



**AGENDA
PLANNING ADVISORY BOARD
REGULAR MEETING
APRIL 9, 2025
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

1. CALL TO ORDER / ROLL CALL / DETERMINATION OF QUORUM

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MEETING MINUTES

3.1 Approval of Minutes from the Regular Meeting of March 12, 2025.

4. NEW BUSINESS

4.1 **PAB CASE 2025-0001: RON FLICK AGENT FOR FERNANDINA BEACH REALTY, INC., BEACHSIDE MOTEL** - Requesting a Future Land Use Map amendment from High Density Residential (HDR) to General Commercial (GC) and requesting a Zoning Map change from High Density Residential (R-3) zoning district to the General Commercial (C-2) zoning district for approximately 1.11 acres of land located at 3172 S. Fletcher Avenue and identified as the Beachside Motel.

5. OLD BUSINESS

5.1 **PAB DISCUSSION OF LANDSCAPING, BUFFERS, AND TREE PROTECTION TEXT AMENDMENT RECOMMENDATIONS** *(Formal consideration of any text amendments will be readvertized with a new case number and ordinance references at the June 11, 2025 regular PAB meeting.)*

LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENT - LANDSCAPING, BUFFERS, AND TREE PROTECTION - ORDINANCE 2024-20 AMENDING THE LAND DEVELOPMENT CODE SECTION 4.05.00 LANDSCAPING, BUFFERS, AND TREE PROTECTION, SECTIONS 4.05.01 GENERALLY, 4.05.02 APPLICABILITY, 4.05.03 LANDSCAPE MATERIALS STANDARDS, 4.05.04 REQUIREMENTS FOR LANDSCAPE PLANS AND 4.05.13 HARDSHIP RELIEF; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Amends the Land Development Code to modify landscaping sections and subsections contained in Chapter 4. - Staff added additional amendments recognized since the original application reviewed by the PAB in 2024.*

6. BOARD BUSINESS

6.1 DISCUSSION ITEMS:

- Reevaluate the list of priorities established for LDC items to be discussed and reviewed
- Water Supply Plan Update

- City Commission Discussion from 3/18/25 Meeting - Consolidation of PAB and BOA Boards -
Placed on agenda at request of Member Robas

7. STAFF REPORT

8. PUBLIC COMMENT

9. ADJOURNMENT

THE NEXT PAB REGULAR MEETING IS SCHEDULED FOR WEDNESDAY, MAY 14, 2025 AT 5PM.

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations in order to participate in this program or activity should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired). All interested parties may appear at said meeting and be heard as to the advisability of any action, which may be considered with respect to such matter. For information regarding this matter, please contact the Planning Department (904) 310-3135.

PLANNING ADVISORY BOARD AGENDA ITEM
City of Fernandina Beach



SUBJECT:

ITEM TYPE: Zoning Map Amendment >10 Acres

REQUESTED ACTION:

SYNOPSIS:

CITY ATTORNEY COMMENTS:

Kelly Gibson, Planning and
Conservation Director

Katie Newton, Paralegal

Date: March
18, 2025

Submitted By: Sylvie McCann,
Administrative Coordinator



**MINUTES
PLANNING ADVISORY BOARD
REGULAR MEETING
MARCH 12, 2025
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

1. CALL TO ORDER 5:00 PM

ROLL CALL / DETERMINATION OF QUORUM

MEMBERS PRESENT:

Richard Doster (Chair)	Daphne Forehand (Vice-Chair)
Mark Bennett	Barbara Gingham
Nick Gillette	Victoria Robas
Peter Stevenson	

MEMBERS ABSENT:

OTHERS PRESENT:

Kelly Gibson, Planning & Conservation Director
Margaret Pearson, Senior Planner
Morgan Ohlendorf, Recording Secretary

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MEETING MINUTES

3.1 Approval of Minutes from the Regular Meeting of February 12, 2025.

ACTION TAKEN: A motion was made by Member Stevenson, seconded by Member Robas, to approve Minutes for the Regular Meeting of February 12, 2025, as presented.

Vote upon passage of the motion was taken by voice vote, and being all ayes, carried.

4. OLD BUSINESS

4.1 **PAB DISCUSSION OF PREVIOUSLY REVIEWED PUD RECOMMENDATIONS** *(Formal consideration of any text amendments will be readvertised with a new case number and ordinance references at the June 11, 2025 regular PAB meeting.)*

LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENT - PLANNED UNIT DEVELOPMENT OVERLAY - ORDINANCE 2024- AMENDING THE LAND DEVELOPMENT CODE SECTION 4.03.01 PLANNED UNIT DEVELOPMENT (PUD) OVERLAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. *Synopsis: Amends the Land Development Code criteria and standards for Planned Unit Developments (PUDs).*

Margaret Pearson, Senior Planner, gave the Board some background information and context regarding this topic.

DRAFT

Member Gingher shared that she wishes the Board would succinctly decide their points and conclusions at the end of the meeting so that they can continue moving forward without redundancy.

Member Bennett shared that he believes PUDs should have a minimum size of one (1) acre and that the Board should also consider setbacks and enforce more parameters than initially proposed.

Member Stevenson asked the Board to reiterate the specific purpose of changing the PUD overlay and why we need to make any changes.

Member Gillette stated that he agreed with Member Bennett about the minimum size requirement, but that he would be amenable to reduce the PUD acreage down to .75 acres. However, he also emphasized that, unlike Member Bennett's belief that this is a developer driven action, these actions are quasi-judicial public hearings with recourse, and that they can be challenged.

Member Robas distributed a list of proposed State/Senate Bills to the Board from the American Planning Association and expressed her concerns about several bills relating to PUDs such as SB1730 (similar to HB 943). She recommended that the Board focuses on amending the acreage requirements.

Chair Doster asked that, during tonight's meeting, if the Board could at least come to a consensus about any potential change in the size of the PUD minimum acreage. Member Bennett suggested dropping the topic all together for now and returning to it later. Other Board members disagreed with this idea and stated they would like to continue the discussion. He then asked Staff to give insight on how to strategize.

Mrs Gibson provided insight into other local communities' defense strategies about zoning changes including the recent Live Local Act. She emphasized that the Board is limited about what actions can be taken.

Chair Forehand asked for clarification as to specific concerns with any other changes to the PUD language.

Member Robas voiced that she would like the LDC regarding PUD to remain the same except for the acreage. Vice-Chair Forehand replied that all suggested changes pertain to changing the required acreage only but feels that a change in size would eventually impact other parts of the code. Member Robas then retracted her statement and stated that she would not modify the acreage. Member Bennett agreed.

Members discussed the impact of making changes for residential vs. commercial PUD. Vice-Chair Forehand asked if the Board would consider only changing residential PUD requirements. Members Bennett, Robas, Gingher, and Stevenson stated that they would prefer no changes. Member Gillette, Vice-Chair Forehand, and Chair Doster stated that they would prefer moving ahead with the changes that are being proposed.

Chair Doster asked Harrison Poole, City Attorney Pro Tem, how they should proceed with having a split consensus. Mr. Poole explained that whether they approve or deny these changes, their decision will be routed as a recommendation to the City Commission. He also added that discussion of amendments will have to restart the process with a case number, advertisement/public notices of the board discussions.

The Board discussed the potential of tabling the discussion about PUD and bringing this topic back at a later date.

ACTION TAKEN: A motion was made by Member Bennett, seconded by Member Stevenson, to table this discussion to a later meeting.

Vote upon passage of the motion was taken ayes and nays, as follows:

Member Gillette	Nay
Member Bennett	Aye
Member Gingher	Aye
Member Stevenson	Aye
Member Robas	Aye

DRAFT

Vice-Chair Forehand Nay
Chair Doster Nay

5. BOARD BUSINESS

- 5.1 Update on City Commission Visioning held on Thursday, February 27, 2025 at City Golf Course Clubhouse.

Mrs. Pearson presented the Staff Report regarding the City Commission Visioning.

Member Bennett brought up the need for the Board to focus on adding more definitions to the LDC.

Member Robas asked Staff to clarify the upcoming City Commission Resolution 2025-46 regarding Live Local Act and its property tax exemption. Mrs. Gibson answered and explained that opt-out option. Chair Doster asked Staff to confirm that this action doesn't involve or affect this Board. Mrs. Gibson confirmed that it does not.

Member Robas then shared that she believes it would be helpful to have an agenda for summarizing the proposed changes to be discussed every month to keep the Board focused.

Chair Doster suggested that Staff move up commercial redevelopment as a priority to be addressed at the next meeting. Mrs. Pearson asked the Board to clarify which section of commercial redevelopment the Board would like to discuss as they encapsulate many topics the City Commission directed the Board to address first. Member Stevenson asked Staff to provide insight as to which commercial redevelopment section currently needs the most attention.

The Board discussed goals for future meetings, and which topics should be prioritized, those being landscaping, parking, and PUDs which are all part of Commercial Redevelopment.

Member Gillette asked if a water supply map of our service region could be shared with the Board.

Member Stevenson asked about the Fiscal Impact Statement form example provided to present to City Commission on any new ordinances.

6. STAFF REPORT

7. PUBLIC COMMENT

George Haffey, 1640 Northpark Drive, thanked the Board and asked that they keep Amelia Park and general neighborhood character in mind as they process any future developments.

8. ADJOURNMENT 6:10 PM

Morgan Ohlendorf, Recording Secretary

Richard Doster, Chair

PLANNING ADVISORY BOARD AGENDA ITEM
City of Fernandina Beach



SUBJECT:

ITEM TYPE: Zoning Map Amendment < 10 Acres

REQUESTED ACTION:

SYNOPSIS:

CITY ATTORNEY COMMENTS:

Kelly Gibson, Planning and
Conservation Director

Katie Newton, Paralegal

Date: March
18, 2025

Submitted By: Sylvie McCann,
 Administrative Coordinator



STAFF REPORT
PAB (LU/ZC) 2025-0001
Planning Advisory Board Hearing
April 9, 2025

**APPLICATION FOR SMALL SCALE FUTURE LAND USE MAP AMENDMENT &
ZONING CHANGE REQUEST**

APPLICATION & SURROUNDING AREA INFORMATION:

OWNER/APPLICANT:	Fernandina Beach Realty Inc.				
AGENT:	Ron Flick, Compass Group				
REQUESTED ACTION:	Future Land Use Map Amendment and Zoning Change				
LOCATION:	Beachside Motel - 3172 S. Fletcher Avenue PIN#: 00-00-31-1720-0003-0010				
CURRENT LAND USE + ZONING:	High Density Residential (HDR) and R-3 (High Density Residential)				
PROPOSED LAND USE + ZONING:	General Commercial (GC)/ C-2 (General Commercial)				
EXISTING USES ON SITE:	Motel built in 1977 known as "The Beachside Motel"				
PROPERTY SIZE:	1.11 Acres				
ADJACENT PROPERTIES:	<u>Direction</u>	<u>Existing Use(s)</u>	<u>Year Built</u>	<u>Zoning</u>	<u>FLUM</u>
	North	Condos	1984	R-3	High Density Residential
	South	Condos	1983	R-3	High Density Residential
	East	Atlantic Ocean	N/A	N/A	N/A
	West	Restaurant & Motel	1959-1060	R-3	High Density Residential

*** All required application materials have been received. All fees have been paid. All required notices have been made. All copies of required materials are part of the official record and have been made available on the City's website and at the Community Development Department Office. ***

SUMMARY OF REQUEST AND BACKGROUND INFORMATION:

The applicant is requesting assignment of the General Commercial (GC) Future Land Use Map (FLUM) and the Community Commercial (C-2) zoning district for purposes of retaining the existing use of the property as a motel. Although the property has continuously operated as a motel for nearly fifty years, and according to a review of available land use and zoning map records, the property has maintained the same High Density Residential land use and R-3 zoning since the early 1990's.

The current owners seek to ensure continuation of the existing use on this property without fear of losing their nonconforming status and redevelopment in the event of casualty or maintenance and repairs beyond what would be permissible under the Land Development Code. Additionally, the application indicates that the age of this facility and its commercial value will require further improvements to sustain its life and economic value in the future, furthering the property's lifespan by reducing its potential of structural loss in a storm event. Under the current land use and zoning an expansion of a nonconforming use is not permissible. LDC Section 10.01.02 (F) prevents the expansion of a nonconforming use and Section 10.02.01 (C)(1) restricts the ability to grant a variance for a deviation from the aforementioned section. Therefore, the applicant is requesting the land use and zoning change to General Commercial/ C-2 to remedy their concerns for the continuation of the motel use on this parcel. The applicant asserts the property zoning on the Zoning Map and its designation on the FLUM are due to errors in the development of FLUM and Zoning Map updates and do not reflect the ongoing use of the property. The area's surrounding development contains the City's most densely populated resort-style condominiums and motels. The application does not contain plans for any proposed redevelopment or modifications to the existing



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Planning Advisory Board Hearing
April 9, 2025

motel, therefore, a site plan is not required to be submitted as part of this future land use map amendment and zoning change request.

CONSISTENCY WITH THE COMPREHENSIVE PLAN (PLAN):

The property contains a Future Land Use Designation of High Density Residential (HDR), Policy 1.07.06. The applicant is requesting a new land use assignment of General Commercial (GC), Policy 1.07.08.

Policy 1.02.04 provides nine (9) factors for Future Land Use Map decision making which include, the type and density of surrounding uses, zoning districts within the surrounding area, and compatibility of uses within the surrounding area. Policy 1.02.06, 1.02.08, and 1.02.09 directs land uses, which strive to protect the integrity and stability of established residential areas from encroachment by incompatible development and providing for orderly transition of incompatible uses.

The ocean front property is located along S. Fletcher Avenue and surrounded by High Density Residential Land Use developed with condominium dwelling units to each side, with another nonconforming motel and nonconforming restaurant located on the parcel across the street. The 1.11-acre property is adjacent to the Atlantic Ocean and has historically operated as a motel since 1977. This property and the property directly across the street have continued their non-residential uses under a nonconforming status since at least the early to mid-90's when the City's land use and zoning maps were updated. Although the FLUM designation for its given use was incompatible, the properties have served as a commercial node in an area surrounded by transient accommodations. The overall block in which the property is located has a designated land use of High Density Residential, with the nearest commercially designated land use being located approximately 650 feet to the south, which is General Commercial land use that encompasses the entire block on the west side of S Fletcher Avenue between Ocklawaha Avenue and Mantanzas Avenue.

CONSISTENCY WITH THE LAND DEVELOPMENT CODE:

Section 2.01.11 of the Land Development Code states the intent of C-2 General Commercial, zoning classification.

The C-2 District is intended for the development of land uses to accommodate offices; commercial retail; personal services establishments; restaurants; transient accommodation; uses that provide sales and services for several neighborhoods; repair shops; retail sales and services; and other similar commercial uses. The General Commercial District recognizes existing development with locations that have access to arterial roads.

The application requests the C-2 zoning district and advocates for this designation because of the high densities surrounding the property along with its location along a major arterial within the City. However, the C-2 zoning district has been restricted to more intensely developed corridors throughout the City that contain a significant amount of commercial activity such as S. 14th Street, Sadler Road, and S. 8th Street. Along S. Fletcher, commercial nodes have historically carried the C-1 (Community Commercial) zoning district and currently there is not any parcels fronting Fletcher Avenue that are zoned C-2.

The requested C-2 zoning district would be inconsistent with how other commercial properties are zoned along S. Fletcher Avenue/ A1A. Staff is also concerned with the range of allowable uses in the C-2 zoning district that would be introduced along Fletcher Avenue, which would be characterized as more intense than uses allowed upon the C-1 zoned properties located along Fletcher Avenue. In addition to uses allowed in commercial zoning, the recent state statutes (166.0415, *Florida Statutes*) known as "Live Local" allows for the potential of an affordable residential multifamily project in any commercial, industrial and mixed-use zoning districts. The requested action, if approved for commercial land use and C-2 zoning could permit redevelopment of a "live



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local” project. A qualified live local project would be permitted to exceed the currently allowed height limit within 1,000 feet of the Coastal Construction Control Line (CCCL) of thirty-five (35) feet in building height and would permit construction of a for a forty -five (45) foot tall building. If commercial designation is applied to the property, a qualified live local project could also exceed the allowable density of up to 10 dwelling units per acre at a rate of up to 18 dwelling units per acre.

Additionally, policy 2.01.06 indicates that the existing R-3 designation does provide the opportunity for limited commercial activities within the R-3 zoning district when a PUD is applied. However, the size of this parcel and limited range of uses precludes the property for qualifying as a PUD.

