



**CITY MANAGER'S AGENDA REPORT**  
**REGULAR MEETING OF JANUARY 24, 2012**

**Item No. 8 - Ordinance No. 2011-59 (CU-2011-12) Our Lady of Lourdes**

This item was postponed at the December 13, 2011 meeting to allow the applicant to meet with the neighbors.

This is the first reading of an ordinance providing for the approval of a Conditional Use permit to expand church overflow parking and other accessory service buildings on property zoned R-1A (Single-Family Low Density Residential District), on 1.04± acres of land, with a Low Density Residential Future Land Use designation. The property is located east of Oak Street, west of Hickory Street, north of Palmetto Avenue, and south of Lincoln Avenue.

The property owner wishes to utilize the vacant lots to provide unpaved, overflow parking for church activities and special events. In addition, a portion of the property contains a residence for clergy and a residential structure that was converted into a youth center for the church in the early 1990s. This portion of the church property is currently non-conforming because the property has never received a conditional use approval. All of the proposed uses are accessory to the main church to the north.

The area is developed as a single-family residential neighborhood that surrounds the church, with adjacent institutionally-developed property to the north and east (Wells Park, the Melbourne Military Memorial Park and the Melbourne Library) and office/commercial uses to the south fronting on Strawbridge Avenue. The applicant has provided an exhibit that identifies how the property would be utilized. The proposed modifications shown on the exhibit are mainly to bring the youth center into compliance with the Zoning Code and provide stabilized, grass, overflow parking, with two driveway cuts to the street. The exhibit also describes the proposed screening where abutting residential properties.

The applicant met with residents in September after the Planning and Zoning Board tabled the request. Since that time, the proposed improvements were changed to eliminate the driveway along Palmetto Avenue and decrease the parking on the lot along Palmetto Avenue to provide a larger buffer (approximately 60 feet) for the residents along Palmetto. In addition, the applicant clarified the use of the parking area to be for overflow parking during Mass and special events, and also clarified the proposed use of the youth center building.

Staff has proposed a number of conditions that will limit the uses permitted on the lots:

- The parking areas will only be used for Saturday and Sunday overflow parking.
- The youth center will be limited to school age children on weekends.
- Any other uses will require a new conditional use approval.
- A barrier or gate will be installed at the entry points to eliminate non-church use of the lots.
- All of the lots will be unified with the main church lot.



- All landscaping and fencing will be installed where abutting single-family residential.

During the public hearing of the Planning and Zoning Board meeting, three residents spoke against approval of the request. Their concerns included the negative effects of a paved parking lot in a residential district, the previous lack of maintenance of the property, and the possibility of attracting vagrants and the homeless. Following review and discussion, the Planning and Zoning Board voted five to two to recommend approval at its November 17, 2011 meeting.

A petition opposing the request was received on November 28, 2011 from surrounding property owners. The residents who signed the petition believe that it will invoke the 6/7 vote requirement by City Council; however, this is not correct. In accordance with City Code, only Comprehensive Plan amendments and rezonings have a provision to invoke the 6/7 super majority vote. Since this request is for a conditional use, there is no provision to require a 6/7 vote. A total of 29 properties are represented on the petition representing 25.04% of the property owners within a 500-foot radius from the site.

During the public hearing at the City Council meeting, there were a number of incorrect statements that were made, and the following should assist in clarifying the issues:

- The youth center is currently an improper use and a stop work order was issued in August 2011 because a building permit was not issued for work being performed. If the conditional use is approved, the youth center will be conforming.
- The youth center is an accessory use to the church, not an accessory structure. The only size limitations for an accessory use is that it must be "subordinate in purpose, area and extent to the principal use", which the youth center meets.
- The church is currently in compliance with the required number of parking spaces. The church currently has 676 seats, requiring a total of 226 parking spaces. There are several paved parking lots owned by the church that provide a total of 191 spaces. A variance of 29 parking spaces was granted in 1992. (At that time, there was a request by the church to use the unpaved playground area for parking, but that request was withdrawn during the meeting and the parking on the playground was not tied to the approval). Additional unpaved parking, in excess of six spaces, is contained in the lot to the north of the school building. This lot was not previously used in the overall 1992 parking calculation because it was occupied by the Sharing Center in 1992 and is now utilized by the church.

