

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

**DATE CRITICAL
Blue Sheet No. 20070729**

1. ACTION REQUESTED/PURPOSE: Conduct second public hearing; adopt an ordinance pertaining to Greater Pine Island Planning Community and amending Lee County Land Development Code (LDC) Chapters 2, 10, 14, 30, 33, and 34.

2. FUNDING SOURCE:

3. WHAT ACTION ACCOMPLISHES:

Satisfies the Board policy to hold two public hearings to amend the LDC. If adopted, the regulations will establish development standards specifically applicable to the Greater Pine Island Planning Community.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: 5:05 #1 **6. Meeting Date:** May 22, 2007

7. Agenda: <input type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input checked="" type="checkbox"/> Public 5:05 <input type="checkbox"/> Walk-On	8. Requirement/Purpose: (specify)		9. Request Initiated:
	<input checked="" type="checkbox"/> Statute	F.S. §125.66	Commissioner
	<input checked="" type="checkbox"/> Ordinance		Department County Attorney
	<input type="checkbox"/> Admin. Code		Division Land Use
	<input type="checkbox"/> Other		By: Dawn E. Perry-Lehnert 5/9/07 Assistant County Attorney

10. Background: County staff and the Land Development Code Advisory Committee have proposed amendments to Land Development Code Chapters 2, 10, 14, 30, 33, and 34. The amendments are intended to implement Lee Plan Policy 1.4.7 and Goal 14 and establish regulations applicable to the Greater Pine Island Planning Community.

The proposed amendments were drafted by William Spikowski of Spikowski Planning Associates.

County staff recommends amending the LDC in accord with the proposed ordinance.

Attachment: Ordinance Highlights; Draft Ordinance

- cc: Mary Gibbs, Director, Department of Community Development
Pam Houck, Director, Zoning Division
Pete Eckenrode, Director, Development Services
Robert Stewart, Building Official, Department of Community Development
Rick Roberts, Chief Code Enforcement Officer
Nettie Richardson, Principal Planner, DCD/Zoning
Scott Gilbertson, Director, Transportation

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P. W. Director
					Analyst	Risk	Grants	Mgr.	
				DMC	5/10/07	5/10/07	5/10/07	5/14/07	5-16-07

12. Commission Action:

- Approved
 Deferred
 Denied
 Other

COUNTY ADMIN
5/10/07 1:30 PM


RECEIVED BY
COUNTY ADMIN:
3/9 2:30 PM
to RK
COUNTY ADMIN
FORWARDED TO:
5/11/07
9 AM

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

DATE: April 27, 2007

TO: Board of County Commissioners


Mary Gibbs, Director

RE: **SUMMARY OF GREATER PINE ISLAND LAND DEVELOPMENT CODE
AMENDMENTS - May 8th Public Hearing**

Pine Island has submitted proposed land development regulations to implement its Community Plan. The land development regulations are included in the agenda packet. A summary of the major issues is provided below.

1. **Signs (Sec 33-1045)**

Greater Pine Island (GPI) proposes to allow certain off-site, directional signs in the county right-of-way. DOT is concerned with this language for several reasons which are explained in their memo. Primarily, the concern revolves around using county owned property for private business purposes.

2. **Billboards (Sec 33-1041)**

GPI proposes to amortize and restrict billboards.

Staff does not recommend adopting this section because the language raises legal concerns about identifying illegal and nonconforming billboards.

3. a. **Density in Coastal Rural Areas (Sec 33-1052)**

GPI proposes 4 density table alternatives for Coastal Rural property. These tables provide for various maximum density options depending on the amount of land restored or preserved. In other words, the more property preserved, the higher the allowable density.

Staff recommends adopting the density table below (a different table from the 4 Pine Island proposals).

Percentage of the on site uplands that are preserved or restored native habitats or continued in agricultural use on existing farmland	Maximum density if undeveloped land will be permanently preserved or restored as native habitats	Maximum density if undeveloped land will be continued in agricultural use on existing farmland
0% to 4.99%	1 DU/ 10 acres	1 DU/ 10 acres
5% to 9.99%	1 DU/ 9 acres	1 DU/ 10 acres
10% to 14.99%	1 DU/ 8 acres	1 DU/ 9 acres
15% to 19.99%	1 DU/ 7 acres	1 DU/ 9 acres
20% to 29.99%	1 DU/ 6 acres	1 DU/ 8 acres
30% to 39.99%	1 DU/ 5 acres	1 DU/ 7 acres
40% to 49.99%	1 DU/ 4 acres	1 DU/ 6 acres
50% to 59.99%	1 DU/ 3 acres	1 DU/ 5 acres
60% to 69.99%	1 DU/ 2 acres	1 DU/ 3 acres
70% or more	1 /DU/ 1 acre	1 DU/ 2 acres

3. b. Concurrency and Traffic-Based Growth Limitations (Sec. 33-1011)

GPI proposes 2 density options that are applicable when traffic on Pine Island Road reaches 910 trips. Both options limit the density to 1/3 the maximum allowable density in all land use categories except for the Coastal Rural category. The Pine Island option will reduce the density below the level provided in the Lee Plan for Coastal Rural areas.

Staff is proposing no further reduction of density for lands designated Coastal Rural.

4. New Process to Review Development Orders without Rezoning in Coastal Rural (Sec 33-1051)

GPI proposes to allow the increased density for residential development on land zoned AG-2 in Coastal Rural areas through a new type of development order process. The purpose of the new process is to provide an incentive for property owners to preserve property while clustering development. The proposed process is administrative and does not require rezoning or public hearing.

Staff recommends using the Planned Development rezoning process instead of the proposed administrative process because the proposed

administrative process will diminish the Board of County Commissioners' opportunity to review and approve the density issue and eliminate opportunity for public input.

5. Long Term Maintenance of Habitat (Sec 33-1054, 33-1052)

GPI is proposing standards to restore native habitat in Coastal Rural areas in order to achieve more than 1 unit per 10 acres. Through numerous meetings with staff, GPI and the various county advisory committees, nearly all issues have been resolved. The one remaining issue relates to the long-term maintenance provision of the management plan.

Staff recommends removing the language relating to establishing a permanent funding source, and a fully funded long-term management plan.

Greater Pine Island Planning Community Ordinance Overview

- 2-48 Moves the concurrency requirements for the Greater Pine Island Planning Community (GPI) to LDC chapter 33.
- 2-50 Requires the County to include GPI traffic counts in the County concurrency management report based upon the process described in §33-1011.
- 10-7 Establishes that the Development Standards provisions of Chapter 10 are applicable in the Greater Pine Island Planning Community.
- 10-416 Deletes provisions in Chapter 10 applicable to GPI waterway buffers and moves them to Chapter 33.
- 14-1 Establishes that the Environmental provisions of Chapter 14 are applicable in the Greater Pine Island Planning Community.
- 14-374 Defines "Greater Pine Island".
- 14-377 Eliminates the existing exemption for single-family residential properties on all coastal islands, including GPI, and will require compliance with the tree removal provisions of Chapter 14 (i.e. all single-family residential property on the coastal islands will be required to comply with the tree removal provisions; but only properties over 2 acres will be required to comply in GPI); Allows removal of trees on agricultural property within GPI in compliance with Chapter 33.
- 30-2 Defines "Greater Pine Island".
- 30-56 Establishes that the Sign provisions of Chapter 30 are applicable in the Greater Pine Island Planning Community.
- 33-1001 Establishes the purpose and intent of the Greater Pine Island Planning Community provisions contained in Article III, Chapter 33.
- 33-1002 Establishes the boundary of the GPI Planning Community and the applicability of the proposed regulations.
- 33-1003 Establishes several definitions applicable in GPI.
- 33-1011 Sets forth the GPI traffic concurrency management provisions and growth limitations.

- 33-1031 Sets forth the GPI Agricultural notice of clearing requirements, including a 50 foot buffer around preserve areas, exotic maintenance, planting/reforestation provisions and recording requirements.
- 33-1041 Creates a 2 year amortization period for Billboards and other off-site signs on GPI.
- 33-1042 Allows wall-mounted signs.
- 33-1043 Allows ground-mounted identification signs.
- 33-1044 Allows illuminated signs under certain conditions.
- 33-1045 Establishes an obligation for Lee County DOT to provide (make, install and maintain) off-site directional signs within the County rights-of-way of Stringfellow and Pine Island Road for commercial businesses and other organizations. Contemplates an amendment to Lee County Ordinance 88-11 pertaining to Commercial Use of Rights-of-way.
- 33-1051 Establishes the purpose and intent of the Coastal Rural standards outlined in Chapter 33.
- 33-1052 Establishes residential density limitations within the Coastal Rural portion of GPI; provides ability to cluster density if certain lands are preserved or restored; allows density determinations to be made through the development order process; establishes long term management and financial obligations with respect to preservation of habitat, restoration of habitat, and, control/removal of exotics; allows deviations and variances to be granted as part of development order process.
- 33-1053 Establishes development standards applicable in the Coastal Rural areas of GPI.
- 33-1054 Establishes regulations applicable to permanently preserved areas in the Coastal Rural areas of GPI including hydrology restoration, exotic plant control, granting a conservation easement, long term management and financial obligations.
- 33-1055 Establishes native habitat restoration and reforestation provisions.
- 33-1056 Establishes provisions applicable to the grant of additional density in exchange for a permanent commitment to "continued agricultural use on an existing farm"; requires a recorded conservation easement evidencing the commitment.

- 33-1057 Establishes the meaning of the term “lot of record” for the Coastal Rural area of GPI and limits use of the lot to construction of one single-family residence.
- 33-1081 Establishes street layout provisions for GPI.
- 33-1082 Establishes requirements applicable to development abutting an aquatic preserve within GPI.
- 33-1083 Establishes commercial design standards in GPI.
- 33-1084 Allows administrative height increases for stealth towers in GPI, with additional setbacks.
- 33-1085 Provides direction/citation to the various Chapter 33 provisions affecting density in GPI.
- 33-1086 Prohibits residential project fences and walls in GPI.
- 33-1087 Establishes restrictions applicable to the use/construction of entrance gates.
- 33-1088 Restricts height of buildings or structures in GPI to the lower of 38 above average grade of the lot or 45 feet above mean sea level.
- 34-2 Defines “Greater Pine Island”.
- 34-6 Establishes that the Zoning provisions of Chapter 34 are applicable in the Greater Pine Island Planning Community.
- 34-202 Establishes that the General submittal requirements for public hearing applications are applicable to property within the Greater Pine Island Planning Community.
- 34-654 Creates a property development table note regarding the applicability of the Coastal Rural density limitations set forth in §33-1052 to agriculturally zoned property in GPI.
- 34-695 Creates a property development table note regarding the applicability of the Coastal Rural density limitations set forth in §33-1052 to residentially zoned property in GPI.
- 34-715 Creates a property development table note regarding the applicability of the Coastal Rural density limitations set forth in §33-1052 to multi-family zoned property in GPI.

