



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

June 2018

**Just the Facts:  
The Process from Final Order to Rural Lands Stewardship Area (RLSA) Overlay  
and the Magnitude of Development Anticipated**

This white paper is intended to provide supplemental information on how the RLSA came to be. Collier County staff has put together a white paper, which contains documentation of how the RLSA was created. However, the Conservancy believes that additional historical context is needed to provide the complete picture. We regularly hear comments about the public “misunderstanding” or being “misinformed” about the original intent of the RLSA when adopted in 2002. From the Conservancy’s perspective, we do not believe the public misunderstands the RLSA. Instead, they see clearly that the planning concept which ultimately came to be known as the RLSA is a very different program than what it was marketed as during its creation and journey to adoption into the Comprehensive Plan, especially with regard to the magnitude of development anticipated within the overlay.

The below information contains just the facts, not the Conservancy’s position or analysis of the program. From this and other information that is readily available in the public record, the Conservancy urges all interested parties to research and come to their own conclusion about how much development was anticipated when the RLSA was “sold” to the County and the public. Such information is absolutely critical as we move forward to review this program.

**Leading Up to the Final Order**

Nov. 1997 – Collier County adopts new Comprehensive Plan amendments

Dec. 1997 – Department of Community Affairs finds amendments “Not In Compliance”

May 1998 – Administrative Law Judge hears the case

Feb. 1999 – County makes public the terms of Settlement in the case

March 1999 – WilsonMiller, on behalf of their clients the Eastern Collier Property Owners (ECPO), offers a Rural Assessment to the Collier County Board of County Commissioners (BCC) – the BCC is supportive of the concept, to be paid for by the landowners

June 1999 –Governor and Cabinet issue the Final Order  
(Above information from *BCC Workshop Agenda Packet 9-26-2001 p. 13*)

### **Final Order AC-99-002 Issued by Governor and Cabinet**

Directed Collier County to conduct a Rural and Agricultural Assessment to:

1. Protect prime agricultural lands.
2. Direct incompatible uses away from wetland and upland habitat, in order to protect water resources and listed species.
3. Create mechanisms to allow for appropriate conversion of agricultural lands to other uses while avoiding sprawl.

(AC-99-002)

### **The Collier County Rural and Agricultural Area Assessment**

The County divided the areas to be addressed in the Final Order.

The Immokalee Study Area, now known as the Rural Lands Stewardship Area (RLSA), contained approximately 195,000 acres.

The Rural Fringe Mixed-Use District (RFMUD) contained approximately 73,000 acres.

One of the major stated concerns motivating these planning efforts was to create an avenue that would avoid an ultimate build-out in the rural areas at the baseline zoning of 1 unit per 5 acres (commonly referred to as ranchettes).

Interestingly, the data gathered during the process did not find that the Immokalee Study Area was threatened by land use conversion or intensification to residential:

“The Immokalee Study Area has experienced minimal changes since 1985. There has been no significant agricultural land converted to non-agricultural uses, population growth has been minimal, and urban growth pressures have had no impact on the land. Only 3% of the land area has been converted from natural vegetation to agriculture since 1985. The vast majority of the area is used for agricultural purposes, ranging from row crop production and citrus cultivation to cattle grazing. An analysis of parcel size shows that the entire study area contains only 138 parcels of 40 acres or less. This indicates that subdivision of land or conversion to urban use is not occurring.”

(*BCC Agenda Packet, 6-12-02, packet p. 51.*)

However, everyone agreed a long-term planning solution to disincentivize ranchettes was important.

### **The Immokalee Study Area**

The BCC created the Rural Lands Oversight Committee in October 1999, and their first meeting was in November 1999.

*(BCC 9-26-01 Workshop Packet pdf p. 52)*

The Conservancy served on the Committee.

During the course of their existence, the Committee met 33 times at advertised public meetings.

*(October 11, 2002 County Memo contained in the CCPC adoption hearing packet, CCPC Item 7.1, p.2)*

While WilsonMiller first went public with their offer to do the work on behalf of the Eastern Collier Property Owners in March 1999 (BCC Workshop Agenda Packet 9-26-2001 p. 13), it was not until January 2000 that the BCC, with the unanimous support of the Committee, voted to endorse the WilsonMiller Scope of Services (BCC Agenda Packet 1-11-00). Such action was not without controversy. The BCC and public were assured by Alan Reynolds of WilsonMiller that all parts on their work would be in the public process.

