RESOLUTION NUMBER Z-09-037

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

WHEREAS, an application was filed by the property owner, Estero Medical Center LLC, to Amend the Plaza Del Sol Commercial Planned Development (CPD) in Lee County Zoning Resolution #Z-03-039, in reference to Plaza Del Sol CPD Amendment; and,

WHEREAS, a public hearing was advertised and held on November 5, 2009, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2008-00048; and

WHEREAS, a second public hearing was advertised and held on February 1, 2010, 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 amend the Plaza Del Sol Commercial Planned Development (CPD) Lee County Zoning Resolution # Z-03-039 to add Assisted Living Facilities (ALF), Continuing Care Facilities (CCF) and Independent Living Units (ILU) as allowable uses to the currently approved schedule of uses on Parcel G only. The maximum density proposed is 272 ALF/CCF units; 136 ILU; or the equivalent of 68 dwelling units. Maximum height proposed is unchanged (2 stories 35 feet). The development will connect to public potable water service and public sanitary sewer service. No development blasting is proposed. The property is located in the Urban Community Future Land Use Category and is legally described in attached Exhibit "A".

The request for 272 ALF/CCF units was reduced to 268 ALF/CCF units, 134 ILU; or the equivalent of 67.62 dwelling units (a maximum of 6.0 dwelling units on 11.27 acres of land) and the project is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Master Concept Plans & General Development Parameters

   A. The development of this project must be substantially consistent with the two-page Master Concept Plan (MCP), Sheet 1 entitled, "Plaza Del Sol, Amendment to Master Concept Plan Z-94-050," dated May 10, 2002, last revised 03/15/2004, most recently date-stamped "Received Nov 06 2009

Community Development," **and** Sheet 2 entitled "ALF/CCF Alternate Master Concept Plan, Plaza Del Sol Parcel G, Lee County, Florida," dated 10/15/2008, last revised 02-01-10, date-stamped "Received Feb 04 2010 Community Development," both attached hereto as Exhibit "C", except as modified by the conditions below.

B. This development must comply with all requirements of the 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.

C. The entire development is limited to a maximum of 230,000 square feet of gross floor area, including all gross floor area for the use of Health Care Facilities, Groups I, II and III. Of this total, up to a maximum of 50,000 square feet can consist of office space.

Maximum gross building square footage per parcel:

Parcel A	16,000 square feet
Parcel B	16,000 square feet
Parcel C	21,200 square feet
Parcel D	18,000 square feet
Parcel E	18,000 square feet
Parcel F	18,000 square feet
Parcel G (Anchor Parcel)	114,000 square feet
Parcel H	8,700 square feet

D. Parcel G is limited to a maximum of 6 dwelling units per gross acre for a maximum of 67.62 dwelling units on a total of 7.08 acres (undeveloped portion of Parcel G) plus 3.98 acres for Parcel G's proportionate common area (29%), plus 0.21 acres (½ shared access drive of existing/future development parcels) for a total of 11.27 acres of land.

E. Parcel G is limited to a Maximum of 268 units in assisted living facility/continuing care facility (ALF/CCF) uses, 4:1 equivalents per LDC §34-1494(b)(2) or 134 independent living units (ILU), 2:1 equivalents per LDC §34-1414(c) or any combination of ALF/CCF and/or ILU so long as the density does not exceed six (6) units per acre on 11.27 acres of land.

F. ALF, CCF, ILU uses and related accessory uses are limited to Parcel G only.

G. This Approval codifies the terms and conditions contained in Lee County Zoning Resolution No. Z-03-039 and Lee County Administrative Amendments ADD2004-00068, ADD2005-00016, ADD2005-00197 and ADD2006-00079. Those prior approvals are superceded and are deemed null and void upon the adoption of the Resolution approving this request.

H. All conditions and commitments made in the "Plaza Del Sol Design Guidelines" must be adhered to as part of this planned development. (See attached Exhibit "D".)

2. The following limits apply to the project and uses

A. Schedule of Uses

Accessory Uses and Structures - including uses subordinate to an assisted living facility, continuing care facility and independent living units.
Animal Clinic
Auto Parts Store (No outdoor display or storage)
Assisted Living Facility - Limited to Parcel G and subject to Condition 1
Automatic Teller Machine (ATM)
Automotive Repair and Service - Group I only and excluding: automotive interior shops; automotive paint shops; automotive top installation or repair (canvas or plastic); cellular phone installation; glass replacement and repair; radio sales and installation; transmission repair; undercoating cars; and upholstery repair. These uses are allowed on Parcel H only, and must meet the requirements of LDC §33-431.
Banks and Financial Establishments - Groups I and II (Parcels C or D only)
Boat Parts Store (No outdoor display or storage)
Broadcast Studio, commercial radio and television
Business Services - Group I only
Car Wash - Restricted to Parcel H only and subject to Condition 10
Cleaning and Maintenance Services
Clothing Store, General
Clubs, excluding Country Club
Continuing Care Facilities - Limited to Parcel G and subject to Condition 1
Contractors and Builders - Group I only
Convenience Food and Beverage Store - Restricted to Parcel H only and limited to one structure in compliance with LDC §33-431
Consumption on Premises - Limited to Restaurants, Groups III and IV
Cultural Facilities
Day Care Center - Adult or Child
Department Store
Drive-thru facility - only in conjunction with a bank, drug store, pharmacy or fast food restaurant
Drug Store - Free Standing - Limited to one on entire site
Essential Services
Essential Service Facilities - Group I only
Excavation, Water Retention - Not to include the removal of excavated material from site, and no blasting
Fences and Walls
Food Store - Group I only and limited to anchor Parcel G
Hardware Store - No outdoor display or storage
Health Care Facilities - Groups I, II and III
Hobby, Toy, and Game Shop

