

January 21, 2025

The Honorable Rob Feltner
Chairman, Brevard County
Board of County Commissioners
2725 Judge Fran Jamieson Way
Building C, Suite 214
Viera, Florida 32940

Dear Chair Feltner,

FloridaCommerce has completed its review of the proposed comprehensive plan amendment for Brevard County (Amendment No. 24-04ACSC), which was received on November 20, 2024. FloridaCommerce has reviewed the proposed amendment in accordance with the state coordinated review process set forth in sections 163.3184(2) and (4), Florida Statutes (F.S.), for compliance with Chapter 163, Part II, F.S.

The attached Objections, Recommendations, and Comments Report outlines FloridaCommerce's findings concerning the amendment. FloridaCommerce has identified an objection and has included recommendations regarding measures that can be taken to address the objection. FloridaCommerce is also providing 3 comments. The comments are offered to assist the local government but will not form the basis for a determination of whether the amendment, if adopted, is "In Compliance" as defined in section 163.3184(1)(b), F.S. Copies of comments received by FloridaCommerce from reviewing agencies, if any, are also enclosed.

The County should act by choosing to adopt, adopt with changes or not adopt the proposed amendment. For your assistance, the procedures for final adoption and transmittal of the comprehensive plan amendment are enclosed.

The second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of FloridaCommerce's attached report, or the amendment will be **deemed withdrawn** unless extended by agreement with notice to FloridaCommerce and any affected party that provided comment on the amendment pursuant to section 163.3184(4)(e)1., F.S. **The adopted amendment must be transmitted to FloridaCommerce within ten working days after the final adoption hearing or the amendment shall be deemed withdrawn pursuant to section 163.3184(4)(e)2., F.S.**

FloridaCommerce staff is available to assist the County to address the objection and comments. If you have any questions related to this review, please contact Joshua Pelfrey, Planning Analyst, by telephone at (850)-717-8549 or by email via Joshua.Pelfrey@Commerce.fl.gov.

Sincerely,



James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/jp

Enclosures: Objections, Recommendations, and Comments Report
Procedures for Adoption
Reviewing Agency Comments

cc: Stephen M. Swanke, Senior Planner, Brevard County, Planning and Development Department
Tara McCue, AICP, Executive Director, East Central Regional Planning Council

Objections, Recommendations and Comments Report
Proposed Comprehensive Plan Amendment
Brevard County 24-04ACSC

The Florida Department of Commerce has identified an objection and 3 comments regarding Local Government's proposed comprehensive plan amendment. The objection and comments are provided below, along with recommended actions the County could take to resolve issues of concern. If the County adopts the plan amendment without adequately addressing the objection, FloridaCommerce may find the amendment not in compliance with Chapter 163, Part II, Florida Statutes (F.S.), pursuant to section 163.3184(4)(e)4., F.S. Comments are offered to assist the local government and will not form the basis for a compliance determination.

FloridaCommerce staff has discussed the basis of the report with local government staff and is available to assist the County to address the objection and comments.

I. Objection

Objection 1: Lack of Meaningful and Predictable Standards

Policies BBIA 2.6, BBIA 5.1, BBIA 7.8, BBIA 7.9, BBIA 7.12, BBIA 7.13, BBIA 7.15, and BBIA 8.10 lack a specific timeframe for implementation, which may hinder their effectiveness and accountability. Lack of detailed targets and criteria does not establish meaningful and predictable standards for the implementation of the proposed policies, as required by section 163.3177(1), F.S.

Additionally, Policy BBIA 1.4 seeks to incorporate the guiding principles for development within the Brevard Barrier Island Area into the comprehensive plan. While the intention behind this policy is commendable, there are significant concerns regarding the proposed policy in its current form. Policy BBIA 1.4 references the introduction paragraph (section 380.0553, F.S.) but fails to include the comprehensive details of the guiding principles.

Statutory Authority: Sections 163.3177(1), 163.3177(1)(b), 163.3177(5)(a), 163.3177(6)(c)4., 163.3184(4), 380.05, and 380.0553 F.S.

Recommendation Brevard County must establish a clear and measurable timeframe commitments for achieving the following Policies: BBIA 2.6, BBIA 5.1, BBIA 7.8, BBIA 7.9, BBIA 7.12, BBIA 7.13, BBIA 7.15, and BBIA 8.10. Additionally, the County must revise Policy BBIA 1.4 to specifically reference subsection (5) of section 380.0553, F.S.

II. Comments

Comment 1 : Clarification of Terminology and Strengthening of Regulatory Language

As the amendment is intended to provide a framework for the protection and management of the Brevard Barrier Island Area (BBIA), it is essential that the language used is meaningful, predictable, and enforceable. To achieve this, FloridaCommerce recommends the following revisions:

1. To ensure consistency and clarity, Brevard County should define each acronym at its first occurrence within the Brevard Barrier Island Element by writing it out in full, followed by the acronym in parentheses. This convention will enable readers to quickly comprehend the

meaning of the acronym and provide a clear reference point. Additionally, each acronym should be included in the glossary to facilitate easy lookup and minimize confusion.

2. **Strengthening of Regulatory Language:** The use of passive language, such as “should,” “should consider”, or “may” can weaken the enforceability of regulatory statements. To address this, FloridaCommerce recommends reviewing each instance of "should" and replacing it with "shall" or "must" where appropriate. This will ensure that the language is direct and unambiguous, providing a clear framework for protection and management of the BBIA.

The following Policies should be reviewed by the County:

BBIA 3.3, BBIA 5.4, BBIA 5.8, BBIA 6.4, BBIA 6.13, BBIA 6.16-6.22, BBIA 7.2, BBIA 7.6, BBIA 7.15, BBIA 8.8, BBIA 9.1, BBIA 9.5, BBIA 9.8, BBIA 9.10

Comment 2: Intergovernmental Coordination

The County is encouraged to coordinate with the Florida Fish and Wildlife Conservation Commission to address the comments regarding marine turtle protection, manatee protection, coastal species and habitats, and educational signage from their December 20, 2024, correspondence in the adopted amendment. In addition to this, the County should also review comments provided by the St. Johns River Water Management District (SJRWMD) and Department of Environmental Protection (DEP).

Comment 3: Barrier Islands Preservation and Protection Association (BIPPA) Feedback

The County may want to take under advisement the feedback provided by the Barrier Islands Preservation and Protection Association in their November 20, 2024, correspondence.

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR STATE COORDINATED REVIEW

Section 163.3184(4), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit electronically using FloridaCommerce's electronic amendment submittal portal "**Comprehensive Plan and Amendment Upload**" (<https://fldco.my.salesforce-sites.com/cp/>) or submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council, Water Management District, Department of Transportation, Department of Environmental Protection, Department of State, the appropriate county (municipal amendments only), the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only), and the Department of Education (amendments relating to public schools), and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package.

_____ Summary description of the adoption package, including any amendments proposed but not adopted.

_____ Ordinance number and adoption date.

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government.

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact.

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendment, an adopted future land use map, **in color format**, clearly depicting the parcel, its existing future land use designation and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required.

_____ Copy of executed ordinance adopting the comprehensive plan amendment(s).

Suggested effective date language for the adoption ordinance for state coordinated review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If the amendment is timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the FloridaCommerce did not previously review.

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment.

_____ Statement indicating the relationship of the additional changes not previously reviewed by the FloridaCommerce to the ORC report from the FloridaCommerce.



Florida Fish and Wildlife Conservation Commission

Commissioners
Rodney Barreto
Chairman
Coral Gables

Steven Hudson
Vice Chairman
Fort Lauderdale

Preston Farrior
Tampa

Gary Lester
Oxford

Albert Maury
Coral Gables

Gary Nicklaus
Jupiter

Sonya Rood
St. Augustine

Office of the
Executive Director
Roger A. Young
Executive Director

Charles "Rett" Boyd
Assistant Executive Director

George Warthen
Chief Conservation Officer

Jessica Crawford
Chief of Staff

Division of Habitat and
Species Conservation
Melissa Tucker
Director

850-488-3831

*Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.*

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Voice: 850-488-4676

Hearing/speech-impaired:
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MyFWC.com

December 20, 2024

Stephen Swanke
Brevard County
2725 Judge Fran Jamieson Way
Viera, FL 32940
Steve.Swanke@brevardfl.gov

Re: Brevard County 24-03ER (24LS00002) and 24-04ACSC (24LS00001), Comprehensive Plan Amendment

Dear Mr. Swanke:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the above-referenced comprehensive plan amendment package and provides the following comments and recommendations for consideration in accordance with Chapter 163.3184, Florida Statutes. While there are no objections to the amendment, the following technical assistance information is provided to assist Florida Commerce and the County during the amendment review and future project planning.

Project Description

The Brevard County Board of County Commissioners is requesting amendments to the Comprehensive Plan based on an Evaluation and Appraisal Review that includes the Brevard Barrier Island Area (BBIA), an Area of Critical State Concern (ACSC). The BBIA encompasses the southern portion of Brevard County's barrier island which was designated as an ACSC by the Florida Legislature in 2023 (Chapter 380.0533 Florida Statutes). The legislative intent of the designation is to establish a land use management system that protects the natural environment of the BBIA, promotes orderly and balanced growth, protects and improves the Indian River Lagoon ecosystem, and ensures that the population of the BBIA can be safely evacuated in the event of a hurricane. The legislation and associated comprehensive plan amendments place a strong emphasis on the value of this area for marine turtle nesting, particularly for the loggerhead sea turtle (*Caretta caretta*, Federally Threatened), stating that the "beaches of the region are among the most important nesting grounds for threatened and endangered sea turtles in the Western Hemisphere," and that "the management decisions made in the region have global impacts for the species."

