

**~~SEVENTH EIGHTH~~ RESTATED AND AMENDED
DEVELOPMENT ORDER FOR PROVIDENCE
A DEVELOPMENT OF REGIONAL IMPACT
DRI 90-04
Resolution ~~1723~~-**

A RESOLUTION ADOPTING AN ~~SEVENTH EIGHTH~~ RESTATED AND AMENDED DEVELOPMENT ORDER FOR THE PROVIDENCE DEVELOPMENT OF REGIONAL IMPACT (DRI) PURSUANT TO THE REQUIREMENTS OF SECTION 380.06, FLORIDA STATUTES.

WHEREAS, the Board of County Commissioners of Polk County (the "Board") is the governing body of the unit of local government having jurisdiction over the issuance and conditions of issuance of a Development Order, pursuant to Section 380.06 Florida Statutes; and

WHEREAS, the Board adopted a Development Order with conditions of approval on October 16, 1990 for the Oak Hills Estates Development of Regional Impact which was recorded in Official records Book 2905, Page 2072, Public Records; and

WHEREAS, the Board received proposed changes to the Development Order from the Oak Hills Estates Partnership on May 25, 1994 and July 25, 1994. The Board held a public hearing pursuant to section 380.06 Florida Statutes on August 16, 1994, and determined that the proposed changes presented at the public hearing did not constitute a substantial deviation from the adopted Development Order and the proposed amendments to the development conditions were adopted; and

WHEREAS, on July 27, 1998, the Oak Hills Estates Partnership submitted an Application for Development Approval on a Substantial Deviation in accordance with Section 380.06 Florida Statutes to the Central Florida Regional Planning Council (CFRPC). The Substantial Deviation requested full approval of Phase II and III; a shift in the timing of commercial development between phases; rerouting the northernmost entrance on US 17-92 through Commercial Tract A to Kinny Harmon Road; the establishment of new build-out dates for the three project phases; and a new termination date; and

WHEREAS, on December 1, 1998 the CFRPC advised the Polk County Board of County Commissioners that the CFRPC had completed the review for informational sufficiency of the Oak Hills Estates Development of Regional Impact Substantial Deviation and found the application sufficient for review; and

WHEREAS, the Board, on April 6, 1999 in regular session, pursuant to Section 380.06, Florida Statutes, after having considered the report and recommendations of the CFRPC, the Polk County Planning Staff; and the documents and comments upon the record made before the Board, determined that the proposed changes be approved and that the amendments to the development conditions be adopted in the form of a First Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through April 6, 1999; and

WHEREAS, on October 18, 2002, the Oak Hills Estates Partnership submitted a Notice of Proposed Change to extend the build out dates for each phase of development by five years (the "2002 NOPC"); and

WHEREAS, on December 18, 2002 in regular session, pursuant to Section 380.06, Florida Statutes, after having considered the report and recommendations of the Polk County Planning staff; and the documents and comments upon the record made before the Board determined that the proposed changes be approved and that the amendments to the development conditions be adopted in the form of a Second Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through December, 2002; and

WHEREAS, a scrivener's error was made on page 5 by leaving the letter "K" and should be "A" by "Condition One" and on page 6 stating that the buildout date for Phase II was 20013 rather than 2013 in the December 18, 2002 Development Order; and

WHEREAS, on March 19, 2003, the Board of County Commissioners approved the correction on the Consent Agenda; and

WHEREAS, on February 4, 2003, the Oak Hills Estates Partnership submitted a Notice of Proposed Change (the "2003 NOPC"). The 2003 NOPC included a new proposed site plan which modified the sizes and shapes of the various development parcels, the locations of certain roadways, and the phasing. Furthermore, it provided for revised build-out dates as follows: Phase 1 – December 31, 2008, and Phase 2 – December 31, 2013. Finally, the NOPC provided for a complete rewrite of "Condition 3: Transportation" so that the transportation condition would be consistent with the Traffic Impact Study prepared and submitted with the 2003 NOPC.

WHEREAS, the Board held a public hearing pursuant to Section 380.06 Florida Statutes on May 7, 2003 and determined that the proposed changes presented at the public hearing do not constitute a substantial deviation from the adopted Development Order and the Board also determined that the proposed changes be approved and that the amendments to the development conditions be adopted in the form of a Third Restated and Amended Development Order for Oak Hills Estates cumulatively incorporating all changes to the Development Order through May 7, 2003; and

WHEREAS, the Board, on May 7, 2003 conducted a duly noticed public hearing for the issuance of a Development Order and, during the conduct of said hearing, solicited and evaluated comments, testimony and reports, both oral and written, from local, state and regional agencies and interested citizens concerned with the issuance of Development Order by Polk County for Oak Hills Estates.

WHEREAS, on July 28, 2003, Applied Building Development Company - Oakhills, Inc., a Florida corporation ("ABD"), purchased the real property which is the subject of the Development Order. By virtue of that transaction, ABD became the Declarant/Developer of the Oakhills Estates DRI hereunder and obtained all rights described in the Development Order; and

WHEREAS, on June 7, 2004, ABD submitted a Notice of Proposed Change (the "2004 NOPC"). The 2004 NOPC included a new proposed site plan which modified the sizes and shapes of the various development parcels and the locations of certain roadways and changed the name of the Oakhills Estates DRI to "Providence DRI."

WHEREAS, the Board held a public hearing pursuant to Section 380.06 Florida Statutes on September 21, 2004 and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order for Oak Hills Estates cumulatively incorporating all changes to the Development Order through September 21, 2004.

WHEREAS, on November 14, 2013, ABD submitted a Notice of Proposed Change to the Development Order to extend the buildout dates for Phase I & II of the DRI.

WHEREAS, the Board held a duly noticed public hearing on March 4, 2014, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through March 4, 2014.

