

BY COMMISSIONER _____

RESOLUTION NO. 16-151

A RESOLUTION REPEALING THE DEVELOPMENT ORDER FOR, AND ABANDONING THE CANNON RANCH DEVELOPMENT OF REGIONAL IMPACT NO. 163, CANCELLING THE RELATED DEVELOPMENT AGREEMENT, AND CONFIRMING THE CONTINUATION OF MPUD REZONING NO. 5634

WHEREAS, in accordance with Chapter 380.06, F.S., the original Development Order for the Cannon Ranch Development of Regional Impact (“**DRI**”) was adopted by the Board of County Commissioners on April 18th, 1989, as Resolution No. 89-145, as heretofore amended by Resolutions 90-169, 01-159 and 04-267 (collectively, “**DO**”), which DO last was recorded at Official Records Book 6072, Page 98, of the public records of Pasco County, Florida; and

WHEREAS, in accordance with Chapter 163, F.S., and pursuant to the DO, the former property owner(s) and developer(s) of record entered into a related development agreement for the DRI property, as heretofore amended (collectively, “**DA**”), and which DA last was recorded on September 24th, 2008 at Official Records Book 7932, Page 440, of the public records of Pasco County, Florida; and

WHEREAS, Pasco County, Florida, previously approved MPUD Rezoning No. 5634 for the DRI, as last amended on October 26, 2004 (the “**MPUD**”); and

WHEREAS, in accordance with Section 380.06(26), F.S. on October 14, 2014 the applicant, CR Pasco Development Company LLC (“**Applicant**”), with the consent of all other landowners within the DRI, including PEI-Cannon 1B, LLC, a California limited liability company (“**PEI**”), filed an Application for Abandonment of a Development of Regional Impact for the DRI (the “**Abandonment Application**”), copies of which Abandonment Application was provided to the Tampa Bay Regional

Planning Council (“**TBRPC**”), the Florida Department of Economic Opportunity (“**DEO**”), and the Florida Department of Transportation (“**FDOT**”); and

WHEREAS, PEI is the owner of the 28 acre (MOL) parcel (Pasco County Property Appraiser Parcel Identification No. 10-25-20-0000-00300-0030) that is located in the DRI (the “**Commercial Parcel**”) and has been assigned certain development rights by the master developer of the DRI/MPUD, specifically 135,000 sq. ft. of retail space (the “**Commercial Parcel Entitlements**”) pursuant to that certain Assignment of Developer’s Rights recorded at Official Records Book 6022, Page 1494 of the Public Records of Pasco County, Florida; and

WHEREAS, PEI has requested certain assurances from the Pasco County Board of County Commissioners in order to provide its attached consent to this Resolution; and

WHEREAS, State Legislature for the State of Florida, pursuant to 163.3246, F.S., has established a pilot program for innovative planning for the portion of Pasco County, Florida, which contains, inter alia, the DRI, the geographic boundaries of which pilot program was certified by DEO on July 15, 2015 (the “**Pilot Program**”); and

WHEREAS, Applicant is in the process of working with the County to create a series of regulations, including, without limitation, a special overlay, special Comprehensive Plan and Land Development Code provisions, a special dependent district, a financial plan and stewardship ordinance, all as part of the Pilot Program (collectively, the “**Connected City Regulations**”); and

WHEREAS, the Board of County Commissioners is the governing body having jurisdiction over the review and approval of DRIs and the abandonment thereof, in Pasco County, Florida, in accordance with Section 380.06, F.S.; and

WHEREAS, the Board of County Commissioners is the governing body having jurisdiction over the review and approval of DAs and the amending or cancellation thereof, in Pasco County, Florida, in accordance with Section 163.3225, F.S.; and

WHEREAS, the Board of County Commissioners has reviewed the Abandonment Application, the cancellation of the DA, and the status of the MPUD, as well as related testimony and evidence submitted by each party and members of the general public; and

WHEREAS, the Board of County Commissioners wishes at this time to approve abandonment of the DRI and the associated repeal and termination of the DO, and the cancellation of the DA, all on the terms and conditions set forth herein;

WHEREAS, the Board of County Commissioners has approved the Abandonment Application on April 26, 2016, and hereby adopts this Resolution repealing and terminating the DO, abandoning the DRI, and cancellation of the DA (this “**Resolution**”).

