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Conservancy's Comments on the ~~March 9, 2020~~ Draft RLSA Overlay Proposed Amendments

(On August 3, 2020, Collier County staff modified some of the draft amendment language from the March 9, 2020 version. Some of the policies were renumbered and a few substantial changes were made to certain policies. We updated this document to address those changes, which are provided in "red" and are either underlined or strikethrough).

The Conservancy of Southwest Florida (Conservancy) appreciates the opportunity to comment on Collier County's *Draft Rural Lands Stewardship Overlay Proposed Amendments, March 9, 2020*. Since adoption of the program in 2002 and the first review of the program, referred to as the "5-Year Review" (2007 to 2009), there has been considerable research on the Rural Lands Stewardship (RLSA) program. The research includes two important peer-reviewed studies regarding the location of important panther habitat.¹ In addition, the Conservancy hired several experts in their field to evaluate whether the RLSA program would sufficiently protect listed species and their habitats² and if the program's growth scenario would create economically neutral communities.³ Based on this research, we provided Collier County with the [Conservancy's 2019 report](#) of the RLSA program. In our report, we described the fundamental flaws of the program and we provided recommendations aimed at aligning the program with its stated goals.

As we reviewed each of Collier County's *Draft RLSA Overlay Proposed Amendments*, we measured whether the proposed amendments would correct the flaws of the program. We believe that some of the proposed amendments would improve the program, while other

¹ Kautz, et al. (2006) How much is enough? Landscape-scale conservation for the Florida panther. *Biological Conservation* 130, p. 118-133. <https://www.colliercountyfl.gov/home/showdocument?id=79862>

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. <https://www.colliercountyfl.gov/home/showdocument?id=79868>

² Noss, R. F. (2018, November). "Review of Eastern Collier Multiple Species Habitat Conservation Plan: A Report to the Conservancy of Southwest Florida". <https://www.colliercountyfl.gov/home/showdocument?id=86787>;

Frakes, Robert A. (2018, October 7). "Impacts to Panther Habitat from the Proposed Eastern Collier Multiple Species Habitat Conservation Plan: A Quantitative Analysis. Prepared for: Conservancy of Southwest Florida." https://www.conservancy.org/file/policy-rlsa/Dr.-Robert-Frakes_Impacts-from-ECMSHCP-Cover-Letter-and-CV.pdf

³ Smart Growth America (2018, September). "The Fiscal Implications of Development Patterns – Rural Lands Stewardship Area, Collier County, Florida." <https://www.colliercountyfl.gov/home/showdocument?id=84778>



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amendments would fail to fix the Overlay's flaws or could even exacerbate the issues. The following are the concerns from our RLSA report that we hope to see addressed:

1. The large 43,000 to 45,000 acre development footprint located anywhere within a 93,000 acre "Open" area will lead to sprawl, resulting in high economic and environmental costs.
2. The RLSA program will jeopardize the survival of the endangered Florida panther.
3. The program must be updated with best available science to better protect listed species and their habitat.
4. The roadway network needed to accommodate the proposed 45,000-acre's worth of development spread throughout 93,000 acres of "Open" areas is too costly for taxpayers and would be detrimental to the panther, 15 other listed species, and other native wildlife that inhabit the RLSA.
5. R-1 "dedication" credits provide no environmental benefit, while at the same time they greatly increase the RLSA's development potential.
6. The RLSA program undervalues agricultural lands by treating these lands as a placeholder for future development.
7. The program allows development to surround Stewardship Sending Areas (SSAs), which will reduce the functionality of habitats in the SSAs.
8. The program should require more specificity and more county oversight of restoration plans.
9. Certain uses within Flowway Stewardship Areas (FSAs) and Habitat Stewardship Areas (HSAs) are inappropriate and should be removed permanently.
10. More should be done to protect water resources. (Although not an issue fully vetted in our report, we agree with staff's assertion in the 2019 White Paper that more needs to be done to protect water resources in the RLSA.)

NRI Foundational Data is Now Publicly Available:

Before we provide our comments on each of the draft amendments, we would like to thank Collier County staff for addressing a separate issue we discovered while researching the program. The Conservancy was concerned when we found out that the neither the public nor the county had access to the foundational data for the RLSA program. In other words, it was not possible to view scores for the individual Natural Resource Index (NRI) components, referred to as the Stewardship Natural Resource Index Factors (Index Factors). We argued that it was important to provide access to all NRI data so that the public has the opportunity for a complete and transparent review of each SSA and Stewardship Receiving (SRA) application, to ensure the protection of important natural resources. Although the NRI foundational data is still within control of the landowners' consultant, the information is now publicly available for review, thanks to staff's efforts.

Sections of this paper:

There are four sections of this paper. They include the following:

- A. **Conservancy's Comments per draft *RLSA Overlay Proposed Amendments*, p. 3.**
- B. **Conservancy's Comments on the draft *Collier County 2020 Stewardship Credit Analysis*, p. ~~2224~~**
- C. **Unanswered Questions, p. ~~2627~~**
- D. **Important Recommendations from the 2019 White Paper that Were Not Addressed, p. ~~2729~~.**

A. Conservancy's Comments on the draft *RLSA Overlay Proposed Amendments*:

In this section, for each substantive policy amendment, we provide our reason for either supporting the proposed policy change or our reason why we do not support the amendment. A few of the draft amendments include language that we both support and do not support, which is so noted. We also provide additional recommendations to improve flaws of the program that were not addressed in the proposed amendments or in the 5-Year Review recommendations. It is our hope that staff and the planning commission will review and consider each of our comments as each policy amendment is discussed at the planning commission hearings.

RLSA AMENDED GOAL – WHAT WE DO NOT SUPPORT: The language provided in the Overlay's goal is from the Final Order⁴ and should not be amended.

GROUP 1 POLICIES

AMENDED POLICY 1.6 – CONSERVANCY RECOMMENDATION: We have no objection to the recommended amendments to this policy; however, the Conservancy recommends that a review by the Planning Commission is required for all SSA agreements. The current procedure for SSA applications excludes this important step. SSA applications are reviewed by staff and are then placed on the Board of County Commissioner's agenda for adoption by resolution. It is our understanding that most SSA agreements were adopted without a public hearing, as the items were typically placed on the consent agenda.

Because SSA applications generate stewardship credits, which are the currency of the program and entitle tens of thousands of acres of SRA development, an extra level of review by the planning commission would ensure that the county is providing an accurate

⁴ State of Florida Administrative Commission Final Order No. AC-99-002 (1999, June 22).

number of credits per application. In addition, because restoration plans can be complex and include thousands of acres, a review and hearing by the planning commission would provide assurances that restoration plans are designed to accomplish their goals and that the applicant is providing restoration equal to the number of credits they propose to earn.

AMENDED POLICY 1.21 - WHAT WE DO AND DO NOT SUPPORT: We agree that there should be a mandatory review of the RLSA program every seven years to assess whether the program is meeting the goals it aims to achieve. **WHAT WE RECOMMEND:** The specific measures of review are too limited under Amended Policy 1.21 (Current Policy 1.22). Additional measures should be added to assess whether changes to the program are necessary based on changing demographics and population projections, relevant scientific findings, county budgetary constraints, updated assessments of water supply and quality, and to assess any unintended consequences to natural resources, including habitat of listed species.

We noticed that the *2020 Draft RLSA Overlay Amendments* and *2020 Draft Credit Analysis* did not address two of the following measures of review as required in Policy 1.22 (Amended Policy 1.21): *“The amount, location and type of restoration through participation in the Stewardship Credit System since its adoption,” (7) and “The potential for use of Credits in urban areas” (8)*. We suggest that those elements be added. (See our comments in this paper regarding the 2020 Credit Analysis). [\(The August 2020 proposed RLSA Amendments removed requirement \(8\) to study the “potential for use of Credits in urban areas”. We disagree with this change, as infill and redevelopment provides a smarter way to grow\).](#)

WHAT WE DO NOT SUPPORT: The horizon year cannot go undefined. Currently, the horizon year for the RLSA is defined as 2025. While we recognize that 2025 may now be too soon, the Conservancy recommends adoption of a new, concrete horizon year. Among other things, the defined horizon year constrains the fiscal neutrality analysis performed by applicants; without a defined year by which a development must be fiscally neutral, tax payers may be unnecessarily saddled with costly developments that do not provide returns on a reasonable timeline.

AMENDED POLICY 1.22 – WHAT WE DO NOT SUPPORT: There are four reasons why we do not support this policy amendment [to increase credits to 404,000 and to increase RLSA development to 45,000 acres:](#)

1. **Baseline development will be encouraged, instead of discouraged:** One of the biggest misconceptions perpetuated by the landowners’ consultant (WilsonMiller) is that, if adopted, the 5-Year Review recommendations would eliminate the

potential for baseline development (1 unit per 5 acres).⁵ The figure below shows that the public was told baseline development would be eliminated under the RLSA 5-Year Review committee proposed system.

