RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, John C. Malpeli, Jr., in reference to San Marino Pines, has properly filed an application for an amendment to the Residential Planned Development zoning granted by Resolution Z-88-034 and modified by Resolution Z-90-021, to allow modifications to the Master Concept Plan; and

WHEREAS, the subject property is located at 4156 Coconut Road, Estero, described more particularly as:

LEGAL DESCRIPTION: In Section 08, Township 47 South, Range 25 East, Lee County, Florida:

> A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the North Half (N1/2) of Section 08, Township 47 South, Range 25 East and further bounded and described as follows:
>
> BEGINNING at the Northeast corner of said Section 08;
> THENCE N88°07'27"W along the North line of the Northeast Quarter (NE1/4) of said Section 08 for 1,935.53 feet to the Northwest corner of the East Three Quarters (E 3/4) of the Northeast Quarter (NE1/4) of said Section 08);
> THENCE S00°11'14"E along the West line of said East Three Quarters (E 3/4) for 2,449.81 feet;
> THENCE S88°37'16"E along the North line of a parcel as described in Official Records Book 883 at Page 345 of the Public Records of said Lee County and the North line of a parcel as described in Official Records Book 543 at Page 597 of the Official Records of said Lee County for 200.00 feet;
> THENCE S00°11'14"E along the East line of said parcel as described in said Official Records Book 543 at Page 597 for 200.00 feet;
> THENCE S88°37'16"E along the South line of said Northeast Quarter (NE1/4) for 1,120.00 feet;
> THENCE N00°11'14"W for 200.00 feet;
> THENCE S88°37'16"E for 50.00 feet;
> THENCE S00°11'14"E for 200.00 feet;
> THENCE S88°37'16"E along the South line of said Northeast Quarter (NE1/4) for 557.20 feet to the Southeast corner of said Northeast Quarter (NE1/4);
> THENCE N00°01'03"W along the East line of said Northeast Quarter (NE1/4) for 2,632.82 feet to the principal PLACE OF BEGINNING.
>
> Said parcel subject to the right-of-way of Coconut Road.

WHEREAS, the applicant has indicated the property's current STRAP number is 08-47-25-00-00005.0000; and

WHEREAS, proper authorization has been given to Carleton Ryffel by John C. Malpeli, Jr., the owner of the subject parcel, to act as agent to pursue this zoning application; and

7-20-92

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on June 9, 1992, and subsequently continued to June 16, 1992; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners 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 of County Commissioners does hereby APPROVE WITH CONDITIONS an amendment to the Residential Planned Development zoning granted by Resolution Z-88-034 and modified by Resolution Z-90-021, to allow modifications to the Master Concept Plan.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development of this project shall be in accordance with the one-page Master Concept Plan identified as "Master Concept Plan for San Marino Pines," (Project #87.34), prepared by Hole, Montes & Associates, Inc., printed April 17, 1992, stamped "Received April 17, 1992," except as modified below. This approval does not alleviate the need to comply with all state and county development regulations except as specifically modified by this approval.

2. This project shall comply with Development Standards Ordinance internal roadway requirements and specifications, but shall not be required to provide stubouts or connections to any abutting properties.

3. The phasing plan for this project shall be as follows:

Phase	(Ends)
I	1994
II	1996
III	1998

4. The area designed as "Future Amenity Area" shall be relabelled as "Common Open Space" prior to Final Plan Approval.

5. Those areas adjacent to roadways, delineated on the Master Concept Plan by banding, are the areas of residential lots. Other areas, except roadways and those areas otherwise labeled, shall be open space.