Comments and Recommendations

FWC staff supports the Objectives and Policies within the comprehensive plan amendments (CPAs) provided by Brevard County as they will provide another layer of protection for marine turtles, manatees, the Indian River Lagoon, recreational and commercial fisheries, and imperiled wildlife species that use the BBIA for foraging and nesting. This area of Brevard County has relict habitats that would benefit from additional protections and habitat enhancement projects. Nature-based solutions supported in the CPAs will help restore and protect important wildlife habitat within the BBIA.

Given the strong emphasis in the legislation designating the BBIA ACSC on the importance of this area for marine turtles and coastal wildlife habitats, FWC staff offers the following comments and recommendations focusing on these issues for consideration by Brevard County.

Marine Turtle Habitat and Lighting

The policies proposed in the subject amendments (Brevard County 24-03ER and 24-04ACSC) would provide protections to marine turtles and their habitat. FWC staff supports the County's efforts to enhance sea turtle habitat by restricting development seaward of the Brevard County Coastal Setback Line (CSL), maintain lighting regulations, and continue to design and implement beach renourishment and dune restoration projects in accordance with local, state, and federal regulations. To further improve and strengthen marine turtle protections, FWC staff provides the following recommendations for Brevard County's consideration as policies are being created for the BBIA:

- Implement strategies with the best available science for coastal engineering, beach nourishment, and dune restoration projects to protect and enhance the natural dune system, maintain viable sea turtle nesting habitat, and minimize visibility of upland lights from the beach while providing beach access.
- Provide a defined timeline to re-evaluate the effectiveness of the CSL, such as every 5 or 10 years.
- Encourage dune vegetation plantings that will reduce light pollution on the sandy beach and create dark silhouettes on the dunes to positively impact sea turtle nesting behavior. Encourage planting of native vegetation on dunes where exotic vegetation has been removed to approximately the same height and density of the exotic plants being removed.
- Consider a requirement to conduct an exterior lighting survey before and after any dune vegetation removal to identify artificial lights that may have become visible from the sandy beach. Also consider mitigation strategies in the event that any artificial lighting does become visible, such as shielding or removal of the lights.
- In coordination with FWC, review and update sea turtle lighting ordinances every 5 years within the BBIA to reflect best available technology and science, to be consistent with Florida Administrative Code 62B-55.004, and to address any persistent areas ("hot spots") with documented impacts to nesting and hatchling sea turtles due to artificial lights.
- Consider procedures for implementing and enforcing new and existing lighting ordinances to eliminate and minimize the visibility of artificial or otherwise man-made light within the BBIA to the sandy beach.
- When environmental assessments are conducted for coastal properties in the BBIA, a proposed exterior lighting plan review would evaluate the potential increase of direct and indirect light visibility from the sandy beach. The FWC's Sea Turtle Lighting Guidelines are available at <https://myfwc.com/wildlifehabitats/wildlife/sea-turtle/lighting/> to assist in the development of an exterior lighting plan. FWC staff can also be contacted at SeaTurtleLighting@MyFWC.com to answer any questions and provide assistance in the development of a lighting plan.
- Develop outreach programs, partnerships, and development criteria within the Brevard County land development regulations to achieve reduction of light pollution throughout the BBIA.
- When promoting the establishment and maintenance of scenic vistas, consider policies that will not increase light visibility from the beach from coastal development.
- Minimize skyglow by recommending International Dark Sky lighting standards, which provides criteria for shielding and installing long wavelength lights along and adjacent to the coast.
- Design and construct dune cross-overs, boardwalks, walkways and other permissible structures seaward of the CSL and in accordance with the Florida Department of Environmental Protection's Beach and Dune Walkover Guidelines. Designs that are elevated above dune vegetation, do not include exterior lights, and allow adequate

sunlight penetration will minimize impacts to marine turtle's and their nesting habitat. Designs should also consider potential entrapment of nesting females and hatchlings.

- Include a provision that dunes without complete coverage of native shrubby vegetation, herbs, and grasses be prioritized for dune revegetation.

FWC staff is available to assist and work with Brevard County staff on reviewing and updating their sea turtle lighting ordinances, developing outreach programs, and for any of the above recommendations at ImperiledSpecies@MyFWC.com.

Manatees

The proposed amendments and policies state that all development activities should be in compliance with the Brevard County Manatee Protection Plan (MPP), as amended, and that Brevard County will continue monitoring manatee protection measures to determine their effectiveness. The proposed policies for the BBIA ACSC also address water control structures by stating that 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; protect or improve water quality; or restore the function of the natural water dependent ecosystem. To further improve and strengthen manatee protections in Brevard County and the BBIA ACSC specifically, FWC staff provides the following recommendations for Brevard County's consideration as policies are being created for the BBIA:

- Coordinate with applicable partners including FWC and the U.S. Fish and Wildlife Service on the development of new marinas, or the expansion of existing marinas to ensure the project is consistent with the Brevard County MPP.
- To inform and educate boaters on manatee awareness, encourage all existing commercial marinas to incorporate permanent manatee educational signs, such as the "Caution Boaters" sign.
- Coordinate with FWC staff on the design or modification of any water control structures to prevent the injury or killing of any manatees.

FWC staff is available to assist and work with Brevard County staff for on reviewing proposed marina facilities, implementing manatee signage, and on the design of water control structures at ImperiledSpecies@MyFWC.com.

Coastal Species and Habitats

FWC staff recommends that Brevard County work with partners such as St John's River Water Management District, Indian River Lagoon National Estuary Program, Florida Department of Environmental Protection (FDEP), and FWC to identify areas suitable for the creation or expansion of nesting habitat for shorebirds, seabirds, and wading birds. Such areas may include spoil islands managed by FDEP, aquatic preserves, or state parks. The creation or expansion of this habitat could be achieved through actions such as vegetation management, construction of nesting platforms, or creating additional substrate for nesting. In Objective BBIA 7, several specific shoreline and marine habitats and species are singled out for protection. Additional sensitive coastal resources to consider in this list include oyster reefs, salt marsh, shorebirds, seabirds, and wading birds.

The proposed BBIA policies refer to conducting environmental assessments prior to development on properties containing potential wildlife habitat (e.g., Policy BBIA 7.6 and 8.8). To better identify potential project impacts to listed species of fish and wildlife, FWC staff also recommends that species-specific surveys be conducted prior to any clearing or construction.

Species-specific surveys are time sensitive and are best conducted by wildlife biologists with recent documented experience for that species. Species-specific survey protocols approved by the U.S. Fish and Wildlife Service (USFWS) and the FWC are provided in the Florida Wildlife Conservation Guide at <https://myfwc.com/conservation/value/fwccg/> or in the FWC Species Conservation Measures and Permitting Guidelines available at <https://myfwc.com/wildlifehabitats/wildlife/species-guidelines/>.

In several of the proposed BBIA policies, “species of special concern” are mentioned (e.g., BBIA 8.11). Currently, there are no species covered under this category of protection (see Chapter 68A-27, Florida Administrative Code). Depending on the context, “Species of Greatest Conservation Need,” as defined in FWC’s State Wildlife Action Plan (SWAP, 2019), is likely an appropriate grouping of species to add. This term includes populations at risk or declining and the SWAP provides a comprehensive list (<https://myfwc.com/media/22767/2019-action-plan.pdf#page=152>). For example, in Policy BBIA 8.11 “... implement education programs to promote the preservation of endangered and threatened species, species of special concern, and species of greatest conservation need, as well as their habitat...”

Signage

FWC staff recommends that County and other public beach access sites incorporate educational signage related to seabird and shorebird species listed by FWC as imperiled or Species of Greatest Conservation Need. Such signage could include best practices that reduce disturbance and impacts to resident and migratory bird species using the beaches for nesting, loafing, and foraging. Additionally, to promote public awareness, Brevard County could work with the Florida Department of Transportation to install signage on A1A indicating the boundaries of the BBIA.

FWC staff appreciates the opportunity to provide input on the subject CPAs and looks forward to continuing coordination with Brevard County on the BBIA ACSC. For specific technical questions regarding the content of this letter, please contact Josh Cucinella at (352-620-7330) or by email at Josh.Cucinella@MyFWC.com. All other inquiries may be sent to ConservationPlanningServices@MyFWC.com.

Sincerely,



Jennifer Goff
Deputy Director
Division of Habitat and Species Conservation

jdg/ms

Brevard County 24-03ER and 24-04ACSC_60479_12202024

cc: Donna Harris, Florida Commerce, DCPexter@Commerce.fl.gov
Yazmin Valdez, Florida Commerce, Yazmin.Valdez@commerce.fl.gov
James Stansbury, Florida Commerce, james.stansbury@commerce.fl.gov
Jeffrey Ball, Brevard County, Jeffrey.ball@brevardfl.gov
Bonnie Landry, Bonnie Landry & Associates, bonnie@bclandry.com
Michael Meier, Bonnie Landry & Associates, mike@bclandry.com
David Pullin, Florida Commerce, David.Pullin@commerce.fl.gov
Josh Pelfrey, Florida Commerce, Joshua.Pelfrey@commerce.fl.gov

Harris, Donna

From: Plan_Review <Plan.Review@dep.state.fl.us>
Sent: Thursday, December 19, 2024 3:00 PM
To: DCPexternalagencycomments
Cc: Plan_Review
Subject: [EXTERNAL] - Brevard County 24-04ACSC Proposed

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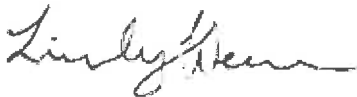
To: Donna Harris, Senior Plan Processor, Florida Commerce Bureau of Community Planning and Growth

Re: Brevard County 24-04ACSC – State Coordinated Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to Plan.Review@FloridaDEP.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.



