



DEPARTMENT OF PLANNING AND ZONING

PLANNING DIVISION

20 NORTH MAIN STREET ♦ ROOM 262 ♦ BROOKSVILLE, FLORIDA 34601
P 352.754.4057 ♦ F 352.754.4420 ♦ W www.HernandoCounty.us

October 29, 2021

Ray Eubanks, Plan Processing Administrator
Florida Department of Economic Opportunity
Bureau of Comprehensive Planning
Caldwell Building
107 East Madison Street, MSC 160
Tallahassee, Florida 32399-4140

Re: **Hernando County Comprehensive Plan Amendment Adoption (Expedited Review)**
DEO ID: Hernando County 21-03ESR; CPAM2104 - Comprehensive Plan Text Amendment
Removing Goal Cluster 1.02, Property Rights, from the Future Land Use Element and Creating
Chapter 12, Property Rights Element and Goal Cluster 12.01, Property Rights and associated
Objective and Strategies

Dear Mr. Eubanks:

Please find enclosed the transmittal package of the adopted Hernando County Comprehensive Plan Amendment **HC21-03ESR** (CPAM2104). The adopted amendment is being submitted pursuant to the expedited review process as described in Section 163.3184(3), F.S. and shall be submitted to the Florida Department of Economic Opportunity through its Online Comprehensive Plan Amendment portal.

The Board of County Commissioners (BCC) acting as the Local Planning Agency (LPA) and the governing body held an advertised transmittal public hearing on August 10, 2021. The plan amendment was transmitted to the State Land Planning Agency and review agencies on August 16, 2021, as a proposed amendment. A review letter was issued by the State Land Planning Agency on September 15, 2021, identifying Goal 12.02 of the proposed new Property Rights Element in the Comprehensive Plan as inconsistent with House Bill 59, as it limited Hernando County's recognition of property rights interests to land use and growth management strategies and implementation mechanisms.

The advertised public hearing to adopt the Comprehensive Plan Amendment was held on October 26, 2021. The proposed amendment was adopted by Ordinance 2021-22 on this date.

As a result of the comments received from the Florida Department of Economic Opportunity, Hernando County recognized the inconsistency between Goal 12.02 and House Bill 59 and modified the goal to remove specific references to land use, growth management strategies and implementation mechanisms. These revisions to the adopted amendment are detailed in the Staff Report and are denoted in double underline in Attachment C.

The adoption package includes:

- Attachment A:** The executed adoption Ordinance 2021-22 and Exhibit A
- Attachment B:** Agency Responses to Proposed Amendment
- Attachment C:** Hernando County response to FDEO comments regarding the Property Rights Element and revisions to address those comments

Attachment D: The staff report which details additional changes made in the adopted amendment that were not previously reviewed by the State Land Planning Agency.

This letter hereby certifies that Hernando County has sent a complete copy of the proposed Comprehensive Plan Amendment and supporting materials to all the review agencies listed in Chapter 163 that provided comments at the transmittal stage.

The name of the person(s) for Hernando County who is familiar with the proposed plan amendment package is:

Michelle Miller, Senior Planner
Hernando County Planning Department
20 N. Main Street, Room 262 | Brooksville, Florida 34601
Phone: (352) 754-4057 ext. 28027 | Fax: (352) 754-4420
Email: mlmiller@hernandocounty.us

If you have any further questions or require additional information, please contact Mrs. Miller.

Sincerely,



Ronald F. Pianta, AICP
Planning and Zoning Director
Hernando County Planning Department

Enclosure: CPAM2104 Comprehensive Plan Amendment Package

cc: VIA – Email:

John Meyer, LEPC and DRI Coordinator, Tampa Bay Regional Planning Council, 4000 Gateway Centre Blvd, Ste. 100, Pinellas Park, FL 33782, email to: johnm@tbrpc.org

Trisha Neasman, AICP, Planning Supervisor, Southwest Florida Water Management District
2379 Broad Street, Brooksville FL 34604-6899, email to: trisha.neasman@watermatters.org

