EXECUTIVE SUMMARY

Recommendation not to approve by Resolution a single Petition from the 2018 Cycle Three of Growth Management Plan Amendments for an Amendment Proposed to the Future Land Use Element to Establish the Ventana Pointe Residential Overlay and not to approve for Transmittal to the Florida Department of Economic Opportunity for Review and Comments Response. (Transmittal Hearing) (PL20180002668/CP-2018-7)

OBJECTIVE: For the Board of County Commissioners (Board) not to approve (deny) a single petition from the 2018 Cycle Three of amendments to the Collier County Growth Management Plan (GMP) and not to approve for transmittal to the Florida Department of Economic Opportunity and other statutorily required review agencies.

CONSIDERATIONS:

- Chapter 163, F.S., provides for an amendment process for a local government’s adopted Comprehensive Plan.
- Collier County Resolution No. 12-234 provides for a public petition process to amend the GMP.
- The Collier County Planning Commission (CCPC), sitting as the “local planning agency” under Chapter 163.3174, F.S., held their Transmittal hearing for the 2018 Cycle 3 petition on September 5, 2019 (one petition only, PL20180002668/CP-2018-7).
- This Transmittal hearing for the 2018 Cycle 3 petition considers an amendment to the Future Land Use Element (FLUE).

The GMP amendment requested is specific to a ±37.62-acre property, located on the south side of Immokalee Road, along the west side of Richards Street, and along the north side of Sundance Street, approximately 1.9 miles east of Collier Boulevard (CR 951), in Section 25, Township 48 South, Range 26 East (Rural Estates Planning Community). The property is zoned A-RFMUO, Rural Agriculture District and Rural Fringe Mixed Use Overlay Receiving Lands, and is undeveloped and wooded.

This petition seeks to amend the GMP, adopted by Ordinance No. 89-05, as amended, specifically amending the FLUE by adding a new Overlay in the Rural Fringe Mixed Use District (RFMUD) Receiving Lands, revising the Future Land Use Map to depict the new Overlay, and adding a new Future Land Use Map Series inset map that depicts the new Overlay. The new residential overlay will: allow a maximum residential density of 2.05 dwelling units per acre (DU/A) yielding 77 DUs (whereas the site is presently limited to 1 DU/5 acres or 7 DUs); utilize Transfer of Development Rights Credits (TDRs) for this property that would otherwise be ineligible due to being less than the minimum 40 acres required in the RFMUD; provide for bonus TDRs for native vegetation retention beyond that required in the RFMUD (a modified version of an existing provision in the RFMUD); and, provide for a bonus DU for each TDR redeemed, a 2 for 1 allowance (this is a unique provision that would apply to this site only and exists nowhere else in the RFMUD).

Based on the review of this petition, including the supporting data and analysis, staff made the following findings and conclusions:

- The subject site and all immediately surrounding lands are designated Rural Fringe Mixed Use District Receiving Lands.
- The Urban designated area lies 0.9 mile to the west.
- Surrounding properties, and properties within the 3-mile Immokalee Road corridor in the Rural Fringe Mixed Use District Receiving Lands in which this site is located, are limited to a maximum density of 1 DU/5 Acres (0.2 DU/A) – or up to 1 DU/A via use of TDRs if ≥40 acres in size;
agricultural uses; essential services; institutional uses by conditional use (e.g. day care center, ALF, church). In staff’s view, this site is an island and does not provide a transition; only lands 0.9 miles to the west allow a density greater than 1 DU/A.

- The requested **density of 2 DU/A is out of character** with the RFMUD Receiving Lands in which the site is located.

- This petition proposes to allow 77 dwelling units (2.05 DU/A) **with the net effect being a tenfold increase of 70 DUs** (added to the allowed base density of 7 DUs). Density is achieved via use of TDRs and a “buy one get one free” density allowance, a new GMP provision that would be unique to this site only - it would not apply to any other RFMUD lands. The result is that 35 DUs would be “gifted” for the purchase of 35 TDRs.

- The subject parcel was previously less than 40 acres in size prior to the Immokalee Road widening. The owner was compensated for the land taken for that road.

- The subject site fronts Immokalee Road (CR 846), a 6-lane divided major arterial roadway; County water and wastewater services are available to the site.

- There are no issues or concerns regarding LOS impacts upon public infrastructure.

- There are no issues or concerns regarding impacts upon natural (environmental) resources or historical/archaeological resources.

