



May 1, 2023

The intent of this package is to convey to Brevard County (BC), Town of Malabar (TOM) itemized requests for BC adoption of respective changes to the proposed Environmentally Endangered Lands Program (EEL Pgm) Malabar Scrub Sanctuary (MSS) Restoration Plan. BC acceptance of requests herein, associated with proper BC submission of an appropriate TOM permit application is hereby proposed as a mutually equitable solution to the current court-documented conflict between BC and TOM.

The itemized requests all pertain to the MSS. Most pertain to its periphery. All fall into three categories:

1. Preserve vegetation in a specified location of a specified number of acres with a specified number of trees protected from scrub restoration work. Of the total 577-acre MSS, these requests total ZZZ acres and ZZZ trees, impacting about 3% of MSS.
2. Restore vegetation in a specified location not to scrub habit but to optimal specifications for woodpecker habitat, at about 40 trees per acre – to recognize current avian species now residing in the area.
3. Relocate or maintain existing trails as identified in specified locations so that trail users are routed more through forest shadow (corner areas) along sanctuary – resulting in more inhabitable scrub-jay habitat.

The requests are based on research undertaken with recognition of:

- Brevard County need for improved scrub-jay habitat
- Characteristics of **optimal** vs. **suitable** scrub-jay habitat
- Scrub-jay PVA of 2021 (Population Viability Analysis (PVA) as a platform for predicting outcomes of management options for the Florida Scrub-Jay in Brevard County)
- MSS size / shape limitations and multiple sanctuary data behind restoration plan metrics seeking 70% strong scrub-jay habitat
- MSS current habitat areas not “restorable” to scrub-jay habitat
- Projected impact on existing flora and fauna species now inhabiting MSS
- Projected economic impact on local communities
- Importance of MSS as an urban forest and hub of passive recreation

The EEL Pgm Restoration Plan primarily involves the destruction of vegetation within the MSS. Unless otherwise specified, all Town of Malabar requests to “Preserve” are to be interpreted as complying with the criteria identified for a “VPB” – here redefined as: “Vegetative Preservation Buffer” and with the following characteristics.

A **vegetative preservation buffer (VPB)** is defined as being located and maintained within the sanctuary and unless otherwise specified, is situated along property borders, at a minimum 25’ width. Within the **VPB**, all oak trees and all native palm trees **may not be killed, cut, grinded, damaged, treated with herbicides, removed, exposed to excessive heat, or reduced in height**. Any Sand Pines (regardless of DBH), and any other Pine trees less than 5” DBH, and any invasive species, may be removed. Any other reduction of vegetation within the **VPB** is limited to a height no lower than 15’. There will be no roller chopping or prescribed burning within the **VPB**.

