

TAB 13

**CITY OF PALMETTO, FLORIDA
ORDINANCE NO. 2010-20**

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING CERTAIN REAL PROPERTY, GENERALLY LOCATED IN THE FORMER RIGHT-OF-WAY FOR 8TH AVENUE WEST, SOUTH OF 23RD STREET WEST AND NORTH OF U.S. 41, INTO THE CITY OF PALMETTO; PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; 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, 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, Florida Statute 171.044 provides for the voluntary annexation of reasonably compact, contiguous real property to a municipality; and

WHEREAS, the property described in **Exhibit A**, attached hereto and incorporated herein, is reasonably compact and contiguous to the City of Palmetto; and

WHEREAS, the property described in **Exhibit A** is owned by Manatee Fruit Company; and

WHEREAS, Manatee Fruit Company has made formal application to the City of Palmetto requesting that the property described in **Exhibit A** be annexed into the City of Palmetto; and

WHEREAS, the City of Palmetto recognizes the need to annex said real property into the City of Palmetto; and

WHEREAS, said property is former right-of-way for 8th Avenue West, generally located south of 23rd Street West and north of U.S. 41; and

WHEREAS, notice of said annexation, a copy of which is attached hereto and incorporated herein as **Exhibit B**, has been published as required and provided under Section 171.044, Florida Statutes; and

WHEREAS, annexation of the land described in **Exhibit A** does not result in the creation of any enclaves; and

WHEREAS, the City Commission has determined that it is necessary, desirable and in the best interest of the citizens of the City, in order to protect the public health, safety, and welfare, to adopt this Ordinance.

NOW, THEREFORE, BE IT FURTHER ORDAINED, by the City Commission of the City of Palmetto, Florida, as follows:

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

Section 2. **Annexation of Land.** The land legally described in **Exhibit A** is hereby annexed into and incorporated within the City of Palmetto, Manatee County, Florida, as fully and effectually as if the same were included within the boundary of the City of Palmetto, Florida, as set forth in its Charter.

Section 3. **Amendment of City Boundaries.** The legal description of the City of Palmetto, Florida, kept on file in the City Clerk’s office, is hereby amended to reflect this annexation. The City Clerk is hereby directed to undertake measures necessary to affect such amendment consistent herewith.

Section 4. **Repeal of Ordinance.** This Ordinance hereby repeals all ordinances and parts of ordinances in conflict herewith to the extent of such conflict.

Section 5. **Severability.** It is the intent of this Ordinance to comply with all applicable law and constitutional requirements. If any provision, paragraph or section of this Ordinance or the standards and codes adopted hereby, shall be determined by a court of competent jurisdiction to be inapplicable, illegal, unenforceable or unconstitutional, then to that extent such provisions or portions shall be deemed null and void, but the remaining provisions of this Ordinance shall be in full force and effect as applicable.

Section 6. **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.

PASSED AND DULY ADOPTED, by the City Commission, in open session, with a quorum present and voting, this ___ day of _____, 2010.

First Reading:

Publication:

Second Reading and
Public Hearing:

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

By: _____
SHIRLEY GROOVER BRYANT, MAYOR

Ordinance No. 2010-20

Page 4

ATTEST: James R. Freeman
City Clerk

By: _____
City Clerk/Deputy Clerk

G:\DOCUMENT\MPB\CITY OF PALMETTO 2008 -\Ordinances\ORD 2010-20 annexing MFC 8th ave w south of 23rd st w.doc



PLMATEO

Proposed Annexation
AN 2010-02

RG

23rd ST W RELOCATION

10th AVE W EXTENSION

Proposed Annexation
Southern portion of 8th Avenue W
773 feet south of 23rd Street W
Parcel Size: 287 by 273 = 7,641 sqft
Existing Use: Agricultural

Ordinance 2010-14
The portion of 8th Avenue W
721.67 feet north of 23rd Street W
Annexed into the City of Palmateo
on August 16, 2010.
Existing Use: Street right-of-way

8TH AVE W

CENTRES
GROVE CIR

BUS 41

ROK County - GCOM
29 acs

ROK County - GCOM
14 acs

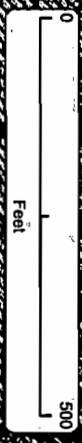
GCOM

Legend

- Proposed Road Revisions
- Streets
- City limits
- Annexations
- Parcel revisions
- Current Parcel boundaries

Future Land Use Categories

- PC
- DCOMC
- CONS
- GCOM
- HCOMIIND
- PF
- PU
- RES4
- RES6
- RES10
- RES14



Staff Report
Annexation 2010-02
8th Avenue West Right-of-Way
South of 23rd Street
Ord. 2010-20

OWNER/GENERAL LOCATION/PARCEL SIZE:

Owner/Petitioner Manatee Fruit Company

Location: The site is located along 8th Avenue reserved right-of-way, south of 23rd Street W.

PID #: N/A

Parcel Size: 28' by 273' = 7,644 square feet (per attached survey)

Existing Use: Agricultural; reserved right-of-way for that portion of 8th Avenue W south of 23rd Street W.

EXISTING LAND USE/ZONING CATEGORY:

Future Land Use: General Commercial

Zoning: CG

SURROUNDING PROPERTY ZONING DISTRICTS:

Future Land Use

North: GCOM

South: GCOM and unincorporated Manatee County

East: GCOM

West: GCOM

Zoning

North: CG (Business and Light Commercial)

South: CG (Business and Light Commercial) and unincorporated Manatee County

East: CG (Business and Light Commercial)

West: CG (Business and Light Commercial)

REQUESTED ANNEXATION:

Manatee Fruit Company is petitioning for a voluntary annexation of reserved right-of-way property, namely 8th Avenue south of 23rd Street. Manatee Fruit Company owns the subject property as a result of a prior vacation of this property by Manatee County.

That portion of 8th Avenue 735.67 feet north of 23rd Street was annexed into the City of Palmetto on August 16, 2010 by Ordinance 2010-14. The northern portion of 8th Avenue is owned by the City and is currently being used as right-of-way. It is designated GCOM on the FLUM and zoned CG. The City Commission approved the vacation of the northern portion of 8th Avenue on November 15, 2010 by Ordinance 2010-15, subject to the opening of the relocated 23rd Street West for vehicular traffic.

BACKGROUND:

Annexation 98-02 was approved by Ordinance 611 on February 2, 1998 for 92 acres of land owned by Manatee Fruit Company from unincorporated Manatee County into the City of Palmetto. The property annexed in 1998 was generally located north of 21st Street West and south of 24th Street West (extended) between 14th Avenue West and Bayshore Road.

It appears that the subject property for this annexation request was omitted from the annexation approval in 1998 since it was owned by Manatee County and reserved for right-of-way. This reserved right-of-way (subject property) has since been vacated and turned over to Manatee Fruit Company which is requesting this annexation to make their property whole.

SUMMARY

This annexation will move the City closer to meeting its obligations under the dedication agreement which is entwined with the proposed land swap agreement to expand Blackstone Park and develop the new Little League ball fields and the realignment of 23rd Street W to improve its intersection with Business 41.

STAFF RECOMMENDATION:

Based on the aforementioned considerations, staff finds the proposed annexation consistent with the following policy of the Future Land Use Element:

Policy 1.12.1: The City shall balance the benefits of future annexations, i.e. to promote the orderly growth of the City with its ability to fulfill other established plans for the City.

and recommends **APPROVAL** of the proposed annexation into the City of Palmetto.

PLANNING AND ZONING BOARD RECOMMENDATION:

The Planning and Zoning Board recommended **APPROVAL** of the proposed annexation at its public hearing on November 18, 2010.

CITY COMMISSION

The City Commission shall **APPROVE, APPROVE WITH CONDITIONS** or **DENY** the proposed rezone and conceptual/general development plan.

**MINUTES
CITY OF PALMETTO
PLANNING AND ZONING BOARD
NOVEMBER 18, 2010 – 6:15 P.M.**

516 8th Avenue West
Palmetto, FL 34221

www.palmettofl.org
941-723-4570

PLANNING AND ZONING BOARD MEMBERS

BARBARA JENNINGS, Chair
JON MOORE, Vice Chair- Absent
ERIC GILBERT
CHARLIE UGARTE

CHRISTOPHER MOQUIN-Absent

School Board Appointee (Non-voting)

MIKE PENDLEY-Absent

Staff

Mark Barnebey, City Attorney
Lorraine Lyn, City Planner
Linda Butler, Recording Secretary

Anyone wishing to speak before the Planning and Zoning Board must sign in prior to the meeting, stating name, address and topic to address. All comments will be limited to two minutes.

