

Report on the Rural Fringe Mixed Use District Recommendations for Programmatic Changes

January 20, 2015



Report on the Rural Fringe Mixed Use District

Recommendations for Consideration of Programmatic Changes

Funded by: The Rural Fringe Coalition, Inc., a Florida Not-for-Profit Corporation (RFC)

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I. History of the Rural Fringe Mixed Use District and TDR Program

The “Final Order”

Nearly 20 years ago, on April 16, 1996, Collier County had just completed a statutorily required Growth Management Evaluation and Appraisal Report (EAR). On November 15, 1997, the County adopted a set of Growth Management Plan (GMP) amendments, based upon the adopted EAR. On December 24, 1997, the Florida Department of Community Affairs (DCA) found that the County’s Adopted GMP Amendments were “not in compliance” with relevant state statutes, and a hearing was scheduled before the Department of Administrative Hearings (DOAH). That hearing took place over a period of five days in May of 1998, and on March 19, 1999 the Administrative Law Judge found that all of the DCA challenged EAR-based amendments were not “in-compliance.” The matter was then considered by the Governor and Cabinet sitting as the Administration Commission, and on June 22, 1999 the Final Order AC-99-002 was issued. The Order found that, among other things, the County had failed to adopt and implement policies to: protect environmentally sensitive property, to discourage urban sprawl; and to prevent the premature conversion of agricultural land.

The Final Order required remedial action on the part of Collier County to address these issues. The remedial action required that the County conduct a “Rural and Agricultural Assessment.” The primary objectives of the assessment were:

1. Identify and propose measures to protect prime agricultural areas;
2. Direct incompatible uses away from wetlands and upland habitat in order to protect water quality and quantity and maintain the natural water regime as well as to protect listed animal species and their habitats; and,
3. Assess growth potential of the Area by assessing potential conversion of rural lands to other uses, in appropriate locations, while discouraging urban sprawl, directing incompatible land uses away from critical habitat and encouraging development that utilizes creative land use planning techniques including, public and private schools, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions and mixed use development.

The County determined it was best to bifurcate the Assessment into two separate study areas. One area, originally referred to as the Eastern Lands Study Area, and now known as the Rural Lands Stewardship Area (RLSA), included the highly productive agricultural lands in eastern Collier County, then consisting of approximately 300,000 acres of privately owned lands generally surrounding the rural community of Immokalee, and extending significantly south and east of Immokalee. The second area, referred to as the Rural Fringe Mixed Use District consisted of approximately 93,600 acres, and was generally located between the County’s urban coastal area and the north and south blocks of the

Golden Gate Estates subdivision. (See Appendix Maps 1. and 2.) The Assessment resulted in the Rural Fringe Mixed Use District Transferable Development Rights (TDR) Program, designed to encourage the transfer of density from environmentally sensitive “Sending” lands to the more developable “Receiving” lands, based on environmental and planning considerations.

II. The Rural Fringe Mixed Use District (RFMUD) Program

When the Rural Fringe Mixed Use District was adopted in June of 2002, it consisted of more than 5,550 tax parcels, and included at least 3,835 separate and distinct property owners (See Appendix: Map 2). Alternative land use strategies were developed for the Rural Fringe Mixed Use District, in part, to consider these existing ownership patterns. The Rural Fringe Mixed Use District was intended to achieve a balanced approach, utilizing both regulations and incentives, to protect natural resources and private property rights, providing for large areas of open space, and allowing in designated areas, appropriate types, density and intensity of development. The Rural Fringe Mixed Use District is separated into three specific designations, Sending Lands, Neutral Lands, and Receiving Lands.

Sending Lands are those lands that have the highest degree of environmental value and sensitivity based on the evaluation of available data at the time of designation (2002). Generally Sending lands include significant wetlands, uplands, and habitat for listed species. Uses within the Sending Lands were limited to a narrow list of “permitted” and “conditional” uses. For example, earth mining, while provided for as a Conditional Use in the A – Agricultural District, is not permitted within Sending Lands. Residential density within Sending Lands was reduced from the 1 DU per 5 acres typically permitted on A-Agriculture zoned land to 1 dwelling unit per 40 acres (or one dwelling unit per lot or parcel of less than 40 acres, which existed on or before June 22, 1999). The required native vegetation preservation percentage on Sending lands is 80% for Non-NRPA Sending lands and 90% for NRPA Sending lands. NRPA is the acronym for Natural Resource Protection Areas. The vast majority of Sending Lands are also designated NRPA. The County FLUE identifies the purpose of the NRPA designation as follows:

C. Natural Resource Protection Area Overlay

The purpose of the Natural Resource Protection Area (NRPA) Overlay designation is to protect endangered or potentially endangered species and to identify large connected intact and relatively unfragmented habitats, which may be important for these listed species. NRPAs may include major wetland systems and regional flow-ways. These lands generally should be the focus of any federal, state, County or private acquisition efforts.

