

034032

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
ZONING DIVISION

DATE: January 10, 2011

TO: WHOM IT MAY CONCERN

FROM: Debbie Carpenter
Administrative Assistant

RE: ADMINISTRATIVE AMENDMENT

<u>Case Number</u>	<u>Case Name</u>
ADD2010-00100	Belle Lago (aka Estero Golf Resort MPD)

cc: Kenneth Thirtyacre, Applicant (c/o Grady Minor attn: D. Wayne Arnold, Agent)
Julie Dalton, Property Appraiser Office
Matt Noble, Planning
Chick Jakacki, Zoning
Bob Stewart, Building Official
File

WHEREAS, previous amendments to the planned development to increase the maximum permitted lot coverage have been granted finding those amendments did not increase density or intensity; decrease buffers or open space; under utilize public infrastructure; reduce buffers, landscaping, or preservation areas; and did not adversely impact surrounding land uses; and

WHEREAS, it is found that this proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to Mixed Use Planned Development is **APPROVED, subject to the following conditions:**

1. The terms and conditions of the original zoning resolution, and amendments, remain in full force and effect, except as maybe amended by this action.
2. The Development must be in compliance with the plan entitled MAX LOT COVERAGE RATIO CHANGE EXHIBIT, stamped RECEIVED DEC 7 2010 by Community Development. A reduced copy is attached hereto.
3. The increase in lot coverage from 40% to 42% is limited to the following lots:

Strap:

21-46-25-08-00000.1140
21-46-25-08-00000.1150
21-46-25-08-00000.1220
21-46-25-08-00000.1230
21-46-25-08-00000.1260
21-46-25-08-00000.1280
21-46-25-08-00000.1870
21-46-25-08-00000.1880
21-46-25-08-00000.1970
21-46-25-09-00000.4320
21-46-25-09-00000.4400
21-46-25-09-00000.4420
21-46-25-09-00000.4430

Site Address:

19876 MADDELENA CIR
19872 MADDELENA CIR
19844 MADDELENA CIR
19838 MADDELENA CIR
19820 MADDELENA CIR
19808 MADDELENA CIR
19821 MADDELENA CIR
19827 MADDELENA CIR
19871 MADDELENA CIR
19457 CALADESI DR
19537 CALADESI DR
19553 CALADESI DR
19561 CALADESI DR

DULY SIGNED this 7th day of January, A.D., 2011.

BY: Pam Houck

Pam Houck, Director
Division of Zoning
Department of Community Development

Legal Description

Lots 114, 115, 122, 123, 126, 128, 187, 188 and 197, Belle Lago, a subdivision, located in Section 21, Township 46, Range 25 East, according to the plat thereof on file and recorded in Plat Book 76, Pages 16 thru 21 of the Public records of Lee County, Florida.

And

Lots 432, 440, 442 and 443, Belle Lago Phase 2, a subdivision, located in Section 21, Township 46, Range 25 East, according to the plat thereof on file and recorded in Plat Book 82, Pages 98 thru 102 of the Public records of Lee County, Florida.

ADD2010-00100

Legal Reviewed By: BS 12/8/10

EXHIBIT AA-3.A.1
LIST OF STRAP NUMBERS

Strap	SiteAddress1	CurrentOwnerName	CurrentOwnerAddress11	CurrentOwnerAddress21
21-46-25-08-00000.1140	19876 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1150	19872 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1220	19844 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1230	19838 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1260	19820 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1280	19808 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1870	19821 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1880	19827 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-08-00000.1970	19871 MADDELENA CIR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-09-00000.4320	19457 CALADESI DR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-09-00000.4400	19537 CALADESI DR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-09-00000.4420	19553 CALADESI DR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134
21-46-25-09-00000.4430	19561 CALADESI DR	TOLL ESTERO L P	28341 S TAMIAMI TRL #4	BONITA SPRINGS FL 34134

RECEIVED

DEC 07 2010

COMMUNITY DEVELOPMENT

ADD 2010-00100

MAX LOT COVERAGE RATIO CHANGE EXHIBIT

LEGEND		
LOTS PREVIOUSLY APPROVED*	LOTS PROPOSED	LOT COVERAGE
119, 416		41%
	114, 115, 122, 123, 126, 128, 187, 188, 197, 440, 442, 443, 432	42%
366, 375, 378, 382, 385, 440,		42%



Toll Brothers
America's Luxury Home Builder
 24201 WALDEN CENTER DRIVE, SUITE 204
 BONITA SPRINGS, FLORIDA 34134
 PHONE: (239)-949-2304
 FAX: (239)-949-2292

ADD 2010-00100

RECEIVED
 DEC 07 2010
 COMMUNITY DEVELOPMENT

TOLL BROTHERS
 BELLE LAGO

MAX LOT COVERAGE RATIO CHANGE EXHIBIT

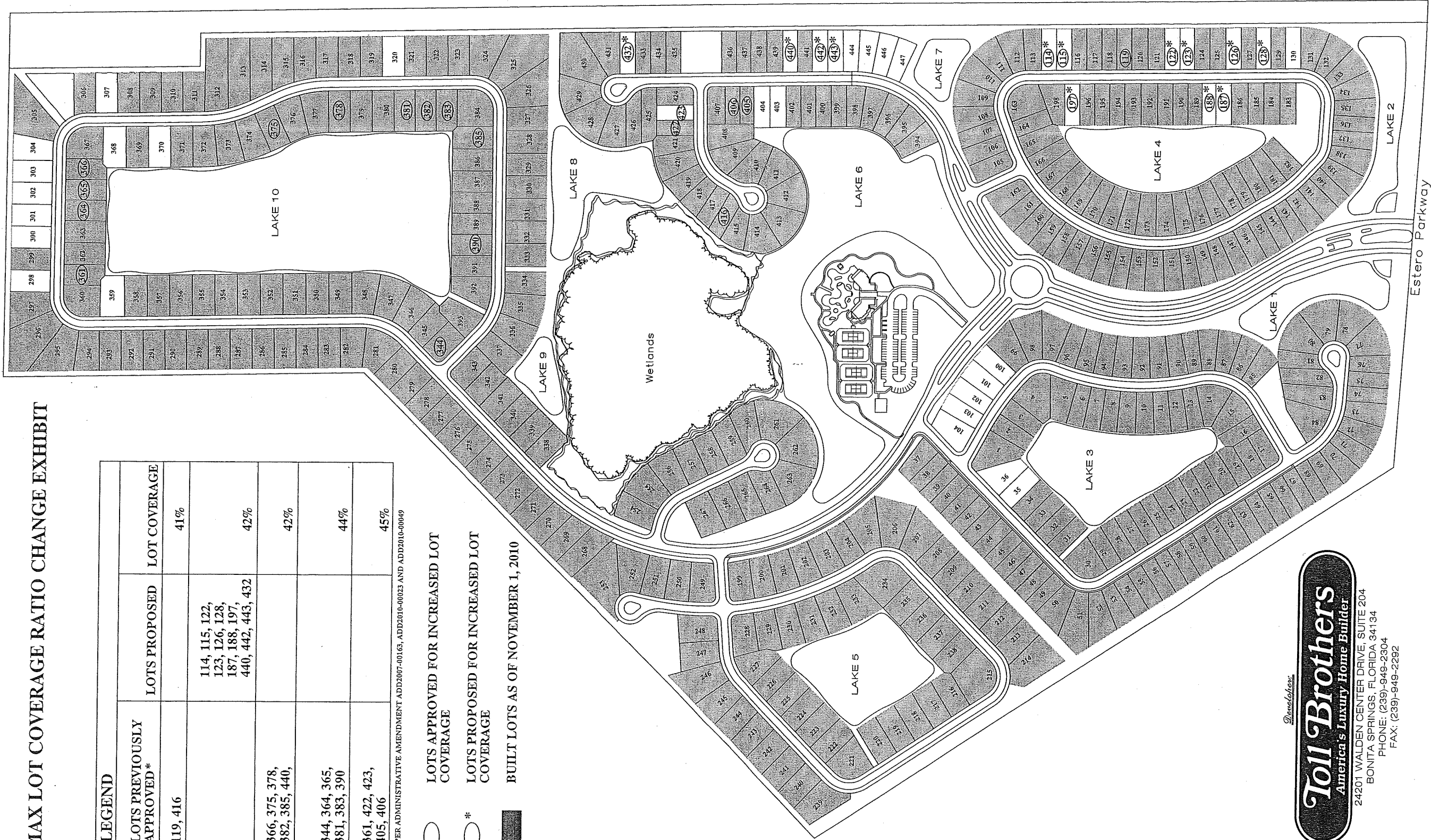
LEGEND		
LOTS PREVIOUSLY APPROVED*	LOTS PROPOSED	LOT COVERAGE
119, 416		41%
	114, 115, 122, 123, 126, 128, 187, 188, 197, 440, 442, 443, 432	42%
366, 375, 378, 382, 385, 440,		42%
344, 364, 365, 381, 383, 390		44%
361, 422, 423, 405, 406		45%

*PER ADMINISTRATIVE AMENDMENT ADD2007-00161, ADD2010-00023 AND ADD2010-00049

○ LOTS APPROVED FOR INCREASED LOT COVERAGE

○* LOTS PROPOSED FOR INCREASED LOT COVERAGE

■ BUILT LOTS AS OF NOVEMBER 1, 2010



Toll Brothers
America's Luxury Home Builder
24201 WALDEN CENTER DRIVE, SUITE 204
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PHONE: (239)-949-2304
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DEC 07 2010
COMMUNITY DEVELOPMENT

TOLL BROTHERS
BELLE LAGO

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Paula Davis, President of Keystone Customer Homes, Inc., filed an application on behalf of the property owner, Hermes Investment Company, Inc., to rezone a 314.6±-acre parcel from Agricultural (AG-2) to Mixed Use Planned Development (MPD), in reference to Estero Golf Resort MPD; and

WHEREAS, a public hearing was advertised and held before the Lee County Hearing Examiner on March 14, 2001. The Hearing Examiner left the record open for written submissions until March 30, 2001. The Lee County Zoning Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2000-00032; and

WHEREAS, a second public hearing was advertised and held on May 7, 2001, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of interested persons.

WHEREAS, on July 30, 2001, the Board amended the original resolution to clarify an ambiguity regarding the number of consumption on premises permitted within the project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 314.6±-acre parcel from AG-2 to MPD to allow: 1) a maximum of 820 dwelling units consisting of a mix of unit types and including up to 100 units within an assisted living facility; 2) a golf course; 3) up to 320,000 square feet of retail uses; and 4) 20,000 square feet of office use. The application also included a request for consumption on premises and buildings not to exceed 55 feet and four stories.

The property is located in the Urban Community, Suburban and Wetlands Land Use Categories and is legally described in attached Exhibit A.

The request is APPROVED SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "Estero Golf Resort," last revised 5/8/01, stamped "Received May 9 2001," and the

conditions set forth herein. (The MCP has been revised to reflect the Board's action on May 7, 2001.) If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. **SCHEDULE OF USES**

(1) **RESIDENTIAL PORTION - TRACTS 5-12**

Accessory Uses
Administrative Offices
Agricultural Uses, as limited by other conditions
Assisted Living Facility, limited to Tracts MPD-5 only-maximum 100 units
Club, Country including the following ancillary uses:
 Consumption on Premises, limited to one for the clubhouse and one
 for the golf course only, includes outdoor seating
 Food and Beverage Service
 Golf Course Maintenance Facility, limited to MPD-7 only
 Health Club and Spa
 Restaurant, includes outdoor seating
 Specialty Retail
Dwelling Units - single-, two-, and multi-family units, zero lot line units, and
 townhouses - limited to a maximum of 820 for the entire project; and
 a maximum of 340 units for MPD-5
Entrance Gates and Gatehouses
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention - Not to include the removal of excavated
 material from the site
Fences and Walls
Golf Course, including Practice Greens and Driving Range - subject to
 further review during the development order process to determine
 appropriate locations and possible additional buffering or screening
 required for the practice greens and driving range
Golf and Tennis Pro Shops (limited to ancillary use in clubhouse tract)
Home Occupation, as limited by the LDC
Model Homes, Model Units and Model Display Center
Real Estate Sales and Rental Office - limited to sales of lots, homes or units
 within the development, except as may be permitted in §34-1951 *et*
 seq. The location of, and approval for, the real estate sales office will
 be valid for a period of time not exceeding five years from the date
 the Certificate of Occupancy for the sales office is issued. The
 director may grant one 2-year extension at the same location.
Recreational Facilities, Personal and Private On-site, as defined and
 regulated by the LDC § 34
Signs, in compliance with the LDC
Storage, Open, recreational vehicles, boats and similar items for residents

Package Store, limited to:
 Wine Shops, and
 Package Stores in conjunction with a Drug Store use only
 Paint, Glass and Wallpaper Store
 Personal Services, Group I, II - limited to Beauty Spas, Health Clubs or
 Spas, Reducing or Slenderizing Salons, Group III, and Group IV -
 limited to babysitting bureaus, debt counseling services, portrait
 copying, shopping services, and tax return preparation services
 Pet Services
 Pet Shop
 Place of Worship
 Real Estate Sales and Rental Office
 Recreational Facilities, Personal and Private On-site only and only in
 conjunction with and on the same tract as any ancillary multi-family
 or townhouse uses
 Rental and Leasing Establishments, Group II - outside storage is prohibited
 Restaurants, Standard - Groups I, II, III & IV - subject to Permitted Use Note
 A
 Schools, Commercial
 Shopping Center
 Signs, in compliance with the LDC
 Social Services, Group I only
 Specialty Retail Shops, Groups I-IV
 Storage, Indoor only and only as an ancillary use
 Studios
 Temporary uses - limited to sales center and construction offices, in
 compliance with LDC regulations regarding temporary uses
 Variety Store
 Wholesale Establishments, Group III only

(3) ADDITIONAL USE CONDITIONS

- (A) The following uses may be allowed in Wetland areas subject to review and approval by Environmental Sciences staff as part of development order review:

Interpretative centers, rain shelters gazebos
 Nature and foot paths including pedestrian boardwalks
 Wildlife management areas
 Mitigation activities
 Signs, limited to educational signs only

- (B) The following Permitted Use Notes, apply to the uses referenced above (referenced in the Schedule of Uses as A, B & C):

- A. Must be located a minimum of 200 feet from any off-site property zoned for residential purposes
 B. Limited to Tracts MPD-3 and MPD-4

C. Consumption on Premises (COP)

- (1) COPs are limited to a maximum of three for standard restaurants, one for the clubhouse and one for the golf course.
- (2) COPs in Tract MPD-1 must first receive Special Exception or an Administrative Approval, whichever is deemed appropriate by the DCD Director. Since the proposed plan of development is only conceptual, this additional condition is necessary to ensure the placement of the COP use will be compatible with the surrounding land uses.

(C) Uses in MPD Tract 1 are limited as follows:

Hours of operation for businesses open to the public are 7:00 a.m. until 10:00 p.m. Restaurants may be open until 11:00 p.m., Monday through Thursday and 12:00 midnight, Friday and Saturday

Deliveries are prohibited between the hours of 8:00 p.m. and 6:00 a.m.

Outside entertainment, speaker systems, loud speakers or public address systems are prohibited in MPD Tract 1.

b. **SITE DEVELOPMENT REGULATIONS**

Site Development Regulations are limited to the "Property Development Regulations," set forth in Exhibit B as revised on March 30, 2001:

(A) General Project Square Footage Limitations:

- (1) Maximum overall commercial development is limited to 320,000 square feet of retail commercial uses, and 20,000 square feet of office uses, except as limited below; and
- (2) This project can be comprised of medical, general office, retail, or service uses (in compliance with the schedule above), or any combination of those uses, up to the maximum square footage, provided all limiting conditions, parking, open space, buffering, and water management requirements are met.
- (3) All special setback or development regulations contained in the LDC (as it may be amended) for any specific use must be met; and
- (4) The option to convert retail and office uses is approved with

the limitation that no more than 21.94 acres of commercial acreage may be converted to office use; and

- (5) Retail Commercial square footage within the Suburban land use category may not exceed 100,000 square feet. The development must provide cumulative totals for each development order submittal showing compliance with this condition.

(B) Outdoor Seating for COP uses:

- (1) Outdoor seating may not be located within 300 feet of a residential lot in The Vines; and
- (2) Outdoor seating must be located on the side of the principal structure that is opposite residentially zoned or used lot in The Vines; and
- (3) The outdoor seating must cease at 10:00 p.m., Monday through Thursday, and 11:00 p.m., Friday and Saturday;

3. Environmental Conditions: Prior to local development order approval, the developer must:

- a. Provide open space consistent with the Open Space and Indigenous Vegetation Table attached as Exhibit C. Each tract must provide a minimum of 10 percent open space.
- b. Submit development order plans that show a connection between the conservation area in the southeast corner of the MPD Tract-5 and the upland conservation area on the eastern side of the restored wetland. The wildlife connection will run under the road and include a set of two tunnels constructed of 36-inch-wide by 24-inch-high, elliptical concrete pipe. The plans will show the two elliptical wildlife connections placed under the road in a side by side position unless directed otherwise by Division of Planning/Environmental Sciences Staff. At a minimum, the bottom of the pipes will be placed no lower than the existing upland preserve grade to help prevent inundation within the pipes during the wet season.
- c. Submit a detailed wetland restoration plan to the Division of Planning/Environmental Sciences Staff for review and approval. Both the wetland restoration plan and littoral zones required by the LDC must be designed to provide foraging area for wood storks.
- d. Re-survey the potential Big Cypress fox squirrel nests on-site specifically for fox squirrel presence. The protected species survey must be prepared in accordance with LDC § 10-473 and submitted to the Division of Planning/Environmental Sciences for review and approval. If fox squirrel use of the site is verified, the developer must submit final management details in accordance with LDC § 10-474 including a phased exotic removal plan.
- e. Submit a detailed gopher tortoise management plan for review and approval by the

Division of Planning/Environmental Sciences staff.

- f. Obtain a Vegetation Removal Permit to install barricades to protect preserves and conduct excavation of tortoise burrows to move the gopher tortoises within the development tracts.
4. The Golf Driving Range is limited to operating during daylight hours.
5. Development order submittals must include a running inventory showing the overall number of units and commercial (retail and office) square footage that have been built, approved to be built, or are in the development approval process.
6. Sandy Lane Extension
 - a. As part of the first development order submittal, the developer must revise the MCP to reflect the planned extension of Sandy Lane along the eastern boundary of the site, consistent with the sketch set forth in the Lee County DOT Exhibit entitled, "Sketch and Description of Sandy Lane Extension," (Exhibit D) unless mutual agreement regarding a different alignment is reached between Lee County and the property owner(s). Lee County will compensate the property owner for the reservation of the property in accordance with the regulations set forth in Chapter 2 of the LDC; and
 - b. The minimum setback for a water retention lake from the road right-of-way must be no less than 25 feet from the western Sandy Lane right of way, consistent with LDC § 10-329(f)(1)a.2 and the sketch noted above, unless mutual agreement regarding a different alignment is reached between Lee County and the property owner(s). The developer must provide satisfactory elements for the protection of wayward vehicles. These elements may consist of fencing, berms, buffering or a combination of all three, however, the exact elements are subject to review and approval by Lee County; and
 - c. This project will be permitted one access point within the southern half of this project's frontage along the proposed Sandy Lane extension. This access point must align with the access point that is approved for the parcel on the tract on the east side of the Sandy Lane extension. (The access point onto Sandy Lane is not a required access point, except that at least one emergency access must be provided to a road other than Koreshan Boulevard as noted in Condition 11.)
7. Bona fide agricultural uses in existence at the time this resolution is finalized may continue until approval of the first local development order. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless that activity is reviewed and approved in accordance with the Lee County LDC regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.

8. No excess excavated material may be removed from the site unless the developer can demonstrate to the Director of the Department of Community Development that the material to be removed: 1) is unsuitable material that cannot be used on-site; and 2) the material must be excavated to meet the minimum requirements necessary to accommodate a water management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use off-site.
9. Model units and homes are permitted in compliance with the following conditions:
 - a. Administrative approval must be obtained. Administrative Approval is subject to review and approval based upon potential negative impacts to nearby uses regarding, but not limited to, glare, noise, dust
 - b. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - c. All model sites must be designated on the development order plans; and
 - d. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat. The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for the project; and
 - e. Dry models are prohibited.
10. Golf Course Conditions:
 - a. The golf course developer must use fertilizers with a low leaching potential (slow release). Fertilizers must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and
 - b. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan that includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the U.S. Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may

be used. Turf managed areas (including fairways, tees, and greens) are prohibited within 35 feet of wetlands or preserve areas. The chemical management plan must be reviewed and approved by Lee County Natural Resources Division prior to development order approval.

- c. The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- d. The Developer must utilize a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- e. The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.
- f.
 - 1) Prior to the issuance of local development order approval, the developer must demonstrate compliance with "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.
 - 2) The development order must demonstrate separate mixing and loading facilities for pesticides, and provide a separate pesticide storage area, in compliance with materials specified in the above referenced document. The development order must demonstrate separate mixing and loading facilities for fertilizer, and provide a separate fertilizer storage area, in compliance with materials specified in the above referenced document.
 - 3) The development order plans must specify the construction material for all buildings in compliance with "Best Management Practices for Golf Course Maintenance Departments."
 - 4) Equipment to apply pesticides and fertilizers must be stored in an area protected from rainfall.
- g. The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, while requiring relatively low fertilizer use;
- h. The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.
- i. All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from underdrains must not discharge directly into a surface water management lake.
- j. Stormwater run-off must be pre-treated through an acceptable recreated natural

system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.

- k. The operator of the golf course must submit an annual monitoring report of ground water and surface water quality. The monitoring program must include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water within the area of the golf course; identifying the locations for the ground water monitoring and testing on a map(s); setting forth the testing and recording requirements. The Developer must submit the test results with the monitoring report to the Lee County Natural Resources Division. The monitoring program will be established and operated at the expense of the Developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 62-302, F.A.C., water quality standards.
 - l. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until there is a revised management plan. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County must be implemented by the Developer.
 - m. Prior to development order approval for the golf course, the developer must conduct a pre-development groundwater and surface water analysis and submit the analysis to Lee County Division of Natural Resources. This analysis is intended to establish baseline data for groundwater and surface water monitoring for the project area. The analysis must be designed to identify those nutrients and chemicals that are anticipated to be associated with the project. Prior to commencing this baseline study, the developer must submit the methodology for review, comment and approval by Lee County.
- 11. Prior to development order approval for any portion of the property, the developer must show an emergency access connecting to the existing Oriole Road to the north. Prior to the opening of the Sandy Lane extension that will connect to the existing Oriole Road, the developer must revise the emergency access so that it will be accessible from the future Sandy Lane extension.
 - 12. Buildings exceeding 35 feet in height must maintain additional building separation or additional building setbacks consistent with LDC § 34-2174(a) and LDC § 935(e)4.
 - 13. Lighting to serve uses within 200 feet of perimeter property allowing residential uses must be hooded, shuttered, or shielded and may not exceed 18 feet in height. Mercury vapor lamps/lights are prohibited, the lighting in this 200-foot area must be scaled so that no more than the minimum required number of light fixtures are erected. Individual building lighting must be of the lowest intensity to meet safety standards. The scale of the fixtures and the type of hooding, shuttering and shielding is subject to further review prior to the approval of a development order. The individual building fixtures must be either directly fixed to the building or placed on a post lamp standard not to exceed 10 feet in height. Incandescent

lamps are encouraged. The use of mercury vapor lamps/lights is prohibited.

14. Approval of this zoning request does not address access onto U.S. 41, since Lee County has no jurisdiction over that roadway. The developer must pursue U.S. 41 access issues with the Florida Department of Transportation (FDOT). Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order. Approval of this rezoning does not give the developer an undeniable right to receive local development order approval. Future development order approvals must satisfy concurrency requirements as required by Lee Plan Objective 2.2.
15. Approval of this rezoning does not guarantee local development order approval or vest present or future development rights for Lee Plan consistency. Development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b). In addition, development order applications must also be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
16. Installation of any auto parts, either by employees or the general public, in conjunction with the Auto Parts Store is prohibited. Signs must be posted and maintained in the parking lot for this use advising customers that "self installation" is strictly prohibited on the premises.
17. This development must comply with all the requirements of the LDC, specifically including the requirements of LDC § 10-600 *et seq.*, at the time of local development order approval, except as may be granted by deviation as part of this planned development approval or subsequent amendments thereto.
18. Structures within Tract 5 are limited to 2-story height for a distance of 200 feet back from the perimeter property line that is shared with The Vines.
19. Development of this project must not exceed any DRI thresholds, as the impacts of same were not reviewed as part of the rezoning. The developer must provide a project-wide cumulative DRI threshold analysis with each local development order submittal.
20. If the lake shown in Tract 1 is relocated further away from the boundary shared with Tract 5, structures within Tract 1 must maintain a 100-foot setback from the shared property line between the two tracts.
21. Tract MPD-7 is approved in the internal location shown in the revised MCP dated March 30, 2001. The uses permitted in MPD-7 are Residential, Golf Course, and Maintenance. Direct access to Koreshan Boulevard from this tract is prohibited.

SECTION C. DEVIATIONS:

Deviation 1 - WITHDRAWN BY APPLICANT.

Deviation 2 seeks relief from the LDC §10-329(e)(1)(a)(3) requirement to provide a 50-foot

minimum setback for water retention lakes, to allow a 25-foot setback for water retention lakes. This deviation is APPROVED SUBJECT TO the condition that, prior to development order approval, the developer must provide satisfactory elements to discourage access from the adjacent properties. These elements may consist of fencing, berms, buffering or a combination of all three. **This deviation is not approved along the eastern or northern boundary in the area identified in the memo from LCDOT if Condition 6 requires the applicant to revise its MCP to reflect the planned extension of Sandy Lane. This deviation is approved without this condition if the applicant is not required to revise its MCP to reflect the reservation of the northerly extension of Sandy Lane.**

Deviation 3 seeks relief from the LDC § 10-296(d), Table 4(7)(c) requirement to provide wearing surfaces of local and access streets for category A development be constructed of 1½-inch asphaltic concrete, to allow for cement concrete or decorative pavers. This deviation is APPROVED SUBJECT TO the condition that, prior to development order approval, the developer must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation 4 seeks relief from the LDC § 10-256(d)(3) requirement to provide wearing surfaces of sidewalks to be constructed of 1½-inch asphaltic concrete, to allow for cement concrete decorative pavers. This deviation is APPROVED SUBJECT TO the condition that, prior to development order approval, the developer must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation 5.a - WITHDRAWN BY APPLICANT.

Deviation 5.b - WITHDRAWN BY APPLICANT.

Deviation 6 - WITHDRAWN BY APPLICANT.

Deviation 7 - WITHDRAWN BY APPLICANT.

Deviation 8 seeks relief from the LDC § 10-292(c) requirement to provide residential developments of more than five acres or any commercial development of more than ten acres provide two or more means of ingress or egress for the development, to allow the residential portion of the project that is separated by the railway right-of-way to have one means of ingress and egress. This deviation is APPROVED SUBJECT TO COMPLIANCE WITH CONDITION 11.

Deviation 9 - WITHDRAWN BY APPLICANT.

Deviation 10 - WITHDRAWN BY APPLICANT.

Deviation 11 seeks relief from the LDC §§ 34-2015(2)c and 34-2020(1)c requirements to prohibit the stacking of vehicles in multi-family development, to allow stacking of the vehicles when all of the following requirements are met:

1. The number of units in each multi-family building will be limited to eight units or less; and
2. The first parking space is in an individual garage with an individual driveway; and
3. Each individual driveway has a minimum 1-foot physical separation from any other

- driveway; and
4. It can be demonstrated at the time of development order application that safe sight distance triangles are met.

This deviation is APPROVED SUBJECT TO the above stated requirements.

Deviation 12 seeks relief from the LDC § 10-415(b)(1) requirement to establish open space requirements, to allow the adoption of an Open Space Table. This deviation is APPROVED SUBJECT TO Condition 3.

Deviation 13 seeks relief from the LDC § 34-1264(b)(1)a requirement to require a 500-foot separation distance between an establishment for the sale or service of alcoholic beverages from consumption on the premises, to allow a separation distance of 300 feet. This deviation is APPROVED SUBJECT TO the Permitted Use Notes set forth in Conditions 2.a.3(B)C and 2.a.3(C), above.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Project Development Regulations
- Exhibit C: Open Space and Indigenous Vegetation Table
- Exhibit D: Sketch and Description of Sandy Lane Extension
- Exhibit E: Zoning Map (subject parcel identified with shading)
- Exhibit F: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and other applicable code and regulations.
2. The MPD rezoning, as conditioned:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.

3. The approval of this rezoning request satisfies the following criteria:
- a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan will be available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

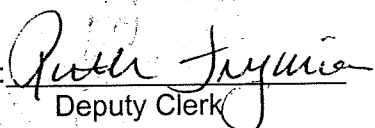
The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Coy, seconded by Commissioner Albion, and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Absent
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 30th day of July 2001.

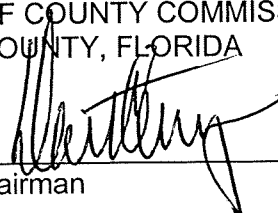
ATTEST:
CHARLIE GREEN, CLERK

BY:

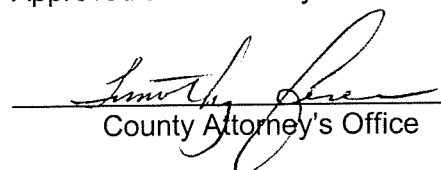

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

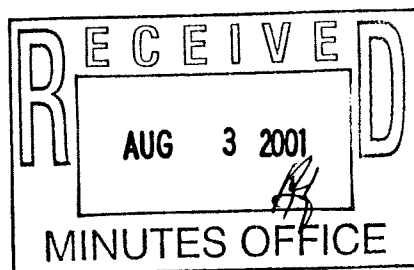
BY:


Chairman

Approved as to form by:


County Attorney's Office

CASE NO:DCI2000-00032





A CECI GROUP COMPANY

CECI Group Services

Civil Engineering
Survey & Mapping
Coastal Engineering
Real Estate Appraisal
Environmental Assessment

Website: www.coastalengineering.com

EXHIBIT
LEGAL DESCRIPTION
PARCEL "A"
ESTERO GOLF RESORT MPD

A TRACT OR PARCEL OF LAND IN SECTION 21, TOWNSHIP 46 SOUTH,
RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE ALONG
THE EAST LINE OF SECTION 21, N 00°46'45" W, A DISTANCE OF 94.98 FEET TO
THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED
IN O.R. BOOK 2183, PAGES 3461 - 3462) TO THE POINT OF BEGINNING;
THENCE CONTINUE N 00°46'45" W, ALONG SAID EAST LINE OF SECTION 21, A
DISTANCE OF 2555.79 FEET TO THE EAST QUARTER CORNER OF SAID SECTION
21; THENCE N 00°53'22" W, A DISTANCE OF 2646.37 FEET TO THE NORTHEAST
CORNER OF SAID SECTION 21; THENCE N 89°29'23" W, ALONG THE NORTH LINE
OF SECTION 21, A DISTANCE OF 1322.73 FEET TO THE EAST LINE OF THE
VINTAGE GOLF AND COUNTRY CLUB AS RECORDED IN PLAT BOOK 37, PAGE 38
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S 00°53'13" E,
ALONG SAID EAST LINE OF THE VINTAGE GOLF AND COUNTRY CLUB, A DISTANCE
OF 1317.90 FEET; THENCE S 44°54'53" W, A DISTANCE OF 2370.26 FEET;
THENCE CONTINUE S 32°34'51" E, ALONG THE EASTERLY RIGHT-OF-WAY LINE
OF THE SEABOARD COAST LINE RAILROAD A DISTANCE OF 2513.30 FEET;
THENCE ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD
CONTINUE S 86°11'52" E A DISTANCE OF 1148.53 FEET TO A POINT OF CURVATURE,
THENCE CONTINUE 552.84 FEET ALONG THE ARC OF SAID CURVE CONCAVE TO THE
NORTHEAST, HAVING A RADIUS OF 11,425.00 FEET, A CENTRAL ANGLE OF 02°46'21",
A CHORD DISTANCE OF 552.79 FEET, AND A CHORD BEARING OF S 87°35'02" E;
TO SAID POINT OF BEGINNING.

PARCEL CONTAINS 240.4± ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

AND THOSE LANDS FURTHER DESCRIBED AS FOLLOWS:

PARCEL "A-1"
ESTERO GOLF RESORT MPD

A TRACT OR PARCEL OF LAND IN SECTION 21 AND 28, TOWNSHIP 46 SOUTH, RANGE 25
EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE ALONG THE EAST
LINE OF SECTION 21, N 00°46'45" W, A DISTANCE OF 94.98 FEET TO THE NORTHERLY RIGHT-
OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED IN O.R. BOOK 2183, PAGES 3461-
3462); THENCE CONTINUE ALONG THE NORTHERLY RIGHT-OF-WAY OF KORESHAN
BOULEVARD 552.84 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST;
HAVING A RADIUS OF 11425.00 FEET, A CENTRAL ANGLE OF 02°46'21", A CHORD DISTANCE
OF 552.79 FEET, AND A CHORD BEARING OF N 87°35'02" W TO A POINT OF TANGENCY;
THENCE N 86°11'52" W, FOR A DISTANCE OF 1310.00 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUE N 86°11'52" W A DISTANCE OF 1166.17 FEET TO A POINT OF
CURVATURE; THENCE 540.77 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE
SOUTHWEST; HAVING A RADIUS OF 1175.00 FEET, A CENTRAL ANGLE OF 26°22'09" A
CHORD DISTANCE OF 536.01 FEET, AND A CHORD BEARING OF S 80°36'51" W TO A POINT OF
COMPOUND CURVATURE; THENCE CONTINUE 358.46' ALONG THE ARC OF CURVE CONCAVE
TO THE SOUTHWEST; HAVING A RADIUS OF 1292.82 FEET, A CENTRAL ANGLE OF 15°53'11",
A CHORD DISTANCE OF 357.31 FEET, AND A CHORD BEARING OF S 59°29'40" W, TO A POINT
OF TANGENCY; THENCE S 51°33'05" W FOR A DISTANCE OF 261.89 FEET TO A POINT OF
CURVATURE; THENCE CONTINUE 79.66 FEET ALONG THE ARC OF A CURVE CONCAVE TO
THE NORTH; HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 91°17'11", A CHORD
DISTANCE OF 71.50 FEET, AND A CHORD BEARING OF N 82°48'27" W, TO A POINT OF
TANGENCY; THENCE CONTINUE N 37°10'00" W A DISTANCE OF 955.60 FEET, THENCE
CONTINUE N 37°45'31" W A DISTANCE OF 17.52 FEET; THENCE N 44°54'53" E FOR A
DISTANCE OF 2235.13 FEET TO THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST
LINE RAILROAD (AS RECORDED IN DEED BOOK 68, PAGE 78); THENCE CONTINUE ALONG
THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST LINE RAILROAD S 32°34'52" E
FOR A DISTANCE OF 2388.69 FEET TO POINT OF BEGINNING.

PARCEL CONTAINS 74.2± ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS REGISTRATION NO. 93 2464
DANA L. WORLEY
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5651
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER
CEC FILE NO. 99509
DATE SIGNED: 07-21-01

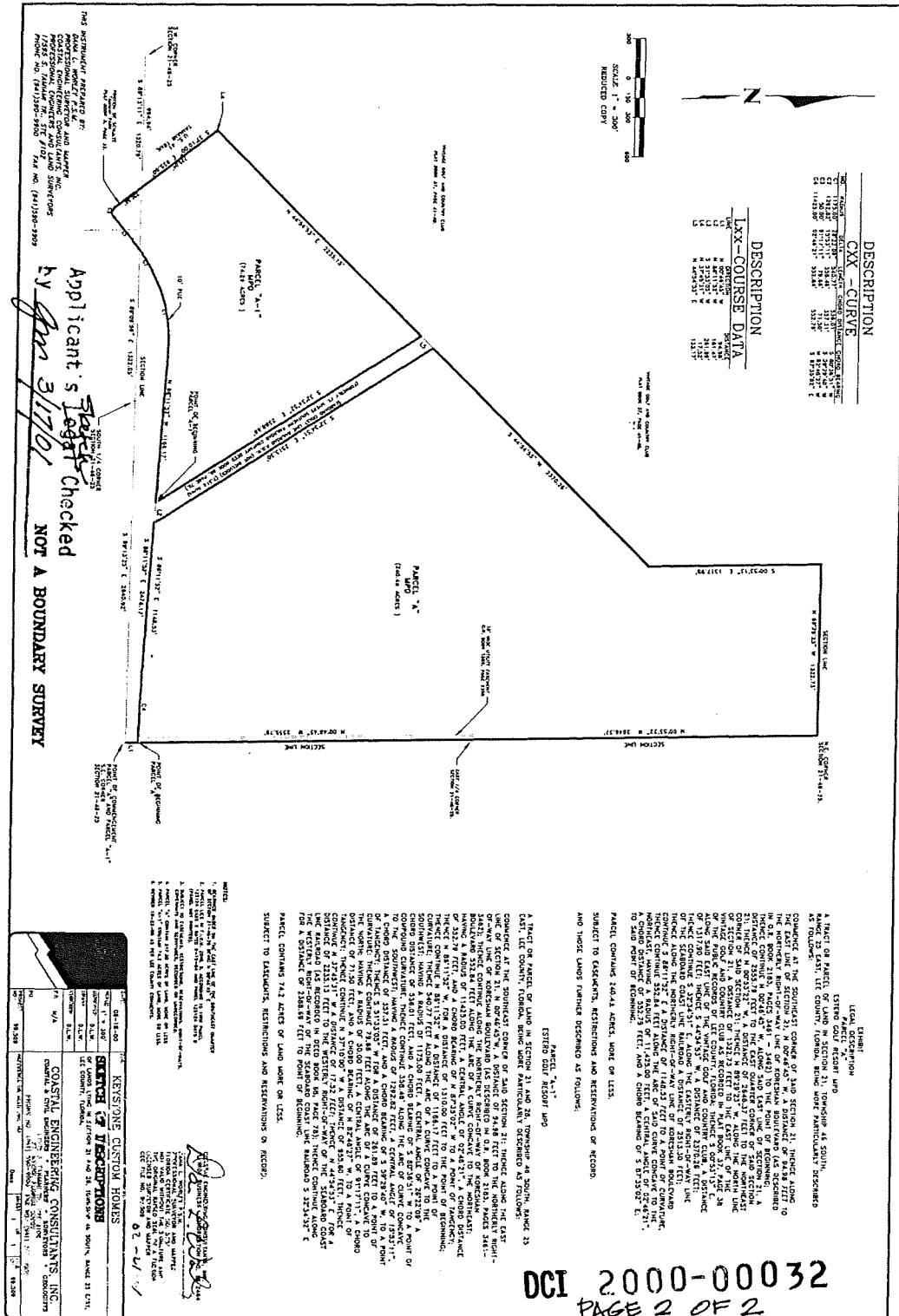
Applicant's Legal Checked

by Jim 3/17/01

DCI 2000-00032

PAGE 1 OF 2

17595 S. Tamiami Trail, Suite #102, Fort Myers, Florida 33908 • Phone (941) 590-9900 Fax (941) 590-9909 • E-Mail: englee@cecifl.com



The applicant has indicated that the STRAP numbers for the subject property are:
 21-46-25-00-00001.0000; 21-46-25-00-00001.3000

PROPERTY DEVELOPMENT REGULATIONS

March 29, 2001

LAND USES	Minimum Lot			Minimum Setback (ft)										Max Lot Coverage (%)		
	Area (sq ft)	Min Width (ft)	Min Depth (ft)	Side ¹ Incl. Corner Lots (ft)	Rear (ft)				Front (ft)			Water Body (ft)	Max Height (ft) ²	Min Bldg Separation (ft) ²	East of railroad with Golf Option	East of Railroad without Golf Option
					Lots	Wetland	Golf	Acc.	Front Entry Garage	Bldg or Side Entry Garage						
Single Family Detached	5,000	50	100	5	20	20	0	5	20	12	25	35 or 2 stories	10	65	40	
Zero Lot Line	5,000	50	100	0 or 7½	20	20	0	5	20	12	25	35 or 2 stories	10	65	40	
Two Family Attached	3750	37½	100	0 or 10	20	20	0	5	20	12	25	35 or 2 stories	10	65	40	
Townhouse	2,000	22	80	0 or 10	20	20	0	5	20	15	25	35 or 2 stories	½ bldg height but not less than 20	n/a	n/a	
Multi-Family	10,000	100	100	10	20	20	0	5	20	20	25	55 or 4 stories	½ bldg height but not less than 20	70	40	
Clubhouse	20,000	80	100	10	20	20	0	5	n/a	20	25	55 or 4 stories	½ bldg height but not less than 20	55	n/a	
Commercial (MPD 1-4)	20,000	80	100	0 or 15 ³	25 ⁴	20	n/a	5	per LDC	per LDC	25	55 or 4 stories	½ bldg height but not less than 20	55		

¹ Applies to lots of all widths and to corner lots.² Building height is limited to 35 feet or 2 stories within 200 feet of The Vines and San Carlos Park. Buildings exceeding 35 ft in height must maintain additional building separation or additional building setbacks consistent with LDC Section 34-2174(a) and LDC Section 935(e)4.³ Should the subject property be subdivided, a 0' setback to any internal lot lines will be required.⁴ Structures in MPD Tract 1 must maintain a 100 ft setback from the Tract 5 property line.

DCI 2000-00032

EXHIBIT C

OPEN SPACE AND INDIGENOUS VEGETATION
ESTERO GOLF RESORT
March 21, 2001

Tracts	OPEN SPACE		INDIGENOUS	
		<u>Required</u>	<u>Provided</u>	<u>Required</u> <u>Provided</u>
MPD 1-4	34.06± acres	10.22± acres	5.00± acres	5.11± acres 0 acres
MPD 5	40.14± acres	16.06± acres	16.06± acres	8.03± acres 13.14± acres**
			5.22± acres*	
Total	74.20± acres	26.28± acres	26.28± acres	13.14± acres 13.14± acres
MPD 6-12	242.20± acres	96.16± acres	96.16± acres	n/a n/a

* Balance from Tracts MPD 1-4

** Including restored wetland

*** This figure would be reduced if any qualifying lots (LDC 10-415) were developed.

RECEIVED
MAR 21 2001

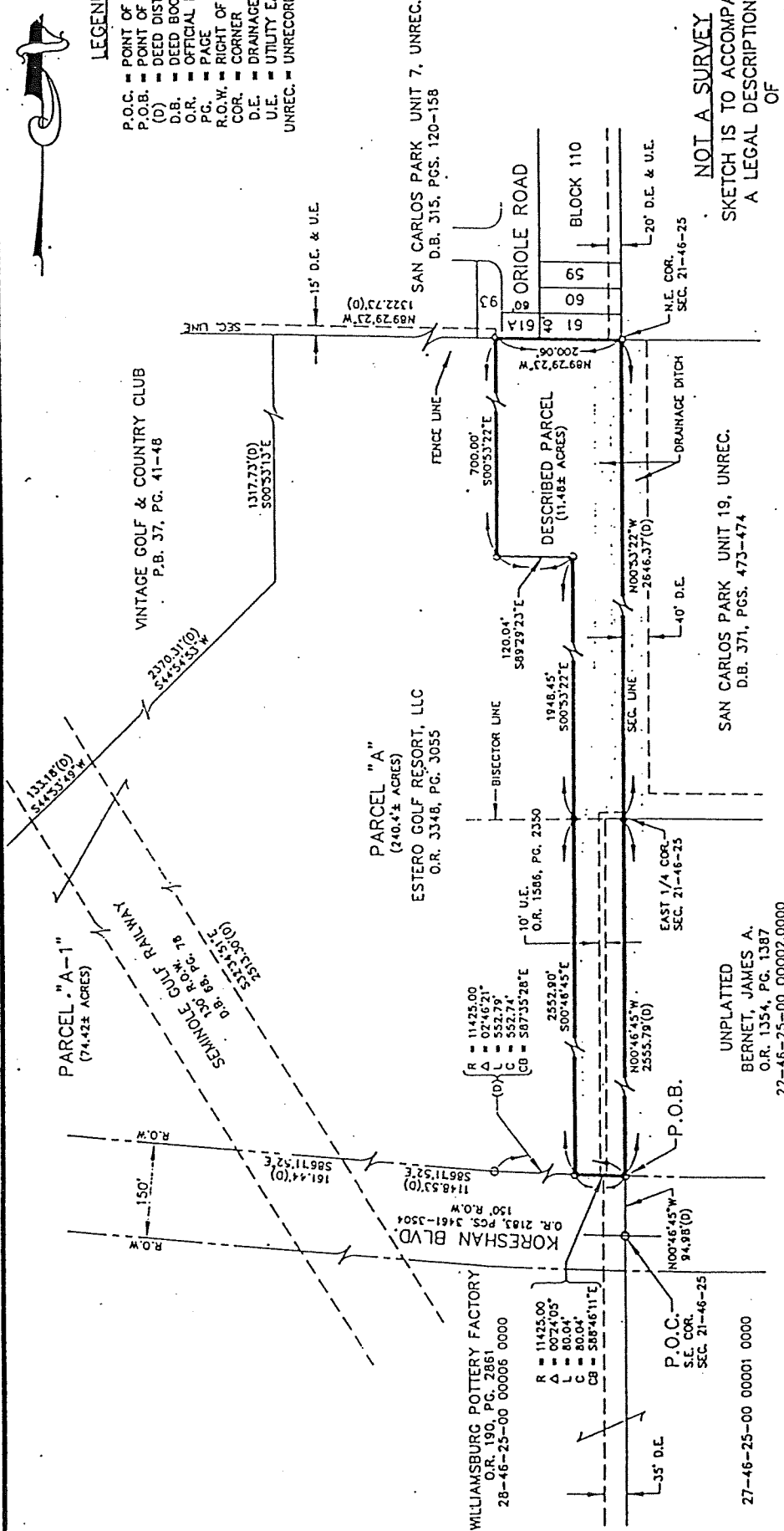
PERMIT COUNTER

OCI 20 00-000032

EXHIBIT D

LEGEND

- P.O.C. - POINT OF COMMEN.
- P.O.B. - POINT OF BEGINNING
- (D) - DEED DISTANCE OR BL
- D.B. - DEED BOOK
- O.R. - OFFICIAL RECORD
- P.G. - PAGE
- R.O.W. - RIGHT OF WAY
- COR. - CORNER
- D.E. - DRAINAGE EASEMENT
- U.E. - UTILITY EASEMENT
- UNREC. - UNRECORDED



NOT A SURVEY

SKETCH IS TO ACCOMPANY
A LEGAL DESCRIPTION
OF

A PARCEL OR TRACT OF LAND
LYING IN SECTION 21, TOWNSHIP 46 S
RANGE 25 E., LEE COUNTY, FLORIDA

I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE
UNDER MY DIRECTION AND CONTROL, AND TO THE BEST OF MY KNOW-
LEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN
ACCORDANCE WITH CHAPTER 6107-8, FLORIDA ADMINISTRATIVE CODE
PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

DATE: 02/01
Arthur W. Parsons, County Surveyor
Professional Surveyor & Mapper
Florida Certificate No. LS-2887

SURVEYOR'S NOTES

- 1.) DESCRIPTION FOR DESCRIBED PARCEL IS BASED ON DEED.
- 2.) TOPOGRAPHICAL FEATURES OR IMPROVEMENTS LYING WITHIN
DESCRIBED PARCEL WERE NOT SURVEYED OR LOCATED.
- 3.) NO RECORD OF OWNERSHIP HAS BEEN DETERMINED FOR
PARCEL SHOWN AS LOT 61A, BLOCK 110, SAN CARLOS
PARK UNIT 7.
- 4.) UNLESS OTHERWISE NOTED, DIMENSIONS ARE CALCULATED.

