

ORDINANCE NO. 2011- 40

AN ORDINANCE AMENDING ORDINANCE NO. 89-05, AS AMENDED, THE COLLIER COUNTY GROWTH MANAGEMENT PLAN FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA BY PROVIDING FOR: AMENDMENTS TO THE FUTURE LAND USE ELEMENT, AND FUTURE LAND USE MAP AND MAP SERIES AND THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT SPECIFICALLY TO ADD ACREAGE TO THE URBAN MIXED USE ACTIVITY CENTER #7; TO ALLOW ACCESS TO A BUSINESS PARK SUBDISTRICT THROUGH THE LORD'S WAY; TO INCREASE DENSITY IN THE URBAN RESIDENTIAL FRINGE SUBDISTRICT AND TO ALLOW FOR THE TRANSFER OF NATIVE VEGETATIVE RETENTION FROM THE URBAN AREA TO THE SENDING AREA AND INCREASE THE 60% CAP ON NATIVE VEGETATION IN THE TOTAL PROJECT AREA DESIGNATED AS SENDING AREAS; AND FURTHERMORE RECOMMENDING ADOPTION TRANSMITTAL OF THE AMENDMENTS TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Collier County, pursuant to Section 163.3161, *et. seq.*, Florida Statutes, the Florida Local Government Comprehensive Planning and Land Development Regulation Act, was required to prepare and adopt a comprehensive plan; and

WHEREAS, the Collier County Board of County Commissioners adopted the Collier County Growth Management Plan on January 10, 1989; and

WHEREAS, the Community Planning Act of 2011 provides authority for local governments to amend their respective comprehensive plans and outlines certain procedures to amend adopted comprehensive plans; and

WHEREAS, David Torres, of Hacienda Lakes of Naples, LLC, Dwight Nadeau, of RWA, Incorporated, and Richard Yovanovich, Esquire of Coleman, Yovanovich, and Koester, P.A. requested amendments to the Future Land Use Element and the Future Land Use Map and Map Series, and the Conservation and Coastal Management Element of the Growth Management Plan to reconfigure the boundary and size of the Southeast Quadrant of Mixed Use Activity Center No. 7 (Rattlesnake Hammock Road and Collier Boulevard) to 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 to allow for native vegetation preservation in the URF portion of a project to be shifted to the Rural Fringe Mixed Use District (RFMUD) Sending lands portion of the project when the required amount of native vegetation preservation proportionally

Words ~~struck through~~ are deletions; words underlined are additions;

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increased in the Sending lands portion of the project as they relate to proposed Hacienda Lakes Development of Regional Impact (DRI) and mixed-use project Planned Unit Development (MPUD) requests. The property is located 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, consisting of 2,262± acres; and

WHEREAS, Collier County did submit these Growth Management Plan amendments to the Department of Community Affairs for preliminary review on March 31, 2011; and

WHEREAS, the Department of Community Affairs did review the amendments to the Future Land Use Element and Future Land Use Maps and Map Series, and the Conservation and Coastal Management Element to the Growth Management Plan and transmitted its findings in writing to Collier County within the time provided by law; and

WHEREAS, Collier County has no time limit from receipt of the Objections, Recommendations, and Comments Report from the Department of Community Affairs (for DRI-related amendments) to adopt, adopt with changes or not adopt the proposed amendments to the Growth Management Plan; and

WHEREAS, the Board of County Commissioners of Collier County did take action in the manner prescribed by law and did hold public hearings concerning the adoption of the Future Land Use Element and the Conservation and Coastal Management Element to the Growth Management Plan on October 25, 2011; and

WHEREAS, Collier County has gathered and considered additional information, data and analysis supporting adoption of these amendments, including the following: the Collier County Staff Report; the documents entitled Collier County Growth Management Plan Amendments and other documents, testimony and information presented and made a part of the record at the meetings of the Collier County Planning Commission held on July 21, 2011, and August 4, 2011, and the Collier County Board of County Commissioners held on October 25, 2011; and

WHEREAS, all applicable substantive and procedural requirements of law have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: ADOPTION OF AMENDMENTS TO THE GROWTH
MANAGEMENT PLAN.

