

## ORDINANCE 25-\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AMENDING CHAPTER 62, ARTICLE III, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA ENTITLED "COMPREHENSIVE PLAN", SETTING FORTH AMENDMENTS NECESSARY TO IMPLEMENT SECTION 380.0553, FLORIDA STATUTES, THE BREVARD BARRIER ISLAND PROTECTION ACT; SPECIFICALLY AMENDING SECTION 62-501 ENTITLED "CONTENTS" TO ADOPT GOALS, OBJECTIVES AND POLICIES FOR THE BREVARD BARRIER ISLAND AREA AS PART XVI TO THE COMPREHENSIVE PLAN; PROVIDING LEGAL STATUS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Section 163.3161 et. seq., Florida Statutes established the Local Government Comprehensive Planning and Land Development Regulation Act, also referred to as the Community Planning Act; and

**WHEREAS**, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a comprehensive plan as scheduled by the Department of Commerce; and

**WHEREAS**, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

**WHEREAS**, Section 163.3184, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

**WHEREAS**, Section 163.3191, Florida Statutes, established the requirement for local governments to periodically perform an Evaluation and Appraisal Review of its comprehensive plan and adopt amendments (EAR based amendments) that are necessary to update the plan to reflect a minimum planning period of ten (10) years and reflect changes in state requirements; and

**WHEREAS**, the state land planning agency (Florida Commerce) established December 1, 2023, as the deadline to submit an Evaluation and Appraisal Review Notification Letter to the agency; and

**WHEREAS**, the state land planning agency requires that if amendments to the comprehensive plan are necessary, the local government shall prepare and transmit within one year such plan amendments for review pursuant to Section 163.3184; and

**WHEREAS**, Brevard County submitted and Evaluation and Appraisal Review Notification Letter on November 28, 2023; and

**WHEREAS**, Brevard County has prepared goals, objectives and policies necessary to implement the requirements of the Brevard Barrier Island Area as contained in Section 380.0553, Florida Statutes; and

**WHEREAS**, the Board of County Commissioners of Brevard County, Florida, has provided for the broad dissemination of proposals and alternatives, opportunity for written public comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto, including the Florida Legislature's designation of the Brevard Barrier Island Area as an Area of Critical State Concern; and

**WHEREAS**, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said Local Planning Agency; and

**WHEREAS**, the County's Local Planning Agency conducted a duly noticed public hearing on October 14, 2024, and recommended transmittal of the EAR based amendments pertaining to the Brevard Barrier Island Area to the State land planning agency for review; and

**WHEREAS**, the Board of County Commissioners conducted a duly noticed public hearing on November 7, 2024, and approved transmittal of such amendments to the State land planning agency for review; and

**WHEREAS**, on January 21, 2025 the State land planning agency issued its Objections, Recommendations, and Comments (ORC) report; and

**WHEREAS**, the Board of County Commissioners has reviewed and addressed the Objections, Recommendations and Comments report; and

**WHEREAS**, the Local Planning Agency conducted a duly noticed public hearing on June 16, 2025, and recommended adoption of the amendments establishing goals, objectives, and policies for the Brevard Barrier Island Area; and

**WHEREAS**, the Board of County Commissioners conducted a duly noticed public hearing on July 17, 2025, and adopted the amendments establishing goals, objectives and policies for the Brevard Barrier Island Area.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA** as follows:

**SECTION 1.** Recitals. The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference.

**SECTION 2.** Authority. This Ordinance is adopted in compliance with and pursuant to Florida law, including but not limited to, Sections 163.3184, 163.3191, 380.05, and 380.0553, Florida Statutes

**SECTION 3.** Adoption of Comprehensive Plan Amendment. Pursuant to Section 380.0553, Florida Statutes, Chapter 62, Article III, Brevard County Code, is hereby amended as shown in the Brevard Barrier Island Area Appendix 3 attached hereto and incorporated into this Ordinance by this reference.

**SECTION 4.** Legal Status of the Plan Amendment. After and from the effective date of this Ordinance and in accordance with Section 7 below, this plan amendment shall amend the 1988 Plan, as amended, and become part of the 1988 Plan and the plan amendment shall retain the legal status of the 1988 Plan established in Chapter 62, Article III, Brevard County Code of Ordinances, as amended.

**SECTION 5.** Inclusion in Code. Upon the effective date of the Comprehensive Plan Amendment adopted by this Ordinance, the contents of the amendment, shall be incorporated into the Brevard County Comprehensive Plan as Appendix 3.

**SECTION 6.** Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**SECTION 7.** Effective Date. 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, the 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.

DONE AND ADOPTED, this seventeenth day of July, 2025.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Rachel M. Sadoff, Clerk

By: \_\_\_\_\_  
Rob Feltner, Chair

As approved by the Board on July 17, 2025

**PART XVI**

**BREVARD BARRIER ISLAND AREA ELEMENT**

## **GOAL, OBJECTIVES, AND POLICIES**

### **INTRODUCTION**

The southern portion of Brevard County's barrier island was designated as an Area of Critical State Concern by the Florida Legislature in 2023, as codified in Section 380.0553, F.S. The Brevard Barrier Island Area of Critical State Concern (BBIA) represents one of the most fragile and endangered coastal ecosystems and vulnerable communities in North America, due to its natural upland and marine habitats, critical sea turtle nesting grounds, nationally significant wildlife refuge conservation area, direct connection to and impacts on the nationally significant Indian River Lagoon system, economically valuable fishery, and high vulnerability of public health and safety during hurricane events. Through the implementation of this comprehensive plan, the critical functions of these natural resources are protected. Orderly and balanced growth are promoted in accordance with the existing facilities and services and the population can be safely evacuated in the event of a hurricane.

### **GOAL**

Protect the BBIA's natural environmental and ecological resources, community character, and public health and safety.

### **Designation of the BBIA**

#### **Objective BBIA 1**

Brevard County locally establishes and delineates the southern portion of the County's barrier island as the BBIA in compliance with Section 380.0553, F.S.

### **BBIA Boundary**

#### **Policy BBIA 1.1**

The BBIA shall be shown on the Future Land Use Map (FLUM) 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: 28-38-17-18, 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.

## **Legislative Findings for the BBIA**

### **Policy BBIA 1.2**

Brevard County recognizes and affirms the below findings of the Legislature in determining the necessity of designating the BBIA:

- A. The southern barrier island of Brevard County represents one of the most fragile and endangered coastal ecosystems in North America, and the beaches, dunes, coastal scrub, and maritime hammock areas of the barrier island ecosystem represent some of the most fragile and endangered natural upland communities in the State and nation.
- B. The beaches of the region are among the most important nesting grounds for threatened and endangered sea turtles in the Western Hemisphere. The beach running the length of the southern barrier island of Brevard County is home to the largest nesting aggregation of loggerhead sea turtles in the world, and the management decisions made in the region have global impacts for the species.
- C. The Archie Carr National Wildlife Refuge is located within the barrier island of Brevard County and is a significant conservation area designated to protect habitat at the most significant area for loggerhead sea turtle nesting in the world, at the most significant area for green turtle nesting in North America, and for a diverse array of plant and animal species.
- D. The Indian River Lagoon, designated as an Estuary of National Significance by the United States Environmental Protection Agency (EPA) in 1990, borders the western shore of the barrier island of Brevard County, and the natural habitats of the barrier island ecosystem protect the water quality and productivity of the Indian River Lagoon
- E. The salt water recreational fishery of the Indian River Lagoon generates hundreds of millions of dollars per year in local economic benefit.
- F. Density limitations and natural resource protection on the barrier island of Brevard County have decreased public tax burdens associated with the provisions of services, building and maintenance of infrastructure for barrier island residential developments, and public costs for rebuilding public and private structures following severe erosion events.

- G. Protection of the primary dune system of the barrier island of Brevard County provides the only protective buffer for local development from storm surges associated with tropical storms and hurricanes.
- H. The entirety of the barrier island of Brevard County lies within a zone that is the first to be subject to mandatory evacuation protocols due to the vulnerability of the barrier island in hurricane events and the adverse impacts of such vulnerability on evacuating safely.

### **Legislative Intent for the BBIA**

#### **Policy BBIA 1.3**

Brevard County acknowledges the intent of the Legislature, in its establishment of the BBIA, to:

- A. Establish a land use management system that protects the natural environment of the BBIA;
- B. Establish a land use management system that promotes orderly and balanced growth in accordance with the capacity of existing public facilities and services;
- C. Protect and improve the Indian River Lagoon ecosystem, including improving water quality of the BBIA through federal, State, and local funding of water quality improvement projects; and
- D. Ensure that the population of the BBIA can be safely evacuated in the event of a hurricane.

### **Guiding Principles for Development within the BBIA**

#### **Policy BBIA 1.4**

Brevard County shall develop and implement its local comprehensive plan and its associated land development regulations to ~~be consistent~~ ensure consistency with all of the guiding principles for development within the BBIA as specified in section 380.0553(5), F.S. This includes ensuring that its programs and regulatory activities are consistent with these principles. The guiding principles for development specified in section 380.0553(5), F.S., shall constitute the basis of Objectives BBIA 2, BBIA 3, BBIA 4, BBIA 5, BBIA 6, BBIA 7, BBIA 8, BBIA 9, BBIA 10, and BBIA 11.

### **Conflicting Policies**

#### **Policy BBIA 1.5**

Where there is any conflicting policy or regulation applicable to the BBIA, the more restrictive shall apply.

## **Sea Turtle Habitat**

### **Objective BBIA 2**

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, including rigid coastal structures as defined in Rule 62B-33, F.A.C., as amended, in accordance with Florida's Marine Turtle Protection Act, section 379.2431(1), F.S., on the Atlantic coast and develop strategies for the removal of existing structures and re-establishment of the natural dune system.

#### **Policy BBIA 2.2**

Brevard County shall continue to protect the natural beach and dune system of the Atlantic Ocean through the implementation of the following minimum criteria:

##### **Criteria:**

- A. Limit development water-ward of the Brevard County Coastal Setback Line (CSL) to those structures necessary to protect the natural dune system and to provide beach access.
- B. Brevard County shall continue to maintain Florida Building Code construction standards for all development within Federal Emergency Management Agency (FEMA) Special Flood Hazard Areas and the Coastal High Hazard Area (CHHA).

#### **Policy BBIA 2.3**

Brevard County shall maintain lighting regulations in order to eliminate the visibility of artificial or otherwise man-made light to nesting female and hatchling turtles and to establish mitigation strategies for any artificial lighting that becomes visible from the sandy beach. Such regulations shall be periodically reviewed and updated within twelve (12) months following an update to guidelines and to reflect best practices in coordination with organizations such as as established by the Florida Fish and Wildlife Conservation Commission (FWC), the Florida Department of Environmental Protection (FDEP), and other applicable agencies and organizations. Such review shall include addressing any areas with documented impacts to nesting habitats due to artificial lights.

#### **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. Brevard County shall 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 sandy beach while providing beach access.

### **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 site. In addition, native dune vegetation seaward of the CSL shall not be removed unless necessary for approved emergency vehicle access or coastal protection needs.
- B. In order to maintain the freshwater lens of the surficial aquifer and reduce saltwater intrusion, post-development groundwater recharge volume and rate shall equal pre-development recharge volume and rate.
- C. Reducing setbacks from [State Road A1A \(SR A1A\)](#) will be considered where it is necessary to maintain and maximize setback requirements from the ocean.
- D. Reconstruction [or replacement of fifty \(50\) percent or more](#) of a shoreline hardening structures on the Atlantic Ocean ~~that are more than fifty (50) percent destroyed~~ shall be considered new construction for [the](#) 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 tanks 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 [continue to](#) enforce development restrictions associated with the CSL and re-evaluate the effectiveness of this line ~~from time to time~~ [by December 31, 2030, and at least every ten \(10\) years thereafter or](#) as coastline changes dictate. ~~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.~~ [In evaluating the CSL, the County shall consider data such as erosion analyses, storm surge and velocity, dune vegetation coverage, and wildlife habitat.](#)

### **Policy BBIA 2.7**

Outer Continental Shelf (OCS) activities such as oil and gas exploration or mining adjacent to Brevard County are discouraged for several reasons. The County's beaches are

the most heavily nested beaches by sea turtles in the western Atlantic. Impacts to water quality, beach quality, and fisheries could negatively impact the threatened and endangered species that nest here. Brevard County should review and comment on all OCS and offshore drilling leases proposed for waters adjacent to the County. This policy 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**

Brevard County shall prioritize water quality restoration projects for the Indian River Lagoon.

