

EXHIBIT "S"



CORRECTIVE LETTER

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 533-8587

Bob Janes
District One

A. Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stilwell
County Manager

David Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

September 18, 2009

MATTHEW M. DUBOIS
BANKS ENGINEERING, INC.
10511 SIX MILE CYPRESS PKWY.
SUITE 101
FORT MYERS, FL 33966

RE: STONEYBROOK NORTH
DOS2007-00098 - DO Submittal Large
RO4 Application (Resubmittal)A

Dear MATTHEW M. DUBOIS :

Your plans for the above-referenced project have been reviewed and approved for Concurrence and a Development Order with stipulation(s). Concurrence and the Development Order are granted for the following:

Approved for the construction of infrastructure for a 288 lot single-family subdivision, to include; streets, utilities, landscaping, stormwater management facilities, guardgates, an 1,142 square foot guardhouse, creek maintenance, exotics removal, bikeway, Pritchett Parkway and Bayshore Road improvements and related site improvements. [CNC2007-00123]

THIS CERTIFICATE OF CONCURRENCE SHALL BE VALID AND EFFECTIVE UNTIL 9/18/2012. DURING THE NEXT THREE (3) YEARS, the Development Services Division is authorized to issue building permits for the construction of the building(s) indicated above without further review of the Concurrence requirements by the Division. Upon expiration of the Concurrence Certificate, the project will be subject to the concurrence program in effect at the time of expiration. No vested right to a Concurrence Certificate will exist solely due to the existence of an otherwise effective Development Order.

THIS DEVELOPMENT ORDER WILL BE VALID FOR A PERIOD OF SIX (6) YEARS AND IS SCHEDULED TO EXPIRE ON 9/18/2015.

Approval is subject to the following stipulation(s) and/or comment(s):

LC Zoning Checklist (Ord. 03-16)

2c) Permitted Uses. The proposed use(s) must be in compliance with the uses permitted for the zoning category of the land proposed for development. [10-251]

Stipulation: All conditions of Zoning Resolution Z-02-070 and the executed Declaration of Covenants, Conditions and Restrictions for Stoneybrook North, remain in full force and effect and are incorporated into this Development order by reference.

BANKS ENGINEERING, INC.
 STONEYBROOK NORTH
 DOS2007-00098
 September 18, 2009

2d) Planned Development Zoning Uses. For projects with Planned Development zoning the drawings submitted must provide a schedule of enumeration of all uses of land desired in the planned development setting forth the parameters of intensity. The schedule must be keyed to the Master Concept Plan. [10-251 & 34-373(a)(6)]

Stipulation: Pursuant to condition 24(c) of zoning resolution Z-02-070, the property owner must terminate the agricultural exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the development order is issued. A copy of the exemption termination must be provided to the Office of The County Attorney.

Stipulations from Lee County Division of Natural Resources:

1. After the initial clearing of land, the next construction will be Phase 1A, Sub-Phase Northern Ditch Expansion, which may be done concurrently with other construction as well, and which shall be completed prior to the first Certificate of Compliance.
2. Within thirty (30) days of receipt of written notice from Lee County of its intent to remove the Sedgefield Road culverts, the applicant will record a Temporary Access Easement to Lee County for access to the adjacent Wastewater Treatment Plant. The duration of the Temporary Access Easement will be until the Temporary Access Easement is replaced by permanent access easement. At which time, the permanent access easement will be exchanged for a release of the Wastewater Treatment Plant access easement recorded at (OR Book 1488 Page 1933).
4. Prior to the first Certificate of Compliance of the drainage infrastructure improvements, the Applicant shall be responsible for executing and recording the perpetual drainage and maintenance access easement agreement with Lee County. The agreement and its exhibits shall clearly identify the legal access for drainage easements maintenance.
5. The Applicant shall seek remedies or modifications to the North Ditch should it fail to function as designed and permitted.

