Agenda Report

2725 Judge Fran Jamieson Way
Viera, FL 32940

Public Hearing

H.1. 2/4/2021

Subject:

Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L). (20Z00030) (Tax Account 3008729) (District 3)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential, Low-Intensity).

Summary Explanation and Background:

The applicant is requesting to rezone the property from RU-1-13 to AU(L) to be consistent with the RES 1:2.5 FLU (Future Land Use) designation.

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane, with dual frontage on Fleming Grant Road and the Sebastian River. The property is currently vacant and platted as two residential lots: Lot 10, a 10.75-acre lot and Lot 11, a 9.88-acre lot, which totals 20.39 acres.

On May 30, 2019, the Board of County Commissioners conducted a public hearing to consider a request for a Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1, and a companion Zoning action request for a BDP (Binding Development Plan) (18PZ00167). The result of that hearing was that the Large Scale Comprehensive Plan Amendment was denied, and the applicant withdrew the companion BDP request. On December 5, 2019, the Board conducted a public hearing to consider a request for a BDP limiting the development of the property to 8 lots, with other stipulations offered to help mitigate the proposed development. The Board also denied this request. (19PZ00093)

All of the properties between Fleming Grant Road and the Sebastian River have the RES 1:2.5 Future Land Use designation. This segment of Fleming Grant Road is considered to be low density residential. The area contains a mixture of lot sizes and zoning classifications. Lots within ½ mile of the property range in size from 0.17 acres up to 4.5 acres with the majority being an acre or larger, and are zoned AG (Agricultural), GU (General Use), RR -1 (Rural Residential) and RU-1-13 (Single-Family Residential).

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also wish to consider whether the potential of agritourism activities

adversely affect the surrounding area.

On November 9, 2020, the Planning and Zoning Board heard the request and unanimously recommended approval.

On December 3, 2020, the Board tabled the item to the February 4, 2021, meeting at the request of the applicant.

Clerk to the Board Instructions:

Once resolution is received, please execute and return to Planning and Development.

Item H.1.

CERTIFICATION

STATE OF FLORIDA)
COUNTY OF BREVARD)

I, Kimberly Powell, Clerk to the Board, Brevard County Board of County Commissioners, do hereby certify that the following pages are true and correct copies:

1. Meeting Minutes, February 4, 2021, Zoning, Item H.1. Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L) (20Z00030) (Tax Account 3008729) District 3.

Dated this 16th day of February, 2021.

Kimberly Powell

KIMBERLY POWELL
Clerk to the Board
Brevard County Board of County Commissioners

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 16th day of February, 2021 by Kimberly Powell, Clerk to the Board, Brevard County Board of County Commissioners, who is personally known to me or who has produced _____ as identification.

Deborah W. Thomas

Notary Public
DEBORAH W. THOMAS
Name typed, printed or stamped
My Commission Expires: July 5, 2024

[Notary Seal]

DEBORAH W. THOMAS
Notary Public - State of Florida
Commission # HH 017658
My Comm. Expires Jul 5, 2024
Bonded through National Notary Assn.

Minutes

February 4, 2021, Zoning

Item H.1. Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L) (20Z00030) (Tax Account 3008729) District 3

Disclosures

Pritchett – We're going to move into public hearings. Commissioners, if you have not sent in disclosures, do I have any of you that would like to disclose? Commissioner Lober.

Lober – Yes Ma'am, I've got a few here and these are over and above the disclosures that we had when this Item was previously before the Board. On 11/20/20 Anne Briggs and Henry Beck of Micco sent an email expressing some concerns about the proposal. On the 21st of November, this past year, Chelle Woods, who I believe is the Micco HOA President, emailed regarding the BDP, on 11/27 Linda McLain of Micco, sent an email expressing support for the proposal, on 11/30 Linda, and I'm not even going to try to pronounce the last name because I don't want to butcher it, B-E-H-R-E-T of Viera sent an email about it, and environmental factors concerning it. On December 1st an email came in from Julie Turner, addressing a BDP or request for BDP, same day on 12/1 of 20 Leslie Maloney of Melbourne Beach sent an email requesting or expressing support for a BDP. Again, the same day 12/1 of 20 Bill DeBusk, D-E-B-U-S-K of West Melbourne sent an email objecting to building in the Coastal High Hazard Area. On 12/2 of 20, Mary Sphar, S-P-H-A-R, of Cocoa sent an email expressing support for BDP. Also on 12/2 David Botto of MRC sent an email expressing need for a BDP.

Pritchett – Thank you, sir. Commissioner Zonka.

Zonka – I believe you covered all of our disclosures because I think we were all copied on those emails.

Bentley – And it all relates to H.1., correct?

Zonka – Yes.

Bentley – Lazy River?

Lober – Yes.

Pritchett – Commissioner Zonka.

Zonka – Yes, Item H.1., I had a meeting in my office regarding the proposal for Lazy River with Laura Young. I believe she's a representative.

Pritchett – Commissioners, I put in mine already, with paper, so.

Credentials

Ball – Thank you, Madam Chair. For the record my name is Jeffrey Ball, I am the Planning and Zoning Manager, I am also an AICP Certified Planner.

Verbatim

Pritchett – Now, we will go back to Item H.1., and I have a few cards on these, Commissioners, just so that you know ahead with what you'd like to do, and this is Commissioner Tobia's District so I'll let you let me know if you want them to speak first, or if you want to speak.

Tobia – Absolutely, how many cards Madam Chair?

Pritchett – I have five cards, sir. Okay?

Ball - H.1., is Lazy River Investments request a change of zoning classification from RU-1-13 to AU(L), application number is 20Z00030, it is located in District 3, staff has prepared a addendum to clarify the acreage and some additional information about the regulations pertaining to the Comprehensive Plan and land of OMOCOA ? Thank you.

Pritchett – Thank you, sir. I have Ms. Mary Sphar, and after Ms. Sphar we'll have Monty Montgomery.

Lober – Madam Chair.

Pritchett – Yes, sir.

Lober - I just didn't know if the applicant twas here, um although whatever order you want to take it in, certainly I'd defer to you.

Pritchett - Are you Ms. Anna Long? Would you like to open first, ma'am?

Long - (inaudible).

Pritchett - Okay, thank you.

Long - You're welcome.

Pritchett - Okay.

Sphar - Okay, good evening Commissioners, I'm Mary Sphar. I'm representing the Sierra Club tonight. You've looked at this property several times in the past and now we have a request for AU(L) zoning, which would be a reasonable choice if, but only if, there was a guarantee that homes would be kept out of the Coastal High Hazard Area, which basically overlaps the AE flood zone. The only way to guarantee this is with a Binding Development Plan, and right now, there is no BDP. We ask you to request that the applicant submit a BDP stating no homes will be sited in the Coastal High Hazard Area. This BDP needs to be submitted before, before approving any zoning requests. And we realize the applicant wants his zoning first, but approving that throws away all leverage, every bit of leverage you now have to get homes sited outside the Coastal High Hazard Area. Once the applicant has his zoning, he can build homes in the Coastal High Hazard Area by the river and bring in a large amount of fill to raise the house pads to 6.3 feet. He might not get eight homes without a BDP, but he sure would get a number of homes in a very flood-prone location, a location that is very vulnerable during hurricanes. And the fact is, the subject property is the most vulnerable or at least one of the most vulnerable to storm surge with associated flooding in the area between Fleming Grant Road and the river. The Coastal High Hazard Area, which is the area of storm surge from a category one hurricane is about five acres in size. This property has more serious constraints than almost all the properties in the area. To complicate matters, any clear cutting or fill that is added will allow more stormwater run-off carrying pollutants to reach the

Saint Sebastian River and the Indian River Lagoon. In order to raise house pads in the Coastal High Hazard Area 6.3 feet NEVD, a huge amount of fill would have to be brought in, putting several feet of fill on the roots of trees would kill them, losing their service of absorbing stormwater and runoff. So, the fact is, there is no good way to develop as usual, clear cut and fill in the Coastal High Hazard Area and protect the Indian River Lagoon at the same time. Sierra Clubs recommendation for a BDP guarantee no homes in the Coastal High Hazard Area matches the request from Micco Homeowners Association. This is not some outrageous demand, in fact Palm Bay considers it to be so reasonable, they put the requirement in the Coastal Management Element of their Comp Plan. Palm Bay's Comp Plan Policy CCM-1.6c states, "The City shall not permit any new septic tanks to locate, within High Hazard Area of the Coastal Zone, nor permit habitable structures within any High Hazard Zone." We are spending millions of tax dollars on public safety related to storms and we're also investing nearly $500 million on Lagoon cleanup over a 10-year period. Sierra Club urges you to make a responsible decision that is not counterproductive to the County's huge investments. Please ask the applicant to provide an adequate BDP to protect the health of our precious Indian River Lagoon, and please choose to defer your decision on the zoning until you see such a BDP. Thank you.

Pritchett - Okay, Monty Montgomery.

Montgomery - Hi, I'm David, Monty Montgomery. Commissioner Tobia, I'm a D3 residents, I'm here talking to the Micco property. This came up quick, we've been by this before at previous meetings and by the way I object to the approval of the zoning change without some sort of BDP, which is why I'm up here. But, I had a bunch of materials, I've looked at this over the past year and followed the zoning meeting minutes. The property was purchased, here's a survey by William Suter, Bill Suter, a guy down in Malabar, and it was known that there were, was ability to build two homes on this property and now there's a request to build eight homes on this property. It's a unique property, it's at the bottom edge of Brevard, still in the, what's called the Atlantic Ridge. We talked about this before up in North Brevard where a bar of sand from previous ice ages has come through here and that's what's revealed here. So, the reason I'm bringing that up, its very sandy soil, to go to eight homes would have issues even with improved septic that you'd still have the pollution of three to four septic tanks even with advanced septic but, my main issue is not to approve this without some sort of commitment or Binding Development Plan that protects from structures being built in the Coastal High Hazard Area. I know there was a lot of discussion, oh, and I just had... there... I didn't get a chance to put this together but, here's one NOAA map that shows, basically most of that area being flooded by four foot storm surge, and here's a NOAA that shows basically, a third of the property being covered by water, it, with a nine-foot storm surge, something we would have had if Hurricane Dorian would've hit here, back in 2019. But there was a lot of discussion last time. Commissioner Pritchett, you were talking about fill dirt in the Coastal High Hazard Area. Commissioner Smith, you impressed me, you pulled together a topographic map and I've looked at the topos of that area and that lower portion is about four feet above sea level, so when you think about that, all it takes is just a storm surge to just come wash that area out, that basically the lower third of that property. So, unless I'm... now that... the County regulations do address building in the Coastal High Hazard Area, fill dirt is not going to solve that problem, it's a, a pollutant that'll get washed away with severe, severe weather events. There's also issues with how water will be retained on the property and other things that could be addressed in a BDP. I thought there would be a BDP before it would come to the Commissioners and we...the number who were surprised that there wasn't something brought forward, so that pretty much concludes what I had to say, is that this came up

quick. We thought there would be a BDP that would explain how the eight homes could be put on the property, up from the two homes, and until something is provided explaining that, we suggest that the request not be approved. Thank you.

Pritchett - Thank you, sir. Ms. Terry LaPlante and then Lorraine DeMontigny.

LaPlante - Good evening, Terry LaPlante, Melbourne, Florida. I'm actually here to read a letter that was written by Chelle Woods of the President of the Master Homeowners Association of Micco. "Micco's Homeowners Association is in favor of the proposed AU(L) zoning change to 1:2.6 with the maximum eight homes on this 20-acre property. We do, however, have the same strong issues we had in 2019 due to the fact there's no current BDP for this development located directly on the Saint Sebastian River, which flows directly into the Indian River Lagoon. Our focus is the continued need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the Saint Sebastian River, therefore, we request that you consider, one, no homes within the Coastal High Hazard Area, development within this five-acre area is a direct threat to the river and the Indian River Lagoon due to homeowner contaminants, pesticides, drain fields, septic leaks, and excess stormwater run-off flowing directly into the river. Comments in 2019 from DEO and ECFRPC also support this need. Please require all eight homes to be located outside the Coastal High Hazard Area. Two, stormwater needs to be captured outside the Coastal High Hazard Area which is also an AE flood zone. The new BDP needs to designate where and how stormwater will be captured within this development. Three, advanced septic must be required for all new homes near the Coast High Hazard Area, which is also an AE flood zone and drain fields need to be kept out of this area. In 2019 the Saint Johns Water Management District, the DEP, DEO recognized the importance of removing 65 percent nitrogen with advanced septic on this property. Four, no fill dirt within the AE flood zone, FEMA's based flood elevation is 5.3 NAVD for this flood zone. This means a lot of fill dirt is required to elevate or flood-proof each home within this area. What happens to the flood waters? How do the existing specimen trees survive the fill dirt? And to preserve the health of the Indian River Lagoon please require a current BDP for this development with a maximum of eight homes outs...located outside the Coastal High Hazard Area. Sincerely, Chelle Woods." Thank you.

Pritchett - Thank you, Ma'am. Ms. Lorraine Demontigny.

Demontigny - Good evening. Lorraine Demontigny, I reside at 5005 Hitchinpost Lane, in Micco, which is about a mile away from the property. Back in 1999/2000, I was here also for a rezoning of my own property. At that time it was a 52-acre parcel and I can assure you there wasn't nearly as much paperwork involved in my process as there is now. This is quite a robust packet, I must say. I'm here to support the applicant's request. I think that it's very important that we do protect the environment and I know that one of the applicants resides very close to this property, and I'm sure has the same concerns of protecting the environment. All these Items, I think are going to be addressed by the restrictions that are already in place for development in our area. Just by looking at all the hoops that they had to go through and all the paperwork that's involved in this packet, you can see that there's a lot of agencies that are already involved with this process. I feel like that they should be able to move ahead, there's plenty of agencies that are willing to work with them so that they can accomplish the goals that are set forth in, in the objectives, that everybody wants to meet in protecting our Lagoon. I think that all Florida residents assume an inherent risk on these adverse weather events. We're all potentially subject to flooding, that's just part of living in Florida and it could really happen anywhere in the United States. I

think the constitutional protection of our God-given rights is being a little trampled on, so we have to keep that in mind and we, we shouldn't allow one person to be punished for the mistakes or crimes of another person and we can't predict what's going to happen in the future. So, I think that this, this is going to be a great project. I look forward to seeing it happen, if it needs to have a BDP then, then I think that's something that can be worked out, but I think it should be supported and I, I hope you vote that way.

Pritchett - Thank you, ma'am. Ms. Anna Long.

Long- Thank you. Is it okay if I take my mask off?

Pritchett - Yea.

Long - Thank you. My name is Anna Long. I'm an attorney with the law firm of Dean Mead, located at 38, I'm sorry, 7380 Murrell Road, suite 200, in Viera. I represent the property owners this evening, Lazy River Investments. And on behalf of Lazy River Investments, I respectfully request that the Board of County Commissioners accept the recommendation as transmitted by the Planning and Zoning Board to approve the AU(L) zoning for the designation of the property. Now, if I understand the processes, how it's happened this evening, is you've had your public comments and so, now the applicant is here, so if I don't need to reserve any time then I will not. Is, is... Am I understanding that correctly?

Pritchett - Yes ma'am you...

Long - If I, if I need to...

Pritchett - Whatever you'd like to...

Long - ...come back up and...

Pritchett - Mhm.

Long - ...answer any questions, I'd be happy to do so. So, I'm going to try to talk kind of fast, but I want you to hear what I have to say, so, if you do need to stop me please feel free. In preparation for this evenings hearing, our team has reviewed the staff's comments and the supporting documentation, including the recommendation from the Planning and Zoning Board to approve the requested rezoning. In addition, we've reviewed the addendum to staff's comments, which we received yesterday at 8:50 in the morning. Our clients engineer and our clients have been working with this rezoning process and they've had ongoing and regular communications with staff since August of 2019. While the addendum to staff's comments provides that there's no need to rezone the property, in order for our clients to either develop it or sell it for future development we respectfully disagree. Staff's addendum provides that because the property's current RU-1-13 zoning became incompatible with the underlying land use when the County adopted its Comprehensive Plan in 1988, the County allows for the property to, in this case, be treated as two non-conforming lots, and therefore, excuse me, per the Addendum, compatible zoning isn't necessary because the owners can simply accept a de minimis use for the property and construct up to one home on each of these lots. The reality is that treating this 20-plus acre property as two non-conforming lots to provide for the future development of one residential unit on each of the lots does not meet the investment-backed expectations of the owner. It doesn't make any sense. Based on the addendum, the County could take the same position regarding 30-acre lot, a 50-acre lot, there's no limit. The addendum provides that the County expects a property owner, regardless of the size of its

residential property to settle for utilizing their property as on a non-conforming lot allowing for one house to be built when the non-conforming use result, not because of something, the individual property owner did, but rather strictly as the result of the County's action. This is not an example of down-zoning, it's an example of a taking. The property owner in this matter, they are not asking for special treatment, they are moving forward and have been working with staff over 17 months to obtain compatible zoning for their property, compatible zoning that, per State law, should have been addressed by the County within a year of adopting its Comprehensive Plan in 1988. Nonetheless, the owners are ready to do what they must do, what they are being required to do. They have submitted the rezoning application, the application was reviewed by staff, it was deemed complete, transmitted to the County's Planning and Zoning Board. The Planning and Zoning Board, after reviewing the application as submitted, along with staff's comments, recommended approval for the rezoning. Per the County Code, nothing additional is required, nothing additional should be expected. Future development or future permitting issues are just that, future issues. The only thing the owners are requesting at this time, is a zoning of AU(L), AU(L) zoning. Even the neighbors, many of whom opposed the previous owners effort to pursue development approvals, at a significantly higher intensity. Previous owners sought development at a significantly higher intensity. They recognized that the current owners should not be punished during this process, but rather fairness should be applied. The current owners are requesting a compatible zoning designation, these same neighbors support this AU(L) zoning designation. To be clear, we've reviewed all of the written public comments submitted to the County last November and December. They were the ones the Commissioner Lober read into the record, all of them, not just the letter of support. There were nine letters or emails, of the nine, one writer did not provide an address, five were written by folks that reside a minimum of 17.2 miles away, and one lived as far as 47.3 miles. The remaining letters, one was, was person who lived about a mile away, another one, point mile, one mile, and the other across the street. I've already quoted from the email transmitted by the closest neighbor supporting, in support of the rezoning. I believe she spoke this evening. The Comprehensive Amendment for the property is not...rezoning...excuse me, every... doing Comprehensive Plan is not the goal of these current owners, all of their goal is, is to have compatible zoning. The writers of the two other submittals, one also here this evening, or represented by somebody here this evening, uh voiced opposition to future development of any kind whatsoever in the CHA area. Therefore, this would include development of the two non-conforming lots of single homes, which per County staff has said and is in your addendum, would be permissible without rezoning so, you'll never satisfy those folks. Their issue is nothing in the CHHA. These two writers also noted concerns about potential nitrogen loading, potential for uncontrolled runoff from stormwater, and the placement of any fill material. One of the writers and speakers this evening referenced previous comments submitted to the County regarding the property from several agencies including the water management district, DEP, and DO... DEO. All of those agency comments had to do with the previous owner's request for a Comp Plan Amendment, the issue before you, in May 2019. None of those comments had anything to do, nor do they have anything to do, with the requested rezoning here this evening. We asked, there have been no negative comments, or positive, or indifferent, or asked, or received from any of the other environmental agencies, none. We've requested copies of information from the staff that they've received and there've been no additional public comments received since December either. While the agencies may have comments during the actual permitting process, the development process, the approval process, those comments right now would be premature, there's nothing to give them, there's nothing for them to comment on. There's nothing to give you, there's

nothing for you to comment on. It's simply a straight request for a rezoning. It doesn't mean, however, that the comments by some of the folks this evening, don't warrant your concern, your attention, they do, they're just not timely. Commissioner Tobia asked us to look into the SLOSH model as was mentioned this evening. Thank you, I had not heard of the SLOSH model. We did do our due diligence. I spoke directly to the National Hurricane Center, and the SLOSH model is updated every three to six years. It was just updated in January of 2020. The County's Code requires that anything that might be developed, future development in the CHHA, comply with your own Code as well as any implications set forth in the SLOSH model. So, regardless of whether it's rezoned, not rezoned, non-conforming lot, AU(L), RU-1-13, anything placed in your Coastal High Hazard Area, you have it covered. On top of what you have covered, the DEP gets to weigh in. On top of the DEP, the Water Management District gets to weigh in. On top of the Water Management District, because of the location along the Coastal Way, the Army Corp of Engineer, they also get to weigh in. They don't weigh in now, because weighing in is premature. I guess I need to cut to the chase because I'm not sure I'm going to have enough time, but I do want to let you also know that stormwater management has a permitting process, not only through the County, as it's set forth in your Code, but also if it's a single lot, the FDEP regulates it and if its multiple lots being developed at the same time, the Water Management regulates it, the Water Management District. They require no net flow, that means that the engineer must apply to the Water Management District pre and post construction calculations. Anything above what's currently running off of the vacant property today must be captured on-site, treated on-site, retained on-site. That is accomplished by retention, detention ponds, swales, and other engineering controls. With respect to the septic systems, in addition to the County's Code that regulates septic systems again, the Water Management District regulates the same, as does the DEP. In areas of high environmental concern, such as waterways and coastal areas, set backs are taken into consideration and are higher than, excuse me, longer than, larger than what would be considered elsewhere, and the client had said the owners had said before and I will state it again for the record, their intent is to place it anywhere it's applicable and where it would make the most sense, including those areas not in the Coastal High Water Area, advanced treatment systems. Fill dirt, same issue. You can't place fill dirt without a permit. You can't place it without a County permit, you can't place it without a Water Management, Management District permit, and you can't place it in critical areas without the Army Corps approval. All require permits. And I want to state, each and every agency has the opportunity for the public to interject themselves, to offer comment, to offer a concern, to offer spoken presentations, written presentations and communications along each and every step. Everyone that was here this evening and those that couldn't make it can request of each of those agencies that they be copied directly on any communication or any permits that may or might be issued for future development of this property. That goes for any property by the way. Let's get to the BDP, a BDP per the County's Code is something that an applicant may voluntarily submit when requesting a rezoning for its property, a BDP is not something that the applicant must request. To reiterate, the rezoning is being required by the County, not truly requested by the applicant. The owner as acquiescent to the process because without it, as noted above, the property value is nearly worthless, certainly falling well short or the investment-backed expectations. In addition, while the current property owners are seeking the requested rezoning, they may not be the ones to develop the property, that's part of the problem they may want to sell it just as vacant lot, and it's very difficult to do right now because when somebody does their due diligence they recognize that the zoning doesn't match the underlying, excuse me, land use provisions. The new owners would be best suited to explore development options and constraints, not the current

owners unless they become the developers. It's during that process that the developers and regulators were to discuss specific items and conditions of approval, oftentimes the result of a compromise coming from a clear understanding of what the developer's looking to build, and what the regulations can provide as approval, and what may not be allowed. The requested AU zoning will allow for eight homes. This is a decrease of 97 percent of the development density permitted under the current noncompatible zoning district. If forced to settle for the nonconforming option, provided in the addendum, then it's a decrease of 99.5 percent. Another way to state it is the County would like to force the owner to settle for five percent of the current development rights. Eight homes being developed if you approve, down to two would be 75 percent removal of their development rights. The owners have spent thousands of dollars to fix a problem they didn't create. They've listened to staff, they've listened to the property owners around them, and they've submitted everything necessary to support the AU zoning. They've completed everything required of them and the zoning is compatible. We respectfully request that the Board confirm the recommendation of the Planning and Zoning board and re, approve the AU zoning, anything less would result in a taking, punishing the current owners for a situation resulted through no fault of their own. It's our understanding and our position that the owners have complied with all of the applicable County Codes, to provide to the County all the information and documentation necessary, to meet the requirements necessary to allow for the AU(L) zoning. Our position is substantiated by the fact that staff's comments and P&Z have asked for nothing more. The unanimous decision from P&Z recommends approval. Therefore, should the Board deny the request to rezone the property to AU(L), for the record, we respectfully request that the reasons for that denial be clearly stated so the owners have a clear understanding as to what they were required to do, that they did not. Thank you.

Pritchett – Thank you, ma'am.

Lober – Madam Chair.

Pritchett – Commissioner Lober, I'm gonna let Commissioner Tobia jump in first, sir, if you don't mind just to stick with...

Lober – Sure.

Pritchett – You're good?

Tobia – Yeah, absolutely.

Pritchett – Okay. Commissioner Lober.

Lober – I was just gonna say, I saw that the applicant kind of ran till the very end of the clock and I was gonna make a motion, if she'd like me to do so.

Pritchett – Maybe we can.

Lober - To give her an extra three minutes.

Pritchett – Maybe we can do that in a little bit after we have discussion.

Lober – Okay.

Pritchett – If you guys want to ask her questions because we're out of cards. Good?

Lober – Yes, ma'am.

Pritchett – Um, Commissioner Tobia did you want to open this up or do you want staff, or?

Tobia – If.

Pritchett – You good?

Tobia – If staff wants to go, or if not?

Pritchett – Just asking because I.

Tobia - I most. I have a number, with your indulgence, a number of questions for staff concerning this.

Pritchett – I would like to hear from you, sir.

Tobia – Thank you. Uh, I just wanted to start with a little bit of background. I stood. I spoke with a Ms. Laura Young, who at the time was, and maybe still be the attorney for the applicant that would have been on November 25th, where I informed then that I did not believe it would be appropriate to approve the request, absent a BDP agreement that would restrict elevation changes within the Coastal High Hazard Zone, and I, I talked about four primary concerns. Um, I believe, uh, Ms. Young has, uh, referenced that conversation that I had. I met with staff about this project and they informed me that should the Board approve this application, as proposed, absent the BDP, development could occur within the Coastal High Hazard Zone, and within the boundaries of an AE flood zone. Now, I've got a few questions on this. I think it would probably be appropriate, uh, to ask those to Mr. Denninghoff, but seeing as this Quasi-Judicial, with your indulgence, I'd like to qualify him, Madam Chair?

Pritchett – Yes, sir.

Tobia – Thank you. Uh, Mr. Denninghoff, uh, what institution of higher learning did you attend that is currently ranked 28 spots above that of Florida State University?

Denninghoff – I graduated from the University of Florida College of Engineering.

Tobia – Thank you. Uh, and how long, and in what capacity have you worked for the County?

Denninghoff – I've worked for the County for an excess of 24 years, um, I started as a what was the Director of Construction Management, became the Director of the Transportation Engineering Department, and then the Director of the Public Works Department, and now I am a, an Assistant County Manager.

Tobia – Thank you. And finally, who's your sensei?

Denninghoff – Uh, I would suppose it was Wally Cornell, a professional engineer.

Tobia – Thank you.

Denninghoff – He was a man that mentored me a bit.

Tobia – Thanks. Uh, okay. Uh, can you, please, uh, this is dealing with the impact of the neighbors. This was uh, issue number one and uh, so might changes in elevations with the Coastal High Hazard Zone have a direct adverse impact on the neighboring properties during a stone, a storm surge?

Denninghoff – Yes, they can, particularly if it's as a result of placement of fill.

Tobia – Uh, the Coastal High Hazard Zone considers storm surges from just a category one storm, uh, which winds, uh, are only in the neighborhood of 74 to 95 miles per hour. Would you consider this an unreasonable standard?

Denninghoff – No.

Tobia – Uh, okay, thank you. Uh, Madam Chair.

Pritchett – Please.

Tobia – Okay. This question would be for, um, I guess the attorney now. Uh, Ms. Young, what is your client's response, the concern to fill displacing water during storms and adversely impacting the neighbors?

Long – Okay, for the record again, my name is Anna Long, and I know, that you have Laura, she's my partner, so just so for clarification we are with the same firm. Okay? To answer your question, our engineer would be working with the County, as well as the Water Management District, and/or DEP, to ensure that any fill, if fill were to be brought onsite would be appropriately handled. However, to be clear, my clients have no plans at this time to develop this property, they cannot. They cannot look at the entire parcel with development in vine either in the CHA or outside of it, without have a clear understanding about the maximum density would be. Now, AU(L) allows for up to eight homes. It doesn't mean that's going to be possible, does it? No. It simply means that that's the maximum you're going to allow, with compatible zoning and then it's up to them to bring to your staff, the professionals, as well as the State and Federal agencies what they'd like to do; whether it's my clients or future owners and then for those agencies all to say, you checked this box, you're good to go, that one over there needs some works, so. I can't really answer the question in the manner in which, I think you might want me to because it's premature.

Tobia – Thank you, Madam Chair. And if you hadn't given any impact would have been suffice. Uh, which gets us to the second, uh, our Comp Plan objective seven, which is in your packet, uh, of the Coastal Management Element of the Comp Plan, and specifically states the County should and I quote here, "Limit densities within the Coastal High Hazard Zone and direct development outside of this area." Uh, Ms. Long, uh, what would you have to say about the Comp Plan, clearly and specifically directing, uh, the Board to, uh, make sure that this type of development doesn't happen in that area?

Long – The Comp Plan requires that zoning be compatible with the underlying land use. AU(L) zoning is compatible with the underlying land use, to deal with the other provisions of the Comp Plan, you deal with it as you're moving along in the development process, and apply it accordingly.

Tobia – Madam Chair. Can I. Can I read that quote again? "Limit densities within the Coastal High hazard Zone." If we were to grant this, we would in effect not be following Coastal High Hazard Zone because your client or whoever they decided to sell it, could directly, uh, develop it outside/inside this area, and it would not come back to the Board.

Long – And they could easily develop outside of it, you're giving a compatible zoning to allow for up to eight units.

Tobia – And.

Long – Whether or not those units are located with or outside of the Coastal High Hazard area, is not the point of the discussion this evening.

Tobia – Thank you.

Long – Furthermore, if you do nothing two homes get to be built there, and it's a take.

Tobia – Madam Chair. A SLOSH.

Pritchett – Yes.

Tobia – A SLOSH model was mentioned, um, by uh, Ms. Long, they are... Ms. Long because it's a conversation I had with Ms. Young. While these are traditionally done on larger scales, they can be done on smaller scales. Uh, Ms. Young, or sorry, Ms. Long, I apologize, um, and my conversation was via the phone.

Long – That's fine.

Tobia – So, I didn't see either one of you, uh, um, did you, uh, did you do a SLOSH study?

Long – No, sir.

Tobia – Because, if you did.

Long – No, we did not.

Tobia – You did not.

Long – And when I asked the National Hurricane Center how it, you know, or, how many SLOSH models are performed by the private sector or by private individuals, I got transferred. I can't even tell you how many times, because they really didn't understand why I was asking. So, I would more than be happy after the rezoning to discuss how that might occur, but as it was explained to me, by the people that currently produce the model that it's a model done by the National Hurricane Center in cooperation with FEMA, NOAA, and the Army Corps of Engineers.

Tobia – Madam Chair.

Pritchett – Yes, sir.

Tobia – Okay. Finally, um, and this would go back to Mr. Denninghoff, and your expert opinion. Will the health of the Indian River Lagoon be adversely impacted should homes be built in the Coastal High Hazard Zone?

Denninghoff – Given that we're talking about new development while the development standards are in some cases high, they do not reach the level that's necessary to preclude a negative impact to the Lagoon. So the answer is that they would be an impact to Lagoon.

Tobia – Thank you. Uh, one final question. Ms. Long, would you agree it would be legally appropriate for this Board to consider adverse impacts on the Indian River Lagoon when making decisions, such as this?

Long – I think it would be appropriate for this Board to determine whether or not the request before you meets the current criteria of your Code and if what I heard your Assistant Manager say was, that your current Code is inadequate to allow new development, and that's an entirely different issue and again, you would be punishing this applicant for something that the County should be addressing on a consistent basis.

Tobia – Madam Chair, uh, do you want me to discuss, or?

Pritchett – It's yours. It's your floor, sir.

Tobia – Okay. Um, I think you've heard a couple things from the applicant's attorney. Uh, no fault of their own, I, I heard which is questionable, uh, when this property was purchased it was purchased under the current zoning, so, uh, if due diligence was done this should have been apparent. Um, the applicant's attorney also said nothing is required or expected, that makes this really simple on us as a Board in my opinion, and then we got to my favorite portion of it which was, uh, again, I'm not an attorney but I can look up legal definitions, which is taking. Um, this according to Black's Law is a conservative provision that a man's property or probably should be persons nowadays, shall not, not be taken for public use without compensation. Um, I don't think Brevard County is taking any of this, uh, property to the best of my knowledge. That's certainly not what I, uh, read in this packet. I had a conversation like I said, on November 25th. I expressed the concerns about building, uh, potentially building in that Coastal High Hazard Zone. I discussed ways in which it could be mitigated with a BDP. Uh, the applicant, I understand called late yesterday, uh, and I did not have the opportunity to return it, but even if I had received a BDP at that time it wouldn't have given me, and it certainly wouldn't have given staff or this Board ample time, uh, given the amount of whatever it is, almost 60 days here, to come up with something that was very simple, which was, uh, building within the Coastal High Hazard Zone. I really was excited about this project. I think there were many opportunities, but certainly right now, the blatant disregard, uh, of actions of, of the Board, and disregard of, of, I, I would say that the neighbors and it appears as though that is as the, the case. Um, right now, I, I don't see how I could, uh, vote in favor of this. Um, I'm actually on the fence right now of whether or not this should, uh, be denied, or tabled again? If it's tabled again, it would give the applicant, you know, 30 or 60 days to, uh, come back to us. Uh, if it was denied the applicant... My understanding is, could come back to us, however, there would a six-month, uh, moratorium on it, but given the fact that there was no communication with my office up until yesterday. I'm probably leaning to the former, uh, than the latter, but I would like to hear from, uh, the rest of the this Board, Madam Chair.

Pritchett – Thank you, sir. Commissioner Lober.

Lober – Just briefly. Commissioner Tobia, um, whatever your motion is? And, I think, I get a pretty clear idea as to which, which way it's going to go, I'll second and support it. That said, I would just ask that you consider in your motion, if Ms. Bentley, who I do see down there now. Okay.

Bentley – Mmhmm.

Lober – If Ms. Bentley, is so inclined, if she'd like us to direct her office to produce findings consistent with the conversation, and discussion that we've had? May I suggest kindly, that you include that direction to her in whatever motion you may make?

Pritchett – I don't have any other lights. Um, Commissioner Smith, you, I just say you putting yours on. Sir.

Smith – Thank you, Madam Chair. I'm not. There we go. Thank you, Madam Chair. I tend to agree with Commissioner Tobia. I. We were simpatico last time we heard this and I haven't heard anything that would change my mind. I'm very concerned, being a water guy myself, and, and an environmentalist to some degree. I don't want to see anything built in that High hazard Zone either, so if we can do something that is legally, uh, available to us to prevent that. But, while at the same time giving the, the owner the opportunity to build the number of houses that can, can adequate adequately be provided on the rest of that property, I think that's the way we should go. So, I will be supporting you, as well.

Pritchett – Thank you, sir. Mr. Calkins, did you come forward cause you wanted to give anything?

Calkins – No, ma'am, I don't have anything to add.

Pritchett – Okay.

Calkins – Unless the Board has questions for me.

Pritchett – Okay. Ma'am, I guess the question would be then would, would a tabling be a, a good suit for you at this point, right now instead of a nut...denial? Would that be a good path to help you?

Long – You know, I really need to understand what, why it's being denied. I really do. Um... Before I can answer that question. So, again, if you're denying it because there was not a BDP submitted. Is that what I'm hearing? Excuse me, you're offering to table it, so that a BDP could be prepared and submitted, because without a BDP your motion will be to deny.

Pritchett – I.

Long - Because it wasn't.

Tobia – Madam.

Pritchett – I

Tobia – Madam Chair.

Pritchett – I think.

Long – I'm trying to understand that part.

Pritchett – I think on my part that unless you can address the concern of the High Coastal Hazard Area that is in line with the Comp Plan Agreement and, I think a BDP would do that. I don't think that would be that, that hard for you guys to come back with. Am I right Commissioner Lo, uh Commissioner Tobia on that?

Tobia – I don't want to give a straight answer.

Pritchett – Okay.

Tobia – Because, quite frankly, I haven't received any.

Pritchett – Right.

Tobia – At this point.

Pritchett – We haven't.

Tobia – In all honesty, I don't think I've received one. Uh... Now, I take that back. Uh... Mr. Denninghoff, certainly, uh, so, uh, the concerns I thought were... Uh... I justified them.

Pritchett – You did.

Tobia – The impact on neighbors. Uh... The issues with the Comp Plan, uh, potential alternative paths, uh, that, and, and the health of the Indian, uh, River Lagoon. I think, what Commissioner Lober said, uh, produce findings. Um... But, you know, past what I've said here, I don't know that that puts us in a position. The more we speak, I think this is... I'm surprised. In all honesty, um, you don't have a court reporter here.

Long – We do have a court reporter here.

Tobia – Well, uh, clearly, you decided to strike first, strike hard, and no mercy. Uh... So. Uh... That beast. That being said, Madam Chair. Uh... I would, uh, make a motion to deny and ask that there, uh, we produce findings, Madam Chair.

Pritchett – Thank you. Ms.

Lober – I'll second that.

Pritchett – Ms. Bentley, is that good?

Bentley – Yes, ma'am, and we'll bring them back to the Board for confirmation.

Pritchett – Thank you. I have a motion by Commissioner Tobia, second by Commissioner Lober. All in favor say aye.

Lober – Aye.

Tobia – Aye.

Smith – Aye.

Zonka – Aye.

Pritchett – Aye. Opposed? Denied 5:0.

Lober – Madam Chair, if I may just have a brief moment?

Pritchett – Yes, sir.

Lober – I just want to put out there, in case there's any question. My issue is not one with respect to the BDP. I think a BDP would cover some of the concerns that were raised, but from my perspective as, as one out of five, a BDP isn't necessarily the, the, um, the only issue. I think, with or without a BDP, there are other ways to make this go forward, but the concerns simply weren't addressed to my satisfaction.

Pritchett – Thank you, sir. Okay, we are going to move into the next Item.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.

B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.

C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.

D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.

B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.

C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;

2. actual development over the immediately preceding three years; and

3. development approved within the past three years but not yet constructed.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

A. Whether adopted levels of services will be compromised;

B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;

D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;

E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;

F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;

G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

(1) The character of the land use of the property surrounding the property being considered.

(2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

(3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

(4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.

(5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)
In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

(b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

(1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.

b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.

c. Noise levels for a conditional use are governed by Section 62-2271.

d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.

e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.

f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.

h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.

i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site pan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST
Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

(1) The character of the land use of the property surrounding the property being considered.

(2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

(3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

(4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.

(5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.

BOARD OF COUNTY COMMISSIONERS

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STAFF COMMENTS
20Z00030
Lazy River Investments, LLC
RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential (Low Intensity))

Tax Account Number: 3008729
Parcel I.D.: 30G-38-19-HP-*-10
Location: Southwest corner of Fleming Grant Road and Seabird Lane (District 3)
Acreage: 20.39 acres

Planning and Zoning Board: 11/09/2020
Board of County Commissioners: 12/03/2020

Consistency with Land Use Regulations

- Current zoning can not be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-13	AU (L)
Potential*	Two (2) single-family residential units	Eight (8) single-family residential units
Can be Considered under the Future Land Use Map	NO Residential 1:2.5	YES Residential 1:2.5

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is requesting to rezone the property from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential - Low Intensity) to be consistent with the RES 1:2.5 (Residential 1:2.5) FLU (Future Land Use) designation.

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane. This property has dual frontage on Fleming Grant Road and the Sebastian River. The property is currently platted as two residential lots: Lot 10, a 10.75-acre lot and Lot 11, a 9.88-acre lot, which total 20.39 acres. The property is currently vacant.

On May 30, 2019, the Board of County Commissioners conducted a public hearing to consider a request for a Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1, and a companion Zoning action request for a BDP (Binding

Development Plan) for consistency with the Residential 1 FLU designation (**18PZ00167**). The result of that hearing was that the Large Scale Comprehensive Plan Amendment was denied, and the applicant withdrew the companion BDP request. On December 5, 2019, the Board conducted a public hearing to consider a request for a BDP limiting the development of the property to 8 lots, with other stipulations offered to help mitigate the proposed development. The Board also denied this request. **(19PZ00093)**

Land Use

The property is currently designated RES 1:2.5 by the Future Land Use Map (FLUM). The existing zoning of RU-1-13 is inconsistent to the FLUM. The proposed zoning of AU(L) would allow consistency with the FLUM.

