

RESOLUTION 21 – R05

**A RESOLUTION OF THE CITY OF PORT ST. LUCIE, FLORIDA, MAKING FINDINGS OF FACT AND DETERMINING CONCLUSIONS OF LAW PERTAINING TO THE SOUTHERN GROVE DEVELOPMENT OF REGIONAL IMPACT, AND CONSTITUTING THIS RESOLUTION AS AN AMENDED AND RESTATED DEVELOPMENT ORDER (P20-067) BY THE CITY OF PORT ST. LUCIE IN COMPLIANCE WITH LAW; AND PROVIDING FOR AN EFFECTIVE DATE AND A TERMINATION DATE.**

WHEREAS, an Application for Development Approval for the Southern Grove Development of Regional Impact (“DRI”) was submitted on June 1, 2005 and was supplemented with additional information on December 16, 2005 and on April 19, 2006, in accordance with Section 380.06, Florida Statutes (“collectively the “ADA”); and

WHEREAS, the Southern Grove DRI is a proposed mixed-use master planned community on approximately 3,606 acres on the property legally described as Exhibit “A” of Exhibit “1” attached hereto (“DRI property”) and

WHEREAS, the developer of the Southern Grove DRI is Mattamy Palm Beach, LLC, a Delaware limited liability company as successor in interest to Tradition Land Company, LLC, as successor in interest to Horizon Acquisitions 5, LLC (“Developer”); and

WHEREAS, under contract with the City, the Treasure Coast Regional Planning Council (“TCRPC”) prepared the Western Annexation Traffic Study (dated January 2006) (“WATS”) which included the Southern Grove DRI and other proposed developments within the area generally known as the Western Annexation Area, and

WHEREAS, on April 16, 2007, the Developer submitted a Notification of Proposed Change to a Previously Approved Development of Regional Impact (“NOPC”) requesting certain changes to the transportation and affordable housing conditions; and

WHEREAS, the public notice requirements of the City of Port St. Lucie Code of Ordinances and Section 380.06(19), Florida Statutes, were satisfied; and

WHEREAS, on June 19, 2007, Governor Crist signed into law House Bill 7203, which extended for 3 years all commencement, phase, buildout and expiration dates (including associated mitigation requirements) for projects that had currently valid developments of regional impact, regardless of any previous extension. HB 7203 further provided that the 3-year extension was not a substantial deviation; and

WHEREAS, on July 3, 2007 the Planning and Zoning Board of the City of Port St. Lucie held a public hearing on the NOPC and recommended approval of the changes; and

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WHEREAS, on August 13, 2007, the City Council of the City of Port St. Lucie held a public hearing to consider the NOPC, the TCRPC recommendations, and the comments upon the record made at said public hearing, and afforded all interested persons an opportunity to be heard and present evidence; and

WHEREAS, on September 21, 2009, an Application for Development Approval for a Substantial Deviation Modification to the Southern Grove DRI was submitted and was supplemented with additional information on July 6, 2010, June 29, 2011 and September 22, 2011, in accordance with Section 380.06, Florida Statutes (“collectively the “ADA”). The ADA requested certain changes to the transportation, environmental and natural resources, and human resource issues conditions; to increase the non-residential building square footage allowed; and to amend the Master Development Plan, Map H; and

WHEREAS, the public notice requirements of the City of Port St. Lucie Code of Ordinances and Section 380.06(19), Florida Statutes, were satisfied; and

WHEREAS, on June 2, 2011, Governor Scott signed into law House Bill 7207, which extended for 4 years all commencement, phase, buildout and expiration dates (including associated mitigation requirements) for projects that had currently valid developments of regional impact, regardless of any previous extension. HB 7207 further provided that the 4-year extension was not a substantial deviation; and

WHEREAS, Chapter 2011-142, Laws of Florida, provides that a declaration of state of emergency by the Governor tolls specified permits and authorizations, including development orders and build-out dates, for the duration of the emergency declaration, and extends such permits and authorizations for 6 months in addition to the tolling period; and

