resident of Pine Island and/or Lee County I am extremely concerned with the implementation of the Lee Plan, specifically Objective 14.2.

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan Objective 14.2 is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

The issue before the Annotation Committee is the implementation of the existing law. It is not about the discussion of changes to that law. The Florida Statutes provide other methods for amending the law.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Drafts and final reports of the county staff, annotation committee, and LPA should be sent to the Greater Pine Island Civic Association at P.O. Box 3044, Pineland, FL 33945 in sufficient time to permit review of and allow for the GPICA to provide comment prior to any presentation to the BOCC.

I look forward to your fair and impartial review and opinion.

Very truly yours,

Signatures from SWFCEE
Environmental Breakfast.
Wile C. Davis, Bekeelia.

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Heather Stefford Address 4846 E Riverside Dr. Ft Myers

Signature Heather A Stefford Date 1/26/06

Name Jerry Jovanovich Address 19528 Sun Air Ct. Ft Myers

Signature Jerry Jovanovich Date 1-26-06

Name WILLIAM MANTIS Address 16221 BUCANEER, BOKEELIA

Signature William Mantis Date 1-26-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Susie Hassett Address 17121 Primavera Cir

Signature Susie Hassett Date 1-26-06

Name REANN WESSER Address P.O. Box 713 Ft Myers, FL

Signature Reann Date 1/26/06

Name CHRISTINE TROST Address 16221 BUCANEER ST.

Signature Christine A. Trost Date 1/26/06 Bokeelia

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Maureen Cochran Address 207 SE 19 Ter

Signature Maureen Cochran Date 1/26/06

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

Name Debbie Preston Address 1392 Gail St, N Ft Myers

Signature Debbie Preston Date 1/26/06

Name LINDA BALLOU Address 4840 E RIVERSIDE DR, FM 33905

Signature Linda Ballou Date 1/26/06

Name Win Everham Address 935 Morris Rd Ft. Myers

Signature Christa E. Egan Date 1/26/06

Name Anne-Marie Miles Address 26710 Little John Ct. #44 Bonita

Signature Anne-Marie Miles Date 1.26.06

Name Debbie Hughes Address 672 Astarius Cir Ft Myers

Signature Debbie Hughes Date 1/26/06

Name Robyn Hammes Address 13020 Tenth St 33905

Signature Robyn Hammes Date 1-26-06

Name William F. Hammall Address 5456 PARKER DR. FT. MYERS 33919

Signature William F. Hammall Date 1/26/06

Name Reg. Judok Address 12664 Coconut Cr Ct Ft, Mye

Signature Reg. Judok Date 01-26-06

Name Bill Dyle Address 12525 Summerwood Dr. FM 33908

Signature _____ Date _____

Name M. J. Madsen Address 525 Nal Cedar Dr

Signature M. J. Madsen Date 1/26/06

Name Eric Shoaf Address 2770 W. 1st Place Ln #1023 Naples Fla

Signature Eric Shoaf Date 1.26.06

34112

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name ELLEN W. PETERSON Address 8791 Cortezwood Rd ESTERO, 33928

Signature Ellen W Peterson Date 1-26-06

Name ROBERT ANDRYS Address 23031 TUCKAHOE RD ALWA FL 33920

Signature Bob Andrys Date 1-26-06

Name Ernesto Lasso de la Vega Address 23362 Freepart Ave Port Charlotte FL 33954

Signature Ernesto Lasso de la Vega Date 1/26/06

Name Faith Opatony Address PO Box 15482 Cape Coral, FL 33915

Signature Faith Opatony Date 01/26/06

Name Kraig Hankins Address P.O. Box 150027, Cape Coral, FL 33915

Signature Kraig Hankins Date 01/26/06

Name ELLIE BOYD Address 11880 HOMESTEAD LN, FMY

Signature Eleanor H. Boyd Date 1-26-06 33905

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Roger S. Clark Address 7256 Lake Drive, Ft. Myers 33908

Signature Roger S Clark Date 1/26/06

Name Carla Kappmeyer Address 1227 SE 2nd Place Cape Coral FL 33920

Signature Carla Kappmeyer - Sherrin Date 1/26/06

Name Paul L ANDREWS Address 743 MARTHA'S LN SANIBEL

Signature Paul L Andrews Date 1/26/06

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____

Signature _____ Date _____

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Teresa Cam Address Ft. Myers Beach

Signature Teresa Cam Date 01/25/06

Name Shelby Evans Address Bonita Springs

Signature Shelby Evans Date 1/26/06

Name Jim Green Address Bokelia

Signature James Green Date 1-26-06

Name Nancy Kilmartin Address 2431 Chandler Ave Ft Myers
Florida
33907

Signature Nancy Kilmartin Date _____

Name Joelle Hammes Address 13020 tenth st.

Signature Joelle Hammes Date 1/26/06

Name Henry Littleton Address 16184 Buccanere Bokelia 33922

Signature Henry Littleton Date 1-30-06

Name Carolynn Littleton Address 16184 Buccanere Bokelia 33922

Signature Carolynn Littleton Date 1-30-06

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____

Signature _____ Date _____

"To the County Commissioners,"

Over a decade ago your Commissioners implemented the 910 rule to control growth and avoid traffic problems on Pine Island. The 910 rule was approved by the state and County also. You know that we have already exceeded the 910 count and it was exceeded already in 2003, but you did nothing to stop growth on Pine Island. The rule also states that you stop approval of Development Orders at that time. Now to me stop means stop. Why are you exempt from the very rules you implemented? Just because development brings in money which brings greed.

Rec a 2/2/06

January, 24, 2006

TO: Mary Gibbs, Chairperson, Annotation Committee

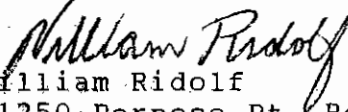
SUBJECT: Pine Island Land Use Plan/910 Rule

FROM: William Ridolf, Matlacha, Florida

I will start with reiterating comments made by a nurse living in St. James City, at the County Commission meeting last Tuesday, January, 17. She gave an account of trying to get off the island one evening the week before (5:30 PM to 6:30 PM), to go to work. There was a two car accident on Pine Island Road, near the Bank of America, which is about a mile east of the Center. Vehicles were backed up on Stringfellow Road, in both Directions, southerly and northerly, as far as the eye could see. I was in the same mess trying to get on the island to go to dinner at my girlfriends in Bokeelia. It was backed up on Pine Island Road, almost to Matlacha. The point on display here is, that there is already, too many vehicles traveling to and from, as well as on, Pine Island. We have a rule on record, passed by County Commission, approved in Tallahassee, that needs to be implemented in regard to the growing overly congested, heretofore mentioned roadways.

I am a native Floridian, born and raised on the south-east coast. I moved to Matlacha, six years ago in a quest to get away from overly built, overely populated overly congested roads, waning green space, etc. You have the power to properly manage growth on these islands, and once more, you have the "rule" to stand behind. Please don't let this be the Lee County Commission, that goes down in local history as not obeying and enforcing the law.

Sincerely,


William Ridolf
11250 Porpose Pt. Rd.
Matlacha, Fl. 33993
239-282-2287

Owen, David M.

From: wood105@juno.com
Sent: Monday, February 06, 2006 12:51 PM
To: Owen, David M.; Gibbs, Mary ; O Connor, Paul S.
Cc: MedAvenue@aol.com; bryancrane@gpica.org
Subject: 810-910

Dear Ms. Gibbs,

During the initial County Commissioners hearing on the application of the 810/910/ rule, I heard the county attorney state to the effect that the staff had not applied the rule as written, because in the rest of Lee County traffic counts have not been applied in that way. May I remind you and the annotation Committee that Pine Island is an exception to the rest of Lee County. Mainly because, " WE ONLY HAVE ONE BRIDGE TO THE ISLAND." The 810/910 rule and the following Pine Island development plan were written specifically with that in mind. When traffic got to a certain point it recognized that a problem existed because of all the existing lots subdivided, but not yet build upon. It is fine in the rest of Lee county to discount the impact of the inbuilt lots because there are many more traffic routes and they can always be improved. But, we have only one bridge to the island and we know that we have a tuture traffic crisis NOW.

For this reason you should interpret that the critical traffic trigger has occurred and any future development orders would be subject to the reduced densities of the Pine Island plan; including the 8 orders presently under review.

Sincerely,
Roger L. Wood
Saint James City

Owen, David M.

From: SallyTropicacruz@aol.com
Sent: Saturday, February 04, 2006 4:06 PM
To: Owen, David M.; Gibbs, Mary
Cc: O Connor, Paul S.
Subject: Pine Island Plan Annotation Committee

Mary Gibbs, David Owen, Paul OConnor

I attended the first meeting of the Annotation Committee last Thursday, wherein staff attempted to bring you all up to speed on the 810/910 Rule. Although I was not a member of the Greater Pine Island Civic Associations Land Use Plan committee I was an active participant for three years at the planning meetings. Please uphold and support the Pine Island Land Use Plan as attempts are made to figure out how the County is counting traffic.

I wish to comment on two things discussed at this meeting.

1. ANY development orders on Greater Pine Island, Stringfellow Road and all other roads must be measured in the traffic count as connecting to Pine Island Road. Otherwise I get this image of people coming on the island once, building a house on Stringfellow or any other road and doing nothing but driving up and down north and south without ever leaving the island. This assumption would be ridiculous.

2. If traffic count allows for a development order of 218 more cars bringing the traffic count to its maximum, how could you issue two simultaneous development orders with both of them adding the 218 count?

These comments are respectfully submitted for your evaluation and consideration.

Sally Tapager

President, Greater Pine Island Chamber of Commerce, resident of Pine Island, and owner of a tourism oriented business on Pine Island

2/6/2006

Owen, David M.

From: Mary Beth Lundgren [mblundgren@tlhconsultinc.com]
Sent: Saturday, February 04, 2006 12:42 PM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org; O Connor, Paul S.
Subject: Fwd: Pine Island Land Plan

This was returned to me the first time I sent it. Hope you receive it this time. I really want to let you know what I think about this.

Thank you for your attention.

My best,

Mary Beth

Date: Mon, 30 Jan 2006 18:15:47 -0500
To: GibbsMX@bocc.co.lee.fl.us
From: Mary Beth Lundgren <mblundgren@tlhconsultinc.com>
Subject: Pine Island Land Plan
Cc: OconnoPS@bocc.co.lee.fl.us, OwenD.LeePO01.Leedom1@leegov.com, bryancrane@gpica.org.

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

As a supporter of "Smart Growth" and a citizen of Lee County, I wish to comment on the Pine Island Land Plan. During the Annotation Committee's discussions, of which I understand you are chairperson, I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise. Please do not "re-interpret" (or mis-interpret) the plan to suit anyone but Pine Island residents. They, and the other citizens of Lee County, have already spoken as to their wishes in this matter.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Please. Keep Pine Island from being overrun by development and traffic.

Sincerely,

Mary Beth Lundgren
487 NE 4th Ave,
Cape Coral FL 33909

Owen, David M.

From: Dist1, Janes
Sent: Friday, February 03, 2006 11:23 AM
To: Owen, David M.; Mary Gibbs; O Connor, Paul S.; Loveland, David M.; Eckenrode, Peter J.
Subject: FW: Pine Island Road Traffic Counts
Attachments: Dist1, Janes.vcf

FYi

Nan Summerall Gonzalez, Executive Assistant
 Commissioner Bob Janes, District #1
 Lee County Board of County Commissioners
 Post Office Box 398
 Fort Myers, FL 33902-0398
 239.335.2224 (Office Number)
 239.335.2355 (Fax Number)
Dist1@leegov.com

From: Phil Buchanan [<mailto:coolcherokee@comcast.net>]
Sent: Friday, February 03, 2006 10:59 AM
To: Dist1, Janes
Subject: Pine Island Road Traffic Counts

Dave Loveland announced at the Annotation Committee meeting yesterday that the annual average peak hour two-way traffic count on Pine Island Road was going down and in fact had decreased from 938 in 2004 to a current flow of 921. This announcement was so shocking that I decided to look into it.

What I have found is that the traffic volume is in fact continuing to increase just as it always has. In fact, even the rate of increase has increased. What has changed in the method Lee DOT calculates peak hour trips.

Lee DOT does not actually measure peak hour trips. Instead, they measure daily trips and apply a conversion factor. For the rest of Lee County, the conversion factor in every case I have examined has always been 9%; however, for reasons unknown to me, the conversion factor for Pine Island Road has always been 8% (that is, from 1994 until the 910 issue was raised in 2004).

In September 2004, the County Commissioners held a special hearing at Pine Island's request to determine whether the 910 traffic count milestone had been met. The 2004 Concurrency Report listed the annual daily average traffic count in 2003 at 11,500, but for the first time ever did not list the annual average peak hour two-way trip count (8% of 11,500 is 920). The Pine Island representative said that the 910 milestone had been exceeded in 2003 and at the present rate of increase, the September 2004 count should be 944. Lee DOT said that they had changed the conversion factor for Pine Road to 7.8% and for that reason, the count at that time was only 938. When the 2005 Concurrency report was published, it listed the annual daily average count in 2004 as 12,168 (the largest traffic increase in Pine Island history); however, the annual average peak hour two-way count stayed at 938 because Lee DOT again changed the conversion factor, this time to 7.71%.

2/3/2006

In other words, Lee DOT has lowed the conversion factor every year since the 910 milestone was met in 2003. Every year, the traffic actually greatly increases, but every year the peak hour count stays the same or goes down because they lower the conversion factor. They can in fact make the peak hour count any number they wish by changing the conversion factor accordingly. Cute, huh.

I do not know what conversion factor was used to arrive at the 921 figure, but obviously, it has to be even lower than any of the previous conversion factors, so the practice is continuing. If they lower the conversion factor enough, peak-hour traffic on Pine Island could disappear altogether, as (not so coincidentally) would the Pine Island Plan.

--

Phil Buchanan
coolcherokee@comcast.net
Phone/Fax: 239-283-4067
cell 239-789-6118
3861 Galt Island Avenue
St James City, FL 33956

Collier County
1450 Merrilue Drive
Naples, Florida 34102

Phone 239.262.0304
Fax 239.262.0672



Protecting the nature of our
community for 40 years.

Ms. Mary Gibbs
Director of Community Development
1500 Monroe St., Ft Myers, FL 33901

January 30, 2006

Re: Annotation Committee for Pine Island Community Plan Policies 14.2.1, 14.2.2

Dear Annotation Committee:

The Conservancy of Southwest Florida appreciates the opportunity to provide comments on the interpretation of the road concurrency provisions in the Pine Island Community Plan. The Conservancy and its members are actively involved in the preservation of Pine Island and in the effective implementation of the Pine Island Community Plan. We believe the only valid interpretation of Policies 14.2.1 and 14.2.2 would require the current implementation of restrictions on approvals of both new rezonings and new development orders.

The Lee Plan Policies in question state as follows:

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209.

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

- When traffic on Pine Island Road reaches 810 peak hour, annual average two-way trips, the regulations will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings

Lee County
2123 First Street, Suite F
Fort Myers, Florida 33901

Phone 239.275.0330
Fax 239.275.7089

2006 FEB - 1 PM 3:13
RECEIVED BY
LEE CO. ATTORNEY

for small enterprises that promote the nature and heritage of Greater Pine Island.

- When traffic on Pine Island Road reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

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

While Policy 14.2.1 establishes a minimum level of service (LOS) for Pine Island Road, it is clear that Policy 14.2.2 takes precedence over this minimum LOS for purposes of approval of new rezonings and new development orders when the 810/910 thresholds are exceeded. The reason for this is stated in Policy 14.2.2: “[i]n order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 additional dwelling units.” In other words, the Policy is crafted to prevent new developments from consuming the remaining capacity on Pine Island Road, while giving preference to existing approved dwelling units that have not been built. Policy 14.2.2 also makes it clear that restrictions should be imposed when the 810/910 thresholds are exceeded “prior to the capacity of Pine Island Road being reached (emphasis added).” preventing the remaining road capacity from being consumed by new developments.

It is a rudimentary principle of statutory construction that ordinances are to be interpreted to give effect to all of their provisions, and not construed to render any part of the ordinance ineffective. Interpreting these policies as restricting rezonings and development orders only when the minimum LOS is exceeded would violate this principle of statutory construction by rendering Policy 14.2.2 ineffective.

The most recent Lee County Concurrency Management Report (Lee County DCD, June 2005) makes it clear that “[b]ased on the 2004 Traffic Count Report (which utilizes counts for calendar year 2004), the number of peak hour, annual average, two-way trips for last year was 938 (up slightly from 937 the previous year).” Because this traffic volume exceeds the 810 threshold, there is no question that new rezonings which increase traffic should be stopped, although Policy 14.2.2 provides some mitigation. Because the volume exceeds the 910 threshold, there should be restrictions on the further issuance of residential development orders or other measures to maintain the adopted level of service. These restrictions are mitigated in the Plan by allowing at least one-third of the density otherwise allowed on the property. Development orders may still be approved but the overall density of the development may be reduced by up to two-thirds.

Finally, even if the policies are interpreted to give 14.2.1 precedence over 14.2.2, the minimum LOS D has for all practical purposes been exceeded, requiring the imposition of restrictions on development orders. The attached letter from Bill Spikowski with a memo from transportation planning consultant Moshen Salehi demonstrates that the traffic count measured as stated in the Pine Island Community Plan is currently at LOS D (940 on an annual average peak hour basis).

In conclusion, we request that the Annotation Committee recommend to the Lee County Commission that Policies 14.2.1 and 14.2.2 be interpreted according to their plain language and in the manner which gives full effect to both policies. The 810 and 910 thresholds and LOS D have been reached, and the policies should be interpreted to prevent increased traffic resulting from new developments on Pine Island.

If you have any questions about these comments or would like to discuss them, please contact Alissa Bierma at 239-275-0330.

Sincerely,

A handwritten signature in black ink that reads "Nicole Ryan". The signature is written in a cursive, flowing style.

Nicole Ryan
Governmental Relations Manager

Cc: Paul O'Connor, Director of Planning
David Owen, County Attorney

SPIKOWSKI PLANNING ASSOCIATES

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

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

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

March 17, 2005

Mary Gibbs, Director
Lee County Department of Community Development
P.O. Box 398
Fort Myers, Florida 33902-0398

RE: GREATER PINE ISLAND'S "910 RULE"

Dear Mary:

Lee County is now implementing the "910 Rule" in Lee Plan Policy 14.2.2 and we understand there are differing opinions as to how this rule should be implemented.

We do not agree with one opinion, which is that no practical effects will be felt by applicants for residential orders until the levels of service described in Policy 14.2.1 have been reached (as opposed to those described within Policy 14.2.2). However, in order to understand the effects of such an interpretation, we have conducted some research that you will find to be critical, because there was a technical flaw in the software that FDOT had supplied to Lee County for converting the level-of-service grades into actual traffic counts. Please review the attached memorandum for further details.

Once this software flaw is corrected, it appears that there will be no need to determine which of the differing opinions about the "910 Rule" should prevail inasmuch as the practical effects are about the same. I would like to sit down with you and other county staff members to discuss this matter after you have reviewed the attached material. (The software "patch" can be obtained from Mohsen Salehi or directly from Professor Scott S. Washburn at the University of Florida.)

Sincerely,

William M. Spikowski AICP

cc: David Loveland, Lee County DOT
Scott S. Washburn, University of Florida



*Salehi Consulting Services/4786 Harbour Cay Blvd
Ft. Myers, Florida 33919
Tel: (239) 994-1320/Fax: (239) 433-1092
MnSalehiAICF@aol.com*

Memo

To: Bill Spikowski
From: Mohsen Salehi
Date: March 4, 2005
Subject: Lee Plan Policy 14.2.1 & HCM 2000 Based FDOT HighPlan Software

Lee County has formally acknowledged that traffic counts on Pine Island Road exceed the 910 threshold established in Lee Plan Policy 14.2.2, with the latest published figures indicating a count of 937.¹

However, some county staffers have expressed the opinion that the "910 Rule" will have little practical effect on the issuance of further residential development orders because they read Policy 14.2.1² as controlling over Policy 14.2.2.³ Policy 14.2.1 refers to levels of service

¹ *Concurrency Management: Inventory and Projections, 2003/2004-2004/2005, page 6*

² *"POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard shall be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209."*

³ *"POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 additional dwelling units, the county will keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. These regulations will reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:*

- *When traffic on Pine Island Road reaches 810 peak hour, annual average two-way trips, the regulations will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give*

that are expressed differently than Policy 14.2.2: "LOS "D" on an annual average peak hour basis and LOS "E" on peak season, peak hour basis." Lee DOT is also recommending that these levels of service be evaluated using the newer 2000 Highway Capacity Manual (2000 HCM) methodology, as opposed to the 1985 HCM that is cited in Policy 14.2.1.

You asked to me to research the meaning of the levels of service in Policy 14.2.1 in case this interpretation of the "910 Rule" becomes official county policy. In addition, you asked what would be the implications of changing Policy 14.2.1 to refer to the 2000 HCM instead of the 1985 HCM, because Lee County DOT is proposing to make such a change in an upcoming amendment to Policy 14.2.1.

One would expect these assignments to be quite simple, but that has not turned out to be the case.

In a July 30, 2004, Memo to Lee DOT indicated the levels of service in Policy 14.2.1 to result in a figure of 1130 (using 1985 HCM) and 1300 (using 2000 HCM) for determining annual average peak hour two-way (copy attached). I contacted Lili Wu of Lee DOT to find out how these figures had been generated. He provided me a printout showing the 1300 value (based on 2000 HCM software provided by Florida DOT, HighPlan version 1.0); no printout for 1985 HCM showing the 1130 value was available. It is my understanding that Lee DOT runs the software once to determine the resulting values, then prints out the results and uses the printed values in their subsequent work for concurrency and other purposes.

I then obtained this same HighPlan software from the FDOT web site and ran it to verify and understand the Lee DOT results. The version of the software I downloaded was newer than the one used by Lee County (version 1.2 vs. version 1.0). Since both versions were based on the same formulas, the results should have been the same, but they were not. Most strikingly, this model produces a different result after the input values were "saved," indicating a technical flaw or bug in the model itself.

I brought this problem to FDOT and subsequently their consultant Prof. Washburn's attention. He acknowledged that "there was definitely an issue with the functioning of the analysis type....". He further sent me a "patch" (i.e., an application file, highplan.exe, to fix the problem that I had brought to his attention). He also mentioned: "I am not sure we will be doing an official update on the FDOT website as I have been working on a separate version that will likely replace this version in the near future." I "patched" the software only to encounter other minor problems that are as yet unresolved, but which should little practical effect.

Transportation professionals would not knowingly use a model that produces incorrect results. Unfortunately these models are somewhat like black boxes, so the "correct" result is sometimes not immediately apparent.

-
- preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.*
 - When traffic on Pine Island Road reaches 910 peak hour, annual average two-way trips, the regulations shall provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Development Code), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.*
- The 810 and 910 thresholds were based on 80% and 90% of level-of-service "D" capacity calculated using the 1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36."*

Based on my analysis and my e-mail exchanges with Professor Washburn, I believe the correct value for interpreting Policy 14.2.1 is 940⁴ (or 950⁵) for LOS "D" on an annual average, peak hour basis. With or without the "patch" supplied by Prof. Washburn, Lee DOT staff are more than likely to arrive at results similar to my results using the latest version available (1.2) on the FDOT website. Marginal differences are to be expected if yet-to-be-published 2004 Traffic Count Report data is utilized, even with adjustments made for converting weekday to weekly (i.e., full -week) peak flow.

Assuming my analysis is correct, the values generated for Policy 14.2.1 are quite close to the 910 figure in Policy 14.2.2 and even closer to the 937 actual traffic count as report in the latest concurrency report. As a result, it may end up making little or no practical difference how the county (or the courts) ends up interpreting the relationship between Policies 14.2.1 and 14.2.2.

Also, since we cannot identify any working software for the 1985 HCM, it should make no practical difference whether Policy 14.2.1 is amended to refer to the 2000 HCM or not. There should be no issues with using the 2000 HCM to compute values as long as the errors in the earlier versions of the FDOT software, as acknowledged by FDOT consultant Prof. Washburn, are taken into account.

Please let me know if further explanation or clarification is needed.

⁴ Using Lee County DOT values for K factor and D factor

⁵ Using FDOT default values for AADT, K factor, and D factor as recommended on page 114 of the FDOT 2002 Quality/Level of Service Handbook

January 23, 2006

Ms. Mary Gibbs
Director of Community Planning
1500 Monroe Street
Ft. Myers, Florida 33901

RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Dear Ms. Gibbs:

As a resident of Pine Island I am extremely concerned with the implementation of the Lee Plan, specifically Objective 14.2.

During the Annotation Committee's discussions I would like the following points to be carefully considered:

1. The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.
2. The intent of Pine Island Land Plan Objective 14.2 is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make these development rights more than an empty promise.
3. The Issue before the Annotation Committee is the implementation of the existing law. It is not about the discussion of changes to that law. The Florida Statutes provide other methods for amending the law.
4. Failure by the County to faithfully implement the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Drafts and final reports of the County Staff, Annotation Committee, and LPA should be sent to the Greater Pine Island Civic Association at P. O. Box 3044, Pineland, FL 33945 in sufficient time to permit review of and allow for the GPICA to provide comment prior to any presentation to the BOCC.

I look forward to your fair and impartial review and opinion.

Sincerely yours,

Dean and Sue Duffey

Owen, David M.

From: appeler@comcast.net
Sent: Monday, January 23, 2006 8:40 AM
To: GibbsMX@bocc.co.lee.fl.us
Subject: Lee Plan Annotation Committee-Objective 14.2 of the Lee Plan

RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan I am a resident of Bokeelia and work in Ft. Myers. Since I travel to Ft. Myers at least 5 out of 7 days per week, I am familiar with the "Road Hazards" in this area—mainly narrow roads, lots of traffic. I know from experience that traffic is heavy and exceeds the volume agreed to in the Lee Plan. I have not been able to attend the recent meetings concerning the Lee Plan (810/910) but I am very concerned with the implementation of the Lee Plan, specifically Objective 14.2 During the Annotation Committee's discussions I would like the following points to be carefully considered:

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As a citizen of Lee County, the United States of America, I expect fair and impartial review and opinion.

Rita Appel, 16761 Seagull Bay Ct., Bokeelia, Fl 33922

Owen, David M.

From: sdduffey@aol.com
Sent: Monday, January 23, 2006 9:40 AM
To: Owen, David M.; Gibbs, Mary
Cc: O Connor, Paul S.
Subject: Lee Plan Annotation Committe regarding Objective 14.2 of the Plan
Attachments: Lee Plan.doc

PLEASE REFER TO THE ATTACHED PRIOR TO THE JANUARY 31st MEETING

Dean and Sue Duffey

1/23/2006

January 23, 2006

Ms. Mary Gibbs
Director of Community Planning
1500 Monroe Street
Ft. Myers, Florida 33901

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Sincerely yours,

Dean and Sue Duffey

against Lee county.

Wouldn't it be prudent to check the facts BEFORE entering into a contractual agreement? Is what the Assoc. SAYS was voted upon REALLY on the ballot? Did it, in fact, receive a majority of YES votes?

I say the answer to both questions is NO. A simple examination of the REAL ballot and the the vote count will quickly prove the facts.

<http://www.leeclerk.org/OR/showdetails.aspx?id=4601039&rn=63&pi=4&ref=search>

Thank you,
Bill Bishop (948-140 cell)

Owen, David M.

From: Mary Gibbs [GIBBSMX@leegov.com]
Sent: Monday, January 23, 2006 10:00 AM
To: Owen, David M.; Eckenrode, Peter J.; Jones, Timothy J.; Loveland, David M.; O Connor, Paul S.
Subject: Fwd: Lee Plan Annotation Committee-Objective 14.2 of the LeePlan
Attachments: Lee Plan Annotation Committee-Objective 14.2 of the Lee Plan



Lee Plan Annotation
Committee-O...

fyi

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As a citizen of Lee County, the United States of America, I expect fair and impartial review and opinion.

Rita Appel, 16761 Seagull Bay Ct., Bokeelia, FL 33922

Owen, David M.

From: MelissaAnnRice@aol.com
Sent: Monday, January 23, 2006 3:21 PM
To: Owen, David M.
Subject: Pine Island Annotations Committee

Me. Owen,

I am a concerned property owner on Pine Island. I would like to get a schedule of the dates for submittal to the Annotations committee. As well as the schedule for the LPA and the BoCC on the 14.2.2. rule and how county staff is reviewing development orders.

In addition, could you please specify the issue the annotation committee will be reviewing. After attending the BoCC meetings I am unclear of the specific issue that will be addressed.

Thank you for your time.

Melissa Rice

1/23/2006

Owen, David M.

From: Rita Appel [rappel@edison.edu]
Sent: Thursday, January 26, 2006 1:22 PM
To: Owen, David M.
Subject: Lee Plan Annotation Committee

RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

I am a resident of Bokeelia and work in Ft. Myers. Since I travel to Ft. Myers at least 5 out of 7 days per week, I am familiar with the "Road Hazards" in this area—mainly narrow roads, lots of traffic. I know from experience that traffic is heavy and exceeds the volume agreed to in the Lee Plan. I have not been able to attend the recent meetings concerning the Lee Plan (810/910) but I am very concerned with the implementation of the Lee Plan, specifically Objective 14.2

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As a citizen of Lee County, the United States of America, I expect fair and impartial review and opinion.

Rita Appel, 16761 Seagull Bay Ct., Bokeelia, FL 33922

January, 24, 2006

Copy to: David Owen
Paul O'Connor
Tim Jones
fete E.
DAVE L
1/23

TO: Mary Gibbs, Chairperson, Annotation Committee

SUBJECT: Pine Island Land Use Plan/910 Rule

FROM: William Ridolf, Matlacha, Florida

I will start with reiterating comments made by a nurse living in St. James City, at the County Commission meeting last Tuesday, January, 17. She gave an account of trying to get off the island one evening the week before (5:30 PM to 6:30 PM), to go to work. There was a two car accident on Pine Island Road, near the Bank of America, which is about a mile east of the Center. Vehicles were backed up on Stringfellow Road, in both Directions, southerly and northerly, as far as the eye could see. I was in the same mess trying to get on the island to go to dinner at my girlfriends in Bokeelia. It was backed up on Pine Island Road, almost to Matlacha. The point on display here is, that there is already, too many vehicles traveling to and from, as well as on, Pine Island. We have a rule on record, passed by County Commission, approved in Tallahassee, that needs to be implemented in regard to the growing overly congested, heretofore mentioned roadways.

I am a native Floridian, born and raised on the south-east coast. I moved to Matlacha, six years ago in a quest to get away from overly built, overely populated overly congested roads, waning green space, etc. You have the power to properly manage growth on these islands, and once more, you have the "rule" to stand behind. Please don't let this be the Lee County Commission, that goes down in local history as not obeying and enforcing the law.

Sincerely,

William Ridolf
William Ridolf
11250 Porpose Pt. Rd.
Matlacha, Fl. 33993
239-282-2287

2006 JAN 26 AM 10:06
RECEIVED BY
LEE CO. ATTORNEY

Owen, David M.

From: Yammax2@aol.com
Sent: Thursday, January 26, 2006 9:16 AM
To: Bo@accentbp.com; colin@afsg-florida.com; Bbrackenl@aol.com; Bigwill209609@aol.com; Carleton819@aol.com; Desmondbarrett@aol.com; Gianicolo1@aol.com; JaneMcNew@aol.com; Jigoe5@aol.com; Language1951@aol.com; Lazylion97@aol.com; PAROTDISE@aol.com; Sjkatz39@aol.com; Laurie_Jerriey@colonialbank.com; dibarb@comcast.net; ECHEMSATH@comcast.net; johmiller@comcast.net; jonshr500@comcast.net; lehighchamber@comcast.net; mbanyan@comcast.net; ollie.lehighchamber@comcast.net; referralsplease@comcast.net; talljim1@comcast.net; Michael.Conrad@dca.state.fl.us; lehighshowcase@earthlink.com; jodilang@earthlink.net; krmathman@earthlink.net; perchhillpa@earthlink.net; mcsold@email.com; lehighcitizen@flguide.com; STEAD.JESSICA.S27@flsenate.gov; bryancrane@gpica.org; avatarr@hotmail.com; Citizen936@hotmail.com; commfranklarosa@hotmail.com; la_watchdog@hotmail.com; skydad@iglide.net; jim.boesch@juno.com; l.c.s1@juno.com; merrilybaker@juno.com; welrod@landsolutions.net; Owen, David M.; DiFelice, Charlie W.; Dist1, Janes; Dist2, St. Cerny; Dist3, Judah; Dist4, Hall; Dist5, Albion; Gibbs, Mary; Hutcherson, Karen D.; Mudd, James P.; O Connor, Paul S.; Daltry, Wayne E.; robert_anderson@lehighacreswatchdog.com; jstclair@lehighnewsstar.com; arlenealderfer@mfire.com; jimalderfer@mfire.com; graceparish@mindspring.com; appoo2005@neo.rr.com; lehighnews@news-press.com; whellmann@rkkengineers.com; joseph5054@wmconnect.comjoseph
Subject: Letter to the Lee Plan Annotation Committee

Ms. Mary Gibbs
 Director of Community Development
 1500 Monroe Street
 Fort Myers, FL 33901

RE: Lee Plan Annotation Committee

Dear Ms. Gibbs:

As a resident of Lehigh Acres, the Chairman of the East County Water Control District, Founding co-chairman of the Lehigh Acres Community Redevelopment Agency and a Board Member of the Lehigh Acres Community Planning Corporation, I am extremely concerned with Lee County government's application of the development standards in the Lee Plan, specifically the lax or non enforcement of the Commercial Land Use Overlay in our community, and Objective 14.2 regarding the Pine Island Community Plan.

As I have said repeatedly, the biggest single issue in our community is **the recent proliferation of new multi-family rooftops in Lehigh Acres at the expense of land for public use.**

The policies of the Lee County government have created a land use crisis in Lehigh Acres which seriously threatens the quality of life of all current and future residents of our community for decades to come.

Today, less than 2% of the total land area in Lehigh Acres is zoned for public uses of any kind including: schools, parks, greenways, flow ways, water recharge areas, governmental services and commercial areas.

I enthusiastically support the BoCC's recent decision to appoint your annotation committee to study Objective 14.2 of the Lee Plan regarding the present and future growth of Pine Island, and I urge the commissioners to apply the same diligence in reviewing the alarming over development situation in Lehigh Acres, and its lasting negative consequences not only to the people of Lehigh Acres, but to the county government and its ability to provide mandated services to our community and the rest of Lee County.

During the Annotation Committee's discussions I respectfully ask that the following issues be carefully and thoughtfully considered:

1. The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.
2. The intent of Pine Island Land Plan Objective 14.2 is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.
3. The issue before the Annotation Committee is the implementation of the existing law. It is not about the discussion of changes to that law. The Florida Statutes provide other methods for amending the law.
4. Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Although the citizens of Pine Island and Lehigh Acres are at opposite geographic ends of Lee County, we share a common concern that local public policy continues to be dictated by powerful and entrenched special interests.

The active and involved citizens of Lehigh Acres intend to monitor your sessions and the outcome of your discussions very carefully because we share common concerns with our Pine Island neighbors.

Indeed, concerned citizens from all over the state will be looking at the results of your efforts with great interest because Lee County is at the leading edge of unprecedented growth pressures. How you handle these challenges will have far reaching implications for Florida, and how we can expect accommodate the 3.5 million new residents that are expected to migrate to Florida within the next decade.

Sincerely,

Jim Fleming
536 Whispering Wind Bend
Lehigh Acres, Florida 33936

h: 239-368-7206
c: 239-872-6770

Brenda Anderson

PO Box 247 Pineland, FL 33945
239-283-1878 (H) 863-675-3903 (W) 863-675-7767 (FAX)
E-mail: brenda1040@hotmail.com

January 30, 2006

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

2006 FEB - 1 PM 3:35
RECEIVED BY
LEE CO. ATTORNEY

Re: 1989 Pine Island Use Plan

Dear Ms. Gibbs:

As chairperson of the Lee County Board of County Commissioner's Annotation Committee, I would like you to consider that the intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan.

Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Please ensure that the County implements the 910 rule to carry out the clear intent of Objective 14.2.

Sincerely,



Brenda J Anderson,
Resident of Pine Island

CC: Paul O'Connor
David Owen

Owen, David M.

From: nsterlin [nsterlin@peoplepc.com]
Sent: Tuesday, January 31, 2006 9:44 AM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org.; O Connor, Paul S.
Subject: Help Us Manage Growth on Pine Island

LETTER TO THE ANNOTATION COMMITTEE

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Although this letter is suggested I fully subscribe to each of the points made above. We on Pine Island have worked for years to keep our unique island from becoming just another crowded, condo-ridden piece of real estate. Growth is necessary but the key is "SMART GROWTH", growth that respects the eco-systems that make this island stand out; that respects the development plan that won such honors from the state as an exemplary land development program just a couple of years ago. Let there be just one haven from run-away development that characterizes most of the Fort Myers-Cape Coral to Marco Island corridor.

Thank you for you consideration of this letter.

Nicholas J. Sterling
Mail: PO Box 651, Pineland, FL, 33945
Address: 7278 Victory Rd., Bokeelia

PeoplePC Online
A better way to Internet
<http://www.peoplepc.com>

2/1/2006

January 31, 2006

TO: Lee County Comprehensive Plan Annotation Committee
cc: Commissioner Bob Janes

From: Sally Tapager
Citizen and resident of Pine Island

Subject: Meeting February 2, 2006 re Objective 14.2/810/910

2006 JAN 31 PM 3:49
RECEIVED BY
LEE CO. ATTORNEY

You have a much larger issue to discuss than just the interpretation of the vehicle traffic count on and off Pine Island during peak hours of traffic. You need to uphold and support the Pine Island Plan which was approved by the County Commissioners, County Staff and Tallahassee.

I believe we have to protect the rights of the currently plotted and approved buildable lots while still allowing for some limited new development. If a development order is submitted that does not create additional traffic such as one that replaces former residences with equal or fewer number of new residences; and that development follows all of the elements of the Pine Island Land Use Plan, I see no reason why this development order could not be approved.

Would there be any logical way where a maximum number of residential homes could be added each year based on inactivity of the 6200 approved buildable lots? There may be a possibility that it would take thirty years before these lots were built upon.

In my opinion, most Pine Islanders are not against the smaller unobtrusive developments as long as they adhere to our density and height restrictions. What we do not want is walled developments and large plots of land developed with 300 cookie cutter houses or apartments.

Please help Pine Island to maintain its charm and unique character.

Thank you,

Owen, David M.

From: MrEds025@aol.com
Sent: Monday, January 30, 2006 8:43 PM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org; O Connor, Paul S.
Subject: (no subject)

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 142) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Name: Gayle and Paul Edwards

Mailing Address: 16185 Edgemont Drive
Fort Myers, Fl. 33908

Owen, David M.