FLUE Policy 1.10 The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

Environmental Constraints

All references to mapped areas can be found in the GIS Maps section of this package.

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between the Indian River county line and Micco Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 52.02% of capacity daily. The parcel is undeveloped. The maximum development potential from the proposed rezoning increases the proposed trip generation 0.13%. The corridor is anticipated to operate at 52.15% of capacity daily. The proposal is not anticipated to create a deficiency in LOS C.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The subject property is not served by potable water. The subject property would be served by well and septic. Brevard County Division 46, Article II, Division 4 establishes a nitrogen reduction overlay area (Overlay) that requires advanced OSTDS that reduces total nitrogen by at least 65%. A portion of the property lies within this Overlay and septic systems within this Overly are subject to said regulations.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 8 of the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

All of the properties between Fleming Grant Road and the Sebastian River have the RES 1:2.5 Future Land Use designation. This segment of Fleming Grant Road is considered to be low density residential and rural in character. The area contains a mixture of lot sizes and zoning classifications. Lots within ½ mile of the property range in size from 0.17 acres up to 4.5 acres with the majority being an acre or larger, and are zoned AG (Agricultural), GU (General Use), RR-1 (Rural Residential) and RU-1-13 (Single-Family Residential). The AG and GU classifications may be considered consistent with RES 1:2.5; however, the RR-1 and RU-1-13 classifications are not considered to be consistent with the RES 1:2.5. The majority of these parcels were created prior to the adoption of the Comprehensive Plan in 1988.

The proposed AU(L) zoning may be considered to be consistent with RES 1:2.5 as it has a minimum required lot size of 2.5 acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential

development of spacious character. The classification is divided into two types, AU and AU(L). AU is the standard agricultural residential classification, while AU(L) is a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities. The AU(L) zoning classification requires a minimum lot size of 2 ½ acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. There are parcels in the area that have the AU zoning classification; however, the Board's approval of the request would introduce AU(L) to the area.

The properties along the eastern boundary of the subject property and most of the north side of Fleming Grant Road from the subject property are zoned RR-1. The RR-1 zoning classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permits uses which are conducted in such a way as to minimize possible incompatibility with residential development. The RR-1 classification permits horses, barns, and horticulture as accessory uses to a single-family residence subject to the standards in Section 62- 2100.5(2). The minimum lot size for RR-1 is one acre, with a minimum lot width and depth of 125 feet, and a minimum house size of 1,200 square feet.

The subject property and the properties along the western property line are zoned RU-1-13. The RU-1-13 classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-1-13 does not permit horses, barns, or horticulture. The minimum lot size is 7,500 square feet, with a minimum width and depth of 75 feet, and a minimum house size of 1,300 square feet.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

The area is characterized primarily by low-density single-family zoning and rural development. As mentioned above, the area contains a mixture of lot sizes and zoning classifications (i.e., AG, GU, RR-1 and RU-1-13). The majority of the AU-zoned land is approximately 360 feet west of the subject property and has a mixture of residential and residential/agricultural. The more intense uses allowed within the AU zoning classification do not appear to be occurring in the area. The parcels to the east and north of the subject property are zoned RR-1 and are primarily developed as single family residences.

Should the Board be concerned with agriculture activity between the RU-1-13 and RR-1 zoning classifications, an alternative residential zoning classification, REU (Rural Estate Use), could be considered in lieu of the applicant's AU(L) request. The REU zoning classification is similar to AU(L) and requires a minimum lot size of 2.5 acres and may be considered consistent with the RES 1:2.5 Future Land Use, but limits agricultural uses as a conditional use. The keeping of horses or other farm animals would require a separate zoning action in order to identify and limit their usage upon the property. Additionally, REU, with minimum lot width and depth of 200 feet, would limit the number of new lots fronting Fleming Grant Road or the river, plus a small left-over area for possible flag stems accessing Fleming Grant Road, or providing access to the water. The minimum living area is 1,200 square feet, which is 450 square feet larger than the 750 square feet required in AU(L). Although REU zoning is not currently located in the surrounding area, this zoning classification could offer additional protections that the AU(L) zoning classification does not.

Analysis of Administrative Policy #7 – Significant Adverse Environmental Impacts

The Environmental Constraints sect of the reports identify several environment limitations effecting the development potential of the property. The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

Surrounding Properties

The surrounding area is characterized as low density with some residential lots developed at less than 1 acre prior to the adoption of the Comprehensive Plan in 1988.

The surrounding properties are zoned RR-1 to the east, RU-1-13 to the west, AU across Fleming Grant Road to the north and General Use (GU) on the islands in the San Sebastian River to the south.

There have been no approved zoning actions approved in the last three (3) years within half-mile of the subject property.

Directly to the east of the subject property lies a 30-foot unimproved right-of-way, and to the east of that lies the private drive Seabird Lane, which per AA-1581 and AA-1583, provides access to two three-acre riverfront parcels.

For Board Consideration

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also wish to consider whether the potential of agritourism activities adversely affect the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary

Item # 20Z00030

Applicant: Young for Bistarcky
Zoning Request: RU-1-13 to AU(L) for 8 units
P&Z Hearing Date: 11/09/20; **BCC Hearing Date**: 12/03/20
Tax ID No: 3008729

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain
- Surface Water Classification
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

All references to mapped areas can be found in the GIS Maps section of this package.

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively

impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

Land Use Comments:

Wetlands
The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site as shown on the NWI Wetlands Map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Aquifer Recharge Soils
The subject parcel contains mapped aquifer recharge soils (Pomello sand and Orsino fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area
The southern portion of the property is in the CHHA. The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area. Policy 7.6 states that existence of sewer, water, roadways or

other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the CHHA. Policy 6.1 designates CHHAs to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Floodplain
The southern portion of the subject parcel is located within the SFHA as identified by FEMA in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality, and development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year BFE as described below.

The FEMA determined BFE within the SFHA for the parcel is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD, becoming effective January 29, 2021. Both the Florida Building Code and County Code require that for any structure proposed within the SFHA, the lowest floor elevation (FFE) of structures must be a minimum of 1 foot above the BFE, or 6.3 feet NAVD upon effective date. The LiDAR map provided in this package shows the 6.3 feet NAVD contour line. Elevations below 6.3 feet NAVD will either require fill, or an alternative option to slab-on-grade construction (i.e. stem wall construction), to bring the FFE up to 6.3 feet NAVD.

Construction in the SFHA of onsite septic tank and drain field with buffers, access to the primary and accessory structures, and all accessory structures such as pools, decks, detached garages, sheds, require a constructed elevation at or above the BFE (5.3 feet as of January 2021); which may likely result in fill used in conjunction with a stem wall/retaining wall.

Surface Water Classification
The property is located on surface waters designated by the State as an Aquatic Preserve. A 50-foot surface water protection buffer (Buffer) is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside of the Buffer. Accessory structures such as pools, decks, sheds, cabanas, etc., are permittable within the Buffer provided that stormwater management is provided. Impervious areas shall not exceed 30% of Buffer area. Avoidance/minimization of Buffer impacts is required so that surface water quality and natural habitat is not adversely affected.

Per Section 62-3666(4), all alterations shall demonstrate avoidance and minimization of surface water protection buffer impacts, including the location of the alteration within the most landward portion of the Buffer, as practicable. The remainder of the surface water protection Buffer shall be maintained in unaltered native vegetation.

Indian River Lagoon Nitrogen Reduction Septic Overlay
Portions of the site are mapped within the Indian River Lagoon septic overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The project is not located within the Brevard County's sanitary sewer service area. Thus, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are be subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

Heritage Specimen Trees
The entire subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and are found on the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas.

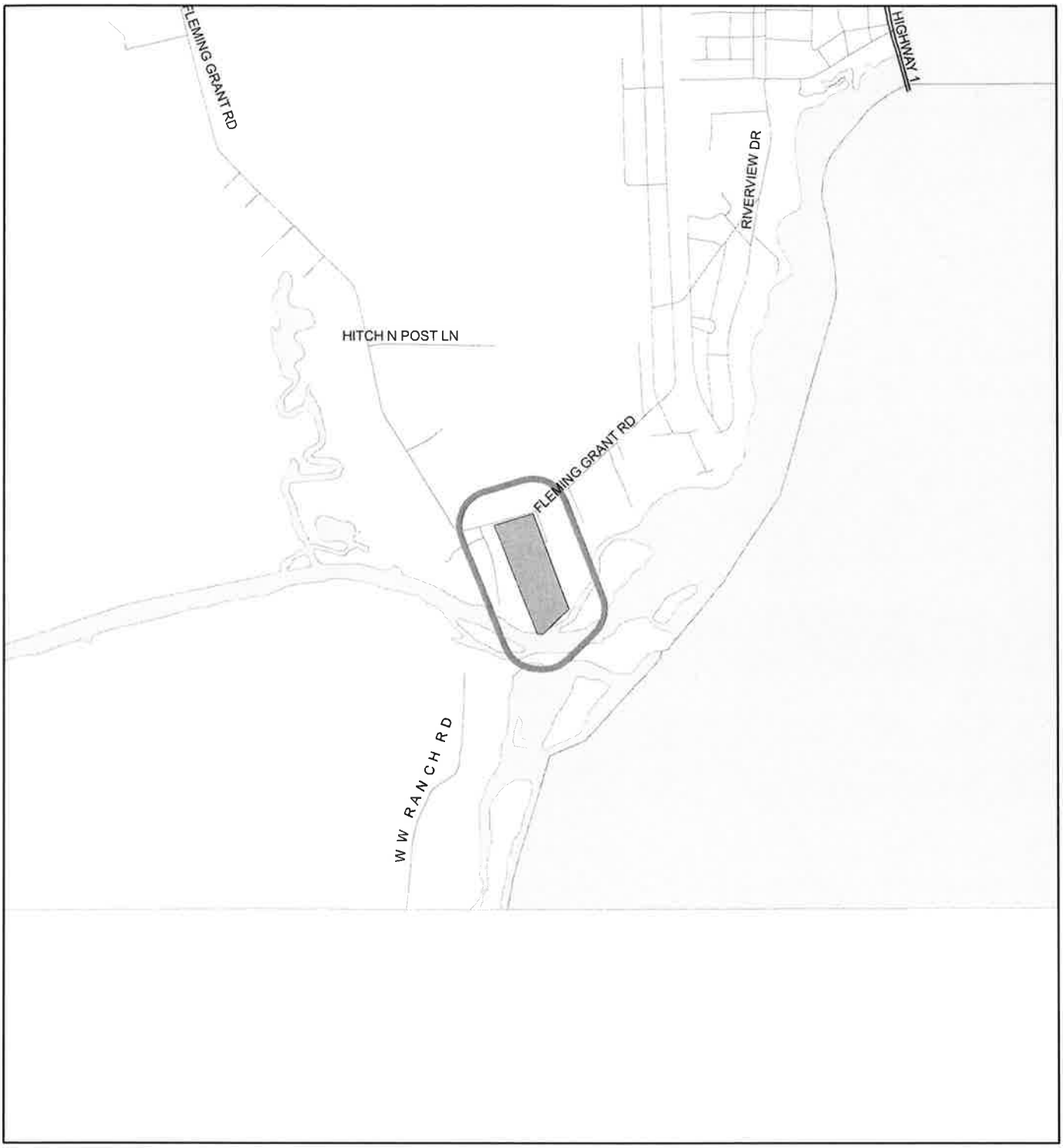
While developing to a higher elevation provides more protection from flooding, the additional fill is detrimental to the preservation of Protected and Specimen Trees, especially those located at the lower elevations within the SFHA floodplain and the CHHA. If units are developed in the lower elevations of the property, closer to the shoreline, more fill will be required to satisfy Land Development Regulations relating to the FFE.

Protected Species
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

Buffer

Subject Property

ZONING MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

Zoning

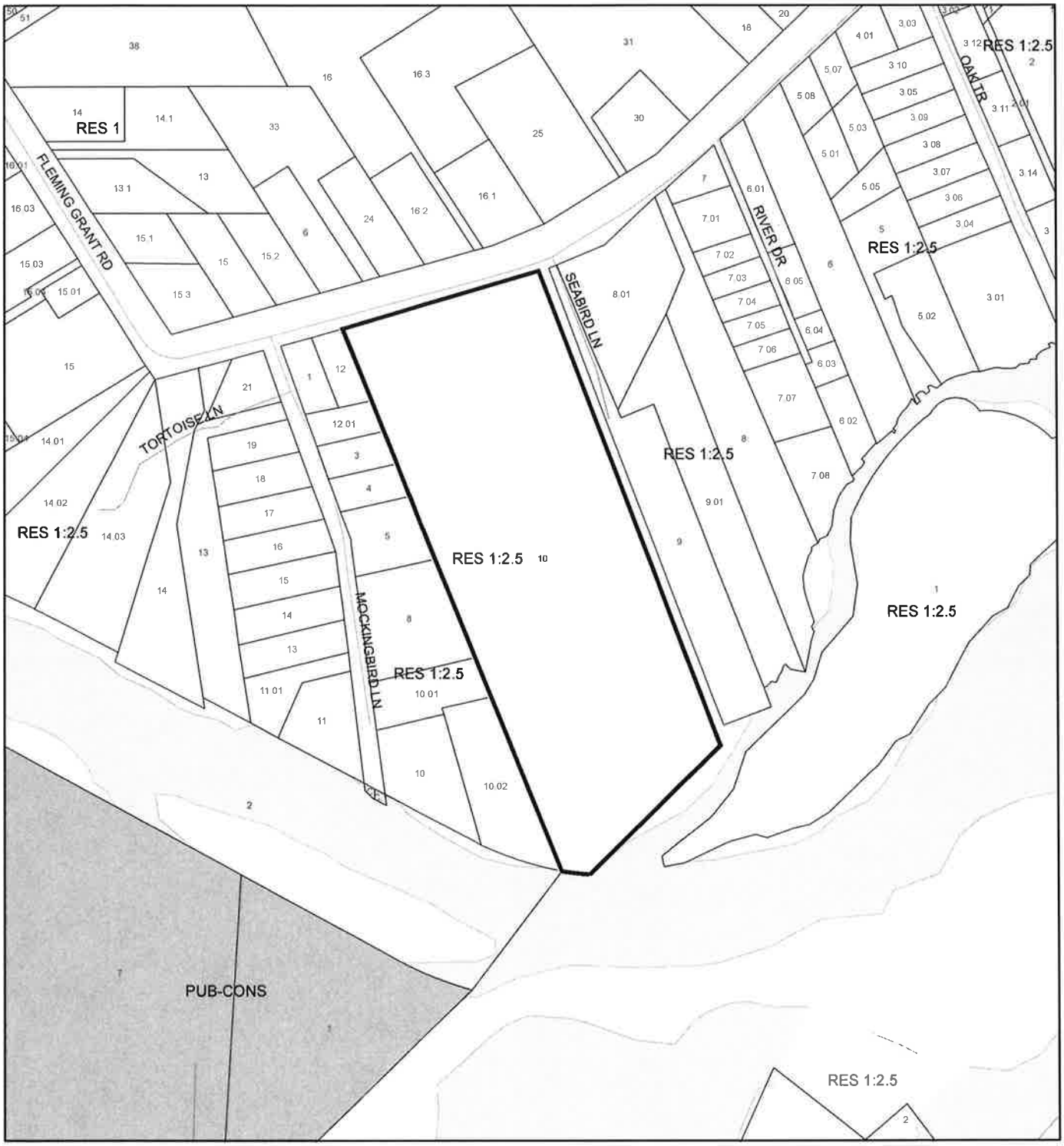
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

FUTURE LAND USE MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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Produced by BoCC - GIS Date: 9/10/2020

AERIAL MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

Subject Property

Parcels

NWI WETLANDS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

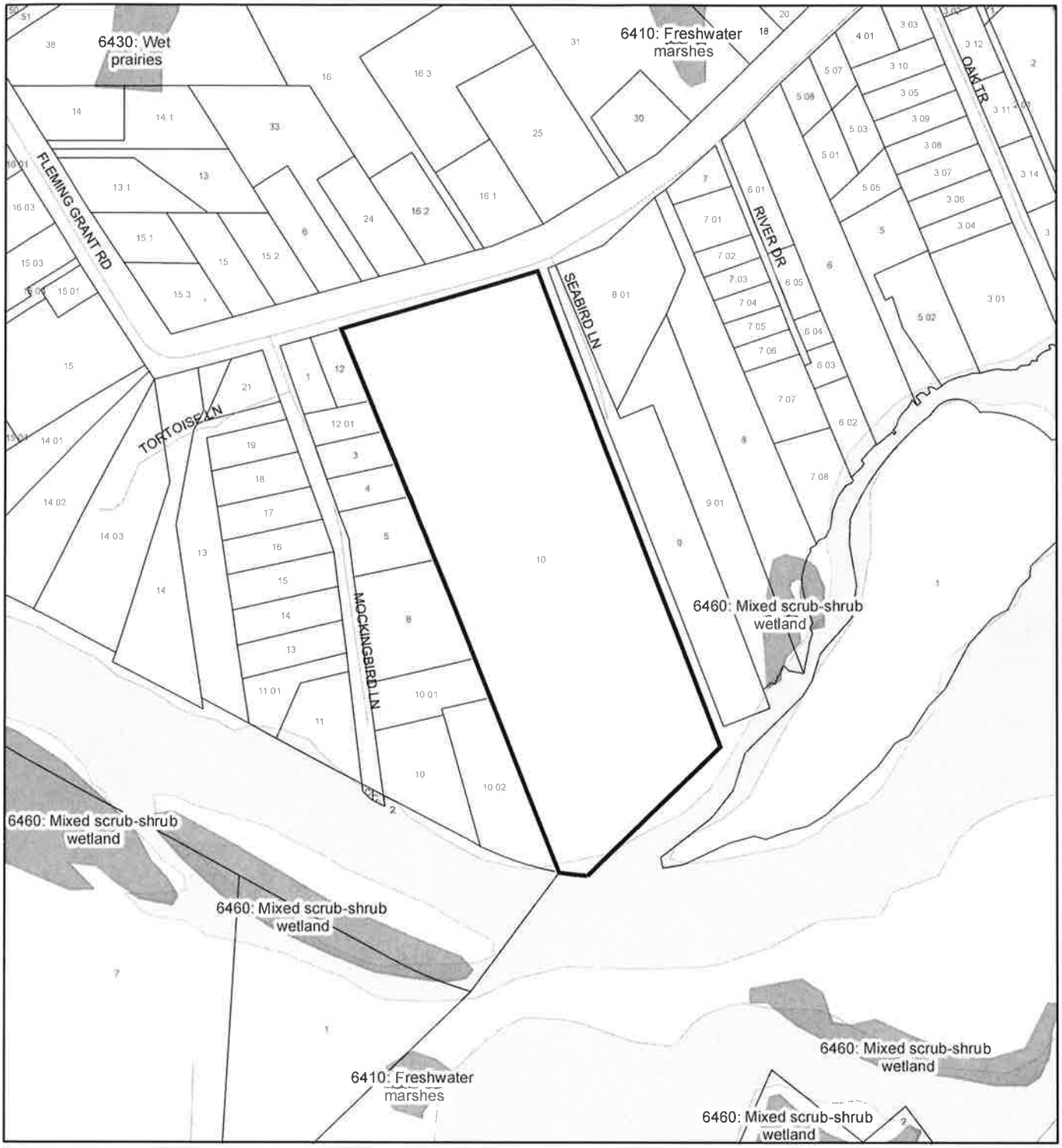
National Wetlands Inventory (NWI)

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine
- Subject Property
- Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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Produced by BoCC - GIS Date: 9/10/2020

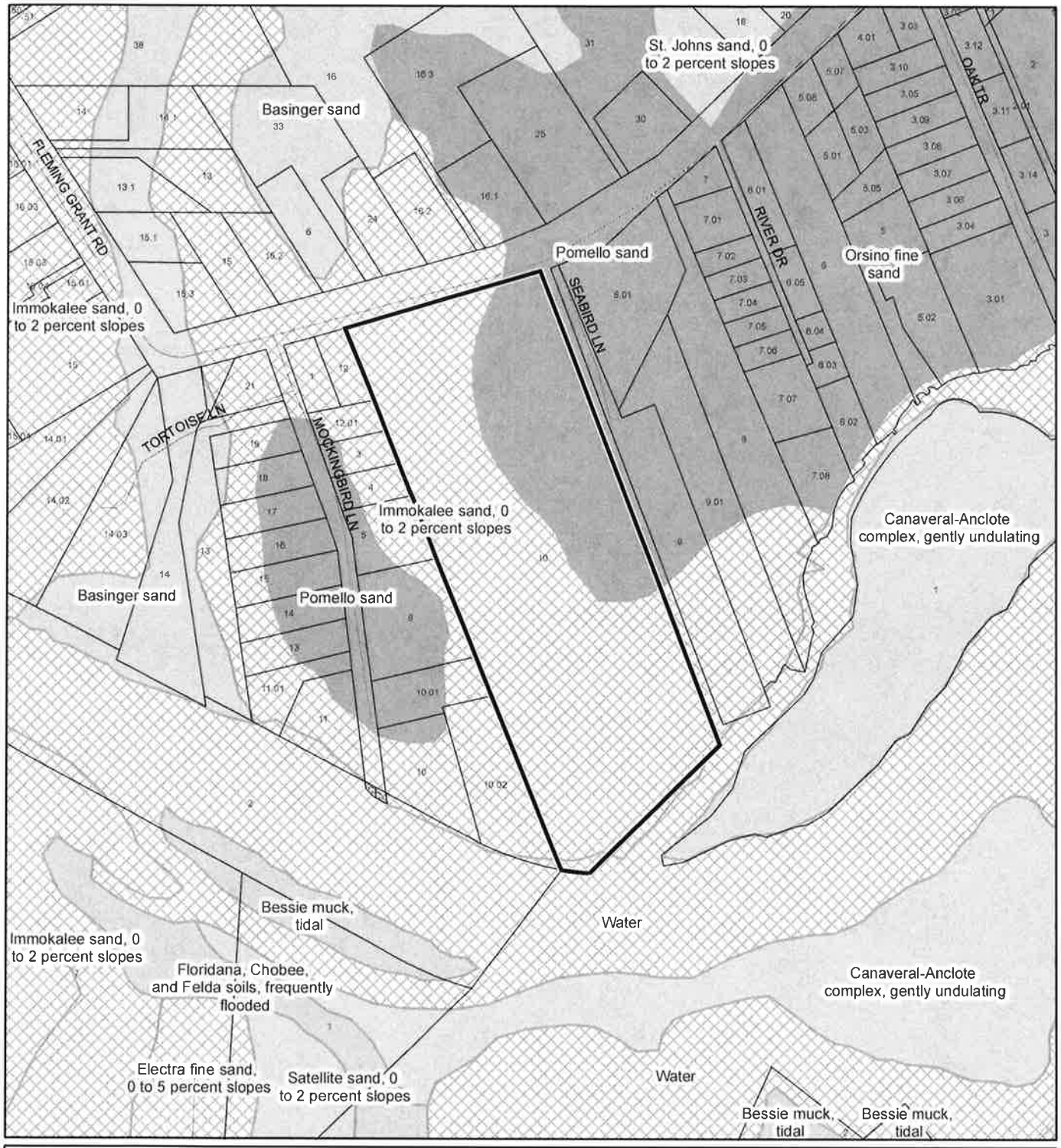
SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500
- Subject Property
- Parcels

USDA SCSSS SOILS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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Produced by BoCC - GIS Date: 9/10/2020

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

FEMA Flood Zones

- A
- AO
- X
- AE
- Open Water
- X Protected By Levee
- AH
- VE
- 0.2 Percent Annual Chance Flood Hazard
- 0.2 Percent Annual Chance Flood Hazard Contained in Channel
- Subject Property
- Parcels

COASTAL HIGH HAZARD AREA MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

Subject Property

Parcels

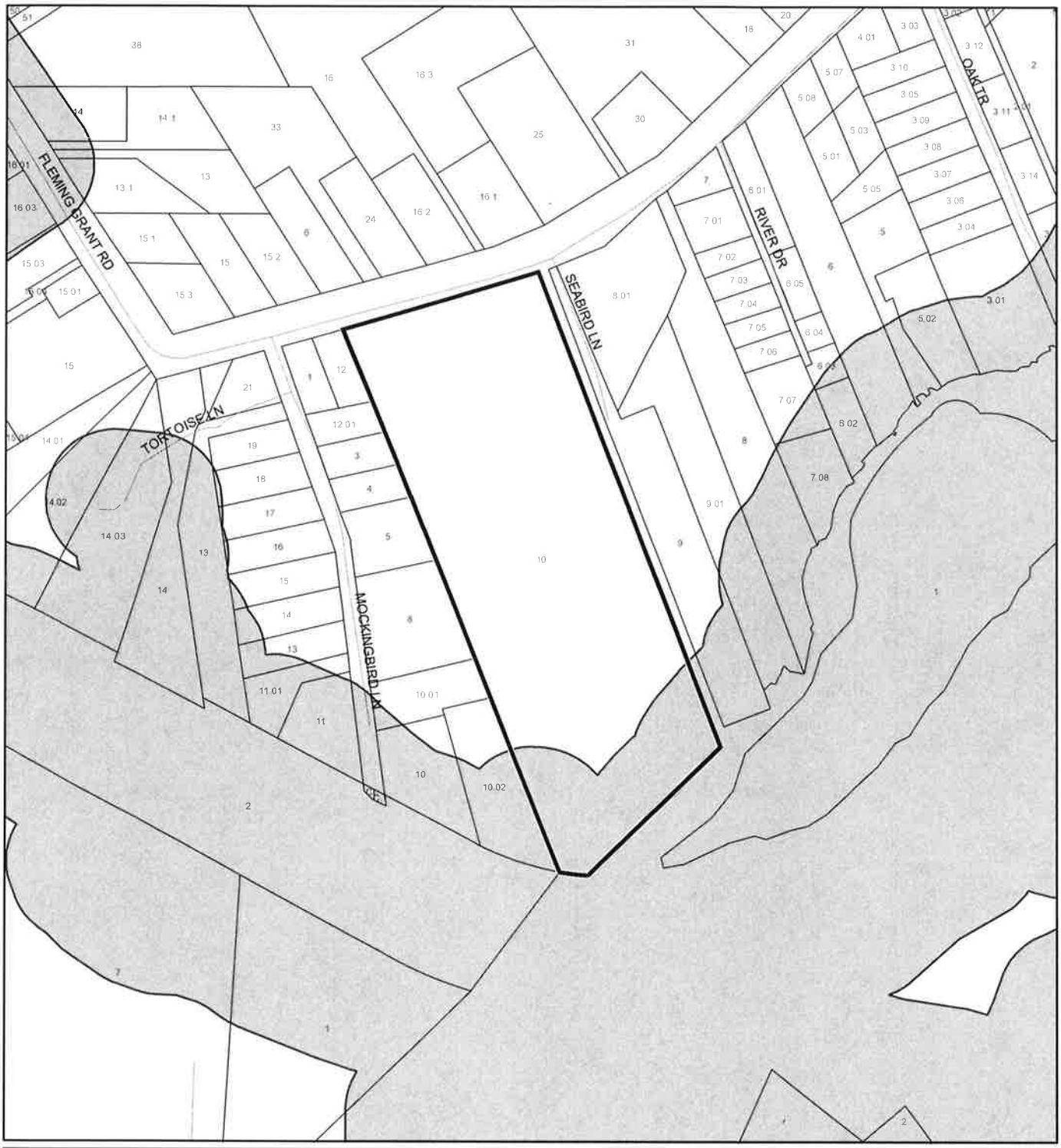
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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Produced by BoCC - GIS Date: 9/10/2020

Subject Property

Parcels

Septic Overlay

40 Meters

60 Meters

All Distances

EAGLE NESTS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

Subject Property

Parcels

Eagle Nests FWS 2010

SCRUB JAY OCCUPANCY MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

Scrub Jay Occupancy

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series
- Subject Property
- Parcels

LiDAR and FLOOD MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

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1:3,600 or 1 inch = 300 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/20/2020

Subject Property

Parcels

Contour - 1 Ft

Flood @ 6.3
NAVD '88
-27.61497116 - 6.3

Brevard COUNTY
BOARD OF COUNTY COMMISSIONERS

Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ# 20Z00030

Existing FLU: Res 1:2.5 Existing Zoning: RU-1-13

Proposed FLU: No change Proposed Zoning: AU(L)

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

David Bistarkey, Manager	Lazy River Investments, LLC		
Name(s)	Company		
1698 W. Hibiscus Blvd., Ste A	Melbourne	FL	32901
Street	City	State	Zip Code
art.fmdc@gmail.com	n/a	n/a	
Email	Phone	Cell	

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☑ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other _____

Laura Young, Esq.	Dean Mead Law Firm		
Name(s)	Company		
7380 Murrell Road, Ste. 200	Viera	FL	32940
Street	City	State	Zip Code
LYoung@deanmead.com	321-259-8900	321-751-6106	
Email	Phone	Cell	

APPLICATION NAME

- [ ] Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- [ ] Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- [ ] Text Amendment (CP): Element _____
- [ ] Other Amendment (CP): _____
- [x] Rezoning Without CUP (RWOC)
- [ ] Combination Rezoning and CUP (CORC)
- [ ] Conditional Use Permit (CUP)
- [ ] Binding Development Plan (BDP)
- [ ] Binding Development Plan (BDP) (Amendment)
- [ ] Binding Development Plan (BDP) (Removal)
- [ ] Variance(s) (V)
- [ ] Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- [ ] Administrative Approval of Flag Lot or Easement
- [ ] Other Action: _____

Acreage of Request: 20.39

Reason for Request:

The purpose of the request is to acquire a zoning designation that is compatible with the existing future land use for the following property: Tax Account No.: 3008729/BCPAO Parcel ID No.: 30G-38-19-HP-*-10.

(2)

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☐ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☑ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☑ An approval of this application does not entitle the owner to a development permit.
- ☑ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Signature of Property Owner or Authorized Representative Laura Minton Young

Date 9/3/2020

State of FLORIDA

County of BREVARD

Subscribed and sworn to me before me this 3rd day of, September, 20 20, personally appeared LAURA YOUNG, ESQ, who is personally known to me or produced _____ as identification, and who did / did not take an oath.

Brian M. Stephens
Notary Public Signature

Seal

BRIAN M. STEPHENS
Commission # HH 002137
Expires May 20, 2024
Bonded Thru Troy Fain Insurance 800-385-7019

(3)

Office Use Only:

Accela No: 20200030 Fee: $1,509.00 Date Filed: 9/3/20 District No. 3

Tax Account No. (list all that apply) 3608729

Parcel I.D. No.

30G	38	19	HP	*	10
Twp	Rng	Sec	Sub	Block	Lot/Parcel

Planner: Peter J. Martin Sign Issued by: PJM Notification Radius: 500ft

MEETINGS	DATE	TIME
☒ P&Z	11/9/2020	3:00pm
☐ PSJ Board		
☐ NMI Board		
☐ LPA		
☐ BOA		
☒ BCC	12/3/2020	5:00pm

Wetland survey required by Natural Resources ◯ Yes ◯ No Initials N/A

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

◯ Yes ● No If yes, list N/A

Location of subject property: On the South side of Fleming Grant Road approximate 2,820 feet South-west of the intersection of Fleming Grant Road and Primrose Drive.

Description of Request: Rezoning from Single-Family Residential (RU-1-13) to Agricultural Residential-Light (AU(L)).

ACCELA # 20Z00030

DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Authorization to Act Form[1]	Recorded Property Deeds	Legal Description of Request[2]	Certified Survey[8]	Property Appraisers Map	Concurrency	School Concurrency[3]	Wetland Survey[4]	CUP Worksheet & Sketch[5]	Comp Plan Information[6]	Notice to Applicants	Neighbors Affidavit[7]	Letter to Zoning Official	Variance Hardship Worksheet[9]	*Additional Documentation	Fees
	NUMBER OF COPIES REQUIRED																
Staff to check indicating receipt	√		√	NA	NA	√			NA			√					
Comprehensive Plan Amendment[6]	1	1	1	2	2	1		1			1					*	Y
Zoning request	1	1	1	1	1[8]	1	1	1	1			1				*	Y
Conditional Use Permit (CUP)	1	1	1	1	1[8]	1				1		1					Y
AA – Waiver	1	1			1	1							1	1			Y
AA – Easement or Flag lot	1	1	1	1	1	1											Y
Variance	1	1	1	1	1	1									1	*	Y

[1]Authorization to Act form is required, if other than the owner of record is making the application. If the property is not owned in entirety, by the applicant, either a Form "A", or a notarized letter must accompany the application giving written consent by all property owners of the subject property.

[2]Legal Description must be typed on a separate sheet, if not easily described on the deed.

[3]School Board Concurrency application is required if the request represents an increase of more than one residential unit.

[4]Wetland Survey required on Commercial or Industrial property.

[5] CUP applications require a completed worksheet and a sketch plan with the application signed by a planner.

[6]Must include Comprehensive Plan Amendment supplemental form revlewed by a planner prior to submitting formal application. The supplement must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

[7]Administrative waivers requiring a signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirement. The affidavit must state the specific request.

[8] Survey must be submitted if requested by staff.

[9] Variance Hardship Worksheet must be filled out completely, addressing the six criteria for a hardship.

***Additional information may be requested by staff dependent upon the requested action. These include but are not limited to impact analysis studies:**

Traffic Impact Analysis (TIA): TIA must be submitted if required by the County Traffic Engineer. Analysis methodology must be coordinated with the Traffic Engineering Office.

Environmental Impact Analysis: The analysis must be conducted by a qualified environmental professional and dated less than one year old. The analysis must document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain; and any other environmental concerns.

Water and Sewer Demand: Identify the potable water and sanitary sewer demand for the amendment based on the current and proposed future land use designations using the per capita water and wastewater standards of the applicable service provider.

(5)

20Z 00030

CALCULATION OF PUBLIC HEARING APPLICATION FEES -ZONING OFFICE

PUBLIC HEARING APPLICATION FEES	BASE FEE	ACREAGE FEE	UNIT FEE	SUB-TOTAL
REZONING				
Environmental Area	511.00			
Residential Professional	960.00			
General Use and Agricultural Use	849.00*	(-5) x 24**		
Single-Family Residential	849.00*	(-5) x 24**		
Single-Family Mobile Home	849.00*	-5) x 24** = 15X24=360		$ 1209.00
Commercial/Planned Commercial	1,184.00	( ) x 24		
Tourist Commercial	1,855.00	( ) x 45		
Industrial/Planned Industrial	1,855.00	( ) x 45		
Planned Unit Development	5,661.00	( ) x 45		
Single-Family Attached Residential	960.00		( ) x 24	
Multiple-Family Residential	960.00		( ) x 24	
Recreational Vehicle Park	1,408.00		( ) x 24	
Mobile Home Park/Mobile Home Co-op	1,408.00		( ) x 24	
CUP'S OR ROU APPLICATIONS				
Fee per request (with rezoning)	447.00			
Fee per request (without rezoning)	849.00			
OTHER APPLICATION FEES				
Consultant fee Retainer per Tower Application	6,934.00			
Transfer of Development Rights	1,520.00			
Comprehensive Plan Appeals (Vested Rights)				
One (5.0 acres or less) Single-family residential	433.00			
All other Appeals	1,733.00			
Variance/Appeals of Administrative Interpretation				
Base Fee	598.00			
Fee for each additional request	182.00			
Special Hearing Fee for P & Z / LPA	3,692.00			
Special Hearing Fee for BOA	1,872.00			
All Other Unlisted Zoning Applications	849.00			
Miscellaneous				
COMPREHENSIVE PLAN AMENDMENTS				
Small Scale Amendment	919.00			
Large Scale Amendment	1,785.00	$43 per acre		
Maximum Fee on a Single Application	17,334.00			
			SUB-TOTAL ***/****	$1209.00
FEES COLLECTED FOR ADMINISTRATIVE ACTIONS				
Office of Natural Resources zoning review (if applicable)	300.00			$300.00
flag lot &/or easement review	360.00			
Land Development PUD review	100.00			
flag lot &/or easement review	150.00			
Address Assignment review of flag lot &/or easement	100.00			
Zoning fee	277.00			
BASE FEE ADJUSTMENTS				
* If area for these requests have the potential for only one more lot, the fee is	288.00			
** Maximum acreage fees for these requests shall be	2,240.00			
*** Maximum Planned Unit Development Fee shall be	13,432.00			
**** Maximum fee for all other zoning requests shall be	8,955.00			
			TOTAL	$300.00 $1,509.00

Rev. 1-19-2017

(6)

Planning & Development
Central Cashier
2725 Judge Fran Jamieson Way
Building A, Room 114
Melbourne, FL 32940

RECEIPT OF PAYMENT

Payment Date: 9/4/2020
Receipt #: 578986
Transaction Id# 80738765

Payment Method	Payment Reference #	Amount Paid	Comments
e-Check	80738765	$1,509.00	
		$1,509.00	Total

FL

Zoning Rezoning $1,509.00

20Z00030

Fee	Invoice #	Amount
Rezoning General Use and Agriculture Use	680893	$1,209.00
Rezoning Natural Resources Review	680893	$300.00

Grand Total $1,509.00

Additional Fees may apply to obtain a Certificate of Completion, a Certificate of Occupancy, Pre-Power, or Final Inspection.
To verify fees please visit the Brevard County Planning & Development Search.
www.brevardcounty.us/PlanningDev
P (321) 633-2068 F (321) 633-2052

Receipt_AA_2016_SSRS

Zoning Information Worksheet

Owner(s): Lazy River Investments, LLC
(Does this match the warranty deed?)

Applicant(s): Laura Young, Esq. (w/ Dean Mead Law Firm)
(Does this person have authorization from everyone listed on the warranty deed?)

Parcel ID#: 30G-38-19-AP-*-10
(If more than one parcel, they must share a property line to be on the same application.)

Present Zoning: Single-Family Residential (RU-1-13)

Is there a BDP or a CUP on the property? Yes/No: No (If yes, attach BDP) N/A

Existing BDP states: N/A

Requested Zoning/CUP: Agricultural Residential Light (AU(L)).

BDP Requested? Yes/No: No

If CUP Request, do you have a CUP worksheet filled out by the applicant? Yes/No

Previously Approved Zoning Actions on lot:
Z-2980, Blanket rezoning from RU-1 to RU-1-13
DNZ-denied rezoning 19PZ00093

Is this a non-conforming lot of record? Yes/No: Why?
Non-Conforming to: No, however, zoning is not consistant with Future Land Use Map (FLUM) designation of the Comprehensive Plan.

Is this a substandard lot? Yes/No: Why?
It meets minimum lot area and dimension requirements of current RU-1-13 zoning classification.

What is the FLU Designation of the property?: Residential 1:2.5 (RES 1:2.5)

- Is the requested zoning consistent with the FLU? Yes/No (See compatibility table)
- If no, what is the requested **small scale plan amendment?** (Must be 10 acres or less)

N/A

Character of the Area – List the recent zoning changes in same section? (Last 3 years)

Action #, Date of action and State what changed?

Z# on subject lot 19PZ00093 Rezoning w/ BDP limiting to 8 lots Denied on 12/5/2019.

19PZ00008 AA for a flag lot 1,220 ft to north

8

If this is a CUP request, list all CUP's on adjacent properties: N/A

Abutting property zoning: N Road S Sans Sebastian, Unimproved ROW E w/ RR-1 on otherside W RU-1-13

JPA/Special Board/Special Section? Yes/No (Circle one and make a note on the application) PSJ, NMI, MIRA ROCKLEDGE, MELBOURNE, PALM SHORES, TITUSVILLE, PALM BAY or within 500' of PALM BAY EXTENSION

Reason for Rezoning Request: to acquire a zoning designation that is compatible with the ~~future~~ current future land ~~use~~ use for the subject property.

