



Civil Engineers • Land Surveyors • Planners • Landscape Architects

August 7, 2017

Ms. Margaret Wuerstle, Executive Director  
Southwest Florida Regional Planning Council  
1400 Colonial Boulevard, Suite 1  
Fort Myers, Florida 33907

RE: DEO-BCP-PROPCHANGE-1: Marco Shores / Fiddler's Creek DRI

Dear Ms. Wuerstle,

Enclosed please find the completed application forms and supporting data for the DRI Notice of Proposed Change for the Marco Shores / Fiddler's Creek Development of Regional Impact. The proposed DRI Notice of Proposed Change is being requested to shift some of the previously approved commercial development to the U.S. 41 frontage of the project in order to better serve the existing and future residential development within the Fiddler's Creek community. Because the project is approximately two-thirds complete, the Master Development Plan (Map H) is being revised to better reflect the as-built and future development plan for the project. A summary of the proposed changes is listed below.

Summary of Proposed Changes to DRI/PUD

- Create new map H and PUD master plan to reflect reallocation of commercial (B, Business) acreage to area on U.S. 41 near new project entrance.
  - No new commercial square footage is proposed.
- Revise map H and PUD master plan to better reflect as-built community plan and add new project accesses on U.S. 41.
- Revise future golf course text in paragraphs D and H of the DRI D.O.

Please contact either Bruce Anderson at 659-4942 or me if there are any questions.

Sincerely,

D. Wayne Arnold, AICP

*Ms. Margaret Wuerstle, Executive Director*  
*RE: DEO-BCP-PROPCHANGE-1: Marco Shores / Fiddler's Creek DRI*  
*DATE*  
*Page 2 of 2*

cc: FCC Commercial LLC  
Aubrey J. Ferrao  
Tony DiNardo  
Joseph Livio Parisi, Esq.  
R. Bruce Anderson, Attorney at Law  
Collier County Growth Management  
GradyMinor File

STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
DIVISION OF COMMUNITY PLANNING & DEVELOPMENT  
The Caldwell Building, MSC 160  
107 East Madison Street  
Tallahassee, Florida 32399

**NOTIFICATION OF A PROPOSED CHANGE TO A PREVIOUSLY APPROVED  
DEVELOPMENT OF REGIONAL IMPACT (DRI)  
SUBSECTION 380.06(19), FLORIDA STATUTES**

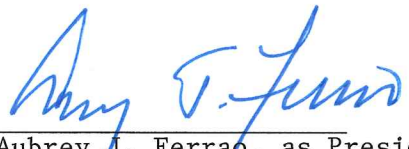
Subsection 380.06(19), Florida Statutes, requires that submittal of a proposed change to a previously approved DRI be made to the local government, the regional planning agency, and the state land planning agency according to this form.

1. I, Aubrey J. Ferrao, the undersigned owner/authorized representative of FCC Commercial LLC, hereby give notice of a proposed change to a previously approved Development of Regional Impact in accordance with Subsection 380.06(19), Florida Statutes. In support thereof, I submit the following information concerning the Marco Shores/Fiddler's Creek development, which

information is true and correct to the best of my knowledge. I have submitted today, under separate cover, copies of this completed notification to Collier County,

to the Southwest Florida Regional Planning Council, and to the Bureau of Community Planning, Department of Economic Opportunity.

July 27, 2017  
Date

  
Signature Aubrey J. Ferrao, as President and CEO  
of FCC Commercial, LLC, and not  
individually

2. Applicant (name, address, phone).

**FCC Commercial LLC  
8156 Fiddler's Creek Parkway  
Naples, FL 34114  
239-732-9400**

3. Authorized Agent (name, address, phone).

**D. Wayne Arnold, AICP  
Q. Grady Minor and Associates, P.A.  
3800 Via Del Rey, Bonita Springs, FL 34134  
239-947-1144  
warnold@gradymenor.com**

**R. Bruce Anderson  
Attorney at Law  
Cheffy Passidomo, P.A.  
821 5th Avenue South, Naples, FL 34102  
239-659-4942  
rbanderson@napleslaw.com**

4. Location (City, County, Township/Range/Section) of approved DRI and proposed change.

**Collier County, Sections 11, 13, 14, 15, 21, 22, 23, 24, 26 & 33 / T51S / R26E; and Sections 13, 14, 15, 21, 22, 23, 24, 27 & 28 / T52S / R27E; and Sections 18, 19 & 29 / T51S / R27E.**

5. Provide a complete description of the proposed change. Include any proposed changes to the plan of development, phasing, additional lands, commencement date, build-out date, development order conditions and requirements, or to the representations contained in either the development order or the Application for Development Approval.

Indicate such changes on the project master site plan, supplementing with other detailed maps, as appropriate. Additional information may be requested by the Department or any reviewing agency to clarify the nature of the change or the resulting impacts.

**Summary of Proposed Changes to DRI/PUD**

- **Create new map H to reflect reallocation of commercial (B, Business) acreage to area on U.S. 41 near new project entrance.**
  - **No new commercial square footage is proposed.**

- **Revise map H to better reflect as-built community plan and add two new project access points on U.S. 41.**
  - **Remove/amend reference to remaining/additional golf courses (which have never been developed) in §4.D.1 of DRI DO.**
6. Complete the attached Substantial Deviation Determination Chart for all land use types approved in the development. If no change is proposed or has occurred, indicate no change.
  7. List all the dates and resolution numbers (or other appropriate identification numbers) of all modifications or amendments to the originally approved DRI development order that have been adopted by the local government, and provide a brief description of the previous changes (i.e., any information not already addressed in the Substantial Deviation Determination Chart). Has there been a change in local government jurisdiction for any portion of the development since the last approval or development order was issued? If so, has the annexing local government adopted a new DRI development order for the project?

**Fiddler's Creek (Marco Shores) DRI was initially approval by Development Order 84-3, issued on June 12, 1984, changes to the project have been approved by the following development order amendments:**

- a. **Resolution No. 84-237 adopted December 11, 1984. This amendment approved the terms of the Stipulation of Settlement between Deltona Corporation and the Department of Community Affairs which resolved an appeal of the original development order. The changes amended the traffic provisions in Section 4.D to provide for a definition of substantial impact on the roadway system and changed other transportation provisions.**
- b. **Resolution No. 89-149 adopted June 13, 1989. The second amendment reduced the number of dwelling units approved in Fiddler's Creek from a total of 9,110 dwelling units to 7,000 units and required the developer's contribution of an 18.4 acre lake site as a source of fill for the widening of S.R. 951 as the developer's "fair share" contribution requirement.**
- c. **Resolution No. 96-333 adopted July 23, 1996. The third amendment reduced the number of dwelling units from 7,000 to 6,000 units and reduced the approved commercial acreage to 33.6 acres with 325,000 square feet of commercial use. The amendment also increased the amount of preserve area by 201.37 acres and added a 22.9 acre parcel to the project.**
- d. **Resolution No. 96-530 adopted November 26, 1996. The fourth amendment added 690 acres in Section 13 to Fiddler's Creek, with no increase in units or commercial square footage.**
- e. **Resolution No. 98-49 adopted February 24, 1998. The fifth amendment added 1,385 acres to the project for a total of 3,764 acres, with no increase in the number of approved units or commercial square footage. The additional land is to be used for golf and the relocation of previously approved**

residential units.

- f. **Resolution No. 2000-458 adopted December 12, 2000. The sixth amendment added 168 acres to the project for a total of 3,932 acres, with no increase in the number of approved units or commercial square footage. The additional land is to be used for residential/golf course and relocates previously approved residential units.**

8. Describe any lands purchased or optioned within 1/4 mile of the original DRI site subsequent to the original approval or issuance of the DRI development order. Identify such land, its size, intended use, and adjacent non-project land uses within 1/2 mile on a project master site plan or other map.

**There is no additional land owned or under option by the developer within 1/4 mile of the Fiddler's Creek DRI, as amended by this NOPC.**

9. Indicate if the proposed change is less than 40% (cumulatively with other previous changes) of any of the criteria listed in Paragraph 380.06(19)(b), Florida Statutes.

Do you believe this notification of change proposes a change which meets the criteria of Subparagraph 380.06(19)(e)2., F.S.

YES   X  

NO                     

10. Does the proposed change result in a change to the buildout date or any phasing date of the project? If so, indicate the proposed new buildout or phasing dates.

**NO**

11. Will the proposed change require an amendment to the local government comprehensive plan?

**YES. A companion text amendment has been filed with Collier County. The amendment revises previously approved language that permits existing vested residential units to be located within Sections 18 and 19, Township 51 S, Range 27 E to also permit commercial development to be located in these sections of the DRI/PUD.**

Provide the following for incorporation into such an amended development order, pursuant to Subsections 380.06 (15), F.S., and 73-40.025, Florida Administrative Code:

12. An updated master site plan or other map of the development portraying and distinguishing the proposed changes to the previously approved DRI or development order conditions.

**An updated master site plan (Map H) is attached as Exhibit A.**

13. Pursuant to Subsection 380.06(19)(f), F.S., include the precise language that is being proposed to be deleted or added as an amendment to the development order. This language should address and quantify:

- a. All proposed specific changes to the nature, phasing, and build-out date of the development; to development order conditions and requirements; to commitments and representations in the Application for Development Approval; to the acreage attributable to each described proposed change of land use, open space, areas for preservation, green belts; to structures or to other improvements including locations, square footage, number of units; and other major characteristics or components of the proposed change;

**The change to the current Fiddler's Creek Development Order will be to update the master site plan (Map H), attached as Exhibit A. Language regarding future golf course development has been modified.**

- b. An updated legal description of the property, if any project acreage is/has been added or deleted to the previously approved plan of development;

**No changes to the DRI boundary are proposed.**

- c. A proposed amended development order deadline for commencing physical development of the proposed changes, if applicable;

**Not applicable.**

- d. A proposed amended development order termination date that reasonably reflects the time required to complete the development;

**No change is proposed.**

- e. A proposed amended development order date until which the local government agrees that the changes to the DRI shall not be subject to down-zoning, unit density reduction, or intensity reduction, if applicable; and

**Not applicable.**

- f. Proposed amended development order specifications for the annual report, including the date of submission, contents, and parties to whom the report is submitted as specified in Subsection 73C-40.025 (7), F.A.C.

**No change is proposed.**

## SUBSTANTIAL DEVIATION DETERMINATION CHART

| TYPE OF LAND USE      | CHANGE CATEGORY   | PROPOSED PLAN | ORIGINAL PLAN | PREVIOUS D.O. CHANGE & DATE OF CHANGE |
|-----------------------|---|---------------|---------------|---------------------------------------|
| Attraction/Recreation | # Parking Spaces  |               |               |                                       |
|                       | # Spectators  |               |               |                                       |
|                       | # Seats   |               |               |                                       |
|                       | Site locational changes                                   |               |               |                                       |
|                       | Acreage, including drainage, ROW, easements, etc.         |               |               |                                       |
|                       | External Vehicle Trips                                    |               |               |                                       |
|                       | D.O. Conditions   |               |               |                                       |
|                       | ADA Representations                                       |               |               |                                       |
| Airports              | Runway (length)   | N.A.          | N.A.          |                                       |
|                       | Runway (strength)   | N.A.          | N.A.          |                                       |
|                       | Terminal (gross square feet)                              | N.A.          | N.A.          |                                       |
|                       | # Parking Spaces  | N.A.          | N.A.          |                                       |
|                       | # Gates   | N.A.          | N.A.          |                                       |
|                       | Apron Area (gross square feet)                            | N.A.          | N.A.          |                                       |
|                       | Site locational changes                                   | N.A.          | N.A.          |                                       |
|                       | Airport Acreage, including drainage, ROW, easements, etc. | N.A.          | N.A.          |                                       |

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.



### SUBSTANTIAL DEVIATION DETERMINATION CHART

|                  |   |      |      |  |
|------------------|---|------|------|--|
| Airports (cont.) | # External Vehicle Trips                          | N.A. | N.A. |  |
|                  | D.O. Conditions                                   | N.A. | N.A. |  |
|                  | ADA representations                               | N.A. | N.A. |  |
| Hospitals        | # Beds  | N.A. | N.A. |  |
|                  | # Parking Spaces                                  | N.A. | N.A. |  |
|                  | Building (gross square feet)                      | N.A. | N.A. |  |
|                  | Site locational changes                           | N.A. | N.A. |  |
|                  | Acreage, including drainage, ROW, easements, etc. | N.A. | N.A. |  |
|                  | External Vehicle Trips                            | N.A. | N.A. |  |
|                  | D.O. conditions                                   | N.A. | N.A. |  |
|                  | ADA representations                               | N.A. | N.A. |  |
| Industrial       | Acreage, including drainage, ROW, easements, etc. | N.A. | N.A. |  |
|                  | # Parking spaces                                  | N.A. | N.A. |  |
|                  | Building (gross square feet)                      | N.A. | N.A. |  |
|                  | # Employees                                       | N.A. | N.A. |  |
|                  | chemical storage (barrels and pounds)             | N.A. | N.A. |  |
|                  | Site locational changes                           | N.A. | N.A. |  |

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

### SUBSTANTIAL DEVIATION DETERMINATION CHART

|                    |  |      |      |  |
|--------------------|--|------|------|--|
| Industrial (cont.) | # External vehicle trips                                       | N.A. | N.A. |  |
|                    | D.O. Conditions  | N.A. | N.A. |  |
|                    | ADA representations  | N.A. | N.A. |  |
| Mining Operations  | Acreage mined (year)   | N.A. | N.A. |  |
|                    | Water withdrawal (gal/day)                                     | N.A. | N.A. |  |
|                    | Size of mine (acres), including drainage, ROW, easements, etc. | N.A. | N.A. |  |
|                    | Site locational changes  | N.A. | N.A. |  |
|                    | # External vehicle trips                                       | N.A. | N.A. |  |
|                    | D.O. Conditions  | N.A. | N.A. |  |
|                    | ADA representations  | N.A. | N.A. |  |
| Office             | Acreage, including drainage, ROW, easements, etc.              |      |      |  |
|                    | Building (gross square feet)                                   |      |      |  |
|                    | # Parking Spaces   |      |      |  |
|                    | # Employees  |      |      |  |
|                    | Site locational changes  |      |      |  |
|                    | # External vehicle trips                                       |      |      |  |
|                    | D.O. Conditions  |      |      |  |

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

### SUBSTANTIAL DEVIATION DETERMINATION CHART

|                            |  |      |      |  |
|----------------------------|--|------|------|--|
| Office (cont.)             | ADA representations  |      |      |  |
| Petroleum/Chemical Storage | Storage Capacity (barrels and/or pounds)                   | N.A. | N.A. |  |
|                            | Distance to Navigable Waters (feet)                        | N.A. | N.A. |  |
|                            | Site locations changes                                     | N.A. | N.A. |  |
|                            | Facility Acreage, including drainage, ROW, easements, ect. | N.A. | N.A. |  |
|                            | # External vehicle trips                                   | N.A. | N.A. |  |
|                            | D.O. Conditions  | N.A. | N.A. |  |
|                            | ADA representations  | N.A. | N.A. |  |
| Ports (Marinas)            | # Boats, wet storage                                       | N.A. | N.A. |  |
|                            | # Boats, dry storage                                       | N.A. | N.A. |  |
|                            | Dredge and fill (cu. yds.)                                 | N.A. | N.A. |  |
|                            | Petroleum storage (gals.)                                  | N.A. | N.A. |  |
|                            | Site locational changes                                    | N.A. | N.A. |  |
|                            | Port Acreage, including drainage, ROW, easements, etc.     | N.A. | N.A. |  |
|                            | # External vehicle trips                                   | N.A. | N.A. |  |
|                            | D.O. Conditions  | N.A. | N.A. |  |
|                            | ADA representations  | N.A. | N.A. |  |

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

### SUBSTANTIAL DEVIATION DETERMINATION CHART

|                            |   |                      |               |   |
|----------------------------|---|----------------------|---------------|---|
| Residential                | # Dwelling units                                  | No change            | 9,110 D.U.    | Res. 2000-458<br>6,000 D.U. total<br>3,000 S.F.<br>3.000 M.F. |
|                            | Type of dwelling units                            | No change            | Not specified |   |
|                            | # of lots   | No change            | Not specified |   |
|                            | Acreage, including drainage, ROW, easements, etc. | No change            | Not specified |   |
|                            | Site locational changes                           | Exhibit A            | Map H         | Exhibit B Res. 2000-458                                       |
|                            | # External vehicle trips                          | No change            | 58,463/day    | 41,524/day Res. 98-49   |
|                            | D.O. Conditions                                   |                      |               |   |
| Wholesale, Retail, Service | Acreage, including drainage, ROW, easements, etc. | No change            | 47.0 acres    | 33.6 (7/23/96)  |
|                            | Floor Space (gross square feet)                   | No change            | 383,988       | 325,000 (11/26/96)  |
|                            | # Parking Spaces                                  | N.A.                 | N.A.          |   |
|                            | # Employees                                       | N.A.                 | N.A.          |   |
|                            | Site locational changes                           | Yes (Proposed Map H) | Map H         | Exhibit A Res. 98-49  |
|                            | # External vehicle trips                          | No change            |               |   |
|                            | D.O. Conditions                                   | No change            |               |   |
|                            | ADA representations                               | No change            |               |   |

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

### SUBSTANTIAL DEVIATION DETERMINATION CHART

|             |   |           |     |  |
|-------------|---|-----------|-----|--|
| Hotel/Motel | # Rental Units                                    | No change | 150 |  |
|             | Floor space (gross square feet)                   | N.A.      |     |  |
|             | # Parking Places                                  | N.A.      |     |  |
|             | # Employees                                       | N.A.      |     |  |
|             | Site locational changes                           | N.A.      |     |  |
|             | Acreage, including drainage, ROW, easements, etc. | N.A.      |     |  |
|             | # External vehicle trips                          | N.A.      |     |  |
|             | D.O. Conditions                                   | N.A.      |     |  |
|             | ADA representations                               | N.A.      |     |  |
| R.V. Park   | Acreage, including drainage, ROW, easements, etc. | N.A.      |     |  |
|             | # Parking Spaces                                  | N.A.      |     |  |
|             | Buildings (gross square feet)                     | N.A.      |     |  |
|             | # Employees                                       | N.A.      |     |  |
|             | Site locational changes                           | N.A.      |     |  |
|             | # External vehicle trips                          | N.A.      |     |  |
|             | D.O. conditions                                   | N.A.      |     |  |
|             | ADA representations                               | N.A.      |     |  |

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

### SUBSTANTIAL DEVIATION DETERMINATION CHART

|  |                              |           |   |  |
|--|------------------------------|-----------|---|--|
| Open Space (All natural and vegetated non-impervious surfaces)           | Acreage                      |           | 614.2   | 1652.56 ac. Res. 2000-458  |
|  | Site locational changes      |           | Map H (12/12/2000)                                    | Exhibit B Res. 2000-458  |
|  | Type of open space           |           | 35 ac./parks<br>256 ac./lakes<br>323.2 ac./recreation | Res. 2000-458<br>128.16 ac. parks<br>687.7 ac. lakes<br>53.39 ac. buffer<br>771.14 ac. golf & rec<br>12.17 ac. Club Center |
|  | D.O. Conditions              |           |   |  |
|  | ADA representations          |           |   |  |
| Preservation, Buffer or Special Protection Areas<br>Preservation (cont.) | Acreage                      | No change | 42 ac.  | 756.4 ac. Res. 98-49   |
|  | Site locational changes      | Exhibit A | Map H   | Exhibit A Res. 98-49   |
|  | Development of site proposed | No change |   |  |
|  | D.O. Conditions              | No change |   |  |
|  | ADA representations          | No change |   |  |

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

DEVELOPMENT ORDER 2017- \_\_\_\_\_  
RESOLUTION 2017- \_\_\_\_\_

A RESOLUTION AMENDING DEVELOPMENT ORDER 84-3, AS AMENDED, FOR THE MARCO SHORES/FIDDLER'S CREEK DEVELOPMENT OF REGIONAL IMPACT ("DRI") BY PROVIDING FOR:

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, 98-49, and 2000-458, only with respect 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:

DEVELOPMENT ORDER ~~00-458~~2017-\_\_\_\_\_

RESOLUTION ~~00-458~~2017-\_\_\_\_\_

DEVELOPMENT ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA FOR UNIT 30 (FIDDLERS CREEK), ISLE OF CAPRI COMMERCIAL AND KEY MARCO (HORR'S ISLAND) AND PART OF MARCO SHORES PLANNED UNIT DEVELOPMENT LOCATED IN SECTIONS 11, 13, 14, 15, 22, 23, 24 AND 33, TOWNSHIP 51 SOUTH, RANGE 26 EAST; SECTIONS 14, 15, 21, 22, 23, 27, AND 28, TOWNSHIP 52 SOUTH, RANGE 26 EAST; AND SECTIONS 18, 19, AND 29, TOWNSHIP 51 SOUTH, RANGE 27 EAST, COLLIER COUNTY, FLORIDA: AS PREVIOUSLY AMENDED, FOR MARCO SHORES DEVELOPMENT OF REGIONAL IMPACT ("DRI").

INCLUDES REVISIONS:

84-237

MAY 24, 1988 88-117

JUNE 13, 1989 89-149

JULY 23, 1996 96-333

NOVEMBER 26, 1996 96-530

FEBRUARY 24, 1998 98-49

DECEMBER 12, 2000, 2000-458



DEVELOPMENT ORDER ~~00-458~~2017-\_\_\_\_\_

RESOLUTION ~~00-458~~2017-\_\_\_\_\_

DEVELOPMENT ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA FOR UNIT 30, ISLE OF CAPRI COMMERCIAL AND KEY MARCO (HORR'S ISLAND) AND PART OF MARCO SHORES PLANNED UNIT DEVELOPMENT LOCATED IN SECTIONS 11, 13, 14, 15, 22, 23, 24 AND 33, TOWNSHIP 51 SOUTH, RANGE 26 EAST; SECTIONS 14, 15, 21, 22, 23, 27, AND 28, TOWNSHIP 52 SOUTH, RANGE 26 EAST; AND SECTIONS 18, 19, AND 29, TOWNSHIP 51 SOUTH, RANGE 27 EAST, COLLIER COUNTY, FLORIDA: AS PREVIOUSLY AMENDED, FOR MARCO SHORES

DEVELOPMENT OF REGIONAL IMPACT ("DRI").

WHEREAS, 951 Land Holdings, Ltd. (hereinafter "Developer") submitted a Notice of Proposed Change for the Marco Shores Planned Unit Development, Unit 30, and petitioned the Board of County Commissioner of Collier County, Florida to amend the Marco Shores Development Order, Collier County Development Order 84-3, as previously amended by Resolutions 84-237, 88-117, 89-149, 96-333, ~~and 96-530, and 98-49, and 2000-458~~ only with respect to the Unit 30 portion of the Marco Shores Development Order; and

~~WHEREAS, Developer desires to add approximately 168 acres of land, portions of Sections 11 and 14, Township 51 South, Range 26 East, lying south and west of U.S. 41 in Collier County, consisting of two parcels of land more particularly described in Exhibits "ADD-1" and "ADD-2". Attached hereto, to the Fiddler's Creek portion of Marco Shores.~~

WHEREAS, this amendment is only intended to amend Development Order 84-3, as previously amended, as it relates to Fiddler's Creek.

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

**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 3,932 acres, 6,000 dwelling units, 33.655 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 be reference are made a part of composite Exhibit "B".

**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 the ADA and Development Order 84-3, as amended, 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 3,932 acres: 3000 multi-family Units, and 3000 single-family dwelling units for a total of 6,000 dwelling units at a gross density of 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. The 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.

**Section 3.** That the Board of County Commissioners having made the above findings of fact reaches the following conclusions of law:

A. That these proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in this proceeding, the Developer and the various departments of the County are authorized to conduct development as described herein, subject to the conditions, restrictions and limitations set forth herein.

B. That the review by the County, the SWFRPC and other participating agencies and interested citizens reveals that impacts are adequately addressed pursuant to the requirements of Chapter 380 and the Marco Agreement, within the terms and conditions of this Order and the ADA.

**Section 4.** This Board of County Commissioners finds that the applicant has adequately addressed and/or has agreed to satisfy those conditions and stipulations set forth by the SWFRPC in the SWFRPC's "conditional approval" (Item C below) of the ADA, and agreed to all additional conditions, stipulations, restrictions and limitations set forth by the Board of County Commissioner as follows:

A. Substantial Deviations: Retriggering of Development of Regional Impact Process. Further review pursuant to Chapter 380.06, may be required if a substantial deviation, as defined in Chapter 380.06, occurs. The applicant shall be given due notice of and an opportunity to be heard at any hearing to determine whether or not a proposed change to the development is a substantial deviation. Substantial deviation may occur by failure to comply with the conditions herein, failure to follow the plans and specifications submitted in the ADA and supplementary information, or by activities which are not commenced until after the expiration of the period of the effectiveness of the Order.

B. The Applicant shall submit an annual report in accordance Section 380.06(18), on the Development of Regional Impact to the County, the SWFRPC, the State Land Planning Agency, and other agencies as may be appropriate, by December 31 each year until and including such time as all terms and conditions of this Order are satisfied. Such report shall be submitted to the Collier County Community Development Administrator who shall, after appropriate review, submit it for review by the Board of County Commissioners. The Board of County Commissioners shall review the report for compliance with the terms and conditions of this Order and may issue further orders and conditions to insure compliance with the terms and conditions of this Order. The applicant shall be notified of any Board of County Commissioner hearing where in such report is to be reviewed, provided however, that receipt and review by the Board of County Commissioners shall not be considered a substitute or a waiver of any terms or conditions of this Order. The annual report shall contain:

1. The SWFRPC's monitoring forms as may be required;
2. A description of all development activity conducted pursuant to this Order during the year immediately preceding the submission of the annual report;
3. A description of all development activities proposed to be conducted under the terms of this Order for the year immediately subsequent to the submission of the annual reports;
4. A statement listing anticipated applications for development permits, required pursuant to applicable regulations which the applicant proposes to submit during the year immediately following submittal of the annual report;
5. A statement setting forth the name(s) and address(s) of any heir, assignee or successor in interest to the applicant in its capacity as developer of Marco Shores

Planned Unit Development; and

6. A statement that all persons have received copies of the annual report, as required under Chapter 380.06(18).

It is the intent herein that the foregoing requirements for submittal of the annual report shall be in addition to and not in lieu of any submittal requirements for an annual report as promulgated by the State Land Planning Agency or the Southwest Florida Regional Planning Council.

C. Southwest Florida Regional Planning Council's stipulations of approval are as follows:

IT IS THE RECOMMENDATION OF THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL THAT THE PROPOSED PROJECT BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Energy:** The proposed project would be an all electric development and would increase the energy demands of the Region. Florida Power and Light Corporation is providing power to Marco Shores/Fiddler's Creek. All electrical transmission lines will be sited within rights of way or separate utility easements.

Recommendations: The following list of energy conservation features shall be incorporated into the final site plans and architecture for Marco Shores Planned Unit Development or implemented through appropriate deed restrictions and covenants in order to mitigate further the energy impacts of the proposed project.

a. Provision of bicycle/pedestrian system connecting all land uses, to be placed along all arterial and collector roads within the project. This system is to be consistent with Collier County requirements.

- b. Provision of bicycle racks or storage facilities in recreation, commercial and multi-family residential areas.
- c. Cooperation in the locating of bus stops, shelters and other passenger and system accommodations when a transit system is developed to serve the project area.
- d. Use of energy-efficient features in window design (e.g., shading and tinting).
- e. Use of operable windows and ceiling fans.
- f. Installation of energy-efficient appliances and equipment.
- g. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
- h. Reduced coverage by asphalt, concrete, rock and similar substances in streets, parking lots and other areas to reduce local air temperatures and reflected light and heat.
- i. Installation of energy efficient lighting for streets, parking areas and other interior and exterior public areas.
- j. Use of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch).
- k. Selection of native plants, trees and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance and other needs.

l. Planting of native shade trees to provide reasonable shade structures, streets and parking areas.

m. Placement of trees to provide needed shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months.

n. Planting of native shade trees for each residential unit.

o. Orientation of structures, as possible, to reduce solar heat gain by walls and to utilize natural cooling effects of the wind.

p. Provision for structural shading (e.g., trellises, awnings and roof overhangs) wherever practical when natural shading cannot be used effectively.

q. Inclusion of porch/patio areas in residential units.

## 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, shelter, 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. A practical hurricane evacuation plan shall be prepared and implemented for the area.

## 3. **Other:** In the ADA for Marco Shores DRI, numerous commitments



were made by the applicant to mitigate project impacts. Many but not all of the commitment were listed in these stipulations.

a. All commitments and impact-mitigating actions provided by the applicant within the ADA (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above and as herin amended are officially adopted as conditions for approval.

b. The developer shall submit an annual report on the Development of Regional Impact to Collier County, the Southwest Florida Regional Planning Council and all affected agencies as required in Chapter 380.06(18), Florida Statutes.

4. **Additional Considerations:**

Recommendations: Communications shall continue between the Developer and the State Agencies and Collier County to urge that these bodies enter into negotiations by which a public entity can acquire the area known as Horr's Island with attended public access.

D. Commitments specified in the PUD Ordinance as set forth in Exhibit C attached hereto and by reference made a part thereof and 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-A1", Master Development Plan, shall be provided and completed in timing with the adjacent residential units

and as specified in the PUD document. The 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 additional golf course(s) in Fiddler's Creek ~~shall~~may be constructed when feasible to serve the surrounding residential units. The additional golf courses, if and when constructed, 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.

2. **Clearing, Grading, Earthwork and Site Drainage:** All clearing, grading, earthwork and site drainage work shall be performed in accordance with the Settlement

Agreement dated July 20, 1982, the applicable permits, and the Agreement with Collier County dated April 4 1995, and as set forth in this document. The Settlement Agreement and revised conceptual drainage plans submitted with this Notice of Proposed Change will be used as a guide to the final development of the drainage and road systems within the various development areas.

3. **Street Construction:** All public street design and construction shall meet the Collier County standards that are in effect at the time of the approval of this ordinance, except as provided in the Settlement Agreement which is by reference referred to as Exhibit “FC-D” although modifications may be approved by the parties thereto.

4. **Easement for Underground Utilities:** Easements for underground utilities such as power, telephone, cable TV, waste-water collection and transport, water distribution lines and other similar utilities necessary for the service of the project shall be located as required and granted for those purposes. Clearing of the easements for installation of underground utilities shall be selective so as to protect the maximum number of trees and natural vegetation.

5. **Waste Water Management:**

a. Under the franchise modification, as provided for below in "b" of this Section, Deltona, through Deltona Utilities, Inc., shall assume responsibility for construction and operating additional wastewater treatment collection and disposal facilities as necessary to provide sewer service to the Marco Development areas, and to those areas known as Unit 24 and Unit 27.

b. The Board of County Commissioners hereby authorizes Deltona to undertake the responsibility for sewer service, as provided in A of this Section, by granting the following modification to Deltona's Sewer Franchise Agreement, dated April 27, 1971 and

recorded in the public records of Collier County in Official Records Book 401, Page 304 et seq. (the "Sewer Franchise Agreement"):

(1) The sewer franchise area is hereby modified by deleting therefrom all property that is not designated as "Development Area" under the Marco Agreement and substituting therefore all property, not presently within the sewer franchise area, that is included within such Development Area.

(2) Notwithstanding this modification to the Sewer Franchise Agreement, Collier County shall provide sewer service to those areas, known as Unit 24 and Fiddler's Creek, provided Collier County has the capability and has committed to provide such sewer service prior to commencement by Deltona of construction of any additional sewage treatment facilities to serve such areas.

(3) With respect only to those areas known as Unit 24, Deltona shall dedicate all sewage collection facilities to Collier County at the time such areas are platted or replatted (whether or not the plats or replats are identified as Unit 24). Simultaneously with such dedication(s), Collier County shall lease the collection facilities back to Deltona; alternatively, Collier County may commit to provide immediate sewer service to the platted area, as provided in (2) above. In the event the collection facilities are leased back to Deltona, the lease shall be on the following terms and conditions:

(a) **Lease Term** - The lease term shall commence from the date of platting and continue uninterrupted for 30 years or until Collier County purchases the sewage treatment facilities as provided for in (4) below, whichever first occurs.

(b) **Annual Rent** - \$1.00 per annum payable annually in advance.

(c) **Lessee's Rights** - Lessee shall have the right to use and operate the sewage collection system, and during the lease term, all connections to the system shall be customers of the lessee. Customers outside the Deltona Franchise Area but served through this facility shall be customers of the County.

(d) **Lessee's Obligations** - Lessee shall have the responsibility to provide sewer service to the areas served by the sewage collection and lessee shall maintain and repair the sewage collection system so that upon termination of the lease, the system will be turned over to Collier County in good condition, reasonable wear and tear excepted.

(e) **Other Provisions** – The lease shall contain such other provisions as are typically included in commercial net leaseback agreements, as Deltona and Collier County shall deem reasonable and appropriate.

(4) In addition to any other rights of Collier County to purchase the sewer system, as provided in the Sewer Franchise Agreement, Collier County shall have the option at any time, upon twelve (12) months prior notice to Deltona, to purchase the sewage treatment facilities serving Unit 24. In the event Collier County exercises this option, the purchase price shall be determined by adding: a) the amount of Deltona's investment in the sewage treatment facilities serving such Units less any salvage value of the treatment facilities (if Collier County does not desire to take title to such treatment facilities) and less any portion of Deltona's investment previously recovered from Customer credit impact fees to be collected by the County and returned to Deltona as a credit and b) any accumulated net operating loss attributable to that portion of the sewer system accruing during that period commencing after 100 customers have been connected to the system through the date of closing.

c. Collier County Utilities may provide all wastewater treatment service to Fiddler's Creek.

d. It is anticipated that the Developer will use treated wastewater effluent to meet the non-potable water demands for Unit 24 and Fiddler's Creek when effluent becomes available. The effluent distribution lines will be dedicated to Collier County at the time of platting and in the event the Developer of Unit 24 leases back the sewage collection system as provided for in b above, the effluent distribution lines will be included in the leaseback.

e. Deltona shall be required to locate the construction of the regional sewage facility in the general location of Fiddler's Creek.

**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 Fiddler's Creek DRI as permitted by the South Florida Water Management District.

7. **Solid Waste Disposal:** Solid waste disposal service for Fiddler's Creek shall be provided by Collier County or its franchisee.

8. **Other Utilities:** Telephone, power and cable TV service shall be made available to all residential areas. Such utility lines shall be installed underground.

9. **Traffic:**

a. Subject to FDOT approval, the Developer or a Community Development District formed for Fiddler's Creek shall provide the following:

(1) Traffic signals at each of the new intersections created on SR-951 and US-41 when deemed warranted by the County Engineer. The signal shall be owned, operated and maintained by Collier County.

(2) All required auxiliary turn lanes at each new intersection created on SR-951 and US-41.

(3) Street Lighting at major entrances into the development.

b. The Developer shall provide traffic signals at internal intersections when deemed warranted by the County Engineer.

c. The Developer has contributed an 18.4 acre fill source to Collier County to supply fill for the widening of State Road 951 to four lanes between New York Avenue and the Marco Bridge. Pursuant to that certain Agreement between the County and

Developer relating to the widening of State Road 951 dated April 4, 1995, all Development of Regional Impact (DRI) and PUD conditions which had restricted development and construction traffic have been fully satisfied by construction of the existing four lanes of State Road 951 and by execution of said Agreement. All such prior restrictions and conditions on development related to traffic impacts are no longer applicable. All prior obligations of Developer under this DRI Development Order and PUD document relating to the provision of fill for State Road 951 have been fully satisfied by execution of the Agreement between Developer and Collier County granting the County the right to enter upon the property for the purpose of excavation of the fill needed for the four-laning of State Road 951.

d. That Unit 24 be prohibited from any development until SR-951 is 4-laned or the applicant be required to donate to the County the cash equivalent of the construction cost for the 4-laning of 500 feet of SR-951. This donation, to be used by the County solely for the 4-laning of SR-951, shall be determined according to FDOT's SR-951 construction plans and shall be made either prior to Unit24's a) development in whole or in part of b) the transfer to any other person or entity of any ownership interest or right to control Unit 24, in whole or in part. This donation shall be independent of the other fair-share contributions included within these recommendations.

e. That the Isle of Capri Commercial Tract, due to the level of service of SR-951 closely approaching "D", be prohibited from any development other than site preparation, which is defined in the PUD document, until SR-951 is 4-laned.

f. That the Developer of Horr's Island and John Steven's Creek be responsible for the reconstruction of the intersections of SR-92, with the road to Horr's Island and John Stevens Creek. In the event that the State purchases Horr's Island, Deltona will not be



obligated to bear the cost of improvement to that portion of the intersection.

g. If the marina is developed, the Developer of the marina shall be responsible for the reconstruction (if necessary) of the intersection of SR-92 and the road to Goodland.

h. The Developer's contribution of the 18 .4 acre fill source for the fill needs of the entire redevelopment of SR-951, which has been accomplished, shall constitute its entire fair share obligation for surrounding traffic related construction, with the exception of required improvements at newly created development road intersections with SR-951 and US-41, and compliance at the time of building permit with Collier County Ordinance 85-55, as amended from time to time. The fill contribution, any required intersection improvements and compliance with Ordinance 85-55 have been determined to satisfy the conditions of former Section 4.D.9. K.(4) of Collier County Development Order 84-3.

i. The Agreement between Collier County and Developer as described in Paragraph 9.C. fully and completely satisfies Developer's obligations for all "fair share" contributions for the resident's use of State Road 951 as a hurricane evacuation route, for transportation and for mitigation of traffic impacts under this DRI Development Order and PUD document over and above legally imposed county-wide transportation impact fees.

j. Any construction road installed from Unit 30 to U.S. Highway 41 will be made available to Collier County as an alternative emergency evacuation route upon request by the appropriate Collier County governmental official.

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 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.

11. **Flood Elevation:** In order to comply with the minimum flood elevation requirements, the maximum height of a structure shall be measured from the minimum base flood elevation required by the Flood Damage Prevention Ordinance, Ordinance 87-80, as amended.

12. **Water Management:**

a. Fiddler's Creek has received conceptual drainage approval; however resubmission for conceptual drainage approval for Isle of Capri Commercial Area and Horr's Island shall be required that includes site specific information and coordination of recommendations dated May 15, 1984 endorsed by the Environmental Advisory Council.

b. Detailed site drainage plans for all development areas shall be submitted to the EAB for review and approval. No construction permits shall be issued unless and until approval for the proposed construction in accordance with the submitted plans is granted by the County Engineer and the EAB, except as provided in the Agreement between the applicant and Collier County, dated April 4, 1995.

c. The State and Deltona shall be urged to continue public acquisition negotiations for the purchase of Horr's Island.

13. **Environmental Considerations:**

**Category I Lands: Fiddler's Creek and Isle of Capri Commercial Area**

a. **Category I Lands: Archaeological Resources**

(1) Developer will design and implement a plan so that if an

archaeological site or artifact is uncovered during site clearing, grading, or excavation, construction in that location will be stopped for a sufficient length of time to give both Developer's archaeological consultant and/or one selected by the Environmental Section to assess the find and determine whether excavation is necessary.

(2) The Environmental Section or its selected consultant will respond to such a find in a timely manner so that construction is not unnecessarily delayed.

(3) If a significant site is discovered, the Environmental Section will coordinate the excavation of the site, consistent with Developer's construction schedule, to remove any significant artifacts.

**b. Category I Lands: Water Resources - Quality**

(1) To ensure sufficient treatment of water runoff from development areas, final water management plans will retain and treat all runoff in development area swales and/or lakes prior to discharge from lakes through spreader waterways.

**c. Category I Lands: Water Resources - Quantity**

(1) Final water management plans, control structure elevation, lake levels, etc., are to replicate, as closely as possible, the seasonal pattern of water discharge as necessary to comply with the applicable requirements of the South Florida Water Management District and the Settlement Agreement.

(2) Water will be retained on site during the natural dry season and will be discharged at a rate similar to pre-development conditions during the wet season pursuant to the applicable requirements of the South Florida Water Management District and the Settlement Agreement.

**d. Category I Lands: Other**

(1) Native vegetation should be retained and used where possible for ground cover.

(2) If feasible, species should be transplanted from development sites to border areas.

(3) Where transplanting is not feasible, make native species that would otherwise be destroyed, available for the use of qualified individuals (e.g. the Native Plant Society, Applied Environmental and Engineering Services) in the restoration or enhancement of other Marco Island areas (e.g. County Park sites on Marco including Tigertail Park, other Marco Island development areas).

(4) Remove all existing exotics on site as described by County Ordinance.

(5) Follow design considerations as outlined in County Environmentalist's memorandum dated May 15, 1984.

## **Category II Lands: Horr's Island**

### **e. Category II Lands: Native Vegetation and Habitats**

(1) Final site plans and drainage plans shall be designed to minimize the destruction of vegetation classified on Figure 1 as rare, unique, or endangered.

(2) The final location of roads, buildings, parking areas, water management components, and other facilities shall be carefully chosen to minimize impacts on R.U.E. areas.

(3) At these areas the loss of R.U.E. lands will be mitigated, where possible, by the transplantation of native plants to adjacent undisturbed areas.

(4) Figures 2 and 3 depict typical, conceptual site development

and drainage plans that reflect these guidelines.

(5) Prior to construction, the final site plans and drainage plans for development shall be reviewed and approved by the EAB to ensure that the final designs meet the goals and comply with the concepts of development as expressed in the County Environmentalist's memorandum dated May 15, 1984.

(6) The majority of Horr's Island (excluding the mangrove areas within the development limit line) (Figure 1) is classified as R.U.E. lands because the exact composition and location of the rare, unique, or endangered plant communities contained thereon and the occurrence and distribution of any classified rare, endangered, or threatened species were neither adequately addressed nor mapped in the Army Corps of Engineers Environmental Impact Statement or associated reports.

(7) A vegetational survey and an analysis of the presence and location of endangered, threatened or rare species is a normal requirement of the County E.I.S. ordinance. Because the information supplied on the characteristics of the upland areas of Horr's Island was not site-specific, a detailed survey (including an upland plant community map) of the composition and distribution of upland vegetation and the occurrence of rare, endangered, or threatened species shall be conducted by the applicant in consultation with a qualified South Florida Tropical systematic botanist.

(8) The vegetation survey, which will be utilized in the final site and drainage plans developed for Horr's Island and incorporated into the final EAB review and approval of the site and drainage plans for the area, is required by County Ordinance 77-66 under the terms of Resolution R-82-86.

(9) All site-specific surveys will be conducted prior to any site

alteration.

(10) Those surveys conducted by the Environmental Section will not delay Developer's timetable.

(11) Surveys for multi-family lots on Horr's Island may be delayed until future lot owners are ready to develop the site.

(12) To this extent, the Developer needs only to have surveys conducted on those areas where they will undertake land alteration activities (i.e. roads, water management facilities).

(13) Surveys for the Developer's activities must however cover enough of the surrounding areas to enable the selection of potentially more suitable locations.

f. **Category II Lands: Archaeological Resources:**

(1) The archaeological survey of Horr's Island to be conducted by the Developer's archaeological consultants will classify all sites as significant (those needing to be preserved) and marginal (those where only a recovery dig is necessary prior to site development).

(2) The results of this survey will be incorporated in the final site and drainage plans for Horr's Island.

(3) In addition to the pre-development surveys a program will be established allowing assessment of any archaeological sites or artifacts uncovered during site clearing, grading, excavation, or construction.

(4) In such case, any development activity considered inimical to the integrity of the archeological find will be stopped temporarily to give the Developer, or the County, or the State of Florida archaeological consultant a chance to excavate the find.

(5) The Environmental Section or its selected consultation will respond to such a find and conduct necessary excavation in a timely manner so that construction is not unnecessarily delayed.

g. **Category II Lands: Water Resources**

(1) The final water management plans shall be designed to minimize the clearing and alteration of land in R.U.E. areas.

(2) This will be accomplished by designing the water management facilities to direct the majority of runoff from building pads and parking lots to roadside swales.

(3) Overflow from these swales will be discharged through storm swales and spreaders at the wetland borders, carefully located to take advantage of the existing topography and flow channels and to minimize alteration of R.U.E. areas.

(4) Conceptual site plans with water management feature incorporating these comments are depicted in a generalized scheme in Figure 2, and for a section Horr's Island in Figure 3.

(5) The benefits of following such plans include: a) development along existing topographic gradients will retain natural flow and filtration characteristics; b) direction of runoff to roadside swales, located in most cases near the center of existing ridges, will take advantage of the natural capacity of the sand and shell soils to percolate and filter water; c) the retention of side-slope R.U.E. areas to buffer development Meas from the preserved wetlands will provide further filtration of runoff from the rear of development areas while maintaining the existing natural conditions; and d) the water entering the ground and/or adjoining wetlands will be partially or completely treated in the roadside and discharge swales,

the wetland spreaders, and by percolation through ridge substrates and filtration through retained native wetland buffer vegetation.

(6) The ultimate stormwater discharge points will be carefully located in areas most suited for receiving such waters.

(7) Low quality, semi-impounded wetlands, buffered from productive aquatic and wetland areas by distance, topography, or existing roads will be utilized.

(8) Potential discharge points are indicated on Figure 1.

(9) In order to minimize the degradation of water quality by the addition of fertilizers, pesticides and herbicides, the area extent of lawns around the development will be kept to a minimum.

(10) The Environmental Section recommends a sodded area of no more than 5% of any structure's area.

(11) The use of retained and transplanted native cover naturally occurring under existing conditions will be emphasized.

(12) The final water management plans will be reviewed by both EAB and the WMAB to ensure that they integrate native vegetation and existing drainage features and are designed following the concepts stated in the County Environmentalist's May 15, 1984 memo and depicted in Figures 2 and 3.

(13) During plan preparation, the Developer will work with County staff to arrive at a final product compatible with these general guidelines and the associated conceptual diagrams.

(14) Where two alternative water management approaches exist, that approach which will best serve to minimize alteration of R.U.E. areas will be chosen.



h. **Category II Lands: Other**

(1) Native species will be transplanted from development sites to border areas.

(2) Where transplanting is not feasible, native species that would otherwise be destroyed, will be made available for the use of qualified individuals (e.g. the Native Plant Society, Applied Environmental and Engineering Services) in the restoration and enhancement of other Marco Island areas (e.g. County Park sites on Marco including Tigertail Park, other Marco Island development areas).

(3) Native vegetation either existing in situ, or transplanted from construction sites will be retained and used where possible for landscaping and/or ground cover.

(4) All existing exotics on site will be removed as required by County Ordinance.

(5) The use of introduced non-native species for landscaping will be severely restricted.

(6) All construction, clearing, and filling locations in or adjacent to designated R.U.E. areas will be flagged and field approved by the Environmental Section prior to the commencement of site work.

(7) Turbidity screens, or other similar devices, will be used in association with work within or adjacent to wetlands.

(8) All work will be conducted following the design considerations and conceptual drawings contained in the County Environmentalist's May 15, 1984 memorandum.

**1. Category I and Category II Lands: Additional Stipulation**

(1) The EIS prepared by the Corps of Engineers will be accepted to fulfill the requirements of Division 3.8 of the Collier County Land Development Code with the condition that the stipulations contained herein are followed.

(2) Specific stipulations to modify site plans for all Category I and II Lands except for Fiddler's Creek, in order to minimize impact on native upland vegetation and habitats and to require for Category II Lands final site plan review and approval by the EAB are contained herein to bring the development proposals into compliance with County environmental policies and standard review procedures and requirements.

(3) Modifications to the conceptual drainage plans along with new conceptual plans to incorporate environmental concerns are recommended for Category II Lands and Unit 24 to ensure that the final water management design does not unnecessarily destroy native upland vegetation, habitats, and associated wildlife.

(4) The EAB and the WMAB will review and approve final drainage plans for Category II Lands prior to construction for compliance with conceptual comments and designs outlined in the County Environmentalist's May 14, 1984 memorandum.

(5) Tree removal permits are not issued at the time of rezone approval because of the conceptual nature of rezone plans and the lack of site-specific information, to the extent this provision is not modified by the Agreement between the applicant and Collier County, dated April 4, 1995.

(6) Tree removal permits for all Category I and II Lands, will be issued for the proposed individual developments after the final site plans and drainage plans, based in some cases on required vegetational surveys, are reviewed and approved by staff and

advisory boards, except as modified for Fiddler's Creek by the Agreement between County and Developer dated April 4, 1995.

(7) Flagging and approval by the Environmental Section of the final alignment of the proposed docks and boardwalks is required prior to construction.

(8) The rezone petition contains no plans for dredging associated with these structures. If required, dredging will therefore have to be reviewed under separate petition.

(9) The exact locations of the roads will be approved during the review of the final site plans.

(10) Because some of the recommendations, particularly those involving development in areas of Horr's Island or other Category II Lands designated as rare, unique, or endangered, would require specific actions and further review to ensure environmentally sensitive development, it is suggested that the County allow a certain amount of flexibility in the site plans and density spread associated with the petitions. For example, site plans could be shifted and density units transferred from areas of high environmental concern to those with lower potential impact.

(11) Some of the recommendations contained herein constitute variations from the Settlement Agreement. Within the Agreement, however, provisions have been made for modifications of the plans such as proposed in the County Environmentalist's May 15, 1984 memo. Informal conversations with some of the other parties to the Agreement indicate that changes to further protect the natural resources of the area could be made with a minimum of difficulty. Staff believes that the design recommendations embodied in the May 15th memorandum represent additional methods, above and beyond those contained in the

Settlement Agreement, to permit the proposed development while protecting the natural and cultural resources of Collier County. Staff, as representatives of Collier County, a party to the Settlement Agreement, will, in cooperation with the Developers of all Category I and II Lands, initiate and attempt to negotiate the addition of the following Exhibits to the Settlement Agreement and any resulting modifications that may be necessary to the existing U.S. Army Corps of Engineers permit:

#### **Exhibit D - 12A**

Wherever vegetation is discovered on any Category I or II Lands, which is deemed by Collier County to be rare, unique or endangered, Developer may eliminate rear yard and roadside swales and other drainage design features shown on D-2, D-3, D-11, D-46, D-47 and D-48 of this Exhibit to the extent Developer and Collier County determine that to do so will reduce the adverse impact on such vegetation. In the event the Engineering Detail Drawings are varied in accordance herewith, the Developer shall be excused from compliance with the drainage retention requirements shown on D-11, D-46 and D-47.

#### **Exhibit E - 1A**

Wherever vegetation is discovered in Horr's Island development areas which is deemed by Collier County to be rare, unique or endangered, the following design criteria shall apply, to the extent the Developer of Horr's Island and Collier County determine that to do so will reduce the adverse impact on such vegetation, in this Exhibit E:

- Multi-family tracts and roadways abutting wetlands shall not be required to have a minimum 10 feet wide by 6 inches deep swale.
- Multi-family areas shall not be required to drain toward rear yard swales.
- Developer shall be excused from compliance with the 1/2 inch dry retention

storage requirement.

- Drainage may discharge via sheet flow from roadside spreader swale, or rear yard swale, or through the rare, unique or endangered vegetation.

To the extent that some or all of the provisions of the foregoing additional exhibits are not approved in accordance with the terms of the Settlement Agreement or are not approved by permit modification or otherwise by the U.S. Army Corps of Engineers or are otherwise not legally permitted, the Developer of Horr's Island shall design the Horr's Island development areas as provided for in the Settlement Agreement; however, taking into consideration any provisions of the additional Exhibits as have been fully approved.

**14. Subdivision Regulations:**

- a. The approved stipulations of the EAB per the memorandum from County Environmentalist dated May 15, 1984 may necessitate substitutions from the Subdivision Regulations to accommodate fine tuning of the final site plan;
- b. Detailed engineering drawings as shown in the Marco Agreement will not necessarily apply, or would be subject to the County Engineer's approval at the time of platting in conjunction with the best development procedures;
- c. Platting and construction plan approval will be granted on a segmental basis with applicable time restraints imposed by the Subdivision Regulations being applied to each segment.
- d. For the purpose of platting and replatting within the project area, assurance for the completion of subdivision improvements will be provided by the Developer subject, to approval by the County Attorney;

**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 residents 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.

#### **E. Other Commitments**

##### **1. Education:**

a. Pursuant to the requirements of this Development Order, Deltona has previously dedicated school sites to the Collier County District School Board, which has accepted the same.

##### **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 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 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 additional golf course(s), recreational facilities and tennis center ~~will~~may 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.

3. **Police Protection:** Upon request of the Board, the Developer of Horr's Island and Isle of Capri Commercial Area will donate to Collier County the community facility sites, as shown in the Marco ADA. These sites will serve as sites for public safety facilities, including sheriff substations.

4. **Housing:** Developer shall explore the economic feasibility of providing residences within Fiddler's Creek that are affordable by middle or lower income families.

5. **Annual Monitoring Report:** The applicant or its successor(s) in title to the subject property shall submit a report annually, commencing one year from the effective date

of the Development Order, to the Board of County Commissioners of Collier County, the Southwest Florida Regional Planning Council, and the Department of Community Affairs. This report shall contain the information required in Section 91-2.025(7), Florida Administrative Code. This report shall be prepared in accordance with the "DRI Monitoring Format", as may be amended, provided by the Southwest Florida Regional Planning Council. Failure to submit the annual report shall be governed by Subsection 380.06(18), Florida Statutes. Section 5. If any significant historical or archaeological sites or artifacts are discovered during site preparation and construction, the Bureau of Historical Sites and Properties, Florida Department of State and the County Environmentalist shall be notified to determine the importance of such discoveries, and to determine appropriate measures to be undertaken to insure their preservation.

**Section 6.** That the definitions contained in Chapter 380.06 shall control the interpretation and construction of any terms of this Development Order.

**Section 7.** That this Order shall remain in effect for a period of thirty-four (34) years eleven months from the effective date of this Development Order. Any development activity wherein plans have been submitted to the County for its review and approval prior to the expiration date of this Order, may be completed, if approved. This Order may be extended by the Board of County Commissioners on the finding of excusable delay in any proposed development activity.

**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 Marriott golf course and such other obligations which do not directly

relate to the development and operation of the 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 Marriott golf course.

**Section 9.** It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created or designated or successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Order.

**Section 10.** In the event that any portion or section of this Order is determined to be invalid, illegal, or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no manner effect the remaining portions of this Order which shall remain in full force and effect.

**Section 11.** In the event the Developer violates any of the conditions of this Development Order, or otherwise fails to act in full compliance with this Development Order, the County shall, pursuant to the notice and hearing requirements of this Section:

- (1) Stay the effectiveness of this Development Order; and
- (2) Withhold further permits, approvals and services for development.

The above County actions shall apply to the tract or parcel, or portion of the tract or parcel, upon which the violative activity or conduct has occurred. As a prerequisite to such action, the Board of County Commissioners shall conduct a public hearing, following notice as provided below, to consider the matter and adopt a resolution finding that such a violation has occurred.

If a violation takes place, the County shall give the violator written notice by certified mail, return receipt requested. Said notice shall state the following:

- (1) The nature of the alleged violation; and
- (2) The tract or parcel, or portion of the tract or parcel, upon which the violative activity or conduct has occurred; and
- (3) That the violation must be cured within fifteen (15) days of the date of the notice, unless it is not curable within fifteen ( 15) days in which event the violator will so advise the County in writing within seven (7) days of receipt of this notice; and
- (4) That if the violation is not cured within such time period, the Board of County Commissioners shall hold a public hearing to consider the matter; and
- (5) That the hearing must be held no less than fifteen (15) days nor more than thirty (30) days from the date of the notice.

In the event that the violator advises the County that the violation is not curable within the fifteen (15) day period, the violator's commencement of diligent, good faith efforts to cure said violation within this period shall obviate the need to hold the public hearing. The Development Order shall remain in full force and effect during the pendency of the cure period.

In the event the violator fails to commence diligent good faith efforts to cure or to pursue the curative action to completion within a reasonable time as determined by the County, the County shall give written notice as set forth herein.

The provisions of this Section shall apply to violations by the Developer, its agents, grantees, successors or assigns. For purposes of this Section, the "tract" or "parcel" shall be defined to mean any area of development created by plat or otherwise delineated as a separate development area.

**Section 12.** This resolution shall become effective as provided by law.

**Section 13.** The Marco Shores Development Order 84-3, as amended), is hereby amended to add the Fiddler's Creek Master Plan and Fiddler's Creek DRI legal description which are attached hereto and incorporated by reference herein as Exhibit "FC-A1, and Exhibit "FC-C1", respectively".

**Section 14.** Findings of Fact:

A. That the real property (168 acres) which is added to Fiddler's Creek by this amendment is legally described as set forth in Exhibits "ADD-1" and "ADD-2", attached hereto and by reference made a part hereof.

B. The application is in accordance with Section 380.06(19), Florida Statutes.

C. The applicant submitted to the County a Notice of Proposed Change to a Previously Approved DRI, marked as Exhibit "F", and by reference made a part hereof.

D. The applicant's predecessor in interest proposed the development of Marco Shores including a portion of the area now to be known as Fiddler's Creek on 1,689.11 acres of land for a commercial and residential development described in Development Order 84-3, as amended.

E. A comprehensive review of the impact generated by the proposed changes to the previously approved development has been conducted by the County's departments and the SWFRPC.

F. The development is not in an area designated an Area of Critical State Concern pursuant to the provisions of Section 380.06, Florida Statutes, as amended.

**Section 15.** Conclusions of Law:

A. The proposed changes to the previously approved Development Order as presented do not constitute a substantial deviation pursuant to Section 380.06(19)\ Florida Statutes. The scope of the development to be permitted pursuant to this Development Order Amendment includes operations described in the Notice of Change to a Previously Approved DRI, Exhibit "F", by reference made a part hereof.

B. The proposed changes to the previously approved development are consistent with the report and recommendations of the SWFRPC.

C. The proposed changes to the previously approved development 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 16.** 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 \_\_\_\_\_ shall be transmitted immediately upon execution to the Department of Community Affairs, Bureau of Local 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.

Commissioner \_\_\_\_\_ offered the foregoing Resolution and  
moved for its adoption, seconded by Commissioner \_\_\_\_\_ and  
upon roll call, the vote was:

AYES:

NAYS:

ABSENT AND NOT VOTING:

ABSTENTION:

Done this \_\_\_\_\_ day of \_\_\_\_\_, ~~1998~~20\_\_\_\_\_.

