VERNON MYERS
MAYOR - COMMISSIONER

MARY LAWSON BROWN
VICE MAYOR - COMMISSIONER

LLEGRA KITCHENS
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JAMES NORWOOD, JR.
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CITY OF PALATKA
FLORIDA

Regular meeting 2nd and 4th Thursdays each month at 6:00 p.m.

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AGENDA
CITY OF PALATKA
February 23, 2012

CALL TO ORDER:
a. Invocation – The Reverend Kirby Kennedy, Pastor; First Baptist Church of Palatka
b. Pledge of Allegiance
c. Roll Call

APPROVAL OF MINUTES – 1/26/12 Workshop meeting; 2/9/12 Regular meeting

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   a. **PROCLAMATION:** Azalea Days – March 2 – 4, 2012 – Sam Deputy, Azalea Festival Chairman
   b. **BLACK HISTORY AND HERITAGE RECOGNITION**
   c. **POLICE DEPARTMENT PROMOTION** – Ofc. Chaz Kofler Promoted to Corporal
   d. **EMPLOYEE RECOGITION – Service Above Self:** Brandon Richardson, Russell Cox, Patrick D'Angelo, David Masteller and Aaron Kerwin, Utilities Dept. Employees
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3. **CONSENT AGENDA (Continued)**
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WHEREAS, on March 22, 1936, the Palatka Floral Committee held a local flower and plant show at the Ravine Gardens, which they named "The Azalea Festival" at the suggestion of Miss Susie Walton, a member of the Committee. Also on March 22, 1936, thousands of Shriners from all over the Southeastern United States participated in the first annual "All Florida Shrine Day" also held at the Palatka Ravine Gardens. This event as such a huge success, it returned to the Ravine Gardens the following year, and was held in conjunction with the Junior Chamber of Commerce's "Jaycees Day" and Southeastern Conference, also held at the Ravine Gardens; and

WHEREAS, in 1938, the Jaycees changed the name of their event to The Azalea Festival, again held at the Gardens in conjunction with "All Florida Shrine Day." The event included a beauty pageant, and on February 20, 1938, Miss Geraldine Meyer of St. Petersburg was chosen from a field of 10 contestants and crowned as the first Azalea Queen; and

WHEREAS, throughout the years, Fifty-Eight women have been crowned Azalea Queen or Miss Azalea, as the title was come to be known. The pageant has seen two of its queens crowned as Miss Florida, and one, Miss Tara Dawn Holland, was also crowned as Miss America in 1997; and

WHEREAS, throughout the years, the Jaycees Azalea Festival, always held in early March in conjunction with Shrine Day and the Azalea Queen pageant, grew and changed, and was held annually except for 3 years during WWII, and 6 years during the 1950's, until the Palatka Jaycees was disbanded, after the 1996 Azalea Festival. Throughout the years, many events were added, such as a parade, ski shows, the Azalea Ball, a golf tournament, a baseball tournament, a bass tournament, fireworks, a juried art show and sale, and boat races and regatta; and

WHEREAS, In 1997, the Putnam County Scholarship Foundation took over sponsorship of the Festival, and kept the tradition of the festival through the 2003 festival season, and in 2005 the Palatka Main Street Board of Directors trademarked the name and organized the 59th Palatka Azalea Festival. The 2011 Palatka Azalea Festival, organized by Downtown Palatka Inc., marks the 66th Festival held, which makes it one of the oldest Festivals in Florida.

NOW, THEREFORE, I, Vernon Myers, together with the members of the Palatka City Commission, do hereby proclaim March 2 through March 4, 2011 as

66th ANNUAL FLORIDA AZALEA FESTIVAL DAYS

in the City of Palatka, and urge all citizens to take part in the planned events, fun and festivities of this, one of Florida's oldest and most time-honored festivals, and to thank its organizers, both past and present, for their hard work and contribution to our community's history and heritage.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of the City of Palatka, Florida on this 23rd day of February, in the Year of Our Lord Two Thousand Twelve.

Commissioners:
Mary Lawson Brown
Allegra Kitchens
Phil Leary
James Norwood, Jr.

PALATKA CITY COMMISSION

_____

By: Vernon Myers, MAYOR

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Name of Individual, Organization or Group making presentation or request:

Chief Gary Getchell / Palatka Police Department

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Address: Palatka Police Department

Daytime Phone 329-0115 Home ph._____ Fax_____

Requested meeting date for Agenda Item: February 23, 2012

_Request for Commission Action or __X__ Presentation Only; no action required

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Agenda Item

3a

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15. **ADJOURN**

*Attachment **Separate Cover

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE CITY COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE MAY NEED TO INSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. FS 286.105

PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT 329-0100 AT LEAST 24 HOURS IN ADVANCE TO REQUEST ACCOMMODATIONS.

Upcoming Events:

March, 2012 – Women's History Month
March 3 & 4, 2012 – Florida Azalea Festival
March 15 – 18, 2012 – BASS Elite Series Tournament
March 22, 2012 – City Commission Workshop, 4:00 p.m.
April 21, 2012 – MOD March for Babies
May 25 – 28, 2012 – Blue Crab Festival
May 28, 2012 – City Offices closed to observe Memorial Day

Board Openings:

Tree Committee	1 Vacancy
Historic Preservation Board:	1 alternate
Code Enforcement Board:	2 Vacancies (Architect. & Alt.)

WHEREAS, on March 22, 1936, the Palatka Floral Committee held a local flower and plant show at the Ravine Gardens, which they named "The Azalea Festival" at the suggestion of Miss Susie Walton, a member of the Committee. Also on March 22, 1936, thousands of Shriners from all over the Southeastern United States participated in the first annual "All Florida Shrine Day" also held at the Palatka Ravine Gardens. This event as such a huge success, it returned to the Ravine Gardens the following year, and was held in conjunction with the Junior Chamber of Commerce's "Jaycees Day" and Southeastern Conference, also held at the Ravine Gardens; and

WHEREAS, in 1938, the Jaycees changed the name of their event to The Azalea Festival, again held at the Gardens in conjunction with "All Florida Shrine Day." The event included a beauty pageant, and on February 20, 1938, Miss Geraldine Meyer of St. Petersburg was chosen from a field of 10 contestants and crowned as the first Azalea Queen; and

WHEREAS, throughout the years, Fifty-Eight women have been crowned Azalea Queen or Miss Azalea, as the title was come to be known. The pageant has seen two of its queens crowned as Miss Florida, and one, Miss Tara Dawn Holland, was also crowned as Miss America in 1997; and

WHEREAS, throughout the years, the Jaycees Azalea Festival, always held in early March in conjunction with Shrine Day and the Azalea Queen pageant, grew and changed, and was held annually except for 3 years during WWII, and 6 years during the 1950's, until the Palatka Jaycees was disbanded, after the 1996 Azalea Festival. Throughout the years, many events were added, such as a parade, ski shows, the Azalea Ball, a golf tournament, a baseball tournament, a bass tournament, fireworks, a juried art show and sale, and boat races and regatta; and

WHEREAS, In 1997, the Putnam County Scholarship Foundation took over sponsorship of the Festival, and kept the tradition of the festival through the 2003 festival season, and in 2005 the Palatka Main Street Board of Directors trademarked the name and organized the 59th Palatka Azalea Festival. The 2011 Palatka Azalea Festival, organized by Downtown Palatka Inc., marks the 66th Festival held, which makes it one of the oldest Festivals in Florida.

NOW, THEREFORE, I, Vernon Myers, together with the members of the Palatka City Commission, do hereby proclaim March 2 through March 4, 2011 as

66th ANNUAL FLORIDA AZALEA FESTIVAL DAYS

in the City of Palatka, and urge all citizens to take part in the planned events, fun and festivities of this, one of Florida's oldest and most time-honored festivals, and to thank its organizers, both past and present, for their hard work and contribution to our community's history and heritage.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of the City of Palatka, Florida on this 23rd day of February, in the Year of Our Lord Two Thousand Twelve.

Commissioners:
Mary Lawson Brown
Allegra Kitchens
Phil Leary
James Norwood, Jr.

PALATKA CITY COMMISSION

_____

By: Vernon Myers, MAYOR

REQUEST TO BE PLACED ON CITY COMMISSION AGENDA

NOTE: Regular City Commission meetings are held on the 2nd and 4th Thursdays of the month at 6:00 p.m. This request form, together with any attachments or backup material that that would help the Commission to better consider your request, should be submitted to the City Clerk's office ***no later than 5:00 p.m. on the Wednesday, a week prior to the next regularly scheduled Thursday City Commission meeting.*** Meeting dates are subject to change. Please verify the closing date for agenda items with the Clerk's office.

Name of Individual, Organization or Group making presentation or request:

Chief Gary Getchell / Palatka Police Department

Name of Individual making presentation or request, if different:

Chief Gary Getchell

Address: Palatka Police Department

Daytime Phone 329-0115 Home ph._____ Fax_____

Requested meeting date for Agenda Item: February 23, 2012

_Request for Commission Action or __X__ Presentation Only; no action required

Subject Matter you wish to address:

Recognition of Ofc. Chaz Kofler's promotion to Corporal

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE CITY COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE MAY NEED TO INSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. FS 286.105

PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT 329-0100 AT LEAST 24 HOURS IN ADVANCE TO REQUEST ACCOMMODATIONS.

Agenda Item

3a

201 N. 2nd Street
Palatka, FL 32177
Tel. (386) 329-0100
Fax (386) 329-0199

City of Palatka

Office of the City Manager

To: **Mayor Myers, Commissioners**

From: Woody Boynton, City Manager

Date: February 16, 2012

RE: Runway 9-27 Pavement Rehabilitation – Change Order No. 1

Attached for your review is a copy of change order #1 for the Runway 9-27 Pavement Rehabilitation project. This change order reflects new work proposed for the reconstruction of the airport entrance road, reconstruction of the east access road, landscaping and electrical upgrades associated with the airport entrance road. We concur with the recommendation of the engineer and recommend approval of change order no. 1.

All work associated with this project will be reimbursed to the City at 100% by the Florida Department of Transportation. We have chosen to issue a change order to the contractor currently working on the runway 9-27 project in lieu of bidding because of the similarity in projects, minimal percentage increase over cost of existing work on 9-27 (7.8%) and the above average performance of the on-site contractor (Halifax Paving). In fact the cost of this project is significantly below the engineer's estimate and we may be able to reapportion the savings into other existing or proposed projects. We were already able to include the east access road reconstruction in the project due to the cost savings associated with having the contractor onsite complete the work.

Should you have any questions, please call.

Change Order No. 1
Original Contract: FAA AIP No. 3-12-0061-021-2011 / FDOT FIN 425171-4-94-11
January 30, 2012

Note: Change Order 1 for FDOT Funding Only (FIN 429097-1-94-12)

CONTRACTOR:
Halifax Paving, Inc.
P.O. Box 730549
Ormond Beach, FL 32173

CONTRACT FOR:
City of Palatka - Palatka Municipal Airport
Runway 9-27 Pavement Rehabilitation

CONTRACT DATE:	September 26, 2011	CONTRACT DURATION:	120 Days
NOTICE TO PROCEED:	October 6, 2011	COMPLETION DATE:	February 5, 2012

You are hereby authorized and directed to make the following change(s) in this Contract:

Change Order No. 1 covers the following changes:

Entrance Road Rehabilitation	**$132,301.25**
East Access Road Extension	**$28,060.00**
Associated Allowances	**$86,500.00**
TOTAL	**$246,861.25**

Original Contract Sum	**$3,170,127.49**
Change Order Number 1	**$246,861.25**
New Contract Sum Including This Change Order	**$3,416,988.74**
Change in Contract Time For Change	60 Days

Signature of the Contractor indicates agreement with the terms of this Change Order, including any adjustments in the Contract Sum and/or Contract time. Adjusted cost and time include all direct, indirect and impact costs and time delays, disruptions, inefficiency, acceleration and all other claims. Sub-contractors to be paid in full upon satisfactory and accepted completion of work. Allowances to be paid after submission, review, and acceptance (by Engineer) of proper documentation.

RECOMMENDED BY:
Passero Associates, LLC

_____ Program Manager
By: Andrew Holesko Date

AGREED TO:
Halifax Paving, Inc.

By: Date Title

OWNER AUTHORIZATION BY:
City of Palatka

_____ City Manager
By: Woody Boynton Date

FDOT AUTHORIZATION BY:
FDOT District 2 Aviation

_____ Ports & Aviation Specialist
By: Gene Lampp Date

Proposal of

Halifax Paving, Inc.

P.O. Box 730549 Ormond Beach, Fl 32173
Phone 386-676-0200 Fax 386-676-0803
E-mail; halifaxpaving@cfl.rr.com

DATE: 1/31/2012 TIME: 9:55 AM

TO: Passero & Associates

ATTN: Andrew Holesko
PHONE: FAX:

JOB NAME: Palatka Airport LOCATED AT:

PLANS BY: DATE OF PLANS:

****UNIT PRICES WILL BE HONORED FOR 30 DAYS FROM THE DATE OF THIS PROPOSAL. MARKET INCREASES MAY APPLY THEREAFTER.****

BID ITEM	QUANTITY	UNIT		UNIT PRICE		TOTAL
ENTRANCE ROAD						
Demolition	1	LS	$	7,500.00	$	7,500.00
Grading	1	LS	$	8,500.00	$	8,500.00
Asphalt 2" SP-9.5	5115	SY	$	10.50	$	53,707.50
Rework Existing Base	5035	SY	$	3.50	$	17,622.50
12" Limerock Base	80	SY	$	22.00	$	1,760.00
Striping & Signs	1	LS	$	3,700.00	$	3,700.00
Wheel Stops With Drainage Slots	47	EA	$	40.00	$	1,880.00
4" Sidewalk	1255	SF	$	2.75	$	3,451.25
Staking & As-Builts	1	LS	$	3,750.00	$	3,750.00
2" PVC Conduit	765	LS	$	7.00	$	5,355.00
Type 'D' Curb	210	LF	$	8.50	$	1,785.00
ADA Ramps	3	EA	$	500.00	$	1,500.00
Electrical Junction Box	1	LS	$	325.00	$	325.00
Sewer-4" PVC	35	LF	$	45.00	$	1,575.00
Sewer-10" PVC	135	LF	$	70.00	$	9,450.00
Water 1 1/2" PVC	210	LF	$	14.00	$	2,940.00
Building B-2 Landside Demolition	1	LS	$	3,000.00	$	3,000.00
Erosion Control	1	LS	$	2,500.00	$	2,500.00
Sod-Bahia	1000	SY	$	2.00	$	2,000.00

We propose to execute the above scope of work for the sum of: $ 132,301.25

EXCLUSIONS:

WE PROPOSE TO PERFORM ONLY THE WORK EXPLICITLY DESCRIBED ABOVE
ANY ITEM OF WORK WHICH IS NOT EXPLICITLY DESCRIBED ABOVE IS NOT INCLUDED IN THIS PROPOSAL
THIS ITEMIZED PROPOSAL SHALL BECOME A BINDING ADDENDUM TO ANY CONTRACT DERIVED FROM THIS PROPOSAL.
Permit Applications, Permit Fees, Impact Fees, or Other Fees of any kind are NOT INCLUDED in this Proposal
This Proposal may be withdrawn by us if not accepted within 30 days.
All work is guaranteed to be as specified.
All work is to be completed in a workmanlike manner according to standard construction practices.
Any alteration or deviation from the above scope of work, will be executed only upon written orders
Any alteration or deviation from the above scope of work, involving extra costs, will become an extra charge over and above this Proposal
Owner to carry Fire, Tornado, Hurricane and other necessary insurance.
Our Workers are fully covered by Workman's Compensation Insurance.

Acceptance of Proposal –
The above scope of work, specifications, conditions, and prices are satisfactory and are hereby accepted.
Halifax Paving is authorized to do the work as specified. Payment will be made as outlined above

Authorized Signature _____ Date of Acceptance _____

Authorized Signature _____ Date of Acceptance _____

Proposal of

Halifax Paving, Inc.

P.O. Box 730549 Ormond Beach, Fl 32173
Phone 386-676-0200 Fax 386-676-0803
E-mail; halifaxpaving@cfl.rr.com

DATE: 1/31/2012 TIME: 9:59 AM

TO: Passero & Associates

ATTN: Andrew Holesko
PHONE: FAX:

JOB NAME: Access Road Extension-East Section LOCATED AT:

PLANS BY: DATE OF PLANS:

****UNIT PRICES WILL BE HONORED FOR 30 DAYS FROM THE DATE OF THIS PROPOSAL. MARKET INCREASES MAY APPLY THEREAFTER.****

BID ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL
EAST ACCESS ROAD EXTENSION				
Asphalt 1 1/2" SP-9.5	3420	SY	$ 8.00	$ 27,360.00
Striping	1	LS	$ 300.00	$ 300.00
Wheel Stops With Drainage Slots	10	EA	$ 40.00	$ 400.00

We propose to execute the above scope of work for the sum of: $ 28,060.00

EXCLUSIONS:

WE PROPOSE TO PERFORM ONLY THE WORK EXPLICITLY DESCRIBED ABOVE
ANY ITEM OF WORK WHICH IS NOT EXPLICITLY DESCRIBED ABOVE IS NOT INCLUDED IN THIS PROPOSAL
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This Proposal may be withdrawn by us if not accepted within 30 days
All work is guaranteed to be as specified
All work is to be completed in a workmanlike manner according to standard construction practices
Any alteration or deviation from the above scope of work, will be executed only upon written orders.
Any alteration or deviation from the above scope of work, involving extra costs, will become an extra charge over and above this Proposal.
Owner to carry Fire, Tornado, Hurricane and other necessary insurance.
Our Workers are fully covered by Workmen's Compensation Insurance.

