

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
MARCH 13, 2001

A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 7:30 p.m. by Mayor John A. Buckley.

1. The invocation was given by Council Member Ed Palmer.
2. All present gave the Pledge of Allegiance to the Flag of the United States of America.
3. Roll Call.

Present:	John A. Buckley	Mayor
	Cheryl Palmer	Vice Mayor, District 5
	Richard Contreras	Council Member, District 1
	Ed Palmer	Council Member, District 2
	Pat Poole	Council Member, District 3
	Grace Walker	Council Member, District 4
	Loretta Isenberg-Hand	Council Member, District 6
	Henry J. Hill	City Manager
	Paul R. Gougelman	City Attorney
	Cathleen A. Wysor	City Clerk
	Bud Emerson	Assistant City Manager
	Peggy Braz	Planning and Zoning Administrator

4. PROCLAMATIONS AND PRESENTATIONS

Mayor Buckley presented a proclamation recognizing the Florida Air Academy Falcons basketball team for their Class 3A State Championship.

Additionally, the Mayor presented a proclamation recognizing "Purchasing Month", March 2001, to Assistant City Manager Bud Emerson.

5. APPROVAL OF MINUTES - February 27, 2001 regular meeting

Moved by Contreras/Hand for approval. Motion carried unanimously.

6. CITY MANAGER'S REPORT

Mr. Hill reminded Council about the construction progress tour being conducted at the Water Treatment Plant on March 16, 3:00 p.m. – 5:00 p.m. Those attending will meet in the Joe Mullins Reverse Osmosis Water Treatment Plant conference room.

Mr. Hill referenced the memoranda distributed requesting that items 14.1, 20.1, and 20.2 be added to the agenda.

Moved by Poole/Walker to add items 14.1, 20.1, and 20.2 to the agenda. Motion carried unanimously.

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7. PUBLIC COMMENTS

None.

UNFINISHED BUSINESS

8. ORDINANCE NO. 2001-12 (CU-2000-01): (Public Hearing/First Reading) A proposed ordinance for a conditional use for a personal service establishment (Nail Hut) in an R-P (Residential Professional) zoning district, located at 2133 Sarno Road, Bowe Gardens Subdivision, Section M-1, on the south side of Sarno Road west of Croton Road. (Owner, applicant, representative: William F. Kurz, Teresa Lynn Kinney, and Frank Kinney) (Postponed by Council 2/27/2001)

Attorney Gougelman read Ordinance No. 2001-12 by title.

From the agenda report: This item was postponed by Council at the February 27 meeting. The following motion was on the floor at the time of postponement.

“Moved by E. Palmer/Hand to deny the conditional use (Ordinance No. 2001-12).”

Additionally, prior to the item being postponed, Council amended the ordinance by adding a stipulation as follows:

“The fence shall be removed and reconstructed according to Code.”

If Council concurs that this stipulation should remain, it will be added to the ordinance between first and second reading.

Mr. Palmer disclosed that he talked with the people involved with the fence issue and he visited the site. Mrs. Poole stated that she spoke to Mrs. Corbett. Mr. Contreras said he spoke to the Corbetts and visited the site. Mrs. Palmer said she also spoke with the Corbetts.

Mr. Hill distributed and referenced the Code Enforcement Violation Notice issued to the property owner of 2133-2145 Sarno Road. He reported that Code Enforcement personnel have offered guidance to the property owner for improvements that need to be made. As of this morning, the improvements have not been made. It will be the responsibility of the property owner to prove that the fence is properly located.

Mayor Buckley opened the public hearing.

Frank Kinney, representing the applicant, stated that the property is being leased from Mr. Kurz. He asked for approval of the conditional use request.

Mary Nail Kurz, 3160 Kent Drive, property owner, stated that they have made several attempts to comply with (the Code). She noted that part of the difficulty is that the fence is located on a sewer line. She added that they have been given 10 days to comply and she

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assured Council that the problems would be addressed during this period.

J. Thompson, 2136 Laden Road, stated that he is located behind the property in question. He reported that he purchased his property a year ago and the survey stakes are still in the ground. The stakes show that the fence from the business is located one – two feet on his property in some areas.

Ola Corbett, 2124 Laden Road, questioned whether the location of the sewer line is a problem because she has seen city crews working on the line before.

That concluded comments from the public.

Mayor Buckley referenced the motion on the floor to deny the ordinance. The Mayor stated that he is opposed to denial because the applicant for the conditional use is not the property owner and, therefore, is not in violation.

Moved by E. Palmer/C. Palmer to withdraw the motion for denial.

