



CERTIFIED MAIL

October 26, 2016

Mr. James Stansbury  
Department of Economic Opportunity  
Division of Community Development  
Caldwell Building  
107 East Madison Street, MSC 160  
Tallahassee, FL 32399-4120

**DEPARTMENT OF  
COMMUNITY  
DEVELOPMENT**

**REF: DRI16-0005 / Resolution No. 16-177R**  
Approval of the Rescission of the Harmony DRI

Dear Mr. Stansbury:

The request to rescind the Harmony Development of Regional Impact (DRI) via Resolution No. **2016-177R** was approved by the Osceola County Board of County Commissioners at their meeting on **October 17, 2016**, subject to the effective date PD16-00009 becomes final and not subject to appeal.

Enclosed is a certified and recorded copy of the Resolution to rescind the Harmony DRI.

Please contact me at 407-742-0297 or by e-mail at [brenda.ryan@osceola.org](mailto:brenda.ryan@osceola.org) if you have any questions.

Respectfully,

Brenda Ryan  
Project Coordinator

Enclosure

Cc: Susan Caswell, Assistant Administrator; [susan.caswell@osceola.org](mailto:susan.caswell@osceola.org)  
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Fred Milch, ECFRPC  
DRI16-0005 Project File  
PD16-00009 Project File

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DATE: 10/20/2016 09:03:04 AM  
ARMANDO RAMIREZ, CLERK OF COURT  
OSCEOLA COUNTY  
RECORDING FEES \$0.00

**RESOLUTION NO. 16-177R**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA, RESCINDING DRI16-0003, THE HARMONY DEVELOPMENT OF REGIONAL IMPACT, CONSISTING OF APPROXIMATELY 3,477.25 ACRES, MORE OR LESS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on September 14, 1992, the Board of County Commissioners of Osceola County approved the original Development Order for the Birchwood Development of Regional Impact (DRI), now known as the Harmony DRI; and

**WHEREAS**, on December 19, 1994, pursuant to an appeal, the Board of County Commissioners of Osceola County approved the Settlement Agreement and Development Order recorded in Book 1240, Page 1448, in the Official Records of Osceola County, Florida; and

**WHEREAS**, on February 1, 1999, the Board of County Commissioners of Osceola County approved the First Amended Development Order recorded in Book 1606, Page 1767, in the Official Records of Osceola County, Florida; and

**WHEREAS**, on April 3, 2000, the Board of County Commissioners of Osceola County approved the Second Amended Development Order recorded in Book 1751, Page 1208, in the Official Records of Osceola County, Florida; and

**WHEREAS**, on October 23, 2000, the Board of County Commissioners of Osceola County approved the Third Amended Development Order recorded in Book 1869, Page 793, in the Official Records of Osceola County, Florida; and

**WHEREAS**, on January 5, 2004, the Board of County Commissioners of Osceola County approved the Fourth Amended and Restated Development Order; and

**WHEREAS**, on December 20, 2004, pursuant to a settlement agreement, the Board of County Commissioners of Osceola County approved the Corrected Fourth Amended and Restated Development Order recorded in Book 2684, Page 2449, in the Official Records of Osceola County, Florida; and

**WHEREAS**, a revised Fourth Amended and Restated Development Order was inadvertently recorded in Book 2690, Page 1569, in the Official Records of Osceola County,

Florida. A Notice of Corrective Filing was recorded in Book 3203, Page 2565 in the Official Records of Osceola County, Florida, to serve as notice that the Corrected Fourth Amended and Restated Development Order recorded in Book 2684, Page 2449 was the controlling Development Order pertaining to the Harmony DRI; and

**WHEREAS**, on December 18, 2006, the Board of County Commissioners of Osceola County approved the Fifth Amended and Restated Development Order recorded in Book 3384, Page 1904, in the Official Records of Osceola County, Florida; and

**WHEREAS**, on June 15, 2015, the Board of County Commissioners of Osceola County approved the Sixth Amended and Restated Development Order recorded in Book 4795, Page 1970, in the Official Records of Osceola County, Florida; and

**WHEREAS**, on April 18, 2016, the Board of County Commissioners of Osceola County approved the Seventh Amended and Restated Development Order recorded in Book 4946, Page 2444, in the Official Records of Osceola County, Florida, DRI16-0003, herein referred to as the DRI Development Order; and

**WHEREAS**, the DRI Development Order is binding upon subsequent purchasers of the land, remains in effect, and is binding upon the current landowners and developers; and

**WHEREAS**, the DRI Development Order remains the current and effective development order for the project, consists of approximately 3,477.25 acres, more or less, and establishes all mitigation requirements for development of the property; and

**WHEREAS**, Section 380.06(29)(c), Fla. Stat., provides that any proposed development within a designated “urban service area” as defined in s. 163.3164, F.S., established by a county that does not qualify as a dense urban land area pursuant to s. 163.3164, F.S., is exempt from the development-of-regional-impact process; and

**WHEREAS**, Osceola County has designated an “urban growth boundary” within its adopted comprehensive plan, which meets the definition of “urban service area”; and

**WHEREAS**, the entire Harmony Development of Regional Impact is within the boundaries of the urban growth boundary; and

**WHEREAS**, 380.06(29)(e), Fla. Stat., provides that within the urban service area, “any previously approved development-of-regional-impact development orders shall continue to be effective, but the developer has the option to be ‘governed by’ s. 380.115(1), F.S.”; and

**WHEREAS**, 380.115(1)(b), Fla. Stat., provides that upon request of the “developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization”; and

**WHEREAS**, Birchwood Acres Limited Partnership, LLLP, the developer of the Harmony Development of Regional Impact (herein the Applicant), has requested rescission of the Harmony Development of Regional Impact by Application No. DRI16-0005, dated May 2, 2016; and

**WHEREAS**, in order to ensure that development impacts from approved and constructed development are appropriately mitigated, the substance and timing of the conditions required in the Development Order are specified in permits, agreements and/or enforceable development orders that are binding on the developer and successors in interest; and

**WHEREAS**, the permits, binding agreements and enforceable development orders that address the required mitigation are:

- Deed of Conservation Easement recorded in Book 1904, Page 274 of the Official Records of Osceola County, Florida, in conjunction with the Permit for Taking of Gopher Tortoises and Their Burrows, State of Florida Fish and Wildlife Conservation Commission Permit Number OSC-36, issued April 11, 2001;
- Deed of Conservation Easement recorded in Book 2125, Page 1895 of the Official Records of Osceola County, Florida, in conjunction with the Permit for Taking of Gopher Tortoises and Their Burrows, State of Florida Fish and Wildlife Conservation Commission Permit Number OSC-53, issued August 12, 2002;
- Deed of Conservation Easement recorded in Book 3281, Page 1805 of the Official Records of Osceola County, Florida, in conjunction with the Permit for Taking of Gopher Tortoises and Their Burrows, State of Florida Fish and Wildlife Conservation Commission Permit Number OSC-126, issued June 9, 2006;
- Deed of Conservation Easement recorded in Book 2637, Page 937, of the Official Records of Osceola County, Florida;
- Deed of Conservation Easement recorded in Book 2637, Page 988, of the Official Records of Osceola County, Florida;

- Long term permits: SFWMD Permit #49-00103-W, issued October 11, 1979 (April 22, 2004 transferred to TWA); SFWMD Permit #49-01058-P, issued August 10, 2000; SFWMD Permit #49-01064-W, issued April 12, 2001; SFWMD Permit #49-01063-W, issued May 10, 2001 (transferred from CDD to TWA); SFWMD Permit #49-01236-P dated December 12, 2002; SFWMD Permit #49-01250-P dated June 10, 2004; Department of the Army Permit #200000414 (IP-TB), dated May 8, 2001;
- DRI Transportation Proportionate Share Agreement between Harmony Development Company, LLC, the State of Florida Department of Transportation, and Osceola County, recorded in Book 2703, Page 552, of the Official Records of Osceola County, Florida, as amended by that First Amendment to DRI Transportation Proportionate Share Agreement, recorded in Book 3400, Page 765, of the Official Records of Osceola County, Florida;
- Partial Release of DRI Transportation Proportionate Share Agreements between Harmony Development Company, LLC, the State of Florida Department of Transportation, and Osceola County, recorded in Book 4065, Page 1170, of the Official Records of Osceola County, Florida;
- DRI Transportation Proportionate Share Agreement between Harmony Development Company, LLC, the State of Florida Department of Transportation, and Osceola County, recorded in Book 2708, Page 1412, of the Official Records of Osceola County, Florida;
- Public School Mitigation Agreement between Birchwood Acres Limited Partners, the School District of Osceola County, and Osceola County dated November 13, 2000;
- Public School Mitigation Agreement between Birchwood Acres Limited Partners and the School District of Osceola County, dated July 26, 2006;
- Harmony Middle School Tri-Party Agreement between The Harmony Foundation, Inc., d/b/a/ the Harmony Institute, Birchwood Acres Limited Partnership, LLLP and the School Board of Osceola County, Florida, dated April 20, 2010;
- The Harmony Community Development District, established by Osceola County Ordinance 00-05 on February 28, 2000, and with certain additional powers approved by Osceola County Ordinance 00-16 on September 11, 2000, expanded by Osceola

