

Daniels Parkway South
Mixed Use Planned Development
Proposed Conditions
March 22, 2023

Conditions

1. Development of this project must be consistent with the following:
 - a. *[Standard Master Concept Plan Conditioning Language]*
 - b. Approved Development Parameters.
 - i. 1,600 dwelling units.
 - ii. 350,000 square feet of commercial floor area.
 - c. ~~The first development order creating residential lots must include a minimum of:~~
 - i. ~~55% Preserves (i.e.; subject to conservation easement) area. The cumulative amount of Preserve area provided after each subsequent development order must equal a minimum of 55% of the total acreage including previous phases of preservation and/or restoration area. Prior to final Certificate of Completion a minimum of 55% of the entire project acreage must be Preserves.~~
 - ii. ~~60% open space. The cumulative open space after each subsequent development order must equal a minimum of 60% of the total acreage including previous phases of preservation, restoration, and/or open space area. Prior to final Certificate of Completion a minimum of 60% of the entire project acreage must be devoted to open space.~~
 - d. ~~Development order applications that include dwelling units or residential amenities must include a cumulative land development summary table of approved and pending development orders including requested and approved:~~
 - i. ~~Residential dwelling units and intensity of non-residential uses;~~
 - ii. ~~Open space (in acres); and~~
 - iii. ~~Preserve areas (in acres);~~
 - e. ~~Development order applications for the commercial must depict a minimum of 10% open space.~~

2. Schedule of Uses and Property Development Regulations
[Standard Schedule of Uses and PDR Formatting.]

3. Agricultural Uses

Existing bona fide agricultural uses in the form of livestock pasture/grazing may continue on the site subject to the following.

- a. Termination of Agriculture Use. Agricultural uses must terminate on project areas receiving development order approval for vertical development. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non-vertical development do not trigger termination.
- b. Additional Clearing Prohibited. Additional clearing of trees or vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, (i.e. mowed) but not cleared or expanded. This prohibition does not preclude County approval of requests to remove invasive exotic vegetation.
- c. Proof of Termination. Existing agricultural uses within a tract or phase must be discontinued upon local development order approval for development defined in LDC Chapter 34. Development not included within the Chapter 34 definition but that requires a development order under Chapter 10 (including but not limited to plats, lot splits, and lot re-combinations) will not trigger the requirement to discontinue agricultural uses. The property owner must provide written proof of the following, subject to review/approval by the County Attorney's Office.
 - i. Affidavit Required. Termination of all agricultural use on the property included in the development order application/approval for development as defined in Chapter 34. Proof must include an affidavit from the property owner providing the following:
 1. Date agricultural uses ceased;

2. Legal description of the property subject to development order’;
 3. An affirmative statement that the owner acknowledges and agrees that agricultural uses are illegal and prohibited on the property and that the property owner covenants with the County that they will not resume agricultural use of the property unless the property is rezoned to permit agricultural uses; and
 4. That the affidavit constitutes a covenant between the property owner and Lee County that is binding on the owner, their assignees and successors in interest. The affidavit/covenant must be recorded in public record of Lee County at the owner’s expense.
- ii. Termination of Agricultural Tax Classification. Proof of termination of the agricultural tax classification for property included in the development order application/approval. Proof of termination must include a copy of the request to terminate the tax classification submitted to the Property Appraiser.

4. Open Space and Preserves

~~Restoration and planting of Preserve areas must be completed with the conservation easement recorded within 5 years after the start of construction on the first development order approval creating residential lots. The conservation easement must include language dedicating the easement to a maintenance entity that provides third party enforcement rights to Lee County or another public agency acceptable to Lee County.~~

Prior to development order approval, all plans must depict a minimum of 60% open space. The cumulative amount of open space provided after each subsequent development order must equal 60% of the total acreage; including the previous phases of indigenous preservation and/or restoration. The final development order must demonstrate (60%) 739.85 acres of open space that includes 679.10 acres of indigenous preservation and/or restoration.

Development orders for the commercial development areas must demonstrate a minimum of 10% of open space.

5. Buffers and Landscaping

- a. Development order landscape plans must reflect 100% native vegetation for required buffers and landscaping. Any buffers within the 10,000-foot Hazardous Wildlife Buffer and not included in the IPRMP must be planted in compliance with the Lee County Port Authority “Recommended Compatible and Incompatible Native Landscape List” for required landscaping. The planting requirements and plant list must be incorporated into project Declaration and Covenants and deed restrictions submitted prior to Development Order approval and recorded prior to issuance of Certificate of Compliance.

