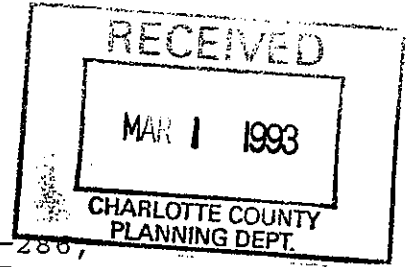


RESOLUTION
NUMBER 93- 21



A RESOLUTION AMENDING RESOLUTION 90-286,
ADOPTING THE RIVERWOOD DRI INCREMENT ONE
DEVELOPMENT ORDER AS AMENDED BY RESOLUTIONS
91-268 AND 92-07; FINDING THAT THIS AMENDMENT
DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION;
AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

1. On November 13, 1990, the Board of County Commissioners of Charlotte County, Florida, approved Resolution 90-286 constituting the Increment One Development Order for a development known as Riverwood DRI.

2. The Increment One Development Order was amended by Charlotte County Resolution 91-268 on October 22, 1991, and by Resolution 92-07 on January 14, 1992.

3. Robert M. Taylor, Trustee, has requested that an additional amendment to the Increment One Development Order be considered by the Board of County Commissioners of Charlotte County.

4. The Board of County Commissioners of Charlotte County has reviewed the amendment requested by Robert M. Taylor, Trustee, and finds that pursuant to Section 380.06(19), Florida Statutes, it does not constitute a substantial deviation.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida, that Resolution 90-286 be further amended as follows:

RECORD VERIFIED - BARBARA Y. SCOTT, CLERK

JAMMIE WHISENANT

BY: Jammie Whisenant D.C.

BARBARA Y. SCOTT, CLERK OF THE CIRCUIT COURT - Charlotte County
File Number: 214390 OR BOOK 1263 PAGE 0319
Recorded: 02-19-93 07:54 P.M.

Recording Fee 123.00
Record Verified: CAROLINE MORGANI, D.C.

5. See Exhibit "A" - "Revisions to the Riverwood DRI Increment I Development Order, Charlotte County Resolution Number 90-286, as amended" attached and incorporated herein.

6. The amendment incorporated herein does not constitute a substantial deviation of the Development Order.

7. All terms and conditions of the Development Order not affected by this resolution shall remain unchanged and in full force and effect.

8. This resolution shall become effective immediately upon its adoption.

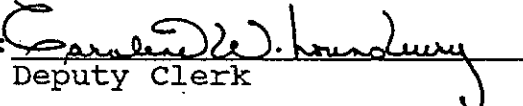
PASSED AND DULY ADOPTED this 16th day of FEBRUARY, 1993.

BOARD OF COUNTY COMMISSIONERS OF
CHARLOTTE COUNTY, FLORIDA

BY: 
RICHARD J. LEONARD, Chairman

ATTEST:

Barbara T. Scott, Clerk of
Circuit Court and Ex-officio
Clerk to the Board of County
Commissioners

By: 
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

BY: 
Beth A. Sullivan
Assistant County Attorney

riverwoo.res

EXHIBIT "A"

01/26/93

REVISIONS TO THE
RIVERWOOD DRI INCREMENT I DEVELOPMENT ORDER
CHARLOTTE COUNTY RESOLUTION NUMBER 90-286, AS AMENDED

[Additions shaded; deletions ~~crosshatched~~]

BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. Pursuant to Section 380.06, Florida Statutes, the Board of County Commissioners of Charlotte County, Florida, has heard, at a public hearing convened on ~~November 17, 1990~~ February 2, 1993, the application for development approval for Riverwood Development of Regional Impact, which consists of approximately 882.74 acres to be developed in the manner described in the application filed by Robert M. Taylor, Trustee, for said Development.

...
II. Conclusions of Law

A. Conditions

...

3. Transportation

...

- e. Prior to the end of Increment I, the following transportation network improvements in subsections 1 through 5 below shall be provided through a staged improvement approach (the specifics of the Increment I Roadway Improvement Program are also identified in Exhibit 4 Capital Road Facilities Plan, as revised November 23, 1992), unless the Applicant, Charlotte County and the Riverwood

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Community Development District (CDD) agree to an Alternative Extended Improvement Construction Program for S.R. 776, described under subsection 6 below, that uses the Riverwood CDD funding for the Project Development and Environmental (PD&E) Study and Final Design, that requires Charlotte County acquisition and dedication of former railroad rights-of-way along S.R. 776 as described herein, and provides for Florida Department of Transportation funding for construction as described under subsection 6 below. Implementation of subsection 6.d. will suffice to acknowledge FDOT approval and participation in the Extended Improvement Construction Program. This alternative shall not be available to be exercised until the construction of the Extended S.R. 776 improvement referenced in subsection 6.d. below is included in Fiscal Year 1996/1997 of the 1993/1994 FDOT District One Five Year Work Program. To exercise that alternative, the Extended Improvement Construction Program option must be entered into by an agreement between the Applicant, Charlotte County and the Riverwood CDD which includes the elements of Section II.A.3.e.6.

