LEE COUNTY
SOUTHWEST FLORIDA

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James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

Writer's Direct Dial Number: (941) 479-8585

September 19, 2002

Ray Eubank, Administrator
Florida Department of Community Affairs
Division of Community Planning
Bureau of Local Planning
2555 Shumard Oak Boulevard
Tallahassee, FL. 32399-2100

Re: Amendments to the Lee Plan
Transmittal Submission Package for the 2001/2002 Regular Amendment Cycle

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.006, this submission package constitutes the transmittal of the proposed 2001/2002 Regular Amendment Cycle to the Lee Plan. The Local Planning Agency held public hearings for these plan amendments on the following dates: March 25, 2002; April 22, 2002; July 22, 2002; August 26, 2002. The Board of County Commissioners transmittal hearing for the plan amendments was held on September 4, 2002 and September 5, 2002. Per 9J-11.006(1)(a)(3), Lee County **is** requesting that the Department review the proposed amendments and provide an Objections, Recommendations, and Comments (ORC) Report. The proposed amendments are not applicable to an area of critical state concern. The Board of County Commissioners has stated its intent to hold an adoption hearing upon receipt of the ORC Report.

A summary of the plan amendment content and effect is attached to this letter. The name, title, address, telephone number, facsimile number, and email address of the person for the local government who is most familiar with the proposed amendments is as follows:

Mr. Paul O'Connor, AICP
Lee County Planning Division Director
P.O. Box 398
Fort Myers, Florida 33902-0398
(941)479-8585
Fax (941)479-8319
Email: oconnops@leegov.com

Included with this package, per 9J-11.006, are six copies of the adopted amendment, and supporting data and analysis. By copy of this letter and its attachments I certify that these amendments have been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT),

the Department of Environmental Protection, Florida Department of State, Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

Sincerely,
DEPT. OF COMMUNITY DEVELOPMENT
Division of Planning

Paul O'Connor, AICP
Director

All documents and reports attendant to this transmittal are also being sent, by copy of this cover, to:

David Burr
Interim Director
Southwest Florida Regional Planning Council

Mike Rippe, District Director
FDOT District One

Executive Director
South Florida Water Management District

Plan Review Section
Department of Environmental Protection

Florida Department of State

Florida Fish and Wildlife Conservation Commission

The Department of Agriculture and Consumer Services, Division of Forestry

2001/2002 LEE PLAN AMENDMENT CYCLE

SUMMARY OF PLAN AMENDMENT CONTENT AND EFFECT

CPA 2001-09

Amends the Future Land Use text by adding a new Vision Statement, Goal, Objectives and Policies specific to the Bayshore Community. The Policies generally address Land Use, Transportation, Sewer and Water, and Parks and Recreation. The intent of the amendment is, in part, to provide for slow and steady growth in the Bayshore Community and to prevent incompatible uses such as mining and intense commercial uses from developing in the community.

CPA 2001-10

Amends the Future Land Use text by adding a new Goal, Objective and ten Policies specific to the Captiva Island Community. The policies address such things as establishing a landscaping code for Captiva, creating a document clearing house to aid residents in monitoring development requests, a requirement for owners or agents for any rezoning, variance, or special exception to hold a public informational session on Captiva and a policy for Lee County to encourage and support efforts by Captivans to develop and submit ordinances that help maintain the historical character of the land. This is a privately initiated amendment sponsored, in part, by Lee County Government.

CPA2001-11

Amends the Future Land Use Element, Policy 1.2.2, the Airport Commerce descriptor policy, to broaden the allowable uses and to establish relationships and criteria for those uses. Providing for Commercial Retail uses in Airport Commerce allows the County to better use the airport to attract new business in order to promote economic growth and diversification. Flexibility in the planning requirements for future business and industrial lands in the Airport Commerce category is of paramount importance. Commercial functions located within business and industrial parks provide beneficial services to employees. In addition Policy 1.2.2 is being amended by removing "and other hospitality services" due to the fact that it is not a defined term. The LDC does not have this as a use group or a defined use. Also, the Lee County Land Development Code (LDC) provides that caretakers residences can be approved in association with an industrial development, therefore Policy 1.2.2 is being amended to allow caretakers residences.

CPA2001-12

The amendment adds to Policy 1.3.8 a specific access management plan for Alico Road in the vicinity of the I-75 interchange, and adds maps of the specific access management plans to the Future Land Use Map series. The addition of specific access management plans for the four County-maintained roads that connect to the interstate allows for a recognition of already-existing conditions and previous development approvals, rather than relying on the generalized spacing standards included in Policy 1.3.8. This action is a follow-

up to PAT 99-27, which added the specific access management plan for Corkscrew Road. Future amendments are anticipated to add the specific access management plans for Luckett Road and Bonita Beach Road.

CPA2001-15 Amends the Future Land Use Map (FLUM) series to include in the Conservation Lands category those lands acquired by Lee County, the State of Florida (TIITF), and the private conservation foundation, the Calusa Land Trust, and reclassify an FDOT maintenance yard from the Conservation Lands FLUM category to the Public Facilities FLUM category.

CPA2001-18 Amends the Future Land Use text by replacing the existing Vision Statement with new language, and by adding new policies and amending existing policies specific to the Pine Island Community. Amends the Future Land Use Map by creating a new Coastal Rural Land Use Category. Highlights of the Plan are the creation of the Coastal Rural Land Use Category which will replace the Rural designation on Pine Island and replace an additional 157 acres of land currently in the Outlying Suburban designation. Another policy changes the way development orders will be allocated once the 910 vehicle trip calculation has been reached. Other policies address changes to the sign regulations, architectural and site design standards, riparian areas, septic drainfields and historic building designation on Pine Island.

CPA2001-22 Amends Map 12 of the Future Land Use Map Series, the Water Dependent Overlay (WDO) zones, by evaluating and updating the status of the overlay areas and the Goals, Objectives and Policies that pertain to the WDO zones. This amendment addresses 40 WDO zones, of which 6 are proposed for amendment. The remaining zones do not present compelling reasons for amendment. As currently codified, the Lee Plan Goals, Objectives, and Policies sufficiently address WDO concerns.

CPA2001-23 Amends the Future Land Use Map series, Map 20, The "Contiguous Agricultural Parcels Over 100 Acres" map by updating the overlay to reflect current conditions. Changes to the map include mapping lands that are currently in agricultural use and meet the other criteria outlined in Objective 9.1 (as proposed in this amendment). Objective 9.1 is being amended to clarify the criteria for selecting properties to be included on the overlay map. The existing Lee Plan language does not match the parcels that are shown on the current overlay. The adopted 1994 Overlay included parcels that were smaller than 100 acres; however, Objective 9.1 states "Place all existing active and passive agricultural uses on all parcels in excess of 100 acres..." The revised language clarifies that Ag parcels less then 100 acres in size will only be included on the overlay if they are contiguous to other Ag uses resulting in an "Ag Area" larger than 100 acres. The new language clarifies that properties must be outside of Future Land Use Categories that are anticipated to develop with urban uses during the life of the plan. Finally, language is added to require this overlay to be reviewed every 2 years.

CPA2001-24 This amendment simply updates Table 2(b), Recommended Operational Improvements on Constrained Roads, to reflect the latest thinking on operational improvements for the constrained roads. The table is also being expanded to include all of the constrained roads, whether an operational improvement is identified at this time or not, to avoid any confusion when comparing to Table 2(a) (the list of constrained roads). A note is also being added to make clear that, even if no specific operational improvement is identified in the table at this time, operational improvements may be determined to be necessary in relation to specific development requests.

CPA2001-27 Amends the Community Facilities and Services Element, Goal 40: Coordinated Surface Water Management and Land Use Planning on a Watershed Basis by adding a new Objective and Policy regarding incorporation of green infrastructure into the surface water management systems of proposed developments, and providing definitions for green infrastructure and flow-way in the Glossary. Incorporating green infrastructure and flow-ways into surface water management design will help protect the groundwater and surface water in Lee County. Also, green infrastructure furthers Lee County's efforts in achieving EPA's non-degradation water quality criteria for stormwater discharges to designated Outstanding Florida Waterways and compliance with future total maximum daily loads established for impaired water-bodies.

CPA2001-28 Amends the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program. Lee Plan Policy 70.1.1 requires a Capital Improvements Program to be prepared and adopted on an annual basis. Florida Statute 163.3177(3)(b) requires that the Capital Improvements Element of the comprehensive plan be amended annually to reflect the modifications of the adopted Capital Improvement Program (CIP). This amendment incorporates the most recently adopted CIP in the Capital Improvements Element.

CPA2001-31 Amends Policy 80.1.7 of the Conservation and Coastal Management Element by updating the policy to reflect a new percentage for replacement values and revising the target date when development regulations will require implementation of this policy. At this time the Lee County Land Development Code addresses these issues through Sections 6-405 and 6-472. The amendment also changes modifications to buildings from 20% to 25% of its replacement value which is consistent with the Federal Emergency Management Agency's current threshold. Additionally the amendment changes the policy language from 'one or more losses of $1,000.00 or more" to a repetitive loss as defined by the Federal Emergency Management Agency. The intent of the policy has been recorded into the county regulations.

CPA2001-32

Amends the Intergovernmental Coordination Element and the Community Facilities Element to bring the element into compliance with the provisions of F.S. Chapter 163.3177. In order to comply with the provisions of F.S. Chapter 163.3177 the Lee Plan should be amended to include a new policy in the Intergovernmental Coordination Element, under Goal 109, that refers to Goal 46: Education as the source for coordinating the comprehensive plan with the plans of the school board. Staff also recommends that a new policy, under Goal 46: Education, be adopted to address the coordination of population projection planning.

CPA2001-33

Amends the Build Back Policy of the Procedures and Administration Element by replacing references to the term "cost" with the term "value." The proposed amendment will clear up language differences between the Lee Plan and what is contained in the Lee County Post Disaster Ordinance No. 95-14. Both of the terms "replacement cost" and "replacement value" are found in the Post Disaster Ordinance. By replacing the current term "replacement cost" with the term "replacement value," structure damage will be defined to account for variability in the market, such as labor and materials.

CPA2001-35

Amends all elements of the Lee Plan, where applicable, by replacing references to the Lee County Regional Water Supply Authority with Lee County Utilities or the Division of Natural Resources in conjunction with the County taking over the responsibilities of the Water Supply Authority. The Lee County Regional Water Supply Authority is referenced in several instances throughout the Lee Plan with regard to their role in water resource issues. The Lee County Regional Water Supply Authority was officially dissolved as of June 30, 2001. Most of the functions of the Lee County Regional Water Supply Authority have been taken over by Lee County Utilities and Lee County Division of Natural Resources.

CPA2001-18
BoCC SPONSORED
AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

DCA Transmittal Document

Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(941) 479-8585

September 5, 2002

LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2001-00018

[✓] **Text Amendment** [✓] **Map Amendment**

✓	This Document Contains the Following Reviews:
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: April 18, 2002

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. SPONSOR/APPLICANT:

a. SPONSOR:
LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

b. APPLICANT
THE GREATER PINE ISLAND CIVIC ASSOCIATION
REPRESENTED BY BILL SPIKOWSKI
SPIKOWSKI AND ASSOCIATES

2. REQUEST:

Amend the Future Land Use Element of the Lee Plan, text and Future Land Use Map series to incorporate the recommendations of the Greater Pine Island Community Planning effort, establish a new Vision Statement, establish a revised Goal 14, amend subsequent Policies specific to Greater Pine Island, amend Objective 1.4 "Non-Urban Areas" by establishing a new "Coastal Rural" future land use category and amend the Future Land Use Map series to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates and to reclassify all "Rural" designated land to "Coastal Rural."

B. BOARD OF COUNTY COMMISSIONER'S TRANSMITTAL LANGUAGE:

VISION STATEMENT:

~~**Pine Island** - This community includes the major islands of Pine Island, Little Pine Island, and Matlacha, the surrounding smaller islands, and the previously mentioned enclaves in the City of Cape Coral. This community has an overall identity of Pine Island; however, there are four sub community centers within the overall community. The four areas within the Pine Island Community are: Bokeelia at the northern tip, St. James City at the southern tip of the island, and Matlacha which is a small island between the mainland and Pine Island. The Pine Island community is similar to the other island communities in that the residents leave the islands to satisfy many of their commercial needs. However, unlike the other island communities, Pine Island does not have a substantial amount of tourist oriented commercial. Since the Pine Island community does not contain the gulf front beaches the other island communities have, this is not expected to change during the life of the plan. This community will add a small amount of new commercial by 2020 to meet the daily needs of residents; however, Pine Island community residents will still satisfy most of their commercial needs outside of their community. The population of this community will also grow from 8,400 permanent residents in 1996 to approximately 9,700 residents in 2020 and a total seasonal population of nearly 15,000. Pine Island is also different from the other island communities in that it has a much higher percentage of non-seasonal residents.~~

Pine Island - This community includes Greater Pine Island as described under Goal 14 along with surrounding smaller islands and some unincorporated enclaves near Cape Coral. Its future, as seen by Pine Islanders, will be a matter of maintaining an equilibrium between modest growth on the one hand and a fragile ecology on the other. Pine Island will continue to be a haven between urban sprawl approaching from the mainland and the wealth of the outer islands; a quiet place of family businesses, school children, and retirees enjoying the bounties of nature; a place devoid of high-rises, strip malls, and gated communities. Traffic constraints caused by the narrow road link to the mainland will limit future development, allowing the islands to evacuate from storms and protecting natural lands from unsustainable development. Wildlife and native vegetation will be protected; loss of wildlife habitat will be reversed; sidewalks and bike paths will connect neighborhoods for young and old alike. Architectural standards for commercial buildings will encourage "Old Florida" styles, and historic buildings will be treasured. Pine Island will continue to be a place where people and nature exist in harmony, a place not very different from what it is today, an island as state-of-mind as much as a physical entity, its best features preserved and enhanced. Pine Islanders are historically vigilant about protecting their community and will work to ensure that their plans are carried out.

POLICY 14.1.5: New development, including "planned development" rezoning approvals ~~and~~, new subdivisions, and agriculture, that adjoin~~ing~~ state-designated aquatic preserves and associated wetlands and natural tributaries must ~~provide~~ 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.

POLICY 14.1.7: ~~The county will continue to investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This will include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility.~~ Lee County will design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay if grant funding can be obtained and if property owners are willing to cooperate with the study. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County will assess the feasibility of various corrective measures.

POLICY 14.1.8: The county reclassified all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation was to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide land owners with maximum flexibility while accomplishing these public purposes.

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,~~800~~675 additional dwelling units, the county will ~~consider for adoption~~ keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of~~ Tthese regulations ~~would be to appropriately~~ **will** reduce certain types of approvals at established thresholds prior to the ~~adopted level-of-service standard~~ capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

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

- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow boulevard~~ reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land

Develoment Code~~the Development Standards Ordinance~~), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

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

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

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

- Improvements to Burnt Store Road and Pine Island Road to the east of Burnt Store that will prevent premature closure of those roads during an evacuation, closures which now limit the number of Greater Pine Island and Cape Coral residents able to evacuate.

POLICY 14.2.4: The county will make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland that was completed in 2001.

POLICY 14.3.3: The county's ~~zoning regulations will~~ Land Development Code will continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions will not be measured from minimum flood elevations nor will increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.

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

POLICY 14.4.3: The county will expand the commercial design standards in its land development code to provide specific architectural and site design standards for Greater Pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These

standards would promote but not mandate rehabilitation over demolition; require smaller rather than larger buildings; avoid standardized franchise buildings; preserve mature trees wherever possible; place most parking to the side and rear; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles. The new commercial design standards will reflect the different characteristics of Bokeelia, Pineland, Matlacha, and St. James City.

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

POLICY 14.4.5: The county will establish a prioritized schedule for an effort to rezone land to zoning districts that properly reflect its development potential under the Lee Plan.

POLICY 14.5.4: The county will update its historic sites survey of Greater Pine Island if an update is determined to be needed. The county will consider formal local designation of additional historic buildings, especially in St. James City, Pineland, and Bokeelia, and will identify potential buildings or districts for the National Register of Historic Places.

Proposed new comprehensive plan policy establishing a new non-urban designation on the County's Future Land Use Map:

The following proposed policy will be necessary to implement the requirements of Policy 14.1.8 listed above.

POLICY 1.4.7: The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats on the remainder of the property. The standard maximum density is one dwelling unit per ten acres (1DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site in accordance with the chart below. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:

Percentage of the on site uplands that are preserved or restored native habitats	Maximum density
0%	1 DU/ 10 acres
5%	1 DU/ 9 acres
10%	1 DU/ 8 acres
15%	1 DU/ 7 acres
20%	1 DU/ 6 acres
30%	1 DU/ 5 acres
40%	1 DU/ 4 acres
50%	1 DU/ 3 acres
60%	1 DU/ 2 acres
70%	1/DU/ 1 acre

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Planning staff recommends that the Board of County Commissioners transmit the proposed amendment, with the modifications proposed by staff. Staff also recommends that the Board of County Commissioners amend the future land use map to reclassify all land on Pine Island now designated as "Rural" into the new "Coastal Rural" category. In addition, staff recommends that the Board of County Commissioners amend the future land use map to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates in 31-43-22, bounded by Quail Trail on the west, Barrancas Street on the north, Stringfellow on the east, Unit A of Rapid #1 subdivision (Cobb Road) on the north, the quarter section line of Section 31 on the east, and Pinehurst Acres and September Estates on the south.

The applicants replacement language for the Pine Island Vision Statement and proposed revisions to Goal 14 and to Objective 1.4 of the Lee Plan is below in strike through, underline format. **Please note that the applicants replacement language includes changes made by the consultant to his original submittal subsequent to reviewing initial comments from County Staff.** Staff's recommended language is provided below, with recommended changes from the applicant's language highlighted in **bold** strike-thru, **bold** underline format.

The staff recommendation is identical to the LPA's recommendation, with the exception of Policy 14.2.2. For convenience to the reader, both versions of Policy 14.2.2 have been included below in this section.

VISION STATEMENT:

~~**Pine Island** - This community includes the major islands of Pine Island, Little Pine Island, and Matlacha, the surrounding smaller islands, and the previously mentioned enclaves in the City of Cape Coral. This community has an overall identity of Pine Island; however, there are four sub community centers within the overall community. The four areas within the Pine Island Community are: Bokeelia at the northern tip, St. James City at the southern tip of the island, and Matlacha which is a small island between the mainland and Pine Island. The Pine Island community is similar to the other island communities in that the residents leave the islands to satisfy many of their commercial needs. However, unlike the other island communities, Pine Island does not have a substantial amount of tourist oriented commercial. Since the Pine Island community does not contain the gulf front beaches the other island communities have, this is not expected to change during the life of the plan. This community will add a small amount of new commercial by 2020 to meet the daily needs of residents; however, Pine Island community residents will still satisfy most of their commercial needs outside of their community. The population of this community will also grow from 8,400 permanent residents in 1996 to approximately 9,700 residents in 2020 and a total seasonal population of nearly 15,000. Pine Island is also different from the other island communities in that it has a much higher percentage of non-seasonal residents. (Added by Ordinance No. 99-15)~~

Pine Island - This community includes Greater Pine Island as described under Goal 14 along with surrounding smaller islands and some unincorporated enclaves near Cape Coral. Its future, as seen by Pine Islanders, will be a matter of maintaining an equilibrium between modest growth on the one hand and a fragile ecology on the other. Pine Island will continue to be a haven between urban sprawl approaching from the mainland and the wealth of the outer islands; a quiet place of family businesses, school children, and retirees enjoying g the bounties of nature; a place devoid of high-rises, strip malls, and gated communities. Traffic constraints caused by the narrow road link to the mainland will limit future development, allowing the islands to evacuate from storms and protecting natural lands from unsustainable development. Wildlife and native vegetation will be protected; loss of wildlife habitat will be reversed; sidewalks and bike paths will connect neighborhoods for young and old alike. Architectural standards for commercial buildings will encourage "Old Florida" styles, and historic buildings will be treasured. Pine Island will continue to be a place where people and nature exist in harmony, a place not very different from what it is today, an island as state-of-mind as much as a physical entity, its best features preserved and enhanced. Pine Islanders are historically vigilant about protecting their community and will work to ensure that their plans are carried out.

POLICY 14.1.5: ~~**All**~~ New development, including "planned development" rezoning approvals ~~and~~, new subdivisions ~~adjoining~~, and agriculture, that adjoin state-designated aquatic preserves and associated wetlands and natural tributaries must ~~provide~~ **shall** preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody~~. (Amended by Ordinance No. 00-22)~~ or associated wetlands. This requirement **~~shall~~ will** not apply to existing subdivided lots. For agriculture, this requirement:

- **~~shall~~ will** be implemented through the notice-of-clearing process in chapter 14 of the land development code;

- ~~shall~~ **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 ~~shall~~ **will** be established within three years of issuance of the notice of clearing.

POLICY 14.1.7: Lee County ~~shall~~ **will** design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay **if grant funding can be obtained and if property owners are willing to cooperate with the study**. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County ~~shall~~ **will** assess the feasibility of various corrective measures.

POLICY 14.1.8: The county ~~shall~~ reclassifi~~ed~~**ed** all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation ~~are~~ **was** to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide land owners with maximum flexibility while accomplishing these public purposes.

Proposed Civic Association Language:

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,~~800~~675 additional dwelling units, the county will ~~consider for adoption~~ keep in force effective development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of~~ Tthese regulations ~~would be to appropriately~~ **shall will** reduce certain types of approvals at established thresholds prior to the ~~adopted level-of-service standard~~capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

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

- When traffic on Pine Island Rroad ~~between Burnt Store Road and Stringfellow boulevard~~ reaches 910 peak hour, annual average two-way trips, the regulations will provide restrictions on the further issuance of residential development orders (pursuant to chapter 10 of the Land Develoment Code ~~the Development Standards Ordinance~~), or other

measures to maintain the adopted level of service, until improvements can be made in accordance with this plan. The effect of these restrictions on residential densities must not be more severe than restricting densities to one-third of the maximum density otherwise allowed on that property.

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

The preceding language is the current recommended language by the applicant. Lee County Department of Transportation (DOT) staff has provided Planning Staff with a memorandum dated April 16, 2002 highlighting some of their concerns. DOT staff updated the 801/910 development limitation standard utilizing the most recent Florida Department of Transportation software. The new standards that were developed refer to *peak season, peak hour, peak direction* conditions. The current policy language refers to *peak hour, annual average, two-way trips*. In addition, DOT feels there is an inconsistency with the regulatory level of service standard applied on county roads, which is "E", and the reliance in the current development limitation standard on a percentage of the level of service "D" capacity. The referenced memo is attached to this report.

The following modifications are proposed by DOT staff:

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,~~800~~675 additional dwelling units, the county ~~will consider for adoption~~ **~~shall~~ will** keep in force development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of~~ These regulations ~~would be to appropriately~~ **~~shall~~ will** reduce certain types of approvals at established thresholds prior to the ~~adopted level-of-service standard~~ capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches **~~810~~ 768 peak season,** peak hour, **~~annual average two-way~~ peak direction** trips, the regulations ~~will provide restrictions on~~ **~~shall~~ will** restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.

- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow boulevard~~ reaches ~~910~~ 864 **peak season,** peak hour, **~~annual average two-way~~** peak direction trips, the regulations ~~will provide restrictions on~~ **~~shall~~ will** restrict the further issuance of residential development orders ~~(pursuant to the Development Standards Ordinance), or other measures to~~

~~maintain the adopted level of service, until improvements can be made in accordance with this plan.~~ to one-third the maximum density otherwise allowed on that property.

The ~~810~~ 768 and ~~910~~ 864 thresholds were based on 80% and 90% of level-of-service ~~"D"~~ **"E" peak season, peak hour, peak direction** capacity calculated using the **latest FDOT software (March, 2002)** ~~**1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update**~~. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.

DOT staff is meeting with the applicant's planning consultant to try and resolve this issue later this week. Staff will provide an update concerning this issue at the public hearing, as appropriate.

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

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

- Improvements to Burnt Store Road and Pine Island Road to the east of Burnt Store that will prevent premature closure of those roads during an evacuation, closures which now limit the number of Greater Pine Island and Cape Coral residents able to evacuate.

POLICY 14.2.4: The county ~~**shall**~~ **will** make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland that was completed in 2001. ~~Where needed to provide a high-quality bicycle path, power poles and swales should be relocated to avoid unnecessary jogs in the bike path.~~

POLICY 14.3.3: The county's ~~zoning regulations will~~Land Development Code ~~**shall**~~ **will** continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions ~~**shall**~~ **will** not be measured from minimum flood elevations nor ~~**shall**~~ **will** increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.

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

POLICY 14.4.3: The county **will** ~~shall~~ expand the commercial design standards in its land development code to provide specific architectural and site design standards for Greater Pine Island **if an acceptable proposal is submitted by the Greater Pine Island community**. These standards **would promote but not mandate** ~~will favor~~ rehabilitation over demolition; require smaller rather than larger buildings; avoid standardized franchise buildings; preserve mature trees wherever possible; place most parking to the side and rear; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles. **The new commercial design standards will reflect the different characteristics of Bokeelia, Pineland, Matlacha, and St. James City.**

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

POLICY 14.4.5: The county ~~shall~~ **will** establish a prioritized schedule for ~~a five-year~~ **an** effort to rezone land to zoning districts that properly reflect its development potential under the Lee Plan.

POLICY 14.5.4: The county ~~shall~~ **will** update its historic sites survey of Greater Pine Island if an update is determined to be needed. The county ~~shall~~ **will** consider formal local designation of additional historic buildings, especially in St. James City, Pineland, and Bokeelia, and ~~shall~~ **will** identify potential buildings or districts for the National Register of Historic Places.

Proposed new comprehensive plan policy establishing a new non-urban designation on the County's Future Land Use Map:

The following proposed policy will be necessary to implement the requirements of Policy 14.1.8 listed above.

POLICY 1.4.7: The Coastal Rural areas will remain rural except for portions of properties where residential lots are permitted in exchange for permanent preservation or restoration of native upland habitats on the remainder of the property. The standard maximum density is one dwelling unit per ten acres (1DU/10 acres). Maximum densities may increase as higher percentages of native habitat are permanently preserved or restored on the uplands portions of the site in accordance with the chart below. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:

Percentage of the on site uplands that are preserved or restored native habitats	Maximum density
0%	1 DU/ 10 acres
5%	1 DU/ 9 acres
10%	1 DU/ 8 acres
15%	1 DU/ 7 acres
20%	1 DU/ 6 acres
30%	1 DU/ 5 acres
40%	1 DU/ 4 acres
50%	1 DU/ 3 acres
60%	1 DU/ 2 acres
70%	1/DU/ 1 acre

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The Greater Pine Island Community Plan Update has been sponsored as a community service by the Greater Pine Island Civic Association.

- Financial assistance has been provided by the Board of County Commissioners, the Florida Department of Community Affairs, and the Elizabeth Ordway Dunn Foundation with assistance from the Florida Wildlife Federation.

- Pine Island, Little Pine Island and Matlacha are collectively referred to in this plan update as Greater Pine Island, or Pine Island.
- The existing Goal 14 of the Lee Plan was based on a community plan prepared by the Greater Pine Island Civic Association in 1989.

- The Greater Pine Island Community Plan makes recommendations for updating Goal 14 and supporting Policies of the Lee Plan.

The Pine Island Community, through recommendations contained in the Greater Pine Island Community Plan has expressed a desire for the following actions:

- Lee County should establish Policies that will improve hurricane evacuation times.

- Recognizing that Pine Island Road through Matlacha is the sole evacuation route in the event of a hurricane, the Community wishes to slow development on Pine Island as the carrying capacity of Pine Island Road through Matlacha is reached.

- Both enhance the seven village communities on Pine Island and encourage the preservation and restoration of native habitats within the remaining upland areas designated as "Rural" on the County's Future Land use Map.

- Modify the future land use map to reflect the 1989 community plan boundaries including Pine Island, Little Pine Island, Matlacha and the Matlacha Isles.

- Augment Lee County's architectural standards with additional design standards specific to Greater Pine Island. Those standards will attempt to encourage rehabilitation over demolition, smaller buildings rather than larger ones, custom designs as opposed to standardized buildings, preservation of mature trees, parking restricted to the side and rear of buildings, large windows, and other architectural features of traditional "Old Florida" style.

- Lee County should make every effort to complete a bicycle path across the entire length of Pine Island along Stringfellow road.

- New residential neighborhoods should be required to encourage several connections and limit isolated designs.

- Encourage Lee County to continue to update its historic site inventory to include historic sites and buildings in St. James City, Pineland and Bokeelia and to identify potential buildings or districts for inclusion on the National Register of Historic Places.

- Modify comprehensive plan policy 14.3.3 and include a new section in the Land Development Code to strengthen the limitations on building heights on Greater Pine Island.

- Supplement the sign regulations to provide specific standards for the Pine Island Community that would encourage smaller signs on businesses and would reduce or prohibit unwanted sign types.

- Eliminate zoning designations on Greater Pine Island that do not accurately reflect development potential under the Lee Plan.

- Amend the Vision 2020 section of the Lee Plan to include an updated summary of the community vision based on the Greater Pine Island Community Plan Update.

- Modify Policy 14.1.5 regarding maintaining a 50-foot native vegetative buffer strip to include all new development and all agricultural uses.

- Have Lee County design a program to assess the condition of septic tank drainfields within one year and if serious degradation is found to exist to assess the feasibility of various corrective measures.

D. BACKGROUND INFORMATION

The following background information was provided by Spikowski and Associates:

Pine Island has a long history of community planning efforts. The first formal regulations for Pine Island were adopted in 1977, when a 35' building height limit and a 10 DU/acre density cap were imposed for the entire Greater Pine Island area at the urging of local residents (Ordinances 77-15 and 78-19).

In 1983 when the original Lee Plan future land use map was being contemplated, a committee of the Greater Pine Island Civic Association (GPICA) formulated and debated several map alternatives, one of which was adopted into the 1984 Lee Plan.

Several years later, Lee County updated its comprehensive plan in accordance with the state's 1985-86 growth management act. During that same period, the GPICA hired a planning consultant and formulated a complete community plan, now addressing natural resources, transportation, and historic resources in addition to residential and commercial land uses. This plan was incorporated by Lee County as Goal 16 of the 1989 Lee Plan. (Some changes were made in 1990 as a result of litigation between the Department of Community Affairs, most importantly the setting of the 810- and 910-trip thresholds on Pine Island Road to trigger additional growth controls.)

A number of amendments to Goal 16 were proposed several years later by the GPICA, and Lee County itself evaluated all of Goal 16 as part of its first "evaluation and appraisal report" on the 1989 Lee Plan. As a result of these efforts, some modifications were made in 1994 to the policies under Goal 16, including the reassignment of all Greater Pine Island objectives and policies to Goal 14.

The current community plan update for Greater Pine Island began in 1999. The board of county commissioners made an initial "seed money" grant of $5,000 shortly thereafter. Due to general countywide controversies over community planning, no further county funds were available, thus the remainder of the current effort was funded through other sources, including private fund raising by Pine Island residents, a technical assistance grant from the Florida Department of Community Affairs (administered by Lee County), and a grant from the Elizabeth Ordway Dunn Foundation. The current community plan was completed in September, 2001. The GPICA has indicated it may seek further financial support from Lee County to assist county staff in implementing this community plan update.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The proposed privately-initiated amendment application was received by the County on September 25, 2001. Planning staff provided copies of the proposed amendment and requested comments from various County departments, including:

- Public Safety
- EMS Division
- Lee County Sheriff

- Natural Resources Division
- Lee Tran
- Parks and Recreation
- School District of Lee County
- Lee County Department of Transportation
- Development Services Division
- Environmental Sciences Division
- Lee County Port Authority
- Economic Development
- Public Works Department
- Utilities Division
- Zoning Division
- Lee County Health Department

Comments were received from the Lee County Health Department, the Department of Transportation, the Division of Natural Resources, the Division of Public Safety and Lee County Utilities. Those comments are attached to this report.

Goal 14 of the Lee Plan began as a grass roots effort by the Greater Pine Island Civic association in 1989 with their creation of a community plan for the Greater Pine Island area which included Pine Island, Little Pine Island and Matlacha. Over ten years have passed since Goal 14 and its supporting Objectives and Policies and map were adopted. Since the adoption of Goal 14, many changes have occurred in the area covered by the original community plan that were not anticipated at that time. Agricultural uses on the northern half of Pine Island have steadily increased, residential growth has slowed and traffic volumes have increased to a level of serious concern.

The Greater Pine Island Community Plan Update is organized into the four general areas listed below. The plan then identifies several more specific areas of concern which are summarized below by staff.

1. **Transportation Issues** - Increasing hurricane evacuation times and road constraints, especially at the Matlacha bridge are a serious concern to the Greater Pine Island Community. Traffic on Pine Island Road is quickly approaching target levels that were set in the 1989 plan. Revised policies aimed at limiting the number of vehicle trips on that section of Pine Island Road to address those concerns are proposed.

2. **Population and Land Use** - This plan update distinguishes between two general categories of residential land use in Greater Pine Island. Those uses are the Town (village) boundaries and the remaining uplands outside of the village boundaries that have been designated "Rural" on the future land use map. Much of the "Rural" land use has been converted to agricultural uses in the past decade, resulting in a significant loss of native habitat on those lands. In an effort to preserve and restore native habitat, a new land use category has been proposed that would significantly reduce allowable building density if specific native land preservation or restoration requirements are not satisfied.

3. **Community Character -** The Community Plan Update highlights several characteristics of Pine Island in need of protection or improvement and proposes policies aimed at either maintaining or enhancing the general appearance and functionality of the Pine Island Community. The general areas of concern include the design of commercial buildings, the continuation of a high-quality bicycle path along Stringfellow Road, neighborhood connectivity, including stricter limitations on fences and walls, identification of additional historic buildings and districts, building height limitations and enhanced design guidelines for business signs. The plan update also includes a policy for the county to establish a prioritized schedule to rezone land to designations that more accurately reflect its development potential. Lastly, this section proposes a new Vision Statement for the community and includes a brief discussion of incorporation.

4. **The Environment -** The community has expressed serious concerns about protecting aquatic preserves from surface water runoff and is proposing a policy aimed at diminishing this problem. Also of concern is the potential contamination of tidal waters in canals from poorly functioning septic systems and the community is proposing a policy that will require Lee County to design a program to assess the condition of septic tank drainfields along salt water canals in St. James City, Bokeelia and Flamingo Bay. This section ends with a brief discussion of concerns about jet-skis and air boats.

The planning consultant drafted a new Vision Statement, a revised Goal and revised Policies to address the concerns in the four general areas listed above. The intent was that those proposed modifications to the Vision Statement, Goal 14 and Objective 1.4 would eventually be incorporated into the Lee Plan.

Staff's initial comments were forwarded to the consultant who then responded to each of the comments in a letter dated February 27, 2002. Staff's initial comments came from Lee County Utilities, Division of Natural Resources, Division of Public Safety, Department of Transportation, and the Florida/Lee County Health Department. The consultant's response included some revisions to the original submittal addressing many of the comments. Those revisions have been incorporated into this report and where applicable, replace the original submittal language. The February 27, 2002 letter mentioned above highlights those changes and is included as an appendix to this report.