The Board of County Commissioners hereby adopts these amendments to the Future Land Use Element and the Conservation and Coastal Management Plan Element, in accordance with Section 163.3184, Florida Statutes. The text and maps of the amendments are attached hereto as Exhibit "A" and are incorporated by reference herein.

SECTION TWO: SEVERABILITY.

If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION THREE: EFFECTIVE DATE.

The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida this 25th day of October, 2011.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

BY: Fred W. Coyle
FRED W. COYLE, Chairman

by: Debra A. Cicko
Deputy Clerk
Attest as to Chairman's signature on 19.

Approved as to form and legal sufficiency:

Heidi Ashton-Cicko
Heidi Ashton-Cicko
Assistant County Attorney
Section Chief, Land Use/Transportation

State of FLORIDA
County of COLLIER

I HEREBY CERTIFY THAT this is a true and correct copy of a document on file in Board Minutes and Records of Collier County
WITNESS my hand and official seal this 27th day of October, 2011

DWIGHT E. BROCK, CLERK OF COURTS

Dwight E. Brock

CP\10-CMP-00788\47

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Exhibit A

PART ONE of SIX:Future Land Use Element

I. URBAN DESIGNATION

[Insert new language – FLUE Page 29]

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 units 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, in
- b. In the case of properties specifically identified below, a density bonus of up to 6.0 additional units per gross acre may be requested for projects providing affordable-workforce housing (home ownership only) for low and moderate income residents of Collier County, pursuant to Section 2.06.00 of the Land Development Code, or its successor ordinance, except as provided for in paragraph “c” below. Within the Urban Residential Fringe, rezone requests are not subject to the density rating system, except as specifically provided in c. below, but are subject to the following conditions:

Within the Urban Residential Fringe, rezone requests are not subject to the density rating system, except as specifically provided below for the Affordable-workforce Housing Density Bonus. All rezones are encouraged to be in the form of a planned unit development. Proposed development in the Subdistrict shall be fully responsible for all necessary water management improvements, including the routing of all on-site and appropriate off-site water through the project’s water management system, and a fair share cost of necessary improvements to the CR 951 canal/out-fall system made necessary by new development in the Subdistrict.

- a. All rezones are encouraged to be in the form of a planned unit development;

~~b. Proposed development in the area shall be fully responsible for all necessary water management improvements, including the routing of all on-site and appropriate off-site water through the project's water management system, and a fair share cost of necessary improvements to the CR-951 canal/out-fall system made necessary by new development in the area; and,~~

e. Properties eligible for the Affordable-workforce Housing Density Bonus (home ownership only) will be specifically identified herein. The actual number of bonus units per gross acre shall be reviewed and approved in accordance with the conditions and procedures set forth in Section 2.06.00 of the Land Development Code, except that, Section 2.06.03 shall not apply, and the number of dwelling units required to be sold to buyers earning 80% or less of Collier County's median income, as calculated annually by the Department of Housing and Urban Development (HUD), shall be at least thirty percent (30%).

The following properties are eligible for an Affordable-workforce Housing Density Bonus (home ownership only) of up to 6.0 additional dwelling units per acre.

- 1. Property located on the East side of Collier Boulevard (C.R. 951), approximately ...

PART TWO of SIX:

I. URBAN DESIGNATION

[Insert new language – FLUE Pages 51 – 53]

B. DENSITY RATING SYSTEM

5. Density Blending:

This provision is intended to encourage unified plans of development and to preserve wetlands, wildlife habitat, and other natural features that exist within properties that straddle the Urban Mixed Use and Rural Fringe Mixed Use Districts or that straddle Receiving and Neutral Lands within the Rural Fringe Mixed Use District. In the case of such properties, which were in existence and under unified control (owned, or under contract to purchase, by the applicant(s)) as of June 19, 2002, the allowable gross density for such properties in aggregate may be distributed throughout the project, regardless of whether or not the density allowable for a portion of the project exceeds that which is otherwise permitted, when the following conditions are met:

* ** *** **** ** ***** ** ***** ** ** *

2. Density Blending Conditions and Limitations for Properties Straddling the Urban Residential Fringe Sub-District and Rural Fringe Mixed Use District Sending lands:

- (a) The project must straddle the Urban Residential Fringe Sub-District and the Rural Fringe Mixed Use District Sending Lands;
- (b) The project in aggregate must be a minimum of 400 acres;
- (c) At least 25% of the project must be located within the Urban Residential Fringe Sub-District. The project must extend central water and sewer wastewater treatment facilities (from the urban designated portion of the project) to serve the entire project,

Words underlined are added, words ~~struck through~~ are deleted.
Row of asterisks (* ** *** **** **) denotes breaks in text.

unless alternative interim sewer and water and wastewater treatment provisions are authorized by Collier County;

- (d) The Project is currently zoned or will be zoned PUD;
- (e) The density to be shifted to the Sending Lands from the Urban Residential Fringe is to be located on impacted or disturbed lands, or it is demonstrated that the development on the site is to be located so as to preserve and protect the highest quality native vegetation and/or habitat on-site and to maximize the connectivity of such native vegetation and/or wildlife habitat with adjacent preservation and/or habitat areas;
- (f) Native vegetation shall be preserved as follows:
 - (1) The Urban portion of the project shall comply with the native vegetation requirements identified in the Conservation and Coastal Management Element (for Urban designated lands), or in the case of projects where the native vegetation requirement for the Sending Lands portion of the project is the maximum required 60 percent of the total Sending Land area, in order to promote greater preservation of the highest quality wetlands and listed species habitat, the required native vegetation for the Urban portion of the project may be shifted by providing native vegetation preservation in the Sending Lands portion of the project exceeding the 60% maximum preservation requirement as set forth in subsection (2) below. The ratio for such native vegetation preservation shall be two acres of Sending Lands (exceeding the 60% maximum preservation requirement) for each acre below the required amount of native vegetation for the Urban portion of the project. In no instance shall less than 10 percent of the required amount of native vegetation be retained in the Urban portion of the project. Significant Archeological Sites identified by the State of Florida Division of Historic Resources shall be preserved and cannot be mitigated for. For those lands within the project designated as Sending, the native vegetation preservation requirement shall be 90% of the native vegetation, not to exceed 60% of the total project area designated as Sending. Wetland areas that are impacted through the development process, but which result in enhanced wetland function, including habitat and/or flowways, shall be considered as part of the native vegetation requirement set forth in this provision and shall not be considered as impacted areas. These wetland areas and/or flowways may be used for water storage provided that the water discharged in these areas is pre-treated.
 - (2) For those lands within the project designated as Sending, the native vegetation preservation requirement shall be 90% of the native vegetation, not to exceed 60% of the total project area designated as Sending, unless the provisions found in subsection (1) above are met.
 - (3) Wetland areas that are impacted through the development process, but which result in enhanced wetland function, including habitat and/or flowways, shall be considered as part of the native vegetation requirement set forth in this provision and shall not be considered as impacted areas. These wetland areas and/or flowways may be used for water storage provided that the water discharged in these areas is pre-treated.

- (g) Permitted uses for density blending under this provision include residential development and associated amenities, including golf courses meeting the criteria for golf courses within the Neutral area. This provision is not intended to eliminate any uses permitted within the applicable underlying land use designation.

PART THREE of SIX:

B. DENSITY RATING SYSTEM:

[Insert new language – FLUE Page 50]

2. Density Bonuses

Consistency with the following characteristics may add to the base density. Density bonuses are discretionary, not entitlements, and are dependent upon meeting the criteria for each bonus provision and compatibility with surrounding properties, as well as the rezone criteria in the Land Development Code.

f. Transfer of Development Rights Bonus

To encourage preservation/conservation of natural resources, density transfers are permitted as follows:

- (c) From Sending Lands located within one mile of the Urban Boundary into lands designated Urban Residential Fringe, at a maximum density increase of one (1) unit per gross acre, except for 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 transfer TDRs from Sending Lands located within one mile of the Urban Boundary into lands designated Urban Residential Fringe, at a maximum density increase of 1.3 units per gross acre.