Household/Office Furnishings - Groups I and II
Independent Living Units - Limited to Parcel G and subject to Condition 1
Insurance Companies
Laundry or Dry Cleaning - Group I only
Lawn and Garden Supply Store - Limited to less than 1 acre of outdoor display area
Non-Store Retailers
Office, Medical
Package Store - Only in conjunction with a supermarket, food store or drug store
Paint, Glass, and Wallpaper Store
Parking Garage - Limited to Anchor Parcel G and only in conjunction with a retail use on the same parcel
Parking Lot, Accessory
Personal Services - Groups I and II
Pet Shop and Pet Services - No outdoor kennels or runs
Pharmacy
Printing and Publishing - Limited to 5,000 square feet
Recreation Facilities, Commercial - Group I only
Rental or Leasing Establishments - Groups II and III (No outdoor display or storage)
Repair Shop - Groups I, II and III (No outdoor display or storage)
Restaurant - Fast Food - Limited to 1 on the entire CPD site and further restricted to one of these parcels: A, E, F, or G
Restaurant, Standard - Groups I, II, III and IV
Residential accessory uses and structures
School, Commercial
Self Service Fuel Pumps - Limited to a maximum of 12 fuel pumps and only in conjunction with a convenience food and beverage store
Signs - In compliance with LDC Chapter 30 and the Estero regulations at the time of development orders (See also Deviations below)
Social Services - Groups I and II
Specialty Retail Shop - Groups I, II and III
Studio
Temporary Uses - Construction and Sales Office
Variety Store

B. Site Development Regulations

Minimum Lot Dimensions:

Minimum Lot Area:	20,000 square feet
Minimum Lot Depth:	100 feet
Minimum Lot Width:	75 feet

Setbacks

Buildings	
Private Interior Street	Minimum of 20 feet
Side:	Minimum of 0 feet, maximum of 5 feet
Streets	
(Corkscrew Road):	Maximum of 45 feet
(Three Oaks Parkway):	Maximum of 50 feet
Rear Setback:	Minimum of 20 feet
Water Body:	Minimum of 25 feet

Maximum Lot Coverage: 40%

Maximum Building Height: 35 feet or two (2) stories

3. Traffic: Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

4. Lee Plan Allocation: Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

5. Design Guidelines: Prior to local development order approval, the landscape plans must be consistent with the document entitled "Plaza Del Sol Design Guidelines," attached as Exhibit "D," and the LDC.

6. No Blasting: Development blasting is not an approved activity as part of this approved planned development. Development blasting must be approved through an amendment of this planned development that goes through the public hearing process.

7. Public Water and Sewer Hook-up Required: The subject property must connect to public potable water and public sanitary sewer service. At time of local development order, the developer must demonstrate there is adequate water and sewer capacity to handle the proposed level of development.

8. Accessory Uses: Within the Commercial Planned Development, accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.

9. Solid Waste/Recycling: As part of any local development order approval, the development order plans must include facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance #08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of these facilities will be reviewed at the time of local development order application.

10. Car Wash: The applicant must attach a response letter to any local development order submittal explaining how the Estero Design Review Committee suggestions/comments included in their December 21, 2004 letter (attached as Exhibit "E") may or may not be addressed.

11. Buffering and Landscaping: Prior to local development order approval for the undeveloped 7.08 acre portion of Parcel G and any associated portions of the existing 4.11 acre development, landscape plans must depict landscape islands and pedestrian walkways between the two uses to incorporate trees, shrubs and groundcover as required by Plaza Del Sol Design Guidelines B. 1. And C. 5. (See attached Exhibit "D")

12. Open Space: Prior to local development order approval for the undeveloped 7.08 acre portion of Parcel G, development order plans must depict a minimum of 10% open space is provided within the 7.08 acre project boundary.

13. Arcos Avenue Buffer: Prior to local development order approval for Parcel G, landscape plans must depict a minimum 15-foot-wide Type D right-of-way buffer along Arcos Avenue with a minimum of 7.5 feet of plantable area outside the 10-foot-wide public utility easement, in substantial compliance with the MCP.

