

**Ron DeSantis**  
GOVERNOR



**Dane Eagle**  
SECRETARY

October 14, 2022

The Honorable Danielle H. Moore  
Mayor, Town of Palm Beach  
360 South County Road  
Post Office Box 2029  
Palm Beach, Florida 33480

Dear Mayor Moore:

The Department of Economic Opportunity ("Department") has reviewed the Town of Palm Beach proposed comprehensive plan amendment (Amendment No. 22-01ESR), received on September 15, 2022, 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 Town'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 local government has proposed its property rights element with language that mirrors the statement of rights provided by Section 163.3177(6)(i)1., F.S. However, the proposed policies do not constitute complete sentences. Prior to adoption, the Town is encouraged to revise the policies to reflect that "the Town shall consider in its local decision-making the right of..."*

*Please be advised the property rights element adopted by the local government may not conflict with the statement of rights provided under Section 163.3177(6)(i)1., F.S. To ensure adopted language does not conflict, the Department recommends that the local government consult with its legal department.*

The Town 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 Town is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the Town. **If the Town receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**

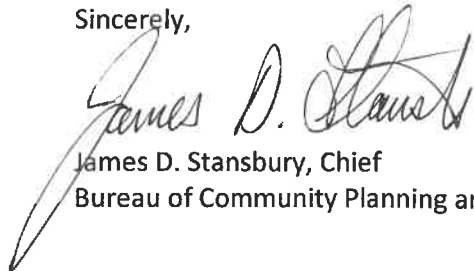
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
(850) 245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org) | [www.Twitter.com/FLDEO](https://www.Twitter.com/FLDEO) | [www.Facebook.com/FLDEO](https://www.Facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

- **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 Town 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 Yazmin Valdez, Planning Analyst, by telephone at (850) 717-8524 or by email at [Yazmin.Valdez@DEO.MyFlorida.com](mailto:Yazmin.Valdez@DEO.MyFlorida.com).

Sincerely,



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

JDS/yv

Enclosure(s): Procedures for Adoption

cc: Wayne Bergman, Director of Planning, Zoning, and Building, Town of Palm Beach  
Thomas Lanahan, Executive Director, Treasure Coast 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://fideo.my.salesforce-sites.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.

TREASURE COAST REGIONAL PLANNING COUNCIL

M E M O R A N D U M

To: Town of Palm Beach

From: Staff

Date: October 12, 2022

Subject: Local Government Comprehensive Plan Review  
Draft Amendment to the Town of Palm Beach Comprehensive Plan  
Amendment No. 21-01ESR

Introduction

The Community Planning Act, Chapter 163, *Florida Statutes*, authorizes the regional planning council to review local government comprehensive plan amendments prior to their adoption. The regional planning council review and comments are limited to adverse effects on regional resources or facilities identified in the Strategic Regional Policy Plan (SRPP) and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region. Council must provide any comments to the local government within 30 days of the receipt of the proposed amendments and must also send a copy of any comments to the state land planning agency.

The amendment package from the Town of Palm Beach was received on September 15, 2022 and contains an amendment to the comprehensive plan to add a new Property Rights Element. This report includes a summary of the proposed amendment and Council comments.

Summary of Proposed Amendment

Effective July 1, 2021, under Chapter 163, Florida Statutes, each local government is required to adopt and include a Property Rights Element in its comprehensive plan. Inclusion of the property rights element is intended to protect private property rights and to ensure they are considered in local decision-making. This new element must be adopted by the earlier of the date of the local government's adoption of its next proposed plan amendment, or the date of the next scheduled evaluation and appraisal report. Local governments can adopt their own Property Rights Element, or use the following statement of rights:

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.

The proposed amendment adopts the new Property Rights Element which is included as Exhibit 2.

#### Regional Impacts

No adverse effects on regional resources or facilities have been identified.

#### Extrajurisdictional Impacts

The proposed amendments were circulated by the Palm Beach County Intergovernmental Plan Amendment Review Committee Clearinghouse Coordinator on August 9, 2022. No extrajurisdictional impacts have been identified.

#### Conclusion

No adverse effects on regional resources or facilities and no extrajurisdictional impacts have been identified.

#### Council Action – October 12, 2022

The next scheduled Council meeting is December 9, 2022. In order to avoid unnecessary delay and meet the 30-day agency review deadline, Council's Executive Director, Thomas J. Lanahan, approves this report and authorizes its transmittal to the Town of Palm Beach and the Florida Department of Economic Opportunity.

