



**STAFF REPORT  
COLLIER COUNTY PLANNING COMMISSION**

**TO:** COLLIER COUNTY PLANNING COMMISSION

**FROM:** GROWTH MANAGEMENT DIVISION/PLANNING AND REGULATION, PLANNING AND ZONING DEPARTMENT, COMPREHENSIVE PLANNING SECTION

**HEARING DATE:** September 19, 2013

**RE:** PETITION CP-2013-1 / PL-2013-0000139, Growth Management Plan Amendment  
(TRANSMITTAL HEARING)

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**APPLICANTS/OWNERS/AGENTS:**

iStar Development Company  
Donald E. Mears, Jr., Vice President  
3232 West Lake Mary Boulevard, Suite 1410  
Lake Mary, Florida 32746

Wilton Land Company, LLC  
David Torres, President  
3921 Prospect Avenue,  
Naples, Florida 34104

SFI Naples Reserve, LLC  
c/o iStar Financial, Inc.  
1114 Avenue of the Americas, 39<sup>th</sup> Floor  
New York, New York 10036

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Hole Montes, Inc.  
950 Encore Way  
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Richard D. Yovanovich, Esq.  
Coleman, Yovanovich & Koester, P.A.  
4001 Tamiami Trail North, Suite 300  
Naples, Florida 34103

**GEOGRAPHIC LOCATION:** The proposed amendments to the Future Land Use Element introduce text-based exceptions from certain Transfer of Development Rights limitations, but are not site specific. However, text amendments relate to two identifiable geographic areas of *origin* and *destination*: those Rural Fringe Mixed Use District (RFMUD) Sending Lands located beyond one (1) mile from the Urban Residential Fringe Subdistrict (URF), and; that portion of the URF located in Section 1, Township 51 South, Range 26 East – commonly known as the Naples Reserve Residential Planned Unit Development (PUD). This PUD is located approximately 1½ miles east of Collier Boulevard (CR 951), and approximately ½ mile north of US 41 East, north of the Reflection Lakes development (Walnut Lakes PUD).

**REQUESTED ACTION:** This petition seeks to amend the Future Land Use Element (FLUE) text of the Growth Management Plan to introduce specific exceptions from Transfer of Development Rights (TDR) program limitations, affecting the transfer of TDR credits among properties in the Rural Fringe Mixed Use District (RFMUD) and the Urban Residential Fringe (URF) Subdistrict.

Presently, properties located within the URF may only receive TDR credits from the RFMUD Sending Lands located within 1 mile of the URF boundary. Stated differently, TDR credits may be transferred from any RFMUD Sending Lands to any RFMUD Receiving Lands and Urban area receiving lands *except* that TDR credits from Sending Lands beyond 1 mile of the URF boundary cannot be transferred into the URF. This amendment would allow the transfer of TDR credits originating more distant than one (1) mile from the URF boundary for use in [the URF portion of] the Naples Reserve PUD. Adoption of these amendments would grant new rights to the co-applicant's property to utilize TDRs from distant RFMUD Sending Lands. (CP-2013-1 Resolution Exhibit A reflects the petitioner's proposed text changes)

## **SURROUNDING LAND USE, ZONING AND FUTURE LAND USE DESIGNATION:**

Note: For purposes unique to this application, there are **two geographic areas** – those RFMUD Sending Lands located beyond one mile from the Urban Residential Fringe (URF), with *origination* TDRs, and the Naples Reserve Residential PUD, the TDR *destination*.

**Subject [TDR origination] RFMUD Sending Lands:** The subject Sending Lands area is zoned A-RFMUO, Sending Lands (Rural Agricultural District, Rural Fringe Mixed Use – Sending Lands Overlay) and some portions contain one or more of the MHO, Mobile Home Overlay, NBMO, North Belle Meade Overlay, and NRPA, Natural Resources Protection Area Overlay; and, the area is designated Agricultural/Rural, Rural Fringe Mixed Use District, Sending Lands (and some portions are within one or more of the North Belle Meade Overlay and the Natural Resource Protection Area Overlay on the Future Land Use Map. These lands are largely undeveloped. Residential density is permitted at 1 dwelling unit per 40 acres or legal non-conforming lot/parcel of record. Permitted non-residential uses are limited to: agricultural uses, consistent with the Florida Right to Farm Act; habitat preservation and conservation uses; passive parks and other passive recreational uses; sporting and recreational camps; limited essential services; and oil extraction and related processing.

