

ORDINANCE NO. 02-61



AN ORDINANCE ESTABLISHING THE FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT NUMBER 2; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; NAMING THE DISTRICT; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

FILED
2002 NOV 25 PM 1:19
HALL COUNTY CLERK
TALLAHASSEE, FLORIDA

WHEREAS, DY Land Associates Ltd., has petitioned the Board of County Commissioners (Board) of Collier County, Florida, a political subdivision of the State of Florida, to establish the FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT # 2 (District); and

WHEREAS, the Board of County Commissioners, after proper published notice has conducted a public hearing on the petition and determined the following with respect to the factors to be considered in Section 190.005(1)(e), as required by Section 190.005(2)(c), Florida Statutes:

1. The petition is complete in that it meets the requirements of Sections 190.005 (1)(e)2., and 190.005(2)(a), Florida Statutes; and all statements contained within the petition are true and correct.
2. Establishment of the District on the land proposed in the petition is not inconsistent with any applicable element or portion of the local comprehensive plan of Collier County, known as the Collier County Growth Management Plan, or the State Comprehensive Plan.
3. The proposed area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. The District is the best alternative available for delivering community development services and facilities to the area that will be serviced by the District.
5. The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. The area that will be served by the District is amenable to separate special-district government; and

WHEREAS, it is the policy of this State, as provided for in Section 190.002 (2) (c), Florida Statutes, that the exercise by any independent district of its powers as set forth by uniform general law comply with all applicable governmental laws, rules, regulations, and policies governing planning and permitting of the development to be serviced by the district, to ensure that neither the establishment nor operation of such district is a development order under chapter 380 and that the district so established does not have any zoning or permitting powers governing development; and

WHEREAS, Section 190.004 (3), Florida Statutes, provides that all governmental planning, environmental, and land development laws, regulations, and ordinances apply to all development of the land within a community development district. Community development districts do not have the power of a local government to adopt a comprehensive plan, building code, or land development code, as those terms are defined in the Local Government Comprehensive Planning and Land Development Regulation Act. A district shall take no action which is inconsistent with applicable comprehensive plans, ordinances, or regulations of the applicable local general-purpose government; and

WHEREAS, pursuant to Section 190.012, Florida Statutes, upon the establishment of the proposed community development district, the District Board of Supervisors will have the right to seek consent from Collier County for the grant of authority to exercise special powers without question as to the continued right, authority and power to exercise its limited powers as established by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA that:

SECTION ONE: AUTHORITY FOR ORDINANCE.

This Ordinance is adopted pursuant to Section 190.005 (2), Florida Statutes, and applicable provisions of law governing county ordinances. Whereas clauses are deemed to be true and correct and are adopted as additional authority as if fully, and, set forth herein. Lastly, the State created charter for the District is recognized as Sections 190.006 through 109.041, Florida Statutes.

SECTION TWO: ESTABLISHMENT OF THE FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT # 2.

The Fiddler's Creek Community Development District #2 is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference herein.

SECTION THREE: DESIGNATION OF INITIAL BOARD MEMBERS.

The following five persons are herewith designated to be the initial members of the Board of Supervisors:

- | | |
|--|--|
| 1. Rhea Riegalhaupt
6001 Pelican Bay Boulevard, #1206
Naples, FL 34108 | 3. Randy Byrnes
2587 Half Moon Walk
Naples, FL 34102 |
| 2. Arthur Woodward
1136 Edington Place
Marco Island, FL 34145 | 4. George Schmelzle
1119 Augusta Falls Way
Naples, FL 34119-1362 |
| 5. Clifford (Chip) Olson
1020 Goodlette Road, Suite 200
Naples, FL 34102 | |

SECTION FOUR: DISTRICT NAME.

The community development district herein established shall henceforth be known as the "Fiddler's Creek Community Development District #2."

SECTION FIVE: STATUTORY PROVISIONS GOVERNING DISTRICT.

The Fiddler's Creek Community Development District #2 shall be governed by the provisions of Chapter 190, Florida Statutes, and all other applicable general and local law.

