

ADMINISTRATIVE AMENDMENT (PD) ADD2011-00008

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Coconut Point Developers LLC. filed an application for administrative approval to amend Resolution Z-02-009, as amended to add Temporary Uses to the Schedule of Uses within Tracts SC-1, SC-2, SC-3, OS-1, L-1, L-2, L-3, L-4, L-5 and Lot 7 of Coconut Point, Area 2 as recorded in Instrument #2006000409925 in the Lee County Lee Clerks records, on a project known as Coconut Point, described more particularly as:

LEGAL DESCRIPTION: In Sections 04 & 09, Township 47 South, Range 25 East, Lee County, Florida:

See Exhibit "A"

WHEREAS, the project is a Development of Regional Impact, State DRI #09-2001-153, Coconut Point and is zoned Mixed Planned Development approved Resolution Z-02-009, with subsequent amendments in case numbers DRI2004-00003, DRI2004-00008, DRI2006-00002, DRI2006-00009, DRI2009-00001, ADD2004-00187, ADD2004-00206, ADD2005-00080, ADD2006-00168, ADD2006-00229, Resolution Z-07-040, ADD2007-00087, ADD2007-00182); and

WHEREAS, the subject property is located in the Urban Community Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the property is zoned Mixed Use Development (MPD); and

WHEREAS, the project was approved for a regional mall by Resolution Z-02-009 and amended by Resolution Z-07-040 for a maximum of 1,528 residential units, 200 Assisted Living Units; retail square footage of 1,638,000; office square footage of 383,333 (of which not more than 68,333 square feet may be medical offices); 440 hotel units; and a 506 seat performing arts theater; and

WHEREAS, the applicant is requesting to add Temporary Uses to the Schedule of Uses in Tracts SC-1, SC-2, SC-3, OS-1, L-1, L-2, L-3, L-4, L-5 and Lot 7 of Coconut Point, Area 2; and

WHEREAS, the temporary uses must be in compliance with Section 34-3041 with regards to location and time limitation; and

WHEREAS, the applicant originally included a request to allow live entertainment in connection with outdoor consumption on premises of alcoholic beverages at restaurants. This request has been withdrawn from this ADD as it must go thru the public hearing process; and

WHEREAS, the applicant presented the request to add temporary uses to the Schedule of Uses in Coconut Point to the Estero Community Planning Panel (ECPP) on January 24, 2011. The ECPP reviewed and discussed the temporary uses and supported the request. Included in the

presentation to the ECPP was the request to allow live entertainment with outdoor consumption on premises of alcoholic beverages at restaurants. The ECPP stated for the record that they did take into consideration neighbor's concerns regarding noise, see Attachment "B"; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and


WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to Mixed Use Planned Development to amend Resolution Z-02-009, as amended to add Temporary Uses to the Schedule of Uses within Tracts SC-1, SC-2, SC-3, OS-1, L-1, L-2, L-3, L-4, L-5 and Lot 7 of Coconut Point, Area 2 is **APPROVED, as conditioned**.

1. **The Development must be in compliance with the Master Concept Plan as approved by Resolution Z-02-009, as amended by Z-07-040.**
2. **The terms and conditions of the original zoning resolutions remain in full force and effect, except as amended herein.**
3. **All temporary uses must comply with Section 34-3041 of the Lee County Land Development Code.**

DULY SIGNED this 3rd day of October, A.D., 2011.

BY: _____



Pam Houck, Director
Division of Zoning
Department of Community Development

Exhibits:

- A - Legal Description
- B - Minutes from ECPP meeting

LEGAL DESCRIPTION

Tracts SC-1, SC-2, SC-3, OS-1, L-1, L-2, L-3, L-4, and L-5, and Lot 7, Coconut Point Area 2, according to the plat thereof as recorded in Instrument No. 2006000409925 of the Public Records of Lee County, Florida.

ADD 2011-00008

RECEIVED
JAN 23 2011

COMMUNITY DEVELOPMENT

APPROVED
LEGAL

BJ 1/31/11

EXHIBIT AA-2C.1

EXHIBIT A

ESTERO COMMUNITY PLANNING PANEL
Minutes of Public Meeting #125– January 24, 2011
Estero Community Park, Estero, Florida

Panel Members Present: Jack Lienesch, Civic Association, Chairman; Dan DeLisi, Estero development community; Greg Toth, Founding Member; Ned Dewhirst, Estero development community; Erik Dickens, ECCL; Jeff Maas, Estero Chamber of Commerce; Neal Noethlich, Emeritus Chairman; Bev MacNellis, Treasurer, ECCL and Bill Brown, Recording Secretary, ECCL. Absent: John Goodrich.

Public Notice: Brown reported that the meeting notice appeared in a story in the News-Press and the News –Press online calendar, the Century- Link Estero Events Calendar and Esterofl.org websites. The notice was posted at the South County Regional Library, Realty World of Estero, and the BB&T and the Fifth Third Banks.

Approval of Minutes: Brown distributed minutes of the November 22 and December 20 meetings. Dewhirst: Motion to accept November minutes: Dickens Seconded. Accepted unanimously. Dewhirst: Motion to accept December minutes. DeLisi Seconded. Accepted unanimously.

