

**Assessment of the Success and Shortcomings
and Recommendations
for the Future Land Use Element**

A. Introduction and Background

The Future Land Use Element (FLUE) of the Collier County Growth Management Plan (GMP) establishes the geographic framework for growth and development in Collier County. As such, the FLUE is the most frequently amended portion of the GMP. Since the adoption of the County's 2004 EAR-based Amendments in January 2007, the FLUE has been amended on six occasions.

The FLUE includes three major sections: an Overview, the Implementation Section, and a Support Document containing land use data and analysis. The purpose of the Overview is to provide an introduction as to the purpose, basis and underlying concepts and special issues addressed by the FLUE. The Implementation Strategy is where the Element is brought into legal effect. Included within this section are the Goals, Objectives, Policies and the Future Land Use Map (FLUM) and correlating Future Land Use Designation Description Section. Collier County's FLUE gives emphasis to the future land use categories (designations) contained in the Future Land Use Designation Description Section of the Implementation Strategy. The Support Document is comprised of land use data and analysis which provides a basis for the Implementation Strategy and serves to meet the requirements of Section 9J-5.006, Florida Administrative Code, minimum requirements for the FLUE.

The overall purpose of the FLUE is to guide decision-making with regard to regulatory, financial and programmatic matters pertaining to land use. This Element controls the location, type, intensity and timing of new or revised uses of land. The land use strategy is closely coordinated with the County's strategy for the provision of public facilities, as described in the Capital Improvements and Public Facility Elements (and Sub-elements) of the GMP and with the strategies to protect and conserve natural resources as found in the Conservation and Coastal Management Element.

HB 697 was enacted by the Florida Legislature in 2008, and now, in part, is codified within Ch. 163.3177(6)(a) and (d). It requires the future land use plan to discourage urban sprawl, to be based upon energy-efficient land use patterns and to include greenhouse gas reduction strategies. All of these requirements are addressed in the existing Objectives and Policies within the FLUE, as noted in the assessment below. HB 697 also requires the future land use map to "identify and depict ... energy conservation." Collier County has no energy conservation features, such as the DeSoto Next Generation Solar Energy Center in DeSoto County, to depict on its future land use map. Instead, energy conservation measures occur at a micro scale, e.g. solar panels on individual single family dwellings.

B. Objective Analysis

OBJECTIVE 1:

Unless otherwise permitted in this Growth Management Plan, new or revised uses of land shall be consistent with designations outlined on the Future Land Use Map. The Future Land Use Map and companion Future Land Use Designations, Districts and Sub-districts shall be binding on all Development Orders effective with the adoption of this Growth Management Plan. Standards and permitted uses for each Future Land Use District and Subdistrict are identified in the Designation Description Section. Through the magnitude, location and configuration of its components, the Future Land Use Map is designed to coordinate land use

with the natural environment including topography, soil and other resources; promote a sound economy; coordinate coastal population densities with the Regional Hurricane Evacuation Plan; and discourage unacceptable levels of urban sprawl. *[This Objective is provided for contextual purposes only; no change is proposed]*

Policy Relevance:

Policy 1.4:

The CONSERVATION Future Land Use Designation shall include a Future Land Use District.

Policy Achievement Analysis:

This Policy has existed in the FLUE since the GMP was adopted in 1989. A District has never been created - or needed - in this Designation. However, the potential remains for a District to be created.

This Policy remains relevant and should be retained, but should be revised to allow for, but not mandate, the creation of a District (perhaps replace “shall” with “may”).

OBJECTIVE 2:

The coordination of land uses with the availability of public facilities shall be accomplished through the Concurrency Management System of the Capital Improvements Element and implemented through the Adequate Public Facilities Ordinance of the Land Development Code. *[This Objective is provided for contextual purposes only; no change is proposed]*

Policy Relevance:

Policy 2.1:

The County shall prepare annually the Annual Update and Inventory Report (AUIR) on Public Facilities which shall include a determination of the existing conditions of capital public facilities, determine the remaining available capacity, forecast future needs in the five year capital improvement schedule and identify needed improvements and funding to maintain the level of service adopted in Policy 1.1.5 of the Capital Improvements Element.

Policy Achievement Analysis:

The annual preparation of an AUIR continues to be a valuable tool for Collier County.

This Policy remains relevant and should be retained, but should be revised to correct the CIE Policy reference.

Policy 2.4

Pursuant to Rule 9J-5.0055(6)(a) 3., Florida Administrative Code and the Urban Infill and Urban Redevelopment Strategy contained in this Element, development located within the South U.S. 41 Transportation Concurrency Exception Area (TCEA) (See Map TR-4) may be exempt from transportation concurrency requirements, so long as impacts to the transportation system are mitigated using the procedures set forth in Policy 5.5 of the Transportation Element.

Developments within the South U.S. 41 TCEA that obtain an exception from concurrency requirements for transportation, pursuant to the certification process described in Transportation Element, Policy 5.5, and that include affordable housing (as per Section 2.06.00 the Collier County Land Development Code, as amended) as part of their plan of development shall not be subject to the Traffic Congestion Density Reduction requirement as contained in the Density Rating System of this Element.

Developments within the Northwest and East-Central TCMA that meet the requirements of FLUE Policies 6.1 through 6.5, and Transportation Policies 5.7 and 5.8, and that include affordable housing (as per Section 2.06.00 of the Collier County Land Development Code, as amended) as part of their plan of development shall not be subject to the Traffic Congestion Density Reduction requirement as contained in the Density Rating System of this Element.

Developments within the South U.S. 41 TCEA that do not obtain certification pursuant to Policy 5.6 of the Transportation Element shall meet all concurrency requirements. Whether or not a concurrency exception is requested, developments shall be subject to a concurrency review for the purpose of reserving capacity for those trips associated with the development and maintaining accurate counts of the remaining capacity on the roadway network.

Policy Achievement Analysis:

For the most part, the provisions of this Policy remain viable and appropriate.

This Policy mostly remains relevant and should be retained but revised. If changes are made to the Density Rating System to delete the Traffic Congestion Area density reduction factor, as proposed later in this FLUE Assessment, then this policy should be revised to delete that reference. Similarly, reference to the affordable housing provision should be deleted if that same change is made to Policy 6.3, as proposed later in this FLUE Assessment.

Policy 2.5

The County shall designate Transportation Concurrency Management Areas (TCMA) to encourage compact urban development where an integrated and connected network of roads is in place that provides multiple, viable alternative travel paths or modes for common trips. Performance within each TCMA shall be measured based on the percentage of lane miles meeting the LOS described in Policies 1.3 and 1.4 of the Transportation Element. Standards within TCMA are provided in Policy 5.8 of the Transportation Element. New Development within each TCMA shall be consistent with the criteria set forth in Objective 6, and Policies 6.1 through 6.5 of this Element. The following Transportation Concurrency Management Areas are hereby designated:

- 1. Northwest TCMA – This area is bounded by the Collier - Lee County Line on the north side; the west side of the I-75 right-of-way on the east side; Pine Ridge Road on the south side; and, the Gulf of Mexico on the west side (See Map TR-5).**
- 2. East Central TCMA – This area is bounded by Pine Ridge Road on the north side; Collier Boulevard on the east side; Davis Boulevard on the south side, and; Livingston Road (extended) on the west side (See Map TR-6).**

Policy Achievement Analysis:

Collier County has designated both referenced TCMA.

