

RESOLUTION NUMBER Z-00-029

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

WHEREAS, an application was filed by the property owner, Thomas Gore, Trustee, to rezone a 325± parcel from Agricultural (AG-2) to Residential Planned Development (RPD); and

WHEREAS, a public hearing was advertised and held on May 24, 2000 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI964568 fka 99-10-090.03Z; and

WHEREAS, a second public hearing was advertised and held on December 4, 2000 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 a 325± acre parcel from AG-2 to RPD to allow a maximum of 1,320 dwelling units in a mix of housing types, with personal and private recreational facilities and a private club (no golf course). Buildings are not to exceed 35 feet in height within a maximum of three stories. The property is located in the Suburban, Rural and Wetlands Land Use Categories and legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B 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 "Conceptual Site Plan-Buckingham 320 RPD," stamped received April 26, 2000, last revised April 26, 2000, 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 MCP are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. **Schedule of Uses**

Administrative Office

Agricultural Uses (cattle raising in undeveloped phases prior to development and nursery operations for plantings used on-site only)

Club, private

Dwelling Units

- (1) A maximum of **640 units** to be comprised solely of single-family construction (densities may not be shifted between land use categories unless a new public hearing occurs and the provisions of Policy 5.1.11 of the Lee Plan are followed). [120 units within Rural Land Use area; up to 520 units in Suburban Land Use area]
- (2) Single-family units may be located in any of the Phases/Development Areas within the Suburban land use category - whether or not so indicated on the approved Master Concept Plan, PROVIDED the trips do not exceed 8,759 ADT, 648 AM peak hour, and 845 PM peak hour - as set out in the Zoning Traffic Impact Study.
- (3) The number of units is also subject to compliance with concurrency requirements

Entrance Gates and Gatehouse

Excavation, Water Retention - not to include the removal of excavated material from the site

Model Home and Model Unit - must be in compliance with LDC §34-1954 only

Model Display Center - must be in compliance with LDC §34-1955, limited to one, which must be located in the sales center area shown on the MCP and must only serve this project

Real Estate Sales Office - limited to sales of lots, homes or units within the development, except as may be permitted in LDC §34-1951 *et seq.* The location of, and approval for, the real estate sales office will be valid for a period of time not to exceed five years from the date the Certificate of Occupancy for the sales office is issued.

Recreational Facilities - Private, On-site only

Residential Accessory Uses - In compliance with LDC §34-622(c)42 and LDC Article VII, Division 2

Signs, in compliance with LDC Chapter 30

b. **Site Development Regulations**

Overall Project:

Setbacks: (structure, parking areas, water management areas and pavement): In compliance with LDC §10-329 for water detention/retention excavation setbacks and LDC §10-416(d)(6)

Building Height: 35 feet/three stories (not to exceed either parameter)
Open Space: 40 percent minimum
10 percent must be distributed to individual dwelling units having immediate private ground floor access.
Indigenous open space must be provided as depicted on the MCP

Minimum Water Body Setback: 25 feet
Maximum Lot Coverage: 40 percent

Phases 1-6:

Minimum Lot Area: 5,250 square feet
Minimum Lot Width: 50 feet
Minimum Lot Depth: 105 feet
Minimum Street Setback: 20 feet
Minimum Side Setback: zero feet and five feet for zero lot line units, 7.5 feet for all others, except that where there are two or more principal buildings on a development tract, the minimum separation of buildings will be no less than 20 feet
Minimum Rear Setback: 20 feet

Phases 7 & 8:

Minimum Lot Area: 20,000 square feet
Minimum Lot Width: 100 feet
Minimum Lot Depth: 100 feet
Minimum Street Setback: 20 feet
Minimum Side Setback: 10 feet
Minimum Rear Setback: 25 feet

3. The following recommendations are presented in order to mitigate future hurricane damage and/or loss of life, as well as to ensure compliance with Lee Plan objectives.
 - a. The Developer must initiate the establishment of a homeowners' or residents' association. The organization must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, which will provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.
 - b. The Developer must formulate an emergency hurricane notification and evacuation plan for the development, which will be subject to review and approval by the Lee County Office of Emergency Management.