The following section of this report includes a proposed new Vision Statement, a revised Goal 14, new and revised Policies under Goal 14, and a new Policy under Objective 1.4. Only those sections of Goal 14 that are proposed to be revised or sections of Goal 14 and Objective 1.4 that are new are included below. The applicants suggested revisions are presented in strike-through, underline format. Staff's suggested changes are in bold strike through, bold underline format. Following each modification are comments and suggestions from Staff. Please note that the word "shall" has been replaced with "will" or "must" throughout the proposal in order to correspond with current language in the rest of the Lee Plan.

VISION STATEMENT:

~~**Pine Island** - This community includes the major islands of Pine Island, Little Pine Island, and Matlacha, the surrounding smaller islands, and the previously mentioned enclaves in the City of Cape Coral. This community has an overall identity of Pine Island; however, there are four sub~~

~~community centers within the overall community. The four areas within the Pine Island Community are: Bokeelia at the northern tip, St. James City at the southern tip of the island, and Matlacha which is a small island between the mainland and Pine Island. The Pine Island community is similar to the other island communities in that the residents leave the islands to satisfy many of their commercial needs. However, unlike the other island communities, Pine Island does not have a substantial amount of tourist oriented commercial. Since the Pine Island community does not contain the gulf front beaches the other island communities have, this is not expected to change during the life of the plan. This community will add a small amount of new commercial by 2020 to meet the daily needs of residents; however, Pine Island community residents will still satisfy most of their commercial needs outside of their community. The population of this community will also grow from 8,400 permanent residents in 1996 to approximately 9,700 residents in 2020 and a total seasonal population of nearly 15,000. Pine Island is also different from the other island communities in that it has a much higher percentage of non-seasonal residents. (Added by Ordinance No. 99-15)~~

Pine Island - This community includes Greater Pine Island as described under Goal 14 along with surrounding smaller islands and some unincorporated enclaves near Cape Coral. Its future, as seen by Pine Islanders, will be a matter of maintaining an equilibrium between modes growth on the one hand and a fragile ecology on the other. Pine Island will continue to be a haven between **~~urban sprawl~~ intensive development** approaching from the mainland and the wealth of the outer islands: a quiet place of family businesses, school children, and retirees enjoying the bounties of nature; a place devoid of high-rises, strip malls, and gated communities. Traffic constraints caused by the narrow road link to the mainland will limit future development, allowing the islands to evacuate from storms and protecting natural lands from unsustainable development. Wildlife and native vegetation will be protected; loss of wildlife habitat will be reversed; sidewalks and bike paths will connect neighborhoods for young and old alike. Architectural standards for commercial buildings will encourage "Old Florida" styles, and historic buildings will be treasured. Pine Island will continue to be a place where people and nature exist in harmony, a place not very different from what it is today, an island as state-of-mind as much as a physical entity, its best features preserved and enhanced. Pine Islanders are historically vigilant about protecting their community and will work to ensure that their plans are carried out.

Staff feels that while there may be some merit to applying the term "urban sprawl" to the development that is occurring in northwest Cape Coral at this time, with the projected population growth estimated to occur over the next 20 years, those "sprawling" developments may be compact, contiguous and sustainable in the future and will no longer fit the definition of sprawl. Staff feels by using the term "more intense development" that the phrase will be accurate both today and in years to come.

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

- ~~shall~~**will** be implemented through the notice-of-clearing process in chapter 14 of the land development code;

- ~~shall~~**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 ~~shall~~**will** be established within three years of issuance of the notice of clearing.

The proposed amendment to Policy 14.1.5 expands the policy to cover new subdivisions and agriculture that adjoin state-designated aquatic preserves and associated wetlands. Staff feels that the inclusion of wetlands is important and that it improves the Policy. This amended language also replaces the word "provide" with "preserve or create" which is more clear. For agriculture, three methods of implementation of the Policy are described, and staff feels this is another improvement to the current Policy.

> **POLICY 14.1.7:** Lee County ~~shall~~ **will** design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay **if grant funding can be obtained and if property owners are willing to cooperate with the study**. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County ~~shall~~ **will** assess the feasibility of various corrective measures.

The Florida, Lee County Health Department has indicated to the consultant that grant funding is available to pay for this type of service and that they have previously been awarded such a grant but were unable to utilize the funding because of lack of cooperation from property owners. Implementation of this policy will require both a source of funding and the cooperation of property owners in the study area, therefore, staff feels those conditions should be made a part of this policy language.

> **POLICY 14.1.8:** The county ~~shall~~ reclassifi~~ed~~**ed** all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation ~~are~~ **was** to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island that can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide land owners with maximum flexibility while accomplishing these public purposes.

Implementation of this policy will allow for current allowable densities of 1 dwelling unit per acre only if 70% of the total site area is preserved or restored with native habitat. To accomplish that goal the policy allows for clustering developments on the remaining 30% of the property, thereby reducing lot sizes to less that 0.3 acre given the need for streets and other infrastructure. The policy would reduce allowable density on a sliding scale to allow for only 1 dwelling unit per ten acres if no native habitat is preserved or restored. That situation would represent a ten-fold reduction in allowable density from the current Rural land use category of 1 dwelling unit per acre. Staff modified the tense of the policy as this action is being accomplished as part of this amendment. In order to implement Policy 14.1.8 a new land use category under Objective 1.4 will need to be created.

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,~~800~~675 additional dwelling units, the county ~~will consider for adoption~~ **~~shall~~ will** keep in force development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of~~ Tthese regulations ~~would be to appropriately~~ **~~shall~~ will** reduce certain types of approvals at established thresholds prior to the ~~adopted level-of-service standard~~ capacity of Pine Island Road being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches **~~810~~ 768 peak season,** peak hour, **~~annual average two-way~~ peak direction** trips, the regulations ~~will provide restrictions on~~ **~~shall~~ will** restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.

- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow boulevard~~ reaches ~~910~~ 864 **peak season,** peak hour, **~~annual average two-way~~** peak direction trips, the regulations ~~will provide restrictions on~~ **~~shall~~ will** restrict the further issuance of residential development orders ~~(pursuant to the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.~~ to one-third the maximum density otherwise allowed on that property.

The **~~810~~ 768** and **~~910~~ 864** thresholds were based on 80% and 90% of level-of-service ~~"D"~~ **"E" peak season, peak hour, peak direction** capacity calculated using the **latest FDOT software (March, 2002)** ~~**1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update**~~. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.

Lee County Department of Transportation has recalculated the 810/910 development limitation standards using the most recent software for calculating service volumes (capacities) released by the Florida department of Transportation in March. DOT staff recalculated the capacity for the entire section of Pine Island Road from Stringfellow Road to Burnt Store road using the new software. DOT calculations include a peak season, peak hour factor (K-factor) and a peak direction factor (D-factor) as inputs, so they represent *peak season, peak hour, peak direction* conditions. The current policy language refers to *peak hour, annual average, two-way trips.*

In addition, DOT staff feels there is an inconsistency with the regulatory level of service standard applied on County roads, which is "E", and the reliance in this case on a percentage of the level of service "D" capacity. The analysis in Appendix A indicates that the use of level of service "D" was purposeful, but DOT staff feels it would be better to be consistent throughout the plan on the use of the level of service standard relied on for regulatory purposes. Therefore, DOT staff proposes to modify the standard in Policy

14.2.2 to establish the development thresholds at 80% and 90% of the peak season, peak hour, peak direction conditions at the level of service "E" capacity. Relying on the new peak season, peak hour, peak direction level of service "E" capacity calculated above (960), the 80% threshold would be 768 trips and the 90% threshold would be 864. As a point of reference, the latest Lee County Concurrency Management Report indicates that the current peak season, peak hour, peak direction volume on this segment of Pine Island Road is 627.

Complete comments by DOT staff are attached to this report in a Memo dated April 16, 2002.

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

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

- Improvements to Burnt Store Road and Pine Island Road to the east of Burnt Store that will prevent premature closure of those roads during an evacuation, closures which now limit the number of Greater Pine Island and Cape Coral residents able to evacuate.

POLICY 14.2.4: The county **~~shall~~ will** make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland that was completed in 2001. **~~Where needed to provide a high-quality bicycle path, power poles and swales should be relocated to avoid unnecessary jogs in the bike path.~~**

Staff has objections to the last sentence of this proposed Policy. First, what defines a "high-quality" bicycle path? Second, if the intent of this Policy is to require relocation of power poles and swales to create a straight path regardless of cost, then staff is opposed. Staff believes that the previous sentence stating that "Whenever possible, this path should be designed as a major public amenity similar to the high-quality design used for the bicycle path north of Pineland...." adequately states the communities desire for a high quality bicycle path along Stringfellow Road and does not believe that relocating power poles for the sole purpose of creating a path without curves is economically prudent or necessary. Staff recommends that the last sentence of this Policy be removed.

POLICY 14.3.3: The county's ~~zoning regulations will~~ Land Development Code **~~shall~~ will** continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions **~~shall~~ will** not be measured from minimum flood elevations nor **~~shall~~ will** increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.

This Policy does not change the spirit of Policy 14.3.3, it merely removes the possibility that deviations to the height restrictions may be sought and approved, as currently exists and reinforces the language of how height will and will not be measured. The applicant is asking that the Land Development Code be amended to include the language of Policy 14.3.3. If the language of Policy 14.3.3 is approved, the next scheduled deadline for Land Development Code amendment applications will be in the Fall, 2002.

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

Staff does not feel it is appropriate to state in this Policy that the county will amend its land development code to provide specific regulations without having the opportunity to review what those specific regulations will be. Staff is supports considering those land development code amendments and feels that language is important for this Policy and would be more accurate. Those proposed amendments would have to be initiated by the Greater Pine Island Community or their representative and would be subject to all Land Development Code amendment procedures. The next scheduled deadline for Land Development Code amendment applications will be in the Fall, 2002.

> **POLICY 14.4.3:** The county **will** ~~shall~~ expand the commercial design standards in its Land Development Code to provide specific architectural and site design standards for Greater Pine Island **if an acceptable proposal is submitted by the Greater Pine Island community**. These standards **would promote but not mandate** ~~will favor~~ rehabilitation over demolition; require smaller rather than larger buildings; avoid standardized franchise buildings; preserve mature trees wherever possible; place most parking to the side and rear; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles. **The new commercial design standards will reflect the different characteristics of Bokeelia, Pineland, Matlacha, and St. James City.**

Staff does not feel it is appropriate to state in this Policy that the county will amend its land development code to provide specific regulations without having the opportunity to review what those specific regulations will be. Staff is supports considering those land development code amendments and feels that language is important for this Policy and would be more accurate. Those proposed amendments would have to be initiated by the Greater Pine Island Community or their representative and would be subject to all Land Development Code amendment procedures. The next scheduled deadline for Land Development Code amendment applications will be in the Fall, 2002.

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

Staff's comment about proposed Policy 14.4.3 also applies to this proposed policy.

POLICY 14.4.5: The county ~~shall~~ **will** establish a prioritized schedule for ~~a five-year~~ **an** effort to rezone land to zoning districts that properly reflect its development potential under the Lee Plan.

The Department of Community Development prepared a July, 1989, Commercial Study report for Pine Island and based on the recommendations contained in that report subsequently began the process of rezoning land on Pine Island to properly reflect its development potential under the Lee Plan. That rezoning process was halted after the County received numerous complaints from property owners on Pine Island about the process. Staff does not believe that County initiated rezonings would proceed any better today, or in the next five years, than they did during the last attempt at rezoning property on Pine Island.

Staff does not object to the Policy, in general, but feels that a five year time frame for completing County initiated rezonings on Pine Island is unrealistic and would very difficult to achieve, given the current workload of staff. Staff recommends that the Policy stand essentially as written, with the exception that the five year time frame be stricken from the Policy.

POLICY 14.5.4: The county ~~shall~~ **will** update its historic sites survey of Greater Pine Island if an update is determined to be needed. The county ~~shall~~ **will** consider formal local designation of additional historic buildings, especially in St. James City, Pineland, and Bokeelia, and ~~shall~~ **will** identify potential buildings or districts for the National Register of Historic Places.

Staff does not have a problem with the Policy as it is written; however, does not have adequate personnel to undertake the activity in the foreseeable future. It is possible that summer interns could be used to begin preliminary field work and to conduct some necessary research. Another possibility is to use some of the funds in the Division of Planning budget set aside for consulting services to hire a consultant to complete the requested historic site survey if that is determined to be needed.

Proposed new comprehensive plan policy establishing a new non-urban designation on the county's Future Land Use Map:

The following proposed policy will be necessary to implement the requirements of Policy 14.1.8 listed above.

POLICY 1.4.7: The Coastal Rural areas are uplands on Pine Island that were redesignated in accordance with Policy 14.1.8. These lands are to remain rural except for portions of individual properties whose owners choose to permanently preserve or restore native upland habitats and in return are permitted to use a portion of their properties for smaller residential lots. The standard maximum **density is one** dwelling unit per ten acres (1DU/10 acres). Maximum densities increase as ~~various~~ **higher** percentages of **the uplands portion of the site have their** native **habitat** ~~uplands are~~ permanently preserved or restored. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:

Both staff and the applicants consultant feel that the revised language is more clear. The title of the first column of the following chart has also been revised.

Percentage of **the site area that is covered by** preserved or restored native habitats	Maximum density
0%	1 DU/ 10 acres
5%	1 DU/ 9 acres
10%	1 DU/ 8 acres
15%	1 DU/ 7 acres
20%	1 DU/ 6 acres
30%	1 DU/ 5 acres
40%	1 DU/ 4 acres
50%	1 DU/ 3 acres
60%	1 DU/ 2 acres
70%	1 DU/ 1 acre

Proposed Policies 1.4.7 and 14.1.8 will create a new Coastal Rural Land Use designation and establish a sliding scale of allowable densities for properties that are currently in the Rural Land Use category based on the amount of native vegetation that is preserved or restored on the upland portion of a site. The effect of those Policies would be as follows:

1. Reduce the development potential of large tracts of land, thereby restricting density on the Island; or

2. increase the amount of native vegetation on the Island; or

3. both 1 and 2.

Staff believes that restricting density on the island is justifiable given the likely road constraints during a possible evacuation of the island. Staff also feels that increasing the amount of native vegetation on the island will be beneficial.

FUTURE LAND USE MAP AMENDMENTS

The Community Plan is proposing 2 separate Future Land Use Map amendments. These are as follows:

- Amend the future land use map to reclassify all land on Pine Island now designated as "Rural" into the new "Coastal Rural" category; and,

- amend the future land use map to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates in 31-43-22, bounded by Quail Trail on the west, Barrancas Street on the north, Stringfellow on the east, Unit A of Rapid #1 subdivision (Cobb Road) on the north, the quarter section line of Section 31 on the east, and Pinehurt Acres and September Estates on the south.

Amending the Rural designated lands on Pine Island to the proposed Coastal Rural category affects approximately 7,600 acres of land on Pine Island. Staff notes that the Greater Pine Island Community plan Update report provides that placing the Rural designated land of Pine Island into the Coastal Rural category responds to three identified problems:

> the absence of any meaningful effort to protect even the best remaining native habitats from agricultural clearing;
>
> the potential for residential development at 1 DU/acre that would result in neither "town" nor "country" conditions; and
>
> the potential for adding even more dwelling units that cannot be sustained by the limited road connections to the mainland.

The proposed amendment does not necessarily reduce allowable density on a subject site. Proposed Policy 1.4.7 creates a criteria that must be utilized to obtain approvals for the maximum permittable density of 1 dwelling unit per acre. This criteria is a sliding scale of dwelling units per acre based upon the percentage of a total sites preservation or restoration of native habitats. An applicant with a site that contains 100% indigenous vegetation can achieve the same density as is permitted under the Rural designation by limiting impacts to the vegetation to 30% of the site. An applicant with a totally cleared site with no native habitat would have to restore 70% of the site to achieve the same density as is permitted under the Rural designation. As the Update report notes, the sliding scale allows the property owners to choose any point on the scale. While this does increase development costs, it affords the property owner the ability to achieve the maximum density allowed under the Rural designation.

Figure 2, of the Update report shows the 157 acres located in northern Pine Island south of Bokeelia. Current allowable density on that land is three dwelling units per acre. The proposed land use change would lower allowable densities to a maximum of one dwelling unit per acre, if native vegetation on 70% of the site is preserved or restored. That action may lower personal property values and could have Bert Harris Act implications. The Plan Update document provides the following discussion concerning this property:

> *"The third exception, south of Bokeelia, is the most incongruous. This entire acreage is now in intense agricultural use, with much of it cleared during the past decade (see Figure 2). Apparently it had been considered as a potential expansion of the Bokeelia urban area. Since that time, the landowners have clearly indicated a preference for agriculture and have made no efforts to develop any of the land residentially. Thus these 157 acres should be reclassified to whatever designation is ultimately assigned to the rural lands to their east and west."*

One member of the LPA questioned, at the March hearing, whether the affected property owners had been notified of the proposed land use amendment. The applicant's representative responded that the on-going community planning effort had been widely advertised but that individual notice would be provided. Spikowski Planning Associates has provided, to staff (Attached), a copy of a letter and information that was sent to these affected property owners.

Staff recognizes the likely constraints on the roadways in the event of a possible evacuation. A reduction of density would be beneficial in limiting congestion of the evacuation route. Staff weighed this factor with the Bert Harris Act implications in recommending that the Future Land Use Map be amended.

FUTURE LAND DEVELOPMENT CODE AMENDMENTS

The Community Plan proposes several future amendments to Lee County's Land Development Code. Topics for potential LDC amendments range from compatibility of commercial uses with adjacent residences, sign regulations, building heights, and architectural standards for new development. Staff has amended the proposed plan language in several instances, as noted above, to require the Greater Pine Island Community to be responsible for submitting the requested Land Development Code amendments during one of the two regularly scheduled amendment cycles occurring in the Spring and Fall.

B. CONCLUSIONS

The proposed revised Vision Statement, Goal and Policies are the result of over a two-year long planning process. They directly reflect the vision that the Pine Island Community has for its future growth and development. Staff believes that this amendment should be viewed as another step in a continuous process that addresses planning needs in Pine Island. Many issues have been addressed through this amendment, but there are others, such as those policies (or portions thereof) that staff has recommended for deletion, that will require more consideration in the future.

C. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners transmit the proposed amendment with staff's recommended language as shown in Part I, Section C.1of this report.

PART III - LOCAL PLANNING AGENCY REVIEW

DATE OF PUBLIC HEARING: **March 25, 2002**

A. LOCAL PLANNING AGENCY REVIEW

The Local Planning Agency held an informational hearing on this date, no staff report was presented and no formal action took place by the LPA. The stated purpose of the hearing was to brief the LPA members on the status of the request, allow the applicant to discuss the proposal, and to allow the public to have the opportunity to provide comments concerning the proposed language. Planning staff introduced the proposed request to amend the Future Land Use element of the Lee Plan. Staff passed out comments from the applicant's planning consultant and introduced the planning consultant.

The planning consultant relayed the historical Pine Island planning efforts starting in the 1970s. The consultant stated that these early efforts culminated in complete community plan for Pine Island by 1989. The consultant then reviewed several new issues that had recently come up in the community such as: (1) an influx of agriculture since 1990; and, community character issues that had not been dealt with in the earlier plans. The consultant also explained that the applicant wanted to reexamine the traffic part of the plan because the traffic count had reached the 810 threshold that is referenced in Policy 14.2.2. The consultant provided the LPA with a discussion of how the planning effort was funded and the broad community involvement in preparing the plan. The consultant stated that three major public presentations had occurred on Pine Island. The consultant then outlined the public involvement, such as a survey, that had taken place as part of this effort. The consultant then covered "the major issues that the plan addresses." The major issues covered by the consultant were: (1) transportation concurrency; (2) Future Land Use category designation for a 157 acre area south of Bokeelia; (3) environmental issues on the island, such as applying the required 50 foot set back to the aquatic preserve to agricultural uses; (4) septic tanks and the proposed testing program; and, (5) community character issues. The consultant also stated that there were additional structures in the community that would benefit from historical designation.

The consultant also discussed the building height restriction on Pine Island. He stated the applicant was fine with the current rule, but the amendment is proposing to close potential loopholes in the regulations. The consultant ended his presentation by briefly discussing bike paths and the applicant's analysis of transportation alternatives.

One member of the LPA asked if the consultant could "give me a summary of your public participatory process and...how many meetings you've held." The consultant responded that the Steering Committee met every month all the way up until a few days before the final plan was submitted. The consultant also stated that the Chamber of Commerce had notified all of their members and distributed copies of the plan.

One LPA member asked if the property owners had been involved in the discussion about the proposal to amend the 157 acre area from Outlying Suburban to Rural. The consultant explained that the area had been farmed since 1990, but that he had not had a specific discussion with these property owners. The LPA member suggested contacting these owners.

The LPA chairman opened up the meeting to public comments. One local land use attorney, "representing a number of agricultural land owners on Pine Island," stated that he was not at the meeting to complain

about the process. He believed That "there has been a very good job of reaching out to the public." He noted that the plan amendment materials had also been on the consultant website which made the material "readily accessible." He discussed two sections of the plan that his clients have "substantive problems with," the coastal rural land use category and "the special concurrency section under Policy 14.2.2."

A Bokeelia resident, representing the Alden Pines Homeowners Association, read the following statement into the record: "The membership of the Alden Pines Homeowners Association unconditionally supports the revised version of Goal 14 of the Lee County Comprehensive Land Use Plan as submitted by the Greater Pine Island Land Use Committee. We applaud the hard work of the volunteer Land Use Committee for its dedication, expertise, and perseverance in revising this plan to reflect the interests of Greater Pine Island residents. We have been fully informed of its efforts and sincerely hope you will support the plan as written. Signed by the Chairman of the Autumn Pines Homeowners Association."

A resident of Bokeelia, representing the Captains Harbor Condominium group (a 76 unit condominium), read the following letter into the record:

> "It is my pleasure to report that the Board of Directors of the Captains Harbor Condominium Association voted unanimously to endorse the proposed land use plan for Pine Island. We ask that the Local Planning Agency recommend approval of the plan as currently proposed to the County Commission."

The Chairperson of the Land Use Committee, stated that she believed the Greater Pine Island Plan was done primarily due to hurricane problems and to protect the health, safety, and welfare of the residents on the Island. She reviewed the advertising processes that took place explaining that they invited and encouraged all resident and property owners to participate. She noted that each time the land use revisions were updated, they were printed out and placed in the Pine Island Library, Realty World in Matlacha, and the consultant's website. These updates were also distributed to everyone during the public meetings. She reviewed where they had received funds for the creation of this plan. She stated they had minutes from all of the meetings in writing and on tape and even had a County representative attend their committee meetings. She requested the LPA approve the amendment.

A local consultant representing Cherry Estates stated he worked on the 1989 plan and felt this proposal was a good, clear document. He referred to Page 3, Policy 14.2.2, and felt this section was not as clear as it should be. He discussed a situation that arose for Cherry Estates who had two undeveloped islands (8 & 9) and did not have development orders. He asked for some clarifying language that would recognize recorded plats and an 86-36 site plan approval as being protected. He was not satisfied with the language "may provide exceptions" and felt there should be stronger language.

One resident of Bokeelia, discussed the signage issue. Since Pine Island is a rural community, this resident felt they needed rural solutions and not be treated with a "one size fits all" mentality. She did not feel their signage should be addressed the same as U.S. 41. She stated there were signage solutions other than large billboards and signs that have worked in other areas, such as Maine, that still help direct people to small businesses that are off the main roads. She also discussed helping small businesses stay in business by getting residents to frequent their services and spending money on the Island. She also felt encouraging overnight tourism during summer months would be helpful to businesses in the area. She stated that

protecting jobs, the local economy, and provided services, would keep residents from having to leave the island for their needs. She encouraged the LPA to support this plan.

The President of the Greater Pine Island Chamber of Commerce, stated her family ran a tourism business (boats) on Pine Island. She stated that in Pine Island the residents enjoyed a country living surrounded by nature. She stated the residents wanted to preserve their land and peaceful way of life for as long as possible. She noted the Chamber of Commerce had 190 members, of which over 50% were involved in tourism. Although there is no great emphasis in the plan on tourism, she stated that tourism is an important issue as it affects Pine Island's roads and businesses. She noted the Chamber of Commerce was not opposed to businesses, but is focusing on small family owned businesses as opposed to big businesses. She had concerns about signage, jet skis, air boats and parasailing, which she believed were incompatible to an environment like Pine Island. She encouraged the LPA to approve the plan.

A member of the Lee County Council of Civic Association, read the following statement into the record: "The Lee County Council of Civic Association (CCA) is an organization of 180 plus various entities including civic, environmental, elected officials, building and development interest and community leaders. The CCA Board of Directors at the Board's February 28th meeting, voted unanimously to endorse the proposed Pine Island Community Plan and recommend to the Local Planning Agency that the plan be transmitted to the County Commission for approval."

A resident of Matlacha, noted there were almost 100 residents of Pine Island here earlier this morning. He encouraged the LPA to approve this plan in order to protect the Pine Island area. He noted that areas such as Estero and Bonita have been saturated with development, therefore, the development is now coming to Pine Island. The resident emphasized that this whole process has been inclusive and continues to be well publicized .

A resident of Pine Island, stated that the individuals involved in the Greater Pine Island plan were well informed, dedicated, conscientious and hardworking people. She stated that their efforts had saved the County a lot of money as well as staff time. She stated that this proposed plan included well documented consideration of the main issues facing Pine Island residents as well as alternatives and specific actions Lee County can choose to take to assure that recommended actions are implemented. She reiterated statements made earlier that Pine Island is a unique community due to its 1) natural resources (mangroves, aquatic preserves), 2) historical resources, and 3) sense of community mindedness. She reviewed the items she believed were most important to the plan, such as: 1) initiating changes to the future land use maps and plan to create the new coastal rural category and reclassifying the rural lands on Pine Island, 2) initiating a schedule for eliminating conflicts between the outdated county/zoning classifications that conflict with current Lee Plan goals and policies, 3) initiating buffer strip requirements for new developments between cleared land and natural water bodies, and 4) to initiate a Lee County program to assess the condition of septic system drain fields along the salt water canals in St. James City, Bokeelia, and Flamingo Bay. She encouraged the LPA to approve the plan as presented.

A local land use attorney and employee of the Florida Wildlife Federation stated that he volunteered his time to assist with this proposed plan because he loved Pine Island, worked for the Florida Wildlife Federation, and because he was a sportsman. He noted that Pine Island Sound was the center of sportsmen activities for Lee County. He felt this feature drew people to the area. He discussed some legal issues with

the Board involving clearing and restoring land, traffic capacity, hurricane evacuation, limiting rezonings, open space, and vested right provisions. He urged the LPA to approve the plan.

PART IV - LOCAL PLANNING AGENCY CONTINUED REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: **April 22, 2002**

A. LOCAL PLANNING AGENCY REVIEW

Three LPA members stated that they had conflicts of interest, would participate in the discussion, but abstain from voting. Planning staff gave a brief presentation concerning the proposed amendment. Staff explained the staff recommendation and the recent language changes. Staff passed out revised language for Policy 1.4.7. One LPA member referred to Policy 14.1.7 where in bold/underline it states, "if grant funding can be obtained." The member asked who would be responsible for searching out and obtaining grant funding (i.e. Lee County or the community). Staff responded that it would probably be a combination of the community ensuring that this kind of funding is being sought by these agencies as well as the agencies following through.

One LPA member asked if there was a map that would outline the properties that will now be Coastal Rural. Staff stated that a map would be provided. The map will be of all the rural designated lands on Pine Island, not the enclave areas over towards Cape Coral. It involves approximately 7600 acres as well as 157 acres that is being proposed to be amended from Outlying Suburban to this Coastal Rural.

At this point in the hearing DOT staff reviewed their recommendation concerning revisions to Policy 14.2.2. DOT staff stated that their recommended language reflects revised capacity calculations. Staff noted that the existing measure contained in Policy 14.2.2 is unique, not the usual measure of peak season, peak hour, peak direction. DOT staff relayed that the proposed revisions to this amendment raise two policy issues: (1)should we recalculate the measure; and, (2) do you use 80% or 90% of level of service D or E.

The Chairman of the LPA opened up the meeting to public comments. The applicant's planning consultant was the first public speaker. The planning consultant stated he did not have many issues to discuss because he was happy with what was being proposed by staff. He discussed the level of service portion of the plan and explained why he would prefer to stay with the current methodology with a few changes on how it is applied versus DOT's proposal. He referred to Policy 14.2.2 and discussed the wetland buffers and how they would apply along Pine Island Road. He noted that one LPA member had asked if they had contacted the owners of the 157 acres during the last meeting. The consultant stated he had since sent a letter to each of them, including four or five pages of the plan on how this would affect them.

One LPA member referred to Policy 1.4.7 Coastal Rural and stated he liked the idea and felt it was a clever approach, however, he felt the restoration standards could not be "cookie cutter" but needed to be site specific. He felt there needed to be a lot of input from the agricultural and landscape architectural interests and forestry interests because this could backfire. Another LPA member noted there had been a lot of discussion about the one unit per ten acres and he felt the issue had lost its focus. He gave his perspective

on this issue. He felt there was "much ado about nothing because the fact of the matter is there's more residential lots on Pine Island that you can absorb for the foreseeable future and likewise with commercial. There is over 600 acres of commercial property on Pine Island." He felt this was more commercial than they were going to need through the end of the current century. He did not feel the proposal was unreasonable at all. He felt this policy provided a mechanism to keep Pine Island looking like Pine Island on into the future.

One LPA member referred to the Policy 14.2.2 discussion and the applicant's planning consultant's concern about adopting a different method. He and the consultant discussed how dramatic this new procedure would be and the difference between using Level of Service E with the peak hour, peak season, peak direction versus using today's method (Level of Service D - annual average peak hour). The consultant stated that the DOT recommended language would allow "way more growth," and change all of the expectations about development on Pine Island.

A resident of Bokeelia on Pine Island, noted she had a list of the attendees who were present today. At the last meeting, they had 93 attendees and 54 attendees present today. She read into the record support received from the Bocilla Island Club (59 units and a hundred plus residents), Captain Mack's and Buttonwood Mobile Home Parks (36 units, 70 residents), Cherry Estates (450 homeowners), The Emergency Response Team of Greater Pine Island, Matlacha Hookers Association (a nonprofit women's group in Matlacha - 400 members), Pine Island Cove (318 residents), September Estates Subdivision (114 residents), St. James Civic Association, and several letters that were e-mailed. This resident also stated that "the Greater Pine Island land use plan is smart growth in action."

The President of the Greater Pine Island Chamber of Commerce read a letter of support from the Board of Directors for the Greater Pine Island Chamber of Commerce.

A member of the public referred to Policy 14.2.2 and stated that when they did the original sector plan for Pine Island, they picked 80 and 90 percent of LOS D rather arbitrarily, but explained they needed a number where they could start to shift the balance between new development and protection of the property rights of thousands of owners of vacant lots on Pine Island. He did not feel it mattered what numbers there were. He did not agree with the proposal to make it 80 and 90 percent of LOS E because it says the County will wait until they are almost at gridlock on Pine Island Road before anything is done to protect the property rights of approximately 6,000 lot owners.

One member of the public, speaking on behalf of the Responsible Growth Management Coalition, distributed a copy of the letter written by the, President of the Growth Management Coalition, and read it into the record. The letter requested that the LPA approve the applicant proposed revisions to Policy 14.2.2.

One Pine Island resident discussed the amount of existing development approvals on the island and Policy 14.2.2. This speaker concluded that "to set thresholds and then reset them when they are met in a continuous fashion is not land planning at all." The speaker urged the LPA member to not support the DOT recommended language concerning Policy 14.2.2.

One resident of Pine Island, stated he liked 95 percent of the plan and would support it, but he had a few problems with the taking of property rights and some new limitations that are going to be placed on property values. He read passages from the Bert Harris, Jr. Act which states, "when a specific action of a governmental entity has inordinately burdened an existing use of real property or a vested right to a specific use of real property, the property owner of that property is entitled to relief, which may include compensation for the actual loss to the fair market value of the real property caused by the government action." It seemed clear to him that if you take away an existing use, you owe the property owner a compensation. He noted they define "inordinately burdened" to mean an action of one or more governmental entities who have directly restricted or limited the use of real property such that the property owner is permanently unable to attain a reasonable investment back for the existing use of that real property." He also gave his views on the traffic count numbers and hurricane evacuation capability. In summary, he was in favor of 95 percent of the plan, except for Section 14.2..2. He did not want to see his property rights removed based on tourist traffic.

A Pine Island resident stated she was in support of the proposed Pine Island community plan the way it is presented from the Pine Island residents. She felt it was well-researched, documented and it contained thorough analysis and alternatives. She believed it was built on community consensus. She offered three more ideas for consideration: 1) the proposed community plan with the exception of the recommended changes to the traffic count methods is consistent with the Charlotte Harbor Aquatic Preserve Management Plan as well as the Charlotte Harbor National Estuary Program Comprehensive Conservation Management Plan., 2) she gave a reminder that Pine Island is unique in Lee County and in Southwest Florida because of its high quality natural resources as well as its sense of community. It is the only residential island in Southwest Florida that is surrounded by three aquatic preserves, 3) she wanted to reiterate the concerns raised today over the changes. She was not just referring to the methods used for calculating the traffic counts, but the concept of changing the level of service. By changing the level of service, the Board is opening the door to a much higher level of development and that brings with it the need for storm water management.

One Matlacha resident read a letter into the record from the Friends of the Matlacha Committee who were in support of the Pine Island Community Plan.

A local planning consultant first spoke on behalf of his client Cherry Estates. He expressed concern with language at the end of Policy 14.2.2 because his client's project has been ongoing since the early seventies and they have one section that is going to be rezoned because it is going from mobile homes to conventional homes. They also have three more sections they are going to need development orders on. He wanted the LPA to be aware of this concern because he did not believe there was any other property on Pine Island that would be affected by this. Secondly, he spoke on behalf of a local attorney from his firm. He stated that this attorney was concerned with the new Coastal Rural land use category and the revisions to Policy 14.2.2. He stated that this attorney would like to know what the standards for the restoration re-vegetation are. He noted that without this information you will be unable to determine what your cost will be. Without knowing the cost, you cannot know whether or not it will be an inordinate burden. He noted there was a significant reduction in density, especially when the 910 threshold is crossed. He noted that this attorney did not believe there was sufficient data and analysis to justify the one-third number and wondered how staff derived at that number.

The President of the St. James City Civic Association, stated that the 810/910 rule was not a change in methodology of calculation, but it was more a change of the traffic level. He read a statement of support for the proposed plan amendment into the record from the St. James City Civic Association.

A resident in Alden Pines, stated he not only was a resident, but he owned several vacant lots. He noted he was an attorney who works nationwide and it seemed to him that the problem dealt with Policy 14.2.2. He felt there were three questions to ask: 1) what can they legally do, 2) What is right, and 3) What is prudent. He was in favor of leaving the 810/910 rules as they are. He felt the County could get into trouble if they start changing things. He was not certain it would e defensible. He also disagreed with the addition of reduction in density to one-third the maximum density otherwise allowable.