This Policy remains relevant and should be retained, but should be revised to reflect the existence of the TCMA (perhaps replace “shall designate” on first line with “has designated”).

OBJECTIVE 4:

In order to improve coordination of land uses with natural and historic resources, public facilities, economic development, housing and urban design, the Future Land Use Element shall be continually refined through detailed planning. Future studies might address specific geographic or issue areas. All future studies must be consistent with the Growth Management Plan and further its intent. *[This Objective is provided for contextual purposes only; no change is proposed]*

Policy Relevance:

Policy 4.5:

An Industrial Land Use Study has been developed and a summary of the Study has been incorporated into the support document of this Growth Management Plan. The Study includes a detailed inventory of industrial uses, projections of demand for industrial land, and recommendations for future land use allocations and locational criteria. Subsequent to completion of the Economic Element of this Growth Management Plan, adopted in December 2003, staff shall prepare an update to the Industrial Land Use Study.

Policy Achievement Analysis:

This Policy provides historical reference to an Industrial Land Use Study. Collier County has prepared an update to the Study, by updating the Industrial inventory, about every 2-3 years, depending upon staffing and workload. Such updates should continue to be prepared.

This Policy remains relevant and should be retained, but should be revised to recognize the periodic update (perhaps replace the last sentence with a commitment to periodically update the inventory).

Policy 4.7:

The Board of County Commissioners may consider whether to adopt redevelopment plans for existing commercial and residential areas. Such plans may include alternative land uses, modifications to development standards, and incentives that may be necessary to encourage redevelopment. The Bayshore/Gateway Triangle Redevelopment Plan was adopted by the Board on March 14, 2000; it encompasses the Bayshore Drive corridor and the triangle area formed by US 41 East, Davis Boulevard and Airport-Pulling Road. Other specific areas that may be considered by the Board of County Commissioners for redevelopment include, but are not necessarily limited to:

- a. Pine Ridge Road, between U.S. 41 North and Goodlette-Frank Road;
- b. U.S. 41 North in Naples Park; and,
- c. Bonita Beach Road between Vanderbilt Drive and the west end of Little Hickory Shores #1 Subdivision.

Policy Achievement Analysis:

The only redevelopment plans approved by the Board are within the boundaries of a CRA (Bayshore/Gateway Triangle and Immokalee). Preparation of redevelopment plans in the future, as may be directed by the Board, remains an appropriate planning opportunity. Omitted from this Policy is reference to the Immokalee Redevelopment Plan. Also, the referenced date is incorrect.

This Policy remains relevant and should be retained, but should be revised to specify that such a redevelopment plan may only be prepared by the County or its agent unless first approved by the Board, to add reference to the Immokalee Redevelopment Plan, and to correct the date reference.

Policy 4.8:

Maintain and update, on an annual basis, the following demographic and land use information: existing permanent population, existing seasonal population, projected population, existing dwelling units, and projected dwelling units. Included with this database shall be a forecast of the geographic distribution of anticipated growth.

Population estimates and projections shall be based upon the most recent population bulletin from the University of Florida's Bureau of Economic and Business Research (BEBR), except where decennial census estimates are available. For the annually updated Capital Improvement Plan, on a continuously rolling basis, population projections shall be calculated for all public facilities using BEBR's medium range growth rate. Population definitions are provided in Policy 1.2 of the Capital Improvement Element.

Policy Achievement Analysis:

Collier County prepares the information required by this Policy and should continue to do so. However, the County should evaluate the presently-used geographic distribution areas (Planning Communities) for appropriateness of boundaries.

This Policy remains relevant and should be retained as written.

OBJECTIVE 5:

In order to promote sound planning, protect environmentally sensitive lands and habitat for listed species while protecting private property rights, ensure compatibility of land uses and further the implementation of the Future Land Use Element, the following general land use policies shall be implemented upon the adoption of the Growth Management Plan. *[This Objective is provided for contextual purposes only; no change is proposed]*

Policy Relevance:

Policy 5.3:

Discourage unacceptable levels of urban sprawl in order to minimize the cost of community facilities by: confining urban intensity development to areas designated as Urban on the Future Land Use Map; requiring that any changes to the Urban Designated Areas be contiguous to an existing Urban Area boundary; and, encouraging the use of creative land use planning techniques and innovative approaches to development in the County's Agricultural/Rural designated area, which will better serve to protect environmentally sensitive areas, maintain the economic viability of agriculture and other predominantly rural land uses, and provide for cost efficient delivery of public facilities and services.

Policy Achievement Analysis:

Collier County implements this Policy through the provisions of the Urban designation as well as the Rural Fringe Mixed Use District and Rural Lands Stewardship Area Overlay.

This Policy remains relevant and should be retained, but should be revised to clarify changes to the Urban designation refers to the new designation of lands as Urban (perhaps replace "changes" in the third line with "addition").

Public Comment (Community Meeting held on 1/25/10):

Public stated, regarding below item at FLUE Policy 5.6 ("encourage "experimental" zoning ..."), change the TDR program to require use of TDR's to obtain additional density (cluster housing, guesthouses).

Policy 5.14:

Public educational plants and ancillary plants:

- a. **Existing public educational plants and ancillary plants: The sites containing existing public educational plants (schools and associated on-site facilities, including sports stadiums,**

gymnasiums and recreation areas) and ancillary plants (support facilities, including administrative offices, transportation facilities, maintenance yards, and bus barns) are depicted on the Future Land Use Map Series and Public School Facilities Element Map Series. This includes four sites where educational plants have been approved but construction either has not commenced or is not completed. More detailed descriptions or depictions of all of the sites containing these existing educational plants and ancillary plants are contained in the FLUE Support Document. Expansion of these educational plants and ancillary plants on these existing sites, as well as expansions to the sites themselves, are subject to the provisions outlined in the general Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and subject to the implementing land development regulations.

- b. Existing sites for future public educational plants: The Collier County School Board has acquired numerous sites for which educational plants are planned for future development; these sites contain no existing educational plants. These sites are consistent with locational criteria established by the SBR Interlocal Agreement and as contained in the FLUE, GGAMP, or IAMP, as applicable, and are allowed within the existing zoning district on the property. These sites are depicted on the Future Land Use Map Series and Public School Facilities Element Map Series. Development of the mapped sites shall be subject to the provisions of the general Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and subject to the implementing land development regulations.
- c. Existing sites for future public ancillary plants: The Collier County School Board has acquired sites for which ancillary plants are planned for future development; these sites contain no existing ancillary plants. These sites are consistent with locational criteria established by the SBR Interlocal Agreement and as contained in the FLUE, GGAMP, or IAMP, as applicable, and are allowed within the existing zoning district on the property. These sites are depicted on the Future Land Use Map Series and Public School Facilities Element Map Series. Development of the mapped sites shall be subject to the provisions of the general Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and subject to the implementing land development regulations.
- d. Future sites for public educational plants and ancillary plants: As additional sites for educational plants and ancillary plants are acquired by the Collier County School Board and deemed to be consistent with the FLUE, GGAMP, or IAMP, as applicable, and allowed by existing zoning on the site, these sites will be added to the Future Land Use Map Series and Public School Facilities Element Map Series, as provided for in the general Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to and the School Board

Review (SBR) Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners. Future development of these sites will be subject to the provisions of the aforementioned general Interlocal Agreement and SBR Interlocal Agreement, and subject to the implementing land development regulations. Prior to site acquisition, the Collier County School District will provide notification to property owners as follows: 1) for sites located within the Urban Designated Area of the Future Land Use Element of the Growth Management Plan, notices shall be sent to all owners of property within 500 linear feet of the property lines of the site under consideration for acquisition; 2) for sites not located within the Urban Designated Area of the FLUE of the Growth Management Plan, notices shall be sent to all owners of property within 1,000 linear feet of the property lines of the site under consideration for acquisition. At the public hearing to consider the land acquisition, all public commentary received as a result of these notices will be provided to the Collier County School Board.