CONCLUSION:

The requested application of a Commercial General Future Land Use Map category and General Commercial (C-2) zoning district for this one parcel would be inconsistent with the adjoining High Density Residential land use designation for each of the adjacent properties. The range of uses permissible for the C-2 zoning district are too intense for the surrounding area and inconsistent with the surrounding Residential R-3 zoning district designation for each of the adjacent properties (**EXHIBIT A**). This application is also inconsistent with how the City has applied its commercial designation to properties along the entire ocean front area along S. Fletcher Avenue that are zoned C-1 (**EXHIBIT B**). Commercial designation within the oceanfront areas applied to larger areas including entire blocks and portions of adjoining blocks. The City has historically applied commercial land use and zoning to more than a single parcel. Further, it is possible that the requested action could be interpreted or challenged as *spot zoning* as approval of the action would arguably confer a special benefit to an individual property owner that is not commonly enjoyed by other similarly situated owners within the same area. The existing FLUM category and zoning district have been in place for at least 30 years demonstrating the community desire for any new or re-development of this area to conform with the allowable range of uses and intensity permitted at under High Density Residential/ R-3 (**EXHIBIT C**). Therefore, staff recommends denial of the applicant’s request to change the land use from High Density Residential to General Commercial and the zoning designation from High Density Residential R-3 to General Commercial C-2 for the subject property.

MOTION(S) TO CONSIDER

I move to recommend (**approval or denial**) of PAB case number 2025-0001 to the City Commission requesting a Future Land Use Map assignment of General Commercial and zoning change to C-2 from High Density Residential land use and R-3 zoning, as described and that PAB case 2025-0001 as presented, (**is or is not**) sufficiently compliant with applicable Florida Statutes, Comprehensive Plan and Land Development Code to be approved at this time.

Respectfully Submitted,
Margaret Pearson
Margaret Pearson
Senior Planner



STAFF REPORT
PAB (LU/ZC) 2025-0001
Planning Advisory Board Hearing
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EXHIBIT A
Subject Property with Surrounding FLUM and Zoning Categories





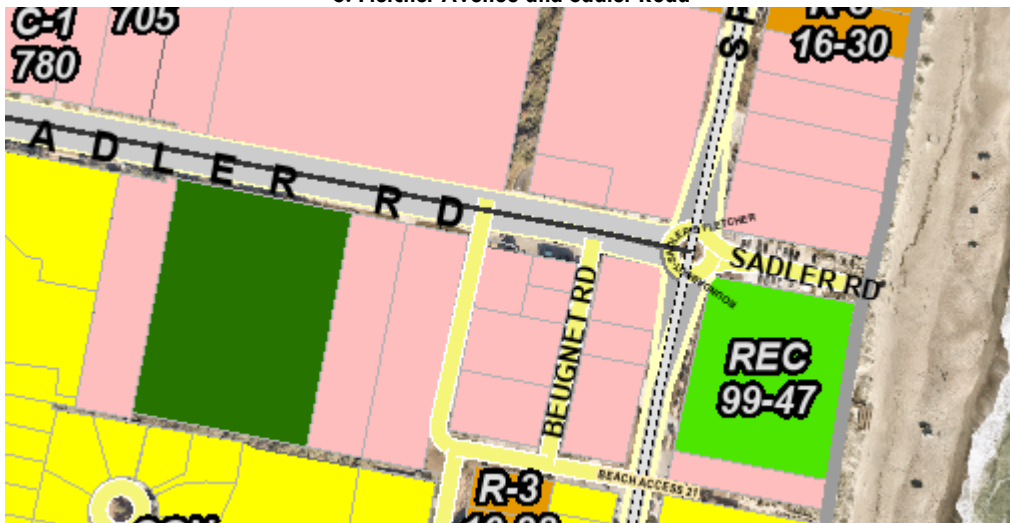
STAFF REPORT
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Planning Advisory Board Hearing
April 9, 2025

EXHIBIT B
Commercial Nodes Along S. Fletcher Avenue

Fletcher Avenue and Atlantic Avenue



S. Fletcher Avenue and Sadler Road



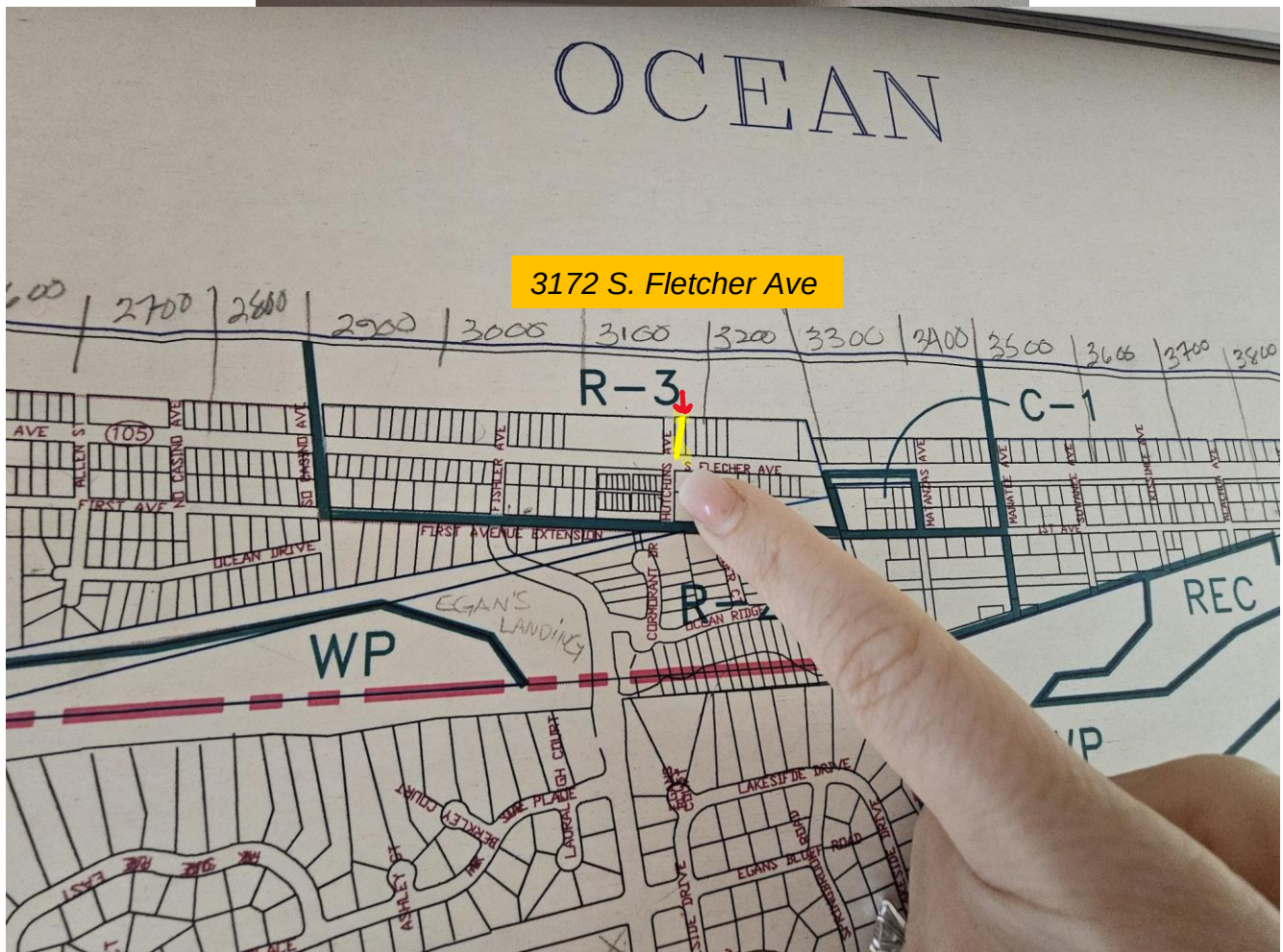
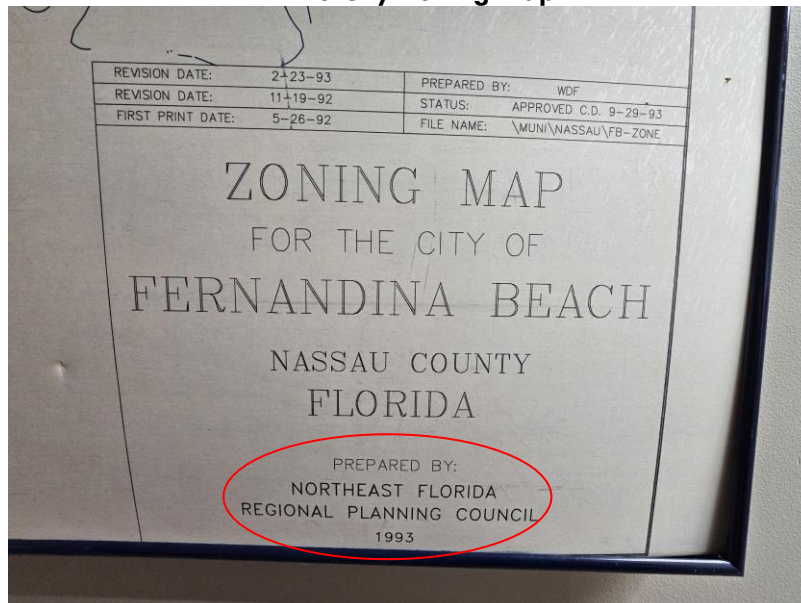
S. Fletcher Avenue and Mantanzas Avenue





STAFF REPORT
PAB (LU/ZC) 2025-0001
Planning Advisory Board Hearing
April 9, 2025

EXHIBIT C
1993 City Zoning Map



Planning Advisory Board (PAB) - Submission #15411

Date Submitted: 1/21/2025

Planning Advisory Board (PAB) Application

USE THIS FORM TO Request actions to affect changes to property (zoning changes, annexations, allowable uses, subdivisions).

Fees

Once application is submitted it will be reviewed for completeness. Once verified complete, an invoice will be emailed to the applicant.

- ☒ Zoning Map Amendment (≤ 10 acres \$2,500 / > 10acres \$5,000)
- ☒ Land Use Map Amendment (≤ 10 acres \$2,500 / > 10acres \$5,000)
- ☐ LDC Text Amendment (\$1,500)
- ☐ Comp Plan Amendment (\$5,000)
- ☐ Subdivision Plat – Preliminary (≤ 20 units \$3,000 / > 20 units \$5,000)
- ☐ Subdivision Plat – Final (\$1,500)
- ☐ Vacation of R.O.W. (\$3,500)
- ☐ Small Cell Outside R.O.W. (per application) (\$500)
- ☐ Voluntary Annexation (\$2,000)
- ☐ Development of Regional Impact: Amend Development Order (\$1,500)
- ☐ New Telecommunications Structure (\$2,500)
- ☐ Revision to each PAB Application \$400

2025 Submission Deadlines + Meetings Calendar

Application Deadline (4:30pm)	Nov 01 2024	Nov 27 2024	Jan 02 2025	Jan 29 2025	Feb 26 2025	Apr 02 2025	Apr 30 2025	May 28 2025	July 02 2025	July 30 2025	Aug 27 2025	Oct 01 2025	Oct 29 2025	Dec 03 2025
Meeting Date	Dec 11 2024	Jan 08 2025	Feb 12 2025	Mar 12 2025	Apr 09 2025	May 14 2025	June 11 2025	Jul 09 2025	Aug TBD 2025	Sep 10 2025	Oct 08 2025	Nov 12 2025	Dec 10 2025	Jan 14 2026

IMPORTANT NOTES

Pre-Application Meeting

To guide you through the process and ensure that your application is understood and properly processed, you'll need to meet with a City Planner prior to submitting your application. Completed applications are due 42 days prior to the Planning Advisory Board meeting date.

Please see the Land Development Code (LDC) for detailed information:

- ☐ LDC Text Amendment – see LDC Section 11.01.08.
- ☐ Preliminary Subdivision Plat – see LDC Section 11.01.05.
- ☐ Final Subdivision Plat – LDC Section 11.01.05.
- ☒ Zoning Map Changes – See LDC Section 11.01.07.

The LDC is available for review at

www.fbfl.us/LDC

Application Requirements

- ☒ A complete application filed at least forty-two (42) days before the date of the Planning Advisory Board's public hearing;
- ☒ Proof of Ownership (copy of deed or tax statement);
- ☐ A current survey of the property (no older than two years);
- ☒ If applying as an agent, Owner's Authorization for Agent Representation form needs to be signed/ notarized and included in application;
- ☒ A detailed letter of intent stating the following:
 - ☒ o The consistency of the proposed amendment(s) or action(s) with the City's Comprehensive Plan.
 - ☒ o A justification for the proposed amendment(s) or action(s).

Have you met with a planner for a pre-application meeting?*

Yes



What was the date of your pre-application meeting?*

5/24/2024

If you have yet to have a pre-application meeting, please choose a date and time to schedule your meeting now. Every Tuesdays are reserved for pre-application appointments.*

mm/dd/yyyy

hh:mm am/pm

PROPERTY INFORMATION

[Property information can be found at the Nassau County Property Appraiser's Website → Map Search](#)

Site Address*

3172 S. Fletcher Ave

City*

Fernandina Beach

State*

FL

Zip*

32034

Parcel ID #(s)*

00-00-31-1720-0003-0010

Lot*

1 and 2

Block*

3

Subdivision*

OR 1370/698

Zoning District*

R-3

Future Land Use Designation*

High Density Residential

Do you authorize the installation of a temporary City notice sign on your property?*

YES

City posting sign must remain on the property until the meeting is held. The sign will then be picked up by City Staff or can be returned to City Hall by the applicant.

REVIEW TYPE*

☒ Zoning Map Amendment ≤ 10 acres

☐ Zoning Map Amendment > 10 acres

☐ LDC Text Amendment

☒ Comp Plan Amendment

☐ Subdivision Plat – Preliminary ≤ 20 units

☐ Subdivision Plat – Preliminary > 20 units

☐ Subdivision Plat – Final

☐ Vacation of R.O.W.

☐ Voluntary Annexation

☐ Revision to PAB Application

OWNER OF RECORD

As recorded with the Nassau County Property Appraiser

First Name*

Steve

Last Name*

Simmons

Company (if applicable)

Fernandina Beach Realty, INC

Mailing Address*

2057 South Fletcher AV

City*

Fernandina Beach

State*

FL

Zip*

32034

Telephone Number*

904 261-4017

Email Address*

steve@amelia-era.com

OWNER'S AGENT

If other than owner. If an agent will be representing the owner, an Owner's Authorization For Agent Representation form must be included

First Name

Ron

Last Name

Flick

Mailing Address

463688 SR200 Ste 7

City

Yulee

State

FL

Zip

32097

Telephone Number

(904) 753-9056

E-mail Address

ron.flick@compassgrp.com

PROJECT INFORMATION**Previous Planning/Zoning Approvals**

NA

Summary of Request (more detailed information to be provided in required letter of intent)*

This is a request to correct the FLUM on the parcel from HDR to General Commercial and also correct the Zoning Map to reflect the current and historical zoning from R3 to C-2. See LOI

We have requested to be exempt from the fees to complete the follow through of what was proposed by the City Commission in 2019 and the PAB in Jan 13th of 2021 to correct this correction of the FLUM and the Zoning Map designation to consistently reflect the zoning and land use with the current and historical uses.

Certification*

- ☒ By signing below, I certify that the information contained in this application is true and correct to the best of my knowledge at the time of the application.
- ☒ I acknowledge that I understand and have complied with all of the submittal requirements and procedures.
- ☒ I AGREE THAT A POSTING NOTICE WILL BE INSTALLED ON THE PROPERTY(IES) IN QUESTION AND THAT SAID SIGN WILL ONLY BE REMOVED BY STAFF AFTER THE MEETING OR BROUGHT BACK TO CITY HALL BY APPLICANT.

I/We understand that the City Staff may install a Notice of Hearing sign on the property 14 days before the scheduled hearing and that the sign must only be removed after the hearing by City Staff, unless, the applicant or property owner brings the Notice of Hearing back to City Hall.

Applicant First Name*

Ron

Applicant Last Name*

Flick

Today's Date*

1/21/2025

Upload Supporting Documentation*

Warranty Deed ori.pdf



Upload 2

LOI for 3157 S.
Fletcher.pdf

Upload 3

Fully Executed COFB
Agent Authorization.pdf

Upload 4

PAB 2021-0001.pdf

DEPARTMENT OF PLANNING & CONSERVATION

204 Ash Street | Fernandina Beach, Florida 32034 | 904 310-3480 | www.fbfl.us/planning

January 21, 2025

Kelly Gibson, AICP
Director, City of Fernandina Beach Planning and Conservation
204 Ash Street
Fernandina Beach, Florida 32034
Email: kgibson@fbfl.org

Subject: Letter of Intent (LOI) for FLUM and Zoning Change for Parcel 00-00-31-1720-0003-0010, 3172 S. Fletcher Avenue

Dear Ms. Gibson:

These applications are submitted to the City of Fernandina Beach to correct the error on the Zoning Map and the Future Land Use Map (FLUM). The parcel 00-00-31-1720-0003-0010 which is addressed at 3172 S. Fletcher Avenue, Fernandina Beach, Florida has been identified as FLUM/Zoning Conflicts by the City of FB and requires corrections to both the FLUM and the Zoning Map to be consistent with its use, both historically and currently.

