

DEVELOPMENT ORDER NO. 13-01

RESOLUTION NO. 13- 122

A RESOLUTION AMENDING RESOLUTION NO. 90-292 (DEVELOPMENT ORDER 90-3, AS AMENDED) FOR THE HALSTATT/GREY OAKS DEVELOPMENT OF REGIONAL IMPACT BY PROVIDING FOR: SECTION ONE, AMENDMENTS TO DEVELOPMENT ORDER BY (A) EXTENDING THE PHASE III COMPLETION DATE, THE BUILD-OUT DATE AND THE EXPIRATION DATE; AND (B) REVISING REFERENCES REGARDING THE MONITORING REPORT REQUIREMENT; SECTION TWO, FINDINGS OF FACT; SECTION THREE, CONCLUSIONS OF LAW; AND SECTION FOUR, EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDERS, TRANSMITTAL TO DEPARTMENT OF ECONOMIC OPPORTUNITY AND EFFECTIVE DATE. THE SUBJECT PROPERTY IS LOCATED AT THE INTERSECTION OF GOLDEN GATE PARKWAY AND AIRPORT-PULLING ROAD IN SECTIONS 24, 25 AND 26, TOWNSHIP 49 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA (PETITION DOA-PL20130000492)

WHEREAS, the Board of County Commissioners of Collier County approved Resolution No. 90-292 (Development Order No. 90-3), which approved a Development of Regional Impact (DRI) known as the Halstatt DRI (now known as the Grey Oaks DRI) on June 6, 1990; and

WHEREAS, the Application for Development Approval (ADA) was incorporated into and, by reference, made a part of the Development Order; and

WHEREAS, the real property which is the subject of the Development Order is legally described and set forth as Exhibit A to Resolution No. 90-292 (Development Order No. 90-3); and

WHEREAS, the Development Order has been subsequently amended several times, to wit:

- (i) Resolution No. 90-498 (Development Order No. 90-5), October 16, 1990;
- (ii) Resolution No. 90-571, November 27, 1990;
- (iii) Resolution No. 98-472 (Development Order No. 98-2), November 24, 1998;
- (iv) Resolution No. 98-471, November 24, 1998;
- (v) Resolution No. 00-190 (Development Order No. 00-04), June 27, 2000;
- (vi) Resolution No. 07-99 (Development Order No. 07-02), April 24, 2007;
- (vii) Resolution No. 09-269 (Development Order No. 09-01), November 10, 2009; and

WHEREAS, the Halstatt, LLC (formerly, the Halstatt Partnership), through its authorized agent, has filed a Development Order Amendment (DOA) Application and Notice of Proposed Change to a Previously Approved DRI (NOPC), which NOPC is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the Collier County Planning Commission reviewed and considered the report and recommendation of the Southwest Florida Regional Planning Council (SWFRPC) and held a public hearing on May 16, 2013; and

WHEREAS, the Board of County Commissioners, as the governing body of the unincorporated area of Collier County, Florida, with jurisdiction pursuant to Section 380.06, Florida Statutes, is authorized and empowered to consider proposed changes to the Grey Oaks DRI; and

WHEREAS, at a public hearing held on June 11, 2013, the Board of County Commissioners of Collier County, Florida, in accordance with Section 380.06, Florida Statutes, having considered (a) the DOA Application and the NOPC, (b) the record made at the aforementioned hearing, (c) the record of the documentary and oral evidence presented to the Collier County Planning Commission, (d) the report and recommendation of Collier County planning staff, and (d) the report and recommendation of the Southwest Florida Regional Planning Council, the Board of County Commissioners hereby approves the following Grey Oaks DRI Development Order amendments.

