

 LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

(239) 533-2236

Bob Janes
District One

Brian Bigelow
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County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

September 14, 2007

RECEIVED
SEP 17 2007
COMMUNITY DEVELOPMENT

Neale Montgomery, Esquire
Pavese Law Firm
P.O. Drawer 1507
Fort Myers, FL 33902-1507

Re: RIVER'S EDGE YACHT AND COUNTRY CLUB (GULF HARBOUR)
DRI DEVELOPMENT ORDER
Notice of Adoption
HB7203 Compliance Resolution
LU-07-07-489.T.

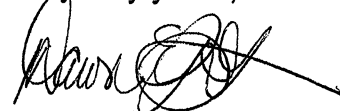
Dear Neale:

The Board of Commissioners of Lee County, Florida, adopted Resolution No. 07-09-17 on September 11, 2007, in response to House Bill 7203. The effect of the Resolution is to extend the phase-end, buildout, and termination dates of the River's Edge Yacht and Country Club (Gulf Harbour) DRI by three years. A certified copy of this resolution was transmitted to you under separate cover in accordance with Rule 9J-2.025, Florida Administrative Code.

Please note that under the terms of the River's Edge Yacht and Country Club (Gulf Harbour) Development Order and Florida Statutes Section 380.06(15)(f), a Notice of Development Order Adoption must be recorded with the Clerk of Circuit Court after the effective date of the development order amendment. For your convenience, I have enclosed a form notice as an example that will meet the requirements of the Statute. Once recorded, please send a copy of the recorded Notice for our files.

With kind regards, I am

Very truly yours,



Dawn E. Perry-Lehnert
Assistant County Attorney

DPL:tlb
Enclosures

cc: Timothy Jones, Chief Assistant County Attorney
Pam Houck, Director, Zoning Division

DRI 2005-00004

NOTICE OF ADOPTION OF AMENDMENT
TO THE RIVER'S EDGE YACHT AND COUNTRY CLUB (GULF HARBOUR) DRI
DEVELOPMENT ORDER
COMPLIANCE WITH HB7203
STATE DRI #12-8182-21

PLEASE BE ADVISED that the Board of County Commissioners of Lee County, Florida, adopted a resolution to amend the River's Edge Yacht and Country Club (Gulf Harbour) DRI Development Order in compliance with House Bill 7203 to extend the phase-end, buildout, and termination dates of the DRI Development Order . The original DRI Development Order was adopted by the Board on April 19, 1982, and was subsequently modified by the Board's adoption of the Development Order Amendments on May 5, 1982, March 16, 1992, March 21, 1994, March 19, 2001, October 7, 2002, and October 31, 2005.

The development order, as amended, constitutes a land development regulation affecting the real property described in Exhibit "A" attached hereto.

A copy of the original development order and subsequent amendments thereto may be examined at the Minutes Department, Clerk of the Circuit Court, in and for Lee County, 2115 Second Street, Fort Myers, Florida 33902.

The recording of this Notice does not constitute a lien, cloud, or encumbrance on real property or actual or constructive notice of any such lien, cloud, or encumbrance.

This Notice has been filed in accordance with section 380.06(15)(f), F.S.

WITNESSES:

River's Edge Yacht and Country Club
(Gulf Harbour) DRI

BY: _____

(Please Print Name)

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this ____ day of _____
2007, by _____, who is personally known to me or has
produced _____ as identification.

Notary Public

Printed Name of Notary



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

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Examiner

(239) 533-2236

Facsimile (239) 485-2106

September 14, 2007

VIA FEDERAL EXPRESS No. 8619 1396 3800

Department of Community Affairs
Division of Community Planning
Bureau of State Planning
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

RECEIVED
SEP 17 2007

COMMUNITY DEVELOPMENT

Re: RIVER'S EDGE YACHT AND COUNTRY CLUB (GULF HARBOR) DRI
State DRI #12-8182-21
House Bill 7203
LU-07-07-489.T.

Dear Sir or Madam:

On September 11, 2007, the Lee County Board of Commissioners extended the phase, buildout, and termination dates of the River's Edge Yacht and Country Club (Gulf Harbour) DRI. The three-year extension was granted in response to the legislature's amendment to Section 380.06(19)(c), F.S., pursuant to House Bill 7203.