A resident of Matlacha and elected Fire Commissioner, discussed fire service. He discussed how a tornado hit Pine Island in September 1990. He noted the residents were stuck on the Island for 2 ½ hours. He noted that if this had been a more serious occurrence, there would have been serious deaths because that road could not accommodate the emergency. He noted that in the year 2000 trucks had to obtain permits to go across the bridge in Matlacha because of the stress the traffic was putting there. He also noted that a week ago, just east of the bridge, an ambulance was held up because of the traffic gridlock there. He strongly urged the LPA to approve Policy 14.2.2 exactly as it currently exists to avoid potential lawsuits.

A resident of Bokeelia stated there were twice as many people living in the area then was there before. He noted that he had spent two hours in traffic one day due to a car and motorcycle collision. He felt there would be people in an evacuation situation that are gong to want to leave the island and some people will be coming back because they have children in school. He felt it would be a nightmare in an emergency situation.

A member of the public stated he owned some land personally and with a corporation at the beginning of Pine Island. His main concern was that his land was zoned and he is discussing the possibility of getting a development order to preserve his property rights. He did not feel he should have to do this, but he felt he needed to protect his vesting. He noted that in six years the development order would expire because there is not currently a market and one-third reduction would affect him. He felt the County should take into consideration a person's property rights and their investments when they come to this island and this County to invest in lands. Seeing no more interest, the chairman closed the hearing to public input and solicited LPA member comments.

One LPA member stated he would support the plan as presented and modified by staff with the exception of Policy 14.2.2. However, he felt it was possible to reconcile the new method with the need to retain the original limits to growth that were presented in the old method. In the interest of time and economy, he felt the LPA should go forward with and take out the staff's recommended language for Policy 14.2.2. Another LPA member stated she supported the applicant's language for Policy 14.2.2. She agreed with the applicant's planning consultant's comments that changing the levels now would be a betrayal of trust. However, she was not opposed to reworking the methodology and make the ultimate outcomes be comparable.

One LPA member asked where the one-third figure came from as a reduction in density under the 910 peak hour trip rule. The applicant's planning consultant stated this was his idea and he suggested it as a way to make the application of the 910 rule more lenient and easier on landowners.

A member of the LPA made a motion to recommend transmittal of the amendment as recommended by staff with the exception of Policy 14.2.2. The motion included recommending the applicant's requested language concerning Policy 14.2.2, as well as the revisions to Policies 14.2.3 and 1.4.7. The motion was seconded and the vote called for by the chairman.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. **RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit the proposed amendment to the Florida Department of Community Affairs.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** As advanced in the staff report; the LPA found the applicant's language concerning Policy 14.2.2 more appropriate.

C. VOTE:

NOEL ANDRESS	**ABSTAIN**
MATT BIXLER	**AYE**
SUSAN BROOKMAN	**AYE**
RONALD INGE	**ABSTAIN**
GORDON REIGELMAN	**ABSENT**
ROBERT SHELDON	**AYE**
GREG STUART	**ABSTAIN**

PART V - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT

DATE OF TRANSMITTAL HEARING: **September 5th, 2002**

A. BOARD REVIEW: Following a staff presentation of the proposed amendment the Board opened the hearing to public comment. There was considerable public comment on the proposal. Most of the public asked the Board to transmit the amendment as it was originally submitted. Several people spoke against the plan, primarily stating that it would remove property rights and actually encourage the destruction of vegetation on the island. One member of the public stated that the opposition was unfair because they had been working on the plan for two years, had numerous public meetings, had asked for public comment and were just now hearing the complaints. Following a call for additional public comment, and seeing none, the Chairman closed the hearing for public comments.

There were three main policies that the Board had concerns about. The first was Policy 14.2.2 regarding how trip calculations were to be done and what level of service would be used. The Board quickly decided to use the applicants language, and DOT staff did not object.

The second policy that was discussed at length was the placement of small directional signs in county Right-of-Way. Two Commissioners stated that due to not wanting to set a precedent for this policy county wide and because of concerns about liability and the added cost of maintenance to the county that they could not support this policy. Three members of the Board were in favor of transmittal and asked that some standards be arrived at prior to the adoption hearing.

Also of concern was potential Bert J. Harris Act implications involving Policy 1.4.7. That policy would potentially reduce allowable density in the proposed Coastal Rural Land Use category tenfold. A County Attorney explained that if adequate native vegetation was preserved or restored allowable densities would be the same as they are now. He then went on to say that he was unsure if Bert J. Harris litigation would be successful because there was no available case law for him to review.

One member of the Board recommended that the proposed amendment be transmitted without the language in Policy 14.4.4 that would allow for directional signs in the Right-of-Way of Stringfellow Road. That motion was seconded. Another member of the Board moved to amend the motion to transmit the proposed amendment as written. That motion was seconded. The vote on the amended motion carried 3-2. The Board then voted on the main motion to transmit the proposed amendment, including the sign proposal.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted to transmit the amendment to DCA as written.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff and the LPA.

C. VOTE ON REVISED MOTION TO TRANSMIT THE PROPOSED AMENDMENT:

JOHN ALBION	**AYE**
ANDREW COY	**AYE**
BOB JANES	**AYE**
RAY JUDAH	**AYE**
DOUG ST. CERNY	**AYE**

PART VI - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RESPONSE

PART VII - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

	_____
JOHN ALBION	_____
ANDREW COY	_____
BOB JANES	_____
RAY JUDAH	_____
DOUG ST. CERNY	_____

LEE COUNTY
SOUTHWEST FLORIDA

DEPARTMENT OF TRANSPORTATION

Memo

To: Jim Mudd, Principal Planner

From: David Loveland, Manager, Transportation Planning DHL

Date: November 26, 2001

Subject: **LCDOT COMMENTS ON DRAFT GREATER PINE ISLAND COMMUNITY PLAN UPDATE**

The Lee County Department of Transportation has reviewed the draft community plan update for Greater Pine Island dated September 30, 2001. On a general note, the plan documentation is very well written and presented in an easy-to-follow format, and the supporting data and analysis seems thorough. However, we have concerns about a couple of issues.

POLICY 14.2.3

The discussion on page 8 and in Appendix A suggests that adding a third lane on Pine Island Road would not be desirable, even though it is an option to be evaluated in existing Policy 14.2.3. The Matlacha Civic Association has apparently recently taken a position opposing the addition of a third lane through Matlacha. While some changes to Policy 14.2.3 are proposed on page 6 to address hurricane evacuation concerns, the language regarding evaluating a continuous third lane is retained in the policy. Perhaps the retention of this language should be reconsidered.

DEVELOPMENT LIMITATION STANDARD

Appendix A includes a fairly thorough discussion of the capacity calculations that led to the 810 and 910 traffic limitation standards and the changes in capacity calculations over time, but instead of actually calculating new capacities the report attempts to justify sticking with the old capacity calculations based on a comparison to Estero Boulevard. Staff feels the legal defensibility of the standard would be better served by calculating a new capacity based on the most up-to-date methods, even if some of the inputs for the calculation have to be estimated and even if the results are not much different.

Also, there is no attempt to reconcile the old standard, defined in terms of peak hour, annual average two-way trips, with the more modern standard used throughout the rest of the Lee Plan, which is peak season, peak hour, peak direction trips. Finally, the analysis

in Appendix A suggests that the level of service "D" capacity was purposely used to develop the 810/910 standards instead of the normal level of service "E" used for most other County roads. Assuming that policy position is retained, the policy would be much clearer if language was added that indicated the 810 and 910 standards were calculated as 80% and 90% of the level of service "D" capacity as calculated using the 1965 Highway Capacity Manual.

BIKE PATHS

We appreciate the recognition of Lee County efforts toward building a bike path along major portions of Stringfellow Road, and understand the completion of the path would be a high priority to Pine Islanders. Proposed new policy 14.2.4 reads as follows:

POLICY 14.2.4: The county shall make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity, not as an afterthought. Where needed to provide a high-quality bicycle path, power poles and swales should be relocated to avoid unnecessary jogs in the bicycle path.

It is not clear to staff what is meant by the second sentence – is there an example of a bike path being designed as an afterthought? If the intention is to indicate that bike paths should be part of the up-front design for a major road improvement, then the policy should say that – although no major road improvements are contemplated on Stringfellow Road.

As far as the third sentence, what defines a "high-quality" bicycle path? Who determines the need to relocate power poles and swales to provide such a high-quality path? The supporting analysis acknowledged that the reason for the jogs in the existing portions of the path was the costs of relocating the power poles. Is the intent of the third sentence to require the relocation of power poles and swales to create a straight path irregardless of cost? If so, staff objects to the inclusion of this sentence – limited dollars for sidewalk and bike path installation countywide requires us to seek the most cost-effective solutions.

Thank you for this opportunity to comment on the draft Greater Pine Island Community Plan Update. Please contact me if you have any questions.

DML/mlb

cc: Bill Spikowski
Greater Pine Island Civic Association
Donna Loibl, President, Matlacha Civic Association
Administrative File

From: Ivan Velez
To: Mudd, James
Date: 11/8/01 4:14PM
Subject: Greater Pine Island Community Plan Update

The following are comments from the Utilities Division with respect The G.P.I. Community Plan:

Septic Tanks Along Canals (page 36)

1. Appears that some of the statements made at the last paragraph of page 36 are based on perception and not in facts.
2. **Getting There:** The Utilities Division is not staffed and cannot execute the duties that must be added by implementing the modifications suggested to the Policy 14.1.7.

The Lee County Health Department is charged with some of the duties related to septic tanks and permit requirements.

S. Ivan Velez, P.E.
Prof. Engineer III
Lee County Utilities
941/479-8166
velezsi@leegov.com

CC: Diaz, Rick; Wegis, Howard

LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

E. Manning
ct One

las R. St. Cerny
ct Two

Judah
ct Three

ew W. Coy
ct Four

E. Albion
ct Five

ald D. Stilwell
nty Manager

es G. Yaeger
nty Attorney

a M. Parker
nty Hearing
miner

Writer's Direct Dial Number:_____

November 13, 2001

Mr. Paul O'Connor, Director
Lee County Division of Planning
P.O. Box 398
Fort Myers, FL 33902-0398

Re: Greater Pine Island Community Plan Update

Dear Paul:

We have reviewed the proposed update to this portion of the Lee Plan.

We have no objections to any of the proposed amendments; however, we would like to point out an issue in how the term "evacuation time" is defined as it relates to the discussion on page 5 of the document. On this page, the second footnote defines evacuation time which includes both a clearance time component (12 hours) and an pre-landfall hazards time component (8 hours). These two components are used together to come up with a 20 hour time frame for a category 2 (presumably a landfalling) hurricane. The third paragraph on this page then states this evacuation time exceeds both regional and county standards for evacuation times.

The recently completed 2001 Southwest Regional Hurricane Evacuation Study indicates a clearance time estimate between 8.0 - 10.8 hours for a category 2 landfalling storm occurring late in the hurricane season for Pine Island (p. II-B-48, Table 11). The evacuation time estimate for the same storm ranges from 13.6 hours to 17.2 hours taking into account the worst case assumptions (p. II-B-52, Table 13A).

The point we would like to make is that the way the Pine Island Community Plan Update defines evacuation time exceeds both the regional and county thresholds. However, the current clearance time and evacuation time estimates are below the language presented in both the Strategic Regional Policy Plan and the Lee County Comprehensive Plan, as defined by these planning documents. This is not to say that a hurricane evacuation problem does not exist on Pine Island, nor is the way the update defines evacuation time is incorrect for the purposes of defining policy.

Sincerely,

DIVISION OF PUBLIC SAFETY

John Wilson
Director

JDW:cmm

cc: Michael Bridges, Deputy Director
David Saniter, Emergency Programs Manager
Terry Kelly, Emergency Management Coordinator

From: Roland Ottolini
To: Mudd, James
Date: 11/28/01 2:28PM
Subject: Greater Pine Island Community Plan

modification to Policy 14.1.7 requires Lee County to develop a program to assess the impacts of septic systems on water quality for Pine Island and identify corrective measures (if needed) , within one year. Such an effort will require additional funding. This work may be better suited to the Health Dept. as they are the ones who are permitting the septic systems.

Roland Ottolini
Division Director, Natural Resources
ottolire@leegov.com
phone: (941) 479-8127
fax: (941) 479-8108

CC: Pellicer, Tony

Jeb Bush
Governor

FLORIDA DEPARTMENT OF HEALTH

John Agwunobi, M.D.
Secretary

February 4, 2002

Mr. Jim Mudd, Principal Planner
Department of Community Development
P.O. Box 398
Ft. Myers, Florida 33902-0398

Dear Mr. Mudd,

Thank you for your letter of January 22, 2002 requesting the Lee County Health Departments review of the draft community plan for Greater Pine Island. A review and comments have been made by members of our Environmental Health Section of those parts of the plan you have flagged.

Protecting Aquatic Preserves from Runoff page 34
The Lee County Health Department recognizes the importance of environmental issues associated with the sensitive wetland zones on Pine Island serving as habitat for aquatic and wetland-dependent wildlife and vegetative species. The proposed 50 foot vegetated buffer separating new development and agricultural land from sensitive areas would serve to capture contaminates and sediment. In addition, a storm water collection and reuse plant might be considered to help area irrigation and replenish groundwater.

Septic Tanks Along Canals page 36
The Pine Island Community Plan accurately describes the benefits and conversely the hazards associated with the use of onsite wastewater systems. A septic system is both simple in design and complex in its collection, treatment and disposal of wastewater. A 91 page Florida Administrative Code, Chapter 64E-6, regulates septic system installation. These legislated standards are the product of input from the engineering community, building industry, registered contractors, state environmental agency representatives, health officials and research data collected as a part of a state mandate funded from permit fees. The concerns expressed for bacterial and viral pollution on Pine Island resulting from porous soils, small lots, shallow wells, proximity to water bodies, seasonally inundated lands, high water tables and tidal influence are all concerns shared by health departments statewide. Fortunately, each of these is addressed in the administrative rule governing septic systems. Systems, both new and repaired are permitted only after a complete application and field evaluation along with a myriad of other compliance considerations are reviewed. It should be noted that Florida's requirements are among the most stringent in the nation due largely in part to such a diverse and sensitive environment. Lee County ranks number one in the issuance of new system permits statewide and yet boast only a 2.8% failure rate of new systems installed within a two-year period. These system failures are however seldom the result of poor installation construction but rather to occupant abuse of poor maintenance, excessive water use and the introduction of grease, oils and chemicals creating conditions deleterious to the systems operation.

LEE COUNTY
LEE COUNTY HEALTH DEPARTMENT
Judith Hartner, M.D., M.P.H.
Director

Environmental Health
3920 Michigan Avenue
Ft. Myers, Florida 33916

Telephone: 941-332-9556
FAX: 941-332-9609
Suncom : 743-1556

'er existing septic systems, such as might be found on Pine Island that experience failure must be permitted and repaired in accordance with present code standards. The code has changed many times over the years to accommodate new technology and concepts current with today's onsite wastewater research. For example, since 1994 all repaired drain beds are required to meet a minimum separation from the seasonal high water table. This often necessitates elevating the drain bed above the previous height. The repaired system location may also be altered to meet more stringent set backs when site conditions permit. This however may not always be possible due to pre-existing landscaping, driveways and building additions. Conditions that may contribute to environmental concerns on Pine Island may stem from illegal repair of failing systems without benefit of permit whereby corrections were made bypassing environmental safeguards provided under the rule. Periodic maintenance of septic systems is recommended and should be encouraged in any plan where there exists nearby sensitive lands or aquatic preserves. The leaching of untreated effluent containing elevated levels of nitrates, phosphates, bacteria, viruses and chemicals through the soils provides the potential for contamination of nearby water bodies. Testing for enteric bacterial contaminates of marine waters through the identification of fecal coliform and enterococci can be performed. Contamination can originate from birds, dogs, cats, livestock, other animals and humans. DNA testing, though expensive, can differentiate between animals and humans. There are laboratories locally and around the state that can provide the necessary testing services. These include the Lee County Lab, D.E. P. lab services and the University of Florida. Difficulty often arises in determining the source of human contamination once it is implicated, as possible sources include septic systems, public and private wastewater treatment facilities and live-a-boards docked at marinas and residences. If it is determined by various survey methods that septic systems are an obvious contributor a corrective action plan as suggested in the draft may be implemented, given available funding. Such a plan may be limited to single identified structures or as broad as entire communities and may include an inspection program, upgrading or maintenance upon home sale or extension of central sewer service collection lines for communities now served by septic systems or investor owned and poorly maintained treatment plants.

The Lee County Health Department is most willing to assist in any way possible where we have statutory responsibility and resources to ensure the environmental health of Lee County is protected in accordance with the highest standards provided by law.

If my staff or I can be of any further assistance in this matter please do not hesitate to call.

Sincerely,

Judith Hartner, MD, MPH, Director
Lee County Health Department
941-332-9510

cc: Joseph Barker, RS, Environmental Administrator
H. Michael Clevenger, RS, Environmental Supervisor

LEE COUNTY
SOUTHWEST FLORIDA

DEPARTMENT OF TRANSPORTATION

Memo

To: Jim Mudd, Principal Planner

From: David Loveland, Manager, Transportation Planning

Date: April 16, 2002

Subject: **LCDOT FINAL COMMENTS ON GREATER PINE ISLAND COMMUNITY PLAN UPDATE**

The consultant for the Greater Pine Island Community Plan Update in his letter of February 27, 2002 has done an excellent job addressing our comments of November 26, 2001, and we agree with most of his proposed language changes. However, in response to our request that the 810/910 development limitation standards be updated, since they are based on roadway capacity calculations done twelve or more years ago, the consultant declined. He indicated that he agreed with the need for the update, but cited a lack of essential input data for the Matlacha area as a basis for not doing the calculation. That same argument, along with a comparison to the most recent capacity calculations on Estero Boulevard which suggested that the new calculations wouldn't be much different, was included in Appendix A of the update. The consultant said in his February 27th letter, "We would be pleased if Lee County were to undertake this analysis at its most sophisticated level; it was simply beyond the budget of the community planning process and not essential for supporting a policy that has already been in force for a dozen years."

Staff disagrees with the premise that the recalculation is not essential, and feels the legal defensibility of the standard would be better served by calculating a new capacity based on the most up-to-date methods, even if some of the inputs for the calculation have to be estimated and even if the results are not much different. These calculations serve as a regulatory standard to limit development, and development denials based on such standards have the possibility of being challenged in court. Lee County would be hard-pressed to defend the reliance on twelve-year-old calculations when there have been significant changes in the calculation methodologies and the input data. We do not feel the calculation is as difficult as suggested by the consultant, and have undertaken it ourselves in the interest of protecting the County.

The most recent software for calculating service volumes (capacities) was released by the Florida Department of Transportation in March, and is called HIGHPLAN 1.0. Staff calculated the capacity for the entire section of Pine Island Road from Stringfellow Road

to Burnt Store Road using the new software. The software has a number of input variables, some of which we have site-specific information for and some of which rely on FDOT defaults. Because of the length of the segment we are dealing with (5.4) miles, there is some variation in the variables that required some averaging. For example, there are four different posted speeds within the segment, ranging from 30 mph to 55 mph. In examining the lengths of the different speed zones, staff developed a weighted average of 45 mph as an input to the software. There are also two different Area Types within the 5.4 mile segment; part would be considered Rural Undeveloped (about 61%) and part Rural Developed (about 39%). Staff calculated capacities under both scenarios and averaged them together using a weighted average system. The assumed input variables under each scenario are as follows:

INPUT VARIABLES

Area type:	Rural Undeveloped	Rural Developed	Field Data
Class:	4	3	Default
Posted Speed:	45	45	Field Data (Avg.)
Free Flow Speed:	50	50	Default
Pass Lane Spacing:	N/A	N/A	
# Thru Lanes:	2	2	Field Data
Terrain:	Level	Level	Field Data
Median:	No	No	Field Data
Left Turn Lanes:	No	No	Field Data
% No Passing Zone:	60	60	Field Data
AADT:	10900	10900	2001 Report
K-Factor:	.103	.103	2001 Report
D-Factor:	.58	.58	2001 Report
Peak Hour Factor:	.88	.895	Default
% Heavy Vehicle:	5	4	Default
Base Capacity:	1700	1700	Default
Local Adj. Factor:	.9	.92	Default
Adjusted Capacity:	1139	1180	Default

The calculation of the averaged service volumes relates to the staff determination that 61% of the segment fell into the Rural Undeveloped category and 39% was Rural Developed. Staff took the service volumes calculated under each scenario, applied the percentage of the overall segment, and added them together to get an estimated service volume. The results are below.

SERVICE VOLUME CALCULATIONS
PEAK SEASON, PEAK HOUR, PEAK DIRECTION

LOS	Rural Undeveloped	Rural Developed	Wtd. Average
A	0	90	35
B	90	240	150
C	280	490	360
D	490	690	560
E	940	990	960

These calculations include a peak season, peak hour factor (K-factor) and a peak direction factor (D-factor) as inputs, so they represent *peak season, peak hour, peak direction* conditions. The current policy language refers to *peak hour, annual average, two-way* trips. Staff had asked the consultant to reconcile the old annual average, two-way standard with the more modern peak season, peak direction standard used throughout the rest of the Lee Plan and consistent with current professional practice, but the consultant did not address that issue. There is also an inconsistency with the regulatory level of service standard applied on County roads, which is "E", and the reliance in this case on a percentage of the level of service "D" capacity. The analysis in Appendix A indicates that the use of level of service "D" was purposeful, but staff feels it would be better to be consistent throughout the plan on the use of the level of service standard relied on for regulatory purposes. Therefore, staff proposes to modify the standard in Policy 14.2.2 to establish the development thresholds at 80% and 90% of the *peak season, peak hour, peak direction* conditions at the level of service "E" capacity. Relying on the new peak season, peak hour, peak direction level of service "E" capacity calculated above (960), the 80% threshold would be 768 trips and the 90% threshold would be 864. As a point of reference, the latest Lee County Concurrency Management Report indicates that the current peak season, peak hour, peak direction volume on this segment of Pine Island Road is 627. We recommend the following changes to the policy language as proffered in the community plan:

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

- When traffic on Pine Island Road reaches ~~810~~ 768 peak season, peak hour, ~~annual average two-way~~ peak direction trips, the regulations shall restrict further rezonings which would increase traffic on Pine Island Road through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.
- When traffic on Pine Island Road reaches ~~910~~ 864 peak season, peak hour, ~~annual average two-way~~ peak direction trips, the regulations shall restrict the further issuance of residential development orders to one-third the maximum density otherwise allowed on that property.

The ~~810~~ 768 and ~~910~~ 864 thresholds were based on 80% and 90% of level-of-service ~~"D"~~ "E" peak season, peak hour, peak direction capacity calculated using the latest FDOT software (March, 2002) ~~1965 Highway Capacity Manual, as documented in the 2001 Greater Pine Island Community Plan Update~~. These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.

Thank you for this opportunity to comment on the Greater Pine Island Community Plan Update. Please contact me if you have any questions.

DML/mlb

cc: Bill Spikowski
Greater Pine Island Civic Association
Donna Loibl, President, Matlacha Civic Association
Administrative File

Loveland forwarded us his April 16 memo to Jim Mudd this morning.

We plan to take exception to some of his points, especially the suggestion to increase the traffic thresholds for Pine Island Road from LOS "D" to LOS "E". That change would have incredibly serious policy implications for the future of Pine Island, yet is couched here as a technical issue of improving "consistency." Pine Island's access situation is hardly consistent with the rest of Lee County, nor is the actual development situation in Matlacha; that was the whole point for having this special rule for Greater Pine Island.

It appears that using the new methodology while retaining LOS "D" would actually make the current development restrictions more onerous on private property owners. We are not recommending such a change to this policy because it would open up the county to claims under the Bert Harris Act. That act cannot be used to challenge the effect of rules that were adopted prior to 1995, thus the existing 810/910 rule is grandfathered under the Bert Harris Act. Although we are proposing minor changes to this rule, the Bert Harris Act test is whether the *changes themselves* would impose an inordinate burden on private property. The changes we are proposing are actually *less* restrictive than the current rules, whereas using the new methodology with LOS "D" would make them more restrictive. Ralf Brookes' legal opinion on this subject is attached.

We are now reviewing several technical matters in David's memo and will be getting together with him later in the week in an attempt to resolve them – we'll keep you advised of our progress.

Bill Spikowski

MEMORANDUM OF LAW

In re: Pine Island Community Plan and Bert Harris Act
Date: April 2, 2002
By: Ralf Brookes, Attorney, 1217 E. Cape Coral Parkway #107, Cape Coral, FL 33904

In 1995, the State of Florida enacted the Bert J. Harris, Jr., Private Property Rights Protection Act, as Chapter 70.001 of the Florida Statutes[i]. The Act creates a new cause of action for aggrieved property owners who demonstrate that governmental action occurring ***after*** May 11, 1995, *"inordinately burdens"* property because it *unreasonably*, and *disproportionately* limits or restricts on investment-backed expectations for the *existing use* or *a vested right to a specific use* of the real property [ii]

Several important and "notable limitations"[iii] to Bert Harris Act claims exist, including these that are relevant to a Harris Act legal analysis of the proposed Pine Island Community Plan:

- the cause of action created by the Act does **not** apply to any laws, rules, regulations or ordinances adopted, or formally noticed for adoption, prior to May 11, 1995, the adjournment date of the 1995 Regular Session of the Legislature. **Incremental additions to pre-May 11, 1995 laws are actionable only if the post-May 11, 1995 increment independently constitutes an inordinate burden in its own right;**[iv]

- the Act only provides recovery for **permanent, not temporary**, losses or impacts to real property;

- the Act **"expressly excludes relief for cases involving (1) 'operation, maintenance or expansion of transportation facilities,'** or (2) traditional eminent domain laws relating to transportation. The former exclusion leaves several unanswered questions, such as whether such exclusions affect transportation concurrency moratorium"[v] in cases where none of the other exceptions were to apply;

- Even if a landowner brings an action and is successful the "affected governmental entities may take an interlocutory appeal of the court's determination that the challenged action resulted in an *inordinate burden*. That is, even if the government loses, it can call the process to a halt before damages are awarded by a jury, and subject the landowner to a lengthy and perhaps expensive appeal process [and offering yet another opportunity for settlement or remedial action]. Landowners, however, may not take an interlocutory appeal from the circuit court's adverse determination."[vi]

Proposed Pine Island Community Plan: Amendment to Policies 14.2.2 and 14.2.3

Once a local government has adopted its comprehensive plan, the Growth Management Act[vii] requires that all actions taken by the local government in regard to development orders be consistent with *each and every* goal, objective and policy contained in the adopted local comprehensive plan[viii].

The current Lee County Comprehensive Plan (adopted prior to 1995) is more restrictive than the proposed Pine Island Community Plan and states:

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

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

The proposed Pine Island Community Plan is equal to, or less restrictive than, the current Comprehensive Plan policies. The proposed language contained in the Pine Island Community Plan would amend the policy referenced above as follows:

[PROPOSED] POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 ~~6,800~~ additional dwelling units, the county shall keep in force effective ~~consider for adoption~~ development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of~~ These regulations shall ~~would be to appropriately~~ reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road ~~adopted level-of-service standard~~ being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

> -When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches 810 peak hour, annual average two-way trips, the regulations shall ~~provide~~ restrictions ~~on~~ further rezonings which would increase traffic on Pine Island Road~~.~~ through Matlacha. These regulations **shall provide reasonable exceptions** for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.
>
> -When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches 910 peak hour, annual average two-way trips, the regulations shall ~~provide~~ restrictions ~~on~~ the further issuance of residential development orders **to one-third the maximum density** otherwise allowed on that property. ~~(pursuant to the Development Standards Ordinance), or other measures to maintain the~~

~~adopted level of service, until improvements can be made in accordance with this plan.~~ These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.

The new language providing exceptions for minor rezonings and infill properties (at 810 trips) and allowing some development, (albeit at1/3 previous densities), instead of the current outright prohibition (at 910 trips), is ***less restrictive*** than the current Comprehensive Plan policy.

The Proposed Pine Island Community Plan also offers additional policy assurances in an effort to further improve hurricane evacuation times and protect both of human life and property rights:

> **[PROPOSED] POLICY 14.2.3:** In addition to the enforcing the restrictions in the Policy 14.2.2, the county shall take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures shall be evaluated:
> - The construction of left- turn lanes at intersections with local roads in Matlacha, or a continuous third lane.
> - Improvements to Burnt Store Road and Pine Island Road to the east of Burnt Store that will prevent premature closure of those roads during an evacuation, closures which now limit the number of Greater Pine Island and Cape Coral residents able to evacuate.

This new language will provide further relief from traffic based hurricane evacuation constraints. If not, under the current comprehensive plan policy 14.2.2 (set forth above) a *rate of growth ordinance* or other development restrictions may be required to "implement measures to gradually limit future development approvals." Such a gradual approach would allow Lee County to allocate any available, remaining trips west of the Matlacha bridge while maintaining and achieving LOS and evacuation improvements.

The proposed policy amendments to 14.2.2 and 14.2.3 would likely be construed as favorable, less-restrictive *incremental addition* to the current requirements. The current requirements were adopted prior to 1995. The proposed amendment(s) does not "**independently constitute an inordinate burden" in its own right.**

Part II of the Bert Harris Act.

An additional relief or safety valve that can operate to further minimize the risk of damages is created in Part II of the Act, which allows local governments and property owners to enter into a formal mediation process for resolution of property rights disputes. This is helpful to local government which can use the formal mediation process avoid claims for a taking under the Florida Constitution or violations of Part I of the Act - should unique, individual circumstances arise that are not foreseen.

[i] **Fla. Stat. § 70.001 (1995)**
[ii] **Fla. Stat. § 70.001 (1995).**

[iii] ***FLORIDA'S BERT HARRIS PRIVATE PROPERTY RIGHTS PROTECTION ACT — AN OWNER'S BRIDGE TOO FAR?*** Ronald L. Weaver & Elizabeth Yñigo, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.,Tampa, Florida.

[iv] Fla. Stat. § 70.001(12) (2000).

[v] Weaver & Yñigo, *supra*
[vi] Weaver & Yñigo, *supra*

[vii] Florida Statutes, Section 163.3194(1)(a)

[viii] Machado v. Musgrove 519 So.2d 629 (Fla. 3rd DCA 1987) affirmed en banc at 1988 Fla. App. Lexis 705; 13 Fla. Law W. 522 (1998) review denied Machado v. Musgrove, 529 So. 2d 694 (Fla. 1988).

PINE ISLAND PROPERTY OWNERS POTENTIAL AFFECTED BY 157-ACRE RECLASSIFICATION TO "COASTAL RURAL"

SECTHREE CORPORATION
4545 NORTHWESTERN DR #A
ATT RONALD SMITH
ZIONSVILLE, IN 46077

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HANCOCK JULIA M
15720 QUAIL TRL
BOKEELIA, FL 33922

VITELLO LEONARD P JR + JANE
285 SUNRISE DR #24
KEY BISCAYNE, FL 33149

BURFORD FREDERICK J + CATHY P
15790 QUAIL TRL
BOKEELIA, FL 33922

TOBIN JAMES A + MARY JOAN
PO BOX 494
BOKEELIA, FL 33922

KIBURZ KIM +
STRAIT ROBERT
3331 SW 18TH ST
FORT LAUDERDALE, FL 33312

STRAIT BOB +
KIBURZ KIM
3331 SW 18TH ST
FORT LAUDERDALE, FL 33312

BECHDEL FAMILY FL LTD PTRSHP
11350 LONGWATER CHASE CT
FT MYERS, FL 33908

SOARING EAGLE CORP
7321 HOWARD RD
BOKEELIA, FL 33922

SISSON GLENN F + ILEANA
4702-A SETERRA BEND
DURHAM, NC 27712

SIMPSON RICHARD L + JILL A
4421 SW 62ND CT
MIAMI, FL 33155

SECFOUR INC., ATT RONALD SMITH
4545 NORTHWESTERN DR #A
ZIONSVILLE, IN 46077

SMITH DONALD K + DEBORAH F
P O BOX 523
CARMEL, IN 46032

SOARING EAGLE CORP
7321 HOWARD RD
BOKEELIA, FL 33922

SOARING EAGLE CORP
7321 HOWARD RD
BOKEELIA, FL 33922

SMITH DONALD K + DEBORAH
PO BOX 417
BOKEELIA, FL 33922

Letters were mailed from Spikowski Planning Associates to these property owners on April 2, 2002, with copies of the preliminary April 25 meeting notice and pages 1 and 11–17 of the plan.

SPIKOWSKI PLANNING ASSOCIATES

1617 Hendry Street, Suite 416
Fort Myers, Florida 33901-2947

telephone: (941) 334-8866
fax: (941) 334-8878

e-mail: bill@spikowski.com
web site: www.spikowski.com

April 2, 2002

SECTHREE CORPORATION
4545 NORTHWESTERN DR #A
ATT RONALD SMITH
ZIONSVILLE, IN 46077

RE: PUBLIC HEARING ON APRIL 22, 2002

Dear Pine Island Property Owner:

On the back of this letter you will find an announcement for a public hearing to be held in Fort Myers on April 22 regarding the Greater Pine Island Community Plan Update.

You are receiving this letter because you own property in a 157-acre area just south of Barrancas Street in Bokeelia whose land-use classification may be changed as a result of these public hearings. The change would be from an urban designation ("Outlying Suburban," which allows from one to three dwelling units per acre) to a new "Coastal Rural" designation, which is described on the attached pages from the Greater Pine Island Community Plan Update.

Full copies of this plan update can be obtained from the Pine Island Library or can be downloaded from the Internet at *http://www.spikowski.com/pineisland.htm*

You are invited to comment on these proposals in person on April 22, or you may address any correspondence to Mr. James Mudd, Principal Planner, Lee County Department of Community Development, P.O. Box 398, Fort Myers, Florida 33902-0398. You may also contact me with any questions.

Sincerely,

William M. Spikowski, AICP

— SECOND PUBLIC HEARING —

Community Plan Update for Greater Pine Island

Monday morning, April 22, 2002, at ?:?? A.M.
at the County Commissioner's Meeting Room
Old Courthouse, 2120 Main Street, Fort Myers, Florida

BACKGROUND: During the past two years the Greater Pine Island Civic Association has coordinated a comprehensive review of Lee County's plans and development rules for Pine Island and Matlacha. This effort has resulted in recommended revisions on the following subjects:

Hurricane Evacuation
Road Constraints (Pine Island Rd.)
Urban and Rural Land Uses
Commercial Building Design
Bike Paths
Fences and Walls
Historic Buildings
Cap on Building Heights
Business Signs
Pine Island – a Vision for 2020
Protecting Aquatic Preserves from Runoff
Septic Tanks Along Canals

STATUS: The completed plan update was submitted to Lee County last September. Like all other changes to Lee County's comprehensive plan, these proposals will be the subject of at least three public hearings.

The first public hearing was held on March 25. The second public hearing will be held before Lee County's Local Planning Agency at the date, time, and place listed above. The Local Planning Agency is expected to make its final recommendations to the Board of County Commissioners at this hearing.

A complete copy of this plan update and its recommendations can be reviewed at the Pine Island Library, or a free copy can be downloaded from the Internet at *http://www.spikowski.com/pineisland.htm*

Community planning effort and this notice sponsored by

Greater Pine Island Civic Association
P.O. Box 478
St. James City, Florida 33956

GREATER PINE ISLAND
COMMUNITY PLAN UPDATE

This document presents a community plan update for Greater Pine Island. Background material on current conditions is followed by specific proposals to amend Lee County plans and regulations that affect Greater Pine Island.

