CITY OF PALATKA
PLANNING BOARD AGENDA
September 6, 2016

1. Call to Order
2. Roll Call
3. Appeal procedures and ex-parte communication
4. Approval of the July 5, 2016 and August 2, 2016 meeting minutes.
5. **OLD BUSINESS:**

   Case 15-33 Evaluation and Appraisal Report (EAR) addendum, Comprehensive Plan – Sea Level Rise Policies.

   Case 16-25 Administrative request to rezone and remove a portion of property (southwest corner of River and Morris Streets) from local Historic District Designation (South Historic District). Approval recommended by the Historic Preservation Board, tabled from the August 2nd meeting.
   Parcel: 42-10-27-6850-0001-026043

6. **NEW BUSINESS:**

   Case 16-39 Request to rezone from R-1 (Residential Single-family) to PUD/C-1A (Planned Unit Development/Neighborhood Commercial) and amend the Future Land Use Map from RH (Residential High Density) to COM (Commercial).
   Location: 623 and 625 Laurel St.
   Applicant: Charles R. and Tina M. Duck

   Case 16-40 Request for final plat for subdivision – tabled from the August 2nd 2016 meeting.
   Location: Parcels #04-10-26-0000-0010-0000; 04-10-26-0000-0021-0000; 04-10-26-0000-0021-0030; 04-10-26-0000-0010-0030; 09-10-26-0000-0030-0000; and 09-10-26-0000-0010-0021 (a.k.a. a portion of Putnam Co. Business Park).
   Applicant: Putnam County Port Authority/Brian Hammons, Putnam Co. Planning Director

   Case 16-43 Request for conditional use to locate a church within 300 ft. of a licensed alcohol serving facility
   Location: 114-2 N. 19th St.
   Applicant: Karina Rodriguez

   Case 16-44 Request for conditional use to locate alcohol sales (associated with a restaurant) within 300 ft. of another licensed facility.
   Location: 829 & 831 S. State Rd. 19
   Applicant: LiYing Zang

   Case 16-46 Administrative request to amend the Zoning Code to implement standards for internet café/electronic gaming establishments.

   Case 16-49 Request for conditional use to locate an indoor recreation facility (bounce house) in a C-2 (Intensive Commercial) zoning district.
   Location: 3206 Crill Ave.
   Applicant: Tyler McClellan

7. **OTHER BUSINESS: None**
8. **ADJOURNMENT**

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE PLANNING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING WILL NEED A RECORD OF THE PROCEEDINGS, WHICH INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED, AT THE EXPENSE OF THE APPELLANT. F.S. 286.0105

FOR ADDITIONAL INFORMATION OR FOR PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING PLEASE CONTACT THE CITY BUILDING AND ZONING DEPARTMENT AT 329-0103, AT LEAST 24 HOURS IN ADVANCE WHEN REQUESTING DISABILITY ACCOMMODATIONS.

July 5, 201 6

meeting minutes

CITY OF PALATKA
PLANNING BOARD MINUTES
July 5, 2016

Members present: Chairman Daniel Sheffield, Earl Wallace, George DeLoach, Edie Wilson, Tammy Williams, and Ed Killebrew.
Members absent: Joseph Petrucci, Anthony Harwell and Vice-Chairman Joe Pickens.
Staff present: Planning Director Thad Crowe, Recording Secretary Pam Sprouse, and City Attorney Donald Holmes.

Motion made by Mr. DeLoach, and seconded by Mr. Kellebrew to approve the May 3rd and June 7th, 2016 meeting minutes. All present voted, motion carried unopposed.

The Chairman explained appeal procedures and requested that Board members express any ex-parte communication prior to hearing each case.

OLD BUSINESS: None

NEW BUSINESS:

Case 16-32 Request for a conditional use for on premises alcohol sales and service in conjunction with an existing motel in the DR (Downtown Riverfront) zoning district.

Location: 100 Memorial Parkway
Applicant: Sanjay Patel

Mr. Crowe explained that this request is within the 300 feet of the First Presbyterian Church and also the newly approved craft beer and wine sales at Lady Bugs. The request is for hotel guests, a practice which is becoming more common among hotels to sell or serve alcohol to their guests. He noted that the hotel is in the downtown zoning district, which is a parking exempt area, but has still provided 70 parking spaces. He went over each of the conditional use criteria and concluded that these criteria were met. He recommended approval of the request with the following conditions:

- Wine or beer shall be served only to hotel guests in lounge, lobby, or similar indoor common areas within the hotel building between the hours of 5 PM and 8 PM.
- Alcohol signs in the window are not permitted, as this would give the appearance of the hotel housing a bar or nightclub.

Mr. Sheffield asked for clarification that the use would be restricted to the footprint of the building itself. Mr. Crowe replied that was correct. He said that there were two phases of development planned for this property. The first phase is for the hotel, and the second phase is a separate parcel fronting along St. Johns Ave. Mr. Wallace asked if guest meant someone staying in the hotel. Mr. Crowe responded in the affirmative.

Motion made by Mr. DeLoach and seconded by Ms. Williams to approve the request as recommended by Staff, specifically limiting the use area to the areas described that are within the footprint of the building. Motion carried unanimously.

Case 16-33 Request for a conditional use for non-temporary outdoor storage (sheds) in the C-2 (Intensive Commercial) zoning district

Location: 920 S. Moody Rd.
Applicant: Miguel Dejuk

Mr. Crowe stated that the applicant has requested that this request be tabled so that they can improve upon the proposed site plan. **Motion** made by Ms. Williams and seconded by Mr. Kellebrew to table this request until next meeting. Motion carried unanimously.

Case 16-34 Request conditional use for on premises alcohol sales and service in conjunction with a restaurant within the DB (Downtown Business) zoning district.

Location: 700 St. Johns Ave.
Owner: Michelle Jeansonne
Applicant: Lou Singleton

Mr. Crowe identified the location as the northwest corner of 7th Street and St. Johns Ave. known in past days as the bus depot and in recent years a coffee shop, which closed down more than six years ago. He reviewed the site plan, including an outdoor seating area in front that now has planters with trees in it, a proposed outbuilding in the rear for storage, and future parking in the rear of the lot. He went over each of the conditional use criteria, and said that with Staff conditions the application met those criteria. He said that the existing pole sign could not be utilized, since the downtown sign standards have been revised to prohibit pole signs, and this sign has been partially dismantled and is not eligible for reconstruction. He recommended removal of the sign. He concluded with the following recommended conditions of approval:

1. On-premises consumption of alcohol (beer and wine) associated with a restaurant is allowed.
2. Future development shall conform to the site plan, with the requirement that Municipal Code standards regarding parking and driveway dimensions and other relevant standards will apply.
3. Alcohol service shall not occur past 10 PM.
4. Any future signage is subject to the Sign and Zoning Codes, including Downtown Overlay Zoning standards.
5. The existing pole sign remnant shall be removed.
6. A screened waste area shall be provided in the rear of the building, and the site plan shall be revised to show its location.

Mr. Wallace stated that he would like to see two trees replace the planters (somewhere on the property) if the owner should choose to remove them. Mr. Crowe agreed and added that the City has a tree fund that can be utilized as a partnership effort.

Charlie Douglas, 601 St. Johns Ave., said that he represented the applicant, Ms. Singleton being the owner of the proposed "This and That Café." He said that she is new to the area and is investing a substantial sum to have a presence downtown, to have a café which will be a great addition to the St. Johns and 7th Street corner. Ms. Singleton's intention is to spruce the place up, prune the Magnolia trees, repaint the railing of the outside front dining court and sand and paint the sign pole, as she would like to add a quaint little sign to what Mr. Douglas referred to as a sign having historical significance. He said that Ms. Singleton does not intend to improve the parking area shown on the site plan at this time, that it is a future possible expansion that would conform to the code requirements. He added that the proposed rear storage building would have a exterior finish on it to conform to the downtown architectural standards.

Lucy Singleton, East Palatka, stated that she was planning to add some kind of tree for shade, possibly a palm. She is a plant person, and there will be plants in pots all over the place.

Allegra Kitchens, 1027 S. 12th St., stated that she was neither for nor against the request. She commented that there is a requirement for screening any outside drinking areas from the general public so that people cannot be seen drinking outside as has been required of other similar requests for outdoor drinking. She commented that the hours referenced in the application listed serving hours as 6:30 am to 9:00 pm, wanted to point out for the applicant's benefit, the City of Palatka alcohol ordinance restricts the sale of alcohol before 7:30 am weekdays

and Saturday, and on not until 1:00 pm on Sunday. Upon request from clarification from the Chairman, Mr. Crowe stated that a conditional use could not exempt the applicant from the alcohol ordinance and that its requirements for hours of operation would prevail. He advised that with outdoor alcohol consumption, there is a state requirement for an identifiable barrier, not necessarily a totally hidden screening, but a clear delineation between the service area and the general public. Mr. Killebrew asked if the existing iron type fencing would be enough of a barrier. Mr. Crowe answered that it creates such a recognizable barrier. Signs could be added that say no alcohol beyond this point.

Chairman Sheffield asked Mr. Douglas if his client was aware of the barrier requirements and the alcohol hours. Mr. Douglas said that his client plans to use the existing fencing that is there which is sufficient to meet barrier requirements and would conform to the requirements of the alcohol ordinance. His applicant intends to paint the building and the railings, adding accent features, plants and really make the place attractive, something the whole downtown will be proud of. Mr. DeLoach mentioned that he observed, as a frequent visitor of the University of Florida during football season, eating and drinking establishments in that town with similar barriers to what is existing on this property now.

Ms. Wilson commented that she was in favor keeping the existing pole sign, liven it up a bit, and to use it as a sign – it has been there all of her life. Mr. Crowe stated that he recognizes the value of historic signs however this sign is not designated historical, and all that is left of the pole - the sign code requires that once a non-conforming sign becomes functionally obsolete, that it must be removed and cannot be replaced upon or brought back. He said that allowing the sign would require a code change, and added that during the development of the Downtown Overlay Zoning it was determined that pole signs were not appropriate for the St. Johns Avenue area, as they are more conducive to automobile oriented, suburban type development and not the historical, pedestrian-oriented downtown. The St. Johns Avenue area is limited to wall and ground signs. One of his concerns would be that changing the code to allow it here would mean allowing elsewhere and that could undermine the efforts to make downtown a pedestrian friendly, walkable downtown. Mr. Kellebrew asked if they could leave the pole. Mr. Crowe said that as it is currently unsightly, but he would not be opposed if it were to be improved upon it could be used as a plant stand or possibly some other use.

Motion made by Mr. DeLoach and seconded by Mr. Kellebrew to approve this request conditioned upon meeting all applicable State and local codes and per staff recommendations. All present voted, motion carried unanimously.

Case 16-36 Request for major modification to approved conditional use for more than two residential units within a single building in the DR (Downtown Riverfront) zoning district, reducing residential units and increasing commercial space.

Location: Parcel #42-10-27-6850-0020-0010 (a.k.a. "Century Block" or 100 Block of N. 2nd St.).
Applicant: Riverside Development Group LLC.

Mr. Crowe explained that this request was for modification to the floor plan of the recently City Commission-approved conditional use for up to 16 residential units with commercial on the first floor. He said that the applicant would like to modify the site plan to allow for a little more flexibility in the Moragne building, to allow for the option of commercial office space on the 2nd and third floors, while retaining at least one residential unit in that building. The other conditions of approval would remain the same. Staff recommended approval providing that if the number of residential units in the Moragne building were to be reduced to no less than one, that number cannot be transferred to the other buildings. The following conditions apply:

1. No more than 16 upper-floor residential uses shall be allowed.
2. Up to five out of the six approved residential units in the Moragne Building (105 N. 2nd St.) may be replaced with professional or medical office space. Any residential units removed from this building

shall not be transferred to other buildings in the project, but shall be eliminated from the development plan.

3. Use is approved subject to and generally conforming to the site plan, floor plan, and elevations. Minor changes may be approved by Staff, with major changes requiring Board approval through the Conditional Use permit process. Major changes include decreases in unit square footage; removal of kitchens, bathrooms, and other rooms; changes in the appearance of windows, doors, and exterior materials.
4. First-floor residential uses are prohibited.
5. Future conversion to owner-occupied condominium units is allowed as a minor change.
6. Balconies must be kept free of visual clutter including towels, grills, and other items, with the exception of patio furniture.
7. Upper-floor windows must have unified/similar window coverings (blinds or curtains only), unified to each building or to all buildings.
8. Building grounds must be kept neat and orderly, with any items stored outside being secured within areas that are screened from public view.
9. All other applicable standards of the Municipal Code must be met, including any Building or Fire Code life and safety requirements.

Kevin Sharbaugh, representing the applicant, stated that previously when this project was before the Board, the applicant was bound by a contractual restriction by the City, which has since been amended to allow what is allowed by right in the code, that is commercial and office space on the 2nd and third floors. He said that there is a potential buyer for the Moragne building who is interested in using the building for other than residential purposes.

Motion made by Mr. DeLoach and seconded by Ms. Williams to approve the request with staff recommendations. All present voted, motion carried unanimously.

Mr. Douglas said that he hopeful with their plans and believes in the revitalization of downtown core.

Upon request from the Chairman, Mr. Crowe informed the Board that no new variances from the design standards for main thoroughfares have been received at the staff level in the past few months. Mr. Sheffield asked if the new bread store that was recently approved for conditional use was issued a certificate of occupancy, as he was not sure it was developed according to the Board's approval conditions. Mr. Crowe said that the applicant had spoken at the meeting and said that there would be "some" split faced block, which has been done, but not to the entirety of the building. He also updated the Board that the building associated with the recently approved conditional use permit (for indoor recreation/Internet café) at 2801 Reid St may be encroaching on some of the church property next door, which would be a civil matter.

The meeting was adjourned at 4:58.

Case 15-33

Case # 15-33: Evaluation and Appraisal Report of the Comprehensive Plan (Sea/River Level Rise Policies)

Applicant: Building & Zoning Dept.

STAFF MEMO

DATE: August 29, 2016

TO: Chairman and Planning Board Members

FROM: Thad Crowe, AICP
Planning Director

The Board earlier this year recommended approval of the EAR report including revised and new Comprehensive Plan policies. Since that time the City Commission instructed Staff to develop policies in the Plan pertaining to sea/river level rise. Those policies are attached and Staff recommends their approval.

EVALUATION AND APPRAISAL REPORT

OF THE

PALATKA COMPREHENSIVE PLAN

August, 2016

DRAFT – 8/29/2016

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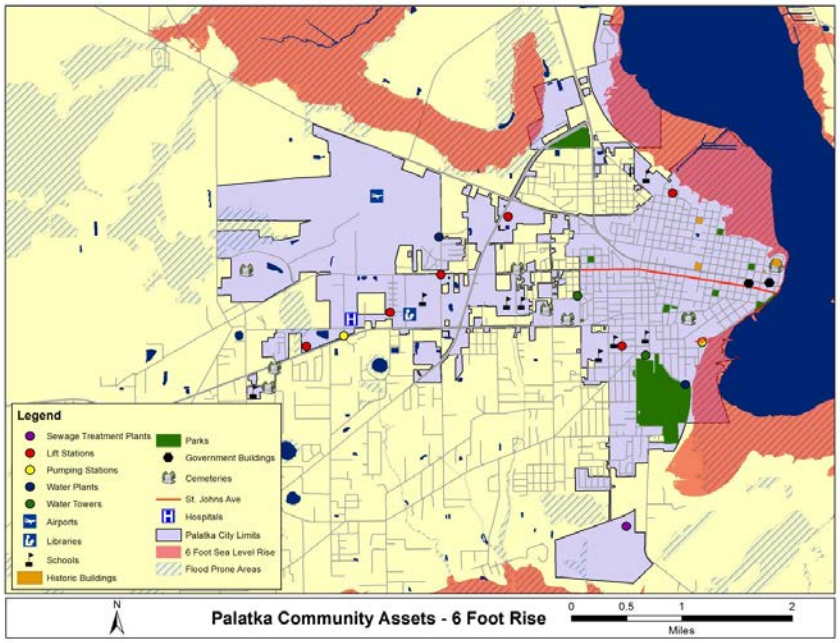
Issue #7: River Level Rise

The City Commission directed staff to develop recommendations for comprehensive plan goals, objectives, and policies that address sea level rise. As noted in a 2010 Florida Oceans and Coastal Council report titled "Change and Sea-Level Rise in Florida, an Update of the Effects of Climate Change on Florida's Ocean & Coastal Resources," sea level has risen slowly during the period of Florida's modern settlement. Over the course of recent decades, the slowly rising sea level has affected structures such as roads, drains, seawalls, and buildings that were originally built with some margin of safety from the water's edge. The rate of global sea-level rise has been about 80% faster than the best estimate of the United Nations' Intergovernmental Panel on Climate Change (IPCC) Third Assessment Report. The discrepancy is attributed to previously unreckonable contributions of water from melting ice reservoirs.

Recent estimates of melt-water contributions support a sea level in 2100 of up to more than three feet, significantly higher than projected by the last IPCC, and the estimates indicate that sea level will continue to rise long after 2100. Inland systems such as the St. Johns River will also be affected.

The only sea level rise modelling that has been performed for the City of Palatka was part of the Regional Community Institute of Northeast Florida (RCI)-published study, completed in 2014 and titled *Regional Action Plan on Sea Level Rise in Northeast Florida.* The model is for a worst-case scenario six-foot rise, which results in impacts to mostly undeveloped riverfront areas (see Figure 1), although River Street itself and the City's main lift station will be impacted and possibly underwater. The most-impacted area is a mix of private and publicly-owned properties located north of the North Historic District, much of it now in a designated Flood Zone. Flood Code standards now require that new construction and utilities be located at least one foot above the base flood elevation, as required by REMA, and also require breakway construction for new structures. These standards do not take into account the anticipated rise of up to six feet in river shoreline.



In terms of planning for rising water levels, Palatka is more fortunate than other Florida communities in that the lack of growth has spared most low-lying areas from development. What made the City a desireable settlement from Timucuan settlement on was its relative high ground. Unprecedented modern era growth in the state, which occurred at a much slower rate in Palatka, moved into floodplains and vulnerable coastal areas as the supply of high ground ran out. Wetlands that served a dual role of shoreline protection and stormwater filtration were removed with a high cost of water pollution and shoreline vulnerability.

In Palatka, large areas of wetlands have been preserved along the river, north and south of the City. Much of these areas is in public ownership, with the City owning 45.5 acres north at the northern end of 8th-11th Streets (approximately 1/3 mile west of the river shoreline), the State of Florida owning 82+ riverfront acres as part of Ravine Gardens State Park, south of the City, and to the east of that the St. Johns River Water Management District owns 908 riverfront acres. However there are also privately owned undeveloped land tracts in these flood prone areas, including 240+ acres wrapping around the City's Northside property (including riverfront land) and approximately 88 riverfront acres south of River Street and west of Morris Street. Under current regulations these areas could be developed, and if wetland mitigation was approved the City would both lose important wetland functions and allow for the development of vulnerable areas.

The City is already taking steps to improve flood control measures along the riverfront. Riverfront Park stormwater improvements will hold and treat stormwater from the X-acre downtown watershed. A recently approved grant from the St. Johns River Water Management District will fund the construction of a stormwater pond at Booker Park that will take runoff from more than 200 developed acres on the City's Northside. This pond is adjacent to the City-owned Northside property, providing the potential for flood control area expansion.

The recommendations of this section seek to retain and increase both public ownership of land and stormwater treatment in the areas described above, and also to modify development standards that retain the flood storage and water quality functions of these floodplain and wetland areas, mostly through cluster development requirements.

Recommendations

- Develop more specific findings regarding the probable extent and results of river level rise.
- Identify areas of City that are vulnerable to river level rise, utilizing elevation and other relevant data.
- Identify "vulnerability zones" in which relocation, accommodation, or protection shall be required.
- Develop timeframe for river level rise.
- Utilize public funds and pursue grants to acquire privately-owned lands within vulnerability zones.
- Develop master plan for connected greenway system of public lands (and private lands under easement) to provide for stormwater and flood control and also for recreational use (hiking and kayaking).

- Develop vegetative planting strategy for riverfront lands to improve flood control and water quality, with an eye toward future salinity changes that would impact freshwater marsh vegetation.
- Inventory and plan for relocation of vulnerable public buildings and infrastructure.
- Plan for shoreline stabilization measures and flood control, with a preference on “soft” stabilization through vegetated wetland creation and expansion, and the use of “hard” stabilization armoring structures utilized only if absolutely necessary or in conjunction with soft stabilization.
- Develop incentives and regulations that cluster future riverfront and floodplain development while improving and expanding vegetated wetlands along the riverfront.
- Require that notice be provided to purchasors of property within the vulnerability zones to inform them of vulnerability elements and Flood Code requirements.
- Revise Flood Code to ensure that development within present and future flood zones will be elevated appropriately and will not diminish flood zone capacity.
- Explore development alternatives such as floating structures and stilt structures.

Case 16-25

South Historic District Boundary Adjustment (Removal)

Case # 16-25

Property Located at southwest corner of River and Morris Streets

STAFF REPORT

DATE: August 31, 2016

TO: Planning Board members

FROM: Thad Crowe, AICP
Planning Director

SUBJECT: South Historic District Boundary Adjustment

APPLICATION REQUEST

The Applicant and owner of these properties, Mr. Normand Jutras, has requested the removal of this property from the South Historic District based on his claim that the property shown below was incorrectly included in

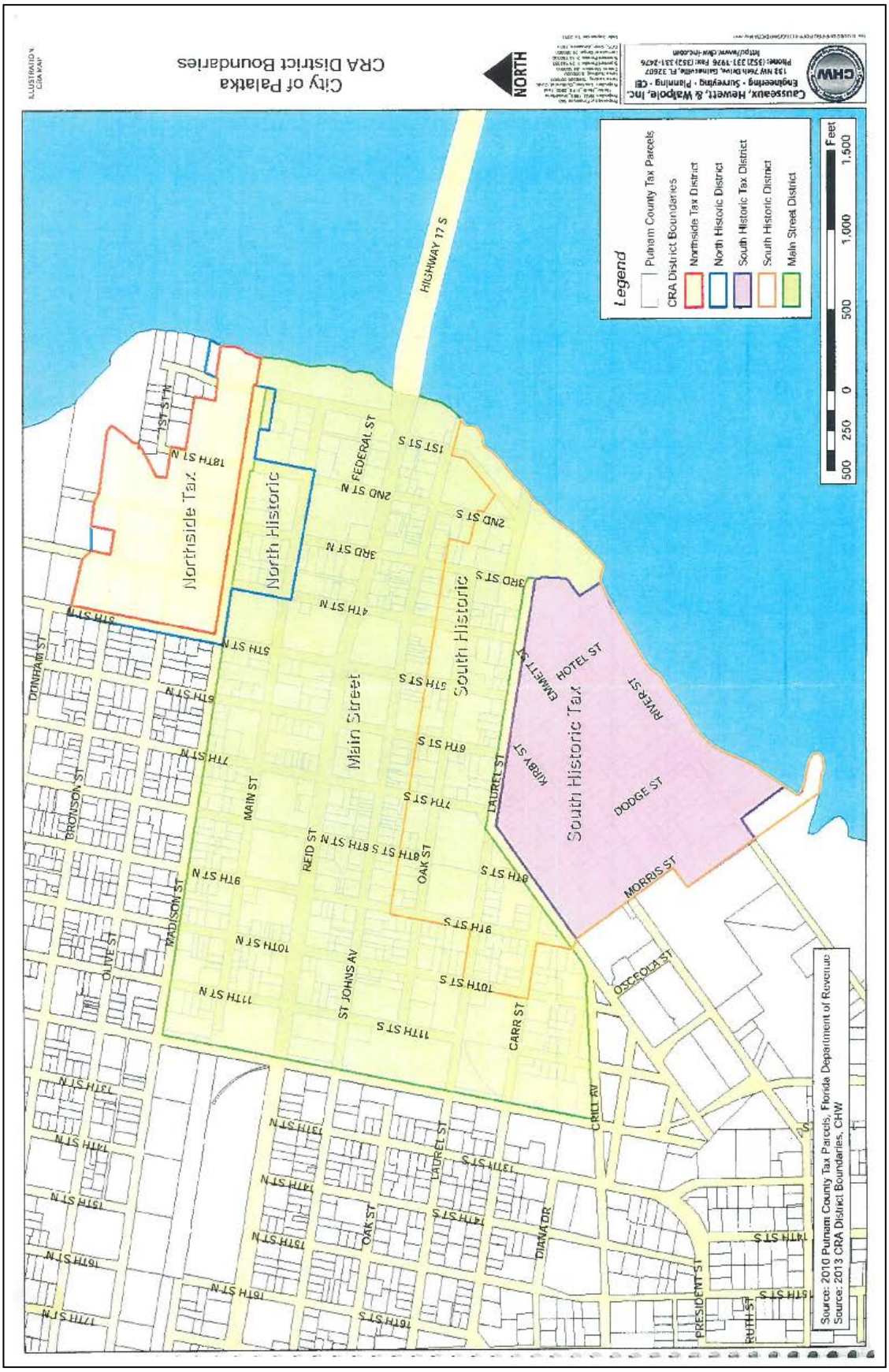
Figure 1: Property Location

the historic district. Staff previously presented the argument that this error pertained to the actual intent of the legal description to continue along the Morris Street right-of-way, not to continue the line straight down the rear lots of the properties fronting on the west side of Morris Street. However after meeting with Surveyor (and Board member) Earl Wallace, Staff has determined that the documents provided to Mr. Wallace were not the Municipal Code boundaries of the district, but an alternative boundary description error provided by the Applicant. This error was made by Staff, namely the Planning Director. The Municipal Code version of the

South Historic District boundaries are in fact accurate in what is described, which is a boundary that differs from the South Historic Community Redevelopment Area district. This is not the only such discrepancy, as the North and South Historic District boundaries are close, but do not match (see map on next page with CRA and historic district boundaries). There are actually three properties that are in a historic district but NOT in a CRA district: the Boathouse at 411 Mulholland Dr., the undeveloped property at the northeast corner of Bronson & N. 4th Streets, and the subject property at River or Morris. (There are also many downtown properties in the Downtown CRA district that are not in a historic district, but this is a different scenario as there is no downtown historic district.) All three of these properties are also on the fringe of the historic district. Therefore if one is taken out, then logically the others could too. This may not be a big impact on the historic districts, but it would result in the lack of design review on properties that are adjacent to and visually related to historic district properties.

Figure 2: Property from River St., looking west. Property is on left hand side of road – note drop-off into forested wetland area.

As stated in the previous Staff Report, Sec. 54-77 of the Municipal Code (Planning) addresses the creation of historic districts. There are no provisions in this or other sections of the Historic Preservation Ordinance that address the removal of properties from historic districts. However Sec. 94-156 of the Municipal Code (Zoning) defines the HD (Historic District) zoning as an overlay district on the underlying conventional zoning. Rezoning is the purview of the Planning Board, but one of the rezoning criteria requires a recommendation to the City Commission from the Historic Preservation Board. This Board recommended approval of this application at their July meeting, but that approval was based on the inaccurate reasoning that the Municipal Code boundary description was flawed. Therefore this matter will have to go back before the Historic Preservation Board, and both Boards' recommendations will be forwarded to the City Commission which will take final action on this application.


City of Palatka
CRA District Boundaries
NORTH
Caussseaux, Hewett, & Walpole, Inc.
Engineering · Surveying · Planning · GIS
132 NW 76th Drive, Gainesville, FL 32607
Phone: (352) 331-1976 Fax: (352) 331-2476
http://www.chw-inc.com
CHW
Legend
Putnam County Tax Parcels
CRA District Boundaries
Northside Tax District
North Historic District
South Historic Tax District
South Historic District
Main Street District
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PRESIDENT ST
RUTH ST
DONHAM ST
BRONSON ST
MADISON ST
OLIVE ST
KIRBY ST
EMMETT ST
HOTEL ST
RIVER ST
DODGE ST
MORRIS ST
OSCEOLA ST
Source: 2010 Putnam County Tax Parcels, Florida Department of Revenue
Source: 2013 CRA District Boundaries, CHW

APPLICATION ANALYSIS

The criteria for National Register designation are repeated verbatim for local designation in Section 54-77(2) of the City's Municipal Code. Staff has interpreted that at least one of the following criteria must be met for both local and national historic designation. While these criteria are the responsibility of the Historic Preservation Board, which determined that the application was not in conflict with them, they are included for informational purposes.

The historic district or site recommended by the board shall be one possessing particular historic, architectural or cultural significance, which:

a. Is associated with events that have made a significant contribution to the broad patterns of our history;

Staff Response: Staff's previous determination was that the property is part of the old Wilson Cypress Mill but did not include any remnant historic structures. Staff revisited this assessment with an evaluation of the Sanborn Maps, after hearing public input at the last Planning Board meeting that there was a service station on the subject property. Figure 3 below, the 1913 Sanborn Fire Insurance Maps, shows that there were a number of buildings on this property, further to the west, mostly associated with timber off-loading for the Mill (although there was also an office of the U.S. Army Corp of Engineers, in the building labelled "OFFICE" in Figure . Morris St. is not shown on this map, but it is at the very corner right and top of the map. There is a small building located on the south side of River St., which appears to be on the subject property. The building is labeled "Auto" and was most likely an auto repair shop/service station. Therefore Staff reverses the previous assessment that there were no structures on this property. However Staff does not have any documentation that asserts that this building had any historic, architectural, or cultural significance.

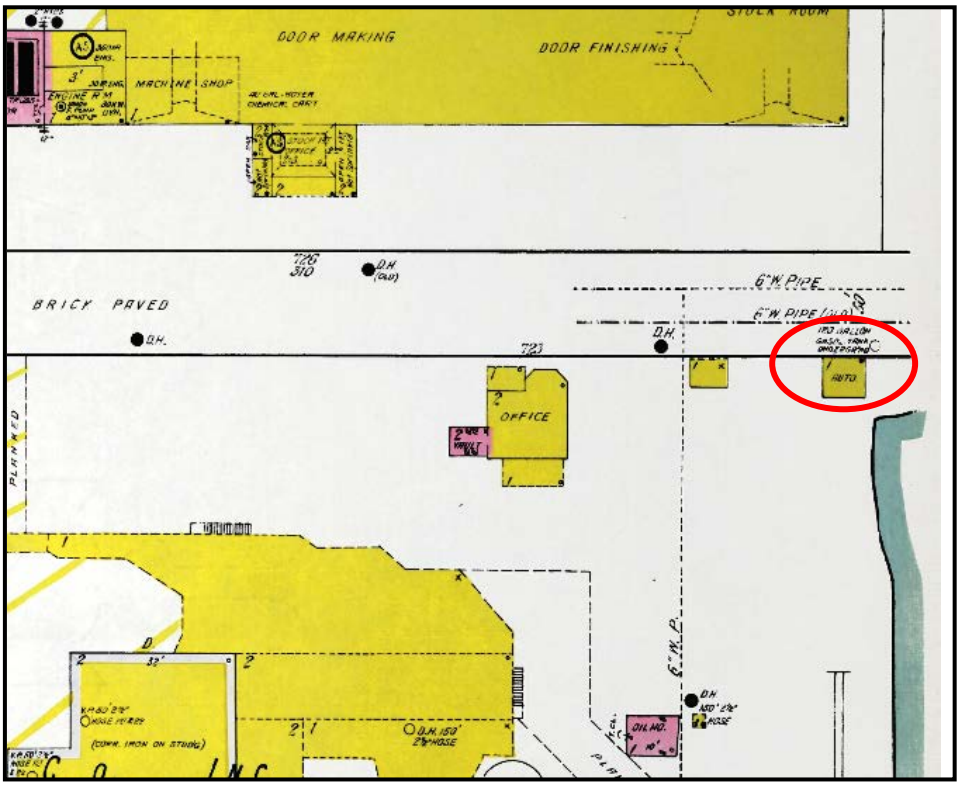


Figure 3: 1915 Sanborn Fire Insurance Map of Palatka

b. Is associated with the lives of persons significant in our past;

Staff Response: Staff does not have any documentation that associates this specific property with the lives of

period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

Staff Response: not applicable.

d. Have yielded, or may be likely to yield, information important in prehistory or history.
Staff Response: Staff is not aware of any information associated with this property that is important in prehistory or history.

The following rezoning criteria must also be considered, in this case by the Planning Board.

a. Whether the proposed change is in conformity with the comprehensive plan.
Staff Response: The Comprehensive Plan's historic preservation-related GOPs pertain to the identification and protection of clearly identified historic resources. The policy below indicates that development projects within historic districts should receive a higher level of review in regard to impact on historic sites, which could include neighboring historic properties on River and Morris Streets.

Comprehensive Plan Future Land Use Element Policy A.1.5.3 *9J-5.006(3)(c)8*
Proposed development projects shall be reviewed at the time of issuing a building permit to determine potential impacts on known historic sites. Where such construction or other development activity may impact adversely on a historic/archaeological site, the proposed development must provide sufficient buffering (spatial separation, physical wall, or other method approved by the City Planning Board) before a permit is issued.

b. The existing land use pattern.
Staff Response: not applicable.

c. Possible creation of an isolated district unrelated to adjacent and nearby districts.
Staff Response: since this smaller piece of property is part of a larger tract of land, joining it with its parent tract of land that is not in the historic district will not be creating an isolated district.

d. The population density pattern and possible increase or overtaxing of the load on public facilities such as schools, utilities, streets, etc.
Staff Response: not applicable.

e. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.
Staff Response: the only justification for this existing district boundary is the higher level of required compatibility for future development, since development on this property could have visual impacts on the adjoining residential properties.

f. Whether changed or changing conditions make the passage of the proposed amendment necessary.
Staff Response: conditions have not changed that make this amendment necessary (or unnecessary).

g. Whether the proposed change will adversely influence living conditions in the neighborhood.
Staff Response: it is possible (but not certain) that removing this property from the historic district would adversely influence living conditions in the neighborhood. This change will not affect the underlying zoning (low density single-family) and the Future Land Use Map designation of Residential Medium. However as noted, this change would provide less in the way of historic district design review to ensure compatibility with vicinity historic structures.

h. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety.
Staff Response: not applicable.

i. Whether the proposed change will create a drainage problem.
Staff Response: not applicable.

j. Whether the proposed change will seriously reduce light and air to adjacent areas.

Staff Response: not applicable.

k. Whether the proposed change will adversely affect property values in the adjacent area.

Staff Response: cannot be determined.

l. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.

Staff Response: cannot be determined.

m. Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

Staff Response: this change would not be a grant of special privilege since there is a public purpose of making the CRA and historic district more coterminous and also of removing the split zoning of the property.

n. Whether there are substantial reasons why the property cannot be used in accord with existing zoning.

Staff Response: there are not any reasons why the property cannot be developed under existing zoning. There is an added layer of design review, but this is not an unreasonable burden, since multiple vacant and potential redevelopment properties are also subject to the same review.

o. Whether the change suggested is out of scale with the needs of the neighborhood or the city.

Staff Response: not applicable.

p. Whether it is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.

Staff Response: not applicable.

q. The recommendation of the historical review board for any change to the boundaries of an HD zoning district or any change to a district underlying an HD zoning district.

Staff Response: as stated, Staff will be revisiting this issue with the Historic Preservation Board based on the correction of the rationale of this request, as well as the new information regarding past development of the property, and the previously overlooked value of design review for protection of adjacent historic properties. Planning and Historic Preservation Board recommendations will be considered by the City Commission in their final decision on this request.

SUMMARY AND STAFF RECOMMENDATION

The removal of this portion of property from the South Historic District meets some rezoning criteria in that it "trues up" historic district and CRA boundaries, removing split zoning, and does not grant special privilege. However the request does not meet other criteria in that the property can be developed under the current zoning, removal from the historic district could present negative visual impacts to adjacent historic properties due to the loss of heightened design review, and removal would also justify the removal of the previously-mentioned two other properties that are in the historic district but not in the CRA district. While Staff recommends denial of the request due to future development compatibility concerns, the Board would have justification in approving the request for the reasons stated above.

Case 16-40

Case 16-40

Application for Final Plat for Subdivision (Putnam County Business Park)

STAFF MEMO

DATE: August 31, 2016

TO: Planning Board members

FROM: Thad Crowe, AICP
Planning Director

APPLICATION REQUEST

This is a request for a subdivision final plat for the Putnam County Business Park. Staff and the Applicant (Putnam County) are requesting a final tabling of this item to the Planning Board's October meeting. The County is considering deferring platting to a future date while accommodating new development in the Park through the Planned Industrial Development process.

Case 16-43

Case PB 16-43

Request for a conditional use permit for church within 300 feet of establishment selling alcohol

114 N. 19th St.

STAFF REPORT

DATE: August 31, 2016

TO: Planning Board members

FROM: Thad Crowe, AICP
Planning Director

APPLICATION REQUEST

Conditional Use allowing a church within 300 feet of an establishment that sells alcoholic beverages (off-premises). Public notice included legal advertisement, property posting, and letters to nearby property owners (within 150 feet).

APPLICATION BACKGROUND

Chapter 10 of the Municipal Code regulates alcoholic beverages. Section 10-3 of this chapter provides specific distance/separation requirements, including a 300-foot separation between establishments licensed to sell alcohol and other alcohol establishments, churches, and schools. The subject property is within 300 feet of another alcohol establishment (the Dollar store in the Middleton Plaza, approved last year for conditional use permit for alcohol sales). Section 94-3 of the Zoning Code governs Conditional Uses, and provides the authority for granting such uses to the Planning Board, although the decision can be appealed to the City Commission by an "aggrieved" person, which Staff has interpreted to mean someone directly impacted by such an action, more than likely a property owner or resident within the 150-foot notice area.

The table on the following page shows site and surrounding uses and land use/zoning designations. Middleton Plaza is one of the City's first shopping centers and as Figures 1 and 2 show, the lack of landscaping, curbs along N. 19th St., and parking space wheel stops creates a blighted and barren appearance as well as a traffic "no-mans-land" where the potential for fender-benders is higher. The following actions have occurred on the property in the past five years:

- July, 2011: conditional use approval for alcohol sales (bar, end/northernmost unit facing Reid St);
- October, 2011: conditional use approval for internet café (unit near south end of building)
- August, 2015: conditional use approval for off-premises alcohol sales in Dollar store (third unit from Reid St)

In the past several years the Board has encouraged Code compliance through incremental improvements on such nonconforming sites. The 2015 approval was conditioned upon replacement of the unsightly chain link fence along Moseley Ave. and the planting of five shade trees along the street sides of the Plaza. The Applicant has replaced the fence with a hedge, while the tree planting has been delayed due to seasonal planting concerns along with the City's initiative to upgrade the project into providing curbing and drainage improvements along the block of N. 19th St. adjacent to the Plaza. It is anticipated that the improvements will occur by October of this year.

Table 1: Site and Surrounding Land Uses

	Actual Use	**Future Land Use Map**	**Zoning**
Site	Multi-use shopping center	COM (Commercial)	C-2 (Intensive Commercial)
North (across Reid St.)	Office building	COM (Commercial)	C-2 (Intensive Commercial)
East	Convenience store, freestanding retail store	COM (Commercial)	C-2 (Intensive Commercial)
South	Two single-family residences	COM (Commercial)	C-2 (Intensive Commercial)
West	Motel, offices	COM (Commercial)	C-2 (Intensive Commercial)

PROJECT ANALYSIS

Criteria for consideration include the following (italicized) as well as the general finding that the conditional use will not adversely affect the public interest.

a. Compliance with all applicable elements of the comprehensive plan.

Future Land Use Element Policy A.1.9.3 describes the COM Future Land Use Map (FLUM) category as follows: "Land designated for commercial use is intended for activities that are predominantly associated with the sale, rental, and distribution of products or the performance of service. Commercial land use includes offices, retail, lodging, restaurants, services, commercial parks, shopping centers, or other similar business activities. Public/Institutional uses and recreational uses are allowed within the commercial land use category. Residential uses are allowed within Downtown zoning districts, at an overall density of 20 units per acre and are subject to additional project density, design and locational standards set forth in these zoning districts. The intensity of commercial use, as measured by impervious surface, should not exceed 70 percent of the parcel and a floor area ratio of 1.5, except that a floor area ratio of up to 4.0 is allowed in downtown zoning districts. Intensity may be further limited by intensity standards of the Zoning Code. Land Development Regulations shall provide requirements for buffering commercial land uses (i.e., sight access, noise) from adjacent land uses of lesser density or intensity of use." The use has appropriate commercial zoning and future land use.

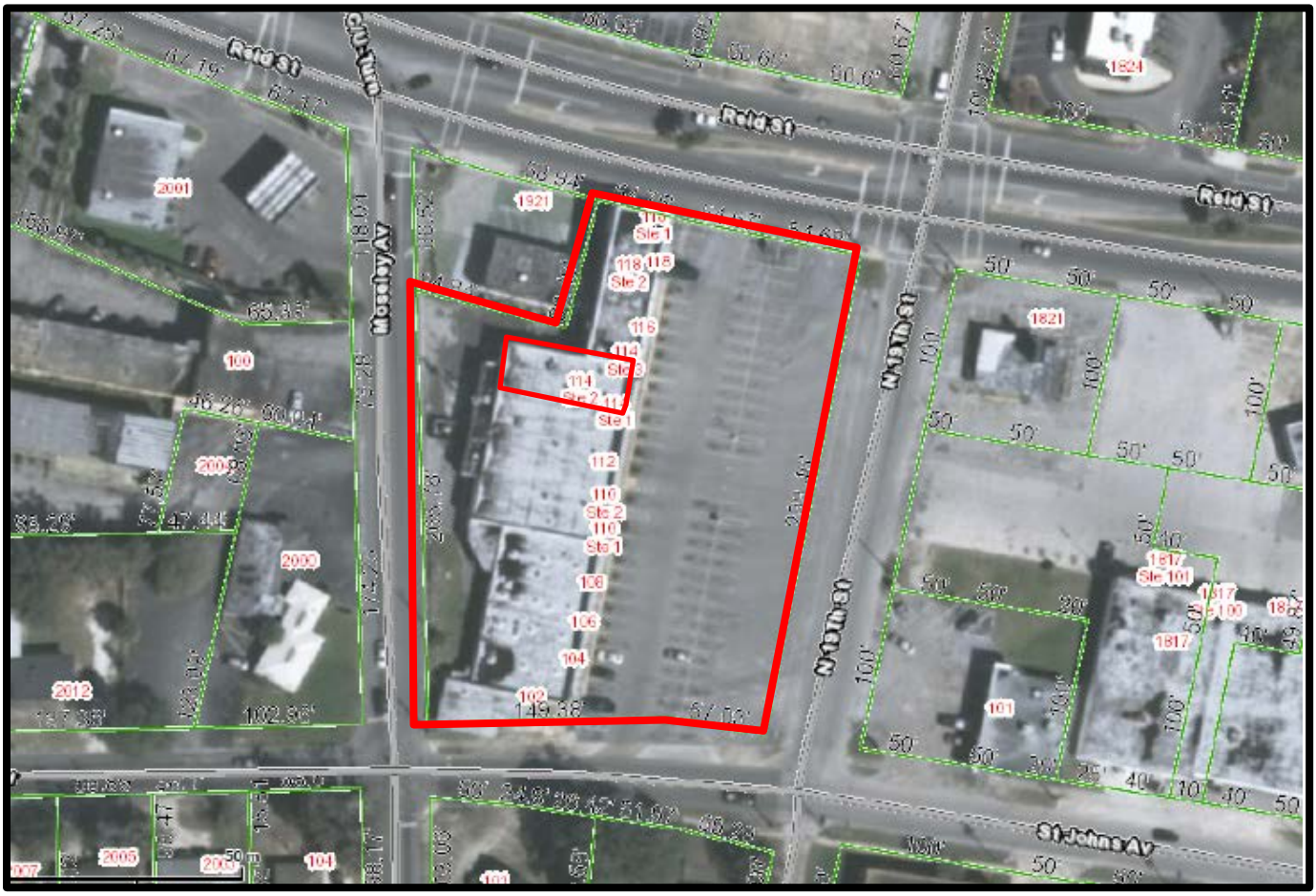


Figure 1: Project Site.

b. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
Vehicle access for the center from Reid St. & St. Johns Ave. is in the form of two north-south driveways accessing these streets. The Reid St. driveways are essentially right-out and right-in only as there is a median. There is no median on St. Johns Ave., so these are full access driveways. There are no curbs along N. 19th St. and only faint stripes to identify a central driveway from this street, so it is common for cars to access the parking lot anywhere from the street, which is a traffic safety problem. Compounding this safety issue is the lack of defined pedestrian facilities along this block of 19th St., resulting in pedestrians <u>and</u> cars weaving through the parking lot and street. The City's plan to install continuous curbing along N. 19th St. will address these problems, limiting the vehicle access to one central point along this street. The City is also considering installing a sidewalk along this block as a part of the improvements.

c. Off-street parking and loading areas, where required, with particular attention to the items mentioned in subsection (4)b of this section and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district.
Adequate and accessible parking is provided in the center's parking lot, including three handicap spaces adjacent to the building. However no curbing or wheel stops are present to better guide traffic and parking movement. Additionally the parking lot presents an unattractive image and heat island effect to

surrounding properties, including from the two single-family homes on St. Johns Ave. and also the almost 30,000 cars which daily pass this property along Reid St. The church will operate only Sunday morning and early afternoon, Wednesday evening, and Friday evening, so the limited hours will present a lower parking demand. The 50 member cap will also serve to limit parking impacts.

Figure 2: Middleton Shopping Center from N. 19th St. right-of-way. Note lack of parking lot landscaping and wheelstops. The white line in the foreground approximately represents the right-of-way line.

d. Refuse and service areas, with particular reference to the items mentioned in subsections (4)b and c of this section.

A dumpster is provided east of the building, immediately adjacent to the Moseley Ave. right-of-way. It was a conditional of approval for the 2011 conditional use (bar) that this dumpster be screened properly. The screening was put into place at that time and is still present.

e. Utilities, with reference to location, availability and compatibility.

The property is appropriately served by utilities.

f. Screening and buffering, with reference to type, dimensions and character.

The property was developed prior to adoption of the City's landscape ordinance, and there are no landscape areas on the property. The following table shows the two options and required plantings for the street frontage buffer, which would be required along all four adjacent streets. As stated previously Staff believes at

this time it is appropriate for the Board to work toward some level of incremental landscape code compliance. This would accomplish the intent of conditional uses to "promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare."

Table 2: Applicable Buffer Planting Standards

	Option 1	**Option 2**
Street Frontage Buffer Width	5 feet	8 feet
Total Frontage	950 feet (approx.)	
Canopy Trees per 100 linear feet	2	1
Total Canopy Trees Required	19	9
Shrubs per 100 linear feet (hedge)	30	25
Total Shrubs Required	285	237

With the installation of the Moseley St. hedge and the pending installation of the shade trees, Staff does not recommend further landscape improvements at this time.

g. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.
Any proposed signs shall meet the current code in regard to signs and exterior lighting.

h. Required yards and other open space.
See f. above.

i. General compatibility with adjacent properties and other property in the district.
The Comprehensive Plan and Municipal Code view compatibility in light of nonresidential uses impacting residential uses. It should be noted that there are residential uses within close proximity to this center, namely the two adjacent residences on St. Johns Avenue. The shopping center in its current unattractive state impacts surrounding properties negatively. Scheduled improvements will help to improve things.

j. Any special requirements set out in the schedule of district regulations for the particular use involved.
There are no special requirements for this use in regard to the C-2 zoning district.

k. The recommendation and any special requirements of the historic preservation board for uses within the HD zoning district.
Not applicable.

Impact on Public Interest
Staff believes that this request would not have a negative impact on the public interest. The proposed church and Dollar store can peacefully co-exist.

A motion for approval should include any relevant conditions and the staff findings for approval. Per Section 94-3(6) should the Planning Board decide to deny the application, such a motion should include the reasons for doing so, including reasons pertaining to the criteria listed above.

STAFF RECOMMENDATION

As demonstrated in this report, Staff believes that Application 16-43 for a church meets applicable conditional use criteria if the following recommendations are met.

1. Church limited to 50 members
2. Operation allowable on Sunday, 10 AM to 2 PM, and Wednesday and Friday evenings 6:30 PM to 9 PM.
3. All other Municipal Code requirements shall be met.

ATTACHMENT: APPLICANT'S NARRATIVE

Justification Letter for 114-2 9th Street Palatka, Florida

The following Justification letter was provided for 3523 Reid St. Palatka Fla. 32177 but due to circumstances out of our control we let it now serve for 114-2 N 19th St. Palatka, Florida for which we are applying for a Conditional Use. The reason being is because we would like to continue providing those services to the community.

Letter was as Follows: "We are a congregation of 50 members composed of families, singles, and single parents. Our place of worship is 3523 Reid St. Palatka Florida where lives are positively impacted making a difference in our communities and city. Guided by Biblical morals and principles, public health, safety, welfare, order, comfort, convenience, appearance, prosperity, spiritual support, and references are provided here. People from all walks of life have reached out to us at 3523 Reid St. our place of worship looking for hope in this church and have found it. Victims of Domestic Violence are supported and have been referred to other services in the community. Informational services open to the public have been held to inform community members on healthcare plans like Obamacare and Nutrition. Women diagnosed with Breast Cancer are supported, and activities are held to bring women's health awareness, like walking for a cause. Food baskets have been given to those whom we have known to be facing hardships in the community. Love offerings have been given to those who came and asked for assistance to pay their rent. By doing this we meet the needs of community members within our capability. We are also registered with the probation office to be open for community hours. On Wednesdays at 7:30pm the musicians practice and anyone interested in learning to play the guitar, keyboard, base or drums is welcomes. On Fridays at 7pm couples Biblical lessons are given to enhance couples lives and strengthen their relationships producing better family life. At 11:30am we have Sunday school for adults and children and at 1:00pm we have our worship service."

In regards to the justification criteria: for 114-2 N 19th St. Palatka Florida.

a.) We will comply
b.) Ingress and Egress can be done through 19th St. or Reid Street. Traffic is smooth and slow with No traffic on Sundays. In case of fire or catastrophe are the main entrance and the back door.
c.) There is plenty of parking, Parking lot is big. With No parking lot needed by others on Sundays. There would be no economic, noise, glare, or odor effects that may negatively impact adjoining properties in anyway.
d.) Bathrooms will be handicap accessible; will have exit signs and fire extinguishers.

e.) There is A/C and electricity.
f.) Only existing
g.) Existing sign areas.
h.) No other required yards or open spaces are needed.
i.) Church is compatible with adjacent properties because adjacent properties are closed on Sundays; it would cause no disturbances on any other day, and will have a positive impact.
j.) Conditional use approval.
k.) Not applicable.

Case 16-44

Case PB 16-44

Request for a conditional use permit for alcohol sales within 300 feet of another establishment selling alcoholic beverages
829 & 831 S. State Road 19 – Kumo Japanese Restaurant

STAFF REPORT

DATE: August 31, 2016

TO: Planning Board members

FROM: Thad Crowe, AICP
Planning Director

APPLICATION REQUEST

Conditional Use allowing an establishment serving alcohol within 300 feet of a similar establishment. Public notice included legal advertisement, property posting, and letters to nearby property owners (within 150 feet).

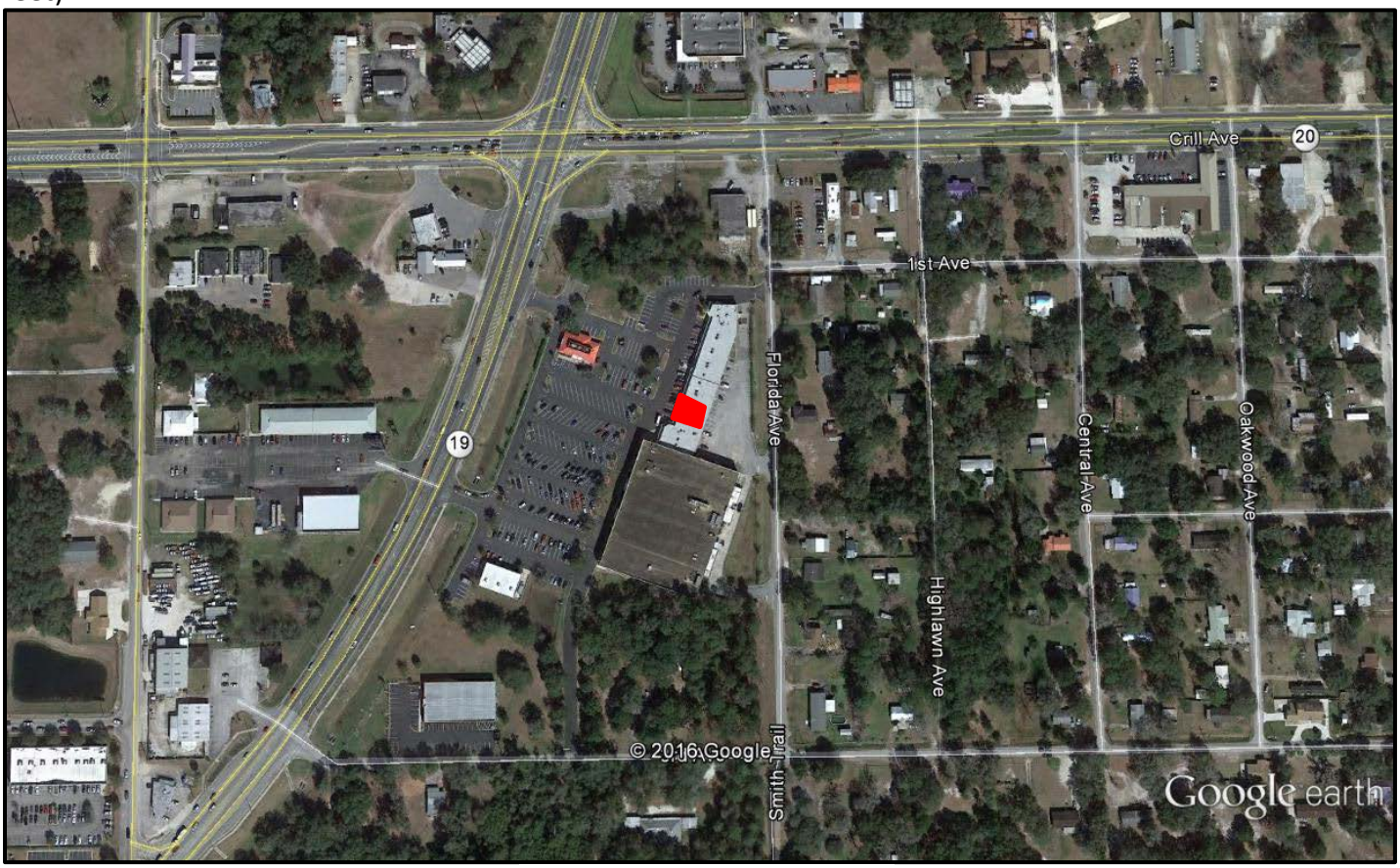


Figure 1: Property Location

APPLICATION BACKGROUND

This request is for alcohol sales in this 56-seat restaurant that serves lunch and dinner every night. Chapter 10 of the Municipal Code regulates alcoholic beverages. Section 10-3 of this chapter provides specific distance/separation requirements, including a 300-foot separation between establishments licensed to sell alcohol and other alcohol establishments, churches, and schools. The subject property is within 300 feet of a the Winn Dixie grocery store, which sells alcohol (beer, wine, and liquor). Section 94-3 of the Zoning Code governs Conditional Uses, and provides the authority for granting such uses to the Planning Board, although the decision can be appealed to the City Commission by an "aggrieved" person.

The table below shows site and surrounding uses and land use/zoning designations.

Table 1: Site and Surrounding Land Uses

	Actual Use	**Future Land Use Map**	**Zoning**
Site	Multi-unit shopping center	COM (Commercial)	C-2 (Commercial Intensive)
North	Undeveloped	COM (Commercial)	C-2 (Commercial Intensive)
East	Vacant storefront	COM (Commercial)	C-2 (Commercial Intensive)
South	Retail stores and undeveloped commercial and residential properties	COM (Commercial)	C-2 (Commercial Intensive) R-2 (Residential, Two-Family)
West (across SR 19)	Retail/office complex, restaurant, undeveloped commercial property	COM (Commercial)	C-2 (Commercial Intensive)

Figure 2: Winn Dixie Shopping Center – restaurant located in third & fourth units left of the grocery store (behind the palm trees)

PROJECT ANALYSIS

Criteria for consideration include the following (italicized) as well as the general finding that the conditional use will not adversely affect the public interest.

a. Compliance with all applicable elements of the comprehensive plan.

The application complies with applicable elements of the Comprehensive Plan and its implementing elements including the Zoning Code. Several relevant plan policies are included in the following section. Future Land Use Element Policy A.1.9.3 describes the COM Future Land Use Map (FLUM) category as follows:

> "Land designated for commercial use is intended for activities that are predominantly associated with the sale, rental, and distribution of products or the performance of service. Commercial land use includes offices, retail, lodging, restaurants, services, commercial parks, shopping centers, or other similar business activities. Public/Institutional uses and recreational uses are allowed within the commercial land use category. Residential uses are allowed within Downtown zoning districts, at an overall density of 20 units per acre and are subject to additional project density, design and locational standards set forth in these zoning districts. The intensity of commercial use, as measured by impervious surface, should not exceed 70 percent of the parcel and a floor area ratio of 1.5, except that a floor area ratio of up to 4.0 is allowed in downtown zoning districts. Intensity may be further limited by intensity standards of the Zoning Code. Land Development Regulations shall provide requirements for buffering commercial land uses (i.e., sight access, noise) from adjacent land uses of lesser density or intensity of use."

Restaurants are referenced in this policy, and alcohol sales in conjunction with food service are a customary arrangement for restaurants.

b. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
c. Off-street parking and loading areas, where required, with particular attention to the items mentioned in subsection (4)b of this section and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district.
The shopping center has acceptable and adequate vehicular access and parking. State Rd. 19 has sidewalks on both sides of the road.

d. Refuse and service areas, with particular reference to the items mentioned in subsections (4)b and c of this section.
Staff observed unscreened dumpsters behind the store. It is a Zoning Code requirement that dumpsters be screened with fencing or vegetation on three sides, with a gate on the access side.

e. Utilities, with reference to location, availability and compatibility.
The property is appropriately served by utilities.

f. Screening and buffering, with reference to type, dimensions and character.
The shopping center is partially in compliance with the Landscape and Buffering Codes. Improvements could be made to install canopy trees within parking lot landscape islands, many of which are now planted with palm trees or shrubs, which provide little shade or visual appeal. However the more immediate issue is the rear buffer of the shopping center. Figure 3 shows the rear of the shopping center, with only a chain link fence and scattered vegetation to screen adjacent residences on Florida Ave. from dumpsters, mechanical equipment, and loading areas. The City Commission in the past has requested that Staff look for opportunities

to improve this buffer, after being contacted by several Florida Ave. residents. In addition during the past several years the Board has encouraged Code compliance through the conditional use process with incremental improvements on nonconforming sites. Staff believes it is in the interests of the shopping center owner, the restaurant, the residents, and the City to improve this buffer with the planting of shrubs and understory trees, to better screen out undesirable visual impacts. As this is a right-of-way buffer and therefore a public benefit, the City can assist in providing trees from the Tree Fund.

Figure 3: shopping center rear buffer

g. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.
Any signage shall meet the Sign Code and the Zoning Code.

h. Required yards and other open space.
See f. above.

i. General compatibility with adjacent properties and other property in the district.
A restaurant use is allowed by right in the C-2 zoning district. Alcohol service in conjunction with the principal food service use is a common occurrence with restaurants. In fact alcohol service as a principal use is allowed in this zoning district in the form of nightclubs and bars. What makes alcohol service a conditional use in this case is the relatively close presence of other establishments serving or selling alcohol.

j. Any special requirements set out in the schedule of district regulations for the particular use involved.

The use must meet all requirements of Municipal Code Chapter 10 pertaining to alcoholic beverage establishments.

k. The recommendation and any special requirements of the historic preservation board for uses within the HD zoning district.
Not applicable.

Impact on Public Interest
City Departments offered no objections or comments on the application. Based on generally meeting the conditional use criteria (with the inclusion of Staff recommendations), Staff believes that this use will not have a negative impact on the public interest.

A motion for approval should include any relevant conditions and the staff findings for approval. Per Section 94-3(6) should the Planning Board decide to deny the application, such a motion should include the reasons for doing so, including reasons pertaining to the criteria listed above.

STAFF RECOMMENDATION
As demonstrated in this report, Staff believes that Application 16-44 meets applicable conditional use criteria if the following recommendations are met.

1. On-premises consumption of alcohol associated with a restaurant is allowed.
2. Alcohol service shall not occur past 10 PM.
3. Within three months of the approval date (December, 2016), the Applicant and Property Owner shall submit to Staff a landscape planting plan for the rear buffer along Florida Ave. to achieve an 85% opacity buffer, by supplementing the existing vegetation with shrubs and understory trees and/or fencing. The City will provide at least five understory trees, and the Applicant/Owner shall procure the remaining vegetation or fencing. Installation shall occur within six months of approval (March 6, 2017).
4. Applicant/Property Owner to screen dumpsters on three sides with opaque fencing, walls, or plants with a height of at least six feet.
5. All applicable standards of the Municipal Code shall be met, including the Alcoholic Beverage Code.

ATTACHMENTS: JUSTIFICATION

APPLICANT JUSTIFICATION

Kumo in Palatka Llc (DBA Kumo) is a full service dining restaurant serves Japanese style food. It is located in an existing shopping plaza with sharing parking lot which has plenty of parking. There's a restaurant in this place before.

Kumo is planning to have beer and wine consumption along with restaurant food service. The restaurant has 56 seats and approximately 5 employees. Our operation hours is 11:00am to 10:00pm, will open 7 days a week.

In regarding to application for conditional use, we believe that we are in compliance with city of Palatka zoning requirements A through K that listed on your application form, and we do not have any conflict in respecting to A through K. We believe that we are qualify with your zoning requirements.

Case 16-46

Case 16-46
Request to Amend Zoning Code
(Add definitions and locational/operational standards for electronic gaming establishments)

STAFF REPORT

DATE: August 31, 2016

TO: Planning Board Members

FROM: Thad Crowe, AICP
Planning Director

APPLICATION REQUEST

A request to amend the Zoning Code to more clearly regulate electronic gaming establishments. Public notice was provided through newspaper advertisement.

APPLICATION BACKGROUND

Florida's State Legislature believes that there is a slippery slope between skill-based amusement games and illegal gambling that warrants a compelling state and local interest in regulating such games. The 2012 Allied Veterans of the World scandal found widespread illegal gambling at multiple Internet Cafes affiliated with this St. Augustine-based charity, and forced the resignation of the Lieutenant Governor, who was involved with the alleged charity organization. The legislature acted quickly, and in April, 2013 the Governor signed HB 155, which gave law enforcement new definitions on illegal gambling machines and also imposes new restrictions on arcade games and bans all electronic casino look-alikes. Highlights of the law included the following.

- The bill clarified that a device is an illegal slot machine if it (1) simulates a game of chance and (2) requires "pay to play," and (3) awards something of value.
- The bill disallowed the gambling exemption for charitable raffles using slot machines or other games of chance.
- The bill clarifies that the gambling exemption that allows sweepstakes (used by McDonald's and other businesses) is only for promotions that are truly incidental to the main activity of sale of products or services. It also called for civil prosecutions of illegal sweepstakes promotions under the Florida Deceptive and Unfair Trade Practices Act.
- The bill exempted from gambling establishments arcades with 50 or more amusement games and arcade games in truck stops.
- The bill clarified that permissible amusement machines operate by insertion of a coin, involve the application of skill, and may award points or coupons that can be redeemed for merchandise.
- The bill limited the cost value of earned points or coupons to 75 cents per game played, excluding "free plays."
- The bill clarified that merchandise cannot be gift cards, gift certificates, or other cash equivalents.
- The bill broadened the definition of "racketeering activity" in Florida's criminal RICO statute to include any violation of Chapter 849, relating to gambling.

The bill outlawed games or machines that simulate slot machine reels or other symbols of games of chance in any fashion, even if they are not games of chance and skill can be utilized to "win." Commonly-used symbols include poker, lotto, roulette, or craps. Researchers have determined that players are tempted by the risky allure of the gambling environment, and some may even believe they are playing a game of chance, particularly if there are no signs or explanations that the element of chance is NOT present.

Lack of clarity in the 2013 law created unintended consequences that inadvertently put the legality of traditional arcade games into doubt, when such arcade games were lumped in with outlawed electronic gambling machines. The law only allowed arcades to operate if they had at least 50 machines. To mitigate these impacts on family arcade establishments, the Legislature passed Florida Statute 546.10, which classified amusement games into three types: Types A, B, and C.

A Type A game/machine only rewards the player with replays, and are not restricted or otherwise regulated on the state level. These are the old-fashioned (and newer) games of skill like pinball and similar electronic games, no payout or prizes are involved.

A Type C game/machine features a player-controlled mechanism that can directly dispense prizes, like the famous "Claw" machine. Type C games are regulated on the state level, and can only operate at arcade amusement centers (defined as a place of business having at least 50 amusement games or machines on premises, operated as a bona fide amusement facility), timeshares, hotels, restaurants, bowling alleys, and truck stops. Type C games can also operate at veteran's service organizations like American Legion, etc. The maximum prize value for Type C machines/games is $52.50.

Now onto the Type B game/machine, the main source of concern, found in the myriad of Internet cafes across the state. This is a ticket redemption game, in other words a game that provides a prize – a single item of merchandise - for the player to redeem. Coupons or points from a game can be accumulated toward this prize, with a limit of $5.25 per game, and the total wholesale cost of the prize cannot exceed $525 (after 2017 these amounts found in F.S. 546.10, subsection (7) will be adjusted for inflation). Again, the 2014 state law bans Type B games similar to those found in a casino, along with symbols applied to those games, like blackjack, dice and other imagery suggestive of a game in which the player does not control the outcome. Also prohibited is the use of computer-based random number generation and other non-discernible factors which make the game a game of chance (gambling), not skill. The law also prohibits games from being designed or adapted to allow manipulation by the operator to prevent a player from winning or to predetermine which player will win.

Despite the 2013 and 2015 laws, Internet Cafes continue to present problems across the state. Around the state the press has reported on illegal gambling at these facilities, and many of these who play at these establishments include vulnerable elements of the population such as senior citizens and the poor. It is believed that the attraction of gambling, even if it is simulated and/or "rigged" entices players to open up their wallets, much as they might in a legal casino. But while at a legal casino a player might, with the assistance of Lady Luck, actually win cash, the fake slot machines reward players with cheap merchandise or phone cards. It is likely that some players are not interested in any winnings, but the thrill of the game of

chance, even if that chance is not present.[1] A recent sweep in Jacksonville by the Sheriff's Dept. resulted in a number of arrests and store closures due to illegal games/machines. At the last several Palatka Planning Board meetings board members have raised concerns about the proliferation of Internet Cafes in the City, and whether the six Internet cafes identified in the City were operating legally. Without even broaching the possibility of illegal machines operating in the City, local observers have noted the presence of alcohol and minors in these establishments, both illegal under local and state law.

In other jurisdictions local ordinances either prohibit Type B games (Seminole County) or strictly regulate them (Clay County and Jacksonville are local examples of this approach). Other jurisdictions fall between these two approaches, including limitations on the number or location of gaming facilities. Following the lead of the 2015 statute, some jurisdictions have echoed the State's identification and legalization of Type A and C games/machines and the reference to state-mandated prize values for all Types of games/machines.

Local ordinances showcase a variety of regulatory measures that go beyond the state regulations, examples of which are shown below. Many are repetitive, for example the Clay Co., Jacksonville, and St. Johns County ordinances are similar. All are effective techniques that could be utilized in a Palatka ordinance, however the City should be careful about the commitment of limited staff resources - there are opportunities to institute fees to cover inspection and review costs, along with options of privatizing required certifications).

- Limits on hours of operations (Bonita Springs, 10 PM to 10 AM; Clay Co., 2 AM to 7 AM; Ocala, 12 midnight to 5 AM)
- Prohibition of food and drinks (and alcohol) from being served (Port Orange, Tampa)
- Distance regulations for Internet cafes (Clay Co. 1000' from day care, school, college, church; 500' from park; and 5,000' from other such use; Riverside, CA 600 feet from school, park or hospital)
- Minors prohibited (Tampa), or requiring accompaniment by legal guardian (Clay Co.)
- Clearly noticeable signs posted that state the game is a simulation of gambling, with a predetermined outcome, not a game of chance (Destin, Escambia Co., Orange Co., Sarasota, Seminole Co., Tampa)
- Jurisdictional limitations on the number of stores (Clay Co., 9; St. Johns Co., 10)
- Limiting to one or a few business zoning categories (Clay Co., Miami)
- Prohibiting signage that suggests gambling (Tampa)
- Allowing only within private clubs and lodges (Indian Harbor Beach)
- Non-transferability or transferability limitations (Clay Co., Tampa)
- Limiting machines based on floor space (Riverside, CA – 30 SF floor area per machine)
- Security measures such as prohibition on window tinting or obstruction, requiring security officers during peak times, no outside loitering and seating (Riverside, CA)
- Denial of license when operator, permittee, officer or directors, or corporation have been party to any nuisance (indirect or direct), or if elsewhere have been convicted of a felony (Clearwater)
- Registration, inventory, and regular inspection of machines, descriptions of software (Clay Co., Tampa)

[1] U*nderlying the surface of the illegal gambling argument is Florida's double standard of allowing gambling in certain large-scale venues or locations (dog tracks, jai alai, Indian reservations) while prohibiting it in others. It is possible that as long as the door has been cracked open to allow this gambling, there will always be those who try to capitalize on quasi- or even illegal gambling on a smaller scale. It is a matter of simple supply and demand – when the supply (gambling) is limited, the demand will increase. If there is no supply (all gambling being illegal), then there is no demand.*

- Time limitations to permit (Clay Co. – one year, with renewal application required)
- Standards for revocation (Clay Co.)
- Customer log required (Riverside, CA)
- Clear differentiation between Internet Cafes and Family Amusement Centers / retail sweepstakes promotions

PROJECT ANALYSIS

Per Section 94-38(f)(2) of the Zoning Code, the Planning Board must study and consider proposed zoning text amendments in relation to the following criteria (if applicable), shown in underlined text (staff response follows each criterion).

The planning board shall consider and study:

a. The need and justification for the change.

Staff comments: as demonstrated by two major state laws, multiple local ordinances, scandals, and the negative impacts of such uses throughout the state, there are public safety and welfare justifications for the change. The use of simulated gambling machines is inherently deceptive, causing participants to play as if they were engaging in true games of chance, when in fact the outcome of such games are pre-determined. It is not difficult to adjust machines to remove the element of pre-determination, which runs down the slippery slope to true illegal gambling. The intent of the proposed regulations is to clearly prohibit both illegal and simulated gambling, both now illegal under state law. The City is not prohibiting amusement/arcade games, but is applying regulations utilized within state law and by other jurisdictions throughout the state to provide for careful and reasonable regulation.

b. The relationship of the proposed amendment to the purposes and objectives of the city's comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this chapter and other city ordinances, regulations and actions designed to implement the comprehensive plan.

Staff comments: This action is not in conflict with the goals, objectives, and policies of the Comprehensive Plan or other city ordinances. It is a zoning action that is in line with state law and that meets the intent of the Comprehensive Plan and Zoning Code to protect the public safety, health, and welfare through appropriate zoning restrictions.

STAFF RECOMMENDATION

Staff recommends approval of revisions to three sections of the Zoning Code, with new language shown in underlining.

1. Provide the following definitions in Zoning Code Sec. 94-2.

Amusement games means a game or machine operated only for the bona fide entertainment of the general public which a person activates by inserting or using currency or a coin, card, coupon, slug, token, or similar device, and, by the application of skill, with no material element of chance inherent in the game or machine. The person playing or operating the game or machine controls the outcome of the game. The term does not include:

(1) Any game or machine that uses mechanical slot reels, video depictions of slot machine reels or symbols, or video simulations or video representations of any other casino game, including, but not limited to, any banked or banking card game, poker, bingo, pull-tab, lotto, roulette, or craps.
(2) A game in which the player does not control the outcome of the game through skill or a game where the outcome is determined by factors not visible, known, or predictable to the player.
(3) A video poker game or any other game or machine that may be construed as a gambling device under the laws of this state.
(4) Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under 15 U.S.C. s. 1178.

Amusement game, Type A is an amusement game or machine that, upon activation and game play, does not deliver, entitle, or enable a person playing or operating the amusement game or machine to receive cash, billets, tickets, tokens, points, coupons, merchandise, or any other thing of value, including electronic credits to be exchanged for cash, regardless of whether such things are delivered or paid automatically from the machine or manually. However, Type A amusement games and machines may entitle or enable a person to replay the game without the insertion or use of any additional currency, coin, card, coupon, slug, token, or similar device, only if:

(1) the amusement game or machine can accumulate and react to no more than 15 such replays;
(2) the amusement game or machine can be discharged of accumulated replays only by reactivating the game or device for one additional play for each accumulated replay;
(3) the amusement game or machine cannot make a permanent record, directly or indirectly, of any free replay;
(4) the amusement game or machine does not entitle the player to receive anything of value other than a free replay;
(5) an unused free replay may not be exchanged for anything of value, including merchandise or a coupon or a point that may be redeemed for merchandise; and
(6) the amusement game or machine does not contain any device that awards a credit and contains a circuit, meter, or switch capable of removing and recording the removal of a credit if the award of a credit is dependent upon chance.

Amusement game, Type B is an amusement game or machine that may, upon activation and game play, entitle or enable a person to receive a coupon or a point that may only be redeemed onsite for merchandise; and:

(1) The coupon or point has no value other than for redemption onsite for merchandise;

2. The redemption value of the coupon or point that a person receives for a single game played does not exceed the maximum value determined under F.S. 546.10, subsection (7). However, a player may accumulate coupons or points to redeem onsite for a single item of merchandise that has a wholesale cost of not more than 100 times the maximum value determined under F.S. 546.10, subsection (7), or for a prize consisting of more than one item, unit, or part, only if the aggregate wholesale cost of all items, units, or parts does not exceed 100 times the maximum value determined under F.S. 546.10, subsection (7); and

3. The redemption value of coupons or points that a person receives for playing multiple games simultaneously or competing against others in a multiplayer game does not exceed the maximum value determined under F.S. 546.10, subsection (7).

Amusement game, Type C is an amusement game or machine that allows the player to manipulate a claw or similar device within an enclosure that entitles or enables a person to receive merchandise directly from the

game or machine, if the wholesale cost of the merchandise does not exceed 10 times the maximum value determined under F.S. 546.10, subsection (7).

Electronic gaming establishment means any establishment which provides any electronic machines, games or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to Section 849.094, Florida Statutes, including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds. Such games, machines and devices may hereinafter be referred to as electronic gaming devices. This term electronic gaming establishment includes, but is not limited to, internet cafes, internet sweepstakes cafes, cyber cafes, or sweepstakes cafes. This definition is applicable to any electronic gaming establishment, whether or not the electronic machine or device utilized:

(1) is server based;
(2) uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;
(3) uses software such that the simulated game influences or determines the winning or value of the prize;
(4) selects prizes from a predetermined finite pool of entries;
(5) uses a mechanism that reveals the content of a predetermined sweepstakes entry;
(6) predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed; or
(7) uses software to create a game result;

Indoor Recreational facility means any establishment that provides amusement, entertainment, or physical fitness services typically occurring indoors. Examples include art/dance/exercise studios, bowling alleys, gymnastics/martial arts studios, health club/fitness centers, ice skating and roller skating rinks, indoor play or sports facility, and similar uses. Such uses shall operate within soundproof buildings. Indoor recreational facility includes family amusement arcade establishments, only with Type A and C amusement games or machines on premises, which is operated for the entertainment of the general public and tourists as a bona fide amusement facility. Indoor recreational uses do not include electronic gaming establishments.

2. Allow for electronic gaming establishments only as a conditional use in the C-2 (Intensive Commercial) zoning district.

3. Adopt the following supplementary zoning district regulations applicable to electronic gaming establishments (Zoning Code. Division 3).
   (1) Allowable hours of operation shall be between 10 AM to 10 PM.
   (2) No food or drink shall be served.
   (3) Use shall be located 1,000 feet from a day care, school, college, church, park, and other electronic gaming establishment.
   (4) Minors shall be prohibited.
   (5) Legible and noticeable signs shall be posted by each computer or game station that states that the games are only simulations of gambling that have a predetermined outcome, and they are not games of chance.

(6) No signage, exterior or interior, is allowed that represents symbols associated with gambling, including but not limited to dice, cards, poker chips, cherries, and jokers.
(7) Windows shall not be obstructed by tinting or signage and shall allow for an overall 80% opacity.
(8) No outside operations, loitering, or seating shall be allowed.
(9) Annual registration and inspection of machines and software shall be required, and the City shall reserve the right to retain an independent inspection of machines and software.
(10) The City shall have the right to inspect the premises at any time during business hours to ensure conformance with applicable regulations.
(11) The operator of the facility must keep an inventory of all machines and games available for inspection
(12) Registration and licensing fees shall cover the costs of annual inspections and independent certifications.
(13) Existing establishments shall be considered legal nonconforming uses and shall not be required to meet locational standards, but shall be required to comply with operational standards after a 90-day period following the adoption of this ordinance.

Case 16-49

Case 16-49

Request for Conditional Use

Indoor Recreation Use (Bonce House) at 3206 Crill Ave.

STAFF REPORT

DATE: August 30, 2016

TO: Planning Board Members

FROM: Thad Crowe, AICP
Planning Director

APPLICATION REQUEST

To consider a request for a Conditional Use for an indoor recreation use at 3206 Crill Ave. (Westgate Shopping Center). Public notice included newspaper advertisement, letters to nearby property owners (within 150 feet), and property posting.

APPLICATION BACKGROUND

The C-2 zoning district allows by Conditional Use indoor commercial recreational facilities "such as motion picture theaters, billiard parlors, swimming pools, bowling alleys and similar uses, provided such uses shall be in soundproof buildings." The proposed use includes indoor recreation activities including multiple bounce houses, obstacle course, slides, and similar games, along with food and drink concessions. The unit is the third unit from the east end of the shopping center.

PROJECT ANALYSIS

The Westgate Shopping Center is an older shopping center which now includes a Save A Lot grocery store, laundry, internet café, and several vacant storefronts. The property is almost entirely paved for parking and loading. The table below and accompanying maps show site and surrounding uses and land use/zoning designations.

Table 1: Site and Surrounding Properties Land Use

	Actual Use	**Future Land Use Map**	**Zoning**
Site	Retail shopping center	COM (Commercial)	C-2 (Intensive Commercial)
North	Undeveloped (future cemetery)	COM (Commercial)	C-2 (Intensive Commercial)
East	Cemetery	PB (Public Buildings & Grounds)	PBG-1 (Public Buildings & Grounds)
South	Dollar Store, Veterinarian	COM (Commercial)	C-2 (Intensive Commercial)
West	Convenience Store	COM (Commercial)	C-2 (Intensive Commercial)

Criteria for consideration include the following (italicized) as well as the general finding that the conditional use will not adversely affect the public interest.

a. Compliance with all applicable elements of the comprehensive plan.

The application is not in conflict with applicable elements of the Comprehensive Plan. It is in an established commercial corridor designated with the COM Future Land Use Map category.

Figure 1 (above): Property Location
Figure 2 (below): Property from Crill Ave.

b. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Vehicular Access and Traffic Flow.

Like other older shopping centers, Westgate Shopping Center has multiple driveways: two on Palm Ave. and three on Crill Ave. Several entrances do not line up with internal driveways, but the overall traffic flow is acceptable.

Pedestrian Safety

There are existing sidewalks along both sides of Crill and Palm Avenues. The property is reasonably safe in regard to pedestrian movement and access.

c. Off-street parking and loading areas, where required, with particular attention to the items mentioned in subsection (4)b of this section and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district.

The Westgate Shopping Center has around 150 spaces, which by Code serves the parking need for 30,000 non-storage SF of retail use. The gross floor area of the center is approximately 37,000 SF, and it is likely that at least 7,000 SF (19% of gross floor area) is utilized for storage and offices. Parking shortages have not been observed at this center.

d. Refuse and service areas, with particular reference to the items mentioned in subsections (4)b and c of this section.

Several unscreened dumpsters are located in the rear of the store, adjacent to the future City cemetery expansion area, a Code violation.

Figure 3: unscreened dumpsters

e. Utilities, with reference to location, availability and compatibility.

The property is appropriately served by utilities.

f. Screening and buffering, with reference to type, dimensions and character.

The Board has in the past taken the position of seeking incremental levels of compliance to the buffer standards in past cases. Applicable sections of the City's landscape ordinance include the provision of roadway buffers along Crill and Palm Avenues, a rear landscape buffer, and interior parking lot landscaping. Five shade trees are located along Crill Ave., which unfortunately have been severely pruned due to overhead power

lines. No rear buffer or interior parking lot landscaping is present. The property does not comply with the Landscape Code as there is no on-site landscaping. The following buffers are required by code.

Table 1: Roadway Buffer Planting Standards

	Provided	**Option 1**	**Required @ 630'**	**Option 2**	**Required @ 630'**
Buffer width	2 feet (Crill) None(Palm)	8 feet		5 feet	
Canopy trees per 100 linear feet	5 (Crill None (Palm)	1	7	1	7
Shrubs per 100 linear feet	None	20	70	15	52

-
- **Table 2: Buffer "A" Standards for Sides and Rear**

	Option 1	**Option 2**	**Option 3**
Buffer Width	5 feet	10 feet	20 feet
Number of Canopy Trees per 100 linear feet	0	0	Undisturbed Natural Vegetation
Number of Understory Trees per 100 linear feet	0	2	Undisturbed Natural Vegetation
Number of Shrubs/Ornamental Grasses per 100 linear feet	20	15	Undisturbed Natural Vegetation
Fence, Wall or Earth Berm	6 to 8 foot wood stockade fence or masonry wall	None Required	None Required

While the sides and rear of the property require buffers, the rear is partially mostly hidden from view and not visible to any residential properties. Staff believes the most strategic and initial opportunity to green up the property are along the Palm Ave. right-of-way. This would improve the appearance of one of the City's key roadways, and also the view from the adjacent and active cemetery. There are three landscape islands in the right-of-way that could be expanded to accommodate a shade tree, and in planting these trees the property would meet its required canopy tree count. These are good locations for trees in that there are no overhead power lines. Future conditional use applications at this location may contribute to parking lot landscaping or shrubs along the right-of-way to screen the parking lot.

g. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.
Future signage must be in compliance with the Sign Code.

h. Required yards and other open space.
See f. above.

i. General compatibility with adjacent properties and other property in the district.
As part of a commercial corridor with no nearby residential uses, the use does not present incompatibility problems. Hours of operation are proposed for Monday, Tuesday, and Thursday 9 AM to 6 PM; Wednesday 11 AM to 6 PM; Friday and Saturday 9 AM to 8 PM; and Sunday 11 AM to 6 PM.

j. Any special requirements set out in the schedule of district regulations for the particular use involved.
There are no special requirements set forth in the Zoning Code for this type of use.

k. The recommendation and any special requirements of the historic preservation board for uses within the HD zoning district.
Not applicable.

Impact on Public Interest
Staff has not identified an adverse impact on the public interest.

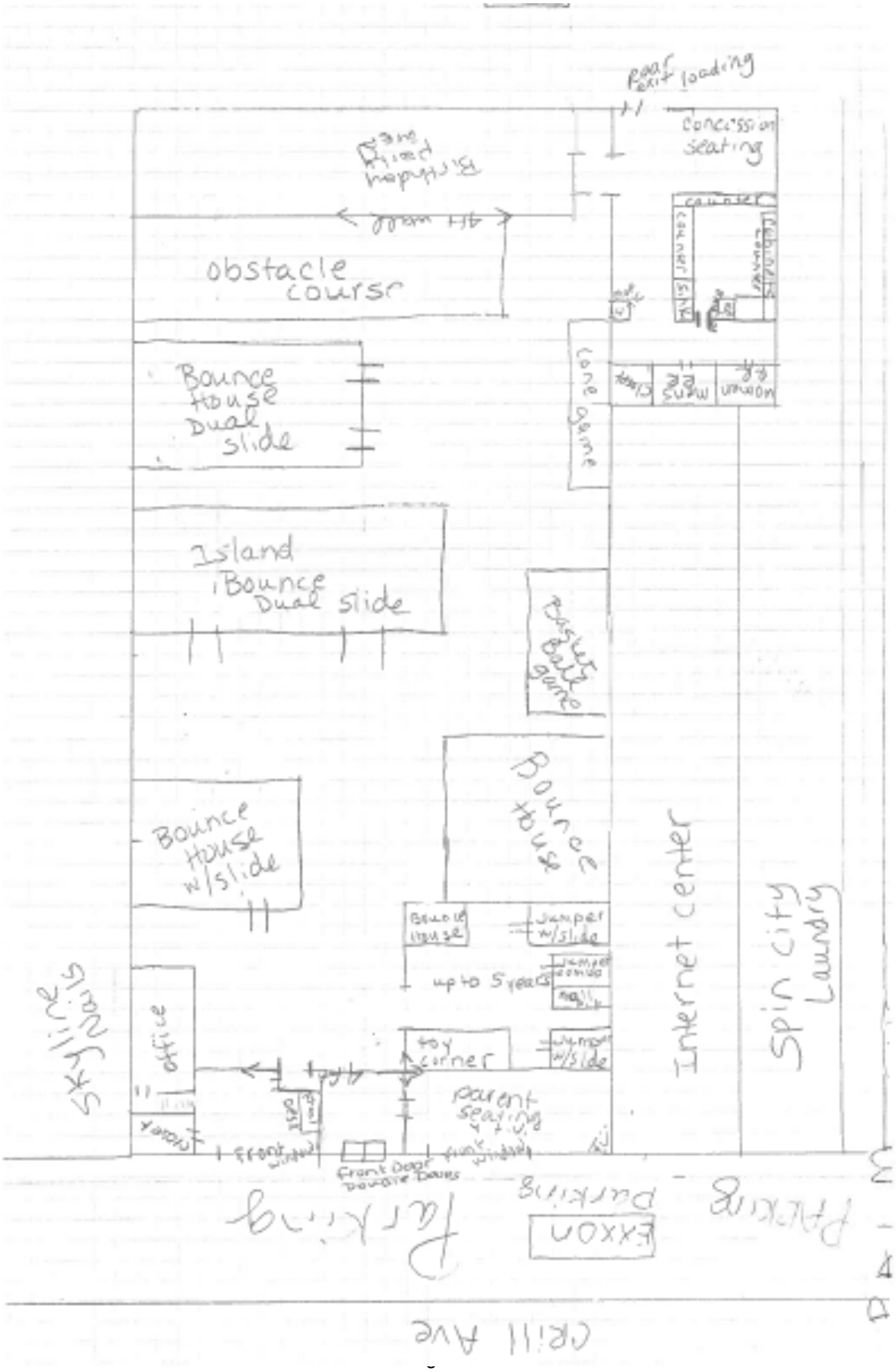
STAFF RECOMMENDATION

Staff recommends approval of the request for a Conditional Use for an indoor recreation facility at 3206 Crill Ave. with the following conditions.

1. Use shall generally conform to floor plan and description.
2. Hours of operation shall not extend beyond 7 PM during weekdays and 9 PM on weekends, and shall not be before 9 AM any day.
3. Expand three existing landscape islands along Palm Ave. and add a shade tree to each island (Applicant/Property Owner to expand islands, install curbing around them, install needed fill, and City to provide trees).
4. Applicant/Property Owner to screen dumpsters on three sides with opaque fencing, walls, or plants with a height of at least six feet.

Attachment: Floor Plan and Justification

FLOOR PLAN


CRILL AVE
EXXON
Parking
Parking
Front Door
Double Doors
Skylights
office
toy corner
parent seating
up to 5 years
Bounce House
Jumper w/slide
Bounce House
Jumper w/slide
Bounce House w/slide
Island Bounce Dual slide
Basket Ball game
Internet center
Spin City Laundry
Bounce House Dual slide
obstacle course
concession seating
rear exit loading
cone game
counter
Mens
Women

Justification Letter

My intentions are to open an indoor bounce house targeting children up to 12 years of age. I will employee 3-5 people . The hours of employment will be as follows: Monday , Tuesday, Thursday 10-8:00pm Friday and Saturday 10 – 8:00 pm Wednesday and Sunday 11-6:00pm.. There will also be a snack bar. There is over 6000 square feet to accommodate what I am planning to do. This will be employee as well as parent supervised.

I will have birthday packages available as well as a separate area for under age 4 to bounce.