In response to the House Bill, the Office of the County Attorney and Department of Community Development staff reviewed each DRI approved in Lee County to determine eligibility for the statutory extension. Together, the County Attorney's Office and Department of Community Development confirmed the River's Edge Yacht and Country Club (Gulf Harbour) DRI was eligible for the three-year extension of all phase, buildout, and expiration dates.

The enclosed resolution is provided for the Department's records.

With kind regards, I am

Very truly yours,

Dawn E. Perry-Lehnert
Assistant County Attorney

S:\LU\DP\Letter\HB7203 - River's Edge (Gulf Harbor) DCA Form Letter.wpd

DRI 2005-00004

Department of Community Affairs
September 14, 2007
Page 2

RE: RIVER'S EDGE YACHT AND COUNTRY CLUB (GULF HARBOR) DRI
State DRI #12-8182-21
House Bill 7203
LU-07-07-489.T.

DPL:tlb

Enclosure: Resolution No. 07-09-17 in reference to the River's Edge Yacht and
Country Club (Gulf Harbour) DRI

cc: w/enclosure

Mary Gibbs, Director, Department of Community Development

Pam Houck, Director, Zoning Division

Chip Block, Principal Planner, Zoning Division

Dan Trescott, SW Florida Regional Planning Council

Bernard Piawah, Principal Planner, State of Florida Department of Community
Affairs, Division of Community Planning, 2555 Shumard Oak Boulevard,
Tallahassee, FL 32399-2100

Neale Montgomery, Esq., Pavese Law Firm
(Certified 7002 0860 0000 5190 9919)

RESOLUTION NO. 07-09-17

RESOLUTION PERTAINING TO STATUTORY EXTENSION
OF PHASE, BUILDOUT, AND EXPIRATION DATES FOR THE
RIVERS EDGE YACHT AND COUNTRY CLUB DRI (aka Gulf
Harbour).

WHEREAS, the Governor of the State of Florida signed House Bill 7203 (Engrossed 3) into law on June 19, 2007 (hereinafter HB7203); and,

WHEREAS, HB7203 provides, among other things, for an amendment to Florida Statutes, Section 380.06(19)(c), so as to grant a three-year extension of all phase, buildout, and expiration dates for Developments of Regional Impact that are under active construction on July 1, 2007; and,

WHEREAS, the statutory extension is in recognition of the 2007 real estate market conditions; and,

WHEREAS, HB7203 provides that the three-year extension is not a substantial deviation, is not subject to further Development of Regional Impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under Section 380.06(19)(c), Florida Statutes; and,

WHEREAS, the Rivers Edge Yacht and Country Club DRI has been determined to be under active construction on July 1, 2007; and, therefore, is entitled to the statutory extension of all phase, buildout, and expiration dates by operation of law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Lee County, Florida, that the Rivers Edge Yacht and Country Club DRI is hereby amended as follows with strikethrough text indicating deletions and underlined text indicating additions to the provisions of the DRI Development Order as follows:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

...

H. The project buildout date is May 4, ~~2008~~2011.

I. Rivers Edge Yacht and Country Club DRI qualified for the statutory three-year extension to all phase, buildout and expiration dates granted by the 2007 Florida Legislature under House Bill 7203 (amending F.S. §380.06(19)(c)) and signed into law on June 19, 2007. The Board of County Commissioners granted the extension pursuant to Lee County Resolution 07-09-17, as the Sixth Amendment to the Rivers Edge Yacht and

C.3.C.
9/11/07

Country Club DRI Development Order, adopted on September 11, 2007. Under HB7203, the three-year extension is not a substantial deviation, is not subject to further Development of Regional Impact review, and may not be considered when determining whether a subsequent extension is a substantial deviation under F.S. §380.06(19)(c).

II. ACTION ON REQUEST AND CONDITIONS OF APPROVAL

...

B. TRANSPORTATION

...

2. *Development Impact/Phasing Schedule.* The transportation impact assessment that forms the basis for this Development Order Amendment assumes the land uses and phasing schedule as set forth in attached Exhibit C with a project buildout date of May 4, 2005^{1 2}

3. . . . The purpose of this monitoring report is to: (1) determine if the projected traffic for the Year 2005³ in the traffic impact assessment for River's Edge DRI Amendment is exceeded by actual impacts; (2) assist LCDOT and FDOT in determining the proper timing of necessary roadway improvements within the Lee Plan traffic district encompassing the River's Edge DRI (currently District 4); (3) determine the project's external trip generation compared to the estimate of 1,115 net new external trips. . . .