County Ordinance 01-35 on September 27, 2001, and further expanded by Osceola County Ordinance 05-02 on January 3, 2005;

- Harmony Residential Properties Declaration of Covenants, Conditions and Restrictions, recorded in Book 2125, Page 2093, of the Official Records of Osceola County, Florida; and
- The Planned Development amended concurrently with this Resolution, PD16-00009.

**WHEREAS**, the County has determined that the Applicant's request to rescind the DRI Development Order, with the conditions and obligations provided for in the binding agreements and enforceable development order, is consistent with Section 380.115(1)(b), Fla. Stat., and that rescission is appropriate.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:**

**SECTION 1. RECITALS.**

The foregoing recitals are hereby adopted by the Board of County Commissioners as findings of Osceola County and incorporated herein.

**SECTION 2. RESCISSION.**

Harmony Development of Regional Impact, DRI16-0003, and all associated development orders, including exhibits or attachments thereto, are hereby rescinded and shall be of no further force and effect. The rescission of such development of regional impact and development orders does not affect the effectiveness and requirements of any other developer agreements, county approvals, permits, development orders, zoning or land use approvals.

Applicable mitigation requirements contained in DRI16-0003 that are not already covered in a binding agreement have been incorporated into the Planned Development, PD16-00009, amended concurrently with this Resolution. The Applicant's request to rescind the DRI Development Order, with the conditions and obligations provided for in the Planned Development amended concurrently with this Resolution, is consistent with Section 380.115(1)(b), Florida Statutes, and rescission is appropriate. Specifically, the mitigation commitments contained within the DRI Development Order have been transferred into the Planned Development as follows (except that DRI-related referenced have been removed):

- Development Order Condition 8, in relevant part: The Developer will coordinate to identify space for a sheriff station when deemed necessary as determined by Osceola County.
- Development Order Condition 10: The on-site wetlands systems, upland buffers, other conservation tracts and mitigation areas shall be regarded as preservation areas for the purpose of protecting their natural attributes and shall have their developmental uses restricted by conservation easement as provided in Florida Statutes. These areas are depicted on Map H attached hereto. Easements shall be conveyed to the Florida Fish and Wildlife Conservation Commission, the Florida Department of Environmental Protection, Osceola County or other state or federal agency or any organization dedicated to conservation and acceptable to the East Central Florida Regional Planning Council.
- Development Order Condition 15: The Developer, his successors and assigns shall be responsible for funding and implementing the sandhill crane management plan approved by staff of the FFWCC, DEO and ECFRPC, attached hereto as Exhibit "D". Such plan establishes foraging habitat within the Phase 1 golf course, and shall also include the preservation and maintenance of 90 acres of grasslands. This plan includes a commitment by the Developer, his successors and assigns, to fund and operate a perpetual maintenance system for the preserve areas and the golf course. To implement the plan, the Developer, his successors and assigns shall adhere to the following requirements:
  - a. Management of the golf course shall include standard golf course management techniques. A total of five acres of golf course land littoral zones shall be managed in perpetuity to provide a shallow emergent wetland habitat. Such emergent wetland habitat shall provide both nesting and foraging habitat for Florida Sandhill Cranes. Littoral zones shall be provided within ponds adjacent to wetlands in the golf course.
  - b. Approximately 90 acres of existing pasture will be maintained according to the approved Habitat Management Plan until such time that the Site Development

Plan (SDP) for the Rural Residential area as approved in the PD has been reviewed and approved by FFWCC and Osceola County. The SDP for the Rural Residential Area as identified within the PD will identify at least 90 acres that has been approved by the FFWCC as the Sandhill Crane Management area. Upon approval of the SDP, the new areas identified as Sandhill Crane Management Area will be managed in perpetuity according to the approved Habitat Management Plan. This Sandhill Crane Management Area will be placed under conservation easement at the time of SDP approval. Map H shall be amended to reflect this change during the next Notification of a Proposed Change submittal and the plan shall be enclosed in the biennial report. Gopher tortoises are known to occur on the property. Prior to development within the upland areas of the property, appropriate surveys must be conducted for the presence and density of population of this species of special concern. Permits for development from FFWCC shall be obtained prior to construction activities. Mitigation for impacts to gopher tortoises should be accomplished by expanding the existing on-site gopher tortoise preserve and/or provide another on-site area approved by FFWCC.

