

**FRUITLAND PARK CITY COMMISSION WORKSHOP
MEETING MINUTES
August 22, 2017**

A workshop meeting of the Fruitland Park City Commission was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Tuesday, August 22, 2017 at 6:30 p.m.

Members Present: Mayor Chris Cheshire, Vice Mayor John L. Gunter, Jr., Commissioners Christopher Bell, Ray Lewis, and Rick Ranize.

Also Present: City Manager Gary La Venia; City Attorney Anita-Geraci-Carver; Community Development Director Charlie Rector, and City Clerk Esther B. Coulson.

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Cheshire called the meeting to order at 6:00 p.m. and the Pledge of Allegiance to the flag was led by Commissioner Bell.

2. ROLL CALL

After Mayor Cheshire requested that Ms. Coulson call the roll, he announced the protocol of addressing the city commission at this evening's meeting.

In acknowledging the reasoning behind a previous request to postpone this evening's workshop, Mayor Cheshire recognized the few items before the city commission on its August 24, 2017 regular agenda; suggested that Messrs. Rector and Greg Beliveau, LPG Urban and Regional Planners Inc., present what is required at this evening's workshop, and suggested the drafting of an ordinance, if there is a need.

3. LAND DEVELOPMENT REGULATIONS – Chapter 154, Zoning District Regulations

Mr. Beliveau addressed the intent and reasons to initially review the Zoning District Regulations under Chapter 154 of the Land Development Regulations (LDRs); the remaining chapters as action items as a result of the recent adoption of the city's comprehensive plan policies, and the statutory requirement for the LDRs to comply with same. He reviewed the table under the zoning regulations and the zoning maps reflecting the adult entertainment buffers; copies of which are filed with the supplemental papers to the minutes of this meeting.

Mr. Beliveau explained that the zoning code was amended over time -- by the city's former community development department staff -- which included the zoning designation of Medium-Density Residential (R-2A) zoning district and Multi-Family High Density Residential/Neighborhood Commercial (R-3A) zoning district; gave the opinion that the respective designations were not logical and did not connect to anything, and recognized that the comprehensive plan refers to units per acre which does not include the following as they relate to density:

- Single-Family Low Density Residential (R-1) (an old zoning district at two units per acre which is currently R-2 zoning district and referred to as “Single-Family Medium Density Residential” (R-4) zoning district at four units per acre);
- R-2A zoning district;
- Multi-Family High Density Residential (R-3) zoning district, and
- R-3A zoning district.

Mr. Beliveau explained that determination had to be made in comparing how the comprehensive plan policies relate to the zoning categories; delineated the renaming of the zoning districts reflected under Table 154.030.01, and recognized the following changes:

- R-1 and R-2 zoning districts remain the same;
- R-2 zoning district (signified in yellow) relates to most of the city;
- the current single-family attached dwelling units (permitted on the zoning map and depicted as red dots) has been stricken, will no longer be a permitted use, and once adopted will not exist, and
- under the permitted special exception uses, options will not be available for duplexes (they are signified in yellow) has been stricken.

After Commissioner Lewis referred to the provision *Uses Expressly Prohibited* under subsection 4)1.d)1)C), Renaming of Zoning Districts, Mr. Beliveau agreed in the affirmative to his statements that the respective uses, previously considered before the Planning and Zoning Board, required rezoning of the parcel to the other permitted categories.

After discussion, Mr. Beliveau identified the following available zoning designations which allow attached single-family dwelling units -- the red dots as depicted on the zoning map -- and explained that the legends will change to reflect the color on the new zoning maps for simplicity:

- Multi-Family Low Density Residential (R-8) zoning district, now Multi-Family Medium-Density Residential;
- (R-10) zoning district at ten dwelling units per acre, and
- Multi-Family High-Density Residential (R-15) zoning district.

Mr. Beliveau concurred with Commissioner Lewis’ statements that the aforementioned zoning districts precludes the request for variance but requires rezoning of the respective parcel. He recognized the categorical changes made by former community development department staff on R-2 to R-2A zoning district and addressed the option for the city commission, in future, to review and consider some of the areas shown in yellow as R-2 and R-2A zoning districts which ought to be reflected as a different color on the zoning map and does not require a change to Chapter 154, Zoning District Regulations.

Mr. Beliveau concurred with Mayor Cheshire's statement that there is no R-8 zoning district designated in the city. He indicated in response to Commissioner Lewis' inquiry that the option for attached single-family dwelling units in the locations presently available are R-3 zoning district – detached duplexes currently R-15 or R-10 zoning district categorized as permitted or special exception use.

