

## JohnsonEric

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**From:** BosiMichael  
**Sent:** Thursday, May 12, 2022 2:06 PM  
**To:** JohnsonEric  
**Subject:** FW: Conservancy Comments and Recommendations to Improve the RLSAs Land Development Code Section 4.08.00  
**Attachments:** Attachment A - USFWS Fish and Wildlife Concerns re Longwater and Bellmar 3-1-21.pdf; Attachment B - Memo - 4-24-08 Hatcher-Roys to Greenwood.pdf; FW: Data & Analysis Requirements for the RLSA 5-Year ; 3-4-2022 RLSA LDC Amendment recommendations Conservancy.pdf

For the file

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**From:** FrenchJames <James.French@colliercountyfl.gov>  
**Sent:** Friday, March 4, 2022 6:32 PM  
**To:** ScottTrinity <Trinity.Scott@colliercountyfl.gov>  
**Cc:** PattersonAmy <Amy.Patterson@colliercountyfl.gov>; GuitardDonna <Donna.Guitard@colliercountyfl.gov>; LynchDiane <Diane.Lynch@colliercountyfl.gov>; BosiMichael <Michael.Bosi@colliercountyfl.gov>; CookJaime <Jaime.Cook@colliercountyfl.gov>  
**Subject:** FW: Conservancy Comments and Recommendations to Improve the RLSAs Land Development Code Section 4.08.00

FYI

Respectfully,  
Jamie

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James C. French  
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**From:** April Olson <[AprilO@conservancy.org](mailto:AprilO@conservancy.org)>  
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**Subject:** Conservancy Comments and Recommendations to Improve the RLSAs Land Development Code Section 4.08.00

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Dear Mr. Bosi, Ms. Cook, and Mr. French,

We are pleased to provide you with the "Conservancy's Recommendations to improve RLSA's Land Development Code Section 4.08.00", dated 3-4-2022. Also, included with this email are three Attachments referenced in our comment letter.

Please do not hesitate to contact us with any questions, or if you would like a follow up meeting, we are happy to schedule one with you.

Best regards,

**April**

**April Olson**  
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*Protecting Southwest Florida's unique natural environment and quality of life ... now and forever.*

March 4, 2022

Michael Bosi, Planning Director  
Jamie Cook, Director Development Review  
Jamie French, Deputy Department Head  
Collier County Growth Management Department  
2800 North Horseshoe Drive  
Naples, FL 34104

RE: Conservancy's Recommendations to improve the RLSA's Land Development Code Section 4.08.00

Dear Mr. Bosi, Ms. Cook, and Mr. French:

Although the Rural Lands Stewardship Area (RLSA) Overlay is twenty years old, only recently has the program's effectiveness as a stewardship program truly been put to the test. Prior to the 5-Year Review (2007-2009), the RLSA had only one approved Stewardship Receiving Area (SRA), the Town of Ave Maria. However, as you know, during the second restudy (2018-2021), several more SRA applications were submitted to Collier County and were approved.<sup>1</sup> In addition, the County recently approved several Stewardship Sending Area (SSA) applications. These recent applications provide a wealth of information and reveal what is working and what improvements are necessary for the program to achieve its goals of wetland and habitat protection, retention of agricultural lands, and smart growth.

Through our in-depth reviews of these recent SSA and SRA applications, we discovered flaws within the RLSA program that will result in ineffective restoration plans and impacts to listed species habitat, *even* within the preserves (SSAs). Although there are these serious issues, the applications still generated substantial stewardship credits toward development.

Many of the issues boil down to loopholes and weak language within the Land Development Code (LDC). While, the Conservancy has solutions to improve the LDC, we understand that our recommendations may be outside of staff's scope of work, as the LDC amendments are only to implement the 2021 GMP RLSA Amendments. Unfortunately, because the adopted 2021 RLSA GMP Amendments are modeled after the outdated 2009

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<sup>1</sup> Rivergrass and Hyde Park Villages approved in 2020, followed Longwater and Bellmar Villages in 2021.

“5-Year Review Amendments,” the 2021 RLSA GMP amendments failed to address many of the current issues we raise in this document.

This document explains some of the ways in which recent SRA and SSA applications fail to align with the RLSA’s goals and objectives for habitat protection and restoration. Following each issue we present, we provide our recommendations to improve policies within Collier County’s LDC Section 4.08.00. If staff believes our recommendations to be outside of the scope this LDC Amendment process, we ask that staff consider our recommendations for the upcoming amendment cycle or the EAR.

In this document, we present the following issues:

- ISSUE #1: Restoration Plans that do not achieve stated outcomes.
- ISSUE #2: SSA Applications may still generate large numbers of restoration credits while providing minimal restoration work.
- ISSUE #3: The LDC should require measurable success criteria based on specific environmental outcomes instead of completed tasks.
- ISSUE #4: SSA Agreements and Easements must include perpetual maintenance agreements to manage and control exotic species.
- ISSUE #5: Although the Planning Commission acts as the County’s Environmental Advisory Committee, they do not review or hold hearings for SSA applications.
- ISSUE #6: SRAs may reduce habitat functionality in adjacent SSAs.
- ISSUE #7: LDC 4.08.01Q fails to conform to the RLSA’s goal.
- ISSUE # 8: Scores for Listed Species Habitat Indices must be increased to protect the endangered Florida panther.
- ISSUE #9: Issues with the proposed location of panther corridors. Conservancy provides recommendations for location of wildlife crossings.

While these issues are not all encompassing, we believe these to be the most significant issues pertaining to restoration and protection of natural resources. Following the explanation of each issue, **we provide our recommendation** for LDC Section 4.08.00 in **BLUE**.

### **ISSUE #1 - Restoration Plans that do not achieve stated outcomes:**

SSA15’s Amended restoration plan, approved by the BCC in 2021, provides an example of a restoration plan that does not measure up to its stated goals. SSA15 lands are within an important regional wetland flowway that connects National Audubon Society’s Corkscrew Swamp Sanctuary to Florida Panther National Wildlife Refuge and Fakahatchee Strand State Preserve. These lands are part of a large regional mammal corridor, called Camp

Keais Strand Corridor, for the endangered Florida panther and other mammals. Florida Forever targets Camp Keais Strand for protection and states in their five year plan *“the large, interconnected swamps of Southwest Florida must be preserved if such wildlife as the Florida panther and black bear are to survive.”*<sup>2</sup>

The applicant’s goal for SSA15’s Amended restoration plan is *“to return the natural/historic functions to degraded and altered habitats, which will in turn provide regional benefits for surface water flow and wildlife.”*<sup>3</sup> While the goal sounds promising, experts concluded that SSA15’s restoration plan would not fully restore Camp Keais Strand to natural and historic conditions. This is because the applicant withdrew their commitment of significant work to restore two large farm fields that impede flows within Camp Keais Strand to wetlands, even though the work was included in a 2016 version of the SSA15 Amendment application for the Town of Rural West.<sup>4</sup> Furthermore, the restoration plan failed to demonstrate significant hydrological benefits to SSA15 lands because the applicant did not provide an updated flowway restoration analysis *after* the applicant removed the significant farm field restoration work from the plan.<sup>5</sup>

Kevin Godsea, Refuge Manager of U.S. Fish and Wildlife Services’ Florida Panther National Wildlife Refuge (FPNWR), explained in a letter to Collier County his concerns that SSA15’s restoration plans would not achieve its stated goals of flowway restoration and landscape connectivity. Mr. Godsea stated:

*Secondly, the application does not address the need for hydrologic restoration of the adjacent Camp Keais Strand Flowway Stewardship Area. Hydrological restoration of the Camp Keais Strand was identified as a unique functional group within Southwest Florida Comprehensive Watershed Management Plan, which the County and Service both participated in.*

*During this effort, members of local and state agencies, NGOs, and the Federal government made every effort to take a holistic approach to hydrological restoration. We implore the County and other regulatory authorities to require the applicants to include wetland restoration activities identified within the Southwest Florida Comprehensive Watershed Management Plan, especially those within the Camp Keais Strand functional group.*

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<sup>2</sup> Florida Department of Environmental Protection. Division of State Lands (May 2020) 2020 Florida Forever Five-Year Plan. Summary of Recommendations and Status as of December 2019. Corkscrew Regional Ecological Watershed. P. 173 of 889. [https://floridadep.gov/sites/default/files/FLDEP\\_DSL\\_OES\\_FF\\_CorkscrewRegionalEcosystemWatershed.pdf](https://floridadep.gov/sites/default/files/FLDEP_DSL_OES_FF_CorkscrewRegionalEcosystemWatershed.pdf)

<sup>3</sup> Stewardship Sending Area 15 Collier County Restoration Plan, Revised Oct. 2019, Exhibit F to Easement Agreement p. 1

<sup>4</sup> Stewardship Sending Area 15 Amendment Application dated January 2016. Exhibit 4-1: Aerial with Restoration Designation Areas p. 40/241 of pdf includes restoration work of two large farm fields.

<sup>5</sup> The 2016 SSA15 Amendment application included the “Rural Lands West Camp Keais Strand Flow Way Restoration Analysis”, which was never updated after restoration work for two large farm fields was removed. Page 52/241 of pdf

*Hydrologic restoration of the Camp Keais Strand is clearly a component of the RLSA Stewardship Sending Areas, and is critically important for downstream conservation lands such as the FPNWR. Currently two farm fields restrict the flowway to a few culverts in a span of 100 yards, whereas restoring these farm fields back to wetlands would result in a nearly 1 mile wide flowway immediately adjacent to the proposed Longwater development. The applicant's original plans for the Town of Rural Lands West included restoring these approximately 935 acres of farmland in the middle of the Camp Keais Strand Stewardship flowway in SSA15, to benefit the hydrology of downstream conservation lands. This wetland restoration was not included in the plans for Rivergrass Village, Longwater Village or Belmar Village, and we believe that it should, as this type of wetland restoration was clearly the intent when the RLSA was established.*

*If properly implemented, Camp Keais Strand hydrological restoration activities could ultimately benefit one of the most biodiverse forested wetlands in the state of Florida (i.e., Fakahatchee Strand), as well as the Picayune Strand. (Letter - Attachment A)*

In addition, the Conservancy hired Michael Frankenberger, Certified Professional Ecologist and President of Natural Resources Services, Inc., to review SSA15's 2016 and 2019 restoration plans. Mr. Frankenberger found similar concerns with SSA15's amended plan, as was stated by Mr. Godsea. At the January 28, 2020 Board of County Commission adoption hearing for SSA15 Mr. Frankenberger stated:

*They [applicant] don't provide any data, no hydrological data to support their assumption that this is going to provide great environmental benefit and hydrological improvements. . . . They [applicant] provide no data except in '16 they did do a hydrological monitoring plan, but that is irrelevant because they took out most of the restoration, and it doesn't identify all the additional development around the sloughs.*

The restoration work removed from the plan that Mr. Frankenberger referenced was the work to restore the two large farm fields.

Mr. Frankenberger also stated the following in a report to the Conservancy<sup>6</sup> upon his review of Amended SSA15 Amendment application:

*The application flow-way restoration plan includes an unsupported assumption that the two identified areas of flow-way work, totaling 4.5 acres will significantly improve Strand flow-way functions far beyond the proposed work site, including the >8 mile length of the strand within SSA15. However, there is no supporting documentation to support this extended reach of existing road impact or potential benefit.*

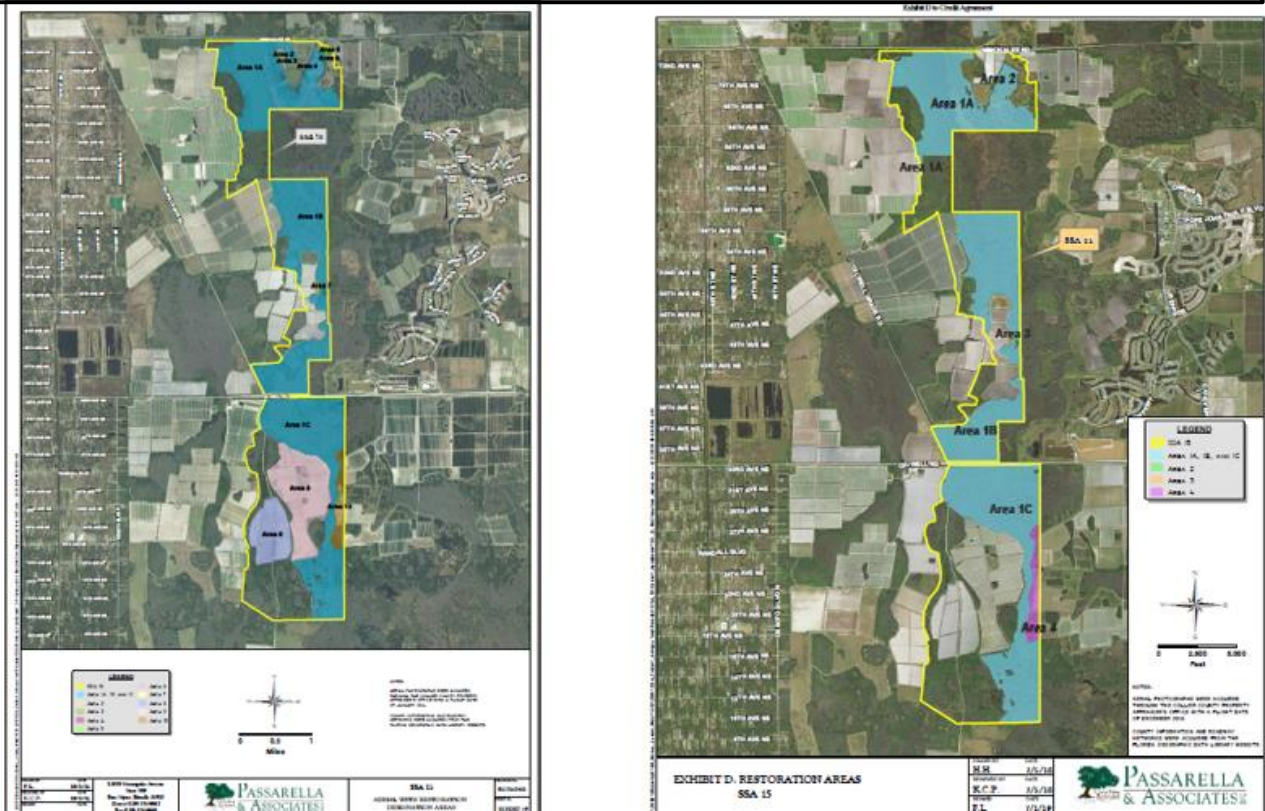
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<sup>6</sup> Natural Resources Services, Inc. Outside Review and Comment on the SSA 15 Natural Resource Index Assessment and SSA 15 Proposed Restoration Plan.



Figure 1 provides a side-by-side comparison of SSA15's restoration areas from 2016 (left) and 2019 (right).

**Figure 1: 2016 and 2019 Restoration Areas within SSA15**



The 2016 plan, on the left, includes restoration work for two large farm fields (Areas 8 and 9 depicted in light purple and pink). The 2019 plan, on the right, shows that restoration for the two farm fields has been removed.

The 2016 Plan states:

*The restoration of Areas 8 and 9 will contribute significantly to the hydrologic improvement of Camp Keais Strand. The removal of the perimeter berms and ditches and re-grading of Areas 8 and 9 will aid in restoring historic sheet flow conditions within Camp Keais Strand.<sup>7</sup>*

Because restoration of the two farm fields was so important to the hydrologic restoration of Camp Keais Strand, the restoration work should *not* have been removed from the plan, unless the hydrologic modeling was updated after removal of the significant farm field

<sup>7</sup> SSA 15 Amendment Application January 2016. Stewardship Sending Area 15 Restoration Analysis and Report p. 37/241

restoration and the modeling supported the assumption that regional surface water flows and wildlife habitats would be restored to natural/historic function, as was promised by SSA15's goal.

**RECOMMENDATION 1:** Language within LDC 4.08.06.C.5.j.(4) and (5) must be strengthened for flowway restoration plans. As part of the "Restoration Analysis and Report", require applicants to provide site-specific data and a hydrological study to identify how the restoration work will result in significant and measurable hydrological improvements. Applicants shall provide pre and post hydrological data as part of the success criteria to demonstrate improvements associated with each restoration activity. Furthermore, if prior to approval of an SSA application, or as part of an amendment to an approved SSA, the applicant modifies the amount and type of restoration work, the applicant shall provide the county with an updated Restoration Analysis and Report. The report must include an updated hydrological study demonstrating that the modified restoration plan still achieves the restoration goals provided in the plan, or the SSA agreement shall not be approved.

**RECOMMENDATION 2:** If prior to approval of an SSA application, or as part of an amendment to an approved SSA, the applicant modifies the amount and type of restoration work to be provided *for any type of restoration stated in Policy 3.11*, (i.e. wading bird habitat restoration, panther corridor restoration, caracara habitat restoration, etc.) the applicant must provide an updated Restoration Analysis and Report that demonstrates how the modified plan would still achieve a functional enhancement of the restoration area.

**RECOMMENDATION 3:** Camp Keais Strand and Okaloacoochee Slough are part of the Big Cypress Basin and a large interconnected natural system of wetlands and habitat corridors that connect with surrounding public lands. However, the letter from FPNWR manager suggests that some landowner-proposed restoration projects for SSAs are designed piecemeal, without considering whether the restoration project would benefit surrounding public lands. The LDC should be updated to require that applicants who apply for Restoration Credits (R-1 and R-2) must first consult with wildlife agencies and land managers of adjacent, downstream and/or connecting public lands to ensure that the proposed restoration activities are based on a holistic approach to benefit the entire watershed and habitat types. In addition, restoration plans within Camp Keais Strand or Okaloacoochee Slough must be consistent with Southwest Florida Comprehensive Watershed Management Plan (SWFCWP). The SWFCWP was created through a large coordinated effort to "restore surface water hydrology (getting the right quantity of water to the right place, at the right time),



improve water quality, restore landscape connectivity for wildlife, and restore the health of the estuaries.”

**ISSUE #2 - SSA Applications may still generate a large number of restoration credits while providing minimal restoration work:**

Collier County Planning Staff clearly understood that restoration credits may not always be commensurate with restoration work provided, which is why they provided the following RLSA White Paper Recommendations.

