

Development Review Board

**Norma Sutton
Timothy Balding
Stephen Withers
Frank Chase
Jennifer Roper
Molly Rose
Peter Fleck**

Council Liaison: Jim O'Brien

Agenda

Agenda

**February 19, 2019
6:30 PM**

**WINDERMERE TOWN HALL
520 MAIN STREET.
WINDERMERE, FL 34786**

PLEASE TURN OFF ALL CELL PHONES AND PAGERS

PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceeding should contact the Office of the Town Clerk at least 48 hours beforehand at (407) 876-2563

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all proceedings before the Town of Windermere Town Council:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversations shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council.
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Town Council meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Town Council meeting by an officer and such other actions as may be appropriate. **PLEASE NOTE:** IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the testimony and evidence upon which the appeal is to be based.

AGENDA

- THE MEETING IS CALLED TO ORDER BY THE CHAIRMAN
 - 1. OPEN FORUM/PUBLIC COMMENT (3 Minute Limit):
 - 2. OLD BUSINESS:
 - 3. NEW BUSINESS
 - a. MINUTES
 - i. DRB Meeting Minutes January 15, 2019 (Attachment-Staff Recommends Approval)
 - b. GENERAL ITEMS FOR CONSIDERATION
 - i. Z19-01: Taylor Morrison: Amendment to the Estancia at Windermere PUD agreement to allow the change of the property setback requirements of Lots 40 and 41 from 25 feet to 10 feet/ (Attachments-Board Option)
 - 4. ADJOURN:
-

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

January 15, 2019

Present were Chair Frank Chase, Boards Members; Timothy Balding, Stephen Withers, Molly Rose, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Town Planner Brad Cornelius, Council Liaison Jim O'Brien, and Town Clerk Dorothy Burkhalter were also present. Norma Sutton was absent.

Chair Chase called the meeting to order at 6:30pm. He then led everyone in the pledge of Allegiance.

1. OPEN FORUM/PUBLIC COMMENTS:

There were no public speakers.

2. OLD BUSINESS: NONE

3. NEW BUSINESS:

a. MINUTES:

i. DRB meeting minutes August 21, 2018

Member Withers made a motion to approve the DRB minutes of August 21, 2018 as presented. Member Roper seconded the motion. All were in favor.

b. GENERAL ITEMS FOR CONSIDERATION:

i. Z-19-002: 806 W 2nd Avenue Variance: Boat Dock Variance to allow reduced side setback of zero (0) feet.

Chair Chase turned the floor over to Mr. Brad Cornelius. Mr. Cornelius introduced himself. He then reviewed the variance request, past permit history and grandfathering. Mr. Cornelius stated that the applicant requests a variance for an existing enclosed boathouse with reduced side setback of zero (0) feet from the east projected property line. The required side setback for a dock is 16 feet. The existing dock includes a 5.3' x 32.9' and 4.1' x 11.3' walkway to the west of the boathouse that is 87.5 feet from the west projected property line. The walkway was constructed in approximately 2011 or 2012. A permit for the walkway was not obtained at the time of construction. Under the subject zoning case, the property owner is also requesting a variance so that the entire dock, including the unpermitted walkway, may be retained. Discussion began with the Board members. Member Withers questioned the "guest house" that shows on the plans. Mr. Cornelius stated he is unsure why it was named a guest house but it has been named that for many years and "at best" should remain that way. Chair Chase questioned what made the applicant apply for the variance. Mr. Cornelius explained that when the homeowner decided not to remove the walkway and it was originally built without a permit. Member Rose questioned if there is a hardship. Mr. Cornelius stated that the configuration of the lot is a problem. Member Balding questioned if all permits had been obtained. Mr. Cornelius stated that the State and County permits are needed prior to applying to the Town, which have been obtained. Member Rose stated that the process for the town is for approving the setbacks. Mr. Cornelius agreed. Chair Chase questioned the variance request. Mr. Cornelius stated that the variance

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request is to allow the expansion of the non-conforming boat dock due to setbacks. Member Fleck questioned if the dock has been pile wrapped? Ms. Shelia Cichra of Streamline Permitting introduced herself. She stated that it is in the permitting standards. Member Fleck questioned if the wrap had been done. Ms. Cichra stated she had not inspected it. Member Withers commented that this permit is for setbacks and then questioned if this permit should have come to the Town first. Ms. Chicra stated that she was uncertain if the permit would pass at the State level. She stated that all plumbing was required to be brought up to today's standards. Ms. Chicra stated that when she began this project, the catwalk was existing. She further stated that after EPD researched and the aerials were reviewed, they noticed that the walkway was not present approximately 5-6 years ago. Ms. Cichra commented that's when an after-the-fact permit was pulled. She explained that the owner could not get to his dock without the walkway. Member Withers stated that the permit should have been pulled through Windermere first. Mr. Cornelius stated that State and County are the first steps in this type of permitting process. Discussion followed. Member Withers commented on his concern with "saying it's ok, it gives a pass for doing something that shouldn't have been done." Chair Chase commented that the owner applied for the after the fact permit on his own. He further commented that it was not due to the fact that he was tagged for it. Member Fleck stated that he does not have a problem with this, as the neighbors are in favor as well. Member Withers stated that a condition could be placed in the motion. He also stated that he does not like rewarding someone who hasn't followed the rules. Member Withers stated that a recommendation to not allow any roofs or changes to this structure could be included. Also have them be required to meet the current standards for pile wrapping or anything else that is required to this dock. Chair Chase questioned if a permit will need to be pulled through the Town. Mr. Cornelius stated yes. Some discussion followed regarding State and County approvals. Member Withers made a motion to recommend approval of the variance with the conditions that no other additions be added to this boat dock and that it be built, retro built, to meet current requirements of the State and County. Member Rose seconded the motion. All were in favor. Mr. Cornelius stated that this will go before the Town Council for final approval on February 12th

- ii. **Z19-003: 15 Pine Street Variance: Variance to allow for a side setback of 13.1' for a proposed replacement boathouse, a 32' setback from the NHWE for a replacement wood deck and a 1' setback from the NHWE for replacement paver deck with stairs at 15 Pine Street**

Mr. Cornelius introduced Z19-003. He explained that the first request relates to the dock. Mr. Cornelius explained that the applicant is looking to place the dock back to its original location which would have a south side setback of 13.1'. He then stated that the dock will be larger than the existing dock. Mr. Cornelius stated that the first variance request is to allow the 13.1' side set back. He then explained the second request which relates to the rear decking. Mr. Cornelius explained that there has been an existing permitted elevated deck to the home. He explained that the deck has been demolished without a permit. Mr. Cornelius stated that he received plans to build a new deck, and the new deck will encroach the 50' setback. He further stated that the setback would be 32', having an estimated 18' encroachment. Mr. Cornelius stated that the hardship would be due to the lot shape. Mr. Cornelius then commented on the third variance request. He explained that is not a request, but a courtesy notice. Mr. Cornelius further explained that the owner would like to replace the paver deck with stairs that encroach into the normal high-water elevation setback. He stated that the new deck with stairs will be smaller than what was previously there. Mr. Cornelius stated that the hardship could be the configuration of the lot. He then stated that 33 notices were mailed out with a total of 12 returned, all in support. Member Rose questioned if a roof would

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be built on the deck. Mr. Cornelius stated that only a deck with stairs is being built. Member Withers commented on the enlarging of the boat dock and jet ski platform. Ms. Cichra stated that all existing pilings will be kept and used in their original locations. Member Withers stated that the new construction should be kept within the setbacks. Some discussion followed. Chair Chase asked if there were any comments regarding the deck. Member Withers commented on a past report regarding contaminated waters and this area was in that report. He then commented on allowing building within the 50' setback and causing pollution in the lakes. Mrs. Melissa Farrell, owner of 15 Pine Street introduced herself. She then gave a brief history of the project that was done in 2002 by the previous owner. Mrs. Farrell then commented on the reduction of the project along with the new swales. Mrs. Farrell's landscape architect stated that the sensitivity of recharge in the area is being considered. Discussion regarding the new deck plan and the variance request was made. Member Rose made a motion to recommend approval of the variance with the modification to the boat dock and the jet ski dock so it is at least 16' from the property line. Member Fleck seconded the motion. Member Roper questioned if the deck was included. Member Rose stated yes. All were in favor. Manager Smith stated that this item will go before the Town Council for final approval on February 12th

Chair Chase welcomed new members Molly Rose and Peter Fleck. Discussion was made regarding approval of the current board and positions. Member Roper made a motion to approve Frank Chase as the Chair and Stephen Withers as the Vice Chair and the others remain as members. Member Balding seconded the motion. All were in favor.

4. ADJOURN:

Member Rose made a motion to adjourn the meeting. Member Withers seconded the motion. All were in favor.

The meeting adjourned at 7:22pm

Dorothy Burkhalter, Town Clerk

Frank Chase, Chair

Town of Windermere

614 Main Street Windermere, FL 34786
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor
GARY BRUHN



Town Manager
ROBERT SMITH

Clerk
DOROTHY BURKHALTER

Development Review Board February 19, 2019

Town Council
March 26, 2019
April 9, 2019

Case No.: Z19-01

Applicant: Taylor Morrison of Florida, Inc.

Property Owner: Taylor Morrison of Florida, Inc.

Representative: Waldrop Engineering

Requested Action: Amendment to the Estancia at Windermere PUD Agreement to allow the change of the property boundary setback requirements to Lots 40 and 41 from 25-feet to 10-feet.

Property Address: Estancia at Windermere Subdivision

Legal Description: See attachment

Future Land Use/Zoning: PUD

Existing Use: PUD 50 Unit- Residential Subdivision

Surrounding Future Land Use/Zoning

North: Orange County – P-D/Orange County – Rural
South: Orange County – R-CE/ Town – Agriculture
East: Orange County – R-CE/Town – PUD
West: Orange County – R-CE/Town – Single Family Residential

CASE SUMMARY:

Taylor Morrison of Florida Inc., owner of Estancia at Windermere, submitted a setback PUD Amendment request, dated January 16, 2019. The applicant is requesting an amendment to Section 4.d(vii) of the Development Agreement, to allow for a 10-foot property boundary setback adjacent to dwelling units on Lots 40 and 41 (as shown on the recorded subdivision plat), on the eastern property boundary, and to update Section 9 (Notices) to reflect current contacts. These lots are labeled as Lots 1 and 50 on the approved Final Subdivision Plans but are platted as Lots 40 and 41.

Lots 40 and 41 are the only two lots in the Estancia at Windermere subdivision that are configured with a side yard boarding the property boundary.

Per the Estancia at Windermere Development Agreement, the residential setback for lots on the property boundary is 25-feet.

Lot 40 is approximately 82-feet wide and Lot 41 is approximately 87-feet wide.

Based on the current setback requirements for this development, Lot 40 has 47-feet of width to build (57% of the lot width) and Lot 41 has 52-feet of width to build (60% of lot width).

Taylor Morrison's standard model home for this subdivision is approximately 60-feet wide, thus would not fit on these lots based on the current setback standards.

CASE ANALYSIS:

The existing Development Agreement's property boundary setback does not allow for the standard subdivision model home to fit on Lots 40 and 41.

On January 13, 2015, the Town Council adopted the development agreement for the Estancia at Windermere, formerly known as Windsong at Windermere, subdivision.

Per the Estancia Development Agreement – The residential setbacks shall be as follows:

- Front yard -25 feet
- Side yard - 10 feet (no maximum)
- Rear yard -20 feet
- Side yard corner lot - 15 feet (no maximum)
- Property boundary - 25 feet
- Normal high water - 50 feet

The adjacent property to the East of Lots 40 and 41 is a vacant property, owned by Jain Family Holding Windermere LLC, has a future land use designation by the Town of PUD and is zoned as Orange County RC-E. This property is separated by a subdivision boundary wall.

On August 23, 2018 Taylor Morrison applied for a building permit at 1164 Estancia Woods loop (Lot 41) for a single-family home. Upon review of the building permit, it was discovered that the property boundary setback of 25-feet would not allow for the standard model home of 60-feet wide to fit on this lot.

Per the Estancia Development Agreement, a 25-foot setback on the property boundary is in place. Both Lots 40 and 41 border the property boundary. These two lots are the only two lots in the Estancia development that are configured with a side yard bordering the property boundary. Based on the current setback requirements, homes built on these two lots would have a side setback of 10-feet and a property boundary setback of 25-feet. Lot 40 has a width of approximately 82-feet and Lot 41 has a width of approximately 87-feet. Based on the current setback requirements for this development, Lot 40 has 47-feet of width to build (57% of the lot width) and Lot 41 has 52-feet of width to build (60% of lot width).

Taylor Morrison's standard model home is approximately 60-feet wide, thus would not fit these lots based on the current setback standards.

Taylor Morrison requests to amend the property boundary setback requirement on the East property line for Lots 40 and 41. The new property boundary setback for these two lots (40 and 41) would match the side yard setback requirement of 10-feet.

The new residential setbacks would be as follows:

- Front yard -25 feet
- Side yard - 10 feet (no maximum)
- Rear yard -20 feet
- Side yard corner lot - 15 feet (no maximum)
- Property boundary - 25 feet (except for adjacent to Lots 40 and 41, as shown on the Estancia at Windermere subdivision plat (Plat Book 89, Pages 129-134) which may have a 10-foot minimum setback from the eastern property boundary)
- Normal high water - 50 feet

The applicant is also requesting a revision to the Notices section, to update the Owner information consistent with the current ownership.

The new Notices would be as follows:

As to Owner: ~~Manohar H. Jain~~ Taylor Morrison of Florida, Inc.
Attn: Nicholas Gluckman, VP of Land Development &
Entitlement, Orlando 4800 South Apopka Vineland Road 2600
Lake Lucien Drive, Suite 350 Orlando, Florida 32819 Maitland,
Florida 32751

With a copy to: ~~Thomas P. Callan Akerman LLP~~, Attn: James H. McNeil, Jr., Esq.
921 Bradshaw Terrace 420 S. Orange Avenue, Suite 1200
Orlando, Florida 32806 32801

~~With a copy to: Chris Tyree, Vice President of Land Development
Taylor Morrison of Florida, Inc.
151 Southhall Lane, Suite 200
Maitland, Florida 32751~~

The applicant's justification for the amendment is as follows:

- The request will not impact the external compatibility of the PUD, as the required Type "A" perimeter buffer zone will be provided in full compliance with the zoning ordinance and Development Agreement;
- The request will not impact internal compatibility with the remaining portion of the PUD, as the lot will maintain all required residential setbacks from internal lot lines. Moreover, the internal adjacent lots are owned by the Owner;
- The request will allow for development of homes on Lots 40 and 41 which are consistent in size and scale to the remainder of the development;
- The request will not increase the density, intensity, or traffic generated by the project; and
- The request will uphold the original intent of the PUD to allow for the development of 50 single-family dwelling units within a master-planned community with available services and infrastructure, while acknowledging historical permission to locate residential structures 10 feet from the eastern property line.

Because this request is an amendment to the adopted development agreement, it is also required to be heard by the Town Council at two (2) public hearings. The Town Council public hearings are scheduled for March 26, 2019, and April 9, 2019.

PUBLIC NOTICE:

Public notices were mailed to property owners within 500 feet of the subject property on February 6, 2019 (93 notices sent). As of February 11, 2019, no responses were received in support or opposition. At the DRB meeting an update to the public notice response will be provided.

LEGAL DESCRIPTION

RESIDENTIAL PARCEL:

A parcel of land situated in Section 6, Township 23 South, Range 28 East, Orange County, Florida, being more particularly described as follows:

COMMENCING at the East $\frac{1}{4}$ corner of Section 6, Township 23 South, Range 28 East, Orange County, Florida, thence run South $88^{\circ}59'03''$ West, along the North line of the Southeast $\frac{1}{4}$ of said Section 6, for a distance of 289.07 feet to a point on the Westerly right of way line of Maguire Road, also known as State Road 5-438, said point being the POINT OF BEGINNING, and also being a point on a curve, concave Easterly, having a radius of 1605.60 feet, a chord bearing of South $11^{\circ}03'52''$ West, and a chord distance of 113.30 feet, thence run Southerly along the arc of said curve, and said Westerly right of way line, through a central angle of $04^{\circ}02'38''$ for an arc distance of 113.33 feet to the point of tangency, thence run South $09^{\circ}02'39''$ West, along said Westerly right of way line, for a distance of 263.54 feet to the South line of that property as described in Official Records Book 3872, Page 2028 of the Public Records of Orange County, Florida; thence departing said Westerly right of way line, run South $89^{\circ}49'59''$ West, along said South line, for a distance of 1025.12 feet to a point on the West line of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 6; thence departing said South line, run North $00^{\circ}04'59''$ West, along said West line, for a distance of 355.14 feet to the Northwest corner of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 6, also being the Southwest corner of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 6; thence run North $01^{\circ}19'48''$ West, along the West line of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 6, for a distance of 951.77 feet to a point on the North line of the South $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 6, also being the South line of Reserve at Belmere, as recorded in Plat Book 48, Pages 23 through 31 of the aforesaid Public Records of Orange County, Florida; thence departing said West line, run North $89^{\circ}14'39''$ East, along said North and South lines, for a distance of 997.73 feet; thence departing said North and South lines, run South $00^{\circ}00'00''$ East for a distance of 486.35 feet to the point of curvature of a curve, concave Easterly, having a radius of 250.00 feet, a chord bearing of South $06^{\circ}50'07''$ East and a chord distance of 59.51 feet; thence run Southerly along the arc of said curve through a central angle of $13^{\circ}40'15''$ for an arc distance of 59.65 feet to the point of reverse curvature of a curve, concave Westerly, having a radius of 285.00 feet and a chord bearing of South $00^{\circ}53'25''$ West, thence run Southerly along the arc of said curve through a central angle of $29^{\circ}07'19''$ for an arc distance of 144.89 feet; thence departing said curve, run South $90^{\circ}00'00''$ East for a distance of 180.53 feet to a point on the aforesaid Westerly right of way line of Maguire Road; thence run South $14^{\circ}03'09''$ West, along said Westerly right of way line, a distance of 294.24 feet to the POINT OF BEGINNING;

Containing 32.00 acres, more or less.

SHEET 1 OF 2



16 EAST PLANT STREET
Orlando, Florida 32801 • (407) 854-2335

SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.
2. THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTH-EAST $\frac{1}{4}$ OF SECTION 8-23-28 AS HAVING AN ASSUMED BEARING OF NORTH $01^{\circ}19'48''$ WEST.

JOB NO. 20130180
 DATE: SEPTEMBER 23, 2014
 SCALE: 1 inch = 200 feet
 FIELD BY: JLR

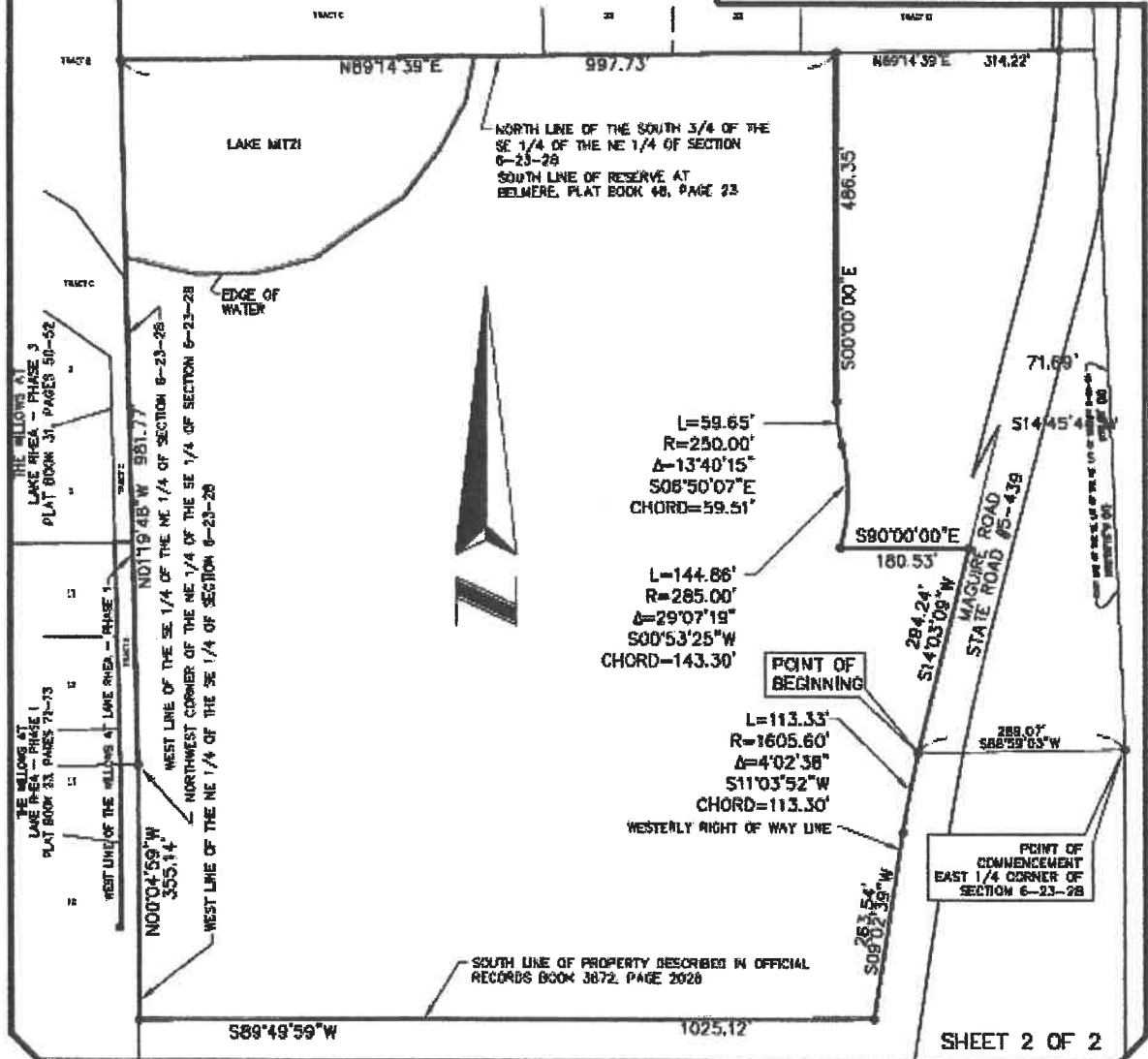
CALCULATED BY: EGT
 DRAWN BY: EGT
 CHECKED BY: JLR

FOR THE LICENSED BUSINESS #6723 BY:

JAMES L. RICKMAN, PSM #5833

SKETCH OF DESCRIPTION

RESERVE AT BELMERE
PLAT BOOK 48, PAGES 23-31



SHEET 2 OF 2



16 EAST PLANT STREET
Mesa, AZ 85204 (480) 854-3335

SURVEYOR'S NOTES:

- THIS IS NOT A SURVEY.
- THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 6-23-28 AS HAVING AN ASSUMED BEARING OF NORTH $01^{\circ}19'48''$ WEST.

JOB NO. 20130180	CALCULATED BY. EGT
DATE. SEPTEMBER 23, 2014	DRAWN BY. EGT
SCALE. 1 inch = 200 feet	CHECKED BY. JLR
FIELD BY. n/a	

January 16, 2019

Mr. Brad Cornelius, AICP
Town of Windermere
614 Main Street
Windermere, FL 34786

**RE: Estancia at Windermere PUD
Second Amendment to Windsong at Windermere Development Agreement**

Dear Mr. Cornelius:

Enclosed for your review is a proposed second amendment to the Windsong at Windermere Development Agreement, as amended ("Development Agreement") for the 32-acre Planned Unit Development ("PUD") known as Estancia at Windermere (f/k/a Windsong at Windermere).

Taylor Morrison of Florida, Inc. (the "Owner") is requesting an amendment to Section 4.d(vii) of the Development Agreement, to allow for a 10-foot property boundary setback adjacent to dwelling units on Lots 40 and 41 (as shown on the recorded subdivision plat), on the eastern property boundary, in addition to Section 9 (Notices) for accuracy. Please note these lots are labeled as Lots 1 and 50 on the approved Final Subdivision Plans.

BACKGROUND/EXISTING CONDITIONS:

The PUD is located immediately west of Maguire Road and ¼ mile north of Windermere Road in the Town of Windermere. The Property was rezoned to PUD in 2014 pursuant to Ordinance No. 2014-14 and is subject to a Development Agreement recorded in the Official Records of Orange County, Book 10863, Page 418, which was amended in 2015 to reflect additional commitments by the prior property owner relating to a turn lane on Maguire Road and additional buffering requirements along the western property line. The Owner was assigned all of the prior property owners' development rights and permits applicable to the property, including, but not limited to the Development Agreement, as amended pursuant to the Assignment of Development Rights, Permits and Approvals on August 31, 2015, which was recorded in Official Records Book 10976, Page 8427, Public Records of Orange County, Florida.

The PUD has been platted pursuant to the Estancia at Windermere subdivision plan, recorded in Plat Book 98, Pages 129-134. The PUD zoning permits the development of a maximum of 50 single-family lots, subject to development standards contained in the Development Agreement and a Preliminary Development Plan ("PDP"). Of note, the Development Agreement requires a minimum setback between residential development and the project perimeter of 25 feet, in addition to Type "A" landscape buffers. These buffering mechanisms were added to the Development Agreement as a result of citizen concerns, largely related to the possibility of impacts to the neighboring subdivision, Willows at Lake Rhea. The buffers and setbacks were not intended to protect the property which remains owned by the prior property owner of the PUD.

The Development Agreement may be amended by express instrument executed by both the Owner and Town, with approval of the Town Council at a legally valid meeting. In the event that the Owner owns less than thirty (30) single-family lots and less than fifty percent (50%) of the total acreage of the property, such amendment requires the majority of single-family lots to agree to such amendment in writing. It is important to note that the Owner currently owns thirty-five (35) single-family lots and more than fifty

percent (50%) of the total acreage of the property. As such, individual property owners within the Estancia at Windermere subdivision are not required to agree to the proposed amendment in writing.

To date, the internal roadway network, supportive site infrastructure, and landscape buffers has been constructed/installed. Approximately 15 homes have been constructed with additional building permits pending.

REQUEST

The Owner is requesting approval to reduce the perimeter setback for the dwelling units on Lots 40 and 41 from 25 feet to 10 feet. The lots will comply with all other residential setbacks, including the 10-foot side yard setback. As such, the proposed reduction will not result in the dwelling units being developed closer to the adjacent units than currently allowed.

The proposed amendment would allow development of Lots 40 and 41 with home sizes consistent with the remainder of the development. The Applicant notes the Final Subdivision Plan for Windsong at Windermere was approved by the Town in November 2015 with a 10-foot property boundary setback from the eastern boundary, and the 25-foot setback issue was subsequently discovered at the time of building permit review. The Applicant purchased the subject property in reliance on the development approval memorialized via the Final Subdivision Plans. However, Taylor Morrison acknowledges the proposed Second Amendment to the Developers Agreement is appropriate to address the reduced project boundary setback in question.

Additionally, as of the date of this application Taylor Morrison owns the internal adjacent lots adjacent to the subject parcels (Lots 39 & 42). Therefore, the request will not directly impact a lot currently under separate ownership.

Only one other minor change to the Development Agreement is being requested through this application – a revision to the Notices section, to update the Owner information consistent with the current ownership. The project will continue provide the required buffers as outlined in the approved zoning ordinance and Development Agreement, as amended. From an internal compatibility standpoint, the reduced setback will not negatively impact adjacent homes, as the minimum setbacks from the internal lot lines will be maintained.

JUSTIFICATION:

- The request will not impact the external compatibility of the PUD, as the required Type “A” perimeter buffer zone will be provided in full compliance with the zoning ordinance and Development Agreement;
- The request will not impact internal compatibility with the remaining portion of the PUD, as the lot will maintain all required residential setbacks from internal lot lines. Moreover, the internal adjacent lots are owned by the Owner;
- The request will allow for development of homes on Lots 40 and 41 which are consistent in size and scale to the remainder of the development;
- The request will not increase the density, intensity, or traffic generated by the project; and

- The request will uphold the original intent of the PUD to allow for the development of 50 single-family dwelling units within a master-planned community with available services and infrastructure, while acknowledging historical permission to locate residential structures 10 feet from the eastern property line.

CONCLUSION:

In summary, the proposed amendment will not impact compatibility with the remaining portion of the PUD, and will allow for development of Lots 40 and 41 in accordance with all other requirements of the Development Agreement, as amended. The PUD will remain consistent with the LDC and Comprehensive Plan. Should you require additional information or have any questions, please feel free to contact me directly at (239) 850-8525 or Alexis.Crespo@waldropengineering.com.

Sincerely,

WALDROP ENGINEERING, P.A.



Alexis V. Crespo, AICP

Enclosures

cc: Nick Gluckman, Taylor Morrison of Florida, Inc.
James H. McNeil, Jr., Esq., Akerman LLP
Carolyn R. Haslam, Akerman LLP

This instrument prepared by and
after recording return to:

Thomas J. Wilkes
GrayRobinson, P.A.
301 E. Pines Street, Suite 1400
Orlando, Florida 32801

SECOND AMENDMENT
to the
WINDSONG AT WINDERMERE (N/K/A ESTANCIA AT WINDERMERE)
DEVELOPMENT AGREEMENT

This Second Amendment to the Windsong at Windermere (n/k/a Estancia at Windermere) Development Agreement (the “Second Amendment”) is entered into as of the Effective Date (as defined in paragraph 4 below) by Taylor Morrison of Florida, Inc., a Florida limited liability company (the “Owner”), and the **Town of Windermere**, Florida, a municipal corporation chartered and operating under the laws of the State of Florida (the “Town”).

Whereas, Owner is the owner in fee simple title of property, which is more than thirty (30) single-family lots and more than fifty percent (50%) of the total acreage of the property now known as the Estancia at Windermere subdivision, located within the Town of Windermere;

Whereas, the prior property owners entered into the Windsong at Windermere Development Agreement on January 16, 2015, which was recorded in Official Records Book 10863, Page 418, as amended by the First Amendment to the Windsong at Windermere Development Agreement on March 26, 2015, which was recorded in Official Records Book 10900, Page 8203, both of the Public Records of Orange County, Florida (together, the “Development Agreement”);

Whereas, the Owner was assigned all of the prior property owners’ development rights and permits applicable to the property, including, but not limited to the Development Agreement pursuant to the Assignment of Development Rights, Permits and Approvals on August 31, 2015, which was recorded in Official Records Book 10976, Page 8427, Public Records of Orange County, Florida; and

Whereas, the Owner is the developer of the single-family subdivision now known as the Estancia at Windermere subdivision and desires to modify the Development Agreement in order to allow for a reduction in the property boundary setback for the property boundary adjacent to Lots 40 and 41, in order to allow homes to be developed on these lots consistent in size with the remainder of the Project, as proposed by the Owner and agreed to by the Town for the Project.

Now, therefore, the Town and the Owner agree as follows:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. Unless otherwise defined herein, each term defined in the Development Agreement and used herein shall have its meaning as defined in the Development Agreement.
3. Subsection d (vii) of Paragraph 4 titled “Final Development Plans” is hereby amended to read as follows:

(vii) The residential setbacks shall be as follows:

- Front yard – 25 feet
- Side yard – 10 feet (no maximum)
- Rear yard – 20 feet
- Side yard corner lot – 15 feet (no maximum)
- Property boundary – 25 feet (except for adjacent to Lots 40 and 41, as shown on the Estancia at Windermere subdivision plat (Plat Book 89, Pages 129-134) which may have a 10-foot minimum setback from the eastern property boundary)
- Normal high water – 50 feet

4. Subsection b of Paragraph 9 titled “Notices” is hereby amended to read as follows:

As to Owner: Manohar H. Jain Taylor Morrison of Florida, Inc.
Attn: Nicholas Gluckman, VP of Land Development & Entitlement, Orlando
4800 South Apopka Vineland Road 2600 Lake Lucien Drive, Suite 350
Orlando, Florida 32819 Maitland, Florida 32751

With a copy to: Thomas P. Callan Akerman LLP, Attn: James H. McNeil, Jr., Esq.
921 Bradshaw Terrace 420 S. Orange Avenue, Suite 1200
Orlando, Florida 32806 32801

With a copy to: Chris Tyree, Vice President of Land Development
Taylor Morrison of Florida, Inc.
151 Southhall Lane, Suite 200
Maitland, Florida 32751

5. This Second Amendment is effective as of the date it is approved by the Town Council and signed by the last party, hereto.

6. As modified hereby, the Development Agreement shall remain in full force and effect in accordance with the terms thereof.

IN WITNESS WHEREOF, the Owner and the Town have caused this Second Amendment to be executed by their respective, duly authorized representatives as set forth below.

[Signatures appear on the following pages.]

TOWN OF WINDERMERE, FLORIDA

By: its Town Council

By: _____
Gary Bruhn, Mayor

ATTEST:

By: _____
Dorothy Burkhalter, Town Clerk

STATE OF FLORIDA
COUNTY OF ORANGE

SWORN to and subscribed freely and voluntarily for the purposes therein expressed before me Gary Bruhn, Mayor of the Town of Windermere, Florida, known to me to be the person described in and who executed the foregoing this _____ day of _____, 2019. He is personally known to me or has produced _____ as identification and did/did not take an oath.

WITNESS my hand and officer seal in the County and State last aforesaid this _____ day of _____, 2019.

Notary Public

(NOTARIAL SEAL)

Print Name: _____

My Commission Expires: _____

The Owner:

TAYLOR MORRISON OF FLORIDA, INC.,
a Delaware Corporation

By: _____

Name: Nicholas Gluckman

Title: Vice President of Land Development & Entitlement

Date: _____

STATE OF: _____
COUNTY OF: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Nicholas Gluckman, as VP Land Development & Entitlement of Taylor Morrison of Florida, Inc., a Delaware corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification and did/did not take an oath.

WITNESS my hand and officer seal in the County and State last aforesaid this _____ day of _____, 2019.

Notary Public

(NOTARIAL SEAL)

My Commission Expires:

