

DEVELOPMENT ORDER 2018- _____
RESOLUTION 2018- _____

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.~~ FCC Commercial, LLC, a Florida limited liability company 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~~2018-_____

RESOLUTION ~~00-458~~2018-_____

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~~2018-_____

RESOLUTION ~~00-458~~2018-_____

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.~~FCC Commercial, LLC (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 (The number of single family dwelling units may be increased by converting (2) two multi-family dwelling units for each single family dwelling unit above 3000 single family dwelling units not to exceed a combined total of 6000 dwelling units); 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 herein 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~~may 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 remaining golf courses in Fiddler's Creek shall~~may be constructed when feasible on the Estancia property or Section 29 to serve the golf club members and residents~~to serve the surrounding residential units.~~ ~~The additional remaining golf courses and recreational community center (including tennis facilities)~~shall be privately owned facilities and may be 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 area 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 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 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 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 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 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, 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 courses, recreational facilities and tennis center ~~will~~may be constructed when feasible on the Estancia Property or Section 29 to serve the golf club members and residents 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.~~

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

~~CB.~~ 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.

~~DC.~~ 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.

~~ED.~~ 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.

~~FE.~~ 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