- 34-935 Proposed language will establish a reminder about the GPI Chapter 33 provisions applicable to planned developments.
- 34-1444 Changes the established height limitations applicable to stealth wireless communication towers for all barrier islands, including GPI.
- 34-1495 Repeals the existing density limitation provisions applicable to GPI and establishes a reminder about the GPI Chapter 33 provisions applicable to residential density.
- 34-2174 Establishes a prohibition with respect to achieving greater height in exchange for additional setbacks on GPI and Upper Captiva Island, Captiva Island and Gasparilla Island.
- 34-2175 Proposed language will establish a reminder about the GPI Chapter 33 provisions applicable to building height limitations.
- Appendix I Adopts a map of the GPI boundary.

LEE COUNTY ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) TO AMEND CHAPTERS 2, 6, 10, 14, 30, 33 AND 34; AND

AMENDING CHAPTER 2 (ADMINISTRATION); AMENDING GREATER PINE ISLAND CONCURRENCY (§2-48); AND CONCURRENCY MANAGEMENT INFORMATION SYSTEM (§2-50); AND

AMENDING CHAPTER 10 (DEVELOPMENT STANDARDS); ESTABLISHING GENERAL REQUIREMENTS APPLICABLE TO GREATER PINE ISLAND PLANNING COMMUNITY (§10-7); LANDSCAPE STANDARDS (§10-416); AND

AMENDING CHAPTER 14 (ENVIRONMENTAL AND NATURAL RESOURCES); ESTABLISHING APPLICABILITY OF CHAPTER 14 TO PLANNING COMMUNITIES (§14-1); AMENDING DEFINITIONS TO ADD "GREATER PINE ISLAND" (§14-374); EXEMPTIONS FROM TREE PROTECTIONS PROVISIONS (§14-377); AND

AMENDING CHAPTER 30 (SIGNS); AMENDING DEFINITIONS AND RULES OF CONSTRUCTION TO ADD "GREATER PINE ISLAND" (§30-2); ESTABLISHING APPLICABILITY OF CHAPTER TO PLANNING COMMUNITIES (§30-56); AND

AMENDING CHAPTER 33 TO CREATE A NEW ARTICLE III APPLICABLE TO THE GREATER PINE ISLAND PLANNING COMMUNITY; PROVIDING FOR PURPOSE AND INTENT (§33-1001); APPLICABILITY AND COMMUNITY BOUNDARY (§33-1002); DEFINITIONS (§33-1003); GREATER PINE ISLAND CONCURRENCY AND TRAFFIC-BASED GROWTH LIMITATIONS (§33-1011); ESTABLISHING AGRICULTURAL NOTICE OF CLEARING PROVISIONS (§33-1031); PROVIDING FOR NONCONFORMING OFF-SITE DIRECTIONAL SIGNS AND BILLBOARDS (§33-1041); WALL MOUNTED IDENTIFICATION SIGNS (§33-1042); GROUND-MOUNTED IDENTIFICATION SIGNS (§33-1043); INTERNALLY ILLUMINATED BOX SIGNS (§33-1044); OFF-SITE DIRECTIONAL SIGNS (§33-1045); ESTABLISHING COASTAL RURAL DEVELOPMENT REGULATIONS PROVIDING FOR PURPOSE AND INTENT (§33-1051);

RESIDENTIAL DENSITY LIMITATIONS (§33-1052); DEVELOPMENT STANDARDS (§33-1053); PERMANENTLY PRESERVED NATIVE HABITAT (§33-1054); RESTORED NATIVE HABITAT (§33-1055); CONTINUED AGRICULTURAL USE ON EXISTING FARMLAND (§33-1056); LOTS OF RECORD IN "COASTAL RURAL" (§33-1057); ESTABLISHING DESIGN STANDARDS APPLICABLE TO PROPOSED STREET LAYOUT (§33-1081); DEVELOPMENT ABUTTING AN AQUATIC PRESERVE (§33-1082); COMMERCIAL BUILDING DESIGN STANDARDS (§33-1083); ESTABLISHING DESIGN STANDARDS PROVIDING FOR MAXIMUM HEIGHT OF WIRELESS COMMUNICATION FACILITIES (§33-1084); DENSITY LIMITATIONS (§33-1085); RESIDENTIAL PROJECT FENCES AND WALLS (§33-1086); ENTRANCE GATES (§33-1087); MAXIMUM HEIGHT OF BUILDINGS AND STRUCTURES (§33-1088); AND

AMENDING CHAPTER 34 (ZONING); AMENDING DEFINITIONS SPECIFICALLY "GREATER PINE ISLAND" (§34-2); CREATING COMPLIANCE WITH SPECIFIC PLANNING COMMUNITY REGULATIONS TO INCLUDE GREATER PINE ISLAND (§34-6); AMENDING GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-202); AGRICULTURAL DISTRICTS PROPERTY DEVELOPMENT REGULATIONS (§34-654); RESIDENTIAL DISTRICTS PROPERTY DEVELOPMENT REGULATIONS (§34-695); MULTIPLE-FAMILY PROPERTY DEVELOPMENT REGULATIONS (§34-715); PLANNED DEVELOPMENT DISTRICTS PROPERTY DEVELOPMENT REGULATIONS (§34-935); AMENDING PERMISSIBLE WIRELESS FACILITY LOCATIONS (§34-1444); DENSITY LIMITATIONS FOR SPECIFIC AREAS (§34-1495); ADDITIONAL PERMITTED HEIGHT WHEN INCREASED SETBACK PROVIDED (§34-2174); HEIGHT LIMITATIONS FOR SPECIAL AREAS (§34-2175); AND

AMENDING APPENDIX I (PLANNING COMMUNITIES) TO INCLUDE A MAP (MAP 5) AND LEGAL DESCRIPTION OF THE GREATER PINE ISLAND PLANNING COMMUNITY; AND PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code (LDC), which contains regulations applicable to the development of land in Lee County; and

WHEREAS, the Board of County Commissioners amended the Greater Pine Island Community Plan, codified under Goal 14 of the Lee Plan, effective December 21, 2004, and made further amendments effective January 9, 2006; and

WHEREAS, these plan amendments included policies that should be implemented through amendments to the Lee County Land Development Code; and

WHEREAS, the Board of County Commissioners, through the creation of LDC Chapter 33, has begun to centralize LDC provisions that are applicable only to certain planning communities within the county; and

WHEREAS, a new Article III of LDC Chapter 33 will allow the Greater Pine Island planning community regulations to be centralized within the Land Development Code; and

WHEREAS, certain existing regulations applicable only to Greater Pine Island are currently found in LDC Chapters 2, 10, 14, 30 and 34 will be more readily understood and uniformly applied if relocated to the new Article III of LDC Chapter 33; and

WHEREAS, the Land Development Code Advisory Committee reviewed the proposed amendments to the Code and made recommendations as indicated; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on April 23, 2007, and found them consistent with the Lee Plan, as indicated.

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

SECTION ONE: AMENDMENT TO LDC CHAPTER 2

Lee County Land Development Code Chapter 2 is hereby amended as follows, with deleted text identified with strike through and additional text identified with underlining.

CHAPTER 2

ADMINISTRATION

ARTICLE II. CONCURRENCY MANAGEMENT SYSTEM

Sec. 2-48. Greater Pine Island concurrency.

[These provisions have been modified and moved to proposed §33-1011]

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 effect of this restriction on residential density must not be more severe than restricting density to one-third the maximum density otherwise allowed on that property.~~

See special standards for Greater Pine Island in section 33-1011

Sec. 2-50. Concurrency management information system.

(a) The director will compile, publish and update, at least once each year, beginning no later than October 1, 1990, an inventory of the maximum, utilized and available capacity of public facilities for which minimum regulatory levels of service are prescribed in the Lee Plan. This inventory must also contain a projection of future demand on the facilities due to anticipated growth and additions to capacity based upon construction in progress or under contract. This inventory must also contain the Greater Pine Island analysis as described in section 33-1011(d). The inventory must be reviewed and approved by the Board of County Commissioners and, upon approval, will establish the availability and capacity of each facility to accommodate impacts from further development. This inventory will bind the county to the estimates of available capacity described in the inventory. Once approved by the board, these estimates will empower the director to issue concurrency certificates for development permits requested where the estimates reasonably demonstrate sufficient infrastructure capacity will be available to serve all developments reasonably expected to occur during the period of time approved by the board.

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

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

SECTION TWO: AMENDMENT TO LDC CHAPTER 10

Lee County Land Development Code Chapter 10 is hereby amended as follows, with deleted text identified with strike through and additional text identified with underlining.

CHAPTER 10

DEVELOPMENT STANDARDS

ARTICLE I. IN GENERAL

Sec. 10-7. General requirements.

(a) through (c) *No change.*

(d) *Planning community regulations.* Development order applications and approvals for projects located within the following planning communities must also comply with the regulations set forth in chapter 33 pertaining to the specific planning community.

(1) Estero Planning Community

(2) Greater Pine Island

(e) through (h) *No change.*

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS

DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-416. Landscape standards.

(a) through (c). *No change.*

(d) *Buffering adjacent property.*

(1) through (8) *No change.*

- (9) *Development abutting natural waterway.* Except where chapter 33 provides a stricter standard ~~applies~~ for the Greater Pine Island Area (as defined in Goal 14 of the Lee Plan and in section 33-1002), there must be a 25-foot wide vegetative buffer landward from the mean high water line of all nonseawalled natural waterways. ~~Where a proposed planned development or subdivision, is located in the Greater Pine Island Area abutting state-designated aquatic preserves and associated natural tributaries, the width of the required buffer will be 50 feet.~~

Existing vegetation within the buffer area must be retained. The removal or control of exotic pest plants must not involve the use of heavy mechanical equipment such as bulldozers, front end loaders, or hydraulic excavators, unless approved at the time of development order.

- (10) through (11) *No change.*

SECTION THREE: AMENDMENT TO LDC CHAPTER 14

Lee County Land Development Code Chapter 14 is hereby amended as follows, with deleted text identified with strike through and additional text identified with underlining.

CHAPTER 14

ENVIRONMENT AND NATURAL RESOURCES

ARTICLE I. IN GENERAL

Sec. 14-1. Planning community regulations.

Activities in the following communities must also comply with the regulations set forth in chapter 33 pertaining to the specific community.

- (a) Estero Planning Community
- (b) Greater Pine Island

ARTICLE V. TREE PROTECTION

Sec. 14-374. Definitions.

(a) The following words, terms and phrases, and their derivations, when used in this article, ~~shall~~ have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 33-1002.

No changes to balance of section

Sec. 14-377. Exemptions from article.

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

(1) Removal of trees on the following lands as specified in this subsection:

a. This article ~~shall~~ does not apply to the removal of trees, other than trees worthy of preservation, on lands classified as agricultural land for ad valorem taxation purposes pursuant to F.S. § 193.461(3)(b), except as provided for proposed agricultural activities in Greater Pine Island in section 33-1031. Trees, other than trees worthy of preservation, may be removed from agriculturally zoned lands only after the owner or his agent procures a notice of clearing from the administrator. However, if an application to rezone the subject lands is filed within three years from the date when the most recent notice of clearing was issued, and the rezoning is granted, the applicable minimum open space requirements of chapter 10 ~~shall~~ may be satisfied in the following manner:

1. through 3. *No change.*

b. through d. *No change.*

(2) through (6) *No change.*

(7) The removal of protected trees on a lot zoned for single-family residential use or being used lawfully as a single-family residence or mobile home where the residence or proposed residence is located on a lot no greater than five acres in area. However, this exemption does not apply on the coastal islands listed in subsection (c) below.

