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Examiner

September 10, 2021

STACY HEWITT
BANKS ENGINEERING
10511 SIX MILE CYPRESS PKWY
SUITE 101
FORT MYERS, FL 33966
Re: Owl Creek Minor RPD
DCI2021-00011 - Minor PD

Dear STACY HEWITT:

The Zoning Section 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 checklists. For your assistance, we have enclosed any additional memoranda from the various Lee County reviewing agencies.

A public hearing date will not be scheduled until a complete application is submitted.

If you do not provide the requested supplements or corrections within 30 calendar days of this letter, the Code requires that this application be considered withdrawn.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 Section

Electronically signed on 9/10/2021 by
Dirk A Danley Jr, Planner, Senior

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Zoning Review:

1. Subsequent to rescheduling public information meetings, please provide evidence of compliance with LDC Section 33-1663 and Lee Plan Policy 27.1.8.
2. Regarding Deviation (2), the applicant proposed a condition to provide a letter of no objection from the Bayshore Fire Protection and Rescue Service District prior to development order approval. Failure to receive this letter of no objection from Bayshore Fire Protection would result in a necessary amendment to the Master Concept Plan. Staff requires this letter prior to recommendation of approval for this deviation.
3. Staff Note: This review may be subject to additional comments as the review of CPA2020-00004 and CPA2020-00005 continues.
4. Staff Note: This case will not be found sufficient until the companion CPA Cases are found sufficient for Hearing.

Planning Review:

1. Please provide a new Lee Plan analysis with updated language once the companion CPA case has been found sufficient.
2. In your Lee Plan narrative, please provide analysis on Policy 143.2.2, in regards to the archaeological sites on the subject property.
3. Courtesy Comment: The DCI will remain insufficient until the companion CPA case has been found sufficient.

Environmental Sciences Review:

1. Please, provide the corrected upland and wetland boundaries once the SFWMD has completed the wetland determination. The SFWMD correspondence provided indicates that there are inconsistencies. The information provided to the county must be consistent with the SFWMD wetland and upland habitat boundaries in order to ensure the proposed density is accurate.
2. Indigenous Habitat Management Plan – Revise the document to separate the upland preservation, wetland preservation, upland restoration, wetland restoration, rare and unique preservation, rare and unique restoration, marsh/flushing areas. Each area must state the acreage to coincide with Figure 2 and 3, provide a narrative for each area explaining the type of management technique (i.e. mechanical, no machines, stacking/teepee, staging), supporting management maps, and restoration plant lists for each area. The acreages must add up to 169.12 acres. The current report references preserve and restoration areas differently as well as combines the acreages for uplands and wetlands.
3. Indigenous Habitat Management Plan - Please note that rare and unique habitat must comply with the Lee Plan glossary definition. Some of the areas designated as rare and unique restoration and preservation do not comply with this definition. Revise and ensure the acreages of these areas are changed accordingly.
4. Indigenous Habitat Management Plan – One of the management tools specified that may be utilized is kill in place or stacking/teepee method. Please be specific as to where this method will be used as leaving dead material within the preserves that are associated with the flowway restoration/preservation may impede the movement of water. Please work with your hydrology team to decide if this needs mechanical or by-hand methods for exotic removal.
5. Indigenous Habitat Management Plan – Please indicate if prescribed fire will be used as a management tool and if it is, please re-evaluate the kill in place or stacking/teepee method as it will increase fuel loads.

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6. Indigenous Habitat Management Plan – Provide information within the rare and unique restoration section as to what FLUCCS these areas will be restored to and be sure that the FLUCCS indicated complies with the rare and unique Lee Plan glossary definition. In addition, include how the soil will be amended to support the rare and unique FLUCCS.
7. Indigenous Habitat Management Plan – Per LDC Section 10-415(c), indigenous open space must have a minimum average dimension of 40-feet and a minimum area of 1,500 square feet for projects that are ten or more acres in size. The indigenous habitat management plan and supporting maps depict rare and unique restoration areas along North River Road that do not comply with the minimum dimensions. Revise to add more rare and unique restoration area to meet the definition.
8. Indigenous Habitat Management Plan – Page 4 of the document, last paragraph states that Figure 3 shows the rare and unique restoration and Figure 3 does not depict this type of restoration. Revise for consistency.
9. Indigenous Habitat Management Plan – Revise Table 1 and 2 to add more species to ensure diversity if a certain species is unavailable at time of installation.
10. Indigenous Habitat Management Plan – Page 7 describes performance standards and barricade descriptions for the mitigation areas only (163.5 acres). The overall report or supporting maps do not depict or provide details of mitigation areas. Revise to provide the Lee County requirements per LDC Section 10-474 to include the entire indigenous preserve/restoration of 169.12 acres. Indigenous Habitat Management Plan – Page 8 states that there is a proposed two year recruitment window before restoration plants will be installed. Lee County will require restoration to begin in accordance with the approved phasing plan that is associated with the approved density. The density depends on the restoration and preservation. Revise the document to comply with the comprehensive plan amendment to support the density being requested.
11. Indigenous Habitat Management Plan – Revise page 9 to address the requirement of a vegetation removal permit for preserve maintenance. Initial management requires a vegetation removal permit that is associated with the development order. Ongoing management activities (in perpetuity) require a vegetation removal permit that is associated with the approved indigenous habitat management plan that is preserve area specific for the type of management that is being requested. The IHMP must reflect this in the time zero and long term monitoring sections.
12. Rare and Unique Preservation Map – This map depicts an area that is rare and unique uplands preservation (shown in yellow) and is also proposed to be restored (shown as basket weave hatch). Please explain why it is considered both in the rare and unique section of the Indigenous Habitat Management Plan.
13. Rare and Unique Upland Preservation Map – This map depicts the rare and unique areas that will be considered preserved indigenous areas. However, some of these areas (shown in yellow) have an exotic value of 75% or greater exotic cover (along north area) and are not considered indigenous or rare and unique per the definitions in the LDC 10-1 and Lee Plan glossary. Please review the map to ensure these definitions are met.
14. Protected Species – Please explain how the rare and unique restoration will create habitat for protected species. For instance, the rare and unique proposed flora species do not include FLUCCS 411 that would support Big Cypress Fox Squirrel, Gopher Tortoises, etc. Be specific in the individual fauna species section to state what area of restoration or preservation would support the specific fauna species.

