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townofnaples.org

MEMO

To: Planning Board
CC: Ben Smith, Kate Matthews, Jen Leeman
Fr: John Hawley
Dt: December 7, 2021
Re: Destinee Woods Condominium Subdivision Plan

Greetings,

At your December 21st meeting, you will be looking at action requested by the Town to nullify an approved condominium subdivision plan and then reinstate the previously approved subdivision plan.

On May 5, 2006, the Planning Board approved a subdivision known as Destinee Woods Subdivision (the "Subdivision") recorded in the Cumberland County Registry of Deeds Book 206, Page 284. The Subdivision was owned as of May 5, 2006, by Linda A. McCauley.

Lot 23 in the Subdivision was conveyed to Daniel Waterhouse by Warranty Deed from Linda A. McCauley dated June 9, 2007, and lot 3 was subsequently acquired by Robert J. Kirkbride by Quitclaim Deed with Covenant from Homesales, Inc., dated January 9, 2011.

On July 10, 2008, the Board approved a plan entitled "Condominium Subdivision Plan, Destinee Woods Condominium Subdivision" recorded in the Registry of Deeds on July 28, 2008, with the conversion of the Subdivision to a Condominium plan, which noted that the Condominium Subdivision Plan superseded the Subdivision Plan.

L.A. McCauley Development, LLC recorded a Declaration of Condominium for Destinee Woods Condominium dated July 16, 2008. However, the Declaration was ineffective in creating a condominium given that L.A. McCauley Development, LLC was not the owner of the Subdivision as of the date of the Declaration.

The Town acquired Lots 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28 in the Subdivision, being the remaining Lots therein, under the foreclosure of Tax Liens.

The Town is, therefore, requesting that the Planning Board nullify and vacate the Condominium Subdivision Plan given that:

- (a) the Subdivision was never converted to a condominium as contemplated in connection with the recording of the Condominium Subdivision Plan due to the ineffectiveness of the Declaration,
- (b) the existence of the Condominium Subdivision Plan creates confusion as to the status of the Subdivision, and
- (c) the existence of the Condominium Subdivision Plan creates a cloud on title to the Lots in the Subdivision.

The Town's attorney and the title company both confirm that the Town needs the Board's action on this request in order to proceed with the sale of the tax acquired properties and for purchasers to secure clear titles.