



**STAFF REPORT  
COLLIER COUNTY PLANNING COMMISSION**

**MEETING OF JULY 21, 2011**

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The purpose of this Staff Report is to bring petition CP-2006-11 forward to the Collier County Planning Commission (CCPC) to consider proposed amendments to the Growth Management Plan. The CCPC reviewed CP-2006-11 previously for Transmittal on January 20, 2011.

Collier County held its other Transmittal hearings for CP-2006-11, the Hacienda Lakes of Naples GMP amendment, on December 1, 2010 (EAC, Environmental Advisory Council) and, February 8, 2011 (BCC, Board of County Commissioners). The respective Transmittal recommendations/actions are presented below.

Within the CCPC binder containing staff documents, you will find the Transmittal EAC staff report and Transmittal CCPC staff report, which provide staff's detailed analysis of this petition. The respective Transmittal recommendations/actions are presented below.

CP-2006-11 is companion to Hacienda Lakes' Development of Regional Impact (DRI) and Mixed Use Planned Unit Development (MPUD) requests [DRI-2006-AR-10147 and PUDZ-2006-AR-10146].

**PROPOSED AMENDMENT**

**PETITION CP-2006-11**, Amendments to the Conservation and Coastal Management Element, Future Land Use Element and Future Land Use Map and Map Series of the Growth Management Plan, to reconfigure the boundary and increase the size of the Southeast Quadrant of Mixed Use Activity Center No. 7 (Rattlesnake Hammock Road and Collier Boulevard); increase the maximum allowable density that may be achieved within the Urban Residential Fringe Subdistrict (URF) portion of a project lying in more than one Future Land Use designation through enhanced utilization of eligible Transferable Development Rights (TDRs); provide a definitive access provision for a Business Park located in the URF portion of a project; and, allow for native vegetation preservation in the URF portion of a project to be shifted to the RFMUD Sending Lands portion of the project when the required amount of native vegetation preservation is proportionally increased in the Sending Lands portion of the project – as they relate to proposed Hacienda Lakes Development of Regional Impact (DRI) and Mixed Use Planned Unit Development (MPUD) requests, consisting of approximately 2,262 acres located east of Collier Boulevard (CR 951), with frontages on Collier Boulevard and Rattlesnake Hammock Road Extension (a.k.a., entrance to Swamp Buggy Days PUD's Florida Sports Park), in Sections 11, 12, 13, 14, 23, 24, and 25, Township 50 South, Range 26 East, and Sections 19 and 30, Township 50 South, Range 27 East, Collier County, Florida. *Petitioner: David Torres, for Hacienda Lakes of Naples, LLC.*

**TRANSMITTAL ACTIVITIES**

**STAFF RECOMMENDATION:** Transmit specific portions of the proposed amendment, and not to Transmit the portion proposing expansion of the Mixed Use Activity Center, to DCA – as they appear in “ATTACHMENT HL-2” of the CCPC Transmittal Staff Report.

**EAC RECOMMENDATION:** Transmit to DCA (vote: 3/0).

**CCPC RECOMMENDATION:** Transmit each of the six parts proposed in petition CP-2006-11, including the portion proposing expansion of the Mixed Use Activity Center, to DCA (vote: 9/0) – as they appear in Collier County Resolution 11-32 *Exhibit A*.

The CCPC also directed that the following requirements/stipulations be to be met before a recommendation is proffered or action is taken on the Adoption of CP-2006-11. These requirements/stipulations also appear in the BCC Transmittal Executive Summary.

1. Prior to, or at the time of Adoption hearing before the CCPC, documentation shall be presented to show and confirm accessibility to those parcels located within project boundaries that may be owned by other parties and otherwise landlocked. *Provisions regarding this aspect are found in companion materials: Section 16, Legal Access in proposed Development Order (beg. pg. 43) and, Section 12, Consistency with the Local Comprehensive Plan (beg. pg. 40), esp. subsection (F). See also, Sheets 3 through 7 of the MPUD/DRI Master Plan map set for both existing and proposed access easements. This stipulation is adequately addressed in companion MPUD Ordinance Exhibits or related Hacienda Lakes materials. **It is no longer necessary to retain it through Adoption.***
2. Prior to, or at the time of Adoption hearing before the CCPC, cross-sections and other design information for The Lord’s Way shall be presented to show and confirm preliminary plans for the types of improvements needed to ensure accessibility to the proposed location for the Business Park by business, semi-industrial and industrial vehicles and traffic.

