



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 3279, **Version:** 1

Subject:

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.

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

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

Summary Explanation and Background:

This request is for a text amendment to create a Property Rights Element to the Comprehensive Plan adding Goals, Objectives, and Policies with regards to the local decision making process as it pertains to the rights of property owners in accordance with House Bill 59. The bill became law on June 29, 2021, and had effective date of July 1, 2021. This legislation requires that each local government must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan.

The Property Rights Element is intended to create policies that assure private property rights are taken into consideration in the local development approval process. The proposed comprehensive plan amendment utilizes the following provisions established in HB59 legislation. The law also allows the Board to develop their own policies as an alternative.

- The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- 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.
- The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- The right of a property owner to dispose of his or her property through sale or gift.

On August 23, 2021, the Local Planning Agency heard the request and unanimously recommended approval with the additional language as follows: 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.

If the Board elects to include the language recommended by the LPA, a separate Objective will need to be created.

Clerk to the Board Instructions:

No action required as this is the Transmittal stage.