



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.9.

9/1/2022

Subject:

A Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.

Summary Explanation and Background:

Following the February 3, 2022 adoption of Comprehensive Plan Amendments associated with the 2017 Evaluation and Appraisal Report (EAR), the Department of Economic Opportunity (DEO) notified Brevard County that it was necessary to include a map or map series of the Coastal High Hazard Area (CHHA) in the Comprehensive Plan pursuant to F.S. 163.3178.

While DEO found Brevard's EAR-based amendments in compliance (Docket No. 17-03ER-NOI-05-01-(A)-I), dated 3/31/2022), the County was advised to adopt the most current CHHA map back into the Comprehensive Plan during the next large-scale or text comprehensive plan amendment cycle.

Staff has prepared a series of three (3) maps depicting the Coastal High Hazard Areas in the north, central and south portions of the County and is proposing the adoption of these maps into the Coastal Management Element of the Comprehensive Plan. The maps were created using the most current data provided by East Central Florida Regional Planning Council Regional Evacuation Study Program - Storm Tide Atlas.

Additionally, staff is proposing to correct a scrivener's error identified in the Glossary discovered following the adoption of EAR-based Comprehensive Plan Amendments. The correction will change "and" to "or" in a list of conditions under the definition of "Should".

On August 15, 2022, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once Ordinance is filed with the State, please return an executed copy to Planning and Development.



September 2, 2022

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item H.9., A Text Amendment to the Comprehensive Plan Adding the Coastal High Hazard Area Map to the Coastal Management Element X, and Correcting Scrivener's Error in the Glossary Element XVI

The Board of County Commissioners, in regular session on September 1, 2022, conducted the public hearing, amending Section 62-501, entitled Contents of the Plan; specifically amending 62-501, Part X, entitled Coastal Management Element, and Part XVI, entitled the Glossary; providing for internal consistency with these amendments; providing legal status; providing a severability clause; providing an effective date; and authorized the Chair to execute the transmittal letter. Enclosed is the fully-executed Letter.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, appearing to read "Kimberly Powell", is written over the typed name.

Kimberly Powell, Clerk to the Board

/ds

Encl. (1)



BOARD OF COUNTY COMMISSIONERS

Planning & Development Department
2725 Judge Fran Jamieson Way
Suite A-114
Viera, FL 32940

September 1, 2022

Mr. Ray Eubanks
Plan Processing Administrator Division of Community Planning
Florida Department of Economic Opportunity
107 East Madison Street, MSC-160
Tallahassee, FL 32399-4120

Re: 2022-2 Fall Cycle Large Scale Comprehensive Plan Amendment Transmittal Package

Dear Mr. Eubanks,

Enclosed please find the Transmittal package for the 2022-2 Fall Cycle Large Scale Comprehensive Plan Amendment. Per Section 163.3184, Florida Statutes, Brevard County is transmitting a Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI as Comprehensive Plan Amendment 2022-2.1, more fully described in the attached staff comments for 22LS00001.

The Local Planning Agency held a public hearing regarding the Transmittal of the 2022-2.1 Comprehensive Plan Amendment on August 15, 2022. The Brevard County Board of County Commissioners approved the Transmittal of the 2022-2.1 Comprehensive Plan Amendment package during a public hearing on September 1, 2022.

Copies of the proposed amendment Transmittal package have been sent to the St. Johns River Water Management District, the East Central Florida Regional Planning Council, the Florida Department of Environmental Protection, the Florida Department of Transportation (District 5), the Florida Department of State, the Florida Game and Freshwater Fish Commission, the Florida Department of Education, the Florida Department of Agriculture and Consumer Services, and the Patrick Space Force Base Military Installation.

The plan amendment's "content and effect" is included in this mailing. Brevard County is submitting the proposed LSCPA under the expedited state review process.

The proposed amendment package is anticipated to be adopted by Brevard County by December 1, 2022.

The proposed amendment package is not within an area of critical state concern.

The proposed amendment package is not within the Wekiva River Protection Area.

The proposed amendments are not being adopted under a joint planning agreement pursuant to Section 163.3171, Florida Statutes.

