

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

WHEREAS, Florida Design Communities, represented by Lee County Engineering, Inc., filed an application for a rezoning from Community Commercial (CC) and Agricultural (AG-2) to Residential Planned Development (RPD), in reference to Harbor Villas at Burnt Store; and

WHEREAS, the subject property is located at Matecumbe Key Road, and is described more particularly as:

LEGAL DESCRIPTION: In Section 06, Township 43 South, Range 23 East, Lee County, Florida:

A parcel of land lying in Section 06, Township 43 South, Range 23 East, Lee County, Florida, comprised of three parcels as follows:

PARCEL A-2

The North 415.00 feet of the East 565.71 feet of the West 1,697.13 feet of the North 830.00 feet of the South 1,660.00 feet of Section 06, Township 43 South, Range 23 East, Lee County, Florida; and

PARCEL A-3

The North 415.00 feet of the East 565.71 feet of the West 2,262.84 feet of the North 830.00 feet of the South 1,660.00 feet of Section 06, Township 43 South, Range 23 East, Lee County, Florida; and

PARCEL L

The North 830.00 feet of the West 1,131.43 feet of the South 1,660.00 feet of Section 06, Township 43 South, Range 23 East, Lee County, Florida, all more particularly described as follows:

Commencing at the Southwest corner of Section 06, Township 43 South, Range 23 East,

THENCE run along the West line of aforesaid Section 06 N00°33'37"E a distance of 830.85 feet to the Southwest corner of the aforementioned Parcel L also being the POINT OF BEGINNING;

THENCE continue along the West line of aforesaid Section 06 N00°33'37"E a distance of 830.60 feet also being the West line of Parcel L to the North line of the South 1,660.00 feet of the aforesaid Section 06;

THENCE run N88°22'02"E a distance of 2,264.49 feet along the North line of the South 1,660.00 feet of the aforesaid Section 06, also being the North line of the aforementioned Parcels A-2 and A-3 to the Northeast corner of Parcel A-3;

THENCE run S00°33'37"W a distance 415.30 feet along the East line of Parcel A-3 to the Southeast corner of Parcel A-3;

THENCE run S88°22'02"W for a distance of 1,132.24 feet to the Southwest corner of Parcel A-2 also being on the East line of Parcel L;

THENCE run S00°33'37"W for a distance of 415.30 feet along the East line of Parcel L to the Southeast corner of Parcel L;
THENCE run S88°22'02"W for a distance of 1,132.25 feet along the South line of Parcel L to the POINT OF BEGINNING.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 06-43-23-00-00004.0030, 06-43-23-00-00004.0020 and 06-43-23-00-00004.0050; and

WHEREAS, Florida Design Communities, the owner of the subject parcel, authorized Lee County Engineering, Inc. to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on January 15, 1998 before the Lee County Hearing Examiner in Case No. 97-08-081.02Z 01.01, who gave full consideration to the evidence available; and

WHEREAS, a public hearing was advertised and held on March 30, 1998 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 the rezoning from Community Commercial (CC) and Agricultural (AG-2) to Residential Planned Development (RPD), as follows:

SECTION A. CONDITIONS:

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

1. The RPD use and open space requirements of the subject property must be in substantial compliance with the approved Master Concept Plan entitled "Master Concept Plan of Harbor Villas at Burnt Store," as prepared by Lee County Engineering, Inc., last revised 1/98, and stamped received by the permit counter on January 9, 1998, except as modified by conditions herein.
2. The maximum residential development is limited to 70 dwelling units, in two phases, on the ±32.0-acre RPD.
3. Phase I is restricted to a maximum of 52 dwelling units. Phase II is restricted to a maximum of 18 dwelling units. Consistent with the MCP Development Schedule, subsequent to the approval of a small scale Lee Plan Amendment to the Outlying Suburban Land Use Category, an administrative amendment must be filed and approved before Phase II can be developed. The maximum permitted density must not exceed the density for the land use category in which the property is located.
4. Only the following uses are permitted within the RPD:

ACCESSORY USES AND STRUCTURES (Section 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq.)

ACCESSORY APARTMENT (Section 34-1177 et seq.)

