



Staff Report

File #: LN-168

PLANNING AND ZONING BOARD

Meeting Date: AUGUST 25, 2021

COMP PLAN TEXT AMENDMENT TO ADD PROPERTY RIGHTS ELEMENT

Request: Property Rights Element
P&Z# 21-92000002
Owner: City of Pompano Beach
Project Location: City of Pompano Beach
Folio Number: N/A
Land Use Designation: N/A
Zoning District: N/A
Commission District: Applies to entire City
Agent: Jean Dolan
Project Planner: Jean Dolan

Summary:

The State Legislature passed House Bill 59 this legislative session. It became law on June 29, 2021 and was effective on July 1, 2021. This law adds a Property Rights Element to the required elements in a Comprehensive Plan per new Section 163.3177(6)(i), Florida Statutes. The new property rights element must be adopted before any other comprehensive plan amendments heard by the Local Planning Agency (P&Z) after July 1, 2021 will be accepted by the Department of Economic Opportunity (DEO).

An excerpt from HB 59 describing what must be in the Property Rights Element is provided below.

In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decision making. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decision making:

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.

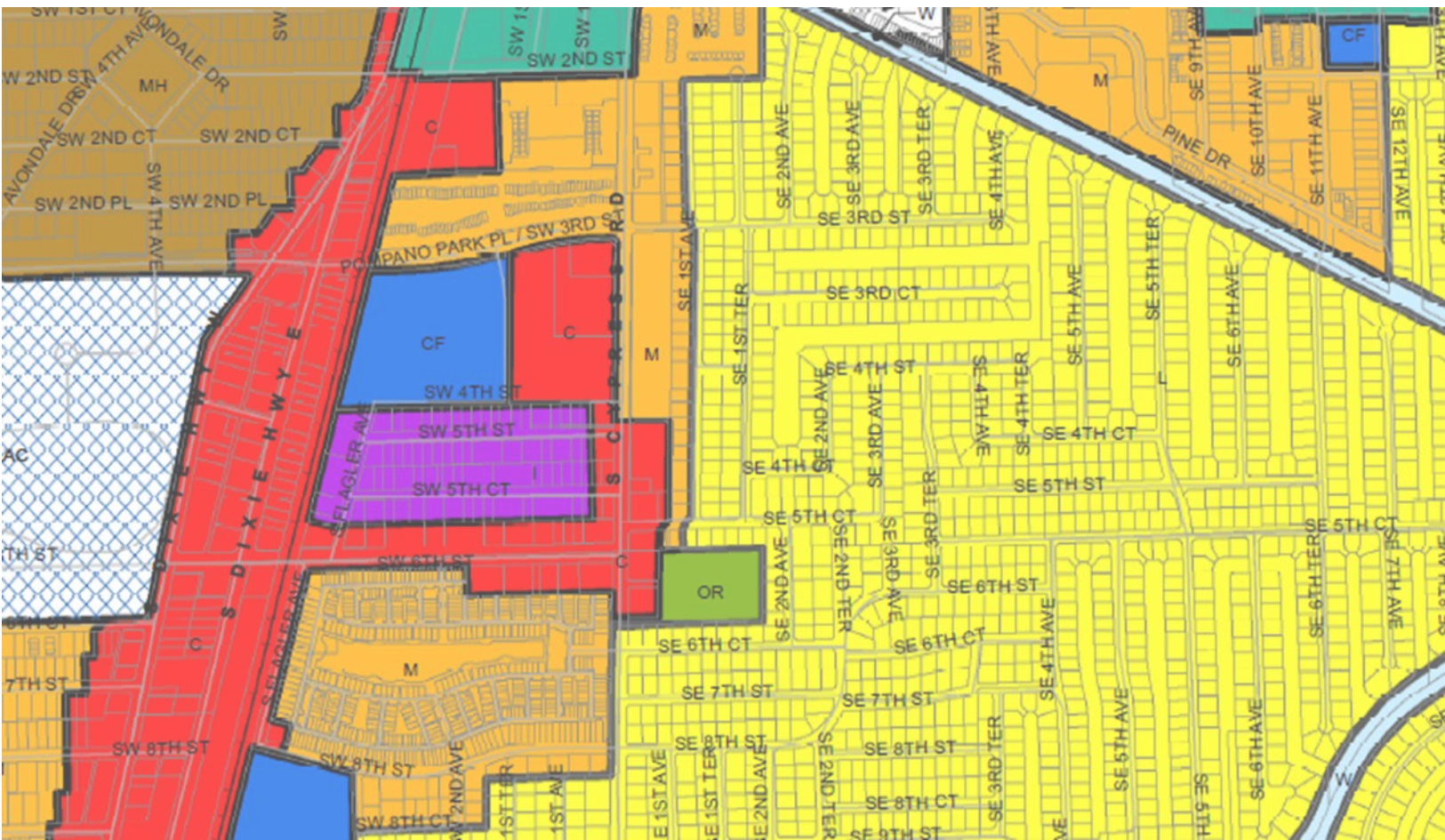
The Property Rights Element attached for your review and recommendation is based on the minimum requirements stated in the law.

Staff Recommendation and Alternative Motions

City staff is requesting the Board consider the following possible motions:

- (1) Motion to recommend approval of the proposed Property Rights Element** as the Board finds the proposed element meets the requirements of House Bill 59 which added these requirements to Section 163.3177(6)(i), Florida Statutes.
- (2) Motion to table** the proposed Property Rights Element to allow further analysis of any issues raised by the Board, Staff, Applicant or the general public.

Staff recommends motion number (1).



15. PROPERTY RIGHTS ELEMENT

Purpose and Direction: The intent of the Private Property Rights Element is meet the requirements of Chapter 163.3177, as amended, by stating the intent to continue to respect judicially acknowledged and constitutionally protected private property rights in local decision making.

Goals, Objectives, and Policies

Goal 15: To meet the requirements of Chapter 163.3177, as amended, to require a property rights element.

Objective 15.01.00 – Private Property Rights

To ensure that judicially acknowledged and constitutionally protected private property rights continue to be respected and considered in local decision-making.

Policy 15.01.01

The City will continue to respect the judicially acknowledged and constitutionally protected right of a property owner to physically possess and control their interests in the property, including easements, leases, or mineral rights.

Policy 15.01.02

The City will continue to respect the judicially acknowledged and constitutionally protected right of a property owner to use, maintain, develop, and improve their property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 15.01.03

The City will continue to respect the judicially acknowledged and constitutionally protected right of the property owner to privacy and to exclude others from their property to protect the owner's possessions and property.

Policy 15.01.04

The City will continue to respect the judicially acknowledged and constitutionally protected right of a property owner to dispose of their property through sale or gift.