ADD2014-00127 Lee County ePlan

STAFF REPORT
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF ENVIRONMENTAL SCIENCES

Date: **September 2, 2014**

To: **Alvin 'Chip' Block, Principal Planner**

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Project: **Hidden Harbor**
Case: **ADD2014-00127**
STRAP: **07-46-25-00-00015.0010 & 07-46-25-00-00003.0000**

The Division of Environmental Sciences (ES) staff has reviewed the proposed ADD2014-00127 to rescind ADD2006-00067 and ADD2008-00088 to reinstate the original approval of the Z-99-042. In addition, the applicant is requesting amendments to the Z-99-042. ES staff offers the following analysis and recommended conditions:

PROJECT:
The subject property is located to the southwest of US 41 and Alico Road and is zoned Residential Planned Development (RPD) (Z-99-042). The parcel to the north is America Outdoors Resort zoned RV-3, to the south is Harborage PUD, to the west is Ten Mile Canal, and Emerson Square MPD is to the east. Hidden Harbor is located in the Urban Community Future Land Use Category.

Hidden Harbor was originally zoned (Agricultural) AG-2 and was rezoned to RPD in 1999 (Z-99-042). The rezoning approved 100 single family dwelling units, a boat ramp subject to a condition, recreational facility, and a private club. A development order was submitted and approved in 1999 (DOS990910400D) for 71 single family dwelling units in a subdivision. In 2006, ADD2006-00067 was approved for model homes on lots 23, 24, and 25 and the addition of a temporary sales trailer on lot 67. ADD2008-00088 was approved to amend the Master Concept Plan (MCP) to replace a proposed private, on-site recreational facility with a water management area and provide a gopher tortoise preserve in the northwestern portion of the development.

The site had all the necessary approvals to begin development but never began construction.

However, the rip rap and some docks have been constructed without permits. The current applicant is new and will be required to obtain all necessary permits.

CONDITIONS of Z-99-042 (existing and proposed)

The current request is to rescind both ADD's and reinstate the original Z-99-042 with changes to previously approved conditions, proposed conditions and property regulations. The Clubhouse Area Development Regulations include a zero foot setback from the waterbody for docks, boardwalks, and kayak launch. These in water structures must meet the setback requirements per LDC 26-71. In addition to the docks, boardwalks, and kayak launch, the applicant is also proposing a retaining wall to be constructed around the entire development. This retaining wall must meet LDC 26-71 (c). The Z-99-042 had proposed a boat ramp with conditions 4 and 7. This boat ramp is no longer being proposed so conditions 4 and 7 will be stricken.

Z-99-042 condition 5 required a detailed gopher tortoise management plan providing details of how the tortoises would be protected during the infrastructure phase. Due to changes in the Florida Fish and Wildlife Commission (FFWC) gopher tortoise permitting, tortoises located in the development footprint must be relocated offsite. Condition 5 has been rewritten by ES staff in order to comply with FFWC current regulations with the following condition:

> ***Prior to ~~local development order approval~~ the issuance of a Vegetation Removal Permit, an updated species survey, an FWC relocation permit and a ~~detailed~~ gopher tortoise management plan must be submitted ~~provided by the development order applicant~~ to the Division of ~~Planning~~ Environmental Sciences for the offsite relocation of the gopher tortoises. ~~that follows the general guidelines of the conceptual gopher tortoise management plan submitted in the letter form dated March 1, 1999. The plan must include the details addressing how tortoises will be protected during the infrastructure phase of development and during development of the individual single family lots.~~***

Z-99-042 condition 6 required the development order to have a detailed manatee management plan provided to the Division of Planning, with manatee and no wake zone signs shown on the development order plans. This condition has been rewritten by ES staff in order to comply with the current Manatee Protection Plan adopted June 29, 2004 by the Board of County Commissioners with the following condition. In addition, if more than 53 docks are proposed then a revised manatee protection plan must be provided.

