



CITY OF PALATKA PLANNING BOARD AGENDA

February 7, 2012

1. Call to Order.
2. Roll Call.
3. Approval of Minutes of the January 3, 2012 meeting.
4. Appeal procedures and ex parte communication.
5. **OLD BUSINESS**

Case 11-54 Administrative request for a text amendment to the Comprehensive Plan Future Land Use Element to add policies pertaining to the protection of the municipal airport from incompatible uses (tabled from January meeting).

6. **NEW BUSINESS**

Case 12-02 Conditional Use request for expansion of existing church in single-family residential zoning district; and for excess grass parking spaces

Location: 2009 President St.

Owner: Hillcrest Baptist Church

Applicant: John Stokes

Case 12-03 Request to revise Sec. 94-114 to allow for process for re-establishing a legal nonconforming use.

Applicant: Herman and Pamela Roberts

Case 12-04 Planning Board and Administrative request to revise Section 94-113 to provide rezoning intensity and density thresholds that would require the use of Planned Unit Development (PUD) overlays; revise Sec. 94-157 and 94-232 to eliminate the requirement that nonresidential uses within Planned Unit Development (PUD) serve only residents of that PUD; revise Sec. 94-157 to eliminate required amendment to Comprehensive Plan for PUDs; revise Sec. 94-233 to reduce the minimum PUD size of two acres; revise Sec. 94-233 to limit requirement for undergrounding utilities only to new development; revise Sec. 94-233 to link PUDs with a base zoning district; and revise Sec. 94-235 to eliminate requirement that PUD applicants confer with the Planning Board prior to application.

Case 12-05 Administrative request for a text amendment to the Comprehensive Plan Future Land Use Element to revise Policy A.1.9.3 to eliminate the requirement that Planned Unit Development overlays require a land use amendment.

Case 12-06 Administrative request for a text amendment to the Comprehensive Plan Future Land Use Element to revise Policy A.1.9.3 to allow for colleges and universities in the Public Buildings and Grounds (PB) land use category.

Planning Board Agenda
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Case 12-07 Administrative request to revise Sec. 94-153 to allow colleges and universities including associated student residences, administrative uses, sports facilities, and other ancillary uses associated with the principle use.

Case 12-08 Historic Preservation Board request to revise Sec. 94-187 to clarify standards for fences and to require a permit for the installation of a fence.

7. OTHER BUSINESS

Election of Chairman & Vice-Chairman.

8. ADJOURNMENT

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



Case 11-54
Request to Amend Comprehensive Plan Text
(Airport Protection Policies)
Applicant: Building and Zoning Dept.

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board Members

FROM: Thad Crowe, AICP, Planning Director

APPLICATION REQUEST

To consider an administrative text amendment to the Comprehensive Plan that would add new Future Land Use Element policies intended to protect the municipal airport from incompatible uses (tabled from January meeting). Public notice included legal advertisement.

APPLICATION BACKGROUND

Florida HB 1021 was passed in 2009, requiring that all jurisdictions revise comprehensive plans by July, 2012 to include criteria to achieve compatibility of land uses near airports. As noted in Statute 333.02:

“Airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the taking off, maneuvering, or landing of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. It is further found that certain activities and uses of land in the immediate vicinity of airports as enumerated in s. 333.03(2) are not compatible with normal airport operations, and may, if not regulated, also endanger the lives of the participants, adversely affect their health, or otherwise limit the accomplishment of normal activities.”

Per Statute 333.03(2)(c) when a formal noise study has not been conducted for a public airport, residential construction and educational facilities (excluding aviation school facilities) are prohibited within a specified zone around airport runways.

The residential restriction zone is an area measured outward directly from runways that is one-half the distance of the longest runway. As Map A-7 indicates, this area when measured out from the main east-west runway and the secondary north-south runway comprises a zone that includes much of the northwest part of the City. Staff has discussed and researched the meaning of the exclusion of “new residential facilities” and believes this term to not refer to the development of residential property with existing development rights, but to the granting of increased densities to lands within this zone. This interpretation is based on the strong property rights legal basis found in the Statutes, including the “Bert Harris Act” which requires compensation to private property owners by local government when such a local government institutes actions that cause loss of fair market value. Based on these conclusions Staff recommends the inclusion of the following policy.

Policy A.1.1.6c

The City shall not allow amendments that change the Future Land Use Map designation to Residential Medium and Residential High within the Residential Restricted Zone, as indicated by Map A-7 in the Future Land Use

Map series. This shall not include the designation of lands with City land use categories comparable to existing County land use categories when such properties are annexed into the City.

The educational facilities exclusion zone comprises an even larger area that includes most of the City north of St. Johns Avenue and also the area between Moody Road and Zeagler Drive (shown on Map A-8). Statute 333.03(3) notes that the City can allow exceptions to this prohibition of new educational facilities in this zone on a case-by-case basis with the accompaniment of specific findings that public policy justifications for new construction outweigh health and safety concerns of this prohibition.

Staff has coordinated with County Planning staff, School District staff, St. Johns River College staff, and the City's Airport Consultants on this issue and is proposing the following policy for inclusion in the Comprehensive Plan's Future Land Use Element.

Policy A.1.1.6d

The City shall not allow new primary or secondary educational facilities within the Educational Restricted Zone, as indicated by Map A-8 in the Future Land Use Map series, except for improvements and additions to existing facilities, facilities approved in a state college campus master plan, or aviation-related educational facilities.

PROJECT ANALYSIS

Florida Statutes do not provide specific criteria for the review of text amendments, other than the requirement that amendments to the Future Land Use Element (FLUE) must discourage the proliferation of sprawl, and that any such amendments must be in keeping with other Goals, Objectives, and Policies of the Plan.

These policies would not further urban sprawl as there are other areas in the City where higher-density residential uses and educational uses can be located.

Furthermore, the amendment is in keeping with the following Objective and Policy of the Comprehensive Plan.

Objective A.1.1 9J-5.006(3)(b)1; F.S. 187.201(16)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.1.1.6 9J-5.006(3)(c)2

The City shall maintain standards and procedures in accordance with Chapter 333 F.S., "airport zoning" to ensure that incompatible land uses will be restricted from placement in accident and noise zones surrounding the airport. The City shall maintain and regularly update the Kay Larkin Airport Master Plan (AMP) in accordance with s. 333.06, F.S.

Finally, the amendment follows state statute as previously referenced.

STAFF RECOMMENDATION

Staff recommends the following revised and new policies.

Policy A.1.1.6 9J-5.006(3)(c)2

The City shall maintain standards and procedures in accordance with Chapter 333 F.S., "airport zoning" to ensure that incompatible land uses will be restricted from placement in accident and noise zones surrounding the airport. ~~The City shall maintain and regularly update the Kay Larkin Airport Master Plan (AMP) in accordance with s. 333.06, F.S.~~

Policies A.1.1.6a, b (no change)

Policy A.1.1.6c

The City shall not allow amendments that change the Future Land Use Map designation to Residential Medium and Residential High within the Residential Restricted Zone, as indicated by Map A-7 in the Future Land Use Map series. This shall not include the designation of lands with City land use categories comparable to existing County land use categories when such properties are annexed into the City.

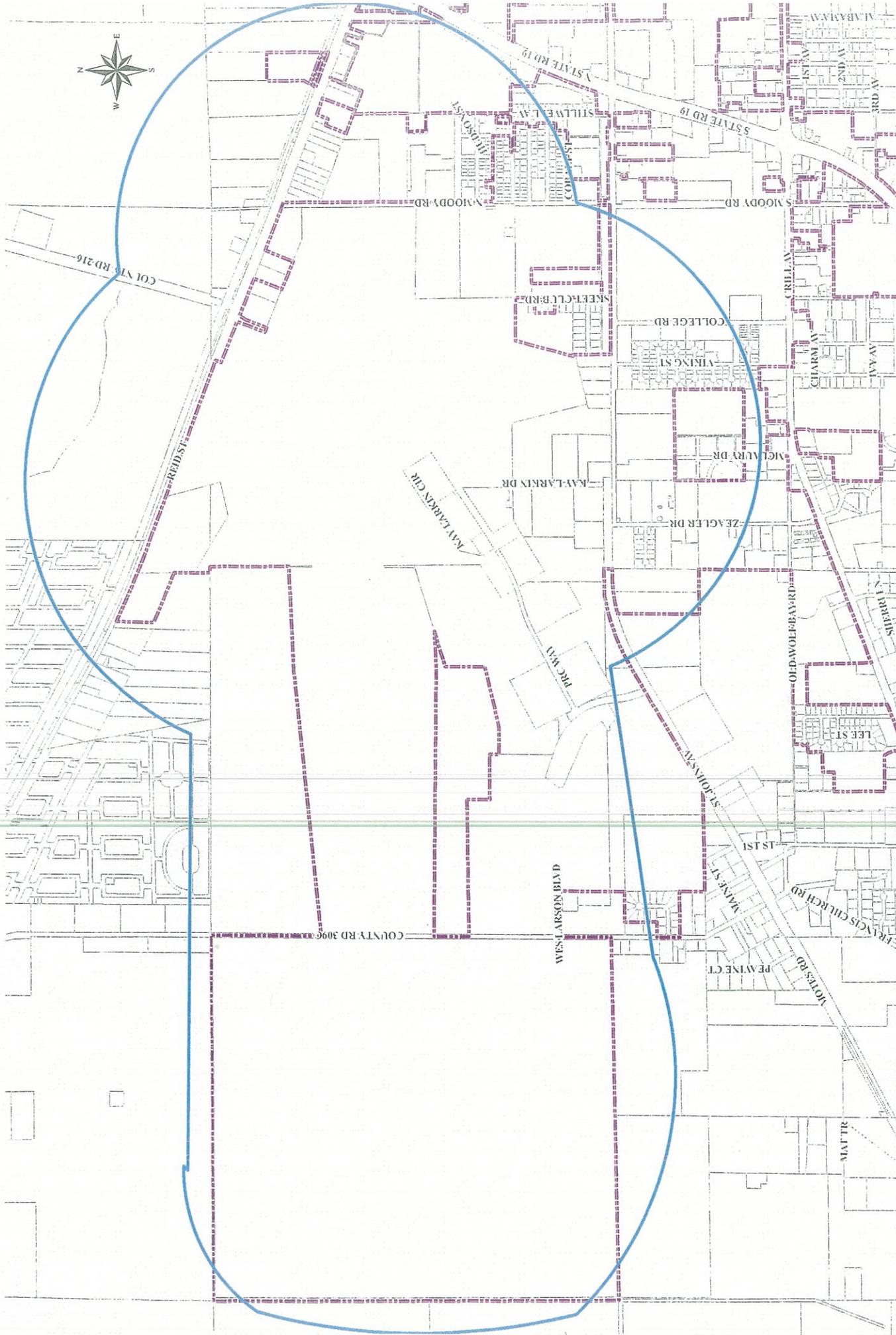
Policy A.1.1.6d

The City shall not allow new primary or secondary educational facilities within the Educational Restricted Zone, as indicated by Map A-7 in the Future Land Use Map series, except for improvements and additions to existing facilities, facilities approved in a state college campus master plan, or aviation-related educational facilities.

