

From: [Sally Walsh](#)
To: [Jessica Heinz](#)
Subject: FW: GL Ltr to Stokes re ACR Applications
Date: Friday, June 2, 2023 2:19:30 PM
Attachments: [2023.06.02 ACR GL Letter to Stokes w. Encl.pdf](#)

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From: Azlina Goldstein <Azlina.Goldstein@glhomes.com>
Sent: Friday, June 2, 2023 1:58 PM
To: James Stokes <jstokes@cityofpsl.com>; Sally Walsh <SWalsh@cityofpsl.com>; Bryan Pankhurst <BPankhurst@cityofpsl.com>
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Subject: GL Ltr to Stokes re ACR Applications

Dear Mr. Stokes and City Clerk,

Please see the attached Letter, which we would like forwarded to the members of the Planning & Zoning Board as we want this material included for review and consideration relating to items on the agenda for the upcoming June 6, 2023 Planning and Zoning Board Meeting. This letter and enclosures concern the following agenda items:

8.a. P21-128 Wilson Groves - Large Scale Comprehensive Plan

AND

9.a. P21-127 Wilson Groves DRI - Map Amendment

Thank you for your consideration. Please confirm your receipt and transmittal of the attached to the members of the Planning & Zoning Board and inclusion with the above-mentioned agenda backup materials.

Best regards,
Azlina

Azlina Goldstein, Esq.
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Via Electronic Mail

June 2, 2023

Mr. James Stokes, City Attorney
City Attorney's Office
City of Port St. Lucie
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Re: Wilson Groves – Figure 1-6 and Map H Amendments

Dear Mr. Stokes,

This correspondence is transmitted on behalf of our client, Riverland/Kennedy II, LLC (referred to herein as "GL"). As you know, GL is a party to several agreements with the City of Port St. Lucie, including but not limited to the Annexation Agreement dated July 19, 2004, as amended, and the Riverland Becker Road Construction Agreement dated February 11, 2022. GL also holds development approvals pertaining to the Riverland/Kennedy Development of Regional Impact (DRI) property located within the Southwestern Annexation Area (the "Riverland Development").

ACR Acquisition, LLC ("ACR"), the developer of the Wilson Groves DRI property ("Wilson Groves"), which is located immediately adjacent to the Riverland Development, has submitted a large-scale comprehensive plan amendment (P&Z Project No. P21-128) and an associated amendment to the Wilson Groves DRI Development Order (P&Z Project No. P21-127) collectively referred to herein as the "ACR Applications." For the reasons set forth in this letter, GL objects to the ACR Applications which will significantly and negatively impact the health, safety and welfare of the City's residents and GL's existing and future development approvals. It is the City's right, duty and obligation to deny the ACR Applications as submitted as result of, among other things: (i) the failure of the ACR Applications to include requirements for the timely construction of the 2-lane road network around Wilson Groves, (ii) the failure of ACR's traffic study to address the impacts on the roads outside of Wilson Groves, and (iii) the detrimental impact on GL who will be inequitably and unjustifiably burdened with the obligation to expand roadways in and around the Riverland Development – obligations that would not be triggered but for the changes proposed in the ACR Applications.

ACR entered into the multi-party Annexation Agreement with the City, GL, and others to annex over 9,000 acres comprised of mostly undeveloped agricultural lands (the "Southwestern Annexation Area"). Those lands are now encompassed in three (3) DRIs – Wilson Groves, Riverland/Kennedy, and Southern Grove. The Annexation Agreement required the developers to plan for a variety of public improvements such as schools, utilities, parks, fire stations and, most importantly, roadway improvements that would support the anticipated developments. The

Annexation Agreement required the developers to use the DRI process, development approvals and separate agreements to fulfill their obligations and commitments. To facilitate the DRI process, the City analyzed the proposed land uses and development plans for each DRI to determine future traffic needs. The City's Southwestern Annexation Traffic Study (WATS) led to the City's establishment of a roadway network in the Southwestern Annexation Area and the application of a methodology to fairly and equitably divide amongst the developers their obligations to construct the necessary roadway network. The development orders for each developer set forth the specific roadway improvement obligations in order to complete the network, thereby providing the necessary capacity and connectivity to accommodate the buildout of all three (3) DRIs.

In compliance with the various agreements and development orders, and consistent with the direction and intent of the City's Comprehensive Plan, GL has advanced construction of its roadway improvements which the City and its residents rely upon for access and emergency services. GL has already commenced and/or completed the construction of significant portions of Discovery Way, Community Boulevard, Riverland Boulevard (f/k/a N/S B), Marshall Parkway and Becker Road, and GL has committed to advancing the construction of additional roadways to support anticipated developments within the Southwestern Annexation Area.

The City asserted its commitment to the completion of the 2-lane roadway network at the Council's Workshop on February 22, 2023. **The pending ACR Applications provide the City with the opportunity to achieve the Council's directive to assure the construction of the entire 2-lane roadway network. Unfortunately, the ACR Applications as submitted *do not assure that ACR will timely build or honor its prior commitments to construct ACR's equitable share of the initial 2-lane roadway network. It is critical that the City takes steps on the pending ACR Applications to ensure that the necessary roadway connectivity is achieved in order to disperse traffic impacts and to support emergency services.*** The City Council has already expressed its deep concern that the City may be left with an incomplete 2-lane roadway network after the full build out of the three (3) DRIs. City Council, City Staff, and the impacted developers of the area have all expressed concerns that the existing language in the current Comprehensive Plan and development orders for the DRIs does not adequately ensure the completion of the essential roadway network. In order to prevent deficiencies in the roadway network, Council directed City Staff at the February 22nd Workshop to explore all avenues the City could pursue when each developer submits its comprehensive plan and DRI amendments. GL is very concerned that the Council's directive is not being followed as **there are no substantive policy language or development conditions being added to the language of the ACR Applications to give surety that ACR will timely build or ever build its equivalent share of the 2-lane roadway network.**