A meeting was held at the church on January 12, 2012. Ten to twelve neighbors attended along with a number of church members. Five neighbors continued to speak against the request and two neighbors were in favor of the request. Generally, the neighbors do not want the two lots facing Palmetto Avenue to be included. The church has proposed locating the parking over 60 feet from the street on these two lots, and will install any required fencing or landscaping in this buffer area. This is shown on their exhibit.

Staff has also added an additional Condition h. as follows:

- h. All proposed improvements shall be made in accordance with the revised exhibit submitted by the applicant date stamped November 10, 2011.



**Recommend approval of Ordinance No. 2011-59, based upon the findings and conditions contained in the Planning and Zoning Board memorandum and condition “h” as added by City Attorney.**

**Item No. 9 - Ordinance No. 2012-01 (CU-2011-16) U-Cyber Center & U-Pizza**

This item was postponed at the January 10, 2012 Council meeting.

This is the first reading of an ordinance granting a conditional use to allow an amusement center (internet/cyber cafe) in conjunction with an existing take-out restaurant on a 0.620±-acre portion of a developed 1.836±-acre property zoned C-C-1 (Neighborhood Commercial with a conditional use for a gas station in 1979), with a General Commercial Future Land Use designation. The property is located on the south side of East University Boulevard, west of Grant Street and east of Carver Street (665 East University Boulevard).

The proposed project is to renovate a portion of the building, which used to be a separate retail unit to add the “internet/cyber cafe” area as part of the existing restaurant. Restaurants are a permitted use in the C-1 zoning district; however internet/cyber cafes are considered an “Amusement” use by City Code. Amusement uses require a conditional use approval in the C-1 zoning district. The surrounding area consists of commercial and institutional uses, along with residential uses on the north side of University Boulevard.

The applicant proposes 20 internet stations. The proposed amusement center would require 10 parking spaces. Adequate parking is already provided within the existing parking lot; however, the applicant is working with a local engineer to provide additional improved parking to the property in order to meet the future needs for additional restaurant seating.

One Board member expressed concern with the proposed development as he would prefer to see something more family oriented. Following review and discussion, the Planning and Zoning Board voted six to one to recommend approval of this request at its December 15, 2011 meeting.

A petition in support of the requested conditional use was received on January 19, 2012. The petition contains over 250 signatures in support of the conditional use request and it is attached in the agenda materials.

**Recommend approval of Ordinance No. 2012-01, based upon the findings and conditions contained in the Planning and Zoning Board memorandum.**

**Item No. 10 - Ordinance No. 2012-02 (AR-2011-234), Ordinance No. 2012-03 (CPA-2011-03), Ordinance No. 2012-04 (Z-2011-1175), and Ordinance No. 2012-05 (CU-2011-15/SP-2011-08) Murphy Express Beachside**

These are the second readings of ordinances providing for the annexation, designation of a General Commercial Future Land Use, designation of C-P (Commercial Parkway) zoning, and granting a conditional use with site plan approval to construct a gas station on



0.806± acres located on the north side of East Eau Gallie Boulevard, west of Highway A1A, and east of Ponce De Leon Drive (1040 E. Eau Gallie Boulevard).

The 0.806±-acre property is currently developed as a used vehicle sales business with several buildings and zoned BU-1 (General Retail Commercial) in unincorporated Brevard County. The property has been cleared and business operations exist throughout the site for the vehicle sales and trailer storage. The subject property is located centrally within a commercial area, both within the City as well as within unincorporated Brevard County. The property owner desires annexation in order to obtain City services and redevelop the site.