- If proposing single-family or multi-family how many units? 8
- If proposing a CUP for alcohol, how many seats? N/A Bar or Restaurant? N/A
  - Do you have a certified survey indicating there are no churches or schools within 400'? Yes/No
  - Do you have a site plan showing the layout and parking configuration? Yes/No
  - Do you have a CUP worksheet filled out by the applicant? Yes/No
- If the request is for commercial zoning, do you have a wetland survey that includes a legal description of the wetland? Yes/No (If no, NR must have checked no on the front of the application)

Existing structures/uses on the property? Vacant - no structures & No uses

Describe the character of the area based upon Administration Policy 3 of FLUE (attached): Low density Single Family Residential

Concerns raised as part of request: Issues

Other options discussed with applicant: Agricultural Residential (AU); AU(L) and RRMH-5. Applicant chose AU for business reasons.

Did you print out the Property Appraiser's Map for this property?
Did you mark the map?
Did you stamp the deed(s)?

Planner Signature

9/3/20
Date

Administrative Policy 3
Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foresee ably be affected by the proposed use;
B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
    1. Historical land use patterns;
    2. Actual development over the immediately preceding three years; and
    3. Development approved within the past three years but not yet constructed.
D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

NOTES:

- ☑ **If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.**
- ☑ **BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.**

Please transmit staff's comments via:

LYoung@DeanMead.com or (____)_____ or U.S. Mail ___
e-mail address fax number

(Yes) No

I have received a copy of this notice:

_____
(APPLICANT SIGNATURE)
Laura Minton Young

(1)

CFN 2019099507, OR BK 8435 Page 416, Recorded 05/09/2019 at 03:02 PM Scott Ellis, Clerk of Courts, Brevard County Doc. D: $4900.00

THIS INSTRUMENT CONTAINS THE OFFICIAL RECORD BOOK AND PAGE NUMBERS DESCRIBING THE PARCELS TO BE ADVERTISED.

SIGNATURE

Prepared by and Return to:
PRECISE TITLE, INC
Karen S. Solomon
201 Sixth Avenue
Indialantic, Florida 32903
Our File Number: 24230
Incidental to the issuance of a title insurance commitment/policy

For official use by Clerk's office only

STATE OF Florida)
)
COUNTY OF Brevard)

SPECIAL WARRANTY DEED

THIS INDENTURE, made this May 9th, 2019, between Douglas Robertson and Cindy Robertson, husband and wife, whose mailing address is: 4085 Lake Washington Road, Melbourne, Florida 32934, party of the first part, and Lazy River Investments, LLC, a Florida limited liabiltiy company, whose mailing address is: 1698 W Hibiscus Blvd., Suite A, Melbourne, Florida 32901, party/parties of the second part,

WITNESSETH:

First party, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other valuable considerations, receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, aliens, remises, releases, conveys and confirms unto second party/parties, his/her/their heirs and assigns, the following described property, towit:

Lot (s) 10 and 11, Frank H. Allen Subdivision of 136 Acre Tract of the Fleming Grant, according to the map or plat thereof, as recorded in Plat Book 1, Page(s) 77, of the Public Records of Brevard County, Florida.

Parcel Identification Number: **30G-38-19-HP-*-10**

Subject, however, to all covenants, conditions, restrictions, reservations, limitations, easements and to all applicable zoning ordinances and/and restrictions and prohibitions imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the party of the first part hereby covenants with said party of the second part, that it is lawfully seized of said land in fee simple: that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the party of the first part.

IN WITNESS WHEREOF, first party has signed and sealed these present the date set forth on May 9th, 2019.

Signed, sealed and delivered
in the presence of:

Witness signature
Karen S. Solomon
Print witness name

Witness signature
Deborah Benoit
Print witness name

Douglas Robertson
4085 Lake Washington Road
Melbourne, Florida 32934

Cindy Robertson
4085 Lake Washington Road
Melbourne, Florida 32934

State of Florida
County of Brevard

THE FOREGOING INSTRUMENT was acknowledged before me this May 9th, 2019 by Douglas Robertson and Cindy Robertson, husband and wife, who is personally known to me or who has produced a drivers license as identification.

Notary Public
Karen S. Solomon
Print Notary Name

Karen S Solomon
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG205228
Expires 8/4/2022

My Commission Expires:

Notary Seal

Brevard COUNTY

BOARD OF COUNTY COMMISSIONERS

Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

AUTHORIZATION TO ACT ON BEHALF OF OWNER

I, Arthur F. Evans, III, as manager of Lazy River Investments, LLC,

authorize Laura Minton Young, Dean Mead Law Firm

to act on my behalf, which may include representing me in public hearings pertaining to the submittal of the attached application.

Choose the applicable application type. More than one may apply.

- ☐ Administrative Action
- ☐ Comprehensive Plan Amendment
- ☐ Development Plan
- ☑ Rezoning
- ☐ Variance

Signature Arthur F. Evans, III

Date Sept 8, 2020

State of Florida

County of Brevard

The foregoing instrument was acknowledged before me this 8th day of Sept, 2020 by Arthur F. Evans, III, who is personally known to me or has produced _____ as identification, and who did or did not take an oath.

Signature of Notary

Seal:

ELIZABETH E. KENNEDY
MY COMMISSION # HH 008367
EXPIRES: August 31, 2024
Bonded Thru Notary Public Underwriters

(14)

Brevard COUNTY

BOARD OF COUNTY COMMISSIONERS

Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

AUTHORIZATION TO ACT ON BEHALF OF OWNER

I, David Bistarkey, as Manager of Lazy River Investments, LLC,

authorize Laura Minton Young (Dean Mead Law Firm)

to act on my behalf, which may include representing me in public hearings pertaining to the submittal of the attached application.

Choose the applicable application type. More than one may apply.

- ☐ Administrative Action
- ☐ Comprehensive Plan Amendment
- ☐ Development Plan
- ☒ Rezoning
- ☐ Variance

Signature

9/2/2020
Date

State of Florida

County of Brevard

The foregoing instrument was acknowledged before me this 2nd day of September, 20 20

by David Bistarkey, who is personally known to me or has produced

_____ as identification, and who did or did not take an oath.

Marlaine B. Mattox
Signature of Notary

Marlaine B. Mattox

Seal:

MARLAINE B. MATTOX
Commission # GG 247134
Expires September 17, 2022
Bonded Thru Troy Fain Insurance 800-385-7019

Electronic Articles of Organization
For
Florida Limited Liability Company

L19000101633
FILED 8:00 AM
April 12, 2019
Sec. Of State
jafason

Article I

The name of the Limited Liability Company is:

LAZY RIVER INVESTMENTS, LLC

Article II

The street address of the principal office of the Limited Liability Company is:

1698 W HIBISCUS BLVD
SUITE A
MELBOURNE, FL. 32901

The mailing address of the Limited Liability Company is:

1698 W HIBISCUS BLVD
SUITE A
MELBOURNE, FL. 32901

Article III

The name and Florida street address of the registered agent is:

ARTHUR F EVANS
1698 W HIBISCUS BLVD
SUITE A
MELBOURNE, FL. 32901

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: ARTHUR F EVANS, III

L19000101633
FILED 8:00 AM
April 12, 2019
Sec. Of State
jafason

Article IV

The name and address of person(s) authorized to manage LLC:

Title: MGR
LAZE-E-J, LLC
1698 W HIBISCUS BLVD STE A
MELBOURNE, FL. 32901

Title: MGR
DAVID BISTARKEY
1698 W HIBISCUS BLVD STE A
MELBOURNE, FL. 32901

Article V

The effective date for this Limited Liability Company shall be:

04/08/2019

Signature of member or an authorized representative

Electronic Signature: ARTHUR F EVANS III

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

(2)

OPERATING AGREEMENT

OF

LAZY RIVER INVESTMENTS, LLC

(18)

OPERATING AGREEMENT

OF

LAZY RIVER INVESTMENTS, LLC

THIS OPERATING AGREEMENT OF LAZY RIVER INVESTMENTS, LLC, a Florida limited liability company, is made and entered into effective the 1 day of May, 2019, by and among LAZY-E-J, LLC a Florida limited liability Company and David Bistarkey, (each referred to individually as a "**Member**" and, collectively, as the "**Members**").

RECITALS

A. The Members formed LAZY RIVER INVESTMENTS, LLC, a Florida limited liability company (the "**Company**"), effective April 12, 2019 by filing Articles of Organization with the Secretary of State of Florida.

B. The Members now desire to adopt this Agreement to evidence their agreement and understanding concerning the Company, the Company's business assets and operations, the Company's governance, the rights of the Members upon the dissolution or liquidation of the Company and the Members' interest in the Profits, Losses, capital and liabilities of the Company in accordance with the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the statements of fact contained in Paragraphs A and B of the Recitals above are true and correct and are incorporated herein and made a part hereof; and the parties further agree to the terms and conditions set forth in this Agreement.

ARTICLE 1 - DEFINITIONS

Section 1.1 **Definitions**. Capitalized terms that are used in this Agreement have the meanings provided in this Article 1 unless defined elsewhere herein.

"**Act**" means the Florida Revised Limited Liability Company Act, Chapter 605 of the Florida Statutes, as such Chapter may be amended or revised from time to time.

"**Affiliate**" of a Member or the Company means a Person that controls, is controlled by or is under common control with such Member or with the Company. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise. Ownership of more than fifty percent (50%) of the beneficial interests of a Person shall be conclusive evidence that control exists.

injunctive relief shall be in addition to any other rights or remedies available to the Company. The parties agree that the Company shall not be required to post any bond in connection with seeking such injunctive relief.

Section 8.4 Non-Competition/Non-Solicitation. Notwithstanding § 605.04091(2) of the Act, any Member or Manager may engage in or possess an interest in other business ventures of every nature and description, independently or with others, whether or not similar to or in competition with the business of the Company, and neither the Company nor the Members will have any right by virtue of this Agreement in or to such other business ventures or to the income or profits derived therefrom. Unless otherwise agreed to, no Manager will be required to devote all of that Manager's time or business efforts to the affairs of the Company, but is to devote so much of that Manager's time and attention to the Company as is reasonably necessary and advisable to manage the affairs of the Company to the best advantage of the Company.

ARTICLE 9 - MANAGEMENT OF THE COMPANY

Section 9.1 Manager-Managed Company; Appointment and Tenure of Managers. The Company shall be a manager-managed limited liability company as described in § 605.0407 of the Act. The initial Managers of the Company shall be Arthur F. Evans, III and David Bistarkey. Any Manager may be replaced or removed as a Manager with or without cause by the Majority Members.

Section 9.2 Authority and Power of Managers. Except as otherwise provided by the Act or this Agreement, the Managers shall have and enjoy all the rights and powers to do all things necessary to carry out the business of the Company and shall have the sole and exclusive right to manage the business of the Company on behalf of the Company.

Section 9.3 Limitations Upon Authority of Managers. Notwithstanding anything in Section 9.2 above to the contrary, the Managers shall not do (or enter into any contracts to do) any of the following on behalf of the Company without first obtaining the consent of the Majority Members to:

A. cause the dissolution of the Company; or

B. sell, lease, exchange, transfer, assign, convey, manage or otherwise dispose of the Company's assets other than in the ordinary course of the Company's business.

Section 9.4 Acts of the Manager. Except as otherwise provided in this Agreement, all management decisions shall be made by the Manager. In accordance therewith, the signature of the Manager shall be required to evidence such consent, and no contract shall be effective unless signed the Manager. If there is more than one Manager, and if the Managers are unable to come to a decision with respect to any matter, then such matter will be submitted for a vote of the Members and shall be decided by the Majority Members.

Section 9.5 Statement of Authority. As provided in § 605.0302 of the Act, the Company may file a statement of authority with the office of the Secretary of State of Florida with respect

IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

WITNESSES:

"**MEMBERS**"

LAZY-E-J, LLC, a Florida limited liability Co.

Arthur F. Evans, III, as Manager

David Bistarkey

PLAT BOOK 1
PAGE 77

State of Connecticut } ss
County of New London }

Fleming May 23rd 1894

I hereby certify that the diagram shown below is a true copy of a plat of a survey of 136 acres out of a subdivision of the same into 14 lots lots of approximately Ten (10) acres each as appears from the report made by R B Burchfiel July 15th & 20th 1891, said tract being a part of the so called Fleming Grant Brevard County Florida.

Frank H Allen
Notary Public

Plat of the Subdivision of a Tract of Land in the Fleming Grant Florida
Subdivided by R B Burchfiel
County Surveyor
Brevard Co Florida
July 15th-20th-1891
Scale one foot = 1 chain

For Replat See P.B. 10 Pg. 72

This above plat was filed for record May 23rd 1894
A A Jones Clerk

Transcribed from a plat recorded in Deed Book 3 page 761 by
J O Fee
Cartographer

(2)

Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

PROPERTY DETAILS

Phone: (321) 264-6700
https://www.bcpao.us

Account	3008729
Owners	Lazy River Investments LLC
Mailing Address	1698 W Hibiscus Blvd, Ste A Melbourne FL 32901
Site Address	Not Assigned
Parcel ID	30G-38-19-HP-*-10
Property Use	0010 - Vacant Residential Land (Single Family, Platted)
Exemptions	None
Taxing District	3400 - Unincorp District 3
Total Acres	20.39
Subdivision	Allen Et AL Subd Of S 136 Acre Tract Grant Secs
Site Code	0130 - Canal Front
Plat Book/Page	0001/0077
Land Description	Allen Et AL Subd Of S 136 Acre Tract Grant Secs Lots 10,11

VALUE SUMMARY

Category	2020	2019	2018
Market Value	$633,000	$591,890	$732,960
Agricultural Land Value	$0	$0	$0
Assessed Value Non-School	$633,000	$591,890	$732,960
Assessed Value School	$633,000	$591,890	$732,960
Homestead Exemption	$0	$0	$0
Additional Homestead	$0	$0	$0
Other Exemptions	$0	$0	$0
Taxable Value Non-School	$633,000	$591,890	$732,960
Taxable Value School	$633,000	$591,890	$732,960

SALES/TRANSFERS

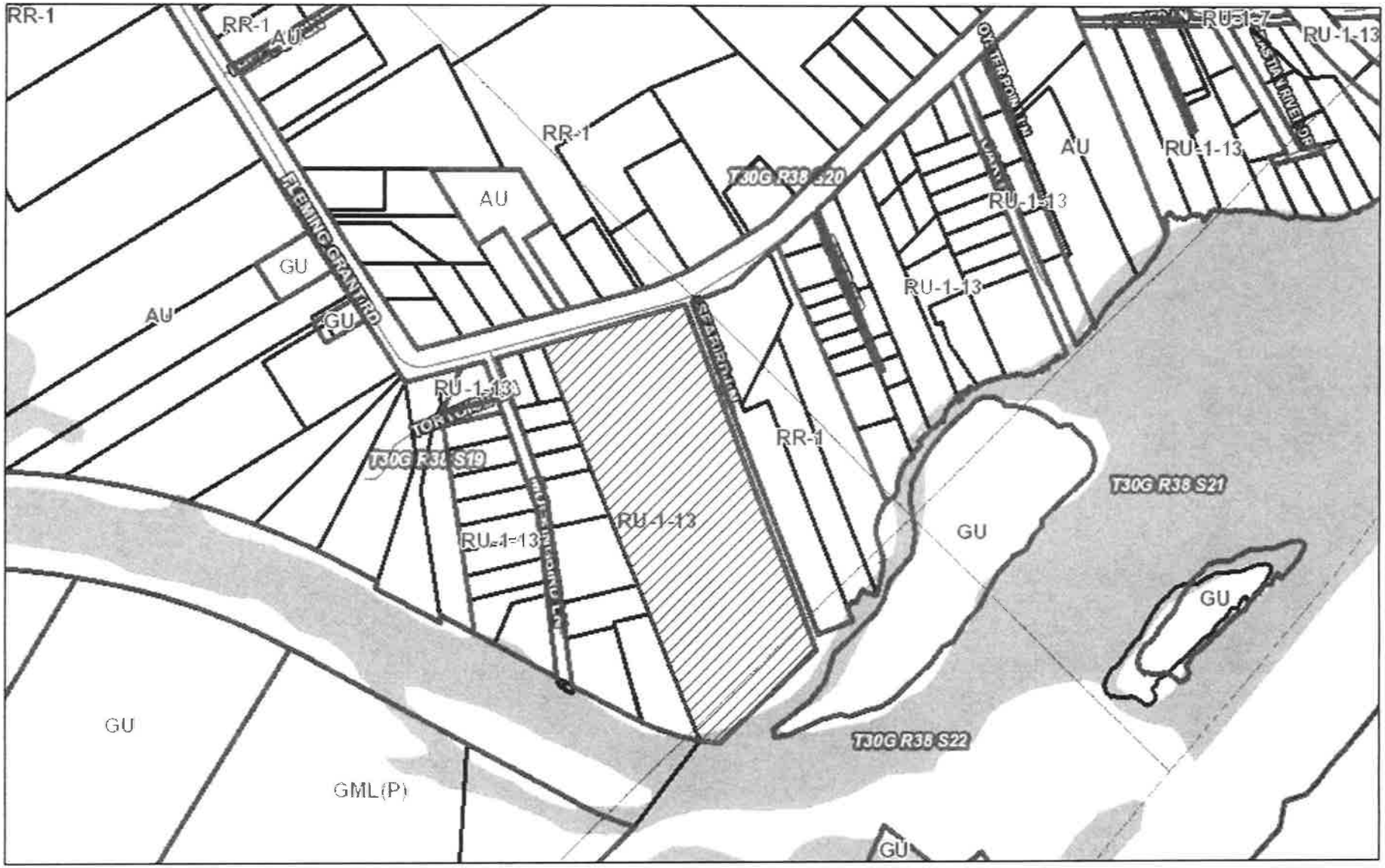
Date	Price	Type	Parcel	Deed
05/09/2019	$700,000	WD	Vacant	8435/0416
08/30/2018	$650,000	WD	Vacant	8258/1532
10/09/2003	--	WD	Vacant	5089/0284
08/30/1993	--	WD	Vacant	3319/0854
07/01/1982	$210,000	WD	--	2377/0703
05/01/1981	--	PT	--	2297/1925
07/12/1979	--	QC	--	2095/2980

No Data Found

Generated on 9/9/2020 3:22:03 PM

23

Account #: 3008729



Zoning

Section

City (Large Scale)

CAPE CANAVERAL

1:6,500

0 275 550 1,100 Feet

0 80 160 320 Meters

Prepared by: Brevard County BOCC GIS

© Brevard County Board of County Commissioners

September 9, 2020

Owner's Name: Lazy River Investments

Hearing Date: November 9, 2020

20Z00030

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Brian Lock, to me well known and known to me to be the person described in and who executed the foregoing affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.

2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.

3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.

4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Signature

Sworn and Subscribed before me, this 19 day of October 2020.

KIM KENNEDY
Commission # GG 322397
Expires April 10, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

(Print, Type, or Stamp Commissioned Name of Notary Public)

Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: _____

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

PHOTOGRAPHS

BREVARD COUNTY CODE ENFORCEMENT

Mo./Day/Year	Address	Zng App.#
10/16/2020	Tax acct # 3008729A	20Z00030

Brian Lock

COUNTY EXHIBIT

Composite A – Photos

Dated: _____ to _____

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 9, 2020,** at **3:00 p.m**., in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Ben Glover; Mark Wadsworth, Chair; Ron McLellan; Joe Buchanan; and Peter Filiberto.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Lazy River Investments (Laura Young)
A change of zoning classification from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential, Low-Intensity). The property is 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane. (No assigned address. In the Micco area.) (20Z00030) (Tax Account 3008729) (District 3)

Laura Young, with the law firm of Dean Mead, 7380 Murrell Rd., Melbourne, stated she knows the board is familiar with the property, as this is the third time the applicant has been before the board in the last 18 months seeking to zone the property properly to be consistent with the current Future Land Use. Currently, the property is zoned RU-1-13, along with most of the properties in the area that were zoned prior to the 1988 Comprehensive Plan adoption, and is now inconsistent with the current Future Land Use, which is one unit per 2.5 acres. The requested AU(L) would make the property consistent with the Future Land Use, and it would be a down-zoning of the property from RU-1-13. She said in an effort to develop the property consistent with the surrounding residential properties, the applicant came before the board on two other prior occasions with zoning applications, both of which the Planning and Zoning Board approved. The first request was for a large scale comprehensive plan amendment to amend the Future Land Use from RES 1:2.5 to RES 1, with a BDP to preserve the development to be consistent with RES 1. She said the request was denied by the Board of County Commissioners, but if it had been approved it would have yielded approximately 20 lots on the property. She stated the second application was for a BDP to limit the property to eight units, and that was in an effort to address some of the concerns from the neighbors of the number of units on the property. That request for a BDP was also denied by the Board of County Commissioners. She said in working with staff, her clients are now seeking a zoning designation compatible with the current Future Land Use that would limit the site to eight lots, or 1 per 2.5 acres. The request is the first step in the process for development. Staff recommended either AU or AU(L), as they are compatible with the Future Land Use and consistent with the surrounding residential area. She said her clients chose the AU(L) zoning classification because it limits the type of agricultural uses by permitting only those that are of a personal, non-commercial, nature, which is more consistent with the residential uses in the area. The AU(L) zoning requires a minimum of 2.5 acres per lot, which is larger than many of the lot sizes that have been developed in that area because they were developed consistent with the RU-1-13 zoning classification. The site faces other development challenges and it may be difficult to engineer the site to be able to yield eight lots, and AU(L) affords some flexibility for lot configurations.

Public comment.

Bruce Moia, MBV Engineering, 1250 W. Eau Gallie Blvd., stated he represented the property owners the last two times in front of the board. He said there are three ways to make the property buildable:

one is to change the zoning; one is to change the Future Land Use; and one is a BDP. He said they tried all three and they did not get approved. He said this request is similar to the Item H.1. on the agenda. In 1988, the County adopted a Comprehensive Plan, and whatever the existing zoning was on property, whether it was consistent or not, the Comp Plan got adopted and the County said it was going to make everybody who owns property that is not consistent come in and ask for it to be consistent. The request to AU(L) will make the zoning consistent with the Comp Plan. He said this is the last way the property can be brought into conformance and it's the simplest.

Ben Glover clarified that this request is the least-dense option for the property that the board has heard.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of zoning classification from RU-1-13 to AU(L). The motion passed unanimously.

MHOA

Micco Home Owners Association, Inc.

Contact Us:
Miccohomeowners @aol.com

TO: Commissioner Tobia
RE: 20Z00030 – Lazy River Investments – Fleming Grant Road, Micco.
DATE: 11/20/2020

Micco Homeowners Association is in favor of the proposed AU(L) zoning change to 1:2.5 with a maximum 8 homes on this 20 acre property.
We do, however, have the same strong issues we had in 2019 due to the fact **there is no current BDP for this development** located directly on the St Sebastian River which flows directly into the Indian River Lagoon. **Our focus is the continued need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the St Sebastian River.**
Therefore we request that you consider:

- **NO HOMES within the Coastal High Hazard Area.** Development within this 5-acre area is a direct threat to the River and the Indian River Lagoon due to homeowner contaminants, pesticides, drain field/septic leaks and excess storm water runoff flowing directly into the river. Comments in 2019 from DEO and ECFRPC also support this need. **Please require all 8 homes be located outside this Coastal High Hazzard Area.**

- **STORM WATER needs to be captured outside of the Coastal High Hazard Area which is also an AE Flood Zone.** The new BDP needs to designate where and how Stormwater will be captured within this development.

- **ADVANCED SEPTIC must be required** for all new homes near the Coastal High Hazard Area which is also an AE flood zone and drain fields need to be kept out of this area. In 2019, SJRWMD, DEP, DEO recognized the importance of removing 65% nitrogen with Advanced Septic on this property.

- **NO FILL DIRT within AE Flood Zone.** FEMA's Base Flood Elevation is 5.3 feet NAVD for this flood zone. This means a lot of fill dirt is required to elevate or "flood proof" each home within this area. What happens to the flood waters? How do the existing specimen trees survive the fill dirt?

To preserve the health of the IRL, please require a current BDP for this development with a maximum of 8 homes located outside the Coastal High Hazard Area.

Sincerely,
Chelle Woods, MHOA President, 9912 Riverview Drive Micco

COASTAL HIGH HAZARD AREA MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

N

W E

S

1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

Subject Property

Parcels

Coastal High Hazard Area

SurgeZoneCat1

FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

N

W E

S

1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

FEMA Flood Zones

- A
- AE
- AH
- AO
- Open Water
- VE
- X
- X Protected By Levee
- 0.2 Percent Annual Chance Flood Hazard
- 0.2 Percent Annual Chance Flood Hazard Contained in Channel
- Subject Property
- Parcels

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

N

W E

S

1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

Subject Property

Parcels

Septic Overlay

40 Meters

60 Meters

All Distances

Concern
Lazy River Investments

From: lindyb@cfl.rr.com
To: Commissioner, D3; Commissioner, D3
Subject: Item H6 of Thursday"s Zoning Meeting
Date: Monday, November 30, 2020 4:02:16 PM

Dear Commissioner Tobia:

I understand that there will be a Zoning Meeting this coming Thursday, December 3, 2020, at which item H6 is a request by Lazy River Investments to change zoning for a piece of property from Fleming Grant Rd to the shoreline of the St Sebastian River, which could result in 8 homes being built in this area.

I do not object to the change per se, but there are some environmental issues that need to be addressed when this change is granted. Two of the most important among them are:

1. No homes should be built in the Coastal High Hazard Area, as this could be a further threat to the health of the. Indian River Lagoon, into which the St Sebastian River flows.

1. If septic tanks are to be built for these homes, Advanced Septic must be used near the Coastal High Hazard Area. Last year SJRWMD, DEP and DEO all recognized the importance of removing 65% nitrogen with Advanced Septic on this property.

It is therefore important that this change not be granted without a Binding Development Plan that will take these, and other environmental issues into consideration!

Thank you for your time and attention to these important concerns.

Yours truly,

Linda Behret
5960 Herons Landing Dr
Viera, FL. 32955

From: Julie Mallisturner
To: Commissioner, D2; Commissioner, D3; d4commissioner@brevardfl.gov; Commissioner, D1; d5commissioner@brevardfl.gov
Subject: Development of Property on Sebastian River
Date: Tuesday, December 1, 2020 8:33:25 AM

Dear Commissioners:

I am very concerned about yet another attempt at developing property on the Coastal High Area of the St. Sebastian River in Micco. What a beautiful-pristine area...reminiscent of Old Florida, a rarity these days... a tourist attraction that is sadly becoming obsolete. What Is needed before approving further development is a reasonable Binding Development Plan.

I understand that zoning for this property could go through without any Binding Development Plan. There should not be **approval of the zoning request without the BPD.**

There should be no homes built within the Coastal High Hazard Area. The Indian River Lagoon does not need more contaminants, pesticides, septic tanks leaks flowing into it as a result of building in this area.

This developer has been relentless. I urge you to take the high road and consider the environmental and economical impacts of approving development in this area. Please keep natural Florida and it's preservation in mind when voting!

Sincerely,

Julie Turner
(321) 266-2786

Concern
Lazy River Investments

From: Leslie Maloney
Subject: Micco Property-St Sebastian River
Date: Tuesday, December 1, 2020 11:40:56 AM

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian RIver Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
3) Advanced Septic must be required.
4) No FIll DIrt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,
Leslie Maloney
Melbourne Beach

From: Commissioner, D3
To: Jones, Jennifer
Subject: FW: Lazy River Investments - Micco zoning
Date: Tuesday, December 1, 2020 1:06:13 PM

Ms. Jones,

Please see below, our office has received another email disclosure.

Thank you,

Katelynne Prasad
Constituent Affairs Director
County Commissioner John Tobia, District 3
PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: B D <rel_eng@yahoo.com>
Sent: Tuesday, December 1, 2020 1:02 PM
To: Commissioner, D3 <d3.commissioner@brevardfl.gov>
Subject: Lazy River Investments - Micco zoning

Dear Commissioner Tobia,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger

our environment and add to our citizen's financial burden.

Thank you,
Bill DeBusk

2674 Tuscarora Ct.
West Melbourne FL 32904

From: Commissioner, D3
To: Jones, Jennifer
Subject: FW: Fleming Grant Rd property -- Lazy River Investments
Date: Tuesday, December 1, 2020 2:08:28 PM

Ms. Jones,

Below is another email disclosure our office has received.

Thank you,

Katelynne Prasad
Constituent Affairs Director
County Commissioner John Tobia, District 3
PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Tuesday, December 1, 2020 1:40 PM
To: Commissioner, D3 <d3.commissioner@brevardfl.gov>
Subject: Fleming Grant Rd property -- Lazy River Investments

Dear Commissioner Tobia,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.

As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the

specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

From: B D
To: Commissioner, D4
Subject: Lazy River Investments - Micco zoning
Date: Tuesday, December 1, 2020 1:10:59 PM

Dear Commissioner Smith,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger our environment and add to our citizen's financial burden.

Thank you,
Bill DeBusk

2674 Tuscarora Ct.
West Melbourne FL 32904

Concern
Lazy River Investments

From: Leslie Maloney
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Greetings Commissioner,

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Within that plan I hope you will consider the following:

1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
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4) No FIll DIrt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,
Leslie Maloney
Melbourne Beach

Concern
Lazy River Investments

From: Anne Briggs
To: Commissioner, D4
Subject: 20 Acres on Fleming Grant Road, Micco (20Z00030)
Date: Friday, November 20, 2020 2:54:51 PM

Ref: 20Z00030, 19PZ00093

Dear Commissioner Smith,

As you may recall, on 5 December 2019, you and your fellow Commissioners voted unanimously to deny the request of Lazy River Investments, LLC on the matter of development and re-zoning of 20 acres on Fleming Grant Road bordering the Saint Sebastian River. (19PZ00093) Many residents of Micco and environmental groups strongly expressed their concern to you about this planned development, and State Comments pointed out several environmental considerations that needed attention.

The developer, Lazy River Investments, LLC has now requested a zoning change on this same parcel from RU1-13 to AU (L). According to Planning and Development, AU(L) restricts building to 1 house to 2.5 acres. This is in compliance with the Comprehensive Plan and Future Land Use designation for land adjacent to the St Sebastian River.

A zoning change hearing was held on 9 November 2020 with Brevard County Planning and Development, and the AU(L) classification was granted by the Board. After reviewing the documents on file for this hearing, we note that the BDP is the same one from November 2019 and has dated information which is incorrect for this current request. Because of this, again, we do not have any idea of what the Developer is actually planning to do on this property. In addition, upon review of the minutes of this meeting, it already looks like there may be some intention on the part of the developer to circumvent the 1:2.5 designation in order to fit 8 homes on the property. Ms Young, who represents the developer, stated, "The site faces other development challenges and it may be difficult to engineer the site to be able to yield 8 lots, and AU(L) affords some flexibility for lot configurations."

This matter comes before you for a vote on 3 December. My husband and I are writing you to ask that you and the other Commissioners once again ensure that the Developer is held to findings from previous hearings and current Staff Comments, particularly those that affect the health of the St Sebastian River and the Indian River Lagoon:

- No construction within the Coastal High Hazard area.

- Nitrogen reducing advanced OSTDS/anaerobic septic systems.

- Protection for mangroves and wetlands, as well as for protected and specimen trees and species.

- Adequate stormwater treatment as flooding is still an issue in this area.

- All lots have 1 house to 2.5 acres.

- Retain the rural, residential character of the neighborhood (no commercial activities on this property.)

- Provide a detailed, current, and acceptable BDP.

Thank you for your consideration and your continued interest in the wellbeing of our community and of our waterways.

Sincerely,

Anne Briggs and Henry Beck

9735 Fleming Grant Road, Micco, FL 32976

From: Woodard, Patrick
To: Jones, Jennifer
Cc: Schmadeke, Adrienne; Bellak, Christine
Subject: FW: Lazy River Investments -- Micco property
Date: Wednesday, December 2, 2020 8:04:39 AM

Jennifer,

Here is another email concerning Agenda Item H 6 at tomorrow's meeting.

Regards,

Pat Woodard

Pat Woodard
Chief Legislative Aide to Commissioner Smith
Brevard County, District 4
321.633.2044 | Patrick.Woodard@brevardfl.gov
2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,
Viera, FL 32940

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Tuesday, December 01, 2020 5:09 PM
To: Commissioner, D4 <D4.Commissioner@brevardfl.gov>
Cc: Woodard, Patrick <patrick.woodard@brevardfl.gov>
Subject: Lazy River Investments -- Micco property

Dear Commissioner Smith,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.

As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

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Cc: Schmadeke, Adrienne; Bellak, Christine
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Cocoa, FL 32926

Concern
Lazy River Investments

Commissioner, D1

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Tuesday, December 1, 2020 5:06 PM
To: Commissioner, D1
Cc: Newell, Marcia
Subject: Lazy River Investments -- Micco property

Categories: NATE

Dear Commissioner Pritchett,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.

As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

Concern
Lazy River Investments

Commissioner, D1

From: B D <rel_eng@yahoo.com>
Sent: Tuesday, December 1, 2020 1:08 PM
To: Commissioner, D1
Subject: Lazy River Investments - Micco zoning

Categories: NATE

Dear Commissioner Pritchett,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger our environment and add to our citizen's financial burden.

Thank you,
Bill DeBusk

2674 Tuscarora Ct.
West Melbourne FL 32904

Concern
Lazy River Investments

Commissioner, D1

From: Leslie Maloney <maloneyl731@gmail.com>
Sent: Tuesday, December 1, 2020 11:41 AM
Subject: Micco Property-St Sebastian River

Categories: NATE

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian RIver Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
3) Advanced Septic must be required.
4) No FIll DIrt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,
Leslie Maloney
Melbourne Beach

Commissioner, D1

From: lindyb@cfl.rr.com
Sent: Monday, November 30, 2020 3:56 PM
To: Commissioner, D1
Subject: Item H6 of Thursday's Zoning Meeting

Categories: NATE

Dear Commissioner Pritchett:

I understand that there will be a Zoning Meeting this coming Thursday, December 3, 2020, at which item H6 is a request by Lazy River Investments to change zoning for a piece of property from Fleming Grant Rd to the shoreline of the St Sebastian River, which could result in 8 homes being built in this area.

I do not object to the change per se, but there are some environmental issues that need to be addressed when this change is granted. Two of the most important among them are:

1. No homes should be built in the Coastal High Hazard Area, as this could be a further threat to the health of the. Indian River Lagoon, into which the St Sebastian River flows.

1. If septic tanks are to be built for these homes, Advanced Septic must be used near the Coastal High Hazard Area. Last year SJRWMD, DEP and DEO all recognized the importance of removing 65% nitrogen with Advanced Septic on this property.

It is therefore important that this change not be granted without a Binding Development Plan that will take these, and other environmental issues into consideration!

Thank you for your time and attention to these important concerns.

Yours truly,

Linda Behret
5960 Herons Landing Dr
Viera, FL. 32955

Commissioner, D1

From: Linda McLain <lmclain45@yahoo.com>
Sent: Friday, November 27, 2020 5:02 PM
To: Commissioner, D2; Commissioner, D1; Commissioner, D3; Commissioner, D4; Commissioner, D5
Subject: 20Z00030 Zoning Request- Lazy River Investments, LLC-Dec 3 meeting

Categories: NATE

My name is Linda Brannan and I live at 9675 Fleming Grant Rd in Micco, across the street from the subject property. I was very active with my neighbors and the Micco Homeowners in opposing the original application from the owner of this property asking to develop it into small homesites under the existing RU1 13 zoning. Our goal was to see this land developed with minimum 1 home per 2.5 acres as the existing comp plan for our area requires. The zoning this owner is requesting now would provide for that goal.

I have talked to many of my neighbors now, who originally opposed his plan and they are in favor of this request for the zoning change to AU L. We understand that AU L may allow him to make his lots narrower than a higher AU zoning, but that does not bother us. We just want him to keep the density at 1 home per 2.5 acres. That limits the amount of homes that can be built there to possibly 8.

I am writing this letter to let you know that we support this request. It is not our goal to punish this new owner, but to keep the density in compliance with the comprehensive land use plan. Thank you.

Sincerely,

Linda Brannan
9675 Fleming Grant Rd
Micco, FL 32976
772-664-2274

Concern
Lazy River Investments

From: Commissioner, D1
To: Jones, Jennifer
Subject: Agenda item H6, December 3, 2020
Date: Wednesday, December 2, 2020 1:53:06 PM
Attachments: miccolidlr2.docx
image001.png

Good Afternoon,

Attached and Below are public comments in regards to Item H.6 for tomorrow's meeting.

Best Regards,

Nate Smith
Legislative Aide to Commissioner Rita Pritchett

District 1 Commission Office
2000 South Washington Avenue, Suite 2
Titusville, FL 32780
321-607-6901

From: David Botto <dbotto1@cfl.rr.com>
Sent: Wednesday, December 2, 2020 12:39 PM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Subject: Agenda item H6, Fleming Grant Road, Micco, December 3, 2020

know the content is safe.

Dear Chairwoman Pritchett and Distinguished Members,

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair the results of past mistakes that caused great harm to the Lagoon. In addition, MRC is a property owner in this area and joins residents in expressing our concern. Please refer to our previous letter on this subject, attached.

MRC fully supports the position regarding built location and low impact development of this property as expressed by the residents in a recent E Mail to you.

We are concerned that no newly prepared Binding Development Plan (BDP) is indicated in this latest proposal. This property is literally on the bank of the Sebastian River as it empties into the Indian River Lagoon Preserve. It includes extensive wet land and high hazard flood zone within its borders. It is a classic example of land that requires intense management of development, or no development at all. A detailed BDP must be required in order for Brevard County to apply responsible management that will ensure no harm to the Lagoon.

We must look to the future.

Respectfully.

David C. Botto, Chair
Intergovernmental Committee
Marine Resources Council

Concern
Lazy River Investments

September 26, 2019

Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

SUBJ: Micco Land Development 19PZ00093

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We are concerned that much of the accelerated development now occurring in Brevard County poses danger to the future health of the Indian River Lagoon. Such development, even though meeting current requirements, will add to the pollution entering the lagoon in violation of federal and state mandates. In the long term, it will nullify many of the objectives of the Save Our Lagoon Project Plan.

To counter this, we have strongly encouraged the adoption of Low Impact Development (LID) that will cost effectively minimize the impact on the IRL of much needed development. Its objective is to control storm water at its source through simple actions that result in post development run-off that mimics the original. The concept is founded on the critical need to increase pervious, water storing land and to reduce the destructive run-off loss of water, an increasingly valuable resource.

We believe that the pending development of the Micco property, known as 19PZ00093, is an opportunity to showcase the many advantages of LID. The subject property is adjacent to and drains directly into the St. Sebastian River as it enters a lagoon Aquatic Preserve. At least five State agencies have emphasized the importance of this land to the water quality of the lagoon. Brevard County recently denied a density zoning change for this land. The developer now intends to develop under current zoning density of eight units. Careful site planning and execution must be applied to this sensitive land to ensure that this development does no harm. We recommend that Brevard insist on an agreement with the developer that LID Best Management Practices be applied, to the extent reasonable, for site location, design, preparation and construction. These practices are widely used and effective in minimizing storm water run-off pollution. They also reduce the need for costly stormwater infrastructure and, in some cases, have enabled increased density by eliminating the need for large water storage areas. We offer our assistance in this endeavor.

We must look to the future.

Respectfully,

Leesa Souto, Ph.D.
Executive Director
Marine Resources Council
3275 Dixie Hwy, NE
Palm Bay, FL 32905

321-725-7775

From: Commissioner, D3
To: Jones, Jennifer
Subject: Meeting Disclosure
Date: Monday, November 30, 2020 11:01:22 AM

Ms. Jones,

In regards to the upcoming agenda item H.6 for the Planning & Zoning meeting on December 3rd, 2020, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on November 25th, 2020 at 9am.

Laura M. Young

The phone call lasted approximately 15 minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,

jtobL

John Tobia
County Commissioner, District 3

Brevard COUNTY

BOARD OF COUNTY COMMISSIONERS

From: Commissioner, D3
To: Jones, Jennifer
Subject: Meeting Disclosure
Date: Monday, November 30, 2020 3:45:48 PM

Ms. Jones,

In regards to the upcoming agenda item H.6 for the Planning & Zoning meeting on December 3rd, 2020, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on November 30th, 2020.

Michelle H. Woods

The phone call lasted approximately ten minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,

John Tobia
County Commissioner, District 3

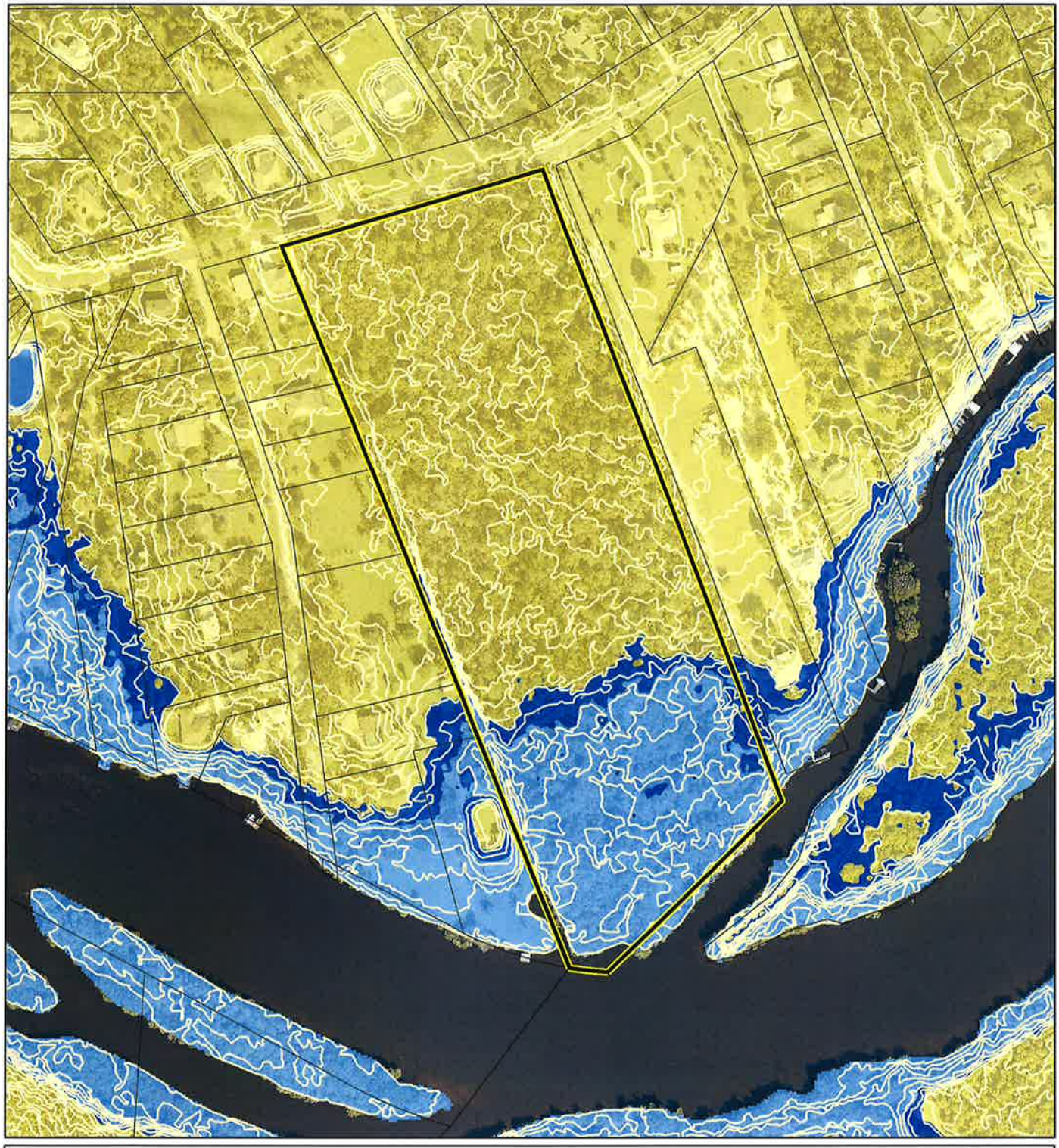
Brevard COUNTY

BOARD OF COUNTY COMMISSIONERS

H. 1.

LiDAR FLOOD MAP
with 5.3' and 6.3' Elevations
LAZY RIVER INVESTMENTS, LLC

20Z00030



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1:3,600 or 1 inch = 300 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/4/2021

- Subject Property
- Parcels
- Contour - 1 Ft
- Flood @ -27' - 5.3' NAVD '88
- Flood @ 5.3' - 6.3' NAVD '88
- Flood Over 6.3' NAVD '88

District 2 Disclosures
02/04/21 BOCC Planning & Zoning Meeting

H.2. Brevard Tower Communications, Inc. requests adoption of the 2020-2.1 Large Scale Plan Amendment to change the Future Land Use designation from RES 2 and NC to CC (20PZ00072)

- *01/19/21* - Commissioner Lober discussed the proposal with West Melbourne city council member Stephen Phrampus.

H.4. Ag Ventures (Chad Genoni) requests a BDP limiting density for consistency in an RU-1-7 zoning classification (20PZ00101)

- *02/01/21* – Gabriel Quintas of Mims sent an e-mail expressing concerns and urging the Commissioners to deny the proposal.
- *02/04/21* – Kim Rezanka called our office and spoke to staff on behalf of the developer. She also sent an e-mail to the office with the proposed revision to the BDP.

H.1.

H.6. Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L). (20Z00030)

- *11/20/20* – Anne Briggs and Henry Beck of Micco sent an email expressing concerns about the proposal.
- *11/21/20* – Chelle Woods, Micco HOA President, emailed a BDP request
- *11/27/20* – Linda McLain of Micco sent an email expressing support for the proposal.
- *11/30/20* – Linda Behret of Viera sent an email expressing environmental concerns.
- *12/01/20* – Julie Turner sent an email expressing the need for a Binding Development Plan (BDP).
- *12/01/20* – Leslie Maloney of Melbourne Beach sent an email expressing the need for a BDP.
- *12/01/20* – Bill DeBusk of West Melbourne sent an email requesting no building in the Coastal High Hazard Area.
- *12/02/20* – Mary Sphar of cocoa sent an email expressing the need for a BDP.
- *12/02/20* – David Botto of the Marine Resources Council sent an email expressing the need for a BDP.

Planning and Development Department
2725 Judge Fran Jamieson Way
Building A
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of County Commissioners

FROM: Tad Calkins, Director – Planning & Development

Cc: Frank Abbate, County Manager
John Denninghoff, P.E., Assistant County Manager

DATE: February 2, 2021

SUBJECT: **Item H1: Lazy River Investments Staff Comments Addendum (20Z00030) for the February 4, 2021, Meeting Agenda**

The purpose of this addendum is to clarify the acreage of the lots and identify them as Nonconforming Lots of Record with development potential for two lots as concurrently configured based on the Comprehensive Plan.

The subject property consists of Lot 10 and Lot 11 of Allen Et Al Subdivision, Plat Book 1 and Page 77 which was record on May 23, 1894. According to the Plat, Lot 10 contains 10.25 acres and Lot 11 has 9.88 acres totaling 20.13 acres. The Brevard County Property Appraisers Office identifies the property as 20.39 acres. Since the recording of the plat creating of these lots predates the County's Zoning Regulation (adopted in 1958) and effective date of the County's Comprehensive Plan (adopted in 1988), Lots 10 and 11 are Nonconforming Lots of Record.

Objective 15 of the Future Land Use Element of the Comprehensive Plan states, "Brevard County shall eliminate inconsistencies between the Comprehensive Plan and the zoning regulations of the Land Development Regulations, and thereafter, shall reduce the number of existing land uses which are non-conforming to the Comprehensive Plan". There are several Policies and Criteria relating to the need for rezoning properties that are not inconsistent with the Comprehensive Plan. However, Policy 15.5 specifically allows the development of non-conforming lots without the necessity of rezoning to be consistent with the Comprehensive Plan. (See attached Objective 15 and Policies.) This policy contains the following criteria:

A. Non-conforming lots of record are those properties which meet the non-conforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.
B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non-Conforming Uses" of the Brevard County Land

Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.

C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.
D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.

Furthermore, Section 62-1188, stipulates that dwellings, structures or buildings may be constructed on a Nonconforming Lot of Record in any zoning classification which allows such dwellings, structures, and buildings. This section further requires that the lot have a width of not less than 50 feet, a depth of not less than 75 feet, and an area of not less than 5,000 square feet for the construction of a single-family dwelling. Both Lots 10 and 11 exceed these requirements and would be eligible to have a single-family dwelling on each of them. (See attached Code)

The Conversation, Surface Water Protection, and Coastal Management Elements of the Comprehensive Plan have been added to the Legistar agenda item for the Board's convenience.

CONSISTENCY WITH COMPREHENSIVE PLAN, ZONING AND LAND DEVELOPMENT REGULATIONS

Objective 15

Brevard County shall eliminate inconsistencies between the Comprehensive Plan and the zoning regulations of the Land Development Regulations, and thereafter, shall reduce the number of existing land uses which are non-conforming to the Comprehensive Plan.

Authority to Initiate Administrative Actions

Policy 15.1

Brevard County retains the authority to initiate appropriate administrative actions, such as administrative rezonings.

Administrative Rezonings for Consistency with the Future Land Use Map

Policy 15.2

County staff may initiate administrative rezonings for those properties that are found to be inconsistent with the Future Land Use Map at the time of a development permit application.

Criteria:

A. Determination of appropriate zoning classifications for these properties shall be pursuant to the policies and criteria which govern the Future Land Use Map and future land use designations established in this element.

B. The zoning classifications which are appropriate pursuant to the Future Land Use Element and Maps shall be presented as options to the property owner.

Policy 15.3

Brevard County shall continue to administratively rezone those properties with zoning classifications which are inconsistent with the Future Land Use Map, the acceptable levels of service, and this Comprehensive Plan.

Criteria:

A. Administrative rezonings shall not be required for single family or duplex residential lots which meet the requirements of the Brevard County Zoning Code and which are located within Neighborhood Commercial, Community Commercial Agricultural or any residential land use designations.

B. Prior to commencement of the administrative rezonings, small area plans shall be completed by the appropriate County staff for each area. These plans shall consider, at a minimum, compatibility issues, character of the area, environmental constraints, hurricane evacuation capabilities, and the

availability of public facilities and services. Advisory committees may be appointed by the Commission to work with staff in the development of these plans and public hearings shall be held for the adoption of these plans.

Provisions for Non-conforming Uses

Policy 15.4

Brevard County shall maintain procedures that address existing land uses which are non-conforming with this Comprehensive Plan. At a minimum, the following criteria shall apply:

Criteria:

A. Non-conforming land uses are those existing development activities which were conforming to the zoning and Comprehensive Plan regulations of Brevard County at the time of record but which are inconsistent with this Comprehensive Plan.

B. Existing non-conforming land uses, damaged beyond 50 percent of their assessed value by natural or man-made causes, shall not be allowed to be reconstructed to a use which is non-conforming to this Comprehensive Plan, except as provided for in the Zoning Code.

C. The addition, expansion or re-establishment of existing non-conforming land uses shall be governed by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations.

Policy 15.5

The following provisions for the development of non-conforming lots to allow for the reasonable use of such properties shall apply. At a minimum, the following criteria shall apply:

Criteria:

A. Non-conforming lots of record are those properties which meet the non-conforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.

B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.

C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.

D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.

Provisions for Pre-existing Uses
Policy 15.6

Brevard County should maintain and enforce criteria for Pre-existing Uses, as defined by the County's Land Development Regulations. Applications for Pre-existing Uses shall be reviewed against the requirements found in the Land Development Regulations.

Preclusion of Development
Policy 15.7

If a land use designation in the Comprehensive Plan is determined to preclude all development of such land and an amendment to the Comprehensive Plan is required, an amendment alleviating the preclusion of development may be considered at the next available transmittal or adoption public hearing of the Comprehensive Plan. A development order consistent with the proposed amendment, may be submitted for review; however, final approval will not be granted until a finding of compliance and after the appeal period pursuant to Chapter 163, F.S.

Provision for Appeals
Policy 15.8

Brevard County shall provide a method of appeals to address alleged errors in any order, requirement, decision or determination made in the enforcement of any ordinance, regulation, law, policy or procedure relative to the Land Use Regulations.

Sec. 62-1188. - Nonconforming lots of record.

In any zoning classification in which dwellings, structures or buildings are permitted, notwithstanding limitations imposed by other provisions of the chapter, such dwellings, structures, buildings and customary accessory buildings as are permitted may be erected on any lot of record, provided that such lot of record met the requirements of the county comprehensive plan and zoning regulations at the time such lot was recorded or platted. Uses and buildings shall not be established on lots and parcels not qualifying as nonconforming lots of record unless relief is obtained through the board of adjustment, provided the zoning is consistent with the comprehensive plan. Nonconforming lots are subject to the following criteria:

(1) *Single family and duplex uses:* Buildings and uses may be established on such lots, provided the lot has a width of not less than 50 feet, a depth of not less than 75 feet, and an area of not less than 5,000 square feet.

(2) *All other uses:*

a. *Multifamily, commercial and industrial uses:* Unless otherwise specified in this section, buildings and uses may be established on such lots, provided unless the lot has a width of not less than 60 feet, a depth of not less than 75 feet, and a lot area of not less than 6,000 square feet.

b. *Mobile home uses (TRC-1, TR-1 and TR-2 zoning classifications):* Buildings and uses may be established on such lots, provided the lot has a lot width of not less than 50 feet and a lot area of not less than 4,000 square feet. The setback requirements that were in existence at the time of the platting of the lot shall control for the purpose of setback requirements for the nonconforming lot.

c. *Merritt Island Redevelopment Area:* Buildings and uses may be established on such lots, provided the lot has a width of not less than 50 ft., a depth of not less than 75 ft., and an area of not less than 5,000. This paragraph shall be limited to Plat Book 2, Page 78 (Merritt Winter Home Development) north of State Road 520, Plat Book 4, Page 69 (Sunnyside Tract Map 2) east of North Tropical Trail and Plat Book 5, Page 48 (Merritt Park Place).

(3) The provisions of subsections (1) and (2) of this section shall apply even though such lot fails to meet the requirements for lot area or lot dimensions, or both, that are generally applicable in the particular zoning classification, provided that setback requirements and other requirements not involving lot area or lot dimensions, or both, of the lot shall conform to the current regulations for the zoning classification in which such lot is located, except for the setback provisions for nonconforming lots in the TRC-1, TR-1 and TR-2 zoning classifications as set forth in subsection (2) of this section.

(4) If two or more lots or a combination of lots and portions of lots with contiguous frontage in single ownership are of record, and if all or part of the lots do not meet the requirements for lot width, lot area and lot depth as established in this section, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. Where two or more nonconforming lots of record are combined for the purpose of requesting a new zoning classification which would make the combined lots conforming as one parcel, the lots shall not be redivided subsequent to the

rezoning except where such division would create lots consistent with all other provisions of the comprehensive plan and zoning regulations.
(5) Nonconforming lots also include those lots which were consistent with the comprehensive plan and zoning regulations at the time they were established and:
a. Are recorded in the official record books or plat books of the county;
b. Existed pursuant to a fully executed but unrecorded deed; or
c. Existed pursuant to a valid contract for deed or contract for purchase.
A lot, parcel or tract of land which is zoned AU, agricultural use, and is less than 2.5 acres in size may also be determined to be nonconforming if the lot, parcel or tract of land was recorded in a survey book prior to March 6, 1975. A lot, parcel or tract of land which is zoned GU, general use, and is less than five acres in size may also be determined to be nonconforming if the lot, parcel or tract of land was recorded in a survey book prior to May 20, 1975.

(6) The owner of a lot which is smaller than the minimum size required by this article or the comprehensive plan, and who cannot prove nonconforming status, may make application for a waiver of up to but not exceeding ten percent of the required lot size pursuant to section 62-1154.

(7) If a vacant lot becomes a nonconforming lot of record due to a comprehensive plan amendment which reduces its development potential, but the lot is undersized for the zoning classification necessary to bring its zoning into compliance with the comprehensive plan, then the lot may be administratively rezoned to a zoning classification with which its size complies regardless of that classification's relationship to the comprehensive plan, as long as the new classification does not permit more than one residential unit.
Where a vacant lot is administratively rezoned pursuant to this provision, such lot shall be permitted to build to the setbacks permitted by the zoning classification held prior to the administrative rezoning.

(8) Any nonconforming lot of record may be considered for rezoning to other zoning classifications consistent with the comprehensive plan.

(9) Any parcel having an existing use, pre-existing use (PEU), or an otherwise vested use that was conforming with its zoning classification at the time of a comprehensive plan adoption or amendment shall not be considered inconsistent with the future land use map series, unless so determined by the board of county commissioners pursuant to the criteria established in the future land use element of the comprehensive plan. The parcel will not be administratively rezoned and its zoning classification will be retained unless otherwise directed by the board of county commissioners pursuant to section 62-1152, or as provided below:
a. If the existing use, pre-existing use (PEU), or an otherwise vested use is of an intensity that is consistent with a more restrictive zoning classification, then the parcel may be administratively downzoned to that more restrictive classification. Such classification shall be considered consistent with the future land use map, except as provided in subsection b. below.
b. The property owner may make use of the retained or downzoned classification pursuant to the regulations of this chapter unless and until he chooses to request and receives an amendment to the parcel's zoning consistent with the comprehensive plan.

CHAPTER I

CONSERVATION ELEMENT

TABLE OF CONTENTS

DIRECTIVES

Directives are principles or guidelines that provide the general philosophical outlook of Brevard County with regard to the element of the Plan in which it is stated. Directives do not necessarily require specific actions for implementation. However, they shall guide specific actions wherever possible.

Air Quality

In order to maintain its "attainment" status, Brevard County should develop a complete air monitoring program. More complete baseline data would allow better assessment of large-scale development which could degrade air quality. Areas of localized poor air quality should be identified, and a program for reduction or elimination of the pollution source should be developed in conjunction with FDEP and EPA.

Stationary air pollution sources and new transportation projects listed on the adopted Transportation Improvement Program should be evaluated for their cumulative effects on air quality. These sources should include sources adjacent to, as well as within, the county.

Alternate energy resources that do not degrade air quality should be given preference over resources which do degrade air quality. In addition, Brevard County ordinances or programs concerning clean-up and disposal of hazardous materials, mass burn facilities, and solid waste disposal shall not result in the degradation of air quality or endangerment of human health.

Conversion of power plant to coal should not cause degradation of air quality below minimum standards. Best available technology should be utilized for all new power plants.

Land use should also be compatible with the maintenance of good air quality. Development should be designed in such a way as to minimize traffic congestion. Urban land uses should be buffered from stationary and linear pollution sources (roadways). Vegetation should be utilized whenever possible to buffer air pollution sources and maintain air quality. Multi-use developments, such as Planned Unit Development, or other innovative land uses should be utilized to reduce the need to travel. Facilities that house the elderly, very young or sick should be located away from emission sources or areas of poor air quality.

GOALS, OBJECTIVES AND POLICIES

GOAL

PROTECT, CONSERVE, ENHANCE, MAINTAIN AND APPROPRIATELY USE NATURAL RESOURCES AND ENVIRONMENTAL SYSTEMS, MAINTAINING THEIR QUALITY AND CONTRIBUTION TO THE QUALITY OF LIFE AND ECONOMIC WELL BEING OF BREVARD COUNTY.

Air Quality

Objective 1

Air quality within Brevard County shall meet or exceed the minimum air quality as adopted by the Florida Department of Environmental Protection.

Policy 1.1

Brevard County shall cooperate with the Florida Department of Environmental Protection (FDEP) in monitoring ambient air quality within the county.

Policy 1.2

Developments of Regional Impact, major transportation projects and power generation projects shall be evaluated for their impacts on air quality. Buffer areas adjacent to industrial uses, power generation projects or other stationary air pollution sources shall be utilized as required to maintain air quality within accepted standards.

Policy 1.3

The County shall reduce the potential for mobile source emissions by the following means:

Criteria:

A. Promote appropriate Planned Unit Development and multi-use developments or use centers.

B. Vegetative strips along major transportation corridors to buffer residential land uses.

C. Promote alternative transportation methods such as car pooling, van pooling and mass transit.

D. Promote bicycle and pedestrian traffic by constructing and maintaining additional bike and pedestrian paths.

E. Roadways with adopted Levels of Service should be evaluated in order to

maintain acceptable air quality after the development is completed.

Policy 1.4

Brevard County shall continue to enforce the noise regulations in the land development code.

Policy 1.5

Brevard County shall continue to enforce regulations within the land development code that address the location of facilities that potentially generate noxious emissions.

Policy 1.6

Alternate energy resources that do not degrade air quality should be given preference over resources which do degrade air quality. In addition, Brevard County ordinances or programs concerning clean-up and disposal of hazardous materials, mass burn facilities, and solid waste disposal shall not result in the degradation of air quality or endangerment of human health.

Policy 1.7

Conversion of power plant to coal should not cause degradation of air quality below minimum standards. Best available technology should be utilized for all new power plants.

Policy 1.8

Land use should also be compatible with the maintenance of good area quality. Development should be designed in such a way as to minimize traffic congestion. Urban land uses should be buffered from stationary and linear pollution sources (roadways). Vegetation should be utilized whenever possible to buffer air pollution sources and maintain air quality. Multi-use developments, such as Planned Unit Development, or other innovative land uses should be utilized to reduce the need to travel. Facilities that house the elderly, very young or sick should be located away from emission sources or areas of poor air quality.

Energy

Objective 2

Reduce per capita energy consumption within Brevard County.

Policy 2.1

Brevard County shall address various energy saving methods including:

Criteria:

A. Encouraging appropriate Planned Unit Development and multi-use developments;

B. Regulating subdivisions to address bicycle and pedestrian pathways; and

C. Regulating land clearing and landscaping regulations to augment passive cooling by trees.

Policy 2.2

Brevard County shall continue to implement the Florida Energy Efficient Code for new construction and substantially rehabilitated structures.

Policy 2.3

Brevard County should continue to implement waste reduction, reuse, recycling and conversion of waste to energy as part of its waste management strategies.

Policy 2.4

Brevard County shall consider energy conservation in the development and implementation of County ordinances.

Policy 2.5

Brevard County should pursue transportation options that would decrease per capita energy consumption.

Policy 2.6

Brevard County should coordinate with the East Central Florida Regional Planning Council, the Economic Development Commission of Florida's Space Coast, and the State to encourage development and use of energy efficient and renewable technologies to enhance economic development while conserving energy.

Surface Water

Objective 3

Improve the quality of surface waters within Brevard County and protect and enhance the natural functions of these waters.

Policy 3.1

Brevard County shall cooperate with the Florida Department of Environmental Protection (FDEP) to require small package treatment plants adjacent to surface waters to comply with existing federal, state, or regional rules and regulations, and to ensure that the necessary renovations to achieve compliance are completed in a timely manner.

Policy 3.2

Brevard County shall continue to prevent negative impacts of development in and adjacent to Class I waters by implementing and revising, as necessary, the Surface Water Protection Ordinance including the following minimum criteria:

Criteria:

A. Maintain a two hundred (200) foot surface water protection buffer from the ordinary high water line or mean high water line as determined or approved by the FDEP Bureau of Survey and Mapping. In lieu of an approved ordinary high water line, mean high water line, or safe upland line, an alternative buffer establishment line that approximates the land-water interface may be approved administratively as defined in ordinance. The use of the alternative buffer establishment line shall only be applied to shorelines with a clearly defined land-water interface.

B. Acceptable uses within the surface water protection buffer are passive recreation, hunting, fish and wildlife management, open space and nature trails, and similar uses.

C. Require discharges of any substances into Class I waters to meet or exceed applicable receiving water quality standards.

D. Prohibit dredging and filling, except for permitted utility crossings, publicly owned recreational projects which do not degrade water quality, and necessary maintenance of existing projects.

E. Regulate development and mining operations within the hydrologic basin of Class I waters. Prohibit mining operations within the 10-year floodplain of Class I waters.

F. Prohibit alteration within the surface water protection buffer unless it is in the public interest and does not adversely impact water quality and natural habitat.

Policy 3.3

Brevard County shall continue to make efforts to prevent negative impacts of development in and adjacent to the Indian River Lagoon and its tributaries designated as Class II waters, Aquatic Preserves and Outstanding Florida Waters by implementing and revising as necessary, the Surface Water Protection Ordinance, including the following minimum criteria:

Criteria:

A. Maintain a fifty (50) foot surface water protection buffer from the ordinary high water line, mean high water line, or safe upland line as determined or approved by the FDEP Bureau of Survey and Mapping. In lieu of an

approved ordinary high water line, mean high water line, or safe upland line, an alternative buffer establishment line that approximates the land-water interface may be approved administratively as defined in ordinance. The use of the alternative buffer establishment line shall only be applied to shorelines with a clearly defined land-water interface.

B. Except as allowable under Policies 3.3.C and 3.3.D, primary structures shall not be permitted within the surface water protection buffer. The County shall establish allowable uses within the surface water protection buffer. Stormwater management for all alterations associated with allowable uses shall be required to protect water quality of the receiving water body. Provisions for the alteration and/or removal of non-native invasive plants, mitigation projects, and the planting of native species shall be established by the County.

C. For residential lots platted or established by deed on the official record books of Brevard County prior to September 8, 1988, an alternative to the fifty (50) foot surface water protection buffer described above shall be available for those lots which have insufficient lot depth to construct a primary structure. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the surface water protection buffer to be reduced to twenty five (25) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or native shoreline revegetation. Where applicable, stormwater management measures shall be consistent with DEP 62-25, as amended and FS 373, as amended.

D. For residential lots located along areas of the Indian River Lagoon and its tributaries added to the State's designation of Class II Waters as of February 17, 2016, and platted or established by deed on the official record books of Brevard County prior to that date, an alternative to the fifty (50) foot surface water protection buffer described above shall be available for those lots which have insufficient lot depth to construct a primary structure. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the surface water protection buffer to be reduced to twenty five (25) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or

native shoreline revegetation. Avoidance and minimization of buffer impacts shall be required. Where applicable, stormwater management measures shall be consistent with DEP 62-25, as amended and FS 373, as amended. Lots located along areas of Aquatic Preserves and Outstanding Florida Waters shall maintain a fifty (50) foot surface water protection buffer in accordance with Policy 3.3.A, B, and C.

E. Within the surface water protection buffer the maximum amount of impervious surface is thirty (30) percent.

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.

G. Prohibit channelization, dredging and filling, and impoundment of natural waters of the State unless the activity is clearly in the public interest and does not adversely impact water quality, natural habitat, and adjacent shoreline uses. Dredging shall not be permitted in or connected to Class II Waters, Outstanding Florida Waters (OFWs), Aquatic Preserves, areas that contain ten percent (10%) seagrass or more, and conditionally approved shellfish harvesting waters unless the activity is a federal navigation project, in the public interest, such as approved maintenance dredging of existing public or private navigational channels, or where dredging may improve water quality by removing accumulated silt or improving circulation, or for maintenance of existing structures and utility structures and utility crossings, or for shoreline hardening as allowed by this element.

H. Prohibit discharges of any substances below ambient water quality standards.

Policy 3.4

Brevard County shall continue to prevent negative impacts of development in and adjacent to Class III waters (except Outstanding Florida Waters and Aquatic Preserves) along the St. Johns River and Indian River Lagoon and its tributaries by implementing and revising as necessary, the Surface Water Protection Ordinance including the following minimum criteria:

Criteria:

A. A twenty five (25) foot surface water protection buffer from the ordinary high water line, mean high water line, or the safe upland line as determined or approved by the FDEP Bureau of Survey and Mapping shall be established. In lieu of an approved ordinary high water line, mean high water line, or safe upland line, an alternative buffer establishment

line that approximates the land-water interface may be approved by the director. The use of the alternative buffer establishment line shall only be applied to shorelines with a clearly defined land-water interface.

B. Except as allowable under Policies 3.4.C and 3.4.D, primary structures shall not be permitted within the surface water protection buffer. The County shall establish allowable uses within the surface water protection buffer. Stormwater management for all alterations associated with allowable uses shall be required to protect water quality of the receiving water body. Provisions for the alteration and/or removal of non-native invasive plants, mitigation projects, and the planting of native species shall be established by the County .

C. For residential lots platted or established by deed on the official record books of Brevard County prior to September 8, 1988, an alternative to the twenty five (25) foot surface water protection buffer described above along Class III waters shall be available for those lots which have insufficient lot depth to construct a primary structure. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the surface water protection buffer to be reduced to fifteen (15) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or native shoreline revegetation. Where applicable, stormwater management measures shall be consistent with DEP 62-25, as amended and FS 373, as amended.

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

E. Except for properties on existing residential manmade canals, the maximum amount of impervious surface within the surface water protection buffer is thirty (30) percent.

F. Prohibit discharges of any substances below ambient water quality standards.

Policy 3.5

All dredging activities must be done with effective turbidity controls. Where turbidity screens or similar devices are used, they should be secured and regularly

monitored to avoid manatee entrapment.

Policy 3.6

Vertical seawalls and bulkheads shall be prohibited along the Indian River Lagoon system, excluding man-made canals. Stabilization of the estuarine shoreline may be allowed to protect structures and real property from erosion. Rip-rap material, pervious interlocking brick systems, filter mats and other similar stabilization methods combined with vegetation shall be used in lieu of vertical seawalls and bulkheads when stabilization of the shoreline is approved. Living shorelines shall be encouraged as a preferred shoreline stabilization method.

Policy 3.7

New man-made canals connected to the Indian River Lagoon system are prohibited. The expansion (widening and/or deepening) of existing ditches, drainage right-of-ways, drainage easements and stormwater facilities connected to the Indian River Lagoon to accommodate navigation shall be prohibited unless the activity is in the best public interest and does not adversely impact the Indian River Lagoon. Maintenance dredging on existing navigational channels, private or public canals, or within existing marinas may be allowed upon review by the County.

Policy 3.8

When deemed necessary to meet State-mandated water quality standards, Brevard County may establish setbacks from the shoreline of the Indian River Lagoon for septic tanks and drainfields. Such setbacks shall at a minimum, be in accordance with F.S. 381.0065(4), as may be amended. In those cases where there is insufficient lot depth to meet County-established setbacks more stringent than those established by State statute, septic tanks and drainfields shall be located in accordance with F.S. 381.0065(4), as may be amended.

Policy 3.9

Brevard County will continue to support spoil island assessment projects to determine which islands are valuable bird rookery areas. These islands should be designated as such, and protected during nesting season. Other islands should be designated as recreational areas. Any study will be coordinated with any spoil island management plans designed and implemented by other agencies, such as the Florida Inland Navigational District.

Policy 3.10

Brevard County shall continue to work with the St. Johns River Water Management District (SJRWMD), FDEP, and Indian River Lagoon Program (IRLP) and other appropriate agencies in developing appropriate water quality standards for estuarine waters within the Indian River Lagoon.

Policy 3.11

Brevard County shall continue to support programs for plugging free-flowing artesian wells, with highest priority being given to those adjacent to the Lagoon.

Policy 3.12

Brevard County should cooperate with the SJRWMD in the District's aquatic weed program for the St. Johns River.

Policy 3.13

Brevard County strongly supports the designation of the Indian River Lagoon from SR 405 north to the County line as an Aquatic Preserve.

Policy 3.14

The creation of new spoil islands should be discouraged. Existing spoil islands should be retained in public ownership and utilized as bird rookeries and recreational areas. In addition, restoration efforts such as wetland vegetation planting, upland vegetation planting, and refuse removal that could foster biological production, control erosion and enhance the habitat, aesthetic and recreational values of the island should be undertaken.

Policy 3.15

By 2013, the County shall establish appropriate protective measures along conveyance systems and tributaries of the St. Johns River and Indian River Lagoon to meet State and Federal water quality standards.

Floodplain Areas

Objective 4

Reduce loss of flood storage capacity and reduce risk to life and property by continuing to apply regulations which minimize the impact of development within flood hazard areas.

Policy 4.1

Brevard County shall continue to protect the riverine floodplain in order to protect infrastructure and human life, conserve flood storage capacities, and to improve, where feasible, the quality of water within the watershed. The preferred land use, density and fill footprint of the riverine floodplain is in the predevelopment natural state and Brevard County supports the use of fee simple acquisition, less than fee acquisition, transfer of development rights, appropriate development standards, and other innovative measures to preserve and restore the predevelopment riverine floodplain. At a minimum, the following criteria shall be the basis for the protection of the riverine floodplain:

Criteria:

A. Within the 100-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation):

1. Residential density shall be limited to no more than two dwelling units per acre.

2. Commercial, institutional, and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre, except for redevelopment as specified in Policy 4.3.

3. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 100-year riverine floodplain, except undeveloped parcels created prior to the effective date of this policy may fill up to 1/3 acre filled footprint for development without providing compensatory storage.

4. The following uses are not compatible with the resource requirements of the 100-year riverine floodplain and shall not be permitted. These include, but are not limited to:

   a. Placing, depositing or dumping of solid waste except for treated municipal solid sludge.
   b. Processing and storing of threshold amounts of hazardous materials.
   c. Disposal of hazardous materials.

B. Within the 25-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation):

1. Residential density shall be limited to not more than one dwelling unit per two and one-half acres.

2. Commercial land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre and commercial uses shall be no greater than one acre, except for redevelopment as specified in Policy 4.3.

3. Industrial land uses shall be prohibited, unless the activity is in the best public interest, or except for mining where it does not increase the filled footprint within the 25-year floodplain.

4. Development shall not adversely impact the drainage of adjoining

properties. There shall be no net loss of flood storage capacity of the 25-year riverine floodplain.

C. Within the 10-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the mean annual flood elevation):

1. The 10-year riverine floodplain should be maintained in its natural state unless a project has a special reason or need to be located there. These special reasons and needs are further defined in the land development regulations. These needs may include but are not limited to agriculture and passive recreation.

2. Residential density shall be limited to not more than one dwelling unit per ten acres; and

3. Commercial, institutional, and industrial land uses shall be prohibited unless they are in the public interest and the location of the use is integral to its operation.

4. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 10-year riverine floodplain.

D. Within the mean annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, institutional, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and it is in the best public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

E. The best available data shall be utilized to determine appropriate floodplain elevations.

Policy 4.2

The following criteria shall apply to all riverine floodplains:

Criteria:

A. There shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain.

B. Practices shall be encouraged in development of property within the riverine floodplain in order to minimize total imperviousness and runoff within the floodplain and preserve the flood storage capacity in order to

minimize cost to life and property. Practices may include clustering of developed area, provisions for open space, low impact design features, and flood proofing.

C. The County shall provide incentives for transfer of densities and filled footprints within the riverine floodplain to reduce risk.

D. Brevard County will coordinate with the SJRWMD or other appropriate agencies in determining the appropriate first floor building elevation within the 25- to 100-year floodplain and shall ensure that habitable structures are constructed above base flood elevation.

Policy 4.3

To facilitate redevelopment of commercial and industrial land uses, the filled footprint restrictions may be modified if compensatory storage is provided. Non-contiguous compensatory storage, hydrologically connected to the impacted floodplain may be considered. Redevelopment means the renovation of a previously developed obsolete commercial or industrial parcel of land or building site which suffers from structural vacancy due to the expiration of its former use and requires intervention to achieve a subsequent useful function and come into compliance with all other current environmental and land development regulations.

Policy 4.4

New dikes, levees or other such structures should not be permitted below the 100-year riverine flood elevation except for temporary earthen structures that have a maximum height of less than the 10-year flood elevation and which will not restrict the flow of the 100-year storm floodwaters. The only potential exceptions to this provision are such structures which are shown to have over-riding public benefit. Replacement or repair of dikes, levees and other such structures are permitted as long as such replacement or repair does not change the status of the floodplain and will maintain the existing ability to utilize the property. Non-structural methods of floodplain management are given priority over structural methods.

Policy 4.5

Brevard County shall continue to protect the estuarine floodplains by implementing the following minimum criteria:

Criteria:

A. Development within the one-hundred year estuarine floodplain shall not adversely impact the drainage of adjacent properties or the quality of the receiving surface water body.

B. The following specific uses are not compatible with the resource requirements of the one-hundred year estuarine floodplain and shall not

be permitted. These include, but are not limited to:

1. Placing, depositing, or dumping of solid wastes.
2. Processing and storing of threshold amounts of hazardous materials.
3. Disposal of hazardous materials.

C. The annual estuarine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

Policy 4.6

Brevard County shall continue to ensure that alterations of isolated one-hundred year floodplains do not adversely impact the drainage of adjacent properties or public drainage facilities.

Policy 4.7

Brevard County shall continue to protect the coastal floodplain through the implementation of the following minimum criteria:

Criteria:

A. Prohibit development within the annual coastal floodplain.

B. Limit development water-ward of the Brevard County Coastal Construction Setback Line to those structures necessary to protect the natural dune system and to provide beach access.

C. Brevard County shall continue to maintain construction standards for all development within the one-hundred year storm surge zone as established by the Florida Department of Environmental Protection, the U.S. Southern Building Code, or other applicable regulations.

Policy 4.8

Brevard County shall identify structural controls within the floodplain which degrade natural systems and make recommendations for alternatives to re-establish the natural floodplain, where feasible.

Policy 4.9

Brevard County shall continue to participate in the National Flood Insurance Program administered by the Federal Emergency Management Administration (FEMA). Amendments to the County's flood ordinance shall be adopted as necessitated by changes in FEMA regulations.

Policy 4.10

Public facilities should not be located within the 100-year riverine or estuarine floodplain unless the following apply:

Criteria:

A. The facilities are water-dependent, such as mosquito control facilities; or,

B. The facilities are water-related, such as boat ramps, docks or surface water management facilities; or,

C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,

D. The building structures are flood-proofed and located above the 100-year flood elevation, or removed from the floodplain by appropriately constructed dikes or levees; or,

E. The facilities are found to be in the public interest and there is no feasible alternative.

Wetlands

Objective 5

Preserve, protect, restore, and replace wetlands to achieve no net loss of functional wetlands in Brevard County after September, 1990. The County shall ensure the protection of wetlands and wetland functional values by prioritizing protective activities with avoidance of impacts as the first priority, minimization of impacts as the second priority, and mitigation for impacts as the third priority.

Policy 5.1

Brevard County shall utilize the same methodology, soil types, hydrological requirements and vegetation types as the FDEP and the SJRWMD in delineating wetlands.

Policy 5.2

Brevard County shall adopt regulations which promote no net loss of functional wetlands. At a minimum, the following criteria shall be included in the land development regulations:

Criteria:

A. The basis for no net loss shall be established as of the effective date of the required ordinance.

B. Wetlands shall be considered functional unless the applicant demonstrates that the water regime has been permanently altered, either artificially or naturally, in a manner to preclude the area from maintaining surface water or hydroperiodicity necessary to sustain wetland functions.

C. If an activity is undertaken which degrades or destroys a functional wetland, the person performing such an activity shall be responsible for repairing and maintaining the wetland. If it is not feasible or desirable for the responsible person to perform the repair and maintenance of the wetland, then the responsible person shall mitigate for the wetland loss. Mitigation can include, but not be limited to: wetland restoration, wetland replacement, wetland enhancement, monetary compensation or wetland preservation.

D. Wetland activity conducted by a public agency may not be utilized for wetland mitigation credit by private persons unless approved by Brevard County.

E. The following land use and density restrictions within wetlands are established as a maximum density or most intense land use that may be considered only if the other criteria established in Conservation Element Policy 5.2 are met:

1. Residential land uses within wetlands, that are a part of a formal subdivision or site plan, on properties containing wetlands shall be limited to the following:

a. Residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Policy 5.2.E (7), for subdivisions and multi-family parcels greater than five acres in area, New Town Overlays, PUDs, and if applicable, mixed-use land development activities as specified in Policy 5.2.E (6).

b. For development activities on property greater than five (5) acres, density may be transferred to an upland portion of the site if consistent with all county land development regulations and compatible with adjacent uses.

c. Except as allowable in Policy 5.2.E(1)a, subdivided lots and multi-family parcels shall contain sufficient uplands for the

intended use and for any buffering necessary to maintain the function of the wetland(s), and shall be compatible with adjacent uses.

2. Residential land uses within wetlands and created by metes and bounds, which are not part of a formal subdivision, on properties containing wetlands shall be limited to the following:

   a. Residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Policy 5.2.E (1)a above. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Policy 5.2.E (7).

   b. Except as allowable in Policy 5.2.E (2)a, properties shall contain sufficient uplands for the intended use and for any buffering necessary to maintain the function of the wetland(s), and shall be compatible with adjacent uses.

   c. In addition to impacts allowable in Policy 5.2.E (2)a, on properties where sufficient uplands for the intended use and for any buffering necessary to maintain the function of the wetland(s) exist except for access, wetland impacts may be permitted for single access to the uplands.

3. Commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers specifications shall be established in land development regulations and be based on peer-reviewed

publications to include, but not be limited to, Buffer Zones for Water, Wetlands, and Wildlife in the East Central Florida Region, (1990, Brown, M.T., Schaefer, and K. Brandt, published by the Center for Wetlands, University of Florida). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives.

a. Impacts to wetlands are permittable for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map, and is located within one-half mile of the intersection of the off-ramp of the I-95 interchange with the connecting roadway. The one-half mile radius shall extend from the end of the limited access boundary of I-95. This shall not include those interchanges where I-95 intersects a limited access highway as defined by Florida Statute. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

b. In mitigation qualified roadways, commercial or industrial land development activities may be permitted in wetlands contained in properties designated for commercial or industrial land uses on the Future Land Use Map. Mitigation qualified roadways are depicted and identified in a table on Map 8.

   An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table. Impacts to high functioning and landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or overriding public benefit. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

c. Commercial or industrial land development activities may be permitted in wetlands contained in properties designated for commercial or industrial land uses on the Future Land Use Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use. This shall not apply to

properties that are addressed under Policies 5.2.E.3.a, b, and d. Impacts to high functioning and landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or overriding public benefit. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

d. Impacts to wetlands for commercial or industrial land development activities limited solely to providing access to uplands, and for no other purpose than providing access as required by Brevard County land development regulations may be permitted in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial of February 23, 1996, only if all of the following criteria are met:

(i) Sufficient uplands exist for the intended use except for access to uplands.

(ii) The property was not subdivided from a larger property after December 31, 2010. This shall not preclude a single shared access through wetlands for properties subdivided after December 31, 2010.

(iii) Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

4. Institutional and Residential Professional development activities within wetlands shall be limited to the following:

a. Institutional or Residential Professional land development on properties which contain wetlands and which are designated on the Future Land Use Map as Neighborhood Commercial or Community Commercial shall be considered commercial as set forth in Policy 5.2.E.3. The property shall have sufficient infrastructure available to serve the use.

b. Institutional or Residential Professional land development on properties which contain wetlands and which are designated on the Future Land Use Map as residential shall be limited to properties of at least 5 acres unless strict application of this

policy renders a legally established parcel as of September 9, 1988, which is less than 5 acres, as unbuildable.

5. In the event that the denial of commercial or industrial development activities in wetlands results in an inordinate burden under the Bert Harris Property Rights Act or a taking under state or federal law, an affected property owner may appeal such denial to the Board of County Commissioners in the manner provided in Section 62-507(b)(2), Code of Ordinances of Brevard County, Florida.

6. Beginning on January 1, 2010, mixed-use land development activities may be permitted in wetlands only if all of the following are met:

   a. The land development activities that impact wetlands must be part of a mixed use development that includes a minimum of three of the following land uses: residential, commercial (retail services and/or office), recreation/open space and institutional uses. Industrial land uses shall be prohibited in mixed use land development activities within wetlands. For purposes of this policy mixed use land development activities shall be consistent with the following criteria:

      (i) The mixed use land development activity includes a variety of densities, intensities and types designed to promote walking between uses and utilizes a variety of transportation modes such as bicycles, transit and automobiles; and

      (ii) The residential component of the land development activity is an integrated part of the project and comprises not less than 30% of the gross square footage of land uses within the development as shown on a site plan or a Sketch Plan complying with the standards set forth in Chapter 11, Policy 9.9.2.

      (iii) The development is in conformance with an integrated site plan or commercial subdivision which includes both vertical and horizontal mix of uses within a defined area.

   b. Impacts to wetlands from mixed-use development activities (including without limitation impacts resulting from

associated improvements such as sidewalks, parking areas and driveways) do not exceed the limitation set forth in Policy 5.2 E(7); and

c. To the extent direct impacts to wetlands are caused by a particular building or buildings within a mixed-use development, not less than 30% of the gross square footage of such building or buildings must be for residential use; or such building or buildings shall be physically attached to a building having not less than 30% of its gross square footage permitted for residential use.

7. Impacts to wetlands from residential and mixed-use land development activities, on a cumulative basis, shall not exceed 1.8% of the non-commercial and non-industrial acreage of a DRI, PUD, parcel acreage or, if the project is within a New Town Overlay (as defined in Chapter 11, Policy 9.2), 1.8% of the non-commercial and non-industrial acreage within the applicable New Town Overlay.

8. Allowable wetland impacts shall be kept to a minimum and related to structural building area requirements, on-site disposal system requirements, the 100 year flood elevation requirement for first floor elevations, required stormwater management and parking, and required access to the on site structures. Minimization shall include application for available land development regulation waivers that would result in reduced wetland impacts.

9. Dumping of solid or liquid wastes shall be prohibited.

10. Applying or storing pesticides and herbicides should be prohibited unless such application is required for protection of the public health or removal of invasive, exotic, or nuisance plant species for management and mitigation or conservation purposes approved by Brevard County or removal of invasive, exotic, or nuisance plant species for management and mitigation or conservation purposes approved by Brevard County.

11. The County shall develop incentives to minimize impacts to highly functional wetlands.

F. Agricultural Activities

1. An exemption for agricultural pursuits, utilizing best management

practices which do not result in permanent degradation or destruction of wetlands, shall be included within the land development regulation.

2. Wetland impacts for activities listed in agricultural zoning classifications as permitted, permitted with conditions, or approved by the Board of County Commissioners as a Conditional Use on properties designated as bona fide agricultural lands per F.S. 193.461 and 823.14, may be allowed subject to the following criteria:

   a. The property shall be classified as bona fide agricultural per F.S. 193.461 and 823.14 for not less than ten consecutive years as of the date of the proposed impact;

   b. The property shall have Agriculture Future Land Use designation or DRI Future Land Use designation and the proposed use is consistent with the defined agricultural uses under an approved DRI Development Order.

   c. Upon approval of the impact, no less than 50 percent of the property area shall retain bona fide agricultural use pursuant to F.2.a above;

   d. Impacts to high functioning or landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or overriding public benefit; and

   e. The property shall have an agricultural zoning classification or be zoned PUD and the proposed use is consistent with the defined agricultural uses in the PUD zoning resolution or approved Preliminary Development Plan.

Where the allowable use is residential, residential policies shall apply. Sufficient buffer setbacks of the activity from incompatible land uses shall be provided. Buffer setbacks shall be established through the land development regulations. The property shall meet all other State regulatory criteria.

Policy 5.3

Wetland regulations adopted by Brevard County should avoid duplication of wetland regulation unless regulated activities will result in the destruction and/or degradation of functional wetlands. Where the wetland degradation or destruction has been permitted by FDEP or SJRWMD based on FDEP and SJRWMD professional staff

application of criteria and evaluation the County shall apply the land use and density requirements of Policy 5.2 and the avoidance, minimization of impacts, and mitigation priorities established by Objective 5. Any permitted wetland degradation or destruction shall provide for mitigation as designated in the Conservation Element.

Policy 5.4

Wetlands artificially created for wastewater treatment or disposal or for wetland stock nurseries shall not be subject to these regulations and shall not be used to fulfill the requirements of this objective (Objective 5).

Policy 5.5

Natural, isolated wetlands should be incorporated into water management systems where practical and appropriate, as an alternative to destruction of wetlands. Whenever wetlands are utilized within water management systems, quality of the water discharged to the wetlands, hydroperiods and stage elevations should be designed to maintain or enhance the wetland.

Policy 5.6

Wetlands policy should provide allowances to promote redevelopment, and urban and industrial infill.

Minerals

Objective 6

Brevard County shall continue to implement regulations regarding mining, borrow operations and private lakes which protect environmental systems and permit appropriate utilization of the mineral resources.

Policy 6.1

Mining regulations entitled *Land Alteration* shall continue to include, at a minimum, the following provisions to prevent adverse effects on water quality and quantity.

Criteria:

A. Mining operations are not permitted within Type 1 aquifer recharge areas, as defined by this Comprehensive Plan.

B. Mining operations are not permitted within Type 2 aquifer recharge areas which are being used for a drinking water supply or where there is potential for private drinking water supply systems.

C. Mining operations are not permitted within the 10-year floodplain of the St. Johns River or freshwater tributaries of the Indian River Lagoon or

wetlands as protected within this Plan.

D. Mining operations located within the watersheds of Class I surface waters shall not have adverse impacts on water quality and quantity of potable surface water sources.

Policy 6.2

The County's mining regulations shall continue to include, at a minimum, the following provisions to minimize adverse impacts to environmental resources.

Criteria:

A. Mining operations should not adversely impact protected wetlands or other water dependent systems, and shall be set back a minimum of 100 feet from such wetlands, except as allowable per Policy 5.2.F.[1]

B. Mining operations shall not cause salt water intrusion. Monitoring by the mining operator shall be required to insure this requirement.

Policy 6.3

The County's mining regulations shall continue to include, at a minimum, the following provisions.

Criteria:

A. Mining operations within any zoning classification shall require a Conditional Use Permit.

B. Reclaimed mines shall have a minimum five (5) feet horizontally to one (1) foot vertically (5:1) side slopes to a normal water depth of at least five (5) feet below the water surface; subaqueous side slopes deeper than five (5) feet shall be no steeper than 2:1, and a littoral zone.

C. When the borrow pit (lake) is to be utilized in conjunction with residential development, stormwater shall not be released directly into lakes with depths greater than eight (8) feet. Pretreatment of stormwater, for example via swales, shall be required.

Policy 6.4

A reclamation plan and proof of financial responsibility must be submitted and approved prior to the commencement of the mining operation. The reclamation plan shall address the following concerns, at a minimum.

Criteria:

A. Average depth;

B. Bottom contours and littoral zones;

C. Revegetation plan, showing plant materials;

D. Control of stormwater runoff and drainage;

E. Recreational amenities, if any;

F. Stocking with fish, if any; and

G. Maintenance plan.

Policy 6.5

A concept plan to bind the operational scope and other physical features of the operation shall be submitted and approved prior to the commencement of the mining operation. The concept plan shall address the following criteria, at a minimum.

Criteria:

A. Size and location of operation;

B. Location of equipment and equipment storage;

C. Extent of buffering and setbacks;

D. Side slopes;

E. Points of ingress and egress; and

F. A vicinity map depicting removal routes that trucks and other vehicles will use to haul to sites or areas external to the borrow site.

G. The required reclamation plan shall also be included.

Policy 6.6

Brevard County shall continue to implement regulations for land excavation operations in addition to those for commercial borrow operations. These regulations are titled *Private Lakes* and shall continue to include, at a minimum, the following:

Criteria:

A. Definition of regulated land excavation operations. The construction of a private lake will not be used or constructed as a commercial borrow operation by virtue of its intended use, and maximum size.

B. Exemptions, including the construction of swimming pools, and water retention areas required in conjunction with an approved site plan or subdivision plat.

C. The minimum size to be regulated.

D. Setbacks shall continue to be established in the private lake regulations from property lines and rights-of-way lines of a publicly owned road, street, highway, drainage, or public or private utility easements, and cable TV easements.

E. Regulated excavations shall not be permitted within:

1. Type 1 aquifer recharge areas as identified within this Plan or within;

2. Type 2 aquifer recharge areas being utilized as sources for public drinking water supplies.

3. Below the ten-year floodplain of freshwater tributaries of the Indian River Lagoon or the St. Johns River.

F. Limitations shall be adopted on length of time that excavations may occur and hours of operation.

G. Requirements for side slopes of the completed excavation.

H. Maximum permitted depths.

I. Reclamation requirements.

Soil Erosion

Objective 7
Eliminate inappropriate land use practices causing soil erosion and reduce sediment accumulation in the Indian River Lagoon, St. Johns River and other large surface water bodies.

Policy 7.1
Brevard County shall continue to implement its adopted land clearing, tree protection, and landscaping ordinances to address revegetation and premature land clearing.

Criteria:

A. Require permitting prior to any land clearing.

B. Require phased clearing in conjunction with phased construction.

C. Require permits for the removal of trees or vegetation in conjunction with land surveying along property lines.

D. Require areas cleared of vegetation to be revegetated with biologically appropriate vegetation, to prevent wind or water erosion, within ninety (90) days of initial land clearing activity where no approved landscape plan exists or no active development order has been issued. Native vegetation should be utilized to the maximum extent possible.

E. Exempt single-family residential lots of two and one-half (2 1/2) acres or less in size, from the requirement of written notification to clear land, after the issuance of a Certificate of Occupancy for the single-family residential lot.

F. Exempt land clearing in conjunction with agricultural purposes or normal silviculture utilizing best management practices.

Policy 7.2

Where localized soil erosion is noted by Code Enforcement, the Natural Resources Management Office, or other County agency, the Brevard Soil and Water Conservation District will be contacted and their recommendations shall be incorporated into a program instituted to assist the landowner to renourish and stabilize such areas.

Policy 7.3

In those cases where soil erosion is of concern, especially properties along the Atlantic Ridge, Brevard County shall request review by the Brevard Soil and Water Conservation District. Brevard County shall consider their recommendations in the design, review and development of projects. Projects should minimize impervious surfaces by using pervious surfaces where ever feasible, such as for overflow parking.

Policy 7.4

Brevard County will participate with the Brevard Soil and Water Conservation District to educate the public about the causes of soil erosion, as well as methods for preventing or repairing such erosion.

Policy 7.5

Brevard County should employ Best Management Practices for control of erosion and sedimentation for road construction and other County projects.

Policy 7.6

Brevard County shall utilize techniques in the installation of new facilities or improvement of existing facilities to minimize sediment accumulation within surface

water bodies and wetlands.

Criteria:

A. Turbidity screens shall be utilized for all projects which have the potential to release sediments.

B. All runoff shall be detained prior to release to allow pollutants, soil, particulates and organic materials to settle out.

C. Phased projects should be cleared in conjunction with construction of each phase.

D. Areas cleared of vegetation should be revegetated with appropriate vegetation, to prevent wind or water erosion, within ninety (90) days of initial land clearing activity where no approved landscape plan exists or no active development order has been issued.

Vegetation

Objective 8

Conserve, appropriately use and protect native vegetative communities, including forests as appropriate, by regulating land clearing and landscaping practices within Brevard County.

Policy 8.1

Brevard County shall continue to implement and improve the land clearing and tree protection ordinance, and the landscaping ordinance, as amended.

Policy 8.2

Brevard County shall continue to utilize information from the East Central Florida Regional Planning Council and other agencies in undertaking a program to inventory and identify vegetative communities within the County, and to determine loss rates and rarity of such communities.

Policy 8.3

Brevard County shall continue to review all development plans for compliance with vegetative protection regulations developed by ordinance and adopted in Chapter 62, Article B, Division 2 of the Land Development Regulations that meet the objectives of 9J-5.006 and 9J-5.013. Brevard County shall continue to encourage the use of community green space and clustering developments through the open space ordinance, and shall coordinate with the Building and Construction Advisory Committee, the Brevard County Home Builders Association and other appropriate groups to continuously improve environmental design incentive program.

Policy 8.4
Brevard County should continue to utilize scientific advisory groups to investigate preservation of vegetation, particularly of upland communities. These groups are ad hoc based upon the Board direction. The Environmentally Endangered Lands Program, Selection and Management Committee (SMC) may also be used to support these investigations when consistent with policy.

Policy 8.5
Brevard County shall conserve, appropriately use and protect vegetative communities, including forests, from inappropriate development through the continued implementation of the Landscaping, Land Clearing and Tree Protection ordinance. using the following minimum criteria:

Criteria:

A. Heat Island Mitigation.
B. Vegetative Buffering.
C. Vegetative Loss Replacement.

Policy 8.6
Brevard County should continue to develop programs for county-wide acquisition of unique vegetative communities which have been identified for protection. This acquisition shall be voluntary, and shall not include the use of eminent domain.

Policy 8.7
Brevard County should contact the municipalities within the county and pursue developing a county-wide vegetation protection ordinance to standardize existing landscaping ordinances.

Policy 8.8 Reserved

Policy 8.9
Brevard County shall continue to incentivize continued use of agricultural and silvicultural lands which are unique to Brevard County. These programs should include, but not be limited to, regulatory incentives and assistance for agriculture landowners, voluntary agricultural or silvicultural districts, time-certain dedications, purchase or transfer of development rights, and voluntary fee simple purchase of agricultural or silvicultural lands.

Policy 8.10
Brevard County shall develop a county-wide program for invasive exotic removal on public lands and shall educate private property owners on reasons to remove invasive exotics from private lands. This program should emphasize replacement of invasive exotics with native vegetation where feasible.

Wildlife

Objective 9
Protect endangered and threatened wildlife species and species of special concern from adverse impacts due to loss of crucial habitat.

Policy 9.1

Brevard County shall continue to obtain and utilize information from the U.S. Fish and Wildlife Service, Florida Game and Freshwater Fish Commission, Florida Department of Environmental Protection, Florida Natural Areas Inventory, East Central Florida Regional Planning Council and other agencies to inventory and identify crucial habitat for endangered or threatened wildlife species and species of special concern within the County, and to determine loss rates and rarity of such habitat.

Policy 9.2

By 2002, Brevard County shall make available Natural Resources of Regional Significance maps as adopted Florida Department of Environmental Protection in 1998 and revised in 2004, and the Florida Natural Inventory (FNAI) adopted 2000, and revised in 2006 to provide crucial habitat review at the pre-application stage of all projects requiring site-plan or subdivision approval to guide future development away from crucial habitats

Policy 9.3

Brevard County should coordinate a scientific advisory group to investigate preservation of wildlife habitat, particularly of upland communities.

Policy 9 .4

Brevard County shall continue the Environmentally Endangered Lands Program (EEL) as authorized by the voter-approved public referendum in September 1990. This program shall remain committed to acquiring, protecting, and maintaining environmentally endangered lands and making improvements as appropriate for passive recreation and environmental education.

Policy 9 .5

Development of Brevard County owned conservation areas shall be in accordance with the intent of the original acquisition.

Policy 9.6

Prior to development of any county-owned property, an environmental assessment should be completed which would analyze the impact of the proposed development on the natural resources and wildlife habitat of the property.

Policy 9.7

Brevard County shall continue to rely upon the Environmentally Endangered Lands Program, Selection and Management Committee (SMC) land acquisition analysis and the Florida Fish and Wildlife Conservation Commission (FWCC) adopted in 1994, revised in 2006, wildlife corridor studies to determine the appropriateness of wildlife corridors, how extensive they should be, the location of potential corridors, Brevard County should explore what fiscal resources including the EELs program, are available for implementation and possible economic incentives for property owners to voluntarily participate in formation of a wildlife corridor program.

Policy 9.8

Brevard County shall delineate and protect linkages between natural systems and the open space systems.

Policy 9.9

On February 7, 2003, the Florida Fish and Wildlife Conservation Commission approved the Brevard County Manatee Protection Plan (MPP). The MPP includes the following major components: habitat protection, education, boat facility siting, State of Florida manatee protection boat speed zones, manatee mortality, law enforcement, and boating safety. In addition to the criteria established in the MPP and incorporated into the Coastal Element, the following criteria shall also apply:

Criteria:

A. All existing and new marinas shall erect manatee education and awareness signs, which will be posted and maintained in a prominent location. Each marina operator shall establish and maintain a permanent manatee educational display at a prominent location at their marina. Brevard County shall establish and maintain a display at public boat launch facilities and license tag agencies.

B. Those involved in the sale of boats and motors should provide manatee information to the buyer at the time of delivery of boats or motors.

C. Brevard County shall maintain well-marked speed limit signs, in accordance with the uniform waterway marker program, for manatee protection and boating safety speed zones established by local ordinance only.

D. Brevard County, or other appropriate agencies, shall develop standardized information packet containing information regarding manatees and regulations protecting manatees for distribution by the U.S. Fish and Wildlife Service, Florida Department of Environmental Protection, Brevard Marine Association, and other agencies or groups as appropriate. This will include information concerning the existing

manatee slow speed or idle zones, and any additional zones which may be deemed necessary within areas frequented by manatees.

E. Brevard County shall continue to monitor manatee protection measures to determine their effectiveness.

F. Brevard County shall identify areas containing significant manatee habitat features. Marinas with powerboat slips should not be sited within these areas.

Policy 9.10

Brevard County should continue to enforce its sea turtle protection ordinance in order to protect sea turtles along the County's beaches. Efforts shall be made to make beachfront lighting ordinances within the County uniform. This may be accomplished through interlocal agreements.

Policy 9.11

Beach renourishment and dune restoration plans shall continue to be designed and implemented so that sea turtle nesting is not disrupted.

Policy 9.12

Brevard County Office of Natural Resources Management shall continue to comply with the county-wide scrub-jay habitat management conservation agreement plan as approved by the US Fish and Wildlife Service on July 10, 2003 and revised in 2007. Management plans shall be developed for other species, as deemed necessary.

Policy 9.13

The Brevard County Office of Natural Resources Management shall make available to the development community, State prepared model management plans for other endangered and threatened species and species of special concern dependent upon habitat rarity and loss rates as described in Policies 9.2, 9.7, and 9.12, in this element.

Policy 9.14

Brevard County shall continue to assist in the application of, and compliance with, all state and federal regulations which pertain to endangered, or threatened species and species of special concern.

Policy 9.15

By 2016, the County shall develop education programs to promote the preservation of endangered and threatened species and species of special concern as well as their habitat, with the assistance of the Florida Department of Environmental Protection, the Florida Game and Fresh Water Fish Commission, and the U.S. Fish and Wildlife Service, and other agencies or groups as appropriate. Brevard County encourages the development of post-development wildlife management plans which

would enhance the wildlife potential of existing developments.

Policy 9.16

Brevard County supports the use of Turtle Excluder Devices (TEDs) or other devices to protect wildlife from shrimp and other fishing nets.

Aquifer Protection

Objective 10

Maintain the surficial and Floridan aquifer systems for reasonable and beneficial uses.

Policy 10.1

By 2016, Brevard County shall undertake a surficial and Floridan aquifer protection study, including modeling of wellfield cones of influence. This study will be coordinated with other appropriate agencies and will become the basis for an aquifer management plan.

Policy 10.2

Until an aquifer management plan is adopted by Brevard, at a minimum the following criteria shall be incorporated into the land development regulations to protect the aquifer.

Criteria:

A. In Type 1, 2, and 3 aquifer recharge areas, post-development groundwater recharge volume shall equal pre-development recharge volume. The maximum allowable impervious surfaces in these areas shall be: Type 1 - 25%; Type 2 - 35%; and Type 3 – 45% unless the developer can demonstrate that post-development recharge volume shall equal pre-development recharge volume and dependent upon additional regulations and local conditions. Citrus, improved pasture, row crop agricultural operations, and normal silvicultural operations using Best Management Practices shall be exempt.

B. For water quality purposes, stormwater run-off in Type 1, 2, and 3 aquifer recharge areas should be directed through a vegetated stormwater management system which at a minimum has a soil depth of at least two feet above the seasonal high water table. Citrus, improved pasture, row crop agricultural operations, and normal silvicultural operations using Best Management Practices shall be exempt. If alternative methods can be shown to meet an equal or greater degree of stormwater treatment these methods may be considered.

C. Within Type 1 aquifer recharge areas, the following are prohibited:

1. New septic tanks.
2. New underground storage tanks.
3. Storage of threshold amounts of hazardous materials.
4. Disposal of hazardous materials.

D. Within Type 2 aquifer recharge areas, the following are prohibited:
1. Storage of threshold amounts of hazardous materials.
2. Disposal of hazardous materials.

E. Within Type 3 aquifer recharge areas, the disposal of hazardous materials is prohibited.

F. Groundwater withdrawals shall be managed to prevent salt water intrusion and adverse affects to existing wells. Anyone proposing a new public water supply well must own or control all areas within 500 feet of the proposed well.

G. An applicant can show that the area does not function as a recharge area by providing additional information about hydrogeologic conditions on site which may include vertical permeability as found in the Aquifer Protection ordinance.

Policy 10.3

Brevard County shall support the City of Titusville's efforts to obtain G-1 sole source aquifer designation.

Policy 10.4

Brevard County shall continue cooperation with the City of Titusville ~~in~~ through the existing Interlocal Agreement and development of new pre-annexation agreements for properties within the City's Area of Critical Concern in order to carry out Titusville's aquifer protection policies and the provision of potable water.

Policy 10.5

Brevard County shall develop a public education program concerning the importance and methods of protecting the County's surficial and Floridan aquifers.

Policy 10.6

By 2002, Brevard County shall develop and adopt within its Land Development Regulations to regulate land uses which involve the storage, production, use and disposal of threshold amounts (to be determined) of regulated substances identified as priority pollutants by the Environmental Protection Agency in 40 CFR 122.21 within Type 1, Type 2, and Type 3 aquifer recharge areas. These regulations shall meet the state criteria for protecting wellfields.

Energy Conservation

Objective 11
Brevard County shall develop strategies through transportation decisions and planning to address the reduction of greenhouse gas emissions, energy conservation and energy efficient design.

Policy 11.1
Sites for new public facilities serving large numbers of people shall be close to or within population centers to minimize automobile use.

Policy 11.2
The County shall promote car pooling opportunities for commuters with the same destination.

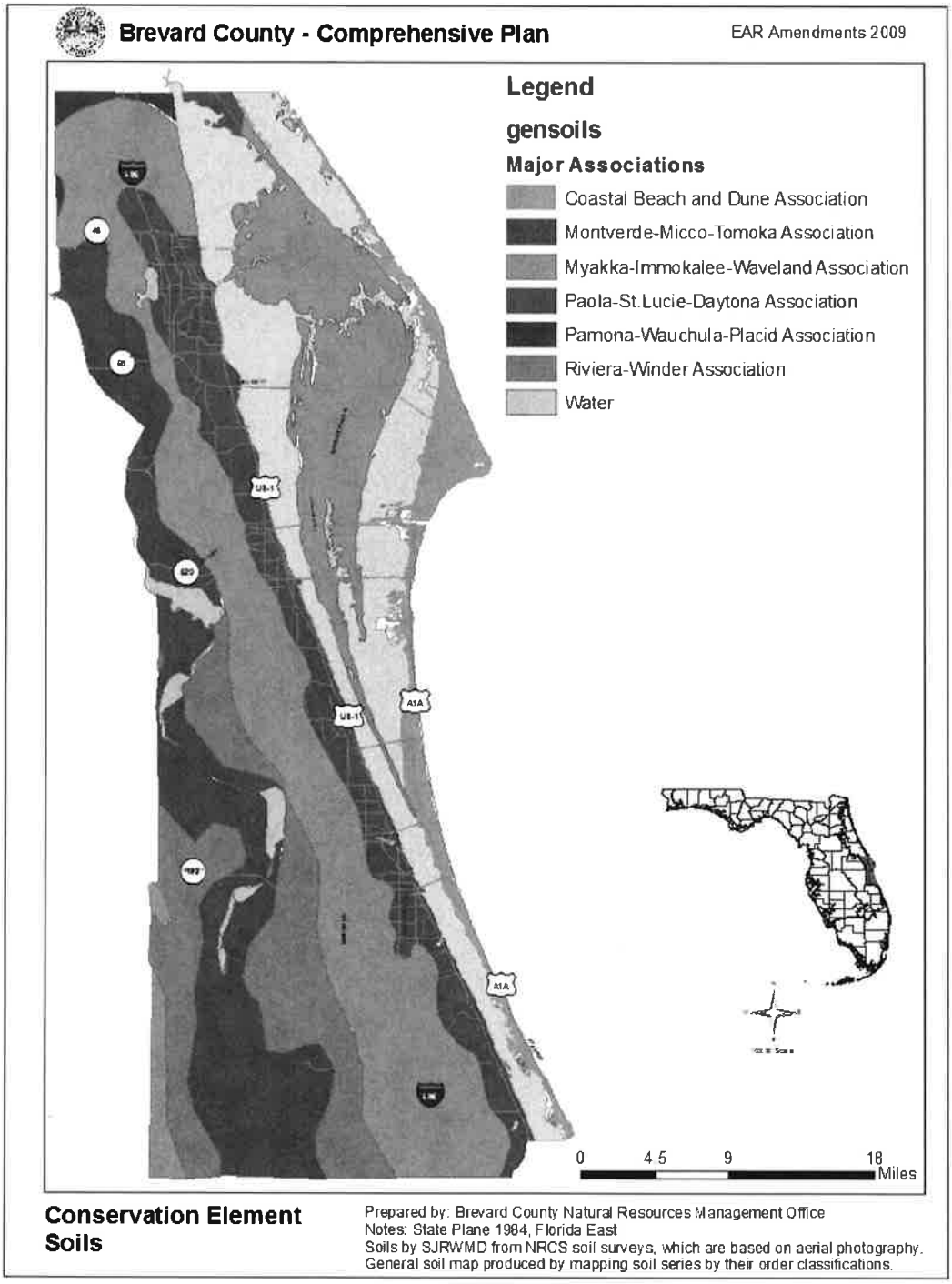
Policy 11.3
The County shall encourage the use of transit opportunities and other alternate modes of transportation throughout the County.

Policy 11.4
The County shall continue its education program to promote bicycle, pedestrian and other non-motorized transportation options to reduce vehicle miles traveled.

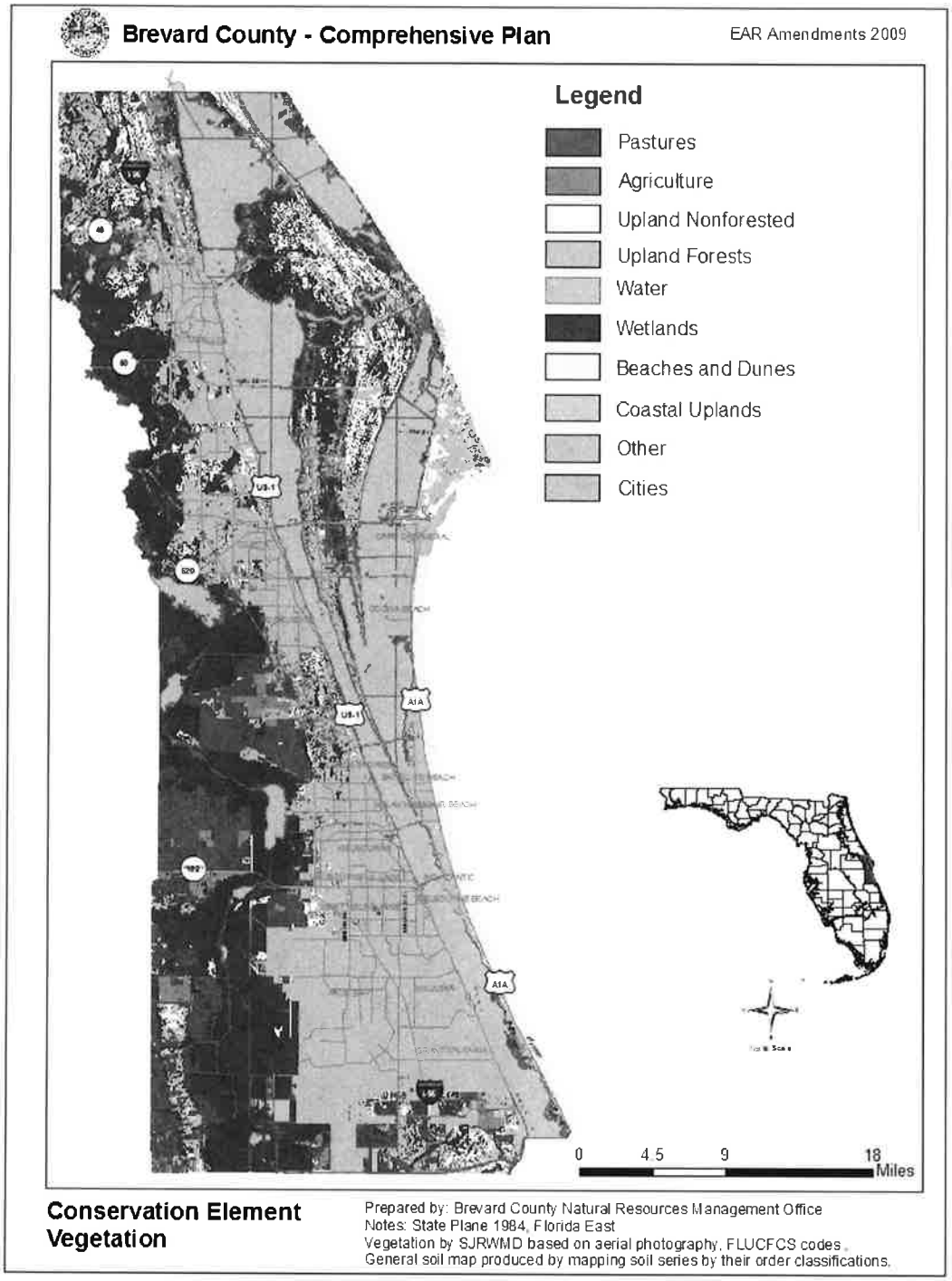
APPENDIX

LIST OF MAPS

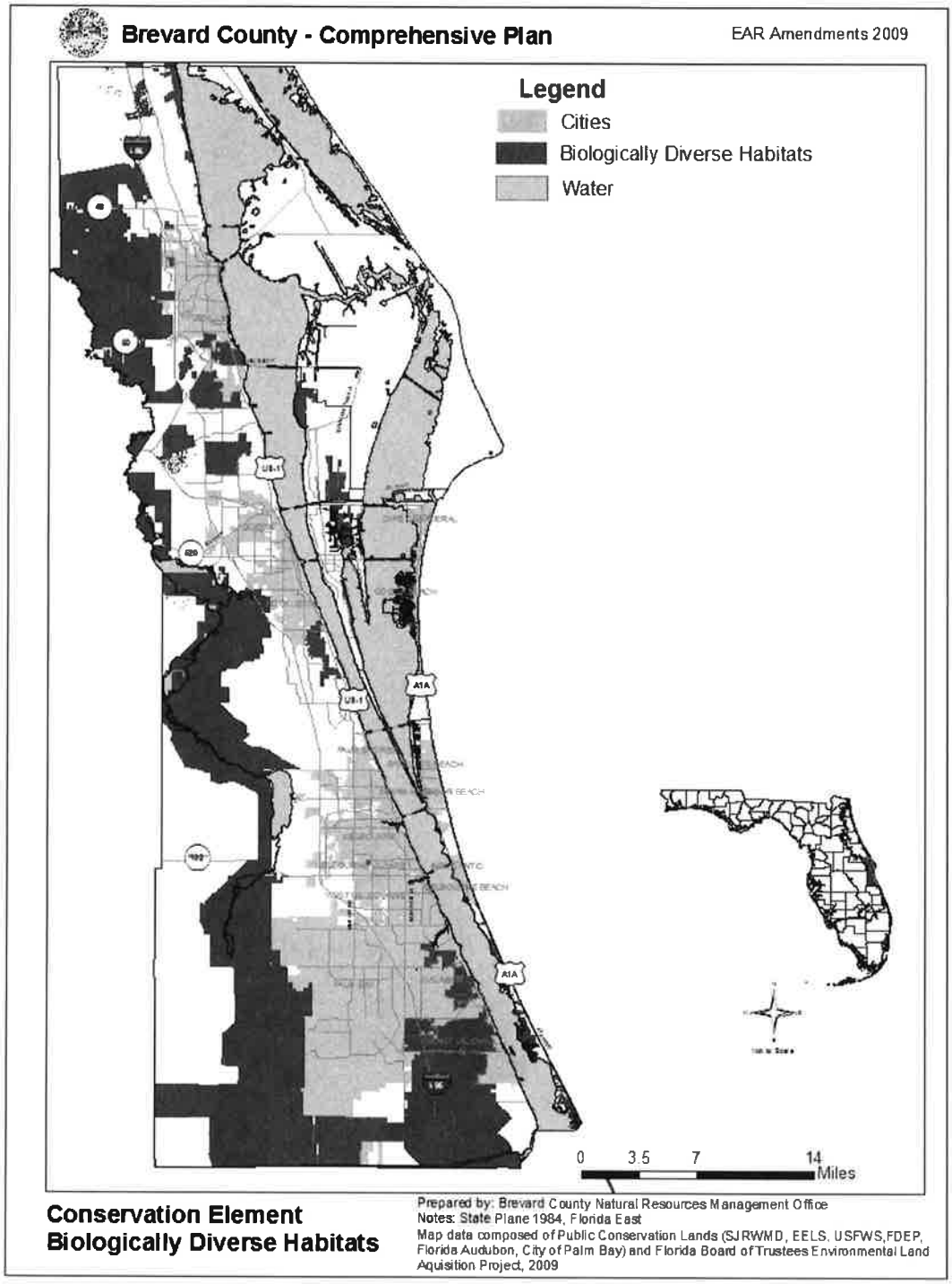
Map	Title
1	General Soils
2	Vegetation
3	Biologically Diverse Habitat
4	Floodplains
5	Surface Water - Classification
6	Wetlands
7	Marine Facilities
8	Mitigation Qualified Roadways
9	Landscape Level Polygon


Brevard County - Comprehensive Plan
EAR Amendments 2009
Legend
gensoils
Major Associations
Coastal Beach and Dune Association
Montverde-Micco-Tomoka Association
Myakka-Immokalee-Waveland Association
Paola-St.Lucie-Daytona Association
Pamona-Wauchula-Placid Association
Riviera-Winder Association
Water
0 4.5 9 18
Miles
Conservation Element
Soils
Prepared by: Brevard County Natural Resources Management Office
Notes: State Plane 1984, Florida East
Soils by SJRWMD from NRCS soil surveys, which are based on aerial photography.
General soil map produced by mapping soil series by their order classifications.

