

RESOLUTION 21 – R06

A RESOLUTION OF THE CITY OF PORT ST. LUCIE, FLORIDA, MAKING FINDINGS OF FACT AND DETERMINING CONCLUSIONS OF LAW PERTAINING TO THE WESTERN GROVE DEVELOPMENT OF REGIONAL IMPACT, AND CONSTITUTING THIS RESOLUTION AS AN AMENDED AND RESTATED DEVELOPMENT ORDER (P20-187) 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 Western Grove Development of Regional Impact (“DRI”) was submitted on September 27, 2004, and was supplemented with additional information on February 17, 2005, in accordance with Section 380.06, Florida Statutes (collectively the “ADA”); and

WHEREAS, the Western Grove DRI is a proposed mixed-use master planned community on 1,941.41+ acres on the property legally described in Revised Exhibit “A” of Exhibit “1” attached hereto (“DRI Property”); and

WHEREAS, the developer of the Western Grove DRI is Mattamy Palm Beach, LLC, a Delaware limited liability company as successor in interest to Tradition Land Company, LLC, successor in interest to Tradition Development Company, LLC and Horizons St. Lucie Development, LLC (“Developer”); and

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

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

WHEREAS, on October 3, 2006, the Planning and Zoning Board of the City of Port St. Lucie held a public hearing on the ADA and recommended approval with conditions; and

WHEREAS, on October 23, 2006, the City Council of the City of Port St. Lucie held a public hearing to consider the ADA, the TCRPC regional report, 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, the City Council of the City of Port St. Lucie adopted Resolution 06-R77, the Development Order for Western Grove on February 26, 2007; and

WHEREAS, in recognition of the 2007 real estate market conditions, Section 380.06(19)(c), Florida Statutes, was amended to provide for a three year extension to all DRI

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phase, buildout, and expiration dates which extension is not subject to further DRI review and may not be considered when determining whether a subsequent extension constitutes a substantial deviation; and

WHEREAS, in recognition of the 2011 real estate market conditions, Section 380.06(19)(c), Florida Statutes was amended to provide for a four year extension to all DRI phase, buildout, and expiration dates which extension is not subject to further DRI review and may not be considered when determining whether a subsequent extension constitutes a substantial deviation; and

WHEREAS, Section 252.363, Florida Statutes, provides for the tolling and extension of DRI 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 Western Grove DRI was extended by 306 days as a result of Executive Orders 11-128, 11-172, and 11-202 due to the ongoing threat of wild fires in the State of Florida; and

WHEREAS, Section 252.363, Florida Statutes, provides for the tolling and extension of DRI 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 Western Grove DRI was extended by an additional 510 days pursuant to Executive Order 12-140 for Tropical Storm Debby and Executive Order 12-199 and Executive Order 12-240 for Tropical Storm Isaac all of which Executive Orders pertained to certain counties including St. Lucie County; and

WHEREAS, Section 252.363, Florida Statutes, provides for the tolling and extension of DRI 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 Western Grove DRI was extended by an additional 60 days and 6 months pursuant to Executive Order 15-173 due to the threat of Tropical Storm Erika in the State of Florida; 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 Western Grove DRI was extended by an additional 859 days and 54 months pursuant to Executive Orders 16-155, 16-204 and 26-235 (Lake Okeechobee discharges and algae blooms); Executive Orders 16-230, 16-274, 17-16 and 17-67 (Hurricane Matthew); Executive Orders 17-120 and 17-174 (Wildfires); Executive Orders 17-204 and 17-220 (Tropical Storm Emily); Executive Orders 17-146, 17-177, 17-230, 17-285, 17-329, 18-47, 18-110, 18-177 and 18-235 (the Opioid Epidemic); Executive Orders 17-235, 17-287, and 17-330 (Hurricane Irma); Executive Orders 17-259, 17-304, 18-17, 18-80, 18-135, 18-214 and 18-236 (Hurricane Maria); Executive Orders 18-150 and 18-157 (Subtropical Storm Alberto); Executive Orders 18-191 and 18-249 (Lake Okeechobee Releases and toxic algae blooms); and