Proposed Wilson Groves Comprehensive Plan Amendment P21-128

If the ACR Applications are approved as submitted, the roadway network of the Southwestern Annexation Area will not be completed and will not function as originally contemplated by the developers and the City. This is because ACR will not be required to timely construct its previously allocated portions of the 2-lane roadway network. Furthermore, ACR's proposed comprehensive plan amendment seeks to amend Figure 1-6 of the Future Land Use

Element to change the locations of Residential, Mixed Use, and Neighborhood/Village Commercial sub-districts within Wilson Groves. This is a significant change that will drastically affect traffic on the planned roadway network. ACR's relocation of land uses will detrimentally impact the Riverland Development and the City's residents that live within and adjacent to the communities of the Riverland Development. **As noted in the City's Staff report, "The proposed map amendment results in a relocation of trip patterns. . . In the absence of additional connecting roadways, the totality of these trips will be placed on Becker Road causing it to fail."** Specifically, ACR's proposed relocation of land uses will shift traffic onto a portion of Becker Road that will prematurely trigger the need to widen Becker Road before construction of the entire 2-lane roadway network is complete, even assuming that ACR builds its road obligations under the schedule currently set forth in the Wilson Groves DRI Development Order.

While ACR's traffic study is deficient in numerous areas, it notably fails to appropriately account for traffic impacts beyond Wilson Groves based on ACR's proposed relocation of land uses. Attached to this letter is a traffic review prepared by Simmons & White, Inc. which finds that if any section of the 2-lane road network is not completed, several roadway sections will have substandard levels of service, and thus trigger the need for those sections to be widened. **ACR's proposed revisions to Figure 1-6 will impose inequitable burdens on neighboring developers like GL who have obligations to 4-lane and 6-lane certain roadway segments, obligations that would not be triggered but for ACR's proposed relocation of land uses within Wilson Groves.**

Objective 1.2.11 of the City's Comprehensive Plan provides that Wilson Groves shall be developed consistent with the Wilson Groves DRI Development Order and with the Annexation Agreement. It was correctly asserted by Public Works in their March 28, 2023 Memo on the pending development applications that ACR's proposed land use changes without any conditions to advance their road construction obligation will alter trip patterns, cause certain roadways to fail, and will affect the overall safety and welfare of the area's residents relative to having access for ingress/egress and emergency purposes. The City Council has made it clear to all the developers, City Staff and to the general public that the timely construction of the initial 2-lane roadway network is of critical importance.

The Public Works Department in their recent May 25, 2023, Memo on the ACR Applications (the "May 25th Memo") acknowledged that with respect to the City's Southwest Annexation Area, **"Staff was directed to prioritize construction of the 2-lane roadway network to ensure the roadways are in place to serve the proposed development."** However, "[P]rior to buildout and construction of all required transportation improvements," as admitted in that May 25th Memo, "the [City's] 3rd Party Consultant's review indicated a decreased level of service at select locations based on the proposed land use revisions, which could result in a need for additional road widening, prior to their Development of Regional Impact (DRI) roadway improvement triggers being met." **Unless conditions *beyond* those already set forth in the Wilson Groves DRI Development Order under Resolution 11-R01 are imposed to accomplish the City Council's essential and critical directive, the ACR Applications should be denied and the City is wholly within its legal right to do so.** See *Pinellas County v. Richman Group of*

Florida, Inc., 253 So.3d 662 (Fla. 2d DCA 2017) (finding that a local government may deny a proposed comprehensive plan amendment if it has a rational basis to deny it).

Pursuant to Section 163.3184, Florida Statutes, a comprehensive plan amendment must be "in compliance," as defined by Section 163.3184(1)(b). § 163.3184(5), Fla. Stat. "'In compliance' means *consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248*, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable." § 163.3184(1)(b), Fla. Stat. (emphasis added).

Section 163.3177 requires all elements of a comprehensive plan amendment to be based upon relevant and appropriate data and analysis. § 163.3177(1)(f), Fla. Stat. "To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue." *Id.* Section 163.3177(2) also requires all elements of the comprehensive plan to be consistent. § 163.3177(1)(f), Fla. Stat. Therefore, any amendment to Figure 1-6 must be based upon relevant and appropriate data, and it must be consistent with all existing elements of the City's Comprehensive Plan.

Notably, City Staff initially sought to accomplish City Council's recent directives by recommending the implementation of certain safeguards that would have provided the City with the necessary assurances that ACR will construct its allocated share of the roadway network. In their memoranda and reports that were provided with the agenda materials for the April 4, 2023, P&Z Board Meeting (enclosed herewith), City staff previously recommended that the City obligate ACR to timely construct roads that are affected by ACR's proposed changes by adding language to the Wilson Groves section of the City's Comprehensive Plan. **City Staff proposed the following language:**

Policy 1.2.11.6: The Wilson Groves NCD District shall also provide the following transportation improvements:

- a. The first 2 lanes of N/S A from Becker Road to E/W 3 shall be constructed and open to the public prior to the construction of 2,200th* dwelling unit in the Wilson Groves DRI**;
- b. The first 2 lanes of E/W 3 from N/S A to N/S B shall be constructed and open to the public prior to the construction of 2,200th* dwelling unit in the Wilson Groves DRI**

* or any combination of non-residential development equivalent to 2,200 dwelling units in the Wilson Groves DRI per the Wilson Grove DRI Trip Equivalency Matrix:

** The widening of the required roadways shall be in conformance with Wilson Groves DRI.

GL supported City Staff's proposed inclusion of text for Policy 1.2.11.6 because it was an appropriate step towards accomplishing the City Council's goals and would help mitigate against any attempts by ACR to evade its road improvement obligations. **City Staff's proposed language requiring Wilson Groves to provide transportation improvements is an appropriate and legally justifiable reaction to the traffic data (or lack thereof) and provides internal consistency within the City's Comprehensive Plan.**

A comprehensive plan amendment is a legislative action. *Martin County v. Yusem*, 690 So. 2d 1288, 1293 (Fla. 1997); *Coastal Dev. of N. Fla., Inc. v. City of Jacksonville Beach*, 788 So. 2d 204, 208 (Fla. 2001). Local governments have the authority to adopt comprehensive plans and zoning regulations pursuant to their police power, and such legislative judgments will be upheld if "fairly debatable." *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 387-88 (1926). "In deference to the policy-making function of a board when acting in a legislative capacity, its actions will be sustained as long as they are fairly debatable." *Board of County Commissioners of Brevard County v. Snyder*, 627 So. 2d 469, 474 (Fla. 1993). See also *Martin County v. Section 28 Partnership, Ltd.*, 772 So. 2d 616, 619 (Fla. 4th DCA 2000). "Fairly debatable" means that "it is fairly debatable whether the purpose of the law is legitimate and it is fairly debatable whether the methods adopted in the law serve that legitimate purpose." *Silvio Membreno and Florida Ass'n of Vendors, Inc. v. City of Hialeah*, 188 So. 3d 13, 25 (Fla. 3d DCA 2016). **The legitimacy of that initial recommendation by City Staff to add text to the City's Comprehensive Plan that governs the development of Wilson Groves is not only fairly debatable, but undeniable** as it ensures the provision of adequate public facilities that are fiscally neutral and, more importantly, promote the safety and welfare of the area's existing residents.

The City has broad discretion in approving or denying ACR's proposed comprehensive plan amendment –as well as broad discretion to adopt the previously proposed text for Policy 1.2.11.6, and add even more specific language regarding the roadway construction obligations of the Wilson Groves DRI to (i) ensure the initial 2-lane network is timely completed, and more importantly, (ii) protect the public health, safety, and welfare of the City's residents. **Legislation "is valid if it bears a rational relation to a legitimate legislative purpose in safeguarding the public health, safety, or general welfare and is not discriminatory, arbitrary, or oppressive."** *Haire v. Florida Dept. of Agriculture and Consumer Services*, 870 So. 2d 774, 782 (Fla. 2004), quoting *Chicago Title Ins. Co. v. Butler*, 770 So.2d 1210, 1215 (Fla.2000). "[A] court must remain cognizant of the legislature's broad range of discretion in its choice of means and methods by which it will enhance the public good and welfare." *Id.* The legislation "must be upheld if there is any reasonable relationship between the act and the furtherance of a valid governmental objective." *Id.*

The City would be acting wholly within its broad discretionary rights to include in its Comprehensive Plan specific requirements for transportation improvements that are reasonably related to its objectives of roadway connectivity, congestion management, and emergency access.

Accordingly, **GL will fully support the City's inclusion of text to the Comprehensive Plan that requires the concurrent construction of a developer's respective initial 2-lane roadway obligations that surround each approved project.** In essence, when a developer builds a project, the City needs to require the developer to simultaneously build its adjacent 2-lane roadways. Proposed text to accomplish this goal with respect to the pending comprehensive plan amendment for the Wilson Groves DRI as an addition to existing Policy 1.2.11.5, is set forth below in italicized and bolded font:

Policy 1.2.11.5: The Wilson Groves NCD District shall provide the following transportation and other public facilities, in the manner prescribed by the development order adopted pursuant to Section 380, F.S., and the Annexation Agreement dated July 19, 2004, as amended:

- a. Convey right-of-way to the City for Becker Road within the Wilson Groves NCD District portion of the property (completed);
- b. Pay for the construction of a 2-lane roadway section on Becker Road through the property;
- c. Fund the design, construction, property acquisition for storm water drainage (but no other property acquisition) and all associated expenses of a four-lane divided roadway section within a 100' right-of-way for Becker Road east of 1-95 to the Florida Turnpike (total funding not to exceed \$12,500,000.00) (completed);
- d. Convey right-of-way within the property to the City consistent with Transportation Series Map 2, 2035 Needs Assessment Map of the Transportation Element, including all intersection connections to Range Line Road related thereto (completed);
- e. No later than July 19, 2007, contribute \$10,000,000.00 toward the development of an interchange on 1-95 subject to a future determination of need by the City (completed per amended Annexation Agreement, dated November 16, 2009);
- f. Construct all intersection connections within the property to Range Line Road-;
- g. **Construct the initial 2-lane road improvements set forth in the development order which are adjacent to all proposed Master Planned Unit Development (MPUD) approvals within the Wilson Groves NCD District.**

The addition of the above proposed subsection “g’ involving MPUD approvals will serve as an additional triggering threshold for a developer to build the roadways identified in a development order. Tying the construction of ACR’s initial 2-lane road obligations to a MPUD will provide the City , and its residents, with a guarantee that the public roadway improvements will not only be built, but will be built timely, minimize any of ACR’s new development traffic adverse impacts to the proper functioning of an existing roadway network, **and reduce the City’s exposure to litigation and conflict** over the current monitoring conditions in the Wilson Groves DRI Development Order (the “Wilson Groves DRI DO”). Such deficiencies associated with the current monitoring conditions set forth in Section 15.B of Wilson Groves DRI DO were also recognized in the Public Works May 25th Memo. Even though “the City has the ability to require the developer to provide a monitoring analysis of the existing conditions of a roadway portion within their DRI roadway obligations to ascertain the level of service on that roadway... The monitoring condition however does require the City to allow the developer 24 months for engineering, permitting and construction.” Thus, **the current language of Wilson Groves DRI DO monitoring condition not only prevents the City from truly requiring the construction of critical road improvements when they are needed, but also makes it virtually impossible to properly ascertain the level of service on roadway portions that are not built and have created an incomplete and inadequate initial 2-lane roadway network in the Southwestern Annexation Area.**

