

**LEE COUNTY, FLORIDA
ZONING DIVISION
STAFF REPORT**

TYPE OF CASE: PLANNED DEVELOPMENT/DCI
CASE NUMBER: DCI2008-00035
HEARING EXAMINER DATE: DECEMBER 16, 2009

I. APPLICATION SUMMARY:

A. Applicant: Pine Tarr LLC & Island Pine LLC T/C

B. Request: Rezone 26.77± acres from Agricultural (AG-2) and Commercial (C-1A) to Commercial Planned Development (CPD) for a maximum of 121,400 square feet of commercial floor area including a maximum of 100,000 square feet of commercial retail. Maximum height requested is 2 stories/35 feet. No development blasting is requested. The development will connect to public potable water and public sanitary sewer service.

C. Location: The subject property is located at 5100 & 5200 Pine Island Rd. NW., Pine Island Planning Community, Lee County, FL. (District #1)

D. Future Land Use Plan Designation, Current Zoning, Use of Subject Property, Planning Community, Utilities, Road Classification, Special Districts:

Future Land Use: Urban Community and Wetlands

Zoning: Agricultural (AG-2), Commercial (C-1A)

Land Use: Vacant. No agricultural uses or exemptions.

Planning Community: Pine Island

Utilities: Greater Pine Island Water (potable water)

Lee County Utilities (sewer)

Road Classification: Pine Island Rd. NW (2 lane arterial)

Special Districts: Coastal High Hazard Zone

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E. Surrounding Land Use:

Existing Zoning & Land Use

Future Land Use Map

North: Residential Multi-Family (RM-2)
Vacant.

Urban Community
Wetlands

East: Agricultural (AG-2)
Vacant. State Preserve.

Wetlands

South: Pine Island Road then
Commercial General (CG);
Industrial Light (IL);
Commercial (C-1A).
Warehouse, Light Manufacturing
Office; Convenience Store with Gas
Pumps; Bank.

Urban Community

West: Commercial (C-1);
Commercial (C-1A);
Agricultural (AG-2).
Auto Repair; Glass Service.
Pine Island Elementary School.

Urban Community

F. Size of Property: 26.77 ± acres

II. RECOMMENDATION:

Staff recommends **DENIAL** of the applicant's request for rezoning from Agricultural (AG-2) and Commercial (C-1A) to Commercial Planned Development (CPD).

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings and conclusions:

Staff recommends denial of the request for the following reasons.

1. The applicant has not proven entitlement to the Rezoning from Agricultural (AG-2) and Commercial (C-1A) zoning district to Commercial Planned Development (CPD) and has failed to demonstrate compliance with the Lee Plan or the Land Development Code.
2. The requested zoning:
 - A. Does not meet all performance and locational standards set forth for the potential uses allowed by the request; specifically commercial site location standards, per Lee Plan Policy 6.1.2 and level of services standards for Pine Island Road per Lee Plan Policy 14.2.1 and 14.2.2.

- B. Is not consistent with the Lee Plan, specifically GOAL 1, OBJECTIVE 1.1, OBJECTIVE 1.4, OBJECTIVE 1.5, POLICY 1.5.1, POLICY 1.5.2, GOAL 2, OBJECTIVE 2.1, POLICY 2.1.1, POLICY 2.1.2, OBJECTIVE 2.2, POLICY 2.2.1, GOAL 4, OBJECTIVE 4.1, POLICY 4.1.1, POLICY 4.1.2, OBJECTIVE 5.1; POLICY 5.1.5, GOAL 6, OBJECTIVE 6.1., POLICY 6.1.1, POLICY 6.1.2, POLICY 6.1.2.8, POLICY 6.1.3, POLICY 6.1.4, POLICY 6.1.6, POLICY 6.1.7, POLICY 6.1.8, POLICY 6.1.9, GOAL 11, STANDARD 11.3; STANDARD 11.4, GOAL 105, POLICY 105.1.5, GOAL 14, OBJECTIVE 14.1, POLICY 14.1.5, POLICY 14.2.2; OBJECTIVE 14.4, POLICY 14.4.3, POLICY 14.4.4, OBJECTIVE 60.5, POLICY 60.5.1, POLICY 60.5.2, OBJECTIVE 61.2, POLICY 61.2.4, OBJECTIVE 66.3, POLICY 66.3.1, POLICY 66.3.5, GOAL 77, OBJECTIVE 77.3; POLICY 107.2.4, POLICY 107.2.5, POLICY 107.2.13, GOAL 107, OBJECTIVE 107.1, POLICY 113.1.2; GOAL 114, OBJECTIVE 114.1, POLICY 114.1.1, POLICY 114.1.2, POLICY 114.1.3, GOAL 115, POLICY 115.1.1, POLICY 115.1.2, POLICY 115.1.3 & POLICY 135.9.5.
 - C. Is not in compliance with Lee County Land Development Code Sec. 33-1082(a) and 33-1082(b); 34-411(g) and 34-411(h).
 - D. Is not compatible with existing uses in the surrounding area including an elementary school and is not compatible with the vision, goals and policies of the Pine Island Planning Community, specifically Goals 14, Objective 14.4; Policy 14.4.3; and
 - E. Will adversely affect environmentally critical areas and natural resources including wetlands on site and wetlands within the Matlacha Aquatic Preserve.
3. The proposed mix of uses is not appropriate at the subject location.
 4. The request, as submitted, proposes inappropriate commercial development in wetlands and in the Wetlands Future Land Use category, as defined by the Lee Plan; *areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil.*
 5. The request, as submitted, requires an amendment to the Future Land Use map from Wetlands to Urban Community, for the proposed commercial development on the east portion of the property in the Wetlands Future Land Use category.
 6. This development includes access, parking and building into wetlands and the Wetlands Future Land Use category. The development is urban sprawl, as defined in the Lee Plan; *uncontrolled, premature, or untimely expansion and spreading out of urban levels of density or intensity into outlying non-urban areas.*
 7. The applicant has failed to prove entitlement to a Special Case Finding (infill development per Lee Plan Policies 6.1.2, 6.1.2.8, and 6.1.7) to allow development

of the subject property for a Community Commercial Center, due to a failure to properly address environmental factors on the property. Otherwise, the request is reasonable on this property in light of its size, its proximity to arterial and local roads, and the nature of the existing and projected surrounding uses.

- 8.. Urban services, as defined in the Lee Plan, are not available and adequate to serve the proposed land use, specifically the "810" threshold has not been met per Lee Plan Policy 14.2.2.

III. BACKGROUND INFORMATION AND ANALYSIS:

This is a request to rezone +/- 26.77 acres of land from Agricultural (AG-2) and Commercial (C-1A) to Commercial Planned Development (CPD). The request is for a shopping center and three outparcels with a maximum of 121,400 square feet of commercial floor area, including 100,000 square feet of commercial retail. The southeast 4.78 acres of the subject property is zoned Commercial (C-1A). The rest of the property, approximately 21.99 acres, is zoned Agricultural (AG-2). There are no buildings, no agricultural uses, and no agricultural exemptions on the subject property. The property is in the Coastal High Hazard Area.

A portion of the property on the west side is the entrance to Orchid Cove residential development approved per Development Order #DOS2005-00354 for 156 condominium units on Residential Multi-Family (RM-2) property to the north. The development order was approved March 26, 2008. This development has not been constructed.

The western and Agricultural (AG-2) portion of the property is the subject of a Type 4 lot split application. The application was not approved and was the subject of an administrative appeal (ADM2008-00002) which was denied by the Hearing Examiner (decision attached).

The property is on the north side of Pine Island Road in the Pine Island Planning Community. It is about 0.4 miles east of Pine Island Center (the intersection of Pine Island Road and Stringfellow Road) - and about 0.1 miles east of Tipton Drive, a 2-lane local road. The property is rectangular and has 913 feet of frontage on Pine Island Road. Staff received the application September 16, 2008. It was found sufficient for public hearing October 19, 2009.

Staff recommends denial of the application and does not recommend approval of the master concept plan. The design fails to take into account the natural features of the site, including jurisdictional wetland lines, adjacent to a public wetland preserve. The plan falls short of Land Development Code requirements for planned development, specifically LDC Sec. 34-411(g) and (h) which call for the preservation of natural features and the creative use of open space (Also see Environmental Sciences comments). The elevations for the proposed buildings submitted do not meet the intent of commercial development standards desired for Pine Island community. The application is inconsistent with the Lee Plan, including policies regarding wetlands and the community of Pine Island. Staff does not recommend a special case finding, allowing for additional retail square footage, on an arterial road, but not on or near a corresponding road. Staff recommends against a deviation request allowing for retail buildings above 10,000 square feet in floor area. And

staff does not recommend some of the more intensive uses in the Urban Community Future Land Use category, and adjacent to a public elementary school. The site is also relatively near existing and planned residential uses to the north and west.