*Structure restoration credits so that needed restoration is assured in return for the maximum credit and acreage footprint of SRA development (draft LDC Amendment)*

*Restructure the timing of R-1 credits: only half of R-1 credits awarded at time of permit approval through the ERP process (or County permit if no ERP required): the remaining “R-1” credit(s) would be awarded only after the owner successfully complete all phases of R-2 restoration. (draft LDC Amendment)*

Restoration credits represent the lion’s share of stewardship credits earned to date and are the primary type of credits that are expected to be earned in the future.<sup>8</sup> We believe that the relationship between restoration credits and restoration work provided should always be proportional. In other words, the applicant should provide extensive environmental restoration work toward restoring habitats, flowways, and corridors, if the number of restoration credits is substantial.

The SSA15 Amendment Application provides an example of how restoration work was not commensurate with the number of credits the applicant received. SSA15’s Amended and Adopted restoration plan provided restoration work over only 116 acres, a mere 2% of the SSA’s total 5,253 acres.<sup>9</sup> Nonetheless, their application generated 21,428 restoration credits. At ten credits per acre, the restoration credits alone entitle them to 2,142 acres of SRA development, which may be applied toward any combination of SRAs.<sup>10</sup> As example, **21,428 restoration credits may be applied toward two 1,000-acre villages or even a 2,142-acre town.** A 2,142-acre SRA could easily add far more than 12,800 new residents to Collier County.<sup>11</sup> These new residents will increase demands on traffic, water, sewer,

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<sup>8</sup> Collier County Stewardship Credit Analysis August 2020; Collier County May 2019 White Paper

<sup>9</sup> Stewardship Sending Area 15 Collier County Restoration plan provide that there will be 104.23 acres of farm field restoration, 8.15 acres of exotics removal, 3.47 acres to remove trail south of Oil Well (5,400ft x 28ft), and .22 acre section road removal to alleviate pinch point (500ft x 20 ft.). The total lands where restoration work will occur is 116.07 acres. Resolution 2020-25, p. 2.

<sup>10</sup> Policy 4.19 requires ten credits per acre, so 21,428 stewardship credits = 2,142 acres of SRAs.

<sup>11</sup> SRAs can build up to 4 homes per acre. Even if we assume the 2,142 acres will be developed at a lower density of 3 homes per acre and at 2.5 persons per household, we get a population of 16,065. Assuming a vacancy rate of 20% = 12,852

fire, police, and impacts to water quality and wildlife in the area. Thus, the increase in development rights just from SSA15's restoration credits is *very* substantial.

Ultimately, SSA15's applicant offered a faulty restoration plan, as we saw in the previous section, consisting of only 116 acres of restoration work, in exchange for substantial developer entitlements. We do not believe this ever was the intended purpose of restoration credits. Unfortunately, this seems to be a pattern with more recent SSA agreements, as we found a similar case with SSA14's restoration plan where there was little restoration work provided in exchange for considerable restoration credits.

While the Board in 2021 did take a step in the right direction by reducing R-1 dedication credits, for *some* of the categories, to one credit per acre, we believe that applicants will continue to provide little restoration in exchange for an abundance of restoration credits. This is because there is little incentive to provide costly restoration work for two reasons:

- a. Lands restored through costly restoration activities generate the same credits as lands that may benefit indirectly from restoration.
- b. Less costly types of restoration, that provide fewer benefits to wildlife or wetlands, generate the same number of credits as costly restoration that provide much greater benefits.

**a. Lands restored through costly restoration activities generate the same credits as lands that may benefit indirectly from restoration:**

Environmental restoration work can be very costly, especially when the site includes large farm fields restored to wetlands or forested areas. However, the applicant of SSA15 discovered that, even if they removed major restoration work, they could still generate copious restoration credits. Before the SSA15 Amendment was adopted, the applicant removed 88%<sup>12</sup> of the restoration work that was provided in the 2016 application, yet the total restoration credits were only reduced by 25% in the final adopted application.<sup>13</sup>

How could the applicant generate so many restoration credits while removing most of the restoration work? A review of SSA15's restoration plan shows that the bulk of restoration credits were generated for *potential indirect benefits* of the restoration work. Although the actual restoration work was planned for only 116 acres, the applicant claimed that 2,678 acres would benefit from the restoration work.<sup>14</sup>

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<sup>12</sup> The 2016 SSA15 Amended application provided 942 acres of restoration. While the adopted SSA15 Amendment provided only 116 acres. Thus, 826 acres of restoration was removed or 88% of the total restoration work.

<sup>13</sup> The 2016 SSA15 Amended application proposed to generate 28,357 restoration credits (p. 18/241), while the adopted SSA15 Amended Application generated 21,428 restoration credits. Thus, a reduction of credits of about 25%.

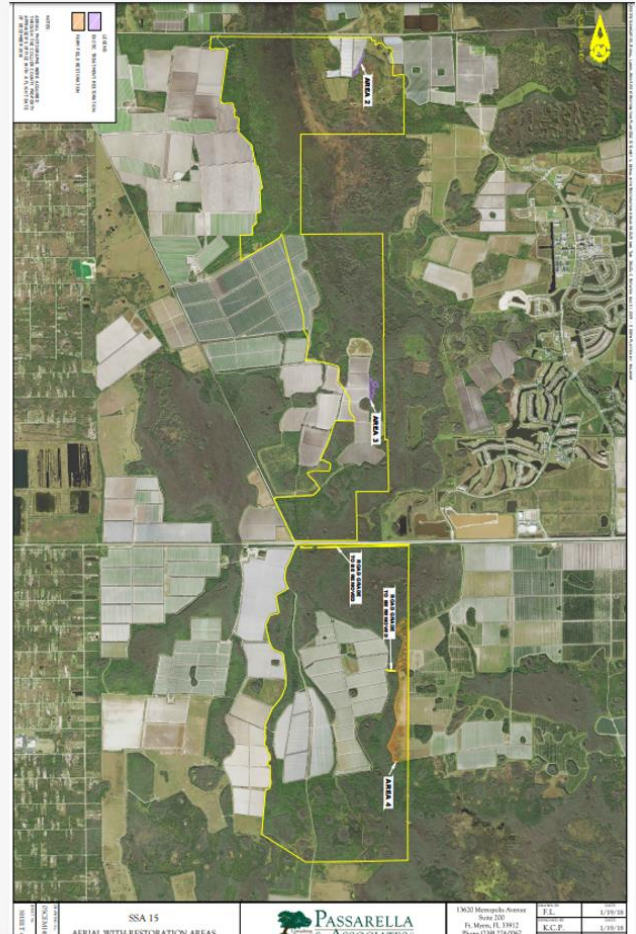
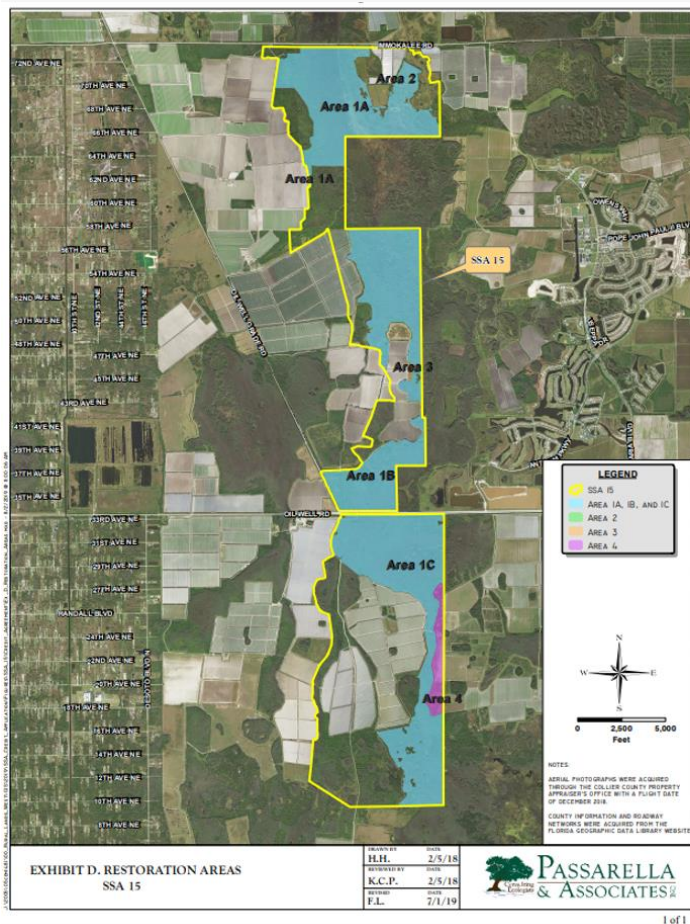
<sup>14</sup> Stewardship Sending Area 15 Collier County Restoration Plan, Revised Oct. 2019, Exhibit G, p. 1 Stewardship Sending Area 15 Restoration Analysis and Report. Revised October 2019. Exhibit G.

Figure 2 shows maps provided by the applicant’s consultant. The map on the left shows, in blue and pink, the 2,678 acres where the applicant earned restoration credits. The map on the right shows, in orange and purple, the exact location where 116 acres of restoration work or restoration activities are planned.

**Figure 2:** Map on left shows areas where R-1 and R-2 credits are generated. Map on right show locations of actual restoration activities.

**2,678 acres of restoration areas**

**116 acres of restoration work**



While we agree that flowway restoration work, when done right, can benefit downstream lands, we also believe the framers intended to award Restoration credits *only* for restoration work or for “restoration activities” as stated in the LDC.<sup>15</sup> Furthermore, the paltry restoration work of 116 acres, provided by the applicant, is likely why principal ecologist Michael Frankenberger and FPNWR Refuge Manager Kevin Godsea voiced

<sup>15</sup> LDC policies 4.08.06.B.3f (1) (2), and (5) all state that Restoration Stewardship Credits shall be generated for “restoration activities.”

concerns that SSA15's restoration plan would provide little hydrological benefit to Camp Keais Strand flowway and downstream conservation lands.

**b. Less costly types of restoration, that provide fewer benefits to wildlife or wetlands, generate the same number of credits as costly restoration that provide much greater benefits:**

Besides removing extensive restoration work altogether, the applicant discovered that they could provide less expensive types of restoration with cheaper, less effective types of restoration, and not be penalized. As example, the 2016 SSA15 application provided planting of native wetland and upland species for each restoration area. However, the final adopted application removed all plantings in lieu of natural recruitment, even for the largest project, restoration of a 104-acre farm field. Michael Frankenberger stated concerns that natural recruitment may not work for large areas. He stated:

*It should be noted that the condition to let a large agricultural area restore vegetation naturally is very risky as long-term agricultural management has likely significantly reduced native seed bank and we would recommend that the applicant modify the plan to including seeding planting prior to first rainy season after grade restoration.*

Frankenberger also stated concerns that more costly restoration activities that provide greater benefits to wildlife and hydrology generate the same credits as activities that yield less environmental benefits:

*It appears that an error was made on the assignment of credits for flow-way work and farm field work. The amount of restoration work/expense for the restoration of farm fields and the potential wetland/flow-way/wildlife benefits for the farm field restoration is in order of magnitude greater than the cost/benefits associated with the road removal (flow-way restoration). The credits allotted should be more justifiably be assigned with the 70% to the farm fields and the  $\pm 25\%$  for the road removal.*

If changes are not made to the newly adopted GMP Policy 3.11, the issue of awarding an extensive amount of restoration credits in exchange for minimal restoration could become even worse, as the new policy increases the ways in which restoration credits may be earned.

**RECOMMENDATION 4:**

**The *only* way to incentivize significant restoration work is to award R-2 restoration credits *only* for the areas where the actual restoration work is to occur, not for the lands that have the potential to be indirectly restored. As example, R-2 credits may be generated on lands where there is a road removal, grading, removal of berms, planting of native species, seeding, exotics removal, etc. However, R-2 credits shall be awarded *only* after all specified environmental outcomes are achieved. R-1**



credits may be awarded for lands that may benefit indirectly from restoration; however, Land Use Layers 1-6 shall first be removed.

It should be noted that under the existing Stewardship Credit Matrix, base credits may be generated for lands having “Restoration Potential”. This is yet another way landowners may generate credit for lands that may indirectly benefit from restoration, and another reason why R-2 credits should only be granted for the actual restoration work.

Furthermore, the program should encourage planting of native vegetation and/or seeding, rather than natural recruitment to earn R-2 credits. If an application provides for natural recruitment, then restoration credits should be held until natural recruitment is successful, as determined by permitting agency.

**ISSUE #3 -The LDC should require measurable success criteria based on specific environmental outcomes instead of completed tasks:**

Principal Ecologist Michael Frankenberger, who reviewed SSA15’s restoration plans, suggested that the plan lacked measurable success criteria for environmental outcomes. The success criteria provided within SSA15 Amendment was not based on whether the restoration work resulted in measurable environmental goals such as desired habitat types with dominant native species or achieved targeted hydroperiods, instead, the success criteria was whether the applicant completed restoration activities or tasks. As example, SSA15’s Amended Restoration Plan provided the following success criteria for flow-way restoration:

*The following are the success criteria for flow-way restoration: (1) removal of the old road grade designated for removal as part of the SSA 14 restoration plan will be completed; (2) removal of road grade south of Oil Well Road will be completed; (3) removal of the pinch point farm road will be completed; (4) if two years after removal of the road grades natural recruitment of native vegetation within the footprint of the old road grades has not occurred, then planting/seeding will be completed; and (6) the restored areas will be free from exotic vegetation immediately following a maintenance activity and will consist of no more than five percent cover for exotic species. A total of 10,264.5 Stewardship Credits shall be available upon the achievement of these success criteria.*

The statement demonstrates that the plan’s success is entirely measured upon whether the work is completed, not if or how the restoration work would benefit water quality or quantity within the strand or whether certain habitat types are enhanced for listed species or wildlife. The LDC should be updated to require that success criteria demonstrates



significant and measurable enhancements of specific habitat types with specific tree or vegetative cover and/or targeted hydroperiods or water quality improvements.

The 2021 adopted RLSA GMP amendments added several new ways in which applicants may earn restoration credits, so now is the time for the language to include specific success criteria based on environmental outcomes.<sup>16</sup> As example, for crested caracara habitat restoration, the success criteria could be whether the restoration work results in the creation or enhancement of suitable caracara habitat, such as open dry or wet prairies consisting of scattered cabbage palms or lightly wooded areas with saw palmettos, cypress, and/or scrub oak.<sup>17</sup>

Mr. Frankenberger provided examples of measurable success criteria for SSA15, which we incorporated in the following recommendation to improve restoration plans.

**RECOMMENDATION 5:**

**Add specificity to require that the Restoration Plan provide clearly defined and measurable expectations on what defines successful fulfillment of the restoration goals. Success criteria goals for habitat restoration should include desired dominant native species and minimum appropriate vegetative cover by habitats (i.e. deep marsh, marsh, wet prairie, hydric pine flatwoods, hardwood wetlands, cypress, pine uplands, palmetto uplands, etc.).**

**For each of these systems, targeted habitats and hydroperiods (i.e. time period of saturation/inundation, average season high water depth, maximum seasonal high water) needs to be defined to allow post assessment and management adjustments.**

**For forested and upland systems, in addition to identifying appropriate native tree composition (species and dominance), minimum trees per acre and minimum tree height/canopy closure should be provided to define level of success.**

**The Conservancy is happy to provide language for success criteria, specific to each restoration type listed in Amended Policy 3.11, per the request of planning staff.**

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<sup>16</sup> The 2021 amendments to Policy 3.11 provide landowners with additional opportunities to earn restoration credits for caracara habitat restoration, exotic control/burning, panther corridor enhancements, and restoration of shallow wetland wading bird foraging habitat. This is in addition to credits for flowway and native habitat restoration, which existed prior to the 2021 amendments.

<sup>17</sup> U.S. Fish and Wildlife Service South Florida Multi-Species Recovery Plan. Audubon's Crested Caracara. *Polyborus plancus audubonii*. <https://www.fws.gov/verobeach/MSRPPDFs/AudubonsCrestedCaracara.pdf>

## **ISSUE #4 - SSA Agreements and Easements must include a perpetual maintenance agreement to manage and control exotic species:**

One of the benefits of the RLSA program often touted by RLSA landowners is that SSAs will be preserved and maintained in perpetuity at no cost to the taxpayers. ECPO's presentation at the March 28, 2019 RLSA Workshop stated:

*Total conservation land has grown to 50,000 acres (from 16,000 in 2002) that are **permanently preserved, protected and managed at no cost to Collier County taxpayers** – land that is valued at more than \$500,000,000. (Emphasis added)*

However, a review of SSA15's Application documents, reveal ambiguous maintenance obligations that appear to end after only a few years. While there are annual inspections, the SSA Easement Agreement or Restoration plan does not state how long the inspections are to last and does not provide any maintenance requirements for the restoration areas. What happens if after ten years, much of the area becomes infested with exotics or nuisance species? There is nothing in the Stewardship Agreement to require the applicant to maintain the restoration areas.

The LDC currently provides loose standards for maintenance and control of exotic species and for monitoring success of all restoration work. The LDC only requires the following:

*When the restoration is to be undertaken by the applicant, a Restoration Plan that addresses, at a minimum, the following elements: (f) annual management, maintenance and monitoring.<sup>18</sup>*

*Stewardship easement Agreement shall identify the specific land management measures that will be undertaken and the party responsible for such measures.<sup>19</sup>*

*Identification of the proposed land management measures that will be undertaken and the party responsible for such measures.<sup>20</sup>*

Language within Stewardship Easement Agreements should require minimum standards for controlling exotic species and for prescribed burning and should state that annual management is perpetual.

