M E M O R A N D U M

DATE: November 16, 2016

TO: David Bullock, Town Manager

FROM: Alaina Ray, AICP
Director – Planning, Zoning and Building Department

SUBJECT: Town of Longboat Key and Oprock Longboat Fee, LLC, Water and Wastewater System Standard Development Agreement

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Development Agreements are governed by Florida Statute Chapter 163 and Town Code Section 158.018. Typically, a jurisdiction and a developer enter into an agreement when a proposed development requires improvements and/or significant investment into public infrastructure.

Oprock Longboat Fee, LLC, is in the process of expanding the hotel located at 4711 Gulf of Mexico Drive, formerly known as the Hilton. The development required improvements to public infrastructure and also requires a significant increase in water and wastewater capacity under the Manatee County Facility Investment Fee Ordinance. The increased capacity results in a total required facility investment fee of $74,076.00, which the Developer must pay prior to issuance of a Certificate of Occupancy for the project. In return, the Town agrees to provide water and wastewater services, subject to the conditions contained within the Developer Agreement.

Town Code Section 158.018 requires two public hearings for Developer Agreements: one before the Planning and Zoning Board and one before the Town Commission. The Planning and Zoning Board held a public hearing on November 15, 2016, and recommended approval of the Agreement to the Town Commission.

Recommended Action: Conduct a public hearing on the Oprock Longboat Fee, LLC Development Agreement.

M E M O R A N D U M

DATE: November 18, 2016

TO: Honorable Mayor and Town Commission

THROUGH: Dave Bullock, Town Manager

FROM: Jim Brown, Chair
Planning and Zoning Board

SUBJECT: Town of Longboat Key and Oprock Longboat Fee, LLC, Water and Wastewater System Standard Development Agreement

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During the public hearing held on November 15, 2016, the Planning and Zoning Board recommended APPROVAL of the Oprock Developer Agreement for the Zota Beach Resort, as revised. The specific motion from the November 15, 2016, meeting of the P&Z Board is as follows:

MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF THE DEVELOPER AGREEMENT FOR ZOTA BEACH RESORT, AS REVISED. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.

Enclosed, for your review and consideration, please find the following support documentation:

1. Developer Agreement between the Town and Oprock;
2. Staff Report, dated 11-07-2016, PZB Director to P&Z Board;
3. Draft minutes from the 11-15-2016 regular P&Z Board meeting on this issue.

If you should have any questions, or desire any additional information, please do not hesitate to contact me.

JB/dmc

M E M O R A N D U M

DATE: November 7, 2016

TO: Planning and Zoning Board

FROM: Alaina Ray, AICP
Director – Planning, Zoning and Building Department

SUBJECT: Town of Longboat Key and Oprock Longboat Fee, LLC, Water and Wastewater System Standard Development Agreement

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Development Agreements are governed by Florida Statute Chapter 163 and Town Code Section 158.018. Typically, a jurisdiction and a developer enter into an agreement when a proposed development requires improvements and/or significant investment into public infrastructure.

Oprock Longboat Fee, LLC, is in the process of expanding the hotel located at 4711 Gulf of Mexico Drive, formerly known as the Hilton. The development required improvements to public infrastructure and also requires a significant increase in water and wastewater capacity under the Manatee County Facility Investment Fee Ordinance. The increased capacity results in a total required facility investment fee of $72,008.00, which the Developer must pay prior to issuance of a Certificate of Occupancy for the project. In return, the Town agrees to provide water and wastewater services, subject to the conditions contained within the Developer Agreement.

Town Code Section 158.018 requires two public hearings for Developer Agreements: one before the Planning and Zoning Board and one before the Town Commission. The Town's Public Works Director will be available at the Planning and Zoning Board's meeting on November 15, 2016, to present the agreement and answer any questions.

Recommended Action: Conduct public hearing and forward the Developer Agreement to the Town Commission for approval.

TOWN OF LONGBOAT KEY, FLORIDA
and
OPROCK LONGBOAT FEE, LLC

WATER AND WASTEWATER SYSTEM
STANDARD DEVELOPMENT AGREEMENT

THIS AGREEMENT made and entered into this ____ day of _____, 20___, by and between OPROCK LONGBOAT FEE, LLC, a Florida Limited Liability Corporation, whose address is 1000 Market Street, Building 1, Suite 300, Portsmouth, New Hampshire 03801 (hereinafter referred to as "Developer"), and the Town of Longboat Key, Florida, a municipality organized under the laws of the State of Florida, whose address is 501 Bay Isles Road, Longboat Key, Florida 34228 (hereinafter referred to as the "Town").

RECITALS

1. The Developer owns or controls lands (hereinafter, the "Property") located in Longboat Key, Florida, the boundary description of which is set forth in Exhibit "A-1" and a map of which is attached as Exhibit "A-2," both of which are incorporated herein.
2. The Developer desires to commence development of the Property by erecting thereon Commercial improvements (hereinafter, the "Development").
3. The Developer's proposed Development will require water and wastewater facilities so occupants of each Commercial improvement constructed will receive adequate water and wastewater services.
4. The proposed Development is consistent with the Town's Comprehensive Plan and Land Development Code.
5. The Town has approved the site plan application for the proposed Development, subject to conditions, pursuant to Resolution 2014-02 (hereinafter, the "Resolution"), which is incorporated herein and attached as Exhibit "B," and which also provides a description of all local development permits needed for development of the land and a description of any additional conditions, terms, restrictions or other requirements for the public health, safety and welfare of the Town's citizens.
6. There is no reservation or dedication of land associated with the proposed Development subject to this Development Agreement.
7. Attached as Exhibit "C," is a copy of a description of the public facilities and improvements that will service the Development.
8. The Town is willing to provide, in accordance with the provisions and stipulations hereinafter set out, and in accordance with all applicable laws, water and wastewater services, and to thereafter operate such facilities so the occupants of each commercial improvement constructed on the Property will receive adequate water and wastewater services from the Town.

9. Manatee County, Florida (the "County") currently provides potable water to the Town and accepts wastewater from the Town pursuant to two separate agreements under which the Town respectively pays specific fees for a specific reserve capacity.

10. Pursuant to the Town's agreements with the County referenced above and Chapter 2-31, Article VIII, of the Manatee County Code of Ordinances (the "Manatee County Facility Investment Fee Ordinance"), the Town may purchase additional reserve capacity in both the County's potable water and wastewater systems by paying the appropriate amount of Facility Investment Fees to the County.

11. Paragraph 32 of the Resolution provides that the Developer shall enter into a Development Agreement with the Town to compensate the Town for the increased potable water and wastewater reserve capacity resulting from the proposed Development.