Acceptance of Proposal –
The above scope of work, specifications, conditions, and prices are satisfactory and are hereby accepted
Halifax Paving is authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature _____ Date of Acceptance _____

Authorized Signature _____ Date of Acceptance _____

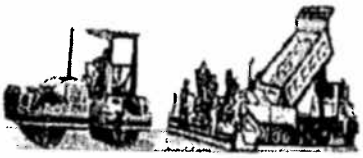
Proposal of

Halifax Paving, Inc.

P.O. Box 730549 Ormond Beach, Fl 32173
Phone 386-676-0200 Fax 386-676-0803
E-mail: halifaxpaving@cfl.rr.com

DATE: 1/31/2012 TIME: 9:59 AM

TO: Passero & Associates



ATTN: Andrew Holesko
PHONE: FAX:

JOB NAME: Palatka Airport LOCATED AT:

PLANS BY: DATE OF PLANS:

****UNIT PRICES WILL BE HONORED FOR 30 DAYS FROM THE DATE OF THIS PROPOSAL. MARKET INCREASES MAY APPLY THEREAFTER.****

BID ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL
ENTRANCE ROAD				
Signage (Allowance)	1	LS	$ 20,000.00	$ 20,000.00
Landscaping (Allowance)	1	LS	$ 20,000.00	$ 20,000.00
Lighting & Electrical (Allowance)	1	LS	$ 30,000.00	$ 30,000.00
FPL (Allowance)	1	LS	$ 15,000.00	$ 15,000.00
Mailboxes (Allowance)	1	LS	$ 1,500.00	$ 1,500.00

We propose to execute the above scope of work for the sum of: $ 86,500.00

EXCLUSIONS:

WE PROPOSE TO PERFORM ONLY THE WORK EXPLICITLY DESCRIBED ABOVE
ANY ITEM OF WORK WHICH IS NOT EXPLICITLY DESCRIBED ABOVE IS NOT INCLUDED IN THIS PROPOSAL
THIS ITEMIZED PROPOSAL SHALL BECOME A BINDING ADDENDUM TO ANY CONTRACT DERIVED FROM THIS PROPOSAL
Permit Applications, Permit Fees, Impact Fees, or Other Fees of any kind are NOT INCLUDED in this Proposal
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Owner to carry Fire, Tornado, Hurricane and other necessary insurance
Our Workers are fully covered by Workmen's Compensation Insurance

Acceptance of Proposal --
The above scope of work, specifications, conditions, and prices are satisfactory and are hereby accepted.
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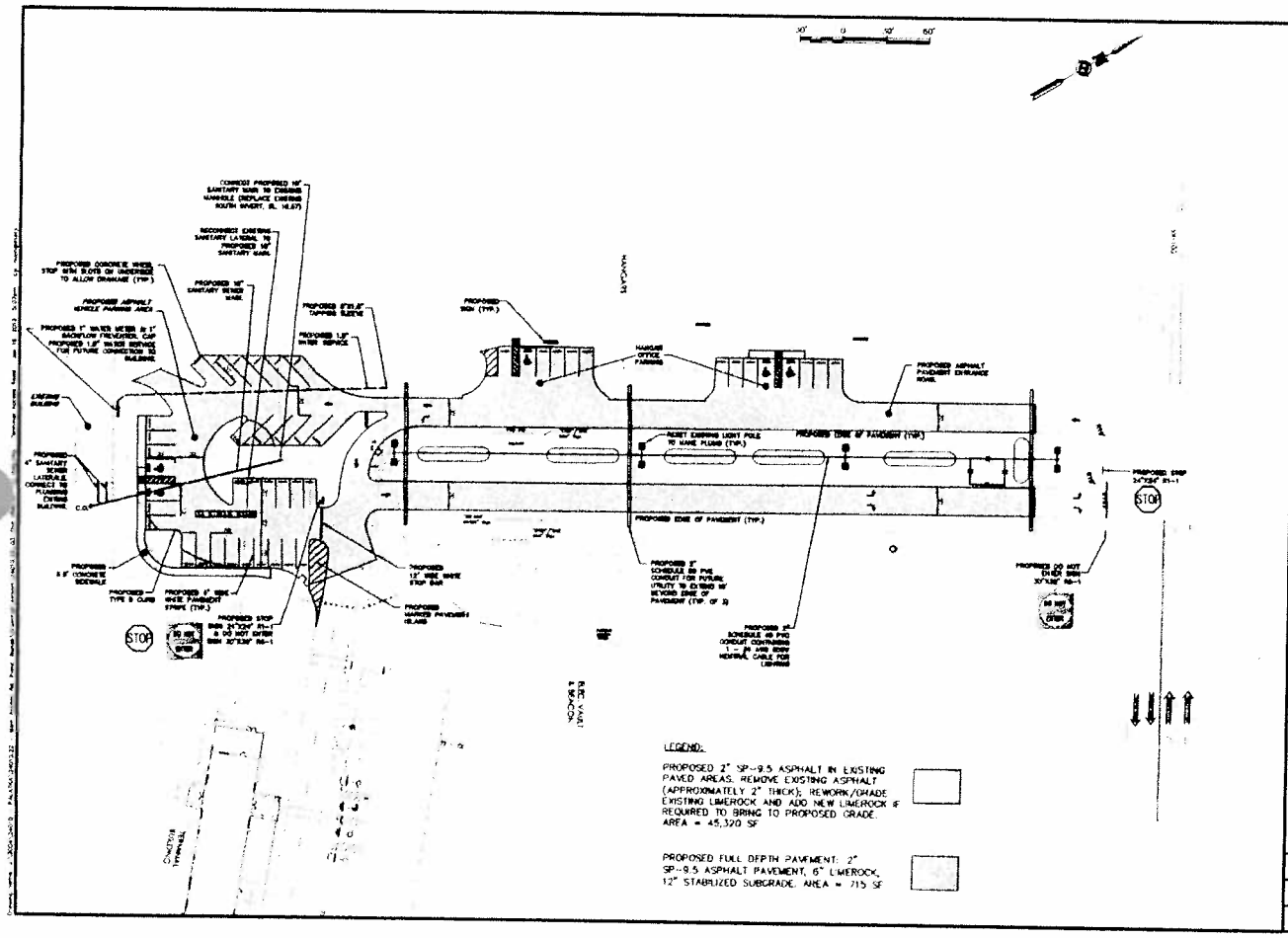
Authorized Signature _____ Date of Acceptance _____

Authorized Signature _____ Date of Acceptance _____



Passero Associates

City of Palatka
201 N. 2nd Street
Palatka, Florida, 32177

Passero Associates

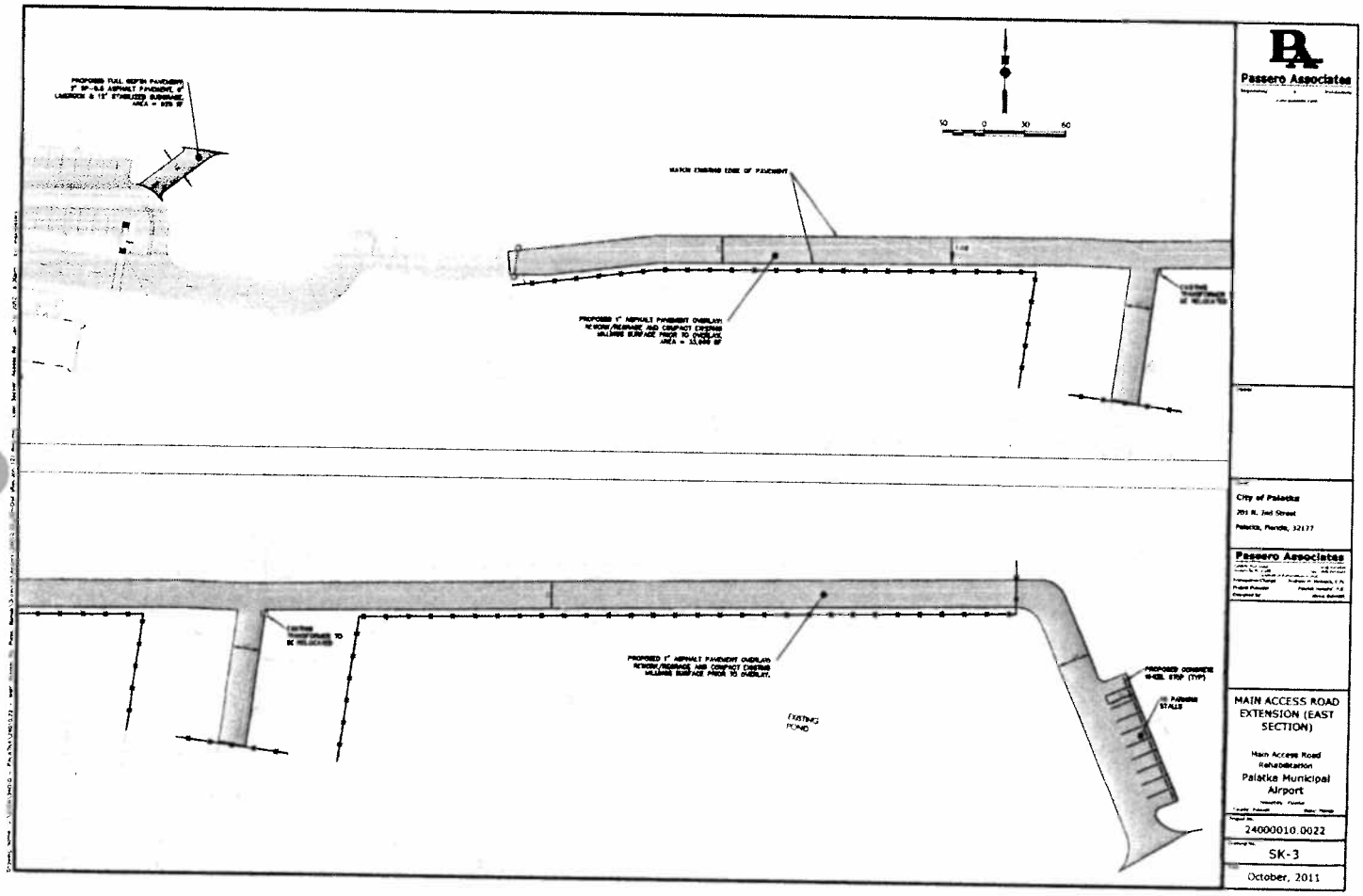
ENTRANCE ROAD SITE PLAN

Main Access Road Rehabilitation
Palatka Municipal Airport

24000010.0022

SK-1

October, 2011



Passero Associates
City of Palatka
201 N. 2nd Street
Palatka, Florida, 32177
Passero Associates
MAIN ACCESS ROAD EXTENSION (EAST SECTION)
Main Access Road Rehabilitation
Palatka Municipal Airport
24000010.0022
SK-3
October, 2011
EXISTING POND

Agenda Item

3b

201 N. 2nd Street
Palatka, FL 32177
Tel. (386) 329-0100
Fax (386) 329-0199

City of Palatka

Office of the City Manager

To: **Mayor Myers, Commissioners**

From: Woody Boynton, City Manager

Date: February 16, 2012

RE: 2010 Energy Conservation Project – HVAC Upgrade – Change Order #2

Attached for your review is a copy of change order #2 for the 2010 Energy Conservation Project Energy Efficiency Upgrades to Six Different City Buildings. This change order reflects various changes in the scope of work associated with the installation of new HVAC units at City Hall. The cost associated with each work item is appropriate. We concur with the recommendation of the engineer and recommend approval of change order no. 2.

The cost increase will be funded by the City as we have currently maxed out the grant award. The money will be appropriated from the General Fund. This work is necessary for the proper installation of the HVAC system at City Hall.

Should you have any questions, please call.

AIA® Document G701™ – 2001

Change Order

PROJECT *(Name and address)*:
City of Palatka 2010 Energy Conservation Project
Energy Efficiency Upgrades to Six Different City Buildings:
- Palatka City Hall
- Bronson-Mulholland House
- Larimer Arts Center
- Palatka Police Department
- Palatka Fire Dept Main Station
- Palatka Fire Dept Kay Larkin

CHANGE ORDER NUMBER: 002
DATE: 14 February 2012

OWNER: ☐
ARCHITECT: ☐
CONTRACTOR: ☐
FIELD: ☐
OTHER: ☐

TO CONTRACTOR *(Name and address)*:
F & G Construction General Contractors, Inc.
2734 Edison Avenue
Jacksonville, FL 32254

ARCHITECT'S PROJECT NUMBER: 1102
CONTRACT DATE: 02 September 2011
CONTRACT FOR: General Construction

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

See Attached Breakdown for Change Proposal Request Numbers 10, 11, and 12 (pages 2-3)

The original Contract Sum was	$	302,200.00
The net change by previously authorized Change Orders	$	9,295.70
The Contract Sum prior to this Change Order was	$	311,495.70
The Contract Sum will be increased by this Change Order in the amount of	$	10,279.88
The new Contract Sum including this Change Order will be	$	321,775.58

The Contract Time will be unchanged by Zero (0) days.
The date of Substantial Completion as of the date of this Change Order therefore is 1 March 2012

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Robert E. Taylor, A. I. A., Architect, P. A.	F & G Construction General Contractors, Inc.	City of Palatka
ARCHITECT *(Firm name)*	**CONTRACTOR** *(Firm name)*	**OWNER** *(Firm name)*
P.O. Box 267, Palatka, Florida 32178	2734 Edison Avenue, Jacksonville, FL 32254	201 North Second Street, Palatka, FL 32177
ADDRESS	**ADDRESS**	**ADDRESS**
BY *(Signature)*	**BY** *(Signature)*	**BY** *(Signature)*
Mr. Robert E. Taylor, A. I. A.	Ms. Amy Austin	Mr. E.C. 'Woody' Boynton, Jr.
(Typed name)	*(Typed name)*	*(Typed name)*
14 FEB '12	2/14/12	
DATE	**DATE**	**DATE**

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CHANGE ORDER NO. 2

CPR No. 10 Building 1, City Hall - Sump Pumps and conduit relocation
This Change Proposal Request was formerly known as Change Proposal Request no. 9

Description: Mr. Baker informed that Artic Air had anticipated the difficulty of providing adequate gravity drainage for AHU's No. 1 & 2 in the Storage Room they had included condensate pumps for those Units. The Architect's office did not include power to these units because they did not know condensate pumps would be required. Mr. Baker will submit a change proposal for the additional circuits, breakers and wiring. A conduit was discovered above the ceiling where new ductwork was scheduled to go. It was decided it would be easier to reroute the conduit than reroute the ductwork.

Cost: 2 Feb 12 - F & G Construction submitted a proposal citing material and labor costs, overhead and profit of $933.86.

Action: 3 Feb 12 - Mr. Woody Boynton approved the Change.

CPR No. 11 Building 1, City Hall - Roof Repairs

Description: 7 Feb 12 - Met with Chad Covert, Supt. and Ben Liebtag of Lewis Walker Roofing to review some conditions on the City Hall roof. I noted:
An area about 10' x 16' between the Main Building and the Annex (where Matt Reynolds office is) has a concrete roof structure, rather than wood and wood decking. Our office had no way of knowing this area was concrete, so it was not delineated as concrete on the documents. When the contractor tore off old roofing membranes, he discovered the concrete deck. It will require slightly different preparation and recover procedures as follows:

- Clean and prepare the old concrete deck to remove roofing materials and adhesives as much as possible.
- Install and spread asphalt adhesive to the deck and lay in the tapered insulation (Slope to drain.)
- Install and spread asphalt adhesive to the tapered insulation and install dens deck.
- Place base sheets and roofing membranes to protect roof and insulation.
- Mr. Liebtag estimated it would take about 10 to 12 man-hours for labor and about $700.00 for materials and adhesive, approximately $1,500.00 to repair.

Cost: 8 Feb 12 - F & G Construction submitted a proposal citing material and labor costs, overhead and profit of $1,590.00.

Action: 10 Feb 12 - Mr. Woody Boynton approved the Change.

CHANGE ORDER NO. 2

Project:	**City of Palatka 2010 Energy Conservation Project**	**Project No. 1102**
Architect:	**Robert E. Taylor, A. I. A., Architect, P. A.**	
Modified:	**14 February 2012**	
Contractor:	**F & G Construction General Contractors, Inc.**	**Page 3 of 3**

CPR No. 12 Building 1, City Hall - Duct Repairs and Pitch Pans.

Description: 7 Feb 12 - Met with Chad Covert, Supt. and Mr. Will Baker of Artic Air to review some conditions on the City Hall roof. I noted:
Mr. Will Baker of Artic Air informed when they were removing a section of ductwork from the roof it came apart. I was shown the ductwork and noted the bottom was rotten and will have to be replaced. I asked Mr. Baker to get a price from Michael Curtis. He said he was already working on this.

- To properly support the ductwork by using metal support frames (like specified for equipment) we estimated it would require eight pitch pans to properly seal around support legs.
- Supt. Covert to get a price on the additional pitch pans as well.

Cost: 8 Feb 12 - F & G Construction submitted a proposal citing material and labor costs, overhead and profit of $7,756.02.

Action: 10 Feb 12 - Mr. Woody Boynton approved the Change.

