

ADMINISTRATIVE AMENDMENT (PD) ADD2004-00219

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Centex Homes filed an application for administrative approval to a Mixed Use Planned Development on a project known as Emerson Square (f/k/a Portofino) to allow modification of conditions 18a and 18c of Lee County Zoning Resolution Z-02-018;

on property located south of Alico Road on west side of US 41, described more particularly as:

LEGAL DESCRIPTION: In Section 07, Township 46 South, Range 25 East, Lee County, Florida:

See Legal Description attached hereto as Exhibit "A"

WHEREAS, the property was originally rezoned in case number DCI2001-00022 (Z-02-018) (with subsequent amendments in case numbers ADD2003-00131, ADD2004-00120 and DOS2003-00193 and DOS2003-00208); and

WHEREAS, conditions 18a and 18c were established in Z-02-018 specifying the type and color of fence, as well as timing of fence installation for areas abutting the southern, eastern, and western common property lines of the Harborage; and

WHEREAS, the Harborage Homeowners Association has provided a letter of no objection to the modification of conditions 18a and 18c, a copy is attached hereto as Exhibit "B"; 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 for an amendment to Mixed Use Planned Development is **APPROVED** to allow modification of conditions 18a and 18c of Lee County Zoning Resolution Z-02-018;

Approval is subject to the following conditions:

1. The terms and conditions of the original zoning resolution, Z-02-018, remain in full force and effect, except as amended herein.
2. Condition 18a, as amended, of Lee County Zoning Resolution, Z-02-018, reads as follows:
 - a. Fence Type: The fence must be six feet in height and, at the discretion of the developer, may be either a white, off-white and/or beige picket poly vinyl chloride (PVC) or equivalent fence, or a black aluminum decorative fence. The fence may include decorative concrete or stone pillars.
3. Condition 18c, as amended, of Lee County Zoning Resolution, Z-02-018, reads as follows:
 - c. Timing of Installation

Residential Fences: The fences along the south, east, and west common property line between Portofino Emerson Square (f/k/a Portofino) and the Harborage must be installed ~~when that portion of the property Portofino property within 500 feet of the common property line is cleared.~~ No clearing can occur without an appropriate local development order from Lee County. after clearing, grading and any utility installation has taken place along the south, east, and west common property lines.

DULY SIGNED this 16th day of November, A.D., 2004.

BY:

Pam Houck
Pam Houck, Director

Division of Zoning

Department of Community Development

EXHIBIT A

DESCRIPTION

A PORTION OF
SECTION 7, TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

A portion of Section 7, Township 46 South, Range 25 East, Lee County, Florida being more particularly described as follows:

Begin at the northwest corner of the southeast one-quarter (SE 1/4) of the northwest one-quarter (NW 1/4) of the aforementioned Section 7; thence, along the north line of southeast one-quarter (SE 1/4) of the northwest one-quarter (NW 1/4) of said Section 7, S 72° 46' 52" E, 649.41 feet; thence, along the westerly line of DOT Parcel 100 as recorded in Official Records Book 2684 at Page 1065 of the Public Records of Lee County, Florida for the following two (2) courses:

1. S 17° 13' 08" W, 210.00 feet;
2. S 72° 46' 52" E, 549.79 feet;

thence, along the westerly line of a 110 foot wide Florida Power and Light easement as recorded in Official Records Book 883, Page 244 of the aforementioned public records, S 00° 25' 36" E, 995.62 feet to an intersection with the south line of 100 foot wide Florida Power and Light easement as recorded in Deed Book 268, Page 543 of the aforementioned public records; thence, along said south line, S 78° 26' 49" E, 53.16 feet; thence, along the boundary of lands as described in Deed Book 268, Page 543 of the aforementioned public records for the following two (2) courses:

1. S 00° 25' 36" E, 59.29 feet;
2. S 78° 26' 49" E, 212.63 feet;

to an intersection with the west line of the northwest one-quarter (NW 1/4) of the southeast one-quarter (SE 1/4) of the aforementioned Section 7; thence, along said west line, S 00° 25' 36" E, 145.65 feet; thence N 68° 40' 53" E, 218.91 feet; thence S 21° 19' 07" E, 80.00 feet; thence N 68° 40' 53" E, 149.52 feet; thence along the arc of a tangent circular curve concave to the northwest having for its elements a radius of 1,000.00 feet, a central angle of 15° 17' 36", a chord distance of 266.13 feet, a chord bearing of N 61° 02' 05" E, an arc distance of 266.92 feet to a point of reverse curvature; thence along the arc of a tangent circular curve concave to the southeast having for its elements a radius of 1,800.00 feet, a central angle of 12° 15' 13", a chord distance of 384.23 feet, a chord bearing of N 59° 30' 54" E, an arc distance of 384.96 feet; thence S 24° 21' 30" E, 450.00 feet; thence N 65° 38' 30" E, 234.13 feet to an intersection with the east line of the northwest one-quarter (NW 1/4) of the southeast one-quarter (SE 1/4) of the aforementioned Section 7;

20023559 Portion of Section 7 091203

Book4402/Page3402

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thence, along said east line, S 00° 42' 38" E, 1,447.79 feet; thence, along the south line of northwest one-quarter (NW 1/4) of the southeast one-quarter (SE 1/4) of the aforementioned Section 7, N 84° 44' 22" W, 1,349.45 feet; thence, along the south line of the northeast one-quarter (NE 1/4) of the southwest one-quarter (SW 1/4) of the aforementioned Section 7, N 72° 41' 37" W, 1,401.86 feet; thence, along the west line of the northeast one-quarter (NE 1/4) of the southwest (SW 1/4) of the aforementioned Section 7, N 00° 14' 17" W, 1,467.75 feet; thence, along the west line of the southeast one-quarter (SE 1/4) of the northwest one-quarter (NW 1/4) of the aforementioned Section 7, N 00° 50' 56" W, 1,178.81 feet to the Point of Beginning.

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EXHIBIT A

Banks Engineering, Inc.

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ NAPLES ♦ SARASOTA

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN

SECTION 7, TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

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(ESTERO PROPERTIES, LLC)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 7, TOWNSHIP 46 SOUTH, RANGE 25 EAST, BEING FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7; THENCE N.00°14'17"W. ALONG THE WEST LINE OF SAID FRACTION AND THE EAST LINE OF THE HARBORAGE, AS SHOWN IN PLAT BOOK 38, PAGES 4 THROUGH 9 OF THE LAND RECORDS OF SAID LEE COUNTY FOR 1467.75 FEET TO THE NORTHWEST CORNER OF SAID FRACTION AND THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE N.00°50'56"W. ALONG THE WEST LINE OF SAID FRACTION FOR 1178.81 FEET TO THE NORTHWEST CORNER OF SAID FRACTION; THENCE S.72°46'52"E. ALONG THE NORTH LINE OF SAID FRACTION FOR 649.41 FEET TO THE NORTHWEST CORNER OF D.O.T. PARCEL 100 AS SHOWN IN OFFICIAL RECORDS BOOK 2684, PAGE 1065 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.17°13'08"W. ALONG THE WESTERLY LINE OF SAID D.O.T. PARCEL FOR 210.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE S.72°46'52"E. ALONG THE SOUTHERLY LINE OF SAID PARCEL FOR 549.79 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE N.00°25'36"W. ALONG THE EASTERLY LINE OF SAID PARCEL FOR 220.37 FEET TO THE NORTHEAST CORNER OF SAID PARCEL AND AN INTERSECTION WITH THE NORTH LINE OF SAID FRACTION; THENCE S.72°46'52"E. ALONG SAID NORTH LINE FOR 272.84 FEET TO POINT "A" AND THE NORTHEAST CORNER OF SAID FRACTION; THENCE S.84°28'58"E. ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION FOR 859.87 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF TAMiami TRAIL (U.S. 41-S.R. 45) AND AN INTERSECTION WITH A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1364.40 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.64°47'32"E.; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID SOUTHWESTERLY LINE THROUGH A CENTRAL ANGLE OF 00°50'58" FOR 20.23 FEET; THENCE S.24°21'30"E. ALONG SAID SOUTHWESTERLY LINE FOR 1215.45 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 8462.37 FEET; THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 0°51'01.5" FOR 125.60 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION; THENCE N.78°26'49"W. ALONG SAID SOUTH LINE FOR 72.75 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE S.00°42'38"E. ALONG THE EAST LINE OF SAID FRACTION AND THE WEST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1857, PAGE 1845 AND OFFICIAL RECORDS BOOK 1861, PAGE 1788 OF THE LAND RECORDS OF SAID LEE COUNTY FOR 1462.79 FEET TO THE SOUTHEAST CORNER OF SAID FRACTION AND AN INTERSECTION WITH THE NORTH LINE SAID SUBDIVISION, THE HARBORAGE; THENCE N.84°44'22"W. ALONG THE SOUTH LINE OF SAID FRACTION AND THE NORTH LINE SAID SUBDIVISION FOR 1349.45 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE N.72°41'37"W. ALONG THE SOUTH LINE OF SAID FRACTION AND SAID NORTH LINE OF THE HARBORAGE FOR 1401.86 FEET TO THE POINT OF BEGINNING.

SHEET 1 OF 4

ADD 2004-00120

10511 Six Mile Cypress Pkwy, Suite 101, Ft Myers, Florida 33903 Phone (239) 939-2923 Fax (239) 939-2923

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LESS AND EXCEPT PARCEL "A"

COMMENCING AT POINT "A"; THENCE S.00°25'36"E. ALONG A LINE COMMON TO THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7 FOR 1035.11 FEET TO THE CENTER OF SAID SECTION AND THE POINT OF BEGINNING; THENCE CONTINUE S.00°25'36"E. ALONG A LINE COMMON TO THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION FOR 212.63 FEET; THENCE N.78°26'49"W. FOR 212.63 FEET; THENCE N.00°25'36"W. FOR 212.63 FEET TO AN INTERSECTION WITH A LINE COMMON TO THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE S.78°26'49"E. ALONG SAID COMMON LINE FOR 212.63 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 153.16 ACRES, MORE OR LESS.

ASSUMED NORTH BASED ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY FLORIDA AS BEARING N.00°14'17"W.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

DESCRIPTION PREPARED NOVEMBER 6, 2003


RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009

Applicant's Legal Checked

by Hyg 06 JULY 04

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EXHIBIT B

October 19, 2004

Lee County Planning Department
1500 Monroe Street
Fort Myers, Florida 33901

Re: Emerson Square Resolution No: Z-02-018

Dear Planning Staff:

We have met with representatives of Centex Homes and Johnson Engineering regarding the above-referenced project and want to relate to staff that the Harborage Homeowners Association does not object to the modification of two conditions, and they are as follows:

Condition # 18A

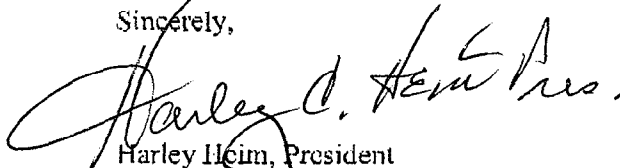
Regarding the color of the fence as stated in the resolution being white picket polyvinyl, we do not object to an off-white and/or beige color of picket fence installed along the common property lines between The Harborage and Emerson Square.

Condition # 18C

Timing of Installation. It is our understanding that Emerson Square property cannot be cleared within 500 feet of the common property line until such time as the fence along the common property line has been installed. We do not object to allowing Centex Homes to clear said 500 feet in question prior to the fence being installed.

Thank you for the opportunity to provide the above input and please call if you should have any questions regarding the information

Sincerely,



Harley Heim, President
Harborage Homeowners Association
239-466-4990

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