

AGENDA
ESCAMBIA COUNTY PLANNING BOARD
April 4, 2017–8:35 a.m.
Escambia County Central Office Complex
3363 West Park Place, Room 104

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Proof of Publication and Waive the Reading of the Legal Advertisement.
4. Approval of Minutes.
 - A. A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the March 7, 2017 Planning Board Regular Meeting.
 - B. Planning Board Monthly Action Follow-up Report for March 2017.
 - C. Planning Board 6-Month Outlook for April 2017.
5. Acceptance of Planning Board Meeting Packet.
6. Public Hearings.
 - A. A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Section 4-5.5

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Section 4-5.5, Marine Estuarine and Riverine Shorelines (MERS) to modify the construction requirements for armored shorelines.

B. A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Article 2, Floodplain Management Definitions

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Article 2, Section 4-2.10, Definitions, amending the definition for Coastal High Hazard Area to include specific areas in Perdido Key.

C. A Public Hearing Concerning the Review of an Ordinance Amending LDC Chapters 3 and 5, Regarding Lots of Record

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption an Ordinance amending the Land Development Code (LDC), Chapters 3 and 5, to establish conditions for dividing lots of record and authorizing single-family dwellings thereon.

D. A Public Hearing Concerning the Review of an Ordinance Amending, Chapter 3, Section 3-3.7, the Scenic Highway Overlay

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 3, Section 3-3.7, Scenic Highway Overlay, refining the setback for structures.

7. Action/Discussion/Info Items.

A. Spot Zoning Discussion.

B. Clustering Discussion.

8. Public Forum.

9. Director's Review.

10. County Attorney's Report.

11. Scheduling of Future Meetings.

The next Regular Planning Board meeting is scheduled for **Tuesday, May 2, 2017 at 8:30 a.m.**, in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

12. Announcements/Communications.

13. Adjournment.



BOARD OF COUNTY COMMISSIONERS

Escambia County, Florida

Planning Board-Regular

4. A.

Meeting Date: 04/04/2017

Agenda Item:

A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the March 7, 2017 Planning Board Regular Meeting.

B. Planning Board Monthly Action Follow-up Report for March 2017.

C. Planning Board 6-Month Outlook for April 2017.

Attachments

Draft March 7, 2017 Planning Board Regular Meeting Minutes

Monthly Action Follow-Up

Six Month Outlook

DRAFT

MINUTES OF THE ESCAMBIA COUNTY PLANNING BOARD March 7, 2017

CENTRAL OFFICE COMPLEX
3363 WEST PARK PLACE, BOARD CHAMBERS
PENSACOLA, FLORIDA
(8:37 A.M. – 8:38 A.M.)
(10:19 A.M. - 11:46 A.M.)
(11:50 A.M. - 1:11 P.M.)

Present: Reid Rushing
Jay Ingwell
Timothy Pyle, Vice Chairman
Edwin Howard
Patty Hightower
Eric Fears
William Clay
Stephen Opalenik

Absent: Wayne Briske, Chairman

Staff Present: Allyson Cain, Urban Planner, Planning & Zoning
Andrew Holmer, Division Manager, Planning & Zoning
Griffin Vickery, Urban Planner, Planning & Zoning
Horace Jones, Director, Development Services
John Fisher, Senior Urban Planner, Planning & Zoning
Juan Lemos, Senior Planner, Planning & Zoning
Kayla Meador, Sr Office Assistant
Meredith Crawford, Assistant County Attorney

1. Call to Order.

Board Members voted to appoint Tim Pyle as Vice Chairman.
2. Proof of Publication and Waive the Reading of the Legal Advertisement.

Motion by Eric Fears, Seconded by Reid Rushing

Motion was made to accept the proof of publication and to waive the reading of the legal advertisement.

Vote: 6 - 0 Approved

Other: Wayne Briske (ABSENT)

3. Approval of Minutes.

A.

A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the February 7, 2017 Regular Planning Board Meeting.

B. Planning Board Monthly Action Follow-up Report for February 2017.

C. Planning Board 6-Month Outlook for March 2017.

Motion by Eric Fears, Seconded by Edwin Howard

Motion was made to approve the minutes from the Regular Planning Board Meeting held on February 7, 2017.

Vote: 6 - 0 Approved

Other: Wayne Briske (ABSENT)

4. Acceptance of Planning Board Meeting Packet.

Motion by Jay Ingwell, Seconded by Reid Rushing

Motion was made to accept the March 7, 2017 Regular Planning Board Meeting packet.

Vote: 6 - 0 Approved

Other: Wayne Briske (ABSENT)

5. Public Hearings.

A. A Public Hearing Concerning the Review of an Ordinance Adopting the 2016-2020 Update to the 5-Year Schedule of Capital Improvements

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an uncodified Ordinance for the 2016-2020 Update to the 5-Year Schedule of Capital Improvements.

Motion by Reid Rushing, Seconded by Edwin Howard

Motion was made to recommend approval to the BCC.

Vote: 6 - 0 Approved

Other: Wayne Briske (ABSENT)

B. A Public Hearing Concerning the Review of an Ordinance Amending Chapter (3), Article 2, Section(s) 5, Site and Building Requirements.

That the Board review and forward to the Board of County Commissioners (BCC) for review, an Ordinance to the Land Development Code (LDC) Chapter 3, Article 2, Section 3-2.5 "Low Density Residential District (LDR)," to modify "Site And Building Requirements; Lot Width".

Motion by Reid Rushing, Seconded by Edwin Howard

Motion was made to recommend approval to the BCC of the 70 foot to 60 foot lot widths change in LDR per the BCC request.

Vote: 4 - 2 Approved

Voted No: Jay Ingwell

Eric Fears

Other: Wayne Briske (ABSENT)

C. A Public Hearing Concerning the Review of an Ordinance Amending Chapter 2, Development and Compliance Review

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 2, Development and Compliance Review adding procedures for addressing applications for Opting-Out of the Mid-West Escambia Sector Plan.

Motion by Edwin Howard, Seconded by Jay Ingwell

Motion was made to accept as written and recommend approval to the BCC.

Vote: 6 - 0 Approved

Other: Wayne Briske (ABSENT)

D. A Public Hearing Concerning the Review of an Ordinance Removing a Parcel From the Escambia County Mid-West Sector Plan and Assigning a Compatible Future Land Use to the Parcel

That the Board review and recommend to the Board of County

Commissioners (BCC) for transmittal to DEO, an Ordinance removing a parcel from the Escambia County Mid-West Sector Plan, Jacks Branch Detailed Specific Area Plan and assigning a compatible Future Land Use.

Motion by Eric Fears, Seconded by Timothy Pyle

Tim Pyle passed the gavel to Edwin Howard before the vote.

Motion was made to grant opt out, and to reassign MU-U for the FLU and forward to the BCC for transmittal to DEO.

Edwin Howard passed the gavel back to Tim Pyle after the vote.

Vote: 3 - 2 Approved

Voted No: Jay Ingwell

Edwin Howard

Other: Reid Rushing (ABSENT)

Wayne Briske (ABSENT)

6. Action/Discussion/Info Items.

A. Scenic Highway Overlay Discussion.

Motion by Edwin Howard, Seconded by Eric Fears

Motion was made to recommend moving forward with the ordinance.

Vote: 5 - 0 Approved

Other: Reid Rushing (ABSENT)

Wayne Briske (ABSENT)

B. Spot Zoning Discussion.

Will be discussed at next Planning Board meeting.

C. Clustering Discussion.

Will be discussed at next Planning Board meeting.

D. Scheduling of Special March Planning Board Meeting.

Board members requested an email be sent to them to schedule a special meeting in March/April.

7. Public Forum.

8. Director's Review.

9. County Attorney's Report.
10. Scheduling of Future Meetings.

The next Regular Planning Board meeting is scheduled for **Tuesday, April 4, 2017 at 8:30 a.m.**, in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

11. Announcements/Communications.
12. Adjournment.

BOARD OF COUNTY COMMISSIONERS ESCAMBIA COUNTY, FLORIDA



DEVELOPMENT SERVICES DEPARTMENT
3363 WEST PARK PLACE
PENSACOLA, FLORIDA 32505
PHONE: 850-595-3475
FAX: 850-595-3481
www.myescambia.com

Memorandum

TO: Planning Board
FROM: Kayla Meador, Board Clerk
DATE: March 20, 2017
RE: Monthly Action Follow-Up Report for March 2017.

The following is a status report of Planning Board (PB) agenda items for the prior month of March. Some items include information from previous months in cases where final disposition has not yet been determined. Post-monthly actions are included (when known) as of report preparation date. Items are listed in chronological order, beginning with the PB initial hearing on the topic.

PROJECTS, PLANS, & PROGRAMS

Russo PUD

03-07-17 PB recommended approval
04-06-17 BCC meeting

COMMITTEES & WORKING GROUP MEETINGS

COMPREHENSIVE PLAN AMENDMENTS

- **Text Amendments:**

CPA-2016-03

Definition added for "Limited Ag Uses"

10-06-16 PB recommended approval

11-03-16 BCC approved transmittal to DEO

- **Map Amendments:**

LSA-2016-03

Beulah Road

02-07-17 PB recommended approval

03-02-17 BCC to review

LAND DEVELOPMENT CODE ORDINANCES

Residential Uses in Zoning Districts

09-6-16 PB recommended more review by staff
On hold – waiting for input from County Attorney's Office

OSP-2017-01 (formerly 2016-01)

09-06-16 PB recommended approval
12-08-16 BCC wanted to reschedule for DEO to be in attendance to meeting
03-07-17 PB recommended approval
03-16-17 BCC transmitted to DEO

Spot Zoning

12-06-16 PB dropped item and wanted more discussion

Public Notification-2500'

02-07-17 PB recommended approval w changes
03-02-17 BCC approved

Opting Out Requirements

03-07-17 PB recommended approval
03-16-17 BCC approved

CIP Ordinance

03-07-17 PB recommended approval
03-16-17 BCC approved

LDR Lot Width

03-07-17 PB recommended approval
03-16-17 BCC moved to 4/6 meeting

REZONING CASES**1. Rezoning Case Z-2016-11**

02-07-17 PB recommended approval

2. Rezoning Case Z-2016-13

12-06-16 PB recommended approval
01-05-17 BCC remanded back to PB
02-07-17 PB recommended approval
03-02-17 BCC remanded back to PB

3. Rezoning Case Z-2016-14

02-7-17 PB recommended approval
03-02-17 BCC approved

4. Rezoning Case Z-2016-15

01-03-17 PB recommended approval
On Hold - BCC to review contingent upon LSA-2016-4

5. Rezoning Case Z-2016-16

02-07-17 PB recommended approval
03-02-17 BCC approved

6. Rezoning Case Z-2017-01

03-07-17 PB recommended approval
04-06-17 BCC meeting

PLANNING BOARD MONTHLY SCHEDULE SIX MONTH OUTLOOK FOR APRIL 2017

(Revised 3/20/17)

A.H. = Adoption Hearing T.H. = Transmittal Hearing P.H. = Public Hearing

* Indicates topic/date is estimated—subject to staff availability for project completion and/or citizen liaison

Meeting Date	LDC Changes and/or Public Hearings	Comprehensive Plan Amendments	Rezoning	Reports, Discussion and/or Action Items
Tuesday, April 4, 2017	<ul style="list-style-type: none"> • VRD-2017-01 • Armored Shoreline Ord. • CHHA • Vested Rights 2017-01 • Lots Divided by ROW • Scenic Hwy Overlay 		<ul style="list-style-type: none"> • Z-2017-02 • Z-2017-03 • Z-2016-13 	<ul style="list-style-type: none"> • Spot Zoning • Clustering
Tuesday, May 2, 2017	<ul style="list-style-type: none"> • Civilian Airport 	<ul style="list-style-type: none"> • E.A.R. 		
Tuesday, June 6, 2017				
Tuesday, July 11, 2017				
Tuesday, August 1, 2017				
Tuesday, September 5, 2017				

Disclaimer: This document is provided for informational purposes only. Schedule is subject to change. Verify all topics on the current meeting agenda one week prior to the meeting date.

