

## **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.12. Recommendation: Adoption 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, Florida Statutes.**

Trina Gilliam read Item H.12 into the record.

### **Public Comment**

Sandra Sullivan stated, "Comp plan our lives matter too." I have some serious issues about some of the changes that have been made. There was, because of a 1999 evacuation study, that found critical evacuation deficiency on the barrier island. There was a Merritt Island and central barrier island study. This went from Merritt Island all the way down to Indian Land. The relevancy of that was a downzoning study that reduced the density from RES30 to RES15. Now the references in the comp plan reference have changed history like that didn't exist and I take objection to it. I would even suggest that it's malfeasance which is a serious allegation. You'll see I sent a lot of you guys this letter, here on the back, this shows history. This is from the county itself. The county has shown a commitment to cap or even reduce densities on the barrier island. This process began in the South Beaches area with the adoption of the 192 South Beaches small area study and has continued to present day. As recently as the 2000B plan amendment cycle the county adopted comprehensive plan amendments that capped the residential densities for the unincorporated areas on the northern and central barrier island at existing levels. What have we done? We've taken Merritt Island and for the MIRA area we have changed the density there to RES30. Now RES30 in the comp plan, 2000B comprehensive plan, says explicitly that RES30 was only for three properties. Only for three properties. The other thing that is a major change is that of evacuation. Evacuation defined by state statute 163 3178 or 2178 states that the state level of service is for 16 hours for a category five out of county. And so, what the county is doing is they are shifting to a clearance time. A clearance time is whatever time it takes. It is not a level of service standard as defined by state statute. And so, hey you ask the question of staff you know does that mean we're going to revert as a level of service to the state 16 hours, because we're not defining it. This is a huge document. This should have been

broken down into sections so the public would be able to comment. Three minutes on a thousand-page document is ridiculous.

Mary Sparr speaking for Sierra Club Turtle Coast Group stated that they support adoption of the EAR based amendments, though we would like to see one change made first. There are a handful of inconsistencies between the coastal management element and the new BBIA amendment for the south barrier island that need fixing right now. The state agency Florida Commerce sent separate ORC reports on the EAR and BBIA amendments. They objected to some of the BBIA amendments and had negative comments on others, but they overlooked the same exact problems in the coastal management element included in the EAR. The state found that policy BBIA 2.6 lacked a specific timeline for a re-evaluation of the effectiveness of the county's coastal setback line or CSL. But they failed to mention the exact same lack of a specific time frame in the coastal management element policy CM4.2. And obviously it's very important to re-evaluate this old line in a timely manner. Also, BBIA policy 5.8 which encourages nature-based design and low impact development for areas vulnerable to flooding was flagged by the state for weak language, specifically the use of should instead of shall. The state overlooked the same weak language in coastal management policy CM14.9. In general, what the county did was change the BBIA amendment to please the state but left the corresponding coastal management policies alone. Staff's new changes to these two BBIA policies flagged by the state are excellent. At a minimum Sierra Club would like coastal management policies corrected for the same defects the state spotted in BBIA language. In conclusion, please recommend to the county commission adoption of the EAR amendment after correction of important inconsistencies between coastal management element policies and updated BBIA policies.

End Public Comment

Ms. Amato asked if she could have clarification on what the state statute for level of service for getting off the barrier islands would be.

Mr. Esseeesse stated it looks like section 163.3178 subsection 8.

Ms. Amato asked if it gives an exact time.

Mr. Esseeesse responded my understanding of the statute is that it says there's essentially three prongs to it. A proposed comp plan amendment shall be found in compliance with state coastal high hazard provisions if the adopted level of service for out of county hurricane evacuation is maintained for a category 5 storm event as measured on the Sapphire Simpson scale. And then there's two other options.

Mr. Scott commented our understanding and the way we read it is because we have an adopted level service which is the out of county clearance time in the regional evacuation study which we're comfortable with, we meet that standard.

Ms. Amato then asked what the purpose for removing the evacuation route map out of the comp plan was.

