

## **LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES**

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, August 23, 2021, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Chair Mark Wadsworth, at 3:00 p.m.

Board members present were: Ron Bartcher (D1); Ben Glover (D3); William Capote (D3); Mark Wadsworth, Chair; Joe Buchanan (D4); Bruce Moia (D5); Peter Filiberto, Vice Chair (D5); and David Bassford (D5).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Kyle Harris, Planner I; Abby Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **4. Comprehensive Plan Text Amendment to include a Property Rights Element as required by House Bill 59, requiring all local governments to create a Property Rights Element; and to amend the Glossary Chapter Number from XV to XVI.**

Ron Bartcher stated to him, this seems to be another restriction on Home Rule authority, which the State legislature has been doing for many years. He asked if this will mean a developer or owner will get more consideration than any neighbors who might oppose the development of such property.

Jeffrey Ball stated the element lists four additions to be added as part of the comprehensive plan amendment. He explained that the new element has a ripple effect because DEO is requiring the County to adopt the language before any comprehensive plan amendments are sent for review, so this is curtailing any large scale and small scale plan amendments that's been waiting for adoption.

Mr. Bartcher stated the new element does address property rights and he thinks it's good to put that in there, but he's concerned that lawyers for developers are going to come forward and say, "You've put that in your comprehensive plan and therefore it should be given higher priority". He said that because of that, he would like to see a fifth statement added that says Brevard County also recognizes that planning and development decisions affect not only the property owner but the neighbors as well, and that the neighbors would have a right to participate in any of that discussion.

Abby Jorandby stated as far as the neighboring properties, the element is statutorily mandated, so staff used the language provided. As far as additional language regarding the neighbors, the proposed element is really for the private property rights of the owners, and the right of the property owner to physically possess and control his or her interests. She said she is not sure what DEO's interpretation would be if there was language added about neighboring properties.

Mr. Bartcher stated the legislature provided some sample language the board can adopt, or it can create its own language as long as it doesn't conflict.

Ms. Jorandby stated the board can make that recommendation, but the current language from the statute is directed at the property owner and doesn't reference neighboring properties.

William Capote reminded the board that it can only make a recommendation to the County Commission, and they will have the final decision.

Peter Filiberto stated as a recommended body, he agrees with Mr. Bartcher, and the board should probably hash out what the additional language should be. He said he doesn't know if using the word, 'neighbor' would be appropriate.

Mr. Bartcher stated the language he would like to see is 'affected person' so that anyone who is affected can participate in and be a party to any hearing on any development decision and that the affected person could be a person or a local government that would suffer an adverse effect to an interest protected or furthered by this comprehensive plan, including interests related to health, safety, police, fire, service systems, density intensity of development, transportation, health care, equipment services, environmental or natural resources.

Mr. Capote asked for an opinion from the Assistant County Attorney.

Ms. Jorandby asked if Mr. Bartcher is reading that language from a particular statute. Mr. Bartcher replied no, it is language from the internet.

Ms. Jorandby stated from the prior discussion, she had written down that the recommendation was that Brevard County shall consider, as part of the planning and development decision making process, affected property owners and neighbors as well.

Mr. Bartcher stated 'affected person' is a better choice than 'neighbors' because the immediate neighbors may not be the only ones affected by the decision.

Mr. Ball stated 'affected neighbors' can be subjective as far as whether or not they are affected, and asked if the word 'adjacent' could be substituted.

Mr. Bartcher stated the reason he used 'affected parties' was that frequently an issue comes before the board and the property owner who owns property that is adjacent to the developed property is only one of the members of that residential group, and the entire residential group are the ones that are really opposed to it. If it is limited it to say it's only going to be the people who are adjacent, then the other 100 or 200 people who live in that area and would be affected by that property decision are locked out. He said he understands 'affected person' is subjective, but he would like to see that language in there and leave it up to the County Commission.

Ms. Jorandby stated if that is the board's motion and if it passes, it can go to the County Commissioners for consideration.

Motion by Ron Bartcher, seconded by Peter Filiberto, to add Paragraph (E) to the element that states Brevard County recognizes that planning and development decisions affect complex systems and have impacts that occur beyond site development. Any affected person may participate in and be a party to a hearing on a planning and development decision. An affected person is any person or local government that will suffer adverse effect to an interest protected or furthered by this comprehensive plan, included interests related to health, safety, police, fire, service systems, density intensity of development, transportation facilities, healthcare facilities, equipment services, environmental or natural resources. The motion passed unanimously.

**Adjournment:**

Upon consensus of the board, the meeting adjourned at 3:24 p.m.