- e. Zoning district provisions for future educational plants: Except to the extent that such would be in conflict with the Rural Fringe Mixed Use District adopted on June 19, 2002, or the Rural Lands Stewardship Area Overlay adopted on October 22, 2002, all future educational plants shall be allowed in zoning districts as follows:
 - (1) Educational plants are prohibited in the Residential Tourist (RT), Golf Course (GC), Conservation (CON), Travel Trailer Recreational Vehicle Campground (TTRVC), Business Park (BP), and Industrial (I) zoning districts.
 - (2) Educational plants are permitted by right in all other zoning districts. However, for a high school facility to be located in any residential zoning district, or Estates (E) zoning district, or residential component of a PUD, a formal compatibility review and determination is required, as set forth in the general Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and the School Board Review (SBR) Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners.
- f. Zoning district provisions for future ancillary plants: Except to the extent that such would be in conflict with the Rural Fringe Mixed Use District adopted on June 19, 2002, or the Rural Lands Stewardship Area Overlay adopted on October 22, 2002, all future ancillary plants shall be allowed in zoning districts as follows:
 - (1) Ancillary plants are prohibited in the Residential Single Family (RSF-1 through RSF-6), Mobile Home (MH), Travel Trailer Recreational Vehicle Campground (TTRVC), Golf Course (GC), and Conservation (CON) zoning districts.
 - (2) Ancillary plants are permitted by right in the General Commercial (C-4), Heavy Commercial (C-5), and Industrial (I) zoning districts.
 - (3) Ancillary plants are permitted by conditional use approval in all other zoning districts.

Policy Achievement Analysis:

This Policy recognizes and implements the two Inter-local Agreements adopted in 2003 by the BCC and Collier County School Board. Since then, one of the Agreements has been superseded (adopted in 2008 along with the Public School Facilities Element), the other one has expired and its replacement is presently being negotiated.

This Policy remains relevant and should be retained, but should be revised as necessary to reflect the changed status and contents of the Agreements as well as any changes necessary to correlate with the Public School Facilities Element.

Objective 6

Transportation Concurrency Management Areas (TCMAs) are geographically compact areas designated in local government comprehensive plans where intensive development exists, or such development is planned. New development within a TCMA shall occur in a manner that will ensure an adequate level of mobility (as defined in Policy 5.8 of the Transportation Element) and further the achievement of the following identified important state planning goals and policies: discouraging the proliferation of urban sprawl, protecting natural resources, protecting historic resources, maximizing the efficient use of existing public facilities, and promoting public transit, bicycling, walking and other alternatives to the single occupant automobile. Transportation Concurrency Management Areas are hereby established in the specific geographic areas described in Policy 2.5 of this Element.

Objective Achievement Analysis:

TCMAs remain a viable transportation management tool. This Objective is still appropriate, all the more so given the requirements and direction of HB 697 enacted by the Florida Legislature in 2008.

This Objective remains relevant and should be retained, but should be revised to reference the establishment of TCMAs in past tense (perhaps replace “are hereby” in the last sentence with “have been”).

Public Comment (Community Meeting held on 1/25/10):

Public stated County should reserve right-of-way for light rail.

Policy Relevance:

Policy 6.3:

In order to be exempt from link specific concurrency, new residential development or redevelopment within Collier County’s designated Transportation Concurrency Management Areas (TCMAs) shall utilize at least two of the following Transportation Demand Management (TDM) strategies, as may be applicable:

- a) Including neighborhood commercial uses within a residential project.
- b) Providing transit shelters within the development (must be coordinated with Collier County Transit).
- c) Providing bicycle and pedestrian facilities, with connections to abutting commercial properties.
- d) Including affordable housing (minimum of 25% of the units) within the development.
- e) Vehicular access to abutting commercial properties.

Policy Achievement Analysis:

This Policy is mostly still appropriate, all the more so given the requirements and direction of HB 697 enacted by the Florida Legislature in 2008. The need for affordable housing is greatly lessened so paragraph d) is no longer appropriate.

This Policy remains mostly relevant and should be retained, but paragraph e) should be revised to begin with a verb so as to follow the sentence structure (perhaps add “Providing” before “Vehicular”), paragraph d) should be deleted, and a correlating change should be made to Transportation Element Policy 5.5.

OBJECTIVE 7

In an effort to support the Dover, Kohl & Partners publication, *Toward Better Places: The Community Character Plan for Collier County, Florida*, promote smart growth policies, and adhere to the existing development character of Collier County, the following policies shall be implemented for new development and redevelopment projects, where applicable.

Objective Achievement Analysis:

The direction provided by this Objective is still appropriate, all the more so given the requirements and direction of HB 697 enacted by the Florida Legislature in 2008. Comprehensive Planning staff reviews all rezone and conditional use petitions for compliance with the Policies under this Objective.

This Objective remains relevant and should be retained, but should be revised to reference reduction of greenhouse gas emissions (perhaps add “reduce greenhouse gas emissions,” on the second line after “policies,”).

Public Comment (Community Meeting held on 1/25/10):

Public stated encourage smart growth principles – mixed use, urban infill, walkable communities, alternate transportation modes, and more green space.

Policy Relevance:

Policy 7.3

All new and existing developments shall be encouraged to connect their local streets and their interconnection points with adjoining neighborhoods or other developments regardless of land use type.

Policy Achievement Analysis:

The direction provided by this Policy is still appropriate, all the more so given the requirements and direction of HB 697 enacted by the Florida Legislature in 2008.

This Policy remains relevant and should be retained, but should be revised for proper wording as connecting interconnection points is nonsensical (perhaps replace “and their interconnection points” with “and/or provide interconnection(s).”)

Public Comment (Community Meeting held on 3/15/10):

Public stated stress interconnection and continuity.

Policy 7.7

The Community Development and Environmental Services Division will continue to research smart growth practices in an effort to improve the future of Collier County by specifically addressing land use and transportation planning techniques for inclusion in future land development regulations.

Policy Achievement Analysis:

The direction provided by this Policy is still appropriate, all the more so given the requirements and direction of HB 697 enacted by the Florida Legislature in 2008.

This Policy remains relevant and should be retained, but should be revised to update the Division name to reflect 2010 reorganization.

C. Future Land Use Designation Description – Assessment of Select Provisions

In addition to the above Assessment of FLUE GOPs, staff provides below an Assessment of select portions of the Future Land Use Designation Description Section.

**Urban Designation, Density Rating System
Residential Infill**

To encourage residential in-fill in areas of existing urban development outside of the Coastal High Hazard Area, a maximum of 3 residential dwelling units per gross acre may be added if the following criteria are met:

- (a) The project is 20 acres or less in size;
- (b) At time of development, the project will be served by central public water and sewer;
- (c) The project is compatible with surrounding land uses;
- (d) The property in question has no common site development plan with adjacent property;
- (e) There is no common ownership with any adjacent parcels;
- (f) The parcel in question was not created to take advantage of the in-fill residential density bonus and was created before the adoption of this provision in the Growth Management Plan on January 10, 1989;
- (g) Of the maximum 3 additional units, one (1) dwelling unit per acre shall be transferred from Sending Lands; and,
- (h) Projects qualifying under this provision may increase the density administratively by a maximum of one dwelling unit per acre by transferring that additional density from Sending Lands.

Provision Analysis:

In the FLUE, the system currently contains both density bonuses and a density reduction. Within most parts of the Urban Area, the base (or minimum) eligible residential density (i.e., the number of units allowed per acre) is four units per gross acre and the maximum eligible density is 16 units per acre, with one exception; eligible density is not an entitlement. This system allows a residential project, or the residential portion of a mixed-use project, to request increased residential density above the base density, or to lose density, if the project meets certain criteria. There are seven density bonus provisions and one density reduction provision. A project may, or may not, be eligible for any number or combination of these bonuses.

The Residential Infill bonus has existed since the GMP was adopted in 1989 and has been used numerous times. However, as part of the Rural Fringe GMP amendments adopted in 2002, this bonus provision was modified to increase the eligible property size from 10 to 20 acres, and to add the requirement that part of the density bonus be derived from TDR credits obtained from RFMUD Sending Lands. The purpose of requiring TDR credits was to help insure the success of the TDR program. It has not worked; since the 2002 amendment, this bonus provision has rarely been used – perhaps once or twice. Though the purpose for requiring use of TDR credits remains valid, that requirement has stifled the use of this bonus provision intended to encourage infill development.

Staff and the Planning Commission recommend the TDR requirement be eliminated. *However, the Board of County Commissioners determined this provision should remain unchanged.*

Urban Designation, Density Rating System

Traffic Congestion Area:

If the project lies within the Traffic Congestion Area, an area identified as subject to long range traffic congestion, one dwelling unit per gross acre would be subtracted from the eligible base density of four dwelling units per acre. The Traffic Congestion Boundary is shown on the Future Land Use Map and consists of the western coastal Urban Designated Area seaward of a boundary marked by Airport-Pulling Road (including an extension north to the Lee County boundary.) Davis Boulevard, County Barn Road, and Rattlesnake Hammock Road consistent with the Mixed Use Activity Center’s residential density band located at the southwest quadrant of the intersection of Rattlesnake Hammock Road and County Road 951 (including an extension to the east, but exclusive of the outlying Urban designated areas of Copeland, Port of the Islands, Plantation Island, and Chokoloskee). Properties adjacent to the Traffic Congestion Area shall be considered part of the Traffic Congestion Area if their only access is to a road forming the boundary of the Area; however, if that property also has an access point to a road not forming the boundary of the Traffic the Traffic Congestion Area it will not be

subject to the density reduction. Furthermore, the density reduction shall not apply to developments located within the South U.S. 41 TCEA (as identified within Transportation Element, Map TR-4, and Transportation Element Policies 5.5 and 5.6, and FLUE Policy 2.4) that obtain an exception from concurrency requirements for transportation, pursuant to the certification process described in Transportation Element Policy 5.6, and that include affordable housing (as per Section 2.7.7 of the Collier County Land Development Code, as amended) as part of the plan of development. This reduction shall likewise not be applied to developments within the Northwest and East-Central TCMA that meet the requirements of FLUE Policies 6.1 through 6.5, and Transportation Element Policies 5.7 and 5.8, and that include Affordable Housing (as per Section 2.7.7. of the Collier County Land Development Code, as amended) as part of the plan of development.

Provision Analysis:

The Traffic Congestion Area, which is depicted on the FLUM, is the only density reduction provision in the FLUE. If a proposed rezoning project is within the Traffic Congestion Area, defined as “an area identified as subject to long range traffic congestion,” one dwelling unit per gross acre is deducted.

The Traffic Congestion Area density reduction has existed since the GMP was adopted in 1989. It was intended as a means of reducing long-range traffic impacts of new development within that portion of the coastal urban area that was considered to be subject to traffic congestion in the long term; due to physical and social constraints in this area, construction of new major roads and significant widening of existing roads would not be possible. However, it has not been successful in limiting density because the Density Rating System includes various density bonuses that are applicable within this area, thereby allowing the 1 DU/A density reduction to be counteracted. Also, many projects, especially larger ones, do not build out at their approved density; therefore the desired lower density may result without this regulatory feature. Finally, Transportation staff has since determined this density reduction is not needed. The County has adopted a “checkbook” concurrency system that, in many ways, obviates the need for the Traffic Congestion reduction factor. For these reasons, staff proposes deletion of this provision – as was previously proposed in the 2004 EAR.

Also as proposed in the 2004 EAR, staff recommends a new density reduction factor be added in place of the Traffic Congestion Area - a Coastal High Hazard Area (CHHA) density reduction factor for properties lying within the CHHA. The CHHA, depicted on the FLUM, is, as would be expected, more closely related to reduction of hurricane evacuation impacts, a concern for all coastal communities. Also, a CHHA density reduction factor would not be as much of a disincentive to urban infill as it would incorporate a smaller portion of the urban area – the CHHA is smaller than the Traffic Congestion Area.

Staff and the Planning Commission recommend the Traffic Congestion Area density reduction factor be deleted and replaced with a Coastal High Hazard Area density reduction factor and so reflected on the FLUM; that correlating changes be made to all GMP references to the Traffic Congestion Area; and, that both the Roadway Access and Proximity to Mixed Use Activity Center or Interchange Activity Center (residential density bands) bonuses be revised to replace reference to Traffic Congestion Area with CHHA reference; and, revise the Conversion of Commercial Bonus to prohibit its application within the CHHA. The Affordable-Workforce Housing Density Bonus would continue to apply within the CHHA. *The Board of County Commissioners concurred, except that they determined the Affordable-Workforce Housing Density Bonus provision also should be prohibited within the CHHA.*

[Recommendation from October 8, 2010 Florida Department of Transportation (FDOT) Comments to the DCA on Proposed EAR (Comment #14): "Please provide analyses to establish the impact of deleting the Traffic Congestion Area Density reduction factor and replacing it with the Coastal High Hazard Area reduction factor. Should substantial additional development occur from this amendment, the department recommends that an Area Wide Traffic Study be conducted and supporting documentation provided to establish that adequate capacity will be available for new trips that will impact state facilities for the long-term horizon year and short-term year 2015 conditions."

Collier County response:

There are approximately 480 acres of land zoned A, Rural Agricultural that could potentially be rezoned to residential zoning districts within the area presently encompassed by the Traffic Congestion Area that would no longer be if the recommended amendment was adopted; this would yield a potential density increase of 806 dwelling units. However, it is reasonable to assume that not all of this land will be rezoned to residential zoning districts, rather some may be developed under the "A" zoning district which allows a variety of institutional uses (child care center, church, nursing home, private school, social and fraternal organizations, retail plant nursery, etc.) and essential services (fire/police/emergency medical service stations, public parks, government offices, etc.), and some may rezone to residential at a density not utilizing this amendment. Assuming a 75% rezone rate utilizing the increased density allowance, the potential density increase of the recommended amendment would be 605 DUs. Based upon property locations, these DUs could be distributed throughout the affected area, from along US 41 North near the Lee County line to east of Collier Blvd. along US 41 East.

