

RURAL FRINGE MIXED USE DISTRICT

STATEMENT OF ISSUE

The Rural Fringe Mixed Use District (RFMUD) is the Future Land Use Element Sub-District which was adopted in 2002 through Ordinance 02-32, as a result of Final Order – ACC-99-002.

ISSUE BACKGROUND

ACC-99-002 was issued by the State due to the County's GMP being found to lack regulatory protection for environmentally sensitive property, not adequately discouraging urban sprawl and preventing the premature conversion of agricultural land. The Final Order required the following modifications to the GMP to address the issues within three specified areas:

1. Identify and propose measures to protect prime agricultural areas.
2. Direct incompatible uses away from wetlands and upland habitat in order to protect water quality and quantity and maintain the natural water regime as well as to protect listed animal species and their habitats.
3. Assess the growth potential of the Area by assessing the potential conversion of rural lands to other uses, in appropriate locations, while discouraging urban sprawl, directing incompatible land uses away from critical habitat and encouraging development that utilizes creative land use planning techniques including, but not limited to, public and private schools, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions and mixed use development.

The Rural Fringe Mixed Use District was designed to address the above specified areas of concern. The District, as identified on Future Land Use Map, consists of approximately 93,600 acres. Significant portions of the District are adjacent to the urbanized area as well as the semi-rural, rapidly developing; large-lot North Golden Gate Estates platted lands. Agricultural land uses within the Rural Fringe Mixed Use District do not represent a significant portion of the County's active agricultural lands.

The Rural Fringe Mixed Use District provides a transition between the Urban and Estates Designated lands and between the Urban and Rural Lands Stewardship Area (RLSA) and Conservation designated lands farther to the east. As of June 2002, the Rural Fringe Mixed Use District consisted of more than 5,550 tax parcels, and included at least 3,835 separate and distinct property owners. Alternative land use strategies were developed for the Rural Fringe Mixed Use District, in part, to consider these existing ownership patterns. The Rural Fringe Mixed Use District employs a balanced approach, including both regulations and incentives, to protect natural resources and private property rights, providing for large areas of open space, and allowing, in designated areas, appropriate types, density and intensity of development. The Rural Fringe Mixed Use District allows for a mixture of urban and rural levels of service, including limited extension of central water and sewer, schools, recreational facilities, commercial uses and essential services deemed necessary to serve the residents of the District.

The Rural Fringe Mixed Use District is separated into three specific areas, Sending Lands, Neutral Lands, and Receiving 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. The permitted uses within the Sending Lands are limited to a narrow list of permitted and conditional uses and the regulations allow residential density at a maximum density of one dwelling unit per 40 acres or one dwelling unit per lot or parcel of less than 40 acres, which existed on

or before June 22, 1999 (lots <5 acres which existed as of October 15, 1974 or January 5, 1982, depending upon location).

Neutral Lands have been identified for limited semi-rural residential development. Available data indicates that Neutral Lands have a higher ratio of native vegetation, and thus higher habitat values, than lands designated as Receiving Lands, but these values do not approach those of Sending Lands. Therefore, these lands are appropriate for limited development, if such development is directed away from existing native vegetation and habitat. A lower maximum gross density is prescribed for Neutral Lands when compared to Receiving Lands. Additionally, certain other uses permitted within Receiving Lands are not authorized in Neutral Lands and the area allows a maximum density of 1 dwelling unit per 5 gross acres (0.2 units per acre). The density allotted to the area prior to the adoption of the

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 the Receiving Lands the base residential density allowable 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, with a minimum project size of 40 contiguous acres. This maximum density is exclusive of the Density Blending provisions.

