

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Without defining an actual Evacuation Level of Service, I submit that this would mean that decision would refer to the State evacuation LOS of 16 hours for a category 5 out-of-county.

memorialize the mitigation plan.

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by following the process in paragraph (a), the level of service shall be no greater than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale.

It is known that legislators changed Live Local in 2024 to allow work-force housing on Space Florida - and it is assumed that this is driving the change in Comp Plan.

Our lives should not be expendable as this decision will impact 72 miles of Brevard County coastline. I think we have more coastline than any other county.

NMI is a giant bowl on wetlands - which fills with water and no place to pump the water - stormwater impacts for the county are 5-10 million a year from these Federal lands which will increase further with increased density that cannot be safely evacuated. NMI has storm surge of 13 feet according to engineer's hydrology report.

On Fri, Jun 13, 2025 at 12:43 AM Sandra Sullivan <s2sully@gmail.com> wrote:

Dear State officials et al,

Consider the skyrocketing insurance rates along (and higher rate of declined claims) with the new of **intent to dismantle FEMA which will mean fewer dollars for Florida** - <https://www.livenowfox.com/news/trump-phasing-out-fema>

Now it is especially not appropriate to change the Comprehensive Plan to effectively remove LOS for Evacuation (to "clearance time") nor removing the density limitation on the floodplain from the Comprehensive Plan. Doing so will escalate the crisis with loss of life and increased property losses. **FAILURE TO ADDRESS THIS DEFICIENCY WILL CONTINUE TO ESCALATE INSURANCE CRISIS WITH HIGHER LOSSES AS WELL AS CAUSE LOSS OF LIFE.**

Brevard has made changes to the comprehensive plan that are **not consistent with state statute as Brevard is removing the Evacuation Level of service of 18 hours**. Comprehensive plan change is NOT consistent with Florida Statute to substitute Level of Service Standard with clearance time currently at 61 hours (and continues to increase). Clearance time is an ever increasing number which is based on actual time and NOT a standard of service to achieve which is used to restrict density increases to minimize loss of life. **Brevard has a CRITICAL EVACUATION DEFICIENCY IDENTIFIED BY THE STATE.**



Brevard's Comprehensive plan is non-compliant with Florida Statute using evacuation clearance instead of LOS Standard for Evacuation. :

1. Per FS 163.3178 Brevard is "required to **protect human life as part of their Coastal Management**." The change to "clearance time" will result in loss of life during of CAT 4/5 due to storm surge and inability to get off island as this number will continue to increase and does not restrict development on vulnerable barrier island.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/Sections/0163.3178.html

2. Per FS 3180 Under "The local government comprehensive plan must demonstrate, for required or optional concurrency requirements, **that the levels of service adopted can be reasonably met.**"

<https://www.flsenate.gov/laws/statutes/2024/163.3180#:~:text=>

[\(b\)%20The%20local%20government%20comprehensive,occupancy%20or%20its%20functional%20equivalent.](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/Sections/0163.3178.html)

3. Per FS 3202 "Provide that public facilities and services **meet or exceed the standards** established in the capital improvements element required by s. [163.3177](#) and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. **A local government may not issue a development order or permit that results in a reduction in the level of services** for the affected public facilities below the level of services provided in the local government's comprehensive plan."

<https://www.flsenate.gov/laws/statutes/2023/163.3202#:~:text=>

[\(g\)%20Provide%20that%20public%20facilities,the%20local%20government's%20comprehensive%20plan.](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/Sections/0163.3178.html)

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/Sections/0163.3178.html

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by following the process in paragraph (a), the level of service shall be no greater than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale.

Here is the Proposed change to comprehensive plan: DOES not have a Level of Service so suggest that Brevard's required Evacuation would be 16 hours for CAT 5.

<https://brevardfl.legistar.com/LegislationDetail.aspx?ID=7421579&GUID=190B732E-1E01-4159-B6F6-C287F91AD72B&Options=&Search=>

Hurricane Evacuation

Objective CM 8

Reduce excessive evacuation times where they currently exist; and maintain all other evacuation times within the acceptable standard. Acceptable evacuation standards will be reviewed and updated as necessary but shall not exceed the times indicated in the current Brevard County Comprehensive Emergency Management Plan: Evacuation clearance times are determined by the most current Florida Regional Evacuation Study maintained by

COASTAL MANAGEMENT ELEMENT

LPA Adoption June 16, 2025

X - 26

the East Central Florida Regional Planning Council. Evacuation times are adopted in the Brevard County Comprehensive Emergency Management Plan (Brevard CEMP), Evacuation Concept of Operations.

The Brevard Comprehensive Emergency Plan (CEMP) is NOT a public document - whereas the Comprehensive Plan is public. In order to use this LOS Evacuation for Planning and Zoning it is necessary that the LOS for Evacuation be public information in the Comprehensive Plan. The CEMP has the LOS Evacuation is 18 hours in the CEMP for CAT5 for out of county but this will be removed with the new comprehensive plan with intent to replace with "Clearance Time." As you know it is not possible to shelter in place on the barrier island due to storm surge. Clearance time is NOT consistent with state statute as is NOT LOS. Clearance time is a variable and increases with added density.

61 hours to evacuate the barrier island in a CAT5 is up from 56 hours just 2 years ago from increased development and will continue to increase.



The East Central Regional Planning Council (ECRPC) "clearance times" can be found at: <https://portal.floridadisaster.org/preparedness/RES/Studies/SitePages/RES.aspx#ECRPC> ECRPC does not have LOS evacuation.

Previous Evacuation Studies https://drive.google.com/drive/folders/1CzYaPp7Sr5vdv1Sc-GZt82ce5JswCjxI?usp=drive_link 1999 Comp Plan Evacuation Study: https://drive.google.com/file/d/19XTTsnrdUmi9t1AsIAiUJeqc9glS6ty/view?usp=drive_link where critical evacuation determined

Comp Plan 1999B: South base Housing <https://drive.google.com/file/d/1w9lQhoNtP4eC269jVsAhL-kNOWReppYu/view?usp=sharing> where because of the 1999 evacuation study

Comp Plan 2000B: FCT with DCA incentified \$8.5 million for Hightower/Pelican acquisition with conditions to cap density in South Patrick Shores and Satellite Beach, also prohibited bonus density, TDR, and restricted conversion of Commercial to Resident at cap of 7 du/a. Page 50 has explicitly capping density at 999 units for south base housing as part of that agreement.

https://drive.google.com/file/d/1fL2_P17S_y7ikABqyJMGW4rPICK7VUEt/view?usp=drive_link

DCA Letter: https://drive.google.com/file/d/1IsM-LrHbShdDM9nzy7nRJLkRwv35IYh_/view?usp=sharing

Page 2
James Stansbury

The County has shown a commitment to cap or even reduce densities on the barrier island. This process began in the South Beaches area with the adoption of the 1992 South Beaches Small Area Plan and has continued to the present day. As recently as the 2000B Plan Amendment Cycle, the County adopted comprehensive plan amendments that capped the residential densities for the unincorporated areas on the northern and central barrier island at existing levels.

ECRPC Clearance time:

Clearance Time Scenarios

Scenario Type	Clearance Time Type	County	Evacuation Level A	Evacuation Level B	Evacuation Level C	Evacuation Level D	Evacuation Level E
Select	Select	Brevard	CAT 1	2	3	4	CAT 5
2020 Base Scenario	Clearance Time to Shelter (Zone Clearance Time)	Brevard	14	16	17.5	20.5	21.5
2020 Base Scenario	In-County Clearance Time	Brevard	15	16.5	18.5	21	25.5
2020 Base Scenario	Out Of County Clearance Time	Brevard	15	16.5	18.5	21	25.5
2020 Operational Scenario	Clearance Time to Shelter (Zone Clearance Time)	Brevard		13.5	13	17	12.5
2020 Operational Scenario	In-County Clearance Time	Brevard		14.5	14.5	17.5	29.5
2020 Operational Scenario	Out Of County Clearance Time	Brevard		14.5	14.5	17.5	29.5
2025 Base Scenario	Clearance Time to Shelter (Zone Clearance Time)	Brevard	14.5	16	17	21	23
2025 Base Scenario	In-County Clearance Time	Brevard	15	17	18.5	22	26
2025 Base Scenario	Out Of County Clearance Time	Brevard	15	17	18.5	22	26
2025 Operational Scenario	Clearance Time to Shelter (Zone Clearance Time)	Brevard		12.5	13	19	16
2025 Operational Scenario	In-County Clearance Time	Brevard		14.5	14	19.5	61
2025 Operational Scenario	Out Of County Clearance Time	Brevard		14.5	14	19.5	61

Thus, it could be argued that by eliminating the LOS standard for Evacuation that the 16 hour Evacuation standard for the state would apply:

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/Sections/0163.3178.html

memorialize the mitigation plan.

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by following the process in paragraph (a), the level of service shall be no greater than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale.

In Florida, "level of service" (LOS) refers to the capacity of a public facility to meet demand, ensuring adequate service levels for new development. Comprehensive plans, required by Florida law, must incorporate LOS standards for public facilities and ensure that these standards are met before development orders are issued. Having a "clearance time" does not ensure adequate service needs as this number continues to increase.

The Critical Evacuation Deficiency of 18 hours would it require Brevard to safeguard lives on the barrier island with restriction with increased density from Live Local.

Space Florida wants to put Live Local workforce on the barrier island (Live Local 24 glitch bill change) and that is why Brevard is removing the Evacuation LOS.

Again, removing the Evacuation LOS and replacing with "Clearance Time" is in violation of state statute and would LOS default then to the State Evacuation LOS of 16 hours.

RE: [EXTERNAL] - Fwd: Commissioner Goodson's answer to building height restrictions

Inbox x



Williams, Jana <Jana.Williams@commerce.fl.gov>

Fri, Aug 30, 2024, 10:36 AM



to me

Dear Sandra,

Thank you for reaching out. The only land planning issue that can be considered 'waived' within a Comprehensive Plan in relation to the Live Local Act is the allowance of affordable housing on sites that are designated Commercial or Industrial on the local government's Future Land Use Map. HOWEVER, this allowance does not waive the other regulations and requirements found within the Comprehensive Plan. That is, all other regulations and requirements must be met, including Level of Service standards for public facilities (which would include hurricane evacuation LOS standards, if those have been identified within the Comprehensive Plan in question). I hope this information clarifies the issue for you.

Sincerely,

Jana

Jana Williams, AICP

Regional Planning Administrator, East Florida Region

Bureau of Community Planning and Growth / Division of Community Development

FloridaCommerce

Office: 850.717.8483

FLORIDACOMMERCE www.FloridaJobs.org

I also want to add that I do not see anything in this Comprehensive Plan that Density bonus is restricted for Affordable Housing on any of the barrier islands and/or CHHA.

[https://library.municode.com/fl/brevard_county/codes/code_of_ordinances?](https://library.municode.com/fl/brevard_county/codes/code_of_ordinances?nodeId=COORBRCOFLVOII_CH62LADERE_ARTXVIIAFWOHIN_S62-6305DEBOAFHO)

[nodeId=COORBRCOFLVOII_CH62LADERE_ARTXVIIAFWOHIN_S62-6305DEBOAFHO](https://library.municode.com/fl/brevard_county/codes/code_of_ordinances?nodeId=COORBRCOFLVOII_CH62LADERE_ARTXVIIAFWOHIN_S62-6305DEBOAFHO)

☐ **Sec. 62-6305. - Density bonus for affordable housing.**

Code of Ordinances / Chapter 62 - LAND DEVELOPMENT REGULATIONS / ARTICLE XVII. - AFFORDABLE AND WORKFORCE HOUSING INCENTIVES

within any coastal hazard area defined by the comprehensive plan, or on any of the barrier islands, are not eligible for a density bonus under this section.

☐ **Sec. 62-6307. - Workforce housing incentives.**

Code of Ordinances / Chapter 62 - LAND DEVELOPMENT REGULATIONS / ARTICLE XVII. - AFFORDABLE AND WORKFORCE HOUSING INCENTIVES

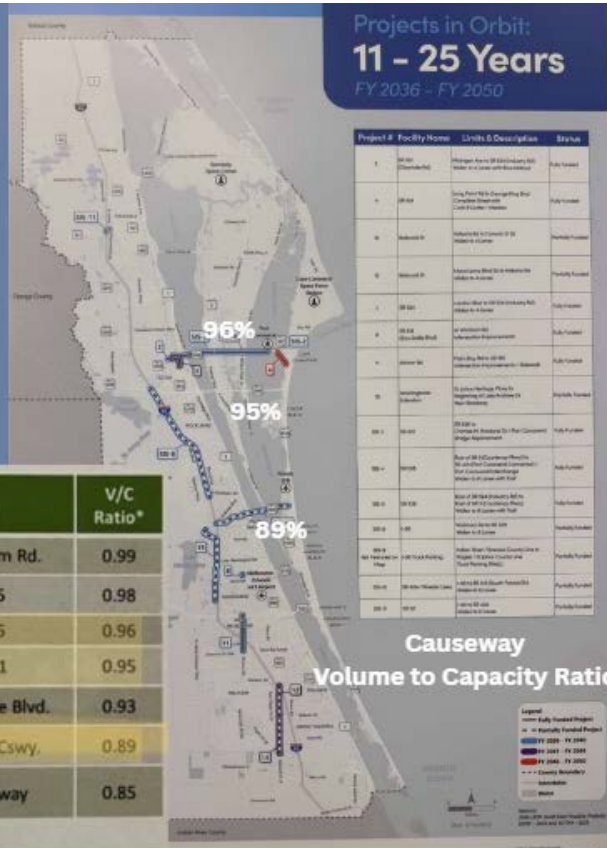
any coastal hazard area defined by the comprehensive plan, or on any of the barrier islands, are not eligible for a density bonus under this section.

