ADD2014-00218 Lee County ePlan

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Administrative Amendment to a Planned Development
Villa Magnifica
(f.k.a. The Preserve at San Carlos Park & Porro RPD)

Narrative of Request

The subject property has an approved zoning (Z-06-091) of RPD to construct a multi-family condo development. There have also been several subsequent amendments to the zoning resolution for various reasons (see application). In addition, a Development Order (DOS2011-00030) has been issued for the 9.24-acre parcel to construct a condo development. However, the current property owner's marketing studies have shown that townhomes are a more desirable and financially feasible product at this particular location. As a result, an Amendment to the Planned Development is necessary, which will followed by a Development Order Amendment. Please note that this development will be platted for individual townhome ownership.

Per ***LDC Sec. 34-380***, Amendments to Approved Master Concept Plans, the Director may approve any change to the development that (1) does not increase height, density or intensity; (2) result in the substantial underutilization of public resources and public infrastructure committed to the support of the development; (3) result in a reduction of total open space provided on the master concept plan by more than ten percent or that would decrease the amount of indigenous native vegetation or open space required by the Code; (4) decrease preservation areas; or (5) adversely impact surrounding land uses.

The original zoning resolution, Z-06-091, was approved for 72 dwelling units, 55 by right per the Future Land Use of Urban Community and 17 through the Bonus Density Program. However, ADD 2012-00004 eliminated the bonus density contract and only retained the 55 base units. The density is not being altered – a maximum of 55 dwelling units is still proposed. In addition, as a townhome development the maximum height will be decreased to 2 stories (35 feet).

The amount of dwelling units proposed hasn't increased. Therefore, the amount of traffic produced by the development hasn't increased and the potable water and sanitary sewer provisions needed to adequately service the development hasn't increased. Also, the developer

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is required to extend potable water and sanitary sewer lines at the time of construction. This amendment and the proposed revisions will not underutilize public resources or infrastructure.

The amount of open space provided in the most recent amendment, ADD2012-00101, was 237,483 sf (58.7%). The revised Master Concept Plan provides 224,584 sf (55.5%), which is a difference of 12,899 sf, only a 5.4% reduction. At 55.5%, that's still well above the 40% minimum required by the LDC.

The amount of indigenous preserve provided in the original zoning resolution was 80,970 sf (1.86 acres) with credits. Through the subsequent amendments, the amount of indigenous preserve has continued to increase, up to a maximum of 2.91 acres in the most recent amendment ADD2012-00101. However, designing a condo development in 3-story buildings is slightly different than designing a townhome development in 2-story buildings. In order to achieve the same density, the amount of indigenous preserve adjacent to US 41 was slightly decreased, but the indigenous preserve east of Mullock Creek remains unchanged. The revised MCP provides 64,878 sf (1.49 acres) with credits. Per ADD2012-00101, a total of 84,573 (1.94 acres) with credits was provided adjacent to US 41. And although the amount of indigenous preserve provided is less than the most recent amendment, it is still significantly higher than what was approved by the BOCC – 2.46 acres provided versus the 1.86 acres approved.

The revised MCP doesn't significantly alter the development parameters set forth in the original zoning resolution or subsequent amendments and no additional deviations have been requested with this amendment application. The proposed amendment and revised MCP will not adversely impact the surrounding land uses.

Below is a list of the proposed changes followed by a narrative explaining each.

Proposed Changes to the Master Concept Plan/Zoning Resolution

(1) Revise the Master Concept Plan to illustrate a townhome development.

The current property owner's marketing study indicated that townhomes with 2-car garages for private ownership is a more desirable and financially feasible product at this particular location in south Lee County. Therefore, even though a Development Order has been issued for a condo development, the applicant desires to apply for the necessary amendments required by Lee County for the ultimate development of townhouses.

(2) Modify the Property Development Regulations accordingly to allow for the design of a platted townhome development with front entry garages.

The Property Development Regulations required for platted townhome development are slightly different than those required for a condo development. Please see the attached Exhibit included with this application. The revised property development regulations are consistent with ***LDC Sec. 34-935***, Planned Developments and ***LDC Sec. 34-1171***, Accessory Uses, Buildings and Structures.

(3) Withdraw Deviation #2.

Trash chutes with roll-out disposal for curbside pick-up is no longer proposed for this development. The MCP has been revised to provide adequate dumpster provisions for solid waste and recyclables for the entire development as required by the LDC.

(4) Slightly reduce the amount of open space provided in ADD2012-00101 from 237,483 sf (58.7%) to 224,584 sf (55.5 %), a difference of 12,899 sf, and to reduce the amount of indigenous preserve provided from 2.91 acres to 2.46 acres with credits, a reduction of 0.45 acres (only 7,544 sf before credits).

The subject parcel is 9.24 acres (404,479 sf). Per LDC Sec. 10-415(a) Planned Development Zoning: *"Planned developments must provide open space as required in Chapter 34 and per the approved master concept plan and resolution. Consistency with the master concept plan is in addition to the requirements of this provision, unless deviations have been granted."* And per LDC Sec. 34-935(g)(1)(a) Residential and Mobile Home Planned Developments: *"In the residential or mobile home planned development districts, 40 percent of the total area of the project shall be common open space, except that this may be reduced to 30 percent when the remaining ten percent is distributed as private open space to individual dwelling units having immediate private ground floor access. Additional land or water may be reserved as open space at the developer's discretion."* Therefore, 40% of the 9.24 acre subject parcel, or 161,792 sf (3.71 acres), is the minimum amount of open space required per Chapter 34. In addition, per LDC Sec. 10-415(b)(1)(a) Indigenous Native Vegetation and Trees: *"Large developments, with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities."* Therefore, 50% of 161,792 sf (required open space), or 80,896 sf (1.86 acres), of indigenous preserve is required.

