

ITEM #13: SECOND READING - ORDINANCE NO. 2009-4 - REPEAL ORDINANCE NO. 2008-19 SMALL SCALE FUTURE LAND USE AMENDMENT - SUMMIT GOLF CENTER (tabled 4/28/09; re-tabled 7/28/09; re-tabled 10/6/09)

NO MOTION ON FLOOR



# CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE: 03/17/09

**SUBJECT:** REPEAL ORD. 2008-19 - SMALL-SCALE FUTURE LAND USE AMENDMENT/ SUMMIT GOLF CENTER/TIM PEIGHTAL (Case No. 06-20000008)


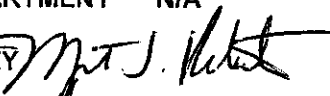

**DEPARTMENT:** COMMUNITY DEVELOPMENT

**RECOMMENDED MOTION:**

To adopt Ordinance No. 2009-4 repealing Ordinance 2008-19 that amended the Future Land Use Map of the City of Port Orange *Comprehensive Plan-Update '98* for approximately 9.9 acres of property located at 4116 S. Nova Road, from *Conservation to Office/Residential Transition*.

**SUMMARY:** On June 26, 2008, the Planning Commission recommended approval of an amendment to the Future Land Use (FLU) of the subject property to *Office/Residential Transition*. On October 21, 2008, the City Council adopted Ordinance No. 2008-19. The *Office/Residential Transition* FLU category allows some residential as part of a mixed-used development at a density of 16 units/acre, which is above the 10 units/acre density threshold for a small-scale land use amendment per Florida Statutes. Although the Department of Community Affairs (DCA) had accepted the use of this FLU category with small-scale land use amendments in the past, DCA returned the amendment and requested that the City repeal Ordinance 2008-19 and reprocess the amendment either as a large-scale amendment or as a small-scale using the *Warehouse/Industrial* FLU category. Staff discussed this with DCA and the applicant and the applicant re-applied for an amendment under the *Warehouse/Industrial* FLU category. Before the new amendment can be adopted, the original ordinance must be repealed.

**ATTACHMENTS:**  Ordinance  Resolution  Budget Resolution  
 Other  Support Documents/Contracts Available for Review in Manager's Office

<b>DEPARTMENT HEAD</b>		Wayne Clark Community Development Director	Date 3/24/09
<b>FINANCE DEPARTMENT</b>	N/A	Approved as to Budget Requirements	Date
<b>CITY ATTORNEY</b>		Approved as to Form and Legality	Date 3/17/09
<b>CITY MANAGER</b>		Approved Agenda Item For:	3/17/09

**COUNCIL ACTION:**  Approved as Recommended  Disapproved  
 Tabled Indefinitely  Continued to Date Certain  Approved with Modification  
 3/24/09 Second Reading 4/28/09

ORDINANCE NO. 2009-4

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, RELATING TO COMPREHENSIVE PLANNING; REPEALING ORDINANCE NO. 2008-19 THEREBY AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; REINSTATING THE FUTURE LAND USE DESIGNATION OF CONSERVATION FOR PROPERTY GENERALLY LOCATED SOUTH OF NOVA ROAD AND WEST OF THE FLORIDA EAST COAST RAILROAD; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Department of Community Development Affairs has returned the amendment set forth in Ordinance No. 2008-19 and requested its repeal and reprocessing by City Council; and

WHEREAS, the applicant has reapplied for a different land use category; and

WHEREAS, after careful review and public hearing, the Planning Commission, sitting as the Local Planning Agency, has concurred with the repeal of Ordinance No. 2008-19 as set forth in this proposed amendment to the Comprehensive Plan for the City of Port Orange; and

WHEREAS, the proposed amendment to the Comprehensive Plan directly relates to small scale development activities as provided in Section 163.3187(1)(c), Florida Statutes; and

WHEREAS, the City Council of the City of Port Orange has received comments and

proposals from the general public and held at least one public hearing with regard to the proposed amendment to the Comprehensive Plan; and

WHEREAS, the amendment to the Comprehensive Plan shall be submitted to the Volusia Growth Management Commission for a determination of consistency in accordance with Section 202.3 of the Charter of Volusia County, Florida; and