** Residential Uses Ordinance – waiting on input from the County Attorney's Office

** Signs Ordinance – waiting on input from the BCC

** CPA-2016-01 Extraction and Reclamation – on hold



BOARD OF COUNTY COMMISSIONERS

Escambia County, Florida

Planning Board-Regular

6. A.

Meeting Date: 04/04/2017

Issue: A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Section 4-5.5

From: Horace Jones, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Section 4-5.5

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Section 4-5.5, Marine Estuarine and Riverine Shorelines (MERS) to modify the construction requirements for armored shorelines.

BACKGROUND:

The LDC requirements for armored shorelines are designed to address the impacts associated with the construction of new armored shorelines. The current code language does not address replacing this type of structure given that the impacts are already in place.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith D. Crawford, Assistant County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board's goal "to increase citizen involvement in, access to, and approval of, County government activities."

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the LDC, will be filed with the Department of State following adoption by the board.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney's Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: Armored shorelines

Date: 03/13/17

Date requested back by: 03/15/17

Requested by: Andrew Holmer

Phone Number: 595-3466

.....

(LEGAL USE ONLY)

Legal Review by CY Crawford

Date Received: 3/13/17

X Approved as to form and legal sufficiency.

 Not approved.

 Make subject to legal signoff.

Additional comments:

ORDINANCE NUMBER 2017-_____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS AMENDED; AMENDING CHAPTER 4, SECTION 4-5.5 "MARINE, ESTUARINE AND RIVERINE SHORELINES (MERS)," TO MODIFY "CONSTRUCTION SETBACKS; ARMORED SHORELINES" PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, authorizes the Board of County Commissioners to establish regulations for marine, estuarine, and riverine shorelines (MERS) in the unincorporated areas of the County pursuant to general law; and

WHEREAS, through its Land Development Code, the Escambia County Board of County Commissioners desires to preserve the county as a desirable community in which to live, vacation and do business; and

WHEREAS, the Escambia County Board of County Commissioners further finds that modifying the armored shoreline requirements to apply the exception regulations to new armored shorelines within the unincorporated areas of the County and further promotes the efficient regulation of land use;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Chapter 4, Article 5, Section 4-5.5 "Marine, estuarine and riverine shorelines (MERS)," is hereby amended as follows (words underlined are additions and words ~~stricken~~ are deletions):

Sec. 4-5.5 Marine, estuarine and riverine shorelines (MERS).

(a) Dune protection and restoration. Adverse impacts to the primary dune system on Santa Rosa Island and Perdido Key shall be avoided to the greatest extent practical, and minimized and mitigated when unavoidable.

(b) Beach renourishment. Beach renourishment may be used to stabilize erosion prone areas. All renourishment activities shall be performed in accordance with accepted engineering and environmental practices.

1 **(c) Protection required.** Land uses and development activities along marine, estuarine
2 and riverine shorelines shall avoid construction that can jeopardize the stability of the
3 beach-dune system, accelerate erosion, inadequately protect upland structures,
4 endanger adjacent properties, and interfere with public beach access.

5
6 **(a) Marine shorelines**
7

8 **(1) Marine shoreline protection zone.** A marine shoreline protection zone is
9 established along the shorelines of Santa Rosa Island and Perdido Key, extending from
10 the mean high water line (MHWL) of the Gulf of Mexico landward to the 1975 Coastal
11 Construction Control Line (CCCL) as recorded on the official records of Escambia County
12 (Plat Book 9, Page 72 A-P). No construction is authorized within the Marine shoreline
13 protection zone with the following exceptions:
14

15 **(2) Dune walkovers.** Elevated pile-supported dune and beach walkover structures may
16 be permitted within the shoreline protection zone provided the existing dune system is
17 enhanced or re-vegetated if adversely impacted during construction.
18

19 **(3) Beach and dune preservation and enhancement.** Sand fencing and other beach
20 restoration and dune protection methods approved by the county may be permitted
21 within the shoreline protection zone in accordance with accepted engineering and
22 environmental practice. Beach restoration and dune protection methods shall not be
23 interpreted to allow armoring of the marine shoreline.
24

25 **(4) Sundecks, patios, walkways.** Sundecks, patios, walkways, etc. may be
26 constructed within the shoreline protection zone on Santa Rosa Island on a case by
27 case basis consistent with the SRIA board policy manual.
28

29 **(5) Vegetation.** Except as otherwise allowed by these marine shoreline provisions, the
30 removal or destruction of native vegetation within the shoreline protection zone is
31 prohibited.
32

33 **(6) Reconstruction and redevelopment.** Only to prevent a taking, a variance to allow
34 construction of a replacement structure within the previous footprint may be requested
35 from the BOA for Pensacola Beach Gulf-front properties that have an insufficient
36 building area to rebuild or redevelop, provided that intrusion into the shoreline protection
37 zone is reduced to the maximum extent practical.
38

39 **(7) Variances.** No variances are otherwise available to authorize the prohibited
40 construction:
41

42 **(8) New Construction.** For new construction and substantial improvement to a Gulf
43 front development, the minimum dune mitigation shall include a dune walkover.

1
2 **(b) Estuarine shorelines.**
3

4 **(1) Applicability.** The estuarine shoreline provisions of this section apply to all
5 shorelines of subtidal habitats and adjacent tidal wetlands of brackish waterbodies.
6 These estuarine systems include bays, sounds, lagoons, bayous, rivers mouths,
7 saltwater marshes and canals.
8

9 **(2) Estuarine shoreline protection zone.** An estuarine shoreline protection zone is
10 established along the estuarine shorelines extending 15 feet landward of the mean high
11 water line (MHWL).
12

13 **(3) Natural shoreline stabilization.** The shorelines of estuarine systems shall be
14 retained in their natural state to the extent possible. Because natural methods of
15 shoreline protection (i.e. living shorelines) provide an opportunity for natural recovery,
16 erosion prone areas shall be stabilized with appropriate native vegetation in accordance
17 with accepted engineering and environmental practices and/or criteria set forth in 62-
18 346.051(14), F.A.C. wherever practical.
19

20 **(4) Construction Setbacks.** No new construction is allowed along an estuarine
21 shoreline within the established shoreline protection zone, except the following:
22

23 **a. Structures.** Walkways, boardwalks, gazebos, docks, piers, boathouses, seawalls,
24 bulkheads, or other retaining walls, and structures necessary for permitted water
25 dependent and water related uses may be permitted within the shoreline protection
26 zone.
27

28 **b. Armored shorelines.** Because the use of rigid shore protection structures, including
29 riprap and rock revetments, may cause significant environmental impacts, and erosion
30 of neighboring properties such structures may only be permitted within the shoreline
31 protection zone where vegetative or other natural methods of shoreline stabilization
32 have been determined by the county to not be practical. Prior to the construction of any
33 new significant rigid shore protection structure the applicant shall submit the following to
34 the county for review and approval:
35

36 **1. Shoreline erosion statement.** A description of the features of the site and adjacent
37 area, and the proposed measures to be implemented for prevention of erosion and
38 other adverse impacts to adjacent properties from the construction shall be provided.
39

40 **2. Hold harmless agreement.** An executed agreement, in a form approved by the
41 County Attorney, to hold the county, its officers and employees harmless from any
42 damages to persons or property that may result from authorized construction.
43

Section 5. Severability.

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

Section 6. Inclusion in Code.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall be codified as required by F.S. § 125.68 (2016); and that the sections, subsections and other provisions of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "chapter," or such other appropriate word or phrase in order to accomplish such intentions.

Section 7. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED this _____ day of _____, 2017.

**BOARD OF COUNTY COMMISSIONERS
OF ESCAMBIA COUNTY, FLORIDA**

By: _____
D.B. Underhill, Chairman

**ATTEST: PAM CHILDERS
Clerk of the Circuit Court**

By: _____
Deputy Clerk

(SEAL)

ENACTED:

FILED WITH THE DEPARTMENT OF STATE:

EFFECTIVE DATE:



BOARD OF COUNTY COMMISSIONERS

Escambia County, Florida

Planning Board-Regular

6. B.

Meeting Date: 04/04/2017

Issue: A Public Hearing Concerning the Review of an Ordinance Amending Ch. 4, Art. 2, Floodplain Management Definitions

From: Horace Jones, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Article 2, Floodplain Management Definitions

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Article 2, Section 4-2.10, Definitions, amending the definition for Coastal High Hazard Area to include specific areas in Perdido Key.

BACKGROUND:

Escambia County adopted minimum floodplain management requirements in order to provide for the health, safety and general welfare of the citizens and to minimize private and public losses due to flooding, as part of the County's acceptance into and participation in the National Flood Insurance Program. The National Flood Insurance Program recognizes that while it helps reduce the risks to development from flood related hazards, it does not make development "safe" from flooding. Regulations that go beyond the minimum requirements of the NFIP are encouraged and higher State and local regulations take precedence over the minimum national NFIP requirements.

Santa Rosa Island, the other barrier island in Escambia County, adopted V zone construction requirements and have implemented those requirements for the past few years. Barrier islands absorb the energy from the open ocean and thereby reduce the wave fetch and protect mainland development and wetlands from wave attack.

By designating properties on Perdido Key fronting the Gulf under the Coastal High Hazard Areas definition, velocity zone (V zone), construction requirements will apply resulting in enhanced protection for the citizens, businesses, and structures on Perdido Key. Implementation of the V zone standards would provide for the reduction of effects derived from reflection and channelization of flow thus minimizing erosion and scour around the structure and mitigating impacts to adjacent properties; it may also result on improved flood insurance rates, by implementing higher community standards and contributing to a potential rating increase under the Community Rating System (CRS)

ranking.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith D. Crawford, Assistant County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board's goal "to increase citizen involvement in, access to, and approval of, County government activities."

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the LDC, will be filed with the Department of State following adoption by the board.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney's Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: CHHA definition

Date: 3/10/17

Date requested back by: _____

Requested by: JC Lemos

Phone Number: 595-3467

.....

(LEGAL USE ONLY)

Legal Review by M. Cramford, ACA

Date Received: 3/10/17

X

Approved as to form and legal sufficiency.

Not approved.

Make subject to legal signoff.

Additional comments:

ORDINANCE NUMBER 2017-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS AMENDED, TO AMEND CHAPTER 4, ARTICLE 2, SECTION 4-2.10, DEFINITIONS, AMENDING THE DEFINITION OF COASTAL HIGH HAZARD AREAS TO INCLUDE SPECIFIC AREAS OF PERDIDO KEY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Escambia County and that such areas may be subject to periodic inundation of water which may result in loss of life and property, create health and safety hazards, cause disruption of commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and result in impairment of the tax base, all of which adversely affects the public health, safety and general welfare of the citizens of the County, and

WHEREAS, Escambia County was accepted for participation in the National Flood Insurance Program on September 30, 1997 and the Board of County Commissioners desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, which is necessary for such participation; and

WHEREAS, through its Land Development Code, the Escambia County Board of County Commissioners desires to preserve the county as a desirable community in which to live, vacation and do business.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Escambia County that the following Floodplain Management regulations are hereby adopted.