Per the original zoning resolution and approved master concept plan (Z-06-091) Condition #4 states that a minimum of 50% open space must be provided. And per Condition #5, a minimum of 1.38 acres (1.86 acres with credits) of preserve must be provided. Per Z-06-091, the approved MCP provided an amenity area with pool and cabana across Mullock Creek, provided 278,071 sf (68.7%) open space, and the entire 1.38 acre (1.86 acres with credits) indigenous preserve was provided adjacent to US 41.

During subsequent changes to the Master Concept Plan and approved PD Amendments, the square footage amounts of open space and indigenous preserve provided changed. The first Amendment (ADD2007-00132) relocated the pool and fitness center west of Mullock Creek and dedicated the area east of Mullock Creek as a Park/Amenity Area with pedestrian boardwalk. Per Condition #1 of ADD2007-00132, *"The Development must be in compliance with the amended Master Concept Plan, entitled "Porro RPD, DCI2005-00094, Revised Master Concept Plan, stamped received by Community Development on January 23, 2008. Master Concept Plan for ADD2007-00132 is hereby Approved and adopted."* And Condition #10 states that *"The terms and conditions of the original zoning resolutions remain in full force and effect, except as amended herein."* With the revisions to the MCP, the amount of open space provided increased slightly from 278,071 sf (68.7%) to 278,979 sf (69%), but the indigenous preserve provided remained the same (1.38 acres/1.86 acres with credits).

ADD2007-00132 was rescinded and replaced by ADD2012-00004. The park/amenity area and boardwalk were removed from the east side of Mullock Creek due to the expense of building a pedestrian bridge across the creek. This allowed the entire area east of Mullock Creek to be designated as open space/indigenous preserve. As a result, *Condition #5 of Resolution Z-06-091 was amended to read as follows: Prior to local development order approval,* ***the development order plans must delineate a minimum of 3.42 acres with credits of indigenous preservation*** *consistent with the MCP stamped "received" March 13, 2012.* And *Condition #6 of Resolution Z-06-091 is hereby amended to read as follows: Prior to local development order approval,* ***the development order plans must delineate the preservation of 1.10 acres east of Mullock Creek.*** *This area is to remain in its natural vegetative state to act as a buffer to the surrounding uses. Native vegetation in this area may not be trimmed and an indigenous management plan must be provided for this area at time of local development order.* ADD2012-00004 decreased the amount of open space provided from 278,979 sf (69%) to 218,456 sf (54%) – a reduction of 60,523 sf (1.39 ac). However, the amount of indigenous preserve increased significantly from 1.38 acres (1.86 acres with credits) to 2.54 acres (3.42 acres with credits) due to the entire area east of Mullock Creek to also be dedicated as indigenous preserve.

The following amendment, ADD2012-00101, was required to achieve approval for a No-Rise Certification through Lee County Department of Natural Resources. As a result, per ADD2012-00101, *Condition #5 of Resolution Z-06-091 and ADD2012-00004 is hereby amended to read as follows: As part of the local development order approval,* ***the development order plans must delineate a minimum of 2.91 acres with credits of indigenous preservation*** *consistent with the MCP stamped "received" March 13, 2012 and September 24, 2012.* And *Condition #6 of Resolution Z-06-091 and ADD2012-00004 is hereby amended to read as follows: As part of the local development order approval,* ***the development order plans must delineate the preservation of 0.81 acres east of Mullock Creek.*** *This area is to remain in its natural vegetative state to act as a buffer to the surrounding uses. Native vegetation in this area may not be trimmed and an indigenous management plan must be provided for this area at time of local development order.* ADD2012-00101 increased the amount of open space provided from 218,456 sf (54%) to 237,483 sf (58.7%), but decreased the amount of indigenous preserve provided from 3.42 acres to 2.91 acres with credits. The indigenous preserve adjacent to US 41 remained the same, however, the indigenous preserve across Mullock Creek was reduced to 0.81 acres to allow for the overflow trench.

This application once again revises the MCP to allow for a townhome development. The amount of open space has been decreased slightly from 237,483 sf (58.7%) to 224,584 sf (55.5%). The amount of indigenous preserve has also been decreased slightly from 2.91 acres to 2.46 acres with credits. Indigenous Preserve #2 (east of Mullock Creek) remains unchanged and is still 0.81 acres (0.97 acres with credits). Indigenous Preserve #1 (adjacent to US 41) has been reduced slightly to 48,058 sf (1.49 acres with credits) in order to modify the MCP for a townhome development that is compliant with the Lee Plan, the Lee County Land Development Code, FEMA, SFWMD, and all other applicable codes. Overall, this PD Amendment application and revised MCP provides 55.5% (224,584 sf) open space and 2.46 acres (107,147 sf) of indigenous preserve, with credits. Although the amount of provided open space provided via Z-06-091 may have decreased slightly (from 278,071 sf to 224,584 sf), the amount of indigenous preserve provided by this amendment (from 1.86 acres to 2.46 acres with credits)

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more than compensates for the reduction. And both are still well above the minimum requirements for a Residential Planned Development, which requires 40% open space (161,792 sf/3.71 acres) and 20% indigenous preserve (80,970 sf/1.86 acres). The applicant believes he has proven entitlement to the Administrative Amendment as provided by the LDC.