### **RECOMMENDATION 6:**

***Write policy based on staff's White Paper recommendation: "Add specific exotic vegetation control measures to the SSA agreement and easement and require***

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<sup>18</sup> 4.080.06.C.5.j.(5) (SSA Designation Application)

<sup>19</sup> 4.080.06.C.8.b (SSA Designation Application Package)

<sup>20</sup> 4.080.06.D.1.d. (SSA Application Review Process)

*maintenance that assures no greater infestation than that existing at time of SSA designation.” The plan should identify perpetual exotic control and other management measures as a requirement for Stewardship Easement Agreements. In addition to providing control measures for Category I and Category II exotic species, nuisance species such as cattail, dog fennel, and pasture grasses, shall not be allowed to flourish and count toward successful vegetation establishment.*

**RECOMMENDATION 7:** We agree with staff’s recommendation that “*additional specific maintenance standards [] should be included in all future SSA agreements and easements (draft LDC Amendment).*” In addition, the agreements and easements must identify the long-term management entity who will maintain SSAs. Insuring funding for long-term management is essential. A suggested approach would be for each credit received, the owner would set aside monies into a long-term management endowment fund to be used solely for management of the property. This applies after all phases meet substantial success and ensures costs shall not be borne by taxpayers.

**ISSUE # 5 - Although the Planning Commission acts as the County’s Environmental Advisory Committee, they do not review or hold hearings for SSA applications.**

Although the Collier County Planning Commission (CPCC) acts as the County’s only Environmental Advisory Committee (EAC), the LDC does not provide for the CCPC-EAC to review Stewardship Sending Area (SSA) applications, they only review the Stewardship Receiving Area (SRA) applications. This lack of review by CCPC-EAC is completely illogical, as SSA applications are incredibly complex and include a plethora of important reports and analyses related to preservation and restoration including: Restoration Plans, Natural Resource Index Assessments, SSA Credit Agreements, Restoration Analysis and Report, and SSA Easement Agreement. The Restoration Plan report *alone* includes numerous important sections warranting an in-depth review by the CCPC-EAC, including restoration goals, the description of work to be performed, entity responsible for the work, work schedule, success criteria, and management and maintenance.<sup>21</sup> Below are just some of the reasons why an additional layer of review by the CCPC-EAC is necessary:

1. A review of SSA applications by CCPC-EAC would provide better assurances that SSA applications adhere to complex GMP and LDC rules for SSAs.
2. To ensure restoration plans are designed to achieve stated outcomes.
3. To ensure restoration credits are commensurate with restoration work provided.

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<sup>21</sup> LDC 4.08.08.C.5.j(5)

4. To ensure that habitat within SSAs will not be impacted by adjacent SRAs.
5. So that the CCPC-EAC fully understands the entirety of a developer's project.

Not surprisingly, Eastern Collier Property Owner's (ECPO) opposes a review of SSA applications by the CCPC-EAC for reasons that do not add up.<sup>22</sup> The reality is that ECPO simply wants little oversight of SSA applications because SSA Applications are the instrument by which RLSA landowners earn stewardship credits. Stewardship credits are the currency of the program and they substantially increase density and the value of their lands. Furthermore, ECPO understands that without a review and public hearing by the CCPC-EAC, there is less scrutiny of restoration plans and restoration work proposed.

However, having only half the information of a development plan makes the CCPC-EAC susceptible to false claims and misinformation regarding what the applicant proposes for the preserve (SSA) and the number of credits generated. As example, the developer for the Town of Big Cypress, which includes Rivergrass, Longwater, and Bellmar, claimed the following:

*Collier Enterprises will preserve more than 12,000 environmentally sensitive acres as part of the plan for the Town of Big Cypress and the Villages of Rivergrass, Longwater, and Bellmar.*<sup>23</sup>

When the statement is taken at face value, it seems like a great deal for Collier County. The applicant is setting aside 12,000 acres in exchange for 3,500 acres of development.<sup>24</sup> However, the whole truth is that the SSA lands that make up the 12,000-acre preserve will generate 52,295 stewardship credits, which are enough credits to allow for approximately 6,425 acres of SRAs, not 3,500 acres as they claim.<sup>25</sup> An accurate statement would have been:

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<sup>22</sup> Section 4 Public Participation and Comments, Committee Deliberations, Committee Actions Regarding Recommended Amendments to the Rural Lands Stewardship Overlay, p. 100  
<https://www.colliercountyfl.gov/home/showpublisheddocument/23857/635883137282070000>

<sup>23</sup> TownofBigCypress.com

<sup>24</sup> Rivergrass, Longwater, and Bellmar total approximately 3,000 acres. Per the Town Agreement, the Town of Big Cypress core area equals 515 acres. Thus, the total development area = 3,515 acres.

<sup>25</sup> The 12,372 acres of preserve that Collier Enterprises agreed to set aside for Town of Big Cypress is for SSA14, SSA 15, SSA 17, and SSA18. (SSA14 = 1,713 acres; SSA 15 = 5,253 acres; SSA 17 = 3,148 acres; SSA 18 = 2,258 acres; total preserve = 12,372 acres). These SSAs generated 52,295 stewardship credits for setting aside SSA14, SSA15, SSA17, and SSA18. (SSA14 = 12,893 credits; SSA 15 = 31,367 credits; SSA 17 = 4,528 credits; SSA 18 = 3,507 credits). **The total SRA acreage from 52,295 credits = 6,425 SRA acres.** (3,000 acres of SRAs for Longwater, Rivergrass, Bellmar; 515 acres of SRA for Town Core; plus credits left over to develop 2,909 acres of SRAs)

**MATH:** The developer is using credits right now from those SSAs toward three villages totaling 3,000 acres: Rivergrass, Longwater, and Bellmar. Rivergrass Resolution 2020-024 shows that 6,198 credits were used; Longwater's Submittal 5 - SRA Credit agreement shows that 6,697 credits will be used; Bellmar's Submittal 6 - SRA Credit agreement shows that 6,742 credits will be used. Total Credits applied toward 3,000 acres for those three villages = 19,637. The proposed Town Core would consume an estimated 3,559 credits (515.1 acres - 159.2 acres for public benefit acres which do not consume credits Per Amendment 4.20 = 355.9 acres); 355.9 acres x 10 credits per acre = 3,559 credits). Credits used for the three villages = 19,637 + estimated 3,559 credits used per Town Core = 23,196 total estimated credits to be consumed if Town Core is approved. Therefore, there are 29,099 remaining credits (52,295 - 23,196 = 29,099 remaining credits.) Based on

*“Collier Enterprises will preserve more than 12,000 environmentally sensitive acres as part of the plan for the Town of Big Cypress and the Villages of Rivergrass, Longwater, and Bellmar. In addition, **we may develop three more villages at nearly 1,000-acres each or we may use the credits from the preserve toward an additional 2,909 acre town.**”*

We believe the CCPC-EAC may not have understood this, as they were not tasked with review of the SSA agreements. Furthermore, they may not have been aware that approximately 86% or 10,625 acres of the 12,000-acre preserve was already protected from development, because of the RLSA’s Group 5 policies.<sup>26</sup>

Grandiose claims of high preservation to development ratio may have been a primary reason for the CCPC to recommend approval of Longwater and Bellmar and for the Board to vote to approve the villages, even when the Conservancy demonstrated that the projects did not achieve the RLSA’s requirements for design, fiscal neutrality, or traffic impacts.

Since SSA applications are the vehicle to generate stewardship credits, which entitle development and, ultimately, the need for infrastructure and services provided by Collier County, it is *irresponsible* to prohibit a review and public hearing by the CCPC-EAC.

It is our hope, that by adding another layer of review and a public hearing for SSA applications, restoration plans will yield better environmental outcomes, applicants will be granted restoration credits proportionate to extent of restoration work provided, and the public and the Board will have an accurate understanding of the true development-to-preservation ratios.

### **RECOMMENDATION #8:**

**We recommend that the Collier County Planning Commission (CCPC), which is also Collier County’s Environmental Advisory Committee (EAC), becomes an integral part**

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the adopted RLSA Amendments, 10 credits per SRA acre would be required. So 29,099 credits / 10 credits per acre = 2,909 remaining SRA acres. **This means that from the 12,300 acres of preserves there are enough credits for an additional 2,909-acre Town or three additional 970-acre villages, this is in addition to Longwater, Bellmar, and Rivergrass and the 515-Town Core.** (Data found in SSA application materials and Town SRA agreement).

<sup>26</sup> **MATH:** SSA14, 15, 17, and 18 = 5,057.2 acres of WRAs; 4,260.4 acres of FSAs; and 2,996.4 acres of HSAs = 12,314 acres. Policy 5.1 prohibits development and mining within all FSAs, unless the acre has an NRI score of 1.2 or less. There are 77 acres within the acres of FSAs that score 1.2 or less. Thus, 4,183 acres of the total 4,260.4 acres of FSAs is protected. Policy 5.3.1 prohibits site clearing and alteration in FSAs, WRAs, and HSAs within 80% of the property, unless lands are to be used for agriculture. Since FSAs are already protected, then we will apply Policy 5.3.1 to the remaining 8,053 acres of WRAs and HSAs.  $8,053 \times 80\% = 6,442$  acres. Thus, there are approximately 6,442 acres of WRAs and HSAs which are protected, plus 4,183 acres of FSAs = 10,625. Thus, 86% of the 12,372 site is already protected simply by being located within the RLSA. ( $10,625 / 12,372 = 86\%$ ).  $12,372$  acre preserve – 10,625 protected from development = 1,747 acres vulnerable to development. These protection measures were the trade-off, when the program was created, for the County granting landowners the opportunity to increase density 20-fold on RLSA lands and build compact cost efficient SRAs. (SSA data provided in SSA application materials).



**of the approval process for Stewardship Sending Areas (SSA). We recommend that LDC 4.08.06.C.6, 4.08.06.E, and 10.03.06 are amended to require the CCPC-EAC to review all SSA applications, including Stewardship Sending Area Credit Agreements and Restoration Plans. In addition, the CCPC-EAC should hold a public hearing for each SSA agreement and provide a recommendation for approval, denial, or approval with conditions to the BCC.**

### **ISSUE #6 – SRAs may reduce habitat functionality in adjacent SSAs:**

Staff's 2019 RLSA White Paper includes a very important recommendation aimed at better protections for preserves (SSAs). The recommendation, under the "Environmental Protection" section, states:

*Require applicants to address the effect of potential SRA development on adjacent SSA values when SSAs are proposed (draft LDC Amendment).*

The Conservancy was pleased to see the recommendation in the White Paper, because we raised the issue in our 2018-2019 RLSA Comment letter.<sup>27</sup> We do not believe that the framers of the RLSA program ever considered that an SRA's design could cause a *reduction* of listed species habitat value within an SSA preserve, however, we discovered that this could happen if the project is poorly designed.

The Town of Rural Lands West's (RLW) application, which is another iteration of Collier Enterprises' villages, provides a good example of what could happen to listed species habitat values when a SRA is designed to surround an adjacent SSA (SSA17). Although the applicant withdrew RLW's application from Collier County in 2019, in lieu of the villages and the amended Town of Big Cypress, the applicant continues to seek state and federal approvals for the same lands within RLW's development footprint (Figure 3).<sup>28</sup> The applicant's habitat conservation plan, for their federal incidental take permit application, states that preserves, which includes SSA17, "*will be managed to preserve their existing ecological functions.*"<sup>29</sup> Contrary to this claim by the applicant, an analysis conducted by Dr. Robert Frakes, discussed below, demonstrates that RLW's design will actually *reduce* the ecological function of SSA17.

SSA17, like other WRAs, provides high quality wetlands and habitat for listed species, which is why the GMP identifies WRAs, along with FSAs and HSAs, as lands with "the

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<sup>27</sup> Conservancy of Southwest Florida (January 2019) Critique and Recommendation of Collier County's Rural Lands Stewardship Area Program: 2018-2019 RLSA Restudy. "Flaw VI: Developments May Result in Reduced Habitat Functionality in Adjacent Sending Areas."

<sup>28</sup> The landowner-developer has an Environmental Resource Permit conceptual approval for lands within the RLW footprint from the South Florida Water Management District. In addition, they continue to seek approvals for the RLW footprint through a Clean Water Act Section 404 permit through the Florida Department of Environmental Protection, and under a federal incidental take permit application with the US Fish and Wildlife Service

<sup>29</sup> Stantec Consulting Services, Inc. Eastern Collier Multiple Species Habitat Conservation Plan, Revised 2018. For submittal to: U.S. Fish and Wildlife Service.

highest priority for natural resource protection.”<sup>30</sup> SSA17 WRA consists of 3,148 acres of an ecologically important wetland system, providing habitat for **11 listed species**, including, among others, the Florida sandhill crane, Big Cypress fox squirrel, wood stork, limpkin, and the endangered Florida panther.<sup>31</sup> Shaggy Cypress Swamp is a large wetland area, within SSA17, that received high rankings for Natural Resource Index Values (NRI) because of its importance for providing listed species habitat and wetlands.<sup>32</sup>

The applicant designed RLW to surround Shaggy Cypress with neighborhoods, a golf course, and the town center.<sup>33</sup> Dr. Robert Frakes analyzed RLW’s proposed site plan, using the *landscape-scale adult panther habitat model*.<sup>34</sup> Applying Dr. Frakes’ model to RLW’s plans, Figure 3 illustrates how RLW would adversely affected Adult Breeding panther habitat (panthers three years or older).

The left side of Figure 3 shows the current adult breeding panther habitat value, and the right side shows the Frakes et al. (2015) model re-run with the Rural Lands West project in place. The diagonal lines depict the proposed location of Rural Lands West, which are mostly farm fields today, but include many of the same lands within the approved Longwater Village and Rivergrass Village. The warmer the color, as depicted with reds, oranges, and yellows, the higher the value to adult breeding panthers. Gray and white colors depict lower value habitat for adult breeding panthers.

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<sup>30</sup> Collier County Future Land Use Element, RLSA Overlay Policy 1.18

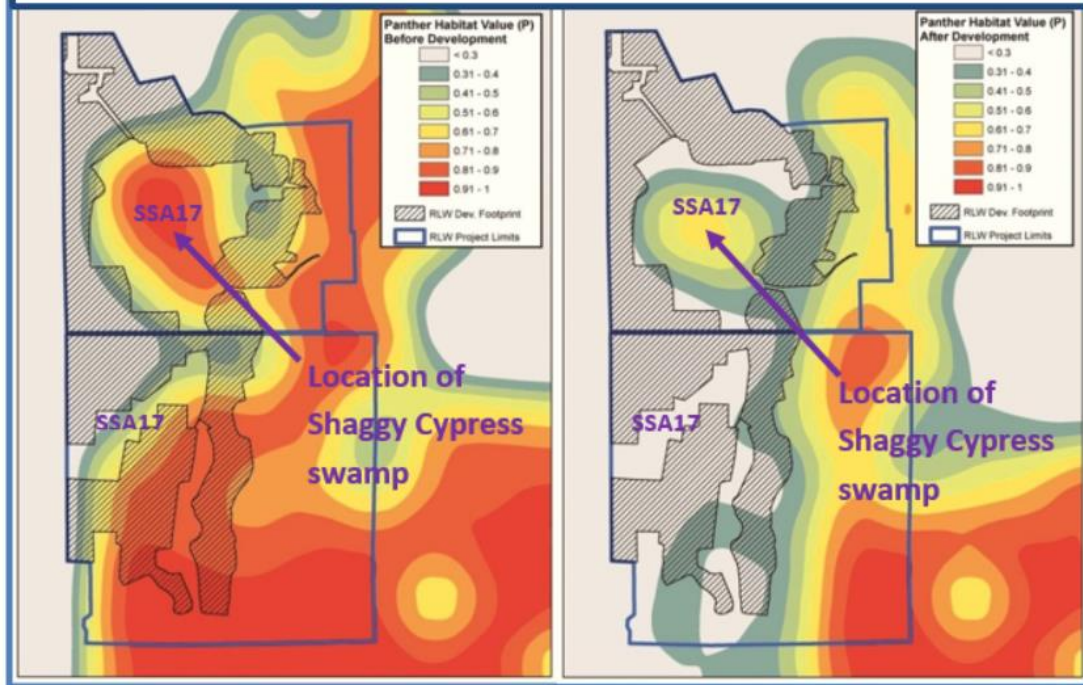
<sup>31</sup> Passarella and Associates. Stewardship Sending Area 17 NRI Assessment Listed Species Occurrence Map (July 2018). p. 1 and 10; and Passarella and Associates. Stewardship Sending Area 17 NRI Assessment Revised August 2020, p. 2 provides acreage of SSA17.

<sup>32</sup> Passarella and Associates. Natural Resource Index Assessment Stewardship Sending Area 17. Revised August 2020. SSA17 2020 NRI Score Map, p. 17 of 17.

<sup>33</sup> The same applicants are pursuing a permit through the Clean Water Action Section 404 permit for the same lands as RLW, in which Shaggy Cypress is proposed to be encircled by development.

<sup>34</sup> Frakes RA, Beldon RC, Wood BE, James FE. (2015). Landscape Analysis of Adult Florida Panther Habitat. *PLoS ONE*, 10(7).

**Figure 3:** rakes (2018). Panther Habitat Value Before and After Rural Lands West Development



The Frakes et al. (2015) model demonstrates that there would be a significant decrease in adult panther breeding habitat value, not only within the Shaggy Cypress, but within all of SSA17 lands, should those lands be developed. Disturbances from the surrounding neighborhoods—light, noise, pets, and traffic—would deter the Florida panther and other species from occupying SSA17 lands. Furthermore, SSA17 lands south of Oil Well Road, adjacent to the approved Rivergrass and Longwater, would also be subject to a significant reduction in habitat value for adult breeding panthers. Making matters worse, Dr. Frakes’ analysis shows that RLW would decrease habitat value within Camp Keais Strand Flowway Stewardship Area (FSA). This is unfortunate, because Camp Keais Strand is a primary wetland flowway system and designated by the RLSA program as lands critical for protection. It is also one of only two major south-to-north corridor for the panther and provides primary habitat.