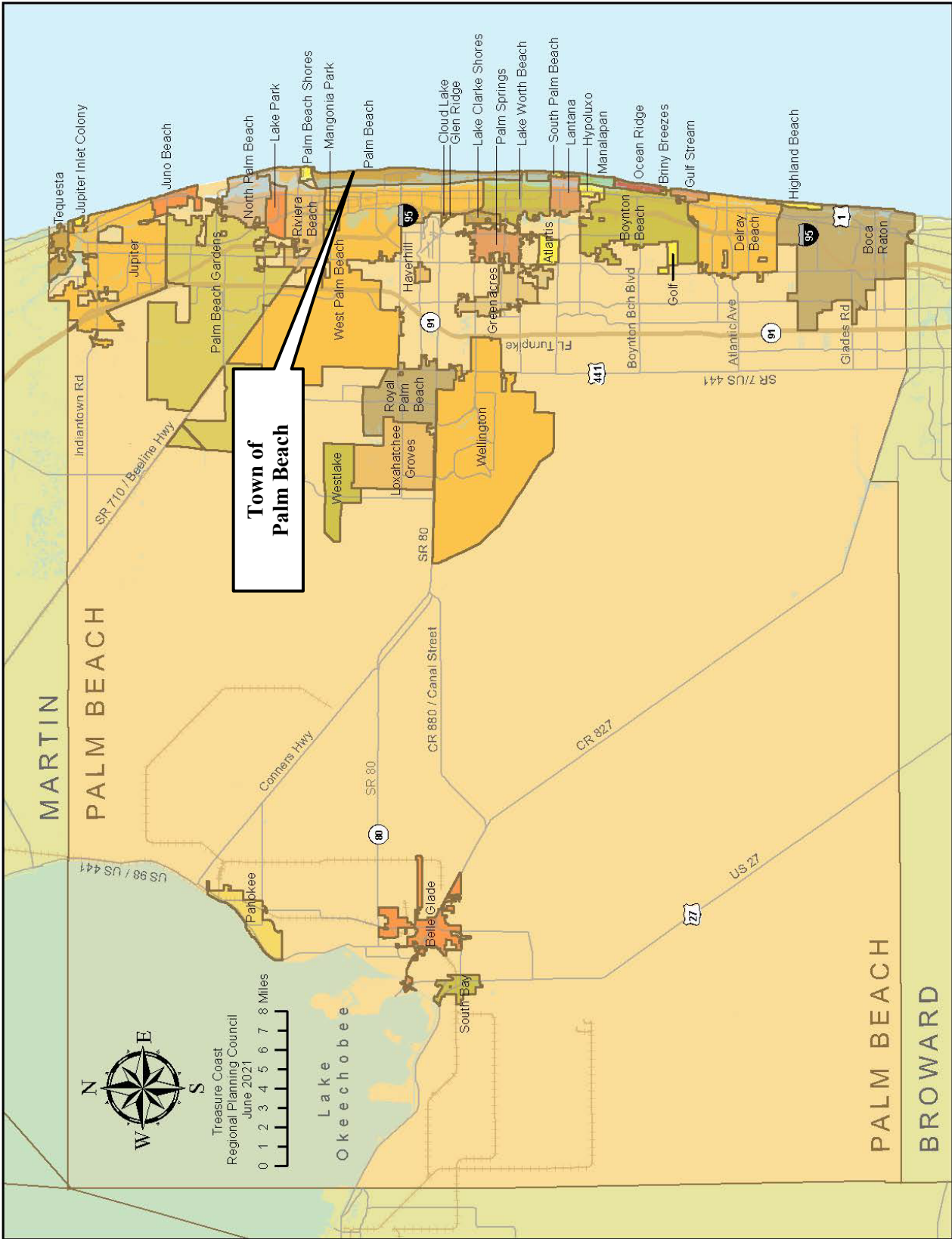
#### Attachments

## **List of Exhibits**

### **Exhibit**

- |   |                                      |
|---|--------------------------------------|
| 1 | General Location Map                 |
| 2 | Proposed New Property Rights Element |

**Exhibit 1**  
**General Location Map**





## **Exhibit 2**

### **Proposed New Property Rights Element**

#### **PROPERTY RIGHTS ELEMENT**

##### **INTRODUCTION**

The purpose of the Property Rights Element is to consider property rights in local government decision making and respect the rights of citizens to participate in decisions that affect their lives and property in accordance with the requirements of the Florida Statutes.

Local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights. However, a local government's process for regulating land greatly impacts real estate markets and property rights. Transparency, predictability, and reliability are three (3) strategies for implementing land use policies in a way that benefits the public and respects property rights. The Private Property Rights Element provides a policy framework in support of these strategies.

##### **EXECUTIVE SUMMARY**

Effective June 29, 2021, the State of Florida amended the requirements for comprehensive plan elements in ss. 163.3177(6), Florida Statutes, (F.S.), to require a Property Rights Element. The statutory requirement stipulated that the Property Rights Element must be adopted by the earlier of the adoption of the next proposed plan amendment initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of the Comprehensive Plan pursuant to s. 163.3191, F.S. In accordance with the legislative intent expressed in ss. 163.3161(10), F.S. and 187.101(3), F.S., governmental entities must respect judicially acknowledged and constitutionally protected private property rights. As such, the Property Rights Element is intended to ensure that private property rights are considered in local decision-making.

Citizens rely on local government plans: In general, residents choose to live in a community based upon factors that local governments provide, such as the quality of housing, the condition of streets and parks, the proximity to daily needs, and community safety. Businesses locate in a community for its resources, for such assets as consumers and the labor force but also public infrastructure and the environment. Businesses rely on local government plans to ensure these resources will be available. Lastly, real estate investors study local government regulations to make financial plans and accurately evaluate investment opportunities. For investments in real estate to have low risk, local governments need to protect and improve the quality of a community over time.