Mr. Scott stated some of that's just cleaning up. We did that in our plan as well. Evacuation route maps are a bit antiquated. Most folks these days when they evacuate, evacuate with a destination. That's what we see repeatedly. Most folks are using their phone. At this point in time pretty much all roads are evacuation routes. It's no longer applicable to where we are in time.

Ms. Amato said she was curious because she went onto the emergency management website because she was curious. So many new people move to Florida every day. They're completely

unfamiliar. And, granted most people have phones these days, but I couldn't find a map anywhere. I even asked two extra people to try and find something for me and we could come up with nothing.

Mr. Scott stated we do not post one. Again, in all the conversations we've had, and we spend a tremendous amount of time in our community doing outreach and talking to folks, the actual evacuation route, that comes back from a period of time in 2004 and 2005 and prior to that where you were using actual roads where people didn't evacuate with destinations. That really is a big difference. Most folks today, should you evacuate, are evacuating with a destination. In 2004 and 2005 which I know is seared into our memory culturally, you didn't have the ability to go on your phone and book a hotel. You didn't have the ability to look at those kinds of things. You didn't have Google or Apple Maps which model dynamically which is sort of a way to tell you if you have traffic coming up to take this off road instead of that road. All those capabilities exist today. It no longer makes sense to do those.

Ms. Amato inquired if there would be evacuation route signs on the road or anything.

Mr. Scott indicated evacuation route signs are handled by DOT. He would defer to them for that because those are primarily their roads.

Ms. Orriss asked the level of service that's acceptable for say a category five hurricane for those of us on the barrier island would be what?

Mr. Scott replied that right now that level of service is 26 hours.

Ms. Orriss continued with we're saying 26 hours, and the state would like it to be 16.

Mr. Scott replied that is if you do not adopt a level of service.

Ms. Orriss stated she had the hardest time finding the county comprehensive emergency management plan online and seeing anything like anything. And then when I went to the clearance times it says the Florida regional evacuation study. So, what Miss Sullivan pulled up is what I was referring to previously, the 61 hours. So, the clearance time simply is how much time it takes to get people off wherever we are in the worst-case scenario.

Mr. Scott stated the clearance time is a calculation based on a model that the state runs, where it runs a variety of destinations and it literally takes the amount of people that would have theoretically evacuate based on several things, that includes a behavior model. It then turns those folks into trips, so cars, and then models them. They look like small little dots running around. And by the time all the dots get where they're supposed to go you get a number. And then like I mentioned earlier that number is a part of the equation when we look at operationalizing evacuation decision making. So those are two separate things. Operational clearance time or clearance times and then operational evacuation decision making clearance time is a piece of that equation.

Ms. Amato asked if it mentions the level of service standard anywhere in the evacuation information in the comp plan. Because I feel like that would be beneficial if the level of service standard was put there.

Mr. Scott stated that one of the reasons why we made the change to the comp plan to point to one specific place is because our comprehensive emergency management plan and the regional evacuation study are simply on different times, like when they get updated. So rather than always having to chase those things which we have done for years this was a way to sort of streamline and clean those things up to just simply point at the regional evacuation study. Let me answer this question ahead, if we ever reach a point where we suddenly find ourselves in a situation where we

think the level of service the regional out of county clearance time would be a problem for us to maintain we would act and do different things but right now we're comfortable with the number.

Ms. Amato replied I just think it would be good for transparency.

Ms. Orriss stated she agrees. She really did have a hard time finding the level of service. 8.3 said Brevard County shall identify roadway and operational improvements to hurricane evacuation network based upon capabilities, limitation, and vulnerabilities. And it goes down to criteria, priority shall be given to improvements of roadway networks serving hurricane evacuation routes with the greatest number of people. I can assure you that the people in the South Beaches, we do not have the greatest number of people, but it will take us the longest for us to get out of where we're at. It is 30 miles if you go to get to 192 from the Abasco Bridge along with other people. It'll be hard for us. So, I don't know if there's any priority. I don't want to say, "Oh well take us, we're the best."

