

A RESOLUTION AMENDING DEVELOPMENT ORDER 84-3, AS AMENDED, FOR THE MARCO SHORES/FIDDLER'S CREEK DEVELOPMENT OF REGIONAL IMPACT ("DRI") BY PROVIDING FOR: SECTION ONE, AMENDMENTS TO DEVELOPMENT ORDER AS FOLLOWS - UNTITLED SECTION 1 RELATING TO GENERAL LAND USE INFORMATION CONCERNING THE DEVELOPMENT; SECTION 2 RELATING TO FINDINGS OF FACT REGARDING THE LEGAL DESCRIPTION AND LAND USES; SECTION 4 SUBSECTIONS ENTITLED HURRICANE EVACUATION TO DELETE REFERENCES TO PUBLIC AND RECREATIONAL FACILITIES, PROJECT DEVELOPMENT AND RECREATIONAL FACILITIES TO SHOW A NEW REFERENCE TO FIDDLER'S CREEK MASTER PLAN; WATER SUPPLY AND TREATMENT AND DISTRIBUTION; POLLING PLACES; MAINTENANCE FACILITIES; RECREATION AND OPEN SPACE; UNTITLED SECTION 8 TO SPECIFY THE MARRIOTT GOLF COURSE; SECTION TWO, THE FIDDLER'S CREEK REVISED MASTER PLAN AND LEGAL DESCRIPTION; SECTION THREE, FINDINGS OF FACT; SECTION FOUR, CONCLUSIONS OF LAW AND SECTION FIVE, EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDER, TRANSMITTAL TO DCA AND EFFECTIVE DATE.

WHEREAS, 951 Land Holdings, Ltd., a Florida limited partnership (hereinafter "Developer") submitted a Notice of Proposed Change for the Marco Shores/Fiddler's Creek Development of Regional Impact ("DRI"), and petitioned the Board of County Commissioners of Collier County, Florida, to amend the Marco Shores/Fiddler's Creek Development Order, Collier County Development Order 84-3, as previously amended by Resolutions 84-237, 88-117, 89-149, 96-333, 96-530 and 98-49, only with respect to the Fiddler's Creek portion of the Marco Shores/Fiddler's Creek DRI/PUD; and

WHEREAS, Developer desires to add approximately 168 acres of land located in Sections 11 and 14, Township 51 South, Range 26 East, in Collier County, to the Fiddler's Creek portion of the Marco Shores/Fiddler's Creek DRI/PUD; and

WHEREAS, this amendment is intended to amend Development Order 84-3, as previously amended, as it relates to the Fiddler's Creek DRI portion of the Marco Shores/Fiddler's Creek DRI/PUD.

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners, Collier County, Florida, that:

SECTION ONE: AMENDMENTS TO DEVELOPMENT ORDER.

Portions of the Marco Shores/Fiddler's Creek Development Order 84-3, as previously amended, as it relates to Fiddler's Creek, are amended as follows:

- A. Untitled Section 1 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI is hereby amended to read as follows:

Section 1. That this Resolution shall constitute an amendment to the Development Order issued by Collier County in response to the ADA filed by Deltona, previous Notices of Proposed Change and the Notice of Proposed Change filed by the Developer for a portion of Unit 30, which is a component of Marco Shores, a Planned Unit Development, Isle of Capri Commercial Area and Key Marco (Horr's Island). The Fiddler's Creek portion of Marco Shores shall consist of 3,764 3,932 acres, 6,000 dwelling units, 33.6 acres of "Business," open space, golf courses, lakes and preserves as set forth herein, and shall be known as Fiddler's Creek, a Planned Unit Development. The scope of development to be permitted pursuant to this Order includes operations described in the ADA, prior amendments approved for the development, changes approved herein and the supporting documents which by reference are made a part hereof as composite Exhibit "B."

- B. Section 2 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, containing Findings of Fact, is hereby amended to read as follows:

Section 2. That the Board of County Commissioners, having received the above-referenced documents, and having received all related comments, testimony and evidence submitted by each party and members of the general public, finds that there is substantial competent evidence to support the following findings of fact:

A. That the real property which is the subject of ~~this~~ Development Order 84-3, as amended including the Fiddler's Creek Addition, is legally described as set forth in Exhibit "A," and Exhibit "FC-C1," the legal description for Fiddler's Creek with the addition of the 168 acre tract, which is attached hereto and by reference made a part hereof.

B. The application is in accordance with Section 380.06(19) Florida Statutes as modified by the Marco Agreement.

C. The applicant submitted to the County an ADA known as composite Exhibit B, and by reference made a part hereof, to the extent that it is not inconsistent with the terms and conditions of this Order.