#### **Policy BBIA 3.1**

The Natural Resources Management Department shall be the lead agency for the development and implementation of the Stormwater Management Plans and shall coordinate its efforts with FDEP and the St. John's River Water Management District (SJRWMD) on the Basin Management Action Plan (BMAP), Total Maximum Daily Loads (TMDLs), and the National Pollution Discharge Elimination System (NPDES) permit schedule and requirements.

#### **Policy BBIA 3.2**

If during the time that the Stormwater Ordinance is being reviewed and updated, it becomes apparent that additional regulations are required in order to protect water quality in surface water bodies in Brevard County, the County will initiate protective regulations through the adoption or revision of land development regulations.

#### **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 ~~should~~ shall be designed and operated ~~so as to minimize~~ with the minimization of harm to non-target organisms or natural ecosystems as part of the design and operation criteria.

#### **Policy BBIA 3.4**

The channelization, dredging, or impoundment of natural waters of the State shall be prohibited, except where no practical alternative exists for those operations necessary to correct existing threats to public health or safety, allow maintenance of existing

navigational waterways, improve water quality, or provide reasonable access to water dependent shore-based facilities. All practical steps shall be taken to minimize adverse impacts to biological attributes of the water resources and water-dependent natural systems.

#### **Policy BBIA 3.5**

Brevard County shall continue to participate in the development and implementation, as appropriate, of the BMAP, as developed in coordination with ~~the~~ FDEP and SJRWMD.

#### **Policy BBIA 3.6**

Brevard County shall coordinate with ~~the~~ FDEP to develop and implement BMAPs to comply with NPDES permits and meet the TMDLs established for local surface waters.

#### **Policy BBIA 3.7**

Brevard County shall coordinate surface water management and protection efforts with the Indian River National Estuary Program (IRLNEP), FDEP, SJRWMD, and other appropriate agencies.

#### **Policy BBIA 3.8**

Brevard County shall support ~~the~~ SJRWMD's mapping of submerged aquatic vegetation within the Indian River Lagoon system. Evaluation results shall be made available to municipalities and other agencies or programs. Areas that show decline should be targeted for increased watershed management, including non-point source pollution control. Management strategies shall be coordinated with the municipalities and other agencies.

#### **Policy BBIA 3.9**

Brevard County shall continue to participate in ~~the~~ IRLNEP and other advisory committees and groups related to improving water quality in the Indian River Lagoon.

#### **Policy BBIA 3.10**

Brevard County supports the goals of the IRLNEP Comprehensive Conservation and Management Plan (CCMP) for recovery of the Lagoon. This support is reflected in the strategies identified in the County's annual submittal to the ~~United States Environmental Protection Agency (EPA)~~ Work Plan, as amended, for the CCMP.

### **Reducing Nutrient Contributions**

#### **Objective BBIA 4**

Brevard County shall reduce nutrient contributions from septic tanks and wastewater facilities, stormwater discharges, and agriculture nonpoint sources into the Indian River Lagoon.

**Policy BBIA 4.1**

Brevard County shall maintain its practice of no new direct discharges of wastewater into surface water bodies.

**Policy BBIA 4.2**

Untreated wastewater shall not be discharged into drainage ditches, surface waters, or aquifers.

**Policy BBIA 4.3**

Brevard County shall continue to analyze drainage basins to identify the impact of drainage facilities on adjacent natural resources, including water quality of receiving waters. Such analysis shall be incorporated into basin prioritization in stormwater area studies.

**Policy BBIA 4.4**

Brevard County shall continue to identify and map both point and non-point sources of pollution within the Indian River Lagoon watershed to reduce pollutant loading sources. This program shall be coordinated with other federal, State and local agencies.

**Policy BBIA 4.5**

Where illegal or accidental discharges of materials, or violations of water quality standards are observed, such violations shall be reported to the appropriate federal or State regulatory agencies for further action and enforcement.

**Policy BBIA 4.6**

Brevard County shall review and comment, as necessary, on dredge-and-fill applications.

**Policy BBIA 4.7**

Brevard County should require stormwater retrofits during redevelopment for existing development that does not meet current stormwater management standards.

**Policy BBIA 4.8**

Brevard County shall continue to implement performance standards for marinas and marine-related facilities. Such performance standards shall comply with the Brevard County Manatee Protection Plan (MPP), as amended, and provide for the protection of water quality and include the maintenance and containment of stormwater runoff and wash-down water for dry storage areas.

**Policy BBIA 4.9**

Brevard County shall continue to develop and implement regulations governing live-aboard vessels. Such regulations shall include the following criteria at a minimum:

**Criteria:**

- A. Live-aboard vessels moored outside of marinas shall be required to utilize pump-out facilities or a **municipal centralized** sewer facility if they are moored for over three (3) days.
- B. Floating structures shall be connected to pump-out facilities or a **municipal centralized** sewer facility.

#### **Policy BBIA 4.10**

Retrofitting or modification of existing marina facilities shall be required to meet the criteria within the MPP, as amended, and the following minimum criteria:

##### **Criteria:**

- A. Stormwater retention/detention requirements as established by County and State stormwater management criteria.
- B. Substantially expanded marina facilities shall retain all work area runoff. For those projects with combined detention areas of five (5) acres or greater, the work area runoff shall be retained in a separate retention area. In addition, the first inch of stormwater runoff from a 10-year, 24-hour storm event shall be retained on site or shall meet the water quality standards as required by the State, whichever is more restrictive. For projects with a combined detention area of less than five (5) acres, stormwater and work area runoff may be retained in a single retention/detention area.
- C. When ten (10) slips or ten (10) percent or more of the total number of slips, whichever is greater, are added, pump-out facilities shall be required, as recommended by the Marine Sanitation Study (1990), sufficient to accommodate the pump-out requirements concurrent with the total number of slips.
- D. Prior to operation of any new marina fueling facility or expansion due to an existing facility, a fuel management/spill contingency plan will be developed and provided to the Natural Resources Management Department for review. The plan shall describe methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a fuel spill.

#### **Policy BBIA 4.11**

Brevard County shall coordinate with partners such as **the** Florida Department of Agriculture and Consumer Services (**FDACS**) and the University of Florida Institute of Food and Agricultural Sciences to provide fertilizer **management Best Management Practices 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 4.16 12 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, 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.

### **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**

Prior to implementing major improvements to existing structural controls within existing floodplains, Brevard County shall ~~identify structural controls within the floodplain that degrade natural systems~~ evaluate potential degradation to natural and artificial ecosystems that may result from those controls and make recommendations for alternatives to ~~mitigate impacts or~~ re-establish the natural floodplain where feasible.

#### **Policy BBIA 5.2**

Brevard County shall address 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. During modification of existing development, stormwater management facilities within existing developments 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. All facilities should be maintained at design capacity.

- B. During modification of existing development, 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.
- C. During modification of existing development, properties with altered vegetated shorelines shall be enhanced 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 should be equivalent to the pre-development state.

### **Policy BBIA 5.3**

Brevard County shall consider innovative methods of stormwater treatment other than standard retention and detention basins, which shall include such alternatives as stormwater reuse and nature-based stormwater management systems.

### **Policy BBIA 5.4**

Nonstructural methods of stormwater management that reduce the generation and accumulation of potential stormwater runoff contaminants ~~should~~ shall be utilized to the maximum extent ~~possible~~ feasible. 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 5.5**

Mosquito impoundments should be reconnected to the Indian River Lagoon where benefits can be demonstrated to increase habitat value of the impoundments and benefits to the Lagoon.

### **Policy BBIA 5.6**

Using best available data, the County should ~~consider identifying~~ identify areas vulnerable to current and future flooding impacts that may benefit from nature-based design standards and/or Low Impact Development projects that reduce run-off; mitigate flood impacts; provide for the on-site absorption, capture, and reuse of stormwater; and preserve and restore natural drainage characteristics.

### **Policy BBIA 5.7**

Brevard County ~~should~~ shall continue to evaluate and recommend new design and development standards for public and private infrastructure projects that consider future climate conditions and amend Land Development Regulations ~~as necessary~~ to reduce

obstacles that hinder nature-based design standards and/or Low Impact Development. [The County shall conduct this review and recommendation process at least as frequently as the regular Evaluation and Appraisal Review of this Comprehensive Plan.](#)

#### **Policy BBIA 5.8**

The County ~~should~~ [shall](#) continue to encourage [or require](#) nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts, [as part of enhanced Land Development Regulations for the BBIA](#). Such adaptation strategies may include:

**Criteria:**

A. [Living shorelines](#)

B. [Multi-use stormwater parks,](#)

~~BC.~~ [Bioswales as stormwater management techniques,](#)

~~ED.~~ [Green streets,](#)

~~DE.~~ [Reduced impervious areas,](#)

~~EF.~~ [Florida-friendly landscaping/xeriscaping, or](#)

~~FG.~~ [Ecological asset preservation \(e.g., tree canopy, natural areas, mangroves, wetlands, dunes, aquifer recharge areas\).](#)

#### **Policy BBIA 5.9**

[The County shall coordinate with organizations such as IRLNEP and the Marine Resources Council to promote the use of living shoreline design and support efforts to educate the public on the benefits of living shorelines throughout the BBIA.](#)

#### **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 6.1**

[Public facilities should not be located within wetland areas or the 100-year estuarine floodplain unless the following apply:](#)

**Criteria:**

A. [The facilities are water-dependent, such as mosquito control facilities; or,](#)

- B. The facilities are water-related, such as boat ramps, docks or surface water management facilities; or,
- C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,
- D. The building structures are flood-proofed and located above the 100-year flood elevation, or removed from the floodplain by appropriately constructed dikes or levees; or,
- E. The facilities are found to be in the public interest and there is no feasible alternative.

#### **Policy BBIA 6.2**

Brevard County shall require hurricane plans to be submitted to the Florida Division of Emergency Management in conjunction with marina site plans for review.

#### **Policy BBIA 6.3**

Brevard County shall not support or finance new local transportation corridors that lie within the ~~coastal high hazard area~~ CHHA or areas zoned as Environmental Area, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the existing densities programmed on the ~~Future Land Use Map (FLUM)~~ series of the Comprehensive Plan or for the protection of the transportation facilities from flooding and storm surge.

#### **Policy BBIA 6.4**

Brevard County should not locate sewer and water transmission lines within the ~~coastal high hazard area~~ CHHA, except where there is no practical and cost-feasible alternative due to engineering; ~~and safety~~ ~~and cost considerations; constraints; where there is a~~ lack of alternative existing rights-of-way; ~~;~~ or for septic to sewer conversion projects selected specifically to improve ground and surface water quality. Such transmission lines shall be designed to withstand flooding and storm surge.

#### **Policy BBIA 6.5**

If County utility lines are relocated for any purpose, they should be located outside of the ~~coastal high hazard area~~ CHHA, except where there is no cost-feasible alternative and such lines are designed to withstand flooding and storm surge.

#### **Policy BBIA 6.6**

Public facilities, except for recreational facilities, shall not be located by Brevard County within the ~~coastal high hazard area~~ CHHA, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the existing densities programmed

on the FLUM series of the Comprehensive Plan, to improve surface or groundwater quality, or for the protection of the public facilities from flooding and storm surge.