Mr. Scott stated I'm born and raised here, so I get the South Beaches. In fact, I get quite a bit of this stuff. And again, transportation networks are holistic. Improvements you make on all streams can affect things. But one of the biggest things we do and it's why I talk about clearance times being a factor but not the driver in this conversation, is the bigger piece when we talk about clear evacuation decision is how many folks do we put on the road at the same time. Because you can handle a lot of people over a long period of time, or you can bottleneck a road just by putting a small number of people. And the greatest example that I'm sure we all experience every day is if you find one of our pinch points throughout the county at 5:00 p.m. or 8:30 in the morning. Traffic is backed up. Roll through there at 6:00-6:15 p.m. and it's flowing again. So, we spend a lot of time on doing something we call a soft phasing of evacuation so that we're constantly putting folks on the road but we're never at one point dumping a lot of folks on the road. And we've seen that continue to work in 2016-2017 as we began to implement those kinds of things. We saw it in Dorian. It is a statewide best practice. We are in line with all those kinds of things. It really is about throttling roadway traffic and looking at where those areas come from, like what happens on the west side of 192 and Melbourne impacts those kinds of things. But again, I'll just come back to because folks are using smart technology like cell phones and those kinds of things that are picking those things up some folks from the south beaches will cut over on Riverside and get to 192 faster. They may take it all the way down to Eau Gallie or Pineda. That stuff is happening naturally and that is a more holistic and accurate way to look at evacuation modeling than just a sort of a clearance time, which doesn't consider time of day or any of those kinds of things and when a storm's going to arrive. I know this is deep in the weeds on evacuation planning, it is complicated, but we take it very seriously and we try to make sure that all of our residents, especially our barrier island residents have enough time to evacuate safely.

Ms. Orriss stated those of us down there in the south beaches, we can take Oak, we can take Riverside, we can do a lot of things, but we must take A1A for many miles to get there unless we want to swim.

Mr. Scott replied we pay a lot of attention to it.

Mr. Minneboo asked when you did the evacuation calculations for Merritt Island did you consider the NASA route in that.

Mr. Scott commented let me be clear we don't do it by area, it's for the whole county. It's for the whole network. You're talking about the NASA evacuation around the visitor center.

Mr. Minneboo replied from the north end of Merritt Island that transitions into the NASA causeway. Did you add that to the system.

Mr. Scott replied that was part of the roadway network that was marked.

Mr. Minneboo asked did you also add the other portion that goes straight up and it's what's called old A1A, the part that goes through Titusville.

Mr. Scott responded any active roadway that we can push cars onto is modeled.

Mr. Minneboo stated NASA tends to change the rules when the weather gets bad. Was there ever a determination of the percentage of people, specifically on Merritt Island that would stay.

Mr. Scott replied that the way it looks at it is holistically. It is based on a behavioral model that samples the amount of people that stay versus go. That is one of the banes of our existence as far as trying to figure out what that is. I will tell you that is far more storm dependent and trying to find good behavioral studies for that is a struggle.

Mr. Bartcher commented policy CM 8.4 says that essentially this board can recommend a denial of a development if it's going to create a problem with evacuations. My question was the only thing that we already referred to is this table that shows how you evacuate the entire county and that to me doesn't have enough granularity. Do we want to approve a development or not in BBIA. Our concern is what about the hurricane, so if we have 100 people coming in that's going to affect our evacuation times, so how much of a change in the evacuation time do we have to have for this board to be able to recommend a denial. The other question is who calculates that. I understand about traffic studies, and a developer can provide a traffic study, but is a developer going to have to provide us with some data about evacuation times.

Mr. Prasad replied as of today our emergency management group tracks that, and they keep that in their modeling. So, when it gets to a point where their modeling shows there's an issue, they'll alert the planning department, and we will take appropriate action based on that. As of today, that has not happened. But if that did happen that's how that would work

Mr. Bartcher stated he was talking about development that doesn't exist yet. It's only in the planning stage. You can't have a model for something that doesn't exist. So, we've got a development in BBIA that's going to put 100 homes, 150 homes in that area and we would like to know if that's going to create a problem with evacuation times.

Mr. Prasad responded this is the BBIA specific comprehensive plan and that goes back to what we were talking about before that. We're in the implementation phase, this is the comprehensive plan element. The next stage is doing the LDRs and that may be part of that. Right now, we're talking about countywide because we haven't done the LDRs for the BBIA yet. So that'll be the next phase that Trina was talking about earlier that must be done within the next 12 months.