This creates a crisis for transportation as CRITICAL EVACUATION DEFICIENCY WITH CAUSEWAYS. Brevard's causeways have capacity issues and are the bottleneck for evacuation.

Why is Brevard Removing Evacuation Level of Service

Roadway	From	To	V/C Ratio*
Ellis Rd.	I-95 Interchange	Wickham Rd.	0.99
Malabar Rd.	San Filippo DR.	I-95	0.98
SR 528	Orange Co.	I-95	0.96
SR 520 (WB)	Causeway	US 1	0.95
SR 520 (EB)	US 1	Riveredge Blvd.	0.93
S. Patrick Dr. (SR 513)	Banana River Dr.	Pineda Cswy.	0.89
Eau Gallie Blvd. (SR 518 – EB Only)	US 1	Causeway	0.85

Volume to Capacity Ratio



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Efficiency Task Force
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Select Year: 2024 Go

The 2024 Florida Statutes (including 2025 Special Session C)

Title XI
COUNTY ORGANIZATION AND
INTERGOVERNMENTAL RELATIONS

Chapter 163
INTERGOVERNMENTAL
PROGRAMS

[View Entire
Chapter](#)

163.3178 Coastal management.—

(1) The Legislature recognizes there is significant interest in the resources of the coastal zone of the state. Further, the Legislature recognizes that, in the event of a natural disaster, the state may provide financial assistance to local governments for the reconstruction of roads, sewer systems, and other public facilities. Therefore, it is the intent of the Legislature that local government comprehensive plans restrict development activities where such activities would damage or destroy coastal resources, and that such plans protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

(8)(a) A proposed comprehensive plan amendment shall be found in compliance with state coastal high-hazard provisions if:

1. The adopted level of service for out-of-county hurricane evacuation is maintained for a category 5 storm event as measured on the Saffir-Simpson scale; or
2. A 12-hour evacuation time to shelter is maintained for a category 5 storm event as measured on the Saffir-Simpson scale and shelter space reasonably expected to accommodate the residents of the development contemplated by a proposed comprehensive plan amendment is available; or
3. Appropriate mitigation is provided that will satisfy subparagraph 1. or subparagraph 2. Appropriate mitigation shall include, without limitation, payment of money, contribution of land, and construction of hurricane shelters and transportation facilities. Required mitigation may not exceed the amount required for a developer to accommodate impacts reasonably attributable to development. A local government and a developer shall enter into a binding agreement to memorialize the mitigation plan.

(b) For those local governments that have not established a level of service for out-of-county hurricane evacuation by following the process in paragraph (a), the level of service shall be no greater than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale.

Level of Service is explicitly defined also by state statute in the context of the Comprehensive Plan:

<https://www.flsenate.gov/laws/statutes/2024/163.3180#:~:text=>

[\(b\)%20The%20local%20government%20comprehensive.occupancy%20or%20its%20functional%20equivalent.](https://www.flsenate.gov/laws/statutes/2024/163.3180#:~:text=(b)%20The%20local%20government%20comprehensive.occupancy%20or%20its%20functional%20equivalent.)

[Home](#) > [Laws](#) > [2024 Florida Statutes](#) > [Title XI](#) > [Chapter 163](#) > [Section 3180](#)

2024 Florida Statutes (Including 2025C)

Title XI
COUNTY ORGANIZATION AND
INTERGOVERNMENTAL RELATIONS

Chapter 163
INTERGOVERNMENTAL PROGRAMS

SECTION 3180
Concurrency.

[Entire Chapter](#)

163.3180 Concurrency.—

(1) Sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

(a) If concurrency is applied to other public facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application. In order for a local government to rescind any optional concurrency provisions, a comprehensive plan amendment is required. An amendment rescinding optional concurrency issues shall be processed under the expedited state review process in s. 163.3184(3), but the amendment is not subject to state review and is not required to be transmitted to the reviewing agencies for comments, except that the local government shall transmit the amendment to any local government or government agency that has filed a request with the governing body and, for municipal amendments, the amendment shall be transmitted to the county in which the municipality is located. For informational purposes only, a copy of the adopted amendment shall be provided to the state land planning agency. A copy of the adopted amendment shall also be provided to the Department of Transportation if the amendment rescinds transportation concurrency and to the Department of Education if the amendment rescinds school concurrency.

(b) The local government comprehensive plan must demonstrate, for required or optional concurrency requirements, that the levels of service adopted can be reasonably met. Infrastructure needed to ensure that adopted level-of-service standards are achieved and maintained for the 5-year period of the capital improvement schedule must be identified pursuant to the requirements of s. 163.3172(3). The comprehensive plan must include principles, guidelines, standards, and strategies for the establishment of a concurrency management system.

(2) Consistent with public health and safety, sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent. Prior to approval of a building permit or its functional equivalent, the local government shall consult with the applicable water supplier to determine whether adequate water supplies to serve the new development will be

<https://www.flsenate.gov/laws/statutes/2023/163.3202#:~:text=>

[\(g\)%20Provide%20that%20public%20facilities,the%20local%20government's%20comprehensive%20plan.](https://www.flsenate.gov/laws/statutes/2023/163.3202#:~:text=(g)%20Provide%20that%20public%20facilities,the%20local%20government's%20comprehensive%20plan.)

2023 Florida Statutes (Including 2023C)

Title XI
COUNTY ORGANIZATION AND
INTERGOVERNMENTAL RELATIONS

Chapter 163
INTERGOVERNMENTAL PROGRAMS
[Entire Chapter](#)

SECTION 3202
Land development regulations.

163.3202 Land development regulations.—

- (1) Within 1 year after submission of its comprehensive plan or revised comprehensive plan for review pursuant to s. 163.3191, each county and each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.
- (2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:
 - (a) Regulate the subdivision of land.
 - (b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.
 - (c) Provide for protection of potable water wellfields.
 - (d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.
 - (e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.
 - (f) Regulate signage.
 - (g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government's comprehensive plan.
 - (h) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.
 - (i) Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.

Level of Service is a standard that is to not exceed - historically the state mandated 16 hours for Evacuation LOS.