Section 1. Purpose.

The purpose of this ordinance is to amend Chapter 4, Article 2 of the Escambia County Land Development Code, Floodplain Management, Section 4-2.10, Definitions, Coastal High Hazard Area definition.

1 **Section 2. Land Development Code.**

2
3 Chapter 4, Article 2, Section 4-2.10, Definitions, of the Escambia County Land
4 Development Code, is hereby amended as follows (words underlined are additions and
5 words ~~stricken~~ are deletions):

6
7 **Sec 4-2.10 DEFINITIONS**

8
9 **(a) General.** Unless otherwise expressly stated, the following words and terms shall, for
10 the purposes of this article, have the meanings shown in this section.

11
12 **(b) Terms defined in the Florida Building Code.** Where terms are not defined in this
13 article and are defined in the Florida Building Code, such terms shall have the meanings
14 ascribed to them in that code.

15
16 **(c) Terms not defined.** Where terms are not defined in this article or in the Florida
17 Building Code, such terms shall have ordinarily accepted meanings such as the context
18 implies.

19
20 **Alteration of a watercourse.** A dam, impoundment, channel relocation, change in
21 channel alignment, channelization, or change in cross-sectional area of the channel or
22 the channel capacity, or any other form of modification which may alter, impede, retard
23 or change the direction and/or velocity of the riverine flow of water during conditions of
24 the base flood.

25
26 **Appeal.** A request for a review of the Floodplain Administrator's interpretation of any
27 provision of this article.

28
29 **ASCE 24.** A standard titled Flood Resistant Design and Construction
30 that is referenced by the Florida Building Code. ASCE 24 is developed and published by
31 the American Society of Civil Engineers, Reston, VA.

32
33 **Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any
34 given year. The base flood is commonly referred to as the "100-year flood" or the "1-
35 percent-annual chance flood."

36
37 **Base flood elevation.** The elevation of the base flood, including wave height, relative to
38 the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD)
39 or other datum specified on the Flood Insurance Rate Map (FIRM)

40
41 **Basement.** The portion of a building having its floor sub-grade (below ground level) on
42 all sides.

43
44 **Coastal construction control line.** The line established by the State of Florida
45 pursuant to Section 161.053, F.S., and recorded in the official records of the community,

1 which defines that portion of the beach-dune system subject to severe fluctuations
2 based on a 100-year storm surge, storm waves or other predictable weather conditions.
3

4 **Coastal high hazard area.** A special flood hazard area extending from offshore to the
5 inland limit of a primary frontal dune, along an open coast and any other area subject to
6 high velocity wave action from storms or seismic sources. Coastal high hazard areas
7 are also referred to as “high hazard areas subject to high velocity wave action” or “V
8 Zones” and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE,
9 or V. In Perdido Key, beginning at the intersection of State Road 292, Perdido Key Drive
10 and Johnson Beach Road, all parcels south of Johnson Beach Road and Perdido Key
11 Drive to the Alabama line, are designated as coastal high hazard areas for the purposes
12 of the Land Development Code, the County Code of Ordinances, and the Florida
13 Building Code.
14

15 **Datum.** A reference surface used to ensure that all elevation records are properly
16 related. The current national datum is the National Geodetic Vertical Datum (NGVD) of
17 1929, which is expressed in relation to mean sea level, or the North American Vertical
18 Datum (NAVD) of 1988.
19

20 **Design flood.** The flood associated with the greater of the following two areas:

- 21 (1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any
22 year.
- 23 (2) Area designated as a flood hazard area on the community’s flood hazard map, or
24 otherwise legally designated.
25

26 **Design flood elevation.** The elevation of the “design flood,” including wave height,
27 relative to the datum specified on the community’s legally designated flood hazard map.
28 In areas designated as Zone AO, the design flood elevation shall be the elevation of the
29 highest existing grade of the building’s perimeter plus the depth number (in feet)
30 specified on the flood hazard map.
31

32 **Development.** Any man -made change to improved or unimproved real estate,
33 including but not limited to, buildings or other structures, tanks, temporary structures,
34 temporary or permanent storage of equipment or materials, mining, dredging, filling,
35 grading, paving, excavations, drilling operations or any other land disturbing activities.
36

37 **Encroachment.** The placement of fill, excavation, buildings, permanent structures or
38 other development into a flood hazard area which may impede or alter the flow capacity
39 of riverine flood hazard areas.
40

41 **Elevated building.** A non-basement building built to have the lowest floor elevated
42 above the ground level by foundation walls, posts, piers, columns, pilings, or shear
43 walls.
44

45 **Existing building and existing structure.** Any buildings and structures for which the

1 “start of construction” commenced before September 30, 1977.

2
3 **Existing manufactured home park or subdivision.** A manufactured home park or
4 subdivision for which the construction of facilities for servicing the lots on which the
5 manufactured homes are to be affixed (including, at a minimum, the installation of
6 utilities, the construction of streets, and either final site grading or the pouring of
7 concrete pads) was completed before September 30, 1977.

8
9 **Expansion to an existing manufactured home park or subdivision.** The preparation
10 of additional sites by the construction of facilities for servicing the lots on which the
11 manufactured homes are to be affixed (including the installation of utilities, the
12 construction of streets, and either final site grading or the pouring of concrete pads).

13
14 **Federal Emergency Management Agency (FEMA).** The federal agency that, in
15 addition to carrying out other functions, administers the National Flood Insurance
16 Program.

17
18 **Flood or flooding.** A general and temporary condition of partial or complete inundation
19 of normally dry land from the overflow of inland or tidal waters or the unusual and rapid
20 accumulation or runoff of surface waters from any source.

21
22 **Section 3. Severability.**

23
24 If any section, sentence, clause or phrase of this ordinance is held to be invalid
25 or unconstitutional by a court of competent jurisdiction, the holding shall in no way affect
26 the validity of the remaining portions of this ordinance.

27
28 **Section 4. Inclusion in the code.**

29
30 The Board of County Commissioners intends that the provisions of this ordinance
31 will be codified as required by Section 125.68, Florida Statutes (2016), and that the
32 sections of this ordinance may be renumbered or relettered and the word “ordinance”
33 may be changed to “section,” “article,” or such other appropriate word or phrase in order
34 to accomplish its intentions.

35
36
37
38 **INTENTIONALLY LEFT BLANK**

1 **Section 5. Effective date.**

2
3 This ordinance shall become effective upon filing with the Department of State.

4
5 DONE AND ENACTED this ____ day of _____, 2017.

6
7 BOARD OF COUNTY COMMISSIONERS
8 ESCAMBA COUNTY, FLORIDA
9

10
11 By: _____

12 ATTEST: Pam Childers
13 Clerk of the Circuit Court

D. B. Underhill, Chairman

14
15 By: _____
16 Deputy Clerk

Date Executed: _____

17
18 (SEAL)

19
20 ENACTED:

21
22 FILED WITH THE DEPARTMENT OF STATE:

23
24 EFFECTIVE DATE:
25
26



BOARD OF COUNTY COMMISSIONERS

Escambia County, Florida

Planning Board-Regular

6. C.

Meeting Date: 04/04/2017

Issue: A Public Hearing Concerning the Review of an Ordinance Amending LDC Chapters 3 and 5, Regarding Lots of Record

From: Horace Jones, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending LDC Chapters 3 and 5, Regarding Lots of Record

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption an Ordinance amending the Land Development Code (LDC), Chapters 3 and 5, to establish conditions for dividing lots of record and authorizing single-family dwellings thereon.

BACKGROUND:

Although the LDC defines "lot of record" to establish a baseline from which to evaluate all future divisions of existing parcels of land, and vests each lot of record with the right of use for a single-family dwelling, amendments are necessary to clarify the conditions for residential development of such lots. More specifically, LDC amendment is needed to clarify the application of density and other zoning district site and building requirements, and the standards for lot creation, to lots created through the division of a lot of record, especially division by a public right-of-way.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith Crawford, Assistant County Attorney. Any recommendations or legal sufficiency comments made in that review are also attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

Amendment of the LDC requires public hearing review and recommendation by the Board prior to action by the BCC. The proposed Ordinance is consistent with the Board's goal "to increase citizen involvement in, access to, and approval of, County government activities."

IMPLEMENTATION/COORDINATION:

This Ordinance amending the LDC will be filed with the Department of State following adoption by the Board.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney's Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: Lots of record

Date: 3/6/17

Date requested back by: 3/9/17 for 4/4/17 PB

Requested by: Allyson Cain

Phone Number: _____

.....

(LEGAL USE ONLY)

Legal Review by JY. Crampford, ACA

Date Received: 3/9/17

X _____ Approved as to form and legal sufficiency.

_____ Not approved.

_____ Make subject to legal signoff.

Additional comments:

- Please see charges Draft MDC 1
- Please advise re: comments page 2
Sec 3-1.4(d)

ORDINANCE NUMBER 2017-_____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS AMENDED; AMENDING CHAPTER 3, ZONING REGULATIONS, SECTION 3-1.4 ALLOWED USES AND SECTION 3-1.5 SITE AND BUILDING REQUIREMENTS, TO ESTABLISH CONDITIONS UNDER WHICH SINGLE-FAMILY DWELLINGS MAY BE AUTHORIZED ON EXISTING LOTS OF RECORD AND ON LOTS CREATED BY THEIR DIVISION, AND TO ESTABLISH EXCEPTIONS IN THE CALCULATION OF RESIDENTIAL DENSITY FOR LOTS OF RECORDS; AMENDING CHAPTER 5, GENERAL DEVELOPMENT STANDARDS, SECTION 5-3.2 GENERAL PROVISIONS, TO ESTABLISH AN EXCEPTION TO LOT CREATION REQUIREMENTS FOR LOTS CREATED THROUGH THE DIVISION OF EXISTING LOTS OF RECORD BY PUBLIC RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, through its Land Development Code, the Escambia County Board of County Commissioners has established regulations for the division of land to promote sound communities and healthful living environments; and

WHEREAS, within the Code, the Board has defined "lot of record" to establish a baseline from which to evaluate all future divisions of existing parcels of land within the county; and

WHEREAS, within the Code, the Board has established a vested right of a single-family dwelling on each lot of record; and

WHEREAS, the Board finds that amendments to the Code are necessary and beneficial to clarify the conditions of single-family development of lots of record and lots created by their division.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Chapter 3, Zoning Regulations, Article 1, General Provisions, is hereby amended as follows (words underlined are additions and words ~~stricken~~ are deletions):

1 **Sec. 3-1.4 Allowed uses.**

2 **(a) Generally.** The uses of land and structures are limited to those identified within
3 the applicable zoning district as “permitted uses” or “conditional uses,” and to their
4 valid accessory uses, unless other uses are secured through applicable vesting
5 and nonconformance or temporary use provisions of the LDC. Uses not so
6 identified or secured are prohibited, and the conducting of any prohibited use is a
7 violation of the LDC punishable as provided by law and ordinance. The burden is
8 on the landowner, not the county, to show that a use is allowed. Even when
9 allowed, uses are subject to the general development standards of Chapter 5 and
10 the use and location regulations established in Chapter 4.

11 **(b) Conditional uses.** The identification of a use as conditional within a zoning district
12 is an indication that, given certain existing or imposed conditions, the use may be
13 appropriate for some locations in that district. The appropriateness of the use is
14 determined through discretionary county review of an applicant’s demonstration
15 that specific conditions will assure compatibility with surrounding uses. Conditions
16 applicable to all conditional uses are established in the conditional use process
17 provisions of Chapter 2. Additional conditions applicable to a specific use may be
18 established by the LDC where the conditional use is established.

19 **(c) Accessory uses and structures.** Uses and structures accessory to permitted
20 uses and approved conditional uses are allowed as prescribed by the
21 supplemental use regulations of Chapter 4 unless otherwise prohibited by the
22 applicable zoning district. Where more than one zoning district applies to a parcel,
23 an accessory use or structure may not be established in one zoning district to
24 serve a primary use in the other district if the principal use is not allowed in the
25 district in which the accessory use is located.

26 **(d) Single-family dwellings and lots of record.** A single-family dwelling is a
27 vested and conforming as the principal use on any for an existing lot of record
28 within any is a conforming use regardless of the zoning district and or future land
29 use category, regardless of applicable density, available lot access, and lot width
30 along any street right-of-way. A building permit may be issued for such a
31 dwelling on any nonconforming lot of record if the dwelling complies with all
32 other applicable regulations. A single-family dwelling may be authorized for
33 construction on a lot of record in compliance with all remaining applicable
34 requirements of the LDC. Additionally, where a lot of record is completely
35 divided by and along the boundary of an existing public right-of-way, the two
36 separate areas of the lot may each be authorized for a single-family dwelling,
37 regardless of density, lot width, and whether the two areas are retained in
38 common ownership.

39 **(e) Mix of uses.** Unless clearly indicated otherwise in the LDC, the identification of
40 multiple permitted or conditionally permitted uses within a zoning district allows any
41 mix of those uses within an individual development, parcel, or building, regardless
42 of any designation or other characterization of the district as mixed-use. A mix of
43 uses generally does not modify the development standards and regulations
44 applicable to any individual use within the mix.

1 **(f) Classifying uses.** Classifying a particular land use is the discretionary process of
2 determining whether the use is one already identified in the LDC as allowed by
3 right (permitted use) or by special approval (conditional use).

4 **(1) Information.** The Planning Official, or Board of Adjustment (BOA) on appeal,
5 shall obtain the information necessary to accurately classify a use. At a
6 minimum, the applicant shall describe in writing the nature of the use and the
7 county shall utilize public records, site investigations and other reliable sources
8 of information, including the *Land-Based Classification Standards* of the
9 American Planning Association and the *North American Industry Classification*
10 *System* (NAICS) of the U.S. Department of Commerce.

11 **(2) Rules for classification.** Classifying a use is not specific to any individual
12 site, project or applicant, but shall be appropriate and valid for all occasions of
13 the use. Use classification shall be guided by Chapter 1 provisions for
14 interpreting the LDC and the following rules:

- 15 a. If a use is defined in the LDC, that definition shall be applied to the
16 classification.
- 17 b. The reviewing authority shall not read an implied prohibition of a particular
18 use into a classification.
- 19 c. Classification is limited to giving meaning to the uses already allowed within
20 the applicable zoning district. No policy determinations shall be made on
21 what types of uses are appropriate within the district.
- 22 d. When the use regulations are ambiguous, the purpose and intent of the
23 zoning district and the nature of the uses allowed within it shall be
24 considered.
- 25 e. Classification is not based on the proximity of the proposed use to other
26 uses.
- 27 f. The use or activity determines the classification, not property ownership,
28 persons carrying out the use or activity, or other illegitimate considerations.
- 29 g. Generally, the function rather than the form of a structure is relevant to its
30 classification.

31 **(3) Determinations.** All classifications determined by the Planning Official shall be
32 recorded to ensure consistency with future classifications. A use not determined
33 to be one specifically identified in the LDC as permitted or conditionally
34 permitted may be proposed to the Planning Board for consideration of
35 subsequent zoning district use amendment.

36 **(g) Temporary uses and structures.** Temporary uses and structures are allowed
37 as prescribed by the supplemental use regulations of Chapter 4 unless otherwise
38 modified or prohibited by the applicable zoning district.

39 **(h) Outdoor storage.** Outdoor storage is allowed as prescribed by the supplemental
40 use regulations of Chapter 4 unless modified or prohibited by the applicable
41 zoning district.

1 (i) **Subdivision.** The subdivision of land to accommodate the permitted uses or
2 approved conditional uses of the applicable zoning district is allowed as
3 prescribed by the standards of Chapter 5 unless otherwise prohibited by the
4 district.

5 (j) **Compassionate use of low-THC cannabis.** Section 381.986, Florida Statutes
6 (2014), and Florida Administrative Code Chapter 64-4 authorize a limited number
7 of dispensing organizations throughout the State of Florida to cultivate, process,
8 and dispense low-tetrahydrocannabinol (low-THC) cannabis for use by qualified
9 patients. The dispensing organizations must be approved by the Florida
10 Department of Health and, once approved, are subject to state regulation and
11 oversight.

12 (1) **Intent.** The intent of this article is to establish the criteria for the location
13 and permitting of facilities that dispense low-THC cannabis by State
14 authorized dispensing organizations in accordance with Section 381.986,
15 Florida Statutes (2014) and Florida Administrative Code Chapter 64-4.

16 (2) **Applicability.** The provisions of this section shall be applicable in the
17 unincorporated areas of Escambia County. This section shall only be
18 construed to allow the dispensing of low-THC cannabis by a state-approved
19 dispensing organization for medical use. The sale of cannabis or marijuana
20 is prohibited in Escambia County except in accordance with this provision.

21 This provision does not exempt a person from prosecution in any criminal offense
22 related to impairment or intoxication resulting from the medical use of low-THC
23 cannabis or medical cannabis or relieve a person from any requirement under law
24 to submit to a breath, blood, urine, or other test to detect the presence of a
25 controlled substance.

26 **Sec. 3-1.5 Site and building requirements.**

27 (a) **Generally.** Each zoning district establishes its own site and building requirements
28 which define physical limits to the development of district parcels. These
29 requirements, in combination with other district provisions, the use and location
30 regulations of Chapter 4, and the general development standards of Chapter 5,
31 define the limits for all development within the district.

32 (b) **Modifications.** Variances to the strict application of site and building requirements
33 may only be granted according to the compliance review process prescribed in
34 Chapter 2 if the variances maintain the stated purposes of the applicable zoning
35 district and are not otherwise excluded by provisions of the LDC.

36 (c) **Street frontage.** For the application of site and building requirements and other
37 LDC provisions to any lot with no street frontage the Planning Official shall
38 determine a front lot line in consideration of lot orientation, access, and other
39 relevant conditions. The Planning Official shall also determine the appropriate rear
40 lot line for any lot with multiple street frontages.

41 (d) **Density.** The number of dwelling or lodging units allowed within a parcel is
42 determined by the product of the total (gross) development parcel area and the

1 maximum density allowed by the applicable zoning district. When the calculated
2 number of allowable units for a parcel results in a fraction greater than or equal to
3 0.5 units, rounding up to the next whole unit number is permitted to allow a
4 maximum of one additional unit. However, in the division of an existing lot of
5 record for two single-family lots the product of the area and density for each
6 proposed lot shall be at least one dwelling unit without rounding, unless the lots
7 are created by the division of an existing public right-of-way. Regardless of the
8 maximum density allowed, each existing lot of record is vested for a single-family
9 dwelling as established in the preceding section the principal use.

10 **(e) Lot width and area.** All new lots shall provide the minimum width and area
11 required by the applicable zoning, except that parcels created for public utilities
12 or preserved for recreation, conservation, or open space need only have width
13 sufficient for access to that limited use. Any existing lot of record that contains
14 less width or area than required by the applicable zoning district may be used for
15 any use allowed within that district if the use complies with all other applicable
16 regulations, including buffering and use-specific minimum lot area.

17 **(f) Lot coverage.** The maximum amount of impervious and semi-impervious
18 coverage allowed for any lot is established by the minimum percent pervious lot
19 coverage required by the applicable zoning district. The amount allowed by
20 zoning remains subject to other limitations of the LDC and any approved
21 stormwater management plan for the lot.

22 **(g) Setbacks and yards.** The minimum setbacks and yards for structures are those
23 required by the applicable zoning district or as otherwise may be stipulated in
24 SRIA lease agreements for lands on Pensacola Beach.

25 **(1) Nonconformance.** For a structure that is nonconforming with regard to any
26 zoning required setback, a structural alteration, enlargement, or extension to it
27 that creates no greater encroachment by distance into the substandard setback
28 is not considered an increase in nonconformance and does not require a
29 variance.

30 **(2) Accessory structures.** Accessory structures shall be limited to side and rear
31 yards and be at least five feet from any interior side or rear lot line except where
32 specifically allowed as encroachments. Accessory dwellings shall be limited to
33 the setbacks required for the principal dwelling.

34 **(3) Distance between dwellings.** Where the applicable zoning district allows more
35 than one dwelling on a single lot, the minimum horizontal distance between such
36 dwellings shall not be less than twice the side yard distance required by the
37 district, and the minimum distance between any structures shall not be less than
38 the minimum required by the Florida Building Code.

39 **(4) Encroachments by building features.** Every part of a required yard shall be
40 open from its lowest point to the sky, unobstructed except for the ordinary
41 projection of sills, belt courses, cornices, buttresses, awnings, eaves and similar
42 building features. No such projection shall extend more than 24 inches into any
43 yard, except roof overhangs, awnings, outside stairways, and balconies which

1 may extend up to 48 inches into any yard provided the building setback is
2 otherwise at least 10 feet

3 **(5) Encroachment of porch or terrace.** An open, unenclosed and uncovered
4 paved terrace or a covered porch may extend into the required front yard no
5 more than 10 feet.

6 **(h) Structure heights.** The maximum structure heights allowed by the applicable
7 zoning district are modified by the following:

8 **(1) Agricultural structures.** Structures such as cotton gins, granaries, silos, and
9 windmills associated with permitted agricultural uses may exceed the district
10 height limits if not in conflict with any applicable airport or airfield height
11 restrictions.

12 **(2) Rooftop structures.** The district height limits do not apply to belfries,
13 chimneys, church spires, cooling towers, elevator bulkheads, flag poles,
14 television reception antennae, roof-mounted tanks, mechanical equipment
15 rooms, or similar rooftop structures that comply with all of the following
16 conditions:

17 a. They do not separately or in combination with other rooftop structures exceed
18 10 percent of the horizontal roof area.

19 b. They do not exceed applicable airport or airfield height restrictions.

20 c. They do not exceed otherwise applicable height limitations by more than 15
21 feet or 10 percent of actual building height, whichever is greater.

22
23 **Section 2.** Part III of the Escambia County Code of Ordinances, the Land Development
24 Code of Escambia County, Chapter 5, General Development Standards, Article 3,
25 Division of Land, is hereby amended as follows (words underlined are additions and
26 words ~~stricken~~ are deletions):

27 **Sec. 5-3.2 General provisions.**

28 **(a) Approval required.** The division of land requires County review and approval
29 for compliance with the standards of this article unless the division is specifically
30 identified in the LDC as exempt from these standards.

31 **(b) Modification of standards.** Variances to the strict application of the standards of
32 this article are not available from the Planning Official, BOA or SRIA. Where the
33 provisions of this article specifically allow, the County Engineer has discretion
34 within accepted standards of engineering practice to allow for modifications that
35 maintain the stated purposes of the article.