TOTAL INCREASE IN CONTRACT SUM $10,279.88

TOTAL INCREASE IN CONTRACT TIME . . . . . NONE

Agenda Item

3c

201 N. 2nd Street
Palatka, FL 32177
Tel. (386) 329-0100
Fax (386) 329-0199

City of Palatka

Office of the City Manager

To: **Mayor Myers, Commissioners**

From: Woody Boynton, City Manager

Date: February 16, 2012

RE: Noise Variance – Steamboat Willies

Attached is the written request by John Lyon to request a noise variance for the specific dates mentioned in his letter. I have reviewed his request and have verbally spoken to James Griffith, Assistant Police Chief and to his knowledge he does know of any reasons to deny the request. I know we have worked with the owner (John Lyon) to minimize issues in the past and that he has been forthcoming in his efforts to minimize these issues.

As for this request, it is my opinion that Mr. Lyon has shown in the past, that he attempts to operate within the rules and ordinances set forth by this City. I support the noise variance request.

Steamboat Willies
309 St Johns Ave
Palatka, FL. 32177

Woody Boyton
201 N. 1st St.
Palatka, FL. 32177

February 8, 2012

Mr. Boyton,

I am requesting to be placed on the consent agenda of February 23, 2012 City Commission meeting to request a noise variance for Steamboat Willies. We have live entertainment playing on the following dates for the month of December:

March 3, 2012
March 10, 2012
March 16, 2012

We are requesting a variance for the times starting at 10:00pm of the listed date into the next morning at 1:00am.

I appreciate your help as well as the consideration of the City Commission on supporting the events we have had in the past and the events in the future.

Best Wishes,

John Lyon
Owner

Agenda Item

3d

CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: 1105 North 18th Street code enforcement fine Reduction recommendation from CEB

DEPARTMENT: Building & Zoning

AGENDA SECTION: Consent agenda

ATTACHMENT:

1. December 7, 2011 CEB minutes
2. Receipt of Payment
3. Finding of Fact, Conclusions of Law, and Order

DATE: February 7, 2012

SUMMARY HIGHLIGHTS:

On December 7, 2011 the Code Enforcement Board voted to recommend to waive the fine and assess costs of prosecution. Mr. Gallagher has already paid the cost of prosecution in the amount of $216.18. The property is in compliance at this time.

RECOMMENDED ACTION:

Approval of the Code Enforcement Board's recommendation to waive the fine.

AGENDA ITEM NUMBER:

AGENDA PAGE NUMBER:

Meeting called to order at 4:01 p.m. by Chairperson LaSandra Williams. **Members present**: Pat Wilson, Alex Sharp, Michael Gagnon and Robert Baumer. **Members absent:** Leroy Miles and John Lyon. **Also present:** Code Enforcement Officer and Recording Secretary Elizabeth Hearn; City Attorney Donald Holmes and Planning Director Thad Crowe.

Motion made by Pat Wilson and seconded by Michael Gagnon to accept the minutes of the October 26, 2011 meeting as written. All voting members were in favor. Motion carried.

LaSandra Williams read "To Appeal Any Decision" and swore in City staff testifying at the hearing.

CONSENT AGENDA

Case 11-67 **1105 N 18th Street**
Owner: Patrick J. Gallagher
Daily Fine of $25 per day x 51 days - $1,275.00
Costs of Prosecution $216.18 or $251.77

Motion made by Pat Wilson and seconded by Michael Gagnon to accept the consent agenda as submitted. All present voted affirmative. Motion carried.

OLD BUSINESS

Case 07-104 **720 N 16th Street**
Owner: Arrie and Adrienne L. Kilpatrick
Daily Fine of $25 per day x 1,617 days - $40,425.00

Ms. Hearn advised that she had received a voicemail message from Adrienne L. Kilpatrick this morning and that she would not be able to attend today's meeting because she is in Daytona Beach. She recommended the case be tabled until the January 25, 2012 meeting as Ms. Kilpatrick would be asking for consideration for daily fine reduction.

Ms. Williams stated the case will be tabled until the January 25, 2012 meeting.

Case 11-67 **1105 N 18th Street**
Owner: Patrick J. Gallagher
Daily Fine of $25 per day x 51 days - $1,275.00

Patrick J. Gallagher, 25 Judson Circle, Orange Park, FL, stated he would like to explain the circumstances and be excused from paying the accrued daily fine amount of $1,275.00. Several years ago he took his retirement money and invested it in some mortgages, one of which was for $80,000 for Eddie Stoveall, who was a builder, to build a house to sell and then Mr. Stoveall would pay off the mortgage to Mr. Gallagher. Mr. Stoveall stopped making payments and after a year or so Mr. Gallagher saw an attorney and started foreclosure proceedings.

Mr. Gallagher stated he had received a letter from Ms. Hearn saying he owed money for a lot that he owned and he immediately dismissed it as he thought it was a mix up because he didn't own any property in Palatka. He found out that unknown to him Mr. Stoveall had deeded the property to a man named Schwing and shortly after that two detectives contacted him about the property. He was told that while Mr. Schwing had the property it had a house on it that Mr. Stoveall had built and the house had burnt down and Mr. Schwing had collected $140,000 from insurance.

He also found out that Mr. Schwing had deeded the property to Clifford Young and then unknown to him Mr. Young had initiated a quit claim deed giving the property to him. Once he realized that he did indeed own the property he arranged for it to be mowed and brought into compliance. For these reasons is why he would like to be excused from paying these fees.

Mr. Holmes asked some further questions of Mr. Gallagher about his mortgage on the property and whether the property burned after it was sold and who owned it when the property burned. Ms. Hearn informed them that the structure had actually sustained two fires and there was suspicion of arson for both fires.

Ms. Wilson asked what the property looked like now. Ms. Hearn stated it was cleared and in compliance.

Further discussion occurred in regards to the time line for the case, who was noticed and who had ownership of the property.

Mr. Gagnon reiterated that the costs of prosecution cannot be waived and he would recommend the daily fine be waived.

Mr. Baumer asked a couple of questions for clarification.

Mr. Holmes asked Ms. Hearn for her recommendation. She recommended a motion to send it to the City Commission to waive the daily fine but the cost of prosecution, $216.18, would stay in place. Mr. Holmes concurred.

Motion made by Michael Gagnon and seconded by Pat Wilson to make recommendation to the City Commission to waive the fine and assess costs of prosecution in the amount of $216.18 or $251.77 if it has to be recorded as a lien. All present voted affirmative. Motion carried.

Case 10-23 **717 Bronson Street**
Owner: Tarpon IV LLC
Nuisance Abatement Action

Mr. Holmes advised that he had the title work back and it's ready to be filed. He stated that it would probably be filed later this week.

CITY OF PALATKA
201 NORTH 2ND ST.
PALATKA FL 32177

DATE: 12/07/11
TIME: 17:18:52

RECEIPT #: 0000018683
CASHIER: PSPROUSE

MISCELLANEOUS RECEIPT
REFERENCE: P GALLAGHER/1105 N 18TH ST CE 11-67

ITEM DESCRIPTION	PAID
CE ADMIN FEE (1660)	216.18

TOTAL AMOUNT PAID: 216.18
PAYMENT TYPE: CHECK
CHECK NBR: 000001437

CODE ENFORCEMENT BOARD OF THE
CITY OF PALATKA, FLORIDA

CITY OF PALATKA, Petitioner,

vs

Patrick J. Gallagher, Respondent(s)

COMPLAINT NO. 11-67

Inst:201154739310 Date:10/31/2011 Time:10:55 AM
DC,Tim Smith,Putnam County Page 1 of 1 B:1302 P:1881

FINDING OF FACT, CONCLUSIONS OF LAW AND ORDER

THIS CAUSE having come before the Board for public hearing on August 24, 2011, after due notice to the Respondent; and, the Board having received sworn testimony and evidence at said hearing; it is now,

DETERMINED THAT:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

a) The Respondent(s) is the owner of property described as 1105 North 18th Street, Putnam County Tax parcel number 42-10-27-6850-3190-0040, located within the City of Palatka, Putnam County, Florida.

b) Conditions at the property at issue constituted violations of Section 30-32 Weeds, Debris, Prohibited Conditions and Section 30-33 Abatement Required, Duty of Abutting Property Owner, of the Palatka Municipal Code.

c) The Respondent(s) was previously notified of the above-described code violations but failed to correct the violations prior to the hearing at which this matter was considered.

IT IS ACCORDINGLY ORDERED THAT:

II. ORDER:

a) The Respondent(s) shall correct the conditions which constitute the code violations described above on or before the 28th day of September, 2011, or if said conditions are not corrected, a fine in the amount of $25.00 per day is hereby assessed and levied on the above-described property, effective on the 28th day of September, 2011, to continue until the conditions are corrected.

b) Administrative costs will be assessed after the property is brought into compliance.

c) The fine described in paragraph a), as well as the costs described in paragraph b), shall constitute a lien upon the property described herein when this document is recorded within the official records of Putnam County, Florida.

DONE AND ORDERED this 24TH day of August, 2011, at Palatka, Putnam County, Florida.

CODE ENFORCEMENT BOARD OF THE CITY OF PALATKA FLORIDA

BY _____
LaSandra Williams, Its Chairman

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Findings of Fact, Conclusions of Law and Order has been furnished by ☒ Certified mail, ☐ Regular mail, to the Respondent and/or authorized representative at 300 West Adams Street; Suite 300, Jacksonville, FL, 32202 this 31st day of October, 2011.

Prepared by:
Elizabeth A. Hearn, City of Palatka
201 N 2nd Street, Palatka, FL 32177

_____
Elizabeth A. Hearn, Code Enforcement Officer

I hereby certify that the foregoing is a true and correct copy of the same, as appears on record in the office of the *Planning, Building, and Zoning Department* of the City of Palatka, Florida.

By: _____, City Clerk.
Date: 10-31-11

Agenda Item

4

CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: Transmittal of Comprehensive Plan Amendment adding Future Land Use Element policies to protect municipal airport from incompatible uses

DEPARTMENT: Building & Zoning

AGENDA SECTION: Regular Agenda, requiring Commission action

ATTACHMENTS:
1. Draft Ordinance
2. Planning Board Minutes
3. Planning Board Staff Report Excerpt

MEETING DATE: Feb. 23, 2012

ISSUE: Florida HB 2012, passed in 2009, mandated that all jurisdictions revise comprehensive plans by July of this year to protect airports from incompatible uses. Specifically, the FDOT created zones of restriction for residential and educational development. Staff has notified the Putnam County School District and the St. Johns River State College of the proposed policies. In simple terms, no new medium and high density land use amendments would be allowed in the residential restrictive zone, and no new schools allowed in the educational restrictive zone – except for colleges with state-approved campus master plans and aviation training facilities. More detail is provided in the attached staff report.

The Planning Board reviewed the item and recommended approval. The ordinance will be transmitted to state agencies for review and will come back to the Commission for final adoption.

Please direct questions regarding this request to Thad Crowe at 329-0103 or tcrowe@palatka-fl.gov

This instrument prepared by:
Thad Crowe, AICP
201 North 2nd Street
Palatka, Florida 32177

ORDINANCE NO. 12 -

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, PROVIDING THAT THE FUTURE LAND USE ELEMENT OF THE ADOPTED COMPREHENSIVE PLAN BE AMENDED TO AMEND POLICIES A.1.1.6 AND ADD NEW POLICIES A.1.1.6C, A.1.1.6D, AND A.1.1.6E, RELATING TO PROTECTION OF MUNICIPAL AIRPORT FROM INCOMPATIBLE USES, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Subsection 163.3187(3), Florida Statutes, as amended, provides for the amendment of an adopted comprehensive plan, and

WHEREAS, the Planning Board conducted a public hearing on February 7, 2012, and recommended approval of this amendment to the City Commission, and

WHEREAS, Section 163.3187(3)(b)1-4, Florida Statutes, as amended, provides that the City Commission may transmit the proposed amendment ordinances and supporting data and analysis to state reviewing agencies and any other local government or governmental agency that has filed a written request with the governing body, and

WHEREAS, Section 163.3187(3)(b)2-4, Florida Statutes, as amended, provides that state agencies, in response to the City's transmittal, shall provide comments to the City of Palatka regarding adverse impacts on important state resources and facilities by the amendments, and

WHEREAS, the City Commission properly transmitted this amendment to state agencies and did not receive adverse comments from said agencies, and

WHEREAS, Section 163.3187(3)(c)1, Florida Statutes, as amended, provides that the City Commission shall hold a second public hearing to adopt the amendment within 180 days after receipt of agency comments,

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PALATKA, FLORIDA:

Section 1. Adopted Large Scale Amendment

That the following policies of the Future Land Use Element of the adopted Comprehensive Plan of the City of Palatka are hereby amended as shown below to provide for the following text changes providing for protection of the Municipal Airport.

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)*

Section 3. Effect on the Comprehensive Plan

The remaining portions of said adopted comprehensive plan of the City of Palatka, Florida, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 4. Severability

Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portion.

Section 5. Effective date

This Ordinance shall become effective thirty-one (31) days after notification by the state land planning agency notifies the City of Palatka that the plan amendment is complete, or if timely challenged when the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this ___ day of ____, 2012.

CITY OF PALATKA

By: _____
Its Mayor

ATTEST:

_____
City Clerk

PALATKA PLANNING BOARD MINUTES - *DRAFT*
FEBRUARY 7, 2012

Meeting called to order by Chairman Carl Stewart at 4:00 pm. **Other members present:** Earl Wallace, Anthony Harwell, Daniel Sheffield, Joseph Petrucci and George DeLoach. **Members absent:** Kenneth Venables, Joe Pickens and Sharon Buck. **Also present**: Planning Director Thad Crowe, Recording Secretary Pam Sprouse and City Attorney Don Holmes.

Chairman Stewart welcomed new Board member George DeLoach.

Motion made by Mr. Sheffield and seconded by Mr. DeLoach to approve the minutes as submitted for the January 3, 2012 meeting. All present voted affirmative, motion carried.

Chairman Stewart read the appeal procedures and requested that disclosure of any ex parte communication be made prior to each case.

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).

Mr. Crowe reminded Board members that this was tabled from the January meeting. It is required by the state that jurisdictions to revise their comprehensive plans by July, 2012 to include criteria to achieve compatibility of land uses near airports when a formal noise study has not been conducted for a public airport. He added that one of the unique problems we have is that the city is not that big, therefore some of the zones tend to include large areas. He advised that he consulted with County Planning, School District, and St. Johns River College staff, as well as the City's Airport Consultants to come up with ideas on this. He explained that the residential restriction zone is an area measured outward directly from runways that is one-half the distance of the longest runway. 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. In the restricted residential zone the City would essentially commit to no new land use changes going to medium or high density categories. He explained that the educational facilities exclusion zone comprises an even larger area that includes most of the City north of St. Johns Avenue and the area between Moody Road and Zeagler Drive. Staff is recommending that new school facilities not be allowed in the restricted zone, but that existing schools would be able to expand and maintain facilities in their current locations. He noted that the College is exempted because it has a required state-approved master plan, and this separate process can address airport compatibility issues. He recommended approval of the proposed amendment as submitted in the staff report.

No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. Wallace to approve the request as submitted. All present voted affirmative, motion carried.

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

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~~.

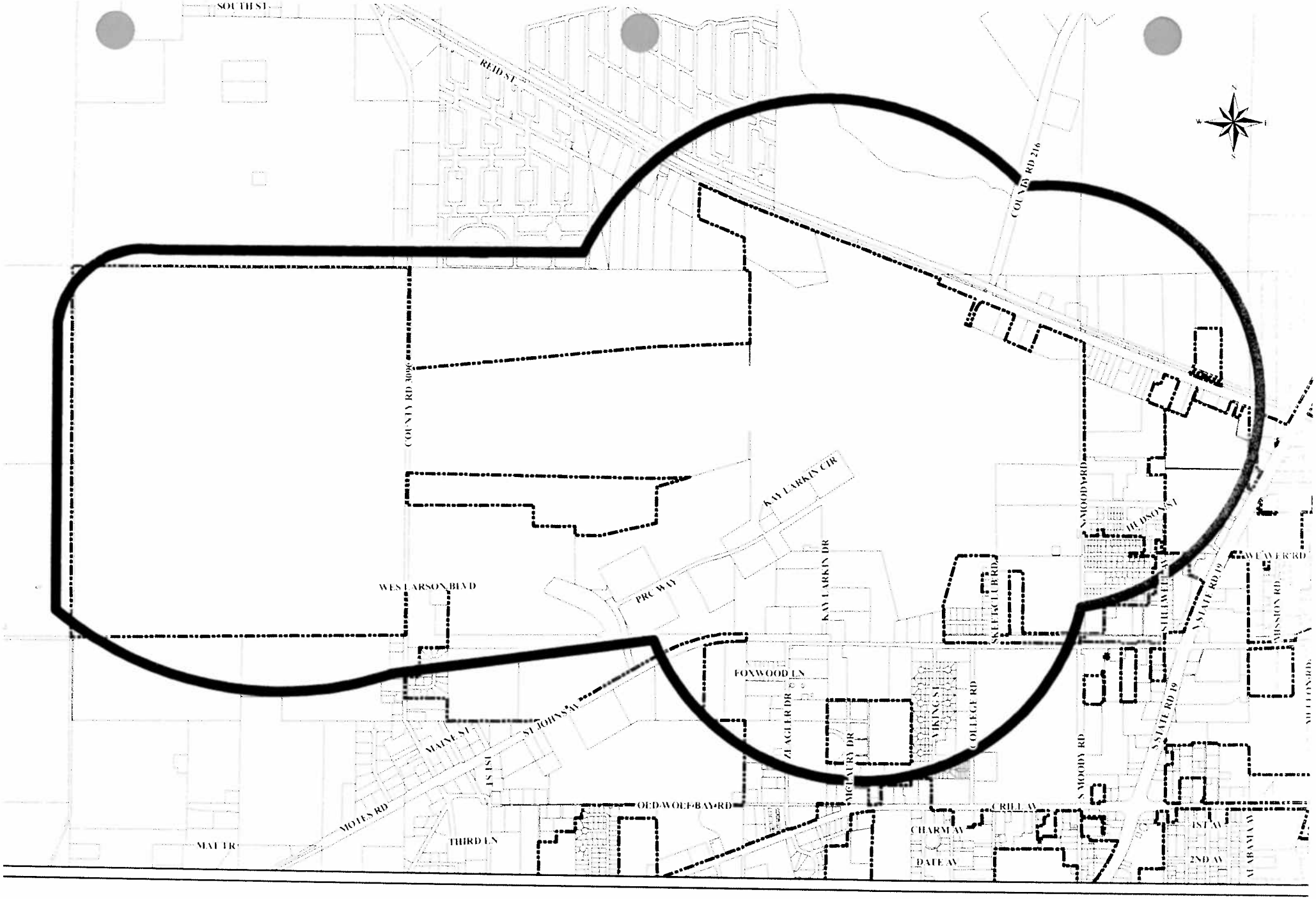
Policies A.1.1.6a, b (no change)