Receiving Lands are those lands within the Rural Fringe Mixed Use District that have been identified as being most appropriate for development. Receiving Lands can accept TDRs from lands designated as Sending. Based on the evaluation of available data at the time of designation (2002), these lands were determined to have a much lesser degree of environmental or listed species habitat value than areas designated as Sending. Typically, Receiving Lands have been disturbed through agricultural operations or some other form of development. Within the RFMUD, various regulations are employed to direct development into Receiving Lands and away from Sending Lands. Currently, such regulations include: TDRs; clustered development; density bonuses; and specific development standards for Rural Villages. Within the Receiving Lands the base residential density allowable is one (1) unit per five (5) gross acres (0.2 dwelling units per acre).

In addition to the base residential density, density may be increased on Receiving Lands through the TDR process. Receiving Land standards, allowable uses, and maximum allowable density are provided for in two different scenarios: (1) Receiving Lands located outside of a Rural Village; and (2), Receiving Lands located within a Rural Village. Residential Density is permitted as a matter of right for projects outside of a Rural Village, if the following standards are met.

Summary of Standards for Receiving Lands Located Outside of a Rural Village:

- Base density 0.2 DUs per acre (1 DU per 5 acres).
- Max additional density through TDRS: 0.8 DUs per acre for overall max of 1.0 DU per acre.
- Allows clustered single and multi-family development, with minimum project size of 40 acres.
- Allows other permitted uses, including family care facilities, sports and recreational camps, golf courses, and other “Conditional Uses” including earth mining (excluding North Belle Meade Overlay Receiving, which has its own standards with regard to locations where earth mining is permitted)
- Encourages clustering to minimize development footprint.
- Minimum lot area of 5 acres if not employing clustering and under a clustered scenario, for single family minimum lot size is 4,500 square feet and for multi-family it is 1 acre.
- Height is limited to 35 feet for single-family and 5 stories not to exceed 60 feet for multi-family.
- Native vegetation retention is 40 percent not to exceed 25 percent of the overall project size.

Rural Villages: Within each of the four distinct Receiving areas, the FLUE allows the development of a single Rural Village, which by regulation must be located where public infrastructure exists or is planned, and shall have direct access to a roadway classified by

Collier County as an arterial or collector roadway, or access to the Village may be via new collector roadway directly accessing an existing arterial, the cost of which shall be borne entirely by the developer. A Rural Village may only be approved after demonstration that the Village will be fiscally neutral or positive to county taxpayers outside of the Village.

Villages shall include several neighborhoods designed in a compact nature such that a majority of residential development is within one-quarter mile of a neighborhood center. Neighborhood centers may include small-scale service retail and office uses, and shall include a public park, square, or green. Village centers shall be designed to serve the retail, office, civic, government uses and service needs of the residents of the rural village. The village center shall be the primary location for commercial uses. Rural villages shall be surrounded by a green belt in order to protect the character of the rural landscape and to provide separation between rural villages and low density rural development, agricultural uses, and conservation lands that may surround the rural village. Rural villages shall be designed to include the following: a mixture of residential housing types; institutional and/or commercial uses; and recreational uses, all of which shall be sufficient to serve the residents of the rural village and the surrounding lands.

Summary of Detailed Standards for Rural Villages:

- Minimum of 300 acres (except North Belle Meade Village which has a minimum size 250 acres) and maximum of 1500 acres in size (except southern most potential village locate along the US 41 east Receiving area, which can be 2,500 acres in size). Base density 0.2 DUs per acre.
- Max additional density through TDRS and bonuses: 2.8 DUs per acre for overall max of 3.0 DU per acre.
- Minimum density is 2.0 DUs per acre for Village (except potential North Belle Meade Receiving area Village which has a minimum density of 1.5 DUs per acre).
- Allows all uses permitted in Receiving Outside of a Rural Village, including single and multi-family, and:
 - Neighborhood center - 0.5% of the total rural village acreage, not to exceed 10 acres, within each neighborhood center.
 - Neighborhood center Commercial - Not to exceed 40% of the neighborhood center acreage and 8,500 square feet of gross leasable floor area per acre.
 - Village center - Not to exceed 10% of the total rural village acreage.
 - Village center commercial - Not to exceed 30% of the village center acreage and 10,000 square feet of gross leasable floor area per acre.
 - Research and Technology Parks limited to a minimum size of 19 acres and a maximum size of 4% of the total rural village acreage.
 - Civic Uses and Public Parks - Minimum of 10% of the total rural village acreage.