29) Contact. The reviewer may be contacted for additional information regarding this Zoning checklist.

Please contact Tom Sawtell (239) 533-8587 ext 48803 or
 TSawtell@leegov.com with any questions on these review comments.

LC Stormwater Management Requirements Checklist (Ord. 03-16)

3b) SFWMD Permits. Prior to final approval of a development order, copies of permits issued by the South Florida Water Management District must be submitted. [10-154(22)] (See Application Form PART VI A)

Stipulation: Prior to the issuance of a Certificate of Compliance for any project, or any phase of a project, which contains a surface water management system permitted by the South Florida Water Management District (SFWMD), a copy of the executed SFWMD Construction Completion/Construction Certification Form must be submitted to this office.

BANKS ENGINEERING, INC.
 STONEYBROOK NORTH
 DOS2007-00098
 September 18, 2009

7) Bathymetric Survey Requirement. A post-construction bathymetric survey, sealed by a Professional Surveyor and Mapper, must be submitted prior to certificate of compliance for all lakes regardless of depth. {See also the Environmental Sciences checklist.} [10-329(d)(3)d]

Stipulation: Prior to the issuance of a Certificate of Compliance, a bathymetric as-built survey must be submitted, demonstrating compliance with the approved lake depth.

16) Contact. The reviewer may be contacted for additional information regarding this Stormwater Management. Checklist.

Please contact Tom Sawtell (239) 533-8587 ext 48803 or TSawtell@leegov.com with any questions on these review comments.

LC New Roads and Streets Checklist (Ord. 03-16)

25d) The island in the center of the circular turnaround may be kept unpaved to preserve existing vegetation, or enhanced with additional vegetation, provided that vegetation does not cause a visual obstruction between 2 1/2 feet and seven feet in height above grade, and provided further that proper maintenance agreements have been filed with the Board. [10-296(k)(2)]

Stipulation: The islands in the center of the cul de sacs may be planted, provided vegetation does not cause a visual obstruction between 2.5' and 7' in height above finished grade.

44) Contact. The reviewer may be contacted for additional information regarding this New Roads & Streets checklist..

Please contact Tom Sawtell (239) 533-8587 ext 48803 or TSawtell@leegov.com with any questions on these review comments.

LC Transportation Checklist - General (Ord. 03-16)

3) Traffic Impact Mitigation Plan (TIMP). A traffic impact mitigation plan (TIMP) must be submitted and must be in compliance with the LCLDC. {See the TIS checklist} [10-154(11)] {See Application Form PART VIII}

Stipulation: In accordance with the Declaration of Covenants, Conditions and Restrictions for Stoneybrook North, the following conditions of development apply:

The Developer may plat Phase 1A (first 150 units) in accordance with standard procedures. The Developer will plat Phase 1B as a future development tract. The Developer agrees not to re-plat or commence construction within any portion of the property located in Phase 1B, except for clearing and filling of land, installation of stormwater facilities and stabilization of filled areas, until a secondary ingress/egress connection to a County road meeting the required development standards under the Land Development Code has been determined and commenced construction. The development and re-platting of Phase 1B may occur in conjunction with or concurrently with the construction of the secondary ingress/egress connection.

BANKS ENGINEERING, INC.
 STONEYBROOK NORTH
 DOS2007-00098
 September 18, 2009

3c1) The plans submitted must show the location, layout and details of traffic mitigation measures (i.e. turn lanes, signals, roadway lanes, etc.). [10-287 & 10-154(11)]

FDOT has requested that the left turn onto Pritchett Parkway from Bayshore Road be closed. Plans have been submitted to FDOT and LCDOT depicting those improvements.

Stipulations:

1) Prior to initiation of any construction within the FDOT ROW, all required permitting for the required improvements on Bayshore (S.R. 78) and on Pritchett Parkway including complying with FDOT and LCDOT R/W permit, drainage and access requirements in conjunction with Phase 1 of the project.

