

ORDINANCE NO. 17-021

AN ORDINANCE AMENDING THE PROVISIONS OF FORT PIERCE CODE OF ORDINANCES **CHAPTER 2**, ARTICLE VIII, SECTION 2-142(2) AND (3); CHAPTER 2, ARTICLE XI, SECTION 2-201(a); **CHAPTER 22**, ARTICLE III, SECTIONS 22-28.1(d)(2)(a)(7) AND 22-40(b)(9); CHAPTER 22, ARTICLE IV, SECTIONS 22-59(d)(2) AND 22-62(l); CHAPTER 22, ARTICLE VII, SECTIONS 22-102.1 AND 22-105.1; CHAPTER 22, ARTICLE VIII, SECTIONS 22-107, 22-109 – 22-112, AND 22-114 – 22-115; CHAPTER 22, ARTICLE X, SECTIONS 22-138, 22-140, 22-143(f), 22-143(g), AND 22-147; CHAPTER 22, ARTICLE XII, SECTION 22-182; CHAPTER 22, ARTICLE XIV, SECTION 22-218(c)(1)(c); CHAPTER 22, ARTICLE XV, SECTION 22-310; AND **CHAPTER 23**, ARTICLE VI, SECTION 23-61; ABOLISHING THE FORT PIERCE (ZONING) BOARD OF ADJUSTMENT, TRANSFERRING ALL DUTIES OF THE (ZONING) BOARD OF ADJUSTMENT TO THE SPECIAL MAGISTRATE, AND DELETING REFERENCES THEREIN TO THE (ZONING) BOARD OF ADJUSTMENT AND SUBSTITUTING SPECIAL MAGISTRATE; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances of the City of Fort Pierce, Florida, established the Fort Pierce (zoning) board of adjustment to hear appeals of rulings of the administrative officers and requests for variances relating to the zoning regulations; and

WHEREAS, (zoning) board of adjustment hearings are complex because of the nature and variety of laws that must be applied in order to resolve complicated factual scenarios; and

WHEREAS, quasi-judicial matters are better handled by special magistrates; because special magistrates as attorneys have legal expertise and background giving them a better understanding of legal issues and procedural matters relating thereto; and

WHEREAS, special magistrates because of their legal training and expertise in the disposition of quasi-judicial hearings create a complete and accurate record of the proceedings; and

WHEREAS, the City of Fort Pierce, Florida, desires to abolish the (zoning) board of adjustment and transfer the duties of the (zoning) board of adjustment to a special magistrate.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida, as follows:

SECTION 1. That chapter 2 – Administration, article VIII – Department of Development, sections 2-142(2) and (3) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 2-142. - Duties and responsibilities.

- (2) Discharging, as directed by the city manager, the city's responsibilities for compliance with chapters, sections and ordinances as set forth in paragraph (1) above is to include but not be limited to examination of plans and specifications;

collection and issuance of fees for permits, certificates of competency, contractor's applications; processing rezoning, ~~board of adjustment and appeals~~ special magistrate applications; notification of violations; prosecution of violators and the aid of the city attorney; and demolition of unsafe and unsanitary structures.

- (3) Providing staff assistance for ~~the board of adjustment and~~ the planning board and special magistrate relating to planning and zoning matters, including the keeping of minutes, preparation of agenda, providing clerical and secretarial assistance, the revising of the official zoning map and the processing of all applications made to said boards and special magistrate. The department head or his authorized representative shall attend all board meetings and special magistrate hearings and shall act as advisor to said boards ~~s~~ and special magistrate.

SECTION 2. That chapter 2 – Administration, article XI – Boards, Commissions and Committees Generally, section 2-201(a) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

- (a) Generally. The terms "board," "commission" and/or "committee," when used in this article, shall refer to any board, commission and/or committee to be appointed by the city commission and/or city manager, whether created by state statute, the charter of the city, by city commission action or whether appointed directly by the mayor-commissioner, now in existence or hereafter created. All members so appointed to serve on said boards, commissions, and/or committees shall be residents of the city except for officials or employees of the city who serve upon the same by virtue of their employment with the city. The city commission may appoint members to the gas board, electrical board, and board of examiners of contractors ~~and board of adjustment and appeals~~ who are residents of the county who do not reside in the city. Any individual designated as an alternate member of a board may participate freely in all board discussions or deliberations, except that such alternate member may not vote unless certified by the board chair as a replacement for a regular board member at the meeting which such regular board member fails to attend, or has recused himself/herself from voting on a particular issue.

SECTION 3. That chapter 22 – Zoning, article III – Basic Zoning Districts, sections 22-28.1(d)(2)(a)(7) and 22-40(b)(9) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-28.1. - Edgartown Settlement (ES) zoning district.

- (d)(2)(a)(7) *Variances:* The historic preservation board shall have the power to waive, with or without conditions, subdivision and general dimensional standards in the Edgartown Settlement zoning district of those properties designated by the city commission as historic sites, either individual sites or buildings within districts under the following standards for review. The proposed variance shall further the continued preservation of the historic site or historic district more appropriately than adherence to the subject regulation. The board shall only grant such variances when an application for a certificate of appropriateness has been issued to promote preservation, rehabilitation or restoration. In carrying out this responsibility, the historic preservation board must follow the same procedures specified for the ~~board of adjustment~~ special magistrate in article VIII of chapter 22 of the City Code of Ordinances.

Sec. 22-40. - Planned Development Zone (PD).

- (b)(9) *Variances are not necessary.* The specific development standards of the PD district are contained in the approved development plan for each planned development which normally takes into account those matters which might

otherwise be the subject of variance review by the ~~board of adjustment~~ special magistrate.

SECTION 4. That chapter 22 – Zoning, article IV – Supplementary Regulations, sections 22-59(d)(2) and 22-62(l) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-59. - Design review.

(d)(2) The design review board shall review the application and make a recommendation to the commission for approval or disapproval. If the board recommends disapproval, the reasons shall be stated. The board shall consider the following standards:

- (i) The design, including landscape features, is architecturally compatible with surrounding structures so as to be reasonably harmonious in landscaping, style, and color;
- (ii) If the property is located within a historic preservation district, the design features are reasonably consistent with the historic character of the predominant architectural style within the district;
- (iii) The design features will enhance or preserve the quality of the surrounding area so as not to detract from existing property values or impact adversely on existing scenic, natural, or historic beauty;
- (iv) The design avoids undue monotony in structural design features.

The board may condition recommendation for approval upon an applicant obtaining of a suitable variance pursuant to article VIII from the ~~board of adjustment~~ special magistrate.

Sec. 22-62. - Sidewalks.

(l) *Variance.* The ~~board of adjustment~~ special magistrate is authorized to consider a variance request from the strict compliance of the sidewalk regulations if said regulations would create an undue and unnecessary hardship on the subject property owner.

SECTION 5. That chapter 22 – Zoning, article VII – Nonconforming Lots, Uses, Structures and Characteristics, sections 22-102.1 and 22-105.1 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-102.1. - Nonconforming structure as special exception.

(a) The ~~board of adjustment~~ special magistrate is authorized to permit the enlargement or alteration of a nonconforming structure, except any sign, as a special exception upon application, notice and hearing as provided in sections 22-141(a), 22-142(11), and 22-143, and upon finding and determining the following:

- (1) The granting of the special exception will not adversely affect the public interests;
- (2) Such enlargement or alteration is in harmony with the purpose and intent of this chapter and all amendments thereof;
- (3) The enlargement or alteration, if allowed, will not violate any height, yard, setback, area or density limitations imposed by the zoning district in which the property is located, or if the enlargement or alteration would increase such violation, such enlargement or alteration would not adversely affect traffic flow, safety and control, pedestrian safety and convenience or

visibility at any street intersections, drives, rights-of-way, curbcuts or crosswalks;

- (4) Such enlargements or alteration shall be compatible with adjacent properties and other properties within that zoning district;
- (5) If in a commercial, business or industrial zone, that adequate buffers are provided between such structures and adjacent residential areas;
- (6) That adequate off-street parking shall be provided for any multifamily, commercial, industrial or business use upon the property;
- (7) The enlargement or alteration will not increase gross floor area of the principal structure by more than fifty (50) per cent;
- (8) The use of the structure prior to, and subsequent to, the granting of the request for the special exception shall be a semi-restricted use or permitted conditional use within the district in which the property is located;
- (9) There will be adequate availability and access to, and for, public utilities as may be required.

