



October 24, 2022

Nicole DeVaughn (Sr. Planning Assoc, City Ft Myers) stated that the Code Enforcement tech that two (2) HOA II residents spoke with did not have all of the information to respond to the question correctly.

Berkshire, the original developer of the community under Ordinance #3194 (dated 5 April 2004) entered into an agreement with the City to plant deciduous trees providing 1,287,198 sq ft of deciduous canopy (15% of non-preserve land or 187 acres for Berkshire). The developer (Westwood) was allowed to assign the trees as it saw fit, so long as it met the total canopy requirement. Palm trees do not count as canopy trees.

- Perimeter Buffer Yards: 351,900 SF
- Single-Family homes: 584,500 SF (835 homes, minimum of one tree, 700 SF of canopy)
- Multi-Family Homes: 287,200 SF (411 townhomes, minimum of 1 tree, 700 SF of canopy)
- Common Areas: 63,058 SF (Common areas, ROW, Amenities Center, etc)

This canopy requirement is part of the recorded plat for Lindsford and runs with the land in perpetuity (it is binding on all successors and assigns). It was binding on Ronto when Ronto bought the Berkshire development from Westwood (Ordinance #3685, dated 1 April 2013) and it was binding on the Master Association when it succeeded The Ronto Group at Turnover in 2021. These two Ordinances creating what eventually became Lindsford dominate the rules developed by the City or the State, which only apply to residential and commercial lots that were not created by Ordinances.

Fort Myers Code Enforcement will enforce this requirement, although at the moment it is a low priority according to Nicole DeVaughn. From the City's perspective it is up to the Master Association to enforce the total canopy requirement for the Lindsford community (e.g., it has some leeway to place deciduous trees in common areas to meet canopy requirement if it so desires). If the Developer assigned 871,200 SF (68% of total canopy requirement) to residential lots, then the City expects the Master Association to enforce replacing the canopy trees on the residential lots if it cannot replant them on common areas. In other words, individual lots must comply with the canopy tree requirement if that is how Ronto and the Master Association allocated the canopy trees.

Buffer yards were planted as specified by the City, requiring 2" caliper trees on 25-foot centers. There is no room in buffer yards or ROWs to absorb all of the trees that were allocated to residential lots.

The Master Association and/or neighborhood HOA's can specify 2" caliper trees for residential lots if that is their choice to maintain "community-wide standards" - the City only enforces this caliper for buffer yards.

The City does not require a permit to replant trees on residential lots, but they recommend it goes through some kind of ARC process to make sure that we have a record of the replacement and that the resident does not plant an invasive or undesirable tree.

The recent state laws saying that cities can't enforce City regulations requiring individuals to replant trees on their lots require that a licensed arborist certifies the trees present a danger to people and/or property, and the state laws specifically exclude residential lots where trees were planted to satisfy the canopy requirements of an Ordinance that created the residential development (like Lindsford).

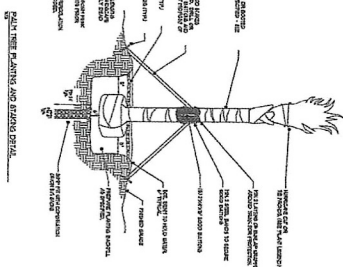
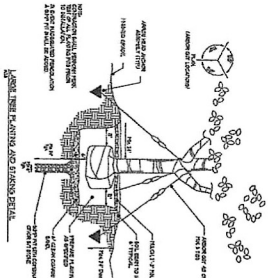
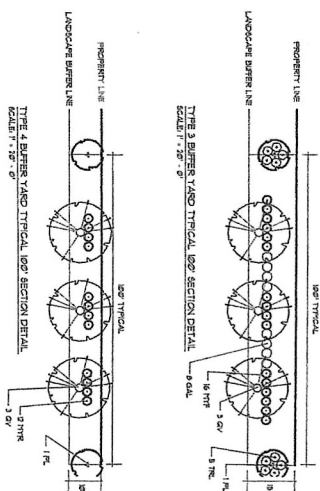
From Nicole's perspective, gated communities such as Lindsford should use a licensed landscape architect to develop/oversee a 10-year tree replacement plan. They do not expect us to immediately replant all of the damaged/killed trees.

Also keep in mind, that the FS 163.045 specifically applies to removal and replanting of trees on residential lots where the homeowner has obtained the opinion of a certified arborist that the tree in question poses an unacceptable risk:

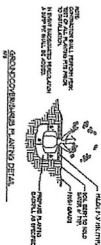
(2) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on a residential property if the property owner possesses documentation from an arborist certified by the ISA or a Florida licensed landscape architect that the tree poses an unacceptable risk to persons or property. A tree poses an unacceptable risk if removal is the only means of practically mitigating its risk below moderate, as determined by the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017).

(3) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.

- It does not appear to apply to trees on residential lots that you want to remove/replace just because you don't like the tree that's there or to trees you want to remove but not replace because you think your lot is "over-planted"
- There is no specific language regarding storm-damaged trees (where you did not get the arborist's statement prior to removing the tree)
- There is an exclusion for mangroves, but there is no specific exclusion for the municipal ordinances including canopy requirements in PUDs, even though it was in the Committee markups.



1. **Clay or Pottery Making**
Clay or pottery making is a traditional craft that has been passed down for generations. It involves shaping and firing clay to create various objects, such as pots, bowls, and figurines. The process is both artistic and technical, requiring skill and patience.
2. **Textile Weaving**
Textile weaving is a craft that involves creating fabric by interlacing threads. It is a traditional skill that has been practiced for centuries. The process is both labor-intensive and creative, allowing for a wide range of patterns and colors.
3. **Woodworking**
Woodworking is a craft that involves shaping wood into various objects, such as furniture, carvings, and tools. It is a traditional skill that has been passed down for generations. The process is both technical and artistic, requiring skill and patience.
4. **Blacksmithing**
Blacksmithing is a craft that involves shaping metal into various objects, such as tools, weapons, and decorative items. It is a traditional skill that has been practiced for centuries. The process is both labor-intensive and technical, requiring skill and patience.
5. **Leatherworking**
Leatherworking is a craft that involves shaping leather into various objects, such as bags, shoes, and belts. It is a traditional skill that has been passed down for generations. The process is both technical and artistic, requiring skill and patience.
6. **Bookbinding**
Bookbinding is a craft that involves creating books by stitching pages together. It is a traditional skill that has been practiced for centuries. The process is both labor-intensive and technical, requiring skill and patience.
7. **Glassblowing**
Glassblowing is a craft that involves creating glass objects, such as vases, bowls, and figurines. It is a traditional skill that has been passed down for generations. The process is both technical and artistic, requiring skill and patience.
8. **Knitting**
Knitting is a craft that involves creating fabric by interlacing threads. It is a traditional skill that has been practiced for centuries. The process is both labor-intensive and creative, allowing for a wide range of patterns and colors.
9. **Embroidery**
Embroidery is a craft that involves creating decorative patterns on fabric by stitching threads. It is a traditional skill that has been practiced for centuries. The process is both labor-intensive and artistic, requiring skill and patience.
10. **Calligraphy**
Calligraphy is a craft that involves creating decorative patterns on paper by writing with a quill or brush. It is a traditional skill that has been practiced for centuries. The process is both labor-intensive and artistic, requiring skill and patience.

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BERKSHIRE

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FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-695

PREPARED FOR



SINGLE FAMILY HOME TREE REQUIREMENT

Berkshire, original developer
Ordinance #3194 dated 5 April 2004
Agreed to plant 1,287,198 deciduous canopy
Phase I & II

584,500 sf deciduous canopy
835 Single Family Homes
Minimum 1 tree, 700 sf of deciduous canopy

DR Horton, developer
Built 503 single family homes
332 less than outlined in ordinance
39.7 % less than agreed to in ordinance
DR Horton planted 2 deciduous trees per SFH
to be in compliance with the above ordinance.

584,500 sf deciduous canopy required
503 Single Family Homes built
503 SFH "x" 700 sf of canopy = 352,100 sf
= 1162 sf deciduous canopy
232,400 sf short of required canopy
232,400 / 503 = 462 sf short per home
Approximately 1.5 trees per SFH

Supplement & First Amendment To The
Declaration of Covenants, Conditions and
Restrictions For Lindsford Neighborhood II –
Dtd 24th – January 2017

#13 – Amends third sentence of Article XI,
Section 5 – Each Owner shall be solely
responsible for all maintenance and
replacement of any landscaping installed on the
Lot by the Owner or the Association to replace
any dead or damaged landscaping, sod, trees,
and shrubs at the Owner's sole expense.

A Tree Out – A Tree In

TALKING POINTS

The original plan was to build 835 single family homes in Phases I & II.

To meet the City of Fort Myers Canopy Ordinance there would have been 700 sf of deciduous canopy (1 tree) planted per home.

Because only 503 SFH were built, the requirement per home increased to 1162 sf of deciduous canopy.

Therefore, any SFH in Phase I & II that does not have 1162 sf of canopy will be required to plant and maintain additional trees to meet the requirement.