

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

WHEREAS, Delnorth Associates, LTD., in reference to Del Vera - Phase 1A has properly filed an application for:

- a) A rezoning from MHPD to RPD for Phase 1A to permit a 603 unit single-family development with buildings not to exceed 35 feet above average grade, on 291.37 acres of land. The proposed development will also include a clubhouse, golf course, private recreational facilities, commercial uses as allowed in an RPD, and an on-site sewer treatment plant.

NOTE: If approved, the Master Concept Plan will deviate from the following Lee County standards:

- (1) Minimum setback between structures and a section line of 75 feet (202.18.B.3.a.), to 0 (zero) feet for the north/south line between Section 2 and 3, 3 and 4, and 4 and 5 AND for the east/west line between Sections 3 and 10;
- (2) Minimum setback between structures and a quarter section line of 60 feet (202.18.B.3.b.), to 0 (zero) feet for all quarter section lines in Sections 2, 3, 4, 5 and 10;
- (3) Minimum side setbacks of 6.5 feet for a structure (431.C.2. and 434.01.B.) to 0 (zero) feet and 10 feet between structures on the alternate side;
- (4) Maximum depth for a water retention excavation of 12 feet (518.B.), to 25 feet, or the first confining layer, whichever occurs first;
- (5) Minimum water retention excavation setbacks to a section line of 75 feet (509.C.1.), to 0 (zero) feet for the north/south section line between Sections 2 and 3, 3 and 4, and 4 and 5 AND the east/west line between Sections 3 and 10;
- (6) Minimum water retention excavation setbacks to a quarter section line of 60 feet (Section 509.C.2.), to 0 (zero) feet for all quarter section lines in Sections 2, 3, 4, 5 and 10;
- (7) Minimum water retention excavation setbacks to a street right-of-way of 150 feet (509.C.4.), to 35 feet from a frontage road right-of-way and to 75 feet from all other street rights-of-way with the condition that any roadway damage attributable to the excavation shall be the sole responsibility of the developer to repair to the satisfaction of the Lee County Department of Transportation and Engineering;
- (8) Requirement for street stubs to adjoining areas to give access to adjacent properties (DSO Section C.3.f.), to eliminate this requirement;
- (9) Minimum intersection separation of 660 feet along arterial streets (DSO Section C.3.h.), to 400 feet for the secondary access road (right turn in/out) only;
- (10) Requirement that properties which exhibit soils, hydrology and vegetation characteristic of saltwater inundation or freshwater ponding be subject to certain additional regulations and ordinances [202.08.C.1.b., DSO Section C.1.b.(4) and Ordinance 86-31, Section 6.03], to permit development of lots, streets or

other improvements in certain isolated Transition Zones, and to permit roadway crossing of Transition Zones and a berm crossing of Transition Zones and Resource Protection Area adjacent to property line; and

- (11) Minimum required property development regulation for a lot within the development (Sections 431.C.1. and 434.01.) to permit the following standards:

1. Minimum lot areas and dimensions:  
Area - 6,000 square feet  
Width - 60 feet  
Depth - 100 feet
2. Minimum setbacks:  
Street - variable according to the functional classification of the street or road Side - 0 (zero) feet to permit zero lot line structures with the minimum separation of 10 (ten) feet between structures on the alternate side  
Rear - 15 feet  
Water Body - 25 feet; and

- (12) Requirement that access streets be constructed paralleling certain arterial and collector streets [DSO Sections C.3.o. and C.3.j.(2)], to eliminate this requirement along US #41.

- b) A formal finding of Substantial Deviation or NO Substantial Deviation from the approved Del Tura North Development of Regional Impact (DRI) Development Order, #6-8667-77, issued by Lee County on April 25, 1988.

