



PLANNING AND ZONING STAFF REPORT

July 6, 2010

Case: PB 10-24

LOCATION: 500 S. Palm Avenue

REQUEST: To annex into the Palatka city limits, amend the Future Land Use Map from County Urban Service to City Commercial and rezone from County R-1A (Single-family Residential) and C-1 (Commercial) to City C-1 (General Commercial).

Owner: Harvest Temple Ministries

Parcel #: 11-10-26-0000-0230-0000

A. BACKGROUND & ANALYSIS: The applicant is requesting annexation for City water and sewer services. The Water & Sewer Superintendent stated water and sewer are available from Kennedy Street. All other departments responded with "No Comment."

There was no response received from the notices sent to surrounding property owners or the advertisement that ran on June 19th.

Surrounding properties have future land use designations of County Urban Service to the south and west of the subject property; City Commercial to the north and OPF (Other Public Facilities) to the west and east. The zoning pattern of the site and surrounding area is County R1-A and C-1 to the south and west; City C-1 (General Commercial) to the north and west; and City R-3 (multi-family residential) to the east. The existing land use pattern in the area is mixed commercial and residential.

SURROUNDING LAND USE AND ZONING:

	Future Land Use Designation	Zoning	Current Land Uses
North	Other Public Facilities	C-1	Medical offices
South	Urban Reserve (Putnam)	C-1(Putnam)	Eye-Q
East	Other Public Facilities	R-3	Nursing Home
West	Urban Reserve (Putnam) Other Public Facilities	R1A C-1	Residence Cemetery

B. COMPLIANCE WITH CHAPTER 171, FLORIDA STATUTES, ANNEXATIONS

This request is to annex a .65 acre parcel into the City. The subject property is located at 500 S Palm Avenue. Properties directly north, east, and west of the site are City.

The proposed annexation diminishes the size of the existing enclave. Annexation is required since the neighboring parcel to the south is contiguous. This request will meet the criteria identified in Section 171.043, Florida Statutes - the parcel is contiguous to the

City's boundaries, is reasonably compact, is not included within the boundary of another incorporated municipality, and is intended to be developed for urban purposes because of the availability of City sewer and water lines that are contiguous to the property.

This request is a voluntary annexation and meets the criteria identified in Section 171.044, Florida Statutes, as it relates to being contiguous to the City and reasonably compact. Following a recommendation from the Planning Board, an appropriately prepared ordinance will be considered by the City Commission after the correct advertising and scheduling of public hearings.

STAFF RECOMMENDATION: Approval of the annexation request.

C. COMPLIANCE WITH THE CITY OF PALATKA COMPREHENSIVE PLAN

The Existing Land Use Designation: The existing Future Land Use is County Urban Service which recognizes areas where urban infrastructure, such as central water, sewer, stormwater systems, paved major roads, exists or is programmed and available for more urban type of development. Although agricultural activities are allowed as a holding land use, this land use designation allows a broad mix of residential, commercial, industrial, public facility and recreation uses. Residential development can achieve a density of up to 9 dwelling units per acre, the highest in Putnam County, with adequate density bonus points.

The Proposed Land Use Designation:

Commercial

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. The intensity of commercial use, as measured by impervious surface, should not exceed 70 percent of the parcel. The maximum height should not exceed 40 feet. 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. See Policy A.1.3.2.

Future Land Use Element

Objective A.1.1 (9J-5.006(3)(b)1; F.S. 187-201 (161)(1)(5)

Upon Plan adoption, the City shall coordinate future land uses with the appropriate topography, adjacent land uses, soil conditions, and the availability of facilities and services.

Policy A.1.1.3 (9J-5.006(3) (c) 3)

The City shall as a condition of issuing a building permit or other development order, require proposed developments to hook up to the City central sewer systems in accordance with the revised City zoning code and subdivision regulations based upon Chapter 381, F.S. and Division 64E, FAC.

STAFF ANALYSIS: The applicant is requesting City water and sewer service. A building permit for renovation will be applied for and all plans reviewed per code. In the Traffic

Circulation Element and Public Facilities Element sections of this staff report we will evaluate each adopted level of service standard for this site.

Traffic Circulation Element

Objective B.1.1 (9J-5.007(3)(b)1)

Upon plan adoption, the City shall provide for a safe, convenient and efficient motorized and non motorized transportation system by correcting, to the maximum extent feasible, all existing roadway deficiencies identified in this plan and maintain acceptable operating conditions in the future on a priority basis.

Policy B.1.1.1 (9J-5.007(3)(01))

The State-wide minimum acceptable operating Level of Service (LOS) standards for the State Highway System and City Street System shall be the base LOS standards listed herein, except for those conditions provided in Policies 1.1.1.A. and 1.1.1.B.

STAFF ANALYSIS: Palm Avenue is classified as an "Urban Collector" and has an existing level of service "C" which an acceptable level of service.

Public Facilities Element

Objective D.1.1 (9J-5.011(2)(b)2)

Upon Plan adoption, the City of Palatka shall enforce adopted Concurrency Management System procedures to ensure that at the time a building permit or other development order is issued, infrastructure facility capacity is available to meet the demand of development without lowering adopted Levels of Service Standards (LOSS).

Policy D.1.1.1 (9J-5.011(2) (c) (2)

The following level of service standards shall be as the basis for determining the availability of facility capacity against the demand generated by development.

1. Central Water System

Commercial/Industrial: 110 gallons per acre per day (GAD)

D. Drainage Facilities: City of Palatka and Ravine State Gardens Stormwater Quality Master Plan and minimum requirements of the St. Johns River Water Management District.

Policy D.1.1.2 (9J-5.011 (2)(c)2)

All improvements for replacement, expansion, or increase in capacity of facilities shall be compatible with the adopted level of service standards for the facilities and that distribution of these facilities/services is consistent with the Future Land Use Map.

STAFF ANALYSIS: This site is already built. At the time of plan submittal, any alterations or additions will be evaluated to ensure it will not exceed the level of service standards.

- Potable Water: 110 gallons per acre per day (GAD). The water plant has a capacity of 6 million gallons per day. Current peak usage is approximately 3,200,000 gallons per day. Capacity exists for this parcel.

- Central Sanitary Sewer System, Commercial/Institutional/Industrial: 110 gallons per acre per day (GAD). Capacity exists for this parcel.

- Solid Waste – 6.4 lbs per person per day. Capacity exists for this parcel. Please note these figures are for residential not commercial. There are no calculations either on the City or County level for solid waste for commercial.

- Drainage: Drainage is not an issue, however, if any plans are submitted for an addition they will be evaluated by St. Johns River Water Management who must provide the City with a letter indicating their approval.

STAFF RECOMMENDATION: Staff recommends approval to change the Future Land Use designation from County Urban Service to City Commercial.

D. COMPLIANCE WITH THE PALATKA MUNICIPAL CODE, REZONING REQUEST

Rezoning requirements

When pertaining to the rezoning of land, the report and recommendations of the Planning Board to the City Commission shall show that the Planning Board has studied and considered the proposed change in relation to the following, where applicable (from Sec. 94-38(f)(1) of the Palatka Municipal Code):

- a. Whether the proposed change is in conformity with the comprehensive plan.

STAFF ANALYSIS: The applicant requests rezoning to City C-1 (General Commercial District) from County R1-A (Single-family residential) and County C-1 (General Commercial). The proposed change is in conformance with the comprehensive plan as stated in the above comp plan review and is consistent with both the City and County land use designations for commercial districts.

This zoning category is consistent with the requested Commercial Future Land Use designation. The current land use designation is Putnam County Urban Service.

- b. The existing land use pattern.

STAFF ANALYSIS: This rezoning request to City C-1 (General Commercial) is consistent with the existing land use pattern in the area which is mixed commercial and residential development. This request changes the zoning jurisdiction from County to City to accompany the annexation and future land use map amendment request.

- c. Possible creation of an isolated district unrelated to adjacent and nearby districts.

STAFF ANALYSIS: This rezoning request will not create an isolated district in that C-1 zoning exists to the north and the west of the subject parcel.

- d. The population density pattern and possible increase or overtaxing of the load on public facilities such as schools, utilities, streets, etc.

STAFF ANALYSIS: This commercial parcel will not overtax public services. The reports from the department heads did not indicate any issues.

- e. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

STAFF ANALYSIS: Staff has no information to indicate that existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

- f. Whether changed or changing conditions make the passage of the proposed amendment necessary.

STAFF ANALYSIS: In order to obtain water and sewer services, the applicant was required to annex, amend the Future Land Use map and rezone. The proposed amendment is necessary to comply with these requirements.

- g. Whether the proposed change will adversely influence living conditions in the neighborhood.

STAFF ANALYSIS: This parcel is already zoned C-1 in the county and will carry the same designation through rezoning in the City. This is a historically commercial corridor and this parcel has been used commercial for many years.

- h. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety.

STAFF ANALYSIS: This is an existing commercial use in an existing commercial zoning district and no congestion is anticipated on this four-lane urban collector.

- i. Whether the proposed change will create a drainage problem.

STAFF ANALYSIS: There are no current drainage issues related to this parcel. If any additions are applied for they will be reviewed by St. Johns River Water Management at plan submittal.

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

STAFF ANALYSIS: This site is already built, however, if an addition is requested, the reduction of light and air to adjacent areas will be evaluated.

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

STAFF ANALYSIS: It is not anticipated that this rezoning request will adversely affect property values.

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

STAFF ANALYSIS: Staff does not have any information to indicate that the proposed zoning change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations. Adjacent property owners were notified of this rezoning request and have the opportunity to appear before the Planning Board.

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

STAFF ANALYSIS: This rezoning request does not constitute a grant of special privilege.

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

STAFF ANALYSIS: The existing zoning is County zoning. With the proposed requests for annexation and a City future land use designation, it is appropriate to change the zoning to a consistent City zoning designation.

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

STAFF ANALYSIS: This change is not out of scale with the needs of the neighborhood or City.

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

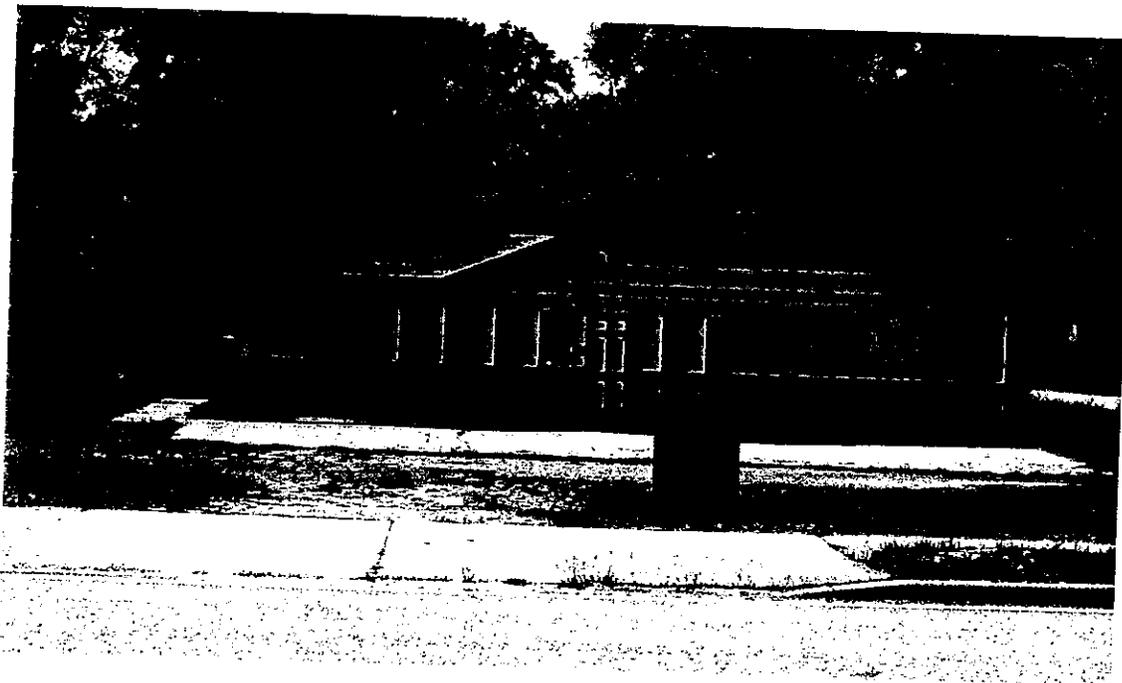
STAFF ANALYSIS: This site already has a building located on it for which the use is allowed.

- 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 ANALYSIS: This parcel is not located in a Historic District.

STAFF RECOMMENDATION: Staff recommends approval of the requested zoning change from County C-1 (General Commercial) and Single Family Residential (R1-A) to City General Commercial (C-1). The request complies with the rezoning criteria provided in the Palatka Municipal Code.

E. Photographs



Debbie Banks

From: Woody Boynton
Sent: Friday, May 14, 2010 12:53 PM
To: Debbie Banks
Subject: RE: 500 S Palm Ave. Annex/FLUM/Zoning

No comments

From: Debbie Banks
Sent: Friday, May 14, 2010 10:21 AM
To: Joff Filion; Mark Lynady; Gary Getchell; Rhett McCamey; Woody Boynton
Subject: 500 S Palm Ave. Annex/FLUM/Zoning

Please find attached a request to annex, amend the future land use map and rezone. Comments may be made via email or interoffice memo, if you have no comments, you may simply respond to this email with "no comments" whichever you prefer.

Thank you,
Debbie

Debbie Banks
Director of Building & Zoning
386.329.0103 (phone)
386.329.0172 (fax)
dbanks@palatka-fl.gov

Debbie Banks

From: Rhett McCamey
Sent: Friday, May 14, 2010 1:37 PM
To: Debbie Banks
Subject: RE: 500 S Palm Ave. Annex/FLUM/Zoning

Water and Sewer are available on Kennedy St.

Thanks, Rhett

-----Original Message-----

From: Debbie Banks
Sent: Fri 5/14/2010 10:21 AM
To: Joff Filion; Mark Lynady; Gary Getchell; Rhett McCamey; Woody Boynton
Subject: 500 S Palm Ave. Annex/FLUM/Zoning

Please find attached a request to annex, amend the future land use map and rezone. Comments may be made via email or interoffice memo, if you have no comments, you may simply respond to this email with "no comments" whichever you prefer.

Thank you,

Debbie

Debbie Banks
Director of Building & Zoning
386.329.0103 (phone)
386.329.0172 (fax)
dbanks@palatka-fl.gov

Debbie Banks

From: Joff Fillion
Sent: Monday, May 17, 2010 9:26 AM
To: Debbie Banks
Subject: RE: 500 S Palm Ave. Annex/FLUM/Zoning

Recommend approval.

Joff Fillion
CBO

From: Debbie Banks
Sent: Friday, May 14, 2010 10:21 AM
To: Joff Fillion; Mark Lynady; Gary Getchell; Rhett McCamey; Woody Boynton
Subject: 500 S Palm Ave. Annex/FLUM/Zoning

Please find attached a request to annex, amend the future land use map and rezone. Comments may be made via email or interoffice memo, if you have no comments, you may simply respond to this email with "no comments" whichever you prefer.

Thank you,
Debbie

Debbie Banks
Director of Building & Zoning
386.329.0103 (phone)
386.329.0172 (fax)
dbanks@palatka-fl.gov

Debbie Banks

From: Mark Lynady
Sent: Monday, May 17, 2010 10:26 AM
To: Debbie Banks
Subject: RE: 500 S Palm Ave. Annex/FLUM/Zoning

Debbie, I have no issues at this time, but they will have to be brought up to the building and fire code requirements.

From: Debbie Banks
Sent: Friday, May 14, 2010 10:21 AM
To: Joff Filion; Mark Lynady; Gary Getchell; Rhett McCamey; Woody Boynton
Subject: 500 S Palm Ave. Annex/FLUM/Zoning

Please find attached a request to annex, amend the future land use map and rezone. Comments may be made via email or interoffice memo, if you have no comments, you may simply respond to this email with "no comments" whichever you prefer.

Thank you,
Debbie

Debbie Banks
Director of Building & Zoning
386.329.0103 (phone)
386.329.0172 (fax)
banks@palatka-fl.gov

May 5, 2010

RE: Robert Benjamin

To Whom It May Concern:

Mr. Robert Benjamin will be acting on the behalf of Harvest Temple Ministries regarding getting the church annexed through city zoning. Also, he will contact the necessary officials, retrieve permits, and gather any other significant information for completion of this process. You may contact me at this number if you have questions—386.916.4290 or 386.659.2522.

Pastor- Edward L. Davis, Sr

Edward L. Davis, Sr.

Harvest Temple Ministries

500 South Palm Avenue

Palatka, Fl 32177

Robert Benjamin

Edward L. Davis, Sr.

Application for Annexation

This application must be typed or printed in black ink and submitted with any required attachments and application fee of \$1,000 for Small Scale or \$1,500 for Large Scale (Checks payable to the City of Palatka) to:

City of Palatka Planning & Zoning
201 N 2nd Street
Palatka, FL 32177

FOR INFORMATION REGARDING THIS FORM, CALL (386) 329-0103

Application Number: PB-10-24

Date Received: 5/13/10

Hearing date: 7/6/10

TO BE COMPLETED BY APPLICANT

1. Property Address: 500 SOUTH PALM AV.		2. Parcel Number: 11-10-26-0000-0230		3. Current Property Use: VACANT COMMERCIAL	
4. Current Land Use Designation: Urban Service COMMERCIAL		5. Requested Land Use Designation: COMMERCIAL		6. Required Attachments: <input type="checkbox"/> Legal Description <input type="checkbox"/> Letter of Authorization* <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Project Narrative** <input type="checkbox"/> Supplementary Information*** <input type="checkbox"/> Site Map for display ad**** <input type="checkbox"/> Site Plan***** <input type="checkbox"/> Survey	
7. Current Zoning Designation: C-1 & R-1A		8. Requested Zoning Designation: C-1			
9. Acreage to be considered for request: 0.65 ACRES		10. Number, types & square footage of structures on property: 1 - MASONRY BLDG. 21452 SF			
Reason for annexation request: <u>TO CONVERT BLDG. TO A CHURCH FACILITY</u>					
Harvest Temple Ministries					
* Owner Name			ROBERT BENJAMIN		
Agent Name			P.O. Box 7175		
Owner Address			Agent Address		
500 South Palm Avenue			JACKSONVILLE, FL, 32238		
Palatka, FL 32177					
Phone Number			Phone Number		
386-659-2522			(904) 859-7536		

* Letter of Authorization for Agent is required if any person other than the property owner makes the application and acts on behalf of the owner.

** Project Narrative: Explain present and future use of the property in detail.

*** Supplementary information that may be required with application relative to the following factors where applicable: Soils, Natural Vegetation/Wildlife; Wetlands (type, location and amount of acreage to the nearest one-hundredth acre), and Topography/Flood Prone Areas.

**** Site map for ad to be in black & white, no larger than 2 1/2" x 3" with nearest intersecting streets shown and named.

***** Site Plan: Detailed project drawing



Application Number: PB - _____
 Hearing date: _____

10. This application submitted by:

Signature of owner(s): Edward L. Davis, Sr. Shirley D. Davis
 Print owner(s) names(s): Edward L. Davis, Sr. Shirley D. Davis
 Signature of Agent(s): Robert Benjamin
 Print Agent(s) names: ROBERT BENJAMIN

STATE OF Florida
 County of Putnam

Before me this day personally appeared Edward + Shirley Davis, Robert Benjamin who executed the foregoing application and acknowledged to and before me that they executed this document for the purposes therein expressed.

WITNESS my hand and official seal, this 12 day of May A.D. 2010.

Lashonda F. Simmons
 Notary Public



My commission expires: 7-11-2010 State of Florida at Large

FOR OFFICIAL USE ONLY				
1. Date Submitted <u>5/13</u>	2. Received By: <u>OB</u>	3. Current Zoning: <u>County C-1 RI-A</u>	4. Requested Zoning: <u>C-1</u>	5. Preliminary review by: <u>OB</u>
7. Sign(s) Posted Date: By: <u>Post 6/18</u>	8. Surrounding property owners notices sent: Date: <u>5-14</u> By: <u>OB</u>	9. Legal Ad Ran: Date: <u>6/19/10</u> <u>To run</u>	10. Attachments Reviewed: <input type="checkbox"/> Letter of Authorization* <u>NA</u> <input type="checkbox"/> Legal Description <input type="checkbox"/> Copy of Recorded Deed <u>Need</u> <input checked="" type="checkbox"/> Fees <input checked="" type="checkbox"/> Project Narrative** <input type="checkbox"/> Supplementary Information*** <input type="checkbox"/> Site Map for display ad**** <input type="checkbox"/> Site Plan*****	
City Commission Hearing Date:				

Application for Small-Scale Land Use Amendment to the Future Land Use Map

This application must be typed or printed in black ink and submitted with any required attachments and application fee of \$450 (Checks payable to the City of Palatka) to:

City of Palatka Planning & Zoning
201 N 2nd Street
Palatka, FL 32177

FOR INFORMATION REGARDING THIS FORM, CALL (386)329-0103

Application Number: PB - 10-24

Date Received: 5/13/10

Hearing date: 7/10/10

TO BE COMPLETED BY APPLICANT

1. Property Address: 500 S. PALM AV. PALATKA, FL.		2. Parcel Number: 11-10-26-0000-0230-0000	3. Current Property Use: VACANT COMMERCIAL
4. Current Land Use Designation: <i>Urban Service</i> COMMERCIAL		5. Requested Land Use Designation: COMMERCIAL	
7. Current Zoning Designation: C-1 & R-1A		8. Requested Zoning Designation: C-1	
9. Lot size/acreage: 0.65 ACRES		6. Required Attachments: <input type="checkbox"/> Letter of Authorization* <input type="checkbox"/> Legal Description <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Project Narrative** <input type="checkbox"/> Supplementary Information*** <input type="checkbox"/> Site Map for display ad**** <input type="checkbox"/> Site Plan*****	
11. Proposed Number, types & square footage of structures on property: Attach plan ←			
8. Owner Name: Harvest Temple Ministries		Owner Address: 500 South Palm Ave.	
		Palatka, FL 32177	
Phone Number: (386) 659-2522			
9. Agent Name: ROBERT BENJAMIN		Agent Address: P.O. Box 7175	
		JACKSONVILLE, FL. 32238	
Phone Number: (904) 859-7536			

* Letter of Authorization for Agent is required if any person other than the property owner makes the application and acts on behalf of the owner.

**Project Narrative: Explain present and future use of the property in detail.

***Supplementary information that may be required with application relative to the following factors where applicable: Soils, Natural Vegetation/Wildlife; Wetlands (type, location and amount of acreage to the nearest one-hundredth acre), and Topography/Flood Prone Areas.

****Site map for ad to be in black & white, no larger than 2 1/2" x 3" with nearest intersecting streets shown and named.

*****Site Plan: Detailed project drawing

Application Number: PB _____
 Hearing date: _____

10. This application submitted by:

Signature of owner(s): Edward L. Davis, Sr. Shirley D. Davis
 Print owner(s) names(s): Edward L. Davis, Sr Shirley D. Davis
 Signature of Agent(s): Robert Benjamin
 Print Agent(s) names: ROBERT BENJAMIN

STATE OF Florida
 County of Putnam

Before me this day personally appeared Edward L. Davis, Shirley D. Davis, Robert Benjamin who executed the foregoing application and acknowledged to and before me that they executed this document for the purposes therein expressed.

WITNESS my hand and official seal, this 12 day of May A.D. 2010.

Lashonda T. Simmons
 Notary Public



My commission expires: 7-11-2010 State of Florida at Large

FOR OFFICIAL USE ONLY				
1. Date Submitted	2. Received By:	3. Current Zoning:	4. Requested Zoning:	5. Preliminary review by:
7. Sign(s) Posted Date: By:	8. Surrounding property owners notices sent: Date: By:	9. Legal Ad Ran: Date:	10. Attachments Reviewed: <input type="checkbox"/> Letter of Authorization** <input type="checkbox"/> Legal Description <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Project Narrative	
City Commission Meeting Date:				

Application for Rezoning

This application must be typed or printed in black ink and submitted with any required attachments and application fee of \$130 (Checks payable to the City of Palatka) to:

City of Palatka Planning & Zoning
201 N 2nd Street
Palatka, FL 32177

Application Number: PB - 10-24
Date Received: 5/13/10
Hearing date: 7/6/10

FOR INFORMATION REGARDING THIS FORM, CALL (386)329-0103

TO BE COMPLETED BY APPLICANT			
1. Property Address: 500 SOUTH PALM AV. PALATKA, FL.		2. Current Property Use: VACANT COMMERCIAL	
3. Parcel Number: 11-10-26-0000-0230 -0000	4. Lot size/acreage: 0.65 ACRES	5. Proposed Use: CHURCH BUILDING	
6. Current Zoning Designation: C-1 & R-1A	7. Requested Zoning Designation: C-1	8. Required Attachments: <input type="checkbox"/> Letter of Authorization* <input type="checkbox"/> Legal Description <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Project Narrative** <input type="checkbox"/> If applicable, attach Small or Large Scale Future Land Use Amendment application	
9. Square footage of any proposed structures: NONE NEW APPROX. 1450 SF EXISTING	10. Number & types of structures on property: 1- MASONRY BLDG.		
8. Owner Name: <u>Harvest Temple Ministries</u>			
Owner Address: <u>500 South Palm Ave.</u> <u>Palatka, FL 32177</u>			
Phone Number: <u>(386) 659-2522</u>			
9. Agent Name: <u>ROBERT BENJAMIN</u>			
Agent Address: <u>P.O. Box 7175</u> <u>JACKSONVILLE, FL. 32238</u>			
Phone Number: <u>(904) 859-7536</u>			

*Letter of Authorization for Agent is required if any person other than the property owner makes the application and acts on behalf of the owner.

**Project Narrative: Explain present and future use of the property detailing project.

Application Number: PB - _____

Hearing date: _____

10. This application submitted by:

Signature of owner(s): Edward H. Davis, Sr. Shirley D. Davis

Print owner(s) names(s): _____ Shirley D. Davis

Signature of Agent(s): Robert Benjamin

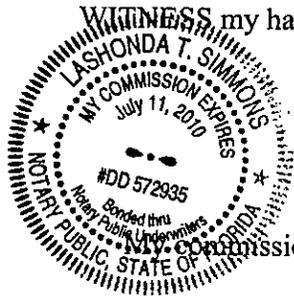
Print Agent(s) names: ROBERT BENJAMIN

STATE OF Florida

County of Putnam

Before me this day personally appeared Edward + Shirley Davis; Robert Benjamin who executed the foregoing application and acknowledged to and before me that they executed this document for the purposes therein expressed.

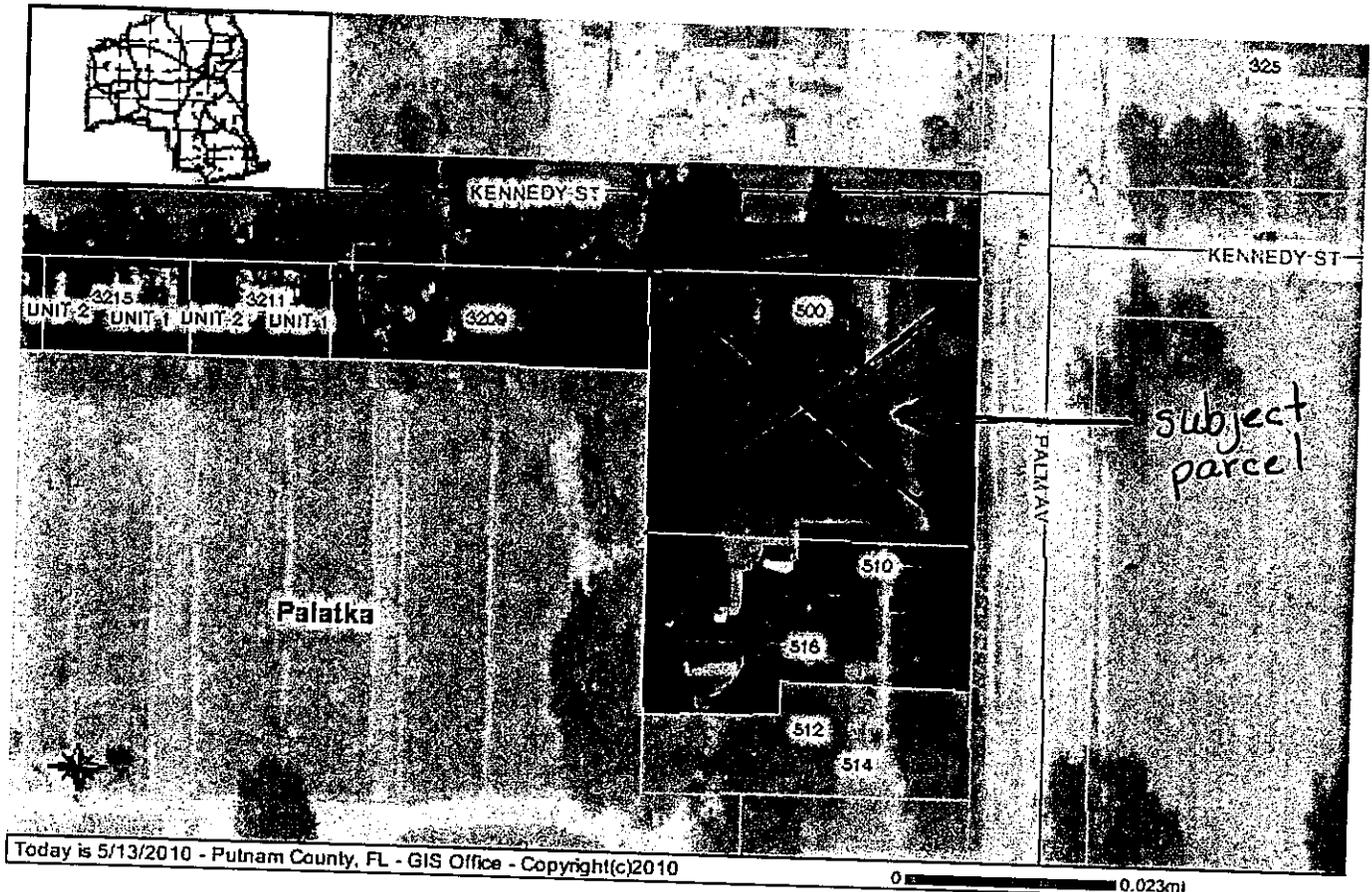
WITNESS my hand and official seal, this 12 day of May A.D. 2010.



Lashonda T. Simmons
Notary Public

Commission expires: 7-11-2010 State of Florida at Large

FOR OFFICIAL USE ONLY				
1. Date Submitted	2. Received By:	3. Confirm Zoning:	4. Confirm FLUM	5. Preliminary review by:
7. Sign(s) Posted Date: By:	8. Surrounding property owners notices sent: Date: By:	9. Legal Ad Ran: Date: Date:	10. Attachments Reviewed: <input type="checkbox"/> Letter of Authorization* <input type="checkbox"/> Legal Description <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Project Narrative** <input type="checkbox"/> Supplementary Information*** <input type="checkbox"/> Site Map for display ad**** <input type="checkbox"/> Site Plan***** <input type="checkbox"/> Survey	
City Commission Hearing Date:				



Advertising Receipt

Palatka Daily News
 P.O. Box 777
 Palatka, FL 32178-0777
 Phone: (386) 312-5200
 Fax: (386) 312-5209

City of Palatka
 201 N. 2nd Street
 PALATKA, FL 32177

Cust#: 04100016-000
 Ad#: 05505195
 Phone: (386)329-0100
 Date: 05/14/10

Ad taker: vic Salesperson: mkw Classification: 0360

Description	Start	Stop	Ins.	Cost/Day	Surcharges	Total
01 Palatka Daily News Affidavit	06/19/10	06/19/10	1	74.80		74.81 2.50

Payment Reference:

Total: 77.31
 Tax: 0.00
 Net: 77.31
 Prepaid: 0.00

Notice is hereby given that the CITY OF PALATKA PLANNING BOARD will hold a public hearing on July 6, 2010 at 4:00 P.M. at City Hall, 201 N 2nd St. for the purpose of hearing the following matter:

Request to Annex into the Palatka city limits, Amend the Future Land Use Map from County Urban Service to City Commercial and Rezone from County R-1A (Single-family Residential) and C-1 (Commercial) to City C-1 (General Commercial). Case: PB 10-24

Owner: Harvest Temple Ministries

Location: 500 S Palm Ave.

Parcel #: 11-10-26-0000-0230-0000

all interested parties are invited to attend this public hearing.

Total Due	77.31
------------------	--------------

PUBLIC NOTICE

Notice is hereby given that the CITY OF PALATKA PLANNING BOARD will hold a public hearing on July 6, 2010 at 4:00 P.M. at City Hall, 201 N 2nd St. for the purpose of hearing the following matter:

Request to Annex into the Palatka city limits, Amend the Future Land Use Map from County Urban Service to City Commercial and Rezone from County R-1A (Single-family Residential) and C-1 (Commercial) to City C-1 (General Commercial). Case: PB 10-24

Owner: Harvest Temple Ministries

Location: 500 S Palm Ave.

Parcel #: 11-10-26-0000-0230-0000

All interested parties are invited to attend this public hearing.

Debbie Banks
Director of Bldg. & Zoning

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

PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE BUILDING DEPT. AT (386)329-0103 AT LEAST 24 HOURS IN ADVANCE TO REQUEST SUCH ACCOMMODATIONS.

Legal No. 05505195
06/19/2010

*ok
DB
5/14/10
1:06 PM*



City of Palatka

Building & Zoning

201 N. 2nd Street

Palatka, Florida 32177

386-329-0103 • Fax 386-329-0172



As an owner of adjacent property, you are hereby notified of a pending action before the Planning Board which may be of concern to you:

PUBLIC NOTICE

Notice is hereby given that the **CITY OF PALATKA PLANNING BOARD** will hold a public hearing on July 6, 2010 at 4:00 P.M. at City Hall, 201 N 2nd St. for the purpose of hearing the following matter:

Request to Annex into the Palatka city limits, Amend the Future Land Use Map from County Urban Service to City Commercial and Rezone from County R-1A (Single-family Residential) and C-1 (Commercial) to City C-1 (General Commercial). Case: PB 10-24

Owner: Harvest Temple Ministries

Location: 500 S Palm Ave.

Parcel #: 11-10-26-0000-0230-0000

All interested parties are invited to attend this public hearing.

Debbie Banks
Director of Bldg. & Zoning

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

PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE BUILDING DEPT. AT (386)329-0103 AT LEAST 24 HOURS IN ADVANCE TO REQUEST SUCH ACCOMMODATIONS.



JUDLEN ENTERPRISES INC PB 10-24
PO BOX 2212
PALATKA FL 32178

EYE-Q LIMITED LIABILITY COMPANY PB 10-24
512 S PALM AVE
PALATKA FL
32177

CITY OF PALATKA PB 10-24
201 N 2ND ST
PALATKA FL 32177

EDMONDO SCHIANO PB 10-24
4037 HALF MOON CIR
MIDDLEBURG FL 32068

GREGORY L + PATRICIA A KANE PB 10-24
514 S PALM AVE
PALATKA FL 32177

LENWOOD + JUDY MORRELL PB 10-24
PO BOX 2212
PALATKA FL 32178

SEVENTH DAY ADVENTIST PB 10-24
PO BOX 1016
MIDDLEBURG FL
32756

PUTNAM COUNTY PB 10-24
PO BOX 758
PALATKA FL 32178

NANCY M RABY LIVING TRUST PB 10-24
310 S PALM AVE SUITE 10
PALATKA FL 32177

PLANNING BOARD REPORT
July 6, 2010 Regular Meeting

SUBJECT: Case: PB 10-25

Address: 429 Kirby Street

Parcel: 42-10-27-6850-0450-0050

REQUEST: A request for a conditional use for a wall mural to exceed 25% of the wall

BACKGROUND:

Property Owner: City of Palatka **Applicant:** Southside Historic Neighborhood Assoc.

Zoning: R-1 (Residential Single-Family)

Surrounding Zoning: North – R-1 South – R-1 East – R-1 West – R-1

Advertisement: Ran 6-19-10 – No response received

Notices to Surrounding Owners: Mailed 6-4-10 – No response received

Departmental Review Requests: Forwarded to the Chief Building Official who responded with “no comment.”

FINDINGS:

Before any conditional use shall be approved, the Planning Board shall make a written finding that the granting of the conditional use will not adversely affect the public interest and certifying that the specific requirements governing the individual conditional use, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable:

- a. **Compliance with all applicable elements of the comprehensive plan.** The Comprehensive Plan does not directly address murals (wall graphics), but encourages the preservation of the City’s history.
- 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.** NA
- 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.** NA
- d. **Refuse and service areas, with particular reference to the items mentioned in subsections (4) b and c of this section.** NA
- e. **Utilities, with reference to location, availability and compatibility.** NA
- f. **Screening and buffering, with reference to type, dimensions and character.** NA
- 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.** NA
- h. **Required yards and other open space.** NA
- i. **General compatibility with adjacent properties and other property in the district.** The mural is consistent with the direction the City has endorsed in an effort to include art in the City.

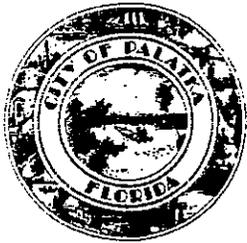
j. Any special requirements set out in the schedule of district regulations for the particular use involved. Conditional use required to exceed the wall space allowed by code. Per Section 62 of the Municipal Code a *Wall graphic* means a large wall decoration that depicts a scene, picture, illustration or design with no written message, word, insignia or logo. The wall graphic is intended to enhance the aesthetic appearance of and attract attention to the premises. A wall graphic is permitted as a conditional use for 25 percent of a wall area or over.

k. The recommendation and any special requirements of the historic preservation board for uses within the HD zoning district. Certificate of Appropriateness approved June 3, 2010.

STAFF RECOMMENDATION:

Staff recommends approval of this request.





City of Palatka

Building & Zoning

201 N. 2nd Street

Palatka, Florida 32177

386-329-0103 • Fax 386-329-0172



As an owner of adjacent property, you are hereby notified of a pending action before the Planning Board which may be of concern to you:

PUBLIC NOTICE

Notice is hereby given that the City of Palatka PLANNING BOARD will hold a public hearing at their regular meeting on Tuesday, July 6, 2010 at 4:00PM at City Hall, 201 North 2nd Street, for the purpose of hearing a:

Request for a conditional use for a wall mural to exceed 25% of the wall. Case: PB 10-25

Location: 429 Kirby St.
Parcel #: 42-10-27-6850-0450-0050
Owner: City of Palatka
Applicant: Southside Historic Neighborhood Assoc.

All interested parties are invited to attend this public hearing.

Debbie Banks
Director of Building & Zoning

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, AND FOR SUCH PURPOSE THE CITY COMMISSION WILL REQUIRE A VERBATIM TRANSCRIPT BE MADE AT THE EXPENSE OF THE APPELLANT THAT INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED F.S. 286.0105.

PERSONS WITH DISABILITIES INTERESTED IN ATTENDING THIS MEETING AND REQUIRING ACCOMMODATIONS, SHOULD CONTACT THE CITY BUILDING DEPARTMENT AT 329-0103 AT LEAST 24 HOURS IN ADVANCE TO REQUEST SUCH ACCOMMODATIONS.



DENNIS M DEAN + LAUREL F PB 10-25
213 A STREET
ST AUGUSTINE FL 32080

ALEXANDER M SHARP (IV)+JEANNIE L ELY
PO BOX 2798 PB 10-25
PALATKA FL 32178

ROBERT C MCEWEN + KENNETH GONZALES
501 KIRBY ST PB 10-25
PALATKA FL 32177

GERALD S RUTBERG TRUSTEE PB 10-25
244 MARKHAM WOODS RD
LONGWOOD FL 32779

MARGARET M MURRAY +PAULA M BRANTLEY
505 KIRBY ST PB 10-25
PALATKA FL 32177

JANET REED PETTIT PB 10-25
418 EMMETT ST
PALATKA FL 32177

TIMOTHY SCOTT + ATHENA M CALVIN
15 OCEAN WOODS DR W
ST AUGUSTINE FL 32080

K...ETH W + DIANE M SCHWING PB 10-25
1...LDERBERRY LANE
PALATKA FL 32177

MARIA CORPORATION OF SEMINOLE INC
13532 74TH AVE NORTH PB 10-25
SEMINOLE FL 33776

RUSSELL E + ANITA THOMAS JR
125 WASHINGTON ST PB 10-25
ST AUGUSTINE FL 32084

Please run once on June 19, 2010 in the public notice section

PUBLIC NOTICE (section)

Notice is hereby given that the City of Palatka PLANNING BOARD will hold a public hearing at their regular meeting on Tuesday, July 6, 2010 at 4:00PM at City Hall, 201 North 2nd Street, for the purpose of hearing a:

Request for a conditional use for a wall mural to exceed 25% of the wall. Case: PB 10-25

Location: 429 Kirby St.
Parcel #: 42-10-27-6850-0450-0050
Owner: City of Palatka
Applicant: Southside Historic Neighborhood Assoc.

All interested parties are invited to attend this public hearing.

Debbie Banks
Director of Bldg. & Zoning

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, AND FOR SUCH PURPOSE THE CITY COMMISSION WILL REQUIRE A VERBATIM TRANSCRIPT BE MADE AT THE EXPENSE OF THE APPELLANT THAT INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED F.S. 286.0105.

PERSONS WITH DISABILITIES INTERESTED IN ATTENDING THIS MEETING AND REQUIRING ACCOMMODATIONS, SHOULD CONTACT THE BUILDING DEPT. AT 329-0103 AT LEAST 24 HOURS IN ADVANCE TO REQUEST SUCH ACCOMMODATIONS.

Application for Conditional Use

This application must be typed or printed in black ink and submitted with all required attachments and application fee of \$130 (Checks payable to the City of Palatka) to:

City of Palatka Planning & Zoning
201 N 2nd Street
Palatka, FL 32177

Application Number: PB - 10-25
Date Received: 5/12/10
Hearing date: 7/6/10

FOR INFORMATION REGARDING THIS FORM, CALL (386)329-0103

TO BE COMPLETED BY APPLICANT		
1. Property Address: <u>429 Kirby Street</u>	2. Parcel Number: <u>42-10-27-6850-040-0021</u> <small>0450-0050</small>	3. Current Property Use: <u>Public Building</u>
4. Lot size/acreage: <u>0.09</u>	5. Number & types of structures on property: <u>Commercial 1 Foot</u> <u>Foot. Single</u> <u>(1) Residential, family</u>	6. Required Attachments: <input type="checkbox"/> Site Plan* <input checked="" type="checkbox"/> Letter of Authorization** <input checked="" type="checkbox"/> Legal Description <input type="checkbox"/> Dept. of Children & Family Services Letter(if daycare) <input checked="" type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Justification Statement*** <input type="checkbox"/> Tree Survey (if applicable)
7. Current Zoning Designation: <u>R-1</u>	8. Closest Intersecting Streets: <u>. Kirkland Street</u> <u>± Kirby Street</u>	
8. Owner Name: <u>City of Palatka</u>		
Owner Address: <u>201 N 2nd St Palatka, FL 32177</u>		
Phone Number: <u>(386) 329-0100</u>		
9. Agent Name: <u>Southside Historic Neighborhood Association</u>		
Agent Address: <u>PO Box 2507 Palatka, FL 32177</u>		
Phone Number: <u>(386) 325-9418</u>		

*Site Plan to include placement of structures on property, proposed ingress, egress, parking, loading/unloading area, refuse services area, and if applicable, signage, landscaping, screening & buffering and lighting. One copy to be 8 ½ x 11 and 2 copies 11 x 17 or larger.

**Letter of Authorization for Agent is required if any person other than the property owner makes the application and acts on behalf of the owner.

*** Justification Statement is attached. These questions will be addressed by the Planning Board.

RECEIVED
 MAY 12 2010
 BY: _____

Application Number: PB - _____

Hearing date: _____

10. This application submitted by:

Signature of owner(s): [Signature]

Print owner(s) names(s): Edwin C. Bayles Jr.

Signature of Agent(s): [Signature] SIDNA President

Print Agent(s) names: Roberta M. Correa SIDNA President

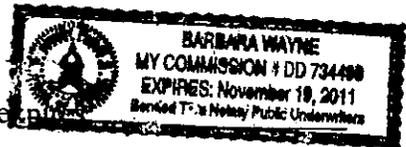
STATE OF Florida

County of Putnam

Before me this day personally appeared Roberta Correa, SIDNA President who executed the foregoing application and acknowledged to and before me that She executed this document for the purposes therein expressed.

WITNESS my hand and official seal, this 12th day of May A.D. 2010.

[Signature]
Notary Public



My commission expires _____ State of Florida at Large

FOR OFFICIAL USE ONLY				
1. Date Submitted	2. Received By:	3. Current Zoning:	4. Future Land Use Category:	5. Preliminary review by:
7. Sign(s) Posted Date: By:	8. Surrounding property owners notices sent: Date: By:	9. Legal Ad Ran: Date:	10. Attachments Reviewed: <input type="checkbox"/> Site Plan* <input type="checkbox"/> Letter of Authorization** <input type="checkbox"/> Legal Description <input type="checkbox"/> Dept. of Children & Family Services Letter(if daycare) <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Justification Statement <input type="checkbox"/> Tree Survey (if applicable)	
11. Conditions:				
12. Adjacent property zoning/FLU: North _____ / _____ South _____ / _____ East _____ / _____ West _____ / _____				

Sec. 94-3. Conditional uses.









PLANNING BOARD REPORT
July 6, 2010 Regular Meeting

Case: PB 10-20

REQUEST: Conditional use to locate benches within the City limits along State right-of-way and city property and right-of-way.

Address/Parcel: 401 N 15th St., 607 N Palm Ave., 1725, 4801 and 5001 St. Johns Ave., 100, 333, 400, 414, 417, 425, and 440 SR 19 N, 900, 1500, 1701, 1824, 2001, 2021, 2420, 2502, 3724, and 3743 Reid St., 252 and 256 US 17 N, 103, 201, 710, 719, 800, 804, 805/807, 919, 1006 and 1024 SR 19 S, SE corner of Moody & SR 19 S, 718 S. Palm Ave., 2900 Crill Ave. (SE & SW corner), 3208, 3306, 3905 Crill Ave., 600 Zeagler Dr., Lemon Heights N 20th PL and 1500 Madison St.

BACKGROUND:

Property Owner: State of Florida and City of Palatka

Agent: Martin-Mency, LLC

Zoning: C1-A, C-2; M-1, R-3 **Acreage:** NA

Advertisement: Ran June 19, 2010 **Notices to Surrounding Owners:** Mailed June 8, 2010

Background:

On February 5, 2010, the City entered into an agreement (the agreement) giving Martin-Mency LLC "exclusive rights to use the right-of-way within the City to construct, install, erect, and maintain bus benches and transit shelters with advertising for the use of the public." Locations listed in the agreement include "public bus stops, parks, shopping centers, business zones, school bus stops and in other similar areas needed for pedestrian convenience and for the accommodation of the public."

The applicant has cited FS 337.408 as the enabling language that allows him to place benches in the State right-of-way.

Florida Statute 337.408 Regulation of benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.--

(1) Benches or transit shelters, including advertising displayed on benches or transit shelters, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway, provided that such benches or transit shelters are for the comfort or convenience of the general public or are at designated stops on official bus routes and provided that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches or transit shelters are installed or by the county government within whose unincorporated limits such benches or transit shelters are installed.

Departmental Review Requests: Forwarded to the Public Works Director, Chief Building Official and Police Chief on May 24, 2010. In a verbal discussion with the Police Chief, he requested that no bench be located in residential areas prone to drug activity. We reviewed the list and he did not find any requested location to be an issue. The Public Works Director stated he did not believe any bench should be placed in front of the sidewalks and that he was concerned that some locations are on private property. Further, he said that as long as everything is permitted properly and meets ADA and FDOT requirements, he did not have anything else to add. The Chief Building Official helped post the sites and had no issues except that they meet the Florida Building Code, ADA requirements and the Municipal Code for corner visibility as applicable.

The City of Palatka Municipal Code references "bus stop benches" in the following code:

Sec. 94-195. School bus shelters and bicycle racks; bus stop benches; telephone booths.

- (b) *Bus stop benches and shelters.* Bus stop benches and shelters may be located in any district. Locations and setbacks shall be approved by the planning board as a conditional use. Advertising copy located on any bus stop bench or shelter shall not include any product, good, or service that is not legally available or accessible to a minor.

It is my opinion that if the above section is taken literally, then benches could only be located at bus stops. The City has no designated bus stops other than those designated by Ride Solution (which is the public transportation authority for Putnam County) who has 26 designated bus stops in the City limits. Of these 26 bus stops, Ride Solutions has obtained conditional use approval for shelters with benches at 9 locations leaving 17 designated bus stops open for bus stop benches. The City has not adopted a bus route but does permit Ride Solution to operate buses within the City limits on designated routes. The City's code does not provide a definition of "bus stop bench." A code amendment may be appropriate in this case.

There are 4 locations requested by the applicant that are designated as bus stops by Ride Solutions. They are: 401 N 15th St.; Lemon Heights & 20th Place; the St. Johns River Community College map location and 600 Zeagler Dr. Of these 4 locations, 3 of them already have benches and shelters that were approved by the Planning Board for Ride Solutions. 401 N 15th Street is the only location that would qualify for the conditional use if the code is interpreted in the manner presented above.

A decision to utilize Ride Solutions' bus stop locations would mean the Planning Board would review one location. Benches located in the other requested locations would then be considered billboards. The Municipal Code provides the following definition of a billboard:

Chapter 62 Signs Sec. 62-1. Definitions.

Billboard and poster board mean outdoor advertising signs erected and maintained by an advertising business or service, or owner, upon which advertising matter may be displayed and which generally advertise firms and organizations that, along with their goods and services, are not located on the same premises as the sign, and whose surface is sold, rented or leased for display of advertising material. The size of a billboard or a poster board shall not exceed 300 feet.

Additionally:

Sec. 62-12. Permitted locations for billboards. Billboards will be allowed in M-1 zoning districts only.

The City Attorney has provided his opinion below:

MEMORANDUM

DATE: June 10, 2010
TO: Debbie Banks, Planning Director
FROM: Donald E. Holmes
RE: Placement of Benches (Case # PB – 20)

A question has arisen regarding the classification of "benches" which Martin-Mency, L.L.C. proposes to locate at various sites within the City of Palatka. More particularly, since it is contemplated that "advertising panels" will be located on the backs of the benches it has been suggested that the benches should be classified as "billboards/poster boards/signs" governed by Section 62-1 et. seq. of the municipal code rather than being classified as benches and governed by Section 94-195 et. seq. of the municipal code.

Section 94-195 reads, in part, as follows: "Bus stop benches and shelters may be located in any district. Locations and setbacks shall be approved by the Planning Board as a conditional use. Advertisement copy located on any bus stop bench or shelter shall not include any product, good, or service that is not legally available or accessible to a minor."

It is clear that Section 94-195 envisions the placement of "advertising copy" on bus stop benches and, conversely, that the inclusion of "advertising copy" on a bus stop bench would not automatically convert the bench to a "sign" governed by Section 62-1, et. seq.

The question is then whether the term "bus stop benches" as used in Section 94-195 is intended to limit the benches governed by and authorized by Section 94-195 to only those that are located at a site where a "bus" stops to pick up or discharge passengers.

In sum, I find nothing within Section 94-195 which limits the provisions of the section to benches located at a site where buses stop to load or unload passengers. If the intent of the drafters of Section 94-195 was to so limit the section, it would have been very simple to have included language which specifically accomplished this purpose, i.e. "bus stop benches and shelters may be located in any district but may only be located at a site where a bus or some other method of public transportation stops for the purposes of loading or unloading passengers". No such language appears within the section. Accordingly, it is my opinion and interpretation that the words "bus stop" as used within the section in describing "benches" were used as a "term of art" rather than for the purpose of strictly defining the benches contemplated by the section. An analogous use of adjectives might be found in the term "park benches", or "church pew". Without additional limiting language, it would not be my interpretation that when used in the context of a municipal code the term "park bench" was intended to define only benches located in a park, or, that the term "church pew" would be used only to define benches located in a church. Instead, it would be my interpretation that the terms were used to describe the type or style of an object.

Based upon my reasoning, it is my opinion that the benches proposed by Martin-Mency, L.L.C., in case number PB10-20, should be governed by the provisions of Section 94-195 rather than by the provisions of Section 62-1.

In the event you have any question concerning this memo, please feel free to contact me at your convenience.

Respectfully submitted,

Donald E. Holmes

Following the City Attorney's opinion, the Board would evaluate each of the requested locations based on the criteria set forth under Section 94-3 Conditional Use. Staff has provided a location by location analysis in the attached report should the Board follow that option.

SECTION 94-3 Conditional Uses:

Section 94-3 of the Code contains the following definition that should be used by the Planning Board as a guide when considering conditional use requests. According to this section of the Code:

"A conditional use is a use that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such conditional uses may be permissible in a zoning district if specific provision for such a conditional use is made in this chapter."

FINDINGS:

Before any conditional use shall be approved, the Planning Board shall make a written finding that the granting of the conditional use will not adversely affect the public interest and certifying that the specific requirements governing the individual conditional use, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable:

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

The Comprehensive Plan does not directly address location of benches.

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.

The locations requested are evaluated individually in the attached report.

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. Parking spaces will not be impacted.

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

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

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

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.

The signs are attached to each bench and must comply with the sign ordinance if they are not approved as a designated bus stop bench by code.

h. Required yards and other open space. NA

i. General compatibility with adjacent properties and other property in the district.

The proposed permanent benches are not incompatible with typical streetscaping for any commercial district.

j. Any special requirements set out in the schedule of district regulations for the particular use involved. None.

k. The recommendation and any special requirements of the historic preservation board for uses within the HD zoning district. NA

STAFF RECOMMENDATION:

Staff recommends approval of benches deemed by the Board to be appropriately located. Any approved location would need to comply with approved conditions. Staff recommends the following conditions:

1. An application for permits for approved benches must be applied for within 15 days of conditional use approval.
2. No bench shall be located to the front of a sidewalk.
3. All benches including the attached signs and area surrounding each bench location will be maintained per the Municipal Code at all times.
4. All benches must meet accessibility requirements. (ADA)
5. All benches must meet the requirements of the Florida Building Code.
6. All benches in D.O.T. right-of-way must have a D.O.T. permit submitted with the application to the City.
7. Corner visibility must be maintained where applicable.

PHOTOS

See attached report

Debbie Banks

From: Woody Boynton
Sent: Monday, June 07, 2010 4:36 PM
To: Debbie Banks
Subject: RE: Benches

I do not believe they should be placed in front of the sidewalks as we have discussed and I am also concerned that some of the locations may be private property. As long as everything is permitted properly and meets ADA and FDOT requirements, I do have anything else to add.

Woody

From: Debbie Banks
Sent: Monday, May 24, 2010 11:44 AM
To: Joff Filion; Woody Boynton; Gary Getchell
Subject: Benches

I have attached my very preliminary staff report for the conditional use request to locate benches within the city so you could see the criteria to be evaluated for each bench location as well as the list of locations the applicant is requesting for approval. I will be posting signs on the benches if they are in place or posting ground signs in the potential locations over the next couple of days. If you have any comments or conditions you would like to see added to the last page of my report – please let me know. I will include your comments, as always, in the packet the Planning Board will receive.

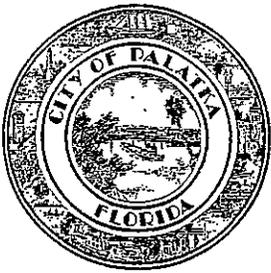
Originally their list included 8 downtown locations which they have agreed to remove as part of their request.

Please feel free to call me to discuss. Please respond by June 9, 2010.

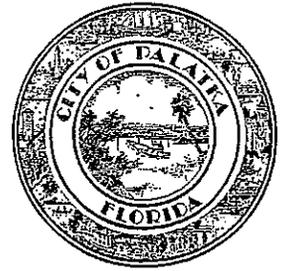
Thank you,
Debbie

PLEASE NOTE

Notices to surrounding property owners were sent to those owners within 150 feet of each bench location. I did not include all the research in your packet since it would increase the size of your packet by about 80 sheets. Map research and address sheets for each location are available upon request.



City of Palatka
Building & Zoning
201 N. 2nd Street
Palatka, Florida 32177
386-329-0103 • Fax 386-329-0172



As an owner of adjacent property, you are hereby notified of a pending action before the Planning Board which may be of concern to you:

PUBLIC NOTICE

Notice is hereby given that the City of Palatka PLANNING BOARD will hold a public hearing at their regular meeting on Tuesday, July 6, 2010 at 4:00PM at City Hall, 201 North 2nd St., for the purpose of hearing a:

Request for a conditional use to locate benches within the State, County and City right-of-way within the city limits of Palatka. Addresses listed are nearest location to benches:

401 N 15th St., 607 N Palm Ave., 1725, 4801 and 5001 St. Johns Ave., 100, 333, 400, 414, 417, 425, and 440 SR 19 N, 900, 1500, 1701, 1824, 2001, 2021, 2420, 2502, 3724, and 3743 Reid St., 252 and 256 US 17 N, 103, 201, 710, 719, 800, 804, 805/807, 919, 1006 and 1024 SR 19 S, SE corner of Moody & SR 19 S, 718 S. Palm Ave., 2900 Crill Ave. (SE & SW corner), 3208, 3306, 3905 Crill Ave., 600 Zeagler Dr., Lemon Heights N 20th PL and 1500 Madison St.

Owner(s): State of Florida/City of Palatka

Applicant: Martin-Mency, LLC

All interested parties are invited to attend this public hearing.

Debbie Banks
Director of Building. & Zoning

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, AND FOR SUCH PURPOSE THE CITY COMMISSION WILL REQUIRE A VERBATIM TRANSCRIPT BE MADE AT THE EXPENSE OF THE APPELLANT THAT INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED F.S. 286.0105.

PERSONS WITH DISABILITIES INTERESTED IN ATTENDING THIS MEETING AND REQUIRING ACCOMMODATIONS, SHOULD CONTACT THE BUILDING DEPARTMENT AT (386)329-0103 AT LEAST 24 HOURS IN ADVANCE TO REQUEST SUCH ACCOMMODATIONS.

PUBLIC NOTICE

Notice is hereby given that the City of Palatka PLANNING BOARD will hold a public hearing at their regular meeting on Tuesday, July 6, 2010 at 4:00PM at City Hall, 201 North 2nd St., for the purpose of hearing a:

Request for a conditional use to locate benches within the State, County and City right-of-way within the city limits of Palatka. Addresses listed are nearest location to benches:

401 N 15th St., 607 N Palm Ave., 1725, 4801 and 5001 St. Johns Ave., 100, 333, 400, 414, 417, 425, and 440 SR 19 N, 900, 1500, 1701, 1824, 2001, 2021, 2420, 2502, 3724, and 3743 Reid St., 252 and 256 US 17 N, 103, 201, 710, 719, 800, 804, 805/807, 919, 1006 and 1024 SR 19 S, SE corner of Moody & SR 19 S, 718 S. Palm Ave., 2900 Crill Ave. (SE & SW corner), 3208, 3306, 3906 Crill Ave., 600 Zeagler Dr., Lemon Heights N 20th PL and 1500 Madison St.

Owner(s): State of Florida/City of Palatka
Applicant: Martin-Mency, LLC

All interested parties are invited to attend this public hearing.

Debbie Banks
Director of Bldg. & Zoning

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, AND FOR SUCH PURPOSE THE CITY COMMISSION WILL REQUIRE A VERBATIM TRANSCRIPT BE MADE AT THE EXPENSE OF THE APPELLANT THAT INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED F.S. 286.0105.

PERSONS WITH DISABILITIES INTERESTED IN ATTENDING THIS MEETING AND REQUIRING ACCOMMODATIONS, SHOULD CONTACT THE BUILDING DEPARTMENT AT (386)329-0103 AT LEAST 24 HOURS IN ADVANCE TO REQUEST SUCH ACCOM-

*of the PD
4/8/10
3:35 PM*

REQUEST SUCH ACCOMMODATIONS.

Legal No. 05505577
06/19/2010

Conclusions drawn -

The city was taken to the cleaners,
It was out slickered, maybe blinded
by ignorance and greed.

Anyone knows the city can't override
state laws and its own ordinances by
a contract. The citizens cannot ignore
the law and neither can the city.
Unless they are properly situated at
recognized bus stops, bench signs on the
state right of way are not legal.

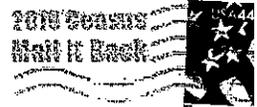
Bench signs on private property along
state roads are not legal either unless
they comply both with state laws as
to signs and city ordinances as to signs.

Here, everything seems to be wrong. The
city rented out the streets for signs.
Look where the benches are. They are
only sign structures. They serve no other
purpose. Look how they are turned. They
should be parallel with the street.

RECEIVED
APR 06 2010

JACKSONVILLE FL 320

03 APR 2010 PM 2 T



Hon. Mary Lawson-Krown - Vice Mayor

**BENCH LOCATION
PHOTOS AND EVALUATION FOR
CONDITIONAL USE**

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.

1. 401 N 15th St (designated bus stop)
 - a. Ingress/egress – no sidewalk but by a posted bus stop; pad will have to be enlarged to connect to street.
 - b. Safety & convenience – not on a busy street; convenient to PHA office & citizens
 - c. D.O.T. right-of-way - no



2. 607 N Palm Ave. (219 on app. list)
 - a. Ingress/egress – sidewalk
 - b. Safety & convenience – no issue
 - c. D.O.T. right-of-way - no



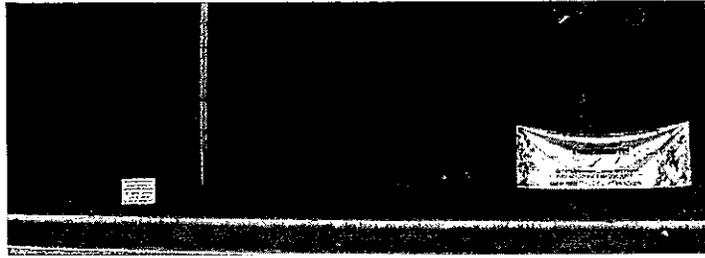
3. 1725 St. Johns Ave. (1721 on app. list)
 - a. Ingress/egress – sidewalk; will have to address corner visibility
 - b. Safety & convenience – no issue
 - c. D.O.T. right-of-way - no



Planning Board Case 10-20 – Bench locations

4. 4801 St. Johns Ave.

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - no



5. 5001 St. Johns Ave.

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue except corner visibility
- c. D.O.T. right-of-way - no



6. 252 US 17 N

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issue except corner visibility
- c. D.O.T. right-of-way - yes



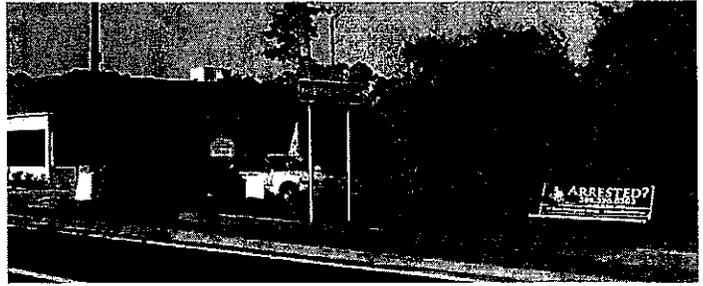
7. 256 US 17 (near Beck's)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue except corner visibility
- c. D.O.T. right-of-way - yes



8. 2502 Reid St. (App map - 101 US 17N Latin Grill)

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issue however, the bench will have to be moved south about 25' to be in the city limits.
- c. D.O.T. right-of-way - yes



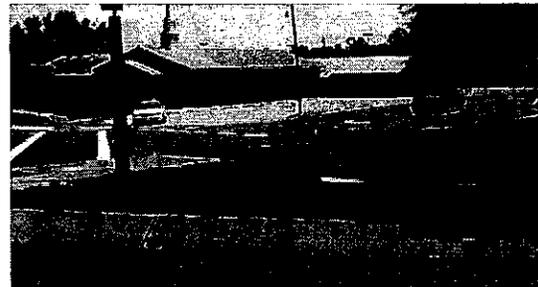
9. 100 SR 19 N (Prosperity Bank)

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issue except corner visibility
- c. D.O.T. right-of-way - yes



10. 333 SR 19 N (Staples corner)

- a. Ingress/egress - sidewalk
- b. Safety & convenience - except corner visibility
- c. D.O.T. right-of-way – yes



11. 414 SR 19 N (Sonic)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



Planning Board Case 10-20 – Bench locations

12. 440 SR 19 N Mid mall property

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issues
- c. D.O.T. right-of way - yes



13. North mall entrance at 400 SR 19 N

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issues
- c. D.O.T. right-of-way - yes



14. 417 SR 19 N (N entrance Home Depot)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



15. 103 SR 19 S – Advance Auto Parts

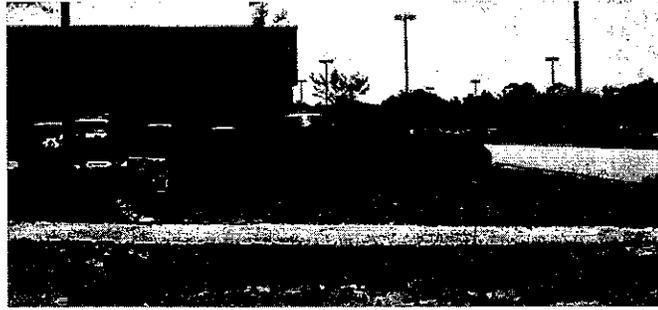
- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



Planning Board Case 10-20 – Bench locations

16. 201 SR 19 S (CVS/Payless)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



17. 710 SR 19 S (Popeye's)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



18. 805/807 SR 19 S

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



19. 804 SR 19 S (by Niko's)

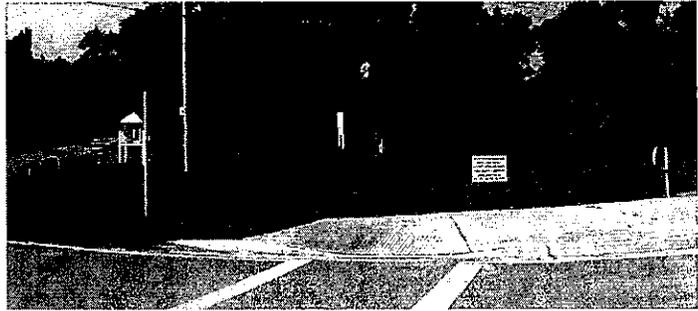
- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



Planning Board Case 10-20 – Bench locations

20. SE corner of Moody & SR 19 S

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



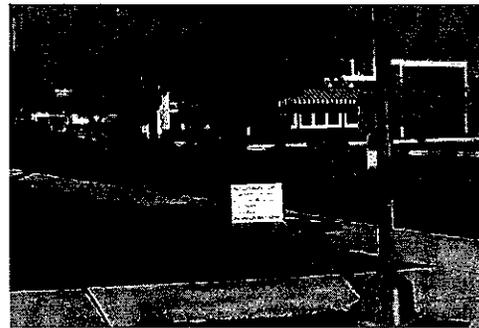
21. 919 SR 19 S (Rent-a-Center)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



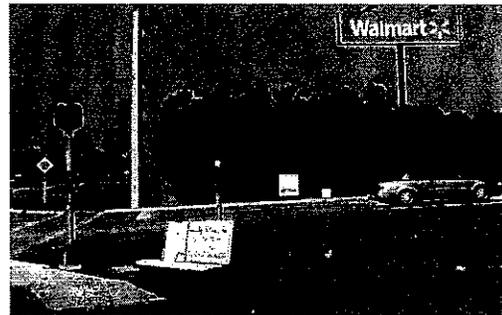
22. 1006 SR 19 S (Chili's)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issues
- c. D.O.T. right-of way - yes



23. 1024 SR 19 S (Walmart) N entrance

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



Planning Board Case 10-20 – Bench locations

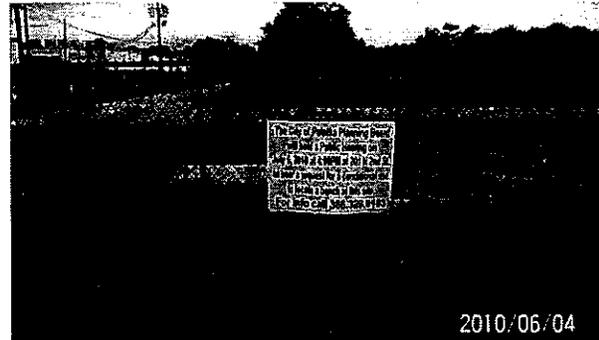
24. 1024 SR 19 S (mid entrance Walmart)

- a. Ingress/egress – sidewalk
- b. Safety & convenience – may be an issue due to proximity of ATM
- c. D.O.T. right-of-way - yes



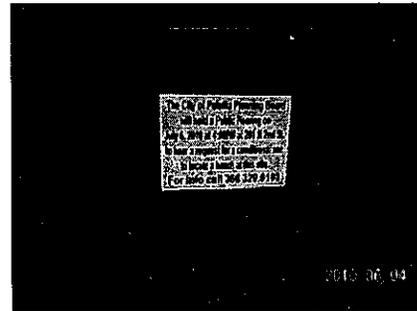
25. 718 S. Palm Ave. (cemetery)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. County right-of-way



26. 2900 Crill Ave. SW end

- a. Ingress/egress – sidewalk
- b. Safety & convenience - no issue
- c. D.O.T. right-of-way - yes



27. 2900 Crill Ave. – SE end

- a. Ingress/egress – sidewalk
- b. Safety & convenience - no issue
- c. D.O.T. right-of-way - yes



28. 3208 Crill Ave. Sign

- a. Ingress/egress - sidewalk
- b. Safety & convenience - no issue
- c. D.O.T. right-of-way - yes



29. 3306 Crill Ave.- Taco Bell

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



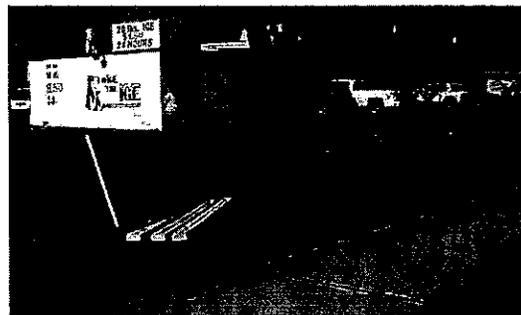
30. 3905 Crill Ave. (Huddle House)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right-of-way - yes



31. 800 SR 19 S (App. map - 4011 Crill Ave.)

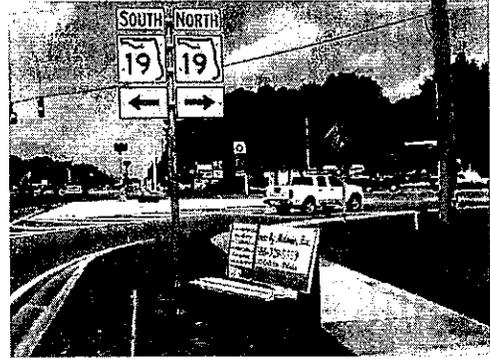
- a. Ingress/egress - sidewalk
- b. Safety & convenience – no issue
- c. D.O.T. right of way - yes



Planning Board Case 10-20 – Bench locations

32. 719 SR 19 S (Walgreens)

- a. Ingress/egress - sidewalk
- b. Safety & convenience – pad will have to be built up to account for slope of retention pond.
- c. D.O.T. right-of way – yes



33. 900 Reid St by Citgo at corner

- a. Ingress/egress – sidewalk (small area not landscaped – care should be taken not to damage plantings)
- b. Safety & convenience – no issue
- c. D.O.T right-of-way - yes



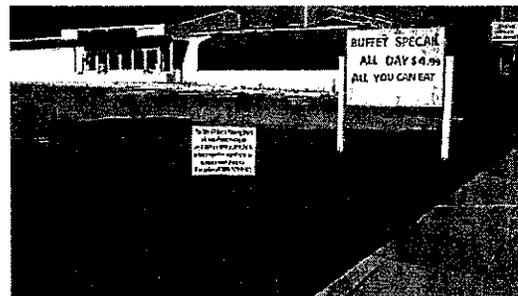
34. 1602 Reid St. on app. list is actually 1500 Reid St. corner of Reid & N 16th.

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issue
- c. D.O.T right-of-way - yes



35. 1701 Reid St. by Chinese Restaurant

- a. Ingress/egress – sidewalk
- b. Safety & convenience – on corner; will have to meet safety triangle for vision
- c. D.O.T right-of-way - yes



36. 1824 Reid St – next to Wendy's

- a. Ingress/egress – sidewalk.
- b. Safety & convenience – no issue
- c. D.O.T right-of-way - yes



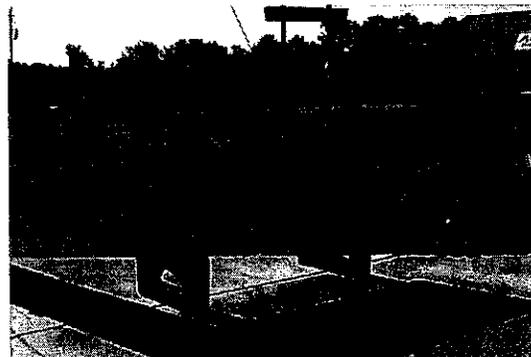
37. 2001 Reid St

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issue
- d. D.O.T right-of-way - yes



38. 3724 Reid St. (Adult Supercenter)

- a. Ingress/egress – sidewalk
- b. Safety & convenience – very busy intersection, however, there is a crosswalk
- c. D.O.T right-of-way - yes



39. 3743 Reid St. (Kangaroo) listed as 624 SR 19 N on app. list

- a. Ingress/egress – sidewalk
- b. Safety & convenience - very busy intersection, however, there is a crosswalk
- c. D.O.T. right-of-way – yes



Planning Board Case 10-20 – Bench locations

2021 Reid St.

- a. Ingress/egress – sidewalk
- b. Safety & convenience – no issues
- c. D.O.T. right-of-way – yes

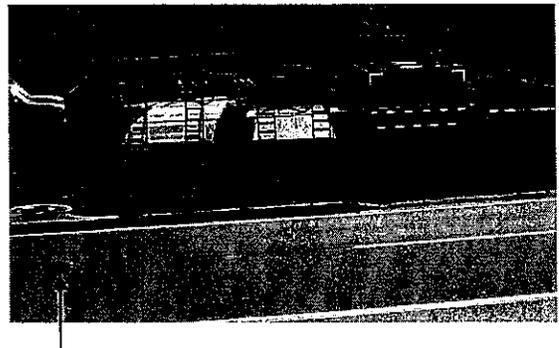


40. 600 Zeagler Dr. – There is an existing permitted bus stop shelter and bench at this location.

41. SJR Community College indicated on applicant's map - There is an existing permitted bus stop shelter and bench at this location.

42. 2402 Reid St. (by Marty's west)

- a. Ingress/egress – no sidewalk
- b. Safety & convenience – there is a walking path along this section, so there it may be convenient for pedestrians utilizing the path
- c. D.O.T right-of-way – yes



43. 2420 Reid St. (by Marty's east)

- a. Ingress/egress – no sidewalk
- d. Safety & convenience – there is a walking path along this section, so there it may be convenient for pedestrians utilizing the path
- a. D.O.T right-of-way – yes



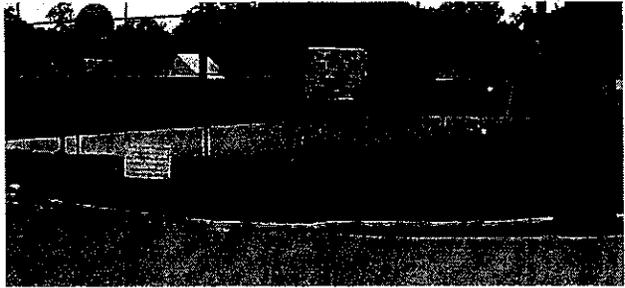
Planning Board Case 10-20 – Bench locations

44. Lemon Heights N 20th PL (bus stop)

a. Ingress/egress – no sidewalk – applicant would have to enlarge slab to street since there is no sidewalk

b. Safety & convenience – no issue

c. There is an existing permitted bus stop with shelter diagonally across the street from the requested location.



45. 425 SR 19 N (Sonny's)

a. Ingress/egress – retaining wall is directly behind the sidewalk; no area to locate bench

b. D.O.T. right-of-way – yes

46. 1500 Madison St. – within 25 feet of bus stop at 401 N 15th St. which is another location applicant has applied for.

47. 719 N Palm Ave. – in the County – cannot review

48. 3800 St. Johns Ave. – in the County – cannot review

49. 3801 St. Johns Ave. – in the County – cannot review

APPLICANT SUBMITTALS

Application for Conditional Use

This application must be typed or printed in black ink and submitted with all required attachments and application fee of ~~\$130~~ (Checks payable to the City of Palatka) to: 3,250

Application Number: PB - 10-20

Date Received: 05/04/10 *is complete*

Hearing date: 07/06/10 *ok*

City of Palatka Planning & Zoning
201 N 2nd Street
Palatka, FL 32177

FOR INFORMATION REGARDING THIS FORM, CALL (386)329-0103

TO BE COMPLETED BY APPLICANT		
1. Property Address: <u>see attached</u>	2. Parcel Number:	3. Current Property Use:
4. Lot size/acreage:	5. Number & types of structures on property: <u>Beneches</u>	6. Required Attachments: <input type="checkbox"/> Site Plan* <input type="checkbox"/> Letter of Authorization** <input type="checkbox"/> Legal Description <input type="checkbox"/> Dept. of Children & Family Services Letter(if daycare) <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Justification Statement*** <input type="checkbox"/> Tree Survey (if applicable)
7. Current Zoning Designation:	8. Closest Intersecting Streets:	
8. Owner Name: <u>City of Palatka / DOT Right-of-Way</u>		
Owner Address: <u>201 N 2nd St</u>		
<u>Palatka, FL 32177</u>		
Phone Number: <u>386-329-0100</u>		
9. Agent Name: <u>Martin-Mercy, LLC</u>		
Agent Address: <u>151 NE 166th St</u>		
<u>Miami, FL 33167</u>		
Phone Number: <u>305-655-0822</u> <u>904-537-0322</u>		

*Site Plan to include placement of structures on property, proposed ingress, egress, parking, loading/unloading area, refuse services area, and if applicable, signage, landscaping, screening & buffering and lighting. One copy to be 8 ½ x 11 and 2 copies 11 x 17 or larger.

**Letter of Authorization for Agent is required if any person other than the property owner makes the application and acts on behalf of the owner.

*** Justification Statement is attached. These questions will be addressed by the Planning Board.

Application Number: PB - 10-20

Hearing date: 7-6-10

10. This application submitted by:

Signature of owner(s): [Signature]

Print owner(s) names(s): _____

Signature of Agent(s): Patrick Mercy

Print Agent(s) names: Patrick Mercy

STATE OF Florida

County of Putnam

Before me this day personally appeared Elwin E. Baynton, Jr and Patrick Dewayne who executed the foregoing application and acknowledged to and before me that they executed this document for the purposes therein expressed.

WITNESS my hand and official seal, this 4th day of May A.D. 2010.



Karen M Venables
Notary Public

My commission expires: March 28, 2014 State of Florida at Large

FOR OFFICIAL USE ONLY				
1. Date Submitted	2. Received By:	3. Current Zoning:	4. Future Land Use Category:	5. Preliminary review by:
7. Sign(s) Posted Date: By:	8. Surrounding property owners notices sent: Date: By:	9. Legal Ad Ran: Date:	10. Attachments Reviewed: <input type="checkbox"/> Site Plan* <input type="checkbox"/> Letter of Authorization** <input type="checkbox"/> Legal Description <input type="checkbox"/> Dept. of Children & Family Services <input type="checkbox"/> Letter(if daycare) <input type="checkbox"/> Copy of Recorded Deed <input type="checkbox"/> Fees <input type="checkbox"/> Justification Statement <input type="checkbox"/> Tree Survey (if applicable)	
11. Conditions:				
12. Adjacent property zoning/FLU: North _____ / _____ South _____ / _____ East _____ / _____ West _____ / _____				

Sec. 94-3. Conditional uses.



May 3, 2010

Ms. Debbie Banks

Re: Street Furniture Locations

Dear Ms. Banks:

Martin-Mency enjoys working with the City of Palatka. We continuously strive to exceed your expectations. We have attached a list of 49 of the closest 911 addresses (Attachment A) which we feel will benefit the City of Palatka and its citizens.

We hope these locations will be approved and we will continue to work with the City to move, remove or provide maintenance on any benches. We look forward to a prosperous partnership.

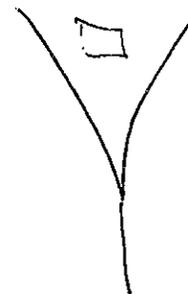
Sincerely,

Patrick Mency

President
Martin Mency

Attachment A

- | | |
|---|--------------------------------|
| 1. 1602 Reid St | 40. 219 Palm Ave |
| 2. 1824 Reid St | 41. 256 US 17 <i>by Beck</i> |
| 3. 2502 US 17 <i>by Latin Italian Grill</i> | 42. 2510 Reid St |
| 4. 624 SR 19 N | 43. 2425 Reid St |
| 5. 440 SR 19 N | 44. 110 N. 11 th St |
| 6. 414 SR 19 N | 45. 1105 St. Johns Ave |
| 7. 100 SR 19 N | 46. 900 Reid St |
| 8. 4115 Crill Ave | 47. 2001 Reid St |
| 9. 1006 SR 19 S | 48. 1701 Reid St |
| 10. 1024 SR 19 S | 49. 1721 St. Johns Ave |
| 11. 919 SR 19 S | |
| 12. 805 SR 19 S | |
| 13. 3700 Crill Ave | |
| 14. 3900 Crill Ave | |
| 15. 103 SR 19 S | |
| 16. 333 SR 19 N | |
| 17. 417 SR 19 N | |
| 18. 3743 SR 100 | |
| 19. 3801 St. Johns Ave | |
| 20. 401 N 15 th St <i>bus stop</i> | |
| 21. Lemon Heights N 20 th PL <i>bus stop</i> | |
| 22. 210 St. Johns Ave | |
| 23. 211 St. Johns Ave | |
| 24. 318 St. Johns Ave | |
| 25. 311 St. Johns Ave | |
| 26. 600 St. Johns Ave | } <i>Sun Bank</i> |
| 27. 622 St. Johns Ave | |
| 28. 2105 Reid St | |
| 29. 3208 Crill Ave | |
| 30. 201 SR 19 S | |
| 31. 710 SR 19 S | |
| 32. 600 Ziegler | |
| 33. 4801 St. Johns Ave | |
| 34. SJR Community College | |
| 35. 3800 St. Johns Ave | |
| 36. 2900 Crill Ave | |
| 37. 719 Palm Ave <i>across from VP</i> | |
| 38. 3306 Crill Ave | |
| 39. 425 SR 19 N | |

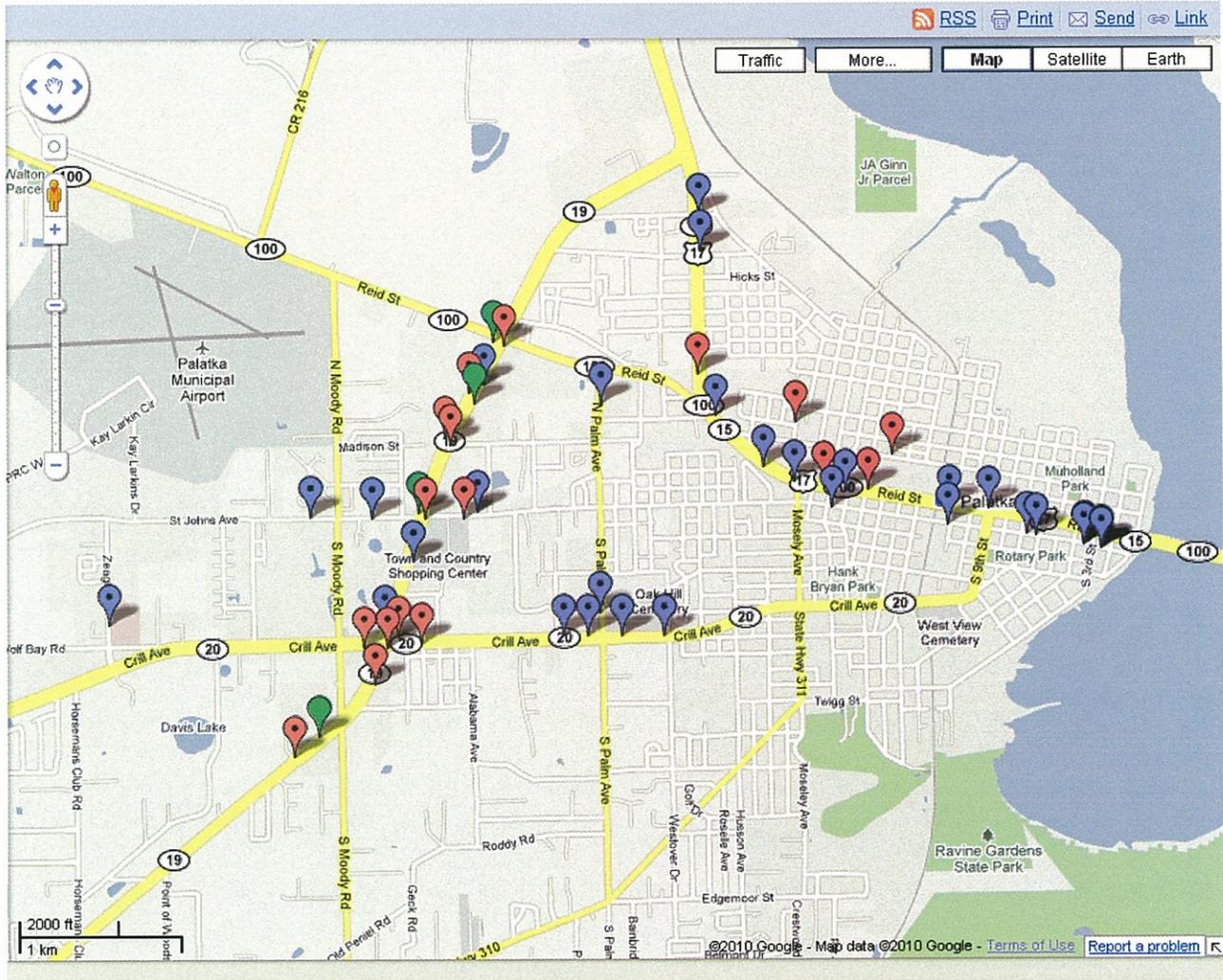


*notify surrounding
post each bench
ad #
map*

X NO address match



MARTIN MENCY



**AGREEMENT
BETWEEN
THE CITY OF PALATKA
AND
MARTIN-MENCY, LLC.**

AGREEMENT

THIS IS AN AGREEMENT, made and entered into this 5th day of February 2010, by and between:

The City of Palatka, a municipal corporation in Putnam County in the State of Florida, Hereinafter referred to as "City",

AND

Martin-Mency, LLC, a Florida Limited Liability Company, hereinafter referred to as "MMA".

In Consideration of the Mutual Promises, Covenants and Agreements, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. PURPOSE AND USE

MMA shall have the exclusive right to use the right-of-way or the road system within the City for the purpose of constructing, installing, or erecting, and maintaining bus benches and transit shelters with advertising for the use of the public. MMA shall bear all costs associated therewith and the City shall have no liability for any such costs.

The potential locations shall include public bus stops, parks, shopping centers, business zones, school bus stops and in other similar areas needed for pedestrian convenience and for the accommodation of the public.

2. INSTALLATION, CONSTRUCTION, AND DESIGN

MMA shall obtain permission from the City prior to the installation of any bus benches or transit shelters on public property. MMA shall obtain all necessary permits at its sole cost and expense. Bus bench and transit shelter installations must adhere to all federal, state and local laws, ordinances and regulations. This Agreement provides for a minimum number of: bus benches with signs at Fifty (50) locations. *There are 26 bus stops in the City 9 already have benches*

MMA shall design, provide plans and specifications for, and erect the bus benches and transit shelters. The size, shape, configuration, and location of each and every bench and transit shelter are subject to prior approval by the City. All benches and transit shelters shall meet or exceed hurricane wind resistance building code requirements. All benches and transit shelters shall be erected in public rights-of-way along the street frontage, other public locations for pedestrian convenience, and any other location the City deems appropriate.

Notwithstanding the above, MMA may locate benches and transit shelters on private property

provided however, that MMA shall secure, at its own expense, written leases, authorizations, or grants of easements from the owners of such property as may be necessary, and provided further that such benches and transit shelters shall be subject to compliance with the provisions of this Agreement. Construction materials, techniques, design, and lighting are subject to prior approval by the City. Also, MMA shall locate and design the benches and transit shelters so that access for utilities and cable TV is not substantially impaired and will coordinate with such utilities and cable TV companies. MMA agrees to use solar powered products to light its shelters. Light sources shall be shielded so as to not be directly visible from adjacent vehicles, streets, or nearby buildings. Lighting shall not interfere with the night vision of drivers. No exposed neon tubing is permitted.

No bench, unless otherwise authorized, may be placed so that the angle of its long diversion in relation to the curb line is greater than forty-five degrees (45), and no bench, unless otherwise authorized, may be placed so that it is closer than eighteen inches (18) to the face of the curb. 36" ?

The Parties acknowledge that certain sections of the City have unique charm and character and MMA may propose the location and use of a different bench and/or shelter design, type and construction more compatible to those areas. MMA shall make all requests for approval to deviate from the standard bus bench and transit shelter construction and design to the City Manager or designee who will approve or reject such deviation in whole or in part at his or her sole discretion, provided, however, that the City Manager may refer any request to the City Council for its formal approval.

Historical

3. BUS BENCH AND SHELTER MAINTENANCE

MMA shall, at his sole cost and expense, maintain all bus benches and shelters in good and serviceable condition during the entire term of this Agreement. MMA shall routinely monitor and inspect each bench and shelter receptacle location to remove any trash, weeds or unsightly vegetative growth found on or around the surrounding grounds within five feet of each end of the bench or shelter but limited to the public-right-of-way area of the bus bench or shelter. MMA shall repair, recondition or replace each bench or shelter found damaged or in disrepair. Graffiti and/or acts of vandalism shall be removed or repaired within forty-eight (48) hours of notification so as to restore the bench or transit shelter to an aesthetically pleasing appearance consistent with its condition as originally installed. MMA shall maintain records of the inspections it provides, and will make these records available for review by the appropriate City personnel.

MMA shall have during working hours, sufficient personnel to answer the phone for citizens, who wish to call concerning benches or shelters, a log of complaints about bus benches

and/or shelters, including the subject of the complaint and the action taken. MMA shall make these records available to the City upon request.

The City reserves the right to inspect such bus benches and shelters to determine their condition. MMA shall replace or recondition, to the satisfaction of the City Manager or designee, any bus benches or shelters which the City determines are no longer in good or stable or serviceable condition. The style and construction of any replacement bus bench or shelter shall be the same as the bus bench or shelter replaced, unless prior City approval is received as provided in Section 2 of this Agreement. In the event the City determines that a bus bench or shelter requires repair, replacement, or removal for noncompliance with this Agreement, MMA shall repair, replace or remove the same within ten (10) working days of receipt of such notice.

In the event the City Manager or designee determines that a bench or shelter constitutes a hazard to persons or property or disrupts the public right of way, MMA shall remove the bench or shelter no later than forty-eight (48) hours of receipt of such notice. In the event, MMA fails to repair, replace or remove the same within the above-specified period, the City shall have the right to move or remove said bus bench or shelter at the expense of MMA.

4. ADVERTISING

MMA is authorized to sell advertising to be placed upon the benches and shelters only in the manner provided herein.

Advertising of brand liquor, cigarettes, firearms, massage parlors, adult bookstores, adult theaters, adult escort services, and nude, pornographic, erotic, obscene or objectionable matters are prohibited. No defamatory, religious, ethnic, racial, discriminatory or politically offensive advertising, nor acts of violence, criminal activity or derogatory statements against the governments of the United States, State of Florida or local government or law enforcement agencies is permitted. The determination of objectionable matter shall be at the sole discretion of the City Council whose decisions are final.

The advertising panel for transit shelters shall not exceed a maximum size of seventy-two (72) by fifty (50) inches. The advertising panel for bus benches shall not exceed a maximum size of twenty-four (24) inches by seventy-two (72) inches and be constructed of plywood or other suitable materials approved by the City. Coroplex (plastic) ads will be placed over the wood ad panel. All advertising including any illustrations, design, arrows, characters, numbers, letters and similar markings shall appear only on the back panel of the bench and not on any other part of the bench. An artificially lighted bus bench-advertising panel is expressly prohibited. MMA shall make all requests to deviate from the standard advertising panel design

and construction to the City Commission which may approve or reject such deviation in whole or in part at its sole discretion.

MMA shall provide up to **10 percent** of its advertising panels, for **public service advertising for the City**. MMA shall provide the bench at no cost to the City with the cost of panel production paid for by the City. No fees or revenue calculation shall apply to these benches. The advertisement copy shall be provided by the City to MMA with no more than one panel change per public location per year. MMA and the City shall mutually agree upon the location of the public service benches. These benches are reserved solely for programs that are under the direction of and are funded by or through the City. Non-Profits do not qualify under this section. A reduced rate is provided for such organizations.

5. ORIGINAL TERM AND RENEWAL

MMA shall have 90 days to begin marketing the product. The contract shall commence for revenue calculation on **May 1, 2010** through **April 30, 2015**. The original contract period is for an initial **Five (5)** years and renews for additional **Five (5) year** periods upon the same terms and conditions. The Parties acknowledge they will work together and ultimately agree upon the design of the bus benches and transit shelters. MMA will subsequently place the order for the agreed upon bus benches and transit shelters. During the interim period City will permit MMA to place bus benches from its current stock and begin placing advertising. MMA expects that it will begin installing the agreed upon bus benches within 6 months of placing the order for new stock on behalf of the City.

It is expressly understood and agreed that the rights and obligations created by the acceptance of this proposal by the City shall remain in full force and effect for each period from and after the inception of such agreement and, thereafter, such rights and obligations shall self-extend and renew for like periods without restrictions in number upon the same terms, covenants and conditions.

The parties acknowledge and agree that the payments as proposed and accepted by the city shall be firm for the initial Agreement term. The payments for subsequent terms shall be subject to negotiation between the parties for each extension, and shall reflect the current economic conditions in the City, the number of bus benches proposed, and anticipated revenues from said bus benches. MMA shall submit to the City its proposed adjustments to the payments at least ninety (90) days prior to the expiration of the contract term then in effect.

The City may, after examination, refuse to accept the proposed adjustments if they are not properly documented, increases are considered insufficient, or decreases are considered excessive. In the event the City does not wish to accept the adjusted annual payments, and the matter cannot be resolved to the satisfaction of the City, the City reserves the right to cancel

the Agreement upon giving thirty (30) days advance written notice to MMA. After the elapse of such thirty (30) day period, the Agreement shall terminate and MMA shall have a twelve (12) month period in which to remove all existing bus benches, during which time MMA will pay the City \$5.00 per month per bench until each respective bench is removed.

6. REVENUE PAYMENTS TO CITY

MMA shall pay to the City SIX percent (6%) of the gross rental/advertising revenue collected by MMA. This license fee shall be due on January 31st of each year for the prior year, and shall be adjusted proportionately if the prior year is less than a full year. MMA agrees to provide copies of MMA's Monthly sales tax reports to the Department of Revenue and/or allow a representative of the City to audit the books and records of MMA at the request of the City.

All payments required to be made by this Agreement will be sent or personally delivered to the following address:

City Manager
City of Palatka
201 North 2nd Street
Palatka, Florida 32177

7. RECORDS, ACCOUNTS, AND STATEMENTS

MMA shall keep at a location within Miami-Dade County, Florida, approved by the City, true, accurate, and complete records and accounts of all advertising sales, expenses, and other business transacted under this Agreement throughout the term of the Agreement, including any option terms, and for five (5) years following the expiration or cancellation of this Agreement.

MMA agrees to and shall give City or City's representative access to examine and audit its applicable records and accounts during reasonable business hours upon seven (7) business days notice. MMA shall maintain such records pursuant to generally accepted accounting and auditing standards.

Within sixty (60) days after each fiscal year, MMA shall deliver to the City a written annual financial statement pertaining to their operations under this Agreement. Said statement shall be prepared in accordance with generally accepted accounting and auditing standards and shall be certified as true, accurate and complete by MMA, by and through an authorized independent Certified Public Accountant.

8. REPORTS

MMA shall submit to the City a Quarterly report within (15) business days after the end of each quarterly period of the Agreement. Each report shall contain the following:

- (a) The location and date of installation of bus benches and shelters installed during the prior period.
- (b) The Location and date of removal of bus benches removed during the prior period.
- (c) A listing of all bus benches and shelters located within the City, including identifying numbers and locations at the end of prior quarter.
- (d) Application for permission to install bus benches or shelters during the upcoming quarter. The form of the application to be approved by the City.

All reports and maps, including the annual financial statement, shall be sent to the City's Contract Administrator. The form of the report to be developed by MMA is subject to the prior approval of the City or City's Contract Administrator.

9. INSURANCE AND PERFORMANCE

At all times during the term of this Agreement, MMA, at its sole cost and expense, shall maintain in full force and effect, public liability insurance with coverage as follows:

- (a) Not less than one million dollars (\$1,000,000) with one million dollars (\$1,000,000) aggregate for death of or injury to, any one person in any one occurrence.
- (b) Not less than one million dollars (\$1,000,000) with one million dollars (\$1,000,000) aggregate for death of, or injury to, two or more persons in any one occurrence.
- (c) Not less than one million dollars (\$1,000,000) with one million dollars (\$1,000,000) aggregate property damage in any one occurrence.

Certificates of such insurance shall be delivered to City prior to the beginning of any operations under the Agreement; such policies shall name the City as additional insured and shall provide that City's Risk Manager be given at least thirty (30) days advance written notice of cancellation or material modification.

10. INDEMNIFICATION

MMA covenants and agrees to indemnify and hold the City harmless for any death of or injury to persons or damage to or loss of property, which may occur as a result of MMA's performance under this Agreement. MMA also specifically agrees to defend the City in the event any claim is made against the City as a result of any such death, injury or damage, and to pay all costs, judgments and fees, including attorney's fees, which may be incurred by the City as a result of such a claim. If called upon by City, MMA shall assume and defend not only itself but also City in connection with any suit or cause of action in connection with such claim, and such defense shall be at no cost or expense whatsoever to City.

11. SUPERVISION OF MMA PERFORMANCE

The City Manager shall administer the Agreement for the City. The City Manager may delegate to other City staff all or part of the supervision of MMA's performance under this Agreement.

12. INDEPENDENT CONTRACTOR

MMA is an independent contractor under this Agreement. Personal services provided by MMA shall be by employees of MMA or Independent Contractors subject to supervision by MMA, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to goods and services rendered under this Agreement shall be those of MMA. It is the intent of the parties that MMA's principles or senior management personnel will be available for the entire initial contract term. Personnel of equal or higher qualifications may replace such personnel, subject to prior City Manager or designee approval, which shall not be unreasonably withheld. The City acknowledges that MMA may subcontract all or part of its obligations under this Agreement. Substitution of subcontractors shall be done only with the prior written approval of the City Manager, which approval shall not be unreasonably withheld.

13. UNCONTROLLABLE CIRCUMSTANCES ("Force Majeure")

The City and MMA will be excused from the performance of their respective obligations under this Agreement when and to the extent their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, acts of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from the public utility needed for their performance, provided that:

- (a) The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;
- (b) The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- (c) No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure;

- (d) The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused for a period in excess of two (2) months, however, provided extenuating circumstances, the City may excuse performance for a longer term.
- (e) Economic hardship of MMA will not constitute Force Majeure. The term of the Agreement shall be extended by a period equal to that during which either party's performance is suspended under this provision of the Agreement.

14. ASSIGNMENT

In the event MMA assigns its rights and obligations under this Agreement, including through acquisition by or merger with another entity, the City may determine in good faith whether a conflict of interest exists, or that the resulting assets have substantially decreased, or that any new shareholder, officer, director, or agent has been debarred by the City within the three years prior to the acquisition or merger.

15. PERMITS

MMA shall have the sole responsibility, at its sole cost and expense, to secure all necessary City, County, State and Federal licenses and permits for the installation of the benches and shelters that may be required. There will be no permit charge by the City.

16. CONFORMITY TO LAW

MMA shall comply with all applicable laws, ordinances, regulations, and orders of Federal, State, County and municipal authorities pertaining to MMA's performance under this Agreement. MMA covenants and agrees that there will be no discrimination as to race, color, creed or national origin in MMA's performance of the Agreement.

17. NOTICES

All notices required by law and by this Agreement to be given by one party to the other shall be in writing and sent by certified mail, return receipt requested to the parties at the following addresses:

City: City Manager
 City of Palatka
 201 North 2nd Street
 Palatka, Florida 32177

MMA: Martin-Mency, LLC

151 NE 166th Street
Miami, Florida 33162

or to such other addresses as the parties may by writing to the other designate.

18. DEFAULTS

In the event of the breach of any of the covenants of the Agreement by MMA, and such breach is not cured or corrected or appropriate actions undertaken within thirty (30) days after receipt of written notice of the breach, then the City shall have the right to terminate this Agreement at the expiration of the Thirty (30) day notice.

19. FINAL REPOSITORY

The parties mutually represent and warrant to each other that this Agreement, consisting of sections 1 through 23, inclusive, constitutes the final repository of the parties on this subject matter and may not be changed, modified, discharged or extended except by written instrument duly executed by the parties. The parties agree that no previous representations or warranties shall be binding upon either party nor has the execution of this Agreement been induced on the part of any party except as expressed in writing in this Agreement.

20. INTEREST

All delinquent payments to the City shall bear interest at the rate equivalent to the periodic composite of current annual interest rates on five (5) year United States Government agency issues in effect as of the date of delinquency, but not less than ten per cent (10%) per annum. Such interest shall be calculated from the due date, exclusive of any grace period, to the date of payment, on a daily basis, and will be due and payable when billed.

21. NON-WAIVER

Failure of the City to insist upon the strict performance of any of the covenants conditions and agreements of this Agreement in any one or more instances, shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements.

22. INDEMNITY AGAINST COSTS AND CHARGES

In the event of any litigation concerning this Agreement, the prevailing party shall be entitled to recover from the losing party all reasonable cost and attorneys' fees through all appeals.

23. LITIGATION VENUE

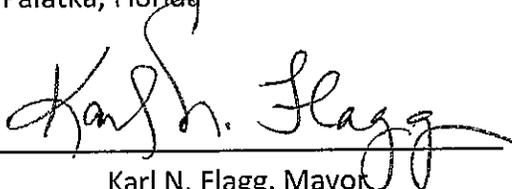
The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Putnam County, Florida, and that all litigation between them in the Federal Courts shall take place in the Middle District in and for the State of Florida.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seal the day and year first written above.

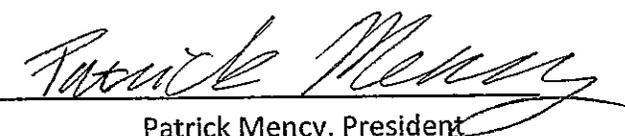
Signed, sealed and delivered in the presence of:

City of Palatka, Florida

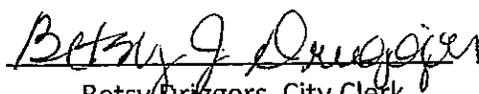
By: _____


Karl N. Flagg, Mayor

By: _____

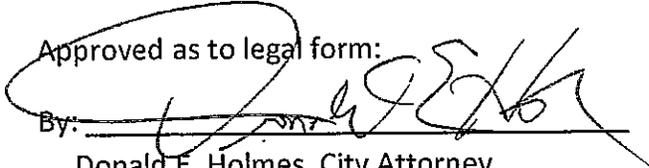

Patrick Mency, President

ATTEST: _____


Betsy Driggers, City Clerk

Approved as to legal form:

By: _____


Donald E. Holmes, City Attorney

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/10/2010

PRODUCER
Advanced Ins. U/W - Dept 30
3250 N. 29th Ave
Hollywood, FL 33020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
Martin Mency
151 NE 166th Street
Miami, FL 33162

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Nautilus Insurance Company	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS					
A	GENERAL LIABILITY	BR490217	02/04/2010	02/04/2011	EACH OCCURRENCE	\$1,000,000				
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000				
	<input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR				MED EXP (Any one person)	\$5,000				
					PERSONAL & ADV INJURY	\$Excluded				
					GENERAL AGGREGATE	\$2,000,000				
					PRODUCTS - COM/OP AGG	\$2,000,000				
	GEN'L AGGREGATE LIMIT APPLIES PER:									
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC									
					AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$
					<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$				
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$				
	<input type="checkbox"/> HIRED AUTOS									
	<input type="checkbox"/> NON-OWNED AUTOS									
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$				
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$				
					AGG	\$				
	EXCESS / UMBRELLA LIABILITY				EACH OCCURRENCE	\$				
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$				
	<input type="checkbox"/> DEDUCTIBLE					\$				
	<input type="checkbox"/> RETENTION \$					\$				
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS	OTH-ER				
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E.L. EACH ACCIDENT	\$				
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$				
					E.L. DISEASE - POLICY LIMIT	\$				
	OTHER									

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

City of Palatka
201 North 2nd Street
Palatka, FL 32177

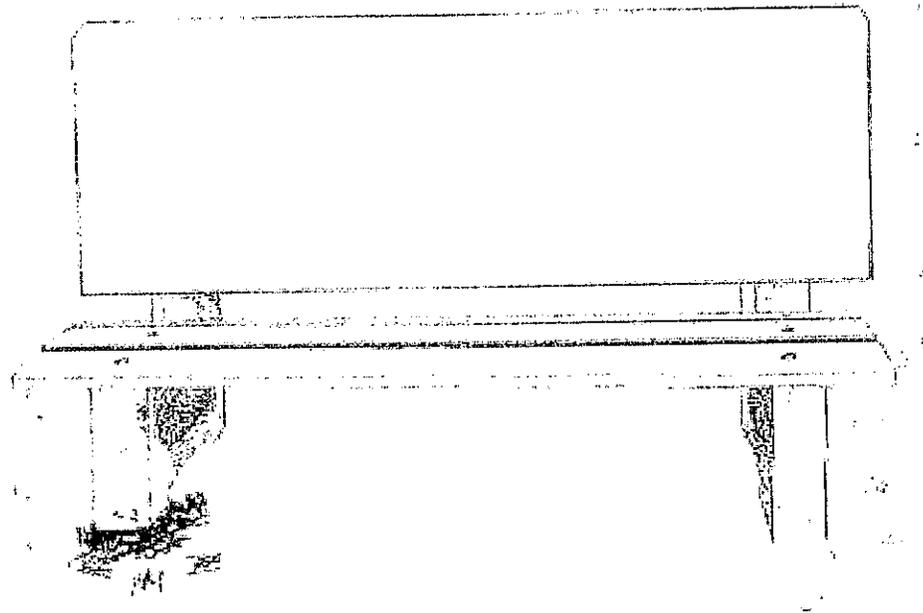
CANCELLATION 10 Days for Non-Payment

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

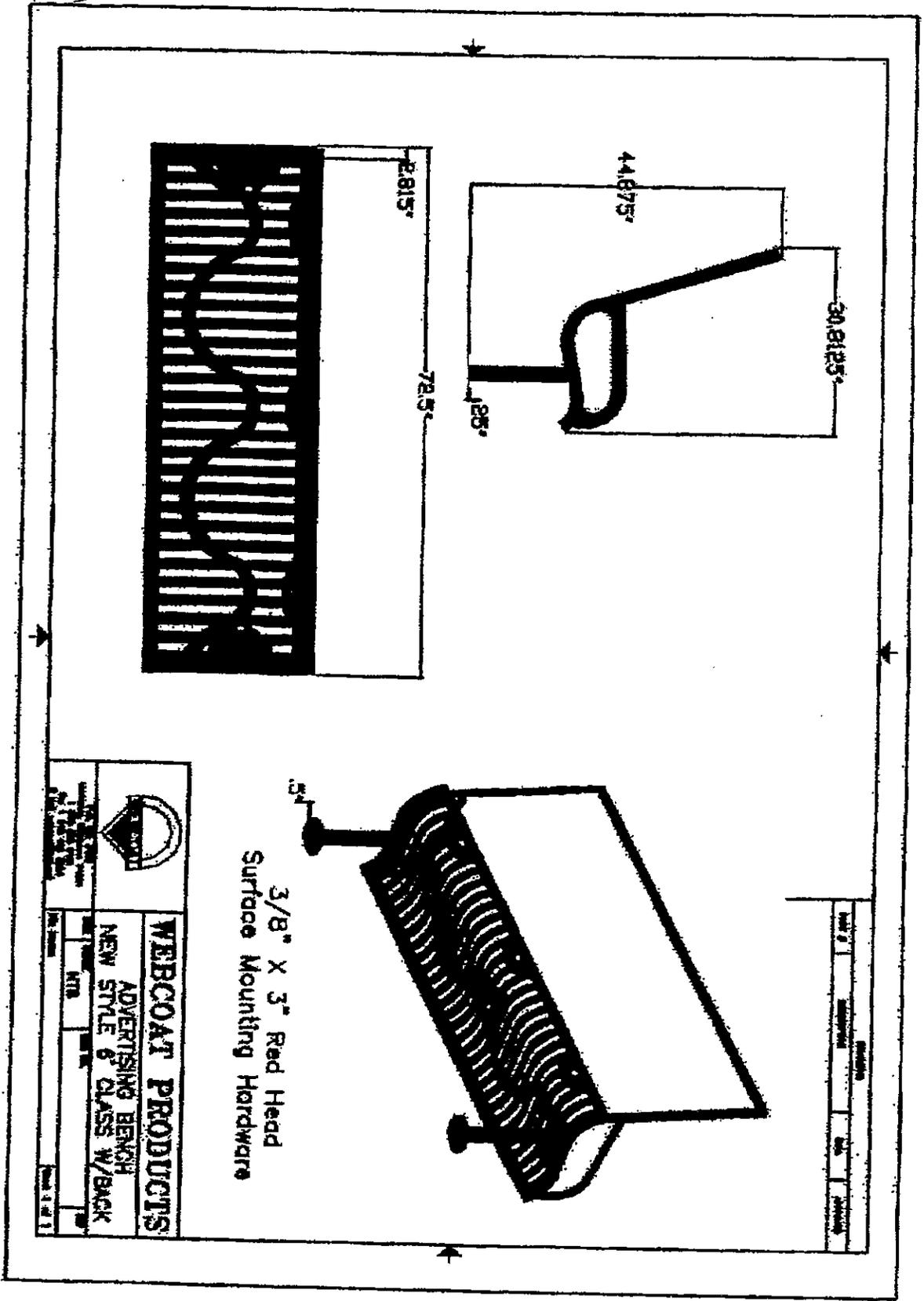
Charlotte Floyd

Temporary Bench Specifications



The bus bench shall not be more than 6 feet in length, exceed 46 inches in height or 30 inches in depth. The bench will weigh no less than 400 pounds. The end pieces and legs will be constructed of concrete and the back rests will be constructed of hardwood which will not be less than $\frac{3}{4}$ inch in thickness or plywood which will not be less than $\frac{1}{2}$ inch in thickness. The seats will be constructed of hardwood which will not be less than $1\frac{3}{4}$ inches in thickness. The parts of the bench will be joined by bolts that are $\frac{3}{8}$ inch of slightly greater in diameter.

6





WEBCOAT PRODUCTS
 ADVERTISING BENCH
 NEW STYLE 6 CLASS W/BACK

Part #	Description	Qty

Form 1-0-11

3/8" X 3" Red Head
 Surface Mounting Hardware

Part #	Description	Qty

**FDOT CORRESPONDENCE
AND REPORT**

Debbie Banks

From: Patrick Mercy [pmency@southeastadvertising.com]
Sent: Tuesday, May 04, 2010 2:55 PM
To: Debbie Banks
Subject: FW: Benches, City Of Palatka
Attachments: Perm Bench Specs.pdf; Martin-Mency City Kit digital.pdf

This is the email from my last contact with FDOT. They have not called or responded since.

Best,

Patrick Mercy
President

Martin-Mency

P 904.537.0322 | F 305.655.9949

Web: www.martinoutdoormedia.com

IMPROVING STREETSCAPES SINCE 1999.

Please consider the environment before printing this email

From: Patrick Mercy [mailto:pmency@southeastadvertising.com]
Sent: Wednesday, March 24, 2010 9:44 AM
To: 'Walker, Connie'
Subject: RE: Benches, City Of Palatka

Connie,

Yes, I am the contact person. Our contract allows us for a minimum of 50 benches throughout the city. Only around 20 benches will be along FDOT right-of-way. The permanent locations have not been located yet. The current stock out now are just temporary benches. The permanent benches are going to be permitted by the city. The current ones on FDOT right-of-way are not located at designated transit stops. The current ones are out there for the comfort or convenience of the general public. I have attached the specs for the permanent benches. Within six months we will replace them all. If you look through our city kit you can see the style bench. The style the city is going with is the streetscape. I have contracts in over 33 municipalities and thousands of benches on state roads in Florida. We have been doing these types of programs in cities and counties for over 10 years so if you have any questions please feel free to contact me.

337.408 Regulation of benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.--

(1) Benches or transit shelters, including advertising displayed on benches or transit shelters, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway, provided that such benches or transit shelters are for the comfort or convenience of the general public or are at designated stops on official bus routes and provided that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches or transit shelters are installed or by the county government within whose unincorporated limits such benches or transit shelters are installed. A municipality or county may authorize the installation, without public bid, of benches and transit shelters together with advertising displayed thereon within the right-of-way limits of such roads. Any contract for the installation of benches or transit shelters or advertising on benches or transit shelters which was entered into before April 8, 1992, without public bidding is ratified

and affirmed. Such benches or transit shelters may not interfere with right-of-way preservation and maintenance. Any bench or transit shelter located on a sidewalk within the right-of-way limits of any road on the State Highway System or the county road system shall be located so as to leave at least 36 inches of clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

(7) Wherever the provisions of this section are inconsistent with other provisions of this chapter or with the provisions of chapter 125, chapter 335, chapter 336, or chapter 479, the provisions of this section shall prevail.

Best Regards,

Patrick Mency
President

Martin-Mency

P 904.537.0322 | F 305.655.9949

Web: www.martinoutdoormedia.com

IMPROVING STREETSCAPES SINCE 1999.

Please consider the environment before printing this email

From: Walker, Connie [mailto:Connie.Walker@dot.state.fl.us]

Sent: Tuesday, March 23, 2010 4:51 PM

To: pmency@southeastadvertising.com

Subject: Benches, City Of Palatka

I was given your name as a contact person for the benches that have been installed. It is my understanding there are more to be installed. Can you tell me how many total will be placed, how many of that total are on FDOT right of way, and if the ones in FDOT right of way are all located at designated transit stops?

Connie B. Walker
Maintenance Permits Manager
Florida Department of Transportation
St. Augustine Maintenance
(904) 825-5023 - office; (904) 825-5030 - fax
<mailto:connie.walker@dot.state.fl.us>

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.791 / Virus Database: 271.1.1/2763 - Release Date: 03/22/10 03:33:00

Debbie Banks

From: Debbie Banks
Sent: Tuesday, June 01, 2010 11:30 AM
To: 'Parker, William'
Cc: Joff Filion
Subject: RE: Comfort or Convenience Benches SROW Palatka 041210.pptx

Sandy,

I will let my Chief Building Official (Joff Filion) know that prior to permit issuance for the benches in the SROW – a letter from the FDOT will be required for our files.

Thank you,
Debbie

Debbie Banks

Director of Building & Zoning
386.329.0103 (phone)
386.329.0172 (fax)
dbanks@palatka-fl.gov

From: Parker, William [mailto:William.Parker2@dot.state.fl.us]
Sent: Tuesday, June 01, 2010 11:16 AM
To: Debbie Banks
Subject: RE: Comfort or Convenience Benches SROW Palatka 041210.pptx

Debbie,

We are aware that the benches are temporary, not to exceed 6 months. Martin Outdoor Media (MOM) notified us that there would be a minimum of 50 benches throughout the city of Palatka and that approximately 20 of them would be on FDOT ROW. MOM provided the locations, so I could verify the 17 locations on SROW in Palatka, as illustrated in the PPTX.

The benches shall have arm rests to comply with ADA requirements. MOM indicated the City of Palatka is going with the "Streetscape", which is acceptable.

It is difficult to answer your last question at this time. We will require the company to request a FDOT permit and submit plans with proposed locations of the poured slabs prior to any installation of permanent benches on SROW. They only need to ask for one permit, but they have to identify each and every location individually with detailed plans for that location. Only during the review will we know if the benches will or will not comply with all requirements. If the application is submitted as is, the answer is no for some (most) of the benches.

Sandy

William Sandy Parker
St Augustine Maintenance Office - Permits Inspector
Florida Department of Transportation
O: (904)825-5004

C: (904)638-3075
F: (904)825-5030
william.parker2@dot.state.fl.us

Working Hours 7AM-5:30PM Mon-Thu

From: Debbie Banks [mailto:dbanks@palatka-fl.gov]
Sent: Tuesday, June 01, 2010 10:24 AM
To: Parker, William
Subject: RE: Comfort or Convenience Benches SROW Palatka 041210.pptx

As part of the conditions for the conditional use permit, compliance with ADA requirements is going to be included. Also, did you know that the benches that are there are not their permanent benches? The permanent ones will be a black flat banded metal type with the sign (of course) and will have to be behind the sidewalk on a poured slab and meet not only the ADA code but the Florida Building Code.

If the benches you measured are moved behind the sidewalk, will they still comply with the SROW?

Thank you,
Debbie

From: Parker, William [mailto:William.Parker2@dot.state.fl.us]
Sent: Tuesday, June 01, 2010 10:15 AM
To: Debbie Banks
Subject: RE: Comfort or Convenience Benches SROW Palatka 041210.pptx

The 17 bench locations I have depicted are on SROW. I didn't indicate or check any other locations other than SROW.

BTW, I am forwarding you a memo sent to all of the companies with ADA requirements for the benches. The benches on the SROW aren't configured properly and should be removed from the SROW soon.

Call if we need to talk.

Sandy

William Sandy Parker
St Augustine Maintenance Office - Permits Inspector
Florida Department of Transportation
O: (904)825-5004
C: (904)638-3075
F: (904)825-5030
william.parker2@dot.state.fl.us

Working Hours 7AM-5:30PM Mon-Thu

From: Debbie Banks [mailto:dbanks@palatka-fl.gov]
Sent: Tuesday, June 01, 2010 9:33 AM
To: Parker, William
Subject: RE: Comfort or Convenience Benches SROW Palatka 041210.pptx

Sandy,

I appreciate you calling me this morning and sending the powerpoint. Do you have a written evaluation you could send me so I will know which ones are not in the State right-of-way?

Thank you,
Debbie

Debbie Banks

Director of Building & Zoning
386.329.0103 (phone)
386.329.0172 (fax)
dbanks@palatka-fl.gov

From: Parker, William [mailto:William.Parker2@dot.state.fl.us]
Sent: Tuesday, June 01, 2010 9:18 AM
To: Debbie Banks
Subject: Comfort or Convenience Benches SROW Palatka 041210.pptx

Ms. Banks,

It was my pleasure to talk with you this morning. Please review the attachment.

Call me if you need me.

Sandy

William.parker2@dot.state.fl.us
(904)825-5004
(904)638-3075 cell

**Comfort or Convenience Benches
State Right of Way**

Palatka

4/12/2010

Find businesses, addresses and places of interest.

Search Maps

Show search options

Get Directions My Maps

Save to My Maps

Traffic

More...

Palatka Bench Locations

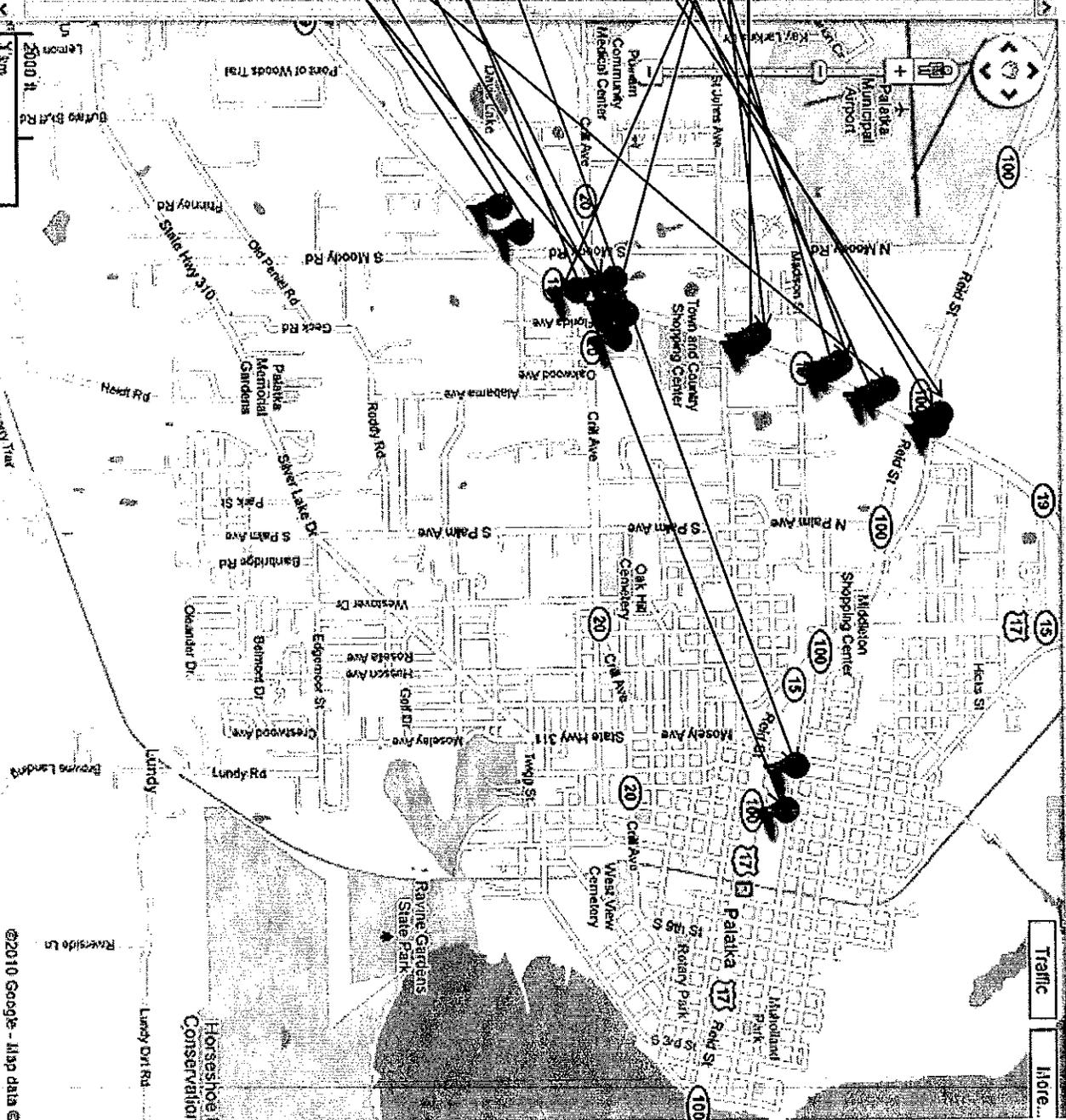
7 views - Unlisted

Created on Feb 24 - Updated Apr 1

By amancy

Rate this map - Write a comment

- Placemark 1
- Placemark 2
- Placemark 3
- Placemark 4
- Placemark 5
- Placemark 6
- Placemark 7
- Placemark 8
- Placemark 9
- Placemark 16
- Placemark 17
- Placemark 19
- Placemark 20
- Placemark 22
- Placemark 24
- Placemark 35
- Placemark 36



Report a problem

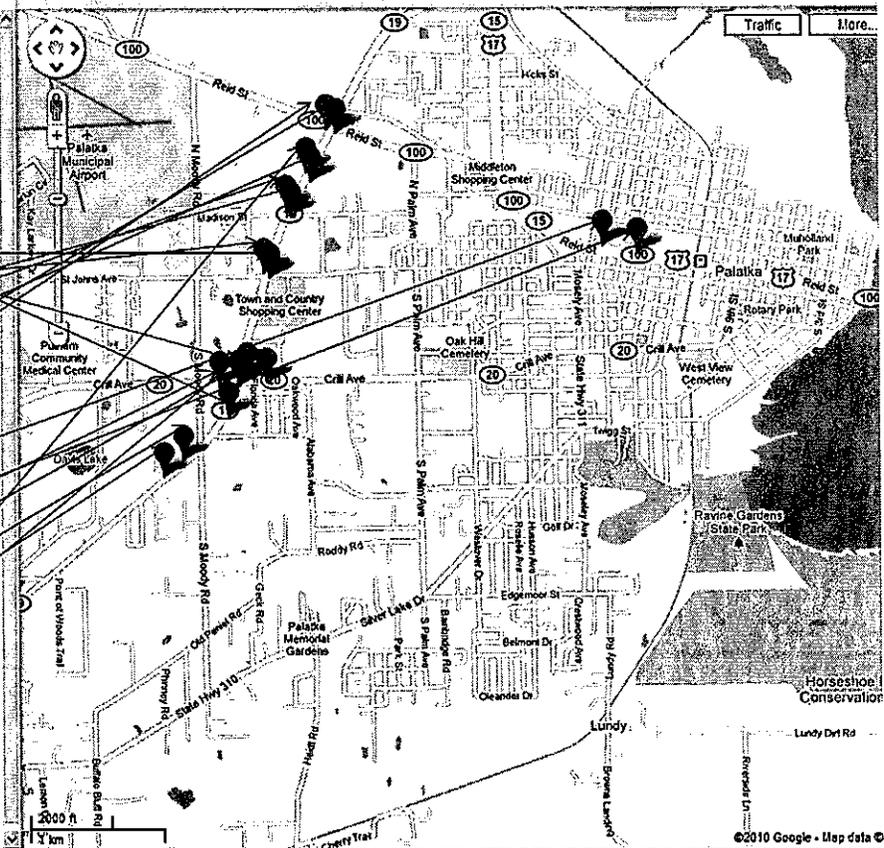
Get Directions My Maps

Save to My Maps

Palatka Bench Locations

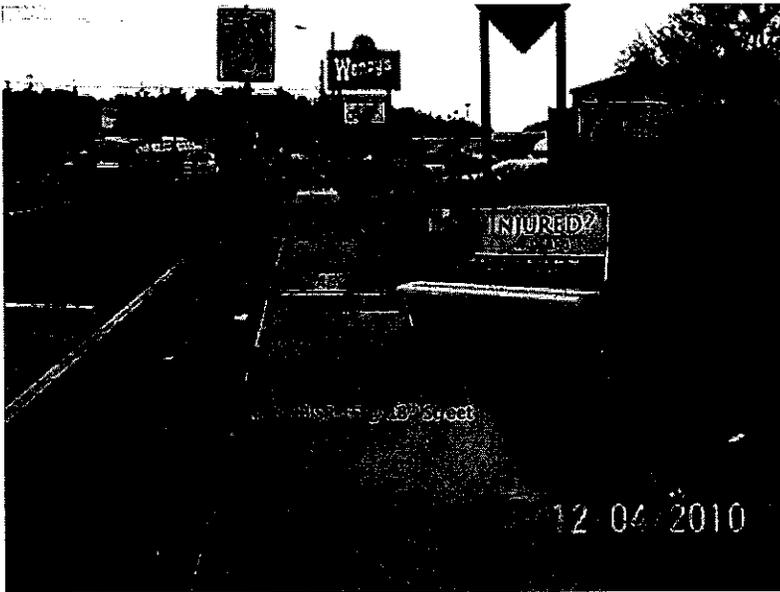
7 views - Unlisted
Created on Feb 24 - Updated Apr 1
By pmenox
Rate this map - Write a comment

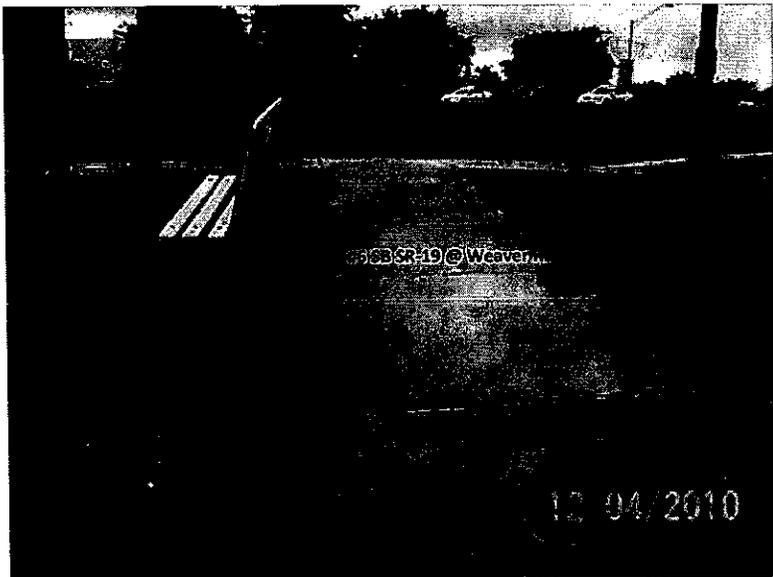
- Placemark 1
- Placemark 2
- Placemark 3
- Placemark 4
- Placemark 5
- Placemark 6
- Placemark 7
- Placemark 8
- Placemark 9
- Placemark 16
- Placemark 17
- Placemark 19
- Placemark 20
- Placemark 23
- Placemark 24
- Placemark 35
- Placemark 36

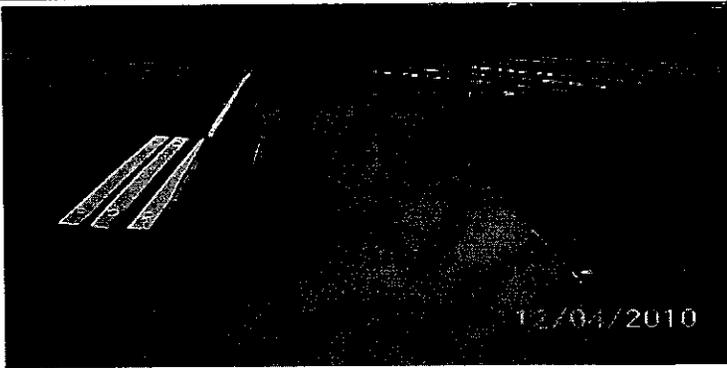
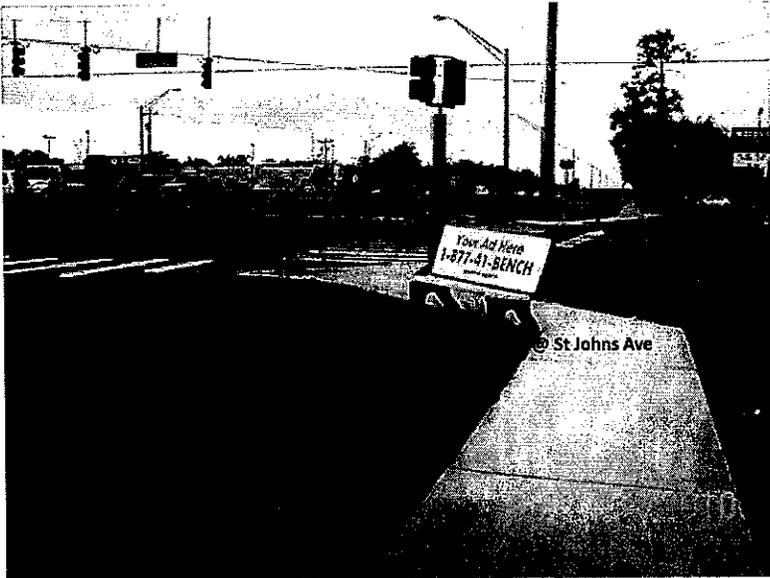


Report a problem





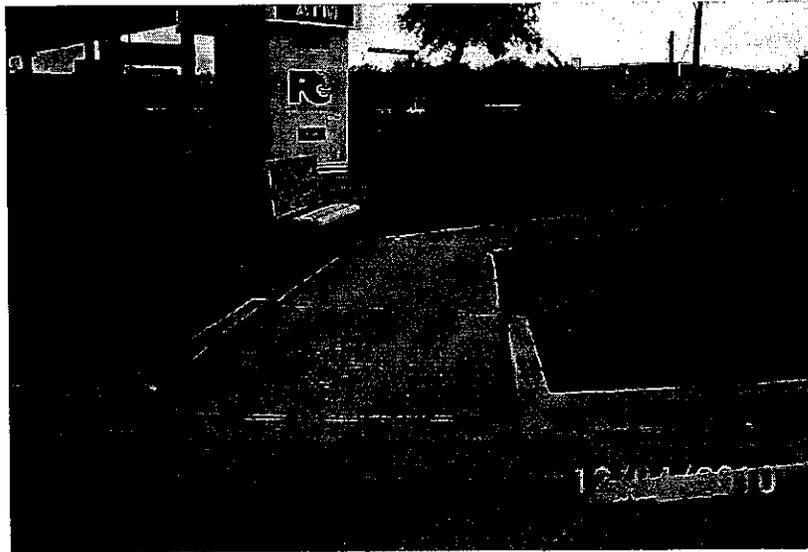




#4 SB SR-19 @ St Johns Ave



#24 SB SR-19
@ Wal-Mart



#23 SB SR-19
@ Wal-Mart





12/04/2010



#1 NB SR-19



12/04/2010

#2 NB SR-19 @ EB SR-20



#20 EB SR-20



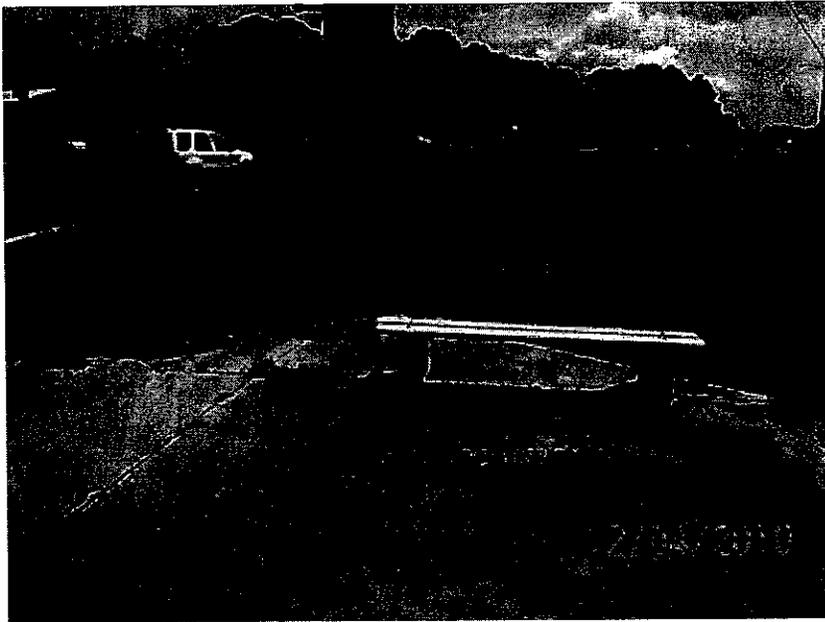
#35 WB SR-20 @ NB SR-19



#3 NB SR-19 @ St Johns Ave



#5 NB SR-19 @ Weaver Rd



#8 NB SR-19 @ EB SR-100

Debbie Banks

From: Parker, William [William.Parker2@dot.state.fl.us]
Sent: Tuesday, June 01, 2010 10:15 AM
To: Debbie Banks
Subject: RE: Comfort or Convenience Benches SROW Palatka 041210.pptx

The 17 bench locations I have depicted are on SROW. I didn't indicate or check any other locations other than SROW.

BTW, I am forwarding you a memo sent to all of the companies with ADA requirements for the benches. The benches on the SROW aren't configured properly and should be removed from the SROW soon.

Call if we need to talk.

Sandy

William Sandy Parker
St Augustine Maintenance Office - Permits Inspector
Florida Department of Transportation
O: (904)825-5004
C: (904)638-3075
F: (904)825-5030
william.parker2@dot.state.fl.us

Working Hours 7AM-5:30PM Mon-Thu

From: Debbie Banks [mailto:dbanks@palatka-fl.gov]
Sent: Tuesday, June 01, 2010 9:33 AM
To: Parker, William
Subject: RE: Comfort or Convenience Benches SROW Palatka 041210.pptx

Sandy,

I appreciate you calling me this morning and sending the powerpoint. Do you have a written evaluation you could send me so I will know which ones are not in the State right-of-way?

Thank you,
Debbie

Debbie Banks
Director of Building & Zoning
386.329.0103 (phone)
386.329.0172 (fax)
dbanks@palatka-fl.gov

From: Parker, William [mailto:William.Parker2@dot.state.fl.us]
Sent: Tuesday, June 01, 2010 9:18 AM



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

STEPHANIE KOPELOUSOS
SECRETARY

May 13, 2010

Metro Bench
3014 Horatio Street
Tampa, Florida 33609

Subject: Bus Stop Benches on the State Highway System
Compliance with the Americans with Disabilities Act (ADA)

Dear :

It has come to the attention of the Florida Department of Transportation that there are bus stop benches currently placed along the State Highway System (SHS) that do not comply with current federal accessibility standards. For the safety and accessibility of users of these benches, the Department is requesting your assistance in bringing them into compliance.

Benches placed within the state public rights of way must meet the following criteria:

(NOTE: Criteria described below refer to the "ADA Standards for Transportation Facilities", adopted by the U.S. Department of Transportation, Nov. 29, 2006 as "New ADAAG".)

- **Bench Location** – The bench must be located on an accessible route, not obstruct the accessible route or a bus boarding/landing area, and should be placed on a firm stable and slip-resistant surface that provides connection to the bus boarding area. (402 & 810.)
- **Bench Placement** – The bench must be placed to provide an adjacent clear space for a wheelchair. The clear space must be minimum 30" wide x 48" deep, positioned at one end of the bench seat and allow for shoulder-to-shoulder seating, without blocking the accessible route or bus boarding area. (305)
- **Bench Configuration** – The bench should allow pedestrians with disabilities a firm fairly high seat. Each bench should have a seat height at the front edge 17"-19" above the surface, a front-to-back seat dimension 20"-24" deep, a supportive back, and an armrest for making the transition between standing and sitting. (903)

May 13, 2010
Page 2

Most transit agencies that place bus benches are aware they must comply with the ADA and will provide access to them. Many benches are placed by private service organizations that provide benches for the public and also to sell advertising on the bench backs. It is the responsibility of these groups to provide accessibility to the benches they provide in accordance with federal accessibility regulations. *We are asking bench providers to take responsibility for providing accessibility to the benches they install.*

To assure compliance with the ADA regulations and to provide safe, accessible facilities, please inventory benches provided by your agency along the state highway system and assess the ADA compliance of these benches. Within 60 days, submit to the Department a report that includes the locations of non-compliant benches on the SHS and a plan to correct bench deficiencies. Once the Department has verified the findings and approved the plan, you will have 90 days to correct the deficiencies. Please send your bench report to Dean Perkins at the address below.

Dean Perkins, ADA Coordinator
Florida Department of Transportation
Office of Design, Production Support Section
605 Suwannee St., MS-40
Tallahassee, FL 32399-0450

If you have any questions regarding this matter, please feel free to contact Dean at dean.perkins@dot.state.fl.us, 850-414-4359 (voice) or 850-414-4796 (fax).

Sincerely,

Brian A. Blanchard, P.E.
Chief Engineer

cc: Lora Hollingsworth
Kurt Lieblong
Dean Perkins
Tim Lattner
Ed Coven
Diane Quigley

REFERENCES



The Florida Senate | flsenate.gov

March 08, 2010

[Print This Page](#)

- Home
- Session ▶
- Committees ▶
- Senators ▶
- Information Center ▶
- Statutes & Constitution ▶
- Video Broadcasts

Select Year:

The 2001 Florida Statutes

Title XXVI	Chapter 337	View Entire Chapter
Public	Contracting; Acquisition, Disposal, And Use Of	
Transportation	Property	

Jump To Bill

Session:

Bill #:

Search Bill Text

Session:

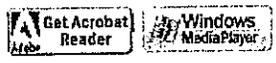
Chamber:

Search Statutes

Year:

Find Your Legislators

Enter Your Zip+4 Code:



337.408 Regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way.--

(1) Benches or transit shelters, including advertising displayed on benches or transit shelters, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway; provided that such benches or transit shelters are for the comfort or convenience of the general public, or at designated stops on official bus routes; and, provided further, that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches or transit shelters are installed, or by the county government within whose unincorporated limits such benches or transit shelters are installed. A municipality or county may authorize the installation, without public bid, of benches and transit shelters together with advertising displayed thereon, within the right-of-way limits of such roads. Any contract for the installation of benches or transit shelters or advertising on benches or transit shelters which was entered into before April 8, 1992, without public bidding, is ratified and affirmed. Such benches or transit shelters may not interfere with right-of-way preservation and maintenance. Any bench or transit shelter located on a sidewalk within the right-of-way limits of any road on the State Highway System or the county road system shall be located so as to leave at least 36 inches clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

(2) Waste disposal receptacles of less than 110 gallons in capacity, including advertising displayed on such waste disposal receptacles, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway; provided that written authorization has been given to a qualified private supplier of such service by the appropriate municipal or county government. A municipality or county may authorize the installation, without public bid, of waste disposal receptacles together with advertising displayed thereon within the right-of-way limits of such roads. Such waste disposal receptacles may not interfere with right-of-way preservation and maintenance.

(3) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, or waste disposal receptacle which endangers life or property, except that transit bus benches which have been placed in service prior to April 1, 1992, do not have to comply with bench size and advertising display size requirements which have been established by the department prior to March 1, 1992. Any transit bus bench that was in service prior to April 1, 1992, may be replaced with a bus bench of the same size or smaller, if the bench is damaged or destroyed or otherwise becomes unusable.

(4) No bench, transit shelter, or waste disposal receptacle, or advertising thereon, shall be erected or so placed on the right-of-way of any road which conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, or waste disposal receptacle services or advertising on such benches, shelters, or receptacles may be regulated, restricted, or denied by the appropriate local government entity consistent with the provisions of this section.

(5) Wherever the provisions of this section are inconsistent with other provisions of this chapter or with the provisions of chapter 125, chapter 335, chapter 336, or chapter 479, the provisions of this section shall prevail.

479.01 Definitions.--As used in this chapter, the term:

- (1) "Automatic changeable facing" means a facing that is capable of delivering two or more advertising messages through an automated or remotely controlled process.
- (2) "Business of outdoor advertising" means the business of constructing, erecting, operating, using, maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or outdoor advertisements.
- (3) "Commercial or industrial zone" means a parcel of land designated for commercial or industrial use under both the future land use map of the comprehensive plan and the land use development regulations adopted pursuant to chapter 163. If a parcel is located in an area designated for multiple uses on the future land use map of a comprehensive plan and the land development regulations do not clearly designate that parcel for a specific use, the area will be considered an unzoned commercial or industrial area if it meets the criteria of subsection (23).
- (4) "Controlled area" shall mean 660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system outside an urban area.
- (5) "Department" means the Department of Transportation.
- (6) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign.
- (7) "Federal-aid primary highway system" means the existing, unbuilt, or unopened system of highways or portions thereof, which shall include the National Highway System, designated as the federal-aid primary highway system by the department.
- (8) "Highway" means any road, street, or other way open or intended to be opened to the public for travel by motor vehicles.
- (9) "Interstate highway system" means the existing, unbuilt, or unopened system of highways or portions thereof designated as the national system of interstate and defense highways by the department.
- (10) "Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- (11) "Maintain" means to allow to exist.
- (12) "Motorist services directional signs" means signs providing directional information about goods and services in the interest of the traveling public where such signs were lawfully erected and in existence on or before May 6, 1976, and continue to provide directional information to goods and services in a defined area.
- (13) "New highway" means the construction of any road, paved or unpaved, where no road previously existed or the act of paving any previously unpaved road.
- (14) "Nonconforming sign" means a sign which was lawfully erected but which does not comply

with the land use, setback, size, spacing, and lighting provisions of state or local law, rule, regulation, or ordinance passed at a later date or a sign which was lawfully erected but which later fails to comply with state or local law, rule, regulation, or ordinance due to changed conditions.

(15) "Premises" means all the land areas under ownership or lease arrangement to the sign owner which are contiguous to the business conducted on the land except for instances where such land is a narrow strip contiguous to the advertised activity or is connected by such narrow strip, the only viable use of such land is to erect or maintain an advertising sign. When the sign owner is a municipality or county, "premises" shall mean all lands owned or leased by such municipality or county within its jurisdictional boundaries as set forth by law.

(16) "Remove" means to disassemble, transport from the site, and dispose of sign materials by sale or destruction.

(17) "Sign" means any combination of structure and message in the form of an outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, or other form, whether placed individually or on a V-type, back-to-back, side-to-side, stacked, or double-faced display or automatic changeable facing, designed, intended, or used to advertise or inform, any part of the advertising message or informative contents of which is visible from any place on the main-traveled way. The term does not include an official traffic control sign, official marker, or specific information panel erected, caused to be erected, or approved by the department.

(18) "Sign direction" means that direction from which the message or informative contents are most visible to oncoming traffic on the main-traveled way.

(19) "Sign face" means the part of the sign, including trim and background, which contains the message or informative contents.

(20) "Sign facing" includes all sign faces and automatic changeable faces displayed at the same location and facing the same direction.

(21) "Sign structure" means all the interrelated parts and material, such as beams, poles, and stringers, which are constructed for the purpose of supporting or displaying a message or informative contents.

(22) "State Highway System" means the existing, unbuilt, or unopened system of highways or portions thereof designated as the State Highway System by the department.

(23) "Unzoned commercial or industrial area" means a parcel of land designated by the future land use map of the comprehensive plan for multiple uses that include commercial or industrial uses but are not specifically designated for commercial or industrial uses under the land development regulations, in which three or more separate and distinct conforming industrial or commercial activities are located.

(a) These activities must satisfy the following criteria:

1. At least one of the commercial or industrial activities must be located on the same side of the highway and within 800 feet of the sign location;
2. The commercial or industrial activities must be within 660 feet from the nearest edge of the right-of-way; and
3. The commercial industrial activities must be within 1,600 feet of each other.

Distances specified in this paragraph must be measured from the nearest outer edge of the primary building or primary building complex when the individual units of the complex are connected by covered walkways.

(b) Certain activities, including, but not limited to, the following, may not be so recognized as commercial or industrial activities:

1. Signs.
2. Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
3. Transient or temporary activities.
4. Activities not visible from the main-traveled way.
5. Activities conducted more than 660 feet from the nearest edge of the right-of-way.
6. Activities conducted in a building principally used as a residence.
7. Railroad tracks and minor sidings.
8. Communication towers.

(24) "Urban area" has the same meaning as defined in s. 334.03(32).

(25) "Visible commercial or industrial activity" means a commercial or industrial activity that is capable of being seen without visual aid by a person of normal visual acuity from the main-traveled way and that is generally recognizable as commercial or industrial.

(26) "Visible sign" means that the advertising message or informative contents of a sign, whether or not legible, is capable of being seen without visual aid by a person of normal visual acuity.

(27) "Wall mural" means a sign that is a painting or an artistic work composed of photographs or arrangements of color and that displays a commercial or noncommercial message, relies solely on the side of the building for rigid structural support, and is painted on the building or depicted on vinyl, fabric, or other similarly flexible material that is held in place flush or flat against the surface of the building. The term excludes a painting or work placed on a structure that is erected for the sole or primary purpose of signage.

MEMORANDUM

DATE: June 10, 2010
TO: Debbie Banks, Planning Director
FROM: Donald E. Holmes
RE: Placement of Benches (Case # PB – 20)

A question has arisen regarding the classification of “benches” which Martin-Mency, L.L.C. proposes to locate at various sites within the City of Palatka. More particularly, since it is contemplated that “advertising panels” will be located on the backs of the benches it has been suggested that the benches should be classified as “billboards/poster boards/signs” governed by Section 62-1 et. seq. of the municipal code rather than being classified as benches and governed by Section 94-195 et. seq. of the municipal code.

Section 94-195 reads, in part, as follows: “Bus stop benches and shelters may be located in any district. Locations and setbacks shall be approved by the Planning Board as a conditional use. Advertisement copy located on any bus stop bench or shelter shall not include any product, good, or service that is not legally available or accessible to a minor.”

It is clear that Section 94-195 envisions the placement of “advertising copy” on bus stop benches and, conversely, that the inclusion of “advertising copy” on a bus stop bench would not automatically convert the bench to a “sign” governed by Section 62-1, et. seq.

The question is then whether the term “bus stop benches” as used in Section 94-195 is intended to limit the benches governed by and authorized by Section 94-195 to only those that are located at a site where a “bus” stops to pick up or discharge passengers.

In sum, I find nothing within Section 94-195 which limits the provisions of the section to benches located at a site where buses stop to load or unload passengers. If the intent of the drafters of Section 94-195 was to so limit the section, it would have been very simple to have included language which specifically accomplished this purpose, i.e. “bus stop benches and shelters may be located in any district but may only be located at a site where a bus or some other method of public transportation stops for the purposes of loading or unloading passengers”. No such language appears within the section. Accordingly, it is my opinion and interpretation that the words “bus stop” as used within the section in describing “benches” were used as a “term of art” rather than for the purpose of strictly defining the benches contemplated by the section. An analogous use of adjectives might be found in the term “park benches”, or “church pew”. Without additional limiting language, it would not be my interpretation that when used in the context of a municipal code the term “park bench” was intended to define only benches located in a park, or, that the term “church pew” would be used only to define benches located in a church. Instead, it would be my interpretation that the terms were used to describe the type or style of an object.

Based upon my reasoning, it is my opinion that the benches proposed by Martin-Mency, L.L.C., in case number PB10-20, should be governed by the provisions of Section 94-195 rather than by the provisions of Section 62-1.

In the event you have any question concerning this memo, please feel free to contact me at your convenience.

Respectfully submitted,

Donald E. Holmes

END OF MEMO