Swearing in of all persons speaking to the Board:

“Do you swear or affirm that the evidence or factual representations that you are about to give or present to the Planning and Zoning Board on this 18th day of November 2010 are truthful?”

ORDER OF BUSINESS:




1. Approval of October 21, 2010 Meeting Minutes

Tab 1

Chair Jennings made the following corrections to the minutes. “Mr. Barnebey recommended amending the last bullet point to read: “The City Planner otherwise determines that such reduction is appropriate based on the availability of other parking to the public for the particular joint use situation”. This correction also applies to the motion.

Action request: Mr. Ugarte moved to approve the minutes with the correction. Mr. Gilbert seconded.

MOTION CARRIED UNANIMOUSLY.

 **2. Public Hearing: Amended General Development Plan (GDP-08-01-REV 2010)** Tab 2

Ms. Lyn reviewed the staff report. According to the approved site plan, an additional 2,700 square feet was approved in 2008, the current proposal adds 664 square feet (bridal suite and reception area) plus 612 square feet of terrace on the west side of the building for a total of 1,276 square feet, less than half the area approved in 2008. The proposed change includes:

1. Decreasing the number of bedrooms from 9 units to 6 existing units (the caretakers area was redesigned into 2 rooms although no square footage was added);
2. Eliminating the 3 bedroom caretakers suite as the owners plan to build their own house adjacent to the B&B;
3. Adding approximately 164 square feet to an existing suite to provide a Bridal Suite;
4. Changing the carport to install flooring at same height as existing adjacent building and close in with windows and doors to match existing structure;
5. Adding approximately 500 square feet of service area for caterer station, men and women toilets and laundry to serve facility for reception area;
6. Adding a terrace on the west side approximately 12 feet wide by 51 feet, the length of the building;
7. Adding two additional off-street parking spaces;
8. Landscaping and a garden area with a water feature and a pergola

Per Section 6.18, parking requirements are one parking space for the manager/owner and one parking space for each guest room. The proposal requires seven (7) parking spaces, seven (7) parking spaces including one handicapped space are provided.

 Chair Jennings opened the public hearing

Ms. Mary Marsh Lasseter, Architect for Palmetto Riverside Bed & Breakfast presented the site plan on the overhead projector and answered questions.

Mr. Ugarte questioned the enclosure for the carport facing 11th Ave, inquiring if it will be flushed with the columns or will it be set back at the setback requirement? Ms. Lasseter stated since the setbacks are in a PD, the setback is flexible. The carport enclosure will be flushed with the

columns. Because the carport is only 17th ft from the property line, the parking spaces in front of the existing carport will be designated compact. The two (2) new spaces will be in deeper.

Mr. Ugarte also expressed concerns regarding off street parking, parking spaces, pavers and sidewalk location. The sidewalk should be located in front of the cars due to safety issues and there should be some standards that require it. The original GDP was approved for pavers and more parking spaces. Mr. Ugarte recommended keeping the same number of parking spaces as presented in the original GDP as well as the pavers. Mr. Ugarte stated that although the intensity is being reduced with the amount of rooms, the use is being changed, which will cause a big influx in the number of people. Where will the people park?

Ms. Lasseter stated the owners have an agreement with the church for parking. Also the City does not recommend pavers as it is not cost feasible if they are responsible for the maintenance. The pavers are also less than a perfect surface; there is always the issue that someone will not be able to walk on them due to the change in the surface. The pavers were discussed in the DRC pre application meeting.

Mr. Ugarte stated the LDC states if you have a legal non conforming use, which the carport is, any modification done should reduce the non conformity as much as possible; if you are going to close the carport in, it should be done only to the set back line, which was part of the GDP. The porch adds to the architectural flavor

Ms. Lasseter asked Mr. Ugarte what he recommends.

Chair Jennings stated the proposal is to decrease density and asked staff if the new use is an allowable use with the Bed and Breakfast license. Ms. Lyn stated she reviewed the new use as an accessory use; the principal use remains the same.