Urban Designation, Urban Commercial District, Mixed Use Activity Center Subdistrict (partial excerpt)

Mixed Use Activity Centers have been designated on the Future Land Use Map Series identified in the Future Land Use Element. The locations are based on intersections of major roads and on spacing criteria. When this Plan was originally adopted in 1989, there were 21 Activity Centers. There are now 19 Activity Centers, listed below, which comprise approximately 3,000 acres; this includes 3 Interchange Activity Centers (#4, 9, 10) which will be discussed separately under the Interchange Activity Center Subdistrict. Two Activity Centers, #19 and 21, have been deleted as they are now within the incorporated City of Marco Island.

- # 1 Immokalee Road and Airport-Pulling Road**
- # 2 US 41 and Immokalee Road**
- # 3 Immokalee Road and Collier Boulevard**
- # 4 I-75 and Immokalee Road (Interchange Activity Center)**
- # 5 US 41 and Vanderbilt Beach Road**
- # 6 Davis Boulevard and Santa Barbara Boulevard**
- # 7 Rattlesnake-Hammock Road and Collier Boulevard**
- # 8 Airport-Pulling Road and Golden Gate Parkway**
- # 9 I-75 and Collier Boulevard and Davis Boulevard (Interchange Activity Center)**
- #10 I-75 and Pine Ridge Road (Interchange Activity Center)**
- #11 Vanderbilt Beach Road and Airport-Pulling Road**
- #12 US 41 and Pine Ridge Road**
- #13 Airport-Pulling Road and Pine Ridge Road**
- #14 Goodlette-Frank Road and Golden Gate Parkway**
- #15 Golden Gate Parkway and Coronado Boulevard**
- #16 US 41 and Airport-Pulling Road**
- #17 US 41 and Rattlesnake-Hammock Road**
- #18 US 41 and Collier Boulevard**
- #20 US 41 and Wiggins Pass Road**

The Mixed-Use Activity Center concept is designed to concentrate almost all new commercial zoning in locations where traffic impacts can readily be accommodated, to avoid strip and disorganized patterns of commercial development, and to create focal points within the community. Mixed Use Activity Centers are intended to be mixed-use in character. Further, they are generally intended to be developed at a human-scale, to be pedestrian-oriented, and to be interconnected with abutting projects – whether commercial or residential. Street, pedestrian pathway and bike lane interconnections with abutting properties, where possible and practicable, are encouraged.

Allowable land uses in Mixed Use Activity Centers include the full array of commercial uses, residential uses, institutional uses, hotel/motel uses at a maximum density of 26 units per acre, community facilities, and other land uses as generally allowed in the Urban designation. The actual mix of the various land uses shall be determined during the rezoning process based on consideration of the factors listed below. Except as restricted below under the provision for Master Planned Activity Centers, all Mixed Use Activity Centers may be developed with any of the land uses allowed within this Subdistrict.

For residential-only development, if a project is located within the boundaries of a Mixed Use Activity Center which is not within the Urban Residential Fringe Subdistrict or Urban Coastal Fringe Subdistrict, up to 16 residential units per grow acre may be permitted. If such a project is located within the boundaries of a Mixed Use Activity Center which is within the Urban Coastal Fringe Subdistrict, the eligible density shall be limited to four dwelling units per acre, except as allows by the density rating system. If such a project is located within the boundaries of a Mixed Use Activity Center which is within the Urban Residential Fringe Subdistrict, eligible density shall be as allowed by that Subdistrict. For a residential-only project located partially within and partially outside of an Activity Center, the density accumulated from the Activity Center portion of the project may be distributed throughout the project.

Mixed-use developments - whether consisting of residential units located above commercial uses, in an attached building, or in a freestanding building - are allowed and encouraged within Mixed Use Activity Centers. Density for such a project is calculated based upon the gross project acreage within the Activity Center. If such a project is located within the boundaries of a Mixed Use Activity Center which is not within the Urban Residential Fringe Subdistrict and is not within the Coastal High Hazard Area, the eligible density is sixteen dwelling units per acre. If such a project is located within the boundaries of a Mixed Use Activity Center that is not within the Urban Residential Fringe Subdistrict but is within the Coastal High Hazard Area, the eligible density shall be limited to four dwelling units per acre. If such a project is located within the boundaries of a Mixed Use Activity Center which is within the Urban Residential Fringe Subdistrict, eligible density shall be as allowed by that Subdistrict. For a project located partially within and partially outside of an Activity Center, and the portion within an Activity Center is developed as mixed use, some of the density accumulated from the Activity Center portion of the project may be distributed to that portion of the project located outside of the Activity Center. In order to promote compact and walkable mixed use projects, where the density from a mixed use project is distributed outside the Activity Center boundary:

- (1) the mixed use component of the project within the Activity Center shall include a minimum of thirty percent (30%) of the Activity Center-accumulated density;
- (2) the dwelling units distributed outside the Activity Center shall be located within one third (1/3) of a mile of the Activity Center boundary; and,

- (3) the portion of the project within the Activity Center shall be developed at a human scale, be pedestrian-oriented, and be interconnected with the remaining portion of the project with pedestrian and bicycle facilities.**

Provision Analysis:

Mixed Use Activity Centers (MUAC) allow almost all land uses (industrial uses are excluded) - the full array of commercial uses, mixed use (residential and commercial), residential uses, agricultural uses, community facility uses, essential services, etc. Most MUACs allow *residential-only projects* at the highest density allowed by the FLUE (16 DU/A), including most of the CHHA; the exception is those portions of MUACs within the Urban Coastal Fringe are capped at 4 DU/A. However, *mixed use projects* within the CHHA are capped at 4 DU/A. Further, the allowance for 16 DU/A is in contrast with most density bonus provisions which are not applicable within the CHHA, and the remaining ones that are proposed to be revised so as not to be applicable in the CHHA. Given the longstanding and continuing concern for development, especially residential, within the CHHA, CHHA density should be consistently limited.

The County recommends the allowable density for residential-only projects within the CHHA be reduced to a maximum of 4 DU/A, the same as for mixed use projects.

Urban Designation, Urban Commercial District, Mixed Use Activity Center Subdistrict (partial excerpt)

Master Planned Activity Centers

Any of the five Mixed Use Activity Centers listed below may be designated as a Master Planned Activity Center. A Master Planned Activity Center is one which has a unified plan of development in the form of a Planned Unit Development, Development of Regional Impact or an area-wide Development of Regional Impact. Property owners within such Mixed Use Activity Centers shall be required to utilize the Master Planned Activity Center process, as provided below.

