

TAB 3



City of Palmetto Agenda Item

Meeting Date

November 7, 2011

Presenter: Scott E. Rudacille

Department: Asst. City Attorney

Title: Ordinance 2011-32 Amending Development Review Procedures

Background:

Based on the case law in this area, and the potential Sunshine issues that can be raised by the formal creation of a development review committee, we have previously discussed amending the Code to clarify the role of City staff in the development review process.

Discussion:

The ordinance as proposed would remove the Development Review Committee (DRC) from the City's Code entirely. All matters currently addressed by the Development Review Committee will become the ultimate responsibility of the City's Director of Public Works or the Director's designee. The involvement of the Director of Public Works was clarified from our last workshop. This change would allow the Director of Public Works or the Director's designee flexibility in utilizing necessary and appropriate staff to assist in the review of development applications. The Director of Public Works or the Director's designee would have the ability to continue to hold informal meetings between development applicants and City staff to review issues related to development applications, consistent with the current practice.

The proposed changes were drafted in order to expediently address the potential Sunshine issues related to the DRC being created by ordinance. Some clarifications were made from the prior draft and most were not substantial in nature. One change prompted from the discussion at the workshop and revised based on input from Lorraine Lyn provides that the Director of Public Works may periodically update the Commission on significant projects which do not require Commission review. Ms. Lyn prepared a chart of the review levels for each city project which is also attached. We can review potential substantive changes in these Code sections as the Commission sees fit, recognizing that any substantive changes would have to be reviewed for potential impacts and consistency with other sections of the Code.

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:

Staff Contact:

Attachments: Ordinance No. 2011-32

**CITY OF PALMETTO
ORDINANCE NO. 2011-32**

**AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA,
AMENDING THE CODE OF ORDINANCES TO REVISE THE
DEVELOPMENT REVIEW PROCEDURES OF THE CITY;
PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT;
PROVIDING FOR REAFFIRMATION AND RATIFICATION;
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,” reinforces 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, the City of Palmetto desires to amend the development review procedures of the City as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
OF 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. **Section 11.9. Amendment.** Section 11.9. of the Zoning Code of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 11.9. - Development Review.

The Director of Public Works or the Director's designee, with the assistance of appropriate City Staff members and representatives, shall review applications for development and submit written findings, recommendations or comments, proposed conditions of approval, and such other matters relating to development approval or the issuance of a development order in keeping with the city's codes.

Section 3. **Section 11.10. Amendment.** Section 11.10. of the Zoning Code of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 11.10. – Development Review Procedures.

Review of applications for development shall be coordinated by the Director of Public Works or the Director's designee, at their discretion. Depending on the complexity of the development issues involved and the need to specifically address required stipulations and conditions the Director of Public Works or the Director's designee may require the attendance of the applicant or the applicant's agent at a meeting to review the application for development approval, and may invite appropriate staff members and representatives to assist in the review. An applicant may also request a meeting with the Director of Public Works or the Director's designee to facilitate communication and understanding of various issues involved in the development approval process in addition to any mandatory review.

Section 4. **Section 11.11. Amendment.** Section 11.11. of the Zoning Code of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 11.11. – Action by the Public Works Director.

Within a reasonable period of time after receipt of a completed application and any responses for additional information from the applicant and other City staff members, the Director of Public Works or the Director's designee shall prepare an appropriate staff report. If the application is to be reviewed by the Planning and Zoning Board and City Commission, the staff report and recommendation shall be forwarded to the Planning and Zoning Board for its recommendation, and subsequently transmitted to the City Commission with the addition of the recommendation of the Planning and Zoning Board. The Director of Public Works or their designee, may, from time to time, present information to the City

Commission regarding development proposals and their status for developments which do not have City Commission review. This information should be provided to the City Commission after the initial staff review for significant developments.

Section 5. **Section 11.12. Amendment.** Section 11.12. of the Zoning Code of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 11.12. – Authority to Enter.