RLSA Credits – Committee Proposed System	
Estimated Credits:	
Base Credits from all NRI based SSAs	128,000
Early Entry Bonus Credits (upon phase out)	20,000
Restoration Credits (adjusted)	144,000
Agriculture Credits (40,000 acres)	89,000
Panther Corridors (assumes 2,300 acres)	23,000
Total Estimated Credits	404,000
Projected SSA supply of Credits	
SSA Credits vested at 8 Credits per SRA acre	97,488 credits
Remaining SSAs at 10 Credits per SRA acre	306,512 credits
Projected SRA acres assuming all Credits are used:	
SRA acres entitled at 8 Credits per acre	12,186 acres
SRA acres entitled at 10 Credits per acre	30,651 acres
Subtotal of Credit entitled SRAs	42,837 acres
Public benefit acres (estimated at 10%)	4,283 acres
Total potential SRA acres	47,120 acres
<small>(Capped at 45,000 per Policy 4.2)</small>	
Remaining Baseline development potential	
Open Land not included in SRAs or SSAs	0 acres

Source: Phase 2 Report PowerPoint Presentation– 5-Year Review (2009)

The 2020 draft RLSA Proposed Amendments, based on the 5-Year review, adheres to the same logic. The County’s draft 2020 Credit Analysis states that the current program allows the potential for 46,931 acres of 1 unit per 5 acre development; however, if the proposed amendments are approved the baseline development potential would be zero.⁶

Table 9. Recommended Policy Estimated SRA Adjustment

	Acres
Stewardship Credit Total SSA approved and in escrow	197,288
SRA Acre potential @ 8 Credits per acre including 10% public benefit acres	27,127
Recommended Policy Amendments Future Credits	232,712
Remaining SRA to equal 45,000 acres includes 10% public benefit acres	17,873
New SRA Credit Ratio (Remaining Credits/Remaining SRA, less 10% public benefit acres)	14
Total Potential SRA	45,000
Remaining Baseline development potential (1 unit per 5 ac)	0

Source: Collier County 2020, Stewardship Credit Analysis, p. 11.

Where in the 2020 draft RLSA Proposed Amendments do the amended policies eliminate the potential for baseline development? The answer is nowhere. None of the proposed amendments remove the possibility of baseline development. In fact, Group 5 Policies are entirely dedicated to landowners who choose not to participate in the RLSA program, but instead decide to develop at 1 unit per 5 acres. Regardless of a cap on credits and a cap on SRA acreage and despite Agricultural Stewardship

⁵ Phase 2 Report PowerPoint Presentation– 5-Year Review (2009) AND WilsonMiller September 18, 2008 Memo to Tom Greenwood titled “Rural Lands Stewardship Area ‘Maturity’ (Proposed Rural Lands Stewardship Area Overlay).” Page 7 states, “Remaining Baseline Development Potential – Open Land not included in SRAs or SSAs = 0”

⁶ Collier County 2020, Stewardship Credit Analysis, p. 11.

Credits (Amended Policy 2.2), landowners still have the option to develop nearly 47,000 acres of the RLSA as 5-acre ranchettes. This would be in addition to the 45,000 acres of SRAs. The reality is that 45,000 acres-worth of towns and villages, with new roads, infrastructure and goods and services, would be a magnet for surrounding ranchette-style development, which is the very thing the program was supposed to prevent.

Because the proposed Amended Policy 1.22 does nothing to eliminate baseline development, this amendment must be denied.

2. **The public voiced they would like a decrease in development, not an increase:**

While we agree that a credit cap and SRA cap are important, we do not agree that the total acres of Stewardship Receiving Areas (SRA) should increase from 43,300 acres to 45,000 acres. Public comments from the 2018-2020 RLSA restudy overwhelmingly show a preference for a **reduction** in development area, not an increase, as the amendment proposes ([See the public comment section on the RLSA review County webpage.](#)) During the restudy workshops, many members of the public stated they felt deceived when they found out the development footprint increased from 16,800 acres, which is the acreage they were told at adoption, to 43,300 acres, as revealed during the 5-Year Review. Amended Policy 1.22 would further increase the total SRA footprint, which is counter to the type of growth the public stated it wants. (See the Conservancy's solution for a better plan with a smaller development footprint under Amended Policy 2.2).

3. **There is no basis for increasing the total SRA size when developers are leaving density on the table:**

RLSA landowners/developers heavily lobbied for an increase in the total development potential to 45,000 acres. However, what they fail to mention is that for any of the approved or pending SRAs, they have not maximized the density potential. While the RLSA program allows up to 4 dwelling units per acre (du), the average density of all pending and approved SRAs is only 2.67 du.⁷ A better solution to save agricultural lands and to create more compact communities, would be to build more homes within a smaller footprint, instead of increasing the footprint.

4. **The total stewardship credits at 100% participation have been underestimated:**

In 2009, the Board directed staff to determine the number of possible stewardship credits without the possibility of excess credits, and without the possibility of remaining baseline development as previously stated. Even though a credit cap of ~~430,000~~ 404,000 credits is proposed, it is still important to ensure that no excess land can be entitled for SRA development or base zoning of one unit per five acres after the ~~430,000~~ 404,000 credits are generated. If

⁷ Density per approved and pending SRAs: Town of Ave Maria - 2.75 du (excludes 1,000 acres for university); Rivergrass Village 2.5 du; Hyde Park Village 2.75 du; Longwater Village 2.6 du; Bellmar Village 2.75 du.

landowners understand they have the ability to earn credits beyond the cap, it is likely they would challenge the cap, perhaps claiming Bert Harris⁸, and demand that the cap is removed. This would be a likely scenario especially for non-ECPO⁹ landowners, since ECPO landowners already have plans to maximize all 45,000 acres of SRA development leaving nothing for the rest.

We believe the miscalculation of credits lies within two areas (a) the underestimation of restoration stewardship credits, and (b) the underestimation of base credits, due to the fact that “restoration potential indices” cannot be determined until SSA applications are submitted. Please see “Conservancy’s Comments on Draft Collier County 2020 Stewardship Credit Analysis” on page 22 of this document which details the reasons why we believe restoration and base credits were underestimated.

GROUP 1 - ADDITIONAL CONSERVANCY RECOMMENDATION (1): The Conservancy recommends adding a policy that requires a minimum density that will achieve greater compactness and walkability and will allow landowners to apply additional credits per acre to entitle additional dwelling units. The current allowable density for towns and villages in the RLSA is between one and four units per acre. This density is very low when compared to that of most highly walkable communities. As an example, downtown Naples’ allows up to 12 units per acre for medium density residential neighborhoods. As a result, the City of Naples provides ample housing within a ½ mile walk to the downtown center. Increased minimum and maximum density in the RLSA would create greater, more compact communities and decrease the total RLSA development footprint. In turn, this would result in a lower conversion of agricultural lands, wetlands, and wildlife habitat to development.

GROUP 1 - ADDITIONAL CONSERVANCY RECOMMENDATION (2): To encourage infill and re-development instead of greenfield development, the Conservancy recommends adding a policy that allows Stewardship Credits from RLSA lands to be used toward entitling additional dwelling units or other economic incentives within the urban areas.

This recommendation should have been included in the *2020 Draft RLSA Overlay Proposed Amendments* for two reasons. First, staff provided a similar recommendation from their May 2019 White Paper:

Provide an avenue for County purchase of land or credits in the RLSA; create LDC standards for discretionary approval of private entity purchase and use of credits for

⁸ The Bert J. Harris Property Rights Protection Act states that if a government action “inordinately burdens” a person’s property rights, the owner would be entitled to compensation.

⁹ ECPO stands for Eastern Collier Property Owners, LLC. This is a group who has applied for a federal incidental take permit, which would cover 45,000 acres of RLSA’s Open lands for SRA development.

high density projects in the Urban area; explore opportunities for County purchase of easements in coordination with the identified state programs.¹⁰

Second, and most importantly, an assessment regarding the use of stewardship credits toward urban infill is a requirement of the current RLSA program. Policy 1.22 (Amended Policy 1.21) states that during a review period, “the potential for use of Credits in urban areas” is to be assessed. Although we are currently in a review period, unfortunately, this has not happened.

GROUP 2 POLICIES

AMENDED GROUP 2 GOAL - WHAT WE DO NOT SUPPORT: The language provided in the Overlay’s goal is from the Final Order¹¹ and should not be amended.

AMENDED POLICY 2.1 - (See comments below for Policy 2.2).

AMENDED POLICY 2.2 - WHAT WE DO NOT SUPPORT (AND OUR SOLUTION): The Conservancy agrees that the goal of protecting agricultural lands is very important; however, the proposed amendment, which incentivizes the protection of farmlands through the establishment of credits, is flawed in three ways:

1. **The amendment provides contradictory language:** One section of the amendment states that “*in lieu of using the Natural Resource Index on land designated as Open, these lands shall be assigned two (2.0) Stewardship Credits per acre outside of the Area of Critical State Concern (ACSC), and two and six tenths (2.6) Credits per acre within the ACSC.*” Because the statement says “*in lieu of*” using NRI scores to determine credits, this also means that the Credit Matrix Worksheet would not be used for calculating agricultural credits because the matrix relies on NRI values. However, in another section, the language states, “*Each layer is discreet and shall be removed sequentially and cumulatively in the order presented in the Matrix.*” This language implies that the credit matrix would be used for determining credits. The language as to whether the credit matrix would or would not be used is unclear and must be modified.
2. **The language negates an essential premise of the Overlay:** If we accept the assumption that the stewardship credit matrix would not be utilized to calculate Agricultural Credits, then another issue with the amendment emerges. Integral to the Overlay is the premise that each land use layer has separate value. That is why landowners earn additional credit as they remove each land use layer. Policy 1.10 affirms this in the following statement:

¹⁰ Collier County May 2019 Rural Lands Stewardship Area Overlay Restudy White Paper, p. 87.
<https://www.colliercountyfl.gov/home/showdocument?id=87491>

¹¹ State of Florida Administrative Commission Final Order No. AC-99-002 (1999, June 22).