A quick summary of this plan is available by reviewing the shaded boxes throughout this document. One of Greater Pine Island's major planning issues is summarized in each box, followed by one or more recommended responses.

This entire plan update has been sponsored as a community service by the Greater Pine Island Civic Association, with professional assistance by Spikowski Planning Associates, aided by Mohsen Salehi Consulting Services, both of Fort Myers. Generous financial assistance was provided by the Lee County Board of Commissioners, the Florida Department of Community Affairs, and the Elizabeth Ordway Dunn Foundation with assistance from the Florida Wildlife Federation. Updates on the progress of this plan are published in the Pine Island Eagle and are also available at *http://www.spikowski.com/pineisland.htm* and *http://www.PineIslandNews.com*

Written comments can be forwarded to the Greater Pine Island Civic Association at P.O. Box 478, St. James City, FL 33956.

This plan update was formally submitted to Lee County on September 28, 2001. Formal public hearings will be held in Fort Myers. Notices are published in advance in the News-Press.

TABLE OF CONTENTS

POPULATION AND LAND USE

Town and Country on Pine Island

The essential character of Pine Island has always been the contrasts among its physical environments. Surrounded by harbors and bays of unparalled beauty, Pine Islanders live in a series of low-key settlements or "villages" that are separated by rural land. With dense mangrove forests creating barriers between most land and the water, the seven residential villages have formed in the locations with best access to the water (Bokeelia, Pineland, Matlacha, Flamingo Bay, Tropical Homesites/Manatee Bay, and St. James City). Only Pine Island Center is away from the water, in favor of the only crossroads location on Pine Island. Between these villages there has always been the sharp contrast of rural lands, dominated by slash pine/palmetto habitats and some farming operations.

Pine Island has almost no beaches, few city services, and limited employment and shopping — yet it remains a highly desirable and moderate-cost alternative to the formless "new communities" that have obliterated the natural landscape throughout coastal Florida.

Pine Island Center, looking north *Photo courtesy of Mohsen Salehi and Bill Dubin*

The current Pine Island community plan maintains the distinct villages by limiting their expansion through boundaries on a future land use map. Only a single ten-acre amendment has been approved to that map since 1989. Because the boundaries themselves have not been reexamined during that period, that effort was undertaken as part of this plan update, as described below.

Town (village) boundaries

The freestanding villages on Pine Island have been given one of three "future urban area" designations, with densities and total acreages summarized in Table 2.

TABLE 2

"Future Urban" designations on future land use map	Residential density range (DU = dwelling unit)	Actual acres in Greater Pine Island
Urban Community	1 to 6 DU/acre	1350 acres
Suburban	1 to 6 DU/acre	1427 acres
Outlying Suburban	1 to 3 DU/acre	1557 acres

"Urban Community" areas can have considerable concentrations of commercial uses, and thus were assigned to Pine Island Center and Matlacha, the commercial centers for all of Greater Pine Island.

"Suburban" areas are allowed similar densities for residential development, but with fewer commercial uses. This designation has been assigned to most of Bokeelia and St. James City, and smaller areas around the Pink Citrus, Flamingo Bay, and Pinewood Cover mobile home parks.

"Outlying Suburban" areas are allowed half the density of "Suburban" areas, but with comparably limited commercial uses. This designation was generally assigned to all other settlements on Pine Island.

All the future urban designations were drawn tightly around existing settlements. The exceptions are about 52 acres just north of Galt Island Avenue (northwest of St. James City); 95 acres centered around the Pine Island Village subdivision south of Flamingo Bay; and 157 acres south of Bokeelia and north of September Estates. The first two exceptions apparently had been made due to imminent development activity on those parcels, and both were reasonably logical extensions of existing settlements. However, little activity has taken place on either parcel, with extensive natural vegetation remaining.

The third exception, south of Bokeelia, is the most incongruous. This entire acreage is now in intense agricultural use, with much of it cleared during the past decade (see Figure 2). Apparently it had been considered as a potential expansion of the Bokeelia urban area. Since that time, the landowners have clearly indicated a preference for agriculture and have made no efforts to develop any of the land residentially. Thus these 157 acres should be reclassified to whatever designation is ultimately assigned to the rural lands to their east and west.

Other apparent anomalies are several large clusters of rural land that have been assigned the "Outlying Suburban" designation east and northeast of Pineland. Close examination shows that these areas have been subdivided into lots averaging one-half acre, and have been almost entirely sold off to individual purchasers. The largest area, just east of Stringfellow Road, is known as the Kreamer's Avocado subdivision. The relatively few homes that have been built there enjoy a pleasant rural setting. However, any substantial increase in homebuilding will overtax the incomplete network of unpaved roads and reduce the rural atmosphere. At such time, residents could band together and

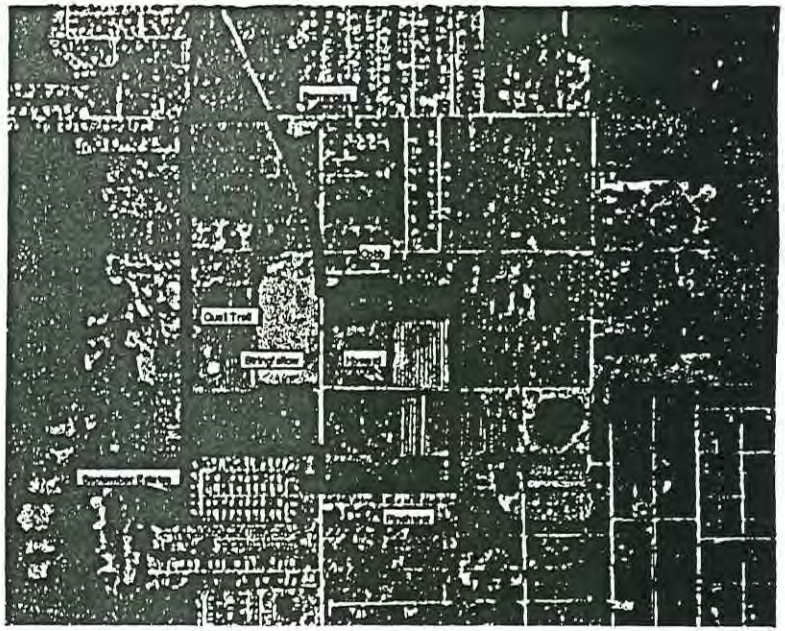
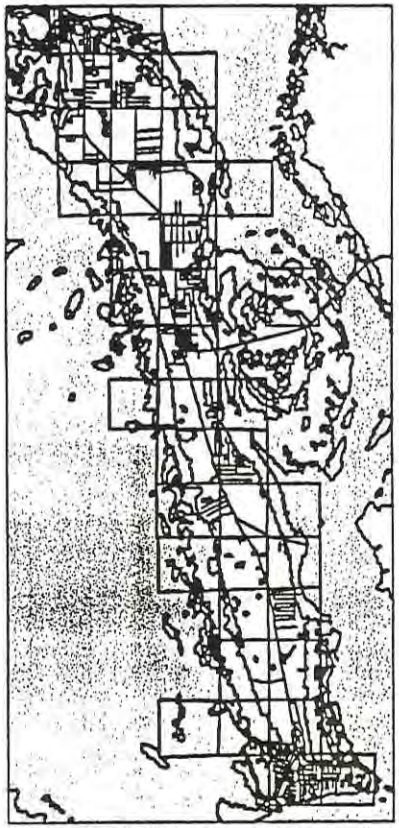


Figure 2

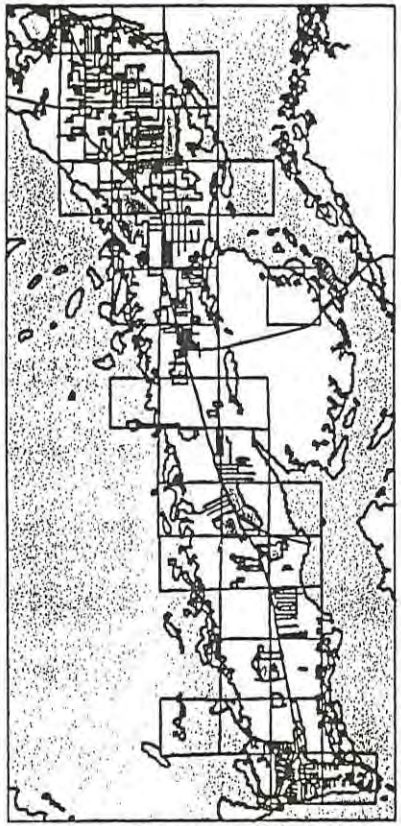
pave the roads and install a modest drainage system through a special taxing district. The seeming anomaly of the "Outlying Suburban" designation, however, is appropriate for the existing pattern of small subdivided lots.

The future of rural Pine Island

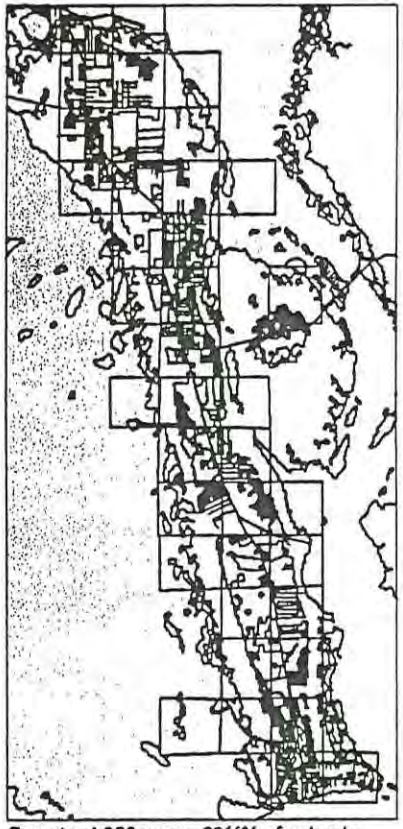
Outside the village boundaries, all high ground has been designated in the "Rural" category, where residential development is now limited to one dwelling unit per acre (1 DU/acre). Over the past 15 years, much "Rural" land between the villages has been converted to farmland, especially on the north half of the island, a trend that is continuing even today. This conversion has destroyed a quarter of the remaining pine-and-palmetto habitat over a 15-year period (see Table 3), a period in which farming has become the most popular and economic use of rural land on Pine Island.



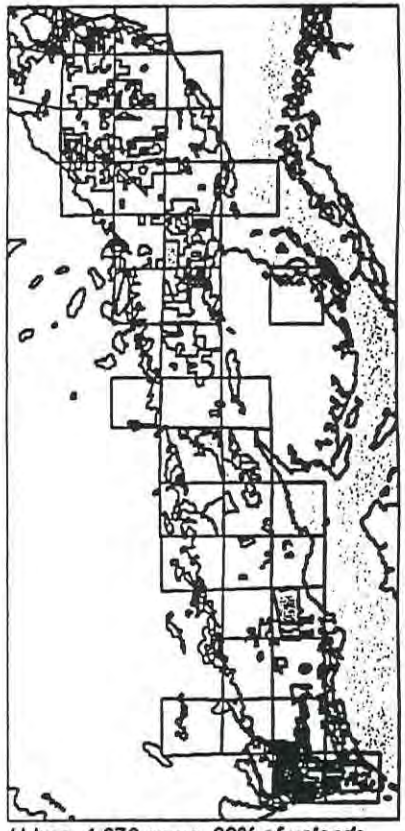
Wetlands, 13,088 acres, 52% of land



Agriculture, 2,763 acres, 22½% of uplands



Forests, 4,853 acres, 39½% of uplands
(pine flatwoods, lighter color, 22½%;
exotic infested, darker color, 17%)



Urban, 4,676 acres, 38% of uplands

SOURCE: Based on GIS data for 1996 provided by the South Florida Water Management District.

TABLE 3

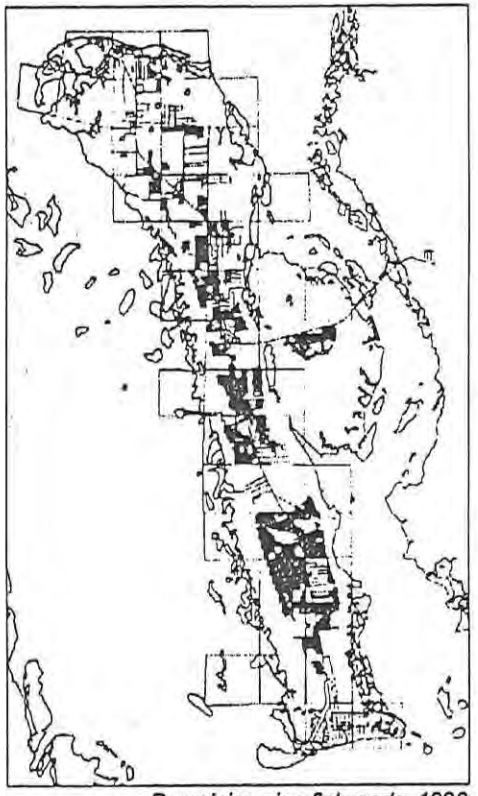
Removal of Pine Flatwoods on Pine Island 1981 – 1996

Pine Island Community, By Sector	Upland Acres	Acres of Pine Flatwoods		15-Year Decrease of Pine Flatwoods	Agricultural Acres, 1996
		1981	1996		
Bokeelia	1,612	144	40	(104)	464
Pineland	2,672	373	230	(143)	1,336
Pine Island Center	2,690	859	743	(116)	365
Matlacha	224	0	0	0	0
Flamingo Bay	2,451	1,360	1,044	(316)	444
Tropical Homesites	792	581	400	(181)	12
St. James City	1,630	420	300	(120)	142
TOTALS:	12,071	3,737	2,757	(980)	2,763

SOURCES: Data based on interpretation of aerial photographs. For sector boundaries, see map in Appendix C. 1981: Lee County Coastal Study, Appendix IV-III, Godschalk & Assoc., 1988. 1996 and upland totals: Based on GIS data provided by the South Florida Water Management District.

This increase in farmland is sometimes seen as preferable to more residential subdivisions, which cannot be supported by Pine Island's limited road connections to the mainland. However, farmland can be converted to residential land very easily; the current comprehensive plan actually seems to encourage this by allowing residential development on one-acre lots without rezoning, even on active farmland. Planning professionals generally agree that one-acre lots are too small to maintain the countryside and too large to create villages; yet that is the predominant residential density allowed on Pine Island today.

During this plan update process, Pine Islanders carefully considered alternative growth-management techniques to replace the 1 DU/acre "Rural" category on Pine Island. While considering these alternatives, the public was made aware of the current regulatory climate: regulations that are so strict as to essentially "take away" *all* rights to private property rights are illegal, and such "takings" must be fully compensated to the landowner, an enormously expensive undertaking.



Remaining pine flatwoods, 1996

In addition, in 1995 the Florida legislature passed the Bert J. Harris, Jr. Private Property Rights Protection Act. This act established a new standard for preventing overly strict regulations on land — any regulation that is determined to place an "inordinate burden" on a landowner may now require compensation, even though it isn't a "taking" of all property rights. This act does not mean that land-use regulations cannot be made stricter, even if they lower the market value of land; but as a practical matter it will mean closer scrutiny of strict regulations, especially their potential to "inordinately burden" landowners *even if* the court decides that a particular regulation is valid and in the overall public interest.

Whether a new regulation places an "inordinate burden" on a landowner will be determined by the courts on a case-by-case

basis. It is clear that the *amount* the market value of land may be lowered after a regulation is imposed will be a very important factor in this decision.

On Pine Island today, there is little market demand for residential development at densities of 1 DU/acre. A single new subdivision has been created at this density (Island Acres just south of the water treatment plant), and it has experienced relatively slow sales even though its lots surround an attractive lake. The actual real estate market for large tracts of Pine Island land has three major types of buyers:

- Intensive agriculture users, who are planting tropical fruits, ornamental palms, and some vegetables;
- Land speculators, who often anticipate selling at a profit to a developer who would build dwelling units around a golf course; and
- Public agencies, the new players in this market, at present primarily Lee County's "Conservation 2020" program which buys and preserves natural habitats.

These three types of buyers will establish the market value for large tracts on Pine Island in the absence of substantial demand for one-acre homesites.

Appendix B of this report evaluates five different growth-management techniques for rural land on Pine Island:

- Conservation land purchases
- Larger lots in rural areas
- Cluster development
- Transferable development rights
- Rate-of-growth control

Any of these techniques, or either of the two hybrid techniques also discussed in Appendix B, could become part of the Greater Pine Island community plan update and the Lee Plan's future land use map, and would be implemented through subsequent changes to other county regulations. (Existing lots would presumably be "grandfathered in" even if they are now vacant.)

The option recommended as the best for Greater Pine Island at this stage of its evolution is a hybrid described in Appendix B as "conservation clustering with incentives" (#7). It combines the best features of conservation land purchases (#1), larger lots in rural areas (#2), and cluster development (#3).

Land that is now designated "Rural" would be placed in a new "Coastal Rural" category. This conversion would respond well to the three main problems identified for Pine Island's rural areas:

- the absence of any meaningful effort to protect even the best remaining native habitats from agricultural clearing;
- the potential for residential development at 1 DU/acre that would result in neither "town" nor "country" conditions; and
- the potential for adding even more dwelling units that cannot be sustained by the limited road connections to the mainland.

This option combines regulations with incentives and uses a sliding scale of density to encourage (though not require) conservation of undisturbed habitats.

Property owners who save 70% of native habitats would be allowed to keep all of the dwelling units allowed to them today, but instead of placing each house on a 1-acre lot, these homes could be placed on the remaining 30% of the land. This would allocate 0.3 acres per lot (although actual lot sizes would be somewhat smaller to account for land needed for streets and stormwater detention lakes).

Property owners who choose *not* to save any native habitats would be limited to 1 DU per 10 acres. This would allow agricultural or country-estate homes on 10-acre lots.

A sliding scale would allow property owners to choose any point within the extremes just described, as shown in Table 4.

TABLE 4

Assume % of native land saved or restored	Would then be assigned this gross density:	RESULTS ON 100 ACRES WOULD BE: # of DUs	acres used per lot	total acres preserved	total acres used
0%	1 DU per10 acres	10	10.0 acres	0	100
5%	1 DU per 9 acres	11	8.6 acres	5	95
10%	1 DU per 8 acres	13	7.2 acres	10	90
15%	1 DU per 7 acres	14	6.0 acres	15	85
20%	1 DU per 6 acres	17	4.8 acres	20	80
30%	1 DU per 5 acres	20	3.5 acres	30	70
40%	1 DU per 4 acres	25	2.4 acres	40	60
50%	1 DU per 3 acres	33	1.5 acres	50	50
60%	1 DU per 2 acres	50	0.8 acres	60	40
70%	1 DU per 1 acre	100	0.3 acres	70	30

It may seem counterintuitive to allow higher densities on natural habitats than on disturbed lands, but this provides landowners with a strong incentive *not* to clear native habitats. (The same incentive would be granted to restored land as to preserved land, using the same sliding scale.)

This approach diminishes the potential for residential development on agricultural land while rewarding landowners who protect (or restore) their land's natural habitats. Actual development on native parcels would disturb far less land than would occur today by either allowing today's number of dwelling units to be placed on smaller lots, or by reducing the number of lots that are allowable. Public purchases of entire tracts for preservation would be encouraged, but if purchase offers aren't attractive enough to interest property owners, this new plan would encourage more preservation than current regulations.

SETTING THE COURSE

The culture of community-making demonstrated by Pine Island's pioneers should be continued by enhancing its seven freestanding communities and keeping them from sprawling into rural areas. Pine Island's rural areas should be placed into a new Coastal Rural category on the future land use map. This category would have a sliding density scale that would reward landowners who preserve native upland habitats. However, it would not prevent them from pursuing agriculture or creating standard ten-acre homesites if they choose. Without major habitat preservation, smaller homesites would not be allowed in Coastal Rural areas. (Existing legal lots in rural areas would not be affected.)

GETTING THERE

1. Adopt a new comprehensive plan policy as follows:
   POLICY 14.1.8: The county shall reclassify all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation are to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island than can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide landowners with maximum flexibility while accomplishing these public purposes.

(continued)

GETTING THERE *(continued)*

2. Adopt a new comprehensive plan policy establishing a new non-urban designation on the county's Future Land Use Map, as follows:

POLICY 1.4.7: The Coastal Rural areas are uplands on Pine Island that were redesignated in accordance with Policy 14.1.8. These lands are to remain rural except for portions of individual properties whose owners choose to permanently preserve or restore native upland habitats and in return are permitted to use a portion of their properties for smaller residential lots. The standard maximum density in the Coastal Rural area is one dwelling unit per ten acres (1 DU/10 acres). Maximum densities increase as various percentages of native uplands are permanently preserved or restored. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:

Percentage of native habitats preserved or restored	*Maximum density*
0%	1 DU / 10 acres
5%	1 DU / 9 acres
10%	1 DU / 8 acres
15%	1 DU / 7 acres
20%	1 DU / 6 acres
30%	1 DU / 5 acres
40%	1 DU / 4 acres
50%	1 DU / 3 acres
60%	1 DU / 2 acres
70%	1 DU / 1 acre

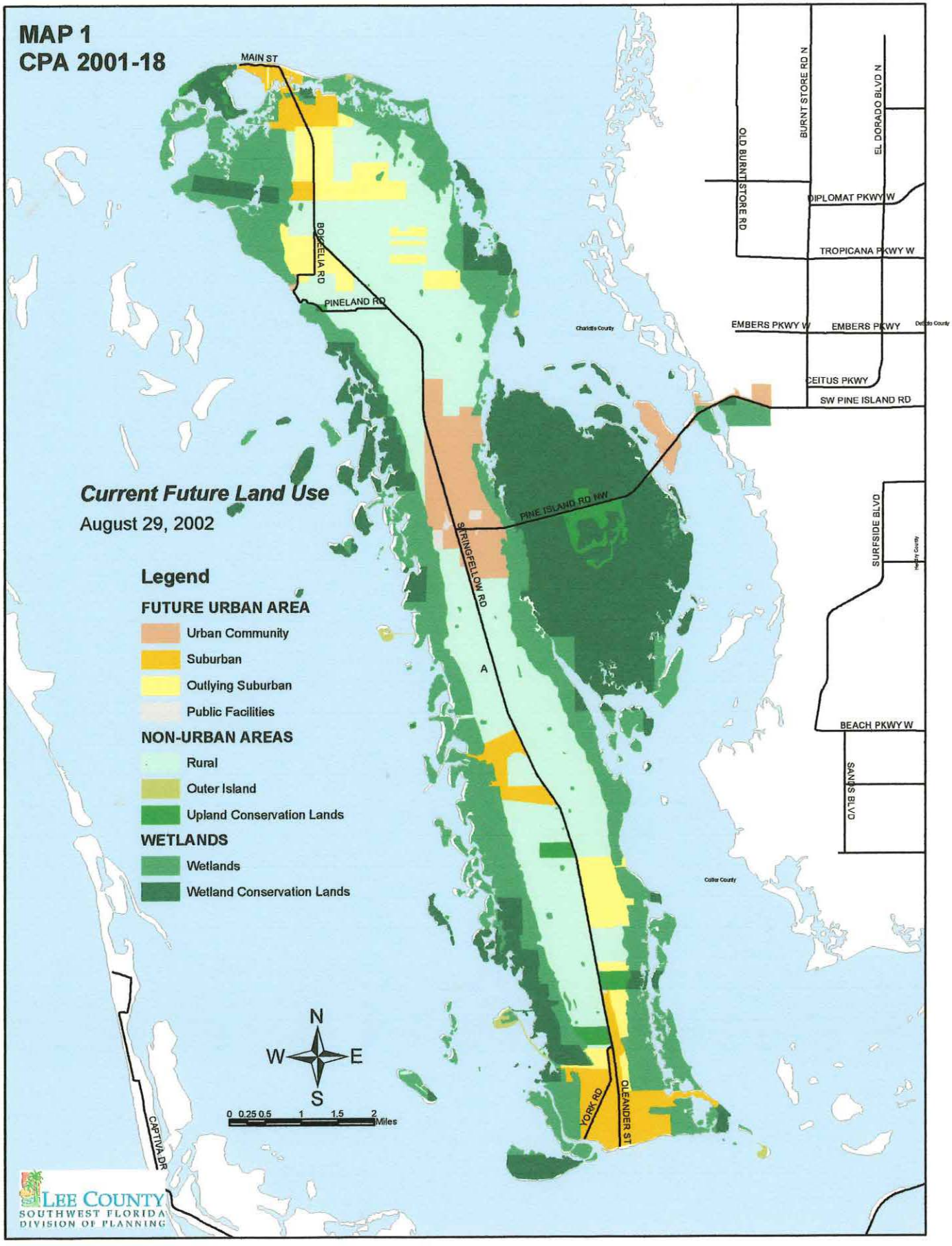
(continued)

GETTING THERE *(continued)*

3. Amend the future land use map to reclassify all land on Pine Island now designated as "Rural" into the new "Coastal Rural" category.

4. Amend the future land use map to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates in 31-43-22, bounded by Quail Trail on the west, Barrancas Street on the north, Stringfellow on the east, Unit A of Rapid #1 subdivision (Cobb Road) on the north, the quarter section line of Section 31 on the east, and Pinehurst Acres and September Estates on the south.

5. Amend the land development code to provide detailed regulations to implement new Policies 1.4.7 and 14.1.8, including modifications to the AG-2 zoning district, in accordance with these policies.


MAP 1
CPA 2001-18
MAIN ST
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BURNT STORE RD N
EL DORADO BLVD N
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CEITUS PKWY
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BEACH PKWY W
SANIBEL BLVD
YORK RD
OLEANDER ST
CAPTIVA DR
Charlotte County
DeSoto County
Hendry County
Collier County
Current Future Land Use
August 29, 2002
Legend
FUTURE URBAN AREA
Urban Community
Suburban
Outlying Suburban
Public Facilities
NON-URBAN AREAS
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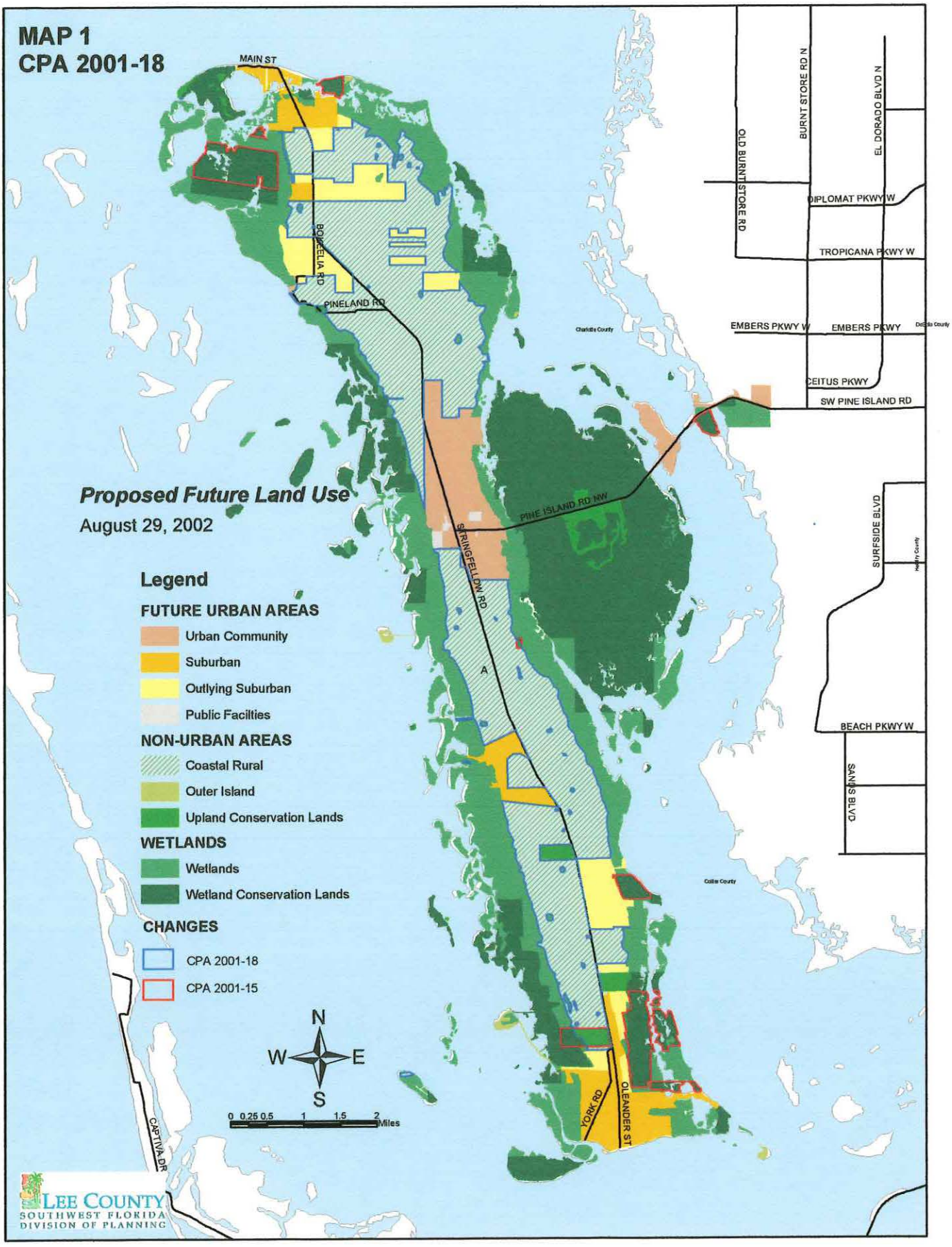
SOUTHWEST FLORIDA
DIVISION OF PLANNING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Legend
FUTURE URBAN AREAS
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SOUTHWEST FLORIDA
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GREATER PINE ISLAND
COMMUNITY PLAN UPDATE

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Written comments can be forwarded to the Greater Pine Island Civic Association at P.O. Box 478, St. James City, FL 33956.

This plan update was formally submitted to Lee County on September 28, 2001. Formal public hearings will be held in Fort Myers. Notices are published in advance in the News-Press.

TABLE OF CONTENTS

INTRODUCTION TO THIS PLAN UPDATE

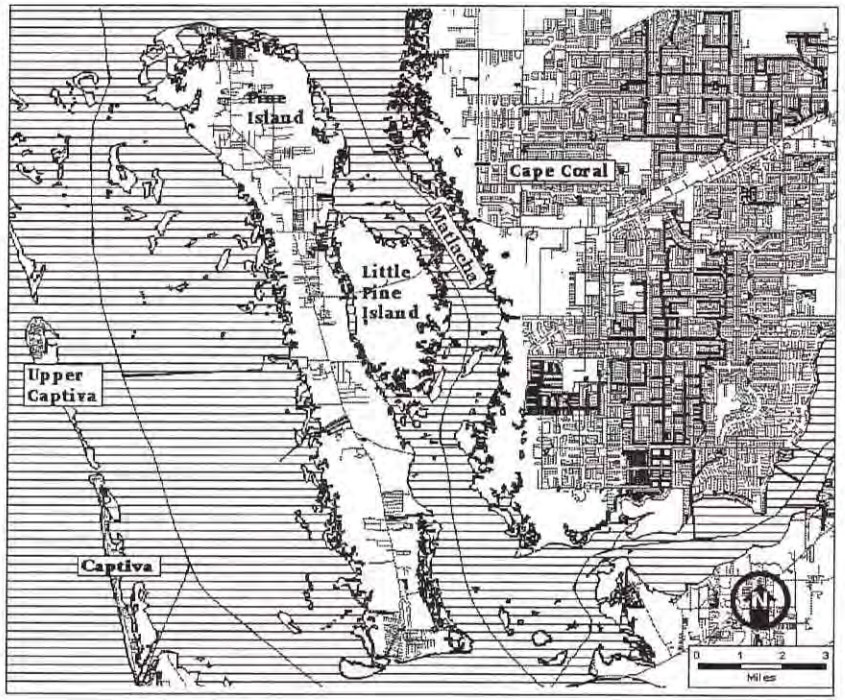
Pine Island, Little Pine Island, and Matlacha share many characteristics and are collectively called Greater Pine Island, or simply Pine Island. These islands are located west of Cape Coral and mainland Lee County but inside the string of barrier islands along Florida's west coast.

While geographically separate, Greater Pine Island is part of unincorporated Lee County and is governed by its board of county commissioners. Although without legal self-determination, local residents have always been vocal about public affairs, especially planning and zoning. An informal coalition of Pine Island residents formulated the original "future land use map" for Pine Island that was adopted by Lee County into its 1984 comprehensive plan (the original Lee Plan). Five years later, a community plan prepared by the Greater Pine Island Civic Association was the basis for a complete section of the Lee Plan (now under Goal 14) dedicated to the future of Pine Island.

The opening statement of the community plan explained its purpose:

> ***GOAL 14:*** *To manage future growth on and around Greater Pine Island so as to maintain the island's unique natural resources and character and to insure that island residents and visitors have a reasonable opportunity to evacuate when a hurricane strike is imminent.*

Over ten years have passed since Goal 14 and its supporting policies and maps were adopted. Many of those policies are still pertinent; a few have not been implemented fully. However, due to the passing of time, new factors have arisen that require an overall re-examination of the plan. The explosion of agricultural activity on the northern half of Pine Island was not anticipated.



Residential growth has slowed somewhat from the 1980s. And traffic on Pine Island's only link to the mainland has increased, reaching target levels that were set in the 1989 plan to indicate the imminent overloading of the road system.

This current plan update begins with a general description of Greater Pine Island and its past and present residents, referred to in this plan simply as Pine Islanders. Major planning issues are then discussed in detail: hurricane evacuation, traffic, town and country boundaries, community character issues, and the environment. Each planning issue ends with a policy conclusion and specific recommendations for changes to the Lee Plan and the land development code.

Pine Island – the Place and the People

Pine Island is physically separated from the rest of Lee County. Situated within the estuary formed by Charlotte Harbor, Pine Island Sound, and San Carlos Bay, Pine Island differs in geography from the mainland to the east and the barrier islands to the west, though sharing some of the characteristics of each. It is a 10,000- to 12,000-year-old accretion island of some 33,620 acres, over a third of it mangrove forest and the remainder upland (originally slash pine and palmetto, now mostly cleared for agriculture or developed).

Pine Island's ecosystem is unique. Its mangrove shoreline and seagrasses just offshore play a vital role in the cycle of all aquatic life, supporting fishing interests both commercial and recreational. These plants are important elements in the well-being of the entire estuary, serving as its filtration system, aquatic nursery, and feeding ground. Seagrasses in Charlotte Harbor have declined by 29% over the last 40 years; much of the decline was caused by dredging and maintenance of the intracoastal waterway.

Within recent years large areas of pine forest have been cleared for agriculture. Currently over 3,600 acres are in agricultural use, with 36% in rangeland, 35% in nurseries, 21% in groves, and 5% in vegetables. The moderating influence of surrounding waters on the climate creates ideal growing conditions for certain tropical fruits such as mangoes, carambola, and lychees (99% of Lee County's tropical fruit acreage is on Pine Island). Ornamental palms of several varieties are now being widely grown on Pine Island. The tradeoff is this: every acre of land cleared for agriculture is an acre lost to its natural inhabitants. Furthermore, the extent of damage from fertilizers, herbicides, and pesticides draining into the estuary is not known. Efforts to monitor these conditions are both modest and underfunded.