Background Information:

1. The Owner requested and was provided a development order to construct and Hotel on this site in 1977 as reflected on the Property Card and original construction testimony provided in PAB hearings to be as early as 1972. Permit was approved and issued for the construction. This site has also been issued other permits for improvements on the hotel site since that timeframe.
2. The parcel 00-00-31-1720-0003-0010 is currently identified on the Future Land Use Map (FLUM) as High Density Residential (HDR) and Zoned on the Zoning Map as R3.
3. This property was one of 12 properties:
 - a. The inconsistencies and/or conflicts on the FLUM and Zoning Map were requested to be resolved by the City Commission in 2019; first to be studied by Staff and proposed resolution by the PAB to the Commission.
 - b. List of 12 were studied and presented by FB Planning Staff to be corrected and applied to do so on November 9th, 2020. This was titled Board Business, 4.1 **Outstanding FLUM/Zoning Conflicts List**. PAB Chair, Minshew directed further study and communications with Owners of properties.
 - c. During January 13th, 2020, PAB the Staff presented details on several properties still under consideration and needing PAB direction.

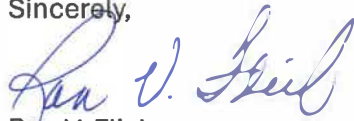
- d. This property located at 3172 S. Fletcher Avenue was presented as a Boundary Error. Further discussion resulted in PAB members supporting the intent to propose amending the controlling documents (FLUM and Zoning Map) to correctly reflect the use with the consent of the ownership.
 - e. During the PAB, it was directed by the PAB Chair Minshew, and other members present, that the property should be proposed with consent of the Owner to be corrected to show a correction in the FLUM from HDR to General Commercial and the Zoning from R3 to Commercial, to reflect its use. The current land development code further reflects the most appropriate use being C-2 for a hotel.
 - f. March 10th, 2021, the PAB held a hearing and only proposed two of the changes previously proposed for correction and did not include this property.
- 4. The age of this facility and its commercial value will require further improvements to sustain its life and economic value in the future, furthering the property's lifespan by reducing its potential of structural loss in a storm event.
 - 5. The property sustainability and its resiliency to meet FBC and other coastal requirements are needed for its guests, owners, and operators in the coming months, therefore the correct Zoning and Land Use declarations in the public records must be corrected for its use and maintainability.
 - 6. This property requires significant financial investments to assure it is a viable property to withstand the vigorous demands of an ocean front property.
 - 7. The errors of zoning on the Zoning Map and its designation on the FLUM are due to errors because of the development of FLUM and Zoning Map, not reflecting the ongoing use of the properties.

In conclusion, the property was one of 12 properties which the City Planning Staff and now the Owner must seek this corrective action to complete this corrective action.

The Owner proposes the property stated herein be designated on the FLUM from HDR to General Commercial and the Zoning Map from R-3 to C-2 District. The Owner further requests that this action be without requirements for fees or other survey requirements until the property is properly designated. Proof of ownership is provided as required. Upon completion of this administrative corrective action by the Planning Board and approval by the City Commission, the developer/owner acknowledges his and or her duty to fulfill any associated fees or site development requirements in accordance with the LDC and City Ordinances.

Please feel free to contact me should you have any questions or concerns.

Sincerely,



Ron V. Flick

Agent for Fernandina Beach Realty Inc.



OWNER'S AUTHORIZATION FOR AGENT REPRESENTATION

I /WE Fernandina Beach Realty, INC

(print name of property owner(s))

hereby authorize: Ron V. Flick, Compass Group

(print name of agent)

to represent me/us in processing an application for: any and all land entitlements and development

(type of application)

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

Richard S. Simmons

(Signature of owner)

(Signature of owner)

Richard S. Simmons

(Print name of owner)

(Print name of owner)

Parcel No: 00-00-31-1720-0003-0010

STATE OF FLORIDA

COUNTY OF NASSAU

Sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 25th day

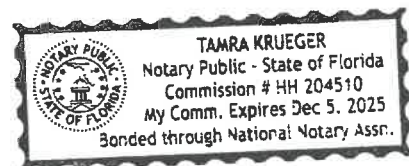
of June, 20 24, by Richard Simmons

Tamra Krueger
Notary Public

Tamra Krueger
Printed Name

12/05/2025
My Commission Expires

Personally Known ☒ OR Produced Identification ☐ ID Produced: ☐



MAP OF BOUNDARY SURVEY
LOTS 1 & 2, BLOCK 3, SOUTH BEACH

AS RECORDED IN PLAT BOOK 3, PAGE 11 OF THE PUBLIC RECORDS
OF NASSAU COUNTY, FLORIDA.

CERTIFIED TO:
STEVE SIMMONS

PROPERTY ADDRESS:
3172 SOUTH FLETCHER AVENUE
FERNANDINA BEACH, FLORIDA 32034

GRAPHIC SCALE

0 10 20 40
(IN FEET) 1 inch = 20 ft.



LOT 1 & 2
BLOCK 2

BEACH ACCESS #31
HUTCHINS AVENUE
(50-FOOT RIGHT-OF-WAY)

TWO STORY BUILDING
STUCCO SIDING
#3172 SOUTH FLETCHER

LOT 3

LEGEND
[Symbol] = COMMUNICATIONS PEDESTAL
[Symbol] = CONCRETE FLATWORK
[Symbol] = ELECTRICITY METER
[Symbol] = LIGHT POLE
[Symbol] = COVERED AREA
[Symbol] = WATER METER
[Symbol] = WOOD OR VINYL FENCE
[Symbol] = WOOD FLATWORK
[Symbol] = WOOD POWER POLE
(P) = PLAT
(M) = MEASURED
E = CENTERLINE
P/E = POOL EQUIPMENT
x-x-x = CHAIN LINK OR WIRE FENCE

SPECIAL NOTE:

It is our interpretation of the record plat that the lots shown nearest to the Atlantic Ocean extent to the Mean High Water Line of the Atlantic Ocean.

We have researched all surveys of property in the vicinity of the subject property on file dating back to the early 1960's. All surveys performed by this firm (and there have been numerous) show the platted lot lines being extending to the (current at the time of the survey) Mean High Water Line of the Atlantic Ocean. The plat of record showing the subject property (South Beach, Plat Book 3, Page 11) was recorded in 1944 and does not specifically state that the easterly plat line is the Mean High Water Line. However, it has long been assumed to do so, and has been the locally accepted intent of the original plat. The sub-title on the original plat under the title states "A Subdivision of the South 2175.8 feet of Section Six, Township Two North - Range Twenty-Nine East, Nassau County, Florida". The Government Land Office township plat for this township and range shows the easterly line of this section to be the Atlantic Ocean. It is commonly accepted practice when referring to the waters of the Atlantic Ocean to be the Mean High Water Line. All plats along the Atlantic Ocean on Amelia Island have been treated in the same manner. There has never been a logical reason discovered to the contrary. It would not make sense to deny ocean front lots their riparian rights by leaving an unplatted strip between the Mean High Water Line of the Atlantic Ocean and the lot line.

THE INFORMATION SHOWN HEREON MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

[] MICHAEL A. MANZIE, P.L.S. 4069
[] MELANIE G. PLATT, P.S.M. 7605

MANZIE & DRAKE LAND SURVEYING

117 South Ninth Street, Fernandina Beach, FL 32034
(904) 491-5700 www.ManzieAndDrake.com
Certificate of Authorization Number "LB 7039"

"OUR SIGHTS ARE ON THE FUTURE, SET YOUR SITES ON US."

SCALE: 1"=20' JOB NO: 16595 DATE: 02/12/2025 CADD: LP
F.B. NO: X-396 PAGE NO: 3 CREW: JM FILE NO: C-213

Return to: (enclose self-addressed stamped envelope)

Name: **Olde Towne Title Company**

Address: **21 North 3rd Street
Fernandina Beach, Florida 32034**

This Instrument Prepared by:

Address: **Olde Towne Title Company
21 North 3rd Street
Fernandina Beach, Florida 32034**

Property Appraisers Parcel Identification (Folio) Number(s):
00-00-31-1720-0003-0010

Grantee(s) S.S. #(s):

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

INSTR # **200545423**

OR BK **01370** PGS **0698-0699**

RECORDED 11/30/2005 10:08:29 AM

JOHN A. CRAWFORD

CLERK OF CIRCUIT COURT

NASSAU COUNTY, FLORIDA

DOC TAX PD (F.S. 201.02) 17,850.00

RECORDING FEES 18.50

Warranty Deed

(The terms "grantor" and "grantee" herein shall be construed to include all genders and singular or plural as the context indicates.)

Made this **29th** day of **November 2005**, BETWEEN

Jerry E. Kight and Joy L. Kight as Tenants in Common

whose post office address is: **P.O. Box 2735, Blairsville**

of the County of _____, State of **Georgia 30514**, grantor, and
Fernandina Beach Realty, Inc. a Florida corporation

whose post office address is: **2057 South Fletcher Avenue, Fernandina Beach**

of the County of **NASSAU**, State of **Florida 32034**, grantee,

WITNESSETH: That said grantor, for and in consideration of the sum of **Ten and no/100** _____
_____ (**\$10.00**) Dollars,

and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs, successors and assigns forever, the following described land, situate, lying and being in **Nassau**

County, Florida, to-wit:

All of that certain piece, parcel or tract of land lying and being in the County of Nassau and the State of Florida known and described as follows:

LOTS ONE (1) AND TWO (2), BLOCK THREE (3), SOUTH BEACH, ACCORDING TO PLAT THEREOF AS RECORDED IN PLAT BOOK 3 AT PAGE 11 OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA.

THE REAL PROPERTY DESCRIBED HEREIN IS NOT THE CONSTITUTIONAL HOMESTEAD NOR THE PRIMARY RESIDENCE OF THE GRANTOR.

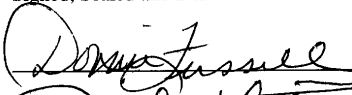
and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

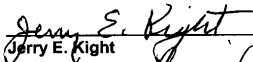
ITEM 7381L1 (9511) FLORIDA

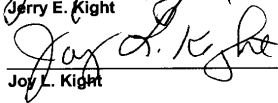
(Page 1 of 2 pages)

GREATLAND ■
To Order Call: 1-800-530-9393 ☐ Fax 616-791-1131

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal the day and year first above written.
Signed, Sealed and Delivered in Our Presence:





Jerry E. Kight (Seal)


Joy L. Kight (Seal)

____ (Seal)

____ (Seal)

____ (Seal)

____ (Seal)

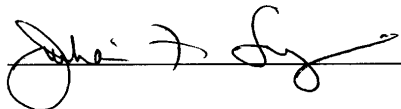
STATE OF FLORIDA
COUNTY OF **Nassau**

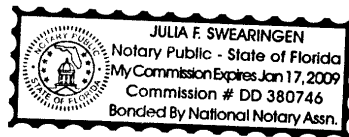
The foregoing instrument was acknowledged before me this **29th** day of **November 2005** by
Jerry E. Kight and Joy L. Kight

who is personally known to me or who has produced **drivers licenses**
as identification.

My Commission expires:

(Seal)


Notary Public



**RED TEXT = CHANGES SINCE 2024 REVIEW*

4.05.00 LANDSCAPING, BUFFERS, AND TREE PROTECTION

4.05.01 GENERALLY

- A. It is the intent of the City to provide standards and regulations which: protect and preserve native tree species and the natural landscape; foster and encourage maintenance of natural vegetation; minimize loss of trees to development; reduce disturbance of native soil, improve ground and surface water quality; and promote energy and water conservation through use of native and Florida-Friendly landscaping principles.
- B. The intent of Section 4.05.00 is to provide minimum standards for landscaping, buffers, and tree protection within the City. These standards are provided to meet the following specific purposes:
 - 1. Improving the appearance of the City;
 - 2. Providing shade for the ground surfaces and reducing heat island effects;
 - 3. Buffering and protection from wind and storm damage;
 - 4. Buffering adjacent potentially incompatible land uses;
 - 5. Screening vehicular movement from pedestrian and public view;
 - 6. Providing for the protection and preservation of trees and native vegetation;
 - 7. Ensuring the local stock of native trees and vegetation is replenished;
 - 8. Improving ground and surface water quality through reduced run-off and decreased use of fertilizers and pesticides; and
 - 9. Encouraging Requiring that Florida-Friendly landscaping principles will be utilized in the into landscape design.
 - 10. Removing and properly disposing of invasive plants and trees within the City.

***Explanation:** Requires use of Florida-Friendly landscaping principles in required landscape designs, rather than encouragement. Adds a tenth number to the list of specific purposes which supports removal of invasive plants and trees to support native plant materials: 10. Removing invasive plants/trees within the city. The City continues to offer a Free native tree exchange program for those wishing to remove an invasive tree from their property. Additionally, the City continues to partner with the Invader Raiders in weekly invasive plant and tree removal from its managed areas including City Parks, conservation lands, and the Ron Sapp Egans Creek Greenway. Larger initiatives have been supported for invasive removal within the greenway as part of routine management and state-funded grants.*

4.05.02 APPLICABILITY

- A. The types of development listed below ~~shall~~ **must** provide a landscaped buffer between uses, provide landscaping for parking lots, submit a tree survey prepared by a licensed Florida surveyor or a tree inventory prepared by a certified arborist with an application for site plan approval, obtain a tree permit prior to receipt of a building permit, and submit a landscape plan with any application for a development order for the situations listed below. The required landscape plan ~~shall~~ **must** demonstrate compliance with the standards of Section 4.05.00.
1. All new construction;
 2. All development of regional impact;
 3. Any change of use which results in any increase in the required off-street parking, as determined by the standards in Section 7.01.04;
 4. All commercial redevelopment which results in an increased building footprint, reconfiguration of existing parking, parking lot expansions, or development of outparcels within an existing shopping center.
 - A. Clearing of any site, including root-rake clearing, ~~shall~~ **must** be subject to the requirements for tree protection, submittal of a tree survey or a tree inventory prepared by a certified arborist, and obtaining a tree removal permit.
 - B. An application for a building permit for a single-family or two-family dwelling proposed on an existing platted lot ~~shall~~ **must** include a tree survey or a tree inventory prepared by a certified arborist. The tree survey or a tree inventory prepared by a certified arborist ~~shall~~ **must** comply with the requirements of Section 4.05.04 regarding landscaping, but ~~shall~~ **must** not be required to provide a buffer or landscaping for a parking area.
- C. The following situations are exempt from the requirements of Section 4.05.00:
1. Any interior construction, renovation, or remodeling which does not increase the footprint of the building.
 2. Licensed plant or tree nurseries or botanical gardens with respect to those plants and trees grown for sale to the general public in the ordinary course of the licensed business or for public purposes.
 3. The removal of underbrush and removal of trees which are less than four (4) inches Diameter at Breast Height (DBH).
 4. The removal of ~~prohibited~~ invasive trees identified on the most recent Florida ~~Exotic Pest Plant~~ **Invasive Species** Council Plant list, ~~as amended~~.
 5. Heavy Industrial (I-2) zoning district is exempt from the requirements of Section 4.05.00, provided that the new construction, renovation, alteration or remodeling occurs more than 75 feet from an adjoining residentially zoned and/or used property. Within the exemption area, LDC Section 4.05.00 applies only within the project's extent occurring in the 75-foot area. The exemption exists with the intent that Heavy Industrial (I-2) zoned properties would seek to minimize an overall impact on the existing tree canopy.

Explanation: Delete C.4 exemption which states: The removal of prohibited invasive trees identified on the most recent Florida Exotic Pest Plant Council Invasive Plant list. Contradicts 4.05.03 A.2. – Changes serves to correct this and amend the name of the list to the updated terms. All other changes are to support plain language as directed by the City Commission to update shall to must.

*4.05.03 LANDSCAPE MATERIALS STANDARDS

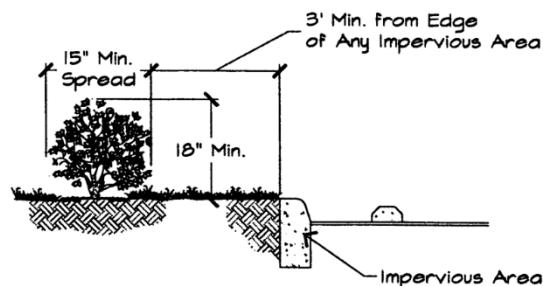
A. Plant materials

1. Trees, Shrubs, and groundcovers **shall must** be selected by using the Florida-friendly Plant Database.
2. Plants identified as “prohibited” or “noxious weeds” **invasive species, Class I or Class II in North Florida on the most recent Florida Invasive Species Council Plant List Florida Exotic Pest Plant Council Invasive Plant list or any plant listed as ‘Prohibited’, ‘Invasive’, ‘Invasive (No Uses)’, or ‘High Invasion Risk’, in North Florida from UF/IFAS Assessment of Non-Native Plants in Florida’s Natural Areas shall must** be removed and disposed of properly as part of the site development process, **new single family homes, major additions, or new accessory structures**. Plants identified as “invasive” may be retained on a development site but shall not count toward meeting landscaping and buffering requirements.