Policy A.1.1.6e

The City shall maintain and regularly update the Kay Larkin Airport Master Plan (AMP) in accordance with s. 333.06, F.S. (formerly part of Policy A.1.1.6)

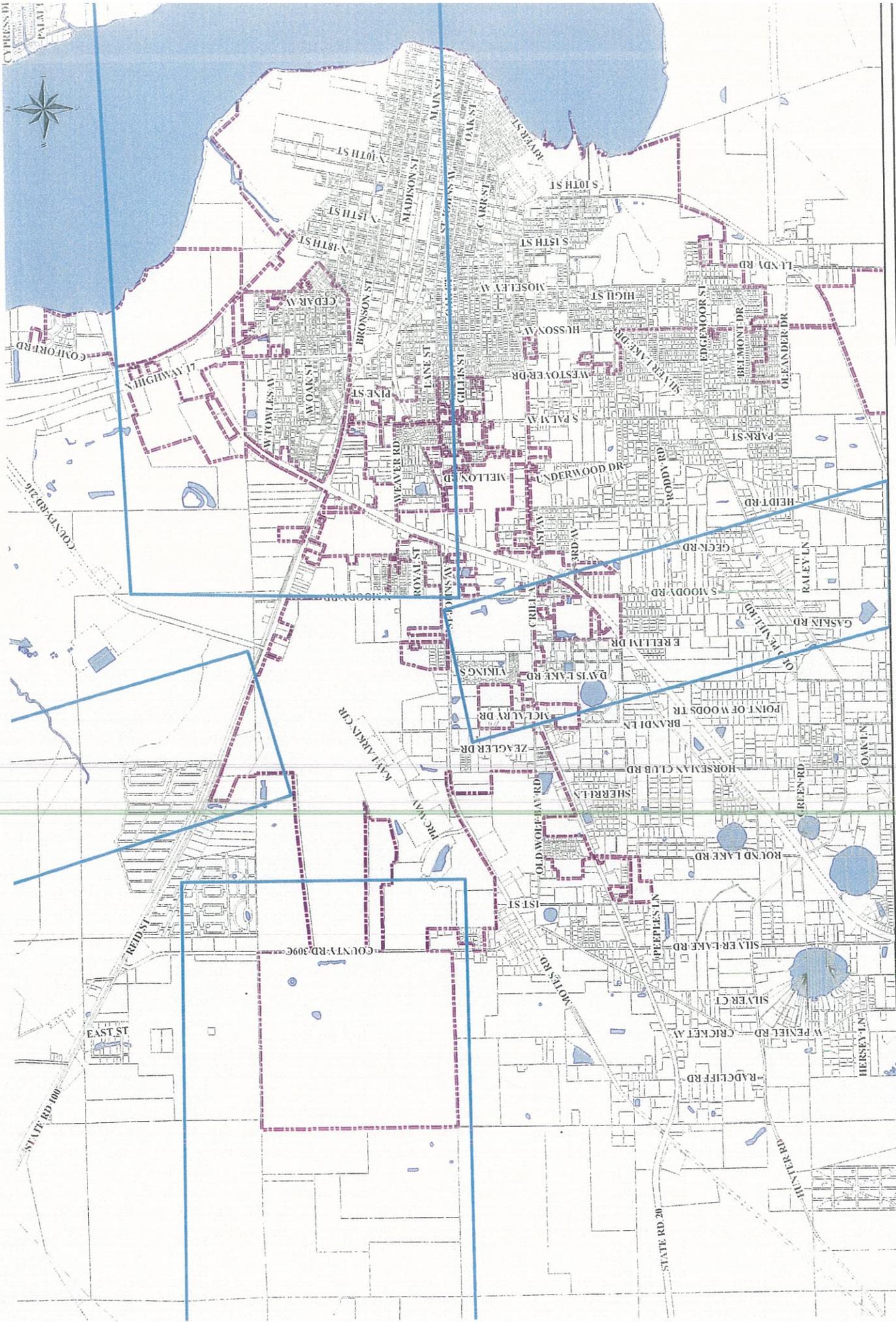
ATTACHMENTS: MAP A-7 RESIDENTIAL RESTRICTION ZONE
 MAP A-8 EDUCATIONAL RESTRICTION ZONE



2020 Comprehensive Plan Future Land Use Element

FIGURE A-7

DISCLAIMER:
This information is provided as a visual representation only and is not intended to be used as legal or official representation of legal boundaries. The City of Palatka assumes no responsibility associated with its use.

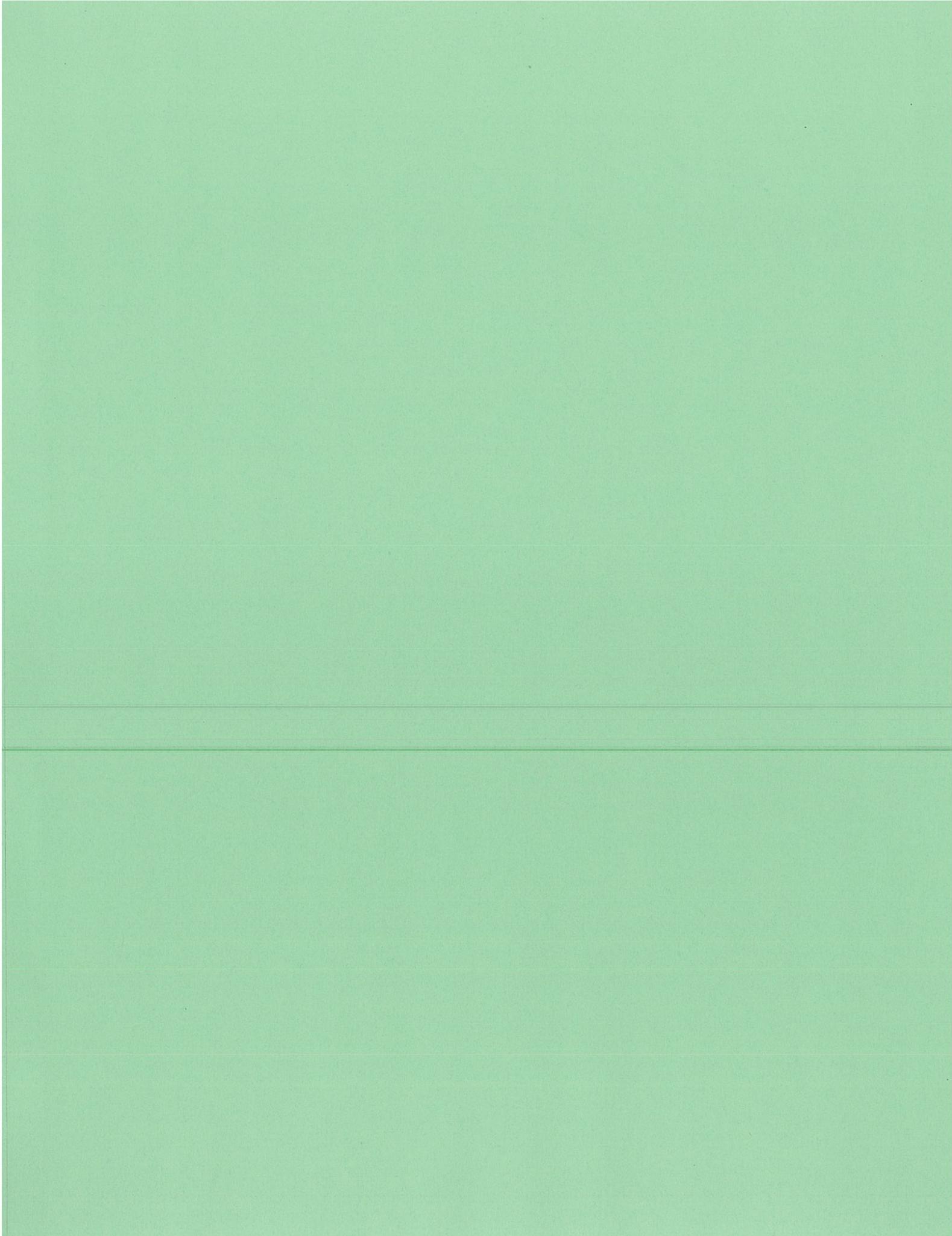


Map Date: FEB, 2012

2020 Comprehensive Plan Future Land Use Element Advanced Educational Facilities Restriction Zone Map

FIGURE A-8

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**Request for a Conditional Use for Church Expansion and Excess Grass Parking
2009 President Street
Applicant: John Stokes**

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board members

FROM: Thad Crowe, AICP
Planning Director

APPLICATION REQUEST

Conditional Use allowing expansion of existing church and excess grass parking in an R-1A (Single-Family Residential) zoning district. Required public notice included legal advertisement, property posting, and letters to nearby property owners (within 150 feet).

APPLICATION BACKGROUND

Hillcrest Baptist Church is located on President Street west of Moseley Avenue. The R-1A zoning district allows churches as a Conditional Use, with the requirement that the lot size exceed 40,000 square feet (the church property exceeds two acres). Given that the church building was constructed in the 1950s, predating the Zoning Code, the church is “grandfathered” from the Conditional Use requirement and has no Conditional use standing approval. However the Church also houses a K-12 school, Hillcrest Academy, which received Conditional Use approval in 2005. The school currently has 35 students and 10 employees. The property includes the main church building, located in the west-central part of the property, and a storage shed and residence (used for church offices and Sunday school) on a separate parcel also owned by the Church at the northwest corner of Prosper Street and Moseley Avenue. The Church proposes to construct a new 5,184 square foot/350-seat sanctuary and retain the existing sanctuary building for use of the school. The Conditional Use would apply to the church expansion as well as the utilization of the old sanctuary building by the school.

PROJECT ANALYSIS

As shown in the map on the next page, the church is in a residential area, although Moseley Elementary School is located just southeast of the property. The table below and accompanying maps show site and surrounding uses and land use/zoning designations.

Table 1: Site and Surrounding Properties Land Use

	Actual Use	Future Land Use Map	Zoning
Site	Church and School	Residential, Low	R-1A (Single-family Resid.)
North (across President St.)	Single-family residences	Residential, Low	R-1A (Single-family Resid.)
East (across Moseley Ave.)	Single-family residences	Residential, Low	R-1A (Single-family Resid.)
South (across Prosper st.)	Single-family residences	Residential, Low	R-1A (Single-family Resid.)
West	Single-family residences	Residential, Low	R-1A (Single-family Resid.)

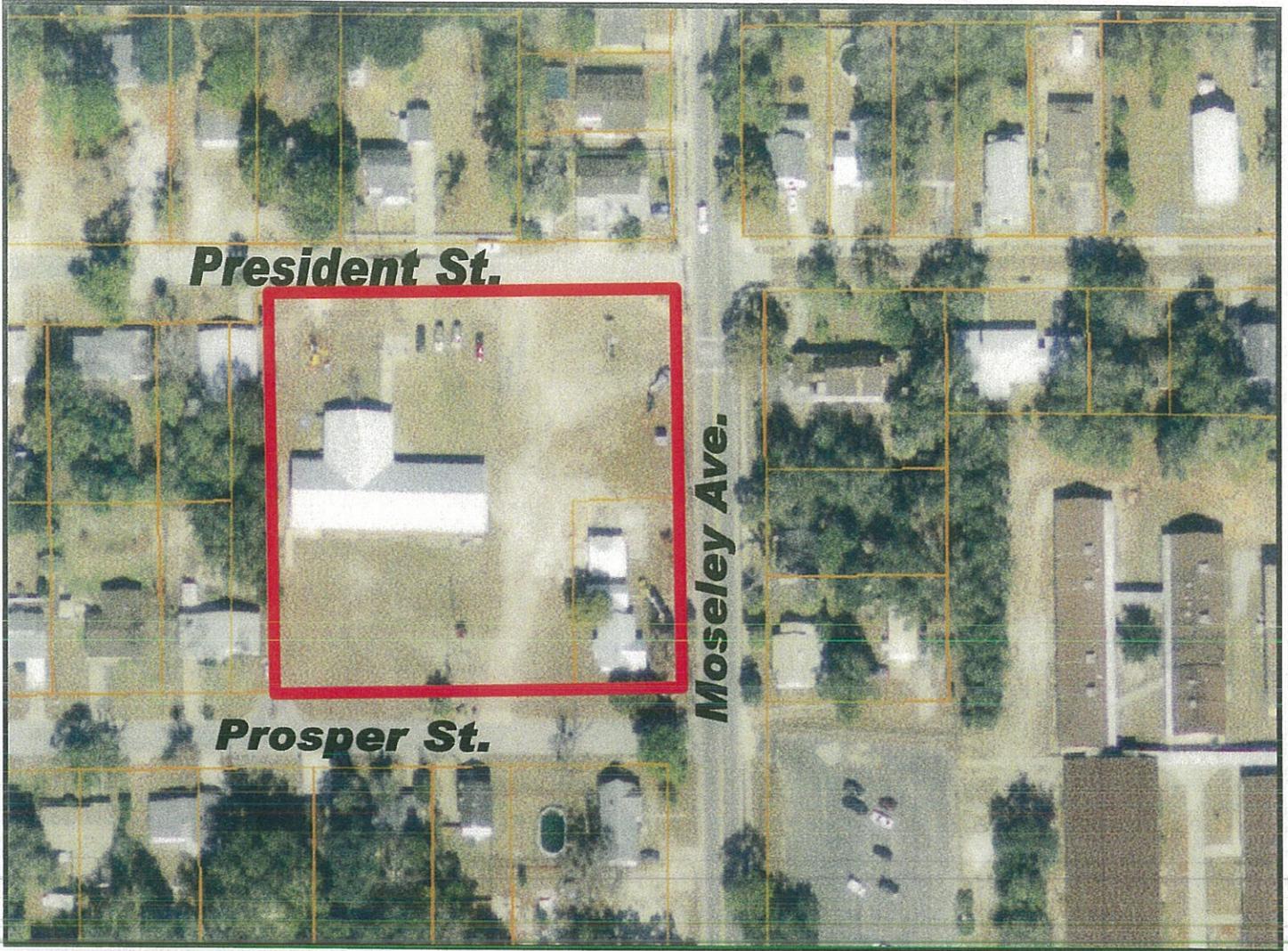


Figure 1: Location Map

Figure 2: Church from North
(President St.)