The Rural Fringe Mixed Use District, as noted, has been regulatory constructed to steer development away from environmentally valuable land and to the areas designated Receiving Lands. The areas designated Receiving will be the areas which will require the greatest outlay for infrastructure improvements. Within each of the four Receiving areas, the FLUE allows the development of a single Rural Village, which by regulation must be located where public infrastructure exists or is planned, and shall have direct access to a roadway classified by Collier County as an arterial or collector roadway, or access to the Village may be via new collector roadway directly accessing an existing arterial, the cost of which shall be borne entirely by the developer. Additionally, a Rural Village may only be approved after demonstration that the Village will be fiscally neutral or positive to county taxpayers outside of the Village. These provisions of the regulations attempt to ensure that the highest intensity development allowed by the Rural Fringe Mixed Use District will have in place or identified the means for funding the capital improvements necessary in maintaining the Level of Service (LOS) required by the GMP. The 2005 Residential Build-Out Study anticipated a total of 57,644 people or 19,433 dwelling units for the RFMUD. The Collier Interactive Growth Model (CIGM) projects a total of 34,837 people or 11,769 dwelling units. The population or either projection will require extensive infrastructure to satisfy the demands of the anticipated population. The regulatory component of within the FLUE provides for a means in which the most intense development allowed within this District, Rural Villages, are required to provide the funding for the capital improvements necessary to maintain the County required adopted level of service for public facilities and services.

Comprehensive Plan Implementation & Program Assessment

As noted the RMUD was established based on the principal of preserving environmentally sensitive lands, discouraging urban sprawl, promoting mixed use, protecting listed species and their habitats,

while respecting the property rights inherent to the property owners within the sub-district. The assessment on the following page provides for analysis to better determine if the goals and objectives of the RFMUD are being met.

TRANSFER OF DEVELOPMENT RIGHTS TO DATE – FY2003-2010

	<u>Processed</u>	<u>Pending Process</u>	<u>Total Acres</u>
Number of Acres enrolled in TDR Program	<u>3,520.00</u>	<u>95.00</u>	<u>3,615.00</u>
Number of Base TDR Credits	722.00	20.00	742.00
Number of Bonus TDR Credits	722.00	20.00	742.00
Number of R&M TDR Credits	290.00	17.00	307.00
Number of Conveyance Credits	220.00	17.00	228.00
Total Credits in Program:	<u>1,954.00</u>	<u>74.00</u>	<u>2,019.00</u>
Total Credits Redeemed:			300.00
TDR CREDITS YET TO BE REDEEMED:			<u>1,719.00</u>

TRANSFER OF DEVELOPMENT RIGHTS- POTENTIAL

	<u>Unprocessed</u>
Potential Number of Acres TOTAL	<u>17,002.00</u>
Potential Number of Base Credits	3,448.00
Potential Number of Bonus Credits	3,448.00
Potential Number of R&M Credits	3,448.00
Potential Number of Conveyance Credits	3,448.00
POTENTIAL CREDITS TOTAL	<u>13,800.00</u>

All of the above have been rounded to the next highest figure

There are a total of 20,617 acres which are designated sending that have been designate eligible to sever their development right. It should be noted that this acreage does not include all designated sending lands due to those lands being in public ownership and not eligible for the TDR program. Of the 20,617 acres, 17.5 percent or 3,615 acres have had or are in the process of having their TDR's separated through voluntary participation in the program. Based upon the above estimates there are potentially 15,819 TDR's, of which 12.7 percent or 2,019 TDR's have been generated through participation in the program. Of the 2,019 TDR's which have been generated to date, 300 TDR's or 14.8 percent of the TDR's generated have been redeemed. The TDR program became effective, due to legal challenges in 2003, so the program has been in existence for less than seven years, with

participation in the three mentioned areas all within the 12 to 18 percent participation range. Based upon the information available regarding existing TDR programs, the Collier TDR program can be viewed as active and achieving the stated purpose. In a November 30, 2004 memorandum from Dr. James Nicholas to Marti Chumbler regarding the proposed additional TDR credits being proposed at the time. Dr. Nicholas references two of the more successful programs in the county, Montgomery County Maryland and New Jersey Pinelands. Both programs are approaching 25 years and for the Montgomery County program 60 percent of possible TDR's have been severed and for Pinelands, just fewer than 50 percent of lands have participated. If the Collier program was extrapolated on a straight line based upon the fact that 12.7 percent of the total potential TDR's have been created, extending out 25 years or 3.5 times the current length of the Collier program, the participation rate would be 7,210 TDR's generated or 45 percent of the total 15,819 potential TDR's. This participation rate would place Collier's program along side of the Pinewoods program, but behind the Montgomery County program, but a successful program based upon the matrix established.