~~(b) The board of adjustment shall confer with the city planning board on all applications for such special exception.~~

(eb) In granting a special exception hereunder, the ~~board of adjustment~~ special magistrate may require certain conditions and safeguards for the public health, safety and welfare, concerning the following:

- (1) Public off-street parking;
- (2) Adequate ingress and egress with particular emphasis upon traffic and pedestrian safety;
- (3) Adequacy of and access for fire and other emergency vehicles;
- (4) Any signs and/or exterior lighting with reference to effect upon and harmony with surrounding properties;
- (5) Any required landscaping, greenbelts, buffers or fencing in any residential, commercial or business districts, with reference to compliance with provisions of this Code, harmony and effect upon surrounding properties, lines of vision.

(dc) In granting any special exception, the ~~board of adjustment~~ special magistrate may prescribe a reasonable time limit within which the enlargement or alteration for which the special exception is requested shall be begun and/or completed.

(ed) The procedure by which an application shall be made to the ~~board of adjustment~~ special magistrate under this section shall be as provided in section 22-110 and section 22-112.

~~(f) The approval of any enlargement or alteration of a nonconforming structure as a special exception under this section shall require the conforming vote of four (4) members of the board of adjustments.~~

Sec. 22-105.1. - Duplex as special exception.

If a lot of record exists which could have been used for multifamily purposes involving a triplex structure or more before January 1, 1985, and the lot is no longer permissible for any use other than as a single-family dwelling then, in that event, the

~~board of adjustment~~ special magistrate is authorized to allow use of the lot for a duplex upon application, notice and hearing as provided in sections 22-141(a), 22-142(11), and 22-143, and upon finding and determining the following:

- (1) The granting of the special exception will not adversely affect the public interest;
- (2) Such duplex use would be in harmony with the purpose and intent of this chapter and all amendments thereof;
- (3) The duplex use, if allowed, will not violate any height, yard or setback area limitations imposed by the zoning district in which the property is located;
- (4) Such use shall be compatible with properties which are in the vicinity within the zoning district;
- (5) The use meets the landscaping requirements of section 22-68(c) as applied to triplex developments;
- (6) The size of the lot on which the duplex use is to be located has not decreased since the lot became nonconforming for anything other than a single-family dwelling by the action of the owner.

SECTION 6. That chapter 22 – Zoning, article VIII – Variances, sections 22-107, 22-109 – 22-112, and 22-114 – 22-115 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-107. - Authorization to grant or deny variances.

The ~~board of adjustment~~ special magistrate may authorize a variance from the regulations governing the height, area and size of structures and size of yards and open spaces only when consistent with the purpose of this article, this section and the criteria in sections 22-108 and 22-109. In granting a variance, the ~~board of adjustment~~ special magistrate may prescribe appropriate conditions and safeguards which ~~it~~ the special magistrate finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this chapter. Guarantees and evidence may be required that such conditions will be and are being complied with. No variance shall be granted ~~without the vote of four (4) members of the board of adjustment or:~~

- (1) To allow the establishment or expansion of a use of property for a purpose not authorized within the zone in which the property is located;
- (2) Due to nonconformities in any district or to a permitted use of lands, structures or buildings in an adjoining zoning district; or
- (3) When a previous request for a variance has been denied by the ~~board of adjustment~~ special magistrate and there has been no material change of circumstances since the previous application.

Sec. 22-109. - Variances for FH zone provisions.

