

*Submitted into the Record by Alfred Malfatto, Esq.
at the 3-8-2021 Special Meeting*



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July 3, 2012

Mayor JoAnn M. Faiella and
Members of the City Council
Vice Mayor Linda Bartz
Councilwoman Michelle Lee Berger
Councilwoman Shannon Martin
Councilman Jack Kelly
City of Port St. Lucie
121 S.W. Port St. Lucie Blvd.
Building A
Port St. Lucie, Florida 34984

Re: Riverland/Kennedy DRI – Amendment to Development Order

Dear Mayor and Members of the City Council:

On behalf of the owners of the Wilson Groves Development of Regional Impact (“DRI”), we are writing once again to express our concerns with regard to the pending application for an Amended Development Order filed by Riverland/Kennedy DRI, currently scheduled for hearing before the City Council on Monday, July 9, 2012.

While we are mindful of the desire of the City Council that these issues be worked out in advance between the impacted developers and your staff, we have attempted on numerous occasions to reach agreement on these important concerns without success. As recently as last week, a meeting with the developers was held at the invitation of the City to attempt to resolve the issues, but no representative of Riverland/Kennedy attended and therefore no progress was made. Accordingly, we raise again the following issues:

1. **The proposed amendments to the Riverland/Kennedy DRI Development Order violate the provisions of the Annexation Agreement.**

Notwithstanding the clear agreement of the parties to the Annexation Agreement that each developer would be responsible for constructing the first two lanes of Becker Road through their respective properties, the proposed amendments attempt to relieve Riverland/Kennedy DRI of

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this responsibility and instead postpone this improvement until more than 10,400 residential units are built or more than 10,935 trips are on this road. Assuming that Riverland/Kennedy DRI only builds 10,399 residential units and stays below the trip threshold, the four-laning of Becker Road will never happen and the adverse traffic impacts will exist in perpetuity unless the City decides to widen the road itself. The recent proposal from Riverland/Kennedy to drop the unit and trip threshold to 6,450 units and 7,077 trips, respectively, but allow the developer to choose which transportation improvements will be made, is totally inadequate and will create uncertainty at best for the City and surrounding neighborhoods.

Your staff has suggested that our concern that the issuance of a development order that is a de facto breach of the Annexation Agreement is not valid because all of the DRIs in the Southwest Annexation Area are in default under the terms of the Annexation Agreement. Pursuant to the Agreement, all the DRIs were required to provide funding for construction of Becker Road within 60 days of the letting of the contract construction of the Becker Road Interchange, and none of them have done so. We respectfully disagree that such a default provides an excuse for the City itself to breach the Agreement. The City has a remedy for the alleged default under the Agreement, and it can exercise that remedy at any time merely by sending written notice to each party advising them of the defaulting provision. No similar remedy exists for the other parties to the Agreement.

2. The proposed amendments allow substantial development within the Riverland/Kennedy DRI before previously required transportation improvements are made. This will cause substantial harm to adjacent developments and to current and future residents and businesses in the area.

Wilson Groves DRI and Southern Grove DRI amended their respective Development Orders to disconnect from the other developments, and did so in a manner that was consistent with the City's allocation method which was based on a percentage of trips attributable to each DRI from the total trips indicated in the Western Annexation Study Area (WATS). Their amended development orders include specific transportation conditions allocating their share of the WATS network, and are generally based on the original WATS phasing.

Riverland/Kennedy should be allowed and required to do the same. Because the proposed amendment delays Riverland/Kennedy's improvements until the end of its phases, roads within the adjacent DRIs, the City and I-95 will be negatively impacted. This will also have a negative impact on the recently created CRA and the jobs corridor. As indicated by the Treasure Coast Regional Planning Council in its letter of May 24, 2012, no supporting traffic study has been submitted by Riverland/Kennedy to support these delays, and Monitoring Condition 15 is ineffective in ensuring that the necessary roadway network is constructed when needed because this condition does not require monitoring of the entire WATS network.

3. Amendments to the Riverland/Kennedy DRI should be made that are consistent with the City's lane mile allocation approach, but that are also consistent with the traffic study that all parties to the WATS agreed upon and accepted.

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Because of the serious negative impact that the proposed Riverland/Kennedy DRI amendments would have on the roadway network upon which Wilson Groves DRI depends, Wilson Groves had a professional transportation engineer conduct an expert analysis of the transportation conditions. We request that the City Council approve the Riverland/Kennedy Amended Development Order with the attached alternative Conditions 18 and 19. The changes we request would result in a slight decrease in the lane-miles and cost for the Riverland/Kennedy DRI, but resolve the inconsistency between the Annexation Agreement and the Development Order and guide the construction of the roadways in an orderly, predictable, and consistent manner. If these or similar changes are not made in the Amended Development Order, we request that this proposed Amended Development Order be denied.