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WHEREAS, on August 31, 2015, as supplemented and amended on December 14, 2015, the Developer submitted a Notification of Proposed Change requesting to amend the Western Grove DRI to transfer approximately 348.18 acres and 955 residential units from the Tradition DRI to the Western Grove DRI; to amend the plan of development to reduce the number of residential units for the Western Grove DRI from 4,062 to 4,000 (which total includes the 955 residential units transferred from and being eliminated from the Tradition DRI), to reduce the retail square footage from 365,904 square feet to 200,000 square feet and the office square footage from 250,906 square feet to 50,000 square feet; to amend Exhibit “1” of the Development Order as shown on attached Exhibit “1” to, among other things, reflect the revised plan of development; to document the automatic extensions to the phase, buildout and expiration dates granted by Section 380.06(19)(c), Florida Statutes and Section 252.363, Florida Statutes, and to further extend the phase, buildout, and expiration dates by approximately ten (10) years; to update the status of various conditions and to update and clarify certain terms; to update the requirements of the biennial report; to amend, delete and/or add various conditions including the transportation conditions (including provisions for return of previously dedicated rights-of-way), and the conditions for upland preservation, wetlands, listed species, water supply, wastewater management, housing, schools, hurricane preparedness and parks and recreation; to update and amend Exhibits A, B, C and D to Exhibit “1” and to add new Exhibits E, F and G to Exhibit “1”; and to renumber all Conditions as applicable and other corrections, revisions and updates to the Development Order; and

WHEREAS, on April 25, 2016 the City Council of the City of Port St. Lucie approved Resolution 16-R24 Amending and Restating the Development Order for the Western Grove Development of Regional Impact; and

WHEREAS, on September 5, 2018, the Developer submitted an application for Amendment to the Western Grove Development of Regional Impact Development Order (P18-117); and

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

WHEREAS, on October 2, 2018, 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 October 22, 2018 and November 13, 2018, 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, November 13, 2018, the City Council of the City of Port St. Lucie approved Resolution 18-R84, amending the DRI development order; and

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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 Western Grove DRI was extended by an additional 304 days and 12 months pursuant to Executive Orders 19-190, 19-206, 19-234, 19-281, 20-43, and 20-106 (Hurricane Dorian); Executive Orders 20-181 and 20-195 (Hurricane Isaias); and

WHEREAS, on September 30, 2020, the Developer submitted an application for Amendment to the Western Grove Development of Regional Impact Development Order; and

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

WHEREAS, on January 5, 2021, 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 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 Western Grove DRI is not located in an area of critical state concern designated pursuant to Section 380.05, Florida Statutes.

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4. This 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 Western Grove and its supporting documentation were reviewed as required by the local land development regulations.
6. This Resolution 21-R06, the Development Order for Western Grove, as amended and restated, hereby supersedes and replaces Resolution 18-R84 approved by the City of Port St. Lucie for the Western 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:

7. The City Council, as the governing body of the City of Port St. Lucie, has legal jurisdiction over the Western Grove DRI and is authorized and empowered by Chapter 380, Florida Statutes, to issue this Development Order.
8. The Western 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 Revised Exhibit “C” to Exhibit “1”.

Section 3. General Conditions of Approval

9. The Western Grove DRI shall be developed in accordance with the General Conditions of Approval set forth in Exhibit “1” attached hereto.

Section 4. General Requirements

10. Development within the Western Grove DRI shall be located substantially as depicted on the Revised Master Development Plan (Map H), attached as Exhibit “B” to Exhibit “1”.
11. Development within the Western Grove DRI shall be consistent with the Port St. Lucie Comprehensive Plan, the Port St. Lucie Land Development Regulations and this Development Order.
12. 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.

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13. 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 times 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 remains pending.

14. 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.

15. The property within the Western Grove DRI shall not be subject to down-zoning, 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 conditions underlying the approval of the Development Order has occurred, or that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by the City as essential to the public health, safety or welfare.

16. 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 Western Grove DRI, provided such fees are assessed in accordance with a duly adopted ordinance and are charged to all other similarly situated developers for the same activities within all other areas of the City.

17. 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 Revised 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 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 or which has been used or developed as a unit, located within the DRI Property legally described in Revised Exhibit

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‘A’ attached to Exhibit “1” and the Master Development Plan (Revised Map H) attached as Revised Exhibit “B” to Exhibit “1”.

18. 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.

19. The Western 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.

20. 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.

21. This 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.

22. 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.

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PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida,
this _____ day of _____, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE

BY: _____
Gregory J. Oravec, Mayor

ATTEST:

Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

City Attorney