

## **EXECUTIVE SUMMARY**

### **COLLIER COUNTY GROWTH MANAGEMENT PLAN (GMP) AMENDMENTS AS A RESULT OF THE RURAL AND AGRICULTURAL ASSESSMENT FOR THE RURAL FRINGE AREA – APPLICABLE TO THE UNINCORPORATED AREA OF COLLIER COUNTY, EXCEPT THE EASTERN LANDS PORTION OF THE ASSESSMENT AREA (ADOPTION HEARING).**

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**OBJECTIVE:** To have the Board of County Commissioners review for Adoption the attached GMP Amendments intended to address the requirements of the Final Order issued by the State of Florida Administration Commission on June 22, 1999, for the Rural Fringe portion of the Rural and Agricultural Assessment (Assessment).

### **CONSIDERATIONS:**

#### **Background**

Pursuant to the Final Order imposed by the Governor and Cabinet on June 22, 1999, the State of Florida has mandated certain revisions to Collier County's Growth Management Plan. The Final Order directs the County to conduct a Rural and Agricultural Area Assessment (the "Assessment") to collect the appropriate data, gather public input and to develop amendments to the Growth Management Plan. Major issues to be addressed by the Assessment include: protecting wetlands, wildlife and their habitats; protecting prime or unique agricultural lands from the premature conversion to other uses; and, assessing the growth potential of the Area by assessing the potential conversion of these rural lands to other uses, in appropriate locations. All of this is to occur while discouraging urban sprawl, directing incompatible land uses away from critical habitat and encouraging development that utilizes creative land use planning techniques. Such techniques may include, but are not limited to, public and private schools, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, and mixed-use development.

The Final Order allows the County to conduct the Assessment in phases. Accordingly, Collier County has divided the Assessment into two geographical areas, the Rural Fringe Area and the Eastern Lands Area, also known as the "Immokalee Area Study" (and sometimes referred to as the "Rural Lands Area"). The Final Order requires that the County adopt GMP Amendments developed as a result of the Assessment process by June 22, 2002, excluding the "Eastern Lands Area", for which adoption of the GMP amendments is required by November 1, 2002. As part of this process, Collier County has established the Rural Fringe Area Oversight Committee (RFAC) and the Eastern Lands Area Oversight Committee (ELAC) to address the planning for each respective area. The Final Order notes that public participation will be the "hallmark" of this planning effort. The primary mechanisms to involve and inform the public and solicit community input during the Assessment process have included: advertised meetings of the advisory committees; an interactive Rural Assessment web site containing all pertinent documents, meeting agendas and minutes ([www.nasites.com/collier](http://www.nasites.com/collier)); presentations to various BCC advisory committees and community, civic, and professional organizations; presentation to various stakeholder groups; and, several special public meetings and workshops. The RFAC, for example, has held over 50 advertised meetings prior to Transmittal of amendments in March 2002.

The Rural Fringe portion of the Rural Assessment encompasses approximately 95,000 acres. Characteristics of the Rural Fringe area include: most parcel sizes are relatively small (typically, tens of acres or less); ownership consists of a few thousand different entities; most agricultural activities are small operations, and the uses are typically tree farms, plant nurseries, ornamental nurseries, etc. – many of which supply needed vegetation for urban developments; and, the area is under tremendous development pressure and contains a sizeable residential component.

The Rural Fringe is a transitional area between suburban lands in Golden Gate Estates and the coastal urban area, and between the urban area and the vast natural lands and significant agricultural operations farther to the east. The proposed GMP amendments that apply to the Rural Fringe area have been developed with consideration of the unique characteristics of this transitional area. The Rural Fringe area contains significant wetlands and valuable wildlife habitat. The data indicates that portions of these lands provide habitat for a number of listed species, including the Florida Panther, Black Bear, Wood Stork, and Red-cockaded Woodpecker.

The proposed GMP amendments utilize a balanced approach, employing both regulations and incentives, to address the requirements of the Final Order. Some of the proposed policies are employed at the landscape scale and others at the site-specific scale. The regulatory scheme includes stringent environmental protection standards for areas of greatest environmental value – including the recognition of restoration potential, combined with the incentives of the TDR (Transfer of Development Rights) program as a compensatory mechanism.

Below are the major highlights of the GMP amendments approved by the BCC on March 4, 2002 for Transmittal to the Florida Department of Community Affairs (DCA).