The development, including the eastern access on Pine Island Road, takes place within the Wetlands Future Land Use category, as defined in the Lee Plan. Intensive commercial development, within Wetlands FLU, is urban sprawl as defined by the Lee Plan. *“The uncontrolled, premature, or untimely expansion and spreading out of urban levels of density or intensity into outlying non-urban areas.”*

Wetlands are defined in the Lee Plan, *“Areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil. Wetland boundaries will be determined by using the methodology in FAC Chapter 17-340 as ratified and amended in F.S. 373.4211. (Amended by Ordinance No. 94-30, 00-22)”*

Per the Lee Plan Objective 114.1: *“Wetlands” include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended by F.S. 373.4211.”*

This issue is of particular concern to Pine Island Planning Community per Lee Plan Policy 14.1.5 *“New development, including “planned development” rezoning approvals, new subdivisions, and agriculture, that adjoin state-designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50-foot-wide native vegetated buffer area between the development and the waterbody or associated wetlands.”* The proposed master concept plan does not provide for the 50-foot wide native vegetative buffer area between the development and the associated wetland on the east portion of the property. This is contrary to Lee Plan policies and LDC Sec. 33-1082(a)-(b), which apply to Pine Island.

The correct means to develop per the proposed master concept plan would be to amend the Lee Plan, and place all of the proposed development in the Urban Community Future Land Use category. As is, the applicant is proposing commercial development, parking and access in the Wetlands Future Land Use category, which is not consistent with the Lee Plan. See the Lee Plan analysis for this and other planning issues. Also see the analysis by the Lee County Planning Division (Attachment V), addressing compatibility, wetland preservation, traffic/concurrency, and site location standards.

Lastly, the proposed development also does not meet or further Smart Growth principles as commonly defined and as advocated by Lee County, specifically *to preserve open space, farmland, natural beauty, and critical environmental areas* (also see Smart Growth analysis).

Master Concept Plan

The Master Concept Plan (MCP) is one page document showing the property on Pine

Island Road. Two access points are shown on Pine Island Road, with the east access impacting wetlands. The master concept plan shows wetland preserves on the east side and three outparcels on Pine Island Road. An enhanced Type D buffer is proposed by the applicant (15 feet wide). On Pine Island Road, the applicant states LDC required trees will be planted at a minimum height of 14 feet and shrubs will be planted at a minimum height of 36 inches at the time of installation. In addition, the MCP shows a 50 foot buffer along the portion of Pine Island Road abutting the wetlands.

No building details are shown for the outparcels, nor are there "typicals" shown. North of the outparcels is a large parking area and a retail center with large buildings, requiring a deviation from Chapter 33 of the LDC for any new commercial buildings in excess of 10,000 square feet.

An access is shown running on the western end of the property continuing to Orchid Cove. A 10-foot Type "D" right of way buffer is shown. This is a private accessway, and no buffer is required, however it is desirable adjacent to an elementary school and to access a multi-family development to the north.

Deviation Discussion

Deviation 1 is a request for relief from LDC Sec. 10-285(a) requiring connection separation on arterial road a minimum of 660 feet to allow connection separation distances of 25 feet and 108 feet along Pine Island Road for a previously approved access point (Orchid Cove) and a connection separation of 59 and 96 feet for a proposed secondary access (eastern proposed driveway).

The applicant says they cannot comply with the required 660 feet connection separation, and identifies 10 existing driveways on the south side of Pine Island Road. There is about 913 feet of frontage on Pine Island Road. The applicant says the deviation is typical for this segment of Pine Island Road and raises no health, safety or welfare issues.

Administrative approval (ADD2007-00195) granted connection separation on this property for separation distances of 25 feet and 108 feet for the western access point (also Orchid Cove's entrance.) LCDOT did not raise objections to this access point for this application or for the administrative approval.

The eastern access point on Pine Island Road is problematic because it provides commercial access (a second access) through wetlands. It also allows for parking and commercial development to take place in wetlands. Lee County Department of Transportation also raised operational issues with the eastern access point (See LCDOT comments attached).

Staff recommends **DENIAL** of Deviation #1 finding the request does not enhance the planned development and is detrimental to the public health, safety and welfare due to both environmental and traffic operational issues.

Deviation 2 is a request for relief from LDC Sec. 33-1083(c) requiring new commercial buildings on Pine Island be limited to 10,000 square feet per building to allow a 23,000

square feet retail building and a 40,000 square foot grocery store.

The applicant requests this deviation to allow a building size more typical for a shopping center anchored by a grocery store. The MCP shows a 40,000 s/f grocery store, 23,000 s/f retail building and two small buildings (6,000 and 9,000 s/f). This represents a total of 78,000 square feet of retail.

The MCP also shows three outparcels, not subject to the deviation request. The overall development is proposed to be a total of 121,400 s/f of commercial, of which 100,000 s/f is retail. A special case finding is needed to approve this much retail development on this property (see Lee Plan analysis).

The applicant says the buildings will be designed to minimize the appearance of a "big box" or standard franchise design. The 40,000 s/f grocery store would be 660 feet from Pine Island Road and buffered by the outparcels and an enhanced buffer. The 23,000 square foot building is 320 feet from Pine Island Road and oriented to the west, not the south on Pine Island Road. The buildings will be "Old Florida" style, according to the applicant, with tin roofs, and other site design guidelines adopted for Pine Island.

Staff disagrees with the applicant's analysis. The purpose of the regulation is to limit building size and prevent the construction of typical commercial strip and "big box" development on Pine Island. The site design is engineered to accommodate a large commercial development, with outparcels, not in keeping with the Pine Island community or Pine Island Plan. The elevations submitted do not resemble "Old Florida" style architecture or designs compatible with the Pine Island community. Furthermore, the size of the buildings and the parking areas force the development to encroach into the wetlands to the east. Staff recommends **DENIAL** of the request finding it does not enhance the planned development and is detrimental to the public health, safety and welfare.

Deviation 3 is a request for relief from LDC Sec. 30-153(2)(a)1. allowing non-residential subdivisions or multi-occupancy complexes of more than 5 establishments to have 1 ground mounted identification sign along any street which provides access to the property 1 square foot of sign area per face for every 1 linear foot of frontage to allow a 198 square foot (11' X 18') ground mounted identification sign for a shopping center parcel having 150 feet of frontage on Pine Island Road.

The applicant has 913 feet of frontage on Pine Island Road. However, due to the layout of the site, 655 feet is taken up by outparcels, and 108 feet is taken up by the access to the west. This leaves 150 feet of frontage, according to the applicant. The 48 extra feet of signage will enhance visibility, according to the applicant. It is also needed due to the large size of the development. Staff disagrees with the applicant's analysis. The size and layout of the development was decided by the applicant, and 150 feet of signage is more than adequate. In fact, Policy 14.4.4 of the Lee Plan encourages reductions in the size of ground mounted signs, not larger ones. Staff recommends **DENIAL** of the request finding it does not enhance the planned development and is detrimental to the public health, safety and welfare.

School District Comments

The Lee County School District provided the following comments:

“There is no educational impact from the project; however, after reviewing the schedule of uses it lists Bar or Cocktail lounge and restaurants. The parcel in this submittal is adjacent to a school site. The County Land Development Code states ‘No establishment for the sale or service of alcoholic beverages for consumption on premises may be located within 500 feet of a school.’ If a bar or cocktail lounge or restaurant (if alcohol will be consumed in the restaurant) is one of the possible uses that the School District would be opposed to the project.”

Bars and cocktail lounges were removed from the proposed schedule of uses by the applicant.

Staff recommends that uses which include sale or consumption of alcohol be excluded from the schedule of uses, if approved.

Pine Island Community Meetings

The applicant’s representatives met with the Greater Pine Island Civic Association November 4, 2008 and made a “Publix at Calusa Cay” presentation. Notes from the meeting show this was the 5th meeting with the Civic Association on this project. The members agreed this was a good location and the concept plan (August 2008) met the requirements of the Pine Island Plan. The issues identified in the minutes were design (Old Florida), landscaping, and traffic control. The members liked the “cracker” style standards, but wanted changes. There was a request for more landscaping on Pine Island Road, and “they also supported Lee County in strictly enforcing the wetland restrictions and buffer requirements on all of the property to the east.” The association voted 25-6 to agree in principle to the project, subject to conditions and to allow further membership comments at GPICA.org. The civic association’s web site reports the following updated information on their web site.

Publix Out of Proposed Shopping Center

Publix has asked that their name be removed as part of the proposed new shopping center east of Pine Island Center due to deteriorating economic conditions. The developers will continue to go through the permitting project while searching for a new anchor tenant. Until the US and the local economy heals, however, it is probably unlikely that any project will actually get built. Watch this space for more news on this subject.

The civic association has asked the applicant for revised elevations. Another meeting with the civic association is scheduled for the evening of December 1, 2009.

