



**STAFF REPORT
ENVIRONMENTAL ADVISORY COUNCIL**

TO: ENVIRONMENTAL ADVISORY COUNCIL

FROM: COMMUNITY DEVELOPMENT AND ENVIRONMENTAL SERVICES DIVISION, COMPREHENSIVE PLANNING DEPARTMENT

HEARING DATE: SEPTEMBER 2, 2009

I. NAME OF PETITIONER/PROJECT:

Petition Number: CP-2009-01

Petition Name: PETITION NO. CP-2009-01: PETITION TO AMEND THE GROWTH MANAGEMENT PLAN [GMP] FUTURE LAND USE ELEMENT [FLUE] AND COMPANION FUTURE LAND USE MAP [FLUM] BY CREATING THE "DADE-COLLIER CYPRESS RECREATION AREA DISTRICT" IN THE CONSERVATION DESIGNATION [*TRANSMITTAL HEARING*]

Applicant/Owner: Miami-Dade County
111 NW 1st Street, 29th Floor
Miami, Fl. 33128

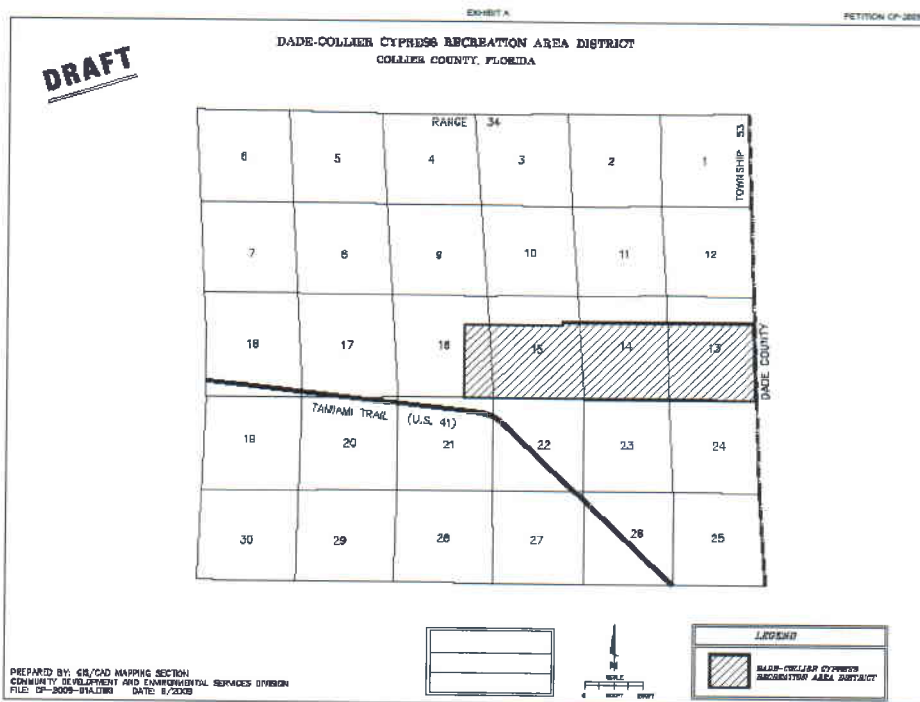
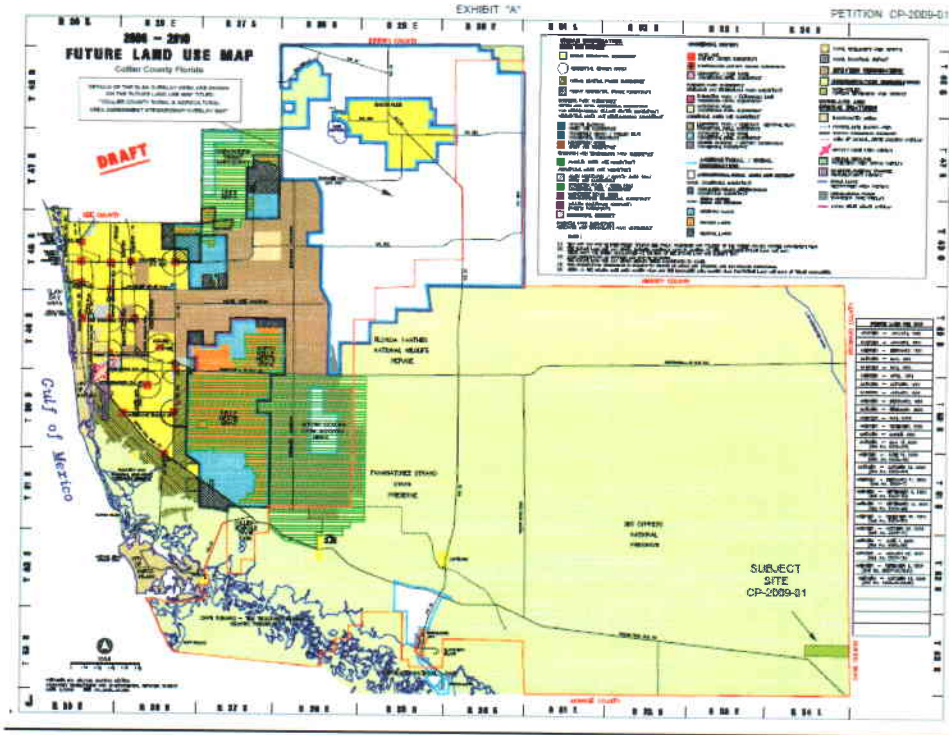
Agent: James A. (Andy) McCall, Park Planner
Miami-Dade County Park and Recreation Department
275 NW 2nd Street, 4th Floor
Miami, Fl. 33128

