

**ATTACHMENT II.A-1
STAFF REPORT
COUNTYWIDE WETLANDS STUDY**

History

On February 23, 2011, the Board of County Commissioners (Board) approved Resolution 11-032, creating a 17-member stakeholder Working Group to evaluate and recommend changes to Conservation Element Objective 5-Wetlands relative to those policies addressing commercial, industrial, and institutional land uses in wetlands. The Group held seven independently facilitated public meetings on March 15, April 4, April 19, May 2, May 10, May 17, and August 25, 2011.

The Working Group policy recommendations were presented to the Board on November 1, 2011. The Board had the following concerns:

- The County Attorney's review revealed several issues related to implementability, clarity, and consistency.
- The "commercial corridor" policies omitted a significant portion of north Brevard, creating inequity of application.
- Identification of the major issues on which Group members disagreed.
- Establishing flexibility for the agricultural community.

After discussion and public comment, the Board directed staff to work with the County Attorney to resolve the identified issues, and tabled further consideration of the recommended policy amendments to the February 2, 2012 meeting.

On February 2, 2012, staff presented Revised Recommendations to the Board. The Board approved the Revised Recommendations with some final language modification. The Board also directed staff to create a Scope of Services for a regional examination of Brevard County wetland systems for the purposes of comprehensive planning and providing resource based information for development within wetlands.

On April 4, 2012, the Board approved the transmittal of amendments to the Brevard County Comprehensive Plan, Conservation Element, Objective 5-Wetlands. As part of the approval, the Board reaffirmed staff direction to conduct a study which, by 2013, identifies high functioning wetlands and landscape level systems of connected wetlands.

On May 29, 2012, the Board authorized advertisement for, and acceptance of proposals from qualified firms for ecological services to complete a Countywide Wetland Study (Study), with cost not to exceed \$50,000. The Study was to be completed by a consulting firm with specific qualifying experience in ecological systems, quantifying and qualifying wetlands, and extensive knowledge of the unique wetland systems within Brevard. BKI, Inc. Consulting Ecologists (BKI), was awarded the contract in December 2012.

On October 9, 2012, the Board, approved policy language for the 2012-1 Comprehensive Plan Amendment Adoption package, as follows:

- Inclusion of Definitions of High Functioning Wetlands and Landscape Level Systems into LDRs and Comprehensive Plan by amendment at Study completion and prior to implementation.
- Impacts to high functioning and landscape level wetlands are not permitted until the Study is complete and subsequent plan amendment and land development regulations are enacted to incorporate definitions that contain meaningful and predictable standards. In the interim, the Board approved Green Light Doctrine for certain development applications prior to LDR development but after adoption; and authorized processing submittals where the applicant proposes to impact wetlands defined by the State (FDEP or SJRWMD) as: 1) low quality or low functioning with a total cumulative impact of less than 5 acres; or 2) less than 0.1 acre of impact to isolated wetlands where the State does not require mitigation, with all submittals being approved by the Board.

BKI, Inc. Consulting Ecologists initiated the Study in January 2013. It was anticipated that the Study would take six months; however, three additional months were required due to the scope of the project. BKI completed the final draft of the Study in September 2013.

Study Scope of Work & Resulting Products

Task 1: *Create a Brevard County specific method to quantify and qualify high functioning wetlands within incorporated and unincorporated Brevard County. The method may incorporate, but not exclusively rely upon, current regulatory tools.*

Attachment II.A-1, “Brevard County – Wetland Assessment Method” provides a description of the established methodology. This methodology includes the use of a Microsoft Excel document, “High Function Assessment Matrix,” used to score wetland functionality based on landscape location, water environment, and vegetative community. This is not a desktop-only evaluation; field inspection is required for an accurate evaluation. The specific use of this evaluation tool will be presented to the Board at the Workshop. Examples can be found in Attachments II.A-2 (Reference Wetlands for High Functioning Wetlands) and II.A-5 (Wetland Assessment Toolbox).

Task 2: *Provide reference examples of each type of high functioning wetland within incorporated and unincorporated Brevard County. Only Federal, State and local lands within Brevard County shall be utilized for reference examples. Consultants shall request the usage of these lands through the managing entity. It is expected that the process shall include GIS and ground-truthing.*

Attachment II.A-2, “Reference Wetlands for High Functioning Wetlands” provides specific reference examples of each type of high functioning wetland within incorporated and unincorporated Brevard County. Functional wetland assessments for each of the presented reference wetlands are provided within.