Ms. Orriss asked if the future land use is not a property right.

Mr. Prasad stated he thinks context matters. In this case the Brevard Barrier Island Protection Act itself stated that people get to continue their zoning and use of land. I think most people would take that to mean their land use or at least to some degree. It's subject to interpretation, but I think when the act itself specifies zoning and use of land they mean something beyond zoning. That created some property right, but we wouldn't be able to change somebody's rights based on the act that says they get to keep it if that makes sense.

Mr. Esseeesse added there's certain expectations that property owners have or people that are going to buy property have. That is part of their expectation, what they could build up on their property.

Ms. Amato stated she had some questions about water supply work plan on page 16. Please correct me if I have calculated wrong, but max in Mims is 99 gallons per capita per day and 118 is max

according to the outline. It says that the BEBR average household size in Brevard County is 2.33. So would I be wrong in multiplying 118 at max gallons times 2.33 to come up with the actual usage of an ERC or a home.

Lucas Siegfried responded regarding the BEBR model that's a general population analysis that gives you general populations. We're doing our own population study as well. Regarding the flows and what we're using for them there's the 118 which is the maximum which was referenced and that's a planning number.

Ms. Amato stated the max GPCD is 118 and right underneath that it states that LOS of Brevard County comp plan adjusted with BEBR average household size 2.33. So, in my thought process if you took the average household size which is 2.33 people, and you multiplied that by the single use of 118 gallons per day is that how you would figure out how much on average with these calculations that a household or an ERC would use.

Mr. Siegfried responded when we do that analysis we're using real data. The numbers that are listed there are the planning numbers. It's the maximum flow. For example, you referenced 118. When we look at what household actual consumptive use is we're referring to the actual data that we have from the plan in terms of what those flows are and what it is coming from residential density or from the residences as number of connections. You're asking about the calculation.

Ms. Amato replied yes, if you do that it comes up to 275 gallons per day per ERC or home. And the current regulations for this are set at 200 or 220 and it's asking to be raised to 250. But if that's true I would say that that level of service standard is still below the actual use. That is my question.

Mr. Siegfried responded let me clarify. You're focusing on the max gallons per capita value per day, which is the 118, whereas the number you'd really want to refer to is the 99.

Ms. Amato stated I refer to the max per capita because state statute says that you must have adequate water, implying that in times of drought, fire, or whatever the circumstance may be that you have adequate water for all of those circumstances. So, I would refer to the max because that is where adequate water comes from.

Mr. Fontanin responded when we do level of service it's always based on average. Even with the average based on the 2.33 number it'll still get us a number that is by usage. It's a triangulation. So, the 233 number by the calculation by the BEBR density and by the 100 gallons per day per capita, which is not only stated in the water supply plan, but it's also a rule of thumb best practice usage, still gets us at a number that we're having a level of service with a margin of water supply. In addition, we also looked at the current water usage. So, we take all the billing data, and we associate it based on a 5/8 meter which is synonymous with a single residential home and looking at that to get an equation or a calculation on a level of service based on a single h family home. And I believe we sent you a memorandum on three months of data, but we've looked at it further. It gets you in a range of around 158, 171. With that, at a level of service of 250 we feel there's still adequate room in there for unaccounted for water and water supply.

Ms. Amato then asked is the way that you formulate that somewhere in the comp plan? Did I miss that. Because I thought the point of this was to lay out the way that it gets figured out and if we're figuring it some other way, that is my question.

Mr. Fontanin stated as we sit here and focus on the water supply plan the process that we're looking at doesn't stop. So, we originated with an old water supply plan and obviously a needed update to the EAR. I'm not the state and I don't make this process. Step one is you must modify to the best of the ability within the current comp plan the um the water supply plan. As we go through this, we have

updated that to appease the state based on the best data available and based on what's currently adopted in the EAR. Until the board approves it, we're still working off that old information, it's the full intent that as Billy described there are other actions after the EAR gets approved. One of the other actions is to update the water supply plan to make it current. As we use the level of service that's being proposed in the EAR amendment we would then soon after be updating the water supply plan so that both documents were consistent with each other.