Following a brief discussion, Attorney Gougelman confirmed for Council that the additional stipulation regarding the fence was approved at the last meeting. If the motion for denial is withdrawn, the ordinance would be before Council with that additional stipulation in place.

The question was called. Motion carried unanimously.

Moved by C. Palmer/E. Palmer for approval of Ordinance No. 2001-12 with the stipulations contained in the ordinance and the additional stipulation regarding the fence. Motion carried unanimously.

Mr. Hill assured Council that he would have a report by the March 26 Council meeting regarding the Code violations on the property.

9. ORDINANCE NO. 2001-13: (Public Hearing/Second Reading) A proposed ordinance for rezoning 21 lots in the Downtown Redevelopment District, from C-2 (General Commercial) to C-1 (Neighborhood Commercial), located north of Strawbridge Avenue, west of the Indian River Lagoon and east of U. S. 1. (First Reading 2/27/2001)

Attorney Gougelman read Ordinance No. 2001-13 by title.

Tim Higgins, 1805 S. Riverview Drive, encouraged Council to approve the ordinance.

Moved by E. Palmer/Contreras for approval of Ordinance No. 2001-13. The roll call vote was:

Aye: Contreras, E. Palmer, Poole, Walker, Hand, C. Palmer, and Buckley

Nay: None

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Motion carried unanimously.

10. ORDINANCE NO. 2001-14: (Public Hearing/Second Reading) A proposed ordinance for rezoning 60 lots in the Downtown Redevelopment District from C-2 (General Commercial) to C-1 (Neighborhood Commercial), located north of Palmetto Avenue, west of the Florida East Coast Railway, south of Fee Avenue, and east of Livingston Street. (First Reading 2/27/2001)

Attorney Gougelman read Ordinance No. 2001-14 by title. There were no comments from the public.

Moved by Contreras/C. Palmer for approval of Ordinance No. 2001-14.

Mrs. Braz confirmed for Mr. Palmer that this ordinance would not adversely affect any businesses.

The question was called. The roll call vote was:

Aye: Contreras, E. Palmer, Poole, Walker, Hand, C. Palmer, and Buckley

Nay: None

Motion carried unanimously.

11. ORDINANCE NO. 2001-15: (Public Hearing/First Reading) A proposed ordinance rezoning 84 lots in the Downtown Redevelopment District from C-2 (General Commercial) to C-1 (Neighborhood Commercial), located north of Strawbridge Avenue, west of Riverview Drive and east of the Florida East Coast Railway. (Modified by Council 2/27/2001)

Attorney Gougelman read Ordinance No. 2001-15 by title (as revised by Council at the February 27 meeting).

Mayor Buckley stated he spoke to Mr. Kiser, who is opposed to the rezoning. and Council Members Contreras, E. Palmer, Walker, and Hand disclosed that they spoke to Mrs. Susan Kiser, who is opposed to the rezoning.

Diane Barile, 1809 Riverview Drive, stated that she would like to see at a minimum the west side of Riverview Drive zoned C-1. She reported that the neighborhood is undergoing some positive changes and although late in this area, the redevelopment program is working. People want to live near Downtown and she does not believe that having a different land use across the street will add to the ambiance of the area. Traffic calming devices and consistency are needed on both sides of the roadway. She stated that this rezoning will bring the ordinance in line with the goals and objectives of the Comprehensive Plan.

Tim Higgins, 1805 Riverview Drive, agreed with Ms. Barile. He stated that the neighborhood is in a positive transition. If C-1 can be maintained along this street, it will help preserve and maintain one of the best historic areas on the East Coast of Florida. He

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noted that his house dates to 1890 and many of the houses in this area are in the same age group. He encouraged approval of the ordinance.

William Potter, attorney representing Karl Kiser, Market Refrigeration, 911 Columbus Avenue, stated that his client is located within the area proposed for rezoning. This location houses Mr. Kiser's corporate headquarters; he employs 40 repair technicians. The business is permitted under the C-2 zoning. Additionally, they own two lots on the north side of Columbus and two on the south side of the business. The change to C-1 would render their business a non-conforming use and under the Code, they would not be permitted to enlarge or alter their facility in any way. That would make them unable to grow their business and would have the effect of driving them out of the neighborhood where they have invested their money and effort for a number of years. Mr. Potter added that the rezoning would also create six other non-conforming uses in the area.

Continuing, Attorney Potter said if the primary reason for considering the change is the objection to the automobile sales establishments, then it seems a more equitable approach would be to strengthen the requirement for these types of establishments through signage, landscaping, etc. He added that there are ways to address the concerns without creating an inequity for existing businesses. Additionally, if this change is being made to attract a multi-family development to the area, he believes there is a limited potential for that because there are no large, undeveloped tracts available for that type of development. He asked Council to consider his client, as well as the other businesses in the area, in this decision.

Mr. Contreras asked Mr. Potter if he represented the other businesses and Mr. Potter answered in the negative.

In response to Mrs. Poole, Mr. Potter said that the Kisers have had their repair business since 1984. Mrs. Poole said it seems that businesses located in an area with homes move towards industrial areas in order to expand. Mr. Potter said he, too, believes that happens; however, he pointed out that in this case, the Kisers have the land to expand.

Karl Kiser stated that he moved to 551 Young Street about five years ago. Prior to that, he lived in the Downtown area. He noted that he owns five pieces of property in the area proposed for rezoning. He stressed that they like the area, are a contributor to the city, do business with suppliers in the area, and if they moved, they would take away \$5 million in business. He would like to see the area redevelop; however, he does not want to be a non-conforming use. Mr. Kiser recommended that both sides be zoned C-1, which would leave his business as is.

Mrs. Braz said she is not sure how to divide the zoning line; she would have to review the proposal. The Mayor pointed out that staff recommended C-3 – it was Council that recommended C-1.

Mr. Kiser confirmed for Mr. Contreras that the additional properties he owns are across the street from his current business.

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Mr. Palmer asked Mr. Kiser to explain how this rezoning would impair his growth in the area. Mr. Kiser said it would cause him to have a non-conforming use. If, for example, he had a fire he would not be able to rebuild. Also, money cannot be borrowed against a property that has a non-conforming use.

Mr. Palmer asked Mr. Kiser to explain where he would expand. Mr. Kiser said it would be across the street. In response to Mr. Palmer, Mr. Kiser said his operation is the corporate headquarters, he does not do work in that location; however, occasionally equipment is delivered. His addition would be in the form of more office space.

Mr. Palmer asked for more information on how this would adversely impact Mr. Kiser's business. Mrs. Braz said as far as the operation being a corporate headquarters with office work being done, C-2 or C-2 would be fine. There would not be a problem with increasing the size as a corporate headquarters. Additionally, staff has allowed people to add accessory structures for storage, etc. She noted that we try to be as flexible as we can.

In response to Mr. Contreras, Mrs. Braz said if the Kisers wished to use the property across the street as a repair facility, it would be prohibited under the C-1 zoning. She confirmed that office use would be permitted in C-1 or C-2 zone.

Mr. Kiser explained that sometimes they have to temporarily warehouse equipment. Also, although they don't repair equipment, they have a fleet of 20 trucks that come in, retrieve stock, etc. He stressed that they do work other than paperwork on the site.

Mrs. Braz stated that it is her opinion that they would be able to have accessory uses to the facility. However, she noted that Mr. Kiser's concern is that several years from now, a different P&Z Administrator may have a different opinion.

Mr. Contreras said he supports the direction of going C-1; however, he does not want to adversely impact any existing businesses.

Mrs. Palmer asked if the C-1 zone permits apartment buildings. Mrs. Braz said yes and added that residential uses are not a permitted use in the C-2 zone. If it is Council's desire to encourage residential uses, we should not zone C-2.

Mrs. Palmer asked if there is a viable option for dividing the zoning line to allow for C-2 while changing to C-1 along Riverview Drive. She added that she does not believe that allowing apartment buildings stops the area from becoming blighted. Mrs. Braz said she would have to review the map and look at how the lots are platted.

Mrs. Palmer said she is concerned about the message we would be sending by making a business non-conforming when they have invested in the community and helped build up the area.

Mrs. Hand agreed with Mrs. Palmer and said it should be C-1 along the river and remain C-2 for the businesses.

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Mrs. Poole disagreed that the rezoning would cause a problem. She pointed out that most of the properties have not expanded. If the area remains C-2, then all the homes would be non-conforming. Residents would not be able to rebuild/expand homes and apartments. The Downtown Redevelopment Plan was originally supposed to be a “village concept.” Therefore, the area needs the C-1 designation. She encouraged Council to proceed with the rezoning and preserve this historic area of Melbourne.

Moved by C. Palmer/Hand to return this item to staff to determine if there is a way to divide the rezoning line.

Following a brief discussion about procedure, the following substitute motion was made:

Moved by C. Palmer/Hand to postpone this item until the April 10 meeting with direction to the Planning and Zoning Administrator to determine if there is a way to move the rezoning line in order to protect the established businesses. Motion carried. (Mrs. Poole voted nay.)

NEW BUSINESS

12. COUNCIL ACTION RE: Contract for Southwest Park Improvements, Project No. 95119, Classic Golf Construction, Stuart, FL in the amount of \$242,446.84 and supplementation of the budget by a \$124,051 transfer from the Recreation Impact Fees Fund and a \$33,000 transfer from General Fund Miscellaneous Projects.