Lee Plan : General Goals, Objectives and Policies

GOAL 1: FUTURE LAND USE MAP. *To maintain and enforce a Future Land Use Map*

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showing the proposed distribution, location, and extent of future land uses by type, density, and intensity in order to protect natural and man-made resources, provide essential services in a cost-effective manner, and discourage urban sprawl. (Amended by Ordinance No. 94-30)

OBJECTIVE 1.1: FUTURE URBAN AREAS. *Designate on the Future Land Use Map (Map 1) categories of varying intensities to provide for a full range of urban activities. These designations are based upon soil conditions, historic and developing growth patterns, and existing or future availability of public facilities and services. (The Future Land Use Map series also contains Map 2 and additional maps located in the appendix. A colored wall-size reproduction of Map 1 is also available.)*

Due to the location of some of the commercial developments on wetlands on the east portion of the property, the request is **INCONSISTENT** with furthering **Goal 1** and **Objective 1.1.** of the Lee Plan. Goal 1 requires the county to enforce the Future Land Use map, which includes urban and non-urban lands. Wetlands are not urban land, and are protected to preserve an important natural resource. It is also staff's finding that development within wetlands is urban sprawl (uncontrolled development into non-urban areas) as defined by the Lee Plan.

POLICY 1.1.4: *The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, the city of Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6) with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate. Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). (Amended by Ordinance No. 94-30, 02-02, 09-06)*

The uplands of this property is in the Urban Community Future Land Use category. A commercial development of relatively high intensive use is appropriate in the Urban Community Future Land Use category. This request is **CONSISTENT** with **Policy 1.1.4** of the Lee Plan. However, staff recommends denial of the proposed master concept plan based on other Lee Plan policies.

OBJECTIVE 1.4: NON-URBAN AREAS. *Designate on the Future Land Use Map categories for those areas not anticipated for urban development at this time.*

OBJECTIVE 1.5: WETLANDS. *Designate on the Future Land Use Map those lands that are identified as Wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended in F.S. 373.4211. (Amended by Ordinance No. 94-30)*

POLICY 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Amended by Ordinance No. 94-30)

POLICY 1.5.2: When the exact location of Wetlands boundaries is in question, Chapter XIII of this plan provides an administrative process, including a field check, to precisely define the boundary. (Amended by Ordinance No. 94-30)

The east portion of the property is within the Wetlands Future Land Use category and are wetlands as identified on the applicant's documents (including a boundary and topographic survey).

Per the Lee Plan "Wetlands" include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended." The definition of wetlands in the Lee Plan includes, "Areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil." Due to these wet conditions and their value to the public health and the natural environment, these are lands where development is not encouraged. Low density residential and recreation uses are allowed. Commercial uses, as proposed, are not. This application is **INCONSISTENT** with **Objective 1.4, 1.5, Policy 1.5.1, and Policy 1.5.2** of the Lee Plan. ____

GOAL 2: GROWTH MANAGEMENT. To provide for an economically feasible plan which coordinates the location and timing of new development with the provision of infrastructure by government agencies, private utilities, and other sources.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)

POLICY 2.1.1: Most residential, commercial, industrial, and public development is expected to occur within the designated Future Urban Areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.

POLICY 2.1.2: New land uses will be permitted only if they are consistent with the Future Land Use Map and the goals, objectives, policies, and standards of this plan. (Amended by Ordinance No. 00-22)

Commercial development in urban property, such as the Urban Community Future Land Use category, is appropriate and consistent with good growth management. Development

in wetlands, adjacent to a state wetlands preserve, is contrary to the county's growth management goals and objectives. Per the Vision Statement in the Lee Plan, "*The county will protect its natural resource base in order to maintain a high quality of life for its residents and visitors. This will be accomplished through an aggressive public lands acquisition program and by maintaining and enforcing cost-effective land use and environmental regulations that supplement, where necessary, federal state and regional regulatory programs.*" Development of intensive commercial development, as proposed, into non-urban wetlands is a form of urban sprawl. This application is **INCONSISTENT** with **Goal 2, Objective 2.1, Policy 2.1.1.** and **Policy 2.1.2** of the Lee Plan.

OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrency Management Ordinance. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 2.2.1: *Rezoning and development-of-regional-impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)*

Development within the Urban Community portion of the property is entirely appropriate. Traffic, water, and sewer service are addressed by the applicant and could be addressed by conditions. This development is located on an arterial road, in proximity to water and sewer service, and urban services such as fire, EMS, schools, police and other public facilities. Staff has an issue with compatibility of some of the proposed uses - such as package stores and consumption on premises - in proximity to an elementary school. Staff also has issues with the impact on the wetlands, adjacent to a public preserve, and its deleterious impact on the environment and public, health, safety and welfare. This application is **INCONSISTENT** with **Objective 2.2** and **Policy 2.2.1** of the Lee Plan.

GOAL 4: SUSTAINABLE DEVELOPMENT DESIGN. *To pursue or maintain land development regulations which encourage creative site designs and mixed use developments. Using an overlay, locate appropriate areas for Mixed Use, Traditional Neighborhood Development, and Transit Oriented Development. (Amended by Ordinance No. 94-30, 07-15)*

OBJECTIVE 4.1: *Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review. (Amended by Ordinance No. 91-19, 94-30, 07-15)*

POLICY 4.1.1: *Development designs will be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site, and that the placement of uses or structures within the development minimizes the expansion and construction of street and utility improvements. (Amended by Ordinance No. 91-19, 00-22)*

POLICY 4.1.2: *Development designs will be evaluated to ensure that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development. (Amended by Ordinance 91-19, 00-22)*

Goal 4 and associated policies encourage creative site designs. Relevant to this site are the natural features identified by staff and the applicant - including wetlands and uplands. Staff encourages the applicant to utilize more creative site design to match the topographic challenges this site presents with wetlands on the east side. The amount of development desired by the applicant has forced a typical suburban design form - a set of outparcels and a retail anchor - on a property which does not support that design. Without designing the site plan in a manner more appropriate to the land, staff has concerns about negative impacts on the wetlands adjacent to the development and those proposed to be preserved within the development. This application is **INCONSISTENT** with **Goal 4, Objective 4.1, Policy 4.1.1.** and **Policy 4.1.2** of the Lee Plan.

OBJECTIVE 5.1: *All development approvals for residential, commercial, and industrial land uses must be consistent with the following policies, the general standards under Goal 11, and other provisions of this plan. (Amended by Ordinance No. 94-30, 00-22)*

Objective 5.1 makes reference to Goal 11, "Water, Sewer, Traffic and Environmental Review Standards." See Goal 11 findings below. The application falls short of Standard 11.4, Environmental Review Factors. Also see the Environmental Sciences staff report. This application, as proposed, is **INCONSISTENT** with **Objective 5.1** of the Lee Plan.

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments. (Amended by Ordinance No. 94-30, 99-15, 00-22)*

Residential multi-family uses are proposed to the north (RM-2 property, a.k.a. Orchid Cove). Residential single-family development is also found to the west on Avenue B, C and A. The applicant proposes a suburban-style intensive commercial development contrary to the Pine Island Community's desire for a different and lower-key style of island development. The applicant provides some positive enhancements, but they do not overcome the negative impacts this development will create.

Specifically, the site design has larger buildings (over the 10,000 s/f limit in Chapter 33 of the LDC), a large sea of parking, and three commercial outparcels with no development details. A set of elevations are provided by the applicant, which the Greater Pine Island Civic Association has commented upon and asked for revisions. Staff observes the

elevations do not show side or rear side and do not address outparcels. The elevations also incorporate some “Old Florida” features such as metal roofs and decorative elements (awnings, canopies and overhangs) - but the features fall short of a “Pine Island” design and don’t tie in with anything on the island. The site is generally appropriate for a commercial development, but not as proposed. The application is **INCONSISTENT** with **Policy 5.1.5** of the Lee Plan.

GOAL 6: COMMERCIAL LAND USES. *To permit orderly and well-planned commercial development at appropriate locations within the county. (Amended by Ordinance No. 94-30)*

OBJECTIVE 6.1: *All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan. (Amended by Ordinance No. 94-30)*

POLICY 6.1.1: *All applications for commercial development will be reviewed and evaluated as to: Traffic and access impacts (rezoning and development orders); Landscaping and detailed site planning (development orders); Screening and buffering (planned development rezoning and development orders); Availability and adequacy of services and facilities (rezoning and development orders); Impact on adjacent land uses and surrounding neighborhoods (rezoning); Proximity to other similar centers (rezoning); and Environmental considerations (rezoning and development orders). (Amended by Ordinance No. 00-22)*

Goal 6 of the Lee Plan and associated policies call for well-planned commercial developments in appropriate locations in the county. Commercial planned developments will be evaluated for traffic, buffering, urban services, compatibility and environmental considerations. While traffic and urban services are not an issue, staff has concerns about the appropriateness of this scale of development, impact on wetlands, and impacts on the neighborhood, the community of Pine Island and the larger natural environment. Development on the wetlands, as proposed, is not recommended. The application is **INCONSISTENT** with **Goal 6, Objective 6.1 and Policy 6.1.1** of the Lee Plan.

POLICY 6.1.2: *All commercial development must be consistent with the location criteria in this policy, except where specifically excepted by this policy or by Policy 6.1.7, or in Lehigh Acres by Policies 1.8.1 through 1.8.3.*

3. Community Commercial

- | | |
|-----------------------------------|--|
| <p>a. Major function</p> | <p><i>Some functions of neighborhood commercial, in addition to providing for the sale of retail goods such as clothing, variety items, appliances, and furniture.</i></p> |
| <p>b. Typical leading tenants</p> | <p><i>Supermarket, drug store, minor department store, variety store, or discount center.</i></p> |

- c. *Location* *Must be located as follows*

(except where this plan provides specific exceptions):

At the intersection of two arterials so that direct access is provided to both intersecting roads. Such direct access may be provided by an internal access road to either intersecting road.
 - d. *Site Area* *10 to 35 acres*
 - e. *Range of Gross Floor Area* *100,000 to 400,000 square feet*
5. *Commercial development “at the intersection” will extend no more than one-quarter mile from the centerline of the intersection and must include proper spacing of access points, with the following exception: in a commercial development approved under the planned development rezoning process, “at the intersection” may extend beyond one-quarter mile from the intersection, provided that:*
- a. *direct access is provided to the development within one-quarter mile of the intersection;*
 - b. *an internal access road or frontage road provides access to the intersecting street prior to occupancy of the development; and*
 - c. *all access points meet Land Development Code requirements for safety and spacing.*
 - d. *the retail commercial use, including any outdoor sales, does not extend beyond one-half mile from the centerline of the intersection.*
7. *The location standards specified in Subsections 1-4 will apply to the following commercial developments: shopping centers; free-standing retail or service establishments; restaurants; convenience food stores; automobile dealerships; gas stations; car washes; and other commercial development generating large volumes of traffic. These location standards will not apply to the following: banks and savings and loan establishments without drive-in facilities; hotels or motels; marinas; general, medical, or professional offices; industrial, warehouse, or wholesale development; clubs, as defined in Chapter 34 of the Land Development Code (commercial clubs excepted); and other similar development. The distinction in this subsection between these two major types of commercial uses does not apply in Lehigh Acres, where commercial uses are permitted in accordance with Policies 1.8.1 through 1.8.3.*
8. *The standards specified in Subsections 1-4 for location, floor area and site area will*

serve as guidelines during the rezoning process (allowing limited discretion by the Board of County Commissioners in special cases in which retail uses are the only reasonable use of the parcel in light of its size, its proximity to arterials and collectors, and the nature of the existing and projected surrounding uses, including but not limited to environmental factors) but are strict requirements during the development order process in the case of zoning that existed prior to the effective date of the Lee Plan (December 21, 1984). The other standards specified in Subsections 1-4 will serve generally to indicate the types of development which are likely to fall within each commercial category. Proposed rezonings to commercial zoning districts that include both uses that are subject to the standards in Subsections 1-4 and uses that are not (see Subsection 7) may be found consistent with the Lee Plan by the Board of County Commissioners even if the subject parcel does not comply with the applicable location standard; provided, however, that no development orders will be issued on any such parcel for any use to which the standards in Subsection 1-4 is applicable, and all such development orders must be consistent with the level of service requirements in Policy 95.1.3.

The applicant is asking for a special finding that this property can be developed consistent with a "Community Commercial" development with a maximum of 100,000 to 400,000 square feet of commercial retail uses. Normally these are located on the intersection of 2 arterial roads. The applicant is asking for a finding (also known as the special case/infill rule) stating that 100,000 s/f of retail development is appropriate for this infill development on a major arterial road and about 0.4 miles south of Stringfellow Road (a 2-lane arterial road.)

The site is also in close proximity to Tipton Drive (about 0.1 miles from the site) and Avenue D, C, B and A (2 lane local roads).

The applicant shows two access points on Pine Island Road (a 2-lane arterial road), with the main access to the west also serving a residential development.

Staff finds this is an infill property on an arterial road, in relative proximity to the only other arterial road on Pine Island. It is appropriately located in "Pine Island Center" - where commercial development is appropriate and necessary to serve island residents.

To the north of the property is residential zoning with a development order for multi-family development. To the south is Pine Island Road, then predominately commercial development, including a convenience store. To the west is an elementary school, residential and commercial development including "Pine Island Center" including a stand-alone fast food restaurant, and a convenience store. To the east is a state wetland preserve, and no development.

Commercial retail development, as proposed, must meet the location criteria of a Community Commercial development. A Community Commercial development must have a site area of at least 10 acres and be located on or near the intersection of two arterial roads. The property is over 10 acres. This subject property is not at an intersection and does not have access other than Pine Island Road.

Based on the above criteria, the proposed development would not be in compliance with Policy 6.1.2. of the Lee Plan for any commercial retail uses.

Notwithstanding the above, Policy 6.1.2.8. provides relief from the strict interpretation of Policy 6.1.2 of the Lee Plan. Policy 6.1.2.8. states that the location criteria standards specified in Policy 6.1.2. will serve as guidelines during the rezoning process (allowing limited discretion by the Board of County Commissioners in special cases in which retail uses are the only reasonable use of the parcel in light of its size, its proximity to arterials and collectors, and the nature of the existing and projected surrounding uses, including but not limited to environmental factors).

The applicant has provided justification for a special case finding and staff finds that there is merit in the applicant's request for a special case finding regarding the subject property, with the exception of consideration of environmental features. Of particular concern is the access in the Wetlands Future Land Use category. Staff cannot recommend a special case finding with this feature and without revision to the master concept plan. Staff is also concerned about the compatibility of this proposed development on the neighborhood and within the Pine Island Planning Community.

The subject property is proximate to and adjacent to residential, commercial offices and retail uses. This portion of Pine Island is relatively intensely developed with a mix of office, retail and residential development running from north to south.

The rezoning of the subject property for commercial retail and other uses is appropriate, but not as proposed and not with the impacts on the wetlands. If approved, staff would place limitations on some of the more intensive uses, and uses inappropriate next to an elementary school.

Policy 6.1.2. of the Lee Plan exempts projects from being consistent with the location criteria of the Lee Plan where the project is consistent with Policy 6.1.7. of the Lee Plan. Policy 6.1.2 prohibits commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable. Residential uses on this portion of Pine Island Road is also a reasonable use, if the site design were right. Staff is also concerned about the site design and its potential to be used for a suburban-style development with a commercial plaza, sea of parking and commercial outparcels.

All utilities and urban services are available to the subject property and development of the site would help to maximize the uses of these services and facilities.

Staff recommends **DENIAL** the applicant's request for a **Special Case Finding** to develop the subject property for commercial retail uses.

POLICY 6.1.3: *Commercial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as commercial planned developments designed to arrange uses in an integrated and cohesive unit in order to: provide visual harmony and screening; reduce dependence on the automobile; promote*

pedestrian movement within the development; utilize joint parking, access and loading facilities; avoid negative impacts on surrounding land uses and traffic circulation; protect natural resources; and provide necessary services and facilities where they are inadequate to serve the proposed use. (Amended by Ordinance No. 94-30, 00-22)

The proposed master concept plan falls short on some of the criteria above which advocate commercial development be done in a cohesive and attractive manner. The problems with the submitted design include overly large buildings, within the context of Pine Island, a large sea of parking in front of commercial strip development, and negative impacts on wetland resources. The application is **INCONSISTENT** with **Policy 6.1.3** of the Lee Plan.

POLICY 6.1.4: *Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities. (Amended by Ordinance No. 94-30, 00-22)*

Staff has raised compatibility issues with this project in the context of Pine Island, proximity to an elementary school and residential development. Staff also has issues with traffic impacts per the Pine Island "910" rule. The application is **INCONSISTENT** with **Policy 6.1.4** of the Lee Plan.

POLICY 6.1.6: *The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.*

This policy encourages commercial development to be well landscaped and attractive. Specific reference is made to parking areas and community character. This proposed development falls short, with proposed structures which do not blend in with the unique characteristics on Pine Island. Staff does not recommend the elevations proposed. Staff does not recommend the master concept plan, with the large parking area, non-specific outparcels, and commercial strip development done at a scale inappropriate for its context. The application is **INCONSISTENT** with **Policy 6.1.6** of the Lee Plan.

POLICY 6.1.7: *Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.*

The property has potential as infill development close to Pine Island center. However, as submitted, the development has characteristics of strip commercial development inappropriate for the Pine Island community. The applicant did not take the opportunity to creatively design the site, in keeping with the topographic and environmental features on site. Instead the applicant chose a design more appropriate for an intensive roadway intersection, with a large sea of parking and large buildings (in the context of the island). Residential uses are another reasonable use of the property, given its unique location and proximity to a school and public preserve. The application is **INCONSISTENT** with **Policy 6.1.7** of the Lee Plan.

POLICY 6.1.8: *Commercial development may take place, when properly zoned and when meeting the standards in Policy 6.1.2, within the Future Urban Areas. Minor or rural commercial uses which serve rural residents or marine traffic, neighborhood commercial uses which serve major non-commercial public attractions (e.g. Lee County Civic Center), limited agricultural - commercial uses which serve rural areas and agriculturally related needs, and limited commercial marinas (not including heavy marine commercial, such as extensive storage and hull, engine, and electronic repairs) may be permitted in non-urban areas. (Amended by Ordinance No. 94-30, 98-09)*

Staff finds the application inconsistent with Policy 6.1.2 and does not recommend a special case finding for the requested amount of retail square footage. Staff also cannot support the proposed intensive commercial use in non-urban land, namely the wetlands. It is also questionable whether this level of development is appropriate or necessary, although some amount of commercial development is a reasonable use of the property. The application is **INCONSISTENT** with **Policy 6.1.8** of the Lee Plan.

POLICY 6.1.9: *Prohibit commercial development from locating near existing or planned school areas in such a way as to jeopardize the safety of students. (Amended by Ordinance No. 00-22)*

Staff for the Lee County School Board have raised issues about some of the requested uses, including consumption on premises and a package store. Lee County staff would also oppose other uses which would have a deleterious effect on the elementary school adjacent to the site, including two of the Personal Services (*massage parlors and Turkish baths*) and some of the Specialty Retail uses (*tobacco shops, ammunition, firearms, hunters equipment*). With these uses, the application is **INCONSISTENT** with **Policy 6.1.9** of the Lee Plan.

GOAL 11: WATER, SEWER, TRAFFIC, AND ENVIRONMENTAL REVIEW STANDARDS. *To insure that appropriate water, sewer, traffic, and environmental review standards are considered in reviewing rezoning applications and are met prior to issuance of a county development order.*

Standard 11.1 Water

Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Chapter 17-22, F.A.C.). Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.

Standard 11.2 Sewer

Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.

If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within 1/4 mile from any part of the development.

If there is not sufficient capacity nor adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.

If a new development is located in a certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and the utility cannot provide the service, or cannot provide the service except at a clearly unreasonable cost to the developer, the developer may establish on a temporary basis a self-provided sanitary sewer facility for the development, to be abated when the utility extends service to the site. The developer may also petition the appropriate regulatory agency to contract the service area of the utility in order that another utility may be invited to provide the service.

The property has access to water service from Greater Pine Island Water Association and sewer service from Lee County Utilities. The applicant provided a letter from the water utility confirming service availability, and a contract with Lee County Utilities on use of reclaimed effluent water, which is needed for the provision of sewer service on Pine Island. This application is **CONSISTENT** with **Standard 11.1** and **11.2**.

STANDARD 11.3: TRAFFIC.

- 1. A traffic impact statement must be submitted to and accepted by the county DOT for the following developments: Developments of Regional Impact (D.R.I.'s); Planned Developments (as specified in the Zoning Regulations); and Developments requiring a county development order, as specified in the Land Development Code.*
- 2. The form, content, and level of detail required in the traffic impact statement will be established by Lee County by ordinance, administrative code, or other regulations. Lee County will establish criteria or thresholds to determine the scope of the traffic impact statement required: if the development meets or exceeds the established thresholds, the traffic impact statement will provide a comprehensive assessment of the development's impacts on the surrounding road system; if the development does not meet or exceed these thresholds, the traffic impact statement will provide information regarding traffic generation and impacts at the development's access points to the adjacent street system. (Amended by Ordinance No. 94-30, 00-22)*

Please see the attached LCDOT and Development Services traffic and access comments. The development does not meet the "810" standard for rezonings, per Development Services comments. In addition LCDOT does not support the east access through wetlands, which also raises operational issues. This application is **INCONSISTENT** with **Standard 11.3**.

STANDARD 11.4: ENVIRONMENTAL REVIEW FACTORS. *In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District, or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses the environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources. (Amended by Ordinance No. 94-30, 00-22)*

For reasons stated in this report, the application does not meet this standard to protect and conserve natural resources, including wetlands. This application is **INCONSISTENT** with **Goal 11** of the Lee Plan and **Standard 11.4** of the Lee Plan.

POLICY 135.9.5: *New development adjacent to areas of established residential neighborhoods must be compatible with or improve the area's existing character. (Amended by Ordinance No. 00-22)*

The development, as proposed, is not compatible with the neighborhood, including residential uses, and does not address community character issues specific to Pine Island. Also see the compatibility analysis in the staff report below. The application is **INCONSISTENT** with **Policy 135.9.5** of the Lee Plan.

Lee Plan: School Issues

OBJECTIVE 66.3: LAND USE COMPATIBILITY. *The county will seek to have the siting of all new schools follow these policies aimed at land use and transportation compatibility: (Amended by Ordinance No. 00-22)*

POLICY 66.3.1: *Protect the integrity of schools so that educational functions are not disrupted by the intrusion of incompatible land uses.*

POLICY 66.3.5: *Land uses and development will not be permitted to the extent that it could necessitate the relocation of schools due to pressures from incompatible uses. (Amended by Ordinance No. 00-22)*

Staff for the Lee County School Board have raised issues about some of the requested uses, including consumption on premises and a package store. Lee County staff would also oppose other uses which would have a deleterious effect on the elementary school adjacent to the site, including two of the Personal Services (*massage parlors and Turkish baths*) and three of the Specialty Retail uses (*ammunition, firearms, hunters equipment*). With these uses, the application is **INCONSISTENT** with **Objective 66.3**, **Policy 66.3.1** and **Policy 66.3.5** of the Lee Plan.

Lee Plan: Coastal High Hazard Area

GOAL 105: PROTECTION OF LIFE AND PROPERTY IN COASTAL HIGH HAZARD AREAS. *To protect human life and developed property from natural disasters. (See also Goal 110.) (Amended by Ordinance No. 94-30)*

POLICY 105.1.5: *Zoning requests located in the coastal high hazard area will be considered for reduced or minimum density assignments, in accordance with their future land use category density range. This evaluation should be done in concert with an evaluation of other individual characteristics such as compatibility with existing uses, desired urban form, and availability of urban services. (Added by Ordinance No. 05-19)*

The property is in the coastal high hazard area, per the Lee Plan. This is not residential development, however, staff has concerns about development in the wetlands and its effect on the environment and the public, health, safety and welfare. Commercial development in wetlands is placing life and property at an unnecessary risk and is **INCONSISTENT** with **Goal 105** and **Policy 105.1.5** of the Lee Plan.____

Lee Plan: Pine Island Issues

GOAL 14: GREATER PINE ISLAND. *To manage future growth on and around Greater Pine Island so as to maintain the island's unique natural resources, character and its viable and productive agricultural community and to insure that island residents and visitors have a reasonable opportunity to evacuate when a hurricane strike is imminent. For the purposes of this plan, the boundaries of Greater Pine Island are indicated on the Future Land Use Map. (Amended by Ordinance No. 94-30, 05-21)*

OBJECTIVE 14.1: NATURAL RESOURCES. *County regulations, policies, and discretionary actions affecting Greater Pine Island will permit no further degradation of estuarine and wetland resources and no unnecessary loss of native upland vegetation and wildlife habitat. (Amended by Ordinance No. 94-30, 00-22)*

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

- *will be implemented through the notice-of-clearing process in chapter 14 of the Land Development Code;*
- *will include a requirement to use this area as a riparian forest buffer with an adjoining filter strip wherever farmland abuts wetlands; and*
- *if native vegetation does not currently exist, native tree cover will be established within three years of issuance of the notice of clearing.*
(Amended by Ordinance No. 00-22, 03-03)

Goal 14 of the Lee Plan calls for growth management policies which protect the island's natural resources. This development unnecessarily impacts wetland resources when there are alternative designs which could provide for commercial development. This property is adjacent to a state-designated aquatic preserve and associated wetlands. The above policy

calls for a 50-foot wide native buffer between development and the wetlands. This commercial development, as proposed, is **INCONSISTENT** with **Goal 14, Objective 14.1** and **Policy 14.1.5** of the Lee Plan.

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

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

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

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

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

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

Objective 14.2, Policy 14.2.1 establishes a unique level of service for Pine Island Road between Burnt Store Road and Stringfellow Road that is different than other roadways in Lee County. The policy identifies two level of service standards: "D" on an annual average, peak hour basis; or "E" on a peak season, peak hour basis. Other roads in Lee County are typically subject to a level of service standard, such as level of service "E" on a peak season, peak hour, peak direction basis. The policy gradually limits certain types of development approvals at established thresholds prior to the capacity of Pine Island Road being reached. Both of the established thresholds have been reached, and both strategies are being enforced.

The first strategy is applied during the rezoning process. It restricts further rezonings which would increase traffic on Pine Island Road through Matlacha. This strategy comes into play during the public hearing process for rezoning cases.