Daniel C. Santos, AICP, Growth Management Supervisor, Florida Department of Transportation, District Seven, 11201 North McKinley Dr., MS 7-500, Tampa, FL 33612-6456, email to: Daniel.Santos@dot.state.fl.us

Department of Environmental Protection, Attn: Plan Review, Office of Intergovernmental Programs
3900 Commonwealth Boulevard, MS 47, Tallahassee, FL, 32399, email to: Plan.Review@dep.state.fl.us

Department of State, Bureau of Historic Preservation, 500 South Bronough St, Tallahassee, FL 32399-0250, email to: compliancepermits@dos.myflorida.com

Scott Sanders, Florida Fish and Wildlife Conservation Commission, Conservation Planning Services

Ray Eubanks, Plan Processing Administrator
Florida Department of Economic Opportunity
Hernando County 20-1ESR (CPAM2004)

March 26, 2021
Page 3

620 South Meridian St, MB 5B5, Tallahassee FL 32399-1600,
email to: FWCConservationPlanningServices@myfwc.com

Department of Agriculture and Consumer Services, Attn: Comprehensive Plan Review, Office of Policy and Budget, The Capital, Plaza Level 8, Tallahassee, FL 32399-0800, email to: compplans@freshfromflorida.com

Mark Weigly, Director, Department of Education, Office of Educational Facilities, 325 West Gaines St, Ste. 1014, Tallahassee, FL 32399-0400, email to: Mark.weigly@fldoe.org

Steve Gouldman, City Planner, City of Brooksville, 201 Howell Avenue, Brooksville FL 34601, email to: sgouldman@cityofbrooksville.us

Joanna L. Coutu, AICP, Director, Citrus County Land Development Division, 3600 W. Sovereign Path, Ste. 140, Lecanto, FL 34461, email to: Joanna.coutu@citrusbocc.com

Jeff Jenkins, Executive Planner, Long Range Planning Division. Pasco County Planning and Development 8731 Citizens Drive, Ste. 320, New Port Richey, FL 34654, email to: jjenkins@pascocountyfl.net

Karl E. Holley, AICP, CFM, Director of Development Services, Sumter County Board of Commissioners 7375 Powell Road, Ste. 115, Wildwood, FL 34785, email to: karl.holley@sumtercountyfl.gov

Jim Lipsey, Manager of Planning, Design and Construction, Hernando County School District 8016 Mobley Rd Brooksville FL 34601, email to: lipsey_j@hcsb.k12.fl.us

Attachment A: Ordinance 2021-22 and Exhibit A

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ORDINANCE NO. 2021-22

AN ORDINANCE AMENDING THE 2040 HERNANDO COUNTY COMPREHENSIVE PLAN BY REMOVING GOAL CLUSTER 1.02, PROPERTY RIGHTS, FROM THE FUTURE LAND USE ELEMENT AND CREATING CHAPTER 12, PROPERTY RIGHTS ELEMENT, AND GOAL CLUSTER 12.01, PROPERTY RIGHTS, AND AN ASSOCIATED OBJECTIVE AND STRATEGIES; APPROVING AND ADOPTING CPAM-21-04; PROVIDING FOR TRANSMITTAL OF ADOPTED CPAM-21-04 TO THE STATE LAND PLANNING AGENCY AND REVIEW AGENCIES; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 1985, the Florida Legislature adopted the Local Government Comprehensive Planning and Land Development Regulation Act (now known as the Community Planning Act), as set forth in Sections 163.3161 through 163.3215, Florida Statutes (the “Act”); and,

WHEREAS, on September 25, 2018, the Hernando County Board of County Commissioners (“BOCC”) adopted the 2040 Hernando County Comprehensive Plan (Ordinance 2018-16), within which, are included goals, objectives, and strategies used to guide future growth; and,

WHEREAS, the BOCC, following a public hearing on August 10, 2021, approved Removing Goal Cluster 1.02, Property Rights, from the Future Land Use Element and Creating Chapter 12, Property Rights Element, and Goal Cluster 12.01, Property Rights, and an associated Objective and Strategies (a complete copy of the amendment is attached as **Exhibit “A”** hereto and made a part hereof and referred to as CPAM-21-04); and,