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

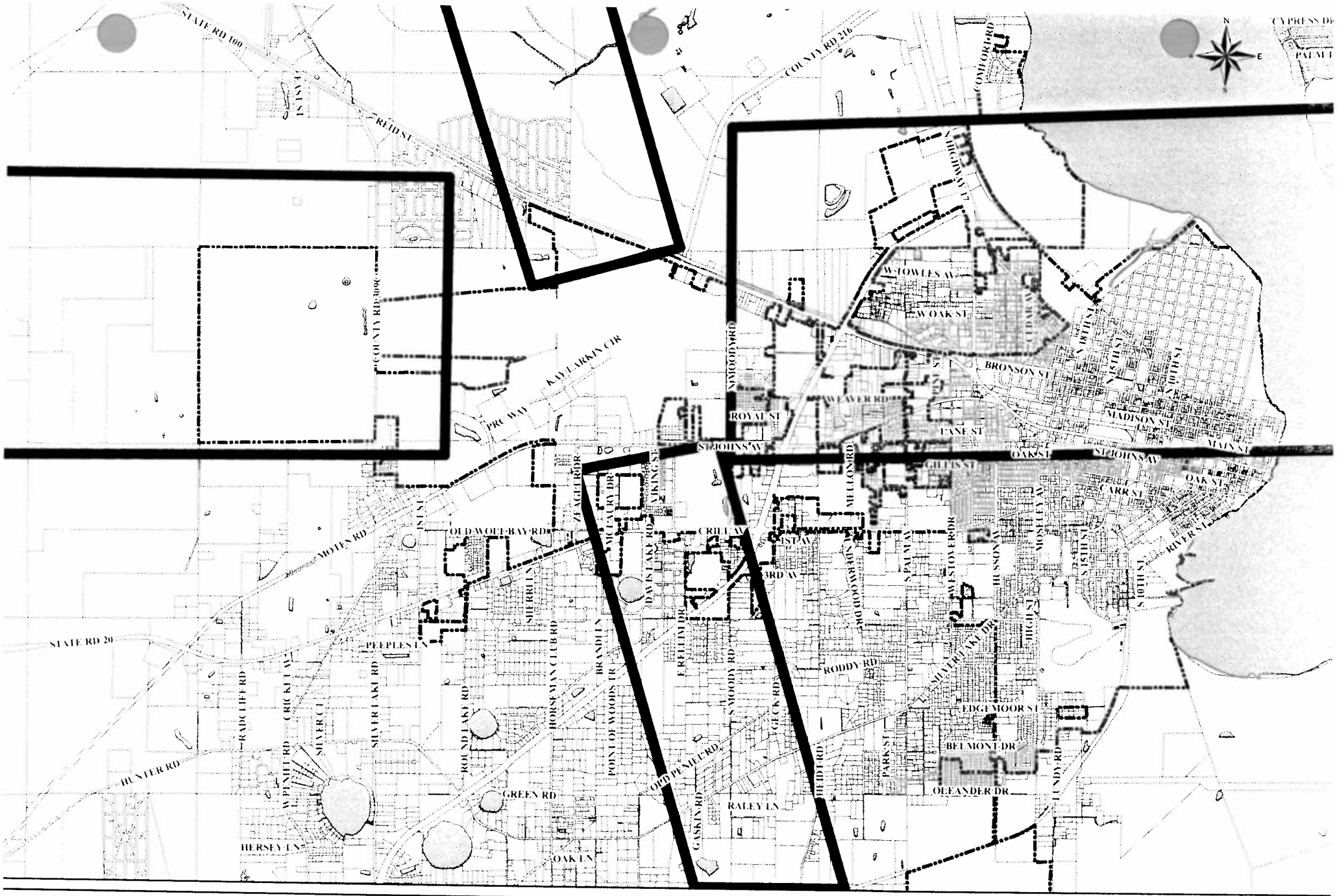


DISCLAIMER:
This information is provided as a visual representation only and is not intended to be used as legal or official representation of legal boundaries. The City of Palatka assumes no responsibility associated with its use

FIGURE A-7

2020 Comprehensive Plan
Future Land Use Element
Airport Residential Restriction Zone Map

Map Date: FEB, 2012



DISCLAIMER:
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FIGURE A-8

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

Map Date: FEB, 2012

Agenda Item

5

CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: Transmittal of Comprehensive Plan Amendment allowing colleges and associated ancillary uses in the Public Buildings and Grounds Future Land Use Map category

DEPARTMENT: Building & Zoning

AGENDA SECTION: Regular Agenda, requiring Commission action

ATTACHMENTS:
1. Draft Ordinance
2. Planning Board Minutes Excerpt
3. Planning Board Staff Report

MEETING DATE: Feb. 23, 2012

ISSUE: This is a staff-initiated amendment that has a similar/companion Zoning Code change recommended by the Planning Board. The Planning Board reviewed the item and recommended approval. The change would allow for colleges and associated ancillary uses such as student residences, administrative offices, and sports facilities in the PB land use category.

The ordinance will be transmitted to state agencies for review and will come back to the Commission for final adoption.

Please direct questions regarding this request to Thad Crowe at 329-0103 or tcrowe@palatka-fl.gov

This instrument prepared by:
Thad Crowe, AICP
201 North 2nd Street
Palatka, Florida 32177

ORDINANCE NO. 12 -

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, PROVIDING THAT THE FUTURE LAND USE ELEMENT OF THE ADOPTED COMPREHENSIVE PLAN BE AMENDED TO AMEND POLICY A.1.9.3, TO ALLOW FOR COLLEGES AND UNIVERSITIES IN THE PUBLIC BUILDINGS AND FACILITIES FUTURE LAND USE MAP CATEGORY, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Subsection 163.3187(3), Florida Statutes, as amended, provides for the amendment of an adopted comprehensive plan, and

WHEREAS, the Planning Board conducted a public hearing on February 7, 2012, and recommended approval of this amendment to the City Commission, and

WHEREAS, Section 163.3187(3)(b)1-4, Florida Statutes, as amended, provides that the City Commission may transmit the proposed amendment ordinance and supporting data and analysis to state reviewing agencies and any other local government or governmental agency that has filed a written request with the governing body, and

WHEREAS, Section 163.3187(3)(b)2-4, Florida Statutes, as amended, provides that state agencies shall transmit to the City of Palatka comments regarding adverse impacts on important state resources and facilities by the amendments, and

WHEREAS, Section 163.3177(3)(c)1, Florida Statutes, as amended, provides that the City Commission shall hold a second public hearing to adopt the amendment within 180 days after receipt of agency comments, and

WHEREAS, the City Commission properly transmitted this amendment to state agencies and did not receive adverse comments from said agencies,

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PALATKA, FLORIDA:

Section 1. Adopted Large Scale Amendment

That the following policies of the Future Land Use Element of the adopted Comprehensive Plan of the City of Palatka are hereby amended as shown below to provide for the following text change to allow for colleges and universities in the Public Buildings and Facilities Future Land Use Map category.

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

1. through 4.: no change

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.

Section 3. Effect on the Comprehensive Plan

The remaining portions of said adopted comprehensive plan of the City of Palatka, Florida, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 4. Severability

Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portion.

Section 5. Effective date

This Ordinance shall become effective thirty-one (31) days after notification by the state land planning agency notifies the

City of Palatka that the plan amendment is complete, or if timely challenged when the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this ___ day of ____, 2012.

CITY OF PALATKA

By: _____
Its Mayor

ATTEST:

_____
City Clerk

Mr. Crowe advised that this requirement was problematic and unnecessary – it was not appropriate for applicants to confer with the Planning Board at such an early stage, but preferred for coordination between the applicants and staff to occur. No one was present to speak for or against the amendment.

Motion made by Mr. Wallace and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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 and that nonresidential components of PUDs serve PUD residents.

Mr. Crowe advised that this plan amendment is a companion to the Zoning Code change the Board just approved, it eliminates the requirement that a land use amendment accompany a PUD rezoning and that PUDs must be a mixed use. He recommended removing the language. No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. DeLoach to revise the Code per staff recommendations. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that the next two requests are companion housekeeping amendments to the Comprehensive Plan and the Zoning Code that would allow colleges and universities in the PB land use category and the PBG-1 zoning category. This will make the college conforming. No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

Case 12-07 Administrative request to revise Zoning Code 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 in the PBG-1 (Public Buildings and Grounds) zoning district.

No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendations for cases 12-06 and Case 12-07. All present voted affirmative, motion carried.

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.

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.

Agenda Item

6

CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: Transmittal of Comprehensive Plan Amendment eliminating requirements that Planned Unit Development (PUD) rezoning be accompanied by comprehensive plan amendment and that nonresidential uses in a PUD be limited to those uses that serve the PUD residential component

DEPARTMENT: Building & Zoning

AGENDA SECTION: Regular Agenda, requiring Commission action

ATTACHMENTS:
1. Draft Ordinance
2. Planning Board Minutes Excerpt
3. Planning Board Staff Report

MEETING DATE: Feb. 23, 2012

ISSUE: This is a staff-initiated amendment that has a companion Zoning Code change recommended by the Planning Board. The Planning Board reviewed the item and recommended approval.

Comprehensive Plan Future Land Use Element Policy A.1.9.3 is the policy that describes each of the land use (Future Land Use Map) categories. The policy also describes the PUD zoning category. Included in that description are the requirements that commercial and recreational uses in a PUD be limited to those uses that serve the PUD residential component and that PUD rezoning require a land use amendment. The language indicates that the PUD-related land use amendment is required by Florida Statute Chapter 163.3187, which is not the case. Both requirements hamper the PUD process and do not present any sort of public good.

The ordinance will be transmitted to state agencies for review and will come back to the Commission for final adoption.

Please direct questions regarding this request to Thad Crowe at 329-0103 or tcrowe@palatka-fl.gov

This instrument prepared by:
Thad Crowe, AICP
201 North 2nd Street
Palatka, Florida 32177

ORDINANCE NO. 12 -

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, PROVIDING THAT THE FUTURE LAND USE ELEMENT OF THE ADOPTED COMPREHENSIVE PLAN BE AMENDED TO AMEND POLICY A.1.9.3, REMOVING THE REQUIREMENTS THAT A PLANNED UNIT DEVELOPMENT REZONING BE ACCOMPANIED BY A LAND USE AMENDMENT AND THAT NONRESIDENTIAL COMPONENTS OF A PLANNED UNIT DEVELOPMENTS ARE LIMITED TO THOSE USES THAT SERVE THE RESIDENTIAL PLANNED UNIT DEVELOPMENT COMPONENT, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Subsection 163.3187(3), Florida Statutes, as amended, provides for the amendment of an adopted comprehensive plan, and

WHEREAS, Section 163.3187(3)(b)1-4, Florida Statutes, as amended, provides that the City Commission may transmit the proposed amendment ordinance and supporting data and analysis to state reviewing agencies and any other local government or governmental agency that has filed a written request with the governing body, and

WHEREAS, Section 163.3187(3)(b)2-4, Florida Statutes, as amended, provides that state agencies shall transmit to the City of Palatka comments regarding adverse impacts on important state resources and facilities by the amendments, and

WHEREAS, Section 163.3187(3)(c)1, Florida Statutes, as amended, provides that the City Commission shall hold a second public hearing to adopt the amendment within 180 days after receipt of agency comments, and

WHEREAS, the Planning Board conducted a public hearing on February 7, 2012, and recommended approval of this amendment to the City Commission, and

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF PALATKA, FLORIDA:

Section 1. Adopted Large Scale Amendment

That the following policies of the Future Land Use Element of the adopted Comprehensive Plan of the City of Palatka are hereby amended as shown below to provide for the following text changes providing for protection of the Municipal Airport.

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:

A. (no change)

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.~~

Section 3. Effect on the Comprehensive Plan

The remaining portions of said adopted comprehensive plan of the City of Palatka, Florida, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 4. Severability

Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portion.

Section 5. Effective date

This Ordinance shall become effective thirty-one (31) days after notification by the state land planning agency notifies the City of Palatka that the plan amendment is complete, or if timely challenged when the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this ___ day of ____, 2012.

CITY OF PALATKA

By: _____
Its Mayor

ATTEST:

_____
City Clerk

Mr. Crowe advised that this requirement was problematic and unnecessary – it was not appropriate for applicants to confer with the Planning Board at such an early stage, but preferred for coordination between the applicants and staff to occur. No one was present to speak for or against the amendment.

Motion made by Mr. Wallace and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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 and that nonresidential components of PUDs serve PUD residents.

Mr. Crowe advised that this plan amendment is a companion to the Zoning Code change the Board just approved, it eliminates the requirement that a land use amendment accompany a PUD rezoning and that PUDs must be a mixed use. He recommended removing the language. No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. DeLoach to revise the Code per staff recommendations. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that the next two requests are companion housekeeping amendments to the Comprehensive Plan and the Zoning Code that would allow colleges and universities in the PB land use category and the PBG-1 zoning category. This will make the college conforming. No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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.

No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendations for cases 12-06 and Case 12-07. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that this case was requested by the Historic Preservation Board. He stated that fences do not require permits in the City, and that it was the Historic Preservation Board's hope that requiring a fence permit

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.~~

Agenda Item

7

CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: First Reading - request to amend Zoning Code to allow for colleges and ancillary uses in the PBG-1 zoning district

DEPARTMENT: Building & Zoning

AGENDA SECTION: Regular Agenda, requiring Commission action

ATTACHMENTS:
1. Draft Ordinance
2. Planning Board minutes excerpt
3. Planning Board staff report

MEETING DATE: Feb. 23, 2012

ISSUE: This is an administrative request amending the Zoning Code, with a recommendation of approval from the Planning Board. There is a similar/companion comprehensive plan amendment that would allow this use in the PB land use category.

This change would allow for colleges and associated ancillary uses such as student residences, administrative offices, and sports facilities in the PBG-1 zoning category.

Please direct questions regarding this request to Thad Crowe at 329-0103 or tcrowe@palatka-fl.gov

This instrument prepared by:
Thad Crowe, AICP
201 North 2nd Street
Palatka, Florida 32177

ORDINANCE NO. 11 -

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA AMENDING ZONING CODE SECTION 94-153 TO ALLOW COLLEGES IN THE PUBLIC BUILDINGS AND GROUNDS ZONING CATEGORY, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, application has been made by the Building and Zoning Department for certain amendment to the Zoning Code of the City of Palatka, Florida, and

WHEREAS, all the necessary procedural steps have been accomplished, including a public hearing before the Planning Board of the City of Palatka on February 7, 2012, and two public hearings before the City Commission of the City of Palatka on February 23, 2012, and March 8, 2012; and

WHEREAS, the City Commission of the City of Palatka has determined that said amendment should be adopted.

NOW, THEREFORE, BE IT ENACTED BY THE CITIZENS OF THE CITY OF PALATKA, FLORIDA:

Section 1. Zoning Code Section 94-153 shall be amended as follows.

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

Section 2. To the extent of any conflict between the terms of this ordinance and the terms of any ordinance previously passed or adopted, the terms of this ordinance shall supersede and prevail.

Section 3. A copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

Section 4. This Ordinance shall become effective immediately upon its final passage by the City Commission.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this 8th day of March, 2012.

CITY OF PALATKA

BY:_____
Its MAYOR

ATTEST:

_____
City Clerk

Mr. Crowe advised that this requirement was problematic and unnecessary – it was not appropriate for applicants to confer with the Planning Board at such an early stage, but preferred for coordination between the applicants and staff to occur. No one was present to speak for or against the amendment.

Motion made by Mr. Wallace and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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 and that nonresidential components of PUDs serve PUD residents.

Mr. Crowe advised that this plan amendment is a companion to the Zoning Code change the Board just approved, it eliminates the requirement that a land use amendment accompany a PUD rezoning and that PUDs must be a mixed use. He recommended removing the language. No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. DeLoach to revise the Code per staff recommendations. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that the next two requests are companion housekeeping amendments to the Comprehensive Plan and the Zoning Code that would allow colleges and universities in the PB land use category and the PBG-1 zoning category. This will make the college conforming. No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

Case 12-07 Administrative request to revise Zoning Code 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 in the PBG-1 (Public Buildings and Grounds) zoning district.

No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendations for cases 12-06 and Case 12-07. All present voted affirmative, motion carried.

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.

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.

Agenda Item

8

CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: First Reading - request to amend Zoning Code Planned Unit Development standards

DEPARTMENT: Building & Zoning

AGENDA SECTION: Regular Agenda, requiring Commission action

ATTACHMENTS:
1. Draft Ordinance
2. Planning Board minutes excerpt
3. Planning Board staff report

MEETING DATE: Feb. 23, 2012

ISSUE: This is Zoning Code revision requested by the Planning Board and Staff, with a recommendation of approval from the Planning Board. The Board requested that Staff provide information pertaining to rezoning density and intensity thresholds beyond which a Planned Unit Development (PUD) overlay would be required. While reviewing the PUD standards Staff found that there were a number of problematic elements that called for revisions, as listed below.

1. PUD nonresidential component can only serve residents of PUD (recommend elimination)
2. PUD rezoning must be accompanied by Comprehensive Plan amendment that allows the PUD (recommend elimination).
3. No requirement that rezonings seeking higher density and intensity seek PUD designation (provide density and intensity thresholds, above which a PUD shall be required).
4. Minimum PUD size of two acres (recommend elimination or reduction).
5. Undergrounded utilities are required for all PUDs (recommend applying only to new construction).
6. PUDs are "floating" districts, not tied to a zoning district (recommend linking PUDs with a base zoning district).
7. PUD applicants must confer with Planning Board prior to application (recommend preapplication only required with Staff).

Due to some unresolved questions that came out during the Planning Board meeting, staff pulled # 6 above from consideration and will do further research before bringing this issue back before the Board. The other elements above are included with the attached ordinance.

Please direct questions regarding this request to Thad Crowe at 329-0103 or tcrowe@palatka-fl.gov

This instrument prepared by:
Thad Crowe, AICP
201 North 2nd Street
Palatka, Florida 32177

ORDINANCE NO. 11 -

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA AMENDING AMENDING SECTION 94-113 TO PROVIDE REZONING INTENSITY AND DENSITY THRESHOLDS THAT WOULD REQUIRE THE USE OF PLANNED UNIT DEVELOPMENT (PUD) OVERLAYS; AMEND SECTION 94-157 AND 94-232 TO ELIMINATE THE REQUIREMENT THAT NONRESIDENTIAL USES WITHIN PLANNED UNIT DEVELOPMENT (PUD) SERVE ONLY RESIDENTS OF THAT PUD; AMEND SECTION 94-157 TO ELIMINATE REQUIRED AMENDMENT TO COMPREHENSIVE PLAN FOR PUDS; AMEND SECTION 94-233 TO REDUCE THE MINIMUM PUD SIZE OF TWO ACRES; AMEND SECTION 94-233 TO LIMIT REQUIREMENT FOR UNDERGROUNDING UTILITIES ONLY TO NEW DEVELOPMENT; AND AMEND SECTION 94-235 TO ELIMINATE REQUIREMENT THAT PUD APPLICANTS CONFER WITH THE PLANNING BOARD PRIOR TO APPLICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, application has been made by the Building and Zoning Department for certain amendments to the Zoning Code of the City of Palatka, Florida, and

WHEREAS, all the necessary procedural steps have been accomplished, including a public hearing before the Planning Board of the City of Palatka on February 7, 2012, and two public hearings before the City Commission of the City of Palatka on February 23, 2012, and March 8, 2012; and

WHEREAS, the City Commission of the City of Palatka has

determined that said amendment should be adopted.

NOW, THEREFORE, BE IT ENACTED BY THE CITIZENS OF THE CITY OF PALATKA, FLORIDA:

Section 1. Zoning Code Section 94 shall be amended as follows.

SECTION 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 20,000 square feet or residential development with project density exceeding five units per acre or residential development with more than five units shall be required to utilize a Planned Unit Development overlay.

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 land use. ~~Use of the PUD overlay will require a land use amendment to the comprehensive plan in accordance with F.S. § 163.3187.~~

(c) *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~~ <u>and industrial</u> uses~~, including offices and clinics,~~ provided that ~~they meet the following criteria:~~

~~a. T~~<u>t</u>he location is appropriate in relation to other land uses~~; and~~<u>.</u>

~~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.~~

SECTION 94-233. - *Development standards*.

(a) ~~Minimum area~~ <u>*Unity*</u>. 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.

(b) - (e) no changes

(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.

SECTION 94-234: no changes

SECTION 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.

Section 2. To the extent of any conflict between the terms of this ordinance and the terms of any ordinance previously passed or adopted, the terms of this ordinance shall supersede and prevail.

Section 3. A copy of this Ordinance shall be furnished to the

Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

Section 4. This Ordinance shall become effective immediately upon its final passage by the City Commission.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this 8th day of March, 2012.

CITY OF PALATKA

BY: _____
Its MAYOR

ATTEST:

_____
City Clerk

the proposed building materials are generally in accordance with the use of brick, concrete block, and metal roofing that is already used for the current building, there should not be an issue.

Discussion ensued regarding design and compatibility.

Mr. Stokes explained that this will be a concrete block building with a brick exterior and a metal hip roof with four sides, and the building will be architecturally compatible with the existing building. The lighting and landscaping will meet code requirements and that it will be a dramatic improvement to Moseley Avenue.

An audience member (name unknown) asked if there were any drawings showing the proposed development. Mr. Crowe provided a site plan to the person.

Motion was made by Mr. Harwell and seconded by George DeLoach to approve the request as submitted, subject to staff recommendations. All present voted affirmative, except for Mr. Sheffield who abstained, motion carried.

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

Mr. Crowe explained that this request began with the applicants' attempts to re-establish the non-conforming use of a longstanding takeout establishment on Washington St. that had been operating for decades. In 2009 the operation ceased to exist. The current code prohibits allowing the use to operate again because once a non-conforming use ceases for six months, it cannot be re-established. In an effort to work with the applicant, he researched other jurisdictions for possible ways to re-establish a non-conforming use and found that a few jurisdictions provide for this type of action. He recommended approval of the proposed code amendment to allow for the re-establishment of nonconforming uses, in unusual cases where nonconforming uses are grounded in the community due to historical precedent and community. Should such uses cease to operate, applicants could petition for re-establishment within 36 months of the date the use ceased to function. Consideration of such requests would be through the Conditional Use process.

Mr. Crowe reminded the Board that it was important to separate this first step of creating a mechanism to re-establish nonconforming uses from the second step of actually applying for the re-establishment of specific uses.

The Applicant, Mr. Herman Roberts, was present but did not address the Board. No one was present to speak for or against the amendment.

Motion made by Mr. Petrucci and seconded by Mr. Harwell to approve the amendment as submitted by staff. All present voted affirmative, motion carried.

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.

Mr. Crowe reminded the Board that these amendments were initiated by members at their last meeting. When Staff reviewed the PUD standards as requested there were a number of problematic elements that were flagged, all of which are part of this amendment package. He suggested the Board may want to vote on each item separately for discussion purposes.

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

Mr. Crowe noted that this requirement prohibited standalone commercial or industrial PUDs, and he believed that the City needed the ability to consider such applications. Board members briefly discussed the amendment and agreed that this change was needed. No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. DeLoach to approve item no. 1 as submitted. All present voted affirmative, motion carried.

2. Eliminate requirement that PUD rezoning be accompanied by Comprehensive Plan amendment that allows the PUD.

Mr. Crowe explained that it did not make sense to tie a rezoning to a comprehensive plan amendment and that the statutes did not require such an action. No one was present to speak for or against the amendment.

Motion made by Mr. Petrucci and seconded by Mr. Sheffield to approve item no. 2 as submitted by staff. All present voted affirmative, motion carried.

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

Mr. Crowe reminded the Board that they had requested at the last meeting that Staff come back with suggestions for thresholds above which a PUD would be required. He said that while it was unusual for jurisdictions to have have such thresholds, he did find that Jacksonville Beach required all commercial rezonings with more than 50,000 square feet of building area and almost all development in northwest St. Johns County must come in as PUDs. He said that the Board was correct in believing that requiring PUDs for more intense and dense development would provide safeguards for the City and ensure higher quality development. In response to a question from Mr. Holmes, Mr. Crowe noted that the difference between a PUD and a regular rezoning was that a PUD required a scaled site plan and a justification, which usually makes applicants put more thought and care into their proposed development.

The Board discussed appropriate thresholds, and Mr. Wallace noted that Staff's thresholds looked to him to be high. He cited the example of a development with five homes that could have been a much better development with the use of a PUD. No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach to approve item no. 3 as recommended by staff. With no second the motion failed.

After discussion, it was the general consensus of the Board that lower thresholds were in order.

Motion made by Mr. Wallace and seconded by Mr. Sheffield to approve the following rezoning thresholds that would require use of a PUD: 5 units, 5 units per acre, and 20,000 square feet.

Mr. Wallace stated that this gives the City a tool and an opportunity for better quality developments. Mr. Crowe agreed and stated that it allows the City to be able to put protections and assurances in place to protect property values and the quality of life. All present voted affirmative, motion carried.

4. Reduce minimum PUD size of two acres.

Mr. Crowe reminded the Board that Board members had brought this up at the last meeting as a potentially positive action. He said that he had presented this as a reduction of the minimum PUD size, but the minimum size could also just be eliminated. Sometimes the small sites were the best candidates for PUDs due to the greater likelihood of impacts on surrounding properties and the need to carefully craft PUD design criteria. Board members agreed that no minimum size should be required. No one was present to speak for or against the amendment.

Motion made by Mr. Wallace and seconded by Mr. Harwell to reduce the minimum PUD size to zero acres. All present voted affirmative, motion carried.

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

Mr. Crowe said that this requirement would create a burden for redevelopment and adaptive reuse projects that used the PUD process. It was much more expensive to retrofit an existing site for undergrounding than it was to underground utilities in new development. No one was present to speak for or against the amendment.

Motion made by Mr. Petrucci and seconded by Mr. Sheffield to approve as submitted item no. 5. All present voted affirmative, motion carried.

6. Link PUDs with a base zoning district.

Mr. Crowe noted that this change would provide a basis for a development to start with, instead of the current free-floating PUD structure now in the Code. PUDs would be tied to a zoning district – for example R-3, or C-2 – and would then request specific deviations from that district whether that be differing lot dimensions, allowable uses, etc. He said that it was good for citizens to be able to look at a zoning map and not just see a PUD, but a "PUD-R-3" or "PUD-C-2" – something that gives them an idea of what is allowed. Mr. Holmes expressed concern that tying PUDs to zoning categories would misrepresent such PUDs if they substantially deviated from the base zoning districts. After discussion, Mr. Crowe suggested that this portion of the request be tabled to allow for him to confer with the City Attorney on this issue.

Item tabled per Board consensus.

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

Mr. Crowe advised that this requirement was problematic and unnecessary – it was not appropriate for applicants to confer with the Planning Board at such an early stage, but preferred for coordination between the applicants and staff to occur. No one was present to speak for or against the amendment.

Motion made by Mr. Wallace and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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 and that nonresidential components of PUDs serve PUD residents.

Mr. Crowe advised that this plan amendment is a companion to the Zoning Code change the Board just approved, it eliminates the requirement that a land use amendment accompany a PUD rezoning and that PUDs must be a mixed use. He recommended removing the language. No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. DeLoach to revise the Code per staff recommendations. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that the next two requests are companion housekeeping amendments to the Comprehensive Plan and the Zoning Code that would allow colleges and universities in the PB land use category and the PBG-1 zoning category. This will make the college conforming. No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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.

No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendations for cases 12-06 and Case 12-07. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that this case was requested by the Historic Preservation Board. He stated that fences do not require permits in the City, and that it was the Historic Preservation Board's hope that requiring a fence permit

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 amend various Planned Unit Development standards pertaining to use, process, thresholds, size, and infrastructure. 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.

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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 following changes to current Zoning Code text (italicized) 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. T~~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.~~

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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.*~~

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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.

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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.

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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.

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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.

Agenda Item

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Agenda Item

9

CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: First Reading - request to amend Zoning Code to allow for the re-establishment of a nonconforming use

DEPARTMENT: Building & Zoning

AGENDA SECTION: Regular Agenda, requiring Commission action

ATTACHMENTS:
1. Draft Ordinance
2. Planning Board minutes excerpt
3. Planning Board staff report

MEETING DATE: Feb. 23, 2012

ISSUE: This is an applicant-driven Municipal Code revision, with a recommendation of approval from the Planning Board. The applicants are working to re-open a barbecue take-out stand on their property, a use that was a long-standing nonconforming use that ceased operations in 2009. This code change is the first step, to set up a process for requesting re-establishing nonconforming uses, and the next step, if this code change is approved, would be to apply to the Planning Board for use re-establishment under the Conditional Use process.

Please direct questions regarding this request to Thad Crowe at 329-0103 or tcrowe@palatka-fl.gov

This instrument prepared by:
Thad Crowe, AICP
201 North 2nd Street
Palatka, Florida 32177

ORDINANCE NO. 11 -

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA AMENDING ZONING CODE SECTION 94-119 TO PROVIDE PROCESS FOR RE-ESTABLISHING NONCONFORMING USE; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, application has been made by Herman and Pamela Roberts to the City for a certain amendment to the Zoning Code of the City of Palatka, Florida, and

WHEREAS, all the necessary procedural steps have been accomplished, including a public hearing before the Planning Board of the City of Palatka on February 7, 2012, and two public hearings before the City Commission of the City of Palatka on February 23, 2012, and March 8, 2012; and

WHEREAS, the City Commission of the City of Palatka has determined that said amendment should be adopted.

NOW, THEREFORE, BE IT ENACTED BY THE CITIZENS OF THE CITY OF PALATKA, FLORIDA:

Section 1. New Zoning Code Section 94-119(j) shall be added as follows.

> Sec. 94-261. - 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.

Section 2. To the extent of any conflict between the terms of this ordinance and the terms of any ordinance previously passed or adopted, the terms of this

ordinance shall supersede and prevail.

Section 3. A copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

Section 4. This Ordinance shall become effective immediately upon its final passage by the City Commission.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this 8th day of March, 2012.

CITY OF PALATKA

BY: _____
Its MAYOR

ATTEST:

_____
City Clerk

the proposed building materials are generally in accordance with the use of brick, concrete block, and metal roofing that is already used for the current building, there should not be an issue.

Discussion ensued regarding design and compatibility.

Mr. Stokes explained that this will be a concrete block building with a brick exterior and a metal hip roof with four sides, and the building will be architecturally compatible with the existing building. The lighting and landscaping will meet code requirements and that it will be a dramatic improvement to Moseley Avenue.

An audience member (name unknown) asked if there were any drawings showing the proposed development. Mr. Crowe provided a site plan to the person.

Motion was made by Mr. Harwell and seconded by George DeLoach to approve the request as submitted, subject to staff recommendations. All present voted affirmative, except for Mr. Sheffield who abstained, motion carried.

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

Mr. Crowe explained that this request began with the applicants' attempts to re-establish the non-conforming use of a longstanding takeout establishment on Washington St. that had been operating for decades. In 2009 the operation ceased to exist. The current code prohibits allowing the use to operate again because once a non-conforming use ceases for six months, it cannot be re-established. In an effort to work with the applicant, he researched other jurisdictions for possible ways to re-establish a non-conforming use and found that a few jurisdictions provide for this type of action. He recommended approval of the proposed code amendment to allow for the re-establishment of nonconforming uses, in unusual cases where nonconforming uses are grounded in the community due to historical precedent and community. Should such uses cease to operate, applicants could petition for re-establishment within 36 months of the date the use ceased to function. Consideration of such requests would be through the Conditional Use process.

Mr. Crowe reminded the Board that it was important to separate this first step of creating a mechanism to re-establish nonconforming uses from the second step of actually applying for the re-establishment of specific uses.

The Applicant, Mr. Herman Roberts, was present but did not address the Board. No one was present to speak for or against the amendment.

Motion made by Mr. Petrucci and seconded by Mr. Harwell to approve the amendment as submitted by staff. All present voted affirmative, motion carried.

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

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 my 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.

Agenda Item

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CITY OF PALATKA CITY COMMISSION
AGENDA ITEM

ITEM: First Reading - request to amend Zoning Code to require a building permit for fence erection

DEPARTMENT: Building & Zoning

AGENDA SECTION: Regular Agenda, requiring Commission action

ATTACHMENTS:
1. Draft Ordinance
2. Planning Board minutes excerpt
3. Historic Preservation minutes excerpt
4. Planning Board staff report
5. Historic Preservation Board staff report

MEETING DATE: Feb. 23, 2012

ISSUE: This is a request from the Historic Preservation Board to amend the Zoning Code to require a permit for a fence. Please note that the Planning Board recommended denial of the amendment.

The great majority of comparable Florida jurisdictions require a building permit for a fence. The Historic Preservation Board believed that requiring a permit would reduce costs associated with required fence removal or relocation when such fences did not meet code and code enforcement action required correction of the violation. The Planning Board believed the permit requirement was an unnecessary burden on property owners. Staff understands both viewpoints, but given that fences in historic districts already require Historic Preservation Board approval, and without any certainty that a permit would increase code compliance, Staff leans toward the Planning Board recommendation of denial.

Please direct questions regarding this request to Thad Crowe at 329-0103 or tcrowe@palatka-fl.gov

This instrument prepared by:
Thad Crowe, AICP
201 North 2nd Street
Palatka, Florida 32177

ORDINANCE NO. 11 -

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA AMENDING ZONING CODE SECTION 94-187 TO REQUIRE PERMITS FOR FENCE CONSTRUCTION, PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, application has been made by the Building and Zoning Department for certain amendment to the Zoning Code of the City of Palatka, Florida, and

WHEREAS, all the necessary procedural steps have been accomplished, including a public hearing before the Planning Board of the City of Palatka on February 7, 2012, and two public hearings before the City Commission of the City of Palatka on February 23, 2012, and March 8, 2012; and

WHEREAS, the City Commission of the City of Palatka has determined that said amendment should be adopted.

