

## LOCAL PLANNING AGENCY MINUTES

April 25, 2011

The Chair, Henry Minneboo, called the meeting to order at 3:00 p.m.

Board members present were Laurilee Thompson; Henry Minneboo, Chair; Aneta Ott, Vice-Chair; Laura Ward; Clyde Thodey; Jerry Jagrowski; Robert Ludwiczak; Robert LaMarr; and Loretta Goggin.

Staff members present were: Morris Richardson, Asst. County Attorney; Stuart Buchanan, Planner II; Ernie Brown, Director, Natural Resources Management Office; Darcie McGee, Natural Resources Management Office; Amanda Elmore, Natural Resources Management Office; George Ritchie, Planner I, and Candy Hanselman, Zoning Support Manager.

There were seven regular members, and two alternates, present. All regular members present, and the alternates from Districts 2 and 5, voted throughout the hearing.

Henry Minneboo - This is the LPA meeting. And we're an advisory board to the Board of County Commissioners. And they'll make the final decision. Do we know, Candy, when they'll meet on these issues?

Candy Hanselman – Each individual presenter can give you that information.

Henry Minneboo – O.K., great. Did everybody have an opportunity to see the minutes from March 21<sup>st</sup>?

Motion by Aneta Ott, seconded by Jerry Jagrowski, to approve the minutes from the LPA meeting on March 21, 2011. The vote was unanimous to approve the minutes, as submitted.

1. Six ordinances amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled “The Comprehensive Plan”, setting forth the transmittal of the Spring Plan Amendment Cycle 2011-1; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below:

Stuart Buchanan – Good afternoon. Stuart Buchanan, Brevard County Planning & Development. The first item on the agenda today is the Spring 2011 Comprehensive Plan Transmittal Package. As you know, each year, each city and county is allowed to submit two large-scale amendment packets to the Department of Community Affairs. This is our first one. It's our spring packet. It will go before the Board of County Commissioners on May 10<sup>th</sup>. And then we will probably get it back around June, to come back to your – in front of the LPA for adoption in July. There are six amendments in this package. The first one is a private application, and the other five are all public applications.

a. Plan Amendment 2011-1.1 - a proposal initiated by White Sands Buddhist Temple LLC, to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from Residential 1:2.5 to Residential 2 for approximately 16.11 acres on the south side of Aurantia Road and approximately .03 miles east of I-95.

Stuart Buchanan – The first item is 2011-1.1, which is a Future Land Use Map amendment for the White Sands Buddhist Center, Incorporated. This is off of Knost Road, which is just east of I-95, adjoining Aurantia Road, on the south side of Aurantia. It consists of 16.11 acres, approximately. Currently, the land use designation for the property is Residential 1:2.5. That is one residential unit per 2.5 acres. The request is to change that to Residential 2, which is two units to the acre. As the staff report goes into depth about – the current zoning is Institutional (Low), IN(L), and this would allow for the construction of an approximately 21,000-square-foot place of worship on the acreage. I'll be happy – the applicant is here today to answer any questions that you have. And staff will be happy to answer any questions that you have, also.

Henry Minneboo – Anybody on the board have any questions?

Robert Ludwiczak – I have a question. Initially, when we were looking at this back in February, we were talking about a 6,773-square-foot facility. Is that correct?

Stuart Buchanan – Yes, sir. That's the existing facility that's on the site.

Robert Ludwiczak – O.K. And if we go and approve this amendment, as I understand, a place of worship of up to 21,000 could be built.

Stuart Buchanan – In addition to the existing one. That's correct.

Robert Ludwiczak – And the facility's location does not have city water or sewer, so that would need to have septic.

Stuart Buchanan – Yes, sir, that's correct.

Robert Ludwiczak – And is there adequate septic that could meet a 21,000-square-foot facility?

Stuart Buchanan – The septic tanks are actually approved through the Department of Health of the State of Florida. The counties no longer issue those licenses. They are the agency that would have to review it and approve it for a septic tank license.

Robert Ludwiczak – I guess, Mr. Chairman, what I'd like to know is if the applicant who came before us in February has the intent of moving from a 6,000- to a 21,000-square-foot facility.

Henry Minneboo – Is the applicant here? Come up to the microphone, if you would, sir, and identify yourself.

Dr. Duc Chau – Good afternoon, sir. My name is Dr. Chow, and I'm a Professor of University of Central Florida. And I am also the Chief Engineer for Department of Army. And I'm also the Vice-President of White Sands Buddhist Center. And today I would just like to present it to you about...

Henry Minneboo – Did you understand Robert's question?

Dr. Chau – Yes. The original - we have for the building, 5,500 square feet, already. But now we would like to get another permit to build another building for 15,000 square feet. That will be additional. And we will apply. We didn't apply it yet, but we plan to do it. And that's the reason why we would like to convert it for the totally to 16.11 acres. Last March, we applied it for the converted rezoning, and the Commission already approve it, for two acres. But now we would like to convert it for the totally 16.11 acres.

Henry Minneboo – Does that got you covered, Robert?

Robert Ludwiczak – I'll defer to...

Laurilee Thompson – You didn't get a land use change on two acres. You got a zoning – is the zoning – does the IN(L) zoning cover the entire 16 acres, or is it only for two acres, Stuart?

Stuart Buchanan – No, the entire parcel was rezoned to IN(L); however, based on the existing land use, that limits them to the square footage. In IN(L), the size of the church is based upon the underlying land use, based on trip generations. In other words, what it does is, it calculates what the grip generation would be if that property was to be developed for residential, like the surrounding area. And then it sets a maximum square footage on the church. So, that way, a church is tied to that underlying land use, so it isn't built out of character with the surrounding area.

Laurilee Thompson – So the traffic generated by the institution would match the traffic that would be potentially generated by the surrounding land uses.

Stuart Buchanan – Or the existing, or the underlying...

Laurilee Thompson – Or the existing land use.

Stuart Buchanan – That's correct.

Laurilee Thompson – Which should be compatible with the rest of the land uses.

Stuart Buchanan – Yes, ma'am.

Laurilee Thompson – So what's he talking about two acres having a change done?

Stuart Buchanan – I'm not sure, ma'am. The whole site, which was the 16 acres, was rezoned to IN(L).

Robert Ludwiczak – You had mentioned that what you wanted to do was to put another building on the property. And we started off – initially, we discussed this with you as a place of worship. What is the additional facility that you want to build on that property?

Dr. Chau – We just want to build it for the meditation center.

Robert Ludwiczak - What center?

Dr. Chau – Meditation center.

Robert Ludwiczak – And the worship center doesn't handle meditation?

Dr. Chau – We have the two different ones. The first one is the main building, and we have a statue in there. And the second building, we plan to build it so we can have the meditation that's separate, for meditation center only. So that mean we will sit down there just for to meditate.

Robert Ludwiczak – And what is your projected population for this meditation center?

Dr. Chau – I think the maximum about 50 people.

Robert Ludwiczak – Fifteen?

Dr. Chau – Fifty – 5 – 0.

Robert Ludwiczak – So, even with 50 people - you're talking about additional 16,000 square footage of land for 50 people?

Dr. Chau – Yes. Just for the med – the first floor, we planning to do for the meditation, and the second floor, we just want to use it for the (unintelligible) room, and the different room activity on the second floor.

Robert Ludwiczak – And what is your projected growth?

Dr. Chau – I think the maximum about 100. I don't know yet. We have a – normally, we have, for every three months, we have for the retreat for meditation. And sometimes is coming about 30. Sometimes they coming about 40. And sometimes they come at 50. So that's – it's the - not fixed. So we cannot control for that one. So I think that the maximum, about – I predict a maximum about 100. That's the maximum

Robert Ludwiczak – I guess I just have some problems with the 6,000-square-foot facility can't handle 50 people. We were talking about it taking another 16,000 square foot to do the same that a 6,000 square foot can't handle.

Jerry Jagrowski – I got one question for the staff. All around, it's Res 1, or Res 1:2.5. All of a sudden, we have Res 2. Isn't that a totally different thing? And why?

Stuart Buchanan – Yes, sir, it is different from the surrounding land use. And this is an application that's a private amendment application. And so any private amendment application has the right to appear before the LPA and ask for a recommendation to the Commission.

Jerry Jagrowski – But why are we going to Res 2?

Stuart Buchanan – By going to Res 2, it would allow them to build the proposed 21,000-square-foot building, which is in addition to the existing one.

Laura Ward – Was this area part of the Mims Small Area Study? Everything around it is 1:2.5, or – I don't quite understand the concept of the size of the church has to relate to the traffic generated on the existing surrounding properties. Sounds to me like you can't build a church, anyway.

Stuart Buchanan – It's on the existing land use that it sits on, not the surrounding properties, ma'am.

Morris Richardson – There's a formula. He has the right overlaying zoning. But there's a formula for the square footage that he'd be allowed, that's tied to the underlying Future Land Use Map designation. The more intensive the underlying designation, the more square footage of a building he can get on the property, basically. So he can get a lot more building with Res 2 than he can Res 1:2.5.

Laura Ward – Yeah, I understand that part. I don't understand what the surrounding properties and their traffic generation had to do with this conversation. Did I misunderstand that whole thing?

Morris Richardson – It's not the surrounding properties themselves. But the idea was that to keep the character of these things consistent with the surrounding areas that you would go to the Future Land Use Map designation, presuming that that designation would be consistent. If that designation's not consistent, then it has no relation to the surrounding...

Laura Ward – O.K. I misunderstood what you were saying. All right, so if you change this, then, a, it's not consistent, because everything around it is something else. The other thing that bothers me is, you know, we're supposed to be looking at the land use, whether this gentleman and his group does a church there, or whether he decides to sell the property next month, and we now have a piece of property that has a land use of double the units to the acre, and it becomes a housing subdivision, or something else.