Figure 3: Church Grounds and Sign, Looking toward East (Moseley Avenue)



Figure 4: Church Grounds, Looking toward North (President Street)

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

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

Staff Comment: The application is not in conflict with applicable elements of the Comprehensive Plan.

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.

Staff Comment: Vehicular Access and Traffic Flow.

The property has two informal/unpaved vehicle access points: one to the north to President Street, and the other to the south to Prosper Street. Both of these streets are residential streets. The Zoning Code does not include any prohibitions of driveways on residential streets for churches – Section 94-191 prohibits such access for commercially zoned property only. Traffic impacts in this case are limited by the relative infrequency of worship services and the small size of the school. The Applicant proposes to pave the existing unpaved driveways, including the main driveway connecting the President Street and Prosper Street entrances. Other paved driveways will include a one-way spur in the northeast part of the site and two dead-end driveways in the southwest and northwest part of the site. Staff believes that the proposed vehicular circulation pattern is acceptable.

Pedestrian Safety

There is currently a sidewalk on the east side of Moseley Avenue that continues south of this location, and a sidewalk on the west side that runs south from Crill Avenue and ends at President Street. There are no sidewalks on President Street, Prosper Street, and the west side of Moseley Avenue fronting the church.

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.

Staff Comment: While parking requirements are determined at the time of a certificate of occupancy, the Applicant has provided a site plan that allows a more advanced stage of review. Zoning Code Section 94-262(6) requires one parking space for every four sanctuary seats. The existing sanctuary has 250 seats, which requires 63 spaces – currently provided as informal grass parking. The new sanctuary will have 320 seats, with required parking of 80 spaces. Per Zoning Code Section 94-261(b) the existing 63 grass parking spaces are “grandfathered” and the Applicant is required to provide the 17 new paved spaces. As Table 2 below shows the Applicant is provided more paved parking than is required.

Table 2: Summary of Current and Proposed Parking

	Spaces Required		Spaces Provided	
Existing sanctuary	63 (grass)		63 + (grass)	
Proposed sanctuary	80		82	
	63 grass	17 paved	44 grass	38 paved

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

Staff Comment: The Church currently uses roll-out garbage carts, kept in an unscreened area. No dumpster is shown on the site plan, indicating that the use of the carts will continue. As a requirement of the Zoning Code, an enclosure area must be created for the garbage carts.

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

Staff Comment: The property is appropriately served by utilities.

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

Staff Comment: Applicable sections of the City's landscape ordinance include the provision of a buffer to the west (for adjacent single-family homes) and interior parking lot landscaping (street frontage buffers are not required in single-family residential zoning districts per Zoning Code Section 94-305). The site plan meets Landscape Code standards.

- 10-foot wide buffer with tree and shrub planting and privacy fence along west property line; and
- Shade trees planted in parking lot landscape islands.

In fact site planting will well exceed the Landscape Code with the planting of trees and shrubs along all three roadways.

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.

Staff Comment: There is an existing sign located adjacent to the Moseley Avenue frontage that will remain. No new signs are proposed.

h. Required yards and other open space.

Staff Comment: The site plan conforms to setback requirements for this zoning district, which include a 20-foot front setback, 10-foot side setback, and 30-foot rear setback.

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

Staff Comment: The Zoning Code allows for churches in residential zoning districts, with compatibility addressed through the Conditional Use process. Staff believes that the improved buffer along the west property line will go a long way in improving compatibility with adjacent residential uses, along with the other landscaping improvements.

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

Staff Comment: The R-1A zoning district requires a 40,000 square foot minimum lot size to ensure there is adequate space for church development and parking, with this 2+-acre lot exceeding this threshold.

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

Staff Comment: Not applicable.

Impact on Public Interest

Staff Comment: A review of the criteria above indicates that the proposed conditional use would not present a substantially negative impact on the overall public interest of the surrounding area and the City as a whole. The new building, paving, and landscaping will in fact positively impact the neighborhood.

STAFF RECOMMENDATION

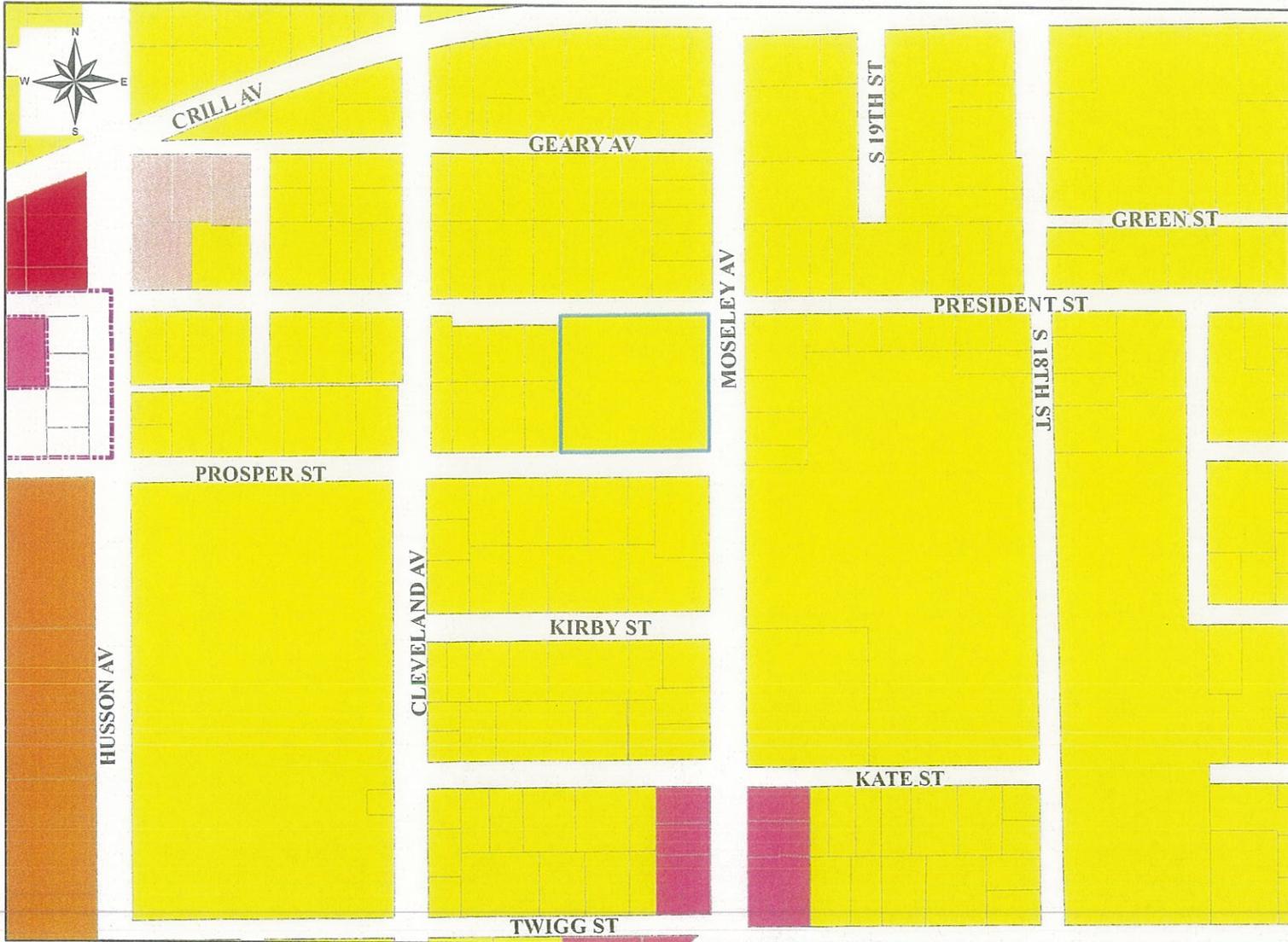
As demonstrated in this report, this application generally meets the conditional use criteria. Staff recommends approval with the following conditions.

1. Uses on the property shall be limited to a church and school, with the uses not operating simultaneously.
2. Site development shall occur in keeping with the approved site plan.

3. Per Zoning Code Sec. 94-261, grass parking areas shall be surfaced with grass typically used for permanent lawns in the City and must be maintained in a well-graded fashion. If such grass ceases to grow, then paving of areas shall be required.
4. Per Zoning Code Section 261 parking lot lighting on the site must be designed and arranged so that no source of such lighting is visible from adjoining residential properties. All site lighting shall be shielded or downcast to eliminate glare on adjoining properties and roadways.
5. The refuse area shall be screened on three sides with a six-foot tall privacy or stockade fence.
6. All other applicable standards of the Municipal Code must be met.

ATTACHMENTS: APPLICANT SITE PLAN
 FLUM AND ZONING MAPS

2009 President Street Zoning



Legend

 City Limit

Palatka Zoning

-  General Commerical District
-  Neighborhood Commercial District
-  Intensive Commercial District
-  Single Family Residential District
-  Multi-Family Residential District

Site(s)	Current Zoning
2009 President Street	R-1A (Single Family Residential District)

2009 President Street FLUM

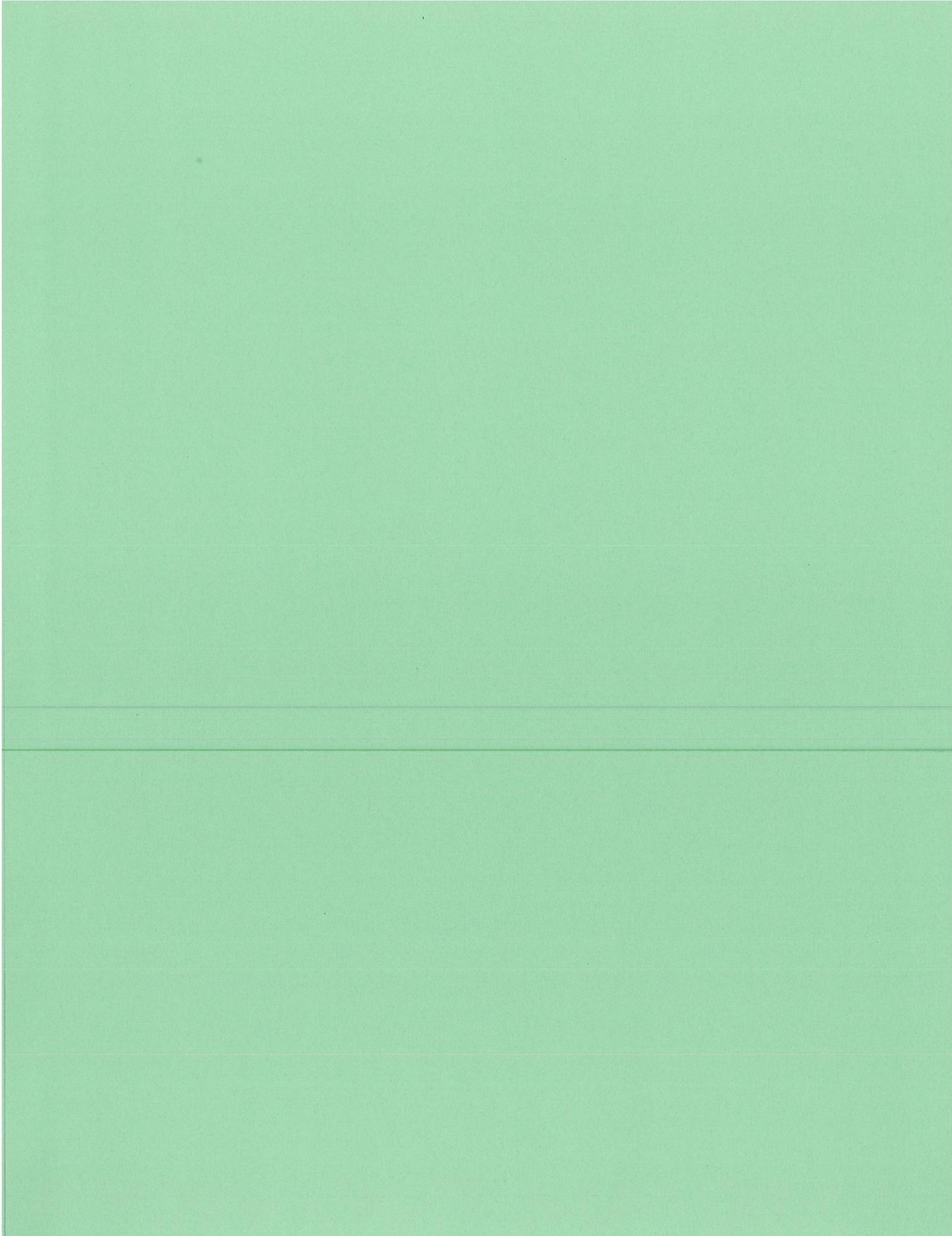


Legend

Palatka FLUM

- Public Building
- Low Density Residential

Site(s)	Current FLUM
2009 President Street	RL (Low Density Residential)



Case 12-03
Request to Amend Zoning Code
(Re-establish Nonconforming Use)
Applicant: Herman and Pamela Roberts

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board members

FROM: Thad Crowe, AICP, Planning Director

APPLICATION REQUEST

To consider a process allowing the re-establishment of a legal nonconforming use. Public notice consisted of newspaper advertisement.