II. LOCATION:

The property contains approximately 1,608 acres of land located within Sections 13, 14, 15, and 16 of Township 53 South, Range 34 East. It adjoins the Miami/Dade-Collier line north of U.S. Highway 41 and south of the runway of the Dade-Collier Training and Transition Airport and is located within the Big Cypress Area of Critical State Concern (ACSC) as is illustrated below. The following maps

illustrate the location and the proposed amendment to the Future Land Use Map [FLUM].

DRAFT EXHIBIT A [FLUM AMENDMENT]



III. REQUESTED ACTION:

The subject property is designated Conservation on the Countywide Future Land Use Map (FLUM) of the Collier County Growth Management Plan (GMP).

This petition seeks to amend the Future Land Use Element (FLUE) and the FLUM of the GMP to create the "Dade-Collier Cypress Recreation Area District" within the Conservation Designation to allow for a variety of outdoor recreation activities, including trails for the operation of off-highway-vehicles (OHVs)*.

* An OHV is defined in Section 261.03(6) of Florida Statutes as any all terrain vehicle (ATV), or off highway motorcycle (OHM) that is used off the roads or highways of this state and that is not registered and licensed for highway use under Chapter 320 of the Florida Statutes.

IV. PURPOSE/DESCRIPTION OF PROJECT:

The applicant, through its attached application related to CP-2009-01, is requesting approval to establish the "Dade-Collier Cypress Recreation Area District" (District) in the Conservation Designation of the FLUE and to show this District on the FLUM so as to accommodate a future rezone to allow for the development of the District. The applicant proposes the following uses within the proposed new District:

1. visitors' center building – for administrative offices, orientation area, meeting room, and restrooms - not to exceed 2,400 square feet;
2. parking lot limited to a capacity of 80 passenger vehicles and associated trailers;
3. primitive camping;
4. recreational vehicle camping;
5. fishing piers and docks;
6. multi-use trails for pedestrians and bicycles; wildlife viewing platforms and overlooks;
7. archery range;
8. OHV trails; and
9. other uses as allowed in the Conservation Designation.

The existing Conservation Designation allows all of the above listed uses – in context as a passive recreational use or as a component of a conservation or habitat preservation use - with the exception of the proposed OHV usage.

With respect to OHV usage, the applicant indicates on page 5 of 14 of Appendix V.D.5.b (Data and Analysis for the Proposed Uses), intent to limit OHV use to:

- All Terrain Vehicles (ATVs). ATV is defined by Section 261.03 (2), F.S. as follows: (2) "ATV" means any motorized off-highway or all-terrain vehicle 50 inches or less in width, having a dry weight of 1,200 pounds or less, designed to travel on three or more nonhighway tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger."; and

- Motocross vehicles (Off-Highway Motorcycle or OHM). Although not defined in the application or within Section 261.03, F.S., a dictionary definition of "motocross" reads as follows: "cross country racing on motorcycles". OHM is defined in Section 261.03(5), F.S. as follows:
(5) "OHM" or "off-highway motorcycle" means any motor vehicle used off the roads or highways of this state that has a seat or saddle for the use of the rider and is designed to travel with not more than two wheels in contact with the ground, but excludes a tractor or a moped."