The contact person for the 2022-2 Plan Amendment package is:

Jane Hart, Planner III
Jane.Hart@brevardfl.gov
Planning and Development Department
2725 Judge Fran Jamieson Way, Building A Viera, FL 32940
PHONE (321) 350-8270 - FAX (321) 633-2087

A local newspaper of general circulation is:

Florida Today 1 Gannett Plaza
Melbourne, FL 32940
(321) 259-5555

In accordance with Florida Statutes, one electronic copy of the proposed amendment package including all proposed text, maps, and support documents are sent to your office via this transmittal. If you have any questions regarding the enclosed materials, please contact Jane Hart at the above address.

Sincerely,



Kristine Zonka, Chair
Brevard County Board of County Commissioners

Enclosures

cc:

Brevard County Board of County Commissioners (w/out encl.)
Frank Abbate, County Manager (w/out encl.)
Brevard County Attorney (w/out encl.)
Tad Calkins, Director, Planning and Development Department (w/out encl.)
East Central Florida Regional Planning Council
St. Johns River Water Management District
FDOT District Five
Florida Department of Environmental Protection
Florida Division of Historic Resources
Florida Fish and Wildlife Conservation Commission
Florida Division of Agriculture and Consumer Services
Florida Department of Education
Patrick Space Force Base Military Installation

**PROPOSED COMPREHENSIVE PLAN AMENDMENT 2022-2.1
COASTAL MANAGEMENT ELEMENT AND GLOSSARY - TEXT AMENDMENT**

Request: A text amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X and correcting a scrivener's error in the Glossary Element XVI

Owner / Applicant: Planning & Development Department

Location: County-wide

Acreage: N/A

Existing Land Use Designation: N/A

Proposed Land Use Designation: N/A

PROPOSED TEXT AMENDMENT

Background:

Following the February 3, 2022 adoption of Comprehensive Plan Amendments associated with the 2017 Evaluation and Appraisal Report (EAR), the Department of Economic Opportunity (DEO) notified Brevard County that it was necessary to include a map or map series of the Coastal High Hazard Area (CHHA) in the Comprehensive Plan pursuant to F.S. 163.3178.

CHHA is defined in Florida Statute 163.3178(2)(h) as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

The Coastal Management Element previously included a map of the CHHA based on a 2009 SLOSH computerized storm surge model. Because the CHHA was deemed subject to change, the map was removed during the preparation of recent EAR-based amendments.

While DEO found Brevard's EAR-based amendments in compliance (Docket No. 17-03ER-NOI-05-01-(A)-I), dated 3/31/2022), the County was advised to adopt the most current CHHA map back into the Comprehensive Plan during the next large-scale or text comprehensive plan amendment cycle.

Staff has prepared a series of three (3) maps depicting the Coastal High Hazard Areas in the north, central and south portions of the County and is proposing the adoption of these maps into the Coastal Management Element of the Comprehensive Plan. The maps were created using the most current data provided by East Central Florida Regional Planning Council Regional Evacuation Study Program - Storm Tide Atlas.

Additionally, staff is proposing to correct a scrivener's error identified in the Glossary discovered following the adoption of EAR-based Comprehensive Plan Amendments. The correction will change "and" to "or" in a list of conditions under the definition of "Should".

Description:

The proposed amendments will add the Coastal High Hazard Area maps (as a series of three (3) maps) to the Coastal Management Element Appendix and correct a scrivener's error in the Glossary of the Comprehensive Plan.

- **Coastal Management Element X:**
 - **Policy 6.1:** Adding a reference to Maps 3a, 3b, and 3c
 - **Appendix A:** Adding Maps 3a, 3b, and 3c to List of Maps and Appendix
- **Glossary Element XVI:**
 - **Should:** Striking "and" in list of conditions and adding "or" to correct scrivener's error

Proposed Text Amendments:

The proposed amendments would be adopted as Coastal Management Element X and Glossary XVI. Additions to the Comprehensive Plan will be shown as underlined and deletions are shown as ~~strike through~~.

- E. Of lowest priority are those uses which are non-water-dependent, non-water enhanced and which result in an irretrievable commitment of coastal resources.

Policy 5.16

Brevard County should encourage the construction of marine sanitation device (MSD) pumpout facilities.

Policy 5.17

Brevard County shall utilize available management plans in developing standards for marina siting and other water-dependent uses. These management plans include, but are not limited to, Aquatic Preserve Management Plans, the Surface Water Improvement Management (SWIM) Plan and the IRLCCMP.

Coastal High Hazard Areas

Objective 6

Limit future public expenditures for infrastructure and service facilities which subsidize growth within the coastal high hazard areas of Brevard County. Expenditures for public land acquisition or enhancement of natural resources shall be encouraged.

Policy 6.1

Brevard County shall designate coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model, as defined in Chapter 163, Florida Statute (see Maps 3a, 3b, and 3c).

Policy 6.2

Brevard County shall not support or finance new local transportation corridors which lie within the coastal high hazard area or areas zoned as Environmental Area, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the densities programmed on the Future Land Use Map (FLUM) series of the Comprehensive Plan.

Policy 6.3

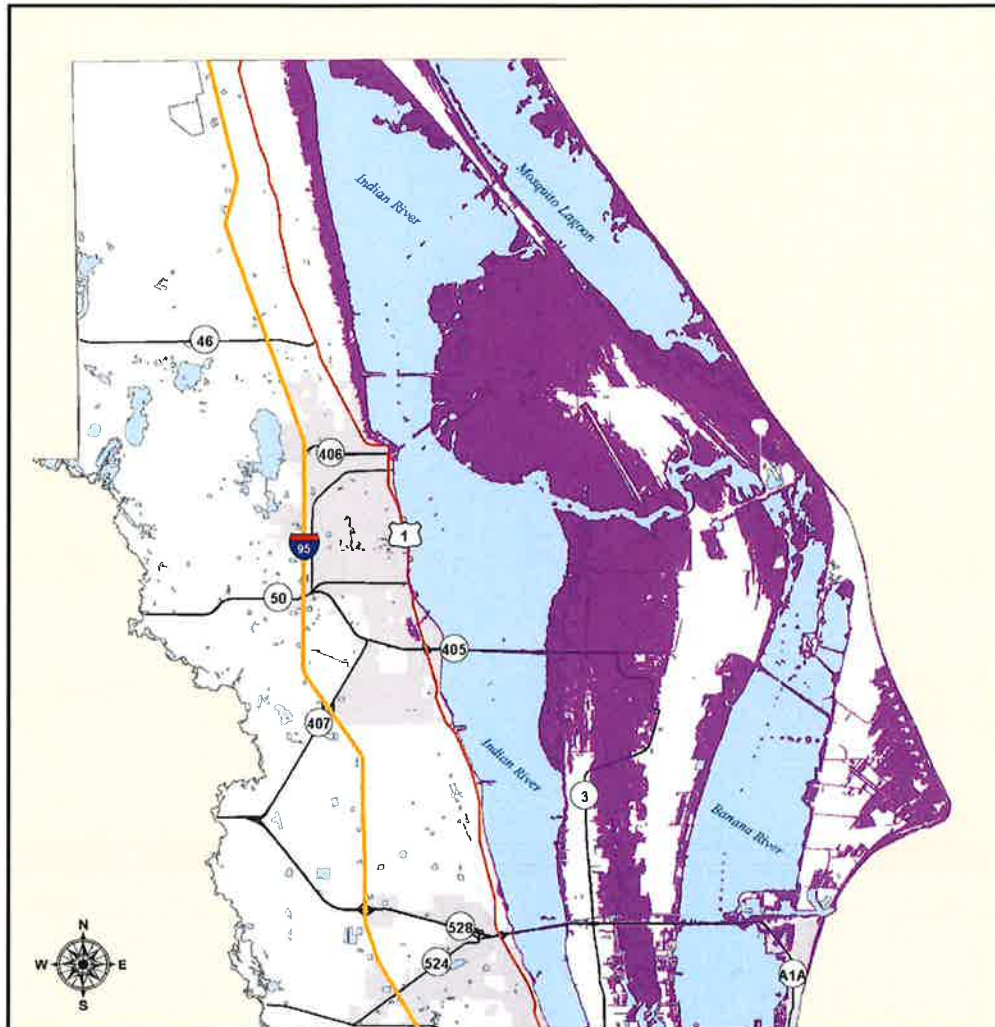
Brevard County should not locate sewer and water transmission lines within the coastal high hazard area, except where there is no practical and cost-feasible alternative due to engineering, safety and cost considerations, lack of alternative existing rights-of-way, or for septic to sewer conversion projects selected specifically to improve ground and surface water quality.