**Subject [TDR destination] Residential PUD Site:** The subject site is zoned Naples Reserve RPUD and designated partly Agricultural/Rural, Rural Fringe Mixed Use District, Receiving Lands and partly Urban, Urban Mixed Use District, Urban Residential Fringe Subdistrict (URF) on the Future Land Use Map. The ±688 acre subject site is undeveloped and the PUD provides for a maximum gross density of 1.67 dwelling units per acre.

### **Surrounding Lands:**

**North of the [TDR destination] Naples Reserve RPUD:** Land to the north of the subject RPUD is zoned A-RFMUO, Sending Lands and within the NRPA Overlay, and designated Agricultural/Rural, Rural Fringe Mixed Use District, Sending Lands, overlaid by the Belle Meade Natural Resource Protection Area (NRPA) on the Future Land Use Map. These lands lie inside the Picayune Strand State Forest and are owned by the State of Florida. Public lands are not part of the TDR program.

**West of the [TDR destination] Naples Reserve RPUD:** Land to the west of the subject RPUD is zoned Winding Cypress PUD/DRI (Development of Regional Impact) and partially developed as Verona Walk. The Future Land Use designation is Urban Mixed Use District, Urban Residential Fringe Subdistrict and Urban Residential Subdistrict.

**South of the [TDR destination] Naples Reserve RPUD:** Land to the south of the subject RPUD is zoned Walnut Lakes PUD and developed as Reflection Lakes of Naples; and, undeveloped land zoned A, Rural Agricultural. These lands are designated Urban Mixed Use District, Urban Residential Subdistrict on the Future Land Use Map.

**East of the [TDR destination] Naples Reserve RPUD:** Across Greenway Road, land to the east of the subject RPUD is in agricultural use. The zoning district is A-RFMUO, Receiving Lands and designated Agricultural/Rural, Rural Fringe Mixed Use District, Receiving Lands on the Future Land Use Map.

In summary, the existing land uses in the area immediately surrounding or directly opposite the subject RPUD are predominately rural non-residential in nature to the north and east, and residential to the west and south.

## **STAFF ANALYSIS:**

### **Background and Considerations --**

**History of the Rural Fringe GMP Amendments:** The Governor and Cabinet issued a Final Order on June 22, 1999, pertaining to GMP amendments adopted in 1997 pursuant to the 1996 Evaluation and Appraisal Report (EAR). The Final Order required the County to conduct a Rural and Agricultural Assessment for the Rural and Conservation Designated lands within the County, and then adopt measures to protect natural resources such as wetlands, wildlife and their habitats, and prevent the premature conversion of unique agricultural lands to other uses. This was to be accomplished while directing incompatible land uses away from these sensitive lands by employing creative land planning techniques.

The Final Order allowed the County to conduct this Assessment in phases. Accordingly, the County divided the Assessment into two geographical areas, the Rural Fringe Area and the Eastern Rural Lands Area. Relevant to this petition, the Rural Fringe Mixed Use District (RFMUD) was established. The RFMUD represents a transitional area between Golden Gate Estates and the County's urban area, and between the urban area and vast agricultural lands and agricultural operations farther to the east. The RFMUD consists of approximately 73,222 acres and is divided into three distinct designations: Sending Lands ( $\pm$  41,535 acres originally;  $\pm$  41,414 acres now), Receiving Lands ( $\pm$  22,020 acres originally;  $\pm$  22,373 acres now), and Neutral Lands ( $\pm$  9,667 acres originally;  $\pm$  9,427 acres now). Allowable uses, density, and preservation standards vary by designation.

Sending Lands are those lands that have the highest degree of environmental value and sensitivity and generally include significant wetlands, uplands, and habitat for listed species. The preservation standard for non-NRPA Sending Lands is eighty percent (80%) of the native vegetation on site while the standard for NRPA Sending Lands is ninety percent (90%). Density is limited to 1 dwelling unit per 40 acres or 1 dwelling unit per legal non-conforming lot/parcel of record (created on or before June 22, 1999). Transfer of development rights from Sending Lands may occur at a rate of 1 dwelling unit per five acres (0.2 du/ac.) or 1 dwelling unit per legal non-conforming lot/ parcel of record. Permitted non-residential uses are limited to: agricultural uses, consistent with the Florida Right to Farm Act; habitat preservation and conservation uses; passive parks and other passive recreational uses; sporting and recreational camps; limited essential services; and oil extraction and related processing.