V.GROWTH MANAGEMENT PLAN CONSISTENCY:

With respect to *environmental* review of this project, staff has reviewed the data and analysis provided in the application including, but not limited to:

- Appendix V.C.1: FLUCCS Map
- Appendix V.C.2a: Summary Table of Federal and State Plant and Animal Species
- Appendix V.C.2b: Panther Bear Telemetry Map
- Appendix V.D.5b: Data and Analysis for the Proposed Uses
- Appendix V.D.5b.1: Off-Highway Vehicle Trails Feasibility Study
- Appendix V.E.1d: Drainage

Staff further reviewed this application within the context of the directives provided within the Growth Management Plan (GMP) and the Land Development Code (LDC).

Considerations and Appropriateness of Change:

OHV usageexisting and proposed

Existing OHVs limitations. Generally, recreational use of OHVs is presently not allowed in the Conservation Designation except on lands established for conservation/preservation purposes (e.g. state and federal parks, preserves and refuges) for which a management plan has been prepared, and publicly vetted, that includes OHV use as a component. An example would be the Big Cypress National Preserve, which allows all terrain vehicles (ATVs), swamp buggies and airboats within certain areas of the Preserve and subject to restrictions.

Proposed OHVs limitations under this project. OHVs, under this Growth Management Plan Amendment (GMPA), would be allowed as a recreational use limited to the proposed 1,608-acre "Dade-Collier Cypress Recreation Area District" site as outlined in Appendix V.D.5b of the application entitled, "Data and Analysis for the Proposed Uses". Reaching this site would involve an approximate 1 to 2 hour drive for most residents in Lee and Collier Counties.

Other existing or potential nearby OHV parks. In addition to the proposed new District, the following is a status of other competing projects:

- (1) *Lake Trafford de-mucking site*. This approximate 640-acre site is located in the northwest corner of the Immokalee Urban Designated Area. Reaching this site is an approximate 30 to 45 minute drive time for most Lee and Collier County residents. The site is designated Low Residential Subdistrict in the Immokalee Area Master Plan and

the proposed use of this site for OHVs has been publicly vetted. The site was filled in 2005 and 2006 with dredge spoils removed from the bottom of Lake Trafford. South Florida Water Management District (SFWMD) is the current owner. However, a 2003 agreement between Collier County and SFWMD provides that Collier County would become the owner of the site for future use as an OHV park. However, recent soil tests have shown that the Lake Trafford dredge material placed on site is contaminated and the site may not be economically feasible for the intended OHV use. At this time Collier County and SFWMD are attempting to resolve this problem and Collier County is looking at other options to satisfy the OHV park demand. Collier County recently voted to sue the SFWMD because SFWMD has thus far not fulfilled their commitment to the Collier County Board of County Commissioners (BCC) relative to this 640 acre site.

(2) *Redneck Yacht Club in Charlotte County.* This 800-acre privately-owned site is located in Punta Gorda and was made open to the public in January, 2009, as ATV park. A July 26, 2009, Naples Daily News article indicated that this site drew approximately 15,000 guests during Memorial Day weekend. In addition to ATVs, this site also accommodates hundreds of tents, pop-up campers, and recreational vehicles, providing for multi-day guest visits.

According to its website, this is "Florida's Largest Off Road Park" and is for use by swamp buggies, ATV's, trucks and Jeeps. It is open weekends only. This site is estimated to be an approximate 45 minute drive from the Collier-Lee County line at I-75.

Finally, there has historically been unauthorized ATV use on lands now owned by the State of Florida and known as Picayune Strand State Forest. When the State assumed control of these lands, it needed control of the road easements as well. An agreement was reached between the State and the BCC whereby the BCC relinquished the road easements to the State and the State (SFWMD) committed to find a Section of land in Collier County for ATV use. The intent of providing an ATV park facility in Collier County is to provide a legal opportunity for OHV owners to enjoy the use of their vehicles in a safe managed facility.

