

**LEE COUNTY ORDINANCE NO. 11-30**

(Pine Tarr, LLC)  
(CPA2010-00006)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2010-00006 (PERTAINING TO PINE TARR, LLC) APPROVED DURING A PUBLIC HEARING DURING THE COUNTY'S 2010/2011 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED TEXT; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan ("Lee Plan") Policy 2.4.1. and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners ("Board"); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on March 28, 2011; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on June 13, 2011. At that hearing, the Board approved a motion to send, and did later send, proposed amendment CPA2010-00006 pertaining to Pine Tarr, LLC to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the June 13, 2011 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies' written comments ; and,

WHEREAS, on September 28, 2011, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

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

## SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "CPA2010-00006, Pine Tarr, LLC Ordinance."**

## SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends Policy 14.1.5 to permit clearing of wetlands in accordance with an approved Environmental Resource Permit for commercial planned development twenty-five acres or larger, known as CPA2010-00006 (Pine Tarr, LLC).

The corresponding Staff Reports and Analysis, along with all attachments for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

## SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner Mann, who moved its adoption. The motion was seconded by Commissioner Hall. The vote was as follows:

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

[Remainder of page intentionally left blank.]

DONE AND ADOPTED this 14<sup>th</sup> day of December 2011.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY BOARD  
OF COUNTY COMMISSIONERS

BY: Marcia Wilson  
Deputy Clerk

BY: [Signature]  
John Manning, Chair  
VICE CHAIRMAN

DATE: \_\_\_\_\_



Approved as to form by:

[Signature]  
County Attorney's Office

Exhibit A: Amendments to Lee Plan Policy 14.1.5

## EXHIBIT A

**Note: Text depicted with underscore represents additions to the Lee Plan. ~~Strike-through~~ text represents deletions from the Lee Plan.**

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

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

The placement and width of the 50 foot vegetated buffer can be modified to accommodate development; however, the development must meet all of the following criteria:

- impact less than 1.5 acres of the associated wetlands; and,
- the impacted area must consist primarily of exotic vegetation; and,
- avoid all impacts to mangrove swamps and tidal flats (FLUCCS Code 612 and 651); and,
- be in the Urban Community Future Land Use Category; and,
- be a Planned Development.

In addition to the listed criteria, the development must create an onsite wetland area. The created wetland area must meet the following:

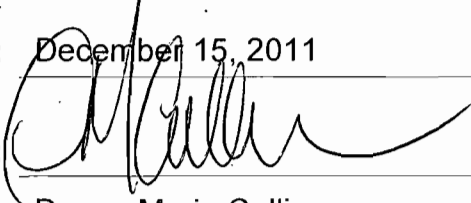
- must be a minimum of 1.5 square feet for each square foot of impacted associated wetlands; and,
- consist of 100 % native wetland species; and,
- consist of 6' wetland trees to be planted 15' on center and 3 gallon wetland shrubs planted 3' on center; and,
- maintain a hydrologic connection with the remaining preserved associated wetlands; and,
- the wetland creation area may be comprised of planted dry detention, filter marsh or other similar green infrastructure techniques; and,
- the created wetlands are not intended to replace any state or federal required offsite mitigation for permitted impacts to wetlands.

MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY

**RUSH**

DATE: December 15, 2011

TO: Lisa Pierce,  
Manager, Minutes Office

FROM:   
Donna Marie Collins  
Chief Assistant County Attorney

RE: Lee County Ordinance No. 11-30  
Amending the Lee County Comprehensive Plan  
2010/2011 Regular Amendment Cycle  
Adoption Hearing - December 14, 2011, Pine Tarr, LLC  
File LU-11-01-036.NNN

On December 14, 2011, the Board of County Commissioners adopted one ordinance amending the Lee County Comprehensive Plan as part of the 2010/2011 Regular Amendment Cycle. The ordinance is identified below and has been attached to this memorandum for execution.

Kindly have a clerk attest to the Chairman's signature on the ordinance. Once this has been accomplished, please prepare three (3) certified copies of the executed ordinance and forward to my office at your earliest possible convenience. State law requires the transmission of the ordinance to the state within 10 calendar days of adoption.

Thank you for your assistance.

DMC/tlb  
Attachment:  
Pine Tarr, LLC - ORD 11-30

cc via email only (w/o attachments):  
Paul O'Connor, Director, Planning Division  
Matt Noble, Principal Planner, Planning Division  
Georgia Sekulski, Office Manager, Public Resources

RECEIVED  
MINUTES OFFICE  
2011 DEC 15 PM 3:30

STATE OF FLORIDA

COUNTY OF LEE

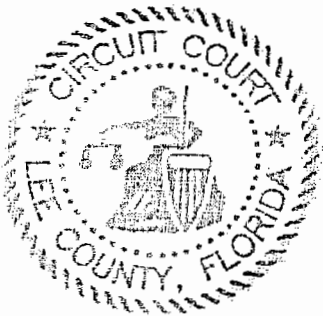
I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby certify that the above and foregoing, is a true and correct copy of Ordinance No. 11-30, adopted by the Board of Lee County Commissioners, at their meeting held on the 14th day of December, 2011 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 16th day of December 2011.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By:

Marcia Wilson  
Deputy Clerk



December 16, 2011

Liz Cloud  
Department of State  
Bureau of Administrative Code  
The RA Gray Building  
500 South Bronough St.  
Tallahassee, FL 32399-0250

RE: Ordinance No. 11-30  
Lee County, Florida

Dear Ms. Cloud:

Enclosed is a certified copy of Ordinance No. 11-30, adopted by the Board of Lee County Commissioners on December 14, 2011.

Please use the enclosed envelope when sending your acknowledgment to our office. Thank you for your cooperation.

Sincerely,

Charlie Green, Clerk



Marcia Wilson  
Deputy Clerk

Enclosure