- People attending the Neighborhood Information Meeting expressed opposition to the proposed intensity and density that would be allowed by this Overlay and the companion PUD project (even though no one spoke in opposition at the CCPC meeting).

**FISCAL IMPACT:** Petition fees account for staff review time and materials, and for the cost of associated legal advertising/public notice for the public hearings. No fiscal impacts to the County result from approval of this petition for transmittal.

**GROWTH MANAGEMENT IMPACT:** Board approval of the proposed amendment for transmittal to the Florida Department of Economic Opportunity and other statutorily required review agencies will commence the Department’s thirty (30) day review process and ultimately return the amendment to the CCPC and the Board for Adoption hearings, tentatively to be held in Spring of 2020.

**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: “plan amendments shall be based on relevant and appropriate data and an analysis by the local government that may include but not be limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the plan amendment. To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.” Section 163.3177(1)(f), F.S. In addition, Section 163.3177(6)(a)2, F.S., provides that FLUE plan amendments shall be based on surveys, studies and data regarding the area, as applicable including:

a. The amount of land required to accommodate anticipated growth.
b. The projected permanent and seasonal population of the area.
c. The character of undeveloped land.
d. The availability of water supplies, public facilities, and services.
e. The need for redevelopment, including the renewal of blighted areas and the elimination of non-conforming uses which are inconsistent with the character of the community.
f. The compatibility of uses on lands adjacent to or closely proximate to military installations.
g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.
h. The need to modify land uses and development patterns with antiquated subdivisions.
i. The discouragement of urban sprawl.
j. The need for job creation, capital investment and economic development that will strengthen and diversify the community’s economy.

And FLUE map amendments shall also be based upon the following analysis per Section 163.3177(6)(a)8.:

a. An analysis of the availability of facilities and services.
b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.
c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

This item is approved as to form and legality. It requires a majority vote for approval because this is a Transmittal hearing. [HFAC]

**STAFF RECOMMENDATION TO THE COLLIER COUNTY PLANNING COMMISSION:** That the Collier County Planning Commission forward Petition PL20180002668/CP-2018-7 to the Board of County Commissioners with a recommendation not to approve for transmittal to the Florida Department of Economic Opportunity and other statutorily required agencies. However, if, and only if, the CCPC forwards the petition with a recommendation to approve, staff recommends the density be reduced to 1 DU/A (37 DUs) via use of TDRs (the density that could have been achieved prior to the taking of a portion of the site for Immokalee Road widening) – as reflected in the staff report.

**COLLIER COUNTY PLANNING COMMISSION (CCPC) RECOMMENDATION:** The CCPC heard this petition at their September 5, 2019 meeting. The petitioner team suggested in their presentation: this 37.62-acre property, which is surrounded on all sides by the same FLUE/FLUM designation as the subject site, provides a “transition” that is comparable to the mile-wide Urban Residential Fringe Subdistrict (along the east side of Collier Blvd. and south of I-75 and Beck Blvd.) covering thousands of acres and that lies between two distinctly different FLUE/FLUM designations; or to the four square mile Urban-Rural Fringe Transition Zone Overlay covering more than 2,500 acres (north and northwest of the subject site and comprising Heritage Bay PUD), which internally comprises two distinctly different FLUE/FLUM designations.

The petitioner team committed to the CCPC that this development would provide only single-family detached residences.

There was one speaker at the CCPC meeting; that person did not express support or opposition but requested the same new proposed regulations apply to his property.

The CCPC voted [6/0] to forward the subject petition to the Board with a recommendation to transmit to the Florida Department of Economic Opportunity and other statutorily required review agencies.

**STAFF RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS:** Same as to the CCPC – That the Board not approve petition PL20180002668/CP-2018-7 for transmittal to the Florida Department of Economic Opportunity and other statutorily required review agencies. However, if, and only if, the Board is inclined to approve this petition, staff recommends the density be reduced to 1 DU/A (37 DUs) via use of TDRs (the density that could have been achieved prior to the taking of a portion of the site for Immokalee Road widening) – as reflected in the CCPC staff report.
Staff reminder: This GMP amendment follows the Expedited State Review process. Chapter 163.3184 (3)(c)1, Florida Statutes, provides that the County Board (local governing body) shall hold its Adoption (second public) hearing within 180 days after receipt of agency comments, unless extended by agreement with notice to the DEO (state land planning agency) and any affected person that provided comments on the amendment. This notification, review and comment process period is approximately 7.5 months (225 days) from the time the County Board holds its Transmittal (initial public) hearing.

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