Brevard Barrier Island ACSC Draft Appendix – Courtesy Review

Office of Resilience and Coastal Protection:

- On pg. 4-5 where the CCCL is specifically mentioned, the BBIA is more restrictive in some instances than what the CCCL program may allow and/or permit, most notably the mention and restriction of “shoreline hardening structures” (i.e. seawall) or erosion control structures. This is not new however- as unincorporated Brevard County has had this prohibition in place for some time. In addition to this, is the mention and BBIA restriction on structures/activities seaward of the 81 CCCL (or setback). Based on siting and design of a particular proposed structure/activity, it may align with Department restrictions or prohibitions, but it is important to note that it also may not in every instance.
 - With these above mentioned County restrictions, it is important to note that in the CCCL application process for a permit, applicants are required to obtain and provide “Written evidence, provided by the appropriate local governmental agency having jurisdiction over the activity, that proposed activity, as submitted to the Department, does not contravene local setback requirements or zoning code” [paragraph 62B-33.008(1)(c), F.A.C.].
 - Similarly, for field permits written by FDEP field inspectors for qualifying minor structures and activities, each applicant signs in part for the permit that they “shall obtain any applicable licenses or permits which may be required by federal, state, county, or municipal law prior to commencement of the authorized work”.
 - These two caveats to which an applicant must provide confirmation of or sign for prior to Department permitting recognizes the ultimate determination of the local jurisdiction as to what is allowed which is the status quo.

Division of Environmental Assessment and Restoration:

- There is a line in BBIA 3.2 that states: “...should be considered during the continued development of the BMAP”. We would recommend that line be revised to say “...during the continued implementation of...” instead.

Valdez, Yazmin

From: Steve Fitzgibbons <SFitzgibbons@sjrwmd.com>
Sent: Wednesday, August 21, 2024 10:03 AM
To: Valdez, Yazmin
Cc: Melisa Diolosa; Michelle Reiber; Stansbury, James; Swanke, Stephen M; Ball, Jeffrey; Bonnie Landry; Michael Meier; Pullin, David
Subject: [EXTERNAL] - RE: Request for Review: Draft Appendix for Brevard Barrier Island ACSC
Attachments: BBIA SJRWMD Comments to Draft Appendix 8.21.24_ Final.docx

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Good Morning,

As requested, please find attached the requested feedback from SJRWMD regarding the draft BBI ACSC appendix.

We appreciated the opportunity to review the draft document and to provide feedback. If you have any question, please let us know.

Thank you.

Steve

Steven Fitzgibbons, AICP
Intergovernmental Planner
St. Johns River Water Management District
7775 Baymeadows Way, Suite 102
Jacksonville, FL 32256
Office (386) 312-2369
Email: sfitzgib@sjrwmd.com
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www.sjrwmd.com/ePermit

From: Valdez, Yazmin <Yazmin.Valdez@commerce.fl.gov>
Sent: Thursday, August 1, 2024 4:44 PM
To: Steve Fitzgibbons <SFitzgibbons@sjrwmd.com>
Cc: Melisa Diolosa <MDiolosa@sjrwmd.com>; Michelle Reiber <mreiber@sjrwmd.com>; Stansbury, James <James.Stansbury@commerce.fl.gov>; Swanke, Stephen M <Steve.Swanke@brevardfl.gov>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Bonnie Landry <bonnie@bclandry.com>; Michael Meier <Mike@bclandry.com>
Subject: Request for Review: Draft Appendix for Brevard Barrier Island ACSC

Dear Steven,

BREVARD BARRIER ISLAND AREA (BBIA) WAS DESIGNATED AS AN OF AREA OF CRITICAL STATE CONCERN (ACSC) BY THE FLORIDA LEGISLATURE IN 2023, AS CODIFIED IN SECTION 380.0553, FLORIDA STATUTES.

DATE: August 21, 2024

COMMENTS PROVIDED BY: St. Johns River Water Management District (SJRWMD)

BACKGROUND INFORMATION FROM THE DRAFT APPENDIX: Brevard County has finalized a first draft appendix containing goals, objectives, and policies (GOPs) for the newly established Brevard Barrier Island (BBI) Area of Critical State Concern (ACSC). This draft is intended to be included in their proposed Evaluation and Appraisal Review (EAR)-based amendment package, due this November.

SJRWMD comments:

- General comment: Activities within this draft appendix are beyond the scope of and not regulated under Statewide Environmental Resource Permitting (SWERP) rules and statutes.
- **Policy BBIA 3.3 & Policy BBIA 3.4:** Note, the specific language in these policies do not exist in the current SWERP rules.
- **Policy BBIA 5.8:** SJRWMD is not opposed to these practices, however, developments that require an ERP permit under Chapter 62-330, F.A.C., must also meet the current water management district rules/presumptive criteria regarding water quality and the newly implemented Statewide Stormwater rule (water quality) criteria that became effect June 28, 2024, and will be fully implemented on December 28, 2025.
- **Policy BBIA 9.8:** It is unclear what "deficient" means. Is this referring to the conveyance capacity of existing stormwater systems not owned by applicant?
- **Policy BBIA 9.9:** A definition of "negatively impacted" would be helpful.

To: James Stansbury, Chief Florida Department of Commerce Bureau of Community Planning and Growth
107 East Madison Street MSC 160 Tallahassee, FL 32399-4120

Re: Request to Modify Brevard County's proposed new element (Appendix A) to the Comprehensive Plan regarding the Brevard Barrier Island Area.

Good morning Mr. Stansbury,

In my conversations with Barbara and Yazmin, each expressed to me that it is your goal to ensure that the Brevard Barrier Island Area (BBIA) plan for the Area of Critical State Concern protects the island's natural resources, conforms to Section 380.0553 "Guiding Principles," and reflects input from the BBIA's many stakeholders. Please consider this input toward those objectives.

The draft amendment (Appendix A) from Brevard County is a product of haste. The last Area of Critical State Concern was designated over 40 years ago, and it is clear that the County was taken by surprise. The County started late, hiring an out-of-town consultant who drew only mostly from existing text in the County Comprehensive Plan. The timing of splitting the "Transmittal" and the "Adoption" between outgoing and incoming Commissions hasn't helped. The result is largely a status quo version that does not meet the Guiding Principles in the statute.

The drafting process undertaken by the County's consultant hampered input from local residents, NGOs and other experts. With a 15-day notice, residents were asked to attend a 90-minute presentation with faulty acoustics and without a question-and-answer session. There was a poll of public opinion on general concepts, but the multiple-choice structure of the poll did not provide specifics that could shape the draft. That was the County's total program for stakeholder participation. The volume of participation did, however, reflect the high public interest in the process (Figure 1).

Nearly a thousand comments and editorial changes by residents and multiple NGOs were proactively sent to Brevard County and the County consultant. Counter to this input, on very short notice, the consultant dropped in "PUD" zoning, zoning "transition," and density "bonuses" language. This language will compound environmental pressures within the BBIA by increasing density and intensity of future development, in direct violation of CME 7.1 and BBIA Policy 12.1. Although the County's Land Planning Agency (LPA), voted unanimously to delete the PUD, transition, and bonuses language, we understand that the County's November 7th cover letter to you states that the LPA "...recommended transmittal of this Comprehensive Plan Amendment." This is not the whole truth. The LPA approved it, but only subject to pages of LPA comments, seemingly not included in the County's submittal to you.

The suggested edits to Appendix A we provide below fill the input gap left by Brevard County. This input comes from the Sea Turtle Conservancy (STC), 1000 Friends of Florida (1000 FoF), and the Barrier Islands Preservation and Protection Association (BIPPA), the 34-year-old de-facto protector of the island's balance of population and natural habitat, comprising residents of the BBIA, in addition to experts in land use, water quality, engineering, oceanography, beach ecology, and sea turtles.

We ask the following:

Ask #1: Please review BIPPA's South Beaches Combined Input to Appendix A (below) compiled by BIPPA from meetings with residents and NGOs.

Ask #2: Replace portions of the County's draft of Appendix A for the BBIA with the attached that edits we provide here, and with changes made at your discretion. Instruct the new Brevard County Commission to use our, and your, suggested edits to have Appendix A better conform to the Guiding Principles in Section 380.0553 and the CME.

Ask #3: Recommend that Brevard County staff, including Natural Resources Management, conduct at least two advertised community meetings with question-and-answer sessions prior to adoption. The first meeting would introduce the new draft of Appendix A, and the second meeting would solicit recommendations.

While reviewing the Combined Input version of Appendix A, please consider that residents and members of NGOs with advanced degrees and years of experience in Marine and Wildlife Biology, Land Planning, Environmental Engineering, Conservation and Landscape Architecture, have come together to offer comments for the BBIA Appendix A for the Area of Critical State Concern.

NGO's have provided expert scientific research and language in areas such as: Management of artificial lighting, seasonal beach usage, and timing and design of beach nourishment and coastal armoring to minimize impacts to uplands, beaches, sea turtles, ecosystems and associated wildlife by STC; Land Use and Water Resource Planning, Lagoon water run-off, updating storm surge zones for current and projected sea level rises and measurement methods of pre and post development of ground water recharge by 1000 FoF; and resiliency, Coastal Setback Line (CSL), evacuation, flooding, or density and intensity by BIPPA (and the County's Land Planning Agency).

The Brevard County Commission has heard none of their voices, nor conducted any workshops or included any of the hundreds of comments that we, their own LPA, and many NGOs have submitted.

Please review our compiled South Beaches Combined-Input comments and send it back to the new Brevard Commission for Adoption. With your support, we believe they will be receptive of the work we have done.

Further, by doing so, we guarantee that your staff will not be spending inordinate time doing the job that the County was responsible for. We'll do it for our community and to preserve one of the most important remaining natural habitats in the western hemisphere and home to the largest area of loggerhead sea turtle nesting in the world.

Please feel free to call me anytime at 321-431-7842.

Regards and Thank You,

Mark Shantzis, Executive Director

Barrier Islands Preservation and Protection Association (BIPPA)

"Leading Efforts To Preserve The Balance of Population Growth, Natural Habitat and Wildlife on the Barrier Islands for over 30 years" c-321-431-7842 seabomds@aol.com

cc: State Senators Wright and Fine, State House Reps, Mayfield, Brackett, Sirois, Tramont and Miller, 1000 Friends of Florida, Indian River Lagoon Coalition, Sea Turtle Conservancy, Marine Resources Council, Fish and Wildlife Commission, Sierra Club, FDEP, Surfrider Foundation, Departments of Agriculture and Consumer Services, of Education, of Environmental Protection and of State, Florida Fish and Wildlife, DOT, East Central Florida Regional Planning Council, Johns River Water Management District, Patrick Space Force Base and Cape Canaveral Station.

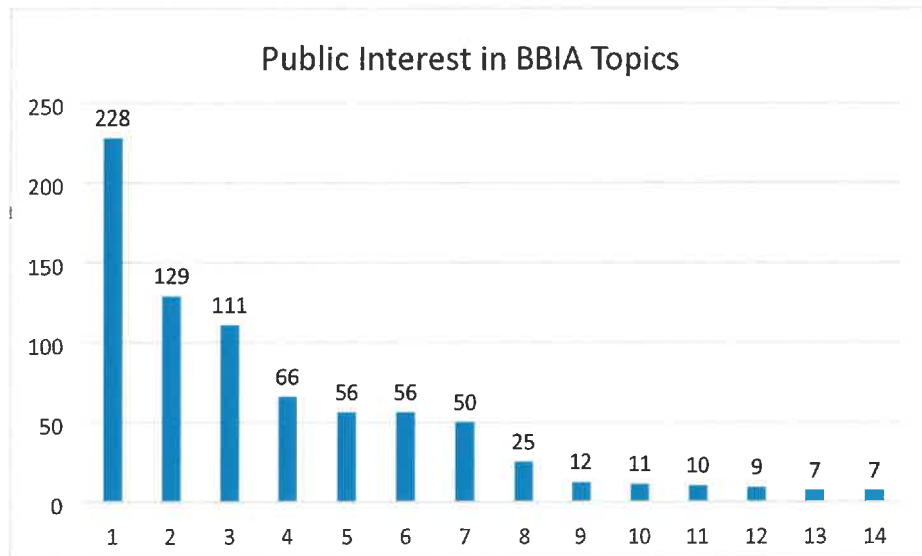


Figure 1. A plot of interests and concerns expressed by BBIA residents from a Public Survey conducted by Brevard County in 2024. This information was transmitted to Brevard Land Planning, and forwarded to the Brevard Board of Commissioners. Some categories have been combined in the plot to better reflect interests, in order of number of respondents:

- 1—Density and intensity, land development, A1A (evacuation);
- 2—Conservation, native vegetation, dune protection, clearcutting;
- 3—Sea turtle protection and shoreline hardening, coastal construction setbacks;
- 4—General information;
- 5—Code enforcement and penalties, oversight committee, legislation, marina requirements;
- 6—Stormwater management, water quality;
- 7—Utilities;
- 8—Floodplain;
- 9—Short-term rentals;
- 10—Recreational activities on BBIA;
- 11—Overall support of ACSC;
- 12—Oil, Gas, and Mining;
- 13—Wetlands;
- 14—Beach access

BIPPA's South Beaches Combined-Input Comments:

(Comments pertain to the November 7, 2024 submittal by Brevard County of the Brevard Barrier Island Area (BBIA) new element for the Area of Critical State Concern).

The PROBLEM: The County and its Consultant collected over 700 resident and NGO comments in a survey and dozens of comments from their own LPA, but did not convert those comments into any more important Policy than had already existed in the Coastal Management Element of the 30-year-old Comprehensive Plan.

The SOLUTION: The South Beaches Combined-Input document below consolidated the resident and NGO comments into language that potentially reflects the intent of the Guiding Principles of F.S.380.0553 for the BBIA Appendix A.

Below are the FOUR (4) Primary Concepts and Sixteen (16) Important Changes relating to the Concepts that were prevalent among the Resident's and NGO's comments and the proposed Appendix A:

Four (4) Primary Concepts

- 1) Retention of existing DENSITY and INTENSITY to be compatible with Evacuation, Water and Waste, Flooding, Utilities and Habitat Conservation.
- 2) CONSERVATION, CLEAR-CUTTING AND FLOODING, including Land, Stormwater, Wetland, Floodplain, Dune and Native Vegetation management.
- 3) SEA TURTLE PRESERVATION, SHORELINE HARDENING and Coastal Construction SETBACKS. 4) CODE, LEGISLATION, OVERSITE and ENFORCEMENT

Sixteen (16) Important Changes suggested by Combined Input for Brevard's New Element

1) Policy 12 -DELETE all references to increasing density by "PUD", "Transition", and "Bonuses".

Other than policy 12.1 of the BBIA (which rightly mimics CME 7.1), Policy 12.2- is the complete opposite of 12.1 and 7.1 and the opposite of the entire GOAL and purpose of 380.0553 Guiding Principles. Much of Policy 12 allows the County to bypass the State for Amendments by declaring a PUD and then increasing density and mixed-use intensity within that PUD, circumventing the normally required submission to Commerce. Policy 12 was dropped in to the document "last minute" by the County and is of great concern.

Policy 12 introduces;

a) "PUD" language- Delete all;

- 1) **There is no PUD language in Ch 10, Coastal Management Element (CME) of the Brevard Comp Plan.** The PUD language has been recklessly lifted from the Comp Plan relating to the entire county of some 600,000 residents where large tracts of land are available.
 - 2) The BBIA has only 7,000 residents living on small land parcels. There are no tracts or properties in the BBIA available for development as PUD/Mixed Use (other than the existing and mostly built out Aquarina Golf Club from the 1980's).
 - 3) PUD designation, size, density and intensity are all controlled by the County. PUD language in the BBIA is designed to bypasses State oversight of F.S. 163.
 - 4) PUDs allow the county to increase density in violation of CME Policy 7.1 and the entire GOAL of the BBIA (ref: "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").
 - 5) The reasoning of the County to include PUD's is flawed because the Area of Critical State Concern is already a sub-set of 380.05(18) and therefore, not taking away any rights or value of current property owners. Adding specific PUD language muddies the waters, inviting litigation.
- b) "Transition" language – Delete all;**

Policy 12.5, 12.6, 12.7, 12.8 and the last sentence of 12.9 all allow for increase of density by Transition and violates CME 7.1. **There are no Transitional areas in the BBIA.** The BBIA is mostly built out as single-family, currently without "creeping" of density or intensity. Transition language is a ploy to circumvent State oversight in order to increase density and intensity and should be completely removed.

For example, if someone were to knock down 4 houses, zoned R-1, which are all now adjacent to a property that is zoned R-8, Policy 12.6 appears to allow, by “Transition” building 8 units per acre which 7.1 and 11.1 prohibits. Each of 12.1 through 12.8 are of identical language in 12.6 and all must be deleted. 12.9 thru 12.13 should also be deleted and possibly re-inserted after significant research.

c) “Bonuses” language for increased density – Delete all;

The most important function of the Area of Critical State Concern is to limit density and Intensity in the BBIA (as referenced in the ACSC public comment survey, attached). 25% bonuses for density are the complete opposite of the desires of the community and of the intent of the “Guiding Principles”.

Bonuses are inconsistent with C.M.E. 7.1 and Public Safety of evacuation.

All of the policies 12.1 thru 12.8 allow density to increase by “creeping”, as seen in Miami Beach all the way to Palm Beach. This is the direct opposite of C.M.E. 7.1 and Policy 12.1 of the BBIA which states “Brevard County Shall not increase density for properties in the BBIA”.

2) Policy BBIA 1.1

After the words “Future Land Use Map, add “and by signage visible from SR A1A,

This change addresses an important objective for success—the human dimension. Visitors and residents who recognize the BBIA as a special place will be more likely to accept changes and become constructive partners in area protection

3) Policy BBIA 2.1

After the words “Atlantic coast” add, “as defined in FS Title XI CH 161 Section 54, and any artificial conditions that would impede sea turtle nesting, and shall”. This co-ordinates with State Statutes and is more defined.

4) Policy BBIA 2.3

After the words “Brevard County shall”, add “improve and proactively enforce”; After the words “updated to meet or” add, “exceed reflect best practices found in the 2020 DEP Model Lighting Ordinance for Sea Turtle Protection” After the words “such as FWC” add, “To further protect sea turtles from harmful lighting, and to enhance natural scenic resources and promote aesthetic benefits of the natural environment, the County shall develop outreach, partnerships, and development and landscape criteria within its Land development regulations to achieve reduction of light pollution throughout the BBIA.” This co-ordinates with State Statutes and is more defined.

5) Policy 2.5.A.

After the words “vegetation on,” add “the buildable site without including the already unbuildable portion of the entire site east of the CSL. The calculation of the 50% allowable clearing of oceanfront properties shall not include property east of the CSL. The allowable clearing will be 50% of the remaining property east of the CSL.” After the words “coastal protection needs” add, “No building permit will be issued until the County building inspector has verified these criteria. The county shall enact and enforce a schedule of maximum-by-law monetary fines and building license warnings and revocations for violations. In the event the 50% criteria is violated, no building permit will be issued until the property is restored to the 50% condition. Same as 7.1 below

6) Policy 4.7 – DELETE entirely.

This is not well thought out. It does not triage overall costs of compliance with alternative methods. It would require an enormous expense by a homeowner, when a better use of funds is warranted, at the unilateral discretion of the County.

7) Policy 3.2, 5.2.A, B, and D, 5.4, 5.6, 5.7, 5.8, 6.13, 7.2.H, 7.5, 7.6, 7.8, 8.8, and 9.5

The word “Should” is changed to the word “Shall” in several places in these policies.

Brevard County is notorious for ignoring code violations due to its policy of “passive” enforcement. Unless a violation is reported by a resident, a violation is NOT enforced. The resident must give their name and address, which leaves room for retaliation and discourages people from reporting violations. Items that the County “should” do will NOT be done. We only changed items we thought were necessary to meet the guiding principles. Several have not been changed.