***The project team provides the following response:*** “Please refer to Exhibit C of the MPUD Ordinance Exhibits that has been modified to reflect the potential future public roadway corridor. The Lord’s Way is located along the mid-line of the West ½ of Section 14. The warranty deed recorded in O.R. 1069, Pg. 2187 granted an easement for public access and the placement of utilities on 30 feet at the north boundary of the North ½ of the Southwest ¼ of Section 14. These are thirty feet south of the midline. With respect to the north side, between 50’-55’ was reserved for right-of-way during the last modification to the First Assembly Ministries PUD.”

Based on the documents submitted by the project team, Hacienda Lakes has a 30 ft. road easement for The Lord’s Way. The dedication over Tracts A and G in The Lord’s Way PUD have not been made to the County. In addition, there is a 170 ft. gap at the FPL easement (Tract B) between Tracts A and G of the PUD. There is no dedication requirement over Tract B in the PUD. It has not yet been determined whether a 30-foot road easement meets County standards for a County-approved public street. There could be another 30-foot easement on the north part of The Lord’s Way but this has not been demonstrated to date.

Cross-sections and other design information presented thus far propose a roadway design intended to match existing conditions on the westerly portion of The Lord's Way [from its existing terminus on the east side of Celebration Blvd. to the east into Hacienda Lakes]. Preliminary plans did not provide the types of improvements needed to ensure accessibility to the business park by business, semi-industrial and industrial vehicles and traffic [or to the potential travel trailer and recreational vehicle park]. But certain land uses could not be developed in the project without these assurances.

The Hacienda Lakes project team approaches this impediment by keeping their options open and adding the subsection entitled The Lord's Way Access Improvements to Companion MPUD, Exhibit B, Development Standards (beg. pg. 29). Staff recognizes the subsection, but finds it deficient as currently written to cover all proposed development scenarios. Staff recommends remedial modifications to correct this problem in the evaluation of Exhibit B in companion review materials. **By adoption of these recommendations, it would no longer be necessary to retain this stipulation through Adoption.**

3. Prior to, or at the time of Adoption hearing before the CCPC, documentation shall be presented to show and confirm accessibility, by easement or other access and development rights, to those parcels comprising the privately owned rights-of-way located within project boundaries, and west of the project boundaries that may be owned by other parties. *Provisions regarding this aspect are found in companion materials: Section 16, Legal Access in proposed Development Order (beg. pg. 43) and, Section 12, Consistency with the Local Comprehensive Plan (beg. pg. 40), esp. subsection (F). See also, Sheets 3 through 7 of the MPUD/DRI Master Plan map set for both existing and proposed access easements.* This stipulation is adequately addressed in companion MPUD Ordinance Exhibits or related Hacienda Lakes materials. **It is no longer necessary to retain it through Adoption.**

The BCC further directed that the following requirements/conditions, or something similar, shall be placed in the eventual and subsequent companion PUD rezone and/or in the eventual and subsequent companion DRI, whichever is deemed more appropriate:

1. Prior to the issuance of the first residential Development Order in the Hacienda Lakes MPUD, the Base TDR Credits and Early Entry TDR Bonus Credits shall be severed and redeemed from all Sending Lands to be preserved within one mile of the Urban Residential Fringe and the filing of executed Limitation of Development Rights Agreement(s) shall occur for these same lands. *Provisions regarding this aspect are found in Section VIII, Planning, in MPUD Ordinance Exhibits (beg. pg.47 of 48) and in companion materials: Section 17, Planning, in proposed Development Order (beg. pg. 44) and, Section 12, Consistency with the Local Comprehensive Plan (beg. pg. 40).* This condition is adequately addressed in companion MPUD Ordinance Exhibits or related Hacienda Lakes materials. **It is no longer necessary to retain it through Adoption.**
2. A permanent conservation mechanism, including Limitation of Development Rights Agreement(s), [shall] be attached/applied to all Sending Lands to be preserved beyond one mile of the Urban Residential Fringe prior to final approval of the first Site Development Plan (SDP) for the Hacienda Lakes project. *Provisions regarding this aspect are found in Section VIII, Planning, in MPUD Ordinance Exhibits (beg. pg.47 of 48) and in companion materials: Section 17, Planning, in proposed Development Order (beg. pg. 44) and, Section 12, Consistency with the Local Comprehensive Plan (beg. pg. 40); look for consistent use of correct conservation "mechanism" terminology.* This condition is adequately addressed in companion MPUD Ordinance Exhibits or related Hacienda Lakes materials. **It is no longer necessary to retain it through Adoption.**

