



August 9, 2021

VIA E-MAIL ONLY (nstroud@nstroudpa.com and gibbs@estero-fl.gov)

Nancy Stroud, Village Attorney
Village of Estero
c/o Nancy E. Stroud, P.A.
1875 NW Corporate Boulevard, Suite 100
Boca Raton, FL 33431

Mary Gibbs, Director of Community Development
Village of Estero
21500 Three Oaks Parkway
Estero, FL 33928

RE: Party Intervenor Request regarding The Brooks Town Center Applications

Dear Ms. Stroud and Ms. Gibbs :

This is a request that the Village of Estero recognize

- Shadow Wood Community Association, Inc., (an association of unit owners where this community is a portion of The Brooks DRI)
- Copperleaf Golf Club Community Association, Inc. , (an association of unit owners where this community is a portion of The Brooks DRI)
- Spring Run Golf Club Community Association, Inc. , (an association of unit owners where this community is a portion of The Brooks DRI)
- The Harbour Club at Lighthouse Bay, Inc., (an association of unit owners where this community is a portion of The Brooks DRI)
- The Commons Club at the Brooks, Inc., (an entity that owns The Commons Club which serves the residents of The Brooks)
- Mark Staines (a resident of The Brooks DRI)
- Rod Woolsey (a resident of The Brooks DRI)
- Jim Rock (a resident of The Brooks DRI)
- Bob Block (a resident of The Brooks DRI)
- Jim Merritt (a resident of The Brooks DRI)

as Party Intervenors in the following Estero land use cases:

- Appeal of Administrative Action or Interpretation to the Village Council by Appellant, PAC Estero Apartments, LLC, TOP-CR Associates, LLC, Long Bay Partners, LLC dated June 30, 2021 (Developers);
- Vested Rights Determination by PAC Estero Apartments, LLC, TOP-CR Associates, LLC, Long Bay Partners, LLC dated June 30, 2021 (Developers); and

- Final Plan Application or any other application by Developers to substantially alter the approved and existing Town Center commercial uses by elimination of that commercial to Residential Multi-Family development.

Each of the Intervenor suffers a special injury from the proposed development that differs in kind, rather than just degree, from the rest of the Village of Estero residents that do not reside in The Brooks. *See Renard v. Dade County*, 261 So. 2d 832, 837 (Fla. 1972); *see also* § 286.0115(2)(b), Fla. Stat. (2021) (recognizing that party intervenors can exist in quasi-judicial proceedings on local government land use matters). Both the Supreme Court and a recent Second District case have recognized that a potential intervenor’s “interest may be one shared in common with a number of other members of the community *as when an entire neighborhood is affected...*” *Id.*; *Chapman v. Town of Redington Beach*, 282 So. 3d 979, 983–84 (Fla. 2d DCA 2019). In considering the potential party’s interest to support standing, the Supreme Court highlighted three non-exhaustive factors to consider, including the potential intervenor’s proximity to the proposed development, the neighborhood’s character, including whether common restrictive covenants and setbacks exist, and the type of change proposed. *Renard*, 261 So. 2d at 837. Ultimately, the Supreme Court and others have recognized that the special-injury test should have a liberal application. *Id.* at 837–38; *Chapman*, 282 So. 3d at 983–84; *Skaggs-Albertson’s v. ABC Liquors, Inc.*, 363 So. 2d 1082, 1088 (Fla. 1978). As explained below, the Intervenor more than satisfy these factors and a more lenient application of *Renard*’s special-injury test. Therefore, to deny them status as a party intervenor would be itself a procedural due process violation. *Cf. Zelman v. Zelman*, 175 So. 3d 871, 878 (Fla. 4th DCA 2015) (finding, albeit in a different context, that “where a person has both standing and notice, a right to due process is triggered to insure that participation is meaningful”).

The Brooks was approved as a Development of Regional Impact (DRI) pursuant to Chapter 380, Florida Statutes, on August 25, 1997. The Brooks was approved as a Mixed-Use Planned Development (MPD) zoning district on 2,492 acres (later increased to 2,533 acres). The Land Development Code in place at the time of incorporation of the Village of Estero defined an MPD as

“MPD mixed use planned development district. To permit planned developments with a mixture of uses in accordance with subsection 34-612(2) as set forth in this chapter and Objective 4.1 of the Lee Plan in order to reduce the number of vehicular trips on the County’s arterial and collector road network.” [emphasis added] (Section 34-931(h)).

Land Development Code Section 34-612(2) in effect at the time of the incorporation of the Village of Estero provides

- (2) *PD, planned development districts.* The purpose and intent of the various planned development districts is to further implement the goals, objectives and policies of the Lee Plan while providing some degree of flexibility in planning and designing developments by:

...

- c. Encouraging multiple or mixed use development strategies, including the use of several housing types, the provision of several uses in combination such as residential and neighborhood commercial, office and light industry, and other analogous combinations; [emphasis added]
- d. Promoting improved and unifying design techniques that reduce dependence on vehicular movement within the development, encourage the use of joint parking and loading facilities, provide for joint access, and generally maintain adequate service and facilities while avoiding negative impacts on surrounding land use and traffic circulation; [emphasis added]
- e. Encouraging patterns of land use that support more economical provision of infrastructure; [emphasis added]

...

Each Intervenor and the unit owners within those Associations requesting Intervenor status relied upon the approved and ultimately developed Brooks DRI including its Town Center. The original DRI Development Order approved on August 25, 1997 provided for a Town Center on Map H (see Exhibit 1). The Town Center was defined in the original DRI Development Order at Section E.5., Other.:

5. Other ...

a. The Brooks includes a Town Center intended to primarily serve the commercial retail/service and office needs of the community. The Town Center is anticipated to internally capture a portion of the total trips, which will help reduce the project's traffic impacts on the public roadway network. The following conditions apply to the Town Center: [emphasis added]

1) The Town Center may not exceed 100,000 square feet of office/retail/service gross floor area. Retail commercial development at the Town Center will be limited to Minor Commercial (30,000 square feet) until the Coconut Road Extension is open and connected to Three Oaks Parkway, and the Town Center has access to Three Oaks Parkway, and the Coconut Road Extension. The Town Center may not exceed 50,000 square feet of gross floor area of community uses; and ...

During the development of The Brooks, the commercial intensity was increased to serve the residents and the residential unit density was reduced from 5,200 units to 3,600 units and then

increased in 2013 by 200 units to 3,800 units.¹ The Fifth (and final) DRI Amendment to the DRI Development Order was adopted August 19, 2013 and reflects the continued and long-established purpose of the Town Center and reflects the increase in commercial square footage to serve The Brooks residential portion of the community:

5. Other ...

a. The Brooks includes a Town Center intended to primarily serve the commercial retail/service and office needs of the community. The Town Center is anticipated to internally capture a portion of the total trips, which will help reduce the project's traffic impacts on the public roadway network. The following conditions apply to the Town Center:

1) The Town Center may not exceed 120,000 square feet of office/retail/service gross floor area. ~~Retail commercial development at the Town Center will be limited to Minor Commercial (30,000 square feet) until the Coconut Road Extension is open and connected to Three Oaks Parkway, and the Town Center has access to Three Oaks Parkway, and the Coconut Road Extension. When Three Oaks Parkway and Coconut Road are open to public traffic with traffic continuity from Corkscrew Road to Coconut Road and to U.S. 41, this condition will have been met.~~ The Town Center may not exceed 50,000 square feet of gross floor area of community uses; and ...

Residents and owners who live in The Brooks relied on the approved DRI that include this Town Center, relied upon the approved and constructed development resulting in an actual Town Center which directly serves the residents and owners of The Brooks. The proposed redevelopment by Developers substantially changes the character of the Town Center by substantially converting the center to a residential community. The impact will cause residents of The Brooks to travel outside of The Brooks for its commercial and other service needs resulting in an increase in traffic impact contrary to the purpose of the MPD and the DRI Development Order. The reduction of the Town Center commercial square footage and changing to a residential use changes the character of The Brooks community as this Town Center as promised and developed is integral component of the community.

The Brooks was carefully planned and designed (and sold) to include a Town Center with its commercial uses and services, which functions as a town. There are numerous developed residential communities that have no commercial center but the intervenors and the members of the Association intervenors invested in a community with a commercial town center. There is no "town" without the commercial uses and square footage. The Town Center included and later

¹ The 200 units specifically added pursuant to Resolution Z-13-009 (Exhibit 3) was for the parcel whose legal description and legal and sketch were attached to said Resolution. Any unbuilt units approved for that parcel are not available to be relocated without approval of the Council of the Village of Estero.

increased the square footage for commercial services and included square footage for community uses. The location of the Town Center was placed adjacent to significant open space and conservation areas. The Town Center provides a place where the community gathers; the community walks; and the community accesses open space and recreational areas; the community shops and seeks non-residential services. The Town Center, as in any town, is the heart and the center of the community. Each of the Party Intervenors including residents within each Party Intervenor Association uses and receives services and has commercial needs satisfied by the Town Center. A key purpose of the Town Center was so that transportation trips were reduced on other arterial and collector roads in the Village and the County by having a Town Center that provides substantial services for its residents. That purpose is stated in the Land Development Code in the definition of an MPD, and specifically stated in the DRI Development Order. This proposal by Developers would set a precedent for even more of the Town Center to be eliminated and replaced by residential units.

Final plan approval was simply an allocation method to track the number of residential units as developed and the amount of commercial square footage as developed to confirm compliance with maximum caps in the DRI and the zoning. Final plan approval was never a redevelopment process to substantially change and alter the approved and built community including demolition of its commercial center. The commercial Town Center is the heart of the community. Any such proposed change to dramatically demolish a significant portion of the Town Center requires a public hearing.

Village of Estero Land Development Code Section 2-405.A. and Table 2-405.A. clearly require a public hearing for:

- Appeal of Administrative Official; and
- Vested Rights Application; and
- Final Plan.

The proposed Intervenors plan to present testimony and evidence to the Village Council regarding

- Vested Rights Application
- Appeal
- Any application for any substantial redevelopment of the Town Center to convert the Town Center from a commercial and service center of the community to a substantially residential community.

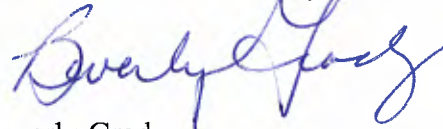
Although the current LDC clearly requires a public hearing for the above three Developers' request, we also incorporate our correspondence of July 22, 2020 to Mary Gibbs (see Exhibit 2) which set forth the basis that a public hearing is required pursuant to the prior Code in effect when the Final Plan Approval was originally filed.

We respectfully submit that each of proposed Party Intervenors are entitled to Party Intervenor status in Developers' applications. There are no vested rights to 154 multi-family units in the Town Center as 110 of those units were requested, reviewed and approved for solely the property that was the subject of the zoning action in Exhibit 3. Exhibit 4 depicts locations of Shadow Wood, Copperleaf, Lighthouse Bay and Spring Run.

We also respectfully request that a copy of this letter and its enclosures be included in the quasi-judicial records for the public hearings on the Appeal of Administrative Official, the Vested Rights Application, and the Final Plan.

Very truly yours,

ROETZEL & ANDRESS, LPA



Beverly Grady

BG/ro

Enclosures:

- Exhibit 1 - Map H
- Exhibit 2 - July 22, 2020 correspondence to Mary Gibbs, Director of Community Development (5-page letter w/enclosures)
- Exhibit 3 - Resolution Z-13-009
- Exhibit 4 - The Brooks Map H depicting locations



SYMBOL	DESCRIPTION	ACRES
R	RESIDENTIAL	1082
TC	COMMUNITY COMMERCIAL	20
FO	TOWN CENTER	25
CO	RECREATION, OPEN SPACE, GOLF, BUTTERS AND LAKES CONSERVATION	673
	MAJOR INTERNAL ROADWAYS	416
	ARTERIAL ROADS	55
	TOTAL AREA	71
	TOTAL RESIDENTIAL UNITS	2,492
	RETAIL/SERVICE GROSS SQUARE FEET	5,200
	COMMUNITY USE GROSS SQUARE FEET	280,000
	HOTEL ROOMS	55,000
		120

• INCLUDES OPEN SPACE AND LAKES

LAND USE SUMMARY

AGRICULTURAL AG-2 ZONING

SECTION CORNER (TYPICAL)

PLANNING & LANDSCAPE ARCHITECTURE DIVISION

WILSON MILLER BARTON & PEER INC.

Engineers, Surveyors, Environmental Consultants, Planners, Landscape Architects, Construction Managers

Project: Brooks of Bonita Springs Master Plan
Date: May 6, 1987
Scale: 1" = 600'

MAP H

MASTER PLAN

THE BROOKS OF BONITA SPRINGS

PREPARED FOR: LONG BAY PARTNERS, L.P.C.

RECEIVED

MAY 07 1987

PROJECT COORDINATOR

Scale: 1" = 600'

2320 First Street, Suite 1000
Fort Myers, FL 33901
Direct Dial 239.338.4207
PHONE 239.337.3850 FAX 239.337.0970
bgrady@ralaw.com

WWW.RALAW.COM

July 22, 2020

VIA E-MAIL ONLY (gibbs@estero-fl.gov)

Mary Gibbs, Director of Community Development
Village of Estero
21500 Three Oaks Parkway
Estero, FL 33928

RE: The Brooks FPA application

Dear Ms. Gibbs:

Please be advised that this firm represents Shadow Wood Community Association, Inc., Copperleaf Golf Club Community Association, Inc., and Spring Run Golf Club Community Association, Inc. ("The Brooks Community") which are located within The Brooks Community Development of Regional Impact (the Brooks DRI). We have reviewed the Application for Final Plan Approval for the Residence at Brooks Town Center which purports that only administrative review and approval is required. We strongly disagree. The applicant needs to file a public hearing application pursuant to Transitional Land Development Code Section 34-377.

The Brooks Community supports the Village Land Use Counsel's memorandum of May 19, 2020, that the public hearing process as set forth in Transitional Land Development Code Section 34-377 is required for any consideration of the PAC Land Development Corporation request for a 154 multi-family unit project (The Residence at Brooks Town Center) and removal of significant commercial square footage that serves The Brooks DRI. We concur with Village counsel's analysis requiring the public hearing process as the Transitional Land Development Code and land use history could not be more clear.

We respectfully submit that the Transitional Land Development Code mandates the public hearing process for consideration of a request to modify the land use approvals to eliminate commercial square footage in the Town Center and implement residential use through the transfer of dwelling units from the 2013 zoning case approving multi-family units. Any such request would specifically impact The Brooks Community. If the Town Center parcel remains entitled to 120,000 SF of commercial and the applicant is adding 154 multi-family unit that is a substantial increase in intensity which requires the public hearing process.

In addition to Section 34-380 and 34-341 (b) 2, the Brooks DRI is a "built planned development". The process to modify a "built planned development" is defined in the Transitional

Land Development Code Section 34-373(c) *Amendments to Built Planned Development (PD)*, which states as follows:

“Built” means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways, and other similar items identified as part of the final approved master concept plan have been constructed and acknowledged by the County (Village) as complete. In the case of residential planned developments or mixed developments that include residential structures, the term “built” does not mean that all residential structures must have been constructed on individual platted lots.”

This section requires that the owner of the subject property (the parcel requesting the change) must provide notice to the owners of the remainder of the original planned development of the application and the proceedings (emphasis supplied). The code then requires the Village to follow the development of county impact (DCI) procedure for variances or other approvals covered by this chapter. The notice and participation of property owners within the built planned development are elevated by Section 34-373(c).

The proposed request is transferring multi-family units approved in 2013 from a specific parcel of land to the Town Center parcel and it is unclear if adding intensity (multi-family + 120,000 SF commercial) or if reducing the approved existing commercial square footage from the Town Center. (Note: the application is unclear as to the commercial square footage being eliminated – as the Request Statement cites 36,000 SF and the square footage allocated to the two unbuilt outparcels while applicant’s representative’s website cites 38,075 SF as the eliminated square footage.)

In 2012, Oakbrook Properties, Inc. filed an application to redesignate a parcel within The Brooks from RO to R (Residential) and requested 200 new multi-family units for that parcel - a 200 unit increase for a total of 2,200 multi-family units in The Brooks.

The subject property in zoning case DCI2012-00030 was an irregular 38 +/- acre parcel at the eastern end of Coconut Road which allocated 200 new units to that parcel. Based upon a hearing held May 15, 2013, the Hearing Examiner issued a recommendation of approval and described the request on page 5 as follows:

“The Request is to allow the development of 200 multi-family units on an approximately 38 acre parcel in The Brooks that was originally slated for either an interchange with I-75 or a roadway to a bridge over I-75. The subject property is an irregularly shaped parcel (commonly known as the “funnel tract” or the “martini glass tract” due to its shape) at the eastern-most end of Coconut Road. ”

The staff report stated at page 9 “The re-designation would allow the entire 38 acre parcel to be developed as residential. All of the proposed new 200 dwelling units would be built within this 38 acre parcel.” (emphasis supplied) The application, the analysis and the approval was limited to the impact of 200 multi-family units on the funnel tract. A transfer of a portion of those units to the Town Center requires a public hearing process.

The Hearing Examiner found

“Accordingly, the proposed multi-family use is appropriate at the subject location and the Request will be compatible with the existing and planned uses in the surrounding area.” (emphasis supplied)

See pages 7 and 8 of Hearing Examiner Recommendation attached.

Members of the public supported this application which was for a residential development for the requested multi-family units on the funnel tract - the last undeveloped parcel in The Brooks. This zoning case limited the allocation of the 200 units to the funnel tract.

In DCI2012-00030, Neale Montgomery explained to the Hearing Examiner why the applicant was requesting 200 additional units

“(a)dding units is necessary in order to actually develop the property. In Chip’s (Community Development Reviewer) staff report he indicated that there’s 48 units left, but, you know, when most of the property in here was sold it was sold with an allocation of units so as not to get into any kind of legal entanglement with anybody else even if we don’t think those can be developed anywhere. This is just the new 200 units that will go onto the subject property.” (emphasis supplied) See pages 97-98

In 2014, an Administrative Final Zoning Plan Approval was approved for “Pebble Pointe” by Taylor Morrison for 90 dwelling units on the “Request parcel” of DCI2012-00030. With approval of the final parcel, the Brooks is a built planned development as defined by the Transitional Land Development Code.

The remaining unbuilt 110 units are allocated to this “funnel tract” and a request to consider removal and transfer of any units to another property requires a public hearing process and meeting the criteria of Transitional Code Section 34- 145.

This FPA application is a dramatic change to an as-built community which requires review through the public hearing process in accordance Transitional land Development Code Section 34- 377 (c) pursuant to a development of county impact process.

Therefore, consideration of a request to substantially reduce the commercial uses in the Town Center and to remove multi-family units allocated to the funnel tract by Resolution Z-13-009 at a quasi-judicial public hearing and transfer to the Town Center parcel is a major change and requires the quasi-judicial hearing process to amend The Brooks a built mixed-use planned development pursuant to Section 34-373(c). Reduction of commercial square footage in the Town Center (whether temporary or permanent) and addition of multi-family units by a transfer is a significant amendment to the approved and built zoning plan for the Town Center which requires the quasi-judicial public hearing process.

The Town Center is described within the DRI Development Order in Section E5 as

“The Brooks includes a Town Center intended to primarily serve the commercial retail/service and office needs of the community. The town center is anticipated to internally capture a portion of the total trips which will help reduce the project’s traffic impact on the public roadway network.” (emphasis supplied)

The DRI included conditions that the Town Center may not exceed 120,000 square feet of office, retail/service gross floor area. The pertinent section of the DRI Development order describing the Town Center in DRI 2012 -00019 attached to the 2013 staff report is enclosed. In the land use history of the DRI and zoning there were no changes proposed nor analyzed to place any of new 200 units of residential use in the established and built commercial Town Center. In fact the original approval limited the Town Center to 100,000 SF. When the DRI and zoning were previously amended to substantially reduce the number of dwelling units in the Brooks, the commercial square footage was increased in the Town Center.

Substantially reducing the commercial services to the entire community has impacts to include but not limited to causing residents to travel the outside of The Brooks for its commercial needs. There is nothing in the Transitional Land Development Code that authorizes the Community Development Director to administratively approve substantive changes that have impacts external to the DRI. There is no Final Plan Approval process in the Transitional Land Development Code. There is a process for changes to a “built planned development”. It requires meeting the procedure in Transitional Land Development Code Section 34-377 - the quasi-judicial public hearing process.

The FPA application should be rejected and the applicant should be advised that a public hearing application is required which must include a request to transfer units accompanied by its basis for its lawful claim to any unbuilt multi-family units.

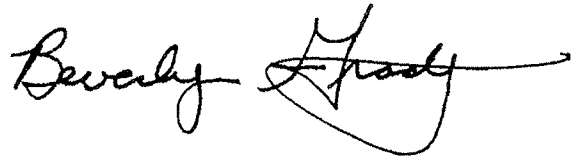
We respectfully submit that the Director of Community Development does not have the authority to approve the changes proposed in the FPA application

Mary Gibbs, Director of Community Development
Village of Estero
July 22, 2020
Page 5

Pursuant to Section 34-373(c), the owners of property within the Brooks have the right to receive notice and the right of participation as they are substantially affected by this request. This is a community that desires to participate in proposed community changes to its character and design. There are numerous substantive issues raised by this request and the applicant is attempting to circumvent addressing those issues by pursuing administrative approval. The community has a right to participate through the quasi-judicial process as set forth in Transitional Land Development Code Section 34-373(c) and we hereby request recognition by the Village of our party status in this proceeding. The Village needs to protect its citizens by requiring these substantive changes proceed through the established public hearing process.

Very truly yours,

ROETZEL & ANDRESS, LPA

A handwritten signature in black ink, appearing to read "Beverly Grady", with a long, sweeping horizontal line extending to the right.

Beverly Grady

BG/ro

Enclosures:

- DCI2012-00030 Hearing Examiner's recommendation - See pages 2, 5, 7-8, 15-17
- Staff report-See pages 2, 3, 5, 9, 12-13, Attachment A, MCP-changes highlighted, Exhibit A-legal
- Excerpts of transcript of Hearing Examiner hearing - DCI2012-00030 - pages 97-98
- Excerpt of DRI 5th Development Order Section E5, pages 1, 24-25

cc: Nancy Stroud, Village Land Use Counsel (via e-mail only: nstroud@nstroudpa.com)

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA
HEARING EXAMINER RECOMMENDATION

REZONING: DRI2012-00019 & DCI2012-00039
APPLICANT: OAKBROOK PROPERTIES, INC., in reference to THE BROOKS
HEARING DATE: MAY 15, 2013

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for a Notice of Proposed Change to a Development of Regional Impact (DRI), and an Amendment to a Mixed Use Planned Development (MPD) pursuant to the Lee County Land Development Code (LDC).

Filed by OAKBROOK PROPERTIES, INC., c/o NED DEWHIRST, SENIOR VICE-PRESIDENT, 24880 Burnt Pine Drive #8, Bonita Springs, Florida (Applicant); and PAVESE LAW FIRM, c/o NEALE MONTGOMERY, ESQUIRE., 1833 Hendry Street, Fort Myers, Florida 33901 (Agent).

Request is for:

A. DRI2012-00019: Notice of Proposed Change (NOPC) seeking:

1. an increase in residential MF units (from 2,000 to 2,200 MF units) resulting in a total of 3,800 SF/MF units;
2. removal of DRI DO conditions regarding dedication of ROW from Three Oaks Parkway to The Brooks eastern property line for the extension of Coconut Road and overpass over I-75;
3. extension of the DRI Buildout and Termination Dates;
4. revisions to the DRI Map H to i) eliminate the RO designation (Recreation, Open Space, Golf, Buffers and Lakes) at the end of the existing Coconut Road east of Three Oaks Parkway and replace it with a R designation (Residential); ii) update Land Use Summary table per requests; and iii) update surrounding land use labeling, all for the parcel described as the Funnel Parcel.

B. DCI2012-00039: Amend existing MPD zoning to:

1. increase in residential MF units (from 2,000 to 2,200 MF units) resulting in a total of 3,800 SF/MF units;
2. revisions to the zoning Master Concept Plan (MCP) to i) eliminate the RO designation (Recreation, Open Space, Golf, Buffers and Lakes) at the end of the existing Coconut Road east of Three Oaks Parkway and replace it with a R designation (Residential); ii) eliminate MF (Mid-rise) from schedule of uses; iii) update Land Use Summary and Open Space Tables per requests; and iv) update surrounding land use labeling, all for the parcel described as the Funnel Parcel.

The subject property is located East of Three Oaks Parkway/Coconut Road Extension, Estero Planning Community, Section 11, Township 47 South, Range 25 East, Lee County, FL. (District #3)

II. STAFF REPORT AND RECOMMENDATION:

The Department of Community Development Staff Report was prepared by Alvin Block, AICP, Principal Planner. The Staff Report, dated April 19, 2013, and supplement, dated May 9, 2013, are incorporated herein by this reference.

III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners **APPROVE** the Applicant's request for Notice of Proposed Change to DRI2012-00019, finding that the proposed amendments do not constitute a substantial deviation to the approved DRI Development Order, so as to warrant further DRI review, and **APPROVE** the Applicant's request to amend the existing MPD zoning for DCI2012-00039, for the real estate described in Section IX. Legal Description, WITH THE FOLLOWING CONDITIONS AND DEVIATIONS.

A. CONDITIONS:

DRI2012-00019:

Subject to the provisions of the revised DRI Development Order.

DCI2012-00039:

1. Development of the subject property, along with all property within The Brooks, must be consistent with the original zoning approval adopted in Zoning Resolution Z-97-037, as subsequently amended by Zoning Resolutions Z-99-076 and Z-02-006. All Administrative Approvals granted after the adoption of Zoning Resolution Z-97-037, as amended, also remain in full force and effect, except the use of multi-family mid-rise is not a permitted use and this use is removed from the approved schedule of uses and property development regulations on the Master Concept Plan.