SECTION SIX: CONSENT TO SPECIAL POWERS.

Upon the effective date of this Ordinance, the Fiddler's Creek Community Development District #2 will be duly and legally authorized to exist and exercise all of its general and special powers as limited by law; and has the right to seek consent from the Collier County Board of County Commissioners for the grant of authority to exercise special powers in accordance with Section 190.012(2), Florida Statutes, without question as to the district's continued right, authority and power to exercise its limited powers as established by this Ordinance. The District Board's authority to exercise special powers may include the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: (i) parks and facilities for indoor and outdoor recreational, cultural, and educational

uses; and (ii) security, including, but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries; all as authorized and described by Section 190.012 (2)(a) through (d), Florida Statutes.

SECTION SEVEN: CONFLICT AND SEVERABILITY.

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION EIGHT: INCLUSION IN CODE OF LAWS AND ORDINANCES.

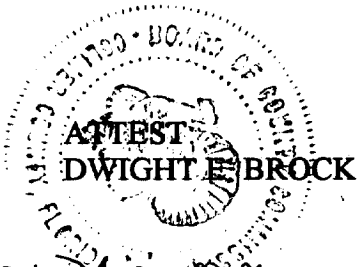
The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION NINE: EFFECTIVE DATE.

This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 19th day of November, 2002.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA



BY: *James N. Coletta*
JAMES N. COLETTA, CHAIRMAN

11-19-02

BY: *Patricia L. Morgan, DC*
11-19-02, Deputy Clerk

Attest as to Chairman's signature only.

Approved as to Form
And Legal Sufficiency

Patrick G. White
PATRICK G. WHITE,
Assistant County Attorney

This ordinance filed with the Secretary of State's Office the 25th day of November, 2002 and acknowledgement of that filing received this 2nd day of December, 2002.

By *Patricia L. Morgan, DC*
Deputy Clerk

U:\1998\1998\EXHIBITS\FCDD\District 2\CDD2 EX-1.dwg Tab: Layout3 May 21, 2002 - 11:34am ed by: JonSmith

