CITY OF TALLAHASSEE

CITY COMMISSION AGENDA ITEM

ACTION REQUESTED ON:	November 23, 2004
SUBJECT/TITLE:	Notice of Proposed Change (NOPC) #5 to the Southwood Development of Regional Impact (DRI)
TARGET ISSUE:	N/A

Statement Of Issue

Public hearing and final disposition of Notification of Proposed Change (NOPC) #5 to the Southwood Development of Regional Impact (DRI). In accordance with Subsection 380.06(19), Florida Statutes, the City Commission must review the NOPC and determine if the proposed changes constitute a "substantial deviation" to the Southwood DRI. If the City Commission determines the proposed changes are a substantial deviation, the proposed changes are subject to further DRI review. If the City Commission determines the proposed changes are not a substantial deviation, the City Commission must also decide to approve, approve with conditions, or deny the proposed Amended Development Order.

Recommended Action

Option 1: Determine that NOPC #5 to the Southwood DRI is not a "substantial deviation" and approve the Amended Development Order found in **Attachment #1**, subject to conditions recommended by staff and the Planning Commission.

Fiscal Impact

None

Robert L. Herman
Growth Management Department

Anita R. Favors
City Manager

For Information, please contact: Karen M. Jumonville 891-7030

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SUPPLEMENTAL MATERIAL/Issue Analysis

History/facts & Issues

On December 6, 2002, Mr. Timothy D. Edmond, acting as the authorized agent of St. Joe/Arvida Company, L.P., submitted a Notification of Proposed Change (NOPC), including an Amended Development Order (ADO) to the previously approved Southwood Development of Regional Impact (DRI) to the City of Tallahassee, the Florida Department of Community Affairs (DCA), and the Apalachee Regional Planning Council (ARPC). The Southwood DRI NOPC was submitted in accordance with Section 380.06(19), Florida Statues.

The Southwood DRI was originally approved on April 28, 1999 to allow a traditional Town Center and other mixed-use tracts to accommodate 2,993,619 gross square feet of commercial and office use; an industrial area with 2,728,381 gross square feet; a major education center; recreation areas, including a golf course; and a total of 4,770 dwelling units. The project area consisted of 3,241 acres.

SUMMARY OF REQUEST:

The Southwood NOPC booklet prepared by PBS&J describes all of the specific changes to the Southwood DRI that are proposed at this point in time (refer to **Attachments #1 and #2**). These changes can be summarized as follows:

- Substitute land within the DRI boundary by adding a new parcel of land on the southwest corner of Merchants Row Boulevard and Four Oaks Boulevard, near Town Center (approximately 46 acres) and removing the parcel currently identified as MUOC-7 (which per the DRI map contains approximately 51 acres).
- Change the phasing of certain pods by moving LSF-5 and LDR-7 to Phase 2 and bringing in a portion of LDR-13 into Phase I.
- Move MUOC-7 from its current site to an area just south of MDR-12 and establish it as a 3-acre site.
- Reduce retail in MUOC-2 from 135,000 square feet to 125,000 square feet and add 5,000 square feet of retail to the newly located MUOC-7 parcel.
- Revise Section 14k(2) to require showers and locker facilities within each separately constructed and dedicated office or retail building space of more than 7,500 square feet.
- Revise Section 14n to provide that the developer shall perform the traffic analysis and potential mitigation required by that Section as part of the submittal of the Phase 2 Substantial Deviation.

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The applicant has revised the Development Order language (since the original submittal in August) to address the comments provided by staff. The revised DO language reflecting these changes is included as **Attachment #1.**

CITY STAFF REVIEW AND COMMENTS:

The Southwood DRI NOPC was distributed to the following City Departments for their review: City Attorney's Office, Public Works, Utility Services (potable water, sanitary sewer, electric, gas), Planning, and Growth Management. The written comments can be summarized as follows:

City Attorney's Office:

- No comments

Public Works Department:

- No comments

Utility Services Departments:

- No comments

Planning Department:

- NOPC #5 is consistent with the Comprehensive Plan **(Attachments #5 and #6).**

Growth Management Department:

- No comments

STATE OF FLORIDA STAFF REVIEW AND COMMENTS:

The Apalachee Regional Planning Council (ARPC) distributed the Southwood NOPC to the following state agencies: Florida Department of Community Affairs, Florida Department of Environmental Protection, Florida Department of Transportation, Florida Fish & Wildlife Conservation Commission, and the Northwest Florida Water Management District. The comments identified by ARPC staff as well as State agencies are included as **Attachment #7.** A summary of the items identified by ARPC staff includes:

- **Transportation.** The Department of Transportation found that the traffic impact resulting from the proposed changes is minimal and any changes in trip distribution will be adequately addressed by the City's concurrency model and mitigation requirements. **Therefore, DRI review agencies have concluded the proposed changes will have no additional regional impact on regional transportation facilities.**

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- **Natural Resources.** The NOPC did not contain sufficient environmental information to adequately evaluate the impact of the 46-acre addition on regional resources. Specifically, the NOPC did not provide clear and convincing evidence regarding the protection of natural resources such as vegetation, wildlife, wetlands, floodplains, surface waters, soils, stormwater management and open space **(see Attachment #7)**. In order to address this comment, the applicant has worked closely with ARPC staff to provide additional environmental information, including, but not limited to the Natural Features Inventory (NFI) that was conducted as part of the City's site specific development review process. The applicant is confident that the ARPC's concerns can be adequately addressed prior to the meeting on November 23, 2004. **Because the applicant and ARPC staff members are still working to address this issue, an update on the status of this comment will be provided verbally at the meeting.**

DEPARTMENT OF TRANSPORTATION

- "Since the overall increase in traffic from the proposed NOPC development plan is minimal, our only concern would be the change in distribution of trips that might occur due to changes in location of commercial and residential land uses within the site. Since the City of Tallahassee will run the concurrency model to test the NOPC distribution, we defer to their analysis on this issue and have no further comments or objections to the NOPC submittal at this time."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

- **Stormwater Permitting.** "It appears that the DRI amendment will require stormwater treatment. This area is located within the City of Tallahassee, in which the City of Tallahassee Growth Management office has the responsibility to review all permitting concerning Rule 62-25, F.A.C., for private development." This item will be addressed by Growth Management staff at the time of permitting.

- **Wetland Resource Permitting.** It appears the additional wetland impacts will result from the modification concerning Rule 62-312, F.A.C. A wetland resource permit application should be submitted to the District office in Pensacola."

  The applicant has responded **(see Attachment #2)** to this comment as follows: "The Environmental Impact Analysis for the CCOC Parcel 1 site, approved by the City of Tallahassee on September 1, 2004 found that no wetland impacts will result from this modification. Furthermore, the wetlands within the Southwood DRI and not under the jurisdiction of the Department of Environmental Protection, and therefore would not require a wetland resource permit application."

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ANALYSIS OF HOW THE PROPOSED CHANGES RELATE TO THE SUBSTANTIAL DEVIATION CRITERIA IN CHAPTER 360, FLORIDA STATUTE

Pursuant to Florida Statute Section 380.06(19)(e)3, the addition of land to a DRI which has not been previously reviewed is presumed to be a substantial deviation. Such presumption may be rebutted by clear and convincing evidence. The applicant offers the following factors as rebutting the presumption that the substitution of Parcel 1 for Alternative Parcel is a Substantial Deviation:

1) The net overall effect to the total acreage of the development is insignificant, it results in about a 5 acres reduction in total size.
2) The proposed development on Parcel 1 involves previously approved residential development as part of Phase I of the development.
3) The development of Parcel 1 as proposed will support Town Center and the purposes of the DRI.
4) There will not be any substantial additional traffic impacts as a result of the addition of Parcel 1 to the DRI boundary and not changes the internal capture calculations.
5) The change will increase the total amount of Open Space by 10 acres.
6) There will not be any substantial change to the Stormwater Master Plan.

Based on these factors, staff recommends that the presumption of the Substantial Deviation be rebutted. None of the additional changes requested trigger Substantial Deviation review under Florida Statutes.

Florida Fish & Wildlife Conservation Commission:

- No issues

Northwest Florida Water Management District:

- No issues

PLANNING COMMISSION RECOMMENDATION:

The Tallahassee-Leon County Planning Commission conducted a public hearing to consider the Southwood DRI NOPC #5 on November 10, 2004. At the public hearing, the Tallahassee-Leon County Planning Commission made the following findings: the Southwood DRI NOPC #5 not to a "substantial deviation," and it is consistent with the Comprehensive Plan. The Planning Commission also recommended approval (unanimously) of the DO found in **Attachment #1**, subject to the following condition:

1) Section n of the DO **(Attachment #1)** shall be revised as follows: "At the time of review of the next substantial deviation, the Developer shall perform a traffic analysis relating to the use of K-12 educational facilities within the project for community college activities. If additional mitigation is necessary, it shall be reflected in the next substantial deviation approval." This condition was recommended by the Planning Commission to clarify that this requirement must be met with the

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next substantial deviation, in the event that another substantial deviation is requested by the applicant prior to the Phase 2 substantial deviation.

Based on the written comments received from City departments and State agencies in response to the DO, staff recommends that the City Commission take the following action on the Southwood DRI NOPC:

1. **Find the Southwood DRI NOPC is not a substantial deviation; and**

2. **Find the Southwood DRI NOPC is consistent with the Comprehensive Plan; and**

3. **Find the Southwood DRI NOPC is consistent with other applicable codes, rules, regulations, and policies of the City [to a large extent, consistency with other applicable codes, rules, regulations, and policies will be determined once applications for site plan, environmental management permits, and building permits (if applicable) are submitted for review].**

4. **Approve the Amended Development Order, subject to adding the following condition:**

Section n of the DO **(Attachment #1)** shall be revised as follows: "At the time of review of the next substantial deviation, the Developer shall perform a traffic analysis relating to the use of K-12 educational facilities within the project for community college activities. If additional mitigation is necessary, it shall be reflected in the next substantial deviation approval." This condition was recommended by the Planning Commission to clarify that this requirement must be met with the next substantial deviation, in the event that another substantial deviation is requested by the applicant prior to the Phase 2 substantial deviation.

The staff recommendation outlined above is consistent with the staff recommendation presented to the Planning Commission and subsequently recommended for approval by the Tallahassee-Leon County Planning Commission (with the condition as noted above).

Options

Option 1: Determine that NOPC #5 to the Southwood DRI is not a "substantial deviation" and approve the Amended Development Order found in **Attachment #1**, subject to the condition recommended by staff and the Planning Commission.

Option 2: Provide alternative direction.

Attachments/References

Attachment #1:	NOPC Packet Submitted by Applicant
Attachment #2:	NOPC Addendum Submitted by Applicant
Attachment #3:	NOPC #4 Current DRI Map
Attachment #4:	Proposed NOPC #5 Map
Attachment #5:	Planning Department Comments and Consistency Review
Attachment #6:	Planning Department Response to Addendum
Attachment #7:	Comments from the ARPC