Mr. Hill reviewed the agenda report. The project will include the construction of three multi-purpose athletic fields. The fields are sized for soccer play and it is anticipated that soccer will be the major use. The project also includes construction of a 4.5-acre stormwater retention pond. Material excavated from the pond site will be used to elevate and grade the fields. A well and an irrigation system are included in this construction. The fields will be sprigged with Bermuda grass and concrete sidewalks provide handicapped accessibility.

The project was designed for three multi-purpose fields because there is a need for soccer fields in Melbourne and because there is space in this park. Soccer is an extremely popular sport yet there are no other soccer fields in city-owned parks. The availability of material from the pond excavation is a one-time opportunity to elevate and grade the park for these fields.

Four bids were received and the low bidder is Classic Golf Construction, Inc. from Stuart, Florida. Staff recommends the use of Recreation Impact Fees and General Fund Miscellaneous Project Budget savings to supplement the budget so three fields can be constructed rather than scaling back the project. Some items have been eliminated from the project to reduce the cost, so the adjusted contract price is \$242,446.84.

The construction of these fields and the pond will create many opportunities to obtain grants for enlarging the parking lot and for adding other recreational improvements. The city’s standard construction contract will be used for this project and the contractor will have 120 calendar days to complete the work.

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The recommendation is for approval of the contract with Classic Golf Construction, Inc. in the amount of \$242,446.84. Further, it is recommended that the project budget be supplemented by a \$124,051 transfer from the Recreation Impact Fees Fund and a \$33,000 transfer from General Fund Miscellaneous Projects.

Moved by Poole/Contreras for approval of the recommendation.

The President of Melbourne Soccer thanked Council for this proposal. He said it will allow more children to participate in the soccer program.

The question was called. Motion carried unanimously.

13. COUNCIL ACTION RE: Contract for Grant Street Wastewater Treatment Plant Sludge Facility Improvements, Project No. 00312, Certified General Contractors, Melbourne, FL - \$62,568.00.

Mr. Hill reviewed the agenda report. This is a proposed contract for construction of a roof over the sludge loading area at the Grant Street Wastewater Treatment Plant. The roof will be supported by a pre-engineered steel structure. The structure will be 20 feet high, 30 feet wide, and 130 feet long.

The roof will be constructed to provide a dry area for trucks being loaded with sludge. Sludge cake is conveyed from the belt filter press up a conveyor where it is dropped into the truck bed. The trucks take quite some time to be loaded and have to be moved forward as the sludge fills the bed. During the loading the bed is uncovered. This new roof will provide protection from rains that would otherwise liquefy the sludge in the truck beds. The upper portion of the building's sides will have siding to protect from blowing rain.

One bid was received and opened on March 1, 2001. Mr. Hill listed the efforts by staff to notify potential bidders and noted that we did everything we could to solicit bids. Certified General Contractors, Inc. from Melbourne, Florida submitted a bid of \$62,568.00.

The consultants believe this is a competitive price, and the contractor has previous experience with the city. The project is within the estimated cost and budget. The city's standard construction contract will be used for this project and the contractor will have 120 days to complete the work.

Moved by Hand/Walker for approval of the contract with Certified General Contractors, Inc. in the amount of \$62,568.00. Motion carried unanimously.

14. COUNCIL ACTION RE: Change Order No. 3 to the contract for Lake Washington Surface Water Treatment Plant Phase I Improvements, Project No. 97371, The Poole & Kent Company, Miami, FL - \$58,790.00

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From the Agenda Report: This change order addresses nine items that surfaced during the progress of construction. The cost of these items ranges from \$420 to \$26,000 with a total cost of \$58,790. The items resolve unforeseen site conditions and address requested improvements identified during construction.

The unforeseen conditions are all conflicts with underground piping that were either not shown or not shown accurately on plans in city files. This is pipe that was installed 30 to 40 years ago. The conflicts were discovered during excavation for new pipe lines. The cost of the three items in this category is \$41,420.

The other six items are enhancements and/or owner requested changes to improve the plant operation. The cost of the six items in this category is \$17,370.

This proposed change order is 0.33 percent of the construction contract price and will bring the cumulative change order amount to 1.36 percent of the contract price. Typically, 10 percent is budgeted as a contingency. We budgeted only 5 percent for this project and are still well within that.

Moved by E. Palmer/Walker for approval of Change Order No. 3 to The Poole and Kent Company's contract in the amount of \$58,790.00. Motion carried unanimously.

