

REGULAR COUNCIL MEETING

A Regular Council Meeting was held on May 23, 2022 at 6:00 p.m. in the Council Chambers of City Hall.

President Wilkeson called the meeting to order at 5:59 p.m. Roll call was taken. Present were members Kenneth Burgess, Alan Knight, Charles Proctor, Lance Smith, Jodi Wilkeson and Mayor Whitfield. City Manager William Poe was present and City Attorney Matthew Maggard attended via GoToMeeting + 1 (408) 650-3123 – Access Code: 335-865-557.

Staff present: Police Chief Derek Brewer, Public Works Director Shane LeBlanc, Planning Director Todd Vande Berg, Finance Director Ted Beason, Public Information Officer Kevin Weiss, IT Director Mike Panak, Police K9 Officer Emile Limoges, Senior Planner Rodney Corriveau, Historic Preservation Specialist and Community Planner Audrey McGuire, GIS Technician and Community Planner Kevin Kelley, Finance Supervisor Jessica Carter and City Clerk Lori Hillman.

Pastor Nick Deford delivered the innovation. The Pledge of Allegiance followed.

1. UNFINISHED BUSINESS/PUBLIC HEARING

1.1 First Reading RESOLUTION NO. 791-22 – “A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS RELATED TO HEIGHT; APPROVING A CONDITIONAL USE TO EXCEED THE HEIGHT LIMITATIONS OF THE R4 (MULTI-FAMILY RESIDENTIAL) ZONING DISTRICT ON PARCEL NO. 35-25-21-0010-04400-0000; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; AND PROVIDING AN EFFECTIVE DATE.”

City Attorney Matthew Maggard read Resolution No. 791-22 by title. Historic Preservation Specialist and Community Planner Audrey McGuire said this property is approximately 12 acres located at the northwest corner of Pretty Pond and Wire Roads zoned R4 (Multi-Family Residential). The applicant is requesting to exceed the two story height limitation. The City’s Land Development Code (LDC) allows for heights in excess of the maximum established for the R4 zoning district to be considered as a conditional use. A four story mid-rise structure requires an increase in the setback of one additional foot for each additional two feet of building height above 30 feet and the applicant has met the setback on the proposed conceptual plan. The applicant will submit information to the Federal Aviation Administration (FAA) to assure the proposed buildings do not exceed the height limitations determined to protect the approach and clear zones of the Zephyrhills Municipal Airport. Staff did not find any adverse impacts contributing to the deterioration of quality of life or property values in the immediate neighborhood based on the character of the existing land use patterns of single-family residential which included the three story Zephyr Commons Apartments, the three story American House Assisted Living facility and the three-story Grand Reserve Apartments. The proposed conditional use will not create or excessively increase traffic or parking congestion or otherwise affect public safety. The site has suitable drainage, access, ingress and egress, off-street parking and loading areas. Signage and lighting will not affect surrounding areas and it is not considered to be a negative impact to health, safety or welfare of the surrounding community area. The applicant has agreed to conditions for additional landscape buffering, enhanced architectural features, turn lanes at the project entrances and will contribute to the Wire Road and Pretty Pond Road intersection improvements. Staff recommended Council’s approval.

A public hearing was held and applicant’s attorney, Clark Hobby, with Hobby and Hobby, P.A. – 109 N. Brush Street – Tampa, FL submitted supplemental documents to City Clerk Lori Hillman to be entered into the record (Part 5.04.00 Transportation System Level of Service marked as Exhibit 1, Part 5.01.00 Consistency and Concurrency marked as Exhibit 2, Staff Report for Nick Apartments Conditional Use dated March 9, 2022 marked as Exhibit 3a, March 28, 2022 Regular Council Meeting Minutes marked as Exhibit 3b, and Resolution 778-21 marked as Exhibit 4.

Lance Smith moved to receive and file the supplemental documents submitted into the record by the applicant’s attorney, Clark Hobby. Seconded by Alan Knight. Motion passed unanimously.