NOW, THEREFORE, BE IT ENACTED BY THE CITIZENS OF THE CITY OF PALATKA, FLORIDA:

Section 1. Zoning Code Section 94-187 shall be amended as follows.

Sec. 94-187. - ~~Setbacks for~~ ~~u~~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.

Section 2. To the extent of any conflict between the terms of this ordinance and the terms of any ordinance previously passed or adopted, the terms of this ordinance shall supersede and prevail.

Section 3. A copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

Section 4. This Ordinance shall become effective immediately upon its final passage by the City Commission.

PASSED AND ADOPTED by the City Commission of the City of Palatka on this 8th day of March, 2012.

CITY OF PALATKA

BY: _____

Its MAYOR

ATTEST:

_____

City Clerk

Mr. Crowe advised that this requirement was problematic and unnecessary – it was not appropriate for applicants to confer with the Planning Board at such an early stage, but preferred for coordination between the applicants and staff to occur. No one was present to speak for or against the amendment.

Motion made by Mr. Wallace and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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 and that nonresidential components of PUDs serve PUD residents.

Mr. Crowe advised that this plan amendment is a companion to the Zoning Code change the Board just approved, it eliminates the requirement that a land use amendment accompany a PUD rezoning and that PUDs must be a mixed use. He recommended removing the language. No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. DeLoach to revise the Code per staff recommendations. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that the next two requests are companion housekeeping amendments to the Comprehensive Plan and the Zoning Code that would allow colleges and universities in the PB land use category and the PBG-1 zoning category. This will make the college conforming. No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendation. All present voted affirmative, motion carried.

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.

No one was present to speak for or against the amendment.

Motion made by Mr. DeLoach and seconded by Mr. Sheffield to approve staff recommendations for cases 12-06 and Case 12-07. All present voted affirmative, motion carried.

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.

Mr. Crowe advised that this case was requested by the Historic Preservation Board. He stated that fences do not require permits in the City, and that it was the Historic Preservation Board's hope that requiring a fence permit

will eliminate people putting up fences in the wrong locations and having to remove them and suggested a $25.00 permit fee.

Mr. DeLoach asked if this was specifically in the historic districts. Mr. Crowe answered that it would apply citywide.

Mr. Sheffield stated that he believed that was getting a little too restrictive in the residential areas.

Discussion continued regarding the potential burden on property owners. No one was present to speak for or against the amendment.

Motion made by Mr. Sheffield and seconded by Mr. Harwell to deny staff recommendations for cases 12-08. All present voted affirmative, motion carried.

There was board consensus to have Mr. Crowe prepare an amendment to the code for pool fence heights to match current state requirements.

OTHER BUSINESS

Mr. Stewart suggested that the Election of Chairman & Vice-Chairman be done at a time when more members can participate. Board members agreed.

Meeting adjourned at 5:43 pm.

answered that there is a little sagging but that problem is not covered under this program. He added that in the mid 1980's the metal fascia had been put up, but it is in good repair. Mr. Bergen stated that he would not be replacing the fascia at this time and added that they may be looking at other issues when they pull all that off and some of the shingles on the house are over the original wood siding. Ms. Van Rensburg commented that a part of this package that they are hoping to put together for the homeowners includes painting the structure and that of some of the reasons for going back with the galvalume, one was the cost factor, which may hopefully open up some more funds to do some painting and other work.

Discussion continued regarding the Board's desire to see the metal flashing replaced with wood.

All those present voted affirmative, motion passed.

Mr. Goodwin recommended to the homeowner that the metal fascia should be removed and the wood fascia board be repaired and painted.

Case: **HB 11-55**
Item: Request by the Historic Preservation Board to consider recommending to the Planning Board and City Commission that building permits be required for installation of fences.

Mr. Crowe advised that at the request of the Board staff looked into the city's fence regulations. He reviewed the memo regarding the current fencing standards and the Historic Districts that was included in his staff report. He added that this Board had the additional ability to vary from the code with flexible standards for the Historic Districts and added that of the many cities that he researched all but one require a permit for fencing.

Discussion took place regarding the need for consistency and the City's ability to insure that the fencing is installed properly.

Mr. Miles stated that he believed there were many reasons why a permit to install fencing should be required, as it defines the style, color, type, location, the openings etc. He thanked Mr. Crowe for the extensive work he did on this request. Mr. Miles shared his personal experience with a neighboring property, stating that they put up the fence encroaching onto his property and placed the non-finished side facing out. He believed that permitting was necessary to control those kinds of issues.

Tony Wooshall, of St. Augustine Beach, said he was on the Architectural Review Board for his residential development and they have recently gone through a fence issue with placing the fencing on the wrong side out, and the other issue they have is people placing tall fences in the front yard right up to the property line, so they have asked that a four foot height apply in the front setback area.

Motion made by Ms. Van Rensburg and seconded by Mr. Miles to recommend to the City Commission that permits be required for the installation of fences. All those present voted affirmative, motion passed.

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 of 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~~ ~~u~~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

MEMORANDUM

DATE: December 27, 2011

TO: Historic Preservation Board members

FROM: Thad Crowe, AICP
Planning Director

SUBJECT: Fence Permitting

At their December meeting the Board requested that staff agenda the issue of fence permitting. Board members briefly discussed the problems associated with the fact that the Zoning and Historic Preservation Code does not require a permit for a fence but does provide specific standards for fences in residential areas. This may lead to problems with illegal fence construction. The following standards are applicable to fences in residential areas.

- Fences in residentially-zoned areas are allowed along or adjacent to a lot line to a height not exceeding six feet (Sec. 94-187)
- Fences 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 may be utilized in required buffers (Sec. 94-304).
- Fence installation shall be "consistent with acceptable building practices" (Sec. 94-304).
- Fences utilized in required buffers must be located along the property line (Sec. 94-306).
- Fences utilized in required buffers must have the "best aesthetic surface" facing the adjoining property (Sec. 94-306).
- Fence 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).

There are additional standards for fences pertinent to communication towers, junkyards, etc. which are not relevant to this topic.

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.

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

The FBC 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 NEC 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.

As this is an advertised action item the Board can request the Commission to consider an ordinance that addresses the issue of fence permitting. I believe the Board has three alternatives in this case:

1. take no action;
2. recommend requiring permits for fences; or
3. recommend requiring permits for fences only within historic districts.

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
Belleview	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			
Montverdre	Y			
Mt. Dora	Y			
Naples	Y			
New Port Richey	Y			
New Smyrna Beach	Y			
North Miami	Y			

Agenda Item

11

REQUEST TO BE PLACED ON CITY COMMISSION AGENDA

NOTE: Regular City Commission meetings are held on the 2nd and 4th Thursdays of the month at 6:00 p.m. This request form, together with any attachments or backup material that that would help the Commission to better consider your request, should be submitted to the City Clerk's office ***no later than 4:00 p.m. on the Friday prior to the next regularly scheduled Thursday City Commission meeting.*** Meeting dates are subject to change. Please verify the closing date for agenda items with the Clerk's office.

Name of Individual, Organization or Group making presentation or request:

Palatka Police Department, Chief Gary Getchell

Name of Individual making presentation or request, if different:

GARY GETCHELL, CHIEF OF POLICE

Address: ***110 NORTH 11TH STREET***

Daytime Phone ***329-0110*** Home ph._____ Fax ***329-0159***

Requested meeting date for Agenda Item: **2/09/2012**

Request for Commission Action **Consent Agenda** or Presentation Only __ or no action required____ Subject Matter you wish to address:

Request for approval -Amendments/Revisions to be placed on Agenda for first reading of attached revised Chapter 53-31 Secondhand Goods

ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE CITY COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE MAY NEED TO INSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. FS 286.105

PERSONS WITH DISABILITIES REQUIRING ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE CITY CLERK'S OFFICE AT 329-0100 AT LEAST 24 HOURS IN ADVANCE TO REQUEST ACCOMMODATIONS.

Ord passed on 1st reading
2-9-12

MEMORANDUM

TO: CITY COMMISSIONERS

FROM: GARY GETCHELL, CHIEF OF POLICE GG

SUBJECT: METAL THEFT (CRIMINAL RECYCLING) REDUCTION ORDINANCE

DATE: FEBRUARY 9, 2012

CC CITY MGR. WOODY BOYNTON, CITY CLERK BETSY DRIGGERS, CITY ATTORNEY DON HOLMES, FILE

Background

Metal theft is a problem that has plagued every state in the country and nations around the globe over the past few years. It is a serious crime that is often related to other crimes such as illicit drug activity, especially methamphetamine abuse. With the ever increasing value of aluminum, copper and other metals, recycling has moved from an eco-friendly means of managing end-user waste to stealing functional in-use metals such as air conditioners, vehicles and other metals of value. The U.S. Department of Energy estimates that metal theft cost U.S. businesses $1 billion per year. The plague of metal theft has caused major problems for the nation's electric and telecommunications utilities, causing outages that cost millions and create major public safety concerns. Across the nation, metal theft has even been responsible for dozens of deaths, often the thieves themselves.

The driving factors of criminal recycling are broken down into two basic business principles; supply and demand, and inflation. As our world's population increases and demands for consumer goods increase and supplies of raw materials diminish, the cost to supply also increase.

In October of 2008 Florida State Statute 538 was changed in an effort to reduce the theft of ferrous metals (metals containing significant quantities of iron or steel), and nonferrous metals (metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys). To combat the increasing number of metal theft cases the bill also makes it more difficult for criminal recyclers to transact business with legitimate recycling business by requiring the seller to produce a photo ID as well as provide a phone number and address.

Discussion

Currently, the State is attempting to pass legislation which will tighten restrictions to the statute already in place but will also include the addition of a sunset clause which will limit restrictions local government can place on secondhand dealers if the restrictions are not in force by March 1, 2012. In other words, the City will no longer be in a position to further regulate the metal recycling industry in

Palatka. The State restrictions, while similar to the proposed City ordinance, address general concerns for the entire state. The City of Palatka ordinance is more Palatka specific and will allow enforcement actions to begin immediately upon passage by the Commission.

Recommendation

In an effort to decrease crimes of this nature as well as increase the solvability of these crimes, the Palatka Police Department recommends the City adopt the proposed changes to the current ordinance.

This instrument prepared by:
Betsy J. Driggers
201 North 2nd Street
Palatka, FL 32177

ORDINANCE No. 12 – 13

entitled

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING AND RESTATING CHAPTER 58, ENTITLED "SECONDHAND GOODS" BY ADDING SPECIFIC LANGUAGE TO SECTION 58-31, PURPOSE OF ARTICLE, TO ADD MORE RESTRICTIVE MEASURES THAN THOSE PROVIDED IN STATE STATUTE 538 AND 319; BY DELETING SECTIONS 58-32, 58-34 THROUGH 39 IN THEIR ENTIRETY; RENAMING CHAPTER 58 AS "SECONDHAND DEALERS, SECONDARY METAL RECYCLERS AND SALVAGE MOTOR VEHICLE RESTRICTIONS" AND REPLACING SAID SECTIONS WITH NEW CODE SECTIONS HEREIN NUMBERED 58-32 THROUGH 46 AUTHORIZING THE CITY TO ADD MORE RESTRICTIONS ON SECONDHAND DEALERS, SECONDARY METAL RECYCLERS AND SALVAGE MOTOR VEHICLE DEALERS BY PROVIDING DEFINITIONS; PROVIDING PENALTIES FOR VIOLATIONS; CAMERA SYSTEM REQUIREMENTS; RECORD KEEPING REQUIREMENTS; ADDITIONAL RECORD KEEPING REQUIREMENTS FOR SECONDARY METAL RECYCLERS ON NONFERROUS METALS, AND REGULATED METALS PROPERTY; DAILY REPORTS TO POLICE; INSPECTION OF PROPERTY AND RECORDS; SECONDARY METAL RECYCLER, SECONDHAND DEALER, AND SALVAGE MOTOR VEHICLE DEALER REQUIRMENTS; PROVIDING FOR LIMITATIONS ON CERTAIN RESTRICTED REGULATED METALS; RESTRICTIONS FOR PAYMENT FOR CERTAIN METALS; HOLDING PERIODS FOR STOLEN METALS; RESTRICTIONS ON TRANSACTIONS WITH MINORS; ADDITIONAL REQUIREMENTS FOR THE PURCHASE OF DERELICT MOTOR VEHICLES BY SECONDHAND DEALERS AND SALVAGE MOTOR VEHICLE DEALERS; ADMINISTRATION OF ARTICLE; PROVIDING FOR THE RENUMBERING OF CHAPTER 58 IF NECESSARY; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, increasing worldwide demand for metals and the associated rising price of metals has contributed to increased theft of copper wiring from construction sites, underground telecommunications wires, utility wires, air conditioning units, beer kegs and other metal properties within the City of Palatka; and

WHEREAS, law enforcement officers have testified, and the commission finds, that increased criminal activity relating to the theft of secondary metals, secondary metal products, derelict motor vehicles, and major parts such as those described above is adversely impacting the health, safety and welfare of the residents of the City of Palatka; and

WHEREAS, in 2008 the State of Florida enacted a law that had the purpose of reducing secondary metals theft and increasing the penalties for a violation of this state law (Chapter 2008-69, Laws of Florida; Chapter 538 Florida Statutes); and

WHEREAS, law enforcement officials have identified areas where additional regulation of the sale of restricted regulated metals property and derelict motor vehicles and major parts would be instrumental in reducing the thefts of secondary metals within the City of Palatka; and

WHEREAS, section 538.17 Florida Statutes provides that nothing in the state law shall preclude political subdivisions of the state and municipalities from enacting laws more restrictive than the provisions of chapter 538; and

WHEREAS, the commission recognizes that the State of Florida has specified goals for increasing recycling within the state and that recycling secondary metals is a vital part of preserving the City and State's environment; and

WHEREAS, law enforcement within the City have sought the cooperation of other interested persons within the City to find a way to work together to reduce or completely eliminate the theft of restricted regulated metals property by sharing information; and

WHEREAS, the cooperative efforts and the law enforcement actions taken pursuant to the aforementioned state law have not been effective in reducing the thefts of restricted regulated metals property; and

WHEREAS, under Home Rule authority and section 538.17 Florida Statutes, the City of Palatka has the authority to further regulate the secondary metals recycling industry and enact more restrictive provisions; now therefore

NOW, THEREFORE, BE IT ENACTED BY THE CITIZENS OF THE CITY OF PALATKA, FLORIDA:

Section 1: Chapter 58, Secondhand Goods, is hereby restated in its entirety, and shall be entitled to read "Secondhand Dealers, Secondary Metal Recyclers and Salvage Motor Vehicle Restrictions" and is hereby created to read as follows (notwithstanding the renumbering of Chapter 58, if necessary):

CHAPTER 58
SECONDHAND DEALERS, SECONDARY METALS RECYCLERS AND SALVAGE MOTOR VEHICLE DEALERS RESTRICTIONS

***State law references:** Authority to regulate, F.S. § 538.03 – 538.26 and 319.30.

Sec. 58-31. Purpose of article.
The purpose of this article is to set forth regulations governing the purchase and disposition of personal property made of gold, silver, platinum or other precious metals in a more restrictive manner than provided by chapter 538 of Florida State Statutes. This article also establishes regulations governing the purchase of derelict motor vehicles by regulated secondary metal recyclers and salvage motor vehicle dealers in a more restrictive manner than provided by chapters 319 within the corporate limits of the city.

Sec. 58-32. Definitions.
The definitions relating to secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers found in F.S. section 538.03 through 538.18 and F.S. 319 shall apply to this article.

Sec. 58-33. Penalty.
Any secondhand dealer, secondary metals recycler or salvage motor vehicle dealer in violation of any provision of this article shall be guilty of a violation of this Code and punishable by fine or imprisonment, or both, not to exceed a $500.00 fine and/or 60 days in the county jail.

Sec. 58-34. Camera System requirements
All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealer business shall have a camera system that will take a clear photograph or digital image of the seller and the items he or she is selling as well as the vehicle the seller responded in. The secondary metal recycler, secondhand dealers or salvage motor vehicle dealer shall use such camera to photograph every person, except as herein provided, in connection with all purchases and/or trade-in allowance of all articles by the recycler or dealer and to make such photographs, or digital images available to any law enforcement officer upon request.

Sec. 58-35 Recordkeeping requirements.
Secondary metals recyclers, secondhand dealer and salvage motor vehicle dealers shall legibly, in the English language, complete a transaction form at the time of each transaction relating to nonferrous metals, precious metals, regulated metals property and motor vehicle purchases, derelict motor vehicle purchases, junk material, and major component parts. Unless other arrangements have been agreed upon by the secondary metal recycler, secondhand dealer,

salvage motor vehicle dealer and the city police department. The secondary metal recycler, salvage motor vehicle dealer or secondhand dealer shall, within 24 hours after the acquisition of any items, deliver to the city police department a record of the transactions on a form or electronic file approved by the Chief of Police. Such record shall contain:

(1) The time, date, and place of the transaction.

(2) A description of the person from whom the item(s) were acquired, including:

a. Full name, current residential address, workplace, and home and work phone numbers.

b. Driver's license, or personal identification card.

c. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.

d. The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired. If the right thumbprint cannot be obtained, the left thumbprint shall be obtained and the reason why the right thumb print was not available shall be listed on the form.

(3) The name of the person handling the transaction.

(4) A signed affidavit stating that the item(s) received in the transaction are not stolen.