below. By August 15, 1993, the Applicant will notify the SWFRPC and DCA whether the first option (subsections 1 through 5 below) will be exercised or whether the Extended Improvement Construction Program option (subsection 6 below) will be exercised:

1. Accelerate S.R. 776 Planning/Design Effort.

The Applicant shall participate financially by contributing \$300,000 with that amount going toward funding in total or in part the S.R. 776 Project Development and Environmental (PD&E) Study and/or roadway design plans and/or right of way acquisition. That PD&E study will encompass at a minimum that portion of S.R. 776 which the Applicant is obligated to widen as described in Condition e.4 and g.

2. Construct S.R. 776 Turn Lanes.

The Applicant shall construct S.R. 776 turn lanes and signal to serve the pro-

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OR
1203
PAGE
0323

ject at the Project Entrance(s). This improvement is considered to be site related.

3. Provision of S.R. 776 Right-of-Way.

The Applicant shall dedicate by deed 50 feet of S.R. 776 right-of-way on the Applicant's property along the Riverwood frontage needed for an ultimate six lane cross section. The value of this right-of-way will be based on fair market value as established by the average of two independent appraisals (one each from the County and the Applicant) to be conducted within 180 days of the date of this amended development Order. The value of the right-of-way is estimated to be \$600,000. Either payment for, or credit for, that right-of-way value will be provided to the Applicant by the County at the time S.R. 776 is to be widened to four lanes as identified in Conditions e.4 and g. Said payment will be from funds provided to the County by FDOT for S.R. 776 if the County and FDOT

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enter into an agreement to provide said funds. If, before January 1, 1995 ~~0000~~ ~~0000/1997~~, there is no such agreement between the County and FDOT that provides for payment for right-of-way dedication by Applicant before commencement of construction of the improvement in e.4, then the Applicant shall be credited for the value of the right-of-way against the proportionate share amount.

4. Widen a Portion of S.R. 776.

The Applicant shall enter into a contract to design and widen from two to four lanes, that portion of S.R. 776 along Riverwood's frontage to just west of Cornelius Boulevard (i.e., approximately 1.0 miles - See Exhibit 6) or as far as the Applicant's remaining proportionate share amount of \$1,750,000 (adjusted for the actual value of right-of-way as described in e.3 above) will fund. The actual dollar amount and length of widening will be based on the value of the right-of-way dedication in

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e.3 above and whether FDOT provides right-of-way acquisition funds to Charlotte County for this right-of-way which will be used as provided in Section 3.g. below or whether the Applicant receives credit for that right-of-way.

5. Provide Project Access Alternative to S.R. 776.

The Applicant shall provide a "backdoor" connection from Increment I at Brookville Avenue to allow an alternative Project traffic access to US 41 without having to use S.R. 776. This improvement is considered to be site related.

6. **Alternative Extended Improvement Construction Program for S.R. 776**

- a. **The Applicant will complete an Extended PD&E Study for S.R. 776 beginning just south of Hollis Road and extending north and easterly to U.S. 41. In cooperation with the**

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Riverwood CDD, the Applicant will provide to Charlotte County and the Florida Department of Transportation an acceptable Project Development and Environmental Study to FDOT standards for the widening of S.R. 776 between the described limits by June 30, 1994.

b. In cooperation with the Riverwood CDD, the Applicant will cause preparation of the final roadway design plans for the four-laning of S.R. 776 beginning at the South Riverwood Driveway and extending north and east to the existing four-lane section of S.R. 776 west of Collingswood Boulevard, and will cause to be provided to Charlotte County and the Florida Department of Transportation an acceptable Final Design for the widening design for S.R. 776 within the described limits in this section by December 31, 1995.

c. Charlotte County will provide to FDOT, at no cost, dedication of all former railroad rights-of-way required for this improvement in subsection 6.d. below by December 31, 1995.

d. The Florida Department of Transportation (FDOT) will include the construction of four-laning improvements to S.R. 776 from the South Riverwood Driveway north and easterly to west of Collingswood Boulevard in Fiscal Year 1996-97 of the 1993/1994 Five Year District I Work Program.

e. By December 31, 1993, there shall be an adopted resolution of commitment from the Riverwood CDD to fund the amount of the cost for the Extended PD&E Study and the Final Design plans in order to assure that those plans will be available when needed. If the total amount expended for the Extended PD&E

Study (including expenditures made for the original PD&E Study), Final Design costs, and the value of the Riverwood former railroad right-of-way to be dedicated along S.R. 776, is less than \$2,050,000, then the difference will be provided to Charlotte County for use on Riverwood-related off-site transportation improvements.