Spoke from the floor Clark Hobby - Hobby and Hobby, P.A. – 109 N. Brush Street – Tampa, FL

Attorney Hobby said the applicant is requesting a conditional use relating to height. He stressed that every site is different and the extra height on this site will allow the applicant to create large setbacks that will benefit the surrounding properties. He highlighted a conceptual plan depicting a front setback of 94 feet in lieu of 40 feet, 116 feet on the east in lieu of 20 feet, 67 feet on the west in lieu of 20 feet and 229 feet on the north in lieu of 25 feet, noting the northern boundary is adjacent to the largest amount of single-family residential homes. He said a transportation study is not required based on the maximum number of units and is deemed de minimis under the City's Land Development Code (LDC). However, the applicant has agreed to fund one quarter of the roundabout at Pretty Pond Road and Wire Road for intersection improvements. This is an offsite improvement and the City has no legal ability to extract that from the applicant but in an effort to be a good neighbor, the applicant wants to make sure they are not creating traffic issues. This is not fee credible and is out of the applicant's pocket. While traffic work shows there is no requirement for a left turn lane into the site, the applicant will build left turn lanes in the amount of \$300,000, approximately, for transportation improvements not required by the City. He requested a change to condition 6D - hardy board construction siding changed to stone on the bottom level and stucco construction above to make an architectural commitment. The tone has already been set for this area which is a very dense and intense area. He said this area of Zephyrhills is not suburbanizing, it's urbanizing.

Spoke from the floor: Elizabeth Rodriguez – 18156 Sandy Point Drive – Tampa, FL

Ms. Rodriguez said the applicant is not required to perform a full traffic study based on the number of daily trips and is deemed de minimis but the applicant will be making a proportionate share contribution toward the roundabout and will build two turn lanes above and beyond what is required by the City.

Spoke from the floor: Civil Engineer Cody Boggart – New Kirk Engineering – 1230 N. US 1 – Ormond Beach, FL

Mr. Boggart said the site plan was originally designed with ten foot buffers around the project and recently enlarged to 15 Type B for more plantings. He said the site has suitable drainage, access, ingress, egress, off street parking and loading areas and the applicant is providing the screening and buffering to prevent any interference with the surrounding uses in the area. Safe circulation has been provided internally through the site with added turn lanes and safe external traffic functions. He said there will be positive outfall for drainage to the south and the applicant will maintain a lack of adverse impacts to the southern properties by assuring there is no point discharging.

Councilman Burgess said development is the life blood of the City and Council has to make sure they are mitigating growth. He said developers and their representatives want to maximize the number of units on a piece of property for the most efficient price. The City has an ordinance that states no more than two stories on building height. He said he would not be supportive of a four story conditional use. He said his issue is simply density and he has to manage growth by adhering to the City's ordinances.

Spoke from the floor Clark Hobby - Hobby and Hobby, P.A. – 109 N. Brush Street – Tampa, FL

Attorney Hobby said this project is in the Euclidean zoning area and the maximum density is determined by the City's code; this is solely an issue with the height.

Council Vice President Smith said under the Euclidean code, the City may have a project that follows the code to a T without an applicant willing to build turn lanes or contribute to the roundabout. The City would have the impact of the project without any benefit of transportation and buffer improvements. The development is not increasing density and will create apartments needed for hospital employees. If there is any place in Zephyrhills the City would build a four story building, this would be the area. He said if he has to make a choice between an apartment

complex of 120 with no road improvements, no roundabout, with smaller buffers, it's an easy decision.

Signed up to Speak from the floor: Kevin Bahr – 37545 Skyridge Circle – Dade City, FL
Mr. Bahr said he is on the Planning Commission and voted in favor of this project but did not sleep the night he made the decision. He said the City of Zephyrhills has a limited amount of land and are in a critical time right now with projects they are approving. He said the Planning Commission has requested staff lower the density from 20 to 14 units per acre for future development.

Council President Wilkeson agreed that Council needs to look at reducing the density and increasing lot sizes to 50' instead of 40'. She also thinks that Council needs to talk seriously about tapping the breaks on future development.

Lance Smith moved to approve Resolution No. 791-22 on the First Reading. Seconded by Alan Knight. Motion passed 3-2, Councilman Burgess and Councilman Proctor were opposed.

2. CONSENT ITEMS

2.1 Approval of May 9, 2022 Regular Meeting Minutes

2.2 Approval of May 9, 2022 Workshop Minutes

2.3 Award Bid No. 11-22-02 and Simons Road-Phase 2 Construction Agreement No. 25-22-03 to B.R.W. Contracting, Inc.

2.4 Request Approval to Extend Current Agreement with RCM Utilities

2.5 Request Council Approval to Extend Current Agreement with Killebrew Construction

2.6 Approval of Planning Commission Board Members

Lance Smith moved to pull Consent Item 2.3 for further discussion. Seconded by Charles Proctor. Motion passed unanimously.

Charles Proctor moved to approve Consent Items 2.1, 2.2, 2.4, 2.5 and 2.6. Seconded by Kenneth Burgess. Motion passed unanimously.

CONSENT ITEM 2.3

Award Bid No. 11-22-02 and Simons Road-Phase 2 Construction Agreement No. 25-22-03 to B.R.W. Contracting, Inc.