6. The following environmental conditions shall be incorporated as part of any approval:

   a. The drainfield shall be sodded and located a minimum of 351 feet south of the bald eagle nest.

b. All construction activities shall comply with the Eagle Habitat Management Plan for the Allendale RPD as adopted by the Board of County Commissioners on May 10, 1988.

c. Vegetative planting to impede vehicular & pedestrian traffic between the two lakes within the Eagle Management Preserve shall consist of trees and shrubs. Shrubs shall be a minimum of three feet in height, and trees shall be a minimum of eight feet in height at time of planting. Shrubs shall be planted in a double row with center to center spacing staggered to the adjacent row so that a barrier is created. Shrubs shall be planted so that branches overlap by a minimum of six inches with the abutting shrubs in both rows (approx. three foot centers). The spacing of trees shall be a minimum of six trees per one hundred foot segment of the buffer. Trees species shall be South Florida Slash Pine (Pinus elliottii var. densa), and shrubs species shall be a mix of Saw Palmetto (Serenoa repens), Buckthorn/Tough Bumelia (Bumelia tenax), and Wax Myrtle (Myrica cerifera) with no species composing more than fifty percent of the shrub plantings. Plantings shall be maintained in a healthy and vigorous condition at all times.

These planting requirements are designed to meet the intent of the approved Eagle Habitat Management Plan. However, if they should prove unsuccessful as an impediment to vehicular and pedestrian traffic, additional plantings may be directed by the Division of Environmental Sciences.

d. Signs shall be posted every two hundred feet which state "No Trespassing Wildlife Preserve" around the full perimeter of the Eagle Preserve. Sign lettering height shall be a minimum of two (2) inches tall.

e. The developer is hereby notified that there are state listed species on site, and the developer must comply with all state agency criteria for protection of any listed species utilizing the site.

7. Prior to Final Plan Approval, the wetland acreage figures shall be corrected to reflect 12.4 acres, not 12.1 acres.

8. All other conditions of Resolutions Z-88-034 and Z-90-021 shall remain in full force and effect, except as modified below:

a. Condition 1 of Resolution Z-90-021 shall be amended to delete sections (a) and (b) entirely. Section (c) of Resolution Z-90-021 shall be replaced by the following:

(c) The developer shall participate in any privately funded infrastructure studies and assessments that can be reasonably associated with a benefit to the subject property or its immediate environs, development residents, and financing mechanisms (including but not limited to MSBU's, MSTU's or other similar funding mechanisms established) for provision of necessary or desirable infrastructure, services or facilities, including but not limited to drainage, roads, water, sewer, parks, libraries, fire protection, etc. If the developer dedicates right-of-way deemed necessary by the Department of Transportation, credits may be issued against any privately funded infrastructure assessment or impact fees, if eligible.

b. Reference to Site Plan 90-021 shall be deleted. All references to the site plan shall refer to the Master Concept Plan identified in Condition 1 of this Resolution.

9. Deviation (1) is a request to deviate from Section C.3.f. of the Development Standards Ordinance which requires street stubs to adjoining areas be provided where required to give access to such areas or to provide for proper traffic circulation. This deviation is hereby DENIED.

Site Plan 92-032 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this request:

A. That as an amendment to an existing, approved development order which does not contemplate any increased density, intensity or use changes, consideration of Lee Plan rezoning factors are not relevant in the review of this application.

B. That the deletion of Conditions 1.a. & 1.b. of Resolution Z-90-021, as requested in this application, will not adversely impact adjoining uses and will not cause any damage, hazard, nuisance or other detriment to persons or property situated on abutting or near vicinity real estate.

C. That the deletion of the above-noted conditions will serve to lessen or eliminate the possibility of litigation founded on the theory of an unjustified governmental "taking" of private property rights through the right-of-way reservation specified in such conditions.

D. That the requested amendment to the Applicant's existing, approved Master Concept plan so as to remove the depiction thereupon of a roadway right-of-way expansion reservation for Coconut Road will also serve to lessen or eliminate the the possibility of litigation founded on the theory of an unjustified governmental "taking" of private property rights.

E. That approval of the deviation requested will promote the objectives of the property developer without any significant adverse impacts to adjoining or near vicinity residents, uses or the general public.

