



Planning & Zoning Division
2800 North Horseshoe Drive, Naples, FL

To: RLSA File
From: Kris Van Lengen
Date: February 12, 2018
Re: RLSA development footprint: concept and history

This memorandum provides an historical and conceptual outline of references to a development footprint in the Rural Lands Stewardship Area (RLSA). The documents reviewed include those listed below; references in this memo will be shown by the document number in bold, followed by page number:

- 1. The Report and Recommendations of the Collier County Rural Lands Assessment Area Oversight Committee for the Immokalee Area Study, prepared by WilsonMiller**
- 2. May 16, 2002, Transmittal Hearing Staff Report to CCPC**
- 3. May 16, 2002, Transmittal RLSA Plan language**
- 4. May 24, 2002 CCPC Transmittal Hearing Minutes**
- 5. June 12, 2002 BCC Transmittal Hearing Executive Summary**
- 6. June 12, 2002, Transmittal Hearing, BCC, Transcript**
- 7. SWFRPC Review, prepared by David Burr, Interim Executive Director**
- 8. DCA's ORC Report, and responses thereto prepared by WilsonMiller**
- 9. October 17, 2002 Adoption Hearing, CCPC, Minutes**
- 10. October 22, 2002, Adoption Hearing, BCC Executive Summary**
- 11. October 22, 2002 Adoption Hearing, BCC, Transcript**
- 12. RLSA GOPs**
- 13. 5-Year Review Committee; Findings and Recommendations; Phase 2 Report**

- A. Report and Recommendations of the Collier County Rural Lands Assessment Area Oversight Committee (Report)

A BCC-appointed committee made up of a broad base of stakeholders guided the work of WilsonMiller, consultant, through a 2+ year process of data collection, analysis and recommendations leading to this Report. The Committee included:

Ron Hamel, Exec. V.P., Gulf Citrus Growers Association

Fred Thomas, Exec. Director, Collier County Housing Authority

Michael Bauer, Florida Audubon/Corkscrew Swamp Sanctuary

Joseph Boggs, Professional Surveyor and Mapper

Floyd Crews, Owner, Southwest Florida Service and Supply

Rodney D. Harvey, Realtor, Naples Realty Services, Inc.

James Horner, Retired College Professor and Administrator

James Howard, Senior V.P., First Union National Bank

Grady Miars, Project Manager, Bonita Bay Group, Inc.

Ann Olesky, Business Owner, Lake Trafford Marina

Kathy Prosser, The Conservancy of Southwest Florida

David Santee, Agency Manager, Florida Farm Bureau

Neno Spagna, Phd., Planning Consultant

Sonya Tuten, Business Owner, Agronics Irrigation Computer Technician

The Committee also utilized the efforts of a Technical Advisory Committee made up of the following individuals:

Bob Cambric, Growth Management Administrator, FL Dept. of Community Affairs

John Limbaugh, Intergovernmental Liaison, FL Dept. of Transportation

Kim Dryden, Office of Ecological Services, US Fish and Wildlife Service

David Burr, Planning Director, Southwest Florida Regional Planning Council

Big Cypress Basin, South Florida Water Management District

Jim Beever, Florida Fish and Wildlife Conservation Commission

Tiphonie Jinks, Planning Division, US Army Corps of Engineers

John Folks, Florida Dept. of Agriculture

The initial RLSA study established a methodology and set of parameters to test different scenarios within the study area. These parameters included the use of the MPO 2025 projected population, and the base density allowed at the time of the study, 1 unit per 5 acres. The study methodology and findings within the Report concluded, "Zoning entitlement of 1 unit per 5 acres determines the number of units currently allowed – 36,466. Using an average gross density for compact rural development of 2.17 units per acre, only 16,805 acres would need to be set aside for the buildout

density in compact rural development. The credit calculation process results in an exchange rate of 8 Sending Area credits per acre of Receiving Area land. The process yields the assumed number of rural development acres that are eligible to become designated Receiving Areas based upon the estimated peak number of credits generated by Sending Areas.” (1. P.40)

The Report also recommended additional credits for Restoration activities on a “case by case” basis. There are no direct statements indicating how these additional credits would potentially expand the baseline footprint of 16,805 acres. (1. P. 49) Given the recommended basis for exchange, Sending to Receiving, at 8 credits per acre, it follows that bonus credits would necessarily expand the predicted development footprint at maximum program participation.