WHEREAS, the County subsequently transmitted CPAM-21-04 to the State Land Planning Agency for review pursuant to the Act, and it was assigned tracking number “Hernando County 21-03ESR” by the State Land Planning Agency; and,

WHEREAS, the State Land Planning Agency and the other Review Agencies reviewed CPAM-21-04 and, thereafter, comments concerning same were submitted to the County; and,

WHEREAS, the BOCC finds and determines that CPAM-21-04 is internally consistent with other Elements and Strategies of the 2040 Hernando County Comprehensive Plan, and is now ready for final adoption by the BOCC; and,

WHEREAS, the BOCC conducted a second public hearing on October 26, 2021, in connection with the final adoption of CPAM-21-04 as an amendment to the 2040 Hernando County Comprehensive Plan; and,

1 **WHEREAS**, upon enactment of this Ordinance, CPAM-21-04 will be transmitted as an
2 adopted comprehensive plan amendment to the State Land Planning Agency and the other Review
3 Agencies.

4
5 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
6 **COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:**

7
8 **SECTION I. Recitals.** The recitals set forth above are true and correct and incorporated
9 herein by this reference.

10
11 **SECTION II. Adopting CPAM-21-04 (Hernando County 21-03ESR).** CPAM-21-04
12 (Hernando County 21-03ESR attached as **Exhibit "A"** hereto and incorporated herein by this
13 reference), is hereby approved and adopted and the 2040 Hernando County Comprehensive Plan
14 is amended accordingly, subject to the Effective Date provision (Section X) below.

15
16 **SECTION III. Execution.** The Chairman of the Hernando County Board of County
17 Commissioners is hereby authorized to execute this Ordinance, and all related documents.

18
19 **SECTION IV. Transmittal of Adopted CPAM-21-04 to State Land Planning Agency**
20 **and Review Agencies.** County staff shall transmit an executed copy of this Ordinance adopting
21 CPAM-21-04 to the State Land Planning Agency and the other Review Agencies within ten (10)
22 days of adoption hereof pursuant to Section 163.3184, Florida Statutes.

23
24 **SECTION V. Publication.** This Ordinance shall be published as required by law.

25
26 **SECTION VI. Applicability.** This Ordinance shall be applicable throughout the
27 unincorporated area of Hernando County.

28
29 **SECTION VII. Severability.** It is declared to be the intent of the Board of County
30 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
31 Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect
32 the validity of the remaining portions of this Ordinance.

33
34 **SECTION VIII. Conflicting Provisions.** Special acts of the Florida Legislature applicable
35 only to unincorporated areas of Hernando County, Hernando County ordinances, County
36 resolutions, or parts thereof, in conflict with this Ordinance are hereby superseded by this
37 Ordinance to the extent of such conflict except for ordinances concerning either adoption or
38 amendment of the Comprehensive Plan, pursuant to Chapter 163, Part II, Florida Statutes.

39
40 **SECTION IX. Filing with the Department of State.** The clerk shall be and is hereby
41 directed forthwith to send a certified copy of this Ordinance, or electronically transmit this
42 Ordinance by email, to the Bureau of Administrative Code, Department of State, R.A. Gray
43 Building, Room 101, 500 South Bronough Street, Tallahassee, Florida 32399-0250.

44
45 **SECTION X. Effective Date.** This Ordinance shall take effect upon filing with the
46 Florida Secretary of State; however, the adopted amendment (CPAM-21-04) shall take effect, and

1 be considered an amendment to the 2040 Hernando County Comprehensive Plan, if the
2 amendment is not timely challenged, 31 days after the State Land Planning Agency notifies the
3 local government that the plan amendment package is complete or as otherwise provided in Section
4 163.3184, Florida Statutes. If timely challenged, this amendment shall become effective on the
5 date the State Land Planning Agency or the Administration Commission enters a final order
6 determining this adopted amendment to be in compliance. No development orders, development
7 permits, or land uses dependent on this amendment may be issued or commence before it has
8 become effective. If a final order of noncompliance is issued by the Administration Commission,
9 this amendment may nevertheless be made effective by adoption of a resolution affirming its
10 effective status, a copy of which resolution shall be sent to the State Land Planning Agency.

