

AMENDED BY ADD2016-00011(a) dated 8-31-16

ADMINISTRATIVE AMENDMENT (PD) ADD2016-00011

ADMINISTRATIVE AMENDMENT LEE COUNTY, FLORIDA

WHEREAS, Quadrum Lakes Park LLC filed an application for an administrative amendment approved by Resolution Z-10-009, to Avida (fka as Oasis Cove), a Residential Planned Development (RPD) and Commercial Planned Development (CPD) for the following:

- Update the Master Concept Plan to revise the site layout;
- Revise the RPD site development regulations to include waterbody setbacks and building separation requirements;
- Add 7 new deviations for the following:
 - Reduced perimeter setback;
 - Eliminate buffer requirement between RPD and CPD zoning districts;
 - Reduced building separation requirement;
 - Reduced waterbody setback around bulkheads or other hardened shoreline structures;
 - Reduced excavation setback;
 - Allow 40% of hardened lake shoreline; and
 - Allow lake maintenance easements as shown on the MCP and allow no lake maintenance easements where bulkheads and 0 foot setbacks are provided;
- Amend the CPD Schedule of Uses to add Amphitheater, Farmer's Market, Health Care Facilities-Group II; and amend limitations on Hospice use;
- Amend Condition 19 to remove previously approved impact to wetlands and minor adjustment and increase in the indigenous restoration/creation areas, and update open space table;

on property located 7650 Gladiolus Dr & 7210 Congdon Road, described more particularly as:

LEGAL DESCRIPTION: In Section 35, Township 45 South, Range 24 East, Lee County, Florida:

ATTACHED AS EXHIBIT "A"

WHEREAS, the property was rezoned by Resolution Z-10-009, with an Administrative Interpretation in case number ADD2012-00077; and

WHEREAS, the subject property is located in the Central Urban and Wetlands Future Land Use Category as designated by the Lee Plan; and

WHEREAS, Resolution Z-10-009 approved a maximum of 190 multi-family dwelling units, or a maximum of 160 units of ALF/CCF units, plus a maximum of 300 ILUs, or any combination of ALF, CCF, or ILU, so long as the project density does not exceed 190 standard dwelling units on 21.75±

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acres of land on the RPD portion and a maximum of 100,000 square feet of gross floor area, including a maximum of 25,000 square feet of Commercial Retail uses on the CPD portion; see Exhibit B; and

WHEREAS, ADD2012-00077 clarified the types of units that could be developed on the property and confirmed the density ratios for the various types of units; see Exhibit C; and

WHEREAS, the applicant purchased the subject property in July of 2015 and is seeking the administrative amendment to revised the approved project; see Narrative as Exhibit D; and

WHEREAS, the revisions to the MCP will include relocation of the proposed lake, reconfiguration of the proposed buildings and accessways in the RPD portion, and the reconfiguration of the lots (from 7 lots to 5 lots) and accessways in the CPD portion; see Exhibit E; and

WHEREAS, the amendment includes amending the CPD Schedule of Uses to add Amphitheater, Farmer's Market and Health Care Facilities – Group II with limitations; and revising the limitations on the Hospice use; and

WHEREAS, the 3 new uses are similar in nature and intensity to those uses already approved; and the revised site layout in the CPD requires the revision to the Hospice use; and

WHEREAS, the following RPD site development regulations are being revised and new deviation 4 and 5 are being added to allow:

- a 0 foot waterbody setback for buildings and accessways where bulkheads or other hardened shoreline structures are provided and 20 feet for accessways for the remainder of the lake perimeter; and
- a 10 foot building separation for single-story and 20 feet for all other buildings; and

WHEREAS, included in the amendment of the project are 7 new deviations which include the following:

- Reduced perimeter setback between the RPD and CPD zoning lines;
- Eliminate buffer requirement between RPD and CPD zoning districts;
- Reduced building separation requirement on the RPD portion only;
- Reduced waterbody setback around bulkheads or other hardened shoreline structures;
- Reduced excavation setback;
- Allow 40% of hardened lake shoreline; and
- Allow lake maintenance easements as shown on the MCP and allow no lake maintenance easements where bulkheads and 0 foot setbacks are provided;

WHEREAS, Condition 18 from Z-10-009 required a total of 12.99 acres of open space which is not being changed; however, the amount of open space being used from the lake, the restored indigenous, wetland and upland indigenous are all changing due to the layout reconfiguration; and

WHEREAS, Condition 19 from Z-10-009 is being amended which includes revision to wetland impact; and adjustment and increase in the indigenous restoration/creation areas; and an updated open space table; and

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

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

Food Stores, Group I (including open-air farmer's market) – Not including Group II (freezer and locker meat provisioner)

Hospice - Limited to lots ~~5 and 6~~ 1, 4 and 5. Limited to 50 beds

**Recreation Facilities-Commercial - Group I, Group III (including Amphitheater),
 Group IV – Casino-style games are prohibited**

Site Development Regulations

Residential Planned Development:

Assisted Living Facility (ALF)/Continuing Care Facility (CCF)/Independent Living Unit (ILU)

AMENDED BY ADD2016-00011(a) dated 8-31-16**Setbacks****Water body 20 feet or 0 feet**

Minimum building separation: 10 feet for a single-story building and 20 feet for all other buildings, or one-half the sum of height of both buildings, or 20 feet, whichever is greater. Buildings exceeding 35 feet in height must maintain additional building separation and setbacks as regulated by LDC §34-2174(a) and §34-935(e)(4)

**Residential Planned Development:
Multi-Family, Clubhouse, Recreational Facility**

Water body 20 feet or 0 feet

Minimum building separation: 10 feet for a single-story building and 20 feet for all other buildings, or one-half the sum of height of both buildings, or 20 feet, whichever is greater. Buildings exceeding 35 feet in height must maintain additional building separation and setbacks as regulated by LDC §34-2174(a) and §34-935(e)(4)

**Residential Planned Development:
Townhouse**

Water body 20 feet or 0 feet

Minimum building separation: 10 feet for a single-story building and 20 feet for all other buildings, or one-half the sum of height of both buildings, or 20 feet, whichever is greater. Buildings exceeding 35 feet in height must maintain additional building separation and setbacks as regulated by LDC §34-2174(a) and §34-935(e)(4)

Amend Condition 19 – Indigenous Preservation**Prior to local development order approval:**

a. development order plans must depict preservation in substantial compliance with the following:

- (1) Remains unchanged.**
- (2) A minimum of ~~0.09~~ 0.10 acre existing marsh wetland; and**
- (3) A minimum ~~0.67~~ 0.74 acre indigenous creation/restoration area to provide minimum 15-foot, average 25-foot-wide upland buffers to the on-site wetland preserves and off-site conservation lands.**

b. Landscape plans must depict the indigenous creation/restoration areas to be planted per the approved Indigenous Restoration Plan attached to this resolution as Exhibit D -7-Y.

c. An Indigenous Management Plan for the indigenous preservation and creation/restoration areas meeting the requirements of LDC 10-415 (b)(4) must be submitted for ~~of Development Services~~ Environmental Sciences (ES) staff review. The Indigenous Management Plan must include a map showing the mechanical and hand removal areas to be cleared of exotics.

d. Remains unchanged.

AMENDED BY ADD2016-00011(a) dated 8-31-16**Amend Condition 24 – Migratory and Wading Bird**

- a. Remains unchanged.
- b. Except as provided herein, parking lot lamps on all parcels must be hooded or globed and must not exceed 20 feet in height. Parking lot lamps may not exceed 16 feet in height within the RPD parcel if located between residential buildings structures and north property line abutting Lakes Park and within CPD Lots ~~6 4~~ and ~~7 5~~, if located between commercial buildings and the east property line abutting the off-site County owned preserve; and
- c. Remains unchanged.
- d. ~~Prior to local development order approval~~ Architectural sheets showing the development order building plans within the RPD/CPD must be reviewed by Development Services ES 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 within the RPD parcel and on the eastern building facades facing the offsite County owned preserve within the CPD parcel Lots ~~6 4~~ and ~~7 5~~.

Add new Condition 25

25. Prior to the Issuance of a Certificate of Compliance for all buildings facing Lakes Park and the offsite County preserve to the east, the bird strike prevention mechanism approved as part of the development order must be found sufficient by the Development Services ES staff landscaping inspector.

SECTION C. DEVIATIONS

Deviation (1) remains unchanged.

New Deviation (2) is requested from LDC Section 34-935(b)(1) which requires minimum setbacks from development perimeter boundaries; to allow a 0 foot perimeter setback between the RPD and CPD zoning lines for any site improvements.

New Deviation (3) is requested from LDC Section 10-416(d)(1) which requires a buffering area along the entire perimeter of a proposed development whenever the proposed development abuts a different use; to allow no buffer between the RPD and CPD since the development will remain under unified control.

New Deviation (4) is requested from LDC Section 34-935(e)(4) which requires a minimum building separation of one-half the sum of their heights or 20 feet, whichever is greater; to allow a minimum building separation of 10 feet for single-story structures and a minimum building separation of 20 feet for other buildings.

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New Deviation (5) is requested from LDC Section 34-2194(b) which requires a minimum 25-foot setback to an artificial body of water; to allow a minimum waterbody setback of 0 feet for buildings and accessways where bulkheads or other hardened shoreline structures are provided.

New Deviation (6) is requested from LDC Section 10-329(d)(1)a. which requires a minimum 25-foot setback for excavations to proposed right-of-way line or easement for a local road; to allow a minimum 0 foot setback for excavations to accessways along the northern portion of the proposed lake.

New Deviation (7) is requested from LDC Section 10-418(3) which states that hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline; to allow up to 40 percent of the lake shoreline to comprise of hardened shoreline structures.

New Deviation (8) is requested from LDC Section 10-328(a) which states that a 20-foot wide easement for maintenance purposes must be provided; to allow a 20-foot wide LME in areas as shown on the MCP and no LME where bulkhead and 0-foot setbacks are provided.

3. The terms and conditions of the original zoning resolutions remain in full force and effect.
4. If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.

Duly passed, adopted, and electronically signed on 6/3/2016 by

Pam Houck, Zoning Manager
Department of Community Development

Exhibits:

- A – Legal description
- B - Resolution Z-10-009
- C - ADD2012-00077
- D – Narrative
- E – MCP
- F – Environmental