From: Mary Beth Lundgren [mblundgren@tlhconsultinc.com]
Sent: Monday, January 30, 2006 6:16 PM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org.; O Connor, Paul S.
Subject: Pine Island Land Plan

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

As a supporter of "Smart Growth" and a citizen of Lee County, I wish to comment on the Pine Island Land Plan. During the Annotation Committee's discussions, of which I understand you are chairperson, I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise. Please do not "re-interpret" (or mis-interpret) the plan to suit anyone but Pine Island residents. They, and the other citizens of Lee County, have already spoken as to their wishes in this matter.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Please. Keep Pine Island from being overrun by development and traffic.

Sincerely,

Mary Beth Lundgren
487 NE 4th Ave.
Cape Coral FL 33909

Owen, David M.

From: Glen Roberts [glenroberts@earthlink.net]

Sent: Tuesday, January 31, 2006 7:51 PM

To: Owen, David M.

Subject: Lee Plan Annotation Committee regarding Objective 14.2 of the Lee Plan

Mr. Owen,

As a resident of Pine Island and a registered voter in Lee County I am concerned about the lack of implementation of the Pine Island Plan objective 14.2. Objective 14.2 is also known as the 810/910 rule. I was at the January 9th commissioners meeting where it became obvious that the objective 14.2 was not being implemented as written and was in fact being ignored. As a resident of Lee County I can expect that the employees of Lee County follow all laws in effect. The current process is an arbitrary and confusing one. Now that the commissioners have directed the formation of an Annotation Committee, I request the committee review objective 14.2 objectively and without bias and implement it as written.

Respectfully,

Glen Roberts

glenroberts@earthlink.net

Why Wait? Move to EarthLink.

2/1/2006

Owen, David M.

From: Phil Tribbey [Philalice@msn.com]
Sent: Tuesday, January 31, 2006 3:42 PM
To: Owen, David M.
Subject: Pine Island Land Development

Dear Ms. Gibbs:

I have a difficult time understanding why your office refuses to acknowledge the fact that Pine Island is being developed far beyond the level that was set in the Greater Pine Island Land Plan. This plan is a legal document and expresses the desires of the people of the island with regard to intelligent growth management. It is grossly unfair to the residents of the island to continue to give permission for additional development while there are so many lots that are already approved and have not yet been built on. The existing roads will barely accommodate the traffic load for the current population and the population increase that will result when homes are built on those vacant lots. In addition, the proposed replacement of the Mattacha bridge is going to create an additional bottleneck for the next several years.

Philip S Tribbey

4411 Cedar Street

PO Box 607

St James City, FL 33956

239 283-3307

Owen, David M.

From: T P Lundgren [tplundgren@tlhconsultinc.com]
Sent: Monday, January 30, 2006 11:00 AM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org; O Connor, Paul S.
Subject: Pine Island Land Plan (Objective 14.2)

TLH Consulting, Inc.
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Fax 239 573-9962

[Send 2Way message to my phone](#)

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

The evacuation of Pine Island is impossible now. If the rule is changed or re-interpreted it would be a disaster in the making.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Name:

Theodore P Lundgren
487 NE 4th Ave
Cape Coral, FL 33909-2504

Owen, David M.

From: MedAvenue@aol.com
Sent: Saturday, January 28, 2006 11:12 AM
To: GibbsMX@bocc.co.lee.fl.us.; Owen, David M.
Cc: Dist1, Janes; O Connor, Paul S.
Subject: ATTN: Annotation Committee

Dear Ms. Gibbs:

My comments are directed to you in your capacity as Annotation Committee chairperson.

No one is surprised when a clever, motivated attorney finds a way for his client to weasel out of a contract. In this instance, however, the question that mystifies us on Pine Island is what the client hopes to gain in the process. The County, seemingly, has much to gain by enforcing the 810/910 rule as it was intended, and much to lose by its failure to do so. Furthermore, the new 2003 amendment to the Plan allows large tract owners to avoid virtually all negative financial impacts of the 810/910 rule. When confronted with a win/win/win option the County, perversely, is on the verge of exercising the lose/lose/lose choice, which will lead to unnecessary animosity, litigation, and a sense of betrayal on the part of the overwhelming majority of Pine Islanders.

In a personal conversation, one of the growers, Bob Glennon, revealed to me that he bought his acreage fully aware of the 810/910 rule and fully aware of its implications. But that he was counting on the County to renege on its commitments. The County, it appears, is about to reward him for his cynicism.

As a professional planner, your primary loyalty--in my view--should be to the integrity of the land use planning process. I hope you won't disappoint me and my fellow Pine Islanders in this regard.

At the Environmental Breakfast, sponsored by the South West Florida Council for Environment Education (SWFCEE), I collected approximately 75 signatures to the letter below. One of the signatories, incidentally, was Commissioner Ray Judah. I will be forwarding copies of the signatures to your office. In addition, we will be collecting signatures on Pine Island, even though this will not be completed in time for your meeting on February 2.

Sincerely,
William C. Mantis
16221 Buccaneer Street
Bokeelia, FL 33922
phone/fax (239) 283-8326
MedAvenue@aol.com

LETTER TO THE ANNOTATION COMMITTEE

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Dear Ms. Gibbs:

As a resident of Pine Island and/or Lee County I am extremely concerned with the implementation of the Lee Plan, specifically Objective 14.2.

During the Annotation Committee's discussions I would like the following points to be carefully considered:

1/30/2006

Owen, David M.

From: bonnie [burnb@comcast.net]
Sent: Sunday, January 29, 2006 6:07 PM
To: bissmx@bocc.co.lee.fl.us; BOCC Gibbs Mary
Subject: Lee Plan Objective 142 - Pine Island



Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

The League of Women Voters of Lee County is very concerned about the rapid growth of Lee County. As the opportunity arises, we voice our opinion, based on positions reached through study and consensus by our members, on this issue.

We are extremely concerned about the implementation of the Lee Plan, specifically Objective 14.2 that involves the Pine Island area where some League members live.

There are several points that are at issue:

1. The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County. The League believes it should be followed.
2. The intent of Pine Island Land Plan Objective 14.2 is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.
3. The issue before the Annotation Committee is the implementation of the existing law. It is not about the discussion of changes to that law. The Florida Statutes provide other methods for amending the law.
4. Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a perception that the rule of law prevails in Lee County and severely undermine the ability of citizens to plan their own community..

It would be helpful to the Greater Pine Island Civic Association to have drafts and final reports of the county staff, annotation committee, and LPA should be sent to them at P.O. Box 3044, Pineland, FL 33945 in sufficient time to permit review of, and all for the GPICA to provide comment prior to any presentation to the Board of County Commissioners.

The League of Women Voters is not opposed to growth. We favor comprehensive planning to ensure that resources are available to sustain an adequate population in a given area.

Thank you for honoring the desires of the residents of Pine Island.

Sincerely,

Bonnie Burn

Bonnie Burn, President
League of Women Voters of Lee County
Heritage Palms, Unit 2126
10260 Washingtonia Palm Way
Fort Myers, FL 33912
Tel/Fax: (239) 275-5464

1/30/2006

Owen, David M.

From: Fvactivity@aol.com
Sent: Monday, January 30, 2006 8:08 AM
To: Owen, David M.; Gibbs, Mary ; O Connor, Paul S.
Cc: bryancrane@gpica.org
Subject: (no subject)

LETTER TO THE ANNOTATION COMMITTEE

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Name: Susan M. LaBonte

Mailing Address: 12199 Star Shell Drive
Matlacha Isles, FL 33991

Owen, David M.

From: Harwood, Nancy [NancyH@lee.k12.fl.us]
Sent: Monday, January 30, 2006 9:20 AM
To: 'GibbsMX@bocc.co.lee.fl.us'
Cc: 'OconnoPS@bocc.co.lee.fl.us'; 'OwenD.LeePO01.Leedom1@leegov.com'; 'bryancrane@gpica.org.'
Subject: Pine Island 810/910 rule

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

The Pine Island Land Plan, which represents the consensus opinion of the vast majority of Greater Pine Island residents, was adopted by the Lee County Commission whereupon it became enforceable in regulating future development on Pine Island. The numbers 810 and 910 are finite numbers; never were they intended to be a "guideline" or open to interpretation. The Plan merits the wholehearted endorsement and support of our elected leaders and county government employees.

Most sincerely,

Nancy Harwood
2697 Geary Street
Matlacha, FL 33993
239-283-0840

Owen, David M.

From: Orion Anderson [odanderson@gmail.com]
Sent: Monday, January 30, 2006 10:29 AM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org; O Connor, Paul S.
Subject: Annotation Committee - Pine Island Land Plan

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Orion D. Anderson
12108 Boat Shell Dr
Matlacha Isles, FL 33991
239-283-6490

Owen, David M.

From: Orion Anderson [orionanderson@hotmail.com]
Sent: Monday, January 30, 2006 10:33 AM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org; O Connor, Paul S.
Subject: Pine Island Land Plan

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Mary M. Anderson
12108 Boat Shell Dr
Matlacha Isles, FL 33991
239-283-6490

Owen, David M.

From: Loretta Blessing [blessu4@juno.com]
Sent: Monday, January 30, 2006 1:17 PM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org; O Connor, Paul S.
Subject: Growth on Pine Island

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Loretta Blessing
5236-1 Cedarbend Dr
Fort Myers, Fl
33919

Owen, David M.

From: Nadine [nadou@comcast.net]
Sent: Monday, January 30, 2006 8:26 AM
To: bryancrane@gpica.org; Owen, David M.; O Connor, Paul S.
Subject: LETTER TO THE ANNOTATION COMMITTEE

LETTER TO THE ANNOTATION COMMITTEE

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Name:
Nadine Russo

Mailing Address
11631 Island avenue
Matlacha
FL 33993

Murphy, Debra L.

From: pordway@aol.com
Sent: Monday, January 30, 2006 9:29 AM
To: GibbsMX@bocc.co.lee.fl.us
Cc: OconnoPS@bocc.co.lee.fl.us; OwenD.LeePO01.Leedom@leegov.com; bryancrane@gpica.org
Subject: (no subject)

During the Annotation Committee's discussions I would like the following points to be carefully considered: the Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County. The intent of the Pine Island Land Plan (objective 14.2) is clear and should be implemented as presented in the Plan. Owners of vacant platted lots (of which I am one) must be assured that their development rights will be honored and that sufficient road capacity is reserved in order to make those development rights more than an empty promise. Failure by the County to faithfully implement the 910 rule will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Patricia Ordway,
P.O. Box 747
Bokeelia, FL 33922

Owen, David M.

From: Dave Lukasek [djlukasek@comcast.net]
Sent: Tuesday, January 17, 2006 3:02 PM
To: Jones, Timothy J.
Cc: Dist1, Janes; Dist2, St. Cerny; Dist3, Judah; Dist4, Hall; Dist5, Albion
Subject: RE: Sunshine Law document request

So, a law was passed in 1989 or 1990 by Lee County, then voted on unanimously again as part of a revision of the Lee Plan some 12 years or so later, and only then, without inviting those who originally drafted the language, you held a "number of meetings and discussions" between the County Attorney's staff and DCD staff in order to decide what the law you passed twice means. Am I also to assume that two sets of County Commissioners, with the obvious exception of Ray Judah, voted on a law which they had no idea of the meaning of?

Because of this outrageous interpretation by a staff seemingly employed by the development community and completely unaware of the concept of "smart growth", I advocated a lawsuit against Lee County on a number of points regarding this issue. The rest of the Greater Pine Island Civic Association board seems convinced that Commissioners will "do the right thing" and direct staff to implement the 910 Rule after the so-called annotation committee and the LPA attempt to buttress their weak position. In protest, I have resigned as Treasurer and as a board member of the GPICA. I have little faith left in the independence of most of the BOCC and expect them to again defer to staff. I hope I am proven wrong, but I am taking bets.

After the result I expect in March or April I will contact you again to make arrangements to examine documents in the Attorney's office and the DCD office.

At 05:18 PM 1/13/2006, you wrote:

>Mr. Lukasek,
>No single individual made the interpretation. It was a collaborative
>effort over a number of meetings and discussions.
>You are welcome to come to our office during business hours and review
>our files and obtain copies of any documents in our files on this
>subject. I have forwarded your request to DCD and you can coordinate
>directly with them on reviewing and copying their files.

>
>Timothy Jones
>Chief Assistant County Attorney
>Lee County
>Phone: 239-335-2236
>Fax: 239-335-2606
>jonest@leegov.com

>
>-----Original Message-----
>From: Dave Lukasek [mailto:djlukasek@comcast.net]
>Sent: Tuesday, January 10, 2006 8:35 AM
>To: Jones, Timothy J.
>Cc: CHendr7108@aol.com; laajr@aol.com; sunnydays92@aol.com;
>babil@att.net; bocfish@comcast.net; gpicatreas@comcast.net;
>ita408@comcast.net; wvjwerner@comcast.net; deblytle@earthlink.net;
>Gibbs, Mary ; owned@leegov.com; kfeldman@news-press.com
>Subject: Sunshine Law document request

>
>Mr. Jones,
>At the meeting regarding the 910 rule January 9, 2006, you stated that
>the interpretation of the 910 rule was not originally yours but was
>[planning] staff's. I would like to know who the original person was
>who made that interpretation. If you do not remember who that person
>was, then kindly provide me with copies of any memos or other
>correspondence regarding this matter. As an attorney, I am sure you
>requested something in writing from planning staff. Please have someone
>email me at the above address or phone me at 282-1467 when this

>material is ready to be picked up.
>Thank you,
>David Lukasek

January 18, 2006

Capt. Barry August
2384 Sycamore Street
St. James City, FL 33956
239-282-2200

2006 JAN 19 AM 8:02
RECEIVED BY
LEE CO. ATTORNEY

Mr. David Owen
Lee County Attorney
PO Box 398
Fort Myers, FL 33902-0398

Dear Mr. Owen,

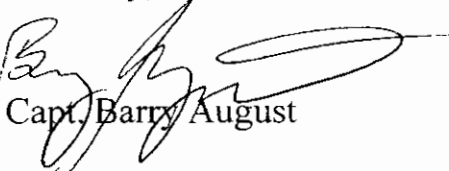
The Policy 14.2.2 of the Pine Island Plan states, "When traffic on Pine Island Road reaches 910 per hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders." Our traffic count, as of the last taking, was 928.

If our Lee County Commissioners continue to ignore this provision of the Pine Island Plan it may not be too much longer before the federal government steps in to restrict building because the Island can not safely be evacuated. This building moratorium has already taken place in the Florida Keys, which has the same problems of limited access as Pine Island.

There are over 6000 plots of land already zoned residential on Pine Island that have not yet been built on. This would almost double the population of Pine Island with no further building permits or rezoning. If these property owners are prohibited from building, the Burt Harris Law will immediately kick in. This will cost Lee County tax payers more than any revenues that might have been collected from issuing new large development orders or rezoning of farm land to residential.

I feel the Pine Island Plan should stand as written with no further interpretation. I feel that doing anything else will once again cost Lee County tax payers large amounts of our hard earned money fighting legitimate lawsuits.

Sincerely,


Capt. Barry August

2006 JAN 23 AM 8:00

January 20, 2006
2372 Sycamore St.
St. James City, FL 33956

RECEIVED BY
Mr. David Owens LEE CO. ATTORNEY
Lee County Attorney
Post Office Box 398
Fort Myers, FL 33902

Dear Sir:

Pursuant to the "workshop" of 1/9/06, the public hearing before the commissioners on 1/10/06 and the Annotation Committee process which has been activated, I remain concerned about the decisions made by Lee County courthouse staff and apparently supported by our Board of County Commissioners, pertaining to the Pine Island 810/910 Plan. As has been clearly outlined by Mr. Phil Buchanan on behalf of the Greater Pine Island Civic Association, the plan, which has the strength of law, identifies appropriate actions based on the number of residential units (improved or unimproved) on Pine Island and the anticipated traffic impact once those properties are developed.

Current residents of Pine Island have many concerns regarding five recent development orders and ten pending development orders as identified in the January 20, 2006 News Press. A predominant issue is single roadway access to Pine Island, which therefore affects safe evacuation during annual hurricane seasons. Anyone who routinely traverses this corridor witnesses daily backups that would prove devastating in an emergency. The language, as outlined in the 810/910 Rule, requires cumulative counting of approved residential properties in order to prevent overwhelming the capacity of Pine Island Road. The plan, which was approved by the county 16 years ago, also calls for the cessation of development orders for undeveloped properties once road capacity has been reached. This threshold was reached in 2004.

In closing, I would encourage the Annotation Committee to openly and honestly re-evaluate their interpretation of the Pine Island Land Use Plan in order to assure the public safety of current and future residents and in keeping with prudent *Smart Growth* ideology. It might be appropriate for committee members to visit Pine Island and personally experience the access issues in order to visualize how their decisions affect the health and well-being of those same county residents.

Thank you for your consideration of these issues.

Sincerely,



Susan L. Ratterree
Registered Voter

Owen, David M.

From: mgfrrstr@comcast.net

Sent: Thursday, February 16, 2006 3:25 PM

To: Owen, David M.; Gibbs, Mary

Cc: O Connor, Paul S.

Dear Ms. Gibbs:

As a resident of Pine Island, I am writing to express my support for implementation of the Lee Plan. This plan calls for stopping approval of new development on Pine Island once the traffic count on Pine Island Road exceeded 910 vehicles. This count was reached in 2003, yet developments have continued to be approved.

The Lee County Commissioners have ordered all new Pine Island development orders to be held in abeyance until further review has been made. This is a step in the right direction, but it is not enough. The Lee Plan, approved 15 years ago states that there are to be NO new development orders approved. The county should stick to that plan.

Pine Island is one of the last remnants of good wildlife habitat and rural atmosphere remaining in Southwest Florida, and we who live here want to keep it that way. If others want to live here, there is plenty of housing already available without new construction. "For Sale" signs are up all over.

Please use whatever influence you and the other members of the Annotation Committee may have to see that no further development orders are approved for Pine Island.

Sincerely yours, Mary Forrester
4774 Sandpiper Drive
St. James City, FL 33956
239-283-0627

Owen, David M.

From: Valerie Fors [vjfors@tampabay.rr.com]
Sent: Saturday, February 11, 2006 9:47 AM
To: Owen, David M.; Gibbs, Mary
Cc: bryancrane@gpica.org; O Connor, Paul S.
Subject: Pine Island Land Plan

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Dear Ms. Gibbs:

During the Annotation Committee's discussions I would like the following points to be carefully considered:

The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.

The intent of Pine Island Land Plan (Objective 14.2) is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.

Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Jim and Valerie Fors
11890 Tawas Ct
Bokeelia, Fl
House under construction – occupy summer 2006

Mailing Address 1412 Shell Flower Dr Brandon, Fl.

Greater Pine Island Civic Association

PROTECTING THE SAFETY, HEALTH, WELFARE AND QUALITY OF LIFE OF THE GREATER PINE ISLAND COMMUNITY

PO Box 3044 • Pineland, FL 33945

Ms. Mary Gibbs
Director of Community Development
1500 Monroe Street
Fort Myers, FL 33901

RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Dear Ms. Gibbs:

As a resident of Pine Island and/or Lee County I am extremely concerned with the implementation of the Lee Plan, specifically Objective 14.2.

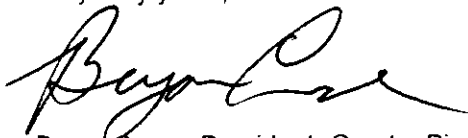
During the Annotation Committee's discussions I would like the following points to be carefully considered:

1. The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.
2. The intent of Pine Island Land Plan Objective 14.2 is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.
3. The issue before the Annotation Committee is the implementation of the existing law. It is not about the discussion of changes to that law. The Florida Statutes provide other methods for amending the law.
4. Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Drafts and final reports of the county staff, annotation committee, and LPA should be sent to the Greater Pine Island Civic Association at P.O. Box 3044, Pineland, FL 33945 in sufficient time to permit review of and allow for the GPICA to provide comment prior to any presentation to the BOCC.

I look forward to your fair and impartial review and opinion.

Very truly yours,



Bryan Crane, President, Greater Pine Island Civic Association

Greater Pine Island Civic Association

PROTECTING THE SAFETY, HEALTH, WELFARE AND QUALITY OF LIFE OF THE GREATER PINE ISLAND COMMUNITY

PO Box 3044 • Pineland, FL 33945

Dear Ms. Gibbs:

As a resident of Pine Island and/or Lee County I am extremely concerned with the implementation of the Lee Plan, specifically Objective 14.2.

During the Annotation Committee's discussions I would like the following points to be carefully considered:

1. The Lee Plan is the legal expression of the requirements for growth management voiced by the citizens of Lee County.
2. The intent of Pine Island Land Plan Objective 14.2 is clear, and should be implemented as presented in the Plan. Owners of vacant, platted lots must be assured that their development rights will be honored, and that sufficient road capacity is reserved in order to make those development rights more than an empty promise.
3. The issue before the Annotation Committee is the implementation of the existing law. It is not about the discussion of changes to that law. The Florida Statutes provide other methods for amending the law.
4. Failure by the County to faithfully implement the 910 Rule to carry out the clear intent of Objective 14.2 will lead to a complete loss of confidence by citizens that the rule of law still prevails in Lee County.

Drafts and final reports of the county staff, annotation committee, and LPA should be sent to the Greater Pine Island Civic Association at P.O. Box 3044, Pineland, FL 33945 in sufficient time to permit review of and allow for the GPICA to provide comment prior to any presentation to the BOCC.

I look forward to your fair and impartial review and opinion.

Very truly yours,

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

Name Beverly A. Borelli Address P.O. Box 113
23 BANANA ST. St. James City

Signature Beverly A. Borelli Date 2-3-06

Name Kathy NEILL Address 3096 Nampa Ln St. James City, FL

Signature Kathy Neill Date 2/3/06

Name Holly Burke Address 3509 Snow Bird Ln St. James City, FL

Signature Holly Burke Date 2/3/06

Name Karen Nagy Address 3285 Stabile

Signature Karen L. Nagy Date 2-3-06

Name Vicki May Address 4698 Sandpiper

Signature Vicki May Date 2-3-06

Name JAMES E Chumley Address P.O. Box 507 Pineland FL 33945

Signature James E Chumley Date 02-03-06

Name Elizabeth Amin Address 6119 Main St # J-52

Signature Elizabeth Amin Date 2/3/06

Name DEBORAH H Brown Address PO BOX 243 St James City

Signature Deborah H Brown Date 2/3/06

Name Bob JONES Address 1203 KITTENWAKE SANDPICK

Signature Bob Jones Date 2/3/06

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____

Signature _____ Date _____

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Teresa Cam Address Ft. Myers Beach

Signature Teresa Cam Date 01/25/06

Name Shelby Evans Address Bonita Springs

Signature Shelby Evans Date 1/26/06

Name Jim Green Address Bokeelia

Signature James Green Date 1-26-06

Name Nancy Kilmartin Address 2431 Chandler Ave Ft Myers

Signature Nancy Kilmartin Date _____ Florida 33907

Name Joelle Hammes Address 13020 tenth St.

Signature Joelle Hammes Date 1/26/06

Name Henry Littleton Address 16184 Buccanere Bokeelia 33922

Signature Henry Littleton Date 1-30-06

Name Carolynn Littleton Address 16184 Buccanere Bokeelia 33922

Signature Carolynn Littleton Date 1-30-06

Name Patricia Ordway Address 6890 Capri Ln. Bokeelia 33922

Signature PATRICIA ORDWAY Date 1-31-06

Name SHEILA ORRELL Address 3607 CLIPPER LN ST JAMES CITY FL 33956

Signature S Orrell Date Feb 7th 2006

Name JC JOHN ORRELL Address 3607 CLIPPER LN ST JAMES CITY

Signature J Orrell Date Feb 9th 2006

Name James E. Wenzel Address 3559 EMERALD AVE

Signature James E. Wenzel Date 2-7-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Roger S. Clark Address 7256 Lake Drive, H. Hays 33908

Signature [Signature] Date 1/26/06

Name Carla Kappmeyer - Sherman Address 1227 SE 2nd Place Cape Coral

Signature Carla Kappmeyer - Sherman Date 1/26/06

FL35990

Name Paul D. Anderson Address 743 MARTHA'S LN SAMUEL

Signature [Signature] Date 1/26/06

Name Wayne House Address 3489 GORPARK BLVD

Signature [Signature] Date 2-7-06

Name BERNARD McARDLE Address 4980 PIN FISH LA

Signature [Signature] Date 2-7-06

Name KENNETH V. PATRICK Address 2372 SYCAMORE ST. SVC

Signature [Signature] Date 2-7-06

Name JULIE MACPHERSON Address 15323 BAHAMA WAY

Signature JULIE H MACPHERSON Date 2-7-06

Name Cathy Hendricks Address 16060 Porto Bello St

Signature [Signature] Date 2-7-06

Name Roy Hendricks Address 16060 Porto Bello St

Signature [Signature] Date 2-7-06

Name C.W. RHODA Address 2468 SARDILLA LN ST JAMES CITY

Signature [Signature] Date 2/7/06

Name [Signature] Address POB 1169 PROUDERVILLE 33922

Signature [Signature] Date 2/7/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Maureen Cochran Address 207 SE 19 Ter

Signature Maureen Cochran Date 1/26/06

Name HM Hughson Address _____

Signature HM Hughson Date _____

Name John Cronington Address 7572 Grande Pine Rd Boca Raton

Signature John Cronington Date 2-7-06

Name Nadine Stimpak Address 14040 Clubhouse Dr. Boca Raton, FL

Signature Nadine Stimpak Date 2-7-06

Name Barbara Howe Address 19045 Stringfellow

Signature Barbara Howe Date 2-7-06

Name SALLY TAPAGER Address 7674 Colours Dr. Boca Raton

Signature Sally Tapager Date 2-7-06

Name William Downing Address 7135 DRUM DR.

Signature William Downing Date 02/07/06

Name RICHARD MAY Address 7989 Judge Bean Pk

Signature Richard C. May Date 2-7-06

Name Jeanne Adams Address 7989 Judge Bean

Signature Jeanne Adams Date 2-7-06

Name MAXINE ENGELSE Address 5120 Stringfellow Rd Lot 158 ST. J.C.

Signature Maxine Engelse Date 2-7-06

Name SHIRLEY HOUSE Address 3489 GASPARILLA ST. SOMERSET CITY

Signature Shirley House Date 2/7/06

5386

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

Name Susan LaBonte Address 12199 STAR SHELL DRIVE
MATLACHA FLKS

Signature Susan LaBonte Date 1/23/06

Name NADINE RUSSO Address 11631 ISLAND AVE
MATLACHA

Signature Nadine Russo Date 1/23/06

Name Wm Probst Address 11250 Porpoise Pt. Rd.

Signature William Probst Date 1/23/06 MATLACHA

Name JUDITH STEDMAN Address 11250 Porpoise Pt rd, matlacha,
33953

Signature Judith Stegman Date 1/23/06

Name Diane Stoelker Address 2572 Second St

Signature Diane Stoelker Date 1/23/06

Name Wm Stoelker Address 2572 Second St

Signature William Stoelker Date 1/23/06

Name M GLENN ALLMON Address 12164 North Shell Dr Mt

Signature M Glenn Allmon Date 1-23-06 33991

Name Clair M. Amor Address 2879 Jant St

Signature Clair M. Amor Date 1-23-06

Name Les A Amor Address 2879 Jant St

Signature Les A Amor Date 1-23-06

Name William Dubin Address 16185 Bowline St. Bokaelia

Signature William Dubin Date 2/3/06

Name BARBARA K. DUBIN Address 16185 BOWLINE ST. Bokaelia

Signature Barbara K. Dubin Date 2/10/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name [Signature] Address 4625 Pine Island Rd NW

Signature Peggy L. McTeague Date 1-25-2006

Name Suzanne Meier Address 7343 Hibiscus, Boca Raton 33422

Signature [Signature] Date 01-25-06

Name [Signature] Address 4020 Pineside Pl

Signature [Signature] Date 1/25/06

Name JAMES R. ARTER Address 5371 STRINGFELLOW RD.

Signature [Signature] Date 1-25-06

Name DAVID SHULTZ Address 3220 S.W. Pine Island Rd.

Signature [Signature] Date 01-25-06

Name ROBERT A. BURKHART Address 2820 VELMA ST

Signature [Signature] Date 1/25/06

Name Robin Harvey Address 2662 Pine St. Matlacha FL 33993

Signature [Signature] Date 1/26/06

Name [Signature] Address 1019 SW 10TH TERRACE 33991

Signature TERESA L. BELL Date 1-27-06

Name CYNTHIA TOLLIVER Address 4618 PI RD MATLACHA 33993
1210 SW 1 PL CC 33991

Signature [Signature] Date 1/27/06

Name NINA PULLIAM Address 11521 ISLAND AVE, Matlacha - seasonal
521 W. DIVISION, ITASCA, IL 60143

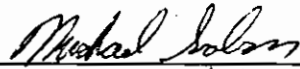
Signature [Signature] Date 1/27/06

Name M. T. [Signature] Address 11940 ISLAND AVE.

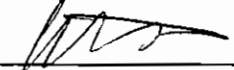
Signature M. CUNDALL Date 2-1-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name MICHAEL Gordon Address 2667 WEST POINT LANE

Signature  Date 1-23-06

Name ROBERT Mc KWIGHT Address 11186 MATLACHA AVE

Signature  Date 1-23-06

Name  Address 1-23-06

Signature  Date _____

Name STU McHAUGHLIN Address 11491 ISLAND AVE

Signature _____ Date 1-23-06

Name MELADY KEHM Address 2551 ^{APTC.} BROADWATER, MATLACHA FL33993

Signature Melady Kehm Date 1/23/06

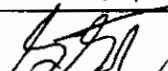
Name Leo Bunn Address 2879 JACUET STREET

Signature Leo Bunn Date 1/23/06

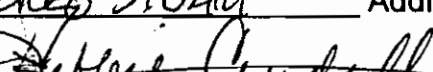
Name Myrtle Orzalli Address 2790 Bruce St - Matlacha

Signature  Date 1/23/06

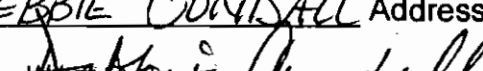
Name John B Orzalli Address 2790 BRUCE ST MATLACHA

Signature  Date 1/23/06

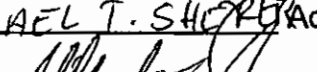
Name GREG STUART Address ~~11860~~ FLAND AVE. MAT

Signature  Date 1-23-06

Name DEBBIE CUNDALL Address 11940 ISLAND AVE MATLACHA 33993

Signature  Date 1-23-06

Name MICHAEL T. SHOPER Address 11635 Island Av, Matlacha 33993

Signature  Date 1/23/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Debbie Preston Address 1392 Gail St, N Ft Myers

Signature Debbie Preston Date 1/26/06

Name LINDA BALLOU Address 4840 E RIVERSIDE DR, FM 33905

Signature Linda Ballou Date 1/26/06

Name Win Everham Address 9135 Morris Rd Ft. Myers

Signature Christa A. Cohen Date 1/26/06

Name Anne-Marie Miles Address 26710 Little John Ct. #44 Bonita

Signature Anne-Marie Miles Date 1-26-06

Name Debbie Hughes Address 677 Astarius Cir Ft Myers

Signature Debbie Hughes Date 1/26/06

Name Robyn Hammes Address 13020 Tenth St 33905

Signature Robyn Hammes Date 1-26-06

Name William F. Hammill Address 5456 PARKER DR. FT. MYERS 33919

Signature William F. Hammill Date 1/26/06

Name Reg. Judok Address 12664 Coconut Cr Ct. Ft. Mye

Signature Reg Judok Date 01-26-06

Name Bill Byle Address 12525 Summerwood Dr. FM 33908

Signature _____ Date _____

Name M. L. Plymwood Address 5235 Red Cedar Dr

Signature M. L. Plymwood Date 1/26/06

Name Chic Shoaf Address 2770 W. 10 Pine Ln #1023 Naples Fla

Signature Chic Shoaf Date 1-26-06

34112

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Paul McKeown Address 2211 LEMOUE ST. - ST. JAMES PLY

Signature [Signature] Date 2/2/06

Name Beverly Goeschel Address 3414 Pine tree

Signature [Signature] Date 2-2-06

Name DAW BURGESS Address BOKEBIA

Signature [Signature] Date 2-2-06

Name Donald Campbell Address 3813 Cherry Lake SJC

Signature [Signature] Date 2/2/06

Name SHARON ROUSEY Address 12750 AUBREY LN Bolin

Signature [Signature] Date 2/3/06

Name Queen Kulekova Address SJC

Signature [Signature] Date 2/2/06

Name Roger Kindred Address Matlack

Signature [Signature] Date 2/2/06

Name Marlene Harst Address 2681 Patterson St. James

Signature [Signature] Date 2/2/06

Name Deanne Martell Address 3020 Harpoon SJC

Signature [Signature] Date 2/2/06

Name Idelwinda Idelfelner Address 2696 Gasparilla St

Signature [Signature] Date 2-3-06

Name Mike Sprague Address 3388 5th # 26 Ave

Signature [Signature] Date 02/2/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Sharon Allright Address 2177 Cactus Point Ln.

Signature Sharon Allright Date Feb 2, 2006

Name Kaye Mieski Address 4921 Sandpiper Dr

Signature K. A. Mieski Date 2/21/06

Name Pam Bauer Address 4771 Flemingi Dr.

Signature Pamela Bauer Date 2/2/06

Name Charles C. Messina Address 4925 Curlew Dr. St. James City

Signature Charles C. Messina Date 2/2/06

Name Susan Klasing Address 3534 Ruby Ave. St. James City

Signature Susan Klasing Date 2-2-06

Name Marcella Lenz Address 4931 Huelgate Ln. St. James

Signature Marcella LENZEN Date 2/2/06

Name Carolyn M Stanley Address 3913 Dewberry St James City 33956

Signature CAROLYN M STANLEY Date 2-2-06

Name Pat Merica Address 3597 Gandale Lane

Signature Patricia Merica Date 2-2-06

Name Camille M. Mann Address 16373 Bayce #101 Bokerlia

Signature Camille M. Mann Date 02/02/06

Name Ronald King Address Bokerlia, FL 33922

Signature RONALD KING Date 2-2-06

Name Elizabeth Ashley Address 2941 Security Lane

Signature ELIZABETH A. ASHLEY Date 2-2-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name MADECON O'NEILL Address Bokeelia

Signature Madelon C. O'Neill Date Feb 2, 06

Name MARILYN CHISHOLM Address ST JAMES CITY

Signature Marilyn Chisholm Date FEB 2 2006

Name SHEELAGH KNAPP Address 4932 GULFGATE

Signature Sheelagh Knapp Date 2-2-06

Name Richard H. Knapp Address 4932 Gulfgate

Signature RICHARD KNAPP Date 2-2-06

Name CYNTHIA WILCOX Address 7129 Cobble Dr. S.J.C.

Signature Cynthia Wilcox Date 2/2/06

Name Marilyn Masten Address 16828 Capt's Dr

Signature MARILYN L. MASTEN Date 2/2/06

Name Sandra Rosenby Address 5919 Porpoise Pl

Signature Sandra Rosenby Date 2/2/06

Name Hans Rosenby Address 5919 Porpoise RD

Signature Charles Rosenby Date 2/2/06

Name Guylyn DeMeure Address Saint James City BOKEELIA

Signature Guylyn DeMeure Date 2/2/06

Name Leslie Hastings Address 4971 FORKY LANE

Signature LESLIE HASTINGS Date 2.2.06

Name Tom Drows Address 3100 BOWSPRIT

Signature TOM DROWS Date 2/2/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Marshall H. Ragan Address 7500 Captains Harbor Dr. 801 ^{Bokeelia}

Signature Marshall H. Ragan Date Feb 2, 2006

Name Deborah Lytle Address 15490 Quail Tr., Bokeelia

Signature Deborah Lytle Date 2-2-06

Name Mary Ann Joy Address 3708 Clipper Lane

Signature Mary Ann Joy Date 2/2/2006 ^{St. James City, FL 33956}

Name Diane Hastings Address 4971 Parky Lane

Signature Diane Hastings Date 2/2/06

Name Roger L. Wood Address 3775 PARKWAY ST.

Signature ROGER L. WOOD Date 2/2/06 ^{ST. JAMES CITY FL}

Name Diane Drew Address 3100 Bowspout ^{St. James City}

Signature Diane Drew Date 2/2/06

Name Ben Crabill Address 1212 SW 35th St

Signature Ben Crabill Date 2/2/06

Name Armand H. DeBe Address 7760 Farvel Rd

Signature Armand H. DeBe Date 2/2/06

Name Carol Schultz Address 12241 Harry St.

Signature Carol Schultz Date 2-2-06

Name Margit J. Jan Address Populia 2/2/06

Signature Margit J. Jan Date 2-2-06

Name ROBERT J. JANSHAK Address 4780 FLAMINGO

Signature Robert J. Janshak Date 2-2-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Richard A Crew Address St James

Signature Richard A Crew Date 2/2/06

Name Ann Roberts Address 4857 Sandpiper

Signature AR Date 2/2/06

Name Dorothy Carlson Address St James City

Signature Dorothy E Carlson Date 2/2/06

Name Perri L. Giufalione Address 5451 Cubles Dr. Bokeria, FL.

Signature [Signature] Date 2/2/06

Name Mimi Woods Address Bokeria

Signature Mimi Woods Date 2/2/06

Name CATHERINE DUGGER Address 4981 ROCKY LANE - ST. JAMES CITY

Signature Catherine Dugger Date 2/2/06

Name JOHN P. LEWIS Address 3637 SCHOONER LN. ST. JAMES

Signature JPL Date 2/2/06

Name GAIL R BARONE Address 2597 2nd St. Matlacha

Signature Gail R Barone Date 2-2-06

Name Jim Elchin Address 7295 Cobble Pr. S. J. C.

Signature [Signature] Date [Signature]

Name Sarah M Russell Address 16136 Bowline St., Bokeria

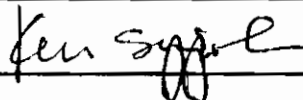
Signature Sarah M Russell Date February 2, 2006

Name SONET GOODWIN Address 4988 FLAMINGO DR. ST. JAMES CITY FL

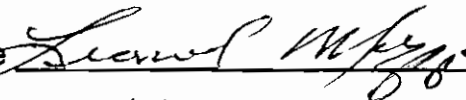
Signature Sonet Goodwin Date 2/2/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name KEU SIPPOLA Address 9241 BLUE CRAB CIRCLE D-3

Signature  Date 2-2-06

Name Leonard Muzzi Address HINGHAM MA

Signature  Date 2/2/06

Name Mary Abbott Address WYBANTH MA

Signature  Date 2/2/06

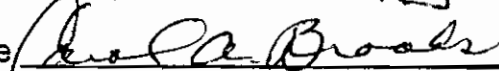
Name Joan Bearden Address 5808 Kingsh Rd, Bokaelia

Signature  Date 2/2/06

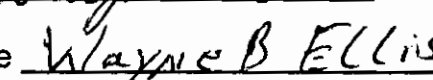
Name Maria Galini Address 34 East Pleasant St, Malden MA

Signature  Date 2/2/06

Name Carol Brooks Address 3085 BOWSPRIT LN.