Pristine areas remaining on the island provide a haven for an abundance of wildlife, much of it endangered and threatened — bald eagle, wood stork, osprey, ibis, heron, egret, pelican, manatee, alligator, gopher tortoise, eastern indigo snake, and beautiful pawpaw, to name a few.

Pine Island's history sets it apart. Archaeological finds in Pineland confirm the existence of one of the most important sites of the Calusa Indians, dating back more than 1,500 years. Digs and educational tours at the Randell Research Center are ongoing, as well as efforts by the non-profit Calusa Land Trust to purchase the remaining portions of a cross-island canal constructed by the Calusa Indians. The Pineland site is on the National Register of Historic Places.

Later settlers, appearing on the scene late in the 19th century and early in the 20th, contributed their own colorful chapter to the history of the island, eking out a hardscrabble subsistence fishing and farming. By the early 20th century, citrus and mango groves were planted near Pineland and Bokeelia. Many descendants of these pioneering families still live on the island.

Pine Island differs from other communities in Lee County in the needs, interests, and aspirations of its people. Its population is diverse, made up of old commercial fishing families, a large population of retirees from the north, and younger working families with children attending school, with families finding employment both on and off the island.

Each group harbors its own priorities and ambitions, yet they share common traits. They are independent-minded and they all chose to come to this place looking for privacy, a laid-back lifestyle, a setting of slash pine and open skies and blue water — qualities there for all to enjoy, whether by fishing the waters, or biking through the neighborhood, or simply returning from a hard day at the office or jobsite and crossing the bridge at Matlacha to find a refuge from heavy traffic and urban sprawl.

Peace and tranquility brought them to Pine Island, and that is what they value most.

Life on Pine Island mixes country living with the wonders of being surrounded by water, a fragile combination in coastal Florida. Without attention, the treasures of this unique place may be obliterated.

Looking east from the bridges at Matlacha, Pine Islanders see a vast expanse of sameness, a development form that suits the needs of others but that seems alien and a threat to Pine Islanders' vision of their own future.

Pine Island has two traffic problems resulting from the near-impossibility of widening Pine Island Road through Matlacha without destroying its historic district. This road is nearing its capacity for meeting the daily travel needs of Pine Islanders and visitors, and it is barely adequate for evacuating low-lying areas in case of tropical storms and hurricanes.

Matlacha historic district, bisected by Pine Island Road
Photo courtesy of Mohsen Salehi and Bill Dubin

> *"Places like Matlacha are rare in this state, not just for its historical interest, but because the locals thrive by protecting the place. They like where they live and don't want to change it. Tourists respond by coming just to hang out on the bridges yakking with fisherfolk, then staying to buy local crafts and eat the fish they've seen caught. They come because they want to feel part of a real place, a place that doesn't put on mouse ears to pull them in."*
>
> *— Florida writer Herb Hiller*

The main mechanism currently protecting Pine Island from overdevelopment that would worsen the existing congestion and evacuation hazard has been Policy 14.2.2, found in the Lee Plan as follows:

> ***POLICY 14.2.2:*** *In order to recognize and give priority to the property rights previously granted by Lee County for about 6,800 additional dwelling units, the county shall consider for adoption development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. The effect of these regulations would be to appropriately reduce certain types of approvals at established thresholds prior to the adopted level-of-service standard being reached, as follows:*
>
> - *When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 810 peak hour, annual average two-way trips, the regulations shall provide restrictions on further rezonings which would increase traffic on Pine Island Road.*
> - *When traffic on Pine Island Road between Burnt Store Road and Stringfellow Boulevard reaches 910 peak hour, annual average two-way trips, the regulations shall provide restrictions on the further issuance of residential development orders (pursuant to the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.*

Ten years after this policy was adopted, here are the critical facts:

- Of the "6,800 additional dwelling units" cited in Policy 14.2.2, about 6,675 still can be built at any time (without requiring any further rezonings or subdivision approvals).
- Official Lee County traffic counts for the year 2000 show that the 810-trip threshold has now been exceeded for the third consecutive year.
- There are no practical or economically feasible plans to widen Pine Island Road through Matlacha or provide a second road to Pine Island.

Given these facts, it is clear that further increases in traffic are inevitable as property rights previously granted are exercised. The question is: how many *more* development rights will Lee County grant on top of those already in existence?

The conflict between these two realities—impending population growth on the island on the one hand and traffic exceeding limits established by the Lee Plan on the other—is the dilemma faced by island residents and by Lee County in the coming years. The proposals in this plan update represent the best efforts of Pine Islanders to deal with this conflict and to manage growth responsibly in the coming decades.

Growth is inevitable. Pine Islanders recognize that as a fact of life, but they seek a kind of responsible growth that preserves and enhances the best features of Greater Pine Island.

Existing Private Property Rights

In a 1989 study about Greater Pine Island, Lee County tabulated the number of existing dwelling units and the number of additional dwelling units that have already been approved but not yet built.[1] Most of the "approved" units are reflected in older subdivision plats where the lots have already been sold off to individual owners; a small number of the "approved" units were in development orders issued by Lee County that may or may not be developed. That inventory showed 4,256 existing dwelling units and 6,663 "additional units" not yet constructed. (Unlike the U.S. Census, that inventory counted mobile homes and fixed recreational vehicles such as those in Cherry Estates as dwelling units.)

As part of this plan update, additional data sources were examined that might verify, contradict, or update those figures. One data source is the Lee County Coastal Study, which counted the number of dwelling units that existed in 1985 based on the official tax rolls. Another is a complete new inventory of existing and approved dwelling units conducted for this plan update, the complete results of which are found in Appendix C. Table 1 below summarizes those new data sources and presents a revised estimate of 6,675 additional dwelling units yet to be built, based on existing approvals. These "build-out" totals do not include development rights for unplatted vacant land or agricultural land.

This estimate of the number of additional dwelling units yet to be built is very close to Lee County's 1989 estimate. It is true that some, possibly many, of these dwelling units will never be built, due to limited demand, or vacant lots being held as open space by adjoining owners, or unforeseen permitting problems. Yet the magnitude of the development rights already granted is

[1] *Commercial Study: Pine Island*, Lee County Department of Community Development, July 1989.

overwhelming to Greater Pine Island, given the factors that will be discussed in the following sections of this report.

TABLE 1

Dwelling Unit Totals for 1985, 2000, and Build-out

Pine Island, By Sector	Dwelling Units 1985	2000	(15-year increase)	Dwelling Units Build-out	(additional)
Bokeelia	393	914	521	1,735	821
Pineland	128	322	194	2,022	1,700
Pine Island Center	485	873	388	2,269	1,396
Matlacha	632	695	63	1,029	334
Flamingo Bay	717	869	152	1,330	461
Tropical Homesites	117	259	142	713	454
St. James City	1,182	1,705	523	3,213	1,508
TOTALS:	**3,654**	**5,637**	**1,983**	**12,311**	**6,674**

SOURCES:
1985 dwelling units: *Lee County Coastal Study, pages 3 through 13 of Volume II, Godschalk & Associates, 1988.*
2000 and build-out dwelling units: *See full data in Appendix C.*
Sector boundaries: *See map in Appendix C.*

TRANSPORTATION ISSUES

Hurricane Evacuation

Pine Islanders will have a very difficult time evacuating if the island is struck by hurricanes of certain types.

Updated evacuation estimates were recently provided for Pine Island by the Southwest Florida Regional Planning Council (SWFRPC). In the event of a Category 2 hurricane coming from the most hazardous direction in the month of November, over 20 hours could be required for an evacuation.[2]

This evacuation time is unacceptably high even at today's population levels. Hurricane forecasters are not confident that they can provide this much warning that a hurricane is likely to strike a specific area. Also, this evacuation time already exceeds the regional[3] and county[4] standards for evacuation times.

These problems are not isolated to Pine Islanders alone. First, any evacuation of Pine Island would include residents of Upper Captiva and Useppa. Second, although Matlacha and its two-

[2] This time period includes 12 hours to get all evacuating vehicles through the most restrictive segment of the evacuation route (called the "clearance time") and to a shelter or to the county line, plus 8 hours ("pre-landfall hazard time") to account for the time before the hurricane strikes when the evacuation must cease due to gale force winds or tidal waters flooding the evacuation route. This time period could be reduced slightly if westbound traffic is temporarily banned from Pine Island Road, which may be ordered during the latter part of an evacuation if traffic is backing up on Pine Island.

[3] "Projected evacuation times will be regularly reduced from 1995 levels, and by 2010, evacuation times will not exceed 18 hours in any part of the region." *[Goal III-5, Strategic Regional Policy Plan, SWFRPC, 1995]*

[4] "By 1995, evacuation times will be restored to 1987 levels using the 1987 Southwest Florida Regional Hurricane Plan Update as guidance; and by 2010, the clearance time portion of evacuation time will not exceed 18 hours." *[Objective 79.1, Lee County Comprehensive Plan]*

lane drawbridge will create a bottleneck for vehicles exiting the island, a potentially more dangerous bottleneck exists on the mainland to the east of the bridge.

The SWFRPC study presumes that "a successful road network exists to take people to a safer place on higher ground." Unfortunately for Pine Islanders, this network includes Burnt Store Road (subject to flooding in heavy rains that often accompany hurricanes), the Del Prado Extension, and Pine Island Road.

At the present time Pine Island Road is only two lanes all the way to Santa Barbara in Cape Coral. A heavy influx of evacuees from low-lying areas of western Cape Coral can be expected to also end up on Pine Island Road, slowing traffic flow. Burnt Store Road is being extended to the south now and Pine Island Road will be widened to four lanes between Chiquita and Santa Barbara in about four years, but no other improvements are planned through at least the year 2020.

Lee County roads are not the only barrier to successful evacuation; there is a serious shortage of places for evacuees to stay. Consider the potential consequences of a Category 3 storm (as Donna was, in 1960), arriving in November from the southwest, making landfall not at Fort Myers Beach but at Boca Grande. Under this unlucky scenario, 14 designated shelters out of 34 would be unusable, and extensive stretches of the evacuation routes would be under water, according to Lee County Emergency Management maps. Under those conditions, Pine Island evacuees would be at the tail end of a queue made up of evacuees from much of Cape Coral and North Fort Myers, joined by many others from coastal areas as far south as Naples, all heading north on U.S. 41 and I-75, both of which are subject to flooding even in some tropical storms. There is serious potential for the resulting gridlock to trap tens of thousands of residents directly in harm's way.

Based on these factors and the inability to provide additional roads to Pine Island (as discussed later in this report), Lee County would be justified in immediately limiting any further development on Pine Island. However, in recognition of the private property rights already granted, as discussed in the previous section, this plan recommends a series of measures that, taken together, will avoid the creation of substantial additional property rights that would exacerbate today's serious hurricane evacuation problem.

SETTING THE COURSE

Even with *no* additional development, Pine Island exceeds regional standards for the time needed to evacuate when a hurricane approaches. Planned road improvements through Cape Coral may reduce evacuation times slightly. But as Cape Coral grows to its planned population of 350,000 people, evacuation problems will continue to increase. Lee County should pursue any measures that can improve evacuation times. Unnecessary rezonings and other development approvals that would exacerbate this situation must be avoided.

GETTING THERE

1. Modify comprehensive plan Policy 14.2.3 as follows:
POLICY 14.2.3: In addition to the enforcing the restrictions in the Policy 14.2.2, the county shall take whatever additional actions are feasible to increase the capacity of Pine Island Road. The following measures shall be evaluated:
- The construction of left-turn lanes at intersections with local roads in Matlacha, or a continuous third lane.
- Improvements to Burnt Store Road and Pine Island Road to the east of Burnt Store that will prevent premature closure of those roads during an evacuation, closures which now limit the number of Greater Pine Island and Cape Coral residents able to evacuate.

2. Modify comprehensive plan policy 14.2.2 as proposed later in this report.

Road Constraints

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

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

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

Constraints on access to Pine Island

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

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

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

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

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

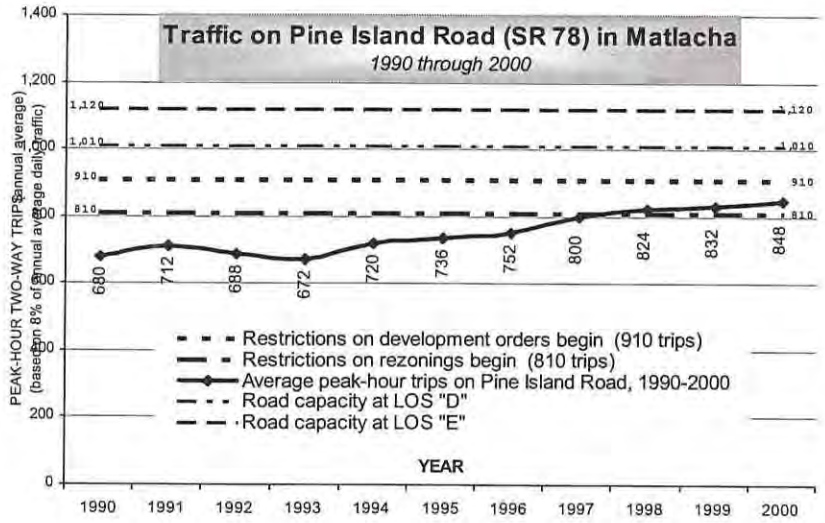


Figure 1, Traffic on Pine Island Road in Matlacha, 1990 through 2000

These significant traffic increases occurred during a decade where there was relatively little new subdivision or condominium development on Pine Island. Population increases resulted mostly from the construction of new homes on pre-existing vacant lots.

Physical alternatives that could improve access

Appendix A examines road improvements that might be able to improve road access to Pine Island. These improvements could have a variety of physical impacts, primarily in Matlacha if the existing right-of-way were reconfigured or widened. The impacts would be primarily environmental if an entirely new access road were built.

Widening Pine Island Road

The critical segments of Pine Island Road have only 66 feet of right-of-way (approximately the distance between utility poles). The existing pavement, including the paved shoulders, is about 32 feet wide. Without widening it could be rebuilt and reconfigured to three lanes of almost 11 feet each, and the unpaved shoulders could be paved to serve as breakdown lanes or sidewalks. The third travel lane could serve either as a two-way left turn lane or as a reversible lane for use in the busier direction.

Adding a third lane would cause a number of problems, however. Pedestrians trying to cross Pine Island Road would have to walk a greater distance, making the crossing less safe, and they would lose the use of the paved shoulder, which now functions as an informal sidewalk. The character of Matlacha would lose some of its village atmosphere and pedestrian orientation, replaced with a more highway-oriented character, plus businesses and homes would lose some of their parking.

The road could also be widened and converted into an urban street with curbs, for instance with four 11-foot lanes, 2-foot concrete curbs and gutters, and 9-foot raised sidewalks. This configuration would significantly increase the traffic-carrying capacity of Pine Island Road. However, it would require extensive earthwork and metal railings, similar to the recently rebuilt San Carlos Boulevard as it approaches Fort Myers Beach. Sidewalks would extend to the very edge of the right-of-way, putting them directly adjacent to many buildings whose fronts are on the right-of-way line. It would also eliminate all parking from the right-of-way, a major disadvantage that would seriously damage, if not eliminate, the viability of many small businesses. And unless the bridges were widened as well, either approach would still face the bottleneck of having a three-lane or four-lane road narrow into two-lane bridges. The normal engineering solution of widening the road through Matlacha to four travel lanes cannot be considered as a viable or practical option because it would seriously harm Matlacha's village atmosphere and pedestrian orientation.

Widening the right-of-way is also not a solution. Shallow lots often back up to the waters of Matlacha Pass and many of the existing buildings directly adjoin the existing right-of-way. Thus, widening the right-of-way would involve altering or demolishing many buildings in Matlacha. Lee County's 1990 designation of Matlacha as a historic district would not legally prevent the county from altering historic buildings, but it indicates the historic value of many of Matlacha's buildings in addition to its unique village character.

New bridge bypassing Matlacha

The capacity of Pine Island Road could also be increased by building a new bridge immediately to the south of Matlacha. It could provide uninterrupted two-way traffic, or one-way traffic with the existing Pine Island Road serving traffic in the other direction.

Two-way traffic is generally more convenient to the public. One-way traffic allows more cars to use the same amount of roadway, but is generally regarded as being harmful to businesses

along the route. Either scenario would create serious intersection impacts at each end, and could cause additional travel to connect motorists with their actual destinations.

Pine Island Road is a county road west of Burnt Store Road (as are both bridges). Any improvements would be constructed and paid for by Lee County. As major bridges are generally beyond the ability of the county to pay for with current revenue sources, they are built with the proceeds from selling bonds, which are then paid back over time (usually with tolls).

Based on recent costs for bridge building, a new bridge should be expected to cost at least $50 million and perhaps $100 million (see cost comparisons in Appendix A).

State and federal permits are required for all new bridges, and are difficult to obtain, especially for a new bridge through the Matlacha Pass Aquatic Preserve. At least at present, building a new bridge around Matlacha is not a feasible option.

Entirely new bridge and entrance road

Another alternative involving a new bridge would be to extend Cape Coral Parkway westerly across Matlacha Pass, ending about halfway between St. James City and Pine Island Center near the Masters Landing power line. A continuous bridge would be needed to avoid interference with tidal flows.

This alignment would extend into the Cape Coral city limits, adding an extra layer of regulatory issues. The new bridge would add traffic onto Cape Coral Parkway, which is planned to be widened to six lanes but cannot be widened further.

This option, like the Matlacha bypass option, is currently cost-prohibitive and could have major environmental impacts on Matlacha Pass. Neither new-bridge option can be considered to be feasible.

Transportation policy alternatives

Beginning in 1998, the 810-trip threshold in Policy 14.2.2 has been exceeded each year. Once they became aware of this fact, the Lee County Commission voted to reexamine this policy.

No technical factors or changes since 1989 have been discovered in the course of this planning process that would justify abandoning the 810 or 910 thresholds in this policy. However, there is an opportunity at this time to determine the best way to fully implement this policy in the fairest possible way.

In 1991 Lee County amended its land development code using language almost verbatim from Policy 14.2.2. This is a problem because it is not self-evident which kinds of rezonings will "increase traffic on Pine Island Road." A better approach would be to have clearer regulations to implement Policy 14.2.2.

For instance, some types of rezonings would have minor or even positive effects on traffic flow in Matlacha. A convenience store in St. James City would serve only local residents and those passing by and would attract *no* new trips through Matlacha. A larger grocery store in St. James City would attract shoppers from a larger area, perhaps including some who currently drive to Matlacha or Cape Coral to shop for groceries, possibly *decreasing* traffic on Pine Island Road. However, a large new hotel or marina on the same property could have a different effect.

Thus an important distinction could be made in implementing Policy 14.2.2 between those land uses that primarily serve residents or visitors who are already on Pine Island, and land uses that primarily attract additional people across Pine Island Road. For instance, the following commercial uses would primarily serve residents and visitors: grocery, hardware, and convenience stores; hair salons; and service stations.

This distinction would be clouded somewhat by other factors, particularly the size and location of commercial uses. Some

small commercial uses might be exempted from this policy. Other alternatives would be to:

- allow minor rezonings below a certain size if they are proposed on "infill" properties between existing development at similar intensities (rather than expanding or intensifying already-developed areas);
- allow rezonings whose characteristics are such that traffic during the busiest peak hours would not be increased;
- give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.

In summary, none of the available options for adding significant road capacity to Pine Island are practical. Building four lanes through Matlacha would seriously damage Matlacha's village atmosphere and pedestrian orientation. Either new-bridge option would have serious environmental impacts and there are no funds for such expensive undertakings. The increased traffic capacity of either bridge would most likely lead to approval of more development on Pine Island, negating the initial positive impacts on traffic flow and hurricane evacuation.

SETTING THE COURSE

Lee County made a sound decision in 1989 to slow development on Pine Island as the capacity of Pine Island Road through Matlacha is reached. This system should be maintained because no practical method of increasing road capacity has been identified. The specific regulations that govern this slowing should be clarified so that small-scale infill development isn't prohibited. However, additional larger-scale development rights should not be granted where there is no ability to provide basic services such as minimal evacuation capabilities.

GETTING THERE

Modify comprehensive plan Policy 14.2.2 as follows:

POLICY 14.2.2: In order to recognize and give priority to the property rights previously granted by Lee County for about 6,675 ~~6,800~~ additional dwelling units, the county shall keep in force effective ~~consider for adoption~~ development regulations which address growth on Pine Island and which implement measures to gradually limit future development approvals. ~~The effect of~~ These regulations shall ~~would be to appropriately~~ reduce certain types of approvals at established thresholds prior to the capacity of Pine Island Road ~~adopted level-of-service standard~~ being reached, measured as follows at the permanent count station on Little Pine Island at the western edge of Matlacha:

- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches 810 peak hour, annual average two-way trips, the regulations shall ~~provide~~ restrict~~ions on~~ further rezonings which would increase traffic on Pine Island Road~~:~~ through Matlacha. These regulations shall provide reasonable exceptions for minor rezonings on infill properties surrounded by development at similar intensities and those with inconsequential or positive effects on peak traffic flows through Matlacha, and may give preference to rezonings for small enterprises that promote the nature and heritage of Greater Pine Island.
- When traffic on Pine Island Road ~~between Burnt Store Road and Stringfellow Boulevard~~ reaches 910 peak hour, annual average two-way trips, the regulations shall ~~provide~~ restrict~~ions on~~ the further issuance of residential development orders to one-third the maximum density otherwise allowed on that property. ~~(pursuant to the Development Standards Ordinance), or other measures to maintain the adopted level of service, until improvements can be made in accordance with this plan.~~

These development regulations may provide exceptions for legitimate ongoing developments to protect previously approved densities for final phases that have a Chapter 177 plat or site-plan approval under Ordinance 86-36.

POPULATION AND LAND USE

Town and Country on Pine Island

The essential character of Pine Island has always been the contrasts among its physical environments. Surrounded by harbors and bays of unparalled beauty, Pine Islanders live in a series of low-key settlements or "villages" that are separated by rural land. With dense mangrove forests creating barriers between most land and the water, the seven residential villages have formed in the locations with best access to the water (Bokeelia, Pineland, Matlacha, Flamingo Bay, Tropical Homesites/Manatee Bay, and St. James City). Only Pine Island Center is away from the water, in favor of the only crossroads location on Pine Island. Between these villages there has always been the sharp contrast of rural lands, dominated by slash pine/palmetto habitats and some farming operations.

Pine Island has almost no beaches, few city services, and limited employment and shopping — yet it remains a highly desirable and moderate-cost alternative to the formless "new communities" that have obliterated the natural landscape throughout coastal Florida.

Pine Island Center, looking north *Photo courtesy of Mohsen Salehi and Bill Dubin*

The current Pine Island community plan maintains the distinct villages by limiting their expansion through boundaries on a future land use map. Only a single ten-acre amendment has been approved to that map since 1989. Because the boundaries themselves have not been reexamined during that period, that effort was undertaken as part of this plan update, as described below.

Town (village) boundaries

The freestanding villages on Pine Island have been given one of three "future urban area" designations, with densities and total acreages summarized in Table 2.

TABLE 2

"Future Urban" designations on future land use map	Residential density range (DU = dwelling unit)	Actual acres in Greater Pine Island
Urban Community	1 to 6 DU/acre	1350 acres
Suburban	1 to 6 DU/acre	1427 acres
Outlying Suburban	1 to 3 DU/acre	1557 acres

"Urban Community" areas can have considerable concentrations of commercial uses, and thus were assigned to Pine Island Center and Matlacha, the commercial centers for all of Greater Pine Island.

"Suburban" areas are allowed similar densities for residential development, but with fewer commercial uses. This designation has been assigned to most of Bokeelia and St. James City, and smaller areas around the Pink Citrus, Flamingo Bay, and Pinewood Cover mobile home parks.

"Outlying Suburban" areas are allowed half the density of "Suburban" areas, but with comparably limited commercial uses. This designation was generally assigned to all other settlements on Pine Island.

All the future urban designations were drawn tightly around existing settlements. The exceptions are about 52 acres just north of Galt Island Avenue (northwest of St. James City); 95 acres centered around the Pine Island Village subdivision south of Flamingo Bay; and 157 acres south of Bokeelia and north of September Estates. The first two exceptions apparently had been made due to imminent development activity on those parcels, and both were reasonably logical extensions of existing settlements. However, little activity has taken place on either parcel, with extensive natural vegetation remaining.

The third exception, south of Bokeelia, is the most incongruous. This entire acreage is now in intense agricultural use, with much of it cleared during the past decade (see Figure 2). Apparently it had been considered as a potential expansion of the Bokeelia urban area. Since that time, the landowners have clearly indicated a preference for agriculture and have made no efforts to develop any of the land residentially. Thus these 157 acres should be reclassified to whatever designation is ultimately assigned to the rural lands to their east and west.

Other apparent anomalies are several large clusters of rural land that have been assigned the "Outlying Suburban" designation east and northeast of Pineland. Close examination shows that these areas have been subdivided into lots averaging one-half acre, and have been almost entirely sold off to individual purchasers. The largest area, just east of Stringfellow Road, is known as the Kreamer's Avocado subdivision. The relatively few homes that have been built there enjoy a pleasant rural setting. However, any substantial increase in homebuilding will overtax the incomplete network of unpaved roads and reduce the rural atmosphere. At such time, residents could band together and

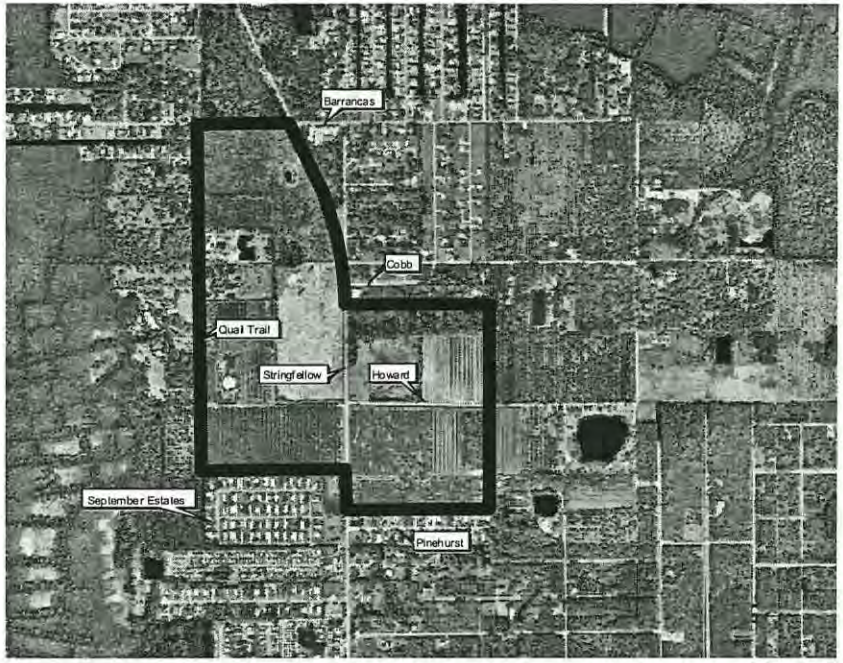
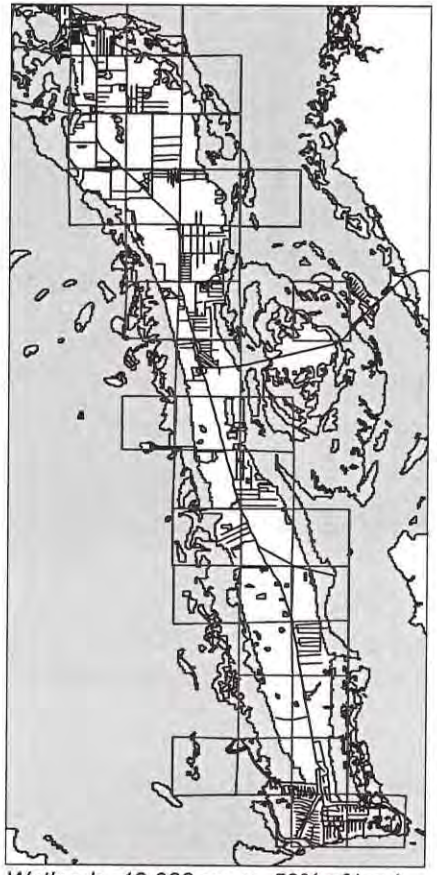


Figure 2

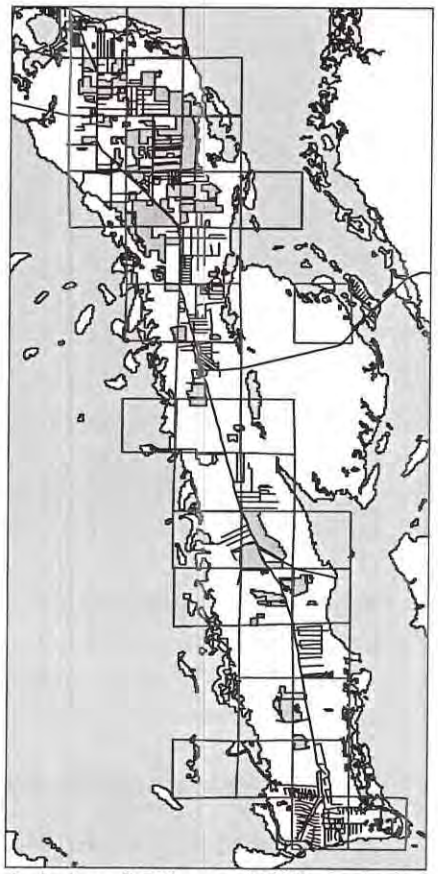
pave the roads and install a modest drainage system through a special taxing district. The seeming anomaly of the "Outlying Suburban" designation, however, is appropriate for the existing pattern of small subdivided lots.

The future of rural Pine Island

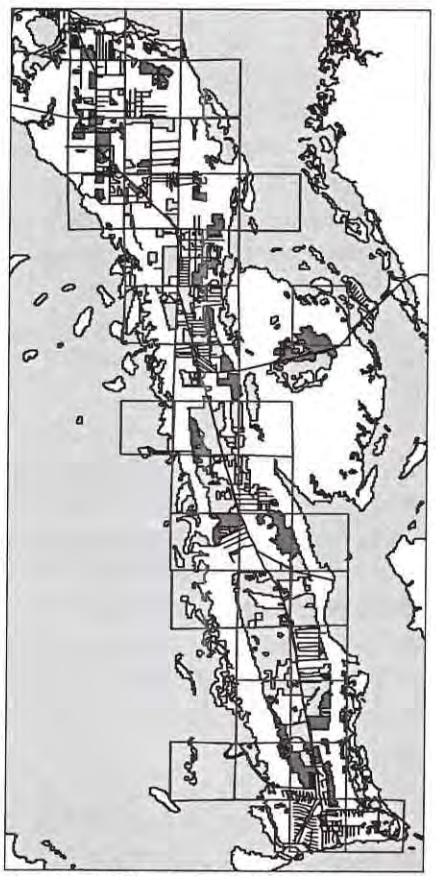
Outside the village boundaries, all high ground has been designated in the "Rural" category, where residential development is now limited to one dwelling unit per acre (1 DU/acre). Over the past 15 years, much "Rural" land between the villages has been converted to farmland, especially on the north half of the island, a trend that is continuing even today. This conversion has destroyed a quarter of the remaining pine-and-palmetto habitat over a 15-year period (see Table 3), a period in which farming has become the most popular and economic use of rural land on Pine Island.



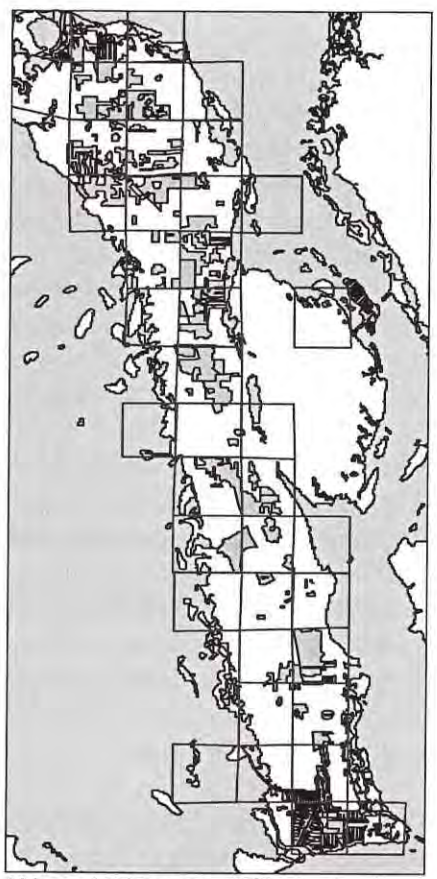
Wetlands, 13,088 acres, 52% of land



Agriculture, 2,763 acres, 22½% of uplands



Forests, 4,853 acres, 39½% of uplands (pine flatwoods, lighter color, 22½%; exotic infested, darker color, 17%)



Urban, 4,676 acres, 38% of uplands

***SOURCE:** Based on GIS data for 1996 provided by the South Florida Water Management District.*

TABLE 3

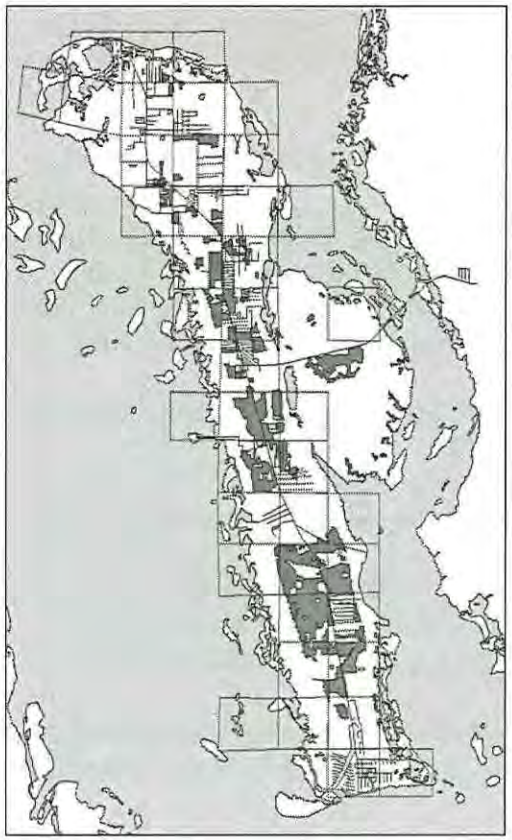
Removal of Pine Flatwoods on Pine Island 1981 – 1996

Pine Island Community, By Sector	Upland Acres	Acres of Pine Flatwoods		15-Year Decrease of Pine Flatwoods	Agricultural Acres, 1996
		1981	1996		
Bokeelia	1,612	144	40	(104)	464
Pineland	2,672	373	230	(143)	1,336
Pine Island Center	2,690	859	743	(116)	365
Matlacha	224	0	0	0	0
Flamingo Bay	2,451	1,360	1,044	(316)	444
Tropical Homesites	792	581	400	(181)	12
St. James City	1,630	420	300	(120)	142
TOTALS:	**12,071**	**3,737**	**2,757**	**(980)**	**2,763**

SOURCES: *Data based on interpretation of aerial photographs. For sector boundaries, see map in Appendix C.*
1981: *Lee County Coastal Study, Appendix IV-III, Godschalk & Assoc., 1988.*
1996 and upland totals: *Based on GIS data provided by the South Florida Water Management District.*

This increase in farmland is sometimes seen as preferable to more residential subdivisions, which cannot be supported by Pine Island's limited road connections to the mainland. However, farmland can be converted to residential land very easily; the current comprehensive plan actually seems to encourage this by allowing residential development on one-acre lots without rezoning, even on active farmland. Planning professionals generally agree that one-acre lots are too small to maintain the countryside and too large to create villages; yet that is the predominant residential density allowed on Pine Island today.

