

POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

DRC Date:	January 4, 2024	Level of Review:	4
PC Date:	March 6, 2024	Type:	Comprehensive Plan Text Amendment
BoCC	April 16, 2024	Case Numbers:	LDCPAL-2023-13
Date:	June 18, 2024	Case Name:	Septic to Sewer
Applicant:	County Initiated	Case Planner:	Chanda Bennett, AICP, Comprehensive Planning Administrator

Request:	Comprehensive Plan text changes to several elements, sections and policies addressing new septic tank limitations in areas with a Basin Management Action Plan (BMAP), adding a new Resource-Protection District called Nutrient Restoration Plan Overlay and map series, addressing septic tank to sewer conversation feasibility analysis; the impacted elements and appendices include Division 2.100 Future Land Use Element, Appendix 2.132 Critical Area Resource Management Plan; Division 2.300 Conservation Element, 3.100 Infrastructure Element, Division 4.200 Capital Improvements Element and adding and modifying definitions to Division 4.400 Glossary
Location:	N/A
Property Owner:	N/A
Parcel Size/number:	N/A
Development Area:	N/A
Nearest Municipality:	N/A
DRC Recommendation:	Approval
Planning Commission Vote:	Pending
Public Comment:	Pending
Florida Commerce	Pending Transmittal

Several elements of the Comprehensive Plan will be amended that address new septic tank limitations in areas with Basin Management Action Plans, a new overlay called Nutrient Restoration Plan Overlay (NRPO), and septic tank to sewer conversation in the NRP. The changes include:

- **Division 2.100 Future Land Use Element (FLUE)** – Creation of the Nutrient Restoration Plan Overlay and references to said overlay in several subsections of the FLUE.
- **Appendix 2.132 Critical Area Resource Management Plan** – reference to septic prohibition for parcels one acre or smaller.
- **Division 2.300 Conservation Element** – Reference the new Overlay and the applicable basins and septic tank limitations.
- **Division 3.100 Infrastructure Element** – Septic to sewer conversation feasibility and listing of wastewater facilities that can accept new wastewater.
- **Division 4.200 Capital Improvements Element** – adding a list of projects that help to achieve pollutant load reductions.
- **Division 4.400 Glossary** – adding Septic Tank and Enhanced nitrogen-reducing septic systems, and modifying On-site Disposal System

Summary of Analysis

This request is to amend the Comprehensive Plan for compliance with HB 1379, approved in 2023, to address the causes of nutrient pollution in water basins with adopted Basin Management Action Plans (BMAP). The three impacted basins in Polk County include the Alafia River Basin, the Lake Okeechobee Basin, and the Upper Ocklawaha Basin (See Exhibit 1). The Florida Department of Environmental Protection (FDEP) has been able to identify point sources and nonpoint sources for the high nutrient loads in these basins. One of the sources includes onsite sewage treatment and disposal systems (OSTDS) otherwise known as septic tanks.

HB 1379 requires several Comprehensive Plan amendments to be adopted by July 2024 to include 1) a list projects necessary to achieve pollutant load reductions; 2) feasibility analysis of connecting septic systems to public sewer that are at one septic per acre or more in developments of more than 50 residential lots within a 10-year planning horizon including information on the receiving wastewater facility; and projected wastewater flow at the facility for the next 20 years; and 3) require enhanced nutrient-reducing system for parcels at one acre or less where sewer is not available in areas where a Basin Management Action Plan (BMAP), Reasonable Assurance Plan (RAP) and a Pollution Reduction Plan (Plan) have been completed.

The County is required to develop an OSTDS Remediation Plan (“the OSTDS Plan”) to address these septic systems. This plan, attached under separate cover, provides the best analysis of connecting homes on septic to a public wastewater system. This is only feasible in areas where the County has an approved utility service area within a BMAP. It is not feasible for the County to connect homes on septic outside of it’s utility service areas and certainly not feasible to prepare a study outside of the County utility service areas. The County wastewater utility service areas are listed below. Not all the County’s services areas fall within a BMAP area requiring a OSTDS Remediation Plan. The first four service areas listed below in bold fall within a BMAP area requiring an OSTDS Remediation Plan and are addressed in the OSTDS Plan.

- 1. Southwest Regional**
- 2. Northeast Regional**
- 3. East Regional**
- 4. Southeast Regional (Sun Ray)**
5. Northwest Regional
6. Central Regional

The County has contacted the cities in Polk County to coordinate city efforts is septic tank conversions in unincorporated Polk County that lie within a city utility service area. We have not received any information that any cities have prepared a feasibility analysis in these areas.