Signature  Date 2-2-06

Name Wayne Ellis Address Matlacha

Signature  Date 2/2/06

Name Robert Macomber Address 2637 157 ST MATLACHA

Signature  Date 2-2-06

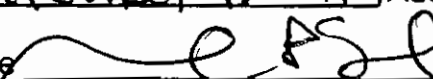
Name Bertha Brown Address 7602 Regmarie

Signature _____ Date _____

Name LOUISE SHAW Address 5050 SANDPiper DR. SJC.

Signature  Date 2-4-06

Name Michael P. Smith Address 3235 FRANZONNE Rd. SJC.

Signature  Date 2-2-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Pat Koval Address 5120 Stringfellow Rd

Signature Pat Koval Date 2/2/06

Name Mary A. Stalling Address 7814 Pinalos Cove Ln Bakersfield

Signature Mary A. Stalling Date 1-2-06

Name Anne Whitmore Address SJC

Signature Anne M Whitmore Date 2/1/06

Name Wm Pocco Address 15025

Signature WILLIAM POCO Date BOK FÉLIA

Name Marge Shallow Address 4272 Courtney

Signature Marge Shallow Date 01-02-06

Name Andrew Kaufman Address P.O. Box 683 St. James City

Signature Andrew Kaufman Date 2/2/06

Name Eileen K. Wolf Address 3785 Stable St James City

Signature EILEEN K. WOLF Date 01-2-06

Name Glen S. Diers Address St. James City

Signature Glen S. Diers Date 1-2-06

Name KIETH DIERS Address St James, City

Signature Kieth Diers Date 2-2-06

Name KEN WEBER Address 2260 CARAMBOLA ST JAMES

Signature Ken Weber Date 2 FEB 06

Name PHYLLIS WEBER Address 2260 CARAMBOLA ST JAMES

Signature Phyllis Weber Date 2 FEB 06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name [Signature] Address 11943 Oakland

Signature [Signature] Date 2/2/06

Name GARY SHELTON Address DO KEE LIA

Signature [Signature] Date 2/2/06

Name Sandy King Address Bakeelia

Signature _____ Date _____

Name E. Elizabeth Clafflin Address 8792 Skagway Ct

Signature [Signature] Date 2/2/06

Name David Clafflin Address 8792 Skagway Ct

Signature [Signature] Date 2/2/06

Name ROBERTA J. MARE Address 8566 REDWOOD, ST. JAMES CITY

Signature [Signature] Date 2/2/06

Name Jean Y Newman Address 15058 Third St Bakeelia

Signature [Signature] Date 2-2-06

Name Barbara The Plant Address 2343 Date ST. ST. James City

Signature [Signature] Date 2-2-06

Name RON POSTER Address 15925 QUAIL TRAIL BAKEELIA

Signature [Signature] Date 2-2-06

Name Marlene Kuhl Address Bakeelia, FL

Signature [Signature] Date 2/2/06

Name CYNTHIA DENEG Address ST James City

Signature [Signature] Date 2-2-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name C. L. Linn Address 4416 SE 10th Place

Signature Mar Date _____

Name Margaret Felt Address 5300 Flamingo Dr

Signature Margaret Felt Date 2-2-06

Name Madeline Cyrak Address 9431 Tarleton St

Signature MADÉLINE CYRAK Date 02-02-06

Name John M. Manus Address St James City

Signature John M. Manus Date 2-2-06

Name Lolly Beckman Address 7217 Cobiac 2-2-6

Signature _____ Date _____

Name Tom Dahl Address 4790 Gulfgate Ln

Signature Tom Dahl Date Feb 2/06

Name Brenda Lane Address 16201 Burr Lane

Signature Brenda Lane Date 2/2/06

Name Julie Hines Address 78 St James City

Signature Julie Hines Date 2/2/06

Name James Lopez Address 2622 Bridgeview St MATRCH A

Signature James Lopez Date 2/2/06

Name Rosemary Muldon Address SAND JAMES CITY

Signature Rosemary Muldon Date 02/01/06

Name William Misenheimer Address Bokeelia Fl

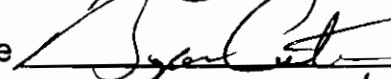
Signature W. Misenheimer Date 2/02/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

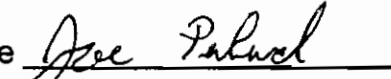
Name Nancy Boulden Address St James City

Signature  Date 2-2-06

Name Bejan C. Hice Address St James City

Signature  Date 2-2-06

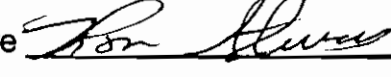
Name Joe Penland Address 11828 Isl. Ave

Signature  Date 2-2-06


Name HE. DEWEY Address 3579, St. James

Signature HE-DEWEY Date ~~2-2-05~~ 2-2-05

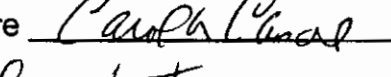
Name Ton Stewart Address 5898 Eastling Rd

Signature  Date 2/02/06

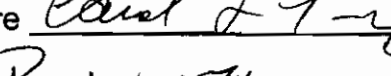
Name BARBARA HOIT Address St James City

Signature  Date 2-2-06

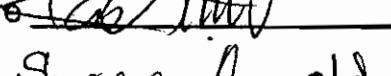
Name CAROL A Carol Address 2650 Clyde St. Matlacha

Signature  Date 2/2/06

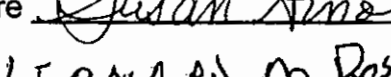
Name CAROL TOWEY Address 5439 RAINBOW DR

Signature  Date 2/2/06

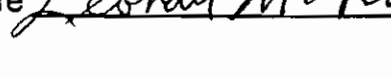
Name BOB LUSTH Address BOKEELIA

Signature  Date 2-2-06

Name Susan Arnold Address St. James City

Signature  Date 2-2-06

Name LEONARD M. ROSE Address Bokelien

Signature  Date 2-2-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name KEVIN MARSHALL Address 7145 LADY FISH SJC

Signature [Signature] Date Feb 2/06

Name MARIA VAZQUEZ Address 6430 ALLEN PARK DR. BOKEELIA

Signature [Signature] Date 2-2-06

Name Joyce Covey Address 5347 Meadowlark Ln

Signature [Signature] Date 2-2-06

Name GLEN HERSEY Address 9.5 COVE RD. HUBBARDSTON MA. 01452

Signature [Signature] Date 2/2/06

Name ANNE R. DAYMAN Address 2930 Bumpus Lane SJC.

Signature [Signature] Date 2/2/06

Name Mary C Hornsby Address 5361 Blue Crab ES

Signature [Signature] Date 2-2-06

Name ED HAILES Address 5968 Kingsfish RD

Signature [Signature] Date 2/2/06

Name BRUCE ANDERSON Address PINE IS.

Signature [Signature] Date 2-2-06

Name Jeanie Heber Address MARINA DR BOK

Signature [Signature] Date 2-2-06

Name Max Miller Address St. James City FL

Signature [Signature] Date 2-2-06

Name [Signature] Address St. James City FL

Signature [Signature] Date 2/2/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name THOMAS A. GARDNER Address 4260 PINE TREE BLVD ST. JAMES CITY
Signature Thomas A. Gardner Date 2-2-06

Name THOMAS E LUCAS Address 11890 OSCODA CT BOKEELIA, FL

Signature TE Lucas Date 2-2-06

Name Daryl Schroeder Address 1129 SW 6th terrace

Signature Daryl Schroeder Date 2-02-06

Name MICHAEL EPSTEIN Address 3089 CUSSELL DR

Signature Michael Epstein Date 2/2/06

Name Gordon Buckley Address St. James City

Signature Gordon Buckley Date 2 Feb 2006

Name Shirley Buckley Address 4863 Caslow Dr. S. J. C.

Signature Shirley Buckley Date 2/2/06

Name Nancy Johnson Address 5120 Stringfellow Rd

Signature Nancy Johnson Date 2/2/06

Name TOM VANDERVELDE Address 8115 MAIN BOKEELIA

Signature Thomas Van der Velde Date 2/2/06

Name PATRICIA VANDERVELDE Address BOKEELIA

Signature Patricia J. Vander Velde Date 2/2/06

Name Donna Zawadzki Address Bokeelia

Signature DONNA N-ZAWADSKI Date 2-2-06

Name John Morney Address 3792 Mango St., SJC

Signature John Morney Date 2.2.06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Betty Coale Address Bokelia FL

Signature Betty a-Coale Date 2/2/06

Name Richard Warner Address 12171 STAR SHED DR.

Signature Richard Warner Date Feb 2, 2006

Name JACQUE Blaney Address St. James City Fla

Signature Jacque Blaney Date 2/2/06

Name Roy Sheer Address 7786 Breakwater CT Bokelia

Signature Roy Sheer Date 02-02-06

Name MARK STROM Address 8221 MAIN street, Bokelia

Signature Mark Strom Date 02/2/06

Name Bob Doheny Address Ft. Myers

Signature Bob Doheny Date 02-02-06

Name FRANCIS YERRES Address 6439 CATFISH ct St. J. C.

Signature Francis Yeres Date 2-2-06

Name George Grogan Address 11249 SHOMAN CHIEF

Signature GEORGE GROGAN Date 2-2-06

Name Jill Faro Address Bokelia

Signature JILL FARO Date Feb 2 2006

Name V. Pasquante Address 4539 Pine Ridge ct St James City 33956

Signature _____ Date _____

Name Eliz. H. Davidse Address Tangelo Dr. SIC 33956

Signature Elizabeth H. Davidse Date 2-2-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Harvey Hamilton Sr. Address 16101-T. D. Ortega St

Signature [Signature] Date 2-2-06

Name Harvey Hamilton Jr Address " "

Signature [Signature] Date 2-2-06

Name Rosemary Peters Address 16814 Estuary, Boca Raton

Signature Rosemary Peters Date 2/2/06

Name Alice K Fowler Address St. James City

Signature Alice K Fowler Date 2-2-06

Name Donna Gerlach Address 5492 Ave C

Signature Donna Gerlach Date 2-2-06

Name Barbara Ellinger Address 4984 Porky Lane, St. James City

Signature Barbara Ellinger Date 2-2-06

Name GARY NELSON Address ST. JAMES CITY

Signature Gary Nelson Date 2-2-06

Name NORMA Scullen Address Boca Raton

Signature Norma Scullen Date 2-2-06

Name ANTHONY VETTRAINO Address BOCA RATON

Signature Anthony Vettraino Date 2/2/06

Name Marjorie Campbell Address 3813 Cherry Ln SIC FL

Signature Marjorie Campbell Date 2/2/06

Name Paul Kullback Address SIC

Signature Paul Kullback Date 2/2/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Loyd Karst Address 16763 Seagull Bay Court

Signature [Signature] Date 2/2/2006

Name Mary Fichter Address 15175 Stringfellow Rd

Signature _____ Date _____

Name Debbie Hinkle Address 3388 5th ave, Box 20 St. James City

Signature Debbie Hinkle Date 2-2-06

Name Ursula Grafton Address 4870 Sandpiper S.J.C.

Signature Paul King Date 2-2-06

Name Victoria Grafton Address 4870 Sandpiper S.J.C.

Signature VICTORIA GRAFTON Date 2-2-06

Name Mary Koster Address St James City, FL

Signature Mary Koster Date 2/02/06

Name Robert Thornton Address St James City

Signature [Signature] Date 2/02/06

Name Kathleen Gigantello Address _____

Signature Kathleen Gigantello Date 2/2/06

Name Dawn Welch Address Bokeelia, FL

Signature DAWN Welch Date 2-2-06

Name Harriet Gault Address 5579 Meadowlark Lane

Signature Harriet gault Date 2-3-06

Name DAVID WERNER Address 14043 BOKEELIA Rd

Signature David Werner Date 2/3/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Patricia Maki Address 8291 Main St Bokeelia

Signature Patricia Maki Date 02/03/06

Name CHARLES KREJCI Address POB 301

Signature Charles Krejci Date 02-03/06

Name Shirley Palmer Address Box 808

Signature Shirley Palmer Date 2-3-06

Name Shelley Babbitt Address BOX 174 Bokeelia, FL 339 22

Signature Shelley Babbitt Date 2/3/06

Name W C LACHANCE Address 2432 SYCAMORE

Signature William C. Lachance Date 3 Feb 2006

Name Patricia Steele Address 8335 Stringfellow

Signature Patricia Steele Date 2-3-06

Name Dennis Mickes Address 5120 Stringfellow Rd

Signature Dennis Mickes Date 2/3/06

Name Thomas Solberg Address 3680 Blueberry Ln

Signature Thomas Solberg Date 2/3/06

Name Rory J. J. Address 3475 TANGILO

Signature Rory J. J. Date _____

Name Sylvia Graham Address 11515 Island Ave

Signature Sylvia Graham Date 2/3/06

Name Richard Graham Address 11515 Island Ave

Signature Richard Graham Date 2/3/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Patricia M. Cox Address 7600 Grand Pine Rd

Signature Patricia M. Cox Date Feb 3, 2006

Name William Conover Address 5021 Sand P. Per dr. Saint James

Signature William Conover Date 2-3-06

Name Patrick O'Keefe Address 4041 Cuba Cay Estate, Punta Gorda

Signature Patrick O'Keefe Date 2/3/06

Name MARTHA COLLINS Address 15175 STRING FELLOW RD

Signature Martha Collins Date 2/3/06

Name Elaine L. Wood Address 5460 Meadow Lark

Signature Elaine Wood Date 2/3/06

Name Karen Adams Address 7322 Sund. St Blvd

Signature Karen Adams Date 2/3/06

Name Marta Hastings Address 3273 Stable

Signature _____ Date _____

Name FRANCES E. LEVER Address 2179 Lemm St. James

Signature Frances E Lever Date 2/3/06

Name FLORENCE JANSSEN Address 7594 GRANDE PINE RD.

Signature Therese Jansen Date 2-03-2006

Name Sibley Smith Address 2701 YORK Rd.

Signature Sibley G. Smith Date 02/03/06

Name Shera Burnett Address 16091 Quail Trail Breeka, FL

Signature Shera Burnett Date 2/03/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name George A Powell Address 7316 CODIAC PI

Signature George A Powell Date 2-3-06

Name Marilyn Mc Ginnis Address Orealander

Signature Marilyn Mc Ginnis Date 2-3-06

Name MARILYN D. ALTS Address 7050 Drum Cr. - SE

Signature Marilyn D. Alts Date 2-3-06

Name Candy Baer Address PO Box 317 Pinedale

Signature Candy Baer Date 2-3-06

Name DONALD T. BEATTY Address 2542 YORK RD.

Signature Donald T Beatty Date 2/3/06

Name Phyllis J. Lott Address 2422 York St. James

Signature Phyllis Jay Lott Date Jan Feb 3, '06

Name Margie J. Knitowski Address 4935 FOR KY Lane

Signature MARJORIE Knitowski Date

Name PAUL A ROSE JR Address 2218 SE 8th PLACE, Cape Coral

Signature Paul A Rose Jr Date 02/03/06

Name Betty Goulden Address 5776 Tarpon Rd

Signature Betty S. Goulden Date 2/3/06

Name TONY LEMUS JR Address 4636 Bayview AVE

Signature Tony Lemus Jr Date 1/3/06

Name Robert Beasley Address ~~5220~~⁵¹²⁰ Stringfellow Rd.

Signature Robert Beasley Date 2-3-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

Name NANCY C Powell Address 7314 Cobiac Dr Mt James City Jk

Signature Nancy C Powell Date 2-3-06

Name ROBERT LEE Address 3915 MANATEE

Signature RL Date 2-3-06

Name Michelle Ash Address 2422 York St James, FL

Signature Michelle Ash Date 2-3-06

Name Lill Davidson Address 4924 Cobiac Dr.

Signature Lill Davidson Date 2/3/06

Name Susan Ratter Address 2372 Sycamore St JJC

Signature Susan Ratter Date 2/3/06

Name Eleanor Dory Address 3843 Phoenix

Signature Eleanor Dory Date 2-3-06

Name COLETTE A McNEELY Address 433 NW 39TH AVE CC 3592

Signature Colette McNeely Date 2-3-06

Name Jim Mills Address 16263 Boyce Dr - Berkeley FL 33422

Signature Jim Mills Date 2-3-06

Name KATHY BEASLEY Address 5120 ST KING FELLOW #237

Signature Kathy Beasley Date 2-3-06

Name Marlene Skeen Address 2510 Broadwater St.

Signature Marlene E. Skeen Date 2-3-06

Name Bernard Muldoon Address 2888 Alacran St St James City FL

Signature Bernard Muldoon Date 2/3/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name DEE ARNOLD Address 5136 FLAMINGO BAY

Signature Dee Arnold Date 2/3/06

Name M.G. MAC GREGOR Address 14130 Clubhouse Dr.

Signature M.G. MacGregor Date 2/3/06

Name Judith Pete Polka Address 7503 Sundiet Blvd

Signature Judith Polka Date 2/3/06

Name PAUL R. POLKA Address 7503 SUNDIET BLVD

Signature Paul R. Polka Date 2-3-06

Name Sean Dornell Address 16091 Quail Trail

Signature Sean Dornell Date _____

Name Willis F. Fry Address 5441 Blue Crab Circle - R-3
Buckee, FL

Signature Willis F. Fry Date 2-3-06

Name Bonita S. Fry Address 5441 BLUECRAB CR R3
BUCKEE FL

Signature Bonita S. Fry Date 2-3-06

Name Richard T. Desvernie Address BIC - M-38

Signature Richard T. Desvernie Date Feb 3.

Name FRANCES A. MILLS Address 3664 GASPARI LLA ST.

Signature Frances A. Mills Date 2-3-06

Name Helen T. Castile Address 16683 Seagull Bay Ct.

Signature Helen T. Castile Date 2-3-06

Name John D. Wilson Address 12254 Dolphin Rd

Signature John D. Wilson Date 2-3-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name MARTHA STACKS Address 4959 PINFISH ST JAMES

Signature Martha Stacks Date 2-3-06

Name WALTER STACK Address 4959 PINFISH

Signature Walter Stacks Date 2-3-06

Name MAXINE OSBORNE Address 7798 Rayman St

Signature Maxine Osborne Date 2/3/06

Name Barbara McElroy Address 15856 Calloway St

Signature Barbara McElroy Date 2/3/06

Name Bert-Elizabeth Hawkins Address 3686 Pinetree - St. James

Signature Elizabeth Hawkins Date 2-3-06

Name Robert Peyer Address 3114 Pennack Ln SJC

Signature Rob Peyer Date 2-3-06

Name GERALDINE GORDON Address 3764 Blueberry Lane

Signature Geraldine Gordon Date 2-3-06

Name Katei Brewer Address 3226 6th Ave S. James

Signature [Signature] Date 2/3/06

Name Sara B. Huber Address 3791 Blueberry SJC

Signature Sara B. Huber Date 2/3/06

Name Martha Peyer Address 3114 Pennack Ln

Signature Martha Peyer Date 2-3-06

Name Elaine Wilson Address 12254 Dolphin St.

Signature Elaine Wilson Date 2-3-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name RICHARD GOURLEY Address 4185 TUSCA RD. BEAVER, PA.

Signature *Richard Gourley* Date 2-3-06

Name David T. Mancow Address 3386 YORK Pk

Signature *David T. Mancow* Date 2/3/2006

X Name WILLIAM K. ADAMS Address 4812 FLAMINGO PR. ST. JAMES CITY

X Signature *William K. Adams* Date 2-3-06

Name NANCY NICOLEN Address 2729 ~~FLAMINGO~~ PATTERSON CT ST JAMES

Signature *Nancy Nicolen* Date 2-3-06

Name BARBARA McMAHAN Address Eighth Ave.

Signature *Barbara Mc Mahan* Date 2-3-06

Name Ralph McMAHAN Address Eighth Ave

Signature *Ralph Mc Mahan* Date 2-03-06

Name Richard Folks Address 5231 Blue Crab Circle

Signature *Richard Folks* Date 2/3/06

Name Virginia Sharp Address _____

Signature *7798 Gayman St* Date Feb 3/06

X Name Sandra Huggins Address 7760 CORPENIER RD

X Signature *Sandra Huggins* Date 2/3/06

Name R E ALLEN Address Box 548 Pineland, FL

Signature *R E Allen* Date _____

Name THOMAS DARMAS Address 2953 BRACCI Dr. ST JAMES

Signature *Thomas Darmas* Date 2/3/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Violet Hauck Address 2880 8th Ave
Signature Violet Hauck Date 2/3/06

Name Carl Hauck Address VILGE GARDENIA PL
Signature Carl H. Hauck Date 2-3-06

Name Vicky Werner Address 14043 Bokelia
Signature Vicky Werner Date 2/3/06

Name BARBARA LaPrise Address 3859 Phoenix DR 51 James City
Signature Barbara LaPrise Date 2/3/06

Name Sandra Chitwood Address 3801 Jade Ave, St. James
Signature Sandra Chitwood Date 2/3/06

Name M.C. McIVER Address 7175 COBIAC
Signature M.C. McIVER Date 3 Feb 2006

Name MICHAEL C. GRAZIANO Address 2911 BOUNTY LN.
Signature Michael C. Graziano Date 02/03/2006

Name Jane E Graziano Address 2911 Bounty Ln
Signature Jane E Graziano Date 2/3/06

Name Joy S Ecker Address 7648 Carpenter Rd
Signature Joy S Ecker Date 2-3-06

Name Leslie Sendell Address Box 142 Bokelia
Signature Leslie Sendell Date 2-3-06

Name John Dostky Address 5941 WISCONSIN
Signature John Dostky Date 2/3/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Jay Easter Address 5999 Cardinal Ln. Bokeelia

Signature Jay Easter Date 2/3/2006

Name Marcella Burks Address 4895 Middle Rd

Signature Marcella Burks Date Feb 3, 06

Name Linda L. Toles Address PO Box 490 Bokeelia

Signature Linda L. Toles Date 2-3-06

Name Rosalie Preston Address 15805 Missouri Bokeelia

Signature Gary Malner Date 2/3/06

Name Gary Malone Address 14110 Bokeelia Rd.

Signature Leah Flak Date 2/3/06

Name Leah Flak Address 16073 Powline St.

Signature _____ Date _____

Name DAVID LESTER Address 13001 WAYBACK RD BOKEELIA

Signature David Lester Date 2/3/06

Name Joe Baxley Address 5223 Genesee Pkwy

Signature Joe Baxley Date 2/3/06

Name Virginia B. Smith Address 4937 Coburn Dr.
 St. James city, Fla.

Signature Virginia B. Smith Date 2/3/06

Name BARBARA FOX Address 5431 BLUE CRAB CR. #2

Signature Barbara Fox Date 2-3-06

Name ROGER DENARD Address Bokeelia, Fla.

Signature Roger Denard Date 2/3/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Fay B Jones Address 4937 Cobiac Drive, St. James City

Signature Fay B. Jones Date 2-3-06

Name Andrey Klein Address 5120 Stringfellow Av

Signature Andrey R Klein Date 2-3-06

Name Patricia Jewell Address 2939 Scribble Blvd

Signature Patricia Jewell Date 02/03/06

Name Sanyal WADW Address P.O Box 414

Signature Sanyal WADW Date 2-3-06

Name F. McCULLOUGH M Address 2694 BROCK ST

Signature F. McCullough Date 2-3-06

Name CHRISTINE Bluet Address 15175 Stringfellow Rd

Signature Christine Bluet Date 2-3-06

Name Richard Henry Address 2682 Heron Ct

Signature Richard Henry Date 2-03-06

Name LIBERTY GREGORY Address 3402 PINE TREE DR

Signature Liberty Gregory Date 2-3-06

Name Ed Chapin Address P.O. Box 343

Signature Ed Chapin Date 3 FEB 06

Name Robert S. McNeil Address 4954 PARKY LN

Signature Robert S McNeil Date 2-3-06

Name Sinda Owens Address 4808 Curlew Dr.

Signature Sinda Owens Date 2/3/2006

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Jean Spradlin Address 3242 York Rd 5JC

Signature Jean Spradlin Date Feb 3-06

Name Julia Simpson Address 5477 AVE E

Signature Julia Simpson Date 2-3-06

Name Lee Mahannd Address 4952 Gulf Gate Ln

Signature Lee Mahannd Date 2/3/06

Name Shirley Nechaus Address 15175 Stungilles Rd

Signature ~~Shirley Nechaus~~ Date _____

Name JOAN MERKWARZ Address 7690 MYRSINE CIRCLE

Signature Joan Merkwarz Date 2/3/06

Name DOUGLAS GORDON Address 3164 DEWBERRY LA

Signature Douglas Gordon Date 2-3-06

Name JOAN KROMHOUT Address 3892 COCONUT DR.

Signature Joan Kromhout Date 2-3-06

Name LOIS B ESKDALE Address 7731 BOVILLA LN #5, BOKEELIA

Signature Lois Eskdale Date 2/3/06

Name BOB BARTON Address 3725 JADE

Signature Bob Barton Date 2-3-06

Name X. COMBOW Address 15175 STUNGILLES RD P,

Signature X. Combow Date 2/3/06

Name GLEN ROSENIS Address 3687 MANATEE DR

Signature Glen Rosenis Date 3 FEB 2006

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

Name Helen Gambree Address 2581 Oleander, ST. James City

Signature Helen Gambree Date 2-3-06

Name ENID TOWNSEND Address 2507 Sanibel Blvd. S.J.C.

Signature Enid A. Townsend Date 2/3/06

Name Joy Ziss Address 16280 Porto Bello St

Signature Joy Ziss Date 2-3-06

Name DOROTHY MITZSCHE Address 7314 Duval St. N.W. ST James

Signature Dorothy Mitzsche Date 2/3/06

Name DAVID SMITH Address 7680 HELEN RD

Signature David Smith Date 2/3/06

Name Wilma CROOK Address 15175 Stringfellow Lot 52

Signature Wilma Crook Date 2/3/06

Name MARY OHMART Address 11379 ARGENTINE

Signature Mary Ohmart Date 2/3/06

Name Blair Conway Address 7561 Grande Pine Rd. Dade

Signature _____ Date 2/3/06

Name ARDIS DEIBOS Address ~~2770~~ 4925 Parkway Ln

Signature _____ Date 3/2/06

Name FREDERICK BRANN Address 4740 GULFGATE Ln.

Signature Frederick W. Brann Date 3-2-06

Name SANDY FAGLIANETE Address 4539 Pine Village Ct LISIANS

Signature Sandy Faglianete Date 3-3-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

4477 COURTNEY RD.

Name JERRY CONGDON Address ST JAMES CITY, FL

Signature Jerry Congdon Date 2-3-06

Name Margaret Bunting Address 4694 Pine Island Rd
Matlacha, FL 33553

Signature Margaret Bunting Date 2-3-06

Name Matthew LeDore Address 4806 Sandpiper Cir.

Signature Matthew LeDore Date 2-3-06

Name ROBERT SALVATORE Address 4512 LAKE HEATHER CIRCLE

Signature Robert Salvatore Date 2-3-06

Name Don Jellick Address 3870 Papaya

Signature Don Jellick Date 2-3-06

Name JOE VALGE Address 2921 BOWSPRIT LN

Signature Joe Valge Date 2/3/06

Name Cornelia Sigdal Address 7187 Drum Dr 2-3-06

Signature Cornelia Sigdal Date 2-3-06

Name Lois Braselton Address 5120 Stringfellow Rd

Signature Lois Braselton Date 2-3-06

Name Fred Braselton Address 5120 Stringfellow

Signature Fred Braselton Date 2-3-06

Name Marilyn W. Smith Address ~~2596~~ Bay Breeze St. James

Signature Marilyn W. Smith Date 02/03/06

Name Roger E. Smith Address 2596 Bay Breeze St. James

Signature Roger E. Smith Date 02/03/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

Name Daniel G. Post Address 2565 2nd St. Matlacha

Signature Daniel G. Post Date 1/23/2006

Name ^{Maarie} MARIE H. Cahill Address 11811 Island Ave Matlacha

Signature Maarie Cahill Date 1/23/06

Name Nancy Brown Address 11789 Island Ave

Signature Nancy Brown Date 1/23/06

Name Daniel B. Foote Address 2159 Macadamia St. SJC

Signature Daniel B. Foote Date 2/7/06

Name Edward C Anderson Address 524 Blue Oaks Cir, De Bodee, FL

Signature Edward C Anderson Date 2/7/06

Name Maryanne Address 2580 Manatee Ave

Signature Maryanne Date 2-7-06

Name Robert M Sofranko Address 8105 Barrancas Ave

Signature Robert M Sofranko Date 2/7/06

Name Anne Sayers Address 2356 Sapodilla Lane

Signature Anne Sayers Date 2/7/06

Name Doris D Mulda Address 2309 Sapodilla Lane

Signature Doris D Mulda Date 2-7-06

Name Mildred Schindler Address 70 Box 826 Rokee, FL

Signature Mildred Schindler Date 2/7/06

Name Jack F. Schindler Address 16201 Bowline St.

Signature Jack F. Schindler Date 2/7/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Judy Miller Address 3683 Dewberry

Signature Judy Miller Date 2-3-06

Name Pat Johnson Address 3219 7TH AVE

Signature Pat Johnson Date 2-3-06

Name Ken Johnson Address 3219 7TH AVE

Signature Ken Johnson Date 2-3-06

Name Pat Johnson Address Dolphin

Signature Pat Johnson Date 2-3-06

Name Paula Montgomery Address 7858 Breakwater

Signature Paula Montgomery Date 2-3-06

Name JACK BONZELEN Address Blue Crab Key MS

Signature Jack W Bonzelen Date 2-3-06

Name LUCY RENCE PEARSON Address 7859 BREAKWATER

Signature Lucy Rence Pearson Date Feb 03/06

Name Pat Perry Address 7859 Breakwater

Signature Pat Perry Date Feb 3 / 06

Name FRANK C. WILD Address 11473 FLINT LN

Signature Frank C. Wild Date 03 FEB 2006

Name Bruce Miller Address 4975 Porky LN

Signature Bruce Miller Date 01/03/06

Name Pat Miller Address 4975 Porky Ln

Signature Patricia Miller Date 01/03/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Joyce Shannon Address 13988 Stringfellow Rd

Signature Joyce Shannon Date 2/3/06

Name Tom Nowling Address 3751 Blueberry Ln - St. James

Signature Tom Nowling Date 2/3/06

Name Sharon Nowling Address 3751 Blueberry Ln. St. James

Signature Sharon B Nowling Date 2/3/06

Name Arthur Borrelli Address 2355 Barone St St James City

Signature Arthur Borrelli Date 2-3-06

Name Patricia Tweed Address 4451 Barrancas Ave.

Signature PATRICIA R. TWEED Date 02-03-06

Name Deloris Wilson Address 2482 York Rd.

Signature Deloris Wilson Date 02-03-06

Name Donna Zimmerman Address 16244 Nautical Way
Bokeew FJ 33122

Signature Donna Zimmerman Date 2-3-06

Name Denny Siebert Address 3509 Snowbird Ln.

Signature Denny Siebert Date 2/3/06

Name Ann Workman Address 3812 Emerald Ave St James City

Signature Ann Workman Date 2/3/06

Name K. HITCHINS Address 4994 SANDPIPER

Signature K Hitchins Date 2-3-06

Name Michelle G Smith Address 10620 HABITAT TR Bok

Signature Michelle G Smith Date 2-3-06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

ST. JAMES

Name KENT HANERT Address 2681 PATTERSON

Signature Kent G. Hanert Date 2-2-06

Name Martha Carss Address St. James City

Signature Martha Carss Date 2/2/06

Name Chris Desjardais-Lueth Address 8283 MAIN ST Bokolia

Signature CHRIS DESJARDAIS-LUETH Ed Date 2/2/06

Name Helen Hayekany Address 2671 York Rd. St. Jms.

Signature _____ Date _____

Name Frank Fichter Address 13175 Strawberry Hill Rd

Signature Frank Fichter Date 2/2/06

Name HELENE CALLAWAY Address 3821 Galt Island Avenue

Signature Helene C Callaway Date 2-2-06

Name Robert M Collins Address 7357 POMEROYATE DR

Signature Robt M Coll Date 2-2-06 Bokolia

Name John W Pitale Address ST. JAMES CITY

Signature John Pitale Date 2-2-06

Name COLLEEN ABRA Address 514 SANDPIPER ST-JAMES

Signature Colleen Date 02/01/06

Name Janet Robertson Address ~~204~~ SILVER TARPON LODGE CT

Signature Janet L. Robertson Date 2-2-06

Name _____ Address _____

Signature _____ Date _____

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name ELLEN W. PETERSON Address 8791 CORCORAN RD BOSTON, 33928

Signature Ellen W Peterson Date 1-26-06

Name ROBERT ANDREYS Address 23031 TUCKAHEE RD ALWA FL 33920

Signature Rob Andrey Date 1-26-06

Name Ernesto Lasso de la Vega Address 23362 Freeport Ave Port Charlotte FL 33954

Signature Ernesto Lasso de la Vega Date 1/26/06

Name Faith Opatny Address PO Box 15482 Cape Coral, FL 33915

Signature Faith Opatny Date 01/26/06

Name Kraig Hankins Address P.O. Box 150027, Cape Coral, FL 33915

Signature Kraig Hankins Date 01/26/06

Name ELLIE BOYD Address 11880 HOMESTEAD LN, FMY

Signature Eleanor H. Boyd Date 1-26-06 33905

Name Judy C Miller Address 2948 Buttonwood Key S Jax

Signature LUDWIG A ZELLER Date 2-06-06

Name June B Zeller Address 2948 Buttonwood Key St James City

Signature June B Zeller Date 2/7/06

Name Phillip G. Buchanan Address 3861 Galt Ave, SJC 33956

Signature Phillip G Buchanan Date 7 Feb 06

Name Sandra S. Koerstouts Address 4406 Lake Heather Cir

Signature Sandra S. Koerstouts Date 2/7/2006

Name RUBY WOODHEAD Address 2277 SAPONILLA LN SJC 33956

Signature Ruby Woodhead Date 2/7/06

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Albert Stryker Address 2681 Ibis Ct

Signature [Signature] Date 1/24/06

Name Nancy S. Stryker Address 2681 Ibis Ct

Signature [Signature] Date 1/24/06

Name ROBERT ANTOLAK Address 2600 8TH AVE

Signature [Signature] Date 1-24-06

Name Carol Crane Address 2625 8th Ave SJC

Signature [Signature] Date 1-24-06

Name Bryan Crane Address 2625 8th Ave SJC

Signature [Signature] Date 1/25/06

Name _____ Address _____

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Susie Hassett Address 17121 Primavera Cir

Signature [Signature] Date 1-26-06

Name REANN WESSER Address P.O. Box 73 Ft Myers, FL

Signature [Signature] Date 1/26/06

Name CHRISTINE TROST Address 16221 Bull Laneer St,

Signature [Signature] Date 1/26/06

Brookelia

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____


Signature _____ Date _____

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan


Name Kathleen Chumley Address 7686 Myrsine Cir
Bokalia FL 33922

Signature  Date 2-3-06

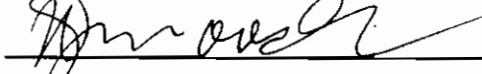
Name JOAN EBERY Address 5999 Wisconsin, Berkeley

Signature  Date 2-3-06

Name PETER R. FEAK Address 16073 BOWLING ST BERKELEY FL 33922

Signature  Date 2-05-05

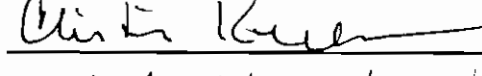
Name Ray Woods Address 3260 6A

Signature  Date 2-7-06


Name Patricia A. Wood Address 3775 PAPAYA ST. ST. JAMES CITY, FL
33956

Signature Patricia A. Wood Date 2-7-06

Name Christine Kneeland Address 2548 EIGHTH AV SJC 33956

Signature  Date 2-7-06

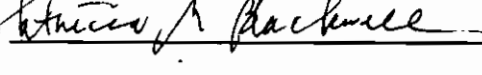
Name Judith Ann Wenzel Address 3539 Emerald Ave
St James City

Signature  Date 2-7-06

Name Benjamin L. Rugga Address 4981 PARKY LANE 33956

Signature Benjamin L. Rugga Date Feb 7, 06

Name PATRICIA M. BLACKWELL Address 7668 Myrsine Cir. Bok. 33922

Signature  Date 2/7/06

Name _____ Address _____

Signature _____ Date _____

Name _____ Address _____

Signature _____ Date _____

Signature page for letter to Mary Gibbs dated January 20, 2006; RE: Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name Heather Stefford Address 4846 E. Riverside Dr. Myers

Signature Heather A Stefford Date 1/26/06

Name Jerry Giovannovich Address 19528 Sun Air Ct. N. Ft. Myers

Signature Jerry Giovannovich Date 1-26-06

Name WILLIAM MANTIS Address 16221 BUCANEER, BOKEELIA

Signature W. Mantis Date 1-26-06

Name Josephine A Williams Address Po Box 481 St Jcy 33956

Signature Josephine A Williams Date 2/7/06

Name STAN TRACY Address 16186 ANTIGUA WAY

Signature Stan Tracy Date 2/7/06

Name Wm Rudolf Address 11250 Porpoise Pt Rd

Signature Wm Rudolf Date 2/7/06

Name Betty A. Robey Address 2311 Sycamore St. SJC

Signature Betty A. Robey Date 2/7/06

Name ROBERT McMAHON Address 2311 SYCAMORE ST.

