

**CPA2010-04  
VILLAGES OF PINE ISLAND  
SEWER SERVICE  
PRIVATELY SPONSORED  
AMENDMENT  
TO THE**

---

**LEE COUNTY COMPREHENSIVE PLAN**

---

**THE LEE PLAN**

**Privately Sponsored Amendment and  
Staff Analysis**

---

**BoCC Adoption Document**

---

*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(239) 533-8585*

**September 28, 2011**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2010-04**

**Text Amendment**

**Map Amendment**

<b>This Document Contains the Following Reviews:</b>	
✓	<b>Staff Review</b>
✓	<b>Local Planning Agency Review and Recommendation</b>
✓	<b>Board of County Commissioners Hearing for Transmittal</b>
✓	<b>Staff Response to Review Agencies' Comments</b>
✓	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: February 14, 2011

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT/REPRESENTATIVE:**

NORDIC INVESTMENT CORPORATION / Represented by John N. Brugger

**2. REQUEST:**

Amend Map 7 of the Lee Plan, the Future Sewer Service Areas Map, to provide sanitary sewer service to an approved multi-family residential development and two commercial properties.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:**

**1. RECOMMENDATION:**

Staff recommends that the Board of County Commissioners *adopt* the proposed amendment to the Lee County Utilities Future Sewer Service Areas Map, Map 7, of the Lee Plan.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- The Future Sewer Service Areas depicted on Map 7 reflect the portion of Lee County anticipated to be served by wastewater infrastructure by Lee County Utilities within the Planning Horizon (2030)
- The Pine Island Waste Water Treatment Plant has capacity available to serve the approved development at build-out.

- The proposed amendment to Map 7 of the Lee Plan will not increase allowable densities and intensities of the subject site.
- Lee County Utilities has a 12 inch diameter sewage force main that abuts the subject property within the right-of-way of Stringfellow Road. The force main has been demonstrated through hydraulic calculations on record with Lee County Utilities to have the available capacity to provide adequate service to this project at build-out.
- The addition of the subject site to Map 7 of the Lee Plan will allow Lee County Utilities to serve the mixed use development that includes multi-family residential and commercial development approved through Development Order DOS 83-07-003-00D.
- Consistent with Policy 56.2.1, it is in the public interest of preserving public health and of preserving and enhancing environmental quality to have commercial and larger residential developments connect to central sewer when it is available.
- The developer has signed a wastewater reuse agreement with Lee County Utilities.

## **C. BACKGROUND INFORMATION**

### **1. EXISTING CONDITIONS**

**SIZE OF PROPERTY:** There are 76.06 acres subject to the requested Lee Plan Amendment. The applicant has only requested to include the uplands portions of the subject parcels. The wetlands portions of the property are not included in the proposed map amendment.

**PROPERTY LOCATION:** The subject site is located on the west side of Stringfellow Road, approximately 2.3 miles south of Pine Island Road.

**EXISTING LAND USE:** The southern commercial parcel along Stringfellow Road contains an existing commercial office building. The northern commercial parcel and the multi-family portion of the development remain vacant. Both commercial parcels contain constructed infrastructure improvements, and construction activities are ongoing in the multi-family parcel.

**CURRENT ZONING:** RM-2 and CS-1 (Z-81-226/226A)

**CURRENT FUTURE LAND USE CATEGORY:** Coastal Rural (only the uplands are proposed to be added to the Future Sewer Service Area)

### **2. LAND USE/ZONING/DEVELOPMENT ORDER HISTORY**

The subject property has valid approvals for a mixed use development consisting of multi-family residential and commercial portions. The development is known as The Villages of Pine Island. The Villages of Pine Island was approved with Development Order DOS 83-07-003.00D in 1984. The subject property was rezoned to RM-2 and CS-1 (Z-81-226/226A) in 1981.

The subject property was designated as "Rural" on the original Lee County Future Land Use Map. Subsequently the subject site was re-designated as "Coastal Rural" by Lee County Ordinance 03-03 (adopted 01/09/2003). The developer has continued to construct the project to build-out condition based upon the 1983 Development Order, keeping the Development Order active under the provisions of Lee County Land Development Code Section 10-115(c).