*(per Alan Reynolds 1-11-00 BCC transcripts p. 94-95)*

### **The WilsonMiller/ECPO Scope of Services**

#### Stage 1:

Collection of data

#### Stage 2:

Design alternative development scenarios

#### Stage 3:

Testing alternatives

#### Stage 4:

Draft Comp Plan Amendment

*(BCC Executive Summary from 1-11-00, item 8(A)6 for full scope)*

### **The Process**

The Final Order required the Rural and Agricultural Assessment to be a very public process.

According to the WilsonMiller Stage 1 Report:

“The professional consulting team was led by WilsonMiller, Inc, and included certified planners, ecologists, biologists, GIS experts, economists, agricultural experts, civil engineers, landscape architects, water resource specialists and transportation planners. The Collier County staff served as process facilitators, coordinated public input and provided technical support. A Technical Advisory Committee (TAC) consisted of nine state and federal agencies coordinated by the Department of Community Affairs and provided periodic reviews and comments on technical work and study processes. Experts from a variety of fields were invited to provide testimony and input during the study process.”

“The BCC established the Rural Lands Assessment Area Oversight Committee (Committee) with a diversified membership representing all aspects of the community including business, agricultural, environmental, and civic interests.”

*(Both above quotes from BCC Agenda Packet, 6-12-02, p. 44.)*

### **Immokalee Study Area Stage 1 Report**

The first step taken by WilsonMiller was to collection data. This was done in conjunction with Committee meetings, open to the public and with public participation as a hallmark.

Data included:

- Land cover/land use
- Listed species
- Water resources
- Traffic

GIS mapping done

Used best available science for the year 2000

(Immokalee Study Area Stage 1 Report. Created by WilsonMiller. 2000. Appendix E.)

The study acknowledged:

“The analyses involving panther habitat for the Study will be complemented by ongoing computer modeling of potential habitat and development of an updated panther recovery plan by interagency committees led by the US Fish and Wildlife Service.”

*(Immokalee Study Area Stage 1 Report. 2000. WilsonMiller. P. 14.)*

The Stage 1 Report was subject to review by the Committee, the public, all interested parties, and the TAC.

*(Immokalee Study Area Stage 1 Report. 2000. WilsonMiller. P.1)*

The WilsonMiller/ECPO Stage 1 Report was presented to the BCC in Sept. 2001.

*(BCC Workshop Agenda Packet 9-26-2001 p. 13)*

### **Report and Recommendations of the Collier County Rural Lands Assessment Area Oversight Committee for the Immokalee Area Study**

Subsequent to the BCC presentation of the Stage 1 Report, WilsonMiller, ECPO, the Committee and the public continued the process by building on the data compiled and testing various planning tools and scenarios. These efforts culminated in the WilsonMiller May 2002 Report and Recommendations of the Collier County Rural Lands Assessment Area Oversight Committee for the Immokalee Area Study.

This report contains a variety of valuable information regarding how the RLSA was created. However, for the purposes on this White Paper, we are focusing on what was stated regarding the magnitude of development capacity contained in the RLSA overlay. The following excerpts are taken from this report and were the basis upon which the Conservancy, as a member of the Committee, assessed the suitability of the RLSA to meet the intent of the Final Order.

The report states:

“Using the current zoning entitlement of 1 dwelling per 5-acres on A-Agriculture zoned land as a control total, the maximum number of dwelling units that could be constructed on the 182,331 acres of privately held land would be 36,466 dwelling units. Using an average gross density for compact rural development of 2.17 dwelling units per gross acre, consistent with the Rural Development Characteristics guidelines discussed previously, **only 16,805 acres would need to be set aside for the buildout density in compact rural development as opposed to**

accommodating that same number of units on 182,331 acres of 5-acre home sites. The remaining step in the calculation process involves eliminating the credits for the number of acres to be used as Receiving Lands (16,805 X .15 credits per acre = 2,521 credits). The net result is 134,388 credits generated for the rural compact development of 16,805 acres, resulting in an exchange rate of 8.0 Sending Area credits per acre of Receiving Area land.”