Added to the agenda:

- 14.1. COUNCIL ACTION RE: Emergency Sewer Line Replacement on Apollo Boulevard (near Biggins Furniture Store) to be completed by Derrico Construction, Melbourne, at a cost of \$34,735.

Mr. Hill briefed Council and noted that funding (\$140,000) was approved in a project for sewer relining on Apollo Boulevard, from Sheridan to Hibiscus. The Water/Sewer Operations Division, in a separate Council action item, is requesting to "piggyback" a City of St. Petersburg contract for the work. The projected cost of \$100,674 leaves a project balance of \$39,326, sufficient enough to complete a necessary *emergency* sewer line repair on Apollo Boulevard near the Biggins Furniture Store.

The emergency work on Apollo consists of replacing approximately 40 linear feet of 12-inch clay sewer line with ductile iron pipe. The sewer line is located a depth of approximately 11½ feet below the street surface and about 1½ feet directly beneath a 48" storm drain. The work is further compounded by the fact that the sewer line is only three feet away from the 24" wastewater transfer main that connects the D.B. Lee and Grant Street treatment facilities. The line must be replaced in a relatively short amount of time as the existing clay line is subject to crumbling causing the transfer line storm drain and the street surface to sink. The work cannot be performed by city personnel due to the equipment and materials required for a complex project of this nature.

Moved by E. Palmer/Hand for approval of the contract with Derrico Construction at a cost of \$34,735. Motion carried unanimously.

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15. COUNCIL ACTION RE: Consent Agenda

Moved by Hand/E. Palmer for approval of 15 (a) – (f) as recommended.

Mr. Hill responded to Mr. Palmer's questions regarding the forklift.

The question was called. Motion carried unanimously.

The consent agenda was approved as follows:

- a. Resolution No. 1682: A resolution to authorize the City Manager to apply for the Department of Justices COPS MORE 2001 grant to fund the purchase of 25 laptop computers for police vehicles.
- b. Addendum 1 to Interlocal Agreement for disaster debris removal between the city and Brevard County.
- c. Purchase of a used 5,000 pound 1998 Case 585E Forklift Truck, Hertz Equipment, Melbourne, Florida - \$30,695.00.
- d. Resolution No. 1683: A proposed resolution required by the Department of Treasury to enable the city to reimburse itself from bond proceeds for expenses incurred prior to the issuance of the bonds.
- e. Contract for relining of storm sewer lines located at Paradise Village, Azurix North America Underground Infrastructure, Inc., Longwood, Florida - \$99,540.00.
- f. Contract for "cured-in-place" sliplining of approximately 1,316 linear feet of 21-inch sanitary sewer, Insituform Southeast, Inc., Jacksonville, Florida - \$100,674.00.

Recessed: 8:49 p.m.

Reconvened: 8:59 p.m.

16. ORDINANCE NO. 2001-16 (CU-2001-02): (Public Hearing/First Reading) A proposed ordinance requesting a conditional use for a building height of 48 feet for a second building on a 2.98-acre parcel in the C-2 (General Commercial) zoning district, located on the south side of Hibiscus Boulevard east of Gateway Drive. (Owner, applicant, representative: Granite Properties, Michael Lawley, and David Menzel) (P&Z 3/1/2001)

Attorney Gougelman read the ordinance by title. Ms. Braz briefed Council. Council approved the site plan in 1997 for the three buildings totaling 18,350 s.f. and 84 parking spaces (SP-1997-16). A revised plan for two buildings with 11,898 s.f. and 132 spaces was approved in 1999 (SP-1999-03). The site was recently developed as an office building complex with a single three-story building consisting of 5,949 s.f. The first phase of the two building project was completed last year. The property has been zoned C-2 since 1999.

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The site has an adopted land use of Commercial according to the Comprehensive Plan Future Land Use Map. The property to the east contains a drainage canal and vacant commercial lot located within the City of West Melbourne. The property to the south is the M-1 Canal on the north side of the Melbourne Square Mall. To the west is a developed single-story office building in a C-1A zoning district.

The site currently contains a three-story, 36-foot high, 5,949 s.f. building with 132 parking spaces. Another three-story, 36-foot high building with 5,949 s.f. has yet to be constructed. This site contains a number of large trees, most of which were saved with the original construction. An additional floor for each building would result in approximately 2,000 more square feet per building. If both buildings contained four floors (48') only 53 parking spaces would be required ($15,898 \text{ s.f.}/300 = 53$). The proposed additional building height can be accommodated under the existing site layout.

The Planning and Zoning Board and staff recommended approval of the request with the findings outlined in the agenda package and the following conditions:

- a. The building heights shall be limited to 48 feet and no additional impervious area shall be permitted on site.
- b. The conditional use for height shall be consistent with the previously approved plans for Granite Oaks Office Building consisting of a one sheet plan (Drawing C-2) prepared by MAI Architects Engineers of Melbourne, Florida with project number 2067, dated 7/21/99 and stamped approved by the City Engineer on November 19, 1999.