Public Works Director Shane LeBlanc said this is a drainage prone area. He is working with Engineer Craig Cornelison on value engineering to replace box culverts that are specified with a 28 week lead time to elliptical pipe with a 14 week lead time that are less expensive. He said the drainage is complex with guardrails, gravity walls, and retaining walls. The contractor, B.R.W. Contracting is looking at 240 days completion.

Lance Smith moved to approve Consent Item 2.3. Seconded by Kenneth Burgess. Motion passed unanimously.

3. BUSINESS ITEMS/PUBLIC HEARING

3.1 Sarah Vande Berg Tennis Center Housing Developer's Agreement No. 41-22-01 First Reading SVB Housing, LLC's Healthier Stay Planned Unit Development (PUD) consists of approximately 10.15 Acres MOL (Parcel No's. 04-26-21-0000-00200-0012 and 04-26-21-0000-00200-0011) and is generally located on the west side of Simons Road, north of Crestview Landing Way. Estimated Population Density of the Development is 6.8 persons per acre. Proposed uses include: a mix single-family and townhomes at 14.0 units per acre and a maximum height of 2 stories; a 32,235 sq. ft. dormitory building (29 units) with a maximum height of 3 stories; a +/- 22,500 sq. ft. mixed-use medical/office/residential building with a maximum height of 48 feet; and

a +/-27,300 sq. ft. Indoor Multi-Purpose Recreation/Tennis Facility with a maximum height of 48 feet.

City Attorney Matthew Maggard read the Sarah Vande Berg Tennis Center Housing Developer's Agreement No. 41-22-01 by title. A public hearing was held and there were no comments from the floor.

City Manager William Poe said the Developer's Agreement sets forth specific obligations of the parties including but not limited to:

- City will provide \$176,000 in impact fee credits (transportation, park and utility impact fees);
- Developer will dedicate just over 1.6 acres to the City of which 1.083 acres will be for the construction of the SVB indoor facility, proposed as Phase II, a 27,000 square foot multi-purpose facility;
- Developer shall dedicate .542 acres of right-of-way along Simons Road;
- Developer shall be responsible for the design, engineering, and construction of the roadway improvements;
- Developer and the City will enter into a separate cross parking agreement;
- Developer shall be responsible for the design and installation of all water and sewer infrastructure. The plan is for the system to be private;
- Developer will take ownership and ongoing maintenance of lift station #69 located at the SVB Tennis Center. The lift station will be upgraded, if needed, to handle all flow from the SVB Tennis Center, SVB indoor facility, and all phases of the SVB Housing project;
- City will remove SCADA controls, panel, and tower from the lift station;
- The Developer shall be responsible for the design, engineering, and construction of all stormwater infrastructure improvements serving the project and all parking areas for the SVB indoor facility;
- City agrees to design the exterior of the indoor facility to be consistent with the SVB Tennis Center and SVB Housing development.

City Manager William Poe said there are two public hearings required for the subject Developers Agreement. The affected property owners have been noticed and the Developers Agreement has been appropriately advertised. The total impact fee credits of \$176,000 will be applied to the project over Phase I, II and III. The Developers Agreement is in compliance with the City's Land Development Code (LDC) and Florida Statutes. Staff and the City Attorney have reviewed the Developers Agreement and request Council's approval and direction to advertise the Developers Agreement for a second public hearing. He said the improvements at Eiland Blvd. and Simons Road will be a signalized intersection tied to the developer's agreement for Abbott Square. The intersection improvements are under design with construction to begin when the 100th certificate of occupancy is issued. There will be dedicated right hand turn lane along Simons Road. He said the state appropriated \$4.665M to Phase II Construction of the SVB Indoor Facility. He said the intent is for Tennis Pro Florida, who currently operates the Tennis Facility, to operate the indoor facility as well.

Kenneth Burgess moved to approve the SVB Developer's Agreement No. 41-22-01 on the First Reading. Seconded by Lance Smith. Motion passed unanimously.

4. FINANCE DIRECTOR'S REPORT

4.1 Presentation of 2021 Audit – Comprehensive Annual Financial Report

Finance Director Ted Beason introduced Marcie Reutimann with Bodine Perry who has completed the City's 2021 Fiscal Year Audit.

Spoke from the floor: Marcie Reutimann – Bodine Perry – 6815 Dairy Road – Zephyrhills, FL

Ms. Reutimann presented an overview of the 2021 Audit and stated the opinion is an

unqualified opinion which means the Financial Statements presented are materially correct. The City had a state single audit this year to assure the City is complying with grant requirements. She directed Council to their audit binder and highlighted the Independent Auditors' Report, Management's Discussion and Analysis, Statement of Net Position, Statement of Activities, Proprietary Funds, Notes to the Financial Statements, Required Supplementary Information (Auditors' Report on Internal Control), and Management Letter. She presented slides of Total Government Funds – Revenue, Total Governmental Funds Expenditures, Undesignated/Unreserved General Fund Balance, Total Proprietary Funds – Revenue, Total Proprietary Funds – Expenses and Net Assets by Activity Type. In closing, she said the City's finances look good.

Lance Smith moved to approve the 2021 Audit – Comprehensive Annual Financial Report. Seconded by Alan Knight. Motion passed unanimously.

4.2 Berry Dunn McNeil & Parker, LLC Consulting Contract No. 37-22-06

Finance Director Ted Beason said staff is recommending outside assistance to evaluate the City's Utility Billing System. A couple of years ago, the City had an emergency and moved from Fathom to Munibilling. Staff would like to evaluate the progress made servicing utility customers, the option to bring services inhouse and improve current practices. He requested the City Manager have authority to approve the task orders.

Council President Wilkeson clarified the purpose of this agreement is for the City to receive a baseline to make sure the City is adhering to best practices and this will be a onetime expense, not an ongoing expense.

Lance Smith moved to approve the Berry Dunn McNeil & Parker, LLC Consulting Contract No. 37-22-06 with authority for City Manager to approve Task Orders. Seconded by Kenneth Burgess. Motion passed unanimously.

5. **PLANNING DIRECTOR'S REPORT**

5.1 LDC AMENDMENT Section 7.09.16, Mini-Warehousing & Storage Units

Amendment to the Land Development Code, Section 7.09.16 Pertaining to Supplemental Standards for Mini-Warehouse and Self-Storage Use.

Planning Director Todd Vande Berg presented a proposed Land Development Code (LDC) Text Amendment for indoor storage facilities; Section 7.09.16 – Mini-Warehousing & Storage Units. The current text in the LDC is outdated and refers to the older one story mini-warehouses of metal construction. The current market is changing dramatically in terms of height, scale and design/architectural elements. Staff has received a couple inquires for indoor storage facilities that would exceed the current code standards. He highlighted the proposed changes to include adding a Type B buffer around the perimeter with wall and/or fence enhancements; all loading bays shall be screened from view; and increased screening with a defined decorative, solid masonry wall or aluminum with solid pillars at equal intervals. A masonry wall should be architecturally finished to match the buildings. Unfinished concrete block will be prohibited. Building height will be 15 feet or one story in the Community Redevelopment area (CRA) and Form Based Code (FBC). Outside these districts would require a conditional use for an increase in height. He said language can be added for additional fence height to be considered as part of the conditional use process. He said indoor storage facilities do not generate a lot of traffic or use a lot of water. Staff requested Council's approval and direction for City Attorney to create an ordinance.

Lance Smith moved to approve LDC Amendment to Section 7.09-16 Mini-Warehousing & Storage Units. Seconded by Charles Proctor. Motion passed unanimously.

5.2 RZ-0012-22 Application to Rezone

Application submitted by North American Development Group (NADG) to rezone approximately 0.73 acres of real property generally located +/-238 feet east of the intersection of Kossik Road and US Hwy. 301 on the north side of Kossik (Parcel/Tax ID No. 26-25-21-0130-00000-0130) from City PUD to City C2 (Community Commercial).

Historic Preservation Specialist and Community Planner Audrey McGuire said the subject property was originally approved as part of the Zephyr Lakes (Abbott Park) PUD Master Plan for residential use and subsequently sold to Zephyr Commons LLC. The property is still zoned PUD. The applicants are requesting to rezone from PUD (Planned Unit Development) to C2 (Community Commercial). The rezoning is consistent with the parcel directly west of the subject property as well as the property directly to the south. The C2 zoning is consistent with the future land use category of MU (Mixed Used).

Lance Smith moved to approve Business Item 5.2. Seconded by Charles Proctor. Motion passed unanimously.

5.3 ANX-0008-22 Heyl Trucking Annexation

Application submitted by Heyl Truck Lines, Inc. for simultaneous review of a request for annexation, future land use map amendment, and rezoning of approximately 12.92 acres of real property, generally located at 4904 Kitty Hawk Drive (Parcel/Tax ID No. 18-26-21-0010-01100-0000).