Neutral Lands were identified for limited semi-rural residential development. Available data at the time of creation indicated that Neutral Lands have a higher ratio of native vegetation, and thus higher habitat values, than lands designated as Receiving Lands, but these values do not approach those of Sending Lands. Therefore, these lands are appropriate for limited development, if such development is directed away from existing native vegetation and habitat. A lower maximum gross density is prescribed for Neutral Lands when compared to Receiving Lands. Neutral Lands allow for a maximum density of 1 dwelling unit per 5 gross acres (0.2 units per acre), and does not provide for higher density through TDRs. Additionally, other uses similar to those permitted within the A-Agriculture zoning district are authorized in Neutral Lands.

III. RFMUD TDR Program

Development and Current TDR Program

The TDR program was adopted in order to provide a viable means for Sending land owners to be compensated for the loss of their development rights. As originally approved, the TDR program allowed for owners of Sending lands to generate TDRs from such lands at a rate of 1 TDR per 5 acres (or for nonconforming parcels of less than 5 acres if such parcel existed on or before June 22, 1999). TDRs can be used to increase allowable density in Receiving Lands (both in Rural Villages and outside of a Rural Village) and within the Urban Residential Fringe (URF) designation. At its adoption, the program set a minimum value of \$25,000 for the base TDR.

TDR's from RFMUD Sending Lands located within one mile of the County's Urban Residential Fringe boundary (a one-mile wide corridor of Sending designated lands extended east from the edge of the Urban Residential Fringe boundary) can be used to increase density within the Urban Residential Fringe Subdistrict (URF) by up to 1 DU per acre (from the current maximum density of 1.5 DUs per acre to 2.5 DUs per acre). The Urban Residential Fringe Subdistrict is a one mile wide strip adjacent to the east side of Collier Boulevard and extending from I-75 in at its northern terminus down to US 41 (Tamiami Trail East).

After several years of negligible utilization, the County adopted several bonus TDR credits that could be achieved in addition to the Base TDR on Sending Lands. These Bonus Credits, each calculated at a ratio of 1 credit per 5 acres (or per nonconforming parcels of less than 5 acres if such parcel existed on or before June 22, 1999), are still in effect and they include:

- An Early Entry Bonus (to encourage quicker severance of TDRs from Sending Lands);
- An Environmental Restoration and Maintenance Bonus Credit (for removing exotics or other environmental restoration and ongoing maintenance efforts); and

- A Conveyance Bonus Credit (for Sending Lands conveyed in fee simple to a federal, state, or local government agency as a gift or for mitigation).

Thus, presently, for every 5 acres of Sending Lands, up to 1 base TDR and 3 Bonus TDR Credits may be generated for use in Receiving Lands, or within the URF Subdistrict, or for qualified Residential Infill parcels. The \$25,000 minimum TDR cost is only applied to the Base TDR, allowing the free market to set the price for TDR bonuses (and in effect, for all TDR's).

Utilization

The County's most recent TDR Utilization Data indicates TDR Activity as follows:

TRANSFER OF DEVELOPMENT RIGHTS TO DATE - FY2003-2014*			
	Processed	Pending Final Process	Totals
Number Acres Enrolled in Program:	6,451.84	1,387.31	7,839.15
Total Credits To Date:			
Total Credits To Date (from Acres Enrolled in Program to Date) :	1,310.28	279.22	1,589.50
Number of Bonus TDR Credits:	1,310.28	279.22	1,589.50
Number of R&M TDR Credits:	866.97		866.97
Number of Conveyance Credits:	260.99		260.90
Total Credits in Program (Includes Pending Final Process):			4,306.87
Total Credits Redeemed (Utilized/to be Utilized within Approved Developments):			-1,790.27
TDR Credits Yet to be Redeemed/ Utilized:**			2,516.60
<p>*Source: Collier County Comprehensive Planning ** The vast majority of the severed but unredeemed TDR's will be used in approved or pending projects where these TDR's are owned or controlled by developer. It is estimated that less than 10% of the 2,516.60 TDR's identified above as "Yet to be Redeemed/Utilized" are available for purchase.</p>			

Urban Residential Infill Utilization: As previously indicated, TDRs can be used in the Urban area generally under the Urban Residential Infill Provisions of the GMP. This provision has never been used and should be considered for elimination.