ACCORDINGLY, for and in consideration of the Recitals, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, the Developer and the Town hereby covenant and agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct, and are a material part of this Agreement.

SECTION 2. INCREASED CAPACITY. Based on the calculations and written estimate provided by the Developer's engineer, a copy of which is attached hereto as Exhibit "D," it is anticipated that the proposed Development will increase the Town's potable water reserve capacity and the Town's wastewater reserve capacity by requiring a 3 inch water meter and supply line, and will increase the Town's fire service reserve capacity by requiring a 8 inch line size, for a hotel or motel classification which represents this Development. Meter size determines potable water FIF and wastewater FIF and meter or line size determines fire service FIF.

SECTION 3. FACILITY INVESTMENT FEES. Based on the increases in reserve capacity stated in Section 2 as provided in the current Manatee County Facility Investment Fee (FIF) Ordinance, this equates to a total facility investment fee of $31,520.00 for potable water, $37,040.00 for wastewater and $5,516.00 for fire service associated with the proposed Development.

SECTION 4. PROVISION OF SERVICE. Upon the Developer's payment to the Town of $74,076.00, representing the total facility investment fees for potable water, wastewater and fire service as specified in Section 3 herein, the Town covenants and agrees that it will allow the connection of the potable water distribution, wastewater collection and fire service facilities for the Development to the Town's water and wastewater facilities in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with rules and regulations of the Department of Health and the Florida Department of Environmental Protection. The Town agrees that once it provides water, wastewater and fire services to the Property, that thereafter, the Town will use its best efforts to continuously provide in return for payment of all applicable

rates, fees, and charges, and of applicable laws, including rules and regulations and rate schedules, water, wastewater and fire services to the Property in a manner to conform with all requirements of all governmental agencies having jurisdiction over the water distribution and wastewater collection operations of the Town, with the understanding and acknowledgement that there may be occasional unforeseen interuptions of service and/or reduction of capacity due to reasons beyond the Town's control, including but not limited to natural disasters, facility failure, or force majeure. The Developer, its successors and assigns agree to timely and fully pay all applicable monthly rates, fees and charges to the Town and otherwise fully comply with the Town's codes, rules, regulations, and ordinances applicable to the provision of water, wastewater and fire services.

SECTION 5. TIME OF PAYMENT. Developer shall pay to the Town the amount of total facility investment fees as set forth in Section 4 herein prior to the issuance of any certificate of occupancy by the Town related to the Development.

SECTION 6. CAPACITY.

Except as otherwise may be set forth in this Agreement, the execution of this Agreement between Developer and the Town does not constitute a specific reservation of capacity by Developer. Unless and until the required fees, as stated in Section 4 herein, have been paid by Developer, the Town does not hereby guarantee that capacity will be available for the Development on any later date, with the understanding and acknowledgement that there may be occasional unforeseen interuptions of service or reductions of capacity due to reasons beyond the Town's control, including but not limited to natural disasters, facility failure, or force majeure.

SECTION 7. APPLICATION OF RULES, REGULATIONS, AND RATES. Notwithstanding any provision in this Agreement, the Town may establish, revise, modify and enforce rules, regulations and rates covering the provision of water and wastewater services to the Property. Such rules, regulations and rates are subject to the approval of the Town of Longboat Key, Florida. Such rules and regulations shall at all times be reasonable and subject to regulations as may be provided by law or under contract. Rates charged to Developer or customers located upon the Property shall be identical to rates charged for the same classification of service. All rules, regulations and rates in effect, or placed into effect in accordance with the preceding, shall be binding upon Developer, upon any other entity holding by, through or under Developer; and upon any customer of the water and wastewater services provided to the Property by the Town.

SECTION 8. PERMISSION TO CONNECT REQUIRED. Developer, or any owner of any parcel of the Property, or any occupant of any residences or buildings located thereon, shall not have the right to and shall not connect any customer installation to the water and wastewater facilities of the Town until the Town has granted approval for such connection and shall be subject to illegal connection fee in effect at the time of discovery.

SECTION 9. BINDING AGREEMENT; ASSIGNMENTS BY DEVELOPER.

9.1 This Agreement shall be binding upon and shall inure to the benefit of Developer, the Town and their respective assigns and successors by merger, consolidation or conveyance.

9.2 This Agreement shall not be sold, conveyed, assigned or otherwise disposed of by Developer without the written consent of the Town first having been obtained, which consent shall not be unreasonably withheld. The Town's consent shall not be unreasonably withheld in the event of either a sale, conveyance, assignment or other disposal of this Agreement.

SECTION 10. NOTICES. Until further written notice by either party to the other, all notices provided for herein shall be in writing and delivered by courier service or by US Mail to:

As to Developer:

Barry Kimball, Executive Project Manager
Oprock Longboat Fee, LLC
1000 Market Street, Building 1, Suite 300
Portsmouth, New Hampshire 03801

As to Town:

Juan J. Florensa, Public Works Director
Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228-3196

With a copy to:

David R. Bullock, Town Manager
Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228-3196

Maggie D. Mooney-Portale, Town Attorney
6853 Energy Court
Lakewood Ranch, Florida 34240

SECTION 11. EXPIRATION AND RENEWAL OPTION. This Agreement shall remain in full force and effect for ten (10) years from the date of execution. The Town Commission may approve renewals of this Agreement thereafter for consecutive terms not to exceed ten (10) years each. Requests for renewal shall be made by the Developer to the Town not less than 120 days prior to expiration.

SECTION 12. BINDING UPON DEVELOPER. The failure of this Agreement to address a particular permit, condition, term or restriction shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

SECTION 13. FORCE MAJEURE. The Town shall be temporarily excused from performance under this Agreement if an Event of Force Majeure directly or indirectly causes its nonperformance. An "Event of Force Majeure" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquake, storm, lightning, epidemic, war, riot, civil disturbance, sabotage, and other local, state or federal governmental actions that regulate the Town's ability to perform. The Town's obligations under this Agreement shall be temporarily suspended during, but no longer than, the continuance of the Event of Force Majeure and for a reasonable time thereafter as may be required. If excused from performing any obligations under this Agreement due to the occurrence of an Event of Force Majeure, the Town shall promptly, diligently, and in good faith take all reasonable action required for it to be able to commence or resume performance of its obligations under this Agreement. During any such time period the Town shall keep the Developer duly notified of all such actions required for it to be able to commence or resume performance of its obligations under this Agreement.

SECTION 14. ENTIRE AGREEMENT; AMENDMENTS; APPLICABLE LAW; VENUE; ATTORNEY'S FEES.

14.1 This Agreement supersedes all previous agreements or representations, either verbal or written, heretofore in effect between Developer and the Town, made with respect to the matters herein contained, and when duly executed, constitutes the Agreement between Developer and the Town.

14.2 No additions, alterations or variations of the terms of this Agreement shall be valid, nor can either party waive provisions of the Agreement, unless such additions, alterations, variations or waivers are expressed in writing and duly signed.

14.3 This Agreement shall be governed by the laws of the State of Florida, as well as all applicable local ordinances of the Town and it shall be and become effective immediately upon execution by both parties hereto.

14.4 Exclusive venue for any action arising out of this Agreement shall be in the state courts having jurisdiction within Sarasota County, Florida.

14.5 In the event that the Town or Developer is required to enforce this Agreement by court proceedings or otherwise, by instituting suit or otherwise, then the prevailing party in such suit shall be entitled to recover all costs incurred, including reasonable attorney's fees.

SECTION 15. SEVERABILITY. If any court finds any part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained therein are not materially prejudiced, and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

SECTION 16. AUTHORITY TO EXECUTE AGREEMENT. The signature by any person to this Agreement shall be deemed a personal warranty by that person that he has the full power and authority to bind any corporation, partnership, or any other business entity for which he purports to act hereunder.

IN WITNESS WHEREOF, the Developer and the Town have executed or have caused this Agreement, with the named Exhibits attached, if any, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:

TOWN OF LONGBOAT KEY, FLORIDA

_____
TRISH GRANGER
Town Clerk

By: _____
DAVID R. BULLOCK
Town Manager

Approved as to form and correctness:

_____
MAGGIE D. MOONEY-PORTALE
Town Attorney

OPROCK LONGBOAT FEE, LLC

By:_____

Name:_____

Title: _____

_____
Witness

_____
Print Name

_____
Witness

_____
Print Name

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of Oprock Longboat Fee, LLC. He/She is personally known to me or has produced _____ as identification, and did not take an oath.

AFFIX SEAL

_____

Notary Public

EXHIBIT A-1

BOUNDARY DESCRIPTION OF PROPERTY

Commence at a concrete monument marking the point of intersection of the North line of Section 36, Township 35 South, Range 16 East, Manatee County, Florida, and the Westerly right-of-way line of the Gulf of Mexico Drive; thence South 31° 39'50" East, along said Westerly right-of-way line 1941.22 feet to a concrete monument for a Point of Beginning; run thence South 58°15'40" West 582.4 feet more or less to intersect the waters of the Gulf of Mexico, which point of intersection is hereby designated Point "X;" commencing, again at the Point of Beginning, run thence South 31°39'50" East, along the said Westerly right-of-way line of the Gulf of Mexico Drive, 392.42 feet to a concrete monument; run thence South 58°15'40" West, 553.69 feet more or less to intersect the waters of the Gulf of Mexico; meander thence Northwesterly along the waters of the Gulf of Mexico, a distance of 392.4 feet more or less to above designated Point "X."

LESS AND EXCEPT: a 10-foot wide strip of land along the Southeasterly boundary of the above described property being all that portion of said property lying between the Southeasterly boundary line of said property and a line parallel thereto and lying 10 feet Northwesterly of the Southeasterly boundary.

EXHIBIT A-2

MAP OF PROPERTY

EXHIBIT B

RESOLUTION 2014-02

RESOLUTION 2014-02

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY APPROVING A SITE PLAN AMENDMENT APPLICATION FOR THE LONGBOAT KEY HILTON HOTEL, 4711 GULF OF MEXICO DRIVE, TO ALLOCATE 85 ADDITIONAL TOURISM UNITS IN A NEW FIVE-STORY BUILDING; TO ALLOW RENOVATION OF AN EXISTING FIVE-STORY TOWER; CONSTRUCTION OF AN 150-SEAT RESTAURANT, 3,000 SQUARE FEET OF MEETING SPACE, ACCESSORY AREAS, SWIMMING POOL, AND OFF-STREET PARKING; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 4, 2009, the Longboat Key Town Commission adopted Ordinance 2008-34, which established guidelines for distribution of an additional 250 tourism units to encourage development and redevelopment of tourism facilities; and

WHEREAS, on March 4, 2013, the Longboat Key Town Commission adopted Ordinance 2013-07, allowing the granting of additional tourism units on T-6 zoned properties through site plan approval; and

WHEREAS, the Longboat Key Hilton Hotel, located at 4711 Gulf of Mexico Drive, Longboat Key, Florida, is zoned T-6 High-Density Tourist Resort/Commercial District; and

WHEREAS, OpRock Longboat Fee, LLC, is desirous to redevelop the hotel and increase the number of tourism units by 85 units for a total of 187 tourism units on the site, located at 4711 Gulf of Mexico Drive, to better serve the public; and

WHEREAS, OpRock Longboat Fee, LLC, has submitted a site plan amendment for the hotel to request 85 additional tourism units with off-street parking; renovate the existing five-story 102 room tower; construct a new five story 85 room tower for the additional tourism units with off-street parking, construct a 150 seat restaurant, 3,000 square feet of meeting space, lobby area, administrative areas, service areas, and swimming pool, with off-street parking, to be located at 4711 Gulf of Mexico Drive; and

WHEREAS, the Planning and Zoning Official has, in a timely fashion, accepted the application and referred same to the Planning and Zoning Board, along with the support documentation and staff recommendations; and

WHEREAS, the Planning and Zoning Board held a properly noticed public hearing on December 17, 2013; and

WHEREAS, the Planning and Zoning Board reviewed the application and recommended to the Town Commission with its findings that the proposed development be approved with conditions; and

WHEREAS, the Town Commission makes these conclusions and findings of fact:

a) The proposed land uses and intensity of the site plan amendment is consistent with the Town's Comprehensive Plan.

b) With the recommended conditions of approval, the purpose and intent of the regulations within the zoning code and the zoning district in which the redevelopment site is located is ensured, while protecting the surrounding area.

c) With the recommended conditions of approval, the plan is in conformance with the Town's subdivision regulations, Chapter 157 of the Town Code, and all other applicable Town requirements, including design, utility facilities, and other essential services.

d) With the recommended conditions of approval, the plan is consistent with good design standards in respect to all external relationships, including but not limited to relationship to adjoining properties; internal circulation, both vehicular and pedestrian; disposition and use of open space; provision of screening and buffering; and preservation of existing natural features, including trees; size and apparent bulk of structures; and, building arrangements both between buildings in the proposed development and with those buildings adjoining the site.

e) With the recommended conditions of approval, the plan is in conformance with Town policy with respect to sufficiency of ownership, and guarantees for completion of all required improvements and continued maintenance.

f) The site plan meets all applicable standards for the T-6 zoning district and standards in Section 158.180 of the Town Code for the distribution of the 250 tourism units.

g) The additional 85 tourism units assigned to the site is in the best interest of the town and its citizens and does not adversely impact or affect the public interest.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA THAT:

SECTION 1. The above Whereas clauses are hereby ratified and confirmed as true and correct.

SECTION 2. The site plan application for the Longboat Key Hilton Hotel located at 4711 Gulf of Mexico Drive, Longboat Key, Florida, 34228, be and is hereby approved subject to the conditions attached hereto marked Exhibit "A", "Conditions Requisite for Approval", Site Plan Review, Longboat Key Hilton Hotel located at 4711 Gulf of Mexico Drive, Longboat Key, Florida, 34228, and dated concurrently with this Order.

SECTION 3. This Resolution shall become effective immediately upon adoption.

ADOPTED following a public hearing at a meeting of the Town Commission of the Town of Longboat Key on the 6th day of January, 2014.

James L. Brown, Mayor

ATTEST:

Trish Granger, Town Clerk

Attachment: Exhibit "A", Conditions Requisite for Approval

EXHIBIT "A"

RESOLUTION 2014-02

CONDITIONS REQUISITE FOR APPROVAL
SITE PLAN REVIEW

LONGBOAT KEY HILTON HOTEL
4711 GULF OF MEXICO DRIVE

1) The provisions of the site plan application for the subject property, dated October 23, 2013, received October 23, 2013, shall be complied with unless waived or modified by the following conditions, or by written agreement between the Town and the applicant, or amended pursuant to Code. Any and all improvements shall comply with T-6 High-Density Tourist Resort Commercial District in Chapter 158 of the Town Code.

2) The intensification of the existing tourism density of the site with the granting of the additional 85 tourism units and flexible regulatory standards, as allowed by Section 158.180 of the Town Code, shall restrict the future use of the entire 187 tourism units to a tourism use only. Tourism units on Longboat Key shall provide transient lodging accommodations of less than 30 consecutive calendar days or one (1) entire calendar month, whichever is less, and are not to be used as dwelling units for permanent occupancy.

3) Prior to issuance of any certificate of occupancy or temporary certificate of occupancy, all on-site infrastructure, including but not limited to, utilities and landscaping, storm water systems, and grading shall be completed.

   a. Per Section 55.05 of the Town Code, a Landscape Certificate of Compliance and irrigation as-built must be completed to the satisfaction of the Public Works Department prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.

   b. Prior to Certificate of Occupancy or Temporary Certificate of Occupancy for any phase, a set of Record Drawings signed and sealed by the Engineer of Record shall be completed to the satisfaction of the Public Works Department for that phase. Drawings shall show all improvements including but not limited to grading, drainage, utilities, landscape, etc. Such record drawings shall also include a signed and sealed statement by the engineer that the improvements are in substantial conformance with the approved plans or otherwise differences noted.

4) All utilities shall be located underground.

5) A six-foot tall construction fence shall be provided and maintained to secure the construction site with an opaque covering, acceptable to the Town Planning,

Zoning, and Building Department. The construction fence shall be removed from the site at the completion of construction.

6) The site plan shall indicate that all site excavation and grading shall conform to Section 158.156 of the Town Code. The slope of all graded areas on the site shall not exceed a ratio of 4:1 (four (4) feet horizontal for every one (1) foot vertical). Prior to the issuance of any Certificate of Occupancy or Temporary Certificate of Occupancy for any phase, the applicant shall submit an "as-built" grading plan for approval by the Town's Planning, Zoning, and Building Department for any phase.

7) In accordance with Section 158.099(F) of the Town Code, an approved site plan becomes null and void if:

   a. The applicant shall abandon the site plan or the section thereof that has been finally approved, and shall so notify the Town Commission in writing; or

   b. A complete application for a building permit has not been submitted to the Town and a building permit issued on or before January 6, 2016 (a complete building permit application must be filed at least 30 calendar days prior to the building permit issuance deadline); or

   c. A final Certificate of Occupancy for all phases of the project has not been issued within three (3) years from the date set for receipt of a complete application for building permit for the final building or development phase of the project.

8) The development/construction plans shall conform to the Florida Building Code and all other applicable codes and ordinances pertaining to, but not limited to, Chapter 154 *Flood Control* of the Town Code, Federal ADA, and Florida Accessibility Codes.

9) All exterior lighting shall comply with Section 158.102(B)(5) of the Town Code, arranging the lighting to shield or deflect the light from adjoining properties. All exterior lighting to be in compliance with Chapter 100 *Sea Turtles*, of the Town Code.

10) Parking of construction-related vehicles shall be prohibited along Gulf of Mexico Drive and on the Atlas Street Beach Access.

11) The development shall meet all of the applicable codes and requirements of the Fire Department regarding emergency vehicle access, and shall conform to all applicable codes and ordinances pertaining to, but not limited to, the fire code and life/safety codes. Plans shall be submitted to the Fire Marshal at the time a building permit application is submitted.

12) Building plans shall include fire suppression systems, appropriate exit signage, portable fire extinguishers, fire alarm systems, and emergency lighting as approved by the Town Fire Marshal, prior to the issuance of any building permits.

13) A licensed surveyor or design professional shall verify the Lot Coverage and Non-Open Space calculations. Certification of the calculations shall be signed and sealed on the approved site plan, prior to the finalization of the Site Plan Order.

14) Native and drought resistant plant species shall be used in the buffer and other common areas to reduce water requirements. No more than 25 percent of the site may be planted in sod or plant species that are not drought resistant. A detailed landscape plan shall be submitted to the Town and approved by the Planning, Zoning, and Building Department prior to the issuance of a building permit.

15) All nuisance exotic species of trees on the entire site shall be removed including Australian Pine (Casuarina spp.), Carrotwood (Cupianopsis anacardioides), and Brazilian Pepper (Schinus terebinthifolius). All efforts shall be made to avoid the removal of native vegetation; however, whenever such native vegetation having a diameter breast height (dbh) of four (4) inches or greater must be removed, the applicant shall provide on-site replacement trees at a ratio of two (2) replacement trees for each one (1) tree removed. Replacement trees shall have a minimum of a four-inch dbh and a 12-foot height, when planted at grade.

16) Existing mature trees shall be preserved to the greatest extent possible in accordance with the submitted tree plan (Sheet C16), dated October 22, 2013, and received by the Town on October 23, 2013.

17) The approved landscaping, as presented to the Town on the plans, dated July 28, 2012, (revised October 18, 2013) and received by the Town on October 23, 2013, shall be maintained and replaced if necessary at an equivalent maturity level. The cost of maintenance and replacement shall be the responsibility of the property owner.

18) All signage for the property shall meet the requirements of and be permitted in accordance with Chapter 156 *Sign Code* of the Town Code.

19) Three (3) sets of signed and sealed construction site plans along with a construction cost estimate including utilities, stormwater system, and site work shall be submitted to the Public Works Department for review and approval prior to the issuance of a building permit. The developer of the Hilton Hotel shall post a satisfactory performance bond, as approved by the Town's attorney, which must be received by the Public Works Department prior to the issuance of a building permit, and kept current during construction. Upon receipt of signed and sealed "as-built" plans the principal amount of the Bond may be

reduced to 25 percent of its original amount for a one-year maintenance period after issuance of the Certificate of Occupancy, at the end of which the bond shall be shall be released.

20) Prior to the issuance of a building permit, a Notice of Intent (NOI) for a Construction Generic Permit shall be required to be submitted to the Florida Department of Environmental Protection (FDEP), in accordance with the Town's Municipal Separate Stormwater System permit under the National Pollutant Discharge Elimination System (NPDES) program. The applicant shall submit evidence of application for the NPDES NOI, including a Stormwater Pollution Prevention Plan (SWPPP) and use of best management practices during construction for erosion and sedimentation controls for the entire project site.

21) All engineering construction plans pertaining to water, wastewater, and drainage shall be approved by the Town prior to the issuance of a building permit.

22) Prior to the issuance of any building permit, all applications for permits submitted to any outside permitting agency (i.e. Southwest Florida Water Management District (SWFWMD), FDEP, Florida Department of Transportation (FDOT), etc.), and all applicable permits received and approved from such agencies, shall be submitted to the Planning, Zoning, and Building Department.

23) Prior to the commencement of any phase of construction, the owner shall submit to the Town a proposed construction management plan stating how construction traffic, noise, hours of construction, and other construction-related impacts on existing businesses and residents will be minimized.

24) During construction, coordination with the Public Works Department shall be maintained during water, wastewater, and stormwater construction, connections, and phasing.

25) Water and wastewater utilities within the project area are the property and responsibility of the property owner.

26) The stormwater management system shall be designed and maintained in perpetuity in accordance with the applicable provisions of the FDEP, SWFWMD and the Manatee County Mosquito Control District. The applicant assumes full responsibility for operation and maintenance of the stormwater facilities located on their own property.

27) The applicant must coordinate with Manatee County Area Transit (MCAT) and Town staff for the placement or relocation of existing and/or future bus stops.

28) Subsequent to receiving site plan approval from the Town Commission, three (3) sets of the approved site plan materials, with the necessary changes to meet all applicable conditions of the adopted resolution of approval, shall be

submitted to the Planning, Zoning, and Building Department for final compliance review. The site plan materials shall include all plan sheets included in the application packet and photocopies of all applicable outside agency permits. A building permit application must include the approved site plan with staff's compliance review stamp of approval.

29) Except as herein modified and amended, the conditions of all previous ordinances, resolutions, site plan amendments, and site plan exemptions for the site shall remain in full force and effect.

30) Approval of the proposed site plan shall be subject to payment of all staff review and consultant charges during the redevelopment process by the developer.

31) The applicant shall install all required landscape buffer vegetation along Gulf of Mexico Drive at the earliest point in the project, consistent with the landscape's long-term survival.

32) In accordance with Sections 158.018 and 158.102(I) of the Town Code, and the current Manatee County Facility Investment Fee (FIF) Ordinance, the applicant shall enter into a Development Agreement with the Town, which addresses the Developer's payment of the increased potable water and wastewater reserve capacity which results from this development. The calculation of this reserve capacity increase shall be in a form acceptable to the Public Works Department. The Development Agreement shall be in effect prior to the issuance of a building permit.

33) In accordance with recommendations identified as part of the Urban Land Institute (ULI) study and, if agreed to by the Town Commission, sidewalks shall be installed along the west side of Gulf of Mexico Drive, subject to approval by FDOT. The applicant shall, prior to obtaining a Certificate of Occupancy for the new five-story tower, at its expense, construct an eight-foot wide sidewalk along the full frontage of the property along Gulf of Mexico Drive of the subject property within the Gulf of Mexico Drive right-of-way for pedestrian safety. Applicant shall provide the Town with a copy of an approved permit from FDOT for work within the Gulf of Mexico Drive right-of-way.

34) The applicant must coordinate with MCAT, FDOT, and the Town's Public Works and Planning staff for the placement of a transit shelter at the existing bus stop on Gulf of Mexico Drive located in front of the hotel. The transit shelter shall be consistent with any design standards adopted for the Gulf of Mexico Drive corridor. The contribution for the construction of the transit shelter shall not exceed $20,000.00 by the applicant.

35) The applicant shall pay a money fee at the issuance of a building permit for the additional new 85 tourism units granted pursuant to Section 158.017, *Parks and open space land acquisition,* of the Town Code, to be used for parks and open space according to the standards and formula set forth in the section.

36) Subject to approval by FDOT, prior to issuance of a final certificate of occupancy, the applicant shall install a traffic deceleration/tapered lane for southbound vehicles turning into the project entrance. Prior to construction of the deceleration/tapered lane, the applicant shall provide copies of the applications and approved permits from FDOT to the Town. Failure to obtain FDOT approval for the deceleration/tapered lane will not subject the approved site plan to a site plan amendment.

EXHIBIT C

PUBLIC FACILITIES AND IMPROVEMENTS

Public Facilites and Improvements for development located on property described in Exhibit A-1 and Exhibit A-2, attached, are as follows:

1. **Potable Water Supply – The location of this expansion (South of the In-Line Booster which boosts water pressure to the South, and North of Mid-Key Water Booster Station which also boosts water pressure South) required additional pressure boost improvements to the In-Line Booster Station to serve this location's fire flow requirements, as well as the additional water fixture units required for the standard operation. (COMPLETED)**

2. **Sewer Collections – The sewer system serving this location is a gravity line to Lift Station 7D, and a forcemain to the Gravity Line flowing to Lift Station D. The line from this location to LD-7D required lining to preserve the increase activity and Lift Station 7D required rehabilitation to the piping, check valves, pump sizes, and the electrical service and control panels to handle increased capacity. (COMPLETED)**

EXHIBIT D

ENGINEER'S CALCULATION AND WRITTEN ESTIMATE

George F. Young, Inc.
Turning Vision into Reality Since 1919

10540 Portal Crossing, Suite 105
Lakewood Ranch, Florida 34211-4913
Phone: (941) 747-2981
www.georgefyoung.com

CIVIL & TRANSPORTATION ENGINEERING | ECOLOGY | GIS | LANDSCAPE ARCHITECTURE | PLANNING | SURVEYING | SUBSURFACE UTILITY ENGINEERING

November 15, 2016

Ms. Alaina Ray, AICP, Director
Planning Zoning & Building
Town of Longboat Key
501 Bay Isles Road
Longboat Key, FL 34228

Ref: Longboat Key Hotel
Facility Investment Fees and Connection Fees
Updated Engineer's Calculation and Written Estimate

Dear Ms. Ray:

The purpose of this letter, submitted on behalf of Oprock Longboat Fee, LLC, is to address Facility Investment Fees (FIF) and Connection Fees for the utilities service for the redevelopment of the Longboat Key Hotel in support of an FIF Amendment Application and a Developer Agreement, amended or new.

The following items were considered in preparation of this application:

- Manatee County Ordinance No. 10-70 regarding Facility Investment Fees
- Manatee County Code of Ordinances, Chapter 2-31, Article VIII Facility Investment Fees
- Town of Longboat Key Ordinance 2007-17 regarding Development Agreements
- Understanding from September 19th, 2012 FIF discussion meeting with Town Public Works and Town Engineer.

The existing 4.76 acre site is presently built out, containing 102 hotel rooms, restaurant, meeting rooms, swimming pool and restrooms. The Town has the existing Hilton on record with 134 Equivalent Living Units (ELU's). Potable water is supplied through a 3 inch meter. An existing 6 inch line provides separate fire service.

The Town has a 2.5 MGD reserve water capacity agreement with Manatee County which will be exceeded with this project. An FIF Agreement Amendment will be required.

Redevelopment and modernizing the existing Longboat Key Hilton includes demolishing all buildings on the site except the 5-story building on the North side containing the 102 hotel rooms. Replacement structures include 85 hotel rooms, a 165 seat restaurant, meeting facilities, new pool decks and recreational areas.

Fixture unit and demand calculations by the project mechanical engineer, attached, indicate a water fixture unit total of 639 resulting in a water demand of 120 gallons per minute (gpm) for these 639 fixture units. A 3 inch water meter and supply line will be required. The existing 3 inch service and meter to the existing building will be removed and a 4 inch water meter and

supply line will be installed to serve both existing and proposed buildings. Irrigation water for the site will be supplied by an on site well.

The fire line for the new building will be 8 inch according to the project mechanical engineer. The existing 6 inch fire line to the existing building will remain.

According to Ordinance No. 10-70, water and wastewater Facility Investment Fees are determined based on meter size of 3 inch for a hotel or motel customer classification. The resultant FIFs for the additional 3 inch service to the new building are as follows:

Potable Water FIF	$ 31,520.00
Wastewater FIF	$ 37,040.00
	$ 68,560.00

Reserve potable water capacity for this size category is 132,000 gallons per month.

Fire service Facility Investment Fee is based on meter/line size which, for the new 8 inch service, indicates an amount of **$5,516.00.**

Also water and wastewater system connection fees charged by the Town are based on each hotel or motel unit considered as an Equivalent Living Unit (ELU). The resultant connection charges are therefore:

Water System Connection Fee	$ 690/ELU x 85 ELU =	$ 58,650.00
Wastewater System Connection Fee	$1224/ELU x 85 ELU =	$104,040.00
		$162,690.00

The foregoing represents our interpretation and understanding of the various ordinances, codes and discussions to date.

Please advise if there are questions or if additional information is required in support of this FIF Amendment Application.

Sincerely,

GEORGE F. YOUNG, INC.

Mark A. Adler, P.E.
Senior Vice President, Engineering

adler@georgefyoung.com

cc: Barry Kimball, Oprock Longboat Fee, LLC

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PLUMBING FIXTURE SCHEDULE - NEW BUILDING

MARK	FIXTURE	PIPE SIZE C.W.	PIPE SIZE H.W.	PIPE SIZE WASTE	TRAP	FIXTURE UNIT	QTY	TOTAL FIXTURE UNIT	REMARKS
BATHROOM GROUP (LAV/WC/BT-SHR)									
	BATHTUB OR SHOWER	1/2"	1/2"	2"	1-1/2"				
	LAVATORY	1/2"	1/2"	2"	2"				
	WATER CLOSET	1/2"	–	3"	INT.				3x4
						5	85	425	
LAV	LAVATORY	1/2"	1/2"	2"	1-1/2"	1	16	16	
HLAV	LAVATORY (HANDICAPPED)	1/2"	1/2"	2"	1-1/2"	1	11	11	
WC	WATER CLOSET	1/2"	–	3"	INT.	4	15	60	3x4
HWC	WATER CLOSET (HANDICAPPED)	1/2"	–	3"	INT.	4	12	48	3x4
UR	URINAL	3/4"	–	2"	INT.	4	1	4	
HUR	URINAL (HANDICAPPED)	3/4"	–	2"	INT.	4	4	16	
SH	SHOWER	1/2"	1/2"	2"	2"	2	1	2	
HSH	SHOWER (HANDICAPPED)	1/2"	1/2"	2"	2"	2	1	2	
HI-LO EWC	HIGH-LOW HANDICAPPED ELECTRIC WATER COOLER	1/2"	–	2"	1-1/2"	1	1	1	
MS	MOP SINK	1/2"	1/2"	3"	3"	2	8	16	
FD	FLOOR DRAIN			3"	3"	0	35	0	1/2"T.P.
FD-2	FLOOR DRAIN			3"	4"	0	7	0	1/2"T.P.
FD-3	CAN WASH DRAIN	1/2"	1/2"	3"	4"	2	1	2	1/2"T.P.
FD	FLOOR DRAIN			3"	2"	0	4	0	1/2"T.P.
FS-1	FLOOR SINK			3"	3"	2	17	34	
FS-2	FLOOR SINK			4"	4"	2	2	4	
TOTAL (NEW BUILDING)								639	

3" METER

PLUMBING FIXTURE SCHEDULE - EXIST. BUILDING

MARK	FIXTURE	PIPE SIZE C.W.	PIPE SIZE H.W.	PIPE SIZE WASTE	TRAP	FIXTURE UNIT	QTY	TOTAL FIXTURE UNIT	REMARKS
BATHROOM GROUP (LAV/WC/BT-SHR)									
	BATHTUB OR SHOWER	1/2"	1/2"	2"	1-1/2"				
	LAVATORY	1/2"	1/2"	2"	2"				
	WATER CLOSET	1/2"	–	3"	INT.				3x4
						5	128	640	
TOTAL (EXISTING BUILDING)								640	
TOTAL (OVERALL BUILDING)								1,279	

NOTES:

1. ALL FIXTURES SHALL COMPLY WITH TABLE 604.4 (MAX. FLOW RATES), TABLE 604.5 (MIN. SIZES OF WATER SUPPLY), & TABLE 709.1 (MIN. SIZE OF TRAP) OF F.B.C.-PLUMBING
2. PROVIDE A 4" WATER SERVICE LINE AND 4" WATER METER FOR OVERALL BUILDING.

shall be the difference between the facility investment fee in effect at the time of reinstallation and the facility investment fee in effect when the meter was pulled.

Section 7. Paragraph 2-31-209(a)(7) of the Manatee County Code of Ordinances is hereby created to read as follows:

Sec. 2-31-209. Retail potable water and wastewater facility investment fees.

(a) General requirements.

(7) The facility investment fee to be charged shall be based on the customer classification according to the schedule established in subsection (d) of this section. The meter size facility investment fee listed in subsection (d) shall be determined according to the schedule established in subsection (b) of this section.

Section 8. Subsection 2-31-209(d) of the Manatee County Code of Ordinances is hereby amended to read as follows:

Sec. 2-31-209. Retail potable water and wastewater facility investment fees.

(d) Retail facility investment fees by customer classification.

	Classification	Potable Water FIF	Wastewater FIF
(1)	Residential, single-family	Meter size FIF	Meter size FIF
(2)	Residential, multifamily	$1,345.00 per unit	$1,580.00 per unit
(3)	Mobile home	$1,345.00 per unit	$1,580.00 per unit
(4)	Travel trailer	Meter size FIF	Meter size FIF
(5)	Hotel or motel	Meter size FIF	Meter size FIF
(6)	Commercial and industrial	Meter size FIF	Meter size FIF
(7)	Large user	$7,164.00 per 1,000 gallons of reserve capacity per day	$9,646.00 per 1,000 gallons of reserve capacity per day
(8~~7~~)	Combined commercial	$1,345.00 per unit	$1,580.00 per unit

subsections (b) and (d) of this section, will be charged for each meter. For agricultural purposes, an irrigation only meter may be installed as a primary meter. The facility investment fees must be paid prior to installation. The minimum size allowed for irrigation meters is three-quarter (3/4) inch. A valid plumbing permit must be presented at the time of payment.

Section 11. Subsection 2-31-210(a) of the Manatee County Code of Ordinances is hereby amended to read as follows:

Sec. 2-31-210. Fire service facility investment fees.

(a) Connection of fire lines to the county potable water ~~or reclaimed water~~ system requires payment of facility investment fees based on meter size for meters smaller than three (3) inches or line size for lines three (3) inches or larger according to the following schedule:

Meter or Line Size (in inches)	Fire Service FIF
1	$172.00
1 1/2	$345.00
2	$552.00
3	$1,103.00
4	$1,724.00
6	$3,448.00
8	$5,516.00
10	$7,929.00
Over 10	3.5% of potable water FIF based on meter size

Section 12. All ordinances or parts of ordinances in conflict with the provisions of this ordinance shall be repealed to the extent of such conflict effective on February 1, 2011.

Section 13. If any provision of this ordinance or the application thereof to any person

(2) The county's SWFWMD water use permit(s) be modified so as to allow lesser quantities of potable water usage; or

(3) A wholesale customer's contract with the county expire or be terminated.

(Ord. No. 06-88, § 1, 10-24-06; Ord. No. 10-70, § 4, 11-9-10)

Sec. 2-31-209. Retail potable water and wastewater facility investment fees.

(a) *General requirements.*

(1) Connection to the county public utilities system requires payment of facility investment fees. Lift stations not dedicated to the county will be charged facility investment fees.

(2) Facility investment fees for potable water service and facility investment fees for wastewater service for each dwelling unit were established December 10, 1981, according to either the actual meter size or a 5/8-inch × ¾-inch meter size, whichever is greater.

(3) The size of service and/or reserve capacity shall be based on calculations certified in writing by a professional engineer registered in the State of Florida or as determined and approved by the county administrator.

(4) The facility investment fee is in addition to all other service charges and fees.

(5) The facility investment fee is not transferable to real property at a location other than that for which it was paid.

(6) The facility investment fee to be charged shall be the facility investment fee in effect at the time of issuance of a building permit. Facility investment fee payments will not be accepted without the existence of a valid application for building permit. The facility investment fee for reinstallation of meters pulled for uninhabitable properties and reinstalled after eighteen (18) months shall be the difference between the facility investment fee in effect at the time of reinstallation and the facility investment fee in effect when the meter was pulled.

(7) The facility investment fee to be charged shall be based on the customer classification according to the schedule established in subsection (d) of this section. The meter size facility investment fee listed in subsection (d) shall be determined according to the schedule established in subsection (b) of this section.

(b) *Retail facility investment fees by meter size.*

Meter Size (in inches)	Potable Water FIF	Wastewater FIF	Reserve Capacity Potable Water (gallons per month)
5/8 × ¾	$ 1,970.00	$ 2,315.00	8,250
¾	2,955.00	3,473.00	12,375
1	4,925.00	5,788.00	20,625
1 ½	9,850.00	11,575.00	41,250

2	15,760.00	18,520.00	66,000
3	31,520.00	37,040.00	132,000
4	49,250.00	57,875.00	206,250
6	98,500.00	115,750.00	412,500
8	157,600.00	185,200.00	660,000
10	226,550.00	266,225.00	948,750
Over 10	$7.164 per gallon per day	$9.646 per gallon per day	AWWA standards for meter size

(c) In the interest of promoting residential fire protection, single-family residential potable water and fire line services may be combined. Meter upsizing of one line size for the 5/8-inch × ¾-inch service and the ¾-inch service will be provided at no additional facility investment fee when such upsizing results from fire sprinkler installation. This does not apply to irrigation/fire line combinations. No combined residential potable water/fire line meters of more than one inch will be approved.

(d) Retail facility investment fees by customer classification.

	Classification	Potable Water FIF	Wastewater FIF
(1)	Residential, single-family	Meter size FIF	Meter size FIF
(2)	Residential, multifamily	$1,345.00 per unit	$1,580.00 per unit
(3)	Mobile home	$1,345.00 per unit	$1,580.00 per unit
(4)	Travel trailer	Meter size FIF	Meter size FIF
(5)	Hotel or motel	Meter size FIF	Meter size FIF
(6)	Commercial and industrial	Meter size FIF	Meter size FIF

the existing master meter and the applicable facility investment fee for a reduced size meter may be applied toward the facility investment fee for the new meter or meters.

(12) The facility investment fee for wastewater only accounts may be based on a potable water usage calculation certified by a professional engineer registered in the State of Florida and based upon the most recent localized data and upon approval by the county administrator. Alternative methods of calculation may be specified by the county administrator and based on the most recent and localized data.

(13) An applicant may demonstrate, through a report by a professional engineer registered in the State of Florida to the satisfaction of the county administrator and based on the most recent and localized data, that a specific amount of potable water to be used by the applicant will not be returned to the wastewater system in the form of wastewater. At the discretion of the county administrator the applicant may be charged a lower wastewater facility investment fee corresponding to the approximate use of the county wastewater system. If at a future time the applicant increases the amount of wastewater delivered to the county wastewater system above the amount upon which the initial facility investment fee was based, the applicant shall pay the difference between the wastewater facility investment fee for the new level of use of the wastewater system, as determined by the county administrator, and the corresponding current facility investment fee for the estimated initial level of service.

(14) If an existing residential or commercial customer with one meter installs two (2) meters, one for potable water and one for irrigation, separate facility investment fees, corresponding to the schedule established in subsections (b) and (d) of this section, will be charged for each meter. For agricultural purposes, an irrigation only meter may be installed as a primary meter. The facility investment fees must be paid prior to installation. The minimum size allowed for irrigation meters is three-quarter inch. A valid plumbing permit must be presented at the time of payment.

(15) If separate meters are installed at a multifamily residential facility for purposes of irrigation of the immediate surrounding premises, facility investment fees based on meter sizes will be charged.

Sec. 2-31-210. Fire service facility investment fees.

(a) Connection of fire lines to the county potable water system requires payment of facility investment fees based on meter size for meters smaller than three (3) inches or line size for lines three (3) inches or larger according to the following schedule:

Meter or Line Size (in inches)	Fire Service FIF
1	$ 172.00
1½	345.00
2	552.00
3	1,103.00

4	1,724.00
6	3,448.00
8	5,516.00
10	7,929.00
Over 10	3.5% of potable water FIF based on meter size

(b) No individual fire lines under one inch shall be installed.

(c) Fire line connections downstream of a potable water master meter are not subject to the facility investment fees listed in this section.

(Ord. No. 06-88, § 1, 10-24-06; Ord. No. 10-70, § 11, 11-9-10)

Sec. 2-31-211. Use of facility investment fees.

(a) Facility investment fees collected by the county shall be used only for capital costs of construction and related costs, including engineering, legal, financing, administrative, debt service, and other lawful purposes, for increases in or expansions of capacity or capital requirements required solely due to new development. Facility investment fees shall not be used for expenses due to upgrading a facility or increased expenses due to operation or maintenance of a facility.

(b) The county shall provide for accounting and reporting of facility investment fee collections and expenditures in accordance with applicable law, including F.S. § 163.31801, and generally accepted accounting principles. The county shall account for the revenues and expenditures of such facility investment fees in a separate accounting fund.

(Ord. No. 06-88, § 1, 10-24-06)

Sec. 2-31-212. Financial assistance for retail potable water and wastewater facility investment fees for affordable multifamily residential units.

(a) The recitals of Ord. No. 07-48 are adopted by the board of county commissioners as findings of the county and are incorporated herein by reference.

(b) Financial assistance for retail potable water and wastewater facility investment fees is hereby established for the purpose of assisting eligible property owners who construct affordable multifamily residential units in unincorporated Manatee County.

(c) As used in this section, the following words and terms shall have the following meanings unless a different meaning clearly appears from the context:

PUBLIC HEARINGS

Agenda Item 4
Developer Agreement, Zota Beach Resort, 4711 Gulf of Mexico Drive

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, reviewed the proposed Developer Agreement noting:

- the agreement was due to improvements and supply of water and wastewater through the Public Works Department
- involved a fee to be paid to the Town, as the Town is providing water and wastewater service to the resort
- there was a subsequent change after the distribution of agenda materials – the developer had made an error in the calculation in their letter, which resulted in a larger fee being due the Town
- there is a change on page 2 of the agreement regarding a change from a six (6) inch pipe to an eight (8) inch pipe; it did reference the eight (8) pipe in the supporting materials, and they did install an eight (8) inch fire line
- the installation of the fire line resulted in a change in Section 3, Facility Investment Fee, of an increase of the fee to $5,516 and in Section 4, a total fee of $74,076

Mr. Schneier commented in the letter there was reference to the fee total, and then there was a connection fee charge of $163,000. He asked how those two fees interacted; he assumed they were separate fees. Juan Florensa, Public Works Director, explained they were two separate fees; the connection fee was set by the Town and was the cost for the developer to connect the line into the meter and the associated work, and the Town's work to connect it to the system. He pointed out that the Facility Investment Fee (FIF) was based on the Town's purchase of water from Manatee County, where the Town had an allotment of 2.5 million gallons per day and if the number was exceeded, then the Town would pay a higher rate for using more water than allotted. He noted that because the development increased the amount of units in the hotel, the Town can apply to Manatee County to purchase additional reserve capacity, and charge the developer the cost of the additional reserve capacity.

All those testifying were sworn at this time.

Maggie Mooney-Portale, Town Attorney, asked if there were any Ex Parte Communications that should be disclosed, and also if there were any Conflicts of Interest that should be noted. No Ex Parte Communications or Conflicts of Interest were noted for the record. Public Works Director Florensa swore and affirmed that his prior testimony was true and correct.

Chair Brown asked why the P&Z Board heard these agreements. He believed it could be something that was approved administratively. Attorney Mooney-Portale explained that when the Town approved the resolution authorizing the redevelopment of the Hilton property, one of the conditions in the approval was that the parties (the Town and the developer) execute a development agreement associated with the FIF fees. The use of the word 'development agreement' had particular meaning in the Town Code. In the Town Code, development agreements were subject to two public hearings - one before the P&Z Board and the second before the Town Commission, and required certain notice and due process notification. The Town was complying with the Town Code by going through this process, and the fees associated were governed by Manatee County ordinance, which the Town did not control. Ms. Ray noted that staff would be reviewing that section of the code during the rewriting of the codes.

No one else wished to be heard, and the hearing was closed.

MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF THE DEVELOPER AGREEMENT FOR ZOTA BEACH RESORT, AS REVISED. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.

End of Agenda Item