Land values reflect how desirable a community is in many ways. Regulating land use and protecting property rights are not conflicting goals. Rather, local government rules generally create value in property and bring stability to real estate markets. Rules that benefit the public also protect property rights. A local government's process for regulating land greatly impacts real estate markets and property rights.

Transparency, predictability, and reliability are three (3) strategies for implementing land use regulations in a way that benefits the public and respects property rights.

1. *Transparency* means people can see and participate in processes for developing rules.
2. *Predictability* means a local government follows rules that are clear and unambiguous. Real estate investors should be able to read rules and know whether local government will permit a development proposal. Residents should be able to read rules and then know what kind of development will occur in their community.
3. *Reliability* means a local government follows through on its commitments. Cities and counties should make realistic plans and should follow them. And local governments should only change their plans after thorough consideration leads to strong support. When a government is reliable, people can make long-term investments in the community—one key to a successful local economy.

## **GOALS, OBJECTIVES, AND POLICIES**

### **GOAL 1**

**THE TOWN OF PALM BEACH SHALL RESPECT JUDICIALLY  
ACKNOWLEDGED AND CONSTITUTIONALLY PROTECTED PRIVATE  
PROPERTY RIGHTS IN ITS LOCAL DECISION-MAKING PROCESSES.**

#### **OBJECTIVE 1**

The Town shall ensure that private property rights are considered in local decision-making to the extent that they are protected through the legal system and the law and order of the government.

##### **POLICY 1.1**

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

##### **POLICY 1.2**

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.

##### **POLICY 1.3**

The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

##### **POLICY 1.4**

The right of a property owner to dispose of his or her property through sale or gift.

**From:** [Wayne Bergman](#)  
**To:** [Jennifer Hofmeister-Drew](#)  
**Subject:** Fwd: Palm Beach Town 22-01ESR Proposed  
**Date:** Friday, October 14, 2022 6:41:41 PM  
**Attachments:** [Outlook-cid\\_image0.png](#)

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Another one.

Wayne Bergman  
Sent from my iPhone

Begin forwarded message:

**From:** Plan\_Review <Plan.Review@dep.state.fl.us>  
**Date:** October 14, 2022 at 6:02:38 PM EDT  
**To:** Wayne Bergman <wbergman@townofpalmbeach.com>, [dcpexternalagencycomments@deo.myflorida.com](mailto:dcpexternalagencycomments@deo.myflorida.com)  
**Cc:** Plan\_Review <Plan.Review@dep.state.fl.us>  
**Subject:** Palm Beach Town 22-01ESR Proposed

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

To: Wayne Bergman, MCP, LEED AP, Director of Planning, Zoning, & Building

Re: Palm Beach Town 22-01ESR – 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](mailto: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.

Lindly Bean



**From:** [Wayne Bergman](#)  
**To:** [Jennifer Hofmeister-Drew](#)  
**Cc:** [James Murphy](#)  
**Subject:** Fwd: Town of Palm Beach 22-1ESR - FDOT District Four Review  
**Date:** Thursday, October 13, 2022 10:51:24 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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FYI

Wayne Bergman  
Sent from my iPhone

Begin forwarded message:

**From:** "Hymowitz, Larry" <Larry.Hymowitz@dot.state.fl.us>  
**Date:** October 13, 2022 at 10:24:57 AM EDT  
**To:** DCPexternalagencycomments  
<DCPexternalagencycomments@deo.myflorida.com>, Wayne Bergman  
<wbergman@townofpalmbeach.com>  
**Cc:** "Stroh, Justin" <Justin.Stroh@dot.state.fl.us>, "Fasiska, Christine"  
<Christine.Fasiska@dot.state.fl.us>  
**Subject: Town of Palm Beach 22-1ESR - FDOT District Four Review**

\*\*\*\*\*Note: This email was sent from a source external to the Town of Palm Beach. Links or attachments should not be accessed unless expected from a trusted source. Additionally, all requests for information or changes to Town records should be verified for authenticity.\*\*\*\*\*

I am writing to advise you that the Department will not be issuing formal comments for the proposed Town of Palm Beach comprehensive plan amendment with DEO reference number 22-1ESR relating to the Property Rights Element.

The Department requests a digital copy of all adopted comprehensive plan amendment materials, including graphic and textual materials and support documents.

Thank you.



**Larry Hymowitz**

Planning Specialist, Policy and Mobility Planning Section  
Planning & Environmental Management - FDOT District Four  
p: (954) 777-4663 f: (954) 677-7892  
a: 3400 W. Commercial Boulevard, Ft. Lauderdale, FL 33309  
e: [larry.hymowitz@dot.state.fl.us](mailto:larry.hymowitz@dot.state.fl.us) w: [www.dot.state.fl.us](http://www.dot.state.fl.us)



*Together our actions have the power to save lives!*