"The legislature is vested with wide discretion to determine the public interest and the measures necessary for its achievement." *Silvio*, 188 So. 3d at 26, quoting *Fraternal Order of Police, Metro. Dade Cty., Lodge No. 6 v. Dep't of State*, 392 So.2d 1296, 1302 (Fla.1980). “Historically, local governments have exercised the zoning power pursuant to a broad delegation of state legislative power subject only to constitutional limitations. Both federal and state courts adopted a highly deferential standard of judicial review early in the history of local zoning.” *Snyder*, 627 So. 2d at 472. “One who assails zoning legislation has an extraordinary burden of proving that the municipal enactment is invalid.” *S.A. Healy Co. v. Town of Highland Beach*, 355 So. 2d 813, 815 (Fla. 4th DCA 1978).

Although we recognize the City Council's broad discretion in considering the proposed amendment, we maintain that the inclusion of the suggested text to Policy 1.2.11.5 is not only particularly compelling but is required based upon the Annexation Agreement (in which **the City contractually agreed to allocate road construction responsibilities equitably**), and also the City’s responsibility to promote and support the safety and welfare of its residents. **In the absence of City Staff’s previously proposed language in the Comprehensive Plan Amendment, ACR could seek to avoid its obligations and radically disrupt the expectations of the parties to the Annexation Agreement, the expectations and directives of City Council to Staff, and the expectations of any others who have detrimentally relied upon the representations made that the 2-lane roadway network that services the Southwestern Annexation Area is going to be timely completed.** In addition to the legal consequences of such a result, which might represent a breach of the City’s contractual obligation of good faith to the contract parties, it would set a horrible precedent to allow a party to a contract with the City to disavow its obligations. *See Sepe*

v. City of Safety Harbor, 761 So. 2d 1182 (Fla. 2d DCA 2000) ("the implied covenant of good faith exists in virtually all contractual relationships").

Proposed Wilson Groves DRI Development Order Map H Amendment P21-127

ACR's proposed comprehensive plan amendment to change its Figure 1-6 Conceptual Master Plan for the Wilson Groves DRI necessitates an amendment to Map H of the Wilson Groves DRI DO because those two (2) documents must remain consistent. Correspondingly, any text amendment to the Comprehensive Plan will require an amendment to a development order to maintain said consistency. The City's Comprehensive Plan specifically states that Wilson Groves must be developed consistent with the development order adopted by the City and with the Annexation Agreement. (Comp. Plan, Objective 1.2.11, FLU Element). Additionally, Florida Statutes requires a development order to be consistent with a city's comprehensive plan. *See* § 163.3215(3), Fla. Stat. The proposed comprehensive plan amendment and the associated development order amendment must be considered together to ensure consistency with each other and with the City's Comprehensive Plan. Therefore, the City will need to impose conditions in the Wilson Groves DRI DO when the City includes policy language in the Comprehensive Plan that also governs ACR's development of the Wilson Groves DRI to maintain such consistency.

Pursuant to Objective 1.2.4 and the associated Policy 1.2.4.2. of the City's Comprehensive Plan, the Wilson Groves DRI DO was implemented to ensure the provision of adequate public facilities that are fiscally neutral and avoid inequitable burdens on parties outside of the Wilson Groves boundaries. City staff's previously proposed policy language in the Comprehensive Plan is appropriate given ACR's requested changes and the inevitable negative impacts on the roadway network that will be caused by those proposed changes. However, to be consistent and ensure that the entire 2-lane roadway network is completed and completed in a timely manner, the City must also add similar conditions under Section 15 of the Wilson Groves DRI DO that will require ACR in any future MPUD approvals to construct the 2-lane roadways adjacent to all proposed MPUDs. **Should the City decide not to take the actions previously recommended by City Staff, the City will have gaps in its roadway network because there is a high probability that many of the roadways that are the obligation of ACR will never be completed and will consequently negatively impact traffic on other roadways to the detriment of the City, GL, and the health, safety and welfare of its residents.**

Requiring Wilson Groves to construct portions of the 2-lane roadway network --while avoiding the need to prematurely widen other roads to 4 or 6 lanes -- ensures consistency with the City's Comprehensive Plan. Importantly, the Comprehensive Plan provides: "Generally, *a connected system of two-lane streets are favored* over four-lane and six-lane collectors and arterials that tend to require significant buffering that will then fragment rather than unify neighborhoods." (Comp. Plan, Policy 1.2.3.3, FLU Element). Other City policies within the Future Land Use Element also support such a requirement. For example:

- The "City may encourage all new roadways to be developed as complete streets." (Policy 1.1.11.2)
- Neighborhoods within a residential area of a new community "shall contain local and collector streets... that contribute to a system of fully connected routes." (Policy 1.2.2.3(e))
- Development orders and permits "shall be issued only after there is adequate staff review" in order "to ensure that adequate infrastructure is available concurrent with the impacts of development for... vehicular and pedestrian circulation, [and] public safety." (Policy 1.1.3.7; Policy 1.1.3.8)

The City's Transportation Element also contains provisions relevant to these amendments, including the following:

- The City requires "coordination of traffic circulation plans and improvements with land use, right-of-way and infrastructure plans, before development approval. Traffic circulation plans shall address the mitigation of all potential project impacts on the roadway system." (Policy 2.1.2.2)
- "New development and redevelopment must demonstrate that the adopted roadway level of service can be maintained in the buildout year of the development." (Policy 2.1.2.9)
- "Encourage proposed development in the Western Annexation areas to incorporate a local grid street network... The collector roads should provide public access to the area-wide network with multiple connections to the local and arterial roadways." (Policy 2.6.1.1)
- "Encourage proposed development in the Western Annexation areas to incorporate a local grid street network... The local roads should provide public access to the area-wide network with multiple connections to the collector and arterial roadways." (Policy 2.6.1.2)

The City may impose a condition in a development order if (1) an "essential nexus" exists between a legitimate government interest and the condition; and (2) there is "rough proportionality" between the condition and the projected impact of the proposed development. *Nollan v. California Coastal Com'n*, 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 374 (1994); *TR Investor, LLC v. Manatee County*, 355 So. 3d 1004 (Fla. 2d DCA 2023); *Highlands-In-The-Woods, LLC v. Polk County*, 217 So. 3d 1175 (Fla. 2d DCA 2017).

CONCLUSION

GL looks forward to continuing to work with the City to ensure that a complete initial 2-lane roadway network supporting the Southwestern Annexation Area comes to fruition based on the equitable distribution of the roadway improvement obligations amongst the developers of the three (3) DRIs. We are committed to working with the City to achieve that end for the benefit of our residents – the City’s residents who depend on the City to do what is necessary to support their health, safety and welfare. The City has a responsibility to all who will be affected by the material changes being proposed by ACR’s revisions to its development of the Wilson Groves DRI Property.

We implore City Staff to carefully review the findings in the attached Simmons and White letter. The mere reliance upon the existing monitoring conditions set forth in the Wilson Groves DRI DO are wholly insufficient to guarantee the 2-lane roadway network is completed, and our client does not understand why the City is reluctant to take the lawful steps available to guarantee the City’s desired 2-lane road network becomes a reality. In response to the ACR Applications, it is a legally sound and justifiable position for the City to require ACR to timely build its initial 2-lane roadway obligations by including additional policy text in the City’s Comprehensive Plan and adding similar language in the Wilson Groves DRI DO to maintain each document’s necessary consistency with the other. Simply put, there is no downside if the City acts now to guarantee ACR will timely construct all of its 2-lane roadway obligations.

We welcome the opportunity to meet with City Staff and any members of Council who wish to discuss this matter in further detail. Please do not hesitate to contact us.

Best Regards,

s/John K. Shubin
For the Firm

Enclosures

- Traffic Review by Simmons & White, Inc.
- Agenda materials for the April 4, 2023 P&Z Board Meeting



May 19, 2023

Riverland/Kennedy II, LLC
1600 Sawgrass Corporate Parkway
Sunrise, Florida 33323

Attention: Ms. Azlina Goldstein, Esq.

Reference: Wilson Groves – Map H Amendment Traffic Review
Port St Lucie, Florida

Dear Ms. Goldstein:

At your request, our office has reviewed the Traffic Analysis for the Wilson Groves – Map H Amendment prepared by O’Rourke Engineering & Planning dated April 18, 2023 and the review comments issued by Marlin Engineering dated May 10, 2023. The purpose of this letter is to document our findings relative to the impact of Riverland/Kennedy DRI roadway obligations due to the proposed changes to Map H by Wilson Groves.

The traffic analysis methodology consisted of preparing a trip generation comparison between previous approvals and providing a manual trip distribution to the Wilson Groves roadway network. The traffic study prepared was not an update of the Western Annexation Traffic Study (WATS) and did not include modeling analysis for the reallocation of land uses. The analysis primarily consisted of roadways only within the Wilson Groves DRI boundary and did not include a comprehensive analysis of the overall DRI roadway network and in particular did not analyze the majority of Riverland/Kennedy DRI roadway obligations. Specifically, Riverland/Kennedy roadway obligation sections of N/S A, N/S B, Community Boulevard, and Becker Road were not included in the traffic study.

Table 4 “Link Analysis – Phase 4 Buildout” of the traffic study shows the proposed land use reallocation causes an increase of 9,781 daily trips on Becker Road between N/S A and N/S B. The total trips generated by Wilson Groves on Becker Road between N/S A and N/S B is 34,611 daily trips based on the traffic study projections. However, no analysis was provided for Becker Road between N/S B and Community Boulevard which is a Riverland/Kennedy roadway obligation. The final review comments prepared by Marlin Engineering (3rd party City traffic engineering consultant) included a detailed explanation of the Becker Road impacts of the project including the following:

- “While these impacts can be accommodated within the LOS requirement inside the Wilson Groves DRI, it is unclear what the design lane requirement for Becker Road east of N/S B should be.”
- “The above discussion suggests Becker Road will have to be widened to 6 lanes in order to meet City LOS requirements”.

The latest WATS traffic volumes for Becker Road between N/S B and Community Boulevard only required a four-lane section. Therefore, it is likely the proposed land use reallocation by Wilson Groves will require additional widening from four lanes to six lanes on Becker Road by Riverland/Kennedy that would not have been required previously without the proposed changes.

The results of the study indicate the critical importance of completing the two-lane roadway network in a timely manner. If any section of the two-lane network is not completed, several roadway sections that are Riverland/Kennedy’s roadway obligation would need to be widened beyond what they would have based on the latest WATS traffic projections if the two-lane network was complete. These sections include the following roadways in addition to the Becker Road section discussed above:

1. Community Blvd between Discovery Way and E/W 3 would need to be widened from four lanes to six lanes if N/S B is not connected. Riverland/Kennedy is only obligated to construct four lanes.
2. Community Blvd between E/W 3 and Paar Dr would need to be widened from two lanes to four lanes if N/S B or N/S A were not connected.
3. Discovery Way from N/S B to Community Blvd would need to be widened from two to four lanes if E/W 3 was not connected.