The list of Comprehensive Plan policy amendments include:

Several elements of the Comprehensive Plan will be amended that address new septic tank limitations in areas with Basin Management Action Plans, septic tank to sewer conversation to sewer, and a new overlay called Nutrient Restoration Plan Overlay. The changes include:

- **Division 2.100 Future Land Use Element (FLUE) –**
 - **Section 2.101 Introduction** to add reference to Nutrient Restoration Plan Overlay
 - **Section 2.106 Suburban Development Areas (SDA)**
 - **Policy 2.106-A6, a Sewer Extensions** to add that the extension of sewer in the SDA is appropriate in the Nutrient Restoration Plan Overlay areas.
 - **Section 2.108 Rural Development Areas (RDA)**
 - **Policy 2.108-A5, d Development Criteria** adding that connection to public sewer is as required by the Nutrient Restoration Plan Overlay
 - **Industrial Future Land Use designation**
 - **Policy 2.113-A4 Development Criteria** adding impervious surface ratio reductions for developments on septic and that may be altered if in a Nutrient Restoration Plan Overlay in the Industrial Future Land Use designation.
 - **Business Park Center Future Land Use designation**
 - **Policy 2.113-B4 Development Criteria** adding impervious surface ratio reductions for developments on septic and that may be altered if in a Nutrient Restoration Plan Overlay in the Business Park Center Future Land Use designation.
 - **Section 2.122 Special-Area Overlay Districts and Areas**
 - **Policy 2.122-A1, b., 2 (i) Districts Established – Designation and Mapping** adding the Nutrient Restoration Plan Overlay at the end of the list
 - **Section 2.124-J Nutrient Restoration Plan Overlay** adding this new section to create the Objective, purpose and two policies for the Nutrient Restoration Plan Overlay
- **Appendix 2.132 Critical Area Resource Management Plan**
 - **Policy 2.132-B10: Development Criteria in the Ridge Special Protection Area (SPA)** to require septic tank prohibition for parcels one acre or smaller and the use of an Enhanced Nutrient Reduction System within the Nutrient Restoration Plan Overlay.
 - **Policy 2.132-C8 Development Criteria in the Polk City SPA** to require septic tank prohibition for parcels one acre or smaller and the use of an Enhanced Nutrient Reduction System within the Nutrient Restoration Plan Overlay.
 - **Policy 2.132-C10** referencing that sewer maybe extended into the **Suburban Development Area (SDA)** in the Nutrient Plan Restoration Plan Overlay.
 - **Policy 2.132-D8, h, Development Criteria in the Rural Development Area (RDA)** to require septic tank prohibition for parcels one acre or smaller and the use of an Enhanced Nutrient Reduction System within the Nutrient Restoration Plan Overlay.
- **Division 2.300 Conservation Element –**
 - **Introduction** – add statement referencing the basin areas and the Nutrient Restoration Plan Overlay
 - **Section 2.305 Surface Water**
 - **Policy 2.305-A7** to add “Enhanced nutrient reduction system as a further qualifier to Septic Tank.
 - **Section 2.306 Ground Water**
 - **Policy 2.306-A3** to add clarification that the coordination with the Health Department, DEP, and other applicable agencies to address deficiencies found in onsite disposal systems include the review and coordination with other utility providers in the conversion of septic tanks to sewer in the Nutrient Reduction Plan Overlay areas.

- **Policy 2.305-B6** – added to require an enhanced nitrogen-reducing septic system in the Nutrient Restoration Plan Overlay areas when central sewer is not available.
- **Division 3.100 Infrastructure Element –**
 - **Section 3.102 Sanitary Sewer**
 - **Objective 3.102-C: Polk County shall continue to implement through the County's Health Department, a management program to ensure proper installation, use, and maintenance of on-site treatment and disposal systems (i.e. septic tanks, enhanced nutrient reduction systems), in accordance with Section 163.3202(1), F.S.**
 - **Policy 3.102-C3** correcting the title of Waste and Resource Management to Waste and Recycling.
 - **Objective 3.102-E new Objective to add the Nutrient Restoration Plan** and associated policies addressing the overlay, referencing the OSTD Remediation Plan and a list of wastewater facilities that can accept wastewater flows from septic to sewer conversions or new developments that include the projected flows, facility capacity and any anticipated construction of facilities if known.
 -
- **Division 4.200 Capital Improvements Element –**
 - **Section 4.201 Introduction** adding that the CIP projects include the natural and environmental infrastructure.
 - **Section 4.203 Level-Of-Service Standards Policy**
 - **Policy 4.203-A4 Category C public facilities** to include a a list of projects that help to achieve pollutant load reductions.
- **Division 4.400 Glossary –** Amend On-Site Disposal System and adding Septic Tank and Enhanced nitrogen-reducing septic systems.

Relevant Sections, Policies, and/or Regulations to Consider:

Division 2.100 Future Land Use Element

Appendix 2.132 Critical Area Resource Management Plan

Division 2.300 Conservation Element

Division 3.100 Infrastructure Element

Division 4.200 Capital Improvements Element

Division 4.400 Glossary

Data and Analysis Summary

Polk County Utilities hired a consultant, Dewberry, to prepare an On-site Treatment Disposal System (OSTDS) Remediation Plan (“The OSTDS Plan”). The OSTDS Plan is a draft and has been sent to the Florida Department of Environmental Protection (FDEP) for review and comment by FDEP staff. There may be changes to the proposed Comprehensive Plan policies based on FDEPs review of the OSTDS Plan and during the transmittal phase of this amendment. The OSTDS Plan states:

Subparagraph 403.067(7)(a)9., Florida Statutes, specifies that local governments within a Basin Management Action Plan (“BMAP”) must develop a wastewater treatment plan and/or onsite sewage treatment and disposal system (“OSTDS”) remediation plan containing certain information, if the Florida Department of Environmental Protection (“Department” or “FDEP”) “identifies domestic

wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the Department determines remediation is necessary to achieve the total maximum daily load (“TMDL”).

On June 12, 2023, the Department issued a Final Order for OGC Case No. 23-001 to 0135 signed by Secretary Shawn Hamilton. In this Final Order, FDEP determined “domestic wastewater treatment facilities and/or OSTDS sources within specified BMAPs meet the 20 percent contribution threshold and/or remediation of these sources is necessary to achieve the BMAP for a nutrient TMDL pursuant to 403.067(7)(a)9”. The BMAPs specified in the order overlapping with portions of Polk County’s service areas are the Alafia River Basin (23-0112), Lake Okeechobee (23-0119), and the Upper Ocklawaha River Basin (23-0125) (Figure 1-1). Although FDEP did not provide a determination for the percent contribution of either wastewater treatment and/or OSTDS in the BMAPs overlapping Polk County, FDEP staff indicated the requirement for an OSTDS remediation plan is “necessary to achieve the total maximum daily load.”

The Laws of Florida amended in 2023 require the Comprehensive Plan to be amended to include 1) a list projects necessary to achieve pollutant load reductions; 2) feasibility analysis of connecting septic systems to public sewer that are at one septic per acre in developments of more than 50 residential lots within a 10-year planning horizon including information on the receiving wastewater facility; and projected wastewater flow at the facility for the next 20 years by July 2024.

Parks and Natural Resources has been evaluating a variety of projects to achieve pollutant load reductions for several years and a list of these project is provided in the proposed text changes. The data for the feasibility analysis is provided in The OSTDS Plan and referenced in the proposed text changes.

Findings of Fact

Request and Legal Status

- This is a county-initiated request to amend several elements in the Polk County Comprehensive Plan addressing new septic tank limitations in areas with a Basin Management Action Plan (BMAP), adding a new Resource-Protection District called Nutrient Restoration Plan Overlay and map series, addressing septic tank to sewer conversation feasibility analysis; the impacted elements and appendices include Division 2.100 Future Land Use Element, Appendix 2.132 Critical Area Resource Management Plan; Division 2.300 Conservation Element, 3.100 Infrastructure Element, Division 4.200 Capital Improvements Element and adding and modifying definitions to Division 4.400 Glossary.
- Subparagraph 403.067(7)(a)9., Florida Statutes, specifies that local governments within a Basin Management Action Plan (“BMAP”) must develop a wastewater treatment plan

and/or onsite sewage treatment and disposal system (“OSTDS”) remediation plan containing certain information.

- On June 12, 2023, the Department issued a Final Order for OGC Case No. 23-001 to 0135 signed by Secretary Shawn Hamilton. In this Final Order, FDEP determined “domestic wastewater treatment facilities and/or OSTDS sources within specified BMAPs meet the 20 percent contribution threshold and/or remediation of these sources is necessary to achieve the BMAP for a nutrient TMDL pursuant to 403.067(7)(a)9”.
- Polk County has areas impacted by BMAPs and these include the Alafia River Basin, Lake Okeechobee, and the Upper Ocklawaha River Basin (Exhibit 1).

Recommendation

Development Review Committee Recommendation: Based on the information provided and the analysis conducted within this staff report, the Development Review Committee finds that with the proposed conditions the request **IS CONSISTENT** with the Polk County Comprehensive Plan and Land Development Code. Therefore, the Development Review Committee (DRC) recommends **APPROVAL of LDCPAL-2023-13**.

GENERAL NOTES

NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other parties at a public hearing.

Analysis:

This request is to amend the Comprehensive Plan for compliance with HB 1379 to address the cause of high nutrient loads found in the BMAP areas. HB 1379 requires several Comprehensive Plan amendments to:

- 1) list projects necessary to achieve pollutant load reductions;
- 2) feasibility analysis of connecting septic systems to public sewer that are at one septic per acre in developments of more than 50 residential lots within:
 - a. a 10-year planning horizon including name and location of wastewater facility that could receive the flows,
 - b. capacity of and associated transmission to the wastewater facilities; and
 - c. projected wastewater flow at the facility for the next 20 years including future new construction and connections of onsite sewage treatment and disposal systems to sanitary sewer and a timeline;
- 3) require enhanced nutrient-reducing system for parcels at one acre or less where sewer is not available in areas where a Basin Management Action Plan (BMAP), Reasonable Assurance Plan (RAP) and a Pollution Reduction Plan (Plan) have been completed.

Under separate attachment is a power point presentation provided by Dewberry summarizing the changes in state law, other jurisdictions approach, and the feasibility analysis of septic to sewer conversion.

Background for the Amendment

The Springs and Aquifer Protection Act (Source: <https://floridadep.gov/springs/protect-restore/content/protecting-floridas-springs>)

In 2016, the Florida Legislature identified 30 "Outstanding Florida Springs" that require additional protections to ensure their conservation and restoration for future generations. These protections are included in water quality restoration plans, known as Basin Management Action Plans (BMAPs). These plans are focused on reducing nitrogen pollution that is impacting the water quality of these springs. BMAPs contain a set of strategies and projects to reduce the pollutant loadings from various identified sources. BMAPs also allocate the pollutant reductions among the different sources and monitor the progress of the restoration efforts. BMAPs are adopted by FDEP.



Thirty springs are named as Outstanding Florida Springs by this legislation. Through the FDEP's ongoing assessment efforts, 24 of these springs have been found to have excess levels of nitrogen

pollution, particularly nitrate. Sources of nitrogen in these systems can include wastewater, water from septic tanks, stormwater runoff, and fertilizer runoff from both urban and agricultural lands.

DEP worked with stakeholders to conduct a comprehensive nutrient source inventory and used the inventories to identify the projects and strategies needed to address these sources and achieve the required nitrogen reductions. Nitrogen from agricultural sources and septic tanks has a greater impact on some springs than others, so the BMAPs contain a tailored mix of strategies.

The OSTDS Plan includes the following:

- An inventory of the OSTDS (septic tanks);
- An estimate of future growth in new OSTDS over the next 20 years in the local government's jurisdiction or service area;
- An inventory of OSTDS that are expected to be eliminated over the next 20 years through connection to central sewer or other distributed wastewater system with additional nutrient reduction;
- Identification of deadlines and interim milestones for the planning, design, and construction of new/extended central sewer and OSTDS connection to these lines;
- Estimated costs for the projects identified in paragraph 10;
- For OSTDS not expected to be eliminated over the next 20 years, an estimate number that will required upgrading to enhanced nutrient-reducing OSTDS or participating in a distributed wastewater treatment system with added nutrient reduction;
- Estimated costs for upgrading to enhanced nutrient-reducing OSTDS;
- Any other cost-effective and financially feasible projects necessary to achieve the nutrient load reduction for OSTDS to meet the water quality objectives of the BMAP

Comparisons to other Jurisdictions:

The changes to the Comprehensive Plan are a new requirement. The Polk County Utilities' consultant reviewed local ordinances throughout the state. No jurisdiction in the state of Florida was found to have any mention of BMAP areas. Wakulla County and Marion County were highlighted to have best practices. Wakulla County has the Wakulla Springs Special Planning Area and Marion County has the Environmentally Sensitive Overlay Zones. These areas for Wakulla County and Marion County are similar to the County's special overlay areas that include:

Development-Limitation Areas:

- Floodplain-Protection Areas
- Wetland-Protection Areas
- Aquifer-Protection Areas
- Green Swamp Protection Areas
- Local Hazard Mitigation Strategy

Resource Protection Maps

- Transit corridors and Centers Overlay
- Airport-Impact Districts
- Mineral Resource-Protection Districts
- Wellhead-Protection Districts

- PolkGreen Districts
- Redevelopment Districts
- Historic-Preservation Sites
- SR 17 Ridge Scenic Highway

A summary of these is included in the consultant's work for Polk County Utilities in the separately attached document titled "???" which is a power point of law changes and initial analysis of areas converting some clusters of septic tanks to sewer.

Limits of the Proposed Ordinance

The scope of the amendment is limited to remove "agri-related" in the RDA in association with BPC uses. In addition, staff is recommending to amend the Development Criteria in BPC to allow increases in the FAR for BPC when connecting to public water and sewer and within a half mile of transit when approved as part of a Planned Development.

Consistency with the Comprehensive Plan & Land Development Code

The goal of the Future Land Use Element is:

GOAL: To achieve an economically viable, efficient, safe, and quality-living environment through balanced and compact growth, while encouraging the efficient use of land, community infrastructure and protecting and managing the community's natural resources by showing the proposed distribution, location, and extent of future land uses by type, density, and intensity; while providing essential services in a cost effective manner.

The goal of the Conservation Element is:

GOAL: To protect, manage, and enhance the natural resources and environmental quality of Polk County.

The purpose of the OSTDS Plan and the recommended policy changes are about improving the function of Polk County's natural resources which is impacting by high nutrient loads. The environmental CIP projects and reducing the use of septic tanks is all part of the methods to improve and sustain Polk's natural resources.

Comments from Other Agencies:

Dewberry has reached out to other utility providers and heard back from TOHO Utilities. A response letter is provided as an attachment to The OSTDS Plan. A consultant for TOHO provided an email stating that they are aware of the septic to sewer conversion requirement and provided information to Polk County to assist in the preparation of our OSTDS Plan.

Staff also coordinated with the Florida Department of Environmental Protection (FDEP). This included initial phone conversation on the approach to the changes in the Comprehensive Plan and coordinating with other jurisdictions. In addition, the draft changes were emailed to FDEP staff. The proposed draft is based on suggested amendments. Of course, any other needed changes that may be identified during the transmittal phase will be promptly addressed.

County staff reached out to the other jurisdictions in the County to coordinate on their efforts to consider converting septic tanks in their wastewater service areas in unincorporated Polk County. The responses received include:

City of Lake Alfred - conducted a Master Plan update last year and included septic conversions in our analysis

City of Lakeland – acknowledged the changes needed and committed to working with the Central Florida Regional Planning Council to guide those changes;

City of Haines City – working with their utility department on these changes

City of Winter Haven – Acknowledged the County’s planning staff’s email and is interested in more coordination.

Draft Ordinance: Under separate attachment

Exhibits:

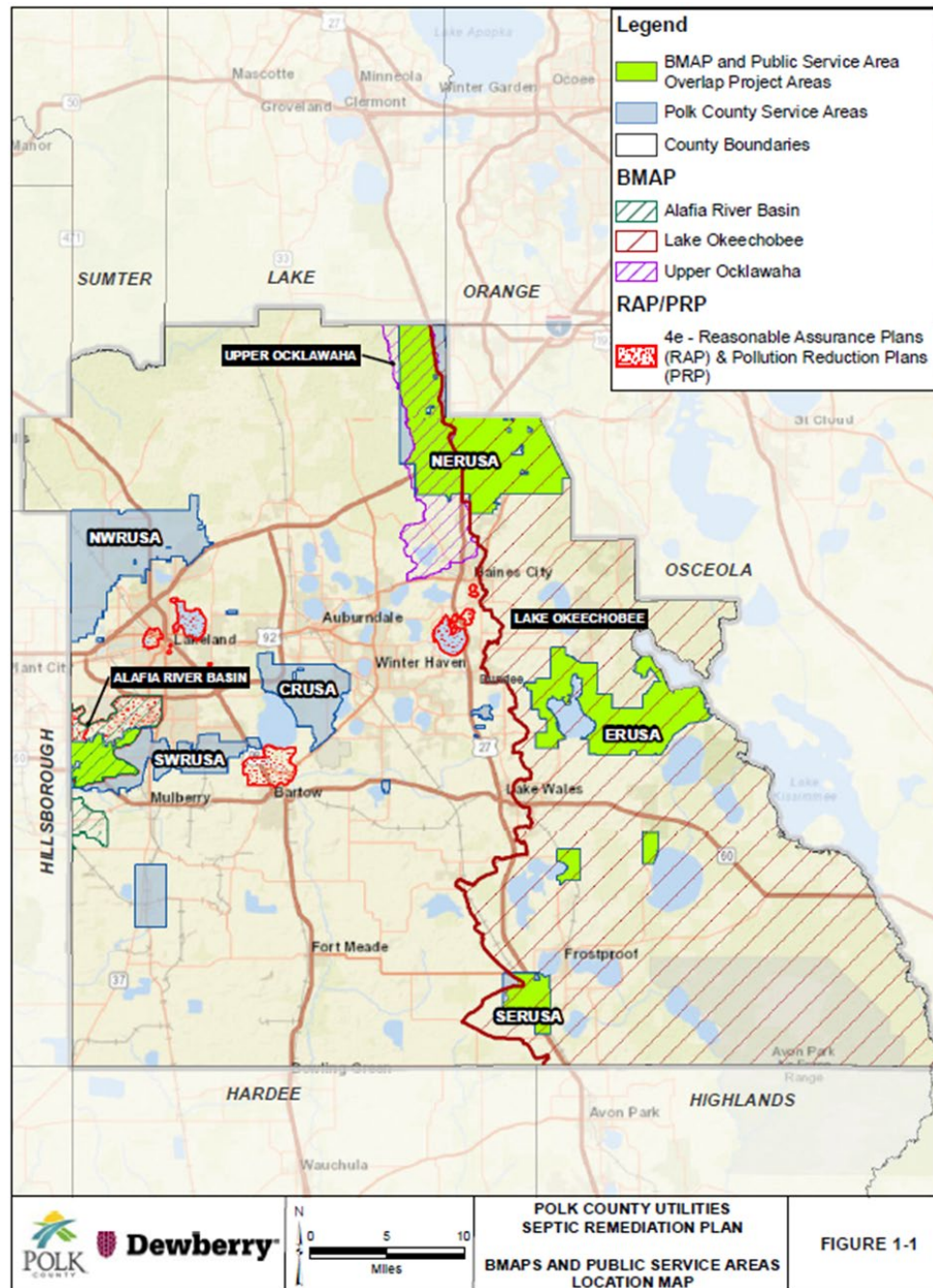
Exhibit 1 BMAP/RAP/PRP Areas with Polk Utility Service Areas

Exhibit 2 Proposed Nutrient Restoration Plan Overlay

Exhibit 3 County and Non-County Utility Service Areas

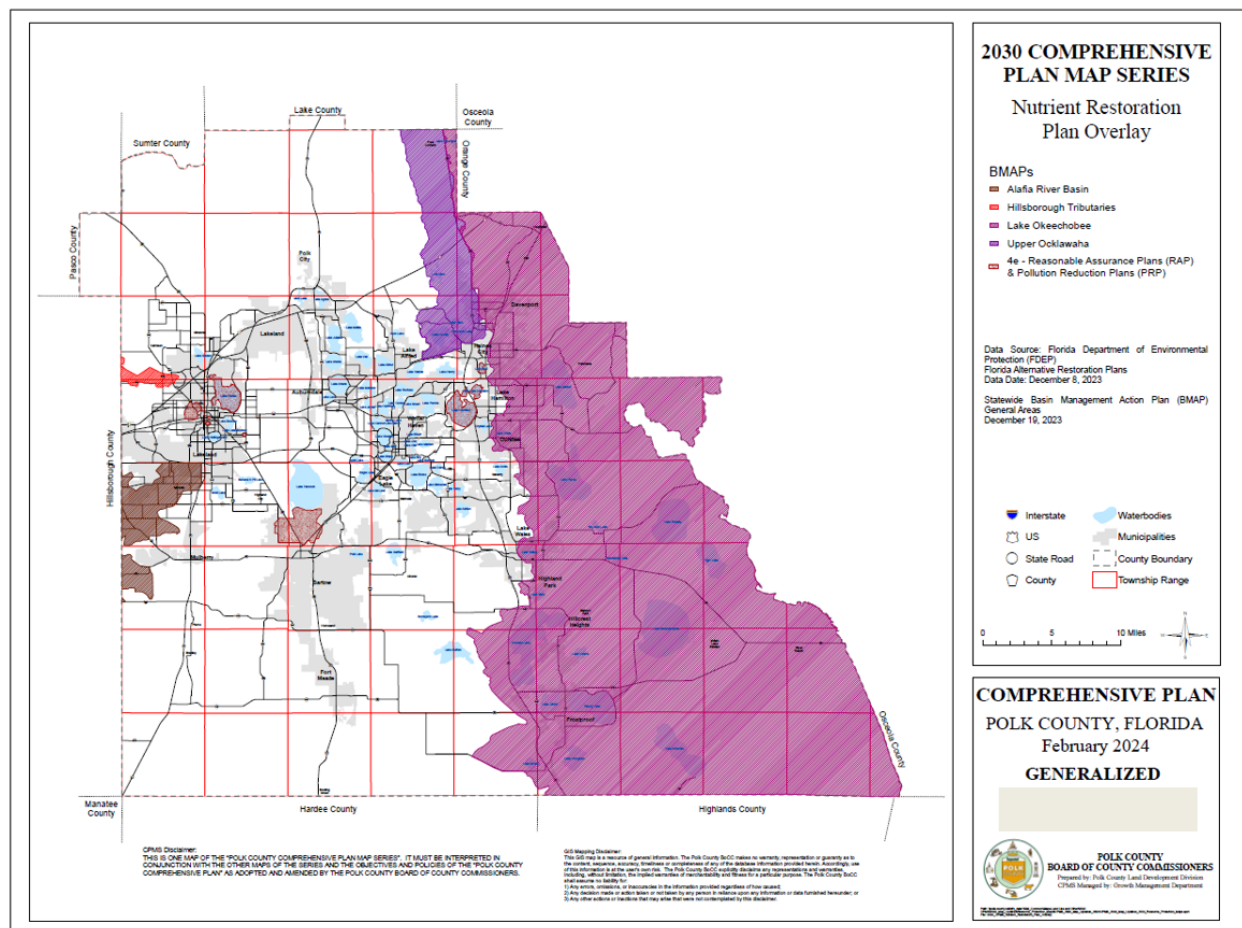
Separate Attachments

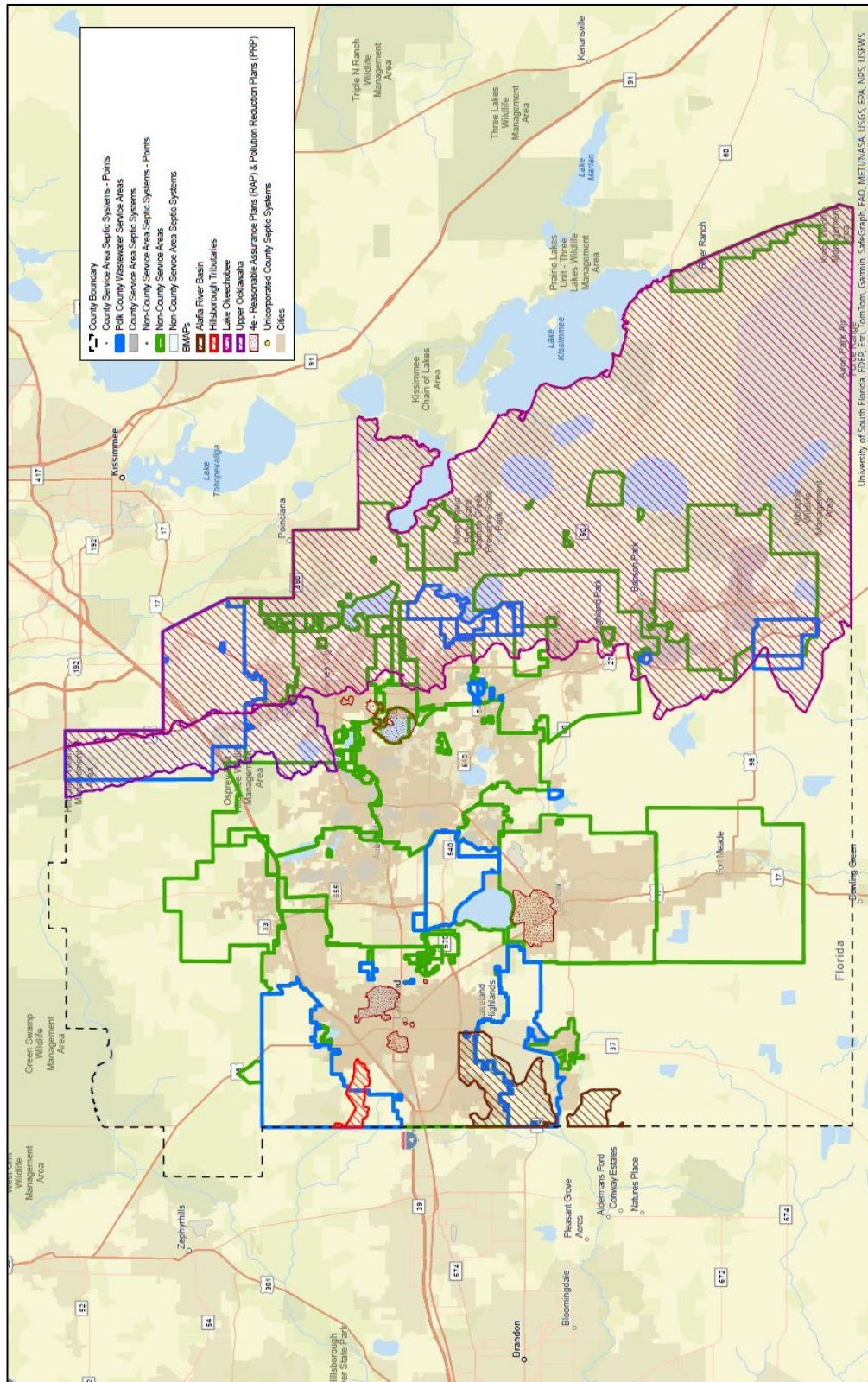
Dewberry Power point
The OSTDS Plan Report