In response to Commissioner Ranize' question, Mr. Beliveau explained that R-8 zoning district (not on the zoning map) and R-15 zoning district, are permitted uses or special exception uses which would require the applicant, during the development approval process, to appear before the city commission; however, special approvals is not required. Since the 1992 period, Mr. Beliveau verified that the R-10 (under R-3A) zoning district, has not been changed; no edits have been made to the category, it is an allowed use, and does not require any special process. He confirmed that single-family attached, single-family detached, duplexes, and multi-family dwelling units are all permitted uses.

Messrs. Beliveau and Rector outlined the historical overview of the changes on the R-2 and R-3 zoning districts (the origin of the R-2A and R-3A zoning districts) and identified locations of potentially developed higher density properties with the connection for water and wastewater which is not available.

Following further discussion, Mr. Beliveau recognized the current LDRs, the city's comprehensive plan, and the three categories with the cited options where there is little land identified -- unless the city commission desires to make changes for further study on the zoning map. He mentioned the preference for a lower density type of environment with a map for local governments and recognized that the city does not have any historical categories.

After extensive discussions, and in response to Mayor Cheshire's identification questioning the logic of retail sales designation as prohibited uses on Berckman Street, Mr. Beliveau noted the longevity of such uses as financial, business services and personal services and later indicated that it would not be a problem to change the designation as part of the transition to "small retail sales".

Commissioner Lewis identified the roofing contractor business located on Dixie Avenue which he believes ought to be in the residential/professional (RP) zoning district.

In answer to a question posed by Commissioner Bell, Ms. Geraci-Carver explained that despite the intended changes, one can establish vested rights; continue with uses that are not permitted as they are legally existing as non-confirming uses and develop same under the old zoning code; otherwise, if such use is abandoned, one would need to meet compliance under the existing zoning code.

After discussion, Vice Mayor Gunter addressed the problems relating to the RP zoning district in the vicinity of West Berckman Street – the north/south Dixie Avenue corridor to US Highway 27/SR 441 -- and the ability to erect duplexes.

In response, Mr. Beliveau recalled, when the comprehensive plan amendment was being considered before the city commission:

- the review of RP designation office -- small home-type structures -- along the areas in question as a transitional use in the zoning category;
- the list of uses to address the transition and the transfer of same to high density or small retail offices, personal service uses, financial institutions, and small real estate office, where existing homes could be utilized as another use other than residential;
- the roadway improvements increasing Miller Street to four-lanes which occurred around 2006;
- West Berckman Street as the arterial connector to the city's downtown locations where changes were noticeable with the residential properties on the Dixie Avenue corridor, and
- the method of revising the comprehensive plan's zoning category and rules and regulations with the city commission direction to staff and LPG -- at its December 10, 1992 regular meeting -- to proceed with the RP zoning changes.

In response to Commissioner Bell's reference to a Florida League of Cities' class he previously attended regarding short-term vacation rentals and after Mr. Beliveau confirmed that the LDRs do not address same, Ms. Geraci-Carver referred to the "Bert J. Harris, Jr., Private Property Rights Protection Act." She explained how property owners would need to establish a vested right to develop their property under the zoning code (established individually by each property and circumstance) where building permits were approved by staff and the city commission.

Mr. Beliveau indicated that the city commission established an existing use and a vested right, as a government, where it cannot be taken away and recognized every jurisdiction with a grandparenting sunset rule on nonconforming uses which varies as the business remains dormant and the procedures on restoring the vested right.

According to the city's existing zoning code, Ms. Geraci-Carver noted the difficulty in meeting the element whereby the property owner would need to provide evidence revealing that they made, in good faith, a substantial change in position to the property or they have incurred extensive obligations and expenses. She indicated that it would make it highly inequitable to interfere with said owner's acquired right.

After discussion, Mr. Beliveau agreed with Mr. La Venia's clarification of substantial changes under Chapter 154, Zoning District Regulations -- other than minor language changes under the R-4 zoning category -- and the adult entertainment buffers which are not permitted uses in the industrial (I) zoning district.

Following extensive discussions, Mr. Beliveau and Ms. Geraci-Carver delineated -- when applying for future land use plan categories -- the annexation, comprehensive plan amendment, and the Planned Unit Development (PUD) procedures before the city commission and its discretion in considering same.

