Lee County
Southwest Florida

**BOARD OF COUNTY COMMISSIONERS**

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August 5, 2016

JENNIFER SAPEN
BARRACO & ASSOCIATES, INC
2271 MCGREGOR BLVD
SUITE 100
FORT MYERS, FL 33901

Re: BLASINGIM ROAD RPD
DCI2016-00011 - Major Plan Dev Application

Dear JENNIFER SAPEN :

The Zoning Division has reviewed the information provided for the above zoning 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or corrections within 60 calendar days of this letter, the Code requires that this application be considered withdrawn.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.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Division

Alvin Block, AICP
Principal Planner

cc: Pamela Houck, Division Director
Brandon Dunn, Planning
Susie Derheimer, Environmental Sciences
Sam Lee, Natural Resources
Marcus Evans, TIS Reviewer
John Fredyma, Assistant County Attorney
Ohdet H. Kleinmann, Development Review
DCI Zoning File
DCI Working File

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

*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)]*

Will the existing conveyance ditch that is proposed to remain be altered (i.e. excavated deeper, widened) and will it remain open or closed (piped)? If it will change, how will the changes affect the indigenous preserve along the west property line that will be bisected by the conveyance ditch?

*12i) Open Space Percentage. The percentage of open space must be shown on the Master Concept Plan unless the proposed development consists solely of conventional single-family dwelling units on lots of no less than 6,500 square feet. [34-373(a)(6)h.]*

Both MCP's are showing the entire amenity area as open space. Sheet 4 of the MCP indicates that a building with pool and two sports/accessory areas area proposed. The property development regulations state that the amenity center will have a 7,000 square foot building with 60% lot coverage. This area cannot be calculated in the open space. Please revise the amount of open space provided from the amenity area that will not have driveways, parking, and buildings.

*14) Schedule of Deviations & Written Justification. A schedule of deviations and a written justification for each deviation requested as part of the Master Concept Plan must be submitted. [34-373(a)(9)] {see Supplement D, Part 7}*

Deviation #5 - requesting to use 100% of the lake for open space instead of 25% of the required open space.

1. Please provide a written statement explaining how the enlarged lake will benefit the surface water management for the offsite properties. This may mean that cross sections and additional data be included to justify how the larger lake claiming 100% open space will benefit the public.

2. Provide as part of the justification the above LDC enhancements the applicant has committed to enhance the lake edge. This may mean indicating what code requires and then stating how the developer will go above the code to enhance with littorals or wetland trees.

3. Provide buffers adjacent to the single family lots to the west, north of the lake, and buffer the unplatted right of way to the south. This may mean saving existing trees to meet this buffer or providing a caluclation for a buffer as part of the justification. Whatever the developer will commit to in order to enhance the project above code.

*14a) Deviations-Details. The location of any requested deviations must be shown on the Master Concept Plan, keyed to the schedule of deviations, including drawings demonstrating the effect the requested deviations will have on the site plan. [34-373(a)(6)l.]*

Deviation 8 : 50 foot natural buffer at north property line to 15 foot landscaped buffer:

Could the north side of the property entry drive be reworked to move the entry and sway it around Heritage tree clusters #20 -#24 to incorporate these trees into the indigenous along the western property line. These are Laurel Oaks, can take on water, 1/4 of dripline can be impacted, and would help reduce the number of general trees. Every tree saved gets 5 credits toward the general tree requirement. This would also eliminate the need for a Type C/F buffer at the northwestern corner because the drive would move more than 125 feet away.

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

Please contact Beth Workman via e-mail at EWorkman@leegov.com with questions concerning environmental review.

**LC Zoning Action Legal Requirements Checklist (Ord 12-01)**

*11) Miscellaneous items.*

Please refer to the attached comments from Chick Jakacki.

**LC Public Hearing for Zoning Action Checklist (Ord. 12-01)**

*43) Miscellaneous items.*

See attached revised comments from the County Attorney's Office.

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

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

**LC Public Hearing for Planned Development Application-Supplement D Checklist (Ord 12-01)**

*7) 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)]*

Please refer to other comments found in this response.

*11) Master Concept Plan, Non-PRFPD. A graphic illustration (Master Concept Plan) of the proposed development, clearly legible depicting the correct scale for the drawing showing & identifying the following information required by LCLDC Section 34-373(a)(6)a. through Section 34-373(a)(6)i. must be submitted in both 24" X 36" size and 11" X 17" size. [34-373(a)(6)] {See Item 11a - Item 11s below.}*

*11d) Lots-Uses. The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application must be shown on the Master Concept Plan. If the property development regulations for a specific zoning district will be used, then reference to the specific district will be sufficient. [34-373(a)(6)c.].*

Please revise the Master Concept Plan to show the general location of Model Display Center, Model Display Group, and Model Home within this proposed planned development.

*11e) Individual Development Areas. Individual development areas (i.e. residential, retail, office, manufacturing, mixed use-listed, etc.) must be clearly identified on the Master Concept plan with detail showing the following information {see item 11e1 thru Item 11e6 below}. [34-373(a)(6)d.]*

*11e6) Commercial/Industrial Floor Area. If commercial or industrial, the type(s) of commercial and industrial and the total floor area of each type must be shown on the Master Concept Plan. [34-373(a)(6)d.vi.]*

The revised Master Concept Plan shows the proposed location for the sales center will be on the east side of the project road near Penzance Road. Since this is outside of the Amenity Area, does the proposed 7,000 square feet for the Amenity Area include this proposed sales center. If so, please, provide the maximum square footage of the sales center on the Master Concept Plan. If not, then please revise the proposed intensity of the development to include total floor area for the sales center and revise the Plan to indicate the total floor area for the sales center.