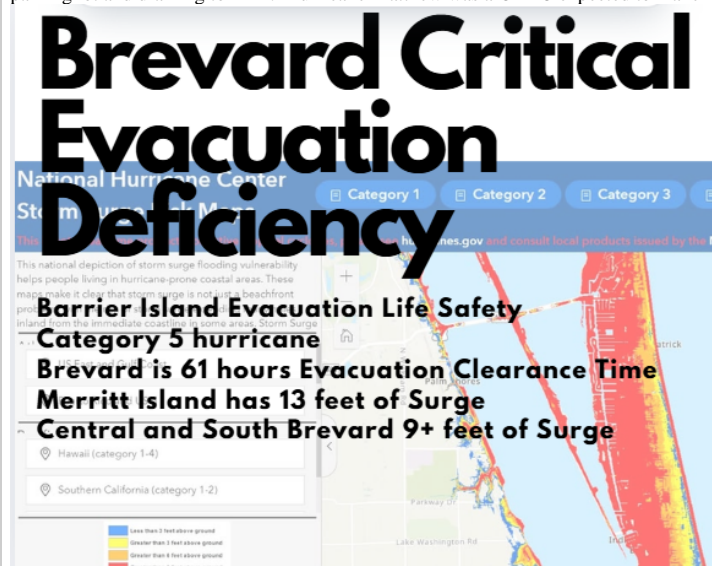
Level of service STANDARD for evacuation on Florida's barrier islands is about minimizing loss of life and property by ensuring that residents have sufficient time and safe routes to evacuate before a hurricane makes landfall and renders these areas impassable or unsafe. It's a key metric for effective emergency preparedness and resilience in the face of recurrent hurricane threats.

In the context of a comprehensive plan, **Level of Service (LOS)** is a crucial metric used to define and evaluate the quality and capacity of public facilities and infrastructure. It's a standard by which local governments determine how well their services are meeting the needs of the community and how future development will impact those services.

Mandatory evacuation orders can come with **under 24 hours for immediate threats to potentially 36-48 hours or more for stronger, slower-moving storms where clearance times are a major concern.** For example, during Hurricane Helene in September 2024, Pinellas County issued a mandatory evacuation for Zone A (including barrier islands) with a deadline of "a few hours" before storm surge flooding made roads impassable.

The issue with not being about to evacuate is storm surge - in a CAT 4/5 this map shows 9+ feet of storm surge flooding. As a one story home, this would flood to my ceiling. If you are inclined to downplay this issue, I would encourage you to watch this video of Ft.

Myers: <https://www.youtube.com/watch?v=a18yTiCVfro> Remember, even in Hurricane Nicole, a CAT 1 the surge was over the crossover into the parking lot and draining to A1A. Hurricane Matthew was a CAT 5 expected to make landfall here, and by the grace of God went offshore.



I also want to point out from a Planning and Zoning point to contradict the P&Z department that Future Land Use is not a property right according to DEO (now Dept of Commerce) - see attached file for source document. This is especially relevant to the Barrier Island concerns.

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.

It is important to note that language contained within the draft adoption ordinance heading states the amendment is to the Future Land Use Element of the Comprehensive Plan while the ordinance exhibit and supporting data and analysis show the Property Rights Element will be a new element of its own. This issue was discussed with County staff (email correspondence on September 7, 2021), who indicated their original intent was to treat the Property Rights Element as a stand-alone element and agreed to revise the draft ordinance prior to adoption.

Analysis: Staff has identified no important state resources or facilities within the Department's authorized scope of review that will be adversely impacted by the amendment if adopted. One potential technical assistance comment is suggested and is as follows:

- *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*

Staff Report
Brevard County 21-01ESR
Page 3 of 3

Comprehensive Plan and to clearly reference the Property Rights Element as its own, stand alone element.

In the interests of what it will increase in Federal costs for FEMA responses for increased damages and loss of life, I trust that you both will assist in assuring that Brevard sets a Level of Service for evacuation to not exceed.

My husband was a Miami Date First Responder with Miami Date FL-TF1 search and rescue team - with more deployments than any other engineer in the county over 30 years with the team. As a FEMA team responder he has pulled the dead bodies from the mangroves and knows personally the damage these storms do.

Please put the life safety of our residents first per state statute - as well as safeguarding our ability to get insurance by ensuring the Evacuation LOC of 18 hours is maintained in the Comprehensive Plan.

Sincerely,
Sandra Sullivan

EXPEDITED STATE REVIEW

FORMAT REVIEW

- A. Local Government's Transmittal Letter
(Proposed Amendment)
- B. State Land Planning Agency Receipt Letter
- C. State Land Planning Agency Memo to Reviewing Agencies
- D. Routing Memo to Review Team

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

MEMORANDUM

TO: Florida Department of Environmental Protection
Florida Department of Education
Florida Department of State
Florida Department of Transportation District 5
East Central Florida Regional Planning Council
St Johns River Water Management
Florida Fish and Wildlife Conservation Commission
Florida Department of Agriculture and Consumer Services

DATE: September 3, 2021

SUBJECT: COMMENTS FOR PROPOSED EXPEDITED STATE REVIEW PLAN AMENDMENT

LOCAL GOVERNMENT/ STATE LAND PLANNING AGENCY AMENDMENT #: **BREVARD CO 21-01ESR**

STATE LAND PLANNING AGENCY CONTACT PERSON/PHONE NUMBER: **Kelly Corvin/(850)717-8503**

The referenced proposed comprehensive plan amendment is being reviewed pursuant the Expedited State Review Process according to the provisions of Section 163.3184(3), Florida Statutes. Please review the proposed documents for consistency with applicable provisions of Chapter 163, Florida Statutes.

Please note that your comments must be sent directly to and received by the above referenced local government within 30 days of receipt of the proposed amendment package. A copy of any comments shall be sent directly to the local government and to the State Land Planning Agency to the attention of Ray Eubanks, Administrator, Plan Review and Processing at the Department E-mail address: DCPexternalagencycomments@deo.myflorida.com

Please use the above referenced State Land Planning Agency AMENDMENT NUMBER on all correspondence related to this amendment.

Note: Review Agencies - The local government has indicated that they have mailed the proposed amendment directly to your agency. See attached transmittal letter. Be sure to contact the local government if you have not received the amendment. Also, letter to the local government from State Land Planning Agency acknowledging receipt of amendment is attached.

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Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

September 3, 2021

Ms. Cheryl Campbell, Planner III
Brevard County
Planning & Development Department
2725 Judge Fran Jamieson Way, Building A
Viera, Florida 32940

Dear Ms. Campbell:

Thank you for submitting **Brevard County's** proposed comprehensive plan amendment submitted for our review pursuant to the Expedited State Review process. The reference number for this amendment package is **21-01ESR**.

The proposed submission package will be reviewed pursuant to Section 163.3184(3), Florida Statutes. Once the review is underway, you may be asked to provide additional supporting documentation by the review team to ensure a thorough review. You will receive the Department's Comment Letter no later than October 3, 2021.

If you have any questions please contact Terri Stoutamire, Plan Processor at (850) 717-8513 or Kelly Corvin, Regional Planning Administrator, whom will be overseeing the review of the amendments, at (850)717-8503.

Sincerely,

D. Ray Eubanks, Administrator
Plan Review and Processing

DRE/ts

cc: Rita Pritchett, Chair, Brevard County

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Planning & Development Department

2725 Judge Fran Jamieson Way

Suite A-114

Viera, FL 32940

Phone: (321)633-2070

September 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 Transmittal 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 Transmittal of the 2021-2.1 Comprehensive Plan Amendment on August 23, 2021. The Brevard County Board of County Commissioners approved the Transmittal of the 2021-2.1 Comprehensive Plan Amendment package during a public hearing on September 2, 2021.