2) All improvements within State and County Rights of Way, including required work on Bayshore (S.R. 78) shall be designed, permitted, constructed and pass inspection prior to the first Certificate of Completion.

12h) A roadway connection permit issued by LCDOT is required for access points, driveways, and street connections within County maintained rights of way and easements. [10-296(o)]

Stipulation: Prior to the start of any construction within the LC ROW, please provide a copy of the LC DOT connection permit(s) to Development Services.

12i1) FDOT Permits. Copies of all necessary FDOT permits must be submitted prior to the commencement of any construction work on the site. [10-154(22)] {See Application Form PART VI A}

Stipulation: Prior to the start of any construction within the FDOT ROW, please provide a copy of the FDOT Connection Permit to Development Services.

14) Contact. The reviewer may be contacted for further information regarding this Transportation checklist.

Please contact Tom Sawtell (239) 533-8587 ext 48803 or TSawtell@leegov.com with any questions on these review comments.

LC Environmental Sciences Checklist (Ord. 03-16)

2) Wetlands Identification. A drawing must be submitted identifying all wetlands as defined in the LEE PLAN. & LCLDC Sec. 34-2 & 14-292. [10-154(6)e]

Stipulation: No construction before January 14, 2009 with the exception of the removal of exotic or nuisance vegetation, can occur within the red and green delineated areas depicted on the Engineer Master Phasing Plan until the Special Condition #37 of the ERP permit (36-06899.P) has been met.

6) A "Protected Species Management Plan" must accompany all development order applications where listed species are found on the property. [10-154(15), 10-473(b)] {See Application Form PART III H}

Stipulation: The property must be resurveyed for Big Cypress Fox Squirrels 4 weeks prior to site work. A vegetation removal permit can not be issued until the updated survey has been provided to ES staff.

Stipulation: Prior to the issuance of a Certificate of Compliance, a wax myrtle hedge must be installed along the edges of the 14.37 acre gopher tortoise preserve in the areas delineated on Sheet L-1. These shrubs must be at least 24 inches high at the time of planting.

BANKS ENGINEERING, INC.
 STONEYBROOK NORTH
 DOS2007-00098
 September 18, 2009

18) Preservation of Indigenous Native Vegetation. For large developments (subject parcel is > 10 acres in area or impervious area is > 2 acres or in area) with existing indigenous native vegetation, at least 50% of the required open space area must be designed to preserve the existing indigenous native vegetation. {See LCLDC Sec. 10-701.} [10-415(b)(1)]

STIPULATIONS:

1. Prior to the issuance of a Certificate of Compliance, signs that state "Conservation Easement" must be installed on the corners of every other residential lot that abuts a preserve.
2. Prior to the construction of the trail that winds through the gopher tortoise preserve, the location of this pathway must be field verified by ES Staff at 239-479-8389.
3. Prior to the construction of any drainage swales that pass through preserve areas (please refer to Section S-S), these features must be field verified by ES Staff at 239-533-8389.

19) General Tree Requirements. Landscaping for all new developments must include, at a minimum, the number of trees specified in LCLDC Sec. 10-416(a) in addition to those required for parking and vehicle use areas and buffers. [10-416(a)]

Stipulation: Prior to issuance of a Certificate of Occupancy, three general trees are required to be installed on the per single family lot.

24) Buffering - General. A buffering area is required along the entire perimeter of the proposed development whenever the proposed development abuts a different use. The existing use, or where vacant the permitted use, of the abutting property will determine the type of buffering area required. [10-416(d)(1)]

STIPULATIONS

1. If the High Point Sewage Treatment Plant is still in operation when the plat is approved for any lots located in Tracts F-2 and G (please refer to the "Z-02-070 Master Concept Plan"), then a Type F buffer must be provided around the perimeter of this plant. This buffer must be in place prior to the issuance of a Certificate of Compliance for any of these areas.

