

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 14, 2024**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Voting Board members present were Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Erika Orriss (D3); Mark Wadsworth, Chair (D4); Ana Saunders (D5), and John Hopengarten (BPS).

Staff members present were John Denninghoff, Assistant County Manager; Edward Fontanin, Director (Utility Services); Ian Golden, Director (Housing and Human Services); Darcie McGee, Assistant Director (Natural Resources Management); Tad Calkins, Director (Planning and Development); Alex Esseesse, Deputy County Attorney; Jeffrey Ball, Zoning Manager; Trina Gilliam, Planner; and Desirée Jackson, Planner.

Mark Wadsworth stated that if any Board Member has had an ex-parte communication regarding any application, please disclose so now.

Approval of the September 16, 2024, P&Z/LPA Minutes

Motion by Henry Minneboo, seconded by Robert Sullivan, to approve the P&Z/LPA minutes of September 16, 2024. The motion passed unanimously.

Items H.1. and H.2. were moved to begin before item H.9. of the agenda by staff.

Item H.3. Michael & Bonita Osborne requests a change of zoning classification from RU-1-9 to TR-3. (24Z00038) (Tax Account 2409628) (District 1)

Trina Gilliam read the application into the record.

Michael Osborne spoke to this item. He stated that he and his wife grew up in the community and have desires of future planning to bring something to the community whether it be a mobile home park or affordable housing, whether it be trailers or condos, they just want to give back to the community where they both grew up and played as kids.

No public comment.

Ron Bartcher asked about the requirement for a 50' setback on the east side and if the applicant was aware of it. The applicant said "yes". He asked "would the applicant be willing to use a 50' vegetative buffer within that 50' setback?". The applicant said "yes".

The 50' buffer is for the east property line per Jeffrey Ball. Mr. Bartcher asked if the 50' setback is needed all the way around.

John Hopengarten asked how they would get access to the site.

Speaker 1, Mrs. Osborne, stated that one already exists on Robeson and the other from Parish Road.

Jeffrey Ball stated there is no access right now through Parish Road and the only access to the property is to the south.

Speaker 1, wife of Michael Osborne, stated she has a document from Mr. Michael who is the engineer with the County that says that they can access it from Lakeview Blvd that leads to Parish on a 100-yard spike. Jeffrey Ball noted that access will be addressed during the subdivision site plan process.

John Denninghoff commented that there is access from Robeson and Short Drive.

Motion to recommend approval of item H.3. by Ron Bartcher, seconded by Robert Sullivan, with a BDP for the 50' buffer on the east side of the property. The motion passed unanimously.

Item H.4. Julia Bertot requests a change of zoning classification from RU-1-9 to RU-1-7. (24Z00039) (Tax Account 2300349) (District 1)

Trina Gilliam read the application into the record.

Julia Bertot spoke to this item. She stated that they own a 50' lot on the Indian River and with the current zoning they can't build a single-family home on it. They would like to have it rezoned so they can build a home and enjoy the river.

Speaker 2, husband of Mrs. Julia Bertot stated he's for the rezoning.

Cynthia Ann Petrogie lives next door to the property. Her father lives adjacent to her and her brother lives adjacent to him on about 5 acres total combined. Her father and brother have lived there over 40 years. They are adamantly opposed to the rezoning to lower the amount of square footage and the property setbacks that would be reduced. Anything they build or put in there will devalue her home because it is going to be less than what anybody has on the street. She said "they have not maintained that property over the last 20 years and it has affected her greatly financially because of the washout to her seawall."

Michael Petrogie added that he supports his wife, and they are opposed to the change. There are other concerns. There are natural waterways when storms come that are formed on our street, one of them being there. He stated "down the road, Doctor spent about \$150,000 on waterwork for him to be able to divert the water underneath where he could build his large mansion down there. If this isn't taken into account on the geological survey end of things stilt, whatever they're going to be putting there, there's a lot of considerations with this property that need to go into effect. The last storm has reduced the area of that lot by about another 12'. And I've got evidence of so much damage over the years."

End of public comment.

Ron Bartcher asked staff what could be put on that property without the rezoning.

Trina Gilliam commented that without the rezoning they wouldn't be able to develop the property. The rezoning is what helps to alleviate the issues because it doesn't meet the zoning classification that it has currently.

Ron Bartcher asked if the County has any liability or legal exposure if we do not approve the rezoning.

Alex Esseesse explained that we would have to look back historically at how the property was divided and how it came to being. He doesn't believe that research has been done at this time. "But whether or not someone can sue that's always the case" he said.

Mr. Bartcher commented that he was concerned about their property rights being taken.

Jeffrey Ball responded that when we analyze a rezoning like this, we are analyzing consistency with the comp plan and compatibility with the surrounding area. Based on our staff comments this request meets both of those criteria.

John Hopengarten asked what the setbacks requirements are for RU-1-7.

Trina Gilliam responded they are 20' in the front and 20' in the rear, with 5' on the sides. The RU-1-9 is 20' in the front, 20' in the rear and 7.5' on the sides.

John Hopengarten remarked that with this being a 50' lot it would be a might skinny house. He then asked if a garage was going to be put in.

Mrs. Bertot replied probably not. They were thinking about putting the house on stilts. They will have to look into all the environmental issues but thought it might be better on stilts so they'll be able to park underneath it.

Speaker 2, husband of Mrs. Julia Bertot, said that with the washout the plan would be to develop the riverfront with rocks or whatever to fill it in so that there wouldn't be any washout if they had a house there.

Motion to recommend approval of item H.4. by Ron Bartcher, seconded by Brian Hodgers. Motion passed unanimously.

Item H.5. Sol Vida Land, LLC requests a change of zoning classification from RU-1-9 to RU-1-11. (24Z00046) (Tax Account 3017131) (District 5)

Trina Gilliam read the application into the record.

Brian Cains spoke to this item. They are looking to change the zoning from RU-1-9 to RU-1-11 to build a single-family house. The RU-1-9 is not compatible with the future zoning and the RU-1-11 is. I think that will exceed the RU-1-9 setbacks and square footage required.

No public comment.

Ron Bartcher asked staff when the land use was set to Res 4 and why did we create a large neighborhood who's zoning is inconsistent with the land use.

Jeffrey Ball noted in 1988 when they established the Res 4 they didn't take into consideration any existing zoning that was in place. Unfortunately, 1255 does not allow for Res 4 and the existing zoning to be consistent. That's the whole reason why we're entertaining this request, to allow for a consistent zoning classification in compliance with the Res 4 land use category or designation.

Ron Bartcher then asked why it wasn't set to Res 6 instead of Res 4. Wouldn't that be more appropriate?

