

EXECUTIVE SUMMARY

Recommendation to deny the single, 2014 Cycle 1 Growth Management Plan Amendment petition PL20140000113/CP-2014-2 specific to the San Marino Planned Unit Development. (Adoption Hearing) (Companion to rezone petition PUDA-PL20140000100, San Marino Planned Unit Development)

OBJECTIVE: For the Board of County Commissioners (BCC) to deny (not adopt) the single petition in the 2014 Cycle 1 of amendments to the Collier County Growth Management Plan (GMP) and not to approve said amendment for 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.
- County Resolution 12-234 provides for a public petition process to amend the Collier County GMP.
- For this Adoption hearing, the sole petition in the 2014 Cycle 1 of GMP amendments being considered is PL20140000113/CP-2014-2, applicable only to a portion of the San Marino Planned Unit Development.
- The Collier County Planning Commission (CCPC), sitting as the "local planning agency" under Chapter 163.3174, F.S., held its Transmittal hearings for the subject petition on November 6, 2014. The BCC held its Transmittal hearing on December 9, 2014. Their respective transmittal recommendations/actions are contained in the CCPC adoption hearing Staff Report.
- The CCPC held its adoption hearing on April 2, 2015. The staff and CCPC adoption hearing recommendations are presented further below.
- After review of the Transmitted GMP amendment, the Florida Department of Economic Opportunity (DEO) rendered its Comment Letter indicating "no comment" within the agency's authorized scope of review, as did the Florida Department of Environmental Protection (DEP), Florida Fish and Wildlife Conservation Commission (FWC), Florida Department of Agriculture and Consumer Services (DACs), Southwest Florida Regional Planning Council (SWFRPC) and South Florida Water Management District (SFWMD). The Florida Department of Education (DOE) rendered comments within their authorized scope of review, indicating The Collier County School District complete the school planning level review per the Collier County Interlocal Agreement for Public School Facility Planning and School Concurrency; the Florida Department of Transportation (FDOT) conducted a *planning level analysis* and rendered comments within their authorized scope of review. FDOT indicates that the proposed amendment is not anticipated to adversely impact important State transportation resources or facilities, and provided details regarding operating conditions on impacted State roadways. DOE commented specifically, as follows:

The Department recommends the changes associated with the proposed amendment CP-2014-2 be reviewed as required by Section 8 of the Collier County Interlocal Agreement for Public School Facility Planning and School Concurrency before adoption consideration.

In response to the DOE Comment, staff notes the Transmittal package of materials was provided to School District representatives and subsequently reviewed in accordance with Interlocal Agreement Section 8. Determinations from their Section 8 review are found in a letter dated January 22, 2015, as attached hereto, and summarized below.

In accordance with Interlocal Agreement subsection 8.2, Collier County notified the School District of the proposed GMP amendment that may increase school enrollment. In accordance with Interlocal Agreement subsection 14.2, the Collier County School District subsequently conducted the school planning level review per the Collier County Interlocal Agreement for Public School Facility Planning and School Concurrency and responded. The School District response indicates *at this time there is sufficient capacity for the proposed development within the middle and high school concurrency service areas the development is located within and the adjacent concurrency service area for the elementary level. This finding is for planning and informational purposes only and does not constitute either a reservation of capacity or a finding of concurrency for the proposed project. At the time of site plan or plat the development would be reviewed for concurrency to ensure there is capacity within the concurrency service area the development is located within and adjacent concurrency service areas such that the level of service standards are not exceeded.*

The remaining review agency (Florida Department of State, Division of Historical Resources) did not provide a Comments Letter. All review agency Comments Letters received are contained in the back-up materials.

- This adoption hearing considers amendment to the Future Land Use Element (FLUE) text.

Note: Because the support materials are voluminous, and some exhibits may be oversized, the Agenda Central system does not contain all of the related documents pertaining to this GMP amendment petition. The entire Executive Summary package, including all support materials, is included in the binder that is available for review in the Comprehensive Planning Section office at 2800 North Horseshoe Drive, Naples, as well as in the Clerk of Courts/Minutes and Records office at 3299 Tamiami Trail East, Suite 401, Naples.

Petition PL20140000113/CP-2014-2 is a petition submitted by Alexis V. Crespo, AICP, for Stock Development and H & LD Venture, LLC requesting amendment to the Future Land Use Element (FLUE) to introduce two site-specific exceptions from existing limitations in the Transfer of Development Rights (TDR) program, affecting the transfer of TDR credits among properties in the Rural Fringe Mixed Use District (RFMUD) and the Urban Residential Fringe (URF) Subdistrict. Adoption of these amendments will grant new rights exclusive to [the undeveloped portion of] the San Marino Planned Unit Development (PUD) property - to utilize 52% more

TDRs than other development in the URF, and allow those TDRs from distant RFMUD Sending Lands. *Note: A companion PUD rezone petition is scheduled for this same hearing.*

Staff analysis of this petition is included in the Transmittal CCPC Staff Report. There was one public speaker at the CCPC adoption public hearing, who spoke in support of the request.