WHEREAS, the City Council hereby declares that the purpose and intent of the proposed amendment to the Comprehensive Plan is to guide future growth and development; encourage the most appropriate use of land, water, and other resources, consistent with the public interest; promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate and efficient transportation, water, sewage, drainage, fire protection, parks, recreational facilities, housing, and other services, facilities and resources; and conserve and protect natural resources within the City, while protecting private property rights.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. For purposes herein, the term "Comprehensive Plan," shall mean the Comprehensive Plan for the City of Port Orange, consisting of the one (1) volume book entitled "City of Port Orange Comprehensive Plan Update '98," and containing nine (9) elements, including Future Land Use; Transportation; Housing; Public Facilities; Coastal Zone Management; Conservation; Recreation and Open Space; Intergovernmental Coordination; and Capital Improvements, all as adopted by Ordinance No. 1999-43, as

subsequently amended by Ordinances No. 1999-46, 1999-56, 1999-57, 2000-1, 2000-8, 2000-13, 2000-25, 2000-29, 2000-41, 2001-2, 2001-21, 2001-26, 2001-75, 2001-76, 2001-89, 2002-7, 2002-20, 2003-1, 2003-3, 2003-22, 2003-39, 2004-34, 2004-39, 2005-1, 2005-3, 2005-13, 2005-15, 2005-25, 2005-27, 2005-30, 2005-31, 2005-49, 2006-9, 2006-16, 2006-24, 2006-41, 2006-51, 2006-53, 2007-4, 2007-14, 2007-30, 2007-48, 2007-55, 2007-57, 2007-60, 2007-61, 2008-2, 2008-8, 2008-9, 2008-16, 2008-19, and this ordinance.

Section 2. The City Council hereby repeals Ordinance No. 2008-19 thereby amending the Future Land Use Map of the Comprehensive Plan, for the parcel of land as described in Exhibit A as shown on the Map depicted in Exhibit B, attached hereto and by reference made a part hereof, from Office/Residential Transition to Conservation.

Section 3. All ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

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

Section 5. This ordinance shall become effective as provided by general law, Department of Community Affairs rule, and Volusia County Charter.

MAYOR ALLEN GREEN


ATTEST:

Kenneth W. Parker, City Manager

Passed on first reading on the      day of

Passed and adopted on second and final reading on the      day of

Reviewed and Approved:

  
City Attorney

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## Legal Description

A portion of the NE ¼ of the SW ¼ of Section 15, Township 16 South, Range 33 East, lying Westerly of the Florida East Coast Railroad Right-of-Way and Southerly of Nova Road (State Road 5-415) Right-of-Way, Volusia County, Florida, being more particularly described as follows:

Commence at the intersection of the Southerly Right-of-Way line of said Nova Road (a 100 foot Right-of-Way) with the Westerly Right-of-Way of the Florida East Coast Railroad; thence N 74° 25' 51" W along the Southerly Right-of-Way line of said Nova Road a distance of 53.12 feet; thence S 04° 10' 38" E a distance of 530.70 feet to the Southeast corner of Gorings property being the Point of Beginning of this description; thence S 74° 55' 44" W along the southerly line of said Gorings property a distance of 265 feet more or less; thence departing said Gorings southerly property line S 04° 10' 38" E a distance of 62 feet more or less; thence S 89° 55' 02" W a distance of 57 feet more or less; thence southerly parallel to the easterly Right-of-Way line of the 40 foot wide Halifax Drainage Canal a distance of 865 feet more or less; thence N 89° 55' 02" E a distance of 379 feet more or less to the westerly Right-of-Way line of Florida East Coast Railroad; thence N 04° 10' 38" W a distance of 1000 feet more or less to the Point of Beginning. Said parcel containing 9.66 acres more or less.

## EXHIBIT "A"



Future Land Use	
	Conservation
	Urban Low Density Residential 4-8 Units/Acre
	Urban High Density Residential 8-16 Units/Acre
	Commercial
	Public/QuasiPublic
	Warehouse/Industrial
	Office/Residential Transition



Exhibit B

Future Land Use

# CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT

