

## EXECUTIVE SUMMARY

### **Public Hearing for the 2007-2008 Combined Cycles of Growth Management Plan Amendments, including one 2009 Cycle Petition. (*Adoption Hearing*)**

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#### **OBJECTIVE:**

For the Board of County Commissioners to review the 2007-2008 combined cycles of amendments to the Collier County Growth Management Plan (GMP) and consider approving (adopting) said amendments for their transmittal to the Florida Department of Community Affairs.

#### **CONSIDERATIONS:**

- Chapter 163, F.S., provides for an amendment process for a local government's adopted Growth Management Plan.
- Resolution 97-431, as amended, provides for a public petition process to amend the Collier County GMP.
- For this Adoption hearing, the 2007-2008 combined cycles of GMP amendments now consist of five petitions - four private sector petitions and one County-initiated petition.
- The Environmental Advisory Council held their transmittal hearing, for petitions CP-2008-4 and CP-2009-1 only, on September 2, 2009. The Collier County Planning Commission (CCPC), sitting as the "local planning agency" under Chapter 163.3174, F.S., held their transmittal hearings on October 19 and 20, 2009. The BCC held their transmittal hearing on January 19, 2010. The Transmittal hearing recommendations of Staff, CCPC and BCC are contained in the CCPC adoption hearing Staff Reports.
- The Objections, Recommendations and Comments (ORC) Report from the Florida Department of Community Affairs (DCA), dated April 5, 2010, contained Objections and Recommendations regarding three of the private sector petitions: CP-2008-2, CP-2008-4 and CP-2009-1. The ORC Report is contained in the back-up materials.
- Each petitioner's response to the ORC Report is contained in the back-up materials, immediately in front of each of the three respective petitions.
- Three of the petitions have been modified by the petitioner since being heard at BCC transmittal hearings (CP-2007-3; CP-2008-2, partly in response to the ORC Report; and, CP-2009-1, in response to the ORC Report), as noted herein.
- This adoption hearing considers amendments to the following Elements of the Plan:
  - ◊ Future Land Use Element (FLUE) and Future Land Use Map and Map Series; and
  - ◊ Golden Gate Area Master Plan (GGAMP) and Future Land Use Map and Map Series.
- At Transmittal hearing, Commissioner Fiala requested staff provide a map identifying approved and pending GMPA petitions. A map and accompanying spreadsheet are *attached* which identify all approved and pending petitions since the last Evaluation and Appraisal Report (EAR)-based GMP amendments were adopted in January 2007 (2005-2010 GMP amendment cycle petitions).

**LEGAL CONSIDERATIONS:**

This Executive Summary and GMP amendment ordinances have been reviewed by the County Attorney's office for legal sufficiency. - HFAC

**FISCAL IMPACT:**

There is some fiscal impact to Collier County as a result of the County-initiated petition CPSP-2008-7 as it will require preparation of a subsequent GMP amendment following adoption of the next Evaluation and Appraisal Report, in early 2011. However, that cost is for existing, budgeted staff time. There are no fiscal impacts to Collier County as a result of the four private sector amendments to the Growth Management Plan in that implementation of these amendments will occur through subsequent development orders (Rezone or Conditional Use, Site Development Plan, building permits, etc.) for which review fees are paid by the petitioner. The exception is if any petition is found to be not "in compliance" with state statutes by DCA or is found to be "in compliance" but that determination is challenged (see Growth Management Impact, below). In either of those instances, Collier County may incur expenses to engage in settlement negotiations and/or to prepare for and participate in an Administrative Hearing before an Administrative Law Judge.

**GROWTH MANAGEMENT IMPACT:**

This is an adoption public hearing for the 2007-2008 combined cycles of amendments to the Collier County Growth Management Plan. The DCA will have 45 days to review the adopted Plan amendments for compliance with Chapter 163, F.S. and Rule 9J-5 F.A.C., and to file a "Notice of Intent" to find the amendments "in compliance" or not "in compliance." If determined to be "in compliance" and a timely challenge to that determination is not filed by an affected party within 21 days, then the amendments will become effective.