Receiving Lands are those lands identified as being the most appropriate for development and to which residential units may be received from areas designated as Sending Lands. The

preservation standard for Receiving Lands, except for the North Belle Meade Overlay, is forty percent (40%) of the native vegetation present, not to exceed twenty-five percent (25%) of the total site area to be preserved. The base residential density (non-Rural Village development) is 1 dwelling unit per 5 acres (0.2 du/ac.) or 1 dwelling unit per legal non-conforming lot/parcel of record. The maximum density achievable for non-Rural Village development is 1 dwelling unit per acre, through the Transfer of Development Rights (TDRs). The minimum and maximum density for Rural Village development within Receiving Lands is 2 and 3 dwelling units per acre, respectively, except that the minimum density for Rural Village development on Receiving Lands within the North Belle Meade Overlay is 1.5 dwelling units per acre. Permitted non-residential uses are primarily the same as those uses permitted in the agricultural zoning district prior to the Final Order (e.g. full range of agricultural uses, community facilities, recreational uses, etc.).

Neutral Lands are those lands suitable for semi-rural residential development. Generally, Neutral lands have a higher ratio of native vegetation than lands designated as Receiving Lands, but do not have values approaching those in the Sending Lands. The preservation standard for Neutral Lands is sixty percent (60%) of the native vegetation present, not to exceed forty-five percent (45%) of the total site area to be preserved. The maximum residential density is limited to 1 dwelling unit per 5 acres (0.2 du/ac.) or legal non-conforming lot/parcel of record. These lands are “neutral” to the TDR program and do not generate or receive residential density. Permitted non-residential uses are primarily the same as the uses permitted in the agricultural zoning district prior to the Final Order (e.g. full range of agricultural uses, community facilities, recreational uses, etc.).

The consultant who assisted in development of the RFMUD TDR program found a correlation between the proximity of properties lying east of CR 951 and their land values. The higher transitional/residential densities allowed in the Urban Residential Fringe affected these nearer lands with higher property values while more-distant Sending Lands – which are less dense, further removed from urban services, less acceptable, and so forth – revealed notably lower values.

This geographical relationship was recognized and specific limitations established to bolster TDR values for the more proximate lands, and provided special arrangements for the transfer, redemption and use of TDRs.

The consultant also directly addressed the TDR program, and predicted the haste which requests to change the program to benefit only a few, or single, landowners would appear. The County was cautioned to keep the TDR program intact [for a substantial period of time]. Changes weaken the program, diminish TDR values and discourage the viability of long-term continuing participation.

#### **How TDRs are Expected to Transfer Into Naples Reserve:**

A number of TDRs are expected to originate from Hacienda Lakes PUD/DRI land. To date, Sending Lands located in the easternmost part of the Hacienda Lakes PUD/DRI have produced ±190 [base & Early Entry bonus] TDR credits from ±475 acres.

Development Standards found in the standing Naples Reserve PUD Ordinance indicate, *“There shall be no more than 1,154 residential dwelling units permitted which provides for a maximum gross density of 1.67 dwelling units per acre. A minimum of 612 Transfer of Development Rights Credits shall be obtained to achieve the maximum gross density.”*

...with Planning provision “B” stating,

*“In order to increase the residential density allowed in the Urban Mixed Use District, Residential Fringe Subdistrict and the Agricultural/Rural – Rural Fringe Mixed Use District, Receiving Lands, 612 TDR credits shall be severed from qualifying Sending Lands, of which a minimum of 311 TDR credits shall be severed from [qualified] Sending Lands within one mile of the Urban Area.”*

The clear implication is that the remaining 301 TDR credits may be obtained from [qualified] Sending Lands located *within* one mile OR *beyond* one mile from the Urban Area [unqualified], as the *origination* TDRs pertinent to this application – despite such a transfer from beyond one mile being **inconsistent** with the FLUE provision for the URF. Approximately 190 of these TDR credits originate from Hacienda Lakes’ Sending Lands – leaving 111 to be obtained from other [qualified and/or unqualified] Sending Lands. [See calculations below.]

1154	maximum DUs in Naples Reserve **
<u>- 612</u>	minimum TDR credits to be severed/transferred from RFMU Sending Lands **
542	intrinsic DU density
311 =	minimum TDR credits to be severed/transferred from [qualified] Sending Lands within one mile of Urban Area [attributable to the '612' figure above]
	**
<u>301</u> =	remaining TDR credits to be severed/transferred from [qualified and/or unqualified] Sending Lands within one mile of Urban Area or beyond one mile of the Urban Area [attributable to the '612' figure]
- 190 =	TDR credits severed/to be transferred from Hacienda Lakes' [unqualified] Sending Lands beyond one mile of Urban Area [attributable to the '301' figure] ***
<u>= 111</u> =	TDR credits to be severed/transferred from other Sending Lands located within one mile or beyond one mile from Urban Area [attributable to the '301' figure]

Of all Sending Lands, only those located within one mile of the Urban area qualify to transfer TDR credits into the Urban Residential Fringe (URF).