The following assessment attempts to evaluate the RFMUD regarding the number of TDR's and the acreage designated Receiving.

Four Receiving Areas TDR expenditure characteristics

Non Village

Maximum density 1 unit per acre when utilizing TDR's

Minimum 40 acres need 32 TDR's to enable.

Village

3 Allowed at maximum 1,500 acres @ 3 max DU per acre

1 Allowed at maximum 2,500 acres @ 3 max DU per acre

Total 7,000 acres @ 3 DU per acre – Maximum 21,000 DU

1,400 DU associated with Base Density

7,000 TDRs to enable 14,000 DUs based on Rural Village Bonus Credit Provision

Sub-total 7,000 TDRs used to enable 15,400 DU's

5,600 Additional TDRs need to enable maximum density

Estimated that a total of 12,600 TDRs needed to enable maximum density and size for allowed Rural Villages*

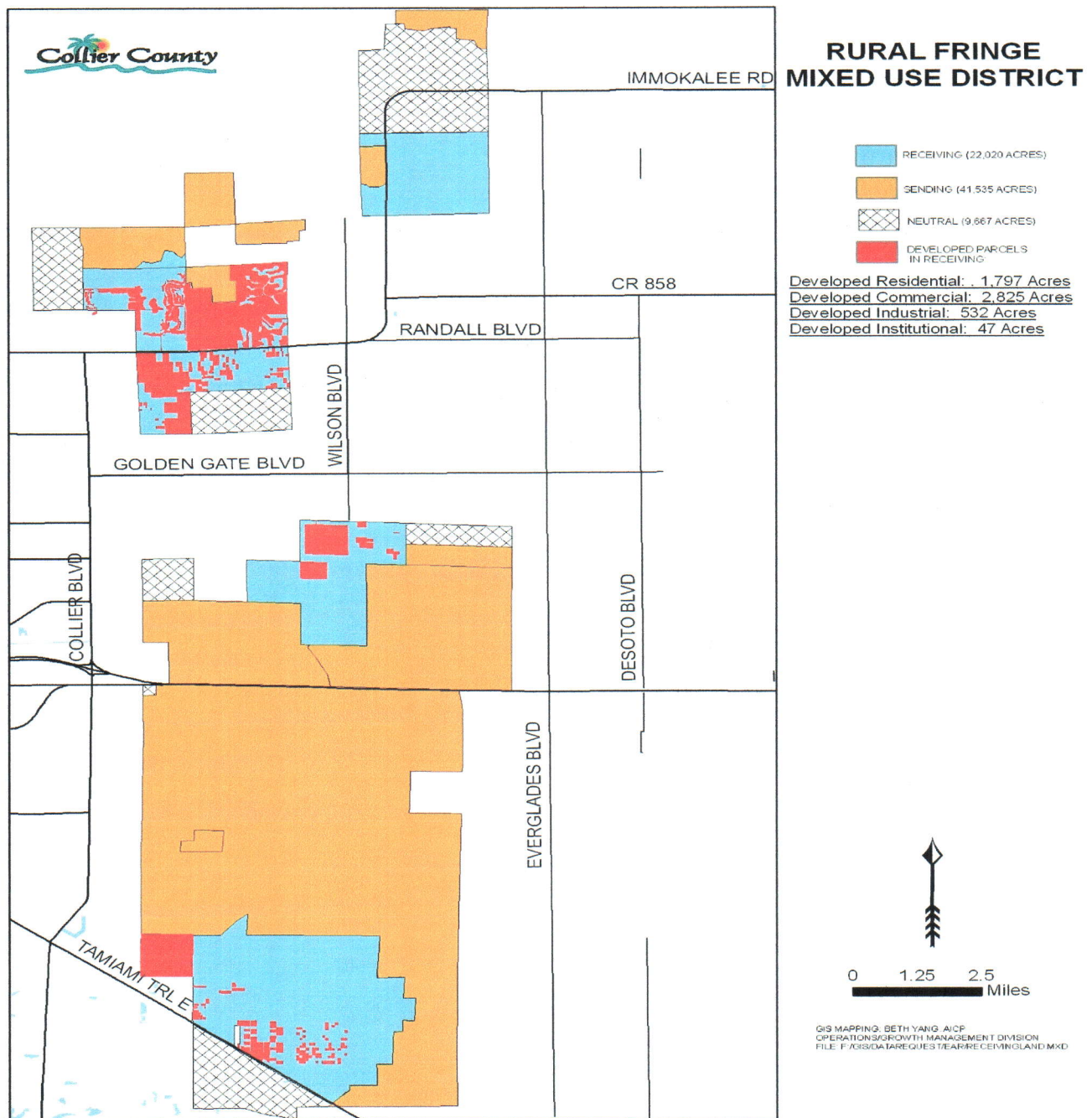
*number of TDRs needed will be decreased slightly by density associated (1 DU per 5 acres) with required greenbelt encompassing village.

