

**M E M O R A N D U M**  
**FROM**  
**THE OFFICE OF THE**  
**LEE COUNTY HEARING EXAMINER**

**DATE:** March 2, 2020

**TO:** Stacy Hewitt, Applicant's Representative  
Dirk Danley, Jr., Staff

**FROM:** Donna Marie Collins  
Chief Hearing Examiner 

**RE:** DCI2019-00019 – AMAVIDA  
Clarification to Hearing Examiner Recommendation

**CONDITIONS:**

16(d). Lakes Park/Wildlife Protection

Prior to local development order approval, development plans for buildings must be reviewed by staff for the utilization of window and architectural treatments to reduce or break up window panel reflection in order to decrease the potential of bird strikes. Examples of acceptable window and architectural treatments may include the use of non-reflective tinting, ultraviolet reflective decals, exterior sun shades, smaller windows, window awnings or similar treatments. This condition is applicable to the window and door panels on the northern building facades facing Lakes Park and on the eastern building facades facing the offsite County owned preserve within Lots 7, 4 and 5.

20. ~~Building height will be measured from the minimum required flood elevation pursuant to Florida Building Code Section 1612.4.~~

*Hearing Examiner recommends deletion of condition because it restates applicable law.*

**DEVIATIONS:**

11. Plant Materials Standards. Deviation (11) seeks relief from LDC 10-420 which requires trees to be installed at ten feet in height and shrubs to be installed at 48 inches in height to allow trees to be installed six feet in height and shrubs installed at 24 inches in height along the portions of the western buffer.

This deviation was previously APPROVED, subject to the following conditions:

- i. Prior to development order approval, the western buffer must illustrate 131 trees installed at a height of six feet, 761 shrubs installed at a height of 24 inches and 2,116 one gallon groundcovers. All plant material must be salt tolerant and native species.
- ii. The development must be substantial compliance with Exhibit B6, dated May 23, 2018.

Copies Provided to: Board of County Commissioners (BOCC)  
Michael Jacob, Deputy County Attorney  
Audra Ennis, Zoning Manager  
Jamie Baker, Community Development  
Applicant/Applicant's Representative(s)  
Hearing Participants