Task 3: *Map landscape level systems of connected wetlands within incorporated and unincorporated Brevard County. It is expected that this will be a GIS based task utilizing current aerials and LIDAR. Brevard County will supply these tools to the consultant upon award of contract.*

Attachment II.A-3 provides information describing the development of the Landscape Level Potential Map (Map). The resulting Map (Attachment II.A-4) is not a regulatory tool. The Landscape Level Polygon represents lands that likely have a hydrological connection to the major watersheds within Brevard County. Wetlands within the polygon have the potential to meet Landscape Level criteria.

Landscape Level Wetlands are defined as wetlands that are EITHER 1) five (5) acres or larger; OR 2) located within the Landscape Level polygon AND the Army Corps of Engineers (ACOE) determines the wetland is hydrologically connected to the St. Johns River or Indian River Lagoon System.

Task 4: *The Consultant shall provide Brevard County with a training toolbox to include a reproducible manual that gives clear and concise instructions on use of the Brevard County Specific methodology.*

The Wetland Assessment Toolbox is included as Attachment II.A-5, and will be presented in detail during the Workshop.

Existing Comprehensive Plan Policies

The following Comprehensive Plan Policies regarding commercial, industrial, and agricultural land uses contain references to “high functioning wetlands and landscape level systems of connected wetlands.”

Policy 5.2.E.3. Commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers specifications shall be established in land development regulations and be based on peer-reviewed publications to include, but not be limited to, Buffer Zones for Water, Wetlands, and Wildlife in the East Central Florida Region, (1990, Brown, M.T., Schaefer, and K. Brandt, published by the Center for Wetlands, University of Florida). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives.

- a. Impacts to wetlands are permissible for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map, and is located within one-half mile of the intersection of the off-ramp of the I-95 interchange with the connecting roadway. The one-half mile radius shall extend from

the end of the limited access boundary of I-95. This shall not include those interchanges where I-95 intersects a limited access highway as defined by Florida Statute. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

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

An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table. High functioning wetlands and landscape level systems of connected wetlands shall be identified through a study, and these wetlands shall be protected unless the proposed impacts are found to be in the public interest, or overriding public benefit.¹ Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

- c. Commercial or industrial land development activities may be permitted in wetlands contained in properties designated for commercial or industrial land uses on the Future Land Use Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use. This shall not apply to properties that are addressed under Policies 5.2.E.3.a, b, and d. High functioning wetlands and landscape level systems of connected wetlands shall be identified through a study, and these wetlands shall be protected unless the proposed impacts are found to be in the public interest, or overriding public benefit.¹ Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.
- d. Impacts to wetlands for commercial or industrial land development activities limited solely to providing access to uplands, and for no other purpose than providing access as required by Brevard County land development regulations may be permitted in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial of February 23, 1996, only if all of the following criteria are met:
 - (i) Sufficient uplands exist for the intended use except for access to uplands.
 - (ii) The property was not subdivided from a larger property after December 31, 2010. This shall not preclude a single shared access through wetlands for properties subdivided after December 31, 2010.
 - (iii) Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

Policy 5.2.F. Agricultural Activities

1. An exemption for agricultural pursuits, utilizing best management practices, which do not result in permanent degradation or destruction of the wetlands shall be included within the land development regulation.

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

- a. The property shall be classified as bona fide agricultural per F.S. 193.461 and 823.14 for not less than ten consecutive years as of the date of the proposed impact;
- b. The property shall have Agriculture Future Land Use designation or DRI Future Land Use designation and the proposed use is consistent with the defined agricultural uses under an approved DRI Development Order.
- c. Upon approval of the impact, no less than 50 percent of the property area shall retain bona fide agricultural use pursuant to F.2.a above;
- d. High functioning wetlands and landscape level systems of connected wetlands shall be identified through a study, and these wetlands shall be protected unless the proposed impacts are found to be in the public interest, or overriding public benefit;¹ and
- e. The property shall have an agricultural zoning classification or be zoned PUD and the proposed use is consistent with the defined agricultural uses in the PUD zoning resolution or approved Preliminary Development Plan.

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

¹ The Board authorized a study to identify high functioning wetlands and landscape level systems. Impacts to high functioning and landscape level wetlands are not permitted until the study is complete and subsequent plan amendment and land development regulations are enacted to incorporate definitions that contain meaningful and predictable standards. In the interim, impact to wetlands described by the State (FDEP or SJRWMD) as: 1) low quality or low functioning with a total cumulative impact of less than 5 acres; or 2) less than 0.1 acre of impact to isolated wetlands where the State does not require mitigation, may be approved by the Board.