ADD2015-00189 Lee County ePlan

DSO ADMINISTRATIVE DEVIATION
LEE COUNTY, FLORIDA

WHEREAS, Lindsay Rodriguez of Waldrop Engineering, P.A. has filed an application on behalf of Taylor Morrison of Florida, Inc., for approval of an Administrative Deviation from the technical requirements of the Lee County Land Development Code for *Tortuga*, which property is located at 15000-060 Sandpiper Preserve, Fort Myers, FL 33919, described more particularly as:

LEGAL DESCRIPTION
See attached Exhibit "A"; and

WHEREAS, the applicant has indicated that the property's current STRAP number(s) are 33-45-24-00-00001.0000; and

WHEREAS, the property is zoned RM-8; and

WHEREAS, an application for an administrative deviation from technical requirements of Chapter 10 of the Lee County Land Development Code has been filed; and

WHEREAS, Lee County Land Development Code, as amended, provides for administrative deviation from certain technical requirements for matters involving streets, access streets, intersections, rights-of-way, drainage swales, public water, public sewer, water mains, mass transit facilities, setbacks for water retention/detention excavations, indigenous native vegetation, landscaping of vehicle use areas and site design standards and guidelines for commercial developments and similar matters not related to a change in use of the property in question; and

WHEREAS, a deviation from the code requirement that 50% of the retained open space was preserved as indigenous areas, was granted pursuant to ADD980918902A; and

WHEREAS, Upon purchase of additional lands, a further deviation was granted from the indigenous open space requirements, which reduced the amount of preserved indigenous open space to 43.6% pursuant to ADD2007-00138; and

WHEREAS, the boundaries of the indigenous preserve areas were revised pursuant to ADD2010-00004, however the amount of preserved land remained the same at 44%; and

WHEREAS, due to revised Surface Water Management calculations for increased detention and inclusion of a proposed treatment marsh, the boundaries of the indigenous preserve areas were revised again under ADD2011-00056, while still maintaining the 44.0% indigenous areas.

WHEREAS, ADD2015-00101 was approved pursuant to Lee County Land Development Code Section 10-415(b)(5) Indigenous Native Vegetation, to again modify the boundaries of the on-site restoration areas and add additional plant species to the indigenous planting palette, while retaining 44% of the required open space as indigenous area; and

WHEREAS: modifications are again requested to modify the boundaries of the Indigenous Native Restoration Area #2 to reduce the area by 1,233± square feet and relocate that 1,233± square feet to Restoration Area #1.

WHEREAS, the subject application, engineer's representations, and sealed engineering plans have been reviewed by the *Lee County Department of Community Development, Development Review Section,* in accordance with applicable regulations for compliance with all terms of the administrative deviation approval; and

WHEREAS, the following findings of fact are offered:

a) That the proposed alternative to modify the areas of the on-site restoration areas is based on sound engineering practice as follows:

(i) The condition is internal to the Tortuga development, so there will be no external impacts on County facilities. The intent of the ADD is to retain a riprap embankment which was placed along and in, the easterly perimeter of restoration area #2 and between a residential lot and the subject restoration area. Relocation of the subject affected 1,233 square feet will ensure that the overall requirement continues to be met, and in an area less susceptible potential impacts from development.

(ii) Based upon application and analysis of the modifications and the revised planting calculations, there will be no decrease in the total amount of indigenous vegetated areas and actually a 6' net increase will be realized. The proposed plantings address the requirements of the Land Development Code and the conditions of ADD2011-00056 as amended.

c) That said proposed alternative is no less consistent with the health, safety, and welfare of abutting land owners and the general public than the standard from which the deviation was requested; and

d) The granting of the deviation is not inconsistent with any specific directive of the Board of County Commissioners, any other ordinance, or any Lee Plan provision.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for an Administrative Deviation in the RM-8 zoning district pursuant to the Lee County Land Development Code, Section 10-415(b)(5) Indigenous Native Vegetation, to continue to deviate from the required 50% indigenous preserve areas, to modify the previously approved on-site restoration areas is APPROVED, limited by the following conditions:

a) Prior to issuance of a local development order, the development order plans must provide indigenous preservation and restoration consistent with the approved site plan and the restoration plan set attached to this approval.

b) Prior to issuance of a local development order, an indigenous management plan per LDC 10-415(b)(4) for both the indigenous preserves and restoration areas must be submitted to ES Staff for review and approval. This plan must include language requiring the submittal of a monitoring report, annually for five (5) years, describing the conditions of the restoration areas. The monitoring report is to include mortality, estimated causes for mortality, growth of the vegetation and other factors that would show the functional health of the restored areas, and photo stations. Periodic inspections will be conducted by ES staff to ensure the accuracy of the monitoring report.

c) Prior to issuance of a final Certificate of Compliance for the development as approved under DOS2006-00234, an Application for a Minor Change shall be submitted to the Division of Development Services, to revise and correct the restoration area calculations associated with the DO. The Minor Change must also identify embankment areas where stabilization has been accomplished but was not shown on the approved plan set. The development order plans must demonstrate that all restoration areas will be properly mulched and temporarily irrigated until plants become established.

d) If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Director may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.

Duly passed, adopted, and electronically signed on 12/10/2015 by

Benjamin Dickson, Manager
Lee County Development Services