- Development Order Condition 31: Permanent educational signs shall be installed at the boat ramp on Cat Lake with information concerning wading birds and the rookery area on the south shore of the lake. The sign should contain biological facts about the nesting habits of these species and warnings about disturbance during nesting season. During periods of active use of the rookery site by wading birds, the Developer or its successors shall be responsible for deployment and maintenance of warning buoys within the lake. These buoys shall be located a minimum of 500 feet waterward from the rookery location. The buoys shall be educational in nature but also restrict encroachment by boat or person during nesting seasons.
- Development Order Condition 34: Upland buffers between on-site wetlands and any type of development or land alteration shall be established in accordance with South Florida Water Management District permit approvals, but shall be no less than an



average 50 feet, minimum 25 ft. in width for regionally significant wetlands as identified on Exhibits E-1 and E-2.

- Development Order Condition 35: Regionally significant wetlands and their associated upland buffers as depicted on Exhibits E-1 and E-2 shall be placed under conservation easement in accordance with Development Order Condition 12 regarding Vegetation and Wildlife. The conservation easements may be conveyed in conjunction with the SFWMD ERP permitting, but in no instance shall be delayed until after construction begins for the parcel permitted.
  
- Development Order Condition 40, as applicable: In order to effectively monitor the project's effects on surface water conditions, the applicant or his successors shall provide for the establishment and operation of a surface water-monitoring program consisting of the following components: Surface water samples shall be collected at the following locations for the three development phases illustrated in the ADA dated December 20,1990:

a. Phase 1

1. At the following locations as identified on Figure 14-1 (attached as Exhibit H hereto):  
WLS -1, C-2, C-3, WLS-2, WLS-3N, WLS-3S, WLS-4.
2. In the centers of Buck Lake and Cat Lake;

b. Phase 2

Prior to the issuance of final site plan approvals, a proposed surface water-monitoring plan shall be prepared and submitted to the ECFRPC and SFWMD for review and approval.

If water quality standard violations are detected at any sampling station, the applicant shall immediately proceed with the development and implementation of an expanded water quality-sampling program in coordination with the County and the Water Management District.

- c. The water samples shall be collected and analyzed at least four times annually on a seasonal basis, with the sampling commencing within six months following the issuance of the D.O. for the first phase, with the following schedule being adhered to for both phases of project development:
    1. At least the initial set of samples for each Development Phase prior to land disturbances associated with clearing, land preparation, construction or other forms of project development activity:
    2. The sampling period for each phase shall extend at least four years beyond the date of either of the following conditions:
      - i. project (phase) build-out; or
      - ii. a declaration by the applicant or successors that:
        - a. the project (phase) is completed; or
        - b. no additional construction is planned or contemplated, regardless of the status of project phasing. However, if project construction should be re-initiated at any time following the declaration, the conditions of the sampling programs shall also be applicable.
    - c. Water quality parameters to be measured will be determined by the South Florida Water Management District, with input from the local government of jurisdiction. Collected data shall be furnished to the Water Management District and Osceola County.
- Development Order Condition 41: The applicant (or owners/successors, as applicable) will incorporate additional water quality treatment and/or water management methods into the project's surface water management system to correct or mitigate any degradation if the measures implemented by the applicant/owners are found to be ineffective or to adversely impact water quality/quantity conditions on or downstream of the project site.

**SECTION 3.**            **CONFLICT.**

Any other Resolution or part thereof in conflict with this Resolution or any part hereof is hereby repealed to the extent of the conflict.

**SECTION 4. SEVERABILITY.**

All terms of this Resolution shall be considered to be depended upon and inextricably related to all other terms, such that if any clause, section or other part of the Resolution shall be held invalid or unconstitutional by any court of competent jurisdiction, the entire Resolution shall be rendered void.

**SECTION 5. EFFECTIVE DATE.**

This Resolution shall become effective upon the date that PD16-00009 becomes final and not subject to appeal.

DULY ADOPTED this 17th day of October, 2016.

**BOARD OF COUNTY COMMISSIONERS OF  
OSCEOLA COUNTY, FLORIDA**

By: Vivian Janer  
Chairwoman/Vice-Chairwoman

**ATTEST:  
OSCEOLA COUNTY CLERK OF THE BOARD**

By: Debra A Davis  
Clerk/Deputy Clerk of the Board

As authorized for execution at the Board of  
County Commissioners meeting of:

October 17, 2016