The original Development Order included private onsite wastewater treatment facilities. In 2007 the developer applied for and received an approved Minor Change to the Development Order to redesign the project to remove the on-site wastewater treatment plant. The new project design permits the development to connect the wastewater collection system into the central Lee County Utilities system, rather than to construct the private onsite wastewater treatment facilities. However, Lee County Utilities is not permitted to accept wastewater flow from the subject site because it is not located within the Future Sewer Service Area, as identified on Map 7 of the Lee Plan.

## **PART II - STAFF DISCUSSION**

### **A. STAFF DISCUSSION**

#### **SURROUNDING ZONING LAND USES, AND FUTURE LAND USE CATEGORIES**

The surrounding future land use categories consist of Coastal Rural and Wetlands. The Coastal Rural designated lands occur to the north, south and east of the subject site. The Wetlands designated lands are located west of the subject site.

North of the subject site is a mostly vacant platted single family residential subdivision with RS-1 zoning and vacant commercial properties with CG zoning directly adjacent to Stringfellow Road. South of the subject property is an operating tree farm with AG-2 zoning. East of the subject site, on the opposite side of Stringfellow Road the property is zoned AG-2 and Commercial Planned Development (CPD) the AG-2 property consists of two vacant parcels, a single family residence, and a nursery. The CPD consists of open and enclosed storage facilities.

#### **INTERNAL CONSISTENCY WITH THE LEE PLAN**

This Lee Plan Amendment application is to amend Map 7 to include 76.06 acres of uplands into the Lee County Utilities Future Sewer Service Area. This property was originally issued a Development Order on December 12, 1984. That development order permitted 49,800 square feet of commercial space in nine buildings, and 480 residential units in 120 four-plex buildings. Under the provisions of the Lee County Land Development Code Sec 10-115 (c), this is still a valid Development Order so long as construction activity is actively pursued, with no gap greater than 18 months. Based upon these provisions, the maximum development scenario for this property is that which is approved by the existing Development Order. The densities and intensities permitted with the DOS 83-07-003.00D would not be permitted by the current Lee Plan.

There are several provisions within the Lee Plan that speak to the validity and accommodation of previously approved developments. Policy 2.2.3 and Policy 14.2.2 speak to giving "preference" and

“priority” to valid development approvals when capacity of public facilities is a concern. To address consistency with the Lee Plan, Chapter 13: Procedures and Administration states that when a development order or final development order has been issued and determined to be consistent with the 1979 Lee Plan as amended, “such development, to the extent it cannot be reasonably comply with the standards established in the Lee Plan, will be deemed consistent with the Lee Plan.” Therefore the previously approved development is deemed consistent with the Lee Plan.

### **Greater Pine Island Community Plan**

Development cannot occur on Pine Island that is not consistent with the “810” and “910” rules identified in Policy 14.2.2 of the Lee Plan. Staff found Policy 14.2.2 to be “the main mechanism currently protecting Pine Island from over development that would worsen the existing congestion and evacuation hazard” during the Greater Pine Island Community Plan Update.

The “810” rule requires that:

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

The “910” rule requires that:

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

The thresholds for both the 810 and 910 rules have been reached, however the Villages of Pine Island Development Order, as long as it stays active, permits the 49,800 square feet of commercial space in nine buildings, and 480 residential units in 120 four-plex buildings. This development and the proposed Lee Plan amendment, to permit the connection the Lee County Utilities central sewer system, is consistent with Lee Plan Policy 14.2.2.

### **Public Participation**

Objective 14.7 of the Lee Plan requires that any applicant requesting an amendment to the Lee Plan within the Pine Island Planning Community must present the proposed amendment to the public within the planning community. The applicant presented the proposed amendment to the public on January 4<sup>th</sup>, 2011. At this meeting the public expressed their support of adding the subject site to Map 7 of the Lee Plan. The proposed amendment is consistent with the public participation requirements of Objective 14.7 of the Lee Plan.

## Community Facilities and Services

The original development order approval included private onsite wastewater treatment facilities to provide the necessary sanitary sewer service. In 2007 the developer applied for and received a Minor Change to the Development Order to redesign the project to remove the on-site wastewater treatment plant. The new project design permits the development to connect the wastewater collection system into the central Lee County Utilities system, rather than to construct the private onsite wastewater treatment facilities. Lee County Utilities has adequate capacity at the Pine Island Waste Water Treatment Plant (WWTP), and in the adjacent 12 inch force main.