Signature R. McMahon Date 2-7-06

Name Rush HOWE Address P.O. Box 105 BOKEELIA, FL 33922

Signature Rush Howe Date 2/7/06

Name KATHY MALONE Address 2692 GEARY ST MATLACHT

Signature K Malone Date 2/7/06

Name J. BRIAN GRIFFIN Address 7/7/06

Signature JB Griffin Date 2/7/06

Print

Signature page for letter to Mary Gibbs dated January 20, 2006. RE. Lee Plan Annotation Committee regarding Objective 14.2 of the Plan

Name _____ Signature _____ Date _____

Name La Verne Kidatz Signature La Verne Kidatz Date 2-2-06

Name Edward Sivan Signature Edward Sivan Date 2-1-06

Name _____ Signature _____ Date _____

Name _____ Signature _____ Date _____

Name _____ Signature _____ Date _____

JOHN G. FECHTER

Name John G. Fechter Signature John G. Fechter Date 2-5-06

Name Charles Frame Signature Charles Frame Date 2/5/06

Name Sue Frame Signature Sue Frame Date 2/5/06

Name Mary Ann Davis Signature Mary Ann Davis Date 2/5/06

Sue Kronk

Name Sue Kronk Signature Sue Kronk Date 2/5/06

Name Carl Kronk Signature Carl Kronk Date 2/5/06

Name CAMILLE MARRS Signature Camille Marrs Date 02/05/06

Name THOMAS MARRS Signature Thomas W. Marrs Date 2/5/06

Name William Sadowski Signature William Sadowski Date 2/5/06

PRINT

Signature page for letter to Mary Gibbs dated January 20, 2006. RE: Lee Plan
Annotation Committee regarding Objective 14.2 of the Plan

Name August LAMANTIA Signature August Lamantia Date 2/5/06

Name LINDA JACOBS Signature Linda Jacobs Date 2/5/06

Name Susan Lubejko Signature Susan Lubejko Date 2/5/06

Name Nancy Tsvack Signature Nancy Tsvack Date 2/5/06

Name Lois Schaffner Signature Lois Schaffner Date 2/5/06

Name [Signature] Signature [Signature] Date 2/5/06

Name Andrew Dewey Signature _____ Date _____

Name Jodie PATTERSON Signature Jodie Patterson Date 2-7-06

Name Cary Garvaglia Signature Cary Garvaglia Date 2-7-06

Name EDNA WEAVER Signature Edna Weaver Date 2/7/06

Name Sue Lubejko Signature Sue Lubejko Date 2/7/06

Name Janet Rowold Signature Janet Rowold Date 2/7/06

Name Ruth Spronker Signature Ruth Spronker Date 2-7-06

Name Kathleen Downs Signature Kathleen Downs Date 2-7-06

Name Karen Greb Signature Karen Greb Date 2/7/06

David Owen

SPIKOWSKI PLANNING ASSOCIATES

February 2, 2006

To Lee Plan Annotations Committee:

You have been asked to offer a formal interpretation of Lee Plan Objective 14.2 and Policy 14.2.2. The explicit purpose of these provisions is to **gradually limit new development approvals on Greater Pine Island before the remaining road capacity is consumed by new construction**. These provisions have been the core of community planning for Greater Pine Island since 1989. They are now in danger of being "interpreted" into meaninglessness.

The relevant policy language is attached in full. Please note the clauses I have highlighted and underlined that explain the purpose of these provisions:

- **"The county will continually monitor traffic levels on Pine Island Road to insure that the SUM of the current population PLUS development on previously approved land PLUS new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County." (from Objective 14.2)**
- **"In order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 additional dwelling units, the county will keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. These regulations will reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road being reached...." (from Policy 14.2.2)**

These laws were adopted by Lee County in 1990 to supplement, for Greater Pine Island only, standard concurrency.

Standard concurrency, as required by state law, would by itself utterly fail at managing growth on Pine Island – there is so much vacant or farmed land that could be developed, yet so little feasibility of ever providing additional road access across Matlacha Pass to Pine Island. Standard concurrency would wait until Pine Island Road is overloaded by daily traffic before applying the breaks to development approvals. Of course, by then, it would be too late to manage growth in any meaningful way because of the magnitude of developments already approved up to that date. Simply put, it would be a recipe for disaster for Greater Pine Island to rely on standard concurrency alone.

For this reason, the 810 and 910 rules were put in place by Lee County in 1990, thankfully long before the Bert Harris Act made local governments too fearful to exercise such foresight.

You can imagine how irate Pine Islanders get when they hear county officials say that standard concurrency practices are being used to implement the Greater Pine Island Community Plan. If standard concurrency were enough, there would probably never have been a need for a community plan for Greater Pine Island in the first place! Explanations such as "this is how we do it everywhere else" are simply not relevant to implementing the special levels of service established by Policy 14.2.2.

In a twist of fate worthy of a Carl Hiaasen novel, some county officials began arguing last year that the 910 rule can be implemented without any practical restrictions on residential development orders. How could this be so? By reading the phrase "adopted level of service" in Policy 14.2.2 as overruling the remainder of Objective 14.2 and Policy 14.2.2.

This argument runs directly counter to all the data and analysis behind these provisions plus testimony at prior public hearings (including testimony by those opposed to these very provisions).

It even runs counter to Lee County's own Land Development Code. In 1991, Lee County began implementing Policy 14.2.2 by adding this provision to its code (full text is attached):

- "... When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order."

Notice the absence of any hint that the 910 threshold was supposed to be meaningless, or that 910 was to be superseded by some higher number to be derived from Policy 14.2.1, or that the phrase "will not be granted..." actually meant "will continue to be granted..."

There is a further irony at this point. If Lee County now concludes that the Lee Plan should be interpreted counter to the on-the-books interpretation in its Land Development Code, it must still comply with the Lee Plan itself. The 810 and 910 rules were a simplified means of carrying out the cumulative concept set forth clearly in Objective 14.2. If Lee County now determines that 910 means 1130, or some other number yet to be invented, then those figures must count not only the traffic actually passing through Matlacha today, but also future traffic from the 6,675 vacant lots **plus** traffic resulting from future development orders. The irony is that this result would end up being more restrictive on development than the simplified 910 rule as it exists in the Lee Plan and as it has already been interpreted through the Land Development Code.

A final blow to the faith Pine Islanders have put in the Lee County Commission may have been delivered when county officials suggested recently that they would not only ignore traffic impacts from the 6,675 vacant lots, but would not count **the sum** of traffic impacts from new residential development orders when comparing expected traffic levels to the unsubstantiated new 1130 threshold. Could there be anything more like concurrency-as-usual than to wait until narrow Pine Island Road is overloaded by daily traffic before wishing that planning had been used to avoid an unsolvable life-safety problem for the people of Greater Pine Island? "Concurrency-as-usual" may work in most of Lee County where roads can always be widened by a couple more lanes, but it has been apparent for 15 years now that it would spell doom for Greater Pine Island.

Pine Islanders have bucked the trend toward municipal incorporation, instead putting their faith in Lee County government to manage future growth. Please don't abuse that faith by changing Lee County's long-standing and sensible interpretation of Policy 14.2.2 as set forth in the Land Development Code.

Sincerely,



Bill Spikowski, AICP

EXCERPT FROM ADOPTED LEE PLAN

OBJECTIVE 14.2: ROAD IMPROVEMENTS. The county will continually monitor traffic levels on Pine Island Road to insure that the SUM of the current population PLUS development on previously approved land PLUS new development approvals will not exceed the capacity of existing and committed roadways between Pine Island and mainland Lee County. (Amended by Ordinance No. 00-22)

POLICY 14.2.1: The minimum acceptable level-of-service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is hereby established as LOS "D" on an annual average peak hour basis and LOS "E" on a peak season, peak hour basis. This standard will be measured at the county's permanent count station on Little Pine Island and using the methodology described in the 1985 Highway Capacity Manual, Special Report 209. (Amended by Ordinance No. 00-22)

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

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

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

(Amended by Ordinance No. 00-22, 03-03)

EXCERPT FROM ADOPTED LAND DEVELOPMENT CODE

Sec. 2-48. Greater Pine Island concurrency.

Concurrency compliance for property located in Greater Pine Island, as identified on the future land use map, 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.
- (2) When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak-hour annual average two-way trips, rezonings that increase traffic on Pine Island Road may not be granted. When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak-hour annual average two-way trips, residential development orders (pursuant to chapter 10) will not be granted unless measures to maintain the adopted level of service can be included as a condition of the development order.

(Ord. No. 91-32, § 13, 10-16-91; Ord. No. 97-10, § 1, 6-10-97)

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Transcript of proceedings before the Board of County
Commissioners of Lee County, Florida, at the Lee
County Courthouse, Fort Myers, Florida, on Friday,
October 7, 1988, commencing at 9:30 a.m.

MEMBERS OF THE BOARD:

Bill Fussell, Chairman
Mary Ann Wallace
Donald Slisher
John F. Manning

ALSO PRESENT:

Michael Ciccarone, Assistant County Attorney
Paul H. Chipok, Assistant County Attorney
Bill Spikowski, Principal Planner
Gloria Sagjo, Planning Department

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OCTOBER 7, 1988

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Mike Roeder	Captiva Civic Association	6 - 7
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Chris McEwan	Pine Is. Chamber of Commerce	24 - 28
Eugene Boyd	Greater PI Civic Association	28 - 29
Rich Larkin	Self	31 - 35
Bob Deadwyler	Self	35 - 36
Betty Katz	Self	36 - 37
Frank Estelle	Self	37 - 40
J. Calvin Gaddy	Self	40 - 41
Ann Gaddy	Self	41 - 42
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1 THE CHAIRMAN: Board of County Commissioners now in
2 session. This is our Lee County comprehensive land use
3 plan, October 7, 1988. We'll start out with the first
4 item, with Captiva.

5 Do the announcement first. I'm sorry.

6 MR. CHIPOK: Good morning, Commissioners. My name is
7 Paul H. Chipok, Assistant County Attorney.

8 I have before me the affidavit of publication
9 announcing these public hearings. I would just like to
10 set the stage for these public hearings. These are
11 additional supplemental public hearings between the
12 transmittal and adoption hearings which are required by
13 Chapter 163. The purpose of these meetings today will be
14 to hear public input, for the Commissioners to review
15 these specific items listed for today's agenda and to gain
16 general familiarity with the particular proposed
17 amendments.

18 These meetings will not have any final binding power;
19 however, we request that the Board do take at least a
20 straw motion so the public would have some type of
21 indication of how the Commissioners are leaning on a
22 particular item so they will be able to properly prepare
23 themselves for the adoption hearings, which will be
24 sometime in January.

25 I have read the affidavit of publication, find it

1 sufficient and give it to minutes for record keeping, and
2 at this point in time I would like to turn the meeting
3 over to Bill Spikowski if you don't have any questions.

4 THE CHAIRMAN: Do you want these motions to be -- are
5 you going to send these as a package or on these second
6 and third hearings that we have had, do you want to send
7 them one by one for review, even before final motion or
8 not, or does state want to review the whole packet at
9 once?

10 MR. CHIPOK: I really don't understand your question.
11 Each --

12 THE CHAIRMAN: Well, you know, we're going to hit one
13 on the 7th, 14th, 18th, 25th, November 3rd, 15th, December
14 1st and December 6th. I don't know why that we couldn't
15 make motions on these to forward at least for input from
16 state and have a lead time in there. You know, you've got
17 a week before the next one and four days after that and
18 then a seven-day period after that, and it would seem to
19 me if they wanted to review those and make comments to
20 come back that we could be up to date by the time January
21 came if there were any problems that we might have to go
22 back on any of the other advertised publications and check
23 list again.

24 MR. SPIKOWSKI: Their position is they only want a
25 transmittal twice a year, and since we just transmitted

1 one we were going to hold these and send them up in
2 January or December when you make your final adoption
3 motion. We could send them the information, but I don't
4 think they'd do the full review process of them.

5 MR. CHIPOK: That's correct, Commissioners. These
6 are additional public hearings solely for informational
7 purposes to gain public input for you and also to review
8 the materials. It's not meant as a transmittal hearing to
9 DCA.

10 So in quick answer to your question, after each item
11 is held if you just make a motion then, at the conclusion
12 of the input on each particular item as we go down the
13 agenda, we would appreciate it.

14 THE CHAIRMAN: For approval or not, that's all you
15 want it for?

16 MR. CHIPOK: Right. And, again, that is not binding.
17 That is just an occasion of how you may vote at the
18 adoption hearings.

19 THE CHAIRMAN: Okay.

20 MR. CHIPOK: Thank you.

21 MR. SPIKOWSKI: Bill Spikowski, Division of Planning.

22 First case today is PAM 88-06. This is an
23 application submitted by the Captiva Civic Association.
24 They're asking for two changes to the future land use map.
25 One would change the resource protection area boundaries

1 to more accurately reflect the wetlands that are on the
2 current map, and their other map request is to change the
3 urban community designation to outlying suburban.

4 As you probably remember, the current plan limits
5 density to three units per acre by a special footnote in
6 the plan. Now that we have a category, outlying suburban,
7 that limits to three, they propose we use that category.

8 Both the planning department and the Local Planning
9 Agency have recommended approval of those changes.

10 The association also requested that the level of
11 service C and D be applied for concurrency purposes at the
12 Blind Pass Bridge. This had been our previous
13 recommendation, but based on your action on the 23rd of
14 August we have changed that to D and E in the capital
15 improvements section.

16 The association may have a representative here today
17 to argue applying a stricter standard to the Blind Pass
18 Bridge.

19 The other request --

20 MS. WALLACE: Bill, would you repeat that again for
21 the LOS that they are requesting?

22 MR. SPIKOWSKI: They requested that the LOS for the
23 Blind Pass Bridge, that it be measured at the Blind Pass
24 Bridge instead of elsewhere on Captiva, and that the
25 standard be C peak hour, annual basis; and D peak hour,

1 peak season.

2 When we had originally prepared this report, that's
3 what we were recommending countywide. That's why the
4 report doesn't recommend any opposition to that, but since
5 the Board did change that to D and E countywide you would
6 have to, if you want to give the C and D they have
7 requested, we would need to make an exception from the
8 countywide standard.

9 The other request was for a permanent traffic counter
10 at the Blind Pass Bridge. Our transportation department
11 is looking at that, and they have advised us that they
12 will at least put temporary counters out there four times
13 a year. They're not sure that the expense of a permanent
14 station is justified.

15 That's all, unless you have any questions.

16 THE CHAIRMAN: Questions by the Board? Is there a
17 presentation from the civic association, Bill?

18 MR. SPIKOWSKI: I don't believe so.

19 THE CHAIRMAN: Anyone here wishing to speak on the
20 Captiva Island issue, this is PAM slash T 88-06, come
21 forward.

22 MR. ROEDER: Good morning, Mr. Chairman. My name is
23 Mike Roeder, Humphrey, Jones and Myers. We represent the
24 Captiva Civic Association, and I'm basically here to
25 answer questions.

1 We have requested the change in the map to outlying
2 suburban to reflect the density in Ordinance 82-44. One
3 of the reasons the outlying suburban was created was to
4 have the category that reflected these lower densities in
5 certain parts of the county like Boca Grande, Captiva,
6 Pine Island. So we feel that this change is very minimal
7 in terms of its impact.

8 We did have a request to set the level of service
9 standards at C and D. We understand now that countywide
10 you're using D and E. We would prefer C and D, but I
11 understand that this is a very complex subject that you're
12 going to be wrestling with for the next year, and we would
13 appreciate C and D but we're not prepared to make a
14 lengthy presentation in support of that today. We're
15 prepared to work with you over the next year and see how
16 that turns out.

17 We would appreciate a traffic counter, though, at
18 Blind Pass Bridge, because we have to rely too much right
19 now on the counts at the Sanibel Causeway to determine the
20 impact by inference.

21 THE CHAIRMAN: Is that all your presentation?

22 MR. ROEDER: Yes.

23 THE CHAIRMAN: Any questions by the Board?

24 Any one else in the room wishing to make any comment
25 on the PAM dash T 88-06? This refers to Captiva Island,

1 submitted by Captiva Civic Association, change from urban
2 community to outlying suburban. Please come forward.

3 Okay. Comments by the Board?

4 MS. WALLACE: Mr. Chairman, I will move that we
5 approve the requested comprehensive plan amendment for
6 Captiva Island as submitted by the Captiva Civic
7 Association, including the request to establish at Blind
8 Pass Bridge the level of service for C annual and D peak
9 for season, and also including at a minimum quarterly
10 traffic counts at Blind Pass Bridge with the proviso that
11 if possible a permanent counter would be established
12 there.

13 MR. SLISHER: Second.

14 THE CHAIRMAN: Motion, Commissioner Wallace; second,
15 Commissioner Slisher.

16 Discussion?

17 I support what you're trying to do on Captiva. I
18 can't support the level of service C and D until we do
19 work this year in our Department of Transportation to get
20 countywide analysis without at random selecting these.

21 If we have any reports from DOT on this to show the
22 substantiation to go to C and D I would like to see that.
23 I don't see that in any of the reports that I have.

24 MS. WALLACE: Okay. Could I comment on the motion,
25 Bill?

1 THE CHAIRMAN: Go ahead.

2 MS. WALLACE: What has really persuaded me to support
3 that is that I was there fairly recently for a conference,
4 a beaches and shores conference up on Captiva, and I think
5 if you look at the area in general and the fact that
6 they -- we all know they have parking problems and you
7 oftentime have cars parked near the edge of the road and
8 the roads are very narrow in that area, and of course the
9 constant erosion that's being experienced up there, I
10 think this is a special case that's different than almost
11 any other area I can think of in Lee County, where it
12 would really behoove us to make sure that if the traffic
13 counts exceed a reasonable amount that we try and take
14 steps to improve the facilities out there; and I think
15 this primarily just goes to that area around Blind Pass
16 Bridge.

17 That's really the basis of my responsiveness to their
18 request is that it is a unique situation where the road
19 oftentimes falls into the Gulf of Mexico, and I think we
20 really do need to be especially careful about how much
21 traffic we're trying to move on a very narrow but very
22 concentrated population area.

23 THE CHAIRMAN: The recent report done by Florida
24 State DOT on our 85 bridges that we own in the county and
25 service for the county shows about 42 of those that are in

1 bad need of repair, and they have got them on a grading
2 scale that run from zero to a hundred. If we're going to
3 do that, we're going to wind up with the same problem all
4 over the county of having levels of service D and E for
5 the road areas, and then you will be constricted on the
6 bridge areas to D and E.

7 So I have a problem with that part of the motion,
8 Mary Ann, that's all. I would rather see what our staff
9 and DOT comes back, and with their recommendations after a
10 true traffic count this winter season and their
11 recommendations back. I guess the bridge is still going
12 over there to be replaced.

13 MS. WALLACE: Yes, I reviewed that just the other
14 day. That is on track for final design.

15 THE CHAIRMAN: And I would rather take it through our
16 DOT process. I wish you would separate the motion out
17 from that part if you would.

18 MS. WALLACE: Since it takes three positive votes, I
19 will delete that part and make it a separate motion just
20 for the record.

21 THE CHAIRMAN: Okay. The deletion is on level of
22 service C and D for the motion to approve.

23 Further discussion? Objection?

24 Motion carries.

25 Okay.

1 MS. WALLACE: Okay. Then I will make a subsequent
2 motion for the record that the Board find that it is
3 necessary to establish a special level of service for
4 Blind Pass Bridge in that area related to the approaches
5 to it to C for peak hour annual, and D peak hour seasonal.

6 THE CHAIRMAN: Motion, Commissioner Wallace.

7 MR. SLISHER: Second.

8 THE CHAIRMAN: Second, Commissioner Slisher.

9 Discussion? Objection? Aye.

10 Motion carries two to one. That part will certainly
11 have to come back for a majority vote before it's
12 transmitted on the level of service.

13 Okay. The next issue is Pine Island, PAM dash --
14 slash T, 88-07.

15 MR. SPIKOWSKI: Mr. Chairman, this request was
16 submitted by the Greater Pine Island Civic Association.
17 They submitted a Pine Island land use plan and study to
18 you earlier this year. A copy of that study was attached
19 to our August 12th staff report, and in that report we
20 discussed item by item the recommendations of the
21 association and we discussed how we incorporated those
22 into the staff version of the plan and in those cases we
23 did not, a reason why.

24 Some of the items we have included in the countywide
25 plan. The majority of them, though, are included under

1 Goal 16 of the proposed future land use element. We have
2 a special section for Greater Pine Island, and the exact
3 geographic location that those special policies apply will
4 be shown with a ring around Pine Island and Matlacha on
5 the future land use map.

6 The draft under Goal 16 we've submitted to you is
7 somewhat of a compromise that we hope will be the basis of
8 an islandwide consensus on the future of Pine Island. It
9 has been somewhat controversial, but I feel its position
10 adequately reflects the special characteristics of Pine
11 Island and the needs out there.

12 We have copies of the map, and I know there are
13 several people here today who would like to speak on the
14 future land use map on some specific boundaries. Our
15 recommendations were forwarded to you on a large map. The
16 Local Planning Agency endorsed the staff version of the
17 text and the map with one change on a property just south
18 of Pine Island Center, the representative of which is here
19 today also to make the same presentation to you.

20 As you have already heard a presentation from us on
21 it, I won't go into any other details except I'm here to
22 answer any questions.

23 THE CHAIRMAN: Questions by the Board?

24 Anyone wishing to speak, please come forward. We're
25 now on the Pine Island land use issues, PAM slash T 88-07.

1 MR. BOYD: My name, for the record I'm Gene Boyd,
2 Greater Pine Island Civic Association.

3 We have previously presented to you in an hour and a
4 half to two hour session by some eleven speakers a
5 detailed analysis of the plan. I see no point in
6 repeating that. I am going to present a, I hope, rather
7 brief general summary and try to answer questions if there
8 are any.

9 I would like to stress first that this is a
10 consensual plan with the exception of essential sewage
11 disposal, which most people don't want to pay for. The
12 plan is based on overwhelming votes by the people, answers
13 to two questionnaires that were circulated.

14 The first questionnaire was made up by the committee
15 from the civic association. The second questionnaire was
16 made up by the committee and Carron Day and also included
17 several questions which were submitted to us by the
18 general public.

19 These questionnaires have at least two sources of
20 bias to the results. One is that they -- the return
21 represents only 12 to 15 percent of the population of Pine
22 Island, depending on whose figures you take for
23 population. However, as I understand it, this is a fairly
24 good return for questionnaires of this type. The second
25 source of bias is that the large realtors and developers

1 on the island refused to participate and to fill out any
2 of these questionnaires even though I personally took
3 questionnaires to a large number of them.

4 Now, these people, I guess, if you look at campaign
5 contributions, anyway, represent a lot of the money on the
6 island and therefore a lot of the influence. However, in
7 numbers they are quite small. If they had filled out the
8 questionnaires in proportion to the rest of the
9 population, the results on any of the questions could at
10 the most be different by about one percent and that since
11 in most cases we're talking about 70 to 90 percent, 96
12 percent responses in one direction or the other, I feel
13 that this is a rather small bias.

14 In addition to the questionnaires, we held two
15 meetings, large meetings, which were open to the public
16 and were well-attended; and all of the input that the
17 committee received in its own meetings or at these two
18 large public meetings were incorporated into the original
19 plan which was submitted to the county.

20 Now, I need to point out at this point that we did
21 attempt at the specific suggestion of Porter Goss to hold
22 one of these meetings in St. James at the St. James Civic
23 Association. We were, however, refused permission to use
24 their building; and this is relevant because over the past
25 few days, anyway, Frank Estelle, who has an application

1 before you which you have postponed making a decision on,
2 and the president of the St. James Civic Association have
3 been circulating questionnaires, petitions; and we
4 understand that they collected I don't know how many
5 hundred names outside the polling place on Tuesday. Some
6 of the people who signed this are people who had been
7 fully in support of the plan and I think still are and
8 that some of these people will probably be speaking to you
9 this morning to tell you why they signed.

10 The petition claims that neither the Greater Pine
11 Island Civic Association nor the plan that we submitted to
12 you has any relevance to the southern half of Pine Island.
13 Probably one of the reasons why many people signed it
14 without bothering to read it apparently is because well
15 over half the page is verbiage which takes quite awhile to
16 read and understand.

17 Obviously, no group can ever prove that they do or
18 don't represent any community. However, I would like to
19 present a few statistics to you in relation to this
20 questionnaire which you will presumably be receiving
21 either this morning or when the location comes up again.

22 For each of the two questionnaires that we circulated
23 approximately 38 percent of the people who filled them out
24 come from the St. James area. This is pretty close as far
25 as we can tell to the population distribution between St.

1 James as compared to Matlacha, the center of Pineland and
2 Bokeelia. If one ignores the membership of the other
3 organizations which are members of the Greater Pine Island
4 Civic Association such as the Matlacha Civic Association
5 and it looks only at the individuals who are members of
6 our association, one finds that 60 percent of these people
7 come from St. James. Finally, the composition of the
8 committee which worked on this plan, 58 percent of the
9 members of that committee come from St. James.

10 These last two numbers are way out of proportion, and
11 I would like to suggest that if anything St. James is and
12 has been over represented in the formation of this plan
13 and is not under represented.

14 As Bill has told you, the parts of the plan that we
15 submitted that county staff found reasonable and workable
16 have been incorporated in the Goal 16 of the proposed
17 future land use element. Since we have no serious
18 argument with any of the things that were left out, I
19 would suggest that all discussion of the plan from here in
20 as far as text goes be confined to Goal 16.

21 Considering that goal, there are three things which
22 staff put in there which do not correspond to the results
23 of our surveys, and I would just like to point these out.

24 The first is the levels of service D and E for our
25 part of Pine Island Road. Ninety-two percent of the

1 people said that they wanted level of service C or better.
2 We tried to compromise in the actual plan that was
3 submitted by asking for C and D.

4 Second, Goal 16 suggests a third lane be built
5 through Matlacha. This is a very significant or would be
6 a very significant step toward the destruction of
7 Matlacha. Seventy-three percent of the people surveyed
8 wanted Matlacha preserved. So we are opposed to this
9 third lane.

10 Finally, in Policy 16.3.4 it says that our current
11 building height limitation should be substantially
12 retained. Substantially is a waffle word. If that word
13 is left in there, we consider that we will have no height
14 limitations anymore. Seventy-six percent of our
15 respondents wanted the current height limitations
16 retained, and I respectfully suggest, request that you --

17 MS. WALLACE: We're going to need some clarification,
18 because 16.3.4 does not --

19 THE CHAIRMAN: None of the numbers are jiving with
20 what you're reading, Gene. It must be an old copy.

21 MS. WALLACE: Would you look at whatever Bill has and
22 try to help us out?

23 MR. BOYD: Maybe I wrote it down wrong.

24 MS. WALLACE: There is a 16.3.3 that says the county
25 shall substantially retain current building height

1 limitations as adopted by ordinance.

2 MR. SPIKOWSKI: The previous comment on the third
3 lane is 16.2.4.

4 MR. BOYD: Thank you. I don't know whether it's a
5 change in numbering or whether I wrote down the wrong
6 number. What I am referring to is listed as 16.3.3, the
7 county shall substantially retain the current building
8 height limitations as adopted by ordinance. We would like
9 very much to have the word "substantially" deleted.

10 Most of the people on Pine Island as far as we can
11 tell are happy with our current limitations; but if
12 somebody does want to change these limitations we would
13 like to see the ordinance brought before you again,
14 discussed, and end up with some concrete limitations,
15 whether they be the same or different from what we
16 currently have.

17 We just feel that the word "substantially" can be
18 interpreted any way anybody wishes and that it really
19 means we have no limitations, and we would like to keep
20 some kind of limitation, whatever that limitation may be.

21 Generally the policies in 16, Goal 16, are designed
22 to give us a usable hurricane evacuation route which we're
23 currently getting and which we are very thankful for.
24 They're designed to protect our estuary and our land
25 environment. They protect within reason our commercial

1 fishing industry and they're designed to protect our
2 historical and archeological resources.

3 Now, as far as the map goes, we submitted a land use
4 map which is different from what staff has proposed. In
5 order to maintain the quality of life on Pine Island, 77
6 percent of the respondents wanted to limit the rate of
7 growth of Pine Island. Eighty-four percent wanted to
8 limit the final population.

9 One of the problems that we have that you know about
10 is that we currently have about 5,000 homes, and we're
11 currently committed to about 7,000 more. Many of these
12 that we are committed to are privately, individually owned
13 single family lots, and that we consider that they should
14 take preference in development over new development. In
15 light of this there are only two ways that we could come
16 up with in order to try to keep the density down anywhere
17 near what people were asking.

18 One of these is the complete prohibition of bonuses
19 on Pine Island and the other is a reduction in density
20 when agricultural land is subdivided. Anything else we
21 could think of we feel imposes too much restriction on
22 people's property rights.

23 For the last item, 85 percent of the people who
24 responded to our questionnaires wanted the new subdivision
25 of agricultural land to be limited to three dwelling units

1 per acre or less. There are several ways of accomplishing
2 this. We really don't care how it's accomplished.

3 The map that we submitted reclassified all of the
4 urban areas on Pine Island with the exception of Pine
5 Island Center to outlying suburban to accomplish the three
6 per acre, and we suggested that Pine Island Center be left
7 as urban community with its current cap of three per acre
8 so that it could - can't get the word I want - facilitate,
9 accommodate large commercial and light industry.

10 As best we can estimate, by the year 2010 the
11 population of Pine Island will have somewhere between
12 doubled and tripped. The plan -- land use plan that we
13 submitted will, I think, easily accommodate this increased
14 population. When we go past that point, as we inevitably
15 will, we anticipate that the three major growth centers of
16 Bokeelia and the center and St. James will slowly grow out
17 toward each other and that at some point Stringfellow will
18 have to be four-laned to maintain any reasonable kind of
19 level of service on it. In the meantime, we hope that
20 most of the development which takes place over the next
21 few years, anyway, is confined to these three major growth
22 centers and that good traffic circulation is maintained on
23 our two-lane Stringfellow so that the residents of both
24 Bokeelia and St. James can easily get to the center and
25 thus to off island points, both for normal traffic

1 circulation and for hurricane evacuation.

2 At this point I would like to ask all the people here
3 who are in favor of this plan to please rise.

4 Thank you.

5 You may notice that some of the people present
6 apparently have no connection with Pine Island. This is
7 because in response to the organized demonstration by the
8 development community which persuaded you to send to
9 Tallahassee for review an inadequate comprehensive plan
10 for 1988, individuals and organizations across the county
11 are coming together to form a concurrency coalition whose
12 objective is to help you come up with a 1988 comprehensive
13 plan which complies with the state's growth management
14 legislation.

15 We will inevitably be accused of wanting building
16 moratorium, no matter what I say, and all I can say is
17 this is not the goal of any of us. We do not agree with
18 Mr. Ciccarone's often stated contention that compliance
19 with IX.J.5. has to lead to building moratorium. We think
20 we can get -- that the county can have a good plan which
21 does not lead to building moratorium and that which will
22 meet the requirements of the state growth management
23 legislation.

24 We're just getting organized, we have no formal goals
25 or policies at this point; but I think that I can assure

1 you that we will be striving for low density high quality
2 development fully supported by infrastructure in order to
3 maintain our current quality of life, to protect our
4 estuaries, our evacuation routes, our water supply and our
5 environment.

6 We think that at any point in time the current
7 residents of Lee County should count for more than the
8 future residents.

9 I would like to read a short quote from Aldo Leopold
10 which I found in a recent publication of the Sanibel
11 Captive Foundation. "When we see land as a community to
12 which we belong we may begin to use it with love and
13 respect. There is no other way for land to survive the
14 impact of mechanized man nor for us to reap the aesthetic
15 harvest it is capable of contributing to culture. Land as
16 a community is a basic concept of ecology. Land to be
17 loved and respected is an extension of ethics." If I may
18 paraphrase that, I would say that our quality of life
19 depends very heavily on how we use the land that we live
20 on.

21 Now we know that there is opposition to Pine Island's
22 plan and that there are people here to speak against it.
23 We hope that they will offer constructive criticisms and
24 that they will remember that the final plan does need to
25 meet the growth management laws.

1 I would like the opportunity to come back if possible
2 after public input and I would be glad to try to answer
3 questions.

4 THE CHAIRMAN: Any questions of Mr. Boyd?

5 MS. WALLACE: Gene, I have one question and that is
6 in regards to your statement as being opposed to a third
7 lane being built through Matlacha. It's been some time
8 since I looked at your original questionnaire and I don't
9 even remember if a specific question related to that was
10 enunciated; but is it -- has it been expressed as a
11 preference by the people in Pine Island, to your knowledge
12 and awareness, that they prefer a -- for the four-laning
13 of the whole project of State Road 78, a new bridge to the
14 south of the present bridge?

15 MR. BOYD: The Matlacha Civic Association has gone on
16 record as requesting that when something more than the two
17 lanes is needed a two lane by-pass of Matlacha to the
18 south be constructed.

19 This is going to be horribly expensive, certainly.
20 We have no easy answer to this. Pine Island is going to
21 grow no matter what we do, and the current two lanes are
22 sooner or later going to become inadequate; and all we can
23 do is tell you that even three-laning through it is going
24 to destroy a good deal of the business district of
25 Matlacha and some of the residential district and that the

1 people of Matlacha don't want it and the people of the
2 island overwhelmingly are voted on the questionnaire,
3 there was a specific question, that they did not want
4 improvement of the road to end up destroying Matlacha.

5 I have no answers.

6 THE CHAIRMAN: Any other questions by the Board?

7 Okay. Thanks, Gene.

8 I'll go to the cards now. I have about 12, 15 cards
9 for speakers. Chris McEwan is the first card I have, to
10 be followed by Rich Larkin.

11 MR. McEWAN: Good morning. I'm Chris McEwan, an
12 attorney and president of the Pine Island Chamber of
13 Commerce.

14 I didn't come today prepared to debate Mr. Boyd
15 because I really thought that I was here on the
16 compromised plan; and with that in mind I don't intend to
17 get -- to answer some of the questions, because I thought
18 that that had been debated some time ago.

19 The Chamber of Commerce, who we do believe represents
20 quite a few of the Pine Island people also, we are
21 prepared to support the compromised plan of the planning
22 staff. I don't have a room full of people here today as I
23 look around. It's unfortunate, but some of us still do
24 have to work for a living.

25 We appreciate the fact that the staff has put an

1 awful lot of emphasis and time into the plan. We believe
2 that there are certain items that were heavily debated on
3 the island. We believe that those portions that were
4 heavily debated, many people had different opinions. We
5 thought that for the good of the island the compromise
6 that the staff came to was one that we could support and
7 we're prepared to support.

8 Thank you.

9 MS. WALLACE: Can I ask you a question?

10 MR. MCEWAN: Yes, ma'am.

11 THE CHAIRMAN: Commissioner Wallace.

12 MS. WALLACE: Are you also in opposition to a third
13 lane being built through Matlacha?

14 MR. MCEWAN: To be very honest with you, the
15 questionnaire did relate to Matlacha; but during the
16 initial hearings on Matlacha, the Matlacha people per se,
17 that wasn't an item that was discussed and recussed. I
18 don't believe at this time we have taken an opinion on it.
19 I agree with Gene Boyd that probably you don't want to
20 wipe out all of Matlacha with a third lane.

21 There was some discussion where possible to put a
22 third passing lane as a portion of part of the roadway,
23 and I think that probably we'll be in favor of that if it
24 didn't in fact wipe out every business along Matlacha.

25 MS. WALLACE: Okay. I need clarification on one

1 other point. This compromised plan you're talking about,
2 is that the plan that is submitted, Bill, or is there
3 another one that we haven't seen?

4 MR. SPIKOWSKI: That's it. What you have submitted
5 to you is Goal 16.

6 MS. WALLACE: So basically you really do agree with
7 the civic association at this point, then, if that's what
8 they're supporting. They're supporting the compromised
9 plan.

10 Mr. MCEWAN: They may.

11 MS. WALLACE: Except for maybe a few exceptions. And
12 you now said you also agree with limiting to two lanes
13 through Matlacha. Do you have a problem with the height
14 limitation?

15 MR. MCEWAN: Do we have a problem the way it's
16 worded? No, ma'am.

17 What started off as a comment on the comprehensive
18 plan as presented by the staff, as it wound up with Mr.
19 Boyd's presentation, it's my understanding that he was
20 pressing the points that we have debated that are solely
21 in their plan that aren't in this plan.

22 We support the compromised plan.

23 MS. WALLACE: All right. What are the major points
24 that you disagree on, the LOS C and D?

25 MR. MCEWAN: And the units per acre in Bokeelia, St.

1 James City. Those were the initial parts that we were
2 debating.

3 And I believe as you look at the compromised plan
4 there are parts of the map that include a portion of
5 Bokeelia for six units per acre.

6 Is that correct, Bill?

7 MR. SPIKOWSKI: Yes, that's correct.

8 MR. MANNING: It's not a big portion, Chris, is it?

9 MR. McEWAN: Oh, no.

10 MR. SLISHER: Bill, isn't that left alone in the
11 comprehensive plan, the developed urban cores?

12 MR. SPIKOWSKI: Basically left alone. Bokeelia is
13 the largest concentration on the map and it's broken
14 roughly in half. The northern part would be shown as
15 suburban and the southern part being outlining suburban
16 limited to three per acre.

17 MR. McEWAN: Mrs. Wallace, you're correct.
18 Originally those are the areas that we had the biggest
19 concern with, and the biggest debate on the island was
20 probably those portions.

21 MS. WALLACE: Thank you.

22 MR. MANNING: Mr. Chairman.

23 THE CHAIRMAN: Mr. Manning.

24 MR. MANNING: Chris, let's get -- for the record, can
25 we delete the word "substantially" under Policy 16.3.3 and

1 have concurrence on that? Is that a problem or -- I don't
2 see high-rises going on Pine Island.

3 MR. MCEWAN: I don't think anyone else does. There
4 are some people who will represent their own individual
5 views about the height limitations, I'm sure, but
6 generally we were not arguing with that point, no, sir.

7 MR. MANNING: Okay, thank you.

8 I thought -- Mr. Chairman, I thought, too, that --

9 MS. WALLACE: Sorry. Bill asked a question.

10 MR. MANNING: I thought, too, in talking to Mr.
11 Spikowski that this was pretty much taken care of as far
12 as the compromised position. Realistically, and God only
13 knows and Gene and Ellie know that I have been trying to
14 get Pine Island elevated for six months. We finally
15 accomplished that, and going to a level C, Gene, I just
16 don't -- I can't see us being able to afford it right now.
17 I would love to have it.

18 THE CHAIRMAN: Any other questions?

19 MR. MANNING: Hold on.

20 MR. BOYD: For the record, Gene Boyd.

21 I completely understand the position. What I have
22 done this morning is tell you what the people said they
23 wanted. We did agree on the compromise that county staff
24 presented. We have temporarily backed away from that,
25 because after agreeing to it it appeared that a good deal

1 of the development community was not agreeing to it. In
2 this room since that agreement I have heard comments from
3 Dave Jones, Frank Estelle, Matt Uhle and Stephanie Keyes,
4 to name just a few, of their unhappiness with that
5 compromised plan.

6 If everybody will agree to it, we certainly will
7 agree. Thank you.

8 MR. MANNING: Thank you.

9 THE CHAIRMAN: Any other questions?

10 MS. WALLACE: Could I ask one question of staff?

11 It's my understanding that we are basically at level
12 of service C and D now, is that right?

13 MR. SPIKOWSKI: No, not using the methodology which
14 is the MPO traffic model methodology. We're not there.

15 MS. WALLACE: We're at D and E now?

16 MR. SPIKOWSKI: No, we're not that bad, and the
17 reason is --

18 MS. WALLACE: Where are we at right now, then?

19 That's what I would like to know, B and C?

20 MR. SPIKOWSKI: It's B and C. And the reason that
21 that number is better than what you heard before is that
22 doesn't take into account -- that's the general planning
23 methodology, it doesn't break down some of the unique
24 factors of Matlacha, people backing out on the right of
25 way.