The U.S. Fish and Wildlife Service had similar concerns regarding another iteration of RLW, the 2008 version of the Town of Big Cypress DRI, which also would have surrounded preserves within SSA17’s lands. Upon review of the development proposal, the U.S. Fish and Wildlife Service stated in a letter to the U.S. Army Corp of Engineers:

*Although there are internal waters and habitat preserves being proposed within the current development design, **the overall development has been designed in such a way to discourage use by panthers and other large animals** (see discussion below). **Therefore, the entire development will be considered as being***

***converted into habitat that is of no value to the panther. Please consider this when conducting your panther habitat analysis.***<sup>35</sup> (Emphasis added)

Ironically, under the applicant's current federal incidental take permit application, they claim SSA17 as mitigation lands for panther impacts from their proposed "covered activities" (development)<sup>36</sup>

The developers approved villages of Rivergrass and Longwater are also designed to surround SSA17's lands. Despite the fact that habitat values with SSA17 will be diminished due to the development's design, the developer still generated 4,527 Stewardship Credits from Collier County for "preserving" Stewardship Sending Area 17 (SSA17).<sup>37</sup>

While the land development code allows SRAs to surround WRAs for water management activities,<sup>38</sup> the code further explains that when additions and modifications to the WRA result in a net loss of habitat function within the WRA, then mitigation and restoration that "provide[s] comparable habitat function" to other areas of the RLSA district is required. However, the required mitigation and restoration are *only* for impacts related to water management activities. There are no LDC policies to address loss of habitat function or value within a WRA as a result an SRA's design, which is why staff's White Paper recommendation is important and why the LDC must be improved.

#### **RECOMMENDATION #10:**

**We believe the LDC should be strengthened to better protect panther habitat within WRAs and SSAs from the impacts of nearby development. In order to preserve habitat values and connectivity for the endangered Florida panther, we recommend language is added to state that SRAs are prohibited from surrounding or partially surrounding a WRA or SSA, when the WRA or SSA consists of adult breeding habitat or primary panther zone habitat.**

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<sup>35</sup> Letter from U.S. Fish and Wildlife Service to U.S. Army Corps of Engineers, dated November 18, 2008. Corps Application No. SAJ-2008-210 (IP-MAE). Project: Town of Big Cypress.

<sup>36</sup> The developer's lands are part of a habitat conservation plan (HCP) to obtain a federal incidental take permit under the Endangered Species Act. Figure 2-1 of the HCP depicts SSA17 lands as a "Preservation." The "Preservation" areas are set aside as mitigation for impacts to the permitted areas. The HCP states: "*As residential/commercial and earth-mining activities are approved and implemented in the area designated for Covered Activities, commensurate acreages within the lands designated for Preservation/Plan-Wide Activities and Very Low Density Use will be placed under perpetual conservation easements to compensate for permitted impacts.*" . . . "*The lands designated for Preservation/Plan-Wide Activities and Very Low Density Use **will be managed to preserve their existing ecological functions.***"

<sup>37</sup> Resolution 2021-083 for Stewardship Sending Area 17, p. 2

<sup>38</sup> Collier County LDC 4.08.06.A.1 and LDC 4.08.06.A.4.b.



**ISSUE #7 - LDC 4.08.01Q fails to conform to the RLSA's goal:**

Despite a concerted effort by many to create a planning program for eastern Collier County that protects listed species and their habitats, and regardless of the RLSA's goal of "directing incompatible uses away from wetlands and upland habitats" Collier County recently approved three developments directly within prime habitat of a critically endangered listed species. (Figure 4)

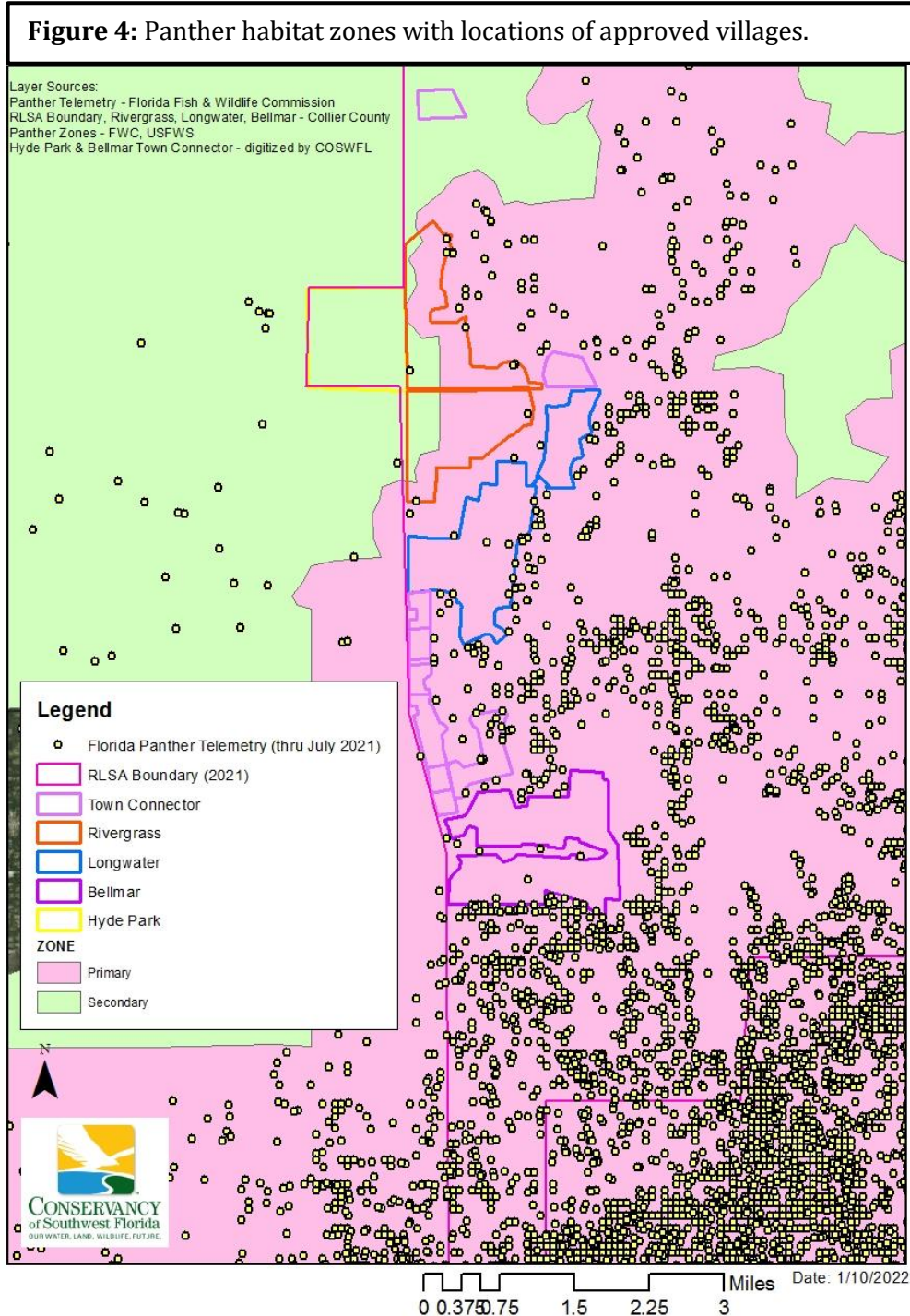




Figure 4 shows that both 1,000-acre sites for Longwater and Bellmar Villages are located *entirely* within primary zone habitat of the endangered Florida panther. The proposed 515-acre town connector is also 100% within primary zone panther habitat. In addition, over 700 acres, or about 70% of Rivergrass Village’s site, is within Primary Zone panther habitat. Hyde Park Village is within secondary zone panther habitat. The Collier County Board of County Commissioners approved all projects, except for the town connector, in 2020 to 2021.

Clearly, the County is not adhering to the RLSA’s goal of directing incompatible uses from upland habitat. This is incredibly concerning as the situation for the panther is getting dire. There are only 120 to 230 Florida adult panthers left in the wild and the panther is restricted now to only 5% of its historic range.<sup>39</sup> Furthermore, new evidence shows that the panther population may be declining.<sup>40</sup>

At the hearings for the villages, Collier County planning staff was questioned as to why they would recommend approval of projects that are mostly or entirely within primary habitat of an endangered species. Staff’s response was that they were following LDC 4.08.01.Q requirements, which limit “preferred and tolerated” panther habitat to specific land cover FLUCFCS codes. LDC 4.08.01.Q states:

*Listed Species Habitat Indices: One of the indices comprising the Natural Resource Index Value, with values assigned based upon the habitat value of the land for listed species. Index values are based on documentation of occupied habitat as established by the intersect of documented and verifiable observations of listed species with land cover identified as preferred or tolerated habitat for that species. Land mapped, using FLUCFCS, as 310, 321, 411, 425, 428, 434, 617, 6172, 621, 6218, 6219, 624, and 630 is deemed to be preferred or tolerated habitat for panthers for the purpose of assigning a value for these indices. An intersection of at least one data point establishing the presence of a listed species within a geographic information system (GIS) polygon of preferred or tolerated habitat for that species shall result in the entire polygon being scored as occupied habitat.*

Yet, the land cover types considered “preferred and tolerated” for the panther, as provided in LDC 4.08.01.Q, are outdated. Data from late 1990’s to 2000 informed the FLUCFCS for

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<sup>39</sup> Florida Fish and Wildlife Conservation Commission. <http://myfwc.com/panther>; Frakes RA, Beldon RC, Wood BE, James FE. (2015). *Landscape Analysis of Adult Florida Panther Habitat*. *PLoS ONE*, 10(7).

<sup>40</sup> Presentation by FWC at August 4, 2021 Commissioners meeting: “Staff are tracking all indicators of changes in the panther population, and for the first time since the genetic restoration efforts, and decline was detected in the motor vehicle mortality model. Similar dips were seen in the number of depredations. It is unclear if this is a sign of a stabilizing population or indicates a more widespread impact of FLM or other threats.”

4.08.01.Q.<sup>41</sup> In addition, the same out-of-date data sets determined the locations of the RLSA's habitat stewardship areas.

While data used for the report was current during the creation of the Immokalee Area Study, Wilson Miller, the report's author, acknowledged that science would continue to evolve, especially regarding the understanding of habitat use and needs of the endangered Florida panther. The report stated:

*The analysis involving panther habitat for the Study will be complemented by ongoing computer modeling of potential habitat and development of an **updated panther recovery plan** by interagency committees led by the U.S. Fish and Wildlife Service. . . .*

*Exhibit 12A shows the same telemetry point data set at the scale of the study area. The data can be used within the study area for a variety of analyses involving panther occurrence and habitat utilization. **Again, these analyses may be complemented by ongoing efforts by governmental interagency committees.**<sup>42</sup> (Emphasis added)*

Although the US. Fish and Wildlife Service (USFWS) completed their panther recovery plan in 2008,<sup>43</sup> the RLSA program **was not updated** with the USFWS' modeling of panther habitat. Since 2002, the RLSA's adoption date, there have been three major discoveries regarding panther habitat relevant to the program: the location and importance of the *Primary Zone* (Figure 5), the realization that agricultural fields are important to panthers and thusly included in the Primary Zone designations, and the delineation of *Adult Breeding Habitat* (Figure 6).

### What is Primary Zone Panther Habitat?

Using all records of panther telemetry available from 1981 to 2001, land use cover data, satellite imagery, and GIS information, a group of eleven panther scientists, Kautz et al. (2006), identified regions that are most important for conservation of Florida panther habitat (Figure 5). Kautz et al. (2006) describes *Primary Zone* panther habitat as the minimum space needed to "support a population that is barely viable demographically as long the habitat base remains stable" and lands that are "essential to the long-term viability and survival of the Florida panther."<sup>44</sup> The *Secondary Zone* is important to transient sub-adult males and may support expanding panther populations if habitat restoration were to occur.

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<sup>41</sup> Report and Recommendations of the Collier County Rural Lands Assessment Area Oversight Committee for the Immokalee Area Study, Wilson Miller May 2002, Table 1: Data Sets and Publications Obtained for Use in the Immokalee Area Study.

<sup>42</sup> Wilson Miller, December 2000, The Immokalee Area Study Stage 1 Report. p. 14

<sup>43</sup> US Fish and Wildlife Service, 2008. Florida Panther Recovery Plan, 3<sup>rd</sup> Revision.

<sup>44</sup> Kautz, et al. (2006) How much is enough? Landscape-scale conservation for the Florida panther. *Biological Conservation* 130, p. 122

Most importantly, the U.S. Fish and Wildlife Service considers Kautz et al. (2006) to be current best available science for prioritizing for panther protections, as it has been wrapped into the agency's recovery plan and Panther Habitat Assessment Methodology. The USFWS Florida Panther Recovery Plan states that habitat as identified by Kautz et al. (2006) should be maintained in order to maintain the existing population. Below is a quote from the USFWS 2008 Florida Panther Recovery Plan, 3<sup>rd</sup> Revision:

*"The Primary Zone supports the only breeding panther population. To prevent further loss of population viability, habitat conservation efforts should focus on maintaining the total available area, quality, and spatial extent of habitat within the Primary Zone. The continued loss of habitat functionality through fragmentation and loss of spatial extent pose serious threats to the conservation and recovery of the panther. Therefore, conserving lands within the Primary Zone and securing biological corridors are necessary to help alleviate these threats."* p. 89

The Primary Zone included other land cover types that are not included in LDC 4.08.01.Q, such as row crops, pasture, orchards, and marsh as primary habitat for the endangered panther.

### Why are Agricultural Lands within Primary Zone Important?

In addition to forested areas, agricultural lands are necessary to meet daily needs and support the prey on which the panther depends.<sup>45</sup> Many agricultural areas contain important natural landscape connections that support panther home ranges, panther reproduction, dispersal movements, and availability of large prey.<sup>46</sup> The Primary Zone consists partly of agricultural lands. USFWS Florida Panther Recovery Plan and other best available science acknowledge the importance of agricultural lands as habitat not only for the Florida panther, but also for the eastern indigo snake, crested caracara, and the Florida bonneted bat.<sup>47</sup>

### What is Adult Breeding Panther Habitat?

Frakes et al. (2015) found that conservation of Adult Breeding Habitat south of the Caloosahatchee River is also essential to the recovery and survival of the Florida panther.<sup>48</sup>

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<sup>45</sup> Kautz, et al. (2006) How much is enough? Landscape-scale conservation for the Florida panther. *Biological Conservation* 130, p. 118-133; Pienaar E. F. and Rubino E. C (2014) Habitat Requirements of the Florida Panther. *Department of Wildlife Ecology and Conservation UF/IFAS Extension*.

<sup>46</sup> Cominsky et al (2002). Panthers and Forests in South Florida an Ecological Perspective. *Conservation Ecology* Vol 6, No. 1

<sup>47</sup> Kautz, et al, 2006. How much is enough? Landscape-scale conservation for the Florida panther. *Biological Conservation*: Vol. 130, p. 118-133; Jackson, S., 2013. Home Range Size and Habitat Use of the Eastern Indigo Snake at a Disturbed Agricultural Site in South Florida: A Thesis Presented to Florida Gulf Coast University; Morrison and Humphrey, 2001. Conservation Value of Private Lands for Crested Caracaras in Florida. *Conservation Biology*, Vol. 15, No. 3, Pages 675-684. Bailey et al., 2017. Impact of Land Use and Climate on the Distribution of the Endangered Florida Bonneted Bat.

<sup>48</sup> Frakes RA, Belden RC, Wood BE, James FE (2015) Landscape Analysis of Adult Florida Panther Habitat. *PLoS ONE* 10(7): e0133044. doi:10.1371/journal.pone.0133044

Ninety-three percent of panther’s adult breeding habitat lies within the Primary Zone (Figure 6). Frakes et al. (2015) developed a distribution map for resident breeding panthers, ages 3 and up, by using telemetry of 87 adult panthers from 2004 to 2013. They concluded that, “protection of the remaining breeding habitat in south Florida is essential to the survival and recovery of the subspecies and should receive the highest priority by regulatory agencies.”<sup>49</sup>

The RLSA and LDC 4.08.01.Q does not account for Primary Zone or Adult Breeding habitat nor does it consider the importance of agricultural lands to the Florida panther. Without a modification to the LDC to protect these important habitat areas, panther habitat will continue to be vulnerable to development and road impacts in the RLSA, contrary to the Overlay’s very goal.

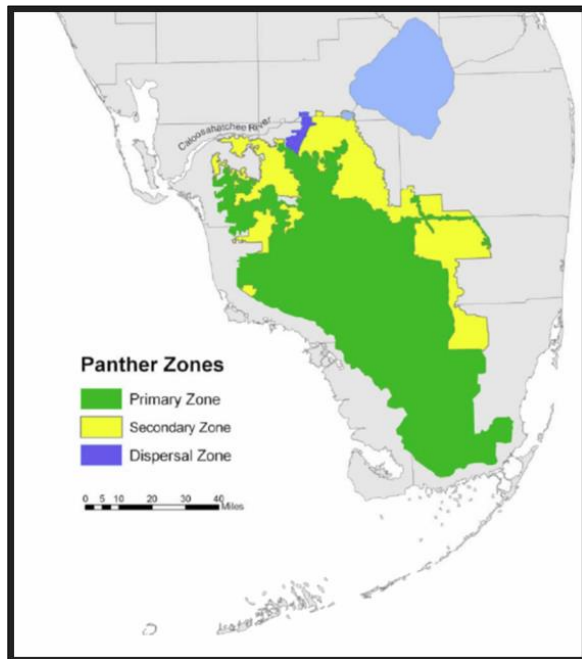


Figure 5 Kautz et al. Primary Zone

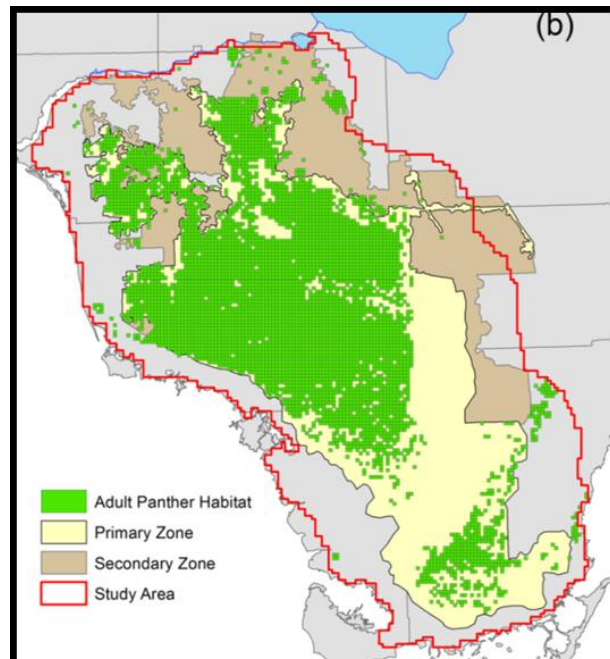


Figure 6 Frakes et al. Adult Breeding Habitat

Even though Collier County did not update the program with current panther data, the County’s Legal Counsel, during the 5-Year Review, stated that amendments to the RLSA must be based on current data.<sup>50</sup>

<sup>49</sup> *Ibid*, p. 15-16

<sup>50</sup> Carlton Fields Memorandum, March 1, 2010. Analysis of Data Analysis requirements to support RLSA Review Committee recommended comprehensive plan amendments.