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pasco County, Florida, in regular session duly assembled, as follows:

1. **GENERAL FINDINGS OF FACT**

The Board of County Commissioners makes the following general findings of fact:

(a) The Applicant/Developer has filed, in accordance with Section 380.06(26), F.S., an Abandonment Application for the DRI and has been joined by all other landowners in the DRI pursuant to such statute.

(b) Due to the abandonment of the DRI, the DA will no longer be applicable and therefore is being cancelled through this Resolution.

(c) The real property encompassed by the Cannon Ranch DRI is owned by the individual property owners described in the Abandonment Application. A description of the real property for all of the DRI is attached hereto as **Exhibit A (“Property”)**, and is incorporated into this Resolution by this reference.

(d) The MPUD remains in force and effect, and shall remain in place through August 16, 2020, with respect to the Property pending implementation of the Pilot Program by Pasco County, Florida, or other subsequent MPUD modification, extension, or other zoning amendment by Pasco County, Florida, for the Property.

(e) Pursuant to the DO, the DA, and/or the MPUD, the owners/developers-of-record for the DRI previously made or performed certain monetary and/or in-kind mitigation obligations, as follows:

- a. A parks impact fee (land) cash pre-payment of \$630,505.20; and
- b. A transportation impact fee/mobility fee (SIS credit only) cash pre-payment of \$2,100,056.84; and
- c. A transportation impact/right-of-way pipeline contribution (not verified).

Collectively, the foregoing mitigation payments and/or pipeline contributions are referred to as the “**Eligible Fee Credits.**” The abandonment of the DO, termination of the DRI, and cancellation of the DA shall not extinguish or adversely affect the Eligible Fee Credits.

(f) On December 9, 2014 the TBRPC notified Pasco County that the TBRPC had no objection to the Abandonment Application.

(g) On October 31, 2014, the DEO notified Pasco County that the DRI was eligible for abandonment pursuant to Section 380.06(26), F.S.

(h) The Board of County Commissioners scheduled a public hearing on the Abandonment Application and cancellation of the DA for April 26, 2016.

(i) The public notice requirement of Section 380.06(26), F.S., and Section 163.3225, F.S., has been satisfied.

(j) At the public hearing, all parties were afforded the opportunity to present evidence and argument on all issues and to submit rebuttal evidence, and any member of the general public requesting to do so was given the opportunity to present written or oral communications.

(k) The Board of County Commissioners received and considered various other reports and information.

2. CONCLUSIONS OF LAW

The Board of County Commissioners hereby finds that the abandonment of the Cannon Ranch DRI as proposed by the Abandonment Application, and the revocation and termination of the DO and cancellation of the DA:

(a) Will not unreasonably interfere with the achievement of the objectives of the State Comprehensive Plan and the State Land Development Plan applicable to the Property.

(b) The current MPUD has not expired and remains in full force and effect, and shall continue to apply to the Property subsequent to the abandonment of the DRI, the termination of the DO and the cancellation of the DA, through August 16, 2020 (the “**Buildout Date**”). The MPUD is not subject to revocation or further transportation analysis pursuant to section 901.12 of the Pasco County Land Development Code for the MPUD Entitlements through the Buildout Date. Regardless of the pending implementation of the Pilot Program by the County, incremental development within the MPUD shall be allowed pursuant to applicable County regulations, up to but not exceeding 658 non-restricted, single-family dwellings; 150,000 gross leasable square feet of commercial space; and an 18-hole golf course, or the equivalent thereof in terms of p.m. peak-hour trips (the “**MPUD Entitlements**”). Upon implementation of the Pilot Program, and as authorized by the State of Florida therein, there shall be no DRI requirement within the Pilot Program certification area, which includes the Property. Therefore, the MPUD and any subsequent replacement, modification or amendment thereof will be consistent with the Pasco County Land Development Code (local land development regulations, the “**LDC**”), and the adopted Pasco County Comprehensive Plan (the “**Comprehensive Plan**”). Any impacts to public facilities not mitigated previously, shall be mitigated through the incremental development approval process permitted by the current MPUD, or pursuant to the Pilot Program when implemented by Pasco County, Florida, at the option of the applicable developer as further described below. By way of clarification of the foregoing, the MPUD, including the Commercial Parcel, may be developed for the MPUD Entitlements prior to the Buildout Date without undertaking any off-site roadway improvements,

except for site access improvements imposed by the County during the site development process pursuant to the access management regulations in the LDC and without any further land use or zoning approvals, subject to: (a) compliance with the Countywide provisions of (i) the Comprehensive Plan and (ii) the LDC; and (b) any agreements between PEI and the Master Developer.

(c) The Property is not in an area of critical State concern.

(d) By consenting to the Resolution (as below) and not objecting to the adoption of the Connected City Regulations, PEI is not waiving its right to proceed with the development of the Commercial Parcel with the Commercial Parcel Entitlements and is not consenting to the inclusion of the Commercial Parcel in Connected City, nor subjecting, nor agreeing to subject, the Commercial Parcel or its owner to the Connected City Regulations.

(e) Upon the adoption of the Connected City Regulations, the owner of the Commercial Parcel may elect to entitle its property pursuant to the Countywide entitlement process in the Comprehensive Plan and the LDC (not the entitlement process solely applicable to projects that “opt in” to the Connected City and are subject to the Connected City Regulations), and, in such an event, neither the Commercial Parcel, nor its owner will be subject to or entitled to any of the benefits of the Connected City Regulations, nor will the same be subject to mobility fee surcharges, impact fee surcharges, fees, costs, assessments, impositions, taxes, bond obligations, right-of-way dedication requirements or other obligations created by the Connected City Regulations, whether created now or in the future. In such an event, the Countywide Comprehensive Plan and LDC regulations would be applicable to the Commercial Parcel if it seeks to create or utilize entitlements outside of the Connected City Regulations, even though such parcel may fall within the overall boundary of the area subject to the Pilot Project. Notwithstanding the foregoing, to the extent the Connected City Master Roadway Plan is incorporated into the Countywide Highway Vision Plan Map, the Commercial Parcel shall continue to be subject to Pasco County’s generally applicable LDC requirements relating to the Highway Vision Plan Map, including, where applicable, right-of-way dedication requirements. In addition, Pasco County may elect to utilize all or

part of the generally applicable mobility fees or impact fees collected from the Commercial Parcel for land acquisition or improvements identified in the Connected City Financial Plan.

(f) These proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in these proceedings, the various departments of Pasco County, and the MPUD Applicants/Developers are authorized to proceed with respect to development of the Property pursuant to the MPUD and this Resolution, without regard to the DO and DA, which are repealed and cancelled hereby, and without DRI review.

3. ORDER

The Board of County Commissioners, having made the above findings of fact and having drawn the above conclusions of law, hereby approves the Abandonment Application, orders that: (a) the DO is hereby repealed and terminated; (b) the DRI is hereby abandoned and the DA is hereby cancelled; (c) the MPUD shall remain in force and effect through the Buildout Date and shall be governed by Pasco County's Comprehensive Plan, Pasco County's Land Development Code and this Resolution, regardless of the implementation of the Pilot Program and any subsequent replacement, modification or amendment to the MPUD pursuant to the Pilot Program; (d) the Eligible Fee Credits shall not be abrogated or adversely affected by this abandonment of the DRI, repeal and termination of the DO, or cancellation of the DA; and (e) the rights of Applicant and PEI as set forth in the foregoing Findings of Fact and Conclusions of Law are hereby ratified and confirmed.

4. PROCEDURES

(A) Notice of Adoption: Promptly after adoption of this Resolution, a Notice of Abandonment shall be filed and recorded in the Public Records of Pasco County, Florida, in accordance with Section 380.06(15)(f), F.S.

(B) Owner's Acknowledgement: The affected parties for the DA and its cancellation shall sign and have notarized the acknowledgement attached as **Exhibit B**, and shall promptly file and record this Resolution and the acknowledgement in the Public Records of Pasco County, Florida.

(C) Certified Resolution: The Clerk of the Circuit Court, Secretarial Services, for the Board of County Commissioners shall return eight (8) signed and certified copies of this Resolution, including all Exhibits, and the Notice of Abandonment, to the Pasco County Planning and Development Department. The Pasco County Planning and Development Department then shall transmit copies of each document to DEO, TBRPC, and the Applicant's attorney-of-record in these proceedings.

(D) Severability: Each provision of this Resolution is material to the Board of County Commissioners' approval of this Resolution. Accordingly, the provisions are not severable. In the event any section, subsection, sentence, clause or provision of this Resolution is declared illegal or invalid by a body with jurisdiction to make such determination, the remainder of this Resolution shall be suspended until such time that the Board of County Commissioners modifies this Resolution to address the illegal or invalid provision; provided, however, that such suspension shall not exceed nine (9) months in duration and such determination shall not affect the validity of any of the MPUD entitlements for which a complete application has been submitted, or approval has been received, for a preliminary plat, preliminary site plan, plat, construction plan, Building Permit, or Certificates of Occupancy. Notwithstanding the foregoing, if a third party challenges any section, subsection, sentence, clause or provision of this Resolution and the challenged portion is subsequently declared illegal or invalid, this Resolution shall not be suspended and shall remain in full force and effect except for that portion declared illegal or invalid. If any section, subsection, sentence, clause, or provision of this Resolution is declared illegal or invalid as a result of a third party challenge, the Applicant/Developer shall cooperate with the County to amend this Resolution to address the portion which has been declared invalid or illegal.

DONE AND RESOLVED this 26th day of April, 2016.



Paula S. O'Neil
PAULA S. O'NEIL, Ph.D.,
CLERK AND COMPTROLLER

BOARD OF COUNTY COMMISSIONERS, APPROVED
OF PASCO COUNTY, FLORIDA IN SESSION

APR 26 2016

Kathryn Starkey
KATHRYN STARKEY, CHAIRMAN
PASCO COUNTY
BCC

EXHIBITS

- A. Legal Description of the DRI Property
- B. Owner's/Developer's Acknowledgement

EXHIBIT A

Legal Description of the DRI Property

E X H I B I T " A "

PARCEL ONE:

E 1/2 of the SE 1/4 of the NE 1/4 lying South of State Road No. 52, LESS the West 250.00 feet of the East 596.85 feet thereof; The E 1/2 of the NE 1/4 of the SE 1/4, LESS the North 824.24 feet of the West 250.0 feet of the East 596.85 feet thereof; the East 600 feet of the SE 1/4 of the SE 1/4; And the South 110.0 feet of the West 720.0 feet of the SE 1/4 of the SE 1/4, all in Section 9, Township 25 South, Range 20 East, Pasco County, Florida.

AND

The E 1/4 of Section 16, Township 25 South, Range 20 East, Pasco County, Florida.

Parcel Two:

The W 1/4 of Sections 10 and 15 lying South of State Road No. 52, Township 25 South, Range 20 East, Pasco County, Florida.

Parcel Three:

The S 1/2 of the E 3/4 of Section 15, Township 25 South, Range 20 East, Pasco County, Florida.

Parcel Four:

S 1/4 of E 3/4 of N 1/2 of Section 15, Township 25 South, Range 20 East, Pasco County, Florida.

AND

The W 1/2 of the SW 1/4 of Section 14, Township 25 South, Range 20 East; the N 1/4 of the NE 1/4 of SW 1/4 and the S 1/4 of the NW 1/4 of Section 14, Township 25 South, Range 20 East, Pasco County, Florida, LESS road right-of-way.

Parcel Five:

The NW 1/4 lying South of State Road No. 52; the S 1/2 of Section 10, Township 25 South, Range 20 East, LESS the W 1/4 thereof; the S 1/2 of the NE 1/4; and the W 3/4 of the NW 1/4 of the NE 1/4 lying South of State Road No. 52, all in Section 10, Township 25 South, Range 20 East, Pasco County, Florida, LESS and EXCEPT that portion of the W 1/4 of said Section 10 lying South of State Road No. 52.

AND

SW 1/4; SW 1/4 of NW 1/4; W 1/2 of SE 1/4 and S 1/2 of SW 1/4 of NE 1/4, LESS AND EXCEPT the North 300 feet thereof and LESS road right-of-way, all in Section 11, Township 25 South, Range 20 East, Pasco County, Florida.

AND

N 3/4 of E 3/4 of N 1/2 of Section 15, Township 25 South, Range 20 East, Pasco County, Florida.

AND

N 3/4 of the N 1/2 of that portion of Section 14, Township 25 South, Range 20 East, Pasco County Florida, lying North and West of State Road No. 577.

EXHIBIT B

OWNER'S/DEVELOPER'S ACKNOWLEDGMENT

The owner/developer acknowledges that it has read, understood, and accepted the above Resolution Abandoning the Cannon Ranch DRI No. 163, Repealing the Development Order, and Cancelling the Development Agreement for Cannon Ranch DRI.

CR PASCO DEVELOPMENT COMPANY, LLC

4.11.16

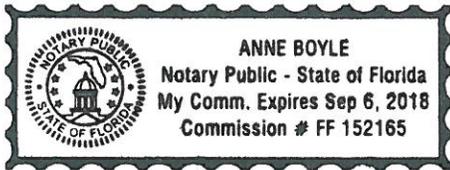
(Date)

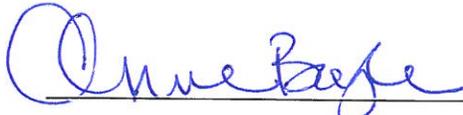
By: 

John M. Ryan, Manager

STATE OF Florida
COUNTY OF Hillsborough

I hereby certify on this 11 day of April, 2016, before me personally appeared the owner/developer, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be its free act and deed for the uses and purposes therein expressed.





Notary Public

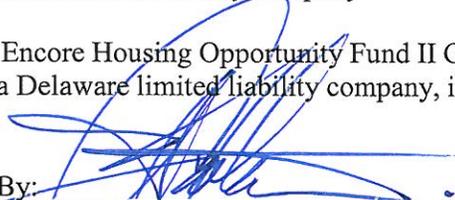
OWNER'S/DEVELOPER'S ACKNOWLEDGMENT

The owner/developer acknowledges that it has read, understood, and accepted the above Resolution Abandoning the Cannon Ranch DRI No. 163, Repealing the Development Order, and Cancelling the Development Agreement for Cannon Ranch DRI.

CRCG TWO LP

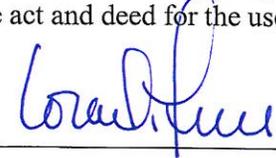
By: EHOFF CANNON RANCH, LLC
a Florida limited liability company

By: Encore Housing Opportunity Fund II General Partner, LLC
a Delaware limited liability company, its Manager

By: 
Arthur J. Falcone, Managing Principal
04-07-2016
(Date)

STATE OF FLORIDA
COUNTY OF PAUM BEACH

I hereby certify on this 07 day of April, 2016, before me personally appeared the owner/developer, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be its free act and deed for the uses and purposes therein expressed.



Notary Public



OWNER'S/DEVELOPER'S ACKNOWLEDGMENT

The owner/developer acknowledges that it has read, understood, and accepted the above Resolution Abandoning the Cannon Ranch DRI No. 163, Repealing the Development Order, and Cancelling the Development Agreement for Cannon Ranch DRI.

CRCG ONE LP

By: GTIS CANNON RANCH LLC

By: 
Amy Boyle, Vice President

April 7th 2016
(Date)

STATE OF New York
COUNTY OF New York

I hereby certify on this 7 day of April, 2016, before me personally appeared the owner/developer, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be its free act and deed for the uses and purposes therein expressed.

MARIASZABO
Notary Public, State of New York
No. 01SZ6309901
Qualified in New York County
Commission Expires August 18, 2018


Notary Public

OWNER'S/DEVELOPER'S ACKNOWLEDGMENT

The owner/developer acknowledges that it has read, understood, and accepted the above Resolution Abandoning the Cannon Ranch DRI No. 163, Repealing the Development Order, and Cancelling the Development Agreement for Cannon Ranch DRI.

PEI-CANNON 1B, LLC

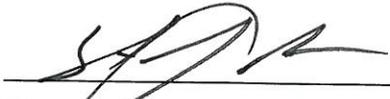
4-11-16

(Date)

By: 
Thomas S. DeRegt, Managing Member

STATE OF California
COUNTY OF Monterey

I hereby certify on this 11 day of April, 2016, before me personally appeared the owner/developer, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be its free act and deed for the uses and purposes therein expressed.



Notary Public