Jeffrey Ball commented that considering that this area is all Res 4, it's more appropriate to change the zoning to match that. You could change the land use part of it, but staff felt it was more appropriate to change the zoning to match.

Motion to recommend approval of item H.5. by Ron Bartcher, seconded by Robert Sullivan. Motion passed unanimously.

H.6. Mannarino Family Revocable Living Trust requests a change of zoning classification from RU-1-7 and RR-1 to all RR-1. (24Z00041) (Tax Account 2802503) (District 5)

Trina Gilliam read the application into the record.

Mark Mannarino spoke to this item. He stated that the County Planning and Zoning Department indicated he needed to combine the 2 different zonings on the property that he has. They have lived in the house since '81 and the original property is about 1.09 acres, and it was zoned RR-1. About 15 years ago they bought a quarter acre lot adjacent to the property that was zoned RU-1-7 at the time. According to the Planning and Zoning Department, moving forward one's residential property must be all the same zone otherwise he can't get any permits. So, I just want them combined into RR-1.

Public comment

Kimberly Odel stated that her concern was this is a little bit vague, and she wanted some clarification from him and "you guys". According to what she looked at her concern as neighbors was the RR-1 changed it to a little bit vaguer, family homes, parks, public recreational facilities, private golf courses, foster homes, sewer lift stations, bed and breakfast inns, and the list goes on. So what she wanted was a little more clarification from him with if he's changing it to RR-1 because it takes away the RU-1-7 which is residential. "Is he planning to put something like that in the future and if that's the case and if it's changed today to RR-1 would that be grandfathered in to whatever he wanted to put on that piece of property?" were her follow up questions.

End of public comment.

Mr. Mannarino went on to state that this quarter acre is in the northwest corner of his property. It is a horse pasture right now and they have fence around it. It's been a horse pasture for 15 years. They have no plans on changing it, building anything on it, it's going to stay just like it is so their horse can lay around on it. The only reason he's going through this rezoning is so that he can get any kind of a building permit in the future. If he wants to add an air conditioner, put a door on the house, etc. he has to have all his property zoned the same. He has no plans on making any changes to that quarter acre piece of property.

Motion to recommend approval of item H.6. by John Hopengarten, seconded by Brian Hodgers. Motion passed unanimously.

H.7. Frank Mastroianni (Jake Wise) requests a change of zoning classification from BU-1 and RU-2-10 to PUD. (23PUD00001) (Tax Account 2600118) (District 2) This item was continued from the June 10, 2024, P&Z/LPA meeting, and the July 11, 2024, BoCC meeting.

Jeffrey Ball read the application into the record. He referenced the previous meetings this application had gone to for review. When it was in front of this board at the July 11, 2024, meeting the board recommended denial of the application. It was recommended that it was remanded back for staff review in anticipation that the applicant is going to revise their request to be reheard at the October 14, 2024, Planning and Zoning meeting and the November 07, 2024, BOCC meeting. To date the applicant has not submitted any revised plans.

The applicant was not present.

Motion to recommend denial of item H.7. by Ron Bartcher, seconded by Robert Sullivan. The motion passed unanimously.

H.8. Stickrath Developer, LLC. requests a change of zoning classification from BU-2 to AU. (24Z00026) (Tax Account 2601599) (District 4). This item was continued from the September 16, 2024, P&Z/LPA meeting for re-advertisement.

Trina Gilliam read the application into the record.

Kurtis McKinney, on behalf of the applicant, stated the owner is turning the property into a goat rescue. He's been saving the rescued goats for some years and code enforcement came down there just doing a regular inspection and saw that, and said something about it to him, so he's just taking one acre of property out of there and just cut it out as the goat rescue. He just does it for the community and he's probably spent about \$100,000.00 at this point rescuing goats. Mr. McKinney said he doesn't necessarily have anything other than that to put toward it. They advertise them on Facebook and places like that if they want to take them and rescue them and put them to a good home. It's one of those things he does in his spare time.

No public comment.

Ron Bartcher asked if the property has a grassy field for the goats.

Mr. McKinney said yes. They're fed pretty good.

Mr. Bartcher then asked if the area was fenced so the goats would be contained.

Mr. McKinney stated it is and has shelter with a birthing station.

Mr. Bartcher asked if the owner would be willing to add a BDP to limit the use of the AU zoning to a goat rescue only.

Mr. McKinney stated he was sure he would but couldn't just sign up for that right now based on what happens if he gets an alpaca or maybe another goat. It's just a little tiny rescue on one acre. They've never had more than 7 or 9 animals there at any one time. He's known about it for maybe 10 or 8 years. He started it in Okeechobee, Florida and now he's brought it up here. This is his second location. It's tucked in the back behind Welty Lake. They can't swim. Behind them is the junkyard with a 40' hill to climb. So, I don't want to say that he would be or wouldn't be.

Mr. Bartcher wants a BDP to restrict the AU.

Jeffrey Ball suggested to have a BDP to limit the use to raising and grazing of farm animals.

John Hopengarten asked about the adjoining property to the south.

Mr. McKinney stated that it is a cemetery.

Mr. Hopengarten then asked about the ownership of the property to the south and if there really was grass because there's nothing there but a pond on that little section.

Mr. McKinney said that it is Landscape Depot, full of rocks. There's a lot more vegetation than what you're seeing there and that they're fed daily.

Mr. Hopengarten further inquired on which portion of the site was to be rezoned to AU.

Jeffrey Ball responded to questions about what part of the site will be AU. Only the box that's highlighted in the yellow on the map will be AU. So, it would only be the 2.5-acre piece that you're looking at on the map.

Mr. McKinney further explained that they only needed three quarters of an acre for 6 or 8 goats. They made him go to 2.5 acres and that's why they encompassed the lake into it. Really don't need that much property because they aren't rescuing that many goats or farm animals.

Mr. Hopengarten then stated that the lake drains onto the highway.

Mr. McKinney stated the lake illegally drains onto his owner's property. It's an issue with the County right now because the County is in the middle of a lawsuit with Mr. Welty.

Motion to recommend approval of item H.8. with a BDP to limit the use to raising and grazing of farm animals, by Ron Bartcher, seconded by John Hopengarten. The motion passed unanimously.

H.1. Transmittal of a Large-Scale Comprehensive Plan Amendment (24LS00001) regarding the Brevard Barrier Island Area (BBIA) as a new element to the Comprehensive Plan under the State Coordinated Review process.

Jeffrey Ball read the application into the record.