Dr. Chau – No, we...

Laura Ward – So, you know, we have to look at – you know, there's no guarantees that you're gonna do a church there, forever. So we have to look at the basics of whether or not it's compatible to have that land use there, forever. The land use goes with that, whether you're the owner, or someone else is.

Dr. Chau – The reason – we didn't plan to build any unit just to look a tall tower apartment. No. We just want to build for the whole building, just the building only. And, you know, and that one is – we have about – just for maybe (unintelligible) only, and that's it. So it's 100 percent we have to keep it there forever. All the money is – we buy for that land, is to come from everybody. So that mean this is – we cannot sell it. Some people have a (unintelligible) in there, so we just donate it directly to the State, so does not mean we can sell it or not.

Laura Ward – I beg your pardon?

Dr. Chau – If we have any happen to the board of director – so, in the law of – the State law – we had to donate all the property into the State of the Florida. We set up for non-profit organization, already. So that mean we cannot sell that property.

Laura Ward – Really?

Dr. Chau - Yes.

Henry Minneboo - Any other questions?

Clyde Thodey – My concern is you're going to 16,000 square foot?

Dr. Chau – Yes, sir.

Clyde Thodey – And you're forecasting 100 people?

Dr. Chau – Yes, sir.

Clyde Thodey – That's an awful lot of space for 100 people.

Dr. Chau – Yes, sir. The reason is this. We build it – we plan to have it. We build for two story. One, the first one, just for meditation. We have – whenever we (unintelligible) it down. So we need for to lie down onto the floor. So we need a bigger space for everybody in (unintelligible). And in the top of the building, the second floor – and we build just a building, just open it, so the people, if they have it, they can take a rest in there. So that mean – that's the reason we had to build for – try to apply to build for this building. But the original building we have now, that one, we cannot lay down, or anything, in there. Look like we have a God, and we have for the statute in there, so we cannot lay down, or do anything, just activity, or anything in there. But if we want to get for meditation, and take a rest - so we had to build another one; otherwise, we just sit down on the outside on the (unintelligible), and that's it. But that's the reason why. That is the future. We want to plan it to build like that.

Clyde Thodey – What you're saying is that you lay flat on the floor. Is that correct?

Dr. Chau – I can show you how we (unintelligible), if you want me. I will show you what we do.

Clyde Thodey – Well, no, I'm just trying to get it in my mind. You lay flat on the floor?

Dr. Chau – Yes.

Clyde Thodey – O.K. And then you have an altar, or God's in front of you. Correct?

Dr. Chau – Yes.

Clyde Thodey – And then these people can spread out through this first floor, where you're going to do it.

Dr. Chau – Yes.

Clyde Thodey – Your church service. Correct?

Dr. Chau – Yes.

Clyde Thodey – The second floor is for more the meditation, the private meditation?

Dr. Chau – No. The first floor is meditation, and the second floor, you can take a rest for all of them.

Clyde Thodey – Take a rest.

Dr. Chau – Yes. Just in case they are tired, so they can do the activity, or take a rest, on the second floor. And this is still open, too. But the first floor, we just doing for meditation, only.

Clyde Thodey – O.K.

Dr. Chau – And if you – you know, I can show you how it's do it. We (unintelligible). So you can see that the why do we need for that big of the, you know. But we just about planning, and we don't know can we do it or not. But we just planning to do it like that. Right now – seriously, right now, we have only 50. So maybe we just need about 10,000 square feet, right now, if we have (unintelligible). But we just want to build it for in the future, you know.

Clyde Thodey - I understand.

Dr. Chau – I can show you what it – if you want to do it. Whenever we do it, we do it like this. (Dr. Chau got down on the floor to demonstrate the meditation position.)

Aneta Ott – You did vacuum today?

Henry Minneboo – No, they didn't vacuum today.

Dr. Chau – No, I'm serious. That's the reason why, you know.

Laurilee Thompson – I know that ya'll are planning for the future. But the Mims community, the north Brevard community, spent two years planning for the future. The issue here is not your building. The issue is changing the land use on 16 acres of land from one unit per two and a half acres to Residential 2. And if I'm remembering correctly, the closest Residential 2 land use is more than a mile away from this site. What happens, when you change a land use, it sets a precedent. And so then the other neighboring landowners that touch your land, they would then expect to be able to change the land use on their land. So the people that live in this community, they wanted to keep the urban character of this community. They like the large lots. They like the wooded areas. And they wanted to preserve the character of this area. Residential 2 does not fit in with the character of this area. And they did – they went through a very careful process of to say to go to the higher density, you would go from one to two and a half to one per one acre, to two per acre, to four per acre, in a gradual transition from a very low-density to the higher density land uses. And what your proposal is, is it is taking fives times the density of the surrounding areas and putting them on this one 16-acre piece of property. The land use stays with the piece of property forever. So you may change your zoning or, like Laura said, you may decide that you're not gonna build the church. And then you could sell to a developer, and then

we'd have two – there would be two houses an acre in the middle. The other factor to consider is, if you look on the west side on the aerial photo, you see that the rail corridor borders the west side of this piece of property. And that's the East Coast Regional Rail Trail. And it will be the longest rail trail in the State of Florida. It's gonna be one of the flagship Rails to Trails projects in the State of Florida. And the reason that it's very unique is that it's wooded, it goes through a lot of conservation lands, and next to farm lands, and stuff. And so there is a desire to keep the character, the urban character, of this part of Mims, you know, to provide a nice experience on the rail trail. Stuart, is there – I want to figure out a way to get around this so that they can build their place of worship. But is there any way to do it, other than a land use change?

Stuart Buchanan – No, ma'am. They have – this body, in fact, and the Board of County Commissioners, did do the rezoning to take their existing temple and make it consistent, and bring it into conformity, when it was, you know, discovered that it was there. But the way that – the only other way to change this would actually be to change the way that the whole text, and the whole policy, was written, which would affect the whole County. In other words, it's all based off of the same formula that goes off the underlying land use. And it's what's been applied to all the places of worship, countywide. When it was originally adopted, the institutional use, they actually did all the churches and places of worship at once. Some of you that have been on the advisory board for some time may remember this.

Aneta Ott – I would like to understand what he said that they are a non-profit organization, and if something would happen that this does not go through, that this would go to the State of Florida.

Stuart Buchanan – I'm gonna let Morris answer that. I believe he's referring to his articles of incorporation.

Morris Richardson – And that may very well be. I don't have any information on that. There might be something in their corporate governance documents that provides for that. But, if that's the case, you know, there may be provision for amendment or change of that. I have no knowledge of it. I don't know if it's revocable, or if it can be altered. So we have his testimony that if they don't build the church, they're gonna donate it to the State of Florida. But I haven't seen anything to that effect, and I can't advise you that that's the case. Generally speaking, the law's in favor of free transferability of property, and I'm not aware of any restriction, other than something that might be in their corporate governance.

Dr. Chau – I think this is so now you're concerning about if we rezoning and we resell it. So if you don't trust us, we can write out a letter, or anything that mean we just doing the church only, or meditation only, and not selling. O.K.? I can write out that one, if the lawyer can have us to doing that one. We just want to bring the peace in the Mims. And you know it, if you check it in the record for that property, original, five or six years ago, that property is (unintelligible) lot. I don't know. I talk to one, is the police officer coming in there, for when we do the retreat. And he come in, and he telling us about a story, that property, original, they had drug dealer, or something. And they knew to come in there so many time a year. So he's very familiar in that area for that property. And when we build a church in there, so it's very peaceful. And the neighborhood is a very happy. They are very supportive. And we are very quiet. We didn't do any, you know, as a noisy, or anything. We just sit down in there and do meditation. And the reason is we just want to build it for the Mims, and the County, get more peaceful. And now a lot of American is coming and try to learning about meditation. And we have a lot of American member to come to get the – learning how for the meditation. So our purpose, just only want to build it for the new building so that one just get for more comfortable to the people coming in there to get for meditation, to learn the meditation.

Aneta Ott – I think we all understand why you want it. But our concern is ten years, five years, down the road, it goes away, and you have to sell the property. You have already set a precedent in that area that they can develop twice as much as what they can now. And that property will already be zoned that. I don't know what you could do to assure us that that wouldn't happen. But that is our basic concern.

Henry Minneboo – Any other questions for this gentleman? (no response)

Morris Richardson – I will point out that the gentleman proposed a number of conditions. And, as you are aware, as you may not be aware, some of the folks that are newer to the board, you can do that with zoning through means of binding development plan and, likewise, you can't do that with a land use designation. There are no conditions. It's all or nothing.

Henry Minneboo – That's why I didn't throw it out. O.K., let me go out to the audience. Anybody out in the audience would like to speak for, or against, this? Yes, sir. Identify yourself, name and address, for the record.

Ron Bartcher – My name is Ron Bartcher. I'm with the Mims Community Group. Some of you who have heard that name may have expected Fred to be here. We had an election, and he got replaced by me. So I'm now speaking for that group. I live at 3431 Grantline Road, in Mims. My concern is – actually, my concerns have been expressed by different people, so I just want to do a quick summary. One, changing the future land use for this property to Residential 2 goes against the desires of the community, as expressed in the small area study. And we spent, as someone said, about two years working on that small area study to get that in place. When I look at a Residential 2, I say, "That's 32 houses." Right now, on 16 acres, that's – there's a very small number of houses, like two or three. We're going into gonna change it so that there can be 32 houses in that area. That may not be what he plans, but that is what could happen. And we would really prefer not to see that. Second, the Rails to Trails Program is gonna create a beautiful trail ride through wilderness areas. And I'm sure the people that – and this rail is gonna be a really terrific thing for the County, as it gets developed. It's going to bring new jobs, and tourist development coming in. I'm sure those people would not be happy riding the trail and suddenly coming onto a 21,000-square-foot building, two-story high, with the appropriate paved parking that goes along with that. That's not what they came to see. And third point, there are no water or sewer services in this area. Personally, I just think that that kind of a large facility ought to be closer to the water and sewer services. That's all I have to say. I have one comment, though. I tried to find the agenda for today's meeting on the web, and couldn't. So I don't know what happened to it.