WHEREAS, on August 16, 2016, ABD submitted a Notice of Proposed Change to the Development Order to modify condition #2 (Pedestrian Connections) in Section 3A: Condition One and add a Pedestrian Connection Map.

WHEREAS, the Board held a duly noticed public hearing on February 21, 2017, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through February 21, 2017.

WHEREAS, on April 14, 2017, ABD submitted a Notice of Proposed Change to the Development Order to modify the Development Order and Map H Master Development Plan to move the 527 multi-family units of N-26, as well as a portion of the existing Providence Boulevard and golf course from Phase 2 into Phase 1, and modify Table 1 within Condition One (Map H) to reflect these changes.

WHEREAS, the Board held a duly noticed public hearing on May 16, 2017, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through May 16, 2017.

WHEREAS, on _____, ABD submitted a Notice of Proposed Change to the Development Order to modify the Development Order and Map H Master Development Plan to move the 135,000 square feet allocated N-1 from Phase 1 into Phase 2, to provide more detail to the Southern portion of the map, and to modify Table 1 within Condition One (Map H) to reflect these changes.

WHEREAS, the Board held a duly noticed public hearing on _____, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented

at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. FINDING OF FACT

A. Oak Hills Estates Partnership, a Florida general partnership, hereinafter referred to as the “Developer”) submitted an Application for Development Approval to the Central Florida Regional Planning Council (hereinafter referred to as CFRPC) and Polk County on the 7th day of December 1989 and additional information on the 22nd day of March, 1990, which application and additional information (hereinafter referred to as the “ADA”, and incorporated herein by reference) were deemed sufficient for final review on June 12, 1990 by the CFRPC.

B. The ADA proposed a mixed-use development to be completed in three five-year phases, including hotel, residential, golf course, shopping center, elementary school, and conservation and open space, all of which will hereinafter be referred to as the “Project”.

C. The real property which is the subject of this ADA is located within Polk County and contains approximately 2215 (+) acres as more particularly described in the ADA and the attached **Exhibit “A”** (hereinafter referred to as the “Property”).

D. The Project is not located within an Area of Critical State Concern as defined in Section 380.05, Florida Statutes (“F.S.”)

E. On September 5, 1990, the CFRPC conducted a duly noticed public hearing pursuant to Section 380.06 F.S., and on September 14, 1990, transmitted to Polk County its written recommendations concerning the issuance of a Development Order (hereinafter referred to as “CFRPC Report”).

F. The CFRPC Report recommended final approval of Phase I and Conceptual Approval of Phases II and III of the Project.

G. The data and information in the ADA is sufficient to enable Polk County to consider and issue a Development Order.

H. The staff of Polk County reviewed the ADA and the recommendation of the CFRPC. The Staff concurred with ADA and the recommendation of the CFRPC. The staff concurred with the CFRPC Report regarding final development approval of Phase I and Conceptual Approval of Phases II and III.

I. On September 18, 1990, the Board of County Commissioners of Polk County convened a public hearing to consider the ADA, and comments from the public and the-Oak Hills Estates Partnership.

J. The existing and planned public utilities to be made available to the Project in accordance with the information in the ADA are adequate to service the Project.

K. Oak Hills Estates Partnership proposed changes to the Board on May 25, 1994 which changes were amended on July 25, 1994.

L. The Board held a public hearing on August 16, 1994 pursuant to Section 380.06(19), Florida Statutes and determined that the proposed changes did not constitute a substantial deviation from the previously adopted Development Order.

M. The Board on August 16, 1994, approved revisions to the Master Site Plan, Map H:

N. On July 27, 1998, Oak Hills Estates Partnership submitted an Application for Development Approval for a Substantial Deviation. The Staff of Polk County reviewed the Application For Development Approval of a Substantial Deviation (found sufficient for review by the CFRPC) and the CFRPC staff report dated January 15, 1999 containing the recommendations of the CFRPC. The staff concurred with the CFRPC report regarding final development approval of Phases I, II and III.

O. The Board of County Commissioners approved the Application for Development Approval on April 6, 1999 and issued the First Restated and Amended Development Order pursuant thereto.

P. The Oak Hills Estates Partnership submitted a Notification of Proposed Change dated October 18, 2002 proposing changes to the Development Order (the "2002 NOPC").

Q. The Board held a public hearing on December 18, 2002 in regular session pursuant to Section 380.06, F.S., and after having considered the report and recommendations of the Polk County Planning staff, and the documents and comments made upon the record, determined that the proposed changes did not constitute a substantial deviation and should be approved and incorporated into the Second Restated and Amended Development Order.

R. The Oak Hills Estates Partnership submitted a Notification of Proposed Change dated February 4, 2003 proposing changes to the Development Order (the "2003 NOPC"). The 2003 NOPC provided a new proposed site plan which modified the sizes and shapes of the various development parcels, the locations of certain roadways, and the phasing. Furthermore, it provided for revised build-out dates as follows: Phase 1 – December 31, 2008, and Phase 2 – December 31, 2013. Finally, the 2003 NOPC provided for some general changes and a complete rewrite of "Condition 3: Transportation" so that the transportation condition would be consistent with the Traffic Impact Study prepared and submitted with the 2003 NOPC.

S. The Board held a public hearing on May 7, 2003 in regular session pursuant to Section 380.06, F.S., and after having considered the report and recommendations of the Polk County Planning staff, and the documents and comments made upon the record, determined that the proposed changes did not constitute a substantial deviation and should be approved and incorporated into the Third Amended Restated Development Order.

T. On July 28, 2003, Applied Building Development Company - Oakhills, Inc., a Florida corporation, purchased the real property which is the subject of the Development Order, and became the Declarant/Developer hereunder and obtained all rights described in the Development Order.

