

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 16, 2025**, 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.

Board members present were Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ana Saunders (D5); Erika Orriss (D3); Debbie Thomas (D4); Eric Michajlowicz (D3); Greg Nicklas (D3); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); and Robert Brothers (D5).

Staff members present were Trina Gilliam, Zoning Manager; Paul Body, Planner; Alex Esseesse, Deputy County Attorney; Billy Prasad, Planning and Development Director; Darcie McGee, Natural Resources; Rachel Gerena, Public Works; John Scott, Emergency Management Office; Edward Fontanin, Utility Service Director; Lucas Siegreid, Utility Services; Alice Randall, Operations Support Specialist; and Jordan Sagosz, Operations Support Specialist.

Excerpt of complete agenda

H.11. Recommendation: Adoption 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.

Trina Gilliam read Item H.11. into the record and noted this is the adoption phase.

Mr. Wadsworth stated seeing this, staff, somebody has been doing their homework. Great job on this.

Ms. Gilliam stated staff has a presentation for the next applications, beginning with the BBIA first. She pointed out that the pictures used in the slides were done by local artist Ladora Simms, who gave permission for the use of her photography in the slides. We're going to start out with a brief history and explanation of the comp plan and the EAR process. The 1988 comprehensive plan outlines the long-range vision for growth, conservation, and development. It serves as a guiding policy document. The land development regulations are the primary implementation tools used to carry out the goals, objectives, and policies established in the comprehensive plan. The evaluation and appraisal which is called the EAR is a statutorily required review that Brevard County must conduct at least every seven years to determine whether amendments to the comprehensive plan are necessary to maintain consistency with the changes in chapter 163 Florida statutes. The EAR process has five steps. The first step is evaluation of the comprehensive plan to determine if updates are needed due to statutory changes. The second step is notification, submitting a letter to Florida Commerce stating that amendments are necessary. The third step is the transmittal. Amendments are prepared and then they're transmitted to Florida Commerce within one year of the notification. The county's transmittal was required to be received by Florida Commerce by December 01, 2024, pursuant to subsection 163.31912 of the Florida statutes. The request to transmit was approved by the board of county commissioners on November 07, 2024. Florida Commerce issued an ORC report called objections, recommendations, and comments on January 01, 2025. At that time the County continued to collaborate with Florida Commerce and other state agencies and stakeholders to resolve the objections. Objections are required to be resolved before it moves forward to adoption. Additionally, we incorporated many of the recommendations and comments into the comprehensive plan that were also provided by Florida Commerce as well as some stakeholders and other state agencies. Brevard County requested an extension to the adoption of the EAR based on the amendments and the BBIA

element. We wanted to ensure accuracy and continuity of the plan. This extended our response time to September 17, 2025. We requested the extension because as I stated we were collaborating with so many different state agencies, stakeholders, and residents that we wanted to make sure we got it right before we presented it to you. I want to point out in the documents you received, the blue underline are additions and the red strike through are deletions. Those represent the changes since transmittal. Any text that is in black underline and black strike through represents changes that were already transmitted and effectively accepted by Florida Commerce, meaning we didn't have to do anything to those. I also want to point out that if the board issues a directive to make any changes beyond what has effectively been accepted by Florida Commerce it may be considered a substantial change. And if so, Florida Commerce may determine that our comprehensive plan is out of compliance. After the adoption of the comprehensive plan the county is required to update the land development regulations within 12 months. Those land development regulations are what's going to implement what we put into the comprehensive plan. Florida Commerce must review those land development regulations as well. We must submit to them. This is not the end all. This is just the beginning of a long process.

Mr. Hopengarten asked how many times we are going to review this. Because I think this is our second look on the comprehensive plan.

Ms. Gilliam responded after it's adopted, we'll be working on updating the land development regulations and that will hopefully take less than a year, but it will be a long process more so for staff and other collaborating agencies and stakeholders.

Mr. Hopengarten asked if that was just the BBIA.

Ms. Gilliam responded it was both.