Note: See motion for revision to stipulation "a."

In response to Mrs. Poole, Mrs. Braz said she would investigate the question regarding whether the buildout (as part of the Melbourne Square Mall Development of Regional Impact) should have been extended on this site.

A brief discussion followed regarding the agenda report and the ordinance not being clear on whether there will be one building or two with a height of 48'. Mrs. Braz noted that the applicant is present.

Mike Lawley, 1735 W. Hibiscus Boulevard, Partner with Granite Properties, agreed with the stipulations. He stated that the existing building is not structurally designed to add another floor. He stressed that the request for a building with a 48' height is for the second building only. The request is being made in order to preserve the oak trees. Additionally, he noted that there is not a third building planned for the property.

Based on Council's discussion and the assurance from the applicant, Attorney Gougelman proposed that stipulation "a" be revised as follows: "The building located on the south side of the site as depicted on the site plan shall be limited to a maximum building height of 48 feet. All other structures on site shall not exceed 40 feet in height. No additional impervious area shall be permitted on the site."

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Moved by Walker/Hand for approval of Ordinance No. 2001-16 with stipulation “a” as revised and stipulation “b” as proposed. Motion carried unanimously.

17. ORDINANCE NO. 2001-17 (CU-2001-04): (Public Hearing/First Reading) An ordinance granting a conditional use for the expansion of accessory church uses (counseling center and children’s playground) on five platted lots in the R-2 (Cap 6) (One-, Two-, and Multiple-Family Residential District with a cap of six units per acre), located at the northwest and northeast corners of Strawbridge Avenue and Platt Street. (Owner, applicant, representative: First United Methodist Church, Mark Rice, and Chandler Welch) (P&Z 3/1/2001)

Attorney Gougelman read Ordinance No. 2001-17 by title. Ms. Braz reviewed the agenda report. The site was originally built in 1957 for single-family homes. A house still exists on the northeast corner. This property contains a 1,114 s.f. house and has been zoned R-2 (Cap 6) since at least 1988. These properties were approved for a parking lot in a residential zoning district on April 11, 1989 and were constructed as an approved unpaved parking lot. The church received a conditional use for an expansion in 1980 (Ordinance No. 80-69). A conditional use is no longer needed for a church in the C-1 zoning district.

The site has an adopted land use of Low Density Residential according to the Comprehensive Plan Future Land Use Map. The properties surrounding these properties have a low-density residential land use and are zoned for one-, two-, and multiple-family residential uses. A residence is located to the east and a duplex with an inconsistent use designation is located to the north. The properties to the south are part of the existing church (zoned C-1) and an approved parking lot in the residential zoning district. A developed single family home is located to the west.

The site plan is a sketch of the plat showing existing buildings as well as areas approved for parking. The building shown on the northwest corner of Platt Street and Strawbridge Avenue was removed when the parking lot was constructed 12 years ago. The church has been using the property on the east side of Platt Street as a single-family residence and for parking.

The proposed uses likely will not be operated at the same time that church services are being held so that the existing parking will provide adequate areas for parking for this use. The building is such a size that a large counseling service could not be conducted on the property. This conditional use should be restricted as an accessory use of the church and not be permitted to exist as a counseling or professional office use apart from the church.

The playground will be located on Lots 16, 17 and 18, Block 8. A portion of the parking areas (unpaved street) has been used for recreation purposes as well. Permanent playground (equipment) placed on this lot would result in the removal of parking. A permanent playground may be used more often and possibly create disturbances to adjacent residents. A temporary or sporadic use as a recreation area would be less intensive on adjacent neighbors.

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The Planning and Zoning Board and staff recommended approval of the request with the findings listed in the agenda package and the following conditions:

- a. The uses shall only be accessory to the church.
- b. No permanent playground equipment shall be installed that will reduce parking spaces.

Chandler Welch, representing the applicant, agreed with the stipulations and responded to Mrs. Poole's questions regarding the operation of the playground. He noted that the classes are small and the children are well supervised.

Moved by Hand/E. Palmer for approval of Ordinance No. 2001-17 with the proposed stipulations. Motion carried unanimously.

