



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

F.5.

5/18/2021

### Subject:

Review of BCC-96 – Delegation of Public Interest Determinations for Exceedance of 30% Impervious Area For Accessory Structures in Single Family Residential Surface Water Protection Buffers (Buffers)

### Fiscal Impact:

None

### Dept/Office:

Natural Resources Management Department

### Requested Action:

Request that the Board:

- Continue to delegate authority to the NRM Director, or designee, to administratively approve Public Interest Determinations (PIDs) for the exceedance of 30% impervious area for accessory structures in single family residential Buffers;
- Delegate authority to the NRM Director, or designee, to administratively approve PIDs for the exceedance of 30% impervious area for accessory structures in multi-family and commercial property Buffers; and
- Approve attached Board Policy BCC-96, modified as indicated below.

### Summary Explanation and Background:

Board Policy BCC-96 (Policy) was approved on April 10, 2018. The Policy allows administrative approval for the exceedance of 30% impervious area for accessory structures in single family residential Buffers if impervious areas are offset 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.

Periodic review of Board Policies is required every three years. Thus, staff reviewed the effectiveness of BCC-96 since its approval. Staff processed two PIDs, and have two citizens interested in applying. Based on our experiences since Policy approval, staff identified potential Policy modifications to clarify criteria, and to better meet the intent of "Public Interest" as defined in the Comprehensive Plan:

*"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*

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*demonstrable environmental, social, and economic costs of the proposed action...*"

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Proposed modifications include:

- General language cleanup for clarity.
- Additional criterion disallowing the use of inorganic mulch in planting beds, as it is detrimental to vegetation.
- The additional allowance for native St. Augustine sod in the Buffer. This is the result of discussions with staff from the Brevard County UF/IFAS Extension. However, the Policy now limits the allowable amount of sod to 30% of the remaining pervious areas in the Buffer.
- The Policy now encourages Low Impact Development (LID) techniques.
- The Policy now specifies perpetual maintenance of native vegetation in the Buffer.

Additionally, on April 20, 2021, after a PID hearing for a commercial facility on the IRL, the Board directed staff to also include the allowance for staff to administratively approve similar PIDs for commercial properties, with the same requirements for protection of water quality through enhanced stormwater. The attached BCC-96 now incorporates commercial, and multi-family properties, as it is foreseeable that condominiums may wish to utilize the Policy. Note that PID requests for other prohibited activities, or for development not meeting the specified standards will continue to be submitted to the Board for consideration.

Staff requests that the Board approve attached Policy BCC-96, that delegates authority to the NRM Director, or designee, to approve of PIDs for exceedance of 30% impervious area for accessory structures in residential and commercial Buffers.

### **Clerk to the Board Instructions:**

None



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
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Kimberly.Powell@brevardclerk.us

May 19, 2021

**MEMORANDUM**

TO: Virginia Barker, Natural Resources Management Director

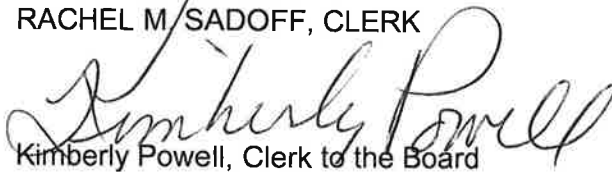
RE: Item F.5., Review of BCC-96 - Delegation of Public Interest Determinations for Exceedance of 30 percent Impervious Area for Accessory Structures in Single Family Residential Surface Water Protection Buffers (Buffers)

The Board of County Commissioners, in regular session on May 18, 2021, continued to delegate authority to the Natural Resources Management Director, (NRM) or designee, to administratively approve Public Interest Determination (PIDs) for the exceedance of 30 percent impervious area for accessory structures in single family residential buffers; delegated authority to the NRM Director, or designee, to administratively approve PIDs for the exceedance of 30 percent impervious area for accessory structures in multi-family and commercial property Buffers; and approved Board Policy BCC-96. Enclosed is a fully-executed Policy.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/ns

Encl. (1)



BOARD OF COUNTY COMMISSIONERS

## POLICY

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

**NUMBER: BCC-96**

**APPROVED: 05/27/21**

**ORIGINATOR: Natural Resources  
Management Dept.**

**REVIEW: 05/27/24**

### I. OBJECTIVE

Delegate authority to the NRM Director, or designee, for the approval of PIDs for the exceedance of 30% impervious area in residential and commercial 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:


- Enhanced engineered stormwater retention and treatment design.
- 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 Surface Water Protection Buffers," May 27, 2021, contains specific standards. PID requests for other prohibited activities or for development not meeting the specified standards 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:

  
Rachel M. Sadoff, Clerk

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

As approved by the Board on May 27, 2021



## Natural Resources Management Department

2725 Judge Fran Jamieson Way  
Building A, Room 219  
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

May 27, 2021

### **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~~ Natural Resources Management Department (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. Public Interest Determination (PID) Requirements will be reviewed by NRM staff through the Surface Water Permit application or Site Plan process, as applicable, and shall incorporate the following elements:

- Surface Water Permit application or Site Plan review, as applicable
- Letter of request
- ~~Enhanced Engineered-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:

- Please contact NRM at [NRM\\_Permits@brevardfl.gov](mailto:NRM_Permits@brevardfl.gov) or (321) 633-2016 for the Surface Water Permit application form and to initiate the PID process.
- Found at: <http://www.brevardfl.gov/docs/default-source/natural-resources-documents/surface-water-protection-application.pdf?sfvrsn=4>

##### Letter of Request:

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- 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:

- **Single Family Residential** – 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% above the minimum retention volume standards established in Section 62-3666(3) ~~additional retention volume.~~
- **Multi-family & Commercial** – Stormwater retention may be designed to exceed the minimum retention volume standards established in Section 62-3666(3) by a minimum of 20%. Alternatively, engineered stormwater may be enhanced to reduce nutrient loading to the Indian River Lagoon system. Acceptable methods may include nitrogen reducing media in stormwater pond(s), baffle box(es), or Low Impact Development techniques.
- ~~All stormwater Calculations~~ calculations and design shall be signed and sealed by Professional Engineer registered in State of Florida.
- Retention may be located under existing and/or proposed decking, provided the deck is elevated per Construction Specification Requirements below. 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 seawalls.

#### Native Vegetation Planting Requirements:

- Per Section 62-3666(37), vegetation planted in the buffer shall be native. Inorganic material shall not be used as mulch in planting beds.
- 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~~ and native St. Augustine sod ~~shall be acceptable for buffer and swale stabilization and for replacement of St. Augustine sod varieties~~ are permissible within the Buffer where clumping grasses, shrubs, and trees are not suitable. Sod may not account for more than 30% of the remaining, pervious portion of



April 10 May 27, 2018 21

the Buffer. Low Impact Development (LID) incorporating natural stormwater runoff management techniques are encouraged. Swales may incorporate native vegetation to reduce Heat Island Effects, increase uptake of stormwater, and treat runoff pollutants through uptake. 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 or native St. Augustine sod or Native Seashore Paspalum sod varieties.

#### 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.

#### Wood Deck Construction Specification Requirements for Single Family Residences (if applicable)

- 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:

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- 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 and native vegetation in the Buffer 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  
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**May 27, 2021**

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**Criteria**

**Application:**

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