



COMPREHENSIVE PLAN AMENDMENT STAFF REPORT AMENDMENT ROUND 22-A1

DEO TRANSMITTAL REPORT, AUGUST 26, 2021

I. General Data

Project Name: Property Rights Element Amendment
Element: Property Rights Element
Project Manager: Kevin Fischer, Deputy Planning Director
Staff Recommendation: Staff recommends **approval** based upon the findings and conclusions contained within this report.

II. Item Summary

Summary: The item before the Board is a proposed County Initiated amendment to add a Property Rights Element to the Comprehensive Plan, pursuant to House Bill 59 – Growth Management. The proposed amendment consists of the following:

- Addition of a Property Rights Element to the Comprehensive Plan, which is now a required element for Comprehensive Plans pursuant to Chapter 163, Florida Statutes.
- A statement of rights which shall be considered in local decision-making.

Staff Assessment: The proposed amendment is required due to new legislative mandates, effective July 1, 2021. In particular, House Bill 59 – Growth Management requires all local governments to have a Property Rights Element included in their comprehensive plan. The legislation modified Chapter 163.3177 of the Florida Statutes to add a Property Rights Element as one of the required elements in all Comprehensive Plans. The legislation also limits the ability to adopt any other Comprehensive Plan amendments initiated after July 1st from being adopted until the Property Rights Element is adopted. The State defines amendments initiated after July 1, 2021 as those amendments which had their first public hearing, in our case a Planning Commission hearing, after that date.

ULDC Implications: The proposed text amendment is not anticipated to require changes to the Unified Land Development Code (ULDC).

III. Meeting History

Local Planning Agency/Planning Commission (LPA/PLC): *Approval*, motion by Penny Pompei, seconded by Kiley Harper-Larsen, passed in a 14 to 0 vote at the August 13, 2021 hearing. Under discussion, Commission comments included questions regarding the impacts of the amendment, support for the passage of the legislation, and support of the wording in the Plan reflecting the legislation. There was no public comment.

Board of County Commissioners (BCC): *Transmit*, motion by Commissioner McKinlay, seconded by Vice Mayor Weinroth, passed in a 6-0 vote (with Commissioner Weiss absent) at the August 26, 2021 hearing. There was minimal discussion by the Board. One member of the public representing the Sierra Club spoke in opposition to the passage of HB 59.

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IV. Intent

This proposed amendment would revise the Comprehensive Plan to meet legislative requirements in House Bill 59, Growth Management. House Bill 59 modified Chapter 163.3177, Florida Statutes to require a Property Rights Element as an additional required element in local government Comprehensive Plans. This amendment was initiated by the Board of County Commissioners on July 28, 2021 with approval to proceed with an additional amendment round in order to prevent any delay of the processing of amendments currently underway. The proposed Element is included in Exhibit 1.

V. Data and Analysis

This section provides data and analysis to support the amendment, including an examination of consistency with the Comprehensive Plan.

A. Proposed Amendment

This proposed amendment will add a new Element to the Comprehensive Plan. House Bill 59 states that a local government may adopt the statement of rights, included below, as set forth in Chapter 163. Local governments may also adopt their own Property Rights Element, so long as the element does not conflict with the statement of rights list below. The proposed Property Rights Element includes no changes from the language included in Florida Statutes.

The following rights shall be considered in local decision-making:

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

The legislation also limits the ability to adopt any other Comprehensive Plan amendments initiated after July 1st from being adopted until the Property Rights Element is adopted. The State defines amendments initiated after July 1, 2021 as those amendments which had their first public hearing, in our case a Planning Commission hearing, after that date.

B. Consistency with the Comprehensive Plan

There are no inconsistencies identified with the Goals, Objectives, and Policies of the Comprehensive Plan.

C. ULDC Implications

The proposed text amendment is not anticipated to require changes to the Unified Land Development Code (ULDC).

VII. Public and Municipal Review

Intergovernmental Plan Amendment Review Committee (IPARC): Notification was sent to the County's Intergovernmental Plan Amendment Review Committee (IPARC), a clearing-house for plan amendments, on Tuesday, July 27, 2021. At the time of the printing this report, no calls or written requests for information or objections to the amendment had been received. Correspondence received is added to the exhibits throughout the amendment process.

VIII. Assessment and Conclusions

The proposed amendment is required due to new legislative mandates, effective July 1, 2021. In particular, House Bill 59 – Growth Management requires all local governments to have a Property Rights Element included in their comprehensive plan. The legislation modified Chapter 163.3177 of the Florida Statutes to add a Property Rights Element as one of the required elements in all Comprehensive Plans. The legislation also limits the ability to adopt any other Comprehensive Plan amendments initiated after July 1st from being adopted until the Property Rights Element is adopted. The State defines amendments initiated after July 1, 2021 as those amendments which had their first public hearing, in our case a Planning Commission hearing, after that date.

Staff recommends ***approval*** of this amendment.

Attachments

Exhibit 1 – Proposed amendment in strike out and underline format	E – 1
Exhibit 2 – Correspondence	E – 2

Exhibit 1

A. **Property Rights Element, Property Rights Element**

REVISION: To add a Property Rights Element. The added text is underlined

PROPERTY RIGHTS ELEMENT

I. INTRODUCTION

A. Purpose

The purpose of the Property Rights Element is to implement requirements of House Bill 59, signed by the Governor on June 28, 2021. The bill modified Chapter 163.3177, Florida Statutes (F.S.), to require local government comprehensive plans to contain a Property Rights Element. The purpose of the Element, per Chapter 163.3177(i), is to identify property rights that shall be considered in local decision-making.

B. Assessment and Conclusions

As stated in Section A, Purpose, this Element meets the statutory requirements of Chapter 163.3177, F.S.

II. GOAL, OBJECTIVES AND POLICIES

It is the **GOAL** of Palm Beach County to respect judicially acknowledged and constitutionally protected private property rights.

OBJECTIVE 1.1 Property Rights

The County shall consider property rights during local decision-making processes.

Policy 1.1-a: The right of a property owner to physically possess and control his or her interest in the property, including easements, leases, or mineral rights.

Policy 1.1-b: 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.

Policy 1.1-c: The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 1.1-d: The right of a property owner to dispose of his or her property through sale or gift.

Exhibit 2 – Correspondence
