



AGENDA REPORT
April 10, 2018

11A3

SUBJECT:

Delegation of Public Interest Determinations for Exceedance of 30% Impervious Area For Accessory Structures in Single Family Residential Surface Water Protection Buffers

FISCAL IMPACT:

No impact

DEPT/OFFICE:

Natural Resources Management

REQUESTED ACTION:

Request that the Board delegate authority to the NRM Director, or designee, for the approval of Public Interest Determinations (PIDs) for the exceedance of 30% impervious area for accessory structures in single family residential buffers, and approve the attached Policy.

SUMMARY EXPLANATION and BACKGROUND:

Chapter 62, Article X, Division 3, entitled Surface Water Protection, Section 62-3668(3) (Attachment C) limits impervious coverage within surface water protection buffers (Buffers) to 30% (except for properties on existing man-made residential canals). NRM periodically receives requests from citizens on waterfronts to exceed the permissible impervious area. Section 62-3668(3) allows greater than 30% impervious coverage if the activity is found to be in the public interest and does not adversely impact water quality and natural habitat. The process to approve such a request is a PID by the Board.

Section 62-3661 defines "Public Interest means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials."

Citizens wanting to exceed the allowable impervious area have expressed the willingness to offset the additional impervious area with enhanced stormwater management and native revegetation. This type of mitigation would benefit the adjacent surface water by reducing pollutant laden runoff containing sediments, nitrogen, and phosphorus. Therefore, NRM is requesting the delegation of the PID authority to the NRM Director, or designee, to facilitate these requests when enhanced stormwater management and

addition of native vegetation will benefit water quality. This request is specific to the exceedance of 30% impervious areas for accessory structures in single-family residential Buffers. PID requests for other prohibited activities and for commercial development will continue to be submitted to the Board for consideration.

When evaluating PID requests, NRM will consider the following enhancements and the associated benefits to water quality (Attachment B – Review Criteria):

- Engineered stormwater retention and treatment design with capacity 20% greater than the minimum standards established in Section 62-3666(3),
- Native vegetation preservation and/or planting within the Buffer,
- Construction specifications that minimize impacts to the Buffer and adjacent surface water, and
- Maintenance standards for stormwater management, vegetation, and construction.

Staff requests that the Board approve attached Policy BCC- , that delegates authority to the NRM Director, or designee, for approval of PIDs for exceedance of 30% impervious area for accessory structures in single family residential Buffers.

ATTACHMENTS:

- | | Description |
|---|---|
| □ | Attachment A - Board Policy BCC- |
| □ | Attachment B - PID Review Criteria |
| □ | Attachment C - Policy and Ordinance References |



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April 11, 2018

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item II.A.3., Delegation of Public Interest Determinations for Exceedance of 30 Percent Impervious Area for Accessory Structures in Single Family Residential Surface Water Protection Buffers

The Board of County Commissioners, in regular session on April 10, 2018, granted authorization for you, or your designee, to approve public interest determinations for the exceedance of 30 percent impervious area for accessory structures in single family residential buffers; and approved Policy BCC-96. Enclosed is a fully-executed Policy.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/kp

Encl. (1)

cc: Natural Resources Management

POLICY

Title: **Public Interest Determination (PID)
Delegation for Exceedance of 30%
Impervious Area in Single Family Residential
Surface Water Protection Buffers (Buffers)**

NUMBER: BCC-96

APPROVED: 04/10/18

ORIGINATOR: Natural Resources
Management Dept.

REVIEW: 04/10/21

I. OBJECTIVE

Delegate authority to the NRM Director, or designee, for the approval of PIDs for the exceedance of 30% impervious area in single family residential Buffers.

II. DEFINITIONS AND REFERENCES

A. Section 62-3668(3)

...Alteration or construction other than that which is allowed under this division shall be prohibited, unless it is shown to be in the public interest and does not adversely impact water quality and natural habitat.

B. Section 62-3661

"Public Interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

C. Section 62-3666(3)

Any alteration as allowed under this Division, including redevelopment, within the surface water protection buffer shall require stormwater management so as not to degrade the receiving water body water quality. Properties shall, through the use of

swales, berms, perforated pipe, native vegetation, or other appropriate methods; convey and detain stormwater runoff prior to discharge to the surface water.

- a. For activities in the surface water protection buffer, stormwater management shall include, but not be limited to:
 - i. The provision of a stormwater system designed, signed, and sealed by a Professional Engineer registered in the state of Florida, which is consistent with Chapter 62-302 F.A.C., as amended, and is capable of preventing the first inch of runoff from a 25-year, 24-hour storm, from all impervious surfaces that drain to the property's shoreline from entering surface waters; or
 - ii. A densely planted shoreline of viable native vegetation, a minimum of ten feet in width for the entire length of the shoreline. The types and numbers of plants, ground coverage, and stabilization shall be consistent with Appendices B and C of Chapter 62, Article XIII, Division 2 (Landscaping, Land Clearing & Tree Protection), as amended, or as allowed by the Director.

