

RESOLUTION NUMBER Z-02-049

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

WHEREAS, an application was filed by the property owner, Charles R. Meador, Jr., to rezone a 136.68± acre parcel from Agricultural District (AG-2) to Residential Planned Development (RPO), in reference to Siesta V Land Trust; and,

WHEREAS, a public hearing was advertised and held on August 7, 2002, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2000-00004; and

WHEREAS, a second public hearing was advertised and held on November 4, 2002, 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 all interested persons-; and

WHEREAS, the property owner has resolved an objection to its Environmental Resource Permit from the Department of Environmental Protection by a settlement which includes amending this RPD rezoning resolution and the Master Concept Plan to: (i) eliminate the 11-slip multi-family docking facility in Pelican Bay, (ii) eliminate four lots and two shared docks along the shore of Pelican Bay, (iii) reduce in the project density from 41 single family dwelling units to 36 single family dwelling units, (iv) eliminate roadways and utilities for the roadway serving the two docks, four single-family dwelling units and 11-slip docking facility; (v) add 4.06 acres of conservation land to the conservation easement area given to the Department of Environmental Preservation; and (vi) plant 250± feet of mangroves per Section B, paragraph 4, below; and

WHEREAS, the property owner has presented sufficient evidence that no significant tidal flushing occurs directly from San Carlos Bay to the mangroves on the southern portion of the parcel, therefore the previously required "elevated roadway /bridge ±100 lineal feet" as set forth on the Master Concept Plan is not required .

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

SECTION A. REQUEST

The applicant originally filed a request to rezone 136.68± acres of land from AG-2 to RPO to allow a maximum of 47 single-family detached dwelling units, and a maximum of 30 boats slips to be located on certain lots and a 11-slip multi-slip docking facility. Buildings are not to exceed 35 feet in height above minimum floor elevation, within a maximum of two stories over parking. The property is located in the Suburban and Wetlands Land Use Categories and is legally described in attached Exhibit A. The request, as revised in ADD2024-00060, 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. The development of this project must be consistent with the one page Master Concept Plan (MCP) entitled "Siesta V" stamped "Received ~~MAR-27, 2002 Zoning Counter~~ _____," last revised ~~2-20-03~~ _____, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. 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

RESIDENTIAL USES

Accessory Apartment (only by special exception)
 Dwelling Units, Single-family Detached (maximum ~~41~~36 units)
 Essential Services
 Essential Service Facilities [LDC§ 34-622(c)(13)]: Group 1
 Home Occupation, no outside help
 Models (by Administrative Approval Only)
 Residential Accessory Uses [LDC§ 34-622(c)(42)]
 Recreation Facilities: Personal
 Signs in Accordance with LDC Chapter 30, Note (1)
 Speculative Homes
 Temporary Use limited to one contractor's office and equipment storage shed to be located on ~~lot Lot 1~~ or on one of Lots ~~63 – 13-or-6~~; and on-site real estate sales

WETLAND USES

Water Retention
 All uses permitted in the Environmentally Critical zoning district [LDC §34-983]
 EXCEPT Single-family Uses

b. Site Development Regulations

Lot Area and Dimension:

Lot Width: Minimum	75-feet
Lot Depth: Minimum	90-feet
Lot Area: Minimum	6,750 feet

Building Height:

Maximum 35 feet ~~above minimum required flood elevation~~ measured in accordance

with the Lee County Land Development Code.

Maximum 2-stories above parking

Setbacks:

Private Local Road	15-feet
Side Yard	5-feet
Rear (Waterbody)	15-feet (primary structure)
Rear (Waterbody)	5-feet (pools & accessory structures when a rip-rap revetment is provided to stabilize the shoreline waterward of the mean high water line)
Lot Coverage:	Maximum 70% including pools and accessory structures

