

EXECUTIVE SUMMARY

Recommendation to Approve Growth Management Plan Amendment Petition CP-2006-11, David Torres, for Hacienda Lakes of Naples, LLC (*Adoption Hearing*)

OBJECTIVE:

For the Board of County Commissioners to review the referenced amendment to the Collier County Growth Management Plan (GMP) and consider approving (adopting) said amendment for its transmittal to the Florida Department of Economic Opportunity.

CONSIDERATIONS:

- Chapter 163, *F.S.*, provides for an amendment process for a local government's adopted Growth Management Plan.
- Petition CP-2006-11 relates to the proposed [companion] Hacienda Lakes Development of Regional Impact (DRI) and Mixed Use Planned Unit Development (MPUD) requests [DRI-2006-AR-10147 and PUDZ-2006-AR-10146] and is, under Rule 9J-11.006(1)(a)7a, *F.A.C.*, exempt from the twice per calendar year Plan amendment limitation.
- The Environmental Advisory Council (EAC) held its transmittal hearing on December 1, 2010. The CCPC, sitting as the "local planning agency" under Chapter 163.3174, *F.S.*, held its transmittal hearing for this petition on January 20, 2011. The BCC held its transmittal hearing on February 8, 2011. The respective transmittal hearing recommendations/actions are contained in the CCPC Adoption hearing Staff Report.
- The EAC considered the proposed amendment at its Adoption hearing on June 1, 2011. The CCPC held its Adoption hearing for this petition on August 4, 2011. Both bodies provided unanimous recommendations for approval.
- Although the project's numerical needs assessment did not demonstrate demand for the additional commercial acreage, other factors may be considered in determining need. In order to prepare an Adoption recommendation for the BCC, factors of suitability besides the numerical needs assessment were evaluated that were not known or had yet to be articulated when CP-2006-11 was initially reviewed. The suitability of the property for change was demonstrated in companion application materials (PUDZ and DRI) of the Hacienda Lakes proposal, and the subsequent MPUD and Development Order documents. The respective Adoption hearing recommendations are presented further below.
- The Objections, Recommendations and Comments (ORC) Report from the Florida Department of Community Affairs (DCA), dated April 21, 2011, contained no Objections, Recommendations or Comments. One other state agency who reviewed CP-2006-11, the Florida Department of Transportation (FDOT), provided two Comments. County Transportation Planners worked with the Hacienda Lakes project team to resolve transportation issues found in FDOT Comments. These issues are being resolved in the PUD, and all MPUD Ordinance Exhibits illustrating aspects of resolution, including mitigation, will be in place and part of the record as Adopted by the BCC. Transportation commitments are also reflected in the DRI [and its accompanying Development Order documents]. These items cover FDOT concerns and conditions.

Note: Because support materials for this petition are voluminous, and certain exhibits are oversized, the Agenda Central system is not used. The entire Executive Summary package, including all support materials, is included in the binders provided to the BCC and is available for review in the Comprehensive Planning Section office, 2800 North Horseshoe Drive, Naples.

The Adoption of CP-2006-11 involves amendments to the Conservation and Coastal Management Element (CCME), Future Land Use Element (FLUE) and Future Land Use Map and Map Series of the Growth Management Plan, to:

- Increase the size and reconfigure the boundary of the Southeast Quadrant of Mixed Use Activity Center No. 7 (Rattlesnake Hammock Road and Collier Boulevard) – This part of CP-2006-11 expands the size of the Southeast Quadrant of Mixed Use Activity Center No. 7 by 9.16 acres;
- 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) – This two-part portion of CP-2006-11 lifts the FLUE’s 1.0 unit-per-acre maximum transferred TDR density to 1.3 units per acre and the 2.5 unit-per-acre maximum achievable density to 2.8 units per acre to use all qualifying TDRs within the Hacienda Lakes project;
- Provide a definitive access provision for a Business Park located in the URF portion of a project – This part of CP-2006-11 requires The Lord’s Way to be constructed to standards sufficient to serve as access to a Business Park as well as to [a] predominantly residential area[s] within the Hacienda Lakes 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 – This two-part portion of CP-2006-11 shifts a portion of the FLUE’s native vegetation preservation from Urban lands to RFMUD Sending Lands to protect the highest quality wetlands and habitat within the Hacienda Lakes project.

FISCAL IMPACT:

No fiscal impacts to Collier County result from Adopting CP-2006-11. Implementation of this amendment will occur through companion DRI and MPUD requests. The companion Hacienda Lakes DRI is required to be fiscally neutral to the County, generating sufficient funds to provide the necessary infrastructure for the support of each phase of development. Further implementation of this amendment will occur through subsequent development orders (rezone or conditional use, site development plan, building permits, etc.) for which review fees are paid by the petitioner. An exception would occur if the presumed statutory compliance of any petition were challenged [appealed] by the Department of Economic Opportunity (see Growth Management Impact, below). In such an instance, Collier County may incur expenses to engage in settlement negotiations and/or to prepare for and participate in an Administrative Hearing before an Administrative Law Judge.