B. Minimum specifications for plant materials

1. All plants used as part of any landscape plan **shall must** be healthy, well proportioned, disease-free, pest-free, and hardy for the North Florida Region. Plant materials **shall must** meet the standards for Florida No. 1 or better, as set out in *Grades and Standards for Nursery Plants*, Department of Agriculture, State of Florida.
2. Shrubs **shall must** be at least eighteen (18) inches in height and have a minimum spread of at least fifteen (15) inches at the time of installation. Shrubs **shall must** be installed at least thirty-six (36) inches apart, measured on center and may not be placed closer than three feet from the edge of any impervious area.

Example:

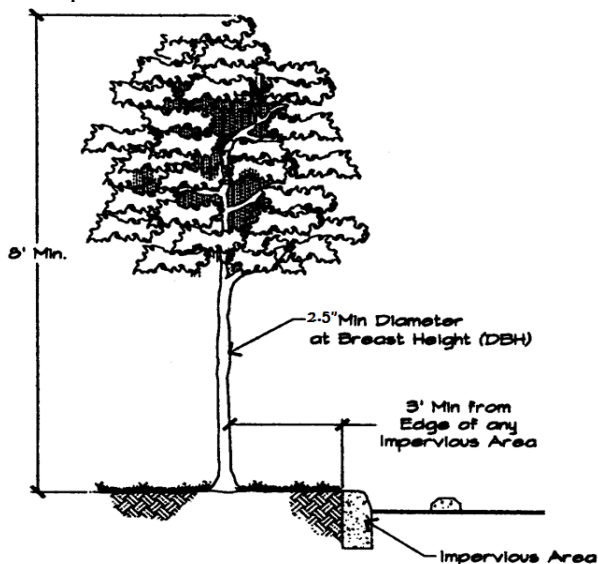


3. Hedges **shall must** be planted to create a continuous, unbroken, solid visual screen within one (1) year of planting allowing for full mature height and spread.
4. All landscaped areas **shall must** be sodded or covered with ground cover. Grassed areas **shall must** be consolidated and limited to those areas on the site which receive pedestrian traffic, provide for recreational use, provide cover for required drain fields or retention areas, or provide soil erosion control such as on slopes or in swales; and where grass is used as a design unifier or other similar practical use. Grassed areas **shall must** be planted with warm season grass species normally grown on permanent lawns in Nassau County. Special care should be taken when selecting turf grasses for shaded sites. A soil sample should be tested specifically for pH to determine which grass species is most suitable for the site. Grassed areas may be sodded, plugged, sprigged, or seeded to provide full coverage **shall must** be achieved within one (1) year after planting. Solid sod **shall must** be used in swales or areas subject to erosion. Grass sod **shall must** be clean and reasonably free of weeds and noxious pests or diseases. Grass seed **shall must** be delivered to

the job site in bags with Florida Department of Agriculture tags attached indicating the quality control program.

5. Ground cover used in lieu of grass **shall must** be planted so as to present a finished appearance and reasonably complete coverage within three (3) months of installation.
6. Vines **shall must** be a minimum of thirty (30) inches in height at planting and may be used in conjunction with fences, screens, or walls.
7. Natural mulch **shall must** be designed and installed in all planting areas to a depth of three (3) inches. The type of mulch **shall must** be specified on the landscape plan. Use of artificial mulch **shall must** not be permissible within required planting areas. Cypress mulch is strongly discouraged. Mulches are typically wood bark chips, wood grindings, pine straw, nut shells, small gravel, and shredded landscape clippings. Mulch is not required in identified annual beds. Mulch rings should extend to at least three (3) feet around freestanding trees and shrubs. All mulch should be renewed periodically. Mulches should be kept six (6) inches away from any portion of a building or structure, or trunks of trees. Plastic sheeting and other impervious materials **shall must** not be used under mulched areas.
8. Retention of native and drought tolerant species is preferred. At least fifty (50) percent of the required plants installed in landscaped buffers, landscaped parking areas, and for replacement **shall must** be native species.
9. At least fifty (50) percent of the required trees installed in landscaped buffers, landscaped parking areas, and to meet tree planting requirements **shall must** be shade trees. Existing trees, other than invasive or prohibited species, which are five (5) inches DBH or larger, and shrubs may be counted toward meeting the requirements for landscaped buffers, landscaped parking areas, and tree retention.
10. Trees **shall must** be a minimum of two and a half (2.5) inches DBH and no less than eight (8) feet tall at the time of installation. Trees **shall must** not be planted closer than three (3) feet from the edge of any impervious area. Planted trees must be a species with an average mature spread of at least twenty (20) feet, or they must be grouped so as to create a crown spread of at least twenty (20) feet.

Example:



11. *When palm trees are used to satisfy minimum landscape requirements, three (3) palm trees shall count as one (1) shade tree **for a total of 2.5 inches of the**

minimum landscape requirement. Palm trees must be a minimum of 8 feet tall at time of installation.

12. Shade trees **shall must** not be installed under any overhead utility line, over any buried utilities, or within a utility easement.
13. Where utilities conflict with proposed plantings, trees **shall must** be selected from a list provided by the City. Where underground utilities conflict with proposed plantings, tree placement **shall must** be a minimum of ten feet from the underground utility and a root barrier of two (2) feet deep **shall must** be installed.

C. Specific requirements for ~~drought tolerant~~ Florida Friendly ~~or and~~ ~~Xeriscape~~ ~~Landscape~~ ~~m~~Materials

- a. All development for which landscaping is required by Section 4.05.00 shall comply with the xeriscape requirements set forth in Table 4.05.03(C). The selected design options listed below and the accompanying points necessary to meet the following xeriscape requirements shall be clearly tabulated on the landscape plan.
- b. A minimum of fifty (50) points shall be accumulated by choosing from the following table of design options. As used in Table 4.05.03(C), "list" means the list of drought tolerant species set forth in the SJRWMD edition of the *Xeriscape Plant Guide*.

Table 4.05.03(C). Design Options for Xeriscape Landscaping

Design Feature	Standard	Points
Irrigation	Moisture sensing controller other than rain switch	5
	Landscape plan depicts low, moderate, and high water usage zones and grouping of plants into hydrozones	5
Grass	25% to 50% of the grass areas use drought tolerant species	5
	51% or more of the grass areas use drought tolerant species	10
	Less than 75% of the landscaped area contains sod	10
	Compacted mulched planting beds at least 3" deep are used in all planting areas except ground cover	10
Shrubs	25% to 50% of the required shrubs are drought tolerant species	5
	51% or more of the required shrubs are drought tolerant species	10
Trees	25% to 50% of the required trees are drought tolerant species	5
	51% or more of the required trees are drought tolerant species	10
	25% increase over the required number of shade trees in vehicular use areas, provided the planting area is large enough to ensure that the additional trees will thrive	5
	50% increase over the required number of shade trees in vehicular use areas, provided the planting area is large enough to ensure that the additional trees will thrive	10

Replacement Sub-section C.

C. Standards. Development requiring landscaping or perimeter buffers in accordance with this section must comply with the following xeriscape standards:

1. *Preserve and maintain native vegetation.* Existing and native vegetation must be maintained and preserved to the maximum extent practicable.
2. *Group plant material into water use zones based on water needs.* Plant material must be in water use zones according to the water needs of the genus and species, as follows:
3. *High-water use zones.* Where plant material associated with moist soils is located requires supplemental water in addition to natural rainfall. Plant material that falls in the high-water use zone shall be limited to 49 percent of the total landscaped area of the site.
4. *Moderate-water use zones.* Where plant material can survive on natural rainfall with supplemental water during seasonal dry periods.
5. *Low-water use zones.* Where plant material can survive on natural rainfall with no supplemental water.
6. *Ensure plant types are appropriate for soils.* Plant types appropriate for the soil(s) on the site must be used, and enhanced, if needed, to give the soil more moisture retention capabilities.
7. *Use of low water use plants.* Plants must be selected based on their adaptability to the site based on water use, desired effect, color, texture, and mature size. The landscape should be designed to give the desired aesthetic effect and plants should be grouped in accordance with their respective water needs. The use of native or Florida-Friendly species must be used, to the maximum extent practicable.

Explanation: *Proposed changes to LDC Section 4.05.03 (C.) serve to provide an update to current language for reference to the Florida Invasive Species Council Plan List since that organization has changed its name. The removal of table 4.05.03 C. with replacement of more current guidance from the Florida Friendly model ordinances specifically relying on terminology and guidance provided in Alachua County ordinance. The changes also eliminate duplication of terms as described in specific subsections for landscaping requirements such as installation and maintenance requirements. * This is requested to be amended to reflect staff interpretation when applying the standard for minimum landscape requirements for use of palm trees.*

D. Installation

1. All required landscaping installed pursuant to this section shall must be installed according to accepted horticultural practice.
2. Trees may not need to be staked if appropriate canopy to root ratio is achieved. However, trees shall must be guyed, braced, and/or staked at the time of planting to ensure establishment of the tree and erect growth, as specified by the landscape designer or architect and compliant with the ISA staking and guying guidelines. Nail staking or other methods that cause cosmetic or biological damage to the tree are prohibited. Trees shall must be re-staked within twenty-four (24) hours in the event of a failure in the staking or guying. Stakes shall must be removed not later than twelve (12) months after installation. All areas where trees are to be planted shall be excavated to the width and depth of the root ball with the upper twelve (12) inches excavated to at least three (3) times the width of the root ball prior to being backfilled with the required topsoil mix.
3. Shade trees shall must be provided with at least 250 square feet of planting area per tree.

4. Understory trees **shall must** be provided with at least 100 square feet of planting area.
5. Landscaped areas **shall must** be protected from vehicular encroachment by car stops, curbs, or other appropriate means.
6. Trees **shall must** be installed a minimum of three (3) feet from a paved area. A root barrier **shall must** be required prior to installation of replacement trees.
7. Landscaped areas **shall must** be provided with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition. All irrigation systems shall be designed, installed, and maintained in such a manner as not to be a nuisance to adjacent properties and uses and to the general public. Irrigation systems shall include moisture sensors.
8. Irrigation systems **shall must** be designed to “*Standards and Specifications for Turf and Landscape Irrigation Systems*”, Fifth Edition, 2005, Florida Irrigation Society, Inc and as subsequently amended.
9. Xeriscape areas must have a readily available water supply to provide temporary irrigation until plantings are established.
10. Natural areas and native vegetation left undisturbed by development may be excluded from the irrigation system.

E. Maintenance requirements

1. All plantings must be continually maintained in an attractive and healthy condition. Maintenance must include, but not be limited to, watering, tilling, fertilizing and spraying, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
2. Required plants that become diseased or die must be replaced not later than three (3) months following the loss of the plant.
3. Replacement trees **shall must** be maintained and warranted to survive for a period of three (3) years from installation. Trees which do not survive three (3) year must be replaced with new trees of the same size. Replacement trees must comply with the same maintenance and replacement warranty as the original replacement tree(s) and the warranty period will restart at the date of planting.
4. All trees may be pruned to maintain shape and promote their shade-giving qualities and to remove diseased or dying portions in areas where falling limbs could be a hazard. The property owner is responsible for the maintenance of all required landscaping in a healthy, thriving condition. Trees **shall must** be pruned only as necessary to promote healthy growth or to avoid power lines. Trees **shall must** not be severely pruned or "hatracked," "lionstailed," or "topped" in order to permanently maintain growth at a reduced height. Pruning **shall must** comply with current International Society of Arboriculture (ISA) standards. No more than 20% of the crown **shall must** be removed within a one (1)-year period.
5. Fertilizers: It **shall must** be the goal of each landscape plan to select plant materials capable of thriving without regular fertilizer application, with exception of palms which need quarterly fertilizer to avoid nutrient deficiencies.
6. Pesticides: It **shall must** be the goal of each landscape plan to establish an Integrated Pest Management approach and reduce or eliminate the need for pesticide application.

Explanation: *Proposed changes to LDC Section subsections 4.05.03 renumbered as E. and F. serve solely to use plain language direction of the City Commission. The most recent amendments to these sections were fully vetted and approved in 2021. There are no directive changes proposed.*

4.05.04 REQUIREMENTS FOR LANDSCAPE PLANS

- A. A landscaping plan **shall must** be provided to demonstrate compliance with the standards of this section and prepared in accordance with all applicable Florida Statutes. Landscaping plans **shall must** utilize the principles for creating a Florida Friendly landscape, utilize native drought tolerant plant materials to conserve water, avoid invasive exotic species, reduce need for fertilizers, and establish integrated pest management to reduce or eliminate pesticide use. The use of plant material, site design techniques, and planting design techniques which enhance wildlife habitat benefits is strongly encouraged. The publication “Planting a Refuge for Wildlife,” available from the Florida Fish and Wildlife Conservation Commission, may be used as a guide.
- B. The landscape plan **shall must** include the following elements:
 - 1. The name, address, and telephone number of the applicant, as well as the registered landscape architect or landscape designer.
 - 2. A plan showing the location, size, description, and specifications of landscaping, grade of plantings, mulch specifications, landscape area protection structures (e.g., curbs and planters), number of interior parking spaces, perimeter and interior landscape area plantings, existing trees and planting areas. The plan **shall must** illustrate the proposed irrigation hydrozones. The plan **shall must** also include property boundaries and dimensions, existing and proposed structures, pools, walks, patios, vehicular use areas, lot orientation, utility services, light poles, pad-mounted transformers, fire hydrants, existing and proposed elevations, and any other factors affecting the proposed use of the property (including the land use and zoning of adjacent properties).
 - 3. New landscape plans **shall must** account for plant watering needs and group plants into “hydrozones.” Hydrozones and their corresponding irrigation category **shall must** be identified on the landscape plan.

Explanation: *Proposed changes to LDC Section 4.05.04 serve solely to use plain language direction of the City Commission. The most recent amendments to these sections were fully vetted and approved in 2021. There are no directive changes proposed.*

***4.05.05 MINIMUM REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT**

It is the intent of this section to provide minimum landscaping requirements for residential development. Existing plant materials, other than invasive species, may be counted toward meeting the landscaping requirements set forth in this section.

A. Single-family Detached and Two-family Duplex Residential Development

Single-family and two-family development must include, at a minimum, two (2) native, shade trees for every 2,500 square feet of lot area or fraction thereof. At least four (4) native trees may be located in the front, side, or rear yard. Relocation **and/or mitigation of** existing healthy trees on the project site measuring at least 2.5" DBH and at least 8 feet tall may be **relocated and/or mitigated** on the site **and utilized for use** as a credit to satisfy minimum landscape requirements. Tree identification and placement must be shown on a site plan but may not be required to meet the requirements of 4.05.04(A) above.

B. Tri-plex and Multi-family Residential Development

Multi-family residential development sites must meet the following standards, in addition to the requirements set forth in Section 4.05.04(A) above:

1. There must be at least two (2) native, shade trees for each 1,500 square feet, or fraction thereof, of development site. Relocation **and/or mitigation of** existing healthy trees on the project site measuring at least 2.5" DBH and at least 8 feet tall may be **relocated and/or mitigated** on the site **and utilized for use** as a credit to satisfy minimum landscape requirements. There must be a planting area not less than ten (10) feet in width between the building walls and parking areas. Landscape materials must be provided as follows:
 - a. One (1) tree for every 200 square feet of planting area or fraction thereof;
 - b. At least fifty (50) percent of the trees must be shade trees; and
 - c. A continuous hedge must be placed along the building walls.
2. There must be a planting area not less than ten (10) feet in width between an abutting right-of-way and parking areas. Landscape materials must meet the following standards:
 - a. One (1) tree must be provided for every 250 square feet of planting area or fraction thereof;
 - b. At least seventy-five (75) percent of the trees must be shade trees;
 - c. A continuous hedge or a berm with native plantings, at least three (3) feet in height, must be provided; and
 - d. The entire site, outside of the planting areas immediately surrounding the trees and shrubs, must contain grass or ground cover.

***4.05.06 MINIMUM REQUIREMENTS FOR NON-RESIDENTIAL AND MIXED-USE DEVELOPMENT**

A. Minimum Landscaped Area

At least twenty (20) percent of the total gross land area of a development site **shall must** be landscaped except within the Central Business District/ C-3 zoned and the 8th street Mixed Use (MU8)/MU-8 zoning properties where a minimum of 10% of the total gross land area **shall must** be landscaped. New construction and landscaped areas shall be located on the site in such manner as to maximize preservation of existing trees with priority given to specimen trees.

Minimum landscaped area requirements may be achieved through the use of planters and rooftop gardens. Planting areas which fulfill landscape design strategies located within public rights-of-way **shall must** count towards the minimum planting area, if installed and paid for by the developer or property owner.

