



MEMORANDUM

TOWN OF PONCE INLET, PLANNING AND DEVELOPMENT DEPARTMENT

We strive to be professional, caring and fair

To: Jeaneen Witt, Town Manager
Planning Board

Through: Aref Joulani, Planning & Development Director

From: Michael E. Disher, AICP, Senior Planner

Date: December 9, 2015

Subject: Policy Discussion for 2016 Comprehensive Plan Update

WORKSHOP DATE: December 17, 2015

INTRODUCTION

The Town recently submitted its “Evaluation and Appraisal Notification Letter” to the Florida Department of Economic Opportunity, pursuant to State Law¹. The Town now has until November 1, 2016 to amend its comprehensive plan to incorporate the updates listed in the letter, which the Town determined to be necessary to reflect changes in state growth management statutes and existing conditions since the last update. Two significant statutory changes affecting Ponce Inlet warrant discussion by the Planning Board and Town Council to determine future policy direction for the upcoming plan update.

DISCUSSION

The two items for discussion are the repeal of certain types of concurrency requirements, and development restrictions within the Coastal High Hazard Area.

CONCURRENCY

Concurrency is the finding that public facilities and services necessary to support a proposed development are available, or will be made available, concurrent with the impacts of the development. In practice, this means that if development is anticipated to generate additional demands on public infrastructure, then the capacity to handle the additional demand must either exist already, or capacity upgrades must be constructed by the time the development project is finished. The Town’s concurrency regulations are found in Article 5 of the Land Use and Development Code (LUDC).

The 2011 Community Planning Act is most noted for repealing the state mandate for transportation, recreation, and school concurrency, shifting the option and responsibility to the local government level. Sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services still subject to the concurrency requirement on a statewide basis².

¹ F.S. 163.3191

² F.S. 163.3180

Each local government now has the ability to decide whether to maintain level-of-service standards for its roads, parks, and schools. Those that do must still meet certain state standards. Those that do not are still encouraged, but not required, to replace their standards with other policies and funding mechanism to ensure that these types of facilities and services can be provided if needed. A comprehensive plan amendment is required to rescind any of the now-optional concurrency policies. The Town will need to make this determination from a policy standpoint whether to continue or repeal the locally mandated types of concurrency.

Level-of Service (LOS) Standards

Concurrency is measured for each type of facility using Level-of-Service (LOS) standards adopted by each local government. The standards are found within the comprehensive plan, and are implemented through the LUDC as part of the development review process. For comprehensive planning purposes, the LOS standards are used to quantify and project future impacts from short- and long-term development trends. It can then be determined whether the existing infrastructure is up to the task to handle the increased demand, or if new, expanded facilities must be constructed. In establishing LOS standards, the local government must demonstrate that the standards can be reasonably met. The Town’s adopted LOS standards³ are provided below.

Facility Type	Level-of-Service Standard
Thoroughfare Roads	LOS “E” at peak hour for county-maintained portion of South Atlantic Ave (12,600 daily). LOS “D” at peak hour for Town-maintained sub-collectors (8,000 daily).
Sanitary Sewer Service	200 gallons per capita per day
Potable Water Service	140 gallons per capita per day
Solid Waste Collection	8.6 pounds per capita per day
Stormwater Management	First 1” of rainfall shall be retained; discharge hydrograph for post-development conditions shall maintain predevelopment conditions; peak discharge from post-development conditions shall not exceed peak discharge from pre-developed conditions for 100-year frequency storm.
Parks	3.5 acres per 1,000 residents
Schools	N/A – Exempt

Governmental entities that are not responsible for providing, financing, operating, or regulating public facilities needed to serve development may not establish binding LOS standards on governmental entities that do bear those responsibilities. For example, the Town cannot impose LOS standards for sewer service, which is provided by the City of Port Orange, that are more stringent than the standards adopted by Port Orange itself⁴.

Roads/Transportation

The Town last undertook a city-wide traffic volume assessment in 2008 in conjunction with the previous comprehensive plan update. That analysis demonstrated that all roadways in Town operate at level of service "D" or better during peak periods. It also showed that Ponce Inlet does

³ Capital Improvements Element Policy 1.4.1

⁴ NOTE: The adopted Port Orange sewer service standard is 160 gallons per capita per day. The Ponce Inlet standard will need to be reduced to match that of Port Orange.

not experience the typical weekly traffic pattern of most cities, with heavy week-day rush-hour volume. Due to its demographic characteristics, beach, and tourist attractions, Ponce Inlet experiences a notable increase in traffic volume during the weekends. It is also subject to seasonal variations depending on the time of year and timing of area-wide special events such as Race Week.

Due to the economic recession beginning last decade and the slow housing market (until recently), there has been little development activity in Ponce Inlet other than scattered infill construction of single-family custom homes on previously platted lots. There has been no new commercial development during this time except for the construction of a restroom building at Jerry's Grill. That said, the Town has expanded its recreation opportunities greatly with the addition of two new parks (Ponce Preserve and Timucuan Oaks), the Ponce Inlet Historical Museum, and beach racing monuments. Daily traffic and special events associated with these facilities, the Lighthouse, and local restaurants and businesses have contributed to an upward trend in traffic volume, as has an improving economy and housing market in recent years (see **Attachment A**). Regardless, S. Atlantic Avenue and S. Peninsula Drive continue to operate well below their official capacity limit as set by the adopted LOS standard.

The 2008 traffic study did not anticipate any operational failures in the future, even upon complete build-out of the Town.

"It is anticipated that at build-out, when all remaining vacant properties are built under their Future Land Use designation, approximately 300 additional single-family residences could be constructed, as well as a potential maximum 171 new multi-family units. Approximately 11 acres of undeveloped commercial properties could also be developed. These land use assumptions were factored into the LTG report, concluding that such development could generate a maximum of 5,444 new daily trips under a worst case assumption. Even with these new trips, the town's roadway system is projected to operate within adopted levels of service standards."

