



**ADDENDUM to
STAFF REPORT
COLLIER COUNTY PLANNING COMMISSION**

TO: COLLIER COUNTY PLANNING COMMISSION
FROM: GROWTH MANAGEMENT DEPARTMENT, ZONING DIVISION, COMPREHENSIVE PLANNING SECTION
HEARING DATE: SEPTEMBER 1, 2016
RE: PETITION NO. PL20130002637/CPSP-2013-11, STAFF-PROPOSED AMENDMENTS TO THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT, FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP AND MAP SERIES, GOLDEN GATE AREA MASTER PLAN FUTURE LAND USE MAP, STORMWATER MANAGEMENT SUB-ELEMENT OF THE PUBLIC FACILITIES ELEMENT, TRANSPORTATION ELEMENT AND TRANSPORTATION MAP SERIES, AND THE CAPITAL IMPROVEMENT ELEMENT OF THE GROWTH MANAGEMENT PLAN [TRANSMITTAL HEARING]

Modifications have been made, per CCPC discussion and consensus at the July 7 CCPC hearing, to portions of the Transmittal Resolution Exhibit "A." These changes are denoted and briefly explained below. No changes were discussed to the Golden Gate Area Master Plan Future Land Use Map or Stormwater Management Sub-Element of the Public Facilities Element, and these portions of the Transmittal Resolution Exhibit "A" are unchanged from their July 7 versions. Also, one new provision is added to the FLUE, an allowance for variance to the Area of Critical State Concern regulations for certain essential services. The added text and explanation/justification is provided within the FLUE portion of this report (pages 3-5).

Formatting explanation:

Words underlined are added; words ~~struck through~~ are deleted – as presented to CCPC on 7/7/16.

Words double underlined are added; words ~~double struck through~~ are deleted – per 7/7/16 meeting.

CCME:

Policies 7.1.2(2), 7.1.2(2)(a), and 7.1.2(2)(c): Include a public awareness program for new preserves as part of habitat management plans for listed species and other protected species, to educate residents about preserves within their developments and the need to maintain the habitat within preserves, as follows (for multiple species, not just scrub jay):

Policy 7.1.2:

- (2) Wildlife habitat management plans for listed species and for those protected species identified below shall be submitted for County approval. A plan shall be required for all projects where the wildlife survey ~~indicated~~ indicates listed species or the protected species identified below are utilizing the site, or the site contains potential habitat for listed species. These plans shall describe how the project directs incompatible land uses away from listed species and their habitats. Management plans for new preserves shall also outline a public awareness program to educate residents about the on-site preserve and the need to maintain habitat within the preserve for listed species and those protected species identified below.

- (a) Management plans for new preserves shall incorporate proper techniques to protect listed species, and those protected species identified below, and their habitat from the negative impacts of proposed development. Developments shall be clustered to discourage impacts to listed species habitats. Open space and vegetation preservation requirements shall be used to establish buffer areas between wildlife habitat areas and areas dominated by human activities. Provisions such as fencing, walls, or other obstructions shall be provided to minimize development impacts to the wildlife and to facilitate and encourage wildlife to use wildlife corridors. Appropriate roadway crossings, underpasses, and signage shall be used where roads must cross wildlife corridors.

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- (c) Habitat preservation plans for the Florida scrub jay (*Aphelocoma coerulescens*) are required and shall conform to the guidelines contained in Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1991. ~~The required management plan shall also provide for a maintenance program and specify an appropriate fire or mechanical protocols to maintain the natural scrub community. The plan shall also outline a public awareness program to educate residents about the on-site preserve and the need to maintain the scrub vegetation.~~ These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999, ~~subject to the provisions of paragraph (3) of this policy.~~

Coincides with similar changes in the FLUE.

Policy 10.5.1: Clarify the type of recreation which is compatible with the natural functions of beaches and dunes on undeveloped shorelines; providing context within the Policies supporting Objective 10.5, as follows:

Policy 10.5.1:

Passive Recreation that is compatible with the natural functions of beaches and dunes ~~is~~ shall be regarded as the highest and best land use.