8) Policy 5.8

After the words “flooding impacts,” add “and shall exclude all properties from the exemption in Brevard County ordinance Section 62, ART. XIII, Div. 2, 62-4334 Landscaping, Land Clearing and Tree protections”.

Currently any property in the BBIA, by the County’s exemption in 62-4334, can clear-cut 100% of the trees, many of which are over 100 years old with extensive root systems that prevent erosion and runoff, protecting the land on this fragile barrier island from being completely overrun by a storm surge. This exclusion-of-the- exemption protects the land and the Indian River Lagoon from runoff and prevents massive flooding, reducing evacuation times and saving lives during hurricanes. This edit does not change, in any way, the intended footprint of the building; The current 62-4334 says, “The following land uses and activities shall be exempt from the requirements of this Division 62, (2) Single family lots that are 1.25 acres or less.” WELL, Since ALL of the lots are “1.25 ACRES or less” than ALL of the BBIA is subject to 100% clear-cutting.

The county wrote 28 pages of regulations about Specimen, Heritage and other trees and then EXEMPTED ALL important trees that are in the 28 pages of code. That was not an accident. The BBIA needs to be exempt from the 62-4334 exemption and we believe this will also increase property values.

9) Policy 6.9.C. – after the word “transportation” add “and the Indian River Sheriff’s Dept.”

The BBIA extends into Indian River County. Most of the evacuation of the BBIA is over the Sebastian Inlet Bridge and coordination between the two Counties is required.

10) Policy 7.1

After the words “reduce runoff.” Add 2 new sentences “The fifty percent allowable clearing of ocean side properties shall not include property east of the CSL or CCCL. The allowable clearing shall be fifty percent of the remaining property not east of the building or CSL or CCCL, whichever is most westerly.”

This is a different issue than 62-4334 which allows all properties to be clear-cut. Even if the 62-4334 is excluded in Policies 5.8 and 8.1, 100% of properties can by clear-cut unless the calculation of buildable area is changed to exclude the already unbuildable dune and foliage east of all oceanfront properties. Currently, 95% of buildable oceanfront lots are being clear-cut. This is because of the unintended way the calculation is made. It’s a loop-hole that is destroying the 50+ year-old root systems holding the sand in place to prevent flooding, and destroying irreplaceable Specimen and Heritage trees, that protect RESILIANCY, on a daily basis. It is already illegal and environmentally unsound to build in the unbuildable area of the lot. Regardless, this area is being included in the 100%, so the builder uses the already unbuildable area to claim it counts as the 50% that cannot be cut. The dune vegetation east of the home already cannot be cut. Therefore, it should not be allowed as a credit for destroying whatever tree canopy is left in the BIAA. This edit does not change, in any way, the intended footprint of the building.

11) Policy 8.1.C

After the word “vegetation,” add “specifically Specimen, Heritage and important hardwoods and other trees as defined by section 62, ART. XIII, Div. 2, Landscaping Clearing and Tree Preservation”; delete “unless exempt by ordinance”. This is the same reasoning as in Policy 5.8 above. This edit does not change, in any way, the intended footprint of the building.

12) Policy 10.6

Add letters “D and E.” “D. To enhance natural scenic nighttime views unique to the Space Coast, the County shall develop outreach, partnerships, and criteria to minimize inland light pollution throughout the BBIA” and “E. As the density and community character of the BBIA shall not be disturbed, the utility poles shall be restricted to the current heights, widths, and numbers of poles.”

The 70-foot-high poles that have been placed in Indian River and north of the BBIA are an industrial look that no one wants in their beachside neighborhood. Further, the eye-sore is not appreciated by tourists or land-based residents driving on the designated A1A Scenic Highway to the Sebastian Inlet State Park. How it was allowed further north is anybody's guess but it is definitely not compatible with the community character, as required, by 380.0553.

13) Objective 11

After the word “Brevard County” add, “shall ensure that development is compatible with the unique characteristics of the BBIA and shall not increase intensity or density, zoning or designations, or allow density swaps or exchanges within the BBIA.” This prevents moving densities from different parts of the BBIA to other parts, which would overwhelm certain areas and otherwise destroy the community character as described in the BBIA.

14) Policy 12.1

Consistent with Policy CM 7.1 of the Coastal Management Element, Brevard County shall not increase residential or commercial, density intensity, zoning or designations. ~~residential densities within the BBIA. by amending the Future Land Use Map designation for such properties.~~

15) Policy 12.4-12.9 DELETE Entirely- These are full of “Transitional” language that does not apply and there are no viable additional buildable Residential 15 sites in the BBIA.

16) Policy 12.10 – DELETE Entirely- Community Commercial – There is no viable current or FLU Community Commercial Zoning in the BBIA.

In addition, there are several other smaller changes consistent with these above throughout the Amendment that support the 4 Concepts and 16 Major Issues, but are not listed above.

Also, the numbering will need to be adjusted as we have recommended deleting certain policies entirely due mostly to redundancies elsewhere.

BELOW are the South Beaches Combined-Input proposing Edits to PART XVI, BREVARD BARRIER ISLAND AREA ELEMENT. We Have only included the sections with changes to make the document shorter to read.

PART XVI

BREVARD BARRIER ISLAND AREA ELEMENT

BBIA Boundary

Policy BBIA 1.1

The BBIA shall be shown on the Future Land Use Map, and by signage visible from SR A1A, as that portion of Brevard County formed by the southern boundary of the Town of Melbourne Beach, the Indian River as the western boundary, the Atlantic Ocean as the eastern boundary, extending south to the Sebastian Inlet, specifically including lands in unincorporated Brevard County's jurisdiction within the following

townships, ranges, and sections as designated by the Brevard Public Land Survey System: 28-3817-18, 28-38-20-21, 28-38-28, 28-38-33-34, 29-38-03, 29-38-10-11, 29-38-14-15, 29-38-22-24, the barrier island portion only of 29-38-27, 29-38-25-26, 29-38-35-36, 29-39-31, 30-38-01, 30-39-06-08, 30-39-17-18, and 30-39-20. The objectives and policies contained within this local comprehensive plan apply exclusively to properties within the BBIA in unincorporated Brevard County.

Sea Turtle Habitat Objective BBIA2

Brevard County shall prevent the adverse impacts of development on resources critical to sea turtle habitat.

Policy BBIA 2.1

Brevard County shall prohibit new shoreline hardening structures on the Atlantic coast, as defined in FS Title XI CH 161 Section 54, and any artificial conditions that would impede sea turtle nesting, and shall develop strategies for the removal of existing structures and re-establishment of the natural dune system.

Policy BBIA 2.3

Brevard County shall improve and proactively enforce lighting regulations in order to eliminate the visibility of artificial or otherwise man-made light to nesting female and hatchling turtles. Such regulations shall be periodically reviewed and updated to meet or exceed reflect best practices found in the 2020 DEP Model Lighting Ordinance for Sea Turtle Protection in coordination with organizations such as FWC. To further protect sea turtles from harmful lighting, and to enhance natural scenic resources and promote aesthetic benefits of the natural environment, the County shall develop outreach, partnerships, and development and landscape criteria within its Land development regulations to achieve reduction of light pollution throughout the BBIA.

Policy BBIA 2.4

Beach renourishment and dune restoration plans shall continue to be designed and implemented in accordance with local, State, and federal regulations so that sea turtle nesting is not disrupted. Proper grain size for nourishment sediments shall be enforced.

Policy BBIA 2.5

The Land Development Regulations shall maintain regulations governing the location, construction, and maintenance of development adjacent to the Atlantic shoreline.

Development seaward of the CSL 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 the buildable site without including the already unbuildable portion of the entire site east of the CSL. The calculation of the 50% allowable clearing of oceanfront properties shall not include property east of the CSL. The allowable clearing will be 50% of the remaining property east of the CSL. In addition, native dune vegetation seaward of the CSL shall not be removed unless necessary for approved emergency vehicle access or coastal protection needs. No building permit will be issued until the County building inspector has verified this criteria. The county shall enact and enforce a schedule of maximum-by-law monetary fines and building license warnings and revocations for violations. In the event the 50% criteria is violated, no building permit will be issued until the property is restored to the 50% condition.

- 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 predevelopment recharge volume and rate.
- C. Reducing setbacks from A1A will be considered where it is necessary to maintain and maximize setback requirements from the ocean.
- D. Reconstruction or replacement of shoreline hardening structures on the Atlantic Ocean that meet or exceed that are more than fifty (50) percent of the existing linear footage destroyed shall be considered new construction for purposes of Policy BBIA 2.1 above and shall be regulated as such, except for the maintenance of existing public navigational projects.
- E. Underground storage tanks or the storage of hazardous materials are not permitted.
- F. Septic tank or septic tank drainfields shall not be permitted seaward of the CSL. Septic tanks shall be located landward of the most seaward portion of the habitable structure.

Policy BBIA 2.6

Brevard County shall enforce development restrictions associated with the CSL and re-evaluate the effectiveness of this line within 5 years of the enactment of BBIA Appendix A and every ten years afterwards or sooner if from time to time—coastline changes dictate. The public will be broadly notified no later than 3 months before re-evaluations. The County shall provide the Florida Department of Environmental Protection (FDEP) with their findings and request a review of the 1981 FDEP Coastal Construction Control Line (CCCL), ~~if deemed appropriate.~~

Policy BBIA 2.7

Outer Continental Shelf (OCS) activities such as oil and gas exploration, or mining other than for beach sand as previously provided in this Amendment, adjacent to Brevard County shall not be approved ~~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 OCS and offshore drilling leases proposed for waters adjacent to the County. This policy change does not discourage or otherwise prohibit OCS sand and gravel mining activities conducted as part of Brevard County's shore protection and restoration strategy.

Water Quality Restoration Objective BBIA 3 Policy BBIA 3.2

Land use decisions relating to water resources and natural drainage features ~~shall~~ should be consistent with comprehensive water basin management plans. Area wide water quality management plans ~~will~~ should be considered during implementation and updates of the BMAP. All new development shall meet the established stormwater requirements.

Policy BBIA 3.3

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; protect or improve water quality; 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 ~~shall~~ should be designed and operated so as to minimize harm to non-target organisms or natural ecosystems.

Policy BBIA 3.5 – 3.10 should be deleted as they are already included in the Comprehensive Plan’s Coastal Management Element. New water quality restoration goals are needed for the BBIA.

Reducing Nutrient Contributions Objective BBIA 4

Brevard County shall reduce nutrient contributions from septic tanks by prioritizing wastewater improvement projects and discouraging the use of new Onsite Sewage Treatment and Disposal Systems on the BBIA. ~~And wastewater facilities, stormwater discharges, and agriculture nonpoint sources into the Indian River Lagoon.~~

Policy BBIA 4.1 – 4.6 should be deleted, as they are already included in Comprehensive Plan’s Sanitary Sewer Element. New Sanitary Sewer requirements should be included in the BBIA.

Policy BBIA 4.8 – should be deleted, as it is already included in the Brevard County Comprehensive Plan’s Coastal Management Element.

Policy BBIA 4.11

Brevard County shall coordinate with partners such as Florida Department of Agriculture and Consumer Services (FDACS) and the University of Florida Institute of Food and Agricultural Sciences to provide fertilizer management BMP information to agricultural and golf course operators within the BBIA.

Policy BBIA 4.12

Brevard County acknowledges that FDEP will not permit the installation of new onsite sewage treatment and disposal systems (OSTDS) in the BBIA where a sewer system is available. If sewer is not available, only enhanced nutrient reducing OSTDS achieving at least 65 percent nitrogen reduction shall be authorized in compliance with section 373.469, F.S., as amended.

Policy BBIA 4.13

Brevard County will update its Code of Ordinances to include requirements that support and enforce the provisions in Policy BBIA 4.12~~6~~ and as required by section 373.469, F.S., as amended.

Policy BBIA 4.14

Brevard County will update its Code of Ordinances, ~~no later than July 1, 2030,~~ to require that any commercial or residential property with an existing OSTDS within the BBIA will connect to a sewer system if available. If sewer is unavailable or not planned to become available within 5 years, Brevard County will require that existing OSTDS be upgraded to an enhanced nutrient reduction, achieving at least 65 percent nitrogen reduction, per section 373.469, F.S., as amended, no later than July 1, 2030.

Nature-Based Solutions Objective BBIA 5

Brevard County shall support innovative, nature-based solutions including living shorelines, and freshwater and coastal wetland restoration.

Policy BBIA 5.1

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

Policy BBIA 5.2

Within its land development regulations, Brevard County shall develop strategies to prioritize modification of existing development that does not meet stormwater management standards within the Stormwater Management Criteria and should use available financial mechanisms for the modification of such development.

Criteria:

- A. Stormwater management facilities within existing developments ~~shall~~ ~~should~~ be retrofitted 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 include 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.
- B. Site specific stormwater maintenance plans to ensure that all facilities are ~~should be~~ maintained at design capacity.
- C. Properties with bulkheads or seawalls shall be enhanced 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 quality and rate of runoff is equivalent to the pre-development state.
- D. Properties with altered vegetated shorelines shall be required 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 quality and rates shall be identified and evaluated and shall ~~should~~ be equivalent to the pre- development state.

Policy BBIA 5.3 should be deleted, as it already exists in the Brevard County Comprehensive Plan.

Policy BBIA 5.4

Nonstructural methods of stormwater management that reduce the generation and accumulation of potential stormwater runoff contaminants ~~shall~~ ~~should~~ be utilized to the maximum extent possible.

Nonstructural methods of stormwater management may include pesticide and herbicide control, proper fertilizer management, erosion control, and proper waste disposal. 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 BBIA 5.8

The County ~~—should~~ ~~shall~~ ~~continue to encourage~~ require development to meet nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts and shall exclude all properties from the exemption of Brevard Code 62-4334. Such adaptation strategies ~~may~~ shall include:Criteria:

- A. Multi-use stormwater parks,
- B. Bioswales as stormwater management techniques,
- C. Green streets,
- D. Decreasing impervious areas

E. Florida-friendly landscaping/xeriscaping, or Ecological asset preservation (e.g., tree canopy, natural areas, mangroves, wetlands, dunes, aquifer recharge areas). **Critical Assets Objective**

BBIA 6

Brevard County shall safeguard against adverse economic, social, environmental, and public health and safety impacts posed by flooding and storm surge by protecting critical assets identified in section 380.093, F.S.

Policy BBIA 6.7

Brevard County shall maintain acceptable hurricane evacuation times based upon the following:

Criteria:

- A. The information contained in the Florida Regional Evacuation Study.
- B. ~~The goal to c-~~ Create and test a plan before June 1, 2025 to complete all evacuations prior to the onset of tropical storm force (39 mph) winds, as outlined in the Evacuation Concept of Operations.
- C. The requirements of F.S. 163.3

Policy BBIA 6.8

Brevard County shall coordinate with all appropriate agencies, specifically with the Indian River Sheriff's Department in reference to evacuation over the Sebastian Inlet Bridge and Highway A1A leading to the Wabasso Causeway, and manage the planning for, and implementation of, evacuations as outlined in the Evacuation Concept of Operations. Mock evacuation studies simulating hurricane landfall for all categories of hurricanes will be performed every 4 years.

Policy BBIA 6.9

Brevard County shall identify roadway and operational improvements to the hurricane evacuation network based upon capabilities, limitations, and vulnerabilities.

Criteria:

- A. Priority shall be given to improvements of roadway networks serving hurricane evacuation routes with the greatest number of people.
- B. Brevard County, in cooperation with the Florida Department of Transportation and the Indian River Sheriff's department, shall identify key hurricane evacuation routes that are vulnerable to flooding, erosion and critical points of congestion. The County shall certify by June of each year that they are prepared to meet required statutory evacuation times in the BBIA for all categories of hurricanes. during the established evacuation time. Brevard County shall present recommended roadway, operational and maintenance improvements to the appropriate implementing and funding agencies.

Policy BBIA 6.10

In those areas where citizens cannot be evacuated within the adopted evacuation clearance times outlined in the Florida Regional Evacuation Study, development orders will be deferred until such time as adequate evacuation capacity has been programmed.

Policy BBIA 6.13

Within the BBIA, Brevard County ~~shall~~ should continue to analyze those public structures within the high-risk vulnerability zone or coastal zone that are most likely to be damaged or destroyed during a hurricane, flood, or storm surge. The analysis shall be conducted prior to Jan 1, 2030 and consider the following, 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 permitted when consistent with the Conservation Element and the Coastal Management 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. 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 Local Mitigation Strategy and shall be coordinated with other appropriate agencies.
- F. The impact of sea level rise and erosion data shall also be analyzed and considered.

Policy BBIA 6.16

The County ~~shall designate~~ ing certain portions of the BBIA as Adaptation Action Areas (AAAs), as allowed by Florida law under the 2011 Community Planning Act, as a mechanism to prioritize resilient planning, infrastructure investments, and strategies to address current and future flood impacts in areas identified as vulnerable to coastal flooding, storm surge, and sea level rise.

Policy BBIA 6.17

The County ~~shall utilize~~ ould consider the results of the Brevard County Vulnerability Analysis when planning for development, redevelopment, and improvements to critical facilities and infrastructure.

Policy BBIA 6.18

The County ~~shall utilize relevant~~ ould consider initiatives within the Brevard County Emergency Operations Local Mitigation Strategy (LMS) and ECFRPC RRAP that focus on solutions for flood impacts; and develop methodologies for prioritizing public project expenditures based on a cost-benefit analysis, feasibility, and short- versus long-term benefits.

Policy BBIA 6.19

The County ~~shall~~ ould identify development and redevelopment performance standards designed to minimize or withstand permanent and/or temporary inundation from flooding, sea level rise, and storm surge. These standards may include increased freeboard elevations, the consideration of future tailwater elevations for stormwater infrastructure, and/or multi-use temporary flood storage areas.

Policy BBIA 6.20

The County ~~should~~ shall continually identify strategies and engineering solutions that minimize the loss of flood storage capacity in all floodplains and areas vulnerable to natural hazards such as flooding, storm surge, and sea level rise, and consider incorporating them into the Land Development Regulations. Policy BBIA 6.21

The County should pursue private and public funding sources for the implementation of flood resiliency strategies – including, but not limited to, avoidance, protection, accommodation, strategic relocation - within areas identified as vulnerable to current and future flooding and erosion impacts.

Objective BBIA 7.1- 7.4 should be deleted, as it is already included in the Brevard County Comprehensive Plan.

Marine Resources Objective BBIA 7

Brevard County shall protect shoreline and marine resources, including mangroves, seagrass beds, wetlands, sea turtles, manatees, and fish and wildlife, and related habitats. “The fifty percent allowable clearing of ocean side properties shall not include property east of the CSL or CCCL. The allowable clearing shall be fifty percent of the remaining property not east of the building or CSL or CCCL, whichever is most westerly.” **Policy BBIA 7.5**

The County shall prohibit mining operations within the BBIA other than for beach sand pumped from the adjacent ocean, all of which will remain in the BBIA. ~~its 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.~~
- B. ~~_____ Mining operations shall not cause saltwater intrusion. Monitoring by the mining operator shall be required to insure this requirement.~~

Policy BBIA 7.6

Prior to development of any property that, based on best available data, potentially contains wildlife habitat, wetlands, or shoreline or marine or upland resources, an environmental assessment ~~should~~ shall be completed by an environmental professional that would analyze the impact of the proposed development on the resources. For the purposes of this policy, the term “development” excludes renovation, rehabilitation, or remodeling of any existing structure only when such activity does not include a change in the size of the structure on the land or any clearing of land. Developers using this exclusion will be required to certify that no foliage will be removed or damaged. No building permit will be issued until the County building inspector has verified these criteria prior to development. The county shall enact and enforce a schedule of maximum-by-law fines and building license warnings and revocations for violations. In the event of a violation, no building permit will be issued until the land is restored to its original condition.