*Data relied upon must be the best available data. If a more recent analysis or study is available, then that analysis must be considered. p. 3*

*For all data used to support this proposed amendment the studies must be the most up-to-date version available at the time the amendment is adopted by the Commission. Any relevant analysis that has been conducted since the Report was finalized should also be used as supporting documentation. p. 5*

Even Collier County Planning Staff stated that the RLSA Overlay should be updated with new panther studies and data. In 2008, during the first review of the RLSA program, staff from the Environmental Services Department wrote a memo to Tom Greenwood, Principal Planner who was responsible for coordinating the County's RLSA's 5 Year Review Committee, explaining that the land cover codes assigned in 2002 that determine preferred and tolerated panther habitat were outdated and should be updated. Below is that statement from a 2008 Memorandum:<sup>51</sup> (Attachment B)

*What is considered to be habitat utilized by the Florida Panther has changed since 2002. The FLUE AND LDC use FLUCCS codes to define "preferred and tolerated" panther habitat as 310 (dry prairie), 321 (palmetto prairie), 411 (pine flatwoods), 425 (temperate hardwoods), 428 (cabbage palm), 434 (hardwood – conifer mixed) 617 (mixed wetlands), 6172 (mixed wetland shrubs), 621 (cypress), 6218 (cypress melaleuca), 6219 (cypress wet prairie), 624 (cypress pine, cabbage palm), and 630 (wetland forest mix).*

***The USFWS habitat types include marsh, pasture, row crops, orchards, and exotic plants that are not included in the current RLSA description.***

*Utilization of the descriptive habitat types for listed species solves the issues of incomplete FLUCCS lists and minor interpretation differences. (Emphasis added)*

In addition, Collier County planning staff, in a 2011 email, requested that Stantec (formerly WilsonMiller) provide an analysis of newer panther studies and a re-evaluation of land cover types deemed as panther habitat.<sup>52</sup> Stantec's consultant, Al Reynolds, who represented ECPO landowners, pushed back on this request. Mr. Reynolds likely knew that if the program was updated to reconsider habitat areas of the endangered panther based on newer panther studies, then his clients (ECPO) would have to modify their development plans. Instead, he claimed that when a property owner applies for a SSA or SRA application panther data is updated. Here is what was stated in that email: (Attachment C)

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<sup>51</sup> Memorandum from Collier County Environmental Staff to Tom Greenwood, April 24, 2008. (RLSA Restudy Phase 2 – Policy Comments, Environmental Services Department Draft)

<sup>52</sup> Email between Al Reynolds, Stantec and Michelle Mosca, Collier County, November 30, 2011, Subject: Data and Analysis Requirements for the RLSA 5-Year



Michelle Mosca, Collier County Planning Staff:

*A comparative analysis of current data/reports is needed to determine any changed conditions since the RLSA committee's review and recommendations. County staff is requesting that Stantec staff prepare an analysis/evaluation of the new SFWMD Land Use and Cover as well as new (since BCC consideration) panther habitat use studies and provide comments regarding changed conditions.<sup>53</sup>*

Al Reynolds, Stantec:

*One of the basic principles of the RLSA is that there will always be more recent and more site specific data available as the program is implemented, and this is best addressed at the time a property owner and the county evaluate a specific application for an SSA or SRA, or when a property owner uses their baseline uses. This is all spelled out in detail in the GMP and LDC. As such, there is no need to continuously amend the GMP Overlay Map. Similarly, Panther information is always in a state of flux, as new telemetry is generated and new studies are performed.”*

Mr. Reynold's suggestion to rely only on a review of the site-specific panther data under the rules of the existing LDC policies, does nothing to protect panther habitat. Rivergrass, Longwater, and Bellmar's approvals are proof of this. The environmental consultant for the applicant of those three villages, Passarella and Associates, *did* update the site-specific data for all three SRA applications, per LDC rules. However, because Passarella utilized the same outdated FLUCFCS codes to determine “preferred and tolerated” panther habitat, as provided in the LDC, all three projects scored nothing or next to nothing for panther habitat within the “Listed Species Habitat Indices.” Which is absurd, because all three sites are located mostly or entirely within Primary Zone panther habitat, according to U.S. Fish and Wildlife Service GIS layers.<sup>54</sup> The LDC has an egregious loophole that must be corrected.

While the program has not been updated yet with recent panther habitat studies, it is still possible to protect primary panther habitat, and better protect habitat of other listed species by amending the LDC. However, there are three necessary changes to the LDC, provided in Recommendations 11, 12 and 13.

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<sup>53</sup> Email between Al Reynolds, Stantec and Michelle Mosca, Collier County, November 30, 2011, Subject: Data and Analysis Requirements for the RLSA 5-Year

<sup>54</sup> Passarella and Associates. Bellmar Village SRA Natural Resource Index Assessment. Revised August 2020. Prepared for Collier Enterprises Management. p. 5 and Exhibit 9A; Passarella and Associates. Longwater Village SRA Natural Resource Index Assessment. Revised May 2020. Prepared for Collier Enterprises Management. p. 5 and Exhibit 9A; Passarella and Associates. Rivergrass Village SRA Natural Resource Index Assessment. Revised September 2019. Prepared for Collier Enterprises Management. (The NRI assessment for Rivergrass did not include an exhibit for Listed Species Habitat Indices, as it should have; however, the overall low NRI scores from Exhibit 7 illustrate that panther habitat was not scored).

**RECOMMENDATION #11:** We recommend the following amendment to protect primary panther habitat and align the RLSA program with its stated Goal of “directing incompatible uses away from wetlands and upland habitats”:

Update LDC 4.08.01.Q to remove incorrect FLUCFCS codes and any reference to “preferred or tolerated” panther habitat. Replace language to instead state: “Lands mapped as Primary Zone<sup>55</sup> panther habitat, per U.S. Fish and Wildlife Service’s GIS shape files, shall be utilized for the purpose of assigning a value under the ‘Listed Species Habitat Indices’.”

**ISSUE #8 - Scores for Listed Species Habitat Indices must be increased to protect the endangered Florida panther:**

In addition to updating LDC 4.08.01Q to incorporate the Primary Zone, the Stewardship Matrix for scores within “Listed Species Habitat Indices” must also be increased (Figure 7).

**Figure 7: Six Indices that make up the Natural Index Score of RLSA land**

Stewardship Natural Resource Index Factors		Enter X for the Appropriate (Only one for each Index)	
<b>Stewardship Overlay Designation</b>			
Flowway Stewardship Area (FSA)	0.7	<input type="checkbox"/>	<input type="checkbox"/>
Habitat Stewardship Area (HSA)	0.6	<input type="checkbox"/>	<input type="checkbox"/>
Water Retention Area (WRA)	0.6	<input type="checkbox"/>	<input type="checkbox"/>
Area of Critical State Concern (ACSC)	0.4	<input type="checkbox"/>	<input type="checkbox"/>
None of the above	0.0	<input type="checkbox"/>	<input type="checkbox"/>
<b>Proximity Indices</b>			
Enclosed by FSA, HSA, or WRA	0.4	<input type="checkbox"/>	<input type="checkbox"/>
Within 300 feet of FSA or HSA	0.3	<input type="checkbox"/>	<input type="checkbox"/>
Within 300 feet of public or private preserve land	0.2	<input type="checkbox"/>	<input type="checkbox"/>
None of the above	0.0	<input type="checkbox"/>	<input type="checkbox"/>
<b>Listed Species Habitat Indices</b>			
Panther occupied habitat (preferred and tolerated) plus other listed species	0.8	<input type="checkbox"/>	<input type="checkbox"/>
Panther occupied habitat (preferred and tolerated)	0.5	<input type="checkbox"/>	<input type="checkbox"/>
Other documented listed species habitat	0.4	<input type="checkbox"/>	<input type="checkbox"/>
None of the above	0.0	<input type="checkbox"/>	<input type="checkbox"/>
<b>Soils/Surface Water Indices</b>			
Open Water and Muck Depression soils	0.4	<input type="checkbox"/>	<input type="checkbox"/>
Sand Depression soils	0.3	<input type="checkbox"/>	<input type="checkbox"/>
Flats (Transitional) soils	0.2	<input type="checkbox"/>	<input type="checkbox"/>
Non-hydric soils	0.0	<input type="checkbox"/>	<input type="checkbox"/>
<b>Restoration Potential Indices</b>			
Large mammal corridor restoration areas	0.5	<input type="checkbox"/>	<input type="checkbox"/>
Connector wetlands and flowway restoration areas	0.5	<input type="checkbox"/>	<input type="checkbox"/>
Wading bird restoration areas	0.4	<input type="checkbox"/>	<input type="checkbox"/>
Other listed species restoration areas	0.3	<input type="checkbox"/>	<input type="checkbox"/>
None of the above	0.0	<input type="checkbox"/>	<input type="checkbox"/>
<b>Land Use - Land Cover Indices</b>			
FLUCCS Code Group 1	0.4	<input type="checkbox"/>	<input type="checkbox"/>
FLUCCS Code Group 2	0.3	<input type="checkbox"/>	<input type="checkbox"/>
FLUCCS Code Group 3	0.2	<input type="checkbox"/>	<input type="checkbox"/>
FLUCCS Code Group 4	0.0	<input type="checkbox"/>	<input type="checkbox"/>

<sup>55</sup> Primary Zone panther habitat areas are described in US Fish and Wildlife Service, 2008 Florida Panther Recovery Plan, 3<sup>rd</sup> Revision.

Figure 7 shows the Stewardship Natural Index Factors for the RLSA program set forth on the Stewardship Matrix Worksheet. Wilson Miller, working on behalf of ECPO, designed the NRI scoring and stewardship credit matrix system. There appears to be no rhyme or reason for selecting the scores for each of the six indices. Although the Conservancy requested a copy of the methodology for the NRI scoring from Collier County, during the 2018-2021 RLSA Amendment process, we were never provided with it.

It appears that Collier County also does not have access to the methodology. Either a methodology that determined the NRI scores on the matrix was never created based on sound science, or Stantec (WilsonMiller) is just not willing to provide it. Without the methodology, we can only assume that WilsonMiller specifically chose 1.3 as the minimum score necessary for an acre to be protected from development. In addition, we can only assume that WilsonMiller designed the NRI system to ensure that their clients, Eastern Collier Property Owners, were assured an enormous footprint of lands that, no matter how the NRI values were applied, those lands would always score under 1.3, and therefore would always be eligible for intensification as SRAs, regardless of any updated best available science.<sup>56</sup>

The Conservancy conducted a GIS analysis on Open lands within the Primary Zone areas of the RLSA. Unless the scores under “Listed Species Habitat Indices” are increased, there is virtually no way to protect Primary Zone panther habitat under the RLSA’s rules. This is so even if the outdated “preferred and tolerated” FLUCFCS were replaced with Primary Zone GIS files and there are panther telemetry points present.<sup>57</sup> This is why values for “Primary Zone” must be increased to 1.3 and values for “Primary Zone plus other species” must be increased to 1.6.

In that 2008 letter from the Environmental Services Department to Tom Greenwood, during the 5-Year Review, staff urged changes to the NRI scoring because panther habitat within Open Areas was not protected. They stated the following: (Attachment B)

*Protection of listed species and wildlife habitat from intense land uses is one of the requirements in the Growth Management statutes. The HSAs were delineated to protect listed species and their habitat. During the first 5 years of the RLSA program there have been several instances of listed species in Open areas. The HSAs alone do not provide adequate protection to listed species. Additionally the 2002 definition of panther habitat is very limited compared to habitat valuation matrix utilized by USFWS now.*

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<sup>56</sup> RLSA Overlay Policy 4.9 states that “a SRA shall not be cited on lands that receive a Natural Resource Index value of greater than 1.2.”

<sup>57</sup> Policy 4.08.01Q states: “An intersection of at least one data point establishing the presence of a listed species within a geographic information system (GIS) polygon of preferred or tolerated habitat for that listed species shall result in the entire polygon being scored as occupied habitat.”

*In addition to the FSA and HSA areas the NRI score was intended to protect important natural resources. The NRI was not intended to specifically provide protection for listed species, it is intended to direct development away from important natural resources. The NRI score necessary to prevent conversion to high intensity uses is 1.3. In the “Open Areas,” only areas with panthers and other listed species or panthers in wetlands with muck soils will score an NRI of 1.3 or greater. The weighting is inadequate for the NRI alone to contribute significantly to natural resource protection.*

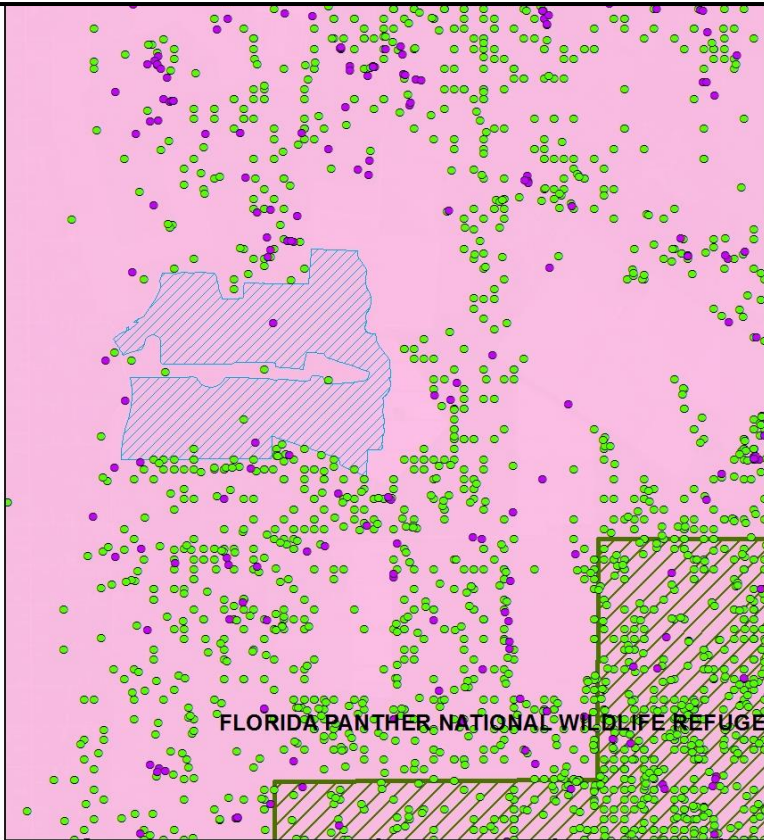
*The listed species that depend on large amounts of dry prairie like sand hill cranes, burrowing owls, and caracara now utilize pasture lands and fallow areas also.*

*Although some of these areas were included as HSAs the NRI scoring is not weighted to provide protection outside of Stewardship or ACSC areas. (Emphasis added)*

The NRI valuing system has failed. Without the changes we propose, it is highly likely that many more developments will be approved within primary panther habitat. It is also likely that habitat of other listed species, which all score under 1.3 on the matrix, will also be converted to development. Bellmar Village provides a perfect example of the failing of the NRI scoring.

Sources: Panther Focus Areas - U. S. Fish and Wildlife Service & Florida Fish and Wildlife Conservation Commission-Fish and Wildlife Research Institute  
 Panther Telemetry - Florida Fish and Wildlife Conservation Commission  
 GPS Panther Telemetry - Land et al. Florida Panther Habitat Selection, The Journal of Wildlife Management, 2008  
 Date: 2/24/2022

**Figure 8: Bellmar Village site with panther telemetry and habitat data**



**Legend**

- Panther telemetry - GPS
- Panther telemetry thru July 2021
- Florida Panther National Wildlife Refuge
- Bellmar Village
- Primary Panther Zone

**CONSERVANCY of Southwest Florida**  
 OUR WATER, LAND, WILDLIFE, FUTURE

0 0.1 0.35 0.7 1.05 1.4 Miles

Bellmar's site is only about 1.5 miles from the Florida Panther National Wildlife Refuge and it is located *entirely* within Primary Zone panther habitat (Figure 8). Even though few panthers have been collared and the green and purple telemetry points represent only a small sample size of panthers, there are still numerous telemetry points near the site, which indicates that the Bellmar site is heavily traveled by panthers.

Although the site is considered primary panther habitat and the area is heavily travelled, Bellmar scored a *zero* value for Listed Species Habitat Indices for most of the site. Only a small portion of the site scored a value of 0.4 NRI for listed species. Furthermore, because Bellmar scored low for all other indices and not one single acre achieved the 1.3 threshold, nothing could protect Bellmar from qualifying as a SRA, under Collier County's faulty rules.

The issue all boils down to a faulty NRI scoring system and a refusal to update the program with current best available science, even though the landowner's own representative stated that the program *would* be updated with habitat modeling from the USFWS's Panther Recovery Plan.