Policy 10.5.4: Provide clarity regarding the scope of prohibited structures, as follows (change “shall” to “may”):

Policy 10.5.4:

The County shall may pProhibit construction of any structure seaward of the Coastal Construction Setback Line. Exceptions shall be allowed for passive recreational structures, access crossovers, and where enforcement would not allow any reasonable economic utilization of such property. In the latter event, ~~require~~ construction ~~that~~ shall minimize interference with natural functions of such beaches and dunes.

Policy 12.1: Remove redundancy and correctly identify the agency name, as follows:

OBJECTIVE 12.1:

Maintain hurricane evacuation clearance times as required by state law. An evacuation clearance time ~~shall be~~ is defined as having residents and visitors in an appropriate refuge away from storm surge prior to the arrival of sustained Tropical Storm force winds, i.e., winds equal to or greater than 39 mph. To further this ~~o~~Objective, for future mobile home developments located outside of the storm surge zone, such development ~~shall~~ is to include on-site sheltering or retro-fitting of an adjacent facility. The Collier County Bureau of Emergency Services ~~shall~~ continues to seek

opportunities to increase shelter facilities and associated capacities under the direction of ~~the Department of~~ the Florida Division of Emergency Management.

CIE:

Policy 5.3 D., now 5.5 D.: Update/correct map references, as follows:

Policy 5.3 ~~5~~:

- D. The necessary facilities and services are under construction or under contract pursuant to a FDOT 5-Year Work Program and are consistent with the Collier County ~~2025~~ 2040 Long Range Needs Plan or the ~~2030~~ 2040 Long Range Transportation Plan (LRTP), as adopted by the Collier ~~County~~ Metropolitan Planning Organization (MPO); or

FLUE:

Objective 4 and Policy 4.1: Correct mid-sentence capitalization and clearly indicate requirements for planning “studies”, as follows:

OBJECTIVE 4:

Continually refine the Future Land Use Element through detailed planning in ~~in~~ order to improve coordination of land uses with natural and historic resources, public facilities, economic development, ~~H~~housing and urban design, ~~the Future Land Use Element shall be continually refined through detailed planning. Future studies might address specific geographic or issue areas. All future studies must be consistent with the Growth Management Plan and further its intent.~~

Policy 4.1:

Planning studies ~~must be consistent with the Growth Management Plan and further its intent, and~~ may address specific geographic or issue areas.

ACSC: To list of exotic plant species, delete an errant reference to multiple species (“spp.”) where the specific species is listed. Also, though the specific species name listed may, or may not, remain accurate, no change is made so as to be identical to that listed in State law.

Substantively, and new to this petition, the following changes are made - all added text is at end of the ACSC Overlay: 1) As allowed by Rule Chapter 28-25, F.A.C., Land Planning – Part III Boundary and Regulations for Big Cypress Area of Critical State Concern, add provision for the Land Development Code (LDC) variance process to be applicable to ACSC regulations, and provide that the LDC will be amended, as necessary, within one year to implement this allowance; 2) limit the applicability of the variance to select essential services; 3) advise the reader that this variance allowance does not alter the allowable essential services beyond that provided for under the future land use designation and zoning; and, 4) as required by Ch. 28-25, provide that the variance can only be approved where the development is designed to have minimum adverse impacts.

Staff did not originally include this variance provision because it was thought that the amendment needed to include additional parameters for the variance and there was not adequate time to do so; staff intended to bring this variance provision forward as a separate GMP amendment at a later time. However, based upon recent discussion with the ACSC Review Team at the Florida Department of Economic Opportunity (DEO), staff is now of the opinion that the amendment proposed will be acceptable to DEO staff.

