

December 30, 2020

Via Certified USPS  
No.7019 2280 0001 0962

Teresa Lamar Sarno,  
Assistant to the City Manager  
Land Development Services, AICP.  
City of Port St. Lucie  
121 SW Port St. Lucie Blvd.  
Port St. Lucie, Florida 34984

**Re: Wilson Groves Access**

Dear Ms. Lamar Sarno:

This letter is being sent to address Application Number P20-175 (“Riverland Application”) submitted by Riverland/Kennedy LLC (“Riverland”), which is presently set to go before the Planning and Zoning Board for approval on January 5, 2020, and which must be either recommended for denial outright or tabled until various dispositive issues raised in this letter are adequately addressed and potentially resolved, including: (1) improperly seeking approval to construct substantially more units than they are currently permitted to; (2) the existence of a material misrepresentation contained in the application; and (3) improperly permitting Riverland to avoid ever meeting its contractual obligations to the other parties to the Annexation Agreement, including the City, to construct certain roads (specifically: Community Boulevard from Discovery Way to SW Marshall Parkway (E/W3), Community Blvd. from E/W3 to Paar Dr., Community Blvd. from Paar Dr. to Becker Rd., and E/W 3 from Community Boulevard to N/S B).

I am a Manager of Akel Homes (“Akel”), which owns the Wilson Groves property that is a party to the Annexation Agreement that controls the development of properties within the Southwest Annexation area, including the property at issue.

The first dispositive issue with the Riverland Application is that it improperly seeks approval to construct substantially more homes than are currently permitted to during Phase 1 of construction under Riverland’s latest development order, the approval of which would constitute a breach of the Annexation Agreement by both Riverland and the City as well as a violation of the Comprehensive Plan of the City of Port St. Lucie (“Comprehensive Plan”) and Section 160.02 of Port St. Lucie’s City Ordinances. The Riverland Application, if approved, will permit Riverland to bring the total number of units constructed to approximately 3400 units without completing the necessary road system to the standard level of services required. As seen in the attached pages from the Riverland Development Order, “[n]o building permits shall be issued for development that... exceeds the number of residential units identified in Table 2...” Table 2 of that same order shows that in Phase 1 two lanes of Community Blvd. from Discovery Way to E/W 3 must be completed by Riverland before 700 units may be constructed; two lanes of Community Blvd. from E/W 3 to Paar Dr. must be completed by Riverland before 2000 units may be constructed; two lanes of Community Blvd. from Paar Dr. to Becker Rd. and two lanes of E/W 3 from Community Blvd. to N/S B must be completed by Riverland before 2500 units may be constructed.

The Annexation Agreement makes clear that “the development of the Annexation Properties will be consistent with the City’s Comprehensive Plan and land development regulations.” Section 5 of the

Annexation Agreement further provides a frame work of road construction that must be completed by the parties to the agreement, including Riverland, and **the agreement later provides “breach shall result in the withholding of all further development review and approvals, including but not limited to building permits....”** The Comprehensive Plan requires road construction to be well ahead of where it is prior to additional development being approved. Further, Section 160.02 of Port St. Lucie’s City Ordinances states that “[t]he Concurrency Management System will provide the necessary regulatory mechanism for evaluating development orders to ensure adequate public... services are available concurrent with development impacts. The adoption of the Port St. Lucie Comprehensive Plan and its various elements established acceptable level of service standards for roads...” On its face, the Riverland Application is unacceptable and must be denied, or at the least tabled, until this issue may be adequately addressed.


The second dispositive issue with the Riverland Application is the fact there is a material misrepresentation in the Development Order. In the attached Exhibit “B” of said order, Riverland represents that there has been “[s]ubstantial compliance with the representations contained in the Application for Development Approval... [which] shall include... Annexation Agreement...” This is simply not true. The failure of Riverland to construct required roads to date and the attempt to have the Riverland Application approved while Riverland is in default of its obligations under the prior development orders executed pursuant to the Annexation Agreement demonstrate a clear lack of substantial compliance. Most significantly, Becker Road West was to be constructed “simultaneously with the acceptance and completion by the Florida Department of Transportation of the Becker Interchange.” This construction did not occur and instead, amendments to the development orders that did not meet the road construction requirements of the Annexation Agreement were approved without consent of all Annexation Agreement parties. This is especially true where the subject of the application is directly related to the actions constituting default, such as seeking to build thousands of additional units without developing the infrastructure as required and contracted for under the Annexation Agreement. Until compliance with the Annexation Agreement, and as a result compliance with the Comprehensive Plan and City Ordinances, is achieved the Riverland Application must be denied or tabled until appropriate revisions may be made or actions taken.

