

MINUTES OF THE PLANNING COMMISSION SPECIAL MEETING HELD ON MAY 23, 2017, AT 5:30 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle

ABSENT: Orange County Public Schools (Non-voting)

OTHERS PRESENT: James Hitt – Community Development Director, David Moon, AICP - Planning Manager, Andrew Hand – City Attorney, Kyle Wilkes, AICP – Planner II, Robert Sargent – Public Information Officer, Police Chief Michael McKinley, Fire Chief Charles “Chuck” Carnesale, Captain Randall Fernandez, Pat Tyjeski – S&ME, Suzanne Kidd, Theresa Sargent, Jeff Welch, Joel Ivey, Ed Velazquez, Jose Cantero, David Emmel, Jean Emmel, Miranda Fitzgerald, Erika Hughes, Jeb Bittner, Rich Thometz, Elliot Meyer, Alexander H. Smith, Vanessa Cruz, Dustin McGlinchey, and Jeanne Green – Office Manager/Recording Secretary.

OPENING AND INVOCATION: Chairman Greene called the meeting to order and asked for a moment of silent prayer. The Pledge of Allegiance followed.

LEGISLATIVE – CODE OF ORDINANCES, PART III, LAND DEVELOPMENT CODE AMENDMENT – EXTENSION OF THE TEMPORARY MORATORIUM ON MEDICAL CANNIBIS DISPENSARIES - Chairperson Greene stated this is a request to recommend approval of the extension of the temporary moratorium on the dispensing of medical cannabis within the City of Apopka; prohibiting any and all dispensing of medical cannabis during the moratorium period for any property within the City of Apopka; adopting findings of fact; providing definition; and providing an effective date.

Staff Presentation: David Moon, ACIP, Planning Manager, stated that on May 6, 2015 City Council adopted a medical marijuana ordinance (Ord. No. 2388) that establishes regulations for the cultivation and processing of cannabis, and dispensing of medical marijuana within the City of Apopka through Ordinance No. 2388. On November 16, 2016 City Council adopted a moratorium until May 31, 2017 on the dispensing of medical marijuana. The moratorium does not affect the cultivation or process of cannabis. Ordinance 2569 proposes to extend the moratorium on the dispensing of medical marijuana.

City Council’s adoption of the current medical marijuana ordinance (Ord. No. 2388) occurred in reaction to Florida government enacting the Compassionate Medical Cannabis Act of 2014, which became effective on January 1, 2015. On November 8 Florida voters will decide whether Florida medical marijuana laws and administrative rules should be change to expand applications for medical use of marijuana. The proposed 2016 constitutional amendment addresses has three components: (1) Physician certification, (2) Patient and caregiver identification cards, and (3) Medical Marijuana Treatment Center registration and regulation.

The moratorium (Ord. No. 2526) was needed to because staff believes it is in the best interest of the City to place a temporary moratorium on the dispensing of medical marijuana. Staff will monitor the development of the new DOH rules and recommend amendments to the City’s current medical marijuana ordinance based on the effect that these new rules may have on the interests and goals City Council desires for the Apopka community.

As the State Department of Health has not yet finalized and adopted rules as of May 1, 2017, staff has not had adequate time to evaluate the impact of the State’s medical marijuana rules will have on the City’s medical marijuana ordinance. Therefore, staff is requesting an extension of the current moratorium on medical marijuana dispensing until August 30, 2017.

Staff's recommendation to the Planning Commission is to recommend adoptions of Ordinance No. 2569.

In response to questions by Mr. Foster, Mr. Moon stated that a referendum was adopted that allowed for the sale of medical cannabis that provided more flexibility that was allowed under the previous legislation under what was called "Charlotte's Web." The original legislation limited the level of THC to be processed and the referendum raised the level of THC allowed. The State, through the Florida Department of Health to prepare rules on the dispensing of the medical cannabis. Those rules are still in the review process and that is why the extension of the temporary moratorium is being requested. The moratorium only affects the dispensing. It does not apply to the cultivation or processing. Both the Keene/Clarcona Road and Hermit Smith/Hogshead Designated Grow Areas are zoned primarily Agricultural. There are a few residences and churches in those areas but the primary uses are agricultural in nature. These areas were chosen due to their distance from residential areas as there is an odor associated with cultivating and processing.

