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March 6, 2014

STEVEN HARTSELL
PAVESE LAW FIRM
PO DRAWER 1507
FORT MYERS, FL 33902-1507

Re: RIVERS EDGE YACHT/COUNTRY CLUB
DRI2014-00001 - NPC Application (NOPC)

Dear STEVEN HARTSELL :

The Zoning Division has reviewed the information provided for the above Development of Regional Impact application. The Land Development Code requires additional information for the application to be sufficient. Please respond to each requirement not satisfied on the attached sufficiency checklists. For your assistance, we have enclosed any additional memoranda from the various Lee County reviewing agencies.

In order to accomplish an efficient sufficiency review process, staff will be scheduling a meeting to discuss the insufficiency comments in person prior to the resubmittal of the application.

If you do not provide the requested supplements or corrections within 60 calendar days of this letter, the Code requires that this application be considered withdrawn. Please feel free to contact me or the staff reviewers if you have any questions.

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Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Division



Alvin Block, AICP
Principal Planner

cc: Pamela Houck, Division Director
Paul O'Connor, Planning
Susie Derheimer, Environmental Sciences
Sam Lee, Natural Resources
Andy Getch, LCDOT
Jamie Prining, DCD Administration
John Fredyma, Assistant County Attorney
Becky Penfield, Development Review
DRI Zoning File
DRI Working File

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LC Public Hearing for DRI Legal Requirements Checklist (Ord 12-01)

9e) Amendments to Built Planned Developments (PD). The application must include a legal description and sketch of the entire planned development boundary. [34-373(c)]

Please provide a legal description and sealed sketch of the entire Planned Development per LDC 34-373(c)

10e) A boundary survey is required for all Planned Development Applications {see LC Public Hearing DRI Appl. Form, Part 3 and Planned Development Appl. Form Supplement D, MCP Extension Appl. Supplement E, MCP Reinstatement Appl. Supplement F, Limited Amendment to Mine Planned Development Supplement G, & Compact Community Planned Development Supplement H}. [34-202(a)(2); 34-373(a)(4); 32-502(a)]

Please contact Chick Jakacki in regards to the Zoning Action Legal Review at 239-533-8984.

LC Public Hearing for Development of Regional Impact Checklist (Ord. 12-01)

1) Initiation of Application-Legal Requirements. An application for a rezoning, special exception, or variance may be initiated by a landowner, or his authorized agent, for his own property. Where there is more than one owner, either legal or equitable, then all owners must jointly initiate the application or petition. [34-201(a)(1)a.]

1f) Where the property is a condominium or a timeshare condominium, as defined and regulated in F.S. chs. 718 and 721, respectively, an application or petition may be initiated by one of two prescribed elements {see Item # 1f1 & #1f2 below}. [34-201(a)(1)b.]

1f1) Where the property is a condominium or a timeshare condominium, as defined and regulated in F.S. chs. 718 and 721, respectively, an application or petition may be initiated by both the condominium association & no less than 75 percent of the total number of condominium unit owners, OR {see Item #1f1 below} [34-201(a)(1)b.]

The ownership of the property is indicated as being Palmas Del Sol Condominium Association, Inc. Please provide sufficient documentation demonstrating this application was initiated in accordance with this Section of the Land Development Code (LDC).

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1f1i) To verify ownership, applicant must furnish the County a list of all unit owners identified by unit number & timeshare period, as applicable, along with proof that all unit owners who did not join in the application were given written notice thereof by the applicant who must verify the list and fact of notice by sworn affidavit. [34-201(a)(1)b.2.]

Please provide sufficient documentation demonstrating compliance with this LDC section. Since the property involved is part of the overall Development of Regional Impact (DRI), it will be necessary to also provide proof that all owners within the DRI have been notified of this application by the applicant in accordance with this Section.