11. Compliance with all of the terms of the transportation related provisions of this development order must satisfy the substantive requirements related to regional transportation facilities of §§163.3177(10)(h) and 163.3202(2)(g), Florida Statutes (1989); Lee County concurrency regulations; the Lee County Comprehensive Plan, adopted pursuant to Chapter 163, Part II, Florida Statutes; and Rule 9J-5.0055, Florida Administrative Code, as they currently apply. Satisfaction of concurrency extends only through May 4, 2010⁴.

¹To obtain approval for the Third Amendment to the DRI, the applicant submitted a full transportation analysis, with a buildout horizon of 2005. Subsequent traffic analysis has not been submitted for review. Therefore, May 4, 2005 is the appropriate reference for purposes of traffic analysis.

²The Sixth Amendment to the DRI Development Order served to grant the three-year statutory extension of the buildout date to May 4, 2011. However, the traffic assessment assumptions remained unchanged. Therefore, this date was not altered to reflect the three-year extension.

³See Footnote 2.

⁴Under the provisions of the Fifth DRI Development Order, this project is deemed concurrent until May 4, 2011. The 2007 amendment to F.S. §380.06(19)(c) did not establish an entitlement to extension of concurrency vesting beyond the date set forth in the DRI Development Order as of June 30, 2007.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS

...

10. The established buildout date under this Development Order Amendment is May 4, ~~2008~~2011, and the termination date is May 4, ~~2010~~2013, unless an extension is granted by the Board. No permits for development will be issued by the County subsequent to the termination date, or expiration date, unless the conditions set forth in F.S. §380.06(15)(g) are applicable. . . .

IV. EXHIBIT C. RIVERS EDGE YACHT AND COUNTRY CLUB DRI (GULF HARBOUR YACHT AND COUNTRY CLUB) PROPOSED PHASING PLAN, AMENDED TABLE 12B-1.

Exhibit C to the Rivers Edge Yacht and Country Club DRI is hereby amended to reflect an extension of the phase dates as indicated on the attached Exhibit.

V. TRANSMITTAL AND EFFECTIVE DATE

Certified copies of this Development Order Amendment will be forwarded to the Southwest Florida Regional Planning Council, the Applicant, and appropriate state agencies. This Development Order Amendment is rendered as of the date of that transmittal, but is not effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, the Developer must record a notice of its adoption in accordance with § 380.06(15), Florida Statutes.

Commissioner Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Mann. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 11th day of September 2007.

ATTEST:
CHARLIE GREEN, CLERK

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Robert P. Janes, Chair

Approved as to form by:

[Signature]
Dawn E. Perry-Lehnert
County Attorney's Office



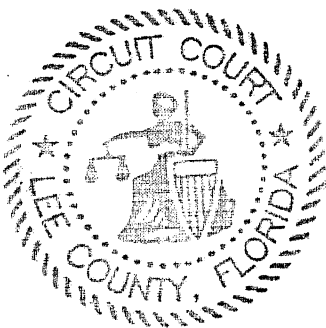
State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 13th day of Sept., A.D. 2007

CHARLIE GREEN, CLERK

By: Marcia Wilson
Deputy Clerk



RIVER'S EDGE YACHT AND COUNTRY CLUB DRI
(GULF HARBOUR YACHT AND COUNTRY CLUB)
PROPOSED PHASING PLAN
AMENDED TABLE 12B-1

<u>PHASE</u>	<u>DEVELOPMENT IMPROVEMENTS</u>	<u>YEARS</u>
1	215 Multi-Family Units Golf Course Temporary Clubhouse Temporary Pro Shop Sales/Administrative Offices	1-12
2	155 Single-Family Units 343 Multi-Family Units Marina (190 Berths) Clubhouse Facilities Sales/Administrative Offices Tennis Club (8 Courts)	13-14 1994-1995
3	633 Single Family Units 641 Multi-Family Units	15-27 <u>30</u> 1996- <u>20082011</u>
Total Single-Family Units: 788 Total Multi-Family Units: 1199 Total Dwelling Units: 1987 Total Freestanding Commercial: 0 Ancillary to Principal Uses (Private Residential Tennis and Golf Pro Shops, Marina Support Services) Restaurant and Lounge Facilities Contained within Clubhouse No Hotel/Motel Units Proposed		

EXHIBIT C