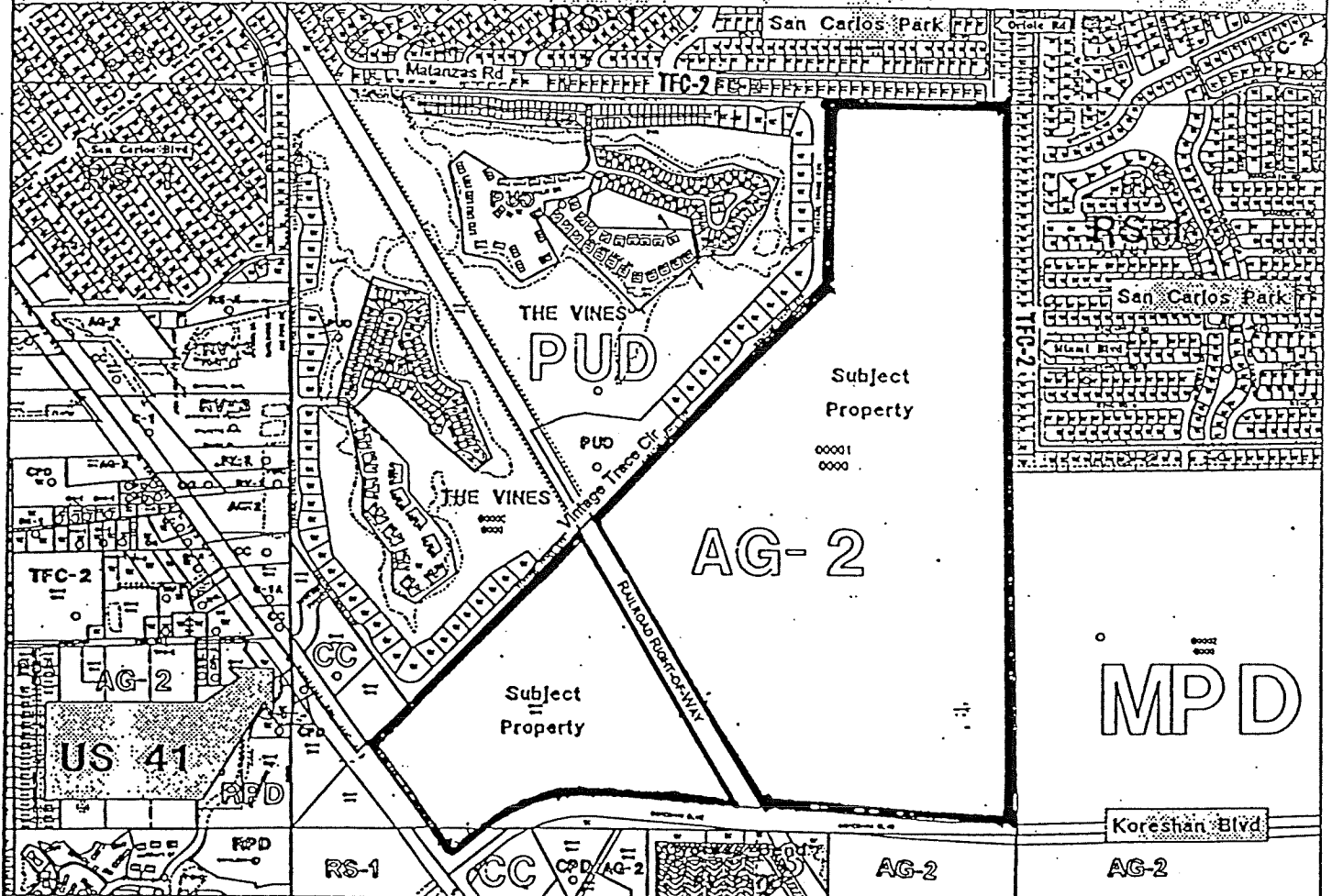
SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE
UNDER MY DIRECTION AND CONTROL, AND TO THE BEST OF MY KNOW-
LEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN
ACCORDANCE WITH CHAPTER 6107-8, FLORIDA ADMINISTRATIVE CODE
PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

DATE: 02/01
Arthur W. Parsons, County Surveyor
Professional Surveyor & Mapper
Florida Certificate No. LS-2887

DEPARTMENT OF PUBLIC WORKS		SHEET NO. 2 of 2
TRANSPORTATION DIVISION		
Designed by: A.W.P.	Date: 02/01	Blk: 20001
Drawn by: D.O.K.	Date: 02/01	Scale: 1"=200'
Chk'd: A.W.P.	Date: 02/01	001572701

Zoning Map



Attachment A

LAND USE SUMMARY

Local Area	Area	Units/Total
Commercial Tracts	32,000 [±]	320,000 sq ft [±]
Office Tract	1,000 [±]	20,000 sq ft
Residential & Club/Ho/Tracts	280,240 [±]	820 units [±]
TOTAL	314,240 [±]	

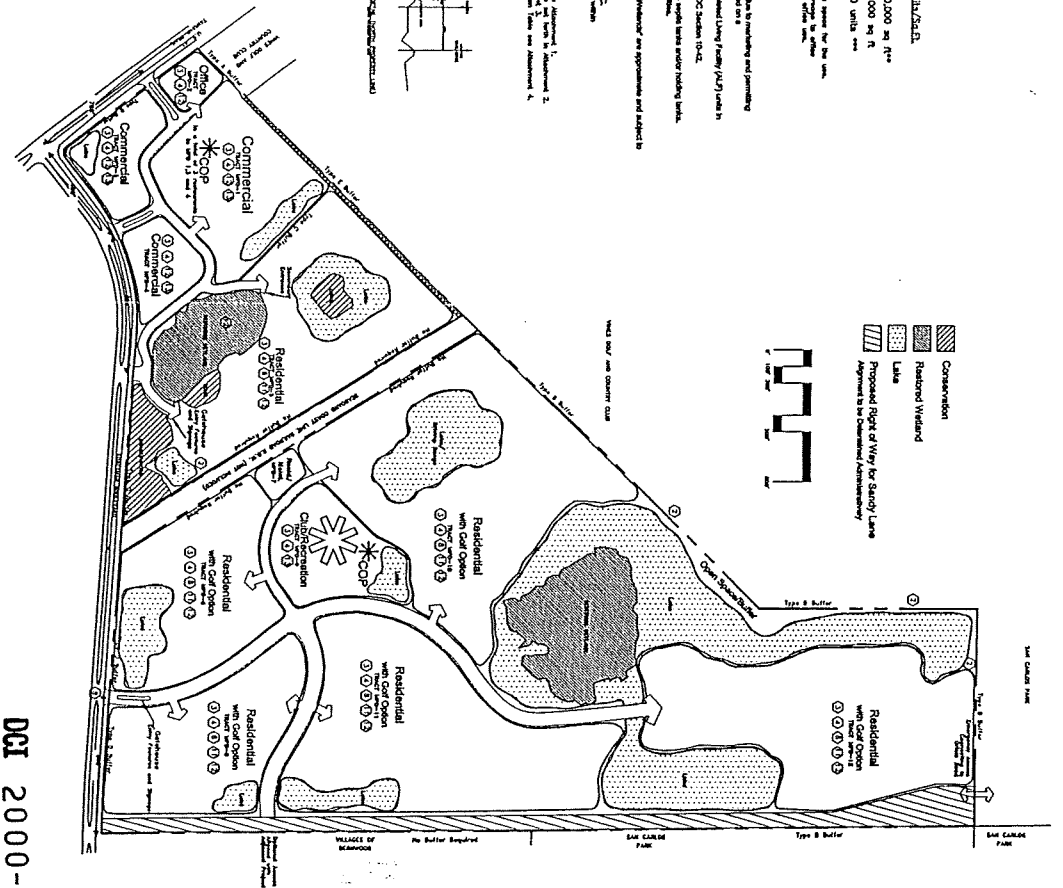
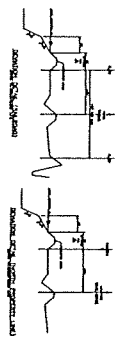
* Average includes water, transportation, parking and open space for the site.
 ** A portion of water, transportation and parking is to be provided by the site.
 *** A portion of water, transportation and parking is to be provided by the site.

MASTER CONCEPT PLAN NOTES

1. The master concept plan is preliminary and subject to change due to engineering and planning.
2. The master concept plan is preliminary and subject to change due to engineering and planning.
3. The master concept plan is preliminary and subject to change due to engineering and planning.
4. The master concept plan is preliminary and subject to change due to engineering and planning.
5. The master concept plan is preliminary and subject to change due to engineering and planning.
6. The master concept plan is preliminary and subject to change due to engineering and planning.
7. The master concept plan is preliminary and subject to change due to engineering and planning.
8. The master concept plan is preliminary and subject to change due to engineering and planning.
9. The master concept plan is preliminary and subject to change due to engineering and planning.
10. The master concept plan is preliminary and subject to change due to engineering and planning.

NOTES

1. The master concept plan is preliminary and subject to change due to engineering and planning.
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9. The master concept plan is preliminary and subject to change due to engineering and planning.
10. The master concept plan is preliminary and subject to change due to engineering and planning.



DCI 2000-00032

Survey and site information provided by:
COASTAL ENGINEERING CONSULTANTS, INC.
 COASTAL & CIVIL ENGINEERS • PLANNERS • SURVEYORS • GEOLOGISTS
 17350 N. TAMPA TR., STE. 4102
 FT. MYERS, FLORIDA 33907
 PHONE NO. (813) 590-8900 FAX NO. (813) 590-8900

ESTERO GOLF RESORT Master Concept Plan



FLORIDA LAND PLANNING, INC.
 1560 Matthew Drive, Suite C - McKee Professional Center
 Fort Myers, Florida 33907
 (813) 278-3222 - Fax (813) 278-4444

Date: 02/18/2001
 Rev: 03/18/2001
 Rev: 03/18/2001
 Rev: 05/06/2001



RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Paula Davis, President of Keystone Customer Homes, Inc., filed an application on behalf of the property owner, Hermes Investment Company, Inc., to rezone a 314.6±-acre parcel from Agricultural (AG-2) to Mixed Use Planned Development (MPD), in reference to Estero Golf Resort MPD; and

WHEREAS, a public hearing was advertised and held before the Lee County Hearing Examiner on March 14, 2001. The Hearing Examiner left the record open for written submissions until March 30, 2001. The Lee County Zoning Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2000-00032; and

WHEREAS, a second public hearing was advertised and held on May 7, 2001, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 314.6±-acre parcel from AG-2 to MPD to allow: 1) a maximum of 820 dwelling units consisting of a mix of unit types and including up to 100 units within an assisted living facility; 2) a golf course; 3) up to 320,000 square feet of retail uses; and 4) 20,000 square feet of office use. The application also included a request for consumption on premises and buildings not to exceed 55 feet and four stories.

The property is located in the Urban Community, Suburban and Wetlands Land Use Categories and is legally described in attached Exhibit A.

The request is APPROVED SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "Estero Golf Resort," last revised 5/8/01, stamped "Received May 9 2001," and the conditions set forth herein. (The MCP has been revised to reflect the Board's action on May 7, 2001.) If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. **SCHEDULE OF USES**

(1) RESIDENTIAL PORTION - TRACTS 5-12

Accessory Uses
Administrative Offices
Agricultural Uses, as limited by other conditions
Assisted Living Facility, limited to Tracts MPD-5 only-maximum 100 units
Club, Country including the following ancillary uses:
 Consumption on Premises, limited to one for the clubhouse and one
 for the golf course only, includes outdoor seating
 Food and Beverage Service
 Golf Course Maintenance Facility, limited to MPD-7 only
 Health Club and Spa
 Restaurant, includes outdoor seating
 Specialty Retail
Dwelling Units - single-, two-, and multi-family units, zero lot line units, and
 townhouses - limited to a maximum of 820 for the entire project; and
 a maximum of 340 units for MPD-5
Entrance Gates and Gatehouses
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention - Not to include the removal of excavated
 material from the site
Fences and Walls
Golf Course, including Practice Greens and Driving Range - subject to
 further review during the development order process to determine
 appropriate locations and possible additional buffering or screening
 required for the practice greens and driving range
Golf and Tennis Pro Shops (limited to ancillary use in clubhouse tract)
Home Occupation, as limited by the LDC
Model Homes, Model Units and Model Display Center
Real Estate Sales and Rental Office - limited to sales of lots, homes or units
 within the development, except as may be permitted in §34-1951 *et*
 seq. The location of, and approval for, the real estate sales office will
 be valid for a period of time not exceeding five years from the date
 the Certificate of Occupancy for the sales office is issued. The
 director may grant one 2-year extension at the same location.
Recreational Facilities, Personal and Private On-site, as defined and
 regulated by the LDC § 34
Signs, in compliance with the LDC
Storage, Open, recreational vehicles, boats and similar items for residents
 only, will only be permitted if administrative approval is sought
 showing the exact location of the use. Such uses, at a minimum,
 must be shielded behind a continuous visual screen at least eight
 feet in height when visible from any residential use, and six feet in

Personal Services, Group I, II - limited to Beauty Spas, Health Clubs or Spas, Reducing or Slenderizing Salons, Group III, and Group IV - limited to babysitting bureaus, debt counseling services, portrait copying, shopping services, and tax return preparation services

Pet Services

Pet Shop

Place of Worship

Real Estate Sales and Rental Office

Recreational Facilities, Personal and Private On-site only and only in conjunction with and on the same tract as any ancillary multi-family or townhouse uses

Rental and Leasing Establishments, Group II - outside storage is prohibited

Restaurants, Standard - Groups I, II, III & IV - subject to Permitted Use Note

A

Schools, Commercial

Shopping Center

Signs, in compliance with the LDC

Social Services, Group I only

Specialty Retail Shops, Groups I-IV

Storage, Indoor only and only as an ancillary use

Studios

Temporary uses - limited to sales center and construction offices, in compliance with LDC regulations regarding temporary uses

Variety Store

Wholesale Establishments, Group III only

(3) ADDITIONAL USE CONDITIONS

(A) The following uses may be allowed in Wetland areas subject to review and approval by Environmental Sciences staff as part of development order review:

Interpretative centers, rain shelters gazebos

Nature and foot paths including pedestrian boardwalks

Wildlife management areas

Mitigation activities

Signs, limited to educational signs only

(B) The following Permitted Use Notes, apply to the uses referenced above (referenced in the Schedule of Uses as A, B & C):

A. Must be located a minimum of 200 feet from any off-site property zoned for residential purposes

B. Limited to Tracts MPD-3 and MPD-4

C. Consumption on Premises (COP) (Four total approved)

(1) COPs are limited to a maximum of three for standard restaurants, one for the clubhouse and one for the

golf course.

- (2) COPs in Tract MPD-1 must first receive Special Exception or an Administrative Approval, whichever is deemed appropriate by the DCD Director. Since the proposed plan of development is only conceptual, this additional condition is necessary to ensure the placement of the COP use will be compatible with the surrounding land uses.

(C) Uses in MPD Tract 1 are limited as follows:

Hours of operation for businesses open to the public are 7:00 a.m. until 10:00 p.m. Restaurants may be open until 11:00 p.m., Monday through Thursday and 12:00 midnight, Friday and Saturday

Deliveries are prohibited between the hours of 8:00 p.m. and 6:00 a.m.

Outside entertainment, speaker systems, loud speakers or public address systems are prohibited in MPD Tract 1.

b. **SITE DEVELOPMENT REGULATIONS**

Site Development Regulations are limited to the "Property Development Regulations," set forth in Exhibit B as revised on March 30, 2001:

(A) General Project Square Footage Limitations:

- (1) Maximum overall commercial development is limited to 320,000 square feet of retail commercial uses, and 20,000 square feet of office uses, except as limited below; and
- (2) This project can be comprised of medical, general office, retail, or service uses (in compliance with the schedule above), or any combination of those uses, up to the maximum square footage, provided all limiting conditions, parking, open space, buffering, and water management requirements are met.
- (3) All special setback or development regulations contained in the LDC (as it may be amended) for any specific use must be met; and
- (4) The option to convert retail and office uses is approved with the limitation that no more than 21.94 acres of commercial acreage may be converted to office use; and
- (5) Retail Commercial square footage within the Suburban land

use category may not exceed 100,000 square feet. The development must provide cumulative totals for each development order submittal showing compliance with this condition.

(B) Outdoor Seating for COP uses:

- (1) Outdoor seating may not be located within 300 feet of a residential lot in The Vines; and
- (2) Outdoor seating must be located on the side of the principal structure that is opposite residentially zoned or used lot in The Vines; and
- (3) The outdoor seating must cease at 10:00 p.m., Monday through Thursday, and 11:00 p.m., Friday and Saturday;

3. Environmental Conditions: Prior to local development order approval, the developer must:

- a. Provide open space consistent with the Open Space and Indigenous Vegetation Table attached as Exhibit C. Each tract must provide a minimum of 10 percent open space.
- b. Submit development order plans that show a connection between the conservation area in the southeast corner of the MPD Tract-5 and the upland conservation area on the eastern side of the restored wetland. The wildlife connection will run under the road and include a set of two tunnels constructed of 36-inch-wide by 24-inch-high, elliptical concrete pipe. The plans will show the two elliptical wildlife connections placed under the road in a side by side position unless directed otherwise by Division of Planning/Environmental Sciences Staff. At a minimum, the bottom of the pipes will be placed no lower than the existing upland preserve grade to help prevent inundation within the pipes during the wet season.
- c. Submit a detailed wetland restoration plan to the Division of Planning/Environmental Sciences Staff for review and approval. Both the wetland restoration plan and littoral zones required by the LDC must be designed to provide foraging area for wood storks.
- d. Re-survey the potential Big Cypress fox squirrel nests on-site specifically for fox squirrel presence. The protected species survey must be prepared in accordance with LDC § 10-473 and submitted to the Division of Planning/Environmental Sciences for review and approval. If fox squirrel use of the site is verified, the developer must submit final management details in accordance with LDC § 10-474 including a phased exotic removal plan.
- e. Submit a detailed gopher tortoise management plan for review and approval by the Division of Planning/Environmental Sciences staff.
- f. Obtain a Vegetation Removal Permit to install barricades to protect preserves and conduct excavation of tortoise burrows to move the gopher tortoises within the

development tracts.

4. The Golf Driving Range is limited to operating during daylight hours.
5. Development order submittals must include a running inventory showing the overall number of units and commercial (retail and office) square footage that have been built, approved to be built, or are in the development approval process.
6. Sandy Lane Extension
 - a. As part of the first development order submittal, the developer must revise the MCP to reflect the planned extension of Sandy Lane along the eastern boundary of the site, consistent with the sketch set forth in the Lee County DOT Exhibit entitled, "Sketch and Description of Sandy Lane Extension," (Exhibit D) unless mutual agreement regarding a different alignment is reached between Lee County and the property owner(s). Lee County will compensate the property owner for the reservation of the property in accordance with the regulations set forth in Chapter 2 of the LDC; and
 - b. The minimum setback for a water retention lake from the road right-of-way must be no less than 25 feet from the western Sandy Lane right of way, consistent with LDC § 10-329(f)(1)a.2 and the sketch noted above, unless mutual agreement regarding a different alignment is reached between Lee County and the property owner(s). The developer must provide satisfactory elements for the protection of wayward vehicles. These elements may consist of fencing, berms, buffering or a combination of all three, however, the exact elements are subject to review and approval by Lee County; and
 - c. This project will be permitted one access point within the southern half of this project's frontage along the proposed Sandy Lane extension. This access point must align with the access point that is approved for the parcel on the tract on the east side of the Sandy Lane extension. (The access point onto Sandy Lane is not a required access point, except that at least one emergency access must be provided to a road other than Koreshan Boulevard as noted in Condition 11.)
7. Bona fide agricultural uses in existence at the time this resolution is finalized may continue until approval of the first local development order. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless that activity is reviewed and approved in accordance with the Lee County LDC regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.
8. No excess excavated material may be removed from the site unless the developer can demonstrate to the Director of the Department of Community Development that the material to be removed: 1) is unsuitable material that cannot be used on-site; and 2) the material must be excavated to meet the minimum requirements necessary to accommodate a water

management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use off-site.

9. Model units and homes are permitted in compliance with the following conditions:
 - a. Administrative approval must be obtained. Administrative Approval is subject to review and approval based upon potential negative impacts to nearby uses regarding, but not limited to, glare, noise, dust
 - b. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - c. All model sites must be designated on the development order plans; and
 - d. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat. The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for the project; and
 - e. Dry models are prohibited.
10. Golf Course Conditions:
 - a. The golf course developer must use fertilizers with a low leaching potential (slow release). Fertilizers must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and
 - b. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan that includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the U.S. Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may be used. Turf managed areas (including fairways, tees, and greens) are prohibited within 35 feet of wetlands or preserve areas. The chemical management plan must be reviewed and approved by Lee County Natural Resources Division prior to development order approval.

- c. The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- d. The Developer must utilize a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- e. The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.
- f.
 - 1) Prior to the issuance of local development order approval, the developer must demonstrate compliance with "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.
 - 2) The development order must demonstrate separate mixing and loading facilities for pesticides, and provide a separate pesticide storage area, in compliance with materials specified in the above referenced document. The development order must demonstrate separate mixing and loading facilities for fertilizer, and provide a separate fertilizer storage area, in compliance with materials specified in the above referenced document.
 - 3) The development order plans must specify the construction material for all buildings in compliance with "Best Management Practices for Golf Course Maintenance Departments."
 - 4) Equipment to apply pesticides and fertilizers must be stored in an area protected from rainfall.
- g. The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, while requiring relatively low fertilizer use;
- h. The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.
- i. All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from underdrains must not discharge directly into a surface water management lake.
- j. Stormwater run-off must be pre-treated through an acceptable recreated natural system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
- k. The operator of the golf course must submit an annual monitoring report of ground water and surface water quality. The monitoring program must include: testing to

assess whether there are any herbicide, pesticide or fertilizer pollution of the water within the area of the golf course; identifying the locations for the ground water monitoring and testing on a map(s); setting forth the testing and recording requirements. The Developer must submit the test results with the monitoring report to the Lee County Natural Resources Division. The monitoring program will be established and operated at the expense of the Developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 62-302, F.A.C., water quality standards.

- I. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until there is a revised management plan. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County must be implemented by the Developer.
 - m. Prior to development order approval for the golf course, the developer must conduct a pre-development groundwater and surface water analysis and submit the analysis to Lee County Division of Natural Resources. This analysis is intended to establish baseline data for groundwater and surface water monitoring for the project area. The analysis must be designed to identify those nutrients and chemicals that are anticipated to be associated with the project. Prior to commencing this baseline study, the developer must submit the methodology for review, comment and approval by Lee County.
- 11. Prior to development order approval for any portion of the property, the developer must show an emergency access connecting to the existing Oriole Road to the north. Prior to the opening of the Sandy Lane extension that will connect to the existing Oriole Road, the developer must revise the emergency access so that it will be accessible from the future Sandy Lane extension.
 - 12. Buildings exceeding 35 feet in height must maintain additional building separation or additional building setbacks consistent with LDC § 34-2174(a) and LDC § 935(e)4.
 - 13. Lighting to serve uses within 200 feet of perimeter property allowing residential uses must be hooded, shuttered, or shielded and may not exceed 18 feet in height. Mercury vapor lamps/lights are prohibited, the lighting in this 200-foot area must be scaled so that no more than the minimum required number of light fixtures are erected. Individual building lighting must be of the lowest intensity to meet safety standards. The scale of the fixtures and the type of hooding, shuttering and shielding is subject to further review prior to the approval of a development order. The individual building fixtures must be either directly fixed to the building or placed on a post lamp standard not to exceed 10 feet in height. Incandescent lamps are encouraged. The use of mercury vapor lamps/lights is prohibited.
 - 14. Approval of this zoning request does not address access onto U.S. 41, since Lee County has no jurisdiction over that roadway. The developer must pursue U.S. 41 access issues with the Florida Department of Transportation (FDOT). Approval of this zoning request does

not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order. Approval of this rezoning does not give the developer an undeniable right to receive local development order approval. Future development order approvals must satisfy concurrency requirements as required by Lee Plan Objective 2.2.

15. Approval of this rezoning does not guarantee local development order approval or vest present or future development rights for Lee Plan consistency. Development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b). In addition, development order applications must also be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
16. Installation of any auto parts, either by employees or the general public, in conjunction with the Auto Parts Store is prohibited. Signs must be posted and maintained in the parking lot for this use advising customers that "self installation" is strictly prohibited on the premises.
17. This development must comply with all the requirements of the LDC, specifically including the requirements of LDC § 10-600 *et seq.*, at the time of local development order approval, except as may be granted by deviation as part of this planned development approval or subsequent amendments thereto.
18. Structures within Tract 5 are limited to 2-story height for a distance of 200 feet back from the perimeter property line that is shared with The Vines.
19. Development of this project must not exceed any DRI thresholds, as the impacts of same were not reviewed as part of the rezoning. The developer must provide a project-wide cumulative DRI threshold analysis with each local development order submittal.
20. If the lake shown in Tract 1 is relocated further away from the boundary shared with Tract 5, structures within Tract 1 must maintain a 100-foot setback from the shared property line between the two tracts.
21. Tract MPD-7 is approved in the internal location shown in the revised MCP dated March 30, 2001. The uses permitted in MPD-7 are Residential, Golf Course, and Maintenance. Direct access to Koreshan Boulevard from this tract is prohibited.

SECTION C. DEVIATIONS:

Deviation 1 - WITHDRAWN BY APPLICANT.

Deviation 2 seeks relief from the LDC §10-329(e)(1)(a)(3) requirement to provide a 50-foot minimum setback for water retention lakes, to allow a 25-foot setback for water retention lakes. This deviation is APPROVED SUBJECT TO the condition that, prior to development order approval, the developer must provide satisfactory elements to discourage access from the adjacent properties. These elements may consist of fencing, berms, buffering or a combination of all three. **This deviation is not approved along the eastern or northern boundary in the area identified**

in the memo from LCDOT if Condition 6 requires the applicant to revise its MCP to reflect the planned extension of Sandy Lane. This deviation is approved without this condition if the applicant is not required to revise its MCP to reflect the reservation of the northerly extension of Sandy Lane.

Deviation 3 seeks relief from the LDC § 10-296(d), Table 4(7)(c) requirement to provide wearing surfaces of local and access streets for category A development be constructed of 1½-inch asphaltic concrete, to allow for cement concrete or decorative pavers. This deviation is APPROVED SUBJECT TO the condition that, prior to development order approval, the developer must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation 4 seeks relief from the LDC § 10-256(d)(3) requirement to provide wearing surfaces of sidewalks to be constructed of 1½-inch asphaltic concrete, to allow for cement concrete decorative pavers. This deviation is APPROVED SUBJECT TO the condition that, prior to development order approval, the developer must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation 5.a - WITHDRAWN BY APPLICANT.

Deviation 5.b - WITHDRAWN BY APPLICANT.

Deviation 6 - WITHDRAWN BY APPLICANT.

Deviation 7 - WITHDRAWN BY APPLICANT.

Deviation 8 seeks relief from the LDC § 10-292(c) requirement to provide residential developments of more than five acres or any commercial development of more than ten acres provide two or more means of ingress or egress for the development, to allow the residential portion of the project that is separated by the railway right-of-way to have one means of ingress and egress. This deviation is APPROVED SUBJECT TO COMPLIANCE WITH CONDITION 11.

Deviation 9 - WITHDRAWN BY APPLICANT.

Deviation 10 - WITHDRAWN BY APPLICANT.

Deviation 11 seeks relief from the LDC §§ 34-2015(2)c and 34-2020(1)c requirements to prohibit the stacking of vehicles in multi-family development, to allow stacking of the vehicles when all of the following requirements are met:

1. The number of units in each multi-family building will be limited to eight units or less; and
2. The first parking space is in an individual garage with an individual driveway; and
3. Each individual driveway has a minimum 1-foot physical separation from any other driveway; and
4. It can be demonstrated at the time of development order application that safe sight distance triangles are met.

This deviation is APPROVED SUBJECT TO the above stated requirements.

Deviation 12 seeks relief from the LDC § 10-415(b)(1) requirement to establish open space requirements, to allow the adoption of an Open Space Table. This deviation is APPROVED SUBJECT TO Condition 3.

Deviation 13 seeks relief from the LDC § 34-1264(b)(1)a requirement to require a 500-foot separation distance between an establishment for the sale or service of alcoholic beverages from consumption on the premises, to allow a separation distance of 300 feet. This deviation is APPROVED SUBJECT TO the Permitted Use Notes set forth in Conditions 2.a.3(B)C and 2.a.3(C), above.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Project Development Regulations
- Exhibit C: Open Space and Indigenous Vegetation Table
- Exhibit D: Sketch and Description of Sandy Lane Extension
- Exhibit E: Zoning Map (subject parcel identified with shading)
- Exhibit F: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and other applicable code and regulations.
2. The MPD rezoning, as conditioned:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The approval of this rezoning request satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations

provide sufficient safeguard to the public interest; and

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan will be available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Janes, seconded by Commissioner Judah, and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Absent
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of May 2001.

ATTEST:
CHARLIE GREEN, CLERK

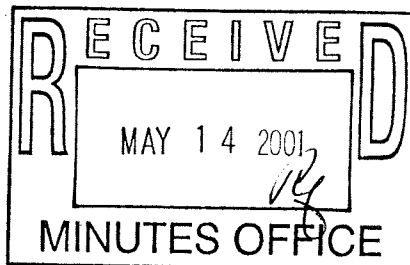
BY: *Ruth Tugman*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chairman

Approved as to form by:

[Signature]
County Attorney's Office





A CECI GROUP COMPANY

CECI Group Services

Civil Engineering
Survey & Mapping
Coastal Engineering
Real Estate Appraisal
Environmental Assessment

Website: www.coastalengineering.com

EXHIBIT
LEGAL DESCRIPTION
PARCEL "A"
ESTERO GOLF RESORT MPD

A TRACT OR PARCEL OF LAND IN SECTION 21, TOWNSHIP 46 SOUTH,
RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21, THENCE ALONG
THE EAST LINE OF SECTION 21, N 00°46'45" W, A DISTANCE OF 94.98 FEET TO
THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED
IN O.R. BOOK 2183, PAGES 3461 - 3462) TO THE POINT OF BEGINNING;
THENCE CONTINUE N 00°46'45" W, ALONG SAID EAST LINE OF SECTION 21, A
DISTANCE OF 2555.79 FEET TO THE EAST QUARTER CORNER OF SAID SECTION
21; THENCE N 00°53'22" W, A DISTANCE OF 2646.37 FEET TO THE NORTHEAST
CORNER OF SAID SECTION 21; THENCE N 89°29'23" W, ALONG THE NORTH LINE
OF SECTION 21, A DISTANCE OF 1322.73 FEET TO THE EAST LINE OF THE
VINTAGE GOLF AND COUNTRY CLUB AS RECORDED IN PLAT BOOK 37, PAGE 38
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S 00°53'13" E,
ALONG SAID EAST LINE OF THE VINTAGE GOLF AND COUNTRY CLUB, A DISTANCE
OF 1317.90 FEET; THENCE S 44°54'53" W, A DISTANCE OF 2370.26 FEET;
THENCE CONTINUE S 32°34'51" E, ALONG THE EASTERLY RIGHT-OF-WAY LINE
OF THE SEABOARD COAST LINE RAILROAD A DISTANCE OF 2513.30 FEET;
THENCE ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD
CONTINUE S 86°11'52" E A DISTANCE OF 1148.53 FEET TO A POINT OF CURVATURE,
THENCE CONTINUE 552.84 FEET ALONG THE ARC OF SAID CURVE CONCAVE TO THE
NORTHEAST, HAVING A RADIUS OF 11,425.00 FEET, A CENTRAL ANGLE OF 02°46'21",
A CHORD DISTANCE OF 552.79 FEET, AND A CHORD BEARING OF S 87°35'02" E;
TO SAID POINT OF BEGINNING.

PARCEL CONTAINS 240.4± ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

AND THOSE LANDS FURTHER DESCRIBED AS FOLLOWS:

PARCEL "A-1"
ESTERO GOLF RESORT MPD

A TRACT OR PARCEL OF LAND IN SECTION 21 AND 28, TOWNSHIP 46 SOUTH, RANGE 25
EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE ALONG THE EAST
LINE OF SECTION 21, N 00°46'45" W, A DISTANCE OF 94.98 FEET TO THE NORTHERLY RIGHT-
OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED IN O.R. BOOK 2183, PAGES 3461-
3462); THENCE CONTINUE ALONG THE NORTHERLY RIGHT-OF-WAY OF KORESHAN
BOULEVARD 552.84 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST,
HAVING A RADIUS OF 11,425.00 FEET, A CENTRAL ANGLE OF 02°46'21", A CHORD DISTANCE
OF 552.79 FEET, AND A CHORD BEARING OF N 87°35'02" W TO A POINT OF TANGENCY;
THENCE N 86°11'52" W, FOR A DISTANCE OF 1310.00 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUE N 86°11'52" W A DISTANCE OF 1166.17 FEET TO A POINT OF
CURVATURE; THENCE 540.77 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE
SOUTHWEST; HAVING A RADIUS OF 1175.00 FEET, A CENTRAL ANGLE OF 26°22'09" A
CHORD DISTANCE OF 536.01 FEET, AND A CHORD BEARING OF S 80°36'51" W TO A POINT OF
COMPOUND CURVATURE, THENCE CONTINUE 358.46' ALONG THE ARC OF CURVE CONCAVE
TO THE SOUTHWEST; HAVING A RADIUS OF 1292.82 FEET, A CENTRAL ANGLE OF 15°53'11",
A CHORD DISTANCE OF 357.31 FEET, AND A CHORD BEARING OF S 59°29'40" W, TO A POINT
OF TANGENCY; THENCE S 51°33'05" W FOR A DISTANCE OF 261.89 FEET TO A POINT OF
CURVATURE; THENCE CONTINUE 79.66 FEET ALONG THE ARC OF A CURVE CONCAVE TO
THE NORTH; HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 91°17'11", A CHORD
DISTANCE OF 71.50 FEET, AND A CHORD BEARING OF N 82°48'27" W, TO A POINT OF
TANGENCY; THENCE CONTINUE N 37°10'00" W A DISTANCE OF 955.60 FEET, THENCE
CONTINUE N 37°45'31" W A DISTANCE OF 17.52 FEET; THENCE N 44°54'53" E FOR A
DISTANCE OF 2235.13 FEET TO THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST
LINE RAILROAD (AS RECORDED IN DEED BOOK 68, PAGE 78); THENCE CONTINUE ALONG
THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST LINE RAILROAD S 32°34'52" E
FOR A DISTANCE OF 2388.69 FEET TO POINT OF BEGINNING.

PARCEL CONTAINS 74.2± ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. 09 2464
DANA L. WORLEY
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5651
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL FASTED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER
CEC FILE NO. 98509
DATE SIGNED: 03-21-01

Applicant's Legal Checked

by gfm 3/17/01

DCI 2000-00032

PAGE 1 OF 2

17595 S. Tamiami Trail, Suite #102, Fort Myers, Florida 33908 • Phone (941) 590-9900 Fax (941) 590-9909 • E-Mail: englee@cecill.com

PROPERTY DEVELOPMENT REGULATIONS

March 29, 2001

LAND USES	Minimum Lot			Minimum Setback (ft)										Max Lot Coverage (%)		
	Area (sq ft)	Min Width (ft)	Min Depth (ft)	Side ¹ Incl. Corner Lots (ft)	Rear (ft)				Front (ft)			Water Body (ft)	Max Height (ft) ²	Min Bldg Separation (ft) ²	East of railroad with Golf Option	East of Railroad without Golf Option
					Lots	Wetland	Golf	Acc.	Front Entry Garage	Bldg or Side Entry Garage						
Single Family Detached	5,000	50	100	5	20	20	0	5	20	12	25	35 or 2 stories	10	65	40	
Zero Lot Line	5,000	50	100	0 or 7½	20	20	0	5	20	12	25	35 or 2 stories	10	65	40	
Two Family Attached	3750	37½	100	0 or 10	20	20	0	5	20	12	25	35 or 2 stories	10	65	40	
Townhouse	2,000	22	80	0 or 10	20	20	0	5	20	15	25	35 or 2 stories	½ bldg height but not less than 20	n/a	n/a	
Multi-Family	10,000	100	100	10	20	20	0	5	20	20	25	55 or 4 stories	½ bldg height but not less than 20	70	40	
Clubhouse	20,000	80	100	10	20	20	0	5	n/a	20	25	55 or 4 stories	½ bldg height but not less than 20	55	n/a	
Commercial (MPD 1-4)	20,000	80	100	0 or 15 ³	25 ⁴	20	n/a	5	per LDC	per LDC	25	55 or 4 stories	½ bldg height but not less than 20	55		

¹ Applies to lots of all widths and to corner lots.² Building height is limited to 35 feet or 2 stories within 200 feet of The Vines and San Carlos Park. Buildings exceeding 35 ft in height must maintain additional building separation or additional building setbacks consistent with LDC Section 34-2174(a) and LDC Section 935(e)4.³ Should the subject property be subdivided, a 0' setback to any internal lot lines will be required.⁴ Structures in MPD Tract 1 must maintain a 100 ft setback from the Tract 5 property line.

DCI 2000-00032

OPEN SPACE AND INDIGENOUS VEGETATION
ESTERO GOLF RESORT
 March 21, 2001

		OPEN SPACE		INDIGENOUS	
Tracts		<u>Required</u>	<u>Provided</u>	<u>Required</u>	<u>Provided</u>
MPD 1-4	34.06± acres	10.22± acres	5.00± acres	5.11± acres	0 acres
MPD 5	40.14± acres	16.06± acres	16.06± acres	8.03± acres	13.14± acres**
			5.22± acres*		
Total	74.20± acres	26.28± acres	26.28± acres	13.14± acres	13.14± acres
MPD 6-12	242.20± acres	96.16± acres	96.16± acres	n/a	n/a

* Balance from Tracts MPD 1-4

** Including restored wetland

*** This figure would be reduced if any qualifying lots (LDC 10-415) were developed.

RECEIVED
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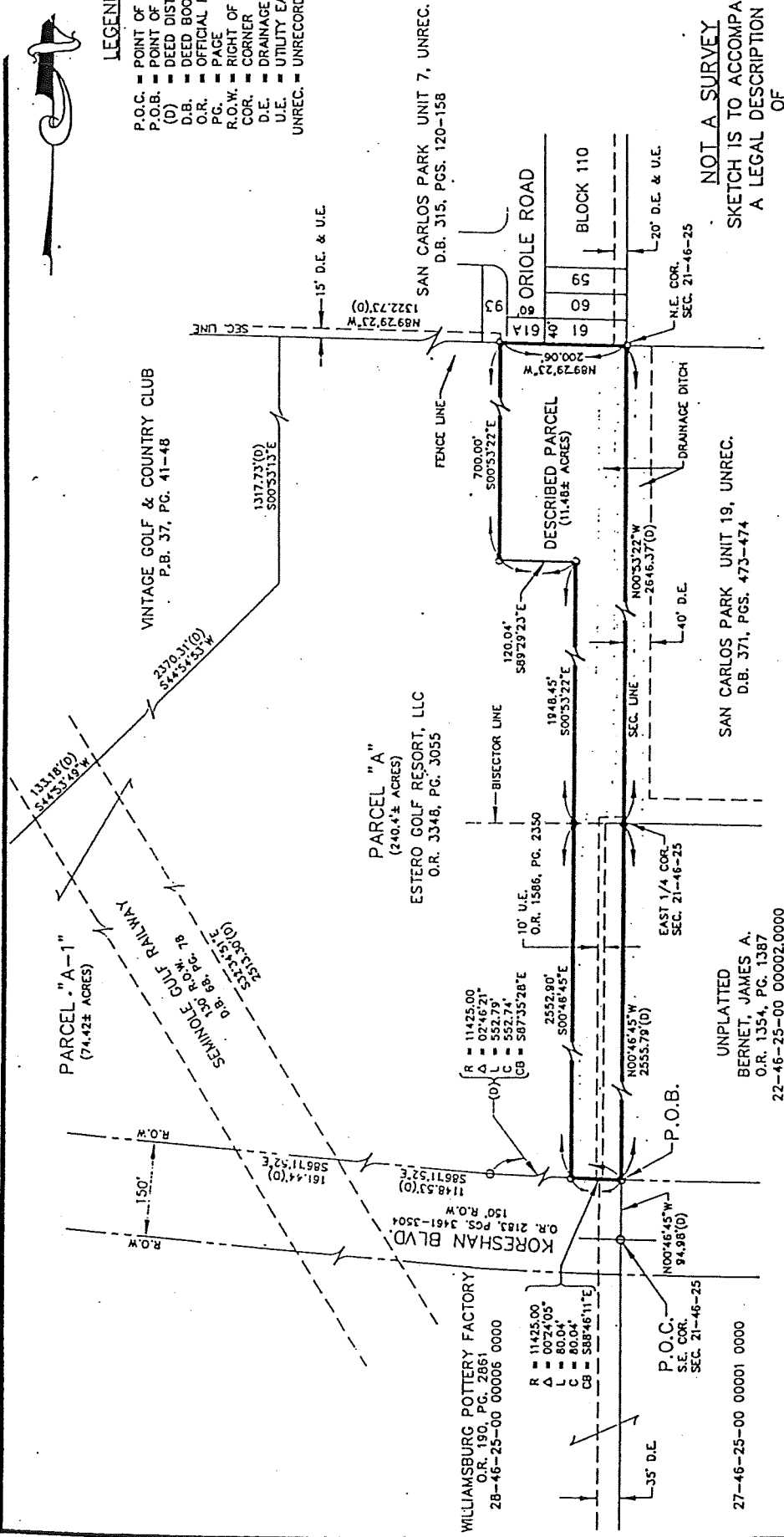
PERMIT COUNTER

OCI 20 00-000032



LEGEND

- P.O.C. - POINT OF COMMENCEMENT
- P.O.B. - POINT OF BEGINNING
- (O) - DEED DISTANCE OR BL
- D.B. - DEED BOOK
- O.R. - OFFICIAL RECORD
- P.G. - PAGE
- R.O.W. - RIGHT OF WAY
- COR. - CORNER
- D.E. - DRAINAGE EASEMENT
- U.E. - UTILITY EASEMENT
- UNREC. - UNRECORDED



NOT A SURVEY
SKETCH IS TO ACCOMPANY
A LEGAL DESCRIPTION
OF

A PARCEL OR TRACT OF LAND
LYING IN SECTION 21, TOWNSHIP 46 S.,
RANGE 25 E., LEE COUNTY, FLORIDA

SURVEYOR'S NOTES

- 1.) DESCRIPTION FOR DESCRIBED PARCEL IS BASED ON DEED.
- 2.) TOPOGRAPHICAL FEATURES OR IMPROVEMENTS LYING WITHIN DESCRIBED PARCEL WERE NOT SURVEYED OR LOCATED.
- 3.) NO RECORD OF OWNERSHIP HAS BEEN DETERMINED FOR PARCEL SHOWN AS LOT 61A, BLOCK 110, SAN CARLOS PARK UNIT 7.
- 4.) UNLESS OTHERWISE NOTED, DIMENSIONS ARE CALCULATED.

SURVEYOR'S CERTIFICATION

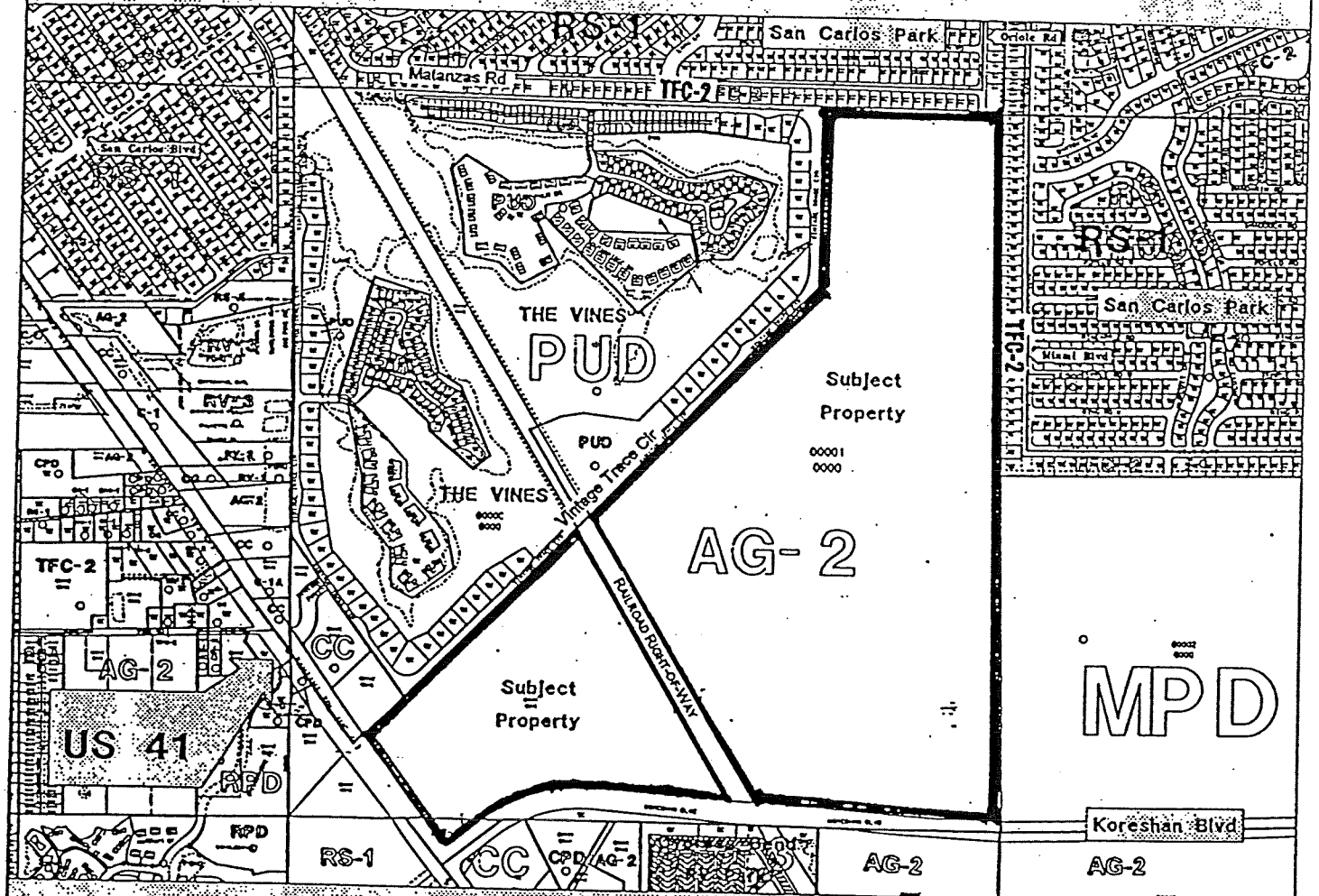
I HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND CONTROL, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETS THE MINIMUM TECHNICAL STANDARDS IN ACCORDANCE WITH CHAPTER 81G77-8 FLORIDA ADMINISTRATIVE CODE PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

DATE 02/01
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL
FLORIDA CERTIFICATE NO. 13-2887
PASSED SEAL OF A FLORIDA LICENSED SURVEYOR & MAPPER

DEPARTMENT OF PUBLIC WORKS
TRANSPORTATION DIVISION
SHEET NO. 2 of 2

Designed by: A.W.P. Date: 02/01 Disk 20001
Drawn by: D.O.K. Date: 02/01 Scale: 1"=200'
Chk'd: A.W.P. Date: 02/01 001572701

Zoning Map



Attachment A

LAND USE SUMMARY

Land Use	Acres	Units/Sq.Ft.
Commercial Tracts	32.00ac*	320,000 sq ft**
Office Tract	1.06ac*	20,000 sq ft
Residential & Club/Rec Tracts	280.54ac*	820 units***
TOTAL	314.60ac	

* Acreage includes water management, roadways and open space for the use.
 ** The developer retains the option of converting retail acreage to office at a ratio of 4 acres of commercial use : 3 acres of office use.

MASTER CONCEPT PLAN NOTES

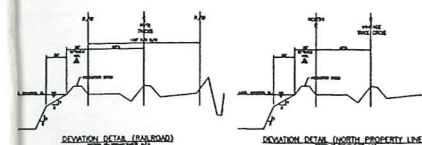
1. WITHDRAWN
2. The residential unit mix is preliminary and subject to change due to marketing and permitting considerations. Single and multi-family units may be converted on a 1:1 ratio.
3. Multi-family units may be converted to a maximum of 100 Assisted Living Facility (ALF) units in accordance LDC Section 34-1494.
4. Access to public transit will be provided in accordance with LDC Section 10-42.
5. Private covenants have not been developed for the project.
6. Temporary administration offices and sales offices may utilize septic tanks and/or holding tanks. Permanent septic tanks may be used for golf course rest facilities.
7. There are no structures on site.
8. This property will be developed in one phase.
9. The configuration of the "Conservation" areas and "Restored Wetlands" are approximate and subject to modification by the review agencies.

PARKING

Estero Golf Resort will meet the parking requirements of the LDC.
 Parking will be calculated based on the specific uses developed within this project.

NOTES

1. Permitted Land Uses for Estero Golf Resort are set forth in Attachment 1.
2. Property Development Regulations for Estero Golf Resort are set forth in Attachment 2.
3. Deviations for Estero Golf Resort are set forth in Attachment 3.
4. For Estero Golf Resort Open Space and Indigenous Vegetation Table see Attachment 4.