1f1ii) To protect rights of nonparticipating unit owners an application must be accompanied by a letter of opinion from a licensed Florida attorney attesting that he examined declaration of condominium, bylaws of the association & relevant documents & concluded that applying to the County violates none of the provisions therein. [34-201(a)(1)b.3]

Please provide the information required by this LDC Section.

1f1iii) The letter of opinion must also attest that the act of applying to the County does not violate any federal or state law regulating condominiums or timeshare plans or the rights of any of the nonparticipating unit owners as derived from such documents & laws & approval of the requested act by the County would violate no such rights. [34-201(a)(1)b.3]

1g) Where the property is a subdivision, an application or petition may be initiated by no less than 75 percent of the total number of lot or parcel owners and the homeowners' association, if applicable. [34-201(a)(1)c.]

Staff is including this Section, and related Sections, because the overall DRI includes both condominium development and subdivisions. Staff is asking that the owner provide sufficient documentation demonstrating proof that all owners within the DRI have been notified by the applicant of this application.

1g1) For purposes of this provision, a subdivision is an area of property defined by a specific boundary in which lot divisions have been established on a plat that has been recorded in either a plat book or official records book whereby legal descriptions are referred to by lot or parcel number. [34-201(a)(1)c.]

1g1i) This term "subdivision" may include any unit or phase of the subdivision and not the entire subdivision. [34-201(a)(1)c.]

1g2) To verify ownership, the applicant must furnish the County, in their application, a complete list of all lot owners identified by lot number along with proof that all lot owners who did not join in the application were given actual written notice thereof by the applicant who must verify the list and fact of notice by sworn affidavit. [34-201(a)(1)c.]

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3) Applicant's Statement. The applicant for any public hearing must sign a statement under oath that he is the owner or authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the property as a result of the action approved by the County. [34-202(b)(1)b.]

9) Legal Description & Sketch to Accompany Legal Description. A metes & bounds legal description along with a sketch of the legal description, prepared & sealed by a Florida Licensed Surveyor & Mapper, must be submitted unless property consists of one or more undivided lots within a subdivision platted in accordance with FS, Ch. 177 {see LC Public Hearing DRI Appl. Form, Part 3.C.}. [34-202(a)(1)]

Please refer to the comments found in the LC Public Hearing for DRI Legal Requirements Checklist.

12) Surrounding Property Owners List. A complete list and two sets of mailing labels of all property owners & their mailing addresses must be submitted for all property within 500 feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request {see LC Public Hearing DRI Application Form, Part 3.G.1. & G.3.}. [34-202(a)(6)]*

The applicant seeks to amend the conditions of the DRI Development Order. It will be necessary to supply the names and mailing addresses of all surrounding property owners. It appears the current submittal only includes owners within 500 feet of STRAP 30-45-24-13-0000A.0000.

13) Surrounding Property Owners Map. A map displaying all parcels of property within 500 feet (1,000* feet for wireless communications facilities under LCLDC Section 34-1441 et. seq.) of the perimeter of the subject parcel or the portion thereof that is the subject of the request. {see LC Public Hearing DRI Application Form, Part 3.G.2.}. [34-202(a)(7)]*

Please refer to Item 12 above.

18) Property Restrictions. Information must be provided stating whether or not there are any deed restrictions or other covenants that may affect the requested action {see LC Public Hearing DRI Application Form, Part 3.L.1. & Part 3.L.2.}. [34-202(b)(2)]

Please advise if any property restrictions exist and will these affect the requested action, and how they may.

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20) Action Requested. Information must be provided describing the specific Development of Regional Impact action which is being requested and the appropriate Supplement Form(s) and other relevant documents must be submitted {see LC Public Hearing DRI Application Form Part 4.A. as well as Item #2e above}. [34-201(b)(2)]

It appears that another action may be necessary to amend past Board of County Commissioners actions. Resolution Z-02-020 includes a condition (Condition 6.b.) that may need to be revised based on the information in the submittal.

