

F. Consent Agenda - Planning and Development
ITEM 12.



AGENDA REPORT
July 9, 2019

Board Policy Review, Re: BCC-51, Zoning Actions and Findings of Fact

SUBJECT:

Board Policy Review, Re: BCC-51, Zoning Actions and Findings of Fact.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners continue Board Policy BCC-51, Zoning Actions and Findings of Fact.

SUMMARY EXPLANATION and BACKGROUND:

Pursuant to BCC-31 (Sunset Review of Programs, Services, Ordinances, Policies, and Administrative Orders), staff has reviewed BCC-51 and requests that the Board continue the policy to July 9, 2022. BCC-31 requires the review of Board Policies every three (3) years to determine if a policy is relevant.

BCC-51 is relevant in that it standardizes the procedure for the development and approval of findings of fact after a zoning action by the Board of County Commissioners.

As part of the intended zoning action, the Board may direct the County Attorney to prepare a resolution setting forth proposed findings of fact, conclusions of law, and the action taken. The proposed resolution and findings of fact shall be scheduled for a subsequent regular meeting of the Board of County Commissioners as a consent item. The Board may remove the resolution and findings of fact from the consent agenda for discussion, but the discussion shall not constitute a re-opening of the public hearing, nor shall the Board hear any new evidence from the public. In the event the Board wishes to re-open the public hearing, the item shall be re-advertised.

No changes to the policy were identified during the review of BCC-51.

CLERK TO THE BOARD INSTRUCTIONS:

Please forward signed original BCC-52 to the County Manager's Office.

ATTACHMENTS:

Description

- ▣ **Sunset Review Form**
- ▣ **BCC-51 Strike Through copy**
- ▣ **BCC-51 Clean Copy**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 10, 2019

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item F.12., Board Policy BCC-51 for Zoning Actions and Findings of Fact

The Board of County Commissioners, in regular session on July 9, 2019, approved the Board Policy BCC-51, Zoning Actions and Findings of Fact. Enclosed is the original Policy.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: Planning and Development Director



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-51
Cancels: July 12, 2016
Approved: July 9, 2019
Originator: Planning &
Development/County
Attorney
Review: July 9, 2022

TITLE: Zoning Actions and Findings of Fact

I. Objective

To establish a standardized procedure for the development and approval of findings of fact after a zoning action by the Board of County Commissioners.

II. Definitions and References

Zoning Action – Any rezoning, conditional use permit, binding development plan, or other quasi-judicial action by the Board of County Commissioners in public hearing.

Findings of Fact – The factual conclusions reached by the Board of County Commissioners based upon substantial competent evidence contained in the record upon which the decision of the Board of County Commissioners is based.

Denial of Zoning Action – The denial of a zoning action occurs when a majority of the County Commission votes to deny a zoning application. A denial of a zoning application is presumed to have occurred when the County Commission, by a majority vote, approves a zoning classification other than the one requested by the applicant.

Public – Anyone with an interest in a rezoning request, including the property owner, applicant, representatives of the owner or applicant, neighbors, or business competitors of the owner or applicant, consultants for any such party, representatives of special interest groups, or any other person or group that expresses a projected positive or negative impact from the approval or denial of the requested zoning action. This does not include members of the Board of County Commissioners, its staff, or its advisors.

III. Directives

- A. Where the Board of County Commissioners has stated its intended zoning action, the public hearing shall be closed. As part of the intended zoning action, the Board may direct the County Attorney to develop a resolution setting forth proposed findings of fact, conclusions of law, and the action taken.
- B. The County Attorney shall schedule the proposed resolution and findings of fact for approval as a consent agenda item at a subsequent regular meeting of the Board of County Commissioners.

- C. If the Board of County Commissioners removes the resolution and findings of fact from the consent agenda for discussion at a regular meeting, the discussion shall not constitute a reopening of the public hearing, nor shall the Board hear any new evidence from the public. However, nothing in this section shall be construed to prevent the County Commission from continuing a public hearing to a time-certain and re-opening of the public hearing at that time.
- D. In the event the Board of County Commissioners wishes to re-open the public hearing portion of the hearing the item shall be re-advertised.

IV. Effective Date

This procedure shall take effect upon approval by the Board and may be updated by staff, as necessary.

ATTEST:



Scott Ellis, Clerk



Kristine Isnardi, Chair
Board of County Commissioners
Brevard County, Florida
As approved by the Board on July 9, 2019

SUNSET REVIEW

Policy or Administrative Order Number:

Policy or Administrative Order Name:

Pursuant to Board Policy BCC-31, the review process for programs, services, and existing ordinances shall be performed at three levels:

1. Department (Please review with recommendations to the County Manager and/or advisory board(s).

2. Citizen Group (Recommendation to be submitted to the Board of County Commissioners)

3. County Commission: To receive results of Department and Citizen Group reviews.

Review to include, but not limited to, the following:

1. What is the need being met and who benefits: (Quantify)

2. Is this Policy or Administrative Order duplicative? If yes, please explain.	Yes	No
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3. Can another agency perform this function? If yes, please explain.	Yes	No
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4. County funding:	Yes	No
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5. Should this Policy or Administrative Order be:

Eliminated

Modified

Continued

6. Is there an acceptable alternative?
If yes, please explain.

Yes

No

The date(s) the citizen group or advisory board will review:

The date the Board of County Commissioners will review results:

Tad Calkins, Director, Planning and Development

Date