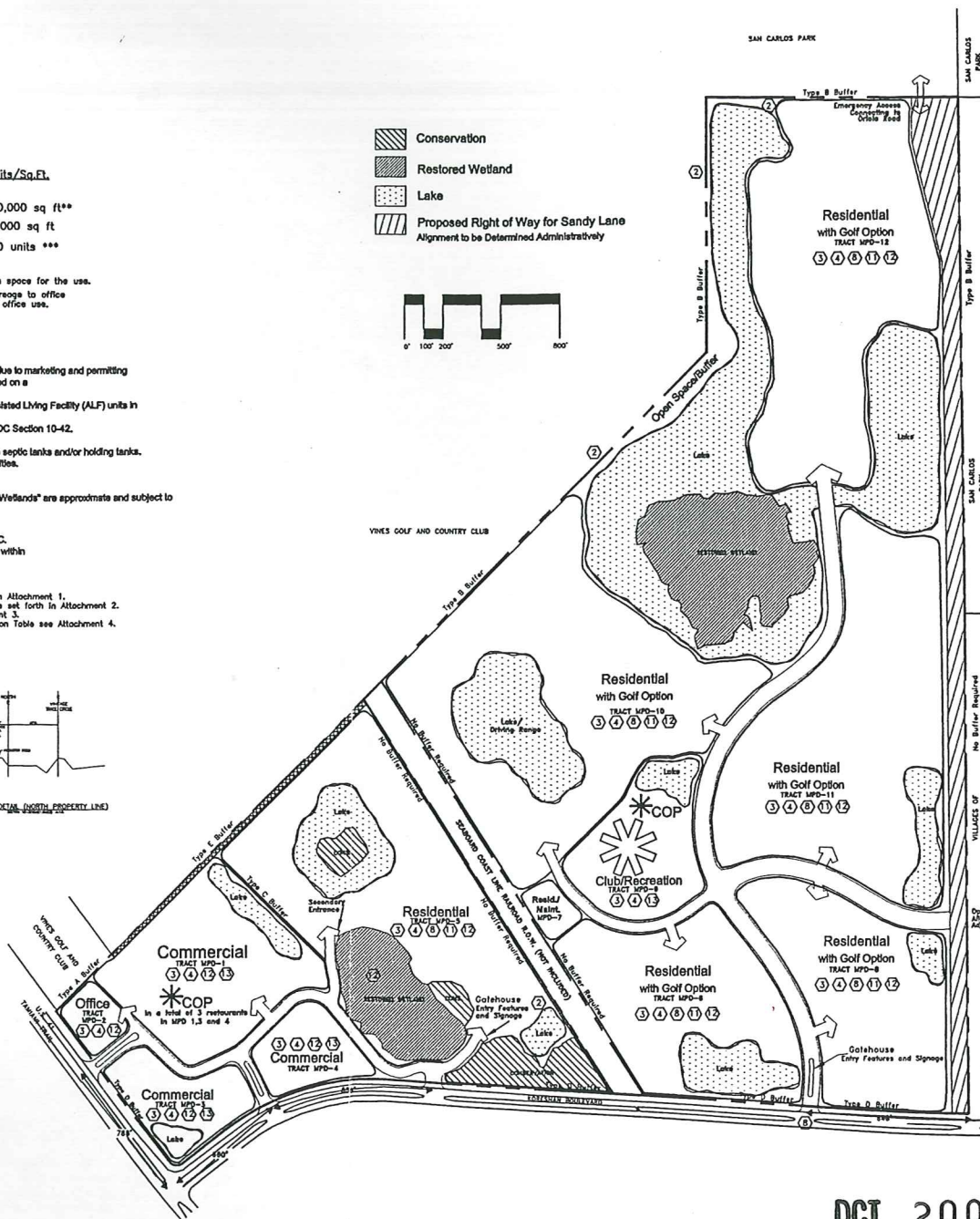
APPROVED

Master Concept

Site plan 01-011 of 1

Subject to conditions resolution 2-01-012

Zoning Case 2000-00032



DCI 2000-00032

Survey and site information provided by:
COASTAL ENGINEERING CONSULTANTS, INC.
 COASTAL & CIVIL ENGINEERS • PLANNERS • LANDSCAPE ARCHITECTS • GEOLOGISTS
 17585 S. TAMULI TR., STE #102
 FT. MYERS, FLORIDA 33908
 PHONE NO.: (813) 390-9900 FAX NO.: (813) 390-9909

FLORIDA LAND PLANNING, INC.
 1550 Matthew Drive, Suite E - Midtown Professional Center
 Fort Myers, Florida 33907
 (941) 278-5222 - Fax (941) 278-4466

ESTERO GOLF RESORT Master Concept Plan

Exhibit F

Date: 02/19/2001
 Rev: 03/19/2001
 Rev: 03/29/2001
 Rev: 05/08/2001

SEC 21 TWP 48N R2E 23E



Scale: 1" = 300'

Sheet 1 of 1

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2000-00032
APPLICANT: KEYSTONE CUSTOM HOMES, INC., in ref. to ESTERO GOLF RESORT MPD
HEARING DATE: MARCH 14, 2001
WRITTEN SUBMISSIONS: MARCH 30, 2001

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for a Rezoning to a Mixed Use Planned Development (MPD) pursuant to Lee County Land Development Code (LDC).

Filed by KEYSTONE CUSTOM HOMES, INC., % PAULA DAVIS, PRESIDENT, 9051 Tamiami Trail North, Suite#202, Naples, FL 34108 (Applicant/Agent); HERMES INVESTMENT COMPANY, INC., P. O. Box 790, Ft. Myers, FL 33902 (Owner).

Request is to rezone 314.6± acres of land from the Agricultural (AG-2) zoning district to the Mixed Use Planned Development (MPD) zoning district to allow a maximum of 820 dwelling units consisting of a mix of unit types. The 820 dwelling units may include up to 100 units within an assisted living facility. The project is also proposed to include a golf course, up to 320,000 square feet of retail uses, and 20,000 square feet of office use. The application also includes a request for consumption on premises. Buildings will not exceed 55 feet and four stories.

The subject property is located at 19975 South Tamiami Trail (located in the northeast quadrant of the intersection of U.S. 41 and Koreshan Boulevard), in S21-T46S-R25E, Lee County, FL. (District #5)

II. STAFF REPORT AND RECOMMENDATION: APPROVE WITH CONDITIONS

The Department of Community Development Staff Report was prepared by Kay Deselem. The Staff Report is incorporated herein by this reference.

III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners APPROVE the Applicant's request for a rezoning from AG-2 to MPD for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

A. CONDITIONS:

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Estero Golf Resort," last revised 3/29/01, stamped "Received Mar 30 2001," except as modified by the conditions below. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. SCHEDULE OF USES

(1) RESIDENTIAL PORTION - TRACTS 5-12

Accessory Uses

Administrative Offices

Agricultural Uses, as limited by other conditions

Assisted Living Facility, limited to Tracts MPD-5 only-maximum 100 units

Club, Country including the following ancillary uses:

Consumption on Premises, limited to one for the clubhouse and one for the golf course only, includes outdoor seating

Food and Beverage Service

Golf Course Maintenance Facility, limited to MPD-7 only

Health Club and Spa

Restaurant, includes outdoor seating

Specialty Retail

Dwelling Units - single-, two-, and multi-family units, zero lot line units, and townhouses - limited to a maximum of 820 for the entire project; and a maximum of 340 units for MPD-5

Entrance Gates and Gatehouses

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention - Not to include the removal of excavated material from the site

Fences and Walls

Golf Course, including Practice Greens and Driving Range - subject to further review during the Development Order process to determine appropriate locations and possible additional buffering or screening required for the practice greens and driving range

Golf and Tennis Pro Shops (limited to ancillary use in clubhouse tract)

Home Occupation, as limited by the LDC

Model Homes, Model Units and Model Display Center

Real Estate Sales and Rental Office - limited to sales of lots, homes or units within the development, except as may be permitted in §34-1951 *et seq.* The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the Certificate of Occupancy for the sales office is issued. The director may grant one 2-year extension at the same location.

Recreational Facilities, Personal and Private On-site, as defined and regulated by the LDC Section 34

Signs, in compliance with the LDC

Storage, Open, recreational vehicles, boats and similar items for residents only, will only be permitted if administrative approval is sought showing the exact location of the use. Such uses, at a minimum, must be shielded behind a continuous visual screen at least eight feet in height when visible from any residential use, and six feet in height when visible from any street right-of-way or street easement.

Temporary uses - limited to a sales center and a construction office, in compliance with the LDC for temporary uses

(2) COMMERCIAL PORTION - TRACTS 1-4

Accessory Uses

Administrative Offices

Agricultural Uses, as further limited by other conditions

Animal Clinic - outside kennels are prohibited

Auto Parts Store, subject to permitted Use Note B - limited also by Condition 16

Automobile Repair & Service, Group I only - subject to Permitted use Note B

Banks and Financial Establishments, all Groups

Broadcast Studio, Commercial Radio and Television - an on-site tower is prohibited

Business Services, Groups I & II, Group II - outdoor storage prohibited

Car Wash, subject to Permitted Use Note B

Cleaning and Maintenance Services, no outdoor storage of vehicles

Clothing Stores

Computer and Data Processing

Consumption on Premises, subject to Permitted Use Note set forth in 2.a.(3)(B)C

Contractors and Builders, Group I only

Convenience Food and Beverage Store, subject to Permitted Use Note B

Cultural Facilities, limited to Art Galleries and Museums

Daycare Center, Child and Adult

Department Store

Drive-through facility, must be located a minimum of 500 feet from any residential lot in The Vines

Drug Store, limited to Permitted Use Note B

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention - Not to include the removal of excavated material from the site

Fences and Walls

Food Stores, Groups I and II

Gift and Souvenir Shop

Hardware Store, limited to Permitted Use Note B
 Health Care Facility, Groups I, II and III
 Hobby, Toy and Game Shop
 Hospice
 Model Units and Model Display Centers - subject to conditions below
 Non-store Retailers, all Groups, outdoor storage is prohibited
 Offices, Medical
 Package Store, limited to:
 Wine Shops, and
 Package Stores in conjunction with a Drug Store use only
 Paint, Glass and Wallpaper Store
 Personal Services, Group I, II - limited to Beauty Spas, Health Clubs
 or Spas, Reducing or Slenderizing Salons, Group III, and Group IV
 - limited to babysitting bureaus, debt counseling services, portrait
 copying, shopping services, and tax return preparation services
 Pet Services
 Pet Shop
 Place of Worship
 Real Estate Sales and Rental Office
 Recreational Facilities, Personal and Private On-site only and only in
 conjunction with and on the same tract as any ancillary multi-family
 or townhouse uses
 Rental and Leasing Establishments, Group II - outside storage is
 prohibited
 Restaurants, Fast Food, subject to Permitted Uses
 Restaurants, Standard - Groups I, II, III & IV - subject to Permitted Use
 Note A
 Schools, Commercial
 Self Service Fuel Pumps - Limited to 16 pumps subject to Permitted
 Use Note B
 Shopping Center
 Signs, in compliance with the LDC
 Social Services, Group I only
 Specialty Retail Shops, Groups I-IV
 Storage, Indoor only and only as an ancillary use
 Studios
 Temporary uses - limited to sales center and construction offices, in
 compliance with LDC regulations regarding temporary uses
 Variety Store
 Wholesale Establishments, Group III only

(3) ADDITIONAL USE CONDITIONS

- (A) The following uses may be allowed in Wetland areas subject to review and approval by Environmental Sciences staff as part of development order review:

Interpretative centers, rain shelters gazebos
 Nature and foot paths including pedestrian boardwalks

Wildlife management areas
Mitigation activities
Signs, limited to educational signs only

(B) The following Permitted Use Notes, as referenced above also apply (as referenced in the Schedule of Uses as A, B & C):

- A. Must be located a minimum of 200 feet from any off-site property zoned for residential purposes
- B. Limited to Tracts MPD-3 and MPD-4 only
- C. Consumption on Premises (COP)

(1) COPs are limited to a maximum of three for standard restaurants only, and one for the clubhouse and one for the golf course.

(2) COPs in Tract MPD-1 must first receive Special Exception or an Administrative Approval, whichever is deemed appropriate by the DCD Director. Since the proposed plan of development is only conceptual, this additional condition is necessary to ensure the placement of the COP use will be compatible with the surrounding land uses.

(C) Uses in MPD Tract 1 are limited as follows:

Hours of operation for businesses to be open to the public are 7:00 a.m. until 10:00 p.m., except that Restaurants may be open until 11:00 p.m., Monday through Thursday and 12:00 midnight, Friday and Saturday

Deliveries are prohibited between the hours of 8:00 p.m. and 6:00 a.m.

Outside entertainment, speaker systems, loud speakers or public address systems are prohibited in this tract.

b. SITE DEVELOPMENT REGULATIONS

Site Development Regulations are limited to the "Property Development Regulations," exhibit that is included as Attachment G (to the Staff Report) as revised on March 30, 2001:

(A) General Project Square Footage Limitations:

- (1) Maximum overall commercial development is limited to 320,000 square feet of retail commercial uses, and 20,000 square feet of office uses, except as limited below; and

- (2) This project can be comprised of medical, general office, retail, or service uses (in compliance with the schedule above), or any combination of those uses, up to the maximum square footage, provided all limiting conditions and parking, open space, buffering, and water management requirements are met.
- (3) All special setback or development regulations contained in the LDC (as it may be amended) for any specific use must be met; and
- (4) The conversion option to convert retail and office uses is approved with the limitation that no more than 21.94 acres of commercial acreage may be converted to office use; and
- (5) Retail Commercial square footage within the Suburban land use category must not exceed 100,000 square feet. The development must provide cumulative totals for each development order submittal showing compliance with this condition.

(B) Outdoor Seating for COP uses:

- (1) Outdoor seating must not be located within 300 feet of a residential lot in The Vines; and
- (2) Outdoor seating must be located on the side of the principal structure that is opposite any residentially zoned or used lot in The Vines; and
- (3) The outdoor seating must cease at 10:00 p.m., Monday through Thursday, and 11:00 p.m., Friday and Saturday;

3. Environmental Conditions: Prior to local Development Order Approval:

- a. The developer must provide open space consistent with the Open Space and Indigenous Vegetation Table attached as Attachment C (to the Staff Report). Each tract must provide a minimum of 10 percent open space.
- b. The development order plans will show a connection between the conservation area in the southeast corner of the MPD Tract-5 and the upland conservation area on the eastern side of the restored wetland. The wildlife connection will run under the road and include a set of two tunnels constructed of 36-inch-wide by 24-inch-high, elliptical concrete pipe. The plans will show the two elliptical wildlife connections placed under the road in a side by side position unless directed otherwise by Division of Planning/Environmental Sciences Staff. At a minimum, the bottom of the pipes will be placed no lower than the existing upland preserve grade to help prevent inundation, within the pipes, during the wet season.

- c. The developer must submit a detailed wetland restoration plan to the Division of Planning/Environmental Sciences Staff for review and approval. Both the wetland restoration plan and littoral zones required by the LDC must be designed to provide foraging area for wood storks.
 - d. The developer must re-survey the potential Big Cypress fox squirrel nests on-site specifically for fox squirrel presence. The protected species survey must be prepared in accordance with LDC Section 10-473 and submitted to the Division of Planning/Environmental Sciences for review and approval. If fox squirrel use of the site is verified, the developer must submit final management details in accordance with LDC Section 10-474 including a phased exotic removal plan.
 - e. Prior to local development order approval, a detailed gopher tortoise management plan must be submitted for the Division of Planning/Environmental Sciences staff review and approval.
 - f. Prior to any site work, a Vegetation Removal Permit must be obtained to install barricades to protect preserves and conduct excavation of tortoise burrows to move the gopher tortoises within the development tracts.
- 4. The Golf Driving Range is limited to operating during daylight hours.
 - 5. Development Order submittals must include a running inventory showing the overall number of units and commercial (retail and office) square footage that have been built, approved to be built, or are in the development approval process.
 - 6. Sandy Lane Extension
 - a. As part of the first development order submittal, the developer must revise the MCP to reflect the planned extension of Sandy Lane along the eastern boundary of the site, consistent with the sketch set forth in the Lee County DOT Exhibit entitled, "Sketch and Description of Sandy Lane Extension," unless mutual agreement regarding a different alignment is reached between Lee County and the property owner(s). Lee County will compensate the property owner for the reservation of the property in accordance with the regulations set forth in Chapter 2 of the LDC; and
 - b. The minimum setback for a water retention lake from the road right-of-way must be no less than 25 feet from the western Sandy Lane right of way, consistent with LDC Section 10-329(f)(1)a.2 and the sketch noted above, unless mutual agreement regarding a different alignment is reached between Lee County and the property owner(s). The developer must provide satisfactory elements for the protection of wayward vehicles. These elements may consist of fencing, berms, buffering or a combination of all three, however, the exact elements are subject to review and approval by Lee County; and

- c. This project will be permitted one access point within the southern half of this project's frontage along the proposed Sandy Lane extension. This access point must align with the access point that is approved for the parcel on the tract on the east side of the Sandy Lane extension. (The access point onto Sandy Lane is not a required access point, except that at least one emergency access must be provided to a road other than Koreshan Boulevard as noted in Condition 11.)
- 7. Bona fide agricultural uses that are in existence at the time this resolution is finalized may continue until approval of the first local development order. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless that activity is reviewed and approved in accordance with the Lee County LDC regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.
- 8. No excess excavated material may be removed from the site unless the developer can demonstrate to the Director of the Department of Community Development that the material to be removed: 1) is unsuitable material that cannot be used on-site; and 2) the material must be excavated to meet the minimum requirements necessary to accommodate a water management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use off-site.
- 9. Model units and homes are permitted in compliance with the following conditions:
 - a. Administrative approval must be obtained. Administrative Approval is subject to review and approval based upon potential negative impacts to nearby uses regarding, but not limited to, glare, noise, dust
 - b. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - c. All model sites must be designated on the development order plans; and
 - d. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat. The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for the project; and
 - e. Dry models are prohibited.
- 10. Golf Course Conditions:
 - a. The golf course developer must use fertilizers with a low leaching potential (slow release). Fertilizers must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and

- b. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan which includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the U.S. Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may be used. Turf managed areas (including fairways, tees, and greens) are prohibited within 35 feet of wetlands or preserve areas. The chemical management plan must be reviewed and approved by Lee County Natural Resources Division prior to development order approval.
- c. The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- d. The Developer must utilize a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- e. The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.
- f.
 - 1) Prior to the issuance of local development order approval, the developer must demonstrate compliance with "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.
 - 2) The development order must demonstrate separate mixing and loading facilities for pesticides, and provide a separate pesticide storage area, in compliance with materials specified in the above referenced document. The development order must demonstrate separate mixing and loading facilities for fertilizer, and provide a separate fertilizer storage area, in compliance with materials specified in the above referenced document.

- 3) The development order plans must specify the construction material for all buildings in compliance with "Best Management Practices for Golf Course Maintenance Departments."
 - 4) Equipment to apply pesticides and fertilizers must be stored in an area protected from rainfall.
- g. The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, while requiring relatively low fertilizer use;
 - h. The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.
 - i. All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from underdrains must not discharge directly into a surface water management lake.
 - j. Stormwater run-off must be pre-treated through an acceptable recreated natural system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
 - k. The operator of the golf course must submit an annual monitoring report of ground water and surface water quality. The monitoring program must include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water within the area of the golf course; identifying the locations for the ground water monitoring and testing on a map(s); setting forth the testing and recording requirements. The Developer must submit the test results with the monitoring report to the Lee County Natural Resources Division. The monitoring program will be established and operated at the expense of the Developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 62-302, F.A.C., water quality standards.
 - l. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until there is a revised management plan. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County must be implemented by the Developer.
 - m. Prior to development order approval for the golf course, the developer must conduct a pre-development groundwater and surface water analysis and submit the analysis to Lee County Division of Natural Resources. This analysis is intended to establish baseline data for groundwater and surface water monitoring for the project area. The analysis must be designed to

identify those nutrients and chemicals that are anticipated to be associated with the project. Prior to commencing this baseline study, the developer must submit the methodology for review, comment and approval by Lee County.

11. Prior to Development Order approval for any portion of the property, the developer must show an emergency access connecting to the existing Oriole Road to the north. Prior to the opening of the Sandy Lane extension that will connect to the existing Oriole Road, the developer of this project must revise the emergency access so that it will be accessible from the future Sandy Lane extension.
12. Buildings exceeding 35 feet in height must maintain additional building separation or additional building setbacks consistent with LDC Section 34-2174(a) and LDC Section 935(e)4.
13. Lighting to serve uses within 200 feet of perimeter property allowing residential uses must be must be hooded, shuttered, or shielded and may not exceed 18 feet in height. Mercury vapor lamps/lights are prohibited, the lighting in this 200-foot area must be scaled so that no more than the minimum required number of light fixtures are erected. Individual building lighting must be of the lowest intensity to meet safety standards. The scale of the fixtures and the type of hooding, shuttering and shielding is subject to further review prior to the approval of a development order. The individual building fixtures must be either directly fixed to the building or placed on a post lamp standard not to exceed 10 feet in height. Incandescent lamps are encouraged. The use of mercury vapor lamps/lights is prohibited.
14. Approval of this zoning request does not address access onto U.S. 41, since Lee County has no jurisdiction over that roadway. The Developer must pursue U.S. 41 access issues with the Florida Department of Transportation (FDOT). Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy concurrency requirements as required by Lee Plan Objective 2.2.
15. Approval of this rezoning does not guarantee local development order approval or vest present or future development rights for Lee Plan consistency. Development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b). In addition, Development Order applications must also be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
16. Installation of any auto parts, either by employees or the general public, in conjunction with the Auto Parts Store is prohibited. Signs must be posted and maintained in the parking lot for this use advising customers that "self installation" is strictly prohibited on the premises.

17. This development must comply with all the requirements of the LDC, specifically including the requirements of LDC Section 10-600 et seq., at the time of local Development Order approval, except as may be granted by deviation as part of this planned development approval or subsequent amendments thereto.
18. Structures within Tract 5 are limited to 2-story height for a distance of 200 feet back from the perimeter property line that is shared with The Vines.
19. Development of this project must not exceed any DRI thresholds, as the impacts of same were not reviewed as part of the rezoning. The developer must provide a project-wide cumulative DRI threshold analysis with each local development order submittal.
20. If the lake shown in Tract 1 is relocated further away from the boundary shared with Tract 5, structures within Tract 1 must maintain a 100-foot setback from the shared property line between the two tracts.
21. Tract MPD-7 is approved in the internal location shown in the revised MCP dated March 30, 2001. The uses permitted in MPD-7 are Residential, Golf Course, and Maintenance. Direct access to Koreshan Boulevard from this tract is prohibited.

B. DEVIATIONS:

Deviation 1 - WITHDRAWN BY APPLICANT.

Deviation 2 seeks relief from LDC Section 10-329(e)(1)(a)(3) which requires a 50-foot minimum setback for water retention lakes; to allow a 25-foot setback for water retention lakes. The Hearing Examiner recommends APPROVAL of this deviation in the areas shown WITH THE CONDITION that, prior to development order approval, the Developer must provide satisfactory elements to discourage access from the adjacent properties. These elements may consist of fencing, berms, buffering or a combination of all three. **This deviation is not approved along the eastern or northern boundary in the area identified in the memo from LCDOT if Condition 6 requires the Applicant to revise its MCP to reflect the planned extension of Sandy Lane. This deviation is approved without this condition if the Applicant is not required to revise its MCP to reflect the reservation of the northerly extension of Sandy Lane.**

Deviation 3 seeks relief from LDC Section 10-296(d), Table 4(7)(c) which requires wearing surfaces of local and access streets for category A development to be constructed of 1½-inch asphaltic concrete, to allow for cement concrete and/or decorative pavers. The Hearing Examiner recommends APPROVAL OF THE REQUEST WITH THE CONDITION that, prior to development order approval, the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation 4 seeks relief from LDC Section 10-256(d)(3), which requires wearing surfaces of sidewalks to be constructed of 1½-inch asphaltic concrete, to allow for cement concrete decorative pavers. The Hearing Examiner recommends APPROVAL OF THE REQUEST

WITH THE CONDITION that prior to development order approval the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation 5.a - WITHDRAWN BY APPLICANT.

Deviation 5.b - WITHDRAWN BY APPLICANT.

Deviation 6 - WITHDRAWN BY APPLICANT.

Deviation 7 - WITHDRAWN BY APPLICANT.

Deviation 8 seeks relief from LDC Section 10-292(c), which requires residential developments of more than five acres or any commercial or industrial development of more than ten acres to provide two or more means of ingress or egress for the development, to allow the residential portion of the project that is separated by the railway right-of-way to have one means of ingress and egress. The Hearing Examiner recommends APPROVAL SUBJECT TO COMPLIANCE WITH CONDITION 11.

Deviation 9 - WITHDRAWN BY APPLICANT.

Deviation 10 - WITHDRAWN BY APPLICANT.

Deviation 11 seeks relief from LDC Sections 34-2015(2)c and 34-2020(1)c, which prohibits the stacking of vehicles in multi-family development, to allow stacking of the vehicles when all of the following requirements are met:

1. The number of units in each multi-family building will be limited to eight units or less; and
2. The first parking space is in an individual garage with an individual driveway; and
3. Each individual driveway has a minimum 1-foot physical separation from any other driveway; and
4. It can be demonstrated at the time of development order that safe sight distance triangles are met.

The Hearing Examiner recommends APPROVAL SUBJECT TO THE ABOVE CONDITIONS.

Deviation 12 seeks relief from LDC Section 10-415(b)(1) which establishes the open space requirements, to allow the adoption of an Open Space Table. The Hearing Examiner recommends APPROVAL SUBJECT TO COMPLIANCE WITH CONDITION 3.

Deviation 13 seeks relief from LDC Section 34-1264(b)(1)a which requires a 500-foot separation distance between an establishment for the sale or service of alcoholic beverages from consumption on the premises, to allow a separation distance of 300 feet. The Hearing Examiner recommends APPROVAL SUBJECT TO Permitted Use Notes set forth in Conditions 2.a.3(B)C and 2.a.3(C), above.

IV. HEARING EXAMINER DISCUSSION:

The Applicant, Keystone Custom Homes, Inc., in reference to Estero Golf Resort MPD, is requesting a rezoning from the Agricultural (AG-2) zoning district to the Mixed Use Planned Development (MPD) zoning district for a 314.6-acre parcel located at 19975 South Tamiami Trail, Lee County, Florida. If approved, the Applicant will be allowed to develop up to 820 dwelling units of a variety of styles (including up to 100 units within an Assisted Living Facility [ALF]). Also permitted would be a golf course, up to 320,000 square feet of retail uses, and 20,000 square feet of office uses. Buildings would not exceed four stories or 55 feet in height (with some height limitations below this amount for the first 200 feet adjacent to residential areas).

The parcel is in a mixture of Urban Community, Suburban, and Wetlands land uses. To the north and east of the site (in the Suburban land use category) is the San Carlos Park subdivision consisting of single- and multi-family lots. To the south (in the Urban Community land use category) is Koreshan Boulevard. To the west (in the Suburban and Urban Community land use categories) is The Vines, a PUD-zoned residential golf course community.

The Staff has recommended approval of the request with a comprehensive set of conditions designed to make the project compatible with the surrounding uses, and consistent with the Lee Plan and the Land Development Code. With only a few exceptions the Applicant and the Staff agree on the conditions.

The site is located in the northeastern quadrant of the intersection of U.S. 41 and Koreshan Boulevard. It has approximately 4,200 feet of frontage along Koreshan Boulevard, and 1,000 feet of frontage along U.S. 41. The Staff has noted that the eastern property line of the site is shown on the Trafficways Map as the "proposed" northerly extension of Sandy Lane.

The Master Concept Plan for the project shows 12 development tracts and, although there are no building footprints, the plan does show residential and commercial tracts, as well as numerous lakes and restored wetland or conservation areas. The commercial portion of the project consists of Tracts 1-4 (located near the intersection of U.S. 41 and Koreshan Boulevard). For the most part, the residential portion of the site is located to the northeast and across the Seaboard Coastline railroad tracks which divide the property. The exception is Tract 5 that is located on the western side of the railroad tracks.

Access to the site will be from U.S. 41 (subject to approval by the Florida Department of Transportation [FDOT]), and from Koreshan Boulevard. Tracts 1-4 (commercial) and Tract 5 (residential) show two accesses from Koreshan Boulevard, while Tracts 6-12 show only one access from Koreshan Boulevard.

The Schedule of Uses for the project has been separated into Residential, Commercial, and Additional (i.e., those relating to the Wetlands portion of the site). With the exception of one item, the Applicant and the Staff have agreed to the types of uses that would be allowed in the residential portion of the site. They would consist of the usual uses found in a golf course community. There would be a limitation on the number of consumption on premises licenses the Applicant could have in the residential portion of the site. There would be one for the clubhouse, and one for the golf course. Outdoor seating would be allowed.

The one area of disagreement was with the number of dwelling units that would be allowed on the portion of the site (identified as MPD-5) that is located on a triangular shaped portion of the project located to the west of the Seaboard Coastline railroad tracks. The Staff would like to limit the number of dwelling units on this tract to 300, while the Applicant would like 340 units. This goes hand-in-hand with the Staff's recommendation to limit the height of buildings within Tract MPD-5 to no more than one story in height within 100 feet of any property line that is shared with The Vines, and no more than two stories within the next 100 feet. The Applicant would like to be able to build to two stories and 35 feet within this entire area. Therefore, it is the number of dwelling units that would be allowed on this tract and the height of buildings within the first 100 feet of the boundary with The Vines residential development with which there is some disagreement.

The Applicant has taken the position that the limitation of 300 dwelling units on Tract MPD-5 that is being recommended by the Staff came from an earlier development proposal by the Applicant that is no longer valid. It argues that the overall density of the project is under three units to the acre and that the difference of the density on the tract that is under discussion will be slightly more than eight units to the acre if 340 units are approved and slightly more than seven units to the acre if 300 units are approved. Therefore, in the Applicant's opinion, there is a disagreement of one unit per acre in an overall plan that is well within the density limitations of the Lee Plan. The County's policy has always been to determine the density of a project by using the gross acreage of the site and not to limit density based upon the use of a single tract within that site. They have also taken the position that streets may serve as a proper separation between different densities or intensities. However, they have also reviewed such uses from the perspective of compatibility irrespective of the density or intensity of the use. Thus, in the position that has been taken by the Staff, even if a project falls within the ambit of allowable densities under the Lee Plan, the request must still be reviewed for its compatibility with adjoining uses.

It is the Staff's position that 340 dwelling units on Tract MPD-5 places too many units next to The Vines residential community. The Vines has concentrated its higher density dwellings on the interior portion of the site they assert, and it has reduced densities toward the exterior boundaries.

The Applicant has noted that its new development plan will not work with fewer than 340 units on that tract of land. Furthermore, it has offered to limit the height of residential units to two stories and 35 feet within 100 feet of The Vines boundary. The Applicant also noted that members of the public who appeared on behalf of The Vines did not raise any concerns with the number of dwelling units proposed by the Applicant on Tract MPD-5, nor with the Applicant's proposal to limit the heights of the dwellings within 200 feet of The Vines. The Staff, on the other hand, would like the units to be limited to one story within 100 feet of The Vines and two stories for the next 100.

The Applicant's suggestion to limit the heights of structures to two stories within 200 feet of the portion of the border that is shared by The Vines is reasonable when one considers the fact that many two-story, single-family residences are 35 feet in height. Under this scenario the additional 40 units should not pose any compatibility problems. Furthermore, with the

requirement that the Applicant must install a Type "E" buffer¹ on the portion of the boundary between its project and The Vines, there is ample buffering between these two projects to make them compatible.

Therefore, it has been recommended that the number of units on Tract MPD-5 be limited to 340 units, that they be limited in height to two stories within 200 feet of The Vines, and that a Type "E" buffer be installed between the two developments.

With respect to the Commercial portion of the project, once again, there was only one area of disagreement between the Staff and the Applicant. It involved the method of approval for the consumption of alcohol on the portion of the site designated as MPD-1. This is the commercially designated parcel located on the westernmost portion of the site. The Staff is concerned with the absence of a definite location on the site where the consumption would take place. They want the Applicant to seek either an Administrative Approval or Special Exception approval (whichever is deemed appropriate by the Director of the Department of Community Development) when the location is identified. Furthermore, they are opposed to the Applicant's request to reduce the distance from 500 feet to 300 feet within which consumption on premises must be separated from residential uses. Finally, if the separation reduction is allowed, the Staff would like to limit the hours of operation for the consumption on premises (COP) uses on Tract MPD-1 from 7:00 a.m. to 10:00 p.m., seven days a week.

The Applicant has agreed to the Staff's recommendation with respect to seeking prior approval for a COP on Tract MPD-1, but with respect to the other tracts, it would like to be able to reduce the distance from 500 feet to 300 feet and to allow the COP use to be open until 11:00 p.m., Monday through Thursday, and 12:00 midnight, Friday through Saturday. The Staff would be amenable to these hours if the 500-foot separation is maintained.

The issue of the 500 feet versus 300 feet of separation is also addressed in the Site Development Regulations portion of the rezoning request. Subsection (B) is concerned with Outdoor Seating for COP uses. The Staff has recommended, if Deviation 13 is not approved (i.e., thus maintaining the 500 feet of separation for COP uses), that the outdoor seating not be located within 300 feet of a residential lot in The Vines; that it be located on the side opposite any residentially zoned or used lots in The Vines; and that outdoor seating must cease at 11:00 p.m., Monday through Thursday, and 12:00 midnight, Friday and Saturday.

If Deviation 13 is approved, the Staff wants the outdoor seating request to go through Special Exception approval; however, since Deviation 13 is being recommended for approval in this submittal to the Board of County Commissioners, the issue of the Special Exception should be addressed here.

There has been no showing by the Staff that the Special Exception process would be any more comprehensive or insightful than the rezoning process that is taking place with the current request. The issue of compatibility and the appropriate conditions associated with the request can just as easily be addressed at this time as at some later time. In fact, the present

¹ A Type "E" buffer must be a minimum of 25 feet wide; it must have a minimum of five trees and 30 shrubs per 100 linear feet; and it must have an 8-foot-high wall or wall/berm combination.

time affords one the opportunity to address the Special Exception in conjunction with other aspects of the overall project, thus affording one a more comprehensive look at the project than reviewing it later in isolation.

Naturally, the main concern with placing an establishment that serves alcohol within close proximity to a residential development is the impact that noise, lighting, and other site-related conditions will have on that development. If the conditions can be crafted in such a way as to eliminate, or at least minimize disruptions, then the request should be evaluated with those items in mind.

The premises that will be serving the alcohol will have indoor and outdoor components. The indoor component should not pose any nuisance to the area because it will be enclosed within the structure that houses it. It is the outdoor component with which there is some concern. The Staff would like the 500-foot separation maintained or, if the distance is allowed to be reduced (something that they oppose), they would like the hours of operation to be limited if the COP use is allowed to maintain a 300-foot separation.

It has been suggested that limiting the hours of operation of the outdoor portion of the use, and requiring the outdoor use to be on the side of the structure that is opposite the boundary with The Vines, would result in little, if any, impact on The Vines. Furthermore, it was noted that prohibiting outdoor entertainment or speakers would reduce or eliminate noise as a factor. Finally, it was observed that lighting issues are adequately addressed in Condition 13.

Therefore, the recommendation that is being put forth, would allow the COP separation to be reduced to 300 feet. It would require the indoor portion of the project to limit its hours of operation until 11:00 p.m., Monday through Thursday, and 12:00 midnight, Friday and Saturday. It would require the outdoor portion of the project to limit its hours of operation to no later than 10:00 p.m., Monday through Thursday, and 11:00 p.m., Friday and Saturday. Finally, it would prohibit outside entertainment, speaker systems, loud speakers or public address systems anywhere on Tract MPD-1.

The Staff has recommended 21 comprehensive conditions that address the environment; the hours of operation of the proposed golf range; the reporting requirements associated with the construction of the residential units; the extension of Sandy Lane; the continuation of bona fide agricultural uses on the site; the removal of excavated material from the site; model units; golf course conditions; emergency access to and from the site; building heights; lighting; and a prohibition of the installation of auto parts (commercial or personal) in conjunction with any Auto Parts Store that may be located on the site. The Applicant (or Developer) must also provide a project-wide cumulative DRI threshold analysis with each local development order submittal.

Of the original number of deviations submitted by the Applicant, seven were withdrawn, and one was added. Of the remaining seven deviation requests, the Applicant and Staff are in substantial agreement with four, and have some differences with the remaining three.

The deviation requests with which the Staff and the Applicant agree would allow the Applicant to use decorative pavers; would allow for one means of ingress and egress for the residential

portion of the site that is west of the railroad right-of-way; and would allow the open space requirements to be met with the adoption of an Open Space Table so long as it is consistent with Condition 3 of this recommendation.

With respect to the deviations where there is some disagreement between the Staff and the Applicant, there is one in which the Applicant has asked to be allowed to stack vehicles (i.e., park one vehicle behind another) in the multi-family portion of the project if: (1) the number of units in each multi-family building does not exceed eight units; (2) the first parking space is in an individual garage with an individual driveway; (3) each driveway has a minimum of one foot of physical separation from any other driveway; and (4) it can be demonstrated at the time of development order approval that safe sight distance triangles are met. The Staff has recommended denial of this request because they are not sure how it would work.

The Applicant has explained its reason for the request noting that what it was asking for is similar to the parking arrangement that would be used for townhomes. However, because the types of units that they are proposing would not be side-by-side, but rather one on top of the other, it does not meet the County's definition of townhouse. The Applicant maintains that there is no difference between the two configurations, and that it is merely asking for some flexibility without compromising safety. It is the definition that the County uses that is causing the need for the deviation request, it is not, the Applicant states, anything out of the ordinary. With the specificity supplied by the Applicant, the deviation request is reasonable, and it should be approved.

The last issue that was raised at the hearing is one that has far reaching policy implications for the County. The Staff has recommended a condition with respect to the Sandy Lane extension that is being considered by the County staff. Condition 6 requires the Applicant to revise its Master Concept Plan to reflect the planned extension of Sandy Lane along the eastern boundary of the site unless there is a mutual agreement (between the Applicant and the County) that would alter the alignment. In return, the County would compensate the property owner for this reservation of the property in accordance with the requirements of Chapter 2 of the Land Development Code (i.e., presumably with impact fee credits).

Testimony by the Staff indicated that the need for this portion of the site (assuming some other alignment cannot be agreed upon²) would occur sometime before the year 2010. It is prudent planning by the County, they noted, to acquire this property now while it is not developed. The price would be less, and there would be less disruption to potential occupants of the site when it is finally needed by the County.

When questioned as to why the County did not simply condemn the property now under its eminent domain powers rather than making it a condition for approval of the rezoning request, it was observed that the law regarding eminent domain had changed, and it was now

² An agent for a property owner with frontage along the proposed Sandy Lane extension spoke at the hearing and indicated that there might be some room for negotiation with the County that might eliminate or reduce the need for the Applicant's property.

necessary to have progressed beyond the planning and engineering phases of the project before the condemnation power can be used. Therefore, the County was taking action that would amount to an inverse condemnation³ of the property.

The policy decision that must be decided by the Board of County Commissioners is whether it wants to use this "back-door" method of acquiring property it needs for future road expansion, or whether it wants to use the statutorily mandated method of acquiring property. The suggestion made by the Staff has the advantage of possibly reducing the cost of obtaining right-of-way in the future, and of minimizing the disruption to those who would occupy the land in the future. However, some would argue that it is legally dubious because the County would be doing indirectly what it is not permitted to do directly. That is, taking property before the planning and engineering phases of the proposed road extension have been completed as require under the statutory eminent domain provisions.

Additionally, an inverse condemnation claim is one that is made by the aggrieved party and not by the condemning authority. It forces the aggrieved party to seek a court remedy for damages if it and the governing authority cannot agree on a remedy or on just compensation for the taking.

Since this is something that the Board will have to decide (and possibly the courts if the Staff's recommendation is adopted, and then challenged), the wording suggested by the Staff has been left in this Recommendation to the Board so as to give it an opportunity to address the issue if they wish to do so. If the Board is of the opinion that it does not wish to adopt the Staff's position, it would merely have to change one word in Condition 6. The first sentence of the Condition would then read as follows: "As part of the first development order submitted the developer may (rather than must) revise the MCP to reflect the planned extension of Sandy Lane. . . ."

There is a possibility that the County and the Applicant will have come to some agreement on this matter before it reaches the Board for review. In that case, the immediate urgency will have passed but the issue of how to handle these situations in the future will still need to be resolved by the Board at some point.

Finally, several members of the public who represented The Vines spoke at the hearing. They had concerns with issues that would occur at a stage of the development process that comes after the zoning process has been completed. They were concerned with lake levels; blasting; the impact that tree and shrub removal along their fence would have on the fence's stability; burning of debris, and the method that would be used to accomplish this task; and the trajectory that golf balls would take on their border with the project. They also voiced some opposition to some of the proposed uses on the overall site such as gas stations, auto repair, and convenience stores.

³ Inverse Condemnation is a *de facto* taking of property that has occurred by virtue of actions taken by a governmental authority. It is usually a claim that is initiated by an aggrieved party that the government did something (e.g., closed a road in front of the claimant's business causing him to loose customers) that denied the claimant use of its property. It is not a formal eminent domain action on the part of the government.

Having considered all of the foregoing, it is found that the rezoning, as conditioned, would be compatible with the surrounding uses and would be consistent with the Lee Plan and the Land Development Code. It is recommended that the Lee County Board of County Commissioners approve the request, as conditioned.

V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the Applicant has proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
- B. That the request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
- C. That the request is consistent with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the request is compatible with existing or planned uses in the surrounding area.
- E. That approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development.
- F. That the request will not adversely affect environmentally critical areas and natural resources.
- G. That the proposed use or mix of uses is appropriate at the subject location.
- H. That the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.
- I. That the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- J. That the requested deviations enhance the achievement of the objectives of the planned development.
- K. That the requested deviations preserve and promote the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.
- L. That, where the change proposed is within a future urban area category, urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

VI. LIST OF EXHIBITS:

Master Concept Plan for Estero Golf Resort, Sheet 1 of 1, prepared by Florida Land Planning, Inc., date stamped "Received Feb 19 2001 Permit Counter"

STAFF'S EXHIBITS

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

- 1 Density Calculations
- 2 Estero Golf Resort - Master Concept Plan, prepared by Florida Land Planning, Inc., last revised 12/21/00
- 3 Résumé - Ben Chumley, Planning Division
- 4 Dwelling unit per acre ratios for The Vines and Estero Golf Resort
- 5 Density in The Vines
- 6 Drainage map
- 7 Memorandum from Kay Deselem, to Elaine Wicks (Mettauer), dated 06/15/00, re: Sufficiency Review
- 8 Official Trafficways Map (portion of)
- 9 Legal Description for portion of Sandy Lane
- 10 Level of Service Comparison
- 11 Villages of Bernwood MPD - Master Concept Plan
- 12 The Kristen Woods RPD/CPD Master Concept Plan
- 13 Indigo Isles - Conceptual Master Plan
- 14 Sandy Lane Alignment - Option #1D
- 15 Simon Suncoast - Map H - Master Development Plan
- 16 Map 21, Lee County MPO 2010 Financially Feasible Plan
- 17 Figure D-2, Lee County MPO 2020 Financially Feasible Highway Plan
- 18 Possible Typical Section of Sandy Lane

- 19 Riverplace of Estero - A Commercial Planned Development Master Concept Plan
- 20 Lee County Official Trafficways Map, last revised 10/03/91

APPLICANT'S EXHIBITS

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

- 1 Indigenous Preservation and Restoration Acreages
- 2 Revised Condition 3.b.
- 3 LDC Table 34-934: Pages 34-179 and 34-183, pertaining to "convenience food and beverage store" and "self-service fuel pumps," and Page 34-185 with Note (27)
- 4 Gas Station Inventory
- 5 Land Use Summary (map)
- 6 No Exhibit
- 7 Conditions placed on Hours of Operation and on Outdoor Speakers for Estero Greens, William Place Commercial Center, and Pelican Landing Business Park
- 8 Conditions placed on Consumption on Premises and Outdoor Speaker Systems for CPC Properties CPD
- 9 Conditions placed on Golf Course Maintenance and Management Guidelines for Miromar Lakes MPD/DRI
- 10 Articles entitled "First phase completed and sold at Grand Pines," "Contracted sales reach one-third at Wellington Place II," "Sea Grove sales contracts reach 95 percent mark," and "Ibis Pointe contracted sales top 75 percent" - from Sunday, March 11, 2001 edition of *Naples Daily News*
- 11 Memorandum from Carron Day, to Kay Deselem, dated 03/12/01, re: Estero Golf Resort - Hearing (response to Staff Report)
- 12 Estero Golf Resort - [proposed] Property Development Regulations vs. Lee County Staff Report
- 13 Estero Golf Resort - Lot Coverages Approved for various projects in Lee County
- 14 Site Plan showing dwelling unit per acre ratios
- 15 Revised Condition 11

- 16 Memorandum from Kay Deselem, to Hearing Examiner, dated 03/14/01, re: golf course monitoring condition
- 17 Aerial Photograph [board exhibit]

OTHER EXHIBITS

Eslick

- 1 Prepared Statement

Maurer

- 1 Villages of Bernwood MPD - Master Concept Plan

VII. PRESENTATION SUMMARY:

SEE OFFICIAL COURT REPORTER TRANSCRIPT.

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Michael J. Ciccarone, Esquire, 7360 Lake Dr., Ft. Myers, FL 33908
2. Carron Day, AICP, and Brian Bigelow, Florida Land Planning, Inc., 1560 Matthew Dr., Ste. E, Ft. Myers, FL 33907
3. Ted Treesh, % Metro Transportation Group, Inc., 12651 McGregor Blvd., Ste. 4-403, Ft. Myers, FL 33919-4489
4. Mike Myers, % Vanasse & Daylor LLP, 8270 College Pkwy., Ste. 205, Ft. Myers, FL 33919
5. Kevin L. Higginson, P.E., Coastal Engineering Consultants, 17595 S. Tamiami Trail, Ft. Myers, FL 33908

ADDITIONAL COUNTY STAFF:

1. Donna Marie Collins, Assistant County Attorney, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
2. Elaine Wicks-Mettauer and Andy Getch, Dept. of Transportation, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
3. Matt Noble and Ben Chumley, Division of Planning, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VII.):

For: NONE

Against: NONE

General:

1. Louis Corsiglia, The Vines Golf and Country Club, 8490-1 Southbridge Dr., Ft. Myers, FL 33912
2. Donald F. Eslick, 23029 Tree Crest Ct., Bonita Springs, FL 34135
3. Charlie Maurer, President, Development Associates, Inc., P. O. Box 366069, Bonita Springs, FL 34136
4. Arnold Rosenthal, 20981 Andiron Place, Estero, FL 33928
5. Mr. Kay Rote, The Vines Golf and Country Club, 8490-1 Southbridge Dr., Ft. Myers, FL 33912

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER RECOMMENDATION:

For: NONE

Against: NONE

General:

1. Bill Balthazor, 10752 Everglades Kite Cir., Estero, FL 33928
2. Thomas M. Beard, 8013 Sanibel Blvd., Ft. Myers, FL 33912
3. Chad Gillis, % Naples Daily News, 9102 Bonita Beach Rd., Bonita Springs, FL 34135
4. Stephanie Keyes, AICP, % The School District of Lee County, 3308 Canal St., Ft. Myers, FL 33916
5. Gary Loomis, 18701 Oriole Rd., Ft. Myers, FL 33912
6. Russell Schropp, Esquire, Henderson, Franklin, Starnes & Holt, P.A., P. O. Box 280, Ft. Myers, FL 33902-0280

IX. LEGAL DESCRIPTION:

See Attached Exhibit "A" (Scanned Legal).

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any county commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This recommendation is made this 18th day of April, 2001. A copy will be forwarded to the offices of the Lee County Board of County Commissioners.

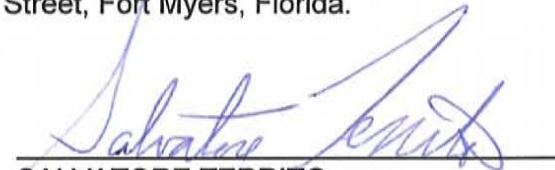
B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

C. The Board of County Commissioners will hold a hearing at which they will consider the record made before the Hearing Examiner. The Department of Community Development will send written notice to all hearing participants of the date of this hearing before the Board of County Commissioners. Only participants, or their representatives, will be allowed to address the Board. The content of all statements by persons addressing the Board shall be strictly limited to the correctness of Findings of Fact or Conclusions of Law contained in the recommendation, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the earlier hearing before the Hearing Examiner and not otherwise disclosed in the record.

D. The original file containing the original documents used in the hearing before the Hearing Examiner will be brought by the Staff to the hearing before the Board of County Commissioners. Any or all of the documents in the file are available on request at any time to any County Commissioner.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.



SALVATORE TERRITO
LEE COUNTY HEARING EXAMINER
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Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/479-8100
Facsimile: 941/479-8106

EXHIBIT "A"



A CECI GROUP COMPANY

CECI Group Services

Civil Engineering

Survey & Mapping

Coastal Engineering

Real Estate Appraisal

Environmental Assessment

Website: www.coastalengineering.com

EXHIBIT
LEGAL DESCRIPTION
PARCEL "A-1"
ESTERO GOLF RESORT CPD

A TRACT OR PARCEL OF LAND IN SECTION 21 AND 28, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE ALONG THE EAST LINE OF SECTION 21, N 00°46'45"W, A DISTANCE OF 94.98 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED IN O.R. BOOK 2183, PAGES 3461-3462); THENCE CONTINUE ALONG THE NORTHERLY RIGHT-OF-WAY OF KORESHAN BOULEVARD 552.84 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST; HAVING A RADIUS OF 11425.00 FEET, A CENTRAL ANGLE OF 02°46'21", A CHORD DISTANCE OF 552.79 FEET, AND A CHORD BEARING OF N 87°35'01" W TO A POINT OF TANGENCY; THENCE N 86°11'52" W, FOR A DISTANCE OF 1310.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 86°11'52" W A DISTANCE OF 1166.17 FEET TO A POINT OF CURVATURE; THENCE 540.77 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST; HAVING A RADIUS OF 1175.00 FEET, A CENTRAL ANGLE OF 26°22'09" A CHORD DISTANCE OF 536.01 FEET, AND A CHORD BEARING OF S 80°36'51" W TO A POINT OF REVERSE CURVATURE, THENCE CONTINUE 358.46' ALONG THE ARC OF CURVE CONCAVE TO THE SOUTHWEST; HAVING A RADIUS OF 1292.82 FEET, A CENTRAL ANGLE OF 15°53'11", A CHORD DISTANCE OF 357.31 FEET, AND A CHORD BEARING OF S 59°29'40" W, TO A POINT OF TANGENCY; THENCE S 51°33' 05" W FOR A DISTANCE OF 261.89 FEET TO A POINT OF CURVATURE; THENCE CONTINUE 79.66 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH; HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 91°17'11", A CHORD DISTANCE OF 71.50 FEET, AND A CHORD BEARING OF N 82°48'27" W, TO A POINT OF TANGENCY; THENCE CONTINUE N 37°10'00" W A DISTANCE OF 955.60 FEET, THENCE CONTINUE N 37°45'31" W A DISTANCE OF 17.52 FEET; THENCE N 44°54'53" E FOR A DISTANCE OF 2235.13 FEET TO THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST LINE RAILROAD (AS RECORDED IN DEED BOOK 68, PAGE 78); THENCE CONTINUE ALONG THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST LINE RAILROAD S 32°34'52" E FOR A DISTANCE OF 2388.69 FEET TO POINT OF BEGINNING.