Henry Minneboo – I'm gonna tell you – I'm gonna defend the staff, real quick. Very seldom – if that's happened, it's rare. They do a great job of keeping...

Ron Bartcher – I depend on that. And they've done a great job in the past. And I was terrifically surprised when I...

Henry Minneboo – I doubt if they kept this one out. They certainly can correct me, but they're pretty good about getting it there. Yes, sir, I'm gonna give you one last comment on this gentleman's...

Dr. Chau – We just to build a building of 15,000 square feet. It's not 21.

Henry Minneboo – What's the pleasure of the board?

Jerry Jagrowski – I think the idea of a church there is wonderful; however, the request is for something that doesn't fit into the area. So I'm recommending that we deny it.

Henry Minneboo – Is there a second to Jerry's motion?

Laura Ward – Second.

Henry Minneboo called the question, and the board recommended denial of the request. The vote was unanimous.

b. Plan Amendment 2011-1.2 - a proposal initiated by Brevard County to amend Part X, the Coastal Management Element to adopt the Coastal High Hazard Map to depict the most current Category 1 Surge Projections.

Stuart Buchanan – The second item on your agenda is Comprehensive Plan Amendment 2011-1.2. This is the updating of our Coastal High Hazard Map. About three years ago, the State of Florida passed legislation redefining the Coastal High Hazard Area. And it required that all cities and counties adopt the map that they defined. We did so in our 2009-2 EAR-based amendments. Since that time, the State of Florida contracted with each regional planning council and had those maps updated on better and newer information. So what you have before you is simply taking the existing Coastal High Hazard Map, the way the State defined it for us, and putting in a new one, again, the way that the State set the parameters for us. So it's not actually an item that we can debate with the State. They wrote the statute in such a manner to say that we had to adopt their definition of one. This is basically a housekeeping item to update our map series.

Henry Minneboo – We're just acknowledging receipt of this, aren't we?

Stuart Buchanan – Yes, we have to put it in our plan and get rid of the old one. But there's really nothing we could do, the way that they have defined it in the statute.

Henry Minneboo – Great. No action by the board?

Aneta Ott – No action?

Henry Minneboo – Well, other than we have to approve it, I guess.

Laurilee Thompson – What does it look like? It wasn't in our – we didn't get the updated map in our packets. How does it differ from the 2009 version?

Stuart Buchanan – It should have been right behind the staff report. It looks just like this.

Laurilee Thompson – Yeah, but it's – this says "Last updated 2008". So does it not change? Did it not change, or...

Stuart Buchanan – Hang on, just a second. Let me see. Does yours, in the top right-hand corner say "2011-1.2"?

Laurilee Thompson – Yeah.

Stuart Buchanan – O.K. That is the latest one. And in the bottom right-hand corner, it says "May 10, 2010?"

Laurilee Thompson – Yeah.

Stuart Buchanan – O.K. Oh, I see what you're referring to. You're looking at that 2009 date?

Laurilee Thompson – Yes.

Stuart Buchanan – O.K. When we did the EAR-based amendments, which was at the end of 2009, we were using the map that was produced at the beginning of 2009. So this is simply the latest version that's been released by the Regional Planning Council.

Henry Minneboo – We need a motion to approve. Motion by Aneta (Ms. Ott’s motion was made without a microphone; therefore, it is not audible on the record), seconded by Jerry (Mr. Jagrowski’s second was made without a microphone; therefore, it is not audible on the record), to approve.

Henry Minneboo called the question, and the board recommended approval of the item. The vote was unanimous.

Stuart Buchanan – And what I will do, when it goes to the County Commission, I’m going to go back and look at that date reference so it’s less confusing.

Henry Minneboo – It is a little confusing, to be honest with you, Stuart.

Stuart Buchanan – I see that. Now that I see it the way you’re reading it, you’re right. It should perhaps be worded a little differently.

c. Plan Amendment 2011-1.3 - a proposal initiated by Brevard County to amend Part XI, the Future Land Use Element to adopt mandated policies to address Land Use Compatibility Adjacent to Public Airports.

Stuart Buchanan – The next item in front of you is the 2011-1.3. This is the Comprehensive Plan Amendment for land use compatibility next to public airports. The background on this item, on this particular amendment, you remember when we did a policy change that talked about land use compatibility next to military bases, in particular, Patrice Air Force Base. And we put that in our Future Land Use Element. And it spoke to how we wouldn’t make land use changes where we would increase density next to the Air Force Base. And then all those people would complain about the base that was there before those houses ever got built. During the last legislative session, the State passed a similar statute that made that a little broader. And what it said was that each city and county would adopt policies affecting land use capability next to public airports. So, in our case, we only have one in the unincorporated area, and that’s Merritt Island. And what we did was, we took the same similar language we used for the Patrick Air Force Base policies and turned it into these. And what it says is that any time a land use change comes in that’s within a half-mile radius of Merritt Island Airport, we’ll notify the Airport Authority so that they can come to the meeting, provide comments. It requires us to notify them. And then the second thing is, it says that we should discourage incompatible land uses. And what this all comes down to is – perhaps you remember it from past history with, for example, the Valkaria Airport, where the airport was there first, and then a developer might apply for a land use change to increase density next to it. The land use change takes place and then, suddenly, you have these new people complaining about the noise from the airport. So the whole idea behind this is to try and avoid that from happening in the first place.

Henry Minneboo – When you live next to an airport, you’re gonna see an airplane. If you live next to a lake, you’re gonna see a boat. Same theory?

Stuart Buchanan – Yes, sir.

Henry Minneboo – O.K. I wasn’t sure.

Laura Ward – Stuart, it says that we’re to discourage incompatible encroachment. What’s incompatible?

Stuart Buchanan – Sure. Incompatible would be an increase from a density that’s already there. In other words, if someone wants to come in next to Merritt Island Airport and say, “I’d like to change from Res 4 to Res 8.”

Laura Ward – Why don’t we just say that, then? This is very unclear. I mean, anything in the world could be construed as incompatible, depending on the attorney the applicant has.

Stuart Buchanan – To me, and this is just my opinion, and Morris might have a different one, it allows us to be able to say which uses are incompatible, not being able to foresee, at this current time, what they may be. See, right now, we don't have any policy to cite when we are to give you a staff report. You normally will – if there's something like, for example, on the very first item, we cited policies that talked about things to be looked at when making a decision on that map amendment. Right now, we don't have anything about public airports.

Morris Richardson – You might have, too, a situation – because we already have – there is already a statute with some guidance relating to developments and zoning changes near airports. And it came into play a few years ago. We had a request for a condominium development, and the concept was gonna be a fly-in. Everybody in the place was gonna be a pilot who owned an airplane at the airport. so they weren't gonna complain about the noise. There's the potential for things like that, and other possibilities out there, that might be hard to foresee, that might be specifically very compatible with an airport, when you hear the whole presentation; whereas – so I don't think it's as simple as saying any increase in density is incompatible. That could be the reverse of the case. In some cases, you want your highest intensity uses around an airport. And, frankly, low-density residential development is probably the single most incompatible development you can have next to an airport, which is usually what you have existing around these airports. So I don't think there's any one size fits all approach. With all due respect, regardless of what attorney's spinning it, I think you have to look at the independent circumstances of each one to determine compatibility. But I think what this is saying is, you take the airport into account when you do the compatibility consideration.

Laura Ward – O.K. So you want some weasel kind of flexibility.

Morris Richardson – Thanks.

Henry Minneboo – Morris, did we – I'm just trying to remember that, 'cause I thought we – I don't know if we approved or disapproved. Was that approved, that – 'cause I remember that condo. Was it approved?

Morris Richardson – I believe that, ultimately, it was.

Henry Minneboo – I forgot.

Morris Richardson – I don't know if it was ever developed, or not, but it was approved.

Henry Minneboo – No, it didn't make it, I'm sure.

Clyde Thodey – Let me just ask on that, because being there 40, some, years - if that developer decides to do that, when the situation improves itself, is he gonna have to go through the same process now, if we approve this? Would he – or is he gonna be grandfathered under his old permit?

Morris Richardson – If he has anything that's expired. If he already had the right future land use map and zoning that he needs, it's fine. But if it was a planned unit development, if he had some permitting expire, then yeah, that could trigger a new review.

Clyde Thodey – So it would actually fall dead, and he'd have to start all over again.

Morris Richardson – Potentially. I can't remember all the specifics with that development. But, yeah.

Henry Minneboo – What would you like on this one?

Clyde Thodey – Motion to approve.

Laura Ward – Second.

Henry Minneboo called the question, and the board recommended approval of the item. The vote was unanimous.

d. Plan Amendment 2011-1.4 - a proposal initiated by Brevard County to amend Part XIII, the Capital Improvement and Programs Element and Part XIV, the Public School Facilities Element, to adopt the annual capital improvement amendments for consistency with the Brevard County FY 2010/2011 Capital Improvements Program, the Brevard County Public Schools FY 2010/2011 Work Program.

Stuart Buchanan – The next item before you is 2011-1.4. This is your Capital Improvements Element update. The most important thing to remember whenever we do a Capital Improvements Element update is that we're actually doing it for the budget that the Commission has already adopted. We always do it in arrears. And so, when you look at this, the Commission already adopted last year's fiscal budget, and included in that was a CIP, Capital Improvements Plan. And all we do is, we take our concurrency-related projects and put them into the CIE here in the Comp Plan. So what I'm trying to say is that the dollar amounts, and the different projects, have already been set by the County Commission. What we simply do each year is, we update our CIE annually by taking those numbers and dropping them into our Comprehensive Plan. The money's already been voted on. You can't actually reallocate it, or you don't rank projects, that sort of thing. So those have all gone through the different processes, whether it's the TPO or the County Commission.

