



STAFF REPORT COLLIER COUNTY PLANNING COMMISSION

FROM: GROWTH MANAGEMENT COMMUNITY DEVELOPMENT DEPARTMENT,
ZONING DIVISION, COMPREHENSIVE PLANNING SECTION

HEARING DATE: March 16, 2023

RE: PETITION PL20200002234, STAFF PROPOSED AMENDMENTS TO THE
RURAL FRINGE MIXED USE DISTRICT OF THE COLLIER COUNTY GROWTH
MANAGEMENT PLAN [*ADOPTION HEARING*]

PROPOSED AMENDMENT: A staff-proposed amendment to the Future Land Use Element, Future Land Use Map and Map series, specifically requiring utilization of Transfer of Development Rights (TDRs) Credits for Comprehensive Plan amendments requesting an increase in residential density in the Urban Mixed Use District and the Rural Fringe Mixed Use District; amending the Urban Mixed Use District, Urban Residential Fringe Subdistrict to remove the requirement to use TDRs generated from Sending Lands within one-mile of the Urban boundary; amending the Urban Mixed Use District to remove the requirement to use TDRs for the Residential In-fill density bonus provision; amending the RFMUD to change development standards and requirements, increase density in Receiving Lands for affordable housing, add TDR Bonus Credits, add uses in Receiving areas, and add a conditional use for recreation in Sending Lands; amending development standards for Rural Villages; and creating the Belle Meade Hydrologic Enhancement Overlay.

Within the Collier County Planning Commission (CCPC) material provided is the Ordinance with Exhibit "A" text and maps for the petition. This exhibit reflects the text and maps as approved by the Board of County Commissioners (Board) for Transmittal.

NOTE: Staff is proposing additional text changes to the amendments to establish regulations in the Land Development Code for housing that is affordable within Receiving Lands; and provide incentives to restore and maintain Sending Lands by increasing the number of possible TDRs available for severance – both to advance the goals of the RFMUD. The proposed text changes are identified further below in the Staff Report under Adoption – Staff Recommendation.

Transmittal hearings on the subject amendment were held on May 20, 2021 CCPC, and on April 26, 2022 Board. The Transmittal recommendations are presented further below.

Within CCPC material provided you will find the Transmittal Executive Summary from the Board hearing, plus the Transmittal CCPC staff report for the petition, which provided staff's analysis of the petition.

The amendment qualifies for the State Coordinated Review Process set forth in Chapter 163.3184(4), F.S., in the following manner. The geographic areas subject to this amendment are not located in an area of critical state concern or in a rural land stewardship area; the amendment is not applicable to an

adopted sector plan, evaluation and appraisal-based, DRI-related, and does not qualify as a small-scale amendment.

In accordance with *Chapter 163.3184(4), F.S.*, pertaining to the State Coordinated Review Process, this Transmittal package was provided to the Florida Department of Economic Opportunity (DEO) and other reviewing agencies on May 16, 2022.

REVIEW AGENCY COMMENT LETTERS: After review of the Transmitted amendment within each reviewing agency's authorized scope of review, the DEO, as well as the other reviewing agencies, rendered their comment letters indicating "no comment" or "no adverse impacts found" or the agency did not respond. Additionally, the Florida Fish and Wildlife Conservation Commission offered their technical assistance and guidance to County staff and applicants for future projects within the RFMUD. Comment letters received are located within materials provided to the CCPC.

TRANSMITTAL:

STAFF RECOMMENDATION: To Transmit to DEO.

CCPC RECOMMENDATION: Transmit to DEO (vote: 5/0) per staff recommendation, with the following modifications: for Growth Management Plan amendments that propose to increase residential density, remove the proposed requirement to utilize TDRs if a "public benefit" is provided; defer the proposal that requires parcels ≥ 300 -acres in size to develop as a Rural Village and defer the proposal to create an Agricultural TDR Credit at 1 unit per 5 acres with required perpetual easement in Sending, Receiving and Neutral Lands, both to be considered during the North Belle Meade and Belle Meade area study; and, move up the staff requested initiation of the North Belle Meade and Belle Meade area study from 2 years to 1 year.

BOARD ACTION: Transmitted to DEO (vote: 5/0), per CCPC recommendation, and with removal of the proposed allowance to increase density from 1 dwelling unit to 2 dwelling units per acre on Receiving Lands, not within a Rural Village, for the north and northwest Receiving Lands [and as now reflected in County Resolution No. 22-78].

ADOPTION:

STAFF RECOMMENDATION: That the CCPC forward to the Board a recommendation to adopt and transmit the amendment to the Florida Department of Economic Opportunity and reviewing agencies that provided comments, with staff's suggested additions noted below in double underline and deletions in ~~double strikethrough~~.

The proposed change below to the RFMUD Receiving Lands for housing that is affordable is recommended by staff in response to the development community's concerns that the existing criteria in the affordable housing table within the Land Development Code does not result in a viable affordable housing project.