B. Minimum Tree Planting

Nonresidential development **shall must** provide one (1) shade tree for each 1,500 square feet of gross site area, or fraction thereof. **Relocation and/or mitigation existing healthy trees on the project site measuring at least 2.5" DBH and at least 8 feet tall may be relocated and/or mitigated on the site for use as a credit to satisfy minimum landscape requirements.**

Explanation: *Proposed changes to LDC Section 4.05.6 serve to encourage the overall health of the existing City's canopy and retention of existing healthy trees, avoid overcrowding, support understory plantings and take into consideration existing environmental factors such as light, wind, as well as urban conditions such as overhead wires, street and security lights, adjacent buildings and signs. Specifically, the requested minimum tree planting amendments reflect staff interpretation of how to consider existing healthy trees on a given site when applying the minimum landscape requirements. Existing interpretation supports and encourages the retention of healthy mature trees on a site while continuing to support additional landscape trees as may be needed without overcrowding.*

***4.05.07 PARKING LOT LANDSCAPING**

- A. Intent: It is the intent of this section to promote vehicular and pedestrian safety; limit physical site access to established points of ingress and egress; delineate and buffer the bounds of abutting vehicular use areas so that distractions of movement, noise and glare from one area do not adversely affect the activity in another area; break up large expanses of pavement; and to reduce heat island effect within the vehicular use areas of a site.
- B. Off-Street Parking: All off-street parking lots with ~~six (6)~~ **nine (9)** or more required parking spaces and vehicular use areas (access driveways, service drives, and loading areas) are required to include landscaping. Required parking lot landscaping ~~shall~~ **must** be in addition to requirements for protection of existing trees.
- C. Perimeter Landscaping:
1. A landscaped area not less than ten (10) feet in width, exclusive of impervious area, using vertical layering of landscape materials ~~shall~~ **must** be located around the perimeter of the parking lot in order to provide visual screening from the right-of-way. Perimeter landscape area requirements ~~shall~~ **must** not apply to shared vehicular access areas or to the portion of the perimeter areas where physical interconnections exist. **Perimeter landscape area requirements are reduced to a minimum of five (5) feet for properties located within the Central Business District or 8th Street Mixed Use Overlay.**

Explanation: *The proposed amendments directly address previously articulated concerns from both staff and property owners regarding the 8th Street redevelopment goals. Specifically, these changes aim to:*

- **Align Standards** - *The current parking lot landscaping requirement triggers at 6 spaces, while landscape islands are mandated at 10 spaces, creating an inconsistency. The change applies to all new and redeveloped parking lots.*
- **Resolve identified obstacles within the 8th Street Mixed Use (8MU) Overlay** *that are preventing the desired integration of diverse land uses.*
- **Improve corridor interconnectivity**, *a key concern for both pedestrian and vehicular traffic flow.*
- **Facilitate efficient shared parking arrangements**, *responding to concerns about excessive parking requirements while ensuring adequate availability during peak operational hours.*

It is important to note that these amendments are not intended as a final, comprehensive solution to all 8th Street redevelopment challenges. Rather, they represent a small, targeted measure designed to support current and future projects in moving forward. By addressing these previously raised issues, the amendments seek to streamline the 8MU Overlay and ensure the 8th Street redevelopment achieves its intended vibrancy, connectivity, and optimized parking solutions. Additional solutions may materialize as the board continues to consider measures to support redevelopment generally.

4.05.13 HARDSHIP RELIEF

- A. Where a landowner is unduly burdened by the strict application of this ~~the landscape sections covered in 4.05 chapter~~, said landowner may apply in writing to the ~~community development department director~~ City Manager for hardship relief.

Explanation: *Proposed changes to LDC Section 4.05.13 serve to eliminate the term “chapter” as this has the potential to be arguably applied as the entirety of Chapter 4 being eligible for administrative approval relief. It is Staff’s understanding that the intent of this section is to provide a minor degree of administrative latitude in allowing limited deviations to landscape requirements when a documented hardship occurs on an individual property. It was never the intention to allow administrative hardship relief requests against the entire chapter. This change is requested to better reflect the intent of only allowing that limited relief for landscape standards as approved by the City Manager.*

The Florida Senate

2012 Florida Statutes

<u>Title XXVIII</u> NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE	<u>Chapter 373</u> WATER RESOURCES <u>Entire Chapter</u>	SECTION 185 Local Florida-friendly landscaping ordinances.
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373.185 Local Florida-friendly landscaping ordinances. —

(1) As used in this section, the term:

- (a) “Local government” means any county or municipality of the state.
- (b) “Florida-friendly landscaping” means quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance.

(2) Each water management district shall design and implement an incentive program to encourage all local governments within its district to adopt new ordinances or amend existing ordinances to require Florida-friendly landscaping for development permitted after the effective date of the new ordinance or amendment. Each district shall assist the local governments within its jurisdiction by providing a model Florida-friendly landscaping ordinance and other technical assistance. Each district may develop its own model or use a model contained in the “Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions” manual developed by the department. To qualify for a district’s incentive program, a local government ordinance or amendment must include, at a minimum:

- (a) Landscape design, installation, and maintenance standards that result in water conservation and water quality protection or restoration. Such standards must address the use of plant groupings, soil analysis including the promotion of the use of solid waste compost, efficient irrigation systems, and other water-conserving practices.
 - (b) Identification of prohibited invasive exotic plant species consistent with s. [581.091](#).
 - (c) Identification of controlled plant species, accompanied by the conditions under which such plants may be used.
 - (d) A provision specifying the maximum percentage of irrigated turf and impervious surfaces allowed in a Florida-friendly landscaped area and addressing the practical selection and installation of turf.
 - (e) Specific standards for land clearing and requirements for the preservation of existing native vegetation.
 - (f) A monitoring program for ordinance implementation and compliance.
- (3) Each water management district shall also work with the department, local governments, county extension agents or offices, nursery and landscape industry groups, and other interested stakeholders to promote, through educational programs, publications, and other district activities authorized under this chapter, the use of Florida-friendly landscaping practices, including the use of solid waste compost, in residential and commercial development. In conducting these activities, each district shall use the materials developed by the department, the Institute of Food and Agricultural Sciences at the University of Florida, and the Center for Landscape Conservation and Ecology Florida-Friendly Landscaping Program, including, but not limited to, the Florida Yards and Neighborhoods Program for homeowners, the Florida Yards and Neighborhoods Builder Developer Program for developers, and the Green Industries Best Management Practices Program for landscaping professionals. Each district may develop supplemental materials as appropriate to address the physical and natural characteristics of the district. The districts shall coordinate with the department and the Institute of Food and Agricultural Sciences at the University of Florida if revisions to the educational materials are needed.

(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state’s water resources serves a compelling public interest and that the

participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

(b) A deed restriction or covenant may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land or create any requirement or limitation in conflict with any provision of part II of this chapter or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to part II of this chapter.

(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.

(4) This section does not limit the authority of the department or the water management districts to require Florida-friendly landscaping ordinances or practices as a condition of any permit issued under this chapter.

History.—s. 3, ch. 91-41; s. 3, ch. 91-68; s. 7, ch. 2001-252; s. 17, ch. 2009-243.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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ORDINANCE 2024-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE SECTION 4.05.00 LANDSCAPING, BUFFERS, AND TREE PROTECTION, SECTIONS 4.05.01 GENERALLY, 4.05.02 APPLICABILITY, 4.05.03 LANDSCAPE MATERIALS STANDARDS, 4.05.04 REQUIREMENTS FOR LANDSCAPE PLANS AND 4.05.13 HARDSHIP RELIEF; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission adopted a unified Land Development Code on September 5, 2006, which became effective on October 1, 2006; and

WHEREAS, the City of Fernandina Beach has applied for a LDC text amendment to Section 4.05.00 Landscaping, Buffers, and Tree Protection, specifically amending references, correcting invasive plant list, and incorporating updated Florida-Friendly landscaping practices in Sections 4.05.01 Generally, 4.05.02 Applicability, 4.05.03 Landscape Materials Standards, renumbering sections which follow, and incorporating plain language in Section 4.05.04, and clarifying Section 4.05.13 in applicability to only Landscape Standards; and

WHEREAS, notice of public hearing on such amendments was published in the News Leader, a newspaper of general circulation in Fernandina Beach, Nassau County, Florida, on May 31, 2024; and

WHEREAS, the Planning Advisory Board (PAB), acting as the City's Local Planning Agency, considered the application at its Regular Meeting on Wednesday, June 12, 2024, and unanimously recommended approval; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH AS FOLLOWS:

SECTION 1. PURPOSE AND INTENT. The City Commission finds that the Land Development Code Amendments, attached hereto as Exhibit "A," to modify landscaping sections and subsections of code contained in Chapter 4 are necessary to promote Florida-Friendly Landscaping principles, conserve water resources, protect native ecosystems, and ensure the long-term sustainability of the City's landscape.

SECTION 2. SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, the holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective immediately upon adoption.

ENACTED this ____ day of _____, 2024.

CITY OF FERNANDINA BEACH

BRADLEY M. BEAN
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:



CAROLINE BEST
City Clerk

TAMMI E. BACH
City Attorney

Date of First Reading: September 17, 2024
Date of Publication:
Date of Second Reading:

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE SECTION 4.05.00 LANDSCAPING, BUFFERS, AND TREE PROTECTION, SECTIONS 4.05.01 GENERALLY, 4.05.02 APPLICABILITY, 4.05.03 LANDSCAPE MATERIALS STANDARDS, 4.05.04 REQUIREMENTS FOR LANDSCAPE PLANS AND 4.05.13 HARDSHIP RELIEF; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City of Fernandina Beach is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City of Fernandina Beach is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City of Fernandina Beach hereby publishes the following information:

¹ See Section 166.041(4)(c), Florida Statutes.

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance serves to address the public health, safety, morals, and welfare of the City of Fernandina Beach.

Land Development Code (LDC) Text Amendment to modify LDC Section 4.05.00 Landscaping, Buffers, and Tree Protection, specifically amending references, correcting invasive plant list, and incorporating updated Florida-Friendly landscaping practices in Sections 4.05.01 Generally, 4.05.02 Applicability, 4.05.03 Landscape Materials Standards, renumbering sections which follow, and incorporating plain language in Section 4.05.04, and clarifying Section 4.05.13 in applicability to only Landscape Standards. The PAB held a public hearing on June 12, 2024, and recommended approval.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Fernandina Beach, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the City of Fernandina Beach regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

Requires use of Florida-Friendly landscaping principles in required landscape designs, rather than encouragement. Adds a tenth number to the list of specific purposes which supports removal of invasive plants and trees to support native plant materials: 10. Removing invasive plants/trees within the city. The City continues to offer a Free native tree exchange program for those wishing to remove an invasive tree from their property. Additionally, the City continues to partner with the Invader Raiders in weekly invasive plant and tree removal from its managed areas including City Parks, conservation lands, and the Ron Sapp Egans Creek Greenway. Larger initiatives have been supported for invasive removal within the greenway as part of routine management and state-funded grants.

Direct impacts involve the cost associated with the desired landscape materials. Florida-friendly landscaping materials are locally and regionally available as options to meet the existing landscape minimum requirements.

All large-scale development projects requiring compliance with minimum landscape standards are impacted by this ordinance.

4. Additional information the governing body deems useful (if any):

The proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated and, therefore, the proposed ordinance does not affect only businesses.

Print

Planning Advisory Board (PAB) - Submission #14017

Date Submitted: 5/24/2024

Planning Advisory Board (PAB) Application

USE THIS FORM TO Request actions to affect changes to property (zoning changes, annexations, allowable uses, subdivisions).

Fees

Once application is submitted it will be reviewed for completeness. Once verified complete, an invoice will be emailed to the applicant.

☐

Zoning Map Amendment (≤ 10 acres \$2,500 / > 10 acres \$5,000)

☐

Land Use Map Amendment (≤ 10 acres \$2,500 / > 10 acres \$5,000)

☒

LDC Text Amendment (\$1,500)

☐

Comp Plan Amendment (\$5,000)

☐

Subdivision Plat – Preliminary (≤ 20 units \$3,000 / > 20 units \$5,000)

☐

Subdivision Plat – Final (\$1,500)

☐

Vacation of R.O.W. (\$3,500)

☐

Small Cell Outside R.O.W. (per application) (\$500)

☐

Voluntary Annexation (\$2,000)

☐

Development of Regional Impact: Amend Development Order (\$1,500)

☐

New Telecommunications Structure (\$2,500)

☐

Revision to each PAB Application \$400

2024 Submission Deadlines + Meetings Calendar



IMPORTANT NOTES

Pre-Application Meeting

To guide you through the process and ensure that your application is understood and properly processed, you'll need to meet with a City Planner prior to submitting your application. Completed applications are due 30 days prior to the Planning Advisory Board meeting date.

Please see the Land Development Code (LDC) for detailed information:



LDC Text Amendment – see LDC Section 11.01.08.



Preliminary Subdivision Plat – see LDC Section 11.01.05.



Final Subdivision Plat – LDC Section 11.01.05.



Zoning Map Changes – See LDC Section 11.01.07.

The LDC is available for review at

www.fbfl.us/LDC

Application Requirements

☐

A complete application filed at least forty-five (45) days before the date of the Planning Advisory Board's public hearing;

☐

Proof of Ownership (copy of deed or tax statement);

☐

A current survey of the property (no older than two years);

☐

If applying as an agent, Owner's Authorization for Agent Representation form needs to be signed/notarized and included in application;

☐

A detailed letter of intent stating the following:

☐

o The consistency of the proposed amendment(s) or action(s) with the City's Comprehensive Plan.

☐

o A justification for the proposed amendment(s) or action(s).

Have you met with a planner for a pre-application meeting?*

Yes ▼

What was the date of your pre-application meeting?*

5/24/2024

If you have yet to have a pre-application meeting, please choose a date and time to schedule your meeting now. Every Tuesdays are reserved for pre-application appointments.*

mm/dd/yyyy

hh:mm am/pm

PROPERTY INFORMATION

[Property information can be found at the Nassau County Property Appraiser's Website → Map Search](#)

Site Address*

204 Ash Street

City*

Fernandina Beach

State*

Florida

Zip*

32034

Parcel ID #(s)*

0

Lot*

0

Block*

0

Subdivision*

0

Zoning District*

C-3

Future Land Use Designation*

Central Business District

REVIEW TYPE*

☐

Zoning Map Amendment ≤ 10 acres

☐

Subdivision Plat – Preliminary > 20 units

☐

Zoning Map Amendment > 10 acres

☐

Subdivision Plat – Final

☒

LDC Text Amendment

☐

Vacation of R.O.W.

☐

Comp Plan Amendment

☐

Voluntary Annexation

☐

Subdivision Plat – Preliminary ≤ 20 units

☐

Revision to PAB Application

OWNER OF RECORD

As recorded with the Nassau County Property Appraiser

First Name*

Kelly

Last Name*

Gibson

Company (if applicable)

City of Fernandina Beach

Mailing Address*

204 Ash Street

City*

Fernandina Beach

State*

Florida

Zip*

32034

Telephone Number*

9043103480

Email Address*

planninginfo@fbfl.city

OWNER'S AGENT

If other than owner. If an agent will be representing the owner, an Owner's Authorization For Agent Representation form must be included

First Name

Kelly

Last Name

Gibson

Mailing Address

204 Ash Street

City

Fernandina Beach

State

Florida

Zip

32034

Telephone Number

9043103480

E-mail Address

planninginfo@fbfl.city

PROJECT INFORMATION

Previous Planning/Zoning Approvals

Summary of Request (more detailed information to be provided in required letter of intent)*

Request adding amendments to LDC Section 4.05.00 Landscaping, Buffers, and Tree Protection, specifically amending references, correcting invasive plant list, and incorporating updated Florida-Friendly landscaping practices in sections 4.05.01 Generally, 4.05.02 Applicability, 4.05.03 Landscape Materials Standards, renumbering sections which follow and incorporating plain language in section 4.05.04 and clarifying section 4.05.13 in applicability to only landscape standards.

Certification*



By signing below, I certify that the information contained in this application is true and correct to the best of my knowledge at the time of the application.



I acknowledge that I understand and have complied with all of the submittal requirements and procedures.



I AGREE THAT A POSTING NOTICE WILL BE INSTALLED ON THE PROPERTY(IES) IN QUESTION AND THAT SAID SIGN WILL ONLY BE REMOVED BY STAFF AFTER THE MEETING OR BROUGHT BACK TO CITY HALL BY APPLICANT.

I/We understand that the City Staff may install a Notice of Hearing sign on the property 14 days before the scheduled hearing and that the sign must only be removed after the hearing by City Staff, unless, the applicant or property owner brings the Notice of Hearing back to City Hall.