PARCEL CONTAINS 74.2 ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 2464

Dana L. Worley
DANA L. WORLEY

PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5651

NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER

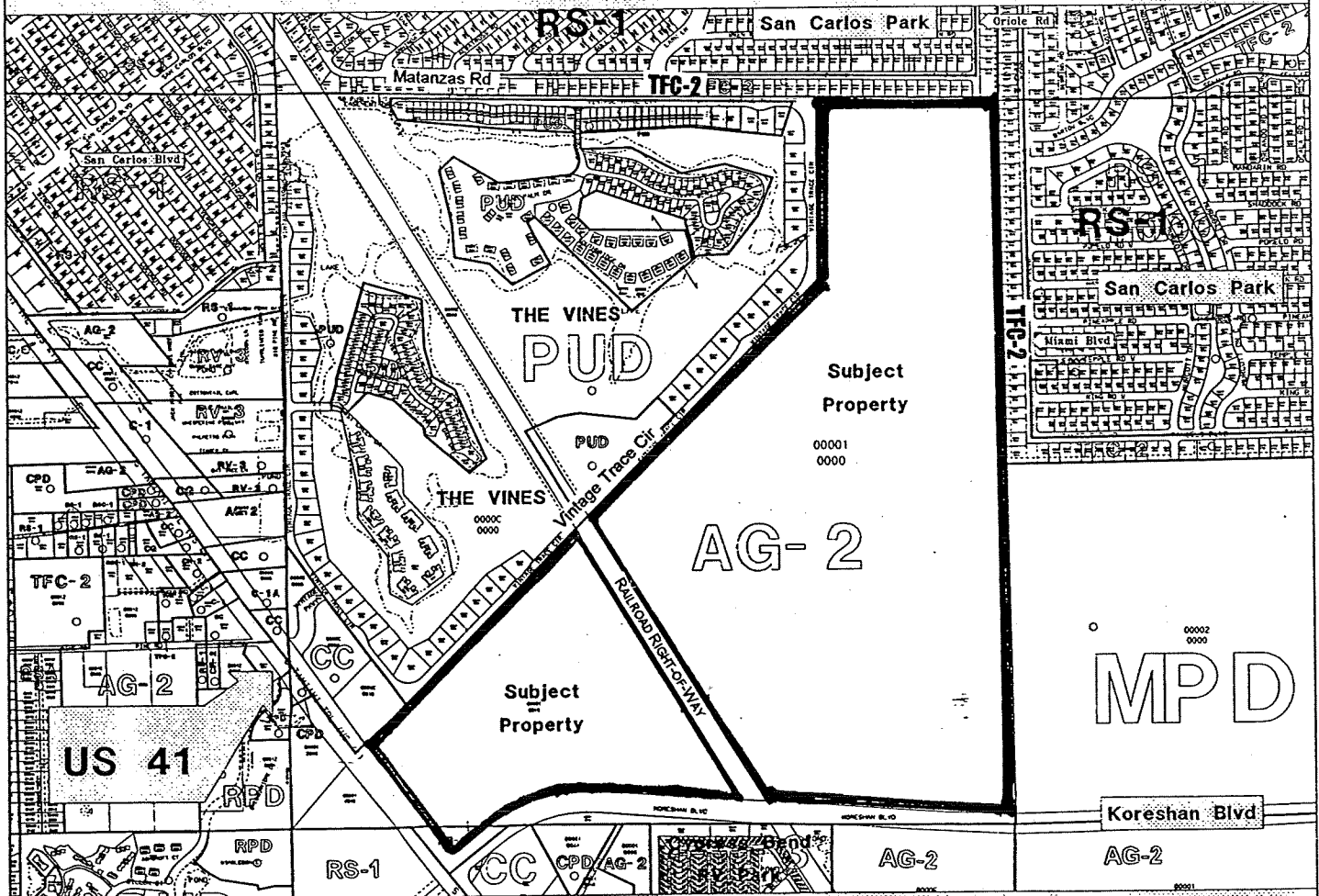
CEC FILE NO. 99509

DATE SIGNED. 10-31-00

DCI 2000-00032

17595 S. Tamiami Trail, Suite #102, Fort Myers, Florida 33908 • Phone (941) 590-9900 Fax (941) 590-9909 • E-Mail: info@cecifl.com

Zoning Map



Attachment A

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

ORDER FOR CONTINUANCE

CASE NUMBER: DCI2000-00032
APPLICANT: KEYSTONE CUSTOM HOMES, INC., in ref. to ESTERO GOLF RESORT MPD
RESPONSE DATES: FRIDAY, MARCH 30, 2001; 5:00 P.M.

LEE COUNTY
RECEIVED

01 MAR 15 AM 11:26

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

The hearing on the above-styled case began as scheduled on March 14, 2001. At the conclusion of the presentations of Staff and Applicant and, following the comments and presentations of other interested parties present, the matter was continued to the date and time set forth below to allow the Staff and the Applicant to submit additional materials, only as requested by the Hearing Examiner, which are responsive to questions, issues and concerns which arose during the course of the proceedings.

Written submissions shall be in the form of:

1. Rewording of conditions and deviations [Staff and Applicant]; and
2. Revised Master Concept Plan [Applicant].

This matter is continued to FRIDAY, MARCH 30, 2001, 5:00 P.M., FOR SUBMISSION OF MATERIALS AS REQUESTED BY THE HEARING EXAMINER. At, or before this time, the requested materials will be submitted to the Hearing Examiner, and other responding parties, and the Hearing Examiner will determine if these submissions are sufficient. **NO HEARING WILL BE HELD AND NO TESTIMONY WILL BE HEARD.** If the Hearing Examiner determines that these submissions are insufficient, a subsequent hearing will be set to discuss this matter further and notices will be sent to all parties involved.

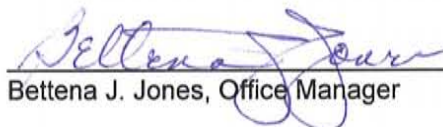
Accordingly, written submittals will be delivered to the Office of the Hearing Examiner, 1500 Monroe Street, Suite 218, Fort Myers, Florida, on or before these dates. Copies of this order will be furnished to the Staff, the Applicant, and all hearing participants.

DONE AND ORDERED this 14th day of March, 2001.


SALVATORE TERRITO
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, Florida 33902-0398
Telephone: 941/479-8100
Facsimile: 941/479-8106

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the aforesaid Order was sent to all hearing participants, officially established as of the above Order date, either by U.S. Mail, Inter-County Mail, or Facsimile Transfer on the 15th day of March, 2001.


Bettina J. Jones, Office Manager

March 15, 2001

LEE COUNTY, FLORIDA
DEVELOPMENT SERVICES DIVISION
STAFF REPORT

TYPE OF CASE: PLANNED DEVELOPMENT/DCI

CASE NUMBER: DCI2000-00032

HEARING EXAMINER DATE: March 14, 2001

I. APPLICATION SUMMARY:

- A. Applicant: Keystone Custom Homes, Inc., in reference to Estero Golf Resort MPD
- B. Request: Rezone 314.6± acres of land from Agricultural (AG-2) to the Mixed Use Planned Development Zoning District (MPD) to allow a maximum of 820 dwelling units consisting of a mix of unit types. The 820 dwelling units may include up to 100 units within an assisted living facility. The project is also proposed to include a golf course, up to 320,000 square feet of retail uses, and 20,000 square feet of office use. The application also includes a request for consumption on premises. Buildings will not exceed 55 feet and four stories.

NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., in Ft. Myers) may deviate from certain Land Development Code (LDC) standards.

- C. Location: The subject property is located at 19975 South Tamiami Tr. (located on the northeast quadrant of the intersection of U.S. 41 and Koreshan Blvd), in S21-T46S-R25E, Lee County, FL.
- D. Land Use Plan Designation: Urban Community, Suburban and Wetlands (See Attachment B)
- E. Surrounding Land Use:

<u>Existing Use & Zoning</u>	<u>Future Land Use Map</u>
North: a strip of developed multi and single family lots zoned TFC-2 within San Carlos Park subdivision, then Matanzas Road; and RS-1 zoned single family homes also within San Carlos Park Subdivision	Urban Community Suburban
East: a strip of developed multi and single family lots zoned TFC-2 within San Carlos Park subdivision, then Matanzas Road; and RS-1 zoned single family homes also within San Carlos Park Subdivision	Urban Community Suburban
and also MPD, undeveloped project known as Villages of Bernwood	Urban Community

South: Koreshan Blvd; then CC zoned vacant parcel and CPD, broadcast studio and tower zoned, and RV-3, Cypress Bend RV Park, and undeveloped AG-2	Urban Community Suburban
West: The Vines, a PUD zoned residential golf course and CC zoned vacant tracts along US 41	Suburban Urban Community

F. Size of Property: 314.6± acres

II. RECOMMENDATION:

Staff recommends **APPROVAL** of the rezoning request from AG-2 to MPD with the following conditions and deviations:

A. Conditions

1. The development of this project must be consistent with the one-page Master Concept Plan entitled "Estero Golf Resort," stamped received February 19, 2001, except as modified by the conditions below. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. Schedule of Uses

(1) **RESIDENTIAL PORTION- Tracts 5-12**

Administrative Offices

Agricultural Uses--as limited by other conditions

Assisted Living Facility--limited to Tracts MPD-5 only--maximum 100 units

Club, Country including the following ancillary uses:

Consumption on Premises- limited to one only

Food and Beverage Service

Golf Course Maintenance Facility--as limited by other conditions

Health Club and Spa

Restaurant

Speciality Retail

Dwelling Units--single-, two-, and multi-family units, zero lot line units, and townhouses---limited to a maximum of 820 for the entire project; and a maximum of 300 for MPD 5

Entrance Gates and Gatehouses

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention--Not to include the removal of excavated material from the site

Fences and Walls

Golf Course, including Practice Greens and Driving Range--subject to further review during the Development Order process to determine appropriate locations and possible additional buffering or screening required for the practice greens and driving range

Golf and Tennis Pro Shops (limited to ancillary use in clubhouse)
 Home Occupation, as limited by the LDC
 Model Homes, Model Units and Model Display Center
 Real Estate Sales and Rental Office-- limited to sales of lots, homes or units within the development, except as may be permitted in § 34-1951 *et seq.* The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the Certificate of Occupancy for the sales office is issued. The director may grant one 2-year extension at the same location.
 Recreational Facilities, Personal and Private On site, as defined and regulated by the LDC Section 34
 Signs, in compliance with the LDC
 Storage, Open, recreational vehicles, boats and similar items for residents only, will only be permitted if administrative approval is sought showing the exact location of the use. Such uses, at a minimum, must be shielded behind a continuous visual screen at least eight feet in height when visible from any residential use, and six feet in height when visible from any street right-of-way or street easement.
 Temporary uses--limited to a sales center and a construction office, in compliance with the LDC for temporary uses

(2) COMMERCIAL PORTION--Tracts 1-4

Administrative Offices
 Agricultural Uses, as further limited by other conditions
 Animal Clinic-outside kennels are prohibited
 Auto Parts Store, subject to permitted Use Note B--limited also by Conditions 16 & 17
 Automobile Repair & Service, Group I only--subject to Permitted use Note B
 Banks and Financial Establishments, all Groups
 Broadcast Studio, Commercial Radio and Television--an on-site tower is prohibited
 Business Services, Groups I & II, Group II--outdoor storage prohibited
 Car Wash, subject to Permitted Use Note B
 Cleaning and Maintenance Services, no outdoor storage of vehicles
 Clothing Stores
 Computer and Data Processing
 Consumption on Premises, as limited below
 Contractors and Builders, Group I only
 Convenience Food and Beverage Store, subject to Permitted Use Note B
 Cultural Facilities, limited to Art Galleries and Museums
 Daycare Center, Child and Adult
 Department Store
 Drive-through facility, subject to permitted Use Notes A and B
 Drug Store, limited to Use Note B
 Essential Services
 Essential Service Facilities, Group I
 Excavation, Water Retention--Not to include the removal of excavated material from the site
 Fences and Walls

Food Stores, Groups I and II
 Gift and Souvenir Shop
 Hardware Store, limited to Permitted Use Note B
 Health Care Facility, Groups I, II and III
 Hobby, Toy and Game Shop
 Hospice
 Model Units and Model Display Centers--subject to conditions below
 Non-store Retailers, all Groups, outdoor storage is prohibited
 Offices, Medical
 Package Store, limited to:
 Wine Shops, and
 Package Stores in conjunction with a Drug Store use only
 Paint, Glass and Wallpaper Store
 Personal Services, Group I, II--limited to Beauty Spas, Health Clubs or Spas,
 Reducing or Slenderizing Salons, Group III, and Group IV--limited to
 babysitting bureaus, debt counseling services, portrait copying, shopping
 services, and tax return preparation services
 Pet Services
 Pet Shop
 Place of Worship
 Real Estate Sales and Rental Office
 Recreational Facilities, Personal and Private on site only and only in
 conjunction with and on the same tract as any ancillary multi-family or
 townhouse uses
 Rental and Leasing Establishments, Group II--outside storage is prohibited
 Restaurants, Fast Food, subject to Permitted Uses Notes A and B
 Restaurants, Standard--Groups I, II, III & IV--subject to Permitted Use Note A
 Schools, Commercial
 Self Service Fuel Pumps--Limited to eight pumps unless a greater number is
 approved as part of a special exception or as specifically approved in a
 public hearing amendment.
 Shopping Center
 Signs, in compliance with the LDC
 Social Services, Group I only
 Specialty Retail Shops, Groups I-IV
 Storage, Indoor only and only as an ancillary use
 Studios
 Temporary uses--limited to sales center and construction offices, in compliance
 with LDC regulations regarding temporary uses
 Variety Store
 Wholesale Establishments, Group III only

(3) Additional Use Conditions:

- (A) The following uses may be allowed in Wetland areas subject to review and approval by Environmental Sciences staff as part of development order review:

Interpretative centers, rain shelters gazebos
 Nature and foot paths including pedestrian boardwalks

Wildlife management areas
Mitigation activities
Signs, limited to educational signs only

(B) The following **Permitted Use Notes**, as referenced above and on the MCP, also apply:

- (1) Must be located a minimum of 200 feet from any off-site property zoned for residential purposes
- (2) Limited to Tracts MPD-3 and MPD-4 only
- (3) Consumption on Premises (COP) uses are limited to a maximum of three for standard restaurants only, and one for the Club Recreation Tract.

(C) Use in MPD Tract 1 are limited as follows:

Hours of operation for businesses to be open to the public are 7 a.m. until 10 p.m.

Deliveries are prohibited between the hours of 9 p.m. and 7 a.m.

Outside speakers systems, loud speakers or public address systems are prohibited in this tract.

b. **Site Development Regulations**

Site Development Regulations are limited to the "Property Development Regulations," exhibit that is included as Attachment G:

(A) General Project Square Footage Limitations:

- (1) Maximum overall commercial development is limited to 340,000 square feet of retail commercial uses, 20,000 square feet of office uses, except as limited below; and
- (2) This project can be comprised of medical, general office, retail, or service uses (in compliance with the schedule above), or any combination of those uses, up to the maximum square footage, provided all limiting conditions and parking, open space, buffering, and water management requirements are met.
- (3) All special setback or development regulations contained in the LDC (as it may be amended) for any specific use must be met; and
- (4) The regulations contained herein supersede the Site Development Conditions contained on the MCP.
- (5) The conversion option to convert retail and office uses is approved with the limitation that no more than 21.94 acres of commercial acreage may be converted to office use; and
- (6) Retail Commercial square footage within the Suburban land use

category must not exceed 100,000 square feet. The development must provide cumulative totals for each development order submittal showing compliance with this condition.

- (B) Outdoor seating must receive Special Exception approval
- (C) Hours of operation for Tract MPD-1 are limited to 8 a.m.--10 p.m.
- (D) Consumption on Premises uses must first receive Special Exception or an Administrative Approval, which ever is deemed appropriate by the DCD Director. Since the proposed plan of development is only conceptual, this additional condition is necessary to ensure the placement of the COP use will be compatible with the surrounding land uses.

3. Environmental Conditions: Prior to local Development Order Approval:

- a. The developer must provide open space consistent with the Open Space and Indigenous Vegetation Table attached as Attachment C and on the approved Master Concept Plan. Each tract must provide a minimum of 10% open space.
 - b. The development order plans must show an upland preserve connection between the conservation area in the southeast corner of MPD Tract-5 and the upland conservation area on the eastern side of the restored wetland. The development order plans must also include details of a roadway or bridge meeting Category B street standards with closed drainage that accommodates wildlife passage under the entrance roadway to MPD Tract-5.
 - c. The developer must submit a detailed wetland restoration plan to the Division of Planning/Environmental Sciences staff for review and approval. Both the wetland restoration plan and littoral zones required by the Land Development Code (LDC) must be designed to provide foraging area for wood storks.
 - d. The developer must re-survey the potential Big Cypress fox squirrel nests on site specifically for fox squirrel presence. The protected species survey must be prepared in accordance with LDC Section 10-473 and submitted to the Division of Planning, Environmental Sciences for review and approval. If fox squirrel use of the site is verified, the developer must submit final management details in accordance with LDC Section 10-474 including a phased exotic removal plan.
 - e. Prior to local development order approval, a detailed gopher tortoise management plan must be submitted for the Division of Planning/Environmental Sciences staff review and approval.
 - f. Prior to any site work, the developer must 1) obtain a Vegetation Removal Permit, 2) install barricading of preserves and 3) excavate tortoise burrows to move the gopher tortoises within the development tracts.
4. The Golf Driving Range is limited to operating during daylight hours.
5. Development Order submittals must include a running inventory showing the overall number of units and commercial (retail and office) square footage that have been built, approved to be built, or are in the development approval process.

6. As part of the first development order submittal, the developer must revise the MCP to reflect the planned extension of Sandy Lane along the eastern boundary of the site, consistent with the sketch set forth in the Lee County DOT Exhibit entitled, "Sketch and Description of Sandy Lane Extension". Lee County will compensate the property owner for the reservation of this property in accordance with the regulations set forth in Chapter 2 of the LDC.
7. Bona fide agricultural uses that are in existence at the time this resolution is finalized may continue until approval of the first local development order. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless that activity is reviewed and approved in accordance with the Lee County LDC regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.
8. No excess excavated material may be removed from the site unless the developer can demonstrate to the Director of Community Development that the material to be removed: 1) is unsuitable material that cannot be used on-site; and 2) the material must be excavated to meet the minimum requirements necessary to accommodate a water management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use off-site.
9. Model units and homes are permitted in compliance with the following conditions:
 - a. Administrative approval must be obtained (Denial of Deviation #5a). Administrative Approval is subject to review and approval based upon potential negative impacts to nearby uses regarding, but not limited to, glare, noise, dust
 - b. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - c. All model sites must be designated on the development order plans; and
 - d. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat. The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for the project; and
 - e. Dry models are prohibited.
10. Golf Course Conditions:
 - a. The golf courses developer must use fertilizers with a low leaching potential (slow release). Fertilizers must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and
 - b. To reduce sources of pollutants, especially nutrients and pesticides associated

with the golf course, the golf course manager must implement a chemicals management plan which includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the US Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may be used. Turf managed areas (including fairways, tees, and greens) are prohibited within 35 feet of wetlands or preserve areas. The chemical management plan must be reviewed and approved by Lee County Natural Resources Division prior to development order approval.

- c. The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- d. The Developer must utilize a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- e. The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.
- f.
 - 1) Prior to the issuance of local development order approval, the developer must demonstrate compliance with "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.
 - 2) The development order must demonstrate separate mixing and loading facilities for pesticides, and provide a separate pesticide storage area, in compliance with materials specified in the above referenced document. The development order must demonstrate separate mixing and loading facilities for fertilizer, and provide a separate fertilizer storage area, in compliance with materials specified in the above referenced document.
 - 3) The development order plans must specify the construction material for all buildings in compliance with Best Management Practices for Golf Course Maintenance Departments."

- 4) Equipment to apply pesticides and fertilizers must be stored in an area protected from rainfall.
 - g. The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, while requiring relatively low fertilizer use;
 - h. The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.
 - i. All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from underdrains must be pre-treated prior to discharge into the balance of the project's water management system.
 - j. Stormwater run-off must be pre-treated through an acceptable recreated natural system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
 - k. The operator of the golf course must submit an annual monitoring report of ground water and surface water quality. The monitoring program must include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water within the area of the golf course; identifying the locations for the ground water monitoring and testing on a map(s); setting forth the testing and recording requirements. The Developer must submit the test results with the monitoring report to the Lee County Natural Resources Division. The monitoring program will be established and operated at the expense of the Developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 17-302, F.A.C., water quality standards.
 - l. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until there is a revised management plan. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County must be implemented by the Developer.
- 11. Prior to Development Order approval for any portion of the property, the developer must show an interconnection to Oriole Road to the north. This interconnecting street stub is necessary to provide for proper traffic circulation. The street stubs must be provided with a temporary cul-de-sac turnaround within the minimum required platted right-of-way.
 - 12. Buildings exceeding 35 feet in height must maintain additional building separation or additional building setbacks consistent with LDC Section 34-2174(a) and LDC Section 935(e)4.

13. Lighting to serve uses within 200 feet of perimeter property allowing residential uses must be hooded, shuttered, or shielded and may not exceed 18 feet in height. Mercury vapor lamps/lights are prohibited, the lighting in this 200 foot area must scaled so that no more than the minimum required number of light fixtures are erected. Individual building lighting must be of the lowest intensity to meet safety standards. The scale of the fixtures and the type of hooding, shuttering and shielding is subject to further review prior to the approval of a development order. The individual building fixtures must be either directly fixed to the building or placed on a post lamp standard not to exceed 10 feet in height. Incandescent lamps are encouraged. The use of mercury vapor lamps/lights are prohibited.
14. Approval of this zoning request does not address access onto U.S. 41, since Lee County has no jurisdiction over that roadway. The Developer must pursue U.S. 41 access issues with the Florida Department of Transportation (FDOT). Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy concurrency requirements as required by Lee Plan Objective 2.2.
15. Approval of this rezoning does not guarantee local development order approval or vest present or future development rights for Lee Plan consistency. Development order approvals must satisfy the requirements of the Lee Plan Planning communities Map and Acreage Allocation Table, Map 16 and Table 1(b). In addition, Development Order applications must also be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provision.
16. Installation of any auto parts, either by employees or the general public, in conjunction with the Auto Parts Store is prohibited. Signs must be posted and maintained in the parking lot for this use advising customers that "self installation" is strictly prohibited on the premises.
17. This development must comply with all the requirements of the Lee County Land Development Code (LDC), specifically including the requirements of LDC Section 10-600 et seq., at the time of local Development Order approval, except as may be granted by deviation as part of this planned development approval or subsequent amendments thereto.
18. Structures within Tract 5 are limited to a one story height for a distance of 100 feet and then a two story height for the next 100 feet. In addition, a type E buffer must be provided along the perimeter property line that is shared with the Vines extending from the US 41 frontage to the north side of the railroad right-of-way.
19. Development of this project must not exceed any DRI thresholds, as the impacts of same were not reviewed as part of the rezoning. The developer must provide a project-wide cumulative DRI threshold analysis with each local development order submittal.

20. If the lake shown in Tract 1 is relocated further away from the boundary shared with Tract 5, structures within Tract 1 must maintain a 100 foot setback from the shared property line between the two tracts.
21. The maintenance facility must be relocated to the Club/Recreation Tract MPD 10. The existing Residential/Maintenance Tract MPD-7 is approved for residential use only, and direct access to Koreshan Boulevard from this tract is prohibited.

B. Deviations

Deviation #1 was withdrawn by the applicant.

Deviation #2 seeks relief from LDC Section 10-329(e)(1)(a)(3) which requires a 50 foot minimum setback for water retention lakes, to allow a 25 foot setback for water retention lakes. Staff recommends **APPROVAL OF THIS DEVIATION in the areas shown WITH THE CONDITION** that prior to development order approval, the developer must provide satisfactory elements to discourage access from the adjacent properties. These elements may consist of fencing, berms, buffering or a combination of all three. **(This deviation is not approved along the eastern or northern boundary in the area identified in the memo from DOT as that area to be reserved for the northerly extension of Sandy Lane.)**

Deviation #3 seeks relief from LDC Section 10-296(d), Table 4(7)(c) which requires wearing surfaces of local and access streets for category A development to be constructed of 1 ½ inch asphaltic concrete, to allow for cement concrete and/or decorative pavers. Staff recommends **APPROVAL OF THE REQUEST WITH THE CONDITION** that prior to development order approval the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation #4 seeks relief from LDC Section 10-256(d)(3), which requires wearing surfaces of sidewalks to be constructed of 1½ inch asphaltic concrete, to allow for cement concrete decorative pavers. Staff recommends **APPROVAL OF THE REQUEST WITH THE CONDITION** that prior to development order approval the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation #5a seeks relief from LDC Section 34-1954(a)(1), which requires model homes and model units to receive administrative approval, to allow model homes and model units to be permitted by right in all residential tracts. Staff recommends **DENIAL** of this deviation, because approval of the deviation would constitute approval of a use variance, which is not permitted.

Deviation #5b seeks relief from LDC Section 34-1954(d)(1), which limits approval of model homes to three years; to allow the model home approvals to be valid until project build out without requiring the owner/developer to seek a special exception. The requested deviation is **DENIED**.

Deviation#6 seeks relief from the LDC Section 34-1954(d)(2), which limits approval of model units within a townhouse or multiple-family building to a period of time not to extend

beyond the initial sales period for that phase; to allow the model unit approvals to be valid until project build out. The requested deviation is **DENIED**.

Deviation #7 seeks relief from LDC Section 34-2017(e), which allows director discretion regarding parking lot surfaces, to allow the temporary parking lots that will serve the model homes and ancillary sales offices within the model homes to have a gravel surface. Staff recommends **DENIAL**.

Deviation #8 seeks relief from LDC Section 10-292(c), which requires residential developments of more than five acres or any commercial or industrial development of more than ten acres to provide two or more means of ingress or egress for the development, to allow the residential portion of the project that is separated by the railway right-of-way to have one means of ingress and egress. Staff recommends **DENIAL** of this deviation.

Deviation #9 was withdrawn by the applicant.

Deviation #10 was withdrawn by the applicant.

Deviation #11 seeks relief from LDC Section 34-2015(2)c, which prohibits the stacking of vehicles in multi-family developments, to allow stacking in multi-family buildings that have a specific garage appurtenant to the structure. Staff recommends **DENIAL** of this deviation.

Deviation #12 seeks relief from LDC Section 10-415(b)(1) which establishes the open space requirements, to allow the adoption of an Open Space Table. Staff recommends **APPROVAL SUBJECT TO COMPLIANCE WITH CONDITION #3**.

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:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested zoning, as conditioned:
 - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c) is compatible with existing or planned uses in the surrounding area; and
 - d) will not adversely affect environmentally critical areas or natural resources.

3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations granted, or granted with conditions:
 - a) enhance the objectives of the planned development; and
 - b) preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

III. **BACKGROUND INFORMATION AND ANALYSIS:**

Introduction/Synopsis

The applicant seeks this rezoning from AG-2 to Mixed Use Planned Development (MPD) for a 314.6± acre tract located in the northeastern quadrant of the intersection of US 41 and Koreshan Blvd. The subject tract has approximately 4,200 feet of frontage along Koreshan Boulevard and 1,000 feet of frontage along US 41. The eastern property line abuts what is shown on the Trafficways Map as the proposed northerly extension of Sandy Lane. To the north, the site can connection to Oriole Road.

The request seeks approval of a maximum of 820 dwelling units in a mix of housing types to include single family, two-family attached, townhouse, multiple-family, and zero-lot-line units to be constructed within a golf course community. Also proposed are up to 320 square feet of retail commercial uses and 20,000 square feet of office uses.

Master Concept Plan (MCP)

The MCP utilizes the "bubble plan" concept, in that no actual building footprints have been shown. The general areas of twelve development tracts are shown, as are numerous lakes, and restored wetland or conservation areas. The project is divided into two distinct areas, a commercial portion and a residential portion. The commercial portions of the project consist of Tracts 1-4, which are generally located nearer the intersection of US 41 and Koreshan Boulevard. The residential portions are, with the exception of Tract 5, located to the northeast and across the Seaboard Coast Line railroad tracks which bisect the property. Tract 5 is located on the western side of the railroad tracks.

Access for this project is shown from US 41, which is subject to review and approval from the State. Lee County has no jurisdiction over US 41. Access is also shown to Koreshan

Boulevard. The commercial portion Tracts 1-4, and Tract 5 of the residential portion are shown with two accesses onto Koreshan Boulevard. The remaining residential portion, Tracts 6-12 are shown with only one access, and that access is from Koreshan Boulevard. Access to the residential portion is the subject of Deviation #8. Several other deviations are being sought which are discussed later in this report.

Deviation Discussion

The formal rezoning request in this case lists several provisions where the MCP, if adopted, would deviate from existing development standards for Lee County. The applicant's justifications for the deviation is included as Attachment D. The deviations are discussed below.

Deviation #1 was withdrawn by the applicant.

Deviation #2 seeks relief from LDC Section 10-329(e)(1)(a)(3) which requires a 50 foot minimum setback for water retention lakes, to allow a 25 foot setback for water retention lakes. Staff recommends **APPROVAL OF THIS DEVIATION WITH THE CONDITION** that prior to development order approval, the developer must provide satisfactory elements to discourage access from the adjacent properties. These elements may consist of fencing, berms, buffering or a combination of all three. (See Attachment J for complete staff comments.)

Deviation #3 seeks relief from LDC Section 10-296(d), Table 4(7)(c) which requires wearing surfaces of local and access streets for category A development to be constructed of 1 ½ inch asphaltic concrete, to allow for cement concrete and/or decorative pavers. Staff recommends **APPROVAL OF THE REQUEST WITH THE CONDITION** that prior to development order approval the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500psi concrete. (See Attachment J for complete staff comments.)

Deviation #4 seeks relief from LDC Section 10-256(d)(3) which requires wearing surfaces of sidewalks to be constructed of 1 ½ inch asphaltic concrete, to allow for cement concrete and/or decorative pavers. Staff recommends **APPROVAL OF THE REQUEST WITH THE CONDITION** that prior to development order approval the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500psi concrete. (See Attachment J for complete staff comments.)

Deviation #5a seeks relief from LDC Section 34-1954(a)(1) which requires model homes and model units to receive administrative approval, to allow model homes and model units to be permitted by right in all residential tracts. Staff recommends **DENIAL** of this deviation, because approval of the deviation would constitute approval of a use variance, which is not permitted. Furthermore, the regulations on model homes serve several purposes including:

1. offer some degree of protection to surrounding existing residences that quasi-commercial uses would not be permitted on adjacent lots; and
2. assure that proposed "Model homes" aren't being used to side-step platting requirements by allowing building permits to be issued under the guise of "model homes," but which actually allow early sale of permanent residences before the final plats have been approved.

The bubble plan concept that is being utilized for this project does not afford staff the opportunity review where model homes or model display centers will be located. During the development process for a project of this site, it is conceivable that there will be models or model centers in various locations throughout the site. Staff is concerned about the potential negative impacts of co-mingling model homes or model display centers with occupied single family homes within proximity. Approval of the model home deviations would remove staff's ability to review the issues when it is determined where the models will be located. Staff recommends denial because the deviation would remove a valuable review tool that has been adopted into the LDC to protect the integrity of neighborhoods.

Deviation #5b seeks relief from LDC Section 34-1954(d)(1) which limits approval of model homes to three years; to allow the model home approvals to be valid until project build out without requiring the owner/developer to seek a special exception. The requested deviation is **DENIED**. The applicant has correctly noted that this deviation has been approved in the past, however, staff has serious concerns about the continuation of such approvals. It is not appropriate to approve the deviation when the regulation currently allow ample opportunity to extend the model home use. The decision to extend a model use would be extremely premature if granted as part of the conceptual plan stage. Each model use and location should be judged on it own merit at the time an extension if necessary, if in fact it becomes necessary. At this point, the applicant has not proven that a need to extend the model uses exists.

Deviation#6 seeks relief from the LDC Section 34-1954(d)(2) which limits approval of model units within a townhouse or multiple-family building to a period of time not to extend beyond the initial sales period for that phase; to allow the model unit approvals to be valid until project build out. The requested deviation is **DENIED**. The applicant has correctly noted that this deviation has been approved in the past, however, staff has serious concerns about the continuation of such approvals. It is not appropriate to approve the deviation when the regulation currently allow ample opportunity to extend the model unit use. The decision to extend a model use would be extremely premature if granted as part of the conceptual plan stage. Each model use and location should be judged on it own merit at the time an extension if necessary, if in fact it becomes necessary. At this point, the applicant has not proven that a need to extend the model uses exists.

Deviation #7 seeks relief from LDC Section 34-2017(e) which allows director discretion regarding parking lot surfaces, to allow the temporary parking lots that will serve the model homes and ancillary sales offices within the model homes to have a gravel surface. Staff recommends **DENIAL**. Similar to Deviations 5b and 6, this request is being sought prematurely. The applicant has not shown the locations or number of temporary parking lots. Staff has no way to judge the impact that approval of this deviation may have upon the project or the neighboring uses. The regulations allow the developer ample opportunity to amend the zoning to address this issue when details can be provided. No evidence has been provided to demonstrate that approval of this deviation will enhance the development.

Deviation #8 seeks relief from LDC Section 10-292(c) which requires residential developments of more than five acres or any commercial or industrial development of more than ten acres to provide two or more means of ingress or egress for the development, to allow the residential portion of the project that is separated by the railway right-of-way to have one means of ingress and egress. Staff recommends **DENIAL** of this deviation. Development Services recommends denial of the requested deviation. Providing a

connection to Oriole Road will continue the existing local street pattern and will provide continuity for those residents who wish to travel to either Alico Road or Koreshan Blvd. More important, making the connection from Oriole Road to the project will decrease the distance traveled to the site from the San Carlos Fire Station by approximately 3.5 miles. Making the connection will clearly be a benefit to the Estero Golf Residents. Contrary to LDC Section 34-377(a)(4)b., approval of this deviation will not "preserve and promote the general intent of this chapter to protect the public health, safety and welfare." Staff has recommended denial of this deviation in other cases, such as Kristen Woods, case # 2000-00026. (See Attachment J for complete staff comments.)

Deviation #9 was withdrawn by the applicant.

Deviation #10 was withdrawn by the applicant.

Deviation #11 seeks relief from LDC Section 34-2015(2)c, which prohibits the stacking of vehicles in multi-family developments, to allow stacking in multi-family buildings that have a specific garage appurtenant to the structure. Staff recommends **DENIAL** of this deviation. The applicant has not adequately demonstrated that relief from the minimum standard will enhance the development, nor is it demonstrated that the request would be a benefit to the public and not a detriment. The stacking of vehicles may create a sight distance problem while backing a vehicle parked next to the stacked vehicles. The LDC standard has been predetermined to be the minimum safe criteria to benefit the health and safety of the public. The development as presented is large vacant tracts of land. Development Review believes that the site allows adequate area to meet the minimum standard and still have a viable project. (See Attachment J for complete staff comments.)

Deviation #12 seeks relief from LDC Section 10-415(b)(1) which establishes the open space requirements, to allow the adoption of an Open Space Table. Staff recommends **APPROVAL SUBJECT TO COMPLIANCE WITH CONDITION #3**.

Lee Plan Considerations

This project is located within the Lee Plan Urban Community and Suburban future urban land use categories, and Wetlands non urban land use category. Please refer to Attachment B for the Land Use Map and refer to Attachment E for the applicant's Lee Plan discussion. The Urban Community land use category is described as follows:

"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, 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). 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)."

The requested uses, as conditioned, are consistent with the intent of the Urban Community future land use category.

The Suburban category is described as follows:

***POLICY 1.1.5:** The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed.*

The requested uses and intensities, as conditioned, are consistent with the intent of the Suburban future land use category. Staff has included conditions to limit the commercial intensity within the land use category to not exceed the neighborhood center ceiling.

Planning Division staff has reviewed this project and has offered numerous conditions to be included. Planning staff's memo is included in its entirety as Attachment H. Zoning staff has quoted several section of that memo, as noted below:

Planning staff has reviewed the application for the Estero Golf Resort MPD, and offers the following substantive comments.

RESIDENTIAL USES AND DENSITY

The subject property contains approximately 316.7 acres, and it falls within the Suburban and Urban Community land use categories. Approximately 22.6 acres of the total parcel is within the Urban Community category, and the remaining 294.1 acres is within the Suburban category. The Urban Community area is that part of the property that is closest to US 41. Residential use is being proposed on approximately 282.7 acres at a maximum density of 6 dwelling units per acre. Commercial use is being proposed on the remaining 34.0 acres. Planning staff has reviewed the density calculations submitted by the applicant, and is in agreement with the calculations shown on the Master Concept Plan. The maximum possible density for the property is 1,694 dwelling units, however, the applicant has proposed to build only 820 dwelling units. Planning staff agrees with the applicant about the total number of dwelling units that could be permitted on the property, and believes that the proposed density, when properly buffered, is appropriate for the area.

Staff has some concern, however, about the compatibility of the single-family residences to the north with the proposed multi-family buildings on Tract MPD-5 of the subject property. This tract has been designated on the Master Concept Plan as residential. The applicant has indicated that they are willing to limit this tract to multi-family residential use. Staff's concerns are with the density differences of the proposed multi-family use and the single-family residences in The Vines community to the north. The overall density of The Vines is approximately 1.63 dwelling units per acre, while the density of the MPD-5 tract for the subject property would be

approximately 7.41 dwelling units per acre. Lee Plan Policy 5.1.5 requires the protection of existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Policy 6.1.4 states that commercial uses will be approved only when compatible with adjacent existing and proposed land uses. The Master Concept Plan shows a Type B Buffer between the multi-family component of the subject property and The Vines. This is the standard buffer for a multi-family use that is located adjacent to a single-family use. Given the significant difference in density of the two developments, staff recommends that an enhanced buffer be placed between the multi-family component of the subject property and The Vines development to the north. Additionally, staff believes that the applicant should be limited to residential uses in the MPD-5 tract, and the number of units should be limited to no more than 300.

Staff recommends the following conditions be included to address issues of density and compatibility.

- **The number of units in the MPD will not exceed 820. Of these 820 dwelling units, no more than 300 will be constructed within the area designated MPD-5 on the Master Concept Plan.**

Given the possibility that portions of this MPD might be under multiple ownership at some point in the future, there is a potential problem with keeping track of how many units have been developed and how many units remain to be developed. If the MPD is under multiple ownership in the future, there could be confusion between various owners over how many dwelling units each owner has the right to build. There is a simple condition that can be included that would eliminate potential problems with accounting for the project's density over time. This condition would require the developer/owner to submit a running inventory of the number of units that are being developed on the property each time they apply for a development order. Staff recommends that the following condition be included in the approval

- **Each development order application for residential dwelling units anywhere within the development must show a running inventory of the number of dwelling units that have been built, are approved to be built, or are in the development order approval process. This information must be tract-specific for the entire development.**

COMMERCIAL USES

The applicant has proposed 320,000 square feet of commercial uses on the property, which could include any combination of retail and office uses listed on the Master Concept Plan. Most of the commercial uses are being located in the Urban Community portion of the property, but portions of the commercial tracts fall within the Suburban land use category. Lee Plan Policy 1.1.5 prohibits commercial development greater than Neighborhood Centers in the Suburban land use category. Staff generally views a Neighborhood Center as having less than 100,000 square feet of retail uses. In order for this development to be consistent with Policy 1.1.5 of the Lee Plan, retail uses in the Suburban-designated portion of the development must be limited to 100,000 square feet of retail uses. Staff proposes the following condition to address this issue.

- **Retail uses in the area designated by the Lee Plan as Suburban will not exceed 100,000 square feet.**
- **Each development order application that is submitted for commercial uses must**

show a running inventory of the amount of commercial development that has been built, is approved to be built, or is in the development order approval process. This information must be tract-specific and by Future Land Use designation for the commercial portion of this development.

2020 ALLOCATIONS

The subject property is within the San Carlos/Estero Planning Community, and is within the Urban Community and Suburban land use categories. The subject rezoning is proposing residential development on approximately 282.7 acres and commercial development on approximately 34.0 acres. All of the proposed residential development is in the Suburban land use category, while the commercial development is split between Suburban and Urban Community.

Table 1(b) of the Lee Plan allocates 2,963 acres for residential use for the Suburban areas of San Carlos/Estero, of which, 753 acres are still available. The residential portion of the request is, therefore, consistent with the Lee Plan 2020 allocations.

Table 1(b) of the Lee Plan allocates 2,854 acres for commercial uses in the San Carlos/Estero Planning Community, of which 2,477 acres are still available. The commercial portion of the request is also consistent with the Lee Plan 2020 allocations.

GOLF MAINTENANCE FACILITY ISSUES

Planning staff does not agree with the placement of the golf maintenance facility along Koreshan Boulevard. Maintenance facilities usually contain outdoor storage areas, irrigation pumps, and warehouse-type buildings for the storage of chemicals and vehicles. While these facilities are essential to a golf course operation, they sometimes can provide a negative visual appearance to the public. There is also a public safety concern with maintenance areas because of the large amounts of chemicals being stored in these facilities. Maintenance facilities potentially have negative impacts on public safety as well as the appearance of a community. They are essentially small industrial areas within a residential or commercial development. In other words, the development design is externalizing the impacts of its golf maintenance area. Staff believes that the maintenance facility is unnecessarily being located adjacent to a public roadway without adequate visual screening.

The Land Development Code does not directly address golf course maintenance facilities, but the LDC does provide some guidance about the visual appearance of the community.

Sec. 10-600. Purpose and intent.

The purpose of these standards and guidelines is to supplement existing development criteria with specific criteria that apply to the design of commercial buildings and developments. Commercial development depends on high visibility from public streets. In turn, their design of building(s) and site determines much of the image and attractiveness of the streetscapes and character of a community. Massive and/or generic developments that do not contribute to, or integrate with, the community in a positive manner can be detrimental to a community's image, and sense of place. The goal is to create and maintain a positive ambiance and strong community image and identity by providing for architectural and site design treatments that will enhance the visual appearance of commercial development in Lee County, while still providing for

design flexibility. These standards are intended to enhance the quality of life in Lee County.

Sec. 10-610. Site design standards and guidelines for commercial developments.

(c) Buffering and shielding.

(1) Purpose and intent. The purpose and intent of this section is to diminish, the visual impacts outdoor storage and service functions that may detract or have a negative impact on the street scape, landscape and/or the overall community image.

(2) Loading areas and docks (including delivery truck parking), outdoor storage, trash collection, heating/air conditioning and other similar mechanical equipment, solid waste disposal facilities, trash compaction, recycling, and other similar service function areas must be fully shielded from adjacent properties and street rights-of-way when viewed from ground level. The shielding must extend vertically a distance equal to or greater than the items, delivery trucks, or facilities being shielded.

While these sections do not directly address golf maintenance facilities within an RPD, the broad intent of these sections is clear. The intent of Section 10-600, as shown above, is to charge staff with the task of enhancing the visual appearance of development to create a strong community image and identity. Section 10-610 is even more specific to outdoor storage and service functions. This section specifically states that such uses may have a negative impact on streetscape, landscape, and overall community image. It goes on to require such areas to be fully shielded from adjacent properties and street rights-of-way.

Staff is suggesting that, while these LDC sections do not specifically apply to this development, the principles contained in these sections should be considered in this case. It is a fundamental planning principle that development should be designed in such a way as to provide a positive visual appearance for the public. It is also acknowledged by the LDC that outdoor storage and service functions have a negative impact on the streetscape and the overall community image. A golf course maintenance facility contains outdoor storage areas, service areas, and loading/unloading areas, all of which are considered by the LDC to be elements of commercial development subject to the design standards of the LDC. If these areas were within a commercial development, they would be required to be shielded from public view, but since they are within a residential component of an MPD, the requirements do not apply. Staff believes, however, that since the golf maintenance facility contains several of the elements that are required by the LDC to be shielded from public view, then some consideration should be given to requiring the maintenance facility within this project to also be shielded from public view as stated in LDC Section 10-610. Staff recommends that this be accomplished by locating the maintenance facility internal to the project.

LDC Section 34-411 outlines general design standards for all planned developments.

Sec. 34-411. General standards.

(i) Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.

(n) Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is

intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.

Section 34-411(i) states that a planned development site must be designed to minimize negative impacts on surrounding land uses. This planned development has been designed to place the golf maintenance facility along Koreshan Boulevard. This does not meet the intent of Section 34-411(i) because the maintenance facility presents negative visual and safety impacts to the public, and these impacts are being maximized by the chosen location of the maintenance facility adjacent to the public roadway. Staff believes the design of the project, with respect to the location of the maintenance facility, is inconsistent with Section 34-411(i).

Section 34-411(n) requires that the density and intensity within a planned development should vary in such a way as to prevent the location of intense or obnoxious uses away from incompatible land uses at the project's perimeter. The intent of this section is to require planned developments to internalize their heaviest impacts, rather than pushing them toward the edges of the development. The maintenance area is one of the most intense impacts associated with this development, and according to Section 34-411(n), it should be located away from the project's perimeter. Its location adjacent to the project boundary is inconsistent with the intent of Section 34-411(n).

LDC Section 34-612(2) outlines the purpose and intent of the various planned development districts.

Sec. 34-612. Types and general purpose of districts.....

(2) PD, planned development districts. The purpose and intent of the various planned development districts is to further implement the goals, objectives and policies of the Lee Plan while providing some degree of flexibility in planning and designing developments by:

b. Stimulating, where appropriate, the integration of new development with surrounding land uses, providing for consistency and visual harmony through various techniques, including screening and buffering, sign control, architectural controls and landscape design;

d. Promoting improved and unifying design techniques that reduce dependence on vehicular movement within the development, encourage the use of joint parking and loading facilities, provide for joint access, and generally maintain adequate service and facilities while avoiding negative impacts on surrounding land use and traffic circulation;

Section 34-612(2)d. states that one of the purposes of planned developments is to provide for joint access and to maintain adequate services and facilities while avoiding negative impacts on surrounding land use and traffic circulation. The maintenance area has a separate access point approximately 700 feet from a main residential access point along Koreshan Boulevard. If the maintenance facility were moved to a different, more internal location, then it could use the main residential access point, eliminating the need for the additional access point along Koreshan. The proposed access point for the maintenance facility is proposed to be right in/right out. Any

vehicles making deliveries to the maintenance facility that are coming from US 41 to the west, will have to make a u-turn in order to access the maintenance facility. This could have a negative impact on traffic circulation, which is inconsistent with the intent of LDC Section 34-612(2)d. The proposed location of the maintenance facility and its access point do not seem to meet the intent of the LDC in regard to the purpose of planned development zoning.

Lee County DOT has additional concerns with the proposed right in/right out access to the maintenance facility off of Koreshan Boulevard. Their concern is that the maintenance facility will generate trips on a public roadway that are usually internal to the project (tractors and lawnmowers, etc.). Residents of golf course communities sometimes object to the slow moving maintenance vehicles using the internal residential streets to access remote portions of the golf course. In response to these objections, the maintenance vehicles have to use the main entrance roads to gain access to the golf course. As the project is now designed, these same slow moving vehicles would have to use Koreshan Boulevard to get access to the main entrance road of the project. In the opinion of Lee County DOT, introducing these slow moving vehicles on Koreshan Boulevard, an arterial roadway, will cause negative safety impacts for the traveling public. DOT has recommended denial of the proposed right in/right out access point for the maintenance facility.

Planning staff supports the concerns of DOT in regard to the access point for the maintenance facility. Koreshan Boulevard is an arterial roadway with a primary function of carrying large volumes of traffic between major activity centers. LDC Section 10-1(b) defines an arterial street as follows.

(3) *The following definitions distinguish and rank streets according to their different functional classifications:*

a. *Street, arterial means streets primarily intended to carry large volumes of through traffic connecting major activity centers to other major traffic generators. Access to abutting properties is a secondary function.*

The LDC clearly states that access to abutting properties is a secondary function of arterial roadways. Planning staff does not support the proposed right in/right out access point for the maintenance facility on Koreshan Boulevard because it would be contrary to the LDC definition of an arterial roadway. It would negatively impact the ability of Koreshan Boulevard to carry large volumes of traffic between major activity centers. Staff believes that the maintenance facility should be relocated to the Club/Recreation Tract, thereby internalizing the impacts of the facility.

Staff proposes the following condition be included to address the location and/or design of the golf maintenance facility.