> ***Prior to the modification of a development order approval, a ~~detailed~~ manatee protection ~~management~~ plan in compliance with LDC 14-152 must be submitted ~~provided by the development order applicant~~ to the Division of ~~Planning~~ Environmental Sciences ~~that follows the general guidelines of the conceptual management plan submitted in letter form dated March 1, 1999.~~ In addition to the manatee protection plan, the following***

must be provided on the development order plans:

- ***The manatee zone and no wake zone sign locations must be delineated on the development order plans; and***
- ***An educational ~~brochure or~~ kiosk must be illustrated on the development order plans at the Clubhouse Area ~~made available to all of the landowners within the development~~ to inform ~~them~~ residents of the presence and protection requirements of manatees; and***
- ***An educational brochure must be provided to all residents in the Hidden Harbor community to inform residents of the presence and protection requirements of manatees. Prior to the modification of a development order, this brochure must be submitted to Environmental Sciences staff; and***
- ***If more than 53 docks are proposed, a revised manatee protection plan must be submitted to ES staff.***

The applicant is providing three additional conditions in the submittal. Condition 9 is being added because the applicant is proposing a retaining wall to constructed landward of the mean high water line in order to support the fill requirements required by current FEMA regulations. This retaining wall must meet the requirements of LDC 26-75 (c). The added condition reiterates the LDC requirements.

A new condition needs to be added to address dock permitting along Ten Mile Canal. This canal has a Lee County Department of Transportation maintenance easement that extends along the Ten Mile Canal and in some areas overlaps private property. No structures can be built within this maintenance easement and therefore ES staff offers the following condition:

~~Any dock permit proposed along the inlet as depicted on the MCP, must include a title demonstrating there are no maintenance easements assigned to Lee County within the lot or project boundary.~~

Prior to the issuance of a dock and shoreline permit, all docks proposed along the inlet (depicted on the MCP) must, at a minimum, provide the following:

- ***Title work; and***
- ***Companion Survey (based on title work) to demonstrate ownership within the submerged lands of the canal; and***
- ***Companion Survey must be based on actual title work (noted on the face of the survey) and not based on information provided by the property owner or information provided by others.***

Another condition needs to be added to address the dock structures which have been constructed without permits. These structures must be removed from the site or dock and shoreline permits

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must be obtained from by ES staff.

Within 90 days from zoning approval, either remove the docks or obtain permits for the structures.

NEW DEVIATION #4

The applicant seeks relief from LDC 26-75 (d) that requires riprap revetment to be located and placed so not to damage or interface with the growth of wetland vegetation; material used for riprap should be sized properly for intended use, be a minimum average of 12 inches in diameter, and installed on top of filter fabric or equivalent material to prevent erosion of subgrade. Riprap must be clean and free of debris deemed harmful to the environment and public safety; and mangroves or other approved wetland vegetation must be planted three feet on center in compliance with LDC 26-77 (b) (2) for added shoreline stabilization and ecological benefit within the riprap. Other wetland mitigation techniques may be considered in lieu of vegetation planting. No vegetation planting is required for riprap revetments constructed in artificial upland canals with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls. The applicant would instead allow the existing riprap and mangrove fringe to fulfill the criteria for riprap revetment.

The previous owners installed riprap without a dock and shoreline permit from ES staff. The current placement of riprap does not contain any filter fabric under the riprap. Also, the previous owner did not install the plants 3 foot on center for added stabilization. The current owner seeks relief from LDC 26-75 (d) and wants to allow the existing riprap and mangrove fringe that has re-vegetated the shoreline to remain. ES staff supports the deviation and provides the following condition of approval:

Prior to any improvements to the shoreline, a Dock and Shoreline Permit must be obtained from the Division of Environmental Sciences.

Within 90 days of this zoning approval, a Dock and Shore Permit must be obtained for the existing riprap. The existing riprap areas with no filter fabric and no planting must clearly be shown on the survey. Any future improvements for the shoreline for riprap must comply with LDC 26-75 (d) including filter fabric and wetland planting.