

City Council Chambers
735 Eighth Street South
Naples, Florida 33940



City of Naples

-SUBJECT-

Page

DISCUSSION OF THE DEVELOPMENT OF REGIONAL IMPACT PERMITTING PROCESS AND THE PROPOSED COLLIER DEVELOPMENT CORPORATION PROJECT.

1-2

Present: Mayor William F. Barnett, City Councilmen Lyle S. Richardson, Christopher J. Holley, Gerald J. Brown, Steven K. Hall, Chief Planner Jodie M. O'Donnell, Deputy Clerk

Also Present: David W. Rynders, City Manager, Mark W. Wilkie, Assistant City Manager, Paul Carson, City Clerk, Peter J. Barry, Community Development Dir.

Supplemental Attachment #1

DISCUSSION OF THE DEVELOPMENT OF REGIONAL IMPACT PERMITTING PROCESS AND THE PROPOSED COLLIER DEVELOPMENT CORPORATION PROJECT. SOUTH AND EAST OF HARVING PARK. PARTICIPATING WILL BE THE HARVING PLANNING ADVISORY BOARD AND SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL STAFF.

Community Development Director Barry advised Council that two employees of the Southwest Regional Planning Council were present to explain the development of regional impact (RI) processes and answer any questions. He then presented Council with a hand-out that gave a brief explanation of the process (Attachment #1).

David Barry of the Southwest Regional Planning Council advised that pursuant to Chapter 380.05 of the Florida Statutes, the RI process started in 1973. The Planning Council's objectives were to apply those issues that are more regional in nature, such as state roads, interconnectors to state highways, hurricane evacuation routes and water. In reports to Mr. Barry, Mr. Barry explained that the Planning Council's reports are mostly recommendations to the local governments. The City has the right to appeal as does the landowner, applicant, and Planning Council, he continued (Attachment #1). Mr. Barry of the Collier County Civic Association, asked if an appeal is made, whether development of the project could be stopped. Mr. Barry responded that development would be halted.

City Council Chambers
735 Eighth Street South
Naples, Florida 33940



Time 9:00 A.M.

Date September 24, 1986

4 Councilman Bledsoe called the meeting to order and presided as Chairman:

ROLL CALL: Present: Kim Anderson-McDonald
William F. Bledsoe
Alden R. Crawford, Jr.
John T. Graver
Councilmen

Absent: Edwin J. Putzell, Jr.
Mayor

William E. Barnett
Lyle S. Richardson
Councilmen

Also Present:

Franklin C. Jones,
City Manager

David W. Rynders,
City Attorney

Mark W. Wiltsie,
Assistant City Manager

Janet Cason,
City Clerk

Roger J. Barry,
Community Development Dir.

Christopher L. Holley,
Community Services Dir

Gerald L. Gronvold,
City Engineer

Steven R. Ball,
Chief Planner

Jodie M. O'Driscoll
Deputy Clerk

See Supplemental Attendance List - Attachment #1.

DISCUSSION OF THE DEVELOPMENT OF REGIONAL
IMPACT PERMITTING PROCESS AND THE PROPOSED
COLLIER DEVELOPMENT CORPORATION PROJECT
SOUTH AND EAST OF BAYVIEW PARK.
PARTICIPATING WILL BE THE NAPLES PLANNING
ADVISORY BOARD AND SOUTHWEST FLORIDA
REGIONAL PLANNING COUNCIL STAFF.

Community Development Director Barry advised Council that two employees of the Southwest Regional Planning Council were present to explain the Development of Regional Impact (DRI) processes and to answer any questions. He then presented Council with a hand-out that gave a brief explanation of the process (Attachment #2).

Mr. David Burr of the Southwest Regional Planning Council advised that pursuant to Chapter 380.06 of the Florida Statutes, the DRI process started in 1973. The Planning Council's objectives were to identify those issues that are more regional in nature, such as state roads, interconnectors to state highways, hurricane evacuation routes and Florida water, he said. In response to Mr. Crawford, Mr. Burr explained that the Planning Council's reports are merely recommendations to the local governments. The City has the right to appeal, as does the landowner, applicant, and Planning Council, he continued (Attachment #3). Mr. George Keller, of the Collier County Civic Association, asked if an appeal is made, whether development of the project comes to a stop. Mr. Burr responded that development would be halted.