**Major highlights of the Transmitted GMP amendments:**

- a. Establish preservation and native vegetation retention standards in order to protect environmentally sensitive areas, based largely upon a landscape-scale view of lands. Those percentages vary from 40% to 90%, depending upon the environmental value. However, for smaller parcels, there is a guaranteed minimum clearing allowance.
- b. Designate Rural Fringe lands as Sending, Receiving, or Neutral; additionally, within the Sending Lands, some properties are also designated as Natural Resource Protection Area (NRPA) – areas of highest environmental value. *Agricultural land uses are permitted in all land use designations.*
- c. Establish a *voluntary* Transfer of Development Rights (TDR) program as a mechanism for compensating property owners whose land value has been negatively affected by these amendments. Through the TDR program, residential development rights may be transferred from Sending Lands to Receiving Lands and, on a limited basis, to Urban designated lands. Neutral Lands are not eligible to participate in the TDR program; lands under publicly ownership are not eligible to participate in the TDR program.
- d. Sending Lands are areas of higher environmental value; accordingly, they have the most restrictive protection standards and most restrictive list of permitted uses. Residential density is limited to 1 DU/40 acres or pre-existing parcel size of <40 acres. Residential density may be transferred at a ratio of 1 DU/5 acres or pre-existing parcel size of <5 acres; however, this will be reviewed further to determine if it is appropriate to have a variable ratio dependent upon a given parcel's value and/or proximity to the Urban area. Once development rights have been transferred (TDRs used), allowable land uses are further restricted – agricultural uses are allowed to continue but cannot be intensified.
- e. Neutral Lands have an intermediate level of environmental protection standards. Permitted uses are virtually the same as prior to the Final Order. Residential density is allowed at 1 DU/5 acres.

- f. Receiving Lands are areas of lesser environmental value; accordingly, they have the least restrictive protection standards and broadest list of permitted uses. Residential density is allowed at 1 DU/5 acres; for parcels  $\geq 40$  acres, this density may be increased via TDRs to a maximum of 1 DU/acre.
- g. Exceptions to the above density limitations include: (a) Density Blending: allows some larger properties, within a Sending or Receiving area, that straddle the Urban boundary, to shift their allowable density so as to protect environmentally sensitive lands; and, (b) Rural Villages: allows a density of between 2 and 3 DU/A, with requirement to use TDRs; allows commercial and institutional uses; requires a greenbelt around the perimeter; depending upon location, limited to between 300 and 2,500 acres; requires public facilities impact analysis.
- h. Establish the Rural Transition Water and Sewer District to allow for provision of County central water and sewer to all Receiving areas and most Neutral lands.
- i. When a parcel is cleared for agricultural purposes, there is a 25-year prohibition on using TDRs; similarly, there is a 25-year prohibition on converting to non-agricultural uses.
- j. Existing land uses are allowed to continue.
- k. Designate the +/-305 acres adjacent to the west of the landfill, in Section 36, T49S, R26E, as Rural – Industrial District.
- l. Establish a policy whereby the owners of land  $\leq 40$  acres and located along the edge of a Sending area, may submit data to demonstrate there is no longer environmental value to the site such that it warrants change from Sending designation.
- m. Establish an Overlay for the North Belle Meade area, resulting from an agreement between intervener parties to previous GMP amendments, that: reduces the development limitations and environmental protection standards for the Receiving Lands within the Overlay; may lessen the likelihood of a challenge to the North Belle Meade NRPA designation since the interveners (a major landowner in the Overlay area and two environmental organizations) agree to it's boundary.
- n. Provide that the necessary implementing land development regulations for these amendments will be developed within one year.

### **ORC Report and Staff Response**

On May 23, 2002, DCA issued their Objections, Recommendations and Comments (ORC) Report based upon their preliminary review of the Transmitted GMP amendments for compliance with Florida Statutes. "Objections" which are not addressed may result in a determination of non-compliance. An objection might be addressed by revising the text and/or map change; providing additional data and analysis to support the amendment; a combination of the two; or, justification that missing data and analysis is not applicable (where DCA's objection is based upon lack of sufficient data and analysis). "Comments" are advisory in nature and will not form the bases for a determination of non-compliance. DCA's "Recommendations" offer one or more ways to address a given objection or comment.

On pages 4-14 of the joint EAC/CCPC Staff Report, within this Executive Summary packet, the various objections, recommendations and comments are listed, each followed by staff's response. In some cases, the only response is that provided in the Staff Report. However, in many instances, staff proposes text and/or map revisions to address the ORC. Also, some additional data and analysis will be included in the Adoption submittal to DCA to justify and support proposed amendments. The entire ORC Report is included in this Executive Summary packet. All text revisions since Transmittal are contained in the Elements following the Ordinance in this Executive Summary packet, and are shown in ~~double strike through~~/double underline format.