Attest:

Board of County Commissioners  
Collier County, Florida

\_\_\_\_\_  
Dwight E. Brock, Clerk

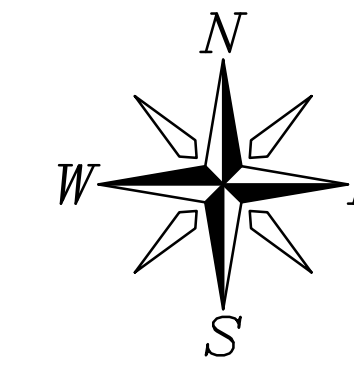
\_\_\_\_\_  
~~Timothy J. Constantine~~, Chairman

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

\_\_\_\_\_  
~~Marjorie M. Student~~  
ASSISTANT COUNTY ATTORNEY



*Fiddler's Creek*  
*naples, florida*














Scale: 1"=800'

*Date: March 8, 2017*

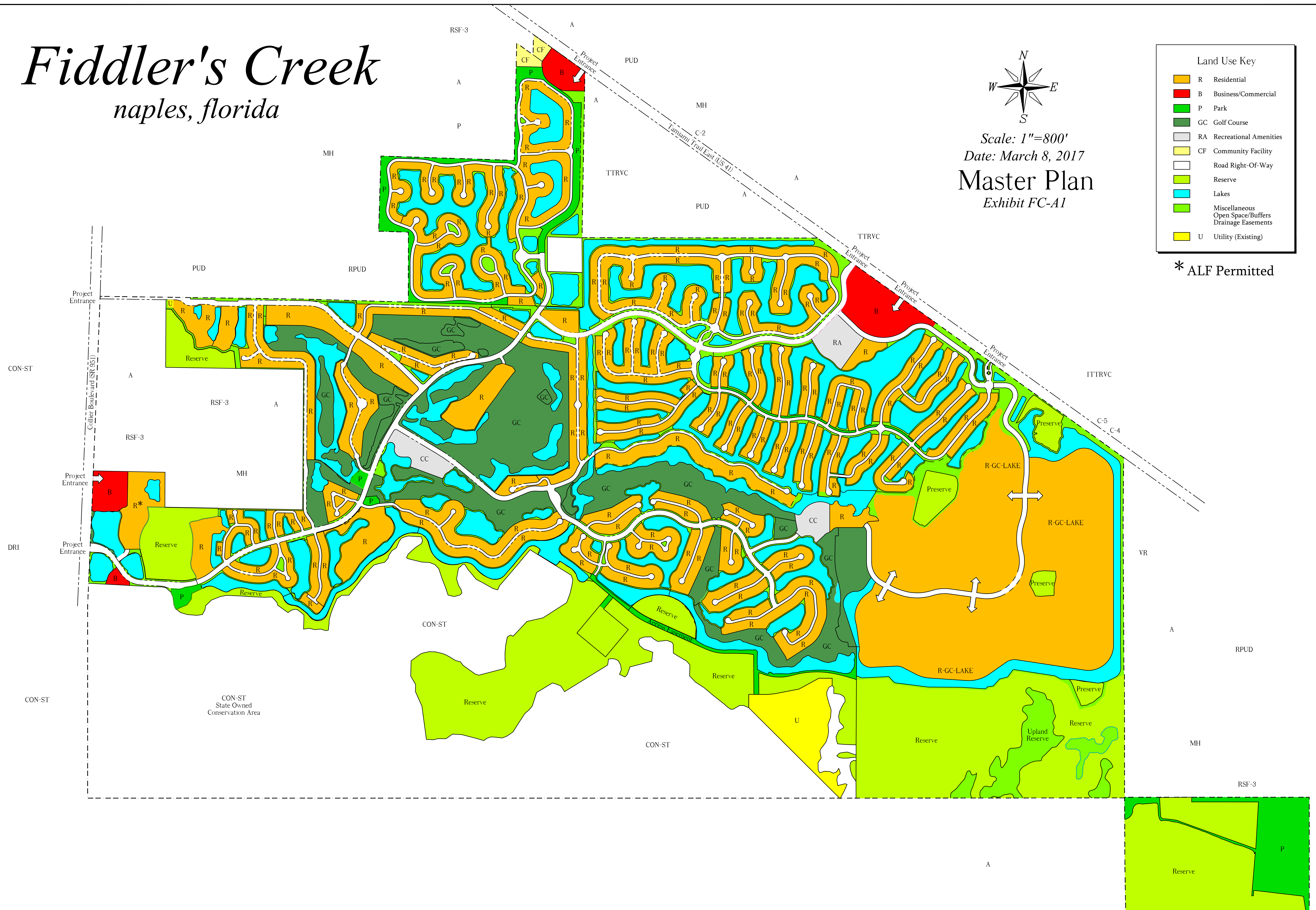
# Master Plan

*Exhibit FC-A1*

### Land Use Key

|   |   |
|---|---|
|  | R Residential   |
|  | B Business/Commercial                                     |
|  | P Park  |
|  | GC Golf Course  |
|  | RA Recreational Amenities                                 |
|  | CF Community Facility                                     |
|  | Road Right-Of-Way   |
|  | Reserve   |
|  | Lakes   |
|  | Miscellaneous<br>Open Space/Buffers<br>Drainage Easements |
|  | U Utility (Existing)                                      |

\* ALF Permitted





December 11, 1984

## RESOLUTION NO. 84- 237

RESOLUTION AUTHORIZING BOARD EXECUTION OF THE  
STIPULATION OF SETTLEMENT IN ADMINISTRATIVE  
CASE NO. 84-2867, RELATING TO MARCO SHORES,  
A DEVELOPMENT OF REGIONAL IMPACT.

WHEREAS, the Department of Community Affairs and The Deltona Corporation have entered into a stipulation of settlement in administrative case No. 84-2867 relating to Marco Shores, a development of regional impact; and

WHEREAS, Collier County is a respondent in said administrative case and has been requested to review and sign the Stipulation of Settlement; and

WHEREAS, Collier County has reviewed said Stipulation of Settlement and finds it to be appropriate and in the best interest of the citizens of Collier County;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that the Chairman of the Board of County Commissioners of Collier County is hereby authorized to execute on behalf of the Board the Stipulation of Settlement document in administrative case No. 84-2867 related to Marco Shores, a development of regional impact.

This Resolution adopted after motion, second and roll call vote as follows:

|              |           |                  |
|--------------|-----------|------------------|
| Commissioner | Pistor    | Motioned and aye |
| Commissioner | Holland   | Seconded and aye |
| Commissioner | Hasse     | Aye              |
| Commissioner | Goodnight | Aye              |
| Commissioner | Voss      | Aye              |

DATED: December 11, 1984  
ATTEST:  
WILLIAM J. REAGAN, Clerk

*William J. Reagan*

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

By: *FJ Voss*  
FREDERICK J. VOSS, Chairman

Approved as to form and  
legal sufficiency:

*Kenneth B. Cuyler*  
Kenneth B. Cuyler  
Collier County Attorney

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: COLLIER COUNTY DEVELOPMENT )  
ORDER 84-3, A RESOLUTION APPROVING )  
MARCO SHORES, A DEVELOPMENT OF )  
REGIONAL IMPACT. )

CASE NO. 84-2867

STIPULATION OF SETTLEMENT

COMES NOW the Petitioner, State of Florida, Department of Community Affairs, and the Respondents, the Deltona Corporation and Collier County, and stipulate to a settlement of the above-captioned administrative appeal as follows:

1. Collier County Development Order 84-3 shall be amended to include the following conditions as part of Section 4, D, 9:

- K. 1. Prior to issuance of any building permits by Collier County for the Marco Shores project, the County shall certify to Florida Department of Transportation (FDOT) that the rights-of-way within the developer's property necessary for the widening of U. S. 41 and S. R. 951 have been obtained.
2. If Collier County does not adopt a "fair share" impact fee ordinance that will ensure that roadway improvements necessary to mitigate the project's traffic impacts are operational when needed, then the developer will request and the local government (Collier County) will make substantial deviation determinations regarding the transportation impacts of the project under the following circumstances:
- a) Before the issuance of the 2501st Certificate of Occupancy (CO), if the S. R. 951/U. S. 41 intersection is not operating at LOS "C" or better during peak hours on an average annual basis as determined by the County Engineer and FDOT;

December 11, 1984

- b) Before the issuance of the 5001st CO, if U. S. 41 does not consist of at least four lanes from S. R. 951 to the Marco Shores access road;
  - c) Before the issuance of the 7501st CO, if U. S. 41 does not consist of at least six lanes from S. R. 951 to the Marco Shores access road, S. R. 951 does not contain at least six lanes from the major Marco Shores access road (which links S. R. 951 to U. S. 41, and the U. S. 41/S. R. 951 intersection is not operating at LOS "C" or better during the peak hour on an average annual basis as determined by the County Engineer and FDOT.
3. If before each of the number of CO's are issued for the project as indicated in Condition 2, the County finds that the project is not or will not be substantially impacting the specified roadway system, or the roadway improvements as specified in Condition 2, have been constructed, then further DRI review will not be required. However, if the County finds that the project is or will be substantially impacting the roadway system as indicated in Condition 2, and the specified roadway improvements have not been constructed, then DRI review will be required to address the transportation impacts of the Marco Shores development.
4. Conditions 2 and 3 will be null and void if:
- a) The County adopts an impact fee ordinance; and
  - b) The impact fee ordinance requires a developer of Marco Shores to make his "fair share" contribution to traffic improvements as determined by the County Engineer.
2. The parties hereby request the hearing officer to recommend that the Land and Water Adjudicatory Commission adopt the above-suggested amendment to Collier County Development Order 84-3.

December 11, 1984

3. The parties further request the hearing officer to cancel the hearing presently set for December 5, 1984, in Naples, Florida.

4. Each party shall bear its own attorney fees and costs.

Date: November 29, 1984

By: *C. Laurence Keesey, Jr.*  
C. Laurence Keesey, Esq.  
Senior Attorney  
Department of Community Affairs  
2571 Executive Center Circle, E.  
Tallahassee, Florida 32301

Date: November 30, 1984

By: *Edgar M. Moore*  
Edgar M. Moore, Esq.  
Moore, Williams & Bryant, P.A.  
306 East College Avenue  
Tallahassee, Florida 32301

Date: December 11, 1984

ATTEST:  
WILLIAM G. REAGAN, Clerk

*William G. Reagan*

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

By: *F. J. Voss*  
FREDERICK J. VOSS, Chairman

BOOK 084 PAGE 757



*Board of County Commissioners*  
COLLIER COUNTY COURTHOUSE COMPLEX  
NAPLES, FLORIDA 33962-4977

ANNE GOODNIGHT  
COMMISSIONER

BURT L. SAUNDERS  
COMMISSIONER

JOHN A. PISTOR  
COMMISSIONER

ARNOLD LEE GLASS  
COMMISSIONER

MAX A. HASSE, JR.  
COMMISSIONER

JAMES C. GILES  
CLERK

June 21, 1988

Southwest Florida Regional Planning Council  
Attn: Mr. Dan Trescott  
2121 West First Street  
Fort Myers, Florida 33907

Dear Mr. Trescott:

Transmitted herewith is a certified copy of Ordinance No. 88-48 and Resolution No. 88-117 regarding amendments to the Marco Shores Planned Unit Development and Development Order.

Very truly yours,

JAMES C. GILES, CLERK

Louise Chesonis, Deputy Clerk

Encl.

**RECEIVED**  
JUN 23 1988

S.W. FLORIDA REGIONAL  
PLANNING COUNCIL

RESOLUTION 88- 117

RESOLUTION AMENDING THE DEVELOPMENT ORDER 84-3, FOR UNIT 30, THE ISLE OF CAPRI COMMERCIAL AND KEY MARCO (HORR'S ISLAND) AND PART OF MARCO SHORES PLANNED UNIT DEVELOPMENT BY AMENDING SECTION 2.D. FINDINGS OF FACT BY DELETING NEIGHBORHOOD COMMERCIAL USES AND ADDING A 150 ROOM HOTEL WITH ACCESSORY USES, AND A RESTUARANT AND UTILITY SITE; AND AMENDING SECTION 4.D.9.E. AND 4.D.9.F. RELATING TO TRAFFIC AND SITE PREPARATION:

WHEREAS, Vensel and Associates, Inc., petitioned the Board of County Commissioners of Collier County, Florida, to amend Unit 30, The Isle of Capri Commercial and Key Marco (Horr's Island) and Marco Shores Development Order, Collier County Development Order 84-3.

NOW, THEREFORE BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS of Collier County, Florida that

## SECTION ONE:

Isle of Capri Commercial and Marco Shores Development Order Section 2.D. Findings of Fact, shall be amended to read as follows:

D. The applicant proposes the development of Unit 30, Isle of Capri Commercial area and Horr's Island all of which are part of the Marco Shores PUD. Unit 30 consists of 1645.91 acres; 8481 multi-family units, 400 townhouses and 229 single-family for a total of 9110 dwelling units at a gross density of 5.53 units/acre; business sections; sites for parks, recreation areas, schools, utility facilities, community facilities, churches; and lakes and roads. ~~Isle-of-Capri-Commercial-Area is-7.44-acres-to-allow-neighborhood-commercial-uses.~~ 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 areas.

## SECTION TWO:

Marco Shores Development Order Section 4.D.9.e, Traffic, shall be amended to read as follows:

e. That Unit 24 be prohibited from any development until SR-951 is 4-laned, other than site preparation which is defined in the PUD document, or the applicant be required to donate to the County the cash equivalent of the construction cost for the 4-laning of 500 feet of SR-951. This donation, to be used by the County solely for the 4-laning of 951, shall be determined according to FDOT's SR-951 construction plans and shall be made either prior to Unit 24's a) development in whole or in part or b) the transfer to any other person or entity of any ownership interest or right to control Unit 24, in whole or in part. This donation shall be independent of the other fair-share contributions included within these recommendations.

SECTION THREE:

Marco Shores Development Order, Section 4, Subsection D.9.f. Traffic, shall be amended to read as follows:

f. That the Isle of Capri Commercial PUD, due to the level of of service of SR-951 closely approaching "D", be prohibited from any development other than site preparation, which is defined in the PUD document, until SR-951 is 4-laned.

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

Commissioner \_\_\_\_\_ Saunders \_\_\_\_\_ offered the foregoing resolution and moved its adoption, seconded by Commissioner \_\_\_\_\_ Pistor \_\_\_\_\_ and upon roll call, the vote was:

AYES: Commissioners Saunders, Pistor, Hasse, Goodnight and Glass

NAYS: None

ABSENT AND NOT VOTING: None

ABSTENTION: None

Done this \_\_\_\_\_ 24th \_\_\_\_\_ day of \_\_\_\_\_ May \_\_\_\_\_, 1988.

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

BY: *Arnold Lee Glass*  
ARNOLD LEE GLASS, CHAIRMAN

ATTEST:  
JAMES C. GILES, CLERK

*By Virginia Mazing*  
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

*R. Bruce Anderson*  
R. BRUCE ANDERSON  
ASSISTANT COUNTY ATTORNEY

RES TO AMEND MARCO SHORES DO

Words Underlined are additions; Words ~~Struck-Through~~ are deletions



JUNE 13, 1989

RESOLUTION AMENDING THE DEVELOPMENT ORDER 84-3, AS PREVIOUSLY AMENDED BY RESOLUTION 88-117, FOR MARCO SHORES PLANNED UNIT DEVELOPMENT BY AMENDING SECTION 2, SUBSECTION D, FINDINGS OF FACT; AMENDING SECTION 4, SUBSECTION C.2., HURRICANE EVACUATION, AND AMENDING SUBSECTION D.1., PROJECT DEVELOPMENT AND RECREATIONAL FACILITIES, AND AMENDING SUBSECTION D.9., TRAFFIC, AND AMENDING SUBSECTION D.15.A., MAINTENANCE FACILITIES, UNIT 30, AND AMENDING SUBSECTION E.2., RECREATION AND OPEN SPACE; AMENDING SECTION 8; AMENDING SECTION 11, AND THEREBY CREATING SECTION 12, EFFECTIVE DATE.

WHEREAS, Vensel and Associates, Inc., representing Deltona Corporation, petitioned the Board of County Commissioners of Collier County, Florida, to amend the Marco Shores Development Order, Collier County Development Order 84-3, as previously amended by Resolution 88-117, and

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

SECTION ONE:

Marco Shores Development Order Section 2, Subsection D, Findings of Fact, shall be amended to read as follows:

- D. The applicant proposes the development of Unit 30, Isle of Capri Commercial area and Horr's Island all of which are part of the Marco Shores PUD. Unit 30 consists of 1645.91 acres; ~~8481~~ 6771 multi-family units, 400 townhouses and 229 single-family for a total of ~~9110~~ 7000 dwelling units at a gross density of 5+53 1.31 units/acre; business sections; sites for parks, recreation areas, schools, utility facilities, community facilities, churches; 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.

SECTION TWO:

Marco Shores Development Order Section 4, Subsection C.2., Hurricane Evacuation, shall be 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

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evacuation, shelters, etc.

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~~-----The applicant shall pay for a fair share of  
four-laning SR-951 due to the residents use of 951 as  
an evacuation route~~

c. The applicant's contribution of an 18.4 acre lake for  
excavation for the entire amount of fill necessary to  
rebuild SR-951 shall constitute its fair share  
contribution towards the residents use of SR-951 as an  
evacuation route. See Sheet H-2.

d. All public and semi-public facilities including the  
dedicated school sites 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.

### SECTION THREE:

Marco Shores Development Order Section 4, Subsection D.1.,  
Project Development and Recreational Facilities, shall be  
amended to read as follows:

1. Project Development and Recreational Facilities: The  
~~proposed development is illustrated in Exhibit "B"~~.  
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 the Exhibit "C" development plan  
shall be provided and completed in timing with the  
adjacent residential units and as specified in the PUD  
document. The northern golf course in Unit 30 is  
planned to be constructed by a resort hotel  
corporation. This course will be used primarily for  
the recreational use of their guests. Secondly,  
residents of Unit 30 will have access to this course  
on an as-space-is-available basis, and the public may  
have similar access. The southern golf courses in  
Unit 30 shall be constructed when feasible to serve  
the surrounding residential units. The southern golf  
course and tennis centers shall be privately owned  
facilities and constructed on the designated sites in  
conformance with the development needs of the project.

Neighborhood parks, hiking trails, vita courses, and  
other community recreation facilities shall be  
constructed and completed in conformance with the  
general development schedule of the project.

Those facilities scheduled for donation to the county  
as part of the development plan are community facility  
sites, school sites, neighborhood park sites.

Prior to dedication of the school sites to the  
county, they will be filled to minimum county  
elevation. Neighborhood park sites will be dedicated  
to the county upon their completion in conformance  
with the developer's progressive development schedule  
of the project. Two community facility sites will be

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dedicated to the East Naples Fire Control District. These two sites are the northernmost community facility sites in Unit 30 and a community facility site on the main east-west road in Unit 27 near the airport. Each of these two sites will be a minimum of two acres and will be dedicated directly to East Naples Fire Control District. The additional community facility sites will be dedicated to the county upon completion of their land development including the construction of the road system serving these areas.

SECTION FOUR:

Marco Shores Development Order Section 4, Subsection D.9.,  
Traffic, shall be amended to read as follows:

9. Traffic

a. Subject to FDOT approval, the developer shall provide the following:

(1) Traffic signals at each of the new intersections created on SR-951 and US-41 when deemed warranted by the County Engineer. The signals shall be owned, operated and maintained by Collier County.

(2) All required auxiliary turn lanes at each new intersection created on SR-951 and US-41.

~~{3}--One-third-of-the-cost-of-needed-additional-turn lanes-at-the-intersection-of-US-41-and-SR-951--~~

~~{4}--Coordination-to-achieve-proper-design-of-an intersection-with-US-41-in-the-vicinity-of Manatee-Road--~~

(3) {5} Street lighting at major entrances into the development.

~~{6}--"Fair-Share"-contribution-toward-construction-of future-bikepaths-along-SR-951-frontage--~~

b. The developer shall provide traffic signals at internal intersections when deemed warranted by the County Engineer.

~~c.---The-developer-shall-be-subject-to-the-provisions-of the-"Fair-Share"-Ordinance-now-under-study-by-the county--~~

~~d.---The-phasing-schedule-included-in-the-PUD-be-considered binding-only-insofar-as-that-no-roadway-connections from-Unit-30-be-made-to-SR-951-until-such-time-as SR-951-is-4-laned--this-does-not-preclude-a connection-between-Unit-30-and-Unit-27--~~

c. The phasing schedule included in the PUD shall be considered binding only insofar as that no roadway constructions from Unit 30 shall be made to SR-951 until such time as SR-951 is four-laned or September 1, 1990, whichever occurs first. As of September 1, 1990 the roadway connection may be provided to serve the northern golf course and clubhouse facilities. Beginning on September 1, 1992 or whenever SR-951 is four-laned, whichever is sooner, residential units in Unit 30 may utilize road connections to SR-951, provided, however, that until such time as SR-951 is

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four-laned only a maximum of 200 dwelling units may be so connected to the area commencing annually from September 1, 1992. Notwithstanding the foregoing, in the event a building moratorium is imposed by Collier County with respect to development with direct access to SR-951 because of unacceptable levels of service, as determined by the Board of County Commissioners, on SR-951, development in Unit 30 of the Marco Shores PUD will be subject to such a moratorium; provided, however, any such moratorium is not intended to apply to construction of the northern golf course and clubhouse facilities. Also, no construction traffic shall be permitted to access SR-951 until such time as SR-951 is four-laned.

d.e- That Unit 24 be prohibited from any development until SR-951 is 4-laned or the applicant be required to donate to the County the cash equivalent of the construction cost for the 4-laning of 500 feet of SR-951. This donation, to be used by the County solely for the 4-laning of SR-951, shall be determined according to FDOT's SR-951 construction plans and shall be made either prior to Unit 24's a) development in whole or in part or b) the transfer to any other person or entity of any ownership interest or right to control Unit 24, in whole or in part. This donation shall be independent of the other fair-share contributions included within these recommendations.

e.f- That the Isle of Capri Commercial Tract PUD, due to the level of service of SR-951 closely approaching "D", be prohibited from any development other than site preparation, which is defined in the PUD document, until SR-951 is 4-laned.

~~g.---That the applicant agree to contribute his "fair share" towards the four/six-laning of SR-951 and US-41, as may be deemed appropriate in the future.~~

~~h.---That the applicant be responsible for the cost of intersection improvements at US-41 and SR-951 to the extent that such costs are not included in any fair share contribution mentioned in (4).~~

f.i- That the applicant be responsible for the reconstruction of the intersections of SR-92, with the road to Horr's Island and John Stevens Creek. In the event that the State purchases Horr's Island, Deltona will not be obligated to bear the cost of improvement to that portion of the intersection.

g.j- If the marina is developed, the applicant be responsible for the reconstruction (if necessary) of the intersection of SR-92 and the road to Goodland.

h. The developer's contribution of the 18.4 acre fill source for the fill needs of the entire redevelopment of SR-951 shall constitute its entire fair share obligation for surrounding traffic related construction with the exception of required improvements at newly created development road intersections with SR-951 and US-41 and compliance at the time of building permit with Collier County Ordinance 85-55, as amended from time to time. The fill contribution, any required intersection improvements and compliance with Ordinance 85-55 are hereby determined to satisfy the conditions of former Section 4, D. 9, K.(4) of Collier County Development Order 84-3.

i. Although the applicant does not intend to construct

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the causeway road connection between Unit 30 and Unit 27 through the preserve area as shown on Sheet H-3. Collier County reserves the right to construct this causeway and the applicant agrees to provide the necessary right-of-way for said causeway construction upon request by Collier County and a showing by the County that it has the necessary funds budgeted for said construction.

1. Any construction road installed from Unit 30 to U.S. Highway 41 will be made available to Collier County as an alternative emergency evacuation route upon request by the appropriate Collier County governmental official.

SECTION FIVE:

Marco Shores Development Order Section 4, Subsection

D.15.a., Unit 30, shall be amended to read as follows:

15. Maintenance Facilities

- a. Unit 30: The Deltona Corporation will create may create a community development district for the Unit 30 area. If such a district is created it will comply with the following requirements.

If the Deltona Corporation creates a community development district ("The Marco Shores Community Development District") pursuant to Chapter 190, Fla. Stats. All all of the property in Unit 30 will be included within the Marco Shores Community Development District. The-Marco-Shores-Community-Development District-also-will-include-Unit-24-which-is-not-part of-the-Development-Order-

The Marco Shores Community Development District will own and will have the responsibility for operating, maintaining, and as appropriate, improving and expanding the following common areas and facilities:

- (1) Any drainage facilities and rights-of-way (streets and roads) that are not dedicated to the County at the time of platting;
- (2) The water management systems within Units 24 and 30, including lake and lakeshore maintenance;
- (3) Parks, other than those parks immediately adjacent to school sites which will be dedicated to the County;
- (4) Certain recreational amenities and facilities which are not owned and operated by The Deltona Corporation, other private interests or individual condominium associations;
- (5) Street lighting, and;
- (6) Such other common areas and facilities which are desired by the residents of the Marco Shores Community Development District but which are not available through local government or private enterprise.

Chapter 190 Fla. Stats. grants community development districts created thereunder all powers necessary to achieve their purposes, including the power to levy and collect taxes and special assessments, borrow money and issue bonds. The Deltona Corporation will have the

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responsibility for the Marcc Shores Community Development District until it is turned over to the residents as provided under Chapter 190 Fla. Stats.

SECTION SIX:

Marco Shores Development Order Section 4, Subsection E.2., Recreation and Open Space, shall be amended to read as follows:

2. Recreation and Open Space:

- a. Deltona will make available neighborhood parks, bikeways, and exercise courses as shown in the Marco ADA and in accord with the phasing schedule in the PUD document. These recreational facilities will be dedicated to Collier County for use by the public. Deltona will also provide sites for numerous other recreational facilities, including golf courses and tennis facilities, as shown in the Marco ADA. However, these facilities may be reserved for use solely by the residents of the Marco Development Areas and their guests. The construction of the northern eighteen hole golf course in Unit 30 will be used primarily for the recreational use of their guests. Secondly, residents of the Unit 30 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 golf course will be constructed when feasible to serve the surrounding residential units. These golf facilities will be privately owned.
- b. Deltona shall preserve the historic Horr Homestead located on Horr's Island. This historical site will 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.

SECTION SEVEN:

Marco Shores Development Order Section 8, shall be amended to read as follows:

Section 8.

~~That this Order shall be binding upon the Developer, assignees or successors in interest.~~

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 golf course and such other obligations which do not directly relate to the development and operation of the northern 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 golf course.

SECTION EIGHT:

Marco Shores Development Order Section 11, shall be amended to read as follows:

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Section 11. ~~This resolution shall become effective as provided by law~~

In the event the Developer violates any of the conditions of this Development Order, or otherwise fails to act in full compliance with this Development Order, the County shall, pursuant to the notice and hearing requirements of this Section:

- (1) Stay the effectiveness of this Development Order; and
- (2) Withhold further permits, approvals and services for development.

The above County actions shall apply to the tract or parcel, or portion of the tract or parcel, upon which the violative activity or conduct has occurred. As a prerequisite to such action, the Board of County Commissioners shall conduct a public hearing, following notice as provided below, to consider the matter and adopt a resolution finding that such a violation has occurred.

If a violation takes place, the County shall give the violator written notice by certified mail, return receipt requested. Said notice shall state the following:

- (1) The nature of the alleged violation; and
- (2) The tract or parcel, or portion of the tract or parcel, upon which the violative activity or conduct has occurred; and
- (3) That the violation must be cured within fifteen (15) days of the date of the notice, unless it is not curable within fifteen (15) days in which event the violator will so advise the County in writing within seven (7) days of receipt of this notice; and
- (4) That if the violation is not cured within such time period, the Board of County Commissioners shall hold a public hearing to consider the matter; and
- (5) That the hearing must be held no less than fifteen (15) days nor more than thirty (30) days from the date of the notice.

In the event that the violator advises the County that the violation is not curable within the fifteen (15) day period, the violator's commencement of diligent, good faith efforts to cure said violation within this period shall obviate the need to hold the public hearing. The Development Order shall remain in full force and effect during the pendency of the cure period.

In the event the violator fails to commence diligent good faith efforts to cure or to pursue the curative action to completion within a reasonable time as determined by the County, the County shall give written notice as set forth herein.

The provisions of this Section shall apply to violations by the Developer, its agents, grantees, successors or assigns.

For purposes of this Section, the word "tract" or "parcel" shall be defined to mean any area of development created by plat or otherwise delineated as a separate development area.

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SECTION NINE:

Marco Shores Development Order, shall be amended to add  
Section 12, Effective Date, to read as follows:

Section 12. This resolution shall become effective as provided  
by law.

BE IT RESOLVED that this resolution relating to Petition  
Number DOA-88-3C be recorded in the minutes of this Board.

Commissioner Shananhan offered the foregoing  
resolution and moved its adoption, seconded by Commissioner  
Goodnight and upon roll call the vote was:

AYES: Commissioners Shanahan, Goodnight, Volpe, Hasse and Saunders

NAYS: NONE

ABSENT AND NOT VOTING: NONE

ABSTENTION: NONE

Done this 13th day of JUNE, 1989.

ATTEST:  
JAMES G. GILES, CLERK

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

*By: Lamine Chennin, Jr.*

*Burt L. Saunders*  
BURT L. SAUNDERS, CHAIRMAN

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

*Marjorie M. Student*  
MARJORIE M. STUDENT  
ASSISTANT COUNTY ATTORNEY

MARCO SHORES RESOLUTION  
md

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JUL 23 1996

DEVELOPMENT ORDER 96 - 1  
RESOLUTION 96 - 333

A RESOLUTION AMENDING DEVELOPMENT ORDER 84-3, AS PREVIOUSLY AMENDED, FOR MARCO SHORES DEVELOPMENT OF REGIONAL IMPACT ("DRI"): BY AMENDING SECTION 1, RELATING TO GENERAL INFORMATION CONCERNING THE DEVELOPMENT; AMENDING SECTION 2, SUBSECTIONS A AND D, FINDINGS OF FACT, ADDING A 22.9 ACRE PARCEL; AMENDING SECTION 4, SUBSECTION 4.C.1., ENERGY; AMENDING SUBSECTION 4.C.2., HURRICANE EVACUATION; AMENDING SUBSECTION 4.C.3., OTHER; AMENDING SUBSECTION 4.D.1., PUD ORDINANCE COMMITMENTS INCLUDING THOSE RELATING TO PROJECT DEVELOPMENT AND RECREATIONAL FACILITIES; CLEARING, GRADING, EARTHWORK AND SITE DRAINAGE; STREET CONSTRUCTION; EASEMENT FOR UNDERGROUND UTILITIES; WASTE WATER MANAGEMENT; WATER SUPPLY AND TREATMENT AND DISTRIBUTION; SOLID WASTE DISPOSAL; OTHER UTILITIES; TRAFFIC; FLOOD ELEVATION; WATER MANAGEMENT; ENVIRONMENTAL CONSIDERATIONS; SUBDIVISION REGULATIONS AND MAINTENANCE FACILITIES; AMENDING SECTION 4, SUBSECTION E., OTHER COMMITMENTS INCLUDING THOSE RELATED TO EDUCATION; RECREATION AND OPEN SPACE; POLICE PROTECTION; HOUSING, AND ADDING A PROVISION, ANNUAL MONITORING REPORT; ADDING EXHIBIT "FC-C", FIDDLER'S CREEK MASTER PLAN; BY PROVIDING FOR FINDINGS OF FACT, CONCLUSIONS OF LAW, EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDER, TRANSMITTAL TO DCA AND EFFECTIVE DATE.

WHEREAS, 951 Land Holdings Joint Venture (hereinafter "Developer") submitted a Notice of Proposed Change for the Marco Shores Planned Unit Development, Unit 30, and petitioned the Board of County Commissioner of Collier County, Florida to amend the Marco Shores Development Order, Collier County Development Order 84-3, as previously amended by Resolutions 84-237, 88-117 and 89-149, only with respect to the Unit 30 portion of the Marco Shores Development Order;

WHEREAS, Developer desires to add a 22.9 acre tract to the Unit 30 portion of Marco Shores; and

WHEREAS, this amendment is only intended to amend Development Order 84-3 as it relates to the Unit 30 portion of the Marco Shores Development Order, whose name is changed from Unit 30 to Fiddler's Creek.