- A) Receiving Lands:** Receiving Lands are those lands within the Rural Fringe Mixed Use District that have been identified as being most appropriate for development and to which residential development units may be transferred from areas designated as Sending Lands. Based on the evaluation of available data, these lands have a lesser degree of environmental or listed species habitat value than areas designated as Sending and generally have been disturbed through development, or previous or existing agricultural

operations. Various incentives are employed to direct development into Receiving Lands and away from Sending Lands, thereby maximizing native vegetation and habitat preservation and restoration. Such incentives include but are not limited to: the TDR process; clustered development; density bonus incentives; and, provisions for central sewer and water. Within Receiving Lands, the following standards shall apply, except for those modifications that are identified in the North Belle Meade Overlay:

1. Maximum Density, except for Housing that is Affordable: The base residential density allowable for designated Receiving Lands is one (1) unit per five (5) gross acres (0.2 dwelling units per acre). The maximum density achievable in Receiving Lands through the TDR process is one (1) dwelling unit per acre. This maximum density is exclusive of the Density Blending provisions. Dwelling Units may only be transferred into Receiving Lands in whole unit increments (fractional transfers are prohibited). Once the maximum density is achieved through the use of TDR Credits, additional density may be achieved as follows:
 - a) A density bonus of no more than 10% of the maximum density per acre shall be allowed for each additional acre of native vegetation preserved exceeding the minimum preservation requirements set forth in Policy 6.1.2 of the CCME.
 - b) A density bonus of no more than 10% of the maximum density per acre shall be allowed as provided in Policy 6.2.5(6)b of the CCME.
2. Maximum Density for Housing that is Affordable: For a project providing housing that is affordable, a maximum density of twelve and two-tenths (12.2) units per acre is allowed, consistent with Section 2.06.00 of the LDC, subject to rezone approval, and subject to the approval of an "Affordable Housing Agreement." TDR credits are not required, nor allowed, to achieve density. Within one year of adoption of these amendments, the County will develop appropriate criteria within Section 2.06.00 of the LDC to specifically address affordable housing projects within Receiving Lands.

The proposed change below to RFMUD Sending Lands to increase the number of TDR Credits for the Environmental Restoration and Maintenance TDR Bonus is recommended by staff in response to the high costs associated with restoring and maintaining lands as required in the TDR bonus provision.

C) Sending Lands: Sending Lands are those lands that have the highest degree of environmental value and sensitivity and generally include significant wetlands, uplands, and habitat for listed species.

1. Environmental Restoration and Maintenance TDR Bonus: ~~One (1) additional TDR Bonus Credits may be issued at a rate of up to 0.6 TDR Credits per acre (3 TDR Credits per 5 acres), subject to criteria in the LDC, but in no case less than 0.2 TDR Credits per acre. In the case of legal nonconforming lots or parcels in existence as of June 22, 1999, where such lot or parcel is less than 5 acres in size, up to three (3) TDR Credits may be severed from said lot or parcel, to the owner of each five-acre parcel or legal nonconforming lot of record.~~ This Bonus shall be granted upon the County's acceptance of a Restoration and Management Plan (RMP) that is consistent with a listed species management plan that includes habitat management, the removal of exotics and the maintenance of the land exotic free. The property owner may contract with any of the government agencies or contractors deemed qualified by the County

for implementation of the RMP. The property owner shall provide financial assurance, in the form of a performance surety bond or similar financial security acceptable to the County, that the RMP shall remain in place and be performed until the earlier of a) or b) below ~~the following~~ occurs:

- a) Viable and sustainable ecological and hydrological functionality has been achieved on the property as measured by the success criteria set forth in the RMP.
- b) The property is conveyed to a county, state or federal agency, as provided for in subsection 5 below.
- c) For Sending Lands properties in private ownership located within, or partially within, the Belle Meade Hydrologic Enhancement Overlay (BMHEO), the Environmental Restoration and Maintenance TDR Bonus Credit shall be granted when, within two (2) years of the effective date of this provision: (1) the property owner provides a "Flow-Way Easement" to Collier County; and, (2) the property owner removes the invasive exotic plants from the parcel. The County will assume responsibility for the recording of the easement and the perpetual exotic maintenance of the parcel as a condition of the property owner granting the easement.
- d) Within one year of adoption of these amendments, the County will, if determined appropriate, develop criteria within the LDC to increase the number of eligible TDR Credits from 0.2 up to 0.6 TDR Credits per acre.

LEGAL CONSIDERATIONS: This Staff Report was reviewed by the County Attorney's Office on February 17, 2023. The criteria for GMP amendments to the Future Land Use Element and map series are in Sections 163.3177(1)(f) and 163.3177(6)(a)2 and 163.3177(6)(a)8, Florida Statutes. [HFAC]