At the Transmittal hearings, the BCC elected not to include amendments with applicability beyond the Rural Fringe area (e.g. amendments affecting the urban area), stating concerns that proper notice had not been provided for the non-Rural Fringe areas, and directed staff to bring those amendments back at time of adoption. Accordingly, some of the proposed revisions have applicability beyond the Rural Fringe area. (However, the amendments do not apply to the Eastern Lands study area for which

separate amendments are proposed.) Some of these revisions with broader applicability are in response to the ORC, while others are primarily based upon previous BCC direction or some discrepancies/deficiencies/needed organizational adjustments detected since Transmittal. (As previously noted, some of these revisions have countywide applicability, less the Eastern Lands portion of the Assessment area for which separate amendments are proposed.)

### **Other Changes Since BCC Transmittal Hearing On March 4, 2002**

Besides the revisions noted above in response to the ORC Report, staff is proposing some additional text and map revisions. These are primarily based upon previous BCC direction, or needed adjustments detected since Transmittal. Some of these non-ORC related adjustments/deficiencies/discrepancies/needed organizational changes are minor in nature (e.g. “housekeeping” matters), while others are more substantial. These changes are noted on pages 14-16 of the joint EAC/CCPC Staff Report. As with some amendments prepared in response to the ORC, some of these revisions have countywide applicability, less the Eastern Lands portion of the Assessment area. The revisions are shown, in the respective Elements, in ~~double strike through~~/double underline format.

### **Additional Discussion**

During their Transmittal hearing, the BCC directed staff to investigate the possibility of providing for a TDR variable transfer rate, dependent upon a Sending Land’s proximity to the urban area or urban services, and/or it’s appraised value. Included in the Executive Summary packet is the entire TDR Report prepared by Dr. James Nicholas, including a May 30, 2002 letter regarding this variable TDR rate issue. This will be an item for discussion at the public hearings.

### **Correspondence**

As the Board is aware, there has been considerable interest in these proposed amendments, especially from potentially affected property owners. The “correspondence” section of the Executive Summary packet contains written correspondence received over the past  $\pm 6$  weeks; also, some written correspondence sent to DCA was included with the ORC Report. Further, over the past 4 months (from time of Transmittal hearings in February/March, 2002, to present) staff has received a substantial number of communications in the form of phone calls, e-mails, and letters. While a few were in favor of the proposed amendments, or were only seeking more information, or were proposing specific revisions, the vast majority were opposed to the amendments for the same reasons stated at the Transmittal hearings, e.g. impacts upon private property rights/perceived “taking” of lands, disagreement with environmental assessment of lands.

### **FISCAL IMPACT:**

Implementation of these GMP amendments will require a significant number of Land Development Code revisions. Development of these revisions may require consulting services in addition to staff time. In addition, there will be future operational impacts that will likely necessitate additional staff resources, particularly in the area of environmental review.

### **GROWTH MANAGEMENT IMPACT:**

These amendments are necessitated by, and in response to, the Final Order.

### **EAC Recommendations**

The EAC met on June 5, 2002, to review staff’s recommended revisions to the Rural Fringe

amendments as approved by the BCC on March 4, 2002 for Transmittal to DCA. Their recommendations are contained in Attachment “A,” EAC and CCPC Recommendations.

**CCPC Recommendations**

The CCPC held their hearing to consider these amendments on June 6 and 7, 2002, and forwarded their recommendations on June 7; the CCPC recommendations are also contained in Attachment “A.” Following each CCPC recommendation is a staff response, and language revision to reflect the recommendation. The Elements located behind the Ordinance in the Executive Summary packet contain the revisions recommended by CCPC; all text revisions since Transmittal are shown in ~~double strike-through~~/double underline format. Not specifically listed on Attachment “A”, but made a part of the motion to support staff’s recommended changes, is the CCPC’s concurrence to make “housekeeping” changes in various locations in the Elements, e.g. grammatical corrections, changing a map reference from “exhibit A” to “the Future Land Use Map”, etc.

**STAFF RECOMMENDATION:** That the Board adopt the attached GMP Amendments addressing the requirements of the Final Order for unincorporated Collier County, less the Eastern Lands portion of the Assessment area for which separate amendments are prepared, subject to the specific recommendations identified in Attachment “A”, and forward these amendments to the Florida Department of Community Affairs for their review, and compliance determination.

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