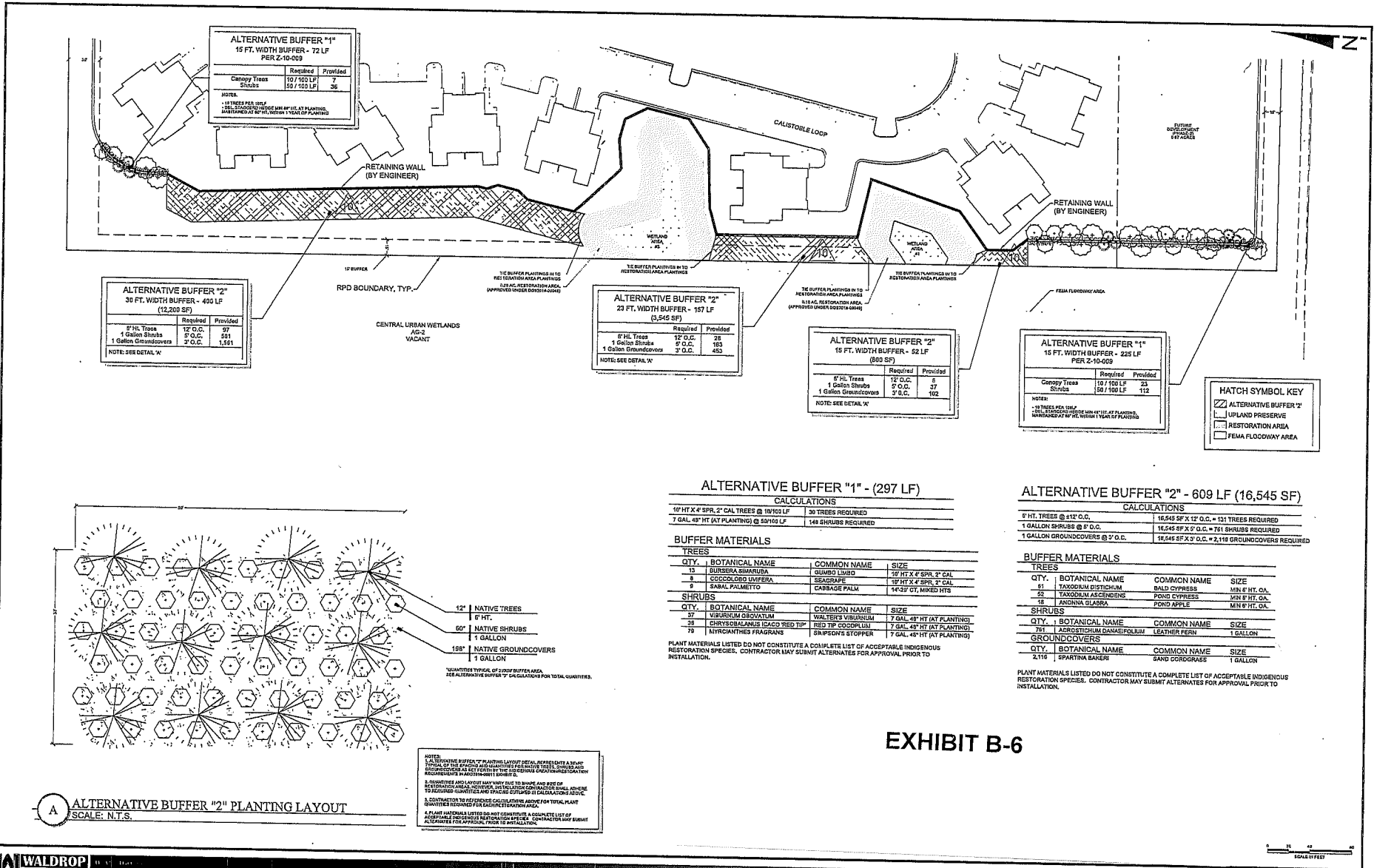


EXHIBIT B-6



**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Donna Marie Collins  
Chief Hearing Examiner

**DATE:** February 28, 2020

**FROM:** Dirk Danley Jr, AICP  
Senior Planner

**RE: Amavida RPD Request for Clarification (DCI2019-00019)**

Staff and the applicant have reviewed the Hearing Examiner's recommendation for the above-referenced case and have identified the following items of note that require further clarification from your office:

- Condition 16.d. - Lot 7 is referenced, but is no longer a lot on the Master Concept Plan. References to this lot should be deleted.
- Condition 20 deletion – LDC Section 34-2171(a)(1)'s reference to "minimum required flood elevation" is not defined. Attached are excerpts from ADD2016-00011(a), which explain that the condition was included to clarify that measurement is not taken from FEMA elevation but FEMA +1 or +2 etc. as determined by ASCE 7 or 24. There may be existing structures within the development that are measured from the FEMA +1 or +2. In this case, changing the condition may result in non-conformity of existing structures. Should this condition remain as part of this zoning application?
- Deviation 11, Condition ii – Exhibit H was a previously approved alternative planting layout for the proposed buffer (See attached). This exhibit was referenced but not included in Exhibits in the Hearing Examiner Recommendation. Should this reference be included and renamed Exhibit B6 and listed in the Exhibits to Conditions?

Please confirm whether the Hearing Examiner's office is in concurrence with the above items at your earliest convenience so that the appropriate revisions may be incorporated into the resolution of approval.

Please contact me if you have any questions or concerns.