2. Development of the subject property (an irregularly shaped 38± acre parcel at the eastern end of Coconut Road) within the existing MPD is also subject to the following:

a. Master Concept Plan

The development of the subject 38± acre tract must be consistent with the one-page Master Concept Plan entitled "The Brooks of Bonita Springs MPD, Master Concept Plan," stamped received FEB 08, 2013, last revised 1/25/2013 (Exhibit B), except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of Local Development Order approval, except as may be granted by deviation as part of this

planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

Uses and Site Development Regulations

All uses and property development regulations may be found in Zoning Resolution Z-97-037, as subsequently amended by Zoning Resolutions Z-99-076 and Z-02-006.

b. Solid Waste Management

As part of any Local Development Order approval for vertical development on the subject property, the Development Order plans must include facilities in compliance with LDC Section 10-261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of Local Development Order application.

c. Agricultural Uses

Agricultural Uses: Existing bona fide agricultural uses on this site are allowed:

(a) Bona fide agricultural uses consisting of the raising and cultivation of hay for livestock, that was in existence on the subject 38± acre tract when the application for this project was filed, may continue in the areas depicted on Exhibit C until a Local Development Order is approved for the area containing the agricultural uses.

(b) Clearing or injury of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide agricultural use that include existing grass pasture(s) may be mowed, but those areas may not be cleared or expanded. Violations of this condition will require restoration in accordance with LDC Section 10-423. This prohibition of clearing or expansion of agricultural use is not intended to preclude County approved requests for removal of invasive exotic vegetation.

(c) Prior to issuance of a Local Development Order for the portion that contains the agricultural use, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:

(1) Termination of all agricultural use on the property included in the Local Development Order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the property that specifically provides:

- a) the date the agricultural uses ceased;
- b) the legal description of the property subject to the Local Development Order approval;

c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the County that they will not allow agricultural uses on the property until the property is re-zoned to permit agricultural uses; and

d) that the affidavit constitutes a covenant between the owner and the County that is binding on the owner, their assignees and successors in interest.

The affidavit must be properly recorded in the public records of the County at the owner's expense.

(2) Proof of termination of the agricultural tax exemption for the portion of the property included in the Local Development Order application/approval. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

A. DEVIATIONS:

All deviations granted as part of the original and subsequent amending Zoning Resolutions and all deviations granted as part of all administrative actions referred to in Condition 1 above remain in full force and effect.

As part of this application, the Applicant seeks to add the following deviation:

A deviation seeking relief from Lee County Land Development Code (LDC) Section 10-291(3) for Required Street Access, which requires that residential development of more than five acres must provide more than one means of ingress or egress for the development, to allow only one means of access to the development.

Justification - The subject property is bounded by I-75 and two developed subdivisions, both of which have no roadway connections to the subject property and are separated from the property by significant berms with landscaping and a wall. These preclude the subject property from being able to access into these communities. The only potential access to the property is from the eastern termination of Coconut Road.

The Hearing Examiner recommends **APPROVAL** of the requested Deviation.¹

¹ No conditions were proposed for this deviation by the Staff. The Staff Report and testimony indicated, however, that the Applicant committed to meet the following plan of action and that the automatic fire sprinklers/system will be a requirement of the Fire District:

A. The Developer is required to construct the extension of Coconut Road east of the entrance to Lighthouse Bay to the proposed entry into the subject property, continuing the same existing road cross-section (2 lanes/divided median/16' (foot) lane and bikeway pavement/closed drainage/sidewalk).

B. All principal buildings within the subject property must be equipped with automatic fire sprinklers/system.

C. A notice articulating this plan will be recorded in the Lee County public records prior to issuance of a local development order allowing construction of the access to the development. A copy of this notice must be submitted as part of the local development order application seeking construction of the access to this development.

IV. HEARING EXAMINER DISCUSSION:

The Request is to allow the development of 200 multi-family units on an approximately 38 acre parcel in The Brooks that was originally slated for either an interchange with I-75 or a roadway to a bridge over I-75. The subject property is an irregularly shaped parcel (commonly known as the "funnel tract" or the "martini glass tract" due to its shape) at the eastern-most end of Coconut Road. It is included in The Brook's DRI and MPD zoning and is currently being used for hay making.

Issues

There are no outstanding issues; the few minor corrections and clarifications were addressed at the hearing. The most complex aspect of the Request – how the Request fits under the Lee Plan – was sufficiently addressed in the hearing, as discussed below.

Staff Recommendation

Staff recommended approval of the Request, with conditions. Staff found that the requested amendment to the DRI was not a substantial deviation and found that the amendment to the MPD, with the conditions and deviations proposed, is consistent with and meets all of the applicable review criteria.

Public Input

Nine members of the public spoke at the hearing. All indicated they were in support of the Request. One speaker provided the history of the transportation plans for an interchange, which was converted to a road connecting to a flyover, across the subject property and the information that neither are currently on the County's long-range transportation plan. Others addressed the support of the Request from various committees and organizations of Estero and The Brooks, indicating that the groups were glad to see this last parcel of The Brooks approved for residential development. One neighbor, although in support, asked for confirmation that the density and type of development would be consistent with Lighthouse Bay, to the south, which the Applicant's representative confirmed, and was concerned about potential drainage impacts, which the Applicant's representative also addressed.

DRI Notice of Proposed Change

The requested amendment to the existing DRI approval for The Brooks has four parts. The first is the request to add 200 multi-family units to the currently allowed 2,000 multi-family units, bringing the total number of approved dwelling units from 3,600 to 3,800. The DRI was approved in 1997 for 5,200 dwelling units. In 2002, the DRI Development Order was amended to reduce the number to 3,600 dwelling units (at least partially in exchange for an increase in the amount of allowed commercial square footage) and this smaller number became the controlling approved number of dwelling units under the DRI. Accordingly, the request to increase the dwellings triggers a review to confirm the request is not a "substantial deviation" under Section 380.06(19), Florida Statutes, meaning it would not require additional review of regional impacts.

In making the determination of whether the Request is a substantial deviation to the approved DRI, there are three potentially applicable thresholds. If any one of the thresholds are exceeded, the result is an automatic determination that the request is a substantial deviation. If the thresholds are not exceeded, however, and other requirements are met, the Request would not be a substantial deviation. In this case, the Request is considerably below those three thresholds² and the other applicable requirements are met. Accordingly, the addition of the 200 dwelling units does not constitute a substantial deviation to the approved DRI.

The second requested change is to clean-up the DRI Development Order conditions that addressed the dedication of the right-of-way for the extension of Coconut Road, from the current eastern end of the road, east to I-75. These dedications were part of the DRI developer's proportionate share obligation to mitigate the DRI's transportation impacts. The justification for the removal of these obligations was that, through the Development Agreement addressed under Development Order, the actual proportionate share for the development has been provided and those requirements have already been satisfied. Accordingly, as the right-of-way for the road extension and the flyover property are not necessary to meet the proportionate share, they should be removed from the Development Order.

The third change is to extend the DRI build-out and termination dates. The original DRI build-out date was December 31, 2007. In 2007, the date was extended to December 31, 2010. By extensions authorized by the Florida Statutes (one of which was reflected in Lee County Resolution 11-11-30), the build-out date was extended to March 2, 2017. The subject Request is to extend this date out to December 31, 2017. As this extension is considerably less than a five year extension, which is considered, under Section 380.06(19), Florida Statutes, to not constitute a substantial deviation, there is no required regional review of the requested extension.

The final DRI change is to amend the DRI Map H to eliminate the RO designation on the road extension right-of-way area and replace it with a Residential designation; update the Land Use Summary table to remove mid-rise multi-family as a development option and reflect the other changes; and update surrounding land use labeling. The Map H changes are not regionally impacting as they involve lessening of the potential intensity of the development types (by eliminating the potential for the taller mid-rise multi-family), reconfiguration changes that are necessary to reflect the increased number of units, and updated labeling.

MPD Amendment

The amendment to the MPD zoning involves adding the allowance of the 200 multi-family units and making changes to the Master Concept Plan (MCP) to reflect the

² The requested 200 additional units constitute a 5.5% increase in dwelling units rather than the threshold 10%; the amount of required open space will not be reduced because the total amount of open space actually provided in The Brooks significantly exceeds what is required by the DRI, making the loss of 4 acres of designated open space irrelevant; and the number of external vehicle trips will not exceed the threshold from the original DRI impact review.

resultant changes.³ The largest concern about this MPD amendment was whether the additional units could be found consistent with the Lee Plan.

Compliance with the Lee Plan

The Brooks is located in the Rural Future Land Use category with, apparently, the only Planned Development District Option (PDDO) ever approved. The PDDO was a "floating" performance standard-based district, allowed under the Lee Plan in 1997, that allowed urban densities in the Rural Future Land Use category for projects that demonstrated they would not be impacting and would be self-sufficient.

The testimony provided was that, in the placement of the PDDO, there were significant commitments by the Applicant and that those commitments were met by substantial up-front expenditures by the Applicant. It was stressed that these commitments and expenditures were based on the originally approved higher number of dwelling units (5,200), rather than the currently approved 3,600. Even though the PDDO process was removed from the Lee Plan, the PDDO approved for The Brooks is still in place, valid, and controls the allowed density and intensity of The Brooks development. The testimony was that the requested 200 additional dwelling units, even when added to the increased amount of commercial development approved in 2002, will not exceed the density/intensity of development approved under the PDDO. Consequently, the requested addition of 200 dwelling units is consistent with the applicable Future Land Use category (Rural with a PDDO overlay).

There were no other issues raised about the compliance of the Request with the Lee Plan. Therefore, the undersigned Hearing Examiner finds that, for the reasons indicated in the Staff Report, the Applicant has adequately demonstrated that the Request, as conditioned, is in compliance with the Lee Plan and is consistent with the applicable goals, objectives, policies, intent, intensities, and general uses addressed by the Lee Plan.

Compliance with the LDC

The evidence provided demonstrates the Request is in compliance with the LDC, with the exception of Section 10-291(3). The Request includes a proposed deviation to this section, which the Staff and the Hearing Examiner recommend be approved. With the approval of the recommended deviation, the Applicant has proven entitlement to the rezoning by demonstrating compliance with the LDC.

Compatibility

The Request is for the same type and density of uses currently approved and built in The Brooks. The Request also improves the compatibility potential by eliminating the option of the taller "mid-rise" type of multi-family currently allowed. Accordingly, the

³ The revisions to the zoning MCP are to 1) eliminate the RO (Recreation/Open Space) designation at the end of the existing Coconut Road east of Three Oaks Parkway and replace it with a R (Residential) designation; 2) eliminate MF (Mid-rise) from schedule of uses; 3) update the Land Use Summary and Open Space Tables and MCP notes to reflect the requests; and 4) update the surrounding land use labeling.

proposed multi-family use is appropriate at the subject location and the Request will be compatible with the existing and planned uses in the surrounding area.

Public Facilities and Infrastructure

The testimony provided demonstrated that, although The Brooks is in a Rural Future Land Use category, urban services are available and adequate to serve the Request. The testimony also indicated that neither the proposed interchange nor the road flyover were included in the original transportation calculations, so the removal of both options would not change the transportation evaluation for the MPD. Additionally, the testimony provided demonstrated that the trips projected to be generated by the Request were already addressed in the original zoning approval and, even absent that, the Request will not unduly burden the existing transportation system or planned infrastructure facilities, will be served by streets with the capacity to carry traffic generated by the Request, and the level of traffic flow is sufficient to support the proposed Request. The recommended deviation addresses the adequacy of the level of access.

Environmentally Sensitive Areas

The testimony confirms that the subject property does not include any environmentally critical areas or natural resources and that, as long as the existing conditions on The Brooks remain in place, the Request will not negatively impact surrounding environmentally sensitive areas.

Recommended Conditions

With one exception, the proposed conditions are specific to the Request and are in addition to the existing conditions; all of the existing conditions restricting The Brooks will remain in place. The proposed conditions largely address the continued use of the property for hay production until ready for development, which applies only to the subject property. The change to remove mid-rise multi-family as a use, however, affects the entire MPD. The testimony confirms that the recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

A. For the DRI Amendment

1. The requested amendment to the existing DRI approval for The Brooks to add 200 multi-family units to the currently allowed 2,000 multi-family units, bringing the total number of approved dwelling units from 3,600 to 3,800, is not a "substantial deviation" under Section 380.06(19), Florida Statutes because the Request is

considerably below any applicable statutory substantial deviation thresholds and all other applicable statutory requirements for such a determination are met.

2. The changes to the DRI Development Order to remove the requirements to dedicate the right-of-way for the extension of Coconut Road and to provide an approach for a flyover bridge are consistent with the requirements of the DRI, and do not trigger additional review, because the actual proportionate share for the development has been provided and those requirements have already been satisfied.

3. The amendments to the DRI Map H are not regionally impacting or significant enough to require additional DRI review.

4. The amendments to the DRI Development Order to extend the DRI build-out and termination dates do not require additional regional review because the extensions are less than the five year extension considered under Section 380.06(19), Florida Statutes, to not constitute a substantial deviation.

B. For the MPD Amendment:

1. The Applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan and that the Request is consistent with the densities, intensities and general uses set forth in the Lee Plan by demonstrating that the Planned Development District Option (PDDO) approved with the original rezoning is still in place, valid, and controlling of the allowed density and intensity of The Brooks development and allows the requested additional 200 dwelling units.

2. With the approval of the recommended deviation, the Applicant has proven entitlement to the rezoning by demonstrating compliance with the Land Development Code and any other applicable code or regulation.

3. The Applicant has demonstrated that the Request is compatible with existing or planned uses in the surrounding area and the proposed use is appropriate at the subject location in that the Request is for the same type and density of uses currently approved and built in The Brooks and the Request improves the compatibility potential by eliminating the option of the taller "mid-rise" type of multi-family currently allowed.

4. Approval of the Request will not place an undue burden upon existing transportation or planned infrastructure facilities, will be served by streets with the capacity to carry traffic generated by the Request, and the level of access and traffic flow is sufficient to support the proposed Request.

5. Although The Brooks is in a Rural Future Land Use category, rather than an urban category, urban services, as defined in the Lee Plan, are available and adequate to serve the Request.

6. The subject property does not include any environmentally critical areas or natural resources and, as long as the existing conditions on The Brooks remain in place, the Request will not negatively impact surrounding environmentally sensitive areas.

7. The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest created by or expected from the Request.

VI. LIST OF EXHIBITS:

STAFF'S EXHIBITS

1. A 2012 aerial photograph depicting the subject property and surrounding area, prepared by Lee County DCD, mapped October 2012 (1 page 24"x36")[color]
2. A Master Concept Plan prepared by Hole Montes, sheet 1 of 1, dated 09/11, stamped RECEIVED FEB 08 2013 COMMUNITY DEVELOPMENT (1 page – 24"x36")

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

APPLICANT'S EXHIBITS

1. An aerial photograph depicting "The Funnel Parcel & The Brooks," and surrounding area, prepared by Hole Montes, Sheet No. 1 of 3 (1 page 11"x17")[color]
2. An aerial photograph depicting "The Funnel Parcel," prepared by Hole Montes, Sheet No. 2 of 3 (1 page 11"x17")[color]
3. Site photographs, prepared by Hole Montes, Sheet No. 3 of 3 (1 page – 11"x17")[color]
- 4(a). Existing Master Concept Plan, prepared by Wilson Miller, PRINTED JUN 21 2001 by Wilson Miller, stamped RECEIVED JUN 21 2001 PERMIT COUNTER, last revised 6/15/01, Sheet No. 1 of 4 (1 page – 24"x36")
- 4(b). Proposed Master Concept Plan, prepared by Hole Montes, last revised 1/25/2013, Sheet No. 1 of 1 (1 page – 24"x36")
5. Proposed Master Concept Plan – Map H, prepared by Hole Montes, last revised 09/27/12, Sheet No. 1 of 1 (1 page – 24"x36")
6. The Brooks Fiscal Monitoring Property Valuation (multiple pages – 8.5"x11")
- 7(a). The Estero Council of Community Leaders Resolution of Support for Oakbrook Properties, Proposed Development of the Martini Glass Parcel of Land Located within the Brooks DRI, signed by Donald Eslick, the President of Estero Council of Community Leaders, on the 9th day of March, 2012 (1 page – 8.5"x11")

7(b). The Estero Community Planning Panel Minutes of Public Meeting #135 – January 23, 2012, Estero Community Park, Estero, Florida (2 pages – 8.5"x11")

8. The Urban Area Map of Lee County prepared by the Florida Department of Transportation (FDOT), February 2009 (1 page – 8.5"x11")[color]

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

OTHER EXHIBITS

DOUGLAS

1. Resolution of Support for Oakbrook Properties' Proposed Development of the Martini Glass Parcel of Land within the Brooks DRI, signed by the President of the Harbout Club Board of Director for Lighthouse Bay, on the 2nd day of March, 2012 (1 page – 8.5"x11")

VII. PRESENTATION SUMMARY:

See Official Court Reporting Transcript

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Ted Treesh, c/o TR Transportation Consultants, 2726 Oak Ridge Court, Fort Myers, Florida 33901
2. Tom McLean, c/o Hole Montes, 6200 Whiskey Creek Drive, Fort Myers, Florida 33919

ADDITIONAL COUNTY STAFF:

NONE

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VII.):

For:

1. Nicholas Batos, 9165 Hollow Pine Drive, Estero, Florida 34135
2. Phil Douglas, 10304 Cape Roman Road, Bonita Springs, Florida 34135-1712
3. Marilyn Edwards, 9240 Spring Run Boulevard, Bonita Springs, Florida 34135

4. Donald Eslick, 1001 Arbor Lake Drive, #202, Naples, Florida 34110
5. John Goodrich, 20877 Pinehurst Greens Drive, Estero, Florida 33928
6. Jack Lienesch, 23640 Peppermill Court, Bonita Springs, Florida 34134
7. Jack Meeker, 23701 Copperleaf Boulevard, Bonita Springs, Florida 34135
8. Jim Merritt, 23203 Foxberry Lane, Bonita Springs, Florida 34135
9. Roger Strelow, 24151 Copperleaf Boulevard, Bonita Springs, Florida 34135

Against: NONE

General: NONE

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER RECOMMENDATION:

For: NONE

Against: NONE

General: NONE

IX. LEGAL DESCRIPTION:

See Exhibit A (scanned legal description).

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communication (Hearing Examiner) means communication in any form, whether written, verbal, or graphic, with the Hearing Examiner or the Hearing Examiner's staff, by any person outside of a public hearing and not on the record, concerning substantive issues in any proposed, anticipated, or pending matter relating to appeals, variances, special permits, rezonings, special exceptions or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for discussion or recommendation, except as permitted in the County Administrative Code. Communications regarding procedural aspects of a proceeding are not deemed unauthorized.....[LDC Section 2-191(a)]

No person may communicate with a Hearing Examiner or the Hearing Examiner's staff regarding the substance (non-procedural aspects) of a pending rezoning action or appeal to be considered by the Hearing Examiner under Sections 2-420 through 2-429, or 34-145.....[LDC Section 2-191(b)(2)]

Penalties. Any person who intentionally makes or attempts to initiate an unauthorized communication to or with a Hearing Examiner, a member of the Hearing Examiner's staff, a County Commissioner or an Assistant to a County Commissioner, or any Hearing Examiner or County Commissioner who fails to publicly disclose and report an unauthorized communication or an attempt to initiate an unauthorized communication, may be subject to the following penalties: [LDC Section 2-291(c)]

Revocation, suspension or amendment of any permit, variance, special exception or rezoning granted as a result of the Hearing Examiner action that is the subject of the unauthorized communication.....[LDC Section 2-191(c)(2)] or

A fine not exceeding \$500.00 per offense, by imprisonment in the County jail for a term not exceeding 60 days, or by both such fine and imprisonment.....[LDC Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This Recommendation is made this 29th day of May, 2013. Notice or copies will be forwarded to the offices of the Lee County Board of County Commissioners.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

C. The Board of County Commissioners will hold a hearing at which they will consider the record made before the Hearing Examiner. The Department of Community Development will send written notice to all hearing participants of the date this hearing before the Board of County Commissioners. Only participants, or their representatives, will be allowed to address the Board. The content of all statements by persons addressing the Board shall be strictly limited to the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the earlier hearing before the Hearing Examiner and not otherwise disclosed in the record.

D. The original file containing the original documents used in the hearing before the Hearing Examiner will be brought by the Staff to the hearing before the Board of County Commissioners. Any or all of the documents in the file are available on request at any time to any County Commissioner.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.



LAURA B. BELFLOWER
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 239/533-8100
Facsimile: 239/485-8406

ATTACH MAP A
ATTACH SITE PLAN (if approved)

3/14/2013



DRI 2012-00019



RECEIVED
SEP 28 2012

950 Encore Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2099

COMMUNITY DEVELOPMENT

HM PROJECT #2011062
9/27/2012
REF. DWG. #B-6792
Page 1 of 1

LEGAL DESCRIPTION:

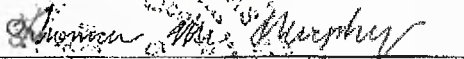
A PORTION OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25
EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°52'50" W., ALONG THE NORTH LINE OF SAID
SECTION 11, FOR A DISTANCE OF 520.13 FEET TO A POINT ON THE WESTERLY RIGHT- OF-WAY
LINE OF INTERSTATE HIGHWAY 75, A 410 FOOT WIDE RIGHT-OF-WAY; THENCE RUN S.01°33'57" E.,
ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,238.06 FEET TO THE POINT OF
BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE S.01°33'57" E.,
ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,748.29 FEET; THENCE CONTINUE
S.01°33'57" E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,851.71 FEET; THENCE
RUN N.7°35'29" W. FOR A DISTANCE OF 905.00 FEET; THENCE RUN N.34°02'13" W. FOR A DISTANCE
OF 1,303.84 FEET; THENCE RUN N. 84°26'27" W. FOR A DISTANCE OF 1,007.78 FEET; THENCE RUN
N.01°33'57" W. FOR A DISTANCE OF 150.00 FEET; THENCE RUN N.81°18'33" E. FOR A DISTANCE OF
1,007.78 FEET; THENCE RUN N.30°54'19" E. FOR A DISTANCE OF 1,303.84 FEET; THENCE RUN
N.04°27'35" E. FOR A DISTANCE OF 905.00 FEET TO THE POINT OF BEGINNING, CONTAINING
38.051 ACRES, MORE OR LESS.

BEARINGS REFER TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 47
SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.89°52'20" W.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

BY


THOMAS M. MURPHY

P.S.M. #5628
STATE OF FLORIDA

10.12.12
APPROVED
LEGAL


EXHIBIT A

P.O.C.
NORTHEAST CORNER
SEC. 11-47-25

1/4 COR.
BASIS OF BEARINGS
S 89°52'50" W

N LINE N.E. 1/4
SEC. 11-47-25

W. R/W 1-75

P.O.B.

GRAPHIC SCALE



(IN FEET)
1 inch = 1000 ft.

LINE	DIRECTION	DISTANCE
L1	N 07°35'29" W	905.00'
L2	N 01°33'57" W	150.00'
L3	N 04°27'35" E	905.00'
L4	S 89°52'50" W	520.13'

DR 2012-00019
RECEIVED

SEP 28 2012

COMMUNITY DEVELOPMENT

10.12.12

APPROVED

LEGAL

THM

HOLE MONTE, INC.
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY *Thomas M. Murphy*
THOMAS M. MURPHY
P.S.M. #5628
STATE OF FLORIDA

* NOT A SURVEY *

NOT VALID WITHOUT
THE SIGNATURE AND
THE ORIGINAL BASED
SEAL OF A FLORIDA
LICENSED SURVEYOR
AND MAPPER.

950 Encanto Way
Naples, FL 34110
Phone: (239) 254-2090
Florida Certificate of
Authorization No. 1772

HOLE MONTE
ENGINEERS AND SURVEYORS
UNLIMITED LIABILITY

SEC-TWA-RGE:	11-47-25
DRAWN BY:	JBB
CHECKED BY:	JBB
DATE:	9/12
DRAWING NO.:	B-8792
TITLE:	

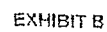
PROJECT NO.
11.062

REFERENCE NO.
PARCEL

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION

LEGEND

- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- ROW RIGHT-OF-WAY



**BONA FIDE AGRICULTURAL USE AT THE TIME
OF ZONING APPLICATION AFFIDAVIT**

WHEREAS, Section 34-202(b)(7), Lee County Land Development Code, requires property located in an agricultural zoning district at the time a zoning application is filed to include an existing agricultural use affidavit; and

WHEREAS, the affidavit, pursuant to the Land Development Code, must identify the property in question with specificity, and the affidavit must identify whether or not a bona fide agricultural use is in existence on the property at the time the application was filed.

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned notary public on this 29th day of JANUARY, 2013, personally appeared **Ned Dewhirst**, who is personally known to me or who produced a Drivers License as identification and who, after first being duly sworn, deposes and says that:

1. The property that is subject of the zoning application is described more completely on the attached Exhibit "A".
2. That I am the authorized representative of the **Funnel Land Investment, LLC** that owns the property described in Exhibit "A".
3. The property in question has planned development zoning. The property was in agricultural use prior to the approval of the Brooks DRI and associated zoning.
4. The property is in agricultural use and the use is a legal non-conforming use.
5. The agricultural use of the subject property is the raising and cultivation of hay for livestock.
6. The agricultural activity is occurring entirely within the area identified on the attached Exhibit "A".
7. The affiant intends to continue the existing agricultural activity subsequent to the amendment to the zoning and the DRI DO.

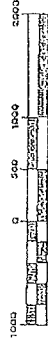
FURTHER AFFIANT SAYETH NAUGHT.

EXHIBIT C

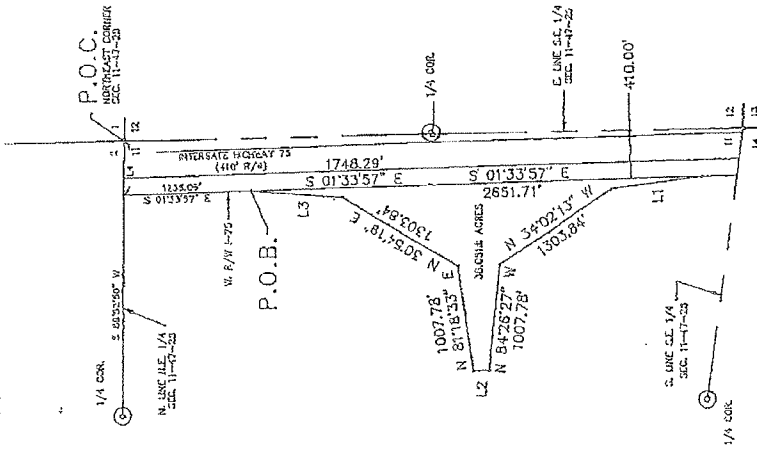
DC12012-00039

0012012-00039

GRAPHIC SCALE



(IN FEET)
1 inch = 1000 ft.



LEGEND

- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- ROW RIGHT-OF-WAY

PROPERTY DESCRIPTION

A PORTION OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S. 89°52'50\"/>

BEARINGS REFER TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S. 89°52'20\"/>

THIS SKETCH IS NOT VALID WITHOUT SURVEYOR'S SIGNATURE AND RAISED SEAL.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

LEGAL DESCRIPTION COMPILED FROM SURVEYS PREPARED BY DENI AND ASSOCIATES ON 9/14/95 AND 12/24/86.

HOLE, MONTES & ASSOCIATES, INC.

BY *James B. Burns*
JAMES B. BURNS
P.L.S. #5090
STATE OF FLORIDA

NOT A SURVEY

SKETCH AND LEGAL DESCRIPTION
OF A PORTION OF SECTION 11,
TOWNSHIP 47 SOUTH, RANGE 25 EAST

HMM
HOLE MONTES & ASSOCIATES
ENGINEERS / PLANNERS / SURVEYORS
1050 ABERNETHY STREET
DADE COUNTY, FLORIDA 33103
(305) 522-0793

LINE	DIRECTION	DISTANCE
L1	N 07°35'23\"/>	905.00'
L2	N 01°33'57\"/>	150.00'
L3	N 04°27'35\"/>	905.00'
L4	S 89°52'50\"/>	520.13'

REVISION NO.	DESCRIPTION	DATE
1	REVISIONS	
DATE	4/95	11
PROJECT NO.		95-85X
DRAWN BY	J.B.B.	47
CHECKED BY	J.B.B.	25
BRANCH NO.		B-1795-1
REFERENCE	9585XCHG	

Ext. "A"

LEE COUNTY, FLORIDA
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING DIVISION
STAFF REPORT

TYPE OF CASE: PLANNED DEVELOPMENT/DRI & DCI

CASE NUMBER: DRI2012-00019 & DCI2012-00039

HEARING EXAMINER DATE: MAY 15, 2013

I. APPLICATION SUMMARY

A. Applicant: Oakbrook Properties, Inc. in reference to The Brooks

B. Requests:

DRI2012-00019: Notice of Proposed Change (NOPC) seeking:

- 1) an increase in residential MF units (from 2000 to 2200 MF units) resulting in a total of 3800 SF/MF units;
- 2) removal of DRI DO conditions regarding dedication of ROW from Three Oaks Parkway to The Brooks eastern property line for the extension of Coconut Road and overpass over I-75;
- 3) extension of the DRI Buildout and Termination Dates;
- 4) revisions to the DRI Map H to i) eliminate the RO designation (Recreation, Open Space, Golf, Buffers and Lakes) at the end of the existing Coconut Road east of Three Oaks Parkway and replace it with a R designation (Residential); ii) update Land Use Summary table per requests; and iii) update surrounding land use labeling, all for the parcel described as the Funnel Parcel.

DCI2012-00039: Amend existing MPD zoning to:

- 1) increase in residential MF units (from 2000 to 2200 MF units) resulting in a total of 3800 SF/MF units;
- 2) revisions to the zoning Master Concept Plan (MCP) to i) eliminate the RO designation (Recreation, Open Space, Golf, Buffers and Lakes) at the end of the existing Coconut Road east of Three Oaks Parkway and replace it with a R designation (Residential); ii) eliminate MF (Mid-rise) from schedule of uses; iii) update Land Use Summary and Open Space Tables per requests; and iv) update surrounding land use labeling, all for the parcel described as the Funnel Parcel.

C. Location: The subject property is located East of Three Oaks Parkway/Coconut Road Extension, Estero Planning Community, Lee County, FL. (District #3)

D. Future Land Use Plan Designation, Current Zoning and Use of Subject Property and Road Classification:

Land Use Designation:	Rural
Current Zoning:	Mixed Use Planned Development, MPD

Current Use: Residential, with a 38 acre vacant tract
 Road Classification: Three Oaks Parkway - arterial
 Coconut Road - collector

E. Surrounding Land Use (to entire The Brooks MPD):

<u>Existing Zoning & Land Use</u>	<u>Future Land Use Map</u>
North: RV-3, recreational vehicles RPD, vacant PUD, residential and vacant CPD, driving range & vacant parcel CF-2, high school AG-2, park and vacant land	Suburban, Urban Community, and Public Facilities
East: I-75, then AG-2 vacant	Wetlands and Density Reduction/Groundwater Resource
South: City of Bonita Springs AG-2, large lot residential and vacant	City of Bonita Springs Rural Agriculture Overlay
West: Railroad, then MPD, mixture of retail, office and residential	Urban Community

F. Size of Property: 38.1 ± Acres (The Brooks total acreage is 2,533± acres)

II. RECOMMENDATIONS:

DRI:

Staff recommends APPROVAL of the applicant's request for a Notice of Proposed Change subject to the conditions in the draft DRI Development Order. The proposed changes do not cause the need for a reassessment of the DRI. The revised DRI Development Order will be submitted under separate cover.

Staff also recommends that the Hearing Examiner find the proposed amendments do not constitute a substantial deviation from the original development approvals thereby warranting further development of regional impact review.

DCI Amendment:

Staff recommends APPROVAL of the applicant's request to amend the existing Mixed Use Planned Development (MPD) zoning with the following conditions and deviations:

A. Conditions:

1. Development of the subject property along with all property within The Brooks, must be consistent with the original zoning approval adopted in Zoning Resolution Z-97-037, as subsequently amended by Zoning Resolutions Z-99-076 and Z-02-006. All Administrative Approvals granted after the adoption of Zoning Resolution Z-97-037, as amended, also remain in full force and effect.

2. Development of the subject property (an irregularly shaped 38± acre parcel at the eastern end of Coconut Road) within the existing MPD is also subject to the following:

a. Master Concept Plan

The development of the subject 38± acre tract must be consistent with the one-page Master Concept Plan entitled "The Brooks of Bonita Springs MPD, Master Concept Plan," stamped received FEB 08, 2013, last revised 1/25/2013, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

Uses and Site Development Regulations

All uses and property development regulations may be found in Zoning Resolution Z-97-037, as subsequently amended by Zoning Resolutions Z-99-076 and Z-02-006.

b. Solid Waste Management

As part of any local development order approval for vertical development on the subject property, the development order plans must include facilities in compliance with LDC Section 10-261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

c. Agricultural Uses

Agricultural Uses: Existing bona fide agricultural uses on this site are allowed:

- (a) Bona fide agricultural uses consisting of the raising and cultivation of hay for livestock, that was in existence on the subject 38± acre tract when the application for this project was filed, may continue in the areas depicted on Attachment J until a local development order is approved for the area containing the agricultural uses.

[Note: The referenced exhibit must consist of existing bona fide uses documented in a sworn affidavit from the property owner describing the type and intensity of bona fide agricultural uses in existence on the date of the zoning application, i.e., livestock grazing or crop production. The affidavit must include acreage figures for each use as part of the sworn affidavit. The affidavit must include an exhibit depicting the location of the uses on a copy of the boundary sketch. The exhibit should be entitled "Bona Fide Agricultural Uses at the time of Zoning Application."]

- (b) Clearing or injury of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide

agricultural use that include existing grass pasture(s) may be mowed but those areas may not be cleared or expanded. Violations of this condition will require restoration in accordance with LDC 10-423. This prohibition of clearing or expansion of agricultural use is not intended to preclude County approved requests for removal of invasive exotic vegetation.

(c) Prior to issuance of a local development order for the portion that contains the agricultural use, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:

(1) Termination of all agricultural use on the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the property that specifically provides:

- a) the date the agricultural uses ceased;
- b) the legal description of the property subject to the development order approval;
- c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow agricultural uses on the property until the property is re-zoned to permit agricultural uses; and ,
- d) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner, their assignees and successors in interest.

The affidavit must be properly recorded in the public records of the county at the owner's expense.

(2) Proof of termination of the agricultural tax exemption for the portion of the property included in the development order application/approval. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

B. Deviations

All deviations granted as part of the original and subsequent amending Zoning Resolutions and all deviations granted as part of all administrative actions referred to in Condition 1 above remain in full force and effect.

As part of this application, the applicant seeks to add the following deviation:

A deviation seeking relief from LDC Section 10-291(3) for Required Street Access requiring residential development of more than five acres must provide more than one means of ingress or egress for the development; to allow only one means of access to the development. Staff recommends this deviation be APPROVED subject to the following conditions:

- The Developer is required to construct the extension of Coconut Road east of the entrance to Lighthouse Bay to the proposed entry into the subject property, continuing the same existing road cross-section (2 lanes/divided median/16' (foot) lane and bikeway pavement/closed drainage/sidewalk).
- All principal buildings within the subject property must be equipped with automatic fire sprinklers/system.
- A notice articulating this plan will be recorded in the Lee County public records prior to issuance of a local development order allowing construction of the access to the development. A copy of this notice must be submitted as part of the local development order application seeking construction of the access to this development.

Applicant's Justification:

The Funnel Parcel within The Brooks DRWD consists of approximately 38 acres and is located just east of the Lighthouse Bay entrance on the Coconut Road Extension east of Three Oaks Parkway. The subject parcel is bounded by the Copperleaf project, 1-75, and the Lighthouse Bay project. The project site will consist of approximately 200 single or multi-family residential units.

An in-fill parcel within The Brooks, the subject parcel is isolated from the two neighboring developments by extensive landscaped berms with walls and is bounded by 1-75 ROW. Therefore there are no viable options for a second means of ingress/egress or access point as required by the Lee County Land Development Code (LDC) Sec. 10-291(3) for Required Street Access. A deviation from the access point requirements is allowed to be requested through the public hearing process if a notice to all future property owners is recorded articulating an emergency access plan. This plan was presented to Estero Fire & Rescue and was approved.

Plan

1. Developer/Applicant will construct the extension of Coconut Road east of the entrance to Lighthouse Bay to the proposed entry into the subject property, continuing the same existing road cross-section (2 lanes/divided median/16' (foot) lane and bikeway pavement/closed drainage/sidewalk).
2. All principal buildings for single family and multi-family residential units and accessory recreational uses will be equipped with automatic fire sprinklers/system.
3. A notice articulating this plan will be recorded in the Lee County public records prior to issuance of a local development order allowing construction of the access to the development.

Staff Analysis:

The subject property is the last remaining undeveloped tract within The Brooks. The property has access at the eastern termination of Coconut Road and shares a boundary line with I-75 on the east. The site has no other frontage along a road. Wisteria Pointe (to the north) and Lighthouse Bay (to the south) border the subject property. Both are developed and along the shared boundaries of both there is a significant berm with landscaping and a wall. These preclude the subject property from being able to access into these communities. Staff recommends APPROVAL of this requested deviation.

C. Findings and Conclusions:

DRI:

Analysis and findings under Florida Statutes 380.06(19)(b):

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.

Staff: The development has not been approved for, nor is the applicant seeking, development of an attraction or recreational facility.

2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

Staff: The development has not been approved for, nor is the applicant seeking, development or expansion of a runway or terminal facility.

3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.

Staff: The development has been approved for the development of office. The request does not seek an increase in land area or gross floor area.

4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.

Staff: The development is seeking approval of an additional 200 dwelling units. The increase represents a less than 6% increase over the existing maximum of 3,600 units currently allowed within the development.

5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are

dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced prior to the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

Staff: The proposed amendments do not increase dwelling units dedicated to affordable workforce housing. The current approvals did not include affordable workforce housing.

6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.

Staff: Commercial development has been approved as part of this development. The amendments do not increase the gross floor area or parking spaces for customers of the commercial development.

7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.

Staff: The development has not been approved nor is the applicant seeking approval for a recreational vehicle park.

8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

Staff: The applicant has not proposed a decrease in the area set aside or conditioned for open space.

9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.

Staff: This is an amendment to an approved mixed use development. The sum of the increases is significantly less than 110 percent. There is no change proposed to the open space within the development.

10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

Staff: The proposal to increase the number of dwelling units is only 200 units. The total if this request is approved would increase to 3,800 units. This remains less than the original DRI review and approval of 5,300 units.

11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

Staff: The change from RO to R on Map H does not result in development of any area set aside for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State

The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3, 4, 5, 6, 9, and 10 are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

DCI Amendment:

Based upon an analysis of the application and the standards for approval of planned development amendments, staff offers the following findings and conclusions in support the recommendation of APPROVAL with conditions:

1. The applicant has proved entitlement to the amendment to the Mixed Use Planned Development (MPD) zoning by demonstrating compliance with the Lee Plan, the Land Development Code (LDC), and other applicable codes and regulations. (Lee Plan Chapter XIII, Section D.)
2. The requested amendment of the MPD zoning:
 - a) remains consistent with the densities, intensities and general uses set forth in the previously adopted Lee Plan; (previous Objective 1.8 of the Lee Plan and Chapter XIII of the Lee Plan)

- b) is compatible with existing or planned uses within The Brooks. No changes in the approved uses by category is sought as part of this amendment; and
 - c) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the requested amendment will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development. Development of this site will be accessed from Three Oaks Parkway and existing utilities in the area will be extended to serve the development.
 4. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use. Access would be from a connection to an existing arterial road and potable water and sanitary sewer exist and will be extended to serve this development.
 5. The proposed continued mix of uses remains appropriate at the subject location.
 6. The recommended conditions to the master concept plan and maintaining the existing conditions within The Brooks, along with other applicable regulations provide sufficient safeguards to the public interest.
 7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
 8. The deviations previously granted and conditioned and the new deviation recommended for approval and conditioned have been found to enhance the planned development; preserve and promote the general intent of the LDC to protect the public health, safety and welfare; and found to not adversely impact the health, safety, and welfare of the public.

III. **BACKGROUND INFORMATION AND ANALYSIS:**

Introduction/Synopsis

The applicant has filed for an amendment of the DRI Development Order and MPD zoning to allow for development within the remaining undeveloped parcel within The Brooks. The parcel is commonly known as the "Funnel Tract" or "Martini Tract" due to its unusual shape. The parcel is at the easternmost end of Coconut Road, east of Three Oaks Parkway, and contains approximately 38 acres.

The amendment seeks to add 200 residential dwelling units to the approved planned development and re-designate on the Master Concept Plan a strip of property from RO (Recreation/Open Space) to R (Residential). The designated strip of land runs through the center of the 38 acre parcel from east to west. Approval would increase the number of multiple family dwelling units within The Brooks from 2,000 to 2,200 and increase the number of overall dwelling units from 3,600 to 3,800 units. The re-designation would allow the entire 38 acre parcel to be developed as residential. All of the proposed new 200 dwelling units would be built within this 38 acre parcel.

In response to staff's request for additional details on the Master Concept Plan, the applicant has suggested conditions to address the comments. Staff requested additional detail on the Master Concept Plan providing for internal design for access, conceptual lot configuration, internal design details, and potential development of recreation/clubhouse facility within the subject property. The applicant's response suggested the more detailed development plans be reviewed by the Estero Community Planning Panel prior to final plan approval. Staff has not included the suggested conditions because LDC Section 33-54 already provides for community review of planned development zoning actions and development orders. The suggested conditions serve no added purpose but to restate the existing requirements. Also, the developer is required to conduct one public informational session prior to submitting for Final Plan Approval, since the Final Plan Approval is a planned development zoning action.

The Brooks Zoning and DRI History

DRI:

The Development of Regional Impact (DRI) development was originally approved by the Board of County Commissioners on August 25, 1997. At that time, the development consisted of 5,200 residential units; 250,000 square feet of retail/service/office floor area; 120 hotel units; and a maximum of 55,000 square feet of floor area of community facilities.

The 1st amendment was adopted on December 6, 1999. This amendment added about 40 acres of land to the development, and there was no change to the allowed intensity of development approved in the original approval in 1997.

The 2nd amendment was adopted on April 1, 2002. This amendment sought to reduce the number of dwelling units by 1,600 units and increase the commercial square footage by 20,000 square feet. The resulting action allowed a development consisting of 3,600 residential units; 150,000 square feet of commercial center retail/service/office floor area; 120,000 square feet of Town Center retail/service/office floor area; 120 hotel units; and a maximum of 55,000 square feet of floor area for community facilities.

The 3rd amendment was adopted on August 21, 2007. This amendment allowed a three year extension statutory extension of all phase, build out, and expiration dates as provided for by House Bill 7203.

The 4th amendment was adopted on November 29, 2011. This amendment allowed a four year extension of all commencement, phase, buildout and expiration dates within the DRI Development Order as provided for by House Bill 7207.

DCI – Mixed Use Planned Development:

The Mixed Use Planned Development (MPD) zoning was originally adopted on August 25, 1997 at the same time the DRI was approved. The intensity of development within the planned development matched that approved as part of the DRI approval.

A change to the MPD zoning was adopted by the Board on December 6, 1999 corresponding to the 1st amendment to the DRI that added about 40 acres of land to the overall development. No changes to the development intensities were sought.

The second change to the MPD zoning was adopted by the Board on April 1, 2002 at the same time the 2nd DRI amendment was adopted. The same changes granted in the DRI

amendment were made to the MPD zoning, which reduced the number of dwelling units and increased the commercial floor area.

County records reveal a large number of approved administrative actions within this planned development. The vast majority of these are Final Plan Approvals, an administrative approval conditioned within the zoning action requiring the developer to obtain staff approval for specific development within each development tract prior to local development order. Each Final Plan Approval has the proposed number of units, a set of deviations, and conditions of approval for development on the individual tract.

Current Residential Development

The Brooks, as noted above, includes a condition requiring Final Plan Approval. In research of County records, staff finds that these Final Plan Approvals have permitted 3,552 of the 3,600 total dwelling units within the planned development. This leaves, in staff's estimation, 48 units to be developed.

Map H and Master Concept Plan

Both Map H and the Master Concept Plan proposed by the applicant may be found as Exhibit B to this report.

The applicant advises the changes to the DRI and Zoning would increase the maximum number of residential units, updates the open space table, eliminates the mid-rise multiple family use, and eliminates the RO designation through the 38 acre subject property.

Lee Plan Considerations

The Division of Planning has reviewed this application and concludes that the requests are consistent with the Lee Plan. Attachment K provides their complete analysis.

As part of the subject application, the applicant provided a narrative and fiscal analysis found in Attachment E to this staff report.

The original approval in 1997, which included 5,300 dwelling units, was found consistent with the Lee County Comprehensive Plan, including the Planned Development District Option (PDDO) found in former Objective 1.8. Staff has attached (Attachment C) the May, 1997 Lee Plan title cover, chronology of amendments, and former Objective 1.8 with related Policies.

On May 27, 1998, the Board amended the Lee Plan approving PAT 96/21 deleting the PDDO and attendant policies from the Lee Plan.

In 2002, amendments of the DRI and MPD zoning (DRI2001-00006 and DCI2001-00043) were reviewed and found consistent with Lee Plan and PDDO. These applications sought to increase retail/service/office floor area in the Town Center from 100,000 square feet to 120,000 square feet; decrease the total number of dwelling units from 5,200 to 3,600; revise the single family and multiple family approved dwelling unit mix; and to amend various sections of Condition II.E. pertaining to Transportation.

When these 2002 amendments were considered, Lee County staff noted that the PDDO option had been deleted in 1988, and the proposed reduction in intensity was still consistent with the former Objective 1.8. The applicant had undertaken an analysis that

demonstrated the reduction in the number of residential units and increase in commercial square footage did comply with the former Objective of the Lee Plan.

Planning Community Map and Allocation Table

The subject property is within the Estero Planning Community. The Planning Division notes that within the Estero Planning Community a total of 635 acres of Rural land is allocated for residential land use. Currently, 538 acres has been developed, leaving 97 acres left available for residential development. Since the site is only 38 acres, there is currently enough land left in the allocations to allow for development.

Smart Growth Principles

Staff has reviewed the application with the Smart Growth principles. The overall Brooks development consists of a mix of residential, retail, and office development. Compact site planning and development has been used to maintain open space and providing community elements for the use of all residents in the community. The overall project has a number of housing choices developed within the community. Individually, each neighborhood within The Brooks is walkable. Also sidewalks are provided along Coconut Road and Three Oaks Parkway. In summary, staff finds that the existing development and the future development of the 38 acre tract will comply with the Smart Growth principles.

Neighborhood Compatibility

The development of the proposed tract with any one or combination of existing allowed dwelling unit types will be compatible with the surrounding land uses. Also existing landscaped and walled berms to the north and south separating this tract from the other existing tracts will ensure that the development of this site is compatible with the surrounding land uses.

Environmental Issues

The Division of Environmental Sciences (ES) staff has reviewed (see Attachment G) the proposed amendment to The Brooks Development of Regional Impact (DRI) and Mixed Planned Development (MPD). Provided all Vegetation and Wildlife/Wetlands conditions as required by the current approved DRI DO and environmental conditions as required by current zoning approvals remain in full force and in effect, ES staff recommends approval of the request with no additional conditions.

The application is to allow an increase in 200 residential units, removal of the proposed extension of Coconut Road, extension of the buildout date and termination date, and revise the Master Concept Plan (MCP) and Map H to remove 4.0 acres of recreational open space (RO) designation within the 38.1 acre Parcel Strap #11-47-25-00-00001.0000 and replace it with residential (R) designation.

The Brooks development requires a minimum of 743 acres of RO area and 419 acres of conservation area (CO). The proposed MCP and Map H continue to identify the required 419 acres of the conservation areas as per previous approvals. The Land Use Summary and Open Space tables on these Maps reflect a decrease in the RO area from 890 to 886 acres and an increase in the R area from 1,048 to 1,052 acres. This proposed 4.0 acres reduction in RO area does not reduce it below minimum 743 acre open space requirement. This 4.0 acre RO area was reserved for right-of-way for the potential I-75 interchange and would have not met the definition of open space as

required by the land development code (LDC) if developed as permitted. There is no objection to the 4.0 acre reduction of RO area.

Transportation

Lee County DOT has reviewed both requests and their complete report may be found as Attachment H to this staff report. Lee County DOT reports that they concur with the applicant's analysis that none of the roadway links are anticipated to be significantly and adversely impacted by the proposed development. They also report that they have no objection to the development of a single driveway connection to Coconut Road to serve as access to the development.

FEMA/Floodway

Lee County Natural Resources staff has reported that they have reviewed the application and they have no comments to provide related to these applications.

Availability of Utilities

The development currently is connected to existing public utilities in the area. Lee County records indicate the subject property is within the potable water and sanitary sewer franchise area for Bonita Springs Utilities. Other development in The Brooks is currently served by potable water and sanitary sewer.

Proximity to Adjoining Jurisdictions

The subject property is proximate to the City of Bonita Springs. Lee County staff has shared these applications with the City. They report that they have no objections to the proposed changes.

IV. SUBJECT PROPERTY:

The applicant indicates that STRAP number is: 11-47-25-00-00001.0000

V. ATTACHMENTS:

- A. Map of surrounding zoning
- B. Expert Witness Information
- C. 1997 Lee Plan, Planned Development District Option (PDDO)
- D. Estero Public Information Meeting information
- E. Applicant's Lee Plan Narrative
- F. Traffic Impact Statements for NOPC and Brooks Rezoning
- G. Environmental Sciences memorandum
- H. Lee County DOT memoranda
- I. Letter from the School District of Lee County
- J. Agricultural Use affidavit, Schedule of Deviations, and Notice of Proposed Change Application
- K. Division of Planning memorandum
- L. DRAFT - Fifth Development Order Amendment State DRI # 07-9697-133

VI. EXHIBITS:

- A. Legal Description and Sketch
- B. Map H and Master Concept Plan

cc: Applicant
County Attorney
Zoning File

3/14/2013



DRI 2012-00019



RECEIVED

SEP 28 2012

950 Encore Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2099

HM PROJECT #2011062
9/27/2012
REF. DWG. #B-6792
Page 1 of 1

LEGAL DESCRIPTION:

A PORTION OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25
EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°52'50" W., ALONG THE NORTH LINE OF SAID
SECTION 11, FOR A DISTANCE OF 520.13 FEET TO A POINT ON THE WESTERLY RIGHT- OF-WAY
LINE OF INTERSTATE HIGHWAY 75, A 410 FOOT WIDE RIGHT-OF-WAY; THENCE RUN S.01°33'57" E.,
ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,238.08 FEET TO THE POINT OF
BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE S.01°33'57" E.,
ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,748.29 FEET; THENCE CONTINUE
S.01°33'57" E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,661.71 FEET; THENCE
RUN N.7°35'29" W. FOR A DISTANCE OF 905.00 FEET; THENCE RUN N.34°02'13" W. FOR A DISTANCE
OF 1,303.84 FEET; THENCE RUN N. 84°26'27" W. FOR A DISTANCE OF 1,007.78 FEET; THENCE RUN
N.01°33'57" W. FOR A DISTANCE OF 150.00 FEET; THENCE RUN N.81°18'33" E. FOR A DISTANCE OF
1,007.78 FEET; THENCE RUN N.30°54'19" E. FOR A DISTANCE OF 1,303.84 FEET; THENCE RUN
N.04°27'35" E. FOR A DISTANCE OF 905.00 FEET TO THE POINT OF BEGINNING, CONTAINING
38.061 ACRES, MORE OR LESS.

BEARINGS REFER TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 47
SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.89°52'20" W.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

BY

Thomas M. Murphy
THOMAS M. MURPHY

P.S.M. #5628
STATE OF FLORIDA

10-12-12
APPROVED
LEGAL
JCH

1 MS. MONTGOMERY: It just so happens that the one
2 picture to the north is the one you can see the roof.
3 But when you go out there and you go on the property
4 you're going to realize it's heavily buffered on both
5 sides. And the entryway, you know, is going to be
6 gated and secure. So it's not really going to have
7 any noticeable impact on them whatsoever but it will
8 be consistent in terms of what you see to the south.

9 THE HEARING EXAMINER: Okay, okay. All right.
10 Whatever summation you would like to do.

11 MS. MONTGOMERY: Okay. Well, this is a fairly
12 simple request. What we're doing is amending both
13 Map H and the MCP to add 200 units. And as we have
14 discussed, that is consistent with the PDDO option,
15 and it does not create new or additional
16 transportation impacts, so those 200 units don't have
17 an impact. Now, I did hear the concern that they
18 didn't want to add the units, but adding the units is
19 necessary in order to actually develop the property.
20 In Chip's staff report he indicates that there's 48
21 units left, but, you know, when most of the property
22 in here was sold it was sold with an allocation of
23 units so as not to get into any kind of legal
24 entanglement with anybody else even if we don't think
25 those can be developed anywhere. This is just the

1 new 200 units that will go on the subject property.