18. FINAL PLAT APPROVAL (SD-2000-02): (Public Hearing) A request for final plat approval on an approximate 10-acre parcel (Whisper Lake Subdivision) located west of Croton Road and north of Royal Poinciana Boulevard. (Owner, applicant, representative: Eastwood Park Investments, Inc., Glen Outlaw, and Beville Outlaw). (P&Z 3/1/2001)

Ms. Braz briefed Council. The City Council originally approved a preliminary plat for Poinciana Cove Subdivision (later renamed Whisper Lake) on May 12, 1998. The applicants proceeded with design of this 30-lot plat and received final plat approval with six conditions of approval on June 24, 1999. This plat was never recorded because the applicant had difficulty with wetlands and stormwater permitting, and conflicts with the FP&L power line easement on the property. The applicant has redesigned the retention system serving the proposed plat. Council approved a new preliminary plat with 44 lots on February 22, 2000. This revised plat is now proposed for final plat approval.

The property has an adopted future land use designation of Low Density Residential and is zoned R-1B (Single-Family Residential).

The Planning and Zoning Board and staff recommended approval of the Final Plat for Whisper Lake Subdivision consisting of a two-sheet plan, prepared by Outlaw, Rice and Jones of Melbourne, Florida, with Number S-723-40A dated and signed on February 8, 2001, with the findings listed in the agenda package and the following conditions:

- a. A change to the final plat will require reevaluation of the plat by the City Engineering Department and the Planning and Zoning Department. Any substantial change to the final plat will require review and approval by the Planning and Zoning Board, Local Planning Agency, and the City Council. A substantial change includes, but is not limited to: 1) a decrease by 5% in the amount of open space or vegetative areas on site; 2) an increase in the total number of lots shown on the final plat; or 3) any decrease in the number of vehicular or pedestrian access points to/from the subdivision.

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- b. Prior to recording the Final Plat, the owner/developer shall execute a City of Melbourne Stormwater Maintenance Agreement in form and substance acceptable to the City Manager and City Attorney, including, if necessary, any amendments to the previously recorded agreement recorded in ORB 4253, Page 3078, Public Records of Brevard County, Florida.
- c. Prior to recording the Final Plat, the owner/developer shall provide a form of security, acceptable to the City Manager and City Attorney in the amount equal to 110 percent of the cost of the uncompleted and non-accepted subdivision improvements.
- d. Upon construction of the subdivision, the owner/developer shall convey, by warranty deed, water and sewer lines and other city maintained public utility lines within the street section of the plat to the City of Melbourne.
- e. The applicant shall provide recorded Articles of Incorporation for the homeowners association and deed restrictions in form and substance acceptable to the City Manager and City Attorney.
- f. Provide deeds conveying the tracts from the developer to the homeowner's association.

Mrs. Poole referenced former minutes on this item and asked Mrs. Braz to determine if staff received a complete Environmental Impact Assessment. Additionally, Mrs. Poole noted that there is no longer a wetland on the site and the applicant has mitigated in the Grant area. Also, previously there was a question about scrub jays in the area and that question has not been answered.

Mrs. Hand asked about the two off-site signs for Emerald Park Apartments. Mrs. Braz said she does not recall Council granting permission for an off-premise directional sign at this location; however, she will investigate.

Glen Outlaw, 1230 North Harbor City Boulevard, applicant, agreed with the stipulations. Mr. Outlaw explained that the sign (for the apartments) is located on Lot 20 in the southeast corner. They (developers) are removing the sign at their expense; however, the other sign will have to be relocated. He noted that if allowed by the city, the relocated sign would be placed on the city's retention easement.

Responding to Mrs. Poole, Mr. Outlaw confirmed that the developers will continue as the homeowners' association up to 90% ownership of the 44 lots. He stressed that they have a good track record in this regard.

Following a brief discussion, the Mayor clarified that Mr. Outlaw (who is a Planning and Zoning Board member) declared a conflict of interest and abstained from voting on this item; the P&Z minutes are clear about the declaration.

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Moved by Walker/Contreras for approval subject to the proposed stipulations. Motion carried. (Mrs. Poole voted nay.)

Mrs. Poole voted nay because she does not approve of mitigating wetlands to other areas of the county when we need them here.

19. COUNCIL ACTION RE: A request by the Downtown Redevelopment Committee for city sponsorship of the monthly “Friday Fest” in Downtown Melbourne.

Mr. Hill reported that the Downtown Redevelopment Committee has asked the city to participate in support of the Friday Fest event held monthly in Downtown Melbourne. This is a community event that has been held for approximately two years. Profits from the event are utilized by the Downtown Melbourne Association (DMA) for marketing of the Downtown area. The Downtown Redevelopment Committee suggested support in the form of a waiver of the fees charged by the city for police coverage, barricade placement and electrical services. These services have averaged \$400 per month in the past. The funding could be available from the Downtown Redevelopment Fund at a cost of approximately \$4,500 – 5,000 per year.