D. The applicant proposes the development of Fiddler's Creek, Isle of Capri Commercial Area and Horr's Island all of which are a part of the Marco Shores PUD. Fiddler's Creek consists of ~~3,764~~ 3,932 acres: ~~3900~~ 3000 multi-family Units, and ~~2100~~ 3000 single-family dwelling units for a total of 6,000 dwelling units at a gross density of ~~4.6~~ 1.53 units/acre; business sections; sites for parks; recreation areas; Collier County School Board property; utility facilities; community facilities; preservation areas; and lakes; and roads. Isle of Capri Commercial Area previously designated for neighborhood commercial uses has been amended by the Board of County Commissioners to permit a 150 room hotel with accessory uses and restaurant and utility site. Horr's Island is 212.89 acres, 300 multi-family dwelling units at 1.41 units/acre with parks and recreation area.

E. The Development is consistent with the report and recommendations of the SWFRPC.

F. The development will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.

G. A comprehensive review of the impact generated by the development has been conducted by the County's departments and the SWFRPC.

H. The development is not in an area designated an areas of critical state concern pursuant to the provisions of Section 380.05, Florida Statutes, as amended.

I. The development is consistent with the land development regulations of Collier County.

C. Section 4. C. 2., entitled "Hurricane Evacuation," of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, is hereby amended to read as follows:

2. Hurricane Evacuation

a. The applicant shall use a minimum first habitable floor elevation as designated by the Flood Insurance Rate Maps or Collier County Building Code (18" above crown of road), whichever is greater.

b. A homeowners' association shall be established to provide education to residents concerning hurricane evacuation, shelters, etc.

c. The Agreement dated April 4, 1995, between Developer and Collier County providing for Developer's contribution of an 18.4 acre lake for the excavation of up to 500,000 c.y. of fill fully and completely satisfies Developer's "fair share" contribution for the residents' use of SR 951 as a hurricane evacuation route.

d. ~~All public and semi-public facilities and all recreational facilities and meeting halls shall be made available as storm refuge space.~~

e. ~~—~~ A practical hurricane evacuation plan shall be prepared and implemented for the area.

D. Section 4. D. 1., entitled "Project Development and Recreational Facilities," of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, is hereby amended to read as follows:

1. Project Development and Recreational Facilities:

The proposed construction shall comply with all standards set forth and the resulting complete project shall adequately serve its occupants and members and will not cause a general public problem. Such measures as the construction of streets, screens, signs, landscaping, erosion control and other similar-in-function facilities shall be taken to accomplish the above set forth objectives. Recreation facilities shown on Exhibit "C" and Fiddler's Creek Exhibit "FC-A" A1, Master Development Plan, shall be provided and completed in timing with the adjacent residential units and as specified in the PUD document. The ~~northern~~ Marriott golf course in Fiddler's Creek was constructed by a resort hotel corporation. This course is used primarily for the recreational use of their guests. Secondly, residents of Fiddler's Creek will have access to this course on an as-space-is-available basis, and the public may have similar access. The ~~southern and eastern~~ additional golf courses in Fiddler's Creek shall be constructed when feasible to serve the surrounding residential units. The ~~southern~~ additional golf ~~course~~ courses and recreational facilities shall be privately owned facilities and constructed on the designated sites in conformance with the development needs of the project.

Neighborhood parks, bike trails, and other community recreation facilities shall be constructed and completed in conformance with the general development schedule of the project. Those facilities scheduled for subsequent donation to the County as part of the development plan are two community facility sites.

The school sites specified in Development Order 84-3 have been dedicated to the Collier County and previously accepted by The Collier County School Board. Developer has traded property outside of Fiddler's Creek to the School Board for some of the property owned by the School District in Fiddler's Creek. Neighborhood Parks will be dedicated to the Homeowners Association or Community Development District upon their completion in conformance with the development schedule of the project. The Community Facilities Sites in Fiddler's Creek will provide a location for the construction of public facilities, which may include a sheriff's sub-station, fire station, library site and emergency medical services. These Community Facilities Sites will be dedicated to the County at the County's request.

E. Section 4. D. 6., entitled "Water Supply and Treatment and Distribution," of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, is hereby amended to read as follows:

6. Water Supply and Treatment and Distribution

a. The County Water-Sewer District through its Regional Water System shall be the sole provider and purveyor of water to those portions of the development lying within any non-franchised areas.

b. All plans and specifications for transmission and distribution facilities proposed for the areas under this petition shall be reviewed by the Utilities Division for conformance with current subdivision requirements and Utilities Division standards for construction.

c. All transmission and distribution facilities within the non-franchised areas shall be dedicated to the County Water-Sewer District prior to being placed into service.

d. All water users in the non-franchised areas shall be County customers.

e. Prior to the issuance of building permits for new water demanding facilities, the applicant for the building permit shall pay all appropriate system development charges applicable at the time application for the building permits are made.

f. Collier County shall supply potable water service to Fiddler's Creek. Wells may be constructed in ~~Sections 22, 23 and 24 of Township 51 South, Range 26 East in Fiddler's Creek DRI and in Fiddler's Creek Addition to provide non-potable water for irrigation~~ as permitted by the South Florida Water Management District.