Proposed National Park Service OHV use in the Big Cypress National Preserve (BCNP). A National Park Service (NPS) Off Road Vehicle (ORV) proposal for the BCNP Addition (147,000 acres of land added to BCNP in 1988) is *indirectly* related to the subject petition in that the BCNP lands surround the subject project site. The draft NPS General Management Plan, currently under public review, is intended to: (1) define how to best protect the 147,000 acres of additional lands; (2) identify appropriate areas for visitor access and facilities; and (3) determine how the NPS will manage its BCNP operations. These lands have been closed to recreational motorized use and hunting since 1996, when the NPS took control of the land. The only public use that has been allowed has been hiking, bicycling and camping, with the exception of motorized boating in the canals and waterways adjacent to SR 29. This NPS General Management Plan would introduce up to 140 miles of ORV trails into the BCNP, which trails also would be available for hiking,

bicycling, and horseback riding. This General Management Plan must be approved by Congress before it becomes effective.

For further information, the "Big Cypress National Preserve Addition, Draft General Management Plan/Wilderness Study/Off-Road Vehicle Management Plan/Environmental Impact Statement" prepared by the NPS, may be viewed in its entirety at the following web site:

<http://parkplanning.nps.gov/document.cfm?parkID=352&projectId=11164&documentID=27329>

Consistency with the Conservation Designation of the FLUE

A portion of the Conservation Designation of the FLUE is provided below (*in italics*) with staff analysis immediately following.

"The overall purpose of the Conservation Designation is to conserve and maintain the natural resources of Collier County and their associated environmental, and recreational and economic benefits. All native habitats possess ecological and physical characteristics that justify attempts to maintain these important natural resources. Barrier Islands, coastal bays, wetlands, and habitat for listed species deserve particular attention because of their ecological value and their sensitivity to perturbation. It is because of this that all proposals for development in the Conservation Designation must be subject to rigorous review to ensure that the impacts of the development do not destroy or unacceptably degrade the inherent functional values.

The Conservation Designation is intended to protect certain vital natural resource areas of the County, which are primarily owned by the public, although private in-holdings and privately owned conservation areas do exist. This Designation includes such areas as Everglades National Park, Big Cypress National Preserve, Florida Panther National Wildlife Refuge, Fakahatchee Strand State Preserve, Collier-Seminole State Park, Rookery Bay National Estuarine Research Reserve, Delnor-Wiggins Pass State Recreation Area, and the National Audubon Society's Corkscrew Swamp Sanctuary (privately owned). The boundaries of the Conservation Designation may periodically change as properties are acquired by public entities or private land management or conservation groups.

Natural resource protection strategies and standards for development in the Conservation Designation are found in the Conservation and Coastal Management Element and the County's Land Development Regulations. The Conservation Designation will accommodate limited residential development and future non-residential uses. The following uses are authorized in this Designation:

*f. **Passive parks, and other passive recreational uses;**"*

Land Development Code (LDC), Section 1.08.02, defines "Passive Recreation" as follows:

***"Passive Recreation:** Activities characterized by a natural resource emphasis and **non-motorized activities.** These activities are deemed to have minimal negative impacts on*

natural resources; or are consistent with preservation, enhancement, restoration and maintenance goals for the purpose of habitat conservation. Examples of passive recreation include, but are not limited to, bird watching and nature study, swimming, picnicking, hiking, fishing and hunting, where appropriate."

Staff emphasizes the LDC words, "non-motorized activities", because the expressed intent of the Conservation Designation and the LDC is to limit recreational activities to **passive non-motorized recreational activities**.

The proposed "Dade-Collier Cypress Recreation Area District" is within and surrounded by an environmentally sensitive area of Collier County designated Conservation on the FLUM and located within the ACSC; is approximately 50 miles from the coastal Urban Designation of the FLUM; and is located a similar distance from the Miami-Dade County and Broward County urbanized areas. A majority of users of the subject site could be expected to come from these urbanized areas, as well as from the Golden Gate Estates and Rural Fringe areas. The proposed OHV use is a departure from the intent of the Conservation Designation, which is the reason for this proposed GMPA. The intent of the Conservation Designation is to, "*conserve and maintain the natural resources of Collier County and their associated environmental, and recreational and economic benefits.*" Specifically, the proposed government-sponsored OHV usage is unlikely to lead to the conservation and maintenance of the natural resources of Collier County. Secondary negative cost and environmental impacts resulting from the development of this District include: the approximate 50+ miles drive (one or more hours of travel time) from the nearest major urban populations; related out-of-pocket travel costs; and environmental impacts generated by the act of driving to this site.