2 US 41 and Immokalee Road

3 Immokalee Road and Collier Boulevard

5 US 41 and Vanderbilt Beach Road

7 Rattlesnake-Hammock Road and Collier Boulevard

#14 Goodlette-Frank Road and Golden Gate Parkway

In recognition of the benefit resulting from the coordination of planned land uses and coordinated access points to the public road network, Master Planned Activity Centers are encouraged through the allowance of flexibility in the boundaries, and thus location of uses permitted within a designated Mixed Use Activity Center. The boundaries of Master Planned Activity Centers depicted on the Future Land Use Map Series are understood to be flexible and subject to modification as provided for below. However, the acreage within the reconfigured Activity Center shall not exceed that within the existing Activity Center. The actual mix of land uses shall be determined using the criteria for other Mixed Use Activity Centers. All of the following criteria must be met for a project to qualify as a Master Planned Activity Center:

- 1. The applicant shall have unified control of the majority of a quadrant in a designated Activity Center. Majority of the quadrant shall be defined as at least 51% of the privately owned land within any Activity Center quadrant. However, if a property owner has less than 51% ownership within a quadrant, that property owner may still request a rezoning under the provisions of a Mixed Use Activity Center Subdistrict subject to the maximum acreage allowed in Paragraph 2 below. Property owners with less than 51% ownership are encouraged to incorporate vehicular and pedestrian accesses with adjacent properties**

within the Activity Center. Any publicly owned land within the quadrant will be excluded from acreage calculations to determine unified control.

2. The allowable land uses for a Master Planned Activity Center shall be the same as for other designated Activity Centers; however, a Master Planned Activity Center encompassing the majority of the property in two or more quadrants shall be afforded the flexibility to redistribute a part or all of the allocation from one quadrant to another, to the extent of the unified control. The maximum amount of commercial uses allowed at Activity Center #3 (Immokalee Road and Collier Boulevard) is 40 acres per quadrant for a total of 160 acres maximum in the entire Activity Center; the balance of the land area shall be limited to non-commercial uses as allowed in Mixed Use Activity Centers. The maximum amount of commercial uses allowed at Activity Center #7 (Rattlesnake Hammock Road and Collier Boulevard) is 40 acres per quadrant, except that the northeast quadrant may have a total of 59 acres, for a total of 179 acres maximum in the entire Activity Center; the balance of the land area shall be limited to non-commercial uses as allowed in Mixed Use Activity Centers. With respect to the +/- 19 acres in the northeast quadrant of Activity Center #7, said acreage lying adjacent to the east of the Hammock Park Commerce Center PUD, commercial development (exclusive of the allowed "1/4 mile support medical uses") shall be limited to a total of 185,000 square feet of the following uses: personal indoor self-storage facilities – this use shall occupy no greater than 50% of the total (185,000) building square feet; offices for various contractor/builder construction trade specialists inclusive of the offices of related professional disciplines and services that typically serve those construction businesses or otherwise assist in facilitating elements of a building and related infrastructure, including but not limited to architects, engineers, land surveyors and attorneys – these offices of related professional disciplines and services shall occupy no greater than 50% of the total (185,000) building square feet; warehouse space for various contractor/builder construction trades occupants; mortgage and land title companies; related businesses including but not limited to lumber and other building materials dealers, paint, glass, and wallpaper stores, garden supply stores – all as accessory uses only, accessory to offices for various contractor/builder construction trade specialists or accessory to warehouse space for various contractor/builder construction trades occupants; management associations of various types of buildings or provision of services to buildings/properties; and, fitness centers. Activity Center #14 (Goodlette-Frank Road and Golden Gate Parkway) shall have a maximum of 45 acres for commercial use, the balance of the land uses shall be limited to non-commercial uses as allowed in Mixed Use Activity Centers.
3. The location and configuration of all land uses within a Master Planned Activity Center shall be compatible with and related to existing site features, surrounding development, and existing natural and manmade constraints. Commercial uses shall be oriented so as to provide coordinated and functional transportation access to major roadways serving the Activity Center, and functionally related or integrated with surrounding land uses and the planned transportation network.
4. Adjacent properties within the Activity Center that are not under the unified control of the applicant shall be considered and appropriately incorporated (i.e. pedestrian, bicycle and vehicular interconnections) into the applicant's Master Plan.

Provision Analysis:

The Master Planned Activity Center provision is an example of "legislation on the fly" (it was mostly written at and during a public hearing) – it is poorly written and confusing.

The County recommends this Master Planned Activity Center provision be rewritten for clarity, and possible substantive change, likely to include reorganization/restructuring of the provision.

Agricultural/Rural Designation, Rural Fringe Mixed Use District (select excerpts)

The Rural Fringe Mixed Use District is identified on Future Land Use Map. This District consists of approximately 93,600 acres, or 7% of Collier County's total land area. Significant portions of this District are adjacent to the Urban area or to 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. As of the date of adoption of this Plan Amendment, the Rural Fringe Mixed Use District consists of more than 5,550 tax parcels, and includes at least 3,835 separate and distinct property owners. Alternative land use strategies have been developed for the Rural Fringe Mixed Use District, in part, to consider these existing conditions.

The Rural Fringe Mixed Use District provides a transition between the Urban and Estates Designated lands and between the Urban and Agricultural/Rural and Conservation designated lands farther to the east. 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. In order to preserve existing natural resources, including habitat for listed species, to retain a rural, pastoral, or park-like appearance from the major public rights-of-way within this area, and to protect private property rights, the following innovative planning and development techniques are required and/or encouraged within the District.

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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.

7. Permitted Uses: Permitted uses are limited to the following:

- a) Agricultural uses consistent with Chapter 823.14(6) Florida Statutes (Florida Right to Farm Act)
- b) Detached single-family dwelling units, including mobile homes where the Mobile Home Zoning Overlay exists, 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. For the purpose of this provision, a lot or parcel which is deemed to have been in existence on or before June 22, 1999 is 1) a lot or parcel which is part of a subdivision recorded in the public records of Collier County, Florida; or 2) a lot or parcel which has limited fixed boundaries, described by metes and bounds or other specific legal description, the description of which has been recorded in the public records of Collier County Florida on or before June 22, 1999; or 3) a lot or parcel which has limited fixed boundaries, for which an agreement for deed was executed prior to June 22, 1999.
- c) Habitat preservation and conservation uses.
- d) Passive parks and other passive recreational uses.
- e) Sporting and Recreational camps, within which the lodging component shall not exceed 1 unit per 5 gross acres.
- f) Essential Services necessary to serve permitted uses identified in Section 5.a) through 5.e) such as the following: private wells and septic tanks; utility lines, except sewer lines; sewer lines and lift stations, only if located within non-NRPA Sending Lands, and only if located within already cleared portions of existing rights-of-way or easements,

and if necessary to serve the Rural Transition Water and Sewer District; and, water pumping stations necessary to serve the Rural Transition Water and Sewer District.

- g) Essential Services necessary to ensure public safety.
- h) Oil and gas exploration. Where practicable, directional-drilling techniques and/or previously cleared or disturbed areas shall be utilized to minimize impacts to native habitats.