*(Report and Recommendations of the Collier County Rural Lands Assessment Area Oversight Committee for the Immokalee Area Study page 40. Created by WilsonMiller. 2002. Also contained in the BCC Transmittal Hearing Agenda Packet, June 12, 2002, p.78 – highlights added)*

“The results revealed that the incentive-based stewardship program fulfills all Final Order objectives. Approximately 85,000 acres of the 182,300 acres of privately held lands are delineated as Flow Way, Habitat and Water Retention Stewardship Areas. Approximately 21,000 acres of ACSC land are able to generate credits as SSAs and retain current agriculture activities, and approximately 60,000 acres of non-ACSC land can also retain its agriculture designation. Approximately 16,800 acres are required for compact rural development. In contrast, the Baseline Reference with interim NRPAs conserved approximately 40,900 acres and, except for lands in the ACSC, offered little or no protection for the 141,400 acres of agriculture lands that could otherwise be subject to conversion to non-agriculture uses.”

*(Report and Recommendations of the Collier County Rural Lands Assessment Area Oversight Committee for the Immokalee Area Study page 41. Created by WilsonMiller. 2002. Also contained in the BCC Transmittal Hearing Agenda Packet, June 12, 2002, p.79 – highlights added)*

As a member of the Committee, this information was key to the Conservancy’s vote in support of moving the RLSA concept forward to the transmittal process.

### **BCC Transmittal Hearing**

On June 12, 2002, the BCC held their transmittal hearing. The agenda packet and backup information for the BCC was extensive, but the staff’s Executive Summary is the document that boils down, synthesizes and summarizes the intent of the RLSA amendment. Regarding the capacity for development, the below excerpts are important.

“Although there are 115,300+- acres of potential SRAs (Private lands less FSAs and HSAs), it is estimated that the “8 credit requirement” will set aside approximately 16,800 acres, or 9% of the Study Area, for clustered development.”

*(Collier County Board of County Commission Transmittal Hearing Executive Summary page 3. June 12, 2002. – highlights added)*

“It is believed that the adoption and implementation of the Rural Lands Stewardship Area 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 development. However, not unlike the Rural Fringe amendments, the potential certainly exists for an increased amount of commercial development and other non-residential development in the allowed compact, mixed-use developments (towns, hamlets, villages).”

*(Collier County Board of County Commission Transmittal Hearing Executive Summary page 5. June 12, 2002. – highlights added)*

An economic analysis of the RLSA’s impacts was completed by Fishkind & Associates, Inc. dated May 15, 2002, and included in the BCC backup materials for the June 12, 2002 Transmittal Hearing. The report looked at the fiscal impact between baseline (1 per 5) and stewardship (utilizing the RLSA). This analysis was limited to review of a subsection of the RLSA for the horizon year of 2025. While this report cannot be used to determine the full fiscal impact of the entire RLSA, one of the assumptions used for the 2025 subarea analysis is key. According to Fishkind both the Baseline and Stewardship options were assumed to “accommodate the same population.”

*(Collier County Board of County Commission Transmittal Hearing, June 12, 2002, p. 149 – highlights added)*

Such an assumption appears to support the fact that the RLSA was intended to consolidate the existing baseline population in a more compact footprint.

The RLSA was approved for transmittal to the Department of Community Affairs (DCA).

### **Objections, Recommendations and Comments (ORC) Report**

Between transmittal and adoption of the RLSA amendment, DCA and other agencies reviewed and commented on the RLSA.

What these agencies believed the capacity of development could be within the RLSA overlay can be understood by reading their feedback to DCA regarding the overlay.

#### Southwest Florida Regional Planning Council

According to the Southwest Florida Regional Planning Council (RPC), in a letter to DCA dated August 8, 2002, the RPC found the RLSA to be consistent with the State Comprehensive Plan.

“SWFRPC staff review find that the proposed amendments to the Comprehensive Plan of Collier County are consistent with the Strategic Regional Policy Plan, August 1995.”

This review is based on information provided by the County.