APPENDIX A

LIST OF MAPS

Map	Title
1	Marine Facilities
2	Evacuation Routes
3a, 3b, 3c	Coastal High Hazard Areas

Brevard Coastal High Hazard Area Map



Category 1

 Coastal High Hazard Area

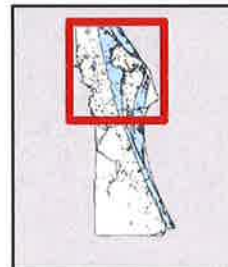
Source: East Central Florida Regional Planning Council
Regional Evacuation Study Program - Storm Tide Atlas



Map generated by best available data on 4/29/2022. Map subject to change, please contact Brevard County for map confirmation.

Disclaimer: This map displays general County information and was created from best data available. It is not suitable for site-specific uses. The Brevard County Board of Commissioners expressly disclaims all responsibility for errors or omissions thereof.

North Brevard CHHA Region Display



Map 3a

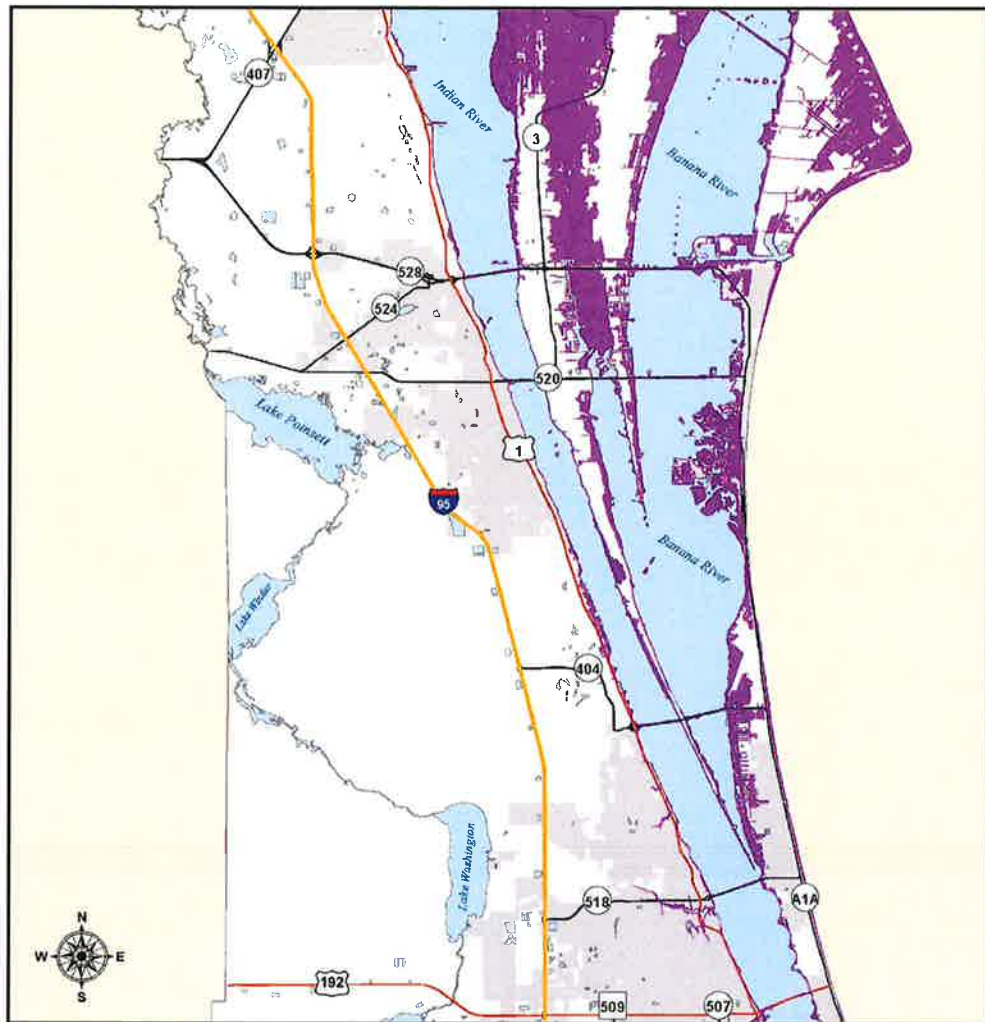
Coastal High Hazard Area (north Brevard region)