**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 complete all evacuations prior to the onset of tropical storm force (39 mph) winds, as outlined in the Evacuation Concept of Operations.

**Policy BBIA 6.8**

Brevard County shall coordinate with all appropriate agencies and manage the planning for, and implementation of, evacuations as outlined in the Evacuation Concept of Operations.

**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, shall identify key hurricane evacuation routes that are vulnerable to flooding, erosion, and critical points of congestion during the established evacuation time.
- C. 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 may be deferred until such time as adequate evacuation capacity has been programmed.

**Policy BBIA 6.11**

Brevard County shall consider hurricane evacuation times, as well as other factors including vulnerability to flooding and storm surge, in determining the timing and priority of roadway improvements that are programmed by the Board of County Commissioners.

**Policy BBIA 6.12**

Brevard County shall support Brevard Public Schools in their efforts to utilize enhanced emergency shelter protection standards for all reconstruction and new development as outlined in the most current Florida Statewide Emergency Shelter Plan.

**Policy BBIA 6.13**

Brevard County ~~should~~ shall 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 occur at least every five (5) years in coordination with Emergency Management 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 permissible 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~~ CHHA shall be included within this study.
- E. The study shall be consistent with the East Central Florida Regional Planning Council (ECFRPC) 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 6.14**

In the event of a disaster, all infrastructure and other County-owned improvements that were not included within the above outlined study shall be analyzed to determine the cost effectiveness of relocation versus repair.

**Policy BBIA 6.15**

The County should utilize a range of sea level rise projections as recommended in the adopted East Central Florida Regional Resilience Action Plan (RRAP), as amended, for planning purposes based upon vulnerability, risk, project service life of a facility, or growth management.

**Policy BBIA 6.16**

The County should consider designating Adaptation Action Areas (AAAs), as allowed by Florida law, 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 ~~should~~ shall 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 should work to reduce hazard exposure for coastal communities by coordinating with municipalities and ECFRPC to identify, scope, and recommend hazard mitigation projects as outlined in the Local Mitigation Strategy. The County shall include the BBIA within its hazard mitigation project planning outlined in Coastal Management Element Policy CM 14.5.~~

**Policy BBIA 6.19**

The County should 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 impacts. As funding opportunities arise, the County should consider removing real property structures from coastal FEMA flood zones through

acquisition of repetitive loss properties or properties at risk of loss, for use as green space or stormwater management.

#### **Policy BBIA 6.22**

Brevard County ~~should~~ shall continue to analyze the best available data to maintain or update relevant and current coastal hazard vulnerability projections and update maps, as applicable. The County should continue to identify and understand the risks, vulnerabilities, and opportunities for strategies within short, mid, and long-term planning horizons as established in the RRAP Formal Recommendation, as amended.

#### **Policy BBIA 6.23**

Brevard County shall coordinate with the municipalities and appropriate State agencies ~~to maintain Evacuation Zone Management Plans as described in the Coastal High Hazard section of the Coastal Management Element as well as in managing and implementing~~ the recommendations found within the Brevard County Comprehensive Emergency Management Plan, as amended.

#### **Policy BBIA 6.24**

Brevard County, in conjunction with Brevard Public Schools and the appropriate municipalities within Brevard County shall identify issues relating to public school emergency preparedness, such as the design and use of public schools as emergency shelters.

### **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.

#### **Policy BBIA 7.1**

Brevard County shall continue to protect Submerged Aquatic Vegetation (~~SAV~~) from the impacts of local land development by implementing the Surface Water Protection Ordinance, as may be amended. At a minimum, the following criteria shall be addressed:

##### **Criteria:**

- A. Maintain and enhance upland vegetation within required setbacks to reduce runoff.
- B. Require proper use of turbidity screens during construction activities.
- C. Control discharge rates to promote on-site settlement of sediment loads and meet minimum retention requirements for runoff from storm events.

### **Policy BBIA 7.2**

Brevard County shall establish in land development regulations criteria for enhanced vegetative buffering between development and marine resources, so as to reduce the impacts of nutrient loading, shoreline erosion, and lighting on natural resources. This shall include restoration standards for properties with disturbed shorelines.

### **Policy BBIA 7.3**

Brevard County shall preserve, protect, and replace wetlands to achieve no net loss of functional wetlands. The County shall ensure the protection of wetlands and wetland functional values by prioritizing protective activities with avoidance of impacts as the first priority, minimization of impacts as the second priority, and mitigation for impacts as the third priority. The County shall maintain regulations that promote no net loss of functional wetlands, in accordance with Conservation Element Policy CON 5.2.

### **Policy BBIA 7.4**

Wetland regulations adopted by Brevard County should avoid duplication of wetland regulation unless regulated activities will result in the destruction and/or degradation of functional wetlands. Where the wetland degradation or destruction has been permitted by FDEP or SJRWMD based on FDEP and SJRWMD professional staff application of criteria and evaluation, the County shall apply the avoidance, minimization of impacts, and mitigation priorities and land use and density requirements of this ~~local~~ Comprehensive Plan. Any permitted wetland degradation or destruction shall provide for mitigation.

### **Policy BBIA 7.5**

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

#### **Criteria:**

- A. Mining operations should not adversely impact protected wetlands or other water-dependent systems and shall be set back a minimum of 100 feet from such wetlands.
- B. Mining operations shall not cause saltwater intrusion. Monitoring by the mining operator shall be required to ~~insure~~ ensure this requirement.

### **Policy BBIA 7.6**

Prior to ~~any alteration or~~ development of any property that, based on best available data, potentially contains wildlife habitat, wetlands, or shoreline or marine 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 “~~alteration or~~ 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 as an adjunct of construction.

#### **Policy BBIA 7.7**

All development and activities shall comply with the ~~Brevard County Manatee Protection Plan~~ MPP, as amended. Brevard County, in coordination with applicable partners such as FWC, shall continue to monitor manatee protection measures to determine their effectiveness.

#### **Policy BBIA 7.8**

~~All existing and new marinas shall~~ Prior to issuance of Certificate of Occupancy for new or redeveloped marinas, the County shall require the applicant to erect manatee education and awareness signs that will be posted and maintained in a prominent location. Each marina operator shall establish and maintain a permanent manatee educational display at a prominent location at their marina. Brevard County shall ~~establish and continue to maintain a display~~ displays at public boat launch facilities and license tag agencies.

#### **Policy BBIA 7.9**

Brevard County shall continue to maintain well-marked speed limit signs, in accordance with the uniform waterway marker program, for manatee protection and boating safety speed zones established by local ordinance only.

#### **Policy BBIA 7.10**

Brevard County, or other appropriate agencies, shall develop a standardized information packet containing information regarding manatees and regulations protecting manatees for distribution by the U.S. Fish and Wildlife Service (FWS), FDEP, Brevard Marine Association, and other agencies or groups as appropriate. This will include information concerning the existing manatee slow speed or idle zones; and any additional zones that may be deemed necessary within areas frequented by manatees.

#### **Policy BBIA 7.11**

Brevard County supports the use of Turtle Excluder Devices (~~TEDs~~) or other devices to protect wildlife from shrimp and other fishing nets.

#### **Policy BBIA 7.12**

Brevard County's mosquito impoundment management plans shall continue to address the following criteria, at a minimum:

##### **Criteria:**

- A. The primary use of mosquito control impoundments shall be to protect human health through the control of mosquito populations. Secondary uses may include stormwater management, habitat improvement, wildlife management, and other uses as appropriate. Brevard County shall encourage multiple uses of mosquito control impoundments.

- B. Appropriate water management systems shall be utilized.
- C. Impoundments shall be restored or reconnected with the Indian River Lagoon when a public benefit can be demonstrated.
- D. Any other "source reduction" mosquito control activities that also reduce the natural habitat required by freshwater or marine organisms should be prohibited.
- E. Mosquito control impoundments shall be managed in a manner that avoids adverse impacts to the water quality of receiving water bodies.

**Policy BBIA 7.13**

Brevard County shall continue to include seagrass protection within the MPP performance standards for marinas and marine-related facilities.

**Policy BBIA 7.14**

Brevard County shall continue to implement standards for marina and boat ramp siting within the coastal zone that shall address the following criteria at a minimum:

**Criteria:**

- A. All proposed marina siting projects in unincorporated areas of Brevard County shall come before the Board of County Commissioners for ~~their~~ its review. Marina development may be considered within any appropriate zoning classification, if it is consistent with the performance standards developed by the County. Uplands at the marina site shall be greater than or equal to one acre. Residential marinas shall be allowed as a permitted use, subject to the boat facility siting criteria established in the MPP, as amended, and in the policies under Objectives CON 3 and CON 9 of the Conservation Element, in all of the current conditional use zoning classifications for residential/recreational marinas, except Recreational Vehicle Park (RVP) and Government Managed Lands (GML).
- B. At the beginning of the zoning or development order application process, all marina and boat ramp development proposals must submit a conceptual plan to be reviewed by the Natural Resources Management Department for compliance with the MPP, as amended.
- C. Brevard County shall coordinate with applicable partners, including FWC, on the development of new marinas and the expansion of existing marinas to ensure the project is consistent with the Brevard County MPP.

**Policy BBIA 7.15**

Marinas shall be inspected ~~periodically~~ at least every five (5) years by Brevard County and results of these inspections shall be coordinated with other agencies.

**BREVARD BARRIER ISLAND AREA**

Inspections shall be coordinated with existing programs and duplication with existing inspection programs shall be avoided. Items to be inspected and reviewed may include the following.

**Criteria:**

- A. Pump-out facilities and marine sanitation devices, if required. Live-aboard vessels and floating structures at marinas shall be inspected to ensure that marine sanitation devices are present and operational.
- B. Compliance with power/sailboat mix, if required.
- C. Spill prevention, control, containment, and cleanup plans.
- D. Waste collection and disposal methods.
- E. Firefighting equipment, if required.
- F. Monitoring of marina basin water quality for bacteriological levels to ensure compliance with state and federal standards. If a water monitoring program is required, water-dependent uses shall be assessed an annual fee adequate to fund a water quality monitoring program.

**Policy BBIA 7.16**

Brevard County shall utilize available management plans in developing standards for marina siting and other water-dependent uses. These management plans include, but are not limited to, Aquatic Preserve Management Plans, the Surface Water Improvement Management (SWIM) Plan, and the IRLNEP CCMP.

**Policy BBIA 7.17**

Brevard County shall coordinate with FWC during design and modification of water control structures to prevent harm to manatees.

**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 regulations to address premature unpermitted land clearing and revegetation, including the following minimum criteria.

**Criteria:**

- A. Require permitting prior to 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 and adverse impacts to other natural resources including wildlife habitat; within ninety (90) days of initial land clearing activity where no approved landscape plan exists; or no active development order has been issued. Native vegetation should be utilized to the maximum extent possible. Require monitoring and maintenance of revegetated areas to ensure successful establishment of plantings.
- E. \_\_\_\_\_ Require tree and canopy preservation, including root protection standards.

#### **Policy BBIA 8.2**

Brevard County should continue to utilize scientific advisory groups to investigate preservation of vegetation, particularly of upland communities. These groups are ad hoc based upon the direction of the Board of County Commissioners ~~direction~~. The Environmentally Endangered Lands Program, Selection and Management Committee (~~SMC~~) may also be used to support these investigations when consistent with policy.

#### **Policy BBIA 8.3**

Brevard County shall conserve, appropriately use, and protect vegetative communities, including forests, from inappropriate development using the following minimum criteria:

##### **Criteria:**

- A. \_\_\_\_\_ Heat Island Mitigation.
- B. \_\_\_\_\_ Vegetative Buffering.
- C. \_\_\_\_\_ Vegetative Loss Replacement.

#### **Policy BBIA 8.4**

Brevard County shall establish in land development regulations criteria for enhanced vegetative buffering between development and ~~the upland resources of the~~ Indian River Lagoon and the Atlantic Ocean, so as to reduce the impacts of nutrient loading, shoreline erosion, and lighting on natural resources. This shall include restoration standards for properties with disturbed native vegetation.

#### **Policy BBIA 8.5**

Brevard County shall ~~continue to develop programs for~~ prioritize acquisition of unique vegetative communities in the BBIA to protect upland resources, including dune

ridges, beaches, and wildlife and related habitats. This acquisition shall be voluntary and shall not include the use of eminent domain.

#### **Policy BBIA 8.6**

Brevard County shall continue to ensure removal of invasive exotics 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 at size and scale approximating the removed invasive exotics, so as to reduce the impacts of nutrient loading, shoreline erosion, and lighting on natural resources.

#### **Policy BBIA 8.7**

Brevard County shall continue to make available State and federal maps at the pre-application stage of all projects requiring site-plan or subdivision approval to guide future development away from crucial habitats.

#### **Policy BBIA 8.8**

Prior to any alteration or 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 “alteration or 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 as an adjunct of construction.

#### **Policy BBIA 8.9**

Brevard County shall continue to comply with the County-wide scrub-jay Habitat Conservation Plan as approved by ~~the US Fish and Wildlife Service~~ FWS.

#### **Policy BBIA 8.10**

When deemed necessary by, and in coordination with, FWC and/or FWS, Brevard County shall develop and comply with management plans for other species, ~~as deemed necessary.~~

#### **Policy BBIA 8.11**

The County shall continue to implement education programs to promote the preservation of crucial habitats related to Species of Greatest Conservation Need, as defined by the FWC State Wildlife Action Plan ~~endangered and threatened species and species of special concern as well as their habitat~~, with the assistance of ~~the~~ FDEP, the Florida Fish and Wildlife Conservation Commission FWC, and the U.S. Fish and Wildlife Service FWS, and other agencies or groups as appropriate.

### **Policy BBIA 8.12**

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

#### **Criteria:**

- A. Native dune vegetation shall be maintained 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 for vegetation, and shall not include lighting.
- E. Shore-parallel boardwalks shall be prohibited seaward of the CSL except as required to comply with Americans with Disability Act (ADA) access.
- F. 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~~ shall 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 8.13**

Brevard County shall maintain an ongoing program to initiate and monitor data collection projects related to beach dynamics, sand transport, and coastal processes. This program should include data generated by ~~the Florida Department of Environmental Protection~~ FDEP, the U.S. Army Corps of Engineers, the Florida Sea Grant program, universities, and other appropriate agencies.

**Policy BBIA 8.14**

Brevard County shall prohibit motorized vehicles on the dune and beach system except for governmental vehicles, public safety vehicles, vehicles necessary to repair utilities, or vehicles utilized during approved renourishment programs or approved scientific investigations. Pedestrian traffic within the vegetated dune areas shall be limited to emergency operations, scientific research, maintenance, cleaning, or improvements as authorized by the Natural Resources Management Department and consistent with FDEP regulations.

**Policy BBIA 8.15**

Beach access site improvements, parking facilities, and drainage shall be secondary to improvements to the naturally functioning dune system. Brevard County shall make efforts to balance the demand for beach access with the protection of the beach and dune habitat and species. [When feasible, Brevard County shall incorporate educational signage at public beach access sites related to reducing disturbance and impacts to seabird and shorebird species listed by FWC as Species of Greatest Conservation Need.](#)

**Policy BBIA 8.16**

Brevard County shall continue to pursue funds for dune revegetation to be used when constructing dune crossovers as replacements for unimproved dune access.

**Water Quality Protection****Objective BBIA 9**

Brevard County shall limit the adverse impacts of development on the quality of water throughout the BBIA and the Indian River Lagoon.

**Policy BBIA 9.1**

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

**Criteria:**

- A. Maintain a fifty (50) foot surface water protection buffer from the ordinary high-water line, mean high water line, or safe upland line as determined or approved by the FDEP Bureau of Survey and Mapping. On bulkheaded lots, the waterward extension of the buffer is established by the bulkhead line. In lieu of an approved ordinary high-water line, mean high water line, or safe upland line, an alternative buffer establishment line that approximates the land-water interface may be approved administratively as defined in ordinance. The use of the alternative buffer establishment line shall only be applied to shorelines with a clearly defined land-water interface.

- B. Except as allowable under Criteria C and D below, primary structures shall not be permitted within the surface water protection buffer. The County shall establish in Land Development Regulations allowable uses within the surface water protection buffer. Stormwater management for all alterations associated with allowable uses shall be required to protect water quality of the receiving water body. Provisions for the alteration and/or removal of non-native invasive plants, mitigation projects, and the planting of native species shall be established by the County.
- C. For residential lots platted or established by deed on the official record books of Brevard County prior to September 8, 1988, where there is insufficient lot depth to construct a primary structure, a primary structure may be located within the surface water protection buffer at least twenty five (25) feet from the water line as outlined in Criterion A if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or native shoreline revegetation. Where applicable, stormwater management measures shall be consistent with Chapter 373, F.S., as amended.
- D. For residential lots located along areas of the Indian River Lagoon and its tributaries added to the State's designation of Class II Waters as of February 17, 2016, and platted or established by deed on the official record books of Brevard County prior to that date, where there is insufficient lot depth to construct a primary structure, a primary structure may be located within the surface water protection buffer at least twenty five (25) feet from the water line as outlined in Criterion A if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or native shoreline revegetation. Avoidance and minimization of buffer impacts shall be required. Where applicable, stormwater management measures shall be consistent with Chapter 373, F.S., as amended.
- E. Within the surface water protection buffer the maximum amount of impervious surface is thirty (30) percent, inclusive of primary structures as outlined in Criteria C and D.
- F. Prohibit shoreline alteration other than that allowed by ordinance, unless the alteration is in the public interest and does not adversely impact water quality, natural habitat, and adjacent shoreline uses.

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

#### **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. The following specific uses are not compatible with the resource requirements of the one-hundred-year estuarine floodplain and shall not be permitted. These include, but are not limited to:
1. Placing, depositing, or dumping of solid wastes.
  2. Processing and storing of threshold amounts of hazardous materials.
  3. Disposal of hazardous materials.

#### **Policy BBIA 9.3**

Mining operations shall not be permitted within wetlands as protected within this Comprehensive Plan.

#### **Policy BBIA 9.4**

In those cases where soil erosion is of concern, especially properties along the Atlantic Ridge, projects should minimize impervious surfaces by using pervious surfaces wherever feasible, such as for overflow parking.

#### **Policy BBIA 9.5**

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

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**Policy BBIA 9.6**

Brevard County shall utilize techniques in the installation of new facilities or improvement of existing facilities to minimize sediment accumulation within surface water bodies and wetlands.

**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.
- 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, F.A.C.

**Policy BBIA 9.8**

The County shall consider and comment as necessary on the impact of new development on stormwater conveyance systems. If the stormwater impacts from proposed development are determined to cause or contribute to adverse local or downstream impacts, the developer shall be required to retain additional runoff on site or make improvements to the conveyance system equal to the impact of the new development.

**Policy BBIA 9.9**

Development shall not ~~negatively impact~~ result in adverse impacts to the drainage of adjacent properties or ~~the quality of~~ receiving surface water ~~body bodies~~ ~~quality~~.

**Policy BBIA 9.10**

All new boat ramps should have parking areas constructed utilizing ~~permeable pavement where appropriate~~ Low Impact Development design and have the proper stormwater management system in place.

## **Scenic Resources**

### **Objective BBIA 10**

Brevard County shall enhance natural scenic resources to promote the aesthetic benefits of the natural environment.

#### **Policy BBIA 10.1**

Brevard County shall maintain regulations to preserve scenic vistas and establish vegetative coverage requirements for developing and redeveloping properties.

#### **Policy BBIA 10.2**

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

#### **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 breezeway/visual corridor.

#### **Policy BBIA 10.4**

The County shall enhance the existing public access sites to beaches, shores, parks, and conservation lands by providing additional facilities as determined by need, the character of the land, and as funding becomes available.

#### **Policy BBIA 10.5**

SR A1A, from southern corporate limits of the City of Melbourne Beach to the Indian River County Line is designated as a scenic roadway in order to preserve the adjacent natural features.

#### **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. 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 or those that would deny visual access beyond the immediate area.
- D. Public or private linear projects and utility corridors developed or maintained by governmental or investor-owned regulated utilities that do not require an active development order are exempt if determined to be in the public interest as defined in the Brevard County Comprehensive Plan Glossary per Sec 62-4334 of the Brevard County Code of Ordinances.
- E. Responsible outdoor lighting that conserves energy, avoids harmful effects on wildlife, and protects the night sky, while conforming to regulatory standards including, but not limited to, lighting safety standards.

#### **Policy BBIA 10.7**

Brevard County shall investigate the feasibility of acquiring narrow strips of land along the Indian River Lagoon, where such areas could provide visual access or provide parking for passive recreation within the Lagoon.

#### **Compatibility**

##### **Objective BBIA 11**

Brevard County shall ensure that development is compatible with the unique characteristics of the BBIA.

##### **Policy BBIA 11.1**

The existence of sewer, water, roadways, or other public infrastructure shall not be considered adequate rationale for an increase in intensity.

##### **Policy BBIA 11.2**

Brevard County shall review shore-line development within the coastal zone in order to maximize opportunities for water-dependent land uses. The following criteria, at a minimum, shall be utilized.

##### **Criteria:**

- A. Water-related and water-enhanced uses shall be built on uplands.
- B. Development that is feasible only through creation of land by dredging and filling of areas below the mean high-water line shall not be approved. Exceptions may be considered where overriding public benefit to the natural resource can be demonstrated.

- C. Water-dependent commercial and industrial uses may be considered for siting adjacent to the Indian River Lagoon.

### **Policy BBIA 11.3**

The Brevard County Land Development Regulations shall include a provision for water-enhanced commercial uses within the coastal zone.

### **Policy BBIA 11.4**

During rezoning and other development order approval reviews, Brevard County should give immediate shoreline use priorities (in descending order of priority) to:

#### **Criteria:**

- A. Water-dependent uses such as fish, shellfish, and wildlife production; recreation; water dependent industry and utilities; marinas; and navigation;
- B. Water-related uses such as certain utilities, ~~commerce~~ commercial, and ~~industrial~~ other uses identified in the MPP;
- C. Water-enhanced uses such as some recreation uses;
- D. Non-water dependent or related activities such as residential; and
- E. Of lowest priority are those uses that are non-water-dependent, or non-water-enhanced, and result in an irretrievable commitment of coastal resources.

### **Policy BBIA 11.5**

Brevard County shall review beachfront development to ensure that it does not interfere with public access in those instances where the public has established ocean access-ways through private lands by prescription, prescriptive easement, or other legal means. The developer may improve, consolidate, or relocate such public access provided it is consistent with this [Comprehensive Plan](#).

### **Future Land Use Categories within the BBIA**

#### **Objective BBIA 12**

Pursuant to Section 380.0553, F.S., the policies contained within this ~~Part~~ Element of the Comprehensive Plan do not affect any existing zoning or use of land in effect within the BBIA prior to July 1, 2023.

### **Policy BBIA 12.1**

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

## **Policy BBIA 12.2**

Brevard County will continue to recognize the development entitlements of nonconforming lots of record and pre-existing uses in accordance with the Land Development Regulations.

## **Policy BBIA 12.3**

~~Future Land Use Map~~ FLUM designations shall be assigned to properties with the corresponding ~~future land use map~~ FLUM designations in effect prior to July 1, 2023 as shown below.

- A. Lands with ~~RES Residential 1~~ ~~Future Land Use Map~~ FLUM designations shall be assigned ~~RES Residential 1 – BBIA~~ ~~Future Land Use Map~~ FLUM designations;
- B. Lands with ~~RES Residential 2~~ ~~Future Land Use Map~~ FLUM designations shall be assigned ~~RES Residential 2 – BBIA~~ ~~Future Land Use Map~~ FLUM designations;
- C. Lands with ~~RES Residential 4~~ ~~or RES-4 Directive~~ ~~Future Land Use Map~~ FLUM designations shall be assigned ~~RES Residential 4 – BBIA~~ ~~Future Land Use Map~~ FLUM designations;
- D. Lands with Residential 4 Directive ~~Future Land Use Map~~ FLUM designations shall be assigned Residential 4 Directive – BBIA ~~Future Land Use Map~~ FLUM designations;
- ~~DE.~~ Lands with ~~RES Residential 6~~ ~~or RES-6 Directive~~ ~~Future Land Use Map~~ FLUM designations shall be assigned ~~RES Residential 6 – BBIA~~ ~~Future Land Use Map~~ FLUM designations;
- F. Lands with Residential 6 Directive ~~Future Land Use Map~~ FLUM designations shall be assigned Residential 6 Directive – BBIA ~~Future Land Use Map~~ FLUM designations;
- ~~EG.~~ Lands with ~~RES Residential 8~~ Directive ~~Future Land Use Map~~ FLUM designations shall be assigned ~~RES Residential 8 Directive – BBIA~~ ~~Future Land Use Map~~ FLUM designations;
- ~~FH.~~ Lands with ~~RES Residential 15~~ ~~Future Land Use Map~~ FLUM designations shall be assigned ~~RES Residential 15 – BBIA~~ ~~Future Land Use Map~~ FLUM designations;
- ~~GI.~~ Lands with Neighborhood Commercial ~~Future Land Use Map~~ FLUM designations shall be assigned Neighborhood Commercial – BBIA ~~Future Land Use Map~~ FLUM designations;

- ~~HJ.~~ Lands with Community Commercial ~~Future Land Use Map~~ FLUM designations shall be assigned Community Commercial – BBIA ~~Future Land Use Map~~ FLUM designations;
- ~~IK.~~ Lands with Public Facilities ~~Future Land Use Map~~ FLUM designations shall be assigned Public Facilities – BBIA ~~Future Land Use Map~~ FLUM designations;
- ~~JL.~~ Lands with Recreation ~~Future Land Use Map~~ FLUM designations shall be assigned Recreation – BBIA ~~Future Land Use Map~~ FLUM designations;
- ~~KM.~~ Lands with Private Conservation ~~Future Land Use Map~~ FLUM designations shall be assigned Private Conservation – BBIA ~~Future Land Use Map~~ FLUM designations;
- ~~LN.~~ Lands with Public Conservation ~~Future Land Use Map~~ FLUM designations shall be assigned Public Conservation – BBIA ~~Future Land Use Map~~ FLUM designations;
- ~~MO.~~ Lands without an assigned Future Land Use category shall have ~~Future~~ ~~Future Land Use Map~~ FLUM designations as follows:
1. Privately-owned lands shall be assigned Private Conservation – BBIA;
  2. Publicly owned lands shall be assigned Public Conservation – BBIA.

## **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~~ within an existing Planned Unit Development (PUD) approved before July 1, 2023, 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 [PUDs approved on or after July 1, 2023, or 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 designation; 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.
- D. 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~~ [within an existing PUD approved before July 1, 2023](#), 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~~ [by PUDs approved on or after July 1, 2023, or by](#) properties within the CHHA.

## **Residential 4 – BBIA Future Land Use**

### **Policy BBIA 12.6**

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; 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~~ within an existing PUD approved before July 1, 2023, 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~~ by PUDs approved on or after July 1, 2023, or by properties within the CHHA

#### **Residential 4 Directive – BBIA Future Land Use** **Policy BBIA 12.7**

The Residential 4 Directive – BBIA land use designation is applied to lands following the recommendation of the 1992 South Beaches Small Area Plan Study. This land use designation permits a maximum density of up to four (4) units per acre.

#### **Residential 6 – BBIA Future Land Use** **Policy BBIA 12.7 8**

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; 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.
- D. 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; within~~ an existing PUD approved before July 1, 2023, 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~~ by PUDs approved on or after July 1, 2023, or by properties within the CHHA.

#### **Residential 6 Directive – BBIA Future Land Use** **Policy BBIA 12.9**

The Residential 6 Directive – BBIA land use designation is applied to lands following the recommendations of the 1992 South Beaches Small Area Plan Study. This land use designation permits a maximum density of up to six (6) units per acre.

#### **Residential 8 Directive – BBIA Future Land Use** **Policy BBIA 12.8 10**

The Residential 8 Directive – BBIA land use designation ~~affords a transition in density between higher density areas and lower intensity residential uses~~ is applied to lands following the recommendations of the 1992 South Beaches Small Area Plan Study. This land use designation permits a maximum density of up to eight (8) units per acre.

#### **Residential 15 – BBIA Future Land Use** **Policy BBIA 12.9 11**

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;~~ within an existing PUD approved before July 1, 2023, 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~~ by PUDs approved on or after July 1, 2023, or by properties within the CHHA.

### **Neighborhood Commercial – BBIA Future Land Use**

#### **Policy BBIA 12.10 12**

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;
- 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 those roadways.

- 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 PUD and 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.
- F. 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. ~~11~~ 13**

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:**

### **BREVARD BARRIER ISLAND AREA**

- 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.
- D. 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.
- E. 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.
- F. 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 12.12 14**

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-of-ways, 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~~ FLUM 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~~ FLUM.
- 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 12.13 15**

The Recreation - BBIA land use designation may be adopted as part of the ~~Future Land Use Map~~ FLUM 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~~ FLUM, 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~~ FLUM shall be amended to depict said property as Recreation on the ~~Future Land Use Map~~ FLUM.

## **Private Conservation – BBIA Future Land Use**

### **Policy BBIA 12.14 16**

The Private Conservation - BBIA land use designation is related to privately owned lands with significant environmental features. The land use designation applies to privately held lands that were designated Conservation on the ~~Future Land Use Map~~ FLUM prior to adoption of the Future Land Use Element on May 16, 2000, regardless of their zoning classification. Any lands that are privately owned and zoned Environmental Area (EA) or so designated by an approved Binding Development Plan after May 16, 2000, shall be designated as Private Conservation. Such privately owned parcels shall permit a maximum residential density of one (1) unit per ten (10) acres.

## **Public Conservation – BBIA Future Land Use**

### **Policy BBIA 12.15 17**

The ~~Future Land Use Map~~ FLUM shall designate lands as public conservation to provide for the protection of publicly held environmentally sensitive areas. The Public Conservation – BBIA future land use designation is intended to accommodate lands and facilities that are managed by federal, State, and local governments within unincorporated Brevard County for conservation or preservation uses. Such uses shall conform to the following minimum criteria:

#### **Criteria:**

- A. The Public Conservation land use designation should include lands under the ownership of Brevard County, ~~the St. Johns River Water Management District~~ SJRWMD, or other such agencies, for the purpose of environmental protection; publicly owned lands within the Environmental Area (EA) zoning classification; and publicly owned areas in which it is demonstrated that the preservation of environmentally sensitive resources will provide an overriding public benefit.
- B. Development activities within lands designated as Public Conservation shall be consistent with the specific policies and intent of this Comprehensive Plan. Specifically, activities that are conducted on Public Conservation lands that enhance, protect, or manage such lands for nature-based recreation, conservation, or preservation purposes for the benefit of the public shall be considered as consistent with this Criterion.
- C. Other environmentally sensitive lands (i.e., floodplains, wetlands, or aquifer recharge areas) that are located outside of the Public Conservation land use designation are protected through the policies of this Comprehensive Plan.
- D. Privately owned land shall not be designated as public conservation. If privately owned lands are acquired by State, regional, or local agencies for conservation or preservation purposes, the participating agencies should provide such information to the County so that the ~~Future Land Use Map~~ FLUM may be amended pursuant to Section 163.3187, F.S., as may be

amended. The County shall annually request such information from the applicable agencies so that any necessary amendments can be made to the ~~Future Land Use Map~~ [FLUM](#).

- E. Residential densities for public conservation lands should not exceed one (1) dwelling unit per fifty (50) acres. Dwelling units on publicly held lands, including those zoned EA that are in public ownership, are limited to accommodating park rangers or other authorized personnel as deemed appropriate in order to manage or protect such public conservation lands.

## **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:

- A. 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;
- B. 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;
- C. 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;

- D. 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;
- E. 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
- F. The Brevard County [Board of County Commissioners](#) has adopted a resolution at a public hearing recommending the removal of the designation.

#### **Timeline for De-designation**

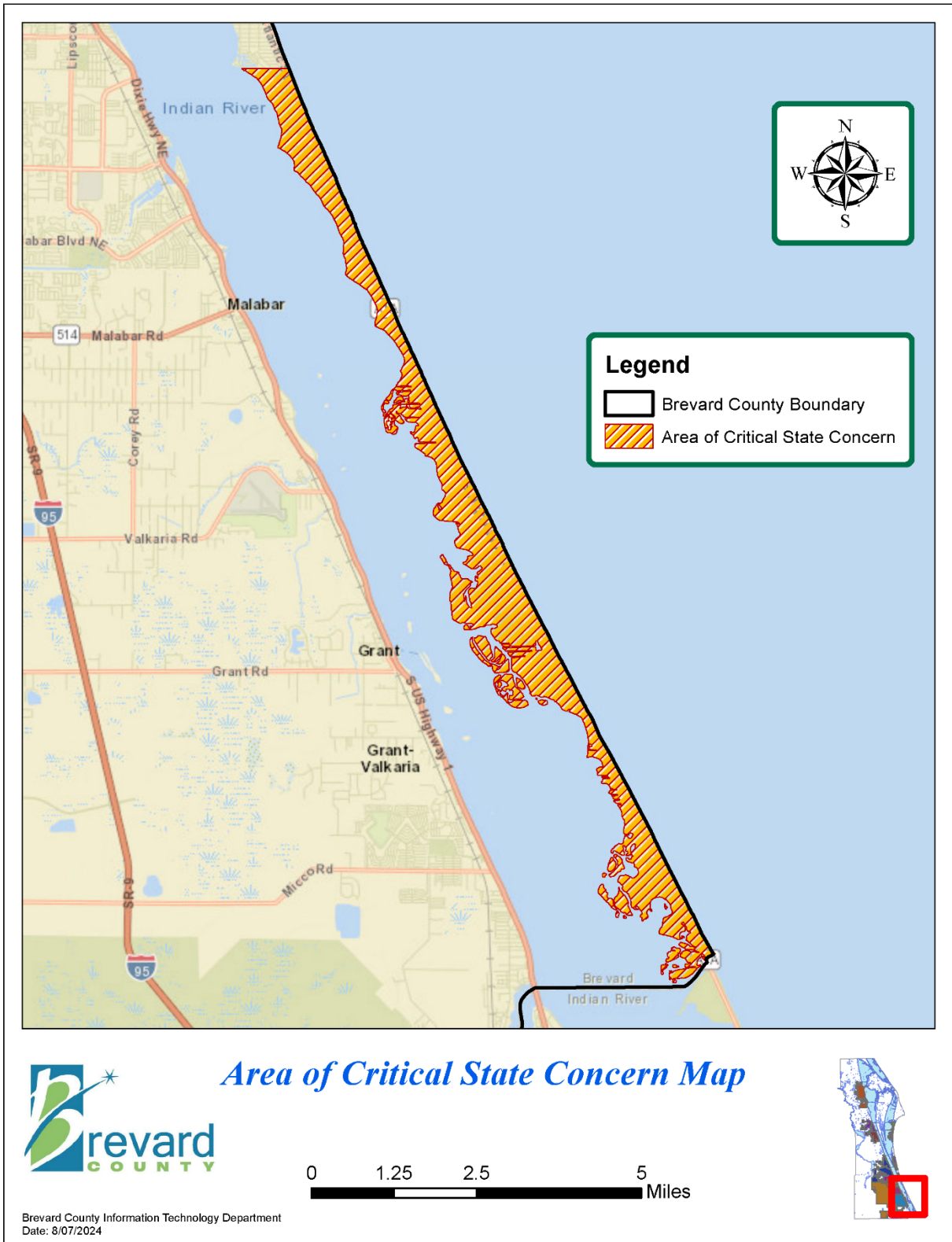
##### **Policy BBIA 13.3**

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.