Ms. Amato stated it was just updated in 2024 and again now, so what's not current.

Mr. Fontanin responded we needed to have an updated EAR to make the amendments to the water supply plan.

Mr. Prasad stated I believe under statute the water supply plan only needs to be adopted. It's a snapshot in time and we've reached out to the St John's River Water Management District about that. They would consider whatever is in your comprehensive plan as controlling over the water supply plan, which is meant to be, as I said a snapshot, a planning document that must be done within a certain period after the regional water supply plan is done. As Eddie was saying one thing follows another. From a state perspective there's no surprise at all that at any given time especially right after you do your EAR that those two numbers would not match.

Ms. Amato stated it went from 400 last year to 200, to 220, to 250. Is that correct, for the level of service standard that's a huge drop by half.

Mr. Fontanin stated the 400 you're referencing Ruth is something that was adopted back in 1990s. So, I can't explain where 400 came from. It's extremely conservative. What we have done is to get that level of service to a more appropriate number, this is going back to the triangulation that we've done with billing data, with data from the plant and it also coincides with what's currently in the ordinance based on the level of service as referenced in 163, if I'm not mistaken that references 250.

Ms. Amato commented so having a level of service that is lower than the max level of demand is appropriate is what you're saying.

Mr. Siegfried stated the level of service currently proposed and the one that's current, the 200 and the 250 gallons per day per ERC, that currently exceeds our demand in both cases.

Ms. Amato stated but not according to this. And this is what the people see. This is when someone goes to calculate something, people read these things, and they can use it to calculate documents with.

Mr. Siegfried asked her to clarify what she was referring to.

Ms. Amato replied to the water supply work plan page 16.

Mr. Siegfried stated our level of service exceeds the current demands and this is calculated based on actual consumptive use. What we see per ERC at our out-water treatment plants, specifically Mims, but it's same in Barefoot Bay and 200 exceeds it and the 250.

Mr. Amato added the other thing I would suggest is not so many years ago, part of this was just a year ago, it wasn't a countywide service standard and the utilities aren't connected, is my understanding. Barefoot Bay is not connected to Mims. They're each individual rate payers and you don't transfer water back and forth is my understanding. And I think it would be better if it was broken out per utility as those rate payers are in each individual area and they are not connected. That would be my other recommendation.

Mr. Fontanin responded what we've done in the amendment is removed the level of service from the water and sewer element and moved the level of service to the capital improvement. If you look in the capital improvement element revisions that we propose we do have it for what we call North Brevard Barefoot Bay water. So, it is listed under there.

Ms. Amato replied I must have missed it. I have the capital improvement in front of me and it says BCUSD as a county. It lists Barefoot, Cocoa, Palm Bay, Titusville and Melbourne. And then I have it in the potable water element as well. I must have missed that somewhere.

Mr. Fontanin responded Brevard County utility service, which is BCUSD, the only water facility that we have that falls under that is MIMS and San Sebastian which is a minute area. Barefoot Bay would fall under the 150. So, they are broken out within this.

Ms. Amato stated except for Mims shares with Sebastian. Is that what you said?

Mr. Fontanin stated we're just using the 250 level of service for Sebastian, but it's for 75 customers.

Ms. Amato stated that was kind of my point. Each area, as many department heads and commissioners, and people on this board have mentioned it's an extremely long county and it's very diverse and one of those utilities being on one end of the county and one being on the other, my recommendation is that they should be broke out into their own individual utilities since they are separate, and each area has their own diverse needs. The other question I had was on conservation. It talks about reducing or allowing more development in the 10-, 25-, and 100-year floodplains, what was the logic behind that?

Ms. McGee stated we have field footprint and density restrictions right now in the riverine floodplain. What it's doing is it's forcing people to annex into the cities that don't have the floodplain ordinance criteria that we do. We have stronger criteria. So, the goal is we're going performance based for all floodplains. No matter where you are you need to demonstrate that you're not causing any adverse impacts on surrounding development, areas, or properties. And if Bach were here, he would tell you the technical term about a rise in the peak flood stage, but it's meant to be performance-based and take away the arbitrary criteria of density and fill footprint restrictions out in the riverine floodplain.