Mr. Wim Lippen, Owner, asked how many more parking spaces Mr. Ugarte wanted to see added.

Mr. Ugarte suggested keeping the same number of parking spaces as the original GDP, which were 13. Also maintain the parking and sidewalk. Mr. Ugarte stated he objects to moving the sidewalk and reducing the amount the landscaping on the street.

Chair Jennings asked for clarification of the level of details the Board is required to get into as opposed to the City Planner. Ms. Lyn stated a DRC meeting was held, all the details were discussed and no one was overly concerned with the encroachment. Ms. Lyn stated her understanding of a

PD is when you can't meet the set back of a standard district you are allowed some flexibility in the standards.

Chair Jennings closed the public hearing.

 Action request: Mr. Ugarte moved to recommend approval of the Amended General Development Plan 08-01 REV 2010 with the following stipulations:

1. The proposed parking spaces will utilize a portion of the 11th Avenue West right-of-way;
2. A parking and sidewalk easement, approved by the City Attorney shall be provided for the area located on the private property adjacent to 11th Avenue West where the parking and sidewalk are located;
3. The sidewalk shall be placed in front of the parking spaces with a total of 12 parking spaces.


Mr. Gilbert seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

 **3. Public Hearing: Annexation AN-2010-02 R-O-W for 8th Av W, so. of 23rd St W and no. of US 41** Tab 3


ORDINANCE NO. 2010-20

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR FINDINGS OF FACT; ANNEXING CERTAIN REAL PROPERTY, GENERALLY LOCATED IN THE FORMER RIGHT-OF-WAY FOR 8TH AVENUE WEST, SOUTH OF 23RD STREET WEST AND NORTH OF U.S. 41, INTO THE CITY OF PALMETTO (AN-2010-02); PROVIDING FOR AMENDMENT OF CITY BOUNDARIES; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Ms. Lyn summarized the staff report stating this annexation will move the City closer to meeting its obligations under the dedication agreement which is entwined with the proposed land swap agreement to expand Blackstone Park and develop the new Little League ball fields and the realignment of 23rd Street W to improve its intersection with Business 41.

 Chair Jennings opened the public hearing. No one from the public spoke on this item. Chair Jennings closed the public hearing.

Discussion ensued.

 Action request: Mr. Ugarte moved to recommend approval of the request for Annexation AN-2010-02 R-O-W for 8th Av W, so. of 23rd St W and no. of US 41 Ordinance 2010-20. Mr. Gilbert seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

4. Old Business

Ms. Lyn reviewed the status report of Palmetto 2030 Comp Plan.

Mr. Barnebey stated the City should receive the notice of intent around January 2011, if the comp plan is in compliance, the ordinance will go into effect if we are not in compliance we will go into administrative hearings.

5. New Business


a. Discussion: Board Meeting time change

Mr. Ugarte stated the earlier the meeting time the better. Mr. Gilbert agreed.

Mr. Barnebey stated unless there is a code requirement the meeting can start anytime.

Ms. Lyn stated she thinks the requirement is 5 pm or after.

It was the consensus of the Board to start future meeting starting December at 5:30 pm

 b. Amending Alcoholic Beverage Code, Chapter 4, Section 4-2 (b) Selling, where prohibited, which reads "No alcoholic beverages shall be sold in any establishment within two hundred (200) feet of Tenth Street, west of Fourteen Avenue, within the city, except there shall be no prohibition against the sale of beer and wine for consumption off the premises between Twenty-eight Avenue and Thirty-first Avenue.

Chair Jennings asked the history of the code that prohibits the sales of alcohol in the above list location. Ms. Lynn stated she is not sure.

Mr. Toni Supharat, 2808 10th St W., owner of Morning Breeze spoke on behalf of the restaurant, requesting the Board to consider changing the

code to allow the sale of alcohol in his restaurant as it is causing him to lose business.

Mr. Larry Hubbard, 5819 Lexington, friend, spoke in favor of changing the code to allow the sale of alcohol.

Mr. Brad Buckley stated he spoke to the City Commission regarding this issue, and requests the P&Z Board to consider changing the code to allow the sale of alcohol in the prohibited area. In the past when the location was a convenience store, you were able to buy alcohol and go next door and consume it.

Discussion ensued.

This item will come forward at a future date.



6. **Adjournment 7:40**