**ENVIRONMENTAL ISSUES:**

All four private sector amendments to the Growth Management Plan would increase allowable development intensity. For two of those four petitions, no listed plant and/or animal species have been observed or are known to be on the sites, and those sites do not contain jurisdictional wetlands. For the other two private sector amendments (petitions CP-2008-4 and CP-2009-1), listed plant or animal species have been observed or are known to be on the sites and both contain jurisdictional wetlands. As part of the process of obtaining subsequent development orders (e.g. rezone and/or conditional use, site development plan), the sites will be subject to all applicable local, state and federal environmental protection regulations, including applicable portions of the Conservation and Coastal Management Element of the GMP, and the Land Development Code.

**HISTORICAL/ARCHAEOLOGICAL IMPACT:**

None of these amendment sites are known to contain lands identified as having historical or archaeological importance. During review of subsequent development orders, all of these petition sites will be subject to all applicable local, state and federal historical and archaeological protection regulations.

**COMPREHENSIVE PLANNING STAFF RECOMMENDATION:**

The Staff recommendation follows each individual petition listed below.

**ENVIRONMENTAL ADVISORY COUNCIL (EAC) RECOMMENDATION:**

The EAC held its Adoption hearing on June 2, 2010 (petitions CP-2008-4 and CP-2009-1 only); their respective recommendations follow those two individual petitions listed below.

**COLLIER COUNTY PLANNING COMMISSION (CCPC) RECOMMENDATION:**

The Collier County Planning Commission held its required Adoption public hearing on June 15 and 17, 2010. The CCPC recommendation follows each individual petition listed below.

- 1. PETITION CP-2007-3**, Petition requesting an amendment to the Golden Gate Area Master Plan and Golden Gate Area Master Plan Future Land Use Map and Map Series, to create the Mission Subdistrict to allow church and related uses, including schools, adult care and child care, and community outreach, with a maximum of 90,000 square feet of total development, for property located on the south side of Oil Well Road (CR 858), 1/4 mile west of Everglades Boulevard, in Section 19, Township 48 South, Range 28 East, consisting of ±21.72 acres. [Coordinator: David Weeks, AICP, GMP Manager]

**Staff Recommendation:** That the CCPC forward petition CP-2007-3 to the BCC with a recommendation not to adopt.

**CCPC Recommendation:** That the BCC adopt petition CP-2007-3, as revised by petitioner since Transmittal hearings (vote: 8/0) to clarify building height as zoned height, and to increase allowable height for the worship center. The CCPC-recommended text is reflected in Ordinance Exhibit A for this petition.

There were no speakers.

- 2. PETITION CP-2008-2**, Petition requesting an amendment to the Golden Gate Area Master Plan and Golden Gate Area Master Plan Future Land Use Map and Map Series, to expand and modify the Randall Boulevard Commercial Subdistrict to allow an additional 370,950 square feet of commercial uses of the C-4 zoning district, with exceptions, for property located on the south side of Randall Boulevard, extending from 8<sup>th</sup> Street Northeast west to the canal on the west side of the Big Corkscrew Island Fire Station, in Sections 26 and 27, Township 48 South, Range 27 East, consisting of ±56.5 acres. [Coordinator: Michele Mosca, AICP, Principal Planner]

Subsequent to Transmittal hearings, the petitioner revised the petition text to: (a) reflect the withdrawal of Tract 71 (owner of Tract 71 withdrew from this petition) so as to leave it as presently approved (it is within the existing Randall Boulevard Commercial Subdistrict, is zoned Randall Boulevard Center PUD, is approved for a specific list of about 13 uses, and is developed with a convenience mart with gas pumps); (b) reduce proposed commercial square feet to correlate with Tract 71 withdrawal; (c) add a project phasing requirement; (d) add a requirement that a grocery store (minimum of 35,000 s.f.) be constructed within the first 100,000 s.f. of

development; and, (e) include a companion draft Developer Contribution Agreement (DCA) addressing transportation mitigation requirements.

**Staff Recommendation:** That the CCPC forward petition CP-2008-2 to the BCC with a recommendation not to adopt. Alternatively, staff offered changes to the petitioner's revised text to: (a) further clarify allowed building square feet without changing that proposed in the overall subdistrict; (b) correct a date reference; (c) correct an SIC Code reference number; (d) add requirement for a unified architectural theme; and, (d) modify the DCA.