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 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 anticipated to be adopted by Brevard County by November 4, 2021.

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,



Rita Pritchett, 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

DEO SPECIAL ROUTING FORM:
PLAN AMENDMENTS FOR EXPEDITED STATE REVIEW

TO: Kelly Corvin

DATE: 9/3/2021

From: Terri Stoutamire, Plan Processor

SUBJ: *Distribution of Proposed Plan Amendment to Review Team*

Please find enclosed proposed comprehensive plan amendment documents from the following local government:

BREVARD CO 21-01ESR

Local Government and reference number

Request that you review the enclosed documents for consistency with minimum criteria contained in Chapter 163.3184(3)(b)4.h, F.S. The State Land Planning Agency's Comments Letter to the local government, should be prepared and RECEIVED by the local government no later than:

**ESR Statutory Date: 10/3/2021
(30-DAYS from receipt)**

ESR Mail Out Date: 10/1/2021

TEAM NOTE:

The external agencies comment(s) will be sent directly to the State Land Planning Agency and local government pursuant to Section 163.3184(3)(b)2, F.S.

Should you have any procedural questions on this matter, please contact Ray Eubanks, Administrator, Plan Review/DRI Processing Team, at 850-717-8483.

ESTIMATED MEETING DATES TO BE DETERMINED BY RPA:

TRIAGE DATE: _____

DUE TO REGIONAL PLANNING ADMINISTRATOR _____

DUE TO BUREAU CHIEF _____

Stoutamire, Terri

From: noreply@salesforce.com on behalf of Comprehensive Plan Site Guest User
<noreply@deo.myflorida.com>
Sent: Friday, September 3, 2021 8:30 AM
To: Plan Processing Team
Subject: ComprehensivePlan - Amendment Uploaded.

Comprehensive Plan Support Team,

A Comprehensive plan amendment is uploaded.

From: cheryl.campbell@brevardfl.gov
Local Government: Brevard County
Amendment Type: Expedited State Review
Amendment Stage: Proposed
File Title: DEO Fall Cycle Transmittal Package 2021 2 1.pdf

Thank you

EXPEDITED STATE REVIEW

EXTERNAL AGENCY COMMENT/CITIZEN COMMENTS

- A. Receipt of Comments From External Review Agencies

- B. Citizen Comments

From: [Plan_Review](#)
To: cheryl.campbell@brevardfl.gov; [DCPexternalagencycomments](#)
Cc: [Plan_Review](#)
Subject: [EXTERNAL] - Brevard County 21-01ESR Proposed
Date: Monday, September 20, 2021 5:05:02 PM
Attachments: [image001.png](#)

To: Cheryl Campbell, Planner III

Re: Brevard County 21-01ESR – Expedited State Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to Plan.Review@FloridaDEP.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.



From: [Maiolo, Channing](#)
To: cheryl.campbell@brevardfl.gov
Cc: [Tara McCue](#); [Garcia, Heather](#); [Shams, Steve](#); [DCPexternalagencycomments](#); [Corvin, Kelly D.](#)
Subject: [EXTERNAL] - Brevard County Adopted 21-01ESR Review
Date: Friday, December 17, 2021 2:30:12 PM
Attachments: [image001.png](#)

December 17, 2021

*Ms. Cheryl Campbell
Planning and Development Department
2725 Judge Fran Jemieson Way, Building A
Viera, Florida 32940*

Subject: *Brevard County Adopted Comprehensive Plan Amendment 21-01ESR.*
Response Type: *No Remarks*

Dear Ms. Campbell,

FDOT has reviewed the transmitted amendment for the Brevard County. The adopted Comprehensive Plan Amendment is not anticipated to have significant adverse impacts to transportation resources or facilities of state importance.

We appreciate the opportunity to review the adopted amendment. If you have any questions, please do not hesitate to contact me by email at Channing.Maiolo@dot.state.fl.us or 386-943-5457.

Sincerely,



M. Channing Maiolo
Systems Planning Coordinator

cc: *Tara McCue, ECFRPC
Heather Garcia, FDOT
Steve Shams, FDOT
Jennifer Carver, FDOT
D. Ray Eubanks, DEO
Kelly Corvin, DEO*



Florida Department of Transportation

RON DESANTIS
GOVERNOR

719 S. Woodland Boulevard
DeLand, Florida 32720

KEVIN J. THIBAUT, P.E.
SECRETARY

September 3, 2021

Cheryl Campbell
Planning and Development Department
2725 Judge Fran Jamieson Way, Building A
Viera, Florida 32940

SUBJECT: PROPOSED COMPREHENSIVE PLAN AMENDMENT
LOCAL GOVERNMENT: BREVARD COUNTY
DEO #: 21-01ESR

Dear Ms. Campbell,

The Department of Transportation has completed its review of the above Proposed Comprehensive Plan Amendment.

We appreciate the opportunity to participate in this review process. The proposed Property Rights Element is not anticipated to have significant adverse impacts to the State Highway System or the Strategic Intermodal System; therefore, the Department has no technical assistance comments.

If you have any questions, you may contact me by phone at 386-943-5457 or by email at Channing.Maiolo@dot.state.fl.us.

Sincerely,

M. Channing Maiolo
Systems Planning Coordinator

C: Tara McCue, ECFRPC
Heather Garcia, FDOT
Jennifer Carver, FDOT
Steve Shams, FDOT

D. Ray Eubanks, DEO
Kelly Corvin, DEO

From: [Cucinella, Josh](#)
To: Cheryl.Campbell@brevardfl.gov
Cc: [DCPexternalagencycomments](#); [Calyniuk, Cori](#); [Conservation Planning Services](#)
Subject: [EXTERNAL] - Brevard County 21-01ESR (2021-2.1)
Date: Thursday, September 16, 2021 11:50:04 AM

Dear Ms. Campbell:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the proposed comprehensive plan amendment in accordance with Chapter 163.3184(3), Florida Statutes. We have no comments, recommendations, or objections related to listed species and their habitat or other fish and wildlife resources to offer on this amendment.

If you have specific technical questions, please contact Cori Calyniuk at (850) 556-5948 or by email at Cori.Calyniuk@MyFWC.com. For all other inquiries, please contact our office by email at ConservationPlanningServices@MyFWC.com.

Sincerely,

Josh Cucinella
Biological Administrator II
Office of Conservation Planning Services
Florida Fish and Wildlife Conservation Commission
1239 SW 10th Street
Ocala, Florida 34471
(352) 620-7330

Brevard County 21-01ESR_45396

From: [Steve Fitzgibbons](#)
To: ["Campbell, Cheryl"](#)
Cc: [DCPexternalagencycomments](#)
Subject: [EXTERNAL] - Brevard County proposed comprehensive plan amendment 21-1ESR (Property Rights Element)
Date: Monday, September 13, 2021 11:51:02 AM
Attachments: [image001.png](#)

Dear Ms. Campbell,

St. Johns River Water Management District (District) staff have reviewed Brevard County proposed comprehensive plan amendment 21-1ESR (Property Rights Element) in accordance with the provisions of Chapter 163, *Florida Statutes*. Based on review of the submitted materials, District staff have no comments on the proposed amendment.