- **The existing Residential/Maintenance Tract MPD-7 is approved for residential use only, and direct access to Koreshan Boulevard from this tract is prohibited. The maintenance facility must be relocated to the interior, Club/Recreation Tract MPD 10.**

GOLF COURSE PERFORMANCE STANDARDS

The stormwater runoff for the subject property will ultimately outfall to Estero Bay, which is

LAND USE SUMMARY

Land Use	Acres	Units/Sq. Ft.
Commercial Tracts	32.00ac*	320,000 sq ft**
Office Tract	1.06ac*	20,000 sq ft
Residential & Club/Rec Tracts	280.54ac*	820 units ***
TOTAL	314.60ac	

* Acreage includes water management, roadways and open space for the use.
 ** The developer retains the option of converting retail acreage to office at a ratio of 4 acres of commercial use : 3 acres of office use.

MASTER CONCEPT PLAN NOTES

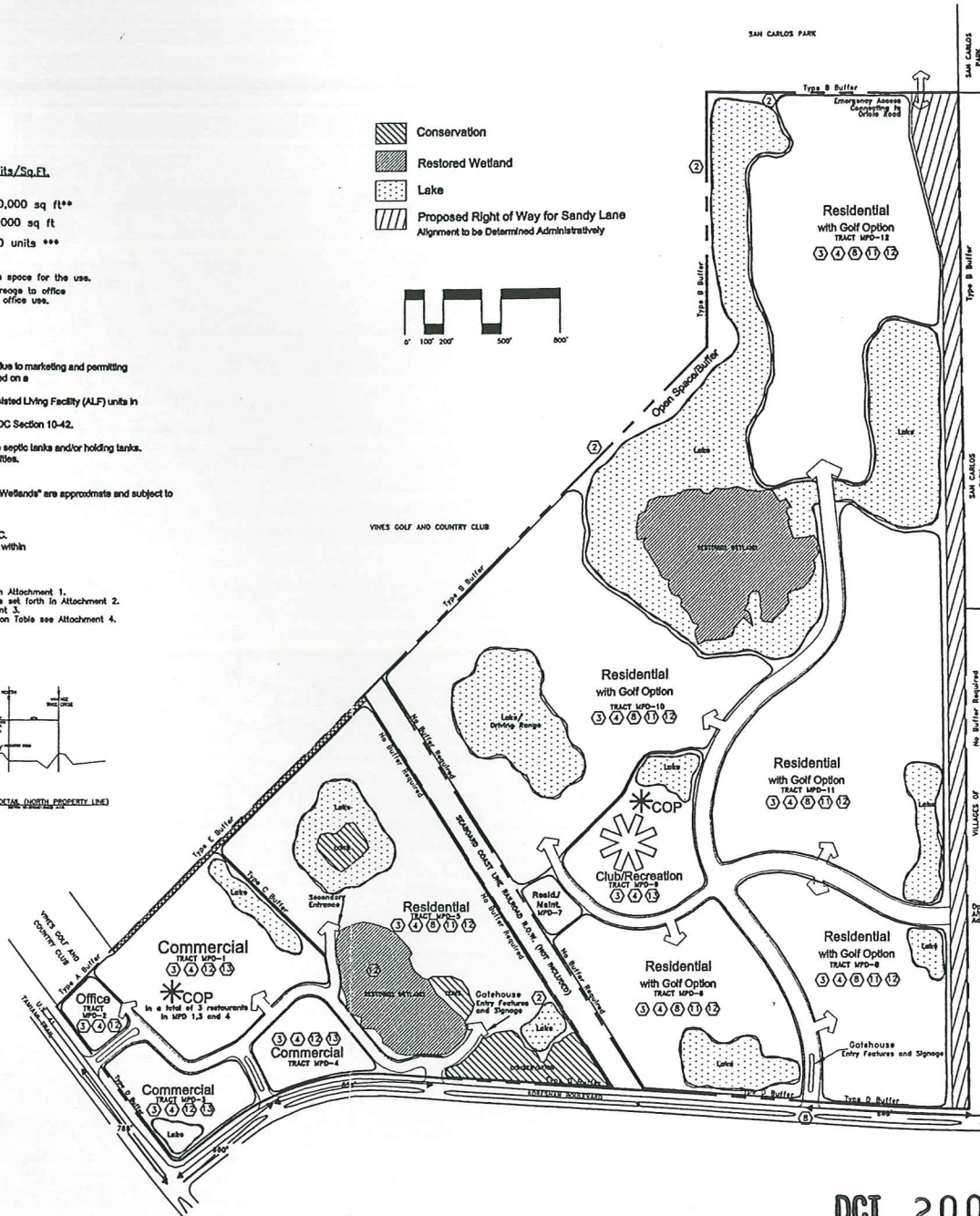
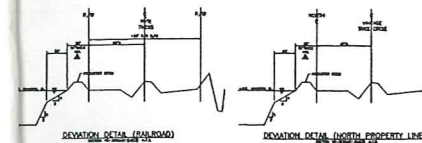
1. WITHDRAWN
2. The residential unit mix is preliminary and subject to change due to marketing and permitting considerations. Single and multi-family units may be converted on a 1:1 ratio.
3. Multi-family units may be converted to a maximum of 100 Assisted Living Facility (ALF) units in accordance with LDC Section 34-1494.
4. Access to public transit will be provided in accordance with LDC Section 10-42.
5. Private covenants have not been developed for the project.
6. Temporary administration offices and sales offices may utilize septic tanks and/or holding tanks. Permanent septic tanks may be used for golf course rest facilities.
7. There are no structures on site.
8. This property will be developed in one phase.
9. The configuration of the "Conservation" areas and "Restored Wetlands" are approximate and subject to modification by the review agencies.

PARKING

Estero Golf Resort will meet the parking requirements of the LDC. Parking will be calculated based on the specific uses developed within this project.

NOTES

1. Permitted Land Uses for Estero Golf Resort are set forth in Attachment 1.
2. Property Development Regulations for Estero Golf Resort are set forth in Attachment 2.
3. Deviations for Estero Golf Resort are set forth in Attachment 3.
4. For Estero Golf Resort Open Space and Indigenous Vegetation Table see Attachment 4.



Survey and site information provided by:
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ESTERO GOLF RESORT Master Concept Plan

Exhibit F

APPROVED
 Master Concept
 Site Plan 01-01/ Of 1
 Subject to conditions of Resolution 2-01-012
 Zoning Case 1000-00032

DCI 2000-00032

Date: 02/18/2001
 Rev: 03/19/2001
 Rev: 03/29/2001
 Rev: 05/08/2001

SEC 21 TWP 48 RCE 22E



Scale: 1" = 300'

Sheet 1 of 1

Florida's first state aquatic preserve. All state aquatic preserves are also designated Outstanding Florida Waters by the Florida Department of Environmental Protection (DEP). DEP cannot issue permits for direct pollutant discharges to Outstanding Florida Waters which would lower ambient water quality, or indirect discharges which would significantly degrade the Outstanding Florida Water. Given the protection provided to Estero Bay by the State, staff believes that some general golf course performance standards should be implemented for this development in order to reduce any indirect discharges that would degrade the quality of the aquatic preserve.

ZONING STAFF GOLF COURSE USE CONCERNS

A golf course is being proposed for the site. The proposed golf course and maintenance facility should be operated in an environmentally conscious manner. Staff cites the Hawks Haven case as an example of how Lee County has regulated a request for a golf course. Staff requests that the Hearing Examiner take judicial notice of the following Lee Plan provisions: Policy 32.1.10, Goal 37 and its subsequent provisions, Goal 38, Goal 39, Objective 39.3, Policy 39.3.1, Policies 39.3.6, 39.3.10, and 39.3.11, Policy 85.1.2, Policy 85.1.4, Goal 87, and Objective 87.1.

Golf course uses and water quality and quantity have been the topic of extensive debate recently in Lee County. Staff believes that golf course development potentially could result in adverse impacts on groundwater quality, surface water quality, protected species, and drainage flow ways. An effective "Integrated Pest Management" (IPM) program has the potential to reduce pesticide use and groundwater contamination at a golf course. An effective IPM program for a golf course consists of three parts; prevention, monitoring, and control.

The development should incorporate Best Management Practices for the golf course maintenance areas. A multi-faceted condition has been included that requires the developer/operator to comply with the Best Management Practices for Golf Course Maintenance Departments, prepared by the Florida Department of Environmental Protection, May 1995.

There are 8 active and 12 inactive gopher tortoise burrows located on this site. Additionally, four possible Big Cypress fox squirrel nests were located, although no fox squirrels were observed. ES staff observed eight wood storks along the southwestern edge of the large wetland to be restored in the eastern portion of the site. Pesticides may limit or contaminate food used in the food chain for the animals and birds, therefore it is imperative that conditions be included to help reduce the negative impacts of the golf course on the environment.

Planning and zoning staff coordinated to formulate condition #10 to address concerns about the golf course and its impact on water quality.

This request, as conditioned, is consistent with the densities, intensities, and general uses as set forth in the Lee Plan.

Neighborhood Compatibility

The property to the west is developed as a PUD zoned golf course community known as The Vines. The Vines is developed at a density of slightly less than 4 units per acre (upa) if the golf course is subtracted from the acreage, and a gross density of 1.63 upa if the golf course

is included. The Vines was approved in 1982 when there was little development in this area of the county. Because of that, the project was required to internalized its impacts, i.e., construct the more intense multi-family units near the center of the project, and place the less intense units along the project perimeter. The lots nearest the boundary that is shared with the subject project are developed with single family homes. In the area of Tract MPD 5, The Vines is developed with one story homes. North of the railroad tracks, there is a mixture of one and two story homes. The Vines has provided a row of trees, a berm and a fence along the shared property line.

To the north and east are lots within San Carlos Park subdivision which are zoned TFC-2 and developed with a mixture of single- and two- family homes. Also to the east is the undeveloped MPD project known as Villages of Bernwood. Villages of Bernwood is a 154 acre mixed use project approved for 613 dwelling units and 140,000 square feet of retail commercial uses. More importantly, the county is proposing that a collector roadway will be accommodated along the entire eastern boundary of the subject site.

To the south is Koreshan Boulevard and then undeveloped CC zoned property, the CPD zoned broadcast tower and studio, and RV-3, the Cypress Bend RV Park. The proposed rezoning should not have a negative compatibility impact upon lands across Koreshan Boulevard.

To address the potential incompatibility between the PUD and TFC uses, the MCP proposes to limit building heights to 35 feet for anything constructed within 200 feet of a perimeter property line of The Vines or San Carlos Park. The developer has not proposed to limit the number of stories, however. Staff believes that the limitation should be further refined to make the proposed Tract MPD 5 compatible with the one-story single family homes that have been constructed on Lots 1 through 9 in The Vines. Staff therefore recommends that structures within Tract 5 be further limited to a one story height for a distance of 100 feet and then a two story height for the next 100 feet.

The MCP proposes a Type B buffer along the boundary of MPD 5. Staff believes that this buffer is inadequate, as there is a sizable increasing in the density proposed for this tract and what is developed in The Vines (See Planning Division comments). Staff believes that a Type E buffer should be provided to offset the density differences. In conjunction with the buffering that exists within The Vines and the Type E buffer that is recommended by staff for Tract MPD 5 (and the Type E buffer that is proposed for Tract MPD 1), this project will be compatible with the surrounding area, if staff's other conditions are adopted.

Irrigation wells, drainage and run off issues are addressed more completely later in the development process by other reviewing agencies outside of Lee County's jurisdiction. Staff however, has included conditions to address these issues as part of the review of the golf course.

Environmental Sciences staff has reviewed this project's impact upon listed species, as well as the indigenous open space areas that provide habitat for the listed species and many other non-threatened/endangered species. Numerous conditions have been included to require management plans for the species.

LDC Sections 34-936(g) and 10-610 address the lighting issue. Lee County regulations were recently adopted to include closer scrutiny as follows:

Lighting of the exterior and parking areas of the planned development uses shall be of the lowest intensity and energy use adequate for its purpose, and shall not create conditions of glare outside the area designated for commercial uses.

In addition, because there is a potential to have light fixtures in proximity to the Vines and San Carlos Park residential uses, staff has included a condition to require the project to be more sensitive to the compatibility issue by lower the light pole height, and limiting the number of lights to the minimum required to meet public safety concerns. Staff has included this condition to avoid the "car lot" lighting look.

Staff believes that the conditions included by staff address the neighborhood's concerns.

Environmental Issues

The Division of Planning/Environmental Sciences (ES) staff has reviewed the above referenced project and conducted site inspections on June 27th and October 24th, 2000. The following are ES staff comments and recommended conditions (See attachment C for a copy of the 1/24/01 memo:

Vegetation:

A Florida Land Use and Cover Classification System (FLUCCS) map was compiled by Passarella and Associates, Inc. The majority of the site (292.5 acres) consists of previously disturbed lands and pasture lands. Much of the property is infested with melaleuca and Brazilian pepper. The western portion of the property burned a few years ago, and subsequently melaleuca has sprouted throughout this section of the parcel. Therefore, the existing indigenous vegetation communities are stressed by competition with invasive exotic vegetation. The 22.1 acres of existing indigenous areas include palmetto prairie (FLUCCS 3219; 21.7 acres) and disturbed cypress wetland (FLUCCS 6219; 0.4 acres).

Open Space & Deviation 12:

The Lee County Land Development Code (LDC) Section 10-415(a) requires large commercial projects to provide 30% open space and large residential projects to provide 40% open space. Planned developments may allocate the open space to individual tracts provided the overall required open space is met and a minimum of 10% open space is provided within each tract per LDC Section 10-414(c). Residential planned developments must provide a minimum of 30% common open space with the remaining 10% open space being allocated as private open space to individual dwelling units having immediate private ground floor access per LDC Section 10-935(g)(1)(a). ES staff recommend the following condition to confirm open space requirements:

Prior to local development order approval, open space must be provided as stated in the Open Space and Indigenous Vegetation table on the approved Master Concept Plan. Each tract must provide a minimum of 10% open space.

Deviation 12 is a request to deviate from LDC Section 10-415(b) requiring fifty percent of the required open space to be provided by existing indigenous vegetation communities to allow 6.36 acres of the indigenous preserve requirement to be met by restored wetlands. Passarella and Associates confirmed the wetland restoration will be a combination of marsh and hardwood

wetlands.

The applicant justifies this request by indicating that incorporating the restored wetlands into the site plans was a significant change in response to other review agencies, and that it in essence creates a financial hardship. Therefore, the applicant is asking the county to allow the restored wetlands to count toward the indigenous preservation requirement.

LDC Section 34-412(a) allows the granting of a deviation when it can be demonstrated that the planned development will be enhanced and that the intent of such regulations to protect health, safety and welfare will be served. The proposed indigenous preserves consist of 6.84 acres of existing upland palmetto prairie and 6.36 acres restored wetlands. The connection of the two upland preserves in the southeast corner of MPD tract-5 and the bridging of the entry road would result in a contiguous preserve providing a larger gopher tortoise habitat area. The bridging will also reduce the number of animals crossing the road between the preserves, and thus decrease safety hazards between vehicles and wildlife.

As noted by ES staff, the existing indigenous vegetation communities on this property are invaded with melaleuca. The highest quality uplands (6.84 acres) are proposed to be preserved. Additionally, the restoration of the wetlands will provide wood stork and wading bird habitat. The wetland restoration will be incorporated into the surface water management system. Large cypress will be retained during the restoration.

Economic hardships cannot be the basis for granting a deviation. However, the proposed indigenous deviation as conditioned by staff does enhance the proposed project by:

- ▶ providing a diversity of habitat; and
- ▶ retaining the higher quality existing indigenous upland habitat; and
- ▶ retaining large cypress; and
- ▶ integrating the restored wetlands into the surface water management system; and
- ▶ creating a larger contiguous preserve in MPD tract-5; and
- ▶ providing visual relief; and
- ▶ providing a buffer between the commercial and residential components of the project.

ES staff recommend APPROVAL of Deviation 12 with the following conditions:

Prior to local development order approval, the development order plans must show an upland preserve connection between the conservation area in the southeast corner of MPD Tract-5 and the upland conservation area on the eastern side of the restored wetland. Details of a roadway or bridge meeting Category B street standards with closed drainage that accommodates wildlife passage under the entrance roadway to MPD Tract -5 must be included on the development order plans for Lee County staff review and approval.

Prior to local development order approval, a detailed wetland restoration plan must be submitted for the Division of Planning / Environmental Sciences staff review and approval. The wetland restoration plan and/or the Land Development Code (LDC) required littoral zones must be designed to provide foraging area for wood storks.

Protected Species Survey:

A protected species survey meeting the requirements of LDC Section 10-473 was conducted by

Passarella and Associates, Inc. The ecologists located 8 active and 12 inactive gopher tortoise burrows. Additionally, four possible Big Cypress fox squirrel nests were located, but no fox squirrels were observed. ES staff field verified the protected species survey during their June and October site inspections. The results of the survey were confirmed. Additionally, ES staff observed eight wood storks along the southwestern edge of the large wetland to be restored in the eastern portion of the site. ES staff recommend the following condition to confirm if Big Cypress fox squirrels are nesting on this parcel:

Prior to local Development Order approval, the potential Big Cypress fox squirrel nests on site must be re-surveyed specifically for fox squirrel presence. The protected species survey must be prepared per LDC Section 10-473 and submitted to the Division of Planning, Environmental Sciences for review and approval. If fox squirrel use of the site is verified, final management details per LDC Section 10-474 must be submitted including a phased exotic removal plan.

Gopher Tortoise Management Plan:

A preliminary gopher tortoise management plan is proposed on page 14 of the “Estero Golf Resort Lee County Protected Species Survey and Management Plan” prepared by Passarella and Associates, Inc. dated June 2000. The plan commits to submitting a detailed gopher tortoise management plan as part of the local development order process. The applicant intends to obtain an incidental take permit from the Florida Fish and Wildlife Conservation Commission, excavate the burrows, and move the tortoises out of harms way into the upland indigenous preserves. ES staff recommend the following conditions to confirm the gopher tortoise management plan requirements:

Prior to local development order approval, a detailed gopher tortoise management plan must be submitted for the Division of Planning / Environmental Sciences staff review and approval.

Prior to any site work, a Vegetation Removal Permit must be obtained to install barricading of preserves and conduct excavation of tortoise burrows to move the gopher tortoises within the development tracts.

Condition Discussion

Staff is recommending several conditions to accompany the recommendation of approval. These conditions are explained below.

Condition #1 identifies the MCP that will govern development of the project.

Condition #2 is the list of uses that staff beliefs are appropriate for the subject property, taking into consideration the land use categories of the subject property, the project's location at the intersection of two arterial roadways, and compatibility concerns and the ambiguity of a bubble plan concept. Staff has limited some uses to certain portions of the site, using notes A and B, and staff has eliminated other uses, due to concerns about the unknown impacts that could be generated from the uses.

Condition #3 addresses environmental issues.

Condition #4 addresses the golf driving range and the possible negative impacts that the lighting for that use could have on potential nearby residential uses. Again, due to the bubble plan's use, staff cannot determine exactly what the impacts might be, so a condition has been recommended that hopefully will adequately address the worst-case situation.

Condition #5 will track the development as it progresses to make certain the approved parameters are not exceeded.

Condition #6 provides the road right-of-way that is determined to be necessary for the planned northerly extension of Sandy Lane (See Transportation Discussion).

Condition #7 allows for the continued agricultural uses on the site but recognizes that the land has been rezoned to allow other uses.

Condition #8 recognizes that the excavation use approved on site is for on-site water management uses only. No mining can occur as part of the excavation. Mining operations have different standards that must be met.

Condition #9 addresses model home, model units and model display center uses. It is imperative to maintain the current standards for these uses. Absent these conditions, it is conceivable that development orders could be sought to allow premature sale of homes that are represented as models, but are in fact, units that have been sold to private individuals, thus circumventing the platting regulations that have been put in place to protect the public safety.

Condition #10 provides conditions for the golf course use, ensuring that the most current "best management practices" will be incorporated for this use, to prevent adverse impacts on groundwater quality, surface water quality, protected species, and drainage flow ways resulting from the golf course. These conditions were adopted in the Hawks Haven RPD project that was recently approved by the Board.

Condition #11 requires an interconnection to Oriole Road. Access to Oriole Road would provide emergency vehicles an alternative access into the project if an emergency were to require it. Staff has conferred with fire officials and has determined that in the interest of public safety, it is appropriate to require this project to interconnect to Oriole Road (please refer to Attachment I for the full report from the fire district official). Because the subject property is bisected by the railroad tracks, staff is concerned about the safety of the units that are proposed in Tracts 6-12. Tract 5 is limited to a maximum of 300 units, and a total of 820 units is proposed. Without an interconnection to Oriole Road, a maximum of 520 units could be isolated from emergency services if the railroad tracks or the single access point into Tracts 6-12 onto Koreshan Boulevard is blocked.

The Vines faced a similar situation as that project is also bisected by the railroad tracks and only proposed a single access point onto one road, US 41. The Vines therefore was required to provide an emergency access onto Matanzas Road, which connects to Oriole Road. Staff's recommendation is based upon LDC Section 10-291 which states:

- (3) Where practical, any residential development of more than five acres or any commercial or industrial development of more than ten acres must provide two or more means of ingress or egress for the development. Additional access points may be needed for continuation of an existing street pattern, to provide access to adjoining

properties, or where additional access is needed to provide alternate access for emergency services. Where feasible, these alternate access points should not be onto the same roadway.

Condition #12 reiterates the increased setbacks and building separation distances that are required by code for any buildings that exceed 35 feet in height.

Condition #13 addresses the possible negative impacts that the lighting could have on potential nearby residential uses. Again, due to the bubble plan's use, staff cannot determine exactly what the impacts might be, so a condition has been recommended that hopefully will adequately address the worst-case situation.

Condition #14 notes that this rezoning approval does not necessarily address the auto and pedestrian impacts, and further, the condition puts all on notice that Lee County has no jurisdiction over access onto US 41. If this request is approved, there is no guarantee that access to US41 as shown will be approved by the governing body that has control over that roadway. The MCP may need to be amended if changes are required by the state for US 41 access.

Condition #15 puts all on notice that although this project was reviewed for consistency with the overall Lee Plan as part of the re-zoning review, the final determination about Lee Plan consistency will be made as development orders are sought.

Condition #16 addresses the potential negative impacts from Auto Parts Store uses, as the use has occurred in Lee County in the past. This condition has been adopted by the Board in numerous other rezoning requests where this use was sought.

Condition #17 puts all on notice that this project must comply with the architectural requirements of the LDC. With the adoption of this regulation, staff is reasonably assured that the proposed uses, with the limitations set forth in other conditions, will be compatible with the neighborhood, since the buildings would have to "provide visual interest" and "reduce the mass/scale and uniform monolithic appearance of unadorned walls" to be in compliance with the regulations.

Condition #18 addresses the potential incompatibility of this project's more dense Tract 5 as it will align with The Vines, the project that abuts the tract's boundary. Staff believes the height limitation along the with increased buffer will adequately address the potential negative impacts.

Condition #19 ties into the previous conditions requiring the development to provide "running totals" of the developed. This project proposes the maximum amount of development possible while still maintaining a non-DRI status. The project was not reviewed as a DRI, and cannot exceed the DRI threshold.

Condition #20 addresses potential incompatibility within the project. Since this project utilizes a bubble plan, it is virtually impossible to ascertain the potential conflicts between uses. However the applicant has agreed to limit the uses on Tract 5 to residential uses. Staff has recommended conditions to require additional buffering, height restrictions and limits in the uses that could have an impact upon residential uses outside the project. Those conditions were not imposed upon the interior portions of the project because staff believed that the proposed lake would help separate uses. However, staff is reluctant to rely upon the lake

location as depicted without a specific condition to require it. Lake locations are often shifted as water management needs are refined. LDC Section 34-411(m) requires the project to be "internally compatible" as well, as shown in the quotation below:

"In order to enhance the viability and value of the resulting development, the designer shall ensure the internal buffering and separation of potentially conflicting uses within the planned development." [underlining added for emphasis]

Staff believes that with the Buffer Type C proposed by the applicant and staff's condition regarding the lake in Tract 1, the commercial uses within Tract 1 will be more compatible with the residential uses in Tract 5.

Condition #21 addresses staff's concerns about the placement of the maintenance facility. Both Planning and DOT have raised concerns about the location of this use. Zoning staff maintains that since the maintenance facility is the most intense aspect of a golf course community and has the potential to have the most negative impacts on the traveling public if placed along the road. Staff believes the use should be internalized, as required in LDC Section 34-411 which establishes the design standards to be used in planned development projects. §34-411(c), states:

"The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally. . ."

And LDC Section 34-411(i) states:

"Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses."

LDC Section 34-411(n) states:

"Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter. . ."

Staff believes that the conditions recommended for this project are in conformity with the Design Standard guidelines set forth in LDC Section 34-411(f) which states:

"Development and subsequent use of the planned development shall not create or increase hazards to persons or property, whether on or off the site, by increasing the probability or degree of flood, erosion or other danger, nor shall it impose a nuisance on surrounding land uses or the public's interest generally through emissions of noise, glare, dust, odor, air or water pollutants."

Transportation

The Department of Transportation has reviewed the information submitted for the above referenced project and has the following comments (see Attachment F for a copy of DOT's memo):

The Department of Transportation has reviewed the information submitted for the above referenced project and has the following comments:

The proposed project is located on a parcel of land just south of the San Carlos Park Subdivision and North of Koreshan Boulevard. The Department of Transportation has concerns with the proposed right-in/right-out access to the maintenance facility off Koreshan Boulevard. The maintenance facility will generate trips that are usually internal to the project (tractors and lawnmowers) from the maintenance facility. Problems arise when the residents of the development object to the maintenance vehicles using the internal residential streets to access remote portions of the golf course. The slow moving trips are then required to use the main entrance road to gain access to the golf course. However, these vehicles must use Koreshan Boulevard to gain access to the main entrance road. Introducing these slow moving vehicles to Koreshan Boulevard will cause health, safety and welfare concerns to the traveling public. Therefore, DOT does not recommend approval of the proposed right-in/right-out access point that serves the maintenance facility. DOT recommends that the maintenance facility have access to the internal roadway system only.

The Official Traffic Ways Map shows 100-feet of right-of-way for the Oriole Road/Sandy Lane Extension (Sandy Lane). The Sandy Lane alignment shown on the Lee County Official Trafficways Map would follow along the eastern boundary of the Estero Golf Resort project and the western boundary of San Carlos Park Unit 19 and the newly approved Bernwood Villages Development. The alignment would line up with the existing Oriole Road at the end of San Carlos Park and would tie into an existing median opening on Koreshan Boulevard. It will extend south from the existing median opening through the Indigo Isles (new development south of Koreshan Boulevard) and continue down until it ties in with Old 41.

Sandy Lane was shown on the original Trafficways Map prepared in 1985. It has been included in every subsequent revision, the last revision in 1991. DOT is in the process of reviewing and updating the Trafficways Map at this time. Sandy Lane will be reflected in the updated map as well. Moreover, Sandy Lane has been included in the Lee County Metropolitan Planning Organization (MPO) 2020 plan since 1995. It is also included in the current MPO 2010 Financially Feasible Plan.

Sandy Lane is a 2-lane collector that as shown on the MPO plan will connect to Old 41 (near the US 41 intersection) and run north to Alico Road. Sandy Lane will provide San Carlos Park and Estero Golf Resort residents a north/south alternative to Three Oaks Parkway and US 41, I-75. It also provides the residents of San Carlos Park an alternative means of accessing Alico Road and Koreshan Blvd without having to cross the existing railroad tracks. Sandy Lane will function as a necessary reliever keeping local trips off the other arterial roadways, thereby preserving the capacity of those roads. Development pressures in South Lee County highlight the need to address the extension of Sandy Lane in a proactive manner with a view toward 'smart growth'. There are no other alternatives for a north/south collector west of I-75 that would not involve the taking of existing structures.

Because Sandy Lane extension is a crucial component of the overall roadway network, the

Department of Transportation recommends that right-of-way be obtained at this time. The recommended set aside right-of-way width will consist of 80 feet along the eastern boundary of the property and approximately 200 feet wide for 700 feet at the northeast corner to accommodate the reverse curve. Therefore, DOT recommends the following condition be placed on the zoning approval:

- 1) The Master Concept Plan must be revised to reflect the planned extension of Sandy Lane along the eastern boundary of the site, consistent with the sketch set forth in the attached Exhibit. Lee County will compensate the property owner for the reservation of this property in accordance with the regulations set forth in Chapter 2 of the LDC.

Development Services staff has reviewed the Level of Service for the roadways and provides the following analysis (See Attachment J):

The proposed development consists of 320,000 square feet of retail, 20,000 square feet of office, a 150 room hotel, and 820 single family homes. The project is expected to generate 17,270 new trips per day, with 865 occurring in the AM peak hour and 1,625 occurring in the PM peak hour.

Based on the 1999 Traffic Count Report issued by Lee County Department of Transportation the 2005 peak hour, peak season, peak direction volume of flow on U.S.41 south of Koreshan Blvd. is 1,851 vehicles per hour, on U.S.41 north of Koreshan Blvd. is 1,658 vehicles per hour, and on Koreshan Blvd. is 240 vehicles per hour. At these volumes the roadway links will operate at level of service C, C, and A, respectively. When the peak hour, peak direction project traffic is added to the 2005 background the roadway links will operate at level of service D, C, and A, respectively.

Based on the Concurrency Management Inventory and Projections for 1999/2000 - 2000/2001, U.S.41(link #266) from Corkscrew Rd. to Sanibel Blvd., as of September 07, 2000 has an existing level of service C (2,164 vph), and is forecast to go to level of service F (2,993 vph). The level of service E capacity is 2,270 vph. Koreshan Blvd.(link #122) has an existing level of service A (128 vph), and is forecast to remain at level of service A (128 vph). [Note: This segment of U.S.41 is funded for Preliminary Engineering(design) for widening to 6 lanes in FY 2004/05.]

Lee Plan Objective 2.2. states:

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)) shall 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.

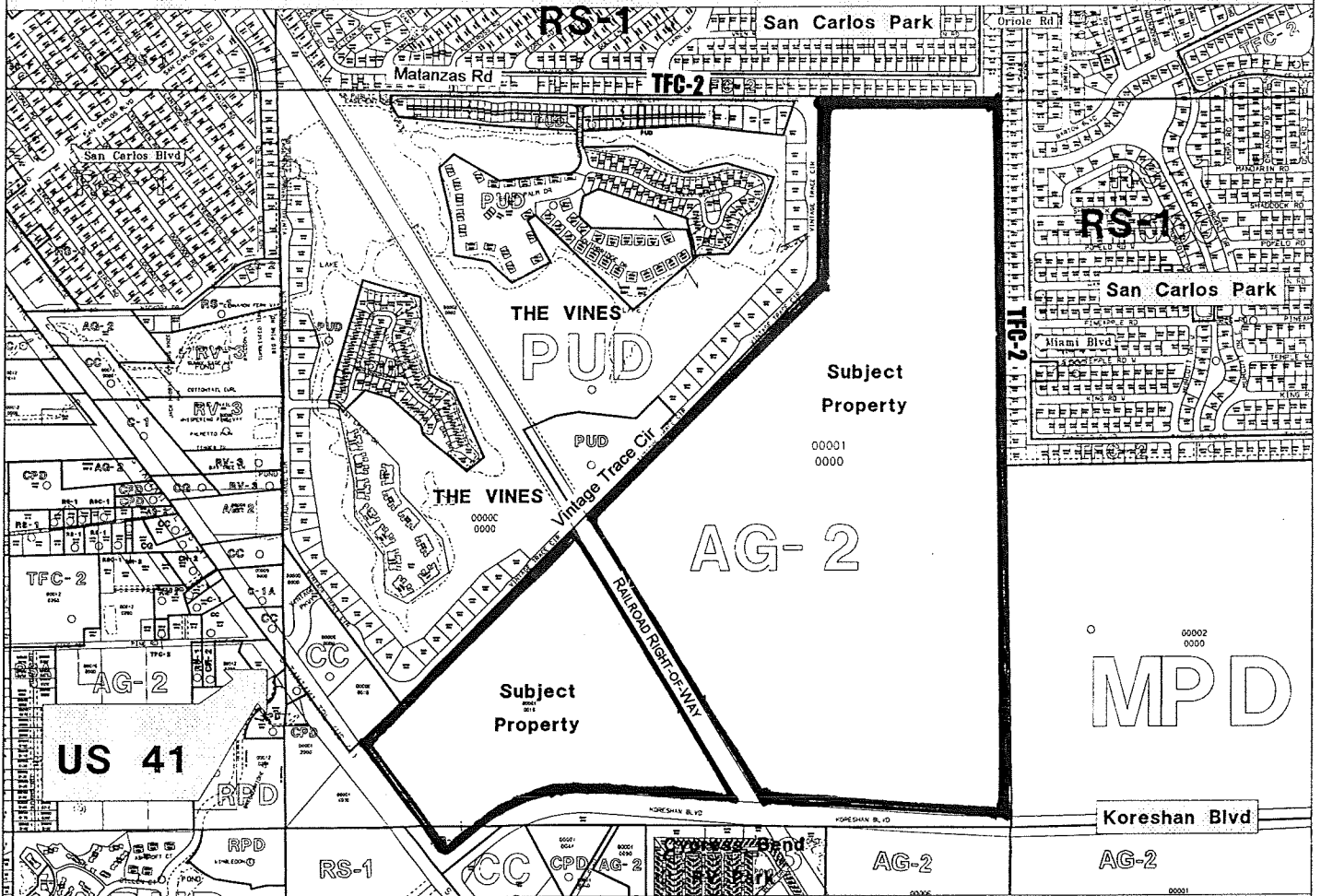
Condition #14 addresses the traffic mitigation and concurrency issues.

IV. **ATTACHMENTS:**

- A. Map of surrounding zoning
- B. Map showing Lee Plan land use categories
- C. Memo from Environmental Sciences, dated 1/24/01
- D. Rationale for the deviations
- E. Applicant's phasing plan, description of development and Lee Plan consistency discussion
- F. Memo from DOT, dated 2/16/01
- G. Staff's property development regulations
- H. Memo from Planning Division, dated 2/19/01
- I. Letter (via e-mail) from Thomas M. Beard, Fire Inspector-San Carlos Park Fire District
- J. Memos from Development Review Staff; dated 1/25/01, 2/15/01 and 2/21/01

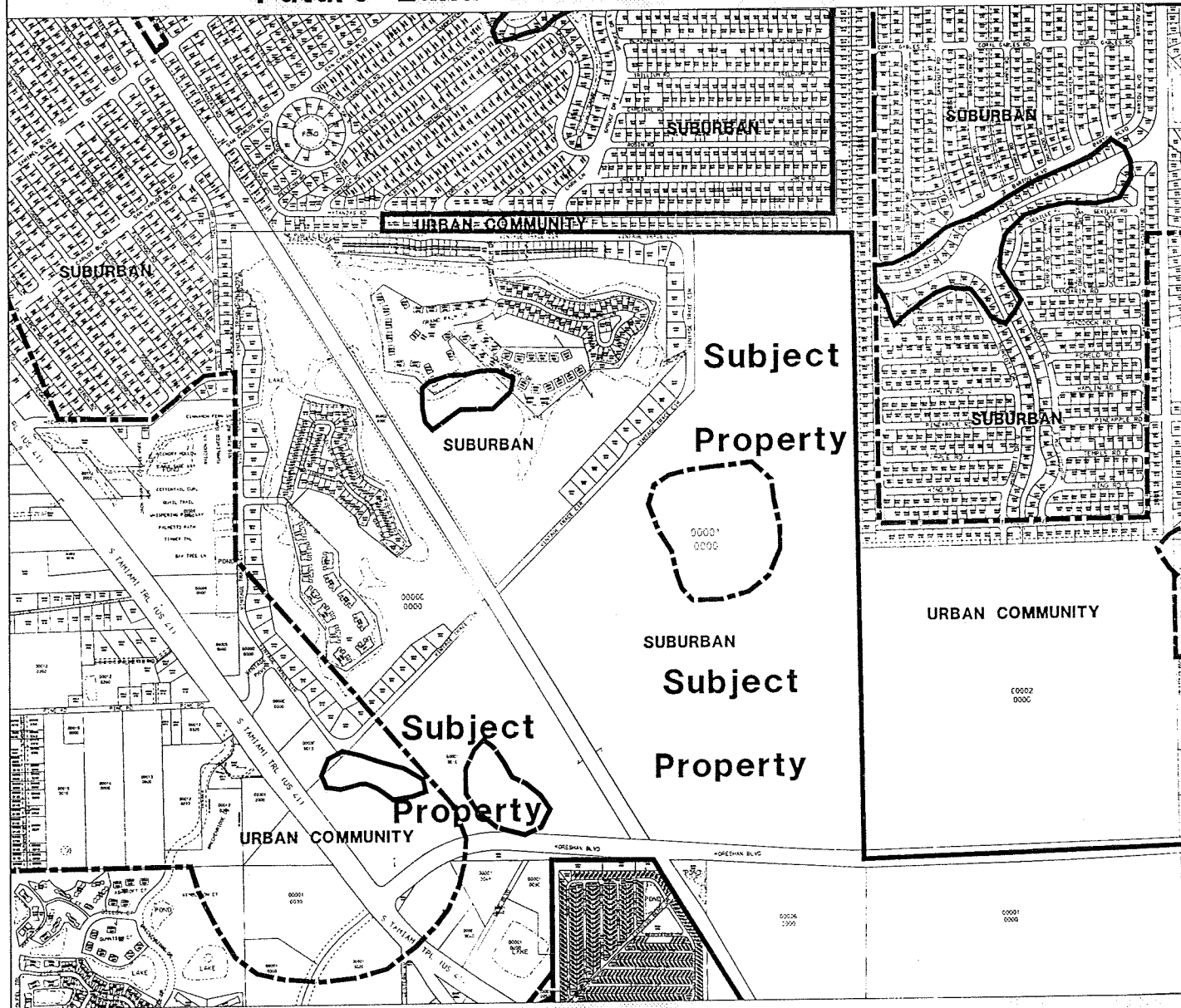
cc: Applicant
County Attorney
Zoning/DCI File

Zoning Map



Attachment A

Future Land Use Classification Map



Attachment B

**STAFF REPORT
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF PLANNING: ENVIRONMENTAL SCIENCES**

Date: January 24, 2001

To: Kay Deselem, Senior Planner
From: Kim Trebatoski, Senior Environmental Planner

Re: Estero Golf Resort RPD/CPD
DCI 2000-00032
Master Concept Plan Counter Stamped January 3, 2001
STRAP 21-46-25-00-00001.0000; .3000; 28-46-25-00-00001.0003
314.6 acres [21.2 acres freshwater wetland]

The Division of Planning / Environmental Sciences (ES) staff have reviewed the above referenced project and conducted site inspections on June 27th and October 24th, 2000. The following are ES staff comments and recommended conditions:

Vegetation:

A Florida Land Use and Cover Classification System (FLUCCS) map was compiled by Passarella and Associates, Inc. The majority of the site (292.5 acres) consists of previously disturbed lands and pasture lands. Much of the property is infested with melaleuca and Brazilian pepper. The western portion of the property burned a few years ago, and subsequently melaleuca has sprouted throughout this section of the parcel. Therefore, the existing indigenous vegetation communities are stressed by competition with invasive exotic vegetation. The 22.1 acres of existing indigenous areas include palmetto prairie (FLUCCS 3219; 21.7 acres) and disturbed cypress wetland (FLUCCS 6219; 0.4 acres).

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The Lee County Land Development Code (LDC) Section 10-415(a) requires large commercial projects to provide 30% open space and large residential projects to provide 40% open space. Planned developments may allocate the open space to individual tracts provided the overall required open space is met and a minimum of 10% open space is provided within each tract per LDC Section 10-414(c). Residential planned developments must provide a minimum of 30% common open space with the remaining 10% open space being allocated as private open space to individual dwelling units having immediate private ground floor access per LDC Section 10-935(g)(1)(a).

ES staff recommend the following condition to confirm open space requirements:

Prior to local development order approval, open space must be provided as stated in the Open Space and Indigenous Vegetation table on the approved Master Concept Plan. Each tract must provide a minimum of 10% open space.

C

Deviation 12 is a request to deviate from LDC Section 10-415(b) requiring fifty percent of the required open space to be provided by existing indigenous vegetation communities to allow 6.36 acres of the indigenous preserve requirement to be met by restored wetlands. Passarella and Associates confirmed the wetland restoration will be a combination of marsh and hardwood wetlands.

The applicant justifies this request by indicating that incorporating the restored wetlands into the site plans was a significant change in response to other review agencies, and that it in essence creates a financial hardship. Therefore, the applicant is asking the county to allow the restored wetlands to count toward the indigenous preservation requirement.

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As noted by ES staff, the existing indigenous vegetation communities on this property are invaded with melaleuca. The highest quality uplands (6.84 acres) are proposed to be preserved. Additionally, the restoration of the wetlands will provide wood stork and wading bird habitat. The wetland restoration will be incorporated into the surface water management system. Large cypress will be retained during the restoration.

Economic hardships cannot be the basis for granting a deviation. However, the proposed indigenous deviation as conditioned by staff does enhance the proposed project by:

- ▶ providing a diversity of habitat; and
- ▶ retaining the higher quality existing indigenous upland habitat; and
- ▶ retaining large cypress; and
- ▶ integrating the restored wetlands into the surface water management system; and
- ▶ creating a larger contiguous preserve in CPD tract-5; and
- ▶ providing visual relief; and
- ▶ providing a buffer between the commercial and residential components of the project.

ES staff recommend APPROVAL of Deviation 12 with the following conditions:

Prior to local development order approval, the development order plans must show an upland preserve connection between the conservation area in the southeast corner of CPD Tract-5 and the upland conservation area on the eastern side of the restored wetland. Details of a roadway or bridge meeting Category B street standards with closed drainage that accommodates wildlife

passage under the entrance roadway to CPD Tract -5 must be included on the development order plans for Lee County staff review and approval.

Prior to local development order approval, a detailed wetland restoration plan must be submitted for the Division of Planning / Environmental Sciences staff review and approval. The wetland restoration plan and/or the Land Development Code (LDC) required littoral zones must be designed to provide foraging area for wood storks.

Protected Species Survey:

A protected species survey meeting the requirements of LDC Section 10-473 was conducted by Passarella and Associates, Inc. The ecologists located 8 active and 12 inactive gopher tortoise burrows. Additionally, four possible Big Cypress fox squirrel nests were located, but no fox squirrels were observed.

ES staff field verified the protected species survey during their June and October site inspections. The results of the survey were confirmed. Additionally, ES staff observed eight wood storks along the southwestern edge of the large wetland to be restored in the eastern portion of the site.

ES staff recommend the following condition to confirm if Big Cypress fox squirrels are nesting on this parcel:

Prior to local Development Order approval, the potential Big Cypress fox squirrel nests on site must be re-surveyed specifically for fox squirrel presence. The protected species survey must be prepared per LDC Section 10-473 and submitted to the Division of Planning, Environmental Sciences for review and approval. If fox squirrel use of the site is verified, final management details per LDC Section 10-474 must be submitted including a phased exotic removal plan.

Gopher Tortoise Management Plan:

A preliminary gopher tortoise management plan is proposed on page 14 of the "Estero Golf Resort Lee County Protected Species Survey and Management Plan" prepared by Passarella and Associates, Inc. dated June 2000. The plan commits to submitting a detailed gopher tortoise management plan as part of the local development order process. The applicant intends to obtain an incidental take permit from the Florida Fish and Wildlife Conservation Commission, excavate the burrows, and move the tortoises out of harms way into the upland indigenous preserves.

ES staff recommend the following conditions to confirm the gopher tortoise management plan requirements:

Prior to local development order approval, a detailed gopher tortoise management plan must be submitted for the Division of Planning / Environmental Sciences staff review and approval.

Prior to any site work, a Vegetation Removal Permit must be obtained to install barricading of preserves and conduct excavation of tortoise burrows to move the gopher tortoises within the development tracts.

EXHIBIT IV-H
REQUESTED DEVIATIONS WITH JUSTIFICATIONS
May 24, 2000; amended September 14, 2000; October 20, 2000

RPD & CPD:
DEVIATION 1 - WITHDRAWN

RECEIVED
OCT 21 2000
PERMIT DIVISION

RPD & CPD:
DEVIATION 2

Deviation from LDC Section 10-329(e)(1)(a)(3) which requires a fifty foot (50') setback from water retention or detention excavations to any private property line under separate ownership, to permit a twenty five foot (25') setback from the railroad and from other adjacent property.

Justification

This deviation is customarily granted without conditions by Lee County for projects with water bodies along a project's boundaries. One example is Livingston Oaks (Resolution #Z-99-083). For the Estero Golf Resort we have requested this deviation for only a few of the project's many lakes. One lake is designed to set back from the ROW owned by Seaboard Coast Line Railroad. Several of the other water bodies are proposed adjacent to an internal roadway within the Vines development. Finally, two lakes along the eastern boundary of the RPD are proposed to be set back the width of the buffer proposed along this boundary. This deviation has been requested in the event the buffer is ever used for transportation purposes.

RPD & CPD:
DEVIATION 3

Deviation from LDC Section 10-296(d), Table 4(7)(c) which requires the wearing surface on local and access streets to be one-and-one-half-inch (1.5") asphaltic FDOT type S-III to allow for cement concrete and/or pavers on the private streets.

Justification

This deviation is customarily granted by Lee County for entrance features and other focal points for large scale projects with the conditions that the deviation applies to private streets only, and the alternate cross-section must be structurally equivalent to the "standard" cross-section. This developer is requesting that same consideration for the Estero Golf Resort. There is no impact to the public from this change

RPD & CPD:
DEVIATION 4

Deviation from LDC Section 10-256(d)(3) which requires all sidewalks to be either (1) four-inch (4") thick Portland cement concrete, or (2) a minimum of one-and-one-half-inch (1.5") thick asphaltic concrete of FDOT type S-III to allow sidewalks to be constructed of decorative pavers throughout the development.

Justification

This developer is requesting that this alternate cross-section which is structurally equivalent to the "standard" cross-section be granted to allow the developer to upgrade the appearance of these on-site facilities. Examples of this alternate surface can be found in Times Square in the Town of Fort Myers Beach and in the City Fort Myers downtown area. There is no impact to the public from this change. Employing the pavers will make the project more attractive.

DEVIATION 5a

Deviation from LDC Section 34-1954(a)(1) which permits that the director may administratively approve the location of individual model homes and model units in any new development provided the property remains under unified control to allow that model homes and model units be permitted by right.

Justification:

Model homes are customary for the sale of the residential units. We have included the use in the list of permitted uses and this deviation has not been necessary in other developments in Lee County. US Home's Heritage Palms (Z-97-051A) and Stoneybrook, A Golf Community (Z-98-018) are two examples. Model homes and model units are approved uses in these projects without requiring administrative approval or specifying their locations on the MCP. The applicant requests equal consideration for this project. There is no impact to the public from this change.

RPD & CPD:
DEVIATION 5b

Deviation from LDC Section 34-1954(d)(1) which permits model homes to be valid for a period not exceeding three years (3) to allow for model homes until project build-out.

Justification:

Model homes are necessary until the project is built out and for this project the build-

out will be longer than three years (3). The three-year (3) time frame poses a hardship for the developer. There is no impact to the public from this change. This deviation has been granted in many other planned developments throughout Lee County. US Home's Heritage Palms (Z-97-051A) and Stoneybrook, A Golf Community (Z-98-018) are two examples.

RPD & CPD:

DEVIATION 6

Deviation from LDC Section 34-1954(d)(2) which permits model units within a townhouse or multiple-family building not to extend beyond the initial sale, to allow for model homes until project build-out.

Justification

Products in one townhouse or multiple-family tract are likely to be repeated in another tract of the project. As build-out will take longer than three years (3), the three-year (3) time frame poses a hardship for the developer. There is no impact to the public from this change. This deviation has been granted in many other planned developments through out Lee County. Heritage Palms (Z-97-051A) and Stoneybrook, A Golf Community (Z-98-018) are two examples.

RPD & CPD:

DEVIATION 7 (revised)

Deviation from LDC Section 34-2017 (e) which allows Director discretion to allow high turnover parking surfaces to meet the surfacing standards for low turnover parking lots to allow by right the parking spaces for the ancillary sales office uses to be surfaced with gravel.

Justification

The applicant will construct the required handicapped parking for the type of dwelling unit being displayed with asphalt or concrete to provide a smooth surface without gaps or holes while additional parking for the models will be surfaced with gravel.

Parking requirements for model homes and model units change over time. When the models are active, the parking requirements are higher than they will be for the same unit after it becomes a home. Gravel parking lots are customary for model homes in Lee County today. Additional paving is not only unattractive but an unnecessary expense to the developer. This deviation will not affect public safety.

RPD & CPD:

DEVIATION 8

Deviation from LDC Section 10-291(3) which requires that residential development of more than five acres to provide two or more means of ingress and egress, to allow the Residential Planned Development and any residential tract surrounded by golf or preserved areas to have one means of ingress and egress.

Justification:

Due to the unusual configuration of the RPD (property to the east of the railroad tracts) only one small portion of its boundary that fronts a public road. Koreshan Blvd. is a divided roadway with only one median break adjacent to this property. We have aligned the project entrance with that median break. All other sections of the project perimeter include previously approved developments that would be negatively impacted by funneling the project's traffic through them. This project is designed as a gated community as indicated on the Master Concept Plan. There is no impact to the public from this change. See Master Concept Plan.

RPD & CPD:

DEVIATION 9 - WITHDRAWN

CPD:

DEVIATION 10 - WITHDRAWN

RPD & CPD:

DEVIATION 11 (revised)

Deviation from LDC Section 34-2015(2)c. to allow stacking of vehicles for multi-family buildings with a specific garage appurtenant to it.