In response to questions by Mr. Foster, Police Chief McKinley stated that most of the areas are agricultural. He said that since the referendum that was passed there have been changes to the definitions several times. He said the Florida Department of Health must have the rules for the dispensing of medical cannabis but the end of July. Once those rules are approved, then staff can update the current ordinance with the approved language to make sure the community is safe.

In response to a comment by Chairperson Greene, Chief McKinley that the request to an extension to the moratorium is for the dispensing and not cultivation or processing. He said staff wants to ensure to have the approved language and definitions in the ordinance and to ensure that the dispensing is in areas that are not close to residential areas and will not affect the quality of life of the City residents.

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing.

Motion: Tony Foster made a motion to recommend adoption of Ordinance No. 2569 to extend the temporary moratorium on the dispensing of medical cannabis within the City of Apopka until August 30, 2017. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)

LEGISLATIVE - COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT – GEORGE THUM, JR – Item pulled from the agenda at the applicant's request.

QUASI-JUDICIAL - CHANGE OF ZONING – GEORGE THUM, JR - Item pulled from the agenda at the applicant's request.

LEGISLATIVE – The Apopka Community Redevelopment Agency's CRA Redevelopment Plan 2017 ~ Update - Chairperson Greene stated this is a request to find the proposed update consistent with the Comprehensive Plan and to recommend approval of the proposed Apopka Community Redevelopment Agency's CRA Redevelopment Plan 2017.

Staff Presentation: James Hitt, FRA-RA, Community Development Director, stated the Community Redevelopment Agency (CRA) and the Apopka City Council approved the first Redevelopment Plan in June 1993. Between the CRA Plan adoption and 2005, numerous projects had been completed that included the following: State Community Development Block Grants (CDBG) Grants from the State totaling \$1.5 million

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completed streetscapes on Main Street, Park Avenue, and the original façade program began; the template for the sidewalk replacement program was originated; and new street lighting was completed on various streets in the CRA District.

Since 2005, other projects have continued that included the expansion of the sidewalk and street light programs, and support for economic business development. In addition, new FDOT street lights were installed on Main Street that were more in tune with the size of the street.

In 2006, a revision to the CRA Redevelopment Plan was produced but never adopted. Any new projects could not be established until approved with a new plan. If a project or program is not in the plan, it cannot be paid for by Tax Increment funds.

The new *CRA Plan 2017 ~ update* provides for projects and programs that include multiple opportunities for reinvestment into the CRA District. Primary projects include acquisition and renovation of the 5th Street Parking Lot, which was in the original 1993 Plan and is in the center of Apopka's downtown; the Station Street Shopping Plaza (aka DAT-Downtown Apopka Triangle) that will be a focal event location with shops, up to 45 residential units, parking, and an events plaza with a pavilion; the Residential Fee Assistance Program, that will help with new affordable house by paying down impact fees; the 6th Street Promenade with a Multi-Use Trail starting at Central Ave, down Station Street to 6th Street and to the West Orange Trail, and eventually to the City Center; a multi-use trail connecting the Station Street project to Alonzo Williams Park; and, reinstatement of the Façade Renovation Program for commercial buildings.

Other projects will be introduced as funds become available.

The *CRA Redevelopment Plan 2017 ~ update* will be in effect upon passage of this resolution. Budget amendments during this fiscal year 2017 would need to be completed in order to start some of the programs and projects.

Comprehensive Plan conformance: Attached are the sections of the Comprehensive Plan that are directly associated with the *CRA Redevelopment Plan 2017 ~ update*. The Land Use Analysis section has a summary. Objectives 2, 3 and 5 have Policies that pertain to the CRA Plan. This plan addresses the following:

- Use of the definitions provided for in Chapter 163 Part III as it pertains to CRA's
- Updates and funding mechanisms.
- Addressing parking issues.
- Use of the CRA design guidelines was already put into practice along with the Apopka Design guidelines.
- Off-site drainage facilities for the downtown was created with the construction of Martin Pond.
- The new CRA Plan promotes mixed use and addresses the historical nature of the downtown.
- The CRA Overlay District was previously created.
- New programs and projects are created and continued with this new Plan.

The CRA Redevelopment Trust Fund, established by Ordinance No. 783 on June 16, 1993 utilizing Tax Increment Funding (TIF); State grants & programs; donations.

Staff recommends that the Planning Commission recommend approval of the new CRA Redevelopment Plan 2017 ~ update as to its conformity with the Comprehensive Plan, and recommend approval of Resolution No. 2017-10 to the Apopka City Council.

Mr. Hitt had prepared the original Community Redevelopment Plan in 1993, Ms. Laurendeau commented that it was very nice to have someone who is so familiar with the plan and welcomed him back with the

City. She also voiced her support of the triangle.

In response to questions by Mr. Molina, Mr. Hitt stated that this plan does not affect the local sales tax. He stated that as of the first CRA Plan, adopted in 1993, whatever amount of property taxes you have paid or will pay above your 1993 property tax rate, including the Orange County taxes, goes towards the Community Redevelopment Area Trust Fund. One project that may occur is affordable housing in the way of infill by using trust funds to cover impact fees for Fire, Police, Transportation, water, sewer. The Property Appraiser makes adjustments to the property taxes and are limited to three percent increases per year. There is currently 2.3 million dollars in that trust fund. The trust fund is self-perpetuating.

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing.

Motion: **Melvin Birdsong made a motion to find the proposed CRA Redevelopment Plan 2017 ~ Update consistent with the Comprehensive Plan and to recommend approval of Resolution No. 2017-10. Motion seconded by Roger Simpson. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)**

Mr. Hitt announced that the CRA Redevelopment Plan ~ 2017 will be brought before the Community Redevelopment Agency and the City Council on June 21, 2017. The Community Redevelopment Agency will meet at 6:00 p.m. and the City Council at 7:00.

LEGISLATIVE – KELLY PARK CROSSING FORM BASED CODE (AKA WEKIVA PARKWAY FORM BASED CODE) - Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and to recommend approval of the proposed Kelly Park Crossing Form Based Code.

Staff Presentation: Pat Tyjeski, AICP, Senior Planner, S&ME [a.k.a. Littlejohn Engineering], 1615 Edgewater Drive, Suite 200, Orlando, FL 32804, stated a form-based code must be used to guide development within the Wekiva Parkway Interchange Plan area. A form-based code is a means of guiding and regulating development to achieve a specific urban form or character. Form-based codes create a predictable public realm by guiding physical urban form – such as building design and scale while placing less focus on land use or zoning.

The Wekiva Parkway Interchange Plan, adopted September 15, 2010, promotes the use of a form-based code for the area surrounding the proposed interchange at Kelly Park Road. A primary purpose of the proposed development standards is to create a sustainable community in the Interchange area – a place where people can live, work, play and shop. Objective 19 of the Future Land Use Element (Comp Plan) directs the City to implement a form-based code to further the Wekiva Parkway Interchange Plan.

The proposed form-based code addresses block and street standards, design and mass of buildings, signage, and landscaping. This code is only applicable to the Wekiva Parkway Interchange Plan area, now called the Kelly Park Crossing area.

The form based code is scheduled to be presented for first reading at the June 7, 2017, City Council meeting at 1:30 p.m. and the second reading will be held on June 21, 2017, at 7:00 p.m. He said the process for a implementing the form based code is to amend the future land use on a property to the Mixed Use Interchange designation. The future land use amendment is presented to the Planning Commission for a recommendation to the City Council and then the City Council makes the final decision. The next step is to change the zoning to the Mixed Use Interchange Zoning designation. The change of zoning is presented to the Planning Commission for a recommendation to the City Council and

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then the City Council makes the final decision. Once the future land use and zoning have been changed, the next step is the presentation of the Overlay District and Master Plan that will include boundaries, areas, design themes, and streets. The future land use amendment is presented to the Planning Commission for a recommendation to the City Council and then the City Council makes the final decision. Any requests for variances or special exceptions will be brought before the Planning Commission for final decision. Once the Overlay District and Master Plan have been approved, the next step is the development plan and construction plans. These will provide details of the site plans and architectural plans. These plans will be provided to the Development Review Committee and the Community Development Director for review.