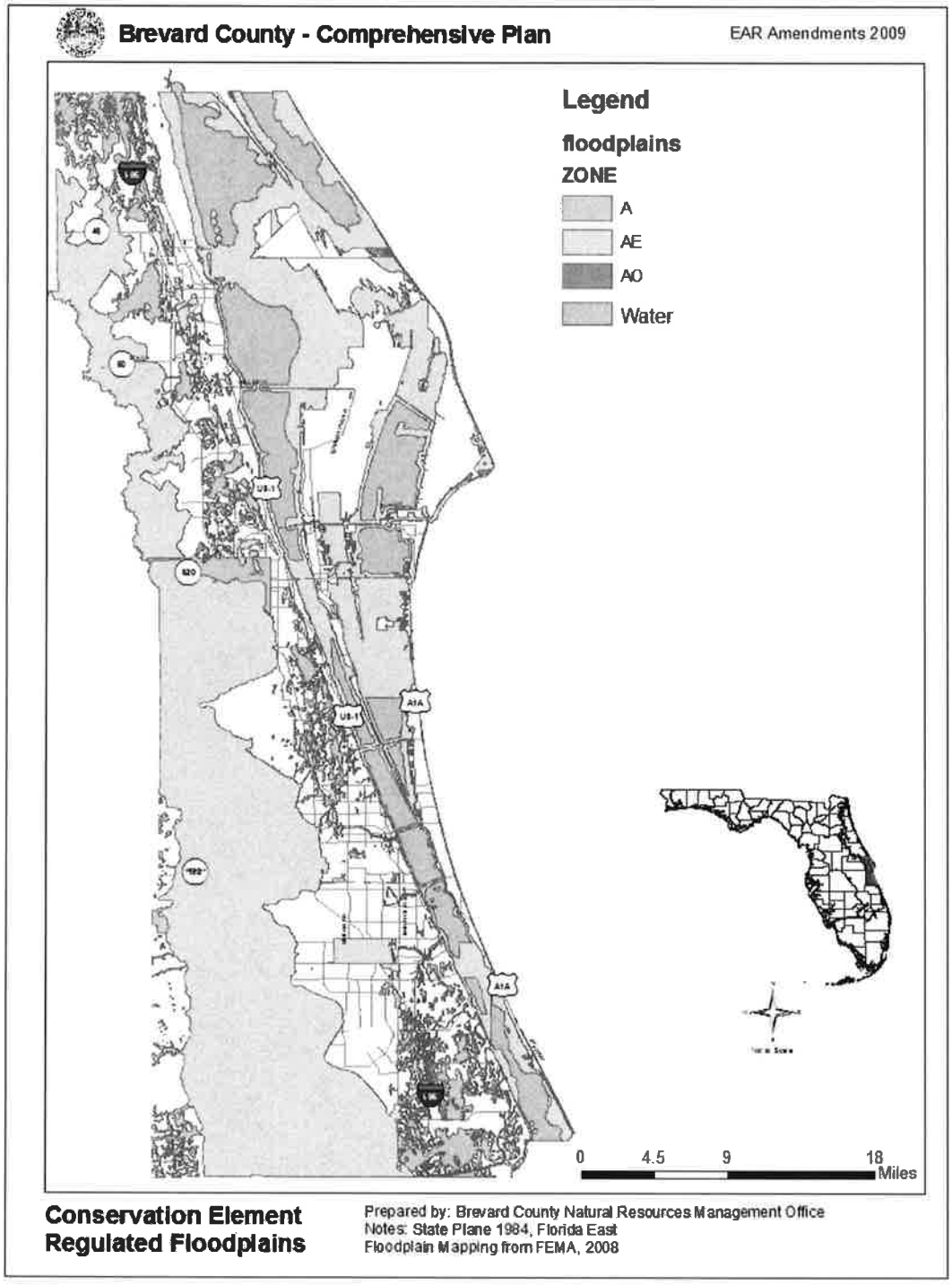
Map 1
Soils



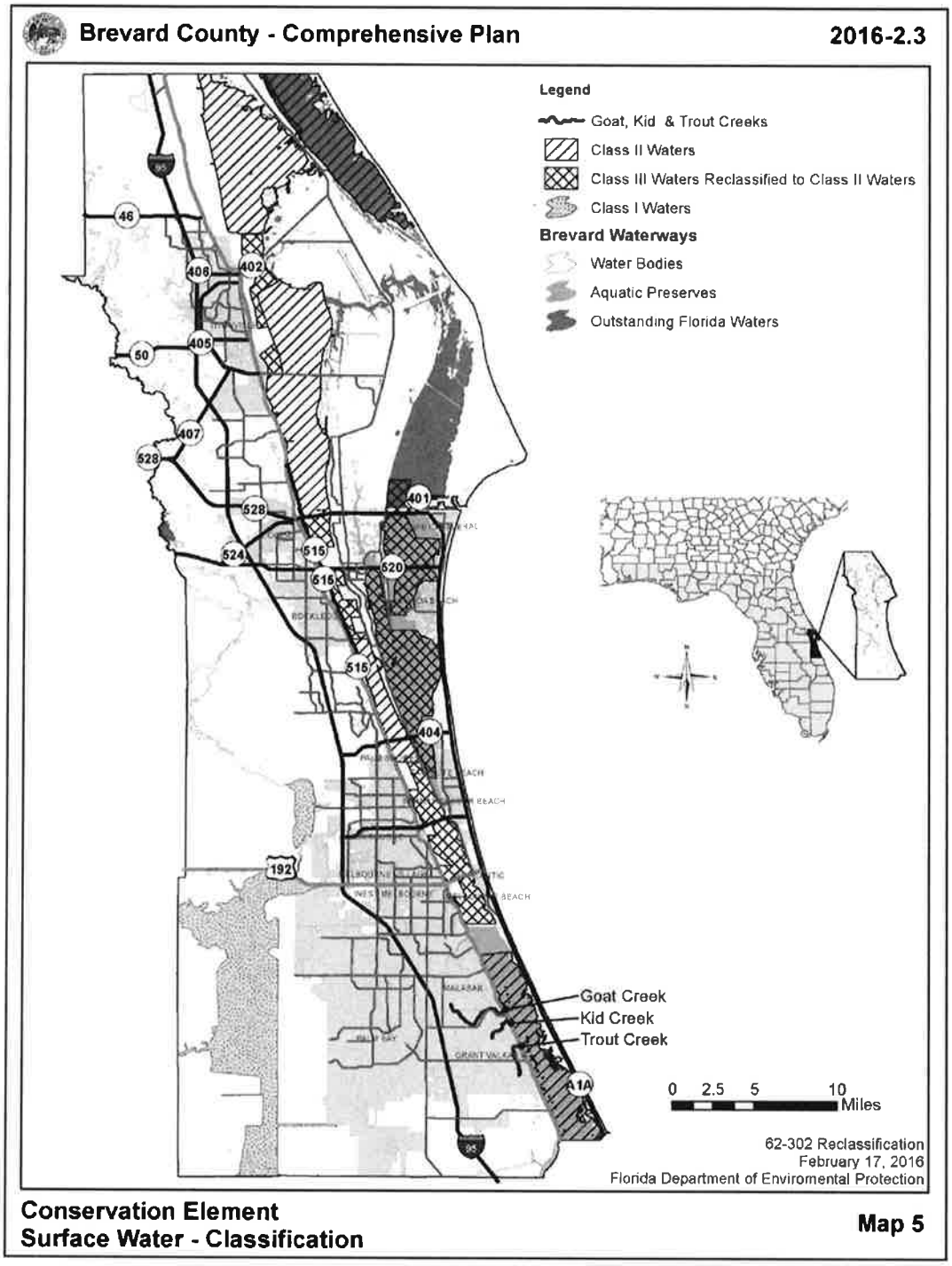
Map 2
Vegetation Including Wetlands



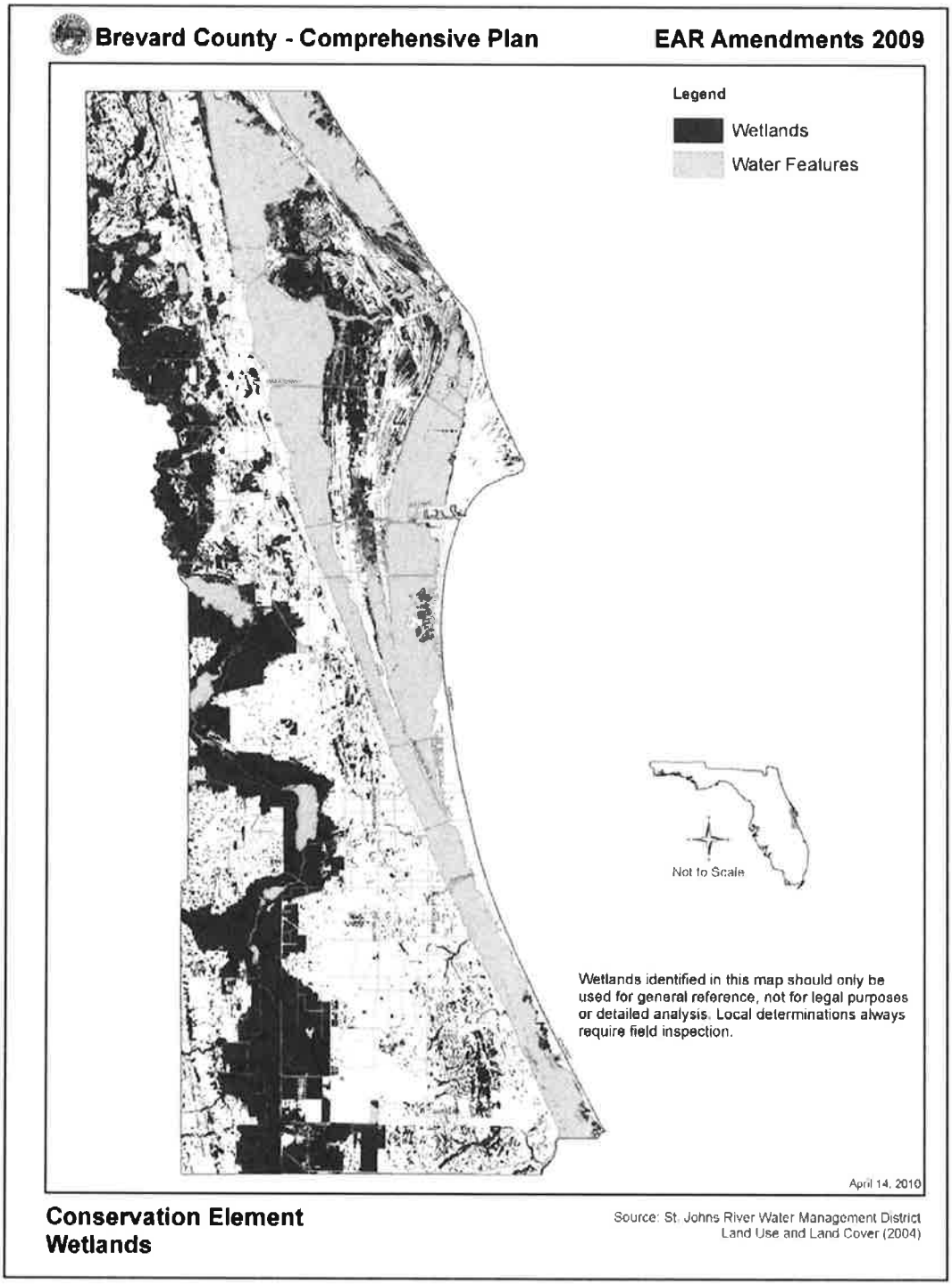
Map 3
Biologically Diverse Habitats



Map 4
Flood Plains

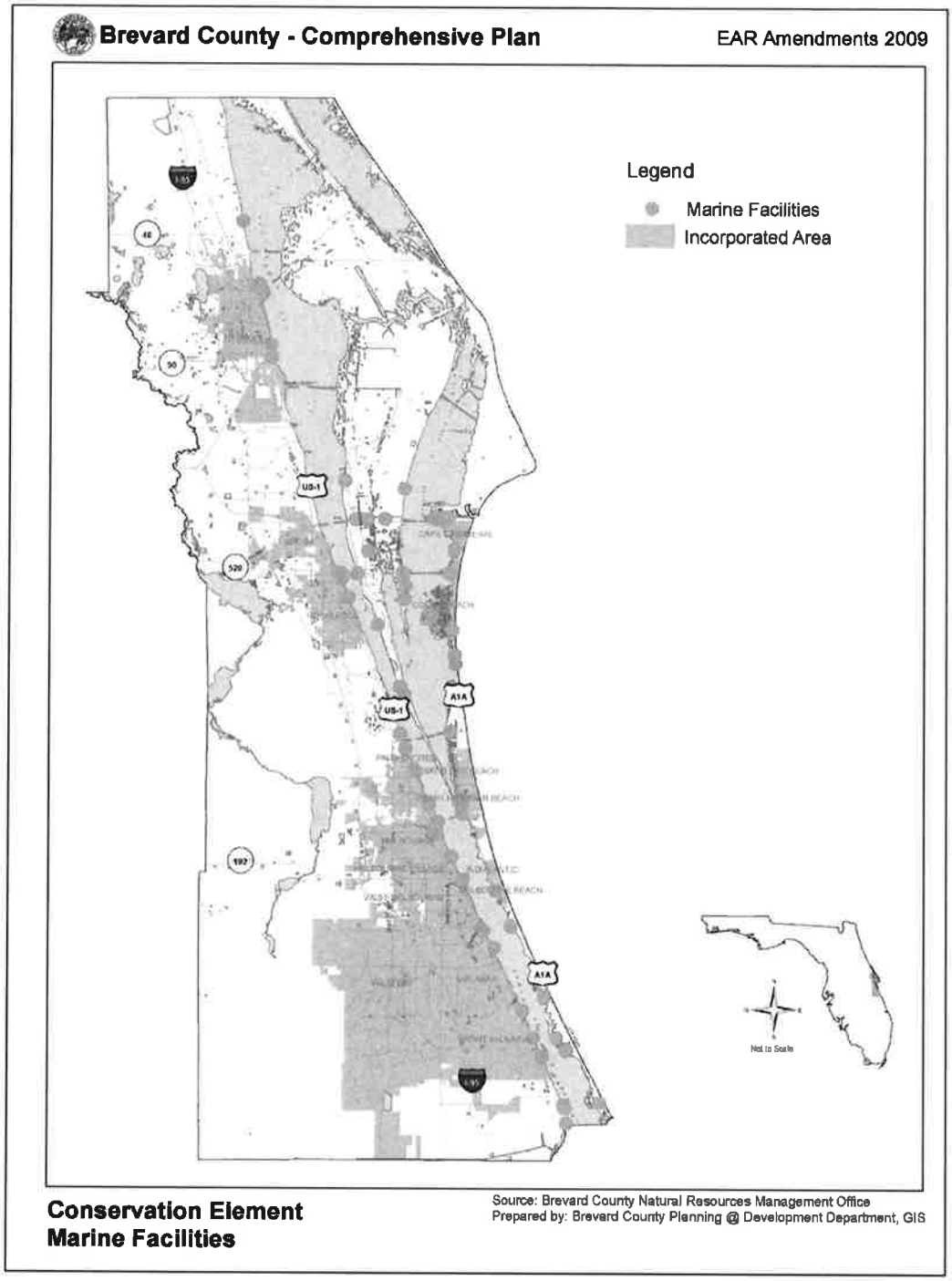


Map 5
Surface Water - Classification

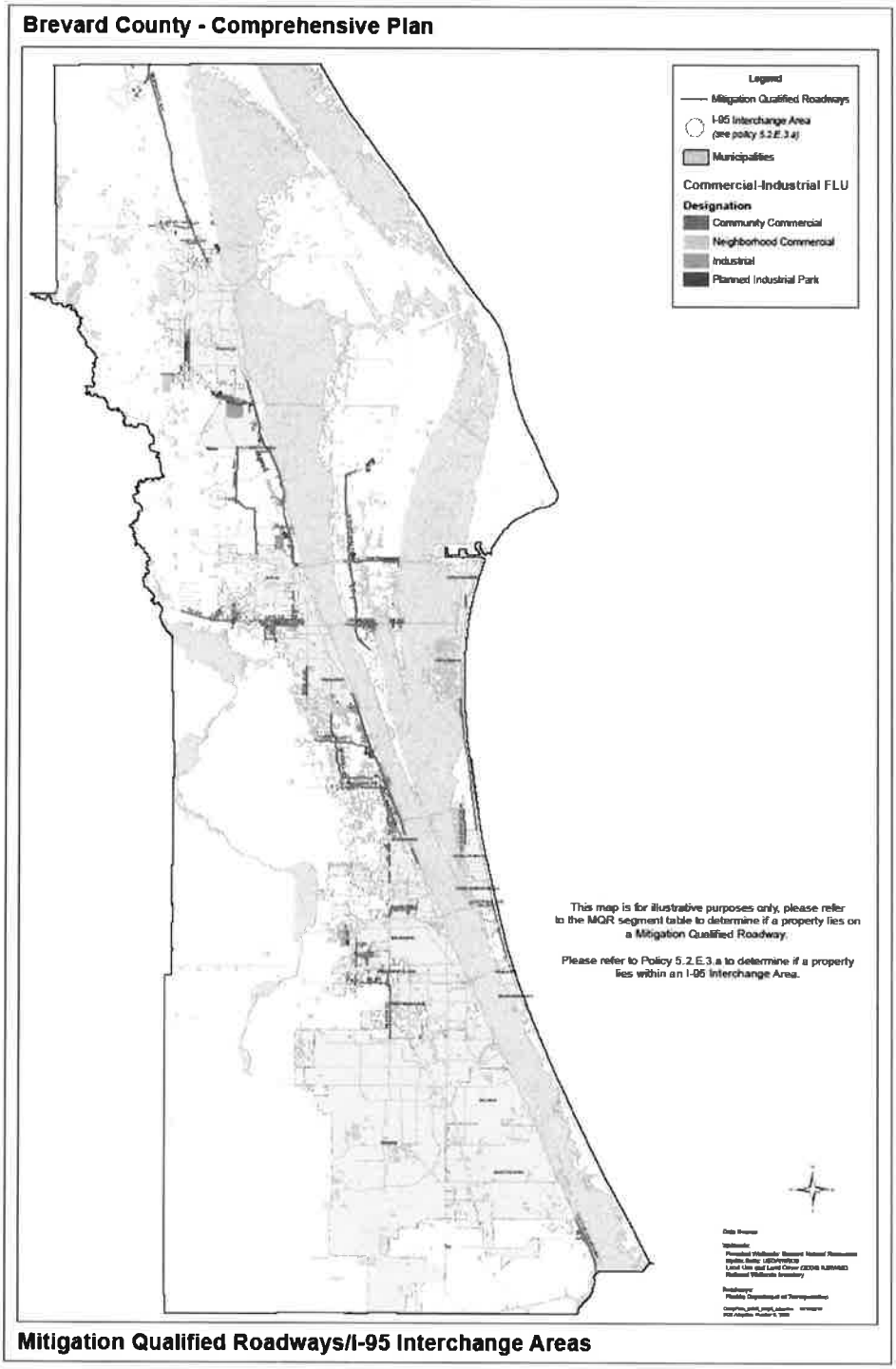

Brevard County - Comprehensive Plan
EAR Amendments 2009
Legend
Wetlands
Water Features
Not to Scale
Wetlands identified in this map should only be used for general reference, not for legal purposes or detailed analysis. Local determinations always require field inspection.
April 14, 2010
Conservation Element
Wetlands
Source: St. Johns River Water Management District
Land Use and Land Cover (2004)

Map 6

Wetlands



Map 7
Marine Facilities

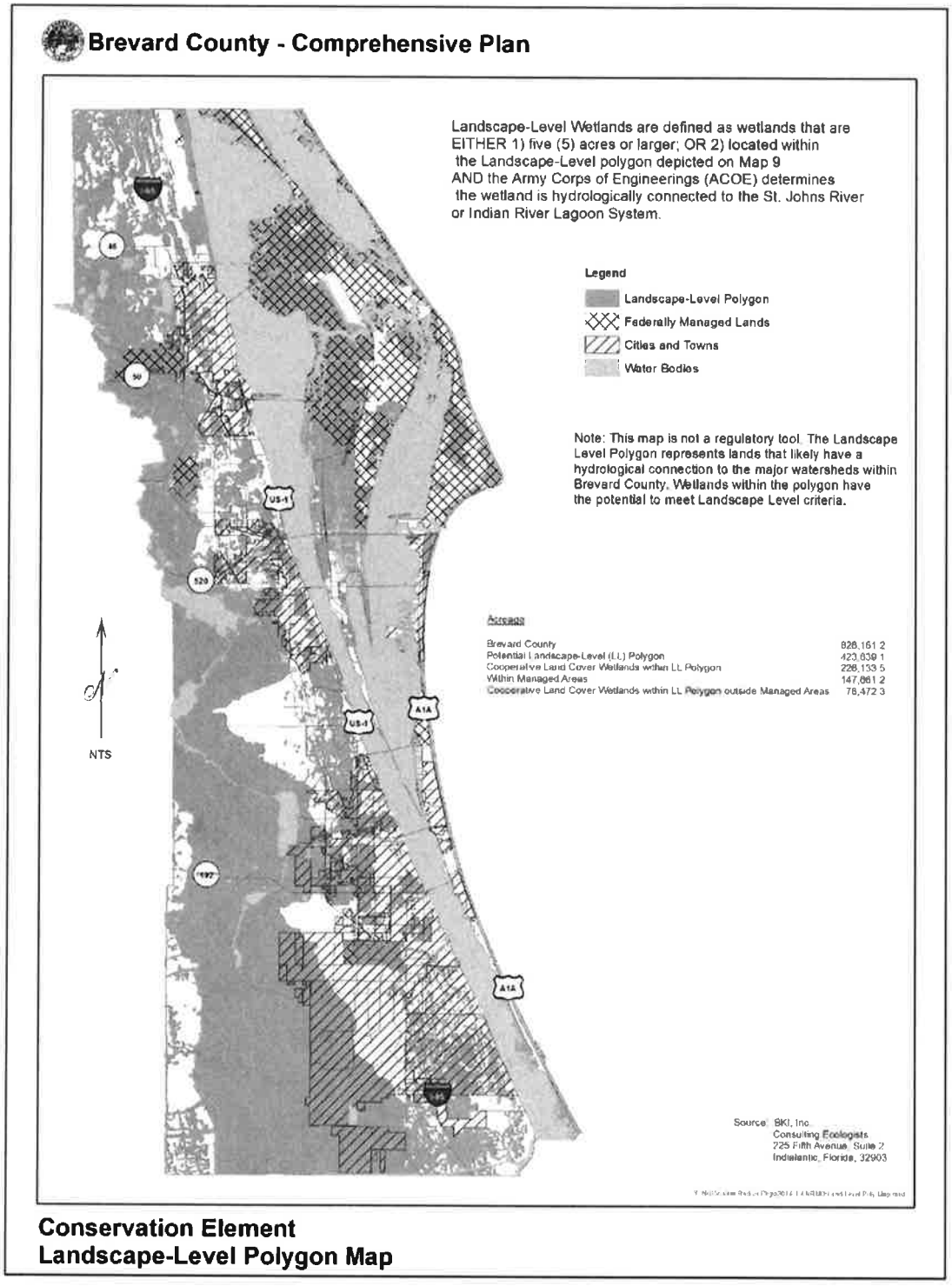


Map 8
Mitigation Qualified Roadways

MQR SEGMENT NAME (Segments apply ONLY in unincorporated areas of Brevard County)	FROM	TO
Stuck Way Rd (CR 3A)	I-95 interchange area*	U.S. Highway 1
U.S. Highway 1	County Line Rd	Kingman Rd (Titusville City Northern Boundary)
SR 46 / Main St	I-95 interchange area*	Approx. 300' west of Turpentine Rd
SR 46 / Main St	I-95 interchange area*	U.S. Highway 1
Parrish Rd	Singleton Ave	U.S. Highway 1
Cheney Hwy (SR 50)	I-95 interchange area*	Approx. 3,800' west of I-95 interchange area*
South Street	Cheney Hwy (SR 50)	Fox Lake Rd
Columbia Blvd (SR 405)	Woodland Hills Dr	U.S. Highway 1
U.S. Highway 1	Titusville City Boundary	Cocoa City Boundary
Grissom Pkwy	Titusville City Boundary	Cocoa City Boundary
Port St. John Pkwy	I-95 interchange area*	Grissom Pkwy
Kings Hwy	U.S. Highway 1	Approx. 325' west of Koesaw
Curtis Blvd	Fay Blvd	Approx. 210' east of Song Dr
Fay Blvd	Carole Ave	Adobe Ave
Canaveral Groves Blvd	U.S. Highway 1	Approx. 330' west of Morris Ave
SR 520	I-95 interchange area*	Penny Ln
SR 524	SR 520	Cocoa City Boundary
Friday Rd	SR 520	Cocoa City Boundary
Lake Dr	SR 520	Cocoa City Boundary
School St	Clearlake Rd	Pineda St
King St (SR 520)	I-95 interchange area*	Cocoa City Boundary
Peachtree St	Clearlake Rd	Pineda St
Pineda St	Peachtree St	School St
Burnett Rd	Lake Dr	Pluckebaum Rd
Range Rd	Lake Dr	Pluckebaum Rd
Pluckebaum Rd	Burnett Rd	Approx. 700' east of Range Rd
Clearlake Rd	SR 520	Tate St
Piske Blvd	I-95 interchange area*	Eyster Blvd
U.S. Highway 1	Rockledge City Boundary	Post Rd (Melbourne City Boundary)
Murrell Rd	Wickham Rd	Rockledge City Boundary
Viera Blvd	Stadium Pkwy	U.S. Highway 1
Spyglass Hill Rd	Murrell Rd	Pinehurst Ave
Wickham Rd	I-95 interchange area*	New Haven Ave (SR 192)
Suntree Blvd	Wickham Rd	U.S. Highway 1
Pineda Cswy	Wickham Rd	RR Crossing
Aurora Rd	Citrus St	Melbourne City Boundary (Approx. 235' east of Alpha Dr)
Croton Rd	Carlton Dr	Melbourne City Boundary (Approx. 100' north of Leewood Blvd)
John Rodes Blvd	Melbourne City Boundary (N end of Lamplighter Village)	New Haven Ave (SR 192)
Ellis Rd	John Rhodes Blvd	Distribution Dr
New Haven Ave (SR 192)	I-95 interchange area*	Minton Road
Babcock St	Micco Rd	Approx. 680' north of Micco Rd
Micco Rd	Babcock Road	Approx. 1,310' east of Babcock St
US 1/SR 5/Dixie Hwy	Serine St (Grant - Valkaria City Boundary)	Sebastian Inlet Bridge (South Brevard County Line)
Micco Rd	US 1/SR 5/Dixie Hwy	Approx. 340' west of Pine Ridge Trail
N Courtenay Pkwy	Pine Island Rd	SR 520
Courtenay Pkwy	SR 520	Approx. 470' south of Island Beach Blvd.
Sea Ray Dr	N Courtenay Parkway	Banana River Dr
Marine Harbor Dr	N Courtenay Parkway	Tropical Tr
Tropical Tr	Marine Harbor Dr	Barge Canal
N Banana River Dr	Barge Canal	Stafford Ave
Merritt Island Cswy (SR 520)	Indian River Lagoon (east shore)	New Found Harbor (west shore)
Merritt Island Cswy (SR 520)	Newfound Harbor (east shore)	Banana River (west shore)
Milford Point Dr	Merritt Island Cswy	Approx. 625' north of Merritt Island Cswy
Banana River Dr	Merritt Island Cswy	Approx. 1,200' south of Merritt Island Cswy
Newfound Harbor Dr	Merritt Island Cswy	Approx. 175' south of Kessler Dr
Atlantic Ave	Grant	Barlow
Orlando Ave (SR A1A)	11th St (Cocoa Beach City Boundary)	Atlantic Ave (SR A1A)
Atlantic Ave/SR A1A	Indian Village Trail (Cocoa Beach City Boundary)	Grosse Pointe Ave (Indialantic City Boundary)
SR 513/S Patrick Dr	Pineda Cswy	Satellite Beach City Boundary (Approx. 185' north of Siena Ct)
Eau Gallie Blvd	Harbor City Parkway	SR A1A

* - Please refer to Policy 5.2.E.3.a

Reverse Side of Map 8



Map 9
Landscape Level Polygon

CHAPTER II

SURFACE WATER MANAGEMENT ELEMENT

TABLE OF CONTENTS

GOALS, OBJECTIVES AND POLICIES

GOAL

A SAFE, EFFICIENT, ENVIRONMENTALLY SOUND AND COMPREHENSIVE SURFACE WATER MANAGEMENT SYSTEM IN BREVARD COUNTY.

Master Stormwater Management Plan Implementation

Objective 1

Correct existing deficiencies to ensure preservation and improvement of surface water quality, according to priorities established within the County's Master Stormwater Management Plan.

Policy 1.1

Brevard County shall continue to implement and update a Master Stormwater Management Plan which establishes criteria and methodologies for drainage basin analysis and Level of Service standards. Drainage basins will be prioritized and analyzed based on severity of problems and available funding. The analysis shall identify the following information, at a minimum:

Criteria:

A. Surface water drainage basins and sub-basins.

B. Public and private stormwater treatment facilities, including detention/retention facilities, and the entity having operations responsibility.

1. For shared facilities, the proportional capacity allocated to each entity shall be identified.

2. The geographic service area of each facility and the predominant types of land use served by the facility.

3. The design capacity of the facility.

4. The current demand on the facility.

5. The impact of the drainage facility on adjacent natural resources, including water quality of receiving waters.

C. Estimated timeframe and costs of correcting deficiencies.

Policy 1.2

Priorities for basin analysis and retrofitting shall be established using a matrix approach and the following criteria, at a minimum:

Criteria:

A. Health and safety.

B. Flooding potential.

C. Impact of stormwater on the water quality of the receiving water bodies.

Policy 1.3

The Natural Resources Management Office shall be the lead agency for the development and implementation of the Master Stormwater Management Plan and shall coordinate its efforts with the St. John's River Water Management District on the Indian River Lagoon Comprehensive Conservation and Management Plan (CCMP), Total Maximum Daily Loads (TMDL's) and the National Pollution Discharge Elimination System (NPDES) permit schedule and requirements.

Policy 1.4

Where an approved stormwater system has been altered, resulting in negative impacts to neighboring properties, Brevard County shall require property owners to return these systems to their original design or to an approved design which is a betterment, as appropriate. Any such improvements shall be consistent with the adopted stormwater management plan.

Policy 1.5

Brevard County shall address modification of existing development, which does not meet stormwater management standards within the Master Stormwater Management Plan, and should use available financial mechanisms for the modification of such development.

Criteria:

A. Stormwater management facilities within existing developments should be retrofit to provide for treatment of runoff (including sediment removal where appropriate) prior to release to receiving waters. The Level of Service Standards for these facilities shall be the reduction of the pollutant loading as necessary to enhance or maintain the beneficial uses of the receiving water and to meet receiving water standards per Florida Administrative Code. All facilities should be maintained at design capacity.

B. Properties with bulkheads or seawalls should be modified so that runoff is detained prior to release to the receiving body. This may be achieved by planting native or other appropriate vegetation along the shoreline to retain silt, sediment and nutrients so that the rate of runoff is equivalent to the pre-development state.

C. Properties with vegetated shorelines should modify the shorelines to retain silt, sediment and nutrients by planting native vegetation or other appropriate vegetation. A detention structure, swale, and/or berm may be used to allow sediments to settle and nutrient uptake to occur only if non-native vegetation is predominant. Runoff rates should be equivalent to the pre-development state.

Policy 1.6

Brevard County's Master Stormwater Management Plan shall include a program for periodic, scheduled inspections of stormwater management facilities.

Policy 1.7

Brevard County should continue the public information program on the value of stormwater management. The County should continue to coordinate this program with Natural Resource Conservation Service (NRCS), the Indian River Lagoon National Estuary Program and other appropriate agencies.

Policy 1.8

Brevard County shall determine the feasibility of innovative methods of stormwater treatment. Innovative methods of stormwater treatment should be construed as any technique other than standard retention and detention basin, and shall include such alternatives as stormwater reuse and area wide stormwater management facilities.

Policy 1.9

Brevard County shall pursue funding from federal, state and regional sources to investigate and utilize innovative methods of stormwater treatment.

Policy 1.10

Funding sources for development and implementation of the Master Stormwater Management Plan shall include the stormwater utility which is also identified within the Capital Improvements Element.

Policy 1.11

Brevard County shall continue to implement the stormwater utility as a reliable long-term funding mechanism to correct existing deficiencies and to provide for future stormwater management needs. Fee structure may be related to type of development, quantity of runoff generated, impervious surface or other "user related" standard.

Policy 1.12

Land use decisions relating to water resources and natural drainage features should be consistent with comprehensive water basin management plans. Area wide water quality management plans should be considered during the continued development of the Stormwater Management Master Plan. During the development of the Master Stormwater Management Plan, all new development shall meet the established stormwater requirements. If during the time that the Master Stormwater Management Plan is being implemented, it becomes apparent that additional regulations are required in order to protect water quality in surface water bodies in Brevard County, the County will initiate protective regulations through the adoption or revision of land development regulations without awaiting completion of the Master Stormwater Management Plan.

Policy 1.13

During development of the Master Stormwater Management Plan, the County shall provide for the adoption of retention and detention standards for stormwater throughout Brevard County.

Policy 1.14

Brevard County should support a program to retrofit large drainage canals with water control structures or rapid infiltration basins to hold canal stages high during the dry season. This would reduce irrigation demands, conserve ground water resources and reduce degradation of water quality of the Indian River Lagoon and the St. Johns River.

Policy 1.15

Nonstructural methods of stormwater management that reduce the generation and accumulation of potential stormwater runoff contaminants should be utilized to the maximum extent possible. Nonstructural methods of stormwater management include pesticide and herbicide control, proper fertilizer management, erosion control, proper waste disposal, etc. In addition, the use of wetlands and floodplains should be utilized whenever feasible in such a manner as to maintain the natural function and biodiversity of the system.

Policy 1.16

No new structures (such as dams, weirs, locks, levees or other artificial mechanisms) designed to control the stage and/or flow of waters of the State shall be constructed, except where no practical alternative exists and where such structures are necessary to protect the public safety, safeguard existing flood control structures, habitable structures and other public investments, or restore the function of the natural water dependent ecosystem. The use of temporary structural modifications to control the stage or flow of a water body as a part of any government sanctioned program of flood control, water quality restoration, habitat restoration or exotic plant control should be designed and operated so as to minimize harm to non-target organisms or natural ecosystems.

Policy 1.17

The channelization, dredging or impoundment of natural waters of the State shall be prohibited, except where no practical alternative exists for those operations necessary to correct existing threats to public health or safety, allow maintenance of existing navigational waterways, or provide reasonable access to water dependent shore-based facilities. All practical steps shall be taken to minimize adverse impacts to biological attributes of the water resources and water-dependent natural systems.

Meeting Future Needs

Objective 2

Require stormwater management facilities to meet future development requirements, consistent with the County's Master Stormwater Management Plan and this Comprehensive Plan.

Policy 2.1

Brevard County's Master Stormwater Management Plan shall coordinate the timing and location of stormwater management facilities to projected future needs and the future land use plan. Intensity and levels of stormwater services shall be tied to the development of an area, and consistent with level of service standards.

Policy 2.2

The Master Stormwater Management Plan shall also contain alternative methods of funding for the provision of projected future stormwater management needs. These may include, but are not limited to impact fees, capacity reservation fees, or hookup fees to pay for new public facilities or improvements to existing public facilities required for new development.

Policy 2.3

Brevard County requires that new stormwater management facilities or techniques shall not negatively impact adjacent properties.

Policy 2.4

Brevard County should develop a schedule for maintenance of all existing County maintained stormwater management facilities.

Policy 2.5

The provision of stormwater management facilities by the County shall be coordinated and consistent with the provision of other facilities, as directed by this Comprehensive Plan, including the Future Land Use, Conservation, Coastal Management, Transportation and Capital Improvements Elements.

Policy 2.6

The development and use of stormwater management facilities by Brevard County shall be undertaken to maximize the overall public benefit, while minimizing construction, operation and maintenance costs.

Concurrency Management

Objective 3

Require new development to adequately manage stormwater generated by the development.

Policy 3.1

Brevard County Land Development Regulations shall require all new development being site planned or subdivided to provide for stormwater management, which meets the following Level of Service Standards, at a minimum:

Criteria:

A. Retention and detention requirements shall at a minimum meet St. Johns River Water Management Criteria.

B. Retention of the first inch of runoff.

C. Post-development rate of discharge shall not exceed pre-development rate of discharge for a 25 year - 24 hour storm event.

D. Stormwater discharge facilities shall be designed so as to not lower receiving water quality or degrade the receiving water body below the minimum conditions necessary to assure the suitability of water

for the designated use of its classification as established in Chapter 62-302 FAC.

Policy 3.2

Brevard County shall maintain Land Development Regulations consistent with the following minimum criteria:

Criteria:

A. Land Development Regulations shall be consistent with Brevard County Subdivision and Site Plan Regulations and subsequent amendments or any subsequent stormwater land development regulation, whichever is more stringent.

B. Land Development Regulations shall require any other design standards as may be required, including the flexibility for the use of the 2-pond retention/detention system or other innovative method of stormwater management approved by the Natural Resources Management Office.

C. Land Development Regulations shall require performance bonds, annual operating fee or other fee structure for the maintenance of private systems which are accepted by the County for maintenance but not for ownership.

D. If it becomes apparent that additional regulations are required in order to protect water quality in surface water bodies in Brevard County, the County will initiate protective regulations through the adoption or revision of Land Development Regulations.

E. A plan amendment will be required to change or alter the level of service standards adopted for drainage facilities.

Policy 3.3

Brevard County shall require stormwater management systems to employ the most efficient and cost-effective control techniques available, including Best Management Practices to control siltation and prevent erosion.

Policy 3.4

Brevard County shall continue record keeping on stormwater management practices and monitoring of selected facilities. This information will provide a database for state, regional and local programs.

Policy 3.5

Brevard County shall provide stormwater treatment facilities for all roadways, which it constructs or improves for the purpose of increasing traffic flow. These facilities shall be designed, constructed, operated and maintained consistent with County and state standards.

Policy 3.6

Brevard County should investigate the delegation of stormwater permitting from the St. Johns River Water Management District or the Florida Department of Environmental Regulation, as appropriate. If Brevard County accepts delegation, this program shall be properly funded and adequately staffed.

Policy 3.7

Until the Master Stormwater Management Plan is developed, The Natural Resources Management Office shall review and comment on the impact of new development on stormwater conveyance systems. If the conveyance system is presently deficient, as determined by the Natural Resources Management Office, the developer shall be required to retain additional runoff on site, or make improvements to the conveyance system equal to the impact of the new development.

Natural Drainage Functions

Objective 4

Maintain the function of natural drainage features within Brevard County by reducing loss of flood storage capacity, protecting the functional value of wetlands and by reducing the interbasin diversion of waters from the St. Johns River basin into the Indian River Lagoon. Quality of waters which are diverted into the Lagoon system shall be improved.

Policy 4.1

Surface water interbasin diversions for new development shall be prohibited. The reduction or elimination of existing interbasin diversions to re-establish the historic St. Johns River drainage basin shall be encouraged.

Policy 4.2

Brevard County shall review and provide comments on all state and federal proposals for controlling or retrofitting the existing interbasin canals for consistency with this Comprehensive Plan. The County shall request compliance and consistency with this Comprehensive Plan.

Policy 4.3

Brevard County should support the development of a program by the St. Johns River Water Management District to coordinate surface water management data. Information should be collected, reviewed and placed on a computer model to determine cumulative effects of new development on discharge rates and volumes.

Policy 4.4

Brevard County should continue to coordinate and participate in a County-wide task force to coordinate stormwater management plans within the County.

Policy 4.5

Development within areas prone to flooding due to localized soil conditions or hydrology shall not negatively impact adjacent properties or receiving surface water body quality.

Policy 4.6

Brevard County shall fulfill the intent of the Conservation and Coastal Management elements of this Comprehensive Plan for the protection of the County's natural drainage features.

Policy 4. 7

Public facilities should not be located within the 100-year floodplain or wetland areas unless the following apply:

Criteria:

A. The facilities are water-dependent, such as boat ramps, docks, mosquito control facilities excluding their chemical storage areas, or other uses described as water-dependent in the glossary of this Comprehensive Plan ; or,

B. The facilities are water-related, or surface water management facilities or other uses described as water-related in the glossary of this Comprehensive Plan ; or,

C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,

D. The building structures are flood proofed and located above the 100-year flood elevation or removed from the floodplain by appropriately constructed dikes or levees; or,

E. The facilities are found to be in the public interest and there is no feasible alternative.

Policy 4.8

Public facilities should not be located within the 100-year floodplain or wetland areas unless the following apply:

Criteria:

A. The facilities are water-dependent, such as mosquito control facilities excluding their chemical storage areas; or,

B. The facilities are water-related, such as boat ramps, docks or surface water management facilities; or,

C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,

D. The building structures are flood proofed and located above the 100-year flood elevation or removed from the floodplain by appropriately constructed dikes or levees; or,

E. The facilities are found to be in the public interest and there is no feasible alternative.

Policy 4.9

By 2002, Brevard County shall develop a mosquito impoundment management plan which should address the following criteria, at a minimum:

Criteria:

A. Acquisition of impoundments for maintenance and operation.

B. Appropriate water management system shall be utilized.

C. Impoundments shall be restored or reconnected with the Indian River Lagoon when a public benefit can be demonstrated.

D. Proposed alteration of an impoundment should be reviewed by Mosquito Control. Brevard County should compensate property owners for mosquito impoundments when this use precludes all use by the owner or when no alteration would be acceptable to Mosquito Control.

E. Nonpermitted alteration of an impoundment shall be enforced by Brevard County.

F. All mosquito impoundments should be evaluated and those found to be breached or non-functional should be returned to their

natural condition by the appropriate Mosquito Control District. This would include, but not be limited to, removal of existing dikes and re-establishment of historical tidal channels.

G. Those fully functioning impoundments determined to be needed by the Mosquito Control District, should be placed under a rotational impoundment management plan as approved by the Florida Coordinating Council on Mosquito Control.

H. Any other "source reduction" mosquito control activities that also reduce the natural habitat required by freshwater or marine organisms should be prohibited.

I. Mosquito control impoundments shall be managed in a manner that avoids adverse impacts to the water quality of receiving water bodies.

J. The primary use of mosquito control impoundments shall be to protect human health through the control of mosquito populations. Secondary uses may include stormwater management, habitat improvement, wildlife management, and other uses as appropriate. Brevard County shall encourage multiple uses of mosquito control impoundments.