On January 01, 2023, Florida Statute Section 380.0553 the State Legislature established the Brevard Barrier Island Area as a critical area of state concern. Section 163.3191 Florida Statute requires changes in the State law to be included in any amendments resulting from the Evaluation and Appraisal Review of the Comprehensive Plan. Brevard County has contracted with a consultant to identify these goals, objectives and policies that are necessary to implement the statutory guiding principles of the Brevard Barrier Island Area. These draft goals, objectives and policies will be incorporated and adopted as Element 16 Brevard Barrier Island Area to the Brevard County Comprehensive Plan. Legislation 380.0553 established guiding principles for development. State, regional and local agencies in units of the government in the Brevard Barrier Island Area shall coordinate their plans and conduct their programs and regulatory activities to be consistent with the following guideline principles for development within this area.

Guiding principal "A" is preventing adverse impacts of development on resources critical to the sea turtle habit by prohibiting new shoreline structures and enforcing existing state and county coastal construction regulations, prioritizing water quality restoration projects in the Indian River Lagoon, reducing nutrient contributions from septic tanks and wastewater facilities, stormwater discharge, and agricultural non-point sources in the Indian River Lagoon. Supporting innovative nature-based solutions including living shorelines and freshwater coastal wetland restorations. Safeguarding against adverse economic, social, and environmental and public health and safety impacts posed by flooding storm surge and protecting critical assets identified in Section 380.093. Protecting shoreline marine resources including mangrove, seagrass beds, wetlands, sea turtles, manatees, and fish and

wildlife and related habitats. Protecting upland resources including dunes ridges, beaches, wildlife, and related habitats. Limiting adverse impacts of development on quality of water throughout Brevard Barrier Island Area and Indian River Lagoon. Enhancing natural scenic resources to promote the aesthetic benefits of the natural environment. Ensuring that development is compatible with the characteristics of the Brevard Barrier Island Area.

This is a 2-step process, with the first step being transmitted to the Florida Commerce. The adoption hearing will be scheduled at a future board meeting date which allows for County staff and the consultant time to address any comments or responses from the state reviewing agencies prior to adoption by the board. Once the element is adopted staff in coordination with the consultant and the department of commerce will review and draft the land development code regulations as part of the implementation tool for the area of critical state concern. This will be done later.

On August 28, 2024, staff held a public outreach meeting at the South Beaches Community Center. This meeting was well attended with approximately 254 residents in attendance in person and online. In addition to an online survey a questionnaire was published on the County website. Those results are included in this packet. Of the 732 comments received 5 requested the creation of an oversight committee. Analysis of the public input through both email and survey that were received prior to September 26, 2024, is included for the Board to consider. Input received after September 26, 2024, will be attached separate from the analysis. Public input would primarily focus on keep topics such as density and intensity, sea turtle protection, shoreline hardening, clear cutting, conservation, and stormwater management. Below are examples of policies and objectives contained in the element that address these concerns.

Staff has prepared a draft element to include the goals, objectives, and policies included in an attachment. This item will be presented to the Board of County Commissioners on November 7, 2024. Landry and Associates is in attendance to answer any questions along with Darcie McGee from Natural Resources Management to answer any questions you may have.

Public Comment

Vince Lamb has been tracking this item since Representative Altman told him he was going to introduce it at the State, and he is overall very supportive of it. He read the latest draft document that the County has prepared on this, and he feels like it's quite good. He appreciates the effort that went into it. There is still a bit of room for improvement. He is deeply involved in the sea turtles and has been for 17 years, leading turtle walks down there and working with the refuge. We live in an area that's one of the best beaches in the world for sea turtle nesting and he appreciates this effort to protect it. He supports the objectives taken forth from the legislative text, which you read a few minutes ago. He read the document, which is not his area of expertise, so he's counting on as much protection as we can get out of this and can't tell personally if we're there or not. Policy 2.3, the sea turtle lighting ordinance, this policy states that the lighting ordinances should be reviewed periodically but fails to identify the period. Brevard County had the first lighting ordinance in the state. To his knowledge it's never been reviewed or changed. The sea turtle conservancy is encouraging a review. He'd rather have periodically changed to every 5 years or every 10 years, and not be quite that vague. Similar item, item 2.6, reevaluating the effectiveness of the coastal setback line this policy suggests reevaluating the effectiveness from time to time. And requests a review of FDEP 1981 coastal construction line if deemed appropriate.

Craig Wallace, also with the Brevard Indian River Lagoon Coalition, has main concerns with protecting the Indian River Lagoon from a watershed perspective, any storm water coming off any areas that are an issue. But the biggest concern is septic and sewer in the area. Any increase in additional septic tanks in that area with new development is a big concern. Not sure if this addresses that specifically enough and he doesn't have the exact wordage of what he would like to see changed. But his biggest concern is the additional new development creating new septic tanks or if we can get sewer down there, that would be great.

Mel Scott, Urban Planner, and resident of the south beaches, wants to thank staff for their hard work. He's very much in agreement. Jeffrey set the stage for the points that he understands you are affirming because of the state legislature's creation of this area. It's a very, very special area, not just to this county, but you can really speak in terms to the western hemisphere as it relates to the impact that this has on nesting sea turtles. He's in full support and understand that this is the beginning of a longer journey that will include this coming back for adoption. At this point in time, you've got a really nice assembly of clay and you're about to make a really nice clay pot, and he's in full support of this.

Robert Logsten just wanted to point out some serious contradictions between the Florida Statute for the area of critical concern and the new BBIA policy. There's a minimum of at least two, 3A and 3B of the legislation intent and four items, 5B, 5C, 5H and 5J of the guiding principles that are conflicting with the BBIA proposals. All these conflicts would result in additional nutrient contribution to the lagoon via language inserted in the BBIA policy for coastal element future land use property designation. According to the BBIA residential designations a Res-1 owner that is adjacent to a Res-4 property could meet the criteria that transition to a Res-2. Here's an example of a 1 acre that increases density and the existing septic tank is old, and the nutrient reduction system is probably less than 50%. His new home on the same 1 acre installs a required 65% reduction system, so he is now contributing an 85% load. The math's undeniable. If he's required to follow the state statute that was established to protect the lagoon his risk to increase destination bumps up to 70% nutrient contribution to the lagoon and his old system that was only 50%. Then when you look at the criteria to allow a planned unit development 25% bonus increase, this ultimately will reflect the over whelming number of the future land use designation of Res-1. Take 10 Res-1 lots and add 2.5 additional septic tanks that increase the density we will be contributing additional nutrients to the lagoon. Even though the BBIA criteria higher density designations would require public water and sewer. We don't have that. There are no public sewer plants in the plan. The existing south beaches plant is only at 85% capacity and there are no plans to expand in it. I'm going to urge you folks to remove all the language added to the existing future land use coastal element property designations.