The ~~board of adjustment~~ special magistrate may grant variance requests for FH zone provisions subject to the following provisions:

- (1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedure set forth in the remainder of this section, except for subsection 22-109(5) a. and d., and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historical designation.

- (2) In passing upon variance applications, the ~~board of adjustment~~ special magistrate shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity of the facility to a waterfront location in the case of a functionally dependent facility;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the affects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (3) Upon consideration of the factors listed above and the purposes of this chapter, the ~~board of adjustment~~ special magistrate may attach such conditions to the granting of variances as ~~it~~ the special magistrate deems necessary to further the purpose of this chapter.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Conditions for variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the buildings;
 - b. Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or

victimization of the public or conflict with existing local laws or ordinances;

- c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;
- d. The director of development shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Sec. 22-110. - Application for a variance.

Appeals to the ~~board of adjustment~~ special magistrate for a variance may be made by the property owner of the area involved or their designated representative by filing an application with the department of development and the ~~board of adjustment~~ special magistrate. The application will specify the nature of the variance and the reasons for the variance. It will be in the form prescribed by the rules of the ~~board of adjustment~~ special magistrate. The application will also be accompanied by plans, containing information specified in section 22-141. The ~~board of adjustment~~ special magistrate may request other drawings or information necessary for an understanding of the request.

Sec. 22-111. - Stay of proceedings.

An appeal for a variance stays all proceedings in furtherance of the action appealed from, unless the director of the department of development certifies to the ~~board of adjustment~~ special magistrate after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in the director's opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the ~~board of adjustment~~ special magistrate or by a court of record on application, on notice to the director of the department of planning and development and on due cause shown.

Sec. 22-112. - Variance procedure.

- (a) The department of planning and development will prepare a staff report which presents any inconsistencies found between the requested variance and zoning ordinance requirements and will submit it to the ~~board of adjustment~~ special magistrate.
- (b) Before the ~~board of adjustment~~ special magistrate may act on an application for a variance or a special exception or an appeal from the decision of an administrative officer, ~~if the special magistrate~~ will hold a public hearing within thirty (30) days of the filing of the application and in accordance with the provisions of section 22-143. The ~~board of adjustment~~ special magistrate will review the request and staff report at the public hearing.
- (c) Within thirty-five (35) days of the public hearing, except the ~~board of adjustment~~ special magistrate with good cause demonstrated may allow an extension of time, the ~~board of adjustment~~ special magistrate will determine whether the evidence supports a finding that requirements of the zoning ordinance and other city laws have been met. ~~The special magistrate~~ will, approve with conditions, or deny the application accordingly.
- (d) The ~~board of adjustment's~~ special magistrate's decision will be sent by mail to the applicant within five (5) working days of the action.

Sec. 22-114. - Time limit for variances.

Authorization of a variance shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, when requested, the ~~board of adjustment special magistrate~~ may extend authorization for an additional period not to exceed one year.

Sec. 22-115. - Limitations of refiling of application.

Applications for which a substantially similar application has been denied will be heard by the ~~board of adjustment special magistrate~~ only after a period of six (6) months has elapsed from the date of the earlier decision.

SECTION 7. That chapter 22 – Zoning, article X – Administrative Provisions, sections 22-138, 22-140, 22-143(f), 22-143(g), and 22-147 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-138. - Enforcement.

The building inspector shall have the power and principal responsibility for enforcing provisions of this chapter. Neither the building inspector nor any other administrative officer of the city shall issue any permit or license for any use, activity or structure which violates provisions of this chapter. Any permit or license issued in conflict with the provisions of this chapter, intentionally or otherwise, shall be void. An appeal from a ruling of the building inspector or any other administrative officer of the city regarding a provision of this chapter may be made only to the ~~board of adjustment special magistrate~~.

Sec. 22-140. - Appeals from rulings of administrative officer.

- (a) *General.* An appeal to the ~~board of adjustment special magistrate~~ may be made by any person aggrieved or by any officer or bureau of the city affected by any decision of the building inspector or any other administrative officer of the city regarding a provision of this chapter. Such appeal shall be made within a reasonable time, as provided by the rules of the ~~board special magistrate~~, by filing with the officer from whom the appeal is made and with the ~~board of adjustment special magistrate~~ a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the ~~board of adjustment special magistrate~~ all the papers constituting the record upon which the action appealed from was made.
- (b) *Authorization to grant or deny appeals.* The ~~board of adjustment special magistrate~~, in conformity with the provision of this section, may reverse or affirm, wholly or partly, or may modify the decision appealed from and may make such decision as ought to be made, and to that end shall have all the power, concerning this chapter, of the officer from whom the appeal is made. ~~The concurring vote of four (4) members of the board shall be necessary to reverse any decision of any such administrative official.~~
- (c) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is made certifies to the ~~board of adjustment special magistrate~~ after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the ~~board of adjustment special magistrate~~ or by a court of record on application, on notice to the officer from whom the appeal is made and on due cause shown.
- (d) *Appeals procedure.*
 - (1) Before the ~~board of adjustment special magistrate~~ may act on an appeal from a ruling of an administrative officer pursuant to this section, it will hold a public hearing in accordance with the provisions of section 22-143.

- (2) Within thirty-five (35) days of the public hearing, except the ~~board of adjustment~~ special magistrate with good cause demonstrated may allow an extension of time, the ~~board of adjustment~~ special magistrate will make its decision on the appeal.
- (3) The ~~board of adjustment~~ special magistrate decision will be sent by mail to the applicant within five (5) working days of its decision.

Sec. 22-143. - Public hearings.

- (f) Recesses. The city commission, city planning board or ~~board of adjustment~~ special magistrate may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

An application for any type of development review may be withdrawn at any time as long as no notice has been given that the application will be reviewed at a public hearing. An application for any type development review may be withdrawn at any time with the consent of the reviewing board or special magistrate responsible for reviewing the application.

- (g) Any postponement of a public hearing on an application for any type of development review shall be solely at the discretion of the reviewing board or special magistrate.

Sec. 22-147. - ~~Board of adjustment~~Special Magistrate.

~~(a) Membership.~~

~~(1) Regular. The board of adjustment shall consist of five (5) members appointed by the city commission and be removable for cause by the city commission upon written charges and after a public hearing held in accordance with section 22-143. The terms of office of the members of the board shall be three (3) years except that the five (5) members who shall be sitting upon the board of adjustment as of the effective date hereof shall continue as members of the board serving out the terms for which they were originally appointed. Thereafter, as each term expires, the appointment shall be for three (3) years.~~

~~(2) Alternate. The city commission shall also appoint two (2) alternate members. The terms of office of alternate members shall be three (3) years, except that the first two (2) shall serve respectively for terms of: One for two (2) years and one for three (3) years. Thereafter, as any term expires, the appointment shall be for three (3) years. An alternate member shall sit on the board when a regular member is not in attendance, whether such an absence is excused or not. If an alternate shall on two (2) successive occasions be unable to sit for a meeting as a member of the board when asked to do so, he shall be deemed to have resigned his position as an alternate member of the board.~~

~~(3) Other boards. At least one, but not more than two (2) members of the board of adjustment may also be members of the city planning board.~~

~~(4) Absences. Absence from three (3) consecutive regular meetings shall operate to vacate the seat of a regular member unless such absence is excused by the board by resolution.~~

~~(b) Officers. The board of adjustment shall select one of its members as chairman and one as vice-chairman, who shall serve in such capacity for a term of one year and until their successors have been selected. The~~

~~chairman, or in the chairman's absence, the acting chairman, may administer oaths and compel the attendance of witnesses.~~

~~(c) *Meetings.* Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board of adjustment may determine. All meetings shall be open to the public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall also keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of adjustment and shall be public record. A majority of the board of adjustment shall constitute a quorum for the transaction of business. Additional rules shall be adopted by the board of adjustment for the transaction of its business which are consistent with the terms of this chapter and other applicable laws.~~

~~(d) *Appropriations and fees.* The city commission is authorized and empowered to appropriate such funds as it may see fit for fees and expenses necessary to conduct the work of the board of adjustment. The board of adjustment shall have the authority to expend all sums so appropriated and other sums made available for its use from fees and other sources to carry out its powers and duties.~~

~~(e) *Powers.* The board of adjustment special magistrate shall have the power and duties specified in ~~this section~~, section 22-140 and sections 22-106 through 22-116.~~

SECTION 8. That chapter 22 – Zoning, article XII – Landscaping and Trees, section 22-182 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-182. - Variances and administrative appeals.