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

SECTION ONE: AMENDMENTS TO DEVELOPMENT ORDER

- A. Paragraph 8 (entitled "General Considerations"), subparagraph b, of the "Conclusions of Law" section of Resolution No. 90-292 (Development Order No. 90-3, as amended) (page 15) is revised to read as follows:

8. The development phasing schedule set forth in the PUD Document (Table II, Exhibit G) is incorporated as a condition of approval. However, in accordance with Section 380.06(19)(c) F.S. (2007), applicant provided the required notice; and due to recent real estate market conditions, both the Phase III completion date and the DRI build-out date are extended to June 5, 2013. If development order conditions and applicant commitments incorporated within the development order, ADA or sufficiency round responses to mitigate regional impact are not carried out as indicated to the extent or in accord with the schedules specified within the development order, then this shall be presumed to be a substantial deviation for the affected regional issue.

- B. The first sentence of Paragraph 2 (untitled section following “Be It Further Resolved”) of Resolution No. 90-292 (Development Order No. 90-3, as amended) (page 17) is revised to read as follows:
2. This Development Order shall remain in effect ~~for seventeen (17) years from the date of adoption~~ until October 16, 2018.
- C. Paragraph 5 (untitled section following “Be it Further Resolved”) of Resolution No. 90-292 (Development Order No. 90-3, as amended (page 17) is revised as follows:

The applicant or its successor(s) in title to the subject property shall submit a report biennially, commencing one year from the effective date of this development order, to the Board of County Commissioners of Collier County, the Southwest Florida Regional Planning Council, and the Department of ~~Community Affairs~~ Economic Opportunity. This report shall contain the information required in Section ~~9J-2.025(7)~~, 73C-40.025(7), Florida Administrative Code. This report shall be prepared in accordance with the ~~“DRI Monitoring format”, Form DEO-BCP-BIENNIAL REPORT-1,~~ as may be amended, provided by the SWFRPC. Failure to submit the biennial report shall be governed by Subsection 380.06(18), Florida Statutes.

SECTION TWO: FINDINGS OF FACT

- A. The proposed changes to the previously approved Grey Oaks DRI do not meet or exceed any of the criteria listed in Section 380.06(19)(b), Florida Statutes.
- B. Pursuant to Section 380.06(19), Florida Statutes, the applicant submitted the NOPC to the City of Naples, Collier County, the SWFRPC and the Department of Economic Opportunity.
- C. The DOA Application and the NOPC are in accordance with Section 380.06(19), Florida Statutes.
- D. The proposed changes to the previously approved Development Order are consistent with the report and recommendation of the SWFRPC.
- E. The development is not in an area designated an Area of Critical State Concern pursuant to Section 380.05, Florida Statutes.
- F. No increase in development intensity is authorized by this Resolution.

SECTION THREE: CONCLUSIONS OF LAW

- A. The proposed changes to the previously approved Grey Oaks DRI do not constitute a substantial deviation, as set forth in Section 380.06(19), Florida Statutes, and therefore do not require further Development of Regional Impact review.
- B. The proposed changes to the previously approved Grey Oaks DRI will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area.
- C. The proposed changes to the previously approved Grey Oaks DRI are consistent with the Collier County Growth Management Plan and the Collier County Land Development Code adopted pursuant thereto.
- D. The proposed changes to the previously approved Grey Oaks DRI are consistent with the State Comprehensive Plan.

SECTION FOUR: EFFECT OF PREVIOUSLY ISSUED DEVELOPMENT ORDER, AS AMENDED; TRANSMITTAL TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND EFFECTIVE DATE

- A. Except as amended hereby, Development Order 90-3, 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/Resolution shall be transmitted immediately upon execution to the Department of Economic Opportunity (Division of Community Planning and Development) and the SWFRPC.
- C. This Development Order/Resolution 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 of the Board of County Commissioners of Collier County, Florida, this 11th day of June, 2013.

ATTEST:
DWIGHT E. BROCK, CLERK

By: 

Deputy Clerk

Attest as to Chairman's
signature only.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 

GEORGIA A. HILLER, ESQ.

Chairwoman

Approved as to form and legality:



Heidi Ashton-Cicko

Managing Assistant County attorney

HfAC
5/20/13

Attachment: Exhibit A – Notice of Proposed Change

CP\13-CPS-01216\29

FORM DEO-BCP-PROPCHANGE-1
Rule 73C-40.010, FAC. Effective 11-20-90
(Renumbered 10-01-11)

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, John M. Passidomo, the undersigned authorized representative of the Halstatt, LLC (formerly, the Halstatt Partnership), 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 Grey Oaks DRI (formerly known as the Halstatt DRI) 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 the following: Collier County, the City of Naples, the Southwest Florida Regional Planning Council, and the Division of Community Planning and Development, Department of Economic Opportunity.