3. The land uses that are expressly allowed by Ordinance No. 84-26 for the Swamp Buggy [Days] “PUD for Recreation and Sports Park” shall be superseded and otherwise incorporated into the Hacienda Lakes PUD and use of the shooting range or “target range” currently on-site shall be discontinued and may be replaced by an indoor facility for rifles, pistols, shotguns, and any other firearms. The outdoor facility shall cease use or operation no later than the time when any development or construction activity begins to occur within range or trajectory of such target range. ~~The indoor facility shall begin use and operation prior to occupancy permits being issued for habitable buildings located within range or trajectory of said target range. Provisions regarding this aspect are found in companion materials: FINDINGS OF FACT Section, in proposed Development Order (beg. pg. 4). [Stricken statement is recommended to be withdrawn from this requirement – staff]~~ This stipulation is adequately addressed in companion MPUD Ordinance Exhibits or related Hacienda Lakes materials. **It is no longer necessary to retain it through Adoption.**

All six (6) of the above stipulations were [are] appropriate to include during CCPC Adoption consideration [of CP-2006-11] and subsequent PUDZ, DRI and development order approval. They were [are] not intended to appear within the GMP as part of this proposed amendment, but have been incorporated into companion Hacienda Lakes materials, as noted by the individual entries above.

**BCC ACTION:** Transmit to DCA (vote: 5/0), per CCPC recommendation, including the six (6) requirements above.

### **FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA) OBJECTIONS, RECOMMENDATIONS AND COMMENTS (ORC) REPORT**

After review of Transmitted GMP amendments, the Florida Department of Community Affairs (DCA) renders an Objections, Recommendations and Comments (ORC) Report. Only Objections can form the basis of a non-compliance determination, unless the adopted amendments vary significantly from those Transmitted.

DCA raises no Objections in their April 21, 2011 ORC Report for GMP amendment CP-2006-11. One state agency, the Florida Department of Transportation (FDOT), provides two (2) comments. The entire ORC Report, which includes comments from other state and regional review agencies, is included in the CCPC binder containing staff documents.

FDOT comments:

- Since the impacts of the GMP amendments are based solely upon the analysis of the DRI, the department recommends that **policy be included in the GMP that limits the development** to a level based upon the facility analysis that was conducted for the DRI. *[emphasis added]*
- Since the GMP amendments are based solely upon the analysis of the DRI, the department requests that the GMP [amendment] **approval be contingent upon** the applicant establishing **an approved mitigation plan for all affected state roadway facilities.** *[emphasis added]*

**Staff Response to FDOT Comments:**

With regard to the first FDOT Comment – Suggesting a GMP Policy be part of these amendments to limit development to levels found in Facilities’ Analysis – It is uncommon to insert this type of provision in the GMP. Primarily, since the CP-2006-11 group of amendments does not produce a new Subdistrict into which such policy would be inserted, it is difficult to determine just where such Policy should best appear. Secondly, PUD materials are a more appropriate destination for inserting such policy or provision.

Through adoption of a number of conditions recommended with the companion PUDZ, development will be limited to a level based upon the facility analysis that was conducted for the DRI.

With regard to the second FDOT Comment – Suggesting that GMPA approval be contingent on a mitigation plan approved by FDOT for affected State roadway facilities – It has been explained how the extent of such affect or such mitigation is not vast. The effects appear to be insubstantial or cosmetic in nature, and the mitigation activities are correspondingly minor and surficial. Actual changes may amount to no more than extending certain pavement markings (paint) that delineate turn lanes where FDOT jurisdiction applies. If it can be shown that the regional impact of this project rises to a level that dictates certain roadway improvements – such as materially increasing the length of turn lanes – then contributing to such improvements would be expected as part of mitigation plans. Here again, PUD materials are a more appropriate destination for inserting such policy or provision.

County Transportation Planners continue to work with the Hacienda Lakes project team to resolve transportation issues. All aspects of mitigation are being resolved in the PUD, and all MPUD Ordinance Exhibits illustrating such mitigation will be in place and part of the record as adopted by the Board of County Commissioners (BCC). Transportation commitments are also to be reflected in the DRI [and its accompanying Development Order documents], except in those instances where the DRI monitoring schedule might govern the timing of completion of those commitments differently. These items will cover FDOT concerns and conditions.

CP-2006-11 is companion to the Hacienda Lakes’ DRI and MPUD requests and as such, under Florida Administrative Code - Rule 9J-11, is exempt from the twice per year Plan amendment limitation.

The ordinance proposed for adoption includes text and map exhibits for this petition; those exhibits (text modified but map unchanged since BCC Transmittal) are located within the CCPC binder containing staff documents.