COASTAL MANAGEMENT ELEMENT

December 2022

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Brevard Coastal High Hazard Area Map



Category 1

 Coastal High Hazard Area

Source: East Central Florida Regional Planning Council
Regional Evacuation Study Program - Storm Tide Atlas



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Central Brevard CHHA Region Display



Map generated by best available data on 4/29/2022. Map subject to change, please contact Brevard County for map confirmation.

Map 3b

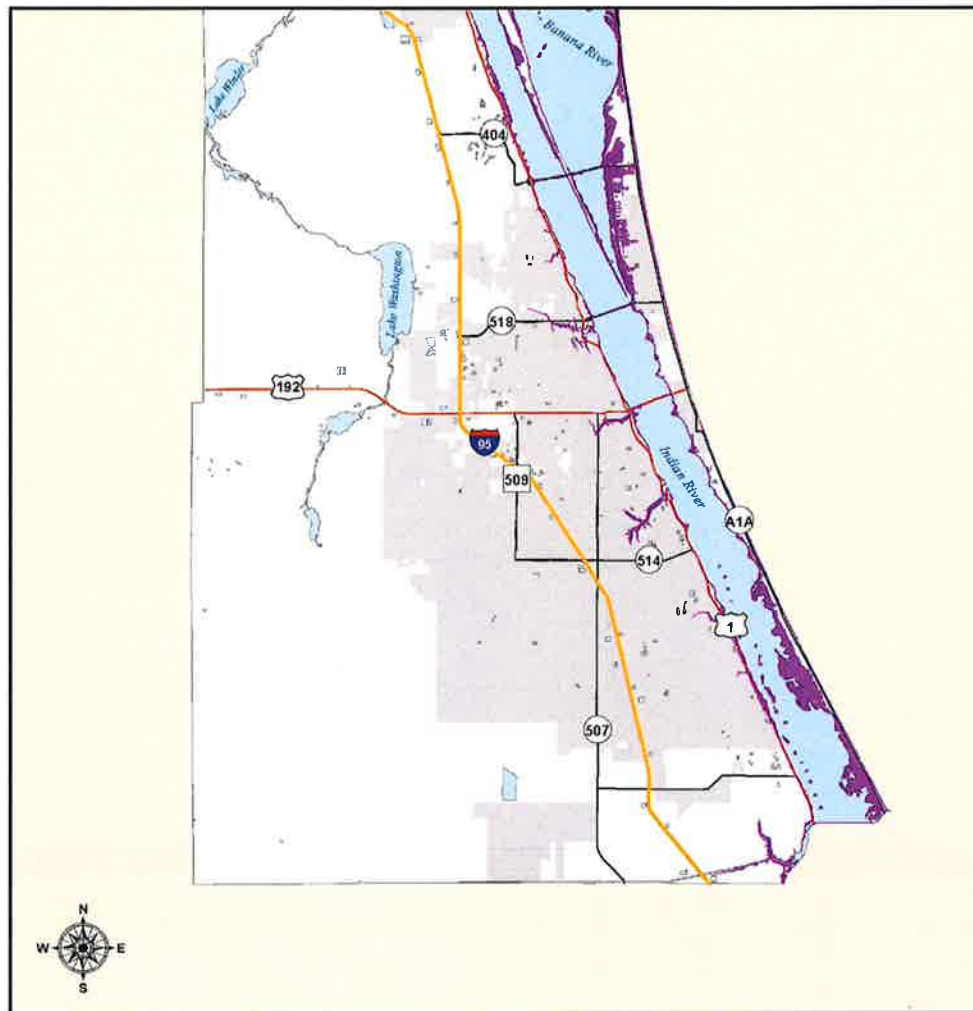
Coastal High Hazard Areas (central Brevard region)

COASTAL MANAGEMENT ELEMENT

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December 2022

Brevard Coastal High Hazard Area Map



Category 1

 Coastal High Hazard Area

Source: East Central Florida Regional Planning Council
Regional Evacuation Study Program - Storm Tide Atlas



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South Brevard CHHA Region Display



Map 3c

Coastal High Hazard Area (south Brevard region)

Shoreline means the point where the water meets the land at any point in time.