Now is the time to update the LDC to protect this critically endangered species. **Under ECPO's "Habitat Conservation Plan," they propose to destroy 17,500 to 19,600 acres of primary panther habitat** within the RLSA for uses such as development and mining!<sup>58</sup> However, **every single acre of Primary Zone panther habitat could be avoided and ECPO could still build the 91,480 dwelling units they propose, and more!**<sup>59</sup> There are approximately 36,881 acres of "Open" areas within the RLSA that are outside of primary panther habitat (Figure 9: Conservancy Vision Map -pink areas on map). The RLSA program allows up to four units per acre for towns and villages. Thus, even if they build at an average density of 2.5 units, per acre, they could build 92,202 homes ***without touching***

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<sup>58</sup> Stantec Consulting Services, Inc. Eastern Collier Multiple Species Habitat Conservation Plan (HCP), Revised 2018. For submittal to: U.S. Fish and Wildlife Service. Table 4-1 and 4-3

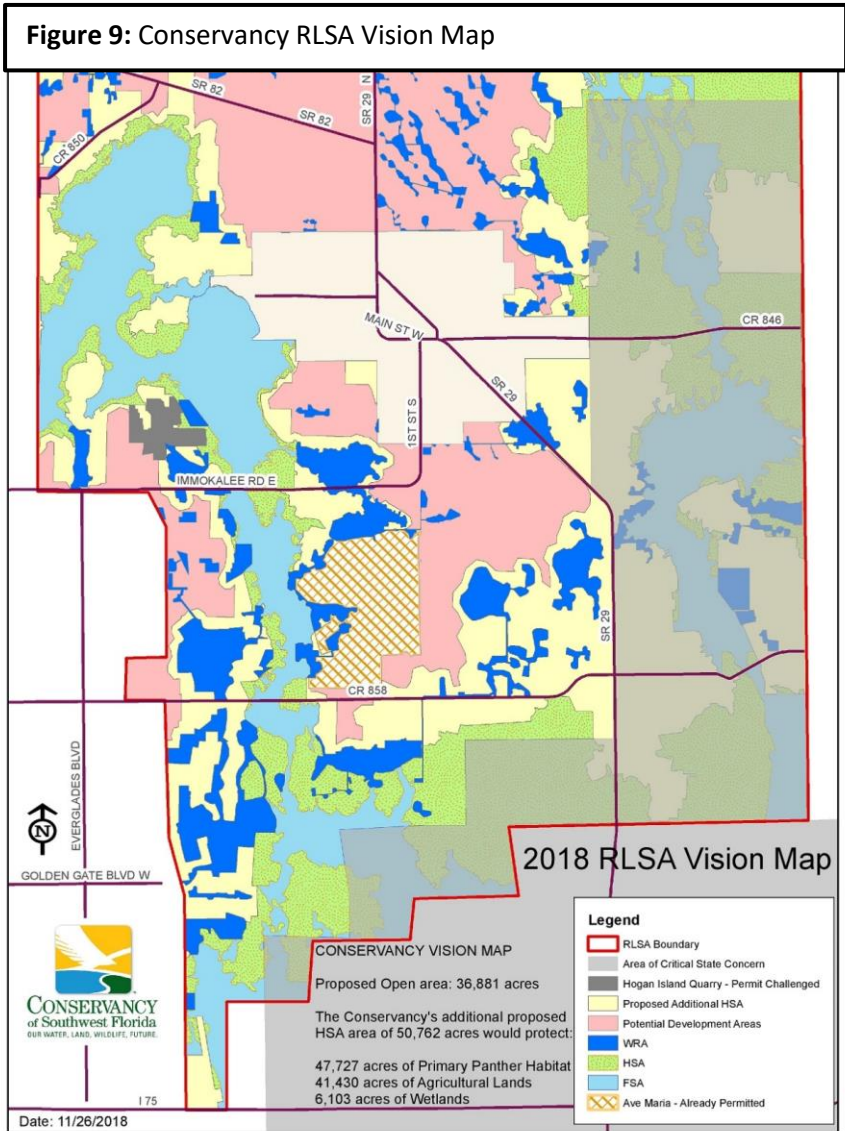
<sup>59</sup> Ibid, p. iii



**one acre of Primary Zone panther habitat.** If they increase the average density beyond 2.5, they could build even more homes.

In addition, because the development areas would be more compact and closer to an existing road network and infrastructure, the costs to Collier County for providing infrastructure and services would be far less.

Collier County cannot assume that wildlife agencies will protect the panther. From 1984 to



2012, the US Fish and Wildlife Service permitted 97,000 acres of panther habitat for development, mining, transportation projects, and other projects.<sup>60</sup>

Collier County *can* modify the program to achieve the goal of listed species habitat protection. During the 2003 hearings for creation of the LDC policies, Collier County's outside legal counsel, Nancy Linnan, stated the following at a planning commission meeting.<sup>61</sup>

*"First of all, you can amend the comprehensive plan at any time assuming you do it during the twice a year state so you have that ability to see it getting out of whack. You have five year period where*

*there is a mandatory check with certain requirements that you have to look at. You also have your EARs where you are going to be doing it and it doesn't preclude you from*

<sup>60</sup> Information from multiple US Fish and Wildlife Service consultation logs from FOIA. Some of the losses were prior to the delineation of panther habitat zones as defined by Kautz et al 2006, as the "line" of panther habitat was well westward of where it currently stands today.

<sup>61</sup> Collier County Audio Tapes from May 1, 2003, Tape 1A. Conversation starts approximately 40 min 52 seconds.

*asking at any point please bring us up to speed on where we are, give us an accounting on where we are on the credits. And so you will be seeing all of the SSAs coming in, you will be seeing all of the SRAs coming in, so you will have a pretty good idea of what is going on out there.”*

**Dwight Richardson (Planning Commissioner) replied:** *“So we can change the rules at that time if it’s not working?”*

**Nancy Linnan:** *“Yes.”*

**RECOMMENDATION #12:** We recommend the following amendment to align the RLSA program with its stated Goal of *“directing incompatible uses away from wetlands and upland habitats.”* Modify *Listed Species Habitat Indices* within the Stewardship Credit Matrix by:

- Replacing language that states, “Panther occupied habitat (preferred and tolerated)” with “Primary Zone panther habitat.” Increase value from 0.5 to 1.3.
- Replacing language that states, “Panther occupied habitat (preferred and tolerated) plus other listed species” with “Primary Zone panther habitat plus other listed species.” Increase value from 0.8 to 1.6.

**RECOMMENDATION #13:** Additional habitat protections for other listed species are necessary. If an acre of land scores zero for five of the six indices (Figure 7), but scores 0.4 for “Other documented listed species habitat” then that species’ habitat is vulnerable to development. We recommend, for other listed species, that the LDC is updated to require habitat buffers found in Florida Fish and Wildlife Conservation Commission (FWC) or U.S. Fish and Wildlife Services’ (FWS) Species Conservation Measures and Guidelines.<sup>62</sup> As example, FWS recommends a 985 feet buffer around a caracara nest.<sup>63</sup> FWC recommends a 400 feet buffer around a sandhill crane’s nest and 575 feet around a big cypress fox squirrel nest.<sup>64</sup>

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<sup>62</sup> U.S. Fish and Wildlife Service Guidance Documents: <https://www.fws.gov/guidance/> and Florida Fish and Wildlife Conservation Commission Species Conservation Measures and Permitting Guidelines. <https://myfwc.com/wildlifehabitats/wildlife/species-guidelines/>

<sup>63</sup> U.S. Fish and Wildlife Service South Florida Ecological Services Office DRAFT April 20, 2004. Species Conservation Guidelines South Florida Audubon’s Crested Caracara, p. 3

<sup>64</sup> Florida Fish and Wildlife Conservation Commission (FWC) Florida Sandhill Crane Species Conservation Measures and Permitting Guidelines, p. 6 <https://myfwc.com/media/11565/florida-sandhill-crane-guidelines.pdf>; FWC Big Cypress Fox Squirrel Species Conservation Measures and Permitting Guidelines, p. 6,7 <https://myfwc.com/media/11559/big-cypress-fox-squirrel-guidelines.pdf>

**ISSUE #9 –Issues with the proposed location for panther corridors.**  
**Conservancy provides recommendations for location of wildlife**  
**crossings.**

**PROPOSED PANTHER CORRIDORS:**

The recently amended Policy 3.11.3 provides up to ten Stewardship Credits per acre for designation and restoration of lands within a northern or southern panther corridor. The policy states that the credits shall be granted for lands within a “federally approved corridor.” The Conservancy is unaware of any federally approved corridor near or within the proposed “North Corridor General Location” and “South Corridor General Location” as identified by the red arrows on the RLSA Overlay map. Furthermore, there are serious issues with the County’s proposed general locations of the corridors and policy language, including the following:

1. Two approved projects are located squarely within the area of the proposed “North Corridor General Location.” Figure 10 shows the location of Immokalee Sand Mine,<sup>65</sup> an 897 acre-mining project, and the 578-acre approved Immokalee Solar project for Florida Power and Light (FPL).<sup>66</sup> Clearly a panther corridor is not appropriate for areas where there are permitted uses. Furthermore, while we are aware that FPL has the capacity to use panther permeable fencing, FPL has provided no evidence that panthers will access or utilize solar sites once panels and fencing have been installed. It is our understanding that FPL has been collecting data on other sites utilizing this panther friendly fencing in Hendry County for many years, but has not provided data to confirm that panthers continue to use these sites after the solar panels have been installed.
2. Collier County purchased 1,046 acres near the “South Corridor General Location” (Figure 10). Although, the proposed use has yet to be decided, ideas for the parcel provided by staff include a new location for the county fairground, EMS/fire, parks and recreation, hurricane debris management and horticulture processing, and/or workforce housing.<sup>67</sup> Any proposed panther corridor should avoid proximity to the Collier County site, as any of those uses would add considerable traffic near the proposed corridor.

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<sup>65</sup> Collier County City View. Conceptual Conditional Use Re-Review Plans for Immokalee Sand Mine. July, 2020

<sup>66</sup> Collier County City View. Immokalee Solar CU, Site Plan.

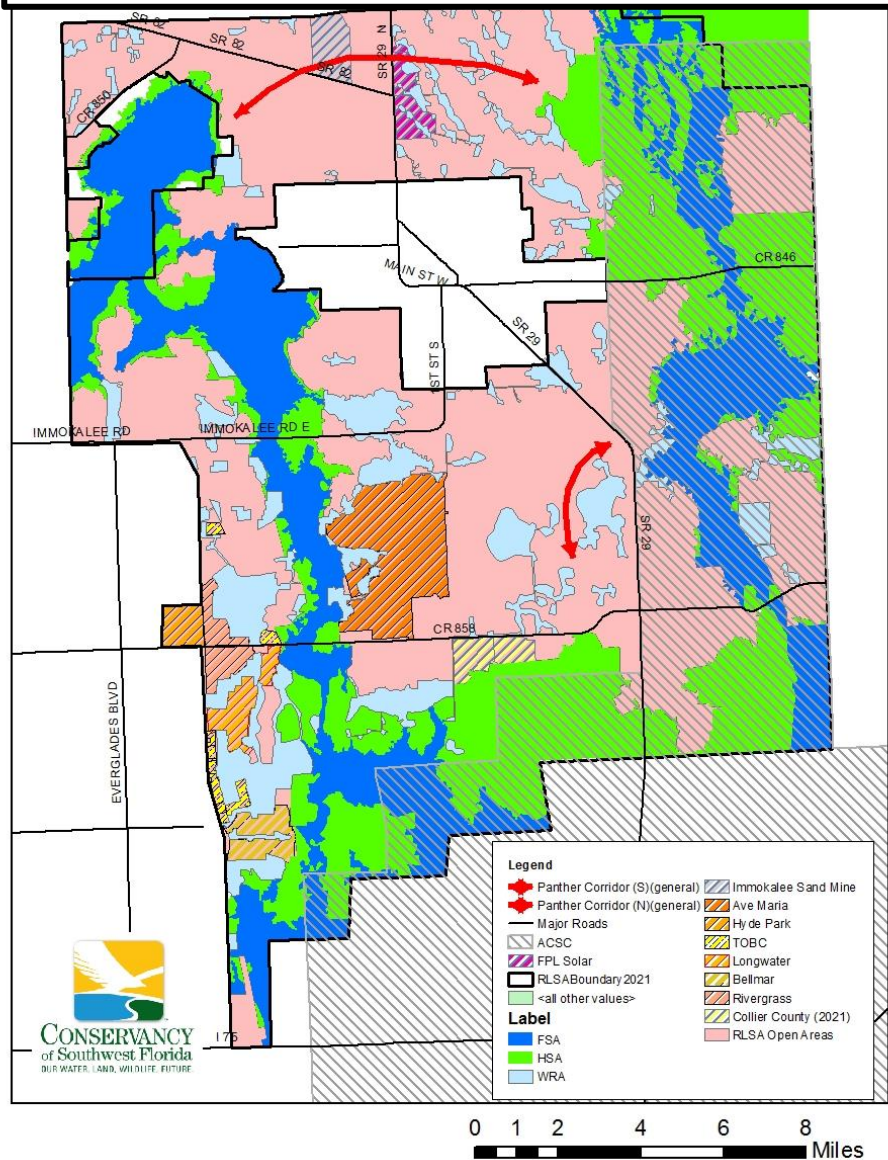
<sup>67</sup> Collier County BCC Agenda Item 11B, March 9, 2021.

- Although Policy 3.11.3 provides landowners with the opportunity to generate substantial credits for panther corridors, there are no assurances that all landowners within the corridors will participate. If *just one* landowner within the proposed corridors chooses not to participate, and instead chooses to develop their lands, then the corridor will be fragmented and will not be viable. We believe that no credits shall be issued until all landowners within the corridor have committed to set aside their lands as a panther corridor.

**RECOMMENDATION #14:** We provide the following recommendations for panther corridors:

- The proposed corridor locations are relocated to areas where there are no permitted uses that are more intensive than existing agriculture.
- Credits for “designating” property within a panther corridor shall not be issued until the corridor is complete, where *all* landowners within the proposed corridors have designated their lands to a panther corridor.
- The SSA Agreements must stipulate that land use layers within the panther corridors are removed to an Agriculture or Conservation layer.

**Figure 10:** RLSA Overlay map with proposed north and south corridor locations. Immokalee Sand Mine and FPL Solar project are located within path of proposed north corridor. County parcel is near location of proposed southern corridor.





**The U.S. Fish and Wildlife Services' Florida Panther Recovery Plan, 3<sup>rd</sup> Edition (p. 30-31), provides specifications for panther corridor widths depending on the length. The document states that corridors extending between 0.6 miles to 4 miles in length should be more than 1,312 feet wide (Beier, 1995), perhaps up to 1 mile (Noss, 1992), 5 (Beier, 1995), or even 10 miles (Harrison, 1992) wide. As this is a landscape corridor covering a great distance, the Conservancy has previously targeted a 1 mile width for these corridors. "**

**Once the County provides more information for the proposed corridor locations, the Conservancy may provide additional comments and/or recommendations.**

#### **RECOMMENDATIONS FOR WILDLIFE CROSSINGS:**

Roads are one of the greatest threats to wildlife. Currently, the RLSA has a limited road network. However, Eastern Collier Property Owners' (ECPO) plans show that they would like Collier County to add approximately 200 miles of new and expanded road projects to the RLSA, to connect the many developments they would like built.<sup>68</sup> This road network would add approximately 800,000 daily vehicle trips to Collier County's road network,<sup>69</sup> dramatically increasing the risks to of vehicle strikes and roadkills to all of the RLSA's wildlife.

The recently amended Policy 4.14 provides for "*provisions for the construction and/or permitting of wildlife crossing*" as one of the ways in which landowner-developers may mitigate or offset a SRA's traffic impacts. However, wildlife crossings must be strategically located and appropriately designed to better protect the RLSA's many threatened and endangered species.

**RECOMMENDATION #15: Three important studies have already been conducted to determine where wildlife crossings are most needed, due to the highest incidents of wildlife mortalities. To reduce road mortalities of wildlife and listed species, the Conservancy recommends that Collier County select the locations of wildlife crossings and fencing based on results of these studies, including crossing locations and designs for large mammal crossings:**

- **Florida Department of Transportation District One. Florida Panther Recovery Implementation Team. Transportation Subteam. June 2020. Southwest Florida Road Hot Spots 2.0. (Figure 11) This report is updated typically annually, so please refer to the most up-to-date information.**  
**[https://www.fws.gov/verobeach/FloridaPantherTransportation/20210127\\_SouthwestFloridaPantherHotSpotsReportRevised2020.pdf](https://www.fws.gov/verobeach/FloridaPantherTransportation/20210127_SouthwestFloridaPantherHotSpotsReportRevised2020.pdf)**

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<sup>68</sup> Conservancy analysis of WilsonMiller 2008 Conceptual Build-out Roadway Network Map.