APPLICATION BACKGROUND

The Applicants are requesting this Zoning Code change as a means to re-open a longstanding barbecue take-out business operated out of their home. Staff has assisted the Applicants in separating this specific issue from what has to be a generic code change and has worked with the Applicants to develop a process that recognizes formerly nonconforming uses that are neighborhood or City institutions due to their longevity and community importance, while also protecting the City's neighborhoods.

Zoning Code Section 94-114(c) defines a nonconforming use as a lawful use of land existing prior to the adoption of the Code (1981), and made nonconforming by the Code. Nonconforming uses may continue indefinitely but cannot be enlarged, increased, expanded, or moved, and if the use ceases for more than six months its continuation is prohibited.

While it is not common, there are a few jurisdictions that allow for the re-establishment of nonconforming uses. The Town of Jupiter's Indiantown Overlay Zoning District allows for the re-establishment of a nonconforming use within 24 months of its cessation if the property owner demonstrates a substantial reduction of those elements that make the use on the site nonconforming. The City of Miami allows the administrative re-establishment of a nonconforming use after a lapse not exceeding 18 months, if the use was lawfully established and would not prove materially adverse to surrounding properties. In Torrey, CA the Zoning Board of Appeals may extend the period in which the use can be re-established up to two years, if it is determined that the extension is justified due to factors beyond the control of the applicant.

Staff supports re-establishing nonconforming uses only if the process for such an action provides for clear criteria that protect neighborhoods, and that such an action does not result in widespread encouragement of nonconforming uses. The Conditional Use process lends itself to this action since it has multiple criteria that consider neighborhood impacts and conditions of approval can also be placed upon the use to further ensure neighborhood protection. The Conditional Use criteria are shown below.

- a. Compliance with all applicable elements of the comprehensive plan.*
- b. Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.*

- c. *Off-street parking and loading areas, where required, with particular attention to the items mentioned in subsection (4)b of this section and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district.*
- d. *Refuse and service areas, with particular reference to the items mentioned in subsections (4)b and c of this section.*
- e. *Utilities, with reference to location, availability and compatibility.*
- f. *Screening and buffering, with reference to type, dimensions and character.*
- 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.*
- h. *Required yards and other open space.*
- i. *General compatibility with adjacent properties and other property in the district.*
- j. *Any special requirements set out in the schedule of district regulations for the particular use involved.*
- k. *The recommendation and any special requirements of the historic preservation board for uses within the HD zoning district.*
- l. *Overall Impact on Public Interest*

The following change could be made to the Zoning Code to allow for the re-establishment of nonconforming uses. The existing language of this section is shown in italics below, with new language shown in underlined text.

Sec. 94-114. – Nonconforming lots, structures and uses

(a) Intent.

(1) Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before the ordinance codified in this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment.

(2) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(3) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the ordinance codified in this chapter by attachment on a building or premises of additional signs or by addition of other uses of a nature which would be prohibited in the district involved.

(b) Nonconforming lots of record. Where a lot of record exists which was held in individual ownership and platted and recorded in the office of the clerk of the circuit court of the county prior to the time of adoption of the ordinance codified in this chapter, and such lot does not conform to the lot area or width requirements for the district in which it is located, the lot may be used for any use permitted in district provided all other development standards are met.

(c) Nonconforming uses of land. Where, at the effective date of adoption or amendment of the ordinance codified in this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged, increased or expanded to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance codified in this chapter.

(3) If any such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the requirements of this chapter for the district in which such land is located, and continuance of such use after such period is specifically prohibited.

(d) Nonconforming structures. Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could not be built under the terms of this chapter by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in a way which increases its nonconformity.

(2) Should such structure be destroyed by any means to an extent of 60 percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the requirements of the district in which it is located after it is moved.

~~*(e) Nonconforming uses of structures. If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of the ordinance codified in this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:*~~

~~*(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.*~~

~~*(2) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided the board of zoning appeals may require appropriate conditions and safeguards in accord with the provisions of section 94-64.*~~

~~*(3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the requirements of the district in which such structure is located, and the nonconforming use may not thereafter be resumed.*~~

~~*(4) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the requirements of this district in which it is located.*~~

~~*(5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.*~~

(f) Nonconforming characteristics of use. If characteristics of use, such as residential densities, signs, off-street parking or off-street loading, or other matters pertaining to the use of land and structures are made nonconforming by this chapter as adopted or amended, no change shall thereafter be made in such characteristics of use which increases nonconformity with the regulations set out in this chapter; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.

(g) Repairs and maintenance. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof.

(h) Casual, temporary or illegal use. The casual, temporary or illegal use of land or structures, or land and structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

(i) Conditional uses not nonconforming uses. Any use which is permitted as a conditional use in a district under the terms of this chapter shall not be deemed a nonconforming use in such district, but shall without further action be deemed a conforming use in such district.

(j) Re-establishment of nonconforming uses. In unusual cases where nonconforming uses are grounded in the community due to historical precedent and community support, should such uses cease to operate, their re-establishment shall be allowed within 36 months of the date the use ceased to function. Consideration of such requests shall be through the Conditional Use process.

Staff believes that there is a justification for such a code change, one that would not result in widespread abuse but that would recognize the importance of historical uses, while of course providing for protection for the surrounding neighborhood. Such a change would provide for what are rare but important neighborhood institutions, historic uses that can fall through the cracks given the bright-line standards of modern zoning.

APPLICATION ANALYSIS

Per Section 94-38 of the Zoning Code, the Planning Board must study and consider the proposed zoning amendment in relation to the following criteria (if applicable), which are shown in *italics* (staff response follows each criterion).

1) When pertaining to the rezoning of land, the report and recommendations of the planning board to the city commission required by subsection (e) of this section shall show that the planning board has studied and considered the proposed change in relation to the following, where applicable:

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

The change does not conflict with the Comprehensive Plan. The following Future Land Use Element policies are applicable.

Policy A.1.3.1. *The Building Official shall utilize the Land Development Regulations, specifically the City Zoning Code, to reinforce its current provisions regarding the elimination of non-conforming land uses to include all uses which are inconsistent with the Future Land Use Map 2005 or cannot be made compatible with adjacent land uses. The requirement of this provision shall be enforced upon application to the City for building permits to repair or improve such structures.*

Policy A.1.3.2. *By June 2008, the Building Official shall review the City's Zoning Code and Subdivision Regulation to ensure that current buffering and separation standards between land uses of different densities or intensities of use remain sufficient to ensure compatibility between uses, or mitigate the effects of more dense / intense uses on less dense / intense uses. Issues of compatibility shall include considerations for noise, sight, and level of traffic generation. The primary tool of ensuring capability between land uses shall be the Future Land Use Map and the elimination of non-conforming land uses. Other techniques shall include: Noise and sight incompatibility -- screening by either a 6' solid physical wall or landscape plantings to reach, within 18 months, a height of at least 5 feet and an opacity of 80 percent.*

Staff Comment: Policy A.1.3.1 requires that the LDRs be used to eliminate all uses inconsistent with the FLUM OR uses that can't be made compatible with adjacent uses. Requiring a Conditional Use to re-establish a nonconforming use helps to assure compatibility with surrounding properties. Policy A.1.3.2 opens the door to alternative methods other than strict Comprehensive Plan Map and Zoning compliance to ensure compatibility.

b. The existing land use pattern.

Staff Comment: Not applicable to text changes.

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

Staff Comment: The change does not pertain to land uses.

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

Staff Comment: The proposed change would not overtax public facilities.

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

Staff Comment: Not applicable as this is not a zoning map change.

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

Staff Comment: The worsening economy of recent times is a changed condition that supports a Code change that allows for the limited continuation of small, home-based businesses that don't negatively impact the neighborhood.

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

Staff Comment: Requiring Conditional Use approval will help to assure that the proposed Code change will not adversely affect living conditions.

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

Staff Comment: Again, the Conditional Use process considers adverse traffic impacts.

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

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

The above criteria are not applicable.

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

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

See response to g. above.

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

This change does not constitute a grant of special privilege, but the ability to relax strict conformity rules in cases of neighborhood and community institutions that do not negatively impact neighborhoods.

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

Not applicable.

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

See response to g. above.

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

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.

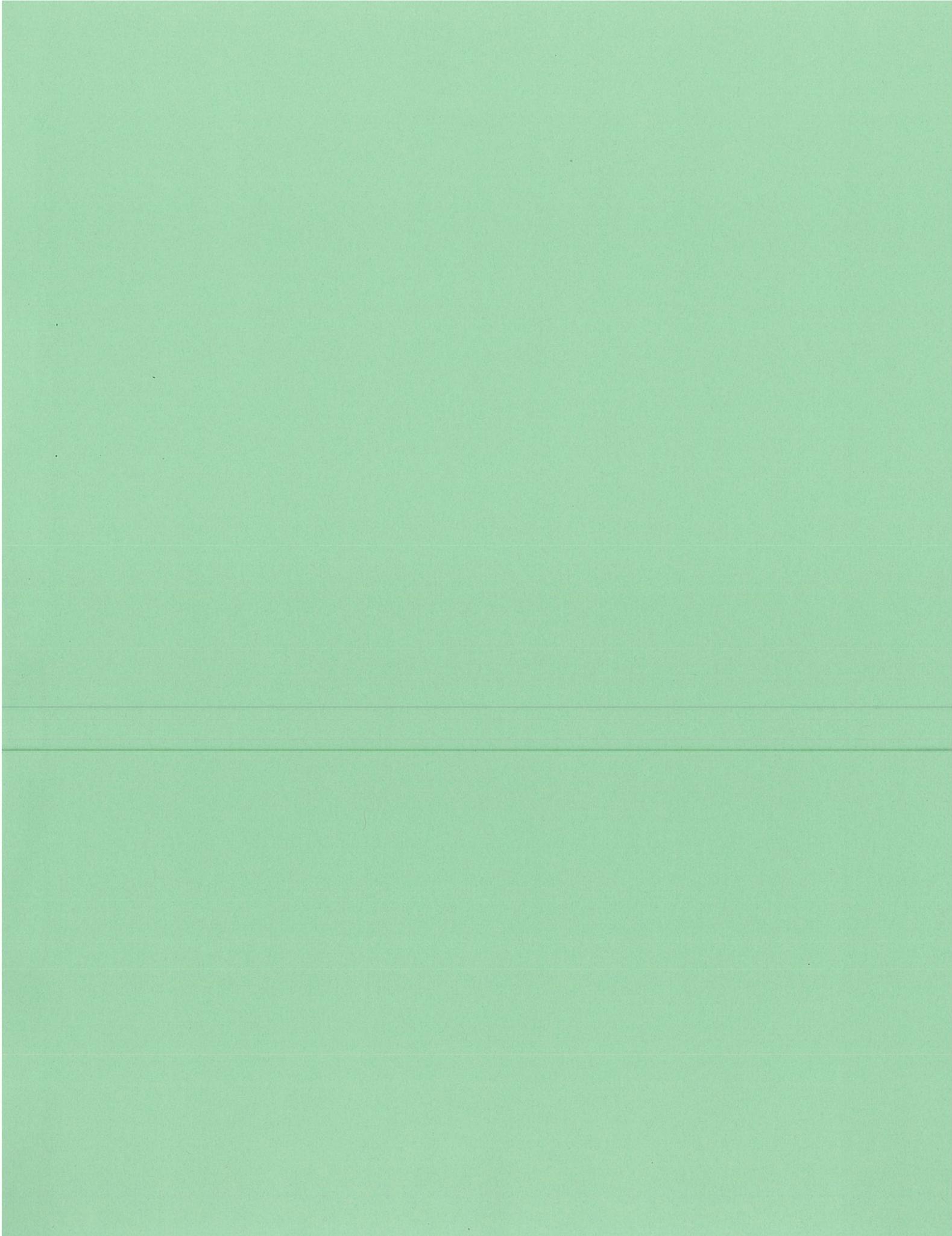
The above criteria are not applicable.