“In SSAs, the greater the number of uses eliminated from the property, and the higher the natural resource value of the land, the higher the priority for protection, the greater the level of Credits that are generated from such lands, and therefore the greater the incentive to participate in the Stewardship Credit System and protect the natural resource of the land.”

The Overlay affirms that each land use layer affords a higher degree of protection, which incentivizes landowners to remove additional land use layers in exchange for additional credit value for each layer removed.

If the Policy 2.2 amendment language states that 2.0 ~~to 2.6~~ credits are to be granted for each acre *irrespective* of whether the land is currently used for Agricultural Group 1, Agricultural Support Uses, or Agriculture Group 2 (Land Use Layer 5, 6, or 7), then Amendment 2.2 invalidates this important aspect of the Overlay. If one landowner only removes the land use layers down to Agricultural Group 1 (row crops, commercial poultry operations, etc.) then s/he should receive less credit than a landowner who removes land use layers down to Agricultural Group 2 (unimproved pasture, grazing, etc.). Providing an equal number of credits for all agricultural lands, no matter the land use, eliminates incentives to protect lands of higher natural resource value, thus this amendment should be denied.

- 3. The proposed amendment still allows development within habitat of an endangered species:** The draft amendment to Policy 2.2 incentivizes the protection of farmlands through the establishment of credits; however, the amendment fails to protect primary habitat of the endangered Florida panther on those farmlands. This is very concerning as the species is restricted to less than 5% of its historic range and research shows that in addition to forested areas, agricultural lands are necessary to meet daily needs and support the prey on which the panther depends.¹² Some agricultural lands contain important natural landscape connections that support panther home ranges, panther reproduction, dispersal movements, and availability of large prey.¹³ Agricultural lands are also important for other listed species such as the eastern indigo snake, crested caracara, and the Florida bonneted bat.¹⁴

Since the program’s adoption, research shows that some of the RLSA’s agricultural areas are within the Primary Zone. The Primary Zone is primary panther habitat that “provides just enough space to support a population that is barely viable

¹² Kautz, et al. (2006) How much is enough? Landscape-scale conservation for the Florida panther. *Biological Conservation* 130, p. 118-133

¹³ Cominsky et al (2002). Panthers and Forests in South Florida an Ecological Perspective. *Conservation Ecology* Vol 6, No. 1

¹⁴ 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; and Bailey et al., 2017. Impact of Land Use and Climate on the Distribution of the Endangered Florida Bonneted Bat.

demographically as long the habitat base remains stable.”¹⁵ The United States Fish and Wildlife Service (USFWS) agree that the Primary Zone should be protected. They state in their Florida Recovery Plan:

*“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.”*¹⁶

Even though best available science asserts the need to protect primary panther habitat, including within the agricultural areas, the RLSA Overlay and the proposed amendment allows development within the Primary Zone.¹⁷ A solution to this issue is pressing, because Eastern Collier Property Owners (ECPO) have plans to destroy approximately 20,000 acres of the RLSA’s Primary Zone panther habitat under their, so-called, “Habitat Conservation Plan.”¹⁸ The proposed amendment for Policy 2.2 does nothing to solve this troubling issue.

The Conservancy has a better plan than is proposed by the amendment to Policy 2.2. [Our plan](#) (Attachment 1) would protect important agricultural lands and panther habitat, while also rewarding landowners to do so. Our plan also incentivizes landowners through credits, but only on lands that double as primary panther habitat. Over half of the 93,000 acres of the [RLSA Overlay's](#) “Open” lands lie within Primary Zone panther habitat.¹⁹ We propose to re-designate approximately 50,000 acres of agricultural lands within the Open areas that are also primary panther habitat, as Habitat Stewardship Areas (HSAs). Landowners could then earn stewardship credits on the new HSAs once those lands become Stewardship Sending Areas (SSAs). They could either sell the credits to other landowners, sell credits toward urban development,²⁰ use credits toward additional density within the RLSA, or use the credits to build SRAs on 36,800 acres of potential development areas outside of primary panther habitat. By implementing [our plan](#) the

¹⁵ Kautz, et al. (2006) How much is enough? Landscape-scale conservation for the Florida panther. *Biological Conservation* 130, p. 118-133

¹⁶ U.S. Fish and Wildlife Service (2008) “Florida Panther Recovery Plan, 3rd Revision.” p.89
<https://www.fws.gov/uploadedFiles/Panther%20Recovery%20Plan.pdf>

¹⁷ Kautz, et al. (2006) How much is enough? Landscape-scale conservation for the Florida panther. *Biological Conservation* 130, p. 118-133

¹⁸ Stantec Consulting Services (2018, August) Eastern Collier Multiple Species Habitat Conservation Plan.

¹⁹ GIS data layers show that 53% of “Open” areas are within the Primary Zone panther habitat. Data retrieved December 5, 2018.

²⁰ See our “Group One – Additional Conservancy Recommendation” in this report.

following lands would be protected: over 41,000 acres of agricultural lands, 6,000 acres of additional wetlands, and over 47,000 acres of Primary Zone panther habitat.

In addition, our plan offers a more compact development footprint than the existing RLSA program offers, providing greater efficiency. In our plan, the 36,800-acre development footprint is adjacent to existing development, such as Ave Maria, Golden Gate Estates, and Immokalee, which reduces the need for additional roads and lowers costs for services and infrastructure. Our plan, also, better achieves the goal of the RLSA, which is to avoid sprawl. It is important to note that a recalibration of the credit system would be essential to ensure that the total SRA acreage would not exceed 36,800 acres. (See Attachment 1 for Our Plan)

GROUP 3 POLICIES

AMENDED POLICY 3.4 3.5- CONSERVANCY RECOMMENDATION: Flowway Stewardship Areas (FSAs) were chosen because of their importance for water quality and quantity, and the maintenance of the natural water regime. Therefore, oil and gas drilling and exploration has no place within FSAs. Such activities should be prohibited in all FSAs. We recommend that Policy ~~3.4~~ 3.5 be amended to reflect these changes.

AMENDED POLICY 3.6 3.7- CONSERVANCY RECOMMENDATION: Habitat Stewardship Areas (HSAs) were chosen because of their importance for listed species habitat and connections; therefore, general conditional uses, recreational uses, earth mining and processing, and oil and gas drilling and exploration should be prohibited in all HSAs. The Environmental Advisory Council (EAC) and staff's 2019 White Paper recommendation agree that land uses 1-4, including golf courses, should be prohibited in Habitat Stewardship Areas (HSAs).²¹

AMENDED POLICY ~~3.10~~ 3.11- WHAT WE DO NOT SUPPORT (AND OUR SOLUTIONS): Amendments to Policy ~~3.10~~ 3.11 are substantial. Several topics are discussed under this amendment including R-1 credits, credits for other types of restoration, and panther corridor credits.

Elimination of R-1 credits (Amended Policy ~~3.10.1~~ 3.11.1): There are three reasons we believe R-1 "dedication" credits should be completely eliminated from the program.

²¹ Comments of the Environmental Advisory Council and RLSA Review Committee Responses. (Final March 10, 2009 Approved Report of the EAC) p. 4. <https://www.colliercountyfl.gov/home/showdocument?id=24206>
Collier County May 2019 Rural Lands Stewardship Overlay Restudy White Paper (p. 87)
<https://www.colliercountyfl.gov/home/showdocument?id=87491>

1. **R-1 credits provide no environmental purpose:** Landowners receive R-1 credits for simply agreeing to dedicate their lands to restoration, but without having to actually complete any restoration work. Instead of providing an environmental benefit, they drastically increase the RLSA's development potential. On the other hand, R-2 credits are generated only when the restoration work is completed, which in concept is a fair trade. Therefore, only R-2 credits are essential, though what qualifies for credits under R-2 bears further scrutiny.
2. **R-1 credits allow for double dipping of credits:** According to the RLSA program, when landowners apply for an SSA application they earn "base credits" for agreeing to give up rights to certain uses such as, residential uses, general conditional uses, earth mining and excavation, and recreational uses. Once their rights to those land uses are extinguished, landowners may also earn R-1 "dedication" credits on those very same lands. No restoration work is required. The land development code (LDC) does require that land use layers are stripped down to Agriculture Group 2 or Conservation in order to earn R-1 credits; however, the removal of such land use layers is necessary anyway before restoration work commences and before R-2 credits are earned.²² Therefore, to eliminate double-dipping of credits, the GMP and LDC should be modified to skip the unnecessary R-1 dedication stage.

It is also important to point out that on the same lands where landowners earn R-1 credits, they may receive additional base credits for demonstrating their lands have "restoration potential." This is yet another method for increasing credits, without having to provide any restoration work.