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COUNCIL MEMBERS

Mr. Beldsoe inquired how the Southwest Florida Regional Planning Council was made up. Mr. Burr explained that it has 27 members, 2/3rds local elected officials and the other 1/3rd appointees by the Governor, citizens that are involved in the regional review process or concerned citizens who are knowledgeable within the region. In response to Mr. Graver, Mr. Burr advised that the members of the Planning Council were not paid, only the supporting staff, and that the reason for so many members was to allow each county to be represented adequately.

In response to Mr. Crawford, Mr. Burr advised that all the impacts were important but, obviously, some more than others. Mr. George Keller asked about the traffic level of service impact. In response, Mr. Burr advised that studies are done to determine the level of service that traffic generates in a given area.

Mr. Dan Trescott, of the Southwest Regional Planning Council, addressed the process for Application for Development Approval (Attachment #3).

In response to Mr. Graver, Mr. Burr advised that although the Planning Council may be on a limited budget, it would or could appeal any project that does not achieve a Sufficiency Rating. Mr. Crawford asked how far Collier County Development Corporation had completed the process. Mr. Burr advised that they were at Step #9 (Attachment #3) and further that the Planning Council would await recommendations from both the City and the County before making a determination on the project.

Mr. Bledsoe asked what government agencies would be involved regarding the approval of the marina, and Mr. Burr advised that the City and the County make their decisions first then it goes to permitting agencies to see how it is done. In response to Mr. Crawford, Mr. Burr advised that if the City denied the marina, the Planning Council would have to establish guidelines that would allow the marina to conform to the City's regulations.

In closing Mr. Burr named various processes that Developments of Regional Impact could go through depending upon what each projects entailed.

ADJOURN: 10:11 a.m.

LYLE S. RICHARDSON, VICE MAYOR

JANET CASON
CITY CLERK

JODIE M. O'DRISCOLL
DEPUTY CLERK

These minutes of the Naples City Council were approved OCT 15 1986.

SUPPLEMENTAL ATTENDANCE LIST

George Keller, President
Collier County Civic Assoc.
M/M Ralph B. Williams
Gregg Brooks
Rich Henderlong
David Burr

Sam Schwartz
Charles Andrews
John Passidomo
Lodge McKee,
Planning Advisory Board
Dan Trescott

NEWS MEDIA

Chuck Curry, Naples Daily News
Racheal Kearns, Naples Star
Dave Fuller, WNOG
Bill Upham, Naples Times
WEVU

Mr. Biscoe asked what government agencies would be involved regarding the approval of the marina, and Mr. Burr advised that the City and the County take their decisions first then it goes to permitting agencies to see how it is done. In response to Mr. Biscoe, Mr. Burr advised that if the City denied the marina, the Planning Council would have to expedite guidelines that would allow the marina to conform to the City's regulations.

In closing Mr. Burr named various processes that development of Regional Impact would go through depending upon what each project entailed.

ADJOURN: 10:11 a.m.

LYLE S. RICHARDSON, VICE MAYOR

JANET CARSON
CITY CLERK

JODIE M. O'DRISCOLL
DEPUTY CLERK

These minutes of the Naples City Council were approved Oct 12, 1988

DEVELOPMENTS OF REGIONAL IMPACT

Activities Regulated: Certain relatively large projects may be reviewed as Developments of Regional Impact (DRI). A DRI is "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of the citizens of more than one county." There are 12 types of developments presumed to be DRIs when they exceed specified thresholds. These include residential developments, regional shopping centers, office parks, mining operations, post-secondary schools, airports, hospitals, ports, attractions and recreational facilities, industrial parks, and industrial storage facilities. However, the presumption is not final, and can be challenged by the applicant. Likewise, a proposed development below the threshold is presumed not to be a DRI unless determined to be of regional impact by the Department of Community Affairs.

Administering Agencies: The Department of Community Affairs (DCA), the Governor and Cabinet, Regional Planning Councils, and local government.

Discussion of Program: The DRI program broadens the decision-making process of local government for certain types of developments by requiring local governments to consider the regional impacts of such developments. A Regional Planning Council must review all proposed DRIs and furnish a report to local government on potential regional impacts. The local government must then consider such impacts in deciding whether to grant or deny development approval. Only the developer, Regional Planning Council, or the DCA may appeal the local development decision to the Florida Governor and Cabinet.

Application Procedures: If there is doubt as to whether a proposed development is a DRI, the developer may request a Binding Letter of Interpretation from the department. In response, the DCA will evaluate the proposed development's location, character and magnitude, in conjunction with the threshold guidelines, to determine whether there is an impact on the citizens of more than one county and indicate this in the Binding Letter. The Binding Letter must be issued within 30 days of receipt of a sufficient application. The applicant has 30 days following issuance of the Binding Letter in which to present additional evidence for reconsideration.

If a proposed DRI will be located within the jurisdiction of one of the very few local governments which do not have zoning or subdivision regulations, then the developer must submit written notice to the DCA and to the local government having jurisdiction. Ninety days after submission of notice the developer may proceed unless either (1) zoning or subdivision regulations have been adopted; or (2) the area has been declared an Area of Critical State Concern (see insert 25).

If a proposed DRI will be located within an area having zoning or subdivision regulations, an Application for Development Approval (ADA) must be processed on forms provided by the DCA as follows:

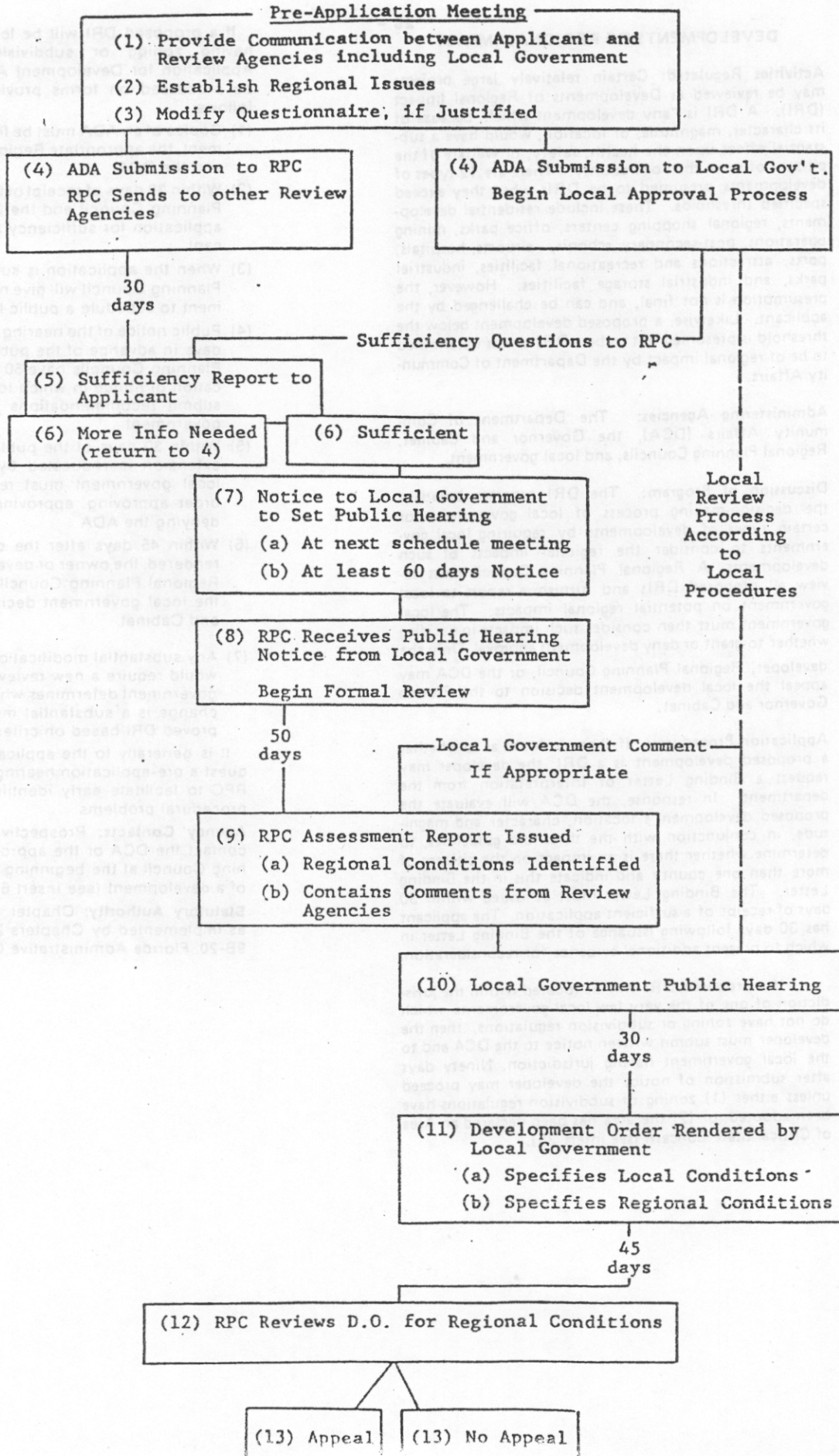
- (1) Copies of an ADA must be filed with local government, the appropriate Regional Planning Council and the DCA.
- (2) Within 30 days of receipt of the ADA, the Regional Planning Council and the DCA must review the application for sufficiency and inform the applicant.
- (3) When the application is sufficient, the Regional Planning Council will give notice to local government to schedule a public hearing.
- (4) Public notice of the hearing must be published 60 days in advance of the public hearing. Regional Planning Councils have 50 days following publication of notice in which to review the ADA and submit recommendations on the DRI to local government.
- (5) Within 30 days of the public hearing (unless an extension is requested by the applicant), the local government must render a development order approving, approving with conditions, or denying the ADA.
- (6) Within 45 days after the development order is rendered, the owner or developer of the property, Regional Planning Council, or DCA may appeal the local government decision to the Governor and Cabinet.
- (7) Any substantial modification to an approved DRI would require a new review of the project. Local government determines whether a proposed plan change is a substantial modification of the approved DRI based on criteria specified in law.