In the event that the Alternative Improvement Extended Construction Program option for S.R. 776 is exercised and accomplished as outlined in subsection 6, above, then the Applicant shall have satisfied the transportation mitigation and concurrency obligations for the Increment I transportation impacts and Increment I shall be consistent with the Charlotte County Comprehensive Plan and concurrent for traffic purposes.

If other alternatives to the Capital Roads Facilities Plan shown on Exhibit 4, as revised and/or described in this

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subsection "e" are determined which would also adequately address the needs of the public and the Applicant consistent with the Charlotte County Comprehensive Plan, then amendments to this staged improvements program may be proposed following the appropriate procedures outlined in F.S. Chapter 380.

If, due to marketing reasons or other economic circumstances, it becomes financially unfeasible for the Applicant to proceed with the Development as approved in Increment I on the schedule proposed, then the Applicant's obligations under subsection e.1, e.2, e.4 and e.5 shall be revised through the appropriate procedures outlined in F.S. Chapter 380 as long as the Applicant adequately mitigates the impacts of and meets the applicable conditions for development which has already occurred through the payment of equivalent impact fees.

...

g. Upon dedication of the right of way (\$600,000 est.), and execution of the agreement for the PD&E Study (\$300,000 est.) per e.1 & 3 above, building permits shall be allowed to be issued for the equivalent of \$900,000 of roads impact fees or, up to 440 units, and 104,000 square feet of retail commercial and office as approved in the amended P.D.A., and an 18 hole golf course with related facilities.

Charlotte County will work with the Florida DOT so that the County is paid for that right-of-way at the time of or prior to any roadway widening obligations of the Applicant. The County shall, when paid by the Florida DOT, then apply that money towards the Applicant's right-of-way and the Applicant shall apply it toward the widening of S.R. 776 so that a total of \$1,750,000 is assigned to S.R. 776 widening. In the event that the

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Florida DOT does not pay Charlotte County for the identified right-of-way by ~~October/01/1993~~ January 1, 1995, the value of that right-of-way shall be applied as a credit against the \$2,050,000 proportionate share. The balance of the proportionate share [i.e., \$2,050,000-\$300,000 (PD&E) - \$600,000 (value of R.O.W.) = amt. to widen S.R. 776.] shall go into widening of S.R. 776 to the extent that those monies will provide the required improvement (i.e., approximately from the south boundary of the project's frontage approximately to Jacobs Street).

- h. No building permits will be issued for development totaling more than the equivalent of \$900,000 worth of roads impact fees (i.e., that development beyond 440 residential units, and 104,000 square feet of commercial retail and office space, and an 18-hole golf course with

OR 1001 102693 1001 01232

related facilities, or a combination thereof) or after October, 1997 1995, until:

1. The Applicant has, pursuant to subsections e.1 through e.4 above, provided to Charlotte County and the Florida DOT an acceptable final design for the widening of S.R. 776 as identified in Condition e.5. No building permits beyond those described in this section will be issued after December 31, 1997 1995, until the Applicant has either paid to Charlotte County the balance of its proportionate share as set forth in 3.d, or has commenced construction of the widening of S.R. 776 as identified in Condition e.4, unless otherwise prevented or delayed as described in Condition i. No certificate of occupancy will be issued for the portion of Increment I beyond the golf course, 140,000 s.f. commercial area, and 800 residential units

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until the improvement identified in Condition e.4 is substantially completed or the proportionate share has been satisfied in full;
or

2. The Applicant, proceeding pursuant to the Alternative Extended Improvement Construction option in subsection e.6, has exercised that option by entering into the agreement with Charlotte County and the Riverwood CDD as described in subsection e, and has dedicated to Charlotte County the former railroad right-of-way described in subsection e.3 for a credit in an amount to be determined pursuant to subsection e.3., and has constructed the site related improvements under e.2. No building permits beyond those described in this subsection h. shall be issued after December 31, 1995, until the final design of the improvement has been

delivered to the Florida Department
of Transportation.