1 MS. WALLACE: That's primarily just based on peak
2 hour?

3 MR. SPIKOWSKI: On peak hour without all the
4 adjustments.

5 MS. WALLACE: The only reason I wanted to try to get
6 that information in front of us is that when you said we
7 can't afford it, John, I think, you know, that may have
8 truth if we get beyond C and D and get into D and E.
9 Since you do amend year to year, I don't see a real
10 problem with going ahead and honoring that request now and
11 then later amending the plan to D and E in that area if
12 you get to that point.

13 I'm saying why not go along with it, because we're
14 not even to C and D yet, so it's not going to cost us
15 anything to have that in there and it makes us watch the
16 area closely and be looking for revenue sources should we
17 get to that point, and you can always amend the plan just
18 like we've done before. We're not there immediately.

19 MR. SLISHER: Does the B and C then kick us into the
20 mode of special conditions like Bill just mentioned in
21 Matlacha and some other areas? We need to address that.

22 MR. SPIKOWSKI: Actually on Pine Island there is two
23 separate references to road levels of service. One is the
24 first policy which Gene mentioned, which is 16.2.1. That
25 establishes the cutoff. That's the concurrency rule. And

1 I think that's the one that Gene was suggesting should be
2 C and D. The following policy, 16.2.2, would be a special
3 regulation applying to Pine Island only that at certain
4 points before you reach specified levels of service
5 certain things would happen. You'd stop rezoning large
6 new tracts of land, for instance. Those always have been
7 based on level of service D in all the previous versions;
8 and even using the high growth rates projected by the MPO
9 we're quite a ways from that happening.

10 MR. MANNING: That's why I would be reluctant to send
11 that level and change that level right now. I don't have
12 a problem with the other ones. I don't.

13 MS. WALLACE: Let me just come back to the other side
14 of the issue. You can make improvements to a road and
15 still maintain that level of service. There are a lot of
16 things that can be done. It's not necessarily a cutoff
17 forever unless you have a mind set that we will continue
18 to have a road at exactly the same elevation as it is and
19 no possibility of elevated roadways or restricted ingress,
20 egress.

21 MR. MANNING: Don't talk about elevation of a road to
22 me.

23 THE CHAIRMAN: Next speaker is Rich Larkin.

24 MR. LARKIN: My name is Rich Larkin. I live in St.
25 James City, and I have lived there for eight years.

1 The first thing that I would like to point out is
2 that Mr. Boyd and these people in the room here do not
3 represent the majority of the people on Pine Island. What
4 you're hearing is statistics. You're hearing percentages
5 from a small minority.

6 There are two surveys that were out that he's talking
7 about. Very few people returned them back in. I know
8 many people that said that the surveys, the questions were
9 so leading, so unfair and so insulting that there is no
10 way that they would even be a part of the survey because
11 they figured they were going to twist the answers around
12 to make them say whatever they wanted anyway.

13 And he forgot to mention to you that after the
14 surveys were done they put together a plan, and the island
15 as a whole voted on the plan, and that was overwhelmingly
16 defeated.

17 The next thing that I would like to point out is that
18 I think you should treat Pine Island equal with the rest
19 of Lee County. You're opening a Pandora's box if you
20 start putting different levels of service in different
21 areas. Every single minority group will be in here asking
22 you to do the same thing to their little community to
23 restrict people out.

24 And speaking of restrictions, when you put
25 restrictions on a place, you're trying to make it more

1 exclusive. Pine Island is becoming more exclusive, and by
2 doing that we are excluding people out, and I would say
3 basically middle class people. We're saving the island
4 for the rich people. And if this is what this group want
5 to do is to save it for the rich people, they're doing it
6 right now because --

7 THE CHAIRMAN: We let Mr. Boyd speak on his part.
8 Everyone that comes to this microphone has the right to
9 address this Board of County Commissioners, period,
10 without any outbursts from the audience, and I want it
11 kept that way or I will cut the rest of you off when you
12 come up. We'll not have any outbursts.

13 MR. LARKIN: If you think we're not making it
14 exclusive, I would like you to remember you've probably
15 heard words from other people in here, taxpayers who have
16 had their tax bills run up so high that I have people in
17 my neighborhood who said they're going to sell and they're
18 going to move off because the taxes are getting too high.
19 You're running the people out.

20 MS. WALLACE: That has nothing to do with the comp
21 plan, though, because the comp plan hasn't been changed.

22 MR. LARKIN: As you make Pine Island more exclusive
23 and restrict things you're going to raise the price of
24 real estate, you're going to raise the price of property,
25 you're going to raise the price of rents and you're going

1 to raise taxes and you're going to keep the island for the
2 rich people when they come down. They say here's a nice
3 little island, nobody lives on it, let's buy it up, there
4 is no poor people on it. This is great.

5 That's what they're doing and that's what you're
6 going to do if you keep restricting Pine Island. We want
7 treated like the rest of Lee County.

8 And something else I would like to say about
9 three-laning Matlacha, I think it should have been done a
10 long time ago. I don't know what we're saving. If you
11 drive down the Main Street of Matlacha, half of it's for
12 sale. Almost every other property has a for sale sign on
13 it. As far as architectural integrity, most of the
14 buildings are substandard. They were built as squatters'
15 shacks.

16 This is just another excuse that they're using from a
17 very small minority of people that they polled who said
18 they want to save the architectural integrity and the
19 historical value of houses that probably aren't even 40
20 years old. We're not talking historical landmarks. We're
21 talking old houses that are substandard, and more than
22 half of them are -- a huge percent of them, you go drive
23 down that street yourself, are for sale. Nobody wants to
24 preserve them. They want to sell them.

25 So in closing I would just like to review and say if

1 you listen to these people you're not listening to the
2 majority, you're listening to a very vocal minority.
3 Their questionnaires they take percentages from represent
4 only percentages of a small minority.

5 If you want us to bring a petition in that says they
6 don't represent us and want us to have a thousand, two
7 thousand people sign it to make you believe us, then tell
8 us. Tell us how many people you need and we'll bring it
9 in.

10 Do not restrict us on the level of service. Please
11 keep it with the rest of the county. And I would just
12 like to say give the rest of the people who own property
13 and want to live on Pine Island, give them a chance to
14 live there, improve the roads and just keep Pine Island a
15 nice place to live for everybody. Don't save it for the
16 rich.

17 Thank you.

18 THE CHAIRMAN: Next speaker is Bob Deadwyley.

19 MR. DEADWYLEY: For the record, I'm Bob Deadwyley
20 from Bokeelia, Florida. I have lived on Pine Island for
21 some 17 years. I think I can be called a native of
22 Florida, since I moved here in 1918, and that nearly makes
23 me native.

24 I would like to go on record and state I'm in favor
25 of maintaining the present height location and density of

1 three to the acre on Pine Island and I would appreciate
2 your consideration.

3 THE CHAIRMAN: Next speaker is Betty Katz.

4 MS. KATZ: I'm Betty Katz from St. James City. I'm a
5 14-year resident of St. James.

6 THE CHAIRMAN: Can you pull that mike down, please?

7 MS. KATZ: There. Can you hear me now?

8 All I'm going to do is give you a little bit of a
9 thought here in rhyme.

10 Let's look to the future. If we allow overbuilding
11 or anything, this is the way some people feel out here, me
12 among them.

13 A look to the future. 2020 is the year. Beautiful
14 Pine Island once was here. Closed in mangroves and native
15 greenery; calm, quiet and peaceful was the scenery.
16 Eagles and ospreys nested there and water and fishes
17 everywhere. Friendly folks in the neighborhood found life
18 was pleasant, life was good. Where once there were wide
19 open spaces, houses now crowd into all those places.
20 Waterfront dwellings fill up the shore and beaches aren't
21 accessible anymore. The little village of Matlacha was
22 torn down all the way. A four-lane highway took its
23 place, where speeding autos hold a daily race. Grandpa
24 warned us back in '88 that this would surely be our fate.
25 That's the year when it all began, when we scrapped Pine

1 Island's plan.

2 That's all.

3 THE CHAIRMAN: Next speaker is Frank Estelle.

4 MR. ESTELLE: Good morning. I'm Frank Estelle, and I
5 have a few thoughts on my mind here I would like to
6 express.

7 I have some aerial photographs of the southern half
8 of Pine Island. If you would like to see them I would
9 like to have you look at them. To give you some idea of
10 what the concentration of population in that area, this is
11 St. James City. That shows a large number of people here.
12 It's not a rural area, as the island seems to be being
13 represented. This is Cherry Estates, Pine Island Shores,
14 St. James City. This is out 8th Avenue. This is St.
15 Jude, going up to -- this is the edge of Lake Wood up
16 here. This is the area where there is the least
17 concentration of population. This is Tropical Home Site,
18 Manatee Bay; and you can see there is quite a
19 concentration of houses there, but there is tremendous
20 amount of -- for growth, future growth.

21 This represents approximately 3,500 homes, coastal
22 units, which would represent probably upwards of -- this
23 is -- up to this point here, this is Flamingo Bay.

24 Off the top, computing in your head, there is
25 somewhere between five thousand and eight thousand people

1 there depending on the time of the season.

2 And so my point is that I have a letter from the tax
3 department that says that two-thirds of the taxes are made
4 from this point down. The assessment on Pine Island is
5 over four hundred twenty-five million and you're taking
6 off better than five or six million dollars a year off
7 Pine Island in taxes.

8 So I would certainly consider, since this is a pod of
9 population that's going to grow and probably double,
10 certainly consider a bridge over to the loop road around
11 Cape Coral at some future date.

12 MS. WALLACE: I have a question for you, Mr. Estelle.

13 Is this area that is shown on this aerial Township 45
14 South, Range 22 East?

15 MR. ESTELLE: This is Flamingo Bay and Pine Island
16 Cove there.

17 MS. WALLACE: What is the density units per acre in
18 that area?

19 MR. ESTELLE: Oh, I have no idea.

20 MS. WALLACE: Let me also ask on this first one. Do
21 you know in general, excluding Cherry Estates, this other
22 area, what is the density per acre there?

23 MR. ESTELLE: Well, it varies. I think the smallest
24 lots in there are sixty-five by a hundred. There might be
25 some slightly more. Most of them, I would say the average

1 is about seventy-five by a hundred, which I believe --

2 THE CHAIRMAN: That would be four and a half to six,
3 Mary Ann, is what you're talking about.

4 MS. WALLACE: The reason I ask is that, I don't know
5 whether it's correct or not, but some time ago Mr. Pratt
6 indicated that The Villas area, which I think all of you
7 are familiar with, has about a thousand home sites, is the
8 equivalent of a three unit per acre subdivision; and
9 looking at this it appears that it's a very similar sort
10 of thing. And I only draw this to your attention to say
11 that there are many of the developed areas I believe that
12 are demonstrated here that are in the vicinity of three
13 units per acre.

14 THE CHAIRMAN: Do you want these maps back, Mr.
15 Estelle?

16 MR. ESTELLE: No. You can keep them if you want
17 them. If you don't want them I'll take them.

18 THE CHAIRMAN: If you don't we'll have to put them in
19 the record, and we have a lot of maps.

20 MR. ESTELLE: One of the purposes of showing you the
21 concentration and how it's laid out here, that's an area
22 from Flamingo Bay down to approximately a little over five
23 miles, and certainly that number of people can support
24 quite a few stores and banks, services, that it doesn't
25 hardly seem like good planning to me to force all those

1 people to go up to the center for all these services.
2 That's the point I'm trying to make.

3 And the other point I would like to make is that the
4 amount of taxes that are being taken off the island there
5 and undoubtedly will double in a fairly short time does
6 seem as though there could be funds found to either build
7 another entrance and leave Matlacha alone or else go
8 around Matlacha.

9 I thank you for your time.

10 THE CHAIRMAN: Thank you. Next speaker is Calvin
11 Gaddy.

12 MR. GADDY: For the record, my name is J. Calvin
13 Gaddy; and the opposition to the Pine Island plan that's
14 been presented here today, some of the petitions that will
15 or have been given to you, the individual that hopes to
16 benefit from this opposition had the same opportunity to
17 have his input in the plan as anyone else.

18 Those that attended the meetings and submitted their
19 questionnaires as were requested, everybody had the same
20 chance of input. I was there, a lot of others were there,
21 we answered the questionnaires. This was all used when
22 this plan was made. There was no -- it was not closed to
23 anybody. And as far as what's happened on the petitions
24 that you've got now, they were rather mixed up as to what
25 it meant.

1 My interest was spurred by a petition that was so
2 misleading that I signed one of the blame things; and
3 after I studied the issue I requested that my name be
4 withdrawn along with some others, I understand.

5 Most people that I questioned on this thing could not
6 tell me what that petition meant. If you read it, you
7 will find out what I'm saying.

8 Please consider this when you consider the Pine
9 Island plan under this light.

10 As for the bridge south of Matlacha, if you look at
11 that water down there and the depth of it, you will find
12 out there is not a channel down there deep enough for any
13 very large boat. I don't think we're going to need a draw
14 bridge at this point, which will give us a lot cheaper
15 bridge than what we have at Matlacha itself.

16 Thank you for your time.

17 THE CHAIRMAN: Thank you, sir.

18 I have had a request for a break. We're going to
19 take a short break. We'll come back. I still have
20 another eight, ten cards to be heard from Pine Island.

21 (Whereupon, proceedings were recessed.)

22 (Whereupon, proceedings were resumed.)

23 THE CHAIRMAN: Board is now back in session. Next
24 speaker is Ann Gaddy?

25 MS. GADDY: For the record, I'm Ann Gaddy, a resident

1 of Pine Island, St. James City.

2 I guess I'm very privileged because I live in such an
3 exclusive, wealthy neighborhood; but really, when I drive
4 around out there I see basically mobile homes and
5 manufactured houses and most of us are retired people,
6 really on a lower income than some of the more wealthy,
7 affluent developers and realtors.

8 The one thing I would like to say about Matlacha,
9 even though those people are squatters that live along
10 that road, and I don't know the answer to it, it's still
11 their home and I don't feel that we can take their homes
12 away from anybody.

13 I moved to Pine Island because of the serenity, the
14 beauty and the peace that I thought that we had out there.
15 I think that the center we now have is adequate for the
16 people that live there. I certainly don't want
17 Stringfellow to end up looking like Del Prado. I don't
18 need any attractions out there. If I wanted that I would
19 have moved to Fort Myers Beach.

20 I like to get out and be able to take my walks and
21 ride my bicycles and see the shore birds and the little
22 brown bunnies and enjoy the God given beauty that I hope
23 we can preserve.

24 Thank you.

25 THE CHAIRMAN: Thank you.

1 Dot Birmingham?

2 MS. BIRMINGHAM: I'm Dot Birmingham and I have been a
3 resident of St. James City for 15 years and I'm not
4 retired.

5 My remarks are concerning the petition that was being
6 presented Tuesday and Wednesday this week in St. James
7 City.

8 Has it been presented to the Board?

9 MR. MANNING: I haven't seen it.

10 MS. WALLACE: Not to my knowledge.

11 THE CHAIRMAN: I don't know what petition it is,
12 ma'am.

13 MS. BIRMINGHAM: My remarks may be moot, but can I
14 say this in case the petition comes up to you?

15 First of all, I would like to clarify Gene Boyd's
16 remark that the president of the St. James City Civic
17 Association was circulating this petition. She was doing
18 that as a private citizen, not anything to do with the St.
19 James City Civic Association.

20 Is it necessary for me to read this petition?

21 THE CHAIRMAN: Whatever -- it's your day, whatever
22 you wish to do is fine.

23 MS. BIRMINGHAM: Well, it says,

24 "We, the undersigned voters of Lee County, State of
25 Florida, request the following be presented to the

1 Commissioners on October" - the date I can't read - "1988,
2 re the comprehensive plan of Pine Island.

3 "We do not feel that Pine Island, especially the
4 southern half of Pine Island south of Route 78, should be
5 treated any differently than the rest of the county in any
6 comprehensive plan. The plan put forward by the Greater
7 Pine Island Civic Association represents in large a group
8 of well organized commercial fishermen and a few
9 environmental activists. These people are dedicated to a
10 limited growth on the island at the expense of the rights
11 of property owners. Their thinking does not represent the
12 thinking of the majority of people of southern Pine Island
13 nor all of Pine Island.

14 "All forms of growth on Pine Island are regulated by
15 the county plan. Any further regulations would stifle the
16 growth of conveniences necessary to the present and future
17 population of the southern half of Pine Island. It should
18 be pointed out that the majority of tax revenues and votes
19 comes from this area.

20 "When the Greater Pine Island Civic Association
21 speaks they speak for their membership only. We on the
22 southern half of Pine Island are capable of speaking for
23 ourselves."

24 That's the petition. This petition was composed by a
25 developer and some people who are his friends and also

1 have a personal conflict with Gene Boyd. It is possible
2 that quite a few people signed this petition not realizing
3 what they were signing. I feel that the people
4 circulating this petition misrepresented its content, and
5 as a result people have signed it who are also in favor of
6 the comprehensive plan for Pine Island.

7 They told people that the petition was not against
8 the comprehensive plan but was just to protect your
9 property rights. I was standing at their table when a
10 woman came up and signed it without reading it. I have
11 had occasion to talk with a dozen or more people who read
12 it and did not sign it. I talked with two people who were
13 in a hurry and did not take the time to read the petition
14 and signed it on the basis of what the distributors of the
15 petition told them. I showed them a copy of the petition,
16 and when they read it they called and asked to have their
17 name removed.

18 Today is the first time I have heard of a compromise
19 plan, and I'm happy to hear there is such a thing. My
20 opinion of the comprehensive plan controversy is that the
21 two sides should hire an impartial arbitrator to
22 compromise with a plan that both sides can live with.

23 MR. MANNING: That's our job.

24 THE CHAIRMAN: Next speaker is Peggy Harmon.

25 MS. HARMON: Good morning, members of the Board. I

1 am Peggy Harmon, a resident of St. James City. I'm not a
2 long-time Florida or Lee County or Pine Island resident.
3 I have been here a little more than 14 months.

4 I don't wish to flog a dead horse, and perhaps that's
5 what I will be doing, but when I arrived here last year
6 questionnaires were everywhere. They were in several of
7 the commercial establishments, they were in organization
8 buildings and so forth, so that those questionnaires were
9 all over. These were the second ones.

10 Eleven hundred plus were returned of the two
11 questionnaires. Some of those undoubtedly would have been
12 duplications, but in a population of fifty-two hundred
13 permanent population, that's what I've been told, that
14 seems to be the estimate for the permanent Pine Island
15 population including children, eleven hundred responses, I
16 think, is a pretty good representation.

17 I immediately became involved in every organization I
18 could think of because I'm a widow and I didn't know
19 anyone here, and so I just plunged deep into
20 organizations, particularly the civic association. So I'm
21 aware of what happened when all the questionnaires were
22 compiled and put together and the percentages were
23 developed.

24 Some of the questions, yes, indeed, could have been
25 phrased better. Most of them, however, I think - and I

1 believe you have a copy of the questionnaires - most of
2 them, I think, gave a wide enough spectrum of views that
3 people were not misled.

4 That's enough about the questionnaires.

5 Now, on the petition, when I left the voting booth,
6 there were a couple of ladies and a card table and an
7 umbrella over their heads, and I was just curious because
8 I saw the sign, input to the land use plan. Most
9 petitions, of course, have just three or four sentences,
10 they're quite concise, for signing. This was very long,
11 and I just saw Pine Island plan, I had my pen poised to
12 sign it, and then more carefully read it. So of course
13 when I saw what it was all about I did not read it.

14 Now, yes, indeed, as the other side, and it's too bad
15 that we have sides in this, but as the other side has said
16 on the petition, we don't want to be treated differently
17 from others. We want our say. Just as Fort Myers and
18 Captiva and Cape Coral all have their unique needs, so do
19 we have our unique needs on Pine Island. We're not naive
20 enough to think that it's not going to grow, we know it's
21 going to grow, we want it to grow. We just want that
22 growth to be managed in accordance with the growth
23 management regulations and laws of Lee County and the
24 State of Florida.

25 Thank you.

1 MS. WALLACE: Thank you.

2 THE CHAIRMAN: Hazel Miller?

3 MS. MILLER: Hello. I'm Hazel Miller from Pine
4 Island, from the Pine Island Civic Association; and I'll
5 make mine very, very brief because some of my points have
6 been made already, but there is one that I want to speak
7 about, and that is this petition the lady just spoke
8 about.

9 I was told here this morning right in this building
10 by several people that many, many people who signed that
11 on election day at the poll after they had voted, and of
12 course within the prescribed 50 feet outside it.

13 MS. WALLACE: Outside it?

14 MS. MILLER: They had not known what they were
15 signing. They took no time. It was ambiguous in some
16 ways, it was long. They just scratched their name.

17 And the reason for that, I said, well, why would
18 anybody do that. If you're signal is to mean anything you
19 must know what you're signing. Otherwise your signature
20 is worthless.

21 And they said well, the reason was they knew the
22 person who was taking this around, and for her sake they
23 did it. Well, you can be the judge of the value then of
24 such a petition.

25 Now, another thing that I heard right within the

1 building this morning that I believe requires some
2 clarification, I was asked by someone -- I said something
3 about the professional planner whom we had hired and whom
4 in my opinion and in the opinion of the majority of the
5 people who took the trouble, cared enough to answer the
6 questions, and every effort in this world was made, I made
7 a lot of them myself going places to try to give half
8 these questions, to try to pick them up down at the civic
9 association, which everyone has to go to the center to
10 leave the island, to shop or what have you, there was a
11 box out at three o'clock in the morning you could have
12 dropped your answers in there had you chose to do that.
13 No, they didn't choose to do that. And then they come
14 around at the eleventh hour. I think that has to be
15 considered.

16 And the other thing I was speaking of hearing this
17 morning, when we hired the professional planner, her fee
18 was set at \$14,000. Different other organizations on Pine
19 Island who we would have thought would have treasured the
20 island as we did and wanted to preserve part of it, some
21 of its beauty, some of its tranquillity for those coming
22 after us, and the reason to keep it, the reason we came,
23 we don't want it made into a Miami or anything like that,
24 but, anyway, no one would help. No one would put out one
25 dollar of these other organizations, including the St.

1 James Civic Association. So we had to put out the \$14,000
2 dollars ourselves; and I was asked today by one of the St.
3 James ladies, oh, but that was a grant. It was no grant.
4 It came right out of our account, which has left it quite
5 small now, as you might guess.

6 Well, my last thing I really want to say is this.
7 I'm certain if there would be a way, if we were wise
8 enough to find a way to put this to a referendum so that
9 every single, solitary soul would have a chance to put
10 their mark on and say what they wanted, I think if we were
11 to be able to do that, we would find that there is a vast,
12 huge majority of people who came to Pine Island because it
13 was what it was. I can't say is, I have to say was,
14 unfortunately.

15 And we know it's going to grow. We're not trying to
16 stop all growth. But my question is why should people who
17 have money and who have land and that, why should they
18 make all decisions on the basis of the almighty dollar?
19 We are trying to preserve the island, not that it's going
20 to help me that much, I'm not going to be around that much
21 longer, but I would love to see some of the children,
22 somebody still see Pine Island and the little bit that's
23 left of it if we can keep that.

24 Please help us. Thank you very much.

25 THE CHAIRMAN: Next speaker is John King.

1 MR. KING: I am John King from Pine Island. Bokerlia
2 is my address I live on Pine Island Ridge. I have been
3 there 15 years. I own -- we own ten lots there on the
4 ridge.

5 I'm -- mostly I'm saying this, I'm telling this
6 because there is always more than one way to do something,
7 and sometimes we're so set on doing a certain thing a
8 certain way that we don't look for a better way.

9 Well, these ten lots we have, I thought when I bought
10 them that they were single family lots. Afterwards, of
11 course I found out they were not two families, if you
12 wanted. Now I would like to see them rezoned down to one
13 family. Now, somebody would say why do you want that.
14 Well, the reason for that is if they were one family, a 75
15 by 125 lot is not big enough for two families. If you put
16 two families on there with two septic tanks, it's going to
17 have a problem. The next thing you come in, the state
18 will come in and say you've got to have sewers. When
19 you've got sewers you better have bought another lot and
20 built a house on that because it costs less money than it
21 would to put the sewers in. So that's the main thing.

22 And as far as these, the Pine Island plan, I worked
23 hard on it, too, many, many time -- hours I spent on that.
24 And it was -- the main thing was to be sure that everyone
25 had a chance to express their opinion of what they wanted

1 for Pine Island, and that was the main idea. I realize
2 that not nearly as many people filled them out as we would
3 like, but they had a chance to fill them out and send them
4 in if they wanted to. Some people don't care that much.
5 They say I'm only going to be here four or five years yet,
6 so what makes the difference. Well, somebody has to do
7 the job for the future, and that's what we were doing, and
8 I thank you very much.

9 THE CHAIRMAN: Chuck Basinait?

10 MR. BASINAIT: Good morning, Mr. Chairman, members of
11 the Commission. My name is Charles Basinait with the law
12 firm of Henderson, Franklin, Starnes and Holt.

13 The firm has been retained by a Mr. Coy Jamison,
14 who's a property owner on Pine Island. The property is
15 actually located to the southern tip of the Greater Pine
16 Island Center. This is a smaller map which will indicate
17 Greater Pine Island Center is up in here. This is
18 actually the southern area of it down here, and it's
19 located to the east of Stringfellow Boulevard.

20 The purpose for my appearance before you today is to
21 suggest that the current line delineating the division
22 between urban and rural areas which is presently located
23 in this area of my client's property should be relocated
24 to the south. As you can see from this particular map,
25 and if you're not able to see it I can bring it up to the

1 podium, there are three separate lines here. This top
2 line that is in red is the current staff proposal, this
3 middle line that's in blue is the current location of the
4 line or the approximate location, the line that is in
5 yellow is the line I'm here suggesting to you today as
6 what should be the future line.

7 Now, with me here today also is Pete Ackenrod of
8 Duane Hall Engineering, who along with myself will also be
9 available to answer any questions you have.

10 Initially I would point out that at considerable
11 expense my client, he obtained C-C and CC zoning on this
12 parcel in 1978 and '79 and RM-2 zoning on the parcel in
13 1981. And as you may or may not remember, at the August
14 23rd meeting where this was initially discussed, I at that
15 time submitted letters and asked that they be introduced
16 into the record. I have copies of those letters here
17 today if anyone would like to see them. I'm sorry. What
18 I don't have with me is additional copies of the map which
19 was submitted in the letter and is referred to as Exhibit
20 A, but that Exhibit A is a mirror image of this particular
21 map down here on the board.

22 Now in that letter I basically go through
23 essentially what I'm going to say here today, so I would
24 ask that that be submitted into the record and I will be
25 brief before you this morning. Furthermore, I would

1 remind you that all of the lands that we're talking about
2 today are in a single ownership with no apparent
3 boundaries of any kind separating the urban and rural land
4 categories.

5 I would suggest to you that the Lee Plan is an urban
6 services plan, and as such one of its basic premises is to
7 encourage growth in the urban service area. The reason
8 for this is generally the availability of urban services
9 or the capability of extending the urban services to those
10 areas at little or no cost to the general public.

11 In our case it is my understanding that we have the
12 ability to hook into the Greater Pine Island Water
13 Association facility. Furthermore, there is a package
14 treatment plant which was constructed by my client and is
15 located on site with the capability of being expanded to
16 serve additional on-site development. This package
17 treatment plant is located in this area.

18 This plant, as you can see, refers to phase two,
19 polishing pond, phase two, perk pond, et cetera; and the
20 reason for that is that when this was constructed the
21 intent was to develop the RM-2 area into single family
22 homes and to make some form of commercial development on
23 the C-C and the C-G zoned areas and has been built such
24 that it can handle that expansion of the development.

25 You will also see that up to this point in time these

1 roads have been constructed. There are certain water
2 lines that have been put in, certain sewage treatment
3 plant lines that have been put in, all with the intention
4 of some day expanding to the full potential of the site.

5 Now, by moving the dividing line to the south you
6 would in effect be helping to insure the adequate
7 utilization of urban services already in place.

8 Furthermore, I would also remind you that the current Lee
9 Plan on Page Roman Numeral III-9 states, and I quote, "The
10 purpose of the urban service area is not to stop or retard
11 urban growth but to direct it, manage it and improve its
12 quality. It is intended as a loose and flexible envelope.
13 Hence it should always contain more land than anticipated
14 needs indicate to allow for a safety factor as well as for
15 choice and competition."

16 I would suggest to you that in moving the dividing
17 line to the south of my client's property you will not be
18 retarding urban growth but rather directing, managing and
19 improving its quality by allowing it to proceed in an area
20 that is well suited for it, and in so doing you will not
21 be negatively impacting my client's reasonable expectation
22 of development on his lands.

23 An argument may be put forth that the basic reasons
24 for not wanting to move the line to the south is that the
25 present road system is not adequate to handle the

1 evacuation of the island if it becomes necessary in a
2 hurricane, less than handling the general day-to-day
3 traffic. However, I would suggest to you that on almost
4 any large piece in Lee County this same argument can be
5 made and that argument in and of itself should not be
6 enough to deny my client what he is requesting here today.

7 Furthermore, my client, like any other individual or
8 developer, if you will, in Lee County, is going to be
9 required to pay impact fees upon coming in for development
10 of the site. Those impact fees, at least the theory is,
11 will pay for the infrastructure necessary to allow or to
12 provide for the impact on this particular development.

13 Finally, I would remind you that there is a
14 concurrency doctrine contained in the Florida Statutes in
15 the growth management act, and this concurrency doctrine
16 will work the same on this case as it will in every other
17 case. If the infrastructure isn't there or isn't in
18 place, then it's quite possible that this development
19 won't be able to occur until such time as that
20 infrastructure is put down.

21 In conclusion, I would ask that you modify the
22 staff's proposed amendment and move the dividing line of
23 urban and rural to the southern boundary of my client's
24 property.

25 Very briefly in a nutshell what I'm asking you to do

1 is this. The current line is located approximately in the
2 center. The staff proposal is to the upper end of the
3 property, and it's actually to the lower portion of that
4 part of the property that actually has infrastructure on
5 it. What I'm asking you to do is to move this line down
6 to the southern portion of the property such that it's
7 consistent with the zoning in this area. You will note
8 that the zoning on the other side of Stringfellow and
9 below my client's property is all AG zoning. There are no
10 natural barriers to prevent you from moving this line to
11 the south. - Also, the way that this development was set up
12 initially has provided for the extending of public
13 utilities such that you will be able to fully utilize the
14 infrastructure already in place.

15 I have nothing further to say here today, but
16 obviously I'm available to answer any questions you may
17 have, along with Mr. Ackerod.

18 THE CHAIRMAN: Commissioner Wallace.

19 MS. WALLACE: Besides the package plant that you have
20 mentioned in the area between your red line and your
21 yellow line, what infrastructure currently exists? Are
22 there roads in there or -

23 MR. BASINAIT: Commissioner, in this area in here?

24 MS. WALLACE: Yes.

25 MR. BASINAIT: The infrastructure that is in place

1 currently, and I don't mean to be redundant, deals with
2 the package treatment plant that is in this area here.
3 Those lines have been run down to somewhere right in here,
4 and they're built in such a manner that you hook into them
5 and you will be able to run them further down into this
6 area.

7 MS. WALLACE: Is there any other infrastructure or
8 any infrastructure between the red line and the yellow
9 line?

10 MR. BASINAIT: To my knowledge I don't believe that
11 there is any infrastructure existing. It's more a matter
12 of the fact that the way that this was constructed
13 initially, it was done in such a manner as to provide for
14 future expansion of the site.

15 THE CHAIRMAN: Any other questions? Thank you.

16 MR. BASINAIT: Thank you very much.

17 THE CHAIRMAN: Next speaker is Dave Depew.

18 MR. DEPEW: For the record, my name is David Depew.
19 I'm here representing Mr. Harry Brucker, and I would like
20 to hand out -- what I have given you is basically just a
21 copy of the land use map for Pine Island, proposed land
22 use map, and the second page is a series of property lines
23 and ownership boundaries along Quail Trail in the northern
24 part of Pine Island in that area that on the front page is
25 colored in yellow. And what I'd like to point out to you

1 is that this is really a comprehensive plan map and not a
2 zoning map and it's starting with all these little patches
3 of different kinds of uses to resemble more and more a
4 zoning map.

16
5 Mr. Brucker's concerned that he has been singled out
6 and a couple of other people along Quail Trail to receive
7 a rural category, which is what that little tiny blob of
8 yellow is in this area surrounded by suburban on the north
9 and the south and outlying suburban to the east; and it is
10 his -- his hope that the County Commission will in its
11 wisdom grant the extension of outlying suburban over to
12 the western boundary of the RPA in that area, the point
13 being simply that this little blob of rural just doesn't
14 make sense in there.

15 There is some residential zoning in that area and it
16 was always his intention to at some point in the future
17 put in a subdivision at two or three units to the acre
18 well within the criteria, the density criteria for Pine
19 Island, and well within the density criteria for either
20 the original plan that was suggested by the civic
21 association or the staff plan, and it really does conform
22 with all the various densities and plans that have been
23 tossed about here.

24 It's our feeling when we took a look at this that it
25 really doesn't make a whole lot of sense leaving this

1 little, tiny blob of rural surrounded on three sides by
2 suburban or outlying suburban, and really the difference
3 between one side of Quail Trail as outlying suburban and
4 the other side of Quail Trail as rural just isn't there.
5 Roads simply aren't good delimeters of land use
6 categories, and it would be our contention that there is
7 basically no difference from one side of Quail Trail to
8 the other that somehow warrants this particular piece of
9 property to be moved into that rural category.

10 That's really the extent of our presentation. We'll
11 hope that you will consider favorably this request to
12 include this as part of the outlying suburban that exists
13 adjacent to this on the east side, and I'll be happy to
14 answer any questions that the Board might have.

15 THE CHAIRMAN: Any questions by the Board?

16 MR. DEPEW: Thank you.

17 THE CHAIRMAN: Next speaker I have is Henry Brining.

18 MR. BRINING: Mr. Chairman, members of the Board,
19 thank you for the opportunity to come here again. My
20 approach to this today is going to be somewhat the same as
21 it was when I addressed you on the 17th of August.

22 Most of you know I'm not a developer, I'm not a
23 builder, I don't have a real estate license, I don't
24 belong to the Chamber of Commerce, not that those are bad
25 words; but I preface my approach to you with that to give

1 you an indication that really I have no vested interest.
2 I am a single family owner-occupied property owner, who
3 has lived on Pine Island for seven years; and as many of
4 you know, I'm down here frequently. I think I have
5 demonstrated an interest in Pine Island as much as anybody
6 else; and I'm going to repeat what I said to you the 17th
7 of August.

8 The civic association does not represent me; and
9 although I cannot speak for anyone but myself here this
10 morning, I don't think it represents the majority of the
11 people of Pine Island. I gave you some figures last time,
12 and it's only -- I repeat them only because it is the only
13 good, solid, verifiable figure that we have to work with
14 on Pine Island, and that is the number of registered
15 voters.

16 We have three precincts on Pine Island and we have
17 3,659 registered voters, irregardless of party. What I'm
18 saying to you, and by Mr. Boyd's own figures here this
19 morning, the returns on their survey represented 12 to 15
20 percent of the people. Fine. I understand the
21 fluctuation and I think you do, too. We've got 5,000
22 fulltime. maybe 7,000 in the summer, but we've got 3,600
23 hundred registered voters that we know was there two days
24 ago.

25 What I'm saying to you is that you people as elected

1 officials were elected by a majority of the voters.
2 Fifteen percent doesn't come out to a majority of the
3 voters. If 15 percent returned the questionnaire, then my
4 simple mathematics says 85 percent conceivably does not
5 support the action or the recommendations of the Pine
6 Island Civic Association.

7 I would remind you that you were elected by the
8 majority and I would urge you to vote on the adoption of
9 the civic association's plan on the same basis, on a
10 majority of the voters or a majority of the population of
11 Pine Island.

12 If you have any questions I will be delighted to try
13 to answer them.

14 THE CHAIRMAN: Questions by the Board?

15 MS. WALLACE: Do all of the voters vote?

16 MR. BRINING: Well, I would hope so.

17 MS. WALLACE: But you know they don't, Hank.

18 MR. BRINING: Well --

19 MS. WALLACE: Sometimes 20 percent, sometimes when
20 we're lucky 30 percent.

21 MR. BRINING: I didn't try to break that down because
22 I wanted to stay away

23 MS. WALLACE: All I'm doing is I'm going back to your
24 statement and trying to translate it over to the
25 questionnaires that have been responded to on Pine Island.

1 A majority of the people who responded were in favor of
2 it. We are elected by a majority of the voters who vote,
3 not by a majority of the voters necessarily.

4 MR. BRINING: I understand what you're saying, and I
5 don't mean to be argumentative with you, but we have all
6 of these figures out here floating around as to who
7 represents what. What I'm saying is this is the only
8 baseline figure that we can tie down.

9 Now, if the meeting continues on this afternoon, I
10 will be happy just as soon as I'm through here to go back
11 up and see what the voting was in those three precincts
12 and come back and will address it based on what you're
13 saying. But as I recall, as I recall from the media, I
14 think we had a 20 percent or better turnout on Tuesday's
15 election, so again I would say that represents the
16 majority and not the 12 or 15 percent of the people who
17 answered the questionnaires circulated by the civic
18 association.

19 THE CHAIRMAN: I don't think it's here nor there,
20 Henry. We've got to do the best representation we can
21 based on a countywide basis.

22 Let's look at the general election. You know, the
23 last general we had 86 percent on a countywide basis, so
24 let's -- we're not arguing that. We're here to make --

25 MR. BRINING: I respect your opinion and I hope

1 you'll consider mine.

2 THE CHAIRMAN: That's great. We will.

3 MR. SLISHER: One question. Hank, you support the
4 compromised plan worked out by staff?

5 MR. BRINING: I beg your pardon?

6 MR. SLISHER: Which plan do you support? The
7 compromise plan worked out by staff?

8 MR. BRINING: Well, frankly, I didn't see the
9 compromise plan until this morning when it was mentioned.

10 My main concern and my only concern with the plan is
11 in 16.3 on the residential land use part, and I frankly
12 don't know -- I can't read or interpret what the
13 compromised plan here, what is the ultimate density that
14 we're talking about, how many units per acre.