Billy Prasad added the BBIA is a never-ending thing. So, when we're talking to Florida Commerce they're going to expect continuous changes in perpetuity. This project doesn't ever really end, but this is the starting point.

Ms. Gilliam continued with from this slide you can see the area of critical state concern. That act was enabled in 1972. There are currently six statewide areas of critical state concerns and that includes the Brevard Barrier Islands. All development that goes on in that area must be reviewed by Florida Commerce. So, whether it's a building permit, a rezoning, a future land use anything must go to Florida Commerce for review. So, the guiding principle for development provides the key statutory protections. It was designated in 2023. Our local plan is based upon the existing comprehensive plan with new and strengthened policies. We had a public workshop and had 254 participants attend and 184 respondents and survey. That began moving to adopt part 16 of the county comprehensive plan for the BBIA element. Back the objections, recommendations and comments we only received one objection from Florida Commerce, and three comments. The objections are the things that the county must resolve before it can move forward. This speaks a lot to all the work that was put into it prior to it being transmitted. So, you can see what the objection was and what we did as a result to satisfy that objection. The next slide is one of the comments that was provided by Florida Commerce and it's to review the use of should and shall with those policies listed. As you can see our result, we updated to shall in the sections listed below. On this slide is a definition of should and shall. This is in our glossary. Should expresses an obligation, so that's a mandatory action. While shall expresses the command must express what is mandatory. Here is another comment on intergovernmental coordination and we coordinated with FWC to address their agency comments. As you can see that was the result of our collaboration. Next comment was BIPA feedback. Again, we collaborated with BIPA and that was the result of how we worked to incorporate some of their comments and concerns and their wishes into the comprehensive plan. There were some non-ORC amendments. They were

very minor and that was to update policy 2.5 to clarify the shoreline hardening prohibition, close two potential loopholes, and some other policies were addressed in this as well.

Mr. Wadsworth commented nice job. Thank you everyone on staff. Everyone on staff, nice job.

Mr. Hopengarten stated that acronyms and initialisms are rampant throughout this document. Is there any way to either publish a list of all the acronyms and initialisms so that someone can refer to them and know what exactly you're talking about? Because there are a lot of initials in every profession, and they just get blurry after a while. Sometimes you have the full name, and sometimes you just have the initials. And it would be best if you either put the full name in or have a glossary.

Mr. Prasad stated there is a glossary in the comprehensive plan. So, I'd want to look at it to see which ones of them are already in there.

Mr. Hopengarten responded I would put all of them in there to make it easy for people to read this.

Mr. Prasad said we can take that recommendation.

Mr. Hopengarten continued with the analysis of the public input stated that the major concern was density and then the secondary concern was sea turtle protection. That's what the public came up with. And I found that item 12, which deals with density there's a contradiction with the comp plan. The comp plan says no density in the increase in the barrier islands. Period. But here in the BBIA they have concessions or conditions. So how are you going to address that.

Ms. Gilliam responded we were asked by Florida Commerce to put in a separate future land use. Take our existing future land use, move it into the BBIA and rename it. What that does is if we ever make changes to our existing future land uses, those changes will not affect the land uses in the BBIA.

Mr. Hopengarten inquired if the comp plan says no density increase shouldn't the BBIA say the same?

Mr. Prasad stated let me clarify something. Policy 7.1 of the coastal management element that you are referring to still exists and will continue to exist after that, as does 12.1. If you look at the new BBIA. Let me just read it out "Consistent with policy coastal management 7.1 of the coastal management element Brevard County shall not increase residential densities within the BBIA by amending the future land use map designation for such properties." So, it's restated what's in 7.1, but now it's no longer connected to the coastal high hazard area necessarily, like the argument has been made with the coastal management element. So, we're removing that ambiguity and now it's just a flat statement clarifying flat out no residential density increases. And all the other policies under objective 12 are should be or should and we will continue to read in the context of that so those are additional regulations. What I just read will always apply. So just to be clear not only are we not taking it away, but it also clarifies, and if anything strengthens it.

Mr. Hopengarten asked why you have all these others.