- i. Following completion and acceptance of the original PD&E study, the Applicant will report to Charlotte County the status of the proposed roadway widening (as identified in Condition e.4) as to the availability of right-of-way, utility constraints and any other constraints or obstacles which are beyond the control of the Applicant and which would prevent the Applicant from initiating construction by December 31, 1997 1995. In the event that the identified obstacles prohibit the Applicant from initiating construction per Condition e.4 and h, the Applicant shall, no later than October 1997 1995, provide to Charlotte County and the Florida-DOT a final design for the widening of S.R. 776 as identified in Condition e.4 and shall apply through the appropriate procedures in F.S. Chapter 380 for an extension of the time to comply with Condition e.4 until the identified problem is cured, or the Applicant shall pay to Charlotte County the balance of the proportionate share payment which shall

01/26/93

be expeditiously applied by Charlotte County to the widening specified in Condition e.4 when the identified problem is cured. If the Applicant chooses to pay the balance of the proportionate share payment, then upon such payment Charlotte County will expeditiously pursue the necessary resolution of those right-of-way, utility or other constraints. Upon provision of the financial assurances for the identified sum, the Applicant shall have satisfied the obligations of Condition e.4, f, g, h, and i and shall have satisfied concurrency obligations for the Increment I transportation impacts.

Dates and calendar days as may be identified and specified in the above transportation conditions are exclusive of public agency review periods including permit application review periods. Any delays due to public agency reviews shall be reflected in the actual dates and calendar days of this development order.

Provided that the obligations of Condition e, f, g, h and i ~~may~~ are satisfied per the

identified conditions, Riverwood Increment I shall be concurrent for traffic purposes.

- j. Charlotte County will address the need for the improvements to the regionally and locally significant roadway network, other than the staged improvements identified in Exhibit 4, ~~as revised~~, in the Capital Improvements Element of the Comprehensive Plan, as amended from time to time.

...

- m. If the private development roadway improvements outlined in Table C-4 of the SWFRPC Recommendations (~~as revised and included herein as Exhibit 5, revised~~) are not in place by ~~the~~ ~~fiscal~~ year ~~1992~~ ~~1995-96~~, a substantial deviation determination shall be made pursuant to Florida Statutes Chapter 380.06.

If these private roadway improvement commitments as outlined in Table C-4, ~~as revised in revised Exhibit 5~~, have not been met by the buildout date for Increment I, Riverwood shall not proceed beyond Increment I until such time as those commitments have been met

or the purpose of those commitments demonstrated to be satisfied in an alternative manner.

If the next Increment AIDA is submitted to the SWFRPC before the build~~ing~~out date for Increment I, a reanalysis of the Increment I traffic will be required. This reanalysis, if required, shall be performed utilizing the most reliable methodology agreed upon by the Applicant, the County, FDOT and the Southwest Florida Regional Planning Council. A reanalysis of Increment I impacts shall be provided to Charlotte County, DCA, and the SWFRPC for review and comment.

...

9. General Considerations.

...

- b. This Increment I is a single ~~5~~ nine (9) year phase buildout, as adjusted to the effective date of development order (i.e., after expiration of any appeal or appeal period). If development order conditions and applicant commitments incorporated within the development order to mitigate regional impacts are

OR FROM 1/26/93

not carried out as indicated to the extent or in accord with the timing schedules specified within the development order and this phasing schedule, then this shall be presumed to be a substantial deviation for the affected regional issue.

B. BE IT FURTHER RESOLVED, by the Board of County Commissioners of Charlotte County, Florida, that:

...

4. Pursuant to Section 380.06(15)(c)3, Charlotte County agrees that the Riverwood Increment I Development Order shall not be subject to down-zoning, unit density reduction or intensity reduction for a period of ~~five (5)~~ **nine (9)** years unless it can demonstrate that substantial changes have occurred in the conditions underlying the approval of this development order or that the development order was based on substantially inaccurate information provided by the developer or that the change is clearly established by Charlotte County to be essential to the public health, safety, or welfare.

...

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EXHIBIT 4 - REVISED

RIVERWOOD INCREMENT I

CAPITAL ROAD FACILITIES PLAN(1)

<u>Roadway(2)</u>	<u>Improvement</u>	<u>Description</u>	<u>Responsible Entity</u>	<u>Estimated Cost</u>	<u>Funding Source</u>
<u>STAGE 1 - YEAR 1</u>					
SR 776	Planning/Design	Participate financially in the funding in total or in part of the SR 776 PD & E study and/or roadway design plans and/or right of way acquisition.	Riverwood Increment I	\$ 300,000(3)	Riverwood
SR 776	Planning/Design Option(4)	Provide a PD & E Study for SR 776 from Hollis Street to US 41 and prepare roadway design plans for SR 776 from the South Riverwood Driveway to Collingswood Boulevard.(1,4)	Riverwood Increment I	\$ 2,050,000 Less R/W Credit and Previous Engineering Costs	Riverwood
SR 776	Calculate Route Specific Service Volume	Identify specific SR 776 input values and recalculate capacity using those route specific values.	Charlotte County (Riverwood Increment I to provide technical input).	NA	Charlotte County