If you have any questions or need additional information, please contact me.

Please note that all proposed and adopted comprehensive plan amendments can be submitted to the District by email at sfitzgibbons@sjrwmd.com.

Sincerely,
Steve Fitzgibbons

Steven Fitzgibbons, AICP
Intergovernmental Planner
Division of Strategic Planning and Initiatives
St. Johns River Water Management District
7775 Baymeadows Way, Suite 102
Jacksonville, FL 32256
Office (386) 312-2369
Website: www.sjrwmd.com
Connect with us: [Newsletter](#), [Facebook](#), [Twitter](#), [Instagram](#), [YouTube](#), [Pinterest](#)



www.sjrwmd.com/ePermit

We value your opinion. Please take a few minutes to share your comments on the service you received from the District by clicking this [link](#)

Notices

- Emails to and from the St. Johns River Water Management District are archived and, unless exempt or confidential by law, are subject to being made available to the public upon request. Users should not have an expectation of confidentiality or privacy.
- Individuals lobbying the District must be registered as lobbyists (§112.3261, Florida Statutes). Details, applicability and the registration form are available at <http://www.sjrwmd.com/lobbyist/>

EXPEDITED STATE REVIEW

PROPOSED COMMENT REVIEW

A. COMMENT MEMO

B. COMMENT LETTER

Bureau of Community Planning and Growth
Routing Sheet for Plan Amendment Review

☐ Consent Item ☒ Discussion Item

Brevard County 21-01ESR

Process: ☒ ESR ☐ SCR

Stage: ☒ Proposed ☐ Adopted

Local Government and RPC Contact Information:

Rita Pritchett - d1.commissioner@brevardfl.gov

Cheryl Campbell - cheryl.campbell@brevardfl.gov

Hugh Harling - hharling@ecfrpc.org

Letter Date for Mail Out: October 1, 2021

Statutory Mail Out Deadline: October 3, 2021

Sequence #	Routing	Title	Target Timeline for Review (# days)	Initials	Date
1	Matthew Preston	Planning Analyst		MP	09/22/2021
2	Kelly D. Corvin	Regional Planning Administrator		KC	9/23/21
3	James Stansbury	Bureau Chief		JAS	9/23/21
4	OGC valerie w.			VW	9/28/21
5	James Stansbury			JAS	9/28/21

Comments:

OGC-no edits

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.**

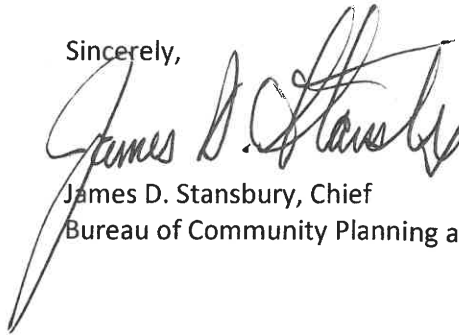
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

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- **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.

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

Staff Report for Review of Plan Amendments															
Title	Name	Signature	Date												
Bureau Chief	James Stansbury		9/23/21												
Regional Planning Administrator	Kelly D. Corvin		9/23/21												
Planning Analyst	Matthew Preston		September 22, 2021												
Process	<input checked="" type="checkbox"/> Proposed		<input type="checkbox"/> Adopted												
<input checked="" type="checkbox"/> ESR	Received: 9/3/2021	Complete: Challenge Date:	Ordinance No.:												
<input type="checkbox"/> SCR	Received: Complete: External Comments Due:	Complete: Challenge Date: NOI Posting:	Adoption Date:												
Statutory Mail Out Date															
October 3, 2021															
Tracking Categories		General Information													
<input type="checkbox"/> ACSC <input type="checkbox"/> DRI-Related <input type="checkbox"/> Military Base <input type="checkbox"/> Peril of Flood <input checked="" type="checkbox"/> Property Rights Element		Local Government: Brevard County RPC Region: East Central Florida RPC (05) Amendment No.: 21-01ESR <table border="1"><thead><tr><th></th><th>Proposed</th><th>Adopted</th></tr></thead><tbody><tr><td>No. of Text amendments:</td><td>4</td><td></td></tr><tr><td>No. of FLUM amendments:</td><td>0</td><td></td></tr><tr><td>Acres in FLUM Amendments:</td><td>N/A</td><td></td></tr></tbody></table> Significant changes between the proposed and adopted amendment: N/A			Proposed	Adopted	No. of Text amendments:	4		No. of FLUM amendments:	0		Acres in FLUM Amendments:	N/A	
	Proposed	Adopted													
No. of Text amendments:	4														
No. of FLUM amendments:	0														
Acres in FLUM Amendments:	N/A														
Staff Recommendation															
Proposed		Adopted													
Staff has identified no important state resources or facilities within the Department's authorized scope of review that will be adversely impacted by the amendment, if adopted. One technical assistance comment has been suggested.															

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

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Summary: The proposed amendment involves text amendments to the *Brevard County Comprehensive Plan*.

The proposed amendment would establish a new Property Rights Element by incorporating new legislation that became effective on July 1, 2021. The proposed Element would include the following goal, objective, and supporting policy:

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.**

It is important to note that language contained within the draft adoption ordinance heading states the amendment is to the Future Land Use Element of the Comprehensive Plan while the ordinance exhibit and supporting data and analysis show the Property Rights Element will be a new element of its own. This issue was discussed with County staff (email correspondence on September 7, 2021), who indicated their original intent was to treat the Property Rights Element as a stand-alone element and agreed to revise the draft ordinance prior to adoption.

Analysis: Staff has identified no important state resources or facilities within the Department's authorized scope of review that will be adversely impacted by the amendment if adopted. One potential technical assistance comment is suggested and is as follows:

- *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.

External Agency Comments:

Florida Department of Environmental Protection (9/20/21) did not identify any potential issues and submitted no comments or technical assistance comments regarding the proposed amendment.

Florida Department of Transportation (9/3/21) did not identify any potential issues and submitted no comments or technical assistance comments regarding the proposed amendment.

Florida Fish and Wildlife Conservation Commission (9/16/21) did not identify any potential issues and submitted no comments or technical assistance comments regarding the proposed amendment.

St. Johns River Water Management District (9/13/21) did not identify any potential issues and submitted no comments or technical assistance comments regarding the proposed amendment.