The applicant, in a July 10, 2009 letter immediately following the application cover letter, has addressed Florida House Bill 697, adopted into Florida law in 2008, as it would relate to CP-2009-01. This bill went into effect on July 1, 2008. Some key phrases in the legislation include: "discouragement of urban sprawl"; "greenhouse gas reduction strategies"; "transportation strategies to address reduction in greenhouse gas emissions from the transportation sector". Among other things, it requires certain amendments to the Growth Management Plan (future land use element and map, housing element, transportation element, conservation and coastal management element) which would be initiated by Collier County. However, in the interim (and perhaps beyond), each GMP amendment petition should include data and analysis to demonstrate how it discourages urban sprawl and reduces greenhouse gas emissions. The applicant did not quantify the amount of greenhouse gas (GHG) emissions which might occur because of this project. Rather, the applicant states that the site's location and the limited number of annual visitors will result in a small impact on the creation of GHG. Further, the applicant states that the GHG emissions impact within and near the subject site will be largely offset by the number of lives that are saved by the reduction in the use of dangerous, illegal, and unmanaged recreation sites. Staff finds that the applicant did not adequately address and quantify the impact on GHG emissions which could be expected to be generated from the proposed intensification of use of the subject property. No data and analysis was provided to demonstrate how this project discourages urban sprawl and reduces greenhouse gas

emissions. It is the understanding of staff that DCA will be reviewing GMP amendments for compliance with this legislation.

Further, the Conservation Designation includes private in-holdings and privately owned conservation areas, in addition to the publicly owned lands. The establishment of the "Dade-Collier Cypress Recreation Area District" and related OHV usage may lead to other future private or public petitions for the establishment of other similar uses within the Conservation Designation.

In summary, the introduction of OHV uses into the Conservation Designation will result in:

- additional traffic, both from licensed passenger vehicles and OHVs;
- increased greenhouse gas emissions;
- increased environmental impacts to this environmentally sensitive area; and
- lengthy travel times by users of this site.

In conclusion, this petition is contrary to the intent of the Conservation Designation and may be found inconsistent with the Conservation Designation.

Consistency with the "T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act"

This Act was signed into law in 2002 with the intent to "*create new opportunities for OHV users (specifically ATV and OHM users) while safeguarding the integrity of Florida's natural resources*".

This Act is referenced on page 22 of Appendix V.D.5b.1 of this application entitled Park and Recreation Department Off-Highway Vehicle Trails Feasibility Study for Miami-Dade County; August, 2007 (Study). Page 20 of this Study states that, "*The other sites [other than the subject site] offer potential opportunities for permanent OHV facilities. The Lands East of the Homestead Speedway and the FRS Holdings sites, both located in south Miami-Dade County, share many physical characteristics with the preceding [the subject site] while having fewer environmental constraints, but are less suitable overall because of their ownership composition.*" Based upon staff review of this application and this Study, there is insufficient evidence presented to document that the proposed project will "safeguard the integrity of Florida's natural resources" as is the intent of the Act. Further, this site is the most environmentally sensitive site of the top contending sites analyzed within this Study.

Staff concludes that the potential on-going environmental impacts associated with the subject site, as well as economic and travel time costs associated with traveling to the subject site by potential OHV usage primarily by residents of urbanized Miami-Dade, Broward and Palm Beach Counties, would be lessened by choosing the Homestead Speedway or FRS Holdings site for OHV use.

In summary, the proposed OHV site in Collier County may not be consistent with the intent of the T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act in that this site's use for OHV activities fails to safeguard the integrity of Florida's natural resources by

introducing this more intensive active recreational activity into the Conservation Designation.

Engineering and Environmental Services Department Review Comments

Staff requested a detailed desktop analysis of non-tidal ACSC lands within the Conservation designation as shown on the Future Land Use map as a comparison for why this site is the most feasible for the proposed use and how this site is different from other Conservation designated areas such that the proposed use is appropriate. The applicant has declined to provide staff with this information.