Treasurer's Report: MacNellis reported a balance of \$1,300.72 as of December 3, 2010. Report accepted.

Four Presentations were made to the Panel:

Commercial lot split for Kite Realty: Jay Westerdorf from Omega Consulting. Kite is proposing to split off and sell a commercial parcel next to Lowes on the corner of Three Oaks and Corkscrew. They are requesting a deviation from the commercial-to-commercial buffer requirement along the proposed lot line, along with allowance for six fewer parking spaces than currently required. Noethlich inquired and was told that the same zoning would still apply. Toth inquired whether the lot buyer would be required to follow the approved master plan and was told that they would. Lienesch said the EDRC should review any new signage that will occur. Lienesch concluded that the Minutes will reflect support for the proposed lot split.

Germaine Arena COP amendment request: Craig Brush said they are seeking to amend the Gale Force Sports & Entertainment liquor license at Germaine Arena to allow them to sell alcohol outside the arena in a designated area for home hockey pre-game activities from October 1st until June 30th of each year from 5:00 P.M. until 8:00 P. M. Noethlich asked if food were served and was told that it was. Toth observed that while they didn't have residential neighbors now, mixed use developments are proposed around them. Brush pointed out that the hours were only from 5 to 8 PM. Dickens asked if this set a precedent. Noethlich asked that the minutes specify that no precedent is intended. Dewhirst said it is appropriate for this area and DeLisi said he thinks it is great. Maas pointed that it increased attendance and jobs. The panel supported this amendment request from Germaine.

Proposed amendment to Pelican Landing DRI: Neale Montgomery requested two changes to the DRI: one would extend the build out date to 2020, and the other was relief from certain environmental monitoring. She explained the County had required monitoring of run-off from the Pelican's Nest Golf Course because of its proximity to the Gulf and some adverse experience years

ago on Florida's East Coast. The monitoring has been done for 15 years with no problems identified, so the Pelican Landing developer would like to be relieved from the required monitoring. Toth suggested they should just cut back rather than eliminate the monitoring completely. DeLisi suggested they do a baseline just before turn-over to the residents. Toth suggested monitoring every 3 years. Lienesch concluded that the Panel had no problem with the build out date extension, but could not agree to complete elimination of the well monitoring because it was not expert in this area. He recommended following the lead of SFWMD, RPC and Lee County DNR on this issue.

➔ **Administrative amendment permitting temporary uses with Coconut Point:** Matt Uhle, attorney, and Jamie Grofik, mall manager, asked that temporary uses be added to the list of scheduled uses. Uhle explained that this was necessary because the present system of granting temporary permits for outdoor entertainment at mall restaurants did not appear to be legal because no outdoor uses are allowed by the existing the schedule of zoning uses. Uhle said: "There have been some complaints expressed by some people in The Brooks." Pagelli's has been cited by Lee County for noise violations. "We're willing to do whatever we need to do," said Pagelli's partner, Richard Osborne. Greg Toth said if the county grants a permit for live entertainment and gets a lot of noise complaints, it likely would not grant another. "This is something that so many residents look so forward to," said Estero resident Richard Sands, who frequently goes to Pagelli's, Hemingway's and The Grape at Coconut Point for the live entertainment. "I'm so in favor of having music out there. It's just a wonderful addition to a great community and a great place to live." Restaurants claimed to have collected thousands of signatures from their patrons in support of live music. Dewhirst pointed out that the County can impose noise limitations when the permit is issued. MacNellis said noise from outdoor entertainment at the Grape is bothering her neighborhood at Marsh Landing. DeLisi said he hasn't seen any problem. Lienesch said he has received emails and complaints from the Brooks and Fountain Lakes and, depending on the direction of the wind, noise can sometimes be heard in Pelican Landing. Dickens said the minutes should make it clear that we are addressing the neighbor's concerns. Lienesch concluded that while the panel did not have a problem with the mall's request, the noise management issue will not go away and needs to be addressed by the county.

ECPP

Development of Work Plan – Lienesch asked Panel to accept assignments for various areas. DeLisi agreed to work on signage and Noethlich on style such as Mediterranean vs. Old Florida. Kathie Ebaugh suggested that they meet with the County Planning Director, Paul O'Connor, on development of the Work Plan. It was agreed that Lienesch, Noethlich, and DeLisi will meet with O'Connor and Ebaugh in the near future.

Kathie Ebaugh told the Panel that a contingent of planning folks from Hillsboro County is visiting Lee County next Monday and Tuesday to compare notes. Among other things, they expressed interest in seeing how Estero does business as an unincorporated area with respect to our planning panel and design review committee activities. Lee County also wants them to go on a short tour of our Estero community. The Panel will meet with them next Tuesday morning.

Gerard Ripo of The Southlandgroup, developers of Downtown Estero, north of Broadway on US41 gave the Panel a chronology of their efforts to work out driveway connections with FDOT. They are having difficulty because they do not yet have zoning which the FDOT wants. The lack of connections to the future WalMart property was also discussed briefly.

Panel was adjourned at 8:00 PM

NEXT REGULAR MEETING: February 21, 6:00 PM, Estero Community Park