2 And as we already talked about, we're going to do a
3 minor extension of the build-out date. Map H and the
4 Master Concept Plan has to be amended to remove that
5 four-acre RO that was going to be right-of-way and
6 make it all R. So that is, you know, essentially a
7 minor change to both the Map H and to the Master
8 Concept Plan. I agree with the staff, I do not think
9 it is a substantial deviation. It doesn't trigger
10 any of the substantial deviation thresholds. It is
11 the use that actually is most compatible with what
12 surrounds it. And as you hear from the community --
13 we tried to keep you from a long history, but there's
14 a long history of this and what was originally
15 envisioned, and I think the community has vigorously
16 worked for a long period of time to not have the
17 flyover and the interchange there. So if you're not
18 going to have a flyover and interchange you get to,
19 from a legal standpoint, what's the reasonable use of
20 the property. Well, reasonable use of the property
21 given its location and configuration and the adjacent
22 uses is a similar use to what's there. And as you
23 have heard, it is a developed area. It's an
24 essentially built-out DRI and all the urban
25 infrastructure that's required is there. And it was

~~FOURTH~~ FIFTH DEVELOPMENT ORDER AMENDMENT
FOR
THE BROOKS OF BONITA SPRINGS
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #07-9697-133

LET IT BE KNOWN THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HEARD AT A PUBLIC HEARING CONVENED ON AUGUST 25, 1997, THE APPLICATION FOR DEVELOPMENT APPROVAL FOR THE BROOKS OF BONITA SPRINGS (HEREAFTER REFERRED TO AS THE BROOKS) DRI, A MIXED USE DEVELOPMENT IN LEE COUNTY WHICH INCLUDED APPROXIMATELY 2,492± ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION SUBMITTED TO LEE COUNTY ON July 3, 1996 BY THE OWNER/APPLICANT, LONG BAY PARTNERS, L.L.C.

WHEREAS, the Brook DRI development order was amended: 1) on December 6, 1999 to increase the project acreage by 40 acres and to amend Map H, 2) on April 1, 2002 to reduce the number of dwelling units by 1,600 units and increase the commercial square footage by 20,000 square feet, ~~and~~ 3) on August 21, 2007 amending the Brooks of Bonita Springs DRI Development Order in compliance with House Bill 7203 to extend the phase-end, build out, and termination dates of the DRI Development Order, 4) on February 24, 2012 amending the Brooks of Bonita Springs DRI DO in compliance with Senate Bill 2156 to extend the phase-end, build out, and termination dates of the DRI DO; and

WHEREAS, an extension and tolling of time is permitted pursuant to Section 252.363, F.S. if the Governor declares a state of emergency. A tolling of time and extension of the build out date occurred in February of 2012, and an additional tolling will occur for the State of Emergency for Tropical Storm Debby and the subsequent extension of the State of Emergency, and for the State of Emergency for Tropical Storm Isaac, on June 2, 2011, House Bill 7207 (HB7207) was signed into law by the Governor of the State of Florida. HB7207, as codified in Chapter 2011-139, Laws of Florida, authorizes a four-year extension for all valid DRI Development Orders. At the option of the developer, all commencement, phase, buildout and expiration dates for valid Developments of Regional Impacts may be extended by four years regardless of previous extensions issued in the past, and,

~~WHEREAS, on July 6, 2011, Lee County received a request to extend the DRI compliance dates as contemplated under HB7207;~~ and,

WHEREAS, The Brooks of Bonita Springs DRI build out and termination dates in this Development Order will reflect the extensions and tolling of time that have occurred by operation of law. The statutory extensions and tolling are not and will not be considered in any present or future substantial deviation determinations ~~qualifies for the extension of the DRI compliance dates,~~ and,

adopted level of service is scheduled for construction in the first three years of an adopted local government capital improvement program or state work program, unless an alternative concurrency system has been established for all or part of Lee County. The Brooks will comply with the County's concurrency management system in effect at the time.

5. Other

a. The Brooks includes a Town Center intended to primarily serve the commercial retail/service and office needs of the community. The Town Center is anticipated to internally capture a portion of the total trips, which will help reduce the project's traffic impacts on the public roadway network. The following conditions apply to the Town Center:

1) The Town Center may not exceed 120,000 square feet of office/retail/service gross floor area. ~~Retail commercial development at the Town Center will be limited to Minor Commercial (30,000 square feet) until the Coconut Road Extension is open and connected to Three Oaks Parkway, and the Town Center has access to Three Oaks Parkway, and the Coconut Road Extension. When Three Oaks Parkway and Coconut Road are open to public traffic with traffic continuity from Corkscrew Road to Coconut Road and to U.S. 41, this condition will have been met.~~ The Town Center may not exceed 50,000 square feet of gross floor area of community uses; and

2) The uses within the Town Center will be governed by the planned development zoning; and

3) Single use retail buildings may not exceed 30,000 square feet of gross leasable area. Single use office buildings are not subject to the 30,000 square foot limitation.

b. The Brooks includes a Community Commercial Center located at the southeast quadrant of the proposed intersection of the Coconut Road extension and U.S. 41. ~~The Community Commercial Center is limited to the intensity allowed in Neighborhood Commercial Centers (100,000 square feet) until such time as the Coconut Road extension is designed and open as an arterial roadway.~~

c. The Developer will provide for efficient pedestrian and bicycle movement within The Brooks through the provision of a system of interconnecting sidewalks and bike paths that link the various pods of development.

d. If routes are established by Lee County, the Developer will accommodate local or express transit service with bus stops on public roadways and reasonably sized and located in commercial areas.

e. Parcel 4 was added to the DRI as part of the First Development Order Amendment. Parcel 4 includes a portion of the right-of-way for Three Oaks Parkway. Since the property was acquired subsequent to the approval of the Brooks DRI, the

Developer, at its option, can dedicate the property to the County for road impact fee credits or an offset against the proportionate share assessment. The property will be valued as of the day of dedication consistent with the terms of the Development Agreement.

F. VEGETATION AND WILDLIFE/WETLANDS

1. Where practical, and where consistent with the permit issued by the SFWMD, the Developer will construct shallow lakes with wetland plantings in an effort to create additional wildlife habitat value.

2. The Developer will incorporate a 24-inch-diameter wildlife crossing under each arterial roadway crossing of wetlands by placing a culvert adjacent to the upland/wetland boundary. In addition to the wildlife crossing, the Developer will place additional culvert(s) under the roadway crossing, as needed, to provide a hydraulic connection between wetlands pursuant to the SFWMD regulations. There is currently a lime rock farm road at the roadway crossing between Wetlands 8 and 10, and the Developer will install approximately .9 acres of wetland herbaceous plants and shrubs in this area. The plantings will extend from the current northern/southern wetland boundaries up to the edge of the new east/west road.

3. There will be a total of 419 conservation acres; post development.

4. Approximately 300 of the 419 conservation acres will be wetland enhancement. The Developer will implement the enhancement of wetlands in phases in accordance with the permits issued by the ACOE and SFWMD. A portion of the wetland enhancement is intended to mitigate the project's impacts to approximately 33.5 acres of ACOE and SFWMD jurisdictional wetlands.

5. The Developer will eradicate invasive exotic vegetation from the site on a phased basis, in accordance with the local Development Order approvals and ACOE and SFWMD permit requirements. Invasive exotics are those species identified in the Lee County Land Development Code and tropical soda apple (*Solanum viarum*). Once the invasive exotics have been eradicated, the site must be maintained in accordance with County regulations to prevent the return of invasive exotics.

6. Where feasible, the surface water management system will incorporate the wetlands to assure appropriate hydroperiods and seasonal water elevations. Hydroperiods, seasonal water elevations, and the incorporation of wetlands into the surface water management system will be evaluated by the SFWMD during the review of the District permit application(s).

7. In addition to the conservation areas identified in the open space table, the Developer will, to the extent possible, retain the existing native plant communities located in the areas designated as open space on Map H. This condition will not be interpreted in a manner to impair good golf course design, nor may it result in the loss of residential lots.

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Oakbrook Properties, Inc., filed an application on behalf of the property owner, Funnel Land Investment, LLC., to amend the Brooks DRI Development Order; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Laura B. Belflower, was advertised and held on May 15, 2013; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DRI2012-00019 and DCI2012-00039 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on August 19, 2013 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request for:

1. DRI2012-00019: Notice of Proposed Change (NOPC) seeking:
 - a. an increase in residential MF units (from 2,000 to 2,200 MF units) resulting in a total of 3,800 SF/MF units;
 - b. removal of DRI DO conditions regarding dedication of ROW from Three Oaks Parkway to The Brooks eastern property line for the extension of Coconut Road and overpass over I-75;
 - c. extension of the DRI Buildout and Termination Dates;
 - d. revisions to the DRI Map H to:
 - i. eliminate the RO designation (Recreation, Open Space, Golf, Buffers and Lakes) at the end of the existing Coconut Road east of Three Oaks Parkway and replace it with a R designation (Residential);
 - ii. update Land Use Summary table per requests; and

- iii. update surrounding land use labeling, all for the parcel described as the Funnel Parcel.
2. DCI2012-00039: Amend existing MPD zoning to:
 - a. increase in residential MF units (from 2,000 to 2,200 MF units) resulting in a total of 3,800 SF/MF units;
 - b. revisions to the zoning Master Concept Plan (MCP) to i) eliminate the RO designation (Recreation, Open Space, Golf, Buffers and Lakes) at the end of the existing Coconut Road east of Three Oaks Parkway and replace it with a R designation (Residential); ii) eliminate MF (Mid-rise) from schedule of uses; iii) update Land Use Summary and Open Space Tables per requests; and iv) update surrounding land use labeling, all for the parcel described as the Funnel Parcel.

The property is located in the Rural Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

DRI2012-00019:

Subject to the provisions of the Fifth Amendment to the DRI Development Order attached hereto as Exhibit E.

DCI2012-00039:

1. Development of the subject property, along with all property within The Brooks, must be consistent with the original zoning approval adopted in Zoning Resolution Z-97-037, as subsequently amended by Zoning Resolutions Z-99-076 and Z-02-006. All Administrative Approvals granted after the adoption of Zoning Resolution Z-97-037, as amended, also remain in full force and effect, except the use of multi-family mid-rise is not a permitted use and this use is removed from the approved schedule of uses and property development regulations on the Master Concept Plan (MCP).
2. Development of the subject property (an irregularly shaped 38± acre parcel at the eastern end of Coconut Road) within the existing MPD is also subject to the following:

- a. Master Concept Plan

The development of the subject 38± acre tract must be consistent with the one-page Master Concept Plan entitled "The Brooks of Bonita Springs MPD, Master Concept Plan," stamped received FEB 08, 2013, last revised 1/25/2013 (Exhibit C), except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development

order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

b. Uses and Site Development Regulations

All uses and property development regulations may be found in Zoning Resolution Z-97-037, as subsequently amended by Zoning Resolutions Z-99-076 and Z-02-006.

c. Solid Waste Management

As part of any local development order approval for vertical development on the subject property, the development order plans must include facilities in compliance with LDC §10-261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

d. Agricultural Uses

Agricultural Uses: Existing bona fide agricultural uses on this site are allowed:

- i. Bona fide agricultural uses consisting of the raising and cultivation of hay for livestock, that was in existence on the subject 38± acre tract when the application for this project was filed, may continue in the areas depicted on Exhibit D until a local development order is approved for the area containing the agricultural uses.
- ii. Clearing or injury of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide agricultural use that include existing grass pasture(s) may be mowed, but those areas may not be cleared or expanded. Violations of this condition will require restoration in accordance with LDC §10-423. This prohibition of clearing or expansion of agricultural use is not intended to preclude County approved requests for removal of invasive exotic vegetation.
- iii. Prior to issuance of a local development order for the portion that contains the agricultural use, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - (1) Termination of all agricultural use on the property included in the local development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the property that specifically provides:
 - (a) the date the agricultural uses ceased;

- (b) the legal description of the property subject to the local development order approval;
- (c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the County that they will not allow agricultural uses on the property until the property is re-zoned to permit agricultural uses; and
- (d) that the affidavit constitutes a covenant between the owner and the County that is binding on the owner, their assignees and successors in interest.

The affidavit must be properly recorded in the public records of the County at the owner's expense.

- (2) Proof of termination of the agricultural tax exemption for the portion of the property included in the local development order application/approval. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

SECTION C. DEVIATIONS:

All deviations granted as part of the original and subsequent amending Zoning Resolutions and all deviations granted as part of all administrative actions referred to in Condition 1 above remain in full force and effect.

As part of this application, the applicant seeks to add the following deviation:

Deviation (1) seeks relief from the LDC §10-291(3) requirement to provide residential development of more than five acres must provide more than one means of ingress or egress for the development, to allow only one means of access to the development. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan
- Exhibit D: Bona Fide Agricultural Uses
- Exhibit E: Fifth Amendment to the Brooks DRI Development Order

SECTION E. FINDINGS AND CONCLUSIONS:

For the DRI Amendment:

1. The requests, as conditioned, do not create new or additional unreviewed regional impacts, and do not constitute a Substantial Deviation, as that term is defined in §380.06(19) of the Florida Statutes.
2. The changes to the DRI Development Order to remove the requirements to dedicate the right-of-way for the extension of Coconut Road and to provide an approach for a flyover bridge are consistent with the requirements of the DRI, and do not trigger additional review, because the actual proportionate share for the development has been provided and those requirements have already been satisfied.
3. The amendments to the DRI Map H are not regionally impacting or significant enough to require additional DRI review.
4. The amendments to the DRI Development Order to extend the DRI build-out and termination dates do not require additional regional review because the extensions are less than the five year extension considered under §380.06(19), Florida Statutes, to not constitute a substantial deviation.

For the MPD Amendment

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviation, as conditioned, enhances achievement of the planned development objectives, and preserves and promotes the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Manning made a motion to adopt the foregoing resolution, seconded by Commissioner Hall. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 19th day of August, 2013.

ATTEST:
LINDA DOGGETT, CLERK

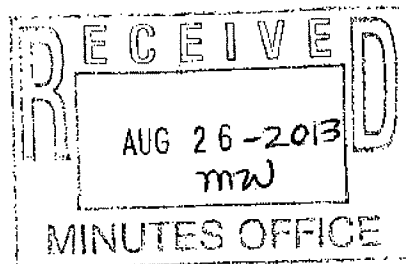
BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Joye Townsend
Deputy Clerk

BY: Cecil L Pendergrass
Cecil L Pendergrass, Chair

Approved as to form by:

Michael D. Jacob
Michael D. Jacob
Assistant County Attorney
County Attorney's Office



DRI 2012-00019



RECEIVED
SEP 28 2012

950 Encore Way • Naples, Florida 34110 • Phone: 239.254.2000 • Fax: 239.254.2099

COMMUNITY DEVELOPMENT

HM PROJECT #2011062
9/27/2012
REF. DWG. #B-6792
Page 1 of 1

LEGAL DESCRIPTION:

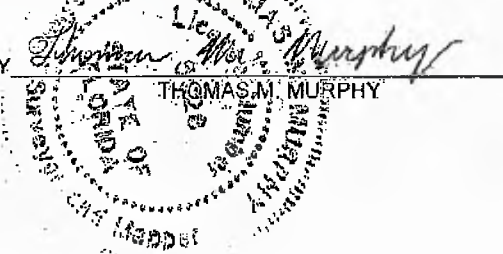
A PORTION OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25
EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°52'50" W., ALONG THE NORTH LINE OF SAID
SECTION 11, FOR A DISTANCE OF 520.13 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY
LINE OF INTERSTATE HIGHWAY 75, A 410 FOOT WIDE RIGHT-OF-WAY; THENCE RUN S.01°33'57" E.,
ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,238.06 FEET TO THE POINT OF
BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE S.01°33'57" E.,
ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,748.29 FEET; THENCE CONTINUE
S.01°33'57" E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,651.71 FEET; THENCE
RUN N.7°35'29" W. FOR A DISTANCE OF 905.00 FEET; THENCE RUN N.34°02'13" W. FOR A DISTANCE
OF 1,303.84 FEET; THENCE RUN N. 84°26'27" W. FOR A DISTANCE OF 1,007.78 FEET; THENCE RUN
N.01°33'57" W. FOR A DISTANCE OF 150.00 FEET; THENCE RUN N.81°18'33" E. FOR A DISTANCE OF
1,007.78 FEET; THENCE RUN N.30°54'19" E. FOR A DISTANCE OF 1,303.84 FEET; THENCE RUN
N.04°27'35" E. FOR A DISTANCE OF 905.00 FEET TO THE **POINT OF BEGINNING**, CONTAINING
38.051 ACRES, MORE OR LESS.

BEARINGS REFER TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 47
SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S.89°52'20" W.

HOLE MONTES, INC.
CERTIFICATE OF AUTHORIZATION LB #1772

BY



P.S.M. #5628
STATE OF FLORIDA

10.12.12
APPROVED
LEGAL
[Signature]

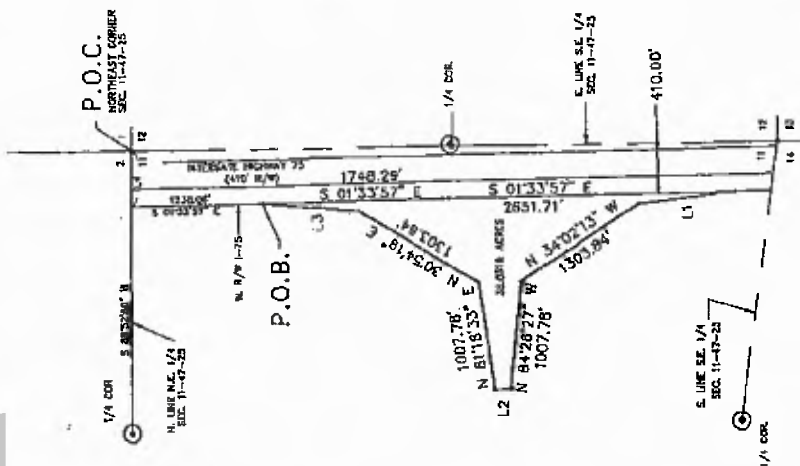
EXHIBIT A

FEB 08 2013

GRAPHIC SCALE



(IN FEET)
1 inch = 1000 ft.



LEGEND

- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- R.O.W. RIGHT-OF-WAY

LINE	DIRECTION	DISTANCE
L1	N 07°35'29" W	905.00'
L2	N 01°33'57" W	150.00'
L3	N 04°27'35" E	905.00'
L4	S 89°52'50" W	520.13'

H.M.A.
HOLE, MONTES & ASSOCIATES
ENGINEERS / PLANNERS / SURVEYORS
10350 ABERNATHY STREET
DAVIE, FLORIDA 33317
(954) 941-0925

SKETCH AND LEGAL DESCRIPTION
OF A PORTION OF SECTION 11,
TOWNSHIP 47 SOUTH, RANGE 25 EAST

NOT A SURVEY

PROPERTY DESCRIPTION

A PORTION OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S. 89°52'50" W., ALONG THE NORTH LINE OF SAID SECTION 11, FOR A DISTANCE OF 520.13 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 75, A 410 FOOT RIGHT-OF-WAY; THENCE RUN S. 01°33'57" E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,238.06 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE S. 01°33'57" E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 1,748.29 FEET; THENCE CONTINUE S. 01°33'57" E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2,651.71 FEET; THENCE RUN N. 73°52'29" W. FOR A DISTANCE OF 905.00 FEET; THENCE RUN N. 34°02'13" W. FOR A DISTANCE OF 1,303.84 FEET; THENCE RUN N. 84°28'27" W. FOR A DISTANCE OF 1,007.78 FEET; THENCE RUN N. 01°33'57" W. FOR A DISTANCE OF 150.00 FEET; THENCE RUN N. 81°18'33" E. FOR A DISTANCE OF 1,007.78 FEET; THENCE RUN N. 30°54'19" E. FOR A DISTANCE OF 1,303.84 FEET; THENCE RUN N. 04°27'35" E. FOR A DISTANCE OF 905.00 FEET TO THE POINT OF BEGINNING, CONTAINING 36.031 ACRES, MORE OR LESS.

BEARINGS REFER TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING S. 89°52'20" W.

THIS SKETCH IS NOT VALID WITHOUT SURVEYOR'S SIGNATURE AND RAISED SEAL

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

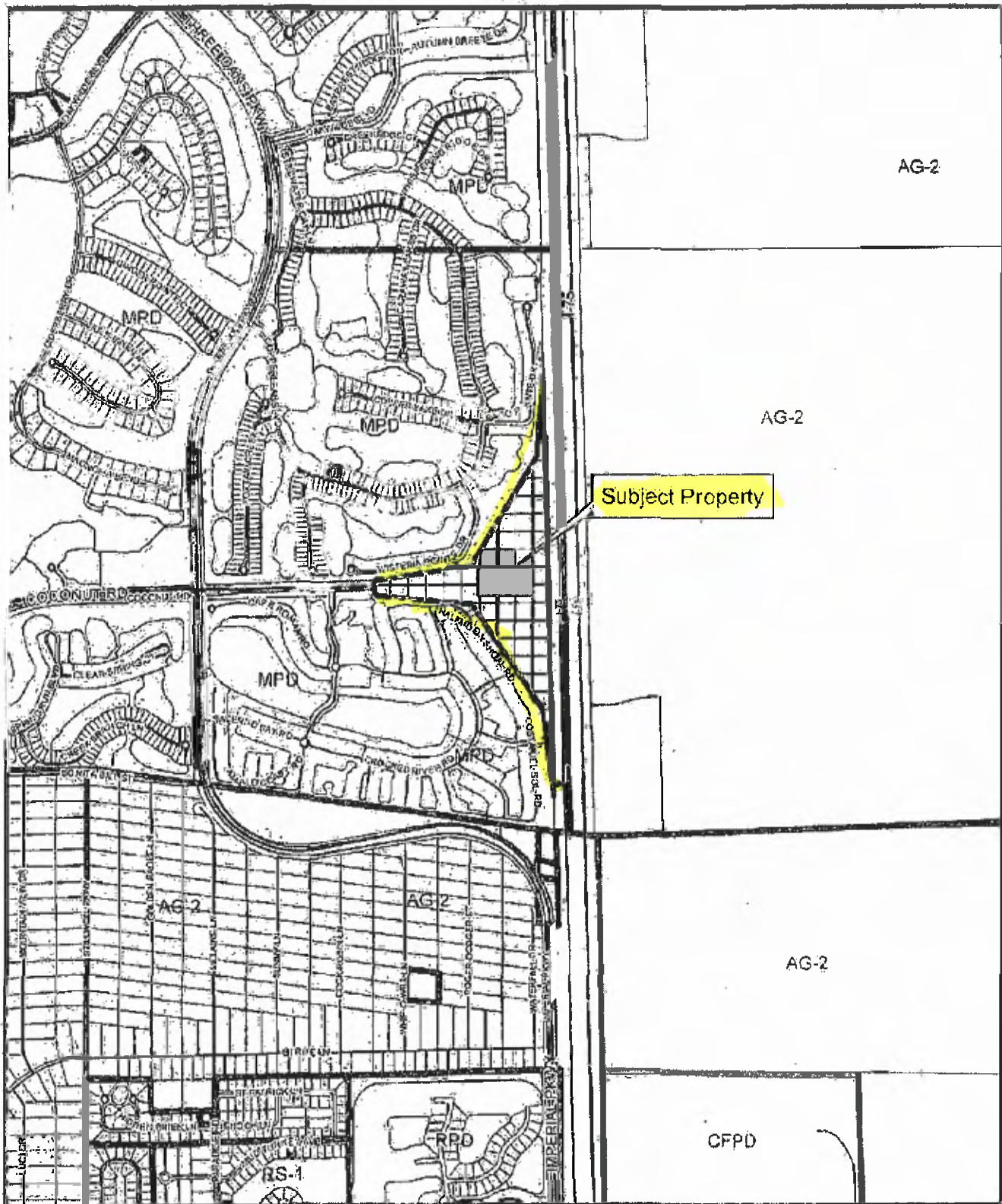
LEGAL DESCRIPTION COMPILED FROM SURVEYS PREPARED BY DENI AND ASSOCIATES ON 9/14/95 AND 12/24/86.

HOLE, MONTES & ASSOCIATES, INC.

BY *James B. Burns* J.B.B. P.L.S. #5090
STATE OF FLORIDA

REVISION No.	DESCRIPTION	DATE
1	REVISION	4/96
2	REVISION	4/96
3	REVISION	4/96
4	REVISION	4/96
5	REVISION	4/96
6	REVISION	4/96
7	REVISION	4/96
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100	REVISION	4/96

Ex. A



[illegible]

BONA FIDE AGRICULTURAL USE AT THE TIME
OF ZONING APPLICATION AFFIDAVIT

WHEREAS, Section 34-202(b)(7), Lee County Land Development Code, requires property located in an agricultural zoning district at the time a zoning application is filed to include an existing agricultural use affidavit; and

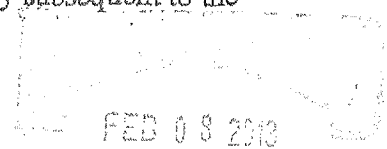
WHEREAS, the affidavit, pursuant to the Land Development Code, must identify the property in question with specificity, and the affidavit must identify whether or not a bona fide agricultural use is in existence on the property at the time the application was filed.

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned notary public on this 20th day of JANUARY, 2013, personally appeared **Ned Dewhirst**, who is personally known to me or who produced a Drivers License as identification and who, after first being duly sworn, deposes and says that:

1. The property that is subject of the zoning application is described more completely on the attached Exhibit "A".
2. That I am the authorized representative of the **Funnel Land Investment, LLC** that owns the property described in Exhibit "A".
3. The property in question has planned development zoning. The property was in agricultural use prior to the approval of the Brooks DRI and associated zoning.
4. The property is in agricultural use and the use is a legal non-conforming use.
5. The agricultural use of the subject property is the raising and cultivation of hay for livestock.
6. The agricultural activity is occurring entirely within the area identified on the attached Exhibit "A".
7. The affiant intends to continue the existing agricultural activity subsequent to the amendment to the zoning and the DRI DO.

FURTHER AFFIANT SAYETH NAUGHT.