U. Applied Building Development Company - Oakhills Estates, Inc., a Florida corporation, hereinafter referred to as the “Developer” submitted a NOPC dated June 3, 2004 proposing changes to the Development Order (the “2004 NOPC”). The 2004 NOPC provided a new proposed site plan which modified the sizes and shapes of the various development parcels and the locations of certain roadways and also changed the name of the Oakhills Estates DRI to “Providence DRI.”

V. The Board held a public hearing on September 21, 2004 in regular session pursuant to Section 380.06, F.S., and after having considered the report and recommendations of the Polk County Planning staff, and the documents and comments made upon the record, determined that the proposed changes did not constitute a substantial deviation and should be approved and incorporated into this Fourth Restated Amended Development Order.

W. On November 14, 2013, ABD submitted a Notice of Proposed Change to the Development Order to extend the buildout dates for Phase I & II of the DRI. The request included a recognition of the four year extension granted by SB 360 & SB 1762 in 2009, the four year extension granted by the Legislature in 2011, and States of Emergency declared by the governor in 2011, and two additional years requested by the developer.

X. The Board held a duly noticed public hearing on March 4, 2014, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order for Oak Hills Estates cumulatively incorporating all changes to the Development Order through March 4, 2014.

Y. On August 16, 2016, ABD submitted a Notice of Proposed Change to the Development Order to modify condition #2 (Pedestrian Connections) in Section 3A: Condition One and add a Pedestrian Connection Map.

Z. The Board held a duly noticed public hearing on February 21, 2017, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order for Providence cumulatively incorporating all changes to the Development Order through February 21, 2017.

AA. On April 14, 2017, ABD submitted a Notice of Proposed Change to the Development Order to modify the Development Order and Map H Master Development Plan to move the 527 multi-family units of N-26, as well as a portion of the existing Providence Boulevard and golf course from Phase 2 into Phase 1, and modify Table 1 within Condition One (Map H) to reflect these changes.

BB. The Board held a duly noticed public hearing on May 16, 2017, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through May 16, 2017.

CC. On _____, ABD submitted a Notice of Proposed Change to the Development Order to modify the Development Order and Map H Master Development Plan to move the 135,000 square feet allocated N-1 from Phase 1 into Phase 2, to provide more detail to the Southern portion of the map, and to modify Table 1 within Condition One (Map H) to reflect these changes.

DD. The Board held a duly noticed public hearing on _____, pursuant to Section 380.06 Florida Statutes and determined that the proposed changes presented at the public hearing did not constitute a Substantial Deviation from the adopted Development Order and that the amendments to the development conditions be adopted in the form of a Restated and Amended Development Order cumulatively incorporating all changes to the Development Order through _____.

SECTION 2. CONCLUSIONS OF LAW

A. Polk County's review of the Project and the issuance of this Fourth Restated and Amended Development Order have been conducted pursuant to, and comply with, the provisions of Chapter 380, F.S.

B. The ADA and the subsequent Application for Development Approval of a Substantial Deviation, and the subsequent NOPCs, comply with the requirements of Section 380.06, F.S., and Section 9J-2, Florida Administrative Code.

C. The development activities of Phase I, and II shall be subject to the terms and conditions of this Restated and Amended Development Order and shall not be subject to future development of regional impact review, pursuant to Section 380.06, F.S. (As amended), unless a proposed change or failure of condition constitutes a substantial deviation, pursuant to Section 380.06, F.S., (as amended), or the provisions of this Development Order. The DRI boundary shall remain as described in the ADA and in **Exhibit "A"** attached hereto.

D. The rights and obligations set forth in this Development Order shall inure to the benefit of and be binding upon the Developer, and subsequent property owners affected by this Order and their successors, assigns and grantees.

E. The Polk County, Florida, Director of Community Services Director, or his designee, shall be the local government official responsible for assuring compliance with this Development Order.

F. This Development Order constitutes acceptance of the proposed uses, size, type and intensity of the Project. Development shall occur strictly in accordance with this Development Order and all other applicable regulations.

G. Unless otherwise provided herein, governing regulations, rules, ordinances, fee schedules, maps, permits and jurisdictional determinations regarding design, improvements, exactions, construction standards and specifications, applicable to development of the Project, shall be those rules, regulations, and official policies enforced at the time of adoption of this Development Order.

H. The conditions contained in SECTION 3 hereof constitute reasonable mitigative techniques that address the reasonably anticipated impacts on the Project.

I. The Project conforms to and is consistent with the duly adopted Polk County Comprehensive Plan, and local land development regulations.

J. The Project conforms to and is consistent with the applicable provisions of the adopted Regional Comprehensive Policy Plan and the State of Florida Land Development Plan.

K. This Development Order is consistent with all the CFRPC reports issued from time to time regarding the ADA and the July 27, 1998 Application for Development Approval of a Substantial Deviation and the Notices of Proposed Changes filed in 2002, 2003, 2004, 2013, 2016 and 2017. In the event of any inconsistencies between any previously recorded development orders and this Restated and Amended Development Order, the terms of this document shall prevail.

SECTION 3. CONDITIONS OF APPROVAL

In accordance with Chapter 380.06, Florida Statutes, the Providence Development of Regional Impact is hereby approved subject to the following conditions.