The question therefore arises whether this type of concurrency is still needed. State Law⁵ provides suggested policies that complement new or existing transportation concurrency standards, requirements for maintaining previously adopted policies, and recommendations if concurrency is rescinded altogether (see **Attachment B**). The complementary policy recommendations encourage communities to shift their efforts from "fixing" traffic to improving overall mobility, focusing on moving people rather than just cars. Examples of complementary policies are those that:

- lead to creation of land use and development patterns that are walkable and/or accessible by other transportation modes;
- guide capital improvements toward creating a safe, comfortable, and attractive pedestrian environment;
- establish multimodal LOS standards that rely primarily on non-vehicular modes of transportation; and
- reduce impact fees to incentivize development within urban areas or mixed-use districts.

⁵ F.S. 163.3180(f), (h)1, and (i)

Such policies represent the current best planning practice and are useful regardless of whether transportation concurrency is retained or rescinded. Communities that repeal concurrency are also encouraged to adopt alternative mobility funding systems, e.g. “mobility fee” instead of “impact fee.” A mobility fee could be applied toward any type of transportation improvement that increases capacity of the overall transportation network, or that enhances safety and usability for different modes. For example, mobility fees could be used to widen bikepaths, improve connectivity to transit stops, construct transit shelters, construct bicycle parking, etc. The mobility funding revenue must be spent on capital projects identified in a local government’s mobility plan, such as the Town’s bicycle-pedestrian plan.

Parks

The Town’s adopted LOS standard is based on acres of active and resource-based park and open space lands. The parkland inventory in the Recreation and Open Space element states the Town has 243 acres of such lands, not including the Atlantic Ocean beach nor the Halifax River and associated wetlands. Fifteen of these acres are used for “active” recreation, while the remaining acreage is resource-based. Resource-based sites, such as Ponce Preserve and the Lighthouse, derive their benefit from the natural environmental, historical, or cultural characteristics, while active sites are those designed for a more structured recreational use like team sports, social activities, and the performing arts. Active sites in Ponce Inlet include tennis courts, playgrounds, and the community center.

Based on the Town’s 2015 estimated population⁶ of 3,047, only 10.66 acres are currently needed to satisfy the adopted LOS standard. The 243 acres of parkland far exceeds the adopted LOS standard. Taken by itself, the 15 acres of active land alone is anticipated to satisfy the Town’s ultimate population at build-out, according to the 2008 plan update. Going forward, the Town may wish to create two separate standards to distinguish between active and resource-based acreage, or limit the standard to active space only. The Town could even set standards for specific types of facilities. LOS standards can form the basis of setting impact fee rates, provided they are based upon current data and identified needs, per F.S. 163.31801. However, as noted previously, the Town also has the option to rescind parks and recreation concurrency requirement altogether.

Schools

Before the 2011 Community Planning Act, Ponce Inlet was technically exempt from school concurrency, in accordance with State Law. The Town did not maintain its own LOS standards for schools. The exemption was based on the Town having not exceeded minimum thresholds for issuance of residential development orders and generating new students within the past five years, and having no public schools located within its boundaries. LOS standards for schools are maintained by the Volusia County School Board in cooperation with the local governments in the county. The non-exempt local governments within Volusia County still apply school concurrency today.

The Town is part of a multi-jurisdictional Interlocal Planning Agreement through which it continues to coordinate with the school board on planning issues that affect school capacity. The Town informs the school board of any proposed future land use amendments, rezonings, and

⁶ BEBR (Bureau of Economic and Business Research), University of Florida

development applications that could result in an increase in school students. This agreement is required by F.S. 163.31777 for all non-exempt local jurisdictions within a school district. The agreement requirement remains in effect today, even though the state mandate for school concurrency has been repealed. The agreement requires the school district and local governments to share planning information and forecasts for the “amount, type, and distribution of population growth and student enrollment,” for purposes of planning for future schools, school renovations, expansions, and closures, as well as for sharing/joint use of facilities for mutual benefit and efficiency. The Town is technically exempt from this Agreement as well, per F.S. 163.31777(3), although it participates in the spirit of intergovernmental cooperation to support the public education of children from Ponce Inlet.

At the time of evaluation and appraisal, exempt jurisdictions such as Ponce Inlet are required to assess the extent to which they continue to meet the criteria for exemption⁷. *All* of the following criteria must be met for Ponce Inlet to remain exempt:

- (a) The municipality has issued development orders for fewer than 50 residential dwelling units during the preceding 5 years, or the municipality has generated fewer than 25 additional public school students during the preceding 5 years.
- (b) The municipality has not annexed new land during the preceding 5 years in land use categories that permit residential uses that will affect school attendance rates.
- (c) The municipality has no public schools located within its boundaries.
- (d) At least 80 percent of the developable land within the boundaries of the municipality has been built upon.

There are no sites within Ponce Inlet that are appropriate for new school facilities. Additionally, as the town is approaching build-out, and as the median age of the town's residents is over 50, the number of additional school-aged children generated in the community is expected to remain relatively small. Such an assessment for continued exemption is beyond the scope of this report but will be completed in the near future. Until then, Staff does not recommend revising the policies for intergovernmental coordination with the school board at this time.

POLICY QUESTIONS:

1. *Transportation*
 - a. Should the Town retain transportation concurrency in its current form (roads only)?
 - b. Should the Town add new LOS standards for bicycle and/or pedestrian modes of transportation?
 - c. Should the Town replace the existing thoroughfare standard with a new Mobility standard that encompasses all modes, focused on moving people rather than only vehicles?
2. *Recreation and Open Space*
 - a. Should the Town retain concurrency for Recreation and Open Space in its current form (park land only)?
 - b. Should the Town add new LOS standards for different types of recreation facilities, such as courts, trails, fields, etc.?