Mayor Cheshire recognized the R-2 zoning district resolving the problem experienced around the vicinity of 106 Sunset Way and felt it to be unwise for the city commission to decide on removing duplexes and single-family dwelling units in other areas but approve it the way it was before.

After Mr. Beliveau mentioned the city commission's option to include small retail into the RP zoning category, Mayor Cheshire expressed his preference to exclude *Uses Expressly Prohibited, Special Exemption Uses*, which would come before the city commission for consideration.

After discussion and **by unanimous consent, the city commission requested changing the residential/professional zoning district as it is *expressly prohibited* and incorporate the provisions in other categories allowing for small retail sales with size limitations.**

In response to Mayor Cheshire's inquiry, Commissioner Lewis believed that it does not make sense to remove duplexes and single-family attached dwelling units in the R-10 and R-15 zoning districts.

Subsequent to ensued discussion and **by unanimous consent, the city commission agreed that the threshold for commercial space in the residential/professional zoning district be up to 5,00 square feet allowed as a permitted use for site plan approvals and parcel sizes of more than 5,000 square feet would need to be considered by the city commission as special exception use.**

With respect to the city's options, Ms. Geraci-Carver gestured in the affirmative to Mr. Beliveau's reference to the U.S. Supreme Court's ruling prohibiting the establishment or maintenance of adult entertainment zoning as a permitted use in the I zoning district. He recognized the city's inability to maintain such use as a special exception but as a permitted use and identified the respective Central Business District (C-1) zoning district reflected as purple on the Adult Entertainment Buffers Maps; copies of which are filed with the supplemental papers to the minutes of this meeting.

Mr. Beliveau mentioned his awareness of the bed and breakfast inn use to be the best option allowed in one zoning category which needs to be an accessory as permitted use; responded to Commissioner Ranize's remarks that adult entertainment is permitted in the old zoning district as special exemption, and indicated that the C-1 zoning district identifies that there is no special exception use which can be expanded into commercial designation.

Following further discussion, Ms. Geraci-Carver addressed the need to have properties available which can be occupied for adult entertainment business and noted the difference, as the city proceeds, with medical marijuana activities, whereby adult entertainment is a free speech issue. She recognized jurisdictions that implemented its use and regulations; explained why the city cannot have associations with the use of alcohol, and concurred with grouping them together as a zone or establishing distance requirements from educational institutions.

In response to Commissioner Lewis' suggestion to establish adult entertainment zoning in the I zoning district within 3,000 of pre-existing religious institutions, Ms. Geraci-Carver explained that based on the city's population, a minimum of three industrial sites available for such permitted use would be required which would satisfy the U.S. Supreme Court's ruling. She agreed with Mr. La Venia's inquiry, to which Mr. Beliveau concurred, that 1,500 feet would be viable as long as the city reviews the sites from the geographical information system; measure the distance from the educational and religious institutions, and determine the adequate parcels allowable which can be occupied and contiguous to each other where size would not be a requirement.

In response, Mr. Rector referred to the enacted Adult Entertainment Ordinance 2002-004 which regulated same.

Answering an inquiry posed by Commissioner Bell and with respect to Mr. Beliveau's remarks on LPG's review of potential parcels with I zoning district and alternative uses, Ms. Geraci-Carver recognized the city's prohibitive use within the PUD and noted the parcels and the city's respective ordinance which are restrictive.

Mr. Beliveau explained that after reviewing the Adult Entertainment Buffers Maps, he addressed the plan to highlight the area identifying the buffers ensuring that they are not on located on US Highway 27/441. After he recognized the problem of the increasing internet cafés in the City of Leesburg, Ms. Geraci-Carver referred to Florida Statutes Chapter 849 still in affect which is not enforced by Lake County and Mayor Cheshire referred to Temporary Moratorium Gaming Ordinance 2012-023.

Mr. Rector referred to his previous communication with the State of Florida Department of Agriculture and Consumer Services (DACS); stated that they regulate internet cafés, and indicated that they can operate as a game of skills. He addressed the difficulty in verifying same; indicated that DACS provided him with information on approved games, and relayed the calls made to the county who stated that they are not enforcing same due to the lack of staffing. Mr. Rector explained that if the internet cafés are not games of skills and games of chances, the city has a right to cease their operations.

The city commission, by unanimous consent agreed with Mayor Cheshire's suggestion to direct LPG Urban and Regional Planners Inc. to conduct studies on the adult entertainment zoning and the three industrial parcels available for such permitted use within the Industrial zoning district; the elimination of the retail sales but keep the "Single-Family Medium Density Residential" (R-4) zoning district at four units per acre, and the removal of single-family attached dwelling units allowing it to remain.

In response to Commissioner Bell's inquiry, Mr. Rector confirmed that currently no application exists and no one has been requested to erect duplexes in the old R-2 zoning district; however, there are existing applications submitted for five single-family attached homes.

Ms. Geraci-Carver agreed in the affirmative to Mayor Cheshire's comments that the applicant, Mr. Terry Ross, is exempt from the old zoning requirements to which Mr. La Venia interjected regardless as to whether an ordinance would be enacted.

In response to a question posed by Mr. Carlisle Burch, City of Fruitland Park resident, Mr. Beliveau delineated the following:

- "duplex" as a single-family structure owned by one person with two units (rented out to two people) on one parcel;
- the current "single-family attached" (similar to the term "single-family detached") as a two-unit structure and lots of record -- either a residential condominium unit or town home -- sitting on a parcel owned by two individuals or one person possessing two deeds with a fee-simple ownership where the applicant in question is required to develop the condominium property which are lots of record and does not meet the city's code until Chapter 154, Zoning District Regulations is changed;
- the methods of selling namely; condominium package and a fee-simple ownership (depending upon how the parcel originated; how it can be conveyed; whether it was large enough to meet the city's code on its historically regular lots of record, and where the units could be divided), and

In response to Commissioner Ranize' inquiry on the cease and desist 120-day process relating to condominiums, Mr. Beliveau noted its requirement to be fulfilled by the applicant and Ms. Geraci-Carver addressed the need for the applicant to reappear before the city commission. She recalled the city commission's previous position at its May 11, 2017 regular meeting to not demolish the two-existing single-family attached residential dwelling units in the R-2 and R-2A zoning districts and explained that that if the applicant does not develop condominiums, the issue in question would be considered before the city commission.

Ms. Geraci-Carver referred to the draft response regarding the city's zoning for the Ross Property that she prepared on August 22, 2017, authorized by Mr. La Venia, to Ms. Marybeth L. Pullum, Attorney, Pullum & Pullum, representing Mr. Ross. Ms. Geraci-Carver indicated that the city's current zoning does not allow townhouses (within a homeowners' association (HOA)) as they need to be developed into condominiums; relayed Ms. Pullum's intent to proceed in this regard, and addressed her plan to keep the city commission apprised. (A copy of the draft is filed with the supplemental papers to the minutes of this meeting.)

Mr. Burch stated that in his mind, he believed that the city commission permitted an individual to build something that does not belong in the area in question; felt that a method was found to allow Mr. Ross to proceed, and relayed the position of the surrounding area neighbors and his in this regard.

Following much discussion and in answer to Mayor Cheshire's inquiry, Ms. Geraci-Carver indicated, in speaking with Ms. Pullum, the reason for her retention was on the condominium development; acknowledged the subject procedure's expense, and noted the

determination on whether the creation of same as town homes with an HOA was an option. Ms. Geraci-Carver addressed her plan to review the city's zoning code; noted the need for another structure -- if built by Mr. Ross -- and the option for it to be developed or plat as condominiums which would include all parcels contiguous to another, and mentioned her intent to speak with Ms. Pullum confirming that the city currently has the permits.

Ms. Geraci-Carver concurred in the affirmative to Mayor Cheshire's statements that the city could permit the applicant to develop condominiums where he would not have the situation of not having a single-family attached property as condominiums and the assurance of not demolishing same. She responded to Commissioner Lewis' inquiry that the applicant could not obtain the certificate of occupancy and rent the property as each unit would be subject to separate ownership.

Mr. Rector verified, in agreement with Mayor Cheshire's remarks that if the applicant desires for the property to be a single-family attached, as a single-family residence, the internal common wall would have a connection to each other and if he does not want to opt for condominiums, same could transformed into a single-family dwelling; thus, he noted Mr. Ross' awareness of same which he relayed is not an option.

In response to Commissioner Lewis' inquiry, Ms. Geraci-Carver referred to the "single-family attached" dwelling units' provisions under subsection 151.020, Definitions and Interpretations of the LDR which needs to be subject to separate ownership capable by one person. She concurred with Commissioner Lewis' statements that such unit type would need enough square footage and the lot divided to meet the city's LDRs and explained that one cannot expand by dividing a non-confirming lot; thus, creating two smaller lots.