15 MR. MANNING: Doesn't say it, does it?

16 THE CHAIRMAN: You're on 16.3.1, Henry, or just 16.3?

17 MR. MANNING: No densities are given in the plan, Mr.
18 Chairman, at all.

19 MR. BRINING: That's what I'm saying. I'm still
20 going back to the 12th of August where the association is
21 recommending three units to an acre, which I have some
22 strong feelings against; and the compromise plan doesn't
23 say. I don't know.

24 MR. SLISHER: It's got to be working with the map,
25 and I think the map is on the September 30, 1988, version

1 that we're working with.

2 MR. SPIKOWSKI: If I might clarify, the density
3 limits whether it's three or six, would be exactly what is
4 in the current plan. It's not being changed. That's why
5 it's not under Goal 16.

6 MR. BRINING: If it's what's in the current plan, I
7 have no objections.

8 MR. SPIKOWSKI: Some of the boundaries change, but
9 the densities stay the same.

10 MR. BRINING: That's the boundaries that we agreed to
11 previously. I have no problem then; but it doesn't say
12 that in this document.

13 Any other questions?

14 MR. SLISHER: No. Thank you, Hank.

15 MR. BRINING: Thank you for your time.

16 THE CHAIRMAN: I'm going to call one more card.
17 We're going to break at noon and come back at two o'clock
18 and finish the remainder of the presentation on Pine
19 Island plus the other hearing that we have on Pine Island.

20 Next speaker is Mary Ellen Bundschu.

21 MS. BUNDSCHU: For the record, I'm Mary Ellen
22 Bundschu Burnett, the architect for Green's Grocer, owned
23 by Seaburt Associates, which also owns 82 adjacent acres
24 of land to the west of the grocery store, and I have some
25 information to give you.

1 This parcel was also presented to you at the August
2 23rd hearing.

3 If you look at the first map, it shows where the
4 subject property is, well within the Pine Island Center
5 subsector. The property is located less than three-tenths
6 of a mile from the heart of the urban services area,
7 three-tenths of a mile south from the intersection of Pine
8 Island and Stringfellow Road.

9 The proposed plan states that the southern portion of
10 Pine Island Center subsector should have a maximum
11 residential density of three units per acre, and it also
12 states that the community commercial center should be
13 located within this area. The plan clearly encourages
14 urban community land use category at the Pine Island
15 Center; and, once again, the subject property is located
16 in that area. The current line between urban community
17 and rural divides the property, which is under one
18 ownership; and if you look at the second map, it shows
19 where the urban community line is and where the subject
20 property is. It's just at the southern boundary of the
21 line.

22 This map shows the subject property with a line
23 currently coming this way and going up and excluding the
24 subject property. The area in this map with the blue
25 diagonal lines that we propose should be included in the

1 urban land use or the urban community land use category
2 rather than the rural. This map also shows the existing
3 network of roads adjacent to the property. Also there is
4 a proposed road which will be going right through the Pine
5 Island Commercial Center with a loop connecting to the
6 proposed Betsy Parkway Extension.

7 I think, finally, we just feel that it's more logical
8 for the line to go directly across Stringfellow rather
9 than to exclude this parcel of property.

10 THE CHAIRMAN: Is that all your comments?

11 Any questions by the Board?

12 Thank you.

13 Okay. We're going to recess now until two o'clock,
14 and we'll be back to finish up on the Pine Island plan.

15 (Whereupon, proceedings were recessed.)

16 (Whereupon, proceedings were resumed.)

17 THE CHAIRMAN: Board is back in session. I had a
18 card from Jim Howard from St. James. He had to leave
19 because he couldn't stay any longer. I told him to call
20 you to see where you were.

21 MR. SLISHER: What time was the meeting supposed to
22 start?

23 MS. WALLACE: Bill, Jim wanted me to say that he was
24 for the plan, and I will keep this for the record.

25 MS. WALLACE: I also have a letter from a Mr. Frank

1 Greco who left when we broke at noon, and when it's
2 appropriate I will read his letter into the record. Okay?

3 THE CHAIRMAN: Want to read it now?

4 MS. WALLACE: Okay. Shirley, I'll read this into the
5 record and then I'll give you the letter for your records.

6 MR. SLISHER: Where is Bigelow at?

7 THE CHAIRMAN: He's excused. He had a hospital
8 meeting today and he notified me of that.

9 MR. SLISHER: Just curious.

10 MS. WALLACE: Mr. Frank Greco, who could not stay for
11 this afternoon's meeting, requested that I read this into
12 the record.

13 "The environment is Florida's most valuable asset.
14 If the 1984 version of Lee County Comprehensive Plan is to
15 be adopted, pay particular attention to Section 9,
16 entitled coastal zone" -- wait, this is on general, I
17 think, rather than Pine Island. Well, let me go ahead and
18 read it. I'm not sure where it's appropriate.

19 "This contains policies set forth to preserve and
20 protect both wetlands and uplands that are vital to
21 coastal life. Heed the warning of polluted water and its
22 detrimental effect on sea life and the estuaries," and
23 he's referred to Pages 34, 35 and 36, Section 9 policies,
24 and he has listed B-1, B-3, C-8, C-1, D-5, E, E-1, E-6, G
25 and G-6, to cite a few. "All of these policies clearly

1 set forth in print deal with maintaining clean water,
2 preservation of coastal vegetation, mangroves and
3 ecological balance. If these policies are all allowed to
4 be overridden by special interest groups through petitions
5 and/or pressure to set aside vital policies written into
6 the Lee County Comprehensive Plan it is not worth the cost
7 in time, effort and money to compile and print.

8 "We are talking about land use, not abuse. We must
9 as people concerned with the future look ahead to that
10 future. We must not, cannot push our coastal environment
11 too far for the sake of providing housing and services for
12 an overload of people. Where will we get the food to feed
13 these people if there is no longer water or land capable
14 of producing the products they need? Will there even be
15 water fit to drink?

16 "You, our elected County Commissioners, are the watch
17 dogs for keeping Lee County a decent place to live and
18 make a living. We ask that you keep these things in mind
19 when making important decisions. Remember they are
20 clearly written into the Lee County Comprehensive Plan.
21 We ask that you abide by them and will not be swayed by
22 special interest groups that seek to destroy our precious,
23 irreplaceable natural resources for the sake of
24 unmanageable growth being promoted by big money.

25 "Lee County's future is in your hands. It is up to

1 you to protect it."

2 THE CHAIRMAN: Okay. Next speaker I have is Jerry
3 Myers.

4 MR. MYERS: For the record, my name is Jerry Myers,
5 and I'm a seven-year resident of Pine Island, St. James
6 City to be specific. I'm a businessman on Pine Island,
7 and I'm one of the nonrespondents to the questionnaire.

8 The reason why I didn't respond personally is because
9 there is no way that my opinion was represented by any of
10 the answers, okay? So I don't know why everybody else --
11 a lot of people didn't respond. I'm sure a lot of people
12 cheered, my problem.

13 I was pretty active in the development of the first
14 plan, of the '84 plan; and frankly I haven't participated
15 strongly in this one because there wasn't a lot of room in
16 my opinion for dissenting opinion. I do applaud at this
17 time the fact that staff has come up with a plan which
18 very much represents a good compromise.

19 I think this compromised plan is adoptable. We can
20 all live with it. There is a couple questions that I'll
21 ask about the plan, though, which I think beg questions

22 One is Policy 10.1.2, where it says maintenance
23 dredging of original channels and canals may be permitted
24 in those cases where the original channel or canal depth
25 and width can be accurately determined. I guess I'm not

1 sure of what criteria makes an accurate determination and
2 what happens if you can't accurately determine what the
3 depth and width of a canal was. One by my house when I
4 moved in was about seven foot deep at the head; it's about
5 three and a half now. I'm sure there is no real
6 documentation of that.

7 Also, I have been led to believe that between that
8 canal and the intercoastal it was seven foot deep at
9 least, that's what I have been told, at least that, when
10 that subdivision was made. Now it's about three and a
11 half foot is the low mark on low tide.

12 Now, what happens if you can't determine it? And to
13 have a policy statement like this without a set of
14 criteria is kind of, I think, begs a question.

15 I believe in Policy 16.1.5 that Flamingo Bay probably
16 belongs in there. It's got as much or greater density
17 than almost any other area referred to. It's a mobile
18 home subdivision on septic tanks, 7,200 or, actually,
19 1,440 to 7,200 or smaller lots, and it should really be
20 included in that area as an area of concern.

21 I don't know why Policy 16.2.3 says widen the traffic
22 lanes to 12 foot. I think a minimum of 12 foot is nice,
23 maybe 14 foot, maybe 16 foot lanes is better. I think
24 there is a lot of points in this plan that are really not
25 strategic as a capital plan or as a comprehensive plan is

1 supposed to be but instead are, quote, tactical or
2 decisions that should be made through ordinances or
3 through staff decisions.

4 What is done with regard to roads in Matlacha, I
5 mean, those are tactical decisions that need to be
6 addressed at the point in time. I think there needs to be
7 public input. I think there needs to be recommendation
8 from staff. I don't really think they are decisions that
9 really belong in the comprehensive plan.

10 But, in summary, we're working with this plan. I do
11 applaud the staff, I think they did a good job on it; and,
12 you know, I can live with this. I think most of us can.

13 Thank you.

14 THE CHAIRMAN: Thanks, Jerry.

15 Next speaker is Donald Randall.

16 COL. RANDALL: My name is Donald Randall. I live in
17 Pineland. Thank you for being here.

18 I didn't intend to talk today because I have been a
19 little hoarse lately, but when I heard some marvelous
20 things I just felt I had to get up and talk.

21 I heard that there is just a few of us in addition to
22 the fishermen are in favor of limiting growth on the
23 island. The majority of the people want it to grow. I
24 have heard that more people coming in will lower the tax
25 rates. If that were the case, Cape Coral would be one of

1 the richest communities in Florida. They have had high
2 growth and their taxes are going even higher. I have
3 heard crocodile tears shed over the plight of the poor
4 residents as opposed to the wealthy people who live there
5 now. When I came here, the poor residents lived on a
6 small plot. They had a house, they had a well, they had a
7 septic tank and they had free fire service. There was
8 very -- there weren't many people in the schools, and the
9 school buses didn't clutter the highway and taxes didn't
10 proliferate.

11 Well, that has all changed. To get water now to a
12 house, I think it is \$1,300. God knows what a septic tank
13 system -- what a septic tank change over to a package
14 plant will be, but it will be horrendous. And I just
15 can't see how anybody can sit and say that the majority of
16 the people do want this outstanding growth.

17 Now, there is some talk about how many people
18 actually want this and how many don't. Have you
19 overlooked the fact that we did have a vote? We had a
20 vote just a couple of days ago, and the vote was between
21 do you want a new charter, which is commonly referred to
22 as the developers, realtors bill plus a few lawyers, or the
23 thing for the poor honest guys that just want to leave
24 things the way they are. I'll read you the vote. St.
25 James City, 97 voted for the plan, 553 voted to torpedo

1 it. That's about six to one. Pine Island Center, 24 yes
2 votes, 164 against; Bokeelia, 50 versus 227. Now, that
3 adds up to about 1,055 votes, but barely 200 want the
4 plan.

5 Now that's -- I don't think any more needs to be
6 said. The vote has been taken. It was commonly regarded
7 as the poll on whether we wanted fast development or
8 whether we want slow growth.

9 I thank you for your attention.

10 THE CHAIRMAN: Next speaker is Dave Jones.

11 MR. JONES: Excuse me. For the record, my name is
12 Dave Jones. I'd like to change the tone of the comments I
13 made on this to point out what I think are some technical
14 changes that need to be made so that the compromise in
15 fact functions.

16 We have had a tendency to go a little bit too
17 specific in the comp plan. There are a couple things in
18 here I think lead that way, and there is some general
19 trends.

20 The first one I would like to speak to is at 16.1.2,
21 and the gentleman -- before the gentlemen spoke about
22 that, but that's a concern where, particularly with the
23 water quality standards currently enforced by the state
24 DER, where you end up with blockages at the end of canals,
25 when you get a sedimentation collection in low spots where

1 you don't get flushing, that the standard ought to be not
2 to set it back to an original point but to set it in one
3 that meets the current state of the art design for canals
4 so they flush best. There are quite a few dead end canals
5 on Pine Island, and over time that problem will just
6 become worse. And I don't think that we can identify the
7 historic depth of those, particularly since most of those
8 were dug long before the regulations came into effect.

9 The second one is 16.1.3, and I guess more
10 specifically I should ask Bill a question, but it says a
11 50-foot wide vegetated buffer between development and any
12 water body. And the specific question is if you were in
13 an area that has a large RPA area beside you, and you
14 have, say, urban community, do you have to buffer from the
15 RPA line back or from the -- or from the RPA function as
16 the buffer?

17 MR. SPIKOWSKI: The RPA will function as the buffer.

18 MR. JONES: Is that interpretation all right with you
19 all, I hope?

20 The next one has to do with 16.3.1, which talks about
21 development bonuses for a property. We have -- currently
22 in the comp plan we have two ways you can get a bonus.
23 One is through transfer of development rights and the
24 other one is through low income, middle income housing.
25 And they added to that a third one, which really isn't

1 transfer of development rights, is the counting of
2 unmapped RPA areas as the same as the underlying density.
3 We amended the plan, I believe, in '86 to say that if you
4 had -- this is hypothetically a ten-acre piece that had
5 one acre of wetland on it, wasn't considered significant
6 enough to map as the other RPA areas are in the county,
7 that you could count the density in your computations with
8 the land use category against that particular area, but
9 you couldn't develop, you had to protect it, and you had
10 to go through an RPA determination, and it became mapped
11 at that time but you could count the density against your
12 site. This wording, the last phrase in that section,
13 16.3.1, takes that away for any property on Pine Island.

14 Again, the point I'm getting to is that's different
15 than RPA land, something that's currently mapped and a
16 part of those major systems. This has to do with any
17 small parcel or any portion of any parcel that exhibits
18 the soils, vegetation and -- soil, vegetation and
19 hydrology that makes it RPA but that wasn't significant
20 enough to map.

21 And so there is no confusion, that doesn't include
22 moving an existing map line. If it's already mapped and
23 the line moves against the property owner, if you will, so
24 be it, or if it moves for the property owner, so be it.
25 That issue doesn't affect it. This is an unmapped,

1 isolated wetland that would end up being treated
2 differently on Pine Island than any other piece than in
3 Lee County, and I think that's that's a mistake.

4 16.3.3 says that the county will substantially retain
5 current building height limitations as adopted by
6 ordinance. I think that's superfluous. We have an
7 ordinance that says 35 feet on Pine Island. It's a
8 specific ordinance, it talks to the height. If you
9 changed the height, you have still substantially retained
10 it, it's -- I don't think it needs to be in here. It just
11 adds to the volume of the plan.

12 On 16.3.4 it suggests that we give special permission
13 or make the use by right storage of fishing equipment in a
14 residential development. I believe this is a bit of a
15 legal concept; but, as I understand it, what we have done
16 in a planned development is a district is a district is a
17 district. If it's permitted by use in any district it's
18 permitted by use in the same district in any other place
19 in the county.

20 So to implement that we would have to do one of two
21 things, either permit storage of fishing -- the things
22 that this permits in all residential districts in Lee
23 County, or we would have to create special districts just
24 for Pine Island, in which case I believe there would have
25 to be a zoning hearing to see if the majority of the

1 residents of any particular area wish to do that.

2 MR. MANNING: Well, it says the county zoning
3 ordinance shall be revised to allow.

4 MR. JONES: If, hypothetically, if I have RS-1 zoning
5 on a subdivision on Pine Island and in San Carlos, if you
6 permit storage of fishing boats in the RS-1 district, or
7 fishing equipment that this would permit, then it can be
8 permitted in San Carlos as well as Pine Island. If you
9 created a special RS-1 district and zoned those in Pine
10 Island RS-1 PI or whatever, you could add another use to
11 it, storage of fishing boats; but RS-1 is RS-1 or
12 whatever. That's a complication, and that's a legal
13 concept that I don't speak of, but it's something you all
14 need to look at, because I don't believe you can do that.

15 And if I can go back up to 16.2.5, this is sort of a
16 philosophical thing, but it says that we shall evaluate
17 the build out capacity of Pine Island after the adoption
18 of this plan to determine what roads are necessary. So I
19 see a little conflict with that and the growth management
20 legislation. It seems sort of backwards. We ought to
21 determine the capacity and then plan to accommodate that
22 capacity.

23 And likewise that goes back up to -- I think the
24 final point I need to make is at 16.1.5, when it talks
25 about utilities. We have asked -- we have said -- we have

1 identified three areas, St. James City, Bokeelia and Pine
2 Island Center, and again it probably ought to include
3 Pineland, where there is concentrations of development on
4 septic systems; and we ought to seriously look at those
5 for making them or having them go to central sewer system.
6 At the same time we are constricting those particular
7 areas by map changes. For example, in St. James City the
8 urban community line has been moved south almost to the
9 top of the completely developed area, which would mean
10 that any utility, sewer system or sewer plant would have
11 to be placed outside of the community that it's intended
12 to serve, as opposed to the existing line, for example,
13 which accommodates some large, undeveloped parcels which
14 might well serve as a sewer facility. The same thing
15 happens at Pine Island Center, same thing happens at
16 Bokeelia and Pineland.

17 I think you need to look at that, that we need to
18 accommodate -- you know, in those areas we're going to
19 accommodate development we also need to accommodate the
20 infrastructure that would be appropriate in those
21 districts.

22 And I think that maybe we have put the cart before
23 the horse in those line drawings. If we took another look
24 at the utilities and took another look at the
25 transportation network and then set the lines based on

1 that rather than ownership patterns or the specific land
2 use trends.

3 That's my comments. If you all have any questions --

4 THE CHAIRMAN: Any questions by the Board? Okay.

5 Mark Krieg?

6 MR. KRIEG: My name is Mark Krieg. I would like to
7 take this opportunity to try to help our community become
8 a little more understanding and make it possible for all
9 of us to live together like we wanted to in the first
10 place. Matlacha, I think we've kind of alienated
11 Matlacha. In our questionnaire that was sent out, let me
12 read the question. A, destroying as much of Matlacha as
13 needed; b, by-passing Matlacha with two new lanes; C,
14 by-passing Matlacha with four new lanes.

15 Now, how would you feel if you lived in Matlacha and
16 you got a questionnaire that says destroying as much of
17 Matlacha as needed? Had we said eliminate parking on the
18 road right-of-way and put a third lane, passing lane or
19 turning lane to Matlacha, I think the people in Matlacha
20 would agree with it. I think it would make it more
21 convenient for them to be in Matlacha. There is areas in
22 Matlacha that could be designated as parking areas, and we
23 could take that parking off the highway. The highway
24 right of way, I think Bill would agree, is wide enough; is
25 that true, Bill?

1 MR. SPIKOWSKI: If you used closed drainage, it looks
2 like you can put a third lane in there.

3 MR. KRIEG: We all know it's impossible to put two
4 lanes around Matlacha or four lanes around Matlacha in our
5 lifetime. The cost would be far prohibitive. We were
6 fortunate to get 78 elevated, and we're thankful, believe
7 me, we really are. We needed it and we're thankful for
8 it.

9 The next thing I would like to comment on is our
10 growth on Pine Island. I have been on Pine Island for 12
11 years, and during that time, as Bill would agree, we have
12 had about a four percent growth rate. We have not had the
13 explosions that everybody predicted for Pine Island.
14 We're not going to have them in the future either. And
15 because of the growth that we have had on Pine Island
16 during this period of time, we now have a Winn-Dixie
17 shopping center, we have got a grocery store and we have
18 got a dock restaurant, we have got a drugstore, and we
19 have got a nice fishing tackle store; and in addition to
20 Winn-Dixie shopping center we have got two attorneys on
21 the island now, we have got the Circle K. which I know
22 everybody appreciates because they can't even get up to
23 the gas pumps to buy gas. There is six cars normally
24 buying gas at the Circle K. So Pine Island Water Company
25 has been able to expand because of additional impact fees.

1 They have been able to hold their rates down. We've got a
2 better fire department, we've got a new library, and thank
3 God we're getting Highway 78 elevated.

4 I want to just reaffirm what Chris McEwan said this
5 morning about the Chamber of Commerce. We really do agree
6 with staff's compromise plan. We don't have any argument
7 with it. We can all live with it, and with that I
8 appreciate you hearing me out.

9 Thank you.

10 THE CHAIRMAN: Thank you.

11 Alex Gluharff.

12 MR. GLUHARFF: Good afternoon, ladies and gentlemen.
13 My name is Alex Gluharff, developer and ecologist from
14 Pine Island.

15 First of all, I would like to thank Mary Ann on
16 behalf of myself and all of the people on Pine Island for
17 what you have done for our road. You're a nice lady and
18 we thank you. John, we want to thank you. We needed that
19 road desperately. Hopefully now that we've got the money
20 you'll hang onto it. Porter had it last time, and we lost
21 it.

22 MR. MANNING: I stayed here over the weekend, Al.

23 MR. GLUHARFF: I love it. I notice everybody is
24 making observations. Let me make a couple of
25 observations.

1 I love Pine Island. I lived on Pine Island for over
2 20 years. I have seen many changes, some good, some bad.
3 Most appear to be good. There are some bad.

4 You listened a lot this morning about one group that
5 wants to stop development, you listened to others who want
6 rampant development, you have listened to polls. Mr.
7 Gallup would not have done this type of poll. It's like
8 asking should we kill your mother or paint the house blue.
9 What would you answer? Paint the house blue.

10 The Pine Island Civic Association does not speak for
11 the majority of the people in Pine Island, the developers
12 certainly don't speak for the majority of the people on
13 Pine Island, and I certainly don't speak for the majority
14 of the people of Pine Island. There is a vast majority
15 that does not speak. There is a vast majority that does
16 vote, and when you see someone lose an election, that's by
17 that vast majority that doesn't speak.

18 You have to take a lot into consideration; and polls,
19 particularly our type of polls, are pretty impractical.

20 I remember several years ago Pine Island at the cross
21 roads came out and was like an explosion on Pine Island.
22 People would run to my office, "Alex, did you see that,
23 what Spikowski did?" I says, "Yep."

24 "What do you think of it?"

25 "Don't quite understand it, but he spent thousands

1 and thousands of hours on his own and came up with a
2 plan."

3 A person would come into my office and say, "I don't
4 like it." I says, "Great, show me yours." He didn't have
5 a plan.

6 It's very easy to knock somebody's plan. Take the
7 time out to make your own.

8 Now, the civic association spent \$14,000 of their own
9 money to come out with a plan, and I respect that. It's
10 their belief, it's what they feel that is needed for Pine
11 Island. I may not agree with many parts of it, but it's
12 an excellent start, and we must go on further and thank
13 Bill for the unbelievable job he did combining these
14 various ideas and plans to come up with something that is
15 workable. And I think 16 as it is now is a workable plan
16 for Pine Island and hopefully you will adopt it; and
17 hopefully on 16.2.1 you will give us D, E and not B, C, or
18 whatever.

19 I can't say that I like tying in development with
20 road construction over which we have no control whatever,
21 but hopefully now that we've started to get some money
22 we'll continue on.

23 I would like to tell you what Pine Island doesn't
24 need. Pine Island doesn't need any more mobile homes. It
25 doesn't need any more 50-foot lots. Pine Island does need

1 more shopping centers. We have a Winn-Dixie. It's
2 undoubtedly the worst Winn-Dixie in the world. Everything
3 that they can't sell any other place they bring to Pine
4 Island. Lucky. Better than nothing. Twenty years ago we
5 had nothing. We do need more marinas. There are people
6 that can't put their boat in, or the ones that can put
7 their boat in, they'll pay in one week to store that boat
8 what it will cost them to buy that boat. We need a movie
9 theater, and we need boat ramps for the people who are
10 buying nonwaterfront lots, because we're at the very verge
11 of running out of waterfront lots. There will be no more.
12 The lots that will be sold will be sold for hundreds and
13 hundreds of thousands of dollars, so people will now begin
14 to buy nonwater front property. They will need some place
15 to put in boats at a reasonable cost.

16 And now, if I may, there are a couple of things in
17 Objective 16 I really don't understand. Objective 16.1
18 says county regulation policy and discretionary actions.
19 Show me a discretionary action. Tell me about a
20 discretionary action. Who decides? I hate that word.

21 And no unnecessary loss of native upland vegetation.
22 How far is upland? To Stringfellow? If you come in from
23 either side to upland native vegetation, there is no more
24 Pine Island left. And historically you may or may not
25 know, the development, original development of land on

1 Pine Island, once upon a time somebody bought a hundred
2 acres from the State of Florida cheap, bought as a
3 government lot. Paid good American money for it, and he
4 had his hundred acres to develop, prime waterfront
5 property. A little bit later on the government thought
6 about it, said that's not too hot, we ought to slow that
7 down a little bit, and we started what's called a meander
8 line coming from the uplands downwards. So that where the
9 meander line came, or the line of mean high tide came,
10 this is where you would stop development. So they took
11 away about two-thirds of your property.

12 Then they changed their opinion again. Well, now
13 we'll use the mean high tide coming in from the outside,
14 and that took away more. And now we have gotten to the
15 mangrove line, you can't develop past the mangrove line.
16 And now I see in the future native upland vegetation. So
17 conceivably a man could have bought a hundred acres 20
18 years ago, he could end up with five acres developable.

19 I can't stand these words like discretionary. Make
20 it county regulations, make it policies, but take out
21 discretionary.

22 Channels, channels on Pine Island. We do really need
23 to clean out some of these channels. There is no way in
24 this world anybody is going to determine the original
25 depth, but something has to be done. Many areas you

1 almost can't get out.

2 Now, Policy 16.1.4, that's a little beauty. The
3 county shall - not may, shall - develop a proposal for a
4 taxing mechanism. Enough our taxes went up 400 percent,
5 now we've got another tax to purchase native uplands.
6 What in God's name do the citizens of Pine Island want to
7 buy native uplands for? What are they going to do with
8 it? If somebody wants to buy, let them buy them as an
9 individual, but certainly not tax the people for it.

10 Policy 16.2.3, I assume now is moot. It says 1993
11 and John tells us it's going to be tomorrow afternoon.

12 Now Matlacha, I think you ought to go ahead and take
13 that third lane and put it through Matlacha, and hopefully
14 you will do it on the north side and go through my office,
15 because I really need the money.

16 And that's all I have to say. Thank you.

17 THE CHAIRMAN: Next speaker is Ray Judah.

18 MR. JUDAH: Alex has always been a hard act to
19 follow. I'm Ray Judah, Lee County resident. Good
20 afternoon.

21 I just wanted to say for the record that I certainly
22 endorse the Pine Island plan. As a former land planner I
23 have had a lot of opportunities to conduct field site
24 investigations on Pine Island, and through those field
25 site investigations practically walked the entire island,

1 and truly Pine Island is a very special place.

2 I think what the concerned residents of Pine Island
3 are trying to do with this plan is simply to make sure
4 that development is compatible with the environmentally
5 sensitive nature of the island.

6 I would just like to speak to one issue. I think we
7 all realize that the development potential of Pine Island
8 is directly related to the capacity of State Road 78. I
9 do, however, feel that the Planning and Zoning Commission
10 did a disservice to the residents of Pine Island, Matlacha
11 by recommending that the level of service of Pine Island
12 Road be established at D and E. That's just not
13 acceptable.

14 It makes no sense to allow for increase in
15 development if Pine Island can't accept a lower level of
16 service on Pine Island Road. Such a change would
17 jeopardize the lives of all residents of Pine Island and
18 Matlacha certainly during a major storm event.

19 A gentleman earlier talked about exclusivity. I
20 don't think we're dealing with exclusivity, we're dealing
21 with public safety and welfare. and hurricanes do not
22 differentiate between low to moderate income housing or
23 high income families.

24 I think it is a wise and prudent judgment to make by
25 the Commission that Lee County government can make every

1 effort to insure the level of service of Pine Island Road
2 be established at C and D

3 Thank you.

4 THE CHAIRMAN: Thank you. Next speaker is Porthole
5 Pete Gurry.

6 MR. GURRY: Madam Chairman, Commissioners, I'm
7 Porthole Pete Gurry. I'm a resident and small businessman
8 on Pine Island. It doesn't matter too much how long I
9 have been there, because I think a person that's been
10 there a year has the same rights as somebody that's been
11 there for 20 years. I just have a couple of things to
12 address.

13 One is about the questionnaire. The civic
14 association spent a lot of time and money on the
15 questionnaire. I think it was widely distributed, there
16 is no question about that. There is a little question
17 about the percent of answers that came back. There really
18 were two questionnaires that were very similar, so that
19 the figures that you might have received are based on both
20 questionnaires; and I and a lot of other people filled out
21 the questionnaire twice.

22 I think it came to -- I have got it here somewhere.
23 It came to 17 percent, I think, on the first one return
24 based on what the fellow this morning said our registered
25 voters were, and I think that's a fantastic return. There

1 is some people that didn't answer it. as was said before,
2 because they wanted to boycott it, they wanted to take
3 validity away from the questionnaire. I don't think it
4 took much validity away not to answer it. They just lost
5 their vote, that's all. If you don't vote you don't have
6 a right to complain about what is going on, and it was
7 very clearly represented as the civic association plan,
8 and your input was into the civic association.

9 Some of the questions as was said by Alex were
10 negative option questions. You had your choice of --
11 multiple choice answers, none of which were none of the
12 above, or very few of which were none of the above. Some
13 of those, I think, were unfair. But overall, I think that
14 the questionnaire was valid and significant. I think it
15 did put a lot of input in, people got to say what they
16 wanted to say.

17 As long as you realize it was the civic association,
18 they did get a pretty good return on the thing and gave a
19 good realization of what a lot of the people, 17 percent
20 of the registered voters on the first questionnaire, which
21 is a significant return.

22 One of the problems is that a lot of things on the
23 questionnaire will cost a lot of money which you folks
24 can't cough up and we can't cough up either, so that's
25 something that we're just going to have to put on the back

1 burner.

2 The second thing I have to address is Pine Island
3 Road. I appreciate you all raising the road for us. I
4 wasn't hollering because it was the same height when I
5 came here. When I moved to Pine Island, I knew there was
6 an egress problem if there was a hurricane, and that's
7 part of the game you play. I don't have a right to move
8 on Pine Island and then come down here and say raise the
9 road because I'm out here and I want to be able to get off
10 the island. It's the same as somebody who moves to Cape
11 Coral and says, "Hey, I can't park my pickup truck out
12 here." Well, you should've read the law before you came.
13 I came across Pine Island Road and I could see the water
14 over the road. But, anyway, I appreciate your raising the
15 road.

16 There are a couple of alternatives that you're going
17 to have to study, and you're going to have to balance the
18 dollars versus the impact on the people, the residents and
19 the businesses, especially in Matlacha. Widening the road
20 in Matlacha is one alternative. Putting a double deck is
21 one of the options that was talked about, a by-pass half a
22 mile south of Matlacha was another alternate. Another
23 alternate is a St. James bridge, and there is probably
24 some other alternate; and I think you folks would do
25 everybody in Pine Island a favor, not necessarily to go

1 ahead with whatever plan you decide, but figure out in the
2 near future what we're going to do in the year 2000 or
3 2010 or whenever we get around to getting more egress on
4 and off the island, because the people on Pine Island Road
5 and Matlacha have to be able to plan. If you own a
6 property there, and right now maybe the road will be
7 widened, certainly it will be torn up for a long time
8 while they're raising it, but maybe it will be widened in
9 ten years or twenty years. It's very tough for a
10 businessman and residents on Pine Island Road to know what
11 to do. Should they sell, should they remodel or whatever.
12 People in St. James ought to know if perhaps there is
13 going to be a road going from St. James over to the Cape.

14 I think that it would be fair for you folks to
15 consider what you're going to do now, maybe make a
16 tentative commitment or a firm commitment and say we're
17 going to -- eventually Pine Island Road is going to be
18 widened through Matlacha, eventually we're going to put a
19 road in St. James; but make a decision and let the people
20 know so they can plan to know whether to remodel, whether
21 to buy or whatever else.

22 A couple other things I just wanted to mention. One
23 is about the nets and traps in the back yards on the
24 island. There was a fellow here at the last meeting,
25 said, "Geez, I'm a plumber and you're favoring fishermen.

1 They can put their nets in the back yard and I want to put
2 toilets in my back yard." Well, it's obvious, what you
3 need to do is make it look reasonable. You don't want an
4 eyesore in your back yard. Pine Island is a fishing
5 community. There's commercial fishermen and sports
6 fishermen, and the commercial stuff is all over. Nobody
7 would have moved there if they didn't like the looks of
8 nets and traps in the back yard. If it's an eyesore, then
9 maybe put a hedge up. I don't think I would put it in
10 there saying yeah, you can do whatever you want as long as
11 it's nets, traps and boats in your back yard. That's not
12 fair. What would be fair is to prevent an eyesore,
13 regardless of what it is. I don't care if it's toilets in
14 your back yard or nets. You know, make it so that you
15 would not have an eyesore. It might be objectionable to a
16 lot of people.

17 Pine Island is going to stay a fishing community.
18 It's going to have commercial fishermen and it's going to
19 have sports fishermen. The ideas that you're working on
20 in the compromise now are good ideas. You put the buffer
21 there to keep the stuff from -- all the fertilizer from
22 rolling off into the water, and we're going to keep the
23 fish there. And it's a fishing community, it's going to
24 stay that way.

25 Another thing is property owners' rights. It's not

1 fair to change somebody's property from a multi-family,
2 from a duplex zoning and to say, "Okay, we're going to
3 make all this property single family." One of the fellows
4 was after that. That's not fair. If he wants to put
5 single families up on his duplex lot, that's fine. It
6 doesn't affect me, but it's not fair to a property owner.
7 If you bought the land and it was duplex, it's not fair to
8 say, "Okay, now, it's single family, you're -- you've got
9 to fight your own battle."

10 I was going to say on this next problem that I'm the
11 only guy that feels this way, but Alex at least said part
12 of it. After we get better roads, not necessarily higher,
13 but better roads onto Pine Island, I personally would like
14 a small beach and a boat ramp; and there's been nobody
15 else in here that wants that, but personally I think it
16 would be nice to have a beach there and a boat ramp; and a
17 place to put it is behind the TV tower. You can drive
18 right out on four-lane Pine Island Road or whatever you
19 guys do out there, and it would be a good spot. You can
20 dredge right out the inland waterway, using that dredging
21 to put a little beach there. You guys can worry about the
22 mangroves, that's your problem.

23 But, anyway, I personally, and I'm the only guy
24 probably, I want a beach and a boat ramp. I think it
25 would be nice.

1 That petition they were talking about is just a real
2 quick thing. I didn't read it the other day at the voting
3 booth, but I read it today. It was clear. There wasn't
4 any problem reading that. If you signed it -- if somebody
5 twisted your arm to sign it, that's part of it. I signed
6 it because I liked it. That's part of it. But it was
7 clear, there was no problem with that.

8 And when another fellow said Pine Island is
9 restricted to the wealthy people, we don't have that
10 problem that there is all big houses there. We've got
11 plenty of mobile homes and shacks and everything else. So
12 we aren't restricted to the wealthy people.

13 I think -- to summarize, I think you come up with a
14 good compromise, all you fellows that worked on it -- all
15 you people that worked on it, sorry about that, the
16 chamber and the civic association are closer now and more
17 friends now than they were three or four years ago when
18 everybody was fighting each other saying this and that.
19 And I think we're all getting together on this and I think
20 coming up with a good plan.

21 Thanks very much. No questions, right?

22 THE CHAIRMAN: Those are all the cards that I have.

23 Any questions?

24 Those are all the cards that I have. Anyone else
25 wishing to speak, please come forward.

1 Gene Boyd, you wanted rebuttal time. If you wish to,
2 come forward.

3 MR. BOYD: For the record, Gene Boyd, Pine Island.
4 Just a few things that I would like to comment on after
5 what has been said.

6 Rich Larkin said that the island had voted the plan
7 down. We've been over that before. It's not true. He
8 tried to blame increased taxes on planning such as this.
9 I think we're all aware that taxes went up drastically in
10 many parts of Pine Island, but primarily on the
11 waterfront. My own doubled. This is because we are
12 running out of waterfront. It really has nothing to do
13 with what kind of development one has on the island.

14 Hank Brining, I would suggest that he go and find out
15 how many people voted in the last election on Pine Island.
16 It was exclusively for Pine Island this last November. I
17 think he will find out that the number of voters is in
18 between the number of respondents we had on the first and
19 the second questionnaire. They're essentially the same.

20 I believe somebody wants to move an orange grove into
21 urban community. We would all like to make sure that
22 sometime in the future we can make a lot of money off our
23 lands.

24 Mark Krieg criticized the questionnaire. I would --
25 concerning the road through Matlacha and the fact that the

1 questionnaire was about destroying Matlacha with four
2 lanes going through the middle. At that time no one was
3 considering three lanes. I think that the questionnaire
4 was fairly reasonable in that respect.

5 Pete Gurry has asked you to please decide what you
6 are going to do with our piece of Pine Island Road in the
7 future and let the people know, particularly the people of
8 Matlacha; and I would just like to second that as heartily
9 as I can, because people, particularly in a situation
10 where their property may be wiped out in the future, would
11 like to know what is going to happen; and I thank you very
12 much.

13 THE CHAIRMAN: Okay, I'll bring it back to the Board.
14 Do we have any questions at this point in time?

15 Bill, do you have any response today to any of the
16 issues?

17 MR. SPIKOWSKI: Maybe on there -- there were three
18 requests you had on changes to the map. Let me just maybe
19 briefly respond to those.

20 I think the one with the least merits involves the
21 property that's in the active orange grove. That's a
22 successful operation and we would recommend that you leave
23 that in the rural category rather than changing it to
24 urban community.

25 Dave Depew made a suggestion on the properties up

1 along Quail Trail, and I think his arguments were as
2 strong as ours and maybe stronger. In that one he
3 suggested going from rural to outlying suburban. He
4 really has the better arguments in that case. We can
5 concur on that one.

6 The third map request you had was property just south
7 of Pine Island Shopping Center. Right now the property
8 is -- the vacant part is bisected by the current line on
9 the map, and that needs to be changed. There is no rhyme
10 nor reason behind that line that was drawn in '84. We
11 can't figure out why it's where it is. We propose that
12 you move that up to the developed area and the landowner
13 proposes you move it to include all of his property.
14 We're comfortable with our previous position, which is
15 having all his property that's partially developed in
16 urban community and all the part that has nothing but
17 zoning and that's otherwise vacant remaining rural.

18 We would like to stick with our recommendation in
19 that case.

20 THE CHAIRMAN: Bill, let me ask you a question then.
21 I have got marked item one, and that was the first request
22 that I had, was the move of the line from Mr. Basinait's
23 request, the last one that you touched on.

24 MR. SPIKOWSKI: Yes. That one the LPA agreed with
25 the applicant, and we would like to suggest you stick with

1 our position.