Lee County Utilities has provided the following analysis:

*The LCU Pine Island WWTP is currently permitted for .492 M.G.D. annual average daily flow and the expiration date is 2/28/20014. Our monthly operating report shows that our maximum monthly average daily flow over the last 12 month period to be .16 M.G.D. during the month of March, 2010. The maximum three- month average daily flow over the last 12 month period is .148 M.G.D. ,therefore, providing .344 M.G.D. of available capacity.*

*The above referenced project is currently approved for 480 multifamily units @ 200 G.P.D. which equates to 96,000 G.P.D. plus 50,000 square feet (S.F.) of commercial office space at 15 G.P.D. per 100 S.F. equals 7,500 G.P.D. for a total of 103,500 G.P.D. or .103 M.G.D., leaving a total of .241 M.G.D., available capacity at our plant.*

*LCU has a 12" diameter sewage force main that abuts the subject property within the right-of-way of Stringfellow Road and that main has the available capacity to provide adequate service to this project at build- out as demonstrated in the approved hydraulic calculations on record with LCU.*

*LCU has a reuse agreement with the developer addressing disposal...*

Policy 56.2.1 of the Lee Plan encourages connection to central sewer system for environmental reasons. Policy 56.2.1 is reproduced below:

***POLICY 56.2.1:*** *It is hereby declared that in the interests of preserving public health and of preserving and enhancing environmental quality, it is in the public interest to abate and cease use of septic tanks and wastewater treatment package plants where and when central sewer is available.*

As previously stated, a 12 inch diameter sanitary force main and a 12 inch diameter wastewater reuse line is adjacent to the subject site, and Lee County Utilities does have adequate treatment capacity at the Pine Island Waste Water Treatment Plant. Connection to the Lee County Utilities central sewer system would abate the future use of the wastewater treatment package plant that the approved development would otherwise be forced to use. Connection to a centralized sewer system, and the identification of the subject property within the Future Sewer Service Area on Map 7 of the Lee Plan is consistent with Policy 56.2.1 of the Lee Plan and "is in the interest of preserving public health and preserving and enhancing environmental quality."

Planning and Utilities staff finds that connection to the central sewer system that is available is desirable both ecologically and financially in the long term. The average expected life of a private wastewater treatment package plant is approximately 30 years. As these facilities approach the anticipated life expectancy, repairs and maintenance can become expensive. Alternatively, if not properly maintained unauthorized discharge can occur that result in negative impacts to the environment and financial penalties levied by state and/or federal agencies. In the past Lee County has been forced to take over and remove failing private wastewater treatment package plants at considerable expense to the public. Allowing the already approved development to connect to the available facilities would assure that this issue would be avoided in the future.

### **CONSISTENCY WITH REGIONAL PLANS**

The proposed Lee Plan amendment is consistent with the goals of the Southwest Florida Regional Planning Council. On October 18<sup>th</sup>, 2007 the Southwest Florida Regional Planning Council passed a resolution “supporting the reduction and elimination of surface water discharges from small wastewater treatment facilities.” In this resolution the Regional Planning Council recommended that “no new package plants should be permitted on Barrier Islands, Bay Islands, Sound Islands, Pass Islands or the like.”

Amending the Lee County Utilities Future Sewer Service Area to include the subject site would allow the approved development to connect to the Lee County Utilities force main and eliminate the need for a new package plant on Pine Island.

### **B. SUMMARY**

The applicant, Nordic Investment Corporation, has submitted an application that would add the subject property to the Future Sewer Service Areas identified on Map 7 of the Lee Plan. The subject site has approved zoning and valid Development Orders that permits 49,800 square feet of commercial space in nine buildings, and 480 residential units in 120 four-plex buildings. These approvals remain valid, however if the approvals were allowed to lapse or expire the site would only be permitted 23 residential units under today’s Land Development Code and Lee Plan.

Zoning and Development Order approvals for Village of Pine Island remain active and valid in accordance with Lee County Land Development Code Section 10-115(c). Because these approvals were granted prior to the establishment of the “810” and “910” rules by Policy 14.2.2 of the Lee Plan, these rules are not a valid concern for the already approved development.

