

## RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, Pine Lakes Country Club has properly filed an application for:

- A) A district boundary change from AG and MH-1/AG to Preliminary PUD, to permit a residential development of 867 mobile home sites on 362.5 acres of land. The proposed development will also include a golf course and driving range, a clubhouse, other recreational facilities, RV/boat storage, a guardhouse, model homes and sales office, an entry sign, and wetland preserves;
- B) A variance from the requirement that no excavations be allowed within 150 feet of a street right-of-way, to 65 feet along US 41 (Sec. 500.3.C); and;
- C) A variance from the requirement that water retention excavations shall not exceed 5 acres, to no limitations (Sec. 500.4.B).

The proposed site plan will require a waiver of the following requirements:

- 1) Minimum setback from a structure to a water body of 25 feet (606.I);
- 2) Minimum setback between an accessory structure and a street right-of-way of 30 feet (500.1.B.1.b);
- 3) Minimum excavation setbacks to a section line of 150 feet (500.4.D and 500.3.C);
- 4) Minimum setback between structures and a section line of 75 feet (500.29.D.1);
- 5) Minimum setback between structures and a half (quarter) section line of 60 feet (500.29.D.2);
- 6) No alteration of soils subject to freshwater ponding (DSR C.1.b.4); and
- 7) The definition of lot frontage (DSR A.6.b) will be as defined in the Lee County Zoning Regulations.

Subject property is located on the west side of US 41 approximately 2 1/2 miles north of the Shell Factory in North Fort Myers, described more particularly as:

LEGAL DESCRIPTION: The following parcels in Sections 8 & 9, Township 43S, Range 24E, Lee County, Florida:

A tract or parcel of land lying in Section 8, Township 43 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the northeast corner of said Section 8 run S 00° 11' 10" W along the east line of said section for 663.83 feet to the southeast corner of the north half (N ½) of the north half (N ½) of the north half (N ½) of said Section 8 and the Point of Beginning.

From said Point of Beginning continue S 00° 11' 10" W along said east line for 2,446.83 feet to a point 2,200 feet north of the southeast corner of said Section 8 said point being the northeast corner of that parcel described in deed recorded in

Official Record Book 1086 at page 797, Lee County Records; thence run S 81° 31' 00" W parallel with the south line of the southeast quarter (SE ¼) of said Section 8 along the north line of said parcel for 2,349.30 feet to an intersection with a line parallel with and 2,200 feet north of (as measured on a line parallel with the east line of Section 8) the south line of the southwest quarter (SW ¼) of said Section 8 said point being at the directional change on the north line of said parcel; thence run N 88° 31' 33" W along said parallel line along the north line of said parcel for 1612.32 feet to the northwest corner of said parcel; thence run S 00° 11' 10" W, parallel with the east line of said Section 8 along the west line of said parcel for 2,200.00 feet to the south line of said Section 8; thence run N 88° 31' 33" W along said south line for 1032.12 feet to the southwest corner of said Section 8; thence run N 02° 22' 02" W along the west line of the southwest quarter (SW ¼) of said Section 8 for 2,689.76 feet to the northwest corner of said fraction of a section; thence run N 02° 13' 44" E along the west line of the northwest quarter (NW ¼) for 1,979.63 feet to the southwest corner of the north half (N ½) of the north half (N ½) of said Section 8; thence run along the south line of said fraction of a section, S 89° 31' 02" E for 2,339.65 feet, S 89° 51' 51" E for 2,701.74 feet to the Point of Beginning.

Containing 344.37 acres of land more or less.

Bearings hereinabove mentioned are derived from plat of Indian Pines Unit 1 as recorded in Plat Book 29 at pages 65 through 72, Lee County Records.

A tract or parcel of land lying in Section 9, Township 43 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the intersection of the north line of said Section 9 and the former westerly right-of-way line (100 feet from the centerline) of State Road 45 run S 25° 53' 00" E along said former right-of-way line for 400.00 feet; thence run S 64° 07' 00" W, perpendicular with said former right-of-way line for 60.00 feet to the new westerly right-of-way line (160 feet from the centerline) of State Road 45 as described in instrument recorded in Official Record Book 1080 at page 190, Lee County Records and the Point of Beginning.

