April 2, 2020

The Honorable Ron DeSantis
Office of the Governor
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Re: Veto Request of SB 410

Dear Governor DeSantis:

The Florida Chapter of the American Planning Association (APA Florida) respectfully requests that you veto SB 410. We believe that this bill will preempt and erode the authority of local governments to effectively plan for their communities.

APA Florida is the state’s largest professional planning organization. With almost 3,100 members working as planners for private developers and landowners, local governments, state and regional agencies, and interest groups, we are committed to an integrated and coordinated planning system, including meaningful citizen participation, in Florida which promotes, protects, and preserves well-planned neighborhoods, communities, cities and rural areas throughout Florida.

SB 410, as originally filed, dealt with the required inclusion of a specific and new property rights element in local comprehensive plans. This concept has been the subject of legislative proposals over the last several years. APA Florida has consistently maintained that current law provides existing protections for private property rights and this mandate is unnecessary and will be costly to many local governments to implement.

This year, the bill was amended late in the Legislative Session to include several amendments which preempt local government authority to carry on certain comprehensive planning activities. In particular, the bill states that, after January 1, 2020, a county is prohibited from adopting any regulation that would serve as a limitation on a municipality to establish land use and zoning on the lands located within the municipality, unless the municipality itself adopts the regulation. Additionally, the bill was amended to provide that a county may not limit a municipality from deciding the land uses, densities, and intensities allowed on lands annexed into the municipality. The only counties exempted from this prohibition are those with population greater than 750,000 that have previously adopted charter provisions governing land use or development for all jurisdictions within the county.

The Florida Constitution addresses charter counties and specifically requires that each charter identify which ordinances prevail when there is a conflict between a county and municipal ordinance; there is no requirement for a municipality to have to independently adopt a county regulation in order for it to apply within its
jurisdiction. These local decisions are made with significant public review, citizen input, and local knowledge of issues of concern. Charter amendments are also adopted through referendum, which reflects an even greater level of local involvement. The provisions in SB 410 appear to conflict with this constitutional requirement and restrict the ability to locally determine which government should be vested with regulatory power.

The bill also creates an arbitrary distinction between charter counties with a population of greater than 750,000 people and those whose population is less than that threshold. This has the effect of depriving the citizens in smaller charter counties, or counties seeking to adopt a charter with land use policies after January 1, 2020, from the same rights as their larger established counterparts. All charters are created under the same process and to differentiate between what can be decided by the local citizens within that process based on population or date is arbitrary and does not represent sound planning.

As stated in our member-adopted Legislative Polices, APA Florida supports local government authority to implement sound planning practices and opposes the preemption or incremental erosion of local regulatory authority as this substantially diminishes the ability of local government to carry out comprehensive planning activities. APA Florida also supports annexation legislation that provides coordinated land use, which this bill moves in the opposite direction. As stated earlier, SB 410 will preempt and erode the authority of local government to effectively plan for their communities.

We respectfully request that you veto SB 410.

Sincerely,

Laura Everitt, Esq., AICP, LEED GA
President