A. CONDITION ONE: Scope of Approval

1. **Map H** - The Master Development Plan (Map H) for Providence, attached as **Exhibit “B”**, illustrates the project and incorporates all changes described in the Notice of Proposed Changes through ~~May 16, 2017~~, 2023 including the modification of the locations and configurations and sizes of roads, tracts, development “pods”, golf course, clubhouse, and other improvements. Map H shall be provided in the Annual Report along with final square footage, acreage and unit totals for each neighborhood as they develop; the square footage, acreage and unit totals for each neighborhood may increase or decrease based on final engineering, so long as the final totals in Phase I and Phase II do not increase. The Project shall be developed in accordance with Map H attached hereto as **Exhibit “B”** and in accordance with the following phasing schedule (Table 1):

Table 1			
LAND USE	PHASE I ¹	PHASES II ¹	TOTAL DEVELOPMENT
Single Family/ Multi-Family ²	1,5412,205 Dwelling Units	716-1,890 Dwelling Units	2,2574,095 Dwelling Units

Table 1			
LAND USE	PHASE I ¹	PHASES II ¹	TOTAL DEVELOPMENT
Multi-Family ²	664 Dwelling Units	1,570 Dwelling Units	2,234 Dwelling Units
Commercial ³	135,000 Square Feet	180,000 315,000 Square Feet	315,000 Square Feet
Golf Course w/club house	18 holes		18 holes
Elementary School	24.5 acres (Existing)		24.5 acres (Existing)
¹ Other Miscellaneous uses as listed on Map H such as lakes, major ROW, conservation, utility, and lakes ² Multi-family includes townhouses and apartments ³ Commercial includes only commercial and retail uses as permitted in the Community Activity Center (CAC) Future Land Use designation.			

2. **Pedestrian Connections** – Paved (asphalt or concrete) pedestrian interconnectivity access shall be provided between tracts N-1, N-5 and the Loughman Elementary School, as indicated on the Pedestrian Network Map (attached as Exhibit E).

3. **Consistency** - The ADA, the July 27, 1998 Application for Development Approval of a Substantial Deviation, the Sufficiency Response, the Notices of Proposed Changes described above, and all other documentation provided by the Applicant are adopted by reference as part of this Development Order. The Project shall be developed in accordance with the 2004 NOPC, the conditions of this Development Order, and the Polk County Comprehensive Plan and the Land Development Code.

4. **Phasing Dates** - The buildout dates for the two phase areas as shown on Revised Map H are as follows:

Phase I	November 21, 2019 <u>May 2020</u> September 20, 2024
Phase II	November 21, 2024 <u>September 2025</u> May 21, 2029

5. **Short Term Rental** - The applicant may be permitted to have Short Term Rental units through the approval of a Planned Development and according to the following conditions:

- a. The construction plans (Level 2 Review) and the plat (Level 5 Review) for any subdivision shall contain a conspicuous note that short-term rentals are allowed within the subdivision. No subdivision shall be a mix of short term rental units and permanent residents.
- b. The deed restrictions for the subdivision or instruments similar in function to deed restrictions shall indicate that short-term rentals are allowed within the subdivision and shall set forth the definition of “short-term rental”.
- c. A document to be entitled “Notice of Short-Term Rentals,” as set forth, shall be recorded in the public records, separate from the deed restrictions or instruments similar in function for the subdivision. A copy of the recorded Notice shall be provided to the Polk County Development Services Division within ten days of

approval of the subdivision plat by the Board of County Commissioners or prior to the sale of any lots within the subdivision, whichever occurs first. In addition, the Notice shall be posted in a conspicuous place in the sales office for the subdivision, if any, and be included in all sales literature for the subdivision.

- d. The applicant shall provide written notice to any prospective purchaser that short-term rentals are allowed within the subdivision.
- e. The applicant shall ensure that the management company operating within a subdivision shall provide a 24 hour phone number to the Development Services Division.

6. **Matrix** - The Developer may increase or decrease the amount of a particular land use approved herein by using the conversion table as described in Exhibit D attached hereto and by this reference made a part hereof, which is based upon net external p.m. peak hour, peak directional Project traffic (Conversion Matrix). Use of the Conversion Matrix may increase or decrease the total amount of each land use by no more than the amount allowed for in the substantial deviation criteria identified in Chapter 380.06(19)(b) 1-14, F.S., unless the Consolidated Amended Development Order is amended to accommodate such a change. Greater changes than those discussed above, considered cumulatively, shall be subject to normal development order amendment processes. Any time the conversion table is to be used, the Florida Department of Community Affairs (FDCA), CFRPC, and Polk County must be provided notice of the proposal at least 30 days in advance of the change. Use of the conversion table will be reported on an individual and cumulative basis and Property impacts documented in the annual report. Any future Notifications of Proposed Change (NOPC) shall incorporate any changes due to the use of the Conversion Matrix.

B. CONDITION TWO: Environment and Natural Resource

1. **Surface Water and Wetland Mitigation** - The surface water management system and wetland mitigation, as proposed in the ADA, shall be constructed in accordance with the applicable Water Management District Policies and Guidelines in effect at the time the Development Order is adopted. Under no circumstances shall post-development peak run-off rate exceed pre-development peak run-off rate. The permitted and constructed surface water management systems shall operated and maintained in accordance with permit conditions.

2. **Xeriscape** - Xeriscape landscaping and water conservation landscaping techniques shall be used on the project site. Exotic species, such as Brazilian Pepper, shall be eliminated if found on-site.

3. **Potable Water Conservation** - For the purpose of potable water conservation, the DRI shall utilize low volume plumbing fixtures, self-closing and/or metered water faucets, and other water conserving devices.

4. **Final Storm Water Management System** - Prior to the final design of the storm water management system a detailed analysis of the off-site drainage area shall be conducted to assure adequate flow capacity through the project site to Reedy Creek for pre-development flows.

5. **Upland Buffers** - Buffer areas of native upland vegetation with a minimum width of 25 feet shall be retained around all wetlands. Upland buffers between on-site wetlands, marshes, rivers and any type of development or land alteration shall be delineated with temporary construction fencing prior to construction to allow these areas to be maintained with existing native vegetation or be re-planted with native, transitional zone or upland vegetation. Use of these buffers shall be limited to nature trails and other passive recreation. The use of pesticides, herbicides or fertilizers shall be prohibited in these buffers and the wetlands they protect.