With the exception of activities that are exempt in accordance with Section 62-3669, all requirements for stormwater management shall be reviewed, approved, and inspected by the County, as necessary.

- b. All discharges into surface waters shall not degrade existing water quality below existing conditions, or those outlined in Chapter 62-302, F.A.C., as amended.
- c. All stormwater management systems shall be maintained for functionality in perpetuity.
- d. Stormwater management retrofitting in accordance with this subsection, shall be required for all back lot drainage at the time of the allowable activity.
- e. Stormwater management systems shall demonstrate avoidance and minimization of impacts to native vegetation.
- f. The Director may consider alternative stormwater management systems that utilize established low impact development best management practices.

III. DIRECTIVES

When evaluating PID requests, NRM will consider the following enhancements and the associated benefits to adjacent surface waters:

- Engineered stormwater retention and treatment design with capacity 20% greater than the minimum standards established in Section 62-3666(3).
- Native vegetation preservation and/or planting within the Buffer.
- Construction specifications that minimize impacts to the Buffer and adjacent surface water.
- Maintenance standards for stormwater management, vegetation, and construction.

“Review Criteria for Public Interest Determinations for Exceedance of 30% Impervious Area for Accessory Structures in Single Family Residential Surface Water Protection Buffers,” (Attachment B) March 20, 2018, contains specific standards. This Policy is specific to the exceedance of 30% impervious areas for accessory structures in single-family residential Buffers. PID requests for other prohibited activities and for commercial development will continue to be submitted to the Board for consideration.

IV. RESERVATION OF AUTHORITY

The authority to issue and/or revise this policy is reserved to the Board of County Commissioners.

ATTEST:


SCOTT ELLIS, CLERK



Rita Pritchett, Chair
Board of County Commissioners
Brevard County, Florida

As approved by the Board on April 10, 2018



BOARD OF COUNTY COMMISSIONERS

Natural Resources Management Department
2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, Florida 32940

ATTACHMENT B

April 10, 2018

Review Criteria for Public Interest Determinations for Exceedance of 30% Impervious Area for Accessory Structures in Single Family Residential Surface Water Protection Buffers

Mechanism

The NRM Director will consider the exceedance of 30% of impervious areas for accessory structures in single-family surface water protection buffers (Buffers) if enhancements are implemented to protect the surface water quality. Requirements will be reviewed by NRM staff through the Surface Water Permit application process and shall incorporate the following elements:

- Surface Water Permit application
- Letter of request
- Engineered stormwater retention and treatment design with capacity 20% above the minimum standards established in Section 62-3666(3)
- Native vegetation preservation and planting within the Buffer
- Construction specifications that minimize impacts to the Buffer and adjacent surface water
- Maintenance standards for stormwater management, vegetation, and construction

Criteria

Surface Water Permit Application:

- Found at: <http://www.brevardfl.gov/docs/default-source/natural-resources-documents/surface-water-protection-application.pdf?sfvrsn=4>

Letter of Request:

- To be submitted and signed by property owner or agent and shall summarize how the proposed project will improve water quality of receiving waters.

Stormwater Retention Design with Increased Capacity:

- Stormwater retention shall be located and designed to retain the first inch of runoff from a 25-year, 24-hour storm, from all impervious surfaces (i.e. pool, pool deck, sidewalks, pavers, structures, etc.) that drain to surface waters, plus a minimum of 20% additional retention volume.

- Calculations and design shall be signed and sealed by Professional Engineer registered in State of Florida.
- Retention may be located under decking. A highly permeable material (e.g. rock, stone or pea gravel) shall be used in conjunction with weed cloth or filter fabric under the decking.
- If possible, swales should be a minimum distance of two (2) feet from seawall.

Native Vegetation Planting Requirements:

- Per Section 62-3666(3), vegetation planted in the buffer shall be native.
- Per Section 62-3666(3)(e), stormwater management systems shall demonstrate avoidance and minimization of impacts to existing native vegetation.
- A landscape plan shall be submitted that includes the names, sizes, amounts and locations of trees, shrubs, groundcover and stabilization and shall be consistent with Appendices B and C of Chapter 62, Article XIII, Division 2 (Landscaping, Land Clearing & Tree Protection), as amended, or as allowed by the Director.
- Non-Native Invasive or Undesirable plant species may be removed from the surface water protection buffer in the manner authorized in Section 62-4334(4) of the Landscaping, Land Clearing, Tree Protection code.
- Consistent with NRM policy, Bahia sod shall be acceptable for buffer and swale stabilization and for replacement of St. Augustine sod varieties. St. Augustine sod varieties are not permissible within the buffer.
- The removal of existing native trees in the buffer is permissible only when necessary for approved construction. In-kind tree mitigation shall be required.
- The removal of native groundcovers and shrubs shall be the minimum required for the deck and shall not be removed in favor of Bahia sod or Native Seashore Paspalum sod.