BREVARD COUNTY COMPREHENSIVE PLAN

CHAPTER XV

PRIVATE PROPERTY RIGHTS

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

71145V11119

GOALS, OBJECTIVES AND POLICIES

GOAL

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- 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.	<u>Glossary</u> <u>Property Rights Element</u>
<u>Part XVI.</u>	<u>Glossary</u>

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

**Large Scale Comprehensive Plan Amendment
Property Rights Element
Transmittal 2021-2.1
Ordinance**

ORDINANCE NO. 21-__

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 IX, ENTITLED FUTURE LAND USE 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 October 25, 2021, the Brevard County Local Planning Agency held 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 November 4, 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 ____ day of _____, 2021.

ATTEST:

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

Rachel Sadoff, Clerk

By: _____
Rita Pritchett, Chair

Approved by the Board on _____, 2021.

EXPEDITED STATE REVIEW

ADOPTION PHASE

- A. Local Government Transmittal Letter (Adopted Amendment)
- B. Adoption Ordinance
- C. Request for Additional Information (if applicable)
- D. Local Government's Transmittal Letter Providing Additional Information (if applicable)
- E. State Land Planning Agency Receipt Letter

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

MEMORANDUM

TO: Florida Department of Environmental Protection
Florida Department of Education
Florida Department of State
Florida Department of Transportation District 5
East Central Florida Regional Planning Council
St Johns River Water Management
Florida Fish and Wildlife Conservation Commission
Florida Department of Agriculture and Consumer Services

DATE: December 15, 2021

SUBJECT: COMMENTS FOR ADOPTED EXPEDITED STATE REVIEW PLAN AMENDMENT

LOCAL GOVERNMENT/ STATE LAND PLANNING AGENCY AMENDMENT #: BREVARD COUNTY 21-01ESR

STATE LAND PLANNING AGENCY CONTACT PERSON/PHONE NUMBER: Kelly Corvin/(850)717-8503

The referenced adopted comprehensive plan amendment is being reviewed pursuant the Expedited State Review Process according to the provisions of Section 163.3184(3), Florida Statutes.

Please note that your comments must be sent directly to the above referenced local government and a copy of any comments shall also be sent to the State Land Planning Agency to the attention of Ray Eubanks, Administrator, Plan Review and Processing at the Department E-mail address:

DCPexternalagencycomments@DEO.myflorida.com

Please use the above referenced State Land Planning Agency AMENDMENT NUMBER on all correspondence related to this amendment.

Note: Review Agencies - The local government has indicated that they have mailed the adopted amendment *directly to your agency*. See attached transmittal letter. *Be sure to contact the local government if you have not received the amendment*. Also, letter to the local government from State Land Planning Agency acknowledging receipt of amendment is attached.

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

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Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

December 15, 2021

Ms. Cheryl Campbell
Planner III
Brevard County
Planning & Development Department
2725 Judge Fran Jamieson Way, Suite A-114
Viera, Florida 32940

Dear Ms. Campbell:

Thank you for submitting the **Brevard County's Plan Amendment No. 21-01ESR**, adopted by **Ordinance No. 21-26 on December 2, 2021**, for our review pursuant to the Expedited State Review process. The adopted package was received by the State Land Planning Agency on **December 15, 2021**.

We have conducted a preliminary inventory of the plan amendment package to verify the inclusion of all required materials. The submission package was determined to be complete on **December 15, 2021**, and your adopted plan amendment will be reviewed pursuant to the process set forth in Chapter 163.3184(3), Florida Statutes. Once the review is underway, you may be asked to provide additional supporting documentation by the review team to ensure a thorough review.

If you have any questions please contact Kelly Corvin, Regional Planning Administrator, that will be overseeing the review of the amendments, at (850)717-8503.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Ray Eubanks".

D. Ray Eubanks, Administrator
Plan Review and Processing

DRE/ts

cc: Kristine Zopka, Chair, Brevard County

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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:

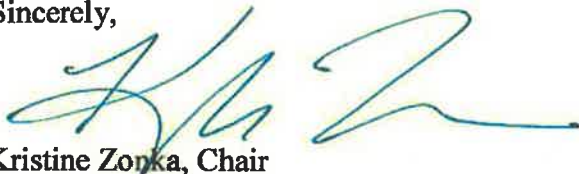
Cheryl Campbell, Planner III
Cheryl.Campbell@brevardfl.gov
Planning and Development Department
2725 Judge Fran Jamieson Way, Building A Viera, FL 32940
PHONE (321) 350-8271 - FAX (321) 633-2087

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,



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

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

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

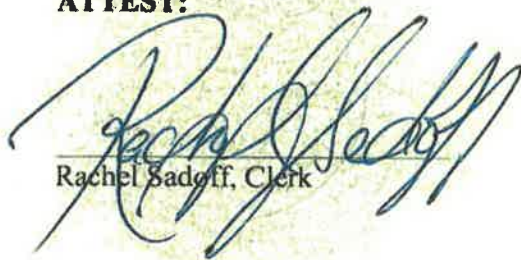
status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

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.

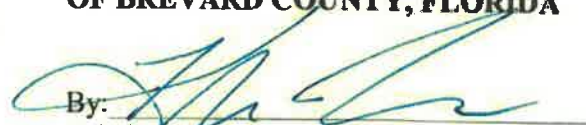
Section 6. Effective Date. The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining 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.

PLAN AMENDMENTS FOR **EXPEDITED STATE REVIEW**

TO: Kelly Corvin
From: Terri Stoutamire

DATE: December 15, 2021

SUBJ: Distribution of Adopted Plan Amendment to Review Team

Please find enclosed adopted comprehensive plan amendment documents from the following local government:

BREVARD CO 21-01ESR

TEAM NOTE:

This adopted amendment is being processed pursuant to Section 163.3184(3), F.S.

Completeness Determination Date: 12/15/2021

The staff evaluation memo for the Department's petition with the Division of Administrative Hearings must be prepared before the decision date below for the challenge to be timely filed with DOAH.

Challenge Decision Date: 1/7/2022

Mail Out Date: 1/13/2022

The cover letter transmitting the challenge filing with DOAH (if challenged) and to the local government chief elected official is to be prepared and **RECEIVED** by the local government and Division of Administrative Hearings no later than **(30 days from determination of complete package)** to request a formal hearing.

Challenge Filing Date: 1/14/2022

Should you have any procedural questions on this matter, please contact Ray Eubanks, Administrator, Plan Review/DRI Team, at 717-8483.

ESTIMATED MEETING DATES TO BE DETERMINED BY RPA:

DUE TO REGIONAL PLANNING ADMINISTRATOR _____

DUE TO BUREAU CHIEF _____

Stoutamire, Terri

From: noreply@salesforce.com on behalf of Comprehensive Plan Site Guest User
<noreply@deo.myflorida.com>
Sent: Wednesday, December 15, 2021 9:26 AM
To: Plan Processing Team
Subject: ComprehensivePlan - Amendment Uploaded.

Comprehensive Plan Support Team,

A Comprehensive plan amendment is uploaded.