## APPENDIX

### LIST OF MAPS

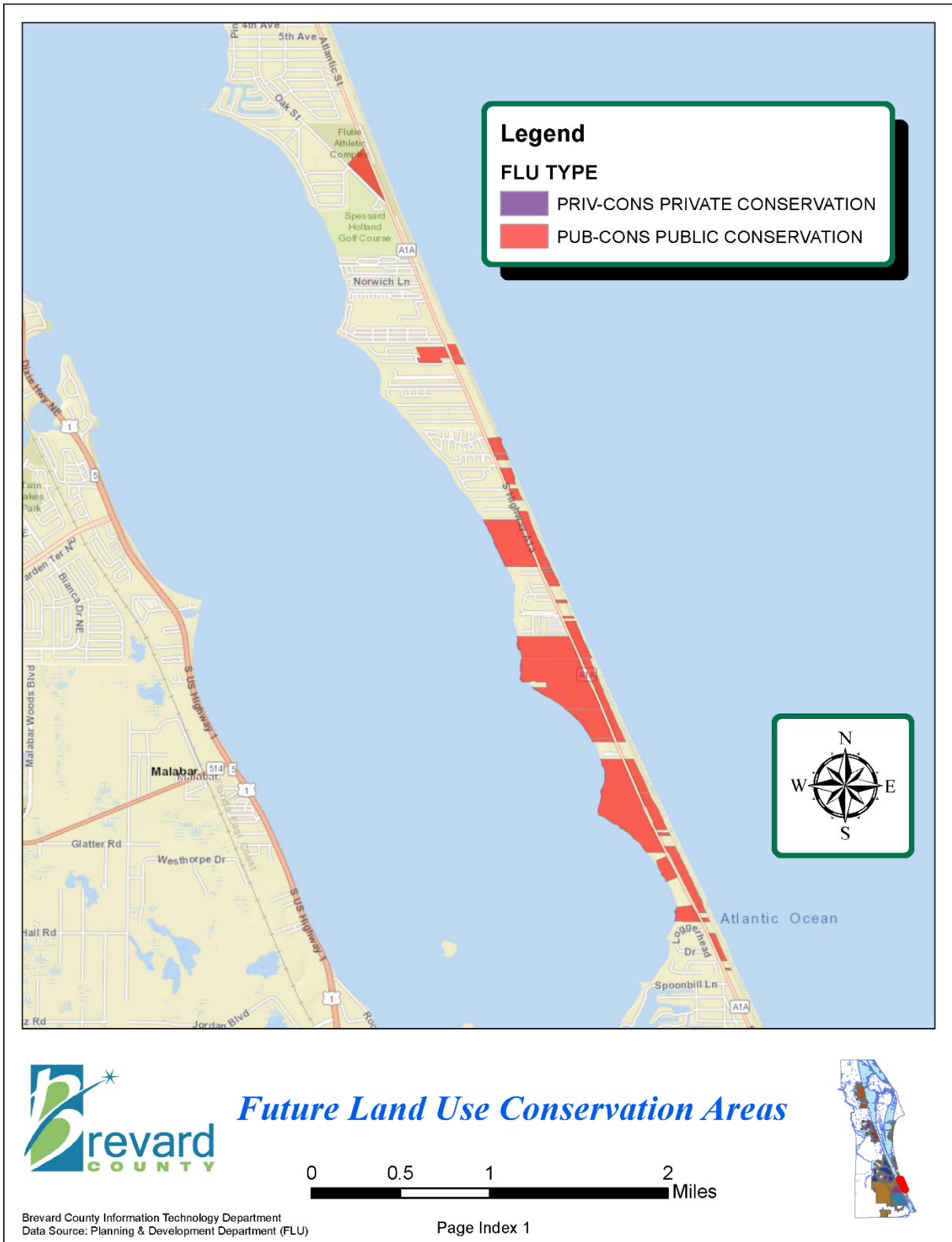
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|------------|---|
| <u>1</u>   | <u>Area of Critical State Concern</u>               |
| <u>2</u>   | <u>Future Land Use Conservation Areas (North)</u>   |
| <u>3</u>   | <u>Future Land Use Conservation Areas (Central)</u> |
| <u>4</u>   | <u>Future Land Use Conservation Areas (South)</u>   |



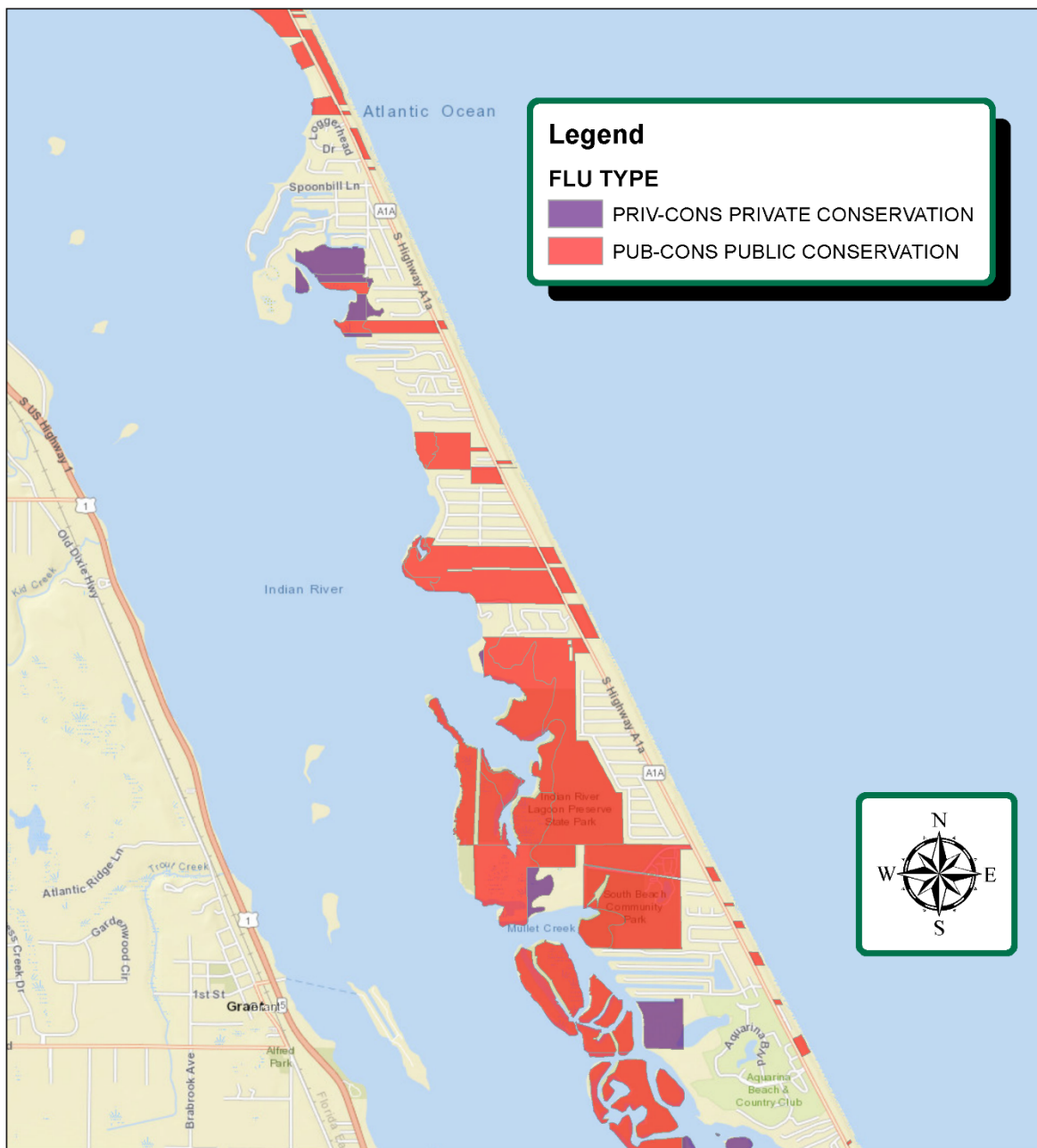
## BREVARD BARRIER ISLAND AREA

July 17, 2025

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**BREVARD BARRIER ISLAND AREA**

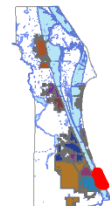


## Future Land Use Conservation Areas

0 0.5 1 2 Miles

Brevard County Information Technology Department  
Data Source: Planning & Development Department (FLU)

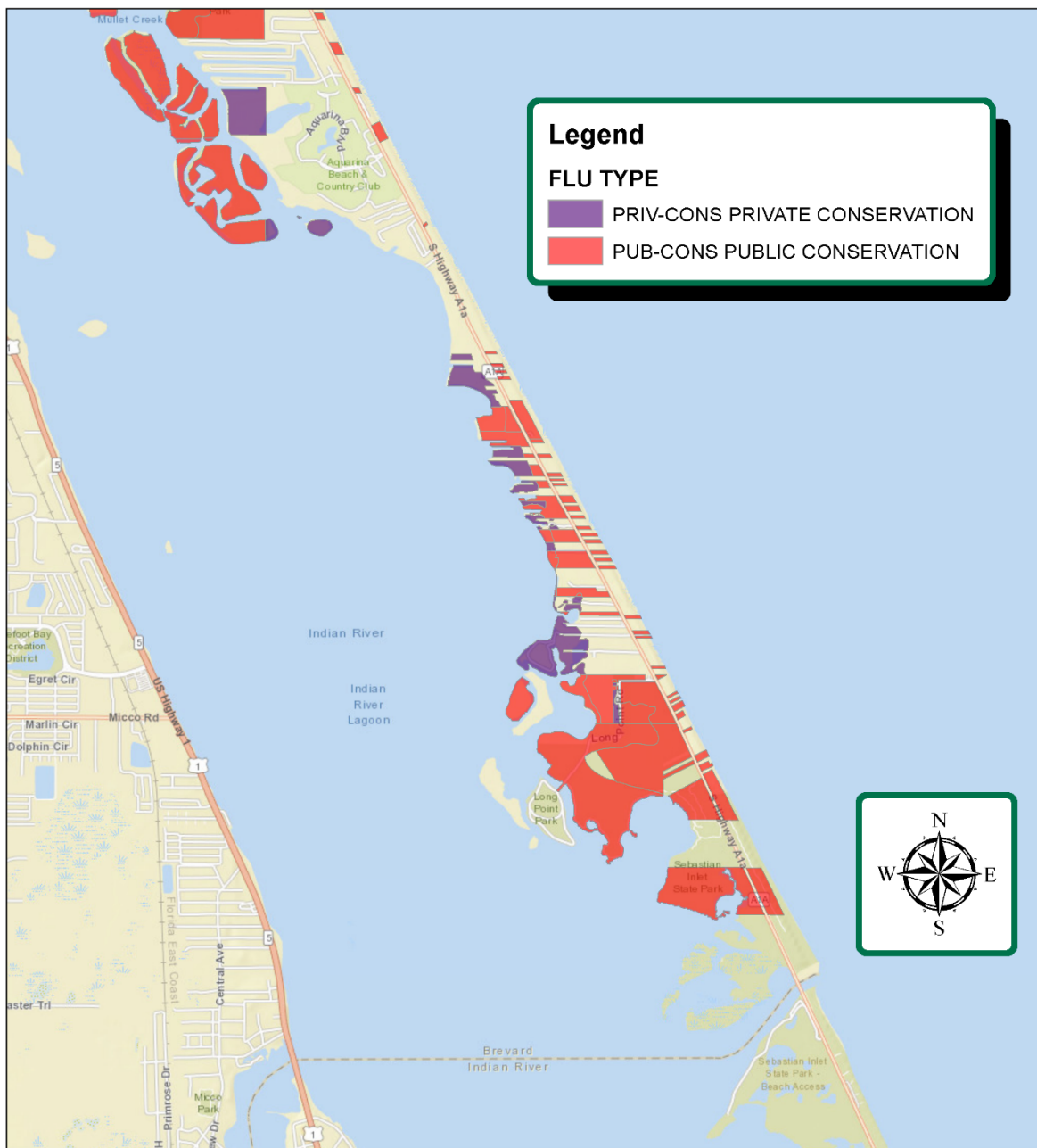
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### BREVARD BARRIER ISLAND AREA

July 17, 2025

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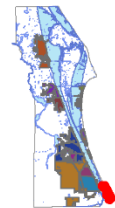


## Future Land Use Conservation Areas

0 0.5 1 2 Miles

Brevard County Information Technology Department  
Data Source: Planning & Development Department (FLU)

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## BREVARD BARRIER ISLAND AREA

July 17, 2025

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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](mailto: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.