(8) *No change.*

(b) *No change.*

(c) The exemptions ~~herein~~ for single-family residential use in subsection (a)(7) above do not apply to land located on the following coastal islands: Gasparilla Island, Cayo Costa Island, North Captiva Island, Captive Island, Buck Key, Greater Pine Island, Lover's Key Group of Islands, Black Island, Big Hickory Island, and Little Hickory Island (Bonita Beach).

(1) and (2) *No change.*

(3) For Greater Pine Island only, a tree removal permit will be required only on parcels or lots zoned or used for residential purposes that are two acres in size or greater.

SECTION FOUR: AMENDMENT TO LDC CHAPTER 30

Lee County Land Development Code Chapter 30 is hereby amended as follows, with deleted text identified with strike through and additional text identified with underlining.

CHAPTER 30

SIGNS

ARTICLE I. IN GENERAL

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

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

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

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and described in section 33-1002.

No changes to balance of section.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 30-56. Planning community regulations.

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in chapter 33 pertaining to the specific planning community.

(a) Estero Planning Community

(b) Greater Pine Island

SECTION FIVE: AMENDMENT TO LDC CHAPTER 33, ADDING ARTICLE III

The Lee County Land Development Code is hereby amended to create a new Article III of Chapter 33 as follows.

CHAPTER 33

PLANNING COMMUNITY REGULATIONS

ARTICLE III. GREATER PINE ISLAND

DIVISION 1. IN GENERAL

Sec. 33-1001. Purpose and intent.

The purpose of this article is to establish standards for the Greater Pine Island Planning Community, which includes Pine Island, Matlacha, and several surrounding islands and certain unincorporated enclaves west of Cape Coral (see Appendix I, Map 5). These standards are intended to carry out Lee Plan Goal 14 and related objectives and policies in order to accomplish the vision for the future of Greater Pine Island. The purpose of these standards is to maintain an equilibrium between modest growth, a fragile ecology, and a viable and productive agricultural community. These standards reflect an effort to manage future growth based on the remaining traffic capacity available on the existing narrow road link to the mainland while retaining a reasonable opportunity for hurricane evacuation.

Sec. 33-1002. Applicability and community boundary.

The standards in this article apply to all development within the Greater Pine Island Planning Community as depicted in the Lee County Comprehensive Plan on Future Land Use Map 1, Page 2 and Planning Communities Map 16. A copy of the Greater Pine Island portion of the planning communities map is reproduced in Appendix I as Map 5. A legal description of the Greater Pine Island Planning Community, which encompasses all of Pine Island, Little Pine Island, West Island, Porpoise Point Island, and other small adjacent islands is also set forth in Appendix I.

Sec. 33-1003. Definitions.

The following definitions are in addition to those set forth in other chapters of this code and are applicable to the provision set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this code, then the definition set forth below will control. Otherwise the definition contained elsewhere in this code will control.

Continued agricultural use on existing farmland means existing farmland identified on Lee Plan Map 21 that will be committed, through a recorded perpetual easement, to continued agricultural activity and use in exchange for County approval allowing residential

density above the standard maximum residential density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property.

Permanently preserved native habitat means native upland habitat that the landowner guarantees, through a recorded perpetual easement, to preserve or restore as permanent native habitat/open space in exchange for County approval allowing residential density above the standard maximum residential density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property.

Restored native habitat means uplands that the landowner commits, through a recorded perpetual easement, to restoring and permanently preserving as open space in exchange for County approval allowing residential density above the standard maximum residential density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property.

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

- (a) The following aquatic preserves as designated by the state of Florida:
 - (1) Gasparilla Sound-Charlotte Harbor Aquatic Preserve, and
 - (2) Matlacha Pass Aquatic Preserve, and
 - (3) Pine Island Sound Aquatic Preserve;
- (b) All wetlands, as defined in chapter 14, article IV, that adjoin any portion of these aquatic preserves; and
- (c) All natural tributaries, including bays, lagoons, and creeks that adjoin any portion of these aquatic preserves, but excluding man-made canals.
- (d) For purposes of this definition, any portion of a wetland or natural tributary lying farther than ½ mile from the nearest edge of an aquatic preserve will not be deemed to be an associated wetland or natural tributary.

DIVISION 2. TRANSPORTATION CONCURRENCY

Sec. 33-1011. Greater Pine Island concurrency and traffic-based growth limitations.

[proposed to be moved and modified from §2-48]

- STAFF: Recommends adoption of the proposed language as indicated below by the underlined, italicized and highlighted text.
- LDCAC: Supports Staff recommendation.
- LPA: Supports Staff recommendation
- EROC: Supports Staff recommendation

Concurrency compliance and traffic-based growth limitations for property located in Greater Pine Island, as identified on the future land use map and described in section 33-1002, 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 code. These policies require the following:

- (a) 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 #3 on Little Pine Island at the western edge of Matlacha and will apply to all of Greater Pine Island.
- (b) In addition, when traffic on Pine Island Road at the western edge of Matlacha reaches 810 peak-hour annual average two-way trips, rezonings in Greater Pine Island that increase traffic on Pine Island Road may not be granted. During the rezoning process only, three types of exceptions to this rule may be considered:
 - (1) Minor rezonings on infill properties surrounded by development at similar densities or intensities. A minor rezoning under this exception may not rezone more than 5 acres of land or have a net effect of allowing more than 15 additional dwelling units.
 - (2) Rezonings that would have insignificant or trivial effects on traffic flows at the western edge of Matlacha during peak periods in the peak (busier) direction, or would have positive effects by reducing trips during those peak flow periods.
 - (3) Rezonings to accommodate small enterprises that promote the natural features or cultural heritage of Greater Pine Island. Small enterprises are those that operate with five or fewer full-time employees.
- (c) When traffic on Pine Island Road at the western edge of Matlacha reaches 910 peak-hour annual average two-way trips, residential development orders

(pursuant to chapter 10) will not be granted for land in Greater Pine Island unless measures to maintain the adopted level of service at the western edge of Matlacha can be included as a condition of the development order. As an alternative to maintaining the adopted level of service, the following options are available to landowners:

- (1) Except in the Lee Plan's "Coastal Rural" land use category, reducing the residential density on the property for which a development order is sought to one-third of the maximum density otherwise allowed by the Lee Plan and this code.
- (2) In the Lee Plan's "Coastal Rural" land use category, reducing the residential density on the property for which a development order is sought to the levels in the columns III or V of Table 33-1052 (see section 33-1052).

STAFF ALTERNATIVE subsection (c)

(c) When traffic on Pine Island Road at the western edge of Matlacha reaches 910 peak-hour annual average two-way trips, residential development orders for properties not designated "Coastal Rural" will be limited to one-third of the maximum density otherwise allowed on that property by the Lee Plan and this code. Density for property designated "Coastal Rural" will be in accordance with Table 33-1052.

(d) The standards in subsections (b) and (c) of this section will be interpreted and applied as follows:

- (1) Traffic counts will be taken from the county's permanent count station #3 on Little Pine Island at the western edge of Matlacha.
- (2) For purposes of the regulations in this section, the 810-trip and the 910-trip thresholds will be considered to be exceeded upon approval by the board of county commissioners of the annual concurrency management inventory of available capacity of public facilities in accordance with section 2-50.
- (3) Landowners may be in the process of obtaining residential development orders at the time that a formal determination is made that the 910-trip threshold has been exceeded. For such properties, the 180-day period for resubmittal of supplemental or corrected application documents (see section 10-110(b)) will not be shortened by this determination. Such residential development orders must be diligently pursued and obtained within 12 months after submittal or the application will have to be modified to comply with the rules that apply after the 910-trip threshold has been exceeded.

- a. Additional development rights may not be appended to a request for a development order during this period.
 - b. This allowance does not extend to tracts of land in large phased projects that are proposed for future development but for which a development order has not been sought in the current application.
 - c. Residential development order applications that were submitted as of March 14, 2006, will be processed in accordance with Resolution 06-03-24 which annotated the Lee Plan on March 14, 2006.
- (e) Expiring development orders in Greater Pine Island cannot be extended or renewed unless they are modified to conform with the regulations in effect at the time of extension or renewal.
- (f) The restrictions in subsections (b) and (c) will not be interpreted to affect ongoing developments whose final phases are already platted in accordance with F.S. ch. 177, provided that no new lots are added and that the number of allowable dwelling units is not increased. These restrictions also will not be interpreted to affect expansions to existing recreational vehicle parks to serve additional transient RVs if such expansions were explicitly approved by Lee County under Ordinance No. 86-36 (see section 34-3272(1)d.) and the land is properly zoned for this purpose.

DIVISION 3. AGRICULTURAL CLEARING

Sec. 33-1031. Agricultural notice of clearing on Greater Pine Island.

Notices of clearing for agricultural purposes in Greater Pine Island must comply with the following additional requirements in accordance with Policy 14.1.5 of the Lee Plan:

- (a) Agriculturally zoned land that is pursuing a new agricultural use through the Agricultural Notice of Clearing process that adjoins state-designated aquatic preserves and associated wetlands and natural tributaries (see section 33-1003) must preserve or create a 50-foot-wide native vegetated conservation buffer area between all agricultural lands and the natural waterbody and associated wetlands.
- (b) The purpose of this conservation buffer is to capture or slow the movement of sediments, fertilizers, pesticides, pathogens, and heavy metals that may be concentrated in stormwater runoff and to allow for increased biodiversity and improved wildlife habitat.

- (c) Existing native vegetation within the 50-foot buffer must be preserved. If existing native vegetation is removed, it must be replaced using the restoration standards in section 14-384.
- (d) Non-native vegetation must be removed from the 50-foot buffer utilizing hand removal methods. A specific mechanical removal method may also be approved in writing by the division of Environmental Sciences staff
- (e) Planting of native vegetation indigenous to Pine Island is allowed within the 50-foot buffer. If no native vegetation exists within the buffer, then 3-gallon South Florida slash pine, longleaf pine or native oaks trees must be planted on 20-foot centers within 3 years of the recording of the Agricultural Notice of Clearing and with a guarantee 80% survivability for a period of 5 years..
- (f) No other grading, excavating, or filing is allowed within the 50-foot buffer.
- (g) These conservation buffer regulations will not be construed in a manner that violates the Agricultural Lands and Practices Act, F.S. § 163.3162, or the Florida Right-to-Farm Act, F.S. § 823.14.
- (h) The Agricultural Notice of Clearing recorded in the official records of Lee County must include a description of the 50-foot wide buffer that is sufficient to allow a reasonable person to know the location, extent and boundary of the buffer area to be preserved.

DIVISION 4. SIGNS

Sec. 33-1041. Nonconforming off-site directional signs and billboards.

STAFF: Adopt

LDCAC: Did not specifically consider this provision.