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

SECTION ONE: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores Development Order (Resolution 84-3, as amended), Section I is hereby amended to read as follows:

Section I. That this Resolution shall constitute an amendment to the Development Order ~~for~~ issued by Collier County ~~issued~~ in response to the ADA filed by Deltona, previous Notices of Proposed

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Change and the Notice of Proposed Change filed by the Developer for a portion of Marco Shores Unit 30, which is a component of Marco Shores, a Planned Unit Development, for Unit 30 Isle of Capri Commercial Area and Key Marco (Horr's Island), 1,866.24 acres, 9410 units, 5.04 units/acre, a Development of Regional Impact. The revised Unit 30 portion of Marco Shores shall consist of 1689.11 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.

#### SECTION TWO: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores Development Order (Resolution 84-3, as amended), Section 2, Subsections A and D, Findings of Fact are hereby amended to read as follows:

A. That the real property which is the subject of the ADA is legally described as set forth in Exhibit "A", and Exhibit "A-1" adding a 22.9 acre tract to Unit 30, which are attached hereto and by reference made a part thereof.

D. The applicant proposes the development of ~~Unit 30~~ Fiddler's Creek, Isle of Capri Commercial Area and Horr's Island all of which are a part of the Marco Shores PUD. ~~Unit 30 Fiddler's Creek~~ consists of ~~1,645.91~~ 1689.11 acres: ~~6,771~~ 3900 multi-family Units, ~~400 Townhouses~~ and ~~229~~ 2100 single-family dwelling units for a total of ~~7,000~~ 6,000 dwelling units at a gross density of ~~4.31~~ 3.55 units/acre; business sections; sites for parks; recreation areas; Collier County School Board property ~~schools~~; utility facilities; community facilities; preservation areas; ~~churches~~; 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

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212.89 acres, 300 multi-family dwelling units at 1.41 units/acre with parks and recreation area.

#### SECTION THREE: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores Development Order (Resolution 84-3, as amended), Section 4, Subsection C1., Energy is hereby amended to read as follows:

4.C.1. Energy: The proposed project would be an all electric development and would increase the energy demands of the Region. Florida Power and Light Corporation is providing power to Marco Shores Fiddler's Creek. All electrical transmission lines will be sited within rights of way or separate utility easements.

#### SECTION FOUR: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores Development Order (Resolution 84-3, as amended), Section 4, Subsection C.2., Hurricane Evacuation is hereby amended to read as follows:

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 applicant's contribution of an 18.4 acre lake for excavation for the entire amount of fill necessary to rebuild SR 951 shall constitute its fair share contribution towards the residents use of SR 951 as an evacuation route. See Sheet H 2.~~

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 ~~including the dedicated school sites~~ and all recreational facilities and meeting halls shall be made available as storm refuge space.

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

SECTION FIVE: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores Development Order (Resolution 84-3, as amended), Section 4, Subsection C.3.a. Other, is hereby amended to read as follows:

3. Other:

a. All commitments and impact-mitigating actions provided by the applicant within the ADA (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above and as herein amended are officially adopted as conditions for approval.

SECTION SIX: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores Development Order (Resolution 84-3, as amended), Section 4, Subsection D. relating to PUD Ordinance Commitments is hereby amended to read as follows:

D.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 the Exhibit "C" and Fiddler's Creek Exhibit "FC-C". Master Development Plan, shall be provided and completed in timing with the adjacent residential units and as specified in the PUD document. The northern golf course in ~~Unit 30 Fiddler's Creek~~ is planned to be ~~was~~ constructed by a resort hotel corporation. This course ~~will be~~ is used primarily for the recreational use of their guests. Secondly, residents of ~~Unit 30 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 golf course in ~~Unit 30 Fiddler's Creek~~ shall be constructed when feasible to serve the surrounding

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residential units. The southern golf course and ~~tennis centers~~ recreational facilities shall be privately owned facilities and constructed on the designated sites in conformance with the development needs of the project.

Neighborhood parks, ~~hiking~~ bike trails, ~~vita courses~~, 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 eCounty as part of the development plan are two community facility sites ~~school sites, and neighborhood park 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 entered into an agreement to trade other property desired by 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.

~~Prior to dedication of the school sites to the county, they will be filled to minimum county elevation. Neighborhood parks sites will be dedicated to the county upon their completion in conformance with the developer's progressive development schedule of the project. Two community facility sites will be dedicated to the East Naples Fire Control District. These two sites are the northernmost community facility sites in Unit 30 and a community facility site on the main east west road in Unit 27 near the airport. Each of these two sites will be a minimum of two acres and will be dedicated directly to East Naples Fire Control District. The additional community facility sites will be dedicated to the county upon completion of their land development including the construction of the road system serving these areas. 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~~

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emergency medical services. These Community Facilities Sites will be dedicated to the County at the County's request.

2. Clearing, Grading, Earthwork and Site Drainage: All clearing, grading, earthwork and site drainage work shall be performed in accordance with the ~~applicable state and local codes as modified~~ Settlement Agreement dated April 4, 1995, the applicable permits, and the Agreement with Collier County dated April 4, 1995, and as set forth in this document. The ~~Marco~~ Settlement Agreement and revised conceptual drainage plans submitted with this ~~application~~ Notice of Proposed Change ~~along with the recommendations of the various review committees~~ will be used as a guide to the final development of the drainage and road systems within the various development areas.

3. Street Construction: All public street design and construction shall meet the Collier County standards that are in effect at the time of the approval of this ordinance, except as provided in the Settlement Agreement (Exhibit "FC-D"), although modifications may be approved by the parties thereto. ~~Certain 60 foot right-of-way minor streets have been proposed for development in the Unit 30 area which will be developed to a side swale drainage system to facilitate vertical percolation. The drainage system for these minor streets will be subject to the approval of the County Engineering Department in conformance with the conceptual drainage plans and provisions and requirements of other sections of this document.~~

4. Easement for Underground Utilities: Easements for underground utilities such as power, telephone, cable TV, wastewater collection and transport, water distribution lines and other similar utilities necessary for the service of the project shall be located as required and granted for those purposes. Clearing of the easements for installation of underground utilities shall be selective so as to protect the maximum number of trees and natural vegetation.

~~Exhibit "C", Unit 30 identifies the routing of a major~~

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~~overhead transmission line that will serve as the primary source of electrical service for this development and those adjacent to it in the future. This overhead transmission line will serve utility substations which will at those location convert from overhead primary to underground electric service as is required by county ordinance.~~

5. Waste Water Management:

a. Under the franchise modification, as provided for below in "b" of this Section, Deltona, through Deltona Utilities, Inc., shall assume responsibility for construction and operating additional wastewater treatment collection and disposal facilities as necessary to provide sewer service to the Marco Development areas, and to those areas known as Unit 24 and Unit 27.

b. The Board of County Commissioners hereby authorizes Deltona to undertake the responsibility for sewer service, as provided in A of this Section, by granting the following modification to Deltona's Sewer Franchise Agreement, dated April 27, 1971 and recorded in the public records of Collier County in Official Records Book 401, Page 304 et seq. (the "Sewer Franchise Agreement"):

(1) The sewer franchise area is hereby modified by deleting therefrom all property that is not designated as "Development Area" under the Marco Agreement and substituting therefore all property, not presently within the sewer franchise area, that is included within such Development Area.

(2) Notwithstanding this modification to the Sewer Franchise Agreement, Collier County ~~may, at its discretion,~~ shall provide sewer service to those areas, known as Unit 24 and Fiddler's Creek Unit 30, provided Collier County has the capability and has committed to provide such sewer service prior to commencement by Deltona of construction of any additional sewage treatment facilities to serve such areas.

(3) With respect only to those areas known as Unit 24 and ~~Unit 30~~, Deltona shall dedicate all sewage collection

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facilities to Collier County at the time such areas area platted or replatted (whether or not the plats or replats are identified as Unit 24 and ~~Unit 30~~). Simultaneously with such dedication(s), Collier County shall lease the collection facilities back to Deltona; alternatively, Collier County may commit to provide immediate sewer service to the platted area, as provided in (2) above. In the event the collection facilities are leased back to Deltona, the lease shall be on the following terms and conditions:

(a) Lease Term - The lease term shall commence from the date of platting and continue uninterrupted for 30 years of until Collier County purchases the sewage treatment facilities as provided for in (4) below, whichever first occurs.

(b) Annual Rent - \$1.00 per annum payable annually in advance.

(c) Lessee's Rights - Lessee shall have the right to use and operate the sewage collection system, and during the lease term, all connections to the system shall be customers of the lessee. Customers outside the Deltona Franchise Area but served through this facility shall be customers of the County.

(d) Lessee's Obligations - Lessee shall have the responsibility to provide sewer service to the areas served by the sewage collection and lessee shall maintain and repair the sewage collection system so that upon termination of the lease, the system will be turned over to Collier County in good condition, reasonable wear and tear excepted.

(e) Other Provisions - The lease shall contain such other provisions as are typically included in commercial net leaseback agreements, as Deltona and Collier County shall deem reasonable and appropriate.

(4) In addition to any other rights of Collier County to purchase the sewer system, as provided in the Sewer Franchise Agreement, Collier County shall have the option at any time, upon twelve (12) months prior notice to Deltona, to purchase the sewage treatment facilities serving Unit 24 and ~~Unit 30~~. In the event

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Collier County exercises this option, the purchase price shall be determining by adding: a) the amount of Deltona's investment in the sewage treatment facilities serving such Units less any salvage value of the treatment facilities (if Collier County does not desire to take title to such treatment facilities) and less any portion of Deltona's investment previously recovered from Customer credit impact fees to be collected by the County and returned to Deltona as a credit and b) any accumulated net operating loss attributable to that portion of the sewer system accruing during that period commencing after 100 customers have been connected to the system through the date of closing.

c. Collier County Utilities will provide all wastewater treatment service to Fiddler's Creek.

d. e- It is anticipated that ~~Deltona~~ the Developer will use treated wastewater effluent to meet the non-potable water demands for Unit 24 and ~~Unit 30~~ Fiddler's Creek when effluent becomes available. The effluent distribution lines will be dedicated to Collier County at the time of platting and in the event ~~the Developer of Unit 24 Deltona~~ leases back the sewage collection system as provided for in b above, the effluent distribution lines will be included in the leaseback.

e. d- Deltona shall be required to locate the construction of the regional sewage facility in the general location of ~~Unit 30~~ Fiddler's Creek.

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

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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 to provide non-potable water for irrigation as permitted by the South Florida Water Management District.

7. Solid Waste Disposal:

~~Arrangements and agreements shall be made with the approved solid waste disposal service to provide for solid waste collection service to all area of the project.~~

Solid waste disposal service for Fiddler's Creek shall be provided by Collier County or its franchisee.

8. Other Utilities:

Telephone, power and cable TV service shall be made available to all residential areas. Such utility lines shall be installed underground, ~~with the exception of the primary electric service as described in 10.7 above.~~

9. Traffic:

a. Subject to FDOT approval, the Developer ~~or a Community Development District formed for Fiddler's Creek~~ shall provide the following:

(1) Traffic signals at each of the new intersections created on SR-951 and US-41 when deemed warranted by the County Engineer. The signal shall be owned, operated and maintained by Collier County.

(2) All required auxiliary turn lanes at each new intersection created on SR-951 and US-41.

(3) Street Lighting at major entrances into the

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development.

b. The dDeveloper shall provide traffic signals at internal intersections when deemed warranted by the County Engineer.

c. ~~The phasing schedule included in the PUD shall be considered binding only insofar as that no roadway constructions from Unit 36 shall be made to SR 951 until such time as SR 951 is four laned or September 1, 1990, whichever occurs first. As of September 1, 1990 the roadway connection may be provided to serve the northern golf course and clubhouse facilities. Beginning on September 1, 1992 or when ever SR 951 is four laned, whichever is sooner, residential units in Unit 30 may utilize road connections to SR 951, provided, however, that until such time as SR 951 is four laned only a maximum of 200 dwelling units may be so connected to the area commencing annually from September 1, 1992. Notwithstanding the foregoing, in the event a building moratorium is imposed by Collier County with respect to development with direct access to SR 951 because of unacceptable levels of service, as determined by the Board of County Commissioners, on SR 951, development in Unit 30 of the Marco Shores PUD will be subject to such a moratorium; provided, however, any such moratorium is not intended to apply to construction of the northern golf course and clubhouse facilities. Also, no construction traffic shall be permitted to access SR 951 until such time as SR 951 is four laned.~~

The Developer has contributed an 18.4 acre fill source to Collier County to supply fill for the widening of State Road 951 to four lanes between New York Avenue and the Marco Bridge. Pursuant to that certain Agreement between the County and Developer relating to the widening of State Road 951 dated April 4, 1995, all Development of Regional Impact (DRI) and PUD conditions which had restricted development and construction traffic have been fully satisfied by construction of the existing four lanes of State Road 951 and by execution of said Agreement. All such prior restrictions and conditions on development related to traffic impacts are no longer applicable. All prior obligations of

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Developer under this DRI Development Order and PUD document relating to the provision of fill for State Road 951 have been fully satisfied by execution of the Agreement between Developer and Collier County granting the County the right to enter upon the property for the purpose of excavation of the fill needed for the four-laning of State Road 951.

d. That Unit 24 be prohibited from any development until SR-951 is 4-laned or the applicant be required to donate to the County the cash equivalent of the construction cost for the 4-laning of 500 feet of SR-951. This donation, to be used by the County solely for the 4-laning of SR-951, shall be determined according to FDOT's SR-951 construction plans and shall be made either prior to Unit 24's a) development in whole or in part of b) the transfer to any other person or entity of any ownership interest or right to control Unit 24, in whole or in part. This donation shall be independent of the other fair-share contributions included within these recommendations.

e. That the Isle of Capri Commercial Tract, due to the level of service of SR-951 closely approaching "D", be prohibited from any development other than site preparation, which is defined in the PUD document, until SR-951 is 4-laned.

f. That the ~~applicant~~ Developer of Horr's Island and John Steven's Creek be responsible for the reconstruction of the intersections of SR-92, with the road to Horr's Island and John Stevens Creek. In the event that the State purchases Horr's Island, Deltona will not be obligated to bear the cost of improvement to that portion of the intersection.

g. If the marina is developed, the ~~applicant~~ Developer of the marina shall be responsible for the reconstruction (if necessary) of the intersection of SR-92 and the road to Goodland.

h. The ~~d~~Developer's contribution of the 18.4 acre fill source for the fill needs of the entire redevelopment of SR-951, which has been accomplished, shall constitute its entire fair share obligation for surrounding traffic related construction, with the

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exception of required improvements at newly created development road intersections with SR-951 and US-41, and compliance at the time of building permit with Collier County Ordinance 85-55, as amended from time to time. The fill contribution, any required intersection improvements and compliance with Ordinance 85-55 ~~are~~ hereby have been determined to satisfy the conditions of former Section 4.D.9. K.(4) of Collier County Development Order 84-3.

The Agreement between Collier County and Developer as described in Paragraph 9.C. fully and completely satisfies Developer's obligations for all "fair share" contributions for the resident's use of State Road 951 as a hurricane evacuation route, for transportation and for mitigation of traffic impacts under this DRI Development Order and PUD document over and above legally imposed county-wide transportation impact fees.

~~i. Although the applicant does not intend to construct the causeway road connection between Unit 30 and Unit 27 through the preserve area as shown on Sheet H-3. Collier County reserves the right to construct this causeway and the applicant agrees to provide the necessary right-of-way for said causeway construction upon request by Collier County and a showing by the County that it has the necessary funds budgeted for said construction.~~

11. Flood Elevation: In order to comply with the minimum flood elevation requirements, the maximum height of a structure shall be measured from the minimum base flood elevation required by the Flood Damage Prevention Ordinance, Ordinance 87-80, as amended.

12. Water Management:

a. ~~Unit 30~~ Fiddler's Creek has received conceptual drainage approval; however resubmission for conceptual drainage approval for Isle of Capri Commercial Area and Horr's Island shall be required that includes site specific information and coordination of recommendations dated May 15, 1984 endorsed by the Environmental Advisory Council.

b. Detailed site drainage plans for all development areas shall be submitted to the WMAB EAB for review and approval.

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No construction permits shall be issued unless and until approval for the proposed construction ~~is~~ in accordance with the submitted plans is granted by the County Engineer and the ~~Water Management Advisory Board EAB, except as provided in the Agreement between the applicant and Collier County, dated April 4, 1995.~~

c. The State and Deltona shall be urged to continue public acquisition negotiations for the purchase of Horr's Island.

13. Environmental Considerations:

Category I Lands: Fiddler's Creek and Isle of Capri Commercial Area

a. Category I Lands: Archaeological Resources

(1) ~~Deltona~~ Developer will design and implement a plan so that if an archaeological site or artifact is uncovered during site clearing, grading, or excavation, construction in that location will be stopped for a sufficient length of time to give both ~~Deltona's~~ Developer's archaeological consultant and/or one selected by the Environmental Section to assess the find and determine whether excavation is necessary.

(2) The Environmental Section or its selected consultant will respond to such a find in a timely manner so that construction is not unnecessarily delayed.

(3) If a significant site is discovered, the Environmental Section will coordinate the excavation of the site, consistent with ~~Deltona's~~ Developer's construction schedule, to remove any significant artifacts.

b. Category I Lands: Water Resources - Quality

(1) To ensure sufficient treatment of water runoff from development areas, final water management plans will retain and treat all runoff in development area swales and/or lakes prior to discharge from lakes through spreader waterways.

c. Category I Lands: Water Resources - Quantity

(1) Final water management plans, control structure elevation, lake levels, etc., are to replicate, as closely as possible, the seasonal pattern of water discharge ~~as necessary to~~

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comply with the applicable requirements of the South Florida Water Management District and the Settlement Agreement.

(2) Water will be retained on site during the natural dry season and will be discharged at a rate similar to pre-development conditions during the wet season pursuant to the applicable requirements of the South Florida Water Management District and the Settlement Agreement.

d. Category I Lands: Other

(1) Native vegetation should be retained and used where possible for ground cover.

(2) If feasible, species should be transplanted from development sites to border areas.

(3) Where transplanting is not feasible, make native species that would otherwise be destroyed, available for the use of qualified individuals (e.g.) the Native Plant Society, Applied Environmental and Engineering Services) in the restoration or enhancement of other Marco Island areas (e.g. County Park sites on Marco including Tigertail Park, other ~~Deltona~~ Marco Island development areas).

(4) Remove all existing exotics on site as described by County Ordinance.

~~(5) Avoid the use of introduced non-native species for landscaping.~~

(6) Follow design considerations as outlined in County Environmentalist's memorandum dated May 15, 1984.

Category II Lands: Horr's Island

e. Category II Lands: Native Vegetation and Habitats

(1) Final site plans and drainage plans shall be designed to minimize the destruction of vegetation classified on Figure 1 as rare, unique, or endangered.

(2) The final location of roads, buildings, parking areas, water management components, and other facilities shall be carefully chosen to minimize impacts on R.U.E. areas.

(3) At these areas the loss of R.U.E. lands will be

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mitigated, where possible, by the transplantation of native plants to adjacent undisturbed areas.

(4) Figures 2 and 3 depict typical, conceptual site development and drainage plans that reflect these guidelines.

(5) Prior to construction, the final site plans and drainage plans for development shall be reviewed and approved by the EABG to ensure that the final designs meet the goals and comply with the concepts of development as expressed in the County Environmentalist's memorandum dated May 15, 1984.

(6) The majority of Horr's Island (excluding the mangrove areas within the development limit line) (Figure 1) is classified as R.U.E. lands because the exact composition and location of the rare, unique, or endangered plant communities contained thereon and the occurrence and distribution of any classified rare, endangered, or threatened species were neither adequately addressed nor mapped in the Army Corps of Engineers Environmental Impact Statement or associated reports.

(7) A vegetational survey and an analysis of the presence and location of endangered, threatened or rare species is a normal requirement of the County E.I.S. ordinance. Because the information supplied on the characteristics of the upland areas of Horr's Island was not site-specific, a detailed survey (including an upland plant community map) of the composition and distribution of upland vegetation and the occurrence of rare, endangered, or threatened species shall be conducted by the applicant in consultation with a qualified South Florida Tropical systematic botanist.

(8) The vegetation survey, which will be utilized in the final site and drainage plans developed for Horr's Island and incorporated into the final EABG review and approval of the site and drainage plans for the area, is required by County Ordinance 77-66 under the terms of Resolution R-82-86.

(9) All site-specific surveys will be conducted prior to any site alteration.

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(10) Those surveys conducted by the Environmental Section will not delay ~~Deltona's~~ Developer's timetable.

(11) Surveys for multi-family lots on Horr's Island may be delayed until future lot owners are ready to develop the site.

(12) To this extent, ~~Deltona~~ the Developer needs only to have surveys conducted on those areas where they will undertake land alteration activities (i.e. roads, water management facilities).

(13) Surveys for ~~the Deltona's~~ the Developer's activities must however cover enough of the surrounding areas to enable the selection of potentially more suitable locations.

f. Category II Lands: Archaeological Resources:

(1) The archaeological survey of Horr's Island to be conducted by ~~Deltona's~~ the Developer's archaeological consultants will classify all sites as significant (those needing to be preserved) and marginal (those where only a recovery dig is necessary prior to site development).

(2) The results of this survey will be incorporated in the final site and drainage plans for Horr's Island.

(3) In addition to the pre-development surveys a program will be established allowing assessment of any archaeological sites or artifacts uncovered during site clearing, grading, excavation, or construction.

(4) In such case, any development activity considered inimical to the integrity of the archeological find will be stopped temporarily to give the ~~Deltona~~ Developer, or the County, or the State of Florida archaeological consultant a chance to excavate the find.

(5) The Environmental Section or its selected consultation will respond to such a find and conduct necessary excavation in a timely manner so that construction is not unnecessarily delayed.

g. Category II Lands: Water Resources

(1) The final water management plans shall be designed

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to minimize the clearing and alteration of land in R.U.E. areas.

(2) This will be accomplished by designing the water management facilities to direct the majority of runoff from building pads and parking lots to roadside swales.

(3) Overflow from these swales will be discharged through storm swales and spreaders at the wetland borders, carefully located to take advantage of the existing topography and flow channels and to minimize alteration of R.U.E. areas.

(4) Conceptual site plans with water management feature incorporating these comments are depicted in a generalized scheme in Figure 2, and for a section Horr's Island in Figure 3.

(5) The benefits of following such plans include: a) development along existing topographic gradients will retain natural flow and filtration characteristics; b) direction of runoff to roadside swales, located in most cases near the center of existing ridges, will take advantage of the natural capacity of the sand and shell soils to percolate and filter water; c) the retention of side-slope R.U.E. areas to buffer development areas from the preserved wetlands will provide further filtration of runoff from the rear of development areas while maintaining the existing natural conditions; and d) the water entering the ground and/or adjoining wetlands will be partially or completely treated in the roadside and discharge swales, the wetland spreaders, and by percolation through ridge substrates and filtration through retained native wetland buffer vegetation.

(6) The ultimate stormwater discharge points will be carefully located in areas most suited for receiving such waters.

(7) Low quality, semi-impounded wetlands, buffered from productive aquatic and wetland areas by distance, topography, or existing roads will be utilized.

(8) Potential discharge points are indicated on Figure 1.

(9) In order to minimize the degradation of water quality by the addition of fertilizers, pesticides and herbicides,

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the area extent of lawns around the development will be kept to a minimum.

(10) The Environmental Section recommends a sodded area of no more than 5% of any structure's area.

(11) The use of retained and transplanted native cover naturally occurring under existing conditions will be emphasized.

(12) The final water management plans will be reviewed by both EABG and the WMAB to ensure that they integrate native vegetation and existing drainage features and are designed following the concepts stated in the County Environmentalist's May 15, 1984 memo and depicted in Figures 2 and 3.

(13) During plan preparation, ~~Deltana~~ the Developer will work with County staff to arrive at a final product compatible with these general guidelines and the associated conceptual diagrams.

(14) Where two alternative water management approaches exist, that approach which will best serve to minimize alteration of R.U.E. areas will be chosen.

h. Category II Lands: Other

(1) Native species will be transplanted from development sites to border areas.

(2) Where transplanting is not feasible, native species that would otherwise be destroyed, will be made available for the use of qualified individuals (e.g. the Native Plant Society, Applied Environmental and Engineering Services) in the restoration and enhancement of other Marco Island areas (e.g. County Park sites on Marco including Tigertail Park, other ~~Deltana~~ Marco Island development areas).

(3) Native vegetation either existing in situ, or transplanted from construction sites will be retained and used where possible for landscaping and/or ground cover.

(4) All existing exotics on site will be removed as required by County Ordinance.

(5) The use of introduced non-native species for landscaping will be severely restricted.

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(6) All construction, clearing, and filling locations in or adjacent to designated R.U.E. areas will be flagged and field approved by the Environmental Section prior to the commencement of site work.

(7) Turbidity screens, or other similar devices, will be used in association with work within or adjacent to wetlands.

(8) All work will be conducted following the design considerations and conceptual drawings contained in the County Environmentalist's May 15, 1984 memorandum.

i. Category I and Category II Lands: Additional Stipulation

(1) The EIS prepared by the Corps of Engineers will be accepted to fulfill the requirements of ~~County Ordinance 77-66 Division 3.8 of the Collier County Land Development Code~~ with the condition that the stipulations contained herein are followed.

(2) Specific stipulations to modify site plans for all Category I and II Lands except for Fiddler's Creek, in order to minimize impact on native upland vegetation and habitats and to require for Category II Lands final site plan review and approval by the EABE are contained herein to bring the development proposals into compliance with County environmental policies and standard review procedures and requirements.

(3) Modifications to the conceptual drainage plans along with new conceptual plans to incorporate environmental concerns are recommended for Category II Lands and Unit 24 to ensure that the final water management design does not unnecessarily destroy native upland vegetation, habitats, and associated wildlife.

(4) The EABE and the WMAB will review and approve final drainage plans for Category II Lands prior to construction for compliance with conceptual comments and designs outlined in the County Environmentalist's May 14, 1984 memorandum.

(5) Tree removal permits are not issued at the time of rezone approval because of the conceptual nature of rezone plans and the lack of site-specific information, to the extent this provision is not modified by the Agreement between the applicant

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and Collier County, dated April 4, 1995.

(6) Tree removal permits for all Category I and II Lands, will be issued for the proposed individual developments after the final site plans and drainage plans, based in some cases on required vegetational surveys, are reviewed and approved by staff and advisory boards, except as modified for Fiddler's Creek by the Agreement between County and Developer dated April 4, 1995.

(7) Flagging and approval by the Environmental Section of the final alignment of the proposed docks and boardwalks is required prior to construction.

(8) The rezone petition contains no plans for dredging associated with these structures. If required, dredging will therefore have to be reviewed under separate petition.

(9) The exact locations of the roads will be approved during the review of the final site plans.

(10) Because some of the recommendations, particularly those involving development in areas of Horr's Island or other Category II Lands designated as rare, unique, or endangered, would require specific actions and further review to ensure environmentally sensitive development, it is suggested that the County allow a certain amount of flexibility in the site plans and density spread associated with the petitions. For example, site plans could be shifted and density units transferred from areas of high environmental concern to those with lower potential impact.

(11) Some of the recommendations contained herein constitute variations from the Settlement Agreement. Within the Agreement, however, provisions have been made for modifications of the plans such as proposed in the County Environmentalists's May 15, 1984 memo. Informal conversations with some of the other parties to the Agreement indicate that changes to further protect the natural resources of the area could be made with a minimum of difficulty. Staff believes that the design recommendations embodied in the May 15th memorandum represent additional methods, above and beyond those contained in the Settlement Agreement, to

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permit the proposed development while protecting the natural and cultural resources of Collier County. Staff, as representatives of Collier County, a party to the Settlement Agreement, will, in cooperation with ~~Deltana~~ the Developers of all Category I and II Lands, initiate and attempt to negotiate the addition of the following Exhibits to the Settlement Agreement and any resulting modifications that may be necessary to the existing U.S. Army Corps of Engineers permit:

Exhibit D - 12A

Wherever vegetation is discovered on any Category I or II Lands, which is deemed by Collier County to be rare, unique or endangered, ~~Deltana Developer~~ may eliminate rear yard and roadside swales and other drainage design features shown on D-2, D-3, D-11, D-46, D-47 and D-48 of this Exhibit to the extent ~~Deltana Developer~~ and Collier County determine that to do so will reduce the adverse impact on such vegetation. In the event the Engineering Detail Drawings are varied in accordance herewith, ~~Deltana the Developer~~ shall be excused from compliance with the drainage retention requirements shown on D-11, D-46 and D-47.

Exhibit E - 1A

Wherever vegetation is discovered in Horr's Island development areas which is deemed by Collier County to be rare, unique or endangered, the following design criteria shall apply, to the extent ~~Deltana the Developer of Horr's Island~~ and Collier County determine that to do so will reduce the adverse impact on such vegetation, in this Exhibit E:

- \* Multi-family tracts and roadways abutting wetlands shall not be required to have a minimum 10 feet wide by 6 inches deep swale.
- \* Multi-family areas shall not be required to drain toward rear yard swales.
- \* Developer shall be excused from compliance with the 1/2 inch dry retention storage requirement.

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- \* Drainage may discharge via sheet flow from roadside spreader swale, or rear yard swale, or through the rare, unique or endangered vegetation.

To the extent that some or all of the provisions of the foregoing additional exhibits are not approved in accordance with the terms of the Settlement Agreement or are not approved by permit modification or otherwise by the U.S. Army Corps of Engineers or are otherwise not legally permitted, ~~Deltana~~ the Developer of Horr's Island shall design the Horr's Island development areas as provided for in the Settlement Agreement; however, taking into consideration any provisions of the additional Exhibits as have been fully approved.