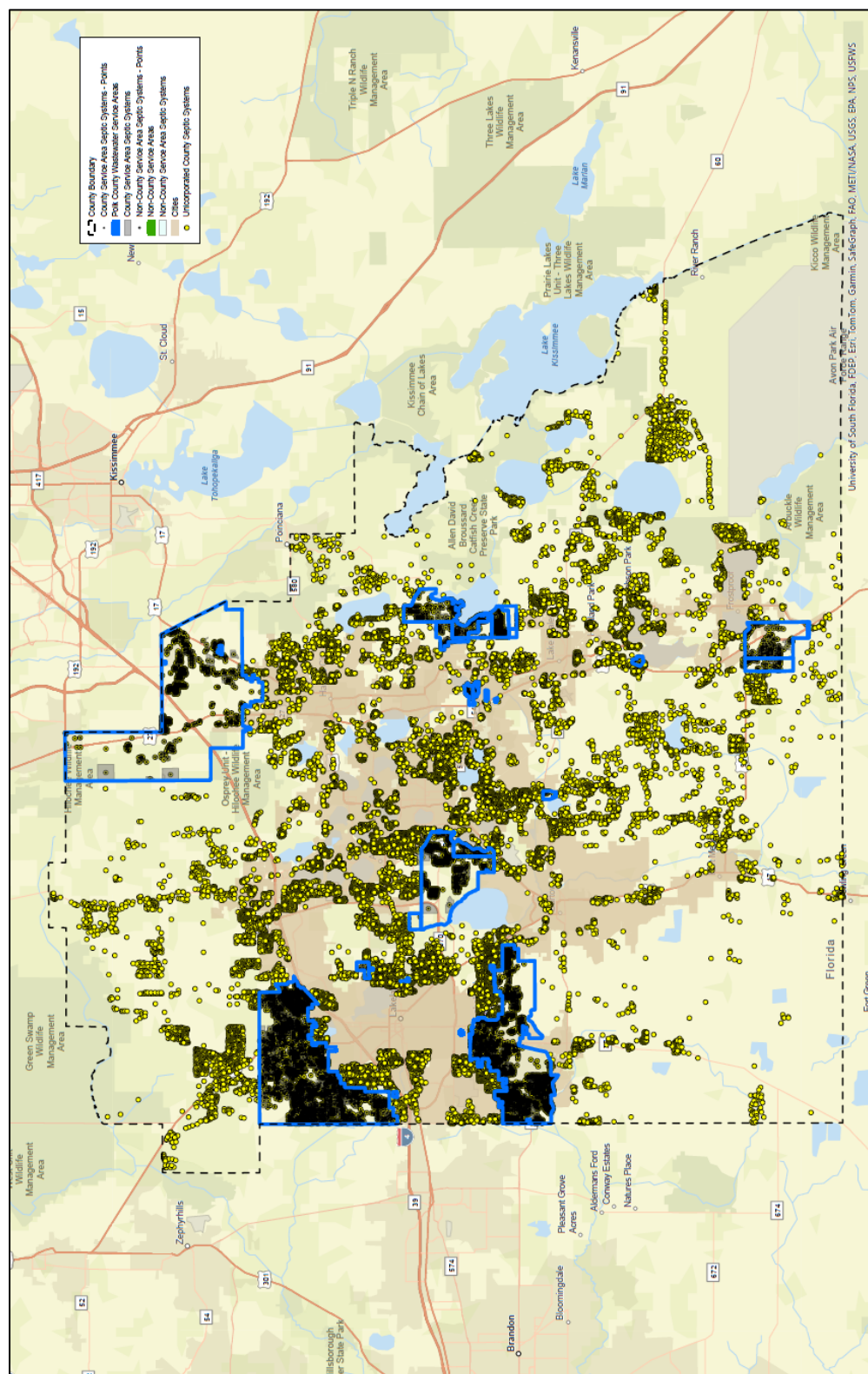
BMAP/RAP/PRP Areas with Polk Utility Service Areas

BMAP–Basin Management Action Plan / RAP–Reasonable Assurance Plan / PRP – Pollution Reduction Plan





Utility Service Areas County/Non-County



Septic Tanks in Unincorporated Polk County