11
12 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
13 **HERNANDO COUNTY** in Regular Session this 26th day of October 2021.

14
15 **BOARD OF COUNTY COMMISSIONERS**
16 **HERNANDO COUNTY, FLORIDA**

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19
20 Attest: Heidi Kuppe, D.C.
21 *for* DOUGLAS A. CHORVAT, JR.
22 CLERK OF CIRCUIT COURT
23 AND COMPTROLLER

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30
31
32 By: [Signature]
JOHN ALLOCCO
CHAIRMAN



33 **Approved as to Form and**
34 **Legal Sufficiency**

35
36 By: [Signature]
37 Assistant County Attorney

CPAM2104: Revisions to the Future Land Use Element

~~**GOAL 1.02 – Property Rights** — Hernando County will recognize property rights interests when considering mechanisms for land use and growth management within the County.~~

~~Property and Vested Rights~~

~~**Objective 1.02A:** — Private property rights will be protected through alternative development techniques, the continuance of non-conformities, procedures for vested rights and other appropriate mechanisms.~~

~~**Strategy 1.02A(1):** — Alternate methods for property development that may be considered by the County to assist in preserving development rights while carrying out the objectives of this Plan include transferable development rights, density bonuses, variances, waivers, deviations, planned developments, clustering, conservation easements, buffers, open space preservation and other flexible development techniques.~~

~~**Strategy 1.02A(2):** — Existing legal zonings and related entitlements/property rights that do not conform with the Future Land Use Map Category shall be allowed to continue under this Plan and their entitlements shall not be diminished.~~

~~**Strategy 1.02A(3):** — The continued existence of lawful structures, uses and lots that no longer conform with newly adopted or revised strategies or codes shall be provided for in the land development regulations with appropriate standards.~~

~~**Strategy 1.02A(4):** — It is Hernando County’s intention that this Comprehensive Plan and implementing land development regulations be applied with sensitivity for private property rights so as to not be unduly restrictive, and that property owners must be free from actions by the County which would harm their property or which would constitute an inordinate burden on property rights as outlined in Florida Statutes Chapter 70, entitled the “Bert J. Harris, Jr., Private Property Rights Protection Act.”~~

Chapter 12: Property Rights Element

GOAL 12.02 – Property Rights Hernando County will recognize property rights interests in local decision-making.

Property and Vested Rights

Objective 12.02A: Private property rights will be protected through alternative development techniques, the continuance of non-conformities, procedures for vested rights and other appropriate mechanisms.

Strategy 12.02A(1): Alternate methods for property development that may be considered by the County to assist in preserving development rights while carrying out the objectives of this Plan include transferable development rights, density bonuses, variances, waivers, deviations, planned developments, clustering, conservation easements, buffers, open space preservation and other flexible development techniques.

Strategy 12.02A(2): Existing legal zonings and related entitlements/property rights that do not conform with the Future Land Use Map Category shall be allowed to continue under this Plan and their entitlements shall not be diminished.

Strategy 12.02A(3): The continued existence of lawful structures, uses and lots that no longer conform with newly adopted or revised strategies or codes shall be provided for in the land development regulations with appropriate standards.

Strategy 12.02A(4): It is Hernando County’s intention that this Comprehensive Plan and implementing land development regulations be applied with consideration for private property rights so as to not be unduly restrictive, and that property owners will be free from actions by the County which would harm their property or which would constitute an inordinate burden on property rights as outlined in Florida Statutes Chapter 70, entitled the “Bert J. Harris, Jr., Private Property Rights Protection Act.”

Strategy 12.02A(5): The following rights shall be considered in Hernando County’s local decision making:

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

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

Strategy 12.02A(6): A party or its designated successor in interest to a development agreement and a local government may amend or cancel a development agreement without securing the consent of other parcel owners whose property was originally subject to the development agreement, unless the amendment or cancellation directly modifies the allowable uses or entitlements of such owners' property.