Ms. Amato stated she would mention that it's greatly concerning to a lot of residents in North Brevard that that would be removed. North Brevard takes a lot of the storm water from the entire length of the county because at Lake Carney it bottlenecks and cannot flow out at the rate at which it flows to North Brevard. Many residents in North Brevard are experiencing flooding that hasn't been seen in over a hundred years. And so, removing and reducing those or reducing those densities and not having them in there is very much concerning to those in North Brevard.

Ms. McGee asked can I provide you an example for densities. For instance, this is a St John's Riverine floodplain not the Estuarine floodplain. You could have a subdivision that has one unit to the acre, and you could have them spread out, we call that peanut butter style. You spread it out over a bunch of area, or you could have a density that goes up. Your footprint of your density can be this, or it can be this. So, it's not the best metric for trying to control flooding the performance measures are more based on the actual site conditions and the engineering. And I'll also add that our storm water section program is doing a lot of flood studies right now. We have a grant to do a countywide flood study. We're going to be looking at rainfall on top of storm surge on top of future conditions. So, we're gathering more and more data, actual site data and trying to get away from relying on, for instance for St John's River, we rely on a report from St John's from the 80s and I think Ana has probably had to deal with that in the past when you were doing engineering. You know to look at the current conditions as they exist today and what's happening with the water.



Ms. Amato stated even the FEMA flood zone maps aren't current enough for North Brevard. There's property in North Brevard that I believe are zoned for one home per 2.5 acres that sits under 10 foot of water. That was pre-lan.

Ms. McGee stated we use best available data whenever we can and that might be a FEMA map, it may be a flood study that public works did, it could be something that we did in natural resources. So we do look for best available data.

Ms. Amato continued with there was an exception in here and it said see a different element and it took you to where it was concerning the floodplain and it talked about allowing PUD on the floodplain. So would that be development of the floodplain. I don't understand. It was talking about the floodplain. And then it talked about except if you go to this certain policy and then it started talking about PUD on the floodplain.

Ms. Saunders responded from my personal experience in designing in Brevard County whether it's PUD, R-2, C-2 it doesn't matter what my zoning category is I'm required to meet that compensatory storage floodplain requirement. The PUD might give me flexibility on where I locate houses, the sizes of my houses, those types of things but I still must meet all the flood dependent criteria no matter what. Doesn't matter what my zoning category is.

Ms. Amato stated that was kind of my question. If it allows you to go from one home per 10 acres depending on which floodplain you're talking about and then you can turn around and cluster homes on the floodplain that's a huge difference in impact.

Ms. McGee stated one of the other goals that we have is from our parallel flood policies. We need to codify them. And strategies that you can use are cluster development to reduce your footprint of infrastructure so if you only have this much impervious and you need you can reduce your amount of storm water, and roads, and all sorts of stuff, so the PUD does provide flexibility. That can hopefully get us to encourage applicants to do this type of development that will be a benefit to the environment, to the developer, to the people that live there, and to the surrounding area. So, I would see that as an important tool to provide flexibility for low impact development and green storm water infrastructure.

Ms. Amato stated no development I've seen come into the north area has developed on acre lots or one home per two and a half acres. Those lot sizes are generally owner builders generally and allowing to switch that around allows for more development on the floodplain and that should be considered. Most development that I've seen go into North Brevard are small lot sizes, not big lot sizes, so if you change it on the floodplain from one home per two and a half acres or one home per five acres and you allow cluster, you're inviting the PUD to the floodplain because traditionally they don't build out that way. The other thing I think it's probably important for staff to go out on site and that was taken out of it. IT was one of the should/shall I believe and where staff doesn't have to go do site visits. They may I believe was the term, and with such a diverse county I think it's important for you to see the site that that's being developed to help your considerations.