Lee County Utilities has provided a memo concerning this connection. There is adequate capacity to serve the approved development at the Pine Island Wastewater Treatment Plant. Lee County Utilities is not permitted to accept wastewater flow from the subject site because it is not located within the Future Sewer Service Area, as identified on Map 7 of the Lee Plan.

Identifying the subject property on Map 7 of the Lee Plan, the Future Sewer Service Areas, would permit the previously approved Villages of Pine Island to connect to the Lee County Utilities central sewer system and reuse lines. This would result in development that is more consistent with the Lee Plan than currently exist. The proposed connection to the 12" sanitary force main is consistent with Objective 56.2 and Policy 56.2.1 of the Lee Plan.

**C. STAFF RECOMENDATION**

Staff recommends that the Board of County Commissioners *transmit* the proposed amendment to the Lee County Utilities Future Sewer Service Areas Map, Map 7, of the Lee Plan.



**PART III - LOCAL PLANNING AGENCY  
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: February 28<sup>th</sup>, 2011

**A. LOCAL PLANNING AGENCY REVIEW**

Staff provided a brief summary of the proposed amendment. One member of the Local Planning Agency commented that he was glad to see an effort to reduce private-package plants within Lee County. Another member asked how much capacity would remain at the Pine Island Wastewater Treatment Plant if this development was provided with sanitary sewer service. This member was directed to the analysis provided by Lee County Utilities within the Staff Report. No members of the public appeared to address the proposed Lee Plan amendment.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:**

The LPA recommends that the Lee County Board of County Commissioners transmit the proposed amendment.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

The LPA accepted the basis and recommended findings of fact as advanced by staff.

**C. VOTE:**

<b>NOEL ANDRESS</b>	<b>AYE</b>
<b>CINDY BUTLER</b>	<b>AYE</b>
<b>JIM GREEN</b>	<b>AYE</b>
<b>MITCH HUTCHCRAFT</b>	<b>AYE</b>
<b>RONALD INGE</b>	<b>AYE</b>
<b>JACK MEEKER</b>	<b>AYE</b>
<b>VACANT</b>	<b>---</b>

**PART IV - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: June 13<sup>th</sup>, 2011

**A. BOARD REVIEW:**

The proposed amendment was heard as part of the consent agenda. The Board of Commissioners provided no comment concerning the amendment. One member of the public stated he was in favor of the proposed amendment.

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

The Board voted to *transmit* the proposed amendment as part of the Consent Agenda.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

The Board accepted the findings of fact as advanced by staff and the Local Planning Agency.

**C. VOTE:**

<b>BRIAN BIGELOW</b>	<b>AYE</b>
<b>TAMMARA HALL</b>	<b>AYE</b>
<b>RAY JUDAH</b>	<b>AYE</b>
<b>FRANK MANN</b>	<b>AYE</b>
<b>JOHN MANNING</b>	<b>AYE</b>

**PART V - REVIEWING AGENCIES' OBJECTIONS,  
RECOMMENDATIONS, AND COMMENTS**

DATE OF DCA COMMENTS: July 29<sup>th</sup>, 2011

**A. COMMENTS FROM REVIEWING AGENCIES:**

No reviewing agency provided comments concerning the proposed amendment that need to be addressed.

**B. STAFF RECOMMENDATION:**

Staff recommends that the Board of County Commissioners adopt the proposed amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: September 28<sup>th</sup>, 2011

**A. BOARD REVIEW:**

The proposed amendment was heard as part of the consent agenda. The Board of Commissioners provided no comment concerning the amendment. No member of the public appeared or provided comments concerning the proposed amendment.

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

The Board voted to *adopt* the proposed amendment as part of the Consent Agenda.

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

The Board accepted the findings of fact as advanced by staff and the Local Planning Agency.

**C. VOTE:**

<b>BRIAN BIGELOW</b>	<b>AYE</b> _____
<b>TAMMARA HALL</b>	<b>AYE</b> _____
<b>RAY JUDAH</b>	<b>AYE</b> _____
<b>FRANK MANN</b>	<b>AYE</b> _____
<b>JOHN MANNING</b>	<b>AYE</b> _____