**CCPC Recommendation:** That the BCC adopt petition CP-2008-2, per staff's alternative language, and subject to the below transportation mitigation language for paragraph f.7. (vote: 8/0). The CCPC-recommended text is reflected in Ordinance Exhibit A for this petition.

7. Excluding the commercial zoning on Tract 71 and the existing approved commercial zoning on the east one-half of Tract 54, any additional development in the Subdistrict shall be developed in phases. Phase I shall be limited to 100,000 square feet of gross leasable floor area. Subsequent phases shall not receive building permits until the Randall Boulevard/Immokalee Road intersection project, including the widening of the segment of Randall Boulevard abutting the Subdistrict, as shown on Exhibit "A" of the Developer Contribution Agreement adopted July 28, 2010 by the Board of County Commissioners, has commenced. No Certificates of Occupancy shall be issued for subsequent development phases until the Randall Boulevard/Immokalee Road intersection project is substantially complete.

There were three public speakers, all in support of this petition.

**Post-CCPC Action:** Subsequent to the CCPC hearing, the petitioner submitted an addition to the transportation stipulation to include flexibility in the event that alternative mitigation is available in the future or no further mitigation is needed. That addition is shown below. Staff has no objection to this added text.

7. Excluding the commercial zoning on Tract 71 and the existing approved commercial zoning on the east one-half of Tract 54, any additional commercial development in the Subdistrict shall be developed in phases. Phase I shall be limited to 100,000 square feet of gross leasable floor area. Subsequent phases shall not receive building permits until the Randall Boulevard/Immokalee Road intersection project, including the widening of the segment of Randall Boulevard abutting the Subdistrict, as shown on Exhibit "A" as contained within of the Developer Contribution Agreement adopted July 28, 2010 by the Board of County Commissioners, has commenced. No Certificates of Occupancy shall be issued for subsequent development phases until the Randall Boulevard/Immokalee Road intersection project is substantially complete. Neither the building permits limitations nor the Certificates of Occupancy limitations shall apply if satisfactory alternative mitigation is approved by the Board of County Commissioners pursuant to Transportation Element Policy 5.1, or if traffic conditions change in such a manner that adequate capacity is available.

[Words with no underline are as recommended for Adoption by CCPC; words underlined are added by petitioner post-CCPC hearing.]

Subsequent to Transmittal hearings, the owner of Tract 71 (site zoned Randall Blvd. Center PUD and containing a convenience mart with gas pumps) formally withdrew from participation in this petition. Accordingly, the applicant modified the proposed subdistrict text to provide for the same list of uses presently listed in the existing subdistrict.

On April 14, 2009, the BCC heard and approved an Appeal of a Zoning Verification Letter pertaining to this existing subdistrict resulting in the subdistrict being allowed all uses of the C-2, Commercial Convenience, zoning district. Staff suggests the list of uses for Tract 71 should be replaced with reference to the C-2 district uses so as to reflect that prior BCC action. Doing so would not grant that property owner any development rights not presently existing.

However, staff notes that approval of this petition as requested by petitioner (for all other properties in the existing and expanded subdistrict) would result in Tract 71 being bounded on both sides by property eligible for C-4 uses. This would create some concerns regarding potential incompatibility and preclusion of future aggregation and development due to the disparity in allowed uses. Allowing the same uses on Tract 71 as in the rest of the subdistrict (most C-4 uses) would eliminate those concerns. But, doing so would grant additional development rights to the owner of Tract 71 which could potentially increase the value of Tract 71. If additional portion(s) of Tract 71 is needed for future road widening, intersection improvements and/or provision of utilities, then the County could potentially have to pay a higher cost to obtain the needed portion(s) of Tract 71.

Should the BCC approve this petition, staff recommends Tract 71 be allowed the same uses as allowed elsewhere the Subdistrict.

**3. PETITION CP-2008-4**, Petition requesting an amendment to the Future Land Use Element and Future Land Use Map and Map Series, to re-designate from Rural Fringe Mixed-Use District (RFMUD) Sending Lands to Neutral Lands property located on the east and south sides of Washburn Avenue, east of the Naples landfill, in Section 31, Township 49 South, Range 27 East, consisting of ±28.76 acres. [Coordinator: Corby Schmidt, AICP, Principal Planner]

**Staff Recommendation:**

That the CCPC forward petition CP-2008-4 to the BCC with a recommendation to retain the existing designation as RFMUD Sending Lands but to add a text provision allowing the one proposed use subject to conditional use approval.

