



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

12/2/2021

Subject:

Public Hearing, Re: Comprehensive Plan Text Amendment Adoption to include a Property Rights Element as required by House Bill 59.

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners consider adoption of a text amendment to the Comprehensive Plan to add a Property Rights Element, and to change the Table of Contents to include this Element.

Summary Explanation and Background:

This request is a result of House Bill 59, which became law on June 29, 2021, adding Section 163.3177(6)(i), Florida Statutes. Effective July 1, 2021: Each local government must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes.

The text amendment creates a Property Rights Element to the Comprehensive Plan adding Goals, Objectives, and Policies with regards to the local decision making process as it pertains to the right of property owners to physically control, maintain, improve, protect, and sell properties.

On August 23, 2021, the Local Planning Agency recommended approval of transmittal, adding Paragraph (E) to the element that states Brevard County recognizes that planning and development decisions affect complex systems and have impacts that occur beyond site development. Any affected person may participate in and be a party to a hearing on a planning and development decision. An affected person is any person or local government that will suffer adverse effect to an interest protected or furthered by this comprehensive plan, included interests related to health, safety, police, fire, service systems, density intensity of development, transportation facilities, healthcare facilities, equipment services, environmental or natural resources.

On September 2, 2021, the Board of County Commissioners approved transmittal as presented and did not include the LPA recommendation.

The Department of Economic Opportunity (DEO) identified no comment related to adverse impacts to

important state resources and facilities within the Departments authorized scope of review. DEO provided one technical comment pertaining to the Ordinance; To revise and remove the reference to the Future Land Use Element and being applicable to the Future Land Use Element of the Comprehensive Plan. Staff has made this change. The other agencies had no comments.

On November 15, 2021, the Local Planning Agency unanimously recommended adoption.

Clerk to the Board Instructions:

Upon filing the Ordinance with the State, please return a copy to Planning and Development.



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

December 14, 2021

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Cheryl Campbell

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your revised electronic copy of Brevard County Ordinance No. 21-26, which was filed in this office on December 14, 2021.

Sincerely,

Anya Owens
Program Administrator

AO/lb



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

December 6, 2021

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Ms. Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 21-26, which was filed in this office on December 3 2021.

Sincerely,

Anya Owens
Program Administrator

AO/lb



December 3, 2021

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Jeffrey Ball

RE: Item H.1., Public Hearing, for Comprehensive Plan Text Amendment Adoption to Include a Property Rights Element as Required by House Bill 59

The Board of County Commissioners, in regular session on December 2, 2021, conducted the public hearing and adopted Ordinance No. 21-26, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County to include a Property Rights Element, as required by House Bill 59. Enclosed is a fully-executed Ordinance and executed Transmittal Letter.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL SADOFF, CLERK

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

Kimberly Powell, Clerk to the Board

Encls. (2)

ORDINANCE NO. 21-26

ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED "THE COMPREHENSIVE PLAN", SETTING FORTH PLAN AMENDMENT 2021-2.1; AMENDING SECTION 62-501, ENTITLED "CONTENTS OF THE PLAN"; SPECIFICALLY AMENDING SECTION 62-501, PART XV, ENTITLED PROPERTY RIGHTS ELEMENT; 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, 2021, for adoption as the Plan Amendment Cycle 2021-2; 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 August 23, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2021-2.1 and did not find the proposed language to

OFFICIALLY FILED WITH THE SECRETARY OF STATE ON DECEMBER 3, 2021

be inconsistent with the Comprehensive Plan, but was simply seeking to add additional language; and

WHEREAS, on October 25, 2021, after a reasonable opportunity to provide a recommendation, the Brevard County Local Planning Agency scheduled a duly noticed public hearing on Plan Amendment 2021-2.1 but failed to reach a quorum and, therefore, could not make a recommendation; and

WHEREAS, on November 4, 2021, after a reasonable opportunity to provide a recommendation, the Brevard County Local Planning Agency scheduled a duly noticed public hearing on Plan Amendment 2021-2.1, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on December 3, 2021, 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 2021-2.1; and

WHEREAS, Plan Amendment 2021-2.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 2021-2.1 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 2021-2.1 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 2021-2.1, 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.

Section 6. Effective Date. The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this the 2 day of December, 2021.

ATTEST:


Rachel Sadoff, Clerk

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

By: 
Kristine Zonka, Chair

Approved by the Board on Dec. 2, 2021.

EXHIBIT A

2021-2.1 COMPREHENSIVE PLAN AMENDMENT

**PROPOSED COMPREHENSIVE PLAN AMENDMENT 2021-2.1
PROPERTY RIGHTS ELEMENT - TEXT AMENDMENT**

Request: A text amendment to the Comprehensive Plan creating Property Rights Element XV and changing the Glossary from Element XV to XVI

Owner / Applicant: Planning & Development Department

Location: N/A

Acreage: N/A

**Existing Land
Use Designation:** N/A

**Proposed Land
Use Designation:** N/A

PROPOSED TEXT AMENDMENT

Background:

House Bill 59, which became law on June 29, 2021, adds Section 163.3177(6)(i), Florida Statutes. Effective July 1, 2021: Each local government must adopt a property rights element into its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is **initiated** after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes (emphasis added).

The new section requires that governmental entities respect judicially acknowledged and constitutionally protected private property rights. The law allows the Board to adopt its own property rights element or use the provision provided. Staff has presented the provision included in the law in order to expedite this process to ensure that development applications may continue to be processed at this time.

Description:

The proposed amendment will create a Property Rights Element to the Comprehensive Plan adding Goals, Objectives and Policies with regards to the local decision making process, as it pertains to the rights of property owners.

Proposed Text Amendment

The proposed amendment would be adopted as Property Rights Element XV and change the Glossary from XV to XVI. Additions to the Comprehensive Plan will be shown as underlined and deletions are shown as ~~strike through~~.

PROPERTY RIGHTS ELEMENT

CHAPTER 15

BREVARD COUNTY COMPREHENSIVE PLAN

CHAPTER XV

PRIVATE PROPERTY RIGHTS

TABLE OF CONTENTS

Private property rights in the local decision making process.....1

GOALS, OBJECTIVES AND POLICIES

GOAL

TO ENSURE CONSIDERATION OF PRIVATE PROPERTY RIGHTS IN THE LOCAL DECISION MAKING PROCESS.

Objective 1

Brevard County shall follow a set of policies to ensure that private property rights are considered in the local decision making process.

Policy 1.1

Brevard County shall consider the following in the local decision making process:

- A. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- B. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to state law and local ordinances.
- C. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- D. The right of a property owner to dispose of his or her property through sale or gift.

THE 1988* BREVARD COUNTY COMPREHENSIVE PLAN

TABLE OF CONTENTS

Preface

Adopting Ordinance

Part I.	Conservation Element
Part II.	Surface Water Management Element
Part III.	Recreation and Open Space Element
Part IV.	Historic Preservation Element
Part V.	Housing Element
Part VI.	Potable Water Element
Part VII.	Sanitary Sewer Element
Part VIII.	Solid Waste and Hazardous Materials Element
Part IX.	Transportation Element
Part X.	Coastal Management Element
Part XI.	Future Land Use Element
Part XII.	Intergovernmental Coordination Element
Part XIII.	Capital Improvements and Programs Element
Part XIV.	Public School Facilities Element
Part XV.	Glossary <u>Property Rights Element</u>
<u>Part XVI.</u>	<u>Glossary</u>

Updated ~~November 7, 2008~~ November 4, 2021



BOARD OF COUNTY COMMISSIONERS

Planning & Development Department

2725 Judge Fran Jamieson Way

Suite A-114

Viera, FL 32940

Phone: (321)633-2070

December 2, 2021

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: 2021-2 Fall Cycle Large Scale Comprehensive Plan Amendment Transmittal Package

Dear Mr. Eubanks,

Enclosed please find the Adoption package for the 2021-2 Fall Cycle Large Scale Comprehensive Plan Amendment. Per Section 163.3184, Florida Statutes, Brevard County is transmitting a Property Rights Element to the Comprehensive Plan (Property Rights Element, Glossary) as Comprehensive Plan Amendment 2021-2.1, more fully described in the attached staff comments for 21PZ00047.

The Local Planning Agency held a public hearing regarding the Adoption of the 2021-2.1 Comprehensive Plan Amendment on November 12, 2021. The Brevard County Board of County Commissioners approved the Adoption of the 2021-2.1 Comprehensive Plan Amendment package during a public hearing on December 2, 2021.

Copies of the proposed amendment Adoption 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 Air 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 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 2020-2 Plan Amendment package is:

Cheryl Campbell, Planner III
Cheryl.Campbell@brevardfl.gov
Planning and Development Department
2725 Judge Fran Jamieson Way, Building A Viera, FL 32940
PHONE (321) 350-8271 - 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 Cheryl Campbell at the above address.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Zonka', is written over a faint circular official seal.