From said Point of Beginning run S 25° 53' 00" E along said new right-of-way line for 360.53 feet to a point of transitional right-of-way width of said State Road 45; thence run S 25° 30' 05" E along said transitional right-of-way line for 239.47 feet; thence run S 64° 07' 00" W, perpendicular with the former right-of-way line of said State Road 45, for 1,002.93 feet to the west line of said Section 9; thence run N 00° 11' 10" E along said west line for 667.96 feet to an intersection with a line perpendicular to said former right-of-way line passing through the Point of Beginning; thence run N 64° 07' 00" E along said perpendicular line for 710.98 feet to the Point of Beginning.

SUBJECT TO a 100 foot Florida Power & Light Company Transmission Line Easement, the centerline of which being parallel with and 500 feet southwesterly of the former right-of-way line (100 feet from the centerline) of said State Road 45.

Containing 11.81 acres of land more or less.

Bearings hereinabove mentioned are derived from plat of Indian Pines, Unit 1 as recorded in Plat Book 29 at pages 65 through 72, Lee County Records.

A tract or parcel of land lying in Section 9, Township 43 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the intersection of the north line of said Section 9 and the former westerly right-of-way line (100 feet from the centerline) of State Road 45 run S 25° 53' 00" E along said former right-of-way line for 1,000.00 feet; thence run S 64° 07' 00" W perpendicular with said former right-of-way line for 61.60 feet to a point on the new right-of-way line as described in instrument recorded in Official Record Book 1001 at page 781, Lee County Records and the Point of Beginning. From said Point of Beginning continue S 64° 07' 00" w along said perpendicular line for 1,002.93 feet to the west line of said Section 9; thence run S 00° 11' 10" w along said west line for 293.45 feet to the southwest corner of the north half (N ½) of the northwest quarter (NW ¼) of the southwest quarter (SW ¼) of the northwest quarter (NW ¼) of said Section 9; thence run S 89° 51' 49" E along the south line of said fraction of a section for 827.35 feet to an intersection with a line parallel with and 450 feet southwesterly of said former right-of-way line; thence run N 25° 53' 00" W along said parallel line for 376.53 feet to an intersection with a southwesterly prolongation of the southeasterly line of that parcel of land recorded in Deed Book 247 at page 447 of the land records of Lee County, Florida; thence run N 64° 07' 00" E along said southwesterly prolongation for 386.74 feet to an intersection with the new right-of-way line of said State Road 45; thence run N 25° 30' 05" W along said new right-of-way line for 250.01 feet to the point of beginning.

Subject to a 100 foot Florida Power & Light Company Transmission Line Easement, the centerline of which being parallel with and 500 feet southwesterly of the former right-of-way line (100 feet from the centerline) of said State Road 45.

Subject to a Lee County Electric Cooperative, Inc. right-of-way easement as described in Official Record Book 982 at page 213 of the land records of Lee County, Florida.

Containing 9.43 acres of land more or less.

Bearings hereinabove mentioned are derived from plat of Indian Pines, Unit 1 as recorded in Plat Book 29 at pages 65 through 72 Lee County Records.

WHEREAS, proper authorization has been given to Robert D. Brown, by Henry E. Wolff, Trustee and Carmine and Louise C. Salvatore, the owners of the subject parcel, to act as agent(s) to pursue this zoning application;

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Zoning Board, with full consideration of all the evidence available to the Zoning Board; and

WHEREAS, the Lee County Zoning Board fully reviewed the matter and recommended approval of request (A) with the staff recommendations being adopted as conditions to the Preliminary PUD; and approval of requests (B) and (C) based on the appropriateness of the land use and the agreement between staff and the applicant on the specifics of the development; and

REF ID: A66161

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the Staff, the Local Planning Agency, the Zoning Board, the documents on file with the County, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

The Local Planning Agency found the request (A), district boundary change to preliminary PUD approval, inconsistent with the Comprehensive Plan because it lacked a frontage road along US 41. The Local Planning Agency found requests (B) and (C) to be consistent with the Comprehensive Plan. The Zoning Board recommended approval and adopted the staff recommendations as conditions. The staff indicated that this project site is identical to the project site of Phase V of the Indian Pines development which received a binding letter of interpretation of vested rights in December of 1974. Staff recommended approval of the preliminary PUD subject to nine conditions stated in its report dated February 6, 1985. Staff also noted that the applicant has a request for development standards regulations variances (84-12-DSR-4) from the requirement for a frontage road along US 41 and from the requirement that sewage treatment facilities shall be located no closer than 250 feet from any perimeter property line. Staff agreed with the second request because the sewage treatment plant that will be serving Pine Lakes is located on Lake Fairways' property (an adjoining manufactured home project) and that buildout will be expanded over the property lines to service both projects. The Staff Review Committee and the Department of Transportation both recommended denial of the variance from the frontage road requirement. It was also noted that the Local Planning Agency found the variance for the sewage treatment plant to be consistent with the Comprehensive Plan, but that the frontage road variance would be inconsistent with the Comprehensive Plan. The applicant was represented by David Key, who explained that the sewage treatment plant's location would be beneficial to both Pine Lakes' and Lake Fairways' residents. He also explained that adjacent owners would have access to US 41 from both the north and south of the project. The applicant's engineer also indicated that the project was intended to include both rental lots and sales lots. The applicant's representative also indicated a desire to incorporate the southeastern pond into the storm water management system and in return the applicant would expand the existing marsh area and create shelves on the existing lakes to increase the littoral zones as an alternative to the maximum 2 foot depth. All lakes would be built to the County standards, including a 6:1 slope.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS AS THE ZONING APPEALS BOARD, that the Zoning Appeals Board does hereby grant:

- (A) The requested preliminary PUD approval;
- (B) A variance from the requirement that no excavations be allowed within 150 feet of a street right-of-way to permit the excavation to be allowed within 65 feet from US 41 (Sec. 500.3.C); and

- (C) A variance from the requirement that water retention excavations shall not exceed 5 acres, to no limitations (Sec. 500.4.B).

Preliminary P.U.D. approval is subject to the following conditions:

- 1) Parkland dedication shall be made in accordance with Administrative Code Policy F-0008, with credits for on-site recreational facilities according to the schedule used by the Division of Community Services to implement Section C.2.g. of Policy F-0008;
- 2) The preliminary plan shall be modified to provide a buffer that will meet type F standards as defined in Lee County Ordinance 82-42. This buffer shall provide a total visual screen between the sewer plant and any adjacent residential uses to the north, south and west within two years from the beginning of construction of the sewer plant;
- 3) Prior to final PUD approval, the applicant shall make acceptable provisions for off-setting any added net public cost or premature commitment of public funds needed to provide appropriate levels of service for this development. In particular, the applicant shall make the necessary arrangements with the North Fort Myers Fire District to off-set a proportionate share of the cost of a local fire station (including land, buildings and equipment) to be erected not more than three (3) road miles from the entrance of this development;
- 4) The applicant may incorporate the depression pond in the southeastern portion of the project into the water management scheme, as long as the same amount of area is provided in conjunction with other lake excavations, in addition to the standard 6 to 1 bank slopes and development standards, and that this area is planted with suitable native emergent and submergent wetland vegetation and that proper water quality protection measures are supplied as specified by the Lee County Planning Department;
- 5) The final PUD plan shall facilitate the preservation of trees. The applicant shall modify the plans where needed to avoid the unnecessary removal of mature trees. The precise location of roads, parking areas, structures, excavations and golf facilities may be altered during construction to preserve trees through an administrative modification to the PUD under the provisions of Section 606.G of the Zoning Regulations;
- 6) Access to surrounding properties shall be maintained to the satisfaction of the County Engineer as stated in the November 20, 1984 memo unless specifically waived by the Board of County Commissioners;
- 7) Approval of this Planned Unit Development shall not constitute a waiver of impact fees that may be established; however, any payments made under the conditions of this PUD may be credited toward required payments under impact fee ordinances for the same purposes;
- 8) Final PUD plans shall be in conformance with the Development Standards Regulations, and other development regulations in effect, except where specifically waived by this plan and other variances; and Final PUD approval shall be sought concurrently with a preliminary development order or comparable site plan review procedure; and
- 9) The plan shall be revised to show adequate right-of-way dedication along west section line of Section 9, and also a 75-foot setback from the south section line. The dedication will be made to Lee County in accordance with Policy IV.A.14. of the Comprehensive Plan. The total number of lots in this project may need to be reduced to comply with this and other PUD conditions.

Site Plan SP-84-269 is attached hereto and incorporated herein by reference.

27100123

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Goss, and seconded by Commissioner Fussell and, upon being put to a vote, was as follows:

Porter J. Goss	Aye
Roland Eastwood	Aye
Mary Ann Wallace	Nay
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 11th day of February, A.D., 1985.

ATTEST:  
CHARLIE GREEN, CLERK

BY: Mary Ann Wallace  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: [Signature]  
Chairman

Approved as to form by:

[Signature]  
County Attorney's Office

FILED

JUL 1 1986

CLERK CIRCUIT COURT  
BY M. Ann Wallace D.C.

RECORDED AND RETURNED TO SENDER

CLERK CIRCUIT COURT  
LEE COUNTY FLA

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