WHEREAS, the subject property is located at 20600 North Tamiami Trail, described more particularly as:

LEGAL DESCRIPTION: In Sections 04 and 05, Township 43 South, Range 24 East, Lee County, Florida:

COMMENCE at the Northeast corner of Section 04, Township 43 South, Range 24 East; and the POINT OF BEGINNING of the herein described parcel of land;

THENCE N.89°42'40"W. along the North line of Section 04, Township 43 South, Range 24 East, for 5,335.96 feet to the Northwest corner of said Section 04;

THENCE S.89°33'20"W. along the North line of the Northeast One Quarter (NE¼) of Section 05, Township 43 South, Range 24 East for 1,871.76 feet to an intersection with the Northeasterly line of North Fort Myers Park according to the plat thereof as recorded in Plat Book 9, Page 113 of the Public Records of Lee County, Florida;

THENCE S.26°03'40"E. along said Northeasterly line for 318.64 feet to an intersection with the Southeasterly line of Lot 3 of said plat of North Fort Myers Park;

THENCE S.63°56'20"W. along said Southeasterly line for 300.77 feet to an intersection with the Northeasterly right-of-way line of Tamiami Trail (S.R. 45, U.S. 41), being a point on the arc of a circular curve concave to the Southwest, said point bearing N.63°13'24"E. from the radius point of said curve;

THENCE Southeasterly along the arc of said curve having for its elements a radius of 7,739.44 feet and a central angle of 00°42'56" for 96.66 feet to the Point of Tangency;

THENCE S.26°03'40"E. along said Northeasterly right-of-way line for 1,943.40 feet to an intersection with the Southeasterly line of the Northwesterly One-Half (NW½) of Lot 24 of the aforementioned plat of North Fort Myers Park;

THENCE N.63°56'20"E. along said Southeasterly line for 300.17 feet to an intersection with the aforementioned Northeasterly line of North Fort Myers Park;

THENCE N.26°03'40"W. along said Northeasterly line for 4.46 feet to an intersection with the Southerly line of that certain parcel of land described in Official Record Book 1032 at Page 707 of the aforementioned public records;

THENCE N.89°48'47"E. along said Southerly line for 3354.47 feet to an intersection with the East line of that certain parcel of land described in Official Record Book 410 at Page 690 of the aforementioned public records;

THENCE S.00°11'07"E. along said East line for 975.31 feet;

THENCE N.89°51'43"E. for 217.80 feet;

THENCE N.24°38'53"E. for 1,653.70 feet;

THENCE N.52°38'53"E. for 2,162.50 feet;

THENCE N.36°58'47"E. for 314.56 feet to the POINT OF BEGINNING.  
Consisting of 291.37 acres more or less

WHEREAS, the applicant has indicated the property's current STRAP numbers are 05-43-24-00-00002.0000;  
04-43-24-00-00001.0000;  
05-43-24-01-00004.0000;  
04-43-24-00-00002.0020; and

WHEREAS, proper authorization has been given to Humphrey and Myers, P.A. by Delnorth Associates, LTD., the owner of the subject parcel, to act as agent to pursue this zoning application; and

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

WHEREAS, the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on August 1, 1989, continued to August 30, 1989; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, 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:

- a) A rezoning from MHPD to RPD for Phase 1A to permit a 603 unit single-family development with buildings not to exceed 35 feet above average grade, on 291.37 acres of land. The proposed development will also include a clubhouse, golf course, private recreational facilities, commercial uses as allowed in an RPD, and an on-site sewer treatment plant; and
- b) A formal finding of NO Substantial Deviation from the approved Del Tura North Development of Regional Impact (DRI) Development Order, #6-8667-77, issued by Lee County on April 25, 1988.

This approval is subject to the following conditions:

1. The development of this property shall be in accordance with the one-page Master Concept Plan for Del Vera Country Club, entitled Final Development Plan - Phase 1A, dated January, 1989 (last revised

on March 1, 1989) except as modified by the conditions herein. Approval of this plan does not relieve this development from conformance with all applicable state or local development regulations except for the deviations approved as part of this development. The maximum height of structures shall not exceed 35 feet above average grade.

2. The development of this project shall be in conformance with all conditions (except for the approved deviations) contained in Resolution Z-88-069 and the DRI Development Order, and development order amendments. The maximum lot coverage shall not exceed 45 percent of the total lot area.
3. As traffic generation is the main determinant in whether or not the change in dwelling unit types is a substantial deviation, the applicant, or subsequent developer, shall, in the annual DRI monitoring report (required by Chapter 380.06 Florida Statutes), indicate the actual and projected number of trips by calendar year and project phase. If a significant increase occurs, the project may then be subject to substantial deviation review. If changes to future phases are proposed, these changes shall also be subject to a substantial deviation determination. The amount of change shall be reviewed cumulatively with the change in Phase IA. Approval of the proposed changes to Phase IA does not indicate in any way that a substantial deviation may not occur at a later date.