*(Letter from Southwest Florida Regional Planning Council RE; Collier County/DCA 02-R2, date 8-8-02, from David Y. Burr, Interim Executive Director to Ray Eubanks, Planning Manager at DCA, Attachment II, p.9)*

“Although there are 115,300+- acres of potential SRAs (Private lands less FSAs and HSAs), it is estimated that the “8 credit requirement” will set aside approximately 16,800 acres, or 9% of the Study Area, for clustered development.”

*(Letter from Southwest Florida Regional Planning Council RE; Collier County/DCA 02-R2, date 8-8-02, from David Y. Burr, Interim Executive Director to Ray Eubanks, Planning Manager at DCA, Attachment II, p. 3 – highlights added)*

“The County staff believes that the adoption and implementation of the Rural Lands Stewardship Area 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 development. However, not unlike the Rural Fringe amendments, the potential certainly exists for an increased amount of commercial development and other non-residential development in the allowed compact, mixed-use developments (towns, hamlets, villages).”

*(Letter from Southwest Florida Regional Planning Council RE; Collier County/DCA 02-R2, date 8-8-02, from David Y. Burr, Interim Executive Director to Ray Eubanks, Planning Manager at DCA, Attachment II, p.5 and 6 – highlights added)*

### South Florida Water Management District

According to an August 7, 2002 internal memo, submitted to the DCA as part of the ORC process, the South Florida Water Management District concluded, “The amendments appear to have no detrimental effect on water supply issues.”

*(Memo from Akin Owosina, P.E., Sr. Supervising Hydrologist, Ft. Myers Service Center, SFWMD, to Bonnie Kranzer, PhD., AICP, Lead Planner, Water Supply Planning & Development Division, SFWMD. Subject, Water Supply Issue Review of Comprehensive Plan Amendments for Collier County, Eastern (Rural) Lands Growth Management Plan Amendments (Agricultural Assessment Area (Collier Co, 02-2)), hand corrected to 02-R2. Dated 8-7-02, p.2)*

However, the District based its review of the RLSA’s impact on the information provided by the County, thus they were operating under the assumption that,

“It is believes that the adoption and implementation of the Rural Lands Stewardship Area overlay 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 development. However, not unlike the Rural Fringe amendments, the potential certainly exists for an increased amount of commercial development and other non-residential development in the allowed compact, mixed-use developments (towns, hamlets, villages).”

*(Memo from Akin Owosina, P.E., Sr. Supervising Hydrologist, Ft. Myers Service Center, SFWMD, to Bonnie Kranzer, PhD., AICP, Lead Planner, Water Supply Planning & Development Division, SFWMD. Subject, Water Supply Issue Review of Comprehensive Plan Amendments for Collier County, Eastern (Rural) Lands Growth Management Plan Amendments (Agricultural Assessment Area (Collier Co, 02-2)), hand corrected to 02-R2. Dated 8-7-02, p.2 – highlights added)*

DCA compiled their feedback and that of the other agencies into the ORC Report, issued September 16, 2002.

The following DCA Objections, and the WilsonMiller/Collier County responses, are relevant to this White Paper.

### DCA Objection – Vagueness

“Policy 1.21 does not provide meaningful guidance regarding the early bonus credit that will be offered in order to jumpstart the program. Policy

3.11 allows additional credits to be awarded for restoration “on a case-by-case basis,” but provides no standards for this bonus in the comprehensive plan.”

WilsonMiller/County Response:

“Policy 1.21 has been revised to provide clear standards. A maximum number of bonus Credits has been identified.”

And:

“Policy 3.11 has been revised to provide a specific number of Credits for restoration land dedication and restoration implementation.”

This is the point where the Conservancy has been told the capacity of the program increased by approximately 230%, based on the addition of credits into these 2 policies that could generate 3 times as many credits as the program initially allowed. Notwithstanding this fact, note below how WilsonMiller/Collier County addresses the following DCA Objection.

DCA Objection:

“The proposed amendment does not include specific guidelines and criteria to ensure that development in the Stewardship Receiving Areas will discourage urban sprawl and present the premature conversion of agricultural land.”