RFMUD Receiving Lands Utilization:

There are +/-23,128 acres of Receiving designated lands (including the recently approved conversion of 554 acres from Neutral to Receiving for The Olde Florida Golf Club). There has been very little utilization of TDR's in the RFMUD Receiving designated areas, mainly limited to a few projects where the developer owned both Sending lands and Receiving Lands and thus could easily utilize the TDR's on the project Receiving lands. **There has been no utilization of TDR's to entitle or create a Rural Village.** In addition to establishing what was thought to be a viable market for TDR's, Rural Villages were also established and located generally to provide a wider range of services to lands located proximate to a Rural Village, including significant amounts of Golden Gate Estates lands. The establishment of Rural Villages was thought to be favorable to provide additional support services to areas of Golden Gate Estates that have very limited lands for retail services and employment based uses. In addition, it was understood that development of Rural Villages would result in a reduction of Vehicles Miles Traveled (VMT) by residents of Golden Gate Estates, with attendant reduced impacts on the relative few east west arterial roadways. The structure, development and design standards, and land use requirements and limitations for Rural Villages are cumbersome and much too detailed for the GMP and need to be revisited to consider standards and requirements which actually promote and incentivize the development of compact mixed-use developments (Rural Villages) and attract investment in such developments thereby achieving the County's long range objectives for the RFMUD. In addition to addressing the creation of a balanced program that provides for a true market attraction for residential development within the Receiving lands, full consideration must be given for allowing an appropriate mixture of nonresidential development and, where appropriate, allowing and incentivizing employment generating uses including business parks, light industrial parks, and similar types of projects that provide for an increased employment base.

Urban Residential Fringe (URF) Utilization:

This is the area where there has clearly been the most utilization of TDR's, due to proximity to existing urban areas. However, similar to the TDR utilization in the RFMUD Receiving area, a significant amount of the TDR's used in the URF have come from Sending lands owned by the developer of the URF lands; thus they are not true arms length transactions and are not representative of a market based value.

Nevertheless, there have been some sales of TDRS from Sending Lands owners for use in projects located within the URF. Nearly all of the URF lands have been entitled with PUDs and many of those PUD's will use TDR's to achieve the maximum allowable density of 2.5 DU's per acre. The base density in the URF is 1.5 DU's per acre. See Appendix: Map 4.

The URF Subdistrict is +/- 4,961 acres in size. Of that total acreage, almost 90% is already entitled through residential or mixed-use PUD zoning. Approximately 2,100 TDRs have or will be utilized within those PUDs. Only +/- 500 acres of A-Agricultural zoned lands remain

in the URF, which ultimately might account for the utilization of up to an additional 500 TDR's. This is a small remaining market.

Regardless of the utilization of TDR's in the URF, except for a few occasions, the market has not seen a viable economic use for TDR's outside the URF. Significant contributing factors include the lower allowable base density (0.20 DU's/acre), the relatively low maximum achievable density, limited availability of public services, and, in some cases, indirect access to arterial roadways. Conversely, where TDRs have been purchased and utilized within Receiving lands, those lands have had direct access to an arterial roadway and availability of sewer and water services. One example is the Receiving lands located on the south side of Immokalee Road across from Twin Eagles (referred to as Twin Eagles south).

The lack of direct access to an arterial roadway and non-availability of sewer and water services add significant additional costs to create a comparable community with similar market appeal to those located in the URF area. These cumulative costs result in driving the value of a TDR down significantly for Receiving Areas that do not have this available infrastructure.

Sending Lands Utilization (TDRs):

Most of the parcels located in the Sending designation are 10 acres or less in size. In fact of the 1601 privately owned parcels in Sending Lands, 1274 or 80 percent are 10 acres or less in size. Ninety percent are 15 acres or less in size. In the more than 14 years that the TDR program has been in effect, less than 20 percent of these smaller parcel owners have exercised the right to sever their TDR's. As previously discussed, only the base and early entry TDRs are likely to be realized on these small parcels. The "environmental restoration" TDR bonus credit requires considerable costs (averaging \$2,000 to \$2,500 per acre) and the "dedication" TDR bonus credit is not achievable as there are no public entities willing to accept these 5 acre parcels and if they do, there is still an estimated cost of some \$4,020.00 per acre for perpetual maintenance. So, assuming a current market price of \$14,000 per TDR a five acre parcel owner can expect to realize, at best, \$28,000 for the base and early entry TDRs. If the owner removes the exotics at a minimum cost of \$10,000, another \$4,000 (\$14,000 - \$10,000) may be realized. If the owner does find a public entity who will agree to take this parcel, it will cost another \$20,100 (5 x \$4,020) reducing the overall return to \$25,900.00, since it costs more to achieve the "dedication" TDR than it would sell for. When compared to the perceived value of the five acre parcel with the right to build a dwelling unit, there is no incentive to sever TDRs on these small parcels, which are the vast majority of remaining privately owned parcels in the Sending land areas.