8. Conditional Uses:

- a) The following uses are conditionally permitted subject to approval through a public hearing process:
 - (1) Essential services not identified above in 4f). Within one year, Collier County will review essential services currently allowed in the Land Development Code and will define those uses intended to be conditionally permitted in Sending designated lands. During this one-year period or if necessary until a comprehensive plan amendment identifying conditionally permitted essential services, no conditional uses for essential services within Sending designated lands shall be approved.
 - (2) Public facilities, including solid waste and resource recovery facilities, and public vehicle and equipment storage and repair facilities, shall be permitted within Section 25, Township 49S, Range 26E, on lands adjacent to the existing County landfill. This shall not be interpreted to allow for the expansion of the landfill into Section 25 for the purpose of solid waste disposal.
 - (3) Commercial uses accessory to permitted uses 4.a), 4.c) and 4.d), such as retail sales of produce accessory to farming, or a restaurant accessory to a park or preserve, so long as restrictions or limitations are imposed to insure the commercial use functions as an accessory, subordinate use.

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Exemptions from the Rural Fringe Mixed Use District Development Standards –
The requirements of this District shall not apply to, affect or limit the continuation of existing uses. Existing uses shall include: those uses for which all required permits were issued prior to June 19, 2002; or projects for which a Conditional use or Rezone petition has been approved by the County prior to June 19, 2002; or, land use petitions for which a completed application has been submitted prior to June 19, 2002. The continuation of existing uses shall include expansions of those uses if such expansions are consistent with or clearly ancillary to the existing uses. Hereafter, such previously approved developments shall be deemed to be consistent with the Plan's Goals, Objectives and Policies and for the Rural Fringe Mixed Use District, and they may be built out in accordance with their previously approved plans. Changes to these previous approvals shall also be deemed to be consistent with the Plan's Goals, Policies and Objectives for the Rural Fringe Mixed Use District as long as they do not result in an increase in development density or intensity.

Provision Analysis:

The RFMUD - its allowance of uses, TDR program, etc. - was created to apply to lands zoned A, Rural Agricultural. However, there are some lands with non-A zoning, including GC, Golf Course; TTRVC, Travel Trailer Recreational Vehicle; PUD, Planned Unit Development; VR, Village Residential; MH, Mobile Home; RSF-3, Residential Single Family; C-2, Convenience Commercial; and, C-3, Intermediate Commercial. For some of these non-A zoning districts, to allow or only allow the uses and densities of the RFMUD would be in conflict with the underlying zoning district and would grant additional uses not allowed by underlying zoning or prohibit uses that are allowed by underlying zoning (e.g. RFMUD Neutral Lands would allow residential and agricultural uses whereas C-2 doesn't allow those uses and would not allow commercial uses whereas C-2 allows various commercial uses).

To apply the RFMUD regulations to non-A zoning would not only open the County to potential Bert Harris Act claims, it just wouldn't make sense – the uses of the RFMUD do not correlate to the development standards of the non-A zoning districts. Similarly, to apply the TDR program to non-A zoned lands is nonsensical.

The RFMUD Sending Lands originally included only the provision for base TDR credits. However, via a subsequent GMP amendment, various bonus credits were added. However, in doing so, the necessary correlating renumbering of cross-references within subparagraphs 7.f. and 8.a.(1) and (3) did not occur (to change “5” to “7” and “4” to “7,” respectively).

The “Exemption” provision at the end of the RFMUD is a grandfathering provision for existing uses. Part of that provision allows for the expansion of existing uses (“The continuation of existing uses shall include expansions of those uses if such expansions are consistent with or clearly ancillary to the existing uses.”). This language needs to be revised so as to clearly reflect the intent to allow for on-site expansion, not expansion onto lands not part of the existing use. Also, the title of this provision incorrectly refers to development standards whereas the provision itself applies to the RFMUD in its entirety.

The County recommends the RFMUD be revised to clarify that it only applies to A-zoned lands; to correct a miss-numbering from a past amendment to the RFMUD Sending Lands designation; and, to clarify the applicability of “expansion” and delete unneeded text from the Exemption provision title.

Overlays and Special Features, Bayshore/Gateway Triangle Redevelopment Overlay
The Bayshore/Gateway Triangle Redevelopment Overlay, depicted on the Future Land Use Map, is within the boundaries of the Bayshore/Gateway Triangle Redevelopment Plan adopted by the Board of County Commissioners on March 14, 2000. The intent of the redevelopment program is to encourage the revitalization of the Bayshore/Gateway Triangle Redevelopment Area by providing incentives that will encourage the private sector to invest in this urban area. This Overlay allows for additional neighborhood commercial uses and higher residential densities that will promote the assembly of commercial uses and higher residential densities that will promote the assembly of property, or joint ventures between property owners, while providing interconnections between properties and neighborhoods. The intent of this Overlay is to allow for more intense development in an urban area where urban services are available. One or more zoning overlays will be adopted into the Collier County Land Development Code to aid in the implementation of this Overlay. The following provisions and restrictions apply to this Overlay:

- 1. Mixed-Use Development: Mix of residential and commercial uses are permitted. For such development, commercial uses are limited to C-1 through C-3 zoning district uses plus hotel/motel use. Mixed-use projects will be pedestrian oriented and are encouraged to provide access (vehicular, pedestrian, bicycle) to nearby residential areas. The intent is to encourage pedestrian use of the commercial area and to provide opportunity for nearby residents to access these commercial uses without traveling onto major roadways. Parking facilities are encouraged to be located in the rear of the buildings with the buildings oriented closer to the major roadway to promote traditional urban development.**
- 2. Residential uses are allowed within this Overlay. Permitted density shall be as determined through application of the Density Rating System, and applicable FLUE Policies, except as provided below and except as may be limited by a zoning overlay.**
- 3. Non-residential/non-commercial uses allowed within this Overlay include essential services; parks, recreation and open space uses; water-dependent and water-related uses; child care centers; community facility uses; safety service facilities; and utility and communication facilities.**

4. Properties with access to US-41 East are allowed a maximum density of 12 residential units per acre. In order to be eligible for this higher density, the project must be integrated into a mixed-use development with access to existing neighborhoods and adjoining commercial properties and comply with the standards identified in Paragraph #8, below, except for mixed use projects developed within the “mini triangle” catalyst project site as identified on the Bayshore/Gateway Triangle Redevelopment Overlay Map. The “mini triangle” project site is eligible for the maximum density of 12 units per acre, with development standards as contained in the Gateway Triangle Mixed Use District zoning overlay, adopted February 28, 2006 (Ordinance No. 06-08), and amended December 14, 2006 (Ordinance No. 06-63). For projects that do not comply with the requirements for this density increase, their density is limited to that allowed by the Density Rating System and applicable FLUE Policies, except as may be limited by a future zoning overlay.
5. Properties with access to Bayshore Drive, are allowed a maximum density of 12 residential units per acre. In order to be eligible for this higher density, the project must be integrated into a mixed-use development with access to existing neighborhoods and adjoining commercial properties and must comply with the standards identified in Paragraph #8, below. For projects that do not comply with the requirements for this density increase, their density is limited to that allowed by the Density Rating System and applicable FLUE Policies, except as may be limited by a future zoning overlay.
6. For parcels currently within the boundaries of Mixed Use Activity Center #16, land uses will continue to be governed by the Mixed Use Activity Center Subdistrict. A zoning overlay may be developed for these properties within the Mixed Use Activity Center to provide specific development standards.
7. Existing zoning districts for some properties within the Bayshore/Gateway Triangle Redevelopment Overlay allow uses, densities and development standards that are inconsistent with the uses, densities and development standards allowed within this Overlay. These properties are allowed to develop and redevelop in accordance with their existing zoning until such time as a zoning overlay is adopted which may limit such uses, densities and development standards.
8. To qualify for 12 dwelling units per acre, as provided for in paragraphs #4 and #5 above, mixed use projects within the Bayshore/Gateway Triangle Redevelopment Overlay must comply with the following standards:
 - a. Buildings containing only commercial uses are limited to a maximum height of three stories.
 - b. Buildings containing only residential uses are limited to a maximum height of three stories except such buildings are allowed a maximum height of four stories if said residential buildings are located in close proximity to US-41.
 - c. Buildings containing mixed use (residential uses over commercial uses) are limited to a maximum height of four stories.
 - d. Hotels/motels will be limited to a maximum height of four stories.
 - e. For purposes of this Overlay, each building story may be up to 14 feet in height.
 - f. For mixed-use buildings, commercial uses are permitted on the first two stories only.
 - g. Each building containing commercial uses only is limited to a maximum building footprint of 20,000 square feet gross floor area.
 - h. One or more zoning overlays may be adopted which may include more restrictive standards than listed above in Paragraphs a –g.
9. For all properties outside of the Coastal High Hazard Area, any eligible density bonuses, as provided in the Density Rating System, are in addition to the eligible density provided herein. However, for properties within the Coastal High Hazard Area (CHHA), only the affordable-workforce housing density bonus, as provided in-the Density Rating System, is allowed in addition to the eligible density provided herein.