Mr. Prasad responded because we still need to define the future land use of each property. For example, RES4. Today they're RES4, but we're creating a new RES4. Very similar to what they have today because the law says we can't take away any zoning or use of land from people that already have a certain land use. But we've made some minor adjustments. For example, today in current land use you can get density bonuses for PUDs, but we've now restricted that new PUDs won't get that density bonus. By having these policies separated it allows us to do that. In other words, it allows us

to fork and apply regulations to policies that make sense in the area of critical state concern but may not make sense countywide.

Mr. Hopengarten stated he would think the BBIA would be more restrictive.

Mr. Prasad responded exactly, and it is.

Mr. Hopengarten commented policy 2.3 which deals with lighting, are those regulations enforced all year or only during the breeding time.

Ms. McGee responded certain regulations would be relevant during nesting season. So, during March 1st to October 31st.

Mr. Hopengarten stated so, it isn't all year, it's just seasonal.

Ms. McGee responded correct.

Mr. Hopengarten continued with 2.4 beach renourishment, who's paying for all of that because we need it.

Ms. McGee responded with we have a beaches renourishment program through natural resources and that is a variety of funding sources. It's Army Corps, FEMA, state grants and the county chips in some. A lot of it is reimbursement after hurricanes. So, we have a very robust beach renourishment program. We just finished up another phase right before nesting season and as soon as nesting season's over we'll be right back up doing it again putting some vegetation in and putting more sand down.

Mr. Hopengarten asked if that renourishment is what the corps is doing currently.

Ms. McGee replied yes, Cape Canaveral has a project and there's a bypass project for the port where they have the inlet there where they must pump sand from one side to the other. So, there's a variety of projects that go on throughout the year.

Mr. Hopengarten inquired if there are any specifications as to the type of sand that they're using for renourishment.

Ms. McGee responded yes, strict. It's the color, the grain size, you have to make sure that it isn't too fine, or it'll cement up and be too hard to nest in. The color needs to be correct because I believe it can affect the sex of the hatchlings.

Mr. Hopengarten stated he was more concerned about all the shells that are ground up into that renourishment that I saw in Cape Canaveral.

Ms. McGee responded that's what sand is. But they do have to check the grain sizes. They do civ analysis and it must be approved by all the permitting agencies which ranges from Army Corps, FWC, and FDEP.

Mr. Hopengarten went on with 2.7, oil and gas exploration, isn't the coastal region in Florida banned from any oil and gas exploration and production.

Ms. McGee responded she could not speak to that with 100% certainty. I think so but I don't know.

Mr. Hopengarten stated I thought the governor had done something to that effect to prevent it so that our beaches wouldn't be ruined like they are in Louisiana and Texas.

Ms. McGee responded that may be the case. I just don't know that for sure. I can find out and send you information on that.

Mr. Hopengarten asked if it's not can we initiate a ban?

Mr. Prasad replied no and that's one of the reasons why we worded it the way we did. We can review and comment and obviously it's not in our jurisdiction to approve or deny. So that's why it's worded the way it is.

Mr. Hopengarten asked if it would have to go up to the state or up to the feds.

Mr. Prasad stated I believe it's both but I'm not 100% sure.

Alex Esseeesse responded probably both.

Mr. Hopengarten commented I don't know if you all have ever gone to a beach that has an oil spill on it, like I used to see in Galveston. It's horrendous. You must wash your feet with gasoline after you get off the beach. So, I'm hoping that they don't allow any of that to happen on our beaches.

Ms. Orriss addressed 6.7. We're talking about acceptable hurricane evacuation times. I live down in the south beaches and we know that everybody's going to be coming from the Wabasa beach. It floods all the time. So, they're going to be taking A1A. When we talk here about the level of service and the information is contained in the Florida regional evacuation study. I went online and I looked at the Florida regional evacuation study, and it said to evacuate was going to take us the category 5 hurricane 61 hours. Is that somewhere going to be addressed or talked about?