F. That the conditioning will serve to provide adequate protections to the public interest while allowing the Applicant to proceed with his development project with the greatest flexibility that could be reasonably expected.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John Manning, and seconded by Commissioner Donald Slisher and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Vicki Lopez-Wolfe	Absent
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 20th day of July, A.D., 1992.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chairman

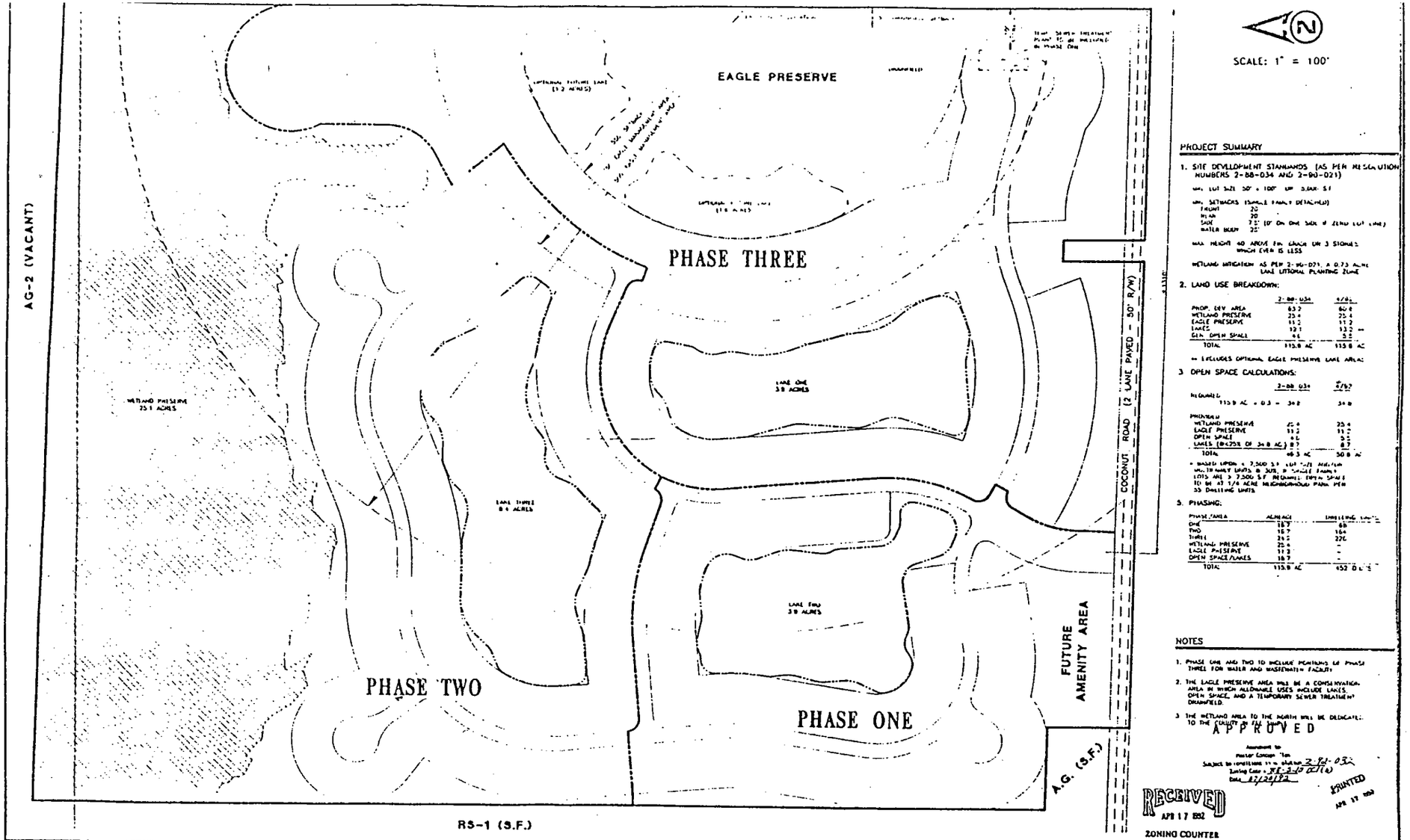
Approved as to form by:

_____
County Attorney's Office

FILED

JUL 31 1992

CLERK CIRCUIT COURT
BY _____ D.C.