The second strategy is applied during the development order process. It provides restrictions on further issuance of residential development orders to assure the level of service for Pine Island Road is maintained. The required traffic impact statement for development orders must identify the project's impacts on Pine Island Road, in addition to the standard test conducted on the first collector or arterial road that is impacted by the development order.

Any development order contributing sufficient peak hour trips such that the level of service standard on Pine Island Road is exceeded cannot be approved as submitted. According to the draft Concurrency Management Inventory and Projections for 2009, the 810-trip threshold in Policy 14.2.2 has been exceeded. Based on the draft 2009 Concurrency Report the number of peak hour, annual average, two-way trips exceeded the "910" threshold (Lee County Resolution 06-03-24 adopted by the Board of County Commissioners, and Ordinance 07-19 adopted May 29, 2007).

In accordance with the "810" rule in Policy 14.2.2 of the Lee Plan, there have been restrictions on rezonings that could increase traffic on Pine Island Road. Additionally the "910" rule on Policy 14.2.2 is now in effect, according to the draft 2009 Concurrency Management report. This requires the adopted Level of Service (LOS) standard to be maintained when considering residential development orders. The adopted Level of Service (LOS) standard specified in Policy 14.2.1 of the Lee Plan is being closely monitored.

There are several factors to consider for this development on Pine Island in regards to the 810/910 rules. It is not a residential rezoning, it is commercial rezoning, for a large shopping plaza and outparcel development, and located near Pine Island center. The applicant's traffic impact statement says the principle market area will be the people of Pine Island. There is a similar shopping center, Publix, 4.7 miles east on Pine Island Road and Burnt Store Road, off the island. There are limited commercial shopping opportunities on the island. The only other large food store is the Winn Dixie on Stringfellow Road, about 4.7 miles from the site. The TIS says, "the majority, if not all, the trips entering/exiting the subject site during the weekday PM peak hour will already be traveling to/from the island or originate from within the island, thereby adding very little or no traffic to the Matlacha Pass Bridge on Pine Island Road." No level of service issues are raised, with the worst case being LOS "E" on Pine Island Road (not failing).

According to the TIS, 713 trips in the PM peak hour will be generated. The applicant's estimate is that 5% of the project trips will be new trips to the County roadway network with minimal new traffic traveling on the Matlacha Bridge. Staff expressed concerns with the applicant's assumptions. The issue is not a grocery store, but other uses in the schedule of uses proposed, such as hardware stores, restaurants, schools and specialty retail. Since this is far from a minor rezoning, adherence to the "810" rule is applicable and staff finds this request - as is - is not consistent with the "810" rule due to the probability of some uses, at this intensity, generating trips on Pine Island Road via the Matlacha Bridge.

See the analysis by Development Services and Lee County Department of Transportation. This application is **INCONSISTENT** with **Policies 14.2.1** and **14.2.2.** of the Lee Plan.

POLICY 14.3.3: *The county's 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. (Amended by Ordinance No. 94-30, 00-22, 03-03)*

The requested building height of 2 stories/35 feet is **CONSISTENT** with **Policy 14.3.3.**

OBJECTIVE 14.4: COMMERCIAL LAND USES. *County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island which justify different treatment of existing and future commercial areas than in mainland Lee County, as described in the following policies. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 14.4.1: *The designated Future Urban Area at Pine Island Center is targeted for most future commercial and industrial uses, as permitted by other portions of this plan.*

POLICY 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. (Added by Ordinance No. 03-03)*

The Greater Pine Island Community Plan update says, "Businesses are an essential part of any community's character. They provide useful services and their buildings are usually located on major road where they are regularly viewed by residents and visitors." This property is in a unique location, on Pine Island Road, and one of the first impressions of the

Pine Island community after driving through Matlacha and through a large wetland preservation area. Many commercial buildings on Pine Island are “utilitarian” and even unsightly. However some old and new buildings help maintain the rural and small-town ambience of Pine Island. There are examples of the “Old Florida” style encouraged on Pine Island in the Greater Pine Island Community Plan Update (attached).

There are characteristics of the best commercial buildings on Pine Island, which this application does not embody.

- 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 rear (no rear or side elevations are shown);
- Building styles are traditional, usually “Old Florida” style, but with many creative details - they are never identical formula buildings that might appear anywhere.

The building elevations have some of these elements, but fall short of the detail needed (including sides and rear). The elevations also seem similar to other shopping plazas in southwest Florida, but not necessarily Pine Island. Most problematic is the missed opportunity to utilize all of the wetlands identified to the east.

While the development is **CONSISTENT** with **Policy 14.4.1**, by placing commercial development near Pine Island center; it is **INCONSISTENT** with **Objective 14.4** and **Policy 14.4.3**.

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. (Added by Ordinance No. 03-03)*

Deviation 3, a request for additional sign footage for a ground-mounted sign, is discouraged by this Policy and **INCONSISTENT** with **Policy 14.4.4** of the Lee Plan.

Lee Plan: Wetland and Environmental Issues

OBJECTIVE 60.5: INCORPORATION OF GREEN INFRASTRUCTURE INTO THE SURFACE WATER MANAGEMENT SYSTEM. *The long-term benefits of incorporating green infrastructure as part of the surface water management system include improved water quality, improved air quality, improved water recharge/infiltration, water storage, wildlife habitat, recreational opportunities, and visual relief within the urban environment. (Added by Ordinance No. 03-06).*

POLICY 60.5.1: *The County encourages new developments to design their surface water management systems to incorporate best management practices including, but not limited to, filtration marshes, grassed swales planted with native vegetation, retention/detention lakes with enlarged littoral zones, preserved or restored wetlands, and meandering flow-ways. (Added by Ordinance No. 03-06)*

POLICY 60.5.2: *The County encourages new developments to design their surface water management system to incorporate existing wetland systems. (Added by Ordinance No. 03-06)*

OBJECTIVE 61.2: MIMICKING THE FUNCTIONS OF NATURAL SYSTEM. *Support a surface water management strategy that relies on natural features (flow ways, sloughs, strands, etc.) and natural systems to receive and otherwise manage storm and surface water.*

POLICY 61.2.4: *Where feasible within future urban areas, surface water management plans are encouraged that mimic the functions of natural systems, notwithstanding the type or intensity of development permitted.*

Environmental Sciences staff raises significant issues about the proposed commercial development and the location of the 50-foot buffer to the wetlands and its deleterious effects on wetlands and natural resources. The application falls short of policies calling for water management which mimics natural systems and incorporates existing wetlands into designs. The application is **INCONSISTENT** with **Objective 60.5, Policy 60.5.1, Policy 60.5.2, Objective 61.2** and **Policy 61.2.4** of the Lee Plan.

GOAL 77: DEVELOPMENT DESIGN REQUIREMENTS. *To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation. (Amended by Ordinance No. 94-30, 02-02)*

OBJECTIVE 77.3: *New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing rights-of-way. This objective and subsequent policies are to be implemented through the zoning process. (Added by Ordinance No. 02-02)*

Goal 77 of the Lee Plan requires new developments to provide open space, and makes the case why open space and preservation of existing native tree and plant communities is important for aesthetic and environmental reasons. This rezoning proposes a design which does not incorporate wetlands on site as they exist and to the detriment of the Pine Island Community and the public wetland preserve to the east. This application falls short of the innovative open space and preservation of native wetland vegetation necessary to help meet this goal. The request, as is, is **INCONSISTENT** with **Goal 77** and **Objective 77.3** of the Lee Plan.

GOAL 107: RESOURCE PROTECTION. *To manage the county's wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.*

OBJECTIVE 107.1: RESOURCE MANAGEMENT PLAN. *The county will continue to implement a resource management program that ensures the long-term protection and enhancement of the natural upland and wetland habitats through the retention of interconnected, functioning, and maintainable hydroecological systems where the remaining wetlands and uplands function as a productive unit resembling the original landscape. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 107.2.4: *Encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments.*

POLICY 107.2.5: *Maintain regulations to control the clearing of natural vegetation, including tree removal and clearing of understory, prior to the development of property or its conversion to agricultural uses. (Amended by Ordinance No. 94-30)*

POLICY 107.2.13: *Promote optimal conditions rather than minimum conditions for the natural system as the basis for sound planning. (Added by Ordinance No. 07-16)*

POLICY 113.1.2: *All development within the coastal planning area must be compatible with protection of natural systems. (Amended by Ordinance No. 94-30, 00-22)*

GOAL 114: WETLANDS. *To maintain and enforce a regulatory program for development in wetlands that is cost-effective, complements federal and state permitting processes, and protects the fragile ecological characteristics of wetland systems. (Amended by Ordinance No. 94-30)*

OBJECTIVE 114.1: *The natural functions of wetlands and wetland systems will be protected and conserved through the enforcement of the county's wetland protection regulations and the goals, objectives, and policies in this plan. "Wetlands" include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended by F.S. 373.4211. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 114.1.1: *Development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII of this plan, and except that owners of wetlands adjacent to Intensive Development, Central Urban, Urban Community, Suburban, and Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance with Footnotes 8(b) and 8 (c) of Table 1(a), Summary of Residential Densities. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 114.1.2: *The county's wetlands protection regulations will be consistent with the following:*

1. *In accordance with F.S. 163.3184(6)(c), the county will not undertake an independent review of the impacts to wetlands resulting from development in*

wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.

2. No development in wetlands regulated by the State of Florida will be permitted by Lee County without the appropriate state agency permit or authorization.
3. Lee County will incorporate the terms and conditions of state permits into county permits and will prosecute violations of state regulations and permit conditions through its code enforcement procedures.
4. Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On- or off-site mitigation will only be permitted in accordance with applicable state standards.
5. Mitigation banks and the issuance and use of mitigation bank credits will be permitted to the extent authorized by applicable state agencies. (Amended by Ordinance No. 94-30, 00-22, 07-12)

POLICY 114.1.3: *The Future Land Use Map shows the approximate boundaries of wetlands in Lee County. The map will be updated as needed based on the definitions in this plan and new information. If the Future Land Use Map is incorrect due to a clear factual error, or if an exact boundary determination is desired, an administrative process is set out in Chapter XIII of this plan to establish the precise boundary of the wetland. (Amended by Ordinance No. 94-30, 07-12)*

Goal 107 and Goal 114 call for the county to protect wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics. "Wetlands" include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended by F.S. 373.4211.

Development in wetlands is limited to low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions.

The applicant has not requested the boundary of the wetland on this property be changed through an administrative process or through a plan amendment. A plan amendment is an alternative which the applicant can pursue and staff can evaluate upon submittal.

Please see the Environmental Sciences staff report regarding this issue as well. Staff finds the application **INCONSISTENT** with **Goal 107, Objective 107.1, Policy 107.2.4, Policy 107.2.5 and Policy 107.2.13, Policy 113.1.2, Goal 114, Objective 114.1, Policy 114.1.2, and Policy 114.3.**

GOAL 115: WATER QUALITY AND WASTEWATER. *To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.*

OBJECTIVE 115.1: *Maintain high water quality, meeting or exceeding state and federal water quality standards.*

POLICY 115.1.1: *Sources of water pollution will be identified, controlled, and eliminated wherever feasible.*

POLICY 115.1.2: *New development and additions to existing development must not degrade surface and ground water quality. (Amended by Ordinance No. 00-22)*

POLICY 115.1.3: *The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems. (Amended by Ordinance No. 00-22)*

Goal 115 and associated policies address protection of the natural environment and its role in water quality.

Environmental Sciences staff evaluated the plans and found the 50-foot buffer as proposed will not increase water quality nor minimize nutrient loading and pollution of freshwater and estuarine systems.

The proposed plan does not meet the intent of the Lee County Comprehensive Plan or the Land Development Code. Staff recommends Denial of the project as proposed and finds it is **INCONSISTENT** with **Goal 115, Policy 115.1.1, Policy 115.1.2 and Policy 115.1.3.**

Smart Growth

Lee County has taken initiatives to incorporate the principles of “Smart Growth” into its planning processes and planning strategies. Smart Growth strikes a balance between no growth, and unfettered growth without limitation. Smart Growth is an approach to development meant to create and maintain great neighborhoods. In short, promoting the right growth, in the right place, at the right time. Staff has briefly evaluated this development based on 10 commonly accepted principles of Smart Growth.

Mix land uses. While this is not a true mixed use development, the application does include a mix of commercial uses needed on Pine Island. This application does further this smart growth principle.

Take advantage of compact building design. This application does not further this smart growth principle. The concept plan does the opposite, utilizing large buildings, large parking areas, and misses an opportunity to design a unique product matching the contours of the land, including wetland resources.

Create a range of housing opportunities and choices. This principle is not applicable.

Create walkable neighborhoods. This application does further this smart growth principle. The commercial development will be within walking distance of an elementary school, other commercial uses and residential uses near Pine Island Center. It is well-suited

for sidewalk connections and internal sidewalks to access the commercial uses. Land Development Code requirements will include sidewalk connections on Pine Island Road and the development can accommodate pedestrian friendly features.

Foster distinctive, attractive communities with a strong sense of place. This application does not further this smart growth principle. As has been stated in this report, the site plan and elevations fall short of promoting the kind of commercial development needed and advocated on Pine Island.

Preserve open space, farmland, natural beauty, and critical environmental areas. This application does not further this smart growth principle. As has been stated in this report, the site plan unnecessarily impacts wetland resources on site, which are of particular emphasis on Pine Island.

Strengthen and direct development towards existing communities. This is infill development near commercial, residential development and an elementary school. This application does further this smart growth principle.

Provide a variety of transportation choices. This application does further this smart growth principle. In addition to being in a walkable neighborhood, there is limited access to Lee Tran, which serves this area on a once a week basis (Route 160 Thursday service only) and runs past this site.

Make development decisions predictable, fair, and cost effective. This application does further this smart growth principle. While staff recommends denial, the applicant has been aware of the wetland issue and staff's position on it. The issue of wetlands on this property has been the subject of an administrative appeal to the Hearing Examiner (ADM2008-00002) in which the applicant submitted LDO2007-00391 (administrative lot split) not in compliance with Lee Plan Policy 14.1.5. These documents are attached. The Hearing Examiner rejected that appeal and directed the applicant to pursue other available administrative remedies.

Also see the Environmental Sciences report regarding the history with this property and how staff has raised the issue with wetlands on prior occasions. Staff has also approved developments which meet Lee Plan criteria relevant to preservation of wetlands on Pine Island, as is shown in the Demere Preserve RPD (attached). And staff has approved commercial developments on Pine Island utilizing creative designs and scales appropriate to the island (Creative Corner CPD also attached).

Encourage community and stakeholder collaboration in development decisions. This application does further this smart growth principle. The applicant and the Greater Pine Island Community can be given credit for meeting informally on this matter, though not required by the Lee Plan and the Land Development Code. Both parties went above and beyond the call of duty and staff has received input from the public regarding substantive issues with this development - both pro and con.

Compatibility

The Lee Plan describes the Pine Island Community as follows:

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, a fragile ecology, and a viable and productive agricultural community. 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, farmers, 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, nature and agriculture 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. (Added by Ordinance No. 99-15, Amended by Ordinance No. 03-03, 05-21)

Pine Island is a farming, fishing, retirement and resort-oriented island between the mainland of Lee County and the barrier islands. The island runs 16 miles from the north tip of the island to the south tip and approximately 4 miles across at its widest point. Transportation to and from the island is via Stringfellow Road, running north and south, and via Pine Island Road to the one bridge off the island and through the historic community of Matlacha. Pine Island consists of much agricultural and residential development. There is some commercial development on the north end in the Bokeelia community, some in the central part of the island, and some within the Saint James City community to the south. This property is in Pine Island Center in the midst of commercial, residential and other uses - including Pine Island's sole public elementary school - Pine Island Elementary.

North of the subject property is vacant Residential Multi-Family (RM-2) property with a development order for multi-family development (Orchid Cove.) The master concept plan shows a preserve and lake area to the north and a 30-foot Type "F" buffer as required by the Land Development Code (no wall.) To the northeast is a wetland, within the state's preservation area.

To the south is Pine Island Road, then a variety of commercial uses such as a bank, a convenience food and beverage store with gas pumps, and office. There are also some residential uses on Two Family Conservation (TFC-2) zoned property. Pine Island's water utility is to the southwest. The MCP shows a Type D buffer, 15 feet, with some enhancements as proposed by the applicant. Staff proposes a 25-foot buffer, considering

it is a large property, adjacent to a wetland preserve, and highly visible to the traveling public.

To the west is an elementary school, vacant property and commercial uses such as auto repair, glass shop and offices. There are also single-family homes on Avenue D and other small streets nearby. Further west is Pine Island center with two stand alone fast food restaurants (Subway and Dairy Queen) and a convenience food and beverage store with gas pumps. To the west is Creative Corner CPD which is vacant. The applicant has provided a 10-foot Type "D" buffer and 2-acre buffer tract to the east, adjacent to a driveway accessing the property, which is above the requirements of the LDC.

To the east is vacant AG-2 property - part of the state's wetland preserve on the island. The MCP shows a indigenous preserve with a 50-foot buffer. Staff has taken issue with the placement of the wetland preserve and disagrees with the placement of the 50-foot buffer, making reference to Lee Plan policies specific to Pine Island.

This proposed development is, as designed, not compatible with surrounding land uses, such as the public wetland preserve, commercial uses, residential uses, and the elementary school.

Concurrency

All projects on Greater Pine Island must be in compliance with Lee Plan Concurrency policies and the Land Development Code. Policies relating to traffic impacts and level of service and apply to rezonings and development orders include Policies 14.2.1 and 14.2.2 of the Lee Plan and LDC Section 2-48. If approved, concurrency issues must also be addressed during the Development Order process.

Transportation: LOS issues

The Division of Development Services provided the following comments:

The proposed development is located in Pine Island on the north side of Pine Island Road approximately one third of a mile to the east of Stringfellow Road. Direct access to the site is proposed to Pine Island Road via two locations. Development Services Staff defers to the Lee County Department of Transportation in regards to the permitting of access to Pine Island Road.

The TIS was performed based on 121,400 square feet of Shopping Center floor area. Based on the TIS, the proposed development will generate 713 trips in the PM peak hour (343 entering and 370 exiting). The Applicant's analysis indicated that the proposed development will attract a significantly large amount of its traffic from vehicles already traveling Pine Island Road. Typically, Lee County permits a maximum "pass-by" reduction of 30% for retail facilities. However, in this case, the Applicant has assumed an 80% reduction for "pass-by" traffic. Additionally, the Applicant has assumed a 15% reduction for trips that may be traveling Stringfellow Road that will "divert" to the proposed retail facility. These diverted link trips are new trips to the section of Pine Island Road between the site and Stringfellow Road, but they would not be new trips to Stringfellow Road. As a result,

the Applicant's analysis indicates only 5% of the project trips will be new trips to the County roadway network, with minimal new traffic traveling on the Matlacha Bridge.

Staff has concerns with the trip generation assumptions discussed above. The Applicant's analysis openly addressed the possibility of a Publix grocery store on the site. While a Publix grocery store may indeed attract a majority of its traffic from vehicles already traveling the adjacent street system, the Schedule of Uses for the proposed development contains several uses that would be unique to the area or could attract traffic from off Pine Island. For instance, a medical office facility could attract patients from northwest Cape Coral as there are seemingly few medical office facilities in this area of Cape Coral. Likewise, a general office facility would likely generate some off-island traffic. There are other examples of uses that could generate off-island traffic as well, such as hardware stores, restaurants, commercial schools, and specialty retail shops.

The concern with the development's generation of off-island traffic relates directly to Lee Plan Policy 14.2.2 which states the following: "When traffic on Pine Island Road reaches 810 peak hour, annual average two-way trips, the regulations will restrict further rezonings which would increase traffic on Pine Island Road through Matlacha." Currently, the peak hour, annual average two-way traffic volume on Pine Island Road through Matlacha is 1,042 vehicles, more than 200 vehicles higher than the 810 vehicles referenced in the Lee Plan. The proposed Calusa Cay CPD is only two (2) miles to the west of the referenced section of Pine Island Road, so there it is likely that the proposed development will increase the traffic at this location.

Policy 14.2.2 goes on to suggest that the regulations shall provide for reasonable exceptions when a minor rezoning will have an inconsequential or positive impact on peak traffic flows. In this particular case, it is difficult to refer to the Calusa Cay CPD as a "minor rezoning." Beyond that, the development of several potential uses proposed in the Calusa Cay CPD would increase the traffic on Pine Island Road through Matlacha. Even the Publix use referenced in the Applicant's TIS would likely generate employee traffic from off Pine Island. As a result, Staff is concerned that approval of the proposed rezoning is not consistent with Policy 14.2.2 of the Lee Plan.

In accordance with the TIS, Pine Island Road is anticipated to operate at Level of Service "C" of "D" under buildout traffic conditions. Based on the most recent Link Specific Level of Service Volume table, Pine Island Road will actually operate at LOS "E" under buildout conditions. Regardless, LOS "E" is an acceptable Level of Service in accordance with the Lee County Level of Service Standards. Further analysis of Pine Island Road as it relates to the Lee Plan Policy 14.2.2 will be performed at the Development Order stage should the proposed Calusa Cay CPD be approved.

Transportation: Access Issues

Lee County Department of Transportation provided the following comments:

The Lee County Department of Transportation (LCDOT) has reviewed the application for public hearing. This project is located on the north side of Pine Island Road less than ½ mile to the east of Stringfellow Road. Accesses to the proposed development are shown on the Master Concept Plan via two proposed driveways on Pine Island Road.

The application requests Deviation #1 from the arterial connection separation requirement of 660 feet along Pine Island Road to allow connection separation distances (western proposed driveway) of 25 feet and 108 feet along Pine Island Road for a previously approved access point and connection separation distances of 59 feet and 96 feet along Pine Island Road for a proposed secondary access (eastern proposed driveway).

The western proposed driveway was previously approved in DOS2005-00354. LCDOT does not object to the western driveway. LCDOT does not support the requested deviation for the eastern driveway. The proposed location of the eastern driveway is less than 100 feet from existing driveways depicted on the Master Concept Plan as a bank and a convenience store, both the proposed project and existing uses generate significant traffic. The request would appear to create operational problems on Pine Island Road. LCDOT recommends **DENIAL** of Deviation #1 for the proposed eastern driveway. LCDOT defers to the Department of Community Development on environmental review of the driveway location.

Environmental Issues

The Environmental Sciences Division reviewed the proposed CPD, visited the subject property, and provided substantive comments (Attachment U). Environmental Sciences staff recommend denial of the request, finding inconsistency with Lee Plan Goals, Objectives and Policies relevant to protection of environmental and natural resources. Environmental Sciences staff also found the proposed project is not in compliance with the Lee County Land Development Code Sec. 33-1082(a) and 33-1082(b) and LDC Sec. 34-411(g) and 34-411(h). Staff objects to unnecessary and negative impacts on wetlands on and off site. Also see Planning Division Analysis (Attachment V) for comments on wetlands and protection of natural systems.

Conclusions

Staff recommends **DENIAL** of the rezoning request. The request is not consistent with the Lee Plan nor is it in compliance with the Land Development Code. Staff does not find environmental and natural resources are adequately protected, including wetlands and natural systems. With resolution of environmental issues, conditions could be recommended by staff to address compatibility with the surrounding commercial uses and the elementary school. Uses such as bars and cocktail lounges will not be recommended by staff. Conditions could address concurrency issues, including roads, water and sewer service. Urban services, such as water and roads, are generally available. As proposed, staff has concerns about compliance with the "910" Rule, and concurrency standards on Pine Island Road. With improvements to the master concept plan, the development could be accurately described as commercial infill on an arterial road relatively near Pine Island Center. Commercial Planned Development (CPD) may be an appropriate zoning category for this property. However staff does not support the master concept plan, as submitted. The issue with the master concept plan includes negative impacts on wetlands and access through wetlands. The master concept plan is also inconsistent with the Lee Plan goals and policies on Pine Island and the overall intent of the Pine Island Plan. Staff does not support the proposed elevations, as submitted, and finds they are inconsistent with the intent of the Pine Island Plan. Staff does not agree with a Special Case finding for additional retail space, as submitted. Staff does not support a deviation to LDC Sec. 33-

1083(c) as submitted (large retail buildings on Pine Island.) Staff encourages the applicant to provide for wetlands, per Lee Plan Policies, make the necessary changes to the master concept plan, and work with staff and the community to improve the elevations consistent with the intent of the Lee Plan and the Pine Island Plan.

IV. SUBJECT PROPERTY:

- A. STRAP: The applicant indicates the STRAP numbers are: 28-44-22-00-00012.0000, .002A & .002B

V. ATTACHMENTS:

- A. Map of surrounding zoning
- B. Master Concept Plan
- C. Applicant's Elevations
- D. School District Comments, Oct. 29, 2009
- E. Greater Pine Island Water Association, Capacity Letter
- F. Lee County Utilities, Capacity Letter and Agreement on Reclaimed Effluent Water (Disposal of Wastewater)
- G. Applicant's Traffic Impact Statement
- H. November 5, 2008 Email from Phil Buchanan, Pine Island Publix
- I. October 20, 2009 Email from Phil Buchanan, Calusa Cay
- J. October 23, 2009 Email from Phil Buchanan, Calusa Cay (elevations)
- K. November 3, 2008 Email from George and Jane Bennington
- L. January 12, 2008 Email from Sallye McCullough
- M. Zoning Res. #Z-07-015 Creative Corner CPD
- N. Zoning Res. #Z-04-074A Demere Preserve RPD
- O. Greater Pine Island Community Plan Update (Excerpts)
- P. Administrative Appeal ADM2008-00002 Decision and Application, Pine Tarr LLC and Island Pine LLC, Jan. 15, 2008.
- Q. Boundary and Topographic Survey, from the applicant, stamp dated SEP 30, 2009 COMMUNITY DEVELOPMENT
- R. ADD20004-00232 Administrative Amendment, Tranquility Bay
- S. Orchid Cove Lot Split, Nov. 16, 2007 Letter, Request for Revised Plans
- T. LCDOT Comments
- U. Environmental Sciences Comments
- V. Planning Division Comments
- W. Development Services Comments.

- B. LEGAL DESCRIPTION: See Exhibit A

cc: Applicant
County Attorney
Wayne Daltry, Smart Growth
Matt Noble, Planning Division
Dawn Gordon, School District of Lee County
Zoning File