During this plan update process, Pine Islanders carefully considered alternative growth-management techniques to replace the 1 DU/acre "Rural" category on Pine Island. While considering these alternatives, the public was made aware of the current regulatory climate: regulations that are so strict as to essentially "take away" *all* rights to private property rights are illegal, and such "takings" must be fully compensated to the landowner, an enormously expensive undertaking.



Remaining pine flatwoods, 1996

In addition, in 1995 the Florida legislature passed the Bert J. Harris, Jr. Private Property Rights Protection Act. This act established a new standard for preventing overly strict regulations on land — any regulation that is determined to place an "inordinate burden" on a landowner may now require compensation, even though it isn't a "taking" of all property rights. This act does not mean that land-use regulations cannot be made stricter, even if they lower the market value of land; but as a practical matter it will mean closer scrutiny of strict regulations, especially their potential to "inordinately burden" landowners *even if* the court decides that a particular regulation is valid and in the overall public interest.

Whether a new regulation places an "inordinate burden" on a landowner will be determined by the courts on a case-by-case

basis. It is clear that the *amount* the market value of land may be lowered after a regulation is imposed will be a very important factor in this decision.

On Pine Island today, there is little market demand for residential development at densities of 1 DU/acre. A single new subdivision has been created at this density (Island Acres just south of the water treatment plant), and it has experienced relatively slow sales even though its lots surround an attractive lake. The actual real estate market for large tracts of Pine Island land has three major types of buyers:

- Intensive agriculture users, who are planting tropical fruits, ornamental palms, and some vegetables;
- Land speculators, who often anticipate selling at a profit to a developer who would build dwelling units around a golf course; and
- Public agencies, the new players in this market, at present primarily Lee County's "Conservation 2020" program which buys and preserves natural habitats.

These three types of buyers will establish the market value for large tracts on Pine Island in the absence of substantial demand for one-acre homesites.

Appendix B of this report evaluates five different growth-management techniques for rural land on Pine Island:

- Conservation land purchases
- Larger lots in rural areas
- Cluster development
- Transferable development rights
- Rate-of-growth control

Any of these techniques, or either of the two hybrid techniques also discussed in Appendix B, could become part of the Greater Pine Island community plan update and the Lee Plan's future land use map, and would be implemented through subsequent changes to other county regulations. (Existing lots would presumably be "grandfathered in" even if they are now vacant.)

The option recommended as the best for Greater Pine Island at this stage of its evolution is a hybrid described in Appendix B as "conservation clustering with incentives" (#7). It combines the best features of conservation land purchases (#1), larger lots in rural areas (#2), and cluster development (#3).

Land that is now designated "Rural" would be placed in a new "Coastal Rural" category. This conversion would respond well to the three main problems identified for Pine Island's rural areas:

- the absence of any meaningful effort to protect even the best remaining native habitats from agricultural clearing;
- the potential for residential development at 1 DU/acre that would result in neither "town" nor "country" conditions; and
- the potential for adding even more dwelling units that cannot be sustained by the limited road connections to the mainland.

This option combines regulations with incentives and uses a sliding scale of density to encourage (though not require) conservation of undisturbed habitats.

Property owners who save 70% of native habitats would be allowed to keep all of the dwelling units allowed to them today, but instead of placing each house on a 1-acre lot, these homes could be placed on the remaining 30% of the land. This would allocate 0.3 acres per lot (although actual lot sizes would be somewhat smaller to account for land needed for streets and stormwater detention lakes).

Property owners who choose *not* to save any native habitats would be limited to 1 DU per 10 acres. This would allow agricultural or country-estate homes on 10-acre lots.

A sliding scale would allow property owners to choose any point within the extremes just described, as shown in Table 4.

TABLE 4

Assume % of native land saved or restored	Would then be assigned this gross density:	RESULTS ON 100 ACRES WOULD BE: # of DUs	acres used per lot	total acres preserved	total acres used
0%	1 DU per10 acres	10	10.0 acres	0	100
5%	1 DU per 9 acres	11	8.6 acres	5	95
10%	1 DU per 8 acres	13	7.2 acres	10	90
15%	1 DU per 7 acres	14	6.0 acres	15	85
20%	1 DU per 6 acres	17	4.8 acres	20	80
30%	1 DU per 5 acres	20	3.5 acres	30	70
40%	1 DU per 4 acres	25	2.4 acres	40	60
50%	1 DU per 3 acres	33	1.5 acres	50	50
60%	1 DU per 2 acres	50	0.8 acres	60	40
70%	1 DU per 1 acre	100	0.3 acres	70	30

It may seem counterintuitive to allow higher densities on natural habitats than on disturbed lands, but this provides landowners with a strong incentive *not* to clear native habitats. (The same incentive would be granted to restored land as to preserved land, using the same sliding scale.)

This approach diminishes the potential for residential development on agricultural land while rewarding landowners who protect (or restore) their land's natural habitats. Actual development on native parcels would disturb far less land than would occur today by either allowing today's number of dwelling units to be placed on smaller lots, or by reducing the number of lots that are allowable. Public purchases of entire tracts for preservation would be encouraged, but if purchase offers aren't attractive enough to interest property owners, this new plan would encourage more preservation than current regulations.

SETTING THE COURSE

The culture of community-making demonstrated by Pine Island's pioneers should be continued by enhancing its seven freestanding communities and keeping them from sprawling into rural areas. Pine Island's rural areas should be placed into a new Coastal Rural category on the future land use map. This category would have a sliding density scale that would reward landowners who preserve native upland habitats. However, it would not prevent them from pursuing agriculture or creating standard ten-acre homesites if they choose. Without major habitat preservation, smaller homesites would not be allowed in Coastal Rural areas. (Existing legal lots in rural areas would not be affected.)

GETTING THERE

1. Adopt a new comprehensive plan policy as follows: **POLICY 14.1.8:** The county shall reclassify all uplands on Pine Island previously designated as Rural to a new Coastal Rural designation on the Future Land Use Map. The purposes of this redesignation are to provide a clearer separation between rural and urban uses on Pine Island, to discourage the unnecessary destruction of native upland habitats, and to avoid placing more dwelling units on Pine Island than can be served by the limited road capacity to the mainland. The Coastal Rural designation is designed to provide landowners with maximum flexibility while accomplishing these public purposes.

(continued)

GETTING THERE *(continued)*

2. Adopt a new comprehensive plan policy establishing a new non-urban designation on the county's Future Land Use Map, as follows:

   POLICY 1.4.7: The Coastal Rural areas are uplands on Pine Island that were redesignated in accordance with Policy 14.1.8. These lands are to remain rural except for portions of individual properties whose owners choose to permanently preserve or restore native upland habitats and in return are permitted to use a portion of their properties for smaller residential lots. The standard maximum density in the Coastal Rural area is one dwelling unit per ten acres (1 DU/10 acres). Maximum densities increase as various percentages of native uplands are permanently preserved or restored. Permitted land uses include agriculture, fill-dirt extraction, conservation uses, and residential uses up to the following densities:

Percentage of native habitats preserved or restored	***Maximum density***
0%	1 DU / 10 acres
5%	1 DU / 9 acres
10%	1 DU / 8 acres
15%	1 DU / 7 acres
20%	1 DU / 6 acres
30%	1 DU / 5 acres
40%	1 DU / 4 acres
50%	1 DU / 3 acres
60%	1 DU / 2 acres
70%	1 DU / 1 acre

(continued)

GETTING THERE *(continued)*

3. Amend the future land use map to reclassify all land on Pine Island now designated as "Rural" into the new "Coastal Rural" category.

4. Amend the future land use map to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates in 31-43-22, bounded by Quail Trail on the west, Barrancas Street on the north, Stringfellow on the east, Unit A of Rapid #1 subdivision (Cobb Road) on the north, the quarter section line of Section 31 on the east, and Pinehurst Acres and September Estates on the south.

5. Amend the land development code to provide detailed regulations to implement new Policies 1.4.7 and 14.1.8, including modifications to the AG-2 zoning district in accordance with these policies.

Population Summary

Initial data is beginning to be released by the U.S. Census Bureau from the 2000 census; a brief summary is provided here.

Greater Pine Island's population for many years has been much older than Lee County or the state of Florida as a whole, reflecting the continuing influx of retirees to the area. There are now 9,306 permanent residents of Greater Pine Island; the chart below illustrates the age breakdown of these permanent residents.

Of the 9,306 permanent residents, 98.3% percent are white and 3.7% are Hispanic.

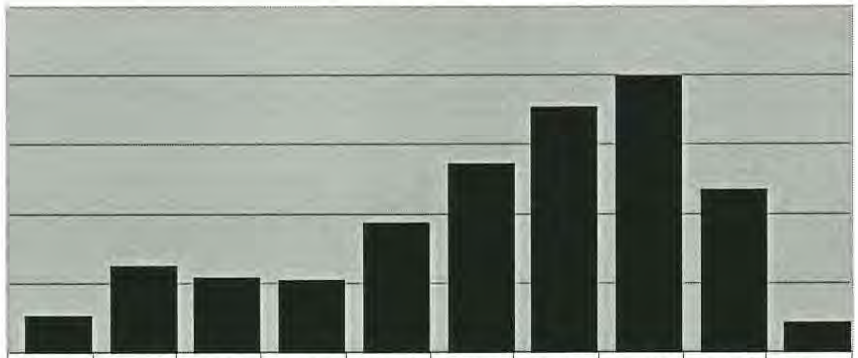
These 9,306 permanent residents live in 4,575 dwelling units. There are 1,766 additional dwelling units that were either used by seasonal residents or were vacant when the census was conducted on April 1, 2000. Compared to other islands in Lee County, Greater Pine Island has a much higher percentage of its dwelling units occupied by permanent residents. (The census does not include any meaningful data on seasonal residents.)

Of the 4,575 occupied dwelling units, 85.7% are occupied by their owners and the remaining 14.3% are rented out to others.

Additional data on the population and housing characteristics of Greater Pine Island is expected in the fall of 2001.

Age of Permanent Residents of Greater Pine Island

Year 2000, by Age Ranges

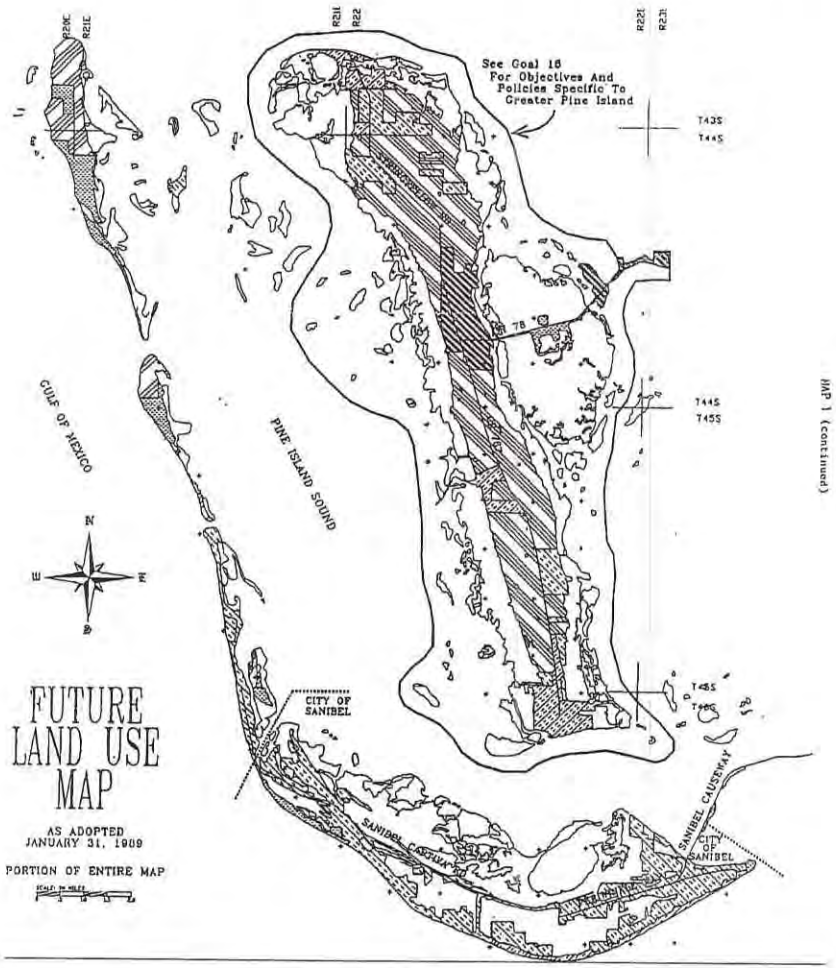


	0-5	5-14	15-24	25-34	35-44	45-54	55-64	65-74	75-84	85+
Percent of residents	2.8%	6.6%	5.7%	5.5%	10.0%	14.5%	18.9%	21.3%	12.4%	2.2%
Number of residents	260	611	535	511	931	1,352	1,759	1,984	1,157	206

Greater Pine Island's Boundary

This plan has described Greater Pine Island as Pine Island, Little Pine Island, and Matlacha. A more precise boundary is needed for legal purposes.

The map below shows the original boundary adopted by Lee County in 1989 for the Greater Pine Island community plan.



Other Pine Island boundaries have been adopted for different purposes. Map 16 of the Lee Plan divides the entire county into twenty "planning communities" for administrative and accounting purposes; that Pine Island boundary includes some enclaves of unincorporated land between Matlacha Isles and the city limits of Cape Coral, including the Royal Tee Country Club. This is similar, though not identical, to the boundaries of the Matlacha/Pine Island Fire District and the Greater Pine Island Water Association, both of which however exclude Cabbage Key and Useppa and treat other small islands differently.

The original community plan boundary from 1989 also excludes Cabbage Key and Useppa, plus all of the unincorporated land east of Matlacha Isles. During the course of this plan update, only the areas within the original boundary were analyzed carefully. Thus the plan update, when adopted, should apply only to the original area. The Lee Plan should prominently display this boundary on the future land use map and/or a separate map depicting Greater Pine Island and all other areas that are subject to community plans.

GETTING THERE

Modify the future land use map to clearly reflect the 1989 boundary for Greater Pine Island, which includes Pine Island, Little Pine Island, and Matlacha eastward through Matlacha Isles.

Tropical Island Wear & Moretti's, Matlacha


Waterfront Restaurant, St. James City


Crossed Palms Gallery, Bokeelia

COMMUNITY CHARACTER

Design of Commercial Buildings

Businesses are an essential part of any community's character. They provide useful services and their buildings are usually located on major roads where they are regularly viewed by residents and visitors.

Pine Island has many commercial buildings that are strictly utilitarian, and others that are simply unsightly. However, there are also many wonderful examples of commercial buildings that help maintain the rural and small-town ambience of Pine Island. Some are old, some completely renovated, and some entirely new, but they usually are designed in the "Old Florida" or vernacular style and can serve as desirable examples for future commercial buildings on Pine Island. Photographs of some of those buildings are included here.

In late 1998, Lee County for the first time adopted design standards for commercial buildings. These standards are fairly minimal and do not govern the style of buildings, nor the placement of buildings on the site. However, they can be adapted to incorporate either or both for commercial buildings on Pine Island.

The following list identifies general characteristics of the best commercial buildings on Pine Island, and compares them with some common trends elsewhere:

- Existing buildings are often converted to commercial use, rather than demolished and replaced.
- The buildings are relatively small; some could be mistaken for a large residence.
- There is little or no parking between the building and the street; parking lots tend to be on the side, or behind the building.
- Mature trees are considered assets on commercial sites, rather than obstacles to be removed.
- Glass is plentiful on the fronts of buildings; blank walls are rare even on the sides or the rear.
- Galvanized sheet metal is the most common roof material.
- Building styles are traditional, usually "Old Florida" style, but with many creative details — they are never identical formula buildings that might appear anywhere.

Pine Island Prof. Center, Pine Island Center

Pine Island Realty, Pine Island Center

Island Exchange, Pine Island Center

For the most part Greater Pine Island has avoided lookalike franchise architecture where repetitive building types function as giant billboards.

The city of Sanibel has tried a novel approach at controlling lookalike architecture by banning what they have defined as "formula restaurants." Their definition includes any restaurant that meets two of these three criteria: any fast-food restaurant; uses the same name as others in a chain or group; and uses exterior designs or employee uniforms that are standardized.

The Sanibel rule affects only restaurants, not any other commercial establishments. Also, many chains *are* willing to modify their standard designs or to build customized buildings, if clearly required by local law. By adopting specific commercial design standards for Pine Island, greater control can be obtained over out-of-character buildings without involving county government with issues of competition, corporate structure, or similarity to other businesses. These issues are outside the county's normal scope of review anyway.

SETTING THE COURSE

Lee County's new architectural standards are a major step forward but should be supplemented with specific standards for Pine Island. These standards should favor rehabilitation over demolition; small rather than large buildings; custom designs instead of standardized franchise buildings; preservation of mature trees; parking to the side and rear; large windows and no blank walls; and metal roofs and other features of traditional "Old Florida" styles.

GETTING THERE

1. Adopt a new comprehensive plan policy as follows: **POLICY 14.4.3:** The county shall expand the commercial design standards in its land development code to provide specific architectural and site design standards for Greater Pine Island. These standards will favor rehabilitation over demolition; require smaller rather than larger buildings; avoid standardized franchise buildings; preserve mature trees wherever possible; place most parking to the side and rear; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles.
2. Modify the county's land development code to implement new Policy 14.4.3 by incorporating measurable commercial design standards for new buildings and major renovations on Greater Pine Island.

Century 21 – Sunbelt #1 Realty, Matlacha

SouthTrust Bank, Pine Island Center

Bike Paths

After many years of effort by determined Pine Islanders, an extensive bike path is now in place along Stringfellow Road. The first asphalt segment was built from Barrancas Avenue to Main Street in Bokeelia in the 1980s. A much longer concrete segment was completed recently from the Monroe Canal in St. James City all the way to Pine Island Road. This project was built by Lee County and Florida DOT with a combination of local and federal funds and with easements donated by landowners.

These paths serve both pedestrians and bicyclists along stretches of Stringfellow Road where high speeds and deep swales had made walking or bicycling nearly impossible. These paths serve recreational users and also provide critical links between Pine Island's communities. These connections are increasingly important due to the influx of migrant workers whose bicycles are often their sole means of transportation, yet they must travel on a road that was designed only for high-speed traffic.

There are no bike paths or sidewalks at the northern or southern tips of Pine Island. Paved shoulders are used by pedestrians and bicyclists from Monroe Canal south through the commercial district of St. James City. Further to the south, and again in Bokeelia, the narrow pavement is shared by cars, trucks, pedestrians, and bicyclists. This situation has been acceptable for many years due to low traffic speeds; however, traffic levels during recent winter seasons are making this practice unsafe.

From Pine Island Road north to Barrancas Avenue, it is still extremely difficult and dangerous for pedestrians or bicyclists to move along Stringfellow Road. This is the most important "missing link" in the system, and is next in Lee County's plans for improvements. Construction is underway on another 1.5-mile segment from the Grab Bag store to just north of Pink Citrus. In March 2001, the commission approved another 1.8-mile segment from Pine Island Road to Marina Drive, with

construction expected in 2002.

Both segments had been delayed because some property owners have not been willing to donate easements along their property. Because the right-of-way is so narrow, construction of this path requires these easements or expensive reconstruction of the drainage system to move the swales or to route stormwater through underground pipes. The same problem on the remaining segments has greatly hindered efforts to extend the bike path further.

Much of the southern portion of the path was built along a wider right-of-way, avoiding some of these difficulties. Still, there were many conflicts with drainage swales and power poles, some of which were resolved with expensive railings and concrete walls. Some parts of the bike path were routed around every power pole rather than moving the row of poles because of cost concerns expressed by the power company.

The final stages of the bike path will be even more difficult to construct, yet it should be considered an important public amenity whose looks and functionality are of equal concern.

To complete this path, it might even be necessary to purchase a few missing easements, or go to the expense of underground drainage or moving power poles. It may even require off-site drainage improvements where swales must be covered to accommodate the path. These costs might delay the project further, but its long-term completion and excellence should remain a critical goal for all Pine Islanders.

Landscaping in strategic locations could soften some of the utilitarian look of existing portions of the path, and curbs can be installed where the path unavoidably adjoins the roadway. In the future, additional paths might be designated along parallel streets to improve the usefulness and variety of the bike path.

Better design could avoid needless jogs

The result of moving the path rather than moving the poles

SETTING THE COURSE

Lee County is to be congratulated for its success in building a bike path along major portions of Stringfellow Road. Completing this path across the entire length of Pine Island should continue to be a very high priority of all Pine Islanders.

GETTING THERE

Adopt a new comprehensive plan policy as follows:

POLICY 14.2.4: The county shall make every effort to continue extending the bicycle path to run the entire length of Stringfellow Road. Wherever possible, this path should be designed as a major public amenity, not as an afterthought. Where needed to provide a high-quality bicycle path, power poles and swales should be relocated to avoid unnecessary jogs in the bike path.

Fences and Walls

Fences and walls serve many purposes; depending on their design and placement, they can be a character-enhancing part of a community or a divider of neighbors and neighborhoods.

Short fences or walls (less than 3 or 4 feet tall) are typically used in front yards to demarcate the fully public space in the right-of-way from semi-private front yards. These spaces together make up the public realm – the common visual space that forms much of a community's character.

Unlike fences in the public realm, back yards and rear portions of side yards can have taller fences or walls, typically 6 feet tall, to provide almost total privacy.

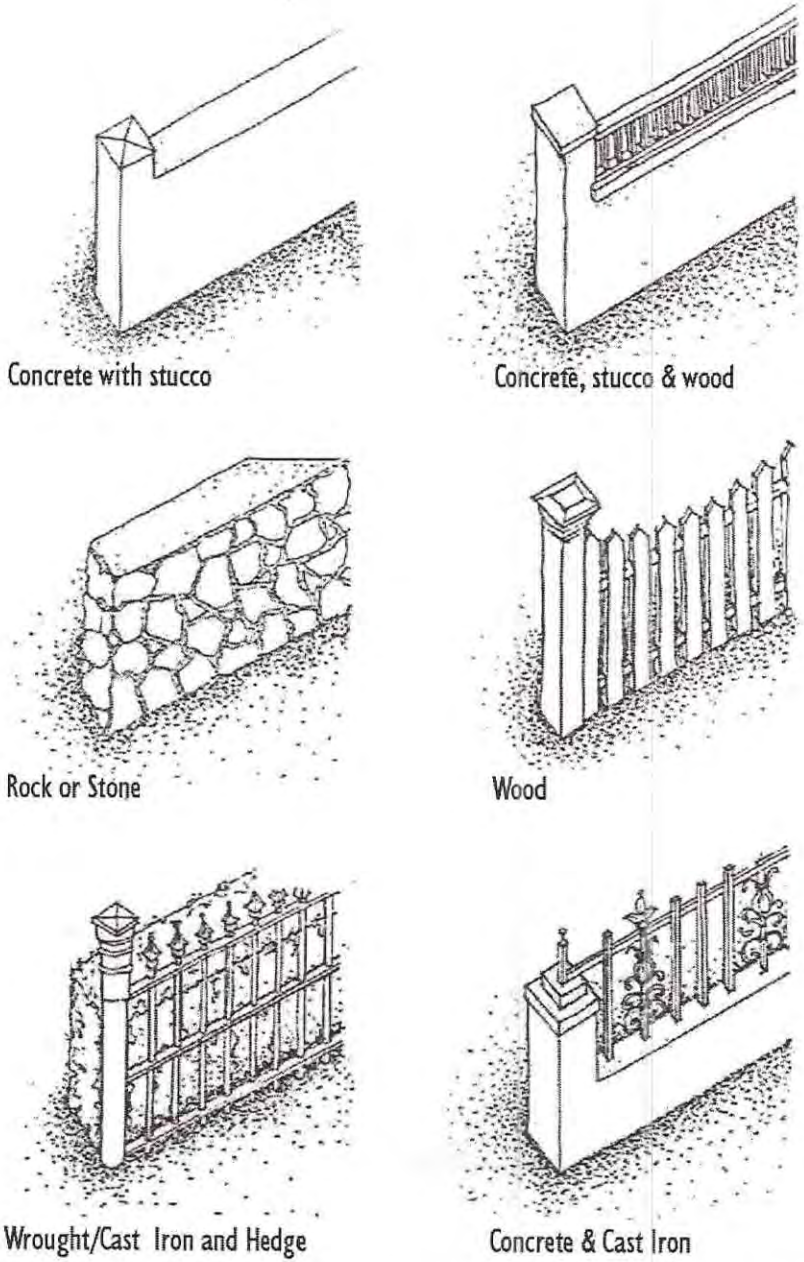
Pine Island has managed to avoid the modern trend of new neighborhoods with a single main entrance blocked by a security gate, and with a perimeter wall that blocks all other access, even for those traveling on foot. Most neighborhoods on Pine Island have more than one street connection (although water bodies and wetlands sometimes make a single entrance unavoidable). Even Alden Pines, Pine Island's only golf course community, has a street that runs all the way through, integrating it fully with the surrounding neighborhoods. The new Island Acres subdivision, however, follows the modern trend and has a single gated entrance and a perimeter wall.

Lee County's development regulations restrict fences or walls to 4 feet high in front yards and 6 feet high behind and along the sides of houses, in the traditional manner. Yet these same regulations allow a 8-foot-high "backyard-style" wall to surround an entire neighborhood, even along public streets. County regulations also permit subdivisions with private streets to be gated with very few restrictions, even where they will interfere with normal circulation patterns.

Although Pine Island is unlikely to see many entirely new subdivisions, it is reasonable for those that are approved to be built in the traditional manner, with a interconnected street network and without perimeter walls or gates.

High wall surrounding Island Acres subdivision, south of P.I. Center

Typical Pine Island roadside south of Pine Island Center



Low fence and wall styles that are desirable along streets

SETTING THE COURSE

Isolated gated communities and walled compounds are not consistent with the traditional neighborhood character of Pine Island. Any new neighborhoods should be connected to their surroundings at several points rather than being isolated. Perimeter fences, walls, and gates, if allowed at all, should be limited to individual blocks or small portions of neighborhoods.

GETTING THERE

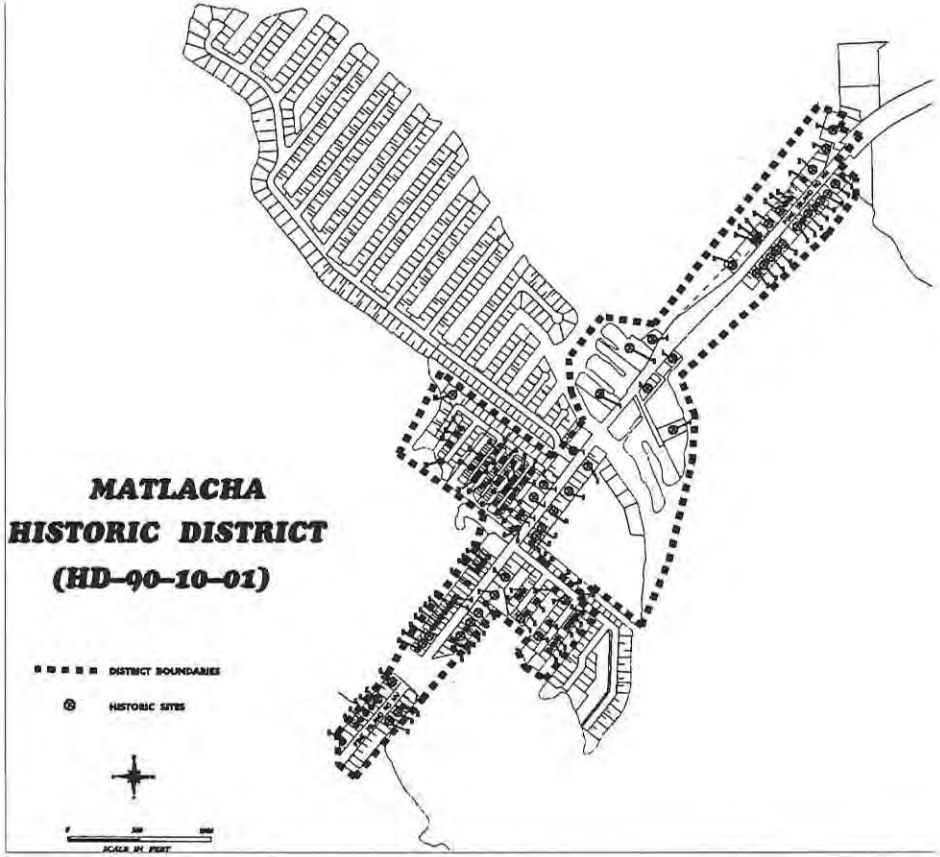
A. Adopt a new comprehensive plan policy as follows:
POLICY 14.3.5: The county shall amend its land development code to provide specific regulations for neighborhood connectivity and walls and gates on Greater Pine Island. These regulations would require interconnections between adjoining neighborhoods wherever feasible and would no longer allow perimeter walls around larger developments.

B. Modify the county's land development code to implement new Policy 14.3.5 by defining the new neighborhood connection requirements and revising the fence and wall regulations for Greater Pine Island.

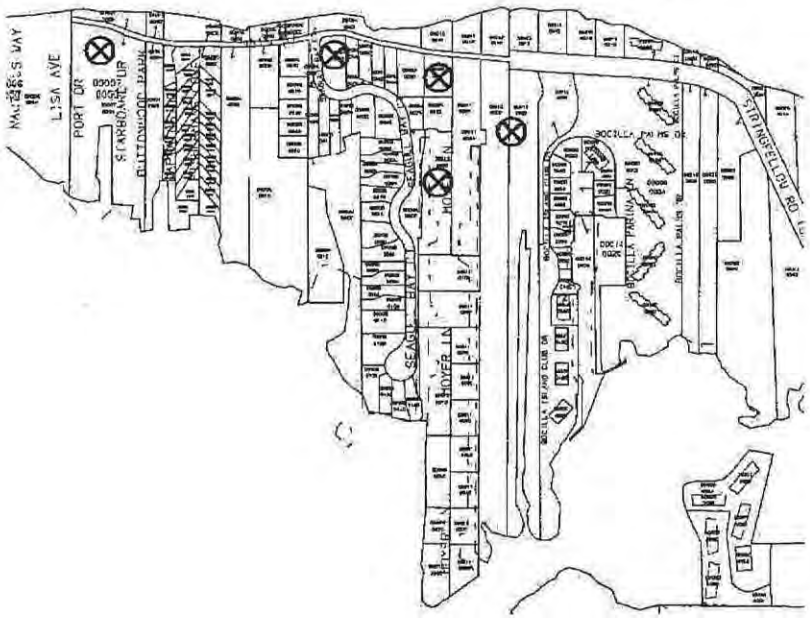
Historic Buildings

Lee County has formally designated two historic districts on Greater Pine Island. The largest district includes about 45 buildings in Matlacha, most of which are located directly on Pine Island Road. A small district has also been designated in Bokeelia that includes five properties with historic buildings. The maps below indicate these historic buildings and the Matlacha district boundary.

Potentially historic buildings on Greater Pine Island were originally identified in a historic survey conducted by Lee County in 1986. This survey identified 67 buildings of historic interest on Pine Island, generally those over 50 years old. Concentrations of these buildings were identified in Matlacha (30 buildings), Bokeelia (12 buildings), Pineland (7 buildings), and St. James City (18 buildings).



Designated historic district in Matlacha



Designated historic buildings in Bokeelia

All 67 buildings have been added to the Florida Master Site File, a statewide inventory that is maintained by the Florida Department of State. This file is just a database; listing does not imply any particular level of significance, or eligibility for the National Register of Historic Places or formal designation by Lee County.

Formal local historic designations are made in the unincorporated area by the Lee County Historic Preservation Board. Local designations qualify property owners for special incentives for upgrading their property, and require a review before improvements are made to assess their impacts on the historic value of the building.

While Lee County's 1986 historic survey was thorough, some buildings were undoubtedly missed or improperly identified, while others have been destroyed or extensively modified. As time passes, other buildings become eligible for listing as they become fifty years old. The state provides grants to have these surveys updated, although such requests require 50% matching funds and must compete with other worthy requests from across the state. An update of the Pine Island survey would provide the basis for formally designating historic buildings in St. James City and Pineland, and possibly more buildings in Bokeelia. It may also identify buildings or districts that have become eligible for the National Register of Historic Places.

The official designation of more of Pine Island's historic buildings would bring greater attention to their significance, building pride in maintaining them while enhancing the surrounding community. Owners of historic buildings often find the incentives that come with designation to be critical in being able to improve their properties, which modern codes often consider to be obsolete rather than in need of special consideration.

SETTING THE COURSE

The historic districts in Matlacha and Bokeelia have successfully protected the strong sense of place in both communities. Lee County should expand this program to include individual sites and concentrations of historic buildings in St. James City and Pineland.

GETTING THERE

Adopt a new comprehensive plan policy as follows:

POLICY 14.5.4: The county shall update its historic sites survey of Greater Pine Island if an update is determined to be needed. The county shall consider formal local designation of additional historic buildings, especially in St. James City, Pineland, and Bokeelia, and shall identify potential buildings or districts for the National Register of Historic Places.

Cap on Building Heights

At the urging of Pine Islanders, the Lee County Commission in 1977 declared Greater Pine Island as unique in scenic beauty and geography and adopted the first meaningful limitation on building heights. No buildings taller than 38 feet above ground could be built on Greater Pine Island, other than an unexplained exception for industrial buildings.[5]

This height limit has been fiercely protected since that time because the lack of mid-rise or high-rise buildings is a strong character-defining element for a Florida coastal island. (Figure 3 shows a 1973 proposal—never built—for an out-of-scale condominium just north of St. James City.)

As extra protection, this height limit was added into the Pine Island section of Lee County's comprehensive plan, initially in 1989 just by committing to retain the existing code provisions, then in 1994 with the following more specific language:

> ***POLICY 14.3.3:*** *The county's zoning regulations shall continue to state that no building or structure on Greater Pine Island shall be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower.*

Despite this clear language, there is continuing concern among Pine Islanders that the building height cap might be misinterpreted, overlooked, or evaded through variances.

Pine Island Highrise

Pine Island's first highrise condominium project is St. Jude Estates, on a parcel lying between Stringfellow Boulevard and Long John Silver Canal just north of St. James City at St. Jude Harbor. The 244 apartments will be in an L-shaped 10-story structure. Also proposed is a two story building facing the highway for convenience-type stores and shops. Earlier this month permits for $4.1 million worth of construction were issued by the Lee County Building Department. Developer of the proposed project is Joseph A. Leone Jr. of Lawrence, Mass. The St. Jude Estates project is expected to cost about $10 million.

