

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.

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

SECTION A. REQUEST

The applicant 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 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 _____," last revised _____, 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 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 1 or on one of Lots 6 - 13; 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 square feet

Building Height:

Maximum 35 feet measured as the vertical distance measured from the lowest minimum habitable floor elevation for which a building permit may be issued to the highest point of the roof surface of flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of gable, hip, shed and gambrel roofs. Any buildings located within a coastal high hazard area, as defined in Section 6-479 ("V Zones"), or within a "Coastal A Zone," as defined in the Florida Building Code, may increase the height of the lowest minimum habitable floor for which a building permit may be issued by a maximum of four (4) feet and may exceed the 35-foot height limitation by the amount of the increase, limited to four additional feet

Maximum 2-stories above parking

Setbacks:

Private Local Road Side Yard
Rear (Waterbody) Rear (Waterbody)

Lot Coverage:

15-feet 5-feet

15-feet (primary structure)

5-feet (pools & accessory structures when a rip-rap revetment is provided to stabilize the shoreline waterward of the mean high water line)

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, a copy of the recorded Conservation Easement must be submitted.
4. 250 ±lineal feet of mangroves shall be planted along the waterfront 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.
7. Docks are limited to 41 single-family slips.
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. 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.
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.

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.

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.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: