

# Knott · Ebelini · Hart

Attorneys At Law

George H. Knott\*\*  
Mark A. Ebelini  
Thomas B. Hart□  
Asher E. Knipe

1625 Hendry Street • Third Floor (33901)  
P.O. Box 2449  
Fort Myers, Florida 33902-2449

Telephone (239) 334-2722  
Facsimile (239) 334-1446

[www.knott-law.com](http://www.knott-law.com)

George W. Gift, III  
William M. Ferris

James T. Humphrey  
Of Counsel

Michael E. Roeder, AICP  
Director of Land Use

\* Board Certified Civil Trial Lawyer  
□ Board Certified Real Estate Lawyer  
+ Board Certified Business Litigation Lawyer

[mebelini@knott-law.com](mailto:mebelini@knott-law.com)

July 11, 2024

Elizabeth Workman  
Principal Planner  
Department of Community Development  
P.O. Box 398  
Fort Myers, Florida 33902

RE: Siesta V Administrative Amendment (ADD2024-00060)

Dear Ms. Workman:

The following is the applicant's responses to your sufficiency letter dated May 7, 2024 information for your review.

## **Legal Description:**

1. *Sec. 34-203(a). - Submittal requirements for administrative action applications. The metes and bounds legal description and sketch submitted includes areas not included in the original zoning case DCI2000-00004 approved by Z-02-049. See attached diagram.*

**Response:** The sketch and description we attached to the application included additional land acquired by the Applicant since 2002. This was inadvertent. We have attached a current the sketch and description of the parcel included in the original zoning resolution.

## **Zoning:**

2. *Revise the Master Concept Plan (MCP) to remove the road and cul-de-sac location in the proposed conservation easement area (4.1 acres being added).*

**Response:** The easternmost road and cul-de-sac are not part of the proposed Conservation Easement, which measures 4.06 acres. While the Applicant does not intend to develop the roadway segment shown on the MCP, that land area is not included in the Conservation Easement because the land is subject to an access easement held by the property owner to the southeast.

Elizabeth Workman

July 11, 2024

Page 2

3. *Provide the draft conservation easement depicting the addition of 4.1 acres (formerly upland lots, privately owned submerged lands, and multi-slip docking facility).*

**Response:** See the attached Amendment to Conservation Easement adding the 4.06 acre tract. This document amends the 2020 conservation easement given to the DEP, by adding the 4.06 acres per the settlement agreement with the nearby property owners and the revised ERP.

4. *The approved zoning resolution included Deviation 8. The new Master Concept Plan (MCP) does not note Deviation 8. Indicate if this deviation is still valid or will the applicant be striking the deviation.*

**Response:** The MCP has been revised to include a reference to Deviation 8.

5. *The changes to the building height language in the property development regulations reiterate the Land Development Code. Staff will be noting the proposed building height only.*

**Response:** Understood, we just request that the proposed building height is referenced "as measured per the Land Development Code," rather than "above minimum required flood elevation."

6. *Indicate if Deviation 1 on the new MCP is the same Deviation 1 approved per Resolution Z-02-049.*

**Response:** Yes, and we have improved the references to deviations for clarity on the attached revised MCP.

7. *Indicate what the structures are that are located within the existing cul-de-sac shown on the new MCP.*

**Response:** The structures within the cul-de-sac are a lift station and related infrastructure, as shown on the approved development order plans. These facilities are presently in place on the property.

8. *An additional deviation must be requested from LDC Section 10-416(d)(9). The natural waterway buffer must be 50-feet-wide and located within a buffer tract. Currently, the proposed MCP depicts a 28-foot-wide natural waterway buffer that is located within the single-family lots. Provide a deviation.*

**Response:** We do not believe we need a deviation and are vested as approved under LDC Section 34-381. However, with that reservation, we have attached the proposed deviations, numbered 10 and 11, for the natural waterway buffer width and for the buffer tract requirement, respectively, (not required in 2002) and a justification for each. The buffer approved was 25 feet wide. I am informed that the buffer width is

Elizabeth Workman

July 11, 2024

Page 3

**not consistent across the shore but is always at least 25 feet wide, therefore we have modified the MCP to simply specify the 25 feet width approved.**

9. *Condition 3 and 5 of Resolution Z-02-049 may need to be revised to cite the correct natural waterway buffer code and revised to address the new site-specific conditions.*

**Response: Condition 3 is revised on the attached redline of Resolution Z-02-049 Condition 5 addresses the mangrove trimming limitations in the waterway buffer which are included in the recorded deed restrictions and are also verbatim conditions of the DEP permit for the project.**

### **Natural Resources:**

10. *Please depict on the MCP the location of the proposed 41 boat slips. With the elimination of the proposed multi-slip docking facility, how does the applicant intend for lots 24-36 to obtain access to the water?*

**Response: We have revised the MCP and Condition 6 of the redlined Resolution to address the location of where the 41 boat slips will be constructed which is solely along the shoreline of the lots (excluding Lots 24 through 36) with the elimination of the multi-slip docking facility and reduction in the number of lots from 41 to 36. Boating access for Lots 24 through 36 may be requested on contiguous land which would include slips for those lots, adhering to the 41-slip limit, in a future amendment.**

11. *Is it the applicant's intention to put the responsibility on future property owners to individually permit and build slips in accordance with the Lee County Land Development Code? If the developer is building the community including the boat slips, then a Manatee Protection Plan evaluation is required.*

**Response: The Applicant intends to have future property owners individually permit and build docks for boat slips in accordance with the Lee County Land Development Code.**

12. *Please discuss why the applicant is requesting 41 slips when only 36 units are proposed? Z-02-49 conditioned 41 slips for the 41 proposed units. Who will have ownership of these additional 5 slips?*

**Response: Resolution Z-02-049 limited the project to 41 boat slips. With the exception of the shoreline of Lots 24 through 36, single-family docks are a permitted accessory use under the LDC. Under LDC Section 26-41 and Section 26-71(a)(1), a single-family dock as an accessory use to an existing or proposed single-family residence can have two boat slips per residence, which here would be 72 slips. As can be seen in the canals to the north and west of the project, many residences have two boat slips. However, the total number of slips for this project was limited to 41 by a condition offered by the Applicant.**

Elizabeth Workman

July 11, 2024

Page 4

13. *Please review the Request Narrative and update the Lee Plan policies to reflect the current Lee Plan.*

**Response:** The May, 2004 revisions to the Lee Plan were added after our application. We have revised any affected references.

**Environmental Sciences:**

14. *Please provide an environmental assessment that demonstrates that the site no longer provides flushing from south to north which would negate the need for a bridge that was previously required. The environmental assessment must include FLUCCS and a narrative discussing the topography and indicator species to justify the elimination of the bridge. Additional comments may follow once staff has received an environmental assessment.*

**Response:** See the attached Siesta V Tidal Flush Analysis.

Please let me know if you have any questions or need any additional information. Thank you.

Very truly yours,

KNOTT EBELINI HART

Mark A. Ebelini

MAE/mcl  
Enclosures