Justification:

LDC Section 34-2015(2)c. allows stacking of vehicles for certain types of residential buildings with specific garages appurtenant to the units. When LDC Section 34-2015(2)c. was adopted by Lee County, the multiple family units being constructed did not have "specific garages appurtenant " to the individual units. It needs to be said that in Lee County multiple family includes residential buildings with more than three units. In the market today there is a type of multiple family building that includes the above-described garages. This is a very attractive building type and is being used successfully in many residential developments in the area. The required parking is provided in the same was that parking is provided for townhouses. The exhibit below is a six-unit building with stacked parking. There is no impact to the public from this change.

CPD:**DEVIATION 12 (revised)**

Deviation from LDC Section 10-415 (b) (1) which requires that large projects must provide 50% of their open space percentage requirement through the onsite preservation of existing indigenous native vegetation to allow the restored 6.36 acres wetland on the Commercial Planned Development (CPD) to be considered toward meeting the indigenous requirement for the residential tract within the CPD.

Justification:

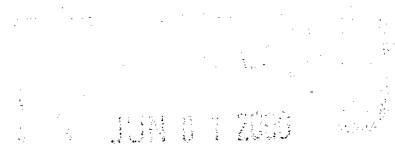
The Master Concept Plan has been revised to maintain and restore approximately 6.36 acres of wetland at the CPD's easterly entrance. The quality of this wetland is documented in the report prepared by Passarella and Associates. Incorporating this wetlands into the site plan has been a significant change to respond to the requirements of other review agencies. For a commercial property located at the intersection of an arterial and a collector road setting aside this particular property for this purpose has a great impact on the site plan and the financial feasibility of the project. The applicant has committed to restore this wetland and simply asks that credit toward the indigenous requirement be given for this acreage. The Master Concept Plan also depicts the other indigenous vegetation acreage that will be preserved. There is no impact to the public from this change. See Master Concept Plan.

**Estero Golf Resort RPD/CPD
CECI File No. 99.509**

Exhibit "IV-K"

PHASING PROGRAM

The proposed project will be developed in a single phase. Buildout is expected to occur in year 2005.



PERMIT COUNTER

EXHIBIT IV-D
Estero Golf Resort
PROPOSED DEVELOPMENT DESCRIPTION
May 25, 2000

FILED
JUN 9 1 2000

PERMITS SECTION

The subject property, in Sections 21 and 28, Township 46 South, Range 25 East, includes a total of approximately 314.4 acres. Specifically, the property is located in the northeast quadrant of the intersection of Koreshan Blvd. and Tamiami Trail (US 41) on both the east and west side of the railroad line. Applicable land use categories are the Lee Plan's Urban Community, Suburban and Wetland future land use designations. This application includes both a Residential Planned Development and a Commercial Planned Development element, which are separated by the railroad line. As these two elements are independent, we will discuss them separately.

Keystone Custom Homes, Inc. is the applicant. Paula Davis, president of Keystone Custom Homes, is the first female in Southwest Florida to be chosen as an Arthur Rutenberg Franchisee. Her firm has been selected to be the Arthur Rutenberg Homes luxury single family home and villa builder in Pelican Marsh and Audubon Country Club. She is also currently developing Ivy Pointe and Troon Lakes in Pelican Marsh Communities. Estero Golf Resort will reflect the excellence seen in those projects.

Residential Planned Development

The applicant is working closely with Michael Redd and Associates to develop an exceptional golf course community for this part of the subject property. Master Concept Plan is still conceptual at this time. For this reason the golf course within Estero Golf Resort is shown as a part of the residential tracts.

This development will be an asset to the area. Focal points for the Estero Golf Resort will be the entry features, the golf course and the expansive lakes. Individual neighborhoods will be created, as indicated on the Master Concept Plan, each having its own personality. Care has been taken to ensure compatibility with existing and planned residential uses in the area. Each of the residential tracts adjoins either a green area or a lake. Many will have dramatic views over the water and the golf course. This application requests a wide range of multi-family residential building types. The applicant is very familiar with these products, having included them in their developments for many years. Recreational amenities include a club house/recreational center located in the center of the project with easy access by all of the project residents. Other residential amenities expected are tennis courts, swimming pools, jogging/vita course trails, bike paths and the like.

Commercial Planned Development

This property, located between the railroad and the intersection of Koreshan Blvd. and US 41, is truly a mixed-use project with retail, office, hotel and residential components.

DCI 2000-00032

Access points are located at the existing median breaks on Koreshan Blvd. and at a location on US 41 between northerly property line and the intersection of Koreshan Blvd. and US 41. Key to the design of this property is the accessway, which links all of the access points and links all of the elements of the project together. While it is expected that most of the residential traffic will enter from Koreshan Blvd., it is also possible for the residents to access the property from US 41.

The residential component of the Commercial Planned Development will include a wide range of multi-family residential building types. As stated earlier, the applicant is very familiar with these products. The focal point of the residential component is the lake, which will provide views and recreational amenities for the residents. The other residential amenities expected are tennis courts, swimming pools, jogging/vita course trails, bike paths and the like.

A small office component is included on the north side of the US 41 entrance, taking advantage of this unique location. At the opposite corner of the development, a hotel site is situated at the easternmost entrance on Koreshan Parkway. This site, surrounded by lake, serves as a transition between the project's residential and commercial land uses. This hotel is designed as a low intensity hotel complete with the requisite amenities.

The remaining parcels within the Commercial Planned Development are designed as commercial tracts, both for community commercial uses and the typical out-parcel uses. The parcels fronting both US 41 and Koreshan Parkway will not have direct access to those roadways but will be accessed through the project's accessway connecting all points of entrance to the development. All of the proposed land uses are listed on the Master Concept Plan. Adequate provisions for buffering are included, with special attention to the buffer between the commercial use and the Vines development to the north.

DCI 2000-00032

EXHIBIT II-E-2

Estero Golf Resort

CONSISTENCY WITH THE LEE PLAN

May 24, 2000; revised August 11, 2000

RECEIVED
SEP 18 2000

PERMIT COUNTER

The Estero Golf Resort is located in the north east quadrant of the intersection of Koreshan Blvd. and Tamiami Trail (US 41), in Sections 21 and 28, Township 46 South, Range 25 East. The subject parcel is within the Lee Plan's Urban Community, Suburban and Wetland future land use designations and is consistent with those categories. Specifically, the Estero Golf Resort is consistent with the following Goals, Objectives and Policies of the Lee County Comprehensive Plan:

Objective 1.1 The Estero Golf Resort project is consistent with Objective 1.1. Infrastructure, including an arterial road and water is already in place for this development.

Policy 1.1.4 The Estero Golf Resort project is consistent with Policy 1.1.4 The residential portions found within the Suburban land use category are appropriate for this district. The proposed residential density is well within the parameters of this land use category.

Policy 1.1.5 The Estero Golf Resort project is consistent with Policy 1.1.5. Mixed use developments including the proposed level of residential, commercial and office uses are permitted within the Urban Community.

Policy 2.1 The Estero Golf Resort project is consistent with Policy 2.1. The subject property provides for more effective employment of existing infrastructure by being located in an area where the requisite infrastructure exists and has capacity. Most of the subject development is located within the Future Urban Area on the Future Land Use Map and the uses in that part of the property are consistent with the Urban Community and Suburban land use categories.

Policy 2.1.1 The Estero Golf Resort project is consistent with Policy 2.1.1. The subject property is already located within an urban designation on the Lee Plan's Future Land Use Map

Policy 2.2.1 The Estero Golf Resort project is consistent with Policy 2.2.1. Central potable water and sanitary sewer services will be provided by Gulf Environmental Services, Inc. to the development. The Estero Golf Resort will be accessed through Koreshan Blvd. and Tamiami Trail (US 41 South) conveniently located approximately 3.5 miles south of Alico Road and approximately 1.25 miles north of Corkscrew Road. We have designed the Estero Golf Resort development to be compatible with existing and expected adjacent development. The Estero Golf Resort project has carefully reviewed the adjacent land uses, both existing and approved in an effort to ensure the

compatibility required under Policy 2.2.1 The Master Concept Plan has provided a Type E buffer along the commercial part of the CPD which abuts the internal roadway for the Vines development. Height limitations have been included in the property development regulations which are geared to compatibility between the proposed project and adjacent residential uses.

Policy 4.1.1 The Estero Golf Resort is consistent with Policy 4.1.1. Residents of The Estero Golf Resort will be able to travel safely through the development and onto the area's roadway network. In designing the development's roadway network we have considered this policy and have located the project entrances on Koreshan Blvd. where the existing median breaks are located. Proper intersection separations have been maintained.

Policy 4.1.2 The Estero Golf Resort is consistent with Policy 4.1.2. All of the project's roadways are internal to the project and therefore can have no detrimental disruptive effects on the adjacent uses.

Policy 5.1.1 The Estero Golf Resort is consistent with Policy 5.1.1. This project is currently zoned for agricultural use only. This application proposes to rezone the property RPD and CPD.

Policy 5.1.5 The Estero Golf Resort project is consistent with Policy 5.1.5. The proposed uses are not potentially destructive to existing and future residential areas. Adequate buffering and height limitations are planned to ensure that impacts are minimized or eliminated.

Policy 6.1.1 The Estero Golf Resort CPD project is consistent with Policy 6.1.1. This proposed development is consistent with commercial development in the area and is consistent with policies outlined in Goal 6. Commercial Land Uses are consistent with the general standards outlined in Goal 11, water, sewer, traffic and environmental review standards. Traffic and access impacts have been analyzed with the results of such reviews finding that the impacted roadways and accesses are adequate to accommodate Estero Golf Resort's commercial development.

Screening and buffering proposed with the project meets or exceeds required standards for such elements. The availability and adequacy of services and facilities needed to support Estero Golf Resort CPD exists and is currently being provided to developments within the surrounding area. The impact on adjacent land uses and surrounding neighborhoods has been considered during the design of Estero Golf Resort's commercial portion and efforts to minimize or eliminate these impacts is evidenced by the project's Master Concept Plan. Estero Golf Resort's CPD has close proximity with other similar centers which makes it convenient to these other centers. Environmental considerations have been addressed which have led to the Estero Golf Resort incorporating preservation areas of both wetlands and indigenous

vegetation.

Policy 6.1.2 The Estero Golf Resort project is consistent with Policy 6.1.2. In light of its size, its proximity to the intersection of an arterial and a collector road and the nature of the existing and projected surrounding uses the subject property will be an appropriate service and trade center for this area. This Commercial Planned Development is consistent with the proposed uses allowed in a Community Commercial center. It is designed to serve the major function of providing for sale of convenience goods and personal services such as food, drugs, sundries, hardware items, clothing, variety items, appliances and furniture. Typical leading tenants may be but are not limited to supermarket, drug store, minor department store, variety store or discount center. Furthermore, it is compatible with existing and proposed land uses, public services and facilities

Policy 6.1.3 The Estero Golf Resort project is consistent with Policy 6.1.3. The commercial development is designed as a planned development which arranges uses in an integrated and cohesive unit and meets the criteria set forth in this policy. The site design is consistent with the surrounding area's commercial uses while avoiding negative impacts on surrounding land uses and traffic circulation.

Policy 6.1.4 The Estero Golf Resort project is consistent with Policy 6.1.4. The proposed uses are compatible with the adjacent and proposed commercial uses and with existing and programmed public services and facilities.

Policy 6.1.5 The Estero Golf Resort project is consistent with Policy 6.1.5. The Master Concept Plan is designed to protect the traffic-carrying capacity of area roads by clustering activities, limiting access, sharing access, utilizing setbacks from existing ROW and acceleration and deceleration lanes.

Policy 6.1.6 The Estero Golf Resort project is consistent with Policy 6.1.6. The applicant has not requested any deviation from the county required buffers or landscaping requirements. The Conceptual Master Plan is designed to provide adequate and appropriate landscaping, open space and buffering which will ultimately enhance the appearance of structures and parking areas and blend the development with the character of existing or planned surrounding land uses.

Policy 6.1.7 The Estero Golf Resort project is consistent with Policy 6.1.7. Existing and proposed commercial uses in the area of the subject property include similar uses as those proposed in this application. The commercial development of this site will not open new areas to premature, scattered, or strip development.

Policy 6.1.8 The Estero Golf Resort project is consistent with Policy 6.1.8. Site location standards as outlined in Policy 6.1.2 allow for Community Commercial centers as proposed by this development. The future urban land use designations

on this property allows for the location of the commercial intensity proposed by this CPD.

Policy 6.1.9 Estero Golf Resort project is consistent with Policy 6.1.9. The site is not located near any existing or planned elementary or middle school.

Sandy Lane was shown on the original Trafficways Map prepared in 1985. It has been included in every subsequent revision, the last revision in 1991. DOT is in the process of reviewing and updating the Trafficways Map at this time. Sandy Lane will be reflected in the updated map as well. Moreover, Sandy Lane has been included in the Lee County Metropolitan Planning Organization (MPO) 2020 plan since 1995. It is also included in the current MPO 2010 Financially Feasible Plan.

Sandy Lane is a 2-lane collector that as shown on the MPO plan will connect to Old 41 (near the US 41 intersection) and run north to Alico Road. Sandy Lane will provide San Carlos Park and Estero Golf Resort residents a north/south alternative to Three Oaks Parkway and US 41 and I-75. It also provides the residents of San Carlos Park an alternative means of accessing Alico Road and Koreshan Blvd. without having to cross the existing railroad tracks. Sandy Lane will function as a necessary reliever keeping local trips off the other arterial roadways, thereby preserving the capacity of those roads. Development pressures in South Lee County highlight the need to address the extension of Sandy Lane in a proactive manner with a view toward 'smart growth'. There are no other alternatives for a north/south collector west of I-75 that would not involve the taking of existing structures.

Because Sandy Lane extension is a crucial component of the overall roadway network, the Department of Transportation recommends that right-of-way be obtained at this time. The recommended set aside right-of-way width will consist of 80 feet along the eastern boundary of the property and approximately 200 feet wide for 700 feet at the northeast corner to accommodate the reverse curve. Therefore, DOT recommends the following condition be placed on the zoning approval:

- 1) The Master Concept Plan must be revised to reflect the planned extension of Sandy Lane along the eastern boundary of the site, consistent with the sketch set forth in the attached Exhibit. Lee County will compensate the property owner for the reservation of this property in accordance with the regulations set forth in Chapter 2 of the LDC.

EMM/mlb

cc: Administrative File

Attachment – Exhibit: sketch and description of Sandy Lane Extension

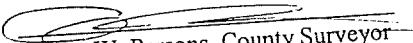
DESCRIPTION

OF

A parcel or tract of land in Section 21, Township 46 South, Range 25 East, Lee County, Florida, being described as follows:

Commencing at the southeast corner of Section 21, Township 46 South, Range 25 East, Lee County, Florida; thence run $N00^{\circ}46'45''W$ along the east line of the Southeast Quarter ($SE \frac{1}{4}$) of said Section 21 for a distance of 94.98 feet to a point on the northerly right-of-way line of Koreshan Boulevard (as described in Official Record Book 2183, pages 3461 through 3504, Public Records of Lee county, Florida) and the point of beginning; thence continue $N00^{\circ}46'45''W$ along the east line of the Southeast Quarter ($SE \frac{1}{4}$) of said Section 21 for a distance of 2555.79 feet to the northeast corner of the Southeast Quarter ($SE \frac{1}{4}$) of said Section 21; thence run $N00^{\circ}53'22''W$ along the east line of the Northeast Quarter ($NE \frac{1}{4}$) of said Section 21 for a distance of 2646.37 feet to the northeast corner of the Northeast Quarter ($NE \frac{1}{4}$) of said Section 21; thence run $N89^{\circ}29'23''W$ along the north line of the Northeast Quarter ($NE \frac{1}{4}$) of said Section 21 and the south line of Unit Number 7, San Carlos Park, an unrecorded subdivision filed in Deed Book 315, pages 120 through 158, Public Records of Lee County, Florida for a distance of 200.06 feet; thence run $S00^{\circ}53'22''E$ along a line 200.00 feet west of (as measured on a perpendicular) the east line of the Northeast Quarter ($NE \frac{1}{4}$) of said Section 21 for a distance of 700.00 feet; thence run $S89^{\circ}29'23''E$ for a distance of 120.04 feet; thence run $S00^{\circ}53'22''E$ along a line 80.00 feet west of (as measured on a perpendicular) the east line of the Northeast Quarter ($NE \frac{1}{4}$) of said Section 21 for a distance of 1948.25 feet to a point of intersection with a line 80.00 feet west of (as measured on a perpendicular) the east line of the Southeast Quarter ($SE \frac{1}{4}$) of said Section 21; thence run $S00^{\circ}46'45''E$ along a line 80.00 feet west of the east line of said Southeast Quarter for a distance of 2552.90 feet to a point on the north right-of-way line of aforesaid Koreshan Boulevard and to which point a radial line bears $S01^{\circ}25'52''W$; thence run easterly along said north right-of-way line and the arc of non-tangent curve to the left of radius 11,425.00 feet, having for its elements, a central angle of $00^{\circ}24'05''$, chord bearing of $S88^{\circ}46'11''E$, chord distance of 80.04 feet for 80.04 feet to the point of beginning and to which point a radial line bears $S01^{\circ}01'47''W$, containing 500118.74 square feet (11.48 acres) more or less.

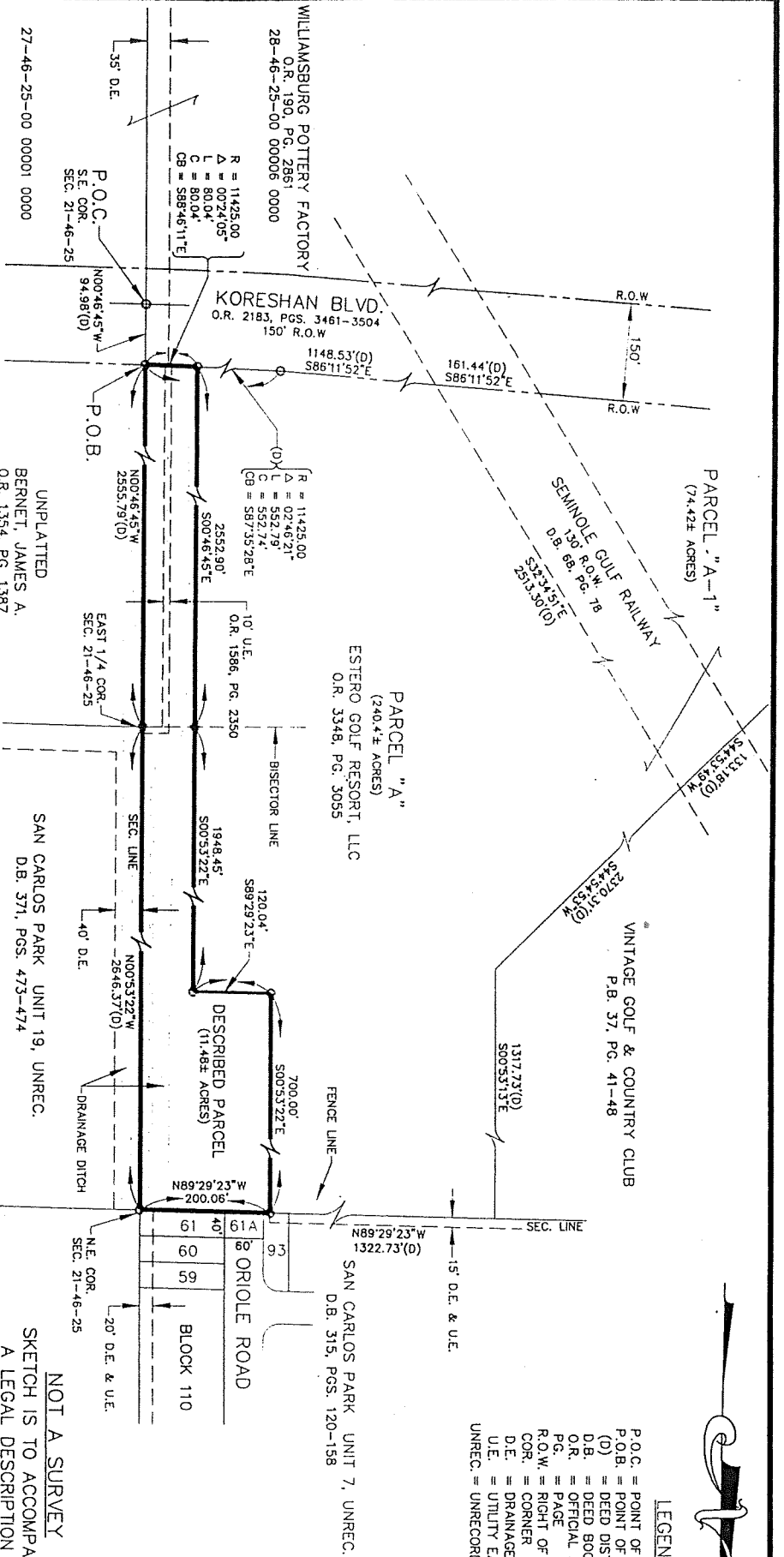
Bearings mentioned hereinabove are based on a right-of-way map for Koreshan Boulevard showing the east line of the Southeast Quarter of Section 21, Township 46 South, Range 25 as bearing $N00^{\circ}46'45''W$.


Arthur W. Parsons, County Surveyor
Professional Surveyor and Mapper
Florida Certificate No. LS-2987



LEGEND

- P.O.C. = POINT OF COMMENCEMENT
- P.O.B. = POINT OF BEGINNING
- (D) = DEED DISTANCE OR BEARING
- D.B. = DEED BOOK
- O.R. = OFFICIAL RECORD
- P.G. = PAGE
- R.O.W. = RIGHT OF WAY
- COR. = CORNER
- D.E. = DRAINAGE EASEMENT
- U.E. = UTILITY EASEMENT
- UNREC. = UNRECORDED



SURVEYOR'S CERTIFICATION

BY CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND CONTROL, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT ACCORDS WITH THE STANDARDS IN ACCORDANCE WITH CHAPTER 6107-6, FLORIDA STATUTES, PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES.

Arthur W. Parsons, County Surveyor
Professional Surveyor & Mapper
Florida Certificate No. 15-2987
DATE: 02/01
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR & MAPPER.

SURVEYOR'S NOTES

- 1.) DESCRIPTION FOR DESCRIBED PARCEL IS BASED ON DEED.
- 2.) TOPOGRAPHICAL FEATURES OR IMPROVEMENTS LYING WITHIN DESCRIBED PARCEL WERE NOT SURVEYED OR LOCATED.
- 3.) NO RECORD OF OWNERSHIP HAS BEEN DETERMINED FOR PARCEL SHOWN AS LOT 61A, BLOCK 110, SAN CARLOS PARK UNIT 7.
- 4.) UNLESS OTHERWISE NOTED, DIMENSIONS ARE CALCULATED.

NOT A SURVEY
SKETCH IS TO ACCOMPANY
A LEGAL DESCRIPTION

A PARCEL OR TRACT OF LAND
LYING IN SECTION 21, TOWNSHIP 46 S.,
RANGE 25 E., LEE COUNTY, FLORIDA

DESIGNED BY: A.W.P.	DATE: 02/01	DISK: 20001
DRAWN BY: D.O.K.	DATE: 02/01	SCALE: 1"=200'
CHECKED: A.W.P.	DATE: 02/01	0015722701

Site Development Regulations
ESTERO GOLF RESORT, DCI2000-00032
FEBRUARY 19, 2001

Single Family Detached

Minimum Lot Size:

Lot Width	50 feet
Lot Depth	100 feet
Lot Area	5,000 square feet
Maximum Building Height	35 feet / 2 stories
Maximum Lot Coverage	40%

Minimum Setbacks:

Front (street)	20 feet
Side	5 feet
Rear	20 feet (5 feet for an accessory structure)
Waterbody	25 feet

Duplex

Minimum Lot Size:

Lot Width	50 feet
Lot Depth	100 feet
Lot Area	5,000 square feet
Maximum Building Height	35 feet / 2 stories
Maximum Lot Coverage	40%

Minimum Setbacks:

Front (street)	20 feet
Side	5 feet
Rear	20 feet (5 feet for an accessory structure)
Waterbody	25 feet

Two-Family Attached

Minimum Lot Size:

Lot Width Per Unit	37.5 feet
Lot Depth	100 feet
Lot Area Per Unit	3,750 square feet
Maximum Building Height	35 feet / 2 stories
Maximum Lot Coverage	40%

Minimum Setbacks:

Front (street)	20 feet
Side	10 feet
Side (interior)	0 feet
Rear	20 feet (5 feet for an accessory structure)
Waterbody	25 feet



Zero Lot Line

Minimum Lot Size:

Lot Width	50 feet
Lot Depth	100 feet
Lot Area	5,000 square feet
Maximum Building Height	35 feet / 2 stories
Maximum Lot Coverage	40%

Minimum Setbacks:

Front (street)	20 feet
Side (exterior)	7.5 feet
Side (interior)	0 feet
Rear	20 feet (5 feet for an accessory structure)
Waterbody	25 feet

Townhouse

Minimum Lot Size:

Lot Width Per Unit	37.5 feet
Lot Depth	100 feet
Lot Area Per Unit	3,750 square feet

Minimum Setbacks:

Front (street)	20 feet
Side (exterior)	10 feet
Side (interior)	0 feet
Rear	20 feet

Minimum Building Separation: $\frac{1}{2}$ the sum of the building heights but not less than 20 feet

Maximum Building Height - Townhouse: 4 stories/55 feet except as further limited by other conditions

Multiple Family Building and ALF

Minimum Lot Size:

Lot Width	100 feet
Lot Depth	100 feet
Lot Area	10,000 square feet

Minimum Setbacks

Front (street)	20 feet - carport/garage 15 feet - multiple family building 20 feet - ALF
Side (street)	10 feet
Side (exterior)	10 feet
Rear	20 feet
Water body	20 feet

Minimum Building Separation: $\frac{1}{2}$ the sum of the building heights but not less than 20 feet

Maximum Building Height: 4 stories/55 feet except as further limited by other conditions

Clubhouse or Recreational Facility, Private On-Site:

Minimum Setbacks

Front (street)	20 feet
Side	10 feet
Rear	20 feet
Water body	20 feet

Commercial

Minimum Lot Size:

Lot Width	100 feet
Lot Depth	100 feet
Lot Area	20,000 square feet

Minimum Setbacks

Front (street)	per the minimum setbacks set forth in LDC Section 34-1174 and 34-2191, whichever is the most restrictive
Side	15 feet
Rear	25 feet
Water body	25 feet

<u>Minimum Building Separation:</u>	$\frac{1}{2}$ the sum of the building heights but not less than 20 feet
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Maximum Lot Coverage:	40%
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<u>Maximum Building Height:</u>	4 stories/55 feet except as further limited by other conditions
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Memo

To: Kay Deselem, AICP
Senior Planner

From: Elaine Mettauer, E.I. *emm*
LDOT Engineer III

Date: February 16, 2001

Re: **Estero Golf Resort RPD/CPD
Substantive Comments
DCI 2000-00032**

The Department of Transportation has reviewed the information submitted for the above referenced project and has the following comments:

The proposed project is located on a parcel of land just south of the San Carlos Park Subdivision and North of Koreshan Boulevard. The Department of Transportation has concerns with the proposed right-in/right-out access to the maintenance facility off Koreshan Boulevard. The maintenance facility will generate trips that are usually internal to the project (tractors and lawnmowers) from the maintenance facility. Problems arise when the residents of the development object to the maintenance vehicles using the internal residential streets to access remote portions of the golf course. The slow moving trips are then required to use the main entrance road to gain access to the golf course. However, these vehicles must use Koreshan Boulevard to gain access to the main entrance road. Introducing these slow moving vehicles to Koreshan Boulevard will cause health, safety and welfare concerns to the traveling public. Therefore, DOT does not recommend approval of the proposed right-in/right-out access point that serves the maintenance facility. DOT recommends that the maintenance facility have access to the internal roadway system only.

The Official Traffic Ways Map shows 100-feet of right-of-way for the Oriole Road/Sandy Lane Extension (Sandy Lane). The Sandy Lane alignment shown on the Lee County Official Trafficways Map would follow along the eastern boundary of the Estero Golf Resort project and the western boundary of San Carlos Park Unit 19 and the newly approved Bernwood Villages Development. The alignment would line up with the existing Oriole Road at the end of San Carlos Park and would tie into an existing median opening on Koreshan Boulevard. It will extend south from the existing median opening through the Indigo Isles (new development south of Koreshan Boulevard) and continue down until it ties in with Old 41.

F

PLANNING DIVISION
M E M O R A N D U M



to: Kay Deselem, Development Services Division
from: ^{POC} Paul O'Connor, AICP, Director of Planning
subject: Estero Golf Resort Substantive Comments (DCI 2000-00032)
date: February 19, 2001

Planning staff has reviewed the application for the Estero Golf Resort MPD, and offers the following substantive comments.

RESIDENTIAL USES AND DENSITY

The subject property contains approximately 316.7 acres, and it falls within the Suburban and Urban Community land use categories. Approximately 22.6 acres of the total parcel is within the Urban Community category, and the remaining 294.1 acres is within the Suburban category. The Urban Community area is that part of the property that is closest to US 41. Residential use is being proposed on approximately 282.7 acres at a maximum density of 6 dwelling units per acre. Commercial use is being proposed on the remaining 34.0 acres. Planning staff has reviewed the density calculations submitted by the applicant, and is in agreement with the calculations shown on the Master Concept Plan. The maximum possible density for the property is 1,694 dwelling units, however, the applicant has proposed to build only 820 dwelling units. Planning staff agrees with the applicant about the total number of dwelling units that could be permitted on the property, and believes that the proposed density, when properly buffered, is appropriate for the area.

Staff has some concern, however, about the compatibility of the single-family residences to the north with the proposed multi-family buildings on Tract MPD-5 of the subject property. This tract has been designated on the Master Concept Plan as residential. The applicant has indicated that they are willing to limit this tract to multi-family residential use. Staff's concerns are with the density differences of the proposed multi-family use and the single-family residences in The Vines community to the north. The overall density of The Vines is approximately 1.63 dwelling units per acre, while the density of the MPD-5 tract for the subject property would be approximately 7.41 dwelling units per acre. Lee Plan Policy 5.1.5 requires the protection of existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Policy 6.1.4 states that commercial uses will be approved only when compatible with adjacent existing and proposed land uses. The Master Concept Plan shows a Type B Buffer between the multi-family component of the subject property and The Vines. This is the standard buffer for a multi-family use that is located adjacent to a single-family use. Given the significant difference in density of the two developments, staff recommends that an

enhanced buffer be placed between the multi-family component of the subject property and The Vines development to the north. Additionally, staff believes that the applicant should be limited to residential uses in the MPD-5 tract, and the number of units should be limited to no more than 300.

Staff recommends the following conditions be included to address issues of density and compatibility.

- **The number of units in the MPD will not exceed 820. Of these 820 dwelling units, no more than 300 will be constructed within the area designated MPD-5 on the Master Concept Plan.**

Given the possibility that portions of this MPD might be under multiple ownership at some point in the future, there is a potential problem with keeping track of how many units have been developed and how many units remain to be developed. If the MPD is under multiple ownership in the future, there could be confusion between various owners over how many dwelling units each owner has the right to build. There is a simple condition that can be included that would eliminate potential problems with accounting for the project's density over time. This condition would require the developer/owner to submit a running inventory of the number of units that are being developed on the property each time they apply for a development order. Staff recommends that the following condition be included in the approval

- **Each development order application for residential dwelling units anywhere within the development must show a running inventory of the number of dwelling units that have been built, are approved to be built, or are in the development order approval process. This information must be tract-specific for the entire development.**

COMMERCIAL USES

The applicant has proposed 320,000 square feet of commercial uses on the property, which could include any combination of retail and office uses listed on the Master Concept Plan. Most of the commercial uses are being located in the Urban Community portion of the property, but portions of the commercial tracts fall within the Suburban land use category. Lee Plan Policy 1.1.5 prohibits commercial development greater than Neighborhood Centers in the Suburban land use category. Staff generally views a Neighborhood Center as having less than 100,000 square feet of retail uses. In order for this development to be consistent with Policy 1.1.5 of the Lee Plan, retail uses in the Suburban-designated portion of the development must be limited to 100,000 square feet of retail uses. Staff proposes the following condition to address this issue.

- **Retail uses in the area designated by the Lee Plan as Suburban will not exceed 100,000 square feet.**
- **Each development order application that is submitted for commercial uses must show a running inventory of the amount of commercial development that has been built, is**

approved to be built, or is in the development order approval process. This information must be tract-specific and by Future Land Use designation for the commercial portion of this development.

2020 ALLOCATIONS

The subject property is within the San Carlos/Estero Planning Community, and is within the Urban Community and Suburban land use categories. The subject rezoning is proposing residential development on approximately 282.7 acres and commercial development on approximately 34.0 acres. All of the proposed residential development is in the Suburban land use category, while the commercial development is split between Suburban and Urban Community.

Table 1(b) of the Lee Plan allocates 2,963 acres for residential use for the Suburban areas of San Carlos/Estero, of which, 753 acres are still available. The residential portion of the request is, therefore, consistent with the Lee Plan 2020 allocations.

Table 1(b) of the Lee Plan allocates 2,854 acres for commercial uses in the San Carlos/Estero Planning Community, of which 2,477 acres are still available. The commercial portion of the request is also consistent with the Lee Plan 2020 allocations.

GOLF MAINTENANCE FACILITY ISSUES

Planning staff does not agree with the placement of the golf maintenance facility along Koreshan Boulevard. Maintenance facilities usually contain outdoor storage areas, irrigation pumps, and warehouse-type buildings for the storage of chemicals and vehicles. While these facilities are essential to a golf course operation, they sometimes can provide a negative visual appearance to the public. There is also a public safety concern with maintenance areas because of the large amounts of chemicals being stored in these facilities. Maintenance facilities potentially have negative impacts on public safety as well as the appearance of a community. They are essentially small industrial areas within a residential or commercial development. In other words, the development design is externalizing the impacts of its golf maintenance area. Staff believes that the maintenance facility is unnecessarily being located adjacent to a public roadway without adequate visual screening.

The Land Development Code does not directly address golf course maintenance facilities, but the LDC does provide some guidance about the visual appearance of the community.

Sec. 10-600. Purpose and intent.

The purpose of these standards and guidelines is to supplement existing development criteria with specific criteria that apply to the design of commercial buildings and developments. Commercial development depends on high visibility from public streets. In turn, their design of building(s) and site determines much of the image and attractiveness of the streetscapes and character of a community. Massive and/or generic developments that do not contribute to, or integrate with, the community in

a positive manner can be detrimental to a community's image, and sense of place. The goal is to create and maintain a positive ambiance and strong community image and identity by providing for architectural and site design treatments that will enhance the visual appearance of commercial development in Lee County, while still providing for design flexibility. These standards are intended to enhance the quality of life in Lee County.

Sec. 10-610. Site design standards and guidelines for commercial developments.

(c) Buffering and shielding.

(1) Purpose and intent. The purpose and intent of this section is to diminish, the visual impacts outdoor storage and service functions that may detract or have a negative impact on the street scape, landscape and/or the overall community image.

(2) Loading areas and docks (including delivery truck parking), outdoor storage, trash collection, heating/air conditioning and other similar mechanical equipment, solid waste disposal facilities, trash compaction, recycling, and other similar service function areas must be fully shielded from adjacent properties and street rights-of-way when viewed from ground level. The shielding must extend vertically a distance equal to or greater than the items, delivery trucks, or facilities being shielded.

While these sections do not directly address golf maintenance facilities within an RPD, the broad intent of these sections is clear. The intent of Section 10-600, as shown above, is to charge staff with the task of enhancing the visual appearance of development to create a strong community image and identity. Section 10-610 is even more specific to outdoor storage and service functions. This section specifically states that such uses may have a negative impact on streetscape, landscape, and overall community image. It goes on to require such areas to be fully shielded from adjacent properties and street rights-of-way.

Staff is suggesting that, while these LDC sections do not specifically apply to this development, the principles contained in these sections should be considered in this case. It is a fundamental planning principle that development should be designed in such a way as to provide a positive visual appearance for the public. It is also acknowledged by the LDC that outdoor storage and service functions have a negative impact on the streetscape and the overall community image. A golf course maintenance facility contains outdoor storage areas, service areas, and loading/unloading areas, all of which are considered by the LDC to be elements of commercial development subject to the design standards of the LDC. If these areas were within a commercial development, they would be required to be shielded from public view, but since they are within a residential component of an MPD, the requirements do not apply. Staff believes, however, that since the golf maintenance facility contains several of the elements that are required by the LDC to be shielded from public view, then some

consideration should be given to requiring the maintenance facility within this project to also be shielded from public view as stated in LDC Section 10-610. Staff recommends that this be accomplished by locating the maintenance facility internal to the project.

LDC Section 34-411 outlines general design standards for all planned developments.

Sec. 34-411. General standards.

(i) Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.

(n) Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.

Section 34-411(i) states that a planned development site must be designed to minimize negative impacts on surrounding land uses. This planned development has been designed to place the golf maintenance facility along Koreshan Boulevard. This does not meet the intent of Section 34-411(i) because the maintenance facility presents negative visual and safety impacts to the public, and these impacts are being maximized by the chosen location of the maintenance facility adjacent to the public roadway. Staff believes the design of the project, with respect to the location of the maintenance facility, is inconsistent with Section 34-411(i).

Section 34-411(n) requires that the density and intensity within a planned development should vary in such a way as to prevent the location of intense or obnoxious uses away from incompatible land uses at the project's perimeter. The intent of this section is to require planned developments to internalize their heaviest impacts, rather than pushing them toward the edges of the development. The maintenance area is one of the most intense impacts associated with this development, and according to Section 34-411(n), it should be located away from the project's perimeter. Its location adjacent to the project boundary is inconsistent with the intent of Section 34-411(n).

LDC Section 34-612(2) outlines the purpose and intent of the various planned development districts.

Sec. 34-612. Types and general purpose of districts.....

(2) PD, planned development districts. The purpose and intent of the various planned development districts is to further implement the goals, objectives and policies of the Lee Plan while providing some degree of flexibility in planning and designing developments by:

b. Stimulating, where appropriate, the integration of new development with surrounding land uses, providing for consistency and visual harmony through various techniques, including screening and buffering, sign control, architectural controls and landscape design;

d. Promoting improved and unifying design techniques that reduce dependence on vehicular movement within the development, encourage the use of joint parking and loading facilities, provide for joint access, and generally maintain adequate service and facilities while avoiding negative impacts on surrounding land use and traffic circulation;

Section 34-612(2)d. states that one of the purposes of planned developments is to provide for joint access and to maintain adequate services and facilities while avoiding negative impacts on surrounding land use and traffic circulation. The maintenance area has a separate access point approximately 700 feet from a main residential access point along Koreshan Boulevard. If the maintenance facility were moved to a different, more internal location, then it could use the main residential access point, eliminating the need for the additional access point along Koreshan. The proposed access point for the maintenance facility is proposed to be right in/right out. Any vehicles making deliveries to the maintenance facility that are coming from US 41 to the west, will have to make a u-turn in order to access the maintenance facility. This could have a negative impact on traffic circulation, which is inconsistent with the intent of LDC Section 34-612(2)d. The proposed location of the maintenance facility and its access point do not seem to meet the intent of the LDC in regard to the purpose of planned development zoning.

Lee County DOT has additional concerns with the proposed right in/right out access to the maintenance facility off of Koreshan Boulevard. Their concern is that the maintenance facility will generate trips on a public roadway that are usually internal to the project (tractors and lawnmowers, etc.). Residents of golf course communities sometimes object to the slow moving maintenance vehicles using the internal residential streets to access remote portions of the golf course. In response to these objections, the maintenance vehicles have to use the main entrance roads to gain access to the golf course. As the project is now designed, these same slow moving vehicles would have to use Koreshan Boulevard to get access to the main entrance road of the project. In the opinion of Lee County DOT, introducing these slow moving vehicles on Koreshan Boulevard, an arterial roadway, will cause negative safety impacts for the traveling public. DOT has recommended denial of the proposed right in/right out access point for the maintenance facility.

Planning staff supports the concerns of DOT in regard to the access point for the maintenance facility. Koreshan Boulevard is an arterial roadway with a primary function of carrying large volumes of traffic between major activity centers. LDC Section 10-1(b) defines an arterial street as follows.

(3) *The following definitions distinguish and rank streets according to their different functional classifications:*

a. *Street, arterial means streets primarily intended to carry large volumes of through traffic connecting major activity centers to other major traffic generators. Access to abutting properties is a secondary function.*

The LDC clearly states that access to abutting properties is a secondary function of arterial roadways. Planning staff does not support the proposed right in/right out access point for the maintenance facility on Koreshan Boulevard because it would be contrary to the LDC definition of an arterial roadway. It would negatively impact the ability of Koreshan Boulevard to carry large volumes of traffic between major activity centers. Staff believes that the maintenance facility should be relocated to the Club/Recreation Tract, thereby internalizing the impacts of the facility.

Staff proposes the following condition be included to address the location and/or design of the golf maintenance facility.

- **The existing Residential/Maintenance Tract MPD-7 is approved for residential use only, and direct access to Koreshan Boulevard from this tract is prohibited. The maintenance facility must be relocated to the interior, Club/Recreation Tract MPD 10.**

GOLF COURSE PERFORMANCE STANDARDS

The stormwater runoff for the subject property will ultimately outfall to Estero Bay, which is Florida's first state aquatic preserve. All state aquatic preserves are also designated Outstanding Florida Waters by the Florida Department of Environmental Protection (DEP). DEP cannot issue permits for direct pollutant discharges to Outstanding Florida Waters which would lower ambient water quality, or indirect discharges which would significantly degrade the Outstanding Florida Water. Given the protection provided to Estero Bay by the State, staff believes that some general golf course performance standards should be implemented for this development in order to reduce any indirect discharges that would degrade the quality of the aquatic preserve.

The following conditions are included to address concerns about the golf course and its impact on water quality.

- a. Fertilizers with a low leaching potential (slow release) must be used, must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and
- b. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management

plan which includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the US Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may be used. No turf managed areas (including fairways, tees, and greens) are permitted within 35 feet of wetlands or preserve areas. This chemicals management plan must be submitted to and approved by Lee County Natural Resources Staff prior to the development order approval.

- c. The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- d. The utilization of a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM is required. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- e. The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.
- f.
 - 1) Prior to the issuance of local development order approval, the developer must demonstrate compliance with "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.
 - 2) The development order must demonstrate separate mixing and loading facilities for pesticides, and provide a separate pesticide storage area, in compliance with materials specified in the above referenced document. The development order must demonstrate separate mixing and loading facilities

for fertilizer, and provide a separate fertilizer storage area, in compliance with materials specified in the above referenced document.

- 3) The development order plans must indicate the construction material for all buildings in compliance with Best Management Practices for Golf Course Maintenance Departments.”
 - 4) Equipment to apply pesticides and fertilizers must be stored in an area protected from rainfall.
-
- g. The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, while requiring relatively low fertilizer use;
 - h. The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.
 - i. All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from these underdrains must be pre-treated prior to discharge into the balance of the project's water management system.
 - j. Stormwater run-off must be pre-treated through an acceptable recreated natural system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
 - k. An annual monitoring report of ground water and surface water quality is required for the golf course operation. The monitoring program must include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water within the area of the golf course; identifying the locations for the ground water monitoring and testing on a map(s); setting forth the testing and recording requirements. The Developer must submit the test results with the monitoring report to the Lee County Natural Resource Division. The monitoring program will be established and operated at the expense of the Developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 17-302, F.A.C., water quality standards.
 - l. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and should the pollution be caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until there is a revised management plan. If mitigation is necessary to address the pollution, a mitigation plan approved by Lee County must be implemented by the Developer.

From: thomas beard <scpfdbear@firehousemail.com>
To: <Deselekl@bocc.co.lee.fl.us>
Date: 2/2/01 9:38AM
Subject: Re: Estero Golf Resort

February 2, 2001

Kay Deselem, AICP
 Senior Planner
 P.O. Box 398
 Fort Myers, FL 33902-0398

Dear Kay,

Thank you for having me at your meeting to discuss the proposed development, The Estero Golf Resort. The proposed development is located within the San Carlos Park Fire Protection District. The project borders the south end of our response area along Koreshan Blvd.

I do have some concerns with the access to the development which is limited to only one point off of Koreshan Blvd. That proposed access is located 3 1/2 miles from the front of fire station #1 with a response time of over 4 minutes to the front of the development. This does not take into consideration roads within the project itself. You can add 2 to 3 minutes to this time for your response. This is normal emergency response time not taking into account the many variable factors that can and will occur from time to time.

The traffic light at Sanibel Blvd. does not have a remote switch for fire district use to help access U.S.41, neither is there a traffic light at Koreshan Blvd. and U.S.41. This is a very heavily traveled road and firefighters will encounter the most dangerous path of travel when responding to any fire or medical call. The six-lane project planned for U.S. 41 is also certainly a concern for traffic delays also. There is also a Railroad track that could block access to the main entrance of the development. The railroad presents a different concern as the many types of products that are shipped by rail ie, hazardous materials. Any accidents, leaks or mishaps could close off that area for an extended amount of time.

A proposed route, with a second entrance at the end of Oriole Rd. near Matanzas Rd. where the Sandy Ln. extension is proposed, is the better choice of response for the fire district and all lives concerned. That route is only 1.7 miles from fire station #1 with a response time of 3 minutes to the proposed entrance. This proposed route avoids the railroad tracks, any traffic lights on U.S.41, or any future road construction projects.

This proposed route also provides for lower ISO rating of a class 4 as opposed to a class 9 which means lower fire insurance for the property owner. Any medical emergencies or fires could be handled in less than half the time, which would greatly reduce the possibility of loss of life and property damage. Clearly, this is a true life safety issue.

We are in the process of building a third fire station, but that location will be on Ben Hill Griffin Parkway and will not be one of the first responding units to the Estero Golf Resort project.

I look forward working with you on this project.
 If you have any questions, please contact me at (941)267-7525.

Sincerely,

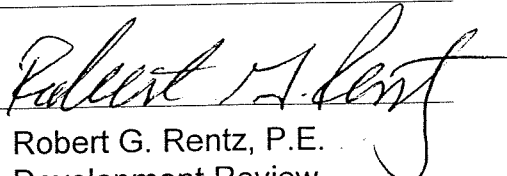
Thomas M. Beard
 Fire Inspector
 San Carlos Park Fire District

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: February 21, 2001

To: Kay Deselem, AICP
Senior Planner

FROM:


Robert G. Rentz, P.E.
Development Review
Engineer

RE: Estero Golf Resort
Case No. DCI2000-00032
(CORRECTIVE MEMO)

The proposed development consists of 320,000 square feet of retail, 20,000 square feet of office, a 150 room hotel, and 820 single family homes. The project is expected to generate 17,270 new trips per day, with 865 occurring in the AM peak hour and 1,625 occurring in the PM peak hour.

Based on the 1999 Traffic Count Report issued by Lee County Department of Transportation the 2005 peak hour, peak season, peak direction volume of flow on U.S.41 south of Koreshan Blvd. is 1,851 vehicles per hour, on U.S.41 north of Koreshan Blvd. is 1,658 vehicles per hour, and on Koreshan Blvd. is 240 vehicles per hour. At these volumes the roadway links will operate at level of service C, C, and A, respectively. When the peak hour, peak direction project traffic is added to the 2005 background the roadway links will operate at level of service D, C, and A, respectively.

Based on the Concurrency Management Inventory and Projections for 1999/2000 - 2000/2001, U.S.41(link #266) from Corkscrew Rd. to Sanibel Blvd., as of September 07, 2000 has an existing level of service C (2,164 vph), and is forecast to go to level of service F (2,993 vph). The level of service E capacity is 2,270 vph. Koreshan Blvd.(link #122) has an existing level of service A (128 vph), and is forecast to remain at level of service A (128 vph).

[Note: This segment of U.S.41 is funded for Preliminary Engineering(design) for widening to 6 lanes in FY 2004/05.]