LEGAL CONSIDERATIONS:

The Office of the County Attorney has reviewed this Executive Summary and the GMP amendment Ordinance for legal sufficiency. Per Resolution No. 97-431, a fourth-fifths vote of the Board is necessary for approval at the adoption hearing of the Growth Management Plan amendment. [HFAC]

GROWTH MANAGEMENT IMPACT:

This is an Adoption public hearing for the Collier County Growth Management Plan amendment related to the proposed [companion] Hacienda Lakes Development of Regional Impact (DRI) and Mixed Use Planned Unit Development (MPUD) requests. Based upon statutory changes that occurred during the 2011 Florida Legislative session, these GMP amendments are presumed to be “in compliance” with applicable Florida Statutes. After Adoption, the Department of Economic Opportunity will have 30 days to review the adopted Plan amendments and, should they believe an

amendment is not “in compliance,” file a challenge [appeal] to the presumed “in compliance” determination with the Florida Division of Administrative hearings. Similarly, any affected party also has 30 days in which to file a challenge. If a timely challenge is not filed by Department of Economic Opportunity or an affected party within 30 days, then the amendments will become effective.

ENVIRONMENTAL ISSUES:

County Stormwater and Environmental Services Section staff conducted the substantive review of the environmental report submitted for CP-2006-11 and brought a staff report before the Environmental Advisory Council. The environmental report confirmed the environmental characteristics of native vegetation and habitat reported at the time the Rural Fringe Mixed Use District was established.

HISTORICAL/ARCHAEOLOGICAL IMPACT:

County Historical and Archaeological Probability Maps identified Archaeological resources on the 2,262-acre subject property. These sites are predominantly hammock formations and are protected as such. They are not located in areas where actual development is proposed.

ENVIRONMENTAL ADVISORY COUNCIL (EAC) RECOMMENDATION:

That the CCPC forward petition CP-2006-11 to the BCC with a recommendation to adopt each of the six parts of the proposal (vote: 4/0), as modified by the underlined post-transmittal text changes appearing below, and on page 1 of the Exhibit “A” accompanying the Adoption Ordinance. This modification provides additional clarity for receiving TDR density in the Urban designated area.

- a. Up to 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,

COMPREHENSIVE PLANNING STAFF RECOMMENDATION TO THE CCPC:

That the CCPC forward petition CP-2006-11 to the BCC with a recommendation to adopt, except the provisions for increasing the size of MUAC No. 7, and as modified by the underlined post-transmittal text changes appearing above, and on page 1 of the Exhibit “A” accompanying the Adoption Ordinance.

COLLIER COUNTY PLANNING COMMISSION (CCPC) RECOMMENDATION:

That the BCC adopt each of the six parts proposed in petition CP-2006-11 (vote: 8/0) as recommended by the EAC, subject to an additional modification, as reflected by the underlined post-transmittal text changes appearing below, and on page 5 of the Exhibit “A” accompanying the Adoption Ordinance.

- 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.

COMPREHENSIVE PLANNING STAFF RECOMMENDATION TO THE BCC:

That the BCC adopt each of the six parts proposed in petition CP-2006-11 as modified by the underlined post-transmittal text changes appearing above, and on pages 1 and 5 of the Exhibit “A” accompanying the Adoption Ordinance, and transmit the adopted amendment to the Department of Economic Opportunity.

PREPARED BY: Corby Schmidt, AICP, Principal Planner
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Attachments within Agenda Central: 1) BCC Adoption Executive Summary; 2) Adoption Ordinance, including Exhibit “A” Text per 9/1/2011CCPC consent & Exhibit “A” Activity Center Map (MUAC No. 7); 3) CCPC Adoption Staff Report; 4) EAC Adoption Staff Report

Attachment: Table showing Proposals, Remarks and Staff Recommendations

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"> • 432.4 in residential tracts • 36.6 MUAC residential • 38.8 in residential/ medical uses tract 	To Adopt with Modification Recommended by CCPC
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"> • 25% of Urban Preserve is 72.4 ac. of 289.7 NV • 60% of Rural Preserve is 847.2 ac. of 1,412 NV 	To Adopt 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 Adopt 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)	To Adopt as Transmitted
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 Adopt with Modification Recommended by CCPC
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"> • Urban Preserve would be 47.2 ac. • Rural Preserve would be 1,342 ac. 	To Adopt as Transmitted

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