⁷ F.S. 163.31777(4)

COASTAL HIGH HAZARD AREA (CHHA)

The Coastal High Hazard Area is defined by Florida Statutes as, “the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.”⁸ The CHHA encompasses the area most vulnerable to storm surge during a Category 1 hurricane. It is the intent of the State of Florida that, “local government comprehensive plans restrict development activities where such activities would damage or destroy coastal resources, and that such plans protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.”⁹ The purpose of the CHHA therefore, is to identify properties that are susceptible to repeated losses from storm surges in order to protect lives and property, minimize public infrastructure investments in those areas, and ensure that development and other human activities do not negatively impact hurricane evacuation times.

In Ponce Inlet, the CHHA covers approximately 70 acres closest to the Halifax River, including 135 separate properties (see CHHA Map, **Attachment C**). Less than 10 acres remain in the CHHA that are vacant and developable, including portions of the Inlet Harbor residential development and the Pacetta property.

Regulatory Changes

State regulations regarding comprehensive planning in coastal areas have changed over the past ten years. Before 2006, comprehensive plans were required by the Florida Administrative Code (FAC) Rule 9J-5.012 to “Direct population concentrations away from known or predicted coastal high-hazard areas.” The Town’s current policies prohibiting any increases in residential density (not just in the CHHA) are intended to comply with this rule.

In 2006, the provisions under Florida Statutes Ch. 163.3178(8) were created allowing local governments to meet Rule 9J-5.012 if new development did not negatively impact hurricane evacuation times or if the development mitigated such impacts through new shelter space, donations of land or funds to build shelters, etc. In 2011, the Community Planning Act repealed 9J-5 altogether, and with it the prohibition on plan policies allowing additional population in the CHHA. Local government comprehensive plans must still contain data, analysis and policies guiding protection and development in the CHHA¹⁰.

In the 2015 legislative session, the requirements were expanded regarding redevelopment policies in the CHHA. Pursuant to F.S. 163.3178(f), the Coastal Zone Element must now contain a redevelopment component with policies used to eliminate “inappropriate and unsafe development in coastal areas as opportunities arise,” along with policies to reduce flood risk from impacts of sea-level rise, remove properties from flood zones, implement development techniques to reduce flooding losses and claims, and apply construction requirements “consistent or more stringent than” those of the Florida Building Code. As a whole, these statutes are focused on protecting the natural coastal environment, maintaining evacuation times, and minimizing property risk and loss, while still allowing limited appropriate development. A copy of selected provisions F.S. 163.3178(f) is provided with this report on **Attachment D**.

⁸ F.S. 163.3178(2)(h)

⁹ F.S. 163.3178(a)

¹⁰ F.S. Ch. 163.3177(6)(g) and 163.3178.

Ponce Inlet CHHA Policies

The Town's adopted CHHA polices from the Future Land Use Element and Coastal Management Element are provided on **Attachment E**. The Town's adopted policies comply with the former FAC Chapter 9J-5 requiring local governments to designate "coastal high-hazard areas," limit public expenditures that subsidize development in the CHHA, and direct population concentrations away from such areas. The policies also provide for evacuation during hurricanes and for protecting the natural coastal dune systems. Most notably, the Town's policies prohibit any future land use amendment or rezoning that would increase residential density.

Given the State's shift in focus over the past decade from outright prohibition of development in the CHHA to managing its risks, the Town will need to revisit this and other related policies. The Town will also need to add policies concerning redevelopment per F.S. 163.3178(2)(h). It will also need to establish policies for appropriate mitigation for comprehensive plan amendments in the CHHA, per F.S. 163.3178(8)(a).

Density Increase Prohibition

FLUE Policy 1.1.4 and others prohibit *any* future land use amendment or rezoning that would serve to increase residential density or population growth (see excerpt below).

“The town also acknowledges that it is at the end of a barrier island, and has limited capacity and desire for additional density or population growth beyond what is possible under existing future land use designations. Accordingly, except as specifically provided below, it shall be a policy of the town not to allow any reclassifications of lands from those identified on the Future Land Use Map labeled Figure II-2 at the end of this chapter to any other classification that would allow any increase in residential density. Moreover, except for the areas affected by the exceptions provided below, no rezonings in the CHHA shall be allowed if such rezoning will result in an increase in density, including but not limited to rezoning to planned waterfront development.”

The prohibition applies Town-wide, not just in the CHHA, based upon a “limited capacity and desire” for additional growth, given the Town's location on a barrier island peninsula, partial location within the CHHA, and need to maintain hurricane evacuation times. The policy was intended to fulfill the State requirement to direct population concentrations away from the CHHA.

However, since 2011, the Town has adopted two exceptions to this policy. Both exceptions are limited in area to property at the intersection of S. Peninsula Drive and Inlet Harbor Road, when the Town redesignated said property from *Conservation* to *Low Density Single-Family Residential*. These exceptions were granted with conditions limiting the number of new residential units below the allowable maximums, creating protective shoreline buffer easements, and other forms of acceptable mitigation pursuant to F.S. 163.3178(8)(a). The Town should determine whether to retain the existing policy or to modify it in light of changes to State Law.

CHHA Mitigation

F.S. 163.3178(8)(a) provides several examples of mitigation that would be appropriate to off-set the potential impacts of future land use amendments and development in the CHHA. These include, “without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities.” The statute limits such mitigation to the amount required for a developer to accommodate impacts reasonably attributable to development. It requires the local government and developer to enter into a binding agreement to memorialize

the mitigation plan. The mitigation technique selected should be related to the impacts the proposed development will have on evacuation. Mitigation measures benefiting evacuation could include improvements related to increasing shelter space or effectiveness, securing evacuation routes from flooding, limiting development density to reduce evacuation demand, increasing evacuation route capacity, requiring higher wind-load standards or base floor elevations for buildings used as on-site shelter. FDEO provides additional examples on its website (see **Attachment F**).

Regarding evacuation, the Town's adopted standard is 16 hours for complete out-of-County evacuation (see Coastal Management Element Objective 1.5, **Attachment E**). The Town has the authority to require proposed developments to submit evacuation studies if there is a concern regarding impacts to evacuation times (CME Policy 1.5.1). Such a study was required with the Inlet Harbor Residential comprehensive plan amendment.

Inlet Harbor Example

In draft versions of the Inlet Harbor Residential Development Agreement, the Town and developer had agreed to provide special construction standards for new homes within the portion of the development in the CHHA. Although these standards were ultimately removed from the final version of the agreement, they are worth revisiting here as potential examples for future mitigation elsewhere in Town. The standards included limitations on the amount of fill dirt that may be brought onto the site (so as not to reduce its flood storage capacity), elevation of structures using stem walls or pilings, compliance with "Exposure "D" standards regarding wind-load, and provision of compensatory stormwater storage. At one point, special construction standards were proposed to incorporate specific provisions from the Florida Building Code related to wave action in Coastal "A" zones. The new provisions would have required homes within the CHHA to be elevated above the standard flood elevation and incorporate construction techniques similar to homes along the oceanfront. To address the concerns voiced by several Council members, Staff had also recommended adding explanations for measuring building height on the homes in the CHHA. These extra standards were found acceptable by the Town's Chief Building Official for purposes of that Agreement.

After further discussion and concerns regarding neighborhood compatibility (between homes on different sides of the same street constructed to different standards), the special construction standards were ultimately removed from the Agreement. They were replaced with a requirement that new homes built in the Coastal High Hazard Area must meet FEMA requirements in effect at the time of permitting. The Agreement also requires the Developer to place covenants and restrictions on the CHHA portion of the property requiring building and site design practices consistent with Town construction standards. The Agreement further requires that, "each home built in the Coastal High Hazard Area shall conform to all applicable federal, state, and local regulations, including but not limited to regulations of the Federal Emergency Management Agency (FEMA), Florida Building Code pertaining to construction in the CHHA, Volusia County, and all related construction standards as adopted by the Town of Ponce Inlet in the Code of Ordinances and LUDC as may be codified or adopted by reference in effect at the time of home construction." Finally, mitigation for Inlet Harbor also included granting a conservation easement over 2.5 acres of marshland north of the property, and improving the drainage at the west end of Inlet Harbor Road.

POLICY QUESTIONS:

1. *Density Increases*

In light of changes to State law regarding development in the CHHA...

- a. Should the Town continue to prohibit all density increases Town-wide? OR
- b. Should the prohibition be limited to the CHHA? OR
- c. Should requests for density increases continue to be handled case by case through exceptions to existing policies, as with Inlet Harbor? OR
- d. Should the prohibition be lifted entirely, subject to maintenance of hurricane evacuation times and new requirements for coastal construction and mitigation?

2. *CHHA Mitigation*

Should the Town create policies for mitigation in the CHHA, similar to those listed by FDEO and/or discussed with the Inlet Harbor Residential Development Agreement, as consistent with F.S. 163.3178?

CONCLUSION

State Law now provides options for retaining or rescinding concurrency for certain types of facilities. State Law is also now focused more on managing the risks for development in the CHHA, opening the door for limited, appropriate residential development rather than directing it away from such areas. Given these changes since the last comprehensive plan update, the Town must now decide how best to amend its policies to be consistent.

This report is provided for informational purposes prior to the December 17, 2015 workshop. The Town Council and Planning Board are requested to discuss these topics and provide direction to Staff to begin drafting policies for the 2016 comprehensive plan update. The update will then be brought back to the Board and Council for review.

Aref Joulani, Planning & Development Director

December 9, 2015
Date

Michael E. Disher, AICP, Senior Planner

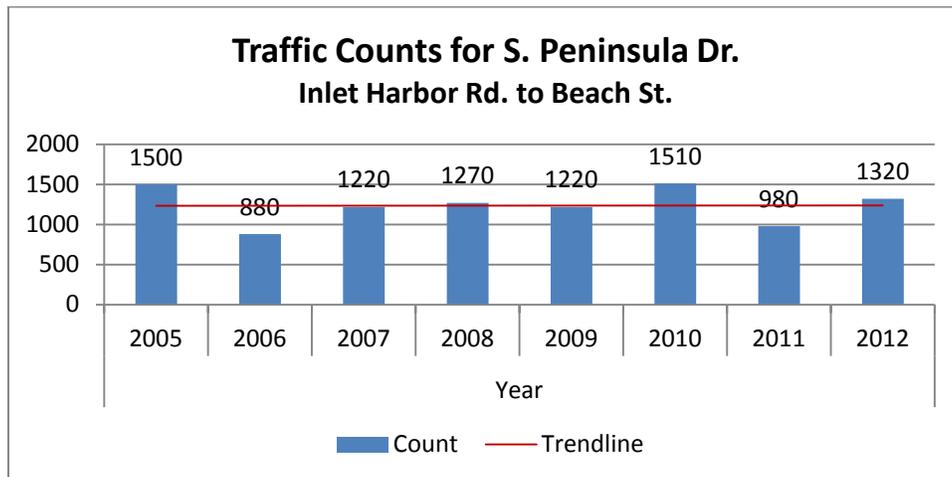
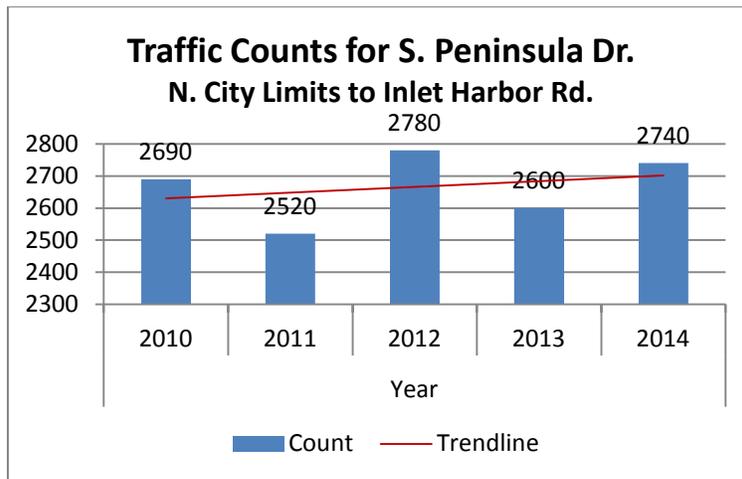
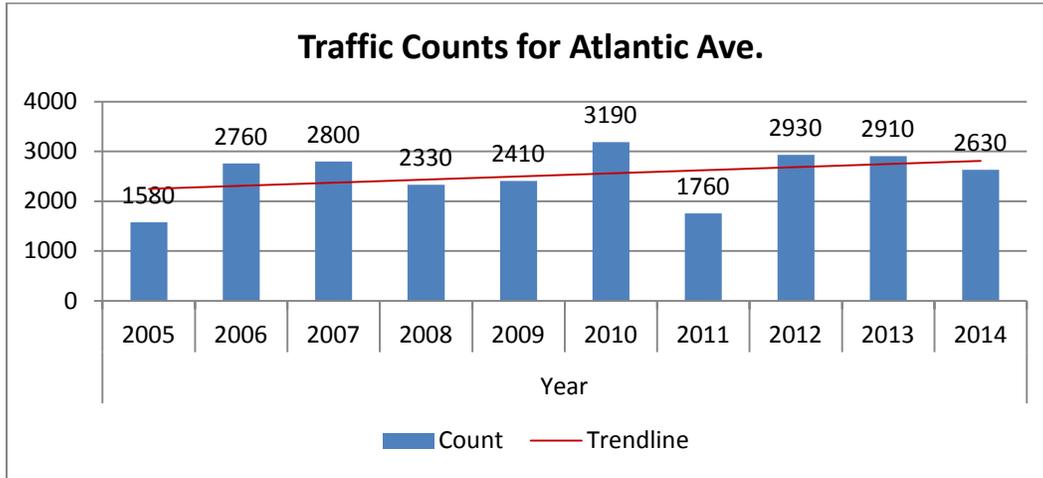
December 9, 2015
Date

Attachments

- A. Ponce Inlet Traffic Counts
- B. Transportation Concurrency Requirements, Florida Statutes
- C. CHHA map
- D. Select CHHA Statutes – F.S. 163.3178
- E. CHHA policies in Comp. Plan
- F. FDEO examples of CHHA mitigation options

ATTACHMENT A

Ponce Inlet Traffic Counts



Source: Volusia County Traffic Engineering

ATTACHMENT B

Transportation Concurrency Requirements, F.S. 163.3180

Policies that complement concurrency

(f) Local governments are encouraged to develop tools and techniques to complement the application of transportation concurrency such as:

1. Adoption of long-term strategies to facilitate development patterns that support multimodal solutions, including urban design, and appropriate land use mixes, including intensity and density.
2. Adoption of an areawide level of service not dependent on any single road segment function.
3. Exempting or discounting impacts of locally desired development, such as development in urban areas, redevelopment, job creation, and mixed use on the transportation system.
4. Assigning secondary priority to vehicle mobility and primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit.
5. Establishing multimodal level of service standards that rely primarily on nonvehicular modes of transportation where existing or planned community design will provide adequate level of mobility.
6. Reducing impact fees or local access fees to promote development within urban areas, multimodal transportation districts, and a balance of mixed-use development in certain areas or districts, or for affordable or workforce housing.

Policies for continuing concurrency

(h)1. Local governments that continue to implement a transportation concurrency system, whether in the form adopted into the comprehensive plan before the effective date of the Community Planning Act, chapter 2011-139, Laws of Florida, or as subsequently modified, must:

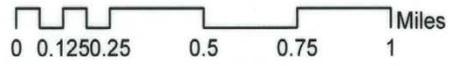
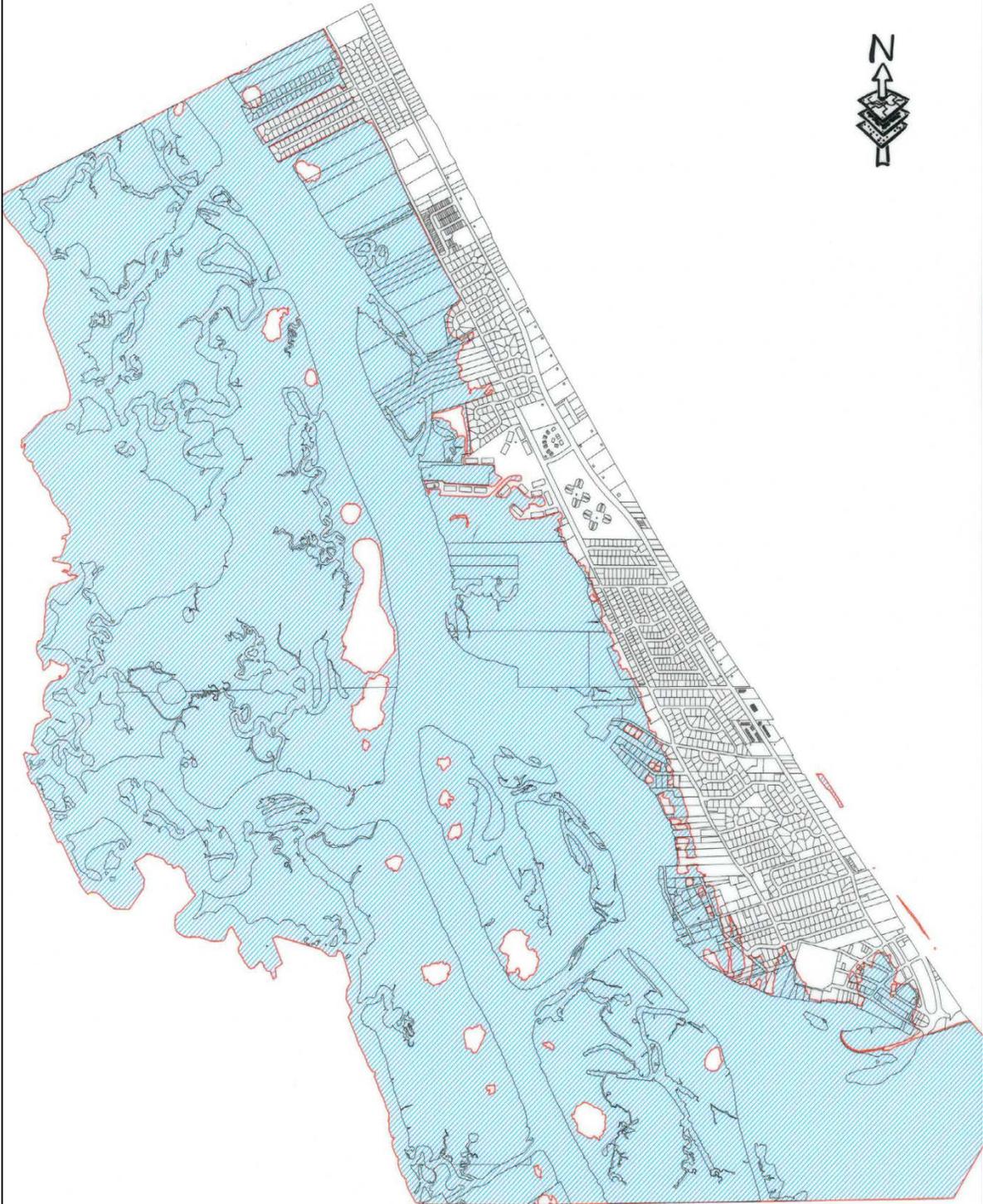
- a. Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system.
- b. Exempt public transit facilities from concurrency.
- c. Provide the basis upon which the landowners will be assessed a proportionate share of the cost addressing the transportation impacts resulting from a proposed development.

Policies if rescinding concurrency

(i) If a local government elects to repeal transportation concurrency, it is encouraged to adopt an alternative mobility funding system that uses one or more of the tools and techniques identified in paragraph (f). Any alternative mobility funding system adopted may not be used to deny, time, or phase an application for site plan approval, plat approval, final subdivision approval, building permits, or the functional equivalent of such approvals provided that the developer agrees to pay for the development's identified transportation impacts via the funding mechanism implemented by the local government. The revenue from the funding mechanism used in the alternative system must be used to implement the needs of the local government's plan which serves as the basis for the fee imposed. A mobility fee-based funding system must comply with the dual rational nexus test applicable to impact fees. An alternative system that is not mobility fee-based shall not be applied in a manner that imposes upon new development any responsibility for funding an existing transportation deficiency as defined in paragraph (h).

ATTACHMENT C

COASTAL HIGH HAZARD AREA (CHHA) MAP



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ATTACHMENT D

Select Coastal High Hazard Area Statutes F.S. 163.3178(2)(f), (2)(h), and 8(a)

(2) Each coastal management element required by s. [163.3177\(6\)\(g\)](#) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

* * *

(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:

1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
2. Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.
3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.
4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.
5. Require that any construction activities seaward of the coastal construction control lines established pursuant to s. [161.053](#) be consistent with chapter 161.
6. Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

(2)(h) Designation of coastal high-hazard areas and the criteria for mitigation for a comprehensive plan amendment in a coastal high-hazard area as defined in subsection (8). The coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. Application of mitigation and the application of development and redevelopment policies, pursuant to s. [380.27\(2\)](#), and any rules adopted thereunder, shall be at the discretion of local government.

(8)(a) A proposed comprehensive plan amendment shall be found in compliance with state coastal high-hazard provisions if:

1. The adopted level of service for out-of-county hurricane evacuation is maintained for a category 5 storm event as measured on the Saffir-Simpson scale; or
2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or
3. Appropriate mitigation is provided that will satisfy subparagraph 1. or subparagraph 2. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. A local government and a developer shall enter into a binding agreement to memorialize the mitigation plan.

ATTACHMENT E

Coastal High Hazard Area Policies in the Comprehensive Plan

FUTURE LAND USE ELEMENT

Policy 1.1.4:

- a) The town acknowledges that it is partially located within the Coastal High Hazard Area (CHHA) and recognizes the requirement of F.S. Ch. 163.3178 to "direct population concentrations away from known or predicted coastal high hazard areas." The town also acknowledges that it is at the end of a barrier island, and has limited capacity and desire for additional density or population growth beyond what is possible under existing future land use designations. Accordingly, except as specifically provided below, it shall be a policy of the town not to allow any reclassifications of lands from those identified on the Future Land Use Map labeled Figure II-2 at the end of this chapter to any other classification that would allow any increase in residential density. Moreover, except for the areas affected by the exceptions provided below, no rezonings in the CHHA shall be allowed if such rezoning will result in an increase in density, including but not limited to rezoning to planned waterfront development. This policy shall not be interpreted as prohibiting otherwise allowable replattings within an existing land use category, even if a consequence of such actions is an increase in the projected build-out population of the Town of Ponce Inlet.
- b) Notwithstanding the above, a portion of parcel 6430-00-01-0022 and all of parcels 6430-00-01-0060 and 6430-00-01-0080, comprising 3.05 acres more or less, and located on the west side of South Peninsula Drive between Calumet Avenue and Inlet Harbor Road, shall be re-designated from a combination of conservation and low density single-family residential to low density single-family residential, as depicted on the Future Land Use Map, with the following stipulations:
 - 1) The Property shall have a maximum allowable development potential of five single-family homes.
 - 2) A 50-foot-wide shoreline and wetland buffer easement shall be provided to the town with any subdivision or development plan application for the northern portion of the property. Said buffer shall not impede reasonable access to a body of water. Limited activities or construction which do not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer, such as pruning, planting of suitable native vegetation, removal of exotic and nuisance pioneer plant species, and the creation and maintenance of walkways.
- c) Notwithstanding the existing provisions of the Comprehensive Plan relating to the Coastal High Hazard Area consistent with state law and administrative rule, Parcel No. 6430-00-01-0022, comprising 3.69 acres more or less, and located on the north side of Inlet Harbor Road and west of south Peninsula Drive, shall be redesignated from Conservation and Low Density Single Family Residential to Low Density Single Family Residential, as depicted on the Future Land Use Map, with the stipulation to address or mitigate development of that portion of the property located in the Coastal High Hazard Area as set out below:
 - 1) The Property shall have a maximum allowable development potential of nine single-family lots.
 - 2) A 50-foot-wide shoreline and wetland buffer easement shall be provided to the town with any subdivision or development plan application for the subject property. Said buffer shall not impede a lot owner's reasonable access to a body of water. Limited activities or construction which do not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer, such as pruning, planting of suitable native vegetation, removal of exotic and nuisance pioneer plant species, and the creation and maintenance of docks and walkways to the docks.
 - 3) Residential development of the property shall not have a negative impact on the adopted level of service for out-of-County evacuation for a category 5 storm event as measured in the Saffir-Simpson Scale, or