PART FOUR of SIX:

I URBAN DESIGNATION

[amend language – FLUE Pages 56-57]

C. Urban Commercial Subdistrict

1. Mixed Use Activity Center Subdistrict

- 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 and the southeast quadrant may have a total of 49.2 acres, for a total of ~~479~~ 188.2 acres maximum in the entire Activity Center;

FUTURE LAND USE MAP SERIES

[amend in order]

Activity Center No. 7 – Rattlesnake Hammock Road and Collier Boulevard Mixed Use Activity Center

- amend inset map depicting new MUAC boundary, instead of revision to the Future Land Use Element Countywide FLUM.

PART FIVE of SIX:

I URBAN DESIGNATION

[Insert new language – FLUE Pages 31-32]

A. Urban Mixed Use District

4. Business Park Subdistrict

The Business Park Subdistrict is intended to provide for a mix of industrial uses and non-industrial uses, designed in an attractive park-like environment with low structural density where building coverage ranges between 25% to 45% and where landscaped areas provide for buffering and enjoyment by the employees and patrons of the park. Business Parks shall be allowed as a Subdistrict in the Urban-Mixed Use District, Urban Commercial District and Urban Industrial District and may include the general uses allowed within each District, the specific uses set forth below, and shall comply with the following general conditions:

* ** *** **** * ** * ** * ** * ** *

- h. When located in a District other than the Urban Industrial District, the Business Park must have direct access to a road classified as an arterial in the Transportation Element, except that a Business Park in Section 14, Township 50 South, Range 26 East may have access to an arterial road via The Lords Way, provided it meets County road right-of-way standards for a business park.

Words underlined are added, words ~~struck through~~ are deleted.
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PART SIX of SIX:

Conservation and Coastal Management Element

[Insert new language – CCME Pages 18-21]

GOAL 6:

OBJECTIVE 6.1:

Policy 6.1.1:

For the County’s Urban Designated Area, Estates Designated Area, Conservation Designated Area, and Agricultural/Rural Mixed Use District, Rural-Industrial District and Rural-Settlement Area District as designated on the FLUM, native vegetation shall be preserved through the application of the following preservation and vegetation retention standards and criteria, unless the development occurs within the Area of Critical State Concern (ACSC) where the ACSC standards referenced in the Future Land Use Element shall apply. Notwithstanding the ACSC requirements, this policy shall apply to all non-agricultural development except for single-family dwelling units situated on individual parcels that are not located within a watershed management conservation area identified in a Watershed Management Plan developed pursuant to policies supporting Objective 2.1 of this Element.

	Coastal High Hazard Area	Non-Coastal High Hazard Area
Residential and Mixed Use Development	Less than 2.5 acres 10% Equal to or greater than 2.5 acres 25%	Less than 5 acres. 10% Equal to or greater than 5 acres and less than 20 acres. 15% Equal to or greater than 20 ac. 25%
Golf Course	35%	35%
Commercial and Industrial Development	Less than 5 acres. 10% Equal to or greater than 5 acres. 15%	Less than 5 acres. 10% Equal to or greater than 5 acres. 15%
Industrial Development (Rural-Industrial District only)	50%, not to exceed 25% of the project site.	50%, not to exceed 25% of the project site.

The following standards and criteria shall apply to the vegetation retention requirements referenced above.

* ** *** **** ** ***** ** ***** ** ** *

- (14) In order to promote greater preservation of the highest quality wetlands and listed species habitat the required native vegetation for the Urban portion of the project may be shifted by providing native vegetation preservation in the Sending Lands portion of the project exceeding the 60% maximum preservation requirement found in Density Blending provisions of the FLUE for projects that:

Words underlined are added, words ~~struck-through~~ are deleted.
Row of asterisks (* ** *** **** **) denotes breaks in text.

- (a) Are under unified control.
- (b) Straddle the Urban Residential Fringe and the Rural Fringe Mixed Use Sending Lands designations, and,
- (c) Meet the maximum required 60 percent preservation requirement for the Sending Lands portion of the project.

The preservation ratio shall be two acres of Sending Lands (exceeding the 60% maximum preservation requirement) for each acre below the required amount of native vegetation for the Urban portion of the project. In no instance shall less than 10 percent of the required amount of native vegetation be retained in the Urban portion of the project. Significant Archeological Sites identified by the State of Florida Division of Historic Resources shall be preserved and cannot be mitigated for.