John Scott replied the short answer is that 61 hours you're referring to is what's called an operational scenario. If you saw on the table, there's a variety of options. We follow the base scenarios. The operational scenarios contain a whole lot of other variables that we use to just actually see what different modeling would be. So, the base scenario that we would follow for out of county is I believe 26. I also want to point out here that when we talk about evacuation clearance times operationally, where you guys are concerned about how long it takes to evacuate, that is just one piece of the factor. We do a lot of things operationally to work within those times. So, it is just a piece based on some modeling. There are three to four other factors that do more to drive clearance times operationally.

Ms. Orriss stated it is a concern. It's my same concern when I read through the comprehensive plan. This is just an added layer of protection for us down there. But since I live down there, I'm telling you I'm thinking to myself a category 5's coming our way. That's kind of scary. The bridge does flood.

Mr. Scott commented we spend a lot of time planning for those kinds of things. We're very aware of the challenges in the roadway network. We're very aware of how we can be influenced by other regions. There are again many other things we do to help mitigate those times. I would also like to point out that like Hurricane Irma, which was in 2017, was the largest evacuation in the state's history. We put 7 million people collectively on the road. And we didn't have the kinds of backups and stuff like folks may remember from the '04 and '05 season, in large part because we understand the roadway network better and we evacuate slightly differently from how we implement it operationally.

Ron Bartcher stated he had a question about the process today. As I understand everything that's in black has already been accepted.

Ms. Gilliam replied that is correct.

Mr. Bartcher asked if that meant we are not reviewing any of the stuff that's in black and we're only reviewing the stuff that's in red or blue.

Ms. Gilliam stated that anything in black was already accepted by Florida Commerce. They had no objections, comments or recommendations to that. So, only the things that were changed since transmittal is in the blue and the red. If we make a change to text that's in black underline Florida Commerce may consider that as a substantial change because they've already effectively accepted that.

Mr. Bartcher asked if we would have to request an extension of the process if we did that.

Ms. Gilliam stated it could possibly make our comprehensive plan out of compliance.

Ms. Orriss stated I think most of the people with the BBIA just want to get this going and pushed through. And we know that it's going to be an ongoing process. We know there's going to be a lot of iterations to get it approved by the state, but probably what most people want.

Ms. Gilliam stated the sooner we can get these elements adopted in the comprehensive plan, the sooner we can start working on the land development regulations to implement those things.

Mr. Bartcher stated he wished he'd known that last year. I had a lot of suggestions, but everybody said, "Ah don't worry about it, you know it's going to come back, and we'll review it a second time."

Mr. Prasad stated to keep in mind the board may always suggest a new change and a separate text change. You're not limited to just ear or implementation. If the board of county commissioners or this board recommends it to make a change in addition to that that's something that can be done at any time. There's no limit to the amount of text change amendments that can happen. Now the stage we're at in the process today I would say is the refinement stage. You know you come up with new language to meet the EAR process and in this case the implementation of the BBIA. You get that to commerce, and they look at it to see what may or may not need to be changed. Then we focus on those things. So, it should be getting more and more refined. Now if you see something else in there that you want to make a recommendation, of course we'll make your recommendations to the board of county commissioners. But I'm just saying as far as what our risk is, it's in making changes that weren't in that ORC report at this point.

Mr. Bartcher stated he would recommend that in both the BBIA and the comprehensive plan that who's ever responsible for each one of the sections look at all the uses of the word should and either one change it to shall or two delete the policy. My reasoning for that is when you use the word should you're implying that there's really no commitment behind that. I also believe that having should in there makes it difficult for the county employees to enforce that policy.

Mr. Hopengarten stated BBIA 4.5 stipulates where illegal or accidental discharges of materials or violations, do you have a fine associated with that or a penalty.

Ms. McGee replied that's going to depend on what the violation is and who handles it. A lot of times that goes to DEP, it goes to the state. And we in natural resources, the county, we take an educational approach. Sometimes people will discharge their pool water or they're constructing a pool or something and they'll have discharges out to the lagoon. They may not know any better. We get someone out there to talk to the owner and let them know what the rules are and why we have them but no fines. I don't think that the county has any fines for this type of discharge. I think that's going to go to the state.

Mr. Hopengarten replied we don't have home rule.

