



August 3, 2022

D. Ray Eubanks  
Florida Department of Economic Opportunity  
Division of Community Planning  
The Caldwell Building 107 E Madison Street  
Tallahassee, FL 32399-4120

***Re: Evaluation and Appraisal Report Notification Letter***

Dear Mr. Eubanks,

Pursuant to Florida Statute 163.3191, please find enclosed the Evaluation and Appraisal Report (EAR) as adopted by resolution by the Village Council on July 19, 2022. This submittal is provided in response to Evaluation and Appraisal Notification Schedule date of March 1<sup>st</sup>, 2021, established by the DEO. The plan identifies necessary updates to the Village's Comprehensive Plan since the last EAR completed in 2015.

The EAR provided includes a review of state legislative changes, and the subsequent items required to be included in the Village Comprehensive Plan based on the review. Included is an updated Future Land Use map and Coastal High Hazard Area map, and a draft of the proposed Property Rights Element.

Please accept this letter as the City's formal notification of submission of the Village of Palmetto Bay 2022 Evaluation and Appraisal Report. If you have any question, please feel free to contact me at (305) 279-1276 or [hsiegel@palmettobay-fl.gov](mailto:hsiegel@palmettobay-fl.gov).

Sincerely,

Heidi Siegel, AICP  
Community and Economic Development Director

CC: Nick Marano, Village Manager  
Missy Arocha, Village Clerk  
Craig Southern, Village Planner



41           **WHEREAS**, on March 1, 2021, the Village completed its evaluation  
42 of changes in the State requirements, and notified the Florida Department  
43 of Economic Opportunity (the State Land Planning Agency) of its intent  
44 to proceed with the evaluation and appraisal process as it is necessary  
45 to amend the Comprehensive Plan; and

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47           **WHEREAS**, pursuant to Section 163.3191(2), Florida Statutes,  
48 upon the determination that amendments to its Comprehensive Plan are  
49 necessary to reflect changes in State requirements, the Village shall  
50 prepare and transmit within one year such plan amendment or  
51 amendments for review pursuant to s.163.3184, F.S.; and

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53           **WHEREAS**, pursuant to Section 163.3174, Florida Statutes, the  
54 Village Council has been designated as the Village of Palmetto Bay Local  
55 Planning Agency (“LPA”); and

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57           **WHEREAS**, on June 21, 2022, the Village of Palmetto Bay LPA  
58 received the Evaluation and Appraisal Report, included as Exhibit “A”,  
59 and recommended acceptance of the EAR to the Mayor and Village  
60 Council; and

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62           **WHEREAS**, on June 21, 2022, the Mayor and Council of the Village  
63 of Palmetto Bay heard the results of the Evaluation and Appraisal Report  
64 included as Exhibit “A”; received the recommendation of the Village of  
65 Palmetto Bay LPA, and heard public comment during the advertised  
66 public hearing; and

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68           **WHEREAS**, upon adoption of the Resolution of the Evaluation and  
69 Appraisal Report, the Village shall subsequently prepare and transmit the  
70 amended Report with necessary components, data and analysis as  
71 required by s. 163.3177 for review by the state land planning agency and  
72 intergovernmental review pursuant to s.163.3184, F.S.

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74           **NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND**  
75 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS**  
76 **FOLLOWS:**

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78           **Section 1. Recitals.** The foregoing recitals are true and correct  
79 and are incorporated herein by this reference and made a part hereof.

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**Section 2. Acceptance.** The Mayor and Village Council accepts the recommendation of the LPA to adopt the EAR as attached with Exhibit A, and the findings of EAR shall be used to direct subsequent preparation and transmittal of the amendments to the Village of Palmetto Bay Comprehensive Plan.

**Section 3. Severability.** The provisions of this Resolution are declared to be severable, and if any sentence, section, clause or phrase of this Resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Resolution, but they shall remain in effect.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon enactment by approval.

**PASSED and RESOLVED** this 19<sup>th</sup> day of July 2022.

Attest: DocuSigned by:  
*Missy Arocha*  
Missy Arocha  
Village Clerk

DocuSigned by:  
*Karyn Cunningham*  
Karyn Cunningham  
Mayor

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

DocuSigned by:  
*John C. Dellagloria, Esq.*  
John C. Dellagloria  
Village Attorney

**FINAL VOTE AT ADOPTION:**

Council Member Patrick Fiore	<u>ABSENT</u>
Council Member Steve Cody	<u>YES</u>
Council Member Marsha Matson	<u>NO</u>
Vice-Mayor Leanne Tellam	<u>YES</u>
Mayor Karyn Cunningham	<u>YES</u>

Date: June 21, 2022  
From: Mario Duron, AICP, The Corradino Group  
To: Heidi Siegel, AICP, Village of Palmetto Bay Community and Economic Development Director  
Subject: **Village of Palmetto Bay 2015 Comprehensive Plan Evaluation and Appraisal Report**

The Village of Palmetto Bay, Florida (“Village”) Comprehensive Plan Evaluation and Appraisal Report (EAR), provides guidance for necessary changes to the Village Comprehensive Plan in response to changes in State growth management legislation between February 2, 2015, when the existing Comprehensive Plan was adopted and June 2022. The EAR process included: 1) listing the State legislative changes for each year, and evaluating the effect of the amendments on the Village Comprehensive Plan policies; and 2) meeting with Village staff to identify policies that may need updates to better reflect the Village’s vision in managing its growth in the context of regional conditions and legislative requirements.

Comprehensive Plan policies that require amendment pursuant to State requirements (Sec. 163.3191(1) F.S.) are included in tabular formats, by year of legislative amendments, citation of the amended State statute section (1<sup>st</sup> column), a description of the change in the State law (2<sup>nd</sup> column), an action item for to address the change (3<sup>rd</sup> column), and a description of the effected Comprehensive Plan Element and Policy, and a recommendation brief (4<sup>th</sup> column).

In addition, certain major amendments beyond singular policy amendments that are presented in the tables are necessitated by recent changes in State requirements. In addition to presentation in the tables, these are presented in separate sections that discuss the requirements and suggested changes in further detail. These topics include:

Affordable Housing:

Affordable housing policies are required to be included in the Comprehensive Plan Housing Element. Suggested draft policies been included in this report as a separate section called, ‘Housing Element: Action Items’. For each policy directive, a recommendation is suggested for LPA consideration based on current State legislative requirements. The recommendations are not legislatively adopted by approval of the EAR. The recommendations are to be discussed, vetted and will be the subject of further discussion by the Village LPA at public hearings through the subsequent process of the Comprehensive Plan update that begins after the acceptance of the EAR.

Property Rights Element:

Recent legislative changes now require all local comprehensive plans to include a “Property Rights Element.” A suggested draft of the Village Property Rights element was prepared in pursuant to the requirements of Section 163.3177(6)(i) and is included as a separate section called, “Draft Property Rights Element.” As for the Housing Element action items, these recommendations are to be discussed, vetted and will be the subject of further discussion by the Village LPA at public hearings through the subsequent process of the Comprehensive Plan update that begins after the acceptance of the EAR.

Coastal High Hazard Areas Map:

The Coastal High Hazard Area (CHHA) maps relating to CHHA land development policies are in need of update as storm surge models have changed. A draft map of the Village’s Coastal High Hazard Areas is

included in the Section titled, Draft Coastal High Hazard Areas Map. In addition to updating the CHHA Map, policies that provide additional mitigation are to be added that provide for: 1) that the Village identify properties for acquisition, 2) maintaining records for assistance in purchasing properties, 3) enforcement of the South Florida Building Code, and 4) monitoring of development in the CHHA to ensure compliance.

Future Land Use Map (FLUM):

The Village has amended its Comprehensive Plan Future Land Use Map (FLUM) three times since adoption of the 2015 Comprehensive Plan: on July 30, 2019, July 28, 2020 and September 21, 2020 and amended the Comprehensive Plan Future Land Use Element text on July 28, 2020. These three map amendments are fully enacted on the dates of their adoption and need no further action. The subsequent EAR-based Comprehensive Plan amendment shall assure that the published map is changed to show these amendments, and in the process of analyzing future growth, their impact shall be included as part of the amended Comprehensive Plan data and analysis volume.

Additional Amendments by the Village Local Planning Agency:

In addition, through the process of the Comprehensive Plan update that will follow the EAR, the Village LPA may consider recommending additional amendments to more fully reflect the Village's vision and changes in local conditions. Pursuant to Section 163.3191(3), F.S., the LPA may recommend as part of the EAR process that such additional amendments be examined through the Comprehensive Plan process that will include including complete analysis and public participation.

**REVIEW OF  
STATE LEGISLATIVE CHANGES  
FROM 2001 TO 2021**

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Legislative Change		Action Item	Comprehensive Plan Amendment Response
<b>Legislative Year 2000 Changes</b>			
<i>not applicable</i>			
<b>Legislative Year 2001 Changes</b>			
<i>not applicable</i>			
<b>Legislative Year 2002 Changes</b>			
Section 163.3177(6)(c)	Required that by adoption of the evaluation and appraisal report, the sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge element consider the regional water supply plan and include a 10-year work plan to build the identified water supply facilities.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Intergovernmental Coordination Element Policy 11.5.11</b> Miami-Dade County Water Supply Facilities Work Plan, revised March 2008 as prepared by Camp, Dresser, and McKee, Inc. is hereby adopted by the Village, the 20-year work plan schedule is consistent with the Village's work plan schedule.  UPDATE WITH THE 2022 Plan: Miami-Dade County Water Supply Facilities Work Plan, revised March 2008 as prepared by Camp, Dresser, and McKee
Section 163.3177(6)(h)	Required that the intergovernmental coordination element include relationships, principles and guidelines to be used in coordinating comprehensive plan with regional water supply plans.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Intergovernmental Coordination Element Policy 8.1.7</b> The Village's Comprehensive Plan will be consistent, where feasible, with the State of Florida Comprehensive Plan, the South Florida Strategic Regional Policy Plan, the Miami-Dade County Comprehensive Development Master Plan, the Comprehensive Plans of adjacent governments, and applicable regional water supply plan(s).
<b>Legislative Year 2003 Changes</b>			
<i>not applicable</i>			
<b>Legislative Year 2004 Changes</b>			
Section 163.3167	(10): Amended to conform to the repeal of the Florida High-Speed Rail Transportation Act, and the creation of the Florida High-Speed Rail Authority Act.  (13): Created to require local governments to identify adequate water supply sources to meet future demand for the established planning period.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	(10) not applicable  (13) <b>Conservation Element Objective 6-2</b> Update water supply and re-evaluate future demand.

Legislative Change		Action Item	Comprehensive Plan Amendment Response
	(14): Created to limit the effect of judicial determinations issued subsequent to certain development orders pursuant to adopted land development regulations.		(14) Increase potable water conservation in order to better meet present and projected needs of all consumers and reduce demands on water service.
Section 163.31771 [new]	<p>(1): Provided legislative findings with respect to the shortage of affordable rentals in the state.</p> <p>(2): Provided definitions.</p> <p>(3): Authorized local governments to permit accessory dwelling units in areas zoned for single family residential use based upon certain findings.</p> <p>(4): An application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant, which attests that the unit will be rented at an affordable rate to a very-low-income, low-income, or moderate-income person or persons.</p> <p>(5): Provided for certain accessory dwelling units to apply towards satisfying the affordable housing component of the housing element in a local government's comprehensive plan.</p> <p>(7): Required the state land planning agency to report to the Legislature.</p>	<b>Included in "Housing Element: Action Item" list</b>	<p>(1) not applicable</p> <p>(2) not applicable</p> <p>(3) <b>Housing Element Policy 3.1.9</b> By January 2022, evaluate the appropriateness of allowing accessory apartments (aka: granny flats) in existing neighborhoods provided adequate setbacks, parking, drainage, septic system, and other requirements and level of service standards are maintained.</p> <p>(4) not applicable</p> <p>(5) not applicable</p> <p>(7) not applicable</p>
<b>Legislative Year 2005 Changes</b>			
Section 163.3177	<p>(2): Required comprehensive plans to be "financially" rather than "economically" feasible.</p> <p>(3)(a)5.: Required the comprehensive plan to include a 5-year schedule of capital improvements. Outside funding (funding from a developer, other government or funding pursuant to referendum) of these capital improvements must be guaranteed in the form of a development agreement or interlocal agreement.</p> <p>(3)(a)6.b.1.: Required a plan amendment for the annual update of the schedule of capital improvements. Deleted a provision allowing updates and change in the date of construction to be accomplished by ordinance. (3)(a)6.c.: Added oversight and penalty provision for failure to adhere to this section's capital improvements requirements.</p> <p>(3)(a)6.d.: Required a long-term capital improvement schedule if the local government has adopted a long-term concurrency management system.</p>		<p>(2): <b>Capital Improvements Element Water Supply Facilities Element</b></p> <p>(3)(a)(5): <b>5-year schedule of Capital Improvements Element</b> Page 9-9. Update for 2022 to 2027.</p> <p>(3)(a)6.b.1 not applicable</p> <p>(3)(a)6d. not applicable</p>

Legislative Change	Action Item	Comprehensive Plan Amendment Response
<p>(6)(a): Deleted date (October 1, 1999) by which school sitting requirements must be adopted.</p> <p>(6)(a): Requires the future land use element to be based upon the availability of water supplies (in addition to public water facilities).</p> <p>(6)(a): Add requirement that future land use element of coastal counties must encourage the preservation of working waterfronts, as defined in section 342.07, Florida Statutes.</p> <p>(6)(c): Required the potable water element to be updated within 18 months of an updated regional water supply plan to incorporate the alternative water supply projects and traditional water supply projects and conservation and reuse selected by the local government to meet its projected water supply needs. The ten-year water supply work plan must include public, private and regional water supply facilities, including development of alternative water supplies. Such amendments do not count toward the limitation on the frequency of adoption of amendments.</p> <p>(6)(e): Added waterways to resources addressed by the recreation and open space element.</p> <p>(6)(h)1.: The intergovernmental coordination element must address coordination with regional water supply authorities.</p> <p>(11)(d)4.c.: Required rural land stewardship areas to address affordable housing.</p> <p>(11)(d)5.: Required a listed species survey be performed on rural land stewardship receiving area. If any listed species present, must ensure adequate provisions to protect them.</p> <p>(11)(d)6.: Must enact an ordinance establishing a methodology for creation, conveyance, and use of stewardship credits within a rural land stewardship area.</p> <p>(11)(d)6.j.: Revised to allow open space and agricultural land to be just as important as environmentally sensitive land when assigning stewardship credits.</p> <p>(12): Must adopt public school facilities element.</p> <p>(12)(a) and (b): A waiver from providing this element will be allowed under certain circumstances.</p> <p>(12)(g): Expanded list of items to be to include collocation, location of schools proximate to residential areas, and use of schools as emergency shelters.</p>		<p>(6)(a): <b>Future Land Use Element: Objective 1.5</b> Environmental Resources and Natural Systems, Policies 1.5.5, 1.5.6 and 1.5.7 (6)(a) not applicable -- no working waterfronts.</p> <p>(6)(c): <b>Future Land Use Element: Objective 1.5</b> Environmental Resources and Natural Systems, Policies 1.5.5, 1.5.6 and 1.5.7</p> <p>(6)(e) not applicable</p> <p>(6)(h)1: <b>Intergovernmental Coordination Element Policy 8.1.16</b></p> <p>(11)(d)4 not applicable – no rural land</p> <p>(12) Educational “Facilities” Element CORRECT SPELLING ERROR IN)</p> <p>(12) (g) <b>Educational Facilities Element Policy 10.3.9</b> (Emergency Shelters) <b>Future Land Use Element Policy 1.4.2</b> (Proximity to residential) <b>Intergovernmental Coordination Element Policy 8.1.9</b> (Collocation)</p>

Legislative Change	Action Item	Comprehensive Plan Amendment Response
<p>(12)(h): Required local governments to provide maps depicting the general location of new schools and school improvements within future conditions maps.</p> <p>(12)(i): Required the state land planning agency to establish a schedule for adoption of the public school facilities element.</p> <p>(12)(j): Established penalty for failure to adopt a public school facility element.</p> <p>(13): (New section) Encourages local governments to develop a “community vision” that provides for sustainable growth, recognizes its fiscal constraints, and protects its natural resources.</p> <p>(14): (New section) Encourages local governments to develop an “urban service boundary” that ensures the area is served (or will be served) with adequate public facilities and services over the next 10 years. See section 163.3184(17).</p>		<p>(12)(h) <b>Educational Facilities Element</b> Maps depicting the general location of new schools and school improvements within future conditions. UPDATE</p> <p>(13) <b>OPTIONAL “Community Vision”</b></p> <p>(14) <b>OPTIONAL “Urban Service Boundary”</b></p>
<p>Section 163.3180 (1)(a): Added “schools” as a required concurrency item.</p> <p>(2)(a): Required consultation with water supplier prior to issuing building permit to ensure “adequate water supplies” to serve new development will be available by the date of issuance of a certificate of occupancy.</p> <p>(2)(c): Required all transportation facilities to be in place or under construction within 3 years (rather than 5 years) after approval of building permit.</p> <p>(4)(c): The concurrency requirement, except as it relates to transportation and public schools, may be waived in urban infill and redevelopment areas. The waiver shall be adopted as a plan amendment. A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within an urban infill and redevelopment area.</p> <p>(5)(d): Required guidelines for granting concurrency exceptions to be included in the comprehensive plan.</p> <p>(5)(e) – (g): If local government has established transportation exceptions, the guidelines for implementing the exceptions must be “consistent with and support a comprehensive strategy, and promote the purpose of the exceptions.” Exception areas must include mobility strategies, such as alternate modes of transportation, supported by data and analysis. The Florida Department of Transportation must be consulted prior to</p>		<p>(1)(a) <b>Educational Facilities Element Objective 10.2</b></p> <p>(2)(a) <b>Water Supply Facilities Element Policy 11.2.9</b> Before approval of a building permit or change of use, the Village will ensure that a Water Supply Certification letter has been issued by the MDWASD to ensure adequate water supply is available for the proposed use.</p> <p>(2)(c) <b>Capital Improvements Element: Policy 9.3.1:</b></p> <p>5(d) <b>Transportation Element: Policy 2A.1.1</b> The Village of Palmetto Bay recognizes the Urban Development Boundary (UDB) designated by Miami-Dade County and the Urban Infill Area UIA1 within its municipal limits. Pursuant thereto, the minimum acceptable peak-period LOS for all State and County roads within the UDB shall be the following...</p> <p>5(e)-(g): <b>Transportation Element, Policy 2A.1.1 :</b></p>

Legislative Change	Action Item	Comprehensive Plan Amendment Response
<p>designating a transportation concurrency exception area. Transportation concurrency exception areas existing prior to July 1, 2005 must meet these requirements by July 1, 2006, or when the evaluation and appraisal-based amendments are adopted, whichever occurs last.</p> <p>(6): Required local government to maintain records to determine whether 110 percent de minimis transportation impact threshold is reached. A summary of these records must be submitted with the annual capital improvements element update. Exceeding the 110 percent threshold dissolves the de minimis exceptions.</p> <p>(7): Required consultation with the Department of Transportation prior to designating a transportation concurrency management area (to promote infill development) to ensure adequate level-of-service standards are in place. The local government and the Florida Department of Transportation should work together to mitigate any impacts to the Strategic Intermodal System.</p> <p>(9)(a): Allowed adoption of a long-term concurrency management system for schools.</p> <p>(9)(e): (New section) Allowed local governments to issue approvals to commence construction notwithstanding section 163.3180 in areas subject to a long-term concurrency management system.</p> <p>(9)(d): (New section) Required evaluation in Evaluation and Appraisal Report of progress in improving levels of service coordination element. (10): Added requirement that level of service coordination element standard for roadway facilities on the Strategic Intermodal System must be consistent with Florida Department of Transportation standards. Standards must consider compatibility with adjacent jurisdictions.</p> <p>(13): Required school concurrency (not optional).</p> <p>(13)(e)1: Requires school concurrency after five years to be applied on a “less than districtwide basis” (i.e., by using school attendance zones, etc).</p> <p>(13)€2: Eliminated exemption from plan amendment adoption limitation for changes to service area boundaries.</p> <p>(13)(e)3.: No application for development approval may be denied if a less-than districtwide measurement of school concurrency is used; however the development impacts must to shifted to contiguous service areas with school capacity.</p>		<p>(6) <b>Capital Improvements Element Policy 9.3.6:</b> Any proposed development that is deemed to generate a de minimis impact (as defined in subsection 163.3180(6), F.S.) shall not be required to establish transportation concurrency. ENSURE RECORDS HAVE BEEN MAINTAINED</p> <p>(7) <b>Transportation Element Objective 2A.1</b> TCMA is designated east of SW 77<sup>th</sup> Avenue – coordinate with County and FDOT to modify consistent with future land use.</p> <p>(9) <b>OPTIONAL Educational Facilities Element</b></p> <p>(13) <b>Educational Facilities Element Objective 10.2</b></p>

Legislative Change	Action Item	Comprehensive Plan Amendment Response
<p>(13)(e): Allowed school concurrency to be satisfied if a developer executes a legally binding commitment to provide mitigation proportionate to the demand.</p> <p>(13)(e)1: Enumerated mitigation options for achieving proportionate share mitigation.</p> <p>(13)(e)2.: If educational facilities funded in one of the two following ways, the local government must credit this amount toward any impact fee or exaction imposed on the community: contribution of land construction, expansion, or payment for land acquisition</p> <p>(13)(g)2.: (Section deleted) – It is no longer required that a local government and school board base their plans on consistent population projection and share information regarding planned public school facilities, development and redevelopment and infrastructure needs of public school facilities. However, see (13)(g)6.a. for similar requirement.</p> <p>(13)(g)6.a: [Formerly (13)(g)7.a.] Local governments must establish a uniform procedure for determining if development applications are in compliance with school concurrency.</p> <p>(13)(g)7. [Formerly (13)(g)8.]: Deleted language that allowed local government to terminate or suspend an interlocal agreement with the school board.</p> <p>(13)(h): (New provision) The fact that school concurrency has not yet been implemented by a local government should not be the basis for either an approval or denial of a development permit.</p> <p>(15): Prior to adopting Multimodal Transportation Districts, FDOT must be consulted to assess the impact on level of service coordination element standards. If impacts are found, the local government and the FDOT must work together to mitigate those impacts. Multimodal districts established prior to July 1, 2005 must meet this requirement by July 1, 2006 or at the time of the EAR-base amendment, whichever occurs last.</p> <p>(16): (New section) Required local governments to adopt a method for assessing proportionate fair-share mitigation options by December 1, 2006. Required the Florida Department of Transportation to develop a model ordinance by December 1, 2005.</p>		<p>(13)(e) <b>Policy 10.2.3 (proportionate share mitigation options)</b></p> <p>(13)(g)6.a: <b>Educational Facilities Element Objective 10.2</b></p> <p>(15) not applicable – no Multimodal Transportation Districts</p> <p>(16) <b>Intergovernmental Coordination Element Objective 8.2 Transportation and Transit Coordination Needs</b>  Coordinate effectively with governmental agencies providing all types of transportation facilities and services to Palmetto bay to ensure the Village receives its fair share of funding and improvements.</p>

Legislative Change		Action Item	Comprehensive Plan Amendment Response
<b>Legislative Year 2006 Changes</b>			
Educational “Facilities” Element	Recognizes “extremely-low-income persons” as another income groups whose housing needs might be addressed by accessory dwelling units and defines such persons consistent with section 420.0004(8), Florida Statutes. Chapter 2006-69, Laws of Florida.	<b>Optional update to Village of Palmetto Bay Comprehensive Plan</b>	<b>Educational “Facilities” Element</b> (CORRECT SPELLING ERROR) MISSING
Section 163.3178(2)(c)	Requires local governments to amend their Future Land Use Map and coastal management element to include the new definition of the Coastal High Hazard Area, and to depict the Coastal High Hazard Area on the Map by July 1, 2008. Chapter 2006-68, Laws of Florida.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Future Land Use Element and Coastal Management Element</b> UPDATE MAP
Section 163.3208 [New]	Creates a new section related to electric distribution substations; establishes criteria addressing land use compatibility of substations; requires local governments to permit substations in all future land use map categories (except preservation, conservation or historic preservation); establishes compatibility standards to be used if a local government has not established such standards; establishes procedures for the review of applications for the location of a new substation; allows local governments to enact reasonable setback and landscape buffer standards for substations. Chapter 2006-268, Laws of Florida.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Future Land Use Element</b> Requires local governments to permit substations in all future land use map categories – missing – needs update or addition of policy.
<b>Legislative Year 2007 Changes</b>			
<i>not applicable</i>			
<b>Legislative Year 2008 Changes</b>			
<i>not applicable</i>			
<b>Legislative Year 2009 Changes</b>			
<i>not applicable</i>			
<b>Legislative Year 2010 Changes</b>			
<i>not applicable</i>			

Legislative Change		Action Item	Comprehensive Plan Amendment Response
<b>Legislative Year 2011 Changes</b>			
Section 163.3177(3)(a)4	Modifies provisions for preparing the capital improvements element to require the schedule to cover a 5-year period and identify whether projects are either funded or unfunded and given a level of priority for funding. Deletes requirements for financial feasibility. Deletes the requirement that the element include standards for the management of debt.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Capital Improvements Element page 9-9 Five-Year Schedule of Capital Improvements.</b> The Village of Palmetto Bays schedule of capital improvements is published annually as part of the Capital Improvement Program. It presents key information related to the future projects proposed in various elements of this Comprehensive Plan. Table 1 through 4 of the Capital Improvement Program outlines the Revenue Sources available to fund each capital improvement, the year the project is projected to be implemented, compliance with Goals, Objectives and Policies of the Comprehensive Plan and project-related expenses over the next five (5) years. INCLUDE TABLE 1 THROUGH 4 IN CIP ELEMENT
Section 163.3177(6)(a)2 and 3	Modifies the standards on which future land use plan and plan amendments are based to include: permanent and seasonal population, compatibility, the need to modify land uses and development patterns within antiquated subdivisions, preservation of waterfronts, location of schools proximate to urban residential areas, and other considerations taken from repealed Rule 9J-5.006, Florida Administrative Code. Deletes requirement that the data on which comprehensive plans and plan amendments are based include data on energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems and greenhouse gas reduction strategies.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Future Land Use Element</b> Update Permanent Population, Missing Seasonal Population
Section 163.3177(6)(f)1 and 2	Provides requirements for the housing element to include guidelines, standards and strategies based on an inventory taken from the latest decennial United States Census or more recent estimates and various other considerations listed in repealed Rule 9J-5.010, Florida Administrative Code.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Housing Element</b> Update with latest Census data.
Section 163.3177(6)(f)3 [New]	Based on repealed Rule 9J-5.010, Florida Administrative Code, sets forth new requirements for the creation and preservation of affordable housing, elimination of substandard housing conditions, providing for adequate sites and distribution for a range of incomes and types, and including programs for partnering, streamlined permitting, quality of housing, neighborhood stabilization, and improving historically significant housing.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Housing Element</b> Update affordable housing policy(ies)



Legislative Change		Action Item	Comprehensive Plan Amendment Response
Section 163.3177(6)(g)	Modifies the objectives of the coastal management element and includes a new requirement for preserving historic and archaeological resources.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Conservation Element Objective 6.10 Archeological and Historic Resources:</b> Ensure future land development activities incorporate appropriate measures to prevent damage to archeologically and historically significant resources in the Village of Palmetto Bay to the maximum extent feasible.
Section 163.3180(2)(b) and (c) [Deleted]	Deletes requirement that parks and recreation facilities to serve new development are in place or under actual construction no later than one year after issuance of a certificate of occupancy or its functional equivalent.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Capital Improvements Elements Policy 9.3.1 Parks &amp; Recreation (2)(a):</b> The development order includes the conditions that the necessary facilities and services needed to serve new development are scheduled to be in place or under construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted five-year CIP schedule.
Section 163.3180(5)(a)-(h) [New]	Establishes concurrency provisions for transportation facilities, which include portions of repealed Rule 9J-5.0055, Florida Administrative Code. Sets forth requirements with respect to adopted level of service standards, including use of professionally accepted studies to evaluate levels of service, achieving and maintaining adopted levels of service standards, and including the projects needed to accomplish this in 5-year schedule of capital improvements. Requires coordination with adjacent local governments and setting forth the method to be used in calculating proportionate-share contribution. Defines the term "transportation deficiency."	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Transportation Element:</b> Updates to the Transportation Master Plan since 2004 are missing.
<b>Legislative Year 2012 Changes</b>			
<i>not applicable</i>			
<b>Legislative Year 2013 Changes</b>			
Section 163.3180(5)(h)1.d	Modifies language to require local governments that continue to implement a transportation concurrency system to 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.	<b>Update Village of Palmetto Bay Comprehensive Plan</b>	<b>Capital Improvements Element Policy 9.3.1: Transportation:</b> Prior to the issuance of any development order for new development or redevelopment, transportation public facilities needed to support the development at adopted LOS standards must meet one of the following timing requirements. Transportation concurrency does not include: "the developer executes a legally binding commitment to provide mitigation proportionate to the demand..."

Legislative Change	Action Item	Comprehensive Plan Amendment Response
<b>Legislative Year 2014 Changes</b>		
<i>not applicable</i>		
<b>Legislative Year 2015 Changes</b>		
<p>Section 163.3178 Coastal Management Element (Chapter 2015-69, Section 1, Laws of Florida)</p>	<p>Adds a requirement that the redevelopment component of the Coastal Management Element must:</p> <ol style="list-style-type: none"> <li>1. Reduce the flood risk in coastal areas that result from high tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise.</li> <li>2. Encourage removal of coastal real property from FEMA flood zone designations.</li> <li>3. Be consistent with or more stringent than the flood resistant construction requirements in the Florida Building Code and federal flood plain management regulations.</li> <li>4. Require construction seaward of the coastal construction control line to be consistent with chapter 161, Florida Statutes.</li> <li>5. Encourage local governments to participate in the National Flood Insurance Program Community Rating System to achieve flood insurance premium discounts for their residents.</li> </ol>	<p style="text-align: center;"><b>Update Village of Palmetto Bay Comprehensive Plan</b></p> <p><b>Coastal Management Element:</b></p> <ol style="list-style-type: none"> <li>1. Missing requirements/policies related to sea level rise.</li> <li>2. <b>Policy 5.8.10:</b> The Village shall identify properties recommended for acquisition after a named storm. The list of properties will not be published and will only be shared with FEMA and County officials associated with mitigation activities. The list of properties will only be used to contact willing sellers and offer mitigation opportunities.</li> <li>3. <b>Policy 5.4.2:</b> Regulations contained within the South Florida Building Code will be enforced to reduce exposure of life and property to the damaging effects of a hurricane or tropical storm to protect human life and property and to conserve the Village's natural resources.</li> <li>4. <b>Policy 5.1.6:</b> The Village of Palmetto Bay will assist county and state agencies in enforcement and monitoring of compliance with the Florida Department of Environmental Protection (FDEP) Coastal Construction Control Line (CCCL) regulations established in August 1997. Furthermore, the Village will monitor development and redevelopment within the Coastal High Hazard Area (CHHA) to ensure proper compliance with state and local regulations.</li> <li>5. <b>Policy 5.3.4:</b> The Village shall maintain records consistent with the Federal Insurance Administration's listing of community selection factors for assistance in purchasing properties under Section 1362 of the National Flood Insurance Act.</li> </ol>

Legislative Change	Action Item	Comprehensive Plan Amendment Response
<b>Legislative Year 2016 Changes</b>		
<i>not applicable</i>		
<b>Legislative Year 2017 Changes</b>		
<i>not applicable</i>		
<b>Legislative Year 2018 Changes</b>		
<i>not applicable</i>		
<b>Legislative Year 2019 Changes</b>		
Section 163.31801 Impact Fees (Chapter 2019-165, Section 5, Laws of Florida)	<ol style="list-style-type: none"> <li>1. Amends subsection 163.31801(3) to add minimum conditions that certain impact fees must satisfy.</li> <li>2. Adds subsection 163.31801(4) to require local governments to credit against the collection of an impact fee any contribution related to public education facilities.</li> <li>3. Adds subsection 163.31801(5) so that if a local government increases its impact fee rates then the holder of impact fee credits is entitled to the full benefit of the intensity or density of the credit balance as of the date it was established and renumbers subsequent subsections.</li> <li>4. Amends renumbered subsection 163.31801(7) to provide that in certain actions, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of certain required dollar-for-dollar credits for the payment of impact fees meets certain requirements and prohibits the court from using a deferential standard for the benefit of the government.</li> <li>5. Adds subsection 163.31801(8) to authorize a local government to provide an exception or waiver for an impact fee for the development or construction of affordable housing and in doing such is not required to use any revenues to offset the impact.</li> <li>6. Adds subsection 163.31801(9) to clarify that this section does not apply to water and sewer connection fees.</li> </ol>	<p style="text-align: center;"><b>Update Village of Palmetto Bay Comprehensive Plan</b></p> <p><b>Educational Facilities Element Policy 10.2.3</b>            In the event the adopted LOS standard of a CSA cannot be met as a result of a proposed development's impact, the development may proceed provided at least one of the following conditions is met:</p>

Legislative Change		Action Item	Comprehensive Plan Amendment Response
<b>Legislative Year 2020 Changes</b>			
Section 163.31771 Accessory Dwelling Units (Chapter 2020-27, Section 4, Laws of Florida)	Amends subsections 163.31771(3) and (4) to remove the requirement that a local government must adopt an ordinance finding a shortage of affordable rentals in the jurisdiction before allowing accessory dwelling units to be located in any area zoned for single family residential use.	<b>Included in Housing Element: Action Item list</b>	<b>Housing Element Policy 3.1.9</b> By January 2020, evaluate the appropriateness of allowing accessory apartments (aka: granny flats) in existing neighborhoods provided adequate.
Section 163.31801 Impact Fees (Chapter 2019-165, Section 5, Laws of Florida)	<ol style="list-style-type: none"> <li>1. Amends subsection 163.31801(3) to add minimum conditions that certain impact fees must satisfy.</li> <li>2. Adds subsection 163.31801(4) to require local governments to credit against the collection of an impact fee any contribution related to public education facilities.</li> <li>3. Adds subsection 163.31801(5) so that if a local government increases its impact fee rates then the holder of impact fee credits is entitled to the full benefit of the intensity or density of the credit balance as of the date it was established and renumbers subsequent subsections.</li> <li>4. Amends renumbered subsection 163.31801(7) to provide that in certain actions, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of certain required dollar-for-dollar credits for the payment of impact fees meets certain requirements and prohibits the court from using a deferential standard for the benefit of the government.</li> <li>5. Adds subsection 163.31801(8) to authorize a local government to provide an exception or waiver for an impact fee for the development or construction of affordable housing and in doing such is not required to use any revenues to offset the impact.</li> <li>6. Adds subsection 163.31801(9) to clarify that this section does not apply to water and sewer connection fees.</li> </ol>	<b>Optional Update to Village of Palmetto Bay Comprehensive Plan</b>	<ol style="list-style-type: none"> <li>1. <b>Capital Improvements Element: Policy 9.2.5:</b> Update</li> <li>2. <b>Capital Improvements Element: Policy 9.2.5:</b> Optional update</li> <li>3. not applicable to poicy update</li> <li>4. not applicable to poicy update</li> <li>5. To authorize a local government to provide an exception or waiver for an impact fee for the development or construction of affordable housing</li> <li>6. <b>Capital Improvements Element: Policy 9.2.5:</b> Add clarification update</li> </ol>

Legislative Change		Action Item	Comprehensive Plan Amendment Response
<b>Legislative Year 2021 Changes</b>			
Section 163.3177(6)(i) Property Rights	Amending s. 163.3177, F.S.; requiring local governments to include a property rights element in their comprehensive plans; providing a statement of rights which a local government may use; requiring a local government to adopt a property rights element by the earlier of its adoption of its next proposed plan amendment initiated after a certain date or the next scheduled evaluation and appraisal of its comprehensive plan; prohibiting a local government's property rights element from conflicting with the statement of rights contained in the act	<b>Draft included in Property Rights Element: Action Item list</b>	<b>Property Rights Element</b> Update with added Comprehensive Plan element/ suggested draft provided. Final update to be determined through subsequent Village of Palmetto Bay Comprehensive Plan amendment process.

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# HOUSING ELEMENT ACTION ITEMS

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## HOUSING ELEMENT: ACTION ITEMS

Review of the legislative updates against the Village's 2015 Comprehensive Plan shows that existing Comprehensive Plan Housing Element policy requires update and action per the policy's directive. The following is a list of policies from the Village's Housing Element that are pending action. After review of the policy against current legislation, recommendations are provided below.

1. **Policy 3.1.5.**

By January 2016 evaluate the feasibility of inclusionary zoning regulations, which requires a certain percentage of units of new development or redevelopment to be set aside for low- or moderate-income housing.

**Recommendation:** The Village evaluate the feasibility of inclusionary zoning regulations to comply with Florida legislation. Per Florida Statute Sec. 163.3177(6)(f)(3): "The housing element must express principles, guidelines, standards, and strategies that reflect, as needed, the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, adequate sites, and distribution of housing for a range of incomes and types..."

2. **Policy 3.1.6**

By January 2016, consider density bonuses for the provision of affordable housing.

**Recommendation:** The Village consider density bonuses for the provision of affordable housing. Per Florida Statute Sec. 163.3177(6)(f)(3): "The [Housing] element must provide for specific programs and actions to partner with private and nonprofit sectors to address housing needs in the jurisdiction, streamline the permitting process, and minimize costs and delays for affordable housing, establish standards to address the quality of housing, stabilization of neighborhoods, and identification and improvement of historically significant housing."

3. **Policy 3.1.9**

By January 2020, evaluate the appropriateness of allowing accessory apartments (aka: granny flats) in existing neighborhoods provided adequate setbacks, parking, drainage, septic system, and other requirements and level of service standards are maintained.

**Recommendation:** the Village evaluate the appropriateness of allowing accessory apartments within the Village, as an additional tool for the provision of affordable housing. Per Florida Statute Sec. 163.3177(6)(f)(3): "The housing element must express principles, guidelines, standards, and strategies that reflect, as needed, the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, adequate sites, and distribution of housing for a range of incomes and types..."

4. **Policy 3.3.2**

By January 2016, an assessment of the existing affordable housing permitting process should be performed to determine if a decrease in cost and/or increase in efficiency of providing affordable housing is needed.

**Recommendation:** The Village perform an assessment of the affordable housing permitting process to comply with State law. Per Florida Statute Sec. 163.3177(6)(f)(3): "The [Housing]

element must provide for specific programs and actions to partner with private and nonprofit sectors to address housing needs in the jurisdiction, streamline the permitting process, and minimize costs and delays for affordable housing, establish standards to address the quality of housing, stabilization of neighborhoods, and identification and improvement of historically significant housing.”

5. **Policy 3.3.3**

By January 2016, Council should review the provisions of providing density bonuses for the establishment of affordable housing on infill sites, particularly for small renter households.

**Recommendation:** The Village consider density bonuses for the establishment of affordable housing on infill sites as an additional tool for the provision of affordable housing in the Village. Per Florida Statute Sec. 163.3177(6)(f)(3): “The [Housing] element must provide for specific programs and actions to partner with private and nonprofit sectors to address housing needs in the jurisdiction, streamline the permitting process, and minimize costs and delays for affordable housing, establish standards to address the quality of housing, stabilization of neighborhoods, and identification and improvement of historically significant housing.”

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**Florida Statute Sec. 163.3177(6)(f):**

1. *A housing element consisting of principles, guidelines, standards, and strategies to be followed in:*
  - a. *The provision of housing for all current and anticipated future residents of the jurisdiction.*
  - b. *The elimination of substandard dwelling conditions.*
  - c. *The structural and aesthetic improvement of existing housing.*
  - d. *The provision of adequate sites for future housing, including affordable workforce housing as defined in s. 380.0651(1)(h), housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities. The element may include provisions that specifically address affordable housing for persons 60 years of age or older. Real property that is conveyed to a local government for affordable housing under this sub-subparagraph shall be disposed of by the local government pursuant to s. 125.379 or s. 166.0451.*
  - e. *Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation, or replacement.*
  - f. *The formulation of housing implementation programs.*
  - g. *The creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction.*
2. *The principles, guidelines, standards, and strategies of the housing element must be based on data and analysis prepared on housing needs, which shall include the number and distribution of dwelling units by type, tenure, age, rent, value, monthly cost of owner-occupied units, and rent or cost to income ratio, and shall show the number of dwelling units that are substandard. The data and analysis shall also include the methodology used to estimate the condition of housing, a projection of the anticipated number of households by size, income range, and age of residents derived from the population projections, and the minimum housing need of the current and anticipated future residents of the jurisdiction.*
3. *The housing element must express principles, guidelines, standards, and strategies that reflect, as needed, the creation and preservation of affordable housing for all current and anticipated future*

*residents of the jurisdiction, elimination of substandard housing conditions, adequate sites, and distribution of housing for a range of incomes and types, including mobile and manufactured homes. The element must provide for specific programs and actions to partner with private and nonprofit sectors to address housing needs in the jurisdiction, streamline the permitting process, and minimize costs and delays for affordable housing, establish standards to address the quality of housing, stabilization of neighborhoods, and identification and improvement of historically significant housing.*

- 4. State and federal housing plans prepared on behalf of the local government must be consistent with the goals, objectives, and policies of the housing element. Local governments are encouraged to use job training, job creation, and economic solutions to address a portion of their affordable housing concerns.*

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**DRAFT  
PROPERTY RIGHTS  
ELEMENT**

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## PROPERTY RIGHTS ELEMENT

### Goal:

The Village of Palmetto Bay will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

### Objective 1

The Village of Palmetto Bay will respect judicially acknowledged and constitutionally protected private property rights.

#### Policy 1.1

The Village of Palmetto Bay will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

#### Policy 1.2

The Village of Palmetto Bay will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

#### Policy 1.3

The Village of Palmetto Bay will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

#### Policy 1.4

The Village of Palmetto Bay will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

### Objective 2

The Village of Palmetto Bay decision-making will be reliable and predictable to promote sound, long-term investments in the community. decision-making will be reliable and predictable to promote sound, long-term investments in the community

#### Policy 2.1.

The Village of Palmetto Bay must follow provide for opportunities for all affected persons to be heard on actions that:

- Amends the Village's comprehensive plan;
- Changes the zoning designation of property within the Village;
- Approves a site plan; or
- Requires a variance.

#### Policy 2.2

Action items identified in Policy 2.1 must occur in a public hearing meeting and adhere to the standards of this policy.

- A. Any affected person may participate. The Village of Palmetto Bay recognizes that planning and development decisions affect complex systems and have impacts that occur beyond the site of development. Any affected person may participate in and be a party to a hearing on a decision

this policy governs. An affected person is any person or local government that will reasonably suffer an adverse effect to an interest protected or furthered by this comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large. An owner, developer, or applicant for a development order is an affected person. An association representing the interest of one or more members when the interest is within the association's general scope of interest and activity is an affected person.

- B. An affected person's right to be heard. The Village of Palmetto Bay recognizes that it should make planning and development decisions in response to true and accurate information. In all decisions this policy governs, The Village of Palmetto Bay will provide every reasonably affected person an equal opportunity to be heard, to present and rebut evidence, and to be informed of all information on which The Village of Palmetto Bay bases its decision. There, no reasonably affected person will be granted a lesser time to be heard than another affected person.

