

RESOLUTION NUMBER Z-95-073

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

WHEREAS, Phyllis K. Coulam & Patricia A. Elias, represented by Gleneagles of Naples, Inc., filed an application for a rezoning from AG-2 (Agricultural) to Residential Planned Development, in reference to Breckenridge Phase V; and

WHEREAS, the subject property is located at 4391 Broadway, Estero, and is described more particularly as:

LEGAL DESCRIPTION: In Section 29, Township 46 South, Range 25 East, Lee County, Florida:

TRACT 1 - Being the East Half (E½) of the East Half (E½) of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 29, Township 46 South, Range 25 East, lying North of the Estero River in Lee County, Florida.

WHEREAS, the applicant has indicated the property's current STRAP number is 29-46-25-00-00002.1010 (a portion of); and

WHEREAS, Phyllis K. Coulam & Patricia A. Elias, fee simple owners of the parcel, authorized Gleneagles of Naples, Inc. to act as agent to pursue this zoning application; and

WHEREAS, Gleneagles of Naples, Inc., contract purchasers of the parcel, authorized John J. Ruskai, P.E., Inc. and Humphrey & Knott, P.A., to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on October 3, 1995 before the Lee County Hearing Examiner, who gave full consideration of the evidence available; and

WHEREAS, a public hearing was advertised and held on November 6, 1995 before the Lee County Board of County Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board APPROVES with conditions the Applicant's request for a rezoning from AG-2 (Agricultural) to RPD (Residential Planned Development) to permit a maximum of 56 townhouse-type units in a combination of three- and four-plex buildings not to exceed 35 feet in height on 9.83+ total acres of land.

SECTION A. CONDITIONS:

The rezoning and Master Concept Plan are subject to the following conditions:

1. The development of this project must be in accordance with the one-page Master Concept Plan identified as "Breckenridge Phase 5 - Master Concept Plan," prepared by John J. Ruskai, P.E., Inc., dated 6-26-95, last revised 7-31-95, stamped "Received August 01, 1995," except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code at the 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 uses and development regulations for this property are limited to those uses shown on the Breckenridge Phase 5 Master Concept Plan.
3. If the developer secures an "incidental take" permit from the Florida Game and Fresh Water Fish Commission, the Developer must utilize appropriate methods to ensure the gopher tortoises will be relocated out of harm's way in open space areas containing FLUCCS register 321 prior to the issuance of a Tree Removal Permit. If an "incidental take" permit is not granted, the Developer must set aside adequate acreage of suitable habitat in FLUCCS 321 and submit a detailed gopher tortoise management plan at time of local development order application.
4. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local Development Order approval.
5. Approval of this rezoning does nothing more than change the zoning district wherein the property lies. It does not grant or vest any present or future development rights that may exceed the Lee Plan use restrictions set forth in 2010 (Roberts) Overlay or any other Lee Plan provision.

SECTION B. DEVIATIONS:

The Breckenridge Phase 5 Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted or denied as set forth below:

1. Deviation (1) seeks relief from LDC Section 10-329(e)(1)a.3, which requires a 50-foot-wide setback from an excavation and a private property line, to allow a 25-foot wide setback on the

western property line. The deviation is APPROVED. The zero-foot deviation is not needed on the shared boundary line since the abutting property is under the same ownership.

2. Deviation (2) seeks relief from LDC Section 34-2191(a), which requires a front building setback of 20 feet, to allow a 10-foot setback. The deviation is APPROVED.
3. Deviation (3) seeks relief from LDC Section 10-296(b), which requires a 45-foot roadway width for a privately maintained local street with open drainage, to allow a 40-foot roadway width. The deviation is APPROVED.
4. Deviation (4) seeks relief from LDC Sections 10-8(2), 34-2013(a) and 34-2015(2)d, which require vehicles to exit in a forward motion, to allow the parking areas to be designed to allow back-out parking. The deviation is APPROVED.
5. Deviation (5) seeks relief from LDC Section 34-935(e)4, which requires a building separation of one-half the sum of the heights of the buildings with a 20-foot minimum, to allow 15 feet between structures. The deviation is APPROVED.
6. Deviation (6) seeks relief from LDC Section 34-935(b)(1)b, which requires a minimum setback for structures, buildings and pavements of 15 feet, to allow zero feet along the north and east property lines. The deviation is APPROVED.
7. Deviation (7) seeks relief from LDC Section 34-935(b)(2)a, which requires a 25-foot minimum building setback, to allow a 15-foot building setback along the western property line. This deviation is APPROVED WITH THE CONDITION that the Developer place a buffer described in LDC Section 10-414(a) along the entire western property line if the property abutting this site continues to be used for single-family use and is not rezoned to allow a more intense use. If the single-family use is abandoned or the property is rezoned to a more intensive use, then no buffer is required.
8. Deviation (8) seeks relief from LDC Section 34-935(c)(2), which requires a 25-foot minimum setback for roads, drives and parking from a development perimeter, to allow a 15-foot setback along the western property line. This deviation is APPROVED WITH THE CONDITION that the Developer place a buffer as described in LDC Section 10-414(a) along the entire western property line if the property abutting this site continues to be used for single family use and is not rezoned to allow a more intense use. If the single family use is abandoned or the property is rezoned to a more intensive use, then no buffer is required.

SECTION C. MASTER CONCEPT PLAN:

A one-page reduced copy Master Concept Plan identified as "Breckenridge Phase 5 - Master Concept Plan," prepared by John J. Ruskai, P.E., Inc., dated 6-26-95, last revised 7-31-95, stamped "Received August 01, 1995," is attached and incorporated into this Resolution by reference.

SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested Residential Planned Development zoning:

1. There is no error or ambiguity which must be corrected by the rezoning or the deviations.
2. Changing conditions such as the Breckenridge PUD development make approval of the RPD, as conditioned, and the deviations, as conditioned, appropriate for this site.
3. The RPD and deviations, as conditioned:
 - (a) will not have an adverse impact on the Zoning provisions or the Land Development Code.
 - (b) are consistent with the goals, objectives, policies and intent of the Lee Plan, and with the densities, intensities and general uses set forth for the Suburban land use category in the Lee Plan.
 - (c) meet or exceed all performance and locational standards set forth for the use.
 - (d) will protect, conserve or preserve environmentally critical areas, listed plant and animal species and other natural resources.
 - (e) will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.
 - (f) will be accessed through the private internal roadways of the Breckenridge PUD, and will not place an undue burden on the existing transportation facilities or other services and facilities.
 - (g) will be in compliance with the general zoning provisions and supplemental regulations pertaining to the use set forth in the Land Development Code.

4. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed development.
5. The conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development, and, in conjunction with other applicable regulations, the conditions will provide sufficient safeguards to the public's interests.
6. Each approved deviation enhances the achievement of the objectives of the planned development, and will preserve and promote the protection of the public health, safety and welfare.

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

John E. Manning	ABSENT
Douglas R. St. Cerny	AYE
Ray Judah	AYE
Andrew W. Coy	AYE
John E. Albion	AYE

DULY PASSED AND ADOPTED this 6th day of November, A.D., 1995.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Ruth Judah
Deputy Clerk

BY: John E. Albion
Chairman

Approved as to form by:

Annmarie Collins
County Attorney's Office

FILED

NOV 7 1995

CLERK CIRCUIT COURT
BY Ruth J. D.C.

CASE NO. 95-05-018.02Z
ZON5816

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