Mark Chansis, executive director of the BIPA (Barrier Island Preservation Association) an organization that was started 30 years ago, in 1990, and was the key negotiator and final stamp of approval on Publix shopping center down there to allow it and it was traded off. That's what we do. We understand that there's significant desire to develop down there but it can't be developed because of what this gentle man was saying about the sewer, the water, flooding, evacuation is already 3 times the amount of time it takes as required by the state. Specifically, in BBIA 12.1 I'd like to take the sentence that says, "not increase residential densities" and insert the words "or intensity", so that we don't end up with commercial properties there. In 12.8, take out the entire section. We do not have community commercial on the south beaches. Why even open the door of talking about community commercial when there is no community commercial zoning down there. In 12.7 neighborhood commercial I'd like to take the items of public facilities and recreational uses and move them to the classifications of public facilities and recreational uses. Otherwise it's confusing and you

can end up with residential properties with again end up moving, someone comes in with a public facility, the county and they already have their own, or recreational uses because there's a lot of language about marinas in this and we don't want there to be confusion that they can put in a marina because it says recreational uses on the residential property. Move it to the recreational section. I also agree we should be removing the PUD's because there's only one PUD on the beaches, which is the golf course. Why even mention PUD if there aren't any PUD's. It just confuses things and makes everybody fodder for lawyers.

Eva Nacka Maholley and I'm Mel's neighbor. I'm just adding to what I've heard here. I don't have that added information, except to simply say that that is the most beautiful area that I've ever seen. And therefore, I want that oversight, I want people to be keeping it the way it is, and no high density for this area, and keep it for the animals, the wild animals, the turtles and for single family homes as much as possibly can be done. And I appreciate your looking at this and thank you, it's a great place.

End of public comment.

Robert Sullivan provided a document, exhibit 1, for staff into the record. It identifies the same items that the public pulled out. The first one is the intent of the Brevard Barrier Island Area (BBIA) area of critical concern and the most important function for this creation of the area of concern was to limit density and intensity of the development within the area. That's referenced in the executive summary on page 7. If you use the public comment that was attached, overwhelming is intensity and density reduction. So that concern is for that area and I'm a consultant for FEMA and evacuation. I spent 30 years in search and rescue, Hurricane Katrina, , Hurricane Michael, Hurricane Florence, and Hurricane Harvey. I've done a lot of victim recovery, so evacuation for this area is extremely critical, which is why it became an area of critical concern. So, with that they brought up a number of elements concerning loading for both water supply and wastewater. It's a little bit more. There's solid waste, there's other elements, there's utility corridors, there is response for search and rescue, and response for medical and law enforcement as well. . He is all for this document. He went further on to say "but if we strike item D for residential 1, item D for residential 2, item D for residential 4, and item D for residential 6, and item E for residential 15, item E for neighborhood commercial, and community commercial. I found a document that I don't see any residential or commercial there. So, what that says is that the planned urban development allows you 1.25 increase in density and that is completely counter to the intent of the area of critical concern. If we're here to reduce and restrict development, we should not incorporate an option or loophole that allows 1.25 increase in that. So, that's open for discussion. I'll make a motion, but I'll bring it back to the board and let that be discussed."

Erika Oriss noted that she is new here and appointed to District 3. She said "I was also at that meeting, and I live in the south shores, so I love it there. I agree with everything that's been said. However, I do think that as we look at the documents that have been put forth everyone's mainly concerned with the density and intensity. And it doesn't say that, so if we could make a motion to strike where it says simply in keeping with CN 7.1 shall not increase residential densities and it may want to say there intensity as well. And then also every other place that you have alluded to Robert. And additionally, when it goes into future land use up to a 25% density bonus, I don't think that's the intent of this document. Everyone appeared very, very concerned at the meeting about density and intensity. Everything else I think can be worked out and that seems to be the largest concern."

Ron Bartcher said he had several comments. One is a general comment about the document itself. There's a whole lot of "should" in there instead of "shall". Should is a very weak word. He would really like to see "should" replaced with either "strongly recommended" or "shall strongly include, encourage". He said "The reason for doing that is when you say should what the person you're talking with or writing to hears is okay he wants me to do this, but he doesn't really care whether I do it or not. But, if you change it and put that strongly encouraged word now, you're saying yes, I understand he is very strong about this, he does care about it, and it's kind of like when a mother tells her child you're going to do this or else. That or else is implied in the word strongly. So, the person hearing it says I don't want to find out what or else means. The County's been very cooperative. If I don't do what this was, they may very well not be cooperative with me. So, I would like to see that changed both in this document and in the one we're going to review next. And then in addition to that I did have some specific comments on policy 4.7 which says we should require storm water retrofits. I would like to see that changed to shall. There's no better time to do that retrofitting than when you're doing redevelopment. I had a few more changes. Policy 4.9 says that people on the water live aboard on board for over 3 days, my question is otherwise what? If they just dump the 3 days' worth of sewerage into the lagoon? Can't we prohibit dumping into the lagoon? That's a question I don't know the answer to. But, if we can I would like to see us do it." Another question he had was in 4.10 criteria B which says "first inch of storm water runoff...". He asked "Does that mean the first inch of rain the first inch of water that flows out of the retention area and how is that inch of runoff determined?"

Robert Sullivan answered that the 24-year, 1 day event is a theoretical storm where the inch of rainfall is the total inch over that area. That will be the retaining area. It is with the South Florida Water Management District. All the water management districts use the same criteria. It's a theoretical storm. That's to calculate a volume for either retention treatment or whatever they need to use.

Ron Bartcher said policy 5.2 criteria A has several sentences in there and we're mixing up should and shall. He was just wondering why aren't all those "should" in that criteria "shall". Is that a legal problem for us?

Alex Esseesse noted that generally with respect to the land use chapter, in this case the BBIA the real rubber meets the road with the land development regulations which are to come. These are just general guiding principles. And then where there's stricter laid out requirements are in the LDRs.

Jeffrey Ball noted that this is the framework document that will set up for us to go back and update our land development code regulations to further define what we're trying to do to meet these guiding principles.

Ron Bartcher further stated in policy 6.13 criteria F mentions sea level rise. How does that fit with the Governor's banning of the use climate change? Are we stepping into a messy area there?

Darcie McGee answered that despite that ruling the Governor has allocated a lot of money and regulations requiring cities and counties to look at future conditions. The Resilient Florida program has distributed millions of dollars to help communities do vulnerability analysis and risk analysis of critical facilities. We were actually required to do a parallel floods section which I think you all approved last year, that was added to the comp plan so we're okay with that.

Ron Bartcher went on to say that in policy 9.4 you need to correct the spelling of “previous”. In policy 11.2 criteria C why are we putting industrial area uses next to a lagoon? It seems to me that shouldn’t be in there at all.