Applicant First Name*

Kelly

Applicant Last Name*

Gibson

Today's Date*

5/24/2024

Upload Supporting Documentation*

06 12 24 Display Ad.docx

 City of FB logo
NEW Reflex

Upload 2

Choose File No...en

Upload 3

Choose File No...en

Upload 4

Choose File No...en

DEPARTMENT OF PLANNING & CONSERVATION

204 Ash Street | Fernandina Beach, Florida 32034 | 904 310-3480 | www.fbfl.us/planning



APPROVED

**MINUTES
PLANNING ADVISORY BOARD
REGULAR MEETING JUNE 12, 2024
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

1. CALL TO ORDER 5:00 PM

ROLL CALL / DETERMINATION OF QUORUM

MEMBERS PRESENT:

Victoria Robas (Chair)	Peter Stevenson (Vice-chair)
Barbara Gingher	Daphne Forehand
Mark Bennett	Nick Gillette

MEMBERS ABSENT:

Richard Doster

OTHERS PRESENT:

Harrison Poole, Attorney Pro Tem
Kelly Gibson, Planning & Conservation Deputy Director
Morgan Ohlendorf, Planning Tech
Sylvie McCann, Recording Secretary

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MEETING MINUTES

3.1 Approval of Minutes for the Regular Meeting of April 10, 2024.

Member Stevenson proposed a correction under item 5.2 PAB case 2024-0003.

ACTION TAKEN: A motion was made by Vice-Chair Stevenson, seconded by Member Gillette, to approve the Minutes with the noted amendments.

Vote upon passage of the motion was taken by voice vote, and being all ayes, carried.

3.2 Approval of Minutes for the Workshop of April 24, 2024.

ACTION TAKEN: A motion was made by Vice-Chair Stevenson, seconded by Member Gingher, to approve the Minutes as presented.

Vote upon passage of the motion was taken by voice vote, and being all ayes, carried.

3.3 Approval of Minutes for the Workshop of May 8, 2024.

ACTION TAKEN: A motion was made by Member Gillette, seconded by Vice-Chair Stevenson, to approve the Minutes as presented.

Vote upon passage of the motion was taken by voice vote, and being all ayes, carried.

4. OLD BUSINESS

Chair Robas announced that a Request to Speak form is now required from citizens to speak.

5. NEW BUSINESS

5.1 PAB 2024-0007 - FUTURE LAND USE MAP AMENDMENTS AND ZONING CHANGES

Request to amend the Future Land Use Map and Zoning Map from Medium Density Residential (MDR) and R-2 Zoning District with PUD for Amelia Landings to Conservation (CON) Land Use and CON Zoning District for property located on Block 2 portions of Lots 14 and 15 at Sadler Road, totaling approximately 0.57 acres.

Ms. Gibson presented the Staff Report Analysis and recommended approval of the request for this property which was recently deeded to the City.

Member Gillette asked about access from the adjacent neighbor to the south/rear. Ms. Gibson noted this requested change will not affect access to the adjacent properties relating to existing easements. Mr. Poole, who represented the previous owner in the donation of this property, provided a copy of the new survey to Staff and noted that this would not change the legality of the existing easements but that the new Conservation zoning may provide challenges to any change.

ACTION TAKEN: A motion was made by Member Gillette, seconded by Vice-Chair Stevenson to recommend approval of PAB case 2024-0007 to the City Commission as per the Staff recommendation; AND that PAB case 2024-0007 as presented is sufficiently compliant with the Comprehensive Plan and Land Development Code and applicable Florida Statutes to be approved at this time.

Vote upon passage of the motion was taken and being all Ayes, passed.

5.2 PAB 2024-0008 - FUTURE LAND USE MAP AMENDMENTS AND ZONING CHANGES

Request to amend the Future Land Use Map and Zoning Maps from Medium Density Residential (MDR)/Industrial (IND) and R-2/I-1 Zoning Districts to Conservation (CON) Land Use and CON Zoning District for property located in Block 288 Lots 2 and 3, totaling approximately 0.46 acres.

Ms. Gibson presented the Staff Report Analysis and recommended approval.

Member Gillette voiced concern regarding this action, considering the City does not currently own the property, and suggested that it be postponed until the closing is finalized. He also noted that all it would need now to move forward would be an Agent's Authorization from the current owner.

ACTION TAKEN: A motion was made by Member Bennett, seconded by Member Gillette, to recommend approval of PAB case 2024-0008 to the City Commission as per the Staff recommendation; with the condition that an signed Agent Authorization form be provided by the current owner; AND that PAB case 2024-0008 as presented is sufficiently compliant with the Comprehensive Plan and Land Development Code and applicable Florida Statutes to be approved at this time.

Vote upon passage of the motion was taken and being all Ayes, passed.

5.3 PAB 2024-0005 - LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENT

Request to add amendments to LDC Section 4.04.02 (E) Standards for Subdivisions General Requirements to adjust vehicular access requirements.

Ms. Gibson presented the Staff Report Analysis pertaining to this requested text amendment and explained that this was initiated to mirror Nassau County's code for subdivision vehicular access standards, and recommended approval.

Member Forehand suggested that the following language be added to the amendment: “to an improved right of way subject to the approval of the Technical Review Committee”.

Board Members discussed the size of a parcel that would allow for the creation of a subdivision and the impact of that size impacting that code requirement.

ACTION TAKEN: A motion was made by Member Gillette, seconded by Member Forehand, to recommend approval of PAB case 2024-0005 along with Board Members’ amendments to the LDC Section 4.04.02(E) Standards for Subdivisions General Requirements to adjust vehicular access requirements, to the City Commission.

Vote upon passage of the motion was taken by voice call, and being all ayes, carried.

5.4 PAB 2024-0006 - LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENT

Request to add amendments to LDC Section 4.05.00 Landscaping, Buffers, and Tree Protection, specifically amending references, correcting invasive plant list, and incorporating updated Florida friendly landscaping practices in Sections 4.05.01 Generally, 4.05.02 Applicability, 4.05.03 Landscape Materials Standards, renumbering sections which follow, and incorporating plain language in Section 4.05.04, and clarifying Section 4.05.13 in applicability to only Landscape Standards.

Ms. Gibson presented the Staff Report Analysis and recommended approval.

Board Members provided some corrections.

Member Bennett suggested adding verbiage to the proposed changes to 4.05.03(A)(2) to add “and disposed of properly”, and make sure that the information about the list of allowed plants is available within the chapter.

Beverly Lawrence, 1205 Date Street, thanked Staff and Dr. Taylor Clem for their work regarding this proposed change and voiced support for the change to increase public awareness. She also spoke about the important issues of removal and disposal.

Member Gillette spoke of the newly created item D in Section 4.05.03 proposing a 5% incentive for perimeter buffering landscaping and suggested that this could be linked with another incentive. Board Members discussed the possibility of removing the new section D and re-introducing it later to discuss the possible impact of offering additional incentives.

Margaret Kirkland, 1377 Plantation Point Drive, spoke of invasive species, and spoke against the potential increase in impervious area percentage as an incentive.

After further board discussion, Members came to a consensus to remove the newly created section D from Section 4.05.03 all-together while accepting all other amendments to that section.

ACTION TAKEN: A motion was made by Member Gillette, seconded by Member Bennett, to recommend approval of PAB case 2024-0006, with all proposed changes by Staff and by the Board and the removal of the new item D from Section 4.05.03, to the City Commission.

Vote upon passage of the motion was taken by voice call, and being all ayes, carried.

5.5 PAB 2024-0004 - LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENT

Request to add terms to LDC Section 1.07.00 Acronyms and Definitions to include Building Site,

Substandard Lot of Record, Parcel, Parcel Identification Number (PIN), and Plat.

Ms. Gibson presented the Staff Report Analysis and recommended approval.

Member Gillette initiated a few changes to the proposed definitions. Board Members also suggested some

corrections.

Board Members and Mr. Poole discussed the challenges of unrecorded plats.

ACTION TAKEN: A motion was made by Vice-Chair Stevenson, seconded by Member Gillette, to recommend approval of PAB case 2024-0004 with the proposed amendments to the City Commission.

Vote upon passage of the motion was taken by voice call, and being all ayes, carried.

6. BOARD BUSINESS

6.1 Continued Discussion of Planned Unit Development (PUD) Standards as requested by the Board

Member Bennett initiated a conversation about the need to minimize the required acreage for a PUD.

Board Members asked for Staff to prepare and provide some draft language regarding the reduction or elimination of the minimum acreage requirement for PUD. Chair Robas asked for this discussion to continue at the July 10, 2024, regular meeting and for the draft language from Staff to be presented and discussed at the regular meeting of August 14, 2024.

6.2 Prioritization of Action Items as requested by the Board

Ms. Gibson proposed a discussion regarding possibly amending or eliminating some Parking Standards and Parking Minimums.

Staff will provide some updated information regarding Transportation at the next regular meeting of July 10, 2024. She then gave insight about micro transit and the funding behind these projects.

Ms. Gibson gave updates on current active projects and events. She also encouraged Board Members to attend Planning 101, an upcoming training event hosted by Nassau County which will take place in mid-October at a cost of \$30. Further information about this training will be communicated by Staff as it becomes available.

7. STAFF REPORT

Ms. Gibson gave updates on current projects and events.

8. PUBLIC COMMENT

No members of the public wished to speak.

9. ADJOURNMENT 7:31



Sylvie McCann, Recording Secretary



Victoria Robas, Chair



**NOTICE OF PUBLIC HEARING
PLANNING ADVISORY BOARD
CITY OF FERNANDINA BEACH**

NOTICE IS HEREBY GIVEN that a Public Hearing is scheduled for **Wednesday, June 12, 2024, at 5:00 p.m.** in the City Commission Chambers, 204 Ash Street Fernandina Beach, Florida to consider the following:

LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENTS

PAB CASE 2024-0004: CITY OF FERNANDINA BEACH REQUESTS ADDING TERMS TO LDC SECTION 1.07.00 ACRONYMS AND DEFINITIONS TO INCLUDE BUILDING SITE, SUBSTANDARD LOT OF RECORD, PARCEL, PARCEL IDENTIFICATION NUMBER (PIN), AND PLAT.

LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENTS

PAB CASE 2024-0005: CITY OF FERNANDINA BEACH REQUESTS ADDING AMENDMENTS TO LDC SECTION 4.04.02 (E.) STANDARDS FOR SUBDIVISIONS GENERAL REQUIREMENTS TO ADJUST VEHICULAR ACCESS REQUIREMENTS.

LAND DEVELOPMENT CODE (LDC) TEXT AMENDMENTS

PAB CASE 2024-0006: CITY OF FERNANDINA BEACH REQUESTS ADDING AMENDMENTS TO LDC SECTION 4.05.00 LANDSCAPING, BUFFERS, AND TREE PROTECTION, SPECIFICALLY AMENDING REFERENCES, CORRECTING INVASIVE PLANT LIST, AND INCORPORATING UPDATED FLORIDA-FRIENDLY LANDSCAPING PRACTICES IN SECTIONS 4.05.01 GENERALLY, 4.05.02 APPLICABILITY, 4.05.03 LANDSCAPE MATERIALS STANDARDS, RENUMBERING SECTIONS WHICH FOLLOW AND INCORPORATING PLAIN LANGUAGE IN SECTION 4.05.04 AND CLARIFYING SECTION 4.05.13 IN APPLICABILITY TO ONLY LANDSCAPE STANDARDS.

FUTURE LAND USE MAP AMENDMENTS AND ZONING CHANGES

PAB CASE 2024-0007: CITY OF FERNANDINA BEACH REQUESTS AMENDING THE FUTURE LAND USE MAP AND ZONING MAPS FROM MEDIUM DENSITY RESIDENTIAL (MDR) AND R-2 ZONING DISTRICT WITH PUD FOR AMELIA LANDINGS TO CONSERVATION (CON) LAND USE AND CON ZONING DISTRICT FOR PROPERTY LOCATED ON BLOCK 2 PORTIONS OF LOTS 14 AND 15 AT SADLER ROAD TOTALING APPROXIMATELY 0.57 ACRES.



FUTURE LAND USE MAP AMENDMENTS AND ZONING CHANGES

PAB CASE 2024-0008: CITY OF FERNANDINA BEACH REQUESTS AMENDING THE FUTURE LAND USE MAP AND ZONING MAPS FROM MEDIUM DENSITY RESIDENTIAL (MDR)/ INDUSTRIAL (IND) AND R-2/ I-1 ZONING DISTRICTS TO CONSERVATION (CON) LAND USE AND CON ZONING

DISTRICT FOR PROPERTIES LOCATED IN BLOCK 288 LOTS 2 AND 3 TOTALING APPROXIMATELY 0.46 ACRES.



Interested parties may appear at said hearing and be heard as to the advisability of any action, which may be considered. Any persons with disabilities requiring accommodations in order to participate in this program or activity should contact 310-3100, TTY 711, (TTY number for all City offices) or through the Florida Relay Service at 711 at least 24 hours in advance to request such accommodation. The PAB serves as a recommending committee. Every application is submitted to the City Commission for final decision making.

Copies of the applications may be inspected in the office of the Planning Department, City Hall, 204 Ash Street, between the hours of 8:00 AM – 5:00 PM, Monday through Friday. To make an appointment with a planner, please call 904-310-3480.

Thank you so much.

Note to News Leader:

**** This ad cannot be included in the legal or the classified section of the newspaper. ****
Please run as a DISPLAY ad in the Wednesday, MAY 29, 2024 issue.

PLANNING ADVISORY BOARD AGENDA ITEM
City of Fernandina Beach



SUBJECT:

ITEM TYPE: Zoning Map Amendment < 10 Acres

REQUESTED ACTION:

SYNOPSIS:

CITY ATTORNEY COMMENTS:

Kelly Gibson, Planning and
Conservation Director

Katie Newton, Paralegal

Date: March
24, 2025

Submitted By: Kelly Gibson, Planning and
Conservation Director

PAB LDC Elements of Revisions Under Consideration

Yellow and bolded text indicate what the focus of this meeting is.

Community Character

The distinct identity of a place. It is the collective impression a neighborhood or town makes on residents and visitors.

Natural Resources Protection/Conservation

The careful management and upkeep of natural resources like water, soil, forest, ocean, and wildlife to ensure their availability for current and future generations.

Sustainability

A development model that can meet the needs of the present without compromising the ability of future generations to meet their own.

Revisions Under Consideration

Revision Name	PUD	1.03.04/1.03.05 clarity	Landscaping: Florida Friendly Clean-up Ordinance	Commercial Redevelopment	Parking Standards- Medical Offices and Beauty Salon Standards	Design Incentives	Impervious Surface Ratio	Density	Dark Skies	Dune Protection	Parking: General	Landscaping: General	Tree Protection	Examine Home Rule Options	Update Private Property Rights Element	Neighborhood Planning Strategies	Complete Streets Policy
Priority Level	High	High	High	High	High												
Status	Tabled indefinitely	Waiting on Board direction	To be discussed at April 2025 PAB meeting	Waiting on Board for direction. Workshop or select small group to work with staff to bring back a recommendation for Board to consider.	To be place on the PAB agenda in June 2025 for affirmation of previous approval recommendation												
Date/Time Frame	Discussed at March meeting (3/12)	ASAP	To be place on the PAB agenda in June 11, 2025 for affirmation of previous approval recommendation	Year 2025	June meeting (6/11)												
Discussion Notes	Revision language drafted and previously recommended for approval by PAB	LDC section under legal review	Revision language drafted and perviously recommended for approval by PAB		Revision language drafted and perviously recommended for approval by PAB	Specific strategies/ incentives for design of spaces		No increase- consider reducing			Tied to Commercial Redevelopment				More robust with emphasis on neighbors	Define neighborhoods/ create maps	
Relevant Elements																	



2.2 Water Supply Agreements

Nassau County

The City provides potable water and sanitary sewer services to a portion of unincorporated areas within Nassau County. However, the City does not currently have a written agreement with Nassau County regarding these services. The City plans on exploring options for establishing an agreement with Nassau County regarding its provision of utility services.

Select Year: 2024 ▼ Go

The 2024 Florida Statutes (including 2025 Special Session C)

[Title XXVIII](#)
NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND
USE

[Chapter 373](#)
WATER
RESOURCES

[View Entire
Chapter](#)

373.709 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for a water supply planning region within the district identified in the appropriate district water supply plan under s. [373.036](#), where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input. During preparation, but before completion of the regional water supply plan, the district shall conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts of the plan on existing and future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of the plan. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section is subject to s. [120.569](#). The governing board shall reevaluate the determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

(a) A water supply development component for each water supply planning region identified by the district which includes:

1. A quantification of the water supply needs for all existing and future reasonable-beneficial uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses must be based upon meeting those needs for a 1-in-10-year drought event.

a. Population projections used for determining public water supply needs must be based upon the best available data. In determining the best available data, the district shall consider the University of Florida Bureau of Economic and Business Research (BEBR) medium population projections and population projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1) if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the BEBR projections must be fully described, and the original BEBR data must be presented along with the adjusted data.

b. Agricultural demand projections used for determining the needs of agricultural self-suppliers must be based upon the best available data. In determining the best available data for agricultural self-supplied water needs, the district shall consider the data indicative of future water supply demands provided by the Department of Agriculture and Consumer Services pursuant to s. [570.93](#) and agricultural demand projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1), if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the data provided by the Department of Agriculture and Consumer Services must be fully described, and the original data must be presented along with the adjusted data.