14. Subdivision Regulations:

a. The approved stipulations of the EABG per the memorandum from County Environmentalist dated May 15, 1984 may necessitate substitutions ~~exceptions~~ from the Subdivision Regulations to accommodate fine tuning of the final site plan;

b. Detailed engineering drawings as shown in the Marco Agreement will not necessarily apply, or would be subject to the County Engineer's approval at the time of platting in conjunction with the best development procedures;

c. Platting and construction plan approval will be granted on a segmental basis with applicable time restraints imposed by the Subdivision Regulations being applied to each segment.

d. For the purpose of platting and replatting within the project area, assurance for the completing of subdivision improvements will be provided by ~~Deltana~~ the Developer by ~~Improvement Escrow Agreement in form substantially similar to that Agreement which is attached as Exhibit D hereto,~~ subject, however, to reasonable modification as approval by the County Attorney; ~~may deem appropriate, Deltana may substitute alternative forms of assurances as may from time to time be approved by the County Attorney.~~

15. Maintenance Facilities

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a. ~~Unit 30: The Deltona Corporation Developer~~ may create a community development district for the ~~Unit 30 Fiddler's Creek~~ area. If such a district is created it will comply with the following requirements.

If ~~The Deltona Corporation Developer~~ creates a community development district ("~~The Marco Shores Community Fiddler's Creek~~ Development District") pursuant to Chapter 190, Fla. Stats., all of the property ~~in Unit 30 owned by the Developer of Fiddler's Creek in Unit 30~~ will be included within the ~~Marco Shores Community Fiddler's Creek Community~~ Development District. The ~~Marco Shores Fiddler's Creek~~ Community Development District will own and will have the responsibility for operating, maintaining, and as appropriate, improving and expanding the following common areas and facilities:

(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 ~~Units 24 and 30 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. ~~Parks, other than those parks immediately adjacent to school sites, which will be dedicated to the County,~~

(4) Certain recreational amenities and facilities which are not owned and operated by ~~The Deltona Corporation the Developer~~, other private interests or individual condominium associations;

(5) Street lighting, and;

(6) Such other common areas and facilities which are desired by the residents of the ~~Marco Shores Fiddlers Creek~~ Community Development District but which are not available through local government or private enterprise.

Chapter 190 Fla. Stats. grants community development districts

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created thereunder all powers necessary to achieve their purposes, including the power to levy and collect taxes and special assessments, borrow money and issue bonds. The ~~Deltona Corporation~~ Developer will have responsibility for the ~~Marco Shores 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

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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.

#### SECTION SEVEN: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores Development Order (Resolution 84-3, as amended), Section 4, Subsection E. Other Commitments is hereby amended to read as follows:

##### E. OTHER COMMITMENTS

##### 1. Education:

a. Pursuant to the requirements of this Development Order, Deltona has previously dedicated school sites to the Collier County District School Board, which has accepted the same. Upon request of the Collier County District School Board (the School Board), Deltona shall donate two (2) elementary school sites and one (1) middle school site. Two of the school sites are within Unit 30 and a third site is located within a development area generally known as "Unit 24", which area is not the subject of the Marco ADA or of this Development Order.

~~b. Prior to donation of school sites to the School Board, such sites will be filled to the 100 year storm elevation.~~

##### 2. Recreation and Open Space:

a. Deltona Developer will make available construct neighborhood parks, and bikeways and exercise courses as shown in the Marco ADA as amended herein and in accord with the phasing schedule in the PUD document. These recreational facilities will be dedicated to Collier County for use by the public the Fiddler's Creek Homeowners Association or Community Development District for the use of residents of Fiddler's Creek. Deltona Developer will also provide sites for numerous other recreational facilities, including golf courses and tennis facilities, as shown in the Marco

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ADA and as amended herein and in the PUD document. However, ~~t~~  
 These facilities may be reserved for use solely by the residents  
 of the ~~Marco Development Areas~~ Fiddler's Creek Development and  
 their guests. The construction of the northern eighteen hole golf  
 course in ~~Unit 30 Fiddler's Creek~~ will be used primarily for the  
 recreational use of their guests. Secondly, residents of the  
~~Unit 30 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 golf course, recreational facilities  
and tennis center will be constructed when feasible to serve the  
 surrounding residential units. ~~These golf facilities will~~  
~~recreational facilities and tennis center may be privately owned~~  
~~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.

3. Police Protection: Upon request of the Board, ~~Deltona~~  
the Developer of Horr's Island and Isle of Capri Commercial Area  
 will donate to Collier County the community facility sites, as  
 shown in the Marco ADA. These sites will serve as sites for public  
 safety facilities, including sheriff substations.

4. Housing: ~~Deltona Developer~~ shall explore the economic  
 feasibility of providing residences within ~~Unit 30 Fiddler's Creek~~  
 that are affordable by middle or lower income families.

5. Annual Monitoring Report: ~~The applicant or its~~  
~~successor(s) in title to the subject property shall submit a report~~  
~~annually, commencing one year from the effective date of the~~  
~~Development Order, to the Board of County Commissioners of Collier~~  
~~County, the Southwest Florida Regional Planning Council, and the~~  
~~Department of Community Affairs. This report shall contain the~~  
~~information required in Section 9J-2.025(7), Florida Administrative~~

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Code. This report shall be prepared in accordance with the "DRI Monitoring Format", as may be amended, provided by the Southwest Florida Regional Planning Council. Failure to submit the annual report shall be governed by Subsection 380.06(18), Florida Statutes.

#### SECTION EIGHT: AMENDMENTS TO DEVELOPMENT ORDER ADDING FIDDLER'S CREEK MASTER PLAN

The Marco Shores Development Order (Resolution 83-4, as amended), is hereby amended to add the Fiddler's Creek Master Plan attached hereto and incorporated by reference herein as Exhibit "FC-C".

#### SECTION NINE: FINDINGS OF FACT

The Marco Shores Development Order (Resolution 83-4, as amended), is hereby amended to add the Findings of Fact as follows:

A. That the real property which is the subject of the proposed amendment is legally described as set forth in Exhibits "A" and "A-1", attached hereto and by reference made a part hereof.

B. The application is in accordance with Section 380.06(19), Florida Statutes.

C. The applicant submitted to the County a notice of change to a previously approved DRI known as Exhibit "F", and by reference made a part hereof.

D. The applicant's predecessor in interest proposed the development of Marco Shores including a portion of the area now to be known as Fiddler's Creek on 1,689.11 acres of land for a commercial and residential development described in Development Order 84-3, as amended.

E. A comprehensive review of the impact generated by the proposed changes to the previously approved development has been conducted by the County's departments and the SWFRPC.

F. The development is not in an area designated an Area of Critical State Concern pursuant to the provisions of Section 380.06, Florida Statutes, as amended.

#### SECTION TEN: CONCLUSIONS OF LAW

The Marco Shores Development Order (Resolution 83-4, as

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amended), is hereby amended to add the Conclusions of Law as follows:

A. The proposed changes to the previously approved Development Order as presented do not constitute a substantial deviation pursuant to Section 380.06(19), Florida Statutes. The scope of the development to be permitted pursuant to this Development Order Amendment includes operations described in the Notice of Change to a Previously Approved DRI, Exhibit "F", by reference made a part hereof.

B. The proposed changes to the previously approved development are consistent with the report and recommendations of the SWFRPC.

C. The proposed changes to the previously approved development 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 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.

F. The proposed changes are presumed to not constitute a substantial deviation pursuant to Subsection 380.06(19)(c), Florida Statutes.

**SECTION ELEVEN: EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDER, TRANSMITTAL TO DCA AND EFFECTIVE DATE**

The Marco Shores Development Order (Resolution 83-4, as amended), is hereby amended to add the Effect of Previously Issued Development Order, Transmittal to DCA and Effective Date as follows:

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 96-1

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shall be transmitted immediately upon execution to the Department of Community Affairs, Bureau of Land and Water Management, 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.

Commissioner Hancock offered the foregoing Resolution and moved for its adoption, seconded by Commissioner Matthews and upon roll call, the vote was:

AYES: Commissioner Hancock, Commissioner Matthews, Commissioner Constantine, Commissioner Mac'Kie, and Commisisoner Norris

NAYS:

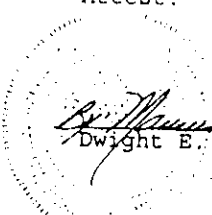
ABSENT AND NOT VOTING:

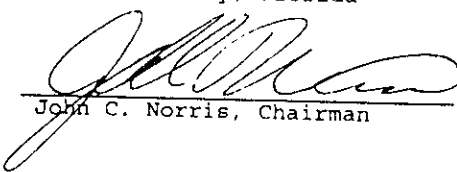
ABSTENTION:

Done this 23 day of July, 1996.

Attest:

Board of County Commissioners  
Collier County, Florida

  
Dwight E. Brook, Clerk

  
John C. Norris, Chairman

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

Marjorie M. Student  
Marjorie M. Student  
ASSISTANT COUNTY ATTORNEY

J\*FIDDLER/RESOLUT. RED

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## EXHIBIT "A"

## PROPERTY DESCRIPTION

## Parcel :

A parcel of land located in Sections 11, 14, 15, 22, 23, 24, and 25 all being in Township 51 South, Range 26 East, Collier County, Florida, being more particularly described as follows:

BEGIN at the Northeast corner of Section 22, Township 51 South, Range 26 East, Collier County, Florida; thence run North 88°38'51" West, along the North line of the Northeast 1/4 of said Section 22, for a distance of 2738.28 feet to the North 1/4 corner of said Section 22; thence run North 88°58'10" West, along the North line of the Northwest 1/4 of said Section 22, for a distance of 1448.52 feet to a point on the Easterly right-of-way line of State Road 951, a 200.00 foot right-of-way; thence run South 02°29'39" West, along the Easterly right-of-way line of State Road 951, for a distance of 1537.88 feet; thence run South 86°54'19" East for a distance of 1322.20 feet; thence run South 89°27'22" East for a distance of 125.79 feet; thence run South 80°38'36" East for a distance of 86.82 feet; thence run South 48°57'39" East for a distance of 143.49 feet; thence run South 22°36'28" East for a distance of 101.19 feet; thence run South 07°16'34" East for a distance of 159.01 feet; thence run South 22°27'03" East for a distance of 80.97 feet; thence run South 51°50'53" East for a distance of 124.40 feet; thence run South 74°04'40" East for a distance of 144.06 feet; thence run South 85°45'26" East for a distance of 187.62 feet; thence run North 82°02'11" East for a distance of 108.47 feet; thence run North 28°53'36" East for a distance of 104.27 feet; thence run North 10°26'56" East for a distance of 87.33 feet; thence run North 46°09'57" East for a distance of 161.84 feet; thence run North 66°40'14" East for a distance of 191.80 feet; thence run North 79°08'54" East for a distance of 121.22 feet; thence run South 87°33'02" East for a distance of 275.68 feet; thence run South 85°36'34" East for a distance of 196.37 feet; thence run South 87°39'51" East for a distance of 185.04 feet; thence run South 87°21'43" East for a distance of 105.83 feet; thence run North 85°51'57" East for a distance of 86.75 feet; thence run South 87°50'25" East for a distance of 53.97 feet; thence run South 43°21'06" East for a distance of 96.83 feet; thence run South 39°31'17" East for a distance of 55.10 feet; thence run South 12°45'05" East for a distance of 48.21 feet; thence run South 54°17'48" East for a distance of 252.73 feet; thence run North 55°30'51" East for a distance of 83.75 feet; thence run North 74°36'13" East for a distance of 64.15 feet; thence run South 82°07'55" East for a distance of 60.58 feet; thence run South 51°36'21" East for a distance of 159.30 feet; thence run South 00°11'44" West for a distance of 120.56 feet; thence run South 02°12'06" West for a distance of 188.85 feet; thence run North 80°34'08" East for a distance of 108.80 feet; thence run South 77°52'52" East for a distance of 122.93 feet; thence run North 85°11'20" East for a distance of 115.84 feet; thence run South 73°31'25" East for a distance of 106.53 feet; thence run North 78°58'28" East for a distance of 51.97 feet; thence run North 05°41'54" East for a distance of 125.98 feet; thence run North 01°41'54" East for a distance of 77.72 feet; thence run North 15°43'51" East for a distance of 184.05 feet; thence run North 21°35'44" East for a distance of 141.05 feet; thence run North 23°31'20" East for a distance of 142.54 feet; thence run North 53°47'38" East for a distance of 116.07 feet; thence run North 88°01'01" East for a distance of 145.07 feet; thence run North 38°00'59" East for a distance of 369.42 feet; thence run North 39°43'19" East for a distance of 299.43 feet; thence run North 44°46'34" East for a distance of 108.44 feet; thence run North 74°20'58" East for a distance of 101.17 feet; thence run North 77°28'10" East for a distance of 117.54 feet; thence run North 41°29'18" East for a distance of 102.86 feet; thence run North 16°25'45" East for a distance of 68.07 feet; thence run North 32°16'13" East for a distance of 99.28 feet; thence run North 56°07'35" East for a distance of 115.20 feet; thence run North 22°33'12" East for a distance of 132.57 feet; thence run North 34°55'40" East for a distance of 81.02 feet; thence run North 67°14'28" East for a distance of 88.26 feet; thence run North 76°07'18" East for a distance of 77.37 feet; thence run South 86°19'59" East for a distance of 263.41 feet; thence run South 14°15'46" East for a distance of 83.69 feet; thence run South 23°58'59" West for a distance of 58.61 feet; thence run South 56°30'17" West for a distance of 141.77 feet; thence run South 48°14'20"

West for a distance of 110.87 feet; thence run South 45°59'04" West for a distance of 86.08 feet; thence run South 24°17'17" West for a distance of 78.68 feet; thence run South 59°03'57" East for a distance of 32.26 feet; thence run South 76°14'25" East for a distance of 287.74 feet; thence run South 87°00'56" East for a distance of 151.16 feet; thence run South 68°28'26" East for a distance of 115.50 feet; thence run South 43°13'27" East for a distance of 112.77 feet; thence run South 18°34'02" East for a distance of 220.03 feet; thence run South 21°18'18" East for a distance of 172.00 feet; thence run South 18°33'08" East for a distance of 163.52 feet; thence run South 76°44'28" East for a distance of 125.93 feet; thence run North 74°26'22" East for a distance of 115.09 feet; thence run North 47°34'17" East for a distance of 55.85 feet; thence run North 12°06'43" West for a distance of 69.72 feet; thence run North 31°18'44" West for a distance of 100.54 feet; thence run North 16°38'57" West for a distance of 133.88 feet; thence run North 09°53'00" East for a distance of 213.52 feet; thence run North 48°28'23" East for a distance of 119.95 feet; thence run North 87°30'26" East for a distance of 33.64 feet; thence run South 32°37'51" East for a distance of 138.09 feet; thence run South 40°32'24" East for a distance of 125.01 feet; thence run South 39°17'22" East for a distance of 115.06 feet; thence run South 62°18'24" East for a distance of 145.81 feet; thence run South 81°21'50" East for a distance of 121.40 feet; thence run South 59°49'44" East for a distance of 115.57 feet; thence run South 74°50'34" East for a distance of 94.71 feet; thence run North 24°24'43" East for a distance of 81.83 feet; thence run North 40°52'29" East for a distance of 247.82 feet; thence run North 40°23'40" East for a distance of 276.28 feet; thence run North 39°53'20" East for a distance of 411.53 feet; thence run South 58°13'26" East for a distance of 982.09 feet; thence run South 19°03'16" East for a distance of 96.31 feet; thence run South 08°45'22" West for a distance of 121.08 feet; thence run South 13°25'07" West for a distance of 159.04 feet; thence run South 20°02'48" West for a distance of 169.85 feet; thence run South 57°19'10" West for a distance of 359.88 feet; thence run South 77°05'05" West for a distance of 327.57 feet; thence run South 43°14'14" West for a distance of 401.58 feet; thence run North 66°06'10" West for a distance of 54.49 feet; thence run South 64°07'14" West for a distance of 44.31 feet; thence run South 48°23'22" West for a distance of 35.08 feet; thence run South 11°10'06" West for a distance of 174.79 feet; thence run South 04°12'55" West for a distance of 151.70 feet; thence run South 00°26'51" East for a distance of 131.08 feet; thence run South 07°57'23" East for a distance of 52.02 feet; thence run South 05°32'11" East for a distance of 73.70 feet; thence run South 38°42'25" West for a distance of 80.13 feet; thence run South 75°24'24" West for a distance of 513.63 feet; thence run North 71°25'16" West for a distance of 78.08 feet; thence run North 54°31'46" West for a distance of 292.73 feet; thence run North 36°33'16" West for a distance of 88.54 feet; thence run North 75°02'38" West for a distance of 101.42 feet; thence run North 58°07'21" West for a distance of 145.39 feet; thence run North 63°16'52" West for a distance of 100.54 feet; thence run North 70°18'01" West for a distance of 52.57 feet; thence run North 78°18'47" West for a distance of 139.12 feet; thence run North 88°18'46" West for a distance of 118.58 feet; thence run South 78°25'37" West for a distance of 120.58 feet; thence run South 70°42'34" West for a distance of 58.35 feet; thence run South 54°33'15" West for a distance of 236.73 feet; thence run South 01°33'17" West for a distance of 304.71 feet; thence run South 30°08'16" East for a distance of 184.40 feet; thence run South 01°31'06" West for a distance of 139.28 feet; thence run South 24°09'25" East for a distance of 317.35 feet; thence run South 07°38'57" East for a distance of 618.63 feet; thence run South 05°14'32" East for a distance of 48.48 feet; thence run South 86°37'33" East for a distance of 144.20 feet; thence run North 74°58'46" East for a distance of 84.50 feet; thence run North 89°40'58" East for a distance of 166.94 feet; thence run North 54°40'25" East for a distance of 155.08 feet; thence run South 87°04'16" East for a distance of 183.90 feet; thence run South 75°30'01" East for a distance of 292.58 feet; thence run South 74°07'29" East for a distance of 164.37 feet; thence run North 53°12'13" East for a distance of 77.41 feet; thence run North 71°22'37" East for a distance of 85.20 feet; thence run South 85°53'26" East for a distance of 92.10 feet; thence run South 83°23'30" East for a distance of 128.98 feet; thence run North 68°54'10" East for a distance of 100.70 feet; thence run North 55°32'22" East for a distance of 148.01 feet; thence run North 32°25'17" East for a distance of 235.05 feet; thence run North 33°14'22" East for a distance of 199.06 feet; thence run North 48°38'03" East for a distance of 111.62 feet; thence run North 40°09'31" East for a distance of 96.63 feet; thence run North 18°03'03" East for a distance of 285.56 feet; thence run North 58°55'34" East for a distance of 367.04 feet; thence run South 72°38'46" East for a distance of 90.19 feet; thence run South 68°05'01" East for a distance of 88.10 feet; thence run South 32°29'50" East for a distance of 134.26 feet; thence run North 58°20'15" East for a distance of 1006.12 feet; thence run North 08°49'07" East for a distance of 121.76 feet; thence run North 86°01'20" East for a distance of 76.03 feet; thence run South 81°56'11" East for a distance of 62.89 feet; thence run South 62°22'55" East for a distance of 61.08 feet; thence run South 28°55'42" East for a distance of 96.72 feet; thence run South 07°05'01" East for a distance of 98.49 feet; thence run South 20°24'01" West for a distance of 97.27 feet; thence run South 64°30'14" East for a distance of 119.77 feet; thence run North 42°57'49" East for a distance of 68.57 feet; thence run North 19°23'04" East for a distance of 158.14 feet; thence run North 75°28'14" East for a distance of 446.92 feet; thence run North 06°56'07" East for a distance of 178.75 feet; thence run North 66°12'10" West for a distance of 63.59 feet; thence run North 71°24'18" West for a distance of 123.29 feet; thence run North 50°53'00" West for a distance of 112.15 feet; thence run North 16°04'21" West for a distance of 86.40 feet; thence run North 28°52'24" East for a distance of 62.66 feet; thence run North 69°42'26" East for a distance of 91.21 feet; thence run North 88°57'04" East for a distance of 137.98 feet; thence run South 51°15'23" East for a distance of 66.98



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feet; thence run South 57°59'40" East for a distance of 90.38 feet; thence run North 83°57'39" East for a distance of 185.60 feet; thence run South 89°53'36" East for a distance of 103.27 feet; thence run South 33°27'20" East for a distance of 47.82 feet; thence run South 01°07'11" East for a distance of 178.02 feet; thence run South 57°10'59" East for a distance of 90.42 feet; thence run South 59°52'00" East for a distance of 215.96 feet; thence run South 40°50'50" East for a distance of 100.90 feet; thence run South 01°41'10" West for a distance of 221.55 feet; thence run South 44°25'43" East for a distance of 177.22 feet; thence run South 57°17'08" East for a distance of 194.66 feet; thence run South 49°41'29" East for a distance of 234.47 feet; thence run South 51°45'12" East for a distance of 285.65 feet; thence run South 46°48'39" East for a distance of 77.27 feet; thence run South 55°26'25" East for a distance of 87.85 feet; thence run North 83°37'01" East for a distance of 54.43 feet; thence run North 59°36'02" East for a distance of 133.38 feet; thence run North 86°06'02" East for a distance of 77.48 feet; thence run South 67°01'55" East for a distance of 118.58 feet; thence run South 45°08'14" East for a distance of 2560.69 feet; thence run North 27°32'54" East for a distance of 85.21 feet; thence run North 27°30'00" East for a distance of 55.22 feet; thence run North 25°35'58" East for a distance of 45.08 feet; thence run North 21°40'44" East for a distance of 98.89 feet; thence run North 89°44'52" West for a distance of 38.81 feet; thence run South 75°26'58" West for a distance of 151.66 feet; thence run North 09°04'17" West for a distance of 117.55 feet; thence run North 12°06'14" East for a distance of 74.75 feet; thence run North 46°03'43" East for a distance of 74.51 feet; thence run North 12°46'58" West for a distance of 32.83 feet; thence run North 19°35'33" West for a distance of 74.92 feet; thence run South 32°11'57" West for a distance of 85.42 feet; thence run South 69°25'44" West for a distance of 67.21 feet; thence run North 85°12'17" West for a distance of 75.05 feet; thence run North 86°16'33" West for a distance of 109.50 feet; thence run South 89°48'24" West for a distance of 95.29 feet; thence run North 31°09'56" West for a distance of 62.54 feet; thence run North 01°12'06" West for a distance of 153.58 feet; thence run North 36°23'56" East for a distance of 106.80 feet; thence run North 10°55'24" West for a distance of 140.47 feet; thence run North 22°37'48" East for a distance of 51.15 feet; thence run North 37°19'10" East for a distance of 162.48 feet; thence run North 18°33'02" East for a distance of 118.95 feet; thence run North 06°08'12" East for a distance of 108.72 feet; thence run North 04°59'51" West for a distance of 137.15 feet; thence run North 20°30'53" East for a distance of 147.98 feet; thence run North 03°46'25" East for a distance of 148.33 feet; thence run North 17°37'07" West for a distance of 180.04 feet; thence run North 13°33'39" West for a distance of 140.97 feet; thence run North 00°05'49" West for a distance of 73.02 feet; thence run North 25°39'35" East for a distance of 86.53 feet; thence run North 59°22'21" East for a distance of 73.73 feet; thence run South 40°21'48" East for a distance of 52.95 feet; thence run South 01°53'33" West for a distance of 118.69 feet; thence run South 81°33'24" East for a distance of 120.72 feet; thence run South 83°36'53" East for a distance of 84.07 feet; thence run South 44°52'32" East for a distance of 54.42 feet; thence run South 10°29'59" East for a distance of 78.18 feet; thence run South 37°18'09" West for a distance of 50.11 feet; thence run South 29°46'39" West for a distance of 75.80 feet; thence run South 25°22'43" West for a distance of 103.08 feet; thence run South 10°56'20" West for a distance of 105.37 feet; thence run South 10°07'11" East for a distance of 107.10 feet; thence run South 42°29'24" East for a distance of 116.91 feet; thence run South 08°16'17" West for a distance of 34.86 feet; thence run South 60°18'31" West for a distance of 106.48 feet; thence run South 23°42'39" West for a distance of 130.40 feet; thence run South 08°34'48" East for a distance of 85.19 feet; thence run South 20°38'43" East for a distance of 82.58 feet; thence run South 83°18'33" East for a distance of 184.23 feet; thence run South 88°28'10" East for a distance of 201.60 feet; to a point on the East line of Section 24, Township 51 South, Range 26 East, Collier County, Florida; thence run North 00°15'28" East, along the East line of said Section 24, for a distance of 4476.41 feet to the Northeast corner of said Section 24; thence run North 88°58'55" West, along the North line of the Northeast 1/4 of said Section 24, for a distance of 2713.71 feet to the North 1/4

corner of said Section 24; thence run North 88°59'02" West, along the North line of the Northwest 1/4 of said Section 24, for a distance of 2713.25 feet to the Northwest corner of said Section 24; thence run North 00°25'53" West, along the East line of the Southeast 1/4 of Section 14, Township 51 South, Range 26 East, for a distance of 2749.82 feet to the East 1/4 corner of said Section 14; thence continue North 00°25'53" West, along the East line of the Southeast 1/4 of the Northeast 1/4 of said Section 14, for a distance of 1374.91 feet to the Southeast corner of the Northeast 1/4 of the Northeast 1/4 of said Section 14; thence run North 88°20'09" West, along the South line of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 14, for a distance of 692.50 feet to the Southwest corner of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 14; thence run North 00°20'11" West, along the West line of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 14, for a distance of 1377.88 feet to the Northwest corner of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 14; thence run South 88°04'59" East, along the North line of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 14, for a distance of 690.34 feet to the Northeast corner of said Section 14; thence run North 01°00'45" East, along the East line of the Southeast 1/4 of Section 11, Township 51 South, Range 26 East, for a distance of 2749.58 feet to the East 1/4 corner of said Section 11; thence continue North 01°00'45" East, along the East line of the Northeast 1/4 of said Section 11, for a distance of 559.15 feet to a point on the Southerly right-of-way line of U.S. Highway No. 41 (Tamiami Trail), a 200.00 foot right-of-way; thence run North 54°21'15" West, along the Southerly right-of-way line of U.S. Highway No. 41, for a distance of 1244.99 feet; thence run South 01°14'40" West for a distance of 100.00 feet; thence run North 88°45'20" West for a distance of 10.00 feet; thence run South 01°14'40" West for a distance of 293.15 feet; thence run North 54°21'15" West for a distance of 400.00 feet to a point on the West line of the Southeast 1/4 of the Northeast 1/4 of said Section 11; thence run South 01°14'40" West, along the West line of the Southeast 1/4 of the Northeast 1/4 of said Section 11, for a distance of 1082.83 feet to the Southwest corner of the Southeast 1/4 of the Northeast 1/4 of said Section 11; thence run South 01°14'30" West, along the West line of the East 1/2 of the Southeast 1/4 of said Section 11, for a distance of 2745.91 feet to the Southwest corner of the East 1/2 of the Southeast 1/4 of said Section 11; thence run South 00°14'31" East, along the West line of the Northeast 1/4 of the Northeast 1/4 of said Section 14, for a distance of 1380.85 feet to the Southwest corner of the Northeast 1/4 of the Northeast 1/4 of said Section 14; thence run North 88°20'10" West, along the South line of the North 1/4 of said Section 14, for a distance of 4154.87 feet to the Southwest corner of the Northeast 1/4 of the Northeast 1/4 of said Section 14; thence run North 89°13'52" West, along the North line of the South 1/2 of the Northeast 1/4 of Section 15, Township 51 South, Range 26 East, for a distance of 2738.98 feet to the Northwest corner of the South 1/2 of the Northeast 1/4 of said Section 15; thence run South 00°18'43" West, along the West line of the South 1/2 of the Northeast 1/4 of said Section 15, for a distance of 1392.96 feet to the center of said Section 15; thence run South 89°06'35" East, along the South line of the Northeast 1/4 of said Section 15, for a distance of 2739.04 feet to the East 1/4 corner of said Section 15; thence run South 00°19'46" West, along the East line of the Southeast 1/4 of said Section 15, for a distance of 2787.36 feet to the Southeast corner of said Section 15 and the POINT OF BEGINNING; containing 1664.6059 acres, more or less.

AND

Parcel 2

A parcel of land located in Section 24, Township 51 South, Range 26 East, Collier County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Section 24, Township 51 South, Range 26 East, Collier County, Florida; thence run South 00°15'28" West, along the East line of said Section 24, for a distance 4679.59 feet to the POINT OF BEGINNING of the parcel of land herein described; thence run North 72°12'44" West for a distance of 86.92 feet; thence run North 69°28'32" West for a distance of 94.14 feet; thence run South 85°05'50" West for a distance of 80.86 feet; thence run South 78°39'42" West for a distance of 79.41 feet; thence run South 46°52'35" West for a distance of 76.76 feet; thence run South 54°05'10" East for a distance of 62.53 feet; thence run South 81°19'02" East for a distance of 71.38 feet; thence run North 88°47'42" East for a distance of 97.52 feet; thence run North 83°27'32" East for a distance of 84.68 feet; thence run North 84°27'57" East for a distance of 82.73 feet; thence run North 00°15'28" East, along the East line of Section 24, for a distance of 43.22 feet to the POINT OF BEGINNING; containing 0.779 acre, more or less.

AND

Parcel 3

A parcel of land located in Section 24, Township 51 South, Range 26 East, Collier County, Florida, being more particularly described as follows:

COMMENCE at the Northeast corner of Section 24, Township 51 South, Range 26 East, Collier County, Florida; thence run South 00°15'28" West, along the East line of said Section 24, for a distance 4790.92 feet to the POINT OF BEGINNING of the parcel of land herein described; thence run North 86°15'35" West for a distance of 52.39 feet; thence run South 56°32'23" West for a distance of 67.01 feet; thence run South 12°30'16" West for a distance of 74.05 feet; thence run South 07°47'40" East for a distance of 77.35 feet; thence run South 16°03'58" East for a distance of 121.00 feet; thence run South 34°56'39" East for a distance of 136.99 feet; thence run North 00°15'28" East, along the East line of said Section 24, for a distance 410.92 feet to the POINT OF BEGINNING; containing 0.824 acre, more or less.