COMMUNITY DEVELOPMENT

DCI 2012-00039

EXHIBIT D

Funnel Land Investment, LLC

By: _____

Ned Dewhirst

Name: Ned Dewhirst

Title: SR VP Oakbrook Properties, Inc.

SWORN TO and subscribed before me on the date and year first above written.

(Notary Seal)

Vicki Pierson

Signature of Notary Public

VICKI PIERSON

(Print, type of stamp commissioned
name of Notary Public)

Commission No.



FEB 08 2013

COMMUNITY DEVELOPMENT

DCI 2012-00039

FIFTH DEVELOPMENT ORDER AMENDMENT
FOR
THE BROOKS OF BONITA SPRINGS
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #07-9697-133

LET IT BE KNOWN THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HEARD AT A PUBLIC HEARING CONVENED ON AUGUST 25, 1997, THE APPLICATION FOR DEVELOPMENT APPROVAL FOR THE BROOKS OF BONITA SPRINGS (HEREAFTER REFERRED TO AS THE BROOKS) DRI, A MIXED USE DEVELOPMENT IN LEE COUNTY WHICH INCLUDED APPROXIMATELY 2,492± ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION SUBMITTED TO LEE COUNTY ON July 3, 1996 BY THE OWNER/APPLICANT, LONG BAY PARTNERS, L.L.C.

WHEREAS, the Brook DRI development order was amended: 1) on December 6, 1999 to increase the project acreage by 40 acres and to amend Map H, 2) on April 1, 2002 to reduce the number of dwelling units by 1,600 units and increase the commercial square footage by 20,000 square feet, 3) on August 21, 2007 amending the Brooks of Bonita Springs DRI Development Order in compliance with House Bill 7203 to extend the phase-end, build out, and termination dates of the DRI Development Order, and 4) on February 24, 2012 amending the Brooks of Bonita Springs DRI DO in compliance with Senate Bill 2156 to extend the phase-end, build out, and termination dates of the DRI DO; and

WHEREAS, an extension and tolling of time is permitted pursuant to Section 252.363, F.S. if the Governor declares a state of emergency. A tolling of time and extension of the build out date occurred in February of 2012, and an additional tolling will occur for the State of Emergency for Tropical Storm Debby and the subsequent extension of the State of Emergency, and for the State of Emergency for Tropical Storm Isaac; and,

WHEREAS, The Brooks of Bonita Springs DRI build out and termination dates in this Development Order will reflect the extensions and tolling of time that have occurred by operation of law. The statutory extensions and tolling are not and will not be considered in any present or future substantial deviation determinations; and,

WHEREAS, on September 28, 2012, Lee County received a request to amend the Brooks DRI DO and Map H; and

WHEREAS, the Board of County Commissioners finds and determines that based on the evidence in the record, the proposed change does not constitute a substantial deviation for the original development order approvals warranting further DRI review.

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The Brooks is a master planned community located in unincorporated south Lee County west of I-75, north of San Carlos Estates, east of U.S. 41 and south of Corkscrew Road. The property includes 2,533± acres. The Brooks is a mixed use development that will consist of: ~~3,600~~ 3800 residential units, 150,000 square feet of commercial center retail/service/office gross floor area, 120,000 square feet of Town Center retail/service/office gross floor area, 120 hotel units, and a maximum of 55,000 square feet of gross floor area of community facilities; the community facilities may include community association meeting space, education and training facilities oriented toward the residents' daily needs, dining, recreation, entertainment, civic and community uses. In addition, there will be ~~890~~ 886 acres of active and passive recreation areas that include open space, buffer, golf, tennis, swimming and lakes. At buildout, the development will provide approximately 419 acres of conservation lands (forested and open wetlands and wetland flow-way restoration) and 130 acres of internal and public arterial road rights-of-way.

The phasing schedule includes two 5-year phases. Site preparation will commence in 1997. Residential construction is scheduled to commence in 1998. The buildout date is December 31, ~~2040~~ 2017.

Water supply and wastewater treatment will be provided by Bonita Springs Utilities, Inc.

B. The factual findings, conclusions of law, conditions and other terms of this Development Order apply to the property described more completely below:

PARCEL 1

A PORTION OF THE SOUTH HALF OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN N.00°57'23"W., ALONG THE EAST LINE OF SAID SECTION 9, FOR A DISTANCE OF 2542.33 FEET; THENCE RUN S.88°02'34"W. FOR A DISTANCE OF 1221.61 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE N.00°15'56"W. FOR A DISTANCE OF 47.18 TO A POINT ON A NON-TANGENTIAL CURVE AND THE SOUTH RIGHT-OF-WAY LINE OF COCONUT ROAD; THENCE ALONG SAID RIGHT-OF-WAY AND CURVE, CONCAVE NORTHERLY; THENCE RUN WESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 2024.96 FEET, THROUGH A CENTRAL ANGLE OF 08°29'00", SUBTENDED BY A CHORD OF 299.55 FEET AT A BEARING OF S.83°48'03"W., FOR A DISTANCE OF 299.82 FEET; THENCE RUN

S88°02'34"W, ALONG THE SOUTH RIGHT-OF-WAY OF COCONUT ROAD FOR A DISTANCE OF 452.27' TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 41 (STATE ROAD NO. 45, A 200 FOOT RIGHT-OF-WAY); THENCE RUN S.00°15'56"E., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 577.74 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; THENCE RUN SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 5605.39 FEET, THROUGH A CENTRAL ANGLE OF 06°12'58", SUBTENDED BY A CHORD OF 607.83 FEET AT A BEARING OF S.03°22'24"E., FOR A DISTANCE OF 608.13 FEET; THENCE RUN N.88°07'51"E. FOR A DISTANCE OF 747.23 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL CIRCULAR CURVE, CONCAVE EASTERLY; WHOSE RADIUS POINT BEARS N.82°31'42"E. A DISTANCE OF 3909.60 FEET THEREFROM; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3909.60 FEET, THROUGH A CENTRAL ANGLE OF 08°29'31", SUBTENDED BY A CHORD OF 578.92 FEET AT A BEARING OF N.03°13'32"W., FOR A DISTANCE OF 579.45 FEET TO THE END OF SAID CURVE; THENCE RUN N.00°15'56"W. FOR A DISTANCE OF 583.09 FEET TO THE POINT OF BEGINNING. CONTAINING 20.43 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, AND RESTRICTIONS OF RECORD.

BEARINGS BASED ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, AS BEING N.00°57'23"W.

NOTE: Based on Property Description provided by Stephen P. Erek, Professional Surveyor & Mapper, Wilson Miller Inc. dated 8/18/2001.

PARCEL 2

A PORTION OF THE NORTH HALF OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°57'23"W. ALONG THE EAST LINE OF SAID SECTION 9, FOR 2542.33 FEET; THENCE LEAVING SAID EAST LINE OF SECTION 9, S.88°02'34"W., FOR OF 1221.61 FEET; THENCE CONTINUE, S.88°02'34"W. FOR 750.33 FEET TO THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 41 (STATE ROAD NO. 45, A 200' RIGHT-OF-WAY); THENCE N.00°15'56"W. FOR 175.08 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED, SAID

POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF COCONUT ROAD (A 150 FOOT ROAD RIGHT-OF-WAY) AS DESCRIBED IN OFFICIAL RECORD BOOK 3090, PAGE 729, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE CONTINUE N.00°15'56"W. FOR 440.00 FEET; THENCE S.46°02'16"E. FOR 577.45 FEET; THENCE S.01°57'26"E. FOR 25.00 FEET; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE S.88°02'34"W. FOR 414.72 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 2.21 ACRES MORE OR LESS.

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

BEARINGS ARE BASED ON THE EAST LINE OF THE SOUTHEAST ¼ (QUARTER) OF SECTION 9, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING N.00°57'23"W.

NOTE: Based on Property Description provided by Stephen P. Ereka, Professional Surveyor & Mapper, Wilson Miller Inc. dated 8/16/2001.

PARCEL 3

SECTIONS 2, 3, 10 AND 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST AND SECTION 35, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA

A PARCEL OF LAND LOCATED IN SECTIONS 2, 3, 10 AND 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AND LOCATED IN SECTION 35, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.00°46'22"E. ALONG THE WEST LINE OF THE NORTHWEST ¼ OF SAID SECTION 3, FOR A DISTANCE OF 100.02' TO A POINT 100.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 3; THENCE RUN N.89°51'03"E. PARALLEL WITH THE NORTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 3, FOR A DISTANCE OF 23.35 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WILLIAMS ROAD, A 100.00 FOOT RIGHT-OF-WAY, THE SAME BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°51'03"E., ALONG SAID PARALLEL LINE AND ALONG SAID SOUTH RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2623.11 FEET; THENCE RUN N.89°51'33"E. PARALLEL WITH THE NORTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 3 AND ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 975.29 FEET; THENCE RUN N.00°08'27"W. ALONG SAID RIGHT-OF-WAY

LINE, FOR A DISTANCE OF 100.00 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 3; THENCE RUN N.89°51'33"E. ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 3, FOR A DISTANCE OF 1664.48 FEET TO THE NORTHEAST CORNER OF SAID SECTION 3, THE SAME BEING THE NORTHWEST CORNER OF SECTION 2, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN N.00°35'46"W. FOR A DISTANCE OF 1320.30 FEET; THENCE RUN N.89°55'37"E. FOR A DISTANCE OF 1317.26 FEET; THENCE RUN S.00°44'07"E. FOR A DISTANCE OF 1318.66 FEET; THENCE RUN N.89°51'16"E. ALONG THE NORTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 2, FOR A DISTANCE OF 1321.48 FEET; THENCE RUN N.89°50'12"E. ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 2, FOR A DISTANCE OF 2026.48 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 75, A 410 FOOT RIGHT-OF-WAY, THE SAME BEING A POINT ON A CIRCULAR CURVE CONCAVE WESTERLY, WHOSE RADIUS POINT BEARS S.79°55'57"W. A DISTANCE OF 5567.58 FEET THEREFROM; THENCE RUN SOUTHERLY, ALONG SAID RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 5567.58 FEET, THROUGH A CENTRAL ANGLE OF 08°30'06", SUBTENDED BY A CHORD OF 825.37 FEET AT A BEARING OF S.05°49'00"E., FOR A DISTANCE OF 826.13 FEET TO THE END OF SAID CURVE; THENCE RUN S.01°33'57"E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 4512.58 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST ¼ OF SECTION 11, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE CONTINUE S.01°33'57"E., ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 5977.28 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 11; THENCE RUN N.82°32'38"W., ALONG THE SOUTH LINE OF THE SOUTHEAST ¼ OF SAID SECTION 11, FOR A DISTANCE OF 2165.51 FEET; THENCE RUN N.82°29'27"W., ALONG THE SOUTH LINE OF THE SOUTHWEST ¼ OF SECTION 11, FOR A DISTANCE OF 2698.44 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 11, THE SAME BEING THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 47 SOUTH, RANGE 25 EAST; THENCE RUN S.88°50'19"W., ALONG THE SOUTH LINE OF THE SOUTHEAST ¼ OF SAID SECTION 10, FOR A DISTANCE OF 2664.18 FEET; THENCE RUN S.88°50'37"W., ALONG THE SOUTH LINE OF THE SOUTHWEST ¼ OF SAID SECTION 10, FOR A DISTANCE OF 2540.14 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD RIGHT-OF-WAY, A 130.00 FOOT RIGHT-OF-WAY; THENCE RUN N.00°59'47"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 5341.51 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 10; THENCE CONTINUE N.00°59'47"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 2692.12 FEET; THENCE RUN N.00°56'59"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A

DISTANCE OF 1590.73 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE, CONCAVE WESTERLY; THENCE RUN NORTHERLY, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING RADIUS OF 5771.38 FEET, THROUGH A CENTRAL ANGLE OF 09°31'27", SUBTENDED BY A CHORD OF 958.27 FEET AT A BEARING OF N.05°42'43"W., FOR A DISTANCE OF 959.37 FEET TO THE END OF SAID CURVE; THENCE RUN N.10°28'26"W., ALONG SAID EASTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 77.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 2510.333 ACRES, MORE OR LESS.

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

BEARINGS REFER TO THE NORTH LINE OF THE NORTHWEST ¼ OF SECTION 3, TOWNSHIP 47 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING N.89°51'03"E.

NOTE: Based on Property Description provided by Stephen P. Ereik, Professional Surveyor & Mapper, Wilson Miller Inc. dated 10/13/2001.

C. The property was zoned AG-2, and coincident with the approval of this Development Order the property will be rezoned to Mixed Use Planned Development. The property is currently in active agricultural use. Agricultural uses may continue on those portions of the site not under development.

D. The Application for Development Approval (ADA) for The Brooks is consistent with the requirements of Section 380.06, Florida Statutes, and was found sufficient by the Southwest Florida Regional Planning Council on March 20, 1997.

E. The development is not located in an area designated as an Area of Critical State Concern under the provision of Section 380.05, Florida Statutes.

F. The development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development plan. The development is consistent with the State Comprehensive Plan if developed in accordance with the conditions set forth herein.

G. The proposed Development Order Amendment has been reviewed by the Southwest Florida Regional Planning Council (SWFRPC) and is the subject of the report and recommendations adopted by that body and subsequently forwarded to Lee County pursuant to Section 380.06, Florida Statutes. The development, as proposed in the ADA, subsequently amended by Notice of Proposed Change and modified by this Development Order Amendment, is generally consistent with the report and recommendations of the SWFRPC pursuant to Section 380.06(11), Florida Statutes.

H. The development is located in the Rural, Wetlands, and Suburban future land use categories and the development, as proposed, is consistent with the Planned Development District Option set forth in the Lee Plan for the Rural future land use category. The project, as conditioned herein, is consistent with the Lee County Comprehensive Plan, and Lee County's Land Development Code.

I. The conditions set forth below meet the criteria found in Section 380.06(15)(d), Florida Statutes.

J. The build out date of 2007 set forth in the Second DRI Development Order was extended by operation of law by three years to December 31, 2010.

K. HB7207 was signed into law by the Governor of the State of Florida on June 2, 2011 (as codified in Chapter 2011-139, Laws of Florida) and authorized a four year extension for all valid DRI Development Orders. At the option of the developer, all commencement, phase, buildout and expiration dates for valid Developments of Regional Impacts may be extended by four years regardless of previous extensions issued in the past.

In accord with HB 7207, The Brooks of Bonita Springs DRI qualified for the extension of the DRI's compliance dates. Under HB 7207, the extension of the DRI's compliance dates does not constitute a substantial deviation of the original development order approvals warranting further DRI review.

In accord with Section 252.363, F.S. the time was tolled and the build out time was extended by operation of law for three different State of Emergency Declaration-. Therefore the build out date of 2010 was extended by operation of law and it is now March 2, 2017.

II. ACTION ON THE REQUEST AND THE CONDITIONS OF APPROVAL.

NOW THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, in a public meeting duly advertised, constituted and assembled ~~November 29, 2011~~August 19, 2013, that the Development of Regional Impact request for Amendment to the DRI DO pursuant to ~~HB7207~~ submitted by ~~Long Bay Partners, L.L.C.~~Oakbrook Properties, Inc., for the project known as The Brooks of Bonita Springs (The Brooks), originally approved August 25, 1997, is hereby amended subject to the following conditions, restrictions and limitations. For the purpose of this Development Order, the term "Developer" refers to Long Bay Partners, L.L.C., and includes all of its successors or assigns, and all references to County Ordinances or other regulations, includes future amendments.

A. AFFORDABLE HOUSING

1. The Developer surveyed whether there was a sufficient number of housing units available to meet the demands of 747 employees at buildout (~~2014~~ 2017). Based on this survey, found to be sufficient, The Brooks has no regionally significant impact on low and moderate income housing.

2. If the Developer files a Notice of Proposed Change that extends the buildout date of the DRI beyond ~~2014~~ 2017, the Developer must reanalyze its impacts on low and moderate income housing, if the development subject to the extension includes commercial development. The analysis is limited to the low and moderate housing impact of the total commercial development. If the analysis indicates that there will be regionally significant impacts, the Developer must mitigate those impacts in accordance with applicable regulations.

B. ENERGY

The Developer will utilize the energy conservation measures outlined in the ADA.

C. HURRICANE PREPAREDNESS

1. The Brooks, at its current elevation, is located in a Category Three area pursuant to the SLOSH model. This is not a high hazard hurricane impact area, and the impacts to hotel/motels are only considered in high hazard areas. The DRI is in a "Hurricane Vulnerability Zone" (9J-2.0256(2)(c), F.A.C.). Due to the project's location in a category three area of Lee County, the Developer has the option of mitigating its impacts under Rule 9J-2.0256, F.A.C., or Rule 9J-2.0257, F.A.C. The Developer has chosen to mitigate the regional hurricane preparedness impacts by selecting the option of elevating the first floor of all residential units above the category three flood level, pursuant to Rule 9J-2.0257(6)(b), F.A.C. The units must be elevated at or above 16.6 feet, NGVD, the level designated for a Category Three area. If they are not so elevated, the Developer may not use the 9J-2.0257, F.A.C. option to mitigate its impacts. If they are elevated at or above 16.6 feet, NGVD, they will be treated as if they were in a Category Four flood level, and they will be considered to be outside of the hurricane vulnerability zone as defined by Rule 9J-2.0256, F.A.C.

2. The Developer will provide 20,000 square feet of on-site shelter space. Ten thousand square feet will be constructed in Phase I, and ten thousand square feet will be constructed in Phase II. The on-site shelter space will be used exclusively by residents of The Brooks and their guests, and they will be located within the club house(s) and must meet the following criteria:

- (a) All shelter buildings must be elevated at or above the 16.6 feet, NGVD;

- (b) All shelter buildings must be constructed in accordance with the requirements in Rule 9J-2.0257(6)(e), F.A.C., to withstand winds of at least one hundred twenty (120) miles per hour;
- (c) All windows in shelter buildings must be shuttered;
- (d) All shelter buildings must be equipped with an emergency power generator with adequate capacity to handle the following:
 - (1) ventilation fans;
 - (2) emergency lighting;
 - (3) life safety equipment (i.e., intercom, fire and smoke alarms);
 - (4) refrigeration and cooking equipment;
- (e) All shelters must have an auxiliary potable water supply.

3. Pursuant to Policy 79.2.2 of the Lee Plan, all landowners within The Brooks must pay an All-Hazards Tax for hurricane shelters.

4. The Developer must establish a public information program with the Property Owners' Association for the purpose of educating the development's residents regarding the potential hurricane threat. The Developer will do the following:

a. The various Property Owners' Associations must host an annual educational seminar, and will be responsible for obtaining the place for the seminar and for the provision of invitations to the homeowners. The time will be coordinated with the Lee County Emergency Services staff, who will provide the education and information at the program. The public information program will advise the residents of the location of The Brooks in a Special Hurricane Preparedness District and of the difficulty of evacuation in the event of an impending hurricane, the availability and location of hurricane shelters and the identification of steps to minimize property damage and to protect human life. Lee County Emergency Services staff will provide additional information regarding natural disasters if appropriate.

b. The Developer will also provide one, or more, coordinated preparedness plan(s) for the residential areas within the DRI. The hurricane preparedness plan(s) must address and include: a) operational procedures for the warning and notification of residents and visitors prior to and during a hurricane watch and warning period; b) a public information program, described above; c) identification of who is

responsible for the implementation of the approved evacuation plan; d) identification of the County's hurricane evacuation routes and shelters; and e) how the private security force, if any, will be integrated with the local Sheriff's personnel and the Division of Public Safety. The preparedness plan(s) must be developed in cooperation with the Lee County Emergency Management officials and must be found sufficient by those officials prior to the issuance of the first residential certificate of occupancy. Lee County Emergency Management Services will review the preparedness plan(s), and any revisions or addendums thereto, and will provide written objections or a verification of approval within fifteen (15) days.

5. Prior to the issuance of a local Development Order, the Developer of the hotel must submit a hurricane preparedness plan for the hotel to Lee County. Prior to the issuance of the Certificate of Occupancy for the hotel, the written preparedness plan(s) must be approved by Lee County Emergency Management. Lee County Emergency Management will review the preparedness plan(s), and any resubmittals and addendums, and will provide written comments that identify the deficiencies in the plan(s), resubmittals or addenda within 15 days. If no deficiencies are identified, Lee County Emergency Management will issue a written approval within 15 days.

6. When property is conveyed, the Developer must include a disclosure statement in the form of a covenant in the deed which states that the property is located in a hurricane vulnerability zone, that the hurricane evacuation clearance time for the County is high, and that shelter space is limited.

D. STORMWATER MANAGEMENT

1. The Developer must modify the existing agricultural construction and operation permit (#36-00288-5), to address the construction and operation of the surface water management system for the development approved by this Development Order and the project's proposed impacts to isolated wetlands, "waters of the state" and "other surface waters." Review and approval of the application will be in accordance with Chapter 40E, F.A.C. and the South Florida Water Management District (SFWMD) Basis of Review. The Developer will provide the County with copies of the modified permit.

2. The Developer must also obtain a SFWMD water use permit for certain dewatering activities proposed for the construction of project lakes, roads and building foundations. The Developer will provide the County with copies of the water use permit.

3. If needed, the Developer must obtain a consumptive use permit, in accordance with Chapter 40E, F.A.C., and the SFWMD Basis of Review. The Developer will provide the County with copies of the consumptive use permit.

4. At the time of permit application, the Developer and the SFWMD will determine whether the surface water management system must comply with discharge criteria for Outstanding Florida Waters.

5. An analysis of the method and routes proposed for off-site discharges will be required at the time of permit application. The analysis must include particular emphasis on control elevations, on-site storage, delineation of watershed boundaries, and the adequacy of off-site conveyances to accommodate the anticipated discharges from the project site. The analysis must include construction level detail. In order for District staff to determine whether the proposed discharges to Outstanding Florida Waters are classified as "direct" or "indirect," the Developer must submit construction level drawings showing the proposed conveyance methods at the time of permit application.

6. The Developer will establish a legal operating entity in accordance with the SFWMD Basis of Review and Lee County Land Development Code (LDC), to maintain all internal storm water management lakes, ditches and wetlands. Easements, common areas or other legal mechanisms may be utilized to ensure there is sufficient access to the storm water management areas.

7. The Developer must remove all silt barriers, hay bales, anchor soil, and accumulated silt, upon completion of construction, and stabilization of slide slopes.

8. Where applicable, the final stormwater management plan must consider measures to reduce runoff rates and volumes, including, but not limited to, fixed control structures, perforated pipes, and grass swale conveyances. The Developer must use swales rather than closed systems whenever practical.

9. On-site stormwater management lakes must include littoral zones. The location and extent of the littoral zones must be consistent with the requirements set forth in the surface water management permit issued by the SFWMD, as well as the local Development Order issued by Lee County. The SFWMD Basis of Review and County planned development resolution will dictate the required type, massing, and survival rate of vegetation in the littoral zones.

10. The Developer must conduct annual inspections of the Master Stormwater Management System and the on-site preserved/enhanced wetland areas to ensure that these areas are maintained in keeping with the final approved designs, and that the water management system is capable of accomplishing the level of stormwater storage and treatment for which it was intended.

11. If the stormwater management system impacts the habitats of state or federally listed plant and animal habitats on-site, these impacts will be evaluated during the review of any surface water management or ERP permit issued by the SFWMD, any dredge and fill permit issued by the Army Corps of Engineers (ACOE) and any local Development Order issued by Lee County. Impacts will be evaluated and mitigated in accordance with ACOE, SFWMD/DEP, and Lee County regulations.

12. The Developer, the UCDD, or the successors and assigns, must regularly vacuum sweep all privately owned internal streets and parking areas. The Developer will also encourage private parcel owners to regularly vacuum sweep their respective streets and parking areas.

13. The Developer must provide dry detention or retention pretreatment in the areas adjacent to commercial uses unless the Developer can provide reasonable assurances to the SFWMD that hazardous materials will not enter the project's surface water management system. The assurances may be in the form of deed restrictions, recorded lease agreements, or other legal instrument acceptable to SFWMD and the County.

E. TRANSPORTATION

1. Significant Impact

a. The original traffic impact assessment for the project assumed the development parameters set forth below:

	<u>Phase I (2002)</u>	<u>Buildout (2007)¹</u>
Residential		
--Single Family	600 D.U.	1,140 D.U.
--Multi Family/Single Family-Attached	2,000 D.U.	4,060 D.U.
Non-Residential		
--Service/Retail/Office (Town Center)	10,000 sq. ft.	100,000 sq. ft.
--Community Use (Town Center)	15,000 sq. ft.	50,000 sq. ft.
--General Retail (Community Center)	100,000 sq. ft.	150,000 sq. ft.
--Community Use (Community Center)	5,000 sq. ft.	5,000 sq. ft.
--Hotel	0 Rooms	120 Rooms
--Golf Course	36 Holes	72 Holes.

Based on the ~~proposed~~ Second DRI Development Order Amendment, the revised development parameters at buildout will be as follows:

Summary Development Parameters - Buildout

¹ The build out date was extended by operation of law by three years to December 31, 2010 on August 21, 2007 and another four years pursuant to HB7207 under the Fourth Amendment to the DRI DO. The build out date was also extended thru SB 2156 and State of Emergency for Tropical Storms Debbie and Isaac to March 2, 2017. The applicant submitted a traffic analysis (that included an additional 200 MF units and a 12/31/17 build out scenario) which demonstrated that the DRI will not significantly or adversely impact any relevant road segments. Based on this analysis, concurrency vesting rights for the additional residential units (3800 total SF/MF) are extended to December 31, 2017. However, the ~~Transportation Impact Assessment assumed build-out in 2007. For this reason, the build-out date was not altered in this paragraph.~~

<u>Land Use</u>	<u>Proposed DRI</u>
Residential	
Single Family	1,600 d.u.
Multi Family	2,000 d.u.
Total	3,600 d.u.
Town Center	
Service/Retail/Office	120,000 sq. ft.
Community Use	50,000 sq. ft.
Total	170,000 sq. ft.
Community Center	
Retail	150,000 sq. ft.
Office	5,000 sq. ft.
Total	155,000 sq. ft.
Hotel	120 rooms
Golf Course	72 holes

b. The assessment indicates that the significantly impacted roadways and intersections described below will be operating below acceptable levels of service at project Build out (2007)². The Brooks DRI is projected to significantly and adversely impact the following roadways and intersections:

Roadways:

	<u>Needed Improvement</u>
Corkscrew Road	
--Sandy Lane to Three Oaks Parkway	Widen to 4 lanes
--Three Oaks Parkway to I-75	Widen to 4 lanes
U.S. 41	
--Bonita Beach Road to W. Terry Street	Widen to 6 lanes
--Corkscrew Road to Koreshan Boulevard	Widen to 6 lanes
--Koreshan Boulevard to San Carlos Boulevard	Widen to 6 lanes
--San Carlos Boulevard to Alico Road	Widen to 6 lanes

² The build out date was extended by operation of law by three years to December 31, 2010 on August 21, 2007 and another four years pursuant to HB7207 under the Fourth Amendment to the DRI DO. The build out date was also extended thru SB 2156 and State of Emergency for Tropical Storms Debbie and Isaac to March 2, 2017. The applicant submitted a traffic analysis (that included an additional 200 MF units and a 12/31/17 build out scenario) which demonstrated that the DRI will not significantly or adversely impact any relevant road segments. Based on this analysis, concurrency vesting rights for the additional residential units (3800 total SF/MF) are extended to December 31, 2017. However, the initial Transportation Impact Assessment assumed build out in 2007. For this reason, the reference to the 2007 build out date was not altered in this paragraph.