(a) No secondary metal recycler, secondhand dealer, salvage motor vehicle dealer shall accept any nonferrous metals, regulated metals, motor vehicles, derelict motor vehicles, junk, or major parts unless it shall make a photograph of the person and items/articles from whom such article is being received and attach such photograph to the transaction form which shall be completed at the time of the transaction.

(b) No secondary metals recycler, salvage motor vehicle dealer or secondhand dealer shall accept any nonferrous metals, regulated metals, motor vehicles, derelict motor vehicles, junk, or major parts unless it has verified the identification, by the exhibition of a photographic personal identification card of the person from whom such article is being received.

(c) All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers regulated by this article shall maintain each and every completed transaction record on the registered premises, or in an electronic database accessible from the premises as long as the database contains the information required by this section, along with an electronic oath of ownership with an electronic signature of the seller of the article being purchased by the secondary metals recycler, salvage motor vehicle dealer and secondhand dealer an electronic image of the seller's right thumbprint that has no smudges and smears, and can be downloaded onto a paper form in the image of the form approved by the city police department for five years from the date of the transaction. No secondary metals recycler, secondhand dealers or salvage motor vehicle dealers shall refuse to deliver such photograph or transaction form to any law enforcement officer upon request in

connection with a specific item of stolen property within three years following the date of the transaction.

(d) Every secondary metals recycler, secondhand dealers and salvage motor vehicle dealers shall display a notice to his customers in a prominent place to the effect that he/she is required to photograph and fingerprint every person and item to be sold or offered as full or part payment an item to him/her, pursuant to city code.

(e) At least 60 days prior to the destruction of a photograph or transaction form, the secondary metal recycler, secondhand dealer and salvage motor vehicle dealers shall notify, in writing, the city police department of his/her intent to destroy such documents. The city police department, at its option, shall request the secondary metal recycler, secondhand dealer and salvage motor vehicle dealer to turn over all said documents to the city police department, and the secondary metals recycler, secondhand dealer and salvage motor vehicle dealer upon said request, shall turn over all documents to the city police department.

Sec. 58-36 Additional recordkeeping requirements for secondary metal recyclers on; nonferrous metals, and regulated metals property.

(a) In addition to the transaction form required in section 58-35, whenever any secondary metals recycler purchases any nonferrous or regulated metals property, the secondary metal recycler dealer shall keep a record of:

(1) The operator license of the person delivering the metal;

(2) Photograph the vehicle and document the make, model and the state license numbers of the vehicle in which the metal was delivered;

(3) The quantity purchased;

(4) The general description of the form of the metal when received including whether the same is in the form of wire, cable, bars, fittings, guttering, rods, or tubing, and if applicable, if such form contains any identifiable or distinguishable markings, numbers, letters or labeling; and

(5) The names and addresses of the person, groups of persons, or corporation from whom the seller obtained the metal.

The records set forth in this section shall be open for inspection as required in section 58-35, and subject to the reporting requirements of section 58-36.

Sec. 58-37.Daily report to police.

Unless other arrangements have been agreed upon by the secondhand dealer, secondary metal recycler, salvage motor vehicle dealer and the city police department, every secondary metal recycler, salvage motor vehicle dear and secondhand dealer, before 12:00 noon each business day, shall report to the police chief, or such other law enforcement officer as may be designated, via electronic mail, facsimile, hand delivery or other method so approved by the police chief, the information required by sections 58-35, 58-36 and 58-44 of this code for all items received

during the previous business day. The report shall be completed in such format as may be directed by the city.

Sec. 58-38. Inspection of property and records.
During the usual and customary business hours of a secondary metal recycler, second hand dealer and salvage motor vehicle dealer a law enforcement officer shall, after properly identifying herself or himself as a law enforcement officer, have the right to inspect:

(1) Any and all purchased regulated metals, and items identified in F.S. 319 and property in the possession of the secondary metals recycler, and salvage motor vehicle dealer

(2) Any and all records required to be maintained under section 58-35, 58-36 and 58-44.

(3) All articles of personal property made of gold, silver, platinum or other precious metal purchased or received by secondhand dealers shall be so arranged in stock as to enable the stock to be inspected by the chief of police or any other person with such authority.

Sec. 58-39 Secondary metal recycler, Secondhand Dealer and Salvage Motor Vehicle Dealer ;requirements.

(a) It shall be unlawful for any secondary metal recycler, salvage motor vehicle dealer and secondhand dealer to operate in the city without first meeting the requirements of this article.

(b) No secondary metal recycler, salvage motor vehicle dealer or secondhand dealer shall be licensed as a pawnbroker or dealer in secondhand goods in the city, nor shall any secondary metal recycler, salvage motor vehicle dealer or secondhand dealer make any loans upon any article designated herein as junk, nor receive the same as a pledge, pawn or security, nor shall any person purchase, sell, exchange or deal in any such articles without first complying with all the provisions of this part.

(c) A copy of the regulations prescribed by this article shall be posted in a conspicuous place at the place of business of every secondary metal recycling, salvage motor vehicle dealer and secondhand dealer and it shall be the duty of the register, upon request, to furnish copies of the regulations to every secondary metal recycler, salvage motor vehicle dealer and secondhand dealer in the city.

(d) No secondary metal recycler, secondhand dealer or salvage motor vehicle dealer shall purchase or receive by sale, barter, exchange, or otherwise, any ferrous or nonferrous metal, scrap, alloy, motor vehicles, derelict motor vehicles, junk, or major parts:

(1) Between the hours of 9:00 p.m. and 7:00 a.m.

(2) From any person with the knowledge that such items are stolen property; nor

(3) From any person under the age of 18 years without consent of a parent or guardian. A personal identification card is required to prove age.

(4) Purchase regulated metals property from any seller who presents such property for sale at the registered location of the secondary metals recycler when such property was not transported in a motor vehicle.

(e) All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers shall keep and retain on their premises all items listed in Sec. 58-40 and 58-44 in its original form, shape and/or condition in which it was received for a period of three days after notification to the city police department of the same article. In computing any period of time proscribed or allowed by this section, the day of receipt of the item and holidays observed by the city shall not be included in the computation. In the event that a city holiday is observed on two consecutive business days, computation of the time under this article shall begin to run on the following business day. In all other cases Saturday and Sunday shall be included in the time computation.

Sec. 58-40. Purchases of suspected secondary metals limitations and notification.

(a) A secondary metal recycler or secondhand dealer shall not purchase any of the following items of regulated metal property without obtaining proof that the seller owns the property (by receipt or bill of sale), or is an employee, agent, or person who is authorized to sell the item of regulated metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization, or secondary metal recycler:

1. Utility access cover;

2. Street light poles, its fixtures and hardware;

3. Road and bridge guard rails;

4. Highway or street sign;

5. Water meter cover or water meter;

6. Traffic directional and traffic control signs, street signs;

7. Traffic light devices, its hardware or wiring;

8. Item marked with any form of the name, initials, or logo of a government entity, utility company, cemetery or railroad;

9. Property owned and marked by a telephone, cable, electric, water, or other utility provider to include communication, transmission, distribution, and service wire from a utility, including copper or aluminum wire bus bars, connectors, and grounding plates or grounding wire;

10. Railroad equipment, including but not limited to a tie, plate, signal house, control box, switch plate, E clip, or rail tie junction;

11. Funeral markers and vases;

12. Historical markers;

13. Bales of regulated metal property;

14. Copper, aluminum, or aluminum copper condensing coil or evaporator coil, including its tubing or rods, from a heating or air conditioning unit (excluding coils from a window air conditioning unit and automobiles);

15. Aluminum or stainless steel container or bottle designed to hold propane;

16. Any catalytic convertor or any nonferrous part of a catalytic converter, or similar device which contains any recoverable quantity of platinum, unless purchased as part of a whole vehicle.

17. Metal bleachers or other seating facilities used in recreational areas or sporting arenas,

18. Iron or steel decorative grates, tree trim rings, or similar type items,

19. Full sized, new materials such as those used in construction or building trades.

20. Shopping carts;

21. Stainless Steel Beer Kegs;

22. Insulated utility or communication wire that has been burned in whole or in part to remove the insulation (excluding any telephone wire, ethernet, and any romex or other wire smaller than #12 gauge, as measured with a standard wire gauge).

23. Brass or bronze commercial valves or fittings, referred to as "FDC" valves that are commonly used on structures for access to water for the purposes of extinguishing fires or;

24. Brass or bronze portable water backflow preventer valves that are valves commonly used to prevent backflow of portable water into water utility systems.

(b) Notification

1. Generally – When any seller engages in a purchase transaction or attempts to engage in a purchase transaction of any of the suspect regulated metals property listed in section 58-40 (a), the secondary metals recycler shall electronically notify the Palatka Police Department by no later than 10:00 am on the following business day. Notification for a purchase transaction shall include all records required pursuant to Florida Statute section 538.19. The Palatka Police Department shall specify the format and method for electronic notification.

2. Retention of Records – the secondary metals recycler shall retain a copy of records required in paragraph (b) 1 for not less than 5 years from the date of the purchase transaction or attempted purchase transaction and, upon request, make them available for inspection by the Palatka Police Department within 24 hours.

Sec. 58-41. Payment.
(a) Limitations on cash transactions for specified metals – A secondary metals recycler shall not enter into any cash transaction exceeding ($50.00) dollars for purchase of any suspected regulated metals property listed in section 58-40(a).

(b) Payment procedures – for purchases exceeding ($50.00) of any suspect regulated metals property listed in 58-40(a) the following shall apply:

1. Payment by a secondary metals recycler shall be made by check issued to the seller of the metal and payable to the seller or by electronic payment to the seller's or employee of the seller's bank account;

2. Each check shall be mailed by the secondary metal recycler directly to the current address or bank account of the seller which is on file with the secondary metals recycler and;

3. Each check or electronic payment shall be mailed or electronically transferred by the secondary metals recycler to the seller within three (3) days of the purchase transaction.

(c) Limited Exceptions - The secondary metals recycler may provide a check at the time of the purchase transaction rather than by mail when required by section 58-42(b) if the seller provides the satisfactory proof of qualification of one of the following:

1. Nonprofit organization registered under the Internal Revenue Code as a 501(c)(3) organization;

2. Governmental Agency;

3. Bankruptcy trustee, personal representative of estate or court appointed receiver;

4. Authorized person in execution sale; or

5. Manufacturing, industrial or other commercial vendor that generates regulated materials in the ordinary court of business.

Sec. 58-42 Holding period and stolen regulated metals property petition for return.
Holds placed on and petitions for return on regulated metals will be followed as per F.S.S. 538.06, 538.21, 538.24 and 319.30.

Sec. 58-43. Transactions with minors.
It shall be unlawful for any secondhand dealer, salvage motor vehicle dealer or secondary metals recycler to buy, take or receive by way of purchase or exchange articles made of precious metal, ferrous or nonferrous metals, regulated metals, scrap metals, alloys, motor vehicles, derelict motor vehicles, junk, or major parts from any person under the age of 18 years.

Sec. 58-44. Additional requirements for the purchase of derelict motor vehicles by second hand dealers and salvage motor vehicle dealers.

In addition to the requirements set forth in Sec. 58-35, a second hand dealer or salvage motor vehicle dealer shall in addition to the recording requirements set forth in F.S.S. 319 relating to the purchase of derelict motor vehicles obtain the following information and document it as part of record:

1. Photograph all four side of the derelict motor vehicle to include the vehicle identification number and;

2. Photograph the seller and;
3. Photograph the vehicle and document the make, model and the state license numbers of the vehicle in which the was delivered;

4. Notify the Police Department within 24 hours of the transaction and provide electronic copy of records pertaining to the transaction and;

Sec. 58-45 Severability.
Should any word, phrase, sentence, subsection or section of this ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed and all other words, phrases, sentences, subsections, or sections shall remain in effect.

Sec. 58-46. Administration of article.
The procedures involved in the implementation of this article shall be coordinated by the city manager and the chief of police. Any changes to such procedures shall be accomplished by resolution of the city commission.

Section 2. That all sections of Chapter 58 of the Palatka Municipal Code be renumbered accordingly to accommodate the changes described in this Ordinance, if necessary.

Section 3. That all ordinances or parts of ordinances in conflict therewith are hereby repealed to the extent of such conflict.

Section 4. That if any section or portion of a section or subsection of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or portion of a section, subsection, or part of this ordinance.

Section 5. That this ordinance shall take effect upon its passage as provided by law.

Section 6. That a copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

PASSED AND ADOPTED by the City Commission of the City of Palatka on second reading this 23rd day of February, 2012.

CITY OF PALATKA

By: _____
Its MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

_____
City Attorney

Introduced to the City Commission at the request of the Chief of Police:

AN ORDINANCE OF THE CITY COMMISSION, OF THE CITY OF PALATKA FLORIDA AMENDING AND RESTATING CHAPTER 58 ENTITLED "SECONDHAND GOODS" BY ADDING SPECIFIC LANGUAGE TO SECTION 58-31 PURPOSE OF ARTICLE TO MORE RESTRICTIVE MEASURES THAN THOSE PROVIDED IN STATE STATUTE 538 AND 319; BY DELETING SECTIONS 58-32, 58-34 THROUGH 39 IN THEIR ENTIRETY, RENAMING CHAPTER 58 AS "SECONDHAND DEALERS, SECONDARY METAL RECYCLERS AND SALVAGE MOTOR VEHICLE RESTRICTIONS" AND REPLACING SAID SECTIONS WITH NEW CODE SECTIONS 58-32 THROUGH 46 AUTHORIZING THE CITY ADD MORE RESTRICTIONS ON SECONDHAND DEALERS, SECONDARY METAL RECYCLERS AND SALVAGE MOTOR VEHICLE DEALERS BY; PROVIDING DEFINITIONS; PROVIDING PENALTIES FOR VIOLATIONS; CAMERA SYSTEM REQUIREMENTS; RECORD KEEPING REQUIREMENTS;ADDITIONAL RECORD KEEPING REQUIREMENTS FOR SECONDARY METAL RECYCLERS ON NONFERROUS METALS, AND REGULATED METALS PROPERTY; DAILY REPORTS TO POLICE; INSPECTION OF PROPERTY AND RECORDS; SECONDARY METAL RECYCLER, SECONDHAND DEALER, AND SALVAGE MOTOR VEHICLE DEALER REQUIRMENTS; PROVIDING FOR LIMITATIONS ON CERTAIN RESTRICTED REGULATED METALS; RESTRICTIONS FOR PAYMENT FOR

CERTAIL METALS; HOLDING PERIODS FOR STOLEN METALS; RESTRICTIONS ON TRANSACTIONS WITH MINORS; ADDITIONAL REQUIREMENTS FOR THE PURCASE OF DERELICT MOTOR VEHICLES BY SECONDHAND DEALERSAND SALVAGE MOTOR VEHICLE DEALERS; SEVERABILITY; ADMINISTRATION OF ARTICLE; AND PROVIDING AND EFFECTIVE DATE.

WHEREAS, increasing worldwide demand for metals and the associated rising price of metals has contributed to increased theft of copper wiring from construction sites, underground telecommunications wires, utility wires, air conditioning units, beer kegs and other metal properties within the City of Palatka; and

WHEREAS, law enforcement officers have testified, and the commission finds, that increased criminal activity relating to the theft of secondary metals, secondary metal products, derelict motor vehicles, and major parts such as those described above is adversely impacting the health, safety and welfare of the residents of the City of Palatka; and

WHEREAS, in 2008 the State of Florida enacted a law that had the purpose of reducing secondary metals theft and increasing the penalties for a violation of this state law (Chapter 2008-69, Laws of Florida; Chapter 538 Florida Statutes); and

WHEREAS, law enforcement officials have identified areas where additional regulation of the sale of restricted regulated metals property and derelict motor vehicles and major parts would be instrumental in reducing the thefts of secondary metals within the City of Palatka; and

WHEREAS, section 538.17 Florida Statutes provides that nothing in the state law shall preclude political subdivisions of the state and municipalities from enacting laws more restrictive than the provisions of chapter 538; and

WHEREAS, the commission recognizes that the State of Florida has specified goals for increasing recycling within the state and that recycling secondary metals is a vital part of preserving the City and State's environment; and

WHEREAS, law enforcement within the City have sought the cooperation of other interested persons within the City to find a way to work together to reduce or completely eliminate the theft of restricted regulated metals property by sharing information; and

WHEREAS, the cooperative efforts and the law enforcement actions taken pursuant to the aforementioned state law have not been effective in reducing the thefts of restricted regulated metals property; and

WHEREAS, under Home Rule authority and section 538.17 Florida Statutes, the City of Palatka has the authority to further regulate the secondary metals recycling industry and enact more restrictive provisions; now therefore

BE IT ORDAINED by the Commission of the City of Palatka:
Chapter 58 to read "Secondhand Dealers, Secondary Metal Recyclers and Salvage Motor Vehicle Restrictions is here by created to read as follows:

CHAPTER 58
SECONDHAND DEALERS, SECONDARY METALS RECYCLERS AND SALVAGE MOTOR VEHICLE DEALERS RESTRICTIONS

***State law references:** Authority to regulate, F.S. § 538.03 – 538.26 and 319.30.

Sec. 58-31. Purpose of article.
The purpose of this article is to set forth regulations governing the purchase and disposition of personal property made of gold, silver, platinum **or other precious metals in a more restrictive manner than provided by chapter 538 of Florida State Statutes. This**

article also establishes regulations governing the purchase of derelict motor vehicles by regulated secondary metal recyclers and salvage motor vehicle dealers in a more restrictive manner than provided by chapters 319 within the corporate limits of the city.