- c. Hurricane preparedness and impact mitigation, if required, must comply with the provisions of LDC §2-481 *et seq.*
4. Prior to Development Order Approval, the MCP must be revised to show compliance with the required 50-foot-minimum lake setback from Buckingham Road, an arterial roadway. Approval of this MCP does not grant any deviation from this requirement.
5. The developer must provide written disclosure to all potential and actual property owners within this project, of the existence of The School District of Lee County's transportation facility on the Buckingham campus and the potential for expansion of this facility.
6. Model units and homes are permitted in compliance with the following conditions:
 - a. Each model must be a unique example. Multiple examples of the same unit are not permitted; and
 - b. All model sites must be designated on the development order plans; and
 - c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat (not the final). The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
 - d. Dry models are prohibited.
7. Multi-family uses within Phase 1 must be located north of the upland preserve area as depicted on the MCP, and no such structures may be constructed within 150 feet of the southern or western property line (excluding those areas where the western boundary abuts Buckingham Road).
8. A buffer 20 feet in width must be planted along the southern and western property line (excluding lands abutting Buckingham Road) *prior to the approval of building permits* for any dwelling units in Phases 1, 6 or 7. The vegetation in the buffer must contain, at a minimum, six native trees per 100 linear feet. All trees must be a minimum of 10 feet tall at time of planting. All shrubs must be a minimum of four feet tall at the time of planting and must create an unbroken hedge. Existing indigenous native vegetation may be counted toward the vegetation requirements of this condition, and no buffer is required in the area on the MCP shown as upland preserve areas.
9. Bona fide agricultural uses that are now in existence may continue in a given phase until the development of that phase commences, except for those areas designated as wetland/preserve area on the MCP, which will be specifically provided protection from intrusion by existing or continued agricultural uses prior to commencement of Phase 1.

However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with all applicable Lee County regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.

10. The following conditions are included to address Lee Plan consistency issues:
 - a. The portion of the property within the Rural future land use category must maintain densities of one dwelling unit per acre or less. No more than 120 dwelling units may be constructed in the Rural designated areas of the project.
 - b. Given the limited existing available Suburban 2020 Planning Community Acreage Allocation at the time of rezoning, the available Suburban allocation must be determined by the Planning Division, prior to any Development Order approval for residential uses in the Suburban portions of the site. No development order will be issued or approved if the acreage, when added to the acreage contained in the updated existing land use database, exceeds the limitation established by Lee Plan Table 1(b), Acreage Allocation Table (per Lee Plan Policy 1.7.6). In that event, in order for Applicant to develop the Suburban acreage with residential uses, the Lee Plan must be amended to change the Suburban residential acreage allocation for the Fort Myers Shores planning community in Table 1(b). Adequate data and analysis to support this amendment must be submitted by the Applicant at the time of the request for the Lee Plan amendment. Development in excess of the current Table 1(b) allocations will not be permitted until Table 1(b) is amended accordingly.
 - c. Approval of this rezoning does not guarantee local development order approval or vest present or future development rights for Lee Plan consistency. Development Order approvals must be reviewed for and found to be consistent with all other Lee Plan provisions.
11. Prior to Development Order approval, the MCP must be amended to depict a water retention area, no less than 100 feet wide, along the south property line (outside of the indigenous preserve areas) where such south property line is adjacent to Riverdale Ranches, Rancho Eight or Skates Circle. This condition does not include those areas of Phase 1 that are separated from Buckingham Road by the indigenous areas.
12. 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 or subsequent amendments thereto.

13. No excess excavated material may be removed from the site unless the developer can demonstrate to the Director of Community Development that the material to be removed:
 - a) is unsuitable material that cannot be used on-site; and
 - b) the material must be excavated to meet the minimum requirements to provide a water management system on the site. The purpose of this condition is to prohibit the voluntary creation of excess fill material for use off-site.

SECTION C. EXHIBITS:

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

- Exhibit A: The legal description and STRAP number of the property.
Exhibit B: Zoning Map (subject parcel identified with shading)
Exhibit C: The Master Concept Plan

SECTION D. 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. Buckingham Rural Community Preserve Area limits density to one unit per acre. The subject property is outside, but adjacent to, the Preserve Area. A transitional density of two units per gross project acre is appropriate and will serve to protect and preserve the existing cultural and community atmosphere in this area of the County.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Ray Judah, seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 4th day of December, 2000.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michelle S. Leismier
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

Approved as to form by:

[Signature]
County Attorney's Office

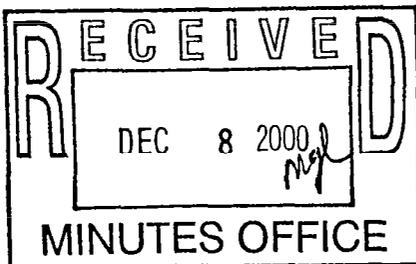


Exhibit "A"
DCI964568

O.R. 2561 PG. 3106

Applicant's Legal Checked
by gm 4/10/22

LAND DESCRIPTION:

THE SE 1/4 OF THE NE 1/4 AND THE NE 1/4 OF THE SE 1/4 OF SECTION 32,
TOWNSHIP 43 SOUTH, RANGE 26 EAST, LYING EAST OF BUCKINGHAM ROAD,
TOGETHER WITH
THE SOUTH 1/2 OF THE NORTHWEST 1/4 AND THE NW 1/4 OF THE SW 1/4
AND THE NE 1/4 OF THE SE 1/4 AND THE S 1/2 OF THE S 1/2 OF SECTION 33,
TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA.
LESS AND EXCEPT
THE N 1/2 OF THE SW 1/4 OF THE NW 1/4, AND THE W 1/2 OF W 1/2 OF THE
NW 1/4, OF THE SE 1/4 OF THE NW 1/4 OF SAID SECTION 33.
CONTAINING 324.6090 ACRES MORE OR LESS.