STAFF RECOMMENDATION

This proposed Zoning Code text amendment is in keeping with applicable criteria. Staff recommends approval of the Applicant's request to revise Zoning Code Section 94-114 to allow for the re-establishment of a nonconforming use.

New Section 94-119(j):

Re-establishment of nonconforming uses. In unusual cases where nonconforming uses are grounded in the community due to historical precedent and community support, should such uses cease to operate, their re-establishment shall be allowed within 36 months of the date the use ceased to function. Consideration of such requests shall be through the Conditional Use process.



Case 12-04
Request to Amend Zoning Code
(Revisions to Planned Unit Development Standards)
Applicant: Building and Zoning Dept.

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board members

FROM: Thad Crowe, AICP, Planning Director

APPLICATION REQUEST

To consider a process allowing the re-establishment of a legal nonconforming use. Public notice consisted of newspaper advertisement.

APPLICATION BACKGROUND

This is a change that was requested by the Planning Board at their January 3, 2012 meeting. The Board by consensus stated concern with potential higher density and intensity projects utilizing conventional zoning categories, and requested that Staff bring back an ordinance change with thresholds that would trigger a requirement for Planned Unit Development (PUD) zoning. The reasoning behind this was that such projects impacted neighborhoods substantively and that the site-specific standards of a PUD mitigate such impacts. When Staff reviewed the standards pertaining to PUDs a number of additional problematic elements were found for which proposed revisions are also provided in this report. Please note there is a companion land use amendment that echoes # 1 and 2 below. The PUD changes are summarized below, with specific analysis of each change following.

1. Eliminate requirement that PUD nonresidential component only serve residents of PUD.
2. Eliminate requirement that PUD rezoning be accompanied by Comprehensive Plan amendment that allows the PUD.
3. Provide density and intensity thresholds, above which a PUD shall be required.
4. Reduce minimum PUD size of two acres.
5. Apply current requirement of undergrounded utilities only to new development.
6. Link PUDs with a base zoning district.
7. Eliminate requirement that PUD applicants confer with Planning Board prior to application.

1. Eliminate requirement that PUD nonresidential component only serve residents of PUD.

Section 94-232 requires that PUD uses by “primarily residential in character” and allows commercial or retail uses only for the purpose of serving the needs of PUD residents. Section 94-157 restates this by requiring that “commercial and recreational land uses within a PUD shall be planned at a level no greater than that required to support the commercial and recreational needs of the residents of the PUD.” This language effectively prohibits a commercial or any other nonresidential PUD unless such uses are subordinate to the principal residential use. Staff believes there is an advantage in allowing straight nonresidential PUDs, particularly when project impacts call for the use of site-specific development standards. The changes below to current Zoning Code text (*italized*) would allow nonresidential PUDs while still allowing mixed-use PUDs.

Section 94-157 Design standards. Design standards for PUD districts are as follows:

- (1) References to residential, commercial, industrial and recreational land uses in the PUD shall carry the same density/intensity of use as provided for in individually designated districts.*
- (2) The PUD may contain a mixture of residential, commercial, industrial and recreational land uses so long as these uses are made compatible through spatial, landscaping or structural buffering techniques.*
- ~~*(3) Commercial and recreational land uses within a PUD shall be planned at a level no greater than that required to support the commercial and recreational needs of the residents of the PUD.*~~

Section 94-232. – Permitted uses.

The uses permitted within a planned unit development shall ~~be primarily residential in character, and~~ include the following:

- (1) Single-family detached dwellings.*
- (2) Single-family attached dwellings.*
- (3) Townhouses.*
- (4) Multifamily dwellings, including high-rise apartment buildings.*
- (5) Churches, schools, community or club buildings, and similar public or semipublic facilities.*
- (6) Commercial ~~or retail~~ and industrial uses, ~~including offices and clinics,~~ provided that they meet the following criteria:
 - ~~*a. The location is appropriate in relation to other land uses; and,*~~
 - ~~*b. The proposed commercial or office uses are primarily for the purpose of serving the needs of the residents of the planned unit development or reflect the need for commercial and/or office needs according to the city's comprehensive plan.*~~*

-
- 2. Eliminate requirement that PUD rezoning be accompanied by Comprehensive Plan amendment that allows the PUD.**
 - 6. Link PUDs with a base zoning district.**

Section 94-157 includes an odd requirement that a PUD rezoning be accompanied by a land use amendment to the Comprehensive Plan in accordance with Florida Statutes. In actuality the statutes include no such requirement – a PUD is purely a zoning amendment and should not involve a comprehensive plan change. The Comprehensive Plan is a broad vision statement and should not be cluttered with specific elements like PUDs. At the same time a PUD should not be a free-form creation, but should be linked to a specific zoning district and to the City's development standards in general, with deviations from such standards along with additional development standards overlaying that district. The changes below accomplish these purposes.

Section 94-157. – PUD planned unit development district.

- (a) Generally. See article IV of this chapter for planned unit development regulations.*
- (b) Application of PUD overlay. The PUD district may be applied as an optional overlay district over any underlying conventional zoning district, except that this zoning district and the development regulations contained within the Municipal Code will be the base regulations for*

~~the PUD from which deviations must be requested if desired by the applicant, land use. Use of the PUD overlay will require a land use amendment to the comprehensive plan in accordance with F.S. § 163.3187.~~

3. Provide density and intensity thresholds, above which a PUD shall be required.

As stated, the Planning Board wants to consider density and intensity rezoning thresholds that would require use of a PUD. Regional examples of such thresholds include the City of Jacksonville Beach, which requires that all commercial projects exceeding 50,000 square feet of building area utilize the PUD process, and also St. Johns County, which requires that almost all development in the Northwest County come in as PUDs. Threshold sizes can be determined locally and can include building square footage, geographical area, density, or number of residential units. Jacksonville Beach's use of the 50,000 square foot threshold is logical, as it would include shopping centers and most grocery stores, but not smaller commercial projects. The text below would provide thresholds for required PUD overlays, to be added to the end of the Zoning Code section pertaining to zoning district regulation applicability.

Sec. 94-113. - Applicability of district regulations.

The regulations set by this chapter within each district shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure, use, or land or water. Except as provided in this chapter:

(1) Use. No building or structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or altered except in conformity with the regulations specified in this chapter for the district in which it is located.

(2) Height of structures, population density, lot coverage, yards and open spaces. No structure shall hereafter be erected or altered:

a. To exceed height or bulk limitations provided in this chapter;

b. To provide a greater number of dwelling units or less lot area per dwelling unit than as permitted or required in this chapter;

c. To provide less lot area per dwelling unit or to occupy a smaller lot than as permitted or required in this chapter;

d. To occupy a greater percentage of lot area, or to provide narrower or smaller yards, courts or other open spaces, or lesser separation between buildings or structures or portions of buildings or structures, than required in this chapter; or

e. In any other manner contrary to the provisions of this chapter.

(3) Multiple use of required open space. No part of a required yard or other required open space, or off-street parking or off-street loading space, provided in connection with one structure or use shall be included as meeting the requirements for any other structure or use, except where specific provision is made in this chapter.

(4) Reduction of lot area. No lot, combination of contiguous lots in common ownership, or yard, existing at the effective date of the ordinance from which this chapter is derived shall hereafter be reduced in dimension or area below the minimum requirements set forth in this chapter, except by reason of a portion being acquired for public use in any manner, including dedication,

condemnation, purchase and the like. Lots or yards created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established by this chapter.

(5) *Limitation on number of principal buildings on lots in residential areas. Except as provided in this chapter, only one principal residential building, except for multifamily buildings and cluster developments, may hereafter be erected on any lot.*

(6) *Continuity of zoning of annexed property. Where property is annexed to the city subsequent to the effective date of the ordinance from which this chapter is derived, such property shall continue to hold the zoning classification placed on it by the county; and the regulations applicable to it under the zoning regulation of the county shall be administered and enforced by the city until such time as the property has been reclassified in accordance with general law.*

(7) *Planned Unit Development Overlay Threshold. Any proposed nonresidential development exceeding 50,000 square feet or residential development with project density exceeding ten units per acre or residential development with more than 50 units shall be required to utilize a Planned Unit Development overlay.*

4. Reduce minimum PUD size of two acres.

The Board at their January meeting also discussed the possible utility of allowing for smaller PUDs than the current minimum two-acre size allows for. The rationale between a lower or no minimum PUD size is that small projects are often intensively developed by their very nature, increasing the need for code flexibility and compatibility standards. Other Florida jurisdictions vary in minimum PUD sizes, ranging from a high of 10 acres for towns like Clermont, Cape Canaveral, and Jupiter to no minimum size (Apopka, Tallahassee). Other jurisdictions fall within this range. The Board can recommend to not require a minimum PUD size, as is phrased below, or can lower the minimum to one or one-half acre.

Sec. 94-233. - Development standards.

(a) ~~Minimum area~~ Unity. A parcel which is proposed for a planned unit development shall ~~not be less than two acres in size; however, all parcels intended for development as a planned unit development shall be in single ownership or control.~~

5. Apply current requirement of undergrounded utilities only to new development.

Section 94-233 requires that all PUDs have utilities installed underground. Staff believes this is an appropriate requirement for new development, but the costs of retrofitting for an adaptive reuse or redevelopment project would be unreasonable. Therefore Staff recommends this standard be directed at new development only.

Sec. 94-233. - Development standards.

(f) Underground utilities. Within a planned unit development, all utilities, including telephone, television cable and electrical systems shall be installed underground, applicable only for new construction. Appurtenances to these systems which require aboveground installation must be

effectively screened, and thereby may be excepted from this requirement. Primary facilities providing service to the site of the planned unit development may be excepted.

7. Eliminate requirement that PUD applicants confer with Planning Board prior to application.

Section 94-235 requires that PUD applicants consult with the Planning Board in a pre-application conference. It is more appropriate for a pre-application meeting with staff, and this requirement is also problematic in regard to the Board's required quasi-judicial review, in that the Planning Board is previewing and judging an application that they will later be reviewing. The change shows below would shift this conference to the staff level and more accurately reflect the filing of the application with staff.

Sec. 94-235. - Review and approval procedures.

(a) Pre-application conferences. Prior to filing of a formal application for a planned unit development, the applicant is required to confer with the ~~planning board~~ Planning Director in order to review the general character of the plan (on the basis of a tentative land use sketch if available), and to obtain information on projected programs.

(b) Development plan.

(1) Filing. An applicant shall file a petition with the ~~planning board~~ Building and Zoning Department for the approval of planned unit development in accordance with the requirements of section 94-3. This application shall be supported by a development plan and a written summary of intent and shall show the relation between the proposed development and the surrounding area, both existing and proposed. This supportive material shall be submitted to the ~~planning board~~ for review.

APPLICATION ANALYSIS

Per Section 94-38 of the Zoning Code, the Planning Board must study and consider the proposed zoning amendment in relation to the following criteria (if applicable), which are shown in *italics* (staff response follows each criterion).

1) When pertaining to the rezoning of land, the report and recommendations of the planning board to the city commission required by subsection (e) of this section shall show that the planning board has studied and considered the proposed change in relation to the following, where applicable:

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

The change does not conflict with the Comprehensive Plan. The following Future Land Use Element policies are applicable.