The submittal provides the required Notice of Proposed Change (NOPC) application. As required by Section 5 of the application, please provide a draft amended DRI Development Order (DO) using strike-through and underline to show the changes proposed in Section 13 of this NOPC application. Please note according to our records the amended DRI DO would represent the Seventh Amendment.

43) Miscellaneous items.

In review of the application, this is solely a Notice of Proposed Change (NOPC) to the DRI. There is not a concurrent application to amend the PUD zoning. Please review the PUD zoning approval and ensure that there is not a need to amend the PUD due to a similar condition of approval related to the minimum height of the mangrove trimming.

It also appears necessary for the applicant to amend Resolution Z-02-020, Condition 6.b. Environmental Sciences staff advises there is information in the application that references FDEP release of conservation easement document Instr #2013000225345.

44) Contact. The Zoning Planner may be contacted regarding any questions on the LC Public Hearing for DRI Checklist.

If you have any questions about this portion of the checklist, please contact Chip Block at 239-533-8371.

**LC Environmental Sciences PD Application Sufficiency Checklist
(Ord 12-01)**

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3) Action Requested. Information must be provided describing the specific zoning action which is being requested and the appropriate Supplement Form(s) and other relevant documents must be submitted {see LC Public Hearing Application Form Cover Sheet and Part 4.A.}. [34-201(b)(2)]

Z-02-020 Condition 6b and DRI DO Condition G.(5).(d).(1)(ii) requires that a conservation easement dedicated to Lee County and the FDEP be recorded. In the current NOPC application the request references FDEP release of conservation easement document Instr #2013000225345. Does the request include removing FDEP from the recorded CE requirement? If so, please revise application documents to reflect.

10) Environmental Issues. Certain property and environmental issues must be addressed and information provided (see Supplement D Form, Part 5.A. - 5.D.). [34-202(a)(8)]

The revised Mangrove Trimming Plan dated May 2013 is more of a narrative and analysis document and should be titled as such.

The document should also be revised to provide more detailed analysis on why the 20' NGVD height is needed given the previous approved trimming height is based on providing views for the first floor elevation.

Please provide analysis how 20' NGVD was identified as the needed minimum height.

Please provide current photos of views that support the request.

Please provide reason for the request to change condition for method of trimming red mangroves and analysis on why needed. Is this request consistent with FDEP requirements?

Please provide reason for the request to change condition language from annual to biennial. Is this request consistent with FDEP requirements?

Please revise the Monitoring section to provide a comparison of the habitat between the previously trimmed sections versus the non-trimmed sections of the ±10 acre preserve.

Given the over 10 years of monitoring conducted what affect has the trimming had on the mangrove fringe.

Is Dexter Bender doing the monitoring on the 3 examples provided? Are monitoring reports available? If so please provide.

10b2) Preservation/Conservation of Natural Features. A description how the Sensitive Lands listed in Item #9b and Item #9c, above, will be protected by the completed project must be provided (see Supplement D Form, Part 5.C.). [34-202(a)(8)]

Please provide a document to update the Project Narrative document dated July 2002 based on current site conditions, proposed request, proposed management, and revised exhibits.

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19) Miscellaneous items.

Please note the associated SFWMD ERP #36-00430-S Conditions #12 & 13 state that the preservation area may not be altered from natural state. Please address why this permit was not amended to include the boardwalk, riprap, and mangrove trimming that has already been done. Are any amendments needed or proposed?

Has the applicant had any communication with FDEP on the proposed trimming to 20' NGVD? If so please provide documentation of any correspondence. Does the proposed activity require an amendment to the existing General mangrove Permit File No. 36-0152741-0003 which specifically states 32' NGVD within the permit language and on the Mangrove Trimming Plan?

ES staff would like to conduct a site visit. Please contact me at your earliest convenience to set up site visit

20) Contact. The Environmental Planner may be contacted regarding any questions on the LC Environmental Sciences Planned Development Application Sufficiency Checklist.

Susie Derheimer, Environmental Planner
239-533-8258
sderheimer@leegov.com