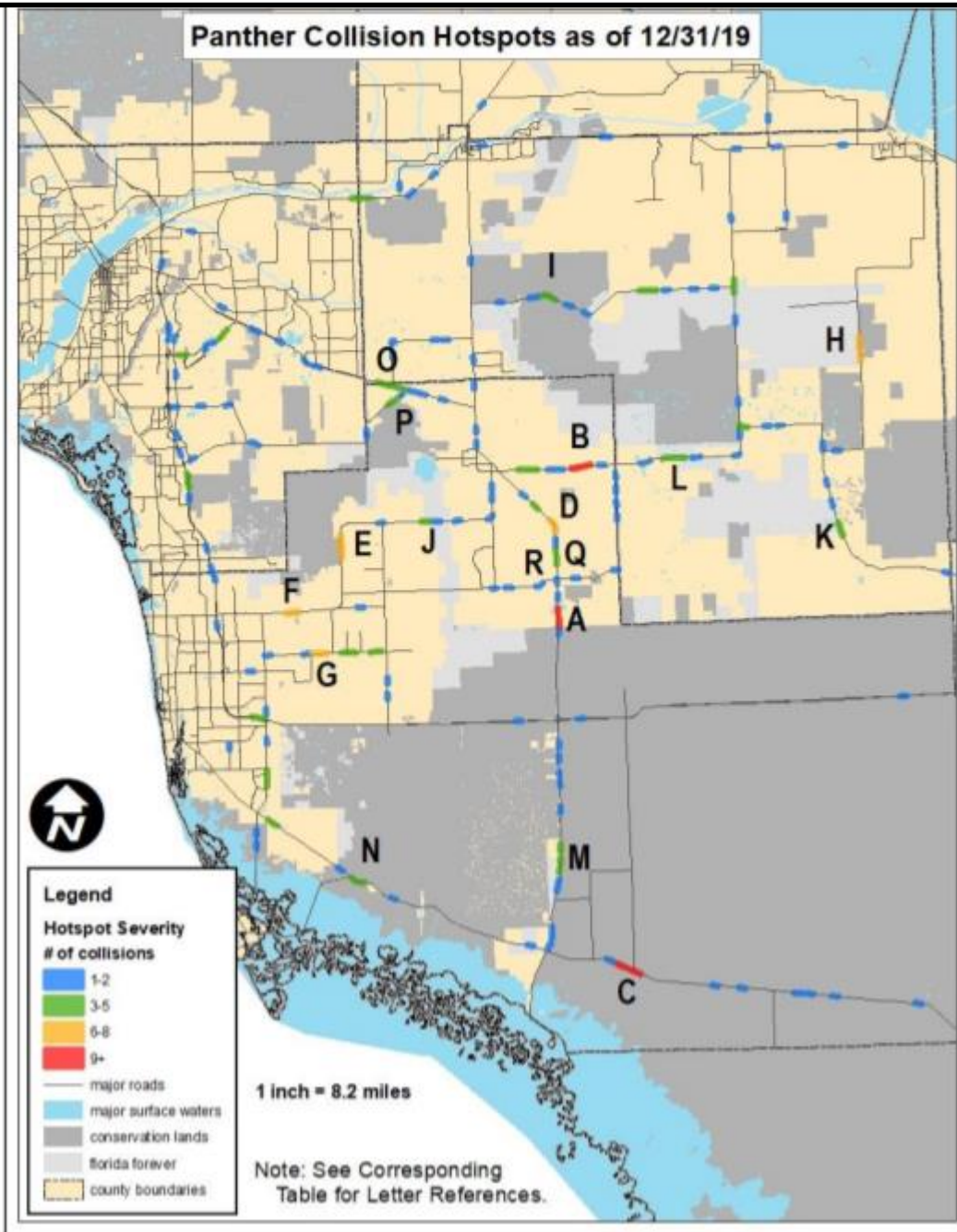
<sup>69</sup> Panther Review Team (2009, October 15). Technical Review of the Panther Protection Program Proposed for the Rural Lands Stewardship Area of Collier County, Florida. Prepared for Rural Landowners and Conservation Organizations a Parties to a Memorandum of Understanding dated June 2, 2008.. Table 6.3-1 and 6.3-1 continued.



- **Smith et al. 2006. Eastern Collier County Wildlife Movement Study: SR29, CR846, and CR858 Wildlife Crossing Project Final Report (Figure 12)**  
[https://conservationcorridor.org/cpb/Smith\\_Noss\\_Main\\_2016.pdf](https://conservationcorridor.org/cpb/Smith_Noss_Main_2016.pdf)
- **Florida Department of Transportation District One. December 2021. Wildlife Crossing Feasibility Study. SR 29 North of Florida Panther Wildlife Refuge**  
[http://www.swflroads.com/us29/northofpantherrefuge/images/449143-1\\_SR\\_29\\_Wildlife\\_Crossing\\_Feasibility\\_Study\\_Final\\_12-13-21.pdf](http://www.swflroads.com/us29/northofpantherrefuge/images/449143-1_SR_29_Wildlife_Crossing_Feasibility_Study_Final_12-13-21.pdf)

**Once the County provides more information about this section of the LDC, the Conservancy may provide additional comments and/or recommendations.**

**Figure 11:** Southwest Florida Road Hot Spots Report. Florida Panther Recovery Implementation Team Transportation Subteam. Adopted by USFWS. Map of panther vehicle collisions.



**Figure 12:** Conservancy map providing the locations of the recommended crossings from Smith et. al.



In conclusion, the Conservancy is hopeful that you will consider these recommendations as the basis for amendments to section 4.08.00 of the Land Development Code, or if you believe the recommendations to be outside your current scope of work, please consider our recommendations for the next amendment cycle and EAR.

If you would like to discuss these matters further, you may reach us at (239) 262-0304.

Sincerely,



April Olson  
Senior Environmental Planning Specialist  
(239) 262-0304, ext. 250  
AprilO@Conservancy.org



Nicole Johnson  
Director of Environmental Policy  
(239) 403-4220  
NicoleJ@Conservancy.org

Attachments:

- A. U.S. Fish and Wildlife Service Letter to Collier County Planning Commission re: Longwater and Bellmar SRAs, dated March 1, 2021.
- B. Memorandum from Collier County Environmental Staff to Tom Greenwood, April 24, 2008. (RLSA Restudy Phase 2 – Policy Comments, Environmental Services Department Draft)
- C. Email between Al Reynolds, Stantec and Michelle Mosca, Collier County, November 30, 2011, Subject: Data and Analysis Requirements for the RLSA 5-Year



# Memorandum

**To:** Tom Greenwood, Principal Planner

**From:** Laura Roys, Senior Environmental Specialist  
Mac Hatcher, Senior Environmental Specialist

**Date:** April 24, 2008

**Subject:** RLSA Study Phase 2 – Policy Comments, Environmental Services  
Department DRAFT

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**Preliminary suggested changes from the Environmental Services Department:**

**Listed Species Protection**

Protection of listed species and wildlife habitat from intense land uses is one of the requirements in the Growth Management statutes. The HSAs were delineated to protect listed species and their habitat. During the first 5 years of the RLSA program there have been several instances of listed species in Open areas. The HSAs alone do not provide adequate protection to listed species. Additionally the 2002 definition of panther habitat is very limited compared to the habitat valuation matrix utilized by USFWS now.

**VII) Policy 3.2**

Listed animal and plant species and their habitats shall be protected through the establishment of Habitat Stewardship Areas (HSAs), as SSAs within the RLSA Overlay. HSAs are delineated on the Overlay Map and contain approximately 40,000 acres. HSAs are privately owned agricultural areas, which include both areas with natural characteristics that make them suitable habitat for listed species and areas without these characteristics. These latter areas are included because they are located contiguous to habitat to help form a continuum of landscape that can augment habitat values. The Overlay provides an incentive to permanently protect HSAs by the creation and transfer of Credits, resulting in the elimination of incompatible uses and the establishment of protection measures described in Group 1 Policies. Not all lands within the delineated HSAs are comparable in terms of their habitat value; therefore the index shall be used to differentiate higher value from lower value lands for the purpose of Overlay implementation. Analysis of the Index Map Series shows that HAS lands score within a range of 0.6 to 2.2. There are approximately 13,800 acres of cleared agricultural fields located in HSAs. The average Index score of HAS designated lands is 1.3, however, the average index score of the naturally vegetated areas within HSAs

In addition to the FSA and HSA areas the NRI score was intended to protect important natural resources. The NRI score was not intended to specifically



**provide protection for listed species, it is intended to direct development away from important natural resources. The NRI score necessary to prevent conversion to high intensity uses is 1.3. In the "Open Areas" only areas with panthers and other listed species or panthers in wetlands with muck soils will score an NRI of 1.3 or greater. The weighting is inadequate for the NRI alone to contribute significantly to natural resource protection.**

**The listed species that depend on large amounts of dry prairie like sand hill cranes, burrowing owls, and caracara now utilize pasture lands and fallow areas also. Although some of these areas were included as HSAs the NRI scoring is not weighted to provide protection outside of Stewardship or ACSC areas.**

(VII) Policy 1.8

The natural resource value of land within the RLSA is measured by the Stewardship Natural Resource Index (Index) set forth on the Worksheet. The Index established the relative natural resource value by objectively measuring six different characteristics of land and assigning an index factor based on each characteristic. The sum of these six factors is the index value for the land. Both the characteristics used and the factors assigned thereto were established after review and analysis of detailed information about the natural resource attributes of land within the RLSA so that development could be directed away from important natural resources. The six characteristics measured are: Stewardship Overlay Designation, Sending Area Proximity, Listed Species Habitat, Soils/Surface Water, Restoration Potential, and Land Use/Land Cover.

**Approximately 6 % of the panther telemetry points (through 12/2007) in the RLSA are in "Open" areas (Figure 1). There are 8 documented panther deaths in or on the edge of open areas. There are 5 Florida scrub jay families and 1 rookery and an eagle nest in Open areas. I don't have GIS data for caracaras, sand hill cranes, gopher tortoises, or burrowing owls but they have all been observed in these areas also.**

LDC 4.08.01 Specific Definitions Applicable to RLSA District

Q. Listed Species Habitat Indices. One of the indices comprising the Natural Resource Index Value, with values assigned based upon the habitat value of the land for listed species. Index values are based on documentation of occupied habitat as established by the intersect of documented and verifiable observations of listed species with land cover identified as preferred or tolerated habitat for that species. Land mapped, using FLUCFCS, as 310, 321, 411, 425, 428, 434, 617, 6172, 621, 6218, 6219, 624, and 630 is deemed to be preferred or tolerated habitat for panthers for the purpose of assigning a value for these indices. An intersection of at least one data point establishing the presence of a listed species within a geographic information system (GIS) polygon of preferred or tolerated habitat for that species shall result in the entire polygon being scored as occupied habitat.

**The scoring range is 0.8 for panther and other listed species, 0.5 for panther, and 0.4 for other listed species. No FLUCCS codes are listed for any other species.**

What is considered to be habitat utilized by the Florida Panther has changed since 2002. The FLUE AND LDC use FLUCCS codes to define "preferred or tolerated" panther habitat as 310 (dry prairie), 321 (palmetto prairie), 411 (pine flatwoods), 425 (temperate hardwoods), 428 (cabbage palm), 434 (hardwood – conifer mixed), 617 (mixed wetlands), 6172 (mixed wetland shrubs), 621 (cypress), 6218 (cypress melaleuca), 6219 (cypress wet prairie), 624 (cypress, pine, cabbage palm), and 630 (wetland forest mix). The USFWS uses the following habitat types that occur in the RLSA to value panther habitat for compensation assessments:

Habitat Type	Assigned value
Xeric oak scrub	10
Hardwood forest	10
Freshwater marsh	9
Bottomland hardwood	9
Bay swamp	9
Hardwood swamp	9
Cypress swamp	9
Sand pine scrub	9
Sandhill	9
Hardwood-pine forest	9
Pine forest	9
Grassland/pasture	7
Dry prairie	6
Shrub swamp	5
Shrub and brush	5
STA	4.5
Crop land	4
Orchards/groves	4
Exotic plants	3
Reservoir	1.5

The USFWS habitat types include marsh, pasture, row crops, orchards, and exotic plants that are not included in the current RLSA description. Utilization of descriptive habitat types for listed species solves the issues of incomplete FLUCCS lists and minor interpretation differences. I suggest we utilize the same list for black bears; native wetland and natural water bodies for alligators and wading birds; pastures, prairies, and fallow agriculture for sand hill cranes, caracara, and burrowing owls; native uplands for gopher tortoise; and a 660 ft buffer for an eagle nest. For any other listed species the land cover shall be identified in a state or federal management plan as utilized by that species.

#### Protection of natural resources

To provide protection to the areas providing significant habitat value to listed species in Open areas I suggest changing the scoring to :

Endangered species with other listed species 0.9;

Endangered species or Threatened and other listed species 0.8;

**Threatened species, Eagle nest, or rookery 0.7; and  
Species of Special Concern 0.6.**

**To provide some flexibility to property owners and benefit to listed species mitigation of areas with NRI values greater than 1.3 can occur off-site in similar habitat or restoration areas within or contiguous to Camp Keais or Okaloacoochee sloughs at a ratio of at least 1:1 with a management plan and conservation easement.**

**Proposed change to LDC:**

LDC 4.08.01 Specific Definitions Applicable to RLSA District

- Q. **Listed Species Habitat Indices.** One of the indices comprising the Natural Resource Index Value, with values assigned based upon the habitat value of the land for listed species. Index values are based on documentation of occupied habitat as established by the intersect of documented and verifiable observations of listed species with land cover identified as ~~preferred or tolerated~~ habitat for that species. ~~Land mapped, using FLUCFCS, as 310, 321, 411, 425, 428, 434, 617, 6172, 621, 6218, 6219, 624, and 630 is deemed to be preferred or tolerated~~ Oak scrub, hardwood forest, freshwater marsh, bay swamp, hardwood swamp, cypress swamp, sand pine scrub, hardwood-pine forest, pine forest, grassland/pasture, dry prairie, shrub swamp, or shrub and brush shall be used as habitat for bears and panthers for the purpose of assigning a value for these indices. The following habitat types shall be used in the indices. Native wetland and natural water bodies for alligators and wading birds; pastures, prairies, and fallow agriculture for sand hill cranes, caracara, and burrowing owls; native uplands for gopher tortoise; and a 660 ft buffer for an eagle nest. An intersection of at least one data point establishing the presence of a listed species within a geographic information system (GIS) polygon of ~~preferred or tolerated~~ habitat for that species shall result in the entire polygon being scored as occupied habitat. The scoring for the Listed Species Habitat Indices shall be:  
Endangered species with other listed species 0.9;  
Endangered species or Threatened and other listed species 0.8;  
Threatened species, Eagle nest, or rookery 0.7; and  
Species of Special Concern 0.6.

**Other Comments/Concerns:**

**NRI score, Group 3 Policies, LDC 4.08.06.B.3**

- **There should be an update of the initial mapping. Not all land use/land cover codes are included and there could be more areas like Lake Trafford Ranch and Half Circle Ranch that were improperly designated.**

### **Habitat Stewardship Areas (HSA) Policy 3.2**

- **The current acreage for all HSAs provided in the FLUE is incorrect. Acreage was added between Transmission and Adoption of the RLSA and needs to be updated.**

### **Stewardship Sending Areas (SSA):**

- **Continuing agricultural use in the SSAs should be with Best Management Practice (BMP) standards, at a minimum.**

#### **Policy 3.9**

- **No exotic removal and maintenance is required for SSA designation. Staff has observed substantial amounts of exotic pest plants, and are concerned that their growth will continue to decrease the habitat value in the years to come. The presence of high concentrations of exotic plants in the sub-canopy has long been recognized as deleterious to native species, both plants and animals. This would not be a concern where management of the exotics were part of a restoration plan. Goal 3 and LDC 4.08.06 SSA Designation**

### **Restoration - Policies 3.11 and 3.12, LDC 4.08.06.C.5.j**

- **Any level of restoration or maintenance receives the same amount of credits. The credit value should be tied to the functional lift and there should be levels of credit that could be earned.**
- **The Management Plan should be required with the Stewardship Easement to ensure enforceability.**
- **The management plan should include more than the 12 exotic plants listed by County Code (FLEPPC Category 1). Various other exotics have been observed.**
- **The LDC should define more specific requirements on what management plans entail.**
- **Restoration should be to a native habitat.**

### **Development in the RLSA:**

- **SRA:  
LDC 4.08.07 SRA Designation**

- **Soil sampling and other relevant information that is normally required for submittal of an Environmental Impact Statement (EIS) should be required. Unless it is a DRI, staff can not request an EIS or even parts of the EIS.**
- **Full, detailed wildlife surveys should be submitted at the time of SRA review. This information can be used to confirm the SSAs being used for development of the SRA are offsetting the impacts development of the SRA will have on listed species.**
- **EAC hearing should be required for all SRAs. (LDC 4.08.07.F.1.a.)**
- **Need detailed habitat management plans or information regarding species to be relocated, etc.**

**Jmh/Lrg**

**C: ESD File: G:\RLSA\RLSA\_5\_year\_review Enviro 032808-draft.doc**



May 6, 2008

**MINUTES OF THE MEETING OF THE COLLIER COUNTY  
RURAL LANDS STEWARDSHIP AREA REVIEW COMMITTEE**

Ave Maria, Florida, May 6, 2008

LET IT BE REMEMBERED, that the Collier County Rural Lands Stewardship Area Review Committee in and for the County of Collier, having conducted Business herein, met on this date at 9:00 A.M. in REGULAR SESSION at the Ave Maria University Academic Building 07 Conference Room 5, 5050 Ave Maria Boulevard, Ave Maria, Florida, with the following members present:

**CHAIRMAN: Ron Hamel**  
**VICE CHAIRMAN: Neno Spagna**  
Brad Cornell  
Zach Floyd Crews  
Gary Eidson  
David Farmer  
Tom Jones  
David Woodley  
Bill McDaniel  
Timothy Nance  
Fred Thomas

**ALSO PRESENT:** Thomas Greenwood, AICP, Principal Planner, Comprehensive Planning Department  
Michael J. DeRuntz, Principal Planner, Comprehensive Planning Department  
Laura Roys, Senior Environmental Specialist, Engineering and Environment Services Department

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Approximately 20 members of the public

**I. Call Meeting to Order**

The meeting was called to order at 9:07 AM by Chairman Hamel.

**II. Roll Call**

Roll call was taken, and a quorum was established.

**III. Approval of Agenda**

*Mr. Hamel requested that Item IX be move up in front of Item VI.*

*Mr. McDaniel moved to approve the agenda as amended, Second by Mr. Farmer.*

*Voice Vote - Unanimously Approved 11-0.*

**IV. Approval of Minutes: February 5, 2008**

*Mr. Thomas moved to approve the minutes of the February 5, 2008 committee meeting, as amended, Second by Mr. McDaniel. Voice Vote - Unanimously Approved 11-0.*

**V. Presentation – Mr. Draper was on his way**

**B. Clarence Tears, Jr., South Florida Water Management District**

Mr. Tears stated that the most important thing that needs to be accomplished from the South Florida Water Management District's perspective for the RLSA Program would be to help keep and improve the flowway of the Kamp Keais Strand and Okaloacoochee Slough open and flowing. He stated that local utilities are using reverse osmosis for their supply of potable water and it is becoming increasing important to provide all means to recharge aquifers. He added that the RLSA program in Collier County has been a huge success in establishing SSAs within the Kamp Keais Strand, and to a lesser degree the Okaloacoochee Slough.

One of the District's goals is to work with property owners to develop "Regional Land Stewardship Flow Restoration." The District, at the request and support of the property owners in the Kamp Keais Strand, completed modeling for the Kamp Keais Strand drainage area. Through this model, restrictions to the flowway were identified and plans for the reduction and elimination of restrictions and environmental restoration were developed. Those plans included structural improvements, the enhancement of the CR 846 bridge, new CR 858 bridge, replacement of existing culverts, and the removal of old railroad grade. Non-structural measures were also included such as the eradication of non-native vegetation through a grant sponsored by the Soil & Water Conservation District.