Total receiving Land	- 22,020 acres	Potential TDRs	-15,809
Less developed land	- 5,201	TDRs for Max Village	-12,600
Less acres of potential Village	- 7,000		
Remaining Acres	- 9,819	Remaining Potential TDRs	-3,209

Remaining 3,209 TDRs could enable 4,011 acres of additional receiving land @ 1 DU per acre.

Total - 5,808 acres of receiving land could not participate in the program due to full expenditure of potential TDR credits.

From the above analysis, it can be determined that there are an adequate number of TDR's potentially in the system to enable the 74% of the eligible receive lands. It should be noted that the program was not designed for 100% participation. Additionally, 5,201 acres of receiving land is currently developed with residential, commercial, industrial and institutional uses (see map on the following page). With these two additional data sets considered within the evaluation it can be concluded that there is a sufficient number of TDR's and potential TDR's within the program.



[illegible]

The TDR Program Activity map, particularly for the South Belle Meade area, shows how the program is furthering the state and local effort to protect the designated sending lands, which in the case of the South Belle Meade area forms a natural extension of the Picayune Strand State Forest. The Public owned land is shown in green. The conclusion from the RFMUD analysis is that the program has been effective in accomplishing the specified goals of the sub-district, as well as the Final Order, which promoted the creation of the RFMUD. This assessment does not align with the public comments received at the public participation meetings held in early 2010. Those comments are provided for below.

- *Adjustment to Transfer of Development Rights (2005) program not producing desired result. Wholesale comment on Overlay*
- *Application process for severances & transfers not fair to all receiving agencies. Land Development Code*
- *Need more specifics of Land Management Plan required for TDR credit No.3. Cost associated with severance process prohibited. Land Development Code*
- *The County should develop a unified LMP for area. Future Land Use Element – Rural Fringe Mixed Use District Overlay*
- *County should be studying ideas for TDR's to be applied beyond RFMUD. Future Land Use Element – Rural Fringe Mixed Use District Overlay-Additional TDR Provisions*
- *County should be studying ideas to have a TDR education program. Programmatic*
- *TDR's should be open to be used in Urban Area. Future Land Use Element – Rural Fringe Mixed Use District Overlay-Additional TDR Provisions*
- *Look at Marion County TDR Program. Informational*
- *Don't use Golden Gate Estates as thru-way for access to the coast. Observational.*
- *Don't build roads in advance of development and population. Observational.*
- *TDR program is inefficient. Observational.*
- *TDR program doesn't incent transfers sufficiently for developers. Future Land Use Element (FLUE) RFMUD.*
- *Envisioned market for TDR's is non-existent (don't sell) Observational.*
- *Further incent transfers into urban infill (clause is unclear and needs to be expanded). Future Land Use Element (FLUE) RFMUD.*
- *Provide further incentives from sending to receiving. Future Land Use Element (FLUE) RFMUD.*
- *Rural villages envisioned within receiving areas don't provide sufficient commercial capacity. Observational.*
- *Design and criteria for commercial locations within the villages isolate them from major transportation corridors (making them not viable) Future Land Use Element (FLUE) RFMUD.*
- *No new high speed (> 36 mph) roads built in RLSA and Rural Fringe Sending Areas (low speed essential for wildlife preservation) Observational*
- *RLSA and RFMUD need to be compatible with Golden Gate Master Plan. Observational.*
- *When RFMUD was created, land use restrictions eliminated functionality of Golden Gate Master Plan – Ex: Proposed location for estates commercial. Observational.*
- *Receiving Areas in the RFMUD need to be changed to allow services including business, commercial and industrial can be located there to support not only the RFMUD, but adjacent Golden Gate Estates and surrounding Communities. Observational*
- *TDR Program not working. Observational*
- *Not enough TDR's to use for density in Receiving Lands. Future Land Use Element (FLUE) RFMUD*