Erika Orriss said “I have a feeling that there’s going to be a lot of reworks done on this, but I just am thinking off the top of my head that to just get it going. I’m so thrilled that Representative Altman and Senator Wright went ahead and came up with this. It’s been 40 years since we’ve identified a critical area of concern. And so, if we can just get it going and I think that maybe some laws because it gives the highest concern of the analysis is 159 people were concerned about density and intensity. I think that’s the most important thing if we’re going to make any, I make a motion to just address that. And then the rest of it we can work out, that’s certainly the most important part. Spelling errors and things like that, we can get to all that.”

Robert Sullivan made a motion to incorporate exhibit H.1. and recommend approval of item H.1., seconded by Ron Bartcher to approve. The motion passed unanimously.

Item H.2. Transmittal of the Evaluation and Appraisal Review (EAR) based amendments to the Comprehensive Plan (24LS00002) to the State land planning agency (Florida Commerce) for review under the State Coordinated Review process established by Section 163.3184(4), Florida Statutes.

Jeffrey Ball read the application into the record. Chapter 85-55 Laws of Florida amended chapter 163-part 2 Florida Statute that required local governments to comply with amended requirements. On September 8, 1988, the Board of County Commissioners of Brevard County approved ordinance number 88-27 adopting the 1988 Brevard County Comprehensive Plan. And that has been amended from time to time. So, Brevard County reviewed the requirements of section 163.3191 Florida Statutes and determined that amendments to the comprehensive plan would be necessary to comply with the statutory requirements. The County notified Florida Commerce in a determination on November 28, 2023. The County now has one year to prepare and transmit the necessary amendments to Florida Commerce for the review and pursuant to the State Coordinated Review process outlined in Section 3184(4) Florida Statutes. Florida Commerce has established December 1, 2024, as the due date for the transmittal of the EAR based amendments. Again, Bonnie Landry and Associates is the consultant that has prepared the EAR, and the EAR is the 15 elements to the comprehensive plan with the exception of the historical preservation element and the property rights element which do not require amendments. The amendments consist of proposing goals, objectives, policies and revisions to previously adopted goals, objectives, and policies for the following elements: conservation, surface water management, recreation open space, housing, potable water, sanitary sewers, solid waste and hazardous materials, transportation, coastal management, future land use, intergovernmental coordination, capital improvements, public school facilities, and the glossary. Amendments proposed a new element, Part 16, to the comprehensive plan establishing goals, objectives and policies relating to the Brevard Barrier Island Area. Once the EAR based amendments have been reviewed by Florida Commerce they will issue an objections, recommendations, and comments report within 60 days of determining that the transmittal package is complete. The County will then have 180 days to make changes to address the report and adopt the EAR based amendments. This will be heard at the November 7, 2024, Board of County Commissioners meeting. Staff is here to answer any questions along with Bonnie Landry and Associates. We do have the directors from the associated departments here to answer any questions as well.

Public Comment

Mark Chansis commented number one the plan has a future land use for all the south beaches as neighborhood commercial. It's like a red marker that goes over the map for all the beaches. I don't get it. Who thinks that all the homes and all the Res 1 that's on future land use right now is all going to be future land use neighborhood commercial? Who wrote that? Does that make any sense to anyone here? Has anybody driven down there? There's no way. If you look on the future land use map, can you bring it up? Next question again is, I didn't read all 670 pages because I only saw it recently, I had no power and no internet for 5 days, so I finally got around to it on Saturday. But I did get to the point where every line was crossed out on the manatee protection. Every line, 100% of them. Is it added someplace else?

Jeffrey Ball stated that it allows staff to reference the manatee protection plan.

Mr. Chansis further stated "If you look at the red line that's all the south beaches. And if you look at the chart here it says that all the south beaches are projected to be future land use neighborhood commercial. Isn't that what we're talking about here? We're talking about not having intensity, we're talking about reducing intensity or keeping it at least the same. We're not talking about killing growth, we're talking about a gradual growth that can be handled with the existing water, flooding, evacuation, and everything else that's needed for people to live in a place. This is a very thin, fragile, barrier island and it's always moving. A storm just came, and it moved. There's another storm that's materializing and it's going to move. We cannot have anymore density and we cannot have anymore intensity. Two years ago, they almost passed a bakery that was selling international goods. They had a web site that sold internationally, and it almost passed to go on A1A with no sewerage. So, everything they would have had, all the waste would have poured right into the Indian River lagoon. That's what this is saying. This is saying you can have all these neighborhood commercial places. With today's communication you could have a neighborhood commercial place that is shipping stuff all over the world and you would never know it. Because the County is not proactive. It's waiting for someone to complain. So, the County can see it and they will not go out, it's passive. That's the way they enforce. That's a problem. We won't get into that. The next item is removing the PUD references in the neighborhood commercial. Again, why are there PUD references in neighborhood commercial? That will allow hotels, marinas, huge recreational facilities, that we cannot have. We cannot have the beaches as a destination for that. It's fishing, it's surfing. But if you go ahead and build some kind of mass recreational facility that everybody comes to, you're going to destroy the turtle habit, you're going to ruin everything down there that's related, in addition to having more effluent going into the Indian River lagoon. So, all references to the PUD need to be removed.

Robert Sullivan addressed Mr. Chansis. His exhibit one includes Mr. Chansis' map.

Mark Chansis stated there are a million people a year that come and visit this place because of the beauty and the nature that is down there. If you change that and you turn it into Indian Harbor Beach, Indiatlantic, which is a differ kind of a place, a different kind of living, you will eliminate all those million people which is on its way to some other big number. A lot of this is ecotourism and a lot of this is people coming down and spending money on the neighborhood commercial little places and spending a fortune when they come across 192 before they even get there. You don't want to kill that. This is a destination around the world where people come.

End of public comment.

Tad Calkins clarified that the red line around the area of critical concern is to identify the boundary. It's a little bit confusing from the legend. Community commercial is demonstrated as a solid red on the map. There are 2 other maps on pages 823 thru 825 which get more specific with the future land use in the area of critical concern, and you can see on those maps that the entire area is not being designated as community commercial. In fact, there's very, very limited community commercial identified.

Darcie McGee talked about the manatee questions and said they deleted all of that because we're adopting a MPP by reference into the comp plan. We haven't updated our plan since 2003 and it's time, so we want to go in and do boating studies and update the plan.

Robert Sullivan wishes to incorporate exhibit 1 into H.2. The primary concern I think of the public is with the PUDs and the 1.25 increase in density when intensity and density are the critical factors.

John Hopengarten said "I want to determine if we're not going to do anything when they're crossed out, that that item is being eliminated from the plan. So, let's start on page 455, which is policy 4.5 criteria C is crossed out. Why is this crossed out? We are no longer going to leave floodplain in its natural state, or do you have it written somewhere else?"

Darcie McGee answered it's contained elsewhere in the floodplain protection element. There is no annual floodplain of the Indian River Lagoon.

John Hopengarten stated it might have been easier if there was a reference to where it was going to be further in the document rather than just taking it out completely and leaving a void. Policy 4.7, it gets a language change here. You're taking out coastal floodplain and just said floodplain of the Atlantic Ocean.

Darcie McGee explained we didn't have a coastal floodplain the way it was referred to in the policy. The floodplain on the Atlantic Ocean is a velocity floodplain, so we tried to update the language to make it more technically correct. We still do regulate development on the Atlantic coast through the coastal element and our coastal setback lines. And then the Building Department addresses the actual floodplain elevations because they're based not on elevations but on velocity and so many feet above freeboard. So, it's more technically correct.

John Hopengarten commented that on the criteria below that you crossed out "A", which was to prohibit development within an annual coastal floodplain.

Darcie McGee answered same thing. There is no "annual" coastal floodplain. The terminology doesn't mesh up with the way we apply the floodplain regulations.

John Hopengarten asked, "are you prohibiting development on the floodplain?"

Darcie McGee responded that for the Atlantic coast we have our coastal setback line that regulates the development that's allowable there in terms of the land uses, so you have to stay back from the dune. In terms of the floodplain which is typically out further where there is the VE floodplain, the velocity floodplain, the Building Department is going to regulate that, on what elevation the first floor should be. But we do regulate where that development can go. And then once you figure out where it goes the Building Department addresses the floodplain.

John Hopengarten commented I believe it was last month we reviewed something like that, on the level of the floodplain.

Ian Golden agreed the ordinance was discussed at the last meeting.

Ian Golden answered that ordinance was for the base flood elevation for mobile homes and it was plus 1' above that level. But that ordinance is on hold based on discussions at the last meeting.

John Hopengarten on page 461 item 6 you're crossing out beginning January 1, 2010, are you going to put a date in that for mixed use land development activities? That evidently was an older date that you had in the previous document. Can we set some dates and some scheduling on some of this stuff?

Darcie McGee commented I believe the consultants recommend striking where there's dates in there, I think that was the date of the change of that policy.

Jeffrey Ball stated he didn't foresee a need to have a date referenced in there. That was superfluous to have a date in there.

John Hopengarten commented that page 468 policy 7.2 has been cancelled, localized soil erosion is noted by the code enforcement, natural resources management department or the other county agency will be contacted and then recommended shall incorporate. Why is that stricken?

Darcie McGee commented we have never coordinated with Land Cannon and the information may have contained outdated references.

John Hopengarten asked on page 475, what's a type 1 aquifer?

Darcie McGee answered a type 1 aquifer recharge areas are where they have what we define as highly permeable soils, which are 20 inches per hour over the first 5 feet. And they also above 30 feet in elevation and GVD. They also are within areas of Titusville's wellfield, so it's an area where there's drinking water that you want to protect.

John Hopengarten commented you crossed out new septic tanks on C on 475. Can we get rid of septic tanks?

Darcie McGee stated that would be wonderful, however there's existing lots there that have been there forever and they still require septic tanks up there. And some of the area is within the city of Titusville, so we thought it was a fair thing to do.

John Hopengarten said if you're over the aquifer and you have that septic field it's going to leach into the aquifer eventually. I'm surprised they're even allowing it. You're taking out fuel storage tanks, which is a pollutant of course, hazardous material.

Darcie McGee stated I think the treatment systems are much more improved since 1988 when all this was written, so if you can get improved treatment for the lots that are existing in the area that have not yet been developed.

John Hopengarten said on page 488 objective SF 1 says identify existing stormwater system deficiencies. It's very weak in that paragraph. Any way you can strengthen that up?

Darcie McGee said that the intent is still fulfilled with this. I think with the surface water element when we went through with our stormwater department and with SOIRL that there was some outdated terminology again on BMAPS and the way the terminology was used. So, we still tried to keep the intent of everything there but make the language a little bit easier to read and little bit more up to date. This isn't weakening anything; it's still looking at retrofitting existing stormwater systems where we can.

John Hopengarten stated you're not proposing that they do it, you're just suggesting it. Like the language that Ron was mentioning about shall or should, you're doing something here that this paragraph doesn't really mandate anything.

Darcie McGee stated that's an excellent point. One thing with existing development, some lots and some commercial facilities or subdivisions that were developed a long time ago may not have existing stormwater or they have deficient stormwater management, and they may not have the ability to treat it in the way that we would all like to see it be treated. So, what we do is where you're coming in to upgrade a facility, we do try to get that retrofit done to the best of the ability of the site it can hold. For instance, you need to upgrade for the new development, but to force a retrofit for previous development that could have been around for decades it is not possible on the site could be problematic for us.

John Hopengarten asked what if they want to do an improvement. So, they go to the building department to get a permit, couldn't you then require them to upgrade?

Darcie McGee said yes. For the new portion of the development, they would need to meet the current code.

John Hopengarten then asked how about a renovation.

Darcie McGee stated that internal renovation we don't require upgrades in stormwater. I believe we specify in there that if you're doing everything internally, you're not triggering on increase in the structure size and the impervious footprint.

Jeffrey Ball said that it depends on the improvements that they're proposing.

John Hopengarten said I was just trying to put a little heavier language into this.

Jeffrey Ball added just to help you, the way that this is set up you have the goals and objectives. The objective is what you're trying to do. There's no policy in there, we're just saying hey this is what we'd like to do as an objective. And then what follows that is the policy, how do you implement that.

John Hopengarten stated I understand that. If your objective though is much harsher than your policy, it's the policy that rules. But the objective means that at the end of the day you really want to do this. Okay, page 492 SF 2.1 you've struck out stormwater management plan and you replaced it with stormwater area studies. A study is a study, a plan is actionable.

Darcie McGee stated "I don't think we have stormwater management plans, but we do a lot of studies. For instance, the big study we just did in North Merritt Island recently, that looked at the entire area north of hall road, ground truth all the structures and now we're incorporating that study into the development review. So, if you're doing a site plan or a subdivision you're going to need to take that study, which is a boots on the ground, best available data, and you need to show that you're not going to have any adverse impacts using that study that was done on North Merritt Island."

John Hopengarten asked if that was the one John presented at the North Brevard Homeowners Association meeting, it's an engineering study. For runoff?

Darcie McGee said it sounds like it could be. It was a big study. It took a number of years to do and we're very proud of it.

John Hopengarten stated but you're implementing it. Once you implement the study doesn't it become a plan?

Darcie McGee commented we have regulations based around the study. If you were coming in for a subdivision and you're on North Merritt Island the code says you cannot have any adverse impacts in that area and you have to accommodate both the water quality and the water quantity. So now you've got to meet not just your flow but your volume. She further noted "you take the code and incorporate the study that is part of what the developers will need to use to demonstrate that they're meeting the code."

John Hopengarten further stated you also amended it. I remember that some of the neighbors said Well what if I were to put a shed on my property, would I have to go through this study, and the answer was yes. But then they took it out.

Darcie McGee answered we left it in there as a prohibition until the study was done. Then once the study was done, we said okay, you can have an accessory structure if you demonstrate no adverse impact. The study's going to be a living document and we're going to continue to build on it with rainfall mitigation. There's so much data out there now, so these models will build on themselves and they'll continue to improve and for the code the big thing is there's no adverse impact. So that's what we're going to fall on all of the development to make sure they're not going to cause any flooding to adjacent properties or downstream.

John Hopengarten went on with page 496 policy 4.7, I'm assuming this is somewhere else, you've taken out the mosquito impoundment.

Darcie McGee stated that was relocated. We actually took the whole thing and moved it. So, it's still in there, although we did move...the mosquito section was moved, and I don't know off the top of my head.

John Hopengarten commented so we are still handling the mosquitos. That's all I needed to know.

Ron Bartcher said to Mr. Hopengarten that it was located in the section about fisheries.

Ian Golden stated it looks like the mosquito impoundment reference was moved to the 3.5 conservation element.

Darcie McGee stated it's in conservation element 3.5 which is on page 451.

John Hopengarten went on to page 502 1.10 bush and breezeways and asked if we are still doing those.

Jeffrey Ball confirmed that they're still in our land development code regulations.

John Hopengarten asked if it's being stricken from this document.

Jeffrey Ball stated it was just moved to the following objective. It's on page 503 ROS 1.2.3.

John Hopengarten went on to 503, the goal to provide the comprehensive program active and passive recreation that meets the needs of the public, we no longer have that as a goal.

Jeffrey Ball stated that one was moved as well. It's part of 1.2 under the visual appeal up on the top of the page.

John Hopengarten said so that's an objective, not a goal.

Jeffrey Ball noted that was correct.

John Hopengarten went on to page 525 policy HOU 1.1.2 just add the word "edition" after fifth or you can put latest edition of the Florida Building Code. Page 542 PW 2.3 you've added in there maximize reuse of treated wastewater and water conservation techniques while maintaining an adequate reuse level of service to recover and diminish the demand for potable water. Are you referring to the fact that you're going to treat wastewater as recycled water or are you talking about in a treatment plant?

Edward Fontanin answered reuse water comes from a waste treatment plant and that the water is treated. He further clarified that DEP has a requirement for anything being distributed as reuse it has to meet a criterion, so whether we call it treated or recycled it has to meet the criteria.

John Hopengarten went on to page 545, regarding wellfields, we went through a whole document about wellfields and all the water that we needed for the next 30 years or so.

Jeffrey Ball commented that was part of the water supply plan that we just did a couple months ago.

John Hopengarten said you struck 4.1, so it says that you're not going to do a wellfield expansion program.

Edward Fontanin responded with we're shifting toward a different wellfield and the intent of this was surficial as we're moving to reverse osmosis that will take us to a different criterion.

John Hopengarten asked what's the percentage of RO you're looking for from the total water supply?

Edward Fontanin responded we have not gone through that due diligence yet.

John Hopengarten commented but it's justified to have an RO because it's very expensive. Capitol costs are expensive and operating costs are expensive.

Edward Fontanin noted “the source of water is more plentiful as surficial wells become drier or salinity. the technology of doing our own in addition with the pfas rules RO is a proven form of removing pfas.

Henry Minneboo asked if the county has an RO plan.

Edward Fontanin commented not currently, no.

Henry Minneboo commented the only one is probably Melbourne.

Edward Fontanin stated Palm Bay has one.

John Hopengarten went on to page 590 SS 1.4 you took out the shall and put a may permit the use of onsite sewer treatment. That’s your discretion or should we make it shall?

Edward Fontanin stated that’s a component of the DEP. The DEP is now the agency that permits those.

John Hopengarten went on to page 593 SS 3.7 County shall evaluate all fees and rates to ensure adequate funds are available to fund all current and future projects. Are you going to do any revenue bonds for some of this stuff?

Edward Fontanin stated we will.

John Hopengarten I’m looking at SS 311, you have health and environment needs here, somewhere earlier in the document you struck health and environment needs and I don’t recall where that was. It was like it was missing, you had struck the health and environment concerns on the water, but now it’s back in again.

Edward Fontanin commented everything we do associated to water and sewer is all state and federal regulated.

John Hopengarten went on saying that page 594 policy 3.16 is stricken and asked what’s replacing that?

Edward Fontanin stated he doesn’t know exactly where, but all it’s talking about is outside of the 6- and 20-year future service area, which is verbiage from 20 some years ago, which didn’t make sense. So, because we’re identifying a utility service boundary that’s what we’re focused on.

John Hopengarten then said “the last thing in have in school district, which I happen to represent, they had reviewed this document, and they were fine with it. There was one thing that they were concerned about. On policy 1.1 on page 1013 talks about the county shall maintain a level of service standards of the public schools based upon the interlocal agreement for public school facility planning and school concurrence. They had wanted to add in there that the Brevard County hereby adopts the following level of service standards for public schools based upon the interlocal agreement for public school facility planning and school concurrency which established the LOS for the district at 100% of Florida inventory of schoolhouses which is the FISH capacity. The LOS is calculated by dividing enrollment by factored FISH total capacity permanent and relocatable student stations. You had taken the chart out.”

Jeffrey Ball explained it was moved to the capital improvements plan.

John Hopengarten which is where?

Jeffrey Ball explained it's in the capital improvements element.

John Hopengarten stated evidently, they weren't notified. They thought it would slip because they had requested it, and it was taken out of here. When you all took the chart out which they were fine with they didn't want that.

Jeffrey Ball stated our conversations with them was that they understood it was being moved.

John Hopengarten commented that's not my conversation this morning.

Jeffrey Ball stated he would make sure they're aware of that and where it was moved to.

Ron Bartcher went to page 707 criteria J it says binding development plans are not to be used to determine consistency. I think we did that in the past. We're not going to be allowed to do that in the future. Is that correct?

Jeffrey Ball commented "we added that to clarify that the BDPs are not to be used to provide for the consistency as one might allude to in 1255. It's not to prevent someone that in order to support their rezoning to hey we'll support your rezoning if you limit these uses. BDPs is a mechanism to say hey I have Res 4 and I want to have RU 17. I'm going to cap the density 2 units to comply with the land use. That's what it's meant to stop."

Ron Bartcher commented we have done that in the past. And you're saying that we cannot do that in the future.

Jeffrey Ball stated he's just codifying it a little bit more.