This petition was approved for Transmittal to re-designate the property to RFMUD Neutral Lands. However, in response to the ORC Report and subsequent discussion with DCA, staff no longer supports the re-designation of the property, rather supports it remaining as RFMUD Sending Lands but with a text change to add the one proposed use as an allowed conditional use. The basis for change in staff position is as follows:

- a. DCA verbally indicated support of this position whereas the ORC Report contains an Objection to the re-designation;
- b. this text exception will avoid creation of a hole-in-the-donut or Swiss cheese on the FLUM (small site designated Neutral Lands that is completely surrounded by Sending

Lands), a concept consistently endorsed by staff and hearing bodies since the time of the Rural Fringe GMP Amendments in 2001-2002.

- c. a similar text exception already exists in the Sending Lands for Collier County property in Section 25, adjacent to the north of the landfill, for [some] uses complementary to the landfill;
- d. the subject site is also adjacent to the landfill and the proposed use is complementary to the landfill;
- e. the subject site contains a pre-existing use, a use also complementary to the landfill;
- f. this exception is specific to the subject site only;
- g. no additional clearing is allowed; and,
- h. data and analysis demonstrated (in staff's opinion) that the site doesn't warrant Sending Lands designation.

**CCPC Recommendation:** That the BCC adopt petition CP-2008-4 per staff recommendation and as the text was revised at the CCPC hearing for clarity (vote: 8/0). The CCPC-recommended text is reflected in Ordinance Exhibit A for this petition, and is also listed below.

8. Conditional Uses:

- a) The following uses are conditionally permitted subject to approval through a public hearing process:

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(5) Facilities for resource recovery and for the collection, transfer, processing and reduction of solid waste, for a ±29 acre property located within the southwest quarter of the southwest quarter of Section 31, Township 49S, Range 27E, provided previously cleared or disturbed areas are utilized so as to avoid impacts to native habitats and to protect existing conservation easement areas from new or expanding uses. This shall not be interpreted to allow for the establishment or expansion of facilities for landfilling, dryfilling, incinerating, or other method of onsite solid waste disposal.

There was one public speaker in support of the revised petition.

- 4. **PETITION CPSP-2008-7**, Staff Petition requesting an amendment to the Future Land Use Element to add a new Policy 4.11 pertaining to aligning planning time frames in the GMP. [Coordinator: David Weeks, AICP, Planning Manager]

**Staff Recommendation:** That the CCPC forward petition CPSP-2008-7 to the BCC with a recommendation to adopt as transmitted.

**CCPC Recommendation:** That the BCC adopt petition CPSP-2008-7 as approved for Transmittal by BCC (vote: 8/0), which is reflected in Ordinance Exhibit A for this petition.

There were no public speakers.

- 5. **PETITION CP-2009-1**, Petition requesting an amendment to the Future Land Use Element and Future Land Use Map and Map Series (FLUE/FLUM), to create the Dade-Collier Cypress Recreation Area District within the Conservation Designation, for property located

along the Miami-Dade/Collier County border, in Sections 13, 14, 15 & 16, Township 53 South, Range 34 East, consisting of 1,608± acres. [Coordinator: David Weeks, AICP, GMP Planning Manager]

**Staff Recommendation:** That the CCPC forward petition CP-2009-1 to the BCC with a recommendation not to adopt.

**CCPC Recommendation:** That the BCC not adopt petition CP-2009-1 (vote: 8/0). The text approved for Transmittal by the BCC is reflected in Ordinance Exhibit A for this petition.

There were three public speakers, all in opposition to this petition.

**STAFF RECOMMENDATION:**

Staff recommendations for the 2007-2008 combined cycles of Growth Management Plan amendments, including one 2009 cycle petition, are as reflected above following each petition.

**CCPC RECOMMENDATION:**

The Collier County Planning Commission held their required public hearing on June 15 and 17, 2010. The CCPC forwarded the 2007-2008 combined cycles of Growth Management Plan amendments, including one 2009 cycle petition, to the Board of County Commissioners with recommendations as reflected above following each petition.

**PREPARED BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
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**REVIEWED BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
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