

## M E M O R A N D U M

**To:** Tom Harmer, Town Manager

**From:** Allen Parsons, AICP  
Director, Planning, Zoning & Building Department

**Report date:** October 22, 2021

**Meeting date:** November 1, 2021

**Subject:** Ordinance 2021-15, Amending Chapter 160, and the Town's Comprehensive Plan for Addition of a Property Rights Element

### **Recommended Action**

Transmit Ordinance 2021-15 to the Department of Economic Opportunity (DEO) for review and comment. Schedule second reading and public hearing following DEO review.

### **Background**

House Bill 59<sup>1</sup>, from this year's Legislative Session, requires all local governments to include a "Property Rights Element" in their Comprehensive Plan. The legislature approved this Bill to ensure that Local Governments respect judicially acknowledged and constitutionally protected private property rights, and to ensure that private property rights are protected and considered in the Town's decision-making processes.

The timing requirement for adoption of this new Plan Element is written in the Statute such that it is required "by the earlier of the local government's adoption of its next proposed plan amendment initiated after a certain date or the next scheduled evaluation and appraisal of its comprehensive plan."

What this means is that the Town cannot adopt or transmit to the DEO any amendments to its Comprehensive Plan until the Town has adopted this newly required Property Rights Element (the "certain date" language in the Statute refers to July 1, 2021, when the Statute became effective).

The Town has received a pending application for a Conformance Overlay Redevelopment District (CORD) redevelopment at 551 Broadway Street that will involve amending the Comprehensive Plan's Future Land Use Map (FLUM). In order to approve this application, which will include a Comprehensive Plan - FLUM amendment, the Town must have this new Property Rights Element adopted prior to the 551 Broadway Street CORD - FLUM amendment, which is also scheduled for public hearing on this November 1, 2021 Town Commission Regular Meeting. The DEO has indicated that any new proposed amendment packages initiated after July 1, 2021, will be returned unless the local government's Comprehensive Plan includes a Property Rights Element.

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<sup>1</sup>The bill was approved by the Governor on June 29, 2021, Ch. 2021-195, L.O.F., and became effective on July 1, 2021 (see Attachment B).

Therefore, staff has initiated this Comprehensive Plan amendment to add a Property Rights Element, in part, so that the CORD redevelopment application at 551 Broadway Street, if approved, would not be further delayed into next year.

The statutory Property Rights Element requirements are very straightforward. The Bill provides a model statement of rights a local government may adopt. However, the Bill allows a local government to develop its own property rights language if such language does not conflict with the model statement of rights, which requires local governments to consider the property owner's right to:

- Physically possess the property and control his or her interests in the property, including easements, leases, or mineral rights;
- Use, maintain, develop, and improve the property for personal use or the use of another, subject to State law and local ordinances;
- Privacy and exclusion of others from the property to protect his or her possessions and property; and
- Dispose of the property through sale or gift.

Ordinance 2021-15 incorporates the required model statement of rights and additionally includes objectives and policies that emphasize the Town's commitment to processes, procedures, and standards intended to provide open, transparent strategies for implementing land use rules and regulations in a way that benefits people and respects property rights.

The Planning & Zoning Board held a public hearing on September 21, 2021 and recommended approval of Ordinance 2021-15.

### **Staff Recommendation**

Transmit Ordinance 2021-15 to the Department of Economic Opportunity (DEO) for review and comment. Schedule second reading and public hearing following DEO review.

### **Attachments**

- A. Ordinance 2021-15 (Available in Town Clerk's Office)
- B. Chapter 2021-195 Laws of Florida (Available in Town Clerk's Office)
- C. PowerPoint Presentation (Available in Town Clerk's Office)

**End of Agenda Item**