LESS AND EXCEPT THEREFROM PROPERTY CONVEYED TO DELTONA UTILITIES, INC., (C/O SOUTHERN STATES UTILITIES, INC.) AS RECORDED IN OFFICIAL RECORDS BOOK 1463, PAGES 497 TO 499, AS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Parcel No. 7

That certain parcel of land, lying in Sections 24 and 25, Township 51 South, Range 26 East, Collier County, Florida, being more particularly described as follows:

Commence at the Northeast boundary corner of said Section 24, thence along the East boundary of said Section 24 South 00°15'28" West a distance of 4,478.41 feet to a point on said boundary, thence leaving said East boundary North 88°28'10" West a distance of 201.60 feet; thence North 85°18'35" West a distance of 164.23 feet; thence North 20°38'43" West a distance of 62.59 feet; thence North 06°54'48" West a distance of 85.19 feet; thence North 23°42'39" East a distance of 130.40 feet; thence North 60°16'31" East a distance of 106.48 feet; thence North 08°16'17" East a distance of 34.66 feet; thence North 42°29'24" West a distance of 116.91 feet; thence North 10°07'11" West a distance of 107.10 feet; thence North 10°56'20" East a distance of 105.37 feet; thence North 25°22'43" East a distance of 103.06 feet; thence North 29°46'38" East a distance of 75.80 feet; thence North 37°18'09" East a distance of 50.11 feet; thence North 10°29'59" West a distance of 79.18 feet; thence North 44°52'32" West a distance of 54.42 feet; thence North 63°38'53" West a distance of 64.07 feet; thence North 82°33'24" West a distance of 120.72 feet; thence North 01°53'33" East a distance of 116.69 feet; thence North 40°21'48" West a distance of 52.95 feet to the POINT OF BEGINNING of the parcel of land hereinafter described; thence South 58°22'21" West a distance of 73.73 feet; thence South 25°39'35" West a distance of 95.53 feet (96.63 Calculated); thence South 00°05'49" East a distance of 73.02 feet; thence South 15°13'39" East a distance of 140.97 feet; thence South 17°32'07" East a distance of 160.04 feet; thence South 03°46'25" West a distance of 148.33 feet; thence South 20°30'53" West a distance of 147.93 feet; thence South 04°59'51" East a distance of 137.15 feet; thence South 08°08'12" West a distance of 106.72 feet; thence South 19°33'02" West a distance of 118.95 feet; thence South 37°19'10" West a distance of 162.48 feet; thence South 22°37'48" West a distance of 51.15 feet; thence South 10°55'24" West a distance of 140.47 feet; thence South 36°23'56" West a distance of 106.80 feet; thence South 01°12'06" East a distance of 153.58 feet; thence South 31°09'56" East a distance of 62.54 feet; thence North 69°48'24" East a distance of 95.29 feet; thence South 86°16'33" East a distance of 109.50 feet; thence South 65°02'17" East a distance of 75.05 feet; thence North 69°25'44" East a distance of 67.21 feet; thence North 32°11'57" East a distance of 85.42 feet; thence South 19°55'33" East a distance of 74.92 feet; thence South 12°46'58" East a distance of 32.83 feet; thence South 48°03'43" West a distance of 74.51 feet; thence South 12°06'14" West a distance of 74.75 feet; thence South 09°04'17" East a distance of 117.55 feet; thence North 75°26'58" East a distance of 151.66 feet; thence South 69°44'52" East a distance of 38.61 feet; thence South 21°40'44" West a distance of 96.89 feet; thence South 25°35'58" West a distance of 48.08 feet; thence South 27°30'00" West a distance of 86.22 feet; thence South 29°52'54" West a distance of 85.21 feet; thence North 45°08'14" West a distance of 2,560.69 feet; thence North 00°15'28" East a distance of 265.00 feet; thence South 69°44'32" East a distance of 375.00 feet; thence North 84°04'19" East a distance of 149.18 feet; thence North 79°01'56" East a distance of 484.64 feet; thence North 61°23'47" East a distance of 447.94 feet; thence South 89°44'32" East a distance of 264.73 feet; thence South 00°15'28" West a distance of 141.70 feet to the POINT OF BEGINNING.

Containing 43.00 acres, more or less.

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LESS AND EXCEPT THEREFROM PROPERTY CONVEYED TO BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AS RECORDED IN OFFICIAL RECORDS BOOK 1755, PAGE 361, AS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

At that part of the Northeast 1/4 of Section 15, Township 51 South, Range 26 East, Collier County, Florida and being more particularly described as follows:

Commencing at the Southwesterly most corner of Championship Drive, Marco Shores Unit 30 Golf Course, Plat Book 17, pages 98 through 103, Collier County, Florida;  
thence along the Southerly line of said Championship Drive South 89°13'53" East 35.40 feet to the Point of Beginning of the parcel herein described;  
thence continue along said line South 89°13'52" East 109.79 feet;  
thence leaving said line South 00°18'43" West 153.94 feet;  
thence North 86°07'06" West 110.00 feet;  
thence North 00°18'43" East 147.26 feet to the Point of Beginning.  
Containing 0.38 acres, more or less.

Subject to easements, reservations or restrictions of record.

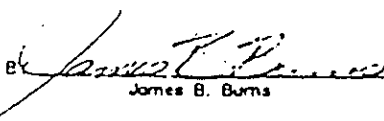
Bearings shown hereon refer to the North line of the Northeast 1/4 of Section 22, Township 51 South, Range 26 East, Collier County, Florida, as being North 88°38'51" West.

Property Description for Parcel 1 is composed entirely from that certain map titled MARCO SHORES UNIT 30 BOUNDARY MAP created by the Deltona Corporation - Dept. of Real Estate Services in July 1989 and revised November 20, 1989 and again September 24, 1991 as provided by Gulf Bay Development Inc. and has been prepared without benefit of survey.

Property Descriptions for Parcels 2 and 3 are based on Exhibit "A" of the SPECIAL WARRANTY DEED as recorded in Official Record Book 1911 Page 144 Et. Seq. of the Public Records of Collier County, Florida and has been prepared without benefit of survey.

These descriptions of all Parcels shown hereon are intended only as representations of specific data in the above referenced documents and not intended as certification of actual field locations.

HOLE, MONTES & ASSOCIATES, INC.

  
James B. Burns F.L.S. #5090  
STATE OF FLA

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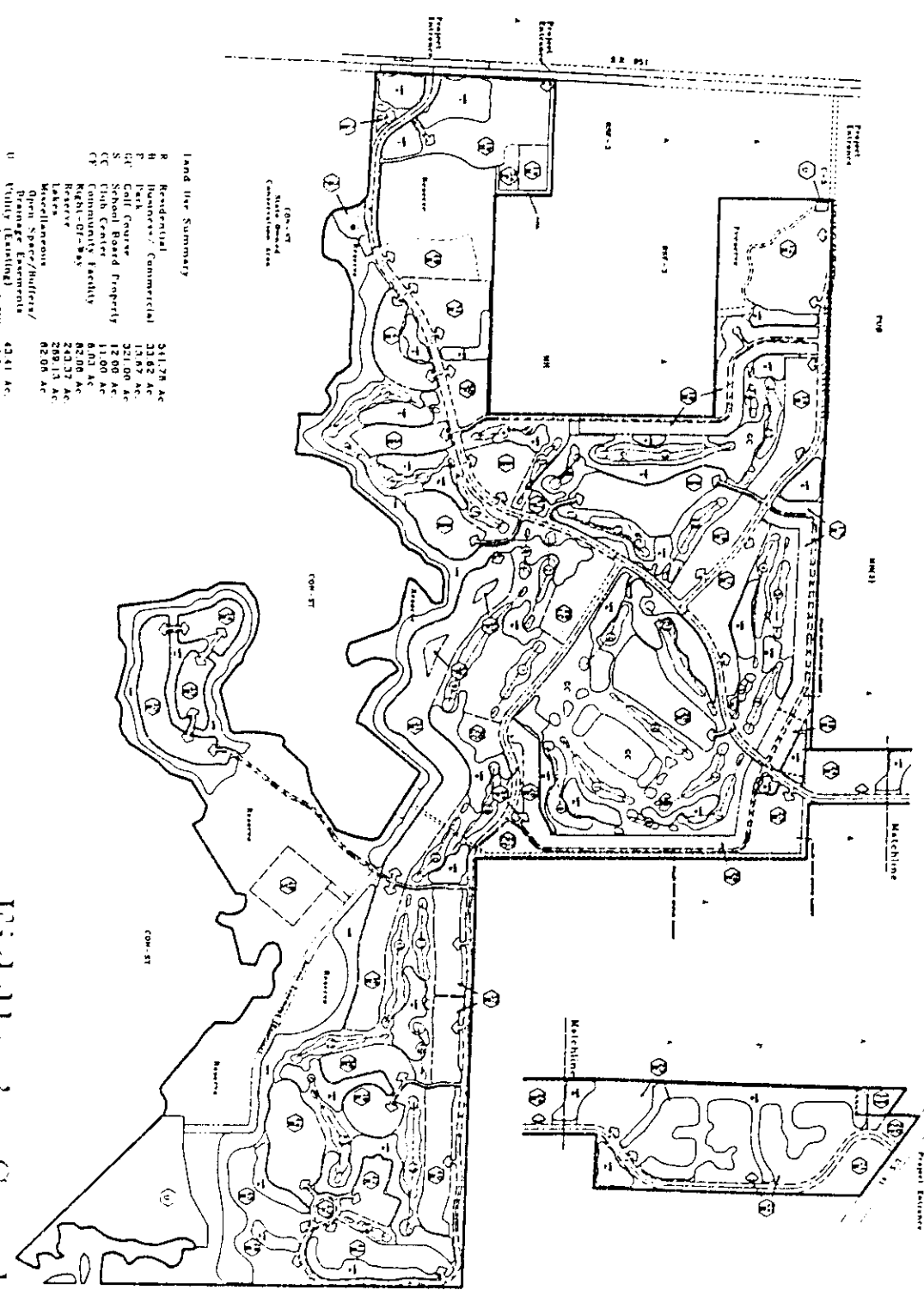
EXHIBIT "A-1"

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 15, (CONCRETE MONUMENT), TOWNSHIP 51 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA RUN N 88°56'55" W FOR 1465.24 FEET; THENCE N 02°29'06" E FOR 694.66 FEET ALONG THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 951; THENCE S 88°58'47" E FOR 1439.23 FEET; THENCE S 00°20'25" W FOR 695.29 FEET TO SAID SOUTH QUARTER CORNER, LESS AND EXCEPTING THE WESTERLY 17 FEET OF THE HEREIN DESCRIBED PARCEL OF LAND FOR THE PURPOSE OF ROAD RIGHT-OF-WAY AS SHOWN IN O.R. BOOK 001166, PAGE 001070, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

# Fiddler's Creek Master Plan

Land Use Summary

|  |           |
|--|-----------|
| R Residential                          | 34,728 AC |
| B Business/Commercial                  | 23,62 AC  |
| P Park                                 | 1,847 AC  |
| GC Golf Course                         | 321.00 AC |
| S School Board Property                | 12.00 AC  |
| CC Club/Country                        | 11.00 AC  |
| CF Community Facility                  | 1.00 AC   |
| RE Reserve                             | 82.06 AC  |
| L Lakes                                | 289.13 AC |
| M Miscellaneous                        | 43.41 AC  |
| OS Open Space/Buffer/Drainage Elements | 10.20 AC  |
| U Utility (Existing)                   |           |
| A Access Easement (ESB)                |           |



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|  |   |   |   |   |
|--|---|---|---|---|
| <b>Engineering</b><br>Harte, Harte & Associates, Inc.<br>715 Tenth Street South<br>Naples, FL 33950<br>T (941) 266-1017 F (941) 267-1074 | <b>Legal</b><br>Young, Van Doren & Yarnall<br>Sun Bank Building, Suite 300<br>Naples, FL 33963<br>T (941) 597-2014 F (941) 597-1000 | <b>Golf Course Architect</b><br>Art Hill<br>7331 W. Boncroft<br>Toledo, OH 43615<br>T (419) 641-0363 F (419) 641-0000 | <b>Architecture</b><br>The Erno Group<br>1830 W. Orange Ave., Suite 200<br>Orlando, FL 32801<br>T (407) 440-8210 F (407) 440-3009 | <b>Landscape Architecture - Planting</b><br>J. Roland Lieber<br>398 12th Ave. S.<br>Naples, FL 33960<br>T (941) 261-0007 F (941) 261-1370 |
|--|---|---|---|---|

DATE: 2/13/96

REV: \_\_\_\_\_

1" = 200'

SCALE: 1" = 200'

Team Plan, Inc.

planning urban design research landscape architecture

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STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

THE DELTONA CORPORATION, )

Petitioner, )

vs. )

CASE NOS. 79-2471  
80-683

STATE OF FLORIDA, DEPARTMENT OF  
ENVIRONMENTAL REGULATION, )

Respondent, )

and )

NATIONAL AUDUBON SOCIETY, COLLIER  
COUNTY CONSERVANCY, FLORIDA AUDUBON  
SOCIETY, ENVIRONMENTAL DEFENSE FUND,  
FLORIDA DIVISION OF THE IZAAK WALTON  
LEAGUE, BERNARD J. YOKEL AND  
DEBORAH P. COOK, )

Intervenors, )

IN THE DISTRICT COURT OF  
APPEAL, FIRST DISTRICT,  
STATE OF FLORIDA.

DEPARTMENT OF ENVIRONMENTAL REGULATION, )

Appellant/Cross-Appellee/Respondent, )

vs. )

CASE NO. XX-335

THE DELTONA CORPORATION, )

Appellee/Cross-Appellant/Petitioner. )

IN THE DISTRICT COURT OF  
APPEAL, FIRST DISTRICT,  
STATE OF FLORIDA.

DEPARTMENT OF ENVIRONMENTAL REGULATION, )

Appellant/Cross-Appellee/Respondent, )

vs. )

CASE NO. XX-336

THE DELTONA CORPORATION, )

Appellee/Cross-Appellant/Petitioner. )

Exhibit "FC-D"

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IN THE DISTRICT COURT OF  
APPEAL, FIRST DISTRICT,  
STATE OF FLORIDA.

NATIONAL AUDUBON SOCIETY; COLLIER  
COUNTY CONSERVANCY, FLORIDA AUDUBON  
SOCIETY, ENVIRONMENTAL DEFENSE FUND,  
FLORIDA DIVISION OF IZAAK WALTON LEAGUE,  
Appellants/Intervenors,  
vs.  
THE DELTONA CORPORATION,  
Appellee/Petitioner.

JUL 23 1996

CASE NO. YY-76

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

THE DELTONA CORPORATION,  
Petitioner,  
vs.  
STATE OF FLORIDA, DIVISION  
OF ENVIRONMENTAL REGULATION,  
Respondent.

CASE NO. 80-1308R

STIPULATION FOR DISMISSAL  
AND SETTLEMENT AGREEMENT

THIS STIPULATION AND AGREEMENT, made and entered into this 20th day of July, 1982, by and between: (A) THE DELTONA CORPORATION, a Delaware corporation with its principal place of business at 3250 S.W. Third Avenue, Miami, Florida, its successors and assigns (hereinafter "DELTONA"); (B) NATIONAL AUDUBON SOCIETY, COLLIER COUNTY CONSERVANCY, FLORIDA AUDUBON SOCIETY, ENVIRONMENTAL DEFENSE FUND and FLORIDA DIVISION OF THE IZAAK WALTON LEAGUE (hereinafter "CONSERVATION INTERVENORS"); (C) THE DEPARTMENT OF ENVIRONMENTAL REGULATION OF THE STATE OF FLORIDA ("DER"); THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND ("TIITF"); THE DEPARTMENT OF VETERAN AND COMMUNITY AFFAIRS OF THE STATE OF FLORIDA ("DVCA"); THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT ("SFWMD") (the four State of Florida agencies hereinafter referred to as "the State of Florida"); and (D) COLLIER COUNTY, FLORIDA (hereinafter

"Collier County"  
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Certain of the parties to this Stipulation and Agreement are parties to various matters of administrative and judicial litigation as are more fully identified herein. As to such litigation parties, this Stipulation and Agreement shall constitute an agreement among such parties setting forth the bases and conditions for dismissal of the matters of litigation identified herein. The appropriate litigation parties further agree to file such motions or petitions jointly as may be necessary to implement this Stipulation and Agreement. With respect to the parties hereto, this Stipulation and Agreement shall constitute an agreement between Deltona and such parties as to the substantive matters herein set forth.

W I T N E S S E T H:

WHEREAS, Development of the Marco Island Community was commenced by Deltona in 1964 within that area depicted on Exhibit "A" attached hereto, constituting approximately 24,962 acres; and

WHEREAS, the wetland portions of the Marco Island area comprise a unique and irreplaceable resource located near other environmentally sensitive areas, which are the subject of state ownership, acquisition, regulation or control; and the disposition, in the manner set forth herein, of the real property over which Deltona asserts ownership (constituting a major portion of such wetlands) will preserve and protect that resource; and

WHEREAS, the major portion of such real property, approximately 13,914 acres, was acquired by Deltona (or its then wholly owned subsidiary Marco Island Development Corporation) in 1964; a series of parcels, approximately 9,136 acres, in 1968-69; and the final portion, approximately 1,912 acres, in 1976. Title to the real property was patented directly into Deltona's predecessors in title by the United States or was ceded to the State of Florida under the Swamp and Overflowed Lands Act of 1850 and subsequently deeded to Deltona's predecessor by the State of Florida, through TIITF. The entire development at Marco Island consists of approximately 24,962

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acres. Agencies of local, state and federal government have been involved in the regulation of various aspects of the proposed development of the subject property since 1964. The presently undeveloped portion of Deltona's ownership consists of approximately 19,444 acres; and

WHEREAS, Deltona's development of Marco Island began in 1964 with preparation of a master plan for its entire ownership. Thereafter, Deltona commenced construction of a free standing community on 8,509 acres. The master plan provided for single family homesites, multi-family sites, school, park sites, commercial sites, shopping areas, boating access and beach utilization areas, arterial transportation systems and other planned community facilities. This master plan was premised on transformation of bay bottoms and mangrove swamps into a complex of fast land and canals through dredging and filling; and

WHEREAS, Deltona's Marco Island community was designed as a water-oriented, residential, retirement and second home community and resort center intended to provide the amenities of a complete planned community. The original plan included low to moderate density residential use, basic shopping services, full utilities, land, water, and air access; and

WHEREAS, as master planned, the original development was divided into five construction areas: Marco River, Roberts Bay, Collier Bay, Barfield Bay and Big Key. The five construction areas were subdivided as Marco Beach Subdivision Units 1-23. Unit 24 of the subdivision was added in 1970; and

WHEREAS, when Deltona began development of the Marco Island community environmental construction permits had a three year time limitation. Therefore, Deltona applied for such permits under a time sequence related to construction and delivery schedules which were in turn related to obligations under the contracts of sale; and

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WHEREAS, land sales registrations began in 1964, and sales proceeded from that date such that Units 1-23 were substantially sold out prior to 1970. Land sales registration approvals for Unit 24 were obtained and sales commenced in early 1970 with approximately 50% of those lots under contract when sales were discontinued in 1972; and

WHEREAS, Deltona sought and obtained other local, state, and federal development approvals for the construction areas comprised within Units 1-24 and took other steps to complete development including, but not limited to:

A. In July 1964, Deltona obtained Collier County zoning approval;

B. On July 21, 1964, Deltona obtained Collier County franchises for construction, operation and maintenance of both sewer and water systems for the community.

C. In 1965, after required public hearing, Deltona obtained and recorded in the public records of Collier County, bulkhead line approvals delineating permissible fill areas for the entire community.

D. Between October 6, 1964 and January 22, 1965, subdivision plats for the Marco Island community were approved and recorded for Units 1-23.

E. In 1964 and 1965, Deltona posted subdivision development bonds with Collier County to guarantee construction of platted subdivision approvals.

F. Beginning in 1964, Deltona conveyed and otherwise dedicated or committed lands in the Marco Island community for public or recreational use. Such included dedication of church sites, conveyance of 31½ acres of prime gulf-front beach to Collier County, and the conveyance of Kice Island with 2½ miles of gulf-front beach pursuant to the herein described "State Settlement Agreement."

G. Beginning in 1964, Deltona sought and obtained registration approvals from Florida and other states for sale of subdivision lots in parts of the community. Beginning in 1969, Deltona sought such approval from the newly

established Office of Interstate Land Sales Registration of the Department of Housing and Urban Development.

H. After registration, subdivision lots in the master planned community were first offered for sale to the general public in 1965, with varying contract delivery periods extending as long as 8½ years.

I. Construction commenced in the Marco River permit area in 1964, and proceeded in Roberts Bay and the Collier Bay permit areas in 1968-69 and to date.

J. In 1971, Deltona commenced construction of the golf course and airport facility on the property identified as Marco Shores Country Club. Prior to commencement of construction Deltona notified state and federal regulatory agencies which made site inspections and conducted investigations after which construction commenced and was completed in late 1972 or early 1973; and

WHEREAS, in connection with the issuance of dredge and fill permits for the third construction area, Collier Bay, TIITF undertook a comprehensive review of all Deltona's ownership and development plans in the Marco Island area including Units 1-24 and the balance of the company's then unplatted properties. Pursuant to that review the Governor and Cabinet considered the environmental, social, economic, legal and equitable issues involved in this long standing master planned community; and

WHEREAS, based upon the foregoing review, the Governor and Cabinet reached an overall decision ("State Settlement") covering Deltona's Marco ownership, except that acquired in 1976. TIITF agreed to issue a Chapter 253, Florida Statutes, permit for construction and development of the area described by the State Settlement. As a part of that land use decision, the TIITF required Deltona to eliminate major portions of its property from future development and to deed 4,032 acres of land to the TIITF as a preservation area. Pursuant to the State Settlement, the TIITF issued Chapter 253,

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Florida Statutes, dredge and fill permits. Deltona has conveyed thousands of acres of land to the TITF and entered into an agreement quit-claiming additional interest to the TITF; and

WHEREAS, DER issued state water quality certifications for Collier Bay, Barfield Bay and Big Key in April 1974; no state water quality certification was issued for Unit 24; and

WHEREAS, in April 1976, the United States Army Corps of Engineers (the "Corps of Engineers" or the "Corps") granted Deltona's application for dredge and fill permits in the Collier Bay area and, in recognition of the national interest in preserving Marco Island wetlands, denied Deltona's application for dredge and fill permits in the Big Key and Barfield Bay areas. As a result of the failure to receive such federal dredge and fill permits, Deltona has been unable to deliver 4,264 waterfront homesites (plus 1,625 multi-family units) to contract purchasers. The denied area includes 2,908 acres of environmentally sensitive mangrove estuary. The 1976 Corps of Engineers denial also constituted the basis for a reasonable inference that the Corps would similarly deny Corps permits to dredge and fill in wetlands in the Unit 24 permit area consisting of 5,155 single family and 1,449 multi-family dwelling units located on 3,564 acres. The total number of single family and multi-family dwelling units which Deltona had planned for Barfield Bay, Big Key and Unit 24 was therefore 12,493; and,

WHEREAS, after denial of the Corps permits in 1976 Deltona purchased 1,912 acres of adjoining land, constituting the north portion of Unit 30, in order to enhance its flexibility to deal with the consequences of such denial; and

WHEREAS, on January 19, 1978, Deltona received a binding letter of vested rights status, (BLIVR 978-1010), in which the DVCA states that the company was vested with the right to proceed with development of 33,525 dwelling units (less those previously constructed) located on platted areas 1-24 and related beach properties. This vesting of the right

to proceed with development is only with regard to the <sup>July 22 1996</sup> ment of regional impact requirements of Section 380.06, Florida Statutes; and

WHEREAS, Deltona on May 3, 1978, submitted a joint permit application to the DER and the Corps of Engineers which permit application included all of Deltona's remaining undeveloped property in Marco Island and the vicinity. The May 3, 1978 application has been through a series of modifications reducing the amount of wetland acreage subject to development; however, the modified application still entailed the dredging and filling of some 2,500 acres of open water, mangrove swamps and fresh water wetlands; and

WHEREAS, Deltona's May 3, 1978 application, as modified, was the subject of a Notice of Intent to Deny issued by the DER and that application is now the subject of formal administrative proceedings in consolidated cases styled, The Deltona Corporation v. DER, et al., Case Nos. 79-2471 and 80-683; these cases raise a broad range of legal and factual issues to determine whether Deltona is or is not entitled to a development permit under the rules and statutes governing such permits, or whether Deltona is entitled to a variance from any rules or statutes which might preclude issuance of the development permit. A formal evidentiary hearing before an administrative law judge in proceeding No. 79-2471 took place in April and May 1981; the resolution of these issues may take more than a year; and

WHEREAS, Deltona has challenged the validity of certain DER rules, culminating in an administrative order of a hearing officer declaring certain of the DER's rules to be invalid and certain other rules to be valid. These rule challenge proceedings are now the subject of DER appeals and an appeal by conservation intervenors (whose motion to intervene in the administrative proceeding was denied) to the First District Court of Appeal of the State of Florida, which have

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been consolidated as State of Florida, Department of Environmental Regulation vs. The Deltona Corporation. Docket Nos. XX-335, XX-336 and YY-76; Deltona has, in its cross-appeal, challenged the constitutionality of certain provisions of Chapter 403, Florida Statutes, and the validity of DER's implementation of Chapter 403; and

WHEREAS, Deltona initiated proceedings in the United States Court of Claims in which Deltona alleged that the April, 1976 denial of Deltona's permit application by the Corps of Engineers resulted in a denial of all economic use of the affected property. The Court of Claims trial judge entered a recommended order finding that the Corps of Engineers' denial was an unconstitutional taking of Deltona's property that requires payment of compensation to Deltona. The United States Court of Claims reversed and found that the Corps' April 1976 decision granting Deltona's Collier Bay permit application and denying Deltona's Barfield Bay and Big Key permit applications did not constitute a taking and did not deny Deltona all reasonable use of the affected property, Deltona Corp. v. United States, 657 F.2d 1184 (Ct. Cl. 1981). The U.S. Supreme Court on March 22, 1982, denied Deltona's Petition for Writ of Certiorari (No. 81-1207) to review the decision of the United States Court of Claims; and

WHEREAS, Deltona also initiated proceedings in the United States District Court, Middle District of Florida, styled Deltona Corp. v. Alexander et. al., and Environmental Defense Fund, Inc., National Audubon Society, Inc., Florida Audubon Society, Inc. and Collier County Conservancy, defendants-intervenors, challenging the validity of the Corps' April 1976 decision. On January 14, 1981, the United States District Judge granted final judgment in favor of the Corps and conservation intervenors; Deltona appealed the decision to the United States Court of Appeals for the Eleventh Circuit, No. 81-5226, and a decision from that Court is pending; and

WHEREAS, the Marco area comprises a unique and irreplaceable wetlands coastal estuarine system, most of which is

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subject to regulation by the State of Florida and the Corps of Engineers:

A. The Unit 30 area constitutes the major wading bird feeding habitat in southwest Florida, supporting the only major rookery in southwest Florida.

B. The wetland portions of the Unit 24 area adjoin the Rookery Bay National Marine Estuarine Sanctuary.

C. The wetland areas under Deltona ownership, constituting thousands of acres, contain basin black mangrove forest, red mangrove forest and mixed mangrove forests which are a major contributor to the estuarine food web.

D. The wetland areas under Deltona ownership are a major nursery area for shrimp and marine juvenile organisms of all description.

E. The coastal estuarine system provides a unique habitat for wildlife.

F. The wetland portions of the estuarine system protect and enhance the water quality of the adjacent bay areas.

WHEREAS, the Marco area is near Rookery Bay National Estuarine Sanctuary, Aquatic Preserve G-14, Collier Seminole State Park, Big Cypress Swamp and other government controlled environmentally sensitive areas; and

WHEREAS, the acquisition by the State of Florida, or related conservation organizations, of approximately 15,000 acres of the estuarine property as described above, and as more fully set forth in this Stipulation and Agreement, is deemed to be a matter of great public interest; and

WHEREAS, the inability to complete the Marco Community has adversely affected not only Deltona but thousands of third-party purchasers; and

WHEREAS, in recognition of the legal, equitable, environmental, regulatory and conservation interests affected by this unique development, the parties hereto deem it in their individual and collective interests, as well as in the general



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public interest, to resolve all outstanding issues and to provide a speedy conclusion to the development issues now pending before state and federal regulatory agencies; and

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants and promises herein contained, agree as follows:

1. The State of Florida hereby permits Deltona to develop the real property depicted on Exhibit "B" attached hereto, and labelled therein as "Development Areas" (the "Development Areas") in accordance with the Conceptual Development Plan attached hereto as Exhibit "C" (The "Conceptual Development Plan"). The Conceptual Development Plan is a statement of the general planning concepts to be employed in the Development Areas. (The graphic portions of the Exhibit "C" are for illustrative purposes only.) Exhibits "B" and "C" are on file with the DER and should be incorporated by reference for purposes of interpreting this Stipulation and Agreement. (Illustrations only of Exhibits "B" and "C" are attached hereto.) "Development", as used herein, means alteration of the land and topography, dredging, filling, placement and construction of roads, utilities, installation of drainage facilities, construction of residential and commercial buildings and facilities, as permitted under the terms of this Stipulation and Agreement. It is the express intention of Deltona and the State of Florida that this Stipulation and Agreement shall serve to permit the development activities herein identified within the Development Areas in accordance with the Conceptual Development Plan without the necessity of further approvals by them, except as specifically set forth herein. However, this Stipulation and Agreement does not obviate the necessity of obtaining the following permits or regulatory approvals:

A. Construction and operation of sewage disposal facilities and solid waste disposal sites;

B. Construction and operation of water treatment and distribution facilities;

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C. Construction of entrances or driveways from or onto state roadways;

D. SFWRMD approvals and permits for consumptive use of water and/or artificial recharge; and

E. Collier County approvals as required pursuant to paragraph 17.

2. No dredging, filling, drainage or destruction of vegetation in areas outside the Development Areas is permitted under the terms of this Stipulation and Agreement.

3. Deltona agrees that the airport in Unit 30 is restricted to a single development use as an airport and may not be subject to residential, industrial or other commercial use.

4. Subject to the conditions in Paragraphs 8 and 9, the conservation intervenors expressly consent to and support the issuance of permits by the State of Florida under Chapters 253, 380 (except as hereinafter set forth in Paragraph 6) and 403 and by the SFWRMD under Chapters 373 and 403 for the Development Areas in accordance with the Conceptual Development Plan, as further refined in Exhibit "D" (the "Engineering Detail Drawings") and Exhibit "E" (the "Conceptual Drainage Design Criteria").

5. Subject to the conditions in Paragraphs 8 and 9, the conservation intervenors expressly consent to and support the issuance of permits by the Corps of Engineers under Section 10 of the 1899 Rivers and Harbors Act, 33 U.S.C. Section 403, and Section 404 of the Clean Water Act, 33 U.S.C. Section 1344 for the Development Areas in accordance with the Conceptual Development Plan, as further refined by the Engineering Detail Drawings and the Conceptual Drainage Design Criteria.

6. The parties hereto acknowledge that certain final construction plans (such as detailed bridge design, detailed design of lakes and other drainage features) could not be produced prior to execution of this Stipulation and Agreement. As to such matters, Deltona and the State of Florida agree to the design concepts as shown on the Engineering Detail

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Drawings and the Conceptual Drainage Design Criteria. At such time as Deltona has prepared final construction plans for any of the Development Areas or any phase of a Development Area, Deltona shall submit such plans to DER, the SFWMD, any other agency as the DER may designate, and the Collier County Conservancy (or such other representative entity as the conservation intervenors may from time to time designate), as representative of the conservation intervenors, for review to determine whether such final construction plans are consistent with the Engineering Detail Drawings and the Conceptual Drainage Design Criteria. The Collier County Conservancy (or such other representative as the conservation intervenors may from time to time designate), as representative of the conservation intervenors, shall have sixty (60) days from receipt of such plans in which to comment in writing to Deltona and the State of Florida with respect to the conformance or nonconformance of such final construction plans to the Engineering Detail Drawings and the Conceptual Drainage Design Criteria.

Except as provided below in this Paragraph 6 with respect to SFWMD, such final construction plans shall be deemed approved by the agencies in accordance with this Stipulation and Agreement unless, within ninety (90) days following receipt thereof, the DER or other agency designated by the DER, shall provide written notice to Deltona of any inconsistency between such final construction plans and the Engineering Detail Drawings or the Conceptual Drainage Design Criteria, specifying in such notice those modifications to the final construction plans as will conform such plans to the Engineering Detail Drawings and the Conceptual Drainage Design Criteria. In the event Deltona conforms its final construction plans in accordance with such agency notice, such plans shall be deemed approved by those agencies in accordance with this Stipulation and Agreement.

In the case of SFWMD's review of such final construction plans, the requirements of Chapter 373, Florida Statutes, Chapter 403, Florida Statutes (to the extent dele-

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gated to SFWMD), and the rules set forth in Chapter 40E FAC, shall be deemed complied with as follows:

A. Deltona may file an application for surface water management conceptual approval and shall file an application for a surface water management permit on the form or forms prescribed by the SFWMD for all Development Areas.

B. In any application to SFWMD, Deltona shall respond to all items relating to surface water management; provided, however, Deltona shall not be required to submit information or data with respect to the suitability of the land for the proposed use, or information or data with respect to environmental impacts related to such proposed land use.

C. Based upon the information submitted by Deltona in any application, SFWMD shall grant or deny the application in accordance with FAC Rule 40-E 1.603. In considering any application submitted in accordance with this Paragraph 6, SFWMD shall consider only those items for which Deltona is required to submit information in accordance with subparagraph B above.

D. It is acknowledged by SFWMD that various portions of the Development Areas may be the subject of separate applications in accordance with this Paragraph 6.

E. In reviewing Deltona's application in accordance with this Paragraph 6, SFWMD will apply its then current regulations with respect to surface water management (excluding those items provided in subparagraph B above). However, SFWMD acknowledges that Deltona will not fully comply with its requirements for a surface water management permit for the following areas: "Isle of Capri", "Goodland Marina", "Barfield Bay Single-Family", "John Stevens Creek and Barfield Bay Multi-Family", and "Horr's Island", which areas are identified on Exhibit "B" hereto. Such areas encompass approximately 260 acres of the 3,500 total estimated acres in the Development Areas. For such areas, Deltona will be unable to comply with SFWMD's present regulations with respect to retention/detention storage and the limitation of post-development peak discharge

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to predevelopment levels. In the case of such areas, SFWMD will grant surface water management permits in the event Deltona meets SFWMD's other requirements, and in addition, satisfactorily demonstrates that it has used all economically reasonable design methods in an effort to substantially meet SFWMD's requirements for retention/detention storage and post-development peak discharges or to mitigate any potential adverse effects resulting from its failure to meet fully SFWMD's requirements.

7. The Secretary of the DER, or the SFWMD Governing Board, as may be appropriate to the issue, shall resolve any dispute between the parties as to conformity of such final construction plans with the Engineering Detail Drawings and Conceptual Drainage Design Criteria. Any such determination made or proposed by the Secretary or the Governing Board shall constitute agency action affecting the substantial interests of the parties to this Stipulation and Agreement, and entitling said parties to the hearing rights prescribed under Section 120.57, Florida Statutes. All parties shall retain any other administrative and legal rights, as provided by law, to contest the agency determination as to conformance of such final construction plans with Exhibits "D" and "E". This provision shall not exempt Deltona from fully complying with the subdivision regulations and other applicable county and federal requirements with respect to such final construction plans.

8. The approvals by the State of Florida granted herein in Paragraphs 1 and 6 and the consents by conservation intervenors made herein in Paragraphs 4, 5 and 6, are subject to and shall not become effective until Deltona conveys to the TIITF, or its designee, all of the real property described on Exhibit "F" attached hereto. Such conveyance by Deltona shall be in exchange for a conveyance by the TIITF to Deltona of certain, yet to be designated, State owned real property (the "Section 8 Exchange"). It is acknowledged by the parties hereto that the acreage and the precise description of the real properties to be exchanged by Deltona and the TIITF is subject

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to final approval by Deltona and the TIITF after satisfaction of all regulatory requirements of the TIITF with respect to the acquisition of real property by the TIITF. Such regulatory requirements shall be deemed satisfied at such time as Deltona and the TIITF enter into a binding contract for the exchange of the real property. In the event the real property acquired by Deltona in the Section 8 Exchange includes any wetland areas which are within the jurisdiction of the DER or the Corps of Engineers, Deltona agrees that it will not seek permits to develop such wetland areas.

9. Deltona is also in the process of seeking the approvals and permits required from federal agencies as are legally necessary to permit the completion of development in accordance with the Conceptual Development Plan. In the event all such federal approvals as are required are obtained, Deltona shall convey to the TIITF, or its designee, as part of the "Section 8 Exchange", the real property described on Exhibit "G" hereto. Said conveyance shall be in addition to the real property described in Exhibit "F". The real property described on Exhibits "F" and "G" is graphically depicted in green and blue on the illustration which is attached as Exhibit "I" hereto. In the event all such federal approvals have not been obtained at the time of the "Section 8 Exchange", Deltona may, at its option: 1) include all or a portion of the property described on Exhibit "G" as part of the "Section 8 Exchange"; or 2) withhold all or a portion of the Exhibit "G" property from the exchange until such time as the federal permits which Deltona must obtain are received. In the event the property exchange is completed without conveyance to the TIITF of all the real property described on Exhibit "G" (pending receipt, or after denial of, the federal permits) Deltona shall record restrictive covenants permanently encumbering the land described on Exhibit "G", (excepting that portion of such land as has been conveyed by Deltona in satisfaction of its obligations to purchasers under contracts entered into prior to December 31, 1981), which covenants shall

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prohibit construction on, or alteration of the topography of such real property. In the event Deltona does not include all of the property on Exhibit "G" as part of the "Section 8 Exchange", the recording of restrictive covenants on such property shall be deemed part of Deltona's obligations under the "Section 8 Exchange".

10. Simultaneous with the closing of the "Section 8 Exchange" as described in Paragraphs 8 and 9 of this Stipulation and Agreement, all permits and approvals granted in Paragraph 1 shall become effective and Deltona shall have the right to proceed thereafter in accordance with such approvals to undertake development in the Development Areas consistent with the Conceptual Development Plan, the Engineering Detail Drawings, the Conceptual Drainage Design Criteria and in compliance with the final construction plans as approved pursuant to the terms of this Stipulation and Agreement. Exchange to the State of Florida of the real property described on Exhibit "G" shall not constitute a condition precedent to the approvals granted to Deltona by this Stipulation and Agreement unless Deltona receives all federal permits as provided in Paragraph 9 of this Stipulation and Agreement, in which event the Exhibit "G" property shall be conveyed as herein provided.

11. This Stipulation and Agreement constitutes approval of 14,500 dwelling units to be located within the Development Areas. The location and mix of single-family and multi-family dwelling units, the type, quantity and location of roads, public facilities and other major improvements, as well as other uses appropriate to residential subdivisions, including commercial, recreational and other uses, shall be subsequently determined in accordance with zoning and subdivision regulations and a development order issued by Collier County, Florida after review and recommendation by the Southwest Florida Regional Planning Council (SWFRPC) pursuant to Chapter 380, Florida Statutes, as hereinafter further specified.

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The parties acknowledge that the Marco development has been the subject of extensive study, principally from the standpoint of environmental and related land use issues, but also with respect to other development issues. Deltona has been in negotiation with the DVCA with respect to the binding letter previously issued by the DVCA as well as subsequent modifications and additions to the Marco development which, in part, resulted in an agreement between Deltona and the DVCA under date of August 8, 1980. This Stipulation and Agreement supercedes the August 8, 1980 agreement.

The parties acknowledge the statutory criteria for review of developments of regional impact and have addressed certain of such criteria, as well as the additional public interest considerations which are represented by this Stipulation and Agreement.

Deltona agrees that upon the effective date of this Stipulation and Agreement, it shall abandon any and all rights it may have in and to the previously issued TITF dredge and fill permits for the Barfield Bay, Big Key and Collier-Read areas, as well as the water quality certifications previously issued for the Big Key and Barfield Bay areas.

Deltona agrees that upon the effective date of this Stipulation and Agreement, it will abandon the vested rights status of the dwelling units located within the following units of Marco Beach subdivision: 5, 9, 13, 15, 16, 17, 18, 19, 20 and 24; excepting therefrom those portions of said units located within the Development Areas, and those portions located within the existing development of Marco.

Accordingly, with respect to development in accordance with this Stipulation and Agreement, Deltona shall be deemed to have complied with the requirements of Chapter 380, Florida Statutes, and all regulations promulgated pursuant thereto, as follows:

A. Deltona shall file an Application for Development Approval (ADA) on the form prescribed by the SWFRPC for all areas lying outside of Units 1 through 27, Marco Beach



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subdivision and replats thereof. Units 1 through Beach subdivision and any replats thereof shall not be regarded as a portion of the development for purposes of the ADA. Deltona will pay the appropriate fees for DRI review.

B. In the ADA, Deltona shall be required to respond only to those items marked "required" on attached Exhibit "H". The parties acknowledge that those issues to which Deltona will not respond have been, and will continue to be, addressed by the parties to this Stipulation and Agreement in the manner specified herein.\*

C. Based upon the information submitted by Deltona in the ADA, as described in subparagraph B above, and without request for additional information, SWFRPC shall issue its report (recommended development order) at its first regularly scheduled meeting which occurs following sixty days from the date Deltona submits the ADA. Such report shall address only those items for which Deltona was required to submit information in accordance with B above.

Failure of SWFRPC to issue its report within the prescribed period shall be deemed general approval of the project as described in the ADA, thereby fulfilling that agency's review requirements under Chapter 380, Florida Statutes, for the Marco Project.

D. Any appeal by the SWFRPC shall be limited to those issues, with respect to which Deltona was required to submit information in accordance with subparagraph B above.

E. The total project will be reviewed within the time limits set forth above. This Stipulation and Agreement does not contemplate phased review by the SWFRPC.

F. The ADA shall be circulated for comment by SWFRPC only to those agencies having jurisdiction with respect

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\* This process is consistent with the procedures created by the 1980 amendments to Chapter 380, providing for negotiated agreements to reduce paper work, discourage unnecessary gathering of data and to encourage the coordination of DRI review with other federal, state and local permitting and reviews.

to those items for which Deltona was required to submit information in accordance with B above, and to the conservation intervenors.

G. After a Development Order has been issued, Deltona shall be required to comply with the provisions of §380.06, Florida Statutes, governing annual reports and future changes to the development.

Other than as set forth in this Stipulation and Agreement, no further review, pursuant to Florida Statute 380 (or amendments thereto or regulations promulgated pursuant thereto), shall be required of this development.

12. This Stipulation and Agreement shall not abridge the rights, if any, of the parties hereto to participate as parties in any development of regional impact proceedings contemplated by Paragraph 11.

13. A fully executed copy of this Stipulation and Agreement shall constitute all required permits and approvals from the State of Florida for development in the Development Areas in accordance with the Conceptual Development Plan, the Engineering Detail Drawings, and the Conceptual Drainage Design Criteria and the final construction plans. A fully executed copy of this Stipulation and Agreement shall evidence the consent of the conservation intervenors to those permits and approvals specifically enumerated in Paragraph 4 subject to conditions set out in Paragraphs 8 and 9. No further authority for the commencement or completion of development shall be demanded or required of Deltona, except as specifically provided in this Stipulation and Agreement.

14. It is acknowledged by the parties hereto that during the course of development certain conditions may occur which necessitate modifications in the delineations of the Development Areas contained herein, the Conceptual Development Plan, the Engineering Detail Drawings, the Conceptual Drainage Design Criteria or Final Construction Plans. Any such modifications shall be made only in accordance with the following procedures:

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A. Such requested modification shall be made, in writing, by Deltona, with copies provided to all parties to this Stipulation and Agreement. Such request shall include the reason for such proposed modification.

B. In the event the requested modification would (w) increase any Development Areas to include additional wetlands, or (x) increase the maximum number of approved dwelling units in any individual Development Area from that provided for in Paragraph 11 of this Stipulation and Agreement, the modification shall be effective sixty (60) days after the modification is requested, provided (y) the modification has been approved in writing by the DER, the SFWMD, the DVCA and Collier County, and (z) the modification has been approved in writing by a majority of the conservation intervenors. Such a requested modification shall not be effective unless the conditions of (y) and (z) are met.

C. With respect to any modification request other than as provided in subparagraph B above, said modification shall become effective sixty (60) days after such request is made to all parties by Deltona, unless written notice of objection is received from the affected agency or agencies ("affected agency or agencies" means the agency that, absent this Stipulation and Agreement, would assert primary regulation over the requested modification) or from a majority of the conservation intervenors within said sixty-day period, in which case said modification shall not become effective unless and until such objection is resolved by agreement of Deltona and the affected agency or agencies and a majority of the conservation intervenors.

D. Notice of the effectiveness of any modification shall be provided by Deltona to all other parties within thirty (30) days following the effective date of such modification.

15. Each party shall have the right to enforce compliance with this Stipulation and Agreement or to enjoin a violation of the same administratively and judicially, and nothing herein contained shall prohibit or restrict such right.

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16. The administrative and judicial proceedings which are the subject of this Stipulation and Agreement are as follows:

- (1) Deltona vs. United States of America, Case No. 370-76; *Claims*
- (2) Deltona vs. Marsh, Case No. 81-5226; *FL Adm. Co.*
- (3) Maggio v. Deltona, Case No. 79-4655-Civ.-CA; *FL Adm. Co.*
- (4) Deltona vs. DER, Case No. 79-2471; *FL Adm. Co.*
- (5) Deltona vs. DER, Case No. 80-683; *FL Adm. Co.*
- (6) DER vs. Deltona, Case No. XX-335; *FL Adm. Co.*
- (7) DER vs. Deltona, Case No. XX-336; *FL Adm. Co.*
- (8) National Audubon Society et al. vs. Deltona, Case No. YY-76; and
- (9) Deltona vs. DER, Case No. 1308.

The litigation parties hereto do hereby stipulate and agree that the above-described administrative and judicial proceedings shall be dismissed with prejudice, subject, however, to the following:

A. With respect to proceedings 6, 7, 8 and 9, the execution of this Stipulation and Agreement by all parties;

B. With respect to proceedings 4 and 5, the execution of this Stipulation and Agreement by all parties, and the effectiveness of this Stipulation and Agreement (and the constituent approvals) as set forth in Paragraph 8 of this Stipulation and Agreement;

C. With respect to proceedings 1, 2 and 3, the execution of this Stipulation and Agreement by all parties, the effectiveness of this Stipulation and Agreement (and the constituent approvals as set forth in Paragraph 8 hereof) and receipt by Deltona of all approvals necessary for development as herein described from the Corps of Engineers, the United States Coast Guard, and any other federal agencies that may be granted jurisdiction over such development between the date hereof and the date of such dismissals; and

D. With respect to all proceedings, the expiration of any periods wherein third parties might appeal or

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otherwise attack the validity of the approvals herein contained or the approval of permits issued by the Corps of Engineers or other federal agencies.

The parties hereto agree to file in the appropriate proceeding such petitions or motions as may be necessary or required to timely effectuate the dismissals in accordance with the terms of this paragraph.

17. Execution by Collier County evidences the County's acknowledgement that the Comprehensive Land Use Plan for Collier County classified virtually all of the Development Areas designated on Exhibit "B" as "residential" land use. The Comprehensive Land Use Plan will be automatically corrected to classify to the appropriate residential designation those areas previously platted, specifically, Barfield Bay Multi-Family and Single Family, John Stevens' Creek and Unit 24. Those areas designated as Environmentally Sensitive on the Comprehensive Land Use Plan and intended as development areas on Exhibit "B" are concurrently designated as "residential" land use. Accordingly, said areas may be developed in a manner not inconsistent with the Comprehensive Plan upon the granting of such zoning ordinance amendments as are necessary to conform the zoning to the Comprehensive Plan. For those areas shown as development areas on Exhibit "B" and not appropriately designated on the Comprehensive Land Use Plan, Deltona will submit applications for amendment to the Comprehensive Land Use Plan. The County further recognizes the public interest served by preservation of the wetland areas to be conveyed to the State, as well as resolution of the other issues addressed in this Stipulation and Agreement. The County shall expeditiously process all applications made in conformity with the Comprehensive Plan provided, however, nothing herein shall exempt Deltona from compliance with Collier County zoning, subdivision and building regulations and other requirements applicable to the development described herein. Nothing in this Stipulation and Agreement shall be construed as an advance approval by Collier County of the development contemplated hereby.

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18. This Stipulation and Agreement shall be binding upon the successors, representatives and assigns of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed, or caused this Stipulation and Agreement to be executed, as of the day first above written.

THE DELTONA CORPORATION

By: [Signature]  
Its \_\_\_\_\_

THE DEPARTMENT OF ENVIRONMENTAL  
REGULATION OF THE STATE OF FLORIDA

By: [Signature]  
Its \_\_\_\_\_

THE BOARD OF TRUSTEES OF THE  
INTERNAL IMPROVEMENT TRUST FUND  
OF THE STATE OF FLORIDA

By: [Signature]  
Its \_\_\_\_\_

THE DEPARTMENT OF VETERAN AND  
COMMUNITY AFFAIRS OF THE STATE  
OF FLORIDA

By: [Signature]  
Its \_\_\_\_\_

THE SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT

By: [Signature]  
Its \_\_\_\_\_

THE NATIONAL AUDUBON SOCIETY

By: William Butler  
Its \_\_\_\_\_

THE FLORIDA AUDUBON SOCIETY

By: [Signature]  
Its \_\_\_\_\_

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THE COLLIER COUNTY CONSERVANCY

JUL 23 1996

By: James B. King  
Its President

ENVIRONMENTAL DEFENSE FUND

By: James B. King  
Its President

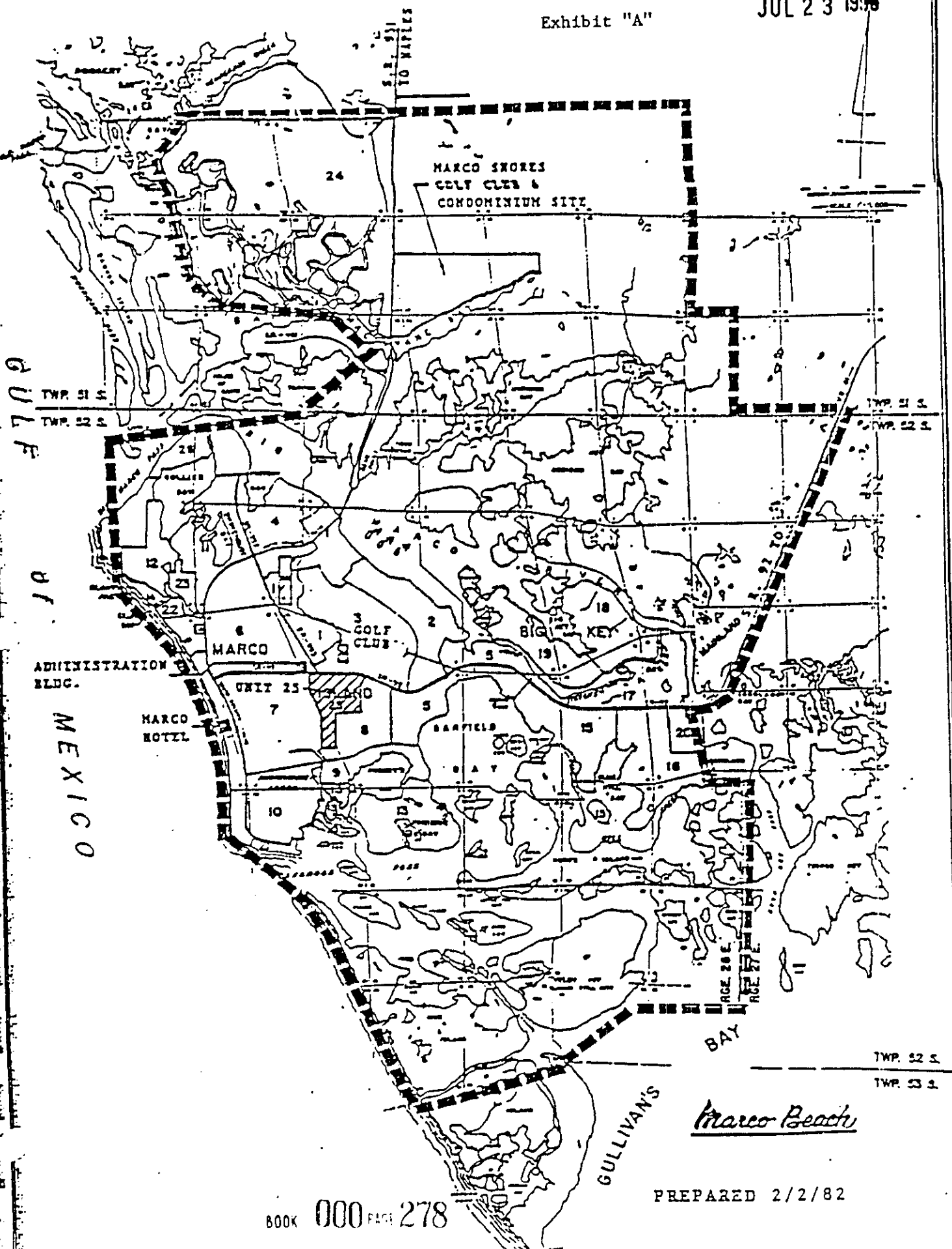
THE FLORIDA DIVISION OF THE IZAAK  
WALTON LEAGUE

By: James B. King  
Its PRES.

COLLIER COUNTY

By: C. P. Winner  
Its President

JUL 23 1996



GULF OF MEXICO

*Marco Beach*



# THE DELTONA CORPORATION

JUL 23 1996

EXHIBIT B - APPROVED DEVELOPMENT SITE 14  
 (The area shown on this map is subject to the provisions of the Comprehensive Zoning Ordinance)

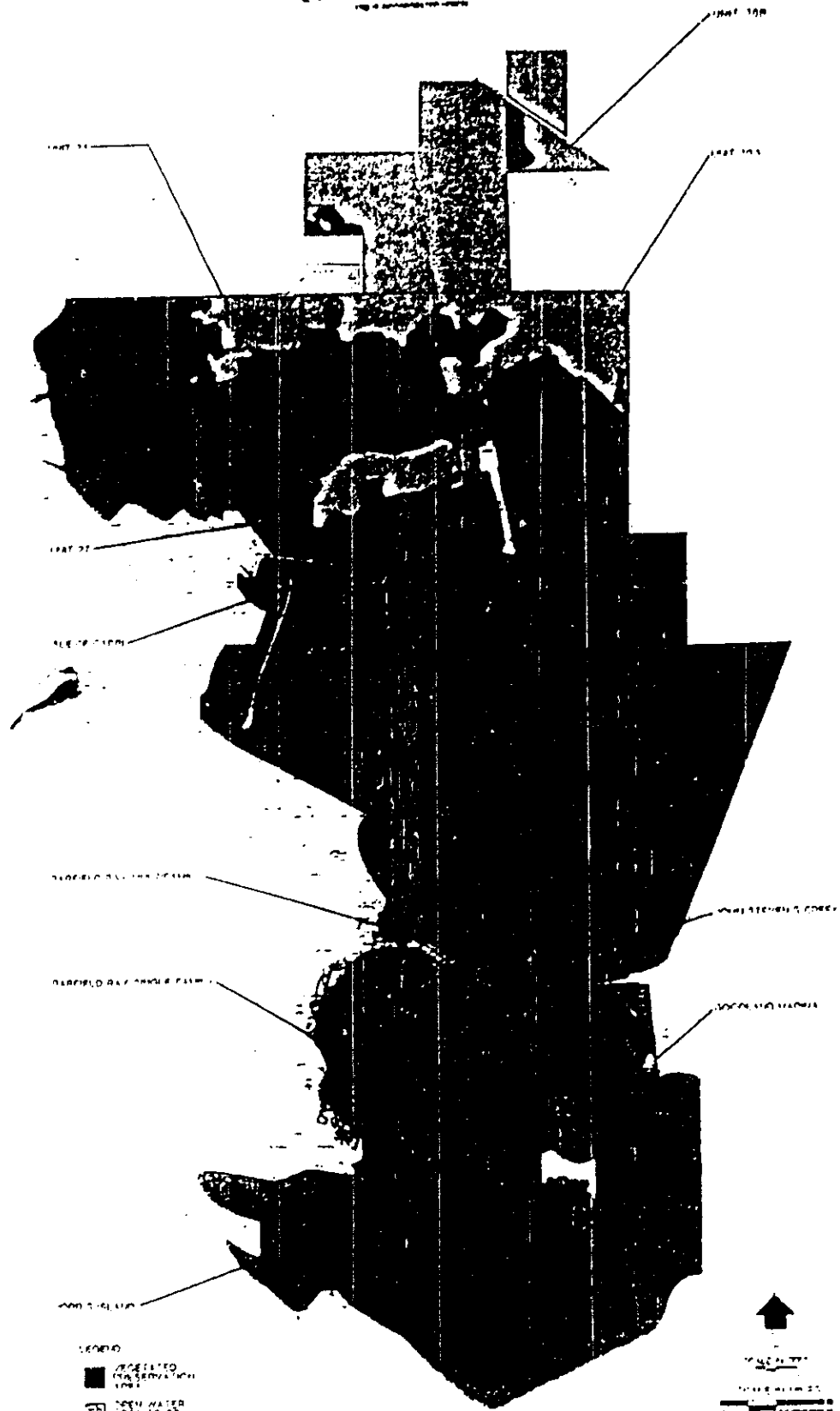


EXHIBIT C. CONCEPTION MASTER PLAN

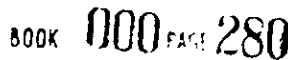


EXHIBIT "C"

## EXHIBIT H

|  | Required                            | Not Required                        |
|--|-------------------------------------|-------------------------------------|
| 1. Applicant/Project Identification        | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 2. Applicant                               | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 3. Authorized Agent(s)                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 4. Ownership                               | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 5. Legal Description                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 6. Adjacent Property Under Same Owner *    | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 7. Type of DRI                             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 8. Binding Letter Determination            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 9. Government of Jurisdiction              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 10. A. Permitting Agencies                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. Copies of Permit Applications Submitted | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 11. Maps:                                  |                                     |                                     |
| A. General Location                        | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. Recent Aerial Photo                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| C. Topography                              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

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\* Excluding Marco Beach Units 1 - 27

Not

|   | Required                            | Required                            |
|---|-------------------------------------|-------------------------------------|
| D. Existing Land Use                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| E. Soils                                  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| F. Vegetations Association                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| G. Master Drainage                        | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| H. Master Development                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| I. Public Facilities                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| J. Highway and Transportation Network     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| K. Primary Market Area                    | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 12. General Project Description           |                                     |                                     |
| A. Summary                                | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. Project Phasing                        | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Relationship to Local Plans            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 13. Air Impacts                           |                                     |                                     |
| A. One Hour/Eight Hour Emissions          | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. Percentage Contribution to Exceedances | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Management Practices                   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 14. Land                                  |                                     |                                     |
| A. Soil Types                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. Site Alterations/Construction Methods  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Soil Erosion Control Methods           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| D. Fill/Spill Information                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 15. Water                                 |                                     |                                     |
| A. Existing Hydrologic Conditions         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. Hydrologic Impact                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Existing Water Quality                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| D. Water Quality Impact                   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 16. Wetlands                              |                                     |                                     |
| A. Alteration of Existing Wetlands        | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. Designation of Preserved Wetlands      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Mitigation Measures                    | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 17. Flood Prone Areas                     |                                     |                                     |
| A. Flood Criteria for Site                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. First Floor Elevations                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Construction Techniques                | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