ROAD LINK VOLUMES Peak Direction of Flow											
ROADWAY LINK NAME	FROM	TO	ROAD TYPE	PERFORMANCE STANDARD		EXISTING 9/7/00		FORECAST 9/7/00		NOTES*	LINK NO.
				LOS	CAPACITY	LOS	VOLUME	LOS	VOLUME		
IONA ROAD	MCGREGOR BLVD (C.R. 867)	CALOOSAHATCHEE RIVER	2LU	E	1,040	D	509	E	807		115
ISLAND PARK RD	PARL RD	U.S. 41	2LU	E	1,040	D	488	D	488		116
JOEL BLVD.	LEELAND HTS. BLVD.	18TH STREET	4LN	E	2,110	B	950	C	1,083		117
JOEL BLVD.	18TH STREET	PALM BEACH BLVD (S.R. 80)	2LU	E	1,250	B	268	B	270		118
JOHN MORRIS RD	SUMMERLIN RD.	IONE RD.	2LU	E	1,040	C	202	C	202		119
KELLY ROAD	MCGREGOR BLVD (C.R. 867)	SAN CARLOS BLVD. (S.R. 865)	2LU	E	1,040	C	232	C	237		120
KELLY ROAD	SAN CARLOS BLVD. (S.R. 865)	PINE RIDGE ROAD	2LU	E	1,040	C	170	C	170		121
KORESHAN BLVD	U.S. 41	THREE OAKS PKWY	4LD	E	2,820	A	128	A	128		122
LAUREL DRIVE	BUSINESS 41	GAGE DRIVE	2LU	E	1,040	D	520	D	520		123
LEE BLVD.	IMMOKALEE RD (S.R. 82)	ALVIN AVE	6LD	E	3,610	B	1,859	B	2,562		124
LEE BLVD.	ALVIN AVE	GUNNERY RD	6LD	E	3,610	A	1,377	A	1,394		125
LEE BLVD.	GUNNERY RD	HOMESTEAD RD	6LD	E	3,610	A	1,483	B	1,554		126
LEE BLVD.	HOMESTEAD RD	LEELAND HTS. BLVD.	2LN	E	1,030	B	620	B	756	4 L/3L Funded in 99/00	127
LEE RD.	SANIBEL BLVD	ALICO ROAD	2LN	E	1,040	E	610	E	610		128
LEELAND HTS.	HOMESTEAD ROAD	BELL BLVD.	4LN	E	1,960	B	923	B	1,023	4 Lane Funded in 99/00	129
LEONARD BLVD.	GUNNERY RD.	LEE BLVD.	2LN	E	1,040	B	108	B	108		130
LITTLETON ROAD	CAPE CORAL CITY LIMITS	U.S. 41	2LU	E	1,050	B	355	B	432		131
LITTLETON ROAD	U.S. 41	BUSINESS 41	2LN	E	1,050	B	367	B	367		132
LUCKETT ROAD	ORTIZ AVE (S.R. 80B)	HAMILTON DRIVE	2LN	E	950	C	600	C	783		133
LUCKETT ROAD	HAMILTON DRIVE	COUNTRY LAKES DRIVE	2LN	E	1,040	C	175	E	922		134
MAPLE DR.	SUMMERLIN RD.	2ND AVE.	2LU	E	1,040	C	173	C	173		135
MCGREGOR BLVD (C.R. 867)	TOLL PLAZA	JONATHAN HARBOR DR.	4LD	E	2,380	B	1,167	B	1,167		136
MCGREGOR BLVD (C.R. 867)	JONATHAN HARBOR DR.	SUMMERLIN RD. (C.R. 869)	4LD	E	2,380	B	1,272	B	1,392		137
MCGREGOR BLVD (C.R. 867)	SUMMERLIN RD. (C.R. 869)	KELLY RD.	4LD	E	2,380	B	621	B	754		138
MCGREGOR BLVD (C.R. 867)	KELLY RD.	GLADIOLUS DR. (S.R. 865)	4LD	E	2,380	B	953	B	971		139
MCGREGOR BLVD (S.R. 867)	GLADIOLUS DR. (S.R. 865)	IONA LOOP RD.	4LD	E	2,190	B	775	B	775		140
MCGREGOR BLVD (S.R. 867)	IONA LOOP RD.	PINE RIDGE RD.	4LD	E	2,190	B	1,012	B	1,202		141
MCGREGOR BLVD (S.R. 867)	PINE RIDGE RD.	CYPRESS LAKE DRIVE	4LD	E	2,190	B	1,427	B	1,594		142
MCGREGOR BLVD (S.R. 867)	CYPRESS LAKE DRIVE	COLLEGE PARKWAY	4LD	E	1,800	D	1,299	D	1,457		143
MCGREGOR BLVD (S.R. 867)	COLLEGE PARKWAY	WINKLER ROAD	2LD	E	1,180	C	699	C	832	Constrained v/c=0.55	144
MCGREGOR BLVD (S.R. 867)	WINKLER ROAD	TANGLEWOOD BLVD.	2LD	E	1,180	F	1,213	F	1,213	Constrained v/c=1.03	145
MCGREGOR BLVD (S.R. 867)	TANGLEWOOD BLVD.	COLONIAL BLVD (S.R. 884)	2LD	E	1,180	F	1,205	F	1,205	Constrained v/c=1.02	146
METRO PARKWAY (S.R. 739)	SIX MILE CYPRESS PKWY	DANIELS ROAD	2LN	E	920	B	508	C	809		147
METRO PARKWAY (S.R. 739)	DANIELS ROAD	CRYSTAL DR	4LD	E	1,990	C	1,225	C	1,265		148

ROAD LINK VOLUMES Peak Direction of Flow											
ROADWAY LINK NAME	FROM	TO	ROAD TYPE	PERFORMANCE STANDARD		EXISTING 9/7/00		FORECAST 9/7/00		NOTES*	LINK NO.
				LOS	CAPACITY	LOS	VOLUME	LOS	VOLUME		
W 12TH STREET	SUNSHINE BLVD	WILLIAMS AVENUE	2LU	E	1,040	C	190	C	190		260
W 12TH STREET	WILLIAMS AVENUE	JOEL BLVD	2LU	E	1,040	B	54	B	54		261
U.S. 41	COLLIER COUNTY LINE	BONITA BEACH RD (C.R. 865)	4LD	E	2,450	C	1,621	C	2,225	6 Lane Funded in 02/03	262
U.S. 41	BONITA BEACH RD (C.R. 865)	W TERRY STREET	4LD	E	2,450	C	2,141	F	2,737	ROW Funded IN 00/01	263
U.S. 41	W TERRY STREET	OLD 41 (C.R. 887)	4LD	E	2,450	C	1,662	F	3,004	ROW Funded IN 00/01	264
U.S. 41	OLD 41 (C.R. 887)	CORKSCREW RD.	4LD	E	2,450	C	2,186	F	4,142	6L Funded IN 04/05	265
U.S. 41	CORKSCREW RD.	SANIBEL BLVD	4LD	E	2,270	C	2,164	F	2,993	PE Funded in 04/05	266
U.S. 41	SANIBEL BLVD	ALICO ROAD	4LD	E	2,270	C	1,532	C	1,547	6 Lane Funded in 99/00	267
U.S. 41	ALICO ROAD	ISLAND PARK ROAD	6LD	E	3,400	C	2,294	C	2,294	6 Lane Under Construction	268
U.S. 41	ISLAND PARK ROAD	BRIARCLIFF RD	6LD	E	3,400	C	2,404	C	2,617	6 Lane Under Construction	269
U.S. 41	BRIARCLIFF RD	SIX MILE CYPRESS PKWY	6LD	E	3,400	C	2,710	C	2,713	6 Lane Under Construction	270
U.S. 41	SIX MILE CYPRESS PKWY	DANIELS RD.	6LD	E	2,810	C	1,703	C	2,001	6 Lane Under Construction	271
U.S. 41	DANIELS RD.	COLLEGE PARKWAY	6LD	E	2,810	C	1,973	C	1,912	Constrained v/c=0.74	272
U.S. 41	COLLEGE PARKWAY	SOUTH RD	6LD	E	2,810	D	2,294	E	2,796	Constrained v/c=0.86	273
U.S. 41	SOUTH RD	BOY SCOUT DRIVE	6LD	E	2,810	D	2,103	D	2,117	Constrained v/c=0.79	274
U.S. 41	BOY SCOUT DRIVE	NORTH AIRPORT ROAD	6LD	E	2,810	D	2,417	D	2,418	Constrained v/c=0.95	275
U.S. 41	FT. MYERS CITY LIMITS	NORTH KEY DRIVE	4LD	E	2,600	D	2,511	D	2,534		276
U.S. 41	NORTH KEY DRIVE	HANCOCK BRIDGE PKWY	4LD	E	2,600	D	2,435	D	2,435		277
U.S. 41	HANCOCK BRIDGE PKWY	PONDELLA RD	4LD	E	2,600	C	1,776	C	1,779		278
U.S. 41	PONDELLA RD	PINE ISLAND RD (S.R. 78)	4LD	E	2,600	C	1,396	C	1,396		279
U.S. 41	PINE ISLAND RD (S.R. 78)	LITTLETON RD	4LD	E	2,220	B	1,254	B	1,254		280
U.S. 41	LITTLETON RD	DEL PRADO BLVD	4LD	E	2,220	B	1,215	B	1,403		281
U.S. 41	DEL PRADO BLVD	CHARLOTTE COUNTY LINE	4LD	E	2,220	B	931	B	1,429		282
I-75	COLLIER COUNTY LINE	CORKSCREW RD. (C.R. 850)	4LD	C	2,570	D	2,976	D	2,976		283
I-75	CORKSCREW RD. (C.R. 850)	ALICO ROAD	4LD	C	2,570	E	3,344	E	3,344		284
I-75	ALICO ROAD	DANIELS ROAD	4LD	C	2,570	E	3,968	E	3,968		285
I-75	DANIELS ROAD	COLONIAL BLVD (S.R. 884)	4LD	C	2,570	D	3,288	D	3,288		286
I-75	COLONIAL BLVD (S.R. 884)	DR ML KING, JR BLVD (S.R. 82)	4LD	C	2,570	D	2,979	D	2,979		287
I-75	DR ML KING, JR BLVD (S.R. 82)	PALM BEACH BLVD (S.R. 80)	4LD	C	2,570	D	3,062	D	3,062		288
I-75	PALM BEACH BLVD (S.R. 80)	BAYSHORE RD. (S.R. 78)	4LD	C	2,570	D	2,761	D	2,761		289
I-75	BAYSHORE RD. (S.R. 78)	CHARLOTTE COUNTY LINE	4LD	C	2,570	C	1,729	C	1,729		290

* Note: "Constrained" Roads are as indicated in TABLE 2(a) CONSTRAINED ROADS

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: January 25, 2001

TO: Kay Deselem

Senior Planner

FROM: Don Blackburn

Development Review Manager

RE: ESTERO GOLF RESORT
DCI2000-00032
SUBSTANTIATIVE COMMENTS

I have reviewed the most recent submittal and have the following comments.

With regards to Deviation request number three and four: Development Services staff recommends approval of the request with the condition that during the Development Order Process the developer demonstrate the Pavers are structural equivalent to the asphaltic pavement standard of the LDC and is equivalent to 2500psi concrete.

With regards to Deviation Request number 8: Development Services recommends denial of the requested deviation. Providing a connection to Oriole Road will continue the existing local street pattern and will provide continuity for those residents who wish to travel to either Alico Road or Koreshean Blvd. More important, making the connection from Oriole Road to the project will decrease the distance traveled to the site from the San Carlos Fire Station by approximately 3.5 miles. Making the connection will clearly be a benefit to the Estero Golf Residents.

With regards to Deviation number 11: Development services recommends denial of the requested deviation. The applicant did not adequately demonstrated that relief from the minimum standard will enhance the development, or did they demonstrate the request would be a benefit to the public and not a detriment. The stacking of vehicles may create a sight distance problem while backing for the driver of a vehicle parked next to the stacked vehicles. The LDC standard has been predetermined to be the minimum safe criteria to benefit the health and safety of the public. The development as presented is large vacant tracts of land. Development Review believes that the site allows adequate area to meet the minimum standard and still have a viable project.

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: February 15, 2001

To: Kay Deselem
Senior Planner

FROM: Don Blackburn
Development Review Manager

RE: ESTERO GOLF RESORT
DCI2000-00032

Please find below my supplemental information regarding Deviation request number two:

Development Review supports the requested deviation with the condition that during the development order process the applicant must provide elements of deterring access from the adjacent properties. These elements may consist of fencing, berms, buffering or a combination of all three.

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address, & Office(if applicable)

Keystone Custom Homes, Inc.
9051 Tamiami Trail North, #202
Naples, FL 34108

Percentage of Stock

Paula Davis, President
John W. Frasco, Vice Pres. and Treasurer

40%

60%

Date of Contract: November 8, 1999

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: Paula Davis

(Applicant)

Paula Davis, President

Keystone Custom Homes, Inc.

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 24 day of May, 192000, by Paula S. Davis, who is personally known to me or who has produced _____ as identification..

Monique Grieser
Signature of Notary Public

Monique Grieser
Printed Name of Notary Public

(SEAL)

MONIQUE A. GRIESER
Notary Public - State of Florida
My Commission Expires Mar 27, 2001
Commission # CC633663

EXHIBIT I-F

DISCLOSURE OF INTEREST FORM FOR:

21-46-25-00-00001.0000
STRAP NO. 21-46-25-00-00001.3000 CASE NO. DCI 2000-00032

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage of Ownership

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and Office

Percentage of Stock

Robert H. Mann, 220 Bush Street, Ste. 1100
San Francisco, CA 94104, President and
Secretary

Corly Investments, N.V. Pietermaai 15, P.O. Box
564, Curacao, Netherlands Antilles

100%

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

(over)

RECEIVED
JUN 01 2000

PERMIT COUNTER

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EXHIBIT I-B-4
COVENANT OF UNIFIED CONTROL

RECEIVED 99509
JUN 01 2000

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as Estero Golf Resort and
(street address)
legally described in exhibit A attached hereto.

The property described herein is the subject of an application for planned development zoning. We hereby designate Paula Davis as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorization of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended covenant of unified control is delivered to Lee County.

The undersigned recognize the following and will be guided accordingly in the pursuit of development of the project:

1. The property will be developed and used in conformity with the approved master concept plan including all conditions placed on the development and all commitments agreed to by the applicant in connection with the planned development rezoning.
2. The legal representative identified herein is responsible for compliance with all terms, conditions, safeguards, and stipulations made at the time of approval of the master concept plan, even if the property is subsequently sold in whole or in part, unless and until a new or amended covenant of unified control is delivered to and recorded by Lee County.
3. A departure from the provisions of the approved plans or a failure to comply with any requirements, conditions, or safeguards provided for in the planned development process will constitute a violation of the Land Development Code.
4. All terms and conditions of the planned development approval will be incorporated into covenants and restrictions which run with the land so as to provide notice to subsequent owners that all development activity within the planned development must be consistent with those terms and conditions.
5. So long as this covenant is in force, Lee County can, upon the discovery of noncompliance with the terms, safeguards, and conditions of the planned development, seek equitable relief as necessary to compel compliance. The County will not issue permits, certificates, or licenses to occupy or use any part of the planned development and the County may stop ongoing construction activity until the project is brought into compliance with all terms, conditions and safeguards of the planned development.

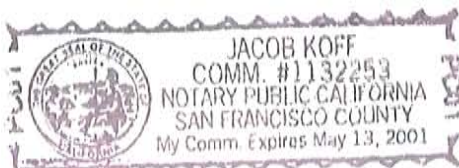
Robert Mann
Owner

Robert Mann, President
Hermes Investment Co., Inc.
Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

California
San Francisco

Sworn to (or affirmed) and subscribed before me this 17th day of May, 192000
by Robert Mann who is personally known to me or has produced
_____ as identification.



Jacob Koff
Notary Public
(Name typed, printed or stamped)
(Serial Number, if any)

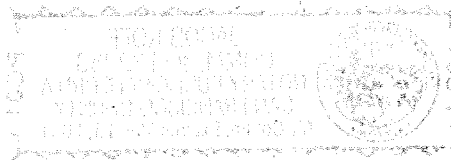
INSTR # 5136966 OR BK 3414 PG 3252 RECD 05/17/01 11:06 AM
CHARLIE GREEN, CLERK OF COURT, LEE COUNTY
DEPUTY CLERK J MILLER

DCT 2000-00032

EXPLANATORY NOTES

Where there is more than one owner, either legal or equitable, then all such owners must jointly initiate the application. Exceptions to this are:

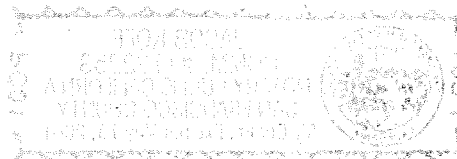
- 1) It is not required that both husband and wife initiate the application on private real property owned by them.
- 2) Where the property is subject to a land trust agreement, the trustee may initiate the application.
- 3) Where the fee owner is a corporation, any duly authorized corporate official may initiate the application.
- 4) Where the fee owner is a partnership, the general partner may initiate the application.
- 5) Where the fee owner is an association, the association may appoint an agent to initiate the application on behalf of the association.
- 6) Where the property is a condominium or time-share condominium, refer to Sec. 34-201(a)(1)b. for rules.
- 7) Where the property is a subdivision, refer to Sec. 34-201(a)(1)c. for rules.
- 8) Rezoning initiated by the Board of County Commissioners on property not owned by the county.



EXPLANATORY NOTES

Where there is more than one owner, either legal or equitable, then all such owners must jointly initiate the application. Exceptions to this are:

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- 6) Where the property is a condominium or time-share condominium, refer to Sec. 34-201(a)(1)b. for rules.
- 7) Where the property is a subdivision, refer to Sec. 34-201(a)(1)c. for rules.
- 8) Rezoning initiated by the Board of County Commissioners on property not owned by the county.



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PART V

AFFIDAVIT

I, Paula Davis certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application.

Paula Davis
Signature of Owner or Owner-authorized Agent

5-24-00
Date

Paula Davis, President
Keytone Custom Homes, Inc.

Typed or printed name and title

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 24 day of May, 2000, by Paula J. Davis, who is personally known to me or who has produced _____ as identification.

(SEAL)

MONIQUE A. GRIESER
Notary Public - State of Florida
My Commission Expires Mar 27, 2001
Commission # CC633663

Monique Grieser
Signature of notary public

Monique Grieser
Printed name of notary public

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JUN 01 2000

PERMIT COUNTER

PART IV EXPLANATIONS (Cont)

Schedule of deviations: Refer to Sec. 34-373(a)(6)a.9. or b.9. and 34-373(a)(7)d.

Traffic Impact Statement: [Sec. 34-373(a)(6)a.11 Or b. 10 and 34-373(a)(7)] Format and degree of detail is set forth in the adopted Lee County Administrative Code.

Surface Water Management Plan: [Sec. 34-373(b)(1)] Written statements which describe:

1. the runoff characteristics of the property in its existing state;
2. in general terms, the drainage concept proposed, including the outfall to canals or natural water bodies including how drainage flow from adjacent properties will be maintained;
3. the retention features (including existing natural features) that will be incorporated into the drainage system and the legal mechanism which will guarantee their maintenance;
4. how existing natural features will be preserved. Include an estimate of the ranges of existing and post development water table elevations, where appropriate.
5. Describe the requirements for fill materials posed by this development for other than building pads (use, volume, etc.)
6. If the property is subject to seasonal inundation or subject to inundation by a stream swollen by the rains of a 100-year storm event, indicate the measures that will be taken to mitigate the effects of expectable flooding. [34-442(1)f]

Management Plan for Protected Species: [Sec. 34-373(b)(2)] Refer to the Sec. 10-474.

Program for phased development: [Sec. 34-373(b)(3)] Description of program for phased development (if applicable). A description of the program of phased construction, if the development is to be so constructed.

GENERAL

- a. The applicant is responsible for the accuracy and completeness of this application. Any time delays or additional expenses necessitated due to the submittal of inaccurate or incomplete information shall be the responsibility of the applicant.
- b. All information submitted with the application or submitted at the public hearing becomes part of the public record and shall be a permanent part of the file.
- c. All applications must be submitted in person. Mailed-in applications will not be processed.
- d. All attachments and exhibits submitted shall be of a size that will fit or conveniently fold to fit into a letter size (8 1/2" x 11") folder.
- e. The Department staff will review this application for compliance with requirements of the Lee County Land Development Code. If any deficiencies are noted, the applicant will be notified.
- f. All applicants shall pay an application fee as set forth in the county External Fees and Charges Manual. (Administrative Code 3-10 Appendix C)

PART IV **SUBMITTAL REQUIREMENTS**

COPIES REQUIRED				Exhibit #	Item
SUB	DR/DCI	EXIST	MINOR		
10	10	10	10		Completed application [34-201(b)]
1	1	1	1		Application Fee [34-202(a)(9)]
2	2	2	2	I-B-1	Notarized Authorization Form (if applicable) [34-201(a)(1)]
n/a	2	2	2	I-B-2	Blue Sheet (If applicable) [34-201(a)(2)]
2	2	2	2	I-B-3	List of Property Owners (If applicable) [34-202(a)(5)]
2	2	2	2	I-B-4	Notarized Covenant & doc. Of Unified Control [34-373(a)(3)]
2	2	2	2	I-B-5	Surrounding Property Owners List [34-202(a)(6)]
2	2	2	2	I-B-6	Property Owners Map [34-202(a)(7)]
2	2	2	2	I-F	Notarized Disclosure Form (if applicable) [34-201(b)(1)]
n/a	2	2	2	I-G	Deed Restrictions & Narrative (if applicable) [34-202(b)(2)]
10	10	10	10	II-B-1	Legal Description [34-202(a)(1)]
10	10	10	10	II-B-2	Certified sketch of description (if applicable) [34-202(a)(2)]
n/a	2	2	2	II-B-3	Plat Book Page (if applicable) [34-202(a)(1)]
10	10	10	10	II-D	Area Location Map [34-202(a)(4)]
n/a	10	10	10	II-E-1	Lee Plan Amendment (if applicable) [34-373(a)(5) & 34-491]
10	10	10	10	II-E-2	Narrative/how prop. complies with Lee Plan, etc. [34-373(a)(5)]
10	10	10	10	II-F-1	Environ. Sensitive Lands map (if app.) [34-373(a)(5)]
4	4	4	4	II-F-2	Environmental Assessment [34-1573]
10	10	4	4	II-F-3	Exist. zoning & current land use map/photo [34-373(a)(4)]
10	10	4	4	II-F-4	Soils, vegetation and ground cover maps [34-373(a)(4)b.]
10	10	4	4	II-F-5	Topography map (if available) [34-373(a)(4)b.]
10	10	-	-	III-A-2	Density Calcs (if applicable) [34-373(a)(6)a.3 & (6)b.3 & (7)a.]
n/a	10	-	-	III-A-5	Aviation Hazard (if applicable) [34-1001 et seq.]
10	10	-	-	III-B-3	Sanitary Sewer Facilities(if applicable) [34-442 (1)n]
4	4	-	4	III-C	Traffic Imp. Statement (if applicable) [34-373(a)(6)a.11 or b.10]
n/a	4	-	4	III-C	TIS Exemption Form (if applicable) [34-373(a)(6)a.11 or b.10]
10	10	4	4	IV-A	Public transit routes map (if applicable) [34-373(a)(4)d.]
10	10	4	4	IV-B	Protected Species Survey (if applicable) [34-373(a)(4)e.]
n/a	10	4	4	IV-B	Prot. Spec. Survey Exemption (if applicable) [34-373(a)(4)e.]
10	10	4	4	IV-C	Existing easements and r-o-w map. [34-373(a)(4)f.]
10	10	10	10	IV-D	Description of proposed development. [34-373(a)(6)]
10	10	10	10	IV-E	Master Concept Plan (Option 1) [34-373(a)(6)a.]
n/a	10	10	10	IV-F	Master Concept Plan (Option 2) [34-373(a)(6)b.]
1	1	1	1		11 inch by 17 inch copy of the Master Concept Plan
10	10	10	10	IV-G	Schedule of Uses [34-373(a)(6)a.3. or b.3 and 34-373(a)(7)]
10	10	10	10	IV-H	Schedule of Dev. & Justification [34-373(a)(6)a.9 or b.9 & (7)d]
4	4	-	-	IV-I	Surface Water Management Plan [34-373(b)(1)]
4	4	-	-	IV-J	Protected Species Management Plan [34-373(b)(2)]
10	10	10	0	IV-K	Program for phased development (if applicable) [34-373(b)(3)]
n/a	10	10	10	IV-L	Haz. Mat Emer Plan (if applicable) [34-202(b)(4)]
n/a	-	4	-	IV-M	Mobile Home Park Rezoning Information [34-373(d)]

PART IV - Explanatory Notes for Exhibits not previously discussed.

Surrounding Property Owners List: A complete list of all property owners, and their mailing addresses, for all property within three hundred seventy-five (375) feet [five hundred (500) feet if for a COP] of the perimeter of the subject property or the portion thereof that is the subject of the request. Names and addresses of property owners shall be deemed to be those appearing on the latest tax rolls of the County. The applicant is responsible for the accuracy of such list. [Sec. 34-202(a)(6)]

Property Owners Map: A County Zoning map or other similar map displaying all of the parcels of property within three hundred seventy-five feet [five hundred (500) feet if for a COP] of the perimeter of the subject parcel or the portion thereof that is the subject of the request, referenced by number or other symbol to the names on the property owners list. The applicant shall be responsible for the accuracy of the map. [Sec. 34-202(a)(7)]

Unified Control Documentation: A notarized document (see Exhibit IV-D) corroborating unified control over the subject parcel. [Sec. 34-373(a)(3)]

If the owner does not desire to sign the attached Covenant of Unified Control he may submit an alternate document for consideration by the County Attorney's office prior to submitting the application for rezoning.

Existing Conditions: [Sec. 34-373(a)(4)] NOTE: If more than one of the following requirements is shown on the same set of maps or photos, please mark the document with all appropriate exhibition numbers.

Existing zoning and current uses: Show existing zoning and current land uses surrounding the property to a distance of 375 feet.

Soils, vegetation and ground cover: Classified in accordance with USDA/SCS system and the Florida Land Use and Cover Classification System, respectively

Topography: Provide a Lee County Topographical map (if available).

Public Transit: Show the property in relation to existing and proposed public transit routes and bus stops, including what facilities exist at the bus stop.

Protected Species Survey: As required by Section 10-473 of the Land Development Code.

Environmental Assessment: Areas of encroachment by undesirable exotic (floral) species, the line of mean high water, and jurisdictional boundaries of state and federal agencies, and Coastal Construction Setback Lines. If the site contains unique landforms or biological areas such as creek beds, sand dunes, coastal or interior hammocks, or old growth pine flatwoods, additional information may be required including wildlife and plant inventories and hydrologic details, in order to identify the highest quality biological communities and develop suitable conservation measures. Please contact the Lee County Division of Environmental Sciences at 335-2477 with any questions concerning this environmental assessment.

Master Concept Plan: Refer to Sec. 34-373(a)(6)a.3. or b. 3. AND 34-373(a)(7)a. for information.

Schedule of Uses: [Sec. 34-373(a)(7)]

1. A summary of the kinds of uses proposed for the entire site (for projects containing residential uses, this shall include the types of proposed dwelling units);
2. The units (gross square feet for commercial/industrial uses, number of units for residential, motel/ hotel uses, beds for institutional types of uses, etc.) of each kind of use for the entire site;
3. For developments containing uses for which the parking requirements are to be determined by the Director, the number of parking spaces proposed for those uses.

B. Facilities

1. Fire District: Estero Fire District

2. Water Supply

a. Estimated daily consumption of potable water:

1. Residential units: 120,000 gpd

2. Mobile Home units: _____ gpd

3. Rec. Vehicle units: _____ gpd

4. Commercial: 148,000 gpd

5. Industrial: _____ gpd

b. Source of potable water: Gulf Environmental Services

c. Do you have a written agreement from the utility company to serve your project? _____ NO
x YES. If yes, please submit a copy of the agreement.

d. Source of Non-potable water: Groundwater

3. Sanitary Sewer Service

a. Estimated daily production of wastewater:

1. Residential units: 120,000 gpd

2. Mobile Home units: _____ gpd

3. Recreational Vehicles: _____ gpd

4. Commercial: 148,000 gpd

5. Industrial: _____ gpd

b. Is any special effluent anticipated? x NO _____ YES. If yes, please complete Exhibit III-B-3 (attached).

c. Source of sanitary sewer service: Gulf Environmental Services

d. Do you have a written agreement from the utility company to serve your project? _____ NO
x YES. If yes, please submit a copy of the agreement.

e. Will a private on-site disposal facility be used? x NO _____ YES. If yes, please complete Exhibit III-B-3 (attached).

f. Are individual sewage disposal systems proposed? x NO _____ YES.

C. Transportation

1. Has this project been exempted from filing a Traffic Impact Statement? x NO _____ YES
_____ NOT REQUIRED (Exist. development). If it has been exempted, attach a copy of the exemption and label it Exhibit III-C.

PART III EXPLANATORY NOTES (cont)

B. Facilities

1. Fire District: List the Fire District in which the property is located.

2. Water Supply:

a. Estimate the daily consumption of potable water by the proposed project.

For residential projects, use 250 gpd (gallons per day) per unit. If the water treatment facility serves only mobile homes or recreational vehicles, the following figures may be used:

Mobile Homes use 187.5 gpd. per unit.

Recreational Vehicles use 150 gpd. per unit.

For all other types of projects, show calculations and source of consumption rates utilized.

b. If the property lies wholly or partly in the certificated franchised service area of an established water utility, name the utility company.

If a private, on-site, potable water system is proposed, please provide a description of the system.

d. Source of non-potable water service: If a separate system is proposed for non-potable (irrigation) water uses, please specify the source.

3. Sanitary Sewer Service.

a. Estimated daily production of wastewater

For residential projects use 200 gpd (gallons per day) per unit. If the sewage treatment facility serves only mobile homes or recreational vehicles, the following figures may be used:

Mobile Homes use 150 gpd per unit.

Recreational Vehicles use 120 gpd per unit

For all other types of projects, show calculations and source of consumption rates utilized.

b. If any special types of effluent can be anticipated, please submit Exhibit III.B.3. (attached)

c. If the property lies wholly or partly in the certificated or franchised service area of an established sanitary sewer district or sewer utility name the utility.

e. If a private, on-site, wastewater treatment and disposal facility is proposed, please submit Exhibit III.B.3 (attached).

**PART III
PROPOSED DEVELOPMENT**

A. Nature of Request

1. Will the development contain living units? _____ NO X YES. If the answer is yes, please indicate the total number of living units proposed, by type:

_____ Single Family _____ Mobile Homes _____ Recreational Vehicles
_____ Zero-Lot-Line _____ Duplex/Two Family _____ Townhouses
600 Multiple Family _____ TOTAL ALL TYPES

2. If the development will contain living units, please complete Exhibit III-A-2 (attached) and enter the following information:

a. PERMITTED total units (from Exhibit III-A-2): 1,724

b. PROPOSED total units (from A-1. above): 600

c. PROPOSED density (from Exhibit III-A-2): 2.09

3. Will the development contain non-residential areas? _____ NO X YES. If the answer is yes, please indicate the size [gross square footage (gsf) unless indicated otherwise] of each general class of uses below:

Retail: 200,000 Total gsf

Offices: 15,000 Total gsf

Medical: _____ gsf Non-medical: _____ gsf

Hotel/Motel: 150 Total units

Size of units: _____ 0-425 sq. Ft. _____ 426-725 sq. Ft. _____ 726 or more sq. Ft.
(number) (number) (number)

Industrial: _____ Total gsf

Under roof: _____ gsf Not under roof: _____ gsf

Mines, Quarries, or General Excavation:

Acres to be excavated: _____

Other-specify: _____

Number of Beds (if applicable): _____ OR: _____ gsf

4. Building Height

95 Maximum height of buildings (in feet above grade)

TBD Number of Habitable Floors

5. Aviation Hazard: Do you propose any structures, lighting, or other features that might affect safe flight conditions? X NO _____ YES. If yes, please submit an explanation and label it Exhibit III-A-5.

PART III - EXPLANATORY NOTES

- A. 5. Aviation Hazard: If your project is near any commercial or general aviation facility or within any area delineated on the Lee County Port Authority Airspace Notification Map as a notification area, describe any structures (including proposed communication towers), lighting, or other features which could adversely affect safe flight, and label it Exhibit III.A.5. Refer to Section 34-1001 et seq.

2. Are there any environmentally sensitive lands such as, but not limited to, wetlands (as defined in the Lee Plan); flow-ways, creek beds, sand dunes, other unique land forms [see Lee Plan Policy 77.1 (2)] or listed species occupied habitat (see Sec. 10-474 of the Land Development Code) on the subject property? NO X YES If yes, delineate these areas on a map or aerial photo and label it Exhibit II-F-1. Also, complete Exhibit II-F-2. attached hereto.

G. Present Use of Property: Is the property vacant? NO X YES

If the property is not vacant, the owner or applicant's signature on this application indicates that the Owner agrees to either remove all existing buildings and structures, OR that the proposed use of the building or structure(s) will be in compliance with all applicable requirements of the Land Development Code. [Sec. 34-202(b)(3)]

Briefly describe current use of the property: Agricultural use, cattle grazing, fenced.

H. Property Dimensions

1. Width (average if irregular parcel): 4,190+/- Feet

2. Depth (average if irregular parcel): 3,270+/- Feet

3. Frontage on road or street: 1,040+/- Feet on U.S. 41
4,190+/- Feet on Koreshan Boulevard
(Name of street)

4. Total land area: 314.6 Acres or Square Feet

I. Land Area Calculations

1. Undevelopable Areas:

a. Freshwater wetland areas 20.9 ac

b. Other wetland areas 0.3 ac

c. Submerged land subject to tidal influence: 0

d. Total (a + b + c): 21.2 ac

2. Remaining developable land (H.4 less I.1.d): 293.4 ac

EXPLANATORY NOTES (Cont)

F.2. If environmentally sensitive areas exist on the site, an environmental assessment must be prepared that examines the existing conditions, addresses the environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources. (See Sec. 34-1573). (Sec. 34-373)

H. **Property Dimensions:** If the parcel is irregularly shaped, indicate the average width and depth of the property. Indicate the length of property abutting any existing street rights-of-way or easements. If property abuts more than one street, indicate frontage on each street. [Sec 34-202(b)(9)]

The total area (in square feet or acres) of the property.

I. Land Area Calculations

1. **Undevelopable Areas:** Insert the area of land identified as undevelopable by the following terms:

a. Freshwater wetlands

b. Other wetlands

c. Submerged land subject to tidal inundation. The area of land which is submerged and is subject to tidal inundation.

**PART II
GENERAL INFORMATION**

A. Request:

1. Rezoning from AG TO: (check all applicable)

☒ RPD - Residential	☐ MPD - Mixed Use
☐ MHPD - Mobile Home	☐ RVPD - Recreational Vehicle
☒ CPD - Commercial	☐ CFPD - Community Facilities
☐ IPD - Industrial	☐ AOPD - Airport Operations

2. Option Chosen: ☒ Option 1 [34-373(a)(6)a] ☐ Option 2 [34-373(a)(6)b]

3. Other - Provide specific details. _____

B. Legal Description and Boundary Sketch: Is property within a platted subdivision recorded in the official Plat Books of Lee County?

☒ NO. Attach a legible copy of the legal description (label it Exhibit II-B-1.) and Certified sketch of description as set out in chapter 61G 17-6.006 FAC. (labeled Exhibit II-B-2.). **If the legal description is available on computer disc (Word or Word Perfect) please provide a copy at time of application.**

☐ YES. Property is identified as:

Subdivision Name: _____

Plat Book: _____ Page: _____ Unit: _____ Block: _____ Lot: _____

Section: 21 Township: 46 Range: 25

Attach a copy of the Plat Book page with subject property clearly marked. Label this Exhibit II-B-3.

C. Project Street Address: 19975 South Tamiami Trail Estero, FL 33928

D. General Location Of Property (referenced to major streets): The property is located in the northeast quadrant of the intersection of U.S. 41 and Koreshan Boulevard in Estero, Florida.

E. Lee Plan Information

1. Lee Plan Land Use Classification: Urban Community, Suburban and Wetlands

2. Are you proposing any Lee Plan amendments which could affect the subject property? ☒ NO

☐ YES. If yes, submit a copy of the proposed amendment (labeled as "Exhibit II-E-1") along with a statement as to how the proposed amendment will affect your property (labeled as "Exhibit II-E-2").

F. Drainage, Water Control and Other Environmental Issues

1. Is the property within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s? ☒ NO ☐ YES. If yes, specify the minimum elevation required for the first habitable floor). _____ NGVD (MSL)

PART II - EXPLANATORY NOTES

A. Nature of Request:

1. If for rezoning to a Planned Development district, indicate the zoning classification(s) being requested.
2. If not for rezoning provide specific details of the action requested. (eg. Amendment to PD. Etc),

B. Legal Description: If rezoning to more than one district, a separate legal description must be provided for each classification requested. [34-373(a)(1)]

If the property is not within a platted subdivision recorded in the official plat books of Lee County, a complete legal description must be attached which is sufficiently detailed and legible so as to be able to locate said property on county maps or aerial photographs. The legal description must include the Section, Township, Range, and parcel number(s). [34-202(a)]

If the application includes multiple contiguous parcels, the legal description may describe the perimeter boundary of the total area, and need not describe each individual parcel, except where different zoning requests are made on individual parcels. Label the legal description as Exhibit II-B-1. [34-202(a)]

If the request is owner-initiated, a survey or a certified sketch of description as set out in chapter 61G 17-6.006, Florida Administrative Code must be submitted, unless the subject property consists of one or more undivided platted lots. If the application includes multiple abutting parcels, the legal description must describe the perimeter boundary of the total area, but need not describe each individual parcel. However, the STRAP number for each parcel must be included. [34-202(a)]

The Director has the right to reject any legal description which is not sufficiently detailed or legible so as to locate said property, and may require a certified survey or boundary-survey prepared by a surveyor meeting the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-6, F. A.C. Boundaries must be clearly marked with a heavy line. The boundary line must include the entire area to be developed. If the request is owner-initiated the Federal Emergency Management Agency flood zone and required finished floor elevation must be shown as well as the location of existing structures on the property. [Sec. 34-202(b)(2)]

C. Project Street Address: If the street address is unknown, the address may be obtained from the Lee County E-911 Addressing Division at (941) - 338-3200.

D. General Location: The general location should reference known major streets so as to indicate to the general public the location of the property. A property location map must be submitted. Label the map as Exhibit II-D. [34-202(a)(4)]

E-1. Lee Plan Information: List the current Lee Plan Land Use Classification of the subject parcel(s).

E-2. Lee Plan Information. Submit a copy of any amendment being proposed to the Lee Plan by the applicant which may affect the subject property as well as the Planning Division's reference number for the amendment. Label the proposed amendment as Exhibit II-E-1. Attach a statement as to how the amendment will affect your property. Label the statement as Exhibit II-E-2. [Sec. 34-202(a)(8)]

PART I

APPLICANT\PROPERTY OWNERSHIP INFORMATION

A. Name(s) of applicant(s): Keystone Custom Homes, Inc.

Mailing Address: Street: 9051 Tamiami Trail North, #202

City: Naples State: FL Zip: 34108

Phone Number: Area Code: 941 Number: 592-6111 Ext:

Fax Number: Area Code: 941 Number: 592-6151

B. Relationship of applicant to property:

_____ Owner _____ Trustee _____ Option holder

 Lessee x Contract Purchaser

Other (indicate): _____

*If applicant is NOT the owner or the person authorized by the Covenant of Unified Control, submit a **Notarized Authorization Form** from the owner or his authorized representative. Label as Exhibit I-B.*

* If the application is County-initiated, enter the date the action was initiated by the Board: _____
 Attach a copy of the "blue sheet" and a list of all property owners, and their mailing addresses, for all properties within the area described. Names and addresses must be those appearing on the latest tax rolls of Lee County. Label the "blue sheet" as "Exhibit I-B-2" and the list as "Exhibit I-B-3". [Sec. 34-202(a)(5)]

C. Name of owner(s) of property: Hermes Investment Co., Inc.

Mailing Address: Street: Post Office Box 790

City: Fort Myers State: FL Zip: 33902

Phone Number: Area Code: 941 Number: 334-7477 Ext:

Fax Number: Area Code: 941 Number: 334-7941

D. Date property was acquired by present owner(s): 8/29/89

E. Is the property subject to a sales contract or sales option? _____ NO X YES

F. Is owner(s) or contract purchaser(s) required to file a disclosure form? _____ NO X YES. If yes, please complete and submit Exhibit I-F (attached).

G. Are there any existing deed restrictions or other covenants on this property which may affect this request?
 X NO YES. If yes, submit a copy of the deed restrictions or other covenants and a statement explaining how the restrictions may affect the requested action. Label as "Exhibit I-G".

H. Authorized Agent(s): List names of authorized agents (submit additional sheets if necessary).

Name: See Attached Exhibit "A"

Address: _____

Phone: _____ Fax: _____



APPLICATION FOR PUBLIC HEARING FOR PLANNED DEVELOPMENT

Applicant's Name: Keystone Custom Homes, Inc.

Project Name: Estero Golf Resort RPD/CPD

STRAP Number(s): 21-46-25-00-00001.0000, 21-46-25-00-00001.3000

Application Form: Computer Generated* ☒ County Printed

* By signing this application, the applicant affirms that the form has not been altered.

STAFF USE ONLY

Commission District: 05

Land Use Classification(s): Suburban Urban Comm

Current Zoning: AG-2

Lee Plan Density Range: 1-6

Case Number: DCI 2000-00032

Fee: 13,800.00

Date of Application: 6-1-00

Date Fee Paid: 6-1-00

Date HEX Public Hearing: _____

Receipt Number: _____

Intake By: [Signature]

TYPE OF APPLICATION

☐ DRI
☒ DCI - Major
☒ DCI - Minor

☐ PD - Existing Development
☐ PD - Amendment
☒ OPTION 1 ☐ OPTION 2

LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (941) 479-8585

PART I - EXPLANATORY NOTES

GENERAL

THE APPLICANT MUST PAY THE APPLICATION FEE SET FORTH IN THE COUNTY EXTERNAL FEES AND CHARGES MANUAL. (ADMINISTRATIVE CODE 3-10 APPENDIX C)

UPON WRITTEN REQUEST, THE DIRECTOR MAY MODIFY THE SUBMITTAL REQUIREMENTS CONTAINED IN THIS SECTION IF THE APPLICANT CLEARLY DEMONSTRATES THAT THE SUBMISSION WILL HAVE NO BEARING ON THE REVIEW AND PROCESSING OF THE APPLICATION. THE REQUEST AND THE DIRECTOR'S WRITTEN RESPONSE MUST ACCOMPANY THE APPLICATION SUBMITTED AND WILL BECOME A PART OF THE PERMANENT FILE.

EXPLANATORY NOTES FOR PART I

- A. Applicant's Name: Application may be made by the landowner or the authorized agent. [Sec. 34-201(a)] Where there is more than one owner, either legal or equitable, then all such owners must jointly initiate the application. Exceptions to this are:
- 1) It is not required that both husband and wife initiate the application on private real property owned by them.
 - 2) Where the property is subject to a land trust agreement, the trustee may initiate the application.
 - 3) Where the fee owner is a corporation, any duly authorized corporate official may initiate the application.
 - 4) Where the fee owner is a partnership, the general partner may initiate the application.
 - 5) Where the fee owner is an association, the association may appoint an agent to initiate the application on behalf of the association.
 - 6) Where the property is a condominium or time-share condominium, refer to Sec. 34-201(a)(1)b. for rules.
 - 7) Where the property is a subdivision, refer to Sec. 34-201(a)(1)c. for rules.
 - 8) Rezoning initiated by the Board of County Commissioners (BOCC) on property not owned by the County.
- B. Relationship of applicant to owner: *If the applicant is not the owner of the property or the person authorized to represent the owner through the Covenant of Unified Control, the applicant must submit proof of authority to represent the owner. This may be accomplished with a notarized authorization form from the owner or his authorized representative. Label this submittal as Exhibit I-B-1. [Sec. 34-202(b)(1)].*
- If the owner does not desire to sign the attached Covenant of Unified Control he may submit an alternate document for consideration by the County Attorney's office prior to submitting the application for rezoning. A copy of the County Attorney's approval of the document must be submitted with the application.*
- If the application is County-initiated by the BOCC, attach a copy of the "blue sheet" whereby the action was authorized. Label the copy as Exhibit I-B-2.
- Submit a list of the names of all property owners and their addresses for property included within the requested action. Label as Exhibit I-B-3. [Sec. 34-202(a)(5)]
- C. Name of owner (s): see F. below
- D. Date property was acquired by present owner(s). If the County initiated the rezoning and does not own the property or have it under contract for purchase, enter "Not Applicable".
- E. If the request is County-initiated and the County is not purchasing the property, enter "Not Applicable".
- F. Disclosure Form: Except for County-Initiated rezonings, a Disclosure Form (Exhibit I-F, attached) must be submitted for any entity whose interest in the property is other than solely equity interest(s) which are regularly traded on an established commodities market in the United States or another Country. [Sec. 34-201(b)(2)]
- G. Existing Deed Restrictions: *A copy of the deed restrictions on the subject property, if any, and a statement as to how the deed restrictions may affect the requested action must be submitted.*
- H. Authorized Agent(s): If the owner or applicant has authorized agent(s) to act on his/her behalf, list the agent(s) name, mailing address and phone number. If County-initiated, enter "Not Applicable". [Sec. 34-202(b)(1)]



COASTAL ENGINEERING CONSULTANTS INC

A CECI GROUP COMPANY

OR 03414 PG 3253

CECI Group Services

Civil Engineering

Survey & Mapping

Coastal Engineering

Real Estate Appraisal

Environmental Assessment

Website: www.coastalengineering.com

LEE COUNTY
RECEIVED

01 MAY -9 PM 10:02

BOOK NEW
FILED IN CONTR.

EXHIBIT LEGAL DESCRIPTION PARCEL "A" ESTERO GOLF RESORT MPD

A TRACT OR PARCEL OF LAND IN SECTION 21, TOWNSHIP 46 SOUTH,
RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21, THENCE ALONG
THE EAST LINE OF SECTION 21, N 00°46'45" W, A DISTANCE OF 94.98 FEET TO
THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED
IN O.R. BOOK 2183, PAGES 3461 - 3462) TO THE POINT OF BEGINNING;
THENCE CONTINUE N 00°46'45" W, ALONG SAID EAST LINE OF SECTION 21, A
DISTANCE OF 2555.79 FEET TO THE EAST QUARTER CORNER OF SAID SECTION
21; THENCE N 00°53'22" W, A DISTANCE OF 2646.37 FEET TO THE NORTHEAST
CORNER OF SAID SECTION 21; THENCE N 89°29'23" W, ALONG THE NORTH LINE
OF SECTION 21, A DISTANCE OF 1322.73 FEET TO THE EAST LINE OF THE
VINTAGE GOLF AND COUNTRY CLUB AS RECORDED IN PLAT BOOK 37, PAGE 38
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S 00°53'13" E,
ALONG SAID EAST LINE OF THE VINTAGE GOLF AND COUNTRY CLUB, A DISTANCE
OF 1317.90 FEET; THENCE S 44°54'53" W, A DISTANCE OF 2370.26 FEET;
THENCE CONTINUE S 32°34'51" E, ALONG THE EASTERLY RIGHT-OF-WAY LINE
OF THE SEABOARD COAST LINE RAILROAD A DISTANCE OF 2513.30 FEET;
THENCE ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD
CONTINUE S 86°11'52" E A DISTANCE OF 1148.53 FEET TO A POINT OF CURVATURE,
THENCE CONTINUE 552.84 FEET ALONG THE ARC OF SAID CURVE CONCAVE TO THE
NORTHEAST, HAVING A RADIUS OF 11,425.00 FEET, A CENTRAL ANGLE OF 02°46'21",
A CHORD DISTANCE OF 552.79 FEET, AND A CHORD BEARING OF S 87°35'02" E;
TO SAID POINT OF BEGINNING.

PARCEL CONTAINS 240.4± ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

AND THOSE LANDS FURTHER DESCRIBED AS FOLLOWS:

PARCEL "A-1" ESTERO GOLF RESORT MPD

A TRACT OR PARCEL OF LAND IN SECTION 21 AND 28, TOWNSHIP 46 SOUTH, RANGE 25
EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE ALONG THE EAST
LINE OF SECTION 21, N 00°46'45" W, A DISTANCE OF 94.98 FEET TO THE NORTHERLY RIGHT-
OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED IN O.R. BOOK 2183, PAGES 3461 -
3462); THENCE CONTINUE ALONG THE NORTHERLY RIGHT-OF-WAY OF KORESHAN
BOULEVARD 552.84 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST;
HAVING A RADIUS OF 11425.00 FEET, A CENTRAL ANGLE OF 02°46'21", A CHORD DISTANCE
OF 552.79 FEET, AND A CHORD BEARING OF N 87°35'02" W TO A POINT OF TANGENCY;
THENCE N 86°11'52" W, FOR A DISTANCE OF 1310.00 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUE N 86°11'52" W A DISTANCE OF 1166.17 FEET TO A POINT OF
CURVATURE; THENCE 540.77 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE
SOUTHWEST; HAVING A RADIUS OF 1175.00 FEET, A CENTRAL ANGLE OF 26°22'09" A
CHORD DISTANCE OF 536.01 FEET, AND A CHORD BEARING OF S 80°36'51" W TO A POINT OF
COMPOUND CURVATURE, THENCE CONTINUE 358.46' ALONG THE ARC OF CURVE CONCAVE
TO THE SOUTHWEST; HAVING A RADIUS OF 1292.82 FEET, A CENTRAL ANGLE OF 15°53'11",
A CHORD DISTANCE OF 357.31 FEET, AND A CHORD BEARING OF S 59°29'40" W, TO A POINT
OF TANGENCY; THENCE S 51°33'05" W FOR A DISTANCE OF 261.89 FEET TO A POINT OF
CURVATURE; THENCE CONTINUE 79.66 FEET ALONG THE ARC OF A CURVE CONCAVE TO
THE NORTH; HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 91°17'11", A CHORD
DISTANCE OF 71.50 FEET, AND A CHORD BEARING OF N 82°48'27" W, TO A POINT OF
TANGENCY; THENCE CONTINUE N 37°10'00" W A DISTANCE OF 955.60 FEET, THENCE
CONTINUE N 37°45'31" W A DISTANCE OF 17.52 FEET; THENCE N 44°54'53" E FOR A
DISTANCE OF 2235.13 FEET TO THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST
LINE RAILROAD (AS RECORDED IN DEED BOOK 68, PAGE 78); THENCE CONTINUE ALONG
THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST LINE RAILROAD S 32°34'52" E
FOR A DISTANCE OF 2388.69 FEET TO POINT OF BEGINNING.