- *Allow other uses on Receiving Lands (Non-residential). **Future Land Use Element (FLUE) RFMUD***
- *RFMUD Plan not compatible with Estates Master Plan. Lost commercial opportunities for the Estates due to RFMUD Plan. **Observational***
- *Allow owners of Receiving Lands to convert a portion of those lands to Sending Lands in order to get more TDRs to use on their remaining Receiving Lands. This process should be available through a rezoning-like process rather than requiring a comprehensive plan amendment. **Programmatic***
- *Increase the TDR Credits formula for Base TDRs to more than the current one (1) base TDR per five (5) acres. In designated Receiving Areas allow a density of greater than one unit per acre with the use of TDRs and not limit density above one unit per acre to only Rural Villages. Non-villages should be able to go up to 2 units per acre. Like the RLSA, rural villages should be able to go to 4 units per acre. **Programmatic***
- *Remove/modify the very detailed and unworkable requirements for development of a Rural Village. Increase the TDR Bonus multiplier in a Rural Village to make it economically viable. At the present time, the TDR program is too expensive for a higher dense village. As density increases, average prices come down. **Programmatic***
- *Remove the minimum required purchase amount of \$25,000 for a Base TDR and instead let the market work to determine TDR prices. **Programmatic***
- *Protect existing TDR holders but drastically revamp the current program such that it is less costly to develop in receiving areas. **Programmatic***
- *Encourage the establishment of mitigation banks in the Rural Fringe for listed species. **Programmatic***
- *Another option to consider is to establish separate overlays for each of the four distinct Rural Fringe development areas, similar to the North Belle Meade Overlay which has its own set of development standards. **Programmatic***
- *The current Rural Fringe provisions of the GMP already call for the County to consider the feasibility of establishing a "TDR Bank" to be administered by the County or some other non-for-profit government, or quasi governmental agency with the objective of making funds available to support the TDR program by offering initial minimal purchase prices of TDR credits. The County should create a TDR bank. **Programmatic***
- *Consider allowing owners of large tracts in the Rural Fringe the option of utilizing the standards and procedures of the RLSA program. **Programmatic***
- *Allow for the ability to transfer a certain percentage of density credits from the RLSA to the Rural Fringe. **Programmatic***
- *There is a need to have different more favorable treatment for owners of Sending Land parcels of twenty (20) acres or less to facilitate their participation. **Programmatic***

The majority of the comments are not housed or applicable to the RFMUD as provided for within the Future Land Use Element, but rather could be classified as observational, programmatic or provided for within the Land Development Code. There is an undercurrent or commonality to the comments related to demand, perceived lack of demand and the need to further incentives the program to increase demand.

From all factors evaluated, staff can conclude that the Rural Fringe Mixed Use District has been effective in protecting the environmentally sensitive properties within the designated sending areas and to a limited degree allowed for market utilization of available TDR's, but based upon the public comments, there appears to be dissatisfaction with the market response to the program. The reasons behind this perception can be explained by a number of micro and macro conditions, but regardless of the reason, staff believes that a public review process of the RFMUD should be conducted prior to the County's next EAR.