Henry Minneboo – This is a rubber stamp, again?

Stuart Buchanan – Yes, sir. Actually, it's similar to like the one you just voted on, which was a State mandate. This is – there's an actual statute that says you have to update it annually.

Henry Minneboo – Thanks for bringing this to our attention, Stuart.

Aneta Ott – Make a motion for approval.

Robert Ludwiczak – Mr. Chair, could I ask a question before...

Henry Minneboo – Hold on, we made a motion. Just hold on. Motion by Aneta, and second by Laurilee (Ms. Thompson's second was made without a microphone; therefore, it is not audible on the record), with comment from Robert.

Robert Ludwiczak – Just for my own edification, out of curiosity, I looked at these projects, and I see 18 miles is 5,000,000, four miles is 800,000, three miles is 8,100,000 – or 71,000,000 – I apologize. How do we determine how these projects get to be so elaborate?

Stuart Buchanan – Those ones – actually, those projects are all DOT projects, Department of Transportation or State projects. And they make us put those in our Comp Plan, because they're in our county. So those budget figures that you see come from the TPO, the Transportation Planning Organization, and they get them from the Department of Transportation. So, yes, those numbers actually come from DOT engineers. They're not even our projects. But all the I-95 projects, they make us put them in our Comprehensive Plan, because it affects our level of service.

Henry Minneboo – Robert, I don't want to take any of your thunder, but I'm thinking I know a little bit. A lot of these projects sometimes is right-of-way acquisition. And I'm not – I didn't even look at the projects, 'cause

I know we're just rubber stamping. But sometimes it's 50 percent of the project is the right-of-way acquisition of the property. So sometimes you look at those numbers, and it's, "What's going on here?" But they take into account the right-of-way on that project, sometimes. That's what makes it a little messy.

Henry Minneboo called the question, and the board recommended approval of the item. The vote was unanimous.

e. Plan Amendment 2011-1.5 - a proposal initiated by Brevard County to amend Part I, entitled Conservation Element, Part II, entitled Surface Water Management Element, Part III, entitled Recreation and Open Space Element, Part IV, entitled Historic Preservation Element, Part V, entitled Housing Element, Part VI, entitled Potable Water Element, Part VII, entitled Sanitary Sewer Element, Part VIII, entitled Solid Waste Element, Part IX, entitled Transportation Element, Part X, entitled Coastal Management Element, Part XI, entitled Future Land Use Element, Part XII, entitled Intergovernmental Coordination Element, Part XIII, entitled Capital Improvements Element, Part XIV entitled Public School Facilities Element, and Part XV, entitled the Glossary.

Stuart Buchanan – The next item before you has been pulled, Plan Amendment 2011-1.5.a, an amendment to the Conservation Element for mining. That item has been withdrawn by the Natural Resources Management Office. I believe that we bring it back to you in the fall packet. They would like to work on it further. The next item after that is 2011-1.5, which is the Private Sanitary Sewer Treatment Plants. This is from our Utilities Department. This is very interesting. There is quite some history on this. I'm sure you got a chance to read the staff report. Luckily, we've had the benefit of having the same Utility Director for about 30 years. He's preparing to retire. Of course, I'm referring to Mr. Martens. And he was there when they first instituted this policy. And the existing language, what it requires is that if someone wishes to build a private sewer treatment plant, what we used to call a package plant – some people would call it a drop-in plant – they had to pay all the connection fees to the County, up front, even though that connection may never take place. So the residents had to pay once to build the plant and then take the money and put it for connection fees to the County, and place it into an escrow account. Since this policy was adopted in the early 1990's, there has not been a single private treatment plant approved in the unincorporated area in the entire County. Two of the effects of this, that have been noted by our Utilities Department, is one, this has caused development to – rather than to develop under the County codes, and this body's review, to annex into a city so that they would receive city central sewer and be developed under their code. Or, the second thing that's happened is it has caused large-lot development, where the developer will simply build on half-acre lots, or greater, so that he can meet the minimum lot size for septic tanks. And it's caused septic tanks to be put in. These were the two concerns that the Utilities Department listed in the staff report that you have before you. And their proposed change changes the requirement that the fee be placed into escrow, for a County escrow, for the County connection, which may never happen. In other words, the money, currently – although none of them have ever been built – but if one of them would have been, we would put the money in escrow, and if our sewer service areas ever reached that point where we connected it to us, the connection fees would already have been held in escrow. And, of course, you can see how that would discourage anyone from ever even applying to build a private treatment plant. I'll be happy to answer any questions that you might have.

Henry Minneboo – Stuart, I'm gonna – you know, the problem you got, you're creating an ordinance on something that may not – it's not an ordinance – but you're creating something that may not ever occur. And we often wonder here why so much annexation is coming into the city, but this is a prime example right here. It's a great opportunity to – there'll be a day there won't be any County left. It'll belong to the cities. So I don't know. I've got reluctance to just establish something that hasn't – and you say the '90's. I'm going back to the early '80's. I can't recall a package plant, or anything like...

Stuart Buchanan – The last one – there was one that was applied for, according to Mr. Martens. Luckily, we have the benefit of his background at least for another week before he retires. But what he said was, there's

one that had applied, and then actually was built after the adoption of the policies. But they had already applied for the permit. And, other than that one, not a single one has...

Henry Minneboo – Is that a condominium project? Did he tell you that?

Stuart Buchanan – Yep, he did tell me which one it was, and if you give me a minute, I'll even remember the name of it.

Henry Minneboo – But it was a condominium project, wasn't it? They attempted to build condos where there was no kind of service.

Stuart Buchanan – It may have been Barefoot Bay. I would have to go back and ask him. It may have actually been the Barefoot Bay Plant.

Henry Minneboo – You know, I'm just – that's my reluctance, to – I don't know. I may be by myself.

Clyde Thodey – Stuart, who's pushing this to do that?

Stuart Buchanan – This is actually a public amendment application from the Utilities Department.

Clyde Thodey – I have to agree with Henry. I think it's ridiculous. I think it's not appropriate.

Henry Minneboo – Yeah, you just – we're developing something – you know, there could be unique circumstances and then, all of a sudden, we're gonna have to rewrite, or restructure, this whole thing, not necessarily maybe to accommodate them, but there may be some mitigating circumstances there. I don't know. It just...

Laura Ward – So are you saying that you would prefer not to do this?

Henry Minneboo – Yes. That's my druthers, only because we – shucks, we haven't used it since – I think this thing's gonna correct itself, in time, anyway.

Laura Ward – I agree for different reasons. And I can make the motion.

Henry Minneboo – Good. Motion by Laura.

Laura Ward – I move to deny this.

Henry Minneboo – And seconded by Clyde (Mr. Thodey's second was made without a microphone; therefore, it is not audible on the record).

Henry Minneboo called the question, and the board recommended denial of the item. The vote was unanimous.

Henry Minneboo – Stuart, take that back to them.

f. Plan Amendment 2011-1.6 - a proposal initiated by Brevard County to amend Part XI, the Future Land Use Element, providing for a Mixed Use Future Land Use category.

Stuart Buchanan – The last item on your agenda is Amendment 2011-1.6. This is a creation of a mixed use future land use category. This is a text amendment. There is no map amendment associated with this. As

you may recall, in the past three years, we've had two mixed-use land use amendments come in. One was the Farmton Local Plan, and the other one was the Platt Ranch Mixed Use. Because the County does not have a mixed use future land use category, in both of those cases the applicant wrote their own, which became its own objective in the Future Land Use Element. And, of course – and you're aware of the timeframe that was associated with that, between 12 and 18 months. If we would have had a mixed use future land use category, they could have simply applied for something that had been prepared by us, and already in the Comprehensive Plan. Because we did not have an existing land use category, they wrote their own, along with their own parameters which, in one case, was quite lengthy, as you may recall. What this would do is it would create a mixed use future land use category in the Future Land Use Element. But any application of it would require a Comp Plan amendment for a map change, and it would have to come before you. There are a couple of things, in particular, I'd like to point out to you. If you would look at Policy 20.3, Development Agreement Required. What we've done there is, currently, you can build sort of a mixed use project under our existing community commercial. You can have some residential with some commercial land uses; however, depending on how that is applied, you do not necessarily have to enter into a development agreement. What this policy would do is, any application of this requires a development agreement. That means it has to go in front of the LPA, and then it has to go in front of the Board of County Commissioners. And, as you're aware, when you have a development agreement, it goes into much greater detail than when you do a simple land use change or a straight rezoning, not a PUD, for example, which always includes an agreement. The second thing I'd like to bring to your attention is – now we're gonna flip back. I apologize for that. If you go to 20.2, Activities Permitted in Mixed Use Development, you'll see there's two densities listed there. One is up to ten units, and the other is up to 15. That was not a mistake. That was by design. As you are aware, a small scale amendment is ten acres, or less, and ten units per acre, or less. That's a small scale land use amendment. A large scale land use amendment is either ten acres, or more, or anything over ten units to the acre. So what this means is, under Policy 20.2, if they apply for the density bonus, then they have to come in as a large scale amendment, which is – you're aware of – is subject to greater review. And then the last thing I would point out to you is under 20.5, the criteria (a), (b), where it talks about it has to have access to arterial or collector, the linear nature, and then the very last one, the non-residential gross floor and the floor area ratio, those are all our existing policies that we already have in neighborhood commercial, community commercial and multi-family. In other words, we took the same language that we already use for those land use categories and simply pasted them in here so they would be consistent. I did just notice one mistake, though. That (e) should really be a (d). I'll make sure and correct that for our Commission package. The only other item which – different communities do different sizes. Under (c), it says, "New mixed use land use sites must be no less than five acres." Some places go slightly smaller than that. Some go slightly larger. We put five acres out there in the proposed language. But, of course, that's open to recommendation from this body. Currently, we don't have a mixed use future land use category. So anyone that wishes to apply for one basically has to write their own, which is what happened with Farmton and Platt Ranch. I'll be happy to answer any questions that you have.

Henry Minneboo – Ernie "sic" (should be Stuart), let me ask you a quick question, before the rest of the committee. Didn't this get preliminary DCA approval?

Stuart Buchanan – The policies that you see here for mixed use are actually the same policies that have been adopted in several places. And what we did was, we simply changed the order so it would match the way that we write land use categories in Brevard County.

Henry Minneboo – O.K., thanks. Any questions? Robert.

Robert Ludwiczak – I have a question on the meaning of density bonuses. It's somewhat ambiguous. I mean, I could put in some landscaping, very easily. I could provide some rehabilitation of dilapidated structures, and have innovative imagery guidelines to meet that, without doing a whole lot. What was the intent of putting 20.4 in?

Stuart Buchanan – Sure. And that is the – one of the checks and balances, if you will, in this language. Because there's a development agreement required, which includes what density bonus is approved - recommended by the LPA and approved by the Board of County Commission - all the specifics – it doesn't allow people just to pay a token amount, if you will, to satisfy those. Because you have to have a development agreement for this land use category, it allows staff, and it allows the advisory board and the Commission, to review exactly whether or not – what they want to grant for that density bonus. It doesn't let someone make a token gesture.

Robert Ludwiczak – You mentioned – and I was going to bring it up – but you verified that Farmington “sic” and Platt have incorporated a majority of what we're talking about here in the plans, already, have they not?

Stuart Buchanan – Yes, sir. They wrote their own mixed use land use categories, because we simply didn't have one for them to apply for.

Robert Ludwiczak – Then would 20.4 be retrospective or prospective for them, in terms of any changes?

Stuart Buchanan – Theirs are already set in stone, as it were. They are already in the Comprehensive Plan. They've already been found in compliance. And they already are their own objectives. So this would not apply to either of those.

Robert Ludwiczak – Thank you.

Henry Minneboo – Anybody else?

Laura Ward – Yep. I think it's a good idea that you've got a mixed use land use. But I don't think – I agree with Robert. The density bonus conditions are really meaningless, and they don't really impose anything on someone to get a density bonus. It's too easy to get a density bonus. And if – the other thing about this is that it doesn't seem to really require a mix of uses, to me. I know you've got something in here about you get a density bonus if you do three of the following things. But where does it say – maybe I've missed it – that to be considered a mixed use development, you've got to actually have a mix of uses? That means some medium density, some high density, some commercial, and some something else.

Stuart Buchanan – Sure.

Laura Ward – Because I see single-use development here.

Stuart Buchanan – And where you could narrow that, if you wanted to include that in your recommendation, would be under Policy 20.2, the very last sentence, where it says, “This category allows the following types of activities, singularly, or in combination...” And some places have done this. Right after the word “combination”, they'll say, “A minimum of three must be included.” They will put a number on it, two, three, four. But they'll make it so – they'll add more specificity. And if you'd like to do that, that would be the place to do it.

Laura Ward – You're saying in order to be considered a mixed use development, they would have to have – you're looking at 20.2 and where it lists out the different uses.

Stuart Buchanan – Yes, ma'am. So the very last sentence, right before the list – and you're correct. You do see this, sometimes. It'll say, “This category also allows the following types of activity, singularly and in combination,” and then a city or a county will put, “A minimum of “X” must be included.

Laura Ward – You need to strike the word “singularly”; otherwise, it's a single-use development. Right?

Stuart Buchanan – Correct. If you chose to make - if you chose to add that language.

Laura Ward – I mean, why have a mixed use land use if it's not a mix of uses?

Stuart Buchanan – I understand.

Laura Ward – So we should strike "singularly" out of the language, totally, and we should require that there be a combination of uses; otherwise, I don't get why we have it.

Stuart Buchanan – Sure. And if you choose to do that, you would want to indicate a number on that combination; two, three four. Three is typical.

Laura Ward – Well, you need to have both high and low density, because – I don't know. Can you tell me of a mixed-use development that would just be nothing but 15 units to an acre? To me, that's just a big project.

Stuart Buchanan – Certainly. A good example of a mixed use development which has a high density, but yet more than three land uses - an example of that would be if you were to build a Cocoa Village today, where you have multi-family with retail and office.

Laura Ward – Well, that's my point, that the way it's written here, I don't see combination of densities listed as one of the combinations.

Stuart Buchanan – In the example I just gave you, there was no combination of density. For example, you don't see any single-family in Cocoa Village. So you don't necessarily have to have a range of densities to be mixed use. You could have multi-family, along with office...

Laura Ward – Yeah, I understand.

Stuart Buchanan - ...and retail.

Laura Ward – O.K. So what would we do here, add a combination number?

Stuart Buchanan – Yes. Three is very common. In other words, a combination of no less than three of the following.

Laura Ward – Yeah, but what's bothering me is somebody might want to do a development that's high-, low-, medium-density residential. Is that a mixed use?

Laurilee Thompson – I think that the combination of three needs to be in addition to the combination of – or the mix of density. I don't think the density should count as one of the three requirements. It should be the mix of density, or some type of density, for residential, plus three from this list.

Laura Ward – Well, would you want them to be able to do a mixed-use development that included low-density – all residential? But then that's just a single use.

Laurilee Thompson – It's all residential, yeah.

Robert Ludwiczak – Could I just ask a question for edification, again, too? We talked about density bonuses. And then back in 20.2, you talk about performance standard bonuses. What's performance standard bonus?

Stuart Buchanan – Sure. Are you looking at...

Robert Ludwiczak – 20.2.

Laurilee Thompson – 20.2.

Laura Ward – What's the difference?

Stuart Buchanan – Give me just one moment to catch up with you.

Robert Ludwiczak – About the third line down, fourth line down.

Morris Richardson – I think they're the same. I think that reference in 20.2 is a reference to 20.4.

Stuart Buchanan – It is.

Morris Richardson – And 20.4 gives more specificity regarding that.

Stuart Buchanan – That's correct.

Robert Ludwiczak – So, in 20.4, it should be prefaced with "Performance density bonuses to coincide with 20.2"?

Laurilee Thompson – Yeah, you ought to have the same language.

Laura Ward – Yeah, just the same language.

Stuart Buchanan – Correct. One is referring to the other.

Laura Ward – There's another couple of things. So I would hope the board would suggest changing the language of 20.2, take out the word "singularly", and add some number of combination that this has to have to make it a true mixed-use development. That's number one. Number two, change the language there so the reference is the same, as Robert pointed out. You don't need to call it "performance bonus" in one place and "density bonus" somewhere else.

Robert Ludwiczak – Laura, could I just maybe interrupt one second? If you're gonna do that for consistency, if you get down to the number, rather than just throwing a number out there, they have three in 20.4. Why not use that in 20.2?

Laura Ward – That's fine with me, as long as it's not single-use. And then the last thing is what Robert brought up, again, the density bonuses. To me, this density bonus isn't requiring them to do anything to get additional density. So what could be done to make it meaningful?

Stuart Buchanan – And that's where Policy 20.3 comes in. It doesn't allow someone simply to say, "I've met these requirements." It makes them enter into a development agreement which, of course, includes all associated items of that, you now, conceptual site plan, and says, "Here's what I'm gonna do." It doesn't allow somebody just to give a token gesture. And that's why the development agreement is there. It acts as a control feature for those bonuses.

Laura Ward – Well, then you don't need all the listing out of things they can do, as Robert pointed out. It just opens it for argument. Innovative imagery and architectural guidelines, that can be anything. Creation and

retention of business employment can be anything. So I don't know. I don't know about that. Somebody else needs to suggest a change.

Laurilee Thompson – Do they get two opportunities for a density bonus? So if they do three uses, plus their residential, under 20.2, can they then go to 20.4 and say, “Well, I get even more density bonus, because I did three things off of this list,” too?

Morris Richardson – The way it reads, it can only go up to 15. And I think what it contemplates – I didn't write this language – but what it contemplates, to me, reading it from a lawyer's eyes, is that it contemplates if you meet a minimum of three of those conditions, and the Board accepts that you've met them in good faith, they're not mere tokens, they enter into a development agreement with you, and they can take you up from the base ten units, all the way up to, and including, 15. They could go somewhere in between. But what it doesn't contemplate is, “We're gonna go from 10 to 15, and now we're gonna go from 15 to 30.” That's simply not provided.

Robert Ludwiczak – Are you suggesting that they could do any combination of 20.2 and 20.4, where you could take one from 20.2 and two from 20.4, and (unintelligible) your density?

Morris Richardson – That's the – it's both referencing the same bonus. 20.2 basically is setting forth, saying ten units per acre is the base. These are the different uses you can have. But you can get density bonuses that could take you up to 15 units. And go to 20.4 to see what some of the things you would have to do to get those bonuses is. And then you would go to – it's not stacking bonus upon bonus. There's one bonus. 20.4 is saying what you have to do, the types of things you would have to do conceptually, to achieve the bonus.

Stuart Buchanan – Right. And another important point is, you'll notice where it says, under 20.2, it says up to 15 units. And what that means is, when you go in for the development agreement, attached to the land use change, the Commission, or this body, may say, “We're not impressed with what you said you're gonna do. We'll give you a density bonus of two units, or three units, or four.” It's not an automatic 15. And that's the reason you'll see language for those policies written like that today. In the past, if you look at older policies that were written several years ago, they would simply say, “...with a density bonus taking it to 15 units.” We don't do that anymore. We always put “up to”. So, that way, you can be judgmental when you look at each of their plans individually and judge it on its own merits.