The third dispositive issue with the Riverland Application is that approval would improperly permit Riverland to avoid its obligations to construct the following required and necessary sections of road: Community Boulevard from Discovery Way to SW Marshall Parkway (E/W3), Community Blvd. from E/W 3 to Paar Dr., Community Blvd. from Paar Dr. to Becker Rd., and E/W 3 from Community Boulevard to N/S B, as well as other roads, causing a breach of the Annexation Agreement by both Riverland and the City. Under the Annexation Agreement, Becker Road, E/W 3, and Paar were intended to provide access to the Wilson Groves property. **If approved as is, the Riverland Application will allow Riverland to construct units on its property; continue to access its property by utilizing access roads built by Southern Grove;** all while leaving road systems that have been determined to be integral for the people of Port St. Lucie as rudimentary and inadequate dirt roads for years to come at the least. In other words, this would be approving Riverland’s continued **intentional and strategic land-locking of Wilson Groves** by eliminating the roads that were intended to provide it access to Wilson Groves, despite the fact that as of this letter, Wilson Groves has paid more than \$20 million since July 19, 2004, the date the Annexation Agreement was executed, towards planning and construction of roads within the city in exchange for the City ensuring access to its property. Notably, road segments that were originally intended to be Phase I roads, including segments of E/W3 and Becker Road, are not proposed for construction at all, which will have a negative impact on all Wilson Groves’s future Phases of development. The City’s acceptance of the funds paid in good faith by Wilson Groves without requiring construction or funding of the access roads by Riverland amounts to an unlawful taking. As I advised

Jesus Merejo, the Acting City Manager, in a letter dated July 7, 2020, under Section 5 of the Annexation Agreement it is the City's obligation as well to ensure the timely construction of these and other roads. Moreover, particularly in light of the payments made by Wilson Groves, under Section 163.380, Florida Statutes, the City is responsible for funding construction of the roads necessary to provide access to Wilson Groves. Failure to do so will not only compromise the City's obligations here, but will set a concerning precedent moving forward that the City and all developers should wish to avoid in the interest of completing development as intended under the Annexation Agreement.

Therefore, due to the various dispositive issues with the Riverland Application, the application must be denied or consideration of the application tabled in order to allow the City and the affected developers to agree upon the proper conditions. Should the Planning and Zoning Board elect to ignore my well-founded objections to the Riverland Application and recommend approval of the application, it must at the very least require Riverland to construct the noted roads up to the standards required under the Annexation Agreement, Comprehensive Plan and City Ordinances across and to the end of Riverland's property, including all applicable access roads to Wilson Groves. Although such a requirement will not be enough to satisfy Riverland's express obligations under the Annexation Agreement, for which I and all applicable entities I control reserve the right to pursue any and all available remedies, it would mitigate the immediate harm caused by the City's approval of the Riverland Application to an extent.

Regards,



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Ramzi Akel

Cc:

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## EXHIBIT "B"

### GENERAL CONDITIONS OF APPROVAL CONDITIONS OF APPROVAL

#### Application for Development Approval

1. The Riverland/Kennedy Development of Regional Impact Application for Development Approval is incorporated herein by reference. It is relied upon, but not to the exclusion of other available information, by the parties in discharging their statutory duties under Chapter 380, Florida Statutes. Substantial compliance with the representations contained in the Application for Development Approval, as modified by Development Order conditions, is a condition for approval.

For purposes of this Development Order, the Application for Development Approval ("ADA") shall include the following items:

- a. Application for Development Approval dated September 13, 2005;
- b. Supplemental information dated February 28, 2006; May 18, 2006; and June 7, 2006;
- c. Western Annexation Traffic Study ("WATS") Final Report dated January 2006; and
- d. Annexation Agreement dated July 19, 2004, and revised May 16, 2005, July 25, 2005, November 16, 2009, except to the extent that any term of the Annexation Agreement is subsequently amended by the parties thereto ("Annexation Agreement").