Mr. Beliveau pointed out:

- the minimum parcel sizes for each category;
- the lot of record, age, and history in the Lake County Property Appraiser's Office;
- the grandparenting provisions allowed (based on the requirements under subsection 154.040, Size and Dimension Criteria of the city's LDRs);
- the choices allowed when issuing a permit;
- the steps required for an applicant to build a single-family home or an attached unit and whether it meets the current setback requirements, and
- the number of smaller lots sizes and old plats that exist in the city; thus, the number of local governments who have eliminated minimum lot sizes (namely, 10,000 or 12,000 square feet) and opted for densities of around four units per acre setback requirements; thus, the city was not previously instructed to make changes on its lot sizes or setback requirements which can be considered in the future.

After much discussion and in answering an inquiry posed by Commissioner Lewis, Ms. Geraci-Carver explained that the units relating to the applicant will be subject to separate ownership and the land/real estate will be individually owned. She agreed with

his statements that each owner would be a member of the condominium association and pay taxes on the land and indicated that said owners would own the inside of the condominium unit.

Following further discussion and after Mayor Cheshire referenced the LDRs' lot sizes and setback requirements, Ms. Geraci-Carver pointed out Mr. Beliveau's previous discussions with her on the 1970s and 1980s single-wide mobile homes, the difficulty in acquiring fire and homeowners' insurance, and the problems experienced in replacing said homes with existing dimensions.

After discussion, Mr. Beliveau confirmed, in response to Mayor Cheshire's reiterated requests, that lot sizes, setback requirements, and mobile homes can remain unchanged. He recognized, in answer to Commissioner Ranize' question, that the historical 1906 is a different section to be addressed at a future meeting where there were no LDRs on the records to which Ms. Geraci-Carver indicated that a determination cannot be made on what the setbacks were at that time.

Ms. Geraci-Carver questioned changing the provisions of nonconforming lots of record under subsection 152.070:a)1), subdivisions and plats, nonconforming lots of record under the LDRs. She explained that development on residential lots platted may be permitted based on the setback requirements in force at the time of platting which would apply to lots of record zoned as commercial or industrial on or before November 26, 1991. Ms. Geraci-Carver suggested that the city commission, when adopting the new LDRs, bring the date forward and establish a date of 1991 to which Mr. Beliveau agreed that an open-ended date would be addressed when the chapter is amended.

Upon the recommendation of Mayor Cheshire, **the city commission, by unanimous consent, agreed that the lot sizes and setback requirements under the Land Development Code remain as is and applicants can appear before the city commission requesting the granting of a variance, Planned Unit Development, smaller lots, and less setback requirements.**

In response to Mayor Cheshire's inquiry, Mr. Beliveau indicated that another draft on LDRs changes would be available in one week and a subsequent advertisement for a public hearing in this regard to consider same.

Commissioner Ranize requested that Mr. Beliveau provide drafts of changes to the LDR for Chapter 154, Zoning District Regulations and the minor change to Chapter 152, Administration for commission review within one week before it meets. After he recalled the city commission's discussion on changes to be made to Chapters 154 and 151, Definitions and Interpretations and questioned whether they would be addressed at the same time, Mr. Beliveau addressed the ability to provide some definitions on single-family one dwelling unit and explained the updates of Chapters 151 to 154 to not being much different and concurred with Mr. Rector's statements on the remaining definitions to be reviewed.

In answering questions posed by Commissioner Ranize, Ms. Geraci-Carver recommended updating the chapters by codifying them with Municipal Code Corporation® to which Mr. Beliveau addressed the options of immediately enacting an ordinance to update the chapters in the zoning code to meet compliance without any conflicts in the comprehensive plan and LDRs which would still be updated and explained that he does not recommend, as the other option, continuous updates to the whole document in one year.

After Commissioner Ranize requested guidance from Mr. Beliveau on needed chapters in the order of importance for commission review, Mr. Rector noted that due to commercial development, he recommended Chapter 163, Sign Regulations which Mr. Beliveau, Ms. Sherie Lindh, LPG, and himself would need more time to review same, and suggested that he will coordinate meeting dates with Mr. La Venia.

4. OTHER BUSINESS

Following extensive discussion, the city commission requested more licenses for microphones for the city commission chambers and a separate moveable microphone for a future meeting.

5. ADJOURNMENT

There being no further business, the meeting adjourned at 8:37 p.m.

The minutes were approved at the February 22, 2017 regular meeting.

Signed 

Esther B. Coulson, City Clerk

Signed 

Chris Cheshire, Mayor