Sec. 58-32. Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Precious metals* means any item containing any gold, silver or platinum, or any combination thereof, excluding:~~

~~(1) Any chemical or any automotive, photographic, electrical, medical or dental materials or electronic parts.~~

~~(2) Any coin with an intrinsic value less than its numismatic value.~~

~~(3) Any gold bullion coin.~~

~~(4) Any gold, silver or platinum bullion that has been assayed and is properly marked as to its weight and fineness.~~

~~*Secondhand dealer* means any person who is not a secondary metals recycler subject to F.S. § 538.18 et seq., and who is engaged in the business of purchasing, consigning or pawning secondhand goods or entering into title loan transactions. However, secondhand dealers are not limited to dealing only in items defined as secondhand goods in F.S. § 538.03(1)(g). Except as provided in F.S. § 538.03(2), the term means pawnbrokers, jewelers, precious metals dealers, garage sale operators, secondhand stores and consignment shops.~~

The definitions relating to secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers found in F.S. section 538.03 through 538.18 and F.S. 319 shall apply to this article.

Sec. 58-33. Penalty.

Any secondhand dealer, **secondary metals recycler or salvage motor vehicle dealer** in violation of any provision of this article shall be guilty of a violation of this Code and punishable by fine or imprisonment, or both, not to exceed a $500.00 fine and/or 60 days in the county jail.

Sec. 58-34. ~~Register of transactions required; contents.~~**Camera System requirements**

~~(a) Any person engaged in business as a secondhand dealer shall keep a register in connection with his business, which shall be approved as to type and form by the chief of police, and at the time of each transaction shall enter or cause to be entered therein an accurate description of the person from whom any article of personal property made of gold, silver, platinum or other precious metal is purchased or received, and shall include in the description, but not be limited to, the name, date of birth, sex, race, place of residence and driver's license or, if none, other governmental identification numbers of the person, together with an accurate description of any article of personal property made of gold, silver, platinum or other precious metal so purchased or received, which description shall contain any mark, brand, monogram, hallmark, word or letters which may be engraved, stamped, etched or otherwise permanently marked upon the article. The register shall at~~

~~all times be kept open and available for the inspection and examination of the chief of police or any other person authorized by the chief of police to inspect the register.~~
~~(b) Any and all persons engaged in business as a secondhand dealer shall, in keeping the register required in subsection (a) of this section, take the following precautions to ensure accuracy of the personal identification required:~~
~~(1) Require the customer, as a condition to the purchase, to sign his name on the registration form.~~
~~(2) Require reasonable proof of identity, which would include but not be limited to display of a driver's license or other governmental identification cards or certificates.~~
~~(c) It shall be unlawful for any customer to give or display false identification to the dealer or to sign a false name.~~
(Code 1981, § 11-203)
All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealer business shall have a camera system that will take a clear photograph or digital image of the seller and the items he or she is selling as well as the vehicle the seller responded in. The secondary metal recycler, secondhand dealers or salvage motor vehicle dealer shall use such camera to photograph every person, except as herein provided, in connection with all purchases and/or trade-in allowance of all articles by the recycler or dealer and to make such photographs, or digital images available to any law enforcement officer upon request.

Sec. 58-35 ~~Copy or Transcript of Register to be furnished to Chief of Police~~ **Recordkeeping requirements.**

~~All secondhand dealers shall, not later than 12:00 noon of each business day, make available to the chief of police or his representative a full and complete copy or transcript of the register in which are entered the transactions of the preceding business day as required by section 58-34.~~

Secondary metals recyclers, secondhand dealer and salvage motor vehicle dealers shall legibly, in the English language, complete a transaction form at the time of each transaction relating to nonferrous metals, precious metals, regulated metals property and motor vehicle purchases, derelict motor vehicle purchases, junk material, and major component parts. Unless other arrangements have been agreed upon by the secondary metal recycler, secondhand dealer, salvage motor vehicle dealer and the city police department. The secondary metal recycler, salvage motor vehicle dealer or secondhand dealer shall, within 24 hours after the acquisition of any items, deliver to the city police department a record of the transactions on a form or electronic file approved by the Chief of Police. Such record shall contain:

(1) The time, date, and place of the transaction.

(2) A description of the person from whom the item(s) were acquired, including:

a. Full name, current residential address, workplace, and home and work phone numbers.

b. Driver's license, or personal identification card.

c. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.

d. The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired. If the right thumbprint cannot be obtained, the left thumbprint shall be obtained and the reason why the right thumb print was not available shall be listed on the form.

(3) The name of the person handling the transaction.

(4) A signed affidavit stating that the item(s) received in the transaction are not stolen.

(a) No secondary metal recycler, secondhand dealer, salvage motor vehicle dealer shall accept any nonferrous metals, regulated metals, motor vehicles, derelict motor vehicles, junk, or major parts unless it shall make a photograph of the person and items/articles from whom such article is being received and attach such photograph to the transaction form which shall be completed at the time of the transaction.

(b) No secondary metals recycler, salvage motor vehicle dealer or secondhand dealer shall accept any nonferrous metals, regulated metals, motor vehicles, derelict motor vehicles, junk, or major parts unless it has verified the identification, by the exhibition of a photographic personal identification card of the person from whom such article is being received.

(c) All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers regulated by this article shall maintain each and every completed transaction record on the registered premises, or in an electronic database accessible from the premises as long as the database contains the information required by this section, along with an electronic oath of ownership with an electronic signature of the seller of the article being purchased by the secondary metals recycler, salvage motor vehicle dealer and secondhand dealer an electronic image of the seller's right thumbprint that has no smudges and smears, and can be downloaded onto a paper form in the image of the form approved by the city police department for five years from the date of the transaction. No secondary metals recycler, secondhand dealers or salvage motor vehicle dealers shall refuse to deliver such photograph or transaction form to any law enforcement officer upon request in connection with a specific item of stolen property within three years following the date of the transaction.

(d) Every secondary metals recycler, secondhand dealers and salvage motor vehicle dealers shall display a notice to his customers in a prominent place to the effect that he/she is required to photograph and fingerprint every person and item to be sold or offered as full or part payment an item to him/her, pursuant to city code.

(e) **At least 60 days prior to the destruction of a photograph or transaction form, the secondary metal recycler, secondhand dealer and salvage motor vehicle dealers shall notify, in writing, the city police department of his/her intent to destroy such documents. The city police department, at its option, shall request the secondary metal recycler, secondhand dealer and salvage motor vehicle dealer to turn over all said documents to the city police department, and the secondary metals recycler, secondhand dealer and salvage motor vehicle dealer upon said request, shall turn over all documents to the city police department.**

Sec. 58-36 ~~Holding period for property acquired by dealer.~~**Additional recordkeeping requirements for secondary metal recyclers on; nonferrous metals, and regulated metals property.**

~~No article of personal property, unless the person to whom the goods are to be transferred is the person from whom they were first acquired, shall be sold, melted, altered or otherwise disposed of by any secondhand dealer until 15 calendar days have elapsed from the time the chief of police has had made available to him a copy or transcript of the register in which such articles of personal property made of gold, silver, platinum or other precious metal are entered, and such articles shall not be transferred from within the corporate limits of the city during such 15-day period of time.~~

(a) In addition to the transaction form required in section 58-35, whenever any secondary metals recycler purchases any nonferrous or regulated metals property, the secondary metal recycler dealer shall keep a record of:

(1) The operator license of the person delivering the metal;

(2) Photograph the vehicle and document the make, model and the state license numbers of the vehicle in which the metal was delivered;

(3) The quantity purchased;

(4) The general description of the form of the metal when received including whether the same is in the form of wire, cable, bars, fittings, guttering, rods, or tubing, and if applicable, if such form contains any identifiable or distinguishable markings, numbers, letters or labeling; and

(5) The names and addresses of the person, groups of persons, or corporation from whom the seller obtained the metal.

The records set forth in this section shall be open for inspection as required in section 58-35, and subject to the reporting requirements of section 58-36.

Sec. 58-37. ~~Transactions with minors.~~ **Daily report to police.**

~~It shall be unlawful for any secondhand dealer to buy, take or receive by way of purchase or exchange any articles made of gold, silver, platinum or other precious metal from any person under the age of 18 years.~~

Unless other arrangements have been agreed upon by the secondhand dealer, secondary metal recycler, salvage motor vehicle dealer and the city police department, every secondary metal recycler, salvage motor vehicle dear and secondhand dealer, before 12:00 noon each business day, shall report to the police chief, or such other law enforcement officer as may be designated, via electronic mail, facsimile, hand delivery or other method so approved by the police chief, the information required by sections 58-35, 58-36 and 58-44 of this code for all items received during the previous business day. The report shall be completed in such format as may be directed by the city.

(Code 1981, § 11-205)

Sec. 58-38. ~~Stock to be arranged so as to facilitate inspection~~**. Inspection of property and records.**

~~All articles of personal property made of gold, silver, platinum or other precious metal purchased or received by secondhand dealers shall be so arranged in stock as to enable the stock to be inspected by the chief of police or any other person with such authority.~~

During the usual and customary business hours of a secondary metal recycler, second hand dealer and salvage motor vehicle dealer a law enforcement officer shall, after properly identifying herself or himself as a law enforcement officer, have the right to inspect:

(1) Any and all purchased regulated metals, and items identified in F.S. 319 and property in the possession of the secondary metals recycler, and salvage motor vehicle dealer

(2) Any and all records required to be maintained under section 58-35, 58-36 and 58-44.

(3) All articles of personal property made of gold, silver, platinum or other precious metal purchased or received by secondhand dealers shall be so arranged in stock as to enable the stock to be inspected by the chief of police or any other person with such authority.

Sec. 58-39 ~~Administration of article~~**. Secondary metal recycler, Secondhand Dealer and Salvage Motor Vehicle Dealer ; requirements**

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~~The procedures involved in the implementation of this article shall be coordinated by the city manager and the chief of police. Any changes to such procedures shall be accomplished by resolution of the city commission.~~

(a) **It shall be unlawful for any secondary metal recycler, salvage motor vehicle dealer and secondhand dealer to operate in the city without first meeting the requirements of this article.**

(b) **No secondary metal recycler, salvage motor vehicle dealer or secondhand dealer shall be licensed as a pawnbroker or dealer in secondhand goods in the city, nor**

shall any secondary metal recycler, salvage motor vehicle dealer or secondhand dealer make any loans upon any article designated herein as junk, nor receive the same as a pledge, pawn or security, nor shall any person purchase, sell, exchange or deal in any such articles without first complying with all the provisions of this part.

(c) A copy of the regulations prescribed by this article shall be posted in a conspicuous place at the place of business of every secondary metal recycling, salvage motor vehicle dealer and secondhand dealer and it shall be the duty of the register, upon request, to furnish copies of the regulations to every secondary metal recycler, salvage motor vehicle dealer and secondhand dealer in the city.

(d) No secondary metal recycler, secondhand dealer or salvage motor vehicle dealer shall purchase or receive by sale, barter, exchange, or otherwise, any ferrous or nonferrous metal, scrap, alloy, motor vehicles, derelict motor vehicles, junk, or major parts:

(1) Between the hours of 9:00 p.m. and 7:00 a.m.

(2) From any person with the knowledge that such items are stolen property; nor

(3) From any person under the age of 18 years without consent of a parent or guardian. A personal identification card is required to prove age.

(4) Purchase regulated metals property from any seller who presents such property for sale at the registered location of the secondary metals recycler when such property was not transported in a motor vehicle.

(e) All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers shall keep and retain on their premises all items listed in Sec. 58-40 and 58-44 in its original form, shape and/or condition in which it was received for a period of three days after notification to the city police department of the same article. In computing any period of time proscribed or allowed by this section, the day of receipt of the item and holidays observed by the city shall not be included in the computation. In the event that a city holiday is observed on two consecutive business days, computation of the time under this article shall begin to run on the following business day. In all other cases Saturday and Sunday shall be included in the time computation.

Sec. 58-40. Purchases of suspected secondary metals limitations and notification.
(a) A secondary metal recycler or secondhand dealer shall not purchase any of the following
items of regulated metal property without obtaining proof that the seller owns the property
(by receipt or bill of sale), or is an employee, agent, or person who is authorized to sell the
item of regulated metal property on behalf of the governmental entity, utility provider,
railroad, cemetery, civic organization, or secondary metal recycler:

1. Utility access cover;

2. Street light poles, its fixtures and hardware;

3. Road and bridge guard rails;

4. Highway or street sign;

5. Water meter cover or water meter;

6. Traffic directional and traffic control signs, street signs;

7. Traffic light devices, its hardware or wiring;

8. Item marked with any form of the name, initials, or logo of a government entity, utility company, cemetery or railroad;

9. Property owned and marked by a telephone, cable, electric, water, or other utility provider to include communication, transmission, distribution, and service wire from a utility, including copper or aluminum wire bus bars, connectors, and grounding plates or grounding wire;

10. Railroad equipment, including but not limited to a tie, plate, signal house, control box, switch plate, E clip, or rail tie junction;

11. Funeral markers and vases;

12. Historical markers;

13. Bales of regulated metal property;

14. Copper, aluminum, or aluminum copper condensing coil or evaporator coil, including its tubing or rods, from a heating or air conditioning unit (excluding coils from a window air conditioning unit and automobiles);

15. Aluminum or stainless steel container or bottle designed to hold propane;

16. Any catalytic convertor or any nonferrous part of a catalytic converter, or similar device which contains any recoverable quantity of platinum, unless purchased as part of a whole vehicle.

17. Metal bleachers or other seating facilities used in recreational areas or sporting arenas,

18. Iron or steel decorative grates, tree trim rings, or similar type items,

19. Full sized, new materials such as those used in construction or building trades.

20. Shopping carts;

21. Stainless Steel Beer Kegs;

22. Insulated utility or communication wire that has been burned in whole or in part to remove the insulation (excluding any telephone wire, ethernet, and any romex or other wire smaller than #12 gauge, as measured with a standard wire gauge).

23. Brass or bronze commercial valves or fittings, referred to as "FDC" valves that are commonly used on structures for access to water for the purposes of extinguishing fires or;

24. Brass or bronze portable water backflow preventer valves that are valves commonly used to prevent backflow of portable water into water utility systems.

(b) Notification

1. Generally – When any seller engages in a purchase transaction or attempts to engage in a purchase transaction of any of the suspect regulated metals property listed in section 58-40 (a), the secondary metals recycler shall electronically notify the Palatka Police Department by no later than 10:00 am on the following business day. Notification for a purchase transaction shall include all records required pursuant to Florida Statute section 538.19. The Palatka Police Department shall specify the format and method for electronic notification.

2. Retention of Records – the secondary metals recycler shall retain a copy of records required in paragraph (b) 1 for not less than 5 years from the date of the purchase transaction or attempted purchase transaction and, upon request, make them available for inspection by the Palatka Police Department within 24 hours.

Sec. 58-41. Payment.
(a) Limitations on cash transactions for specified metals – A secondary metals recycler shall not enter into any cash transaction exceeding ($50.00) dollars for purchase of any suspected regulated metals property listed in section 58-40(a).

(b) Payment procedures – for purchases exceeding ($50.00) of any suspect regulated metals property listed in 58-40(a) the following shall apply:

1. Payment by a secondary metals recycler shall be made by check issued to the seller of the metal and payable to the seller or by electronic payment to the seller's or employee of the seller's bank account;

2. Each check shall be mailed by the secondary metal recycler directly to the current address or bank account of the seller which is on file with the secondary metals recycler and;

3. Each check or electronic payment shall be mailed or electronically transferred by the secondary metals recycler to the seller within three (3) days of the purchase transaction.

(c) Limited Exceptions - The secondary metals recycler may provide a check at the time of the purchase transaction rather than by mail when required by section 58-42(b) if the seller provides the satisfactory proof of qualification of one of the following:

1. Nonprofit organization registered under the Internal Revenue Code as a 501(c)(3) organization;

2. Governmental Agency;

3. Bankruptcy trustee, personal representative of estate or court appointed receiver;

4. Authorized person in execution sale; or

5. Manufacturing, industrial or other commercial vendor that generates regulated materials in the ordinary court of business.

Sec. 58-42 Holding period and stolen regulated metals property petition for return.
Holds placed on and petitions for return on regulated metals will be followed as per F.S.S. 538.06, 538.21, 538.24 and 319.30.

Sec. 58-43. Transactions with minors.
It shall be unlawful for any secondhand dealer, salvage motor vehicle dealer or secondary metals recycler to buy, take or receive by way of purchase or exchange articles made of precious metal, ferrous or nonferrous metals, regulated metals, scrap metals, alloys, motor vehicles, derelict motor vehicles, junk, or major parts from any person under the age of 18 years.

Sec. 58-44. Additional requirements for the purchase of derelict motor vehicles by second hand dealers and salvage motor vehicle dealers.

In addition to the requirements set forth in Sec. 58-35, a second hand dealer or salvage motor vehicle dealer shall in addition to the recording requirements set forth in F.S.S. 319 relating to the purchase of derelict motor vehicles obtain the following information and document it as part of record:

1. **Photograph all four side of the derelict motor vehicle to include the vehicle identification number and;**

2. **Photograph the seller and;**
3. **Photograph the vehicle and document the make, model and the state license numbers of the vehicle in which the was delivered;**

4. **Notify the Police Department within 24 hours of the transaction and provide electronic copy of records pertaining to the transaction and;**

Sec. 58-45 Severability.
Should any word, phrase, sentence, subsection or section of this ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed and all other words, phrases, sentences, subsections, or sections shall remain in effect.

481 **Sec. 58-46. Administration of article.**
482 **The procedures involved in the implementation of this article shall be coordinated by the**
483 **city manager and the chief of police. Any changes to such procedures shall be accomplished**
484 **by resolution of the city commission.**
485