DCA Recommendation:

“Revise the relevant policies to provide adequate guidelines, standards and criteria within the comprehensive plan that will clearly define the form of the Towns, Villages and Hamlets to ensure a cohesive, balanced development that will produce a viable community.”

WilsonMiller/County Analysis:

“The primary features of the RLSA Overlay that discourage the proliferation of urban sprawl are summarized below,” and include the following:

“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.”

And:

“At full implementation, approximately 90% of the entire RLSA will be open space.”

*(The above information and quotes were taken from the ORC Response. Response to DCA’s Objections, Recommendation, and Comments Report for Collier County Comprehensive Plan Amendment 02-R2. According to the footer, the document appears to originate from “10/8/02 – 113190 Ver. 02!-MPerry” from WilsonMiller. Additional input appears to have come from Collier County. As included in the BCC Agenda Packet, 10-22-18 pp. 35 – 57 – highlights added)*

### **Environmental Advisory Council (EAC) and Collier County Planning Commission (CCPC) Adoption Hearings**

On October 16, 2002, the EAC held their adoption hearing for the RLSA amendment. On October 17, 2002, the CCPC held their adoption hearing. What information was provided to these recommending advisory boards within the County staff’s October 11, 2002 memo regarding the RLSA?

“Although there are 93,000 +- acres of potential SRAs (private land less FSAs and HSAs), it is estimated that the “8 credit requirement” will set aside approximately 16,800 acres, or 9% of the Study Area, for clustered development.”

*(October 11, 2002 County Memo contained in the CCPC adoption hearing packet, as contained in the 10-11-02 BCC Agenda Packet p.24 – highlights added)*

“It is believed that the adoption and implementation of the Rural Lands Stewardship Area Overlay 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. The potential exists for an increased amount of commercial development – and other non-residential development in the allowed compact, mixed-use developments – beyond that presently permitted in the Agricultural/Rural designation.”

*(October 11, 2002 County Memo contained in the CCPC adoption hearing packet, as contained in the 10-11-02 BCC Agenda Packet p.27 – highlights added)*

## BCC Adoption Hearing

Excerpts from the Executive Summary:

“Although there are 93,000 +- acres of potential SRAs (private land less FSAs and HSAs), it is estimated that the “8 credit requirement” will set aside approximately 16,800 acres, or 9% of the Study Area, for clustered development.”

*(BCC Executive Summary 10-22-18 Adoption Hearing, p. 3 – highlights added)*

And:

“It is believed that the adoption and implementation of the Rural Lands Stewardship Area Overlay 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. The potential exists for an increased amount of commercial development – and other non-residential development in the allowed compact, mixed-use developments – beyond that presently permitted in the Agricultural/Rural designation.”

*(BCC Executive Summary 10-22-18 Adoption Hearing, p. 5 – highlights added)*

However, it is important to remember that the RLSA is, for the most part, a voluntary program. Therefore, except in the Flowway Stewardship Areas and Habitat Stewardship Areas, 1 per 5 ranchettes are still allowed, in addition to towns, villages, hamlets and CRDs.

*(See RLSA Group 1-5 policies)*

### Post-Adoption

It is interesting also to note that post-adoption, the “public” face of the RLSA was still touted as consistent with the documentation provided during the journey from Final Order to adoption. In a June 19, 2003 press release from Barron Collier Companies regarding Ave Maria, the media piece states:

“Ultimately, the Rural Lands Stewardship Program could protect 90% of uplands and wetlands and 80% of all agricultural resources in the study area, while requiring approximately 10% of the development footprint allowed through conventional 5-acre zoning.”

*(Barron Collier Companies press release titled First Lands Set Aside in Rural Stewardship Program, with Tom Jones as the contact)*

## **Conclusion**

Throughout the study and planning process that resulted in the RLSA, WilsonMiller and Collier County staff provided written statements, again and again at every decision making point, that the RLSA would not increase the population beyond what could occur under the baseline 1 per 5 zoning. An extensive review of the BCC Agenda Packets, transcripts, and relevant public documents made available prior to the 2002 adoption has failed to unearth any statement that the RLSA had the capacity for the extensive amount of development now anticipated.

So, what was the intent of the RLSA regarding future development capacity? We leave that question for you to decide.