36 **(c) Creation of new lots.** No lot shall be created which requires a variance or another
37 exception to the requirements of the LDC to provide sufficient buildable area or
38 other conditions necessary to use the a-lot for its intended purposes. Additionally,
39 unless established through the family conveyance exception of this section or the
40 division of a lot of record into two single-family lots by an existing public right-of-way

1 as authorized in Article 1 of Chapter 3, the creation of any new lot shall comply with
2 the following:

3 **(1) Zoning compliant.** Each lot provides the minimum lot area and
4 dimensions required by the applicable zoning district.

5 **(2) Right-of-way frontage.** Each lot fronts on a public or private right-of-way,
6 whether improved or unimproved, which conforms to the definition of “street” in
7 Chapter 6. Although such right-of-way typically affords the principal means of
8 lot access, frontage along a right-of-way does not authorize or require access to
9 that street.

10 **(3) Subdivision review.** The creation of lots by the division of a parcel into three
11 or more contiguous lots shall comply with the subdivision standards of this
12 article and shall be reviewed for compliance as prescribed in Chapter 2.

13 **(d) Family conveyance exception.** No building permit shall be denied where the
14 property in question is to be used solely as a homestead by an owner-applicant who
15 is the grandparent, parent, step-parent, adopted parent, sibling, child, step-child,
16 adopted child, niece, nephew, aunt, uncle or grandchild of the person who
17 conveyed the parcel to such applicant, notwithstanding the density or intensity of
18 use assigned to the parcel by a particular zoning district. This exception shall apply
19 only once to any owner-applicant.

20 **(e) Completion of platting.** Unless otherwise exempt under provisions of the LDC,
21 before any lot may be sold or before any building permit is issued to construct
22 improvements on any lot that makes reference to the final plat, the plat shall be
23 approved by the Board of County Commissioners (BCC) and recorded in the public
24 records of Escambia County.

26 **Section 3. Severability.**

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

31 **Section 4. Inclusion in Code.**

32 It is the intention of the Board of County Commissioners that the provisions of this
33 Ordinance shall be codified as required by F.S. § 125.68 (2016); and that the sections,
34 subsections and other provisions of this Ordinance may be renumbered or re-lettered
35 and the word “ordinance” may be changed to “section,” “chapter,” or such other
36 appropriate word or phrase in order to accomplish such intentions.

Section 5. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED this_____ day of _____, 2017.

**BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA**

By: _____
D. B. Underhill, Chairman

**ATTEST: PAM CHILDERS
Clerk of the Circuit Court**

By: _____
Deputy Clerk

(SEAL)

ENACTED:

FILED WITH THE DEPARTMENT OF STATE:

EFFECTIVE DATE:



BOARD OF COUNTY COMMISSIONERS

Escambia County, Florida

Planning Board-Regular

6. D.

Meeting Date: 04/04/2017

Issue: A Public Hearing Concerning the Review of an Ordinance Amending, Chapter 3, Section 3-3.7, the Scenic Highway Overlay

From: Horace Jones, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending, Chapter 3, Section 3-3.7, the Scenic Highway Overlay

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 3, Section 3-3.7, Scenic Highway Overlay, refining the setback for structures.

BACKGROUND:

The Scenic Highway Overlay District was adopted in 1999 (Ord. 99-12) and has served to protect the unique scenic vista along the Scenic Highway corridor. Staff has been directed to review and modify this LDC section as needed to address concerns that have arisen since that time. This proposed change will strengthen the protections in place by refining the setback for structures along the right-of-way.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith Crawford, Assistant County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board's goal "to increase citizen involvement in, access to, and approval of, County government activities."

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the LDC, will be filed with the Department of State following adoption by the board.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney's Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: Scenic Highway Overlay

Date: 03/13/17

Date requested back by: 03/13/17

Requested by: Andrew Holmer

Phone Number: 595-3466

.....

(LEGAL USE ONLY)

Legal Review by M. Crawford

Date Received: 3/13/17

☒ Approved as to form and legal sufficiency.

☐ Not approved.

☐ Make subject to legal signoff.

Additional comments:

ORDINANCE 2017-__

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA; AMENDING VOLUME II OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA; AMENDING CHAPTER 3, ARTICLE 3 "OVERLAY DISTRICTS", SECTION 3-3.7 "SCENIC HIGHWAY OVERLAY"; REFINING THE SETBACK FOR STRUCTURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, through the Land Development Code, the Escambia County Board of County Commissioners desires to preserve the county as a desirable community in which to live, vacation and do business; and,

WHEREAS, The Scenic Highway Overlay district is intended to protect the unique scenic vista and environmental resources of the Scenic Highway corridor and adjacent Escambia Bay.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

SECTION 1. Chapter 3, Article 3, Section 3-3.7 of the Escambia County Land Development Code is hereby amended as follows (words underlined are additions and words ~~stricken~~ are deletions):

Article 3 Overlay Districts

Sec.3-3.7 Scenic Highway Overlay (SH-OL).

(a) Purpose. The Scenic Highway Overlay (SH-OL) district establishes supplemental land use regulations to support the Pensacola Scenic Bluffs Highway Master Plan. The intent of the additional land use controls is to further the objectives of the plan, especially its protection of the unique scenic vista and environmental resources of the U.S. Highway 90 corridor and adjacent Escambia Bay shoreline. Controls established by the overlay work to alleviate the harmful effects of erosion and runoff caused by clearing natural vegetation and changing existing contours within the corridor, and to preserve the bluffs, wetland areas and scenic views along the bay for continued public access to and enjoyment of those views.

1 **(b) Boundary.** The Scenic Highway Overlay district includes all parcels adjoining the
2 west side of the Pensacola Scenic Bluffs Highway (U.S. Highway 90 or Scenic
3 Highway) and all property between the highway and Escambia Bay on the east side of
4 the highway, north from the Pensacola city limit along the highway for approximately
5 five miles to the county line at Escambia River.
6

7 **(c) Permitted uses.** All of the uses permitted within the underlying zoning districts are
8 permitted, subject to the site and building requirements of the overlay district.
9

10 **(d) Site and building requirements.**
11

12 **(1) Structure height.** Structures between Scenic Highway and Escambia Bay shall
13 have a maximum height of 35 feet as measured from the highest adjacent grade. Non-
14 residential uses may exceed the height limit if granted conditional use approval by the
15 Board of Adjustment. In addition to the other conditional use criteria, the requested
16 height must be found not to interfere with the scenic attractiveness of the location as
17 viewed from any plausible direction, and for every two feet in height over 35 feet, there
18 shall be an additional one foot of front and side setback at the ground level.
19

20 **(2) Lot coverage.** Maximum land area coverage by all structures, parking areas,
21 driveways and other impervious surfaces shall not exceed 50 percent of the gross site
22 area.

23 **(3) Setback.** All structures shall be located a minimum of ~~50~~ 35 feet from the Scenic
24 Highway right-of-way unless precluded by lot configuration or topography. For purposes
25 of this section, the term structures includes walls, posts, ornaments, decorations,
26 decorative items, statues, sculptures, lights, light fixtures, landscaping, and all other
27 customary yard accessories.
28

29 **(4) Building separation.** The minimum distance between structures shall be 15 feet,
30 and there shall be at least 100 feet between single-family dwellings and multi-family
31 dwellings, residential group living, or public lodging.
32

33 **(5) Multi-use path.** Based on the corridor management plan, a multi-use path on the
34 east side of Scenic Highway is intended to run the full length of the corridor within the
35 right-of-way, but at the maximum distance possible from the roadway pavement.
36 Developers of property within the overlay are encouraged to maximize the innovative
37 integration of a path extension into their development, but outside of the right-of-way on
38 public property or on easements donated by private property owners.
39

40 **(6) Tree protection.**

41 **a.** A canopy tree protection zone is hereby established for all land within 20 feet of the
42 right of way of Scenic Highway and Highway 90 from the Pensacola city limit to the
43 Santa Rosa County line. No person or agency shall cut, remove, trim or in any way

1 damage any tree in the canopy tree protection zone without a permit. Except in unique
2 cases, permitted pruning shall not remove more than 30 percent of the existing tree
3 material. Utility companies are not permitted to prune more than 30 percent of the
4 existing tree canopy.

5 **b.** Heritage Oak trees shall be preserved.

6 **c.** Clearing of natural vegetation within the corridor shall require a land disturbance
7 permit and is generally prohibited except for the minimum area needed for construction
8 of allowable structures or view enhancement.

9
10 **(7) Landscaping.** For developments otherwise subject to LDC landscaping
11 requirements, a minimum 10-foot wide landscaped strip shall be required along any
12 Scenic Highway frontage, and shall contain one tree for every 35 linear feet of frontage.
13 The trees shall be of sufficient height at planting such that a six-foot view shed exists at
14 planting. Preservation of existing plant communities within the required landscaped
15 areas can be used to satisfy these requirements.

16
17 **(8) Orientation of non-residential buildings.** Orientation of non-residential buildings
18 shall be away from residential development within or adjacent to the district. Layout of
19 parking and service areas, access, landscaping, yards, courts, walls, signs, lighting and
20 control of noise and other potentially adverse influences shall be such as to promote
21 protection of such residential development, and will include adequate buffering.

22
23 **(9) Fences.** No fence within the overlay may be solid. No chain link fence shall be
24 located between Scenic Highway and the principal building. Any other type of fence in
25 this area shall not exceed three feet. Where single story structures are higher than the
26 roadbed, there should be no wall, fence, structure or plant material located between the
27 front building line and the roadbed that will obstruct the view from automobiles on the
28 scenic route.

29
30 **(10) Structure location.** All structures will be reviewed to assure conformance with the
31 following criteria:

32 **a.** The location shall afford maximum views of the bay from the street right-of-way.

33 **b.** The location shall minimize impact on the natural bluff and plant material (other than
34 pruning to enhance views).

35 **c.** Provide underground utilities.

36 37 **SECTION 2. SEVERABILITY.**

38
39 If any section, sentence, clause or phrase of this Ordinance is held to be invalid
40 or unconstitutional by any Court of competent jurisdiction, then said holding shall in no
41 way affect the validity of the remaining portions of this Ordinance.

1 **SECTION 3. INCLUSION IN THE CODE.**

2
3 It is the intention of the Board of County Commissioners that the provisions of
4 this Ordinance shall be codified as required by Section 125.68, Fla. Stat. (2016); and
5 that the sections, subsections and other provisions of this Ordinance may be
6 renumbered or relettered and the word "ordinance" may be changed to "section",
7 "article", or such other appropriate word or phrase in order to accomplish such
8 intentions.

9
10 **SECTION 4. EFFECTIVE DATE.**

11
12 This Ordinance shall become effective upon filing with the Department of State.

13
14 **DONE AND ENACTED** this _____ day of _____, 2017.

15
16 BOARD OF COUNTY COMMISSIONERS
17 OF ESCAMBIA COUNTY, FLORIDA
18

19 By: _____
20 D.B. Underhill, Chairman

21 ATTEST: PAM CHILDERS
22 Clerk of the Circuit Court

23
24 By: _____
25 Deputy Clerk

26 (SEAL)

27
28 ENACTED:

29 FILED WITH THE DEPARTMENT OF STATE:

30 EFFECTIVE DATE:



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

7. A.

Meeting Date: 04/04/2017

Agenda Item:

Spot Zoning Discussion.

Attachments

Draft Ordinance

ORDINANCE NUMBER 2017-_____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS AMENDED; AMENDING CHAPTER 2, DEVELOPMENT AND COMPLIANCE REVIEW, ARTICLE 7, LDC AND COMPREHENSIVE PLAN AMENDMENT, TO MODIFY APPROVAL CONDITIONS FOR ZONING MAP AMENDMENT (REZONING APPLICATION); AMENDING CHAPTER 6, DEFINITIONS, TO DEFINE "SPOT ZONING"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Escambia County Board of County Commissioners finds that logical and orderly land development patterns promote the public health, safety, and general welfare; and,

WHEREAS, the Board has, within the regulations of the Land Development Code, established zoning districts to implement the general land development patterns prescribed by the future land use categories of the Comprehensive Plan; and,

WHEREAS, the Board has, within the Land Development Code, established a rezoning process to amend existing zoning district boundaries where such amendments demonstrate the rezoning would contribute to or result in a logical and orderly development pattern; and,

WHEREAS, the Board recognizes that within the rezoning process there remains confusion regarding use of the term "spot zoning" and, if used, whether the term is only descriptive or is a legal term of art referring to a practice that is invalid; and,

WHEREAS, the Board finds that isolated or spot zoning, while requiring greater justification within the rezoning process, may serve a beneficial purpose and need not be prohibited; and,

WHEREAS, the Board finds that, since the April 16, 2015, adoption of the Land Development Code, amendments to more effectively evaluate rezoning applications on the basis of logical and orderly development patterns are beneficial to the public;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Chapter 2, Development and Compliance Review, Article 7, LDC and Comprehensive Plan Amendment, is hereby amended as follows (words underlined are additions and words ~~stricken~~ are deletions):

Sec. 2-7.2 LDC zoning map and text amendments

(a) General. All provisions of the LDC are established, modified, or repealed by ordinance of the Board of County Commissioners (BCC). Zoning map and text amendments may be proposed by the county or others according to the ordinance enactment procedures prescribed by Florida Statutes and the provisions of this section. Since any LDC amendment is a change to implementing the land use regulations of the county and can modify the requirements for subsequent authorizations of land uses and development activities, significant opportunities for public participation are provided. These map and text amendment processes are established for the county to authorize appropriate changes to its land development regulations.

(b) Zoning map amendment (Rezoning application). Small-scale zoning map amendments that affect a limited number of identifiable parties and interests are evaluated first through quasi-judicial public hearings by the Planning Board, or the Santa Rosa Island Authority for property on Pensacola Beach, and then by the BCC. Large-scale comprehensive changes to the zoning map set policy and require enactment through the legislative procedures of the BCC.

(1) Application. An application for a rezoning shall be submitted ~~to the clerk of the Planning Board~~ at least 30 business days prior to the scheduled meeting of the reviewing board meeting at which the applicant requests to be heard. ~~If the application concerns property under the jurisdiction of the Santa Rosa Island Authority (SRIA), the application shall be submitted to the clerk of the SRIA at least 30 business days prior to the scheduled board meeting.~~ A pre-application meeting of the applicant with the staff for the board is recommended to discuss the process and review county and applicant responsibilities.

(2) Public participation. Hearings to consider a rezoning application shall be open to the public. Prior to any such hearing, the clerk of the reviewing board shall provide reasonable notice to the public as required by Florida Statutes and the Comprehensive Plan.

(3) Compliance review. A quasi-judicial public hearing shall be conducted by the appropriate reviewing board to consider a requested rezoning according to the provisions of this article. At the conclusion of the hearing, based on the record evidence, the reviewing board shall submit a recommendation to the BCC for rezoning approval, denial, or if appropriate and acceptable to the applicant, approval of a district with less intensive uses than the requested zoning.

(4) Approval conditions. The applicant has the burden of presenting competent substantial evidence to the reviewing board ~~that establishes each~~ establishing

1 that the requested zoning district would contribute to or result in a logical and
2 orderly development pattern as demonstrated by all of the following conditions:

- 3 **a. Consistent with Comprehensive Plan.** The proposed zoning is
4 consistent with the future land use (FLU) category as prescribed in LDC
5 Chapter 3, and with all other applicable goals, objectives, and policies of
6 the Comprehensive Plan. A zoning change necessary to implement a
7 pending FLU map amendment may, however, be authorized conditional to
8 adoption of the FLU change. The proposed rezoning is consistent with the
9 goals, objectives, and policies of the Comprehensive Plan and not in
10 conflict with any of its provisions.
- 11 **b. Consistent with LDC district provisions.** The proposed zoning is
12 consistent with the purpose and intent, location criteria, and any other
13 zoning establishment provisions prescribed by the proposed district in
14 Chapter 3. The proposed rezoning is consistent with the stated purposes
15 and intent of the LDC and not in conflict with any of its provisions.
- 16 **c. Compatibility Compatible with surroundings.** All of the permitted uses
17 of the proposed zoning, not just those anticipated by the rezoning applicant,
18 are compatible with the surrounding uses. The uses of any surrounding
19 undeveloped land shall be considered the permitted uses of the applicable
20 district. Compatibility is not, however, considered with possible conditional
21 uses of the districts or with any nonconforming or unapproved uses. Also,
22 in establishing the compatibility of a residential use, there is no additional
23 burden to demonstrate the compatibility of specific residents or activities
24 protected by county, state, or federal fair housing law (e.g., affordable
25 housing). All land uses, development activities, and conditions allowed by
26 the proposed zoning are compatible with the surrounding conforming uses,
27 activities and conditions and are able to coexist in relative proximity to them
28 in a stable fashion over time such that no use, activity, or condition
29 negatively impacts another. The appropriateness of the rezoning is not
30 limited to any specific use that may be proposed but is evident for all
31 permitted uses of the requested zoning. This condition shall not apply to
32 any conditional uses of the proposed district or compatibility with
33 nonconforming or unapproved uses, activities, or conditions.
- 34 **d. Appropriate as spot zoning.** Where the proposed zoning would establish
35 or reinforce a condition of spot zoning as defined in Chapter 6, the isolated
36 district would nevertheless be transitional in character between the
37 adjoining districts, or the differences with those districts would otherwise
38 be sufficiently limited. The extent of these mitigating conditions
39 demonstrates a site-specific balancing of interests appropriate to the
40 characteristics of the isolated district.
- 41 **de. Appropriate with Changed changing conditions.** The area surrounding
42 the property of to which the proposed rezoning would apply has changed,
43 or is changing, to such a degree that the permitted uses of the proposed
44 district are not premature for the area and not likely to create or contribute

1 ~~to urban sprawl it is in the public interest to encourage new uses, density,~~
2 ~~or intensity in the area through rezoning.~~

3 ~~**e. Development patterns.** The proposed rezoning would contribute to or~~
4 ~~result in a logical and orderly development pattern.~~

5 ~~**f. Effect on natural environment.** The proposed rezoning would not increase~~
6 ~~the probability of any significant adverse impacts on the natural~~
7 ~~environment.~~

8 **(5) Board Action.** ~~When~~If the reviewing board finds from the record of the hearing
9 that the applicant has presented competent substantial evidence establishing
10 the required conditions, the board shall then consider whether maintaining the
11 current zoning will serve a greater public interest. If both of the following
12 conditions are confirmed and no greater public interest is otherwise found in
13 maintaining the current zoning, the board shall recommend approval of the
14 rezoning request to the BCC-recommend approval of the rezoning request to
15 the BCC, unless the board determines that maintaining the current zoning will
16 prevent the following:

17 **a.** No new uses, density, or intensity of use will likely diminish quality of life,
18 reduce property values, confer a special benefit on the subject property to
19 the detriment of the community as a whole, or create other adverse impacts
20 upon surrounding properties more than the uses, density, or intensity of the
21 current zoning.

22 **b.** Greater consideration has been given to the protection of established
23 conforming investments than to projected investments, and future beneficial
24 use is encouraged rather than the sale of land for mere speculation.

25 ~~**a. Premature development or sprawl.** The land uses and development~~
26 ~~activities allowed by the proposed rezoning are premature, or the rezoning~~
27 ~~would likely create or contribute to an urban sprawl pattern of~~
28 ~~development more than the current zoning.~~

29 ~~**b. Isolated districts.** The proposed rezoning would create or contribute to~~
30 ~~an isolated zoning district that is neither related to the adjacent and~~
31 ~~nearby zoning districts nor an appropriate transition between them.~~

32 ~~**c. Intrusion of non-residential uses.** The proposed rezoning would allow an~~
33 ~~intrusion of commercial or industrial uses into a platted residential~~
34 ~~subdivision or other established residential area more than the current~~
35 ~~zoning.~~

36 ~~**d. Property value impacts.** The land uses, development activities and~~
37 ~~conditions allowed by the proposed rezoning would likely result in~~
38 ~~significant adverse impacts upon the property values of adjacent properties~~
39 ~~or those in the immediate area more than the types of use, activities, and~~
40 ~~conditions permitted by the current zoning.~~

41 ~~**e. Nuisance-based impacts.** The land uses, development activities and~~
42 ~~conditions allowed by the proposed rezoning would likely adversely impact~~

1 ~~the character of existing development or quality of life in the general area or~~
2 ~~neighborhood by creating excessive traffic, noise, lights, vibration, fumes,~~
3 ~~odors, dust, physical activities, or other detrimental effects or nuisances~~
4 ~~more than the types of uses, activities and conditions permitted by the~~
5 ~~current zoning.~~

6 **(6) Final determination.** The BCC at its scheduled hearing shall adopt, modify, or
7 reject the recommendation of the Planning Board or SRJA or return the rezoning
8 case to the board with instructions for additional facts or clarification. The staff
9 of the recommending board shall inform the board of all formal actions taken by
10 the BCC on the rezoning request.

11 **(7) Appeals.** Actions by the BCC adopting, rejecting, or modifying the
12 recommended rezoning of the reviewing board are final. Any party seeking
13 judicial review of the final determination shall do so according to the general
14 provisions of Article 1. Additionally, written notice of the filing of any such
15 petition for judicial review shall be promptly provided by the petitioner through
16 the county to each owner of real property with any portion within a 500-foot
17 radius of the rezoning subject property.

18
19 **Section 2.** Part III of the Escambia County Code of Ordinances, the Land
20 Development Code of Escambia County, Chapter 6, Definitions, is hereby amended
21 as follows (words underlined are additions and words ~~stricken~~ are deletions):

22 **Sec. 6.0-3 Terms defined.**

23 **Spot zoning.** Zoning applied to an area of land, regardless of its size, that is different
24 from the zoning of any directly adjoining land. Such isolated or “spot” zoning is usually
25 higher in its density or intensity of use than the adjoining zoning and may, therefore,
26 extend privileges not generally extended to property similarly located in the area. Spot
27 zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining
28 zoning it carries a higher burden of demonstration that, if authorized, it will contribute to
29 or result in the logical and orderly development required of all zoning.

30
31 **Section 4. Severability.**

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

35
36 **Section 5. Inclusion in Code.**

37 It is the intention of the Board of County Commissioners that the provisions of this
38 Ordinance shall be codified as required by F.S. § 125.68 (2016); and that the sections,
39 subsections and other provisions of this Ordinance may be renumbered or re-lettered

1 and the word "ordinance" may be changed to "section," "chapter," or such other
2 appropriate word or phrase in order to accomplish such intentions.

3
4 **Section 6. Effective Date.**

5 This Ordinance shall become effective upon filing with the Department of State.

6
7 **DONE AND ENACTED** this_____ day of _____, 2017.

8
9 **BOARD OF COUNTY COMMISSIONERS**
10 **ESCAMBIA COUNTY, FLORIDA**

11
12 **By:** _____

13 **D. B. Underhill, Chairman**

14
15 **ATTEST: PAM CHILDERS**
16 **Clerk of the Circuit Court**

17
18 **By:** _____
19 **Deputy Clerk**

20 **(SEAL)**

21
22 **ENACTED:**

23 **FILED WITH THE DEPARTMENT OF STATE:**

24 **EFFECTIVE DATE:**
25



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

7. B.

Meeting Date: 04/04/2017

Agenda Item:

Clustering Discussion.