2. A list of water supply development project options, including traditional and alternative water supply project options that are technically and financially feasible, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an alternative water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan must exceed the needs identified in subparagraph 1. and take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels and water reservations. Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permissible and financially and technically feasible. The list of water supply development options must contain provisions that recognize that alternative water supply options for agricultural self-suppliers are limited.

3. For each project option identified in subparagraph 2., the following must be provided:

- a. An estimate of the amount of water to become available through the project.
- b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and operating and maintaining the project.
- c. An analysis of funding needs and sources of possible funding options. For alternative water supply projects, the water management districts shall provide funding assistance pursuant to s. [373.707\(8\)](#).
- d. Identification of the entity that should implement each project option and the current status of project implementation.

(b) A water resource development component that includes:

1. A listing of those water resource development projects that support water supply development for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.

2. For each water resource development project listed:

- a. An estimate of the amount of water to become available through the project for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.
- b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and for operating and maintaining the project.
- c. An analysis of funding needs and sources of possible funding options.
- d. Identification of the entity that should implement each project option and the current status of project implementation.

(c) The recovery and prevention strategy described in s. [373.0421\(2\)](#).

(d) A funding strategy for water resource development projects, which shall be reasonable and sufficient to pay the cost of constructing or implementing all of the listed projects.

(e) Consideration of how the project options addressed in paragraph (a) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource

development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.

(f) The technical data and information applicable to each planning region which are necessary to support the regional water supply plan.

(g) The minimum flows and minimum water levels established for water resources within each planning region.

(h) Reservations of water adopted by rule pursuant to s. [373.223\(4\)](#) within each planning region.

(i) Identification of surface waters or aquifers for which minimum flows and minimum water levels are scheduled to be adopted.

(j) An analysis, developed in cooperation with the department, of areas or instances in which the variance provisions of s. [378.212\(1\)\(g\)](#) or s. [378.404\(9\)](#) may be used to create water supply development or water resource development projects.

(k) An assessment of how the regional water supply plan and the projects identified in the funding plans prepared pursuant to sub-subparagraphs (a)3.c. and (b)2.c. support the recovery or prevention strategies for implementation of adopted minimum flows and minimum water levels or water reservations, including minimum flows and minimum water levels for Outstanding Florida Springs adopted pursuant to s. [373.805](#); while ensuring that sufficient water will be available for all existing and future reasonable-beneficial uses and the natural systems identified herein; and that the adverse effects of competition for water supplies will be avoided.

(3) The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments shall be developed jointly by the authority and the applicable water management district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to paragraph (2)(a), water management districts are directed to assist in developing multijurisdictional approaches to water supply project development jointly with affected water utilities, special districts, self-suppliers, and local governments.

(4) The South Florida Water Management District shall include in its regional water supply plan water resource and water supply development projects that promote the elimination of wastewater ocean outfalls as provided in s. [403.086\(10\)](#).

(5) Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. [120.569](#).

(6) Annually and in conjunction with the reporting requirements of s. [373.536\(6\)\(a\)4.](#), the department shall submit to the Governor and the Legislature a report on the status of regional water supply planning in each district. The report shall include:

(a) A compilation of the estimated costs and an analysis of the sufficiency of potential sources of funding from all sources for water resource development and water supply development projects as identified in the water management district regional water supply plans.

(b) The percentage and amount, by district, of district ad valorem tax revenues or other district funds made available to develop alternative water supplies.

(c) A description of each district's progress toward achieving its water resource development objectives, including the district's implementation of its 5-year water resource development work program.

(d) An assessment of the specific progress being made to implement each alternative water supply project option chosen by the entities and identified for implementation in the plan.

(e) An overall assessment of the progress being made to develop water supply in each district, including, but not limited to, an explanation of how each project in the 5-year water resource development work program developed pursuant to s. [373.536\(6\)\(a\)4.](#), either alternative or traditional, will produce, contribute to, or account for additional water being made available for consumptive uses, minimum flows and minimum water levels, or water reservations; an estimate of the quantity of water to be produced by each project; and an assessment of the

contribution of the district's regional water supply plan in providing sufficient water to meet the needs of existing and future reasonable-beneficial uses for a 1-in-10-year drought event, as well as the needs of the natural systems.

(7) Nothing contained in the water supply development component of a regional water supply plan shall be construed to require local governments, government-owned or privately owned water utilities, special districts, self-suppliers, regional water supply authorities, multijurisdictional water supply entities, or other water suppliers to select a water supply development project identified in the component merely because it is identified in the plan. Except as provided in s. 373.223(3) and (5), the plan may not be used in the review of permits under part II of this chapter unless the plan or an applicable portion thereof has been adopted by rule. However, this subsection does not prohibit a water management district from employing the data or other information used to establish the plan in reviewing permits under part II, nor does it limit the authority of the department or governing board under part II.

(8) Where the water supply component of a water supply planning region shows the need for one or more alternative water supply projects, the district shall notify the affected local governments and make every reasonable effort to educate and involve local public officials in working toward solutions in conjunction with the districts and, where appropriate, other local and regional water supply entities.

(a) Within 6 months following approval or amendment of its regional water supply plan, each water management district shall notify by certified mail each entity identified in sub-subparagraph (2)(a)3.d. of that portion of the plan relevant to the entity. Upon request of such an entity, the water management district shall appear before and present its findings and recommendations to the entity.

(b) Within 1 year after the notification by a water management district pursuant to paragraph (a), each entity identified in sub-subparagraph (2)(a)3.d. shall provide to the water management district written notification of the following: the alternative water supply projects or options identified in paragraph (2)(a) which it has developed or intends to develop, if any; an estimate of the quantity of water to be produced by each project; and the status of project implementation, including development of the financial plan, facilities master planning, permitting, and efforts in coordinating multijurisdictional projects, if applicable. The information provided in the notification shall be updated annually, and a progress report shall be provided by November 15 of each year to the water management district. If an entity does not intend to develop one or more of the alternative water supply project options identified in the regional water supply plan, the entity shall propose, within 1 year after notification by a water management district pursuant to paragraph (a), another alternative water supply project option sufficient to address the needs identified in paragraph (2)(a) within the entity's jurisdiction and shall provide an estimate of the quantity of water to be produced by the project and the status of project implementation as described in this paragraph. The entity may request that the water management district consider the other project for inclusion in the regional water supply plan.

History.—ss. 1, 28, 49, 50, ch. 2010-205; s. 3, ch. 2013-177; s. 4, ch. 2013-229; s. 9, ch. 2014-150; s. 21, ch. 2016-1; s. 40, ch. 2018-110; s. 36, ch. 2020-150.

From: [Richard Doster](#)
To: [Kelly Gibson](#); [Margaret Pearson](#)
Subject: Fwd: Proposal to combine the Board of Adjustment [BOA] and Planning Advisory Board [PAB]
Date: Monday, March 31, 2025 11:43:57 AM

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender, were expecting this email, and know the content is safe.

Sent from my iPhone

Begin forwarded message:

From: Steven papke <steven.papke@gmail.com>
Date: March 22, 2025 at 12:21:28 PM EDT
To: Chip <jaxchipross@gmail.com>
Cc: James Antun <jantun@fbfl.org>, dayscue@fbfl.org, gminshew@fbfl.org, tpoynter@fbfl.org, Joyce Tuten <jtuten@fbfl.city>, scampbell@fbfl.org, Jeremiah Glisson <jglisson@fbfl.org>, Caroline Best <cbest@fbfl.org>, Richard Doster <doster.richard@gmail.com>
Subject: Re: Proposal to combine the Board of Adjustment [BOA] and Planning Advisory Board [PAB]

Thank you Chip. I agree. I've served on this board for many years under 3 different chairs. Now sitting in the chair seat, I was a little surprised to read about this in the Fernandina Observer with 0 previous acknowledgment or communication. I recognize that we serve at the pleasure of the City Commisioners, and the community but I certainly don't recognize that the cost reduction of such consideration is significant.

Sincerely,

Steven D. Papke, AIA
<https://www.linkedin.com/in/stevendpapke/>
|c| 904.887.8318

On Sat, Mar 22, 2025 at 12:11 PM Chip <jaxchipross@gmail.com> wrote:

A recent proposal was made to combine the BOA and PAB. Based upon my reading of Attorney General Opinion 84-50 [Exhibit A attached -some of which may be outdated] and Florida Statute Chapter 163 [Exhibit B, C attached] it seems that the legislative intent is to divide the planning and zoning functions and zoning appeals' processes into separate boards [See last paragraph AGO 84-50].

You may want to reconsider combining those two boards.

- **Background – BOA**

Florida law does not *explicitly* require every local government to have a **Board of Adjustments (BOA)**, but it does authorize local governments to establish one.

Under **Chapter 163, Florida Statutes**, which governs land development regulations, local governments are given the authority to create boards like a BOA to handle zoning variances, special exceptions, and appeals. However, whether a specific city or county has a BOA depends on its **local zoning ordinance** or **comprehensive plan**.

The City of Fernandina Beach has established a **Board of Adjustment (BOA)** to handle zoning variances, special exceptions, and appeals within the city limits.

Key Functions of the BOA:

- **Appeals:** The BOA hears and decides on appeals where it's alleged there's an error in any order, interpretation, requirement, decision, or determination made by an administrative official in the enforcement of the Land Development Code (LDC).
- **Variances:** The BOA is authorized to grant variances from the provisions of the LDC. The BOA comprises **five regular members and two alternate members**, all appointed by the City Commission. Each member serves a three-year term and continues at the pleasure of the City Commission.
 - **Variances and Exceptions:** Property owners who believe a zoning regulation creates unnecessary hardship can request a variance from the BOA.

Florida Statute **Chapter 163**, which governs intergovernmental programs and land use planning, includes provisions that allow for the establishment of **boards of adjustment** in local governments.

The relevant sections include:

1. **Section 163.3215** – This section addresses standing for enforcement of local comprehensive plans, which often involves boards of adjustment in zoning and land use decisions.
2. **Section 163.3164(7) & (8)** – Defines **land development regulations** and **development orders**, which boards of adjustment typically oversee when granting variances or hearing appeals.
3. **Section 163.3174** – Establishes local **planning commissions**, which often work alongside boards of adjustment to implement zoning and land development regulations.
4. **Section 163.3213** – Discusses administrative review processes,

where boards of adjustment may hear appeals related to zoning and land development decisions.

- **Background PAB**

The role of a Planning Advisory Board is to provide recommendations on land use, zoning, and development issues to the local governing body (e.g., city council or county commission).

Key Functions of a Planning Advisory Board under Florida Law

1. **Comprehensive Planning** – The PAB helps develop and amend the **Comprehensive Plan** as required by the **Community Planning Act (Chapter 163, Florida Statutes)**. This includes reviewing land use, infrastructure, and growth management policies.
2. **Zoning and Land Development Regulations** – The board reviews proposed zoning changes, special exceptions, variances, and other land development code amendments.
3. **Development Applications Review** – The PAB may review **site plans, plat approvals, and conditional use permits** to ensure compliance with local ordinances and state law.
4. **Public Hearings & Recommendations** – The board conducts public hearings on proposed changes to zoning laws and development regulations and makes formal recommendations to the **city council or county commission**.
5. **Consistency Reviews** – The board ensures that proposed developments comply with the Comprehensive Plan and state-mandated planning requirements.
6. **Environmental & Infrastructure Considerations** – The board may assess the impact of proposed developments on roads, utilities, and the environment.

Legal Authority

The PAB operates under the authority of **Chapter 163, Part II, Florida Statutes (Growth Management Act)**, as well as local ordinances specific to each jurisdiction.

Exhibit A

Planning commission/ Board of adjustment

Number: AGO 84-50

Date: January 05, 1998

Subject:
Planning commission/ Board of adjustment

The Honorable George Kent
Mayor
Town of Orange Park
Post Office Box 428
Orange Park, Florida 32067-0428

RE: MUNICIPALITIES--Zoning procedures under Part II of Ch. 163, F.S.

Dear Mr. Kent:

This is in response to your request for an opinion on the following question:

May a municipality which elects to proceed under the provisions of Part II of Ch. 163, F.S., utilize a single planning and zoning board to act as a planning commission and a board of adjustment?

Your letter states that the Town of Orange Park adopted a zoning code in 1977 which established a "Planning and Zoning Board" which was given the power "[t]o serve in an advisory capacity to the Orange Park town council on all matters relating to the zoning of land." Section 10-6, Art. 10, Orange Park Code. The same board was also given the power "[t]o serve as an appeals and adjustment board on matters relating to . . . appeals . . . zoning exceptions . . . and zoning variances" *Id.* Your letter further states that the Town of Orange Park elected to adopt a comprehensive plan and proceed under the provisions of Part II of Ch. 163, F.S., in 1981. I will assume for purposes of this opinion that such election was in conformity with s. 163.175(1), F.S. 1981, which provides in pertinent part:

"MUNICIPALITIES AND ADJACENT AREAS.--Any incorporated municipality may exercise any or all of the powers granted under the provisions of this act in the total area within its corporate limits upon passage of an appropriate ordinance to that effect by the governing body."

See *also* s. 163.315(1), F.S. (requiring that an "incorporated municipality . . . desiring to utilize the provisions of this act must take formal suitable action declaring its election to proceed under the provisions of this act."). *Cf.* s. 163.315(2), F.S., which provides:

"Any municipal or county ordinance legally enacted under the provisions of any such preexisting power and authority shall remain in force and effect after this act becomes effective until the county or municipality has elected to proceed under the provisions of this act and has brought such resolution or ordinance into conformity with the provisions of this act. However, after this act becomes effective in any county or municipality, such resolutions and ordinances shall be

administered under the provisions of this act, and any amendments to any such county or municipal ordinance shall be made under the provisions of this act."

However, you further advise that the Town of Orange Park has made no changes in s. 10-6., Art. 10, Orange Park Code, since the election to proceed under Part II of Ch. 163, F.S., and that the single Planning and Zoning Board has continued to act in the dual capacity of an advisory commission and a zoning board of adjustment. See ss. 163.180, F.S., and 163.185, F.S., governing the establishment, officers, procedures, functions, powers, and duties of "Commissions" in counties and municipalities electing to proceed under the provisions of Part II of Ch. 163, F.S. See *also* ss. 163.220, F.S., and 163.225, F.S., relating to the creation, officers, procedures, powers and duties of boards of adjustment pursuant to the provisions of Part II of Ch. 163, F.S. In light of current revisions to the Orange Park Code, you ask whether the town may permit the "Planning and Zoning Board" to act in such dual capacity, or whether the town must establish separate entities to act as a "commission" and as a board of adjustment pursuant to an election to proceed under the provisions of Part II of Ch. 163, F.S.

Part II of Ch. 163, F.S., concerns "County and Municipal Planning for Future Development." The act authorizes counties and municipalities to, *inter alia*, "plan for future development, adopt and amend comprehensive plans to guide future development, adopt and enforce zoning regulations, . . . and establish and maintain the boards and commissions herein described for carrying out the provisions and purposes of this act." Section 163.160(1), F.S. However, the provisions of the act are declared to be only the "minimum requirements" for protecting the public interest and promoting orderly development. Section 163.165(2), F.S. As such, the act specifically provides that "[a]ny governing body of any county or any incorporated municipality may, but shall not be required to, exercise any of the powers set out in this act." Section 163.165(3), F.S. The method of election to proceed under the provisions of the act is as noted above, by passage of an appropriate ordinance to that effect. Section 163.175(1), F.S. However, s. 163.165(3) further provides, "Whenever a governing body shall elect to exercise any of the powers granted by this act, such powers shall be exercised *in the manner hereinafter prescribed*." (e.s.) I have previously concluded that once a local governing body makes an election to proceed pursuant to Part II of Ch. 163, F.S., for any powers and functions granted thereby, it must thereafter proceed in compliance with Ch. 163 for all applicable regulations. A local governing body "cannot pick and choose which portions of a comprehensive program established by the Legislature it wishes to comply with." Attorney General Opinion 79-40. See *also* AGO 72-273 (concluding that an election to proceed under Part II of Ch. 163, F.S., requires that "all preexisting ordinances and resolutions must be brought into conformity" with the act and are then administered pursuant to its provisions, citing to s. 163.315[2], F.S.). Accordingly, an analysis of the provisions of Part II of Ch. 163, F.S., which relate to the formation and functions of "commissions" and boards of adjustment is required to determine whether maintenance of a single "Planning and Zoning Board" to perform such functions is within the permissible administration of the provisions of the act by a municipality which elects to proceed thereunder.