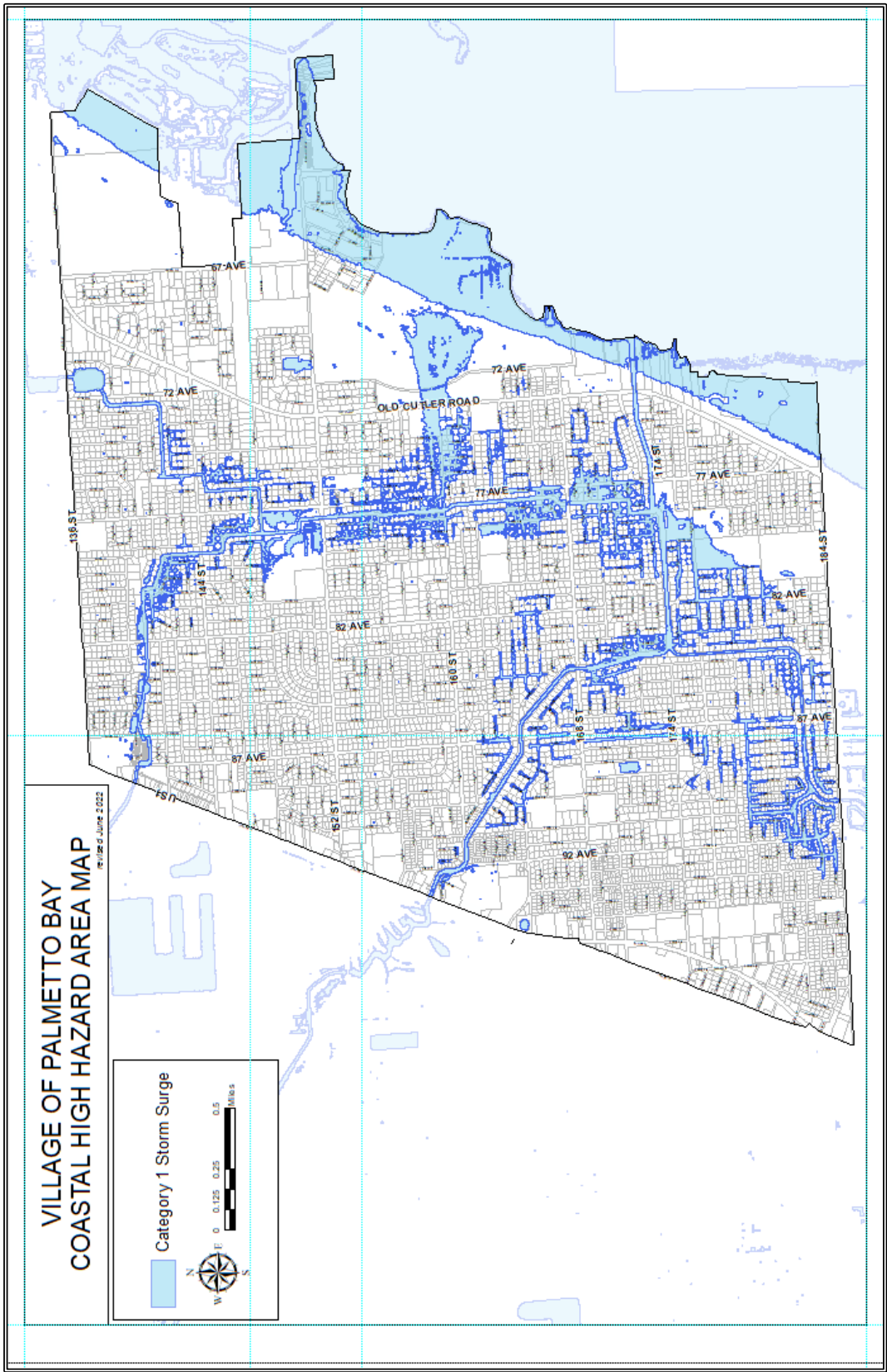
**Policy 2.3**

Right to evaluate proposed decisions. The Village of Palmetto Bay respects the right of people, including elected officials, to fairly evaluate proposed decisions this objective governs. The Village of Palmetto Bay may only make a decision on items related to policy 2.1 identifies ten or more days after The Village of Palmetto Bay has made available to the public the specific decision the Village will consider and the written record which will support the Village of Palmetto Bay's Council's decision. If the Village Council adds information to the written record, or if the Village Council revises a proposed decision within ten days of a planned public hearing, the Village Council must postpone its decision until enough time has passed to satisfy this policy.



**DRAFT**  
**COASTAL HIGH HAZARD AREAS**  
**MAP**

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VILLAGE OF PALMETTO BAY  
 COASTAL HIGH HAZARD AREA MAP

REVISED June 2023

Category 1 Storm Surge

0 0.125 0.25 0.5 Miles

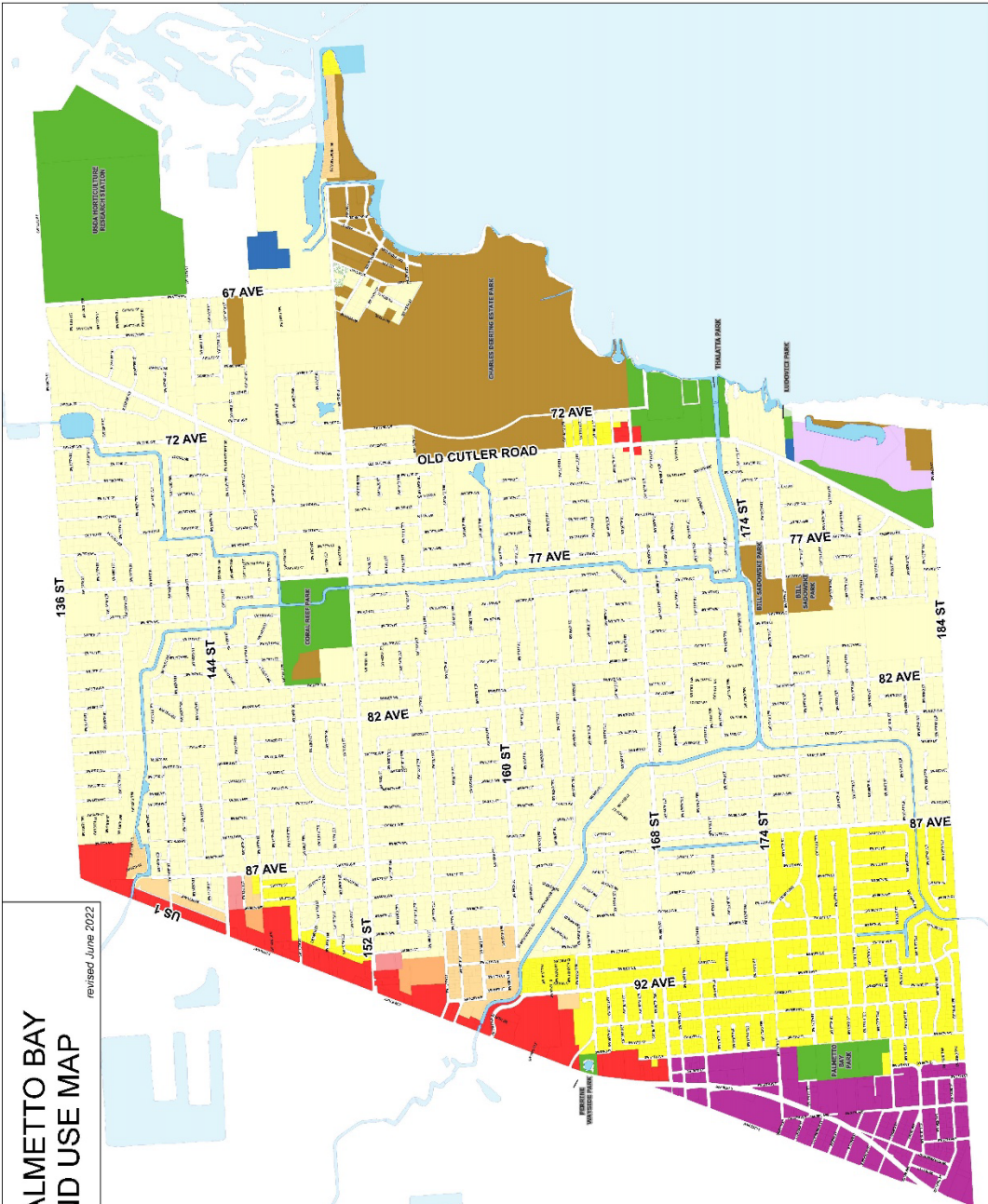
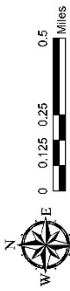
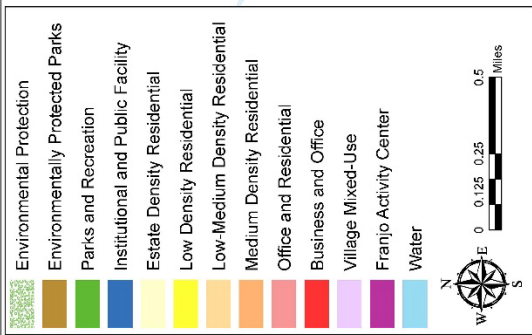
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**DRAFT  
FUTURE LAND USE MAP  
(FLUM)**

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# VILLAGE OF PALMETTO BAY FUTURE LAND USE MAP

revised June 2022



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