The environmental report prepared by Miller Legg and submitted with this petition, dated July 2009, indicates the following:

- The project site includes mixed wetlands hardwood; dwarf cypress; cypress; cypress/mixed hardwoods; wetland scrub; freshwater marsh, disturbed; exposed rock with marsh grasses; borrow areas; and fill areas. Besides the borrow pits and fill areas, which account for approximately 7 percent of the site, the entire site is wetlands.
- The summary table of listed species known to inhabit the site or similar habitats as found on site indicates that there are thirteen potential state and federal listed animal species and eight potential protected plant species that could be found on or utilizing the site. The site lies within primary panther habitat and the far most western portion lies within primary bear habitat with the remainder of the site lying in secondary bear habitat. A detailed listed species survey will be required at the time of the rezone.

The project site shows disturbance by illegal trespass in the form of numerous OHV trails which cross the property in all directions and also unpermitted camp sites. The applicant proposes to keep or create 15 miles of trails, 5' – 12' in width for OHVs and restore 7 miles of existing trails to their natural condition. The trails would be stabilized. Ten miles of hiking, bicycling and wildlife trails would be retained or created out of an existing trail length of 27 miles.

Some of the trails may be realigned to restore natural sheet flow to the area. However, the drainage plan indicates the perimeter of the property would be bermed, limiting sheet flow across the site from surrounding areas. This plan also indicates the existing borrow pits would be used for storm water management, which will require underground piping and dry retention for pretreatment resulting in further wetland impacts. The stormwater management system will be finalized before the final development plans are approved.

A hydrologist with Big Cypress National Park has indicated the site is flooded most of the year. Approximately the western third and the north half of the site, which is predominately dwarf cypress, is flooded from June through January and the rest of the site is flooded from June through March.

The Florida Fish and Wildlife Commission (FWC) maintains a Wildlife Management Area on and surrounding the site and has submitted preliminary informal comments that have been attached to the staff report, see **Attachment 1**.

The petitioner has not submitted adequate data to support the proposed uses; therefore Engineering & Environmental Services staff cannot support the petition and recommends to not transmit to the Department of Community Affairs.

If the petition is forwarded with a recommendation to transmit, Engineering and Environmental Services Department staff recommends the following changes to the proposed text:

Recommended changes to text on Page 87 of the FLUE: recommended changes in **red underlined** (addition)/~~red-strikethrough~~ (deletion). Staff comments are shown in **bold italics**.

A. Dade-Collier Cypress Recreation Area District

Development within this District, except for trails, may be concentrated on already disturbed area along the western portions of the site, primarily in Section 16. **This District will be exempt from Policy V.A.1.d of the FLU, Section II. Implementation Strategy, in that it will not be required to protect all wetland plants as described by this section. The 10% ACSC site alteration limit will still apply.**

The drainage and storm water management systems for this District ~~may~~ **shall** be designed to be compatible with environmental site assessments, development and mitigation strategies, environmental enhancements and regulatory requirements.

At the time of rezoning, an adaptive comprehensive management plan shall be provided that includes:

1. OHV uses as defined in F.S. 261.03 and 261.20 for operation of OHVs on public land. **OHVs for this site shall be limited to ATVs and motocross vehicles. Swamp buggies are prohibited.**

The applicant has stated in the Neighborhood Information Meeting and the application these limits to OHV use, which should be added to the text.

- ~~12. Deviation to request disturbance to areas impacted by development in the ACSC where unavoidable up to a maximum of 10% of the subject site area.~~

This section is not necessary. 10% site alteration is already allowed, and compliance will be demonstrated as stated in #11.