Respectfully Submitted,

Dirk Danley Jr, AICP  
Senior Planner, Zoning Section

Attachments:  
Excerpts from ADD2016-00011(a)  
Previously approved Exhibit H

2020 FEB 28 PM 2:23  
HEARING EXAMINER  
LEE COUNTY

WHEREAS, the amendments have been reviewed by Lee County Environmental staff who offer no objections and recommends updated language to Condition 19 – Indigenous Preservation; and recommends revised language to Condition 24 – Migratory and Wading Bird; see Exhibit F; and

WHEREAS, the amendments were reviewed by Development Services who offer no objections; and

WHEREAS, an amendment to the ADD was requested after the original June 3, 2016 approval, to clarify the measurement of height pursuant to LDC Section 34-2171(a)(1), which states that the height of a building is the vertical distance from the minimum required flood elevation; see email as Exhibit G; and

WHEREAS, the minimum flood elevation is determined by the Florida Building Code Section 1612.4 in accordance with Chapter 5 of American Society of Civil Engineers (ASCE) 7 and with ASCE 24; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval to Avida (fka as Oasis Cove), approved by Resolution Z-10-009 for an amendment to RPD/CPD is **APPROVED subject to the following conditions:**

1. **The Development must be in compliance with the amended Master Concept Plan. Master Concept Plan for ADD2016-00011 is hereby APPROVED and adopted. A reduced copy is attached hereto as Exhibit E.**
2. **The amendments to Resolution Z-10-009 are shown in underlined and strike-thru as follows:**

**SECTION B. CONDITIONS**

**Schedule of Uses**

**Commercial Planned Development**

**Add Health Care Facilities – Group II. Limited to lots 1, 4 and 5. Limited to 50 beds**

**Add Temporary uses - limited to construction trailers, real estate sales offices and Seasonal farmer’s market.**

**And**

**Revise limitations for the following uses:**

## Exhibit G

**Richardson, Nettie**

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**From:** Stacy Hewitt [SHewitt@BanksEng.com]  
**Sent:** Tuesday, July 26, 2016 10:09 AM  
**To:** Richardson, Nettie  
**Cc:** Tom Lehnert; Charles "Chuck" Basinait, Esquire (charles.basinait@henlaw.com); Houck, Pamela; Ennis, Audra  
**Subject:** Avida (f/k/a Oasis Cove) - ADD2016-00011  
**Attachments:** ADD2016-00011 RESO.pdf; asce24\_highlights\_dec2010.pdf

Nettie,

Pursuant to the meeting Friday, please accept the below language as a proposed text amendment to add the following proposed condition 26 to the attached ADD2016-00011:

**Add New Condition 26:**

**26. Building Height for this development will be measured from the minimum required flood elevation pursuant to Florida Building Code Section 1612.4.**

This request is intended to clarify the measurement of height pursuant to LDC Section 34-2171(a)(1), which states that height of a building is the vertical distance from the minimum required flood elevation. The minimum required flood elevation is determined by Florida Building Code Section 1612.4, provided below:

**1612.4 Design and construction.**

**The design and construction of buildings and structures located in flood hazard areas, including coastal high hazard areas, shall be in accordance with Chapter 5 of ASCE 7 and with ASCE 24.**

Attached please find the Highlights of ASCE 24-05, of which page 4 contains the table determining the minimum required flood elevation. LDC Section 34-2171(a)(1) is also provided below for reference:

**Subdivision II. - Height**

• **Sec. 34-2171. - Measurement.**

- (a) Except as provided in this subdivision, the height of a building or structure is measured as the vertical distance from grade\* to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs, and to the highest point of any other structure (excluding fences and walls).

\* For purposes of this subdivision, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.

(1) In areas within the Coastal Building Zone and other flood prone areas (as defined in [Chapter 6](#) Articles III and IV of the LDC), height of a building is the vertical distance from the minimum required flood elevation to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

Please do not hesitate to contact me if you have any questions or require further information.

Thank you.