PARCEL CONTAINS 74.2± ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. 09 2464

DANA L. WORLEY
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5651
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL PAID SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER
CEC FILE NO. 99509
DATE SIGNED: 02-21-01

Applicant's Legal Checked

by gm 3/17/01

DCI 2000-00032

PAGE 1 OF 2



EXHIBIT
LEGAL DESCRIPTION
REVISED PARCEL "A"
ESTERO GOLF RESORT RPD

A TRACT OR PARCEL OF LAND IN SECTION 21, TOWNSHIP 46 SOUTH,
RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21, THENCE ALONG
THE EAST LINE OF SECTION 21, N 00°46'45" W, A DISTANCE OF 94.98 FEET TO
THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED
IN O.R. BOOK 2183, PAGES 3461 - 3462) TO THE POINT OF BEGINNING;
THENCE CONTINUE N 00°46'45" W, ALONG SAID EAST LINE OF SECTION 21, A
DISTANCE OF 2555.79 FEET TO THE EAST QUARTER CORNER OF SAID SECTION
21; THENCE N 00°53'22" W, A DISTANCE OF 2646.37 FEET TO THE NORTHEAST
CORNER OF SAID SECTION 21; THENCE N 89°29'23" W, ALONG THE NORTH LINE
OF SECTION 21, A DISTANCE OF 1322.73 FEET TO THE EAST LINE OF THE
VINTAGE GOLF AND COUNTRY CLUB AS RECORDED IN PLAT BOOK 37, PAGE 38
OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S 00°53'13" E,
ALONG SAID EAST LINE OF THE VINTAGE GOLF AND COUNTRY CLUB, A DISTANCE
OF 1317.90 FEET; THENCE S 44°54'53" W, A DISTANCE OF 2370.26 FEET;
THENCE CONTINUE S 32°34'51" E, ALONG THE EASTERLY RIGHT-OF-WAY LINE
OF THE SEABOARD COAST LINE RAILROAD A DISTANCE OF 2513.30 FEET;
THENCE ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD
CONTINUE S 86°11'52" E A DISTANCE OF 1148.53 FEET TO A POINT OF CURVATURE,
THENCE CONTINUE 552.84 FEET ALONG THE ARC OF SAID CURVE CONCAVE TO THE
NORTHEAST, HAVING A RADIUS OF 11,425.00 FEET, A CENTRAL ANGLE OF 02°46'21",
A CHORD DISTANCE OF 552.79 FEET, AND A CHORD BEARING OF S 87°35'02" E;
TO SAID POINT OF BEGINNING.

PARCEL CONTAINS 240.4 ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 2464

Dana L. Worley
DANA L. WORLEY
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5651
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER
CEC FILE NO. 99509
DATE SIGNED: 10-24-00

RECEIVED
OCT 27 2000

PERMIT COUNTER

Applicant's Legal Checked
by *gm* 11/28/00

DCI 2000-00032



A CECI GROUP COMPANY

CECI Group Services

Civil Engineering

Survey & Mapping

Coastal Engineering

Real Estate Appraisal

Environmental Assessment

Website: www.coastalengineering.com

EXHIBIT
LEGAL DESCRIPTION
PARCEL "A-1"

ESTERO GOLF RESORT CPD

RECEIVED
OCT 31 2000

PERMIT COUNTER

A TRACT OR PARCEL OF LAND IN SECTION 21 AND 28, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 21; THENCE ALONG THE EAST LINE OF SECTION 21, N 00°46'45"W, A DISTANCE OF 94.98 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF KORESHAN BOULEVARD (AS DESCRIBED IN O.R. BOOK 2183, PAGES 3461-3462); THENCE CONTINUE ALONG THE NORTHERLY RIGHT-OF-WAY OF KORESHAN BOULEVARD 552.84 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST; HAVING A RADIUS OF 11425.00 FEET, A CENTRAL ANGLE OF 02°46'21", A CHORD DISTANCE OF 552.79 FEET, AND A CHORD BEARING OF N 87°35'01" W TO A POINT OF TANGENCY; THENCE N 86°11'52" W, FOR A DISTANCE OF 1310.00 FEET TO **THE POINT OF BEGINNING**; THENCE CONTINUE N 86°11'52" W A DISTANCE OF 1166.17 FEET TO A POINT OF CURVATURE; THENCE 540.77 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST; HAVING A RADIUS OF 1175.00 FEET, A CENTRAL ANGLE OF 26°22'09" A CHORD DISTANCE OF 536.01 FEET, AND A CHORD BEARING OF S 80°36'51" W TO A POINT OF REVERSE CURVATURE, THENCE CONTINUE 358.46' ALONG THE ARC OF CURVE CONCAVE TO THE SOUTHWEST; HAVING A RADIUS OF 1292.82 FEET, A CENTRAL ANGLE OF 15°53'11", A CHORD DISTANCE OF 357.31 FEET, AND A CHORD BEARING OF S 59°29'40" W. TO A POINT OF TANGENCY; THENCE S 51°33' 05" W FOR A DISTANCE OF 261.89 FEET TO A POINT OF CURVATURE; THENCE CONTINUE 79.66 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH; HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 91°17'11", A CHORD DISTANCE OF 71.50 FEET, AND A CHORD BEARING OF N 82°48'27" W, TO A POINT OF TANGENCY; THENCE CONTINUE N 37°10'00" W A DISTANCE OF 955.60 FEET, THENCE CONTINUE N 37°45'31" W A DISTANCE OF 17.52 FEET; THENCE N 44°54'53" E FOR A DISTANCE OF 2235.13 FEET TO THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST LINE RAILROAD (AS RECORDED IN DEED BOOK 68, PAGE 78); THENCE CONTINUE ALONG THE WESTERLY RIGHT-OF-WAY OF THE SEABOARD COAST LINE RAILROAD S 32°34'52" E FOR A DISTANCE OF 2388.69 FEET TO **POINT OF BEGINNING**.

PARCEL CONTAINS 74.2 ACRES OF LAND MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.

COASTAL ENGINEERING CONSULTANTS, INC.
FLORIDA BUSINESS AUTHORIZATION NO. LB 2464

Dana L. Worley

DANA L. WORLEY

PROFESSIONAL SURVEYOR AND MAPPER

FLORIDA CERTIFICATE NO. 5651

NOT VALID WITHOUT THE SIGNATURE AND

THE ORIGINAL RAISED SEAL OF A FLORIDA

LICENSED SURVEYOR AND MAPPER

CEC FILE NO. 99509

DATE SIGNED: 10-31-00

Applicant's Legal Checked

by *gm* 11/28/00

DCI 2000-00032

EXHIBIT I-B-4
COVENANT OF UNIFIED CONTROLRECEIVED
SEP 18 2000

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of
 record of property commonly known as 19975 SOUTH TAMiami TRAIL, ESTERO, FL 33928
 (street address)
 legally described in exhibit A attached hereto.

The property described herein is the subject of an application for planned development zoning. We
 hereby designate KEYSTONE CUSTOM HOMES, INC. as the legal representative of the property and
 as such, this individual is authorized to legally bind all owners of the property in the course of seeking the
 necessary approvals to develop. This authority includes but is not limited to the hiring and authorization of
 agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning
 and development approval on the site. This representative will remain the only entity to authorize
 development activity on the property until such time as a new or amended covenant of unified control is
 delivered to Lee County.

The undersigned recognize the following and will be guided accordingly in the pursuit of development
 of the project:

1. The property will be developed and used in conformity with the approved master concept plan including all conditions placed on the development and all commitments agreed to by the applicant in connection with the planned development rezoning.
2. The legal representative identified herein is responsible for compliance with all terms, conditions, safeguards, and stipulations made at the time of approval of the master concept plan, even if the property is subsequently sold in whole or in part, unless and until a new or amended covenant of unified control is delivered to and recorded by Lee County.
3. A departure from the provisions of the approved plans or a failure to comply with any requirements, conditions, or safeguards provided for in the planned development process will constitute a violation of the Land Development Code.
4. All terms and conditions of the planned development approval will be incorporated into covenants and restrictions which run with the land so as to provide notice to subsequent owners that all development activity within the planned development must be consistent with those terms and conditions.
5. So long as this covenant is in force, Lee County can, upon the discovery of noncompliance with the terms, safeguards, and conditions of the planned development, seek equitable relief as necessary to compel compliance. The County will not issue permits, certificates, or licenses to occupy or use any part of the planned development and the County may stop ongoing construction activity until the project is brought into compliance with all terms, conditions and safeguards of the planned development.

Robert Mann
 Owner
 ROBERT MANN, PRESIDENT
 HERMES INVESTMENT CO., INC.

Printed Name

California
 STATE OF FLORIDA)
 COUNTY OF LEE) San Francisco

Sworn to (or affirmed) and subscribed before me this 6th day of September, 2000
 by Robert Mann who is personally known to me or has produced
 _____ as identification.



Jacob Koff
 Notary Public
 (Name typed, printed or stamped)
 (Serial Number, if any)

EXHIBIT III-A-2
PRELIMINARY DENSITY CALCULATIONS*
 (Complete only if living units are proposed).
COMMERCIAL PLANNED DEVELOPMENT

RECEIVED
 SEP 18 2000

A. Gross Residential Acres**PERMIT COUNTER**

- | | | |
|--|-------------|-------|
| 1. Total land area: | 74.5 | acres |
| 2. Area to be used for non-residential uses: (Line A.2.a. plus A.2.b.): | 27.1 | acres |
| a. R-O-W providing access to non-residential uses: (included in non-residential) | | |
| b. Non-residential use areas: | 27.1 | acres |
| 3. Gross residential acres (Line A.1 less A.2): | 47.3 | acres |
| a. Uplands areas | 40.9 | acres |
| b. Freshwater Wetlands areas | 6.4 | acres |
| c. Other Wetland areas | 0.0 | acres |

B. Lee Plan Land Use Classification: SUBURBAN (residential tract)
 (If more than one classification, calculations for each classification must be submitted)

Density Standards (from Lee Plan Table 1)

1. Maximum standard density for Land Use Classification: **6** units/gross res. acre
2. Maximum total density for Land Use Classification: **None**

MAXIMUM PERMITTED DWELLING UNITS**C. Intensive Development, Central Urban, and Urban Community Areas:**

- | | | |
|--|---|--|
| 1. Standard density uplands units (A.3.a. times B.1) | | units |
| 2. Standard density wetlands units (A.3.b. & A.3.c. times B.1) | | units |
| 3. Total standard density units (sum of C.1 & C.2) | | units |
| 4. Max. total density units [A.3.a. times ((B.1 plus 1/2 of (B.2 less B.1)))] | | units |
| 5. Sub-total permitted standard density units: | Units (line C.3 or C.4 - whichever is less) | |
| ** 6. BONUS UNITS | N/A | |
| a. Low-moderate housing density: | | units |
| b. TDR units: | | units |
| c. Sub-total (C.6.a plus C.6.b) | | units |
| 7. Total Permitted Units (C.5. plus C.6.c): | units | ((may not exceed (A.3.a. times B.2) plus (A.3.b. and A.3.c. times .05)). |

* Subject to staff review and correction.

** If Low-moderate housing density credits or Transfer of Development Rights (TDRs) credits are included, attach the calculations and approvals hereto.

continued

9/18/00

DCI 2000-00032

RECEIVED
SEP 18 2000

LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT **PERMIT COUNTER**

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as ESTERO GOLF RESORT and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate KEYSTONE CUSTOM HOMES as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Robert Mann
Owner* (signature)

ROBERT MANN, PRESIDENT
Printed Name
HERMES INVESTMENT CO., INC.

Owner* (signature)

Printed Name

Owner* (signature)

Printed Name

Owner* (signature)

Printed Name

California
STATE OF ~~FLORIDA~~
COUNTY OF ~~LEE~~ San Francisco

Sworn to (or affirmed) and subscribed before me this 6th day of September, 19 2000, by

Robert Mann, who is personally known to me or who has produced

as identification.

(SEAL)



Notary Public

Jacob Koff
(Name typed, printed or stamped)

*If more than one owner then all owners must sign. See explanation on back.

EXPLANATORY NOTES

Where there is more than one owner, either legal or equitable, then all such owners must jointly initiate the application. Exceptions to this are:

- 1) It is not required that both husband and wife initiate the application on private real property owned by them.
- 2) Where the property is subject to a land trust agreement, the trustee may initiate the application.
- 3) Where the fee owner is a corporation, any duly authorized corporate official may initiate the application.
- 4) Where the fee owner is a partnership, the general partner may initiate the application.
- 5) Where the fee owner is an association, the association may appoint an agent to initiate the application on behalf of the association.
- 6) Where the property is a condominium or time-share condominium, refer to Sec. 34-201(a)(1)b. for rules.
- 7) Where the property is a subdivision, refer to Sec. 34-201(a)(1)c. for rules.
- 8) Rezoning initiated by the Board of County Commissioners on property not owned by the county.



DCI 2000 00032

EXHIBIT I-F

DISCLOSURE OF INTEREST FORM FOR:

RECEIVED
SEP 18 2000

21-46-25-00-00001.0000
STRAP NO. 21-46-25-00-00001.3000 CASE NO. DCI2000-00032
28-46-25-00-00001.0030

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage of Ownership

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and Office

Robert H. Mann, 220 Bush Street, Suite 1100

San Francisco, CA 94104

President and Secretary

Corly Investments, N.V. Pietermaai 15,

P.O. Box 564, Curacao, Netherlands, Antilles

Percentage of Stock

100%

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

(over)

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address, & Office(if applicable)	Percentage of Stock
<u>Keystone Custom Homes, Inc.</u>	<u></u>
<u>9051 Tamiami Trail North, #202</u>	<u></u>
<u>Naples, Florida 34108</u>	<u></u>
<u>Paula Davis, President</u>	<u>40%</u>
<u>John W. Frasco, Vice President & Treasurer</u>	<u>60%</u>

Date of Contract: November 8, 1999

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address

<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: *Paula Davis*

(Applicant)

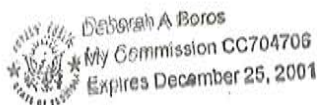
Paula J. Davis, President

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 10th day of September, 2000, by Paula J. Davis, who is personally known to me or who has produced as identification.

(SEAL)



Deborah A. Boros
Signature of Notary Public

Deborah A. Boros
Printed Name of Notary Public

D. Suburban land use areas

- | | | |
|--|------------|---|
| 1. Standard density uplands units (A.3.a. times B.1) | 245 | units |
| 2. Standard density freshwater wetlands units (A.3.b. times B.1) | 38.4 | units |
| 3. Total standard density units (sum of D.1 & D.2) | 283.4 | units |
| 4. Maximum upland density (A.3.a. times 8) | 327 | units |
| 5. Total permitted units: | 283 | Units (line D.3 or D.4 - whichever is less) |

E. Outlying Suburban Land Use Areas N/A

- | | |
|---|---|
| 1. Standard density uplands units (A.3.a. times B.1) | units |
| 2. Standard density freshwater wetlands units (A.3.b times B.1) | units |
| 3. Total standard density (sum of E.1 & E.2) | units |
| 4. Maximum upland density (A.3.a times 4 ^{***}) | units |
| 5. Total permitted units: | units (line E.3 or E.4 - whichever is less) |

F. Open Lands N/A

- | | |
|---|--------------|
| 1. Total acres of "Open Land" | acres |
| 2. Maximum open land density (F.1 times 0.2 ^{****}) | units |
| 3. Total permitted units: | units |

****** If Low-moderate housing density credits or Transfer of Development Rights (TDRs) credits are included, attach the calculations and approvals hereto.

******* Outlying suburban land located north of the Caloosahatchee River and east of Interstate-75, north of Pondella Road and south of Pine Island Road (SR 78), and in the Buckingham area (see Goal 19 of the Lee Plan), the maximum upland density is two (2) units per acre plus one (1) for a total of three (3) units per acre.

******** One unit per five acres if the PD process is being used to prevent adverse impacts on environmentally sensitive lands (as defined in Policy 77,1,1,4)

EXHIBIT I-F

RECEIVED
APR 04 2001

DISCLOSURE OF INTEREST FORM

PERMIT COUNTER

STRAP NO. Estero Golf Resort MPDCASE NO. DCI2000-00032

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage of Ownership

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and Office

Percentage of Stock

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

John Frasco

60%

1668 Telegraph Road Suite 200

Bloomfield Hills, MJ 48302

Paula J. Davis

40%

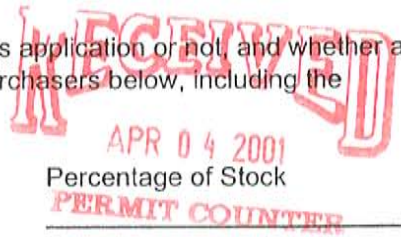
24860 Burnt Pine Dr.

Bonita Springs, FL 34134

con't

DCI 2000-00032

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.



Name, Address, & Office(if applicable)

Percentage of Stock

PERMIT COUNTER

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: _____

(Applicant)

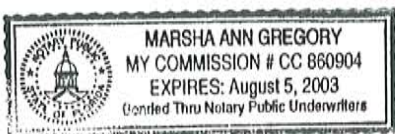
A. Brian Bigelow, Senior Planner
Florida Land Planning, Inc.

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 3RD day of APRIL, 192001
by A BRIAN BIGELOW, who is personally known to me
or who has produced FLA DRIVERS LIC as identification.

(SEAL)



Marsha Ann Gregory
Signature of Notary Public

MARSHA ANN GREGORY
Printed Name of Notary Public

DCI 2000-00032

EXHIBIT I-F

DISCLOSURE OF INTEREST FORM



STRAP NO. Estero Golf Resort MPD CASE NO. DCI2000-00032

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage of Ownership

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and Office

Percentage of Stock

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

John Frasco

60%

1668 Telegraph Road Suite 200

Bloomfield Hills, MJ 48302

Paula J. Davis

40%

24860 Burnt Pine Dr.

Bonita Springs, FL 34134

con't

DCI 2000-00032

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address, & Office(if applicable)

Percentage of Stock

RECEIVED
APR 04 2001
PERMIT COUNTER

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: _____

(Applicant)

A. Brian Bigelow, Senior Planner
Florida Land Planning, Inc.

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 3RD day of APRIL, 192001
by A BRIAN BIGELOW, who is personally known to me
or who has produced FLA DRIVERS LIC as identification.

(SEAL)



Signature of Notary Public

MARSHA ANN GREGORY
Printed Name of Notary Public

DCI 2000-00032

EXHIBIT I-F

DISCLOSURE OF INTEREST FORM

RECEIVED
APR 04 2001

PERMIT COUNTER

STRAP NO. Estero Golf Resort MPD CASE NO. DCI2000-00032

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address

Percentage of Ownership

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and Office

Percentage of Stock

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

John Frasco

60%

1668 Telegraph Road Suite 200

Bloomfield Hills, MJ 48302

Paula J. Davis

40%

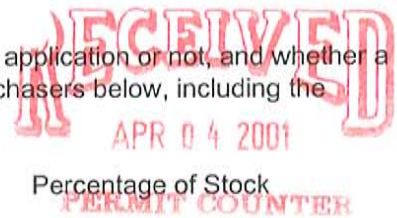
24860 Burnt Pine Dr.

Bonita Springs, FL 34134

con't

DCI 2000-00032

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.



Name, Address, & Office(if applicable)

Percentage of Stock

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: _____

(Applicant)

A. Brian Bigelow, Senior Planner
Florida Land Planning, Inc.

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 3RD day of April, 192001
by A BRIAN BIGELOW, who is personally known to me
or who has produced FLA DRIVERS LIC as identification.

(SEAL)



Signature of Notary Public

MARSHA ANN GREGORY
Printed Name of Notary Public

DCI 2000-00032

OPEN SPACE AND INDIGENOUS VEGETATION
ESTERO GOLF RESORT
 March 21, 2001

		OPEN SPACE		INDIGENOUS	
Tracts		<u>Required</u>	<u>Provided</u>	<u>Required</u>	<u>Provided</u>
MPD 1-4	34.06± acres	10.22± acres	5.00± acres	5.11± acres	0 acres
MPD 5	40.14± acres	16.06± acres	16.06± acres	8.03± acres	13.14± acres**
			5.22± acres*		
Total	74.20± acres	26.28± acres	26.28± acres	13.14± acres	13.14± acres
MPD 6-12	242.20± acres	96.16± acres	96.16± acres	n/a	n/a

* Balance from Tracts MPD 1-4

** Including restored wetland

*** This figure would be reduced if any qualifying lots (LDC 10-415) were developed.

DCI 2000-00032

OPEN SPACE AND INDIGENOUS VEGETATION
ESTERO GOLF RESORT
 March 21, 2001

Tracts		OPEN SPACE		INDIGENOUS	
		<u>Required</u>	<u>Provided</u>	<u>Required</u>	<u>Provided</u>
MPD 1-4	34.06± acres	10.22± acres	5.00± acres	5.11± acres	0 acres
MPD 5	40.14± acres	16.06± acres	16.06± acres	8.03± acres	13.14± acres**
			5.22± acres*		
Total	74.20± acres	26.28± acres	26.28± acres	13.14± acres	13.14± acres
MPD 6-12	242.20± acres	96.16± acres	96.16± acres	n/a	n/a

* Balance from Tracts MPD 1-4

** Including restored wetland

*** This figure would be reduced if any qualifying lots (LDC 10-415) were developed.

DCI 2000-00032

ACTION OF THE DIRECTORS
OF
KEYSTONE CUSTOM HOMES, INC.
WITHOUT A MEETING

DCI 2000-00032

RECEIVED
SEP 18 2000

PERMIT COUNTER

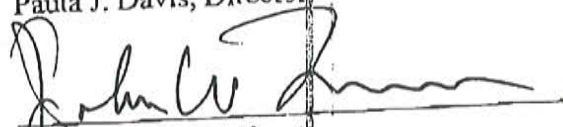
The undersigned, being all of the Directors of KEYSTONE CUSTOM HOMES, INC., a Florida corporation, do hereby resolve that the Corporation, in lieu of holding a special meeting, take the following action without a meeting pursuant to Florida Statute 607.0821.

WHEREAS, the Corporation is desirous of rezoning the property known as Estero Golf Resort.

NOW, THEREFORE, be it resolved that the Corporation is hereby authorized and empowered to rezone the property known as Estero Golf Resort; and be it further

RESOLVED, that Paula J. Davis, as President and Director of the Corporation is hereby authorized and empowered to sign documents, and take all other action necessary to satisfy and to effectuate the rezoning of the property known as Estero Golf Resort, and any and all acts performed or signed by Paula J. Davis in connection therewith are hereby ratified and approved.

DATED this 8th day of September, 2000.


Paula J. Davis, Director
John W. Frasco, Director

OPEN SPACE AND INDIGENOUS VEGETATION
ESTERO GOLF RESORT
 March 21, 2001

		OPEN SPACE		INDIGENOUS	
Tracts		<u>Required</u>	<u>Provided</u>	<u>Required</u>	<u>Provided</u>
MPD 1-4	34.06± acres	10.22± acres	5.00± acres	5.11± acres	0 acres
MPD 5	40.14± acres	16.06± acres	16.06± acres	8.03± acres	13.14± acres**
			5.22± acres*		
Total	74.20± acres	26.28± acres	26.28± acres	13.14± acres	13.14± acres
MPD 6-12	242.20± acres	96.16± acres	96.16± acres	n/a	n/a

* Balance from Tracts MPD 1-4

** Including restored wetland

*** This figure would be reduced if any qualifying lots (LDC 10-415) were developed.

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DCI 2000-00032

PROPERTY DEVELOPMENT REGULATIONS

March 21, 2001

LAND USES	Minimum Lot			Minimum Setback (ft)								Max Height (ft) ²	Min Bldg Separation (ft) ²	Max Lot Coverage (%)	
	Area (sq ft)	Min Width (ft)	Min Depth (ft)	Side ¹ Incl. Corner Lots (ft)	Rear (ft)				Front (ft)		Water Body (ft)			East of railroad with Golf Option	East of Railroad without Golf Option
					Lots	Wetland	Golf	Acc.	Front Entry Garage	Bldg or Side Entry Garage					
Single Family Detached	5,000	50	100	5	20	20	0	5	20	12	25	35 or 2 stories	10	65	40
Zero Lot Line	5,000	50	100	0 or 7½	20	20	0	5	20	12	25	35 or 2 stories	10	65	40
Two Family Attached	3750	37½	100	0 or 10	20	20	0	5	20	12	25	35 or 2 stories	10	65	40
Townhouse	2,000	22	80	0 or 10	20	20	0	5	20	15	25	55 or 4 stories	½ bldg height but not less than 20	n/a	n/a
Multi-Family	10,000	100	100	10	20	20	0	5	20	20	25	55 or 4 stories	½ bldg height but not less than 20	70	40
Clubhouse	20,000	80	100	10	20	20	0	5	n/a	20	25	55 or 4 stories	½ bldg height but not less than 20	55	n/a
Commercial	20,000	80	100	0 or 15 ³	25 ⁴	20	n/a	5	per LDC	per LDC	25	55 or 4 stories	½ bldg height but not less than 20	n/a	55

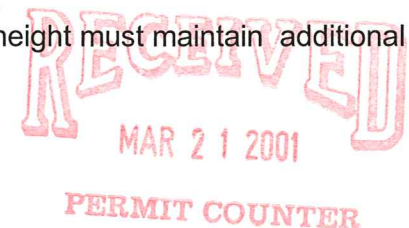
¹ Applies to lots of all widths and to corner lots.

² Building height is limited to 35 feet or 2 stories within 200 feet of The Vines and San Carlos Park. Buildings exceeding 35 ft in height must maintain additional building separation or additional building setbacks consistent with LDC Section 34-2174(a) and LDC Section 935(e)4.

³ Should the subject property be subdivided, a 0' setback to any internal lot lines will be required.

⁴ Structures in MPD Tract 1 must maintain a 100 ft setback from the Tract 5 property line.

DCI 2000-00032



A. Conditions

1. The development of this project must be consistent with the one-page Master Concept Plan entitled "Estero Golf Resort," stamped received ~~February 19, 2001~~ March 21, 2001, except as modified by the conditions below. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:



a. Schedule of Uses

(1) **RESIDENTIAL PORTION- Tracts 5-12**

Accessory Uses

Administrative Offices

Agricultural Uses--as limited by other conditions

Assisted Living Facility-limited to Tracts MPD-5 only-maximum 100 units

Club, Country including the following ancillary uses:

Administrative Offices

Cart Barns

Consumption on Premises ~~limited to one only~~ including outdoor seating

Food and Beverage Service

Golf Course Maintenance Facility--~~as limited by other conditions~~

Health Club and Spa

Locker Rooms

Restrooms and other uses which are normal and accessory to the golf course

Personal services, limited to ATMs, barbershops or beauty shop and photo agents

Restaurant, including outdoor seating

Specialty Retail

Dwelling Units--single-, two-, and multi-family units, zero lot line units, and townhouses---limited to a maximum of 820 for the entire project; and a maximum of ~~300~~ 340 for MPD 5

Entrance Gates and Gatehouses

Essential Services

Essential Service Facilities, Group I

Excavation, Water Retention--Not to include the removal of excavated material from the site

Fences and Walls

Golf Course, including Practice Greens and Driving Range--subject to further review during the Development Order process to determine appropriate locations and possible additional buffering or screening required for the practice greens and driving range

Golf and Tennis Pro Shops (limited to ancillary use in clubhouse tract)

Home Occupation, as limited by the LDC

Model Homes, Model Units and Model Display Center

Real Estate Sales and Rental Office-- limited to sales of lots, homes or units within the development, except as may be permitted in § 34-1951 *et seq.* The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the Certificate of Occupancy for the sales office is issued. The director may grant one 2-year extension at the same location.

Recreational Facilities, Personal and Private On site, as defined and regulated by the LDC Section 34

Signs, in compliance with the LDC

Storage, Open, recreational vehicles, boats and similar items for residents only, will only be permitted if administrative approval is sought showing the exact location of the use. Such uses, at a minimum, must be shielded behind a continuous visual screen at least eight feet in height when visible from any residential use, and six feet in height when visible from any street right-of-way or street easement.

Temporary uses--limited to a sales center and a construction office, in compliance with the LDC for temporary uses

(2) COMMERCIAL PORTION--Tracts 1-4

Accessory Uses

Administrative Offices

Agricultural Uses, as further limited by other conditions
Animal Clinic-outside kennels are prohibited
Auto Parts Store, subject to Permitted Use Note B--limited also by Conditions
16 & ~~17~~
Automobile Repair & Service, Group I only--subject to Permitted Use Note B
Banks and Financial Establishments, all Groups
Broadcast Studio, Commercial Radio and Television--an on-site tower is
prohibited
Business Services, Groups I & II, Group II--outdoor storage prohibited
Car Wash, subject to Permitted Use Note B
Cleaning and Maintenance Services, no outdoor storage of vehicles
Clothing Stores
Computer and Data Processing
Consumption on Premises, ~~as limited below~~ subject to Permitted Use Note C
Contractors and Builders, Group I only
Convenience Food and Beverage Store, subject to Permitted Use Note B
Cultural Facilities, limited to Art Galleries and Museums
Daycare Center, Child and Adult
Department Store
Drive-through facility, ~~subject to permitted Use Notes A and B~~ must be located
a minimum of 500 feet from any residential lot in The Vines.
Drug Store, limited to Permitted Use Note B
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention--Not to include the removal of excavated material
from the site
Fences and Walls
Food Stores, Groups I and II
Gift and Souvenir Shop
Hardware Store, limited to Permitted Use Note B
Health Care Facility, Groups I, II and III
Hobby, Toy and Game Shop
Hospice
Model Units and Model Display Centers--subject to conditions below

Non-store Retailers, all Groups, outdoor storage is prohibited

Offices, Medical

Package Store, limited to:

Wine Shops, and

Package Stores in conjunction with a Drug Store use only

Paint, Glass and Wallpaper Store

Personal Services, Group I, II--limited to Beauty Spas, Health Clubs or Spas,

Reducing or Slenderizing Salons, Group III, and Group IV--limited to
babysitting bureaus, debt counseling services, portrait copying, shopping
services, and tax return preparation services

Pet Services

Pet Shop

Place of Worship

Real Estate Sales and Rental Office

Recreational Facilities, Personal and Private on site only and only in
conjunction with and on the same tract as any ancillary multi-family or
townhouse uses

Rental and Leasing Establishments, Group II--outside storage is prohibited

Restaurants, Fast Food, subject to Permitted Uses Notes A and B

Restaurants, Standard--Groups I, II, III & IV--subject to Permitted Use Note A

Schools, Commercial

Self Service Fuel Pumps--Limited to ~~eight~~ sixteen pumps ~~unless a greater
number is approved as part of a special exception or as specifically
approved in a public hearing amendment. -subject to Permitted Use Note~~
B.

Shopping Center

Signs, in compliance with the LDC

Social Services, Group I only

Specialty Retail Shops, Groups I-IV

Storage, Indoor only and only as an ancillary use

Studios

Temporary uses--limited to sales center and construction offices, in compliance
with LDC regulations regarding temporary uses

Variety Store

Wholesale Establishments, Group III only

(3) Additional Use Conditions:

- (A) The following uses may be allowed in Wetland areas subject to review and approval by Environmental Sciences staff as part of development order review:

Interpretative centers, rain shelters gazebos
Nature and foot paths including pedestrian boardwalks
Wildlife management areas
Mitigation activities
Signs, limited to educational signs only

- (B) The following **Permitted Use Notes**, as referenced above ~~and on the MCP~~, also apply:

~~(1)~~ A Must be located a minimum of 200 feet from any off-site property zoned for residential purposes

~~(2)~~ B Limited to Tracts MPD-3 and MPD-4 only

~~(3)~~ C Consumption on Premises (COP) uses are limited to a maximum of three for standard restaurants only, and ~~one for~~ to the Club Recreation Tract. Consumption on Premises uses in Tract MPD-1 must first receive Special Exception or an Administrative Approval, which ever is deemed appropriate by the DCD Director. This additional condition is necessary to ensure the placement of the COP use will be compatible with the surrounding land uses. Any Consumption on Premises uses in Tract MPD-1 must be located a minimum of 300 feet from any residential lot in The Vines. Consumption on Premises uses in Tracts MPD-3 and MPD-4 and in the Club Recreation Tract do not require Special Exception or an Administrative Approval.

- (C) Uses in MPD Tract 1 are limited as follows:

Hours of operation for businesses to be open to the public are 7 a.m. until 10 p.m., except that the hours of operation for restaurants and associated outdoor seating extend to 11:00 p.m. Sunday through Thursday nights, and 12:00 midnight on Friday and Saturday nights.

Deliveries are prohibited between the hours of 8 9 p.m. and 6 7 a.m. Outside speakers systems, loud speakers or public address systems are prohibited in this tract.

b. **Site Development Regulations**

Site Development Regulations are limited to the "Property Development Regulations," exhibit that is included as Attachment G:

(A) General Project Square Footage Limitations:

- (1) Maximum overall commercial development is limited to 340,000 square feet of retail commercial uses, 20,000 square feet of office uses, except as limited below; and
- (2) This project can be comprised of medical, general office, retail, or service uses (in compliance with the schedule above), or any combination of those uses, up to the maximum square footage, provided all limiting conditions and parking, open space, buffering, and water management requirements are met.
- (3) All special setback or development regulations contained in the LDC (as it may be amended) for any specific use must be met; and
- ~~(4) The regulations contained herein supersede the Site Development Conditions contained on the MCP.~~
- (5) The conversion option to convert retail and office uses is approved with the limitation that no more than 21.94 acres of commercial

acreage may be converted to office use; and

- (6) Retail Commercial square footage within the Suburban land use category must not exceed 100,000 square feet. The development must provide cumulative totals for each development order submittal showing compliance with this condition.

(B) Outdoor seating ~~must receive Special Exception approval in MPD Tract 1 must be located a minimum of 300 feet from any residential lot in The Vines and must be located on the side of the building away from The Vines.~~

(C) ~~Hours of operation for Tract MPD-1 are limited to 8 a.m.--10 p.m.~~

(D) ~~Consumption on Premises uses must first receive Special Exception or an Administrative Approval, which ever is deemed appropriate by the DGD Director. Since the proposed plan of development is only conceptual, This additional condition is necessary to ensure the placement of the COP use will be compatible with the surrounding land uses.~~

3. Environmental Conditions: Prior to local Development Order Approval:

- a. The developer must provide open space consistent with the Open Space and Indigenous Vegetation Table attached as Attachment C ~~and on the approved Master Concept Plan.~~ Each tract must provide a minimum of 10% open space.
- b. ~~The development order plans must show an upland preserve connection between the conservation area in the southeast corner of MPD Tract-5 and the upland conservation area on the eastern side of the restored wetland. The development order plans must also include details of a roadway or bridge meeting Category B street standards with closed drainage that accommodates wildlife passage under the entrance roadway to MPD Tract-5.~~
The development order plans will show a connection between the conservation area in the southeast corner of the MPD Tract-5 and the upland conservation

area on the eastern side of the restored wetland. The wildlife connection will run under the road and include a set of 2 tunnels constructed of, 36 inch wide X 24 inch high, elliptical concrete pipe. The plans will show the 2 elliptical pipe wildlife connections placed under the road in a side by side position unless directed otherwise by Environmental Services staff. At a minimum, the bottom of the pipes will be placed no lower than the existing upland preserve grade to help prevent inundation, within the pipes, during the wet season.

- c. The developer must submit a detailed wetland restoration plan to the Division of Planning/Environmental Sciences staff for review and approval. Both the wetland restoration plan and littoral zones required by the Land Development Code (LDC) must be designed to provide foraging area for wood storks.
 - d. The developer must re-survey the potential Big Cypress fox squirrel nests on site specifically for fox squirrel presence. The protected species survey must be prepared in accordance with LDC Section 10-473 and submitted to the Division of Planning, Environmental Sciences for review and approval. If fox squirrel use of the site is verified, the developer must submit final management details in accordance with LDC Section 10-474 including a phased exotic removal plan.
 - e. Prior to local development order approval, a detailed gopher tortoise management plan must be submitted for the Division of Planning/Environmental Sciences staff review and approval.
 - f. Prior to any site work, the developer must 1) obtain a Vegetation Removal Permit, 2) install barricading of preserves and 3) excavate tortoise burrows to move the gopher tortoises within the development tracts.
4. The Golf Driving Range is limited to operating during daylight hours.
 5. Development Order submittals must include a running inventory showing the overall number of units and commercial (retail and office) square footage that have been built, approved to be built, or are in the development approval process.
 6. ~~As part of the first development order submittal, the developer must revise the MCP to reflect the planned extension of Sandy Lane along the eastern boundary of the site, consistent with the sketch set forth in the Lee County DOT Exhibit entitled;~~

~~"Sketch and Description of Sandy Lane Extension". Lee County will compensate the property owner for the reservation of this property in accordance with the regulations set forth in Chapter 2 of the LDC.~~

As a part of the first development order submittal, the developer may revise the Master Concept Plan to reflect the extension of Sandy Lane along the eastern boundary of the subject property.

7. Bona fide agricultural uses that are in existence at the time this resolution is finalized may continue until approval of the first local development order. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless that activity is reviewed and approved in accordance with the Lee County LDC regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.
8. No excess excavated material may be removed from the site unless the developer can demonstrate to the Director of Community Development that the material to be removed: 1) is unsuitable material that cannot be used on-site; and 2) the material must be excavated to meet the minimum requirements necessary to accommodate a water management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use off-site.
9. Model units and homes are permitted in compliance with the following conditions:
 - a. ~~Administrative approval must be obtained (Denial of Deviation #5a).~~
Administrative Approval is subject to review and approval based upon potential negative impacts to nearby uses regarding, but not limited to, glare, noise, and dust; and
 - b. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - c. All model sites must be designated on the development order plans; and

- d. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat. The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for the project; and
- e. Dry models are prohibited.

10. Golf Course Conditions:

- a. The golf courses developer must use fertilizers with a low leaching potential (slow release). Fertilizers must not be applied after active growth of the turfgrass has ceased, and must be kept to the lowest reasonable levels; and
- b. To reduce sources of pollutants, especially nutrients and pesticides associated with the golf course, the golf course manager must implement a chemicals management plan which includes an integrated pest management (IPM) program and a nutrient management program such that nutrients and pesticides are used only when absolutely necessary. The program must address prevention, diagnosis, and limited treatment with pesticides when necessary rather than blanket treatment with broad spectrum pesticides as insurance against all pest species. The application of pesticides will involve only the purposeful and minimal application of pesticides, aimed only at identified targeted species. The regular widespread application of broad spectrum pesticides is prohibited. The IPM program must minimize the use of pesticides and must include the use of the US Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Soil Pesticide Interaction Rating guide to select pesticides for use that have a minimum potential for leaching or loss from runoff. The nutrient management program must be based upon the USDA-NRCS Nutrient Management Standard and must include the use of soil tests to determine needed applications of nutrients. Only EPA-approved chemicals may be used. Turf managed areas (including fairways, tees, and greens) are prohibited within 35 feet of wetlands or

preserve areas. The chemical management plan must be reviewed and approved by Lee County Natural Resources Division prior to development order approval.

- c. The golf course manager must coordinate the application of pesticides with the irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients.
- d. The Developer must utilize a golf course manager licensed by the state to use restricted pesticides and experienced in the principles of IPM. The golf course manager is responsible for ensuring that the golf course fertilizers are selected and applied to minimize fertilizer runoff into the surface water and the leaching of those same fertilizers into the groundwater.
- e. The storage, mixing, and loading of fertilizer and pesticides must be designed to prevent/minimize the pollution of the natural environment.
- f.
 - 1) Prior to the issuance of local development order approval, the developer must demonstrate compliance with "Best Management Practices for Golf Course Maintenance Departments," prepared by the Florida Department of Environmental Protection, May 1995, as amended.
 - 2) The development order must demonstrate separate mixing and loading facilities for pesticides, and provide a separate pesticide storage area, in compliance with materials specified in the above referenced document. The development order must demonstrate separate mixing and loading facilities for fertilizer, and provide a separate fertilizer storage area, in compliance with materials specified in the above referenced document.
 - 3) The development order plans must specify the construction material for all buildings in compliance with Best Management Practices for Golf Course Maintenance Departments."
 - 4) Equipment to apply pesticides and fertilizers must be stored in an area protected from rainfall.

- g. The golf course must be planted with a turfgrass cultivated variety that is drought and pest resistant, while requiring relatively low fertilizer use;
- h. The irrigation system must operate on an "as needed" basis through the utilization of weather forecasting and ongoing assessment of the moisture content of the soil.
- i. All fairways, greens, and tees must be elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from underdrains must be ~~pre-treated prior to discharge into the balance of~~ not discharge directly into the project's surface water management system.
- j. Stormwater run-off must be pre-treated through an acceptable recreated natural system or dry retention and water retention system, prior to discharging the run-off into existing lake or wetland (any aquatic) systems.
- k. The operator of the golf course must submit an annual monitoring report of ground water and surface water quality. The monitoring program must include: testing to assess whether there are any herbicide, pesticide or fertilizer pollution of the water within the area of the golf course; identifying the locations for the ground water monitoring and testing on a map(s); setting forth the testing and recording requirements. The Developer must submit the test results with the monitoring report to the Lee County Natural Resources Division. The monitoring program will be established and operated at the expense of the Developer, or other comparable legal entity charged with the legal responsibility of managing the golf course. This plan will be evaluated in accordance with the directives of Chapter 17-302, F.A.C., water quality standards.
- l. If groundwater or surface water pollution occurs, as that term is defined by the rules or regulations in effect at the time, and if the pollution is caused by the application of fertilizers, herbicides or pesticides to the golf course, the application must cease until there is a revised management plan. If mitigation

is necessary to address the pollution, a mitigation plan approved by Lee County must be implemented by the Developer.

m. Prior to development order approval for the golf course, the developer must conduct a pre-development groundwater and surface water analysis and submit the analysis to Lee County Division of Natural Resources. This analysis is intended to establish baseline data for groundwater and surface water monitoring for the project area. The analysis must be designed to identify those nutrients and chemicals that are anticipated to be associated with the project. Prior to commencing this baseline study, the developer must submit the methodology for review, comment, and approval by Lee County.

11. Prior to Development Order approval for any portion of the property, the developer must show an emergency access connecting to the existing interconnection to Oriole Road to the north. This interconnecting street stub is necessary to provide for proper traffic circulation. The street stubs must be provided with a temporary cul-de-sac turnaround within the minimum required platted right-of-way. Prior to the opening of the Sandy Lane extension, that will connect to the existing Oriole Road, the developer of this project must revise the emergency access so that it will be accessible from the Future Sandy Lane Extension.

~~12. Buildings exceeding 35 feet in height must maintain additional building separation or additional building setbacks consistent with LDC Section 34-2174(a) and LDC Section 935(e)4.~~

13. Lighting to serve uses within 200 feet of perimeter property allowing residential uses must be must be hooded, shuttered, or shielded and may not exceed 18 feet in height. Mercury vapor lamps/lights are prohibited, the lighting in this 200 foot area must scaled so that no more than the minimum required number of light fixtures are erected. Individual building lighting must be of the lowest intensity to meet safety standards. The scale of the fixtures and the type of hooding, shuttering and shielding is subject to further review prior to the approval of a development order. The individual building fixtures must be either directly fixed to the building or placed

on a post lamp standard not to exceed 10 feet in height. Incandescent lamps are encouraged. The use of mercury vapor lamps/lights are prohibited.

14. Approval of this zoning request does not address access onto U.S. 41, since Lee County has no jurisdiction over that roadway. The Developer must pursue U.S. 41 access issues with the Florida Department of Transportation (FDOT). Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy concurrency requirements as required by Lee Plan Objective 2.2.
15. Approval of this rezoning does not guarantee local development order approval or vest present or future development rights for Lee Plan consistency. Development order approvals must satisfy the requirements of the Lee Plan Planning communities Map and Acreage Allocation Table, Map 16 and Table 1(b). In addition, Development Order applications must also be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provision.
16. Installation of any auto parts, either by employees or the general public, in conjunction with the Auto Parts Store is prohibited. Signs must be posted and maintained in the parking lot for this use advising customers that "self installation" is strictly prohibited on the premises.
17. This development must comply with all the requirements of the Lee County Land Development Code (LDC), ~~specifically including the requirements of LDC Section 10-600 et seq.~~, at the time of local Development Order approval, except as may be granted by deviation as part of this planned development approval or subsequent amendments thereto.

- ~~18. Structures within Tract 5 are limited to a one story height for a distance of 100 feet and then a two story height for the next 100 feet. In addition, a type E buffer must be provided along the perimeter property line that is shared with the Vines extending from the US 41 frontage to the north side of the railroad right-of-way.~~
19. Development of this project must not exceed any DRI thresholds, as the impacts of same were not reviewed as part of the rezoning. The developer must provide a project-wide cumulative DRI threshold analysis with each local development order submittal.
- ~~20. If the lake shown in Tract 1 is relocated further away from the boundary shared with Tract 5, structures within Tract 1 must maintain a 100 foot setback from the shared property line between the two tracts.~~
- ~~21. The maintenance facility must be relocated to the Club/Recreation Tract MPD 10. The existing Residential/Maintenance Tract MPD 7 is approved for residential use only, and direct access to Koreshan Boulevard from this tract is prohibited.~~

B. Deviations

Deviation #1 was withdrawn by the applicant.

Deviation #2 seeks relief from LDC Section 10-329(e)(1)(a)(3) which requires a 50 foot minimum setback for water retention lakes, to allow a 25 foot setback for water retention lakes. Staff recommends **APPROVAL OF THIS DEVIATION in the areas shown WITH THE CONDITION** that prior to development order approval, the developer must provide satisfactory elements to discourage access from the adjacent properties. These elements may consist of fencing, berms, buffering or a combination of all three. ~~(This deviation is not approved along the eastern or northern boundary in the area identified in the memo from DOT as that area to be reserved for the northerly extension of Sandy Lane.)~~

Deviation #3 seeks relief from LDC Section 10-296(d), Table 4(7)(c) which requires wearing surfaces of local and access streets for category A development to be constructed

of 1 ½ inch asphaltic concrete, to allow for cement concrete and/or decorative pavers. Staff recommends **APPROVAL OF THE REQUEST WITH THE CONDITION** that prior to development order approval the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

Deviation #4 seeks relief from LDC Section 10-256(d)(3), which requires wearing surfaces of sidewalks to be constructed of 1½ inch asphaltic concrete, to allow for cement concrete decorative pavers. Staff recommends **APPROVAL OF THE REQUEST WITH THE CONDITION** that prior to development order approval the development must demonstrate that the pavers are structural equivalent to the asphaltic pavement standard of the LDC and equivalent to 2500 psi concrete.

~~Deviation #5a was withdrawn by the applicant. seeks relief from LDC Section 34-1954(a)(1), which requires model homes and model units to receive administrative approval, to allow model homes and model units to be permitted by right in all residential tracts. Staff recommends **DENIAL** of this deviation, because approval of the deviation would constitute approval of a use variance, which is not permitted.~~

~~Deviation #5b was withdrawn by the applicant. seeks relief from LDC Section 34-1954(d)(1), which limits approval of model homes to three years; to allow the model home approvals to be valid until project build out without requiring the owner/developer to seek a special exception. The requested deviation is **DENIED**.~~

~~Deviation #6 was withdrawn by the applicant. seeks relief from the LDC Section 34-1954(d)(2), which limits approval of model units within a townhouse or multiple-family building to a period of time not to extend beyond the initial sales period for that phase; to allow the model unit approvals to be valid until project build out. The requested deviation is **DENIED**.~~

~~Deviation #7 was withdrawn by the applicant. seeks relief from LDC Section 34-2017(e), which allows director discretion regarding parking lot surfaces, to allow the temporary parking lots that will serve the model homes and ancillary sales offices within the model homes to have a gravel surface. Staff recommends **DENIAL**.~~

Deviation #8 seeks relief from LDC Section 10-292(c), which requires residential developments of more than five acres or any commercial or industrial development of more than ten acres to provide two or more means of ingress or egress for the development, to allow the residential portion of the project that is separated by the railway right-of-way to have one means of ingress and egress. ~~Staff recommends DENIAL of this deviation.~~ Staff recommends **APPROVAL OF THE REQUEST SUBJECT TO COMPLIANCE WITH CONDITION #11.**

Deviation #9 was withdrawn by the applicant.

Deviation #10 was withdrawn by the applicant.

Deviation #11 seeks relief from LDC Section 34-2015(2)c and LDC Section 34-2020(1)c, which prohibits the stacking of vehicles in multi-family developments, to allow stacking of vehicles when the following requirements are met:

- n. The multi-family buildings is a total of 8 units or less; and
- o. the first parking space is in an individual garage with an individual driveway; and
- p. each individual driveway has a minimum one foot physical separation from any other driveway ; and
- q. it can be demonstrated at the time of development order that safe sight distance triangles are met.

Deviation #12 seeks relief from LDC Section 10-415(b)(1) which establishes the open space requirements, to allow the adoption of an Open Space Table. Staff recommends **APPROVAL SUBJECT TO COMPLIANCE WITH CONDITION #3.**

The following Deviation may or may not be needed: Deviation #13 seeks relief from LDC Section 34-1264 (a)(3) a. & b. to allow Consumption on the premises use in MPD Tract 1 a distance of 300 feet from any dwelling unit in The Vines. Staff recommends **APPROVAL SUBJECT TO COMPLIANCE WITH PERMITTED USE NOTE C.**