Attachments

Draft Ordinance

ORDINANCE NUMBER 2017-_____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS AMENDED; AMENDING CHAPTER 3, ZONING REGULATIONS, ARTICLE 1, GENERAL PROVISIONS, TO ALLOW MODIFICATION OF ZONING DISTRICT SITE AND BUILDING REQUIREMENTS FOR DWELLING UNIT CLUSTERING OR PLANNED UNIT DEVELOPMENT, TO ELIMINATE EXISTING RESIDENTIAL DENSITY BONUSES, AND TO ESTABLISH PROVISIONS FOR CLUSTERING DWELLING UNITS; AMENDING CHAPTER 4, LOCATION AND USE REGULATIONS, ARTICLE 5, NATURAL RESOURCES, AND ARTICLE 6, HISTORICAL AND ARCHAEOLOGICAL RESOURCES, TO REFERENCE CLUSTERING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 125, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Escambia County Board of County Commissioners has, within the regulations of the county's Land Development Code, established zoning districts which set residential densities appropriate to the purposes of the districts and forms of dwelling units permitted therein; and,

WHEREAS, the Board finds that the presence of wetlands, floodways, and other protected county resources within development parcels may reduce developable area and the resulting number of dwelling units possible under the site and building requirements of the applicable zoning; and,

WHEREAS, the Board finds that, for development parcels containing protected resources, flexibility in site and building requirements can aid in the clustering of dwelling units to more fully develop available residential density outside of such resources; and,

WHEREAS, the Board finds that, since the April 16, 2015, adoption of the Land Development Code, amendments to establish comprehensive dwelling unit clustering provisions are beneficial to the public for both residential development and resource protection;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

1 **Section 1.** Part III of the Escambia County Code of Ordinances, the Land Development
2 Code of Escambia County, Chapter 3, Zoning Regulations, Article 1, General
3 Provisions, is hereby amended as follows (words underlined are additions and words
4 ~~stricken~~ are deletions):

5 **Sec. 3-1.5 Site and building requirements.**

6 **(a) Generally.** Each zoning district establishes its own site and building requirements
7 which define physical limits to the development of district parcels. These
8 requirements, in combination with other district provisions, the use and location
9 regulations of Chapter 4, and the general development standards of Chapter 5,
10 define the limits for all development within the district.

11 **(b) Modifications.** Except as may be authorized in this article for the clustering of
12 dwelling units, modifications~~Variances~~ to the strict application of site and building
13 requirements may only be granted according to the compliance review processes
14 prescribed in Chapter 2, and only if the variances maintain the stated purposes of
15 ~~the applicable zoning district and are not otherwise excluded by provisions of the~~
16 LDC.

17 **(c) Street frontage.** For the application of site and building requirements and other
18 LDC provisions to any lot with no street frontage the Planning Official shall
19 determine a front lot line in consideration of lot orientation, access, and other
20 relevant conditions. The Planning Official shall also determine the appropriate rear
21 lot line for any lot with multiple street frontages.

22 **(d) Density.** The number of dwelling or lodging units allowed within a parcel is
23 determined by the product of the total development parcel area and the maximum
24 density allowed by the applicable zoning district. When the calculated number of
25 allowable units for a parcel results in a fraction greater than or equal to 0.5 units,
26 rounding to the next whole number is permitted to allow a maximum of one
27 additional unit. Regardless of the maximum density allowed, each existing lot of
28 record is vested for a single-family dwelling as the principal use.

29 **(e) Lot width and area.** All new lots shall provide the minimum width and area required
30 by the applicable zoning, except that parcels created for public utilities or preserved
31 for recreation, conservation, or open space need only have width sufficient for
32 access to that limited use. Any existing lot of record that contains less width or area
33 than required by the applicable zoning district may be used for any use allowed
34 within that district if the use complies with all other applicable regulations, including
35 buffering and use-specific minimum lot area.

36 **(f) Lot coverage.** The maximum amount of impervious and semi-impervious coverage
37 allowed for any lot is established by the minimum percent pervious lot coverage
38 required by the applicable zoning district. The amount allowed by zoning remains
39 subject to other limitations of the LDC and any approved stormwater management
40 plan for the lot.

1 **(g) Setbacks and yards.** The minimum setbacks and yards for structures are those
2 required by the applicable zoning district or as otherwise may be stipulated in SRIA
3 lease agreements for lands on Pensacola Beach.

4 **(1) Nonconformance.** For a structure that is nonconforming with regard to any
5 zoning required setback, a structural alteration, enlargement, or extension to it
6 that creates no greater encroachment by distance into the substandard setback
7 is not considered an increase in nonconformance and does not require a
8 variance.

9 **(2) Accessory structures.** Accessory structures shall be limited to side and rear
10 yards and be at least five feet from any interior side or rear lot line except where
11 specifically allowed as encroachments. Accessory dwellings shall be limited to
12 the setbacks required for the principal dwelling.

13 **(3) Distance between dwellings.** Where the applicable zoning district allows more
14 than one dwelling on a single lot, the minimum horizontal distance between such
15 dwellings shall not be less than twice the side yard distance required by the
16 district, and the minimum distance between any structures shall not be less than
17 the minimum required by the Florida Building Code.

18 **(4) Encroachments by building features.** Every part of a required yard shall be
19 open from its lowest point to the sky, unobstructed except for the ordinary
20 projection of sills, belt courses, cornices, buttresses, awnings, eaves and similar
21 building features. No such projection shall extend more than 24 inches into any
22 yard, except roof overhangs, awnings, outside stairways, and balconies which
23 may extend up to 48 inches into any yard provided the building setback is
24 otherwise at least 10 feet

25 **(5) Encroachment of porch or terrace.** An open, unenclosed and uncovered
26 paved terrace or a covered porch may extend into the required front yard no
27 more than 10 feet.

28 **(h) Structure heights.** The maximum structure heights allowed by the applicable
29 zoning district are modified by the following:

30 **(1) Agricultural structures.** Structures such as cotton gins, granaries, silos, and
31 windmills associated with permitted agricultural uses may exceed the district
32 height limits if not in conflict with any applicable airport or airfield height
33 restrictions.

34 **(2) Rooftop structures.** The district height limits do not apply to belfries, chimneys,
35 church spires, cooling towers, elevator bulkheads, flag poles, television reception
36 antennae, roof-mounted tanks, mechanical equipment rooms, or similar rooftop
37 structures that comply with all of the following conditions:

38 a. They do not separately or in combination with other rooftop structures exceed
39 10 percent of the horizontal roof area.

40 b. They do not exceed applicable airport or airfield height restrictions.

- c. They do not exceed otherwise applicable height limitations by more than 15 feet or 10 percent of actual building height, whichever is greater.

Sec. 3-1.7—Density bonuses.

(a) Generally. A system for residential density bonuses is established to provide an incentive for the private sector to voluntarily achieve some of the policies of the Comprehensive Plan. Within system limits, increased densities are allowed for properties in the LDR, MDR, HDR, HDMU, and Perdido Key zoning districts. Proposed development that exceeds LDC requirements and standards is eligible for density bonuses based on the options established in this section.

(b) Point system. For each point earned in compliance with the options of the density bonus system, a 0.4 percent increase is authorized in the maximum density otherwise allowed by the applicable zoning district, up to the maximum density allowed by the applicable FLU category. For example, if 12 points are earned for development with a 10 dwelling units per acre (du/acre) zoning district limit, the bonus density is $0.004 \times 12 \times 10$ du/acre or 0.48 additional dwelling units per acre. Density bonus points are earned through one or more of the following options:

(1) Environmentally sensitive lands. Donation of environmentally sensitive lands to a public agency approved by the county, or dedication of a conservation easement in perpetuity which encompasses environmentally sensitive lands, earns two points per acre donated or reserved.

(2) Public access to waters, beaches, and shores. Donation of land to a public agency approved by the county, or dedication and maintenance of a minimum 15-foot wide public access easement, for the provision of public access to public waterways, beaches, or shores earns four points per accessway.

(3) Water conservation. Appropriate use of low water demand plants and native vegetation in all landscaped areas earns two points per site or one point per acre of qualifying land. The use of drip irrigation or other low water use methods of landscape irrigation earns one point per site, and the use of treated wastewater or "grey" water for irrigation earns one point per site or one point per acre irrigated.

(4) Affordable housing. In a development that includes at least 30 dwelling units, 10 percent of the units assured by the approved plan to be affordable housing for low to moderate income families earns three points, and 20 percent assured affordable earns six points. If the development contains 50 or more dwelling units and 20 percent qualify as affordable for low to moderate income, the applicant may directly obtain a 5 percent increase in density. No more than 20 percent of the units in a conventional housing development shall be credited for affordable housing bonus points.

(5) Redevelopment or adaptive reuse. Existing non-residential structures proposed for reuse as residential earn one point per five dwelling units. For rehabilitation of existing multi-family residential structures and participation in state or federal weatherization programs, one point is earned per five dwelling

units. These bonuses only apply to structures for which no notices of violation of building or life safety codes have been issued, or where all deficiencies identified in an initial notice have been corrected within the time specified in the notice and no subsequent violation notices issued.

(6) Provision of sidewalks and bikeways. The provision of sidewalks or the provision of bicycle paths or lane markings in developments where such facilities are not otherwise required earns three points. If the facilities connect to an existing commercial, office, service, or public recreation area within one-half mile of the development, four points are earned.

(7) Protection of historic resources. Donation of land to a public agency approved by the county for the purpose of preservation of sites or artifacts with known archaeological or historic value, or the dedication of a conservation easement in perpetuity for the preservation of such sites or artifacts, earns two points per acre or site donated.

(8) Provision of underground utilities. The provision of underground utilities earns one point for every four dwelling units served.

(9) Clustering outside prime farmland. Subdivision of parcels containing prime farmland which plats lots entirely outside of that farmland and designates such lands for agricultural or open space use earns three points per acre of prime farmland set aside.

(10) Clustering outside wetlands. Subdivision of parcels containing jurisdictional wetlands which plats lots entirely outside of the wetlands and designates such lands for conservation or open space uses earns three points per acre of wetlands set aside.

(11) Tree preservation in subdivisions. In subdivisions where at least 75 percent of the protected trees within the required yards and any common open space are preserved, one bonus point is earned for each 10 lots with protected trees on them.

(12) Retention ponds as amenities. Wet retention ponds for subdivision stormwater management which also provide true scenic amenities to the subdivision earn one point for each four subdivision lots.

Sec. 3-1.7 Clustering dwelling units.

(a) Purpose. Where the presence of wetlands, floodways, and other protected resources reduces the developable area of a parcel and effectively limits development of the available number of dwellings units within the parcel, site and building requirements of the applicable zoning district may be modified as prescribed in this section to facilitate the clustering of additional units within the reduced area.

(b) Eligible areas. The provisions of this section apply to all areas of the county except the Perdido Key and Pensacola Beach zoning districts, Airfield Influence Planning Districts (AIPDs) as defined in Article 4 of Chapter 4, and any other area specifically

1 excluded by the LDC. Additionally, the adopted provisions of the Escambia County
2 Mid-West Optional Sector Plan prevail for any development subject to that plan.

3 **(c) Eligible development.** The provisions of this section apply to any dwelling units,
4 attached or detached, within any proposed predominantly residential development
5 allowed by the applicable zoning and on contiguous lands under unified control as
6 these terms are defined in Chapter 6.

7 **(d) Eligible resources.** The provisions of this section apply to protected resources
8 within eligible areas and development. Except as may be authorized through the
9 PUD process prescribed in Chapter 2, modifications to facilitate clustering require
10 that the contiguous area of one of the following resources comprises no less than 25
11 percent of the gross development parcel area and complies with the other conditions
12 applicable to that resource:

13 **(1) Environmentally sensitive lands.** For lands containing wetlands or the habitat
14 of threatened or endangered species as defined for the natural resources
15 regulations in Chapter 4, the platting of lots and all other development must be
16 largely upland of the wetlands and outside of the habitat. No less than 90
17 percent of the resource area must remain undisturbed and preserved as more
18 particularly prescribed in the environmental provisions of the DSM.

19 **(2) Floodways.** For lands containing a floodway as defined for the floodplain
20 management regulations in Chapter 4, the platting of lots and all other
21 development must be entirely outside of the floodway.

22 **(3) Prime farmland.** For lands containing prime farmland as defined in Chapter 6,
23 the platting of lots and all other development must be entirely outside of the
24 prime farmland. Additionally, any subdivision shall designate the resource area
25 on the plat for agricultural or undeveloped open space use.

26 **(4) Historical resources.** For lands containing historical or archeological resources
27 as defined for those resource regulations in Chapter 4, the platting of lots and all
28 other development must be entirely outside of those resource areas.
29 Additionally, the sites and artifacts of those resources shall be protected by the
30 dedication of a perpetual conservation easement for their preservation, or by the
31 donation of land to a public agency approved by the county for the preservation
32 of resources with known historical or archaeological value.

33 **(e) Eligible modifications.** The provisions of this section apply to modifications of
34 specific site and building requirements of the applicable zoning district. The
35 maximum number of dwelling units available within a development remains the
36 product of the gross development parcel area and the maximum density of the
37 district, but the following requirements may be modified within the stated limits:

38 **(1) Lot width.** The minimum lot width may be reduced by up to 10 percent, but to
39 no less than 20 feet for cul-de-sac lots and 40 feet for all other lots.

40 **(2) Side setbacks.** The minimum side structure setbacks may be reduced by up to
41 10 percent, but to no less than five feet.

1 **(3) Distance between buildings.** The minimum distance between dwellings on the
2 same parcel, prescribed in this article as twice the minimum side structure
3 setback, may be reduced by up to 10 percent based on the unmodified side
4 setback of the zoning district and subject to any prevailing structure separation
5 requirements of the Florida Building Code.
6

7 **Section 2.** Part III of the Escambia County Code of Ordinances, the Land Development
8 Code of Escambia County, Chapter 4, Location and Use Regulations, Article 5, Natural
9 Resources, is hereby amended as follows (words underlined are additions and words
10 ~~stricken~~ are deletions):

11 **Sec. 4-5.2 General provisions.**

12 **(a) Approval required.** All land uses and development activities which impact
13 environmentally sensitive lands require prior county review and approval for
14 compliance with the regulations of this article unless the use or activity is specifically
15 identified in the Land Development Code (LDC) as exempt from these regulations.
16 The Board of County Commissioners (BCC) has determined the following land and
17 water resources to be environmentally sensitive lands:

18 **(1)** Wetlands as defined by the State of Florida.

19 **(2)** Shoreline protection zones as defined in this article.

20 **(3)** Aquatic preserves and the Escambia River Wildlife Management Area as defined
21 or authorized by Florida Statutes.

22 **(4)** Outstanding Florida Waters as listed in the rules of Florida Administrative Code
23 (Ch. 62-302.700).

24 **(5)** Habitats of threatened and endangered species as defined by the U.S. Fish and
25 Wildlife Service (FWS), the Florida Fish and Wildlife Conservation Commission
26 (FWC), or other state or federal agencies.

27 **(6)** Essential fish habitat, including seagrasses, defined as those waters and
28 substrate necessary for fish to spawn, breed, feed, or grow to maturity. (See
29 Magnuson-Stevens Act, 16 U.S.C. 1802 (101)).

30 **(7)** Floodplain areas identified on the Federal Emergency Management Agency's
31 Flood Insurance Rate Map as areas of special flood hazard subject to a one
32 percent or greater annual chance of flooding.

33 **(8)** Wellhead protection areas as defined in this article, including potable water wells,
34 cones of influence, and potable water well fields.

35 **(9)** Surface waters identified as impaired under Section 303(d) of the Clean Water
36 Act

37 **(b) Modification of regulations.** Variances to the strict application of the regulations of
38 this article may only be granted according to the compliance review processes of

Chapter 2, and only if such modifications maintain the stated purposes of this article, are specifically allowed by its provisions, and comply with all stated conditions.

(c) Environmental trust fund. The Escambia County Environmental Lands Trust Fund (ECELTF) is established for use in managing wetlands and other environmentally sensitive lands in the county. The county is authorized and directed here to establish the fund and to receive and disburse all monies according to the following provisions:

(1) Fund sources. The ECELTF shall receive monies from the following sources:

a. All revenues collected pursuant to mitigation and enforcement of this article.

b. All monies accepted by Escambia County in the form of grants, allocations, donations, contributions, or appropriations for the acquisition, restoration, enhancement, management, mapping, and/or monitoring of environmentally sensitive lands.

c. All interest generated from the deposit or investment of ECELTF monies.

(2) Fund maintenance and disbursements. The ECELTF shall be maintained in trust by the county solely for the purposes prescribed here, in a separate and segregated fund of the county that shall not be commingled with other county funds until disbursed, and only disbursed for the following purposes:

a. Acquisition (including by eminent domain), restoration, enhancement, management, mapping, and/or monitoring of environmentally sensitive lands and conservation easements within Escambia County.

b. All costs associated with acquisitions, including appraisals, surveys, title search work, real property taxes, documentary stamps, surtax fees, and other transaction costs.

c. Costs of administering the activities enumerated in this section.

(d) Resource identification. Where the potential for on-site wetlands or the habitat of threatened or endangered species is indicated, a site-specific survey shall be conducted and shall include the delineation of all such lands on the subject parcel. The survey shall be evaluated for the protection of significant resources prior to clearing, grading or other alterations, and the delineations shall be used in the determination of buildable area on the lot or parcel.

(e) Avoidance, minimization, and mitigation. If a proposed land use or development activity includes impacts to protected natural resources, the application for county compliance review and approval shall include written documentation that adverse impacts to those resources have been avoided to the maximum extent practicable. For unavoidable adverse impacts, the application shall demonstrate that the impacts have been minimized to the greatest extent practicable. Only with such demonstration will the county review and consider a mitigation plan for those impacts.

(1) Clustering. Where lands proposed for predominantly residential development contain wetlands or the habitat of threatened or endangered species,

development dwelling units may be clustered within non-environmentally sensitive areas as prescribed in Article 1 of Chapter 3 to more fully develop available density on the remainder of the parcel and avoid adverse impacts on the resources. ~~to avoid adverse impacts and promote full utilization of property rights. This provision overrides any provision in Chapter 3 zoning regulations that would otherwise prohibit clustering, with the exclusion of any AIPD areas.~~

(2) **Mitigation.** A land use or development activity shall not cause a net adverse impact on resource functions that is not offset by mitigation. Methods to compensate for adverse direct or indirect impacts are required when uses or activities degrade estuaries, wetlands, surface waters, submerged aquatic vegetation, threatened and endangered species habitat and other protected natural resources.

(3) **Mitigation plans.** A mitigation plan shall be submitted to the County and include provisions for the replacement of the predominant functional values of the lost resources, specify the criteria by which success will be measured, and specify any necessary maintenance entity and its responsibilities.

Section 3. Part III of the Escambia County Code of Ordinances, the Land Development Code of Escambia County, Chapter 4, Location and Use Regulations, Article 6, Historical and Archaeological Resources, is hereby amended as follows (words underlined are additions and words ~~stricken~~ are deletions):

Sec. 4-6.2 General provisions.

(a) **Identification of resources.** The potential for on-site historical and archeological sites shall be determined through review of the Florida Master Site File, Florida's official inventory of historical and cultural resources maintained by the Florida Department of State, and probability maps found in the technical manual.

(b) **Protection required.** To protect historical and archeological sites, land uses and development activities require prior county review and approval for compliance with the regulations of this article unless the use or activity is specifically identified in the LDC as exempt from these regulations. Additionally, these regulations apply to any historical or archeological artifact discovered during any phase of construction until such time as the artifact has been protected or proven insignificant.

(c) **Cessation of activities.** Any time historical or archeological artifacts or resources are discovered during the process of construction or development activities, such activities impacting the artifact or resource shall immediately cease until such time as a determination of significance has been provided.

(1) **Partial cessation.** If the location of the artifact or resource is such that the area can be protected while construction or development activities continue elsewhere on the site, such protection shall be allowed. However, if the location or nature of the artifact or resource is such that any site disturbing activities would impact the artifact or resource, then activities on the entire site shall cease.

1 **(2) Extension of approval time.** If the cessation of construction or development
2 activities goes beyond the time limits established by development orders,
3 building permits or any other county approvals issued according to the provisions
4 of the LDC, then the time for completion of such activities shall be extended to
5 allow for the successful completion of the development or construction.

6 **(d) Determination of significance.**

7 **(1) Artifacts.** The determination of whether or not an artifact is of significant
8 importance and afforded protection by federal or state regulation shall be
9 concluded no later than ten business days after discovery and notification to the
10 county.

11 **(2) State approved.** The determination of the significance of any artifact or
12 historical or archeological evidence found on any construction site or on any site
13 listed on the Florida Master Site File shall be made by those persons, firms or
14 corporations approved to make such determination by the Florida Department of
15 State, Division of Historical Resources.

16 **(e) Available resources.** The county shall use any available resources of the Florida
17 Department of State, Division of Historical Resources, in the identification of historic
18 structures within the county. The county will utilize guidance, direction and technical
19 assistance received from the agency to insure protection of identified historic
20 structures, sites and areas. Additionally, the county will utilize state assistance
21 together with the assistance of the University of West Florida and others in
22 identifying newly discovered historic or archeological resources. The identification
23 will include an analysis to determine the significance of the resource.

24 **(f) Clustering.** Where lands proposed for predominantly residential development
25 contain historical or archeological resources, the dwelling units may be clustered as
26 prescribed in Article 1 of Chapter 3 to more fully develop available density on the
27 remainder of the parcel and avoid adverse impacts on the resources. ~~Clustering~~
28 ~~provisions found in Article 5 may be utilized for this resource.~~

30 **Section 4. Severability.**

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

35 **Section 5. Inclusion in Code.**

36 It is the intention of the Board of County Commissioners that the provisions of this
37 Ordinance shall be codified as required by F.S. § 125.68 (2016); and that the sections,
38 subsections and other provisions of this Ordinance may be renumbered or re-lettered
39 and the word "ordinance" may be changed to "section," "chapter," or such other
40 appropriate word or phrase in order to accomplish such intentions.

Section 6. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED this_____ day of _____, 2017.

**BOARD OF COUNTY COMMISSIONERS
ESCAMBA COUNTY, FLORIDA**

**By: _____
D. B. Underhill, Chairman**

**ATTEST: PAM CHILDERS
Clerk of the Circuit Court**

**By: _____
Deputy Clerk**

(SEAL)

**ENACTED:
FILED WITH THE DEPARTMENT OF STATE:
EFFECTIVE DATE:**