3/20/13

Date

John Passidomo

Signature

Exhibit A

2. Applicant: Halstatt, LLC
2600 Golden Gate Parkway
Naples, Florida 34105
(239) 262-2600

3. Authorized Agent: John M. Passidomo, Esq.
Cheffy Passidomo, P.A.
821 Fifth Avenue South
Naples, Florida 34102
(239) 261-9300

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

Sections 24, 25 and 26, Township 49 South, Range 25 East, Collier County, Florida.

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.

The Grey Oaks DRI (formerly known as the Halstatt DRI) consists of 1,601 acres located within the northeast, southeast and northwest quadrants formed by the intersection of Golden Gate Parkway and Airport Road. The intersection forms the center of a designed "Activity Center" in the Collier County Growth Management Plan. The northwest quadrant of the Grey Oaks DRI, consisting of 354 acres, is within the jurisdiction of the City of Naples. The northeast and southeast quadrants of the Grey Oaks DRI, consisting of 1,247 acres, are located in unincorporated Collier County.

The initial Grey Oaks DRI Development Order (D.O. 90-3) was issued by Collier County Resolution No. 90-292 on June 6, 1990. The City of Naples approved the portion of the DRI within its jurisdiction on October 17, 1990, in Resolution No. 90-6211. Subsequent amendments to the County and City DRI Development Orders are described in response to question 7 below.

Corresponding extensions to the Phase III completion dates and the expiration dates of the Development Orders are also proposed, such that those dates will coincide with the proposed build-out dates. See below:

	<u>Current</u>	<u>Proposed</u>
<u>Collier County:</u>		
Build-out date	June 6, 2013	June 5, 2018
Phase III completion date	June 6, 2013	June 5, 2018
Expiration date	June 6, 2015	June 5, 2018
<u>City of Naples:</u>		
Build-out date	October 17, 2013	October 16, 2018
Phase III completion date	October 17, 2013	October 16, 2018
Expiration date	October 17, 2012	October 16, 2018

Pursuant to Section 380.06(19)(c)1, Florida Statutes, this proposed change to the DRI is not a substantial deviation. Moreover, pursuant to Section 380.06(19)(e)1, Florida Statutes, this proposed change is not subject to the public hearing requirements of subparagraph (f)3 and is not subject to a determination pursuant to subparagraph (f)5.

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.

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?

- a. On October 16, 1990, pursuant to an agreement between Collier County and the Department of Community Affairs, Collier County issued an amended Development Order (D.O. 90-5) through the adoption of Resolution No. 90-498.
- b. On November 27, 1990, to correct a scrivener's error in Development Order 90-5, Collier County adopted Resolution No. 99-571, which added the words "apply for or" to the third sentence of Section 5, Subsection d.(4) of Development Order 90-4.
- c. On October 7, 1998, the City of Naples adopted Resolution No. 98-8372, which amended the Master Plan and approved a total of 18 golf holes located within the northwest quadrant of the DRI.