Shoreline Protection Buffer - a setback established from the mean or ordinary high water line or safe upland line whichever the applicant chooses. Within the shoreline protection buffer, passive recreation, hunting, fish and wildlife management open space, nature trails and limited amounts and types of shoreline access facilities shall be allowed. The amounts and types of development allowed within the shoreline protection buffer and other development restrictions are found in Conservation Element Policies 3.3, 3.4, and 3.5.

Short Shoot - The area between the rhizome (root) and the blade of a seagrass.

Should - expresses obligation; mandatory action necessary unless it can be clearly demonstrated that:

- a. Strict application will be contrary to the public interest;
- b. The public values being protected are insignificant and strict application will result in an excessive hardship to the project;
- c. Strict application will place an excessive hardship on the project, and an alternative action is available which is equal to or superior than the original requirements in reaching the policy's objective, and or;
- d. The activity is not financially feasible for the local government.

Significant Adverse Impacts means that within the sphere of influence of a proposed boating facility, death or injury to manatees or destruction of manatee habitat can be reasonably expected to occur as a result of the construction, expansion, or increase in powerboat densities and activities associated with boating facility.

Significant Manatee Habitat Features - each of the following five habitat features is considered significant as described.

1. Seagrass - 5% or more seagrass present on the proposed project site is considered significant.
2. Manatee Abundance - five (5) or more observations/overflight within a 5 mile radius of the site. If more than one survey falls within the 5-mile radius, the number of manatees observed will be counted for each survey, divided by the number of overflights and then the normalized values will be summed.
3. Significant Manatee Mortality - the number of watercraft mortality within a 5 mile radius, divided by the total number of watercraft mortalities in Brevard County, A value of 0.03 or larger is considered significant.
4. Manatee Freshwater Source/Calving/Cavorting/Feeding/Resting Area is within a 1/2 mile of the proposed site.
5. The proposed site is in a Class II Waterbody, Outstanding Florida Waterway (OFW), or an Aquatic Preserve.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 15, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo (D1); Brian Hodgers (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Mark Wadsworth, Chair (D4); Liz Alward (D4); Logan Luse (Alt. D4); Bruce Moia (D5); Peter Filiberto (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Melissa Wilbrandt, Associate Planner; Jane Hart, Planner III; Alex Esseeesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

A Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI

Jeffrey Ball stated this is a text amendment to fix a scrivener's error that was brought about during the last EAR (Evaluation and Appraisal Report) in February to fix the 'and's', 'or's', and 'should's' and 'shall's'. A series of maps are also included that were requested by DEO as far as the peril of flood and the coastal high hazard area.

No public comment.

John Hopengarten asked what is the impact of this from what was originally approved. Mr. Ball replied in the glossary, staff is striking the 'and' in the listed conditions and adding 'or'.

Peter Filiberto stated the 'and' to 'or' is only in one section of the coastal high hazard map. Mr. Ball replied yes, it's part of the glossary and comprehensive plan amendment.

Motion by Bruce Moia, seconded by Liz Alward, to recommend approval of A Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI. The motion passed unanimously.

ORDINANCE NO. 22-28

ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED "THE COMPREHENSIVE PLAN", SETTING FORTH PLAN AMENDMENT 2022-2.1; AMENDING SECTION 62-501, ENTITLED "CONTENTS OF THE PLAN"; SPECIFICALLY AMENDING SECTION 62-501, PART X, ENTITLED COASTAL MANAGEMENT ELEMENT, AND PART XVI, ENTITLED THE GLOSSARY; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on June 30, 2022, for adoption as the Plan Amendment Cycle 2022-2; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

WHEREAS, on November 14, 2022, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2022-2.1 and considered the findings and advice of all interested parties submitting comments; and

WHEREAS, on December 1, 2022, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon a thorough, and complete consideration, approval for the adoption of Plan Amendment 2022-2.1; and

WHEREAS, Plan Amendment 2022-2.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 2022-2.1 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 2022-2.1 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2022-2.1, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

EXHIBIT A

2022-2.1 COMPREHENSIVE PLAN AMENDMENT