Ms. Azlina Goldstein, Esq.
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4. Paar Dr from N/S B to Community Blvd from N/S B to Community Blvd would need to be widened from two to four lanes if E/W 3, N/S A, or N/S B was not connected.

A phasing analysis was completed in the most recent Wilson Groves traffic study revision. The Phase 1 analysis inexplicably removed the E/W 3 roadway from the network and corresponding analysis. The traffic calculations included for this phase had several technical issues as document in the attached Exhibit A and should not be relied upon for justification for changes to the roadway network. Among other issues, the analysis relied on older assumptions for both the roadway network and completed development that would be in place by the end of Phase 1 for Wilson Groves.

Based on the substantial increase in traffic on Becker Road caused by the proposed land use reallocation, it is of critical importance that the two lane network and specifically N/S A, N/S B, and E/W 3 be constructed in a timely manner by Wilson Groves. The expeditious completion of the two-lane network is consistent with the City's own recommendations including the traffic study completed by Marlin Engineering which concluded the two-lane network was needed for capacity, connectivity, and life/safety emergency services. Failure to complete the two-lane network will result in accelerated and new roadway widening obligations for Riverland/Kennedy.

Sincerely,

SIMMONS & WHITE, INC.



Bryan Kelley, P.E.

ENCLOSURES

BK: x:/docs/miscltrs/kelley/20032.Goldstein_WG

Exhibit A

Technical Issues in the Wilson Groves – Map H Amendment Traffic Analysis dated April 18, 2023

1. The Phase 1 analysis cannot be relied upon to make a determination of roadway needs from the provided traffic study for several reasons including but not limited to:
 - The Phase 1 roadway network and land uses do not match the existing (and under construction) roadways or actual development built and pending.
 - No analysis of numerous impacted roadway sections if E/W 3 were to be removed from the roadway network. The elimination of E/W 3 would put additional trips on Becker Road east of N/S B, Community Boulevard between Becker Road and E/W 3, and on Discovery Way. However, no analysis was provided for these roadway sections in the Phase 1 analysis.
 - A modeling analysis should have been completed if a roadway was removed from the network and not a manual adjustment of trips.
 - The Phase 1 analysis did not use the same trip generation methodology as the rest of the traffic study. The analysis took a higher discount for the approved trips by not reducing for internal capture which it did for the new reallocation trips. This resulted in showing a significant reduction in impact.
 - The Phase 1 analysis utilized the original WATS as a baseline comparison which relies on outdated assumptions for numerous factors including that each of the DRI's would be built at a similar time frame and pace. Substantial changes have occurred since the completion of the original WATS and these changes would need to be considered in a comprehensive analysis including traffic modeling if the elimination of a roadway is being considered.

2. The roadway link analysis for each of the phases including the full buildout scenario has a fundamental flaw in the methodology. The roadway link volumes were determined by taking the latest WATS 3 roadway volumes for the evaluated roadway sections, then subtracting out the previously approved Wilson Groves trips, and finally adding the new Wilson Groves trips as part of the land use reallocation. However, numerous roadway segments show the previously approved Wilson Groves trips on a given roadway segment were higher than the overall volumes on the roadway link shown in the WATS 3 that included trips from Riverland/Kennedy and Southern Grove developments. In other words, the link analysis assumes removing the approved Wilson Groves trips from the

roadway network would result in the roadway segment to have negative trips. Below are a few examples of the buildout analysis in Table 4 where the roadway volumes were shown to be negative before adding back in the new Wilson Groves trips:

- Becker Road from N/S A to N/S B: -5,643 daily trips
- Paar Drive from N/S A to N/S B: -8,557 daily trips
- NS B from E/W 3 to Paar Rd: -9,435 daily trips
- NS A from Paar Rd to Becker Rd: -6,628 daily trips
- Discovery Way from N/S B to Community Blvd: -5,002 daily trips

In summary, the total traffic volumes in Table 4 were determined using the following methodology:

$$\text{Total Traffic Volumes} = A - B + C$$

A = Overall WATS 3 traffic volume projections

B = Approved Wilson Groves Trips

C = Proposed Wilson Groves Trips

In several circumstances, A-B resulted in negative trips which raises the question of the reliability of the results.

3. There are several inaccuracies in the trip assignment that do not match the supporting documentation. Specifically, pdf page 135 which details the Wilson Groves WATS 3 trip assignment does not match “Table 4: Link Analysis – Phase 4 Buildout”.
4. The traffic study relies on the WATS 3 traffic volumes as the baseline for projections for Phases 2, 3, and 4. However, no support documentation is provided so the WATS 3 traffic volumes can be verified. The WATS 3 traffic volumes shown in Table 4 do not match the Southern Grove DRI Traffic Analysis prepared by MacKenzie Engineering & Planning, Inc. dated July, 2021 which is referred to as the WATS 3.
5. The proposed land use reallocation results in a substantial increase in traffic (additional 9,781 daily trips) on Becker Road between N/S A and N/S B. However, no traffic analysis was prepared for Becker Road east of N/S B or on numerous other roadway segments including Community Boulevard, N/S A between Discovery Way and E/W 3, and N/S B between Discovery Way and E/W 3. The proposed changes have a significant impact to the Riverland/Kennedy DRI roadway obligations and the impacts were not evaluated in the traffic study.