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15. Owl Creek Wildlife Corridor Map – Revise Figure 1 to state the acreage and width for each wildlife corridor to coincide with the Indigenous Habitat Management Plan statement on the bottom of page 13.
16. Enhancement and Preservation & Wildlife Corridor Maps – Expand these maps to depict the Owl Creek and Trout Creek Wildlife corridors restoration timeline. The top of page 14, second paragraph indicates that they will be graded, planted, and placed under a conservation easement prior to a mining operations permit (MOP). Revise this statement as this is not a mining planned development.
17. Indigenous Habitat Management Plan – Provide photo station pictures taken at the specific photo station points.
18. Indigenous Habitat Management Plan – Review page 18, third paragraph to ensure that the acreages and the specific areas match the names of the specific areas on all corresponding maps. Currently, these do not match.
19. Indigenous Habitat Management Plan – Revise the document to add a section to address the archeological historic preservation areas noted on the master concept plan. This section must address how the indigenous preservation and restoration management will protect the historic areas.
20. Indigenous Habitat Management Plan and 50-foot Natural Waterway Buffer (LDC Section 10-416(d)(9)) – Review the requirements for the required 50-foot natural waterway buffer that is measured from the mean high water line or top of bank, whichever is further landward. The 50-foot natural waterway buffer must be located within a common area or tract outside of all private boundaries. The 50-foot natural waterway buffer must consist of specific vegetation. Please provide details in the Indigenous Habitat Management Plan and the overall project narrative how the indigenous preserve and/or restoration as well as the kayak launch facility will comply with LDC Section 10-416(d)(9). Please note that LDC Section 10-416(d)(9)(a) does not prohibit use of the buffer area for passive recreational uses. In addition, please explain how the restoration/preservation, kayak launch, and buffer plantings will be designed to allow positive hydrologic flow.
21. Master Concept Plan – The plan depicts a shaded Owl Creek with a 50-foot natural waterway buffer that according to the legend is surface waters/other surface water preservation. Trout Creek is not shaded and has a 50-foot natural waterway buffer. There are shaded areas not labeled with no 50-foot natural waterway buffer depicted. Shade all surface water/other surface water preservation areas and label the 50-foot natural waterway buffer.
22. Master Concept Plan – Provide cross sections of the creeks to depict how the 50-foot natural waterway is being measured, any regrading of slope (if applicable per hydrology review), kayak launch, flushing canal, and marsh. The plans are unclear.
23. Master Concept Plan and Indigenous Habitat Management Plan – Revise the upland preserve/restoration to note the individual acreages for each. The master concept plan notes provides specific acreages and areas that must correspond with the indigenous habitat management plan. The current documents do not match.

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24. Master Concept Plan – Depict the rare and unique preservation, rare and unique restoration, upland preserve, upland restoration, and wetland preserve, wetland restoration, and created marsh with different hatching designs.
25. Master Concept Plan – The applicant states that the North River Road buffer will be planted with 14-foot-in-height trees as part of the rare and unique restoration. The Indigenous Habitat Management Plan does not include these increase heights or information regarding the specifics of this buffer. The restoration specifications would allow six-foot-in-height trees and one-gallon shrub material. Please revise to demonstrate and provided details as to how the enhanced 50-foot buffer setback along external roads and property line will be designed to preserve the rural vista and view sheds as stated in proposed conditions document provided by the applicant.
26. Canoe/Kayak Launch Exhibit – Page 1 of the exhibit depicts dashed hatching along the channel. Please indicate what the hatching represents.
27. Canoe/Kayak Launch, Tidal Lagoon, Indigenous Habitat Management Plan, and Natural Waterway Buffer – Please provide canoe/kayak launch and tidal lagoon sections within the indigenous habitat management plan to address the impact to the indigenous area, how the indigenous area between Trout Creek and the flushing canal will be maintained/restored, and the integration of the marsh and indigenous area will have on the protected species.
28. Human-Wildlife Coexistence Plan – Provide a human-wildlife coexistence plan that addresses the residential portion of the development separately from the multi-slip docking facility and public canoe-kayak launch. Provide educational materials, types of trash receptacles for each use, educational signage specific for the type of use, etc.