WHEREAS, On June 13, 2011, by virtue of Executive Order 11-128, Governor Scott declared a state of emergency for 60 days throughout the entire State of Florida due to the ongoing danger of wildfires. Governor Scott subsequently extended Executive Order 11-128 two times – once for 60 days (to October 4, 2011) by virtue of Executive Order 11-172 issued on August 5, 2011, and then for an additional 30 days (to November 3, 2011) by virtue of Executive Order 11-202 issued on October 4, 2011; and

WHEREAS, on March 6, 2012 the Planning and Zoning Board of the City of Port St. Lucie held a public hearing on the Substantial Deviation Modification and recommended approval of the changes; and

WHEREAS, on March 26, 2012, the City Council of the City of Port St. Lucie held a public hearing to consider the Substantial Deviation Modification, the TCRPC recommendations, and the comments upon the record made at said public hearing, and afforded all interested persons an opportunity to be heard and present evidence; and

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WHEREAS, On June 25, 2012, by virtue of Executive Order Number 12-140, the Governor declared a state of emergency for 60 days throughout the entire State because the ongoing danger of Tropical Storm Debbie threatened the State with a major disaster; and

WHEREAS, On August 25, 2012, by virtue of Executive Order Number 12-199, the Governor declared a state of emergency for 60 days throughout the entire State because the ongoing danger of Tropical Storm Isaac threatened the State with a major disaster. Governor Scott subsequently extended the state of emergency issued under Executive Order Number 12-199 for certain counties, including St. Lucie County, an additional 30 days (to November 23, 2012) by virtue of Executive Order 12-240 issued on October 22, 2012; and

WHEREAS, on July 31, 2013, the Developer submitted Proposed Changes to amend the development order per Section 380.06(19)(e)2.1, Florida Statutes requesting certain changes to Map H, Master Development Plan and to revise dates for various extensions; and

WHEREAS, on November 5, 2013 the Planning and Zoning Board of the City of Port St. Lucie held a public hearing on the proposed amendment to the development order and recommended approval of the changes; and

WHEREAS, on January 27, 2014, the City Council of the City of Port St. Lucie held a public hearing to consider the proposed amendment to the development order and the comments upon the record made at said public hearing, and afforded all interested persons an opportunity to be heard and present evidence; and

WHEREAS, on January 27, 2014, the City Council of the City of Port St. Lucie approved Resolution 14-R19, amending the DRI development order; and

WHEREAS, on June 30, 2015, the Developer submitted Proposed Changes to amend the development order per Section 380.06(19)(e)2.1, Florida Statutes requesting certain changes to Map H, Master Development Plan and to the Trip Conversion Matrix; and

WHEREAS, on August 4, 2015 the Planning and Zoning Board of the City of Port St. Lucie held a public hearing on the proposed amendment to the development order and recommended approval of the changes set forth as Exhibit “1”; and

WHEREAS, on October 26, 2015, the City Council of the City of Port St. Lucie held a public hearing to consider the proposed amendment to the development order and the comments upon the record made at said public hearing, and afforded all interested persons an opportunity to be heard and present evidence.

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WHEREAS, on October 26, 2015, the City Council of the City of Port St. Lucie approved Resolution 15-R95, amending the DRI development order; and

WHEREAS, Section 252.363, Florida Statutes, provides for the tolling and extension of buildout dates during a state of emergency declared by the Governor and for an additional six months after the emergency expires pursuant to which the Southern Grove DRI was extended by an additional 701 days and 36 months pursuant to Executive Orders 17-146, 17-177/178, 17-230, 17-285, 17-329, 18-47, 18-110, 18-177, 18-235, 18-279, 18-362 (Opioid Epidemic); Executive Orders 17-259, 17-304, 18-17, 18-80, 18-135, 18-214, 18-236 (Hurricane Maria); Executive Orders 18-150, 18-157 (Subtropical Storm Alberto); Executive Orders 18-191, 18-249, 18-311 (Algae Bloom); Executive Orders 18-272, 18-282 (Red Tide); Executive Order 19-189 (Hurricane Dorian); and