Staff's recommendation to the Planning Commission is to find the Kelly Park Crossing Form-Based Code for the Wekiva Parkway Interchange Plan Area to be consistent with the Comprehensive Plan, and Recommend that City Council adopt this Code.

In response to concerns expressed by Mr. Molina, Ms. Tyjeski stated that due to the distance between the downtown area and the Kelly Park Crossing Interchange, the development will have very little effect on the downtown area. She said the idea was to make both areas walkable for the residents in those areas. She said that many areas have more than one activity node. The number of activity nodes are based on population projections.

Mr. Moon stated that the state legislature limits and controls all interchanges in Florida. Due to the limited number of interchanges in this area, there is going to be interest by companies wanting to development in the area because of the access to S.R. 429.

Mr. Foster stated that Winter Park and Winter Garden both have this same type of development.

Chairperson Greene opened the meeting for public hearing.

David Emmel, 3536 Ondich Road, expressed his opposition to the plan and concerns regarding how it would affect his property and the possible creation of enclaves.

Mr. Moon stated that Mr. Emmel resides in Unincorporated Orange County. This plan was mandated by the Legislature in relation to the protection of the Wekiva River and Wekiva Springs. The Florida Legislation controls and limits the number of interchanges along S.R. 429.

In response to a question by Mr. Emmel, Mr. Hitt stated that the City and Orange County entered into a Joint Planning Agreement that controls the annexation of enclaves. He added that the City does not force properties to annex.

Mr. Moon stated that Orange County has reviewed the proposed form based code and did not have any objections.

Miranda Fitzgerald, Esq., Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 N. Eola Drive, Orlando, stated she is representing Publix. They plan to development in the Kelly Park Crossing area and have asked for more flexibility in the Kelly Park Crossing Form Based Code. They have concerns regarding the increase in intensity. In particular the Floor Area Ratio (FAR) which is 0.3 FAR. They are currently under contract for a 9 acre tract that includes some outparcels and want to build a 46,000 sq. ft. store. Under the 0.3 FAR they would be required to build a store that is 117,000 sq. ft. which is not feasible for Publix at this time. The market would not support a store that size. What they need is 0.15 FAR. Additionally, the maximum allowable block width is 300 linear feet. Their building is longer than 300 feet.

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Ms. Fitzgerald expressed concerns that the plan is very optimistic in the manner that it transitions from rural to urban. She does not believe there are not enough roof tops to warrant the transition being proposed. She stated that without the plan being more flexible, applicants are going to have to request more variances. Staff has the latitude to approve up to variances up to 10%; however any variance request that is brought before the Planning Commission could not include a self-created hardship. At some point the City may be inundated with variance requests. It would be better if more flexibility is included in the initial plan to avoid that happening.

Mr. Moon stated that staff is taking those concerns into consideration and will continue working with Ms. Tyjeski on recommendations based on market demands and changes that will occur over time.

Erika Hughes, VHB, 225 E. Robinson Street, Suite 300, Orlando, expressed concerns with inconsistencies in the proposed form based code when referring an applicant to other documents. During their review they found several instances where they were referred to the development design guidelines that contradicted what was in the form based code.

In response to a question by Mr. Foster, Ms. Hughes stated that she was representing VHB and a couple of property owners in the area. She said she submitted a letter to staff that expresses their concerns.

In response to a question by Mr. Simpson, Mr. Moon stated that several pre-application meetings will be held prior to development occurring.

Chairperson Greene said that the Planning Commission makes recommendations to the City Council. Any issues or concerns may also be brought before the City Council.

Joel Ivey, Ivey Planning Group, LLC, 691 Keeneland Pike, Lake Mary, stated that he represents Rochelle Holdings, LLC. Rochelle Holdings is the applicant for the Kelly Park Crossing DRI. The entitlement program has been submitted, reviewed, and approved by the City. This includes approximately 1,500 + residential units, a few million square feet of retail, a few million feet of office/warehouse/industrial and other uses such as hospital and a college. We have worked with staff with regard to the form based code for some time. We encourage the Commission to recommend approval to the City Council. We have concerns as well such as the flexibility and will continue to work with staff. We have concerns about the floor area ration and the prohibition of cul-de-sacs. He said he is very optimistic that these issues can be worked out.