**ADOPTION ACTIVITIES**

Subsequent to Transmittal hearings, the review of companion petitions for the MPUD, DRI and its associated Development Order raised an additional issue, as follows:

This issue concerns the ability to receive TDR density in Business Park acreage in the Urban Designated Area of the project, and decidedly needs additional clarity in new FLUE language. These text modifications are made part of the staff recommendation for the Adoption of CP-2006-11, as shown [double-underlined] in the FLUE excerpt, already shown as modified in Transmittal [~~through/underline~~], below.

Future Land Use Element

[Insert new language – FLUE Page 29]

I. URBAN DESIGNATION

A. Urban Mixed Use District

2. Urban Residential Fringe Subdistrict:

The purpose of this Subdistrict is to provide transitional densities between the Urban Designated Area and the Agricultural/Rural Area and comprises approximately 5,500 acres and 5% of the Urban Mixed Use District. Residential land uses may be allowed at a maximum base density of 1.5 units per gross acre, plus any density bonus that may be achieved via CCME Policy 6.2.5 (6) b.1., ~~or~~ and either “a” or “b” below:

- a. Up to ~~2.5~~ 1.0 unit per gross acre via the transfer of up to one (1.0) dwelling unit (transferable development right) per acre from lands located within one mile of the Urban Boundary and designated as Rural Fringe Mixed Use District Sending Lands, except in the case of properties that straddle the Urban Residential Fringe and the Rural Fringe Mixed Use Sending Lands designations, and meet the other Density Blending criteria provided for in subsection 5.2 of the Density Rating System, which may achieve an additional maximum density of up to 1.3 units per gross acre for all lands designated as Urban Residential Fringe via the transfer of up to 1.3 dwelling units (transferable development rights) per acre from lands located within one mile of the Urban Boundary and designated as Rural Fringe Mixed Use District Sending Lands; or,

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**STAFF RECOMMENDATION:** Adopt as modified by the [double-underlined] post-transmittal text changes appearing above regarding the provisions that address receiving TDR density in Business Park acreage in the URF, except for Activity Center expansion. More specifically, staff's recommendation for the individual parts of the proposal are shown in the figure below.

PROVISION	EXISTING	PROPOSED	REMARKS	RECOMMENDATION
Maximum Residential Density (utilizing TDRs)	2.5 DU/acre - eligible to receive in URF	2.8 DU/acre - eligible to receive in URF with receiving "lift"	Just 507.8 ac would be developed residentially <ul style="list-style-type: none"> <li>• 432.4 in residential tracts</li> <li>• 36.6 MUAC residential</li> <li>• 38.8 in residential/ medical uses tract</li> </ul>	To <b>ADOPT WITH MODIFICATION</b> Providing Additional Clarity for Receiving TDR Density in the Urban Designated Area
Native Vegetation/ Habitat Retention / Preservation FLUE	25% NV in Urban portion 60% NV in Rural portion - Required Preservation Area	Under 25% NV – Urban portion 100% NV – Undeveloped Rural portion - Preservation Area with "shift"	<ul style="list-style-type: none"> <li>• 25% of Urban Preserve is 71.7 ac. of 286.8 NV</li> <li>• 60% of Rural Preserve is 848.4 ac. of 1,414 NV</li> </ul>	To <b>ADOPT</b> as Transmitted
Maximum Use of TDRs	1.0 DU/TDR per acre -eligible to transfer into URF from Sending Lands within 1 mile of URF boundary	1.3 DUs/TDRs per acre - eligible to transfer into URF from Sending Lands within 1 mile of URF boundary, with "lift"	Overall Density would be 0.78 DUs/acre (gross)	To <b>ADOPT</b> as Transmitted
Acreage Allowed for Southeast Quadrant of MUAC No. 7	27.5 acres	36.6 acres	Supply of 887,962 sq. ft. / Demand for 143,645 sq. ft. = Market factor of 6.18 (Supply = 618 % of Demand)	<b>NOT TO ADOPT</b>
Direct Access for Business Park onto Arterial Roadway	The Lord's Way does not provide such access by FLUE provisions	The Lord's Way would provide such access with new provision	Provides additional benefits for access to both Collier Boulevard and the future Benfield Road	To <b>ADOPT</b> as Transmitted
Native Vegetation/ Habitat Retention / Preservation CCME	25% NV in Urban portion 60% NV in Rural portion - Preserved	25% – X = Urban NV 60% + 2X = Rural NV - Preserved with "shift"	<ul style="list-style-type: none"> <li>• Urban Preserve would be 40.8 ac.</li> <li>• Rural Preserve would be 1,395 ac.</li> </ul>	To <b>ADOPT</b> as Transmitted

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