K. Brevard County should develop a program to acquire right-of-way or easements for drainage systems and mosquito control systems which the County maintains, if not already acquired.

Policy 4.10

Brevard County shall continue a water and sediment quality monitoring program within the Indian River Lagoon system, and shall coordinate such a program with other federal, state and local agencies. Specific methods of coordination include making data available to other agencies, and coordinating possible management strategies. A water and sediment monitoring program will be evaluated at least every 5 years to determine deficiencies or other necessary changes.

Policy 4.11

Brevard County will continue to identify and map point and nonpoint sources of pollution within the Indian River Lagoon system and watershed to identify and reduce point and nonpoint sources of pollution. This program shall be coordinated with other federal, state and local agencies.

Policy 4.12

Where illegal or accidental discharges of materials, or violations of water quality standards are observed, such violations will be reported to the appropriate federal, state and local regulatory agencies for further action and enforcement.

Policy 4.13

Brevard County shall participate in the development and implementation, as appropriate, of the Surface Water Improvement Management (SWIM) Basin Plans, as developed in coordination with the St. Johns River Water Management District, municipalities and counties and other agencies.

CHAPTER X

COASTAL MANAGEMENT ELEMENT

TABLE OF CONTENTS

GOAL, OBJECTIVES AND POLICIES

GOAL

ESTABLISH GROWTH MANAGEMENT STRATEGIES THAT WILL ALLOW GROWTH TO CONTINUE WITHIN THE COASTAL ZONE WHICH DOES NOT DAMAGE OR DESTROY THE FUNCTION OF COASTAL RESOURCES, PROTECTS HUMAN LIFE AND LIMITS PUBLIC EXPENDITURES IN AREAS SUBJECT TO DESTRUCTION BY NATURAL DISASTERS.

Estuarine Pollution

Objective 1

Improve areas within the Indian River Lagoon basin with fair or poor water quality as measured by the State of Florida Department of Environmental Protection using the trophic state index, and maintain areas with good water quality.

Policy 1.1

The Brevard County Natural Resources Management Office shall coordinate with the Florida Department of Environmental Protection to develop and implement Basin Management Action Plans to comply with National Pollutant Discharge Elimination System Permits and meet the Total Maximum Daily Loads established for local surface waters.

Policy 1.2

By 2010, Brevard County shall adopt within the land development code regulations that implement standards consistent with National Pollutant Discharge Elimination System Permits and Total Maximum Daily Loads.

Policy 1.3

Brevard County shall continue to cooperate with other agencies and municipalities that perform fisheries studies and submerged aquatic vegetation mapping and use this data to assist in establishing priority areas for surface water improvement efforts. In addition, Brevard County shall coordinate the manatee protection plan with municipalities and appropriate agencies.

Policy 1.4

The Brevard County Natural Resources Management Office shall review and comment, as necessary, on dredge-and-fill applications and/or Environmental Resource Permits from the Florida Department of Environmental Protection, SJRWMD, the U.S. Army Corps of Engineers, or other appropriate agencies.

Policy 1.5

Brevard County shall continue to consider recommendations of Marine Resources Council and other appropriate groups in the development of estuarine studies.

Policy 1.6

Brevard County shall coordinate surface water management and protection efforts with the Indian River National Estuary Program (IRNEP), FDEP, SJRWMD and other appropriate agencies.

Policy 1.7

Brevard County supports coordinated regional fisheries management plans developed by the Atlantic States Marine Fisheries Commission.

Water Quality/Seagrasses
Objective 2
Improve existing water quality to enhance seagrass and other submerged aquatic vegetation quantity, health, diversity, and distribution within the Indian River Lagoon.

Policy 2.1

Brevard County shall support the St. Johns River Water Management District's (SJRWMD) mapping of submerged aquatic vegetation within the Indian River Lagoon system. Evaluation results shall be made available to municipalities and other agencies or programs. Areas that show decline should be targeted for increased watershed management, including non-point source pollution, and restoration. Management strategies shall be coordinated with the municipalities and other agencies.

Policy 2.2

Brevard County shall continue to participate in the Indian River Lagoon Advisory Committee and its associated advisory groups.

Policy 2.3

Brevard County shall continue to protect Submerged Aquatic Vegetation (SAV) from the impacts of local land development by implementing the Surface Water Protection Ordinance. At a minimum, the following criteria shall be addressed:
Criteria:

A. Maintain upland vegetation within required setbacks to reduce runoff.

B. Require proper use of turbidity screens during construction activities.

C. Control discharge rates to promote on-site settlement of sediment loads and meet minimum retention requirements for runoff from storm events.

D. Coordinate with FDEP Aquatic Preserve staff when development is within or adjacent to an aquatic preserve.

Policy 2.4

Brevard County shall address modification of existing development which does not meet stormwater management standards.

Policy 2.5

Brevard County supports the goals of the National Estuary Program's Comprehensive Conservation and Management Plan (CCMP) for recovery of the Lagoon prepared by the National Estuary Program. This support is reflected in the strategies identified in the County's Action Plan Implementation Status Report for the CCMP.

Policy 2.6

Where possible, local stormwater, as well as state and federal surface water programs should reduce or eliminate freshwater inputs to the Indian River Lagoon via interbasin diversions.

Fisheries

Objective 3

Maintain fisheries in and adjacent to Brevard County through habitat production, maintenance and restoration.

Policy 3.1

Brevard County shall encourage habitat evaluation and fisheries studies. These studies should be coordinated with federal and state programs and funded through a combination of the proceeds from a saltwater fishing license and ~~county,~~ state and federal grants.

Policy 3.2

Mosquito impoundments should be reconnected to the Indian River Lagoon where benefits can be demonstrated to increase habitat value of the impoundments and benefits to the Lagoon.

Beaches and Dunes

The four key points of reference found within this section are:

- *the 1981 Florida Department of Environmental Protection (FDEP) Coastal Construction Control Line (referred to as the 1981 FDEP CCCL in this document);*
- *the 1986 Florida Department of Environmental Protection (FDEP) Coastal Construction Control Line (referred to as the FDEP CCCL in this document);*
- *the Brevard County Coastal Construction Line (referred to as the CCL in this document); and,*
- *the Brevard County Coastal Setback Line (referred to as the CSL in this document).*

For clarification, the 1981 FDEP CCCL coincides with the Brevard County CCL, as adopted by Brevard County in Ordinance 85-17. The Brevard County CSL is described as a line which is twenty five (25) feet west by perpendicular measurement from the Brevard County CCL. In 1986, the Florida Department of Environmental Protection established a new CCCL upland from the 1981 FDEP CCCL. Any construction or clearing activities seaward of this new CCCL requires FDEP approval. Figure 1 schematically depicts the spatial relationship of these four reference lines. Figure 1 is for illustrative purposes only; actual conditions may vary with regard to the location of SR A1A.

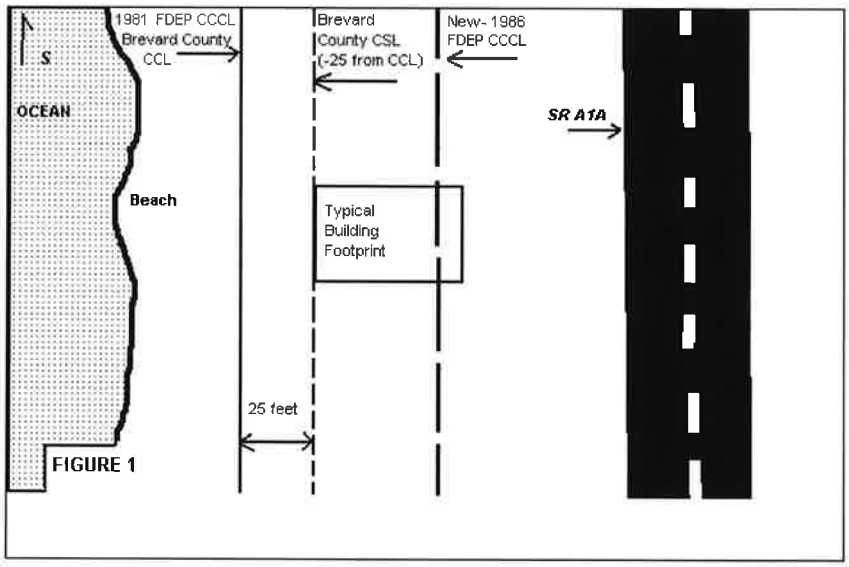


Figure 1

Note: Figure 1 is intended for illustrative purposes only. Actual conditions may vary with regard to the location of State Road A1A.

Objective 4
Brevard County shall implement and improve as necessary a comprehensive beach and dune management program which protects, enhances and restores a naturally functioning beach system as funding is available.

Policy 4.1

The Land Development Regulations shall maintain regulations governing the location, construction and maintenance of development adjacent to the Atlantic shoreline. Development seaward of the Florida Department of Environmental Protection (FDEP) 1981 Coastal Construction Control Line (CCCL), which coincides with the Brevard County Coastal Construction Line (CCL), shall be governed by the following conditions, at a minimum:

Criteria:

A. Oceanfront development shall be required to maintain at least 50% of the native dune vegetation on site. Native dune vegetation seaward of the FDEP 1981 Coastal Construction Control Line (CCCL) shall not be removed unless necessary for approved emergency vehicle access or coastal protection needs.

B. In order to maintain the freshwater lens of the surficial aquifer and reduce saltwater intrusion, post-development groundwater recharge volume and rate shall equal pre-development recharge volume and rate.

C. No new shoreline hardening structures shall be permitted in unincorporated Brevard County south of Patrick Air Force Base (PAFB) property or within the Archie Carr National Wildlife Refuge, with exception of emergency provisions as provided for in Florida Statutes Chapter 163.3187(1)(a) "Amendment of Adopted Comprehensive Plan".

D. North of the PAFB, no new shoreline hardening structures should be permitted.

E. Pursuant to Criteria C and D of this policy, if a shoreline hardening structure is deemed necessary, the following criteria shall apply:
   1. Vertical wood or concrete structures and rock revetments shall only be approved when less structural alternatives, such as beach renourishment, dune restoration and sandbag systems have been determined not to be feasible.
   2. All shoreline protection measures shall be designed to minimize adverse impacts to the naturally functioning beach and dune system and adjacent properties.

3. The County may require dune restoration and revegetation as a component of the shoreline hardening approval both landward and seaward of the proposed structure.
4. All shoreline protection shall be designed and constructed so as to not impede public access to or along the shore.

F. Setbacks or other non-structural methods of shoreline protection shall be given the highest priority. Reducing setbacks from A1A will be considered where it is necessary to maintain and maximize setback requirements from the ocean.

G. Reconstruction of existing hard erosion control structures which are more than fifty (50) percent destroyed should be considered new construction and should be regulated as such, except for the maintenance of existing public navigational projects, such as Port Canaveral and Sebastian Inlet.

H. Underground storage tanks or the storage of hazardous materials are not permitted.

I. Septic tank or septic tank drainfields shall not be permitted seaward of the Brevard County Coastal Setback Line (CSL). Septic tanks shall be located landward of the most seaward portion of the habitable structure.

J. All activities seaward of the 1986 FDEP Coastal Construction Control Line (CCCL) shall be subject to FDEP permitting requirements.

Policy 4.2

Brevard County shall enforce development restrictions associated with the Brevard Coastal Setback Line (CSL), and the Brevard County Coastal Construction Line (CCL) and re-evaluate the effectiveness of these lines from time to time as coastline changes dictate. The County shall provide FDEP with their findings and request a review of the FDEP Coastal Construction Control Line, if deemed appropriate.

Policy 4.3

Brevard County shall continue to adopt and enforce standards for maintenance or re-establishment of dune areas. These standards shall include, at a minimum, the following provisions:

Criteria:

A. Native dune vegetation shall be maintained on site unless removal or alteration is permitted by both Brevard County and the Florida Department of Environmental Protection, or other appropriate regulatory agency.

B. Public and private beach access shall be allowed only at designated cross-over structures or historical access sites.

C. Erosion control strategies will be utilized at unimproved public access sites until these can be improved or alternate access provided.

D. Dune cross-overs, boardwalks, walkways and other permissible structures seaward of the Brevard County Coastal Setback Line shall be elevated above dune vegetation and shall be designed to allow adequate light penetration.

E. Shore-parallel boardwalks shall be prohibited seaward of the Coastal Setback Line, except as required for handicap access.

F. Publicly owned dunes, especially those identified for beach access sites, which have been denuded or damaged by vehicular or pedestrian traffic shall be prioritized for dune renourishment and revegetation. Improvements or erosion controls shall be implemented at the time of renourishment to prevent further site degradation.

G. Private Property owners should be encouraged to re-establish dune vegetation which has been destroyed by non-designated access activities or storm damage.

H. Structures and impacts that are necessary for public safety or meet the best public interest shall be permitted if approved by the Board of County Commissioners.

Policy 4.4

Brevard County's beach and dune restoration program shall include an analysis of environmental, financial and social criteria.

Criteria:

A. The first priority for beach renourishment shall be given to the protection of life and property.

B. Priority shall also be given to environmental considerations.

C. Public areas which are heavily utilized for recreation, including surfing, fishing or swimming, shall be considered for beach or dune renourishment or restoration, as applicable. Long-term management of these areas shall be included with all site improvements.

D. A feasibility or benefit/costs analysis should be performed for any renourishment project. Such analyses shall include, as appropriate, present and future benefits for property protection, recreation and tourism over the life of the project.

Policy 4.5

The County shall continue to utilize the information and materials available from the State regarding dune maintenance and revegetation and supplement these materials, as necessary.

Policy 4.6

Brevard County shall maintain an ongoing program to initiate and monitor data collection projects related to beach dynamics, sand transport and coastal processes. This program should include data generated by the Florida Department of Environmental Protection, the U.S. Army Corps of Engineers, the Florida Sea Grant College, universities and other appropriate agencies.

Policy 4.7

Brevard County shall develop an inter-local agreement with adjacent municipalities and the State of Florida for funding of beach maintenance and restoration programs.

Policy 4.8

Brevard County shall prohibit motorized vehicles on the dune and beach system except for governmental vehicles (police and sheriff), fire trucks, ambulances or vehicles necessary to repair utilities, or vehicles utilized during approved renourishment programs or approved scientific investigations. Pedestrian traffic within the vegetated dune areas shall be limited to emergency operations, scientific research, maintenance, cleaning or improvements as authorized by the Natural Resources Management Office and consistent with FDEP regulations.

Policy 4.9

Brevard County shall continue to collect and make available to the public information related to sea level changes.

Policy 4.10

Outer Continental Shelf (OCS) activities such as oil and gas exploration or mining adjacent to Brevard County are discouraged for several reasons. The county's beaches are the most heavily nested beaches by sea turtles in the western Atlantic. Impacts to water quality, beach quality and fisheries could negatively impact the threatened and endangered species that nest here. Brevard County should review and

comment on all Outer Continental Shelf (OCS) and off shore drilling leases proposed for waters adjacent to the county. This policy does not discourage OCS sand and gravel mining conducted as part of Brevard County's shore protection and restoration strategy.

Water-Dependent Land Uses
Objective 5
By 2010, Brevard County shall develop and adopt guidelines which direct the location and management of water-dependent, water-related and water-enhanced facilities, giving highest priority to water-dependent uses along the Indian River Lagoon System in order to provide for the increased demand for these facilities.

Policy 5.1

Brevard County shall continue to implement performance standards for marinas and marine-related facilities within the coastal zone which include at a minimum: setbacks, height limitations, parcel size, architectural guidelines, seagrass protection, and the protection of water quality including the maintenance and containment of stormwater runoff and wash-down water for dry storage areas. Marina performance standards shall include the following minimum criteria:

Criteria:

A. Existing marina facilities should be allowed to continue their operation provided these facilities meet the County's adopted operational standards.

B. While the expansion of existing facilities is preferred over construction of new facilities, the development of new marinas must remain a viable alternative as many existing marinas will not be capable of meeting adopted operational and environmental standards.

C. Policies and incentives should encourage new and expanded marina facilities to utilize dry storage to the fullest extent possible.

D. New marina facilities shall retain all work area runoff in a separate retention area. In addition, the first inch of stormwater runoff from a 10-year 24-hour storm shall be retained on site.

E. Prior to operation of any new marina fueling facility, a fuel management/spill contingency plan will be developed and provided to the Office of Natural Resources Management for review. The plan shall describe methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a fuel spill and shall meet Brevard County Fire Prevention Codes and Rules of the State Fire Marshall's office.

Policy 5.2
Brevard County should continue to develop and implement regulations governing live-aboards within the coastal zone. The regulations shall include the following criteria at a minimum:
Criteria:

A. Floating structures shall be considered within live-aboard regulations. Floating structures shall be defined as: A vessel with no means of operative propulsion which is inhabited for thirty (30) consecutive days or more.

B. Motorized live-aboard vessels shall be defined as vessels which are occupied for more than seven (7) consecutive days within Brevard County. These shall not include floating structures (as defined in Criterion A).

C. The County shall investigate designating certain areas of the Indian River Lagoon for mooring of motorized live-aboard vessels which are not docked within marinas. Live-aboard vessels moored outside of marinas shall be required to utilize pump-out facilities or a municipal sewer facility if they are moored for over three (3) days.

D. The County shall coordinate with the Marine Patrol to eliminate live-aboards permanently anchored outside of a marina or area specially designated for live-aboards.

E. Floating structures shall be required to moor within marinas or to privately owned riparian property, and shall be connected to pump-out facilities or a municipal sewer facility.

F. Live-aboards shall be considered as part of the community and will be considered as residential units when assessing impacts of such development on community facilities and services.

Policy 5.3
Retrofitting or modification of existing marina facilities within the coastal zone shall be required to meet the following minimum criteria:
Criteria:

A. Stormwater retention/detention requirements established in the Stormwater Management Criteria Ordinance as adopted on August 23, 1993.

B. Substantially expanded marina facilities shall retain all work area runoff. For those projects with combined detention areas of five (5) acres or

greater, the work area runoff shall be retained in a separate retention area. In addition, the first inch of stormwater runoff from a 10-year, 24 hour storm event shall be retained on site or shall meet the water quality standards as required by the state, whichever is more restrictive. For projects with a combined detention area of less than five (5) acres, stormwater and work area runoff may be retained in a single retention/detention area.

C. When ten (10) slip or ten (10) percent or more of the total number of slips whichever is greater, is added, pumpout facilities shall be required, as recommended by the Marine Sanitation Study (1990), sufficient to accommodate the pump-out requirements concurrent with the total slips.

D. Prior to operation of any new marina fueling facility or expansion due to an existing facility, a fuel management/spill contingency plan will be developed and provided to the Office of Natural Resources Management for review. The plan shall describe methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a fuel spill.

Policy 5.4

Brevard County shall develop and adopt standards for marina siting within the coastal zone which shall address the following criteria at a minimum:

Criteria:

A. All proposed marina siting projects in unincorporated areas of Brevard County shall come before the Board of County Commissioners for their review. Marina development may be considered within any appropriate zoning classification, if it is consistent with the performance standards developed by the County. Uplands at the marina site shall be greater than or equal to one acre. Residential marinas shall be allowed as a permitted use, subject to the boat facility siting criteria established in section B below and in the policies under Objectives 3 and 9 of the Conservation Element, in all of the current conditional use zoning classifications for residential/recreational marinas, except Recreational Vehicle Park (RVP) and Government Managed Lands (GML).

B. At the beginning of the zoning process, all marina development proposals must submit a conceptual plan to be reviewed by the Natural Resources Management Office for compliance with the following boat facility siting criteria:

PRELIMINARY ASSESSMENT CRITERIA

The following listed criteria are recommended as the preliminary test of suitability for boat facility siting.

1. Water Depth
   a. Water depth at the proposed mooring area of the site shall be at least four (4) feet mean low water.
   b. Water depth at the site must be adequate for the proposed vessel use such that there be a minimum of one foot clearance between the deepest draft of the vessel (including the engine) and the bottom at mean low water.
   c. Proposed boat facilities in areas that contain seagrass shall not be approved unless water depth at the site's turning basin, access channel, and other such areas will accommodate the proposed vessel use to insure that a minimum of one (1) foot clearance is provided between the deepest draft of the vessel (including the engine) and the top of the resources at mean low water.
2. Seagrass
   a. Marinas shall not be located in areas containing 10% or more seagrass.
   b. Designated boat docking areas shall not be located over seagrasses.
   c. Covered boat slips, covered walkways, or covered terminal platforms shall not be permitted in areas containing seagrass.
   d. Boat docks using open mesh grating and pilings made from recycled materials (plastic/wood composites for example) are preferred to pressure treated wood. Any materials or permitted construction techniques proven to allow a minimum of 75% light transmittance may be exempt from design criteria e and f below in this subsection.
   e. For Residential Marinas, main access docks and connecting or crosswalks shall not exceed six (6) feet in width.
   f. Access piers should be located and designed to minimize their shadowing impact on seagrass.
   g. Reasonable alteration to these criteria may be authorized to accommodate persons with disabilities.
3. Manatee Related Best Management Practices
   a. Dock designs shall not entrap manatees or otherwise prevent them from accessing forage areas.
   b. Docks with exposed reinforcement structures on floating docks shall be prohibited due to their potential to entrap or entangle manatees in the structure itself or in the marine debris that commonly occurs in these areas.
4. Water Quality
   a. New seawalls or bulkheads should be prohibited along the Indian River Lagoon except as provided in Brevard County Code Section 62-

3666 or when the project would improve the water quality by acting as a swale and reducing the amount of pollutants which would enter the Indian River Lagoon, where the placement of a seawall does not disturb existing native vegetation, prohibit the reestablishment of native vegetation, or where the reestablishment of native vegetation is not viable.

b. All facilities shall adhere to the provisions for surface water protection per the guidelines set forth in Brevard County Code Section 62-3666. The provisions for a shoreline protection buffer established in the Code and Conservation Element (CE) policies include the following:

- Class I waters - 200 foot buffer – Conservation Element Policy 3.2 A
- Class II waters - 50 foot buffer - Conservation Element Policy 3.3 A
- Class III waters - 25 foot buffer – Conservation Element Policy 3.4 A
- On lots with unarmored shorelines the waterward extent of the buffer is the mean high water line. On bulkheaded lots, the waterward extension of the buffer is established by the bulkhead line. A maximum width of 25 feet or 20% (whichever is greater) may be cleared for access.

5. Powerboat-To-Shoreline Ratios

a. ***Boat Facility Siting Zone A:*** In Boat Facility Siting Zone A, powerboat siting ratios shall be limited to one powerboat slip per 100 feet of contiguous linear shoreline that is owned or legally controlled by the applicant, as applied to all new and expanding boating facilities. Boat facilities in Zone A may qualify for a variance under Section e, Variance Criteria. Also, the establishment of new boating research, design, development or manufacturing facilities whose operations include on-water testing of motorized watercraft, are prohibited from locating in uplands within Boat Facility Siting Zone A.

b. ***Boat Facility Siting Zone B (Barge Canal):*** In Boat Facility Siting Zone B along the Barge Canal (as defined), powerboat siting ratios shall be limited to a 1:100 powerboat-to-shoreline ratio (tied to a parcel's deed). Any boat facility, which desires to exceed the 1:100 powerboat-to-shoreline ratio, must acquire additional development rights from other properties, which have linear shoreline parallel to the Barge Canal and adjoin the Port Canaveral control easement. Any development rights transferred must be recorded on both the selling and receiving parcels deeds.

c. ***Boat Facility Siting Zone C (Port Canaveral Harbor):*** In Boat Facility Siting Zone C, there shall be no powerboat-to-shoreline restrictions within the Canaveral Harbor provided current slow speed regulations remain in effect.

d. ***Boat Facility Siting Zone D:*** The manatee habitat features described in Table 1 below are to be applied in Boat Facility Siting Zone D.

Manatee habitat feature points per Table 1 shall be determined using the map series and data update schedule identified in Appendix C of this Element and using current site surveys for seagrass. In Boat Facility Siting Zone D, Manatee habitat feature points from Table 1 shall be summed and the sum shall be used in Table 2 below to determine the applicable powerboat-to-shoreline ratio per 100 feet of contiguous owned or controlled linear shoreline.

Table 1

Limiting Habitat Features	***CRITERIA FOR EVALUATION (EACH INCREASES THE NUMBER OF HABITAT FEATURES BY 1, UNLESS OTHERWISE SPECIFIED)***
Manatee Abundance	**1st level:** 10 or more manatees observed/overflight within 5 mile radius (1 point) **2nd level:** 25 or more manatees observed/overflight within 5 mile radius (2 points)
Manatee Mortality	**1st level:** # of watercraft mortalities within a 5 mile radius/total number of watercraft mortalities in Brevard (≥0.05 is significant) (1 point) **2nd level:** # of watercraft-related deaths within a 5 mile radius in the last 5 years/total number of watercraft mortalities in Brevard in the last 5 years (>0.10 is significant) (2 points)
Seagrass	5% or more present on the project site is significant
Class II, OFW, or Aquatic Preserves	Site is located in one of these designated areas
Offsetting Features	***CRITERIA FOR EVALUATION (EACH DECREASES THE NUMBER OF HABITAT FEATURES BY 1)***
Speed Zones	Site is located within a year-round "Slow Speed" or "Idle Speed" Zone
Within 3 miles of Sebastian inlet	Site is located within 3 mile radius of Sebastian Inlet

Table 2

# Manatee Habitat Features	Existing Facility	New Facility
0	5:100	4:100
1	5:100	4:100
2	3:100	2:100
3	2:100	1:100
4	1:100	1:100
5	1:100	1:100
6	1:100	1:100

e. ***Variance Criteria:*** It is recommended that a variance may be given to the powerboat-to-shoreline ratio for those existing marina and boat launching facilities subject to the 1 powerboat slip to 100 feet of owned contiguous shoreline restriction (1:100), provided the facility meets all the variance criteria listed below and can demonstrate that it will not have an adverse impact on manatees. If an existing facility meets all of the variance criteria, it may be permitted to increase the powerboat-to-shoreline ratio by 1:100 if the waters in and adjacent to the channels leading to the facility are designated "slow speed" or "idle speed" year-round as authorized by the Florida Manatee Sanctuary Act Chapter 68C-22.003, F.A.C. or other federal regulations or local ordinances, or if the facility is within 3 miles of the Sebastian Inlet. The facility may be allowed to increase the powerboat-to-shoreline ratio by 2:100 if both are applicable. In no case shall the maximum total buildout of 3 powerboat slips per 100 feet of owned contiguous shoreline (3:100) be exceeded. However, adherence to these criteria does not automatically ensure the applicant's ability to exceed the allowable powerboat restrictions as defined above. The plan restrictions will remain in effect, if at the time of review, additional information about manatees or the proposed facility indicates threats not addressed by these criteria. Consideration can be given for additional site-specific factors or operating practices (e.g. seasonal operation, etc.) that may be proposed by either the applicant or the County that may result in improved conditions for manatees or manatee protection. Nothing in this section shall exempt any marina from obtaining the usual required permits and/or authority from all applicable reviewing agencies with proper jurisdictional authority. The criteria are:

1) The facility is not located within a 1st or 2nd level manatee aggregation area (using the Manatee Abundance Habitat Feature as

defined in 5 d of this Policy and in the Table above), or other area where sensitive manatee activities occur.

2) The facility must provide net benefit to manatees and/or their habitat. For example, facilities may include a manatee "refuge" space as part of the design, a conservation easement, restoration of adjacent wetlands such as mangrove or seagrass restoration to increase the net coverage of the nearby area, reduced nutrient input to receiving waters, requiring prop guards on any high traffic vessels such as water taxis or dive boats or rental boats, etc. The marina construction and subsequent uses will neither destroy nor negatively impact mangrove and benthic (seagrass, hard bottom, etc.) communities and the water quality.

3) The facility must have sufficient water depth, as stated in B. 1. a. of this Policy, in the marina basin and in any access channel, and does not require any new dredging or filling that would degrade shallow water habitat (this may exclude maintenance dredging, or pile installation). Entrance/exit channels near marinas shall be adequately marked if marina repairs or expansion are proposed.

4) The site shall contain appropriate signage (including vessel speed and manatee information signs), and provide educational material advising boaters of essential manatee habitats in the vicinity.

5) Multi-family residential docking facilities will require that all vessels moored at the site be registered to individuals residing at the site.

6) The marina has adequate water circulation, tidal flushing, and meets State of Florida and local water quality standards.

7) Before expanding and exceeding the allowable powerboat slips defined above, an existing facility must demonstrate not less than 85% occupancy over the previous 2 years of operation. New facilities should be able to demonstrate the need for additional boat slips in the vicinity based on occupancy of existing marina slips within the boater sphere of influence. The boater's sphere of influence shall be a five (5) mile radius.

6. Boat Ramps

In order to minimize adverse impacts to manatees, boat ramps are best located in areas with few natural resources, with relatively low manatee abundance and relatively low watercraft-induced manatee mortalities, and with deep water access and marked navigation channels. Boat ramp

siting or expansion in Brevard County shall be evaluated using the following criteria:

a. All sites considered by Brevard County for new or expanded boat ramp facilities shall be evaluated for site suitability prior to acquisition and development.
b. All proposed new boat ramps or the expansion of existing boat ramps in the unincorporated areas of Brevard County shall be brought before the Board of County Commissioners for their review.
c. The siting of new or the expansion of existing boat ramp facilities shall be limited to areas that meet the Preliminary Assessment Criteria for water depth stated in section B. 1. a. of this Policy.
d. The siting of new or the expansion of existing boat ramp facilities shall be prohibited in areas that meet or exceed the 2nd level of manatee abundance or the 2nd level of manatee mortality as shown in Table 1 above.
e. The siting of new or expansion of existing boat ramp facilities shall be prohibited in areas with greater than 5% seagrass coverage including all ramps, docks, access walkways, finger piers, mooring areas, turning basins, and ingress and egress pathways.
f. The siting of new or the expansion of existing boat ramp facilities shall be required to meet the criteria included in Policy 3.3 E of the Conservation Element and Section B. of this Policy with the exception of Seagrass (5.4 B. 2.), Manatee Related Best Management Practices (5.4 B. 3.), and Water Quality (5.4 B. 4.).
g. All sites considered for the siting of new or the expansion of existing boat ramp facilities shall be evaluated for the number of habitat features present using the Boat Ramp Feature Assessment table below and using the manatee mortality and abundance criteria as defined under Manatee Habitat Features in the glossary.
h. Boat Facility Siting Zone A is not considered preferable for additional boat ramp siting due to the high number of habitat features present. In Boat Facility Siting Zone A, a site that has less than 2 habitat features based on the criteria in the Boat Facility Feature Assessment may be considered for a new or expanded boat ramp with up to a maximum of 15 parking spaces.
i. In Boat Facility Siting Zone B (Barge Canal), the establishment of a new public or private boat ramp for public use shall be the same requirements as for the development of a new or expanded marina as described in Boat Facility Siting Zone B (5.4 B. 5.). For the purposes of boat ramps, one boat-trailer parking space shall be considered the equivalent of one powerboat slip. New or expanded boat ramps on the Barge Canal which are associated with a marina and which are to be used solely by the tenants of that marina for the launching of boats

stored at that marina shall not be limited in the number of parking spaces.

j. In Boat Facility Siting Zone C (Port Canaveral Harbor), the siting of new or expansion of existing boat ramps shall be unrestricted.

Table 3
Boat Ramp Feature Assessment

LIMITING HABITAT FEATURES	*CRITERIA FOR EVALUATION (EACH INCREASES NUMBER OF HABITAT FEATURES BY 1, UNLESS OTHERWISE SPECIFIED)*
Manatee Abundance	**1st level:** 10 or more manatees observed/overflight within 5 mile radius (1 point) **2nd level:** 25 or more manatees observed/overflight within 5 mile radius (2 points)
Manatee Mortality	**1st level:** # of watercraft mortalities within a 5 mile radius/total number of watercraft mortalities in Brevard (≥0.05 is significant) (1 point) **2nd level:** # of watercraft-related deaths within a 5 mile radius in the last 5 years/total number of watercraft mortalities in Brevard in the last 5 years (>0.10 is significant) (2 points)
Class II, OFW, or Aquatic Preserves	Site is located in one of these designated areas
Offsetting Features	**Criteria for Evaluation (each decreases the number of habitat features by 1)**
Speed Zones	Site is located within a year-round "Slow Speed" or "Idle Speed" Zone
Within 3 miles of an inlet	Site is located within 3 mile radius of Sebastian Inlet

k. In Boat Facility Siting Zone D, a site with no more than 2 habitat features shall be considered suitable for siting of a new boat ramp or the expansion of an existing boat ramp. Sites with 0 or 1 habitat feature shall be eligible for a boat ramp with up to a maximum of 40 boat trailer parking spaces. Sites with 2 habitat features shall be eligible for a boat ramp with up to a maximum of 15 boat trailer parking spaces.

l. Boat Ramp Variance Criteria: The ability to secure additional parking slots at public ramps could be reconsidered by the FWC if additional law enforcement, additional preservation, or impact reduction along the lagoon is demonstrated.

m. The following specific sites are identified individually to address existing boat ramp deficiencies in Brevard County and are exempted from the boat ramp siting criteria above:
   1) It is recommended that Brevard County's relocation of the Pineda Landing facility include 36 parking spaces.
   2) It is recommended that Brevard County provide 50 additional parking spaces by expanding existing public ramp facilities or by

developing a new location in the south mainland area. The expansion of an existing facility or the siting of a new facility, as provided for above shall minimize impacts to manatees and natural resources and should be evaluated by the Boat Ramp Manatee Habitat Feature Assessment as defined above. It is recommended that the evaluation result in a score of no greater than two habitat features. The County will screen sites to select the most appropriate and coordinate with FWC staff on the site selection.

C. Commercial/industrial and commercial/recreational marina development within commercial, heavy and light industrial and planned industrial park land use designations shall require a Conditional Use Permit. Residential/recreational marinas shall be a permitted use in these land use designations.

D. Residential/recreational marinas may be considered within residential land use designations with a Conditional Use Permit and a Binding Concept Plan.

E. No fueling or repair facilities are permitted within residential zoning classifications.

F. When locating new marinas or expanding existing marinas, biologically productive habitats shall be preserved to the fullest extent possible. Mitigation is the last resort for habitat destruction, and shall be of a two-to-one or greater ratio of in-kind replacement.

G. Marina facilities shall be located where maximum physical advantage for flushing and circulation exists, where the least dredging and maintenance are required, and where marine and estuarine resources will not be significantly affected.

H. Marina basins shall be sited where there is an existing basin and access channel with an average water depth of three (3) feet below mean low water, except at the shoreline.

I. Marinas and docking facilities should be approved which require minimal or no dredging or filling to provide access by canal, channel or road. Preference shall be given to marina sites with existing channels. In the event that dredging is required, the mooring areas and the navigation access channels shall not be dredged to depths greater than eight (8) feet. Any required dredging operations shall utilize appropriate construction techniques and materials to comply with state water quality standards,

such as turbidity screens, hydraulic dredges, properly sized and isolated spoil deposition area to control spoil dewatering. All dredging activities must be done with effective turbidity controls. Where turbidity screens or similar devices are used, they should be secured and regularly monitored to avoid manatee entrapment.

J. Marinas shall be located in areas with good flushing and circulation. New marina or substantially expanded facilities shall be designed to take advantage of existing water circulation and shall not adversely affect existing circulation patterns. Improvement of circulation shall be a consideration when expanding or upgrading existing facilities. However, any buffer zone established by the Florida Department of Environmental Protection Shellfish Environmental Assessment Section (FDEP-SEAS) shall be maintained.

K. The proposed site shall be compatible with existing land use designations. Marinas shall demonstrate that they have sufficient upland areas to accommodate all needed support facilities. These standards include, but should not be limited to, adequate parking, work areas and retention areas for stormwater and work area runoff, and shoreline protection buffers.

L. Marina facilities shall not degrade water quality below existing Florida Department of Environmental Protection water classification standards.

M. Marinas shall not be located in approved or conditionally approved shellfish harvesting waters or Class II waters, or other environmental areas designated by the County so as to substantially and materially have a negative impact on these waters.

N. Commercial/recreational and commercial/industrial marinas shall not be located in Aquatic Preserves, or Outstanding Florida Waters, or other environmental areas designated by the County so as to substantially and materially have a negative impact on these waters.

O. Construction of multi-slip docking facilities and boat ramps shall be directed to locations where there is quick access to deep, open water at least eight (8) feet in depth (dredgeable), where the multi-slip docking facilities take the place of several single-slip docks and allow public access to the water, and where the associated increase in boat traffic will be outside of known manatee aggregation areas, and where seagrass beds or other wetlands supporting manatee habitat will not be disturbed.

P. All marina facilities shall comply with manatee protection measures established in Conservation Element Policy 9.9.

Policy 5.5

Brevard County shall require hurricane plans to be submitted to the Emergency Management Division in conjunction with marina site plans for review.

Policy 5.6

Marinas within the coastal zone shall be inspected annually by Brevard County and results of these inspections shall be coordinated with other agencies. Inspections shall be coordinated with existing programs and duplication with existing inspection programs shall be avoided. It is recommended that inspection of commercial marinas occur as part of the business license renewal procedure. Items to be inspected and reviewed may include the following.

Criteria:

A. Pumpout facilities/marine sanitation devices, if required.

B. Compliance with power/sailboat mix, if required.

C. Spill prevention, control, containment and cleanup plans.

D. Waste collection and disposal methods.

E. Required fire fighting equipment, if required.

F. Monitoring of marina basin water quality for bacteriological levels to insure compliance with state and federal standards. Live-aboards at marinas shall be inspected to ensure that marine sanitation devices (MSDs) are present and operational. If a water monitoring program is required, water-dependent uses shall be assessed an annual fee adequate to fund a water quality monitoring program, if required.

Policy 5.7

Brevard County shall investigate the utilization of tourist taxes or boating improvement funds to develop public boat launching facilities and related amenities.

Policy 5.8

Brevard County should consider the acquisition of property for boat ramps in their recreational purchasing program.

Policy 5.9

All new boat ramps should have parking areas constructed utilizing permeable pavement where appropriate and have the proper stormwater management system in place.

Policy 5.10

Brevard County shall review shore-line development within the coastal zone in order to maximize opportunities for water-dependent land uses. The following criteria, at a minimum, shall be utilized.

Criteria:

A. Water-related uses shall be built on uplands.

B. Development which is feasible only through creation of land by dredging and filling of areas below the mean high water line shall not be approved. Exceptions may be considered where overriding benefit to the natural resource can be demonstrated.

C. Water-dependent commercial and industrial uses may be considered for siting adjacent to the Indian River Lagoon.

D. Water-related commercial and industrial uses may be considered for siting only adjacent to Class III waters of the Indian River Lagoon.

Policy 5.11

The Brevard County Land Development Regulations shall include a provision for water-enhanced commercial development within the coastal zone. Such uses shall be permitted as Conditional Uses within the BU-1 zoning category.

Policy 5.12

By 2010, Brevard County shall develop and implement a water and sediment quality monitoring program for water-dependent users, man-made canals and other selected areas with significant upland runoff within the coastal zone.

Criteria:

A. Brevard County shall establish a classification program for the various water dependent uses.

B. Brevard County shall establish a water quality monitoring program for each of the designated classes of water dependent uses.

C. Water dependent uses shall be assessed an annual fee adequate to fund the required water quality monitoring program.

D. The County shall require the activity to cease if adopted water quality standards are not maintained.

E. Continued operation resulting in degradation of the water quality below accepted standards shall result in a fine, as established by Brevard County.

F. Waiver provisions should be included for operations below an established threshold.

G. This program shall be in coordination with the Florida Department of Natural Resources, and other appropriate agencies.

Policy 5.13

Brevard County shall support environmentally and economically sound development of Port Canaveral and related facilities, which is consistent with this Comprehensive Plan (Policy 5.4 of the Transportation Element).

Policy 5.14

Brevard County should continue to monitor boating activity and boat facility demand.

Policy 5.15

During rezoning and other development order approval reviews, Brevard County should give immediate shoreline use priorities (in descending order of priority) to:

Criteria:

A. Water-dependent uses such as fish, shellfish and wildlife production, recreation, water dependent industry and utilities, marinas and navigation;

B. Water-related uses such as certain utilities, commerce and industrial uses;

C. Water-enhanced uses such as some recreation uses;

D. Non-water dependent or related activities such as residential; and

E. Of lowest priority are those uses which are non-water dependent, non-water enhanced and which result in an irretrievable commitment of coastal resources.

Policy 5.16

Brevard County should encourage the construction of marine sanitation device (MSD) pumpout facilities.

Policy 5.17

Brevard County shall utilize available management plans in developing standards for marina siting and other water-dependent uses. These management plans include, but are not limited to, Aquatic Preserve Management Plans, the Surface Water Improvement Management (SWIM) Plan and the IRLCCMP.

Coastal High Hazard Areas

Objective 6

Limit future public expenditures for infrastructure and service facilities which subsidize growth within the coastal high hazard areas of Brevard County. Expenditures for public land acquisition or enhancement of natural resources shall be encouraged.

Policy 6.1

Brevard County shall designate coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model, as defined in Chapter 163, Florida Statute (see Map 7).

Policy 6.2

Brevard County shall not support or finance new local transportation corridors which lie within the coastal high hazard zone or areas zoned as Environmental Area, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the densities programmed on the Future Land Use Map (FLUM) series of the Comprehensive Plan.

Policy 6.3

Brevard County should not locate sewer and water transmission lines within the coastal high hazard zone, except where there is no cost-feasible alternative and where practical due to engineering, safety and cost considerations, and where necessary utilizing existing rights-of-way.

Policy 6.4

If County utility lines are relocated for any purpose, they should be located outside of the coastal high hazard zone, except where there is no cost-feasible alternative.

Policy 6.5

Public facilities, except for recreational facilities, shall not be located by Brevard County within the coastal high hazard zone, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the densities programmed on the Future Land Use Map (FLUM) series of the Comprehensive Plan.

Coastal Residential Densities

Objective 7

Limit densities within the coastal high hazard zone and direct development outside of this area.

Policy 7.1

Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

Policy 7.2

Brevard County shall continue to implement the Transfer of Development Rights program which has been established to transfer density from transfer districts within the coastal high hazard area to receiving districts outside of the coastal high hazard area.

Policy 7.3

Brevard County shall continue its program of land acquisition and management for recreation and preservation contingent upon availability of funding.

Policy 7.4

Brevard County shall review federal and state development proposals which are to be located within the coastal high hazard areas, and shall support those projects which are consistent with this Plan.

Policy 7.5

Brevard County shall maintain the Brevard County Comprehensive Emergency Management Plan (BrevCEMP). This plan shall be consistent with this Comprehensive Plan, and shall be coordinated with the municipalities, the appropriate state and federal agencies, and approved by the appropriate state agency(s).

Policy 7.6

The existence of sewer, water, roadways or other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the coastal high hazard area.

Policy 7.7

Once public acquisition of recreation and/or conservation lands occurs within coastal high hazard areas, the Future Land Use Map shall be amended to designate same as Recreation or Conservation lands. Such redesignation shall not serve as a basis for increasing established residential density designations in said coastal high hazard area.

Policy 7.8

Public facilities, such as hospitals, wastewater treatment plants or fire stations, shall not be located on causeways.

Hurricane Evacuation

Objective 8-Hurricane Evacuation

Reduce excessive evacuation times where they currently exist, and maintain all other evacuation times within the acceptable standard. Acceptable evacuation standards will be reviewed and updated as necessary but shall not exceed the times indicated in the current Brevard County Comprehensive Emergency Management Plan

Policy 8.1

Brevard County shall maintain acceptable hurricane evacuation times based upon the following criteria:

Criteria:

A. The most current behavioral response scenario.

B. The requirement to evacuate prior to sustained tropical storm force (40 mph) winds.

Policy 8.2

Brevard County shall coordinate with the municipalities and appropriate state agencies to develop Evacuation Zone Management Plans to reduce evacuation times above the current optimum behavioral response time. The following shall be considered, at a minimum:

Criteria:

A. Roadway and other infrastructure improvements and funding mechanisms.

B. Programs designed to improve the behavioral response to hurricane evacuation orders.

C. Land use strategies.

Policy 8.3

Brevard County Emergency Management shall continue to coordinate with NASA to allow evacuation of North Merritt Island through Kennedy Space Center, if necessary.

Policy 8.4

Brevard County shall identify roadway and operational improvements to the hurricane evacuation network based upon the number of people who cannot be evacuated within an optimum evacuation time limit.

Criteria:

A. Priority shall be given to improvements serving the zone with the highest number of people remaining after the current optimum evacuation time.

B. The remaining improvements shall be given priority in descending order according to the number of people remaining after the optimum evacuation time.

C. Brevard County, in cooperation with the Florida Department of Transportation, shall identify key hurricane evacuation routes that are vulnerable to flooding, erosion and critical points of congestion during the established evacuation time.

D. Brevard County shall present recommended roadway, operational and maintenance improvements to the appropriate implementing and funding agencies.

Policy 8.5

In those areas where citizens cannot be evacuated within the evacuation standards in the Brevard County Emergency Management Plan adopted January 1, 2008, development orders may be deferred until such time as adequate evacuation capacity has been programmed.

Policy 8.6

Brevard County shall consider hurricane evacuation times, as well as other factors, in determining the timing and priority of roadway improvements which are programmed by the Board of County Commissioners.

Policy 8.7

Brevard County shall cooperate with the Red Cross and other agencies to develop an on-going public education program to notify the public as to the necessity to evacuate as quickly as possible in order to reduce or eliminate evacuation times in excess of the optimum behavioral response time.

Policy 8.8

Brevard County's Comprehensive Emergency Management Plan (BrevCEMP) shall be consistent with the state comprehensive emergency management plans.

Policy 8.9

Based upon hurricane vulnerability concerns and excessive evacuation times, new mobile home development or recreational vehicle parks shall not be permitted on the barrier island, to the extent permitted by law. Expansions to an existing mobile home development may be permitted if such development results in a decrease in land use intensity and an overall reduction in programmed residential densities and is consistent with the character of the surrounding area.

Policy 8.10

By 2011, Brevard County shall require a hurricane management plan which reduces excessive hurricane evacuation time for existing recreational vehicle park development within the south beaches.

Policy 8.11

Brevard County shall encourage the State of Florida to identify a dedicated funding source for the improvement of primary hurricane evacuation routes, such as US 192, SR 528, SR 520 and Interstate 95. The funding source should be in addition to state and federal funds already received by Brevard County for urban area roadway improvements.

Hurricane Shelters
Objective 9

Provide adequate, safe hurricane shelter space to meet the needs of the at risk and special needs population ("shelter space" shall be considered to include both private and public shelters).

Policy 9.1

Brevard County shall continue to cooperate with the Red Cross and State Emergency Management to provide an emergency shelter manager training course and encourage interested citizens of Brevard County to become shelter managers.

Policy 9.2

Brevard County Office of Emergency Management shall continue to cooperate with the Red Cross to develop a public education program on hurricane preparedness, including the locations of hurricane evacuation shelters and the need for emergency shelter managers.

Policy 9.3

Brevard County shall cooperate with the Red Cross in designating appropriate public and private structures as hurricane shelters.

Policy 9.4

Brevard County shall utilize the Housing and Human Services Department to provide appropriate facilities and adequate staffing for the special needs shelters.

Policy 9.5

Brevard County shall support the School Board in their efforts to utilize enhanced hurricane shelter protection standards for all reconstruction and new development in accordance with FS 235.26.

Policy 9.6

Public buildings within Brevard County should be reviewed to determine if qualified to be utilized as hurricane sheltering. Beginning in the year 2000, all newly constructed public buildings shall meet the criteria established for enhanced shelter protection in the State Requirements for Educational Facilities (SREF).

Policy 9.7

Brevard County shall study the feasibility of increasing residential construction standards to reduce hurricane shelter deficits and ensure the delivery of safe housing for citizens of Brevard County.

Policy 9.8

By 2010, Brevard County shall develop a hazard mitigation strategy in its land development regulations which prohibits the development of new recreational, mobile or manufactured housing and the expansion of existing recreational, mobile or manufactured housing unless the developer/owner has provided emergency sheltering sufficient to house a minimum of 50% of the residents of that development.

Policy 9.9

By 2011, Brevard County will encourage all existing recreational, mobile or manufactured housing communities to have emergency shelters and a hurricane management plan that will result in faster evacuation times for their residents.

Post-Disaster Redevelopment

Objective 10

Expedite post-disaster recovery and reduce or eliminate the future risk to human life, and public and private property from natural hazards via recovery and re-development strategies adopted in the BrevCEMP.

Policy 10.1

Brevard County's Code Compliance Department and Public Works Department shall review all non-emergency and long-term redevelopment proposals utilizing the following criteria:

Criteria:

A. If utility lines, including but not limited to sewer, water, gas, electric and cable TV, must be relocated after a storm event, they should be permanently located landward (west) of the 1986 FDEP Coastal Construction Control Line and underground, except for feed lines servicing individual parcels. Repair of these lines on a temporary basis to protect health and safety shall be permitted in their existing locations.

B. Underground storage tanks which are located seaward of the Brevard County Coastal Setback Line (CSL) shall be relocated landward (west) of the 1986 FDEP Coastal Construction Control Line.

C. Water-dependent commercial uses seaward of the 1981 FDEP Coastal Construction Control Line which are damaged by more than 50% of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner may be reconstructed seaward (east) of the 1981 FDEP CCCL consistent with the coastal zone construction requirements.

D. Water-related commercial uses seaward (east) of the 1981 FDEP Coastal Construction Control Line which are damaged by more than 50% of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner should be relocated landward (west) of the 1981 FDEP CCCL unless the project has no feasible alternative and is found to be in the public interest.

E. Water-enhanced commercial uses seaward (east) of the 1981 FDEP Coastal Construction Control Line which are damaged by more than 50% of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner should be relocated landward (west) of the 1981 FDEP CCCL.

F. If non-habitable minor structures which are damaged by more than fifty (50) percent of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner are reconstructed, they shall be relocated and constructed in compliance with coastal zone construction requirements.

G. Brevard County should develop a program for the possible relocation of residential housing, if required after a natural disaster.

Policy 10.2

The replacement of infrastructure shall be constructed in conjunction with existing development or as part of an integral network of infrastructure.

Policy 10.3

By 2012, Brevard County should analyze those public structures within the coastal zone which are most likely to be damaged or destroyed during a hurricane. The analysis shall be coordinated by the Planning and Zoning Office and shall consider the following criteria, at a minimum:

Criteria:

A. The cost effectiveness of relocation versus repair shall be analyzed.

B. Alternatives shall be considered in the light of mitigative impacts, growth management consistency, impacts to the public, timeliness, legal issues, environmental impacts and cost.

C. The following alternatives, at a minimum, shall be analyzed:
   1. Repair of the structure to the pre-disaster conditions.
   2. Repair of the structure to the pre-disaster conditions with physical protective structures, as may be legally permittable, such as seawalls or revetments when consistent with policy 5 of this element.
   3. Vertical relocation of the structure, e.g. elevating roadways with bridges.
   4. Relocation further inland.

D. Reconstruction or relocation of SR A1A and other roadway segments within the coastal high hazard area shall be included within this study.

E. Analysis of County service center and other facilities shall be in conjunction with the County's Space/Needs Assessment.

F. Those structures within the high risk vulnerability zone to be included are the Central Brevard Service Complex, District II Commission Office, District II Road and Bridge, County Sign Shop, public libraries and County fire stations.

G. The study shall be consistent with the East Central Florida Regional

Planning Council studies. The hurricane scenarios and loss estimates shall be consistent with the Hurricane Loss Study and shall be coordinated with other appropriate agencies.

H. The impact of sea level rise and the projected 30-year erosion line shall also be analyzed.

Policy 10.4

In the event of a disaster all infrastructure and other County owned improvements, which were not included within the above outlined study, shall be analyzed to determine the cost effectiveness of relocation versus repair.

Policy 10.5

The Brevard County Code Compliance Department shall provide copies of building permits which have been issued for storm damage repair to the County Hazard Mitigation Team for their evaluation for identification of areas susceptible to repeated damage by hurricane erosion and flooding.

Policy 10.6

Brevard County shall continue to conduct disaster related exercises at regular intervals, as determined by the Office of Emergency Management, or in conjunction with the East Central Florida Regional Planning Council, Local Emergency Planning Committee and other state or federal agencies.

Policy 10.7

As identified in the BrevCEMP, Emergency Support Function 18 (ESF 18) shall be the primary lead to conduct a post-disaster evaluation to assess property damages necessary for disaster relief and post-disaster redevelopment funds. The ESF 18 should have available a listing of property values coordinated with land use maps to facilitate such property assessment procedures. County staff, such as the Planning and Zoning Office staff, will be utilized as manpower.

Policy 10.8

The BrevCEMP shall be coordinated with other local, regional and state entities. As additional interagency hazard mitigation reports are received, they shall be reviewed and incorporated into the BrevCEMP.

Policy 10.9

Brevard County should require that when utility lines, including, but not limited to sewer, water, gas, electric and TV cable, are relocated for any purpose, they shall be placed underground.

Coastal Access
Objective 11

Provide adequate public access to the beach, estuarine and river shorelines consistent with public needs and the shoreline's natural resource requirements.

Policy 11.1

Brevard County shall acquire new beach access sites, improve existing sites or provide alternative access to non-designated beach access points. The following minimum criteria shall apply:

Criteria:

A. Acquisition and site improvements of those areas of the beach identified as most deficient for beach access shall be given the highest priority. Efforts shall be undertaken to provide public access to all of Brevard County's beaches consistent with the FDEP's criteria for state cost-share funding for beach management.

B. Site improvements, parking facilities and drainage shall be secondary to improvements to the naturally functioning dune system.

C. Access shall be consistent with the standards included in the Recreation and Open Space Element of this Plan.

D. Priority shall be given to those sites which are heavily utilized for beach recreation.

E. Brevard County shall make efforts to balance the demand for beach access with the protection of the beach and dune habitat and species.

Policy 11.2

Brevard County shall complete the Beach and Riverfront Acquisition Program, contingent upon availability of funding, with priority being given to the acquisition of land to fulfill the Identified Needs, as adopted by the Brevard County Board of County Commissioners.

Policy 11.3

Brevard County shall prioritize future improvements to those oceanfront properties, contingent upon availability of funding, which have been purchased and are identified for additional beach access development.

Policy 11.4

Brevard County shall continue to coordinate with all beachfront municipalities the continued development and implementation of the Brevard County Beach Management Program. The Beach Erosion Advisory Committee, established by Chapter 70-603, Laws of Florida, should continue to function as a mechanism to communicate with the beachfront municipalities on beach-related issues and as the primary technical advisory committee to the Board of County Commissioners on the beach program.

Policy 11.5

Brevard County shall continue to pursue funds for dune revegetation to be used when constructing dune crossovers as replacements for unimproved dune access.

Policy 11.6

Brevard County shall coordinate with the Florida Department of Transportation in providing waterfront access on causeways and bridges.

Policy 11.7

Brevard County shall require private property owners to allow public use of beaches which are renourished with public funds. Access can be accomplished through publicly owned access points or improved dune crossovers located on easements.

Policy 11.8

Brevard County shall review beachfront development to ensure that it does not interfere with public access in those instances where the public has established ocean access-ways through private lands by prescription, prescriptive easement or other legal means. The developer may improve, consolidate, or relocate such public access provided it is consistent with this Plan.

Policy 11.9

Brevard County shall investigate the feasibility of acquiring narrow strips of land along the Indian River Lagoon, where such areas could provide visual access or provide parking for passive recreation within the Lagoon.

Port Canaveral
Objective 12
Brevard County will continue to identify provisions of the Port Master Plan which it considers inconsistent with the Coastal Management Element of the County Comprehensive Plan and will continue to offer to coordinate with Port Canaveral in resolving any inconsistencies. Brevard County shall continue to request copies of proposed plan amendments submitted for transmittal to the Department of Community Affairs and shall continue to review and comment on such amendments to the Port Master Plan consistent with the County's procedure for reviewing plans of other jurisdictions and Chapter 163.3177 (6) (g).

Policy 12.1

Brevard County shall continue to cooperate with the Port Canaveral Authority and the Florida Inland Navigation District in the identification of suitable spoil disposal sites within unincorporated Brevard County.

Recreational and Commercial Working Waterfronts

In 2005 and 2006, the Legislature recognized that there is an important state interest in facilitating boating and other recreational access to the state's navigable waters. This access is vital to recreational users and the marine industry in the state, to maintaining or enhancing the $57 billion economic impact of tourism and the $14 billion economic impact of boating in the state annually, and to ensuring continued access to all residents and visitors to the navigable waters of the state. The Legislature recognizes that there is an important state interest in maintaining viable water-dependent support facilities, such as public lodging establishments, boat hauling and repairing and commercial fishing facilities, and in maintaining the availability of public access to the navigable waters of the state. The Legislature further recognizes that the waterways of the state are important for engaging in commerce and the transportation of goods and people upon such waterways and that such commerce and transportation is not feasible unless there is access to and from the navigable waters of the state through recreational and commercial working waterfronts.

The purpose of the Brevard County Working Waterfront Objective is to implement the relevant and mandated provisions of Chapter 2005-157, and Chapter 2006-220 of the Laws of Florida. The Legislature requires that local governments, through their comprehensive plans, address development activities that diminish access to the state's navigable waters. The recreation and open space element of all local comprehensive plans now must include waterways. (F.S. § 163.3177(6)(e)) In addition, all coastal counties and municipalities in Florida now have a legislatively-mandated duty to include, in the coastal management element of their Comprehensive Plan, strategies that will be used to preserve recreational and working waterfronts. (F. S. §

163.3178(2)(g)) Further, coastal counties must amend the future land use element of their comprehensive plan to create "regulatory incentives and criteria" that encourage the preservation of recreational and commercial working waterfronts. More specifically, the purpose is to protect and promote Brevard County as a recreational and commercial working waterfront community; protect and improve public access to the shorelines and waters of Brevard County; preserve and protect the cultural heritage and physical character of the area as a working waterfront community; and enhance the aesthetic character of the area by directing development in a manner that maintains the working waterfront identity of the County.

Objective 13
To establish a comprehensive program to promote and protect public access to the marine and coastal waters of the County, and to ensure the economic viability of recreational and commercial working waterfronts.

Policy 13.1

The County shall identify, inventory and characterize all existing publicly-accessible recreational and commercial working waterfronts in Brevard County on a parcel-by-parcel basis, including but not limited to parking facilities for beach and shoreline access, coastal roads, facilities providing scenic overlooks, public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water and shall continue to maintain this inventory.

Policy 13.2

The County shall identify, inventory and characterize all private facilities that would otherwise qualify as recreational or commercial working waterfronts because they provide access to the marine and coastal waters of the County and shall continue to maintain this inventory.

Policy 13.3

By 2013, the County shall identify, inventory and characterize all parcels suitable for future development as publicly-accessible recreational and commercial working waterfronts in Brevard County. Suitable for future development includes vacant parcels and developed parcels not currently being used for water dependent activities which, because of their proximity, biophysical nature or other factors, could become recreational and commercial working waterfronts through a change in land use.

Policy 13.4

By 2013, the County shall identify, inventory and characterize existing right-of-ways, easements and other public property interests adjacent to or capable of providing public access or enhancing public access to the shorelines and waters of Brevard County.

Policy 13.5

By 2013, based on data and analysis, the County shall assess the future demand for public water access to the shorelines and waters of Brevard and shall establish activity-based levels of service standards for public water access.

Policy 13.6

The Brevard Marine Advisory Council shall continue to review and make recommendations to the Board concerning recreational and commercial working waterfronts in Brevard County.

Policy13.7

By 2012, the County shall develop strategies to ensure continued public access to navigable waters through the identification and implementation of regulatory incentives and criteria.

Policy 13.8

The County shall prioritize recreational and commercial working waterfronts in existing or new land acquisition programs to purchase suitable parcels or the non-water dependent development rights to suitable parcels as determined by the inventory created under the Coastal Management Element of the comprehensive plan. Current funding strategies can include tourist taxes, or boating improvement funds to develop public launching facilities and related amenities.

Criteria:

(A)Funding may come from fees, bonds, community redevelopment district financing, or other sources as approved by Board, and may be supplemented through revenue sharing with appropriate state and federal programs.

(B) The County's share of revenue collected from boating registration fees shall be spent on boating infrastructure projects pursuant to Chapter 328.72(15), F.S.

Policy 13.9

The County shall not vacate, diminish, or otherwise impair publicly-owned pathways, sidewalks, roads, parking areas, docks or boat launching facilities, and other access points that are currently used, or susceptible to use, by the public to access the shorelines unless specific findings are made demonstrating that the action is necessary and suitable mitigation measures are or will be in place and only after a public hearing and decision by a super majority of the Board of Commissioners. (currently in Board Policy)

Policy 13.10

By 2012, the County shall inventory the waters of Brevard County to determine appropriate sites for one or more managed anchorages and/or mooring fields that shall be available to the boating public on a first come, first served basis. If one or more suitable sites are found, the County may establish a publically accessible-managed

anchorage and mooring field(s), taking into account environmental protection requirements and the concerns of shore side residents.

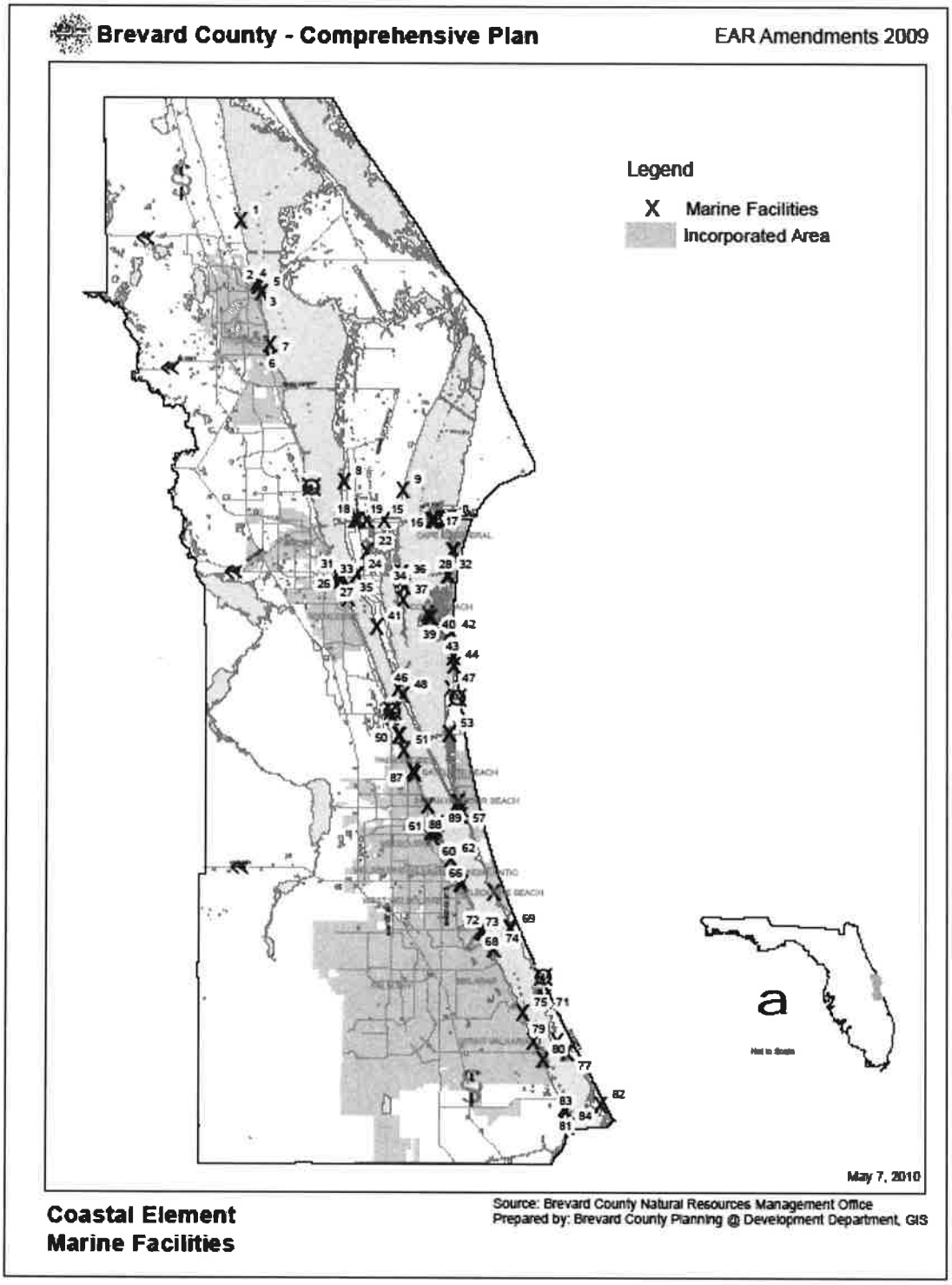
Policy 13.11

By 2013, the County shall develop incentives for encouraging private waterfront property owners to make their properties available for public use for purposes that are consistent with the uses permitted in recreational and commercial working waterfronts.

APPENDIX A

LIST OF MAPS

Map	Title
1	Marine Facilities
2	Evacuation Routes & Shelters
3	Coastal High Hazard Areas



Map 1
Marine Facilities

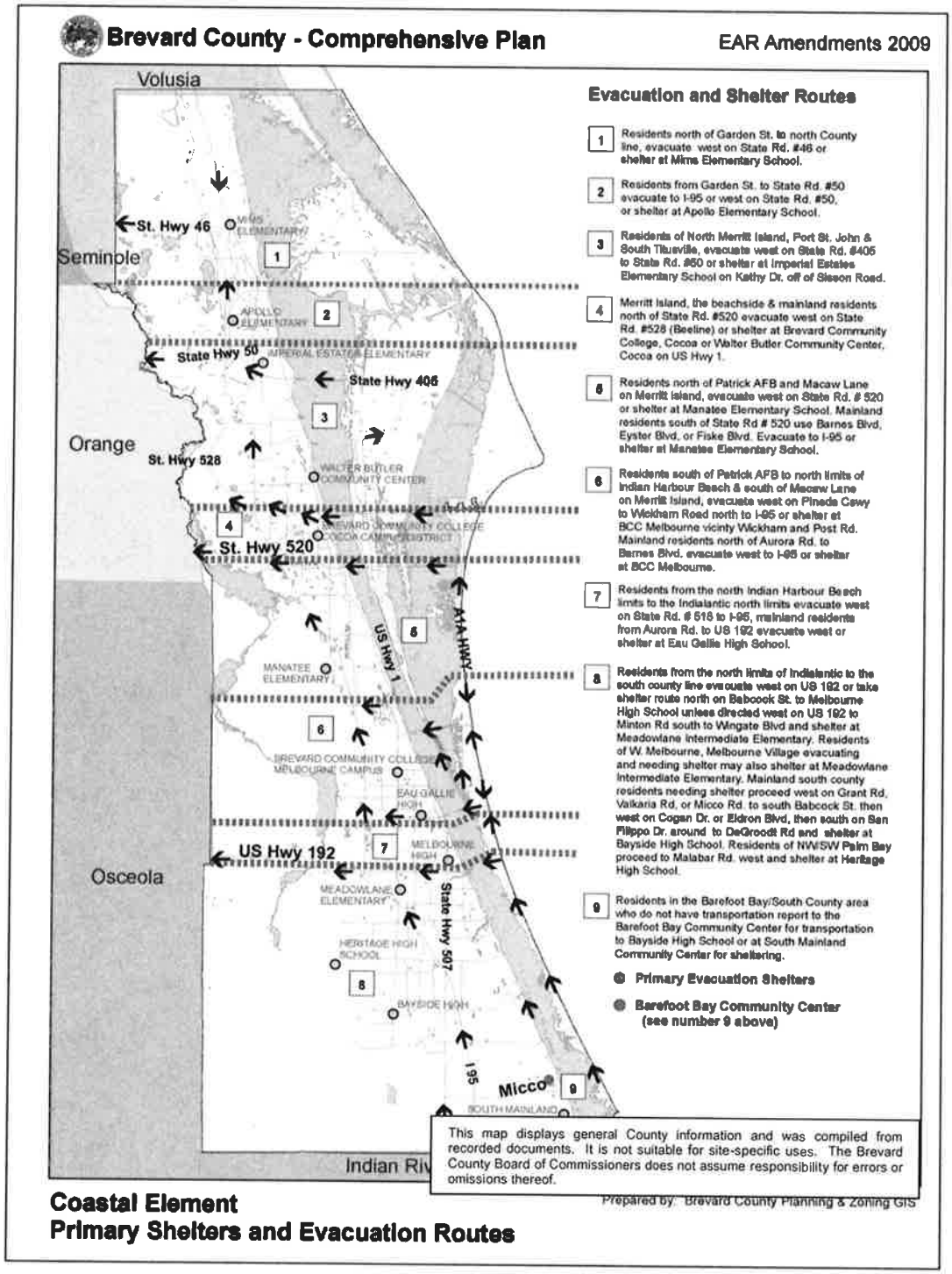
Map 1 Legend

(Webpage Note: Reverse Side of Map – Enlarged for Display Online)

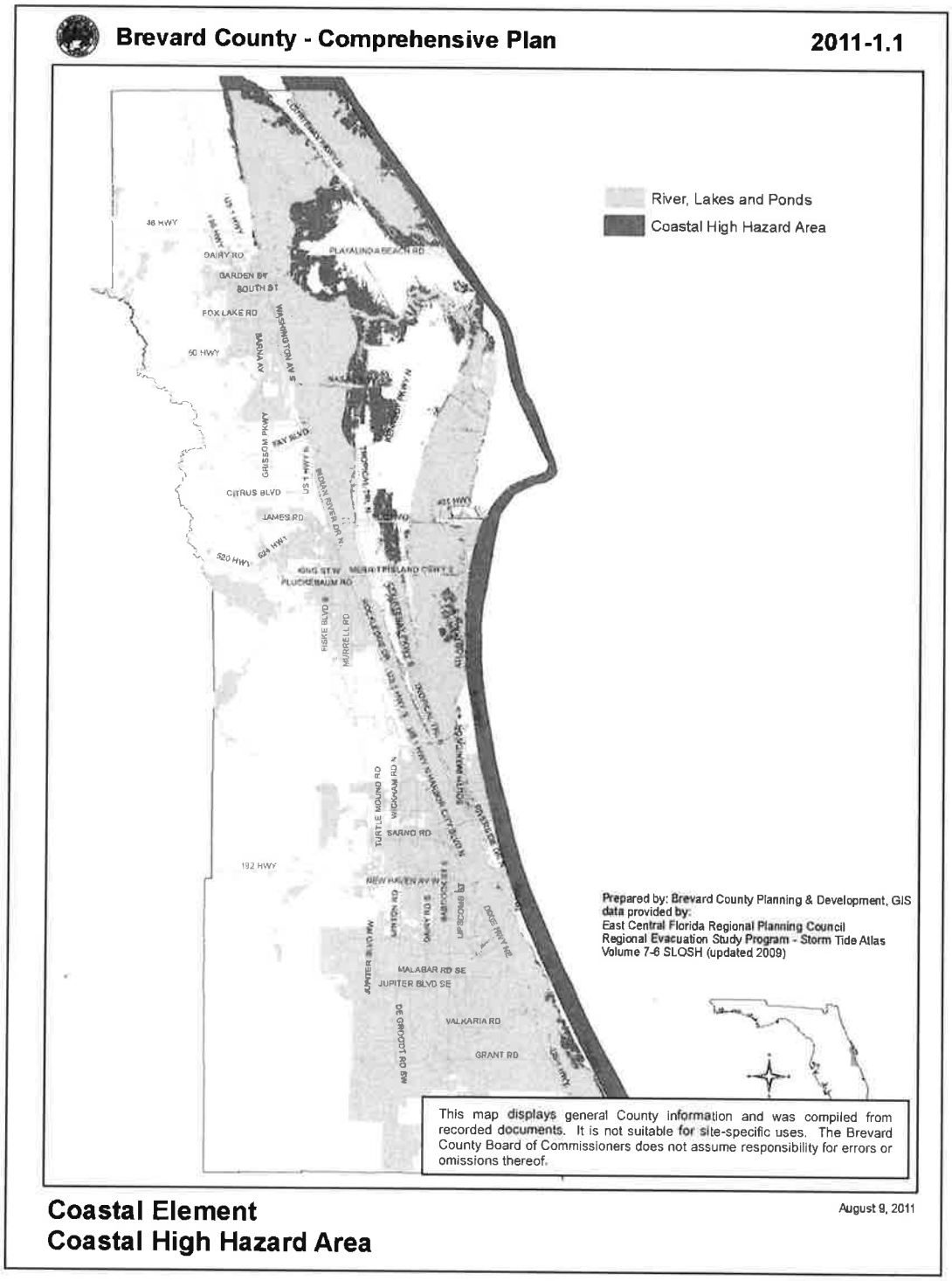
MAP REF #	STREET	CITY	WATERBODY
1	2000 Jones Av.	Mims	Indian River
2	801 Marina Road	Titusville	Indian River
3	451 Marina Road	Titusville	Indian River
4	419 N. Washington Ave.	Titusville	Indian River
5	41 N. Broad Street	Titusville	Indian River
6	S. Washington Ave. North of SR 50	Titusville	Indian River
7	4749 S. Washington Ave.	Titusville	Indian River
8	River Moorings Drive	N. Merritt Island	Indian River
9	1300 E. Hall Rd.	Merritt Island	Banana River
10	505 Glen Cheek Dr.	Port Canaveral	Port Canaveral
11	520 Glen Cheek Drive	Port Canaveral	Port Canaveral
12	628 Glen Cheek Drive	Port Canaveral	Port Canaveral
13	960 Mullet Road	Port Canaveral	Port Canaveral
14	350 SeaRay Dr.	Merritt Island	Barge Canal
15	2700 Harbortown Drive	Merritt Island	Barge Canal
16	800 Scallop Dr.	Port Canaveral	Port Canaveral
17	910 Mullet Road	Port Canaveral	Port Canaveral
18	290 Marine Harbor Drive	Merritt Island	Barge Canal
19	2750 Tingley Drive	Merritt Island	Barge Canal
20	6701 N. Atlantic Ave.	Cape Canaveral	Banana River
21	6815 N. Atlantic Ave.	Cape Canaveral	Banana River
22	Winar Drive	Merritt Island	Sykes Creek
23	20 Myrtice Ave.	Merritt Island	Indian River
24	14 Myrtice Ave.	Merritt Island	Indian River
25	P.O. Box 1886	Cocoa	Indian River
26	12 Marina Isles Blvd.	Indian Harbor Beach	Banana River
27	96 Willard St. Unit 101	Cocoa	Indian River
28	410 E. Cocoa Beach Cswy.	Cocoa Beach	Banana River
29	1872 E. 520 Cswy.	Merritt Island	Banana River
30	1872 E. 520 Cswy.	Merritt Island	Banana River
31	96 Willard St. Unit 101	Cocoa	Indian River
32	480 Cocoa Beach Cswy.	Cocoa Beach	Banana River
33	100-104 Riverside Dr.	Rockledge	Indian River
34	582 S. Banana River Dr	Merritt Island	Banana River
35	1025 Riveredge Drive	Rockledge	Indian River

36	200 S. Banana River Drive	Merritt Island	Banana River
37	1360 S. Banana River Dr.	Merritt Island	Banana River
38	1825 Minuteman Cswy.	Cocoa Beach	Banana River
39	1611 Minuteman Cswy.	Cocoa Beach	Banana River
40	1525 Minuteman Cswy.	Cocoa Beach	Banana River
41	2705 S. Tropical Trail	Merritt Island	Indian River
42	760 S. Brevard Ave.	Cocoa Beach	Banana River
43	2290 S. Hwy A1A	Cocoa Beach	Banana River
44	3360 S. Atlantic Ave.	Cocoa Beach	Banana River
45	5695 U.S. Highway 1	Viera	Indian River
46	199 Utopia Circle	Merritt Island	Indian River
47	1629 Atlas Ave.	PAFB	Banana River
48	Tequesta Harbor	Merritt Island	Indian River
49	6155 N. U.S. Hwy 1	Melbourne	Indian River
50	6175 N. Harbor City Blvd.	Melbourne	Indian River
51	5435 N. U.S. Highway 1	Melbourne	Indian River
52	4399 N. Harbor City Blvd.	Melbourne	Indian River
53	876 Marina Road	PAFB	Banana River
54	10 Palmer Road	Indian Harbor Beach	Banana River
55	1399 Banana River Drive	Indian Harbor Beach	Banana River
56	100 Datura Drive	Indian Harbor Beach	Banana River
57	96 E. Eau Gallie Cswy.	Melbourne	Indian River
58	587 Young Street	Melbourne	Eau Gallie River
59	1135 U.S. Highway 1	Melbourne	Eau Gallie River
60	911 N. Harbor City Blvd.	Melbourne	Eau Gallie River
61	729 N. Harbor City Blvd.	Melbourne	Indian River
62	705 S. Harbor City Blvd.	Melbourne	Indian River
63	2210 S. Front Street.	Melbourne	Crane Creek
64	1202 E. River Drive	Melbourne	Crane Creek
65	1208 E. River Drive	Melbourne	Crane Creek
66	1308 E. River Drive	Melbourne	Crane Creek
67	Riverside Drive	Melbourne Beach	Indian River
68	160 Versailles Drive	South Beaches	Indian River
69	Landings Road off A1A	South Beaches	Indian River
70	Solway Drive off A1A	South Beaches	Indian River
71	Ocean Way off A1A	South Beaches	Indian River
72	4220 Dixie Hwy NE	Palm Bay	Turkey Creek
73	4350 Dixie Hwy NE	Palm Bay	Indian River
74	5001 Dixie Hwy NE	Palm Bay	Indian River

75	3800 U.S. Highway 1	Valkaria	Indian River
76	750 Mullet Creek Rd.	South Beaches	Indian River
77	240 Hammock Shore Dr.	South Beaches	Mullet Creek
78	4660 U.S. Highway 1	Grant	Indian River
79	5185 U.S. Highway 1	Grant	Indian River
80	6075 U.S. Highway 1	Grant	Indian River
81	8525 U.S. Highway 1	Micco	Indian River
82	9502 S. A1A	South Beaches	Indian River
83	8685 N. U.S. Highway 1	Micco	Indian River
84	4015 Main Street	Micco	Sebastian River
85	6485 S. U.S. Highway 1	Rockledge	Indian River
86	6533 S. U.S. Highway 1	Melbourne	Indian River
87	4263 N. U.S. Highway 1	Melbourne	Indian River
88	2459 Pineapple Ave.	Melbourne	Indian River
89	1477 Pineapple Ave.	Melbourne	Indian River



Map 2
Evacuation Routes and Shelters



Map 3
Coastal High Hazard Area

APPENDIX B

LIST OF FIGURES

APPENDIX C

MANATEE HABITAT FEATURE MAP SERIES AND UPDATE SCHEDULE

MAPS:

1. **Submerged Aquatic Vegetation (SAV)** - 1994 coverage supplied with the draft MPP.

   Source:
   St. Johns River Water Management District
   (904) 329-4500

   Update Schedule: As available

2. **Manatee Abundance (Aerial Surveys)** - September 1997-September 1999 map supplied with the draft MPP.

   Source:
   Florida Fish and Wildlife Conservation Commission
   Bureau of Protected Species Management
   (904) 922-4330

   Update Schedule: As available

3. **Manatee Mortality** - Watercraft-related or Total Manatee Mortality (all causes) from 1974-2001 supplied with the draft MPP.

   Source:
   Florida Fish and Wildlife Conservation Commission
   Bureau of Protected Species Management
   (904) 922-4330

   Update Schedule: As available

4. **Manatee Protection Boat Speed Zones** - October 2000 as provided with the draft MPP, or more recent data.

   Source:
   Florida Fish and Wildlife Conservation Commission
   Bureau of Protected Species Management
   (904) 922-4330

   Update Schedule: As needed

5. **Manatee Freshwater Sources Map** - March 1994 as provided with the MPP.

   Source:
   Brevard County
   Natural Resources Management Office
   (321) 633-2016
   Update Schedule: As available

6. **Class II Waterbody, Outstanding Florida Waterway (OFW), or Aquatic Preserve** - 2001 as provided in the MPP.

   Source:
   Florida Department of Environmental Protection
   Division of Surface Water Quality
   (850) 245-8427
   Update Schedule: As available