Should the new build-out calculation exceed the original build-out calculation by 15% or more in accordance with Chapter 380.06(19)(b) Florida Statutes, the applicant or subsequent developer shall either reduce the total number of units so the change becomes less than 15% or undergo another substantial deviation review in the affected areas.

4. SUBJECT TO REVIEW AND APPROVAL BY THE LEE COUNTY ATTORNEY'S OFFICE, impact fee calculations for roads shall continue to be based on 4.8 trips per day per dwelling unit as provided for in Development Order Condition E.5. Should the project not be a retirement community, (as shown by the results of the traffic monitoring report or similar information) the impact fee shall be recalculated based upon 10.3 trips per dwelling per day for single-family homes, and impact fees shall be adjusted accordingly, with amendments to the DRI Development Order, if necessary. In the event the County Attorney's Office determines that this arrangement is a de facto attempt to amend the applicable impact fee ordinance and is inappropriate, the case should be remanded to the Hearing Examiner for further recommendation on this issue alone.
5. When applicable, the applicant shall participate in any taxing/benefit district (or equivalent funding mechanism) established on the property to finance urban infrastructure which is not being developer-funded under the DRI. Nothing in this condition shall be interpreted to change or delay commitments in the DRI development order and Resolution Z-88-069.
6. Deviations (1) through (12) are APPROVED.

Site Plan 89-076 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 approval of RPD zoning:

- A. That the real estate which is the subject of this request is correctly described in the Legal Description.
- B. That the proposed rezoning to RPD, including the Deviations, is consistent with the Lee Plan and compatible with existing zoning of

adjacent real estate and that the uses proposed are appropriate on the subject real estate at this location.

- C. That the conditions and other applicable Lee County statutes and regulations provide sufficient safeguards to the public interest and that all of the conditions are reasonably related to the impacts on the public interest created by or expected from this Residential Planned Development.
- D. That the deviations enhance the achievement of the objectives of the Residential Planned Development and preserve and promote the general intent of the regulations pertaining to deviations which is to preserve, promote and protect the public welfare.
- E. That the request is consistent with the goals, objectives, policies and intent of the Lee Plan and is consistent with the densities, intensities and general uses set forth in the Lee Plan.
- F. That approval of this request is the approval of a Residential Planned Development which was originally designed, reviewed and permitted as a Mobile Home Planned Development and that there has been no significant alteration of the design of the project and that a finding of no substantial deviation from DRI Development Order #6-8687-77 is appropriate under the circumstances.

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

John E. Manning	AYE
Charles L. Bigelow, Jr.	AYE
Ray Judah	AYE
Bill Fussell	ABSENT
Donald D. Slisher	AYE

DULY PASSED AND ADOPTED this 23rd day of October, A.D., 1989.

ATTEST:  
CHARLIE GREEN, CLERK

BY: Charles J. Wacker  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: Rob Judah  
Chairman

Approved as to form by:

[Signature]  
County Attorney's Office

**FILED**

DEC 22 89

CLERK CIRCUIT COURT  
BY C. Wacker D.C.

81-3 N(0)DPT

# LAKE CROSS-SECTION

CONTROL ELEVATION

25' DEPTH

## LAKEVILLE S/D

MIAMI TRAIL

C-1 RM-1

25' PERIMETER LANDSCAPED BU

### TYPICAL LOT LAYOUT

TYPICAL LOT SIZE  
60' x 100' - 6000 S.F.

SCALE: 1" = 40'

LAKE  
21'

25' PERIMETER LANDSCAPED BU

15' REAR YARD

5' MIN. SIDEYARD

10' BETWEEN STRUCTURES

20' FRONT YARD

PRIVATE STREET

SCHED.  
(See Also Del Tura K)

#### Residential MUPD

Manufactured (Mobile) Homes

#### Recreational Facilities, Priv.

- 18-hole Golf Courses
- Golf Driving Range
- Club Houses, Private
- Question #27
- Tennis Courts
- Swimming Pools
- Shuffle Board Courts
- Other similar facilities

#### Other Accessory MUPD

- Sales/Administration Center
- Model Homes
- Recreational Vehicle Storage

83-18(a) Del