*13) Schedule of Uses. A schedule of uses keyed to the Master Concept Plan {see item #11d, above} as well as a summary for the entire property including the following information must be submitted {see Item #13a thru Item #13c below}. [34-373(a)(8)]*

Please consider removing reference in the Schedule of Uses to Temporary Sales Center. This use is not found in the Land Development Code. You may want to consider including Real Estate Sales Office as an alternative to this use.

Please consider removing Mail Kiosk. This use is not found within the Land Development Code. The mail kiosk will be considered a residential accessory use.

*25) Contact. The Zoning Planner may be contacted regarding any questions on the LC Public Hearing for Planned Development Application-Supplement D Checklist.*

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

## Block, Alvin

**From:** Fredyma, John
**Sent:** Monday, July 25, 2016 4:03 PM
**To:** Block, Alvin
**Cc:** Houck, Pamela
**Subject:** Blasingim Road RPD DCI2016-00011
**Attachments:** 201606160927.pdf

Chip,

**Please consider the following with regard to the above-referenced zoning application and the updated submittal under your transmittal sheet dated July 14, 2016:**

Please consider the following with regard to the zoning application for the above-referenced project:

1. The proposed Schedule of Uses should be supplemented with the addition of the use Entrance Gates, Gatehouses, insofar as the proposed MCP indicates an optional gated entry. This use is not currently included on the proposed Schedule of Uses. **This issue has been addressed with the revised Schedule of Uses.**
2. With regard to the MCP, please remove the first sheet. The sheet is unnecessary since it includes a number of items not otherwise permitted to be on or a part of the MCP. **This issue has not been addressed. The LDC provides specifications for an MCP. The first sheet of this MCP is not consistent with those requirements. Each subsequent sheet of the MCP has an adequate description at the lower right-hand corner of what each sheet represents.**
3. The title work submitted by the Gray Robinson Law Office is legally insufficient.

   Title work is required pursuant to LDC Section 34-202(a)(3) – as set out below, and it must be addressed to the Lee County Board of County Commissioners:

   Certification of title and encumbrances. Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:

   *a. Form. The certification of title must be in one of the following forms:*
   - *i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.*
   - ~~*ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.*~~
   - *iii. Title Insurance Policy with appropriate schedules, no greater than five years old at the time of the initial development order submittal and an affidavit of no change covering the period of time between issuance of the policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate or title opinion* ~~*or ownership and encumbrance report*~~ *must be submitted in the alternative.*

   *b. Content. The certification of title must include, at a minimum, the following:*
   - *i. The name of the owner or owners of the fee title;*
   - *ii. All mortgages secured by the property;*
   - *iii All easements encumbering the property;*
   - *iv. The legal description of the property; and*
   - *v. The certification of title documentation must be unequivocal.*

   **The submittal of revised title work remains insufficient for two reasons.**

1. **The Title Certification recites that is it provided for the purpose of complying with Sec. 177.041, F.S., for platting purposed. The appropriate reference should be to Lee County Land Development Code (LDC) Section 34-202(a)(3).**
2. **The title work references general references to certain easements on the property. A minimal description of each easement should be included.**

4. The Survey is also legally insufficient for the following reasons (See also LDC Sec. 34-202(a)(2):
   a. There is nobody identified as the intended beneficiary of survey. As such, this will be construed to mean the survey may be utilized by Lee County in processing this zoning application. **Addressed with the re-submittal.**
   b. The survey is incomplete since it is not signed or sealed. **Addressed with the re-submittal.**
   c. Survey Note 2 must be removed. Such matters should be addressed as a component of Survey Note 11. **Addressed with the re-submittal.**
   d. Survey Note 11 must be revised once appropriate title information is obtained. **The note with regard to the source of the title work may have to be revised depending upon the re-submittal of title work for the application.**
   e. The description of the subject property from LDC Sec. 34-202(a)(1) should also appear on the face of the survey. **Addressed.**
   f. Survey Related Items from Schedule B-2: This note will have to be revised to reference appropriate title information once it has been obtained/provided. **See above note d.**
   g. A significant northerly portion of the property, abutting Penzance Boulevard, is shaded as being "*as described in deed right-of-way D.B. 243, Pg. 60, L.C.R.*" Is this property within the developable area of the proposed CPD? If this is actually road r-o-w, then it may be inappropriate to delineate this area on the MCP as satisfying required open space or as being the location for certain project buffers (such a use would be inconsistent with the use of the area as road r-o-w and would be an overburdening of rights previously given away be a predecessor in title). **Addressed with the re-submittal.**
5. A related title matter shown on both the survey and the MCP is the easement for FP&L towards the southerly end of the property, shown being just north of the proposed cul-de-sac. The note on the MCP indicates the easement will be "vacated." Insofar as the subject property is not platted, the easement may not be vacated using Florida Chapter 177 nor the County's companion AC-13-1. The property owner will most likely have to secure release of the easement directly from FP&L as the apparent current easement holder. **It is still uncertain as to how this will be addressed.**

Please let me know if you have any questions.

Thanks.

John

John J. Fredyma
Senior Assistant County Attorney
Lee County Attorney's Office
P.O. Box 398
Fort Myers, Florida 33902
(2115 Second Street - 33901)
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Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, e-mail addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.