Laura Ward – I still don't understand. To get the density bonus, are we – 20.2, how does that figure in the density bonus, if we say a mixed use development has to have three of these things? That's just what they have to have.

Stuart Buchanan – That's simply to be a mixed use, at all.

Laura Ward – That's right. But you've got to relate it somehow to density bonuses.

Morris Richardson – That's new. First of all, I think the confusion is because we're now inserting this minimum of three different uses that didn't appear in it, as written. But it also appears over in 20.4 as a condition that can get you a bonus. Obviously, if you go to a minimum of three uses, then the language regarding a potential bonus for three land uses should be stricken, because that's going to be a minimum requirement. It's no longer something to strive for. It's the ground floor now.

Laura Ward – So we strike that out of 20.4?

Morris Richardson – And I think that's the confusion. Naturally, that would have to happen.

Stuart Buchanan – So under 20.2, to be considered mixed use, no density bonus.

Laura Ward – Right.

Stuart Buchanan – Just to come in as mixed use, you have to have three of those land uses. To apply for the density bonus, you have to have three of those conditions...

Laura Ward – O.K.

Stuart Buchanan - ...included in your development agreement. Believe it or not, it's simpler than it sounds.

Robert Ludwiczak – Could we have the language for what we just discussed, for approval for this?

Henry Minneboo – Stuart, did you hear the question? Did you make the changes that we had suggested?

Stuart Buchanan – These are the changes that I made, sir.

Henry Minneboo – O.K. Great.

Stuart Buchanan – The first one is to strike “singularly” under 20.2.

Henry Minneboo – That's good.

Stuart Buchanan – And add, “a combination of a minimum of three uses.” And then, at the top of...

Henry Minneboo – Up to a combination of three.

Stuart Buchanan – Yes. Sorry. And then, under 20.4, just simply change the title of that section to say, “Performance Standard Bonuses”, so it'll be consistent with the first section. And then you're gonna require three land uses, so we can strike the three land use reference in that 20.4. And then, finally, that (e) should really be a (d), at the very last policy.

Morris Richardson – And may I add – I can't recall, at this point, whether we have a motion, or whether we're gonna get one – but if I could add in, just to make less cleanup down the road - in 20.2, sub (g), there's a small typo. There's a capital I, where there should be a lower case, I believe. Then in 20.3, the language is a little awkward for me, anyway, at the end. It says, “Execution of a development agreement with the County specifying the allocation of uses will be required whenever a project involves a combination of such uses in Policy 20.2” I think it might read a little better if it's something along the lines of “...involves a combination of the uses set forth in Policy 20.2.” You had suggested – and, Stuart, did you cover changing the language to add performance standards so that the density bonus language is in line with – and then the other one I noticed is in 20.5 (b). It talks about the linear nature, and lack of intersections, along S.R. A1A. And then it says mixed-use land uses may be considered along those roadways. But it only identifies one. So I was confused about the plural backing a relation to one identified roadway. So maybe that roadway...

Stuart Buchanan – And the funny thing is, that's actually the existing policy that we have in the Land Use Element somewhere else.

Henry Minneboo – Do we want to make a motion on that?

Laura Ward – Wait just one second.

Laurilee Thompson – I don't think you should have performance standard bonuses mentioned, at all, in 20.2, because what you're doing in 20.2 is you're establishing what you need to have to be considered a mixed use. And I think it's confusing talking about performance standard bonuses in 20.2 and 20.4. So I think the language on 20.2 should just be, "Mixed use development would encourage a mix of medium high density residential development with on-site office and supporting retail uses. The base medium residential density would be ten units per acre," period. "To be considered mixed use, a minimum of three – choose from the following list – is required." And take the whole density bonus language out of 20.2. Then you go to 20.4. Now, you're talking about performance standard bonuses. And then you've already established what they need to have to be considered mixed use. Then you just go to 20.4 to find out what you got to have to be considered for a bonus. I think that's a lot simpler.

Laura Ward – Yes.

Henry Minneboo – Morris, did you grasp that?

Stuart Buchanan – Yes.

Morris Richardson – Yeah, I think we've got it. Personally, I didn't find the language, as written, confusing when I reviewed it earlier. But hearing how everyone else is interpreting it, it clearly has caused confusion. So I guess it makes some sense to – and I think that works - as Laurilee suggested, just move the reference from 20.2

Laura Ward – I'll make the motion. There's one other thing I'd like to ask about, and that's the last thing, 20.5. When they did that neighborhood, or small scale, or whatever they did down there on the beaches, I thought they made the south beaches residential, only.

Stuart Buchanan – This language is actually in our existing Future Land Use Element, and was derived from exactly what you're referring to. And what they did was they – this is currently under our community commercial section. And so, just like you said, they tried to make it so that commercial uses in that area could only be put in very limited places.

Laura Ward – So does that continue that policy...

Stuart Buchanan – Yes.

Laura Ward - ...not in conflict with what they did down there?

Stuart Buchanan – Exactly. What we wanted to do was to take the same safeguard that they put in place for community commercial and apply it for mixed use.

Laura Ward – O.K. Well, I'll make the motion to recommend approval, with the changes that we just went over.

Robert Ludwiczak – You're talking about Laurilee's changes?

Laura Ward – Laurilee's change, in particular, 'cause I agree. And that's what I've been trying to say from the beginning.

Robert Ludwiczak – I'll second that.

Henry Minneboo called the question, and the board recommended approval of the item, as stated above. The vote was unanimous.

Stuart Buchanan – That was the spring transmittal package in its entirety. Thank you all. It will be going in front of the Board of County Commissioners on May 10<sup>th</sup>.

2. An ordinance amending Chapter 62, "Land Development Regulations", Code of Ordinances of Brevard County, Florida to remove the land alteration maximum acreage limitation for land alteration, and authorize Board discretion to increase setback requirements and limit operational allowances when deemed appropriate.

George Ritchie – Mr. Chairman, I've got Item Number 2. It's the land alteration ordinance. It's something that will be going to the Commission on May 10<sup>th</sup>, and then again on May 26<sup>th</sup>. It's doing some changes to the land alteration size maximum that's currently in the agricultural zonings. We're removing the 30-acre limit, making some text amendments to allow the boards, through the hearing process, to add additional requirements, if they so wish. And if you have any questions, I'd be happy to answer any that you may have.

Henry Minneboo – Any questions?

Laura Ward – One that's going to be postponed - which one is being postponed? Surface Water?

Henry Minneboo – The quarry. The one on rocks, or something, was postponed.

Ernie Brown - They're both land alteration. One is a comp plan amendment that we pulled, 'cause it wasn't ready for primetime. This one is changes within the Zoning Code. They have a – wouldn't dare use the word "arbitrary" – but they have a size limitation on amount of – or the size of the pit – per those, for example, 30 acres. And everything over five acres requires a CUP. And there's no reason to have a size limit of 30, 'cause if they come in for a 40-acre pit, it doesn't make any difference. The issue is buffering, buffering from incompatible uses. So you could have 26,000 acres, and have a 30-acre pit there, and they have to – they can't legally do it - and that doesn't make any sense - without changing it to industrial.

Henry Minneboo – Any other?

Ernie Brown – Right, George?

George Ritchie – Well, they would make a 30-acre application, and come back for another 10-acre application.

Ernie Brown – Right.

George Ritchie – So this is just a way that if somebody wants to make a larger submittal, they can.

Henry Minneboo – This is only in the unincorporated area, as well?

George Ritchie – That's correct.

Henry Minneboo – O.K. Anybody? Motion by Clyde (Mr. Thodey's motion was made without a microphone; therefore, it is not audible on the record), and second by Aneta (Ms. Ott's second was made without a microphone; therefore, it is not audible on the record), to approve.

Henry Minneboo called the question, and the board recommended approval of the ordinance. The vote was unanimous.

3. An ordinance of Brevard County, Florida, amending Chapter 62, Article X, Division 3, Code of Ordinances of Brevard County, Florida, relating to Surface Water Protection.

Ernie Brown – O.K., the big one. What you have before you is the culmination of several years of work. This agency has seen the comprehensive plan amendments back on 2010, that necessitated the finalization of this. There's a lot of history here. And if the board will tolerate it, I would like to walk you through, in a fair degree of detail, as to what we have done, because I think there's a lot of minutia that I think is important that you all understand as we go through this. If that's okay with you all. O.K. You have a new package in front of you, a new Attachment C, which is a matrix, and a new Attachment B, which is the ordinance itself. The reason you have a new attachment B and C is we completed the County Attorney's review, and so we've had some minor changes. The substantive issues have not changed. But I want to make sure you understand the differences. You've had the original Attachment B and the original Attachment C for several weeks now. So I want to assure you that the substantive matters to which you've had in your possession for some time have not changed. We have just had to tweak things to make sure that they were legally implementable. And we cleaned up a few issues as it relates to implementation. All right, so that being said, would you like to kind of go through it, step by step, using the matrix as our framework, and then we'll go to the actual detail? Does everybody have the new version, the new Attachment C and the new Attachment B? O.K. Do you have color, or not color?

Henry Minneboo – I got the new pretty blue.

Ernie Brown – O.K. It's all blue. And that's just – it just helps you kind of see where the changes are. Some of these changes are moving things around, so they'll seem as underlined or stricken. But there's a lot of new information. So, just in general, which is the first item on the matrix before you, this was a cleanup time. This particular ordinance had not been touched since 2004, or early 2005, but has not had a wholesale overall since its inception. So this was a pretty large cleanup effort that we had to update some references to State law to make sure that we didn't – not only that we were not inconsistent, but that when we did reference State law, it was actually accurate. So there was a lot of cleanup there relative to Florida Statue and Florida Administrative Code – language consistency, things of that nature. So we can go through those, and if you have any questions about those, we can touch on those as they show up.