It is clear that in order to create incentives, there are several options for both the sale and purchase of TDR's that are available. Most carry with them an environmental

benefit. One example is to provide a higher number of TDRs for the 3rd and 4th TDR bonus credits. For example if the TDR generation rate per 5 acres remains at 2 TDRs (presently base plus early entry) and the third and fourth TDRs bonus credits are increased to 3 credits each for 5 acres, some 14,000 additional potential TDRs will be created. This will result in a lower cost per TDR which will create a greater incentive for TDR buyers (Receiving Land owners). Sending land owners will then receive less per TDR but more overall TDR's per 5 acre parcel. For example, a 5 acre parcel could generate up to 10 TDRs derived from the base TDR, the early entry TDR credit (1), the environmental restoration credits (3+ depending upon nature of restoration), the donation to a public agency (3), or through other bonus credits recommended in this report (such as an aggregation bonus). Those TDRs could potentially sell for \$8,000 each, after the cost of restoration and perpetual maintenance (estimated at \$30,000), the Sending landowner will still net \$50,000 for severing his development rights. (The "aggregation" TDR bonus credits are recommended as an incentive to unify smaller parcels into a single larger parcel for the purposes of severing development rights. This will reduce the possibility of these smaller 5 and 10 acre parcels being developed with a single family home, which would greatly reduce overall habitat value in Sending areas. It will also create a more viable market condition for interested TDR buyers, as it provides for simpler and thus less costly transaction process.

Another option might be to create an additional bonus for severing TDRs on Natural Resource Protection Area (NRPA) Sending lands. NRPA lands contain the highest natural resource value and the majority of privately owned Sending lands are designated NRPA. Creating a higher ratio of TDR credits for severing TDRs on NRPA lands would be an effective incentive to sever development rights on these lands.

A sliding scale incentive should also be established to encourage preservation of larger tracts and lands that require a higher level of restoration or maintenance. As previously discussed, not all Sending Lands will ultimately sever TDR's, particularly the parcels that are 5 acres or smaller, since they have not 'lost' any density through the current regulations, although they have lost buildable area. Recognizing this, significant increases in TDR generation for parcels that are 10 acres or greater should be a focus. This may also be coupled with incentives to aggregate smaller parcels for the purpose generating a higher TDR generation.

In addition, incentives should be developed in Receiving lands to foster the establishment of additional Sending lands, particularly where such lands are contiguous to existing Sending land, to create wildlife corridors or wading bird or other listed species habitat, or for some other ecologically beneficial use.

IV. Areas or Issues to be Considered or Reviewed

i) Development/design standards in Receiving Areas:

a) Certainty in the process

Providing for certainty in the process, establishes the most desirable condition from the perspective of a landowner. Land development alone carries considerable financial risk, so wherever possible reducing the risk creates a more positive market attraction. Examples include:

- maximizing opportunities to develop in Receiving lands through the mostly administrative SDP or Platting processes (subject to compliance with adopted design and development standards); or
- allowing for by-right density in non-village development that incentivizes such development and also requires an appropriate percentage of density from TDRs; or
- Establishing maximum flexibility and administrative or hearing examiner approval process for Land Development Code deviations.

Unlike a traditional rezone, development within the RFMUD involves the distribution of a pre-determined number of development units through the allocation of base density plus rights obtained through the purchase of TDR's. Establishing a baseline standard as 'of right' within the zoning overlay (2 units per acre for example) provides certainty for both the Sending and Receiving landowners with respect to the use and application of TDR's.

For a Rural Village or Compact Rural Development (CRD) designation (see b) below), BCC approval would be required due to the higher level of mixed use and overall higher density/intensity than permitted in the baseline condition within the RFMUD. As such, an application similar to a Rural Lands Stewardship Area (RLSA) Stewardship Sending Area (SSA) or Stewardship Receiving Area (SRA) designation should be filed detailing the development. This application for a CRD designation would require a simple majority vote of the BCC since this designation does not add to the existing permitted uses or amend the zoning provisions already contained in the LDC. It would simply designate a particular area within the RFMUD zoning district overlay where CRD uses listed in the LDC could occur.