- 4) If residential development of the property will have a negative impact on the 12-hour evacuation time to shelter during a category 5 storm event as measured on the Saffir-Simpson Scale, hurricane shelter space reasonably expected to accommodate the residents of the development of the subject property shall be available.
- 5) In the event the standards of criteria 3) or 4) are not met, the developer shall provide appropriate mitigation that will satisfy criteria 3) or 4). Appropriate mitigation shall include, but not be limited to, one or more of the following:
 - Payment of money to create shelter space.
 - Construction of a hurricane shelter an evacuation facility to afford hurricane shelter space to the residents located in the Coastal High Hazard Area.
 - Covenants and restrictions conditions that mitigate the hazard by requiring building practices, flood plain protection, beach and dune alteration, and practices of stormwater management, sanitary sewer and land use to reduce the exposure of human life and public and private property to natural hazards. Septic tanks shall not be allowed.
 - With the agreement of the Town, provide or contribute to restoration, enhancement or dedication to the public of natural resources including beach and dunes, estuaries, wetland infrastructure including sidewalks and drainage systems and, if deemed necessary by local government, programs to mitigate future disruptions or degradations on the Property.

Mitigation required shall not exceed the amount or contribution reasonably needed to accommodate impacts reasonably attributable to the proposed development. If required, the developer and the Town shall enter into a binding agreement to memorialize the agreed-upon mitigation plan for the development, or portions thereof, located in the Coastal High Hazard Area.

Policy 1.2.2: All development in any zoning district is limited to a maximum building height of 35 feet. Additional land use density and intensity standards are provided below. Floor area ratio is determined by dividing the gross floor area of all buildings on a lot by the total area of that lot.

* * *

- g) Riverfront commercial: Buildings not exceeding 35 feet in height and a floor area ratio (FAR) up to 0.35. The total floor area of any building shall not exceed 5,000 square feet, or otherwise as adopted in the lighthouse overlay district (whichever is most restrictive). Residential uses not to exceed 2.9 du/a for employee or business owner housing on sites which are outside of the coastal high hazard area.

As provided in Objective 4.2 of this Future Land Use Element, certain limited lands within the riverfront commercial category may be permitted to develop under a planned waterfront development district. In those limited circumstances, the following density and intensity standards shall apply:

- 1) Buildings larger than 5,000 square feet of floor area may be allowed for specific purposes, as provided for in policy 4.2.4 of this Future Land Use Element. In no event may a retail sales and/or service business exceed 5,000 square feet of floor area. "Retail sales and/or service business" for this purpose is defined as a separate structure or a building or tenant space sharing a common wall through which no access is allowed, but does not include boat construction and repair facilities.
- 2) Residential densities not exceeding 6.7 du/a, calculated only on those lands located outside the coastal high hazard area. All units shall be placed outside the coastal high hazard area through a distribution of existing residential density rights in an aggregated development (densities above 2.9 du/a may only be achieved through a transfer of development rights within the planned waterfront development) and by implementing development agreements that incentivize the provision of recreational and working waterfronts (including water dependent uses along the shoreline), riverfront public walkways, open spaces to which the public is provided access, and other public benefits).
- 3) Floor area ratios for non-residential uses greater than 0.35, but not exceeding 0.48 may be achieved only through a planned waterfront development district and by implementing development agreements that incentivize the provision of recreational and working waterfronts.

- 4) Development within a planned waterfront development shall include the following standards for mix of uses. For lot area, the town shall calculate those upland land areas utilized for each use, excluding roadways, public and private streets, and dedicated utility easements. For mixed use structures and support areas (such as parking lots), the lot area shall be pro-rated on a reasonable basis. For example, shared mix use parking areas may be apportioned based on the parking generation of each use, and mixed use structures may be apportioned on the pro-rated floor area for each use.
- Recreational and commercial working waterfronts: 20%—80% of the lot area.
 - Residential uses: 0%—60% of the lot area.
 - Water enhanced and general retail uses: 20%—60% of the lot area.

Policy 1.2.3: Redevelopment of parcels that were developed in accordance with the Ponce Marina/Harbour Village PWD Development Agreement must be governed by the development agreements.

- a) The following parcels listed by tax parcel identification numbers are limited to the densities and intensities provided for in the Ponce Marina/Harbour Village Development Agreements (not to exceed 988 dwelling units): 6419-01-00-0073, 6419-01-00-0074, 6419-30-00-0001, 6419-26-00-0001, 6419-32-00-0001, 6419-31-00-0001, 6419-21-00-0001, 6419-01-00-0079, 6419-01-00-0075, 6419-01-00-0076, 6419-01-00-0071, 6419-23-00-0020, 6419-01-00-0070, 6419-01-00-0077, 6419-45-04-5980, 6419-45-04-600A, 6419-45-04-600B, 6419-45-04-6160, 6419-45-04-6180, 6419-45-04-6040.

