

FRUITLAND PARK LOCAL PLANNING AGENCY MEETING MINUTES
October 11, 2018

A meeting of the City of Fruitland Park Local Planning Agency was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Thursday, October 11, 2018 at 6:15 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 Treasurer Jeannine Racine; Interim Police Chief Erik Luce, Sergeant Henry Rains; Executive Assistant Karen McKillips, Police Department; Interim Fire Chief Donald Gilpin, Deputy fire Chief Tim Yoder, Fire Department; Public Works Director Dale Bogle; Community Development Department Director Tracy Kelley, Administrative Assistant Kelley Turner and Permit Technician Stevie Taub; District 2 City Commissioner Candidate Fred Collins, and City Clerk Esther B. Coulson.

1. CALL TO ORDER

Mayor Cheshire called the meeting to order at 6:15 p.m.

2. ROLL CALL

Mayor Cheshire requested that Ms. Coulson call the roll and a quorum was declared present.

3. APPROVAL OF MINUTES

On motion of Commissioner Bell, seconded by Commissioner Ranize and unanimously carried, the LPA approved the June 28, 2018 LPA minutes as submitted.

QUASI-JUDICIAL PUBLIC HEARING

PUBLIC HEARING

4. Ordinance 2018-019 Definitions and Interpretations – Commercial Parking

After Ms. Geraci-Carver read into the record proposed Ordinance 2018-019, the substance of which is as follows, she swore in those present who intended to testify at this evening's meeting.

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, FLORIDA,
AMENDING THE LAND DEVELOPMENT CODE; TO AMEND THE
DEFINITION SECTION OF CHAPTER 151; PROVIDING FOR
LEGISLATIVE FINDINGS AND INTENT, PROVIDING FOR
CONFLICTS AND SEVERABILITY; AND AN EFFECTIVE DATE.

Mr. Greg Beliveau, LPG Urban Planners Inc. (consultant retained by the city), reviewed the subject proposed ordinance and relayed the Planning and Zoning (P&Z) Board's recommendation of approval on same.

After discussion, and in response to an inquiry posed by Mayor Cheshire, Mr. Beliveau explained that there would be a clear understanding for current uses correctly complying with the regulations to which Ms. Geraci-Carver indicated that as the city evolves and recognizing the different interpretations, she clarified the definitions intent would not prohibit one from parking commercial vehicles overnight and confirmed that nothing has changed in this regard.

A motion was made by Commissioner Bell and seconded by Vice Mayor Gunter that the LPA recommend the approval of proposed Ordinance 2018-019 as previously cited.

Mr. "Zack" Zackary J. McCormick, attorney representing Ms. Sharron Pettus, City of Fruitland Park resident, voiced his disagreement with Mr. Beliveau's earlier viewpoints that the subject issue would affect at least one business -- to which he believes is referencing Spa Kingdom Inc. -- where it would allow what is not permissible under the current interpretation of the commercial parking definition.

Mr. McCormick relayed his client's opposition to the "clarification"; voiced his disagreement with Ms. Geraci-Carver's statements in that regard where he indicated is a de facto rule change and noted the previous understanding that commercial parking would not permit overnight parking of commercial vehicles where based on his client's observations has been carried out by Spa Kingdom and similarly by other businesses. He pointed out the P&Z Board's September 20, 2018 meeting that if the subject proposed ordinance is adopted, anyone with the most basic form of business would be permitted to park commercial vehicles on the property which is currently prohibited in Residential Professional (R-P) and Neighborhood Commercial (C-1) zoning designations. Mr. McCormick indicated that said ordinance would change the city's character; believed that imminent growth would severely impact his client and the quality of life she has and relayed her objections to the adjacent commercial operation .

Ms. Michelle Taylor, City of Fruitland Park resident, homeowner and employee for Deans Services, addressed the length of time she has been parking her vehicle at her driveway; mentioned her ownership of a land maintenance business where her trailer is also parked at her home and pointed out the strict guidelines followed by herself and her employees. She noted that no chemical spills were shown from pictures posted on social media and believed that if state law is followed, that commercial parking ought to continue.

Ms. Ramona L. Barnett, City of Fruitland Park resident, gave her opinion that Spa Kingdom's location is trashy and gave her observations, when visiting individuals' homes, of commercially parked vehicles at their residences where she has problems with contamination from chemicals, children and pets roaming in the area.

Mr. Ryan Lowe, City of Fruitland Park resident who also works for Deans Services; mentioned his experience in the pest control monitoring care industry and pointed out the social media postings regarding the subject issue which related to his commercially parked

vehicle. He outlined the United States Environmental Protection Agency and the State of Florida Department of Agriculture and Consumer Services laws and regulations, which the company is bound by ensuring that chemicals and products used are protected, safeguarded and are inspected frequently where there are no outstanding violations or any incidents.

At Mayor Cheshire's reiterated request, Mr. Beliveau confirmed that the subject issue has no effect on commercial parking vehicles at residential properties and that the city has, will not propose or contemplate and does not enforce any homeowner's association rules in that regard.

Mr. Beliveau confirmed, in response to Commissioner Ranize' inquiries, that the subject issue would affect RP zoning categories; however, the Furniture Barn would be grandparented as a vested business from the screened and buffered fencing requirements; however, they would need to operate within the LDRs

After Mr. Larry Smith, Spa Kingdom owner, recognized all the provisions were complied with prior to the residents living in the area and noted the complaints; Mr. Beliveau explained the grandparenting requirements since 1992, some of which have been amended; addressed the plan to overhaul same and noted that the new compliance would be triggered in the city's code if Mr. Smith expand, make additions, request variances and so forth on his business.

