

TAB 15



# City of Palmetto Agenda Item

**Meeting Date**

10/21/10

**Presenter:** Mark P. Barnebey

**Department:** City Attorney

**Title: Attainable Housing Ordinance**

**Background:**

Earlier this year, the City Commission requested bringing forward an amendment to the Attainable Housing Ordinance to clarify the applicability of the vested rights provision of the Ordinance. . The City is currently considered under "Voluntary " status pursuant to the Ordinance.

**Discussion:**

The vested rights provisions contained in Section 17-55 of the Palmetto Code of Ordinances are being amended to clarify that the Ordinance only applies to projects that were applied for or approved after July 31, 2006. The specific date tracks the intent of the current provision , but references a specific date for clarity of staff and the public.

The other recommended change, which was not previously discussed with the Commission, is to clarify when the vested status of a project would terminate. The current Ordinance grants an significant amount of leeway to the Planning Director to make that determination.

The proposed revision would clarify that a major modification is the increasing of the number of residential units within a project by 10 units. At that point, the Ordinance provides the entire project would have to comply with th Attainable Housing Ordinance.

**Budgeted Amount:** \$0.00 **Budget Page No(s):**  **Available Amount:** \$0.00 **Expenditure Amount:** \$0.00

**Additional Budgetary Information:**

**Funding Source(s):**  **Sufficient Funds Available:**  Yes  No **Budget Amendment Required:**  Yes  No **Source:**

**City Attorney Reviewed:**  Yes  No  N/A **Advisory Board Recommendation:**  For  Against  N/A **Consistent With:**  Yes  No  N/A

**Potential Motion/ Direction Requested:**  I move to recommend adoption of Ordinance 2010-17, amending the vested rights provisions relating to Attainable Housing contained in Section 17-55 of the Palmetto Code of Ordinances

**Staff Contact:**

**Attachments:** Ordinance 2010-17

**CITY OF PALMETTO  
ORDINANCE NO. 2010-17**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING CHAPTER 17, ARTICLE III, OF THE CODE OF ORDINANCES, TO REVISE THE REQUIREMENTS RELATED TO THE PROVISION OF ATTAINABLE HOUSING; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

**WHEREAS**, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and,

**WHEREAS**, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and

**WHEREAS**, within the above-referenced grant of powers, the City of Palmetto (the “City”) adopted regulations which addressed the need for affordable housing within the City of Palmetto and provided for future development to provide affordable housing in certain circumstances; and

**WHEREAS**, the City Commission has held numerous workshops on the issue of the provision of housing; and

**WHEREAS**, the City Commission desires to amend the provision related to housing; and

**WHEREAS**, consistent with the findings stated above, the City Commission has determined that adoption of this ordinance is in the best interest of the public health safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PALMETTO, FLORIDA, as follows:**

**Section 1. Findings of Fact.** The above “WHEREAS” clauses are adopted herein as findings of fact.

**Section 2. Amendment Language.** Section 17-55 of the City of Palmetto Code of Ordinances is hereby amended to read as follows:

**Section 17-55.**

(a) *Vested properties.* Those provisions set out in this article requiring of new development the provision of attainable housing units or in-lieu of payments shall not apply to the development of any property authorized by and consistent with any of the following development orders approved on or before July 31, 2006: preliminary plat approval; site plan approval; conceptual plan approval; general development plan approval; development agreement, approved pursuant to Florida Statutes; or, DRI development order approval.

(b) *Effect of major modification.* In those instances where the property owner of vested property applies for a new development order, that if approved, would constitute a major modification of the previous development order, that property shall lose its vested status as it relates to the provisions of this article upon approval. A major modification shall be any modification to a previously approved development order or application resulting in the addition of ten (10) or more dwelling units than previously allowed in a development order approved or whose application was submitted prior to July 31, 2006, unless those units were previously mitigated.

(c) *Attainable housing units.* Developments to which this article does not apply, because the properties therein are vested as provided for herein, but in which attainable housing units nevertheless are constructed, shall receive the same benefits for the construction of attainable housing units as other developments would receive if those developments were constructed during a voluntary period. For any development to receive such benefits, the developer must construct the number of attainable housing units as required to request incentives in section 17-50. This subsection shall only apply to the portion of a development that is not otherwise affected by a major modification pursuant to this section.

**Section 3. Repeal of Inconsistent Ordinances.** This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 4.**     **Severability.**     If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 5.**     **Effective Date.**     This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

FIRST READING	November 1, 2010
PUBLICATION DATE	November 5, 2010
SECOND READING	November 15, 2010

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting in regular session assembled, this 15th day of November, 2010.

CITY OF PALMETTO, FLORIDA, BY  
AND THROUGH THE CITY  
COMMISSION OF THE CITY OF  
PALMETTO

By: \_\_\_\_\_  
Shirley Groover-Bryant, Mayor

ATTEST:

By: \_\_\_\_\_  
James R. Freeman, City Clerk