Policy BBIA 7.7 should be deleted, as it is already required by law.

Policies BBIA 7.8 – 7.16 should be deleted, as they are already included in the Brevard County Comprehensive Plan.

Upland Resources Objective BBIA 8

Brevard County shall protect upland resources, including dune ridges, beaches, wildlife, and related habitats.

Policy BBIA 8.1

Brevard County shall maintain and proactively enforce regulations to eliminate unwarranted address premature land clearing and promote revegetation, including Specimen, Heritage and important hardwoods and other trees as defined by Brevard Code Section 62, Art. XIII, Div 2 g the following minimum criteria.

Criteria:

- A. Require permitting prior to any land clearing. ~~unless exempt by ordinance.~~
- B. Require phased clearing in conjunction with phased construction.
- C. Require permits for the removal of trees or vegetation in conjunction with land surveying . ~~unless exempt by ordinance.~~
- 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.~~ Locally native vegetation should be utilized to the maximum extent possible. E. Require tree and canopy preservation, including root protection standards.

Policy BBIA 8.3

Brevard County shall protect individual, mature, native, canopy-forming trees such as live oaks, gumbo limbo, and sabal palm, Specimen, heritage and important hardwood trees as described in Brevard Code Sec. 62.XIII. and shall conserve vegetative communities, especially maritime hammock, coastal dune, coastal scrub, and mangrove, from inappropriate development using the following minimum criteria: conserve, appropriately use and protect vegetative communities, including forests, from inappropriate development using the following minimum criteria:

Criteria:

- ~~A. Require vegetative buffers surrounding developed properties. Heat Island Mitigation.~~
- ~~B. Require like-for-like replacement of removed native trees and shrubs. Vegetative Buffering.~~
- ~~C. Provide incentives to replace turf with native canopy species. Vegetative Loss Replacement.~~

Policy BBIA 8.4

Brevard County shall establish inland development regulations criteria for enhanced vegetative buffering between development and the Indian River Lagoon and the Atlantic Ocean.

Policy BBIA 8.5

Brevard County shall continue to ~~protect develop programs for acquisition of~~ unique vegetative communities and protect upland resources, including dune ridges, beaches, and wildlife ~~and related~~ habitats, through land acquisition and conservation easements. Each year, Brevard County shall evaluate its land acquisition needs for the BBIA relative to local, state, and federal funding opportunities, and apply to at least one state or federal land acquisition funding opportunity. This acquisition shall be voluntary and shall not include the use of eminent domain.

Policy BBIA 8.6

Brevard County shall, with coordinated involvement from Parks and Recreation, Environmentally Endangered Lands, and Public Works Departments, continue to ensure removal of invasive exotic plants 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 appropriate native vegetation ~~where feasible.~~

Policy BBIA 8.8

Prior to development of any property that, based on best available data, potentially contains wildlife habitat or upland natural resources, an environmental assessment ~~should~~ shall be completed by an environmental professional that would analyze the impact of the proposed development on the resources. For the purposes of this policy, the term “development” ~~excludes~~ also includes renovation, rehabilitation, or remodeling of any existing structure ~~—only when such activity does not include a change in the size of the structure on the land or any clearing of land as an adjunct of construction.~~

Policy BBIA 8.12

Brevard County shall ~~continue to~~ adopt and enforce standards for maintenance and ~~or~~ re-establishment of dune areas within the BBIA that exceed minimum standards elsewhere in the County. These standards shall include, at a minimum, the following provisions:

Criteria:

- A. Native dune vegetation shall be maintained and restored on site unless removal or alteration is permitted by both Brevard County and FDEP, and 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 crossovers, boardwalks, walkways and other permissible structures seaward of the CSL shall be elevated above dune vegetation and shall be designed to allow adequate sunlight penetration ~~—light penetration~~ and to minimize entrapment hazards to nesting sea turtles.
- E. Shore-parallel boardwalks shall be prohibited seaward of the CSL except where there is a public need, and where alternatives for handicap access, such as beach wheelchairs, are impractical. ~~except as required to comply with Americans with Disability Act (ADA) access.~~
- F. Dunes that have incomplete coverage of native shrubby vegetation, herbs, and grasses, shall be prioritized for dune revegetation. Privately owned dune shall be required to maintain dune vegetation as in County and State standards for new construction, within a reasonable grace period. ~~Publicly owned dunes, especially those identified for beach access sites, that 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 that 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 BBIA 9.1 should be deleted as it is already in the Brevard County Comprehensive Plan.

Policy BBIA 9.2

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. Restoration of the original saltmarsh shoreline of the Indian River Lagoon shall progress through county, state and federal partnerships.
- C. The following specific uses are not compatible with the resource requirements of the onehundred-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.

Policy BBIA 9.5

Brevard County ~~shall~~ ~~should~~ employ Best Management Practices for control of erosion and sedimentation for road construction and other County projects.

Policy BBIA 9.7

The Brevard County Land Development Regulations shall require all new development being site planned or subdivided to provide for stormwater management that meets the following Level of Service Standards, at a minimum:

Criteria:

- A. Retention and detention requirements shall at a minimum meet SJRWMD 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. The County shall consult with the Florida Flood Hub at USE, in 2025 and every 5 years thereafter, to determine if the 25-year, 24-hour storm event threshold is still relevant or if more stringent requirements are needed.
- 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 BBIA 10.3

The County shall require riverfront breezeways to permit unrestricted movement of breezes and to preserve visual access to the river. All developed riverfront property ~~except single-family residential~~ shall have a minimum of 30 percent clear of vertical construction as a breezeway/visual corridor

Policy BBIA 10.5

SR A1A, from southern corporate limits of City of Melbourne Beach to the Indian River County Line is designated as a scenic roadway in order to preserve the adjacent natural features. ~~The County shall consider requiring bicycle lanes to adhere to the US Department of Transportation standards improving bicycle safety.~~

Policy BBIA 10.6

Brevard County shall encourage the protection and preservation of scenic features through implementation of the following:

Criteria:

- A. Property owners along designated roadways shall be encouraged to preserve trees and vegetation during development of these properties.
- B. Billboards and other physical barriers, such as fences, exceeding four feet in height, excluding primary and accessory structures, that interfere with or prevent visual access to the scenic qualities of the roadways designated as scenic resources, shall be prohibited. Non-conforming existing billboards and the referenced opaque physical barriers shall be amortized.
- C. Native vegetation and trees growing adjacent to scenic roadways within the rights-of-way for those roads shall be protected by the land development regulations regarding land clearing activities except in those cases involving health and safety concerns.
- D. To enhance natural scenic nighttime views unique to the Space Coast, the County shall develop outreach, partnerships, and criteria to minimize inland light pollution throughout the BBIA.
- E. As the density and community character of the BBIA shall not be disturbed, the utility poles shall be restricted to the current heights, widths, and numbers of poles.

Compatibility

Objective BBIA 11

Brevard County shall ensure that development is compatible with the unique characteristics of the BBIA and shall not increase intensity or density, zoning or designations, or allow density swaps or exchanges within the BBIA.

Policy BBIA 11.2 should be deleted, as it is written to “maximize opportunities” for marinas.

Policy BBIA 12 should delete all references to PUD, transition and bonus densities and clarify that no density or intensity bonuses will be authorized.

Policy BBIA 12.1

Consistent with Policy CM 7.1 of the Coastal Management Element, Brevard County shall not increase residential or commercial intensities, zoning or designations. residential densities within the BBIA by amending the Future Land Use Map designation for such properties.

Residential 1 – BBIA Future Land Use Policy BBIA 12.4

The Residential 1 – BBIA land use designation permits low density residential development with a maximum density of up to one (1) unit per acre. The Residential 1 – BBIA land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 1 land use designation—; or
- B. ~~Areas that serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser density; or~~
- C. ~~Unincorporated areas that are adjacent to incorporated areas and may be considered a logical transition for Residential 1.~~
- D. ~~Up to a 25% density bonus to permit up to 1.25 dwelling units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy FLU 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized by properties within the CHHA.~~

Residential 2 – BBIA Future Land Use Policy BBIA 12.5

The Residential 2 – BBIA land use designation permits lower density residential development with a maximum density of up to two (2) units per acre. The Residential 2 – BBIA land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 2 land use designations but not adjacent to Residential 1; or
 - B. ~~Areas that serve as a transition between existing land uses or land use designations with density greater than two (2) units per acre and areas with density of less than two (2) units per acre; or~~
 - C. ~~Unincorporated areas that are adjacent to incorporated areas and may be considered a logical transition for Residential 2.~~
- ~~Up to a 25% density bonus to permit up to 2.5 dwelling units per acre may be considered where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy FLU 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote interconnectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.~~

Residential 4 – BBIA Future Land Use Policy BBIA 12.63

The Residential 4 – BBIA land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre. The Residential 4 – BBIA land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 4 land use designation but not adjacent to Residential 1 or 2 or;
- B. ~~Areas that serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or~~
- C. ~~Unincorporated areas that are adjacent to incorporated areas and may be considered a logical transition for Residential 4.~~
- D. ~~Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy FLU 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.~~