--Alico Road to Island Park Road	6 lanes plus alternate facility*
--Island Park Road to Jamaica Bay West	6 lanes plus alternate facility*
--Jamaica Bay West to Six Mile Parkway	6 lanes plus alternate facility*

Bonita Beach Road	
--Imperial Street to I-75	Widen to 6 lanes

* *Metro Parkway Extension (6 lanes)*

Intersections:

US 41/Six Mile Cypress Parkway	Intersection Improvements
US 41/Island Park Road	Intersection Improvements
US 41/Alico Road	Intersection Improvements
US 41/San Carlos Boulevard	Intersection Improvements
US 41/Koreshan Boulevard	Intersection Improvements
US 41/Corkscrew Road	Intersection Improvements
US 41/Williams Road	Intersection Improvements
US 41/Coconut Road (Partially site-related)	Intersection Improvements
US 41/Old 41/Pelican Landing Parkway	Intersection Improvements
US 41/W. Terry Street	Intersection Improvements
US 41/Bonita Beach Road	Intersection Improvements
Corkscrew Road/Three Oaks Parkway	Intersection Improvements
Corkscrew Road/I-75 West Ramps	Intersection Improvements
Corkscrew Road/I-75 East Ramps	Intersection Improvements

2. Mitigation

a. The total proportionate share obligation to mitigate The Brooks DRI's transportation impacts on the non-site related roads and intersections set forth in Section E.1.b. above is estimated to be \$9,198,000, and the total estimated road impact fees to be generated by the project are \$7,863,240. To satisfy the proportionate share obligation, the developer must choose one of the two mitigation options identified below³. The Developer must select one mitigation option and notify the County in writing prior to the granting of the first building permit for the first permanent residential or commercial structure, except for the sales center. The selection of Option 2 must be accompanied by a Local Government Development Agreement pursuant to Section 163.3220, Florida Statutes, and Chapter 2, Article III of the Lee County Land Development Code. Once an option has been selected, any request to change the mitigation option, including changing from one option to the other, must be accompanied by the filing of a Notice of Proposed Change and an analysis as to whether the change constitutes a substantial deviation.

³The Developer chose mitigation option 2. A copy of the required Development Agreement is recorded in Lee County Public Official Records Book 3020, Page 2333.

b. Mitigation Option 1

1) Within 150 days of adoption of this DRI Development Order, but no later than January 1, 1998, the Developer must provide to the County a schedule for the dedication of certain right of way to the County. The schedule must reflect the Developer's acquisition of the property. Right of way to be dedicated includes the following: 150 feet of right-of-way for the extension of Coconut Road from U.S. 41 to the eastern property line Three Oaks Parkway, 100 feet of right-of-way for the extension of Williams Road from River Ranch Road to Three Oaks Parkway, and 150 feet of right-of-way for the establishment of the Three Oaks Parkway extension from the south property line to the north property line, following the general alignments identified in the Master Plan (Map H attached Exhibit A). The actual alignments will need to be reviewed and approved by Lee County DOT prior to dedication. ~~The Developer must also dedicate the expanded right of way (3.5 acres) at the eastern property line to allow for an eventual Coconut Road overpass over I-75. If the identified right-of-way is not provided as specified in the schedule, further building permits will be suspended until that dedication occurs.~~

Although the appraisals will be completed at the time of dedication, the value of the right-of-way will be based on its appraised value at the time of DRI approval, without the enhanced value created by DRI and zoning approval. The Developer's proposed mitigation plan dated April 22, 1997 estimates the value to be 80 cents per square foot. The value of the Coconut Road right-of-way will be based on the following:

- a) U.S. 41 to Three Oaks Parkway, (9,000 ± feet), 80 feet non-creditable and 70 feet creditable.
- b) Three Oaks Parkway to Southeast Parcel Entrance, (2,000± feet), 80 feet non-creditable and 70 feet creditable.
- c) ~~Southeast Parcel Entrance to I-75 (1,600± feet), 150 feet creditable.~~
- d) ~~I-75 overpass quadrants at a total of 3.5 acres, creditable.~~

Consistent with the Land Development Code, there will be no impact fee credits or credits against the proportionate share obligation for the non-creditable component of these right-of-way dedications. The 150-foot right-of-way dedicated for Three Oaks Parkway and the 100-foot right-of-way dedicated for Williams Road are fully creditable; any additional right-of-way required for site-related improvements, as determined by the Lee County Engineer, is not creditable.

2) The total estimated value of the rights-of-way for the three roads, factoring out the non-creditable portion of Coconut Road, is \$2,842,000 (assuming

DRI approval and right-of-way dedication in 1997). The precise value will be verified through proper appraisals. The value of the creditable (non site-related) portion of the right-of-way will be subtracted from the \$9,198,000 proportionate share obligation. Subtracting the estimated \$2,842,000 right-of-way value from the \$9,198,000 proportionate share obligation equals \$6,356,000, or \$1,507,240 less than the estimated impact fee revenue projected through project buildout (\$7,863,240). The estimated \$1,507,240 difference will be issued to the Developer in the form of road impact fee credits. These credits may be used to defray the estimated \$7,863,240 in impact fees or transferred in accordance with the Land Development Code. In any event, the remaining proportionate share obligation will be addressed at the time of building permit issuance for each unit of development. At that time, the Developer may pay the impact fees in cash or redeem whatever impact fee credits he may have.

3) All development within The Brooks DRI will be subject to the County's Concurrency Management System in effect at the time building permits are requested.

4) If the Land Development Code Chapter governing roads impact fees is repealed, reduced or made unenforceable by court petition, The Brooks DRI will continue to pay, per individual permit, an amount equivalent to roads impact fees in effect prior to such repeal, reduction or court petition. If the Developer submits an independent fee study in accordance with Chapter 2 of the Land Development Code in an effort to reduce impact fees, he must file a Notice of Proposed Change to the DRI Development Order and conduct an analysis of whether the requested change in anticipated revenues constitutes a substantial deviation. In any case, the overall \$9,198,000 obligation must be met, unless the scope of development is reduced. If road impact fees are increased, the Developer will get credit for those increases against the total \$9,198,000 obligation.

5) The County will apply the roads impact fees paid by The Brooks DRI under Mitigation Option 1 toward the non-site related improvements identified in Section E.1.b. In the alternative, the County will apply the fees toward improvements that relieve those roadways, provided those improvements are deemed necessary to maintain the County's adopted level of service standards. If the improvements identified in Section E.1.b. are ultimately funded through other sources, in whole or in part, or deemed unnecessary to maintain the adopted level of service standards, Lee County may apply the impact fees paid by The Brooks to other improvements consistent with the requirements of Chapter 2 of the Lee County Land Development Code.

c. Mitigation Option 2

Phase I

1) Within 180 days of adoption of this DRI Development Order, but no later than February 1, 1998, the Developer must provide to the County a Development Agreement specifying the schedule for certain right-of-way dedication and roadway construction in lieu of the payment of road impact fees. Building permits for

permanent residential or commercial structures (except for the sales center) within The Brooks cannot be issued until this Development Agreement is executed by both parties. The right-of-way dedication and construction schedule must reflect the Developer's acquisition of the property, design of the improvements and construction of those improvements, as well as commitments made in this Development Order. On-site right-of-way to be dedicated includes the following: 150 feet of right-of-way for the extension of Coconut Road from U.S. 41 to ~~the eastern property line~~ Three Oaks Parkway, 100 feet of right-of-way for the extension of Williams Road from River Ranch Road to Three Oaks Parkway, and 150 feet of right-of-way for the establishment of the Three Oaks Parkway extension from the south property line to the north property line, following the general alignments identified in the Master Plan (Map H). The actual alignment will need to be reviewed and approved by Lee County DOT prior to dedication. ~~The Developer must also dedicate the expanded right-of-way (3.5 acres) at the eastern property line to allow for an eventual Coconut Road overpass over I-75.~~

Off-site right-of-way to be dedicated includes all or part of the Developer-owned land between Williams Road and Corkscrew Road along the general alignment of the Three Oaks Parkway extension. As part of the Development Agreement submittal the Developer must provide to Lee County the necessary documentation identifying the property he is offering for the Three Oaks extension. The Lee County Division of Transportation will then make a determination as to how much of the property is usable for the extension.

2) As part of the submittal of the proposed Development Agreement, the Developer must provide an appraiser's estimate of value or range of value for the rights-of-way to be dedicated, including the off-site right-of-way for the Three Oaks extension from Williams Road to Coconut Road. These values will be based on the value at the time of DRI approval, without the enhanced value created by the DRI and zoning approval, and will be used to determine the amount of cash payment that may be required to complete the mitigation requirements for Phase I.

Actual value of the rights-of-way will be determined at the time of dedication through proper appraisals using the following parameter: the value of the right-of-way will be based on its appraised value at the time of DRI approval, without the enhanced value created by DRI and zoning approval. The Developer's proposed mitigation plan dated April 22, 1997 estimates the value to be 80 cents per square foot. The value of the Coconut Road right-of-way will be based on the following:

- a) U.S. 41 to Three Oaks Parkway, (9,000± feet), 80 feet non-creditable and 70 feet creditable.
- b) Three Oaks Parkway to Southeast Parcel Entrance, (2,000± feet) 80 feet non-creditable and 70 feet creditable.

e) ~~Southeast Parcel Entrance to I-75 (1,600± feet) 150 feet creditable.~~

d) ~~I-75 overpass quadrants at a total of 3.5 acres, creditable.~~

Consistent with the Land Development Code, there will be no impact fee credits or credits against the proportionate share obligation for the non-creditable component of these right-of-way dedications. The 150-foot right-of-way dedicated for Three Oaks Parkway and the 100-foot right-of-way dedicated for Williams Road are fully creditable; any additional right-of-way required for site-related improvements, as determined by the Lee County Engineer, is not creditable. The total estimated value of the rights-of-way for the three on-site roads, factoring out the non-creditable portion of Coconut Road, is \$2,842,000 (assuming DRI approval and right-of-way dedication in 1997).

3) Coincident with the acceptance by Lee County of the Development Agreement but no later than February 1, 1998 or the issuance of the first building permit for the first permanent residential or commercial structure (except for the sales center), the Developer must do the following:

a) Dedicate to the County 150 feet of right-of-way for Coconut Road from U.S. 41 to future Three Oaks Parkway.

b) Dedicate to the County all, or a portion, of the property owned by the Developer along the general alignment of the Three Oaks Parkway Extension from Williams Road to Corkscrew Road. The amount of land to be dedicated will be based on the Lee County determination referenced in Section E.2.c.(1).

c) Utilizing the values provided by an appraiser, estimate the total value of all right-of-way dedications to be made during Phase I, both on-site (Coconut Road from U.S. 41 to the east property line including the expanded right-of-way at I-75 Three Oaks Parkway, Three Oaks Parkway from the south property line to Williams Road, and Williams Road from River Ranch Road to Three Oaks Parkway) and off-site (Three Oaks Parkway from Williams Road to Corkscrew Road). The Developer will then submit a cash payment for the difference between estimated Phase I impact fees (\$3,777,270) and the value of the right-of-way dedications (estimated at \$3,381,000 if all of the off-site Three Oaks property is utilized). At the time of dedication, the actual value for the rights-of-way will be based on an appraisal using certain valuation parameters noted in Section E.2.c.(2). If, upon completion of the right-of-way dedications and establishment of actual value, it is determined that the initial cash payment made by the Developer was insufficient to equal a total mitigation value of \$3,777,270, then: 1) an additional cash payment must be made to reach the \$3,777,270 total, or 2) design plans as specified under Phase II for one or more of the identified roads (i.e., Williams Road, Coconut Road or Three Oaks Parkway) will be provided in lieu of all or a portion of the difference; or 3) no further building permits will be issued. If the initial cash payment results in a total Phase I

mitigation value in excess of \$3,777,270, then the difference will be applied to the Phase II mitigation requirements or reimbursed in the form of road impact fee credits, whichever is agreed upon by both Lee County and the Developer.

This cash payment will be applied by Lee County toward the improvements to be mutually agreed upon and specified in the Development Agreement.

4) Coincident with the 650th residential building permit, the Developer will dedicate to the County 150 feet of right-of-way for Three Oaks Parkway from the south property line to the north property line.

5) Coincident with the 1300th residential building permit, the Developer will dedicate to the County the balance of the right-of-way as described above.

6) If the right-of-way dedications and payments specified in Sections E.2.c.(1) through c.(5) above are made as described, in the time frames noted, The Brooks will not pay road impact fees and the level of development for Phase I of The Brooks DRI as identified in Section E.1.a. will be exempt from the County's concurrency management requirements. If the dedications and payments are not made as described, then no further building permits will be issued until the Developer makes those dedications and payments. All of the right of way dedications and cash payments were made in accordance with this DRI DO.

Phase II

7) Before the end of calendar year 2002 or the initiation of any Phase II residential or commercial building permits, whichever is earlier, the Developer must provide to Lee County for review and approval design plans consistent with County standards for the following improvements:

a) Three Oaks Parkway as a 4-lane urban arterial expandable to six lanes from the south property line to the north property line.

b) Williams Road as a 2-lane rural collector from River Ranch Road to Three Oaks Parkway.

The design work will include any necessary permitting. The value of the designs and permitting must be verified and approved by Lee County, through the submittal of billing documents from the Developer's design consultant. The value is currently estimated at a total of \$614,000 (\$526,000 for Three Oaks Parkway, and \$88,000 for Williams Road). The actual value is creditable against the total proportionate share amount of \$9,198,000.

8) Within twelve months after design approval by Lee County and permit approval, the Developer will initiate construction of the extension of Three Oaks Parkway from the project's southern property line to the northern property line. The

Developer must construct this roadway consistent with the approved design plans. The estimated construction cost of this improvement is \$4,556,000 (excluding design, permitting and right-of-way costs) which is creditable against the proportionate share amount.

9) Within twenty-four months after design approval by Lee County and permit approval, the Developer must also initiate construction of the extension of Williams Road from River Ranch Road east to Three Oaks Parkway. The Developer must construct the Williams Road extension consistent with the approved design plans. The estimated construction cost of this improvement is \$281,000 (excluding design, permitting and right-of-way costs) which is creditable against the proportionate share amount.

10) Upon completion of the Three Oaks Parkway and Williams Road extensions, the Developer must calculate the actual construction costs of the improvements to those roadways (including design and permitting) and add those costs to the value of the Phase I non site-related right-of-way dedications and cash payments. The Developer must then pay the balance, if any, of the proportionate share assessment in cash. (This is the difference between the total proportionate share obligation and the mitigation to date). This cash payment will be applied toward the improvements to be mutually agreed upon and specified in the Development Agreement.

If the actual costs and payments identified above exceed the proportionate share amount, the Developer would get the difference in road impact fee credits. In lieu of the cash payment, if any, as described above, the Developer may reduce the scope of the development within The Brooks.

11) If the construction and payments specified in Sections E.2.c.(7) through c.(10) above are made as described in the time frames noted, and the development schedule and impact levels remain consistent with the Development Order and substantial deviation criteria, the level of development for buildout identified in Section E.1.a. will be exempt from the County's concurrency management requirements. If the Developer does not complete the referenced construction and does not make the payments as described, then no further building permits will be issued until the Developer completes the construction and makes the payments identified. All of the right of way dedication and cash payments were made in accordance with the requirements of this DRI DO.

12) A 2-lane road extending Coconut Road from U.S. 41 to Three Oaks Parkway is required by the development for site-related purposes. Four lanes on that corridor were identified as needed by 2020 in a recent County planning study, in conjunction with an extension of that corridor east over the interstate, but that need would not likely exist before 2010 (except as may be created by development of The Brooks). The Developer has proposed building at least part of the Coconut Road extension as four lanes as part of his mitigation plan, for credit against the proportionate share obligation (after subtracting the non-creditable portion). The estimated differential cost of building four lanes instead of two (excluding right-of-way) from U.S. 41 to Three Oaks Parkway is

\$1,307,000. This represents the amount potentially creditable against the proportionate share obligation. However, the premature nature of the improvement requires a reduction in the amount creditable. If credit against the proportionate share obligation for the 4-lane improvement is requested prior to 2010, then the amount creditable against the proportionate share obligation will be reduced at a rate of 2.5 percent compounded per year for every year before 2010 the request is made. Any credits issued will be deducted from the cash payment obligations identified to vest the project from concurrency for Buildout. The referenced segment of Coconut Road must be constructed to County standards, with design plans submitted to the County for review and approval.

13) Due to concerns regarding the effect of construction traffic, Lee County will not accept for maintenance any roads constructed by the Developer under Mitigation Option 2 until the overall development is 80 percent complete, as estimated from the entire development mix. Acceptance of Coconut Road includes the railroad crossing. The roadways must meet the County's standards in effect at the time the roadways were designed.

3. Access and Site-Related Improvements

a. The Developer is fully responsible for the following site-related roadway and intersection improvements: all intersection improvements, including signalization, turn lanes and deceleration lanes, deemed necessary by the County Engineer and consistent with the Lee County Land Development Code for the project's access points onto U.S. 41, Williams Road, Coconut Road, and Three Oaks Parkway. As site-related improvements, they are not eligible for credit against impact fees or the project's proportionate share obligation.

b. The Developer is also required to make any improvements, including signalization, turn lanes and deceleration lanes, deemed necessary by FDOT and the County Engineer at the intersection of Coconut Road and U.S. 41. The County Engineer, consistent with the Lee County Land Development Code, will determine the percentage of costs of these improvements that are site-related and, therefore, the obligation of the Developer. That percentage deemed site-related will not be eligible for credit against impact fees or for credit against the project's proportionate share obligation.

c. The access point onto U.S. 41 for the Community Center must be located and developed consistent with FDOT's access management classification for U.S. 41, unless otherwise approved by the FDOT.

d. The Brooks' access onto Williams Road will be aligned with River Ranch Road. Once the Developer applies to connect to Williams Road, the School District of Lee County will be included in the review process, and their comments and concerns will be considered by the County's Department of Community Development.

4. Biennial Monitoring Report

a. The Developer must submit a biennial monitoring report to the following entities for review and approval: Lee County Division of Transportation, the Florida Department of Transportation (FDOT), the Florida Department of Community Affairs (FDCA), and the Southwest Florida Regional Planning Council (SWFRPC). The first monitoring report will be submitted one year after the approval of the DRI Development Order unless no buildings have been occupied. If the Developer contends that a traffic monitoring report is not required because no traffic impacts have been created, he must indicate so in writing to the above review agencies. Once the development is required to submit a traffic monitoring report, it must be submitted biennially thereafter.

b. The monitoring program will measure the project's actual external roadway impacts, the level of service condition on the impacted roads and intersections, and determine the timing for needed improvements. The monitoring program will be designed in cooperation with the Lee County Division of Transportation, FDOT, the SWFRPC and FDCA prior to submittal of the first report. The methodology of the biennial traffic monitoring report may be revised if agreed upon by all parties.

c. The biennial traffic monitoring report must contain the following information:

1) P.M. peak hour traffic counts with turning movements at the project's access points onto U.S. 41, Williams Road, Coconut Road, and Three Oaks Parkway, and on the external road segments and intersections identified in Section E.1.b.

2) A comparison of field measured project traffic volumes to the project trip generation assumed in the DRI analysis. The Developer will need to specify in the methodology how the internal interaction will be measured, particularly for the Town Center.

3) Estimated existing levels of service and needed improvements for the roads and intersections specified in Section E.4.c.(1) above.

4) Estimated future levels of service and needed improvements, based on a one-year projection of future volumes, for the roads and intersections specified in Section E.4.c.(1) above.

5) A summary of the status of road improvements assumed in the ADA to be committed by Lee County and FDOT as set forth below:

<u>Roadways</u>	<u>Improvement</u>	<u>Construction Schedule</u>
Corkscrew Road --I-75 to Treeline Ave.	4 lanes	FY 95/96

Alico Road		
--US 41 to I-75	4 lanes	FY 97/98
--I-75 to Treeline Ave.	4 lanes	FY 95/96
Treeline Ave.		
--Corkscrew Road to Alico Road	4 lanes	FY 95/96
US 41		
--Alico Rd. to Daniels Parkway	6 lanes	FY 96/97
<u>Intersection</u>	<u>Improvement</u>	<u>Construction Schedule</u>
US 41/Corkscrew Road	Turn lanes	FY 96/97
Corkscrew Road/Three Oaks Pkwy.	Turn lanes/Signalization	FY 96/97

d. If the biennial monitoring report reveals that the project trip generation exceeds the thresholds identified in 380.06(19)(b)15, Florida Statutes, then the provisions regarding substantial deviations will take effect under either mitigation option. If the project is deemed to be a substantial deviation, the Developer must then undergo additional DRI review. This review, if required, must reanalyze the project impacts on the County road network and specifically evaluate the potential project impacts on I-75 from Alico Road to Daniels Parkway and on Old U.S. 41 from Rosemary Drive to U.S. 41.

Under Mitigation Option 1, if the biennial monitoring report confirms that the peak season, p.m. peak hour traffic on the significantly impacted roadways exceeds the level of service standards adopted by Lee County, and the project is utilizing five percent or more of the adopted level of service standard service volume, then further local Development Orders, building permits and certificates of occupancy will not be granted until the standards of the County's concurrency management system have been met. Through the end of 1999, this means that adequate district-wide level of service capacity must be available. After 1999, this means that significantly impacted individual links must be operating at the adopted level of service or an improvement to achieve the adopted level of service is scheduled for construction in the first three years of an adopted local government capital improvement program or state work program, unless an alternative concurrency system has been established for all or part of Lee County. The Brooks will comply with the County's concurrency management system in effect at the time.

5. Other

a. The Brooks includes a Town Center intended to primarily serve the commercial retail/service and office needs of the community. The Town Center is anticipated to internally capture a portion of the total trips, which will help reduce the project's traffic impacts on the public roadway network. The following conditions apply to the Town Center:

1) The Town Center may not exceed 120,000 square feet of office/retail/service gross floor area. ~~Retail commercial development at the Town Center will be limited to Minor Commercial (30,000 square feet) until the Coconut Road Extension is open and connected to Three Oaks Parkway, and the Town Center has access to Three Oaks Parkway, and the Coconut Road Extension. When Three Oaks Parkway and Coconut Road are open to public traffic with traffic continuity from Corkscrew Road to Coconut Road and to U.S. 41, this condition will have been met.~~ The Town Center may not exceed 50,000 square feet of gross floor area of community uses; and

2) The uses within the Town Center will be governed by the planned development zoning; and

3) Single use retail buildings may not exceed 30,000 square feet of gross leasable area. Single use office buildings are not subject to the 30,000 square foot limitation.

b. The Brooks includes a Community Commercial Center located at the southeast quadrant of the proposed intersection of the Coconut Road extension and U.S. 41. ~~The Community Commercial Center is limited to the intensity allowed in Neighborhood Commercial Centers (100,000 square feet) until such time as the Coconut Road extension is designed and open as an arterial roadway.~~

c. The Developer will provide for efficient pedestrian and bicycle movement within The Brooks through the provision of a system of interconnecting sidewalks and bike paths that link the various pods of development.

d. If routes are established by Lee County, the Developer will accommodate local or express transit service with bus stops on public roadways and reasonably sized and located in commercial areas.

e. Parcel 4 was added to the DRI as part of the First Development Order Amendment. Parcel 4 includes a portion of the right-of-way for Three Oaks Parkway. Since the property was acquired subsequent to the approval of the Brooks DRI, the Developer, at its option, can dedicate the property to the County for road impact fee credits or an offset against the proportionate share assessment. The property will be valued as of the day of dedication consistent with the terms of the Development Agreement.

F. VEGETATION AND WILDLIFE/WETLANDS

1. Where practical, and where consistent with the permit issued by the SFWMD, the Developer will construct shallow lakes with wetland plantings in an effort to create additional wildlife habitat value.

2. The Developer will incorporate a 24-inch-diameter wildlife crossing under each arterial roadway crossing of wetlands by placing a culvert adjacent to the upland/wetland boundary. In addition to the wildlife crossing, the Developer will place

additional culvert(s) under the roadway crossing, as needed, to provide a hydraulic connection between wetlands pursuant to the SFWMD regulations. There is currently a lime rock farm road at the roadway crossing between Wetlands 8 and 10, and the Developer will install approximately .9 acres of wetland herbaceous plants and shrubs in this area. The plantings will extend from the current northern/southern wetland boundaries up to the edge of the new east/west road.

3. There will be a total of 419 conservation acres; post development.

4. Approximately 300 of the 419 conservation acres will be wetland enhancement. The Developer will implement the enhancement of wetlands in phases in accordance with the permits issued by the ACOE and SFWMD. A portion of the wetland enhancement is intended to mitigate the project's impacts to approximately 33.5 acres of ACOE and SFWMD jurisdictional wetlands.

5. The Developer will eradicate invasive exotic vegetation from the site on a phased basis, in accordance with the local Development Order approvals and ACOE and SFWMD permit requirements. Invasive exotics are those species identified in the Lee County Land Development Code and tropical soda apple (*Solanum viarum*). Once the invasive exotics have been eradicated, the site must be maintained in accordance with County regulations to prevent the return of invasive exotics.

6. Where feasible, the surface water management system will incorporate the wetlands to assure appropriate hydroperiods and seasonal water elevations. Hydroperiods, seasonal water elevations, and the incorporation of wetlands into the surface water management system will be evaluated by the SFWMD during the review of the District permit application(s).