B. The Transmittal Hearing Process

The RLSA study was included in the Comprehensive Plan Amendment transmittal documents, and the same population and density parameters were used to describe the plan structure in the Transmittal Hearing staff report, “It is estimated that the “8 credit requirement” will set aside approximately 16,800 acres, or 9% of the Study Area for clustered development. It is estimated that only 6,700 acres would be needed to meet the Study Area’s population projections for the year 2025.” Staff’s conclusions and recommendations state, “It is believed that the adoption and implementation of the RLSA will not result in an increase to the total number of allowable dwelling units or population in the Eastern Lands area, but rather result in a re-allocation of the density and population allowed under the baseline standards (pre-Final Order conditions) from a land-consuming checkerboard pattern into compact, clustered developments.” (2. p. 5, C. p.3)

The language in the proposed Growth Management Plan amendment (GMPA) incorporating the new RLSA overlay did not specifically limit the development footprint at build-out. It did provide the Natural Resource Index Values, layer multipliers and credit redemption requirements (8 credits for SRA development) contained in the Assessment. (3. p. 52 and Appendices). In addition, the Plan language contained the recommendation for a “case by case” bonus credit allocation for restoration activities, as well as bonus credits for early entry Stewardship Sending Area designation.

The Collier County Planning Commission (CCPC) hearing was held on May 24, 2002. Minutes of the meeting include discussion of bonus credits, including Early Entry and Restoration credits. Following discussion, the CCPC voted 8-0 in approval of the GMPA amendment language, subject to select language modifications. (4. P. 3-5)

During the weeks leading up to the BCC Transmittal Hearing, the Assessment Committee met twice. According to testimony at the Hearing, the attorney for the Eastern Collier Property Owners (ECPO) also met with representatives of Audubon Society and Florida Wildlife Federation to discuss environmental concerns that had not been addressed previously. Specific geographic locations within the RLSA, in the opinions of these environmental groups, were not being adequately protected. As a result, a map change affecting 4877 acres was added, bringing this additional protected area into Stewardship Sending areas, thus increasing wildlife protection,

increasing potential credits and ultimately the build-out development footprint at 8 units per acre. (6. p.23-27)

The Assessment Committee met on June 3 and voted unanimously in approval of the GMPA language as modified after the EAC and CCPC Hearings, for presentation to the BCC. (6. p. 28-29)

During the Transmittal Hearing, concerns were raised about the location of SRAs in the Open areas, the character of land uses within SRAs, the procedures for establishing SSAs and SRAs and whether Early Entry bonus credits would be necessary. (6. p. 34-35)

The BCC approved the Transmittal document, 4-0.

C. Objections, Recommendations and Comments (ORC) Report

The Florida Department of Community Affairs (DCA), in their Objections, Recommendations and Comments (ORC) report questions the forms of SRA development. The responses provided by WilsonMiller were consistent with the Report and Recommendations reflecting a re-allocation of underlying density, without qualification: “The population to be accommodated under the Overlay is the same population projected by Collier County for the RLSA prior to the amendment. The premise of the RLSA study has been consistent since its outset with respect to its reliance on previously projected population data. The form of compact rural development established as a result of the Overlay reduces the potential for sprawl by allowing that population to be accommodated on a development footprint that is approximately 90% less than required without the Overlay.” (8. P.2)

The Assessment’s description of redistribution of baseline density appears to be the basis for some review agency comments during the ORC review period. The Regional Planning Council stated: “With the County’s commitment to follow-through with the implementation of the RLSA and because no additional population or housing units are being added to the Eastern Lands area of the County, the proposed amendment is consistent with and helps implement Goals and Policies of the Strategic Regional Policy Plan, August 1995.” (7. p. 6)

D. Adoption Hearing Process

DCA’s ORC Report also recommended changes to policy 1.21 and 3.11 to further define early entry bonus credits and restoration credits. In response to the recommendation, the subject credits were further defined, resulting in a change to the original credit system. Policy 1.21 reduced early entry bonus credits: from one half credit per acre of FSA, HSA or WRA, to one credit per acre for HSA outside of ASCA, and one-half credit per acre for HSA inside the ACSC. A maximum was added of 27,000 early entry bonus credits.

Policy 3.11 changed restoration credits. Originally described as “case by case”, these were now quantified on a per acre basis as requested by DCA. Within Camp Keais Strand FSA or HSA, 4 credits per acre were added for dedicated lands and 4 credits per acre for completion as defined by a permitting agency. In all other areas, an additional 2 credits per acre were added for

dedication, and 4 credits per acre for completion as defined by a permitting agency. Policy 3.12 changed the index score of lands within 500 feet of major sloughs from 0.5 to 0.6.

The table below summarizes the major bonus credit changes from transmittal to adoption.