Some of these sites that are located west of South Peninsula Drive are completely or partially within the coastal high hazard area. The maximum residential cap west of South Peninsula Drive is 334 dwelling units.

Objective 1.4: In conjunction with Port Orange, Volusia County and Daytona Beach Shores, the town shall ensure that it maintains out of county hurricane evacuation times for a Category 5 storm event as measured on the Saffir-Simpson scale for the total population of the town at no more than 16 hours from the time of first official order to evacuate prior to the consideration of any proposals to amend a future land use designation that has the effect of increasing residential density in the community.

Policy 1.4.1: As provided in Policy 1.1.4 of this element, the town shall maintain its land development regulations and prohibit any land use change or rezoning that would increase currently allowable population density. This policy shall not be interpreted to prohibit otherwise allowable replattings within an existing land use category, even if a consequence of such replatting is an increase in the projected build-out population of the town. If, in the opinion of the director of planning and development department, any replatting or group of replattings raises a question as to the ability to evacuate the residents of the town within 16 hours from the initial order to evacuate, the town shall require the applicant to submit a complete, comprehensive hurricane evacuation analysis be conducted and evaluated prior to approving any requested replatting.

COASTAL MANAGEMENT ELEMENT

Objective 1.4: The town shall develop strategies to lessen the impact of a destructive storm on human life, property, public facilities and natural resources.

Policy 1.4.1: Population concentrations shall be directed away from the Coastal High Hazard Area (CHHA). Since a substantial portion of the town is located within the Coastal High Hazard Area, the town has adopted Policy 1.1.4 in its Future Land Use Element GOP, restricting reclassifications of land use that allow any increase in residential density.

Policy 1.4.2: Public facilities shall be prohibited that will encourage new development inside the CHHA, unless the facilities are consistent with policies specifically identified in this Comprehensive Plan.

This prohibition does not include: facilities associated with redevelopment or development of properties in accordance with previously approved subdivisions or site plans; public access and recreation facilities; facilities necessary for public health, safety and welfare or resource restoration projects and/or facilities. Public facility expenditures that encourage new high density development inside the CHHA shall be discouraged.

Policy 1.4.3: Prior to the development of public facilities in the CHHA, it shall be determined that there are no other feasible sites outside said area.

Policy 1.4.4: If constructed, all public facilities in the CHHA shall be flood-proofed to ensure minimum damages from storms and hurricanes.

Policy 1.4.5: The town shall regulate development that could impact natural dune systems by requiring developments to provide a plan that addresses that avoids disturbance to dunes if possible, and provides dune protection and stabilization measures, flood-proofing of utilities and requirements for structural wind resistance and floodplain management.

Policy 1.4.6: All development in the Hurricane Vulnerability Zone (HVZ) shall be consistent with the federal flood hazard requirements.

Policy 1.4.7: The town shall continue to participate in the National Flood Insurance Program (NFIP).

Policy 1.4.8: Any reconstruction or repair of the infrastructure necessitating state funds shall be designed to minimize potential damage (i.e., wind and/or flooding) from hurricanes or other storms.

Policy 1.4.9: The town, in accordance with Federal Emergency Management Agency requirements, shall adopt and implement a mitigation plan to reduce damage in areas of repetitive loss due to flooding.

Policy 1.4.10: The town shall continue to participation in the county's Emergency Management Service's "Local Mitigation Strategy" (LMS), as necessary and appropriate, through capital improvements programming and land development regulations in order to establish a continuing program of hurricane mitigation. The LMS is a result of a county-wide multi-jurisdictional program called Volusia 2020.

Objective 1.5: In conjunction with Port Orange, Volusia County and Daytona Beach Shores, the town shall ensure that it maintains hurricane evacuation times at no more than 16 hours from the time of the first official order to evacuate during a Category 5 storm event as measured on the Saffir-Simpson scale prior to the consideration of any proposals to amend a Future Land Use designation that has the effect of increasing residential density in the community.

Policy 1.5.1: The Town of Ponce Inlet may require a complete, comprehensive hurricane evacuation analysis prior to approving any development that would potentially affect the hurricane evacuation level of service.

ATTACHMENT F

Potential Mitigation Options for Amendments in the CHHA

From DEO website, Coastal High Hazard Areas

Local Governments should work closely with their emergency management officials and developers to reach a binding agreement on what constitutes “appropriate mitigation.” However, the statute offers some guidance on what this might include. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributed to development. The Hurricane Preparedness Policy Rule (9J-2.0256, Florida Administrative Code), associated with Developments of Regional Impact offers some additional suggestions about mitigation options including improvements to both shelter capacity and hurricane clearance times. The mitigation technique selected should be related to the impacts the proposed development will have on evacuation. Some ideas for mitigation options may include:

- Donation of land for public facilities
- Donation of the use of private structures to be used as primary public shelters (generally applies to areas outside the Category 1-3 storm surge impact zone as defined by the SLOSH model)
- Payments in lieu of donation of land for the upgrading of existing shelters
- An on-site shelter (generally applies to areas outside the Category 1-3 storm surge impact zone)
- Provision of funds to be used for the purpose of training public hurricane shelter managers
- Provision for the limitation of development to a density that doesn't cause substantial impacts on regional hurricane preparedness
- Provision to limit the number of units that can be located in the Coastal High-Hazard Area
- Establishment and maintenance for a public information program within an existing homeowners association
- Provision for the elevation of all roads within the proposed development above the anticipated Category Three Hurricane Flood levels
- Roadway capacity improvements
- Funds to be used for the purpose of procuring communications equipment;
- Requirement of deed disclosure statements to explain flood hazard potential;
- Donation of conservation easements
- Provision for all buildings/structures to be built to a higher base floor elevation or finished floor elevation than required by the National Flood Insurance Program
- Re-enforce buildings to withstand impacts of wind loads higher than Florida Building Code Requirements, especially those to be used as on-site shelters
- Imposing a local all-hazards mitigation tax.