Much like the RLSA which creates 'credits' for use within the District, the RFMUD creates 'development rights' as its currency to be used within the district. The adoption of baseline standards within the RFMUD as well as a CRD or Rural Village designation would not increase the land uses or maximum intensities which would be already established and approved in the LDC zoning overlay. To that end, the processes established to move

and allocate development rights within the RFMUD should be a very close parallel to the establishment and designation of the use of credits within the RLSA. This will help to ensure a degree of certainty for Sending and Receiving land owners prior to any rights are severed from Sending lands.

b) By Right Approvals

The Non Village Receiving lands provide for development standards and allow for single family and multi-family development utilizing those standards. For the most part, these projects can be approved, administratively, through the platting (single family) and Site Development Plan (SDP) process. It is recommended that these development standards be reviewed and amended as deemed appropriate to provide greater flexibility. Moreover, should non-residential uses be deemed appropriate in Non-Village receiving lands (under certain conditions), then these “by-right” standards should be expanded to provide flexible development standards for these uses as well. Examples for Consideration include:

- All developments with a gross density of 2 units per acre or less should qualify for ‘by right’ approvals.
- Developments exceeding 2 units per acre would be required to undergo a Compact Rural Development (CRD) review process similar to the current SRA application procedure to allow for adequate analysis of public utility and infrastructure impacts. The specific standards for the CRD process will be spelled out in the Land Development Code. The RLSA Stewardship Receiving Area (SRA) designation process establishes a process that would serve this purpose.

c) Standards and Regulations for Rural Villages. The concept of Rural Villages should be replaced with Compact Rural Development (CRD) standards. The GMP will identify the minimum and maximum densities as well as the baseline calculations for the inclusion of supporting land uses, including commercial, institutional and job creation zones.

- Specific design standards for CRD’s should be kept to a minimum and should be placed in the Land Development Code, only as guidelines or in some cases as baseline standards. CRD’s should take on a more compact feel in design with appropriate buffers between a CRD and surrounding Estates, Agriculture or Conservation Designated lands. Greenbelts including agriculture uses, native vegetation, created flow-ways and water management systems may serve as appropriate buffers.

- Wherever possible, provide for incentives rather than regulations to achieve design objectives.
- CRD's should be considered as providers of necessary shopping, employment and services to provide for not just the physical limits of the CRD but to the larger, surrounding area as well. Expansion of the permitted uses to recognize this role is critical to the success of the CRD.

ii) Issues Related to the TDR Process

- a) Allow for an increased award of TDR's for projects with demonstrated public benefits. Examples include:
- Enhanced or increased habitat or native preservation within the project;
 - Providing for flow-ways, wildlife corridors or crossings or environmental restoration;
 - Providing for public facilities.
 - Accepting storm water management for proposed public roadway projects;
- b) Eliminate the minimum \$25,000 pricing for the first TDR. There is no justification or basis for the establishment of a minimum TRD sales price. The free market should determine the appropriate price for a TDR. The more appropriate way to influence favorable conditions in the free market system is to create a regulatory structure that motivates both buyer and seller.
- c) Eliminate the one mile boundary from which TDR's must be derived for utilization in the URF. The URF is almost entirely zoned (with approved PUDs or with commercial zoning. This was implemented in response to an argument made by some property owners at the time of creation of the RFMUD that their land, which was located proximate to the Urban Boundary, was more valuable and therefore should be treated differently. The idea was that if TDR's were required to entitle lands in the Urban Residential Fringe and such TDR's were required to come from Sending Lands within one mile of the Urban Boundary, then these TDRs would have a higher market value.

These Sending lands are really no different from an ecological perspective than other Sending lands. In hindsight, a better way to recognize the higher value of such lands, due to their proximity to the Urban boundary (if such higher value did actually exist), would have been to allow a higher number of TDRs to be generated from such lands. This would have allowed such Sending land owners to generate a greater number of TDR's and thus more potential return. Only

about 500 acres of A- Agricultural zoned land remain outside of a PUD or Commercial Zoning Designation. Under current RFMUD TDR provisions, These 500 acres could conceivably utilize some 500 TDR's. This represents a very low percentage of the remaining available TDR's. Some existing PUD's may be amended to utilize TDR's to increase the allowable density, but overall, the additional number of TDRs to be utilized in the URF will be a small percentage of the remaining available TDR's in the RFMUD.