2 THE CHAIRMAN: Okay. Let me ask you about two
3 issues.

4 Back during the '84 comp plan we had done
5 interpretations out in the area especially around Daniels
6 Road and in those areas of interchange out there. Maybe
7 they only dealt with interchange, but we did have a mobile
8 home park in Bonita Springs that was bisected by the plan
9 rule, and I think it was done on either a drainage ditch
10 or a railroad bed that was in development at the time and
11 that needed improvements. Assets such as the water plant
12 and sewer plant were on the other side.

13 Anyway, we had some interpretations at the time that
14 they were bisected through there, but the majority of the
15 infrastructure was in for the whole development. We had
16 done map changes or allowed that change to occur, and I
17 think it was an administrative process, as I remember,
18 first on those.

19 MR. SPIKOWSKI: That particular one I'm not sure
20 about here.

21 THE CHAIRMAN: You can't remember it?

22 MR. SPIKOWSKI: If the line runs through your
23 property, the way the current plan reads, you can take the
24 sum of the densities for each part and add them together.
25 That's the way the plan is today and we're proposing it

1 stay that way.

2 THE CHAIRMAN: I guess I'm asking why if that line is
3 running through that property that that can't be done;
4 and/or, as I understand, the existing zoning is CC and CG?

5 MR. SPIKOWSKI: And some multi-family.

6 THE CHAIRMAN: Had they looked at the uses under CR,
7 rural commercial?

8 MR. SPIKOWSKI: I don't think they have any specific
9 plans. As far as the process, they did come in through
10 the boundary determination and come to you, and at that
11 point we recommended that you make your call on where it
12 should be today during this process because it clearly ran
13 through the middle of their property. Why is not clear,
14 but it's clear that it did run. We don't suggest you
15 leave it where it is now.

16 THE CHAIRMAN: And your recommendation on that was on
17 the red line?

18 MR. SPIKOWSKI: Yes, the northerly line.

19 THE CHAIRMAN: The north line.

20 MR. SPIKOWSKI: Includes all the developed platted
21 portion even though it's not sold off that would stay in
22 the urban community and the undeveloped portion would go
23 to rural.

24 THE CHAIRMAN: The first application of the third
25 one, I'm sorry, Bill, on the westerly edge area there

1 where that rural is adjacent to suburban, I guess, or
2 outlying suburban. It's proposed to be on there, why was
3 that left that way in the beginning, do you know? There
4 had to be a purpose for that.

5 MR. SPIKOWSKI: Yes, there definitely was.

6 The land that's suburban to the north and south is an
7 existing, very old development, been there 20 or 30 years.
8 That's why it was shown as suburban. The break along
9 Quail Trail, which is literally a trail, it's not even a
10 dirt road, the land that we're showing as rural is all
11 zoned AC except one piece. None of it's been subdivided
12 and it has no infrastructure. However, Dave argued that
13 that pretty much is true on the other side of Quail Trail.

14 THE CHAIRMAN: The other side is five and ten-acre,
15 forty-acre parcels, too.

16 MR. SPIKOWSKI: We left the other side in outlying
17 suburban because it could have access directly to
18 Stringfellow, you wouldn't have to go down to Quail
19 Trail, so that was the reason it was left that way, but I
20 think Dave's points were good also.

21 THE CHAIRMAN: The other question I had, Bill I
22 guess, was on the orange grove piece for Seaburt
23 Association. Is that the one that's the orange grove?

24 MR. SPIKOWSKI: Yes. Now, part of that property is
25 RPA, and they're not disputing that part. Part of it is

1 urban community along Stringfellow, and they're not
2 disputing that part. The remaining portion of the
3 property is an active producing orange grove.

4 We suggest that you leave that rural. It's rural on
5 the current plan.

6 THE CHAIRMAN: I'm going to go back to the third one
7 that I had marked down here, Bill, on the rural section on
8 that westerly portion there. Was that in the area that we
9 had a request at one time for a marina in there, or in
10 that area there that there was going to be a marina like
11 on the west side of the road, and on the east side it was
12 a housing development?

13 MR. SPIKOWSKI: Not in there. There was a zoning
14 case in the late seventies and there's been no activity
15 since then with the county. Mangroves are deep between
16 there and it's a long way out to water.

17 THE CHAIRMAN: Okay. Now, do you all have any other
18 questions on those? If not I have got a list of this that
19 I would like to ask staff on.

20 MR. MANNING: My question, Mr. Chairman, goes to the
21 orange grove situation also; and I get a sense that the
22 applicant's representative wants to speak on that.

23 My only question, Bill --

24 THE CHAIRMAN: We have taken all the public input.
25 If you all want to go back in we'll let everybody respeak.

1 MR. MANNING: My only question, Bill is that the
2 client is requesting this, is that -- I'm presuming the
3 owners --

4 MR. SPIKOWSKI: The owners hired Mary Ann to -- has
5 hired her to ask you to raise the category of that to
6 urban community.

7 MR. MANNING: If we disapprove of that now, what
8 re -- what process can they go through at a later date?

9 MR. SPIKOWSKI: Well, there is a couple. First you
10 have to have another public hearing before you adopt this
11 plan in January. Under law you have to have another
12 public hearing. They can make their request again.

13 Second, they could file under the planned development
14 district option for higher density in the rural category.

15 Third, they can ask you again in next year's round of
16 a amendments.

17 MS. WALLACE: Could I ask a question on that point,
18 Mr. Chairman?

19 Just for clarification in my mind, what has been
20 brought to us as the requested plan amendment from the
21 civic association, and I'm assuming they paid a fee to
22 request the amendment --

23 MR. SPIKOWSKI: You paid the fee on their behalf.

24 MS. WALLACE: Okay. But most of these other requests
25 except for the one that's listed here as Ted Masco from

1 open lands to urban community, I'm assuming all of these
2 other requests were without having paid any fee. They're
3 not actually a plan amendment request.

4 MR. SPIKOWSKI: They're coming in as comments on the
5 Pine Island Association plan.

6 MS. WALLACE: So they do have the potential
7 themselves to file and go through the process?

8 MR. SPIKOWSKI: Right. This year only they were able
9 to come in without filing a fee. In the normal process
10 they have to file an application and pay a fee.

11 THE CHAIRMAN: The only question I have, and I talked
12 to Bill about it, and we talked about it back during the
13 '83 and '84 plan, which we have not done and I would still
14 like to see done, and I think Pine Island would be a good
15 start, and that's to do reservations for commercial,
16 period, and let's show everyone in the county, but I think
17 that this would be a good, very good place to start
18 because the question I get any more is not density of the
19 dwelling units at all. I have not received input or
20 complaints of residential density in three or four years,
21 but I get it every day on commercial.

22 And we talked about this, setting deptns, setting
23 areas and designating those on the map. It's going to be
24 required what, next year, Bill, anyway?

25 MS. WALLACE: I think IX.J.5 requires it now.

1 MR. SPIKOWSKI: The way our plan is written we're
2 saying we'll do it in the next year.

3 THE CHAIRMAN: We have been talking about it for the
4 last four years. I would like to see for Pine Island to
5 start that process. It would be much easier to start
6 there than anywhere else.

7 I'm not going to act on these requests today if we
8 can get the go ahead and a motion from the Board of
9 agreement to try it on Pine Island and try to outline some
10 of the areas. This is the very reason we postponed the
11 zoning case the other day. It's going to be coming back
12 to us. We didn't receive any input today on that. We did
13 receive some input, we did not receive the input that I
14 thought we would on that zoning case; but I'm not ready to
15 take any actions for changes until we do this amendment,
16 and Bill's telling me that we may come in in April, May
17 area or we could come in as late as what, September,
18 October?

19 MR. SPIKOWSKI: Yes. On the 18th we're going to try
20 to bring you some ideas of different ways that that can
21 work that we've been kicking around and see if any of them
22 are particularly attractive to you.

23 MS. WALLACE: This is one area, Bill, where I would
24 say that I don't think that Pine Island deserves better
25 treatment than the rest of the county. I think the whole

1 county is entitled to have commercial shown on the land
2 use map.

3 THE CHAIRMAN: I couldn't agree with you more, but
4 what better place to start?

5 MS. WALLACE: I think we should go ahead and just do
6 it across the board just like we have adopted a land use
7 map for the whole county.

8 THE CHAIRMAN: I'm perfectly agreeable. Bill is
9 telling me the work load is so much, though, until --

10 MR. SPIKOWSKI: It's difficult and controversial, and
11 we can do it in maybe two or three areas for starters and
12 make sure the direction, the concept we're going is
13 workable before we prepare the whole county. I think a
14 few errors -- when we did the sector study last year we
15 did one version of that, of how it could work, so we
16 actually have four different parts of the county we have
17 shown in proposal already.

18 THE CHAIRMAN: If you all are able to do it, that's
19 fine with me.

20 Mary Ann, I just thought if we got one out of the
21 way, you know, and have a model that we'll be better off,
22 if we could do a fast track on this one and bring it up in
23 April, May; but whatever you all wish. If you all have
24 the ability to designate areas all over the county, that's
25 what I prefer.

1 MR. SPIKOWSKI: All right.

2 THE CHAIRMAN: And if you can bring us back a
3 proposal of what you were able to do in those areas, I
4 would like to see it.

5 Do you all have any questions? I have got a list of
6 them.

7 16.1.1, the county shall not approve and support any
8 new artificial in natural waters around Pine Island.
9 Bill, what do you call around Pine Island? Is that within
10 a radius of --

11 MR. SPIKOWSKI: On the future land use map we have a
12 heavy line showing what is affected by these policies, and
13 it's maybe a half a mile around Pine Island, the main
14 subsidiary islands. And this has to do with natural
15 channels, not maintenance dredging of canals. This is
16 just new artificial channels. It's something that hasn't
17 been done in decades, anyway.

18 THE CHAIRMAN: Okay. All right. That clears that.

19 Then I want to go to the next one, 16.1.2,
20 maintenance dredging of old channels and canals. Are we
21 going to come with some standards on those, Bill, or --

22 MR. SPIKOWSKI: Yes. Basically to accomplish the
23 maintenance dredging, except in very rare cases where you
24 have a single landowner, it would involve the county's
25 MSBU power to pay for that; and this is just some guidance

1 as to what would be a standard you would use in
2 determining whether the county should sponsor that
3 project.

4 THE CHAIRMAN: I'm not worried about the costs
5 because it will have to be done that way through an MSBU.
6 The county can't afford to do it, but I'm worried about
7 what guidelines are we going to use for old channels or
8 canals that have already been excavated, who's going to
9 make that judgment as to depth, width, et cetera.

10 MR. SPIKOWSKI: You would as part of the MSBU.

11 THE CHAIRMAN: It deals with sea walls, all those
12 kinds of things and all that; but I think -- that's good
13 if we're going to do that, but I would like to see a list
14 of what you propose for standards that we'll be judging
15 by.

16 MR. SPIKOWSKI: It's a little bit vague now because
17 we want to be more detailed if you want to go with the
18 policy, more detail later on; but it would be your call.

19 THE CHAIRMAN: Okay. 16.1.4. County shall develop
20 proposal for a taxing mechanism.

21 And, Bill, that's true. The only thing that I
22 question is this, it's fine to say that and the Board has
23 the right to do a board initiated MSBU regardless of
24 public petition. It's 65 percent is the Board's policy
25 now anyway. But I think we ought to clarify that in that

1 option that that works two ways, either by petition; and
2 if it's not favorable that way the Board has the right to
3 initiate it itself. But the second issue, if it goes to
4 the ballot to be voted on, such as the three percent that
5 Mr. Boyd was going to put on the ballot this time, I think
6 we ought to list the ways that we're talking about.

7 MR. SPIKOWSKI: What we're working on now in more
8 detail at your request there three or four weeks ago,
9 we're developing one proposal for Greater Pine Island and
10 one that would be countywide for a taxing district,
11 because you wanted that prepared before you go to the
12 ballot either in March or November. This policy was
13 basically proposed earlier by the civic association. We
14 are, though, carrying out not only this at your request
15 but also a countywide one.

16 Again, it's a proposal for you to consider. You can
17 decide whether to put on referendum, ask for petitions or
18 propose it on your own.

19 THE CHAIRMAN: Okay, Bill, 16.2, the county shall
20 continually monitor traffic levels on Pine Island Road to
21 insure the sum of the current population plus development
22 on previously approved land plus new development will not
23 exceed the capacity. Bill, define that word for me,
24 capacity, and how you've used it here.

25 MR. SPIKOWSKI: Well, existing and committed. For

1 instance, committed is, you know, used on the CIP and on
2 the traffic circulation plan, something that you're really
3 going to build. It does not include a road that's merely
4 on your long term needs plan or your trafficways map.
5 Those are not committed, those are just possible.

6 THE CHAIRMAN: I understand the financing part, but
7 the word capacity is what bothers me.

8 MR. SPIKOWSKI: Capacity is determined on how many
9 vehicles per hour based on the number of lanes.

10 THE CHAIRMAN: Is that going to relate, then, to our
11 policy on 16.2.1, that's directly --

12 MR. SPIKOWSKI: It directly relates to it. Basically
13 it's saying that the county's got to keep monitoring
14 these, and if we're getting close to a crisis point you
15 need to be informed of that.

16 THE CHAIRMAN: So it is tied to the level of service?

17 MR. SPIKOWSKI: Yes.

18 THE CHAIRMAN: 16.2.2, in order to recognize and give
19 priority to the property rights previously granted by Lee
20 County, et cetera, the thresholds, et cetera, on here,
21 Bill, I guess I'm worried with the two items below that
22 when traffic on Pine Island Road reaches 80 percent of LOS
23 D, and then you have got the 90 percent rule on level of
24 service D on average peak hour also, shall provide
25 restrictions.

1 I think that -- I don't know what the lawyers will
2 say, but, you know, with that Rule IX.J.5, and I think you
3 would have to apply that interpretation countywide and not
4 be restrictive on that and even have it in here.

5 MR. SPIKOWSKI: The rule specifically says that you
6 shouldn't set these countywide, and people have criticized
7 our list of exceptions, but the state explicitly says it
8 shall be done by each facility and not on a countywide
9 basis. So there is not a problem with IX.J.5.

10 This particular policy you're looking at, 16.2.2, is
11 not mandated by the law. The law mandates you set a
12 standard, and the day you exceed it you stop everything.
13 What you're trying to do is not do that, and that's the
14 reason for 16.2.2. When we're getting close to that,
15 instead of merely going along to the last day, we're
16 saying we're going to be watching it and we're going to
17 stop rezoning large new tracts when we're getting close.

18 That's the way that people who have existing lots,
19 existing development orders, can go ahead and finish
20 development rather than closing their eyes to the problem.

21 THE CHAIRMAN: I want to ask the lawyers that
22 question when I get through with this. Let me see if
23 agree with the turn down or X-ing out the third lane on
24 Matlacha for now until we find a better way. I don't know
25 what the rest of the Board feels on that. If we can do it

1 in the existing right of way, I think it is one issue; but
2 if we widen and take I don't think it's good.

3 MR. SPIKOWSKI: This is a -- Policy 16.2.4 is the
4 following shall be evaluated. These are the possible
5 things that can be done. The most desirable one is the
6 third one, the two additional lanes, but nobody has any
7 idea how we're going to pay for that.

8 The second one, in putting it in here, the main --
9 major question in evaluation is exactly that, can we do it
10 in existing right of way, and I think we can, which makes
11 it probably the only feasible thing we can do to improve
12 road capacity.

13 The way that would work is that during normal traffic
14 it would be a left turn lane, give you those second
15 outbound lanes during evacuation.

16 THE CHAIRMAN: You're saying, Bill, that that issue,
17 if we can do within the right-of-way what we have, this
18 will not apply. Is that correct?

19 MR. SPIKOWSKI: Yes. This policy merely says the
20 following measures shall be evaluated. It does not
21 mandate we do that because we're not sure. As was
22 mentioned, one of the problems will be you will affect
23 some of the parking that's currently on the right of way;
24 and to make that work and not pay damages to the
25 businesses possibly we might have to put in some public

1 parking lots, and there is some land available for that
2 but it would be an extra cost.

3 THE CHAIRMAN: 16.3.1, the only question on that,
4 Bill, is that the last of that last paragraph or sentence,
5 the transfer of on-site wetlands at rates above the
6 standard density for environmentally critical areas; and a
7 scenario has already been presented today, if you've got
8 ten acres in that area, Bill, are we saying we can't
9 transfer to the same site?

10 MR. SPIKOWSKI: That's correct. Dave is correct.
11 This would override the countywide rule that you've
12 established where you can transfer. In reality, on Pine
13 Island there is only three or four small isolated wetlands
14 on the entire island. On Pine Island this policy would be
15 used to transfer large amounts of densities from large
16 tracts of mangroves, and that's the reason why it's
17 probably more dangerous on Pine Island to have that policy
18 than anywhere in the county, because there is so much
19 wetlands often tied to a small piece of uplands by
20 ownership. It creates some strange high density pockets
21 around the edge of the island.

22 THE CHAIRMAN: Policy 16.4.1 designated future urban
23 area of Pine Island Center is targeted for most future
24 commercial and industrial uses.

25 It goes back to -- I had that one marked ahead of

1 time. That goes back to the issue of designating
2 commercial on Pine Island, period. So that's all.

3 That's all I have.

4 Can I ask the County Attorneys their opinion on
5 16.2.2, and it would be the two paragraphs following that
6 policy when traffic on Pine Island Road reaches 80 percent
7 of level of service D.

8 MR. CHIPOK: For the record, Paul H. Chipok,
9 Assistant County Attorney.

10 I would tend to agree with Mr. Spikowski on that,
11 that it serves more as an early warning system for the
12 particular facility; and I see no problem with it.

13 THE CHAIRMAN: Okay. Thank you.

14 Any other questions?

15 Could I have a motion then?

16 MR. MANNING: I would like to move that we approve
17 the compromise plan as outlined.

18 MR. SLISHER: Second.

19 THE CHAIRMAN: Motion by Commissioner Manning, second
20 by Commissioner Slisher.

21 Discussion?

22 MS. WATLACE: Mr. Chairman, I would like to move to
23 amend the main motion to include that we delete the
24 reference at this time to third laning through Matlacha,
25 and 16.3.3, deleting the word "substantially".

1 MR. MANNING: That's fine.

2 THE CHAIRMAN: Do you accept the amendment? The
3 maker and second?

4 MR. SLISHER: Yes.

5 MR. MANNING: What about the third lane again?

6 MS. WALLACE: The third item was the LOS, do we want
7 C and D or D and E; and I personally would prefer to
8 champion the civic association's position on that, because
9 I don't think we're really going to be forced into a
10 decision right away on that anyhow, because we don't have
11 the money available immediately for four lanes and we're
12 only at B and C is the testimony that's been before us
13 today. And, as I say, you amend the plan once or twice a
14 year anyhow, so I think you can still have that option a
15 year from now if there is a problem to go back to D and E
16 but I don't know where the other votes are.

17 MR. MANNING: Well, you just gave the best argument
18 for leaving it alone I have ever heard. I mean, that's --

19 MS. WALLACE: Well, leaving it alone, it has been C
20 and D.

21 THE CHAIRMAN: Motion and a second with the
22 amendments in there that Mrs. Wallace made, they're
23 accepted by the maker and the second.

24 Further discussion?

25 MR. MANNING: Wait a minute now.

1 THE CHAIRMAN: She didn't amend that part, John.

2 MS. WALLACE: Just discussion.

3 THE CHAIRMAN: She only amended the --

4 MR. MANNING: And an admirable discussion it was,
5 but --

6 THE CHAIRMAN: Any other comment on the motion? Any
7 objection?

8 Motion carries.

9 Okay. Thank all of you for coming. That was a good
10 day, good input.

11 We're going to --

12 MR. CHIPOK: Mr. Chairman.

13 THE CHAIRMAN: -- take a break.

14 MR. CHIPOK: Are we going to discuss the map as well
15 and get some specific recommendations on that?

16 THE CHAIRMAN: Yes. Bill's got -- is that your map
17 amendment, 63?

18 MR. SPIKOWSKI: No, that's separate. That's after
19 Pine Island.

20 MR. SPIKOWSKI: I think Paul's referring to the three
21 requests you had from the floor on changing the map. Your
22 motion wasn't clear.

23 MS. WALLACE: My preference is to take no action.

24 THE CHAIRMAN: Motion, Commissioner Wallace.

25 MR. SLISHER: Second.

1 THE CHAIRMAN: Second, Commissioner Slisher.
2 Discussion?

3 This is on the map change?

4 MS. WALLACE: Changes.

5 THE CHAIRMAN: In that motion, I would like to see
6 this one come back. It's dealing with commercial.

7 MS. WALLACE: I think it is understood that staff
8 will be bringing back recommendations for commercial nodes
9 in the future and also that if people do prefer to file
10 specific individual map amendment requests in the next
11 round that those will be considered.

12 THE CHAIRMAN: Further comment? Objections?
13 Motion carries.

14 MR. CHIPOK: Thank you.

15 THE CHAIRMAN: We're going to take a break before
16 this one. We've been here an hour and a half. We'll take
17 a break and come back and do the balance.

18 (Whereupon, proceedings were recessed.)

19 (Whereupon, proceedings were resumed.)

20 THE CHAIRMAN: Board is now back in session. We'll
21 go to PAM, plan amendment Number 88-08, Ted Masco.

22 MR. SPIKOWSKI: This is a request to change a portion
23 of York and Coconut Island from open lands to urban
24 community or suburban. The island is -- both islands are
25 largely mangroves. Together they went through the RPA

1 determination process, which determined there was just
2 under seven acres of uplands on the property. That was
3 redesignated to open lands, appealed to you. You denied
4 that application.

5 THE CHAIRMAN: Bill, how much acreage is in this
6 request, because that's all I have on there. It says
7 Sections 2, 3, 10 and 11.

8 MR. SPIKOWSKI: Originally this was filed before the
9 RPA determination was finalized, so the application
10 included the 184 acres for the entire islands, but in fact
11 the only part in question is the part designated open
12 lands, which is only about seven acres.

13 MS. WALLACE: Would you show us on the map?

14 THE CHAIRMAN: I can't tell on that map at all.

15 MR. SPIKOWSKI: It's these two islands here.

16 THE CHAIRMAN: Is there any access to there?

17 MR. SPIKOWSKI: Access by water only. We're
18 recommending that it be denied.

19 Applicant has requested very low single family
20 residential development, and we feel that that could be
21 accomplished in the open lands category, which allows one
22 unit per acre.

23 THE CHAIRMAN: Bill, is that -- when you say body of
24 water, is it transition lands or real water?

25 MR. SPIKOWSKI: It's open water, it's open water.

1 The LPA heard this on July 14th. The vote to approve
2 it to suburban was won by a vote of three to one, but
3 under the rules that's a motion not to approve because it
4 requires four votes to make a formal recommendation to
5 approve.

6 Stephanie Keyes is here to represent the applicant.

7 THE CHAIRMAN: Any questions? Okay.

8 Miss Keyes.

9 MS. KEYES: My name is Stephanie Keyes, representing
10 Ted Masco; and as Bill stated we're requesting a change in
11 our land use designation.

12 Under the urban -- excuse me, under the RPA
13 determination the County Attorney's Office mandated that
14 we would go to open lands, and we appealed that decision
15 to the Board and you upheld the decision of your staff to
16 keep the property that's upland as open lands.

17 Basically we feel that many of the other islands in
18 Pine Island Sound are classified as rural at a minimum,
19 with other -- with other islands being given higher
20 density categories. So we feel that we're being singled
21 out, number one, with the open lands designation.

22 Also, right now we would only be allowed seven units
23 on these seven acres of uplands plus the RPA units, which
24 is only another couple of units; and although staff
25 indicates that we could provide a low density residential

1 development with ten or so units, basically the cost of
2 providing infrastructure but there would make that
3 economically infeasible. So what we're requesting is an
4 increase in our land use category.

5 We had originally requested an increase to urban
6 community or suburban. However, since that time you did
7 adopt the outlying suburban category; and we would also
8 accept that as a compromise decision as well.

9 MR. MANNING: Outlying suburban, Stephanie?

10 MS. KEYES: Yes.

11 And I don't know if you have seen the map showing the
12 upland pods, but I have that if you need to see that.
13 It's not reproduceable. That's why I haven't reproduced
14 it.

15 THE CHAIRMAN: You can't reproduce this?

16 MS. KEYES: Well, you couldn't see it very well.

17 THE CHAIRMAN: The brown areas are --

18 MS. KEYES: The brown areas are the uplands that
19 right now are designated open lands, and those are the
20 areas we're seeking to change. The rest of it is
21 considered RPA. It's based on the vegetative field survey
22 that was done by your staff.

23 THE CHAIRMAN: Is that all your presentation?

24 MS. KEYES: Yes. Other than to say, as Bill
25 indicated, the three Planning and Zoning Commissioners did

1 recommend approval to the suburban land use category.

2 And I'll be glad to answer any questions that you
3 might have.

4 THE CHAIRMAN: We have not had a policy, I don't
5 think, on islands, you know, for upgrading; and we changed
6 the open lands to a use of one to the acre, anyway, to
7 reflect rural anyhow, so that's available; but that looks
8 like a very narrow parcel in there. I don't know even at
9 the rural category on that, are you going to be able to
10 get a hundred foot of frontage and the required depths,
11 you know, four hundred and --

12 MS. KEYES: Well, we haven't done any kind of
13 analysis on the probability at this time.

14 THE CHAIRMAN: It seems to me that there would be a
15 lot of variance requests on top of that to do that, and
16 then I would guess I would have to ask what would be your
17 off-site parking area related to that, too.

18 MS. KEYES: Well, it would be stilt homes with
19 parking beneath the home is what we anticipate.

20 THE CHAIRMAN: But how are you going to get the cars
21 there?

22 MS. KEYES: Well, it would be a similar type thing as
23 Upper Captiva where you would either ferry cars over,
24 people would leave their cars there, or they wouldn't need
25 a car. You would have golf carts and bicycles and that

1 type of situation, very isolated type of situation.

2 THE CHAIRMAN: But the off-site island, you know, I
3 mean, when you had to park on the main island, you know,
4 to go there, you would have to have an off-site parking
5 related to that anyway.

6 I don't know if that's come up. It came up back in
7 the comp plan in '84 for some of the islands in the river
8 and all. We were going to have that rule in. I don't
9 know where it is, because --

10 MR. SPIKOWSKI: It's not in the rules. They would
11 have to rent slips at marinas or other private property.

12 THE CHAIRMAN. Any other questions?

13 Okay. The first speaker I have on this one is Calvin
14 Gaddy.

15 MR. GADDY: I think I have some answers for you about
16 York Island. York Island is not an island; it should
17 never have been designated as such. York Island is a key;
18 and being a key it's covered with mangrove. It has a berm
19 and certain places there which was created by storms.

20 As you know, a berm is under water when it's created.
21 It takes very high tides or storm, tides are exceedingly
22 high. The sand is stopped by the flow, the flow is
23 interrupted into the island by the roots, usually the red
24 mangrove or the black mangrove.

25 I'm personally familiar with York Island. Some of

1 those places that you're looking at, the land is about 30
2 feet, maybe 50 feet and possibly 75 feet in some places
3 They're long, narrow strips, as you know what berms are.
4 It's the same as any other berm. York Island is a series
5 of berms.

6 As you know, a berm as I just said what it was, and
7 it can disappear just as fast as it was formed. Another
8 storm hitting in a little different direction can destroy
9 that. Underneath that berm you will find that the
10 structure is not suitable for any type of structure of --
11 to build a house. Read that straight and you will get it.

12 York Island has never any structure built on it for a
13 good reason. It's a death trap. If you had a structure
14 built flat on the ground, which nobody in his right mind
15 would do, you get a strong south or east wind, you cannot
16 get off of that island. I have been out there when it's
17 running medium waves, and it's a very rough place to get
18 out of. To navigate to get out of that thing could,
19 unless somebody knew what they were doing handling boats,
20 could get into trouble there.

21 Your own staff advised you that York Island is not
22 suitable for structures. As I said, the subbase is the
23 wolfert mud with sand berm and no purchase to be had for
24 piling or for footings. To allow a house to be built
25 there is about the same as playing Russian roulette with

1 people's lives.

2 The Indians weren't there. I work a lot of
3 archeological stuff and I go back and look to see how long
4 they were there. There is no indication there was ever
5 any archeological things there. It looks like basically
6 from the tree growth, from plant structure, that it has
7 not exceeded about 40 years. There's a few Australian
8 pine, a little bit of agavy, some Brazilian pepper, there
9 is a couple of punk trees or melaleuca. I was trying to
10 think of what else. I think there is one oak I remember
11 seeing out there that was far back.

12 The total elevation there, I think, will be a total
13 of three feet; and every storm we've had, it's been
14 overflown, flooded, inundated each time. There is a wash
15 back on the back side of it as on all berms, stuff that's
16 been carried over the berm during storms.

17 My contention is that your staff was absolutely
18 correct in their analysis of this thing.

19 Thank you kindly.

20 THE CHAIRMAN: Okay. Ann Gaddy.

21 MS. GADDY: For the record, my name is Ann Gaddy, and
22 I'm a concerned citizen of St. James City.

23 As my husband just stated, according to Barbara
24 Penning of the Department of Natural Resources in a recent
25 lecture, she said that York Island was a berm and that

1 berms were too fragile for construction or development.
2 and it is true that it's only a few feet above sea level
3 on the 9.5 -- 6.9 acres of upland, and even these are
4 covered at extreme high tides.

5 All the small islands in Pine Island Sound are
6 classified open lands, as you know. Even Galt Island,
7 with road access, is open lands. I feel that low density
8 of one unit per acre is sufficient or more than
9 sufficient. The nearby islands of Chino, which I
10 understand will be developed, as forty-two acres; and
11 they're only requesting ten to fifteen houses; Galt, with
12 38 acres, is only requesting sixteen houses. It was also
13 stated the Division of Planning, I think her name was
14 Debby Brooker, went over the property and advised that
15 this request be denied.

16 I won't go into as you suggested where are they going
17 to put their cars, where are they going to moor their
18 boats when they come ashore. This is just environmentally
19 sensitive land, and I think we've done too much
20 irreversible damage already to Florida, and let's don't
21 destroy this small area.

22 I have with me a petition signed by 573 registered
23 voters of Lee County requesting that this zoning ordinance
24 be denied.

25 Thank you.

1 THE CHAIRMAN: Give this to the ladies down here, Ms.
2 Gaddy, please

3 MS. GADDY: Thank you very much.

4 THE CHAIRMAN: Okay. The next speaker card I have
5 was Betty Katz, but I have had a card submitted by Ellie
6 Boyd to speak for Betty Katz. Is that correct?

7 MS. BOYD: That's correct. She couldn't stay this
8 afternoon. She has written something which I would like
9 to read into the record for her.

10 I'm Ellie Boyd, reading a statement from Betty Katz.

11 York Island is for the birds. I am opposed to a
12 housing development on York Island. This little sand spit
13 is not really an island and should not be expected to
14 support houses. This is one of those still growing pieces
15 of land that evolve into islands some day.

16 "The mangroves that ring the outer perimeter and grow
17 into the interior are part of the system designed by
18 nature to cleanse the water and support animal life. This
19 process should not be interrupted.

20 "Sewage, runoff and other undesirable pollutants
21 contingent to residential development will only be a
22 detriment to the natural order of things on and around the
23 little key.

24 "If York Island is developed, how soon will the other
25 little keys dotting the bays and estuaries fall to

1 buildings? It can have a domino effect until there will
2 be nothing left to revitalize the water eco system.

3 "Don't start this happening. Something must remain
4 to keep the fish reproducing and protect the juveniles of
5 enough numerous species of wildlife. Leave York to the
6 birds and fishes.

7 "Thank you."

8 THE CHAIRMAN: Next speaker is Gene Boyd.

9 MR. BOYD: For the record, I'm Gene Boyd, Pine
10 Island. I would like to read into the record what I just
11 gave you

12 At its meeting on June 7th, 1988, the Greater Pine
13 Island Civic Association unanimously adopted the following
14 resolution:

15 "Whereas, York Island, together with a part of
16 Coconut Island involved, consists of about 190 acres of
17 mangrove wetlands with about seven acres of uplands in the
18 interior;

19 "And whereas reclassification of these uplands from
20 open lands to urban community could result in development
21 at up to 12 units per acre;

22 "And whereas dense development would undoubtedly
23 result in the destruction of mangroves for such things as
24 roads and sewage disposal;

25 "And whereas the delivery of services, particularly

1 fire protection and EMS to such a development would be
2 very difficult;

3 "And whereas the islands are in the hurricane
4 velocity zone where the density of development should be
5 kept low;

6 "And whereas because of the deeper water, boat docks
7 for residents would probably be built along the west
8 shore, which is frequented by manatees;

9 "And whereas permitting dense development on York
10 Island could set a precedent for similar development on
11 all of the small mangrove islands in the Charlotte Harbor
12 area;

13 "Therefore be it resolved that the Greater Pine
14 Island Civic Association strongly urges Lee County to
15 leave the uplands on York and Coconut Islands classified
16 as open lands."

17 Thank you.

18 THE CHAIRMAN: Anyone else in the room wishing to
19 speak, please come forward. State your name.

20 MR. JUDAH: Hi. For the record, my name is Ray
21 Judah, Lee County resident.

22 The applicant's request to reclassify the upland
23 portion of York and Coconut Islands to urban community or
24 suburban is clearly inconsistent with many of the upland
25 areas on offshore islands that have been reclassified in

1 the past, such as Buck Key, Chino Island, Burgess Island
2 and also Galt Island, those upland portions being
3 reclassified to either rural or open lands, and done so
4 appropriately to protect the integrity of the
5 environmentally sensitive nature of these islands.

6 It's hard to believe that Coconut Island would ever
7 be programmed for capital improvements, which it would, of
8 course, if it were reclassified to urban community or
9 suburban or even outlying suburban.

10 The Board of County Commissioners had earlier
11 rejected the applicant's original appeal of the
12 administrative determination of error, so I just need to
13 state that again for the record. The applicant has asked
14 for low density, single family residential, and that can
15 be taken care of with the classification of the open lands
16 category.

17 You have to take -- keep in mind the location of
18 Coconut Island in Pine Island Sound aquatic preserve and
19 the environmentally sensitive nature of the aquatic
20 preserve. And also, just to mention, the applicant does
21 have an alternative, and that's Section 805 of the Lee
22 County zoning regulations, and that's the planned
23 development district option process. They can certainly
24 pursue that process if they wish to try to increase the
25 density above what would be provided for with the rural

1 land use classification.

2 I would recommend that the Board of County
3 Commissioners uphold their earlier decision to retain the
4 upland portion of Coconut and York Islands as open lands
5 and the balance as resource protection area.

6 Thank you.

7 THE CHAIRMAN: Anyone else wishing to speak, please
8 come forward. Anyone else at all?

9 Okay, Stephanie, you have the right since you're the
10 applicant to rebut or make other comments.

11 MS. KEYES: Well, the only thing I can say is that
12 several of the speakers have referred to some of the other
13 islands being classified as rural as a minimum on their
14 uplands; and as a minimum I feel that at least we should
15 have that classification as opposed to open lands, even
16 though it may not change the density. I feel it's a
17 matter of principle at this point. In fact, Ray just now
18 mistakenly referred to our uplands as rural. He meant to
19 say open lands.

20 And since we're the only ones designated as such, we
21 don't understand why we're being singled out on that
22 specific issue. I can understand some of the other
23 arguments; but, you know, at a minimum I would at least
24 request that.

25 Thank you.

1 THE CHAIRMAN: Bill, what have we done? I want to be
2 consistent, because the ruling is the same for rural and
3 open lands, and you know open lands are -- I don't know
4 what is going to happen to open lands. I guess they're
5 going to go away.

6 MR. SPIKOWSKI: That was the next subject, but I will
7 just mention it briefly now.

8 The reclassifications of these have been almost all
9 of them to open lands. Galt is rural, but then Galt has a
10 road going to it, so there is some justification for it
11 being different.

12 All the others that I can remember have gone to open
13 lands. What -- the reason I was going to bring it up in a
14 couple of minutes, what we are proposing to do in some of
15 the staff proposed amendments is to reclassify a few
16 islands that are rural as open lands, and the reason for
17 that, the density is exactly the same. The meaning of it
18 to a landowner is the same. The only real difference in
19 the categories is that the way the plan is laid out the
20 rural areas are the ones that are next most likely to
21 become urban areas; and we feel for the same reason that
22 we have open lands in the furthest reaches of the county
23 because they're the least likely to be converted, we feel
24 that the islands that are not accessible by bridge also
25 are not likely to ever become urban areas under our plan.

1 So that subject will be coming up, and I think there
2 is some opposition to that, but most of them, and
3 certainly all in the last two or three years have gone to
4 open lands, the islands.

5 THE CHAIRMAN: I'm just worried about the
6 classification in and of itself to open lands, period, on
7 our map, since the rural --

8 MR. SPIKOWSKI: Has become so similar?

9 THE CHAIRMAN: It's one and the same.

10 MR. SPIKOWSKI: At the moment we're leaving the
11 distinction and are comfortable with the distinction even
12 though that regulatory difference is zero just as some
13 indication as what is the least likely to become urban.

14 THE CHAIRMAN: But I think we have enough caveats in
15 our rules, I mean, either way.

16 MR. SPIKOWSKI: It's not a vast distinction.

17 THE CHAIRMAN: No. If that's going to -- if that's
18 going to imply to someone that we're going to go and put
19 infrastructure in because they're in rural next, then I
20 should say that we should apply those goals and policies
21 and objectives then and make everything to the rural
22 category. and we'll just have that and do away with open
23 lands and let that apply with those rules, period.

24 MR. SPIKOWSKI: They would be the next ones that
25 would be considered for reclassification when we catch up

1 with infrastructure to what we've already classified
2 urban. That was the way it was worded.

3 THE CHAIRMAN: We're not going to build anything
4 while I'm here in those areas.

5 MR. SPIKOWSKI: I doubt we're going to, either; but
6 it being a long range plan, at some point, if we keep
7 growing the way we are we might need to.

8 THE CHAIRMAN: Anyone else wishing to speak?

9 Okay, that's all.

10 Back to the Board for comment. Motion?

11 MS. WALLACE: Well, I would just say that if you
12 recall we did have an administrative interpretation on
13 this and we did vote to uphold the administrative
14 designation interpretation, which was to leave it as open
15 lands, so I really don't feel that there has been any
16 testimony to change the position we originally had; and I
17 would move that we just leave it designated open lands.