PROJECT SUMMARY

1. SITE DEVELOPMENT STANDARDS (AS PER RESOLUTION NUMBERS Z-88-034 AND Z-90-021)

min. LOT SIZE 50' x 100' OR 5,000 S.F.

min. SETBACKS (SINGLE FAMILY DETACHED)
FRONT 20'
REAR 20'
SIDE 7.5' (0' ON ONE SIDE IF ZERO LOT LINE)
WATER BODY 25'

MAX HEIGHT 40 ABOVE FIN. GRADE OR 3 STORIES WHICH EVER IS LESS

WETLAND MITIGATION AS PER Z-90-021, A 0.73 ACRE LAKE LITTORAL PLANTING ZONE

2. LAND USE BREAKDOWN:

	Z-88-034	Z/PUD
PROP. DEV. AREA	63.7	60.6
WETLAND PRESERVE	25.4	25.4
EAGLE PRESERVE	11.2	11.2
LAKES*	12.1	13.2 **
GEN. OPEN SPACE	4.6	5.5
TOTAL	115.8 AC	115.8 AC

* INCLUDES OPTIONAL EAGLE PRESERVE LAKE AREAS

3. OPEN SPACE CALCULATIONS:

	Z-88-034	Z/PUD
REQUIRED: 115.8 AC x 0.3 =	34.8	34.8
PROVIDED:		
WETLAND PRESERVE	25.4	25.4
EAGLE PRESERVE	11.2	11.2
OPEN SPACE	4.6	5.5
LAKES (@ 75% OF 34.8 AC.)	8.7	8.7
TOTAL	49.3 AC	50.8 AC

* BASED UPON A 7,500 S.F. LOT SIZE MINIMUM WITH 39 SINGLE FAMILY UNITS & 348 ZERO LOT LINE SINGLE FAMILY LOTS ARE ≥ 7,500 S.F. REQUIRED OPEN SPACE TO BE AT 1/4 ACRE NEIGHBORHOOD PARK PER 35 DWELLING UNITS

5. PHASING:

PHASE/AREA	ACREAGE	DWELLING UNITS
ONE	18.7	68
TWO	18.7	164
THREE	34.2	220
WETLAND PRESERVE	25.4	-
EAGLE PRESERVE	11.2	-
OPEN SPACE/LAKES	18.7	-
TOTAL	115.8 AC	452 D.U.'S

NOTES

1. PHASE ONE AND TWO TO INCLUDE PORTIONS OF PHASE THREE FOR WATER AND WASTEWATER FACILITY
2. THE EAGLE PRESERVE AREA WILL BE A CONSERVATION AREA IN WHICH ALLOWABLE USES INCLUDE LAKES, OPEN SPACE, AND A TEMPORARY SEWER TREATMENT DRAINFIELD.
3. THE WETLAND AREA TO THE NORTH WILL BE DEDICATED TO THE COUNTY FOR PRESERVE

APPROVED

Amendment to Master Concept Plan
Subject to conditions in re. ordinance Z-88-034
Zoning Case: PDP-Z-90 OCT(A)
Date 12/20/92

RECEIVED
APR 17 1992
ZONING COUNTER

PRINTED
APR 17 1992

	SAN MARINO PINES	DESIGNED BY GS; DRAWN BY CAM; CHECKED BY MED; VERTICAL SCALE NONE; DATE 4-92; DATE 4-92; DATE 4-92; HORIZONTAL SCALE 1"=100'	HOLE, MONTES & ASSOCIATES	MASTER CONCEPT PLAN	REFERENCE NO 8734NEW	DRAWING NO ?
					PROJECT NO 87.34	SHEET NO 1 OF 1