7. In addition to the conservation areas identified in the open space table, the Developer will, to the extent possible, retain the existing native plant communities located in the areas designated as open space on Map H. This condition will not be interpreted in a manner to impair good golf course design, nor may it result in the loss of residential lots.

8. The design for the golf course and residential areas will incorporate the retention of large slash pines for utilization as perch trees for bald eagles. This requirement will not be interpreted in a manner to impair good golf course design, nor may it result in the loss of residential lots.

9. The Brooks enhancement area will include the following items to enhance wildlife habitat: a meandering flow-way interconnecting wetlands, shallow ponds with littoral shelves for wading birds and birds of prey, enhancement of existing herbaceous wetlands, osprey platforms in hammocks, establishment of willow areas and flag ponds, and vegetated upland buffers along portions of the wetland system.

G. WASTEWATER MANAGEMENT/WATER SUPPLY

1. The Developer will obtain a SFWMD permit for groundwater withdrawals for landscape irrigation, and for dewatering needed to construct the project lakes, roads or building foundations.
2. The Developer will utilize water conserving devices and methods necessary to meet the criteria established in the water conservation plan of the public water supply permit issued to Bonita Springs Utilities (BSU). If the Developer obtains potable water from a different provider, then the Developer must conform to the water conservation plan of the alternate provider.
3. The Developer will coordinate with BSU or other water supplier to ensure that adequate potable water is available to meet the demands of the project.
4. The Developer will provide verification to the SFWMD that the Developer's plumbing and irrigation designs are consistent with the District rules.
5. The Brooks will be served by BSU with potable water and wastewater treatment. If BSU cannot provide potable water or wastewater treatment, then the Developer must obtain service from an alternate provider with capacity or construct on-site interim facilities. Interim facilities constructed on-site must be built to DEP standards. Any interim facilities constructed by the Developer must be dismantled at the Developer's expense when service by BSU facilities is available. In any event the Developer must demonstrate at the time of final local Development Order approval, that sufficient potable water and wastewater treatment capacity is available.
6. If the Developer uses treated effluent for irrigation, the Developer must buffer the on-site lakes, preserved wetlands and stormwater management system from possible effluent contamination in accordance with applicable SFWMD regulations. The Developer must isolate the effluent containment ponds from the on-site wetlands and water management lakes if it cannot be demonstrated that the water quality in these ponds is as good as the quality of water in its natural condition.
7. Septic systems utilized in conjunction with construction trailers, sales offices and model homes will be temporary. Except for golf course or recreational rest stations, permanent septic systems are prohibited. When it is feasible to connect the temporary uses to the regional wastewater treatment facilities all temporary septic systems will be abandoned or removed by a licensed septic system firm, in accordance with all applicable regulations.
8. The Developer must submit copies of all local Development Order plans that include potable water or wastewater distribution systems, to BSU (or alternate provider). BSU will review the plans for compliance with the BSU specifications manual. The Developer must also submit all construction plans for irrigation facilities to Resource Conservation Systems for review and approval prior to the commencement of construction.

9. Lee County will evaluate all potable water facilities, to ensure that the facilities are properly sized to meet average, peak day, and fire flow demands in accordance with the LDC. Lee County will consult with the appropriate Fire Protection District to confirm that the fire flow demands will be satisfied by the proposed potable water facility.

10. For all non-potable water purposes, the Developer must use the lowest quality of water available that is acceptable for the intended purpose.

11. This Development Order specifically incorporates the Developer's commitments set forth in the ADA and subsequent sufficiency road information relating to Questions 10, 14, 17 and 18 (General Project Description, Water, Water Supply and Wastewater Management respectively).

H. FIRE

The Developer will pay fire/EMS impact fees in accordance with the Fire and Emergency Service Impact fee ordinance.

I. FISCAL

1. Internal improvement capital costs will be borne by the Developer, a UCDD, a private utility or some other legal entity that has the ability to levy an assessment or otherwise raise revenues to pay the internal improvement capital costs. The internal roads, landscaping, recreation areas, drainage, security, street lights and other on-site infrastructure must be operated and maintained by the Developer, a UCDD, a property owners' association or some other legal entity that has the ability to levy an assessment or otherwise raise revenue to pay the capital cost internal improvements.

2. The operating and maintenance costs of the water and sewer will be addressed by payment of the required assessments, charges, and fees to BSU. BSU, through its rate structure, charges the user for its share of the maintenance costs. The internal roads, landscaping, recreation areas, drainage, security, street lights and other on-site infrastructure must be operated and maintained by the Developer, a UCDD, a property owners' association or some other legal entity that has the ability to levy an assessment or otherwise raise revenue to pay the cost of operation and maintenance.

3. The Developer must provide the County with fiscal monitoring reports that identify the taxable value of the development by use codes. Taxable value means the actual taxable value assigned to the property in the development by the Lee County Property Appraisers Office. The report must be submitted when the certificate of occupancy of the 2600th unit is issued. A second report must be submitted at the end of the second 5-year period, which is the end of second phase, if the fiscal monitoring report at the end of the first phase indicates that the project is not fiscally positive and a second report is required as part of the mitigation condition.

These reports are intended to allow the County to determine whether the total taxable value is 25% less than, equal to, or exceeds the total taxable value of \$510,180,000.00, which was contained in the fiscal analysis tables that were attached to the June 2, 1997 letter from Fishkind & Associates, to the Division of Budget Services, Lee County. [Table 2, attached Exhibit B]

If these reports demonstrate that the taxable values are 25% less than, equal to or exceeded, no further action is required. If these reports indicate that the actual taxable values are more than 25% below the taxable values projected in the tables, the Developer must conduct a new fiscal impact analysis (using the actual budgets of Lee County, including the Sheriff's budget, the Lee County District School Board, and the Estero Fire and Rescue District) utilizing the methodology of the modified per capita approach as outlined in the applicant's document "Revised Fiscal Impacts of The Brooks of Bonita Springs" dated May 19, 1997. [Applicant's Exhibit 59 to the Hearing Examiner Recommendation] The fiscal reports indicated that the development was fiscally positive and this condition is of no further force and effect.

If this new analysis indicates that the fiscal impact to the County is positive or neutral, no further action is required. If this new analysis indicates that the fiscal impact to the County is negative, the County, the applicant and other affected parties will try to reach a mutually agreed upon fiscal mitigation plan that fully mitigates the negative fiscal impacts at the sole cost of the Developer and the Property Owners within the development. If the Developer or the Property Owners do not concur with the County staff fiscal mitigation plan, then they have the right to avail themselves of any remedy allowed them under the County's LDC. No additional Development Orders will be issued to those portions of the project located within the Rural land use category, by the County, until the fiscal mitigation plan is implemented. If such a plan cannot be mutually agreed upon, the County reserves the right to create a taxing entity on the development, such as a Municipal Services Taxing Unit (MSTU) or Municipal Services Benefit Unit (MSBU), to address the identified negative fiscal impacts.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER, AND ADMINISTRATIVE REQUIREMENTS

1. This Development Order constitutes a resolution of Lee County adopted by the Board of County Commissioners in response to the DRI ADA filed for The Brooks of Bonita Springs DRI and subsequently amended pursuant to the Notice of Proposed Change filed June 1999.

2. All commitments and impact mitigating actions volunteered by the Developer in the ADA and supplementary documents that are not in conflict with conditions or stipulations specifically enumerated above are incorporated by reference into this Development Order. These documents include, but are not limited to the following:

(a) The Brooks of Bonita Springs Application for Development Approval, stamped received on July 3, 1996.

(b) The Brooks of Bonita Springs DRI sufficiency responses, stamped received on October 1996, December 1996, and January 1997.

3. Map H, stamped received on ~~June 21, 2001~~ September 28, 2012 is attached hereto as Exhibit "A," and is incorporated by reference. It is understood that because it is a concept plan it is very general. The boundaries of development areas and the location of internal roadways may be modified by the Developer to accommodate topography, vegetation, market conditions, traffic circulation or other site related conditions as long as they meet local development regulations. However, this provision may not be used to reduce the size of wetland preserve areas. It is understood that the precise wetland boundaries are determined by the South Florida Water Management District, as delegated by the Department of Environmental Protection.

4. The Development Order is binding upon the Developer(s), and its assignees or successors in interest. Where the Development Order refers to lot owners, business owners or other specific reference, those provisions are binding on the entities or individuals referenced. Those portions of this Development Order that clearly apply only to the project developer are binding upon any builder/developer who acquires a tract of land within the DRI.

5. The terms and conditions set out in this Development Order constitute a basis upon which the Developer and the County may rely in future actions necessary to implement fully the final development contemplated by this Development Order.

6. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party by action at law or equity. All costs of those proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

7. During the ~~next two years (2000-2001)~~, Lee County ~~undertook~~will undertake, to the extent legally permissible, any amendment to the Planning Communities Map and Acreage Allocation Table, necessary to accommodate the buildout of The Brooks as set forth in the DRI phasing schedule. Lee County will cause these amendments to occur in a timely manner so development of The Brooks will not be impeded by the Planning Communities Map and Acreage Allocation Table. Nothing in this condition will be interpreted to cause the county to be liable for a failure to accomplish these amendments if the failure is the result of a refusal by any state or regional agency to approve such a charge.

8. At the time of local Development Order approval, the development outlined in the Local Development Order application will be evaluated for consistency with the Lee County Concurrency Management Plan, except for transportation concurrency. Transportation concurrency is addressed by condition II.E.6.

9. References to governmental agencies will be construed to mean future instrumentalities that may be created and designed as successors in interest to, or which

otherwise possesses the powers and duties of the referenced governmental agencies in existence on the effective date of this Development Order.

10. If any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, that decision will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

11. This Development Order does not negate the Developer's responsibility to comply with all applicable federal, state, regional and local regulations.

12. Subsequent requests for local development permits do not require further review pursuant to Section 380.06, Florida Statutes, unless the Board of County Commissioners, after due notice and hearing, make the following findings:

(a) There is a substantial deviation from the terms or conditions of this Development Order; or

(b) The period of effectiveness of this Development Order has expired. Any request to extend the effectiveness of this Development Order will be evaluated based on the criteria for the extension of the buildout date set forth in Section 380.06(19), Florida Statutes.

Upon a finding that either of the above has occurred, the Board must order a termination of all development activity in the development affected by the substantial deviation or expiration of the Development Order until such time as a new DRI Application for Development Approval, Notice of Substantial Deviation or Notice of Proposed Change has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes.

13. The project has a buildout date of December 31, 2014 ~~2017~~ and a termination date of December 31, 2019 ~~2023~~. This term is based on a 10-year buildout and the recognition that a local Development Order, which is valid for five years, may be obtained in the tenth year. The build out and termination dates of this paragraph were extended to December 31, 2014 ~~2017~~ and 2015 ~~December 31, 2019~~ 2023, respectively, by operation of law.

14. The administrative director of the Lee County Department of Community Development, or their designee, will be the local official responsible for assuring compliance with this Development Order.

15. The project will not be subject to down-zoning, unit density reduction, intensity reduction or prohibition of development until December 31, 2019 ~~2023~~. If the County demonstrates that substantial changes have occurred in the conditions underlying the approval of the Development Order, then a down-zoning, unit density reduction or prohibition of development may occur. No down-zoning, density or intensity reduction can occur without sufficient notice to the Developer and an opportunity to be heard. These

changes would include, but would not be limited to, such factors as a finding that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Lee County to be essential to the preservation of the public health, safety and welfare.

16. The Developer or its successor(s) in title will submit a report biennially to Lee County, SWFRPC, FDCA and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission. In addition, the report must be consistent with the rules of the FDCA. The first monitoring report must be submitted to the Administrative Director of the DCA not later than one year after the effective date of this Development Order. Further reporting must be submitted not later than one year of subsequent calendar years thereafter, until buildout. Failure to comply with this reporting procedure is governed by Section 380.06(18), Florida Statutes. The Developer must inform successors in title to the undeveloped portion of the real property covered by the Development Order of this reporting requirement. This requirement may not be construed to require reporting from tenants or owners of individual lots or units.

17. The County will forward certified copies of this Development Order to the SWFRPC, the Developer and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeal period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, the Developer must record notice of its adoption in the office of the Clerk of the Circuit Court, as provided in Section 380.06(15), Florida Statutes.

Commissioner Manning made a motion to adopt the Fifth Development Order Amendment, seconded by Commissioner Hall. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 19th day of August, 2013.

ATTEST:
LINDA DOGGETT, CLERK

BY: *Joyce Townsend*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

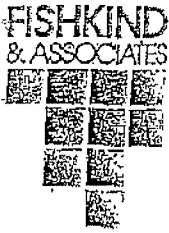
BY: *[Signature]*
Cecil L. Pendergrass, Chair



Approved as to form by:

[Signature]
Michael D. Jacob
Assistant County Attorney
County Attorney's Office

- A. Map H dated ~~June 12, 2001~~ September 11, 2012, stamped received by Community Development ~~June 21, 2001~~ September 28, 2012
- B. June 2, 1997 correspondence from Fishkind & Associates [Table 2]
- C. Biennial Monitoring Report Requirements



RECEIVED

JUN 3 1997

June 2, 1997

Mr. James Lewin, Fiscal Research Specialist
Division of Budget Services, Lee County
2115 2nd Street
Fort Myers, FL 33901

PLANNING
DIVISION
JUN 3 1997
LEE COUNTY
FISCAL
OFFICE

Dear Jim:

I am in receipt of your May 27 1997 memo to Paul O'Connor regarding your review of our revised report on the Fiscal Impacts of the Brooks PDDO. The purpose of today's letter is to resolve and clarify each of the points made in your memo.

It is my belief each point can be resolved to our mutual satisfaction through this letter. We have provided you with corrected tables and additional explanation. Below, I have summarized each point in your memo and indicated what steps we have taken to resolve the issue.

1.0 Use of Per Capita and/or Employment Divisor

In general, population and employment are combined and used as the divisor to calculate per capita revenues and expenditures, in instances where per capita figures are used to estimate revenues or expenditures. This is done to reflect the conditions in which services are provided and expenses made to accommodate employment related facilities and commercial structures. Similarly, revenues are generated by employment related structures such as commercial facilities and the impact analysis should fairly reflect both expenditures and revenues.

In some instances, however, county services are provided only to resident population and not to employees or the employment related facilities. Similarly, in some instances revenues are generated primarily by residents. Where County expenditures are made primarily on behalf of residents and do not benefit employees or where revenues are generated primarily from residential sources, the divisor used includes only population.

Revenue and expense categories which affect population and therefore which only uses the population divisor figure include: Intergovernmental Revenues, Economic Environment Expenses, and Culture and Recreation Expenses. All other revenue and expense categories affect the both population and employment and in these cases the combined figure is used.

In a discussion with Emergency Management representatives on this topic we explained that EMS provides services to both residential locations and employment locations, which is why the combined divisor is used for public safety. For example, EMS will respond to a backyard pool accident or a production machine accident. Similarly, both the residential location and the workplace location generate revenues through property taxes paid and license fees. Because of these types of conditions it is appropriate in many instances to reflect per capita divisors as the sum of population and employment.

In the March 7 letter from the Sheriff's office, it was indicated that the countywide population/employment divisor for Sheriff's revenue and expenditures was inappropriate because they provide service only to the unincorporated area. We agree with the Sheriff on this matter. Therefore, we included all of the direct costs identified by the Sheriff's office. For modeling purposes the Sheriff's expenditure figure was increased to reflect the data provided. Additional Public Safety category expenditures continue to be calculated using the countywide population/employment divisor. It is for this reason the per capita expenditures for Public Safety on Table 4a has been increased \$173.15, which is in excess of the sum of the indented line items in table 4a under Public Safety (Sheriff, Detention, EMS and Other). The difference between the two per capita figures has been allocated to the Sheriff's office line item in Table 4, to reflect the higher per capita cost resulting from use of the unincorporated population and employment. The result is that the site specific calculations in Table 4 properly reflect the countywide divisor for Detention, EMS and Other and the data from the Sheriff's office for the Sheriff expenditures which represents the effects of using a divisor based on unincorporated population and employment.

2.0 Property Tax Values

There were two issues raised in this category. First, the calculation of property taxes in Table 4 as derived from the property valuations in Table 2. Second, the identification and use of specific millage rates in ad valorem tax revenue generation.

The calculation method as described in your memo is correct. The figures could not be calculated due to an incorrect version of Table 2. The correct version is included with the revised tables accompanying this memo.

Per our earlier discussions in April and May, the millage rates have been revised and now include "Countywide" millages as follows:

General Revenue	4.4751
Capital Outlay	0.272
Library	<u>0.5755</u>
COUNTYWIDE	5.3226

Unincorporated	1.1604
MSTU	

I believe these are the only millages we agreed upon as appropriate to use in the Fiscal analysis. Millages have been eliminated for All Hazards, Bonita Lighting, Hyacinth and Mosquito, and all water control districts.

The fiscal impact tables have been revised to reflect these changes and corrections.

3.0 Lee County FY 96/97 Approved Budget

There are four concerns raised under this item. First, the revenues and expenditures do not balance under the General Fund Column. Second, Intergovernment revenues under the General Fund column appear to double count gas tax revenues. Third, the revenue reserve account figure is inconsistent with the Budget. Fourth, the Capital Funds column includes some revenues which should be excluded. We will discuss and resolve each item.

The revenues and expenditure column now balances in the revised tables.

The Intergovernment revenues under the General Fund column have now been modified to exclude 71.2 percent of sales tax revenues which is earmarked for non-operating purposes. This reduction of sales tax revenues is based on my previous discussions with you. Similarly, expenditures derived from sales taxes have been reduced by the same amount in general government. In the revised and corrected Table 4a, Intergovernment revenues reflect the sales tax reductions. The sales tax revenue line item is additive with the Intergovernment line item. There is no double counting of sales tax revenues having made these corrections. The revenue reserve under the General Fund column is now consistent with the published budget figure.

The Capital Funds column is included in the fiscal impact analysis because most of the capital projects expenditures are made from annual budgeted revenue sources and we have included the annual capital outlay millage revenues. Based on your memo we should include 75 percent of the revenues however, the published budget provides insufficient detail to include the corresponding expenditures according to the appropriate expenditure category. Since the portion of revenues and expenditures you indicated should be included make up 75 percent of this fund, we believe it is a more conservative representation to include 100 percent of the expenditures as well as all the revenues from the millage source.

Alternatively, just as was the case in the Special Revenue Fund, we can modify our analysis, with further assistance from you, in correctly identifying expenditures by category for the Capital Outlay Fund.

Jim, it is clear we have not provided perfect recalibration of our model based on the extensive discussions we had in April and early May. I'm sure you would agree there is great complexity in the modelling effort. Despite this, I believe we have had very productive and useful discussions and I believe you have again raised useful points in your most recent analysis. It is for this reason that we have corrected and revised the Fiscal Impact Analysis and the accompanying tables. I believe our explanations and the revisions provided in this letter offer a picture of the fiscal impacts of the Brooks over the long term that is more accurate and is consistent with the methodological approach and modifications suggested by you and Bruce Loucks and agreed to by us. If this is the case, I would ask you to contact Paul O'Connor by Wednesday of this week and confirm these revisions and corrections are sufficient with respect to the issues you have raised in the May 27 memo. If not, then please contact me with any additional questions or concerns you may have.

Finally, it should be noted that the revisions and corrections provided do not substantially change the fiscal outcome in the final analysis. Therefore, these changes do not change our conclusions that the Brooks of Bonita Springs does meet the criteria for fiscal self sufficiency and will generate substantial fiscal surpluses to Lee County and other local government agencies.

Sincerely,


Stanley P. Geberer
Associate

cc: Margaret Emblidge
Neale Montgomery
Matt Noble
Paul O'Connor
Sharon Jenkins Owen
Alan Reynolds

Table 1: Proposed Development Schedule - Cumulative

	1999	2000	2001	2002	2003	2004	2005	2006	Final Yr Ph. 1	Stabilized Yr. 1	Stabilized Yr. 2	Stabilized Yr. 3	Stabilized Yr. 4	Stabilized Yr. 5
Less: Existing Development														
Residential Development (units)														
Single-Family Detached	54	170	320	422	722	820	1,028	1,140	1,140	1,140	1,140	1,140	1,140	1,140
Single-Family Attached	49	194	366	514	862	1,040	1,222	1,362	1,460	1,460	1,460	1,460	1,460	1,460
Multi-Family	118	384	588	834	1,552	1,816	2,080	2,344	2,600	2,600	2,600	2,600	2,600	2,600
Total Residential Units	220	738	1,380	1,900	3,145	3,736	4,330	4,846	5,200	5,200	5,200	5,200	5,200	5,200
Commercial Development														
Specialty Retail (sq. ft.)	0	0	0	0	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
Community (sq. ft.)	5,000	20,000	20,000	20,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
General Retail (sq. ft.)	0	10,000	10,000	10,000	50,000	50,000	100,000	100,000	150,000	150,000	150,000	150,000	150,000	150,000
Hotel (rooms)	0	0	0	0	120	120	120	120	120	120	120	120	120	120
Cost (Project)	10	15	15	35	54	54	72	72	72	72	72	72	72	72

Fishkind & Associates, Inc.

Table 2: Development Property Values

	1998	1999	2000	2001	2002	2003	2004	2005	2006	Final Yr Ch 2	Stabilized Yr 1	Stabilized Yr 2	Stabilized Yr 3	Stabilized Yr 4	Stabilized Yr 5
Lee County Development															
Residential Development															
Single-Family Detached	\$18,500,578	\$20,257,690	\$112,202,892	\$166,028,274	\$206,874,200	\$252,742,524	\$324,122,160	\$354,101,796	\$392,590,890	\$392,590,890	\$392,590,890	\$392,590,890	\$392,590,890	\$392,590,890	\$392,590,890
Single-Family Attached	\$7,761,216	\$23,751,223	\$59,179,272	\$87,867,446	\$113,164,400	\$139,376,504	\$160,159,680	\$197,597,824	\$220,124,504	\$236,070,320	\$236,070,320	\$236,070,320	\$236,070,320	\$236,070,320	\$236,070,320
Multifamily	\$14,553,574	\$47,738,112	\$85,530,784	\$119,598,372	\$161,513,400	\$192,861,536	\$223,761,488	\$259,591,440	\$291,401,392	\$323,226,800	\$323,226,800	\$323,226,800	\$323,226,800	\$323,226,800	\$323,226,800
Total Residential Value	\$41,031,418	\$186,047,150	\$257,003,038	\$372,598,094	\$481,472,000	\$584,461,564	\$687,043,328	\$791,270,650	\$894,106,816	\$951,978,100	\$951,978,100	\$951,978,100	\$951,978,100	\$951,978,100	\$951,978,100
Commercial Development															
Retail (ex. R)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Community (ex. R)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
General Retail (ex. R)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Hotel (ex. R)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Office (ex. R)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Industrial	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Commercial	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Commercial Value	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Value - Lee County	\$41,031,418	\$186,047,150	\$257,003,038	\$372,598,094	\$481,472,000	\$584,461,564	\$687,043,328	\$791,270,650	\$894,106,816	\$951,978,100	\$951,978,100	\$951,978,100	\$951,978,100	\$951,978,100	\$951,978,100

* assumes 20.4 percent of all residences have Homestead Exemption

Table 3: Fiscal Impact Summary -- Development Cumulative

Population	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Employment	477	1,601	2,985	4,297	5,642	6,927	8,107	9,395	10,516	11,284	11,284	11,284	11,284	11,284	11,284	11,284	11,284	11,284	11,284
Specialty Retail	0	0	0	0	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250
Community	8	8	32	32	32	64	64	64	64	64	64	64	64	64	64	64	64	64	64
General Retail (net)	0	0	18	18	18	91	91	216	216	307	307	307	307	307	307	307	307	307	307
Hotel	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Golf	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29	29
Total Employees	37	37	83	109	359	565	565	719	719	814	814	814	814	814	814	814	814	814	814
Students																			
Elementary	5	17	31	45	58	71	84	97	109	116	116	116	116	116	116	116	116	116	116
Middle	3	9	17	25	33	39	47	54	61	64	64	64	64	64	64	64	64	64	64
High	3	11	21	30	38	47	58	65	72	76	76	76	76	76	76	76	76	76	76
Total Students	11	37	69	88	128	157	187	217	241	256	256	256	256	256	256	256	256	256	256
Los County																			
Total Revenue Generated	\$1,742,436	\$4,054,902	\$5,770,159	\$7,256,218	\$7,944,604	\$8,555,251	\$9,541,579	\$9,744,090	\$9,531,519	\$9,221,527	\$9,023,494	\$8,823,494	\$8,623,494	\$8,423,494	\$8,223,494	\$8,023,494	\$7,823,494	\$7,623,494	\$7,423,494
Total Expenditures Generated	\$1,000,000	\$1,250,000	\$1,500,000	\$1,750,000	\$2,000,000	\$2,250,000	\$2,500,000	\$2,750,000	\$3,000,000	\$3,250,000	\$3,500,000	\$3,750,000	\$4,000,000	\$4,250,000	\$4,500,000	\$4,750,000	\$5,000,000	\$5,250,000	\$5,500,000
Net Fiscal Impact	\$742,436	\$2,804,902	\$4,270,159	\$5,506,218	\$5,944,604	\$6,305,251	\$7,041,579	\$6,794,090	\$6,531,519	\$6,271,527	\$5,523,494	\$4,823,494	\$4,623,494	\$4,423,494	\$4,223,494	\$4,023,494	\$3,823,494	\$3,623,494	\$3,423,494
Los County School Board																			
Total Revenue Generated	\$459,237	\$1,240,577	\$2,498,820	\$3,632,252	\$4,714,493	\$5,653,726	\$6,501,140	\$6,258,856	\$6,004,351	\$5,749,846	\$5,495,341	\$5,240,836	\$4,986,331	\$4,731,826	\$4,477,321	\$4,222,816	\$3,968,311	\$3,713,806	\$3,459,301
Total Expenditures Generated	\$100,000	\$237,539	\$351,258	\$465,000	\$578,761	\$692,522	\$806,283	\$920,044	\$1,033,805	\$1,147,566	\$1,261,327	\$1,375,088	\$1,488,849	\$1,602,610	\$1,716,371	\$1,830,132	\$1,943,893	\$2,057,654	\$2,171,415
Net Fiscal Impact	\$359,237	\$1,003,038	\$2,147,562	\$3,167,252	\$4,135,732	\$4,961,204	\$5,694,856	\$5,328,856	\$4,970,546	\$4,602,280	\$4,234,015	\$3,865,755	\$3,497,491	\$3,129,227	\$2,760,962	\$2,392,697	\$2,024,432	\$1,656,167	\$1,287,902
Essex Elm & Reserve District																			
Total Revenue Generated	\$177,510	\$452,570	\$748,279	\$970,237	\$1,192,200	\$1,414,163	\$1,636,126	\$1,858,089	\$2,080,052	\$2,302,015	\$2,523,978	\$2,745,941	\$2,967,904	\$3,189,867	\$3,411,830	\$3,633,793	\$3,855,756	\$4,077,719	\$4,299,682
Total Expenditures Generated	\$122,877	\$338,743	\$559,538	\$780,331	\$1,001,124	\$1,222,917	\$1,444,710	\$1,666,503	\$1,888,296	\$2,110,089	\$2,331,882	\$2,553,675	\$2,775,468	\$2,997,261	\$3,219,054	\$3,440,847	\$3,662,640	\$3,884,433	\$4,106,226
Net Fiscal Impact	\$54,633	\$113,827	\$288,741	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906	\$289,906

Fitchburg & Associates, Inc.