JUL 23 1996

Not

Required Required

- |   | Required                            | Required                            |
|---|-------------------------------------|-------------------------------------|
| 18. Vegetation and Wildlife                                       |                                     |                                     |
| A. Vegetation Associations  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. Wildlife   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Impact of Development  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| D. Mitigation Measures  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 19. Historical and Archaeological Sites                           |                                     |                                     |
| A. Identification of Sites  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. Letter from State Officer                                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Protection/Preservation Measures                               | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 20. Economy and Employment * See Note 1                           |                                     |                                     |
| A. Construction Costs and Employment<br>(Tables 20.1 & 20.2)      | <input type="checkbox"/>            | <input type="checkbox"/>            |
| B. Annual Operating Costs<br>(Table 20.3)                         | <input type="checkbox"/>            | <input type="checkbox"/>            |
| C. Permanent Employment<br>(Table 20.4)                           | <input type="checkbox"/>            | <input type="checkbox"/>            |
| D. Seasonal Employment Variation<br>(Table 20.5)                  | <input type="checkbox"/>            | <input type="checkbox"/>            |
| E. Existing Economic Activity<br>(Table 20.6)                     | <input type="checkbox"/>            | <input type="checkbox"/>            |
| F. Public Funding Assistance                                      | <input type="checkbox"/>            | <input type="checkbox"/>            |
| G. Public Financing   | <input type="checkbox"/>            | <input type="checkbox"/>            |
| H. Ad Valorem and Non Ad Valorem<br>Revenues (Tables 20.7 & 20.8) | <input type="checkbox"/>            | <input type="checkbox"/>            |
| I. Market Area Data (Figure 20.1)                                 | <input type="checkbox"/>            | <input type="checkbox"/>            |
| J. Market Study   | <input type="checkbox"/>            | <input type="checkbox"/>            |
| K. Tenant Costs   | <input type="checkbox"/>            | <input type="checkbox"/>            |
| L. Public Facility Capital Costs                                  | <input type="checkbox"/>            | <input type="checkbox"/>            |
| M. Public Facility Service Operating<br>Costs                     | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 21. Wastewater Management   |                                     |                                     |
| A. Cumulative Average Daily Flows                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. Identification of Hazardous Wastes                             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| C. On-Site Treatment Characteristics                              | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

|  | Required                            | Required                            |
|--|-------------------------------------|-------------------------------------|
| D. Septic Tank Identification                        | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| E. Letter from Off-site Treatment Authority          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 22. Drainage   |                                     |                                     |
| A. Identification of Pervious/Impervious Area        | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| B. Drainage Calculations and Design Detail           | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| C. Pre/Post Treatment Water Quality                  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| D. Identification of Operation/Maintenance Authority | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 23. Water Supply                                     |                                     |                                     |
| A. Potable/Non Potable Water Demand                  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. On-site Wells                                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| C. Identification of Operation/Maintenance Authority | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| D. Letter from Off-site Supplier                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 24. Solid Waste                                      |                                     |                                     |
| A. Solid Waste Generation                            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. On-site Disposal Measures                         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| C. Letter from Off-site Disposal Authority           | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 25. Energy   |                                     |                                     |
| A. Energy/Fuel Sources                               | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. On-site Energy Supply                             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| C. Letter from Off-site Supplier                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| D. Energy Conservation Measures                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 26. Education  |                                     |                                     |
| A. Projected School Population                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| B. Facility Requirements                             | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| C. Letter from School Board                          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 27. Recreation and Open Space                        |                                     |                                     |
| A. Identification of Facilities                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 28. Health Care                                      |                                     |                                     |
| A. Letter to Public EMS Supplier                     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

Not JUL 23 1996

|   | Required                            | Required                 |
|---|-------------------------------------|--------------------------|
| 19. Police  |                                     |                          |
| A. Letter to Police Agency                          | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 20. Fire  |                                     |                          |
| A. Letter to Fire Department                        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 21. Transportation                                  |                                     |                          |
| A. Existing Traffic                                 |                                     |                          |
| 1. Map J-1  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Existing Conditions (Table 11.1)                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| B. Programmed and Planned Improvements              |                                     |                          |
| 1. Map J-2  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Programmed and Planned Improvements (Table 11.2) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Letter from local transportation planning agency | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| C. Traffic Projections                              |                                     |                          |
| 1. Background Traffic                               |                                     |                          |
| A. ADT and Peak Hour Projections (Table 11.3)       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| B. Projection Methodology                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Other Committed Development Traffic              |                                     |                          |
| A. Projections                                      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| B. Projection Methodology                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| C. Traffic Without Project (Table 11.4)             | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Project Traffic                                  |                                     |                          |
| A. Phased ADT Projections                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| B. Projection Methodology                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| C. Internal/External Split (Table 11.5)             | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| D. Traffic with Project (Table 11.6)                | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| D. Critical Intersections                           |                                     |                          |
| 1. Critical Intersection Identification             | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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|   | Required                            | Not Required             |
|---|-------------------------------------|--------------------------|
| 2. Peak Hour Analysis (Table 11.7)                            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Peak Hour Service Volumes                                  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4. Traffic Composition at Critical Intersections (Table 11.8) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| E. Recommended Improvements                                   |                                     |                          |
| 1. Preliminary Design and Cost Estimates                      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Highlighting Improvements on Design                        | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Specification of Final Levels of Service                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| F. Parking  |                                     |                          |
| 1. Description of Parking                                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| G. Mass Transit   |                                     |                          |
| 1. Transit Provisions in Project                              | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Type and Frequency of Transit Service                      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. On-site Transit Information                                | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| H. Housing *See Note 1  |                                     |                          |
| 1. Owner Housing (Table 12.1)                                 | <input type="checkbox"/>            | <input type="checkbox"/> |
| 2. Rental Housing (Table 12.2)                                | <input type="checkbox"/>            | <input type="checkbox"/> |

NOTE 1: Response to Items 20 and 32 shall consist of, and be limited to, report prepared by James C. Nicholas, Ph.D., and Charles W. Blowers, Ph.D., entitled "The Social and Economic Impact of the Marco Island Development", along with all addenda thereto.



## DEVELOPMENT ORDER 96- 4

## RESOLUTION 96 - 530

A RESOLUTION AMENDING DEVELOPMENT ORDER 84-3, AS AMENDED, FOR THE MARCO SHORES/FIDDLER'S CREEK DEVELOPMENT OF REGIONAL IMPACT ("DRI") BY AMENDING SECTION 1, RELATING TO GENERAL INFORMATION CONCERNING THE DEVELOPMENT; AMENDING SECTION 2, SUBSECTIONS A, B, AND D, FINDINGS OF FACT TO ADD A 690 ACRE PARCEL; AMENDING SECTION 4, SUBSECTIONS B AND C.3, RELATING TO ANNUAL REPORTING REQUIREMENTS; AMENDING SECTION 4, SUBSECTION D.1, 2, 3 AND 15.A., PUD ORDINANCE COMMITMENTS, INCLUDING THOSE RELATING TO PROJECT DEVELOPMENT AND RECREATIONAL FACILITIES, CLEARING GRADING EARTHWORK, STREET CONSTRUCTION AND SITE DRAINAGE, MAINTENANCE FACILITIES; AMENDING SECTION 4, SUBSECTION E, OTHER COMMITMENTS, RELATING TO RECREATION AND OPEN SPACE; BY PROVIDING FOR FINDINGS OF FACT, CONCLUSIONS OF LAW, EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDER, TRANSMITTAL TO DCA AND EFFECTIVE DATE.

WHEREAS, 951 Land Holdings Joint Venture (hereinafter "Developer") submitted a Notice of Proposed Change for the Marco Shores Planned Unit Development, Unit 30, and petitioned the Board of County Commissioner of Collier County, Florida to amend the Marco Shores Development Order, Collier County Development Order 84-3, as previously amended by Resolutions 84-237, 88-117, 89-149, and 96-333 only with respect to the Unit 30 portion of the Marco Shores Development Order;

WHEREAS, Developer desires to add approximately 690 acres of land (Section 13, Township 51 South, Range 26 East) to the Fiddler's Creek portion of Marco Shores; and

WHEREAS, this amendment is only intended to amend Development Order 84-3, as previously amended, as it relates to Fiddler's Creek.

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

## SECTION ONE: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores/Fiddler's Creek Development Order (Resolution 84-3, as amended), Section I is hereby amended to read as follows:

**Section I.** 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

Words underlined are additions; words ~~struck through~~ are deletions.

Island). The ~~revised Unit 30~~ Fiddler's Creek portion of Marco Shores shall consist of ~~1689.11~~ 2379.11 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.

## SECTION TWO: FINDINGS OF FACT

The Marco Shores/Fiddler's Creek Development Order (Resolution 84-3, as amended), Section 2, Findings of Fact, Subsections A, B and D are 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 the ADA is legally described as set forth in Exhibit "A", and Exhibit "A-1" ~~adding a 22.9 acre tract to Unit 30~~ , the legal description for Fiddler's Creek with the addition of the 690 acre tract, which are attached hereto and by reference made a part thereof.

B. The application is in accordance with Section 380.06 ~~(12 b)~~ Florida Statutes as modified by the Marco Agreement.

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 ~~1689.11~~ 2379.11 acres: 3900 multi-family Units, and 2100 single-family dwelling units for a total of 6,000 dwelling units at a gross density of ~~3.55~~ 2.52 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

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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.

### SECTION THREE: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores/Fiddler's Creek Development Order (Resolution 84-3, as amended), Subsections 4.B. and C.3., Annual Report, are hereby amended to read as follows:

**Section 4.** This Board of County Commissioners finds that the applicant has adequately addressed and/or has agreed to satisfy those conditions and stipulations set forth by the SWFRPC in the SWFRPC's "conditional approval" (Item C below) of the ADA, and agreed to all additional conditions, stipulations, restrictions and limitations set forth by the Board of County Commissioner as follows:

B. The Applicant shall submit an annual report in accordance with the Section 380.06(~~18~~ 16), on the Development of Regional Impact to the County, the SWFRPC, the State Land Planning Agency, and other agencies as may be appropriate, by December 31 each year until and including such time as all terms and conditions of this Order are satisfied. Such report shall be submitted to the Collier County Community Development Administrator who shall, after appropriate review, submit it for review by the Board of County Commissioners. The Board of County Commissioners shall review the report for compliance with the terms and conditions of this Order and may issue further orders and conditions to insure compliance with the terms and conditions of this Order. The applicant shall be notified of any Board of County Commissioner hearing where in such report is to be reviewed, provided however, that receipt and review by the Board of County Commissioners shall not be considered a substitute or a waiver of any terms or conditions of this Order. The annual report shall contain:

1. The SWFRPC's monitoring forms as may be required;

Words underlined are additions; words ~~struck-through~~ are deletions.

2. A description of all development activity conducted pursuant to this Order during the year immediately preceding the submission of the annual report;

3. A description of all development activities proposed to be conducted under the terms of this Order for the year immediately subsequent to the submission of the annual reports;

4. A statement listing anticipated applications for development permits, required pursuant to applicable regulations which the applicant proposes to submit during the year immediately following submittal of the annual report;

5. A statement setting forth the name(s) and address(s) of any heir, assignee or successor in interest to the applicant in its capacity as developer of Marco Shores Planned Unit Development; and

6. A statement that all persons have received copies of the annual report, as required under Chapter 380.06(18 ~~17~~).

It is the intent herein, that the foregoing requirements for submittal of the annual report shall be in addition to and not in lieu of any submittal requirements for an annual report as promulgated by the State Land Planning Agency or the Southwest Florida Regional Planning Council.

C. Southwest Florida Regional Planning Council's stipulations of approval are as follows:

IT IS THE RECOMMENDATION OF THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL THAT THE PROPOSED PROJECT BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

3. Other: In the ADA for Marco Shores DRI, numerous commitments were made by the applicant to mitigate project impacts. Many but not all of the commitment were listed in these stipulations.

a. All commitments and impact-mitigating actions provided by the applicant within the ADA (and supplementary documents) that are not in conflict with specific conditions for project approval outlined above and as herein amended are

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officially adopted as conditions for approval.

b. The developer shall submit an annual report on the Development of Regional Impact to Collier County, the Southwest Florida Regional Planning Council and all affected agencies as required in Chapter 380.06(18 ~~16~~), Florida Statutes.

#### SECTION FOUR: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores/Fiddler's Creek Development Order (Resolution 84-3, as amended), Subsections 4.D.1, 2, 3 and 15.A., relating to PUD Ordinance Commitments, are hereby amended to read as follows:

D. Commitments specified in the PUD Ordinance as set forth in Exhibit C attached hereto and be reference made a part thereof and 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-C". Master Development Plan, shall be provided and completed in timing with the adjacent residential units and as specified in the PUD document. The northern 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 golf courses in Fiddler's Creek shall be constructed when feasible to serve the surrounding residential units. The southern golf course 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

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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 ~~entered into an agreement to~~ traded ~~other~~ property outside of Fiddler's Creek to ~~desired by~~ 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.

2. **Clearing, Grading, Earthwork and Site Drainage:** All clearing, grading, earthwork and site drainage work shall be performed in accordance with the Settlement Agreement dated ~~April 4, 1995~~ July 20, 1982, the applicable permits, and the Agreement with Collier County dated April 4, 1995, and as set forth in this document. The Settlement Agreement and revised conceptual drainage plans submitted with this Notice of Proposed Change will be used as a guide to the final development of the drainage and road systems within the various development areas.

3. **Street Construction:** All public street design and construction shall meet the Collier County standards that are in effect at the time of the approval of this ordinance, except as provided in the Settlement Agreement which is by reference referred to as (Exhibit "FC-D"), although modifications may be approved by the parties thereto.

15. **Maintenance Facilities:**

Words underlined are additions; words ~~struck through~~ are deletions.

a. ~~Developer may create~~ 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 690 acre parcel (Section 13). ~~If such a district is created it will comply with the following requirements.~~

~~If The Developer may petition for the creation and establishment of~~ creates a separate community development district ~~("The Fiddler's Creek Development District")~~ pursuant to Chapter 190, Fla. Stat., ~~all of the property owned by the Developer of Fiddler's Creek in Unit 30 will be included within the Fiddler's Creek Community Development District for Section 13 or the developer or district may petition to expand the existing Community Development District, pursuant to Ch. 190, Fla. Stat., to said Section 13, at its option. Within areas incorporated therein, any~~ The Fiddler's Creek 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, and 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, and facilities and services which are desired by the landowner or

Words underlined are additions; words ~~struck through~~ are deletions.

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 ~~will have~~ 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.

#### SECTION FIVE: AMENDMENTS TO DEVELOPMENT ORDER

The Marco Shores/Fiddler's Creek Development Order (Resolution 84-3, as amended), Subsection 4.E.2.a., Recreation and Open Space of Other Commitments, is hereby amended to read as follows:

#### E. Other Commitments

##### 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 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 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 golf course~~s~~, recreational facilities and tennis center will be

Words underlined are additions; words ~~struck through~~ are deletions.



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").

#### SECTION SIX: FINDINGS OF FACT

A. That the real property which is the subject of the proposed amendment is legally described as set forth in Exhibits "A" and "A-1", attached hereto and by reference made a part hereof.

B. The application is in accordance with Section 380.06(19), Florida Statutes.

C. The applicant submitted to the County a Notice of Change to a Previously Approved DRI, marked as Exhibit "F", and by reference made a part hereof.

D. The applicant's predecessor in interest proposed the development of Marco Shores including a portion of the area now to be known as Fiddler's Creek on 2,379.11 acres of land for a commercial and residential development described in Development Order 84-3, as amended.

E. A comprehensive review of the impact generated by the proposed changes to the previously approved development has been conducted by the County's departments and the SWFRPC.

F. The development is not in an area designated an Area of Critical State Concern pursuant to the provisions of Section 380.06, Florida Statutes, as amended.

#### SECTION SEVEN: CONCLUSIONS OF LAW

A. The proposed changes to the previously approved Development Order as presented do not constitute a substantial deviation pursuant to Section 380.06(19), Florida Statutes. The scope of the development to be permitted pursuant to this Development Order Amendment includes operations described in the Notice of Change to a Previously Approved DRI, Exhibit "F", by reference made a part hereof.

B. The proposed changes to the previously approved development are consistent with the report and recommendations of

Words underlined are additions; words ~~struck-through~~ are deletions.

the SWFRPC.

C. The proposed changes to the previously approved development 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 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.

F. The proposed changes are presumed to not constitute a substantial deviation pursuant to Subsection 380.06(19)(c), Florida Statutes.

SECTION EIGHT: 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 96-4 shall be transmitted immediately upon execution to the Department of Community Affairs, Bureau of Local 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.

Commissioner Hancock offered the foregoing Resolution and moved for its adoption, seconded by Commissioner Mac'Kie and upon roll call, the vote was:

AYES: Commissioner Hancock, Commissioner Mac'Kie, Commissioner Constantine, Commissioner Berry, and Commissioner Norris

NAYS:

ABSENT AND NOT VOTING:

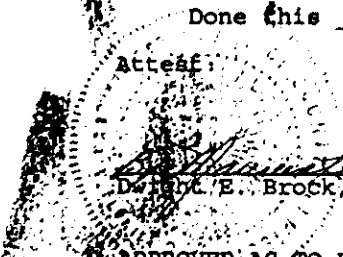
ABSTENTION:

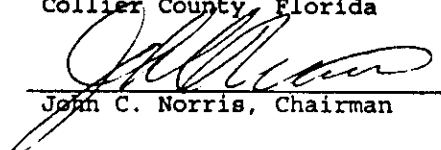
Words underlined are additions; words ~~struck-through~~ are deletions.

Done this 26 day of November, 1996.

Attest:

Board of County Commissioners  
Collier County, Florida

  
Debra E. Brock, Clerk

  
John C. Norris, Chairman

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

Marjorie M. Student  
Marjorie M. Student  
ASSISTANT COUNTY ATTORNEY

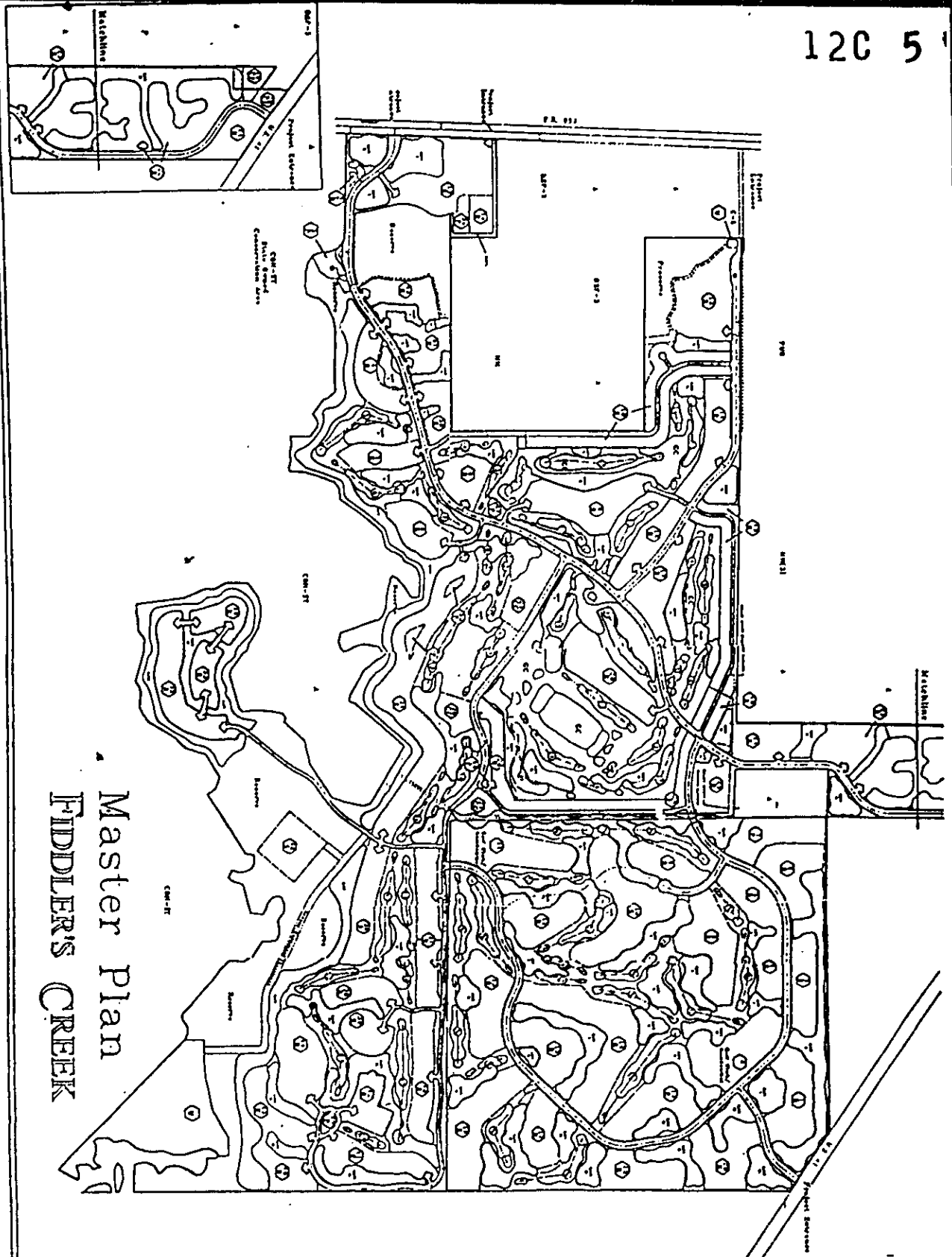
SECTION 11/DO. REC November 8, 1996

## EXHIBIT "A-1"

## LEGAL DESCRIPTION

ALL OF SECTION 13, TOWNSHIP 51 SOUTH, RANGE 26 EAST, LESS THAT  
PORTION LYING NORTH AND EAST OF U.S. HIGHWAY 41, COLLIER COUNTY,  
FLORIDA.

3\*SECTION.13\SECT13.LGL



# Master Plan FIDDLER'S CREEK

|  |   |  |   |  |
|--|---|--|---|--|
| <p>Engineering:<br/>Hoe, Munroe &amp; Associates, Inc.<br/>715 Trush Street South<br/>Naples, FL 33950<br/>Tel: (813) 435-1000 Fax: (813) 435-1001</p> | <p>Legal:<br/>Young, Van Alstyne &amp; Vanden<br/>Sun Bank Building, Suite 300<br/>Naples, FL 33950<br/>Tel: (813) 435-1000 Fax: (813) 435-1001</p> | <p>Golf Course Architects:<br/>Art Burt<br/>7711 E. Boncroft<br/>Tampa, FL 33615<br/>Tel: (813) 435-1000 Fax: (813) 435-1001</p> | <p>Engineering:<br/>Wilson, Miller, Burton, Smith &amp; Pugh<br/>3200 Bayview Ln., Suite 200<br/>Naples, FL 33950<br/>Tel: (813) 435-1000 Fax: (813) 435-1001</p> | <p>Landscape Architecture - Planning:<br/>J. Richard Jones<br/>300 17th Ave. S.<br/>Naples, FL 33950<br/>Tel: (813) 435-1000 Fax: (813) 435-1001</p> |
| <p>PC-0<br/>11/11/11</p>   | <p>DATE: 11/11/11<br/>REV: 11/11/11</p>   | <p>Gulf Bay Communities</p>  |   | <p>Team Plan, Inc.<br/>planning urban design research<br/>landscape architecture</p>   |

## RESOLUTION 98- 49

A RESOLUTION AMENDING DEVELOPMENT ORDER 84-3, AS AMENDED, FOR THE MARCO SHORES/FIDDLER'S CREEK DEVELOPMENT OF REGIONAL IMPACT ("DRI") BY PROVIDING FOR: AMENDMENTS TO SECTION 1 RELATING TO GENERAL LAND USE INFORMATION CONCERNING THE DEVELOPMENT; AMENDMENTS TO SECTION 2 RELATING TO FINDINGS OF FACT REGARDING THE LEGAL DESCRIPTION AND GENERAL LAND USE INFORMATION; AMENDMENTS TO SECTION 4 RELATING TO PROJECT DEVELOPMENT AND RECREATIONAL FACILITIES TO SHOW A NEW REFERENCE TO THE MASTER PLAN; AMENDMENTS TO SECTION 4 RELATING TO WATER SUPPLY AND TREATMENT AND DISTRIBUTION TO REFERENCE THE FIDDLER'S CREEK ADDITION; AMENDMENTS TO SECTION 4 RELATING TO MAINTENANCE FACILITIES TO REFERENCE THE FIDDLER'S CREEK ADDITION; AMENDMENTS TO SECTION 7 RELATING TO THE LENGTH OF TIME THE DEVELOPMENT ORDER IS EFFECTIVE TO EXTEND SAME; AMENDMENTS TO SECTION 13 RELATING TO THE MASTER PLAN TO REFERENCE THE AMENDED MASTER PLAN; FINDINGS OF FACT; CONCLUSIONS OF LAW; AND EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDER, TRANSMITTAL TO DCA AND EFFECTIVE DATE.

WHEREAS, 951 Land Holdings Joint Venture (hereinafter "Developer") submitted a Notice of Proposed Change for the Marco Shores Planned Unit Development, Unit 30, and petitioned the Board of County Commissioners of Collier County, Florida to amend the Marco Shores Development Order, Collier County Development Order 84-3, as previously amended by Resolutions 84-237, 88-117, 89-149, 96-333, and 96-530 only with respect to the Unit 30 portion of the Marco Shores Development Order,

WHEREAS, Developer desires to add approximately 1,385 acres of land (all of Section 18 lying south and west of U.S. 41, all of Section 19, and the north ½ of Section 29, Township 51 South, Range 27 East, in Collier County) to the Fiddler's Creek portion of the Marco Shores DRI; and

WHEREAS, the 1,385 acres of land to be added to Fiddler's Creek by this amendment as described above, together with the 690 acre previous addition to Fiddler's Creek in Section 13, Township 51 South, Range 26 East, are collectively defined in the Marco Shores PUD and may be hereinafter referred to as the "Fiddler's Creek Addition"; and

WHEREAS, this amendment is only intended to amend Development Order 84-3, as previously amended, as it relates to Fiddler's Creek.

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

## SECTION ONE: AMENDMENTS TO DEVELOPMENT ORDER

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 ~~2379.11~~ 3,764 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 ~~the ADA~~ this Development Order 84-3, as amended, including the Fiddler's Creek Addition is legally described as set forth in Exhibit "A", and Exhibit "A-1", ~~the legal description for Fiddler's Creek with the addition of the 690-acre tract,~~ which ~~are~~ is attached hereto and by reference made a part thereof 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 ~~they are~~ 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 ~~3379~~ 3,764 acres, 3900 multi-family Units, and 2100 single-family dwelling units for a total of 6,000 dwelling units at a gross density of ~~2.52~~ 1.6 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 380.065, Florida Statutes, as amended.

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

C Section 4 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, at Paragraph D, Subparagraph 1, entitled "Project Development and Recreational Facilities" 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-C"~~ "FC-A", Master Development Plan, shall be provided and completed in timing with the adjacent residential units and as specified in the PUD.

Words underlined are additions, words ~~struck through~~ are deletions.



document. The northern 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 golf courses in Fiddler's Creek shall be constructed when feasible to serve the surrounding residential units. The southern golf course 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.

D Section 4 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, at Paragraph D, Subparagraph 6, entitled "Water Supply and Treatment and Distribution" 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 and in Fiddler's Creek Addition to provide non-potable water for irrigation as permitted by the South Florida Water Management District.

E. Section 4 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, at Paragraph D, Subparagraph 15 entitled "Maintenance Facilities" of 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 690-acre parcel (~~Section 13~~) 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 ~~Section 13~~ 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 said ~~Section 13~~ 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:

Words underlined are additions; words ~~struck-through~~ are deletions.

(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;

Words underlined are additions; words ~~struck through~~ are deletions.

(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.

F. Section 7 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, specifying the length of time the development order is effective, is hereby amended to read as follows:

Section 7. That this Order shall remain in effect for a period of thirty-~~four (34)~~ (30) years eleven months from the effective date of this Development Order. Any development activity wherein plans have been submitted to the County for its review and approval prior to the expiration date of this Order, may be completed, if approved. This Order may be extended by the Board of County Commissioners on the finding of excusable delay in any proposed development activity.

G. Section 13 of Development Order 84-3, as amended, for the Marco Shores/Fiddler's Creek DRI, relating to the Fiddler's Creek Master Plan is hereby amended to read as follows:

Section 13. The Marco Shores/Fiddler's Creek DRI Development Order (~~Resolution 83-4~~  
~~84-3~~, as amended), is hereby amended to add the Fiddler's Creek Master Plan attached hereto and  
 incorporated by reference herein as Exhibit ~~"FC-C"~~ "FC-A".

## SECTION TWO: FINDINGS OF FACT

A. That the real property which is the subject of this Development Order, including the Fiddler's Creek Addition is legally described as set forth in Exhibit "A", attached hereto and by reference made a part hereof.

B. The application is in accordance with Section 380.06(19), Florida Statutes.

C. The applicant submitted to the County a Notice of Change to a Previously Approved DRI, marked as Exhibit "B", and by reference made a part hereof.

D. The applicant's predecessor in interest proposed the development of Marco Shores including a portion of the area now to be known as Fiddler's Creek on 1,689.11 acres of land for a commercial and residential development described in Development Order 84-3, as amended.

E. A comprehensive review of the impact generated by the proposed changes to the previously approved development has been conducted by the County's departments and the SWFRPC.

F. The development is not in an area designated an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes, as amended.

## SECTION THREE: CONCLUSIONS OF LAW

A. The proposed changes to the previously approved Development Order as presented do not constitute a substantial deviation pursuant to Section 380.06(19), Florida Statutes. The scope of the development to be permitted pursuant to this Development Order Amendment includes operations described in the Notice of Change to a Previously Approved DRI, Exhibit "B", by reference made a part hereof.

B. The proposed changes to the previously approved development are consistent with the report and recommendations of the SWFRPC.

C. The proposed changes to the previously approved development will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.

Words underlined are additions; words ~~struck through~~ are deletions.

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 FOUR: 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 98-1 shall be transmitted immediately upon execution to the Department of Community Affairs, Bureau of Local 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 24<sup>th</sup> day of FEBRUARY, 1998.

ATTEST:  
DWIGHT E. BROCK, Clerk

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

By: Margaret M. Student, D.C.

BY: Barbara B. Berry  
BARBARA B. BERRY, Chairman

Approved as to form and  
legal sufficiency:

Margaret M. Student  
Marjorie M. Student  
Assistant County Attorney

l:\fiddlers do.mms  
February 18, 1998

**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 12<sup>th</sup> day of December, 2000.

Attest:

BOARD OF COUNTY  
COMMISSIONERS  
COLLIER COUNTY, FLORIDA

*Dy. Ellie Hoffman, R.C.*  
Dwight E. Brock, Clerk

Attest as to Chairman's  
signature only.

*James D. Carter, Ph.D.*  
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