Construction Specification Requirements

- Surveys shall be submitted that show locations and dimensions of existing structures and proposed project and shall clearly depict stormwater conveyance. Surveys shall include existing and proposed spot elevations, and Buffer setback delineation(s) (25 feet or 50 feet).
- Construction plans shall be drawn to scale and show top view dimensions in relation to home and property boundaries. Plans shall also include side view elevations of structures in relation to proposed finished grade or ground level.
- Composite or wood boards are acceptable materials.
- Board width for decking shall not exceed six (6) inches in width.
- For board spacing; non-expandable material (i.e. composite material) should be spaced no less than 3/16 inch apart, and expandable materials (i.e. wood) should be spaced no less than 3/16 inch and no more than 1/2 inch space.
- Stainless steel deck fasteners are preferred, but not required.
- Board alignment of wood decks shall be parallel to seawall and/or shoreline.

- Wood deck floor elevation shall be a minimum of eight inches above finished grade. If the deck is greater than 30 inches above grade, deck will require submittal through Building Department in lieu of a Surface Water Permit application.
- If applicable, back slope decks so that stormwater runoff is routed away from surface water. A 1% slope is recommended which is equal to 1/8 inch over 12 inches, or one inch over eight feet.
- If applicable, use water stop along edge of deck to direct stormwater into retention area and away from surface water.

Maintenance Requirements:

- Proposed native vegetation shall require minimal watering and no fertilization or other chemical treatments once established.
- If irrigation is proposed, low volume/low mist techniques should be used and the volume of water produced shall be included in the storm water retention volume calculation.
- Fertilizers, pesticides, fungicides, herbicides and other chemical treatments shall not be applied within the Buffer.
- The stormwater management system shall be maintained in perpetuity.

Inspections and survey requirements:

- An inspection is required at permit application.
- An as-built survey is required once construction is complete
- A final inspection is required once the Buffer is stabilized with native vegetation.



BOARD OF COUNTY COMMISSIONERS

Natural Resources Management Department
2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, Florida 32940

ATTACHMENT C Policy and Ordinance References

Chapter 62, Article X, Division 3, Surface Water Protection

Section 62-3661:

Public Interest means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

Section 62-3666(3):

Any alteration as allowed under this Division, including redevelopment, within the surface water protection buffer shall require stormwater management so as not to degrade the receiving water body water quality. Properties shall, through the use of swales, berms, perforated pipe, native vegetation, or other appropriate methods; convey and detain stormwater runoff prior to discharge to the surface water.

- a. *For activities in the surface water protection buffer, stormwater management shall include, but not be limited to:*
 - i. *The provision of a stormwater system designed, signed, and sealed by a Professional Engineer registered in the state of Florida, which is consistent with Chapter 62-302 F.A.C., as amended, and is capable of preventing the first inch of runoff from a 25-year, 24-hour storm, from all impervious surfaces that drain to the property's shoreline from entering surface waters; or*
 - ii. *A densely planted shoreline of viable native vegetation, a minimum of ten feet in width for the entire length of the shoreline. The types and numbers of plants, ground coverage, and stabilization shall be consistent with Appendices B and C of Chapter 62, Article XIII, Division 2 (Landscaping, Land Clearing & Tree Protection), as amended, or as allowed by the Director.*

With the exception of activities that are exempt in accordance with Section 62-3669, all requirements for stormwater management shall be reviewed, approved, and inspected by the County, as necessary.

- b. *All discharges into surface waters shall not degrade existing water quality below existing conditions, or those outlined in Chapter 62-302, F.A.C., as amended.*
- c. *All stormwater management systems shall be maintained for functionality in perpetuity.*
- d. *Stormwater management retrofitting in accordance with this subsection, shall be required for all back lot drainage at the time of the allowable activity.*
- e. *Stormwater management systems shall demonstrate avoidance and minimization of impacts to native vegetation.*
- f. *The Director may consider alternative stormwater management systems that utilize established low impact development best management practices.*

Section 62-3668(3):

Except as allowable under Section 62-3668(7), primary structures shall not be allowed within the surface water protection buffer. Alteration or construction of accessory structures is allowable within the surface water protection buffer provided that:

- a. *Stormwater management is provided in accordance with Section 62-3666(3); and*
- b. *Impervious areas do not exceed 30 percent of the required buffer area, except for properties on existing residential canals; and*
- c. *The alteration occurs in accordance with all other applicable federal, state, and local regulations.*

Alteration or construction other than that which is allowed under this division shall be prohibited, unless it is shown to be in the public interest and does not adversely impact water quality and natural habitat.

Comprehensive Plan, Conservation Element, Policy 3.3.F

Prohibit shoreline alteration other than that allowed by ordinance, unless the alteration is in the public interest and does not adversely impact water quality, natural habitat, and adjacent shoreline uses.