Figure 3

This cap might be misinterpreted because it measures building height from *ground level* and *sea level*, while in the rest of coastal Lee County, building heights are measured from the minimum flood level (the height above which all new homes must be elevated, which varies across the island from 8 feet to 11 feet above sea level).

This cap might also be overlooked by a new permit reviewer or by one not familiar with this one clause in an extremely long land development code. Another possibility is that one of the exceptions that Lee County allows to other height regulations might be incorrectly applied to Pine Island; or variances might be granted to this regulation without a showing of "exceptional

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[5] Lee County Ordinance 77-15, amended by 78-19, and 80-20; later codified into Lee County's land development code at section 34-2175: "*Height limitations for special areas*. The following areas have special maximum height limitations as listed in this section: ... (5) *Greater Pine Island.* No building or structure shall 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, shall not include a building or structure used for an industrial purpose."

or extraordinary conditions," which are legally required for variances.

Policy 14.3.3 now simply describes the Pine Island height regulations and forbids its repeal from the county's land development code. Stronger approaches can be considered to guarantee the continued success of this cap.

One stronger approach is to place the height restriction directly into Policy 14.3.3 (instead of by reference to the zoning regulations). If this change were made, it would become impossible for variances ever to be granted, because no variance can legally be granted to any comprehensive plan requirement. This is appealing, given the prevailing fear of careless granting of variances; however, it is fraught with danger because there may be some unusual situation where a variance *should* be granted. In that case, the only alternative will be to permanently change the rule, rather than allowing an exception in that single instance.

A better approach is to modify the current wording of Policy 14.3.3 to specifically disallow certain incorrect interpretations on building heights. For instance, the policy could forbid any "deviations" from this height restriction (deviations can now be granted *without* the showing of exceptional or extraordinary conditions, as is required for a variance). The policy could also explicitly forbid the substitution of flood elevations as the starting point for measuring height [see LDC § 34-2171], and could forbid increases in building heights in exchange for increased setbacks, an acceptable practice elsewhere in Lee County [see LDC § 34-2174].

These new prohibitions, plus the elimination of the exception for industrial buildings, would cement Greater Pine Island's historic height regulations while still allowing the possibility of a variance in extreme circumstances.

SETTING THE COURSE

Building heights on Greater Pine Island have been carefully restricted since 1977. These restrictions have protected the community's character and must be maintained. Potential loopholes should immediately be closed.

GETTING THERE

1. Modify comprehensive plan Policy 14.3.3 as follows: **POLICY 14.3.3:** The land development code ~~county's zoning regulations~~ shall continue to state that no building or structure on Greater Pine Island shall be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions shall not be measured from minimum flood elevations nor shall increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.
2. Amend the land development code to specifically include the new restrictions added to Policy 14.3.3.

Business Signs

Signs on Pine Island are controlled by general Lee County regulations. At present, only Captiva has separate regulations. For many years the county's regulations were extremely lenient, resulting in some oversized signs that remain standing today.

For new signs, the current regulations encourage signs to be freestanding, either mounted on poles or placed directly on the ground. Large pole and ground signs, however, are more appropriate for suburban strips where commercial buildings are set far back from the road.

Where most motorists drive the roads regularly, as on Pine Island, business signs need not be as large as they would be on a major highway like US 41. When buildings are nearer the road, as promoted by this plan, a better location for signs is directly on the wall of the building. Thus, regulations for business signs on Pine Island could be improved as follows:

- The regulations could limit pole and ground signs to sizes smaller than are needed on major highways.
- The regulations could encourage signs to be wall-mounted or to project out from a building, for instance on awnings, and to be made up of individual letters, rather than using internally lit plastic box signs that are out of character on Pine Island.
- Wall signs are now forbidden when buildings are within 15 feet of a right-of-way (common in Matlacha), yet walls are the most appropriate location for signs there.

In contrast to business identification signs, current regulations classify billboards as "off-premises" signs. New billboards are not allowed on Greater Pine Island. This is important because billboards are needless advertising that blights the scenic beauty of Greater Pine Island. However, some older billboards have been used on Pine Island as "directional signs" that direct travelers to businesses that aren't visible.

External lighting

Sign is centered above the main entrance at the top of the facade

Sign painted directly on the facade above the main entrance

External lighting discreetly located above the awning

Internally lit box signs of plastic and/or metal are designed for commercial strips

Lee County regulations currently allow new directional signs only for residential subdivisions and for nonprofit groups, but never for businesses. Pine Island has only a single north-south road. Businesses such as marinas and groves that are located on other streets are not allowed to have a small sign on Stringfellow showing motorists where to turn.

The state of Maine has developed a program for this situation that could be a model for Pine Island and other locations where some businesses are otherwise "invisible." Businesses can purchase a small roadside sign using a common format that the

state then installs at safe locations in the right-of-way just before motorists must turn. The illustration to the right shows Maine's standard sign sizes. Municipalities can also contract with the state to use a distinctive theme for their community.

A similar program tailored to Pine Island's needs and perhaps having a common artistic character could help the public locate individual businesses while continuing the prohibition on billboards.

SETTING THE COURSE

Lee County's sign regulations should be supplemented with specific standards that match the rural character of Greater Pine Island. These rules would encourage smaller signs on businesses, discourage signs typically found on commercial strips such as U.S. 41, allow small directional signs for businesses not visible from Stringfellow Road, and continue to ban billboards.

GETTING THERE

- Adopt a new comprehensive plan policy as follows: **POLICY 14.4.4:** The county shall expand its current sign regulations to include specific standards for Greater Pine Island. These standards will reduce the size of ground-mounted signs, discourage or disallow internally lit box signs, allow wall signs on buildings near the right-of-way, and allow small directional signs on Stringfellow Road for businesses not visible from the road.
- Modify the county's land development code to implement new Policy 14.4.4 by incorporating new sign standards for Greater Pine Island.

County-initiated Rezonings

Property being developed must comply with its current zoning district *and* with the Lee Plan. In some cases, a property's zoning district has become obsolete due to changes in the Lee Plan. For instance, property that may have been zoned for a subdivision decades ago can no longer be developed at all because it is a protected mangrove forest.

More commonly, land with zoning that seemingly allows either commercial and residential uses cannot be developed commercially, or as intensely, due to specific policies in the Lee Plan. A 1989 Lee County study identified over 600 acres of land on Greater Pine Island whose zoning allows at least some commercial uses, whereas the Lee Plan will only allow the development of only a fraction of that amount.

Despite the legal requirements for compliance with both zoning and the Lee Plan, investors sometimes purchase land based only on its zoning. Lee County should methodically eliminate zoning that no longer reflects uses that are permissible on land. This is a difficult undertaking that has been largely put off since the adoption of the original Lee Plan in 1984.

SETTING THE COURSE

Lee County should methodically eliminate zoning classifications that will create false development expectations for potential investors.

GETTING THERE

- Adopt a new comprehensive plan policy as follows: **POLICY 14.4.5:** The county shall establish a prioritized schedule for a five-year effort to rezone land to zoning districts that properly reflect its development potential under the Lee Plan.
- Begin the process of rezoning improperly zoned land on Greater Pine Island.

Pine Island – a Vision for 2020

Beginning in 1999, Lee County's comprehensive plan has included a brief "vision statement" for each of twenty segments of unincorporated Lee County. The Pine Island segment is worded as follows:

> ***Pine Island –*** *This community includes the major islands of Pine Island, Little Pine Island, and Matlacha, the surrounding smaller islands, and the previously mentioned enclaves in the City of Cape Coral. This community has an overall identity of Pine Island; however, there are four sub community centers within the overall community. The four areas within the Pine Island Community are: Bokeelia at the northern tip, St. James City at the southern tip of the island, and Matlacha which is a small island between the mainland and Pine Island. The Pine Island community is similar to the other island communities in that the residents leave the islands to satisfy many of their commercial needs. However, unlike the other island communities, Pine Island does not have a substantial amount of tourist oriented commercial. Since the Pine Island community does not contain the gulf front beaches the other island communities have, this is not expected to change during the life of the plan. This community will add a small amount of new commercial by 2020 to meet the daily needs of residents; however, Pine Island community residents will still satisfy most of their commercial needs outside of their community. The population of this community will also grow from 8,400 permanent residents in 1996 to approximately 9,700 residents in 2020 and a total seasonal population of nearly 15,000. Pine Island is also different from the other island communities in that it has a much higher percentage of non-seasonal residents.*

This language focuses on commercial development and expected growth almost to the exclusion of any meaningful vision of Pine Island's future.

The Lee County plan would be better served by replacing the current language with a succinct summary of the vision that Pine Islanders have articulated through this plan update.

SETTING THE COURSE

Pine Islanders have articulated their own vision for the future of Greater Pine Island through this comprehensive plan update; a summary of this vision should be placed in the opening chapter of Lee County's comprehensive plan.

GETTING THERE

In the "Vision for 2020"section of the Lee Plan, replace the current language for the Pine Island planning community with the following description (summarized from this plan update):

Pine Island – This community includes Greater Pine Island as described under Goal 14 along with surrounding smaller islands and some unincorporated enclaves near Cape Coral. Its future, as seen by Pine Islanders, will be a matter of maintaining an equilibrium between modest growth on the one hand and a fragile ecology on the other. Pine Island will continue to be a haven between urban sprawl approaching from the mainland and the wealth of the outer islands; a quiet place of family businesses, school children, and retirees enjoying the bounties of nature; a place devoid of high-rises, strip malls, and gated communities. Traffic constraints caused by the narrow road link to the mainland will limit future development, allowing the islands to evacuate from storms and protecting natural lands from unsustainable development. Wildlife and native vegetation will be protected; loss of wildlife habitat will be reversed; sidewalks and bike paths will connect neighborhoods for young and old alike. Architectural standards for commercial buildings will encourage "Old Florida" styles, and historic buildings will be treasured. Pine Island will continue to be a place where people and nature exist in harmony, a place not very different from what it is today, an island as state-of-mind as much as a physical entity, its best features preserved and enhanced. Pine Islanders are historically vigilant about protecting their community and will work to ensure that their plans are carried out.

Municipal Incorporation

Florida law allows individual communities to "incorporate" to form their own city. New cities remain under the control of county governments for many functions but can independently provide certain services, including planning and zoning. (Cities can also choose to call themselves towns or villages.)

Since 1995, both Fort Myers Beach and Bonita Springs have incorporated. The large tax bases in those communities have been able to support city governments without additional taxes. However, in communities without such high property values, a city government would require higher property taxes.

The legislature has erected various hurdles to discourage a proliferation of new cities:[6]

- A population density of 1.5 persons per acre is normally required, as well as a total permanent population of 5,000.
- There must be 2 miles or "an extraordinary natural boundary" between the new city and an existing city.
- A formal feasibility study must demonstrate the fiscal capacity of the proposed city. In order to qualify for important state revenue-sharing, the new city must impose at least 3.0 mills of property taxation,[7] whereas Lee County now charges only 1.2 mills for municipal services. (Fort Myers Beach and Bonita Springs have gotten around this requirement by convincing the legislature to count the property taxes now being imposed by their independent fire districts as part of this 3.0 mills.)
- A special act of the legislature is required even when all of these requirements have been met, followed by a referendum of voters in the affected area.

City governments tend to become expensive, not just because some duplication of services is inevitable, but because an effective city government will tackle problems that citizens wouldn't entrust to more distant levels of government. However, "minimum cities" are becoming a trend; instead of employing large staffs, they contract with outside service providers and allow county government to provide many traditional services.

If Greater Pine Island were to incorporate as a city, it would likely leave the water association and fire department as independent entities. Law enforcement, operation of the sewer plant, emergency management, building permits, and zoning enforcement could be contracted back to Lee County. However, planning and zoning decisions would almost certainly be made by the new government, and additional services could be provided as needs arise.

Municipal incorporation isn't inherently good or bad. Pine Islanders should assume that taxes would have to be raised to support a city government (a revenue analysis could assess the likely costs), and this fact would make it somewhat difficult for a referendum to succeed. Other costs to be considered are the divisiveness of most incorporation efforts (Captiva's experience in the past year is cautionary), and the potential costs of hurricane recovery plus litigation to defend land-use decisions.

On the positive side, Pine Islanders face many distinctive issues that the current Lee County government finds to be outside its "core mission" — issues which Pine Islanders would gladly involve themselves, given the proper forum. Greater Pine Island has a strong history of civic activism and a core of retired citizens who could devote a great deal of attention to municipal matters.

Thus discussion of incorporation can be expected on a regular basis. If Lee County is responsive to Pine Island issues, incorporation may never appeal to enough citizens to justify the costs. However, incorporation always remains an alternative to governance by the county commission.

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[6] Chapter 165, *Florida Statutes*

[7] Section 218.23, *Florida Statutes*

Protecting the Aquatic Preserves from Runoff

The current Pine Island plan requires a buffer area between new developments and aquatic preserves:

> ***POLICY 14.1.5:*** *New "planned development" rezoning approvals and new subdivisions adjoining state-designated aquatic preserves and associated natural tributaries shall provide a 50-foot-wide vegetated buffer area between the development and the waterbody.*

Buffer areas of this type save a strip of native vegetation along the transitional zone between water (or wetlands) and uplands. With proper design, this strip can prevent erosion and trap sediments and other pollutants running off the land, in addition to its original functions.[8]

Such buffers are especially valuable on Pine Island because the island is surrounded by aquatic preserves. These preserves were designated by the state in the 1970s for their "exceptional biological, aesthetic, and scientific value" and are "set aside forever...for the benefit of future generations."[9]

A major management goal for aquatic preserves is to encourage uses of adjacent uplands that protect and enhance the resources in the aquatic preserves.

Policy 14.1.5 has been incorporated by Lee County into its land development code.[10] However, as currently worded, it has proven ineffective because it does not apply to agriculture, the predominant new land use on Pine Island over the past decade.

[8] "Lands immediately adjacent to an upland or wetland are transition zones between wetlands and uplands. They are zones that are wetland at times and upland at times, exhibiting characteristics of each and vegetated by species that are found in each. They are important to both the wetland and the upland as seed reservoirs, as habitat for aquatic and wetland-dependent wildlife species, as refuges to wildlife species during high-water events, and as buffers to the extreme environmental conditions that result from sharp vegetated edges. When development activities occur in transition zones, wetland-dependent wildlife species that are frequent users of theses areas are excluded, silt laden surface waters are generated and cannot be filtered, and groundwater may be diverted or drained." M.T. Brown and J. Orell, *Tomoka River and Spruce Creek Riparian Habitat Protection Zone*, p. 4 (St. Johns River Water Management District, 1995).

[9] Section 258.36, *Florida Statutes*

[10] This policy has been implemented through Lee County's land development code as shown in these excerpts:

Sec. 34-935(d) 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 this requirement shall be permitted except under extreme circumstances in which the requirement would have the effect of prohibiting all reasonable use of the property.

Sec. 10-414(f) Except where a stricter standard applies for the Greater Pine Island Area (defined in chapter 34 of the land development code), there must be a 25-foot wide 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 adjoining 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 except for the removal or control of exotic plants.

Normally a new setback or buffer requirement is easy to adopt and administer. In this case it would be more difficult because Lee County has chosen to exempt agriculture from nearly all of the requirements that apply to developers.

One exception is that Lee County requires new agriculture operations to obtain a "notice of clearing" from the county before clearing any land. A change could be made to the requirements for a "notice of clearing" to require the retention of at least the 50-foot-wide native buffer that is required for all other land uses and to encourage it to be used with a filter strip to cleanse stormwater runoff before it reaches the mangrove wetlands and tidal waters.

The U.S. Department of Agriculture is strongly promoting riparian forest buffers[11] of at least 50 feet and filter strips[12] of at least 20 additional feet around farm fields through their National Conservation Buffer Initiative. The USDA calls them "common-sense conservation" and promotes these buffers as an important supplement to conventional stormwater retention strategies, to serve as a second line of defense in protecting natural resources from avoidable side-effects of agriculture.[13] The USDA even helps pay for riparian buffers on private property through its Conservation Reserve Program.

SETTING THE COURSE

Wholesale land clearing up to the edge of the mangrove forest is now allowed for agriculture. All other new development must maintain a 50-foot native buffer strip between cleared land and natural water bodies. New rules should require agriculture to maintain at least the same 50-foot separation and use it to filter stormwater runoff.

GETTING THERE

Modify comprehensive plan Policy 14.1.5 as follows:

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

- shall be implemented through the notice-of-clearing process in chapter 14 of the land development code;
- shall 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 shall be established within three years of issuance of the notice of clearing.

[11] Riparian Forest Buffer (Natural Conservation Service Conservation Practice Standard 391), available from ftp://ftp.ftw.nrcs.usda.gov/pub/nhcp/pdf/391.pdf

[12] Filter Strip (Natural Conservation Service Conservation Practice Standard 393), available from ftp://ftp.ftw.nrcs.usda.gov/pub/nhcp/pdf/393.pdf

[13] For details on the National Conservation Buffer Initiative, consult USDA's Natural resources Conservation Service at http://www.nhq.nrcs.usda.gov/CCS/Buffers.html

Septic Tanks Along Canals

Water quality in Pine Island's canals and bays can be degraded by many factors, some of which cannot be controlled easily (such as polluted water coming down the Caloosahatchee).

Other factors can be corrected if the public is aware of the problem and is willing to pay to solve it. An example of the latter is bacterial or viral pollution caused by improperly installed or malfunctioning septic tank drainfields. Contaminated canal water can pose health risks from exposure while swimming or boating or from eating contaminated seafood.

Used under proper conditions, septic tanks are a cost-effective method of sewage disposal for individual households. Ideal conditions include porous soils, large lots, the absence of nearby shallow wells or water bodies, and proper maintenance.

However, under some conditions septic tanks function poorly. During normal operation, excess wastewater is routed from each septic tank to an underground drainfield, which is a series of pipes that spread the water over a porous layer of gravel and then into the ground. Because septic tanks alone provide very limited treatment, proper soil conditions are essential so that movement through the soil can provide another level of treatment to capture viruses and other pathogens before wastewater comes in contact with humans or natural systems.[14]

Riskier conditions for septic tanks include a high water table, small lot, nearby well or waterway, installation too low in the ground, and lack of maintenance. When not installed or functioning properly, septic tank drainfields can provide a direct path for the pollutants in domestic wastewater to reach the canals and then the bays.

Pine Island's 66 miles of canal banks are potential routes for pollution to enter sensitive waters. Because most of these canals are deep and dead-ended, they are not easily cleansed by tidal flow. Also, daily tidal fluctuations can raise and lower groundwater levels near canals, creating a pumping effect that can speed the flow of pollutants from the soil into canals.

In the 1980s Lee County installed central sewer service throughout Fort Myers Beach and Matlacha after too many poorly functioning septic tanks along canals caused pollution levels to reach dangerous levels. No agencies currently have a regular program to monitor canals for signs of degradation due to older or malfunctioning septic systems.

In 1988, state rules allowed Lee County to insist that drainfields for new homes be elevated at least 24 inches above saturated soils, sometimes requiring above-ground mounds. These newer systems are much more likely to function properly without polluting nearby waterbodies. However, it is often impractical or even impossible for older homes to upgrade to the new standard.

Decisions to upgrade wastewater disposal systems are often caused by outside factors. This is what happened to the temporary sewage plant that Lee County had installed in the early 1980s on state-owned land on Little Pine Island to replace the septic tanks in Matlacha. This plant itself had become a source of pollution and the state insisted that it be removed. Instead of connecting Matlacha's sewers to the advanced treatment plan in Cape Coral for conversion into irrigation water, Lee County decided to build a new sewage treatment plant on Pine Island.

The decision to build a new regional sewer plant on Pine Island was probably ill-advised, given local soil conditions and flooding risks and the excess capacity available at the Cape Coral plant.

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[14] "Human viruses in the coastal waters of Florida," Coastlines, issue 10.6, December 2000, available at http://www.epa.gov/owow/estuaries/coastlines/dec00/humanviruses.html

However, there are some benefits to Pine Islanders. Many of Pine Island's small freestanding sewer plants can now be easily connected to the new plant, and if septic tanks in sensitive areas are causing pollution, they can be connected also.

The most likely areas for septic tank damage would be populated areas with older septic systems on small lots abutting saltwater canals. These conditions may exist in parts of St. James City, Bokeelia, and Flamingo Bay. A coordinated effort should be mounted to determine whether existing drainfields in those areas are polluting Pine Island's canals.

Simple tests of canal water for fecal coliform bacteria is not sufficient because bacteria levels can be high for other reasons as well. More sophisticated methods are now available for determining whether septic tanks are actually polluting the water. These include dyes and viral tracers that can be flushed into septic tanks to detect whether wastewater is moving slowly enough through the ground to provide a reasonable level of treatment. Two recent studies of this nature in Citrus County and the Florida Keys have found contamination of waterways caused by septic tanks.[15, 16] Similar studies have also been conducted in New Port Richey and Sarasota.

If such tests demonstrate that serious problems exist, the county could establish an inspection program to identify and require replacement of failing or older septic systems, or could require upgrading when a home is sold. Other actions could include providing full sewer service for those neighborhoods, or a hybrid which might keep the septic tanks but route the effluent into sewers instead of on-site drainfields.

Central sewer service is fairly expensive to install and involves regular monthly charges for operation. However, septic-tank replacement is also expensive and disruptive to yards, especially when mounded drainfields are required. If there is clear evidence that septic tanks are causing pollution, Pine Islanders would support reasonable alternatives because clean and bountiful waters are an expected part of Pine Island life.

SETTING THE COURSE

Water quality in the canals and bays is very important to Pine Islanders. Lee County should initiate a program to determine whether older or failing septic tanks along canals are polluting the water, and if so, the county should analyze steps to solve the problem, including extending central sewer service if warranted.

GETTING THERE

Modify comprehensive plan Policy 14.1.7 as follows:

POLICY 14.1.7: ~~The county shall continue to investigate the need for central sewer service for Bokeelia, St. James City, and Pine Island Center. This shall include, for any area having a strong need for such service, an analysis of available facility sites, alternative types of service, and financial feasibility.~~ Lee County shall design a program within one year to assess the condition of septic tank drainfields along saltwater canals in St. James City, Bokeelia, and Flamingo Bay. This program would analyze whether current soil conditions or the density, age, or condition of drainfields are likely to be degrading tidal water in the canals. If serious degradation is taking place, Lee County shall assess the feasibility of various corrective measures.

[15] "Bacteriological and pathogenic water quality assessment of the upper reaches of the Chassahowitzka Watershed" by Michael R. Callahan, Joan B. Rose, Ph.D., and John H. Paul, Ph.D. 2001, prepared for the Utility Division of the Citrus County Department of Public Works.

[16] "Viral tracer studies indicate contamination of marine waters by sewage disposal practices in Key Largo, Florida" by Paul, J.H., Rose, J.B., Brown, J., Shinn, E.A., Miller, S., and Farrah, S.R., in *Applied and Environmental Microbiology*, 1995, vol. 61, No. 6, p. 2230-2234; available at http://aem.asm.org/cgi/reprint/61/6/2230.pdf

Jet-skis and Air Boats

It is no surprise that conflicts often arise over the use of local waterways in a boating community like Pine Island. County government has a limited role in resolving these conflicts, with most authority being retained by the state and federal government.

Counties do exercise some authority over boating. For instance, power boats can be restricted from interfering with popular bathing beaches, and certain boating activities can be regulated under land-use authority (such as the rental of boats). These activities can affect or be affected by shoreline land uses, thus giving counties a clear role in balancing competing uses.

In public meetings on Pine Island, there are two frequent complaints about the effects of boating on land use that might be addressed at the county level. One is the increased popularity of jet-skis (a trade name for what has become known generically as personal watercraft) and the other is the noise from air boats.

Personal watercraft use an inboard engine to drive a water jet pump that propels the boat by exhausting a large stream of water. Personal watercraft are noisy because they are built and marketed as high-speed "thrill craft" that are very powerful and maneuverable. The operators of personal watercraft ride them while standing, kneeling, or sitting *on* them, rather than sitting inside them like conventional boats. For all of these reasons, accident rates for personal watercraft are very high.

Lee County now regulates mainly the *rental* of personal watercraft; state law controls their *operation*. New county regulations over the operation of personal watercraft would now be very difficult due to a new state law that effectively bans local regulation of personal watercraft. While this state law remains in effect, local governments must ignore even legitimate distinctions between personal watercraft and other boats.[17]

Lee County's current regulations keep personal watercraft rentals away from the bays and sounds by limiting rental locations to the barrier islands.[18] However, those renting personal watercraft, or owning them, can operate them in the aquatic preserves around Pine Island. Unless state law is changed, counties have no authority to adopt restrictions.

Air boats can traverse very shallow water because of their unconventional system of propulsion: their engines spin an *above-water* propeller. Thus there are two sources of noise. First in the engine itself, which is often run without a muffler. But most of the noise comes from the propeller, which at high speeds greatly amplifies the engine noise. Air boats are very noisy and affect waterfront landowners and some wildlife, especially birds. State limitations on air boat noise are rarely enforced.

Local efforts to control air boat noise could involve local enforcement of state noise limits, or a ban on nighttime use, or a ban against operations outside marked channels (or within a fixed distance of the shoreline, except near boat ramps). In 1999 Fort Myers Beach banned all air boats in the portions of Estero Bay within the town because of noise and wildlife impacts.

Problems caused by air boats occur throughout Lee County's waters. Rather than addressing air boat problems just around Pine Island, Lee County should consider countywide regulatory measures that would preclude the greatest problems caused by careless use of air boats without adding to the patchwork of boating regulations that are already difficult to enforce.

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[17] "Any ordinance or local law which has been adopted pursuant to this section or to any other state law may not discriminate against personal watercraft as defined in s. 327.02." (Chapter 2000-362, section 20)

[18] Lee County Ordinance No. 95-13, section 9

APPENDIX A: TRANSPORTATION DATA AND ANALYSIS

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

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

Constraints on access to Pine Island

As the years progressed, traffic on Pine Island Road has continually increased. By general county standards, the current congestion would warrant plans to widen this road to four lanes, and funds to do so would be found by juggling Lee County's capital improvements budget. In fact, this widening would be necessitated by Lee County's concurrency standards, which require that all development and building permits be stopped once traffic on a road exceeds the road's full capacity, a congestion level known as "Level of Service E" (LOS "E").

However, Lee County has formally designated certain roads that cannot (or should not) be widened as "constrained." According to Lee Plan Objective 22.2: "Reduced peak hour levels of service will be accepted on those constrained roads as a trade-off for the preservation of the scenic, historic, environmental and aesthetic character of the community." The Matlacha section of Pine Island Road has been designated as "constrained" since 1989.[19] Since that time, Lee County has also designated the heart of Matlacha as a historic district, further protecting the community from road widening that would damage its character (see map of historic district on page 26).

The 810/910 rule in Lee Plan Policy 14.2.2

Origin of Policy 14.2.2

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

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

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

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

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

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

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

> *"...high-density, but stable, flow. Speed and freedom to maneuver are severely restricted, and the driver or pedestrian experiences a generally poor level of comfort and convenience. Small increases in traffic flow will generally cause operational problems at this level."*[22]

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

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

Physical changes to Pine Island Road since 1989

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

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

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

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

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

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

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

Current traffic conditions on Pine Island Road

Since 1990, traffic on Pine Island Road in Matlacha has increased by about 22%. Figure A-1 shows the average counts for each year, with a visual comparison to the 810 and 910 thresholds in Policy 14.2.2. The 810 threshold was surpassed in 1998, 1999, and 2000.

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

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

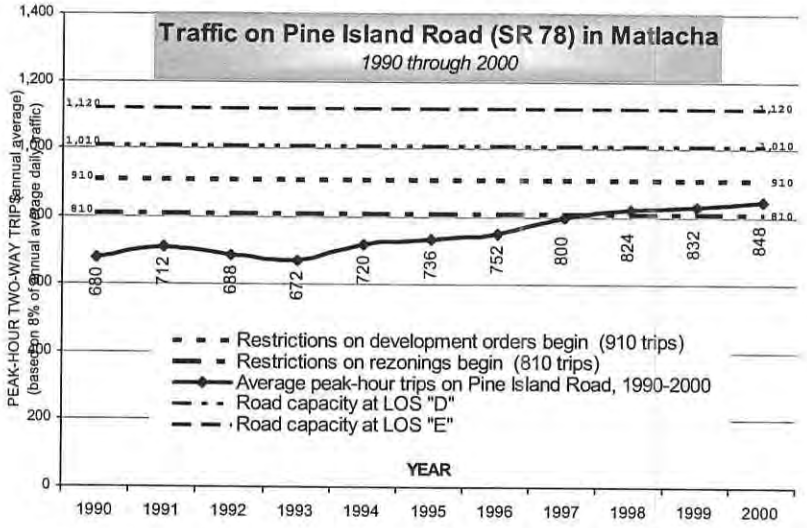

Figure A-1, Traffic on Pine Island Road in Matlacha, 1990 through 2000

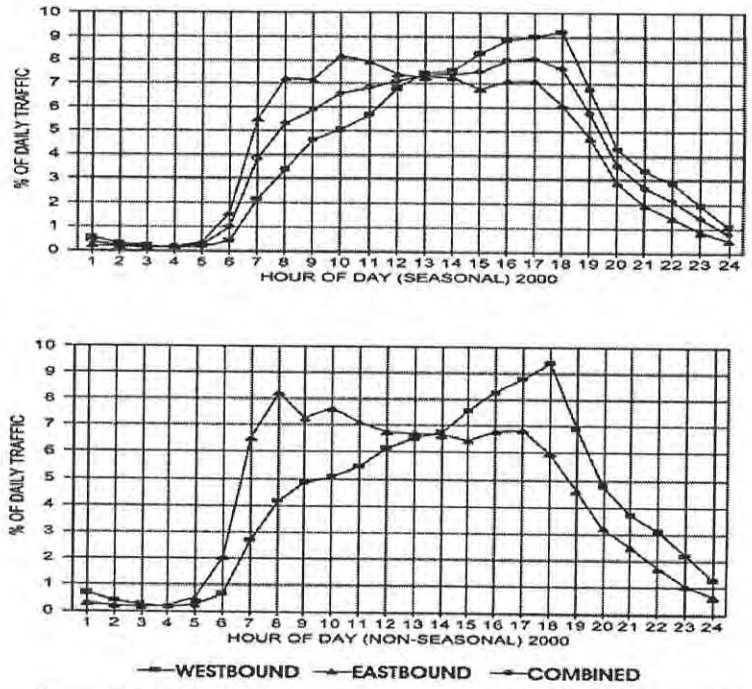

Figure A-2, Directional flow and hourly variations in Matlacha, 2000T

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

Traffic flow through Matlacha is affected by several other factors. The drawbridge is opened an average of two or three times each day to accommodate boaters, blocking traffic in both directions. School buses make about 30 trips each day, with about half occurring during peak traffic periods each day. Because there are no medians on Pine Island Road, traffic must stop both directions when school buses are loading. Public transit is very sparse at present and has inconsequential effects on traffic flow.

Changes since 1989 in methods of analyzing capacity

In 1990 Lee County began using a different method for determining the capacity of roads, using the 1985 *Highway Capacity Manual* instead of the earlier 1965 *Highway Capacity Manual.*[25] Lee County decided to base the 810/910/1010 figures for Pine Island Road on the earlier method for determining capacity, to keep future technical changes in analytical methods from changing their policy decision on how to manage growth on Pine Island.

The earlier method was based primarily on physical characteristics of the road, such as the number of lanes, the width of the lanes, and lateral clearance from obstructions such as parked cars or pedestrians. Pine Island Road west of Burnt Store was designated as a major collector road in a "type 5" rural area.

The remainder of the Lee Plan used the newer method, which determined capacity on arterial roads about equally by the number of lanes and by the length of delays caused by intersections. For most urban roads, delays caused by the red cycle of traffic signals are a major limitation on the number of vehicles that can traverse those roads; thus the number and timing of traffic signals becomes a major factor in determining road capacity. The newer method also assumes that left turn bays are provided at intersections and are adequate to prevent a following vehicle from having to slow down or stop.

Under the newer method, there is no straightforward reduction in capacity for a road with typical collector-road characteristics; the reductions must be computed through a sophisticated traffic analysis. The new method, without adjustments, may even understate the capacity of Pine Island Road as it crosses Little Pine Island. However, it is primarily within Matlacha itself that the bottlenecks occur. Within Matlacha there are no traffic signals, no major crossing streets, and no left-turn bays, yet there are multiple intersecting streets and driveways. With all of these factors, the new method, unless adjusted for those factors, would not provide a reasonable measurement of traffic capacity.

In order for the new method to accurately forecast the capacity of Pine Island Road, it must be carefully adjusted to factor back in the various obstructions to free-flowing traffic through Matlacha (no left-turn bays or passing lanes; reduced speed limit; cars backing into the road from parking spaces; frequent driveways; presence of pedestrians; etc.). These adjustments require more data than is currently available, for example the free flow speed, peak-hour characteristics of traffic flow, and the adjusted saturated flow rate.

In the absence of this data, it is instructive to compare the capacity of Pine Island Road using the older methodology with the capacity of Estero Boulevard at Fort Myers Beach[26], as

[25] Since that time, further modifications have been made in a 1994 *Highway Capacity Manual* and a 1997 *Highway Capacity Manual Update*, all published by the Transportation Research Board.

[26] Estero Boulevard is the same width and has many of the same constraints as Pine Island Road through Matlacha; due to very heavy demand, its traffic flow completely breaks down most days from late January into April, with traffic flowing in a stop-and-go pattern between about 10:00 AM and 6:00 PM. A summary of this data is provided in the Fort Myers Beach Comprehensive Plan, pages 7-B-15 through 7-B-20.

computed by the Lee County department of transportation, as shown in Table A-1. The latest and most thorough study, completed in 1997, suggests that Estero Boulevard's capacity using the new method is only about 10% larger than the comparable capacity for Pine Island Road using the old method.

TABLE A-1

OLD CAPACITY METHODOLOGY
(used for Pine Island Road in the 1989 Lee Plan)

LEVEL OF SERVICE	Peak-hour trips (both directions)	COMMENTS:
LOS "E"	1,120	*LOS "E": full capacity; traffic flow breaks down with small increases in traffic*
LOS "D"	1,010	*LOS "D": high-density but stable flow*
90% of "D"	910	(development order restrictions begin)
80% of "D"	810	(rezoning restrictions begin)

NEWER LEE DOT CAPACITY METHODOLOGIES
(for Estero Boulevard)

LOS "E"	1,780	full capacity of uninterrupted and undivided two-lane road near the coast *(1995 Lee DOT study)*
LOS "E"	1,424	full capacity of Estero Boulevard south of Donora, based on 20% reduction *(1995 Lee DOT study)*
LOS "E"	1,316	full capacity of Estero Boulevard between Donora and Crescent, based on 30% reduction *(1995 Lee DOT study)*
LOS "E"	1,240	full capacity of Estero Boulevard *(1997 Lee DOT study based on new data)*

Physical alternatives to improve access to Pine Island

Four different types of access improvements to Pine Island are described in the following sections, followed by preliminary comments on the impacts of each.

Access improvements could have a variety of physical impacts. These impacts would primarily occur in Matlacha if the existing 66-foot right-of-way were to be reconfigured or widened; they would be primarily environmental if an entirely new access road were created.