Mr. Prasad responded we've been preempted in several areas.

Mr. Hopengarten continued with 5.2 says, "Brevard County shall address modification of existing development that does not meet stormwater management standards within the stormwater management criteria and should use available financial mechanisms." What does that mean?

Ms. McGee responded I think when we're talking about public projects retrofitting storm water and looking for grants and funding other than normal sources different projects are going to have different funding sources. We've got SOIRL projects that are storm water. You have capital projects that are through your tax bill. And then there are resilience projects that have been ongoing where you could get special funding for. And my understanding is in the BBIA once we're all adopted and cinched up here there could be additional funding mechanisms that we can tap into as an area of critical state concern. So that would be another potential source of revenue for staff to look at to fund projects.

Mr. Hopengarten asked what the timing is on something like that. If you have a failure in a development and you must address it right away, but you need to get money to pay for that.

Ms. McGee responded if someone's in violation of their St John's permit that would be for St John's because if you have a subdivision let's say or a site plan where the storm water system is permitted through the state, and it fails then St John's would deal with that. We also have site plans that must be approved through the county and some things are enforceable through our site plan process but that would be on a private person, and they'd have to deal with their own funding.

Mr. Hopengarten stated I was just worried about existing facilities that fail, whether it's storm damage or just bad design, that we have those financial mechanisms that will handle that immediately rather than you must go to the state and say we need money for this, and it doesn't get repaired for months at a time.

Ms. McGee stated if it's a private project that fails the county doesn't have any legal, I mean you're putting someone else's, the private person's funding financial liability on the county to fix it. Correct me if I'm wrong Alex, the property owner would be responsible for that.

Mr. Hopengarten asked what about the developer that turns over the roads and sewage and everything to the county once the project is complete.

Mr. Esseeesse stated it's related to one of the items we had earlier today that Rachel brought forward where we're dealing with maintenance bonds. Obviously, staff goes out there and makes sure that the facility and infrastructure are in good enough shape and acceptable, and that's when we receive it, and it becomes our responsibility. Then the maintenance bond comes in for a year or two just for the immediate aftermath of when the project's completed. We have that as the financial backing to ensure that the infrastructure is in good shape. With respect to what happens down the road that's something we would have to report to any state agency whether it be St John's or FDEP. The county also has code enforcement mechanisms in place that would allow us to, if there was an emergency apply or bring those fines against the property owner as part of the remediation of the case itself. So, if we had to go in and do an emergency repair that would be an avenue to recuperate those funds.

Mr. Hopengarten inquired if there are any mining activities on the BBIA. There is a section here regarding it.

Mr. Prasad responded not that he was aware of currently, however it's one of those things that if it was already in their zoning and use of land, implementing the Brevard Barrier Island Protection Act doesn't allow us to modify the existing zoning and uses of the land, so it's one of those things that if they have the entitlement today, they can continue to do that.

Ms. Orriss asked if there are any plans for sewage in BBIA. There are a lot of people that live further south than myself, I live in Turtle Bay, they don't have water. Are there any ideas about sewage on BBIA in the critical area of concern.

Eddie Fontanin responded it's going to be an item for H.12., but within the amendments we made to the water/sewer element we also updated the utility service boundary. We did that as a means of providing a boundary so that future CIP projects are contained. Obviously, it would be not the right way to do it to hold projects outside the boundary. There is legislation regarding the Indian River Lagoon and nutrient reduction. That would also be a state component.

Mr. Hopengarten asked who provides all the signs for education of the public by signage to see that it's a manatee area. They have the slow speed on the boats and other things. Is that something the County does or does it come from the state. They're saying the applicant would have to erect a manatee education and awareness sign. Do they make up their own or are there standards.

Mr. Prasad responded it depends on the project and the funding sources for that project. The county does some signage.

Ms. McGee added they get them from FWC and from the state. They provide them to the applicants so they can put them up. Then our beaches, boating and waterways section also will get grants to put up signage in different places and we maintain the channel markers. We do have a boating section that also provides some resources.

