



DATE: May 3, 2023

TO: Members of the Planning & Zoning and Historic Resources Preservation Boards

FROM: William Waters, Director Community Sustainability

MEETING: May 10 & May 24, 2023

SUBJECT: **Ordinance 2023-10:** Consideration of an ordinance amending the City’s Comprehensive Plan to adopt a new property rights element as required by F.S. 163.3177(6)(i.).

PROPOSAL / BACKGROUND/ ANALYSIS:

On June 28, 2021, the Governor signed into law House Bill 59, which amended statutory provisions regarding optional and required comprehensive plan elements by creating a new required property rights element (F.S. 163.3177(6)(i.)). As of July 1, 2021, all local governments must adopt this element as part of their comprehensive plans by the next proposed plan amendment, or the date of the next scheduled evaluation and appraisal of their comprehensive plan. The Florida Department of Economic Opportunity (DEO) has informed the City that any future amendments to its comprehensive plan, including the Future Land Use Map, cannot be adopted until the adoption of a property rights element occurs.

This new required element must include policies consistent with the legislative intent that local governments respect “judicially acknowledged and constitutionally protected private property rights” in local decision-making. Further, F.S. 163.3177(6)(i.) provides the following statement of rights to be included in the element:

The following rights shall be considered in local decisionmaking:

1. *The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.*
2. *The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.*
3. *The right of the property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.*
4. *The right of a property owner to dispose of his or her property through sale or gift.*
(Reference: F.S. 163.3177(6)(i.)1.)

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission transmit to DEO and subsequently adopt Ordinance 2023-10.

POTENTIAL MOTION:

I move to **RECOMMEND/NOT RECOMMEND** TO THE CITY COMMISSION TO ADOPT the proposed Comprehensive Plan text amendment included in Ordinance 2023-10.

Attachments

- A. Draft Ordinance 2023-10