	Transmittal*	Adoption**
Early entry bonus credits	42,382	27,000
Base credits	127,151	128,000
Restoration credits	TBD on case by case basis	160,000
Total credits	169,533 + some restoration	315,000

*source RLSA Study, Appendix J, prepared by WilsonMiller, dated May 2002

**source WilsonMiller memo to Tom Greenwood, dated Dec 5, 2008

While the credits changed from the transmittal hearing to the adoption as noted above, the calibration for 8 credits per acre of SRA remained unchanged. This results in the potential for greater SRA development acreage, in addition to the SRA acreage potential at Transmittal.

The CCPC Adoption Hearing included some discussion about “baseline” density and bonus provisions, as well as the addition of nearly 5,000 acres to Habitat Stewardship Area status. A question was raised by the CCPC regarding bonus credits- if they increase potential units from 39,000 to 80,000, how is that less of an impact compared to baseline (agricultural zoning)? Attorney for the Assessment Committee, Nancy Linnan, explained the problems with sprawl style development, including well, septic, roads and the fragmentation of the rural environment. (9 p. 14) The Environmental NGOs in attendance and other stakeholders supported the Adoption language, and the CCPC voted 7-0 in support.

The Executive Summary prepared by staff for the final adoption hearing in October 2002, maintained the same description with no change from previous wording. “Although there are 93,000 acres of potential SRAs, it is estimated that the “8 credit requirement” will set aside approximately 16,800 acres, or 9% of the Study Area, for clustered development. It is estimated that only 6,700 acres would be needed to meet the Study Area’s population projections for the year 2025. It is believed that the adoption and implementation of the RLSA will not result in an increase to the total number of allowable dwelling units or population in the Eastern Lands area, but rather result in a re-allocation of the density and population allowed under the pre-Final Order conditions from a land-consuming checkerboard pattern into compact, mixed-use developments.” (10. p. 40)

Reviewing the minutes of the BCC adoption hearing, there were no questions, comments or clarifications regarding the bonus credits, the development acreage or staff’s statements made in the Executive Summary. The Adoption package included a strikethrough/underlined version of the proposed GMPA language, highlighting the changes made since Transmittal and DCA review,

including stewardship area acreage adjustments and changes to bonus provisions. Far from a technical or obscure document, the underlying GMP amendment language was a mere 24 pages in length.

As expressed to the BCC by Gary Davis on behalf of the Conservancy of SW Florida: "...I did meet with a couple of you last week and shared some concerns that we still had. And I wanted to make it clear that we can fully support the Plan as it's come to you today. It's a dramatic improvement over what we saw back at Transmittal time, through the efforts of the DCA and through the efforts of the various parties who have been negotiating this over the last week. We did some hard work to get where we are today. And as Brad [Cornell] said, not everybody got what they wanted, but I think we're in good support of this plan as its coming forward, and we urge you to adopt it today." (9. p. 119)

The RLSA GOPs in effect today are substantially unaltered from the Plan enacted in October 2002. The Plan does not specify a maximum development footprint, but anticipates and encourages credits far in excess of the 16,800 acre conversion from baseline density. The only existing policy that references the baseline density conversion is Policy 2.1: "Analysis has shown that SRAs will allow the projected population of the RLSA in the Horizon year of 2025 to be accommodated on approximately 10% of the acreage otherwise required if such compact rural development were not allowed due to the flexibility afforded to such development. The combination of stewardship incentives and land efficient compact rural development will minimize two of the primary market factors that cause premature conversion of agriculture."

The Study Area's population projection and density parameters, and the credit calibration of 8 credits per acre, were initially related to reallocating the allowed density prior to the RLSA, resulting in an estimated 16,800 acres of cluster development at buildout. However, this acreage limitation was not expressly included in RLSA policy, and the evolution, refinement and addition of restoration credits, additional protection areas, early entry bonus credits and other modifications resulted in a much larger potential development impact. These modifications were supported by environmental policy considerations, not the least of which was the encouragement of restoration activities at the expense of the large landowners rather than taxpayers.

On December 10, 2002, DCA issued its Notice of Intent to find the RLSA GMPAs in compliance with Chapter 163 and the Final Order.

E. The Five-Year Review Findings

A policy within the existing RLSA Growth Management Plan includes the requirement to review the Plan provisions upon the 5-year anniversary of its adoption. (12. Policy 1.22) Like the original assessment committee, this committee was made up of a broad base of stakeholders and community leaders:

Ron Hamel, Exec. Director, Gulf Citrus Growers Association

Neno Spagna, Land Planner and Golden Gate Activist

Brad Cornell, Collier County Audubon Society and Audubon of Florida Policy Advocate

Gary Eidson, North Naples Activist and former Chair, Citizens Transportation Coalition

David Farmer, Land Planner and Engineer

Jim Howard, Wachovia Real Estate Financial Services Manager

Tom Jones, Vice-President, Barron Collier Companies

Bill McDaniel, President, Corkscrew Island Neighborhood Association and Mining Contractor

Tammie Nemecek, President, Economic Development Council, Collier County

Fred Thomas, Immokalee Activist and former Housing Authority Exec. Director

Dave Wolfly, Collier County Planning Commission

It was not until this 5-year review that a thorough assessment of program credits was undertaken, both existing (previously issued) and potential. At the same time, the Committee believed that additional program elements, using the credit system, should be applied to better protect agriculture, incentivize panther corridors, restructure the restoration credits and balance the credit system overall.