Jimmy Crawford, Merideth Nagel Law Firm, 1201 W. Hwy. 50, Clermont, stated that he represents Cantero Holdings, which owns 88 acres in the area being discussed. He expressed his concerns regarding the lack of flexibility. He said they see flexibility in implementation is key to any development. He expressed concerns about requiring variances which most developers would not be able to meet that code.

With no one else wishing to speak, Chairperson Greene closed the public hearing.

In response to a question by Mr. Molina, Mr. Moon stated that there are a number of property owners who are ready to move forward. Currently the Land Development Code is being updated and the form based code must be consistent with that code. There is an opportunity to compare the two to ensure compatibility between the two codes. We don't want to miss the economic opportunity. The form based code may not meet the needs to all of the applicants wanting to come to this area and there will probably be amendments to the code. He said Winter Park Village used to be a mall and was converted into a form based code

development. As more residential development moves into that area there will be more intense commercial development.

In response to questions by Mr. Molina, Ms. Tyjeski stated that there is a section called modification of standards. We did not want everyone to have to come in and file a variance. What this means is if someone comes in for a modification that is 10% or less, the modification can be approved administratively. If the modification is 10 to 30% it will go before the Planning Commission. If the modification is 30% or more then we are getting into the area of why have the requirement, then there needs to be a hardship. That is when a variance would be required. There are review criteria to determine the percentage of modification.

Mr. Moon stated that Baldwin Park and Celebration are similar types of development; however there were only one or two owners in those areas. This area is different due to the large number of owners.

Motion: Roger Simpson made a motion to find the proposed Kelly Park Crossing Form Based Code consistent with the Comprehensive Plan and to recommend approval of same. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)

LEGISLATIVE – KELLY PARK INTERCHANGE MIXED USE ZONING DISTRICT - Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and to recommend approval of the proposed Kelly Park Crossing Form Based Code.

Staff Presentation: Ms. Tyjeski stated that local governments hosting an interchange along the proposed Wekiva Parkway are mandated by the Wekiva Parkway and Protection Act, Chapter 369.321, Florida Statutes, to adopt an interchange land use plan into their comprehensive plans. To address this State mandate, in September 2010 the City Council approved the Wekiva Parkway Interchange Plan. Recommendations from this study have been incorporated into the Comprehensive Plan in 2011.

Policy 20.4, Future Land Use Element, of the Comprehensive Plan requires the City to adopt a Form-Based Code prior to adopting any development plan within the Kelly Park Interchange area. Also, Policy 20.21 requires a Mixed Use Interchange Zoning District for land within the Kelly Park Interchange Area.

The proposed Kelly Park Mixed Use Zoning District and the Form Base Code satisfy the requirements set forth in the City's Comprehensive Plan. Applicable only to lands within or straddling the Kelly Park Interchange Vision Area (aka Wekiva Parkway Interchange Vision Plan Area), the Kelly Park Interchange Mixed Use District will also be supported by a Form-Based Code to guide land development and use of land.

The Development Review Committee recommends approval of the amendment to the City of Apopka, Code of Ordinances, Part III, Land Development Code, Article II – to create a new section 2.02.21 entitled “Kelly Park Interchange Mixed Use Zoning District.”

The Staff recommends approval of the amendment to the City of Apopka, Code of Ordinances, Part III, Land Development Code, Article II to create a new section 2.02.21 entitled “Kelly Park Interchange Mixed Use Zoning District.”

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing.

Motion: Linda Laurendeau made a motion to find the proposed Land Development Code, Article II, Kelly Park Crossing Mixed Use zoning district consistent with the Comprehensive Plan and recommend approval of the Kelly Park Crossing Mixed Use Zoning District. Motion seconded by Tony Foster. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)

OLD BUSINESS: None.

NEW BUSINESS: Mr. Foster stated that when he was in Toledo, Ohio, he went into what they call “The Hen Store” to purchase his wife a Toledo Mud Hen jersey. He suggested that Apopka should come up with something similar.

ADJOURNMENT: The meeting was adjourned at 7:19 p.m.

/s/

James Greene, Chairperson

/s/

James K. Hitt
Community Development Director