2. Prior to the issuance of a Certificate of Compliance, all buffers must be installed.

33) Plantings in Easements. Utility, power, or drainage easements may overlap required buffers; however no required trees or shrubs may be located in any utility, power, or street easement or right-of-way. [10-421(a)(5)]

STIPULATION: Prior to the issuance of a Certificate of Compliance, all buffer plantings must be installed outside of any utility easement.

BANKS ENGINEERING, INC.
STONEBROOK NORTH
DOS2007-00098
September 18, 2009

34b) Plant location. Trees may not be placed where they interfere with utilities, site drainage, views, signs, or where they require frequent pruning to avoid overhead power lines (i.e. less than 20 ft. in height at maturity under power lines). [10-421(a)(5)]

STIPULATION: Prior to the issuance of a Certificate of Compliance, all tree/overhead powerline conflicts must be resolved. Specifically, large buffer trees (e.g., oaks and pines) must be planted at least 25 feet away from adjacent powerlines, while smaller buffer trees (e.g., holly trees and sabal palms) must be located at least 10 feet away from any overhead wires. If these setbacks cannot be met, then alternative native species must be planted.

36) Minimum Standards - Shrubs and Hedges. All shrubs and hedges utilized to meet the requirements of the LCLDC must be in compliance with the standards specified in LCLDC Sec. 10-420(d) at time of installation. [10-420(d)]

STIPULATION: Prior to the issuance of a Certificate of Compliance, all of the buffer shrubs must be at least 36 inches tall at the time of planting and be maintained at 60 inches in height.

41b) Minimum Number of Herbaceous Plants. The minimum required number of native wetland herbaceous plants must be one plant per linear foot of lake shoreline as measured at the control elevation water level. {Please show all calculations.} [10-418(a)(2)b]

STIPULATIONS

1. Prior to the issuance of a Certificate of Compliance, all of the littoral shelves depicted/hatched on the plans must be constructed in accordance with Section B-B on Exhibit E of Z-02-070.

2. Prior to the construction of the bridge and pier structures in Lake I, the appropriate permits must be obtained from Lee County.

BANKS ENGINEERING, INC.
 STONEYBROOK NORTH
 DOS2007-00098
 September 18, 2009

47) Miscellaneous Items.

Stipulation: The (297) restoration cabbage palms, for the violation case ENV2008-00047, must be installed per the restoration planting plan and within the time frame of the approved compliance agreement.

Stipulation: Prior to the issuance of a certificate of compliance, the hedge along the gopher tortoise preserve must be installed on the outside of this conservation area, not on the inside.

Stipulations:

1. Prior to the construction of the bridge over Popash Creek, all Federal and State permits must be submitted to the division of Environmental Sciences for review. A separate Vegetation Removal Permit must be obtained from the Division of Environmental Sciences prior to any work on this structure.

2. Prior to any site work, a Vegetation Removal Permit must be obtained from the Division of Environmental Sciences (239-533-8389). Once the Development Order has been approved and a Vegetation Removal Permit application has been submitted, the applicant will be contacted to discuss the following:

- >the creation of a "point map"
- >the removal of invasive exotics from the conservation areas
- >installation of chicken wire and/or silt fencing around the conservation areas for gopher tortoise
- >the relocation of gopher tortoises and sabal palms.

Stipulation: The development order approval for DOS2007-00098 is only for the construction areas shown on the master phasing plan. Any future development will need to be approved under separate development review.

48) Contact. The reviewer may be contacted for additional information regarding this Environmental Sciences checklist..

Please contact Brad Browning at 239-533-8157 or email at BBrowning@leegov.com regarding landscaping comments.

LC Bikeways and Pedestrian Ways Checklist (Ord. 03-16)

4b1a) The required facility must be constructed so that it is a continuous connection from the subject property to the existing or proposed bikeway/pedestrian way facility. [10-256(b)(2)b.1]

Engineering details of the Pritchett Parkway pedestrian/bikeway bridge over Popash Creek have not been provided.

Stipulation: Prior to commencement of off-site construction, construction details of the pedestrian/bikeway bridge must be submitted for review.

15) The reviewer may be contacted for additional information regarding this Bikeways and pedestrian ways checklist..

Please contact Tom Sawtell (239) 533-8587 ext 48803 or TSawtell@leegov.com with any questions on these review comments.

LC Utilities Short Checklist

BANKS ENGINEERING, INC.
STONEBROOK NORTH
DOS2007-00098
September 18, 2009

1) Miscellaneous Items.

Prior to any utility construction, please submit a copy of the permits required to construct the water and sewer systems.

LC D.O.T. Right-of-Way Construction Checklist (Ord. 03-16)

10) Miscellaneous Items.

STIPULATIONS:

a) After the Development Order is approved, a Lee County ROW Permit will be required PRIOR to any work done within the County Right of Way. Contact Phone Number (533-9316 or 533-9317) for ROW Permit Application.

b) The approval of this Development Order does not include the approval of the Bike Path Bridge crossing Popash Creek. A complete design set of plans for the proposed Bridge must be submitted for review prior to issuing the ROW permit.

11) Contact. The LCDOT staff member may be contacted regarding this ROW checklist.

Dan Kirkpatrick (239)479-8580x5576 or kirkpado@leegov.com

LC Non-Franchise Areas Utilities Checklist

12) The following state permits are required prior to the commencement of construction on the site. [10-153(5)a]

12c) FDEP Sewer Line Extension Permit required for any sanitary sewer gravity line that contains a manhole.

14) The reviewer may be contacted for additional information regarding this project.

Please contact Tom Sawtell (239) 533-8587 ext 48803 or TSawtell@leegov.com with any questions on these review comments.

LC DOS General/Submittal Checklist (Ord. 07-24)

2b) FEMA Flood Zone and Finished Floor Elevations. The Federal Emergency Management Agency (FEMA) flood zone and the required finished floor elevations must be shown. [10-154(3)] {See also LC Stormwater Management Checklist, Item #4}

FEMA: ADVISORY: Please be advised the most recent FEMA FIRM Maps became effective through the adoption of the County's Flood Hazard Ordinance on August 28, 2008. Elevations shown are based upon NGVD 1929 while the new maps are based upon 1988 NAVD datum. Please be advised that the new datum may affect the your proposed development.

Stipulation: prior to commencement of any construction, please revise the site plan to provide a conversion factor between 1929 NGVD and 1988 NAVD.

BANKS ENGINEERING, INC.
 STONEYBROOK NORTH
 DOS2007-00098
 September 18, 2009

4) Plat. If the development is a subdivision, a plat meeting the requirements of F.S. ch. 177 and Lee County Administrative Code 13-19 must be submitted and the filing fees paid prior to approval of the development order for the subdivision. [10-154(4).; AC-13-19] {See LC DO Application Form PART V-B}

Stipulation: In accordance with the executed Declaration of Covenants, Conditions and Restrictions for StoneyBrook North, the developer agrees not to re-plat or commence construction within any portion of the property located in Phase 1B, except for clearing and filling of land, installation of stormwater facilities and stabilization of filled areas, until a secondary ingress/egress connection to a County road meeting the required development standards under the Land Development Code has been determined and commenced construction. The development and re-platting of Phase 1B may occur in conjunction with or concurrently with the construction of the secondary ingress/egress connection.

Stipulation: Prior to Final Plat approval, updated Title Work and a new Boundary Survey reflecting only the area covered under the DO must be submitted.

Stipulation: prior to Final Plat approval of Tracts P-H, P-E & P-G, dedicated access must be demonstrated.

7b1) Phasing Plan Requirements. The phasing plan must show how each phase fits into the master plan for continuance of streets, stormwater management, potable water, fire protection, sewage collection, and landscaping & buffers. {Note: This is important if CCs are to be requested in stages (e.g. by building for multi-family projects).} [10-154(7)b.]

Stipulation: In accordance with the executed Declaration of Covenants, Conditions and Restrictions for Stoneybrook North, no more than 150 lots as shown in Phase 1A on the approved phasing plan, may be platted until a secondary ingress/egress connection to a County road meeting the required development standards under the Land Development Code has been determined and commenced construction. The development and re-platting of Phase 1B may occur in conjunction with or concurrently with the construction of the secondary ingress/egress connection.

Stipulation: Development is not approved on any area labeled as "Area of no improvement" on sheet 7/64. A new development order will be required prior to construction of any improvements in these areas.

8) Exterior Lighting Plan, Photometrics, & Calculations. An exterior lighting plan & photometric information must be submitted for all proposed new outdoor lighting {see LCLDC Section 34-625}. [10-154(8)] {See LC DO Application Form PART V-F} {See LC Outdoor Lighting Checklist}

Exterior lighting neither applied for, or approved.

Stipulation: Should exterior lighting be proposed in the future, an amendment to this development order is required. Photometric plans, specifications, manufacturer's cut sheets and a table of illumination values must be provided in accordance with LCLDC Sec 10-625.

BANKS ENGINEERING, INC.
STONEBROOK NORTH
DOS2007-00098
September 18, 2009

27) Assurance of Completion. Assurance of completion for all off-site improvements is required prior to commencing any off-site or on-site development; for all on-site subdivision improvements it is required prior to the acceptance of a Plat. [10-154(26)] {See LC DO Application Form PART VIII}

Condition #28 of Z-02-070 requires evidence of a surety for annual maintenance of Popash and Bayshore Creeks.

Stipulation: A provision for annual maintenance of Popash and Bayshore Creeks must be included in the HOA documents associated with the plat for this development.

27a) Surety or Cash Performance Bond. Security in the form of a surety or cash performance bond must be posted and made payable to Lee County in an amount equal to 110 percent of the full cost of installing the required improvements as approved by the County. [10-154(26)a.]

Stipulation: Prior to initiation of any on-site or off-site construction, security in the form of an irrevocable Letter of Credit, Cash Performance Bond or surety must be due and made payable to Lee County. Security will be provided in the amount of 110% of the Probable Cost of Construction for all off-site construction as approved by the County. Please note that the instrument must be approved by the County Attorney's office.

Stipulation: Prior to issuance of any Certificate of Compliance for any phase of the development order which includes construction of drainage infrastructure, surety in the amount of 110% of the estimate of annual maintenance of Popash and Bayshore Creeks must be provided to Lee County.

27a2) Approval Required. Prior to acceptance, surety or cash performance bonds and other surety instruments must be reviewed in accord with the provisions and guidelines set forth in AC-13-19 and approved by the County Attorney. [10-154(26)a.]

Stipulation: Prior to acceptance of the subdivision plat, the project must be completed and inspected, or security in the form of an irrevocable Letter of Credit, Cash Performance Bond or surety must be due and made payable to Lee County. Security will be provided in the amount of 110% of the Probable Cost of Construction for on-site construction as approved by the County. Please note that the instrument must be approved by the County Attorney's office.

36) Clean Water Requirements, SWP3. For projects one acre and larger, submit an storm water pollution prevention plan (SWP3) meeting the criteria set forth in LCLDC Section 14-471 et. seq. prior to development order approval. [14-476] {See LC DO Application Form PART VIII}

Stipulation: Not less than forty-eight (48) hours prior to the start of construction, provide to Development Services Division evidence that a Notice of Intent with payment of the required fee has been filed with FDEP.

46) Contact. The reviewer may be contacted for additional information regarding this LC DOS General/Submittal Checklist.

Please contact Tom Sawtell (239) 533-8587 ext 48803 or
TSawtell@leegov.com with any questions on these review comments.