Residential 6 – BBIA Future Land Use Policy BBIA 12.7

The Residential 6 – BBIA land use designation affords a transition in density between higher density areas and lower intensity land uses. This land use designation permits a maximum density of up to six (6) units per acre. The Residential 6 - BBIA land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 6 land use designation but not adjacent to Residential 1, or 2, or 4; ~~or~~
- B. ~~Areas that serve as a transition between existing land uses or land use designations with density greater than six (6) units per acre and areas with density of less than six (6) units per acre; or~~
- C. ~~Unincorporated areas that are adjacent to incorporated areas and may be considered a logical transition for Residential 6. Up to a 25% density bonus to permit up to 7.5 dwelling units per acre may be considered where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy FLU 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.~~

Residential 8 – BBIA Future Land Use Policy BBIA 12.8

~~The Residential 8 – BBIA land use designation affords a transition in density between higher density areas and lower intensity residential uses. This land use designation permits a maximum density of up to eight (8) units per acre. Areas adjacent to existing Residential 8 land use designation may not be increased in density or intensity. Areas of Residential 8 that are currently used for lower densities may not be used for Residential 8.~~

~~Residential 15 – BBIA Future Land Use Policy BBIA 12.~~

6

~~The Residential 15 – BBIA land use designation affords the highest density allowance, permitting a maximum density of up to fifteen (15) units per acre. The Residential 15 – BBIA land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:~~

~~Criteria:~~

- ~~A. — Areas located east of Interstate 95, except in instances where they are adjacent to existing or designated residential densities of an equal or higher density allowance; and~~
- ~~B. — Unincorporated areas that are adjacent to incorporated areas and may be considered a logical transition for Residential 15 area;~~
- ~~C. — Areas adjacent to an existing Residential 15 land use designation; and~~
- ~~D. — Areas that have access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.~~
- ~~E. — Up to a 25% density bonus to permit up to 18.75 dwelling units per acre may be considered where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy FLU 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote interconnectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.~~

Neighborhood Commercial – BBIA Future Land Use Policy BBIA 12.9

Neighborhood Commercial – BBIA development activities are intended to be low impact in nature and serve the needs of the immediate residential area. Intrusion of these land uses into surrounding residential areas shall be limited. Existing BU-1-A uses that were established as of the adoption date of this provision shall be considered consistent with this policy. Minimum public facilities and services are required for commercial uses, as specified in Policy FLU 2.4 of the Future Land Use Element. Development activities that may be considered within Neighborhood Commercial Future Land Use designation, provided that listed criteria are met, include the following:

- a) Professional offices (no drive through lanes permitted);
- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses pursuant to Policy FLU 2.11 of the Future Land Use Element; e) Institutional uses; and

- f) ~~Recreational uses; and~~
- g) ~~Public Facilities~~

~~—The zoning classifications that may be considered in Neighborhood Commercial as transitional uses are: RA 2-4, RA 2-6, RA 2-8, RA 2-10, RU 2-4, RU 2-6, RU 2-8, RU 2-10, RU 2-12, RU 2-15, RU 2-30, BU 1-A, and IN(L).~~

Locational and development criteria for neighborhood commercial land uses are as follows:

Criteria:

- A. Neighborhood commercial clusters should be located at collector/collector or collector/arterial intersections, except as otherwise provided for in this Comprehensive Plan.
- B. Due to the linear nature and lack of intersections along SR A1A south of Melbourne Beach, new neighborhood commercial uses may not be considered along these roadways in the BBIA.
- C. New neighborhood commercial land use sites should incorporate no more than two acres maximum at each corner of an intersection, as set forth in Criterion A of this policy. Neighborhood commercial land uses at such intersections should not exceed eight (8) acres total.
- D. Neighborhood commercial development clusters should be spaced at least three (3) miles apart.
- E. The gross floor area of neighborhood commercial development should not exceed a Floor Area Ratio (FAR) of 0.75 unless zoned and providing adequate roadways, solid waste disposal, hazardous waste disposal, potable water, wastewater treatment, and drainage facilities to serve the needs of the development are available concurrent with its impacts. Due to the linear nature and lack of interstate interchanges via arterial and principal collector transportation corridors along SR A1A south of Melbourne Beach, new recreational vehicle parks shall not be considered within the BBIA. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

~~Community Commercial — BBIA Future Land Use Policy BBIA 12.~~

~~8. Community Commercial — BBIA Future Land Use Policy BBIA 12.108~~

~~Community Commercial — BBIA development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Minimum public facilities and services are required for commercial uses, as specified in Policy FLU 2.4 of the Future Land Use Element. Development activities that may be considered within the Community Commercial Future Land Use designation, provided that listed criteria are met, include the following:~~

- a) ~~Existing strip commercial;~~
- b) ~~Transient commercial uses;~~

- c) ~~Tourist commercial uses;~~
- d) ~~Professional offices;~~
- e) ~~Personal service establishments;~~
- f) ~~Retail establishments;~~
- g) ~~Non-retail commercial uses;~~
- h) ~~Residential uses pursuant to Policy FLU 2.11 of the Future Land Use Element; i) Institutional uses;~~
- j) ~~Recreational uses; and~~
- k) ~~Public facilities;~~

~~Locational and development criteria for community commercial land uses are as follows:~~

~~Criteria:~~

- A. ~~Community commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For community commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.~~
- B. ~~Community commercial complexes should not exceed 40 acres at an intersection.~~
- C. ~~Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.~~

~~The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification. The gross floor area of a community commercial development shall not exceed a FAR of 1.0 unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.~~

- D. ~~Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.~~

Public Facilities – BBIA Future Land Use Policy BBIA 12.10

Appropriate locations for Public Facilities - BBIA land uses should be based upon the following minimum criteria:

~~Criteria:~~

- A. Public facilities are those uses that, at a minimum, relate to government- managed transportation, sanitary sewer, potable water, solid waste, drainage, conservation, education, government service systems, and other utilities such as gas, electric, telephone and cable. An exception should be made for transmission or collection facilities, rights-ofways, and

easements. Public facilities are also those uses classified as scientific research and technology development activities conducted by non-governmental organizations (NGOs) in formal partnership with governmental entities. Such NGOs shall provide economic, environmental and/or quality of life benefits to Brevard County. Specific land-use activities include either: life science research, ocean, coastal and marine research and technology development, or environmental science research. Public Facilities that are NGOs in formal partnership with governmental entities shall not exceed a FAR of 0.25

- B. Public facilities land uses may be considered for locations within all land use designations on the Future Land Use Map provided such uses are compatible with adjacent land uses consistent with this Comprehensive Plan.
- C. Following the purchase, lease or dedication of property for public facility purposes, the Comprehensive Plan shall be amended to depict the property as Public Facility on the Future Land Use Map.
- D. Brevard County shall encourage the use of common corridors for utility systems, including sanitary sewer, potable water, re-use, electricity, gas and other utilities.

In order to maximize the efficiency of public facilities and resources, Brevard County and Brevard Public Schools should strive to coordinate use of existing school facilities for public use. In addition, development of new libraries, parks and recreation facilities, children's services facilities, and other appropriate public uses on properties adjoining school sites should also be coordinated.

~~Recreation — BBIA Future Land Use Policy BBIA~~

~~12.10~~

~~The Recreation — BBIA land use designation may be adopted as part of the Future Land Use Map to identify appropriate locations for public recreation land uses, based upon the following minimum criteria:~~

~~Criteria:~~

- ~~A. — Recreation land uses may be considered within all land use designations on the Future Land Use Map, provided such uses are compatible with adjacent land uses. The County shall consider compatibility parameters including, but not limited to, hours of operation, anticipated traffic volumes, and landscaping and buffering.~~
- ~~B. — Following acquisition by Brevard County of the property for public recreational purposes, the Future Land Use Map shall be amended to depict said property as Recreation on the Future Land Use Map.~~

Objective BBIA 13 should be removed, as it is already contained in State Statute.

~~— Removal of Area of Critical State Concern Designation Objective BBIA 13~~

~~The BBIA may be recommended for de-designation by the state land planning agency, and such designation may be removed by the Administration Commission, provided certain conditions are met.~~

~~Sufficiency of Local Plan and Land Development Regulations Policy BBIA 13.1~~

Brevard County acknowledges that the state land planning agency may at any time recommend the removal of the designation of the BBIA as an area of critical state concern to the Administration Commission if the agency determines that all local land development regulations and local comprehensive plans and the administration of such regulations and plans are adequate to protect the BBIA and carry out the legislative intent expressed in section 380.0553(3), F.S., and are in compliance with the principles for guiding development specified in section 380.0553(5), F.S.

Criteria for De-designation Policy BBIA

13.2

Brevard County acknowledges that the state land planning agency must recommend removal of the designation to the administration commission if it determines that:

- Adequate restoration and renourishment programs are in place to preserve the beaches and dunes of the southern barrier island in Brevard County for nesting sea turtles;
- A. — Seagrass replanting in the Indian River Lagoon extending the length of the BBIA is in a coverage volume that would establish recovery to scientifically defensible reference targets;
- B. — Nonpoint pollution sources into the Indian River Lagoon that contribute to total phosphorus, total nitrogen, chlorophyll a, fecal coliform, and metals have been sufficiently reduced to meet water quality criteria standards resulting in the removal of the Indian River Lagoon from the impaired waters list;
- C. — The green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), and leatherback sea turtle (*Dermochelys coriacea*) have been delisted from the Florida Endangered and Threatened Species rule and the Florida Marine Turtle Protection Act under section 379.2431, F.S., as may be amended from time to time;
- D. — The Brevard County local comprehensive plan, its land development regulations, and the administration of such plans and regulations are adequate to protect the BBIA, fulfill the legislative intent specified in section 380.0553(3), F.S., and are consistent with and further the principles guiding development; and
- E. — The Brevard County Commission has adopted a resolution at a public hearing recommending the removal of the designation.

Timeline for De-designation Policy BBIA 13.3

Brevard County acknowledges that the Administration Commission must initiate rulemaking to remove the BBIA area of critical state concern designation within 45 days after receipt of the recommendation from the state land planning agency, if the commission concurs with the recommendation for removal.