## Brevard County ACSC - ORC Report Details

### 1. Florida Commerce Objection 1 – Lack of Meaningful and Predictable Standards

**Florida Commerce Objection:** 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.

**Florida Commerce 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.*

**Brevard County Response:** The County has updated Policy BBIA 1.4 to specifically reference subsection (5) of section 380.0553, F.S. and has clarified that the following Objectives BBIA 2 through 11 include the details of the guiding principles for development within the Brevard Barrier Island Area. The County has reviewed Policies BBIA 2.6, 5.1, 7.8, 7.9, 7.12, 7.13, 7.15, and 8.10 and has updated each policy to include a specific timeline commitment or discrete trigger for implementation where appropriate. As discussed between Brevard County staff and Florida Commerce staff during a virtual meeting on February 18, 2025, those policies that are already currently implemented in Land Development Regulations or administrative policies and procedures by the County (Policies BBIA 7.9, 7.12, and 7.13) have been updated with “continue to” language so as not to disrupt current implementation and to provide for continued implementation in perpetuity. The revisions are shown below with blue underline for additions and red strikethrough for deletions.

#### Policy BBIA 1.4

Brevard County shall develop and implement its local comprehensive plan and its associated land development regulations to ~~be consistent~~ ensure consistency with all of the guiding principles for development within the BBIA as specified in section 380.0553 (5), F.S. This includes ensuring that its programs and regulatory activities are consistent with these principles. The guiding principles for development specified in section 380.0553(5), F.S., shall constitute the basis of Objectives BBIA 2, BBIA 3, BBIA 4, BBIA 5, BBIA 6, BBIA 7, BBIA 8, BBIA 9, BBIA 10, and BBIA 11.

#### Policy BBIA 2.6

Brevard County shall continue to enforce development restrictions associated with the CSL and re-evaluate the effectiveness of this line ~~from time to time~~ by December 31, 2030 and at least every ten (10) years thereafter or as coastline changes dictate. ~~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. In~~ evaluating the CSL, the County shall consider data such as erosion analyses, storm surge and velocity, dune vegetation coverage, and wildlife habitat.

#### Policy BBIA 5.1

Prior to implementing major improvements to existing structural controls within existing floodplains, Brevard County shall ~~identify structural controls within the floodplain that degrade natural systems~~ evaluate potential degradation to natural and artificial ecosystems that may result from those controls and make recommendations for alternatives to mitigate impacts or re-establish the natural floodplain where feasible.

#### Policy BBIA 7.8

~~All existing and new marinas shall~~ Prior to issuance of Certificate of Occupancy for new or redeveloped marinas, the County shall require the applicant to erect manatee education and awareness signs that will be posted and maintained in a prominent location. Each marina operator shall establish and maintain a permanent manatee educational display at a prominent location at their marina. Brevard County shall ~~establish and~~ continue to maintain ~~a display~~ displays at public boat launch facilities and license tag agencies.

#### Policy BBIA 7.9

Brevard County shall continue to maintain well-marked speed limit signs, in accordance with the uniform waterway marker program, for manatee protection and boating safety speed zones established by local ordinance only.

#### Policy BBIA 7.12

Brevard County's mosquito impoundment management plans shall continue to address the following criteria, at a minimum: [...]

#### Policy BBIA 7.13

Brevard County shall continue to include seagrass protection within the MPP performance standards for marinas and marine-related facilities.

#### Policy BBIA 7.15

Marinas shall be inspected ~~periodically~~ at least every five (5) years by Brevard County and results of these inspections shall be coordinated with other agencies. Inspections shall be coordinated with existing programs and duplication with existing inspection programs shall be avoided. Items to be inspected and reviewed may include the following. [...]

#### Policy BBIA 8.10

When deemed necessary by, and in coordination with, FWC and/or FWS, Brevard County shall develop and comply with management plans for other species, ~~as deemed necessary~~.

## **2. Florida Commerce Comment 1 – Clarification of Terminology and Strengthening of Regulatory Language**

**Florida Commerce Comment:** 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, Florida Commerce 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

**Brevard County Response (Revision 1):** All instances of acronyms have been reviewed and updated to ensure that the first occurrence includes the full terminology with the acronym following in parentheses. The list of acronyms and definitions in the Glossary have been updated to include all acronyms used in the BBIA Element.

**Brevard County Response (Revision 2):** The County has reviewed the specified policies BBIA 3.3, 5.4, 5.8, 6.4, 6.13, 6.16, 6.17, 6.18, 6.19, 6.20, 6.21, 6.22, 7.2, 7.6, 7.15, 8.8, 9.1, 9.5, 9.8, and 9.10 for opportunities to provide clearer enforceability of regulatory standards by using “shall” language where feasible. Four of these policies (BBIA 7.2, 7.15, 9.1, and 9.8) were originally transmitted to Florida Commerce with “shall” language, and an additional 11 (BBIA 3.3, 5.4, 5.8, 6.13, 6.17, 6.18, 6.20, 6.22, 7.6, 8.8, and 9.5) have been updated from “should” to “shall” with

additional clarifying language added to several of these policies for clearer implementation. The revisions are shown below with blue underline for additions and red strikethrough for deletions.

#### 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 ~~should~~ shall be designed and operated ~~so as to minimize~~ with the minimization of harm to non-target organisms or natural ecosystems as part of the design and operation criteria.

#### Policy BBIA 5.4

Nonstructural methods of stormwater management that reduce the generation and accumulation of potential stormwater runoff contaminants ~~should~~ shall be utilized to the maximum extent ~~possible~~ feasible. 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 nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts, as part of enhanced Land Development Regulations for the BBIA. Such adaptation strategies may include: [...]

#### Policy BBIA 6.13

Brevard County ~~should~~ shall 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 occur at least every five (5) years in coordination with Emergency Management and consider the following, at a minimum: [...]

#### Policy BBIA 6.17

The County ~~should~~ shall 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 should work to reduce hazard exposure for coastal communities by coordinating with municipalities and ECFRPC to identify, scope, and recommend hazard~~

~~mitigation projects as outlined in the Local Mitigation Strategy.~~ The County shall include the BBIA within its hazard mitigation project planning outlined in Coastal Management Element Policy CM 14.5.

#### 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 6.22

Brevard County ~~should~~ shall continue to analyze the best available data to maintain or update relevant and current coastal hazard vulnerability projections and update maps, as applicable. The County should continue to identify and understand the risks, vulnerabilities, and opportunities for strategies within short, mid, and long-term planning horizons as established in the RRAP Formal Recommendation, as amended.

#### Policy BBIA 7.2

Brevard County shall establish in land development regulations criteria for enhanced vegetative buffering between development and marine resources, so as to reduce the impacts of nutrient loading, shoreline erosion, and lighting on natural resources. This shall include restoration standards for properties with disturbed shorelines.

#### Policy BBIA 7.6

Prior to any alteration or development of any property that, based on best available data, potentially contains wildlife habitat, wetlands, or shoreline or marine 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 “alteration or 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 as an adjunct of construction.

#### Policy BBIA 8.8

Prior to any alteration or 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 “alteration or 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 as an adjunct of construction.

#### Policy BBIA 9.5

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

### 3. Commerce Comment 2 – Intergovernmental Coordination

**Commerce Comment:** 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).

**Brevard County Response:** Brevard County staff met virtually with FWC staff on February 21, 2025 to discuss technical assistance comments and subsequently drafted amendments related to FWC's input. County staff met again virtually with FWC staff, as well as representatives from the Sea Turtle Conservancy and 1,000 Friends of Florida, on March 10, 2025 to discuss the draft amendments and areas for further policy refinement, which led to additional amendments as well as plans for further implementation of many of the recommendations through codification in the BBIA land development regulations. County staff also reviewed comments from SJRWMD and FDEP to the initial draft version of the BBIA element sent for courtesy review prior to transmittal. Most of these comments had already been addressed or were no longer relevant to the transmittal version, or provided additional operational information. However, Policy BBIA 9.9 was updated per SJRWMD comments to provide additional clarity on impacts. All revisions are shown below with blue underline for additions and red strikethrough for deletions.

#### Policy BBIA 2.1

Brevard County shall prohibit new shoreline hardening structures, including rigid coastal structures as defined in Rule 62B-33, F.A.C., as amended, in accordance with Florida's Marine Turtle Protection Act, section 379.2431(1), F.S., on the Atlantic coast and develop strategies for the removal of existing structures and re-establishment of the natural dune system.

#### Policy BBIA 2.3

Brevard County shall maintain lighting regulations in order to eliminate the visibility of artificial or otherwise man-made light to nesting female and hatchling turtles and to establish mitigation strategies for any artificial lighting that becomes visible from the sandy beach. Such regulations shall be ~~periodically~~ reviewed and updated within twelve (12) months following an update to guidelines and ~~to reflect~~ best practices ~~in coordination with organizations such as~~ as established by the Florida Fish and Wildlife Conservation Commission (FWC), the Florida Department of Environmental Protection (FDEP), and other applicable agencies and organizations. Such review shall include addressing any areas with documented impacts to nesting habitats due to artificial lights.

#### 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. Brevard County shall 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 sandy beach while providing beach access.

#### Policy BBIA 7.14

Brevard County shall continue to implement standards for marina and boat ramp siting within the coastal zone that shall address the following criteria at a minimum: [...]

- C. Brevard County shall coordinate with applicable partners including FWC on the development of new marinas and the expansion of existing marinas to ensure the project is consistent with the Brevard County MPP.

#### [New] Policy BBIA 7.17

Brevard County shall coordinate with FWC during design and modification of water control structures to prevent harm to manatees.

#### Policy BBIA 8.6

Brevard County shall continue to ensure removal of invasive exotics 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 at size and scale approximating the removed invasive exotics so as to reduce the impacts of nutrient loading, shoreline erosion, and lighting on natural resources.

#### Policy BBIA 8.11

The County shall continue to implement education programs to promote the preservation of crucial habitats related to Species of Greatest Conservation Need, as defined by the FWC State Wildlife Action Plan ~~endangered and threatened species and species of special concern as well as their habitat~~, with the assistance of ~~the~~ FDEP, ~~the Florida Fish and Wildlife Conservation Commission~~ FWC, ~~and the U.S. Fish and Wildlife Service~~ FWS, and other agencies or groups as appropriate.