Defined TOM T&GC_20220324 Adopted TOM RTCM_20220404

Town of Malabar Summary of Requests			Requested to be Preserved	
MSS Side	Area	Request	Trees	Acres
MSS EAST & WEST All Areas			507	17.67
EAST	MSS East- Area 1 - Located in NW - Small oak hammock "historic woods", part of 2001 restoration compromise - scrub-jays frequently observed in understory	Preserve this small oak hammock. Although it is near optimal habitat shown (dashed aqua lines, per EEL Pgm Mgmt plan), scrub-jays have been seen frequenting this area. (EEL Pgm inset, right, Fig. 5).	30	0.517
	MSS East- Area 2 - Located in N - Live oaks on far north property border	Preserve these oak trees along the north border since: North edge of MSS East already has a forest edge - back property power lines and trees are 30' to the N. Consistent with how it has been managed for 30 years. Many trees in this area are outside EEL Pgm fence - on City of Palm Bay property. Boundary Canal Trail is considered a Brevard County Signature project.	12	0.2
	MSS East- Area 3 - Located in NE - Palm and Live Oak Hammock along Al Tuttle Trail corner, very near edge of sanctuary	Preserve this diverse and wet hammock with only removal of sand pines and preservation of trees around which Al Tuttle Trail was routed. It is acknowledged that this area may be appropriate for restoration efforts if the private property immediately to the south is acquired by EEL Pgm.	50	1.225
	MSS East- Area 4 - Located in S - Mature scrub oak hammock, part of 2001 restoration compromise - sanctuary entrance focal point 1	Preserve this hammock with only removal of sand pines and any tall pines. As being at the entrance to MSS East, preservation would enhance the appearance of the sanctuary. This area is known to be a great area to view various species of woodpeckers, and cardinals.	30	2.411
	MSS East- Area 5 - Located in W - Basin marsh tree clusters (3) along east of Country Cove development	Preserve this area "as is." Because it is dominated by wetlands, EEL Pgm likely choose to move the fire break away from the property boundary. The area has never been burned, due to wetland status, and functions as an effective buffer to Country Cove.	60	5.405
	MSS East- Area 6 - Located in SW - Pond and wet area, woodpeckers frequently observed in tree surrounding pond - sanctuary focal point 2	Restore this area to 40 trees per acre as done in other similar EEL Pgm sanctuaries (such as Micco Scrub Sanctuary), to best support above tree-dependent species. A trail added to top of spoil ridge on E bank as shown would further enhance Malabar Community Park and further EEL Pgm goals for Passive Recreation - a win win scenario.	165	4.133
MSS EAST All Areas			347	13.891
WEST	MSS West- Area 1 - Located in SE - Mature scrub oak overstory with Briar Creek Blvd. ROW crossing area center - very close to tall tree border of Stillwater Preserve development	Minimize tree overstory removal in this area. Remove sand pines and/or particularly tall pines, but there should be no removal of scrub oak and palm tree overstory as about half of this area is wetland and not appropriate for restoration to scrub habitat.	60	1.658
	MSS West- Area 2 - Located in E - Habitat transition zone, very close to tall tree oak hammock of Turkey Creek channel D - very near sanctuary property border	Preserve area via minimal tree overstory removal. Remove only sand pines, because the area transitions to live oaks and palms, and then descends to the channel and wetland habitat. An additional reason to preserve this area is that the adjacent creek channel oak hammock would likely result in a "tree shadow" zone avoided by scrub-jays.	40	0.689
	MSS West- Area 3 - Located in NW - Habitat transition zone, very near property border, located at deep concave corner of sanctuary - forms potential "tree shadow" condition subjecting scrub-jays to greater threat of	Preserve this forested corner as forest with relocation of the trail that is currently in scrub area to new location deeper into forested corner. Only perform minimal restoration of tree overstory. Only remove sand pines as necessary, taper edge down to fire break, remove tall pines on fire break, and relocate trail via a more flowing trail leading into the remaining woods. The result of this would be a larger area of scrub habitat and improved trail conditions - a win win scenario.	50	1.378
	MSS West- Area 4 - Located in N - Mature oaks at border corner of Brook Hollow development - point of numerous trail	Preserve this area with minimal tree overstory removal. Only remove sand pines as this is the only part of MSS West where users have reported seeing scrub-jays frequenting this area.	10	0.058
	MSS West- Area 5 - Located in NE - Opportunity area for trail relocation to deeper woods along Turkey Creek channel D along transition to oak hammock	Locate new bridge and new trail segment in the deep woods south of the creek, connecting to the existing system. This would have minimal, if any, negative impact on restoration goals. Further, the new bridge would demonstrate EEL Pgm support for voter desired passive recreation.	0	0
	MSS West- Area 6 - Located in - Oak hammock over / near Turkey Creek Channel D	Exclude this area from restoration and preserve it to be dedicated for trail use. Build the trail S of the creek to show EEL Pgm recognition that the mission continues to include support of passive recreation.	0	0
MSS WEST All Areas			160	3.783

OFFER OF FEE PER TREE WAIVER

As an incentive for Brevard County to adopt the requested changes specified in this package, Town of Malabar hereby offers to waive the \$40.00 per-tree fee otherwise required by statute for the tree / vegetation removal work as had been identified in the original restoration plan.