Ron Bartcher stated "related to that is what I think you just said, for example another thing we have done in the past is to grant BU 2 zoning with restrictions that are listed in the BDP."

Jeffrey Ball said correct. That is not what the intent of this language is to do.

Ron Bartcher afterwards referred to the the CI 1.1 element after future land use. He said "policy C I 1.1 criteria A3 we have the word rate that is used but the word volume is omitted, it's not there. And, if you say rate by itself without using volume you have a significant problem. I don't remember the exact places, but I've seen this problem in at least one other place, but I've also seen it where it was correct in some other places. So, I'd just like for you to check where you use the word rate be sure that you are doing rate and volume."

Jeffrey Ball commented okay, we'll check that.

Robert Sullivan referred to page 618 under transportation element number 9-9 policy 2.6. He said "you have struck Brevard County shall monitor the needs of the coastal population, identifying major transportation improvements to maintain levels for ensuring timely evacuation prior to impending

disaster. This goes back to evacuation routes and a level of service for evacuations. Right now, I think for a category 5 we're not anywhere close. So, I was curious on why that was struck."

Jeffrey Ball stated we're trying to find that answer for you.

Robert Sullivan went on to say on the coastal management element that would be the objective for CMA. Currently we're at 61 hours with a Cat 5 and we need to have the evacuation times compatible. It's an objective, I understand it's a framework and an objective. But it's critical for life safety.

Jeffrey Ball stated John Scott is not here, but my understanding is we took that out to be consistent with their state evacuation plan. So, it's still there but it's referenced as evacuation plan, and I don't have the language in front of me.

Robert Sullivan said Jeff you guys did a great job I think on making a framework on this and as everybody has pointed out with their individual minds' evacuation life safety, storm surge obviously, other people have other criteria, so is there an opportunity for more input to this comprehensive plan prior to it being approved?

Jeffrey Ball says "your recommendation will include all the discussions that we had and that will be forwarded on to the Board for their recommendation where they include your recommendation in part or in full or nothing, that's up to them to decide. Then if the Board decides to transmit then it goes up to the State for their review. Then it will come back to us for adoption with changes, without changes, and it will be up to the Board to adopt with the pending changes. There's always opportunity to provide input from the public side as well. We just need to have time to assemble it and package it for the Board meeting."

Motion to recommend approval of item H.2. based on some of the recommendations discussed and incorporating portions of the exhibit H.1. by Robert Sullivan, seconded by Erika Orriss. Motion passed unanimously.

Item H.9 Request for Recommendation: Amendments to Chapter 62, Article VI, "Zoning Regulations," to Add a New Conditional Use Classification, "Accessory Dwelling Units," and Specifying Conditions Thereto.

Billy Prasad explained "H.9 comes out of the direction that was given to us by the Board of County Commissioners on April 9, 2024. They directed staff to develop an ordinance to allow for accessory dwelling units where it may be appropriate for the purpose of encouraging affordable housing. We tried to do so with the proposal that's attached. Essentially what it does is create a new conditional use titled Accessory Dwelling Units, and it has a variety of conditions. You would still need to come for a conditional use permit which goes before this board as well as the county commissioners. And it is inserted as a conditional use into all residential, single-family classifications. And then addition of rural residential mobile home classifications as well. We thought those were the most appropriate places to it. There are some protections in those conditions I spoke on before. Specifically, still must meet all the requirements of the future land use element of the comprehensive plan, for density, in particular. The primary structure on the lot where someone is looking to put one of these structures can't have more than 1 kitchen already. The structure can't exceed a size permitted for all the other accessory structures. There are certain visibility protections built in for neighbors. Also, we've restricted these structures from being built in the coastal hazard area as well as the area of critical

state concern that we just spoke about earlier. When it comes to the area of critical state concern should there be a desire to have that the time to discuss that would be after the adoption of the BBIA element that we discussed earlier and when we're discussing the land development regulations associated that. So, with that we're seeking your recommendations to the Board of County Commissioners. There will be 2 additional public hearings before the Board of County Commissioners because this amends the actual permitted uses under zoning classifications.

John Hopengarten referred to a woman that came before us twice that wanted to put originally an Air BNB and asked if she is in the coastal high hazard area.

Jeffrey Ball commented I don't think she was. She was up in Merritt Island? I don't believe that property was in a coastal high hazard area.

John Hopengarten went on with in her case the restriction was that she couldn't have a kitchen in the accessory building unit. Will this change that? Will she now be allowed to have one?

Billy Prasad responded I'm not familiar with that specific circumstance as a referencing, but yes, generally speaking.

John Hopengarten said essentially, she wanted to make some money and have an Air BNB. And then you guys said no, she couldn't do it.

Billy Prasad said the restrictions on resort dwellings are what's already in the code still apply. So, they would have to be able to do it today in order to be able to do it with one of these accessory dwelling units. The likelihood of that happening is extremely low because of the classifications that this was included in. Specifically, we did not put ADUs in multi family classifications, so the overlap there between where somebody could do a resort dwelling and also have an accessory dwelling unit under this code is very low. I would also say that that's something that the board probably could look at the time somebody makes an application for a CUP for an accessory dwelling unit.

John Hopengarten said that what he's trying to discover here is based on 2 hearings that we had we permitted her, and the County Commission did also, in having that accessory unit if it did not have a kitchen. So, what she said at the end was she'll let them live in her house and she'll go live in the accessory dwelling unit without a kitchen. So, just to help her out if you're changing this, she may apply for that. I think she was in a SE designation.

Billy Prasad stated she may very well be able to. She must have been coming in under the guest house, which I believe is 62.19.32, so this would be an additional potential accessory structure and if she found that advantageous, she could make an application for a CUP if she met all the requirements in here. That includes things like future land use.

John Hopengarten commented I apologize that I didn't pull that from my files to see where she was and everything, but Jeff if you could look into that and maybe give her a call.

Jeffrey Ball stated he could have his staff look into that, yes.

Ron Bartcher asked what about setbacks from lot boundaries? Do the same setback rules apply for this new dwelling unit?

Billy Prasad answered yes sir all the setbacks that exist for current accessory structures would apply for this as well.

Ron Bartcher asked is there any distance between living units and the ADU, to accessory units. Is there any restriction there.

Billy Prasad said that in this proposal there's no requirement for a certain distance between the primary structure and the accessory structure if I understand that's the question.

Ron Bartcher stated that's part of the question. The other part was what about the ADU to accessory buildings.

Jeffrey Ball clarified that the current code, between accessory structures is 5', which is very minimal.

There were no further questions from the board to the staff.

Motion to recommend approval of item H.9. by Ron Bartcher, seconded by Robert Sullivan. Motion passed unanimously.

The meeting was called to adjourn at 5:20 p.m.