**Stacy Ellis Hewitt, AICP**  
**Director of Planning**

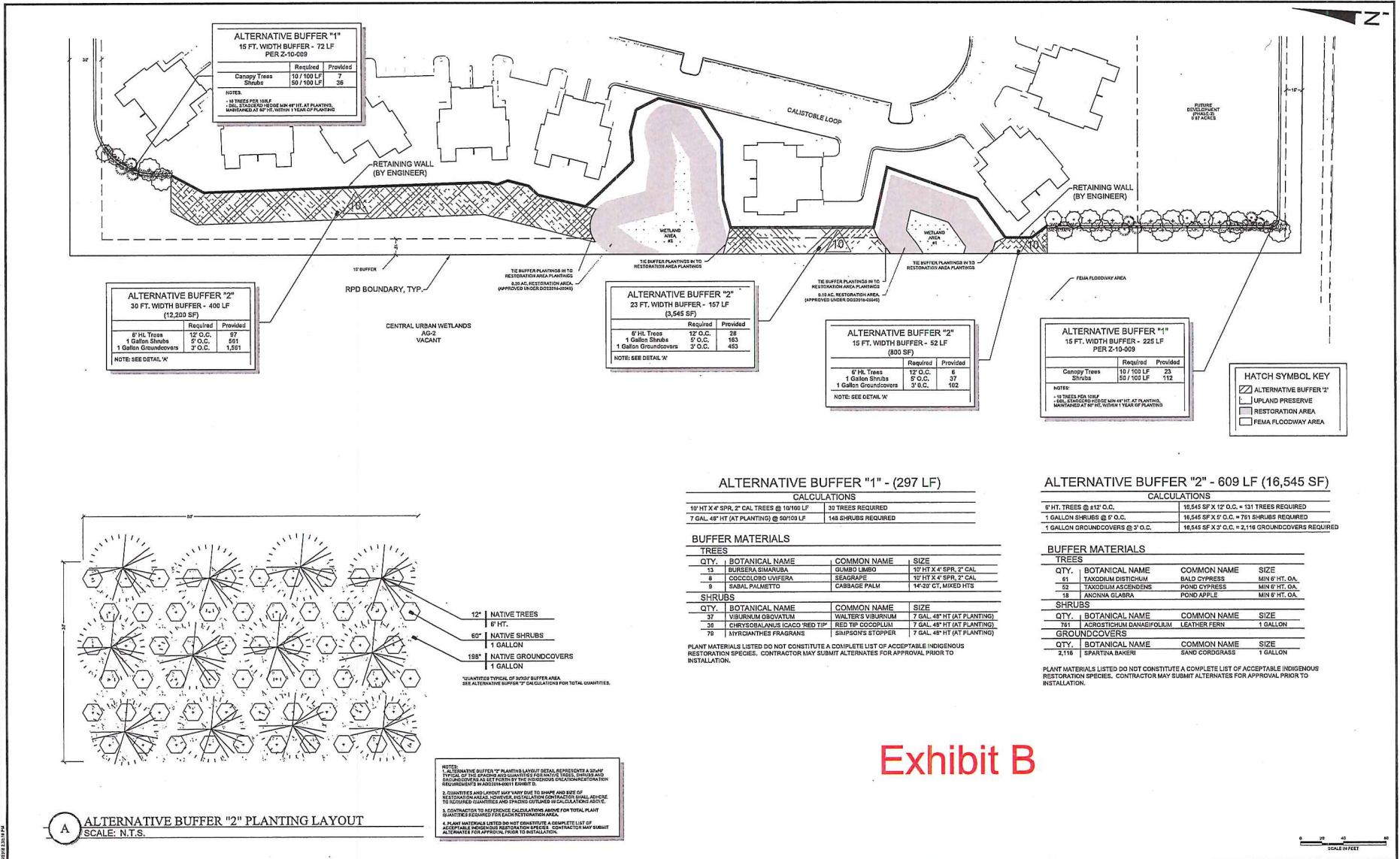


Exhibit B