Section 163.170(2), F.S., provides, "'Commission' means the planning commission, and, where appropriate, any zoning commission created under the provisions of s. 163.183, appointed by the governing body or bodies adopting the provisions of this part as provided hereinafter." Section 163.183, F.S., permits charter counties to "divide planning and zoning functions and create a planning commission and one or more zoning commissions." Therefore, since the only

exception provided under the definition of "commission" does not pertain to a municipality, it would appear that any references to "commission" in Part II of Ch. 163, F.S., are intended to include only a planning commission. See, e.g., *Dobbs v. Sea Isle Hotel*, 56 So.2d 341 (Fla. 1952) (rule of "*expressio unius est exclusio alterius*," meaning that express mention of one thing is the exclusion of another). Such commissions are established and organized pursuant to s. 163.180, F.S.

For purposes of this opinion, the following provisions of s. 163.180 are pertinent:

"(1) ESTABLISHMENT AND COMPOSITION.--The governing bodies of counties and incorporated municipalities are hereby empowered . . . to establish commissions and appoint members thereto, the proportionate membership thereof to be as agreed upon and appointed by the governmental bodies concerned. Elected officeholders of any of the jurisdictions involved may serve only in an ex officio capacity.

(2) TERMS OF OFFICE; REMOVAL FROM OFFICE; VACANCIES.--Members of the commission shall be appointed for staggered terms of such length as may be determined jointly by the governing bodies involved

(3) OFFICERS, RULES OF PROCEDURE, EMPLOYEES AND SALARIES.—

* * *

(c) The commission may, subject to the approval of the governing body concerned and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians, and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the commission.

* * *

(4) APPROPRIATIONS, FEES AND OTHER INCOME.--The governing body for the area under the jurisdiction of the commission is hereby authorized and empowered to make appropriations for salaries, fees, and expenses necessary in the conduct of the work of the commission and also to establish a schedule of fees to be charged by the commission. To accomplish the purposes and activities authorized by this act, the commission, with the approval of the governing body or bodies, has the authority to expend all sums so appropriated"

The functions, powers, and duties of the commission are as provided in s. 163.185, F.S., all of which relate to preparation, adoption, review, and amendment of a comprehensive plan for the jurisdiction. Sections 163.190, F.S., 163.195, F.S., and 163.200, F.S., relate respectively to the contents and adoption procedure, legal effect, and review and amendment procedures which concern the comprehensive plan. Cf. ss. 163.3161-163.3211, F.S., the Local Government Comprehensive Planning Act of 1975, which requires local governments to undertake comprehensive planning in contrast to the statutory provisions discussed herein, which permit local governments to elect to proceed in accordance therewith with respect to comprehensive planning and enforcement of zoning ordinances adopted thereunder. The statutory scheme then moves to the next step in the process established by the act, adoption of a zoning ordinance

based on the comprehensive plan. See s. 163.205(1), F.S., providing in pertinent part:

"After a comprehensive plan has been prepared and adopted as provided for in ss. 163.190, 163.195, and 163.200, . . . the governing body of an area described under s. 163.175, in accordance with the conditions and procedures specified in this act, may enact or amend and enforce a zoning ordinance after a public hearing with due public notice."

My review of the foregoing statutes and ss. 163.210, F.S., and 163.215, F.S., indicates that the statutory scheme enacted by the Legislature in Part II of Ch. 163, F.S., envisions that the commission established and empowered thereby is charged with preparing, recommending, and reviewing a comprehensive plan for the commission's territorial jurisdiction as a whole. See, e.g., ss. 163.210 and 163.215, relating to the commission's power to recommend establishment of zoning districts and various regulations therefor.

In contrast to the foregoing provisions, boards of adjustment are created and organized pursuant to s. 163.220, F.S., which provides in pertinent part:

"(1) CREATION AND COMPOSITION.--*As part of the zoning ordinance*, the governing body shall create a board of adjustment. . . . Members of the board of adjustment shall be appointed by the governing body No member or alternate member of the board of adjustment shall be a paid or elected official or employee of the governing body involved.

(2) TERMS OF OFFICE, REMOVAL FROM OFFICE, VACANCIES.--Members of the board of adjustment shall serve for overlapping terms of not less than 3 or more than 5 years or thereafter until their successors are appointed.

(3) OFFICERS, RULES OF PROCEDURE, EMPLOYEES AND SALARIES.--The board of adjustment shall elect a chairman and a vice chairman from among its members and shall appoint a secretary who may be an officer or employee of the governing body or of the commission. The board may create and fill such other offices as it may determine to be necessary for the conduct of its duties. Terms of all such offices shall be for 1 year, with eligibility for reelection.

(4) APPROPRIATIONS, FEES, AND OTHER INCOME.--The governing body is authorized and empowered to appropriate such funds as it may see fit for salaries, fees, and expenses necessary in the conduct of the work of the board of adjustment. The governing body is authorized to establish a schedule of fees to be charged by the board of adjustment. The board shall have the authority to expend all sums so appropriated" (e.s.)

Section 163.225, F.S., describes in detail the powers and duties of the board of adjustment relating to hearings of appeals from determinations of administrative officials enforcing the zoning ordinance, requests for special exceptions, and requests for variances, all of which relate to district-wide regulations as applied to individual parcels and property owners. Note particularly s. 163.225(2)(e), which provides that "[t]he zoning ordinance shall require that the board of adjustment confer with the commission in all cases involving requests for special exceptions." See *also* ss. 163.230-163.250, F.S., relating to procedures, rights and remedies applicable to the board of adjustment and applicants before the board.

Comparison of the applicable statutory provisions relating to commissions established pursuant to s. 163.180, F.S., and boards of adjustment created pursuant to s. 163.220, F.S., leads me to conclude that the Legislature intended that these entities be separate and distinct inasmuch as their powers and duties relate to different areas of responsibility and insofar as the statutory enabling authority for each is in some respects mutually exclusive of the kind of duality of operation which presently exists with respect to the Orange Park Planning and Zoning Board. For example, commissions may include elected officeholders as ex officio members, but boards of adjustment may not. Members of the commission are appointed for staggered terms of such length as may be determined by the appointive authority, while board of adjustment terms must be overlapping and for specified terms of not less than 3 or more than 5 years. Commissions may hire staff and employees, but boards of adjustment may create only such offices as are necessary for terms not exceeding one year. Commissions must obtain approval from the governing body to expend appropriated funds; no such approval is required for boards of adjustment. The planning commissions essentially adopt, amend and propose or recommend the adoption by the governing body of the comprehensive plan but may not grant exceptions or variances from such plan as it adopts and proposes, while the board of adjustment is empowered to do so and exercises delegated quasi-judicial power over such plans. The statutory scheme appears to evince an intent that a commission is established first to propose a comprehensive plan, while a board of adjustment is created only when the governing body adopts a zoning ordinance consistent with and after approval of the comprehensive plan. Finally, I note that the zoning ordinance must require that the board of adjustment confer with the commission as part and parcel of its power and duty to hear requests for special exceptions. Although I find no express prohibition of a single entity serving the dual role of commission and board of adjustment, my analysis of the statutory scheme pervading Part II of Ch. 163, F.S., leads me to conclude that a municipality which elects to proceed under the provisions of the act must establish separate entities to act as a "commission" or planning commission for purposes of s. 163.180, F.S., and as a board of adjustment pursuant to s. 163.220, F.S., in order to comply with the requirement of s. 163.315(2), F.S., that all ordinances be administered under the provisions of the act, and with the requirement of s. 163.165(3), F.S., that the powers set out in Part II of Ch. 163 be exercised in the manner therein prescribed. To the extent that the act divides the planning and zoning functions and the zoning appeals' processes, and assigns the former to a "commission" and the latter to a board of adjustment, and authorizes the creation and operation of such entities in statutory terms that are in some respects mutually exclusive, it appears that the Legislature intended that two separate entities were required to effectuate the dual statutory purposes of preparing and continuously reviewing a plan for future development encompassing a wide territorial area on the one hand, and of administering, enforcing and granting exceptions and variances from zoning ordinances enacted pursuant to the plan as applied to particularized individual circumstances on the other hand. Legislative intent is the pole star by which a court must be guided in interpreting statutory provisions. *Parker v. State*, 406 So. 2d 1089 (Fla. 1981); *Ervin v. Peninsular Telephone Co.*, 53 So. 2d 647 (Fla. 1951). The legislative intent must be ascertained from the statute by considering the language used, subject matter, and purpose. In *re Ruff's Estate*, 32 So. 2d 840, 843 (Fla. 1947).

In summary, then, unless and until legislatively or judicially determined otherwise, I conclude that a municipality which elects to proceed under the provisions of Part II of Ch. 163, F.S., may not utilize a single planning and zoning board to act as a planning commission and a board of adjustment, inasmuch as the statutory scheme of Part II of Ch. 163 reflects the legislative intent

to divide the planning and zoning functions and the zoning appeals' processes, and assigns the broad planning function to a commission established pursuant to s. 163.180, F.S., while reserving the zoning appeals' process with respect to application of the zoning ordinance enacted pursuant to the comprehensive plan and process for granting special exceptions and variances therefrom with respect to individual parcels and property owners to a board of adjustment created pursuant to s. 163.220, F.S., and insofar as the cited statutory enabling provisions are in some respects mutually exclusive.

Sincerely,

Jim Smith
Attorney General

Prepared by:

Kent L. Weissinger
Assistant Attorney General

Exhibit B

Select Year: 2024 ▼

The 2024 Florida Statutes (including 2025 Special Session C)

Title XI	Chapter 163	View Entire Chapter
COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	INTERGOVERNMENTAL PROGRAMS	

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. [163.3171](#), shall designate and by ordinance establish a “local planning agency,” unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member. The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. All local planning agencies shall provide opportunities for involvement by applicable community college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. [163.02](#), provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(2) Nothing in this act shall prevent the governing body of a local government that participates in creating a local planning agency serving two or more jurisdictions from continuing or creating its own local planning agency. Any such governing body which continues or creates its own local planning agency may designate which local planning agency functions, powers, and duties will be performed by each such local planning agency.

(3) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purposes and activities authorized by this act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan. During the preparation of the plan or plan amendment and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed plan or plan amendment. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment to the governing body shall be the responsibility of the local planning agency.

(b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan required by s. 163.3191.

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or by general or special law.

(5) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.

History.—s. 6, ch. 75-257; s. 1, ch. 77-223; s. 5, ch. 85-55; s. 2, ch. 92-129; s. 9, ch. 95-310; s. 9, ch. 95-341; s. 1, ch. 2002-296; s. 10, ch. 2011-139; s. 2, ch. 2012-99.

Exhibit C

Select Year: 2024 

The 2024 Florida Statutes (including 2025 Special Session C)

Title XI	Chapter 163	View Entire Chapter
COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	INTERGOVERNMENTAL PROGRAMS	

163.3215 Standing to enforce local comprehensive plans through development orders.—

(1) Subsections (3) and (4) provide the exclusive methods for an aggrieved or adversely affected party to appeal and challenge the consistency of a development order with a comprehensive plan adopted under this part. The local government that issues the development order is to be named as a respondent in all proceedings under this section. Subsection (3) shall not apply to development orders for which a local government has established a process consistent with the requirements of subsection (4). A local government may decide which types of development orders will proceed under subsection (4). Subsection (3) shall apply to all other development orders that are not subject to subsection (4).

(2) As used in this section, the term “aggrieved or adversely affected party” means any person or local government that will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons. The term includes the owner, developer, or applicant for a development order.

(3) Any aggrieved or adversely affected party may maintain a de novo action for declaratory, injunctive, or other relief against any local government to challenge any decision of such local government granting or denying an application for, or to prevent such local government from taking any action on, a development order, as defined in s. [163.3164](#), on the basis that the development order materially alters the use or density or intensity of use on a particular piece of property, rendering it not consistent with the comprehensive plan adopted under this part. The de novo action must be filed no later than 30 days following rendition of a development order or other written decision, or when all local administrative appeals, if any, are exhausted, whichever occurs later.

(4) If a local government elects to adopt or has adopted an ordinance establishing, at a minimum, the requirements listed in this subsection, the sole method by which an aggrieved and adversely affected party may challenge any decision of local government granting or denying an application for a development order, as defined in s. [163.3164](#), which materially alters the use or density or intensity of use on a particular piece of property, is by an appeal filed by a petition for writ of certiorari filed in circuit court no later than 30 days following rendition of a development order or other written decision of the local government, or when all local administrative appeals, if any, are exhausted, whichever occurs later. An action for injunctive or other relief may be joined with the petition for certiorari. Principles of judicial or administrative res judicata and collateral estoppel apply to these proceedings. Minimum components of the local process are as follows:

(a) The local process must make provision for notice of an application for a development order that materially alters the use or density or intensity of use on a particular piece of property, including notice by publication or mailed notice consistent with the provisions of ss. [125.66\(5\)\(b\)2.](#) and [3.](#) and [166.041\(3\)\(c\)2.b.](#) and [c.](#), and must require prominent posting at the job site. The notice must be given within 10 days after the filing of an application for a development order; however, notice under this subsection is not required for an application for a building permit or any other official action of local government which does not materially alter the use or density or

intensity of use on a particular piece of property. The notice must clearly delineate that an aggrieved or adversely affected person has the right to request a quasi-judicial hearing before the local government for which the application is made, must explain the conditions precedent to the appeal of any development order ultimately rendered upon the application, and must specify the location where written procedures can be obtained that describe the process, including how to initiate the quasi-judicial process, the timeframes for initiating the process, and the location of the hearing. The process may include an opportunity for an alternative dispute resolution.

(b) The local process must provide a clear point of entry consisting of a written preliminary decision, at a time and in a manner to be established in the local ordinance, with the time to request a quasi-judicial hearing running from the issuance of the written preliminary decision; the local government, however, is not bound by the preliminary decision. A party may request a hearing to challenge or support a preliminary decision.

(c) The local process must provide an opportunity for participation in the process by an aggrieved or adversely affected party, allowing a reasonable time for the party to prepare and present a case for the quasi-judicial hearing.

(d) The local process must provide, at a minimum, an opportunity for the disclosure of witnesses and exhibits prior to hearing and an opportunity for the depositions of witnesses to be taken.

(e) The local process may not require that a party be represented by an attorney in order to participate in a hearing.

(f) The local process must provide for a quasi-judicial hearing before an impartial special master who is an attorney who has at least 5 years' experience and who shall, at the conclusion of the hearing, recommend written findings of fact and conclusions of law. The special master shall have the power to swear witnesses and take their testimony under oath, to issue subpoenas and other orders regarding the conduct of the proceedings, and to compel entry upon the land. The standard of review applied by the special master in determining whether a proposed development order is consistent with the comprehensive plan shall be strict scrutiny in accordance with Florida law.

(g) At the quasi-judicial hearing, all parties must have the opportunity to respond, to present evidence and argument on all issues involved which are related to the development order, and to conduct cross-examination and submit rebuttal evidence. Public testimony must be allowed.

(h) The local process must provide for a duly noticed public hearing before the local government at which public testimony is allowed. At the quasi-judicial hearing, the local government is bound by the special master's findings of fact unless the findings of fact are not supported by competent substantial evidence. The governing body may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous. The governing body may make reasonable legal interpretations of its comprehensive plan and land development regulations without regard to whether the special master's interpretation is labeled as a finding of fact or a conclusion of law. The local government's final decision must be reduced to writing, including the findings of fact and conclusions of law, and is not considered rendered or final until officially date-stamped by the city or county clerk.

(i) An ex parte communication relating to the merits of the matter under review may not be made to the special master. An ex parte communication relating to the merits of the matter under review may not be made to the governing body after a time to be established by the local ordinance, which time must be no later than receipt of the special master's recommended order by the governing body.

(j) At the option of the local government, the process may require actions to challenge the consistency of a development order with land development regulations to be brought in the same proceeding.

(5) Venue in any cases brought under this section shall lie in the county or counties where the actions or inactions giving rise to the cause of action are alleged to have occurred.

(6) The signature of an attorney or party constitutes a certificate that he or she has read the pleading, motion, or other paper and that, to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or for economic advantage, competitive reasons or frivolous purposes or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the court, upon motion or its own

initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

(7) In any proceeding under subsection (3) or subsection (4), no settlement shall be entered into by the local government unless the terms of the settlement have been the subject of a public hearing after notice as required by this part.

(8)(a) In any proceeding under subsection (3), either party is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on the calendar, subject to paragraph (b).

(b) Upon a showing by either party by clear and convincing evidence that summary procedure is inappropriate, the court may determine that summary procedure does not apply.

(c) The prevailing party in a challenge to a development order filed under subsection (3) is entitled to recover reasonable attorney fees and costs incurred in challenging or defending the order, including reasonable appellate attorney fees and costs.

(9) Neither subsection (3) nor subsection (4) relieves the local government of its obligations to hold public hearings as required by law.

History.—s. 18, ch. 85-55; s. 901, ch. 95-147; s. 10, ch. 2002-296; s. 7, ch. 2019-165; s. 4, ch. 2023-115; s. 10, ch. 2023-309.