



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

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April 17, 2006

MR. PETE GOUSIS, AICP
MORRIS-DEPEW ASSOCIATES, INC.
2216 ALTAMOUNT AVE
FORT MYERS, FL 33901

Re: THE FOUNTAINS
DCI2006-00029 - PDL Application (Major PD)

Dear MR. PETE GOUSIS, AICP :

The Zoning Division has reviewed the information provided for the above zoning application. The Land Development Code requires additional information for the application to be sufficient. Please respond to each requirement not satisfied on the attached sufficiency checklists. For your assistance, we have enclosed any additional memoranda from the various Lee County reviewing agencies.

If you do not provide the requested supplements or corrections within 60 calendar days of this letter, the Code requires that this application be considered withdrawn. Please feel free to contact me or the staff reviewers if you have any questions.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Division


Tony Palermo
Senior Planner

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Dave Berra, Parks and Recreation
Mike Pavese, Public Works
Thom Osterhout, Lee County Utilities
Rick Joyce, Environmental Sciences
Wayne Gaither, Planning

Russell Shropp
Henerson Franklin Law Firm
1715 Monroe Street
Fort Myers, FL 33902

Dan Trescott
SW Florida Regional Planning Council
1926 Victoria Ave.
Fort Myers, FL 33901

City of Fort Myers
Planning Division
1825 Hendry St. 101
Fort Myers, FL 33901

cc: Pamela Houck, Division Director
Paul O'Connor, Planning
Kim Trebatoski, Environmental Sciences
Brad Vance, Natural Resources
Andy Getch, LCDOT
Jamie Pringing, DCD Administration
Dawn Lehnert, Assistant County Attorney
Don Blackburn, Development Review
Mr. mike Horsting
DCI Zoning File
DCI Working File

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LCDOT Sufficiency Checklist

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1) *Sufficiency Comments.*

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- A) The extension of Daniels Parkway had been designated as a controlled access roadway by Lee County Resolution 01-01-28 as most recently amended by Resolution 04-04-05. The resolution includes specific access point locations and maximum permitted movements. As a point of reference, the five existing median openings are located at the approved permanent access points on this portion of Daniels Parkway. The Master Concept Plan appears to indicate a total of six access point locations to Daniels Parkway including depicting two project access points (one right-in/outs and one full median opening) that are not included in the resolution. One existing median opening (east of the powerline) does not appear to be utilized. The procedure in Lee County Administrative Code AC-11-10 addresses requests for new and relocated access points onto a controlled access roadway. A methodology meeting is needed for the proposed additional access point(s).
- B) Page 21-2 - Two road segments are indicated as Gunnery Rd from SR 80 to Orange River Boulevard and Gunnery Road from Orange River Boulevard to Buckingham Rd. They actually are segments of Buckingham Rd. Please correct.
- (C) On Table 1, the existing service volumes used for Buckingham Rd, Gunnery Rd, and SR 82 are incorrect. The Lee County Link Specific Service Volumes, available on the Lee County website DOT page, are more appropriate for the existing conditions analysis.
- (D) I-75 from Daniels Pkwy to Alico Rd is currently a 4 lane facility. Table 1 incorrectly shows it as a 6 lane facility.
- (E) The table shows Chamberlin Parkway as a 2 lane roadway. It is actually a 4 lane roadway. The limits would more correctly read as Chamberlin Parkway from Daniels Parkway to Paul J. Doherty Parkway. Paul J. Doherty Parkway is also a 4 lane roadway from Chamberlin Parkway to Daniels Parkway.
- (F) The AADT, K and D factors represents year 2005 traffic condition. 2005 data is available, please either use the 2005 data in the response or provide the factor(s) indicated in the footnote on how the year 2005 AADT is derived. Also identify the source of K and D factors.
- (G) In Table 3, Three Oaks Pkwy Ext from Daniels Pkwy to Alico Rd improvement is no longer scheduled for construction in fiscal year 2008. In the CIP approved in September 2005, this segment is now scheduled for construction in the year 2010. We recognize that it was included in Table 2 of the April 2005 methodology, however, it would be more appropriate to remove it from the E+C network.
- (H) On Table 5, average rates were listed to estimate trip generation. As noted in the methodology comments, the fitted curve equation (where available) is recommended for trip generation calculation, where consistent with ITE Trip Generation Users Guide. Please provide a comparison of the average rates and fitted curve equation trip generation specific to this project.
- (I) Please document the assumption of the size of each land use type and the size north and south of Daniels Parkway, including the western areas of the project south of Daniels Parkway. Also document the ITE land use codes and assumptions for the age restricted trip generation estimates. What is the source of the data for the trip rates for the age restricted residential uses?
- (J) Please provide the internal capture calculation worksheets. Please document and provide a graphical representation of the number of trips between project areas that are estimated to cross or travel along public

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roadways. The ITE method may estimate these as internal trips but they do have external impacts along the project frontage. The ITE method also does not count the trips between the same land use from one area of a project to another across or along public roadways. In previous cases we have and asked that these types of trips be accounted for in the intersection and link analyses as project traffic.

(K) Please the retail pass-by calculation (including internal capture) as a percentage of the external trip generation.

(L) In the response to Question D, the applicant's consultant references the Lee County MPO 2020 model. The Lee County Metropolitan Planning Organization has adopted 2030 socioeconomic data and a model as part of the December 2005 long range plan update. If the applicant chooses to rerun the model as noted in comment "D" above, please contact the Lee County MPO for the appropriate socioeconomic data. Please submit a CD of the model input and output files with the resubmittal.

(M) On Table 8 Colonial Blvd from Six Mile Cypress Pkwy to I-75 is shown as 8 lane facility. It is scheduled for improvement as a 6 lane facility.

(N) On Table 8 and 9 staff requests the complete step by step conversion to verify the calculation converting from FSUTMS PSWDT to peak hour peak direction volumes. Please include the calculation for background traffic and the basis for peak season, K and D factors used in the calculation for both the Phase I and build-out condition.

(O) The Service Volumes for Colonial Blvd, Daniels Pkwy, and SR 82 are from the FDOT Generalized Tables. Lee County has developed its own Generalized Service Volumes Tables and they may be used in the analysis on non-FIHS facilities. These are available on the Lee County DOT page of the Lee County website.

(P) On Table 9, Colonial Blvd from Six Mile Cypress Pkwy is shown as 8 lane facility, Chamberlin Pkwy from Regional Lane to Daniels Pkwy Ext. is shown as a 4 lane facility, Daniels Pkwy from Fiddlesticks Blvd to Treeline Ave is shown as an 8 lane facility, from Project Entrance #3 to Project Entrance #4 is shown as a 6 lane facility, and SR 82 from I-75 to Sunshine Blvd is shown as 4 lane facility. These appear to be recommended improvements for identified impacts in phase 1. However, they are not scheduled for construction within 3 years in the County's CIP or State's Work Program.

(Q) Highway Capacity Software intersection analyses for all site accesses and intersections within 1/4 mile are required by AC-13-17 and need to be submitted.

2) The LCDOT reviewer may be contacted regarding any questions on the LCDOT Checklist.

Andy Getch @ 479-8510

Legal Requirements Sufficiency Checklist

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1a2) If the property is subject to a contract for purchase and the vendee is the applicant, the applicant must submit a notarized authorization form from the landowner. [34-202(b)(1)c.]

1. Please provide a Notarized Affidavit of Authorization from the owner's part, giving (the applicant) legal authorization to act on their behalf regarding the processing of the application.
2. Must provide evidence that Mr. Kimball Woodbury is assigned as the authorized agent representing the Sandler at Vero Beach, LLC. Per information obtained from the Florida Department of State, Division of Corporations Online, only "CT Corporation Systems" appear to be registered as their agent.

1b1) The names of all parties having interest in the subject property including the names of all stockholders and the names of beneficiaries of trusts must be provided. [34-201(b)(2)a. & 34-202(b)(1)a]

Must provide a completed disclosure of interest form for the owner(s).

6a3) If the application includes multiple abutting parcels or consists of other than one or more undivided platted lots, the legal description must specifically describe the perimeter of the total property, by metes & bounds with accurate bearings and distances for every line, but need not describe each individual parcel. [34-202(a)(1)]

The submitted legal description is not acceptable because it includes "less and except language". Per the above-referenced LDC requirement, the Legal Description must be revised and re-submitted on an 8 ½" by 11" page, that specifically describe the PERIMETER BOUNDARY of the PROPERTY by metes and bounds "excluding less and except language" by providing accurate bearings and distances for every line. Thanks.

6b) Certified sketch of description. A certified sketch of description as set out in chapter 61G 17-6.006, Florida Administrative Code, must be provided unless the subject property consists of one or more undivided platted lots in a subdivision recorded in the Official County Plat Books. [34-202(a)(2)]

Please provide Staff with the aforementioned Certified Sketch of Description to accompany the revised legal description document. Note that this sketch will be an attachment to the zoning resolution and that is required in addition to the already provided Boundary Survey. A reduced copy of the survey is NOT sufficient to meet the sketch requirement. Thanks.

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6c) Boundary Survey. A boundary survey meeting the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-6, FAC, is required for property encompassing 10 or more acres and for all Planned Development applications. [34-202(a)(2)]

The Boundary Survey document must be signed and sealed within one year of the application date and show the existing conditions on the property to full survey accuracy per LDC [34-373(a)(4)].

6c3) If the property encompasses 10 or more acres the survey must be tied to the state plane coordinate system for the Florida West Zone (North America Datum of 1983/1990 Adjustment). [34-202(a)(2)]

Since the subject property encompasses more than 10 acres then, the Boundary Survey must be tied to the state Plane Coordinate System for the Florida West Zone (North America Datum of 1983/1990 Adjustment). Please tie and display at least (2) coordinates, one coordinate being the point of beginning (POB) of the subject property and the other an opposing corner on Survey. Thanks.

7) Miscellaneous Items.

Note: "Sufficiency or non-applicability of Legal Requirements are subject to change upon review of subsequent resubmittals."

8) Contact. The Planner may be contacted regarding any questions on this Checklist.

Please contact Luis G. Machado at (239) 479-8485
or e-mail: lmachado@leegov.com

**Lee County Sufficiency Checklist for Planned Developments,
Amendments, and Existing Developments Requesting Planned
Development Zoning**

7) Multiple Zoning Categories. Applications for two or more planned development categories may be combined in one application. [34-373(a)(1)]

Please provide a simple table showing the acreage allocations for all the categories, Commercial, Residential, Civic, etc.

12e2) Height. The maximum height, in feet and number of habitable stories, of any proposed buildings or structures. If parking under the buildings is proposed, the number of stories proposed for parking must be indicated and included in the total maximum height of the buildings. [34-373(a)(6)d.ii.]

12e4) Hotel/Motel. If hotel or motel is proposed, the number of rooms, by size. [34-373(a)(6)d.iv.]

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12i) Open Space. The percentage of open space, unless the proposed development consists solely of conventional single family dwelling units on lots of no less than 6,500 square feet. For commercial or industrial developments, the percentage of open space within each lot or outparcel must be per 34-414c. [34-373(a)h.]

There is not an open space table on the MCP.

12j) Buffers. The minimum width and composition of all proposed buffers along the perimeter of the subject property, as well as between the individual uses, if the types of proposed uses requires buffer separations. References to types of buffers as described in chapter 10 are acceptable. [34-373(a)(6)i.]

12k) Public Transit. Proposed access and facilities for public transit, in accordance with sections 34-411(e) and 10-442. [34-373(a)(6)j.]

12l2) Flow Ways. If the development is within a floodplain or flow way, it is the applicant's responsibility at the time of local development order or SFWMD permitting to compensate for impacts to flood storage capacity or flow ways due to filling of the site. [34-373(a)(6)k.]

12l2a) Flow ways are to be reviewed by the Division of Natural Resources. [10-253(1),(2),&(3).]

12m) Location of Deviations. The location of any requested deviations, keyed to the schedule of deviations, including sample drawings demonstrating the effect the requested deviations will have on the site plan. [34-373(a)(6)l.]

15a) Deviation Documentation and Detail Drawings. Documentation including sample detail drawings must be provided illustrating how each deviation will operate to the benefit, or at least not to the detriment, of the public interest. [34-412(a)]

18) Developments of Regional Impact. Developments of Regional Impact must comply with the information submittal requirements of F.S. ch 380. [34-203(a)]

I'll provide DRI comments under a separate cover. Thank you.

20) Contact. The Zoning Planner may be contacted regarding any questions on the Planned Development Sufficiency Checklist.

TONY PALERMO, SENIOR PLANNER, #239-8325.

THIS CASE WILL BE HEARD WITH DRI2006-00001 THE FOUNTAINS.

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21) Miscellaneous Items.

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ZONING QUESTIONS APRIL 2006

1. Please verify the request wording.

Proposed DRI on +/- 2,769.49 acres of land (zoned Agricultural AG-2) for a multi-use new Town Center District (TCD). Two-phase buildout scheduled for completion in 2016. Development program includes maximum 1,381 single-family dwelling units; 2,834 multi-family dwelling units; 900,000 square feet of floor area for office/retail; 1.5 million square feet of floor area for warehouse/distribution; 350-room hotel with conference; 18 hole golf course; public facilities such as libraries, fire station, post office, sheriff and other civic needs; elementary, middle school; and community park facility.

Maximum height proposed is ___ stories, ___ feet.

No development blasting is requested.

This development will connect to both public water and public sanitary sewer service.

2. The following department's sufficiency comments are pending: Environmental Sciences (Rick Joyce to review), Development Services/TIS comments, County Attorney (Donna Marie Collins to review), Lee County Utilities. Comments may be pending from Public Works and Parks and Recreation also, as well as the Port Authority.

3. Please see attached comments from the school board and Natural Resources.

4. Lee Transit received a copy of the plans late from me and their comments will be pending.

5. Please confirm blasting is not part of the request.

6. Please confirm off site spoil removal is not part of the request.

7. Please confirm, per our last conversation, that mining is not part of the request nor is it required when transporting material from one part of the site to another.

8. Deviation numbers need to be shown on the MCP to show their approximate locations.

9. Please add the following elements to the MCP.

- Road width, classification and number of lanes.
- Separation distances for access points so we can determine if they meet separation standards or need a deviation.
- The land use for surrounding properties (you have provided the FLU and zoning).

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- A label for lakes, or a means for identifying them on the MCP.
- The composition of the buffers. 20-feet tells me the width, not the composition or enhancements if any.
- Some of the buffers get lost in the 11X17 version on Daniels.

10. From the MCP I cannot tell the approximate acreage of the elements such as residential, town center, conservation, etc. They are on a separate attachment which is slightly different than the MCP (for example there are no school sites, there are civic sites).

11. It is confusing to have civic and school together, do you mean this site could be a school or another civic site, or both?

12. Thank you for the detail you provided for the town center. Is detail available for other commercial elements, the hotel, multifamily public recreation complex. This is needed because typically MCPs need to show building, parking, services areas, etc. to address compatibility and other concerns.

13. Commercial list of uses: Needs to specify number of hotel rooms. Pets (including outdoor runs) , outdoor consumption on premises, does convenience food & beverage include fuel pumps (how many?).

14. Residential uses: Not sure where pod A and B are on the MCP. You should put the maximum number of units here also. How many model units? Approximate locations (or approval through amendment). Put zero lot line under type of dwelling unit.

15. Your MCP says Industrial, but your schedule of uses says Light Industrial. Animals (outdoor runs may not be appropriate this near the airport path). How does this site meet site location standards for high traffic/retail uses such as vehicle dealers?

16. Civic uses: Includes schools? Consumption on Premises? (in the school/civic?), restaurants?

17. Please submit uses for the hotel pod.

18. Town Center: Number of dwelling units. Number of hotel/motel rooms. Fuel pumps? How many? Model units (how many, location)?, outdoor COP? (location, special exception, amendment needed?).

19. Please submit uses for conservation pods.

20. Is there another set of uses for public recreational complex?

21. Or golf? Include the max. number of holes, and accessory uses with golf (COP?)

22. Is there a set of uses for Park pods?

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23. Under property development regulations, all uses need number of stories and height.

24. Please use road setbacks instead of front setbacks. You can specify if roads are internal, external, etc.

25. You may want an overall perimeter setback.

26. Garage setback means from roads? Sides? Back? I'm not sure garage setback is appropriate, or needed.

27. Is 120 feet 10 stories for the hotel, or all commercial uses? It may not be appropriate for all uses in commercial. As a substantive matter, is this height appropriate this near the airport?

28. Town Center: 90 feet for all uses? Are for some uses?

29. Deviation 4 will need a more thorough analysis. It sounds like a good idea to reduce parking, but it needs to be supported by evidence that parking will not be a problem with 2 spaces per townhouse.

30. Deviation 5. This needs to be limited to internal easements, not Daniels or SR 82, correct?

31. In general, you may need detail drawings to justify some of these deviations. (or make reference to drawings)

32. Uncertain if deviation 10 is needed.

33. Deviation 12. Which urban design books are you making reference to?

34. In general, the deviation justifications will need to be stronger to be approved, and will need the input of Development Services to address any health, safety, welfare issues. Making reference to general "Traditional Neighborhood" arguments is a start, but not adequate to address the potential issues.

35. Part 3 of Supplement D (Residential Density) was not filled out.

36. Part 3A of Supplement D - Not consistent with the proposed property development regulations. Height.

37. Please remove mining from Supplement D Part 3A, per our discussion with Brenda Yates.

38. Please verify lakes are 20 feet deep or less.

39. Please verify or have letters from utility providers that you have access to public water and sewer and the utility providers have or will have capacity to

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serve you.

40. If there are flowways, the MCP will need to show them and make accomodation for them. Thank you.

41. Attached, please see the new AG conditions. Please verify with the County Attorney's office that the AG affidavit you provided is adequate.

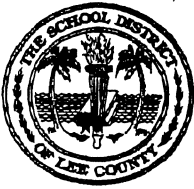
SUFFICIENCY COMMENTS FOR THE FOUNTAINS DRI ADA

Thank you for providing us the opportunity to review the DRI Application for Development Approval submitted for the proposed project northeast of the Southwest Florida International Airport (RSW). A portion of the project lies within the interim Noise Sensitive Zone and overlay zoning district and will experience considerable airport-related noise and low aircraft over flights over time.

1. A portion of the project will be located within the existing Lee County Interim Noise Sensitive Zone under the 60-DNL noise contour and in addition, most of the project area south of Daniels Parkway will be within the 55-DNL contour. The extended centerline of our existing runway at RSW passes over the central portion of the subject property and the extended centerline of the planned south runway at the airport will also pass directly over this site to the south. These areas would be exposed aircraft noise and to very low-flying aircraft as planes take-off and land at RSW. Although the location of proposed land uses on the DRI ADA Map H appear to be consistent with Lee County Ordinance 05-15 implementing the interim zones and also with the recommended zones of the adopted Federal Aviation Regulations Part 150 Noise Study for RSW being incorporated within the county regulations, detail is missing to determine if all uses are consistent. Please provide a map of the proposed MPD Master Concept Plan with the FAR Part 150 noise zones superimposed so that we can accurately look at the compatibility of the planned uses.
2. We may have additional sufficiency comments when we review the missing information.

FOUNTAINS SUFFICIENCY RESPONSE
DIVISION OF NATURAL RESOURCES April 12, 2006

- A comprehensive surface water management plan is needed to assess the projects potential impacts to water quality and flood protection. This would include an assessment of pre/post watershed boundaries, flood plain delineation, hydraulic capacities of each receiving waterbody and pollutant load analysis and possible improvements.
- Provide a groundwater and surface water monitoring program acceptable to Lee County Division of Natural Resources. This is needed at this time to establish pre development base-line conditions.
- Proposed project is located in the DRGR and exceeds the density allowed thereby placing an additional burden on the County's future water supply. Demonstrate that the proposed project will not have any adverse effects on private well supply and potential public wellfield development. Lehigh Acres is experiencing tremendous growth and will be placing a great demand on surficial and sandstone aquifers in this region.



THE SCHOOL DISTRICT OF LEE COUNTY

2055 CENTRAL AVENUE • FORT MYERS, FLORIDA 33901 • (239) 334-1102 • TTD/TTY (239) 335-1512

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ELINOR C. SCRICCA, Ph.D.
VICE CHAIRMAN • DISTRICT 5

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DISTRICT 1

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DISTRICT 2

JANE E. KUCKEL, Ph.D.
DISTRICT 3

JAMES W. BROWDER, Ed.D.
SUPERINTENDENT

KEITH B. MARTIN
BOARD ATTORNEY

April 12, 2006

Mr. Tony Palermo
Lee County Development Services Division
P.O. Box 398
Fort Myers, FL 33902-0398

Re: The Fountains, Sufficiency Review, Case #DCI2006-00029
2834 Multi-Family Units
1381 Single Family Units

Dear Mr. Palermo:

Thank you for the opportunity to review The Fountains for sufficiency comments with regard to educational impacts. This proposed development is in the East Choice Zone of the District. This letter is in response to your request dated March 28, 2006.

This report has been found to have the sufficient amount of information for the School District to determine that this project could generate a total of 792 students in the East Choice Zone of the District. This uses a generation rate of 0.316 per multi-family unit and 0.125 per single family unit.

It is our understanding that The Fountains DRI does include sites for an elementary and middle school. If this DRI is approved we would like to be involved in the placement of those schools within the development.

Thank you for your attention to this issue. If I may be of further assistance, please give me a call at (239)337-8678.

Sincerely,

Ellen Lindblad, Long Range Planner
Planning Department

AGRICULTURAL USES: Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:

- (a) Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit ___ attached hereto, may continue until approval of a local development order for the area of the project containing those uses.

[Note: The referenced exhibit must consist of existing bona fide uses documented in a sworn affidavit from the property owner describing the type and intensity of bona fide agricultural uses in existence on the date of the zoning application, i.e., livestock grazing or crop production. The applicant must include acreage figures for each use as part of the sworn affidavit. The affidavit must include an exhibit depicting the location of the uses on a copy of the boundary sketch. The exhibit should be entitled "Bona fide Agricultural Uses at time of Zoning Application."]

- (b) Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
- (c) Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:

- (1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - a) the date the agricultural uses ceased;
 - b) the legal description of the property subject to the development order approval;
 - c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,
 - d) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.

The covenant must be properly recorded in the public records of the county at the owner's expense.

- (2) Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.