From: cheryl.campbell@brevardfl.gov
Local Government: Brevard County
Amendment Type: Expedited State Review
Amendment Stage: Adopted
File Title: DEO_Fall Cycle_Adoption Packet 2021-2.pdf

Thank you

EXPEDITED STATE REVIEW

ADOPTION REVIEW

- A. Staff Adopted Review Memo
- B. Transmittal Letter to Local Government
- C. Challenge Filing (if applicable)

Bureau of Community Planning and Growth
Routing Sheet for Plan Amendment Review

☒ Consent Item ☐ Discussion Item

Brevard County 21-01ESR

Process: ☒ ESR ☐ SCR

Stage: ☐ Proposed ☒ Adopted

Local Government and RPC Contact Information:

Kristine Zonka - D5.Commissioner@BrevardFL.gov

Cheryl Campbell - cheryl.campbell@brevardfl.gov

Hugh Harling - hharling@ecfrpc.org

Letter Date for Mail Out: January 13, 2022

Statutory Mail Out Deadline: January 14, 2022

Sequence #	Routing	Title	Target Timeline for Review (# days)	Initials	Date
1	Paul Lim	Planning Analyst		PL	1/7/22
2	Kelly D. Corvin	Regional Planning Administrator		CC	1/7/22
3	James Stansbury	Bureau Chief		JH	1/10/22

Comments:

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

January 13, 2022

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

Dear Chair Zonka:

The Department of Economic Opportunity ("Department") has completed its review of the comprehensive plan amendment adopted by Brevard County (Amendment No. 21-01ESR) by Ordinance No. 21-26 on December 2, 2021. We have reviewed the amendment in accordance with the expedited state review process set forth in Section 163.3184(2) and (3), Florida Statutes, and identified no provision that necessitates a challenge of the Ordinance adopting the amendment.

If the plan amendment is not challenged by an affected person, the amendment will become effective 31 days after the Department notified the local government that the plan amendment package was complete. If the plan amendment is challenged by an affected person, the amendment will not become effective until the Department or the Administration Commission enters a final order determining the amendment to be "In Compliance."

If you have any questions concerning this review, please contact Paul Lim, Planning Analyst, by telephone at (850) 717-8511 or by email at Paul.Lim@deo.myflorida.com.

Sincerely,

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

JDS/pl

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

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
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Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

Staff Report for Review of Plan Amendments															
Title	Name	Signature	Date												
Bureau Chief	James Stansbury		1/10/22												
Regional Planning Administrator	Kelly D. Corvin		1/7/22												
Planning Analyst	Paul Lim		January 7, 2022												
Process	<input type="checkbox"/> Proposed <input checked="" type="checkbox"/> Adopted														
<input checked="" type="checkbox"/> ESR	Received: 9/3/2021	Complete: 12/15/2021 Challenge Date: 1/14/2022	Ordinance No.: 21-26												
<input type="checkbox"/> SCR	Received: Complete: External Comments Due:	Complete: Challenge Date: NOI Posting:	Adoption Date: 12/2/2021												
Statutory Mail Out Date															
October 3, 2021		January 14, 2022													
Tracking Categories		General Information													
<input type="checkbox"/> ACSC <input type="checkbox"/> Rescind Concurrency <input type="checkbox"/> DRI-Related <input type="checkbox"/> Water Supply Plan <input type="checkbox"/> Military Base <input type="checkbox"/> Wekiva Study Area <input type="checkbox"/> Peril of Flood <input type="checkbox"/> Not Tracked <input checked="" type="checkbox"/> Property Rights Element		Local Government: Brevard County RPC Region: East Central Florida RPC (05) Amendment No.: 21-01ESR <table border="1"><thead><tr><th></th><th>Proposed</th><th>Adopted</th></tr></thead><tbody><tr><td>No. of Text amendments:</td><td>4</td><td>4</td></tr><tr><td>No. of FLUM amendments:</td><td>0</td><td>0</td></tr><tr><td>Acres in FLUM Amendments:</td><td>N/A</td><td>N/A</td></tr></tbody></table> Significant changes between the proposed and adopted amendment: No			Proposed	Adopted	No. of Text amendments:	4	4	No. of FLUM amendments:	0	0	Acres in FLUM Amendments:	N/A	N/A
	Proposed	Adopted													
No. of Text amendments:	4	4													
No. of FLUM amendments:	0	0													
Acres in FLUM Amendments:	N/A	N/A													
Staff Recommendation															
Proposed		Adopted													
Staff has identified no important state resources or facilities within the Department's authorized scope of review that will be adversely impacted by the amendment, if adopted. One technical assistance comment has been suggested.		Neither the Department nor any other reviewing agency raised any comments on the proposed amendment. DEO raised one (1) technical assistance comment on the proposed amendment. The local government revised the amendment prior to adoption as recommended by DEO. Therefore, DEO staff recommends that the Department not challenge the adopted amendment.													

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Summary:

The adopted amendment addresses the Technical Assistance Comment raised at the proposed stage of the amendment that suggested revising the ordinance to remove the reference to the amendment being applicable to the Future Land Use Element of the Comprehensive Plan. The adopted ordinance references the element as “Property Rights Element” to be its own, stand-alone element.

Staff Analysis:

Neither the Department nor any other reviewing agency raised any comments on the proposed amendment. DEO raised one (1) technical assistance comment on the proposed amendment. The local government revised the amendment prior to adoption as recommended by DEO. Therefore, DEO staff recommends that the Department not challenge the adopted amendment.

Agency Comments:

No other reviewing agency comments related to the amendment were raised as of the date of this report.

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.

It is important to note that language contained within the draft adoption ordinance heading states the amendment is to the Future Land Use Element of the Comprehensive Plan while the ordinance exhibit and supporting data and analysis show the Property Rights Element will be a new element of its own. This issue was discussed with County staff (email correspondence on September 7, 2021), who indicated their original intent was to treat the Property Rights Element as a stand-alone element and agreed to revise the draft ordinance prior to adoption.

Analysis: Staff has identified no important state resources or facilities within the Department's authorized scope of review that will be adversely impacted by the amendment if adopted. One potential technical assistance comment is suggested and is as follows:

- *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)(b), F.S., DFO 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*

Staff Report
Brevard County 21-01ESR
Page 3 of 3


Comprehensive Plan and to clearly reference the Property Rights Element as its own, stand alone element.

In the interests of what it will increase in Federal costs for FEMA responses for increased damages and loss of life, I trust that you both will assist in assuring that Brevard sets a Level of Service for evacuation to not exceed.

My husband was a Miami Date First Responder with Miami Date FL-TF1 search and rescue team - with more deployments than any other engineer in the county over 30 years with the team. As a FEMA team responder he has pulled the dead bodies from the mangroves and knows personally the damage these storms do.

Please put the life safety of our residents first per state statute - as well as safeguarding our ability to get insurance by ensuring the Evacuation LOC of 18 hours is maintained in the Comprehensive Plan.

Sincerely,
Sandra Sullivan

 Brevard County 21-01ESR (1) (1).pdf
2821K

*IRma stopped
Property rights
45 years
evac.
searches
CBRA -
Federal #*