Within the existing right-of-way

Two possible reconfigurations have been identified that could fit within the existing 66-foot right-of-way (approximately the distance between the existing utility poles):

1. CONVERT TO THREE LANES: The existing pavement, including the paved shoulders, is about 32 feet wide. It could be rebuilt and reconfigured to three lanes of almost 11 feet each, and the unpaved shoulders could be paved to serve as breakdown lanes or walkways. The third travel lane could serve either as a two-way left turn lane or as a reversible lane for traffic in the busier direction.

2. CONVERT TO FOUR LANES: The road could also be reconfigured into an urban street with curbs and gutters. The existing right-of-way could accommodate up to four 11-foot lanes, two 2-foot concrete curbs and gutters, and two 9-foot raised sidewalks. This configuration would require extensive earthwork and metal railings, similar to the recently rebuilt San Carlos Boulevard as it approaches Fort Myers Beach.

Unless the bridges were widened as well, either approach would still face the bottleneck of having a three-lane or four-lane road narrow into two-lane bridges (similar to the Sanibel Causeway

which has two-lane bridges connecting to four-lane roads).

The three-lane approach would change the look and feel of Pine Island Road less than the four-lane approach. If the third lane were used for left turns, those turns would cause less interference with traffic flow (which will become increasingly important as congestion increases).

A third lane could also be reversible, used for travel in the direction of highest traffic flow. The center lane would be designated for one-way travel during certain hours of the day, and in the opposite direction during other hours. The outer lanes provide normal flow at all times.

There are various problems with reversible lanes, such as operational problems at each end of the reversible lane; enforcement difficulties; increased safety hazards; and unsightliness of the traffic signals and/or barriers that would be required.

It seems unlikely that a reversible lane would have enough benefits in Matlacha to offset the operational difficulties. The greatest benefit to a third lane would be for left turns during daily use, and for an additional lane off Pine Island during an evacuation.

Adding a third lane would cause a number of problems, however, including:

- Pedestrians trying to cross Pine Island Road would have to walk a greater distance, making the crossing less safe;
- The character of Matlacha would lose some of its village atmosphere and pedestrian orientation, replaced with a more highway-oriented character;
- Pedestrians would lose the use of the current paved shoulder, which functions as an informal sidewalk; and
- Businesses and homes would lose some of their parking area because the travel lanes would now be using the previous paved shoulders outside the French drains.

The second reconfiguration, into four travel lanes, would significantly increase the traffic-carrying capacity of Pine Island Road, without any of the complexities of changing the directional pattern of the center lane every day.

Pedestrian safety would be improved by replacing today's informal drainage and sidewalk pattern with raised sidewalks. However, these sidewalks would now extend to the very edge of the right-of-way, putting them directly adjacent to many buildings whose fronts are on the right-of-way line. In business areas, this is appropriate for both the stores and the pedestrians, but in residential areas it would be very awkward for the residents (as well as the pedestrians).

The four-lane configuration would preclude any left-turn bays and would eliminate all parking from the right-of-way. The loss of parking would be a major disadvantage and would seriously damage, if not eliminate, the viability of many small businesses. Undoubtedly, the physical construction of a four-lane configuration would seriously damage Matlacha's village atmosphere and pedestrian orientation.

The increases in traffic capacity that four lanes would provide would be detrimental to the character of Matlacha but would have mixed impacts on the remainder of Greater Pine Island. If the increased capacity just led to approval of more development on Pine Island, the damage to Matlacha would have been for naught. If the increased capacity were provided *without* allowing an additional increment of development on Pine Island, traffic congestion on Pine Island Road would be reduced, although it would reappear as existing subdivision lots are built upon and the new road capacity begins to be used up.

With a wider right-of-way

Some of the negative factors of a four-lane configuration could be offset by purchasing additional right-of-way, for instance to be used for a planting strips with trees that could separate the sidewalk from the travel lanes or from building fronts. However, the existing land-use pattern has very shallow lots that often back up to the waters of Matlacha Pass. Also, many of the existing buildings directly adjoin the existing right-of-way, so widening the right-of-way would involve altering or demolishing many buildings in Matlacha. A 1982 estimate suggested that if the right-of-way were expanded from 66 to 90 feet, as many as 75 businesses and homes in Matlacha would have to be altered or removed.[27]

In 1990, Lee County designated the central portion of Matlacha as a historic district. This designation would not legally prevent Lee County from altering or demolishing historic buildings, but it indicates the historic value of many of Matlacha's buildings in addition to its unique village character.

Given these constraints, it is apparent that Lee County's 1989 decision to classify Pine Island Road as "constrained" (and therefore not subject to widening) was correct. It is possible that the benefits of a third lane through Matlacha might outweigh the disadvantages, and if so this improvement could be constructed. But building *four* travel lanes through Matlacha, either within the existing or a widened right-of-way, should not be considered to be a viable or practical option.

[27] *Pine Island at the Crossroads*, by William M. Spikowski, 1982, p. 3.

New bridge bypassing Matlacha

The capacity of Pine Island Road could also be increased by building a new bridge *around* Matlacha. A possible route would begin at about Shoreview Drive, run just south of Matlacha, and reenter Pine Island Road on Little Pine Island just west of the Sandy Hook restaurant, a distance of just over 1½ miles.

A Matlacha bypass bridge could provide uninterrupted two-way traffic to and from Pine Island, or could provide one-way traffic, with the existing Pine Island Road serving traffic in the other direction. Two-way traffic is generally more convenient to the public. One-way traffic allows more cars to use the same amount of roadway, but is generally regarded as being harmful to businesses along the route. Either scenario would create serious intersection impacts at each end, and could cause additional travel to connect motorists with their actual destinations.

Either scenario would also require widening Pine Island Road beyond the ends of the bridge in order to take full advantage of the bridge's new capacity. This would be especially important between the eastern terminus and Burnt Store Road.

Pine Island Road is a county road west of Burnt Store Road (as are both bridges). Any improvements would be constructed and paid for by Lee County. Because major bridges are beyond the ability of the county to afford with current revenue sources, they are built with the proceeds from selling bonds, which are then paid back over time (usually with tolls, although they can also be repaid through special taxes or assessments).

One recent and one planned bridge can illustrate the magnitude of how expensive new bridges are to construct.

A new bridge was completed in 1999 over eastern Pensacola Bay. This bridge is about 3.5 miles long and cost $54 million to build; it was funded through a $95 million bond issue. (At present, only half of the expected users are paying the $2 toll,

and the bridge's owner, the Santa Rosa Bridge Authority, is unable to repay its bonds, which run for another 30 years.)

For the last two years Lee County has been considering rebuilding the Sanibel Causeway and its three bridges. Replacing the main bridge alone is estimated by the county to cost $45 million for a higher and wider drawbridge or $77 million for an even higher fixed bridge.

State and federal permits are required for all new bridges, and are difficult to obtain, especially for a new bridge through the Matlacha Pass Aquatic Preserve.

A Matlacha bypass bridge would have serious environmental impacts and there is no realistic source of funds to build it. Its increased traffic capacity might lead to approval of more development on Pine Island, negating its positive impacts on traffic flow and hurricane evacuation. If the increased capacity were provided *without* allowing an additional increment of development on Pine Island, traffic congestion on Pine Island Road would be reduced substantially.

At least at present, building a new bridge around Matlacha is not a feasible option.

Entirely new bridge and entrance road

Another alternative involving a new bridge would be to extend Cape Coral Parkway westerly across Matlacha Pass, ending about halfway between St. James City and Pine Island Center near the Masters Landing power line. This alignment would cross about two miles of wetlands and one mile of open water. A continuous bridge would be needed to avoid interference with tidal water flows in the wetlands and Matlacha Pass.

At present there is a narrow earthen dam through the mangroves that support an access road for maintaining the power line. If this fill were allowed to remain in place, it may be able to support a two-lane access road for the new bridge, thus reducing the cost of this alternative.

This alignment would extend into the Cape Coral city limits, adding an extra layer of regulatory issues. The new bridge would add traffic onto Cape Coral Parkway, which is planned to be widened to six lanes but cannot be widened further. This alignment would function well for traffic between St. James City, Cape Coral, and south Lee County.

This option, like the Matlacha bypass option, is currently cost-prohibitive and could have major environmental impacts on Matlacha Pass. Neither new-bridge option can be considered viable at this time.

Transportation policy alternatives

Since the 1989 update of the Greater Pine Island portion of the Lee Plan, a number of changes have been made to Pine Island transportation policies. Policy 16.2.3 committed Lee County to improving Pine Island Road by 1993 in four specific ways (all of which were completed before this policy was eliminated):

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

Policy 16.2.4 committed Lee County to taking whatever additional actions were feasible to increase the capacity of Pine Island Road, specifically calling for the following measures to be evaluated:

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

Parts of Policy 16.2.4 were repealed in 1994 because the county concluded that: "The first two items would be prohibitively expensive. The existing pavement already accommodates emergency vehicles and two lanes of traffic." The final item was retained in the policy because it had not been fully evaluated at that time (and apparently not since). Policy 16.2.2, later renumbered 14.2.2 and discussed at length earlier in this report, was retained unchanged because: "The extraordinary treatment of Pine Island Road in these policies is justified by the absence of other hurricane evacuation routes for Pine Island, Matlacha, and a large portion of Cape Coral."[28]

Beginning in 1998, the 810-trip threshold in Policy 14.2.2 has been exceeded each year. Once county officials became aware of this fact, they initiated an amendment to the Lee Plan to reevaluate Policy 14.2.2 "to reflect current road conditions." The processing of that amendment has been delayed pending completion of this community plan update.

There are two fundamental questions that must be answered at this time regarding Policy 14.2.2:

#1: Have any factors changed sufficiently since 1989 to warrant adjustments to the 810/910 thresholds in Policy 14.2.2?

One relevant factor would be existing or planned improvements to the capacity of Pine Island Road. As discussed earlier, important improvements were made in 1991-92 including elevating flood-prone segments of the road, but those improvements did not increase the capacity of the road during everyday conditions.

Another relevant factor would be if better traffic data were now available, especially if such data would allow a more sophisticated analysis of existing or future congestion. A permanent traffic counter has been in place on Little Pine Island at the western edge of Matlacha for over ten years, collecting traffic data 24 hours a day all year; no changes have been made to this counter. As to methods of interpreting this data, a more sophisticated method for analyzing the capacity of a road has become commonplace since 1989, but its basic assumptions are less relevant for Pine Island Road through Matlacha than the previous method, and no entity has attempted to collect enough specialized traffic data to properly apply it in Matlacha. It has been suggested that the new methodology might indicate that Pine Island Road has a significantly greater capacity than indicated by the previous methodology, but the most recent Lee DOT work suggests only 10% higher capacity even on Estero Boulevard when using the new methodology.

Regardless of the ultimate determination of the full capacity of Pine Island Road, Policy 14.2.2 was clearly contemplated to begin slowing development approvals on Pine Island at pre-determined points in time, that is, when traffic reached 80% and 90% of what was determined to constitute *dense but stable flow* (known as LOS "D"). Those points were not set to occur at 80% and 90% of *full capacity* of the road (LOS "E"), but at a slightly earlier time, in a clearly stated effort to "recognize and give priority to the property rights previously granted by Lee County for about 6,800 additional dwelling units...." No technical factors or changes since 1989 have been discovered in the course of this planning process that would justify abandoning the 810/910 thresholds in Policy 14.2.2.

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[28] *EAR [evaluation and appraisal report] for Future Land Use*, May 1994, section III, pages III-16 and III-17.

#2: Are any other changes to Policy 14.2.2 warranted?

Once the 810 threshold has been reached, Policy 14.2.2 calls for adoption of development regulations that provide "restrictions on further rezonings which would increase traffic on Pine Island Road." When 910 has been exceeded, regulations are to "provide restrictions on the further issuance of residential development orders...."

To implement this policy, in 1991 Lee County amended its land development code using the following language:

> *§2-48(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 wording in this section was taken almost verbatim from Policy 14.2.2. This has become problematic because it is not self-evident which kinds of rezonings will "increase traffic on Pine Island Road." The county's usual method for enforcing traffic regulations is to require a traffic study from a development applicant and then to make a decision based on that study, rather than on an independent evaluation of the facts. This approach delegates this important analysis to the private party having the biggest stake in its outcome and is not likely to result in sufficient objectivity.

A better approach would be for the regulations that implement Policy 14.2.2 to be more self-explanatory (while still allowing an applicant to provide data if they think they qualify for an exception). For instance, it should be clear that some types of rezonings would have inconsequential or even positive effects on traffic on Pine Island Road. A convenience store in St. James City would serve only local residents and those passing by, and would attract no new trips onto Pine Island Road. A larger grocery store in St. James City would attract shoppers from a larger area, perhaps including some who currently drive to Matlacha or Cape Coral to shop for groceries, possibly *decreasing* traffic on Pine Island Road. However, a new hotel or marina on the same St. James City property could have a different effect. A large new hotel or marina would undoubtedly serve some residents of St. James City and Pine Island Center, like a grocery store, but it would also attract users from throughout Lee County and beyond who would drive across Pine Island Road to spend a few nights or to launch a boat.

Thus an important distinction could be made in implementing Policy 14.2.2 between those land uses that primarily serve residents or visitors who are already on Pine Island, and land uses that primarily attract additional people across Pine Island Road. For instance, the following commercial uses would primarily serve residents and visitors: grocery, hardware, and convenience stores; hair salons; and service stations.

This distinction would be clouded somewhat by other factors, particularly the size and location of commercial uses. For instance, a 20-seat restaurant on a St. James City canal or a small inn are desirable Pine Island businesses that would be unlikely to draw substantial traffic across Pine Island Road. However, a 150-seat restaurant with a panoramic view (or a chain hotel) with a large advertising budget may well draw customers primarily from off Pine Island. To reduce this problem, some small commercial uses might be exempted from this policy even if they are of a type that primarily attracts additional vehicular trips. Other

alternatives would be to allow minor rezonings below a certain size if they are proposed on "infill" properties between existing development at similar intensities (rather than expanding or intensifying already-developed areas), or if their characteristics are such that traffic during the busiest peak hours would not be increased.

In summary, none of the available options for adding significant road capacity to Pine Island are practical. Building four travel lanes through Matlacha, either within the existing or a widened right-of-way, would seriously damage Matlacha's village atmosphere and pedestrian orientation. Either new-bridge option would have serious environmental impacts and in any case there are no funds for such expensive undertakings. The increased traffic capacity of either bridge would most likely lead to approval of more development on Pine Island, negating the initial positive impacts on traffic flow and hurricane evacuation.

APPENDIX B: RURAL LAND-USE ALTERNATIVES

TABLE OF CONTENTS FOR APPENDIX B

This appendix contains an evaluation of five growth management techniques for Pine Island plus two hybrid techniques. Any of these techniques could become part of the new comprehensive plan and its future land use map and would be implemented through subsequent changes to other county regulations. (Existing lots would presumably be "grandfathered in" even if they are now vacant.)

1. Conservation land purchases

Local citizens have a strong interest in preserving portions of the native landscape. In 1996, Lee County voters initiated the Conservation 2020 program and funded it with a half-mill property tax for seven years. In the past year Lee County has begun negotiating the purchase of several large Pine Island tracts for preservation under this program. The state of Florida also has a major land acquisition program; in fact they were equal partners with Lee County in purchasing a 103-acre preserve near St. James City in 1993 that provides a nesting habitat for bald eagles. The federal government is also increasing its role in environmental land acquisitions in southwest Florida.

Through their combined efforts, these programs could purchase major portions of Pine Island's upland habitats over the next ten years. At present, about 2,800 acres of undeveloped native upland habitat remains, excluding that found on fragmented subdivision parcels. Almost all of this habitat is located in Pine Island's "Rural" areas. Removing any or all of these tracts from the private land market would make their treatment under the comprehensive plan moot. This update to the comprehensive plan could help these agencies identify the most valuable native lands remaining on Pine Island and demonstrate a consensus of Pine Islanders that such purchases would be welcomed.

The positive features of this approach would be taking advantage of existing governmental priorities on habitat preservation and, as a fortunate byproduct, helping maintain the character of the rural portions of Pine Island and precluding residential development. Extensive research on the physical characteristics of large tracts has been carried out recently by the non-profit Calusa Land Trust; their data could be used to help guide this effort. The effects on large landowners would be minimal because these acquisitions have historically been voluntary transactions with willing sellers.

Some negative features of this approach are the reliance on outside agencies that might decide to spend their acquisition funds outside Pine Island, or that might not complete their Pine Island purchases until such time as many natural habitats have been cleared for farming or have become overrun by invasive exotic vegetation.

2. Larger lots in rural areas

An obvious alternative to the current "Rural" category on Pine Island is to simply lower the allowable density for residential development, to either 1 DU/20 acres (or /10 or /5 acres). There is ample local precedent for density reductions; in 1990, Lee County created a new "Density Reduction – Groundwater Resource" category, where density is limited to 1 DU/10 acres,

and has applied it to about 74 square miles of land, mostly east of I-75 and south of SR 82 but also some land along the Charlotte County line near SR 31. Most of the remaining land within two miles of the Charlotte County line have been reduced to a density of 1 DU/5 acres.

In those cases the density reductions were made by the county to resolve a legal challenge by the state land planning agency against Lee County's comprehensive plan. Although much of the motive for the reduction was to prevent further urban sprawl, in those cases the lands were selected based on proximity to shallow underground water sources that can be contaminated by urban development. Land values did not plummet after the reduction, as many landowners had claimed they would. Values were maintained because there were other viable purchasers for this land, including fill-dirt and limerock mines; the citrus and tomato industries; government purchases of wildlife habitat and environmentally sensitive lands; and land speculators who anticipate fewer restrictions at some point in the future.

Although there are no comparable groundwater resource issues on Pine Island, there is an obvious public purpose to reducing densities that cannot be supported by adequate infrastructure (in Pine Island's case, limited road access to the mainland). This distinction could be reflected by naming this new land-use category "Coastal Rural."

Positive features of this density-reduction approach are its simplicity and the local experience with this obvious method of controlling urban development where it does not belong. This approach furthers the important planning objective of clearly separating urban and rural uses, as called for in the state comprehensive plan and the state's rules governing local comprehensive plans. This approach could result in subdividing rural land into, say, five-acre homesites, which would avoid agricultural clear-cutting (although it would still result in considerable clearing of native pines and palmettos for yard space).

A significant negative feature is that it would not interfere with further habitat destruction that occurs when undisturbed lands are converted completely to agriculture. Also, it might be seen as overly harsh by large landowners, who also might characterize it as an unfair attempt to lower their land values to benefit future conservation purchasers of large tracts.

3. Cluster development

Under current regulations, "Rural" lands are limited to 1 DU/acre, but there is no prohibition on requesting a rezoning that would allow the same number of dwelling units arranged differently, for instance with houses "clustered" on smaller lots surrounding a golf course. Such arrangements are voluntary on the part of the landowner and subject to approval through the formal rezoning process.

Clustering as currently practiced rarely preserves significant native habitats. In fact it is an inducement to develop the predominant Florida real estate form of the last two decades, country club communities surrounding golf courses, a development form that hardly matches the stated purpose of the "Rural" category.

The concept of clustering could, however, be modified to suit Pine Island conditions. For instance, clustering could be mandatory rather than voluntary, with fixed percentages of native habitats being retained within new developments. On very large tracts, houses might still be allowed around golf courses or fill-dirt lakes if the percentage of native habitat that must be retained was fairly low, such as 30%. Higher percentages, such as 70%, would preclude recreational facilities such as golf courses that consume large amounts of land, and thus could preserve more of the natural landscape.

The best feature of a modified clustering approach could be preservation of native habitats without outright purchase. Lee County's considerable experience with clustered development

and its flexible zoning categories can be used to accomplish this goal. Clustering is unlikely to trigger any claims under the Bert Harris Act, and would be prized by Pine Islanders (present and future) who place a high value on proximity to natural preserves.

Some negative features are that many tracts, especially those that have been farmed, have no native habitat remaining. Although habitat can be restored, restoration is more costly than preserving existing habitats. Also, protected habitats may end up being fragmented, which reduces their value to wildlife (compared to preservation purchases of entire large tracts).

4. Transferable development rights

The rights to develop a parcel of land can be permanently severed from that parcel and transferred to another parcel. This concept is called transferable development rights (TDR).

Lee County has had a TDR program for fifteen years. Wetlands are allowed only 1 DU/20 acres, but wetland owners who agree *never* to develop not only can transfer those development rights, but they actually get to multiply their density by a factor of four; they are allowed to sell the wetland development rights at a ratio of 1 DU/5 acres of wetlands. The development rights can be used at certain other locations in Lee County. The market value of these development rights is set by the private market; Lee County is not involved in the actual sale, only in approving the "receiving" locations, which are planned urban areas on the mainland.

Lee County's first TDRs were created on Pine Island in the late 1980s. The undeveloped wetlands in the St. Jude Harbor subdivision were converted by the landowners into 436 TDR units. (In that single instance, the number of TDRs wasn't based on acreage, but rather on the number of lots that the landowner had been trying to sell from that property.) However, to date the landowners have only been able to sell about a fourth of these TDRs, at an average price of around $3,000 each.

TDR programs tend to be popular with the public and with elected officials because of their inherent sense of fairness, and the seeming ability to avoid creating winners and losers in the land-use planning process. They are less popular with landowners, who often fear they will be unable to sell them. The reason is that TDRs are valuable to buyers only when development rights are a scarce commodity, typically when local governments have strict regulations on development. Lee County's regulations have never been very strict; consequently, TDRs have had only very limited success locally. (Some governments offer to buy and stockpile TDRs at some fixed price to create a minimum value for TDRs.)

A new TDR program for Pine Island would need to identify receiving locations other than those currently in use; otherwise the new TDRs would further flood the same market as the current TDR program and therefore be unsaleable or saleable only at relatively low prices. TDRs would be quite valuable if they could be used to allow greater development on the barrier islands, but all of Lee County's islands suffer the same transportation constraints as Pine Island. TDRs would also be valuable in the areas where Lee County has restricted density levels to 1 DU/10 acres, but again those restrictions were placed for a purpose and it would be difficult to justify swapping unwanted development rights to another unsuitable location.

5. Rate-of-growth control

Some communities establish a cap on the number of residential building permits that can be issued in each quarter or each year. A similar cap on commercial permits could be established so that commercial development does not outpace residential growth.

A side benefit of this approach in some communities is to allow a comparison of the quality of development applications and

approve only those that best comply with community standards. On Pine Island, objective criteria could be established to measure the cumulative impact on Pine Island's environment, on hurricane evacuation plans, on availability of utilities and supporting infrastructure, and on overall conformance with the goals of the comprehensive plan. Permits could be issued at the end of each quarter to the highest scoring applicants until the quota for that quarter, perhaps 25 dwelling units, has been met.

Rate-of-growth ordinances are usually established during periods of runaway growth to allow the government time to provide the needed roads and utilities.

The city of Sanibel adopted a rate-of-growth ordinance in the late 1970s. It was imposed through a citizen referendum during a period of very high growth shortly after the city's incorporation, with a limitation on building permits of 180 dwelling units per year. Every four months, all permit applications were compared, and up to 60 were issued. Preference was given to below-market-rate housing, single-family homes, and smaller condominium buildings. A "grading" scheme was used to reward quality development proposals, although this had only mixed results. The Sanibel ordinance was repealed when permit requests fell below the cap for several years in a row.

On a practical level, a positive feature of this approach for Pine Island is that it isn't really essential right now. Growth rates have been relatively slow during the past decade, so an annual cap that is suitable for the long term would probably be painless in the beginning, allowing refinement of the criteria before they result in rejection of applications.

Negative features are that this approach might be more difficult to defend in the absence of a runaway growth crisis and in the absence of specific infrastructure shortfalls that Lee County is in the process of correcting. Rate-of-growth ordinances are usually controversial and difficult to administer, and cause delays in the processing of even routine building permits. They tend to spur speculative building and can discourage individual lot owners who wish to build a home for themselves. Perhaps the biggest negative is that, in the absence of the other approaches suggested above, an annual growth cap would lead Pine Island to the same place as the current system, with the arrival time merely delayed.

6. Dual-classification with clustering

These five techniques need not be applied in isolation. In fact, two hybrid solutions offer more promise than any single technique. The first hybrid, dual-classification with clustering, would create two new categories for the existing "Rural" lands:

- *Disturbed lands*, which have been farmed or otherwise cleared of native vegetation, or which have advanced infestation of exotic trees. On these lands, agriculture would be allowed and encouraged. Residential densities would be lowered to 1 DU/10 acres. Given the strong local evidence that lands suitable for agriculture are worth more than their development value, Bert Harris Act claims would be unlikely to succeed. A later increase in residential density could be provided for, if cleared lands were restored to native habitats through planting of native pines and palmettos; on tracts with hundreds of acres, such habitat restoration might be combined with a golf course, all built on previously disturbed lands.

- *Undisturbed upland habitats*, such as native slash pine and palmetto habitats. Agriculture and golf courses would be prohibited here. Residential density might stay at present levels, but new regulations would require development areas to be clustered to protect a high percentage, perhaps 70%, of natural upland habitats. Future conservation purchases would also be focused on these lands.

The positive features of this first hybrid approach are that it would encourage continued agricultural use on disturbed lands while diminishing the potential for residential development on those lands in the future. It would prohibit the destruction of undisturbed habitats where they still exist, while offsetting any resulting diminution of land value by maintaining current density levels there. Any actual development on undisturbed habitats would disturb far less land than would occur today by allowing today's number of dwelling units to be placed on smaller lots. Public purchases of entire tracts for preservation would still be highly desirable and encouraged, but if those purchases do not take place, this alternate plan would ensure far more preservation than current regulations.

Some negative features are the complexity of the classification process and the need to establish two new land-use categories in the comprehensive plan instead of one (or none). It will seem counterintuitive to many to allow higher densities on natural habitats than on disturbed lands (although this serves as an incentive *not* to clear native habitats). This approach might be seen as overly harsh by owners of large disturbed tracts whose expectations are for urban development rather than agriculture.

7. Conservation clustering with incentives

The second hybrid technique, conservation clustering with incentives, is similar to the first but would require only one new category for existing "Rural" lands. The new category would attempt to maintain most of the benefits of the first hybrid, but in this case using a sliding scale of density rewards to encourage (rather than *require*) conservation of undisturbed habitats.

For instance, a tract with undisturbed native habitats might maintain today's density of 1 DU/acre density if 70% of the undisturbed uplands were preserved. Those dwelling units would be placed on the remaining 30% of the land, which would be possible by using lots that are smaller than today's one-acre standard. (Table B-1 shows that the resulting developed area, including its streets and stormwater detention areas, would use about 0.3 acres per lot, similar to many existing single-family neighborhoods on Pine Island.) If *less than* 70% of the uplands were preserved, the allowable density would decrease, as shown in the table. If no undisturbed uplands were preserved, the residential density would drop to 1 DU/10 acres.

TABLE B-1

Assume % of native land saved or restored	Would then be assigned this gross density:	RESULTS ON 100 ACRES WOULD BE: # of DUs	acres used per lot	total acres preserved	total acres used
0%	1 DU per10 acres	10	10.0 acres	0	100
5%	1 DU per 9 acres	11	8.6 acres	5	95
10%	1 DU per 8 acres	13	7.2 acres	10	90
15%	1 DU per 7 acres	14	6.0 acres	15	85
20%	1 DU per 6 acres	17	4.8 acres	20	80
30%	1 DU per 5 acres	20	3.5 acres	30	70
40%	1 DU per 4 acres	25	2.4 acres	40	60
50%	1 DU per 3 acres	33	1.5 acres	50	50
60%	1 DU per 2 acres	50	0.8 acres	60	40
70%	1 DU per 1 acre	100	0.3 acres	70	30

Table B-2 shows another variation which would require preservation of 85% of native lands in order to maintain today's density of 1 DU/acre. Under this scenario, the resulting developed areas would be limited to the remaining 15% of the land, whose developed area, including its streets and stormwater detention areas, would use about 0.15 acres per dwelling unit. At this density, the dwelling units might be in the form of townhouses or garden apartments.

TABLE B-2

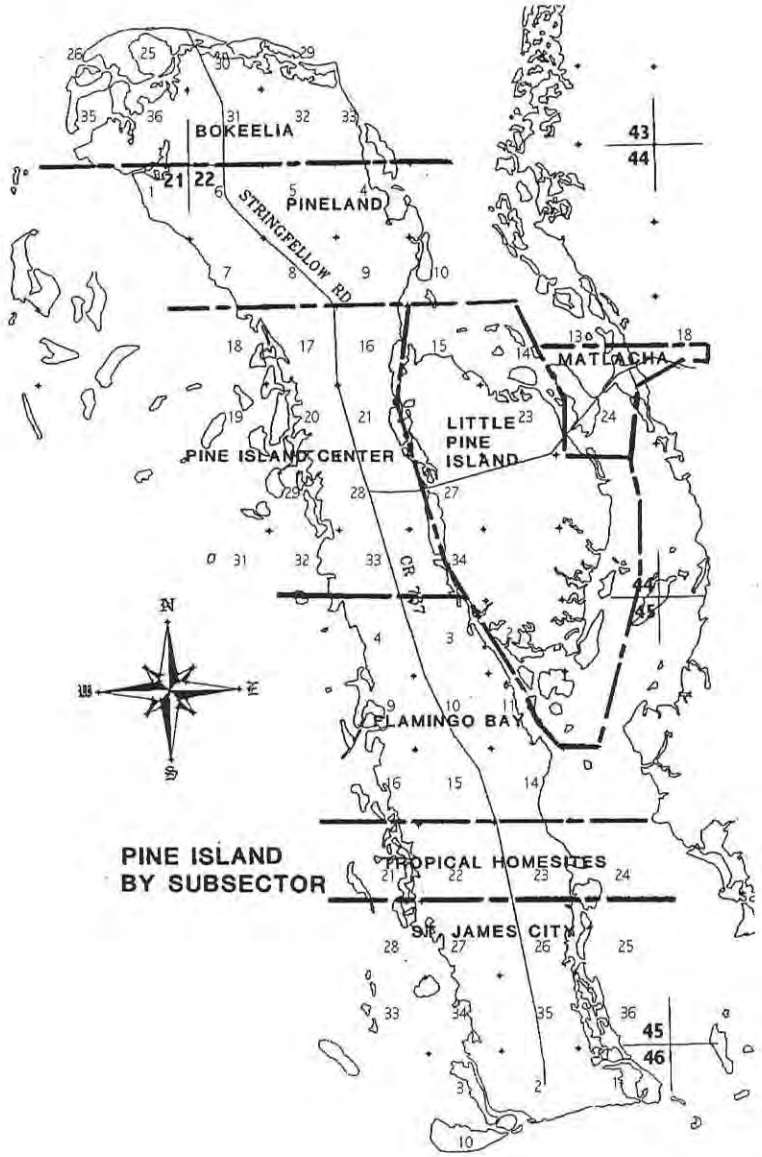
Assume % of native land saved or restored	Would then be assigned this gross density:	RESULTS ON 100 ACRES WOULD BE: # of DUs	acres used per lot	total acres preserved	total acres used
0%	1 DU per 10 acres	10	10.00 acres	0	100
5%	1 DU per 9 acres	11	8.55 acres	5	95
15%	1 DU per 8 acres	13	6.80 acres	15	85
25%	1 DU per 7 acres	14	5.25 acres	25	75
35%	1 DU per 6 acres	17	3.90 acres	35	65
45%	1 DU per 5 acres	20	2.75 acres	45	55
55%	1 DU per 4 acres	25	1.80 acres	55	45
65%	1 DU per 3 acres	33	1.05 acres	65	35
75%	1 DU per 2 acres	50	0.50 acres	75	25
85%	1 DU per 1 acre	100	0.15 acres	85	15

This technique would also allow credits for restoration of native habitats on previously disturbed lands. The same benefits would be granted to restored land as to preserved land, using the same sliding scale.

The positive features of conservation clustering with incentives are that it diminishes the potential for residential development on agricultural land, while rewarding landowners who protect (or restore) their land's natural habitats. As with the first hybrid, actual development on undisturbed habitats would disturb far less land than would occur today by either allowing today's number of dwelling units to be placed on smaller lots, or by reducing the number of lots that are allowable. Public purchases of entire tracts for preservation would still be desirable, but regardless, this plan would encourage more preservation than current regulations.

As with the dual-classification hybrid, it will seem counter-intuitive to many to allow higher densities on natural habitats than on disturbed lands (although this serves as an incentive *not* to clear native habitats). This approach might be seen as overly harsh by owners of large disturbed tracts whose expectations are for urban development rather than agriculture. Also, since clearing of native habitats would not be prohibited, if landowners don't find the density rewards to be sufficiently valuable, the result might be the loss of remaining undisturbed lands on Pine Island.

APPENDIX C: EXISTING AND APPROVED LOTS



Section	Township	Range	Existing Dwelling Units	Total Platted Lots	Additional Units
Bokeelia sector:					
26	43	21	0	2	2
25	43	21	158	163	5
30	43	22	459	607	148
29	43	22	0	2	2
35	43	21	2	4	2
36	43	21	6	20	14
31	43	22	252	526	274
32	43	22	37	407	370
33	43	22	0	4	4
Bokeelia subtotals:			914	1,735	821
Pineland sector:					
1	44	21	0	4	4
6	44	22	167	665	498
5	44	22	23	313	290
4	44	22	0	8	8
7	44	22	62	312	250
8	44	22	42	475	433
9	44	22	27	244	217
10	44	22	1	1	0
Pineland subtotals:			322	2,022	1,700
Pine Island Center sector:					
18	44	22	0	0	0
17	44	22	35	138	103
16	44	22	180	502	322
15	44	22	0	0	0
19	44	22	0	0	0
20	44	22	2	23	21
21	44	22	363	838	475
29	44	22	0	10	10
28	44	22	288	686	398
27	44	22	0	6	6
31	44	22	0	0	0
32	44	22	2	2	0
33	44	22	3	42	39
34	44	22	0	22	22
P.I. Center subtotals:			873	2,269	1,396

Section	Township	Range	Existing Dwelling Units	Total Platted Lots	Additional Units
Matlacha sector:					
14	44	22	66	67	1
13	44	22	41	77	36
18	44	23	109	151	42
23	44	22	24	40	16
24	44	22	455	694	239
Matlacha subtotals:			695	1,029	334
Flamingo Bay sector:					
4	45	22	31	245	214
3	45	22	82	219	137
2	45	22	0	2	2
9	45	22	240	240	0
10	45	22	490	492	2
11	45	22	0	11	11
16	45	22	0	5	5
15	45	22	26	92	66
14	45	22	0	24	24
Flamingo Bay subtotals:			869	1,330	461
Tropical Homesites sector:					
21	45	22	0	0	0
22	45	22	26	68	42
23	45	22	233	645	412
24	45	22	0	0	0
Tropical Homesites subtotals:			259	713	454
St. James City sector:					
28	45	22	0	0	0
27	45	22	1	5	4
26	45	22	12	58	46
25	45	22	0	0	0
33	45	22	1	1	0
34	45	22	11	111	100
35	45	22	323	859	536
36	45	22	0	0	0
3	46	22	0	3	3
2	46	22	1,163	1,877	714
1	46	22	194	299	105
10	46	22	0	0	0
St. James City subtotals:			1,705	3,213	1,508
Greater Pine Island totals:			**5,637**	**12,311**	**6,674**

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