3. **R-1 restoration credits actually disincentivize restoration work:** The White Paper states, "*R-1 designation credits have doubled the credit compensation to landowners who have created SSAs, without the necessity to complete the restoration projects.*"²³ In fact, less than 1% of approximately 50,000 acres of SSAs have been restored.²⁴ The lack of restoration is likely due to the fact that landowners can earn a tremendous amount of R-1 credits from one sending area, providing them with enough credits to build multiple SRAs, without the actual requirement of providing restoration. As an example, in January 2020, the Board of County Commissioners approved Stewardship Sending Area 15 Amendment (SSA15). Without having to spend one dime on restoration, the applicant for SSA15 was awarded credits equal to three villages about the size of Rivergrass Village.²⁵ With that many credits why would landowners even bother with the restoration work?

²² Collier County Land Development Code 4.08.06.B.3.f.(4)

²³ Collier County Rural Lands Stewardship Area Overlay Restudy White Paper, May 21, 2019, p. 49/89.

²⁴ Only 428 acres of 50,430 acres of SSAs have been restored (this excludes acreage for SSA15 as it was recently approved). Source: Collier County Rural Lands Stewardship Area Overlay Restudy White Paper, May 21, 2019, p. 7/89.

²⁵ Math: 10,714 R-1 credits + 8,112.1 base credits + 1,826.9 early entry credits = 20,653. Rivergrass Village used 6,198 credits; thus: 20,653 / 6,198 = credits to build 3.3 villages the size of Rivergrass (assuming open space is the same)

Credits for other types of restoration (Amended Policies 3.10.1 3.11.1 and 3.10.3

3.11.3): The Amendment to Policy **3.10-3.11** adds language for other types of restoration (caracara habitat, exotic control/burning, flowway restoration, native habitat restoration, and shallow wetland wading bird foraging habitat restoration). We do not support credits for exotic control/burning as those are routine land management and maintenance activities that are expected of good stewards of the land. Furthermore, exotic control and burning are already being offered by the landowners' "Habitat Conservation Plan" (HCP).²⁶ We would support other incentives for actual restoration work, but only after applicable success criteria is met. The LDC must require detailed restoration plans for each type of restoration, approved by Florida Fish and Wildlife Conservation Commission (FWCC) or U.S. Fish and Wildlife Service (USFWS), with a description and schedule of work to be performed, success criteria and maintenance obligations. Again, the credit system would need to be recalibrated so as not to increase development footprint beyond the 36,800 acres of potential development areas provided in [Our Vision Plan](#).

Panther Corridor Credits (Amended Policy 3.10.2 3.11.2): While we appreciate that the proposed amendment and the 5-year Review recommendations acknowledge the need for additional panther corridors, the method proposed in the amendment would only work if all landowners opt in. Since the RLSA Overlay is voluntary, there is no way to ensure all landowners will participate and/or restore their lands within the corridor area. Without 100% participation, the proposed panther corridor would be narrowed and fragmented. Even if all landowners participated in the corridors, the proposed wildlife corridor of 600 feet²⁷ would be far narrower than biologists believe would be functional. Also, this amendment for corridors relies on ECPO's development plan (HCP) in their application for a federal permit, which is fraught with issues.²⁸

The [Conservancy's RLSA Vision Map](#) provides a way to ensure that panther corridors and primary panther habitat remain intact, through landowner incentives (see comments under Amended Policy 2.2).

AMENDED POLICY 3.12 3.13- WHAT WE SUPPORT: We support the recommendation that states all acres of Water Retention Areas (WRA) used for providing water treatment and retention must become part of the SRA. This amendment ensures that all acreage outside of the SRA used as stormwater lakes consumes stewardship credits. Currently there is a loophole in the program which allows landowners to significantly increase the development footprint of the project by building their stormwater lake tracts outside of the

²⁶ Stantec Consulting Services (August 2018). Eastern Collier Multiple Species Habitat Conservation Plan. Prepared for Eastern Collier Property Owners, LLC. p. 34.

²⁷ Immokalee Sand Mine, which is in the location of the proposed north corridor, provides a wildlife corridor of 600 feet on their plans.

²⁸ Public Comments on Draft Environmental Impact Statement for Eastern Collier County Multiple Species Habitat Conservation Plan - FWS-R4-ES-2018-0079. (December 3, 2018) <https://drive.google.com/file/d/1d7zL6UyrlDMUCuAP4HHe9I5huYUbbGh/view>

SRA, but within the adjacent WRA, and without having to pay any credits toward those acres. As example, when Rivergrass Village was approved, the applicant did not pay stewardship credits on approximately 124 acres of stormwater lake tracts planned within the adjacent WRA.²⁹ In addition, the pending SRA applications for Longwater Village and Bellmar Village propose to build 111 acres and 112 acres, respectively, for stormwater lake tracts outside of their SRA boundaries, within the adjacent WRAs. The applicant does not propose to pay for credits toward the acreage of stormwater lake tracts.³⁰ Because stormwater treatment is a necessary part of development, the use of stewardship credits for those acres should be a requirement.

Furthermore, construction of stormwater lakes and infrastructure should always be prohibited within WRAs scoring over 1.2 NRI, which is contrary to the proposed amendment to Policy 4.9, and they should also be barred within habitat of listed species. (See recommendation below for Amended Policy 3.13).

AMENDED POLICY 3.13 3.14 – CONSERVANCY RECOMMENDATION: WRAs, like FSAs, and HSAs, were chosen because of their ecological importance for either providing important wildlife habitat or providing critical wetland functions. Some WRAs, such as SSA17, consist of high quality cypress sloughs and primary panther habitat. Therefore, we recommend that construction of infrastructure and stormwater lakes systems is prohibited in WRAs that consist of habitat of listed species. We recommend that the following language for Amended Policy ~~3.13-3.14 (Current Policy 3.14)~~ is modified as follows: *“Such additions and modifications to WRAs shall be designed to ensure that there is no net loss of habitat function, quantity, and/or spatial extent of wildlife habitat. ~~within the WRAs unless there is compensating mitigation or restoration in other areas of the Overlay that will provide comparable habitat function.~~”*

AMENDED POLICY 3.14 3.15– WHAT WE SUPPORT: We agree that LDC regulations should be implemented to reduce light pollution in order to protect the nighttime environment and wildlife.

GROUP 3 - ADDITIONAL CONSERVANCY RECOMMENDATION (1):

~~The Conservancy recommends, based on staff's 2019 White Paper recommendations, that a new Group 3 GMP policy is added to address numerous issues with the restoration plan process.~~ The 2019 White Paper Recommendations³¹ acknowledge the need for *“further data and vetting of the land management and restoration recommendations prior to*

²⁹ Rivergrass Village Stewardship Agreement Credit Agreement and Rivergrass Master Concept Plan.

³⁰ Longwater Village and Bellmar Village SRA Credit Use and Reconciliation Applications and Master Concept Plans.

³¹ Collier County May 2019 Rural Lands Stewardship Overlay Restudy White Paper (p. 86)

<https://www.colliercountyfl.gov/home/showdocument?id=87491>

Transmittal,” and “*Engage an independent third party prior to Transmittal to study the needed restoration activity in RLSA private lands so that needed restoration credits can be reasonably estimated and structured.*” This third-party review, including a review of restoration recommendations and credits, should be completed *before a recommendation is made on the GMP Amendments.*

~~and includes several important recommendations that did not make it into the 2020 Draft Amendments.~~ Within one year, LDC regulations for restoration plans shall be amended to address the following issues raised in the 2019 White Paper:

- *Add specific exotic vegetation control measures to the SSA agreement and easement and require a maintenance standard that assures no greater infestation than that existing at time of SSA designation.*
- *Consider, through the LDC amendment process, any additional specific maintenance standards that should be included in all future SSA agreements and easements.*
- *Allow restoration area applications only once within any single SSA.*
- ~~*Engage an independent third party prior to Transmittal to study the needed restoration activity in RLSA private lands so that needed restoration credits can be reasonably estimated and structured.*~~
- *Add specificity to restoration standards and objectivity to the acres claimed by different restoration types; review with permitting agencies and land managers.*
- *Structure restoration credits so that needed restoration is assured in return for the maximum credit and acreage footprint of SRA development [based on the third-party review].*

GROUP 3 ADDITIONAL CONSERVANCY RECOMMENDATION (2):

Areas designated as Water Retention Areas (WRAs) comprise both manmade water management features and natural wetlands that are utilized as part of agricultural water management systems, not unlike many areas of FSAs. Because of their natural resource value, WRAs can attain a high NRI value, making them desirable to be designated as SSAs. The Conservancy supports such designation because of WRA’s importance to listed species habitat and water resources. However, unlike FSAs and HSAs, WRAs are allowed under the RLSA program to be surrounded by development. This can occur if the WRA stays a WRA, or if it is designated as an SSA. This is unacceptable, because development that encircles preserves cuts off access for wildlife to the preserve, essentially reducing the habitat value of that preserve. For example, the Town of Rural Lands West, was planned to encircle the proposed SSA17, also a WRA known as Shaggy Cypress. Shaggy Cypress consists of a high quality cypress slough, which provides habitat to numerous listed species, including primary panther habitat. If built, Rural Lands West would have significantly reduced the

habitat value within SSA17 for the Florida panther.³² In order to ensure that SSAs are truly protected, we recommend an additional policy that prohibits SRA development from surrounding SSAs that contain listed species habitat.

GROUP 4 POLICIES

AMENDED POLICY 4.2 – WHAT WE DO ~~AND DO~~ NOT SUPPORT: We disagree with the amendment to increase the RLSA development potential to 45,000 SRA acres (see our comments under Policy 1.22). We also disagree with the removal of the language stating that SRAs do not have to follow the “principles of the Rural Lands Stewardship Act.”

AMENDED POLICY 4.5 - WHAT WE SUPPORT: We support the requirement that each SRA Master Plan includes a Management Plan with provisions to minimize human and wildlife interactions. In addition, we support the removal of language referencing a “County Build-Out Vision Plan.” We agree that the MPO’s Long Range Transportation Plan process is the best process for transportation planning for eastern Collier County. Adding a second transportation planning process is unnecessary. Furthermore, establishing a County Build-Out Vision Plan to include road improvement projects far in advance of an established need for such projects would obligate taxpayers to shoulder construction and mitigation costs that may otherwise be the responsibility of landowners/developers.

AMENDED POLICY 4.6 – WHAT WE SUPPORT: The RLSA program requires that all towns and villages are pedestrian-friendly and consist of a connected street network. We strongly support these requirements and would like to see them enforced more stringently. Thus far, however, mobility plans for approved and pending SRA applications lack detail. The language provided in this amendment would help to ensure all modes of travel are accommodated and that there is a reduction in trips outside of the community. In addition, as stated in our comments under Amended Policy 4.5, we agree with staff that a “County Build-Out Vision Plan” is unnecessary. **CONSERVANCY RECOMMENDATION:** We recommend including language for Policy 4.6 that requires that all SRAs meet Complete Street guidelines and comply with **Resolution No. 2019-05**, which established requirements for implementing Complete Streets policies.

AMENDED POLICY 4.7.1 – WHAT WE SUPPORT AND DO NOT SUPPORT: ~~Many of the proposed changes to this policy are important, such as~~ We support the requirement for an internal mobility plan (our reasons for support are provided under Amended Policy 4.6).

³² Frakes, Robert A. (2018, October 7). Data of habitat loss provided by Robert Frakes: “Impacts to Panther Habitat from the Proposed Eastern Collier Multiple Species Habitat Conservation Plan: A Quantitative Analysis. Prepared for: Conservancy of Southwest Florida.” https://www.conservancy.org/file/policy-rlsa/Dr.-Robert-Frakes_Impacts-from-ECMSHCP-Cover-Letter-and-CV.pdf
Conservancy of Southwest Florida Comment Letter to Collier County regarding Rural Lands West. p. 5 and 6.
<https://www.conservancy.org/file/15---policy-main/rural-lands/2018-10-08-Letter-re-Rural-Lands-West-SRA-Application-No.-PL20150001335.pdf>

~~We also agree with the recommendation to include additional measures for affordable housing “needed to support the mix of uses and employee income levels based on the jobs created in the Town.” Coronavirus has reminded us of the importance of essential personnel. Nurses, fire personnel, police, EMS workers, teachers, sanitary and utility workers, grocery store and restaurant workers are vital personnel necessary to provide minimum health, safety and welfare standards for the citizenry. Recent economic assessments of SRA village applications demonstrate that developers plan to provide housing at prices much higher than the median value for Collier County,³³ which would mean that most essential personnel could not afford to live there. The added language for affordable housing requirements would clarify that communities are required to be equipped with local personnel to provide necessary public services.~~ We also support increasing the minimum and maximum requirements for goods and services under Attachment C (as mentioned in the March 9, 2020 Amendments).

~~Although we agree to the amendment language pertaining to affordable housing and mobility plans, However, the~~ Conservancy does not support an increase in the size of villages and towns to 1,500 acres and 5,000 acres respectively. An increase in the maximum SRA size is antithetical to the goal of the program, which is to discourage sprawl. We agree with staff’s comments in the March 9, 2020 Draft Amendments that the 2009 5-Year Review analysis for supporting the need to increase town and village size is “questionable.” Staff is correct to point out that already the maximum density for towns and villages is four dwelling units (du) per acre, therefore, the minimum of 3,500 residents per 1,000-acre village needed to support a small grocery store can be easily achieved without increasing the size of the village. In order to be economically sustainable, truly walkable and self-sufficient, towns and villages should be more compact not less. Compact versus sprawling development patterns means lower costs for services and infrastructure, and also protects farmland and listed species habitat from being prematurely converted to development.

A better solution than increasing the SRA size would be to amend the RLSA program to increase both the minimum and maximum residential density requirements, with a minimum density set at a level to avoid sprawl (See our comments under GROUP 1 - ADDITIONAL CONSERVANCY RECOMMENDATION (1)).

The 2019 White Paper provides a recommendation to increase density and create more self-sufficient walkable communities. Greater density helps to support essential goods and services, such as a grocery store. Although we believe the density requirements should be higher, based on Naples’ residential density criteria, staff’s recommendation is a good start:

³³ Rivergrass Village and Hyde Park SRA Economic assessments state that the average assessed value of single-family homes is 41% and 26% higher than the County’s median value.

- *Require minimum densities within ¼ mile of a Town Core or Village Center. Based on the SmartCode v.9.2, those areas (center/core plus ¼ mile) should exceed 6 units per acre, excluding acreage for civic uses.*³⁴

AMENDED POLICY 4.7.2 - WHAT WE DO NOT SUPPORT: The Conservancy strongly supports the existing provisions regarding housing diversity and affordability. However, substantial changes were made from the March 9, 2020 version. Important additional language pertaining to housing diversity and affordable housing from March 9, that the Conservancy supported, was removed in lieu of new language found in Amendment 4.7.5. (Please see Policy 4.7.5 for our comments pertaining the new affordable housing language).
~~**WHAT WE SUPPORT:** We agree with the additional language pertaining to diversity of housing and affordable housing to support the mix of uses and employee income levels based on the jobs created in a village. Although affordable housing is already a necessity for creating self-sufficient towns and villages, (our reasons provided under Amended Policy 4.7.1), the amended language provides additional specificity pertaining to affordable housing requirements.~~ **WHAT WE DO NOT SUPPORT:** We recommend that Policy 4.7.2 is amended to prohibit *any* village from being allowed within the ACSC. (Please see our comments under Amended Policy 4.21 regarding ACSC).

AMENDED POLICY 4.7.5 - WHAT WE DO NOT SUPPORT: Substantial changes were made to Policy 4.7.5 from the March 9, 2020 proposed Amendments. Language pertaining to an important “Aggregation rule” was removed and replaced with language pertaining to Affordable Housing. We recommend that the language pertaining to an **aggregation rule** be reinstated for the following reasons:

“We agree that an aggregation rule is important. Currently, developers are attempting to circumvent the requirement for creating self-sufficient communities, places where its residents could live and work. The applicant for Rivergrass, Longwater, and Bellmar Villages, offers a good example of this. Even though the population of the three village equates to nearly the same population of the Town of Rural Lands West, the applicant is attempting to provide far fewer commercial areas, fewer goods and services, a limited range of housing, and less space for civic, government and institutional services, than they would have for Rural Lands West. In fact the same applicant of the three villages recently provided what they call a “Town Conversion” plan for the “Villages of Big Cypress.” The town conversion plan shows areas where additional goods and services, housing, and community parks could be located near the three villages. This plan seems to be an acknowledgement that their plans for separate villages are insufficient.

³⁴ Collier County May 2019 Rural Lands Stewardship Overlay Restudy White Paper (p. 87)
<https://www.colliercountyfl.gov/home/showdocument?id=87491>

The proposed amendment is important. If approved, the amended policy would provide better assurances that RLSA development will accommodate the needs of its residents.

AMENDED POLICY 4.7.5 - WHAT WE DO NOT SUPPORT (CONTINUED): Policy 4.7.5 was completely redrafted and contains new language regarding affordable housing provisions that were not included in the March 9, 2020 version of the amendments. We do not support the new language for several reasons. First, the language is counter to recommendations from Collier County's own Community and Human Services Division. The Division reviewed all new SRA applications and their recommendations for affordable housing have been consistent. Consistent with the RLSA's existing requirements to provide affordable housing, staff from the Division stated that a Housing Needs Analysis should be required for each SRA to address affordable housing demand and a plan to address the supply of needed affordable housing units or the applicant must commit to providing a certain percentage of housing units that will be sold at purchase prices near the Moderate and Gap affordability ranges to meet the County's affordability guidelines.³⁵ The March 9, 2020 Amendments confirmed that a minimum of fifteen (15%) percentage of the residential units within SRAs shall be affordable housing residential units (Policy 4.7.2).

The current amendment language removes the language for a Housing Needs Analysis and a 15% commitment by the developer to provide affordable housing units. Instead, the current Amendment language only requires that the applicant set aside a site for affordable housing, which does not even have to be within the SRA, as the site can be "proximal" to the SRA. This would undermine and weaken the RLSA's existing requirements. The onus of providing affordable housing is placed on "Collier County, a Community Land Trust, a private developer or any other affordable housing provider." Furthermore, even though workers from the affordable housing units may work within the SRA, the amended policy states that traffic from affordable housing units are excluded from the Traffic Impact Statement or trip cap. This language is completely unacceptable and counter to recommendation by Collier County's own staff who work on the issue of affordable housing.

AMENDED POLICY 4.9 – WHAT WE DO NOT SUPPORT: We disagree with removal of "WRA" in the following statement: *"The primary means of directing development away from wetlands and critical habitat is the prohibition of locating SRAs in FSAs, and HSAs, and WRAs."* The proposed amendment is counter to Group 3 objective which, states: *"Policies to protect water quality and quantity and maintain the natural water regime, as well as listed animal and plant species and their habitats by directing incompatible uses away from wetlands and upland habitat through the establishment of Flowway Stewardship Areas, Habitat Stewardship Areas, and Water Retention Areas."* WRAs need protection, which is the reason why WRAs can become sending areas. Many WRA lands contain important

³⁵ As example see Longwater's Housing Review from June 30, 2020 from Collier County's Community and Human Services Housing Department.

habitat for listed species and may include important wetlands systems with high quality Cypress sloughs. As example, 87% of the Shaggy Cypress WRA (pending SSA17) consists of lands scoring over 1.2 and 100% of the WRA is within primary panther habitat.³⁶

Furthermore, we disagree with the amendment language that permits infrastructure to be built on lands over 1.2 NRI. Language within the same policy points to the important ecological value of WRA lands over 1.2 when it states, *“the Index value of greater than 1.2 represents those areas that have a high natural resource value.”* There should be no exceptions for infrastructure, all development shall be directed away from areas having a score above 1.2.

AMENDED POLICY 4.10 - WHAT WE SUPPORT: We support the amended language which would require stewardship credits for open space over 35%. Staff’s reasons [from the March 9, 2020 draft Amendments](#) as to why the language should be removed make perfect sense and we agree. They state, *“This incentive rewards sprawling design by exempting the use of Credits for open space exceeding 35 percent. Open space is defined in the RLSA LDC to include ‘non-usable’ open space related to infrastructure such as landscape areas including right-of-way, parking lot buffers, and water management areas. Incentivizing non-usable open space over 35% conflicts with the RLSA intent of incentivizing compact design.”*

AMENDED POLICY 4.14 – WHAT WE SUPPORT: We agree that a County Build-Out Vision Plan is unnecessary, as the county has a Long Range Transportation (LRTP) process for transportation planning. (Please see our comments under Amended Policy 4.5).

POLICY 4.18 – CONSERVANCY RECOMMENDATION: We recommend amending Policy 4.18, which states, “The SRA will be planned and designed to be fiscally neutral or positive to Collier County at the horizon year, to instead state, “SRAs must be required to show that they are fiscally neutral at the end of each phase or the end of every 5 years, whichever occurs first”.

The “horizon year,” is currently defined in Policy 1.22 to be 2025. The Amended Policy 1.21 would delete this definition. Failure to define a consistently applied “horizon year” will result in uncertainty for applicants and a decrease in economic benefit where fiscal neutrality is not required until some undefined date in the future. And if the SRA stops development short of the stated build-out, what then? The SRA would never reach fiscal neutrality and would likely be a burden to existing taxpayers in perpetuity. Market conditions could change, builders could pull out, or the country could enter a recession. House Bill 7103, which passed in 2019, dictates that counties can no longer collect impact fee dollars upfront. Therefore, the county and taxpayers could be on the hook to pay for infrastructure costs if a development project fails or is floundering, such as was the case for

³⁶ Stewardship Sending Area SSA17 Natural Resource Index Assessment, Revised January 2020.

the Oil Well Road widening project associated with the Town of Ave Maria. SRAs must be required to show that they are fiscally neutral at the end of each phase or the end of every five years, whichever occurs first.

AMENDED POLICY 4.19 - WHAT WE DO NOT SUPPORT: Although we agree that the credit system is in need of a serious recalibration, we recommend that the recalibration is based on the [Conservancy's Plan](#) (Attachment 1) which does a better job at protecting important natural resources than the proposed amendments. Our plan, like the amendments, also incentivizes and compensates landowners (Our comments under Amended Policy 2.2 provides a description of how the Conservancy's Plan works). Furthermore, no basis is provided as to why the recalibration of credits was reduced from 14 credits per acre in the March 9, 2020 draft Amendments to 10 credits per acre in the August 2020 Amendments. According to Florida Statute, "All mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis."

AMENDED POLICY 4.20 - WHAT WE SUPPORT AND DO NOT SUPPORT: We agree that public benefit uses should count toward maximum SRA acreage, but that the maximum SRA acreage for the RLSA should be decreased not increased to 45,000 acres.

AMENDED POLICY 4.21 - WHAT WE DO NOT SUPPORT: During the RLSA 5-Year Review, the Environmental Advisory Council (EAC) stated that villages, like towns, should be prohibited within the Area of Critical State Concern (ACSC).³⁷ We agree. The ACSC was created by the Florida Environmental Land and Water Management Act of 1972 as a way to *"protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources."* Fortunately, Policy 4.7.1 prohibits towns from being built within the ACSC, but an amendment to Policy 4.21 is needed to also prohibit villages from being constructed within the ACSC.

AMENDED POLICY 4.23 - WHAT WE SUPPORT: As in Amended Policy ~~3.14~~ 3.15, we agree that LDC regulations should be implemented to reduce light pollution in order to protect the nighttime environment and wildlife.

GROUP 4 - ADDITIONAL CONSERVANCY RECOMMENDATION (1): We recommend that an additional policy is created for all SRA development to require the use of 100% Florida Friendly Plantings with low irrigation requirements.

³⁷ Comments of the Environmental Advisory Council and RLSA Review Committee Responses. (Final March 10, 2009 As Approved Report of the EAC) p. 4. <https://www.colliercountyfl.gov/home/showdocument?id=24206>

GROUP 4 - ADDITIONAL CONSERVANCY RECOMMENDATION (2):

Wetland systems in the RLSA, such as the Camp Keais Strand and Okaloacoochee Slough (OK), provide important ecological benefits to the county such as storing floodwater, water recharge, the removal of pollutants, and providing critical habitat and habitat linkages to surrounding conservation lands. The 2019 White Paper includes several important recommendations, based on staffs' review of numerous studies, to protect water resources from SRA development. Unfortunately, these recommendations did not make it into the 2020 Draft Amendments. The Conservancy recommends an additional policy (or policies) to improve water resource protections based on the following 2019 White Paper recommendations.³⁸ (Some water resource recommendations may be better suited for Group 3 section and others for Group 4):

- *Require Flowway Management Plans as a part of the SRA approval process to supplement the SSA maintenance functions in a more specific way and to provide a mechanism for flowway management in the absence of established SSAs or to supplement SSA land management activities.*
- *Require clear maintenance obligations through SRAs based on their volume discharge to the flowway, thus assuring perpetual funding (fiscal neutrality) for downstream stormwater management in Flowways.*
- *Encourage filter marshes prior to offsite discharge or discharge into WRAs where appropriate.*
- *Continue to study the need for maximum peak discharge rates for basins within the RLSA to maintain water quality and quantity downstream.*
- *Coordinate with FDOT and other state and local agencies on an SR29 Comprehensive Water Resource Plan aimed at restoring the health of the OK slough.*
- *Continue to monitor aquifer supply and quality through existing federal, state and local programs.*

GROUP 5 POLICIES

AMENDED POLICY 5.1 - WHAT WE DO NOT SUPPORT: We disagree with the 5-Year Recommendation of allowing any infrastructure to be built on lands over 1.2. (Amended Policy 4.9 provides similar language that we oppose. Please refer to that policy amendment in this document for our reasons). Furthermore, directional-drilling for oil and gas extraction and concrete batch making plants should be prohibited in FSAs and HSAs. (See Amended Policies [3.4-3.5](#) and [3.6 3.7](#))

AMENDED POLICY 5.4 - WHAT WE SUPPORT: We agree that it is important for the county to provide a map showing needed wildlife crossing locations. We agree that the map should be incorporated into community, cultural and historical, and transportation

³⁸ Collier County May 2019 Rural Lands Stewardship Overlay Restudy White Paper (p. 86-87)
<https://www.colliercountyfl.gov/home/showdocument?id=87491>

planning for the RLSA, including all SRAs. The Conservancy would like to provide assistance in creating the map of proposed wildlife crossings.

AMENDED POLICY 5.5 - WHAT WE SUPPORT: We support the additional language that includes Species of Special Local Concern (SSLC), however the definition of SSLC should be provided, since nowhere in the LDC or GMP is the term defined

AMENDED POLICY 5.5.2.a - WHAT WE SUPPORT: We support the following amended language that states, “The most current and completed data and local, state, and federal guidelines and regulations shall be utilized to prepare the required management plans.”