#### Commencement and Process of Development

2. In the event the Developer fails to commence significant physical development within three years from the effective date of the Development Order, development approval shall terminate and the development shall be subject to further Development of Regional Impact review by the Treasure Coast Regional Planning Council, State land planning agency, and City of Port St. Lucie pursuant to Section 380.06, Florida Statutes. However, this time period shall be tolled during the pendency of any appeal pursuant to Section 380.07, F.S. For the purpose of this paragraph, construction shall be deemed to have initiated after placement of permanent evidence of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation or land clearing, such as the construction of roadways or other utility infrastructure. The City of Port St. Lucie acknowledges that the commencement of significant physical

## Riverland/Kennedy Access Road Improvements

18. No building permits shall be issued for any development that generates more than the total net external p.m. peak hour trip threshold or residential units identified in Table 1, whichever comes last, until: 1) contracts have been let for the roadway construction projects identified in Table 1 under "Required Improvement"; 2) a local government development agreement consistent with sections 163.3220 through 163.3243, F.S. has been executed; or 3) the improvement is scheduled in the first three years of the applicable jurisdiction's Capital Improvements Program or FDOT's adopted work program.

**Table 1**  
**Riverland/Kennedy Access Roads**

Road	From	To	Residential Units	Trip Threshold	Required Improvement	Status
Community Blvd.	Discovery Way	South for 2,500 Ft.	0	0	2L	
Secondary Emergency Access Road at E/W #1 between Community Blvd. and Rangeline Rd.			0	0	Emergency Access Road	

\*Riverland/Kennedy Cumulative Total Net External DRI p.m. Peak Hour Trips

## Riverland/Kennedy DRI Roadway Improvements

19. No building permits shall be issued for development that generates more than the total net external p.m. peak hour trip threshold **or exceeds** the number of residential units identified in Table 2, whichever comes last, until: 1) contracts have been let for the roadway widening or construction projects identified in Table 2 under "Required Improvement"; 2) a local government development agreement consistent with sections 163.3220 through 163.3243, F.S. has been executed; 3) the monitoring program included in Condition 15 does not require these improvements; or 4) the improvement is scheduled in the first three years of the applicable jurisdiction's Capital Improvements Program or FDOT's adopted work program.

**Table 2**  
**Riverland/Kennedy DRI Road Improvements**

Road	From	To	Residential Units	* Trip Threshold	Required Improvement	Status
<b>Phase 1</b>						
Community Blvd.	Discovery Way	E/W 3	700	828	2L	
Community Blvd.	E/W 3	Paar Dr.	2,000	2,023	2L	
Community Blvd.	Paar Dr	Becker Rd.	2,500	3,219	2L	
E/W 3	Community Blvd.	N/S B	2,500	3,219	2L	
<b>Phase 2</b>						
Becker Rd.	Community	N/S B	4,475	5,148	Widen to 4LD	
N/S B	Discovery Way	E/W 3	5,660	6,305	2L	
Paar Dr.	Community Blvd.	N/S B	5,660	6,305	2L	
Discovery Way	Community Blvd.	N/S B	4,080	4,762	2L	
Discovery Way	N/S B	N/S A	5,660	6,305	2L	
Discovery Way	N/S A	Rangeline Rd.	5,660	6,305	2L	
N/S A	Discovery Way	E/W 3	5,660	6,305	2L	
<b>Phase 3</b>						
Community Blvd.	Discovery Way	E/W 3	10,661	11,440	Widen to 4LD	
Community Blvd.	E/W 3	Paar Dr.	10,661	11,440	Widen to 4LD	
Becker Rd.	Community Blvd.	N/S B	10,661	11,440	Widen to 6LD	
N/S B	Paar Dr.	Becker Rd.	10,661	11,440	Widen to 4LD	
Discovery Way	Community Blvd.	N/S B	10,661	11,440	Widen to 4LD	
Paar Dr.	Community Blvd.	N/S B	10,661	11,440	Widen to 4LD	
<b>Phase 4</b>						
N/S A	Discovery Way	E/W 3	11,700	13,461	Widen to 4LD	
N/S B	E/W 3	Paar Dr.	11,700	13,461	Widen to 4LD	
N/S B	Discovery Way	E/W 3	11,700	13,461	Widen to 4LD	
E/W 3	Community	N/S B	11,700	13,461	Widen to 4LD	
E/W 3	N/S B	N/S A	11,700	13,461	Widen to 4LD	

\*Riverland/Kennedy Cumulative Total Net External DRI p.m. Peak Hour Trips

L=Lane D=Divided

(1) Prior to reaching thresholds for each required improvement in Table 2, partial roadway sections may be constructed by the developer.