LEGAL CONSIDERATIONS: This Growth Management Plan (GMP) amendment is authorized by, and subject to the procedures established in, Chapter 163, Part II, Florida Statutes, the Community Planning Act, and by Collier County Resolution No. 12-234, as amended. The Board should consider the following criteria in making its decision: (1) consistency with the Comprehensive Plan, including analysis of impact on public infrastructure; (2) consistency with the Land Development Code, including compatibility analysis; and, (3) review of data and analysis to support the proposed amendment. This item is approved as to form and legality. It requires an affirmative vote of four for approval because this is an Adoption hearing of the GMP amendment. [HFAC]

FISCAL IMPACT: No fiscal impacts to the County result from this amendment if it is adopted.

GROWTH MANAGEMENT IMPACT: This is an adoption public hearing for the single petition in the 2014 Cycle 1 of amendments to the GMP. Based upon statutory changes that occurred during the 2011 Florida Legislative session, this GMP amendment is presumed to be “in compliance” with applicable Florida Statutes. After adoption, the DEO and other applicable review agencies will have 30 days (from the date DEO determines the adoption packages are complete) to review the adopted Plan amendment and, should they believe the 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 (from the date of BCC adoption) in which to file a challenge. If a timely challenge is not filed by DEO or an affected party, then the amendment will become effective.

ENVIRONMENTAL ISSUES: The majority of the petition site is forested with native vegetation, twenty five percent of which is required to be retained in accordance with applicable policies in the CCME. Approximately 71 percent of the site (139.50 acres) contains State and Federal jurisdictional wetlands.

No listed wildlife species were observed during the survey conducted in February, 2014. However, two listed plant species were identified on the property; they are subject to the Land Development Code requirements for possible relocation.

HISTORICAL/ARCHAEOLOGICAL IMPACT: According to the Florida Department of State, Division of Historical Resources, no significant archaeological sites or cultural resources are recorded for the San Marino site.

STAFF RECOMMENDATION TO THE COLLIER COUNTY PLANNING COMMISSION: That the CCPC forward Petition CP-2014-2, as proposed, to the Board of County Commissioners with a recommendation not to approve for transmittal to the Florida Department of Economic Opportunity.

Staff did, however, recommend approval of a different version of FLUE text: allowing for the transfer of TDR credits from Sending Lands property more than one (1) mile from the Urban boundary; removing the density increase; and, incorporating non-substantive changes for proper code language, format, clarity, brevity, etc.

COLLIER COUNTY PLANNING COMMISSION (CCPC) RECOMMENDATION: The Collier County Planning Commission held its required Adoption public hearing on April 2, 2015. The CCPC recommended that the BCC adopt petition CP-2014-2, including the petitioner-proposed changes and staff-recommended revisions (vote: 5/0).

STAFF RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS: Same as to the CCPC – Not to adopt and transmit petition PL20140000113/CP-2014-2, as submitted, to the Florida Department of Economic Opportunity, for the following reason:

- The Urban Residential Fringe is intended for, and developed with, lower “transitional” residential densities; a more compatible and consistent development pattern would be maintained without approval of the proposed higher residential density.

It is staff’s opinion that the application has not provided the necessary data and analysis for the changes being proposed. Based upon this deficiency, the application has not satisfied the Statutory requirement establishing the need for the amendment, therefore Comprehensive Planning is providing a recommendation not to adopt. (Note: The Board of County Commissioners heard staff’s objections on December 09, 2014 during the transmittal hearing and voted to transmit.)

Staff does, however, recommend approval of a different version of FLUE text: allowing for the transfer of TDR credits from Sending Lands property more than one (1) mile from the Urban boundary; removing the density increase.

Prepared by: Corby Schmidt, AICP, Principal Planner, and David Weeks, AICP, Growth Management Manager, Comprehensive Planning Section, Zoning Division, Growth Management Department

Attachments: 1) CCPC Adoption Staff Report; 2) Adoption Ordinance with Exhibit “A” text; 3) DEO and Reviewing Agency Comment Letters; 4) Transmittal Executive Summary; 5) CCPC Transmittal Staff Report; 6) Approved Transmittal Resolution; 7) CP-2014-2 Application Backup Information (petition only) – due to the size of the entire document, the complete back-up is accessible at:

http://www.colliergov.net/ftp/AgendaMay1215/GrowthMgmt/PL20140000113_CP-2014-2_Adpt_Petition_SanMarino.pdf