Attachment B: Agency Responses

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

September 15, 2021

The Honorable John Allocco
Chairman, Hernando County
Board of County Commissioners
15470 Flight Path Drive
Brooksville, Florida 34604

Dear Chairman Allocco:

The Department of Economic Opportunity ("Department") has reviewed the Hernando County proposed comprehensive plan amendment (Amendment No. 21-03ESR), received on August 16, 2021, pursuant to the expedited state review process in Section 163.3184(2) - (3), Florida Statutes (F.S.). We have identified a comment related to adverse impacts to important state resources and facilities within the Department's authorized scope of review. The Agency's comment regarding these amendments are attached to this letter.

The County 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 County is reminded that:

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

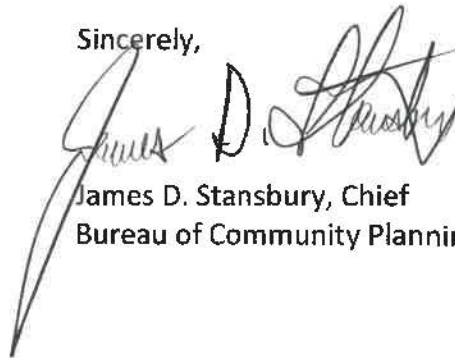
Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

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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 Barbara Powell, Regional Planning Administrator, by telephone at (850) 717-8504 or by email at barbara.powell@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is written in a cursive style with a large, sweeping initial "J".

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

JDS/ bp

Enclosure(s): Procedures for Adoption

cc: Michelle Miller, Senior Planner, Hernando County

Sean T. Sullivan, Executive Director, Tampa Bay Regional Planning Council

Comment: Property Rights Element: Section 163.3177(6)(i), F.S. requires each local government to include a property rights element in its comprehensive plan. The local government has proposed to remove adopted Goal Cluster 1.02, Property and Investment Rights from the Future Land Use Element and create Chapter 12, Property Rights Element and Goal Cluster 12.02, Property Rights and associated Objective and Strategies. The proposed language is primarily utilizing the statement of rights by Section 163.3177(6)(i), F.S. However, the adopted Goal Cluster 1.02, Property Rights would create a conflict with the statement of rights provided under Section 163.3177(6)(i)1., F.S. While Goal 12.02 requires Hernando County to recognize property rights interests when considering “land use and growth management strategies and implementation mechanisms” within the County, the statement of rights requires the local government to recognize property rights in “local decision making” with no specified focus on “land use and growth management strategies and implementation mechanisms.”

Therefore, prior to adoption, the County must revise the property rights element to delete the specific reference to “land use and growth management strategies and implementation mechanisms” that may conflict with the statement of rights provided under Section 163.3177(6)(i), F.S. DEO staff reminds the County to 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 the proposed language does not conflict, the Department recommends that the local government consult with its legal department.



Florida Department of Transportation

RON DESANTIS
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

KEVIN J. THIBAUT P.E.
SECRETARY

August 27, 2021

Michelle Miller, Senior Planner
Hernando County Planning Department
20 North Main Street, Room 263
Brooksville, FL 34601-2828

Re: Hernando County Comprehensive Plan Amendment 21-03ESR

Dear Ms. Miller:

Pursuant to Section 163.3184(3), Florida Statutes (F.S.), in its role as a reviewing agency as identified in Section 163.3184(1)(c), F.S., the Florida Department of Transportation (FDOT) reviewed proposed amendment 21-03ESR (CPAM 21-04).

Background: With an estimated 2020 population of 192,186, Hernando County (506 square miles) is part of the Nature Coast. A combination of conservation, residential, mining, and rural land uses predominate. Major roadway facilities serving the county include I-75, US 19, US 41, US 98, US 301, the Suncoast Parkway, and SR 50.

Proposal: The proposed revision will remove Goal Cluster 1.02, Property Rights, from the Future Land Use Element and Create Chapter 12, Property Rights Element and Goal Cluster 12.01, Property Rights, and associated Objective and Strategies. On April 1, 2021, House Bill 59 passed in the 2021 Legislative Session. This bill requires that local governments create a separate Property Rights Element in the Comprehensive Plan and incorporate specific language as to the rights of property owners. The property rights element language is utilizing the model language provided in House Bill 59. Also, the amendment would not increase or decrease entitlements found within their respective future land use categories.