The genesis for this added text are three circumstances that have arisen over the past three or so years for different properties lying within the ACSC. First, Everglades City needed to expand their water treatment plant located in Copeland that would have necessitated impacting wetlands. Ultimately, they

were able to revise their proposed site plan so as not to run afoul of ACSC limitations. Second, the Seminole Tribe of Florida desires to develop a small site with a community center/essential service use that may impact wetlands and will exceed the 10% site alteration limitation. Third, the Lee County Electric Co-op needs to expand development on an existing power substation site that will exceed the 10% site alteration limitation and impact protected wetlands. None of these three scenarios promote, or result in, more development occurring in the ACSC beyond that already allowed by present future land use designations and zoning. Staff is of the opinion that all three circumstances are examples of where some relief to the stringent requirements of the ACSC regulations appear to be appropriate.

The ACSC regulations were established over forty years ago. The stated purposes of the ACSC regulations, as expressed in Ch. 28-25, are: "to conserve and protect the natural, environmental and economic resources and the scenic beauty of the Big Cypress Area, including ... ecologically related wetlands, estuarine fisheries, and the fresh water aquifer, and ecologically related areas. It is the further purpose of these regulations to provide a land and water management system that will preserve water quality, provide for the optimum utilization of the limited water resources of the area, facilitate orderly and well-planned development, and protect the health, welfare, safety and quality of life of the residents of the state." Therefore, it is appropriate that any variance allowance be limited in scope so as not to undermine the purposes of the ASCS regulations.

A. Area of Critical State Concern Overlay

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- c. Soils exposed during site alteration shall be stabilized and retention ponds or performance equivalent structures or systems maintained in order to retain run off and siltation on the construction site. Restoration of vegetation to site alteration areas shall be substantially completed within 180 days following completion of a development. Re-vegetation shall be accomplished with pre-existing species or other suitable species except that undesirable exotic species shall not be replanted or propagated. ~~Exotic~~ Undesirable exotic species are listed below.

- Australian Pine - (*Casuarina spp.*)
- Bishopwood - (*Bischofia javanica*)
- Brazilian Pepper - (*Shinus terebinthifolius*)
- Melaleuca (cajeput) - (*Melaleuca leucadendra ~~spp.~~*)

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All Development Orders issued for projects within the Big Cypress Area of Critical State Concern shall be rendered to the State of Florida Department of Economic Opportunity for review with the potential for appeal to the Administration Commission per Chapter 73C-44, Florida Administrative Code, "Community Planning, Development Order Requirements for Areas of Critical State Concern".

In accordance with Chapter 28-25.011, F.A.C., the zoning variance procedure contained in the Collier County Land Development Code, Ord. No. 04-41, as amended, shall be applicable to the ACSC Regulations. Within one year of the effective date of this amendment establishing the applicability of the variance procedure, the variance procedure and criteria in the Collier County Land Development Code shall be amended, as necessary, to address ACSC regulations. Any variance to the ACSC regulations shall be subject to the following restrictions:

- (a) A variance shall only be applicable to essential services consisting of those services and facilities necessary to promote and protect public health, safety and welfare, limited to the following:

police; fire; emergency medical; all services designed and operated to provide water, sewer, gas, telephone, electricity, cable television or communications to the general public by providers that have been approved and authorized according to laws having appropriate jurisdiction. This shall not be deemed to allow such essential services uses where the underlying future land use designation or zoning designation does not allow such uses.

- (b) No variance shall be granted for any development within the Critical Area unless such development is designed to have minimum adverse impact on the Area's water storage capacity, surface water and estuarine fisheries.

RLSA Policies 3.1, 3.2 and 3.3: Withdraw proposed changes to RLSA Overlay FSA, HSA and WRA acreage figures – to be reconsidered at a later date. Also withdraw the initially-proposed corrections to the “HAS” acronym to read “HSA” remain, as the acronym appears correctly in the adopting Ordinance [2002-54].