WHAT WE RECOMMEND: Not only should the most current and complete data be utilized for management plans within Group 5 Policies, but the *entire* RLSA program should be updated with best available science. Because the RLSA Overlay is based on data from the year 2000, and does not consider the importance of new best available science, the program does not achieve its goal of protecting listed species and their habitat. This is the reason why over half of the Open areas are also within primary panther habitat. (See our comments under Amendment Policy 2.2)

AMENDED POLICY 5.5.3 - WHAT WE RECOMMEND: We recommend that our proposed underlined language is added to the following sentence: “*The County shall, consistent with applicable policies of this Overlay, consider and utilize recommendations and letters of technical assistance from the Florida Fish and Wildlife Conservation Commission and recommendations from the US Fish and Wildlife Service in issuing development orders on property utilized by or potentially occupied by listed species or SSLC.*”

AMENDED POLICY 5.6.3.f.iv - WHAT WE DO NOT SUPPORT: Exotics removal and maintenance is not acceptable mitigation for the loss of wetlands and listed species habitat. Exotics removal should *only* be considered acceptable mitigation for secondary wetland impacts. Furthermore, mitigation for direct wetland impacts solely with exotics removal or maintenance is contradictory to Policy 5.6.3.f, which states, “*Mitigation shall be required for direct impacts to wetlands in order to result in no net loss of wetlands functions.*”

PROPOSED POLICY 3.7 of the Transportation Element (Delete) - WHAT WE SUPPORT: We support the removal of the 5-Year Review’s recommendation for a proposed Policy 3.7 of the transportation element of the GMP. We agree [with staff’s comments from the March 9, 2020 draft Amendments](#) that adding another transportation planning process is unnecessary. Furthermore, the creation of a County Build-Out Vision Plan that would “*define[s] existing roadways that need to be improved, all proposed roadways, and the facility type and lane needs,*” puts the financial responsibility on the taxpayers for construction and mitigation costs of new and expanded roads. Those costs should primarily be the responsibility of the developers who choose to build in the RLSA.

In addition, we agree with the statement that Immokalee should be the focus for a central location to provide many of the public services needed for long-term future growth.

B. Conservancy's Comments on the draft *Collier County 2020 Stewardship Credit Analysis*:

The Conservancy is providing a few comments, questions, and suggestions that we hope are addressed in the final version of Collier County's stewardship credit analysis.

- 1. The removal for the potential for Baseline Development has not been demonstrated:** (Please see comments under Amended Policy 1.22).
- 2. It appears that scores for "Restoration potential" were not considered when estimating the total base credits:** "Restoration potential" is one of six index factors that make up the total Natural Resource Index (NRI) score for each acre of land in the RLSA. The NRI score is an integral part of the Stewardship Credit Matrix and is necessary for calculating the number of base credits that are available per acre. During the RLSA Study each acre of land within the RLSA was assigned an index value for 5 of the 6 indices; however, a score for restoration potential index was not provided at that time.³⁹ That is because the score for restoration potential is determined during the SSA application process and if the applicant is able to demonstrate that the SSA has a restoration potential.⁴⁰ This makes it difficult, if not impossible, to determine how many base credits could be generated at 100% participation.

The 2020 Credit Analysis estimates that there is a possible total of 144,803 base credits and the 5-Year Review estimated that there were 128,000. However, unless the *restoration potential value* is included to determine a total NRI score for each acre of FSA, HSA, and WRA land, it is not possible to accurately estimate the total potential base credits under the RLSA. It does not appear that restoration potential was considered. However, *if* restoration potential was considered for the 2020 Credit Analysis, it is important to know what assumptions were made to determine how the restoration potential over the entire RLSA would increase the total base credits.

We looked at four of the most recent SSA applications (SSA14-SSA17) to understand how extensively base credits could increase from restoration potential. Our analysis determined that for those four applications the NRI values were increased

³⁹ Collier County Land Development Code 4.08.06.B.3.b

⁴⁰ Collier County Land Development Code 4.08.06.B.3.e

between .4 and .5 points over 7,497 acres of land.⁴¹ Since SSAs 14-17 total 12,559.1 acres, then 60% of the total acreage for SSA14-SSA17 would receive an increase in NRI values.⁴² Without knowing which layers were removed on each of the 7,497 acres, it is difficult to determine the exact increase in base credits from restoration potential; however, our analysis clearly demonstrates that restoration potential would substantially increase the number of base credits in the RLSA.

It is also important to note that even though values for restoration potential increase the NRI value, which results in additional base credits, **there is no requirement to provide any restoration work.** SSA 17 provides a perfect example. Although the applicant is claiming restoration potential on 741 acres of land, the applicant provided no plans to complete the restoration work.

3. **We believe restoration credits (R-1 and R-2) are underestimated:** The March 2020 Credit Analysis⁴³ assumes that approximately 29% of the total SSA acreage eligible to earn R-1 and R-2 credits would be proposed for restoration. However, the May 2019 White Paper states that 34% of the existing SSA acreage is proposed for restoration and that there are no regulations prohibiting landowners from amending SSA applications to apply for additional restoration credits.⁴⁴ The Conservancy reviewed the RLSA policies and found that 100% of SSA lands eligible to receive restoration credits would qualify.⁴⁵ That is because the land development code is written in such a way that 100% of Flowway Stewardship Areas (FSAs), Habitat Stewardship Areas (HSAs), and Restoration Zones would be eligible to earn restoration credits. (The Conservancy's analysis of the total number of stewardship credits can be found on p. 48 [our RLSA report.](#))

Whether its 29%, 34%, or 100% of the SSAs that will generate restoration credits, it is critical to get the credit count right. As stated previously, if landowners understand that they have the ability to earn excess credits beyond the proposed cap, they will likely challenge the cap and demand the cap is removed.

4. **Pending credits?:** A count of pending credits in the 2020 Credit Analysis would be helpful for understanding the amount of SRA development that is currently on the

⁴¹ SSA14 Amendment, if approved, would increase the total NRI scores between .4 and .5 points over 1,342.6 acres of land. Approved SSA15 Amendment increases NRI scores between .4 and .5 points on 4,671 acres of land. SSA16 Amendment, if approved, would increase the total NRI scores between .4 and .5 points over 742.1 acres of land, and SSA17 Application, if approved, would increase the total NRI scores between .4 and .5 points over 741.3 acres of land. Sources: Passarella and Associates SSA14 Amendment NRI Assessment, January 2020, p. 4; Passarella and Associates SSA15 Amendment NRI Assessment, November 2019, p. 4; Passarella and Associates SSA16 Amendment NRI Assessment, September 2018, p. 4; Passarella and Associates SSA17 Amendment NRI Assessment, January 2020, p. 4.

⁴² SSA 14 = 1,712.9 acres; SSA15 = 5,253.4 acres; SSA16 = 2,876.2 acres; SSA17 = 2,716.6 acres. (Sources are provided in footnote 38).

⁴³ Collier County 2020 Stewardship Credit Analysis (March 2020), p. 7

⁴⁴ Collier County Rural Lands Stewardship Area Overlay Restudy White Paper (May 21 2019). Prepared by the Growth Management Department, Community Planning Staff. p. 49 of 89 (p. 55 of pdf) <https://www.colliercountyfl.gov/home/showdocument?id=87491>

⁴⁵ Conservancy of Southwest Florida (January 2019). Report: Critique and Recommendations of Collier County's Rural Lands Stewardship Area Program: 2018-2019 RLSA Restudy. p. 49 (57 of 64 of pdf.) <https://www.conservancy.org/file/RLSA-Overlay.pdf>

table. We found that pending stewardship credits equal 20,330.71 (for SSA17 and SSA14 and 16 Amendments). If all credits are approved, those credits would add an additional 2,795 SRA acres, increasing the total potential SRA acreage from 27,127 acres to 29,922 acres (includes 10% for public benefit). The SRA potential with pending credits equals 66% of the proposed 45,000 acre cap.

5. **How many villages/towns would fit in the RLSA?:** Examples of possible development scenarios would help to better understand and visualize what development in the RLSA could look like at 45,000 acres. As an example, the current trend has been toward planning for villages. If we take off 5,000 acres for the Town of Ave Maria, that leaves 40,000 acres left for SRA development. If all villages were 1,000 acres, then there could be 40 separate villages spread throughout the RLSA, in addition to Ave Maria. If the villages were smaller, there would be even more. This is not a development scenario that many thought was possible when the program was adopted. A further discussion of development scenarios should be discussed.

6. **Figure 1 graph on page 2 is misleading:** The pie graph uses the term “natural resources in SSA” which could either mean that SSAs are held in conservation or SSAs are held in the Agricultural2 (Ag2) land use layer. A reader could easily misinterpret the graph and believe that most of the approved SSAs have had all layers removed down to the conservation layer, when in reality only 1% of total SSA lands are in conservation.⁴⁶ A clear distinction must be made between the “Ag2” and “conservation” layers to provide the public with a transparent assessment of the program. We recommend that the graph is modified to depict all land use layers of approved SSAs.

7. **The amount and type of restoration should be addressed in the credit analysis:** Policy ~~1.21 1.22 (Amended Policy 1.21)~~ provides specific measures of review of the RLSA Overlay. One of those measures requires a review of the following: *“The amount, location and type of restoration through participation in the Stewardship Credit System since its adoption.”*

More than half (52%) of the total credits earned are stewardship restoration credits.⁴⁷ Yet, less than 1% of the 50,000 acres of SSAs have been restored.⁴⁸ The system is not working. This should be addressed in the credit analysis.

⁴⁶ Collier County Rural Lands Stewardship Area Overlay Restudy White Paper, May 21, 2019, p. 15-16/89. Table B-3 also shows that only 1% of SSA lands are in conservation.

⁴⁷ The Draft 2020 Credit Analysis states that 197,288 stewardship credits have been approved (p 11). Total R-1 and R-2 credits earned = 103,331. Math: 103,331/197,288 = .523 or 52%. (Sources: Collier County 2020 Stewardship Credit Analysis, p. 11; Collier County RLSAO Program Status sheet 3-1-19; and Executive Summary for SSA 15 Amendment, approved January, 2020).