Mr. Hopengarten continued with 12.3 talks about future land use map designations, are you changing RES1 to residential 1 on your maps.

Mr. Prasad responded that we were just trying to remove abbreviations.

Mr. Minneboo stated he had one question. If an area incorporates (i.e. Merritt Island, Viera) is there any obligation or mandates that that incorporation would bring your data to that area. Are they obligated at all?

Mr. Esseeesse asked if he was referring to whether or not our comp plan regulations would apply in an area that becomes incorporated.

Mr. Minneboo responded when I say when Viera goes into a city potentially, Merritt Island goes into a city, they will be under a whole new set of rules. Is that correct?

Mr. Esseeesse replied yes. The jurisdiction would have to update their comp plan to incorporate those areas and then they would be entitled to whatever land use regulations apply to them.

Mr. Prasad indicated we're seeking a recommendation to the board of county commissioners on approval or denial, and it looks like some members of the public may be looking to speak.

Public Comment

Sandra Sullivan stated there were a couple things she wanted to talk about. First the future land use map and the comments made that they are entitled to additional density, I want to point out that the Department of Commerce formerly DEO in response to Brevard County 21-01 ESR made a comment pertaining to some property rights policy letting them know that future land use is not a property right. I also want to mention that the BBIA is something to celebrate because this is the first one in 45 years, and it essentially happened because a vote was taken under public comment to upzone South Beaches so in consequence of that got the assistance of our state rep as a checks and balance. Sea

turtles wise we are the largest loggerhead nesting in the world. We're the key to their survival. Arman was destroyed and they had about double of us. So, it's exceedingly important. One thing that's missing in this report is the CBRA, the Coastal Resource Barrier Island Act. It's a federal act which prohibits federal monies within that area of the CBRA. There's no mention of the CBRA in here. There are two areas of Brevard that have area designation. One is in South Beaches, and one is up in Lake Palmda Beach. That is missing. I think that section 12 needs to be addressed given that department of commerce saying that the future land use is not a property right. I also want to address evacuation because I don't think it's spelled out well in here. I understand the clearance time part is in the other section. I'll talk about that later. But this area is 30 miles long from the bridge way down to the south. That bridge floods early on. So, the only way out is north to 192 where everybody else is trying to get out. And so, this area as an area in Brevard has unique challenges that I do not think that the evacuation part is adequately addressed. And it should be stated in here the state standard is 16 hours.

Mary Sparr stated she is representing Sierra Club Turtle Coast Group. Sierra Club has reviewed the BBIA amendment carefully. This amendment is extremely important for adequate protection of habitat and coastal resources. Please recommend approval of the BBIA amendment to the county commission. We support approval of the amendment recognizing that there is one particular change that needs to happen in the next amendment. We can't do it right now because it would be a substantial change according to staff. What's needed is a policy outlawing a change of residential land use designations to commercial land use designations. In other words, a change of intensity of land use something mentioned multiple times during the transmittal phase. We are just getting a little more specific in asking for no changes from residential to commercial to allow the building of hotels and prevent changing residential to commercial land use and zoning to allow a large multifamily affordable housing project under the state's live local act. And prevent changing residential to commercial, getting PUD zoning and then taking advantage of the fact that any residential component of that PUD can have a density greater than the original residential designation. Now Sierra Club understands that prohibiting a change of BBIA land use from residential to commercial would be a substantial change which is not allowed now, but in the next comp plan update the county could transmit such a policy for the BBIA. And just a little while ago Billy Prasad commented that this is an ongoing process over many years. In conclusion we're asking you to recommend to the county commission that they consider a carefully worded policy prohibiting this specific intensity change in their next comp plan update. And, we're also recommending adoption of the BBIA amendment now.

End Public Comment

Mr. Minneboo stated he wanted to say one thing. Staff you've done a marvelous job. You guys have worked, there's no question the number of meetings you all have had, and many of us tried to keep up with that. And I think you've done a great job. So, I don't know if the commission will tell you but at least we did.

Motion to recommend approval of Item H.11. by Henry Minneboo, seconded by Robert Brothers.
Motion passed unanimously.