

## LAND DEVELOPMENT CODE AMENDMENT

### PETITION

PL20200002482

### ORIGIN

Board of County  
Commissioners (Board)

### SUMMARY OF AMENDMENT

An amendment to LDC section 2.03.07 for the Rural Fringe Mixed Use District to eliminate the \$25,000 minimum value of the TDR Base Credit.

### HEARING DATES

BCC            TBD  
CCPC          11/03/2022  
                 10/06/2022  
DSAC          09/07/2022  
DSAC-LDR    12/15/2020

### LDC SECTION TO BE AMENDED

2.03.07    Overlay Zoning Districts

## ADVISORY BOARD RECOMMENDATIONS

### DSAC-LDR

Approval with condition

### DSAC

Approval

### CCPC

Approval

### BACKGROUND

In June 1999, the State of Florida issued a Final Order, Case ACC-99-002, determining the County's Evaluation and Appraisal Report-based amendments to the Growth Management Plan (GMP) were not in compliance with State law based upon finding that included that the amendments did not provide adequate protection for listed species and their habitat, did not prevent the premature conversion of agricultural lands to other uses, and did not adequately curtail urban sprawl. The Final Order pertained primarily to lands designated Agricultural/Rural on the Future Land Use Map of the GMP.

To address the Final Order for the Agricultural/Rural Lands, generally located east of Collier Boulevard and west of Golden Gate Estates, the County developed the Rural Fringe Mixed Use District (RFMUD), adopted in 2002. The RFMUD directs development away from environmentally sensitive lands (Sending Lands) to lands that are more appropriate for development (Receiving Lands). For Sending Lands, numerous land uses were eliminated, and density reduced. To compensate for presumed reduction in property values caused by the elimination of uses and reduction in density, a voluntary Transfer of Development Rights (TDR) program was established to allow owners of Sending Lands to sever residential development rights which could then be sold and transferred to Receiving Lands. There are four types of TDR credits, a base credit and three bonus credits (each at a transfer ratio of 1 credit/5 acres or legal non-conforming parcel). The Board established a minimum value of \$25,000 for the base TDR credit to adequately compensate property owners.

To address the community's general concerns about the effectiveness of the Program, the Board directed the restudy of the Rural Fringe Mixed Use District (RFMUD) in 2015. As part of the restudy, staff conducted public outreach, including six public workshops, a dedicated project web page, and survey, all of which were overseen by the Growth Management Oversight Committee (members of the public appointed by the Board of County Commissioners per Resolution No. 15-224). Recommendations from those outreach efforts included the elimination of the minimum value of the Base TDR Credit. In 2016, staff prepared a white paper detailing the assessment of the RFMUD and TDR Program, recommendations, and public input. In 2017, staff presented the white paper to the Board at three public workshops; direction was provided to staff to remove the minimum value of the TDR Base Credit from the RFMUD provisions. On September 25, 2018, the Board directed staff to prepare

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Growth Management Plan and Land Development Code amendments to the RFMUD, including the removal of the minimum value of \$25,000 for the Base TDR Credit to allow the market to determine the value.

*DSAC-LDR Subcommittee Recommendation:*

On December 15, 2020, the DSAC-LDR Subcommittee recommended approval of this LDCA, contingent upon staff modifying the narrative to include a reference to the Growth Management Oversight Committee's (GMOC) participation in the RFMUD Restudy; and, providing confirmation that the proposed LDCA does not constitute a regulatory taking.

Staff modified the narrative to add the requested reference to the GMOC. As noted in the background section of this amendment, the RFMUD was adopted by the Board in 2002 with the established minimum value of \$25,000 for the Base TDR Credit. Subsequent to adoption, the RFMUD was amended to provide Sending Lands owners the opportunity to receive three (3) additional bonus TDR Credits at market rate. The initial Base TDR Credit was valued at \$25,000 to provide compensation for the presumed loss in value based upon the reduction in density, elimination of numerous land uses and significant increase in native vegetation retention requirements. The additional bonus TDR Credits added to the TDR Base Credit (at market rate) provide the *potential* for a greater compensatory value, depending on property location, than was intended at the outset of the RFMUD TDR Program.

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**FISCAL & OPERATIONAL IMPACTS**

There are no fiscal or operational impacts associated with this amendment.

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**GMP CONSISTENCY**

The proposed LDCA is consistent with the Goals, Objective and Policies of the Rural Fringe Mixed Use District of the Growth Management Plan.

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**EXHIBITS:** A) Rural Fringe Mixed Use District Map

Amend the LDC as follows:

**2.03.07 Overlay Zoning Districts**

- \* \* \* \* \*
- D. Special Treatment Overlay (ST).
- \* \* \* \* \*
4. Transfer of Development Rights (TDR).
- \* \* \* \* \*
- f. Procedures applicable to the severance and redemption of TDR credits and the generation of TDR Bonus credits from RFMU sending lands.
- \* \* \* \* \*
- ii. In order to facilitate the County's monitoring and regulation of the TDR Program, the County shall serve as the central registry for all TDR severances, transfers (sales) and redemptions, as well as maintain a public listing of TDR credits available for sale along with a listing of purchasers seeking TDR credits. No TDR credit generated from RFMU sending lands may be utilized to increase density in any area unless the following procedures are complied with in full.
- \* \* \* \* \*
- a) TDR credits shall not be used to increase density in either non-RFMU Receiving Areas of RFMU receiving lands until severed from RFMU sending lands. TDR credits shall be deemed to be severed from RFMU sending lands at such time as a TDR credit Certificate is obtained from the County. TDR credit Certificates shall be issued only by the County and upon submission of the following:
- \* \* \* \* \*
- ~~v) a statement identifying the price, or value of other remuneration, paid to the owner of the RFMU sending lands from which the TDR credits were generated and that the value of any such remuneration is at least \$25,000 per TDR credit, unless such owner retains ownership of the TDR credits after they are severed, unless the RFMU or non-RFMU receiving lands on which the TDR credits will be redeemed and the RFMU sending lands from which the TDR credits were generated are owned by the same persons or entities or affiliated persons or entities; and~~
- vi) a statement attesting that the TDR credits are not being severed from RFMU sending lands in violation of subsection 2.03.07 D.4.c.vi.b) of the Code.

# DRAFT

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vii) documented evidence that, if the property from which TDRs are being severed is subject to a mortgage, lien, or any other security interest; the mortgagee, lien holder, or holder of the security interest has consented to the recordation of the Limitation of Development Rights Agreement required for TDR severance; transfer (sale) of TDR credit; and redemption of TDR credit.

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## Exhibit A – Rural Fringe Mixed Use District Map

