

RESOLUTION  
98-0370 AD

A RESOLUTION AMENDING RESOLUTION 92-29, AS AMENDED BY RESOLUTION 93-244, APPROVING THE DEVELOPMENT ORDER FOR CALIENTE SPRINGS COUNTRY CLUB, A DEVELOPMENT OF REGIONAL IMPACT; FINDING THAT THIS AMENDMENT DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, on February 18, 1992, pursuant to Section 380.06, Florida Statutes, the Board of County Commissioners of Charlotte County, Florida, (BCG) approved and adopted Resolution 92-29, constituting the Caliente Springs DRI Development Order; and

WHEREAS, on April 3, 1992, the State of Florida Department of Community Affairs (DCA) filed an appeal of the Development Order; and

WHEREAS, the BCC considered the reports and recommendations of the Southwest Florida Regional Planning Council, Charlotte County staff, the Planning and Zoning Board, and the Department of Community Affairs, and in order to reconcile the appeal, certain changes were made to Resolution 92-29 and pursuant to a Settlement Agreement, the BCC adopted Resolution 93-244 on August 17, 1993, that was executed on December 14, 1993; and

WHEREAS, the Final Order of Dismissal was executed by DCA on April 21, 1994. The time period expended for the appeal was 24 months and 18 days; the tolling of this time period was not reflected in Resolution 93-244 amending Resolution 92-29; and

WHEREAS, pursuant to Section 380.06(19)(c), Florida Statutes, the Caliente Partnership has requested an amendment to Resolution 93-244 to reflect the tolling of time during the pendency of the administrative proceedings; and

WHEREAS, the Southwest Florida Regional Planning Council staff, DCA, and Charlotte County staff have reviewed and considered the amendment requested by the Caliente Partnership, and have recommended approval, finding that the amendment is not a substantial deviation pursuant to Chapter 380.06(19)(c), Florida Statutes; and

WHEREAS, the BCC has reviewed and considered the amendment request and finds it consistent with the Charlotte County Comprehensive Plan and consistent with the previously approved Caliente Springs Development Order.

✓ Minutes

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

1. Resolution 92-29 as amended is hereby amended to reconcile the reflection of the tolling period and extend the dates noted for the buildout of Phase I and Phase II in Resolution 93-244. Phase I shall be changed from 1997 to January 18, 2000, and the buildout date for Phase II shall be changed from 2002 to January 18, 2005.

2. Page 2, Section A. of Resolution 93-244 is hereby amended to read as follows:

Water and wastewater services are proposed to be provided by Southern States Utilities n/k/a Florida Water Services Corporation, however, this utility does not currently have available permitted capacity to serve the entire Caliente Springs Country Club development. The project is planned in two five-year phases with buildout ~~in the year 2002~~ by January 18, 2005. Phase I buildout will be ~~1997~~ by January 18, 2000, and Phase II buildout will be ~~2002~~ by January 18, 2005; these dates each represent a two-year extension to those dates reviewed in the ADA together with the time tolled during the pendency of administrative hearings (a period of 24 months and 18 days) and shall be considered cumulatively against any future proposed phase or project buildout date extensions for the purposes of calculating whether the statutory time frames are met or exceeded in paragraph 380.06(19)(c), F.S.

3. Page 13, Section II 6.b. of Resolution 93-244 is further amended to read as follows:

- b. The applicant shall pay to Charlotte County the impact fees that are in effect at the time building permits are issued for the development. These impact fee payments shall represent partial payments for necessary transportation improvements, including design and engineering, utility relocation, right-of-way acquisition, construction, construction contract administration and construction inspection necessary to maintain peak hour peak season level of service "C" for the following significantly impacted regional roadways through project buildout ~~in 2002~~ by January 18, 2005:

Burnt Store Road

- Notre Dame Boulevard to project entrance
- Project entrance to Zemel Road
- Zemel Road to Burnt Store Marina entrance
- Burnt Store Marina entrance to SR 78\*

\* Notre Dame Boulevard to US 41

4. Page 14, Section II 6.f. of Resolution 93-244 is further amended to read as follows:

- f. Based on the staff transportation assessment of significant project impacts, construction of the following transportation improvements shall be needed prior to, or coincident with, the development of the Caliente Springs DRI, if peak hour peak season level of service "C" and "D" conditions are to be maintained through buildout (2002 January 18, 2005) on regional road segments and intersections.

Phase I (1993-1997 January 18, 2000)

Burnt Store Road

- Notre Dame Boulevard to the project entrance Widen to 4 lanes

Buildout (1998-2002 January 18, 2000 - January 18, 2005)

Burnt Store Road

- Notre Dame Boulevard to the project entrance Widen to 4 lanes
- Project entrance to Zemel Rd. Widen to 4 lanes
- Zemel Road to the Burnt Store Marina entrance Widen to 4 lanes

5. Page 25, Section II 12(c) of Resolution 93-244 is further amended to read as follows:

- c. The development phasing schedule presented within the ADA and as adjusted to date of development order approval shall be incorporated as a condition of approval. Phase I buildout will be 1997 January 18, 2000, and Phase II buildout will be 2002 January 18, 2005; these dates each represent a two-year extension to those dates reviewed in the ADA together with the time tolled during the pendency of the administrative hearings (24 months and 18 days) and shall be considered cumulatively against any future proposed phase or project buildout date extension for the purposes of calculating whether the statutory time frames are met or exceeded in paragraph 380.06(19)(c) F.S. If development order conditions and the applicant commitments incorporated within the development order, ADA or sufficiency round responses to mitigate regional impacts are 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.

6. All other terms and conditions of the development order not affected by this resolution shall remain in full force and effect.

7. In the event any term(s) of any other resolution with respect to the Caliente Springs DRI Development Order conflict with any term(s) of the within resolution, the terms of this resolution shall govern and supersede those conflicting terms.

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

9. The Clerk of Circuit Court is hereby directed to forward a certified copy of this resolution to the applicant, Mr. Tom Beck, Bureau Chief, Florida Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and to Mr. Wayne E. Daltry, Executive Director, Southwest Florida Regional Planning Council, 4980 Bayline Drive, 4th Floor, North Fort Myers, Florida 33918-3909.

PASSED AND DULY ADOPTED this 7<sup>th</sup> day of April, 1998.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By: Matthew D. DeBoer  
Matthew D. DeBoer, Chairman

ATTEST:

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

By: Carol W. Houshory  
Deputy Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

Renee Francis Lee  
Renee Francis Lee, County Attorney  
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