- d) Increase the allowable density on Receiving lands for both CRD and non-CRD development. This can be accomplished without simply requiring additional TDR's. Presently the RFMUD limits density in Receiving designated lands to 1.0 DU per acre outside of a Rural Village and 3.0 DU's per acre for Rural Villages (2.5 DU's per acre for a Rural Village in the in the North Belle Meade Overlay). Between 80% and 90% of that maximum allowable density under present provisions must come from TDR's. This drives up the cost of development in the RFMUD Receiving lands to point where there is no economic viability. In addition, there are significant costs to extend sewer and water to most Receiving lands, further diminishing the viability of new development in the Receiving lands. Again, consideration should be given to increasing allowable density in Receiving lands, where development has already been determined to be appropriate. This is one side of the equation to enhance the market viability of the program. ***Without viable projects in the Receiving lands there will be little or no purchase of available TDR's.***
- e) Establishing a greater number of TDRs than can presently be generated from a parcel of land. This is the other side of the equation to enhance the market viability of the program.

Based upon the most up-to-date analysis conducted by Collier County staff through July 2014, there are 12,486.50 remaining potential TDRs that can be generated from Sending Lands. There are +/- 23,000 acres of Receiving lands, 7,000 acres of which could be designated Rural Village. Under current requirements 32,400 TDRS would be required in order to entitle 7,000 acres of Rural Village and the remaining 16,000 acres of Non-Village Receiving lands (to the maximum allowed density of 3.0 DUs per acre in a Rural Village and 1.0 Units per acre in Non-Village Receiving).

If 100% of the potential TDR's are realized (12,486.5 TDR's), that is enough to entitle approximately 38% of the Receiving lands. Under a more likely assumption that, at most, 75 % of the potential remaining TDR's (9,365 TDR's) would be realized, only 28% of the Receiving lands can be entitled.

Moreover, most of the Sending land is comprised of smaller parcels 5 acres or less in size. These smaller parcels have retained the ability to develop one single family home. Unless the value generated from the severance of that development right on these smaller parcels is greater than the market value of the potential dwelling unit, it is not likely that landowners of these smaller parcels will sever their development rights. This condition further reduces the amount of TDRS that are available, as well as the potential for large scale preservation of natural resources.

One might conclude that this “shortage” or scarcity of TDRs is good in that it should result in a higher TDR price; however, this scenario assumes that there is sufficient demand for communities that have access and public facilities commensurate with other developments in the area. In the event that access and public services need to be created to provide an economically viable community, the value of a TDR would be heavily affected by these additional costs to develop the finished product.

The creation of additional base TDR’s and additional bonus TDR’s is essential given the relative shortage of available TDR’s, and the higher per TDR market value (as a result). As shown in Michael Timmerman’s Economic Analysis) (provided in the Appendix to this Report), the ‘value’ of a development unit does not currently support the costs associated with providing the land, access, utilities and development rights on the majority of Receiving Lands.

- f) Allow for the purchase of TDR’s directly from the County. This could be a form of TDR bank, where TDR’s are available in a single repository. It is difficult and costly for developers to attempt to aggregate smaller parcels to achieve the required or desired density through these TDR’s. If the developer can buy the TDRs from a pool made available directly from the County, the County could then in turn use the proceeds to compensate Sending land owners on a first-come first-serve basis from the proceeds. The County’s TDR consultant recommended, when the program was established, that the County should maintain a TDR bank.
- g) If such a bank is established, Collier County could also consider severing development rights from any lands purchased by, or otherwise donated to, the County where such land has retained underlying and unrestricted residential development rights. Proceeds from the sale of such development rights could be used maintenance of County owned environmentally sensitive lands.