SECTION 33

170E

N88°59'16"E 1320.53'

O.R. 2846 PG. 1377

N00°43'05"W 1334.06'

105'

1322.15'

EXHIBIT "A"

LEGAL DESCRIPTION

The applicant has indicated that the STRAP number for the subject property is: 32-43-26-00-00003.0000 & 33-43-26-00-00004.0000

Zoning & Land Use Map

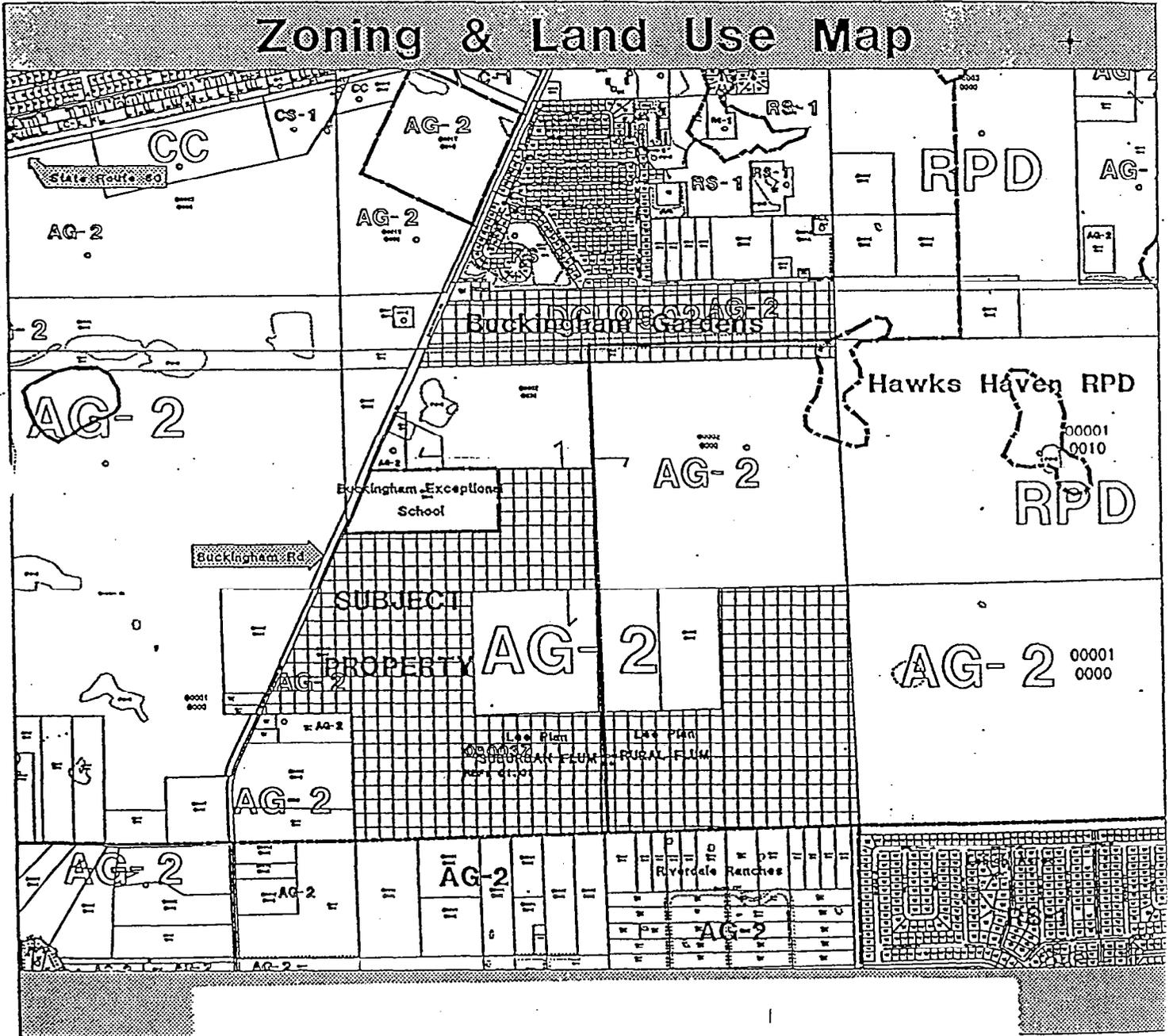


EXHIBIT B