In its assessment of existing and potential credits under the existing Plan, including Base credits, Early Entry credits and Restoration credits, the Review Committee estimated that 315,000 credits could be earned at 100% participation. This equates to an SRA development footprint of 39,375 acres. The Committee also recognized that credits are not required for “public benefit” uses (schools, regional parks and some governmental facilities). Based on an estimate that 10% of land area within a Town or Village could be public benefit uses, the footprint created through credits could in fact be 43,312 acres. (13, Section 3 Supporting Documentation, p. 75-82)

The important substantive recommendations from the Committee were structured in a way that required incentives in the form of additional credits. These included:

- Agricultural Land credits within the “Open” areas of the RLSA, in order to place up to 43,700 acres of non-SRA (Town/Village, etc.) acres under agricultural easements, thus eliminating the possibility that such acreage could someday turn into “5-acre ranchettes”, viewed by the Committee as the worst example of sprawl.

Additional credits for Agricultural protection: 89,000 credits

- Panther Corridor credits within the “Open” areas of the RLSA, to assure connectivity contemplated by the Panther Protection Plan

Additional credits for Panther corridors: 23,000 credits

- Restructuring the Restoration Credit system to better reflect value by type of restoration, resulting in a small decrease in total potential (a 6,000 credit reduction)

New estimate of Restoration credits: 154,000 credits

The sum of all potential credits under the existing Plan and the recommended changes totaled 463,104 credits, enough to allow the possibility of 57,888 acres of SRA development at build-out. In its recommendation to retain the bonus credits, and to extend bonus credit treatment for these new recommendations, the Committee proposed the following:

- Permanently eliminate the potential of any extension on Early Entry bonus credits, eliminating any unused credits
- Increase the number of credits required per acre for development, from 8 to 10, derived from future approved SSAs.
- Institute a cap on development acres or on total credits

Thus, the total credits under the above recommendations would result in (a) a reduction of the total theoretical development footprint from 57,888 acres to 47,120 acres. Then applying a cap on acres or credits, the Committee recommended no greater than 45,000 acres of SRA footprint. The Committee noted that the footprint includes both public benefit uses (10%) and open space within each development of 35%. (**13**. Section 3 Supporting Documentation, P. 75-82)

At the Public Hearing, Board of County Commissioners, April 21, 2009, there was considerable debate as to whether a credit cap or an acreage cap would be the most effective limitation for development. Otherwise, the public and stakeholders found substantial consensus with the recommendations made. During that hearing, Commissioner Coyle proposed that, rather than deciding whether credits should be capped at 404,000 or SRA acres capped at 45,000, the parties might agree to do both. There was consensus on that proposal, including consensus from Florida Wildlife Federation, Audubon of Florida, Conservancy, ECPO and the Board of County Commissioners. (**13**. p. 148-149)

Following consensus at that hearing, the Growth Management Plan was not later amended, apparently due to some contention as to who should pay for the cost of the GMP amendments, how the cost would be calculated, and the fact that the economic downturn continued to appear intractable.

F. Today

Presently, the Growth Management Plan elements adopted in 2002 remain in place with little alteration. The credits issued through the creation of the SSAs as of January 2018, total 129,987, equivalent to 16,987 acres of SRA development footprint. These credits were derived from 15

approved SSAs, providing easements over 50,431 acres, primarily Habitat Stewardship Areas (HSAs) (28,233 acres), Flowway Stewardship Areas (FSAs) (17,905 acres) and Water Retention Areas (WRAs) (3,071 acres). The County's Stewardship Sending Log can be found at: <https://www.colliercountyfl.gov/your-government/divisions-a-e/comprehensive-planning/rural-land-stewardship-area-rlsa-overlay-program/towns-hamlets-rural-lands-stewardship-area-overl/-fsiteid-1>.

The approved SSA's cover approximately 55% of the HSAs, FSAs and WRAs, leaving 45% without easement protection. Less than 1% of the Open areas are protected by easement. Open areas that will not be developed as Stewardship Receiving Areas (SRAs) and not protected by easements may develop under baseline agricultural zoning rules at 1 unit per 5 acres.