1804	estimated TDR total in [qualified] Sending Lands within one mile of the Urban Area *
<u>- 721</u>	TDR credits from [qualified] Sending Lands within one mile of Urban Area already committed to URF use *
= 1083	TDR credits in [qualified] Sending Lands within one mile of Urban Area remaining for URF use *

For the Urban Residential Fringe (URF) lands, only a portion of them can make use of the TDR credits available from [qualified] Sending Lands.

3249	approximate URF acres eligible for TDR use (w/ an equivalent TDR count– potential TDR credit demand in URF) *
<u>- 1083</u>	TDR credits in [qualified] Sending Lands within one mile of Urban Area remaining for URF use (potential TDR credit supply for URF)*
= 2166	approximate potential unmet need of TDR credits for URF use (potential TDR credit demand in URF unmet by Sending Lands within 1 mile of URF boundary) *

Sources:

\* Petitioner provided figures.

\*\* Naples Reserve PUD Ordinance derived figures.

\*\*\* Staff provided figures.

The petitioner's eligible acreage, thus potential demand for TDR credits, in the URF includes Winding Cypress PUD/DRI. Staff believes Winding Cypress should be excluded. It is presently approved for 2,300 DUs (1.19 DU/A) and 796 acres of preserve. A PUD amendment presently under review would increase this to 2,854 DUs (1.48 DU/A) and 840 acres of preserve. Phase I of Winding Cypress (Veronawalk) has been platted, infrastructure put in place, and DUs at or near build out. Phase II, the balance of the PUD, will contain fewer DUs than Phase I due to environmental constraints. Almost all of the Preserve is located in Phase II; there is limited land available for residential development.

The below figures reflect staff's exclusion of Winding Cypress PUD/DRI.

2,177 potential TDR credits demand in URF

1,083 TDR credits in Sending Lands within 1 mile of URF

1,034 approximate unmet need of TDR credits for URF use

This potential need for 2,166 TDR credits (petitioner's figure) or 1,034 TDR credits (staff's figure) in the URF would go unmet due to the existing prohibition on transferring TDR credits from Sending Lands beyond one mile of the URF boundary. The subject GMP amendment would satisfy a portion of that potential unmet need for TDR credits. On the other hand, this amendment could potentially devalue TDR credits generated from Sending Lands within one mile of the URF by increasing the eligible supply – all Sending Lands would become eligible to transfer TDR credits to the Naples Reserve PUD, not just those within one mile of the URF boundary.

According to application materials, the co-applicant of this petition is the original owner of Hacienda Lakes PUD/DRI, maintains ownership of TDR credits from Hacienda Lakes, and will sell 406 TDR credits to the Naples Reserve developer if this amendment is successful. Accordingly, this amendment could be viewed as self-serving. Nonetheless, it may further the success of the TDR program and protection of Sending Lands.

### **Environmental Impacts:**

Collier County Department of Natural Resources personnel reviewed this petition and provided the following analysis:

The majority of the land within Naples Reserve PUD was previously cleared for agricultural purposes prior to approval of the rezone to PUD. Native vegetation occurs primarily in the preserves on site. There is also in an existing conservation easement, in favor of the South Florida Water Management District (SFWMD), over the preserves.

An updated listed species survey was recently provided with the subdivision plat/plans for the project, currently under review with the County. Listed species documented on site were all associated with the agricultural ditches and the borrow pond on site, and consist of American alligator, several species of wading bird and snail kite. None of these species were found to be nesting on the subject property.

A letter provided with the original PUD rezone, from the Florida Department of State, Division of Historical Resources, indicates no significant archaeological or historical sites recorded for or likely to be present within the project area. The letter also states that because of the project

location and/or nature it is unlikely that any such sites will be affected. The project will be subject to the usual requirement for accidental discovery of archaeological or historical sites as required by Conservation and Coastal Management Element (CCME) Policy 11.1.3. The provision is also included in Subsection 2.03.07 E of the Land Development Code (LDC).