3. Prior to local development order approval, a draft copy of a Conservation Easement for the approximately 40.9 acre mangrove preserve, including mangrove trimming limitations, must be submitted for review by the County Attorney's office. The preserve must be dedicated to the State of Florida (if required by the Department of Environmental Protection) and Lee County. Prior to issuance of a Certificate of Compliance for the subdivision/infrastructure development order, (i) a copy of the recorded Conservation Easement must be submitted. A copy of the recorded amendment to the conservation easement given to the Department of Environmental Protection adding 4.06 acres, as shown of the revised Master Concept Plan, must also be submitted -
4. ~~Prior to local development order approval, the portion of the roadway labeled "elevated roadway / bridge +/- 100 lineal feet" on the Master Concept Plan, must be detailed on the development order plans as a bridge. Elevating this portion of the roadway may not be achieved through the use of culverts.~~ 250 ± lineal feet of mangroves shall be planted along the waterfront of the roadway in front of Lots 15-18 pursuant to the Department of Environmental Protection requirements for planting and monitoring in the Environmental Resource Permit.
5. The mangrove trimming limitations must be included in the Deed Restrictions. Prior to plat approval, a copy of the Deed Restrictions must be submitted for the Division of Environmental Sciences staff review for consistency with the mangrove trimming limitations detailed in Deviation 5.
6. ~~Docks are limited to single-family docks with one slip on lots 1-26, two shared docks with one slip for each lot 38-41 and the 11 slips at multi-slip facility with one slip for each lot numbered 27-37. Docks and fishing/observation piers are prohibited along lots 27-37.~~ Docks are limited to single-family docks. A maximum of 41 boat slips are permitted for the lots of this project, including any additional land area that may be added to the project for additional boat slips. Each residential lot will be allocated at least one boat slip. However, no boat slips, docks or fishing/observation piers are allowed along the shoreline of Lots 24-36, and along the natural waterway buffer of Lot 23. The boat slips are restricted to use of residents of the development and their guests.
7. Prior to issuance of a Vegetation Removal Permit, the developer must coordinate an on-site inspection of the clearing limits with Lee County Division of Environmental Sciences and Florida Department of Environmental Protection staff.

8. 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.
- ~~9. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), as well as all other Lee Plan provisions.~~
- ~~10.~~9. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
- ~~11.~~10. All agricultural uses and their accessory uses are prohibited.
11. Prop guards or equivalent must be used on all motorized water craft with motors of 25 HP or greater.
12. The development order plans must be in substantial compliance with the site development plan prepared by Barraco & Associates, Inc. attached as Exhibit D to Administrative Amendment (PD) ADD2023-00123.

SECTION C. DEVIATIONS:

1. Deviation 1 seeks relief from the LDC §10-296(k)(1)b, requirement that the diameter of right-of-way for curb and gutter section of 110 feet, to allow a 103-foot-wide right-of-way diameter. This deviation is APPROVED.
2. Deviation 2 - Withdrawn.
3. Deviation 3 - Withdrawn.
4. Deviation 4 - Withdrawn.
5. Deviation 5 seeks relief from the LDC §10-416(9) requirement for the retention of existing vegetation within the natural waterway buffer, to allow trimming of lateral branches and no topping of mangroves within 50 percent of the buffer, and to allow trimming of lateral branches and topping of mangroves to a height of no less than 10-feet in the remaining 50 percent of the buffer. This deviation is APPROVED, SUBJECT TO Conditions 3 and 5.
6. Deviation 6 seeks relief from the LDC §10-296(b) Table 3, establishing a 35-foot-wide minimum right-of-way standard for privately maintained roads and streets, to allow a minimum right-of-way width of 26 feet. This deviation is APPROVED.
7. Deviation 7 - Withdrawn.
8. Deviation 8 seeks relief from the LDC Section 34-2192(a) requirement that all buildings and structures be set back 20 feet from the edge of the right-of-way or street easement line,

to allow a street setback of 15 feet. This deviation is APPROVED.

9. Deviation 9 - Withdrawn.

10. Deviation 10 seeks relief from present LDC Section 10-416(d)(9), which requires a 50-foot-wide vegetative buffer landward of non-seawalled natural waterways as measured from the mean high water line or top of bank, whichever is further landward, to allow a previously approved 25-foot-wide vegetative buffer along the non-seawalled shoreline of Lot 23 and the shoreline of Lots 24 through 36. This deviation is APPROVED.

11. Deviation 11 seeks relief from present LDC Section 10-416(d)(9)a. which requires the vegetative buffer landward of non-seawalled natural waterways in residential subdivisions to be located within a common area or tract, and outside of all private property boundaries, to allow the 28.02-foot-wide vegetative buffer along the non-seawalled shoreline of Lot 23 and the shoreline of Lots 24 through 36, which is subject to a recorded conservation easement given by the developer to the Florida Department of Environmental Protection, and restricted as a conservation easement in the recorded Deed Restrictions, to be part of the private lot boundaries. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

EXHIBIT A: The legal description of the property
EXHIBIT B: Zoning Map (subject parcel identified with shading)
EXHIBIT C: The Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are:

13-46-23-00-00003.0010
13-46-23-00-00004.1000
13-46-23-00-00004.1010
13-46-23-11-0000B.~~0000~~0010
12-46-23-00-00009.0010
12-46-23-00-00009.0020
12-46-23-00-00009.0030
13-46-23-00-00004.2080

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - 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 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 rezoning 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, are, or 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 Douglas R. St. Cerny, seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows: