

MEMORANDUM

To: Mayor and Foley City Council

Subject: Moratorium Waiver Request – Holmes Family, LLC

Date: July 15, 2025

From: Nelson Bauer, Infrastructure and Development Program Manager



Background

On May 5, 2025, the City Council adopted a temporary development moratorium. Included in the adopted ordinance is Section 5, titled “Waiver Requests, Appeals and Relief.” This section functions as a “safety valve,” providing a process through which a property owner or their designated agent may request relief from the moratorium when specific criteria are met.

Importantly, approval of a waiver does not constitute approval of a development project. Rather, it allows the proposed development to proceed through the normal review channels—such as the Planning Commission, Land Development Permits, and Building Permits—without being restricted by the moratorium.

To approve a waiver, a majority of the City Council must determine that the following four criteria are satisfied:

1. Exceptional Hardship
2. No Precedent or Circumvention
3. Consistency with Public Policy
4. Minimal Adverse Impact

Item 1: Holmes Family, LLC – Philomene Holmes Boulevard

The applicant, Holmes Family, LLC, submitted a waiver request on July 9, 2025, seeking relief from the development moratorium to allow for development of a 78-acre property located along Philomene Holmes Boulevard. In their letter, the applicant cites a prior annexation agreement with the City and the donation of land for a public road leading to Graham Creek Preserve as justification for meeting the waiver conditions.

The applicant claims that there was a longstanding expectation that future development of this property would not be restricted and that granting the waiver would not create precedent due to the unique nature of their donation. They further assert that the proposed development aligns

with the City's strategic planning efforts and will have minimal adverse impact on infrastructure or adjacent properties.

However, the waiver request does not include supporting documentation, such as a formal agreement outlining vested development rights, approved development plans, or technical reports evaluating infrastructure, drainage, or traffic impacts.

Staff Recommendation

Staff does not recommend granting the waiver, as the applicant does not meet the criteria under Section 5 of the moratorium ordinance:

1. **Exceptional Hardship** – While the applicant references a historical annexation and land donation agreement, no evidence has been submitted demonstrating a unique, immediate, or material hardship that is not self-created. There is no formal development approval or vested right in place. Without documentation of a development agreement or timing obligation, this condition is not satisfied.
2. **No Precedent or Circumvention** – Although the property has a unique history, approval could open the door to similar waiver requests based solely on past cooperation with the City. Without clear criteria differentiating this case from others, granting the waiver risks undermining the purpose and consistency of the moratorium ordinance.
3. **Consistency with Public Policy** – The request generally claims alignment with the City's Comprehensive Plan and Strategic Plan, but does not provide references to zoning, land use designation, density, or infrastructure compatibility. Without review by planning staff or a preliminary plat, consistency cannot be confirmed.
4. **Minimal Adverse Impact** – The request does not include drainage, traffic, or utility evaluations, nor does it include a site plan or concept layout. Without this information, the City cannot determine whether the proposed development would have minimal adverse impact.

Therefore, staff recommends that the applicant proceed with the project once the moratorium expires and does not support granting the requested waiver at this time.