The applicant would like to operate a gas station on the property, containing a 208 square foot retail store with 10 fueling stations. Gas stations require a conditional use in the C-P zoning district. The proposal includes the demolition of the entire site for the construction of the gas station. The applicant proposes to eliminate the cut-through driveway to the north, provide for code-compliant paving, signage and dumpster area, as well as bring the landscaping up to City Code standards. A 15-foot wide vegetative buffer, with a six-foot high masonry wall, will be provided along the north property line. In addition, City Code will require additional trees in this area. The gas station will meet all of the City Code requirements, including the new design standards adopted several years ago. A variance request will need to be approved to address the gas tank setback requirement due to the mobile home development located to the north. This is due to the site layout and required truck access to the tanks. The mobile home park is zoned commercially.

Upon approval of this annexation, the subject property will be located within Council District 2.

The Planning and Zoning Board voted unanimously to recommend approval of these requests at its December 15, 2011 meeting.

- a. **Recommend approval of Ordinance No. 2012-02, based upon the findings contained in the Planning and Zoning Board memorandum.**
- b. **Recommend approval of Ordinance No. 2012-03, based upon the findings contained in the Planning and Zoning Board memorandum.**
- c. **Recommend approval of Ordinance No. 2012-04, based upon the findings contained in the Planning and Zoning Board memorandum.**
- d. **Recommend approval of Ordinance No. 2012-05, based upon the findings and conditions contained in the Planning and Zoning Board memorandum.**

#### **Item No. 11 - Consent Agenda**

- a. Purchase of 26,400 pounds of PA-110-PWG dry polymer for Water Production, KED Group, Inc., Orlando, FL - \$43,560.



- b. Approval of \$20,000 SHIP Award to Love INC., Inc. for delivery of SHIP Limited Scope Rehabilitation Services.
- c. Authorization to submit a grant application for \$30,271.56 to the Brevard County 2011 EMS Grant Program, to accept the grant if awarded, and authorization for the City Manager to execute any necessary grant documents.
- d. **Resolution No. 3230:** A resolution supporting the Economic Development Commission of Florida's Space Coast's application to the State of Florida Department of Economic Opportunity on behalf of "Project Exceed" for tax refunds through the Brownfield Redevelopment Jobs Bonus Refund Program.
- e. **Resolution No. 3231:** A resolution approving an Interlocal Agreement with the Board of County Commissioners of Brevard County relating to conveyance by County deed of the parking lot located at 618 Melbourne Avenue known as Henegar Center parking lot; authorizing the City Manager to execute the Interlocal Agreement, conduct a feasible study, and accept the County deed under certain circumstances.
- f. **Resolution No. 3232:** A resolution approving an Interlocal Agreement with the Board of County Commissioners of Brevard County relating to conveyance by County deed of the 16±-acre park known as Riverview Park authorizing the City Manager to execute the Interlocal Agreement, conduct a feasible study, and accept the County deed under certain circumstances.

#### **Item No. 12 - Items Removed from the Consent Agenda**

At this time Council will address any items that are removed from the Consent Agenda.

#### **Item No. 13 - Ordinance No. 2012-06 (CU-2011-17/SP-2011-09) Midair USA Maintenance Hangars**

This is the first reading of an ordinance granting a conditional use with site plan approval to allow a building height of 82 feet (an additional 34 feet) on 13.41± acres of property zoned M-1 (Light Industrial) located on the north side of General Aviation Drive, east of Croton Road and west of Apollo Boulevard. The property has an Industrial Future Land Use designation, and is classified as "Future Aviation Use" property per the Melbourne Airport Layout Plan and the Airport Master Plan.

The applicant is requesting a conditional use to allow a two-phase aircraft maintenance facility including three attached structures totaling 200,600 square feet. The project incorporates a 13.41±-acre development area with two hangar buildings separated by an attached administrative office. The project request is to allow for a building height of 82 feet (34 additional feet in height). The permitted height for the M-1 zoning district is 48 feet. Only a portion of the hangars is 82-feet tall. The hangars are approximately 292 feet deep, with the first 92± feet of the building at the 82-foot tall average. The remaining 200± feet of the building will be approximately 60 feet in height. The purpose of the taller



section of the building is to accommodate the entire aircraft (including the tail) within the building for repairs.