RLSA Policies 5.5.2., 5.5.2.a., and 5.5.2.c.: Include a public awareness program for new preserves as part of habitat management plans for listed species and other protected species, to educate residents about preserves within their developments and the need to maintain the habitat within preserves, as follows:

Policy 5.5:

2. Wildlife habitat management plans for listed species and for those protected species identified below shall be submitted for County approval. A plan shall be required for all projects where the wildlife survey ~~indicated~~ indicates listed species or the protected species identified below are utilizing the site, or the site contains potential habitat for listed species. These plans shall describe how the project directs incompatible land uses away from listed species and their habitats. Management plans for new preserves shall also outline a public awareness program to educate residents about the on-site preserve and the need to maintain habitat within the preserve for listed species and those protected species identified below.

- 2.a. Management plans for new preserves shall incorporate proper techniques to protect listed species, and those protected species identified below, and their habitats from the negative impacts of proposed development. Open space and vegetation preservation requirements shall be used to establish buffer areas between wildlife habitat areas and areas dominated by human activities. Provisions such as fencing, walls, or other obstructions shall be provided to minimize development impacts to the wildlife and to facilitate and encourage wildlife to use wildlife corridors. Appropriate roadway crossings, underpasses and signage shall be used where roads must cross wildlife corridors.

- 2.c. Habitat preservation plans for the Florida scrub jay (*Aphelocoma coerulescens*) are required and shall conform to the guidelines contained in Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1991. ~~The required management plan shall also provide for a maintenance program and specify an appropriate fire or mechanical protocols to maintain the natural scrub community. The plan shall also outline a public awareness program to educate residents about the on-site preserve and the need to maintain the scrub vegetation.~~ These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999, subject to the provisions of paragraph (3) of this policy.

Coincides with similar changes in the CCME.

Transportation Element:

Objective 3 and Policy 3.5: Clarify the type of development agreements, studies, plans and programs; providing context within the Policies supporting Objective 3, as follows:

OBJECTIVE 3:

Provide for the protection and acquisition of existing and future rights-of-way based upon improvement projects identified within the Five Year Work Program, Board approved development agreements, and/or the Collier County Metropolitan Planning Organization’s (MPO’s) adopted Long-Range Transportation Plan and/or other similar Board approved studies, plans and programs.

Policy 3.5:

A. The County is considering the viability of a Thoroughfare Corridor Protection Plan (TCPP) ordinance and land development regulations that:

1. identify, in detail, corridors necessary to develop the County roadway network shown on the County’s Long Range Transportation Plan, ~~and other~~ Board approved development agreements, the Collier Metropolitan Planning Organization’s (MPO’s) adopted Long-Range Transportation Plan and/or other similar Board approved studies, plans and programs; and

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All of the above must be consistent with the currently adopted Long Range Transportation Plan and/or other similar Board approved studies, agreements, plans and programs, and Chapter 336.02, Florida Statutes.

Policy 5.5: Delete specific name of an agency so as to retain only a generic name reference, as follows:

Policy 5.5:

Commercial developments within the South US 41 TCEA that choose to obtain an exception from concurrency requirements for transportation will provide certification to the ~~Transportation Planning Department~~ County transportation planning agency (presently, the Transportation Planning Section of the Growth Management Department) that at least four (4) of the following Transportation Demand Management (TDM) strategies will be utilized:

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An applicant seeking an exception from concurrency requirements for transportation through the certification mentioned above shall submit an application to the ~~Transportation Division Administrator~~ Manager of the County transportation planning agency (presently, the Transportation Planning Section of the Growth Management Department) on forms provided by the ~~Division agency~~. Binding commitments to utilize any of the above techniques relied upon to obtain certification shall be required as a condition of development approval.

Map TR-1: Remove I-75 interchange at Everglades Blvd.; add a note at bottom of map; and, make general map corrections.

Map TR-2: Remove I-75 interchange at Everglades Blvd.; add a note at bottom of map; and, add to legend and map face an interchange study area.