



Growth Management Department - Zoning Division

July 8, 2025

Rachel Hansen, AICP
The Neighborhood Company,
5618 Whispering Willow Way,
Ft. Myers, FL 33908

RE: **INTP-PL20250005504**, UPON LELY BAREFOOT BEACH PUD AND TRACT 3 OF BAREFOOT BEACH UNIT #4 AND ITS DESIGNATION WITHIN THE PUD, IF DOCKS ARE CLASSIFIED AS "OUTDOOR RECREATIONAL FACILITIES", WHICH ARE PERMITTED WITHIN THE TRACT, AS WELL AS IF DOCKS WITHIN THE TRACT CAN BE INDIVIDUALLY PERMITTED, BUILT, AND TRANSFERRED EITHER AS CONDOMINIUM UNITS OR PER ASSIGNMENTS OF LICENSE TO THIRD PARTIES.

Dear Ms. Hansen:

Pursuant to Land Development Code (LDC) Section 1.06.01.D, the Planning and Zoning Director has been requested to render an official interpretation of the Collier County Land Development Code (LDC), for Valore SWFL, LLC., PL20240010829. The official interpretation centers upon *"questions related to the designation of Tract 3 of Barefoot Beach Unit #4 and its designation within the PUD, if docks are classified as "outdoor recreational facilities", which are permitted within the Tract, as well as if docks within the Tract can be individually permitted, built, and transferred either as condominium units or per assignments of license to third parties"*. Further within the request you provide the following questions and analysis (*designated in italics*) pertinent to those questions for the County to consider in our response.

- 1. Confirming that Tract 3 is located within the Active Community Recreation Area tract of Lely Barefoot Beach PUD please additionally confirm that docks are "outdoor recreational facilities," which are a permitted principal use on Tract 3 per Section 12.2 of the PUD.**

Section 12.2.A lists the following principal uses: "Community recreation usage, including buildings which will accommodate community, social, and recreational activities; outdoor recreation facilities; parking and utilitarian facilities customarily associated with community recreation areas." 12.2.C further specifies that "docks" and "similar over water structures" are subject to regulations of "all governmental agencies with jurisdiction over waterfront development" – our assumption is that docks are a permitted use, as listed under Section 12.2 – USES PERMITTED, and subject to all regulations and permitting related to over water structures. We are aware of an existing agreement with the Conservancy of Southwest Florida which may require additional approval for boat docks on Tract 3.

Response: From review of the Lely Barefoot Beach PUD Master Plan, the majority of the platted Tract 3 is located within Little Hickory Bay, with the upland portion of Tract 3 within the Community Recreation Area designation. Section XII of the PUD regulates the Active Community Recreation Area Tract. Section 12.2.A Principal Uses, list outdoor recreational facilities and parking as allowable uses, which Staff interprets to include docks and parking for docks. Further Section 12.2.C states that Docks and similar over water structures, "shall be handled separately by all government agencies with jurisdiction over waterfront development, at some future date, which I further interpret to mean that docks are permitted within the Tract.

It should be noted that Per Section 12.9 of the PUD states, *"All activities in this tract shall be in accordance with construction, native habitat protection, dune preservation, and wetland preservation regulations listed in Section XX."* Further Section 20.3.6 provides that, *"A. All jurisdictional wetlands located outside of Tracts M, N, and O are considered to be part of the wetland preservation zone. This designation highlights the importance of the wetlands and the need for their preservation. B. Trimming and pruning of live wetland plants is prohibited without first obtaining appropriate federal state and local approval. C. Land modifications or structures are prohibited within this zone except for nature trails or boardwalks. D. Jurisdictional surveys indicate a pocket of stressed wetland vegetation exists within the interior of Tract Lely Beach North. It is understood by all parties that the Sections 20.3.6, A through C above, do not apply to this isolated pocket. The Developer or his assigns may undertake steps to obtain State, Federal and County permits to fill this isolated pocket of wetland. Upon receipt of permits this area can be utilized for building in accordance with Section IX requirements."*

2. Docks can be individually permitted, built, and transferred either as condominium units or per assignments of license to third parties regardless of whether they reside within the Lely Barefoot Beach PUD.

Section 12.2 of Ordinance 85-83 does not define community recreation as limited to residents of Lely Barefoot Beach PUD. As confirmed in the attached application for an Administrative Parking Reduction (APR) (Attachment 5: PL20230003420 Club at Barefoot Beach APR) 50% of the members of the existing Club at Barefoot Beach reside outside the PUD. We believe this demonstrates no residency requirement for ownership or lease of individual bock dock slips on Tract 3.

Response: As stated within the first response, within the Community Recreation Area, docks have been determined to be an allowed use. As such the use can be permitted, built and transferred, like other real property. Whether the docks are sold as a condominium unit or per assignments of license to third parties, either arrangement is appropriate. Section 721.25 of the Florida Statutes provides that development regulations may control the use of property, but not the ownership.

Staff in review of Section 12: Active Community Recreation Area of the PUD, within 12.B indicates that the Tract, "may be used for the active recreational facilities (e.g. tennis courts, swimming pools, etc.) for residents living at Lely Beach North and Leley Beach South". This language does cause Staff concern over the usage of the area for individuals not associated with Lely Beach North or South, but the clarification that 50-percent of the members of the existing Club at Barefoot Beach, also located within the Community Recreation Area, reside outside the PUD would indicate that the recreational amenities within the Active Community Recreation Area of the PUD are not restricted to only individuals residing within the PUD. Based upon that recognition, and the fact that docks are permitted within the Tract, docks within could be sold or leased to individuals, regardless of that individual residing within the PUD.

Pursuant to Division 10.02.02.F. of the LDC, this interpretation has been sent to you via certified mail, return receipt requested. A copy of this interpretation and appeal time frames will be placed in the Collier Legal Notices website. Within 30 days of publication of the public notice, any affected property owner or aggrieved or adversely affected party may appeal the interpretation to the Office of the Hearing Examiner, as directed by Section 2-87 of the Collier County Code of Laws and Ordinances.

A request for an appeal must be filed in writing within 30 days of the date of this Official Interpretation and must state the basis for the appeal and include any pertinent information, exhibits, or other back-up information in support of the appeal. The appeal must be accompanied by a \$1,000.00 application and processing fee. If payment is in the form of a check, it should be made out to the Collier County Board of Commissioners. An appeal can be hand delivered or mailed to my attention at the address provided. Please do not hesitate to contact me should you have any further questions on this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "MBOSI", is written over a horizontal line.

Mike Bosi, AICP,
Director, Zoning
Growth Management Community Development Division/Zoning

Cc: Collier County Board of County Commissioners
Amy Patterson, County Manager
Ed Finn, Deputy County Manager
Jamie French, Head, Growth Management Department
Jeff Klatzkow, County Attorney
Heidi Ashton-Cicko, Assistant County Attorney