WHEREAS, on March 20, 2019, the Developer submitted an application for Amendment to the Southern Grove Development of Regional Impact Development Order (P19-033); and

WHEREAS, the public notice requirements of the City of Port St. Lucie Code of Ordinances have been satisfied; and

WHEREAS, on December 3, 2019, the Planning and Zoning Board of the City of Port St. Lucie held a duly noticed public hearing on the Application for Amendment to the Development Order; and

WHEREAS, on January 13, 2020, the City Council of the City of Port St. Lucie held a duly noticed public hearing to consider the Amendment; and has considered the evidence and testimony taken thereat; and

WHEREAS, on January 13, 2020, the City Council of the City of Port St. Lucie approved Resolution 20-R05, amending the DRI development order; and

WHEREAS, on April 15, 2020, the Developer submitted an application for Amendment to the Southern Grove Development of Regional Impact Development Order (P20-067); and

WHEREAS, the public notice requirements of the City of Port St. Lucie Code of Ordinances have been satisfied; and

WHEREAS, on October 6, 2020 the Planning and Zoning Board of the City of Port St. Lucie held a duly noticed public hearing on the Application for Amendment to the Development Order; and

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WHEREAS, on January 25, 2021, the City Council of the City of Port St. Lucie held a duly noticed public hearing to consider the Amendment; and has considered the evidence and testimony taken thereat; and

WHEREAS, the City Council has made the FINDINGS OF FACT and CONCLUSIONS OF LAW set forth below with regard to the Amendment.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA:**

### **Section 1. Findings of Fact.**

The City Council, having considered all the documents, comments, testimony and evidence presented to it, finds as follows:

1. The above recitals are true and correct, and are incorporated into this Development Order by this reference.
2. The proposed development is consistent with the Port St. Lucie Comprehensive Plan and the Port St. Lucie Land Development Regulations-
3. The Southern Grove DRI is not located in an area of critical state concern designated pursuant to Section 380.05, Florida Statutes.
4. The Development Order includes adequate provisions for the public facilities needed to accommodate the impacts of the proposed development.
5. The Amendment to the Development Order for Southern Grove and its supporting documentation were reviewed as required by the local land development regulations.
6. This Resolution 21-R05, the Development Order for Southern Grove, as amended and restated, hereby supersedes and replaces Resolution 20-R05 approved by the City of Port St. Lucie for the Southern Grove DRI.

### **Section 2. Conclusions of Law**

The City Council, having made the findings of fact set forth above, makes the following conclusions of law:

1. The City Council, as the governing body of the City of Port St. Lucie, has legal jurisdiction over the Southern Grove DRI and is authorized and empowered by Chapter 380, Florida Statutes, to issue this Development Order.

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2. The Southern Grove DRI is approved for the development authorized in this Development Order, subject to the General Conditions of Approval set forth in Exhibit “1” attached hereto and incorporated into this Development Order by this reference, and the Equivalency Matrix attached as Exhibit “C” to Exhibit “1”.