<u>Roadway</u>	<u>Improvement</u>	<u>Description</u>	<u>Responsible Entity</u>	<u>Estimated Cost</u>	<u>Funding Source</u>
SR 776	Amend SR 776 Functional Classification	Revise rural/urban designation from Cornelius Boulevard to San Casa Road and adjust service volume and LOS standard accordingly.	Charlotte County (Riverwood Increment I to provide technical input).	NA	Charlotte County
SR 776	Construct Site Related Improvements(5)	Construct SR 776 site related improvements including: Left Turn Lanes Right Turn Lanes Signal(6)	Riverwood Increment I	\$ 175,000 Site Related	Riverwood
SR 776	SR 776 Right-of-Way	Dedicate 50 feet of SR 776 right of way on the Applicant's property along the Riverwood frontage needed for an ultimate six lane cross section. Payment for or credit for that right of way value will be provided at the time SR 776 is to be widened to four lanes. (1)	Riverwood Increment I	\$ 600,000	Riverwood

STAGE 2 - YEAR 2

Roadway Improvement Description Responsible Entity Estimated Cost Funding Source

STAGE 3 - YEAR 3

SR 776 Widen from 2 to 4 lanes Widen or cause to be widened SR 776 from 2 to 4 lanes along the Project's frontage to just west of Cornelius Boulevard (approximately 1.0 miles or to that point to which \$1,750,000 will fund). (1,8)

Riverwood Increment I \$ 1,750,000 (7) Riverwood

STAGE 4 - YEAR 4 TO 5

Brookville Avenue Provide Alternate Access Provide alternate access from Increment I at Brookville Avenue to allow alternative Project traffic access to US 41. (Twenty foot local road connection.)

Riverwood Increment I \$ 50,000 Site Related Riverwood

Footnotes:

- 1) See Riverwood Increment I Transportation Development Order Conditions, as revised.
- 2) Stage and year are measured from the date of the Amended Development Order. Year and dates maybe further defined in the Transportation Conditions of the Amended Development Order.
- 3) Maximum of \$300,000 provided for planning/design.
- 4) Planning/Design Option extends into later stages.
- 5) Or coincident with entrance road construction.
- 6) When warranted.
- 7) Reflects payment for right of way coincident with widening.
- 8) See Planning/Design Option in lieu of construction.

10/13/92

EXHIBIT 3 - REVISED

TABLE C-4 - REVISED

RIVERWOOD INCREMENT ONE

COMMITTED ROADWAY IMPROVEMENTS

\$ 1,750

Summit

Iron

IA

Responsible Party

Approximate Schedule

Revised Schedule

Improvement

Private - Port Charlotte Town Center

Private - Port Charlotte Town Center

Private - Port Charlotte Town Center

Private/Public (2)

Private - GDC

Charlotte County

Charlotte County

Private-Murdock Center

Private-Murdock Center

Private-Murdock Center

Private - GDC

Charlotte County

Private - GDC

2 to 4 (1)

4 to 6

2 to 4

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Collingswood

Toledo Blade South

Piatti

SR 776

U.S. 41

Murdock Circle Hillsborough

Peachland

U.S. 41

Peachland

Kennilworth

U.S. 41 Harbor

Toledo Blade

SR 776

I-75

Toledo Blade (H)

Collingswood

U.S. 41

SR 776

U.S. 41

Piatti

Kennilworth

U.S. 41

Toledo Blade(4)

Loveland

Quasada

Quasada

Peachland

Olman Waterway

Cousley

Forest Nelson

Market Circle

Harborview

SR 776

SR 776

SR 776

U.S. 41

Murdock Circle

Kennilworth

Boulevard

Hillsborough

Extension

Toledo Blade

Edgewater

Peachland

Enterprise Drive

Kings Highway

Toledo Blade

Collingswood

Boilward

Complete

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Footnotes:

- 1) PD & E study is committed by Florida DOT for entire segment of SR 776.
- 2) First two lanes Port Charlotte Town Center, second two lanes Charlotte County.
- 3) Constructed as four lanes.
- 4) Riverwood assessed a proportionate share of that portion of Kennilworth Boulevard from Murdock Circle to Toledo Blade Boulevard and therefore that segment has been eliminated from the above table.

FROM LANCIS PLOMER & ASSOC.

10 21 1991

P. 65

EXHIBIT 6