SECTION C. DEVIATIONS:

Previously Approved Deviations

Deviations from Lee County Zoning Resolution #Z-03-039 remaining in full force and effect except as indicated below:

Water Retention Setback - Deviation (1) sought relief from the LDC §10-329(d)(1)(a)(3) requirement to provide a water retention setback of 50 feet from private property under separate ownership, to allow a setback of 25 feet.

Intersection Separation - Deviation (2) sought relief from the LDC §10-285(a) requirement to provide a separation distance of 660 feet on an arterial road, to allow a separation distance of 556 feet.

Deviations (3), (4), (5), (6), and (7) - WITHDRAWN.

Conservation Easement - Deviation (8) sought relief from the LDC §34-1044(b) (now §33-351) requirement and was approved to provide the conservation easement in the northeast portion of the CPD to substitute for the Type "A" buffer.

Reduced Buffer Width - Deviation (9) sought relief from the LDC §34-1044(b) (now §33-351) requirement to provide a 200-foot wide buffer along the internal rights-of-way, to reduce the width of the buffer to 15 feet. This deviation was Approved Subject To the requirement that the buffer contain the same vegetation as required in a Type "D" buffer was installed.

Deviation (10) - WITHDRAWN.

New Deviation 11

Buffer between Commercial Properties - Deviation (11) seeks relief from the LDC §33-351 requirement to provide a Type "A" buffer between commercial properties, to allow no buffer between the existing and future development on Parcel G. This deviation is APPROVED, SUBJECT TO Condition 11 hereinabove.

Deviations from Administrative Amendments remaining in full force and effect:

Administrative Amendment ADD2004-00068

Ground Mounted Signs on Parcels E and H - Deviation (1) sought relief from the LDC §30-153(3)(a)6 requirement and was approved - as conditioned below - to allow Parcels E and H to have two ground-mounted signs, instead of one sign per business; **and**

Monument Signs on Parcels E and H - Deviation (2) sought relief from the LDC §30-406(a)(1)c requirement and was approved to allow one monument style sign to be located at the southwest corner of Parcel E, and one monument style sign to be located at the southwest corner of Parcel H (each sign face was to be a maximum of 200 square feet in area), and one monument style sign, with a total sign face of 72 square feet, on each of Parcels E, and F.

These two Deviations were approved SUBJECT TO the following conditions:

1. The monument style signs to be located in the southwest corners of Parcels E and H, as depicted on the MCP, attached, are to be project identification signs, as defined by the LDC.

2. The single monument style signs, permitted a maximum total sign face of 72 square feet, above and beyond the permitted project identification signs on Parcels E and H, as depicted on the MCP, are restricted to locations on the internal road (to be named Arcos Avenue) for the project, and are prohibited from being visible from either Corkscrew Road or Three Oaks Parkway.

3. Parcels A, B, D and F, as depicted on the MCP, are permitted monument-style signs with a maximum total sign face of 72 square feet, which are restricted to locations on the internal road (to be named Arcos Avenue) for the project, and are prohibited from being visible from either Corkscrew Road, or Three Oaks Parkway.

Administrative Amendment ADD2005-00197

Parking Setback from Corkscrew Road **and** Three Oaks Parkway - Deviations sought relief from the LDC §34-1047 requirement to provide a 35-foot parking setback from Corkscrew Road **and** to allow parking setbacks at 42.9, 43.0 and 43.2 feet from Three Oaks Parkway. These Deviations were APPROVED SUBJECT TO the following conditions.

1. The 3 trees, immediately south of Building 101,must be preserved as shown on the attached "PARKING AREA SETBACKS EXHIBIT", dated 6/01/2005 and date-stamped by the permit counter on October 13, 2005. (Attached as Exhibit "G")

2. The suggestions and comments of the Estero Design Review Committee, dated September 29, 2005, are attached hereto as Exhibit "F" for reference purposes.

3. Two parking spaces to be eliminated as shown on the sketch contained in attached Exhibit "G".

SECTION D. EXHIBITS AND STRAP NUMBER:

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

Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plans
Exhibit D: Plaza Del Sol Design Guidelines
Exhibit E: Estero Design Review Committee (suggestions/comments included in their December 21, 2004 letter)
Exhibit F: Estero Design Review Committee (suggestions/comments included in their September 29, 2005 letter)
Exhibit G: Parking Area Setbacks Exhibit

The applicant has indicated that the STRAP number for the subject property is: 35-46-25-31-0000G.0000

SECTION E. 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;

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;

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;

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. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Ray Judah made a motion to adopt the foregoing resolution, seconded by Commissioner Frank Mann. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 1st day of February, 2010.

ATTEST:
CHARLIE GREEN, CLERK

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
~~Tammara Hall, Chair~~ Commissioner

Approved as to form by:

_____
John J. Fredyma
Assistant County Attorney
County Attorney's Office

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