⁴⁸ Only 428 acres of 50,430 acres of SSAs have been restored (this excludes acreage for SSA15 as it was recently approved). Source: Collier County Rural Lands Stewardship Area Overlay Restudy White Paper, May 21, 2019, p. 7/89.

While we appreciate that the May 2019 White paper evaluated the amount of restoration to date, the 2020 Credit Analysis is the final document for review, so it should include an analysis of all three measures: the amount, type, and location of restoration. A transparent analysis of restoration credits earned versus actual restoration work completed must be provided. (See our discussion of restoration credits under AMENDED POLICY 3.10.1)

8. **An analysis of credits for use in urban areas should be included:** Amended Policy 1.21 1.22 (Amended Policy 1.21) unfortunately removes the requirement for an analysis of “the potential for use of Credits in urban areas” during a review of the RLSA program. however, Also, this was not included in the credit analysis.

C. Unanswered Questions:

Upon review of Collier County’s *2020 Draft RLSA Overlay Proposed Amendments*, the Conservancy has several questions we hope will be answered during the public hearing process:

1. After considerable public input and two years’ of workshops, Collier County staff presented the May 2019 White Paper of recommendations.⁴⁹ The document states, “The White Paper provides a framework to address improvements to the Rural Lands Stewardship Area.” While it is understandable that not all white paper recommendations would make it to the draft amendment stage, it is concerning that the majority, 17 out of 24, of the recommendations that provided important water resources and environmental protections were not addressed in the Draft Amendments. In fact, very few of the White Paper recommendations made it into the 2020 Draft RLSA Amendments, unless the recommendation was also from the 5-Year Review. Why is this? (A list of the important recommendations that did not make it to the Draft 2020 Amendments is provided in the last section of this paper).
2. Forty-five thousand acres-worth of towns and villages would be a magnet for 5-acre ranchette development within the remaining Open lands, which is the very thing the program was supposed to prevent. The draft amendments do not solve this issue. Will the county address this issue before the amendments are adopted?

⁴⁹ Collier County May 2019 Rural Lands Stewardship Area Overlay Restudy White Paper. <https://www.colliercountyfl.gov/home/showdocument?id=87491>

3. Eastern Collier Property Owners (ECPO) have plans to maximize the full SRA development potential of the RLSA, up to 45,000 acres.⁵⁰ However, their own “HCP” plan states that there are “*over 20,000 acres of non-ECPO private property within the RLSA.*” They further state, “*These non-ECPO lands may later be voluntarily incorporated into the Plan*” (HCP).⁵¹ What will Collier County tell those other landowners if they wish to build towns or villages, even though one group, ECPO, has plans to maximize the entire SRA development potential of the program?
4. Half of the total stewardship credits earned under the RLSA program are restoration credits, while at the same time less than 1% of all SSA lands have been restored. This clearly shows that restoration credits are not incentivizing restoration. How will Collier County solve this issue?
5. Award-winning town planners Dover, Kohl & Partners (Dover Kohl),⁵² created *Toward Better Places: The Community Character Plan for Collier County, Florida*.⁵³ The plan was developed over a yearlong process and included nearly 400 participants from Collier County. The final product is a plan that provides the framework for how citizens of Collier County would like their community to grow. During the 2018-2019 restudy process, the public and staff mentioned the importance of the document. Collier County’s Community Character Plan⁵⁴ is important to the RLSA and SRA development and should be used as a basis for improving design standards for Stewardship Receiving Areas. Why was that not done for this review?
6. During the 2018-2020 restudy, Collier County hired Urban Three, a nationally renowned urban planning consulting firm, to review the RLSA program. Urban Three provided recommendations⁵⁵ to improve the RLSA program, including moving toward Form Base Development codes and increasing maximum densities. That report is nowhere to be found in the county’s RLSA webpages. Why did the county *not* consider Urban Three’s recommendations when drafting the RLSA amendments?

⁵⁰ Stantec Consulting Services. Eastern Collier Multiple Species Habitat Conservation Plan (HCP). August 2018. Prepared for Eastern Collier Property Owners, LLC (ECPO).

⁵¹ Ibid. p. 8.

⁵² Dover, Kohl & Partners have received awards from American Planning Association, Environmental Protection Agency, and Congress for New Urbanism, webpage: <https://www.doverkohl.com/awards-2/>

⁵³ Dover, Kohl & Partners for Collier County (2001, April) “Toward Better Places, The Community Character Plan for Collier County, Florida,” <https://www.colliercountyfl.gov/home/showdocument?id=72825>

⁵⁴ Dover, Kohl, & Partners (2001, April). “Toward Better Places: The Community Character Plan for Collier County, Florida.” <https://www.colliercountyfl.gov/home/showdocument?id=72825>

⁵⁵ Urban Three: Collier County Town and Village Analysis.

D. Important Recommendations from the 2019 White Paper that were Not Addressed:

Several important recommendations provided in the May 2019 White Paper were not carried over to the current draft 2020 RLSA Amendments. This is concerning as these recommendations were a result of public participation following numerous workshops and public comments. The following list includes White Paper recommendations we believe should be addressed and/or included in the 2020 RLSA Amendments.

Water Resources:

- *Continue to study the need for maximum peak discharge rates for basins within the RLSA to maintain water quality and quantity downstream.*
- *Encourage filter marshes prior to offsite discharge or discharge into WRAs where appropriate.*
- *Require flowway management plans as part of the SRA approval process to supplement the SSA maintenance functions in a more specific way and to provide a mechanism for flowway management in the absence of established SSAs or to supplement SSA land management activities.*
- *Coordinate with FDOT and other state and local agencies on an SR29 Comprehensive Water Resource Plan aimed at restoring the health of the OK slough.*
- *Continue to monitor aquifer supply and quality through existing federal, state and local programs.*

Environmental Protection:

- *Require applicants to address the effects of potential SRA development on adjacent SSA values when SSAs are proposed.*
- *Foster further data and vetting of the land management and restoration recommendations prior to Transmittal. (The public proposed numerous recommendations for improving restoration plans. None of those recommendations were implemented)*
- *Add specific exotic vegetation control measures to the SSA agreement and easement and require a maintenance standard that assures no greater infestation than that existing at time of SSA designation.*
- *Consider, through the LDC amendment process, any additional specific maintenance standards that should be included in all future SSA agreements and easements.*
- *Allow restoration area applications only once within any single SSA.*
- *Engage an independent third party prior to Transmittal to study the needed restoration activity in RLSA private lands so that needed restoration credits can be reasonably estimated and structured; add specificity to restoration standards and*

objectivity to the acres claimed by different restoration types; review with permitting agencies and land managers.

- *Structure restoration credits so that needed restoration is assured in return for the maximum credit and acreage footprint of SRA development.*
- *Require third party approval and monitoring of Restoration Plans if no ERP permit process is required. The County may use an agency consultation process or contract.*
- *Require clear maintenance obligations through SRAs based on their volume discharge to the flowway, thus assuring perpetual funding (fiscal neutrality) for downstream stormwater management in Flowways.*
- *In exchange for voluntary participation in the RLSA overlay system, land use layers 1-4 shall be eliminated in HSAs, with the exception of governmental essential services.*
- *Provide an avenue for County purchase of land or credits in the RLSA; create LDC standards for discretionary approval of private entity purchase and use of credits for high density projects in the Urban area; explore opportunities for County purchase of easements in coordination with the identified state programs.*
Reduce speed limits along collector and arterial roadways, particularly at night.

Towns, Villages, and Other Developments:

- *Require minimum densities within ¼ mile of a Town Core or Village Center. Based on the SmartCode v.9.2, those areas (center/core plus ¼ mile) should exceed 6 units per acre, excluding acreage for civic uses.*
- *Propose a required acreage set-aside for corporate office, light industrial or business park, available for sale or lease for a specific number of years for economic development.*
- *Allow corporate office, light industrial and manufacturing uses in Villages.*
- *Require Flowway Management Plans as a part of the SRA approval process to supplement the SSA maintenance functions in a more specific way and to provide a mechanism for flowway management in the absence of established SSAs or to supplement SSA land management activities.*
- *Require all homebuilders in the RLSA to offer a Universal Design option in the sale of new homes.*
- *Review SRA Applications with careful attention to fiscal neutrality at a reasonable horizon date and closely scrutinize calculations and methodologies to assure that SRAs become fiscally positive by the horizon date or impose special assessments.*
- *Require annual monitoring reports to gauge the status of all developer commitments associated with the SRA and developer contribution agreements.*

Credit System:

- *Procure an independent analysis of the definitions and estimated acreages associated with a revised Restoration program prior to Transmittal hearings, considering the 5-year Review “tiered credit system approach and alternatives, including the*

FWF/Audubon approach; the analysis should be based on incentivization of restoration activities in all needed areas and a credit calibration and cap so that will no more credits are produced than necessary for 45,000 acre SRA footprint. (The Conservancy was concerned that an independent analysis was not conducted and alternative credit approaches not pursued, including [Our Vision Map](#))

- *Provide the third-party analysis to stakeholders and public for further vetting prior to Transmittal hearings.*
- *Cap credits within the categories of base credits, restoration credits and agricultural credits separately.*

Attachment 1: Conservancy's Vision Plan for RLSA