City Code requires that conditional use requests for additional building height be required to meet additional criteria related to the public benefit of the proposal. The applicant is incorporating a public benefit by installing a 1,013 foot long berm along the entire western boundary that will range from 12 to 15 feet in height, with a continuous hedge and oak trees planted at the top. Additionally, an undisturbed buffer will be maintained along the north property line of the airport.

In order to accommodate the extension of an airport taxiway from the runways to the subject property, the Melbourne Airport Authority is modifying General Aviation Drive and extending Croton Road. General Aviation Drive will be terminated at the proposed site. Croton Road will be widened and extended to meet City standards, and to provide access to the remaining portion of General Aviation Drive. The Melbourne Airport Authority has received a \$1,500,000 financial assistance award from the Governor's Office of Tourism, Trade and Economic Development (OTTED) to construct these roadway and airport improvements.

During the public hearing portion of the Planning and Zoning Board meeting, one Board member expressed concern with regard to the Airport's master plan and its inability to follow through with the completion of necessary roadway connections and improvements. Several residents expressed concerns related to:

- Noise generated from the project.
- Bright lighting created from the project.
- The proposed location.
- Increased traffic issues on Croton Road.

Following review and discussion, the Planning and Zoning Board voted five to two to recommend approval of these requests at its January 5, 2012 meeting.

Several items that came up during the Planning and Zoning Board should also be clarified:

1. Subsequent, the Airport has revised the berm drawings to widen the berm at the north end to allow the height to increase to at least 12 feet to further protect the residential properties to the west. (It was previously at 8.5 feet.)
2. Regarding any noise concerns: the airplanes will be "tugged" into the hangars; the airplanes will be unfueled and the engines will not run when parked in the hangar; the airplane engines will only run at idle speed approximately every 45 days for each airplane for no longer than 30 minutes, between Monday through Friday from 8:00 a.m. to 5:00 p.m.; and except for the final systems check, it will not be MidAir's practice to run the airplanes north of General Aviation Drive.
3. The Airport staff will work with the Engineering staff to propose solutions to deter unnecessary traffic along the extension of Croton Road.



4. Any proposed lighting on the development site will be required to meet City Code, Chapter 20, Section 20-110 and 20-111 regarding spillover lighting and glare.
5. The hangar containing the paint booth will have all doors closed and an air filtration system running during any painting process.
6. The Airport Authority has not included a proposed western extension of General Aviation Drive in its master plan for a number of years. A roadway connection from Apollo Boulevard to Croton Road, along the north edge of the Airport property, is currently shown in its master plan.

**Recommend approval of Ordinance No. 2012-06, based on the findings contained in the Planning and Zoning Board memorandum and conditions contained in the Planning staff memorandum.**

**Item No. 14 - Ordinance No. 2012-07 (CU-2011-18) Melbourne Professional Center/GBA Training**

This is the first reading of an ordinance granting a conditional use to allow educational uses on a portion of a 5.33±-acre developed site zoned C-1A (Professional, Offices and Services District), with a General Commercial Future Land Use designation. The property is located on the north side of Sarno Road, west of Apollo Boulevard and east of Ixora Drive (1600 Sarno Road).

The applicant is requesting to allow a portion of the property to be leased for educational tenants (primarily for adult education/vocational/technical education). Currently, the property owner has one specific tenant ready to lease 1,000 square feet of space for security guard training. This specific tenant, a security guard training business (GBA Training) is proposing one classroom/training room with approximately 15 students, as well as an office, break room and bathroom facility. Schools (public and private) require a conditional use approval in the C-1A zoning district. The conditional use standards are presented in Appendix B, Article IX, Section 5.

The site has sufficient parking to meet current City standards; there are 288 parking spaces on the property. The entire 65,995± square foot building would require 220 parking spaces on-site for business office uses. Educational uses in general require a greater number of parking spaces, due primarily to class size (one space per three students). Planning staff researched the industry standards for typical "square foot per occupant" of adult educational facilities and determined the average size is 50 square feet per student, and the typical classroom size is between 600-750 square feet for up to 15 students.

During the public hearing portion of the Planning and Zoning Board meeting, discussion took place regarding the calculation of required square footage per student within a classroom. This information is necessary to determine parking for the site. While staff's research was based on information obtained from the "State Requirements for Educational Facilities" for vocational and technical type schools (50± square feet per student), the applicant researched the same source using calculations for universities and major college campuses (25± square feet per student). Due to parking requirements on site, the



applicant preferred to have less leasable area for education uses in order to have more students per square foot of classroom, and agreed to the reduction in the leasable area for educational uses from 20% to 10%.

Following review and discussion, the Planning and Zoning Board voted unanimously to recommend approval of this request at its January 5, 2012 meeting. Three changes were made to the staff recommended conditions regarding the percentage of floor area used for educational uses; the student per square footage calculation; and the prohibited use of specific types of schools, as well as age and class time limits.

**Recommend approval of Ordinance No. 2012-07, based upon the findings and amended conditions contained in the Planning and Zoning Board memorandum.**

**Item No. 15 - Ordinance No. 2012-08 (CPA-2011-04) and Ordinance No. 2012-09 (Z-2011-1176) Bonita Beach**

These are the first readings of ordinances amending the future land use from Medium Density Residential to Mixed Use and amending the zoning on a 1.0±-acre portion from R-2 (8) (One-, Two-, and Multiple Family Dwelling Medium Density District with a cap of eight units per acre) to C-1 (Neighborhood Commercial) on property located on the north side of East Eau Gallie Boulevard, west of Highway A1A, and east of Bel Aire Drive.

The applicant is attempting to revitalize the property by providing a future land use and zoning to allow infill Neighborhood Commercial development facing the major arterial roadway, while maintaining the residential condominium development as a transition to the adjacent residential neighborhoods to the north. The requested Mixed Use land use classification will allow commercial development, as well as residential uses with a maximum density of 10 units per acre. The proposed C-1 zoning district will permit uses such as office, retail and restaurant uses. Automotive uses, adult entertainment and more intensive commercial uses will not be permitted in the C-1 zoning district.

The C-1 zoning proposed on the southern 1-acre, is intended *"...to apply to an area adjacent to arterial and major collector streets and convenient to major residential areas"*. The commercial properties in this area include shopping centers, restaurants and office uses, along with a few multi-family residential developments in the vicinity. The C-1 zoning is applicable to the southern part of the property, given its prime visibility and access at a major arterial roadway. The majority of the frontage along the north side of Eau Gallie Boulevard is commercial with residential uses to the north.

During the public hearing portion of the Planning and Zoning Board meeting, several residents expressed concern with regard to the following:

- The lack of a site plan.
- The type of uses that may be placed on the property.
- The construction of a new commercial building when there is a large number of existing, vacant buildings.



Following review and discussion, the Planning and Zoning Board voted unanimously to recommend approval of these requests at its January 5, 2012 meeting.

On January 6, 2012 a resident submitted an intent to file a petition opposing the requested land use and zoning change. A petition has been filed against CPA-2011-04 by the adjacent property owners within 500 feet. Calculations are in the process of being obtained. Should the signatures of 20% of the property owners be attained, a 6/7 vote would be required for the approval of the ordinance at the second reading.

- a. **Recommend approval of Ordinance No. 2012-08, based on the findings and condition contained in the Planning and Zoning Board memorandum.**
- b. **Recommend approval of Ordinance No. 2012-09, based on the findings and condition contained in the Planning and Zoning Board memorandum.**