The submission of an application for development approval shall confirm and authorize the right of reasonable entry to the premises, lot, parcel or property associated with the development approval request by representatives of the city.

Section 6. **Section 11.13. Removal.** Section 11.13. of the Zoning Code of the City of Palmetto Code of Ordinances is hereby removed in its entirety.

Section 7. **Subsection (a) of Section 11.14 Amendment.** Subsection (a) of Section 11.14 of the Zoning Code of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 11.14. – Crime prevention through environmental design (CPTED) review.

- (a) Applications for development approval shall undergo CPTED review except for requests to construct one single family dwelling or one duplex. The CPTED review must be completed and signed by a person from law enforcement or city staff member trained in CPTED. The CPTED designated person shall have successfully completed forty (40) hours of basic CPTED training. Compliance with the comments noted by the CPTED reviewers shall be voluntary for sites not owned or controlled by the city. To the extent such comments are consistent with the provisions of the City Code of Ordinances, compliance with comments noted by the CPTED reviewers shall be mandatory for all sites owned or leased by the city. Comments noted by the CPTED reviewers, shall be incorporated into the staff report.

The remaining provisions of Section 11.14 shall remain in full force and effect.

Section 8. **Section 26-4.1. Amendment.** Section 26-4.1. of the City of Palmetto Code of Ordinances is hereby amended to remove the definition of “*Development review*”

committee or committee". The remaining provisions of Section 26-4.1 shall remain in full force and effect.

Section 9. **Section 26-18. Amendment.** Section 26-18. of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 26-18. - Recreation and open space facilities.

In developments of ten (10) acres or larger, a minimum of five (5) percent of the gross land area of a residential subdivision shall be reserved as recreation and open space area, and appropriately developed with facilities geared to the needs of the residents of the subdivision. The Director of Public Works or the Director's designee shall ensure the appropriate open space has been provided in each subdivision plan. Commercial developments shall be required to provide open space as a buffer between commercial and residential areas.

Section 10. **Section 26-23. Amendment.** Section 26-23. of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Section 26-23. - Commercial and industrial subdivisions and planned development.

The design and improvement standards set forth herein are primarily matched to typical residential subdivision needs. Commercial, industrial, and planned development subdivisions may be quite different from typical subdivisions and as such their design and improvement needs may vary to some degree. In case of commercial or industrial subdivisions, the Director of Public Works or the Director's designee may recommend waiver of such portion or portions of these regulations as they determine to be inapplicable, and may recommend such alternate and additional requirements as may be appropriate in the particular case, for consideration by the City Commission.

Section 11. **Subsection (j) of Section 7-219 Amendment.** Subsection (j) of Section 7-219 of the City of Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Section 7-219. - Landscape standards.

- (j) *Alternatives.* Where the Director of Public Works or the Director's designee finds that unique natural features such as topography, vegetation or creative building patterns make strict adherence to these standards unreasonably

burdensome or create a hardship, the Director of Public Works or the Director's designee may approve an alternative landscape plan, provided that it promotes the intent of the standards contained in this section.

The remaining provisions of Section 7-219. shall remain in full force and effect.

Section 12. **Repeal of Ordinance.** This Ordinance hereby repeals any and all provisions of ordinances in conflict herewith to the extent of such conflict.

Section 13. **Reaffirmation and Ratification.** To the extent that previously adopted ordinances may have been noticed to comply with the provisions provided herein, the City Commission reaffirms and ratifies the adoption of such ordinances.

Section 14. **Severability.** If any section, sub-section, paragraph, sentence, clause or phrase in this Ordinance shall be held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.

Section 15. **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 of the City Commission.

PASSED AND DULY ADOPTED, by the City Commission, in open session, with a quorum present and voting, this ___ day of _____, 2011.

First Reading: _____, 2011

Publication: _____, 2011

Second Reading and

Public Hearing: _____, 2011

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

By: _____
SHIRLEY GROOVER BRYANT,
MAYOR

ATTEST: James R. Freeman
City Clerk

By: _____
City Clerk/Deputy Clerk.