F. Section 4. D. 10., entitled "Polling Places," of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, is hereby amended to read as follows:

10. **Polling Places:** Community facility sites have been provided throughout the major development areas to provide for this facility. If no appropriate County facilities are available, rooms will be provided within a building or the recreation buildings designated by the Developer for the purpose of permitting residents within the PUD to vote during all elections. The number and location of needed rooms will be determined by Collier County Supervisor of Elections.

G. Section 4. D. 15., entitled "Maintenance Facilities," of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, is hereby amended to read as follows:

15. **Maintenance Facilities:**

a. Developer has petitioned for, and the Florida Land and Water Adjudicatory Commission has established, a community development district created under Ch. 190, Fla. Stat., for the Fiddler's Creek area as it existed prior to the addition of the Fiddler's Creek Addition.

The Developer may petition for the creation and establishment of a separate community development district pursuant to Chapter 190, Fla. Stat., for the Fiddler's Creek Addition or the developer or district may petition to

expand the existing Community Development District, pursuant to Ch. 190, Fla. Stat., to include land added by this amendment, and, said Fiddler's Creek Addition, at its option. Within areas incorporated therein, any Community Development District serving Fiddler's Creek will own and will have the responsibility for operating, maintaining, and as appropriate, improving and expanding the following common areas and systems, facilities and services:

- (1) Any drainage facilities and right-of-way (streets and roads) that are not dedicated to the County at the time of platting;
- (2) The water management systems within Fiddler's Creek, including lake and lakeshore maintenance;
- (3) Internal neighborhood parks shall be dedicated to the Fiddler's Creek Homeowners Association or the Community Development District for ownership and maintenance;
- (4) Certain recreational amenities and facilities which are not owned and operated by the Developer, other private interests or individual condominium associations;
- (5) Street lighting, and;
- (6) Such other common areas, projects, systems, facilities and services which are desired by the landowner or residents of the Fiddlers Creek Community Development District but which are not available through other local government or private enterprise and which are defined or authorized by Ch. 190, Fla. Stat.

Chapter 190 Fla. Stat. grants community development districts created and established thereunder all powers necessary to achieve their purposes, including the power to levy and collect taxes and non-ad valorem special assessments, borrow money and issue bonds. The Developer has the responsibility for the election of the members of the Board of Supervisors of the Fiddler's Creek Community Development District until it is turned over to the residents as provided under Chapter 190 Fla. Stat.

(b) Horr's Island and the Horr's Island Entrance Road
Within the Barfield Bay Multi-Family Area: A community association (the "Key

Marco Community Association") will be set up by deed restriction. The owners of all property on Horr's Island and along the entranceway to Horr's Island will be members of the Key Marco Community Association. Property Owner's will be assessed a monthly maintenance fee to support the work of the Association. The Association will have lien rights to enforce collection of monthly fees. The Key Marco Community Association will own and will have the responsibility for operating and maintaining the following common areas and facilities:

- (1) The entranceway to Horr's Island, including any security system;
- (2) The roadway from County Road 92 to Horr's Island and all internal streets and roads on Horr's Island, including all drainage facilities that are not the responsibility of individual condominium associations;
- (3) Parks and recreation areas;
- (4) Street lighting;
- (5) The historical preservation site and Indian mounds on Horr's Island, including the public dock and access-way to the Captain Horr house (the Key Marco Community Association may cooperate with local historical societies to maintain and/or restore the Captain Horr house);
- (6) The bridge across Blue Hill Creek to Horr's Island, including maintenance of all required navigational lighting; and
- (7) Such other community areas and facilities which are desired by the resident of Horr's Island but which are not available through local government or private enterprise.

c. Isle of Capri Commercial Area: Roads in this area either already exist and are being maintained by the State or county or they will be dedicated to the County at the time of platting. All common areas and facilities will be the responsibility of the individual commercial owners and operators of the Isle of Capri Commercial Area.