Table 4: Fiscal Impact Detail Per Development - Lee County

Revenues	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	3002	3003	3004	3005	3006	3007	3008	3009	3010	3011	3012	3013	3014	3015	3016	3017	3018	3019	3020	3021	3022	3023	3024	3025	3026	3027	3028	3029	3030	3031	3032	3033	3034	3035	3036	3037	3038	3039	3040	3041	3042	3043	3044	3045	3046	3047	3048	3049	3050	3051	3052	3053	3054	3055	3056	3057	3058	3059	3060	3061	3062	3063	3064	3065	3066	3067	3068	3069	3070	3071	3072	3073	3074	3075	3076	3077	3078	3079	3080	3081	3082	3083	3084	3085	3086	3087	3088	3089	3090	3091	3092	3093	3094	3095	3096	3097	3098	3099	3100	3101	3102	3103	3104	3105	3106	3107	3108	3109	3110	3111	3112	3113	3114	3115	3116	3117	3118	3119	3120	3121	3122	3123	3124	3125	3126	3127	3128	3129	3130	3131	3132	3133	3134	3135	3136	3137	3138	3139	3140	3141	3142	3143	3144	3145	3146	3147	3148	3149	3150	3151	3152	3153	3154	3155	3156	3157	3158	3159	3160	3161	3162	3163	3164	3165	3166	3167	3168	3169	3170	3171	3172	3173	3174	3175	3176	3177	3178	3179	3180	3181	3182	3183	3184	3185	3186	3187	3188	3189	3190	3191	3192	3193	3194	3195	3196	3197	3198	3199	3200	3201	3202	3203	3204	3205	3206	3207	3208	3209	3210	3211	3212	3213	3214	3215	3216	3217	3218	3219	3220	3221	3222	3223	3224	3225	3226	3227	3228	3229	3230	3231	3232	3233	3234	3235	3236	3237	3238	3239	3240	3241	3242	3243	3244	3245	3246	3247	3248	3249	3250	3251	3252	3253	3254	3255	3256	3257	3258	3259	3260	3261	3262	3263	3264	3265	3266	3267	3268	3269	3270	3271	3272	3273	3274	3275	3276	3277	3278	3279	3280	3281	3282	3283	3284	3285	3286	3287	3288	3289	3290	3291	3292	3293	3294	3295	3296	3297	3298	3299	3300	3301	3302	3303	3304	3305	3306	3307	3308	3309	3310	3311	3312	3313	3314	3315	3316	3317	3318	3319	3320	3321	3322	3323	3324	3325	3326	3327	3328	3329	3330	3331	3332	3333	3334	3335	3336	3337	3338	3339	3340	3341	3342	3343	3344	3345	3346	3347	3348	3349	3350	3351	3352	3353	3354	3355	3356	3357	3358	3359	3360	3361	3362	3363	3364	3365	3366	3367	3368	3369	3370	3371	3372	3373
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Table 4A: Lee County FY 2017 Approved Budget (Unincorporated Area Use)

Revenue	General Fund	Transportation Trust Fund	Special Revenue Fund	Capital Prof. Fund	Budget Total	Per Capita
Taxes	\$85,695,908	\$0	\$13,397,235	\$5,455,000	104,548,143	NA
Utility Service Taxes	\$0	\$0	\$0	\$5,175,917	5,175,917	\$9.43 (1)
Licenses & Permits	\$107,400	\$31,135	\$1,581,745	\$0	1,720,280	\$3.13 (1)
Intergovernment	\$5,623,422	\$1,856,779	\$2,253,754	\$59,000	10,272,955	\$25.94 (2)
Sales Tax	\$5,695,488	\$0	\$0	\$0	5,695,488	NA
Gas Tax	\$0	\$2,545,144	\$0	\$0	2,545,144	NA
Resort Tax	\$0	\$0	\$0	\$0	\$0	NA
Impact Fees	\$7,417,425	\$69,030	\$0	\$10,000	8,378,125	\$15.26 (1)
Charges for Services	\$3,023,020	\$0	\$39,093	\$0	3,062,113	\$5.63 (1)
Fees & Forfeitures	\$11,609,067	\$522,768	\$200,485	\$3,546,180	16,078,500	\$29.23 (1)
Miscellaneous	\$0	\$0	\$0	\$0	\$0	\$0.00 (1)
Non-Operating	\$4,267,237	\$1,963,656	\$89,860	\$17,037,041	23,857,793	NA (1)
Reserve	\$0	\$0	\$0	\$0	\$0	NA (1)
Use of Fund Balance	\$38,649,646	\$11,726,763	\$28,381,865	\$123,637,827	202,606,109	NA (1)
Total Revenues	\$163,599,185	\$18,515,280	\$46,894,049	\$156,141,025	\$385,060,349	
Expenditures						
General Government	\$30,385,548	\$1,481,326	\$7,605,476	\$10,551,223	\$50,023,573	\$91.09 (1)
Public Safety	\$59,590,189	\$0	\$5,167,894	\$0	\$64,758,083	\$123.15 (1)
Street	\$31,908,853	\$0	\$0	\$0	\$31,908,853	\$59.12 (1)
Detention/Corrections	\$16,101,302	\$0	\$0	\$0	\$16,101,302	\$29.23 (1)
Emergency/Volunteer/ME	\$1,795,506	\$0	\$0	\$0	\$1,795,506	\$3.40 (1)
Other Public Safety	\$1,895,420	\$0	\$0	\$0	\$1,895,420	\$3.54 (1)
Economic Development	\$2,637,535	\$0	\$0	\$0	\$2,637,535	\$5.00 (1)
Physical Environment	\$11,981,253	\$14,459,736	\$0	\$0	\$26,440,989	\$50.00 (1)
Human Services	\$0	\$0	\$0	\$0	\$0	\$0.00 (1)
Transportation Maint. Admin.	\$4,267,237	\$0	\$0	\$0	\$4,267,237	\$8.00 (1)
Culture & Recreation	\$0	\$0	\$0	\$0	\$0	\$0.00 (1)
Capital Projects	\$0	\$0	\$0	\$0	\$0	\$0.00 (1)
Debt Service	\$0	\$0	\$0	\$0	\$0	\$0.00 (1)
Non-Operating	\$16,124,092	\$0	\$0	\$0	\$16,124,092	\$30.00 (1)
Interfund Transfers	\$59,244,708	\$2,540,218	\$2,664,073	\$4,594,762	\$69,043,761	\$130.00 (1)
Reserve	\$0	\$0	\$0	\$0	\$0	\$0.00 (1)
Total Expenditures	\$163,599,185	\$18,515,280	\$46,894,049	\$156,141,025	\$385,060,349	

- (1) dollar includes total County population and employment
(2) dollar includes total County population
(3) Does not include the central impact fees, millage revenues or expenditures
(4) Special Revenue Fund includes Library Fund and MSTU

NA - per capita is not applicable, actual figures are used

Richard A. Associates, Inc.

Table 5: Fiscal Impact Detail For Development - Lee County School Board - 15 % Student Generation Ratio - 776 Students

Revenue	1998	1999	2000	2001	2002	2003	2004	2005	2006	Final Yr. 2006	Stabilized Yr. 1	Stabilized Yr. 2	Stabilized Yr. 3	Stabilized Yr. 4
Ad Valorem Taxes														
Operating	\$319,235	\$309,744	\$1,575,303	\$2,451,875	\$2,135,452	\$3,960,592	\$4,653,719	\$5,452,538	\$6,038,938	\$6,369,438	\$6,369,438	\$6,369,438	\$6,369,438	\$6,369,438
Debt Service	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Capital Improvement	\$86,090	\$247,617	\$455,599	\$687,258	\$687,258	\$1,078,053	\$1,269,293	\$1,484,115	\$1,643,976	\$1,733,652	\$1,733,652	\$1,733,652	\$1,733,652	\$1,733,652
Other Sources														
Operating	\$85,981	\$288,428	\$539,333	\$773,826	\$1,008,622	\$1,229,524	\$1,480,108	\$1,692,226	\$1,897,314	\$2,071,849	\$2,071,849	\$2,071,849	\$2,071,849	\$2,071,849
Debt Service	\$15,692	\$55,803	\$104,703	\$150,228	\$196,002	\$238,592	\$283,457	\$328,525	\$367,169	\$392,510	\$392,510	\$392,510	\$392,510	\$392,510
Capital Improvement	\$68,334	\$223,228	\$428,636	\$615,002	\$902,402	\$977,170	\$1,139,518	\$1,344,528	\$1,529,132	\$1,696,875	\$1,696,875	\$1,696,875	\$1,696,875	\$1,696,875
Total Revenues	\$573,394	\$1,731,033	\$3,209,567	\$4,638,283	\$5,051,814	\$7,465,984	\$10,097,135	\$10,907,452	\$11,445,559	\$12,124,324	\$12,124,324	\$12,124,324	\$12,124,324	\$12,124,324
Expenditures														
Operating	\$186,219	\$531,359	\$1,180,547	\$1,693,972	\$2,210,146	\$2,691,533	\$3,185,302	\$3,704,493	\$4,140,249	\$4,426,000	\$4,426,000	\$4,426,000	\$4,426,000	\$4,426,000
Debt Service	\$15,692	\$55,803	\$104,703	\$150,228	\$196,002	\$238,592	\$283,457	\$328,525	\$367,169	\$392,510	\$392,510	\$392,510	\$392,510	\$392,510
Capital Improvement	\$57,043	\$225,555	\$428,636	\$615,002	\$902,402	\$977,170	\$1,139,518	\$1,344,528	\$1,529,132	\$1,696,875	\$1,696,875	\$1,696,875	\$1,696,875	\$1,696,875
Total Expenditures	\$301,954	\$1,012,917	\$1,894,073	\$2,717,563	\$3,545,668	\$4,317,597	\$5,127,722	\$5,842,997	\$6,447,065	\$7,100,465	\$7,100,465	\$7,100,465	\$7,100,465	\$7,100,465
Net Fiscal Impact	\$271,439	\$718,081	\$1,305,694	\$1,846,705	\$2,516,146	\$3,165,047	\$3,709,413	\$4,859,455	\$4,898,493	\$5,023,859	\$5,023,859	\$5,023,859	\$5,023,859	\$5,023,859
Cumulative Fiscal Impact	\$271,439	\$989,529	\$2,295,423	\$4,240,128	\$6,756,274	\$9,922,321	\$13,631,734	\$17,991,199	\$22,794,692	\$27,818,530	\$32,842,389	\$37,866,206	\$42,890,044	\$47,913,862
														\$52,937,720

Flanigan & Associates, Inc.

Table 6: Fiscal Impact Detail For Development--Lee County School Board -- 0% % Student Generation Rate -- 255 Students

Revenues	1999	1999	2000	2001	2002	2003	2004	2005	2005	Final Yr 2002	Stabilized Yr 1	Stabilized Yr 2	Stabilized Yr 3	Stabilized Yr 4	Stabilized Yr 5
Ad Valorem Taxes															
Operating	\$316,295	\$909,744	\$1,675,303	\$2,451,875	\$3,186,462	\$3,950,892	\$4,663,749	\$5,452,635	\$6,050,986	\$6,369,438	\$6,369,438	\$6,369,438	\$6,369,438	\$6,369,438	\$6,369,438
Debt Service	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Capital Improvement	\$66,093	\$247,617	\$465,968	\$857,259	\$907,206	\$1,078,005	\$1,269,393	\$1,494,115	\$1,643,976	\$1,733,652	\$1,733,652	\$1,733,652	\$1,733,652	\$1,733,652	\$1,733,652
Other Sources															
Operating	\$28,580	\$86,142	\$179,778	\$257,942	\$332,158	\$409,844	\$485,703	\$564,985	\$628,701	\$667,002	\$667,002	\$667,002	\$667,002	\$667,002	\$667,002
Debt Service	\$5,584	\$18,664	\$34,901	\$60,075	\$84,491	\$109,564	\$149,466	\$199,508	\$222,052	\$129,488	\$129,488	\$129,488	\$129,488	\$129,488	\$129,488
Capital Improvement	\$22,778	\$75,409	\$142,878	\$205,001	\$284,016	\$326,723	\$396,810	\$448,310	\$489,664	\$530,103	\$530,103	\$530,103	\$530,103	\$530,103	\$530,103
Total Revenues	\$459,367	\$1,348,577	\$2,469,250	\$3,652,252	\$4,714,463	\$5,853,725	\$6,901,140	\$7,950,558	\$8,984,341	\$9,429,693	\$9,429,693	\$9,429,693	\$9,429,693	\$9,429,693	\$9,429,693
Expenditures															
Operating	\$52,740	\$210,483	\$393,549	\$564,957	\$727,210	\$897,178	\$1,055,434	\$1,224,631	\$1,376,281	\$1,460,124	\$1,460,124	\$1,460,124	\$1,460,124	\$1,460,124	\$1,460,124
Debt Service	\$5,584	\$18,664	\$34,901	\$60,075	\$84,491	\$109,564	\$149,466	\$199,508	\$222,052	\$129,488	\$129,488	\$129,488	\$129,488	\$129,488	\$129,488
Capital Improvement	\$32,348	\$108,512	\$202,928	\$281,128	\$374,593	\$462,671	\$549,321	\$639,580	\$706,003	\$752,817	\$752,817	\$752,817	\$752,817	\$752,817	\$752,817
Total Expenditures	\$100,672	\$337,659	\$631,378	\$906,160	\$1,186,294	\$1,469,442	\$1,754,221	\$2,063,719	\$2,294,336	\$2,342,428	\$2,342,428	\$2,342,428	\$2,342,428	\$2,342,428	\$2,342,428
Net Fiscal Impact	\$358,695	\$1,010,918	\$1,837,871	\$2,746,092	\$3,528,169	\$4,384,283	\$5,146,919	\$5,886,839	\$6,689,005	\$7,087,265	\$7,087,265	\$7,087,265	\$7,087,265	\$7,087,265	\$7,087,265
Cumulative Fiscal Impact	\$358,695	\$1,369,616	\$3,207,487	\$5,953,579	\$9,481,748	\$13,866,031	\$19,012,950	\$25,899,789	\$33,588,794	\$39,959,075	\$48,046,340	\$58,173,605	\$69,280,840	\$87,348,094	\$174,435,349

Fishkind & Associates, Inc.

Table 6: Lee County School Board District Summary Budget FY 1996-97

Revenues	Total	Per Student
Ad Valorem		
General Fund	157,487,402	NA
Debt Service Fund		NA
Capital Projects Fund	44,223,500	NA
Other Sources		
General Fund	132,444,106	2,605
Debt Service Fund	25,711,915	506
Capital Projects Fund	<u>105,260,559</u>	<u>2,071</u>
Total Revenue	465,127,582	5,182
Expenditures		
General Fund	288,931,500	5,704
Debt Service Fund	25,711,915	506
Capital Projects Fund	149,484,159	<u>2,941</u>
Total Expenditures	465,127,582	9,150

NA - per capita is not applicable, actual figures are used.

Fiskind & Associates, Inc.

Table 7 The Brooks of Bonita Springs Fiscal Impacts
 Estero Fire Protection & Rescue Service District

	1994	1998	2000	2001	2002	2003	2004	2005	2006	Final Yr. Pk. 1	Stabilized Yr. 1	Stabilized Yr. 2	Stabilized Yr. 3	Stabilized Yr. 4	Stabilized Yr. 5
Operating Revenue															
Transferable Value	\$50,641,260	\$145,656,970	\$289,228,785	\$392,593,341	\$510,180,000	\$654,120,052	\$746,701,616	\$873,003,694	\$967,041,700	\$1,019,795,460	\$1,019,795,460	\$1,019,795,460	\$1,019,795,460	\$1,019,795,460	\$1,019,795,460
Waters Rate	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181	1,9181
Annual Revenue	97,135	278,335	514,450	752,377	978,678	\$1,216,397	\$1,432,248	\$1,674,518	\$1,897,808	\$1,956,070	\$1,956,070	\$1,956,070	\$1,956,070	\$1,956,070	\$1,956,070
Operating Expenses															
Operating Unit	270	733	1390	1980	2800	3146	3735	4390	4816	5200	5200	5200	5200	5200	5200
Annual Cost	\$265,58	\$5,027	\$98,896	\$46,241	\$638,428	\$772,564	\$977,414	\$1,083,346	\$1,190,064	\$1,276,988	\$1,276,988	\$1,276,988	\$1,276,988	\$1,276,988	\$1,276,988
Net Fixed Impact	\$43,108	\$6,149	\$75,594	\$25,725	\$340,977	\$443,724	\$554,775	\$611,372	\$658,825	\$678,072	\$678,072	\$678,072	\$678,072	\$678,072	\$678,072
Operating Opening Impact	\$43,108	\$141,257	\$316,851	\$500,587	\$823,664	\$1,267,280	\$1,692,162	\$2,463,234	\$3,158,159	\$3,837,230	\$4,510,302	\$5,183,374	\$5,856,446	\$6,529,518	\$7,202,590
Impact Fee Schedule															
Single Family	\$464,20														
All Single Family	318.20														
Multi-Family	318.20														
Rebel	1,561.20														
Community	208.20														
Impact Fee Schedule															
Single Family	254.07	56,167	75,535	75,535	257,136	\$63,914	\$71,632	\$71,632	\$54,220	\$0	\$0	\$0	\$0	\$0	\$0
All Single Family	15,272	43,411	58,094	58,094	192,795	51,718	56,818	56,818	44,895	0	0	0	0	0	0
Multi-Family	27,666	84,907	97,037	84,907	272,443	80,433	84,269	84,269	64,269	0	0	0	0	0	0
Community	1,041	0	0	0	151,170	0	0	0	0	0	0	0	0	0	0
Annual Impact Fee Revenue	80,175	184,465	233,788	217,200	373,491	200,227	212,745	214,025	183,107	0	0	0	0	0	0
Capital Expense \$450k per ERU	88,850	158,508	201,042	181,600	220,320	173,196	180,546	181,764	187,086	0	0	0	0	0	0
Annual Net Capital Impact	\$11,205	\$25,978	\$32,747	\$33,950	\$153,174	\$27,031	\$32,208	\$32,208	\$32,208	\$12,914	\$0	\$0	\$0	\$0	\$0
Community Capital Impact	\$11,205	\$37,203	\$70,069	\$109,710	\$256,894	\$261,915	\$316,123	\$346,384	\$373,675	\$3,206	\$0	\$0	\$0	\$0	\$0
CUMULATIVE CAPITAL AND OPERATING IMPACTS	\$54,833	\$178,580	\$388,901	\$607,297	\$1,180,546	\$1,651,203	\$2,198,285	\$2,841,716	\$3,531,834	\$4,214,111	\$4,516,302	\$5,183,374	\$5,856,446	\$6,529,518	\$7,202,590

Table 7a
 Estero Fire Protection & Rescue Service District
 1996-1997 Budget

Labor & Benefits	
Professional Fees & Services	642,286
General Insurance	39,050
Repair & Maintenance	10,000
Operating Expenses	26,000
Interest Expense	26,900
Contingency Fund	9,165
Reserve*	21,000
	59,891
Total Expenses	\$844,292
Estimated ERU's	3,438
Cost of Annual Operations Per ERU	\$245.58
Annual Millage Rate 1996-97	1.9181

* Reserve fund does not represent a cash flow expense

Fishkind & Associates, Inc.

DRI
EXHIBIT C

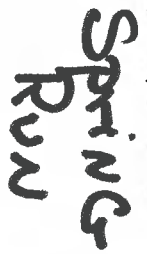
BIENNIAL MONITORING REPORT REQUIREMENTS

The Biennial Monitoring Report that must be submitted by the developer in accordance with Subsections 380.06(15) and 380.06(18), Florida Statutes, and 9J-2.025(7), Florida Administrative Code, must include the following:

- A. Any changes in the plan of development or in the representations contained in the application for development approval, or in the phasing for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the year;
- C. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to separate entities or developers.
- D. Identification and intended use of lands purchased, leased, or optioned by the developer adjacent to the original DRI site since the development order was issued;
- E. A specific assessment of the developer's and the local government's compliance with each individual condition of approval contained in the DRI Development Order and the commitments which are contained in the application for development approval and which have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits which have been obtained or which are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the biennial report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the developer pursuant to Paragraph 380.06(15)(f), Florida Statutes.

NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the biennial report. The Administrative Code requires that the annual report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

Shadow Wood



33303

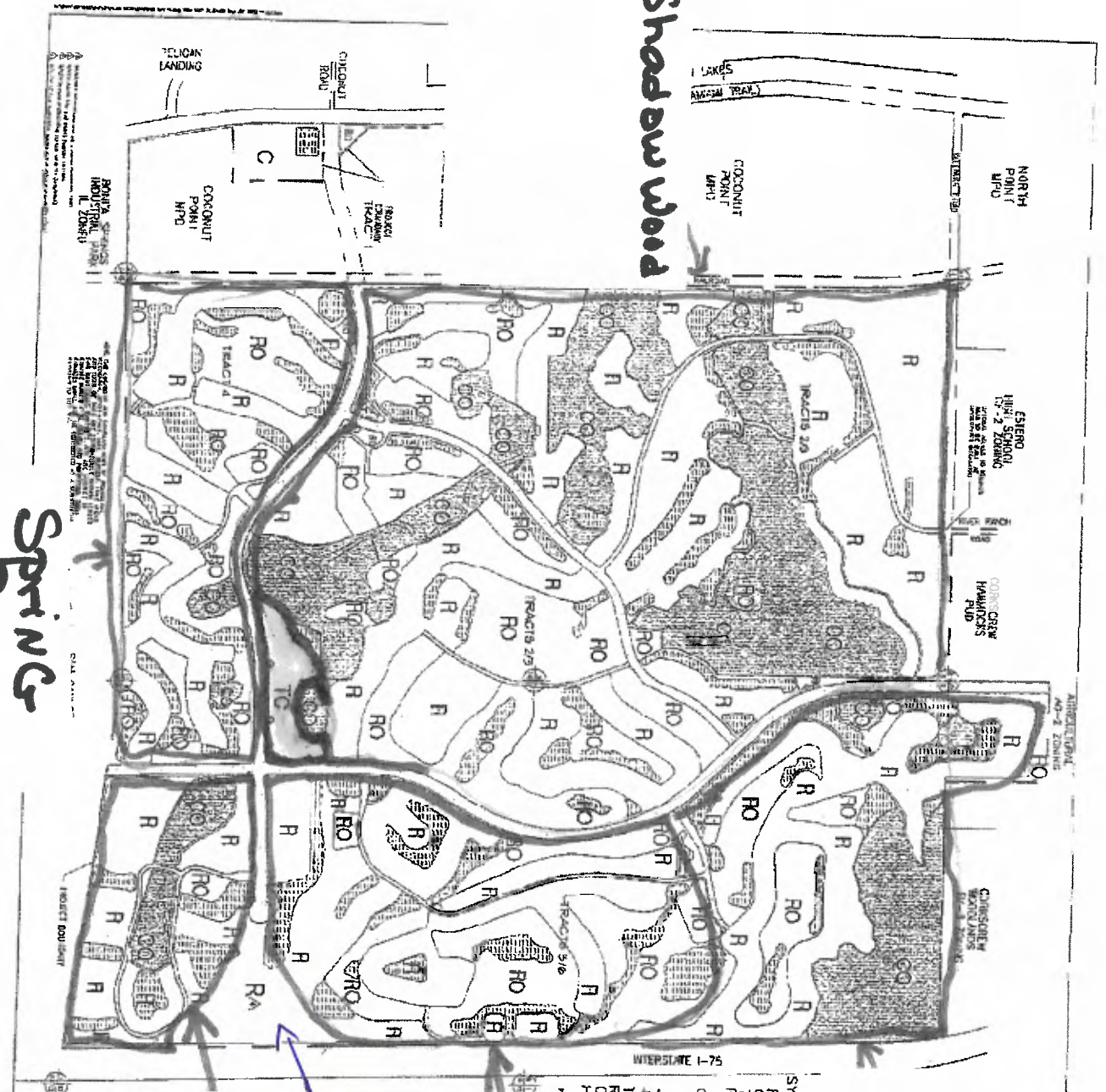
SYMBOL	DESCRIPTION	PROPOSED ACRES
R	RESIDENTIAL	1,032
CC	COMMUNITY COMMERCIAL	20
TC	TOWN CENTER	25
RO	RECREATION, OPEN SPACE, GOLF, BUFFERS AND LAKE	846
CO	CONSERVATION	419
	MAJOR INTERNAL ROADWAYS	55
	ARTERIAL ROADS	75
TOTAL AREA		2,532
TOTAL RESIDENTIAL UNITS		7,800
RETAIL/SERVICE GROSS SQUARE FEET		270,000
COMMUNITY USE GROSS SQUARE FOOT		50,000
HOTEL ROOMS		120
* INCLUDE OPEN SPACE AND LAKES		

Copperleaf

Resolution Z13-009

UNL LUT 0001

Lighthouse
Bay



THE BROOKS OF BONITA SPRINGS DRI
Notice of Proposed Change
Master Development Plan
MAP "H"



HOLE MONSTER
ENGINEERS • PLANNERS • SURVEYORS

6200 Whiskey Creek Drive
 Fort Myers, FL 33919
 Phone : (239) 985-1200
 Florida Certificate of Authorization No.1772
 Maples - Paul Myers