#### Policy BBIA 8.12

Brevard County shall continue to adopt and enforce standards for maintenance or re-establishment of dune areas. These standards shall include, at a minimum, the following provisions: [...]

- 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 for vegetation, and shall not include lighting.

[...]

- G. Private property owners ~~should~~ shall be encouraged to re-establish dune vegetation that has been destroyed by non-designated access activities or storm damage.

Policy BBIA 8.15

Beach access site improvements, parking facilities, and drainage shall be secondary to improvements to the naturally functioning dune system. Brevard County shall make efforts to balance the demand for beach access with the protection of the beach and dune habitat and species. When feasible, Brevard County shall incorporate educational signage at public beach access sites related to reducing disturbance and impacts to seabird and shorebird species listed by FWC as Species of Greatest Conservation Need.

Policy BBIA 9.9

Development shall not ~~negatively impact~~ result in adverse impacts to the drainage of adjacent properties or the quality of receiving surface water ~~body~~ bodies ~~quality~~.

Policy BBIA 10.6

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

- E. Responsible outdoor lighting that conserves energy, avoids harmful effects on wildlife, and protects the night sky, while conforming to regulatory standards including, but not limited to, lighting safety standards.

**4. Commerce Comment 3 – Barrier Islands Preservation and Protection Association (BIPPA) Feedback**

**Commerce Comment:** 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.

**BCLA Recommendation:** Brevard County staff have reviewed all of BIPPA's comments and suggested policy amendments, some of which were addressed via updates related to comments from Florida Commerce and reviewing agencies. On March 10, 2025, County staff met virtually with FWC staff and representatives from Sea Turtle Conservancy and 1,000 Friends of Florida to discuss draft amendments. As mentioned in the BIPPA letter, 1,000 Friends of Florida was involved in the drafting of the BIPPA recommendations. County staff also spoke with BIPPA representatives via phone call on April 3, 2025. County staff has incorporated feedback into policy amendments as shown below. Note that all BBIA Future Land Use category policies providing for residential density bonuses for PUDs have been updated as shown for Policy BBIA 12.4 as an example; the same updates have been included for policies BBIA 12.5, 12.6, 12.8, and 12.11 though not reproduced below.

#### 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~~ [Best Management Practices](#) ~~BMP~~ information to agricultural [and golf course](#) operators within the BBIA.

#### 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.~~16~~ [12](#) and as required by section 373.469, F.S., as amended.

#### Policy BBIA 5.7

Brevard County ~~should~~ [shall](#) continue to evaluate and recommend new design and development standards for public and private infrastructure projects that consider future climate conditions and amend Land Development Regulations [as necessary](#) to reduce obstacles that hinder nature-based design standards and/or Low Impact Development. [The County shall conduct this review and recommendation process at least as frequently as the regular evaluation and appraisal of this comprehensive plan.](#)

#### Policy BBIA 8.4

Brevard County shall establish in land development regulations criteria for enhanced vegetative buffering between development and ~~the~~ [upland resources of the](#) Indian River Lagoon and the Atlantic Ocean, [so as to reduce the impacts of nutrient loading, shoreline erosion, and lighting on natural resources. This shall include restoration standards for properties with disturbed native vegetation.](#)

#### Policy BBIA 8.5

Brevard County shall ~~continue to develop programs for~~ [prioritize](#) acquisition of unique vegetative communities [in the BBIA to](#) protect upland resources, including dune ridges, beaches, and wildlife and related habitats. This acquisition shall be voluntary and shall not include the use of eminent domain.

#### 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: [...]

- D. Up to a 25% density bonus to permit up to 1.25 dwelling units per acre may be considered ~~with a~~ [within an existing](#) Planned Unit Development (PUD) [approved before July 1, 2023](#) 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 [PUDs approved on or after July 1, 2023 or by](#) properties within the CHHA.

[New] [Policy BBIA 12.7](#)

[The Residential 4 Directive – BBIA land use designation is applied to lands following the recommendation of the 1992 South Beaches Small Area Plan Study. This land use designation permits a maximum density of up to four \(4\) units per acre.](#)

[New] [Policy BBIA 12.9](#)

[The Residential 6 Directive – BBIA land use designation is applied to lands following the recommendations of the 1992 South Beaches Small Area Plan Study. This land use designation permits a maximum density of up to six \(6\) units per acre.](#)

Policy BBIA 12.~~8~~ [10](#)

The Residential 8 [Directive](#) – BBIA land use designation ~~affords a transition in density between higher density areas and lower intensity residential uses~~ [is applied to lands following the recommendations of the 1992 South Beaches Small Area Plan Study.](#) This land use designation permits a maximum density of up to eight (8) units per acre.

## Brevard County ACSC – Additional Changes Not Reviewed by Commerce

Brevard County proposes adoption of additional amendments to the Brevard Barrier Island Area Element that are unrelated to the Objections, Recommendations, and Comments report, which have not yet been reviewed by Florida Commerce. These amendments are the result of further County staff review and input to provide clarification, public input, structural/formatting considerations, and identification of scrivener's errors since transmittal. The proposed amendments are detailed below. Text changes since transmittal are shown in blue underline for additions and red strikethrough for deletions.

1. **Policy BBIA 2.5:** Updated to further clarify that any majority reconstruction or replacement of a shoreline hardening structure shall be considered new construction. Previous policy language may have resulted in unintended interpretations that reconstruction or replacement of shoreline hardening structures with no damage or only minor damage could be exempt from this requirement.

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: [...]

- D. Reconstruction or replacement of fifty (50) percent or more of a shoreline hardening structures on the Atlantic Ocean ~~that are more than fifty (50) percent 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. [...]

2. **Policy BBIA 5.6:** Language strengthened in coordination with Sierra Club Turtle Coast Group per correspondence received on April 29, 2025.

Policy BBIA 5.6: Using best available data, the County should ~~consider identifying~~ identify areas vulnerable to current and future flooding impacts that may benefit from nature-based design standards and/or Low Impact Development projects that reduce run-off; mitigate flood impacts; provide for the on-site absorption, capture, and reuse of stormwater; and preserve and restore natural drainage characteristics.

3. **Policy BBIA 5.8:** Language strengthened and living shorelines added as nature-based design standard criteria in coordination with Sierra Club Turtle Coast Group per correspondence received on April 29, 2025.

Policy BBIA 5.8: The County ~~should~~ shall continue to encourage or require nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts, as part of enhanced Land Development Regulations for the BBIA. Such adaptation strategies may include:

Criteria:

- A. Living shorelines,
- ~~AB.~~ Multi-use stormwater parks,
- ~~BC.~~ Bioswales as stormwater management techniques,
- ~~CD.~~ Green streets,
- ~~DE.~~ Reduced impervious areas,
- ~~EF.~~ Florida-friendly landscaping/xeriscaping, or
- ~~FG.~~ Ecological asset preservation (e.g., tree canopy, natural areas, mangroves, wetlands, dunes, aquifer recharge areas).

4. **Policy BBIA 5.9:** New policy added to provide for general education and promotion of living shorelines to further support Objective BBIA 5, in coordination with Sierra Club Turtle Coast Group per correspondence received on April 29, 2025.

Policy BBIA 5.9: The County shall coordinate with organizations such as IRLNEP and the Marine Resources Council to promote the use of living shoreline design and support efforts to educate the public on the benefits of living shorelines throughout the BBIA.

5. **Policy BBIA 6.4:** Reworded to further clarify the specific strictly applied exemptions for locating certain public facilities within the CHHA.

Policy BBIA 6.4: Brevard County should not locate sewer and water transmission lines within the ~~coastal high hazard area~~ CHHA, except where there is no practical and cost-feasible alternative due to engineering, and safety ~~and cost considerations,~~ constraints; where there is a lack of alternative existing rights-of-way, ~~;~~ ; or for septic to sewer conversion projects selected specifically to improve ground and surface water quality. Such transmission lines shall be designed to withstand flooding and storm surge.

6. **Policy BBIA 6.21:** Updated to provide for potential acquisition of properties at risk of loss to flooding impacts, in addition to those with repetitive loss, for increased mitigation and resiliency planning capabilities for the County.

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 impacts. As funding opportunities arise, the County should consider removing real property structures from coastal FEMA flood zones through acquisition of repetitive loss properties [or properties at risk of loss](#) for use as green space or stormwater management.

7. **Policy BBIA 6.23:** Updated to align with EAR-based amendments to the Coastal Management Element policies as originally recommended by the County's Emergency Management Department.

Policy BBIA 6.23: Brevard County shall coordinate with the municipalities and appropriate state agencies ~~to maintain Evacuation Zone Management Plans as described in the Coastal High Hazard section of the Coastal Management Element as well as~~ [in managing and implementing](#) the recommendations found within the Brevard County Comprehensive Emergency Management Plan, as amended.

8. **Policy BBIA 8.1:** Updated to clarify protections sought in the land development regulations for unpermitted land clearing and requirements for revegetation. Monitoring and maintenance of required revegetation plantings added as a requirement for unpermitted clearing.

Policy BBIA 8.1: Brevard County shall maintain regulations to address ~~premature~~ [unpermitted](#) land clearing and revegetation, including the following minimum criteria. [...]

Criteria:

- D. Require areas cleared of vegetation to be revegetated with biologically appropriate vegetation, to prevent wind or water erosion [and adverse impacts to other natural resources including wildlife habitat](#), within ninety (90) days of initial land clearing activity where no approved landscape plan exists, or no active development order has been issued. Native vegetation should be utilized to the maximum extent possible. [Require monitoring and maintenance of revegetated areas to ensure successful establishment of plantings.](#) [...]

- 9. Policy BBIA 9.10:** Updated to provide for more comprehensive Low Impact Development design considerations at boat ramp facilities.

Policy BBIA 9.10: All new boat ramps should have parking areas constructed utilizing ~~permeable pavement where appropriate~~ [Low Impact Development design](#) and have the proper stormwater management system in place.

- 10. Policy BBIA 11.4:** Updated to correct a grammatical scrivener's error and to remove mention of water-related industrial uses in the BBIA, referencing instead the MPP. These changes were made in coordination with Sierra Club Turtle Coast Group per correspondence received on April 29, 2025.

Policy BBIA 11.4: During rezoning and other development order approval reviews, Brevard County should give immediate shoreline use priorities (in descending order of priority) to: [...]

- B. Water-related uses such as certain utilities, ~~commerce~~ [commercial](#) and ~~industrial~~ [other](#) uses [identified in the MPP](#); [..]

- 11. Policy BBIA 12.3:** Updated to clarify that current directive-originated land uses within the BBIA are assigned new BBIA directive residential use categories in order to maintain continuity with the original South Beaches Small Area Plan.

Policy BBIA 12.3: Future Land Use Map designations shall be assigned to properties with the corresponding future land use map designations in effect prior to July 1, 2023 as shown below. [...]

- C. Lands with ~~RES~~ [Residential](#) 4 ~~or RES-4 Directive~~ Future Land Use Map designations shall be assigned ~~RES~~ [Residential](#) 4 – BBIA Future land Use Map designations;

D. Lands with Residential 4 Directive Future Land Use Map designations shall be assigned Residential 4 Directive – BBIA Future Land Use Map designations;

- ~~D.E.~~ Lands with ~~RES~~ [Residential](#) 6 ~~or RES-6 Directive~~ Future Land Use Map designations shall be assigned ~~RES~~ [Residential](#) 6 – BBIA Future land Use Map designations;

F. Lands with Residential 6 Directive Future Land Use Map designations shall be assigned Residential 6 Directive – BBIA Future Land Use Map designations;

- ~~E.G.~~ Lands with ~~RES~~ [Residential](#) 8 Directive Future Land Use Map designations shall be assigned ~~RES~~ [Residential](#) 8 [Directive](#) – BBIA Future land Use Map designations; [...]

**12. Appendix:** Inserting appendix index sheet listing adopted maps.