



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.2.

3/21/2023

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### Subject:

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

### Fiscal Impact:

None

### Dept/Office:

Planning and Development and County Attorney's Office.

### 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 March 21, 2026. BCC-31 requires the review of Board Policies every three (3) years to determine if a policy is relevant.

BCC51 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-51 to the County Manager's Office.



March 22, 2023

**MEMORANDUM**

**TO:** Frank Abbate, County Manager

**RE:** Item F.2., Board Policy Review of BCC-51, Zoning Actions and Findings of Fact

The Board of County Commissioners, in regular session on March 21, 2023, authorized continuing Board Policy BCC-51, Zoning Actions and Findings of Fact. Enclosed is the fully-executed Board Policy BCC-51.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Planning and Development  
County Attorney



**BOARD OF COUNTY COMMISSIONERS**

## **POLICY**

Number: BCC-51  
Cancels: July 9, 2019  
Approved: March 21, 2023  
Originator: Planning &  
Development/County  
Attorney  
Review: March 21, 2026

## **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**

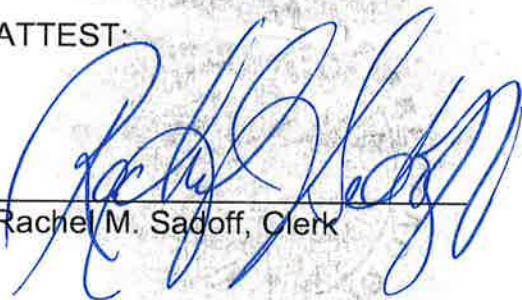
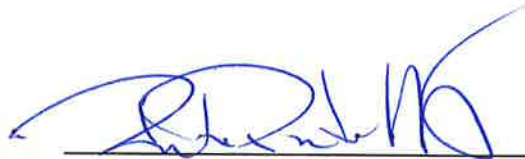
- A. Where the Board of County Commissioners has stated its intended zoning action, the public hearing shall be closed. As part of the intended zoning action, the Board may direct the County Attorney to develop a resolution setting forth proposed findings of fact, conclusions of law, and the action taken.
- 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:

  
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Rachel M. Sadoff, Clerk  
\_\_\_\_\_  
Rita Pritchett, Chair  
Board of County Commissioners  
Brevard County, Florida  
As approved by the Board on March 21, 2023

## SUNSET REVIEW

POLICY/ADMINISTRATIVE ORDER NUMBER: BCC-51

POLICY/ADMINISTRATIVE ORDER NAME: Zoning Actions and Findings of Fact

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

Department: Planning & Development; and County Attorney's Office

Please review with recommendations to the County Attorney, County Manager, and Advisory Board, if applicable.

Citizen Group: Recommendation to be submitted to the Board of County Commissioners

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

REVIEW TO INCLUDE (BUT NOT LIMITED TO):

1. What is the need being met and who benefits: (Quantify)  
BCC-51 standardizes the procedure for the development and approval of findings of fact after a zoning action by the Board of County Commissioners. The Board and the applicants benefit based upon substantial competent evidence in the report upon which the decision of the Board is based.
2. Is this Policy/Administrative Order duplicative? ☐ Yes ☒ No  
If yes, please explain.
3. Can another agency perform this function? ☐ Yes ☒ No  
If yes, please explain.
4. County Funding ☐ Yes ☒ No
5. Should this Policy/Administrative Order be  
☐ Eliminated  
☐ Modified  
☒ Continued
6. Is there an acceptable alternative? ☐ Yes ☒ No  
If yes, please explain
7. Has this Policy/Administrative Order been reviewed by the County Attorney's Office? ☒ Yes ☐ No

Reviewed by

3/7/23  
Date

The date(s) the Citizen Group/Advisory Board will review. N/A

The date the Board of County Commissioners will review results. 03/21/23



**BOARD OF COUNTY COMMISSIONERS**

## **POLICY**

Number: BCC-51  
Cancels: July 9, 2019  
Approved: July 9, 2016 Mar. 21, 2023  
Originator: Planning &  
Development/County  
Attorney  
Review: July 9, 2022 Mar. 21, 2026

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