ADMINISTRATIVE OFFICES

DWELLING UNIT:

Multiple-Family (Single-Family Detached Condominium Dwelling Units) -
as limited by Conditions 5 and 6
ENTRANCE GATE AND GATEHOUSE (Section 34-1741 et seq.)
ESSENTIAL SERVICES (Section 34-611 et seq. and Section 34-1741 et seq.)
ESSENTIAL SERVICE FACILITIES, Group I [Section 34-622(c)(13), Section 34-
1611 et seq., Section 34-1741 et seq., and Section 34-2141 et seq.]
EXCAVATION, WATER RETENTION (Section 34-1651)
FENCES, WALLS (Section 34-1741 et seq.)
HOME OCCUPATION (Section 34-1771 et seq.)
MODEL HOME, UNIT, DISPLAY CENTER (Section 34-1951 et seq.)
PARKING LOT: ACCESSORY
RECREATIONAL FACILITIES: PERSONAL, PRIVATE
RESIDENTIAL ACCESSORY USES AND STRUCTURES [Section 34-622(c)(42)
and Section 34-1171 et seq.]
SIGNS IN ACCORDANCE WITH CHAPTER 30
TEMPORARY USES (Section 34-3041 et seq.)

5. Property Development Regulations:

Multiple-Family Development (Single-Family Detached Condominium Dwelling
Units):

- a. Minimum Lot Area: ±32 acres
- b. Minimum Setbacks (Principal Structures):

Front:	20 feet from back edge of curb or 15 feet from interior accessway easement whichever is greater
Rear:	30 feet between structures (except units 38, 39, and 40 are as shown on the Master Concept Plan)
Rear:	20 feet from perimeter boundary
Side:	10 feet between structures
Water Body:	20 feet
Street:	25 feet from exterior street right-of-way or easement
- c. Minimum Setbacks (Accessory Structures):

Front:	20 feet from back edge of curb or 15 feet from interior accessway easement whichever is greater
Rear:	30 feet between structures (except units 38, 39, and 40 are as shown on the Master Concept Plan)
Rear:	10 feet from perimeter boundary (screened enclosures only)
Side:	10 feet between structures
Water Body:	10 feet (screened enclosure only)

Street: 25 feet from exterior street right-of-way or easement

- d. Maximum Building Coverage: 40 percent
 - e. Maximum Building Height: 35 feet (two stories)
- 6. The above property development regulations apply to a multiple-family condominium development consisting of 70 single-family detached condominium dwelling units, developed in two phases, on ±32 acres. Any change in the dwelling unit types, as contained in Condition 4, would require an amendment to the RPD and a public hearing.
 - 7. Charlee Road must not be used as a temporary construction access for the development of either phase of the approved project.
 - 8. All changes or additions to the recreational area (tennis courts) lighting system, where artificial lighting is used to illuminate the recreational area, must be directed away from properties and streets, shining only on the subject property and causing no glare on adjacent properties.
 - 9. The material excavated for the proposed retention areas is for use on-site and no off-site use is authorized by this rezoning action. Any off-site use of fill from this site requires zoning approval for a mining excavation operation, as part of a public hearing application/amendment.
 - 10. In conjunction with the staff of Lee County Emergency Management, the developer must initiate the establishment of a homeowners' or residents' association to provide an educational program to provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the risks of natural and technological hazards, and meeting the requirements of LDC Section 10-154(22)b.
 - 11. A final management plan which meets all of the requirements of LDC Section 10-474 must be submitted prior to local development order approval. This plan must follow the proposals for species management submitted as part of zoning sufficiency entitled "Protected Species Management Plan Harbor Villas at Burnt Store Marina," permit counter date stamped October 3, 1997.
 - 12. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required to obtain a local development order.
 - 13. Approval of this zoning request merely changes the zoning district of the subject property. It does not grant or vest present or future development rights exceeding the Lee Plan use restrictions set forth in the 2010 (Roberts) Overlay or any other Lee Plan provision.
 - 14. 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 or conditions approved as part of this planned development.
 - 15. The pavilion must be located south of the access to the recreation parcel.

16. Adjacent to the Commodore Club within the ten foot (10') buffer along north property line of the subject property, the developer must plant a seven foot (7') hedge with 75% opacity when viewed at a ninety degree angle to the buffer.

SECTION B. DEVIATIONS:

The Master Concept Plan proposes to deviate from the following Lee County development standards. The proposed deviations are approved as set forth below:

Deviation (1), requesting relief from LDC Section 34-715, requiring specific property development regulations for multiple-family residential districts, to adopt the regulations in the table shown on the Master Concept Plan, is hereby APPROVED, SUBJECT TO CONDITION 5.

Deviation (2), requesting relief from LDC Section 10-295, requiring street stubs to adjoining areas, to allow the proposed road construction without street stubs to adjoining properties, is hereby APPROVED.