### **Section 3. General Conditions of Approval**

3. The Southern Grove DRI shall be developed in accordance with the General Conditions of Approval set forth in Exhibit “1” attached hereto.
4. Development within the Southern Grove DRI shall be located substantially as depicted on the Revised Master Development Plan (Map H), attached as Exhibit “B” to Exhibit “1”.
5. Development within the Southern Grove DRI shall be consistent with the Port St. Lucie Comprehensive Plan, the Port St. Lucie Land Development Regulations and this Development Order.
6. Within 10 days after adoption of this Development Order, the City Clerk shall render copies of this Development Order with all attachments, certified as complete and accurate, by certified mail (return receipt requested) to the Developer.
7. This Development Order shall take effect upon its approval by the City Council of the City of Port St. Lucie. Any appeal or challenge to this Development Order shall: i) stay the effectiveness of this Development Order; and ii) extend the phase, buildout, and termination dates and the time in which the Developer must fulfill obligations imposed by the Development Order by a period of time equal to the length of time that the appeal proceedings remain pending.
8. Notice of the adoption of this Amendment to the Development Order shall be recorded by the Developer, in accordance with Sections 28.222 and 380.06(4)(c), Florida Statutes, with the Clerk of the Circuit Court of St. Lucie County, Florida. The notice shall specify that this Development Order runs with the land and is binding on the Developer, its agents, lessees, successors or assigns. A copy of such notice shall be forwarded to the Port St. Lucie Planning and Zoning Department within seven days after recordation.
9. The property within the Southern Grove DRI shall not be subject to downzoning, unit density reduction or intensity reduction or other reduction of approved land uses before the expiration date of this Development Order, unless either (a) the Developer consents to such a change, or (b) the City demonstrates that a substantial change in the Development Order was based on substantially inaccurate information provided by the Developer, or

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that the change is clearly established by the City as essential to the public health, safety, or welfare.

10. This Development Order shall not preclude the City from requiring the payment of impact fees and/or other fees for development or construction within the Southern Grove DRI, provided such fees are assessed in accordance with a duly adopted ordinance and are charged to all similarly situated developers for the same activities within all other areas of the City.
11. In the event that the Developer violates any condition of this Development Order, or otherwise fails to act in substantial compliance with this Development Order, the City may stay the effectiveness of this Development Order on the identifiable tract or parcel, or portion of the tract or parcel owned by the person or entity violating the condition, and within the DRI Property described in Exhibit “A” attached to Exhibit “1”, after a stated compliance date. The Developer shall be given a written notice of violation by the City and a reasonable period of time to cure the violation. The Developer may petition the City Council for review of the notice of violation, prior to the stated compliance date, and said review shall be conducted at a public hearing. Filing of a petition for review shall delay the effectiveness of the notice of violation until the review has been conducted. If the violation has not been cured or corrected by the stated compliance date, all further development permits, approvals and services for the development said tract or parcel, or portion of tract or parcel, shall be withheld until the violation is corrected. For the purposes of this condition, the terms “tract” and “parcel” shall mean “any quantity of land capable of being described with such definiteness that its boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, located within the DRI Property legally described in Exhibit “A” attached to Exhibit “1” and the Revised Master Development Plan (Map H) attached as Exhibit “B” to Exhibit “1”.
12. Upon request, and in accordance with the City’s adopted development review fee schedule, the City shall provide to the Developer a letter stating whether the portion of the development at issue is in compliance with applicable conditions of this Development Order.
13. The Southern Grove DRI shall be bound by the rules adopted pursuant to Chapters 373 and 403, Florida Statutes, in effect at the time of issuance of this Development Order.
14. Compliance with the Development Order shall be monitored through normal City permitting procedures, the procedures listed in specific conditions of approval, and review of the biennial report. The local official responsible for assuring compliance with this Development Order is the Director of Planning and Zoning.

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- 15. The Development Order shall be binding upon the Developer and its assignees or successors in interest. Any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced government agency in existence on the effective date of this Development Order.
  
- 16. It is declared to be the City’s intent that, if any section, subsection, sentence, clause, condition or provision of this Development Order is held to be invalid by a court of competent jurisdiction, the remainder of this Development Order shall be construed as not having contained said section, subsection, sentence, clause, condition or provision and shall not be affected by such holding.

PASSED AND ADOPTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2021. .

CITY COUNCIL OF THE CITY OF  
PORT ST. LUCIE, FLORIDA

\_\_\_\_\_  
Gregory J. Oravec, Mayor

ATTEST:

\_\_\_\_\_  
Karen Philips, City Clerk

APPROVED AS TO FORM:

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James Stokes, City Attorney