Mr. McCormick, in referring to Mr. Beliveau's opinion, gave his understanding that the de facto current interpretation of commercial parking strictly forbids overnight parking which Mr. Smith's operation is engaging in. He pointed out the document, previously issued by the community development department, that Spa Kingdom is currently in violation of the city's laws and interpretation of commercial parking – recognizing that it is without adopting the proposed clarification.

Mr. McCormick recognized that the subject issue is a definitional rule change and not a clarification. He addressed the need to follow due process and procedures to modify the provisions where it is inaccurate to assert the current status quo which favors Spa Kingdom's use of the property.

In answering Mayor Cheshire's inquiry, Ms. Geraci-Carver confirmed the subject issue to be a clarification and recognized the difference of opinion on the:

- interpretation previously given by Ms. Lori Davis, Code Enforcement Officer, prohibiting overnight parking of Spa Kingdom's vehicles on the property who issued a citation;
- lack of communication by code enforcement with the community development department or Mr. Beliveau in that regard and

- matter when it came to light which was brought to both individuals' attention where Mr. Beliveau indicated the city's continued interpretation of the parking definition to be consistent with Spa Kingdom being allowed to park its vehicles overnight in the respective zoning district.

Mayor Cheshire called for a roll call vote on the motion with the LPA members voting as follows:

Commissioner Bell	Yes
Commissioner Lewis	No
Commissioner Ranize	Yes
Vice Mayor Gunter	Yes
Mayor Cheshire	Yes

The motion was declared carried on a four to one (4-1) vote.

QUASI-JUDICIAL PUBLIC HEARING

5. Quasi-Judicial Public Hearing - Ordinance 2018-021 – Rezoning Petitioner: Larry Smith Trustee

Ms. Geraci-Carver read into the record proposed Ordinance 2018-021, the substance of which is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA, REZONING 0.75 ± ACRES OF THE PROPERTY FROM RESIDENTIAL PROFESSIONAL (RP) TO NEIGHBORHOOD COMMERCIAL (C-1) WITHIN THE CITY LIMITS OF FRUITLAND PARK; PROVIDING FOR CONDITIONS AND CONTINGENCIES; DIRECTING THE CITY MANAGER TO AMEND THE ZONING MAP OF THE CITY OF FRUITLAND PARK; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Beliveau, who was previously sworn under Item 4, reviewed the subject proposed ordinance; gave a description of the proposed rezoning request by the petitioner which was made in response to a code violation addressed under the previous Item 4. He relayed staff's recommendation of approval with the request to submit:

- a signed and notarized owner's affidavit;
- install a solid vinyl fence in lieu of a 10' buffer along the properties, eastern and western property boundary and in lieu of a 15' buffer along the northern property boundary;
- provide additional vegetative planting along East Berckman and along the eastern portion of the site and
- revise the site plan labeling the dimension and parking spaces.

In response to Mayor Cheshire's inquiries on the disclosure of ex-parte communications, Commissioner Ranize referred to his previous telephone call to Mr. Smith regarding his likely initiation and recommendation to rezone as C-2 and confirmed that conversations have not taken place since.

Answering Ms. Geraci-Carver's statements in identifying the respective correspondence and after Mayor Cheshire referred to the recent emails (petitions) to the city commissioners regarding the subject issue with Vice Mayor Gunter, Commissioners Bell and Lewis confirming same, Commissioner Ranize indicated that that subsequent emails received were deleted without being read.

Mayor Cheshire disclosed the September 27, 2018 email response to an inquiry from Ms. Pettus that there are no plans for Berckman Street which would have to happen organically which is not a priority of the commission at this time.

Mr. Beliveau reported from the public notices recently sent to the surrounding properties that 54 certified, six undeliverable, one is not opposed and four were opposed. (Copies of the respective documents are filed with the supplemental papers to the minutes of this meeting.)

After much discussion, **a motion was made by Commissioner Lewis and seconded by Commissioner Ranize that the LPA recommend the approval of proposed Ordinance 2018-021 as previously cited.**

Mr. McCormick, representing Ms. Pettus, explained that her residence abuts the subject property and relayed her opposition to the proposed change which would create an island of C-1 against R-P zoning designations depicted on the site location map; there is no guarantee from the city on what would be envisioned in the location, and believed that every use, abutting the subject property is RP zoning designation with the C-2 parcel adjacent to the main highway. Mr. McCormick addressed the concept on the need for a transition where he does not see the logic and questioned same as Spa Kingdom is allowed to exist in the current location storing chlorine next to his client's property and a fence does not fix potentially hazardous chemicals which is not the intent of the zoning.

Ms. Geraci-Carver swore-in Mr. Smith who intended to testify on the subject item. He explained that he has been in operation for more than 10 years where he applied to the city for a fence permit and his plan to install an improved fence at an additional expense. He explained the reason for delaying work on the property is due to his neighbor's pursuit which prevents him from operating his business.

Mr. Smith conveyed his apologies to Ms. Barnett who appeared before the LPA earlier in this evening's meeting under Item 4 regarding her concerns on the declined condition of his property due to his neighbor; his desire to make improvements, and that he does not see why he should relocate his business or jeopardize the employees who live and work in the city. He addressed his commitment to keep the property clean if the LPA would allow him to continue with his business.

Following much discussion and there being no further comments **the LPA by unanimous consent, closed the public hearing.**

Mayor Cheshire called for a roll call vote on the motion and it was declared carried unanimously.

END OF QUASI-JUDICIAL PUBLIC HEARING

6. PUBLIC COMMENTS

There were no comments from the public at this time.

7. OTHER BUSINESS

There was no one from the public to appear before the LPA at this time.

8. ADJOURNMENT

The meeting adjourned at 7:11 p.m.

The LPA minutes were approved at the April 11, 2019 meeting.

Signed  _____
Esther B. Coulson, City Clerk

Signed  _____
Chris Cheshire, Mayor