City of Port St. Lucie
PUBLIC WORKS DEPARTMENT
Accredited Agency - American Public Works Association



MEMORANDUM

TO: Bridget Kean, AICP – Senior Planner, Planning & Zoning

THRU: Colt Schwerdt, P.E. – Assistant Public Works Director

FROM: Diana Spriggs, P.E. – Regulatory Division Director, Public Works

DATE: March 28, 2023

SUBJECT: P21-128 Wilson Grove - Comprehensive Plan Amendment
Traffic Generation, Stacking & Circulation Approval

This application and Traffic Report prepared by Susan O'Rourke, P.E. dated March 9, 2023 has been reviewed by the Public Works Department and the transportation elements of the project were found to not be in compliance with the adopted level of service and requirements of Chapter 156 of City Code, and Public Works Policy 19-01pwd.

The traffic study was reviewed by the Public Works Department and the City's 3rd Party Traffic Consultant, Marlin Engineering. The City's 3rd Party Consultant's review found that proposed changes to Figure 1-6 could be accommodated within the planned roadway network for Wilson Groves at time of buildout and construction of all required transportation improvements. Prior to buildout and construction of all required transportation improvements, the 3rd Party Consultant's review indicated a decreased level of service at select locations based on the proposed land use revisions, which could result in a need for additional road widening, prior to their DRI roadway improvement triggers being met. As previously noted in the staff report, the City has approved construction agreements with the three developers for construction of Becker Road from its current terminus west of SW Village Parkway to Range Line Road. No additional roadway improvements are required to be constructed in the Wilson Groves DRI until the development reaches 2,200 dwelling units or 2,573 p.m. peak hour trips, whichever comes last. At 2,200 dwelling units or 2,573 p.m. peak hour trips, whichever comes last, Wilson Groves is required to construct the initial 2 lanes of N/S A from Becker Rd to E/W 3 (Marshall Parkway), and E/W 3 from Range Line Road to N/S B (Riverland Blvd), as outlined under Condition 19 of the Wilson Groves DRI (Table 2).

The Public Works Department is concerned that these triggers do not provide the City with sufficient roadways to disperse the proposed trips throughout the network prior to reducing the level of service (LOS) of Becker Road to "F" as a 2-lane and then 4-lane road. The proposed map amendment results in a relocation of trip patterns. Therefore, the original trip patterns used to determine the current roadway DRI requirements are inaccurate. The existing DRI does provide the ability for the City to advance roadway obligations to address level of service concerns based on the monitoring provision. However, the DRI also allows 24 months to complete design, permitting and construction, after the completion of the monitoring. This would place the roadway in failing LOS for up to 24 months while this work is underway.

The peak capacity of a 2-lane road is 1,080 trips and a 4-lane road is 2,100 peak hour trips as identified in the Developer's provided Traffic Analysis. Based on the current DRI traffic condition, they will be allowed 2,573 trips before a new roadway is required to be constructed. In absence of additional connecting roadways, the totality of these trips will be placed on Becker Road causing it to fail even at 4 lanes. Please note that per the ITE Trip Generation Manual 11th Edition; 2,200 single family houses result in 2,178 PM peak hour trips thereby exceeding the identified peak capacity of the road. To address the City's 3rd Party Consultant's concern regarding a decreased level of service at certain locations, as identified in their comment letter and subsequent email

correspondences resulting from the proposed land use revisions, City staff is recommending that Wilson Groves be required to construct the first two lanes of N/S A from Becker Road north to Marshall Parkway and the first two lanes of Marshall Parkway from N/S A to N/S B prior to the completion of 2,200 dwelling units. The condition removes the ability to utilize the trip generation option for triggering the construction of the first two lanes of these roadways for residential development. Residential development will be based on number of dwelling units for the first two lanes of roadway construction. The use of dwelling units will ensure the construction of new roads for additional connectivity that provides alternative routes for ingress/egress and emergency access. To formalize this requirement staff is proposing a new policy be added to the Future Land Use Element as described below and attached as Exhibit "D" of the staff report with additions shown as underlined and deletions shown as strikethrough.

Policy 1.2.11.6: The Wilson Groves NCD District shall also provide the following transportation improvements:

- a. The first two lanes of N/S A from Becker Road to E/W 3 shall be constructed and open to the public prior to the construction of 2,200th* dwelling unit in the Wilson Groves DRI**;
- b. The first two lanes of E/W 3 from N/S A to N/S B shall be constructed and open to the public prior to the construction of 2,200th* dwelling unit in the Wilson Groves DRI**

* or any combination of non-residential development equivalent to 2,200 dwelling units in the Wilson Groves DRI per the Wilson Grove DRI Trip Equivalency Matrix:

** The widening of the required roadways shall be in conformance with Wilson Groves DRI.

At the February 22, 2023 City Council Workshop, the City Council adopted new policies in support of construction of the full two lane roadway network in the City's Southwest Annexation Area as depicted on the SW Annexation Area Roadway map. Staff was directed to prioritize construction of the two lane roadway network to ensure the roadways are in place to serve the proposed development. The intent is to avoid the conditions that exist in other parts of the City where certain roadways such as St. Lucie West Boulevard and Port St. Lucie Boulevard end up funneling all traffic because there is limited north-south and east-west connectivity. The proposed policy aligns with City Council's goals.

Additionally, the inclusion of the Paseo Pathway within the E/W 4 (Hegener Road) right-of-way is of concern without City Council support for inclusion within City right-of-Way. Lastly, there is no approved typical section for the western section of Hegener Road to guarantee the design can be supported within the right-of-way available.

If the Board motions to approve this application, Public Works recommends the approval be conditioned such that the applicant must obligate the advancement of construction of the additional roadways outlined above within the Wilson Grove DRI to avoid the requirement of the widening of a segment of roadway (Becker Road) that is not the applicant's responsibility to widen; and to remove the Paseo Pathway until City Council can provide clear direction. If these conditions are not included, then Public Works recommend denial of this application based on the above concerns.