Mr. Hopengarten inquired if there was anything in there on PUDs. I've been concerned that we have a PUD RES in the code and to me it's a workaround from zoning restrictions. My understanding was a PUD was supposed to have all types of development, commercial, residential, some industrial, but that PUD RES that came up in one of our planning and zoning meetings seems to be a loophole and I didn't see it in here and curious if it still exists.

Mr. Bartcher responded it's on page 1105, future land use 1.1 criteria F. In the past we have used BDPs to establish concurrency between zoning and land use, and if I understand what this means is

that now the applicant is going to have to request a change to both zoning and land use. Policy 1.1 criteria F page 1105.

Mr. Prasad stated just so everybody's on the same page policies established and specialized plans including binding development plans as may be adopted by the board of county commissioners, and there's some new language. Binding development plans shall not be used to establish consistency between future land use map designations and zoning class specifications. I think you're talking about more of use consistency. This is talking about a chart in our code that says for example RES4 is consistent with "X" zoning, community commercial.

Mr. Bartcher commented one of our applicants has done it at least twice that I can remember, using a BDP to say, "Okay I'm going it's not going to change the land use but I'm going to use the BDP to restrict the number of housings so that it meets the zoning requirement." And then we said, "Okay that's fine." Now with this we're not going to be able to do that, and that person's going to have to come in and do a land use change and a zoning change.

Mr. Prasad replied they need to establish consistency between a zoning map and the future land. That that should be done for multiple reasons.

Mr. Hopengarten stated his comment was on the PUD not on the BDP.

Mr. Prasad continued if I could get back to that, there's a separate project from this going on, and the board quite a while ago issued legislative intent permission to advertise for us to look at amending the PUD code. And one of the things we are looking at is making a uniform PUD and perhaps removing the residential PUD and just making a single uniform PUD classification that would be in the cars. That would be after this project.

Mr. Hopengarten asked if Merritt Island is considered a barrier island.

Mr. Scott responded yes, 100%.

Mr. Hopengarten continued with I'm looking at the affordable housing ordinance. No density bonuses on barrier islands, which means that the affordable housing ordinances will prohibit any density bonus on Merritt Island. Is that correct being a barrier island.

Mr. Prasad stated it is considered a barrier island in certain context, but I want to make sure it's not speaking to the barrier islands along the beach in that context. For example, in MIRA there's specific density bonuses given in the redevelopment area. I can get back to you with that answer.

Mr. Hopengarten asked if affordable housing is allowed on any of the barrier islands.

Mr. Prasad stated if you're talking about Live Local for example we're preempted, so if they have commercial land use and they can meet all the other regulations then yes, they certainly can. But that's a big if. They must meet all the applicable regulations. The only thing they get preempted is zoning and land use, and certain parking requirements and height restrictions and things like that. But assuming they could meet all those criteria that could be done yes.

Mr. Hopengarten stated it wouldn't be the highest and best use of the land.

Mr. Prasad responded depending on the situation probably not.

Mr. Hopengarten inquired if a developer has been granted variances on height on their construction can that height be used within a half mile for another developer to take it.

Mr. Prasad responded that was addressed in the last update to the legislation. I would want to double check to make sure to give you the right answer, but I believe that was made clear that that would not be used. But I would really want to check to make sure I'm right about that, but I think that was part of the glitch bill the last time around.

Ms. Amato stated some of the small area studies are included in the comp plan. What are the criteria that puts them in there.

Mr. Prasad stated that's just the board direction at the time that the small area study was implemented and brought to the board. So that's a board decision on what, if any recommendations are carried over into the comprehensive plan.

Ms. Amato stated she was curious as to why the Mims small area study wasn't included, because it was adopted by the board in 2007, and its future land use was transmitted with the comp plan.

Mr. Prasad replied it's quite a complex situation. They adopted certain parts of it. They adopted certain future land use maps changes that were recommended and not others. What they never did was adopt a text change to the comprehensive plan that would adopt certain policies into the comprehensive plan. So, they adopted certain things, and they didn't adopt other things.

Ms. Amato responded she thought they adopted the whole plan and then recommended for the future land uses to be transmitted to the state with the comp plan.

Mr. Prasad replied what they wound up doing is adopting certain future land use map changes not a text change to the comprehensive plan.