For all properties, the maximum density allowed is that specified under Density Conditions in the Density Rating System.

10. A maximum of 388 dwelling units are permitted to be utilized in this Overlay for density bonuses, as provided in paragraphs #4 and #5 above, for that portion of the Overlay lying within the CHHA only. This 388 dwelling unit density bonus pool corresponds with the number of dwelling units previously entitled to the botanical gardens sites prior to their rezone in 2003 to establish the Naples Botanical Gardens PUD. The “mini triangle” catalyst project is not subject to this density bonus pool.
11. The Botanical Garden, Inc. properties located in Section 23, Township 50 South, Range 25 East, and shown on the Bayshore/Gateway Triangle Redevelopment Overlay Map, shall be limited to non-residential uses except for caretaker, dormitory, and other housing integrally related to the Botanical Garden or other institutional and/or recreational open space uses.

Provision Analysis:

This provision is intended to promote redevelopment of this area and remains appropriate. In some instances, it can be difficult to understand the applicability of the Overlay provisions as it relates to other FLUE provisions.

This provision remains valid and appropriate and should be retained. However, the Overlay and/or related FLUE provisions should be revised to improve clarity, if possible.

Overlays and Special Features, Coastal High Hazard Area

Policy 12.2.5 of the Conservation and Coastal Management Element (CCME) defines the Coastal High Hazard Area (CHHA). The CHHA boundary is depicted on the Future Land Use Map; all lands lying seaward of that boundary are within the CHHA. New rezones to permit mobile home development shall not be allowed within the CHHA. The Capital Improvement Element and Conservation and Coastal Management Element both contain policies pertaining to the expenditure of public funds for public facilities within the CHHA.

Provision Analysis:

Certain provisions within the FLUE, e.g. Density Rating System density bonuses and proposed density reduction factor, specifically do/do not apply within the CHHA. Likewise, certain Objectives and Policies of other Elements have specific applicability to the CHHA.

This provision remains valid and should be retained as written.

[Comment from the Florida Department of Community Affairs' October 15, 2010 Letter on the Proposed EAR (paragraph 6): "The proposed EAR does not sufficiently address Section 163.3191(2)(m), F.S. Collier County has coastal high hazard area; however, the proposed EAR does not include an evaluation of whether any past reduction in land use density within the coastal high hazard area impairs the property rights of current residents when redevelopment occurs, and include in such an evaluation the identification of strategies to address redevelopment and the rights of affected residents balanced against public safety considerations. The EAR should be revised to include the evaluation."]

Collier County response:

Collier County has **not** required a density reduction in the Coastal High Hazard Area (CHHA) since the last (2004) EAR. Further, FLUE Policies 5.1 and 5.9-5.12, and related Consistent by Policy Maps, allow for development and redevelopment – including within the CHHA – in accordance with zoning on the identified properties. And, the Bayshore/Gateway Triangle Redevelopment Overlay in the FLUE, and on the FLUM, is almost entirely within the CHHA; that Overlay allows for a density increase on eligible properties therein via reallocation of density.

Objective 3 and Policies in the Capital Improvement Element imposes limitations on the expenditure of public funds within the CHHA, but allows for provision of public infrastructure necessary to serve population density as allowed by the FLUE.

Future Land Use Map and Map Series

The Future Land Use Map includes a depiction of the CHHA.

Provision Analysis:

The CHHA is described in CCME Policy 12.2.5. The definition of the CHHA in Florida Statutes changed in 2006 but that Policy has not been revised. Any necessary change to CHHA boundary description in CCME policy 12.2.5 needs to be reflected on the FLUM.

The County recommends any changes to the CHHA boundary made in CCME Policy 12.2.5 be reflected on the FLUM depiction of the CHHA boundary.

Future Land Use Map and Map Series

The Future Land Use Map Series includes a depiction of properties in the Immokalee Area that are deemed Consistent by Policy.

Provision Analysis:

This map depicts properties within the Immokalee Area Master Plan boundary that were previously determined to be consistent with the FLUE pursuant to policies under Goal 5 of the FLUE. The Immokalee Area Master Plan is being amended (petition CP-2008-5) which is expected to result in fewer future land use nonconformities – properties with existing zoning that does not conform to the future land use designation. The IAMP will include a new Policy 6.1.9 that is the replacement of FLUE Policy 5.1 for the Immokalee area; that new policy will make reference to these nonconforming properties. A new map will be prepared for adoption into the IAMP depicting these nonconforming properties that are deemed consistent by policy; this will replace the present Consistent By Policy Map for Immokalee.

The County recommends this map be deleted; a replacement map will be adopted into the IAMP.

Planning Horizon Issue

Provision Analysis:

The FLUM is labeled 2006-2016; future transportation maps are labeled 2025; other planning and/or infrastructure programs have different timelines. There is a need to align the planning horizon within the GMP. The 2007-2008 combined cycles of GMP amendments, adopted on July 28, 2010, added a new Policy 4.11 in the FLUE, as follows:

In the next Evaluation and Appraisal Report (EAR), due January 1, 2011, Collier County will identify as an issue to be addressed, the need to align dates within the various elements of this growth management plan. This will include, but may not be limited to, the planning time frame for the Future Land Use Map, the Rural Lands Stewardship Area Overlay, and Transportation Element long range maps. Necessary amendments to achieve the alignment of dates will be included in the EAR-based amendments to the Plan.

The County recommends revising the various planning horizons to be consistent, perhaps 2025.

Designation/District/Subdistrict Relationship

Provision Analysis:

Both the Urban and Agricultural/Rural Designations contain multiple Districts and Subdistricts. Various uses are allowed under the Designation that may or may not be allowed under each subsequent District or Subdistrict though this is not always readily discernable.

The County recommends clarification of the relationship between Designations, Districts and Subdistricts; this may necessitate restructuring parts of the Designation Description section of the FLUE.

EAR BCC - FLUE Assessment of GOPs as approved for DCA on 1-31-11 – revised per HFAC 2-10-11

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