6. Protected Species

- a. Development order plans that include lakes or Preserve areas must depict sign locations and typical signs prohibiting dumping and the feeding of alligators.
- b. Development order plans must include a Protected Species Management Plan (“PSMP”) ~~depicting on-site wildlife connections. The PSMP must include with~~ a Human-Wildlife Coexistence Plan and an Airport Wildlife Management Plan as set forth in Exhibit XX, which must
- c. Vegetation Removal Permit applications must include a map depicting the work limit area with a protected species survey and management plan within the work limit area identifying monitoring and protection measures or relocation consistent with State and Federal requirements.

7. Indigenous Preservation, Restoration and Management Plan (“IPRMP”)

Habitat restoration must substantially comply with the IPRMP. However, IPRMP phasing may be amended at the time of development order application to allow sub-phases for restoration within a development order phase.

8. Lighting

- a. Photometric Plans must demonstrate no light spillage into the preserves and conservation easement areas.
- b. Photometric Plans submitted with development order applications will be reviewed by the Lee County Port Authority for compliance with LDC Section 34-1110(a).

9. Drainage Plan

The first development order application must include supporting computer software files and input data for the surface water and groundwater flow models developed for the Hydrological Restoration Plan.

Flow models must demonstrate both:

- a. The project provides on-site surface water flow and enhanced groundwater recharge; and
- b. No adverse surface water or groundwater impacts to adjacent properties.

10. Surface Water and Groundwater Monitoring

An updated Enhanced Lake Management Plan must be provided with the development order application to include the following monitoring components of surface water and groundwater levels and quality:

- a. A single baseline monitoring event to be completed prior to the commencement of construction that includes Total Kjeldahl Nitrogen (mg/L), Chlorophyll a (mg/M3), Ammonia (mg/L), Nitrate (mg/L), and Total Phosphorus (mg/L). Field parameters of Turbidity, Water Depth (i.e. Stage), Specific Conductance, PH and Dissolved Oxygen;
- b. A single annual sample for five years to be completed during the “wet” season (June through September) that includes Total Kjeldahl Nitrogen (mg/L), Chlorophyll a (mg/M3), Ammonia (mg/L), Nitrate (mg/L), and Total Phosphorus (mg/L). Field parameters of Turbidity, Water Depth (i.e. Stage), Specific Conductance, PH and Dissolved Oxygen;
- c. Water Quality Monitoring Data testing results, reported as an Electronic Data Deliverable (EDD), provided to the Division of Natural Resources annually after issuance of the first development order.; and
- d. A contingency plan addressing steps to be taken in the event Lee County or State water quality standards are exceeded.

11. Irrigation Wells

Development order plans must demonstrate that irrigation will be provided via a central irrigation system using onsite lakes and, as necessary, existing permitted or replacement wells. Single -family irrigation and domestic wells are prohibited. The Property Owners Association documents, including Declarations and Covenants (submitted prior to Development Order approval and recorded prior to issuance of Certificate of Compliance), must prohibit the installation of single-family use wells for potable or irrigation water. Landscape irrigation must comply with the Lee County Water Conservation Ordinance #17-04, as amended.

12. Public Water and Sewer

All development must connect to Lee County Utilities public water and sewer service.

13. Model Homes and Real Estate Sales

- a. Maximum model homes/units: 10
- b. Model homes/units or real estate sales must be identified on development order plans.
- c. Real estate sales are limited to lots/units within the MPD only.
- d. Models cannot be of the same floor plan and each must be a different design.
- e. Development order applications including a model home must include the following:
 - i. Number and location of model homes proposed;
 - ii. Cumulative number and locations of model homes permitted by prior development order approvals;
 - iii. Remaining number of model homes permitted within the MPD; and

- iv. If the permissible maximum number of model homes has been previously reached, the number and location of previously approved model homes to be extinguished to accommodate new model homes.

14. Airport Noise Zone

The Developer acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in LDC §34-1104 and that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in LDC 34-1104(b).

15. Daniels Parkway Access

At the time of development order approval the access points on Daniels Parkway must be consistent with the access points shown in the Daniels Parkway Controlled Access Resolution (Lee County Resolution 22-03-19). If an amendment to Resolution 22-03-19 is subsequently approved by the Board of County Commissioners, the Master Concept Plan may be administratively amended to show the approved driveway locations.

16. "Bear-proof" Trash Receptacles

- a. Residential and Residential Amenity trash receptacles shall be a "bear-proof" design and located within completely enclosed structures except on the day of trash collection;
- b. Commercial trash receptacles shall be a "bear-proof" design; and
- c. Grease traps will be located below ground only.