Kristine Zonka, Chair

cc:

Brevard County Board of County Commissioners
Frank Abbate, County Manager
Eden Bentley, County Attorney
Tad Calkins, Director, Planning and Development Department
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 Air Force Base Military Installation

Ad#S005686

11/18/2021

PUBLIC HEARING NOTICE

The Brevard County Board of County Commissioners will meet on Thursday, December 2, 2021, at 5:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, Building C, Commission Room, to consider the following item: 1. An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", setting forth the adoption of Plan Amendment Cycle 2021-2.1; amending Section 62-501, entitled Contents of the Plan, specifically amending Section 62-501 as described below; and provisions with require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date. a. Plan Amendment 2021-2.1 - a proposal amending the text of the Brevard County Comprehensive Plan to include Part XV, Property Rights Element, as required by law, and to amend the Glossary Chapter Number from XV to XVI.

All persons for or against said items can be heard at said time and place. If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of this proceeding is made, at his/her expense, which record

includes testimony and evidence upon which any appeal is to be based. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than five (5) days prior to the meeting at 321-633-2069 for assistance.

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

An act relating to growth management; amending s. 163.3167, F.S.; specifying requirements for certain comprehensive plans effective, rather than adopted, after a specified date and for associated land development regulations; amending s. 163.3177, F.S.; requiring local governments to include a property rights element in their comprehensive plans; providing a statement of rights which a local government may use; requiring a local government to adopt a property rights element by the earlier of its adoption of its next proposed plan amendment initiated after a certain date or the next scheduled evaluation and appraisal of its comprehensive plan; prohibiting a local government's property rights element from conflicting with the statement of rights contained in the act; amending s. 163.3237, F.S.; providing that the consent of certain property owners is not required for development agreement changes under certain circumstances; providing an exception; amending s. 337.25, F.S.; requiring the Department of Transportation to afford a right of first refusal to certain individuals under specified circumstances; providing requirements and procedures for the right of first refusal; amending s. 380.06, F.S.; authorizing

Page 1 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0059-05-er

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

certain developments of regional impact agreements to
be amended under certain circumstances; providing
retroactive applicability; providing a declaration of
important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 163.3167, Florida
Statutes, is amended to read:

163.3167 Scope of act.—

(3) A municipality established after the effective date of
this act shall, within 1 year after incorporation, establish a
local planning agency, pursuant to s. 163.3174, and prepare and
adopt a comprehensive plan of the type and in the manner set out
in this act within 3 years after the date of such incorporation.
A county comprehensive plan is controlling until the
municipality adopts a comprehensive plan in accordance with this
act. A comprehensive plan for a newly incorporated municipality
which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and
all land development regulations adopted to implement the
comprehensive plan must incorporate each development order
existing before the comprehensive plan's effective date, may not
impair the completion of a development in accordance with such
existing development order, and must vest the density and
intensity approved by such development order existing on the

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

effective date of the comprehensive plan without limitation or modification.

Section 2. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)–(5), the comprehensive plan shall include the following elements:

(i)1. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

4. The right of a property owner to dispose of his or her property through sale or gift.

2. Each local government must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191. If a local government adopts its own property rights element, the element may not conflict with the statement of rights provided in subparagraph 1.

Section 3. Section 163.3237, Florida Statutes, is amended to read:

163.3237 Amendment or cancellation of a development agreement.—A development agreement may be amended or canceled by

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

mutual consent of the parties to the agreement or by their successors in interest. A party or its designated successor in interest to a development agreement and a local government may amend or cancel a development agreement without securing the consent of other parcel owners whose property was originally subject to the development agreement, unless the amendment or cancellation directly modifies the allowable uses or entitlements of such owners' property.

Section 4. Subsection (4) of section 337.25, Florida Statutes, is amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(4) The department may convey, in the name of the state, any land, building, or other property, real or personal, which was acquired under subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. When such a determination has been made, property may be disposed of through negotiations, sealed competitive bids, auctions, or any other means the department deems to be in its best interest, with due advertisement for property valued by the department at greater than \$10,000. A sale may not occur at a price less than the department's current estimate of value, except as provided in paragraphs (a)-(d). The department may afford a right of first refusal to the local government or other political subdivision

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

in the jurisdiction in which the parcel is situated, except in a conveyance transacted under paragraph (a), paragraph (c), or paragraph (e). Notwithstanding any provision of this section to the contrary, before any conveyance under this subsection may be made, except a conveyance under paragraph (a) or paragraph (c), the department shall first afford a right of first refusal to the previous property owner for the department's current estimate of value of the property. The right of first refusal must be made in writing and sent to the previous owner via certified mail or hand delivery, effective upon receipt. The right of first refusal must provide the previous owner with a minimum of 30 days to exercise the right in writing and must be sent to the originator of the offer by certified mail or hand delivery, effective upon dispatch. If the previous owner exercises his or her right of first refusal, the previous owner has a minimum of 90 days to close on the property. The right of first refusal set forth in this subsection may not be required for the disposal of property acquired more than 10 years before the date of disposition by the department.