VI. NEIGHBORHOOD INFORMATION MEETING (NIM) NOTES:

The NIM, as required by LDC Section 10.03.05, was conducted on August 3, 2009 at the Oasis Visitor's Center – Big Cypress National Preserve after the agent/applicant duly

noticed and advertised the meeting. A total of 13 people attended this NIM and the following is a synopsis of this NIM:

[Synopsis prepared by Thomas Greenwood, AICP, Principal Planner]

- Remarks, concerns, and questions vetted:
 1. The question of being able to access adequate medical attention was responded to by stating that the availability of cell phones, 800 mhz radios and medical kits on-site will allow timely access to medical attention. It was stated that the Ochopee fire station response time to the subject site is approximately 30 minutes.
- Major issues/contentions: none
- Positive comments/approvals:
 1. The location of this park and its remoteness from emergency services is superior to being in the middle of the Big Cypress National Preserve.
 2. A person stated that he is not an "OHV guy" but supports the other proposed uses of the site.
- Agent/applicant/developer statements of commitment:
 1. OHVs will be limited to ATVs and motocross. Swamp buggies will not be allowed.
 2. The park will be closed during dry and wet seasons.
 3. Approximately one half of the existing OHV trails will be removed and the remaining trails will be hardened for use for OHVs, hikers, and bicyclists and only about 1/10 of 1% of the 1,608-acre site will be devoted to trails.
 4. Collier County and Miami-Dade County have each approved resolutions indicating an interest in developing this site as a park for OHV use in order to reduce the amount of OHV trespassing, loss of life, wildfires and damage to natural and agricultural areas and as a functional replacement for the 2005 closure of the Picayune Strand which was previously used by OHV riders.
 5. Users of the OHV trails will need to show proof of OHV registration with the State of Florida and pay a fee.
 6. The old trails, not proposed for use, will be removed before the OHV trails are open for public use.

VII. RECOMMENDATIONS:

Staff recommends that the Environmental Advisory Council forward Petition No. CP-2009-1 to the Board of Collier County Commissioners with a recommendation not to transmit this petition to the Florida Department of Community Affairs.

PREPARED BY:



THOMAS GREENWOOD, AICP, PRINCIPAL PLANNER
COMPREHENSIVE PLANNING DEPARTMENT



DATE

REVIEWED BY:



DAVID WEEKS, AICP, PLANNING MANAGER
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8-7-09

DATE



LAURA ROYS, SENIOR ENVIRONMENTAL SPECIALIST
ENGINEERING AND ENVIRONMENTAL SERVICES DEPARTMENT

8-10-09

DATE



SUSAN MASON, PRINCIPAL ENVIRONMENTAL SPECIALIST
ENGINEERING AND ENVIRONMENTAL SERVICES DEPARTMENT

8-10-09

DATE

APPROVED BY:



JOSEPH K. SCHMITT, ADMINISTRATOR
COMMUNITY DEVELOPMENT AND ENVIRONMENTAL
SERVICES DIVISION

8/10/09

DATE

EAC Staff Report CP-2009-01 Dade-Collier Cypress Recreation Area District
G: Comprehensive/Comp. Planning GMP DATA/Comp. Plan Amendments/2009 Petitions/CP-2009-01, EAC docs
TG 9-2-09 meeting.

ATTACHMENT 1

Note: The following comments were received by email to staff.

Please note that FFWCC is a partner with property owner and Jetport Conservation and Recreation Club, and we support both historical and future appropriate recreation and conservation of the Jetport area.

Please note that at this time we are interested in what is proposed, and can provide specific comment(s) when more information becomes available. In the interim, some potential issues fish, wildlife and recreation might include:

PLEASE NOTE THAT THESE ARE ONLY PRELIMINARY THOUGHTS AND NOT FORMAL COMMENTS

- Traditionally, hunting within the proposed recreation area was limited and occurred mainly north of the airport, but impacts to recreational hunting and wildlife habitat might occur from increased disturbance (i.e. vehicle/human activity) in the project area. In particular, deer and snipe hunting, as well as wading bird, black bear and panther foraging.
- Soils in the Jetport area are very shallow/sensitive to disturbance, and the stability of proposed trail system is of concern due to potential for increased erosion and loss of wildlife habitat.
- Our office partner with the Jetport Conservation and Recreation Club on a number of natural resource management projects such as exotic plant control, and there is concern that increased activity in the area might increase the spread of exotic plants and animals in the area.
- The Jetport area is a remote location with numerous existing trails north of the proposed recreation area without gates or fences restricting access, and there is concern that people will not stay within designated areas.
- Big Cypress Preserve issue permits to use off-road vehicles within the area, and there is concern that people will enter BCP without appropriate authorization.

Please keep our office in mind during further outreach and consultation.

Thanks,
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