Mike Melhado, President, Downtown Melbourne Association, stated that Friday Fest is a community event, which generates hundreds of thousands of dollars in revenue for the Downtown Redevelopment Area. He referenced the amount paid by the DMA each month to the city for services and said in other areas of the state, events like this are supported solely by the cities. He asked for Council’s support in making this a community oriented event and pointed out that they are a non-profit organization; their proceeds go back into the Redevelopment District.

A brief discussion followed regarding why a Friday Fest is not held in December each year.

Mrs. Poole stated that she is opposed to using redevelopment funds for this purpose. It is not a one time event. She agreed that the DMA has a new board and new plans; however, she recommended the DMA work towards making the event successful and profitable. Additionally, she added that approval of the request would take funding away from landscaping, lighting, parking and other projects in the Downtown area.

The Mayor said he would like to see a clear recommendation from the Downtown Redevelopment Committee on whether they feel funds should be taken from the Downtown Redevelopment Fund for this purpose. A brief discussion followed regarding the Downtown Redevelopment Committee’s minutes. Mr. Palmer said the DMA needs to submit a plan along with a budget.

Mr. Contreras referenced the committee’s minutes and asked if it was the intent of the members that the funds come from the Redevelopment Fund. Mr. Hill said that was the general discussion, although it is not clearly stated in the minutes.

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Discussion continued. Mr. Melhado said the DMA is looking for community involvement for a community event rather than Friday Fest being viewed as a festival sponsored by the DMA every month.

Moved by Buckley/Contreras to postpone this item until the Downtown Redevelopment Committee communicates whether it supports the funds being taken from the Downtown Redevelopment Trust Fund. Motion carried unanimously.

20. COUNCIL ACTION RE: A request by Mayor Buckley to attend the Florida League of Cities' 2001 Legislative Action Day, April 3-4, 2001 in Tallahassee.

Mayor Buckley has requested approval for travel to the Florida League of Cities 2001 Legislative Action Day scheduled for April 3-4 in Tallahassee. Funding in the amount of \$303 is available from the Mayor and Council training and education budget.

Moved by E. Palmer/Walker for approval. Motion carried unanimously.

Added to the agenda:

- 20.1. COUNCIL ACTION RE: Request from the Florida League of Cities for a Letter of Opposition to efforts by the Legislature to remove local control of billboards.

The Florida League of Cities has asked the city to consider sending a letter of opposition to efforts by the Legislature to remove local control of billboards. A letter of opposition has been prepared should Council wish to adopt a position on the matter. If approved it will be faxed on March 14 to the House Transportation Committee members and sent to the Senate Transportation Committee for their March 21 meeting.

Moved by Poole/E. Palmer to forward the letter of opposition. Motion carried. (Vice Mayor Cheryl Palmer voted nay.)

- 20.2. COUNCIL ACTION RE: Approval of the satisfaction of rental rehabilitation property lien and authorization for the City Manager to execute the lien for Haywood Apartments located in the Annie Laurie Subdivision.

Attorney Gougelman briefed Council.

Moved by Walker/Poole for approval. Motion carried unanimously.

21. PETITIONS, REMONSTRANCES AND COMMUNICATIONS

Mr. Hill reminded Council that they have until March 21 to complete their open enrollment forms for benefits.

Mr. Hill referenced the staff report distributed to Council regarding the revitalization efforts in the Downtown Eau Gallie area.

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Mr. Hill noted that he and the Mayor will be meeting with representatives from Nextel on March 14 regarding their location in Melbourne.

Council briefly discussed the status of the Harbor City Volunteer Ambulance Squad litigation. The litigation is on the April 9 docket and the city is ready to proceed.

A brief discussion occurred regarding the plans by Holmes Regional Medical Center for expansion. Mr. Hill said he expects a presentation will be made to Council in April or May.

Council Member Ed Palmer noted that the city needs to communicate in writing to the School Board our support for School Board property (playgrounds, etc.) to remain open after hours for use by the public.

Council Member Contreras asked that the Downtown Redevelopment Committee discuss the feasibility and impact of converting Municipal Lane into a pedestrian area only.

Council Member Poole reported that she sat with representatives from Palm Shores at the recent Space Coast League of Cities dinner meeting. She asked them about their letter of support for a courthouse facility to be located in Bayside Lakes. Palm Shores indicated that they were not aware that this was in their letter; they thought they were supporting/proposing the Wal Mart site on Babcock Street.

22. ADJOURNMENT

Moved by E. Palmer/Contreras for adjournment. Motion carried unanimously.

The meeting adjourned at 10:28 p.m.

City Clerk – 3/22/2001

Approved by Council: March 26, 2001 with correction to page 4.