As there are no apparent transportation issues involved with the amendment, FDOT determined the proposed amendment CPAM 21-04 has no impact on important state transportation resources or facilities within its jurisdiction.

FDOT requests that a copy of the amendment, along with the supporting data and analysis, be transmitted to the District upon its adoption.

Ms. Michelle Miller
August 27, 2021
Page 2

Thank you for the opportunity to review this amendment. Should you have any questions please do not hesitate to contact me at 813-975-6429 or at Daniel.santos@dot.state.fl.us.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Santos", written over a horizontal line.

Daniel C. Santos, AICP
Transportation Planning Supervisor

cc: Ray Eubanks, Plan Processing Administrator, DEO
Waddah Farah, PDA Administrator, FDOT District 7
Valerie James, Planning Analyst, DEO
Lindsey Mineer, LGCP Coordinator, FDOT District 7

From: [Cucinella, Josh](#)
To: [Michelle Miller](#)
Cc: [Conservation Planning Services](#); DCPexternalagencycomments@deo.myflorida.com; [Calyniuk, Cori](#)
Subject: Hernando County 21-03ESR (CPAM2104)
Date: Friday, August 20, 2021 9:54:07 AM

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Miller:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the proposed comprehensive plan amendment in accordance with Chapter 163.3184(3), Florida Statutes.

We have no comments, recommendations, or objections related to listed species and their habitat or other fish and wildlife resources to offer on this amendment.

If you have specific technical questions, please contact Cori Calyniuk at (850) 556-5948 or by email at Cori.Calyniuk@MyFWC.com. For all other inquiries, please contact our office by email at ConservationPlanningServices@MyFWC.com.

Sincerely,

Josh Cucinella
Biological Administrator II
Office of Conservation Planning Services
Florida Fish and Wildlife Conservation Commission
1239 SW 10th Street
Ocala, Florida 34471
(352) 620-7330

Hernando County 21-03ESR_45232

Attachment C: Hernando County Response to FDEO Comments

CPAM2104: Response to FDEO Comments

Summary:

Hernando County received a comment from the Florida Department of Economic Opportunity regarding Goal 12.02 of the proposed new Property Rights Element in the Comprehensive Plan. This goal was identified as being inconsistent with House Bill 59, as it limited Hernando County's recognition of property rights interests to land use and growth management strategies and implementation mechanisms.

Response:

Hernando County recognizes this inconsistency between Goal 12.02 and House Bill 59. The goal has been modified to remove the specific references to land use, growth management strategies and implementation mechanisms. The revisions to the goal are labeled with double strikethrough and double underline below.

GOAL 12.02 – Property Rights ~~Hernando County will recognize property rights interests when considering land use and growth management strategies and implementation mechanisms within the County in local decision-making.~~

Property and Vested Rights

Objective 12.02A: ~~Private property rights will be protected through alternative development techniques, the continuance of non-conformities, procedures for vested rights and other appropriate mechanisms.~~

Strategy 12.02A(1): ~~Alternate methods for property development that may be considered by the County to assist in preserving development rights while carrying out the objectives of this Plan include transferable development rights, density bonuses, variances, waivers, deviations, planned developments, clustering, conservation easements, buffers, open space preservation and other flexible development techniques.~~

Strategy 12.02A(2): ~~Existing legal zonings and related entitlements/property rights that do not conform with the Future Land Use Map Category shall be allowed to continue under this Plan and their entitlements shall not be diminished.~~

Strategy 12.02A(3): ~~The continued existence of lawful structures, uses and lots that no longer conform with newly adopted or revised strategies or codes shall be provided for in the land development regulations with appropriate standards.~~

Strategy 12.02A(4): ~~It is Hernando County's intention that this Comprehensive Plan and implementing land development regulations be applied with consideration for private property rights so as to not be unduly restrictive, and that property owners will be free from actions by the County which would harm their property or which would constitute an inordinate burden on property rights as outlined in Florida Statutes~~

Chapter 70, entitled the “Bert J. Harris, Jr., Private Property Rights Protection Act.”