iii) Additional Areas of Focus

- a) Establish an incentive to encourage preservation of larger tracts. As previously discussed, not all Sending Lands will ultimately sever TDR's, particularly the parcels that are 5 acres or smaller, since they have not 'lost' any density through the current regulations, although they have lost buildable area. Recognizing this, significant increases in sending units for parcels that are 10 acres or greater should be a focus, potentially considering a 'sliding scale' of sending units for larger, contiguous parcels (or assemblage of parcels), NRPA lands, and for lands that require a higher level of restoration and maintenance.
- b) Provision of Utilities: Discussions with Collier County Public Utilities should be engaged to address the potential extension of water and sewer service to RFMUD Receiving lands. Without certainty regarding the extension of utilities, this will continue to be an impediment to development.
- c) Roadway capacity issues must be analyzed and addressed. Significant transportation improvements and associated costs are considerations that must be addressed. If these costs are to be paid by the Receiving land owners, then bonus units or commercial/industrial square footage increases should be considered in order to compensate for these added costs. Establishment of a CRD will change the travel patterns for residents within the CRD and nearby areas, which may actually result in a beneficial impact on some arterial roadways.
- d) Current TDR Participants. Any land owner who has not severed the 3rd or 4th bonus TDR Credit for environmental restoration and ongoing maintenance or for transferring ownership of their land to a public/private management entity should be allowed to take advantage of any program changes. This should address any landowner concerns regarding equity.
- e) The Urban Residential Infill bonus provision, which has never been used, should be eliminated.

iv) Economic viability

It is clear that any program that is not economically viable will not work. The recommendations that we have made herein for your consideration are therefore based upon market considerations. We ask that you review the Economic Analysis Prepared by Michael Timmerman which is included in the Appendix of this report. It helps to illustrate the market conditions and why, under the current RFMUD regulations there is limited economic opportunity for development in the RFMUD Receiving lands.

V. Conclusion

In conclusion, it is our collective opinion that the RFMUD regulations must be revisited or the area will continue to exist in the current, under-utilized status. For the program to be successful it is critical to ensure that the Receiving areas are attractive and viable for development.

- We request that you direct staff to initiate a RFMUD reassessment and to use the list of Actions Item providing below as the basis for what should be considered during the reassessment.
- The process will follow the statutory requirements for amending the County's GMP.
- In addition to and prior to required public hearings, 2-3 community meetings should be held by the county in proximity to the RFMUD lands.
- It is reasonable to expect that this can be completed in no more than 12 -18 months.
- Upon completion, we recommend that a reassessment of the TDR program occur on regular intervals (every 2 to 4 years).

VI. Action Items:

1. Provide for certainty in the process.
2. Maximizing opportunities to develop in Receiving areas via administrative SDP or Platting processes.
3. Allow for by-right density in non-village development.
4. Establish maximum flexibility and administrative or hearing examiner approval process for deviations.
5. Review and revise development standards for by-right approval and provide maximum flexibility.
6. Where non-residential uses are deemed appropriate in Non-Village receiving lands, expand these "by-right" standards to provide flexible development standards for these uses as well. For example:
 - All developments with a gross density of 2 units per acre or less qualify for 'by right' approvals.
 - Developments exceeding 2 units per acre are subject to Compact Rural Development (CRD) review process similar to the current SRA application procedure
 - The specific standards for the CRD process will be spelled out in the Land Development Code.
7. The concept of Rural Villages to be replaced with Compact Rural Development (CRD) standards.
8. GMP to identify the minimum and maximum densities as well as the baseline calculations for the inclusion of supporting land uses, including commercial, institutional and job creation zones.

9. Specific design standards for CRD's should be kept to a minimum and should be placed in the Land Development Code, only as guidelines or in some cases as baseline standards.
10. Wherever possible, provide for incentives rather than regulations to achieve design objectives.
11. CRD's should be considered as providers of necessary shopping, employment and services to provide for not just the physical limits of the CRD but to the larger, surrounding area as well. Expand the permitted uses to recognize this critical role.
12. Allow for an increased award of TDR's for projects with demonstrated public benefits.
13. Allow for creation of additional Sending lands from Receiving or Neutral lands for environment benefits, without the need to amend the GMP. Consider bonus TDRs for so doing.

14. Eliminate minimum \$25,000 pricing for the first TDR.
15. Eliminate the one mile boundary from which TDR's must be derived for utilization in the URF.
16. Increase the allowable density on Receiving lands for both CRD and non-CRD development.
17. Establish a higher number of TDRs that can presently be generated from a parcel of Sending land. This can be accomplished through more incentives and performance based bonuses.
18. Allow for the purchase of TDR's directly from the county. This could be a form of TDR bank, where TDR's are available in a single repository.
19. Establish a TDR incentive to encourage preservation of larger tracts.
20. Where feasible, provide utilities and other public services to Receiving lands.
21. Analyze and address arterial roadway capacity issues.
22. Extend any new bonuses or credits to land owners who have not received the 3rd or 4th bonus TDR credit.
23. Revisit the relevance in the TDR program Urban Residential Infill bonus provision, which has never been used, should be.
24. Develop a Policy whereby Collier County will accept Sending Lands if no state or federal agency will accept such lands.