(a) If the property has been donated to the state for transportation purposes and a transportation facility has not been constructed for at least 5 years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, the governmental entity may authorize reconveyance of the donated property for no

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

consideration to the original donor or the donor's heirs,
successors, assigns, or representatives.

(b) If the property is to be used for a public purpose,
the property may be conveyed without consideration to a
governmental entity.

(c) If the property was originally acquired specifically
to provide replacement housing for persons displaced by
transportation projects, the department may negotiate for the
sale of such property as replacement housing. As compensation,
the state shall receive at least its investment in such property
or the department's current estimate of value, whichever is
lower. It is expressly intended that this benefit be extended
only to persons actually displaced by the project. Dispositions
to any other person must be for at least the department's
current estimate of value.

(d) If the department determines that the property
requires significant costs to be incurred or that continued
ownership of the property exposes the department to significant
liability risks, the department may use the projected
maintenance costs over the next 10 years to offset the
property's value in establishing a value for disposal of the
property, even if that value is zero.

(e) If, at the discretion of the department, a sale to a
person other than an abutting property owner would be
inequitable, the property may be sold to the abutting owner for

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

the department's current estimate of value.

Section 5. Paragraph (d) of subsection (4) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(d) Any agreement entered into by the state land planning agency, the developer, and the local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before April 6, 2018, and may be amended pursuant to the processes adopted by the local government for amending development orders. Any such agreement or amendment may authorize the developer to exchange approved land uses, subject to demonstrating that the exchange will not increase impacts to public facilities. This paragraph applies to all such agreements and amendments effective on or after April 6, 2018.

Section 6. The Legislature finds and declares that this act fulfills an important state interest.

Section 7. This act shall take effect July 1, 2021.

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

October 1, 2021

The Honorable Rita Pritchett
Chair, Brevard County
Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, Florida 32940

Dear Chair Pritchett:

The Department of Economic Opportunity ("Department") has reviewed the Brevard County proposed comprehensive plan amendment (Amendment No. 21-01ESR), received on September 3, 2021, pursuant to the expedited state review process in Section 163.3184(2)(3), Florida Statutes (F.S.). We have identified no comment related to adverse impacts to important state resources and facilities within the Department's authorized scope of review.

We are, however, providing a technical assistance comment consistent with Section 163.3168(3), F.S. The technical assistance comment will not form the basis of a challenge. It is offered either as a suggestion which can strengthen the County's comprehensive plan in order to foster a vibrant, healthy community or is technical in nature and designed to ensure consistency with the Community Planning Act in Chapter 163, Part II, F.S. The technical assistance comment is:

- ***The draft ordinance heading references this amendment being to the Future Land Use Element of the County's Comprehensive Plan, while the draft ordinance exhibit and supporting documents show the amendment will create a new, separate element. To ensure consistency with Section 163.3177(6)(i), F.S., DEO recommends that prior to adoption, the ordinance be revised to remove the reference to the amendment being applicable to the Future Land Use Element of the Comprehensive Plan and to clearly reference the Property Rights Element as its own, stand alone element.***

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the County is reminded that:

- **Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the County. If the County receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**

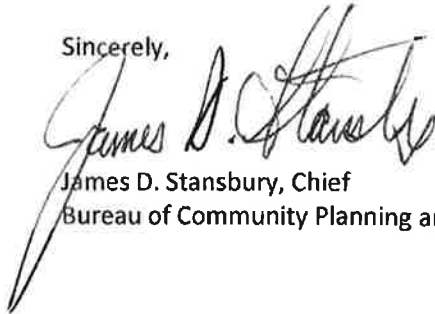
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the County that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

If you have any questions concerning this review, please contact Matthew Preston, Planning Analyst, by telephone at (850) 717-8490 or by email at matt.preston@deo.myflorida.com.

Sincerely,



James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/mp

Enclosure(s): Procedures for Adoption

cc: Cheryl Campbell, Planner III, Planning and Development Department, Brevard County
Hugh Harling, P.E., Executive Director, East Central Florida Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR EXPEDITED STATE REVIEW

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit electronically using the Department's electronic amendment submittal portal "**Comprehensive Plan and Amendment Upload**" (<https://floridajobs.secure.force.com/cp/>) or submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.