It is generally to the applicant's advantage to request a pre-application hearing with the appropriate RPC to facilitate early identification of issues and procedural problems.

Agency Contacts: Prospective developers should contact the DCA or the appropriate Regional Planning Council at the beginning of the planning stage of a development (see insert 6).

Statutory Authority: Chapter 380, Florida Statutes, as implemented by Chapters 27F-2, 9J-2, 9J-3, and 9B-20, Florida Administrative Code.

ADA- DRI PROCESS



(12) REGIONAL REPORTS.--

(a) Within 50 days after receipt of the notice of public hearing required in paragraph (11)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the local government on these regional issues, specifically considering whether, and the extent to which:

1. The development will have a favorable or unfavorable impact on the environment and natural and historical resources of the region.
2. The development will have a favorable or unfavorable impact on the economy of the region.
3. The development will efficiently use or unduly burden water, sewer, solid waste disposal, or other necessary public facilities,
4. The development will efficiently use or unduly burden public transportation facilities.
5. The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.
6. The development complies with such other criteria for determining regional impact as the regional planning agency deems appropriate, including, but not limited to, the extent to which the development would create an additional demand for, or additional use of, energy, provided such criteria and related policies have been adopted by the regional planning agency pursuant to s. 120.54. Regional planning agencies may also review and comment upon issues which affect only the local governmental entity with jurisdiction pursuant to this section; however, such issues shall not be grounds for or be included as issues in a regional planning agency appeal of a development order under s. 380.07.

(b) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Regulation permits have been issued pursuant to chapter 373 or chapter 403, the regional planning council may comment on the regional implications of the permits, but may not offer conflicting recommendations.

(c) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (13) and (14). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. Shall establish compliance dates for the development order, including a deadline for commencing physical development and for compliance with conditions of approval or phasing requirements, and shall include a termination date that reasonably reflects the time required to complete the development.

3. Shall establish a date until which the local government agrees that the approved development of regional impact shall not be subject to down-zoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred, or that the development order was based on substantially inaccurate information provided by the developer, or that the change is clearly established by local government to be essential to the public health, safety, or welfare.

4. Shall specify the requirements for the annual report designated under subsection (18), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.

5. May specify the types of changes to the development which shall require submission for a substantial deviation determination under subsection (19).

6. Shall include a legal description of the property.

(d) Conditions of a development order that require a developer to contribute land for a public facility, or construct, expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:

1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.

3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development.

2. The state land planning agency may record a notice of adoption of any agreement entered into pursuant to subsection (8), in accordance with s. 28.222, with the clerk of the circuit court for each county in which land covered by the terms of the agreement is located. The notice shall include a legal description of the land covered by the agreement and shall state the parties to the agreement, the date of adoption of the agreement and any subsequent amendments, the location where the agreement may be examined, and that the agreement may constitute a land development regulation applicable to portions of the land covered by the agreement.

(g) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.

(e) Development order exactions.--

1. Effective July 1, 1986, local governments shall not include as a development order condition for a development of regional impact, any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof, unless the local government has enacted a local ordinance which requires other development not subject to this section, to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Local governments shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development, unless the local government includes in the development order a commitment by the local government to provide these facilities consistent with the development schedule approved in the development order; provided, however, a local government's failure to meet the requirements of subparagraph 1. and this paragraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development.

3. The Department of Community Affairs and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government and technical advisory committees provided for in s. 163.3207 in preparing and adopting local impact fee and other contribution ordinances.

(f)1. Notice of the adoption of a development order or the subsequent modification of an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any modifications to the development order, the location where the adopted order with any modifications may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, nor actual nor constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980.