Policy A.1.8.2 9J-5.006(3)(c)5

The Land Development Regulations shall include provisions for Planned Unit Developments as an optional overlay designation. PUDs shall be permitted within any land use area through land use amendment procedures defined in s. 163.3187, Florida Statutes.

1. Planned Unit Developments

Typical uses of the PUD may be (1) to improve the use of land where topography does not permit the application of the standard grid pattern subdivision of land, (2) to introduce more than one land use within a development complex, for example, recreation and commercial activities within a mobile home park or (3) to cluster homes, businesses or other uses within a development in order to improve the efficiency of supporting infrastructure.

As noted above, the PUD may contain a mixture of residential, commercial, industrial, and recreational land uses so long as these uses are made compatible through spatial or buffering techniques. The acceptable mix of land uses within a PUD in the City is based upon the type and location of PUD under review. Commercial and recreational uses within a PUD shall be planned at a level no greater than that required to support the commercial and recreational needs of the residents of the PUD (in land area--approximately 4 percent commercial, 6 percent recreational).

References to residential, commercial, industrial and recreational land uses in the PUD shall carry the same density/intensity of use as defined in Policies A.1.9.3, A.1, 2, 3 and 4. Planned Unit Development may be applied as an optional overlay district over any underlying land use. Use of the PUD overlay will require a land use amendment in accordance with s. 163.3187, F.S.

Staff Comment: The policies above lay the groundwork for the use of PUDs and are not in conflict with what is proposed, although the language that limits commercial use to serving PUD residents and that requires a plan amendment for PUDs is proposed for amendment in a separate application. The policies encourage the use of PUDs and therefore support reducing or eliminating the minimum PUD size.

b. The existing land use pattern.

Staff Comment: Not applicable to text changes.

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

Staff Comment: This criterion applies to the actual application of PUDs to a specific site.

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

Staff Comment: The proposed changes would not overtax public facilities.

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

Staff Comment: Not applicable as this is not a zoning map change.

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

Staff Comment: There are no changed conditions related to these amendments.

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

Staff Comment: Broader allowance of PUDs can help to improve neighborhoods through the use of site-specific compatibility standards for future PUD developments.

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

Staff Comment: Not applicable.

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

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

The above criteria are not applicable.

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

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

See response to g. above.

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

This change does not constitute a grant of special privilege, but the ability to encourage better development.

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

Not applicable.

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

See response to g. above.

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

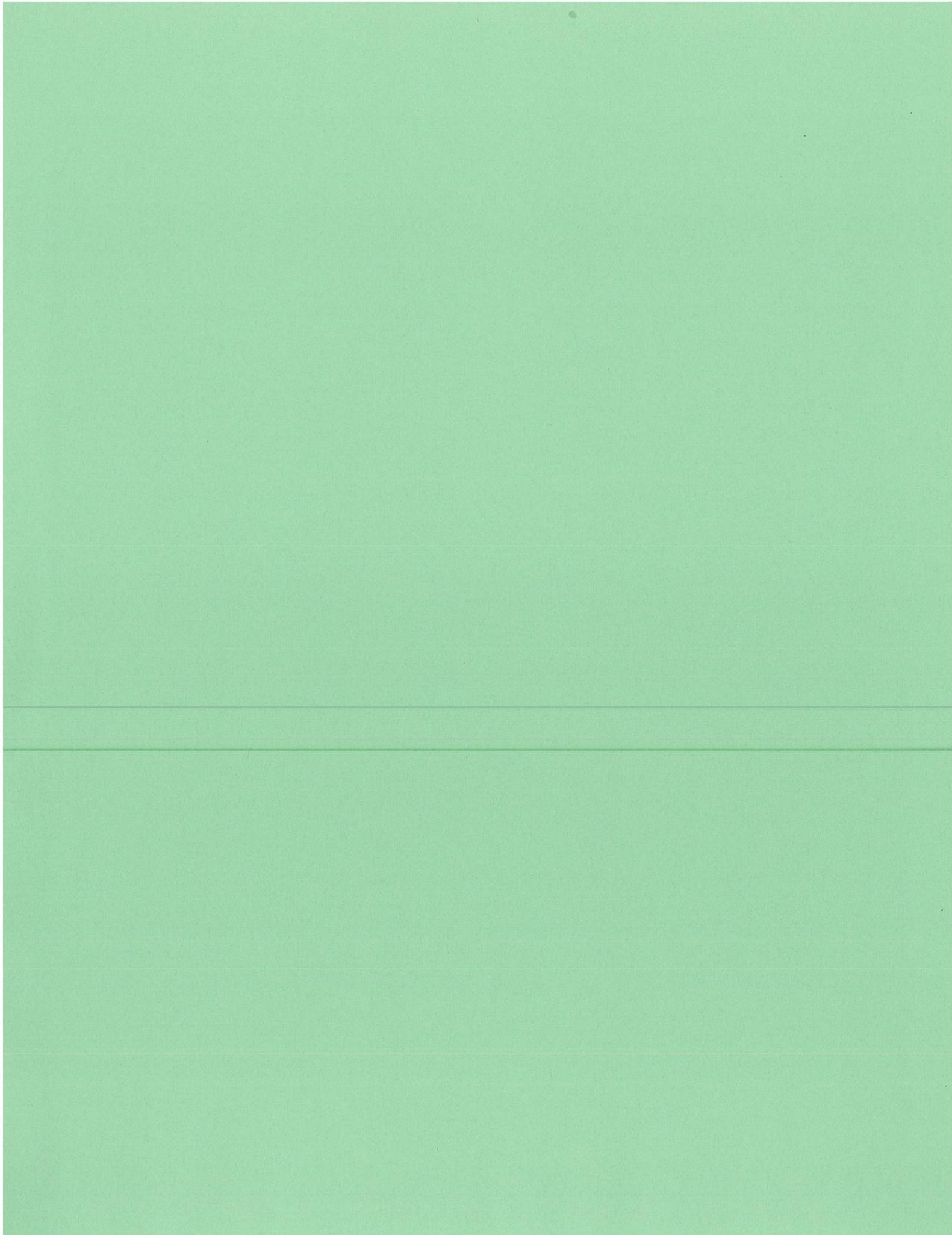
q. The recommendation of the historical review board for any change to the boundaries of an HD zoning district or any change to a district underlying an HD zoning district.

The above criteria are not applicable.

STAFF RECOMMENDATION

This proposed Zoning Code text amendment is in keeping with applicable criteria. Staff recommends revising the following Zoning Code Section 94 standards pertaining to PUDs.

1. Eliminate requirement that PUD nonresidential component only serve residents of PUD.
2. Eliminate requirement that PUD rezoning be accompanied by Comprehensive Plan amendment that allows the PUD.
3. Provide density and intensity thresholds, above which a PUD shall be required.
4. Reduce minimum PUD size of two acres.
5. Apply current requirement of undergrounded utilities only to new development.
6. Link PUDs with a base zoning district.
7. Eliminate requirement that PUD applicants confer with Planning Board prior to application.



Case 12-05
Request to Amend Comprehensive Plan Text
(PUD Land Use Amendment)
Applicant: Building and Zoning Dept.

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board Members

FROM: Thad Crowe, AICP, Planning Director

APPLICATION REQUEST

To consider an administrative text amendment to Comprehensive Plan Future Land Use Element (FLUE) Policy A.1.8.1 to eliminate requirement that Planned Unit Development (PUD) overlays require a land use amendment. Public notice included legal advertisement.

APPLICATION BACKGROUND

The FLUE policies below (italicized) pertain to PUDs. The shaded text represents language proposed for deletion by Staff. This application is related to a companion amendment to Zoning Code PUD standards, also an agenda item for the coming meeting.

Policy A.1.8.1 9J-5.006(3)(c)5

The Land Development Regulations shall include alternative available land use control techniques and programs such as Planned Unit Developments.

Planned Unit Developments may be used to protect safety restricted or environmentally sensitive areas but also may be used to increase the potential for developing water/sewer systems and more effective drainage systems. PUDs also shall benefit from the potential of receiving "density bonuses" for incorporating benefits which serve a public good into the development (See Policy A.1.9.3.8 Overlays).

Policy A.1.8.2 9J-5.006(3)(c)5

The Land Development Regulations shall include provisions for Planned Unit Developments as an optional overlay designation. PUDs shall be permitted within any land use area through land use amendment procedures defined in s. 163.3187, Florida Statutes.

Policy A.1.9.3 9J-5.006(3)(c)7

Land Development Regulations adopted, to implement this Plan shall be based on the following land use standards:

B. *Overlays*

1. *Planned Unit Developments*

Typical uses of the PUD may be (1) to improve the use of land where topography does not permit the application of the standard grid pattern subdivision of land, (2) to introduce more than one land use within a development complex, for example, recreation and commercial activities within a mobile home park or (3) to cluster homes, businesses or other uses within a development in order to improve the efficiency of supporting infrastructure.

As noted above, the PUD may contain a mixture of residential, commercial, industrial, and recreational land uses so long as these uses are made compatible through spatial or buffering techniques. The acceptable mix of land uses within a PUD in the City is based upon the type and location of PUD under review. ~~Commercial and recreational uses within a PUD shall be planned at a level no greater than that required to support the commercial and recreational needs of the residents of the PUD (in land area--approximately 4 percent commercial, 6 percent recreational).~~

References to residential, commercial, industrial and recreational land uses in the PUD shall carry the same density/intensity of use as defined in Policies A.1.9.3, A.1, 2, 3 and 4. ~~Planned Unit Development may be applied as an optional overlay district over any underlying land use. Use of the PUD overlay will require a land use amendment in accordance with s. 163.3187, F.S.~~

The second-to-the-last paragraph above only allows commercial or retail uses only for the purpose of serving the needs of PUD residents. This language effectively prohibits a commercial or any other nonresidential PUD unless such uses are subordinate to the principal residential use. Staff believes there is an advantage in allowing straight nonresidential PUDs, particularly when project impacts call for the use of site-specific development standards.

Additionally, Staff does not believe that the language in the last paragraph above that a PUD rezoning be accompanied by a land use amendment to the Comprehensive Plan. Florida Statutes include no such requirement – a PUD is purely a zoning amendment and should not involve a comprehensive plan change. The Comprehensive Plan is a broad vision statement and should not be cluttered with specific elements like PUDs.

PROJECT ANALYSIS

Florida Statutes do not provide specific criteria for the review of text amendments, other than the requirement that amendments to the Future Land Use Element (FLUE) must discourage the proliferation of sprawl, and that any such amendments must be in keeping with other Goals, Objectives, and Policies of the Plan.

These policies would not further urban sprawl but would in fact provide an improved tool of increased PUD usage to promote smart growth and infill. The amendment is in keeping with the Comprehensive Plan's intent to promote PUDs.

STAFF RECOMMENDATION

Staff recommends the following revised policies.

Policy A.1.9.3 9J-5.006(3)(c)7

Land Development Regulations adopted, to implement this Plan shall be based on the following land use standards:

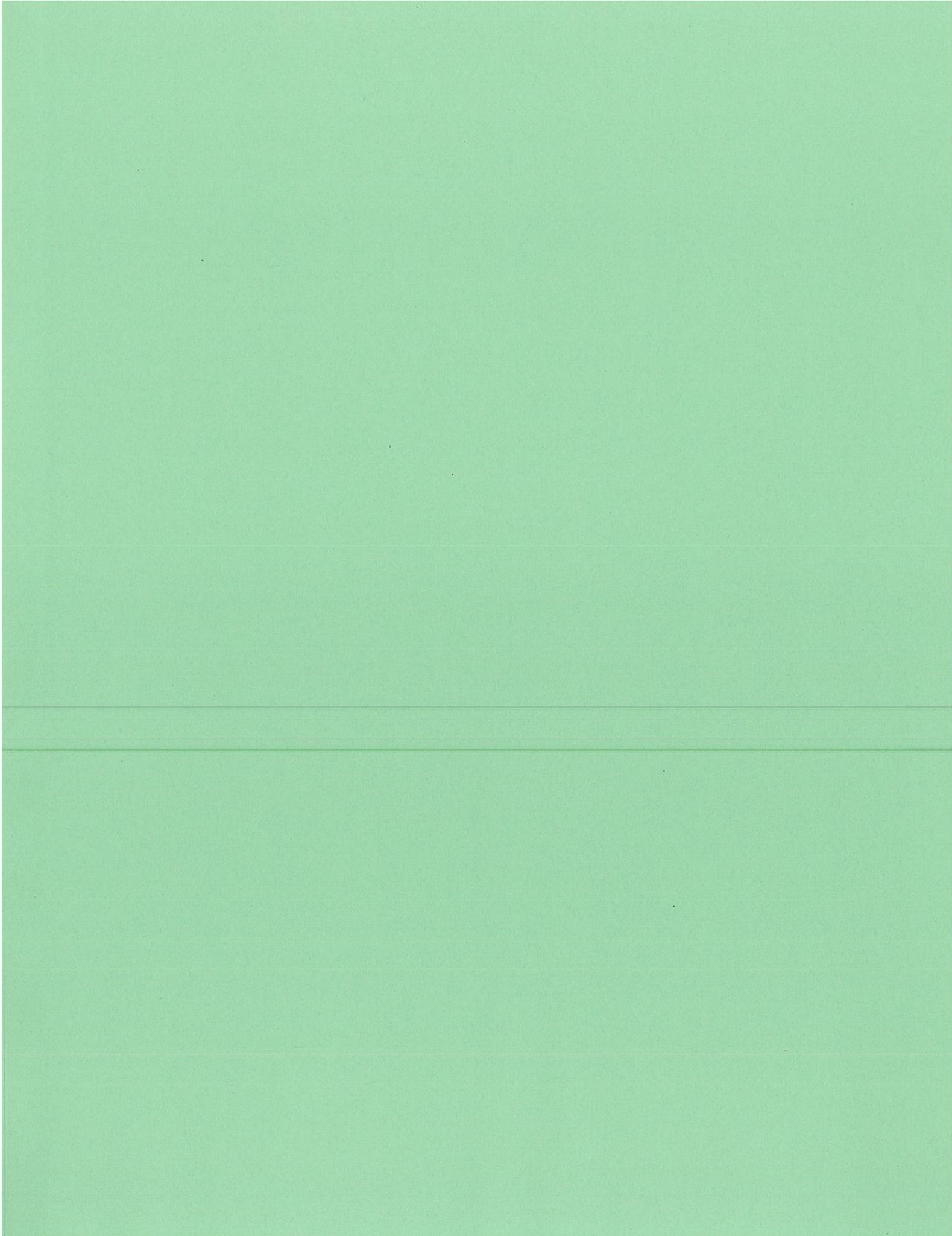
B. Overlays

1. Planned Unit Developments

Typical uses of the PUD may be (1) to improve the use of land where topography does not permit the application of the standard grid pattern subdivision of land, (2) to introduce more than one land use within a development complex, for example, recreation and commercial activities within a mobile home park or (3) to cluster homes, businesses or other uses within a development in order to improve the efficiency of supporting infrastructure.

As noted above, the PUD may contain a mixture of residential, commercial, industrial, and recreational land uses so long as these uses are made compatible through spatial or buffering techniques. The acceptable mix of land uses within a PUD in the City is based upon the type and location of PUD under review. ~~Commercial and recreational uses within a PUD shall be planned at a level no greater than that required to support the commercial and recreational needs of the residents of the PUD (in land area approximately 4 percent commercial, 6 percent recreational).~~

References to residential, commercial, industrial and recreational land uses in the PUD shall carry the same density/intensity of use as defined in Policies A.1.9.3, A.1, 2, 3 and 4. ~~Planned Unit Development may be applied as an optional overlay district over any underlying land use. Use of the PUD overlay will require a land use amendment in accordance with s. 163.3187, F.S.~~



Case 12-07
Request to Amend Comprehensive Plan Text
(PB Land Use Category Uses)
Applicant: Building and Zoning Dept.

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board Members

FROM: Thad Crowe, AICP, Planning Director

APPLICATION REQUEST

To consider an administrative text amendment to Comprehensive Plan Future Land Use Element (FLUE) Policy A.1.9.3 to clarify that colleges and associated ancillary uses were allowable in the Public Buildings and Grounds (PB) Future Land Use Map category. Public notice included legal advertisement.

APPLICATION BACKGROUND

The PB FLUM category is described as follows (italicized text):

5. *Public Buildings and Grounds (11 acres)*

Lands designated in this category of use include a broad variety of public and quasi-public activities such as schools, churches, government buildings, hospitals, etc. The intensity of development in this land use category, as measured by impervious surface, shall not exceed 65 percent. The maximum height shall not exceed 40 feet.

One of Staff's concerns lies with the omission of colleges from this category. While the use of the word "etc." might imply additional uses similar to schools are allowable, it should be noted that the Zoning Code identifies "schools" and "colleges" as separate uses (there are no definitions for these terms in the Comprehensive Plan). Public schools are different than colleges in terms of functionality and character. To clear up any confusion, Staff believes it is prudent to add colleges and their ancillary uses to this FLUM description. Staff recommends the addition of the text below:

"colleges and ancillary uses including student residences, administrative offices, and sports facilities."

Please note that there is a companion Zoning Code amendment which would specifically allow for the above use in the PBG-1 zoning district.

PROJECT ANALYSIS

Florida Statutes do not provide specific criteria for the review of text amendments, other than the requirement that amendments to the Future Land Use Element (FLUE) must discourage the proliferation of sprawl, and that any such amendments must be in keeping with other Goals, Objectives, and Policies of the Plan.

This policy change would not further urban sprawl as it merely clarifies that an existing and appropriate use is allowed in a land use category.

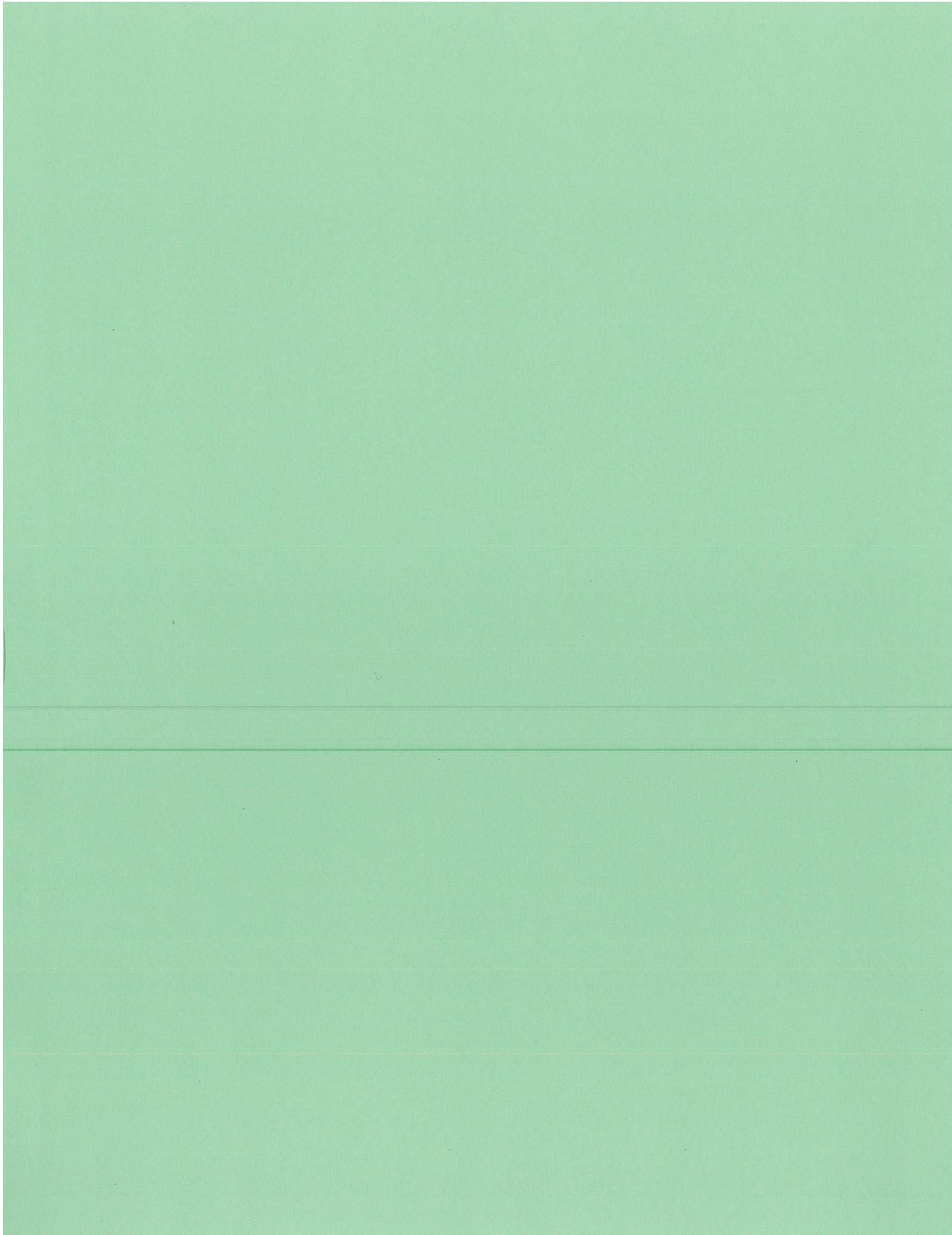
There are no policies in the Comprehensive Plan concerning the College, but the proposed amendment is not inconsistent with the Plan.

STAFF RECOMMENDATION

Staff recommends the following revised and new policies.

5. Public Buildings and Grounds (11 acres)

Lands designated in this category of use include a broad variety of public and quasi-public activities such as schools, churches, government buildings, hospitals, colleges and ancillary uses including student residences, administrative offices, and sports facilities, etc and similar uses. The intensity of development in this land use category, as measured by impervious surface, shall not exceed 65 percent. The maximum height shall not exceed 40 feet.



Case 12-07
Request to Amend Zoning Code
(Allowing Colleges & Ancillary Uses in PBF-1 Zoning District)
Applicant: Building and Zoning Dept.

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board members

FROM: Thad Crowe, AICP, Planning Director

APPLICATION REQUEST

Administrative request to revise Sec. 94-153 to allow colleges and universities including associated student residences, administrative uses, sports facilities, and other ancillary uses to the PBG-1 zoning district. Public notice consisted of newspaper advertisement.

APPLICATION BACKGROUND

The Zoning Code excerpt describing the PBG-1 zoning district is below.

Sec. 94-153. - PBG-1 public buildings and grounds district.

(a) Intent. The PBG-1 district includes public use and/or public service activities. Facilities within this district may be publicly or privately owned. The PBG-1 district should have easy access to a roadway classified as a collector or arterial facility.

(b) Permitted principal uses and structures. Permitted principal uses and structures in the PBG-1 district are as follows:

(1) Public buildings serving the city, county, state or federal government, museums, schools, hospitals, libraries and community centers.

(2) Churches, including rectories or similar uses.

(3) Nursing homes.

One of Staff's concerns lies with the omission of colleges from this category. The Zoning Code identifies "schools" and "colleges" as separate uses. Public schools are different than colleges in terms of functionality and character. To clear up any confusion, Staff believes it is prudent to add colleges and their ancillary uses to this zoning category, with the understanding that this is an appropriate addition to this zoning category due to its clear public identity. Staff recommends the addition of the text below:

"colleges and ancillary uses including student residences, administrative offices, and sports facilities."

Please note that there is a companion Future Land Use amendment which would specifically allow for the above use in the PB FLUM category.

APPLICATION ANALYSIS

Per Section 94-38 of the Zoning Code, the Planning Board must study and consider the proposed zoning amendment in relation to the following criteria (if applicable), which are shown in *italics* (staff response follows each criterion).

1) *When pertaining to the rezoning of land, the report and recommendations of the planning board to the city commission required by subsection (e) of this section shall show that the planning board has studied and considered the proposed change in relation to the following, where applicable:*

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

Staff Comment: The change does not conflict with the Comprehensive Plan and echoes the companion amendment adding the college use to the PB FLUM category.

b. The existing land use pattern.

Staff Comment: This change clarifies that existing college uses are allowed in the PBG-1 zoning district.

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

Staff Comment: Not applicable, as this is not a zoning map change.

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

Staff Comment: Not applicable.

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

Staff Comment: Not applicable as this is not a zoning map change.

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

Staff Comment: There are no changed conditions related to this amendment.

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

Staff Comment: No adverse impacts anticipated due to this amendment.

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

Staff Comment: Not applicable.

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

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

The above criteria are not applicable.

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

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

See response to g. above.

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

This change does not constitute a grant of special privilege, but adds a use that is appropriate for this zoning category.

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

Not applicable.

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

See response to g. above.

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

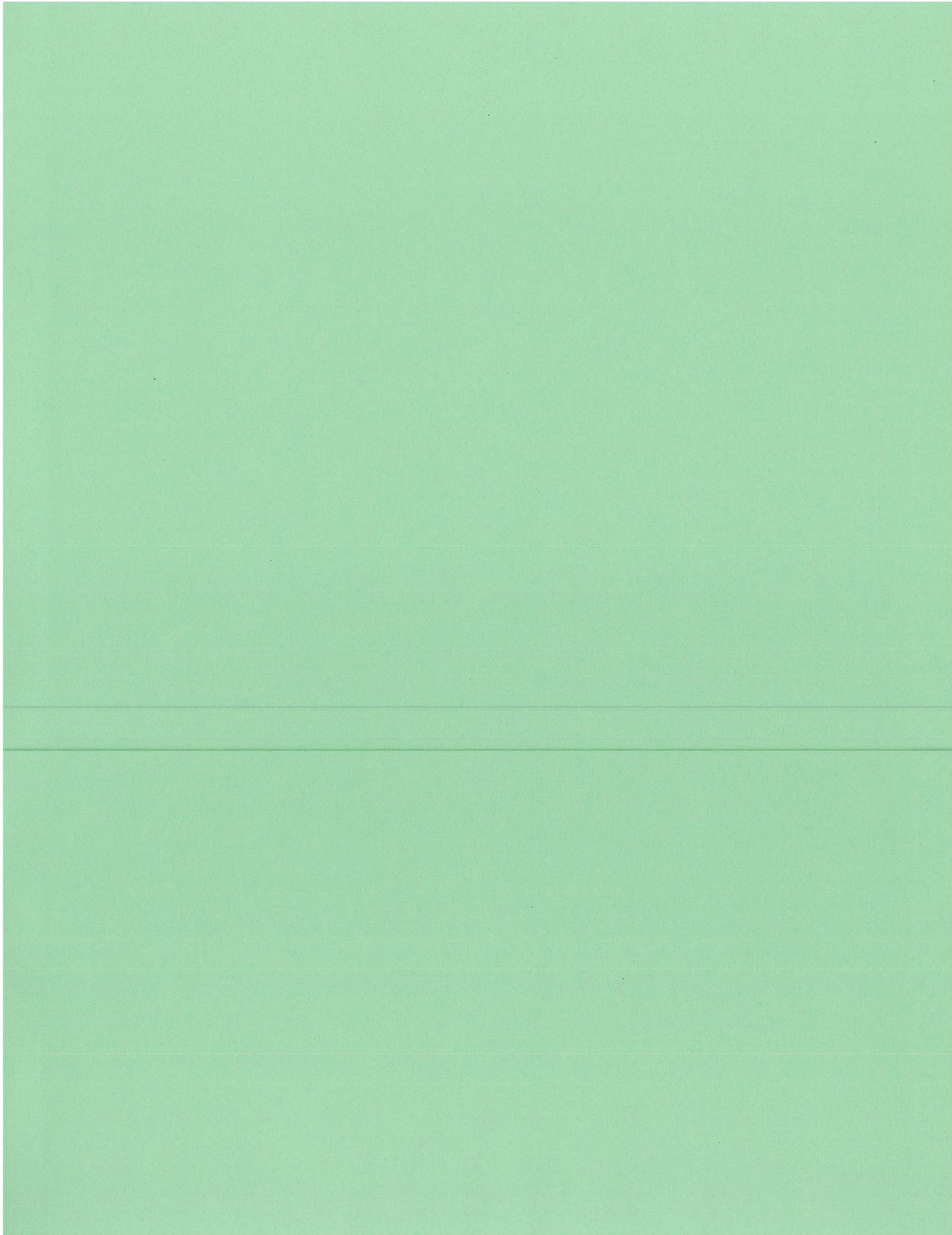
q. The recommendation of the historical review board for any change to the boundaries of an HD zoning district or any change to a district underlying an HD zoning district.

The above criteria are not applicable.

STAFF RECOMMENDATION

This proposed Zoning Code text amendment is in keeping with applicable criteria. Staff recommends adding the following use to the PBG-1 zoning category:

(4) colleges and ancillary uses including student residences, administrative offices, and sports facilities.



Case 12-08
Request to Amend Zoning Code Text
(Fence and Wall Permit)
Applicant: Building and Zoning Dept.

STAFF REPORT

DATE: January 31, 2012

TO: Planning Board Members

FROM: Thad Crowe, AICP, Planning Director

APPLICATION REQUEST

A request by the Historic Preservation Board to require a building permit for a fence. Public notice included legal advertisement.

APPLICATION BACKGROUND

At their December meeting the Historic Preservation Board requested that staff agenda the issue of fence permitting for their next meeting. Board members discussed the problems associated with the fact that the Zoning Code does not require a permit for a fence while providing specific standards for fences. The Historic Preservation Board at their January 5, 2012 meeting unanimously voted to recommend to the Planning Board and City Commission to require permits for the installation of fences and walls (while the Historic Preservation Board focused on fences, Staff believes that by extension walls should be included in this application since they are used for similar purposes). The following standards are applicable to fences and walls.

- Fences and walls in residentially-zoned areas are allowed along or adjacent to a lot line to a height not exceeding six feet (Sec. 94-187)
- Fences and walls constructed forward of the established front building line (front wall of house) shall not be over four feet in height (Sec. 94-187).
- No solid fence or wall shall be constructed forward of the established building line in front yards (Sec. 94-187).
- Six or eight-foot tall wood stockade fences or masonry walls may be in required buffers (Sec. 94-304).
- Fence and wall installation shall be "consistent with acceptable building practices" (Sec. 94-304).
- Fences and walls utilized in required buffers must be located along the property line (Sec. 94-306).
- Fences and walls utilized in required buffers must have the "best aesthetic surface" facing the adjoining property (Sec. 94-306).
- Fence and wall construction in historic districts is considered to be an alteration and thus requires a Certificate of Appropriateness (Sec. 54-72 and 54-78).
- Swimming pools must be surrounded by a fence, wall or other barrier that is minimum six feet in height (Sec. 94-189).
- Communications towers must be surrounded by a minimum six-foot high fence, not chain link in residential and commercial zoning districts, and any kind of security fence in other districts (Sec. 94-199).
- Junkyards require a fence or other screening (Sec. 30-64).
- Outdoor areas associated with on-premises consumption of alcohol (bars and restaurants) must be fenced to prevent the exchange of alcoholic beverages between those inside and outside of the area (Sec. 10-6).
- Outside adult theaters must be fenced (Sec. 3-102).

Staff surveyed 65 other Florida jurisdictions (see attached list) and found only one, the City of Ocala, that also does not require a building permit for a fence – however it should be noted that in this City permits are required for fences within local historic districts. Another jurisdiction, the City of Eustis, is considering dropping the permit requirement, noting that fences installed without permits are a good portion of code enforcement cases. Permit requirements for replacement fences vary between jurisdictions, with some requiring permits for any replacement fence and others only requiring permits when a certain threshold is exceeded – for example, more than three posts.

The premise of the Historic Preservation Board was that not requiring a permit led to the construction of fences that did not meet code requirements. Building and Zoning records show that in the last six years there have been 19 fencing violations, with most of those being cases regarding swimming pool fences and fences exceeding the four-foot height limitation in front yards. Corrective action by the cited property owners was required to meet code requirements.

Staff also requested the opinion of the Chief Building Official, who provided this response.

The Florida Building Code only references fencing requirements for swimming pools, temporary construction and as a Use and Occupancy classification under SEC 312, Utility and Miscellaneous Group U, Fences over 6' high. The National Electric Code requires fences or other enclosures with regards to protective barriers in electrical switching and power distribution assemblies over 600 volts. Our ordinances address fence height for pools which I would support lowering it to the state standard of 48." The historic guidelines address types of fencing. During my time here the only issue regarding fencing has been placement with regards to property lines which we treat as a "civil matter" and installing fencing higher than 48" beyond the front building line. SJRWMD requires fencing around Retention Ponds which have less than a 4 to 1 slope and more than 24" of retained water. My personal feeling is that we should be trying to reduce regulations and costs to the property owner. As far as I know, the fencing standards aren't broken. Presently the Historic Preservation Board has all the guidance they need to issue an appropriateness approval. Recommend disapproval.

PROJECT ANALYSIS

Per Section 94-38 of the Zoning Code, the Planning Board must study and consider the proposed zoning amendment in relation to the following criteria (if applicable), which are shown in *italics* (staff response follows each criterion).

1) When pertaining to the rezoning of land, the report and recommendations of the planning board to the city commission required by subsection (e) of this section shall show that the planning board has studied and considered the proposed change in relation to the following, where applicable:

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

The change does not conflict with the Comprehensive Plan.

b. The existing land use pattern.

Staff Comment: Not applicable to text changes.

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

Staff Comment: The change does not pertain to land uses.

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

Staff Comment: The proposed change would not overtax public facilities.

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

Staff Comment: Not applicable as this is not a zoning map change.

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

Staff Comment: The economic downturn has affected many residents financially, and staff believes that this effort could save property owners the unneeded cost of correcting a fence violation.

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

Staff Comment: The change would assist in better directing property owners to properly design and construct fences, which could improve neighborhood living conditions.

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

Staff Comment: Not applicable.

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

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

The above criteria are not applicable.

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

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

See response to g. above.

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

This change 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.

Not applicable.

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

This pertains to the comment made by the Chief Building Official – it is true that requiring a permit will result in more workload for City staff and a minimal burden on property owners, and the Board must determine if these factors are offset by the benefits of the change as described in f. and g. above.

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

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.

The above criteria are not applicable.

STAFF RECOMMENDATION

Staff recommends the following revised Zoning Code text.

Sec. 94-187. - ~~Setbacks for~~ Utility poles, fences and walls.

(a) Utility poles as required by public utility companies shall not be required to meet the setback requirements for structures.

(b) On residentially zoned property, fences and walls used as fences may be erected or maintained along or adjacent to a lot line to a height not exceeding six feet. Any fence constructed forward of the established front building line shall not be over four feet in height. However, no solid fence or wall shall be constructed forward of the established building line in front yards.

(c) Fences shall require a building permit to ensure proper design, construction, and placement.

ATTACHMENT: LIST OF FLORIDA JURISDICTIONS AND FENCE PERMIT REQUIREMENT

SURVEY OF COMPARABLE FLORIDA JURISDICTIONS REGARDING FENCE PERMIT REQUIREMENT

City	Permit Required?		City	Permit Required?
Ocala	N		Orange City	Y
Altamonte Springs	Y		Orange Park	Y
Apopka	Y		Ormond Beach	Y
Arcadia	Y		Oveido	Y
Atlantic Beach	Y		Palmetto	Y
Auburndale	Y		Palmetto Bay	Y
Avon Park	Y		Pinellas Park	Y
Bartow	Y		Plantation	Y
Belleair Bluffs	Y		Port Orange	Y
Bellevue	Y		Rivera Beach	Y
Boca Raton	Y		Rockledge	Y
Bradenton	Y		Sanford	Y
Brooksville	Y		Sebastian	Y
Cape Canaveral	Y		South Miami	Y
Casselberry	Y		Tarpon Springs	Y
Clermont	Y		Tavares	Y
Cocoa	Y		Titusville	Y
Cocoa Beach	Y		Wellington	Y
Crystal River	Y		West Miami	Y
Dania Beach	Y		Winter Springs	Y
Daytona Beach	Y			
Deland	Y			
Deltona	Y			
Doral	Y			
Dunedin	Y			
Eustis	Y			
Fernandina Beach	Y			
Flagler Beach	Y			
Ft. Myers	Y			
Ft. Pierce	Y			
Hallandale Beach	Y			
Homestead	Y			
Jupiter	Y			
Lake Park	Y			
Lake Wales	Y			
Macclenny	Y			
Maitland	Y			
Malabar	Y			
Melbourne	Y			
Miami Gardens	Y			
Montverde	Y			
Mt. Dora	Y			
Naples	Y			
New Port Richey	Y			
New Smyrna Beach	Y			
North Miami	Y			