

BOARD OF COUNTY COMMISSIONERS

September 10, 2009

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Ms. Neale Montgomery
Pavese Law Firm
1833 Hendry Street
P. O. Drawer 1507
Fort Myers, Florida 33902-1507

RE: Estero Golf Resort
Case No. DCI2009-00026

Dear Ms. Montgomery:

In response to your letter dated July 27, 2009, please be advised that the above-referenced property is zoned Mixed Use Planned Development (MPD) and is located in the Urban Community, Suburban and Wetlands future land use categories according to the Future Land Use Map of Lee County.

Your letter seeks confirmation concerning the status of the Master Concept Plan (MCP), and if the MCP is still effective, or has/will the MCP vacated. You also ask if it is expected to vacate to be approved for an extension as provided for by Senate Bill (SB) 360.

Based on the following history, staff finds that the Master Concept Plan for Estero Golf Resort has not vacated and still is in effect, as provided for in the current Land Development Code provisions noted above. The MPD zoning remains effective since there is a substantial portion of the development complete and the MPD will not vacate under the current LDC regulations.

The history of this planned development is that it was originally approved on July 30, 2001, by adoption of amended Zoning Resolution Z-01-012a. Since then the overall planned development has been amended administratively and by Zoning Resolution Z-04-048, adopted on October 18, 2004 (see attached).

LDC Section 34-381(a)2. provides:

- (2) Master concept plans approved after December 2, 1991, are subject to the following:
 - a. An Option 1 master concept plan approved after December 2, 1991 is vacated unless the property owner either obtains a development order for a substantial portion of the project or Final Plan Approval of a master concept plan, within five years of the date of the approval of the planned development. Master concept plans that obtained final plan approval within the required time must also obtain a development order for a substantial portion of the project within one year of the adoption of this amendment (June 24, 2003) or the master concept plan is vacated.

Additional development order approvals necessary to complete the project must be obtained from the department within two years of the date of the first development order approval or the remainder of the master concept plan is vacated.

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- b. An Option 2 master concept plan approved after December 2, 1991, is vacated unless the property owner obtains a development order for a substantial portion of the project within five years of the date of the approval of the planned development.
- c. A master concept plan approved other than as an Option 1 or Option 2 type master concept plan after March 8, 2001, is vacated if development order for a substantial portion of the project are not approved within five years of the date of the approval of the planned development.
- d. Master concept plans for planned developments that do not require development orders are not subject to the timeframes for vacation in this section.

Substantial portion: A substantial portion of the project consists of no less than 20 percent of the lots, dwelling units, square feet or other measurements of intensity, as applicable unless a lesser percentage is approved by the Board of County Commissioners.

Development Orders for a substantial portion of the planned development were issued in 2002, 2003, and 2004 for the existing residential developments of Belle Lago and Osprey Cove. These developments represent more than 20 percent of the development intensity of the approved planned development.

Please be advised that the information provided herein is based on current regulations and may be subject to change as ordinances are enacted or amended.

Should you have further questions, please do not hesitate to contact our office.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Division



Alvin Block, AICP
Principal Planner

cc: DCI2000-00032
DCI2003-00058

PAVESE LAW FIRM

NEALE MONTGOMERY

Direct dial: (239) 336-6235
Email: NealeMontgomery@paveselaw.com

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Drawer 1507, Fort Myers, Florida 33902-1507 | (239) 334-2195 | Fax (239) 332-2243

July 27, 2009

RECEIVED
JUL 27 2009

COMMUNITY DEVELOPMENT

Ms. Mary Gibbs
Lee County Department of Community Development
1500 Monroe Street
Fort Myers, FL 33901

**RE: SB 360 EXTENSION
RESOLUTION Z-04-048**

Dear Ms. Gibbs:

Resolution Z-04-048 approved a Mixed Planned Development (MPD). The residential component of the MPD was entitled "Estero Golf Resort" in the zoning resolution. The residential portion of the MPD has been developed. Section 34-381, Lee County Development Regulations, provides that the master concept plan is not subject to vacation if a development order has been obtained for a substantial portion of the development. A substantial portion is defined as at least 20% of the lots, dwelling units, square footage or other measurements of intensity.

In this instance the zoning was approved on October 18, 2004. A development order was obtained for all of the residential development. This would meet the threshold test of at least 20%. Since more than 20% of the MPD has been developed the Master Concept Plan for the MPD should be vested and not subject to vacation. Please confirm whether or not the MCP is vested and no longer subject to vacation. If the County concurs that the MCP is not subject to vacation can you please confirm this in writing.

If the county submits that the commercial portion of the MCP is subject to vacation at the end of 5 years, or October of 2009, in the absence of a local development order then please accept this letter as a request for a two year extension pursuant to Senate Bill (SB) 360. SB 360 provides that a two year time extension can be requested if the development approval has an expiration date between September 1, 2008 and January 1, 2012. If the MCP is subject to vacation or expiration the expiration date would be October 18, 2009, which would fall within the dates identified in SB 360. The two year time extension would extend the life of the MCP to October 18, 2011. Can you please confirm whether or not the time extension is necessary, and if it is necessary can you please confirm the new date?

Enclosed is a check in the amount of \$100.00 representing the fee for the extension. Your consideration of this matter is greatly appreciated.

Sincerely,


Neale Montgomery

DCI 2009-00026

NM/kc

cc: Ms. Pamela Houck, Community Development
Enclosure

New DCI 2009-00026
DCI 2003-00058