CAO: Do not adopt. (1)As proposed this regulation is not readily enforceable due to the lack of older County records necessary to substantiate a County claim (code violation under 33-1041(c)) that a particular sign is illegal and must be removed. (2) The proposed regulation raises Bert Harris concerns. (3) The references to FS s. 70.20 do not appear appropriate as this statute does not provide insight into whether a particular sign may be deemed lawful; instead it encourages local governments to enter into relocation/reconstruction agreements (as a means to avoid public expenditures) regarding signs within the public rights-of-way. The statute is voluntary. If the owner refused to enter into an agreement and the County compels removal or relocation (through code enforcement or other means), the County is liable for compensation to the sign owner. (4) the proposed regulations does not add any additional power or authority not already provided under 30-55. (5) Due to the 2 year amortization schedule proposed by this section and the lack of specific detail regarding the number of potentially affected signs, the cost of adopting this regulation is unknown.

LPA: Do NOT Adopt; supports CAO position

Some billboards remain in place in Greater Pine Island despite the longstanding prohibition against billboards and other off-site advertising and directional signs. These signs may have been nonconforming signs or they may have been illegal signs. By *[insert date, exactly 24 months after adoption of this section]*, all remaining billboards must be brought into compliance by one of the following means:

- (a) Some billboards may be replaced with off-site directional signs installed in rights-of-way by Lee County Department of Transportation pursuant to section 33-1045.
- (b) Some billboards may continue to qualify for nonconforming status and can remain in place, subject to the restrictions in section 30-55(b)(1) through (b)(4).
- (c) All billboards in Greater Pine Island not in continual compliance with the nonconforming standards of chapter 30 are illegal and must be removed, except where the billboard is deemed a lawfully erected sign that is protected from removal pursuant to F.S. section 70.20.

Sec. 33-1042. Wall-mounted identification signs.

A wall-mounted identification sign may be placed on the front wall of a building that is closer than 15 feet to the front property line provided the building was lawfully constructed and the sign otherwise meets the requirements of section 30-153.

Sec. 33-1043. Ground-mounted identification signs.

Commercial and industrial establishments wishing to place a ground-mounted identification sign pursuant to section 30-153(3)a.2, 3 and 4 are limited to a maximum sign area of 48 square feet and a maximum height and width of 12 feet (as measured in accordance with sections 30-91 and 30-92).

Sec. 33-1044. Internally illuminated box signs.

Internally illuminated box signs are limited to a maximum sign area of 12 square feet per establishment. Signs consisting of individual letters or symbols that have their own internal illumination are not subject to this special size limitation. For purposes of this section, an internally illuminated box sign means a sign comprised of translucent surfaces electrically illuminated from within that is mounted against, or projects from, a building.

Sec. 33-1045. Off-site directional signs.

- STAFF: DOT objects to the placement of signs within the right-of-way as they prevent cost effective maintenance of the County maintained right-of-way areas.
- LDCAC: Adopt as set forth below.
- LPA: Adopt as set forth below.
- EROC: Supports Staff position.

The Lee County Department of Transportation may fabricate, install, and maintain (if the owner pays for signs that meet FDOT and MUTCD standards, along with the costs of mowing and maintenance) off-site directional signs in the right-of-way of Stringfellow Road and Pine Island Road in Greater Pine Island for qualifying businesses and organizations if appropriate amendments are made to Lee County's Commercial Use of Rights-of-Way Ordinance, Ordinance No. 88-11, as may be amended from time to time. Off-site directional signs that are not approved in accordance with the provisions of Ordinance 88-11 may not be installed in public rights-of-way by any party.

DIVISION 5. COASTAL RURAL DEVELOPMENT REGULATIONS

Sec. 33-1051. Purpose and intent.

Lee County has reclassified all formerly "Rural" lands in Greater Pine Island to a new "Coastal Rural" designation on the Future Land Use Map. This designation provides landowners with flexibility while accomplishing the following public purposes:

- (a) To provide a clearer separation between rural and urban uses in Greater Pine Island;
- (b) To discourage the unnecessary destruction of native upland habitat;
- (c) To encourage continued agricultural use on existing farmland; and
- (d) To avoid placing more dwelling units on Pine Island than can be served by the limited road capacity to the mainland.

Sec. 33-1052. Residential density limitations.

STAFF: Recommends adoption of the alternative provisions as indicated below in underlined, italicized and highlighted text.

LDCAC: See each section for committee recommendation

LPA: Adopt GPI Alternative C, but delete columns II and IV.; eliminate phrases referring to 910 at the top of columns III and V.

EROC: Adopt Staff version of density table.

(a) *Standard and adjusted densities.* The "Coastal Rural" areas will remain rural except for portions of properties where smaller residential lots are permitted in exchange for permanent commitments to preservation or restoration of native upland habitat or to continued agricultural use of existing farmland.

- (1) The standard maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per ten acres (1 DU/10 acres); however, see sections 33-1057 and 34-3273 regarding nonconforming lots.

- (2) Maximum densities may increase in accordance with Table 33-1052 as higher percentages of upland portions of a site are permanently committed in one of the following ways:
- a. Land uses are restricted in native habitat that is permanently preserved on upland portions of a site.
 - b. Land uses are restricted in native habitat that is restored and then permanently preserved on upland portions of a site .
 - c. Existing farmland that is identified on Map 21 of the Lee Plan and is limited in the future to agricultural uses.

Table 33-1052

**ADJUSTED MAXIMUM DENSITIES
FOR PRESERVED / RESTORED HABITAT
AND FOR CONTINUED AGRICULTURAL USE**

Percentage of the on-site uplands that are: <u>-preserved or restored native habitat; -or-</u> <u>-for continued agricultural use on existing farmland</u>	Adjusted Maximum Densities			
	<u>If undeveloped land will be permanently preserved or restored as native habitat:</u>		<u>If undeveloped land will be continued in agricultural use on existing farmland:</u>	
	<u>If < 910 trips in Matlacha (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>	<u>If < 910 trips in Matlacha: (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>
I	II	III	IV	V
0% to 4.99%	1 DU/10 acres	1 DU/ 30 acres	1 DU/ 10 acres	1 DU/ 30 acres
5% to 9.99%	1 DU/ 9 acres	1 DU/ 27 acres	1 DU/ 9 acres	1 DU/ 27 acres
10% to 14.99%	1 DU/ 8 acres	1 DU/ 24 acres	1 DU/ 9 acres	1 DU/ 27 acres
15% to 19.99%	1 DU/ 7 acres	1 DU/ 21 acres	1 DU/ 9 acres	1 DU/ 27 acres
20% to 29.99%	1 DU/ 6 acres	1 DU/ 18 acres	1 DU/ 8 acres	1 DU/ 24 acres
30% to 39.99%	1 DU/ 5 acres	1 DU/ 15 acres	1 DU/ 7 acres	1 DU/ 21 acres
40% to 49.99%	1 DU/ 4 acres	1 DU/ 12 acres	1 DU/ 6 acres	1 DU/ 18 acres
50% to 59.99%	1 DU/ 3 acres	1 DU/ 9 acres	1 DU/ 5 acres	1 DU/ 15 acres
60% to 69.99%	1 DU/ 2 acres	1 DU/ 6 acres	1 DU/ 3 acres	1 DU/ 9 acres
70% or more	1 DU/ 1 acre	1 DU/ 3 acres	1 DU/ 2 acres	1 DU/ 6 acres

Percentage of the on-site uplands that are: <u>-preserved or restored native habitat; -or-</u> <u>-for continued agricultural use on existing farmland</u>	Adjusted Maximum Densities			
	<u>If undeveloped land will be permanently preserved or restored as native habitat:</u>		<u>If undeveloped land will be continued in agricultural use on existing farmland:</u>	
	<u>If < 910 trips in Matlacha (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>	<u>If < 910 trips in Matlacha: (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>
I	II	III	IV	V
0% to 4.99%	1 DU/10 acres	1 DU/ 24 acres	1 DU/ 10 acres	1 DU/ 24 acres
5% to 9.99%	1 DU/ 9 acres	1 DU/ 21 acres	1 DU/ 9 acres	1 DU/ 21 acres
10% to 14.99%	1 DU/ 8 acres	1 DU/ 18 acres	1 DU/ 9 acres	1 DU/ 21 acres
15% to 19.99%	1 DU/ 7 acres	1 DU/ 16 acres	1 DU/ 9 acres	1 DU/ 21 acres
20% to 29.99%	1 DU/ 6 acres	1 DU/ 14 acres	1 DU/ 8 acres	1 DU/ 18 acres
30% to 39.99%	1 DU/ 5 acres	1 DU/ 11 acres	1 DU/ 7 acres	1 DU/ 16 acres
40% to 49.99%	1 DU/ 4 acres	1 DU/ 9 acres	1 DU/ 6 acres	1 DU/ 14 acres
50% to 59.99%	1 DU/ 3 acres	1 DU/ 7 acres	1 DU/ 5 acres	1 DU/ 11 acres
60% to 69.99%	1 DU/ 2 acres	1 DU/ 5 acres	1 DU/ 3 acres	1 DU/ 7 acres
70% or more	1 DU/ 1 acre	1 DU/ 2.8 acres	1 DU/ 2 acres	1 DU/ 5 acres

[NOTE: Four alternatives are shown in this draft for Table 33-1052. Prior to adoption of these regulations, the Board of County Commissioners must select one of these alternatives or establish different density levels for columns III and V. The density levels shown as Alternative "A" are the most stringent density limitations allowed by the Lee Plan; each successive alternative is less restrictive.]

ALTERNATIVE "A"

ALTERNATIVE "B"

ALTERNATIVE "A"

ALTERNATIVE "C"

Percentage of the on-site uplands that are: <u>-preserved or restored native habitat; -or-</u> <u>-for continued agricultural use on existing farmland</u>	Adjusted Maximum Densities			
	<u>If undeveloped land will be permanently preserved or restored as native habitat:</u>		<u>If undeveloped land will be continued in agricultural use on existing farmland:</u>	
	<u>If < 910 trips in Matlacha (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>	<u>If < 910 trips in Matlacha: (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>
I	II	III	IV	V
<u>0% to 4.99%</u>	<u>1 DU/10 acres</u>	<u>1 DU/ 17 acres</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/ 17 acres</u>
<u>5% to 9.99%</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 15 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 15 acres</u>
<u>10% to 14.99%</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 13 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 15 acres</u>
<u>15% to 19.99%</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 12 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 15 acres</u>
<u>20% to 29.99%</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 13 acres</u>
<u>30% to 39.99%</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 12 acres</u>
<u>40% to 49.99%</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 10 acres</u>
<u>50% to 59.99%</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 8 acres</u>
<u>60% to 69.99%</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 5 acres</u>
<u>70% or more</u>	<u>1 DU/ 1 acre</u>	<u>1 DU/ 2.7 acres</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 4 acres</u>

ALTERNATIVE "C"

ALTERNATIVE "D"

Percentage of the on-site uplands that are: <u>-preserved or restored native habitat; -or-</u> <u>-for continued agricultural use on existing farmland</u>	Adjusted Maximum Densities			
	<u>If undeveloped land will be permanently preserved or restored as native habitat:</u>		<u>If undeveloped land will be continued in agricultural use on existing farmland:</u>	
	<u>If < 910 trips in Matlacha (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>	<u>If < 910 trips in Matlacha: (from Policy 1.4.7)</u>	<u>If > 910 trips in Matlacha (see 33-1011)</u>
I	II	III	IV	V
<u>0% to 4.99%</u>	<u>1 DU/10 acres</u>	<u>1 DU/10 acres</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/10 acres</u>
<u>5% to 9.99%</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 9 acres</u>
<u>10% to 14.99%</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 9 acres</u>
<u>15% to 19.99%</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 9 acres</u>
<u>20% to 29.99%</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 8 acres</u>
<u>30% to 39.99%</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 7 acres</u>
<u>40% to 49.99%</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 6 acres</u>
<u>50% to 59.99%</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 3.5 acres</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 5.5 acres</u>
<u>60% to 69.99%</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 3.0 acres</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 4.5 acres</u>
<u>70% or more</u>	<u>1 DU/ 1 acre</u>	<u>1 DU/ 2.5 acres</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 3.5 acres</u>

ALTERNATIVE "D"

NOTES TO TABLE 33-1052:

- (1) Column I describes the percentage of on-site uplands that must be permanently preserved or restored as native habitat (columns II and III), or existing farmland that must be committed to continued agricultural use (columns IV and V), in order to increase the standard maximum density on the entire property by various increments.