18 THE CHAIRMAN: Motion to approve no change and to
19 designate PAM 88-08 open lands by Commissioner Wallace.

20 MR. MANNING: Second.

21 THE CHAIRMAN: Second by Commissioner Manning.

22 Discussion? Objection?

23 Motion carries.

24 Okay, Bill, you want to go to future land use map

25 or --

1 MR. SPIKOWSKI: Yes. The reason that we advertised
2 that one is when we divided the county into four pieces
3 for these specific hearings, for instance, the Pine Island
4 and the Bonita, we decided to divide the county into
5 quadrants and allow any other specific comments on the
6 draft land use maps come in when we're considering an
7 area; and I know you have at least one request today on
8 Upper Captiva.

9 Before that is presented to you, I would like to just
10 mention a few of the changes that we're proposing. One of
11 them in this section of the map would change the map for
12 the City of Sanibel. Of course, we have no regulatory
13 authority over the City of Sanibel whatever. However,
14 what we have done is on our map tried to show their plan
15 in as close to existing method as we used for our plan, so
16 someone looking at the entire map of the county will get a
17 good feeling of high density and low density areas.

18 We also are required under the growth management law
19 to designate public lands categories, which we're not real
20 pleased to have to do, but it is a requirement; and so we
21 have, for instance, the government owned uplands on Cayo
22 Costa and North Captiva designated that way and also on
23 Little Pine Island and also Ding Darling Sanctuary
24 uplands.

25 We are proposing that the islands be changed, those

1 few that are rural, to open lands. Also the uplands on
2 Cayo Costa and North Captiva currently are resource
3 protection area on the map, and that's really not proper.
4 It doesn't meet the definition of the plan.

5 So that's a summary of the changes. There will be
6 some specific proposals made to you.

7 THE CHAIRMAN: Bill, what is the action today on
8 this, because on this back up I have none of that other
9 than --

10 MR. SPIKOWSKI: There is no text to that. We'll have
11 for you next week: it didn't get done for this week - but
12 the big map here updated so you will be able to easily
13 tell each of the changes. It's a little bit awkward
14 today, but I think there is only a couple of requests.

15 THE CHAIRMAN: What is this on for, just for
16 discussion?

17 MR. SPIKOWSKI: Yes, just for discussion.

18 MS. WALLACE: Should we continue this, then, Paul?

19 MR. CHIPOK: It's at the Board's pleasure at this
20 point in time.

21 MR. SPIKOWSKI: It's on this map and I just verbally
22 have given you some of the changes describing what's on
23 this map.

24 THE CHAIRMAN: Is this Matt Uhle's?

25 MR. SPIKOWSKI: Yes, Number 63. When we went to the

1 LPA we had designated each and every change throughout the
2 entire county. That happened to be Number 63, but what he
3 is referring to is some property on North Captiva. Next
4 week we'll try to have a better system for identifying
5 these properties for you.

6 THE CHAIRMAN: Okay. Matt Uhle.

7 MR. UHLE: For the record, my name is Matt Uhle. I'm
8 here representing Mr. and Mrs. Kinzie, and the reason
9 we're here is that one of the staff proposals, Number 63,
10 is to change all of the privately owned uplands on the
11 northern part of Upper Captiva from rural to open lands.

12 Now, as you all have identified and Bill has said,
13 the difference between open lands and rural doesn't really
14 amount to very much, so we're opposed to that change but
15 that's really not why we're here so much. We figure that
16 there are some problems that my clients are having on this
17 property, and since the staff has put the property
18 essentially on the table we would like to talk about that
19 a little bit and make some proposals to change the plan
20 that we think would make my clients' lives a lot easier
21 and would be consistent with public interest.

22 MC WALLACE: Could I ask one question: how many
23 acres are involved in the parcel you're representing?

24 MR. UHLE: It's actually a couple of different kinds
25 of property, and I have a graphic that I will use to show

1 you.

2 MS. WALLACE: Okay.

3 MR. UHLE: Just to segue into my presentation here, I
4 would -- under ordinary circumstances I would use an
5 aerial to point out where we are in North Captiva; but the
6 fact of the matter is the county's aerials for North
7 Captiva are terrible, so I have put together some tax
8 maps.

9 THE CHAIRMAN: Tax maps are always clear, aren't
10 they?

11 MR. UHLE: North Captiva is a very unusual place. I
12 have actually had a disproportionate amount of my practice
13 be involved with North Captiva for some reason or another,
14 I have no idea why; but I never had actually been to the
15 inhabited part of it until this week when I had an
16 opportunity to fly out there and I had an opportunity to
17 see just how really unique it is.

18 A lot of the island is owned by the state, but the
19 northern part, as you can see from the various tax maps in
20 there, was developed primarily as unrecorded subdivisions
21 many, many years ago; and you can see from -- if you leaf
22 through these you can see the size of the lots. What
23 we're talking about is primarily single family residential
24 lots and a density of approximately four units an acre,
25 and that's virtually all the privately owned property.

1 They don't have any paved roads out there. They
2 don't need any. They get around primarily on foot or by
3 golf cart.

4 MR. MANNING: If you can get through the sand.

5 MR. UHLE: Yes. We did the day I was there.

6 They don't have publicly funded infrastructure out
7 there. They don't need any. But they do have
8 electricity, they do have septic tanks that work and they
9 do have wells that work.

10 Now, my clients own actually three different kinds of
11 property that present several different problems. First
12 of all, they own a number of the quarter acre lots that
13 are shown on the various tax maps; and frankly we're not
14 here to complain about the situation with those because we
15 have received single family determinations on those thanks
16 to your change in the DSO that you just adopted within the
17 last two weeks. They're no longer required to have paved
18 roads, so those lots are usable and we don't have any
19 problem with their situation right now.

20 The second kind of property is shown on the graphic
21 with the letter A as a restaurant real estate office.
22 That is a relatively old structure that's located where I
23 put the letter A, and the restaurant is an old kind of
24 rustic structure and they frankly, based on my experience
25 out there, do a lot more business than you probably would

1 expect, and they would like to keep the possibility open
2 that they might be able to expand their operations at some
3 time in the future, which is where we get to a problem.

4 The current provision of the plan relating to rural
5 commercial developments basically restricts rural
6 commercial developments to three kinds. One of them is
7 limited marinas, the second kind is agriculturally related
8 commercial, and the third kind is commercial development
9 that serves rural residents.

10 Now, this restaurant and real estate office doesn't
11 really do any of those things. What it does is it caters
12 to boat traffic, so their ability to use this property and
13 to expand it --

14 THE CHAIRMAN: Who gave you that interpretation?

15 MR. UHLE: That's straight out of the plan.

16 THE CHAIRMAN: Well, that's not the interpretation
17 that I got a week ago for this very issue out on Bayshore
18 and Nalle Road for that application to go to CR for two of
19 those very things that you said, restaurant, real estate
20 office, lawn mower shops, et cetera.

21 MR. SPIKOWSKI: It's okay out there because it's
22 serving the people who live out there in the rural area.
23 Matt's point here is it's serving anyone who comes by boat
24 and they're boating for the weekend.

25 THE CHAIRMAN: How do you make a distinction between

1 the single family lots there, though, Bill, and who's
2 serving what?

3 MR. SPIKOWSKI: It's very difficult, and you have a
4 plan amendment on the agenda for November 15th that you
5 initiated to look at that very policy. That's III-D-9.
6 You had it in the last round and we had some advertising
7 problems. So November 15th you will be discussing that
8 wording and you have some proposed language that came up
9 at the last round to make it more lenient.

10 THE CHAIRMAN: Were you going to make all of this --
11 are you suggesting - I don't have the map - to make all of
12 the island open lands?

13 MR. SPIKOWSKI: The privately owned portion, yes,
14 privately owned uplands. The wetlands would remain
15 resource protection and the publicly owned portion would
16 be in the new public lands.

17 THE CHAIRMAN: I don't care about them. They have
18 taken enough of our land.

19 But I don't know how you deal with an issue when it's
20 related, you know, when you do have all these home sites
21 in here, and I'm counting now, there must be close to a
22 hundred or better home sites out there. I mean, that
23 certainly would be on this one sheet, and I don't know how
24 many is on the other there. I think that's strictly
25 interpretation.

1 MR. SPIKOWSKI: It's a very difficult one and Matt's
2 concerned that it might be made against his client in the
3 future.

4 THE CHAIRMAN: We never did a positive policy when we
5 wrote the single family lot provision. We never had a
6 positive policy for commercial protection, and I had asked
7 before that we do. And somehow I don't know, whether
8 we're allowed to adopt that rule at this time or this
9 round of amendments or not, but if the Board is allowed to
10 do that I have that on my list anyway to ask when we get
11 toward the end of this if we have a procedure to do that,
12 because I think we need a procedure to protect these kinds
13 of issues.

14 MR. CICCARONE: You wanted a discussion now?

15 THE CHAIRMAN: When he gets through I would like to
16 hear your opinion on that, because if that's the case then
17 all these will work and be provided for.

18 MR. UHLE: When I finish I will have a couple
19 proposals to resolve this and the other problems.

20 The third kind of property they own is marked on the
21 graphic as B, acreage. There isn't a whole lot of acreage
22 out on North Captiva as you can undoubtedly see, but the
23 only real large piece that's left belongs to my client.
24 It's zoned C-2, and if -- were it not for the plan my
25 clients could use it for residential purposes consistent

1 with the densities that are everywhere else, four units an
2 acre, or they would be able to use it for commercial
3 purposes; but because the property is shown as rural or,
4 as the staff prefers, open lands, and because of the
5 problems with the rural commercial portion of the plan, as
6 it stands now they would basically be limited to either
7 one unit per acre residential or some sort of
8 agriculturally or rurally related commercial, neither of
9 which works; and we really don't think that it's
10 particularly satisfactory or plausible to say that we
11 ought to have one unit per acre in this particular area
12 when the whole rest of the island essentially is about
13 four and the whole character of the area is one in which
14 you have cottages on stilts on relatively small lots.

15 So what you're talking about is really inconsistent
16 with what everything else that's out there.

17 So we have a couple proposals that we think would
18 revolve these particular problems. The ideal proposal in
19 our opinion, which would resolve both the density aspect
20 of it and the commercial aspect, would be to change this
21 parcel from -- not from rural to open lands but to
22 outlying suburban, which would be consistent with what you
23 find on Captiva.

24 Now, it could be argued that that implies that the
25 county has some commitment to provide infrastructure out

1 there. As a practical matter, there is no way the county
2 is going to provide infrastructure out there. It's not
3 going to happen; and as far as I know, nobody wants it to
4 happen. It's just -- the residents will provide their own
5 infrastructure; but they -- my clients do need that
6 particular density.

7 As an alternative to that, we could change -- this
8 would not resolve the density aspect of it, but you could
9 change the rural commercial policy to satisfy this
10 particular issue very easily simply by adding the words
11 when it refers to, "which serve rural residents," you
12 could add the words, "or marine traffic". That would
13 probably work for virtually any kind of commercial that
14 would be built on this island. It would certainly work
15 for the restaurant.

16 Finally, and just as a matter of passing, this
17 doesn't relate specifically to the comprehensive plan; but
18 there are some development regulations in Lee County.
19 We've gotten rid of the paved road business, but there is
20 still some that don't work too well for this particular
21 island; and one of them is apparently they are still
22 required to meet all the parking requirements in the
23 zoning regulations, and that doesn't make any sense,
24 because nobody has any cars out there. So I don't know
25 that it's necessary to deal with that at this time, but we

1 would suggest that the county might find it profitable to
2 make an exception to parking requirements on barrier
3 islands that don't have vehicular access.

4 If you have any questions, I'll be happy to answer
5 them.

6 THE CHAIRMAN: Matt, the only thing with your
7 suggestion, I guess that that would infer that people out
8 just for a boat ride or whatever are going to pull into
9 the restaurant and get something to eat. Is that the
10 case? I mean, is that the majority of the business?

11 MR. UHLE: Apparently, yes.

12 THE CHAIRMAN: Compared to the home sites out there?

13 MR. UHLE: Yes. There aren't a tremendous number of
14 homes out there. There are some. I would guess maybe 60
15 to 70.

16 THE CHAIRMAN: If I remember this right, this Safety
17 Harbor issue like, go back four years ago, Jose's Hideaway
18 and all of that stuff, I remember a fire district trying
19 to be established out there or some sort of fire
20 protection --

21 MR. UHLE: That's the volunteer fire department.

22 THE CHAIRMAN: I think it was a bucket brigade, pass
23 along, or something like that. We talked about some type
24 of Jeep or dune buggy to get around on, and the sand was
25 so bad that you couldn't get there or something. I don't

1 know that we ever worked it out.

2 MR. MANNING: It's worked out.

3 THE CHAIRMAN: It is?

4 I guess my only worry is, you know, if somebody comes
5 back and wants to sue the county later, talking about your
6 infrastructure side, you know, let's say the wells dry up
7 out there for potable water and they get us for a health,
8 safety, welfare issue, and if they do dry up in fact
9 they'll be beating on our door like everyone else, those
10 kind of things I worry about.

11 MR. UBLE: I think that's a legitimate concern, but
12 by the same token I think anybody who lives on an island
13 like that, it's obviously very exposed to natural
14 disasters, I think probably understands that he is out
15 there at his own risk. If you don't, then you've got
16 something wrong with you, frankly.

17 THE CHAIRMAN: I know it, Matt. The only thing is
18 like in Cape Coral, you know, they had -- in fact, Abe
19 Green's house over there, they couldn't get any water
20 after it was constructed, I think we have a dumb rule in
21 the county by permitting the house before we do the well
22 because it's going to obligate the county at some point in
23 time for vast sections if we don't reverse that order, but
24 nevertheless it has not been reversed and I worry about
25 that protection issue.

1 I guess they can use the salt water draft, then, for
2 fire protection on those islands. I understand what
3 you're talking about on the infrastructure side, but I
4 think there is a way to get there. I had no idea that a
5 restaurant would survive by boat traffic.

6 MR. SPIKOWSKI: Yes, it does; does very well.

7 MR. MANNING: I think the proposal has merit. I have
8 been out there on several occasions; and, Bill, what are
9 your comments as far as -- knowing the uniqueness of
10 Safety Harbor and the environment around there?

11 MR. SPIKOWSKI: I think the second suggestion is
12 probably better because it would allow the continued use
13 of that kind of property for a little place for boaters,
14 kind of like Cabbage Key and this type of thing.

15 The first solution would allow for the subdivision of
16 lots below an acre.

17 MR. MANNING: I would rather go with the second one,
18 Matt, if that's --

19 MS. WALLACE: Second.

20 THE CHAIRMAN: Do you want to do that today, though,
21 because we're going to have to continue the --

22 MR. SPIKOWSKI: It wouldn't be a final action since
23 you will be discussing that policy again on the 15th of
24 November, but if that's your indication we can put that in
25 the proposal.

1 MR. MANNING: Why don't I make that contingent upon
2 the final discussion and subject to change at that time.

3 MS. WALLACE: Let's say it's a contingent action.

4 MR. MANNING: No outlying suburban, just the
5 rewording, "or marine traffic".

6 MS. WALLACE: Redefinition of rural community to
7 include the words, "or marine traffic".

8 THE CHAIRMAN: Is that all the motion is, then?

9 MS. WALLACE: Yes.

10 THE CHAIRMAN: Is that your intent, John?

11 MR. MANNING: Yes.

12 THE CHAIRMAN: Motion, Commissioner Manning; second,
13 Commissioner Wallace.

14 Discussion?

15 MR. MANNING: And you're right, the parking
16 requirements --

17 MS. WALLACE: We'll need to look at that unless you
18 want to pave the Safety Harbor area.

19 MR. MANNING: No.

20 THE CHAIRMAN: Okay. Any objection?

21 Motion carries.

22 Anyone else wishing to speak, please come forward.

23 MR. ENGLISH: Well, I just had a question.

24 THE CHAIRMAN: How about telling us your name,
25 please?

1 MR. ENGLISH: Okay. Jim English.

2 THE CHAIRMAN: Do you live in Alva?

3 MR. ENGLISH: I am Jim English from Alva.

4 MS. WALLACE: How many years have you been there?

5 MR. ENGLISH: Well --

6 THE CHAIRMAN: Fifty what, one?

7 MR. ENGLISH: Fifty-three.

8 THE CHAIRMAN: Should have been 54, but he was sick a
9 year.

10 MS. WALLACE: The song starts his family has been
11 there for a hundred years.

12 THE CHAIRMAN: It's moved up now.

13 MR. ENGLISH: Where do we get a list? There is
14 evidently a whole lot of changes that are not going to be
15 heard one by one, and I was just curious as to what all
16 those were and how do we get a list of all that.

17 MR. SPIKOWSKI: I'll get your address and put you on
18 the mailing list and we're mailing them out to everybody
19 who's asked to be on the list.

20 MR. MANNING: We have a set schedule that's in
21 concrete; and in the newspaper we shaded all the areas
22 that anybody had asked for a change, either a formal
23 application, staff proposal or somebody who walks into a
24 meeting further notifying the public.

25 MR. ENGLISH: Thank you.

1 THE CHAIRMAN: Yes. I will do it again. Future land
2 use map, this is a review of changes.

3 Anyone else in the room wishing to make comment?
4 Come forward. Thank you.

5 Are you ready for the four subs? Okay. We'll now go
6 to community facilities and services element. We have
7 four sub elements, solid waste, libraries, education and
8 health care.

9 MR. SPIKOWSKI: Mr. Chairman, to make your review of
10 these remaining elements, we believe, simpler we have
11 included in the draft that we gave you for this meeting a
12 different version showing the changes from the current Lee
13 Plan with underlines and strike throughs and also listing
14 of policy reference in the old plan. We have also
15 included -- you won't see them today, but for new policies
16 that are required by Rule IX.J.5. or the regional plan we
17 have included the specific reference so that you can check
18 those out if you like.

19 We also have here on the wall the three significant
20 policy issues we see on the solid waste element. You will
21 notice in the two objectives -- you will recognize those
22 objectives. They're in the new solid waste bill that was
23 just passed by the legislature this year, both very
24 ambitious recycling requirements, and we're recognizing
25 them here as objectives.

1 You will notice that the element -- this is an
2 incredibly important subject and the element is very
3 short. That's because -- because of your current study
4 being done by Camp, Dresser and McKey being as
5 comprehensive as it is and including the proper decision
6 points for you all through the process, we have not tried
7 to duplicate that process here. The choice of landfill
8 versus resource recovery and the location is all being
9 handled by that study, so this section merely references
10 back.

11 The other change is --

12 THE CHAIRMAN: Bill, could I ask, though in that
13 second one there, can we strike the company name out of
14 that? I don't know that we --

15 MR. SPIKOWSKI: That's not to be adopted, that's just
16 for your information.

17 THE CHAIRMAN: We don't want any county paper because
18 that could change from -- as you know.

19 MR. SPIKOWSKI: Yes, that's not in the plan. That's
20 language.

21 MS. WALLACE: To protect the guilty

22 THE CHAIRMAN: If you all remember the original draft
23 of the '84 comp plan, we had a lot of names tagged in
24 there from the lawyers from Dade County which I had
25 removed from all books.

1 MR. SPIKOWSKI: The third item in this is level of
2 service standard.

3 Solid waste level of service is one of the required
4 public facilities that we have to have level of service
5 standards for. These are standards that would trigger the
6 concurrency rule. We're proposing a standard of having
7 disposal capability of seven pounds per person per day.
8 We're currently at about -- current county production is
9 about six point one five pounds per person per day.
10 Really that number ultimately would hope to go down.

11 MS. WALLACE: We're not producing enough garbage?

12 MR. SPIKOWSKI: We're just trying to be safe. It's
13 hard to have a level of service for solid waste because
14 your main limiting factor is how much landfill capacity
15 you have. The landfill doesn't care how much gets in
16 there every day, it's how many months' capacity you have
17 left.

18 We're using a conventional service standard. We
19 don't see this causing any particular problems. The
20 reality of not having the capacity will be a lot worse
21 than its concurrency effects.

22 Otherwise we propose some rewording of the policies,
23 we think, for increased clarity and accuracy.

24 Jack Wilhelm and Judd Dewar are here, who also worked
25 on this, to answer any technical questions.

1 THE CHAIRMAN: Any questions at all? Anyone of the
2 audience wishing to comment on the solid waste portion
3 come forward.

4 MS. WALLACE: We have got a lot of people in the
5 audience? What do you have to say, Jane?

6 THE CHAIRMAN: Solid waste sub element, anyone wish
7 to make a comment on it?

8 MR. MANNING: How about Ray Judah, citizen?

9 MS. WALLACE: He just snuck in.

10 THE CHAIRMAN: Okay. Libraries, Bill?

11 MR. SLISHER: Are we going to make motions on this
12 solid waste?

13 MR. SPIKOWSKI: We would like any comments you have
14 or changes.

15 MR. SLISHER: I have a comment. It says design and
16 implement resource recovery. Before we had the words
17 county shall establish and encourage. The way I read it
18 right now, with DER they're not going ahead and
19 encouraging resource recovery at this time because of the
20 problem with the dioxins and the scrubbers and the amount
21 of horticultural waste stream we do have keeping the
22 temperatures up.

23 MS. WALLACE: This means reasonable resource
24 recovery. This doesn't mean a plan.

25 MR. SPIKOWSKI: This --

1 MR. SLISHER: It was -- crossed out facilities, and
2 I'm not sure of the semantics.

3 MR. SPIKOWSKI: We actually could strike the term
4 resource recovery and just keep the recycling language in
5 there, too.

6 THE CHAIRMAN: Resource recovery was terminology used
7 long before the plant issue became in, of course. They
8 have put that in as a slang term for a burning energy
9 plant, which I think is nonapplicable. You can use it any
10 manner you wish.

11 Any other questions?

12 Okay. Libraries. You want to do all four of them in
13 one motion?

14 MR. SPIKOWSKI: Probably individual motions might be
15 easier.

16 MR. SLISHER: I want to make sure that's clear, then,
17 for Policy 40.1.2. Crossed off facilities, that was --

18 MR. SPIKOWSKI: Yes.

19 Should we also strike resource recovery and --

20 MR. MANNING: Why do we have to do that, though? We
21 don't.

22 MR. SPIKOWSKI: You don't have to.

23 MR. SLISHER: No. It's clear. It's on the tape
24 right now. That's why I brought it up.

25 MR. MANNING: You want to make a motion?

1 MS. WALLACE: I have an idea of what we could do
2 there on Policy 41.2. Sav design and implement reuse of
3 resources and recycling programs.

4 THE CHAIRMAN: Bill, all you're doing is taking the
5 state legislation and picked it up and moved it into this.

6 MR. MANNING: Good try, Mary Ann.

7 MR. SPIKOWSKI: We have to do it anyway if we want
8 our plan to reflect that we're not trying to fight that.
9 We're trying to do it. It's not going to be easy.

10 THE CHAIRMAN: Want a motion to approve this just
11 until the January issues?

12 MR. SPIKOWSKI: Yes.

13 MR. MANNING: Subject to final adoption?

14 THE CHAIRMAN: Yes. Okay, I make a motion. Second,
15 Commissioner Manning.

16 Discussion?

17 MS. WALLACE: Under discussion, Don, how strongly do
18 you feel about --

19 MR. SLISHER: What's that, the language?

20 MS. WALLACE: The words "resource recovery".

21 MR. SLISHER: Well, as long as it's on the record
22 it's not a resource-recovery plant and it's clear to the
23 maker of the motion and second and clear by staff.

24 MS. WALLACE: Okay.

25 MR. SLISHER: It's not a plant. I'm not voting for a

1 plant.

2 THE CHAIRMAN: You know, the plant will come when it
3 will come.

4 MR. SLISHER: Right. We took it out of our five-
5 year plan.

6 THE CHAIRMAN: No, we have not taken it out.

7 MR. SLISHER: We had a hundred sixty million in our
8 budget, we deleted that a year ago, for the purpose of
9 constructing a resource recovery plant.

10 THE CHAIRMAN: I don't know where you got that from,
11 but you're wrong.

12 MR. SLISHER: We had originally six hundred and forty
13 million dollars.

14 THE CHAIRMAN: It's going to come when it's going to
15 come, anyway, whenever the time is right and whenever that
16 dioxin issue is settled, no matter what. The state has
17 asked, and I don't know where you got the information that
18 they were not for a -- they're having problems with the
19 DER plan, that's exactly opposite the information that I
20 received, and they're being much encouraged to head that
21 way with proper care of scrubbers, et cetera, on these
22 plants.

23 MS. WALLACE: Well, unless they get a lot more
24 affordable I don't think it's going to happen. I think
25 the pendulum is going to start to swing the other way on

1 these resource recovery plants because we keep getting
2 information that they're very expensive and almost none of
3 them are operating properly.

4 MR. SLISHER: And the state's not encouraging them
5 right now.

6 THE CHAIRMAN: You know, it's not the bad thing, but
7 of all the people making rules in Tallahassee, the Alachua
8 County representative in the legislature who headed most
9 of all this discussion, you know, they have absolutely the
10 worst mandatory garbage program in the State of Florida,
11 coming down here doing this. We were already on these
12 programs and had been headed towards these programs for
13 the last eight years at least. We're well ahead of what
14 Tallahassee is doing.

15 No mandates for liners in any of these, none of those
16 kinds or protection, but yet they're on the recycling kick
17 because that's the flavor of the news media, which, you
18 know, you need to do some hard core stuff which we have
19 already done.

20 MS. WALLACE: Well, all I'm saying is look at nuclear
21 power, and for a long time everybody thought everyone was
22 going to have a nuclear power plant in their back yard,
23 and now even the power companies aren't attempting to do
24 that. The pendulum swung the other way there, and I think
25 it's doing that now.

1 MR. MANNING: I'm still waiting for my bomb shelter.

2 MS. WALLACE: Where was it? I saw one of those.
3 There is one down in Estero right next to the Estero
4 River.

5 THE CHAIRMAN: Any objection?

6 Motion carries.

7 B, libraries.

8 MR. SPIKOWSKI: Gladys Cook is going to give this
9 presentation.

10 MS. COOK: Good afternoon. Gladys Cook for the
11 record. This won't be a long delivery.

12 MS. WALLACE: Is this Gladys Cook and company
13 speaking?

14 MS. COOK: You have before you the differences
15 between the 1984 and the proposed 1988 library sub
16 element. The first one is found in 42.1.1. The current
17 standard, 1984 standard of one point five items per person
18 has been reduced to one point zero per person; but this is
19 not one of the mandatory levels of service.

20 The second one is, to make up for this deficiency, we
21 have set ambitious goals for the year 2000 of two point
22 eight items per person and point six square feet of
23 library space per person so that we have something to work
24 toward even though right now we just can't afford to
25 immediately come up to these standards.

1 MR. MANNING: Bill's getting nervous over there. He
2 doesn't read that much.

3 THE CHAIRMAN: Oh, my Lord.

4 MS. WALLACE: I would like to see an interim goal of
5 two point items for 1995. That get your blood pressure up
6 a little?

7 THE CHAIRMAN: We can't even build roads and you all
8 are talking about libraries.

9 MS. WALLACE: I think if we dedicate the next five
10 years to building roads, then it's time to let everybody
11 slow down a little bit and read books and have some books
12 in the libraries for them to read.

13 THE CHAIRMAN: Second to that motion? Mary Ann
14 Wallace made it.

15 MS. WALLACE: That's a motion, the interim goal is
16 two point zero books per capita by 1995.

17 THE CHAIRMAN: That's not what I seconded.

18 MS. COOK: Of course, the way that we would pay for
19 these --

20 MS. WALLACE: I'm serious.

21 THE CHAIRMAN: Motion.

22 MS. WALLACE: If I can get a second.

23 I have supported you all completely on building roads
24 this year and in our five-year plan. I have been a good
25 girl. I have been taking care of that good growth we're

1 having.

2 THE CHAIRMAN: Motion to build roads for five years
3 by Commissioner Wallace.

4 MS. WALLACE: And then libraries for the next ten.

5 THE CHAIRMAN: All right. Her motion is to move it
6 up to two point zero items, is that it is?

7 MS. WALLACE: It's an interim goal to add to what is
8 there.

9 THE CHAIRMAN: Motion, Commissioner Wallace. Do I
10 have a second? Do I have a second? Do I have a second?

11 Okay. Now do you want to try your roads motion?

12 MS. WALLACE: We're so far below the state standard,
13 I mean, and other communities of our size. Doesn't it
14 embarrass you? Don't we have any cultural ambitions at
15 all in this county? I guess the answer is out east, no.

16 THE CHAIRMAN: Define your definition of culture.

17 MR. SLISHER: It's an unrealistic goal, Mary Ann.
18 The state is one point four two and you want to go to two?

19 MS. WALLACE: What is the state's?

20 MS. COOK: The highest state level is two point
21 eight.

22 MR. SLISHER: The average.

23 MS. COOK: The average is one point five.

24 THE CHAIRMAN: Who's two point eight, Palm Beach?

25 MS. COOK: No one is that I have seen.

1 MR. SLISHER: That's our goal, you mean?

2 MS. COOK: Yes. It's just a goal, it's not one of
3 those so-called measurable objectives, it's just something
4 to work towards.

5 THE CHAIRMAN: It's not measurable on the money side,
6 I can assure you. You can assume three times the --

7 MS. WALLACE: Well, remember we did talk about
8 library impact fees.

9 THE CHAIRMAN: That's fine, Mary Ann. I don't mind
10 that.

11 MS. WALLACE: Are we just going to build the
12 buildings and leave them empty?

13 THE CHAIRMAN: Put pool tables in there and my people
14 will come.

15 MS. WALLACE: Do you have your GED?

16 THE CHAIRMAN: I've got a DET.

17 MS. WALLACE: You can't spell. That's D-O-G.

18 THE CHAIRMAN: I'll tell you later what a DET is. I
19 can't do that on the record.

20 MR. MANNING: I would like to make a motion, Mr.
21 Chairman, that we accept the changes in the library sub
22 element.

23 MR. SLISHER: Second.

24 THE CHAIRMAN: Motion, Commissioner Manning; second,
25 Commissioner Slisher.

1 Discussion? Any questions, Mary Ann?

2 MS. WALLACE: No.

3 THE CHAIRMAN: Any objection?

4 MS. WALLACE: Aye.

5 THE CHAIRMAN: We increased it to one.

6 MS. WALLACE: All the way up to one. It's not
7 enough, fellows.

8 MR. MANNING: I agree.

9 THE CHAIRMAN: Okay, three to one.

10 Education sub element.

11 MS. COOK: Gladys Cook, for the record.

12 The education sub element, the changes in it that
13 we're proposing is Rule IX.J.5. infers that we should set
14 certain levels of service for schools and education. We
15 have not done this. We felt that it was better up to the
16 School Board to come up with their own levels of service
17 for the educational services they provide. They will be
18 working with us this fall, though, developing some
19 standards if we do need to put them in the comprehensive
20 plan.

21 The second difference is that we have relocated the
22 locational standards for schools from the future land use
23 element into the sub element. We felt it was more
24 appropriate there.

25 MS. WALLACE: Maybe they'll read it.

1 THE CHAIRMAN: Have they seen this?

2 MS. COOK: Yes, and they concur with it. I had a
3 meeting with some members of the School Board
4 Administration, and we did receive a letter, which I
5 didn't bring today but we had it back in July and August,
6 that they approved this.

7 MS. WALLACE: Are they in agreement with when they
8 site new schools that they need to take into consideration
9 the transportation facilities to get there?

10 MS. COOK: Yes.

11 MS. WALLACE: Et cetera?

12 MS. COOK: Yes.

13 MS. WALLACE: I move that we adopt these education
14 amendments.

15 THE CHAIRMAN: Motion, Commissioner Wallace.

16 MR. MANNING: Second.

17 THE CHAIRMAN: Second by Commissioner Manning.

18 Discussion? Anyone in the audience wishing to
19 comment on the education element, please come forward.

20 Any objection?

21 Motion carries.

22 On the libraries sub element also let me ask was
23 there anyone in the room that wished to have spoken on
24 that?

25 Item D, the last one we have, health care sub

1 element.

2 MS. COOK: On this one, Rule IX J.5 again infers
3 that we would be setting levels of service for health
4 care. We did not do this. We didn't feel that the county
5 was involved in directly providing health care, and so
6 we -- what we have done instead is we have followed real
7 carefully the regional policies for health care and we
8 have actually reproduced them in the element to show that
9 we have considered them; but we have not set a specific
10 level of service for health care.

11 We have also modified the current plan to reflect the
12 fact that the 911 system is now up and running and to just
13 keep it operating. And pursuant to the regional policy
14 plan we have added a new section of -- new policy section
15 on a local pollution program which the regional policy
16 plan calls for. We have until, I think, 1995 to
17 accomplish that.

18 MS. WALLACE: Let me go back and clarify for myself,
19 Gladys. Technically we are not meeting the requirements
20 of IX.J.5 with this?

21 MS. COOK: Bill, do --

22 MR. SPIKOWSKI: I think I can explain. In one place
23 in the rule it says you need level of service standards
24 for five main facilities. Elsewhere in the plan it just
25 says you need them for all public facilities. In the

1 definition it lists the five plus health and schools, so
2 it's internally inconsistent.

3 DCA has recently accepted our position that it's not
4 required, but one reading if it would say that it is.

5 MS. WALLACE: Nice and vague, like this bureaucracy.

6 MR. MANNING: Move approval.

7 THE CHAIRMAN: Motion to approve the health care
8 element by Commissioner Manning. Second to the motion?

9 MS. WALLACE: Well, I just have mixed feelings now,
10 because if we're really not meeting the requirements of
11 IX.3.5 I'm not sure if we don't need to be a little more
12 specific.

13 MR. SPIKOWSKI: It's just such a hard one to do. We
14 have so little control over it.

15 MR. MANNING: You don't have any virtual control at
16 all.

17 MR. SPIKOWSKI: We don't over water and sewer, which
18 makes it awfully difficult for us to enforce it, but it's
19 hard to come up with a standard that we can do anything
20 about. That's why we were planning to try leaving it off
21 and we were happy at DCA's unofficial position, at least.

22 that they won't

23 MS. WALLACE: I think things like air pollution we
24 do, even if it just says something to the effect that we
25 will require that we continue to meet EPA standards for

1 clean air.

2 MR. SPIKOWSKI: We do have policies like that in the
3 land use element concerning air quality. That's where
4 that particular section is. It almost overlaps with this.

5 THE CHAIRMAN: Bill, on that local pollution, control
6 program, would be, I presume, by ordinance. Do you have
7 any standards yet that --

8 MR. SPIKOWSKI: Of course, we're already doing that
9 to some degree on we have taken over the underground
10 storage tank monitoring program, so we're moving there.
11 We're just saying that until 1995 it doesn't need to be a
12 full-fledged program.

13 THE CHAIRMAN: It's minor, though, really, because,
14 you know, we still are -- we have talked about it for a
15 long time, too long, I guess; but some day we'll get it,
16 but OSHA and DER are very strict on the east coast and
17 have been for some 15 years, and, you know, the paint body
18 shops, you know, the fiberglass spray areas, in
19 manufacturing, you can go to all those kinds of issues
20 that exude any aromatic or amphetamine hydrocarbons, and
21 they've got strict controls on that for ventilation
22 issues, et cetera. We're into fire wall containment
23 pretty good now, we've gotten that part down; but they
24 have, you know, with their suppression systems -- we
25 haven't done that on this coast.

1 I can remember back 12, 15 years ago on the east
2 coast they didn't ask you to do it. They said you have
3 got a week or we're going to shut you down, and I have
4 known places that they padlocked until they paid
5 attention.

6 And it's funny how -- and, as I understand it, those
7 regulations from EPA are passed down and enforced by DER.
8 Evidently their enforcement is very stringent on the east
9 coast of Florida. We still need to do that, and by all
10 rights we could at least do it for new businesses during
11 our permitting process coming in for those kinds of
12 operations to protect air quality.

13 I think that ought to be done. We have cabinet shops
14 that spray contact cements and glues, et cetera, that are
15 also -- cabinet shop in and of itself with ventilation,
16 air suction, you know, equipment that removes the saw
17 dust, et cetera, and not just in general removes that in a
18 stock pile but a positive displacement of it.

19 MR. SPIKOWSKI: We could develop a policy basically
20 directing that that be done.

21 THE CHAIRMAN: I guess that's the only way we're
22 going to get there. It seems like if we don't get it in
23 the comp plan it's not being worked out, and I know Hans
24 and them have tried to get better control, but I think we
25 need a statement and we need to really come up with some

1 standards and guidelines in those areas because I don't
2 think the average guy's going to go out and try to pollute
3 or purposefully pollute the county by air, water or
4 whatever, but I think if we catch them going in just as
5 he -- and a good issue coming up now has been with the
6 health department on permitting of industrial septic
7 tanks, you know, and that safeguard, and I think we need
8 to do it in the building modifications from the very
9 beginning of the permitting process when they come in for
10 a CO, period, whether it be an old structure or new
11 building

12 MR. SPIKOWSKI: We'll try and come up with some kind
13 of language and bring it to you.

14 MS. WALLACE: Let me move that we adopt --

15 THE CHAIRMAN: We've got a motion.

16 MS. WALLACE: Let's, if we can, amend it to direct
17 staff to see if they can come up with some interim goals
18 to maintain the level of air quality that we now have in
19 Lee County.

20 THE CHAIRMAN: I'll accept that. Any objection to
21 the motion?

22 Motion carries

23 Is that all you all have for today?

24 MR. SPIKOWSKI: Yes. Next Friday we have a similar
25 agenda focusing on Bonita Springs and all the way up to

1 San Carlos Park.

2 MR. SLISHER: I won't be here next Friday.

3 THE CHAIRMAN: This was -- you all did a good job.
4 This was a hundred times better day than to have everybody
5 in the room for like five different days and not get plan
6 specific. I guess five o'clock, I'm off twelve minutes,
7 but I think it worked very well.

8 MR. SPIKOWSKI: We'll have the big map here next week
9 and have some better way to identify it. I think there
10 will be more specific requests other than the advertise
11 ones next week.

12 THE CHAIRMAN: Okay. We're adjourned.

13 (Whereupon, the proceedings were concluded at 4:50
14 p.m.)

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1 STATE OF FLORIDA)

2 COUNTY OF LEE)

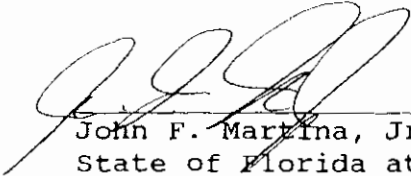
3 I, John F. Martina, Jr., Notary Public in and for the
4 State of Florida at Large, do hereby certify that the
5 foregoing proceedings were taken before me at the time and
6 place as stated in the caption hereto at page 1 hereof; that
7 the foregoing typewritten transcription, consisting of pages
8 numbered 1 through 168, inclusive, is a true record of my
9 stenographic notes taken at said proceedings.

10 IN WITNESS WHEREOF, I have hereunto subscribed my name and
11 affixed my seal, this 18th day of October, 1988.

12

13

14


John F. Martina, Jr., Notary Public,
State of Florida at Large.

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My commission expires: 2/10/89

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