A variance from any of these substantive requirements of this section or an appeal of any administrative determination made by the department may be made in accordance with the procedures set forth for such relief under the current zoning code of the city. ~~The board of adjustments of the city shall be the board to which a~~All variance requests or appeals under this article ~~shall be made to the special magistrate~~are made. Any appeal should be initiated by a written notice filed with the city clerk within thirty (30) days of the date of the administrative determination which is the subject of such appeal.

SECTION 9. That chapter 22 – Zoning, article XIV – Concurrency Management, section 22-218(c)(1)(c) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-218. - Concurrency assessment.

(c)(1)(c) Appeals. Within thirty (30) business days after issuance of the determination of the director of planning on the application for a certificate of concurrency, an applicant may appeal to the ~~board of adjustment~~ special magistrate. An application fee for processing appeals shall be established by the city commission. The ~~committee~~ special magistrate shall hold a hearing on the appeal to consider the determination of the director of planning and public testimony. The ~~city commission~~ special magistrate shall adopt, reject or modify the director of planning's determination on the application for a certificate of concurrency determination. The ~~board of adjustment~~ special magistrate shall not modify or reject the planning director's determination unless it finds that such determination is not supported by substantial competent evidence and is contrary to the criteria established in Article XIV of Chapter 22 of this Code of Ordinances and the intent of the comprehensive plan. ~~Committee~~ Special magistrate decisions shall include findings of fact for each criteria.

SECTION 10. That chapter 22 – Zoning, article XV – Sidewalk Cafes and Supplementary Sidewalk Regulations, section 22-310 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 22-310. - Appeals and variances.

- (a) The decision of the planning department to grant, deny, revoke or suspend a permit may be appealed to the ~~board of adjust and appeals~~ special magistrate by following the provisions in section 22-140.
- (b) Variances to the requirements of this article, unless otherwise prohibited, may be granted by the ~~board of adjustment~~ special magistrate if the request meets the criteria for obtaining a variance from the ~~board~~ special magistrate.

SECTION 11. That chapter 23 – Preservation of Historic and Archaeological Sites, Structures, and Districts, article VI – Administration and Enforcement, section 23-61 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 23-61. - Variances.

The historic preservation board shall have the power to waive, with or without conditions, the set-back, off-street parking, height, signage, density and floor-area-ratio requirements of the underlying zoning district of those properties designated by the city commission as historic sites, either individual sites or buildings within districts, where it is deemed appropriate for the continued preservation of the historic site or historic district. The board shall only grant such variances when an application for a certificate of appropriateness has been issued to promote preservation, rehabilitation or restoration. In carrying out this responsibility, the historic preservation board must follow the same procedures specified for the ~~board of adjustment~~ special magistrate in article VIII of chapter 22 of this Code of ordinances.

SECTION 12. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 13. All ordinances, rules or regulations or parts of ordinances, rules or regulations in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

SECTION 14. This Ordinance is and the same shall become effective on August 1, 2017.

APPROVED AS TO

FORM AND CORRECTNESS:

James M. Messer, Esq.
City Attorney

STATE OF FLORIDA

COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No.17-021 was duly advertised by title only in the St. Lucie News Tribune on June 23, 2017; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on July 3, 2017; and was duly introduced, read by title only, and passed on second and final reading July 17, 2017 by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 17th day of July, 2017.

Linda Hudson,
Mayor Commissioner

ATTEST:

Linda W. Cox,
City Clerk

(City Seal)