6. **NW Corner Forested Wetland** - The large forested wetland in northwest corner of the property shall be retained in its current configuration, with appropriate upland buffers as depicted on Map H. The isolated wetlands in the area of commercial B parcel, of the July 13, 1990 version of the Master Plan, shall be reincorporated into the development plan.

7. **Unavoidable Losses of Wetlands** - Unavoidable losses of wetlands must be mitigated through creation of wetlands or restoration of wetlands within the same watershed and in accordance with adopted rules and policies of the County and the Districts. Wetlands to be created shall be located conterminously with one or more major habitat area to be preserved so as to provide a continuity or expansion of natural areas. Where possible, wetland creation should take advantage of areas of the site that may have been historic wetlands. These areas are likely to contain suitable soils and elevations, thus less contouring and planting of species would be needed and the potential for success would be increased. Detention ponds, preservation of viable on-site wetlands, lakes or open water areas shall not be acceptable for wetlands mitigation.

8. **Pervious Surface Pavement** - Where feasible pervious-surface pavement for parking areas shall be utilized to facilitate ground-water recharge and to reduce surface-water runoff.

9. **Utilities** - The Property shall be connected to the potable water and wastewater services provided by Polk County Utilities, which currently has in place a capital improvements plan which includes the Property. If potable water wells are to be located on site, the location and use shall be consistent with the Polk County Comprehensive Plan and the Land Development Code. The applicant shall develop a water conservation plan which shall, at a minimum, employ water conservation measures including but not limited to irrigation, re-use water, potable water issues, landscaping materials, and water conservation devices, and shall send notices or advertisements to residents, renters, hotel guests, persons employed within the Property. This plan shall be submitted with the first Level 2 Review and shall include the review of the Polk County Utilities Division and Polk County's Water Resources Coordinator, and the Central Florida Regional Planning Council.

The Property shall be connected to Polk County's re-use water system for irrigation, and such re-use water shall be utilized for irrigation, if available in sufficient quantity to meet the demand of the Property and at the times required by development on the Property. If Polk County's re-use system is not available, the Applicant shall install a dry-line system for future connection when available. Notwithstanding the above, irrigation wells may be utilized as a back up system to meet the irrigation needs of the Property if the re-use water from Polk County's re-use water system is not available in sufficient quantities to meet the needs of the development on the Property. Owners of individual tracts within the Property may install irrigation wells within said tract to meet the needs of said tract(s) as a back up system to meet the irrigation needs.

10. **Master Drainage System** - The design of the master drainage system shall maintain the existing natural hydroperiod of any wetlands which are incorporated into the overall drainage system. The applicant shall provide accurate documentation of the natural hydroperiod of the subject wetlands to the CFRPC for review and comment to the Water Management District. All construction permit applications to the Water Management District shall be copied to the CFRPC.

11. **Discharge Into On-site Wetlands** - Any drainage outfalls from on site retention/detention ponds which discharge into on-site wetlands shall be discharged directly into a marsh system created adjacent to existing wetlands. This created marsh area may be located within the buffer adjacent to on-site wetlands. The buffer area may be altered to accommodate the marsh creation area however, such alteration shall not exceed 25% of the linear distance of the buffer. Storm water flows through the marsh system shall be regulated in a manner to maximize water quality improvement.

12. **Compatibility with Reedy Creek** - Detailed design of the project shall be compatible with the valuable wildlife corridor and habitat that the Reedy Creek system provides. Road impacts and development, in the vicinity of this system, shall minimize wetland destruction. Upland buffers shall be in proportion to the sensitive qualities of this major regional wildlife corridor.

13. **Conceptual Permit Application** - At the time of Conceptual Permit Application, the Applicant shall provide a detailed wetland delineation of Phase I wetlands, including identification of those to be impacted by the proposed project, for field staking and verification by District staff. The application shall also include a detailed mitigation and monitoring plan which is consistent with the final wetland delineations and District criteria.

14. **Golf Course Development** - Prior to development of any golf course, the Applicant shall develop an integrated Chemical Management Plan (CMP) as a component of the golf course design process. The CMP shall be submitted to the Water Management District, CFRPC, Polk County and Florida Fish and Wildlife Conservation Commission for review. Following review, the CMP shall be subject to approval by the SFWMD and CFRPC and Polk County. The CMP shall appropriately address the utilization of fertilizers, fungicides, herbicides, pesticides, insecticides, etc., including: application, storage and handling, cleaning procedures, quality control and assurance procedures, and golf course management methods and procedures. In addition, annual monitoring of the adjacent wetland areas specifically related to bottom sediment sampling to determine any potential buildup of such chemicals shall be performed. The protocol for the monitoring program shall be a part of the CMP.

15. **Sandhill Crane Nests** - Any sandhill crane nests shall be protected by a buffer with a 300 foot radius between it and any landscaping or buildings. The existing nest shall be checked at least once a week during the nesting season (January through April), and if evidence of nesting is found, the buffer area will immediately be marked to warn people to remain out of the buffer zone until the nest area has been abandoned for that season. The checking of the nests shall be summarized in the Annual Report.

16. **Turkey Oak Scrub** - A minimum of 55 contiguous acres of turkey oak scrub shall be set aside as an upland wildlife preserve for scrub jays and gopher tortoises and their commensals. The configuration of this preserve is outlined on the July 13, 1990, Conceptual Environmental Management Plan and is designed to accommodate the reported locations of all

of the scrub jays on the site. The acreage to be considered in this upland preserve will not include any jurisdictional wetlands, nor will it include the “Wildlife Corridor” consisting of the golf course, out parcels, or wetlands east of the out parcel.

17. **Gopher Tortoises and Commensals** - Gopher tortoises and commensals from the pasture adjacent to the scrub will be relocated in a manner approved by the Florida Fish and Wildlife Conservation Commission or pursue any other approach available as permitted by state statute and/or federal law.

18. **Oak Hills Estates Wildlife Management Plan** - The applicant shall implement the Oak Hills Estates Wildlife Management Plan, dated October 1990 for the upland preserve in order to improve and maintain its value for the scrub jays and gopher tortoises. The Management Plan, as approved by Florida Fish and Wildlife Conservation Commission (or the Florida Game and Fresh Water Fish Commission at the time of the approval) and CFRPC, is attached hereto as **Exhibit “C”**, and by reference made a part hereof.

C. CONDITION THREE: TRANSPORTATION

1. **Phasing** - For the purpose of the transportation recommendations, the Project shall be divided into the following phases (p.m. peak hour trips):

Phase	Per Phase	Cumulative
I	1945 per PM peak hour trips	1945
II	2355 per PM peak hour trips	4300

No development can occur which would generate more than 1,945 total p.m. peak hour trips, or 1,010 peak hour trips into the site, or 935 peak hour trips out of the site, without additional monitoring and modeling study as described hereunder.

2. **Annual Monitoring for Phase I** - An annual traffic monitoring program will be prepared and performed in accordance with a methodology to be developed in conjunction with the Region, FDOT, Polk County TPO. The annual traffic monitoring program shall be submitted as part of the annual report and be continued until the buildout of the Oak Hills Estates DRI.

a. The following intersections in Table 2, for Phase I, shall be evaluated as a part of the annual monitoring report to ensure level of service standards are maintained. No other intersections or interchanges or roadway links will be evaluated for Phase I.

Table 2 OAK HILL ESTATES Recommended Phase I Intersections Improvements	
Intersection	Improvements
US 17-92 and CR 54	Signalize when warranted Auxiliary lanes: NB Lt NB Rt SB Lt EB Rt WB Lt WB Rt

Table 2 OAK HILL ESTATES Recommended Phase I Intersections Improvements	
CR 547 and CR 54	Signalize when warranted Auxiliary lanes: NB Rt EB Lt/WB Lt
CR 545 and CR 54	Signalize when warranted Auxiliary lanes: SB Lt EB Lt/WB Rt
I-4 and CR 532	Signalize when warranted

b. The annual traffic monitoring program shall be used to assist in determining the proper scheduling of signalization and improvements at the intersections listed above. If signalization or improvements are warranted to maintain acceptable levels of service, then no further Level 2 or Level 5 approvals for residential or non-residential development shall be issued until:

- i. Improvements to the intersection have been programmed within the first three years of the Capital Improvement Plan of the jurisdiction having authority of the roadway or within the first three years of FDOT's Five-Year Work Program for non-FIHS facilities or within the first five years of the FDOT Five-Year Work Program for FIHS facilities; or
- ii. Supplemental intersection or arterial/corridor level of service analyses can reasonably demonstrate that the intersection facility will operate at an acceptable LOS to the satisfaction of the jurisdiction having authority of the roadway; or
- iii. Subject to a Development Agreement, the Developer may seek and obtain the implementation of alternative improvements or mechanisms, which shall maintain the adopted LOS at the intersection(s).

c. The Annual Monitoring for Phase I shall monitor the traffic impacts as listed in the Table 2 above. The applicant shall schedule an annual traffic monitoring methodology meeting, as determined necessary by Polk County, prior to November 1, each year. This meeting shall include Polk County Planning, Polk Transportation Planning Organization, Florida Department of Transportation, and the Central Florida Regional Planning Council for their review and acceptance of the methodology. In the event that all parties cannot come to an agreement on the methodology, Polk County shall be the final arbiter.

4. **Annual Monitoring for Phase II** - The Annual Monitoring for Phase II shall include traffic impacts of the project on the roadway links determined to be significantly impacted per the Traffic Monitoring and Modeling Study as required prior to Phase II. In addition, the Annual Monitoring for Phase II shall forecast traffic for the year following the report year. The applicant shall schedule an annual traffic monitoring methodology meeting, as determined necessary by Polk County, prior to November 1 each year. The annual traffic

monitoring meeting shall be attended by the Polk County Planning Division, Polk County Transportation Planning Organization (TPO), the Florida Department of Transportation (FDOT) Districts I and V, Central Florida Regional Planning Council (CFRPC), East Central Florida Regional Planning Council (ECFRPC), and Ocala County Planning Department for their review and acceptance of the methodology. In the event that all parties cannot come to an agreement on the methodology, Polk County shall be the final arbiter.

5. **Timing of Improvements** - If the issue(s) pertaining to the adversely impacted intersection(s) are not addressed through supplemental analysis, referred to above, or an alternative concurrency management strategy to the satisfaction of Polk County and the agency having jurisdiction of the facility, then the Developer shall have one year from acceptance of the Annual Report by the Polk County Board of Commissioners to either (i) construct the appropriate improvements, or (ii) enter into a Development Agreement with the Polk County Board of Commissioners per Chapter 163, F.S., that describes the improvement(s), the timing of the improvement(s), and the responsible funding party(s).

6. **Fair Share** - The Developer's fair share of required improvements to intersections shall be based on current traffic monitoring data. The apportionment of fair share costs shall be based upon the approved proportionate share methodology described hereinafter in this Restated Amended Development Order.