- (2) Columns II and IV, titled "If < 910 trips in Matlacha," indicate the adjusted maximum densities that correspond to various levels of upland commitments during the time period *before* the traffic-based growth limitations in section 33-1011 of this code take effect. The densities in this column are taken from Lee Plan Policy 1.4.7.
- (3) Columns III and V, titled "If > 910 trips in Matlacha," indicate the adjusted maximum densities that correspond to various levels of upland commitments for the time period *after* the traffic-based growth limitations in section 33-1011 of this code have taken effect.
- (4) All percentages in column I are based on the acreage of uplands that are designated "Coastal Rural":
 - a. Lands that are shown as "Wetlands" rather than "Coastal Rural" on the Future Land Use Map are not counted either in the base acreage or in the preserved or restored acreage. However, the dwelling units that the Lee Plan allows for "Wetlands" (1 DU/20 acres) may be added to the number of dwelling units allowed for uplands by columns II through V, provided that the conservation easement described in section 33-1054(4) includes those wetlands.
 - b. Lands that are designated "Coastal Rural" but which are determined by permitting agencies to be wetlands are counted in the base acreage in column I and may be counted as permanently preserved native habitat or restored native habitat provided that all requirements of this section are met. The dwelling units that the Lee Plan allows for wetlands (1 DU/20 acres) may be added to the number of dwelling units allowed for uplands by columns II through V, provided that the conservation easement described in section 33-1054(4) includes those wetlands.

STAFF ALTERNATIVE TO TABLE 33-1052 and the proposed notes
 [The staff alternative reiterates the table adopted under Lee Plan Policy 1.4.7]
 LDCAC: Recommends adoption of staff Table 33-1052

Table 33-1052

<u>Percentage of the on site uplands that are preserved or restored native habitats or continued in agricultural use on existing farmland</u>	<u>Maximum density if undeveloped land will be permanently preserved or restored as native habitats</u>	<u>Maximum density if undeveloped land will be continued in agricultural use on existing farmland</u>
<u>0% to 4.99%</u>	<u>1 DU/ 10 acres</u>	<u>1 DU/ 10 acres</u>
<u>5% to 9.99%</u>	<u>1 DU/ 9 acres</u>	<u>1 DU/ 10 acres</u>
<u>10% to 14.99%</u>	<u>1 DU/ 8 acres</u>	<u>1 DU/ 9 acres</u>
<u>15% to 19.99%</u>	<u>1 DU/ 7 acres</u>	<u>1 DU/ 9 acres</u>
<u>20% to 29.99%</u>	<u>1 DU/ 6 acres</u>	<u>1 DU/ 8 acres</u>
<u>30% to 39.99%</u>	<u>1 DU/ 5 acres</u>	<u>1 DU/ 7 acres</u>
<u>40% to 49.99%</u>	<u>1 DU/ 4 acres</u>	<u>1 DU/ 6 acres</u>
<u>50% to 59.99%</u>	<u>1 DU/ 3 acres</u>	<u>1 DU/ 5 acres</u>
<u>60% to 69.99%</u>	<u>1 DU/ 2 acres</u>	<u>1 DU/ 3 acres</u>
<u>70% or more</u>	<u>1 /DU/ 1 acre</u>	<u>1 DU/ 2 acres</u>

STAFF ALTERNATIVE is to delete the last sentence of 33-1052(b)
 LDCAC: Supports staff position
 LPA ~~Does not support Staff Position~~
 EROC: Supports Staff position

(b) Two or more contiguous or noncontiguous "Coastal Rural" parcels may be combined into a single development application for purposes of computing the actual maximum density allowed on those properties. This provision would allow acreage on one parcel that is preserved or restored as native habitat, or existing farmland that is committed to continued agricultural use, to increase the density on another parcel that is included in the same development application.

(c) Rezoning is not required for a proposed residential development on land zoned AG-2 and designated "Coastal Rural" by the Lee Plan provided that the proposed development will comply with all regulations in this code, including all of this article.

(1) The determination of actual maximum densities and the compliance of the application and its supporting documentation with this section may be confirmed by issuance of a development order using the process described in ch. 10, modified as follows:

STAFF ALTERNATIVE to 33-1052(c)(1) is intended to require a planned development to obtain maximum density.

LDCAC: Does not support staff position

~~LPA: Does not support staff position~~

EROC: Does not support staff position

(1) The determination of actual maximum densities and the compliance of the application and its supporting documentation with this section will be confirmed through the planned development rezoning process described in ch. 34, modified as follows

a. Additional application requirements will be established by the director. At a minimum, these requirements will include:

1. A mandatory pre-application meeting.
2. Narrative description of the process used to determine the best areas on the site to remain undeveloped (see section 33-1053(d)).
3. For applications proposing narrower streets in conformance with section 33-1053, proposed cross-sections of right-of-way and lane widths, supported by a sealed statement from a professional engineer.
4. For applications proposing permanent preservation of native habitat:
 - i. Map clearly delineating native habitat to be preserved, with precise acreage computations of habitat being preserved including the extent of other allowable land uses within preserved habitats (section 33-1054(a)).
 - ii. Description of interruptions of original water flows and intended corrections (section 33-1054(b)).

- iii. Plan for removing and controlling invasive exotic plants (section 33-1054(c)).
- iv. Draft of the proposed conservation easement including identification of proposed grantees; for grantees other than Lee County, include a statement from the grantee that it will consent to accept and enforce the easement's obligations in perpetuity (section 33-1054(d)).
- v. Long-term management plan for the preserved habitat (section 33-1054(e)).
- vi. Identification of proposed ownership of preserved habitat and the funding plan for permanent management responsibilities (section 33-1054(f)).

CAO RECOMMENDATION is to replace 33-1052(c)(1)a.4.vi. as follows:

vi. Identification of proposed ownership of preserved habitat and the means that will be used to provide future management of the area in perpetuity.

- 5. For applications proposing restoration of native habitat in conformance with section 33-1055, include all the requirements for permanent preservation of native habitat, plus:
 - i. Analysis of the suitability of the site's hydrologic regime for the ecological community being restored (section 33-1055(a)).
 - ii. Plan for reintroduction of native trees (section 33-1055(b)).
 - iii. Plan for reintroduction of native midstory shrubs and understory plants (section 33-1055(c)).
 - iv. Plan for monitoring the success of restoration (section 33-1055(d)).
 - v. Proposed financial guarantees if the landowner wishes to begin development prior to successful completion of the restoration (section 33-1055(e)).

- 6. For applications proposing continued agricultural use on existing farmland in conformance with section 33-1056:
 - i. Plan for removing and controlling invasive exotic plants (section 33-1056(b)).
 - ii. Draft of the proposed conservation easement including identification of proposed grantees; for grantees other than Lee County, include a statement from the grantee that it will consent to accept and enforce the easement's obligations in perpetuity (section 33-1056(c)).

- b. An additional application fee will be established by the director to cover review costs for these complex applications. This fee may not exceed the fee for a planned development rezoning application.

STAFF ALTERNATIVE to 33-1052(c)(1)b. is to delete the above provision in its entirety

LDCAC: Does not support staff position

LPA: ~~does not support Staff position~~

EROC: Does not support staff position

- c. The normal timeframe for review of residential development orders will be extended as needed to allow thorough yet timely review of all applications submitted in accordance with this article.

STAFF ALTERNATIVE to 33-1052(c)(1)c. is to delete the above provision in its entirety

LDCAC: Does not support staff position

LPA: ~~does not support Staff position~~

EROC: Does not support staff position

- (2) A proposed development that would deviate from this code, except for administrative deviations in accordance with section 10-104, must seek approval through the planned development rezoning process prior to obtaining a development order pursuant to ch. 10.

STAFF ALTERNATIVE to 33-1052(c)(2) is to delete the above lead- in provision in its entirety and renumber the balance of the subsections

LDCAC: Does not support staff position

LPA: ~~does not support Staff position~~

EROC: Does not support staff position

- a. Deviations or variances can never be granted to increase the densities in Table 33-1052.
- b. Example of deviations that can be considered during the planned development process include:
 - 1. Permitted uses and property development regulations other than those provided in section 33-1053.
 - 2. Reforestation methods that do not meet all of the technical requirements of this section for “permanently preserved native habitat” or “restored native habitat” but which will achieve the same ends.
 - 3. Infrastructure more suited to country living, such as narrower streets, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.
- c. The special application requirements in section 33-1052(c)(1)a. must supplement this code’s requirements for planned development applications.

Sec. 33-1053. Development standards.

If a landowner chooses to increase the standard maximum density of "Coastal Rural" land as provided by this division, development standards will apply as follows:

- (a) *General standards.* All requirements of this code remain in effect except as modified through the planned development rezoning process or as otherwise provided in this article.
- (b) *Property development regulations and permitted uses.*
 - (1) For individual lots that are created on "Coastal Rural" land based on increases above the standard maximum density of one dwelling unit per ten acres:
 - a. Lots that are 39,500 square feet or larger in area must meet all property development regulations that apply to the AG-2 zoning district including lot width and depth, setbacks, special regulations, building height, and lot coverage. Use regulations for these lots will be the same as for lots in the AG-2 zoning district.
 - b. Lots that are smaller than 39,500 square feet must meet all property development regulations that apply to the RS-1 zoning district including lot width and depth, setbacks, special regulations, building height, and lot coverage. Use regulations for these lots will be the same as for lots in the RS-1 zoning district.
 - (2) Native habitat that is being preserved or restored in order to qualify for increases above the standard maximum density will be governed by section 33-1054 instead of the regular AG-2 regulations.
 - (3) Existing farmland that is being committed to continued agricultural uses in order to qualify for increases above the standard maximum density will be governed by section 33-1056 in addition to the regular AG-2 regulations.
- (c) *Local street standards.*
 - (1) Section 10-296(d) provides standards for new local streets that vary based on residential density levels. For development orders that subdivide residential lots from "Coastal Rural" land, these local street standards will be interpreted as follows:
 - a. "Category C" streets must be provided for residential lots that are 2.5 acres or smaller.