Deviation (3), requesting relief from LDC Section 10-296, Table 4, (7)(c)2, requiring privately maintained roads to be one-inch asphaltic concrete of FDOT type S-III wearing surface, to allow the installation of paver brick surface course as shown on the Master Concept Plan, is hereby APPROVED, SUBJECT TO THE CONDITION that the developer provide engineering equivalency that the proposed paver brick meets or exceeds the required standard asphaltic surfaced road cross section, and subject to review and approval of this submission by the Development Services Director prior to development order approval.

Deviation (4) was WITHDRAWN.

Deviation (5) requests relief from LDC Section 34-2015(2)d., requiring all parking lot spaces to provide sufficient maneuvering room to allow an exiting vehicle to leave the parking lot in a forward motion, to allow vehicles to back out of the proposed parking spaces and driveways onto the private accessway. Because the multiple-family condominium units are comprised of single-family detached units with garages, and therefore, would function the same as a single-family dwelling unit as defined in the LDC, Deviation (5) is hereby APPROVED.

Deviation (6), requests relief from LDC Section 10-329(e)(1)a.3., requiring water retention lakes to be set back 50 feet from any property line under separate ownership, to allow water retention excavations to be set back a minimum of 25 feet. This deviation is hereby APPROVED, SUBJECT TO THE CONDITION that:

1. a 4-foot-high fence be placed around the existing lake, unless the slope of the existing lake is brought into compliance with current regulations, as modified on the Master Concept Plan; and
2. the proposed 15-foot-wide street (Matecumbe Key Road) landscape strip adjacent to the proposed retention area, per LDC Chapter 10-415(b)(2), is extended to the south limit of the subject property.

Deviation (7) was WITHDRAWN.

Deviation (8) requests relief from LDC Section 30-152(2), requiring identification signs to be set back a minimum of 15 feet from any public right-of-way or easement, and a minimum of 15 feet from the edge of pavement of a private accessway, to allow the identification signs depicted on

the MCP to be located a minimum of 10 feet from a public right-of-way and 10 feet from the edge of pavement of the private accessway, is hereby APPROVED.

Deviation (9), requesting relief from LDC Section 30-152(2)a.1.i., which allows a single ground-mounted sign located in the median strip of the entrance provided it is set back a minimum of 15 feet from the right-of-way of the public access road and a minimum of five feet from the edge of pavement of the entrance and exit lanes, to allow the construction of the residential development identification sign set back a minimum of 15 feet from the public access right-of-way and set back a minimum of 3.5 feet from the edge of pavement of the entrance and exit lane as shown on the Master Concept Plan, is hereby APPROVED.

Deviation (10), requesting relief from LDC Section 34-935(e)(4), which requires that, unless specified otherwise, where there are two or more principal buildings on a development tract, the minimum separation between buildings must be one-half the sum of their heights, or 20 feet, whichever is greater, to allow the minimum separation between buildings to be 10 feet, is hereby APPROVED.

Deviation (11), requesting relief from LDC Section 34-935(b)(1)b., requiring all buildings and structures to be set back a minimum of 15 feet from the development perimeter boundary, to allow the setback for accessory structures and buildings to be a minimum of 10 feet, is hereby APPROVED, SUBJECT TO THE CONDITION that the reduced setback applies to only screened enclosures as stated in the property development regulations in Condition 5.c., above.

Deviation (12), requesting relief from LDC Section 34-935(c)(2), requiring parking areas to not be closer than 25 feet to the development perimeter; to allow the parking area depicted on the MCP to be set back a minimum of 10 feet from the development perimeter, is hereby APPROVED.

SECTION C. Master Concept Plan:

A one page reduced copy of the Master Concept Plan is attached and incorporated into this resolution by reference, as modified herein.

SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the rezoning to RPD:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
2. The RPD zoning, as conditioned:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the RPD zoning will not unduly burden existing transportation or other services and planned infrastructure facilities, and the site will be served by streets with the capacity to carry traffic generated by the development.

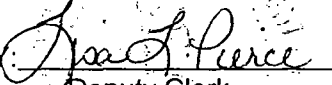
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by, or expected from, the proposed development.
8. The approved deviations:
 - a. enhance the objectives of the planned development; and
 - b. preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

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

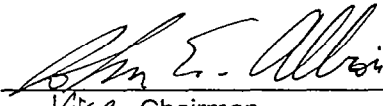
John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 30th day of March, 1998.

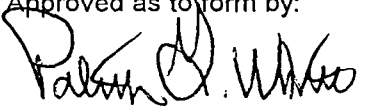
ATTEST:
CHARLIE GREEN, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Vice-Chairman

Approved as to form by:


County Attorney's Office