Development Services Review:

1. Please provide any information from the follow up community meeting and meetings with the existing single-family residences and marina. Please clarify the access arrangement for the existing residences and marina. The response indicated Owl Creek road have gates will be closed at night but access will remain. Will they be allowed through the gates? The MCP does not indicate any gates at Owl Creek Road.

Natural Resources Review:

1. Both water depth and the presence of sea grasses play an important role in the evaluation of a project site against the manatee protection plan. Given this, please provide an analysis detailing how the approximately 6.22 acres of proposed dredging is consistent with Lee Plan policy 128.5.8 as an analysis of Lee Plan policy 128.5.8 was not included in the resubmittal. In addition, please provide a submerged aquatic vegetation survey of the project site to support the applicant's statement that no seagrass is present near or around the subject site.
2. The proposed access walkways, terminal platforms, and finger piers exceed the maximum dimensions within the Land Development Code. Based on the proposed multi-slip dock facility design a deviation from Chapter 26 may be required. Please address.
3. Please clarify whether impacts within the 50ft natural waterway buffer are proposed to the Owl Creek tributary at the connection to the Northwest development pod. If impacts are proposed, please expand on why this impact is necessary and request a deviation from LDC 10-416(d)(9).
4. Please revise the exotic vegetation removal plan as described on page 4 of the Indigenous Habitat Management Plan to include, as part of the initial treatment and future maintenance, the complete removal of vegetation debris from the FEMA Regulatory Floodways. The practices of stacking and tee-peeing are not to occur within the FEMA Floodway boundaries.
5. There appears to be a discrepancy between the "Bridge Sections" and "Bridge Cross Section Views" details. The Cross Section Views show a 1' increase in clearance between the existing and proposed bridges with a MHW of 0.23', while the Sections show a centerline bridge surface

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elevation difference of 6.50' with the MHW unchanged. How is the clearance only 1' when the bridge surface is raised 6.50'? Will the bridge design allow Natural Resources continued access under the bridge for maintenance of Trout Creek?

6. Figure 7 on page 9 of the Stormwater Planning report depicts development within the floodway boundaries in the northwestern development pod, within the Owl Creek floodway, and the development pod adjacent to Owl Creek Boat Works, within the Trout Creek floodway. Please be advised that a FEMA No-Rise analysis will be required for review and approval for any portions of the FEMA Regulatory floodways that are proposed to be filled.
7. Please demonstrate how the proposed irrigation system is consistent with Lee Plan Policies 60.1.1 and 61.1.6.
8. Please revise the Surface water and Groundwater Monitoring Plan to include at a minimum:
 - Language allowing for additional of groundwater and surface water sampling locations as the project is designed.
 - Two groundwater monitoring locations, one in the northeast and one in the southwest areas of the project to monitor water quality entering and leaving the project.
 - Additional surface water sampling locations at each outfall location into wetlands and/or creeks.
 - Identify and depict the proposed irrigation withdrawal locations from the onsite lakes as well as the locations of Sandstone aquifer wells that will be used to replenish the lakes.
 - An aquifer water-table level monitoring plan must be included to ensure that surrounding groundwater levels are not impacted as a result of irrigation withdrawals. The water level monitoring plan must at a minimum include monitoring locations centrally located at each lake to be used as an irrigation source, devices that take water level measurements every six hours four times a day must be installed, and additional monitoring locations centrally located between the Sandstone aquifer wells must be installed.
9. Please revise Table 2, Summary of Surface Water and Groundwater Sampling Parameters, of the Water Resources Report to include hardness and E. coli instead of Fecal coliform. Please include hardness and E. coli in the quarterly monitoring events.
10. Please revise the units within Table 2 of the Water Resources Report to be reported as:
 - µg/L instead of mg/L for Florida PRO (TRPH), Arsenic, Copper, and Mercury;
 - MNP/100mL for E. coli;
 - ft NAVD instead of ft NGVD for Lake Stage, Water Table Aquifer Elevation, and Sandstone Aquifer Elevation.
11. On page 16 of the Water Resources report, please amend the statement regarding the discontinuation of monitoring as follows:
12. "Water Quality monitoring will continue for a minimum of 5 years from the date of completion of the stormwater management system. After 5 years of meeting or exceeding state water quality monitoring standards, the developer may amend or discontinue water quality monitoring and reporting after written request, review, and approval by Lee County Division of Natural Resources."
13. How will the applicant ensure that the existing single family home, STRAP # 19-43-26-00-00002.0000, will have continued access to their property? It seems the proposed project will turn the existing single family home parcel into an island.
14. Courtesy Comment
Please contact Leigh Simmons with Natural Resources at lsimmons@leegov.com or (239) 533-8135 to coordinate marking each storm drain with a "Control Your Pet Waste" marker. The HOA documents must include a requirement of pet waste pickup and education material informing residents of the impaired watershed.