- b. "Category D" streets may be provided in lieu of Category C streets for residential lots that are larger than 2.5 acres.
- (2) Right-of-way and lane widths for privately maintained local streets may be narrower than the standards set forth in section 10-296 for Category C and Category D streets provided the widths are selected in accordance with the criteria in *Traditional Neighborhood Development Street Design Guidelines* or *Neighborhood Street Design Guidelines* (or successor recommended practices) published by the Institute of Transportation Engineers, or in accordance with *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT<400)* published by AASHTO.
 - (3) Privately maintained local streets defined by section 10-296 as Category C streets may have a wearing surface of porous (pervious) asphalt or concrete, in lieu of the other surface options provided in chapter 10. Porous paving can increase the infiltration of stormwater and reduce the need for separate stormwater infrastructure.
 - (4) Dead-end streets are generally not permitted but may be unavoidable due to adjoining wetlands, canals, or preserved areas. When the director deems a dead-end street to be unavoidable, the dead end must be provided with a cul-de-sac or other termination that is designed in accordance with county standards as specified in section 10-296 or the alternate standards set forth in section 33-1053(3)b.
- (d) *Locational standards.* The following approach and guidelines must be used to determine the best areas on the site to remain undeveloped and to be developed.
- (1) Begin by identifying potential areas to remain undeveloped.
 - a. For native habitat being preserved or restored: healthy, diverse, or unusual native vegetation (such as mature pine trees, oak hammocks, or dense saw palmetto); listed species habitat; historic/archaeological sites; unusual landforms; wet or transitional areas; etc.
 - b. For existing farmland being committed to continued agricultural use: existing surface water management infrastructure; availability of irrigation water; large contiguous acreage relative to potential conflicts with adjoining non-agricultural land uses; etc.
 - (2) Then identify potential areas for homesites: locations near existing developed areas or adjoining existing streets (or logical street extensions); areas with fewer natural resource values; areas that can

be served with minimal extensions of infrastructure; areas that would provide views of preserved open spaces; etc.

Sec. 33-1054. Permanently preserved native habitat.

STAFF: Adopt
LDCAC: Did not specifically review this provision
CAO: Alternative language appears below in underlined, italicized and highlighted text.
LPA: Adopt with CAO alternatives.
EROC: Adopt with CAO alternatives.

A development proposal that requests an increase to the standard maximum residential density for committing to “permanently preserved native habitat,” as that phrase is defined in section 33-1003, must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements.

- (a) *Land uses in preserved habitat.* Native habitat that is counted as preserved for the purposes of Table 33-1052 cannot be part of any individual lots or parcels on which development is permitted.
 - (1) Portions of these native habitats may be used as buffer strips and wooded portions of golf courses provided those areas have a minimum dimension of 40 feet and are protected by the same conservation easement as the remainder of the native habitat.
 - (2) Land that is subdivided by roads cannot qualify as permanently preserved native habitat, but up to the following percentages of other land uses may be permitted:
 - a. Facilities for passive recreation such as hiking trails, bridle paths, boardwalks, or fishing piers, up to 2% of the preserved area.
 - b. Buffers, lakes, and utilities, up to 10% of the preserved area.
 - c. Commercial or non-commercial agriculture, up to 10% of the preserved area.
- (b) *Hydrologic restoration.* Interruptions of original water flows must be corrected to ensure proper hydrologic conditions for the long-term survival of the permanently preserved native habitat. For instance, ditches or berms that interfere with natural surface and ground water flows must be eliminated (unless mitigation is possible, for instance by placing multiple culverts through berms to restore sheet flows). This requirement may not be construed to require hydrologic changes that would adversely affect the public health, safety or welfare or the property of others.

- (c) *Removal of invasive exotic plants.* Invasive exotic plants must be removed from the area being preserved. Methods to remove and control invasive exotic plants must be included on the development order plans. For purposes of this subsection, invasive exotic plants mean the same plants as described in section 10-420.
- (d) *Conservation easement.* The guarantee of preservation must include a perpetual conservation easement granted to a governmental body or agency or to a qualified charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property.
 - (1) This conservation easement must be a right or interest in real property that is appropriate to retaining the land in predominantly its natural forested condition as suitable habitat for native vegetation and wildlife in accordance with this section; and, which prohibits or limits the activities described in F.S. § 704.06, as such provisions now exist or as may be amended.
 - (2) This conservation easement must acknowledge that all residential and commercial development rights have been transferred away from the portion of the property subject to the conservation easement.
 - (3) The agency or entity accepting the easement must be acceptable to Lee County. Lee County will accept the conservation easement in the event no suitable entity is willing to accept the easement.
 - (4) This agency or entity must explicitly consent to enforce the easement's obligations in perpetuity. This requirement does not apply to a secondary or tertiary back-up grantee that is empowered, but not obligated, to enforce the terms of the easement.
 - (5) Unless Lee County is the entity accepting the easement and consenting to enforce its obligations in perpetuity, Lee County must be named in the easement as a back-up grantee that is empowered, but not obligated, to enforce the terms of the easement.
 - (6) If no entity suitable to Lee County will accept such conservation easement, Lee County will accept the easement.

CAO ALTERNATIVE to 33-1054(e) is to eliminate the requirement for a "fully funded long-term management plan" by amending the GPI proposal as indicated with the highlighted strikethrough text.

- (e) *Management plan.* The guarantee of preservation must also include a ~~fully funded~~ long-term management plan that will accomplish the following goals for the area being preserved:
 - (1) The preserved habitat must be kept free of refuse, debris, and pests and must be maintained in perpetuity against the reestablishment of

invasive exotic plants. The management plan must describe how invasive exotic plants will be prevented from being reestablished within the preserved habitat.

- (2) The preserved habitat must be managed to maintain a mosaic of plant and habitat diversity typical of the ecological community being preserved. A reference source describing the native habitats found in Greater Pine Island is available in chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service.
 - (3) The management plan must describe acceptable forest management practices such as prescribed burning, selective thinning, and replanting. If the management plan does not include prescribed burning to mimic the historic fire regime, the plan must propose an alternative method for selectively thinning flammable understory plants.
 - (4) The management plan must specify how the preserved habitat will be demarcated through fencing or other means to clearly identify preserved habitat without unnecessary blockage of recreational usage or wildlife movement.
 - (5) The management plan must also comply with the standards set forth in section 10-415(b)(4).
- (f) *Ownership of preserved habitat.* The underlying ownership of these permanently preserved native habitats may be transferred to a homeowners or condominium association or may be retained by the original landowner or another private party or governmental entity.
- (1) If the ownership of this land and the management commitments are to be transferred to a homeowners or condominium association, this transfer must be accomplished through a covenant that runs with the land that is binding on the homeowners or condominium association and their members (and not changeable by them), or such other legal mechanisms as will guarantee that the permanently preserved native habitats will be managed in accordance with these regulations. Legal documents that provide for the continued management will be accepted only after they are reviewed and approved by the county attorney's office as complying with this section.
 - (2) Alternatively, a landowner who wishes to retain ownership of this land or convey it to a different party must present evidence of a permanent funding source to carry out the management responsibilities, which may include bonds or trust funds sufficient to pay for the ongoing management in accordance with these regulations. Legal documents that provide for the continued management will be accepted only after

they are reviewed and approved by the county attorney's office as complying with this section.

CAO ALTERNATIVE to 33-1054(f)(2) is to amend this provision to eliminate the requirement to provide a "permanent" funding source.

Sec. 33-1055. Restored native habitat.

A development proposal may request an increase to the standard maximum residential density for committing to "restored native habitat," as that phrase is defined in section 33-1003. The restoration goal is to initiate the re-creation of native habitats that had been typical of Greater Pine Island and to establish conditions suitable to their long-term maturation, regeneration, and sustainability. Restored native habitat must meet all of the requirements of section 33-1054, plus the following requirements.

- (a) *Hydrologic restoration.* In addition to the correction of modified water flows and quality as described in section 33-1054(b), the site's hydrologic regime must be appropriate for the ecological community being restored. A reference source describing the native habitats found in Greater Pine Island and their natural hydrologic conditions is available in chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service. This requirement will not be construed to require any hydrologic changes that would adversely affect the public health, safety, or welfare or the property of others.
- (b) *Reintroduction of native trees.* Native trees must be planted and must be of species typical of the native habitat being restored, as set forth in the Multi-Species Recovery Plan. For example, the dominant tree species in mesic pine flatwoods, the most common native upland habitat on Pine Island, will be longleaf and South Florida slash pines; the dominant tree species in mesic temperate hammocks will be live oaks and cabbage palms.
 - (1) Site preparation must include removal of non-native vegetation that will compete with newly planted trees.
 - (2) Trees must be planted in clusters or random patterns rather than rows. Bare-root or containerized seedlings (seedling cone container size) may be planted using standard forestry techniques. A minimum of 300 trees per acre must be planted with a minimum of 250 trees surviving at 5 years, and, an overall minimum of 200 trees maintained in perpetuity.
 - (3) Fertilization and watering-in are required at time of planting to ensure survival of seedlings, with spot irrigation beyond planting. Exotic and problematic plant monitoring and control is required for at least five years after planting.

- (c) *Reintroduction of native midstory shrubs and understory plants.* In addition to the introduction of native pine trees as mentioned in subsection (b) above, midstory and understory species must be planted.
- (1) These species must include at least five of the following:
 - a. wiregrass (*Aristida stricta* var. *beyrichiana*),
 - b. tarflower (*Bejaria racemosa*),
 - c. wax myrtle (*Myrica cerifera*),
 - d. fetterbush (*Lyonia lucida*),
 - e. rusty lyonia (*Lyonia ferruginea*),
 - f. gallberry (*Ilex glabra*),
 - g. saw palmetto (*Serenoa repens*), or
 - h. cabbage palm (*Sabal palmetto*).
 - (2) Additional native species may be substituted for the species listed above with the consent of Lee County.
 - (3) No single species may comprise more than 25% of the total number of plants installed.
 - (4) All of the acreage being restored must be planted with acceptable midstory and understory plants.
 - a. Plants must be placed in groupings or clusters throughout the area to be restored at an average spacing of 10 foot centers for midstory plant and 5 foot centers for understory plants.
 - b. Plants to be used must consist of containerized plants or tubelings. Direct seeding may also be a viable alternative to planting with the approval of Lee County.
 - (5) Site preparation may be necessary to adequately prepare the site for planting. Site preparation may include such activities as re-contouring, disking, roller chopping, bush hogging, prescribed burning, herbiciding, or other recognized vegetation management activities.
- (d) *Criteria for success of restoration.* Plantings of native trees and midstory and understory plants must be monitored annually to assure a minimum density of 100 trees per acre and 80% survival of midstory and understory species

(with no supplemental plantings for two years following the third year after the initial planting).

