



## Legislation Details (With Text)

**File #:** 22-0008  
**Type:** Public Hearing  
**Status:** Passed  
**In control:** Board of County Commissioners  
**On agenda:** 10/5/2021  
**Final action:** 10/5/2021  
**Title:** LEGISLATIVE PUBLIC HEARING TO CONSIDER TRANSMITTAL OF COMPREHENSIVE PLAN AMENDMENT (CPA) 21-16 PROPERTY RIGHTS

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. StaffReport.pdf, 2. Chapter 19 PROPERTY RIGHTS.pdf, 3. Chapter 1 PREAMBLE.pdf, 4. Chapter 2 OVERALL GOALS AND DEFINITIONS.pdf, 5. Resolution 21-8.22.pdf, 6. Chapter 2021-195.pdf, 7. DEO Notice.pdf, 8. Notice.PDF

Date	Ver.	Action By	Action	Result
10/5/2021	1	Board of County Commissioners	approved	Pass

**PLACEMENT:** Public Hearings

**TITLE:**

**LEGISLATIVE PUBLIC HEARING TO CONSIDER TRANSMITTAL OF COMPREHENSIVE PLAN AMENDMENT (CPA) 21-16 PROPERTY RIGHTS**

**EXECUTIVE SUMMARY:**

This is a request to create a Property Rights Element in the Comprehensive Growth Management Plan and amend any other chapters necessary for consistency.

**DEPARTMENT:** Growth Management

**PREPARED BY:** **Name:** Clyde Dulin, AICP  
**Title:** Comprehensive Planning Administrator

**REQUESTED BY:** Board of County Commissioners

**PRESET:**

**PROCEDURES:** Plan Amendment

### **BACKGROUND/RELATED STRATEGIC GOAL:**

In accordance with Sections 163.3174(4)(a) and 163.3184(3)(c)1 and (11), Florida Statutes (FS), all Comprehensive Plan amendments require three public hearings. The first public hearing for this Plan amendment was conducted before the Local Planning Agency on September 16, 2021. This is the second public hearing at which time the Board of County Commissioners determines whether to transmit or not transmit the Plan amendment to the State Land Planning Agency and other state and

regional reviewing agencies.

Upon transmittal, Section 163.3184, FS, requires state and regional reviewing agencies to provide comments to the County regarding any impacts to important state resources and facilities. The state and regional reviewing agencies must provide their comments, if any, to Martin County within 30 days of the agency receipt of the amendments. If comments are received regarding impact to state resources and facilities, they must be addressed prior to adoption of the Plan amendment. Failure to successfully address impacts to state resources and facilities may form the basis for a challenge to the amendment after adoption.

The adoption public hearing is the third required public hearing. Pursuant to Section 163.3184(3)(c)1 and (11), FS, Martin County must hold the adoption public hearing within 180 days after the receipt of reviewing agency comments. If Martin County fails to hold an adoption public hearing, the amendment is deemed withdrawn unless extended by agreement and notice to the State Land Planning Agency and any affected party that provided comments on the amendment. If the Plan amendment is adopted, Martin County has 10 days to send the amendment adoption package to the State Land Planning Agency. The State Land Planning Agency has 5 days to determine whether the amendment adoption package complete.

If an affected party challenges the adoption of a plan amendment, the petition must be filed within 30 days of the adoption date of the amendment. If the State Land Planning Agency challenges the adoption of a Plan amendment, the petition must be filed within 30 days of the completeness determination by the State Land Planning Agency.

### **ISSUES:**

Please see the attached staff report for analysis of the proposed amendment.

### **LEGAL SUFFICIENCY REVIEW:**

Decisions approving or rejecting proposed Plan amendments constitute legislative actions because they involve the policymaking function of the BCC. They are different from rezoning and site plan decisions which are quasi-judicial actions involving the application of general rules of policy to specific situations. If approval of a Plan amendment is challenged by an affected person, the approval will be sustained if it complies with Florida Statutes regarding (1) procedural requirements (e.g. proper notice, public hearing), and (2) substantive requirements (e.g. adequate data and analysis, internal consistency). The fairly debatable standard is applicable to the review and requires judicial approval of a BCC approval if reasonable persons could differ as to the propriety of the decision. For example, if a petitioner were to claim that an amendment adopted a provision that was not consistent with an existing provision of the Comprehensive Plan, the court would strike down the amendment only if the court found no reasonable person would think that the provisions are consistent. If approval of a Comprehensive Plan amendment is challenged, the process for administrative review will be as provided in Section 163.3184(5), FS.

### **RECOMMENDED ACTION:**

#### **RECOMMENDATION**

Move that the Board approve transmittal of CPA 21-16, Property Rights to the State Land Planning Agency and other state and regional reviewing agencies.

## ALTERNATIVE RECOMMENDATIONS

Move that staff provide additional information and continue the item to a future date.

## FISCAL IMPACT:

## RECOMMENDATION

Staff time.

## ALTERNATIVE RECOMMENDATIONS

Staff time.

## DOCUMENT(S) REQUIRING ACTION:

- |  |                                       |   |
|--|---------------------------------------|---|
| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application         | <input type="checkbox"/> Notice       | <input type="checkbox"/> Ordinance            |
| <input type="checkbox"/> Resolution                  |                                       |   |
| <input type="checkbox"/> Other:                      |                                       |   |

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