Mr. Tears added that the District is working with property owners in the Okaloacoochee Slough to try to re-introduce natural seed sources in existing grazing areas.

Mr. McDaniel asked if Mr. Tears could share his definition of disturbed, and what could this Committee do to work together to find answers to the many water resource issues that exist within the RLSA. Mr. Tears stated that soil data and remnant

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vegetation provide clues of historic flowways. From that information they look at the human impact to the area to distinguish the extent of flowway alterations. The continuation of this program and the cooperation of the land owners will be a tremendous aid to improving water quantity, water quality and environmental conservation.

**Gary Eidson** questioned whether the potential build out of this area will impede natural flowways. **Mr. Tears** stated that, with each development that occurs in the RLSA, the developer will be required to identify the watershed, flowways, the proposed impervious area, and provide storm water detention, structural and non-structural improvements to an extent that no net impact occurs and, where possible, provide for the enhancement of the existing storm water system.

**Mr. Thomas** suggested that the committee consider the general location of roadway corridors during this review to lessen the impact to the flowways, the environment, and agricultural activities.

**Mr. Jones** asked if **Mr. Tears** could cite further examples of successes of how the RLSA program has furthered the District's goals. **Mr. Tears** stated that, with the establishment of each of the SSA's, conservation easements are established which contain preservation and management plans. Through this process, the unique flowway area is captured, and as these are linked together, the slough flowway area is preserved.

**Mr. Hamel** asked if **Mr. Tears** would be kind enough to remain for further questions, and asked **Mr. Draper** of the Audubon Society to begin his presentation.

**A. Eric Draper, Florida Chapter of the Audubon Society**

**Mr. Draper** stated that his presentation will focus on the State's perspective on the Collier County's RLSA program. The State Chapter is very supportive of any furtherance of wildlife species protection. Funding for land acquisition is becoming tighter with constraints on the State Budget, but the Florida Forever Bill did pass, which included a continuation of \$300,000 for land acquisition and land use easements over agricultural land for conservation and preservation. While the list of identified lands targeted for acquisition far exceed the funding that is available, programs such as Collier County's RLSA further the objectives of the Audubon Society and support compact development, watershed restoration, wildlife conservation, recreation, transportation, and food and agricultural production.

**Mr. Jones** asked if **Mr. Draper** could provide any suggestion to the Committee. **Mr. Draper** stated that the loss of agricultural lands should be taken very seriously, and that the area of development should be compressed to the greatest degree possible.

**Mr. Hamel** asked **Mr. Draper** to provide some perspective on the land use easement initiative for agricultural properties. **Mr. Draper** stated that this type of program is much more cost effective than buying the property outright, and that several states have

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similar programs. He had heard some discussion that this may not be well received by the land owners in Florida, but time will tell.

*Mr. Hamel stated that the Committee would be recessed for 5 minutes.*

**IX. Next Meeting/future extra meeting to meet Committee schedule**

*Mr. Greenwood* informed the Committee that the Board of County Commissioners (BCC) appointed this Committee for a one year term, which will end on September 11, 2008 [actually October 24, 2008]. He stated that with the present schedule and issues to be addressed, he suggested that the Committee may wish to recommend to the BCC that the sunset date be extended. He also suggested that the Committee may wish to consider having meetings twice a month to address the many policies in the Phase II Report.

*Mr. McDaniel* made a motion to double up the Committee meetings, with the first meeting taking place at Ave Maria and the second meeting to take place at the CDES Building in Naples. The meeting time would remain at 9 AM. to 12 Noon. The Committee also recommends that the BCC approve a 6 month extension to the Committee. *Mr. Thomas* second the motion. Voice Vote: 10 – Yes, 1 – No. APPROVED. *Mr. Neno* opposed the extension because he believed that the tasks could be completed within the allotted time frame.

*Mr. Jones* stated that hoped the staff would be able to provide a listing of the received comments and suggestions with the related policies for the Committee to review at the next meeting.

**VI. Old Business**

**A. Phase I – Technical Review**

*Mr. Hamel* thanked the six Committee members that attended the Collier County Planning Commission (CCPC) for the presentation of the Phase I – Technical Review on May 1, 2008. He stated that the presentation made by the staff was well done.

1. *Mr. Greenwood* stated that the CCPC recommended approval of the Phase I – Technical Review with a stipulation that the nine page list of comments and suggestions be addressed by the Committee during the Phase II review. This list was distributed during the meeting.

*Mr. Neno* also thought that the staff's presentation was very good.

*Mr. McDaniel* questioned if the Committee was required to address the list of comments. *Mr. Greenwood* stated that the Committee should try their best to address this list of comments and suggestions, but the supporting data and analysis needs to be provided to justify any substantial changes.

2. *Mr. Greenwood* reviewed the "Working Paper," which summarized the build-out potential for the RLSA with the existing regulations.

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*Mr. Cornell* thanked staff for the overview of the "Working Paper." He requested the staff to prepare an analysis of the program incorporating agricultural preservation credits.

**B. RLSA Review Committee, Phase II [Group 2 Agricultural]**

1. *Ms. Payton* stated that she was not expecting to speak, but she would like to have an opportunity to meet with staff to help in the coordination of the "Comments and Suggestion" with the RLSA policies. *Mr. Greenwood* stated that he would coordinate a meeting with the authors of the "Comments and Suggestions."
2. *Mr. Nance* stated that his comments were provided to ask the question: "How would the Committee address comments from DCA's "RLSA Report to the State Legislation." If particular comments are not identified by any existing policies, how should the Committee address them? *Mr. Greenwood* suggested that the Committee focus on addressing policy related comments first, and then unrelated policy comments at the end of the report if the Committee desires.

*Mr. Jones* stated that the format for addressing all the comments and suggestions should consist of the Committee's recommendation being stated first, and then the staff's recommendation would follow.

*Mr. McDaniel* commented that the County's RLSA program may not be perfect but it is working.

**VII. New Business**

**A. RLSA Review Committee, Phase II...Review of Group 3 and 5 Policies of the Rural Land Stewardship area Overlay [Environmental]**

*Laura Roys* stated that the copy of the concerns from the Environmental Services Department that was provided in the agenda was an early draft and a comprehensive report of the Department's concerns will be provided.

**VIII. Public Comments**

*Mr. Reynold* stated that 5-Year Review requirement by the Department of Community Affairs (DCA) and the Growth Management Plan (GMP) applied only to the Phase I Review. The review was to provide a measured assessment of the program. He reviewed a memo that he prepared (See Attachment) in which he shared some observations and suggestions.

*Ms. Ryan* stated that the Conservancy had provided comments to the County when the RLSA program was enacted and were told that there would be time to address their concerns when the review process occurred. During the Phase I Review the Conservancy was told that their concerns would be addressed during the Phase II review. She added that the Conservancy would be glad to meet with County staff to coordinate the positioning the concerns with the specific policy for the Committee's review.

**IX. Staff Comments**



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*Mr. Greenwood* stated that he would contact those interested parties to coordinate a meeting date and time to facilitate the positioning of concerns with the related RLSA policies.

**X. Adjournment**

*Mr. McDaniel* moved to adjourn the meeting, second by *Mr. Jones*.

*Voice Vote - Unanimously Approved 11-0. Adjournment 12:02PM.*

**Rural Lands Stewardship Area Review Committee**

  
\_\_\_\_\_  
**Ron Hamel, Chairman**

These minutes approved by the Committee on 6-3-2008,  
as presented  or as amended \_\_\_\_\_.

Attachment: WilsonMiller memorandum May 6, 2008

# WilsonMiller

**TO:** Rural Land Stewardship Area Review Committee Members  
**FROM:** Alan Reynolds, AICP  
**DATE:** May 6, 2008  
**SUBJECT:** RLSAO Five-Year Review Process - Phase 2

First, my compliments to the Rural Land Stewardship Review Committee and County Staff for preparing a comprehensive Phase 1 Technical Report that is has been well received and accepted by both the Collier County Environmental Advisory Council and the Collier County Planning Commission.

As the Committee begins substantive work on the second phase of the 5-year review process, I would offer a few observations and suggestions on the process going forward. My point of reference is my role as the Principal Planner involved in the Immokalee Area Study that led to the creation of the RLSAO, and as one of the primary authors of the actual RLSAO implementing language. I have also been closely involved in the majority of the actual implementation of the program on behalf of participating property owners since it was adopted, so I have both detailed knowledge and experience to support my perspective.

Policy 1.22 was very specific regarding the purpose of the Five Year Review: "to assess the participation in and the effectiveness of the Overlay implementation in meeting the Goal, Objective and Policies set forth herein. The specific measures of review shall be as follows..." The Phase 1 Technical Report has documented each of the 8 specific items required and demonstrates both a level of both participation and effectiveness that is far beyond expectations for such a new and innovative program. In my thirty years of experience as a professional planner in Florida, I cannot point to any other such program in the State that has come so far, so quickly, in accomplishing its stated goal and objective.

As an example, the implementation of the RLSAO was expected to take approximately 25 years to protect the estimated 89,300 acres of agricultural and natural resource lands depicted on the Overlay Map as FSAs, HSAs, and WRAs. At this five year anniversary, approximately 27% of such land is now within approved SSAs, and an additional 36% of such land is included in pending SSA applications. Clearly the level of participation in the RLSAO is exceeding its goal.

With respect to effectiveness, one need only to look at the maps contained in the Report to recognize the significant progress that has been made toward permanently protecting the two major environmental systems in the region, the Camp Keais Strand and the Okaloacoochie Slough. In addition, the approval of the Town of Ave Maria SRA has enabled the realization of another major goal, accommodating growth and economic diversification within the RLSA in a more innovative, sustainable, mixed-use pattern.

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While some have criticized the provision of the RLSAO that protects a property owner's baseline zoning rights as an alternative to use of the RLSAO, it must be noted that since its inception, not a single new platted lot or rural subdivision has been proposed or approved in the entire 300 square mile area.

Phase 2 is not a required part of the GMP mandated process; it was proposed prior the beginning of the Five Year Review in anticipation that there would be certain changes that may be necessary and appropriate to correct issues "in the participation and effectiveness of the Overlay" that may become evident based on the factual data from Phase 1. As the Committee considers and deliberates on the ever increasing amount of public input in the form of comments, questions, and suggestions for changes, I would suggest the following approach be used:

1. All comments, questions and suggested changes should be referenced to a specific policy in the adopted RLSAO, to facilitate effective discussions and decision-making by the Committee. County staff can facilitate this process.
2. The old axiom "if it isn't broken, don't fix it" should be used as a qualifier for making substantive changes to the RLSAO. Recommendations for changes should cite specific data and analysis in Phase 1 Technical Report, or documented examples from approved SSAs and SRAs that support the need for such change.
3. Whenever possible, specific language should be proposed and alternatives explored that best target the specific issue in question and cause the least amount of collateral changes to the overall program. This will hopefully prevent unintended consequences from disrupting the program.
4. As has been pointed out by several property owners and committee members, the RLSAO program relies on a voluntary, incentive-based approach and a balance between competing uses of land. It also requires a sound basis in market based economics and deference to private property rights. There is a point at which regulatory changes could compromise the acceptance of the program, and the Committee should be mindful not to disrupt the careful balance that has been realized by the proven utilization of the current program.
5. Finally, bear in mind that a collaborative process extending over three years and involving thousands of hours of meetings, hearings and deliberations was needed to create the adopted RLSAO. At the end of this process, there was unanimous approval by the County Commission and universal support for the adopted program by the stakeholders.

We must also keep in mind that the RLSAO does not operate in a vacuum; it does not supplant any of the myriad regulatory procedures and requirements that apply to land development activities. Proposed development in the RLSAO must obtain the same permits that all other development must, including Development of Regional Impact review, jurisdictional wetland permitting, surface water management and groundwater resource permits, site development plan approvals and plats, and other local, state and federal requirements.

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While some have made reference to the Department of Community Affairs – 2007 Annual Report to the Legislature, and the need to respond to specific points of criticism about the Collier County RLSAO therein, I would point out the following:

1. The Collier County RLSAO is not subject to the State RLS Statute (although it is a model for it).
2. The DCA Report was prepared prior to the Collier County Phase 1 Technical Report.
3. The DCA Report was prepared without any substantive input from the stakeholders and organizations that participated in the creation of the RLSAO, or the participating land owners in the RLSAO. DCA never sought out input or factual information from those most familiar with the program.
4. The DCA found the Collier County RLSAO in full compliance with all applicable Growth Management Laws upon its final adoption in 2002.
5. Until the recent change in administration, DCA strongly promoted RLS and hailed Collier County for its innovative approach to good planning.
6. The Collier County RLSAO has won numerous recognitions and awards from Statewide organizations including:
  - a. 1000 Friends of Florida
  - b. Council for Sustainable Florida
  - c. Florida Chapter American Planning Association
  - d. Florida Planning and Zoning Association

In closing, I would urge the Committee to continue with its thoughtful and measured evaluation of the RLSAO, and to continue to encourage broad-base participation by interested citizens. Part of the value of this review is to further the level of understanding and awareness of the program, and to that end, the process of receiving input and responding to questions and comments is healthy. I am convinced that the more people understand about this innovative program, the more supportive they will be.

The challenge for the Committee will be to identify those specific changes that are essential to maintaining and improving the effectiveness of the RLSAO without compromising its effectiveness, and separating out well-intended suggestions for changes that are not essential.

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## JohnsonEric

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**From:** Al Reynolds  
**Sent:** Friday, December 02, 2011 3:37 PM  
**To:** MoscaMichele  
**Subject:** FW: Data & Analysis Requirements for the RLSA 5-Year

Thanks Michelle - I've noted a couple of clarifications below, please advise if you concur. Thanks for your help.

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**From:** MoscaMichele [<mailto:MicheleMosca2@colliergov.net>]  
**Sent:** Wednesday, November 30, 2011 11:00 AM  
**To:** Reynolds, Al  
**Cc:** Perry, Margaret; BosiMichael; WeeksDavid; HatcherMac; LenbergerSteve  
**Subject:** Data & Analysis Requirements for the RLSA 5-Year

Al:

You requested that staff provide a listing of any additional data and analysis needed to support the RLSA 5-year review amendments to the Growth Management Plan (GMP), so that you can prepare a Scope of Services for ECPO members *prior to* the formal GMP amendment submittal and the BCC's discussion of RLSA amendments scheduled for December 13, 2011. As we previously discussed, staff has conducted a limited review of the data and analysis contained within the RLSA 5-Year Review Phase I and Phase II Reports and the Carlton Fields Memorandum, dated March 1, 2010, to generally determine if additional data and analysis may be needed to move forward with these amendments.

The following is a summary of the data and analysis commitments that were discussed by telephone on November 17, 2011 and the additional data and analysis needed to support the GMP amendments to the RLSA based on staff's limited review. It should be noted that after receipt of the "repackaged"/formal submittal, staff will evaluate the GMP amendment package to determine if additional supporting data and analysis is needed. If staff determines that additional data and analysis is needed, preparation of that additional data and analysis may or may not require the assistance of Stantec staff.

Once we have a draft package of our items prepared, we would anticipate one round of review with you and the county staff team to address any gaps or clarifications. We would then give you our completed documents in electronic format, so they can be incorporated into the full package. We are not proposing to make a "formal submittal" as the documents will be part of the larger GMP package that staff will be preparing. As we are proposing to act in a technical capacity only, based on the recommendations of the BCC accepted Committee Report, we need to keep all of our work product strictly objective and quantifiable.

### **Carlton Fields Memorandum:**

- **Issue #1 – Identify the purpose and need for each amendment as determined by the RLSA committee.** *Stantec* to provide "repackaging" of amendments to include concise explanation of each change, including narrative of issue(s) raised by the RLSA committee and cross reference(s) to support documentation, including original data source and date.
- **Issue#2 (ref. 163.3177(1)(f), F.S.) – Use best available data to support proposed amendments.** A comparative analysis of current data/reports is needed to determine any changed conditions since the RLSA committee's review and recommendations. County staff is requesting that *Stantec staff* prepare an analysis/evaluation of the new SFWMD Land Use and Cover as well as new (since BCC consideration) panther habitat use studies and provide comments regarding changed conditions. **With respect to SFWMD land cover mapping, we will compare the most recent mapping (2011) to that used in 2001-2002 to evaluate whether there have been any macro level changes that would affect the RLSA Overlay Map, i.e. delineation of FSAs, HSAs and WRAs. We can accomplish this by sampling various areas, as was done in the initial program, as opposed to a complete analysis of the entire RLS, which is well beyond our scope. One of the basic principles of the RLSA is that there will always be more recent and more site specific data available as the program is implemented, and this is best addressed at the time a property owner and the county evaluate a specific application for SSA or SRA, or when a property owner uses their baselines uses. This is all spelled out in detail in the GMP and LDC. As such, there is no need to continuously amend the GMP Overlay Map. Similarly, Panther information is always in a state of flux, as new telemetry is generated and new studies are performed. We will identify any pertinent data sources or studies that we are aware of and comment accordingly, but keep in mind that the basis for our work is the BCC accepted Committee Report, and we do not intend to propose any modifications to those conclusions and recommendations.**

- County staff will review relevant population and transportation studies to evaluate changed conditions.
- **Issue #3 (ref. 163.3177(6)(a), F.S.) – Include a comprehensive land use analysis to support any changes to the amount of credits and SRA acreage in the program.** *Stantec* staff to provide comprehensive land use analysis. Analysis should include existing and proposed development scenarios [that were considered during the five year review process](#).
- **Issue #4 (ref. 163.3177(6)(a) 9.a.(v), F.S.) – Provide data and analysis to demonstrate program will not result in a premature conversion of agricultural lands.** *Stantec* staff to provide data and analysis. Data and analysis to include detailed explanation of the proposed agricultural credit and comparative tables (existing vs. proposed maximum development scenarios).

**Additional Data and Analysis Needed to Support RLSA Changes:**

- Table of existing and proposed RLSA *maximum* credit generation by category (e.g. restoration, agricultural, early entry, etc.). If this information is already contained within the five-year review documents, please provide the locational reference.

Please contact me should you have questions.

Michele

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