7. **Traffic Monitoring and Modeling for Phase II**

a. In addition to annual traffic monitoring, a Traffic Monitoring and Modeling Study shall be initiated not later than the development of 75% of Phase I as described above and shall be completed, and submitted as a NOPC, prior to the initiation of development of Phase 2. The Traffic Monitoring and Modeling Study shall commence with a Traffic Monitoring and Modeling Methodology Meeting. The Traffic Monitoring and Modeling Study shall ascertain the level of service on facilities where the Project is estimated to contribute a significant volume of traffic greater than or equal to 5% of the roadway adopted LOS service volume. The Polk County Planning Division, Polk County TPO, Florida Department of Transportation (FDOT) Districts I and V, Central Florida Regional Planning Council (CFRPC), East Central Florida Regional Planning Council (ECFRPC), Osceola County Planning Department, Florida Department of Community Affairs (DCA), and the Developer shall agree upon the methodology for the Traffic Monitoring and Modeling Study. The scope of each monitoring and modeling effort is expected to be similar to that required for an Application for Development Approval. In the event that all parties cannot come to an agreement on the methodology, Polk County shall be the final arbiter.

b. As part of the Traffic Monitoring and Modeling Study, the Project's external trip generation shall be counted to determine if observed Project trips are consistent with Institute of Transportation Engineers (ITE) trip rates. If the observed trip rates are not found to be reasonably consistent with ITE trip rates, then adjustments to the trip rates used in the Traffic Monitoring and Modeling Study may be made, as agreed upon by the Developer and the reviewing agencies. At a minimum, the following intersections shall be evaluated as part of the monitoring report:

Signalized Intersections:

US 17/92 & CR 547
US 17/92 & Poinciana Boulevard
US 192 & CR 545
US 192 & Poinciana Boulevard
US 27 & CR 54

Unsignalized Intersections

US 17/92 & CR 532
US 17/92 & CR 54
CR 547 & CR 54
CR 545 & CR 54
I-4 EB Off Ramp & CR 532
I-4 WB Off Ramp & CR 542

At a minimum, the following roadways shall be evaluated as part of the monitoring report:

CR 54, US 27 to S 17/92
CR 532, I-4 to US 17/92 CR 54
CR 545, US 192 to I-4 and CR 532 to CR 54
Poinciana Boulevard, US 192 to US 17/92
US 17/92, Poinciana Boulevard to CR 54
US 17/92, Project Entrance to Hinson Avenue

c. The property shall not contribute 5% or more of the adopted LOS service volume of the roadway or intersection as determined by traffic monitoring in the preceding condition when service levels are below the adopted minimum LOS standard in the local government’s jurisdiction during the PM peak hour, unless mitigation measures and/or improvements are secured and committed for completion of construction during the phase (or subphase) in which the impacts occur, or if an alternate mechanism is implemented. For purposes of this Amended and Restated Development Order, adequate “secured and committed” mitigation measures shall include one or more of the following:

- i. A roadway improvement scheduled for construction within the first three (3) years of the appropriate local government’s adopted comprehensive plan capital improvement element (or as otherwise provided in the applicable jurisdiction’s capital improvement element), and/or a roadway improvement scheduled for construction within the first three (3) years of the Florida Department of Transportation’s Five-Year Work Program for non-FIHS facilities or within the first five (5) years of the Five-Year Work Program for FIHS facilities; or
- ii. A binding financially secured and irrevocable commitment by the Developer or other appropriate persons or entities for the design, engineering, land acquisition, and actual construction of the necessary improvements (with the posting of a cash bond, surety bond, irrevocable letter of credit, escrow amount or other security in a form acceptable to the agency of jurisdiction) within the next three (3) years and incorporated by reference into this Development Order; or

- iii. Any other mitigation option specifically provided for in this Amended Restated Development Order; or
 - iv. Subject to a Development Agreement, the Developer may seek and obtain the implementation of alternate improvements or mechanisms, which shall either maintain the adopted LOS at any impacted link, intersection, or interchange junction or implement a reduced LOS standard and/or achieve the adopted LOS standard over an established period of time; or
 - v. Any other mitigation option permitted by law, including a local government development agreement consistent with Florida Statutes and Polk County's Comprehensive Plan and Land Development Code which ameliorates the projected impact and is incorporated into this Development Order by amendment; or
 - vi. Detailed operational analyses of intersection and arterial/corridor level of service can be performed to the satisfaction of the agency with jurisdiction of the impacted facilities that reasonably demonstrates that projected traffic conditions will meet the adopted LOS; or
 - vii. The Developer shall provide adequate documentation to Polk County to demonstrate that one or more of the above mitigation measures have been met. Polk County may consult with other agencies, but the final decision as to what constitutes adequate documentation shall rest with Polk County. Notwithstanding the foregoing provisions of this section of the Restated Amended Development Order, if the Developer can demonstrate that a portion of a phase or subphase does not adversely affect the regional roadway network as determined by the Traffic Monitoring and Modeling Study, then the Developer may proceed with that portion of the phase (and only that portion).
- d. In the event that roadway widening is identified which is not compatible with adopted policy of the FHWA, FDOT District I or District V, or local government, then the Developer, Polk County, the CFRPC, and the party having jurisdictional or maintenance responsibility for the subject facility shall jointly determine alternate mitigation solutions.
- e. The Developer's fair share of required improvements to links, intersections, or interchanges shall be based on current traffic monitoring data. The apportionment of fair share costs shall be based upon the approved proportionate share methodology described below.
- f. This Restated Amended Development Order shall be amended based upon the results of the Traffic Monitoring and Modeling Study and consistent with Section 380.06 Florida Statutes.

8. **Proportionate Share** - If the Traffic Monitoring and Modeling Study results indicate that improvements must be made, and if mitigation is not provided as set forth in these conditions or as otherwise required pursuant to FAC 9J-2.045(7), then the Developer, Polk County, Osceola County, and/or FDOT Districts I and/or V shall enter into an agreement within

six (6) months of the determination that improvements are needed, which time frame can be extended based upon an agreement of the parties. Said agreement(s) shall address and clarify such issues related to equity in the application of collected fees for transportation improvements. The application of fees shall be on a fair-share basis with respect to the improvements to be provided and not solely on the basis of impact fees. In the event Osceola County and/or FDOT District I and/or V fails to execute said agreement(s) within the specified time, then the Developer may proceed with the development based upon the Traffic Monitoring and Modeling schedule and all other conditions specified herein as it affects the non-participating party and the payment of proportionate share. In the event that an agreement is not executed between the applicant, Osceola County, and/or FDOT District I and/or V, the proportionate share, to the referenced parties, shall be paid within one year of the improvement being identified

Separate agreements may be entered into with one or more parties and the Developer. The said agreement between the Developer, Polk County, Osceola County, and/or FDOT Districts I and/or V shall ensure the following:

- a. proportionate share payment is made by the Developer within a time frame specified in the agreement to the appropriate entity(ies) to mitigate project impacts;
- b. said proportionate share payment shall be used by the appropriate entity(ies) only for the design, engineering, right-of-way purchase, permitting and/or construction of improvement to the roadway segments, intersections, or interchange junctions for which the payment is made; and
- c. said proportionate share payment by the Developer constitutes adequate provision for the public facilities needed with respect to the road segments to accommodate the impacts of the Project through the phase for which the fair share was calculated, as required by Section 380.15(e)(2), F.S. All such proportionate fair share agreements shall be included in this Development Order by amendment pursuant to Section 380.06(19), F.S. The formula to be used to determine proportionate fair share contribution is as follows:

*Proportionate Share = (Improvement Cost) * (DRI Trips) / (SV Increase) where: DRI trips = the cumulative number of external trips from the development expected to reach the roadway during the PM peak hour from the phase under development. SV Increase = service volume increase, or the change in PM peak hour maximum service volume of the roadway resulting from construction of the improvement necessary to maintain the desired level of service. Improvement Cost = the cost (at time of Developer payment) of constructing an improvement necessary to maintain the desired level of service, including all improvement associated costs (engineering, right-of-way acquisition, planning, inspection, and other associated physical development costs directly required and associated with the construction of the improvements) as determined by the governmental agency having maintenance obligations over the roadway.*

9. **Dispute Resolution** - If the parties cannot reach agreement regarding the proceeding condition, or if so desired by the parties at any time prior to that, then the issues in dispute shall be submitted to the CFRPC for voluntary mediation pursuant to the adopted dispute resolution process. The solutions recommended as a result of this process shall be implemented and this Development Order amended pursuant to Section 380.06(19), F.S., to include these

solutions. These solutions must also be acceptable to Polk County in its sole discretion (reasonably exercised) and these solutions shall not include any requirements that Polk County or Osceola County participate in or contribute to the funding of improvements to any state roads, unless the subject county agrees otherwise.

10. **Government Responsibility** - Notwithstanding any provision contained herein to the contrary, except as specifically agreed in writing, Polk County and Osceola County shall have no financial responsibility to contribute to or participate in the funding of the design, engineering, permitting, and/or construction of improvements to state roads. The monitoring and modeling shall be used to verify the impacts from previous phases and to more accurately estimate probable impacts in later phases. If necessary, the proportionate share amount will be adjusted to reflect the estimates for later phases. If it is verified that the improvements mentioned above are still needed, then the Project shall not proceed into later phases until the proportionate share payment is made or said improvements are scheduled for construction in the applicable entity's work program within the first three years when impacts are estimated to be significant and adverse, or within the first five years for FIHS facilities.

11. **Alternative Concurrency Management Strategy** - At any time during the Project, the Developer, Polk County, the Florida Department of Community Affairs, and the Florida Department of Transportation may proceed with developing an alternative concurrency management strategy that may be approved by either Polk County or FDOT District I. The alternative concurrency management strategy shall include specific objectives and timelines of completing its objectives.

D. CONDITION FOUR: IMPACT FEES

As a minimum, the developer shall pay impact fees consistent with the impact-fee ordinance of Polk County.

E. CONDITION FIVE: ANNUAL REPORT

The Developer shall submit an Annual Report utilizing as a guide, the form provided by CFRPC. The Annual Report shall be submitted on or before the 15th of March of each year to Polk County, Osceola County, the CFRPC, CFRPC, the State Land Planning Agency and all affected permit agencies, including the Florida Department of Transportation, FDER, SWFWMD, SWFWMD. The form may be modified by the CFRPC at its discretion.

F. CONDITION SIX: TERMINATION DATE/DOWNZONING

1. This Development Order shall terminate on ~~November~~ May 21, 2024.
2. Polk County shall not downzone/reduce the intensity of the property until this Development Order terminates.

G. CONDITION SEVEN: RECORDING NOTICE OF ADOPTION

Notice of the adoption of this Development Order shall be recorded by the developer in accordance with the provisions of Section 380.06(15) (f) F.S. and the Development Order shall be recorded in accordance with Section 113 of the Polk County's Land Development Code within ten (10) days after its adoption.

H. CONDITION EIGHT: SUBSTANTIAL DEVIATION

Failure to comply with "Conditions One through Seven" shall be determined to be a substantial deviation and thus initiate the DRI review process and potential shutdown of all development activities. Any proposed change to the Project or to this Development Order which, upon review by Polk County and the CFRPC, is determined to create a reasonable likelihood of additional regional impact, or any type of regional impact created by a proposed change not previously reviewed by Polk County and CFRPC shall constitute a Substantial Deviation and shall cause the development to be subject to further Development of Regional Impact review.

SECTION 4. LOCAL MONITORING

Polk County shall be responsible for monitoring development and enforcing the provisions of this Development Order.

SECTION 5. EFFECTIVE DATE

This resolution shall take effect immediately upon its passage.