

TAB 5



# City of Palmetto Agenda Item

**Meeting Date**

3/21/11

**Presenter:** Lorraine Lyn

**Department:** Public Works

**Title:**

This is an amendment to the Zoning Ordinance to allow commercial apartments as a Permitted or Conditional Use in certain zoning districts. This amendment also adds a definition of "Commercial Apartment" to the Zoning Ordinance.

The current zoning ordinance does not identify "Commercial Apartment" as a separate use. The City Attorney's Office recommended that the Code be amended to more accurately reflect this use after Conditional Use 2010-05 approved a commercial apartment for Paul Budick in a commercial building located at 702 9th Street West as a multi-family use in a commercial zoning district.

**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    Palmetto 2030 Comprehensive Plan

**Potential Motion/Direction Requested:** This the City Commission's first reading on this item.  
At the 2<sup>nd</sup> read, the City Commission shall APPROVE, APPROVE WITH CONDITION(S) or DENY the proposed conditional use permit.

**Staff Contact:** Lorraine Lyn    Planning Department    723-4580, Ext. 135

**Attachments:** Staff Report

**Zoning Code Amendment  
Staff Report  
Commercial Apartment  
March 21, 2011**

**Issue**

The current zoning ordinance does not identify “Commercial Apartment” as a separate use. The City Attorney’s Office recommended that the Code be amended to more accurately reflect this use after Conditional Use 2010-05 was approved for a commercial apartment in a commercial building owned by Paul Budick at 702 9<sup>th</sup> Street W.

**Background**

In order to consider a commercial apartment in the current zoning Code for CU 2010-05, staff referred to the Sec. 4.2. - Schedule of Permitted and Conditional Uses by District which allowed Multi-Family Residential uses as a Conditional Use in all office and commercial zoning districts except CHI (Heavy Commercial/Light Industrial). However, Sec. 3.2. - Definitions of terms of the Zoning Code defines Multi-Family as more than one unit:

*Dwelling, multi-family: A structure containing three (3) or more attached dwelling units either stacked vertically above one another, or attached by side and rear walls, or both.*

**City of Palmetto Comprehensive Plan**

The Plan defines “Commercial Apartment” as – *A dwelling unit that is located within the same structure but above commercial retail, service or office uses.*

The Future Land Use Element of the Comprehensive Plan provides for FAR incentives in the General Commercial category for mixed uses such as commercial apartments.

*Up to 3.0 floor area ratio (FAR) maximum may be considered in this land use designation. In order to encourage the development of residential uses in conjunction with office and retail uses, residential development can be guided by the floor area ratio (FAR), whenever residential is designed within the same structure as commercial and/or office uses, such as apartments over commercial.*

**Downtown Development Guidelines/Plan**

The Downtown Commercial Core Redevelopment Incentive Plan prepared by the CRA offers Commercial Apartment Incentives applicable for properties designated by the CRA with no upper (above first) floor Commercial Apartments and for existing upper non-residential use floors redeveloped to Commercial Apartments.

**Current Code**

The current code makes no reference to Commercial Apartments.

**Proposed Code Changes**

**Sec. 3.2. Definitions of Terms**

**Commercial Apartment** – A dwelling unit that is located within the same structure; above or side by side with commercial retail, service or office uses

**Sec. 4.2. - Schedule of permitted and conditional uses by district.**

X = Permitted use

C = Conditional use (see Ordinance No. 196)

— = Prohibited use

Residential uses (see section 6.15)	E-R	RS	RS	RS	RS	MHP	RM	RM	PD	GO	CN	CC	CG	CHI	P
	-1	-2	-3	-4	-1	-5	-6								
Congregate living facilities	C	C	C	C	C	C	X	X	X	X	X	X	X	X	X
Single-family	X	X	X	X	X	—	X	X	X	—	—	—	—	—	—
Two-family	—	—	—	—	—	—	X	—	X	—	—	—	—	—	—
Multifamily	—	—	—	—	—	—	—	X	X	C	C	C	C	—	—
<b>Commercial Apartment</b>	—	—	—	—	—	—	—	—	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>C</b>	<b>C</b>	<b>X</b>
Mobile homes (see section 6.16)	—	—	—	—	—	X	—	—	X	—	—	—	—	—	—
Travel and transient trailers (see section 6.16)	—	—	—	—	—	C	—	—	X	—	—	—	—	—	—

**Staff Recommendation**

Staff recommends **APPROVAL** of the proposed amendment to the Zoning Code to insert a definition of Commercial Apartment to Sec. 3.2. Definitions of Terms and to add Commercial Apartment to Sec. 4.2. - Schedule of Permitted and Conditional Uses by District indicating which districts may permit, prohibit or allow them by conditional use permit.

**Planning & Zoning Board Recommendation**

The Planning and Zoning Board, at its public hearing on February 17, 2011, recommended **Approval** of the Zoning Code change to include Commercial Apartment as a specific use.

## **ORDINANCE 2011-10**

**AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES; ZONING CODE, TO ADD COMMERCIAL APARTMENT AS A DEFINED TERM, AND TO ADD COMMERCIAL APARTMENT AS A PERMITTED USE IN THE GO, CN, CC, AND P ZONING DISTRICTS AND AS A CONDITIONAL USE IN THE CG AND CHI ZONING DISTRICTS; 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**, Section 163.3202, Florida Statutes provides for the adoption of land development regulations to implement the comprehensive plan; and

**WHEREAS**, the City has previously adopted a zoning code as part of its land development regulations; and

**WHEREAS**, the Planning Director recommended amending the City Zoning Code to add commercial apartment as a defined term, and to add commercial apartment as a permitted use in

the, GO, CN, CC and P zoning districts, and as a conditional use in the CG and CHI zoning districts; and

**WHEREAS**, the City Planning and Zoning Board, after holding a public hearing, recommended adoption of Ordinance 2011-10; and

**WHEREAS**, the City Commission determined it appropriate to amend the City Zoning Code to add commercial apartment as a permitted and conditional use; 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 and Effect on Other Subsection Language.**

Section 3.2 of Appendix B of the City of Palmetto Code of Ordinances is hereby amended to add the following defined term:

*“Commercial Apartment:* A dwelling unit that is located within the same structure; above or side by side with commercial retail, service or office uses.”

Section 4.2 of Appendix B of the City of Palmetto Code of Ordinances is hereby amended to add “Commercial Apartment” as a permitted use in the, GO, CN, CC and P zoning districts, and as a conditional use in the CG and CHI zoning districts.

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