The proposed GMP amendment for transfer of TDRs to allow Naples Reserve to achieve its maximum allowable density will have no effect on the requirements of the (CCME). The percent requirements of preserves will also not change.

[Stephen Lenberger, Senior Environmental Specialist]

**Historical and Archaeological Impacts:**

The historical and archaeological characteristics inherent to the subject property are addressed in the Naples Reserve PUD. The transfer of TDRs from beyond one mile from the Urban Area does not in itself impact the site and further analysis is unnecessary.

**Traffic Capacity/Traffic Circulation Impact Analysis, Including Transportation Element Consistency Determination:**

The traffic capacity and /traffic circulation characteristics associated with developing the subject property are addressed in the Naples Reserve PUD. The transfer of TDRs from beyond one mile from the Urban Area does not in itself impact these traffic characteristics and further analysis is unnecessary.

**Public Facilities Impact:**

The public facilities services needed to develop the subject property are addressed in the Naples Reserve PUD. The transfer of TDRs from beyond one mile from the Urban Area does not in itself impact these services and further analysis is unnecessary.

**NEIGHBORHOOD INFORMATION MEETING (NIM) SYNOPSIS:**

A Neighborhood Information Meeting (NIM) required by LDC Section 10.03.05 F was [duly advertised, noticed and] held on Thursday, August 22, 2013, 5:30 p.m. at the Collier County South Regional Library, Meeting Rm. "B", located at 8065 Lely Cultural Parkway, Naples. Two people other than the applicant's team and County staff attended – and heard the following information:

The applicant's agent provided a full description of the proposed amendment to the group, including how the transfer of TDR credits will be allowed to the Naples Reserve PUD located in the Urban Residential Fringe (URF) from Rural Fringe Mixed Used District Sending Lands.

No one in attendance expressed opposition to the changes. The meeting was completed by 5:40 p.m.

*[Synopsis prepared by C. Schmidt, AICP, Principal Planner]*

**FINDINGS AND CONCLUSIONS:**

The following findings and conclusions result from the reviews and analyses of this request:

- Impact upon the TDR program could be noteworthy. A number of TDR credits originally intended for use in areas of designated Receiving Lands will be redirected to the Urban Residential Fringe – a reallocation of TDR credits.
- This GMP amendment could potentially devalue TDR credits generated from Sending Lands within one mile of the URF.



- This GMP amendment would satisfy a portion of the potential unmet need in the Urban Residential Fringe for TDR credits.
- Though this amendment could be viewed as self-serving, it may further the success of the TDR program and protection of Sending Lands.
- Correlating amendments to the Naples Reserve PUD may be submitted subsequent to, or concurrent with the Adoption phase of this GMPA application.

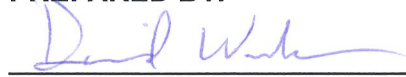
**LEGAL CONSIDERATIONS:**

This staff report has been approved as to form and legality by the Office of the County Attorney.  
[HFAC]

**STAFF RECOMMENDATION:**

**That the Collier County Planning Commission forward Petition CP-2013-1 to the Board of County Commissioners with a recommendation to approve this petition for transmittal to the Florida Department of Economic Opportunity.**

**PREPARED BY:**



DATE: 8/29/13

For

CORBYSCHMIDT, AICP, PRINCIPAL PLANNER  
COMPREHENSIVE PLANNING SECTION, PLANNING AND ZONING DEPARTMENT

**REVIEWED BY:**



DATE: 8/29/13

DAVID WEEKS, AICP, GROWTH MANAGEMENT PLAN MANAGER  
COMPREHENSIVE PLANNING SECTION, PLANNING AND ZONING DEPARTMENT

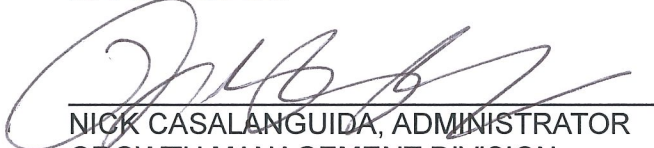
**REVIEWED BY:**



DATE: 8-29-13

MIKE BOSI, AICP, DIRECTOR, PLANNING AND ZONING DEPARTMENT

**APPROVED BY:**



DATE: 9-3-13

NICK CASALANGUIDA, ADMINISTRATOR  
GROWTH MANAGEMENT DIVISION

PETITION NO.: CP-2013-1 / PL-2013-0000139  
Staff Report for the September 19, 2013, CCPC Meeting.

NOTE: This petition has been scheduled for the November 12, 2013, BCC Meeting.