City of Port St. Lucie
PUBLIC WORKS DEPARTMENT
Accredited Agency - American Public Works Association



MEMORANDUM

TO: Bridget Kean, AICP – Senior Planner, Planning & Zoning

THRU: Colt Schwerdt, P.E. – Assistant Public Works Director & City Engineer

FROM: Diana Spriggs, P.E. – Regulatory Division Director, Public Works

DATE: May 25, 2023

SUBJECT: P21-127 Wilson Grove – Development of Regional Impact Amendment
P21-128 Wilson Grove – Comprehensive Plan Amendment
Traffic Generation, Stacking & Circulation Approval

This application and Traffic Report prepared by Susan O'Rourke, P.E. dated April 18, 2023 has been reviewed by the Public Works Department and the transportation elements of the project were found to be in compliance with the adopted level of service and requirements of Chapter 156 of City Code, and Public Works Policy 19-01pwd at this time.

The traffic study was reviewed by the Public Works Department and the City's 3rd Party Traffic Consultant, Marlin Engineering. The City's 3rd Party Consultant's review found that proposed changes to Figure 1-6 could be accommodated within the planned roadway network for Wilson Groves at time of buildout and construction of all required transportation improvements. Prior to buildout and construction of all required transportation improvements, the 3rd Party Consultant's review indicated a decreased level of service at select locations based on the proposed land use revisions, which could result in a need for additional road widening, prior to their Development of Regional Impact (DRI) roadway improvement triggers being met. As previously noted in the staff report, the City has approved construction agreements with the three developers for construction of Becker Road from its current terminus west of SW Village Parkway to Range Line Road. No additional roadway improvements are required to be constructed in the Wilson Groves DRI until 2,200 dwelling units or 2,573 p.m. peak hour trips, whichever comes last. At that trigger, Wilson Groves is required to construct the initial 2 lanes of N/S A from Becker Rd to E/W 3 (Marshall Parkway), and E/W 3 from Range Line Road to N/S B (Riverland Blvd), as outlined under Condition 19 of the Wilson Groves DRI (Table 2).

The peak capacity of a 2-lane road is 1,080 trips and a 4-lane road is 2,100 peak hour trips as identified in the Developer's provided Traffic Analysis. Based on the current DRI traffic condition, they will be allowed 2,573 p.m. peak hour trips before a new roadway is required to be constructed. In absence of additional connecting roadways, the totality of these trips will be placed on Becker Road. The Public Works Department and the City's 3rd Party Traffic Consultant has determined from the analysis that widening of Becker Road is likely to be required prior to the Wilson Grove DRI triggers.

The existing Wilson Grove DRI does include a monitoring condition under Section 15.B. Based on this existing condition in the DRI, the City has the ability to require the developer to provide a monitoring analysis of the existing conditions of a roadway portion within their DRI roadway obligations to ascertain the level of service on that roadway. This would allow the City to determine if a roadway segment(s) widening or initial 2-lane requirement should be accelerated. The monitoring condition however does require the City to allow the developer 24 months for engineering, permitting and construction.

The City's 3rd Party Consultant mentioned some concerns for the City to be aware of in their last review of the Wilson Grove DRI Traffic Analysis. They are recommending that the City require a Traffic Analysis of the

intersections with each future plat submittal/review to verify if any improvements are needed at that time for the intersections.

Another concern is the Wilson Grove DRI Traffic Analysis does not include any traffic impacts from the surrounding DRI's. Becker Road will include traffic trips from several areas as the communities that connect to it are built out. Currently the analysis provided by the various DRI's of the area only includes their specific projected trips from their individual DRI's for the roadways. The overall DRI study we had completed by our 3rd Party Traffic Consultant this year to combine the potential traffic for the Southwestern Annexation Area, only looked at 10 years out for the construction timing of the 2-lane network of the roadways. This is not the full buildout impact for the Southwestern Annexation Area traffic. It is recommended by Public Works and our 3rd Party Traffic Consultant that we have another Southwestern Annexation Area analysis done every 3 to 5 years to assess the impacts as they increase. With the earlier timeframe being associated with more significant land use changes or faster development time frames than the development schedule.

At the February 22, 2023 City Council Workshop, the City Council adopted new policies in support of construction of the full two lane roadway network in the City's Southwest Annexation Area as depicted on the SW Annexation Area Roadway map. Staff was directed to prioritize construction of the 2-lane roadway network to ensure the roadways are in place to serve the proposed development. The intent is to avoid the conditions that exist in other parts of the City where certain roadways such as St. Lucie West Boulevard and Port St. Lucie Boulevard end up funneling all traffic because there is limited north-south and east-west connectivity

City staff has discussed the proposal to include a Paseo within the 150 feet of city owned road right-of-way for E/W 4 with the applicant. The Paseo is not a listed improvement in the Wilson Grove DRI development order. Based on the transportation improvements currently required by the Wilson Grove DRI development order (Res. 11-R01), E/W 4 will be a four laned roadway at the time of buildout. With no conceptual drawings or sections, City staff cannot determine if the proposed Paseo and 4-lane roadway will fit within the right-of-way and does not recommend the inclusion of the Paseo on a map or land use plan at this time. If the developer of the Wilson Groves DRI wants to propose a Paseo in city owned right-of-way, the developer should be required to amend the DRI development order to identify the Paseo as a permitted improvement in the Wilson Groves DRI prior to the inclusion of the Paseo on Map H.

If the Board motions to approve this application, Public Works recommends the approval be conditioned such that the applicant must reimburse the City for the City's consultant to conduct a monitoring analysis when deemed necessary for the developer's obligated roadways. Additionally, if the Board motions to approve this application, we also recommend that it be conditioned to remove any references of the Paseo; and that should the applicant wish to include the Paseo they must provide a typical section for review and approval by Council to be included in a future DRI amendment.