

CHAPTER FOUR

EXISTING PLANS & PROGRAMS



This chapter provides an overview of the primary plans and programs that are currently used or applied in evaluating and addressing compatibility issues in the Bay County Joint Land Use Study (JLUS) study area. There are three types of planning tools that will be evaluated: permanent, semi-permanent, and conditional. Permanent planning tools include acquisition programs, either fee simple purchase of property or the acquisition of its development rights. Semi-permanent tools include zoning regulations or adopted legislation. Examples of conditional tools include memorandums of understanding (MOU), intergovernmental agreements (IGA), and other policy documents such as comprehensive plans that tend to be modified more frequently.

The plans and programs described and analyzed in this chapter are organized within Naval Support Activity Panama City (NSA PC), local jurisdiction, state/region, and federal topical areas. This chapter begins with an overview of programs directly implemented for NSA PC including its Encroachment Action Plan (EAP) and restricted training areas. The discussion of the local jurisdictional planning tools includes existing and proposed plans and programs currently utilized by the JLUS study area jurisdictions. Also included is the review and evaluation of plans, programs, and legislation within the State of Florida and at the Federal level.

4.1 NAVAL SUPPORT ACTIVITY PANAMA CITY

Encroachment Action Plan

The Encroachment Action Plan (EAP) was completed in December of 2007 for NSA PC. The EAP is a management tool intended to identify current and future encroachment challenges that may restrict operations at NSA PC, and provide strategies to manage those challenges. The Navy defines encroachment as any non-Navy action, either planned or executed, that inhibits, curtails, or possesses the potential to impede the performance of Navy activities. The EAP identified four challenges that have been found to have the most significant impact on NSA PC, including: proximate urban development, competition for sea space, interference of the frequency spectrum, and lack of interagency coordination.

The EAP identified 30 encroachment actions and programs to be implemented to combat encroachment challenges. Significant actions include:

- Creating an encroachment management team and coordinator, whose responsibility would be to minimize encroachment issues.
- Initiating this Joint Land Use Study, designed to encourage cooperative land use planning.
- Defining the NSA PC “Area of Influence (AOI)” and establishing AOI agreements for development proposal notification. Within the AOI, the Navy should be notified of all development proposals at the earliest point possible in the community’s development process.
- Establishing a zoning overlay district surrounding the installation which should be defined through the JLUS process. The zoning overlay district should include limitations on adjacent land use activities and densities, maximum development/redevelopment building heights, establish setback standards, address site preparation standards, and frequency uses for compatibility with NSA PC’s operations.
- Preparation of a master plan for NSA PC which should include all administrative, training, and operational areas, and focusing on: efficient use of the limited amount of unencumbered land on NSA PC, development of a spatial land use pattern that reflects the security needs of the installation, and co-location of similar land use activities that considers the selection of the site in supporting current and future land use needs.
- Pursue restricted areas designation of additional open water training areas as registered in the Code of Federal Regulations, Title 33. This action has already taken place effective October 14, 2008 and is discussed later in this chapter.
- Raise public awareness and interagency cooperation/agreements focusing on informing the public, the boating community, and local governments about NSA PC activities and their importance.

EAP implementation actions include a schedule, cost estimates, non-Navy partners, and potential funding sources. Although the EAP addresses encroachment issues, the following items were identified as potential areas for improvement:

1. The EAP does not develop a strong action plan for NSA PC to address encroachment systematically. Priority projects are not identified and a timeframe for addressing specific encroachment issues is not fully developed.
2. The EAP does not completely address the overall impact of encroachment on NSA PC. The extent of each encroachment challenge is not fully developed.

United States Navy Restricted Area, NSA PC

Effective October 14, 2008, the United States Army Corps of Engineers (USACE) established ten restricted water areas at NSA PC. The restricted waters meet strict military training parameters that cannot be duplicated elsewhere. Thus, a large majority of military dive training is concentrated at NSA PC. The purpose of these restricted areas is to ensure continued public safety and to preserve current military training vital to the Global War on Terror and to all-service military readiness.

The restricted areas are limited to times when they are used as “military security zones.” Military security zones are identified as specific portion(s) within any of the restricted areas which are defined by the safety vessels accompanying each training exercise. Thus, of the ten restricted areas, limitations are only

in place when training exercises are underway and the military security zone definition is enacted. A General Local Notice to Mariners will be communicated for normal/routine activations, while a Notice to Mariners and Broadcast Notice to Mariners will be communicated for significant exercise and training events.

During training events, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the military security zone established in the restricted area. The NSA PC Commanding Officer, or his/her designee, is responsible for enforcement of the restricted areas. Restricted areas and military security zone status will serve an important role in assessing the compatibility among different users for St. Andrew Bay and the Gulf of Mexico. A review of the Restricted Area ruling has identified the following potential areas for improvement:

1. Coordination between enforcement agencies, local governments, recreation and commercial mariners and installation activities will need to be identified, described, and maintained to ensure continued safety of the general public as well as military personnel.
2. Coordination between USACE and the National Oceanic and Atmospheric Administration (NOAA) needs to be identified to ensure the training areas are mapped accurately and the locations of the training areas are communicated appropriately to the boating community.

4.2 LOCAL JURISDICTION PLANNING TOOLS

In this section, planning tools used by the study area jurisdictions are discussed, first by the county, and then by city.

Bay County

Comprehensive Plan

The Local Government Comprehensive Planning and Land Development Regulation Act, adopted in 1985, requires all of Florida's 67 counties and 410 municipalities to adopt Local Government Comprehensive Plans to guide future growth and development. Comprehensive plans typically contain chapters known as "elements" which address future land use, transportation, infrastructure, housing, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements. The Act created Florida's "concurrency" provision which requires facilities and services to be available concurrent with the impacts of development.

The Local Government Comprehensive Planning and Land Development Regulation Act states that through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare. In addition, comprehensive planning prevents the overcrowding of land and undue concentration of population, facilitates the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, and housing. Through comprehensive planning, county and city/town jurisdictions can conserve, develop, utilize, and protect natural resources within their boundaries. Section 163.3177 of the Florida Statutes require the future land use elements of comprehensive plans to address the compatibility of uses on lands adjacent to or in close proximity to military installations.

In addition to adopting a comprehensive plan, jurisdictions are required to submit an Evaluation and Appraisal Report (EAR) every seven years. The purpose of the EAR is to evaluate the progress of achieving the adopted policies of the comprehensive plan, identify changes that have occurred since the adoption of the comprehensive plan, and determine if amendments to the comprehensive plan are warranted to reflect those changes. The EAR serves as a mechanism to update and amend the comprehensive plan based on any identified failures, changes in the goals of the community, state law or local circumstances.

Bay County adopted its comprehensive plan in 1999. The Bay County Comprehensive Plan includes the following objectives and policies pertaining to the NSA PC Joint Land Use Study:

EXCERPT FROM BAY COUNTY COMPREHENSIVE PLAN: OBJECTIVES AND POLICIES PERTINENT TO THE JOINT LAND USE STUDY

OBJECTIVE 2.8: RETAIN AND INCREASE DEPARTMENT OF DEFENSE PRESENCE IN BAY COUNTY.

Policy 2.8.1: The Board shall work with the Chamber of Commerce or other applicable entities to maintain or increase Department of Defense-related industry in Bay County.

OBJECTIVE 10.2: IDENTIFY AND IMPLEMENT "JOINT PLANNING AREAS" AND/OR "MUNICIPAL OVERLAYS" BETWEEN THE COUNTY AND THE CITIES FOR PURPOSES OF ANNEXATION, MUNICIPAL INCORPORATION, AND INFRASTRUCTURE SERVICES.

Policy 10.2.1: The County will take the lead role toward establishing "joint planning areas" and/or "municipal overlays" with the cities through interlocal agreement. These areas will govern which areas can be annexed and where services will be provided by the various cities.

Due to NSA PC's location in Bay County, the County's comprehensive plan can serve as a tool for implementing compatibility measures associated with the outcome of the JLUS. It is important that the County continues to recognize the direct and indirect value of the installation on the local, regional and state economy and is willing to take a lead role in coordinating intergovernmental actions. A review of the comprehensive plan identified the following items for potential revision:

1. The comprehensive plan requires permits for structures proposed for heights in excess of 50 feet, in proximity to Tyndall Air Force Base (AFB), are transmitted to the Air Force for review. A similar policy should be stated for NSA PC.
2. The comprehensive plan lacks specific policy language in the Intergovernmental Coordination Element pertaining to coordinating with NSA PC and the other municipalities and agencies on compatibility issues.

The Bay County Comprehensive Plan is located online at:

<http://www.co.bay.fl.us/planning.php>

Evaluation and Appraisal Report (EAR)

In accordance with state regulation, Bay County adopted an EAR for its comprehensive plan on September 5, 2006. The EAR identifies recommendations to include objectives and policies for assessing the compatibility between proposed land uses and military installations. Although the update was based on a state mandate, Bay County had an established process for notifying NSA PC of proposed land use amendments and rezoning applications that may impact its missions. The EAR reiterates Bay County's commitment to working with NSA PC to ensure that the installation remains viable and able to fulfill its missions. Section 163.3191(2)(n) of the Florida Statutes additionally require EARs to include an assessment of whether the criteria adopted in the comprehensive plan's future land use element, pertaining to the compatibility of uses on land adjacent to or closely proximate to military installations, was successful in achieving compatibility with military installations.

Land Development Regulations

The Bay County land development regulations is an inclusive set of standards addressing all aspects of land development including zoning, parking, environmental standards, site preparation, roadways, utilities, landscaping, subdivision regulations, concurrency, and signage. The zoning standards are the County's primary mechanism to regulate the direction, type, use, density, and location of development. The primary purpose of zoning is to:

- Protect public health, safety, and welfare;
- Protect against physical danger, particularly safety considerations for properties in proximity to military ranges or within military flight areas;
- Protect against common law nuisances such as noise, vibration, air pollution, etc. associated with military operations;
- Protect against aesthetic nuisances (i.e. glare) impacting military installations;
- Protect against "psychological nuisances," such as perceived and actual dangers associated with military operations;
- Protect against negative impacts of light and glare; and
- Provide open space and agricultural preservation.

Zoning ordinances enumerate uses permitted by right or by special exception within each category of land use. Most ordinances also possess a process to grant special exceptions, provided certain conditions are met. These exceptions are often referred to as conditional use permits (CUP) or special use permits (SUP). In addition to land uses, zoning ordinances also set the parameters for permitted densities, location of structures, building heights, setbacks, acreage requirements, and other standards.

Zoning authority for counties in Florida is derived from Chapter 125 of the Florida Statutes. Land development regulations in Florida are intended to implement the objectives and policies of the comprehensive plan by classifying and regulating the use and development of the lands and waters. Bay County's land development regulations were developed specifically to:

- Promote consistency between the County's comprehensive plan and the land development regulations;
- Specify and describe responsibilities and procedures to administer the regulations;

- Provide consistent development standards relating to the issuance of development orders and permits for zoning and subdivision approval in order to provide clarity and certainty in the development review and approval process;
- Provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet specific level of service requirements;
- Provide for the protection of legal nonconforming uses;
- Establish clear application submittal requirements that provide guidance, enabling applicants to avoid the unnecessary expenditure of public resources for the processing of incomplete applications, and to avoid unnecessary delay in the approval of development applications;
- Safeguard the health, property, and public welfare by controlling the design, location, use or occupancy of land, water, buildings, and structures through the regulated and orderly development of land and land uses in unincorporated Bay County; and
- Promote and fulfill the intent and provision of the Florida State Statutes relative to land development regulations.

The land development regulations for Bay County outlines standards for 23 land use districts ranging from single family residential uses, to higher intensity uses such as regional commercial and industrial. In addition, the County's zoning ordinance includes 11 overlay zones as well as eight special treatment zones, which are considered overlay zones. Overlay zones consist of regulations that address specific subjects in specific locations within the County. The overlay zone regulations are in addition to regulations identified in the base zone and can modify those regulations on a zone by zone basis. Special treatment zones were created specifically to implement policies in the Bay County Comprehensive Plan due to critical or unique physical, natural, economic or social circumstances and conditions. Because the land development regulations control the type, density, and intensity of land use, they continue to serve as a tool for preventing additional encroachment onto the installation, promoting mission sustainability.

In addition to zoning, the Bay County Land Development Regulations contains three chapters addressing topics relevant to compatibility planning: Chapter 19, Environmental Standards; Chapter 32, Transferable Development Rights; and Chapter 34, Beaches Special Treatment Zone. The purpose of Chapter 19 is to provide standards for the protection and conservation of significant natural resources. The chapter states that the County will rely upon state and/or federal laws and regulations for the protection and conservation of natural resources in order to eliminate duplication of regulatory efforts. Provisions relevant to compatibility planning include:

- State, and lands lying there under, including sea grasses and shellfish beds;
- Shoreline setbacks (30' from the mean high water line); and
- Exemptions for Government owned or leased lands used for conservation purposes. These areas are controlled by the government agency responsible for the management of such lands.

Chapter 32 of the Bay County Land Development Regulations describes the transfer of development rights (TDR) program. This program was created to permanently preserve lands and resources identified in the comprehensive plan as a TDR sending site. Sending sites are parcels or lots where its development rights (based on underlying zoning), such as the quantity or intensity of development, can be severed and transferred to a TDR receiving site. Owners of receiving sites can purchase these development rights as a mechanism to permit higher density or intensity of development on their receiving parcel. Sending sites, as outlined in the comprehensive plan, are limited to areas on Shell Island. These areas were designated

to protect environmentally sensitive land that provides habitat for endangered or threatened plants and animals. The TDR program was also designed to minimize damage to persons and private property from floods, storms, and hurricanes.

Chapter 34 of the Bay County Land Development Regulations provides for additional land use and development regulations governing lands within the Beaches Special Treatment Zone. The Beaches Special Treatment Zone is defined as those areas between the Intercoastal Waterway and the Gulf of Mexico. In this zone, additional building requirements including architectural, site development and aesthetic standards have been adopted. Issues pertaining to encroachment, such as lighting and piers, are not addressed in this section.

A review of the Bay County Land Development regulations has identified the following items for consideration:

1. Land that could be developed in close proximity to NSA PC is not identified as TDR sending areas.
2. The County does not have regulations to prohibit or limit docks, marinas, or other uses that extend into the Navy's testing and training areas.

The Bay County Land Development Regulations is located online at:

<http://co.bay.fl.us/planning/ldr/ldr-toc.pdf>

City of Panama City

Comprehensive Plan

The City of Panama City adopted a comprehensive plan in 2000 with a horizon in 2010. The City submitted an EAR in November of 2007, which accomplished the following:

- Updated the City's demographic information;
- Outlined the major issues facing the City as of 2007;
- Provided an assessment of successes and shortcomings of the comprehensive plan;
- Identified ways in which the plan can be changed to respond to changing conditions, the need for new data, changes in state requirements regarding growth management and development, and to changes in regional plans;
- Ensured effective intergovernmental coordination; and
- Assessed the impacts of coastal development on hurricane evacuation routes and clearance times.

Although NSA PC is not located in the City of Panama City, the following goals and policies were excerpted as they are important considerations relative to region-wide JLUS compatibility planning.

EXCERPTS FROM CITY OF PANAMA CITY COMPREHENSIVE PLAN: GOALS AND POLICIES PERTINENT TO THE JOINT LAND USE STUDY

GOAL 1: PROVIDE THE FISCAL AND REGULATORY CONDITIONS NECESSARY TO PROTECT THE HEALTH, WELFARE, SAFETY AND QUALITY OF LIFE OF CITY CITIZENS CONSISTENT WITH CONTINUED ECONOMIC DEVELOPMENT AND PRIVATE PROPERTY RIGHTS AND; ESTABLISH A DEFINED PATTERN OF LAND USE INTENDED TO GUIDE THE PROVISION OF PUBLIC FACILITIES AND PROVIDE PREDICTABILITY IN MANAGING DEVELOPMENT.

Policy 1.1.1: The City will regulate land use through designation of land use districts on a Future Land Use Map. The Future Land Use Map will be used to determine the location and extent of development within the City consistent with conservation of natural resources (Figure 2), availability of public facilities and services, and compatibility of adjacent land uses.

Policy 1.2.1: The City will administer land development regulations for implementation of the Comprehensive Plan. At a minimum, these regulations will: Regulate the use of land and water consistent with this Element and ensure the compatibility of adjacent land uses through provision of or reference to specific and detailed requirements which will include, but not be limited to, maintenance of an official land use map, maintenance of land use districts and allowable uses including accessory land uses, maintenance of environmental protection and development standards, creation of measures to reduce the potential for nuisances caused by incompatible land uses, provisions for the elimination of non-conforming land uses, and other such relevant requirements.

GOAL 5: MAINTAIN THE QUALITY OF COASTAL RESOURCES BY RESTRICTING DEVELOPMENT ACTIVITIES WHICH DAMAGE OR DESTROY COASTAL RESOURCES.

Policy 5.3.1: The City recognizes the need to establish the public interest in achieving a balance between competing waterfront land uses and the limited amount of shoreline available for such uses. When making decisions concerning designation of land use districts, approval of plan amendments or issuance of development approvals involving competing shoreline land uses, the City will choose the following land uses in priority order, using 1 as the highest priority.

1. Water-dependent land uses, including water dependent conservation or recreation uses;
2. Water-related land uses;
3. Land uses for which a definitive public purpose has been established; and
4. Other land uses which are not water-dependent or related including residential, commercial, institutional or industrial.

Policy 5.3.2: Specific and detailed provisions for the siting of marinas will be maintained in the land development regulations.

GOAL 8: PROVIDE THE CIRCUMSTANCES AND PROCEDURES TO PROMOTE COORDINATION BETWEEN THE CITY, ADJACENT CITIES, BAY COUNTY, AND OTHER APPROPRIATE GOVERNMENTAL AGENCIES ON EFFICIENT AND EFFECTIVE DELIVERY OF SERVICES, REDUCTION OF CONFLICTS ARISING FROM DEVELOPMENT DECISIONS, AND PROTECTION OF NATURAL RESOURCES.

Policy 8.6.1: *The City will participate on any intergovernmental forums established by Bay County to promote coordination of planning activities.*

Policy 8.9.1: *Recognizing that Bay County has proposed to take the lead in the establishment of “joint planning areas,” the City of Panama City agrees to participate with the County in exploring the best use of this concept as it relates to the City.*

The review of the Panama City Comprehensive Plan has identified the following items for consideration:

1. The Comprehensive Plan does not address city-wide use of the Bay, infrastructure in the Bay such as docks and piers, or boat traffic.
2. Although the Comprehensive Plan states that it will ensure compatibility of land uses, it does not state specifically how the City will achieve compatibility with military installations.

The comprehensive plan for the City of Panama City is located online at:

<http://cpcnotes.panamacity-fl.gov/comprehensivepolicyplan.nsf/webview?OpenFrameset>

Evaluation and Appraisal Report

The City of Panama City adopted an EAR in accordance with state requirements on November 27, 2007. The report contains five sections starting with an overview of the City, vacant land inventory, and public participation process. The subsequent sections include population growth and changes in land area; a discussion of major issues such as affordable housing, demands on infrastructure, financial feasibility, and economic development; an analysis of how the City will address changes to Florida Statutes and consistency with regional policy; and an assessment of successes and shortcomings of the comprehensive plan elements.

The Panama City EAR documents the market pressure to convert commercial waterfront acreage to residential as a critical issue. The City understands that the local economy relies on industries that utilize the local waterways, but does not have an adopted policy to provide guidance. The EAR identifies three tasks that could be used to ensure a viable economic future for the City and for the downtown areas in particular. They are:

- Establish a strong identity for the City and its offerings, one that is attractive to the visitors of Bay County, and that is different from the identity and attractions of Panama City Beach;
- Establish as many linkages as possible -- physical, joint services, marketing, psychological -- between the City offerings and the County; and
- Establish strong linkages, particularly physical linkages between neighborhoods, and collaboration among institutions, that bring together all dispersed assets of the City and allow them to present themselves not as individual attractions, but as parts of a greater whole.

The EAR identifies the military as an important influence on the local market and recognizes that incompatible land uses are a challenge relative to the economic future of the City. Additionally, the EAR recommends that the City explore the possibility of adopting an Economic Development Element that considers employment, development, location, and knowledge resources that would relate to the City's waterfront location and proximity to military technology, as well as recommending the addition of objectives and policies to address compatibility with military installations.

Issues in the Panama City Comprehensive Plan, as stated in the EAR, on topics germane to the Joint Land Use Study include:

1. Subsequent to the adoption of the comprehensive plan, the State of Florida Statutes Chapter 163 have been revised to require the following: the exchange of information relating to proposed land use decisions between counties/local governments and military installations along with responsive comments by the commanding officer or his/her designee, the County or affected local government to take comments from the military installation into consideration in land use decisions, a military representative to be an ex-officio non-voting member of the City's land planning or zoning board. The revisions encourage the commanding officer to provide information on community planning assistance grants, and requires the local governments to amend the future land use element to include criteria to achieve compatibility with military installations. The EAR states that the comprehensive plan does not address the compatibility of development with military installations.
2. The EAR further states that amendments are needed, yet does not outline a specific time frame, or potential partners for accomplishing this task.
3. The effects of new waterfront development on NSA PC are not specifically identified in the comprehensive plan or the EAR.

Zoning Ordinance

The zoning ordinance for the City of Panama City includes 12 zoning districts and a Planned Unit Development (PUD) option. The zoning ordinance is the City's adopted regulation to implement the comprehensive plan, particularly the land use element. The zoning ordinance is comprehensive, meaning it encompasses the entire geographical limits of the City and that it provides for all uses and incidental matters. Although Panama City's zoning ordinance will not directly affect the uses adjacent to the installation, it can be used as a tool to help ensure region-wide compatibility between users of St. Andrew Bay and the installation. A review of the Panama City zoning ordinance identified the following item for potential consideration:

1. The Panama City zoning ordinance does not set parameters for water based uses such as piers, docks, and marinas to ensure a sustainable level of water dependant activity.

The zoning ordinance for Panama City is located online at:

<http://www.municode.com/resources/gateway.asp?pid=13862&sid=9>

Panama City Building Codes

In 1987, the City of Panama City entered into an agreement with Bay County designating the County as the agency responsible for issuing residential building permits and conducting residential building inspections including residential docks and piers. Bay County additionally issues building permits for commercial development in Panama City, however, the City's Planning and Land Use Services Division must approve all commercial site plans prior to the issuance of permits. Commercial docks and piers must be approved by the City Commission prior to issuance of permits by Bay County.

City of Panama City Beach

Comprehensive Plan

The City of Panama City Beach adopted an "Amended and Restated Comprehensive Plan" in September 2002, with an associated EAR adopted in 2006. Similar to Bay County and Panama City's comprehensive plans, Panama City Beach's comprehensive plan establishes goals, objectives, and policies for the future development of the City. The comprehensive plan includes elements pertaining to the following: consistency with regional and state comprehensive plans, land use, traffic circulation, housing, solid waste and potable water, conservation recreation and open space, coastal management, intergovernmental coordination, capital improvements, and procedures for public participation, monitoring and evaluation, and concurrency management. The following goals and policies were excerpted as they are pertinent to JLUS compatibility planning.

EXCERPTS FROM CITY OF PANAMA CITY BEACH COMPREHENSIVE PLAN: GOALS AND POLICIES PERTINENT TO THE JOINT LAND USE STUDY

GOAL 1: PROVIDE THE RESOURCES AND REGULATIONS NECESSARY TO PROTECT PROPERTY RIGHTS, HEALTH, SAFETY, AND WELFARE OF THE CITIZENS OF PANAMA CITY BEACH WHILE ENABLING CONTINUED GROWTH THROUGH LAND USE WHICH HAS THE NECESSARY INFRASTRUCTURE.

Policy 1.3: Within one year of the adoption of the amended Comprehensive Plan, the City shall amend the land development regulations to contain specific and detailed provisions to implement the adopted Comprehensive Plan goals as amended, and which as a minimum include standards to be followed in the control and distribution of population densities and building and structure intensities.

GOAL 1: COORDINATE WITH GOVERNMENTAL AGENCIES TO PROMOTE EFFICIENT AND EFFECTIVE DELIVERY OF SERVICES AND FACILITIES.

Policy 1.4: *Coordinate the intergovernmental management of marine resources which involve other governmental agencies and entities.*

Policy 3.1: *Provide for regular and extensive exchange of information between jurisdictions and agencies concerning annexation and marine resource issues.*

Policy 3.2: *Conflict resolution with other agencies shall be achieved through formal or informal processes.*

Policy 3.3: *Consult with the West Florida Regional Planning Council for informal conflict mediation where appropriate to resolve issues related to findings of fact or consensus-building.*

Policy 3.4: *Provide for joint meetings of the Bay County Commission and the Commissions/Councils of other local governments to resolve intergovernmental coordination issues.*

Policy 3.5: *Formal mediation shall be considered after other alternatives have failed to arrive at a resolution of the issue. Formal mediation shall be conducted by a professional mediator specifically trained in mediation techniques.*

A review of the comprehensive plan for Panama City Beach has identified the following item for consideration:

1. Although the comprehensive plan includes a policy to develop standards addressing the control and distribution of population densities and building and structure intensities, it does not specify how to control the effects of population and building density on the bay or water based resources.

Panama City Beach's comprehensive plan is located online at:

http://www.pcbgov.com/gov_plans.htm

Evaluation and Appraisal Report

The City of Panama City Beach approved an EAR in 2008. Similar to the EARs of the other study area jurisdictions, Panama City Beach's report recognizes the state requirement to coordinate new development with military installations. Although there are no military installations within the City limits, the EAR states that the City will coordinate with Bay County and NSA PC if any annexation request is proposed for the Thomas Drive – U.S. Highway 98 area. A review of the EAR has identified the following item for potential consideration:

1. The EAR does not address compatibility issues pertaining to water space usage or lighting that could be deemed incompatible with the missions at NSA PC.

Zoning Ordinance

The City of Panama City Beach has 25 zoning classifications and four overlay zones, each guiding the current and future development of the community. Similar to the other study area jurisdictions, zoning regulations are prepared in accordance with the comprehensive plan and designated to:

- Reduce traffic congestion on streets;
- Secure safety from fire, panic, and other dangers;
- Provide for adequate light and air;
- Prevent the overcrowding of land;
- Avoid undue concentration of population; and
- Prevent blight and the deterioration of property.

Although NSA PC is not located in the City of Panama City Beach, the City's zoning ordinance may prove to be an effective tool for regulating uses that could impact St. Andrew Bay and/or NSA PC missions.

The zoning provisions for Panama City Beach are located online at:

<http://www.municode.com/Resources/gateway.asp?pid=14445>

4.3 STATE/REGIONAL TOOLS AND LEGISLATION

Northwest Florida Water Management District

The Northwest Florida Water Management District (NFWFMD or District) is one of five water management districts in Florida created by the Water Resources Act of 1972. District activities are guided by a nine member governing board, appointed by the Governor and confirmed by the Florida Senate, with an executive director who oversees a staff of approximately 100 hydrologists, geologists, engineers, planners, foresters, land managers, and various administrative personnel. The district has set the following goals:

- To ensure an adequate supply of water for all reasonable and beneficial purposes through the promotion of conservation, resource protection and development of alternative supplies;
- To provide for the protection and enhancement of natural systems through integrated land and water resource management programs;
- To minimize harm from flooding and otherwise protect the health, safety and welfare of the residents of the region;
- To protect, maintain and improve the quality of the water resource;
- To enhance public awareness, understanding and participation in comprehensive water resource management; and
- To develop the District's overall water management capabilities, expertise and abilities to provide technical assistance for local needs.

The District provides regulatory oversight of consumptive use, which includes allocating water supplies in a manner that is reasonable, in the public interest, and which does not have a deleterious impact on existing legal uses or water resources. Well construction rules and permits are also issued by the District to safeguard the water supply. The NFWFMD was delegated the authority to implement the

Environmental Resource Permitting program, as well as regulating the construction and repair of dams and projects involving artificial recharge of water into any underground formation.

NWFWMD participates in land acquisition programs such as Save Our Rivers, Preservation 2000, and Florida Forever, allowing the District to purchase more than 200,000 acres throughout northwest Florida. These acquisitions have allowed the District to protect many important wetland and natural vegetation communities, including river floodplains, headwater wetlands, coastal marshes and springs, and pristine bottomland hardwood and associated upland forests. Land owned by the District is available to the general public for recreational purposes such as bird-watching, nature study, photography, hiking, jogging, camping, fishing, hunting, swimming, boating, and other nature-related outdoor activities.

The District could potentially be a partner in implementing the strategies of the JLUS due to their experience in land acquisition, technical expertise, and their knowledge of water ways and critical resources in the region.

Florida Department of Environmental Protection (FDEP)

The FDEP is the lead agency in state government for environmental management and is divided into three primary areas: regulatory programs, land and recreation, and planning and management. The FDEP Office of Coastal and Aquatic Managed Areas manages the St. Andrews Bay Aquatic Preserve, coordinates with local governments, and provides permit review in the managed area.

The FDEP Office of Submerged Land and Environmental Resources oversees, monitors, and regulates submerged land owned by the State of Florida. Authorization from the FDEP is required for any construction on, or use of submerged lands owned by the State; including dredging and filling operations.

It is important to note that the United States Congress ceded title to all submerged lands to the states through the Submerged Lands Act of 1953. The Federal Government retained its navigational servitude to assert its superior rights to conduct any activity on the submerged lands that promotes commerce, navigation, national defense, or international affairs. Thus, military training activities may need to be coordinated with the appropriate state agencies in order to avoid state or private uses that might conflict with the United States' superior rights to conduct national defense or navigational activities over state submerged lands.

Because of the relationship between military use of the submerged lands and FDEP's jurisdiction over submerged lands, compatibility issues will be addressed by FDEP and cooperation between the entities will be paramount in implementation of this joint land use study.

Florida Fish and Wildlife Conservation Commission (FWC)

The FWC serves as the primary law enforcement authority in St. Andrew Bay. FWC is stationed at NSA PC, and monitors boating safety, fishing and hunting licenses, and commercial fishing operations. The FWC oversees state listed endangered species regulated under the Florida Endangered Species Act of 1976. Rules and regulations pertaining to the 118 state listed species are enforced by the FWC. As the primary law enforcement authority of the Bay, and as the oversight agency for state listed endangered species, cooperation and partnership with the FWC will play an important role in the successful implementation of the JLUS.

West Florida Regional Planning Council (WFRPC)

The WFRPC is a multi-purpose regional entity that coordinates intergovernmental solutions to growth-related problems and provides technical assistance to local governments. Serving the counties of northwest Florida and their municipalities, WFRPC's mission is to provide professional planning, coordinating and advisory services to local governments, state and federal agencies and the public in order to preserve and enhance quality of life in Northwest Florida. WFRPC provides the following services to member jurisdictions: transportation planning, environmental education, housing assistance, hazardous materials management, homeland security and mitigation strategies, economic development and land use planning.

Because the WFRPC is connected to many of the JLUS member jurisdictions, entities, and stakeholders, as well as provides technical assistance on planning elements, grant writing, hazard mitigation, and emergency preparedness, the Council may become a good platform for interjurisdictional cooperation on compatibility issues identified in this study. Additionally, the Council is active in region-wide land use and economic development efforts. Based on NSA PC's impact on the local, regional and state economy, the Council could prove a beneficial partner in marketing compatibility efforts and implementation programs resulting from this study.

Florida Statute 163.3175

Florida Statute 163.3175 was adopted in 2004 in response to increasing awareness about the role of military installations in the Florida economy, and an increased push to increase public safety around military installations. The statute requires counties, in which a military installation is either wholly or partially located, and each affected local government to transmit to the commanding officer of that installation information relating to proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations which would affect the intensity, density, or use of land adjacent or in close proximity to the military installation. The installation will then have an opportunity to review and comment on the proposed changes. The statute allows for an installation representative to serve as a non-voting member on the local planning or zoning board, and requires local governments to address issues of land use compatibility near military bases as part of their comprehensive plan.

Florida Forever Act, Statute 259.105

The Florida Legislature passed the Florida Forever Act, creating the Florida Forever Trust Fund, in 1999. The predominate source of funding for land acquisition through this program is through the collection of taxes paid on real estate transactions. The fund is used for the acquisition and preservation of Florida's environmentally significant lands. The Florida Forever program recognized that land acquisition was only one method for maintaining and protecting natural and cultural resources. Thus, additional priorities include environmental restoration, water resource development and supply, increased public access, land maintenance and management, and conservation easements.

In 2003, the Florida Forever Competitive Capital Improvements Grant program was initiated, allocating up to half of the funds for capital improvement projects. Through 2006, the State of Florida has protected over 535,643 acres of land with \$1.8 billion in Florida Forever funds. Because special priority considerations are given to funding real estate transactions that protect and buffer military installations, the statute and funding programs may play an important role in implementing recommendations and programs created through this JLUS.

Florida Defense Alliance

In 1998, the Florida Defense Alliance was created to protect and enhance military missions in the state, while supporting military families' quality of life. The mission of the Florida Defense Alliance is to foster the military presence in the State in support of national defense; to preserve the availability of testing, training and staging areas, ensuring the readiness of the armed forces operating in Florida; to expand defense industries; to ensure retired service men and women receive continual improvements to their quality of life; and to support local reuse efforts resulting from base closure or mission realignment decisions.

The Defense Alliance manages the Florida Defense Infrastructure Grant Program, which provides grants to economic development organizations for projects associated with encroachment, transportation and access, utilities, communications, housing, environment, and security. An 8.2-acre parcel of land on the southwest side of NSA PC was purchased by the State through the Florida Defense Infrastructure Grant Program as an encroachment buffer. NSA PC uses that parcel for storage and training. Partnership with the Defense Alliance and utilization of the grant program may be an additional tool utilized in the implementation of this JLUS.

Bert J. Harris, Jr., Private Property Rights Protection Act

The Florida Legislature adopted the Bert J. Harris, Jr., Private Property Rights Protection Act in October of 1995. The Act provides judicial relief for landowners who are restricted by laws and regulations from using their land. The Act was adopted to provide real property owners with protection from laws and regulations in situations that do not constitute a taking under the traditional definition of a taking as defined in the Florida State Constitution or the United States Constitution. The Bert Harris Act requires governmental entities to compensate landowners when a government regulation causes an "inordinate burden" on an owner's property. The act defines an "inordinate burden" as:

"An action of one or more governmental entities has directly restricted or limited the use of real property such that the property owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property...or that the property owner is left with existing or vested uses that are unreasonable such that the property owner bears permanently a disproportionate share of a burden imposed for the good of the public, which in fairness should be borne by the public at large." Source: Florida State Statute 70.001.2.e

Of note, "inordinate burden" does not include temporary impacts, impacts from governmental abatement, prohibition, prevention, or remediation of a public nuisance or noxious use. Because the Act does not specifically state what governmental regulations constitute an "inordinate burden", this decision is often left to the interpretation of the courts.

The Act is pertinent to the JLUS due to the fact that many of the potential strategies to address the compatibility issues outlined in Chapter 3 may be successfully resolved through a governmental regulation. These strategies could include actions of local, state, and federal government agencies. As the strategies are developed, it will be important to analyze the potential for a judicial challenge under the Act.

Documents

Preparing a Boating Facility Siting Plan: Best Management Practices for Marina Siting (March 2003), Florida Department of Community Affairs. Created to assist local governments in developing effective boating facility siting plans, this guide includes a comprehensive assessment of relevant issues related to boating facilities. Topics such as the protection of marine resources, land-side infrastructure, permitting constraints, and a variety of other factors pertinent to boating facilities are addressed in this guide. Advantages to proactively siting boating facilities are presented including exemption from the development of regional impact review, predictability in permit review, and possible expediting of applications, if the facility is deemed to be consistent with local government boating facility siting plans. The guide provides an explanation of how, through the development process of a marina siting plan, trip generation modeling can forecast probable vehicle trips based on the number of slips.

4.4 FEDERAL TOOLS AND LEGISLATION

United States Army Corps of Engineers

The USACE is the regulatory authority for structures in St. Andrew Bay. Operating under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, USACE regulates structures in the water such as docks, piers, and bulkheads. Section 404 regulates dredge and fill activities, while Section 10 specifically applies to navigable waters.

The USACE may issue permits for regulated structures in the water to a landowner or non-landowner even if the local ordinance prohibits the structure or if the structure does not meet local building codes. Permits may be denied if the USACE finds that actions may have an adverse impact on aquatic resources and practical alternatives to reduce impacts have not been considered. Permits that interfere with submerged aquatic resources or endangered species are forwarded to the National Marine Fisheries Service (NMFS) for additional review.

National Marine Fisheries Service

The NMFS is the regulatory authority for living marine resources protected under the Fish and Wildlife Conservation Act and Magnuson Stevens Fishery Conservation Management Act. NMFS's jurisdiction includes habitat and fisheries as well as federally managed species and their food chain. The Service provides recommendations to the USACE during the permitting process for activities requiring either a Section 10 or Section 404 permit. The USACE may deny a permit if the NMFS finds that the action may have adverse impacts on aquatic resources.

United States Fish and Wildlife Service (USFWS)

Together with the NMFS, the USFWS administers the Marine Mammal Protection Act, which protects all marine mammals within the waters of the United States. The Act states that it is illegal to "take" marine mammals without a permit. This means that people are not to harass, feed, hunt, capture, collect, or kill any marine mammal. Furthermore, the USFWS conducts testing for chemical contaminants in sediments.

Together, the USACE, NMFS, and USFWS are key players in the permitting of new structures and dredge / fill activities in St. Andrew Bay. Thus, all three agencies will be important resources in implementing the recommendations of this study. It will be paramount to coordinate any new or changed use of the Bay with these agencies, and utilize their technical expertise and knowledge of Bay

activities. Additionally, these agencies may provide insight into funding mechanisms for recommendations resulting from this JLUS.

United States Coast Guard (USCG)

The USCG patrols the gulf coast with occasional patrols in St. Andrew Bay. Noteworthy is the location of the USCG Panama City Station, which is adjacent to NSA PC. The USCG Panama City Station's area of responsibility extends 30 miles offshore and stretches along 168 miles of coastline from Lake Powell in the west, to Rock Island in the east. Additionally, the station performs law enforcement duties, search and rescue operations, and environmental protection. Due to its direct proximity to NSA PC, and training at the NSA PC facility, the relationship between the USCG and NSA PC will be important for compatibility planning.

National Oceanic and Atmospheric Administration (NOAA)

Beyond the traditional role of the nation's main authority on weather forecasting, the NOAA Office of Coast Survey and the Office of Marine and Aviation Operations work together to create the nation's nautical charts. The Office of Coast Survey is responsible for production of the nautical charts for all coastal waters of the U.S. and its territories. NOAA is responsible for updating nautical charts to include Naval training areas.

Environmental Compliance

National Environmental Policy Act

The National Environmental Policy Act (NEPA) of 1969 requires Federal agencies to file an environmental assessment (EA). Sometimes an environmental impact statement (EIS) is required for major Federal actions that have an environmental impact. NEPA is applicable to all Federal agencies, including the military. NEPA mandates that the military analyze the impact of its actions and operations on the environment and surrounding communities. Inherent in this analysis is an exploration of methods to reduce any adverse environmental impact. The EIS is a public process that requires participation by the community.

For local planning officials, an EIS or EA is a valuable planning document in determining the extent of impacts, if any, of changing military actions or operations on their policies, plans, and programs. Public hearings are required for all EIS and EA documents released by the military under NEPA. A Finding of No Significant Impact (FONSI) under an EA or a full EIS that considers alternatives to the proposed military actions or operations is required and is subject to public scrutiny. The information obtained by the EIS/EA is valuable in planning coordination and policy formulation at the local government level.

Naval Surface Warfare Center conducted an Overseas Environmental Impact Statement (OEIS) for mission activities in 2008. The OEIS is scheduled for completion in July 2009. The purpose of this OEIS was to enhance capability and capacity to meet littoral (i.e., shoreline) and expeditionary warfare requirements by providing an increase in existing as well as new research, development, test, and evaluation (RDT&E), and in-service engineering for expeditionary maneuver warfare, operations in extreme environments, mine warfare, maritime operations, and coastal operations.

Department of Defense Conservation Partnering Initiative

In 2003, Congress amended Title 10 U.S.C. § 2684a and § 2692a (P.L. 107-314), the National Defense Authorization Act, to add authority to the DOD to partner with other federal agencies, states, local governments, and conservation based Non-Governmental Organizations (NGO) to set aside lands near military bases for conservation purposes and to prevent incompatible development from encroaching on, and interfering with, military missions. This law provides an additional tool to support smart planning, conservation, and environmental stewardship on and off military installations.

Department of Defense Readiness and Environmental Protection Initiative (REPI)

To implement the authority provided by the Department of Defense Conservation Partnering Initiative, the DOD established the REPI. This initiative enables the DOD to work with state and local governments, non-governmental organizations, and willing landowners to limit encroachment and incompatible land use. REPI funds are used to support a variety of DOD partnerships that promote compatible land use. By relieving encroachment pressures, the military is able to test and train in a more effective and efficient manner. By preserving the land surrounding military installations, habitats for plant and animal species are conserved and protected.

4.5 OTHER COMPATIBILITY RESOURCES

In an effort to prevent future land use compatibility issues between the military and the local community, the DOD Office of Economic Adjustment (OEA) and other public interest groups, such as the National Association of Counties (NACO), have taken steps to inform the public on encroachment issues and methods that can be used to address or completely avoid incompatibility concerns. A listing of resources published to inform the public on these issues has been included in the appendix to this document.

Please see next page.