We appreciate your attention to this important matter and look forward to addressing you at your meeting on July 9, 2012. In the interim, if you have any questions regarding these issues, please do not hesitate to contact me.

Very truly yours,

FOWLER WHITE BOGGS P.A.



Linda Loomis Shelley

Attachment

cc: Greg Oravec, City Manager
Pam E. Booker, Esq., Senior Assistant City Attorney
Daniel Holbrook, Director of Planning and Zoning
Anne Cox, Assistant Director of Planning and Zoning
Glenn Ryals, GL Homes
Wesley S. McCurry, Fishkind & Associates

Riverland/Kennedy Access Road Improvements

18. No building permits shall be issued for 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"; or 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	Trip Threshold*	Residential Units	Improvement
Community Blvd.	Discovery Way	South for 2,500 Ft.	0	0	2L
Secondary Emergency Access Road at EW #1 between Community Blvd. and Rangeline Rd.			0	0	Emergency Access Road
Improvements for a full 2 lane by 2 lane intersection at Discovery Way and Community Blvd.			0	0	2x2 intersection
Community Blvd.	Discovery Way	EAW-3	773	800	2L
Discovery Way	Community Blvd.	West for 2,500 Ft.	1,546	1,200	2L
EAW-3	Community Blvd.	West for 2,500 Ft.	2,318	1,800	2L

*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 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", or 2) a local government development agreement consistent with sections 163.3220 through 163.3243, F.S. has been executed; or 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	Trip Threshold	Residential Units	Improvement
Phase 1					
Community Blvd.	EAW 3 Discovery Way	Paar Dr. E/W 3	3,219 1,071	2,500 832	2L
Community Blvd.	Paar Dr. E/W 3	Becker Rd.	3,219 1,071	2,500 832	2L
Becker Road	Community Blvd.	N/S B	1,071	832	2L
E/W 3	Community Blvd.	N/S B	3,219 1,140	2,500 885	2L
Becker Road	Community Blvd.	N/S B	2,142	1,664	Widen to 4LD
Phase 2					
N/S B	Discovery Way	E/W 3	10,935 7,580	10,400 6,986	2L
Paar Dr.	Community Blvd.	N/S B	10,935 6,475	10,400 5,834	2L
Discovery Way	Community Blvd.	N/S B	10,935 7,287	10,400 6,666	2L
N/S B	Paar Dr.	Becker Rd.	8,980	8,399	Widen to 4LD
Discovery Way	N/S B	N/S A	10,935 9,491	10,400 8,922	2L
Paar Dr.	Community Blvd.	N/S B	9,553	8,986	Widen to 4LD
Discovery Way	Community Blvd.	N/S B	10,371	9,823	Widen to 4LD
Discovery Way	N/S A	Rangeline Rd.	10,935	10,400	2L
Becker	Community	N/S B	10,935	10,400	Widen to 4LD
N/S A	Discovery Way	E/W 3	10,935 3,219	10,400 2,500	2L
Phase 3					
Community Blvd.	Discovery Way	E/W 3	13,461 12,910	11,700 11,417	Widen to 4LD
Community Blvd.	E/W 3	Paar Dr.	13,461 10,959	11,700 10,413	Widen to 4LD
N/S A	Discovery Way	E/W 3	11,183	10,529	Widen to 4LD
Becker	Community	N/S B	13,461 12,910	11,700 11,417	Widen to 6LD
E/W 3	Community	N/S B	13,431	11,700	Widen to 4LD
N/S B	Paar Dr.	Becker Rd.	13,461	11,700	Widen to 4LD
Discovery Way	Community Blvd.	N/S B	13,461	11,700	Widen to 4LD
Paar Dr.	Community Blvd.	N/S B	13,461	11,700	Widen to 4LD
Phase 4					
N/S A	Discovery Way	E/W 3	13,461	11,700	Widen to 4LD
N/S B	E/W 3	Paar Dr.	13,461	11,700	Widen to 4LD
N/S B	Discovery Way	E/W 3	13,461	11,700	Widen to 4LD
EAW 3	Community	N/S B	13,461	11,700	Widen to 4LD
EAW 3	N/S B	N/S A	13,461	11,700	Widen to 4LD

*Riverland/Kennedy Cumulative Total Net External DRI p.m. Peak Hour Trips
L=Lane D=Divided