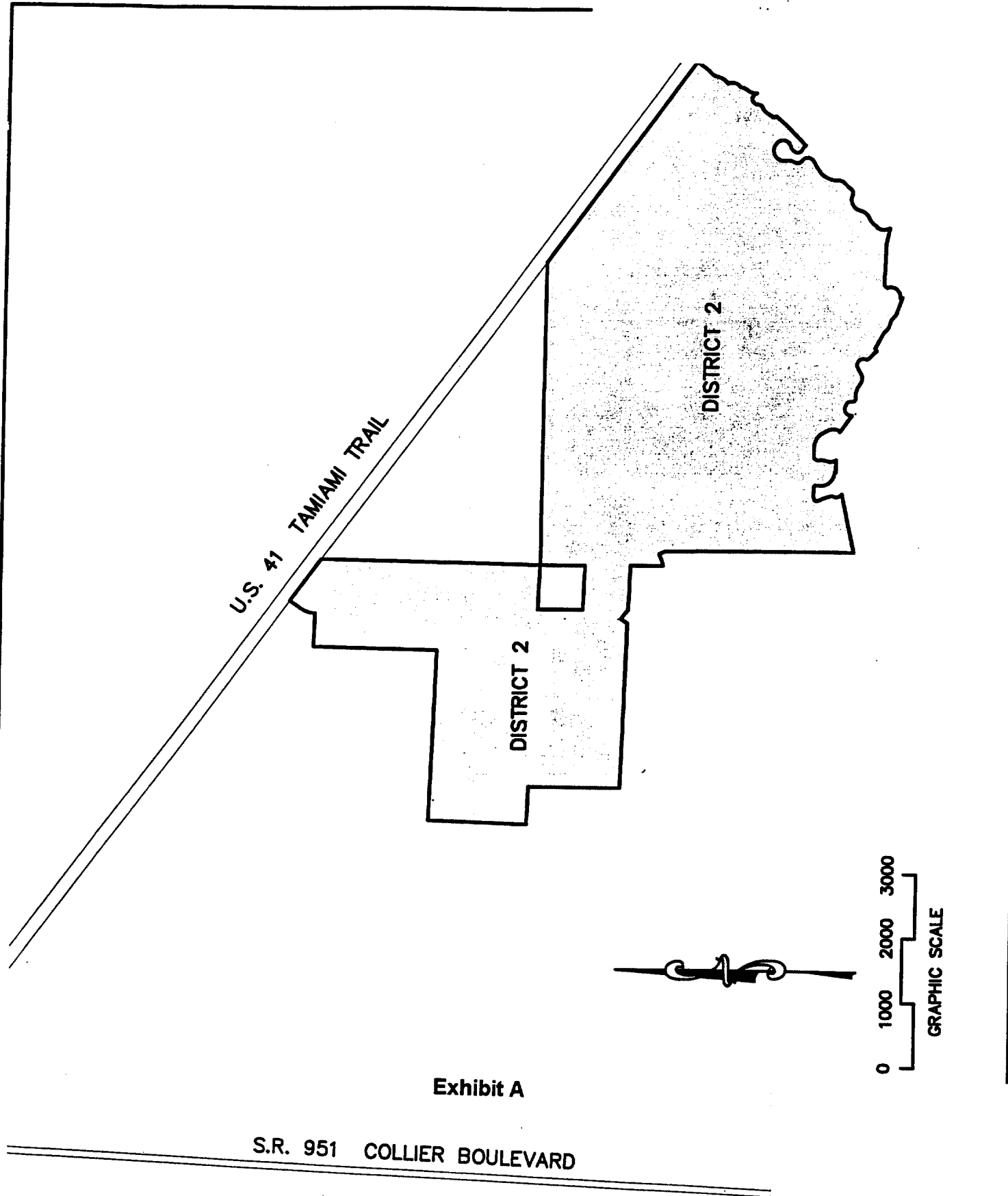


Exhibit A

FIDDLER'S CREEK COMMUNITY DEVELOPMENT



950 Encore Way
 Phone: _____
 Address: _____

DISTRICT 2

CHECKED BY : W.T.C./F.F.	PROJECT No. 98.70
DRAWN BY : JON	CAD FILE NAME: CDD2 EX-1
DATE : 03/02	EXHIBIT - ITEM 1

1. The property described in this plat is the same as that described in the plat of the Survey of the ...

2. The property described in this plat is the same as that described in the plat of the Survey of the ...

3. The property described in this plat is the same as that described in the plat of the Survey of the ...

4. The property described in this plat is the same as that described in the plat of the Survey of the ...

5. The property described in this plat is the same as that described in the plat of the Survey of the ...

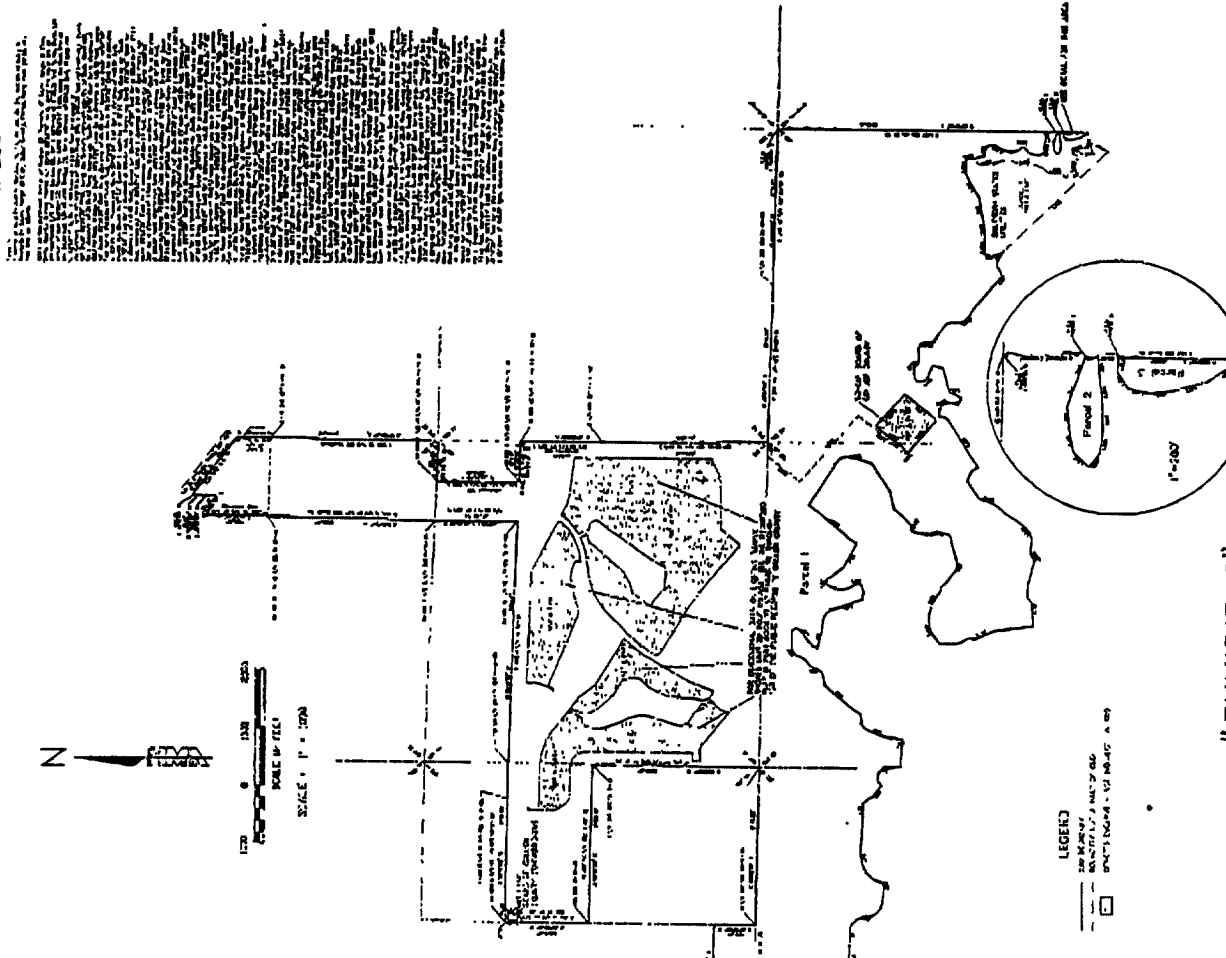
6. The property described in this plat is the same as that described in the plat of the Survey of the ...

7. The property described in this plat is the same as that described in the plat of the Survey of the ...

8. The property described in this plat is the same as that described in the plat of the Survey of the ...

9. The property described in this plat is the same as that described in the plat of the Survey of the ...

10. The property described in this plat is the same as that described in the plat of the Survey of the ...



* NOT A SURVEY *

"EXHIBIT 2"

FIDDLER'S CREEK

HMA
 HOLE, MONTES & ASSOCIATES
 SURVEYORS - MANAGERS - ENGINEERS
 2500 ABERNETHY SUITE 200A PALM BEACH, FLORIDA 33411 (407) 855-2700

SKETCH OF PROPERTY DESCRIPTION
 ACCA ED IN
 TOWNSHIP 31 SOUTH RANGE 28 EAST
 COLLEEN COUNTY
 FLORIDA

DATE	10/03/02
BY	[Signature]
CHECKED BY	[Signature]
SCALE	1" = 100'

EXHIBIT 2A

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

ORDINANCE NO. 2002-61

Which was adopted by the Board of County Commissioners on the 19th day of November, 2002, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 20th day of November, 2002.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

By: *Patricia L. Morgan, DC*
Patricia L. Morgan,
Deputy Clerk