H. Section 4. E. 2., entitled "Recreation and Open Space," of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, is hereby amended to read as follows:

2. Recreation and Open Space:

a. Developer will construct neighborhood parks and bikeways as shown in the Marco ADA as amended herein and in the PUD document. These recreational facilities will be dedicated to the Fiddler's Creek Homeowners Association or Community Development District for the use of residents of Fiddler's Creek. Developer will also provide sites for numerous other recreational facilities, including golf courses and tennis facilities, as shown in the Marco ADA and ~~as amended~~ Exhibit "FC-A1" herein and in the PUD document. These facilities may be reserved for use solely by the residents of the Fiddler's Creek Development and their guests. ~~The construction of the northern~~ Marriott's eighteen hole golf course in Fiddler's Creek will be used primarily for the recreational use of their guests. Secondly, residents of the Fiddler's Creek area will have access to this course on an as-space-is-available basis and the public may have access on a similar basis. ~~The southern and eastern~~ additional golf courses, recreational facilities and tennis center will be constructed when feasible to serve the surrounding residential units. The recreational facilities and tennis center may be dedicated to the homeowners' association or the Fiddler's Creek Community Development District ("CDD").

b. Deltona shall preserve the historic Horr Homestead located on Horr's Island. This historical site will be open to the general public; however, access may be available only by boat and reasonable restrictions may be imposed on the public's access to the site.

I. Untitled Section 8 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, is hereby amended to read as follows:

Section 8. This Order shall be binding upon the Developer, assignees or successors in interest; provided, however, the obligations contained herein with respect to dedication of public safety facility sites, school sites, park sites, bikeways and exercise courses, fill for State Road 951, provision of project water and sewer treatment plant facilities, construction of infrastructure beyond the bounds of the northern Marriott golf course and such other obligations which do not directly relate to the development and operation of the northern Marriott golf course, shall be the

responsibility of the Developer of the residential and business areas of this DRI and not that of the developer of the northern Marriott golf course.

SECTION TWO: ADOPTING REVISED FIDDLER'S CREEK MASTER PLAN AND LEGAL DESCRIPTION.

The Marco Shores/Fiddler's Creek Development Order, Resolution 83-4, as amended, is hereby amended to add as exhibits the revised Fiddler's Creek DRI/PUD Master Plan, Exhibit "FC-A1," and the revised Legal Description of Fiddler's Creek DRI/PUD, as amended, Exhibit "FC-C1," which are attached hereto and incorporated herein by reference.

SECTION THREE: FINDINGS OF FACT.

- A. That the real property, consisting of approximately 168 acres, which is the subject of the proposed amendment is legally described as set forth in Exhibit "ADD-1," attached hereto and by reference made a part hereof.
- B. The applicant submitted to Collier County a Notice of Proposed Change (NOPC) to a previously approved DRI, marked Exhibit "F," and by reference made a part hereof.
- C. The application is in accordance with Section 380.06(19), Florida Statutes.
- D. The application proposes the addition of approximately 168 acres of land without increasing either the number of previously approved residential units or the amount of retail commercial use within the Marco Shores/Fiddler's Creek DRI, and the amendment will have no significant additional impact on regionally significant public facilities and services.
- E. A comprehensive review of the Marco Shores/Fiddler's Creek DRI, as amended, to include the proposed changes to the previously approved development has been conducted by Collier County's departments and by the Southwest Florida Regional Planning Council.
- F. The development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes, as amended.

SECTION FOUR: CONCLUSIONS OF LAW.

- A. The proposed changes to the previously approved Marco Shores/Fiddler's Creek Development Order described in the NOPC (Exhibit "F") do not constitute a substantial deviation pursuant to Section 380.06(19), Florida Statutes. The scope of development permitted pursuant to this Development Order Amendment includes the

development and activities described in the NOPC to a previously approved DRI, Exhibit "F," attached and by reference made a part hereof.

- B. The proposed changes to the previously approved Marco Shores/Fiddler's Creek DRI are consistent with the report and recommendations of the Southwest Florida Regional Planning Council.
- C. The proposed changes to the previously approved Development Order will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- D. The proposed changes to the previously approved Development Order are consistent with the Collier County Growth Management Plan, as amended, and the land development regulations adopted pursuant thereto.
- E. The proposed changes to the previously approved Development Order are consistent with the State Comprehensive Plan.

SECTION FIVE: EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDER, TRANSMITTAL TO DCA, AND EFFECTIVE DATE.

- A. Except as amended hereby, Development Order 84-3, as amended, shall remain in full force and effect, binding in accordance with its terms on all parties thereto.
- B. Copies of this Development Order No. 2000-06 shall be transmitted immediately upon execution to the Department of Community Affairs, Bureau of State Planning, and the Southwest Florida Regional Planning Council.
- C. This Development Order shall take effect as provided by law.

BE IT FURTHER RESOLVED that this Resolution be recorded in the minutes of this Board.

This Resolution adopted after motion, second and majority vote.

Done this 12th day of December, 2000.

Attest:

BOARD OF COUNTY
COMMISSIONERS
COLLIER COUNTY, FLORIDA

Dwight E. Brock
Dwight E. Brock, Clerk

Attest as to Chairman's
signature only.

James D. Carter
JAMES D. CARTER, PH.D.,
CHAIRMAN

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Marjorie M. Student
Marjorie M. Student
Assistant County Attorney

Public\Marjorie\Resolution 7-00