

Building and Construction Advisory Committee Minutes

The Brevard County Building and Construction Advisory Committee (BCAC) met on Wednesday, December 14, 2022, at 1:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Members present: Michael Williams, District 1; Mike Jaffe, District 3; Ralph Durham, Vice Chair, District 4; and Bruce Moia, Chair, District 5

Staff present: Billy Prasad, Strategic Operations Manager; Eddie Fontanin, Utilities Services Director; Frank Picirilli, Building Plans Examiner; and Jennifer Jones, Special Projects Coordinator.

The Chair, Bruce Moia, called the meeting to order at 1:00 p.m.

Approval of October 12, 2022, Minutes

Motion by Ralph Durham, seconded by Mike Jaffe, to approve the minutes of October 12, 2022. The motion passed unanimously.

Ordinance Amending Chapter 62, Article VI, Division 2, Section 62-1157, Submission of Binding Development Plan in Support of Request for Change of Zoning or Conditional Use Permit

Billy Prasad stated the proposed ordinance change is in response to legislative intent and permission to advertise amendments to Section 62-1157, granted by the Board on August 30, 2022. The legislative intent is intended to do three things: 1.) Require that applications with a BDP identify all legal and equitable owners of the property and any entity with an interest in the property, including, but not limited to, any lienor(s); 2.) Require that all legal or equitable owners of the property, an any entity with an interest in the property, including, but not limited to, any lienor(s) be a party to the BDP prior to the final approval by the Board of County Commissioners; 3.) Clarify when the 120-day period to record a BDP begins.

Bruce Moia stated he received comments from Kim Rezanka by email and forwarded them to staff. He said one question was, what is 'legal and equitable interest'.

Mr. Prasad replied that language is modeled after F.S. 163.3227, that uses the same term.

Mr. Moia asked, if a piece of property is owned by a husband and wife, will the County want both of them to sign the BDP. Mr. Prasad replied yes, anyone with an interest in it so that the BDP will continue to bind all of the property owners.

Mr. Moia asked, if the property has a mortgage on it, does that mean someone from the mortgage company has to sign the BDP.

Alex Esseeesse replied yes, which is the current process, the ordinance puts it on the record.

Mr. Moia stated he has heard that can be challenging. He said another question from Ms. Rezanka is, if there is lien on the property they would have to sign off on it as well. Mr. Esseeesse replied yes.

Mr. Moia asked what it means if there is a lawsuit. Mr. Esseeesse replied ideally, the applicant would have that figured out before they request that the property be rezoned, or subjected to the BDP.

Ralph Durham stated they know they don't have a free title at that point, so they need to go forward.

Mr. Moia asked if staff is going to require a title report for anything that has a BDP, to make sure that all entities are disclosed. Mr. Esseesse replied he doesn't know if a title report would be required specifically, but the onus would be on the owner to ensure that they have done their due diligence.

Mr. Moia stated there was also a question about extending the 120 days if necessary, and asked if there is any way to get an extension.

Mr. Prasad replied the 120-day clock is in the current ordinance, staff if just clarifying when the clock begins; it is not meant to be extended in any way. He explained the reason it is important is that when the Board approves a rezoning contingent upon a BDP, the zoning maps don't reflect that action until that BDP is recorded. The 120 days is meant to balance all of the interests, to give a reasonable amount of time so that there isn't a BDP out there indefinitely, because the zoning maps need to reflect the action of the Board of County Commissioners.

Mr. Moia asked about instances where there is a closing contingent upon the rezoning and BDP, and for some reason they don't close prior to the 120 days, can there be an extension so that they don't get bound by something that they are not contractually bound to.

Mr. Prasad replied there is not a process in place for that right now, but the proposed ordinance doesn't change it.

Mr. Esseesse explained there is 120 days and if a property owner doesn't have the BDP recorded within that time period, then the issue becomes what is the next step for the County. He said he believes Ms. Rezanka's request for an extension is based on there being good cause, and if that is something the committee wants to consider, that's fine from a policy standpoint, but with respect to the legality of it, the 120 days is what is currently in the Code.

Mr. Moia asked when the 120 days begins. Mr. Prasad replied the 120 days would begin at the approval of the associated rezoning application at the public hearing stage. Where there is no public hearing, it is when the Board approves an application to amend a BDP, or otherwise makes an initial approval of a BDP application. In most cases there is going to be a public hearing, and that's when it will begin.

No public comment.

Motion by Ralph Durham, seconded by Michael Williams, to approve the proposed ordinance amending Chapter 62, Article VI, Division 2, Section 62-1157, Submission of Binding Development Plan in Support of Request for Change of Zoning or Conditional Use Permit. The motion passed unanimously.

Amendment to Section 110-70 and 110-72, Brevard County Code of Ordinances, Fats Oil, and Grease Management Program

Eddie Fontanin, Utility Services Director stated the proposed ordinance is an amendment to Sections 110-70 and 110-72, both of which are related to the fats, oils, and greases management program.

Michael Williams stated the non-residential areas include but are not limited to common areas or commercial areas within the complex. He asked how many grease traps will have to be put in those areas.

Mr. Fontanin stated the intent of the amendment is to require it for vertical multi-unit, essentially condos, so the amendment is to look at having a grease trap for common areas. As new condos and apartments are being built, common areas and store fronts on the first floor become another component, and those would fall under the need to go to fats oils and greases. The residential units, whether it's apartment units or a condominium, would not be included. He said in 2021 the State passed laws about the responsibility of utilities with regard to discharges, regardless of the ownership of who are the causes of the discharge, the State utilities to be the owner. In terms of having a safeguard, if there is a case where there is a discharge associated with any kind of fats, oils, and grease build up associated with an apartment or condominium complex, instead of going through Code Enforcement, a fine would be incorporated.

Ralph Durham stated it makes sense because it is a tough job for the water supply to try to filter it all out.

Mr. Williams asked if staff discovers a grease trap is needed during the review of building permits. Mr. Fontanin replied yes, in the proposed ordinance are sections for new development and existing development, and staff has allowed different components for existing facilities to try to minimize the impact. He noted the first round is going to be focused on restaurants, and then it will evolve from there, but it's all driven by direction from the State.

Mr. Durham asked if Mr. Fontanin has experienced condos that became problematic, or a history of condos creating this kind of problem. Mr. Fontanin replied yes, he's history of it, but the probability would more fall under high-grease restaurants.

Mr. Durham asked if those would be the associated restaurants at the facilities. Mr. Fontanin replied that is the highest probability.

Mr. Moia asked, in multi-family residential, if there is a common area that has a party room with a stove, refrigerator, and sink, will those now require a grease trap. Mr. Fontanin replied there's a calculation that equates the amount of flow going through, it's not the intent to be done on individual rooms, but more when they do the plumbing and the wastewater disposal for those areas that are pertinent, but the non-residential would not, it would go directly to the gravity or lift station.

Mr. Moia asked if it would have to be exterior tank, and stated under-counter is now allowed.

Mr. Fontanin replied no, the County only allows that for existing facilities. Ideally, for effectiveness, things should be on the exterior, but on existing facilities, staff will look at them on a case-by-case basis, because there is a limitation on under-counter tanks.

Mr. Durham stated it seems like a change of use happens in common areas in that kind of arrangement, and retirement homes are having more facilities at the first level.

Mr. Moia stated he sees it all the time, a shoe store in an existing shopping center is now a Kentucky Fried Chicken, they have to tear up the pavement and put in grease traps to tie in with the sewer. He said he is more concerned about multi-family developments because a lot of them have amenities, most of which include a common party room that can have a kitchen, which would require a grease trap.

Mr. Fontanin stated the intent is for a grease trap to be required for a common kitchen area for big parties.

Mr. Durham stated Firehouse Subs got around a lot of stuff by using microwaves, and asked if grease traps would be required based on potential. Mr. Fontanin replied it is a constant evolution and the County is trying to capture as much as possible.

No public comment.

Motion by Michael Williams, seconded by Mike Jaffe, to approve an Amendment to Section 110-70 and 110-72, Brevard County Code of Ordinances, Fats Oil, and Grease Management Program. The motion passed unanimously.

Building Code Monthly Review

Bruce Moia asked Frank Picirilli if he is seeing any trends they might need to be aware of. Mr. Picirilli replied no, nothing that the committee is probably not aware of.

Ralph Durham stated July and August was the second lowest point in a five-year period.

Mr. Moia asked if staffing is still an issue now that things have leveled off.

Mr. Picirilli stated the plans examiners are busy all the time, and right now there are 180 permits in the queue of all different types.

Mr. Moia asked if he is seeing more commercial now. Mr. Picirilli stated the mixture is consistent with what it has been, and there seems to be a lot of restaurants. Mr. Moia stated that makes sense with all of the residential development.

Adjournment

The meeting was adjourned at 1:22 p.m.