- d. On November 24, 1998, in response to the NOPC submitted by the Halstatt Partnership, Collier County issued Development Order 98-2, through the adoption of Resolution No. 98-472, which amended the Development Order and Master Plan to reduce the number of residential units to 1,900, increase the number of golf holes to 72, shift the site of the hotel use to the southeast quadrant, and increase the conservation, lakes and preservation areas from 180.1 acres to 236.78 acres.
- e. On June 27, 2000, in response to the NOPC submitted by the Halstatt Partnership and Naples Golf Course Holdings, Ltd., Collier County issued Development Order 2000-04, through the adoption of Resolution No. 2000-190, which amended the Development Order and Master Plan to internally relocate already-approved uses and reduce the number of residential units to 1,600.
- f. On October 18, 2000, the City of Naples adopted Resolution No. 00-8971-A, which was a companion amendment to Collier County's issuance of Development Order 2000-04, described immediately above in subparagraph e.
- g. On April 24, 2007, in response to an NOPC, Collier County issued Development Order 07-02, through the adoption of Resolution No. 09-99, which reduced commercial-allotted acreage and increased the number of residential units to 1,775.
- h. On September 12, 2007, the Halstatt Partnership provided Notification of Extension of a Previously Approved Development of Regional Impact pursuant to Section 380.06(19)(c), Florida Statutes (as amended by Section 6 of Chapter 2007-204, Laws of Florida), and recorded the corresponding Notice in Official Records Book 4322, Page 2286, of the Public Records of Collier County, Florida. This notification automatically granted a 3-year extension to the phase, buildout and expiration dates of the Development Orders issued by Collier County and the City of Naples, respectively, as follows:

<u>Collier County:</u>	Phase III completion date	June 6, 2013
	Build-out date	June 6, 2013
	Expiration date	June 6, 2015
<u>City of Naples:</u>	Phase III completion date	October 17, 2013
	Build-out date	October 17, 2013
	Expiration date	October 17, 2010

- i. On December 29, 2010, the Halstatt Partnership provided Notification of Extension of a Previously Approved Development of Regional Impact pursuant to

Section 46 of Chapter 2010-147, Laws of Florida, which notification automatically granted a 2-year extension to the expiration date of the Development Order issued by the City of Naples, such that the expiration date was extended to October 17, 2012.

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.

None.

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 _____ NO XX*

* Pursuant to Section 380.06(19)(c)1, Florida Statutes, this proposed change to the DRI is not a substantial deviation. Moreover, pursuant to Section 380.06(19)(e)1, Florida Statutes, this proposed change is not subject to the public hearing requirements of subparagraph (f)3 and is not subject to a determination pursuant to subparagraph (f)5.

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.

Yes.

	<u>Current</u>	<u>Proposed</u>
<u>Collier County:</u>		
Build-out date	June 6, 2013	June 5, 2018
Phase III completion date	June 6, 2013	June 5, 2018
Expiration date	June 6, 2015	June 5, 2018
<u>City of Naples:</u>		
Build-out date	October 17, 2013	October 16, 2018
Phase III completion date	October 17, 2013	October 16, 2018
Expiration date	October 17, 2012	October 16, 2018

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

No.

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.

No change to Master Plan.

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;

Paragraph 8 (entitled "General Considerations"), subparagraph b, in both the County and the City's Development Orders, as amended, is revised to read as follows (additions are underlined):

The development phasing schedule set forth in the PUD Document (Table II, Exhibit G) is incorporated as a condition of approval. However, due to recent real estate market conditions, both the Phase III completion date and the DRI build-out date are extended to June 5, 2018 for development in Collier County and October 16, 2018 for development in the City of Naples. If development order conditions and applicant commitments incorporated within the development order, ADA or sufficiency round responses to mitigate regional impact are not carried out as indicated to the extent or in accord with the schedules specified within the development order, then this shall be presumed to be a substantial deviation for the affected regional issue.

The first sentence of Paragraph 2 (unentitled section following "Be It Further Resolved") in the County's Development Order, as amended, is revised to read as follow (additions are underlined, deletions are ~~stricken through~~):

This Development Order shall remain in effect ~~for twenty-two (22) years from the date of adoption~~ until June 5, 2018.

The first sentence of Paragraph 2 (unentitled section following "Be It Further Resolved") in the City's Development Order, as amended, is revised to read as follow (additions are underlined, deletions are ~~stricken through~~):

This Development Order shall remain in effect ~~for seventeen (17) years from the date of adoption~~ until October 16, 2018.

- 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 change to legal description.

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

No change to commencement of physical development date.

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

The proposed changes to the Phase III completion dates, build-out dates and expiration dates are set forth in paragraph 13.a above.

- 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

The proposed changes to the Phase III completion dates, build-out dates and expiration dates are set forth in paragraph 13.a above.

- 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.