Ms. Amato responded with wouldn't those future land use map changes be in there as a part of it if it was transmitted.

Mr. Prasad replied only as to those maps. And that's where things get a little interesting because the reason for those future land use map changes were not applied elsewhere through the comprehensive plan. Now the small area study still exists and that can be used for whatever a board member thinks it is appropriate to use it for, but it is not actually adopted as a comprehensive plan by reference.

Mr. Bartcher stated he had a question on future land use 1.2 criteria A and criteria C. How do I define the word impact? It says that the advisory board cannot recommend approval of a project when the water or sewer will not be available. We recently approved a project where the water and sewer wouldn't be available for a year or two. The reason we did that was because the applicant said they had all this engineering to do, so there wouldn't really be any impact for that time. So, it was alright for us to approve it. Does this criteria change that ruling or anything? I was looking for a definition of when impact is, is it when the development is approved by the board or is it when the first construction starts or is it when the first resident moves in?

Mr. Prasad responded he'd want to check first the glossary to make sure that it's not specifically defined there. And if it's not, generally that would be up to the board to figure out what that means at the time that they make the decision.

Mr. Bartcher added we would be able to do again what we did then. So that shouldn't be a problem.

Mr. Prasad added if I had that in front of you today, I'd want to check the glossary to make sure.

Mr. Bartcher stated he had a question on future land use 1.2 criteria E on page 1106, and the text kind of didn't make sense to him. Criteria E says where public water service is not available development proposals greater than two years shall be required to connect to a central sewer system. I don't understand the relationship between the water system not available and having to use a sewer system

Mr. Prasad stated that refers to the second part. I think there are two different things within BMAP areas where public sewer service is not available. The installation of enhanced nutrient on-site sewage treatment and disposal systems is required.

Mr. Bartcher stated he was wondering if that first sentence should have been deleted. For example, if you look up in criteria D right above it, what was changed was public water became public sewer. And I was wondering if in this case either we want to change public water to public sewer or else get rid of that sentence entirely.

Mr. Prasad responded we'll look at that, but I don't think it needs to be deleted. It's something I think still would apply. We'll look at that.

Mr. Bartcher Added that to clean stuff up in future land use 1, page 1104 there's a list of criteria. Item F is missing. You might need to renumber that. And then in future land use administrative policy 2, criteria B page 1100 it gets rid of using aerial photographs. It seems to me that aerial photographs help this board understand the project that's being developed and where it's being developed. So, I'd like to see us continue to use aerial photographs.

Mr. Prasad stated there's live imagery that is available today from a variety of sources, so I think that's the main reason why that was removed.

Mr. Bartcher stated he has a favorite criticism where he hears all the time people confusing number with amount and in policy CM 8.3 criteria B on page 1069, we used the term volume of people. People are not measured by volume they're discrete entities so please change that to number of people. I was looking at the historic preservation element and found that there were no changes in that. No changes for seven years. One of the policies at HP 2.1 says the county should facilitate adoption of a historic preservation ordinance. We haven't been able to do that in seven years. What I'm telling you is that that's a perfect example of why should, should not be used in policies. There's no commitment to doing anything. And, my suspicion is if we looked at the previous seven-year cycle we might even find that that's been in there for those seven years as well. I'd recommend just take that policy out and delete it. We're not going to do it, why have it in there.

Mr. Prasad stated that we do have a historical preservation ordinance. It's a procedural matter. The EAR is designed to update us and to follow state statute. So, there was no need to amend that section to follow state statute. Nevertheless, you know as Trina showed up in the slide earlier should has a specific meaning. Does it mean the same as shall? No, but it does have a meaning particularly to staff. So, we do take it seriously.

Ms. Orriss commented she suggests we break this up into a couple of sessions next time rather than one. If anybody has an opinion because it was a lot of reading. And it's a lot to retain and understand.

Mr. Wadsworth added throughout all the conversation I'm going to back what Henry said, "Staff excellent job Excellent job."

Motion to recommend approval of Item H.12. by Erica Orriss, seconded by Rob Bartcher. Motion passed 11:1.

The meeting was adjourned at 6:01 p.m.