Henry Minneboo – Ernie, didn't we – through a couple-year process, didn't we approve some of these elements in here?

Ernie Brown – Absolutely. We had a working group that the Board established. And, in 2008 and 2009, they worked through a lot of these issues and primarily identified areas in the comp plan that really inhibited the overarching goals of this particular ordinance. And this body did approve those in the form of comp plan. Now, this is the ordinance that implements.

Henry Minneboo – But your board basically approved this amendment...

Ernie Brown – Absolutely.

Henry Minneboo - ...in total concept.

Ernie Brown – Yes. The working group – it was a unanimous vote to approve what you have before you. The only thing I would say is, the legal modifications, and the implementation modifications, that have been made since what we originally submitted to you – and now, they have not seen that, because that's just County Attorney issues, things of that nature.

Henry Minneboo – As I recall, we had some people come up and speak. They weren't happy in how it came out. Were those – I think there were landscaping issues, or something of that magnitude.

Ernie Brown – There was some questions about the clarity terminology, specifically the shoreline protection buffer and the shoreline stabilization language, what do they mean in consistency throughout the ordinance and consistency throughout the comp plan. And, yes, those have all been resolved.

Henry Minneboo – Because that was a fairly sticky wicket, when these people...

Ernie Brown – Yes.

Henry Minneboo – There was some professional engineers that came in to speak on that, et cetera. But the majority of what I'm gonna call Amendment B has been somewhat thoroughly approved by your committee?

Ernie Brown – This was the – the Attachment B that's before you has been unanimously approved by the working group, which was a very diverse group.

Henry Minneboo – How many times did you all meet? A bunch?

Ernie Brown – A lot.

Henry Minneboo – O.K. I'm a little reluctant to modify anything that they've had in their hands for about 50 times.

Laura Ward – Are we gonna go and find out what the major changes are?

Henry Minneboo – Yeah, sure. Well, you can, if you want to go through every one.

Laura Ward – I'd like to know what major things were changed.

Ernie Brown – Sure. And I guess if I could give you kind of an overarching big picture to refresh your memory, 'cause it's really linked back to the comp plan. Prior to the comp plan change, there was a specific – there were specific provisions about what could and could not be built in the surface water protection buffer. These changes moved it away from what can and can't be built, but more focusing on getting storm water out of the process.

Laura Ward – So what can you build there now?

Ernie Brown – Anything that is – we have the insufficient lot depth criteria, which I'll go to in a second. But the primary structures have to stay behind the buffer.

Laura Ward – How big is the buffer?

Ernie Brown – It depends if it's a Class II, or Class III, or Class I – Class I is a 200-foot buffer. That's basically Lake Washington, which are drinking water supplies. Setbacks from that. Class II is a 50-foot buffer, and Class III is a 25-foot buffer. Now, there are some Class III's, such as Outstanding Florida Water or aquatic preserves, that also have a 50-foot buffer. But those setbacks are designed for a number of reasons. One is native, or natural, buffer setbacks, are water quality treatment process, if you choose to leave it in a natural state. The other thing that it does is it minimizes the impact of a primary structure from hurricane events, from large flooding events, things of that nature. It sets them back from peril.

Laura Ward – The buffers didn't change, though. They've always been...

Ernie Brown – No, ma'am. The buffers – and that was established in comp plan, retained in comp plan. So those buffers did not change, and this ordinance cannot change those. I guess, theoretically, they can make them more restrictive, but they can't loosen them up.

Laura Ward – So what can you build there now that you couldn't before?

Ernie Brown – Anything, except for a primary structure.

Laura Ward – Anything?

Ernie Brown – Yes. You have an area of 30-percent maximum impervious within the buffer that you can build essentially what you – I mean, you can't – O.K., you can't build a gas station or a hazardous waste dump. There are a few outs. But if you wanted to build a pool deck, tennis court, helicopter, I think that's allowable, as long as you're within a 30-percent. Obviously, zoning has to conform. But it now just limits it to a 30-percent impervious area, as long as we get storm water to capture the untreated runoff from that impervious area. That's the big picture. I know this is one of your favorite topics.

Laura Ward – No, I just – I mean, a buffer's a buffer. It's supposed to keep things out of the water, away from the water. It's supposed to provide some kind of habitat, I guess.

Ernie Brown – Well, the primary objective is water quality. The comp plan changes focused on the need to acquire back lot drainage treatment. In Brevard County, when you build a house, you have front lot and back lot runoff. The front lot runoff goes to the roadway. And if it's an older neighborhood that doesn't have its own storm water treatment system, it goes, and it is treated by the County facilities, if they exist. But the back lot runoff either is treated by the subdivision, but where it's directly on a waterway, it discharges straight into the lagoon or the – whatever body of water it is. So the objective here is to acquire storm water treatment. So the individual property owners take responsibility for the discharge from the impervious areas on their property. So then it doesn't become a commonwealth expense to meet those water quality mandates. So that is the overarching objective of the Surface Water Protection Ordinance, and the associated comp plan that drives it. We did back away from the issues of habitat, although there are still some elements in there relative to bulkheads, versus revetments. They are beneficial for a number of reasons. But that is on the Indian River Lagoon, no new bulkheads are allowed. That has been standing for several decades in Brevard County. So those are kind of the big picture items. That helps us move this a little bit quicker. One of the other things we did on this ordinance - and this goes to the definitions - you'll see, in your definitions, the term "buffer establishment line". Again, you saw this with the comprehensive plan process. One of the greatest challenges that we had was trying to identify exactly where the buffer is measured from. We have used one of two lines, either the safe upland line, which is a State-established elevation, or the ordinary or mean high water line. The ordinary high, or the mean, is a property boundary line. And that has been subject to a great deal of dispute at the State level, especially on the St. Johns River. And it's a very difficult line to get identified. We're less concerned about property boundaries, as we are trying to identify where the starting point is for a buffer. If it's a foot or two off, it doesn't really make a great deal of difference when it comes to establishing a buffer. Forty-eight versus 50 feet is not the end of the world. But if you're trying to link that to a property, a jurisdictional boundary between private property rights and public domain, then it can hold it up and become quite expensive for the property owner to get that line delineated. They still have the option of using that. But if they choose not to use that, we've allowed them to establish – it's a 0.9 NGVD line that says if you want to use that, you can use that and move on. It has no bearing to their actual property line. So that makes it a lot easier for property owners to move forward, and they don't have to spend an enormous amount of time and money in defining what their actual property line is. So that's on the – it's in the definition section. Moving on down, you'll see a lot of terms, "shoreline stabilization", that is throughout. We changed a lot of terminology.

We moved away from the term “hardening” and went to the term, either “bulkheads” or “shoreline stabilization”. O.K., so that’s that page. If you have a particular definition that you want me to hit, I will. If not, I’ll just hit the ones that I...

Henry Minneboo – Ernie, I’m not in definitions, but I just – I had one issue. And I was waiting for Laura to see if you had anything. But on spoil islands, your policy is to just – if they ever go back to the Intracoastal Waterway and try to improve that, and they discharge on the – are we in favor of that, or not in favor of it? Follow what I’m saying?

Ernie Brown – I don’t have that particular policy in front of us. But we do maintain a spoil island management policy, where we maintain them as they are, with the recreational, conservation, things of that nature, but...

Henry Minneboo – But do we encourage utilization of those for spoil, if we had spoil again?

Ernie Brown – No. In fact, the Feds don’t either. And water spoiling is – I haven’t seen a water spoiling permit in a decade. I mean, they’re just extremely difficult to obtain. I’m not even sure it’s...

Henry Minneboo – You would think, under the word “maintenance”, you know – let’s say if the Corps went through the Intracoastal channel there, which has been there for a long, long time, that they – you know, with the silt that is developed in there, that they would, at some point, be wanting to get rid of that, you know.

Ernie Brown – Well – and they – unfortunately, they – you know, this has been a real challenge for the Florida Inland Navigation District to acquire and permit upland sites to spoil. And that’s where they’re having to go with that, right now. But I’m not aware of anybody, at any level, either authorizing or moving forward with restoration of those spoil islands.

Henry Minneboo – O.K. That was my only question.

Laurilee Thompson – If this will help you, Pelican Island National Wildlife Refuge was eroding away, and even they couldn’t get a permit to restore the island. They ended up dropping oyster shells out of helicopters, just to try and stop, slow, the erosion down. But they – it’s really sad, because the spoil islands are a huge recreational asset for us. But they are going away. There’s not much we can do about it.

Henry Minneboo – Well, I learned something.

Ernie Brown – Ecologically, they’re also very valuable. We’ve got a number of unique rookeries on those islands, and things of that nature. So, I mean, it is. It’s not something that we’re able to maintain. But we’re losing a number of them through erosion now. So a lot of these – and I’m looking at page 3 on your – the new packet - just cleanup information. We eliminated the term “designated storm water management system”, because we never used it in the ordinance, so why have the definition. Changed the definition of “dock” to simplify it. Erosion changed. Now, the reason erosion changed is because the comp plan, and this ordinance, allows for a property owner to protect their property through accelerated or gradual erosion. Prior to this comp plan change, you had to demonstrate significant erosion. One of the examples of that was an average of one foot of loss per year, over a ten-year period, in order to protect your property. The working group found this to be upside down, I guess is the term, because if you know – if you have to wait ten years to prove there’s a problem, you’ve already lost your property, or a portion of your property, at least ten feet of your property. So we’ve changed it to allow that if you know you have erosion, whether it’s gradual or accelerated, you can take action to protect your property, whether it’s through a revetment or whatever shoreline stabilization technique is employed.

Laura Ward – Well, I mean, you still have to pull a permit...

Ernie Brown – Absolutely.

Laura Ward - ...to put in your revetment, and everything. Right?

Ernie Brown – Absolutely.

Laura Ward – So there's really no significant change there. You can repair it. Correct?

Ernie Brown – Well, it's actually a very significant change. Technically, I would have to deny you the right to protect your property, if you could not demonstrate significant erosion.

Laura Ward – O.K., but now, you don't.

Ernie Brown – Absolutely.

Laura Ward – An owner can do a revetment repair by simply having you permit it.

Ernie Brown – Correct.

Laura Ward – O.K.

Ernie Brown – So that's a big change. It's in the change of the terminology of erosion, but it also changes the application within the Code. Moving on down, we did eliminate the term "hardening", and that's been changed to a more descriptive term of either using a bulkhead or a revetment. On page 5, marina's been cleaned up a little bit. This really did not change significantly from the original. It's clarified. In your original packet – did they have the original marina language in the packet? I mean, the – we were trying to, in one of these efforts, trying to bring in the marina siting and the boating facility stuff into one document. It made the document too big, so we pulled out the marina siting issues. So we went back to this definition of marina. Questions? (no response). Also, up there, you'll see the term "living shoreline". This is something that we actually encourage. It's the use of erosion management techniques that are not necessarily hard or structural, but the use of vegetation and marsh (unintelligible), things that are more effective, and low to moderate energy, so you're not stuck with just two options of either revetment or a bulkhead. It gives you a lot more freedom within the buffer to protect your property. O.K., on page 6, there was a great need to define passive recreation, so this is their definition of passive recreation. The concern was – and this was one of the concerns that was brought up during the comp plan conversation by one of the individuals – their fear was that you wouldn't be able to play football in your back yard, if it wasn't well-defined. So that was put in there. That really only applies to the Class I, which is the 200-foot buffer around drinking water supply. O.K., on page 7, the term "shoreline stabilization" is there. This is a new term, but it's a means of alteration of the shoreline, or the surface water protection buffer, from its natural state for the purposes of minimizing erosion. And it gives you a suite of options there. Now, I'll note that this does not include a bulkhead. You basically have two options. You can do shoreline stabilization or a bulkhead. One of the questions that came up was, this should be clarified that it should exclude bulkheads. That probably would be helpful; however, in the implementation of the ordinance itself, when you talk about the implementation of shoreline stabilization, it specifically says in the ordinance, "Where a bulkhead is not allowed, shoreline stabilization may be used." So it creates that clear distinction between a bulkhead and a shoreline – and the use of shoreline stabilization techniques. But this is an important definition, because it opens up the options. You can do upland retaining walls. You can use riprap walls in the buffer itself, as opposed to having to go down to the shoreline, the water/land interface. You can do it further up which, in many cases, is a more practical solution to shoreline protection, and it allows the fringe marshes to operate naturally. So you're not forced to go right to the water's edge. You can go back up closer to the property, or the structures, that you're trying to protect. It's a more ecologically-sound approach.

O.K., on page 8. One of the changes that we made here is 3662, the penalty section, we just moved to the back of it. That's just a codification issue. Today, people tend to put the penalties, and other things, in the back of the Code, as opposed to right up front. And we did the same thing for 3665, which is appeals. That also went to the back. And then when you move into general provisions, there's a lot of underlying language. And I guess what I'll try to do is, I'll try to summarize it, and if you have any particular questions about it, we can discuss it. But, in essence, it says that you have to have a permit, unless you're specifically exempt. And there's – the exemptions are also in the back. And you have to have storm water, which...

Henry Minneboo – Does anybody have any specific questions on any of this stuff? Robert, anybody?

Ernie Brown – He's tired of listening to me.

Henry Minneboo – Well, you've done a good job, and the committee's worked on this, severely, so - I mean, I'm just...

Clyde Thodey – Yeah, we're just hashing over. And if we stay with the matrix, I don't see why we just can't move on with it.

Ernie Brown – O.K. Very good.

Clyde Thodey – Going through 25 pages that's already been done by another group, and nobody has any questions – that's what they ought to be doing.

Ernie Brown – Very good.

Henry Minneboo – Bring us to a...

Ernie Brown – A logical conclusion?

Henry Minneboo – Yes.

Ernie Brown – O.K. So, in the matrix, just so you know where we are, it's actually page 2. We're in the general provisions. So I'm just gonna see if I can find any highlights. A lot of it's just cleanup for clarity and ease of application. O.K., what I'll do then, in the general provisions, in a nutshell, there's three categories. There's river, and there's river where bulkheads are permitted, and there's river where there's no bulkheads permitted, and then there's manmade canals. On the river, in general, it's a 30-percent maximum impervious area impact. So, in that area, with a permit, you can do pretty much what you want to do. There's some exceptions. But, on the river, where the bulkhead's allowed - it expressly identifies where those are - there's no significant change from the old ordinance. But on the manmade canals, there is a change. And, basically, the change is there's no 30-percent limit. So, if you wanted to pave your entire back yard on a manmade canal, you can do so. The catch is you have to provide storm water for all of that back lot impervious. So it's a balancing act, from an engineering perspective. If you want to pave it all, you've got to figure out how to bring the storm water to the equation. So you have to balance that. But there is no limit because of size restrictions there. That's the big distinction with manmade lots. O.K. And I know this is tedious. I just want to make sure that you all are hitting all the highlights so that when you make a decision, you've made it either because you're sick of me talking, or that you're fully informed, whichever the case may be.

Henry Minneboo – I'm gonna say fully informed.

Ernie Brown – I appreciate that. O.K....

Laura Ward – So, Ernie, in general, the big change here is you can use the buffer. Is that the big change?

Ernie Brown – Yes.

Laura Ward – And using the buffer, which was only 50 feet, or 25 feet, to begin with, you've got a – what is the control over using the buffer? I don't understand that yet, other than you can't put your primary structure in it. But you can put your garage in it. You can put your storage unit in it. You can – what keeps you from – then what – why are we having a buffer, then?

Ernie Brown – Buffers are – obviously, they set back for a certain reason – but in that buffer, we required storm water to provide the water quality buffering mechanism to the lagoon.

Laura Ward – On the site, not inclusive of the buffer.

Ernie Brown – Correct. Well, it has to be between the impervious area – it has to be able to capture the runoff.

Laura Ward – So, like before, you had to have just a clean buffer, for the most part. Now, you can have anything and everything built in it.

Ernie Brown – Up to 30 percent.

Laura Ward – But now you've got a big retention pond in your back yard?

Ernie Brown – Not necessarily. Usually, if you have a maximum of 30 percent, you don't need a retention pond, per se. Actually, I've never seen a retention pond for this kind of work. You'll have the use of swales, under drains, French drains, redirection. We have a provision here which encourages the low-impact development strategies such as rain gardens, things of that nature, which a lot of people are using. But, yes, it does require storm water. And that's the take home for this, is that it prevents the commonwealth from having to mitigate, financially, the discharge from a private property that is currently unmitigated. So when they come in for a revetment, when they come in for anything that meets the criteria, the deal is they have to put storm water in to treat that direct discharge.

Laura Ward – And what protects the lagoon from just plain old impact of development?

Ernie Brown – Well, 30 percent is a fairly controlled percentage of an individual's property that they can develop on. So – and you have to remember that there was – there were provisions in here – and 30 percent is not an unfamiliar number in this. There was a 30 percent for one area. We just made it unilateral across the board. And they just identified what you could build in there, like a deck, but didn't have necessarily a size. Pools, not to exceed 720 square feet. Well, 720 square feet is a – why 720?

Laura Ward – O.K. All right.

Ernie Brown – Yeah. So this allows the individual to – the property owner to build what they want to build, carry the individual responsibility associated with the impacts of that impervious, and still keeps it fairly limited, so you're not basically removing all of the native interface that's associated with it. O.K., if I could go just real quickly to the exemptions, and then we'll just see if there's any questions that you all have. We added a number of exemptions, three, to be exact, as long as storm water is provided, and it is self-policing. On page 26 of your new document, "Construction of up to 250 square feet of impervious surfaces, including but not limited to decks, paver stones, walkways, except for properties on existing residential canals which don't have a 30-percent buffer limitation..." What this is, is basically a five-foot wide walkway from the top of your buffer down to your waterfront, if you have a 50-foot buffer. That's what that is. You provide storm water for it.

You don't have to come in for a permit. You can just provide reasonable access to your waterfront. Elevated walkways, not to exceed five feet in width. Now, this does require it to be elevated. It cannot be a pervious structure – or impervious structure. That is exempt. You don't need a permit from us. You may need a permit from the Building Department, if it's over 30 inches in height. That's just a process you have to go through. But we're not gonna require a surface water protection permit for that. And the third one is the removal of non-native invasive species, as long as you're consistent with the wetland codes, things of that nature. So those are significant, which is where we spent – a lot of these people spending a lot of money to meet the Code for small impact, such as an elevated walkway or a small, you know, five-foot wide path down to their waterfront. So that'll eliminate a lot of the frustration that we've seen out there. So that's it.

Henry Minneboo – Great, Ernie.

Ernie Brown – And I know I talked a lot, but if you have any questions, we can go pinpoint them.

Clyde Thodey – Motion to approve.

Aneta Ott – Second.

Henry Minneboo – Motion by Clyde, and second by Robert (Mr. Ludwiczak's motion was made without a microphone; therefore, it is not audible on the record).

Henry Minneboo called the question, and the board recommended approval of the item. The vote was unanimous.

Henry Minneboo – That passed, unanimously. Good job.

Ernie Brown – You just didn't want to hear me talk anymore.

Henry Minneboo – No, you did a good job.

Ernie Brown – Clyde says yes.

Henry Minneboo – I think we all figured out that it's been through 30 board meetings. I think they're pretty knowledgeable.

Ernie Brown – It's very well vetted, and I think you guys for tolerating it and talking the time to be informed.

The meeting was adjourned at 4:47 p.m.