Strategy 12.02A(5): The following rights shall be considered in Hernando County’s local decision making:

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

Strategy 12.02A(6): A party or its designated successor in interest to a development agreement and a local government may amend or cancel a development agreement without securing the consent of other parcel owners whose property was originally subject to the development agreement, unless the amendment or cancellation directly modifies the allowable uses or entitlements of such owners’ property.

Attachment D: Comprehensive Plan Amendment Adoption Staff Report

STAFF REPORT

HEARINGS: Planning & Zoning Commission: July 12, 2021
Local Planning Agency: August 10, 2021
Board of County Commissioners: October 26, 2021

APPLICANT: Hernando County Board of County Commissioners

FILE NUMBER: CPAM2104

REQUEST: Comprehensive Plan Text Amendment Removing Goal Cluster 1.02, Property Rights, from the Future Land Use Element and Creating Chapter 12, Property Rights Element and Goal Cluster 12.01, Property Rights and associated Objective and Strategies

DESCRIPTION OF THE PROPOSED AMENDMENT

On April 1, 2021, House Bill 59 passed in the 2021 Legislative Session and is currently awaiting signature into law by the Governor. This bill requires that local governments create a separate Property Rights Element in the Comprehensive Plan and incorporate specific language as to the rights of property owners. The Florida Housing Coalition has advised that this language be incorporated into the Comprehensive Plan by its next Evaluation and Appraisal Report (EAR). As the EAR is not due until 2025, it was determined to incorporate it now to meet the intent of the bill.

Hernando County currently has a Property Rights Goal/Objective/Strategy cluster within the Future Land Use Element of the 2040 Plan. After discussion with the Florida Department of Economic Opportunity, it was deemed appropriate to move the language from the existing Goal, Objective and Strategy cluster to a newly created Property Rights Element along with the additional language required in HB59.

FINDINGS

Given that Hernando County has a Property Rights Goal within its Comprehensive Plan and House Bill 59 requires that this language be incorporated into a new Property Rights Element, this amendment is consistent with the Comprehensive Plan.

STAFF RECOMMENDATION

It is recommended that the Planning and Zoning Commission review and recommend approval of the Comprehensive Plan Amendment to the Local Planning Agency and the Board of County Commissioners for a Transmittal Hearing on August 10, 2021.

P&Z RECOMMENDATION

On July 12, 2021, the Planning and Zoning Commission voted 5-0 to recommend approval of the Comprehensive Plan Amendment to the Local Planning Agency and Board of County Commissioners for a Transmittal Hearing on August 10, 2021.

LPA/BCC RECOMMENDATION

On August 10, 2021, the Board of County Commissioners sitting as the Local Planning Agency voted 3-0 to approve transmittal of the Comprehensive Plan Amendment to the Florida Department of Economic Opportunity and associated reviewing agencies.

STATE AGENCY RESPONSES

Hernando County received letters of no comment from the Florida Fish and Wildlife Commission and the Florida Department of Transportation. Comments were received from the Florida Department of Economic Opportunity regarding Goal 12.02 of the proposed new Property Rights Element in the Comprehensive Plan. This goal was identified as being inconsistent with House Bill 59, as it limited Hernando County’s recognition of property rights interests to land use and growth management strategies and implementation mechanisms.

The goal has been modified to remove the specific references to land use, growth management strategies and implementation mechanisms. The revisions to the goal are labeled with double strikethrough and double underline below.

GOAL 12.02 – Property Rights Hernando County will recognize property rights interests ~~when considering land use and growth management strategies and implementation mechanisms within the County~~ in local decision-making.

STAFF RECOMMENDATION

It is recommended that the Board review the proposed amendment, consider the attached staff report and backup information, adopt the amendment package, and authorize the final transmittal to the Florida Department of Economic Opportunity.

BCC ACTION:

On October 26, 2021, the Board of County Commissioners voted 5-0 to adopt Ordinance 2021-22 and transmit the adopted amendment to the Florida Department of Economic Opportunity and associated reviewing agencies.