- (1) Monitoring must be performed for a minimum of five years after initial planting. Monitoring must be done by a qualified biologist, ecologist, forester, or natural areas manager subject to approval by Lee County.
 - (2) Annual monitoring reports must be submitted to the director. After reviewing a monitoring report for the fifth or later year for methodology and accuracy, the director is authorized to issue a finding that the restoration has been successfully completed and that no further monitoring reports are required, or that restoration has been partially completed and that monitoring reports are required only for the incomplete portion of the restoration.
- (e) *Financial guarantees.* If a landowner wishes to begin development prior to successful completion of the restoration, completion must be assured in the same manner that off-site improvements or on-site subdivision improvements may be guaranteed pursuant to section 10-154 of this code.
- (f) *Flatwoods restoration bank.* As an additional alternative to restoring native habitat on-site or on contiguous or non-contiguous parcels combined into a single development application, Lee County may adopt an administrative code that sets forth the requirements for a third party to preserve or restore degraded upland habitats on large parcels on Pine Island. Credits for this restoration work could be sold to other landowners in Greater Pine Island who wish to increase their allowable density in accordance with Table 33-1052.
- (1) The restored land must meet all of the conditions for restored native habitat in this section in addition to the requirements of the administrative code.
 - (2) The administrative code will determine the assignment of restoration credits in a manner that is proportional to the ecological value of the restoration using a functional assessment method acceptable to Lee County. Credits can be sold once the restoration has proven successful according to criteria set forth in the code.
 - (3) Lee County will not be involved in any way in establishing the financial value of restoration credits.

Sec. 33-1056. Continued agricultural use on existing farmland.

A development proposal that requests an increase to the standard maximum residential density for committing to "continued agricultural use on existing farmland," as that phrase is defined in section 33-1003, must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements.

- (a) *Land uses.* Existing farmland that is committed to continued agricultural uses under this section is limited to those uses allowable under the applicable agricultural zoning category assigned to the land, plus the following additional restrictions:
 - (1) Residential and commercial development is not permitted because those development rights have already been transferred by the landowner to other property.
 - (2) The conservation easement applicable to the property may contain further restrictions on land uses.
- (b) *Removal of invasive exotic plants.* Invasive exotic plants must be removed. Methods to remove and control invasive exotic plants must be included on the development order plans. The farmland must be maintained in perpetuity against the reestablishment of invasive exotic plants and must be kept free of refuse, debris, and pests. For purposes of this subsection, invasive exotic plants mean the same plants as described in section 10-420.
- (c) *Conservation easement.* To qualify for an increase to the standard maximum residential density on the entire property, the portion of the site being committed to continued agricultural use must be placed under a perpetual conservation easement that meets the requirements of section 33-1054(d), except that instead of committing to retain the land in predominantly its natural forested condition as suitable habitat for native vegetation and wildlife, the perpetual conservation easement must commit to conserve the land as open space that is available for farming by the landowner or lessees of the landowner. The easement must also define the latitude for construction, modification, or demolition of structures necessary for farm operations without approval by the easement holder.

Sec. 33-1057. Lots of record in “Coastal Rural.”

One single-family residence may be constructed on a lot of record in the Lee Plan’s “Coastal Rural” land use category (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan), provided that the lot was lawfully created on or before the effective date of the ordinance adopting this provision.

DIVISION 6. DESIGN STANDARDS

Sec. 33-1081. Proposed street layout.

All new streets in the Greater Pine Island Planning Community must be fully integrated into the county maintained street system of the surrounding area. These requirements apply equally to new county maintained and privately maintained streets.

- (a) New streets in a proposed development must be connected to existing county maintained streets in the adjacent area, and to likely extensions of existing county maintained streets, unless physical barriers such as canals or wetlands preclude connections. Primary access to a proposed development may not use an existing privately maintained street unless that street is upgraded to a county maintained street as specified in section 10-296 at the developer's expense.
- (b) Gates or guardhouses may not be used to block the movement of cars except as provided in sections 33-1087 or 34-1748(4). However, traffic calming measures may be employed in accordance with Lee County administrative codes to slow vehicles or deter excessive cut-through traffic.

Sec. 33-1082. Development abutting an aquatic preserve.

[Moved and modified from section 10-416(d)(9)]

(a) *Buffer.* Land abutting state designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50 foot wide native vegetative buffer area between the development and the water body or associated wetlands.

(b) *Applicability.* This requirement applies to new development, including "planned development" rezoning approvals, new subdivisions and agriculture.

(c) *Exemptions.* This section does not apply to

- (1) existing subdivided lots created prior to the adoption of this provision (revise to include date Board adopts this ordinance); or
- (2) portions of marinas that provide direct water access.

(d) *Implementation.* The requirement to provide the 50 foot buffer will be imposed on new development during the rezoning, development order approval and building permit issuance process. The buffer requirement will be imposed on agriculture through the notice-of-clearing process set forth in chapter 14 and section 33-1031.

(e) *Agriculture requirements.*

- (1) If farmland abuts wetlands, the 50 foot buffer area must be maintained as a riparian forest buffer with an adjoining filter strip. An example of acceptable design criteria has been developed by the National Resources Conservation Service and published in the "Conservation Practice Standards", specifically Standard 391 (Riparian Forest Buffer) and Standard 393 (Filter Strip).
- (2) If native vegetation does not exist on the agricultural property, then native tree cover must be established within three years of the issuance of the notice of clearing.

Sec. 33-1083. Commercial building design standards.

(a) *Applicability.* This section provides additional design standards and guidelines for commercial buildings in Greater Pine Island. These additional standards and guidelines are applicable to all new development and to renovations and redevelopment as provided in section 10-602, except as modified by this section. Where the standards or guidelines in this section conflict with other standards of this code, this section will control.

(b) *Purpose and intent.* The standards in this section implement Lee Plan Policy 14.4.3 by expanding the commercial design standards in chapter 10, article IV.

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

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

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

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

(f) *Mature trees.* The development services director may grant deviations from the technical standards in section 10-104 to accommodate the preservation of existing mature trees on a development site.

- (1) To qualify for a deviation, the tree being preserved must be at least six inches in diameter at a height of 4½ feet and must not be an invasive exotic plant as defined by section 10-420.
- (2) The deviation requested must not compromise the public health, safety, or welfare as determined by the development services director.

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

Sec. 33-1084. Maximum height of wireless communication facilities.

The overall height of wireless communications facilities must not exceed the height limitations set forth in section 33-1088. For stealth wireless communication facilities only, these height limitations may be increased by one foot for each one-half foot that every required street, side, and rear setback is increased.

Sec. 33-1085. Density limitations.

[Modified and moved from section 34-1495]

(a) Table 1(a) of the Lee Plan contains special density restrictions for Greater Pine Island that would affect rezonings that would allow in excess of 3 dwelling units per gross acre.

(b) Those portions of Greater Pine Island that are classified in the Lee Plan as "Coastal Rural" have special density restrictions as set forth in section 33-1051 et seq.

(c) Residential densities in Greater Pine Island may be further restricted in accordance with concurrency and traffic-based growth limitations in section 33-1011.

(d) Housing density bonuses are not permitted in Greater Pine Island (see section 34-1511).

(e) Transfers from on-site wetlands at rates above the standard density rates for wetlands are not permitted in the Greater Pine Island Planning Community.

(f) Land in Greater Pine Island may not receive TDR units in accordance with article IV of chapter 2 (see section 2-148), but density transfers within Greater Pine Island may be permitted in accordance with 33-1052(b) and through a new Pine Island TDR program contemplated by the policies under Lee Plan Objective 14.6.

Sec. 33-1086. Residential project fences and walls.

New residential project fences or walls are not permitted in Greater Pine Island (see section 34-1743). This restriction does not affect buffer walls that may be required by section 10-416.

Sec. 33-1087. Entrance gates.

Entrance gates or gatehouses cannot interfere with movement of cars between neighborhoods (see also section 33-1081).

- (a) Entrance gates or gatehouses can be used to control access only to a single block and may not be located on a publicly dedicated street or street right-of-way.
 - (1) For purposes of this subsection, a "single block" means the length of any street or accessway from its end or cul-de-sac to the first intersecting street and which provides access to 5 or fewer existing or potential dwelling units.
 - (2) An entrance gate to a single block must be designed in such a manner that at least one vehicle can pull safely off the intersecting street while waiting to enter.
 - (3) These regulations supersede conflicting regulations governing entrance gates and gatehouses in section 34-1748(1).
- (b) Entrance gates for non-residential uses only that will remain open during normal working hours are permitted in accordance with section 34-1748(4).
- (c) Fencing around individual lots and agricultural properties is governed by general county regulations and is not affected by this section.

Sec. 33-1088. Maximum height of buildings and structures.

[Modified and moved from section 34-2175(a)(4)]

No building or structure may be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower.

- (a) The provisions of section 34-2171(a)(1) that allow the substitution of "minimum required flood elevation" for "average grade of the lot in question" do not apply to Greater Pine Island.
- (b) The provisions of section 34-2174(a) that allow taller buildings in exchange for increased setbacks do not apply to Greater Pine Island.

- (c) Structures without roofs will be measured to the highest point on the structure.
- (d) No deviations from these height restrictions may be granted through the planned development process.
- (e) Any variances from these height restrictions require all of the findings in section 34-145(b)(3), with the sole exception being where the relief is required to maintain or improve the health, safety, or welfare of the general public (not just the health, safety, or welfare of the owners, customers, occupants, or residents of the property in question).

SECTION SEVEN: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is hereby amended as follows, with deleted text identified with strike through and additional text identified with underlining.

Chapter 34

ZONING

ARTICLE I. IN GENERAL

Sec. 34-2. Definitions.

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

Greater Pine Island means ~~all of Pine Island, Little Pine Island, West Island, Porpoise Point Island and other small adjacent islands, more particularly described as follows: Sections 25, 26, 35 and 36, Township 43 South, Range 21 East; also Sections 28, 29, 30, 31, 32, and 33, Township 43 South, Range 22 East; also Section 1 Township 44 South, Range 21 East; also, all of Township 44 South, Range 22 East, less Sections 1, 2, 11 12, 13, and certain portions of Section 24, lying northeast or toward the mainland from ; also, all of Township 45 South, Range 22 East, except those portions of Sections 12, 13 and 24, lying on the mainland; also, Sections 1, 2, 3, 9, 10, 11 and 12, Township 46 South, Range 22 East; also Section 6, Township 46 South, Range 23 East. the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 33-1002.~~

No other changes to section.

Sec. 34-6. Compliance with specific planning community requirements.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in chapter 33.

- (1) Estero Planning Community
- (2) Greater Pine Island

ARTICLE II. ADMINISTRATION

DIVISION 6. APPLICATION AND PROCEDURES FOR CHANGES, PERMITS, INTERPRETATIONS AND APPROVALS

Sec. 34-202. General submittal requirements for applications requiring public hearing.

(a) *All applications.* Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the county, the director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the director prior to submitting the application. A copy of the request and the director's written response must accompany the application and will become a part of the permanent file.

(1) through (9) *No change.*

(10) *Compliance with specific requirements.* If the subject property is located in one of the following planning communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in chapter 33.

a. Estero Planning Community

b. Greater Pine Island

(b) *No change.*

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 34-654. Property development regulations table.

Property development regulations for agricultural districts are as follows:

TABLE 34-654. PROPERTY DEVELOPMENT REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Minimum lot dimensions and area:	Note (1)			
Minimum lot area:	Notes (2) and (6)			
Interior lot	34-2221, 34-2222	4.7 acres	39,500 sq. ft.	20,000 sq. ft.
Corner lot	34-2221, 34-2222	4.4 acres	33,600 sq. ft.	20,000 sq. ft.
Minimum lot width (feet)		300	100	100
Minimum lot depth (feet)		300	130	130

No changes to balance of table.

Notes:

(1) through (5) *No change.*

(6) All lots in the "Coastal Rural" land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after (insert date this ordinance is adopted) must comply with the additional regulations in section 33-1052. Lots created before that date are not required to comply with the additional regulations in section 33-1052.

DIVISION 3. RESIDENTIAL DISTRICTS

Sec. 34-695. Property development regulations table.

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

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

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1
Minimum Lot area and dimensions:	34-2221, 34,2222, 34-2142				
Single family-detached:	<u>Note (5)</u>				
Lot area (square feet)		4,000	43,560	6,500	7,500
Lot width (feet)		40	100	65	75
Lot depth (feet)		75	200	75	100

No changes to balance of table.

Notes:

- (1) through (4) *No change.*
- (5) All lots in the "Coastal Rural" land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after (insert date this ordinance is adopted) must comply with the additional regulations in section 33-1052. Lots created before that date are not required to comply with the additional regulations in section 33-1052.

Sec. 34-715. Property development regulations table.

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

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

	Special Notes or Regulations
Minimum lot area and dimensions:	34-1493, 34-1494, 34-2221, 34-2222, 34-2142
Single-family detached: Minimum lot size (square feet) Lot area per unit (square feet) Lot width (feet) Lot depth (feet)	<u>Note (7)</u>
Duplex, two-family, townhouse: Minimum lot size (square feet) Lot area per unit (square feet) Lot width (feet) Lot depth (feet)	<u>Note (7)</u> 34-713
Multiple-family: Minimum lot size (square feet) Lot area per unit (square feet) Lot width (feet) Lot depth (feet)	<u>Note (7)</u>
Nonresidential uses: Minimum lot size (square feet) Lot area per unit (square feet) Lot width (feet) Lot depth (feet)	

No changes to balance of table.

Notes:

- (1) through (6) *No change.*
- (7) All lots in the "Coastal Rural" land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after (insert date this ordinance is adopted) must comply with the additional regulations in section 33-

1052. Lots created before that date are not required to comply with the additional regulations in section 33-1052.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 9. PLANNED DEVELOPMENT DISTRICTS

Sec. 34-935. Property development regulations.

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

(a) through (c) *No change.*

~~(d) *Planned developments on Pine Island.* Where the proposed planned development is within the Greater Pine Island area and adjoins state-designated aquatic preserves or associated natural tributaries a 50-foot-wide vegetated buffer area between any structure or building and the mean high-water line of the water body shall be provided. No deviation from requirement shall be permitted except under extreme circumstances in which the requirement would have the effect of prohibiting all reasonable use of the property.~~

(e) through (g) *No change.*

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 11. WIRELESS COMMUNICATION FACILITIES

Sec. 34-1444. Permissible wireless facility locations.

(a) *No change.*

(b) *Exceptions:*

(1) and (2) *No change.*

(3) On the barrier islands, Greater Pine Island (see section 33-1084), and within the outer island future land use areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in section 34-2175, whichever is less. The provisions set forth in section 34-2174 are applicable only to stealth wireless communication facilities.

(4) *No change.*

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 12. DENSITY

Subdivision II. Residential Development

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

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

- (1) and (2) *No change.*
- (3) Greater Pine Island. See density limitations for Greater Pine Island in section 33-1085.
 - a. ~~For the Matlacha, Bokeelia and St. James City areas, currently classified in the Lee Plan as future urban areas, maximum density permitted shall be as set forth for the zoning district in which located, or that which is permitted for the land use category in which located, whichever is lower.~~
 - b. For all other areas:
 - 1. ~~No land, except as provided in subsection (3)a of this section, shall be rezoned to any zoning district permitting more than three dwelling units per gross acre.~~
 - 2. ~~Land currently zoned for more than three dwelling units per gross acre shall be allowed a density in excess of three dwelling units per gross acre provided that all other applicable regulations are met, and provided further that no density shall be allowed above that which is permitted for the land use category in which the property is located, or which is permitted by the zoning which was in effect for the property as of November 25, 1986, whichever is lower.~~
 - c. ~~With regard to Matlacha, Bokeelia, St. James City and all other areas, due to the constraints on future development posed by the limited road connections to the mainland area of the county, bonus densities of any kind are not permitted in Greater Pine Island. This prohibition includes housing density bonuses, off-site transfers from environmentally critical areas, and transfers from on-site wetlands at rates above the standard density rates for environmentally critical areas.~~

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS

Subdivision II. Height

Sec. 34-2174. Additional permitted height when increased setbacks provided.

(a) and (b) *No change.*

(c) The height increases described in section 34-2174(a) and (b) may not be used in Greater Pine Island.

Sec. 34-2175. Height limitations for special areas.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

(a) *Special areas.*

(1) through (4) *No change.*

(5) ~~Greater Pine Island. No building or structure may be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower. The term "building or structure," as used in this subsection, does not include a building or structure used for an industrial purpose. See section 33-1088.~~

(6) and (7) *No change.*

(b) *Lee Plan land use categories. No change.*

SECTION EIGHT: AMENDMENT TO LDC APPENDIX I

Lee County Land Development Code Appendix I is hereby amended to add Map 5 titled Greater Pine Island Planning Community and a legal description of the Greater Pine Island Planning Community attached as Exhibit A to this ordinance.

SECTION NINE: SECTION SIX: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION TEN: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION ELEVEN: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION TWELVE: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

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

- ROBERT P. JANES
- BRIAN BIGELOW
- RAY JUDAH
- TAMMARA HALL
- FRANK MANN

DULY PASSED AND ADOPTED THIS day of _____, 2007.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

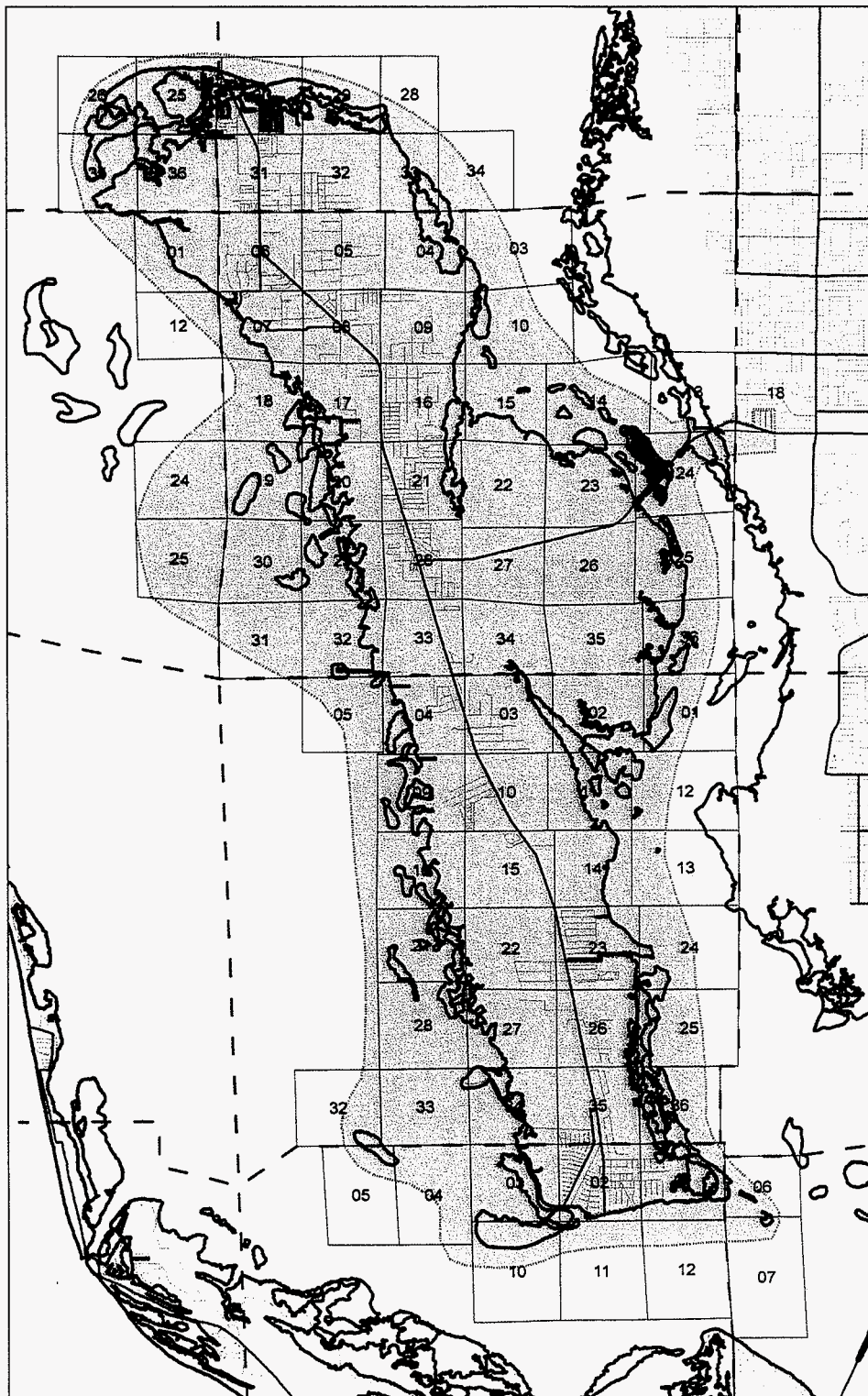
APPROVED AS TO FORM:

By:

Dawn E. Perry-Lehnert
Office of County Attorney

ATTACHMENT:

Exhibit A: Greater Pine Island Planning Community (Map 5) and legal description



Greater Pine Island Boundary From Lee Plan Map 1

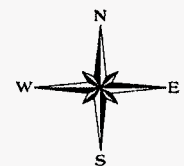
Section Numbers and Lines (see 33-502)

Township and Range Lines

Edge of Open Water

Major Roads

Streets



Map 5 - Greater Pine Island Community Plan

**GREATER PINE ISLAND
LEGAL DESCRIPTION
TO ACCOMPANY MAP 5**

Greater Pine Island means all of Pine Island, Little Pine Island, West Island, Porpoise Point Island and other small adjacent islands, more particularly described as follows: Sections 25, 26, 35 and 36, Township 43 South, Range 21 East; also Sections 28, 29, 30, 31, 32, 33 and 34, Township 43 South, Range 22 East; also Sections 1, 12, 24 and 25, Township 44 South, Range 21 East; also, all of Township 44 South, Range 22 East, less Sections 1, 2, 11, and 12, and less those portions of Section 13 lying in the City of Cape Coral; also, those portions of Section 18 of Township 44 South, Range 23 East lying outside the City of Cape Coral; also, all of Township 45 South, Range 22 East, less Sections 6, 7, 8, 17, 18, 19, 20, 29, 30 and 31, and less those portions of Sections 12, 13 and 24, lying on the mainland; also, Sections 1, 2, 3, 4, 5, 10, 11 and 12, Township 46 South, Range 22 East; also Sections 6 and 7, Township 46 South, Range 23 East.