Historic Preservation Specialist and Community Planner Audrey McGuire said this property is located off Chancey Road in the jurisdictional boundaries of Pasco County but is contiguous to the City's boundaries. The applicant requests to amend the future land use classification from Pasco County IL (Industrial-Light) to City IN (Industrial) with a zoning amendment from Pasco County L1 (Light Industrial Park) to City LI (Light Industrial). This is consistent with the City's Land Development Code (LDC), Comprehensive Plan and Florida Statutes Chapter 171 that provides criteria for annexation and is not expected to impact the water and sewer system in any negative manner. Staff and the Planning Commission recommended Council's approval.

Kenneth Burgess moved to approve Business Item 5.3. Seconded by Lance Smith. Motion passed unanimously.

6. **CITIZEN COMMENTS**

Spoke from the floor: Faye Geiger – 36645 Paddock Lane - Zephyrhills, FL

Ms. Geiger said she, her family, and neighbors came to every meeting relating to the paving and construction of Simons Road to explain the impact development would have on schools, roads, the community, livestock and wild life. She said they were told the City had to bring in development to pay for the infrastructure upgrades our town desperately needed. In the end, we got a paved road that everyone treats as a racetrack. She said she requested a stop sign at the entrance to her driveway and got a roundabout that teenagers use as a drifting track. Our classrooms are overcrowded, buses are packed, and the School Board has ended the two mile courtesy transportation. Our children will now be walking to school and home in the dark without street lights, sidewalks or cross walks. She said parks are showing their age, shelters are in disrepair and are being used by our homeless. The family-friendly atmosphere our town used to have has disappeared. Our long-time residents can no longer afford to live here and it is not safe for our children. She addressed Council and said the community needs you to become more proactive.

Spoke from the floor: James Laferrier – 38928 Cambridge Drive – Zephyrhills, FL

Mr. Laferrier presented his Eagle Scout Project for Troop 72 and narrated a PowerPoint slideshow highlighting the Flag Retirement Box outline, budget, and photographs. The Flag Retirement Box will be placed at the Fraternal Order of the Eagles location to collect old, tattered flags.

Spoke from the floor: Warren Earle – 3822 Florida Ranch Blvd. – Zephyrhills, FL

Mr. Warren Earle volunteered to donate \$200 toward the project's cost. Council concurred to donate \$100 each individually. City Attorney Matthew Maggard volunteered to split the \$200 with Mr. Earle and donate \$100 on behalf of Shumaker Law.

Spoke from the floor: Mike Door – 5125 Second Street – Zephyrhills, FL
Mr. Door said the City has to quit worrying about quantity and quality that comes into this town and ask developers what they are going to do for Zephyrhills.

MAYOR ANNOUNCEMENTS – N/A

CITY MANAGER ANNOUNCEMENTS – N/A

CITY ATTORNEY ANNOUNCEMENTS – City Attorney Matthew Maggard thanked Council for allowing him to attend the meeting virtually.

CITY COUNCIL COMMENTS - Councilman Proctor said he would like to revisit lot sizes.

Council Vice President Smith thanked Faye Geiger for sitting through the long meeting. He agreed that zoning needed to be reviewed. He said Council receives information, deciphers the information and makes a decision but they are not infallible. He said we live in a state with the best weather in the nation with a crop of baby boomers retiring to Florida. Until they shut the gates at the state line, we are going to have to deal with growth.

Councilman Burgess thanked the people who sat through the meeting.

Council President Wilkeson said she believes in smart development and believes the City can make a difference in improving the quality of life for the people who live in our community.

Councilman Knight reminded those in attendance to remember and honor Memorial Day Monday, May 30, 2022 and thanked all the servicemen.

7. NOTED ITEMS

7.1 COZ Depository Deposit Listing

Meeting adjourned: 8:16 p.m.
Submitted by Lori Hillman

PART 5.04.00 TRANSPORTATION SYSTEM LEVEL OF SERVICE

The traffic circulation element of the City's Comprehensive Plan contains the following level of service requirements for roadways in the city:

Type of Facility	Peak Hour Level of Service
Local streets	LOS "D" peak hour
Minor and major arterials	LOS "D" peak hour

(Ord. 998-08, passed 2-11-2008)

§ 5.04.01 DETERMINATION OF PROJECT IMPACT.

An application for a Comprehensive Plan amendment, a rezoning or site plan approval of a proposed development shall determine the impact of the project by the following procedures:

(A) A traffic impact analysis shall be prepared by the developer or his or her designee that includes a projection of the gross daily trips to be generated by the project and the distribution of the trips onto adjacent streets. Institute of Traffic Engineers trip generation rates or another approved source shall be used as the basis for trip generation calculations.

(B) A development may be defined as de minimus if the development is anticipated to generate less than 1,200 gross daily trips. No additional concurrency analysis will be required for de minimus developments.

(C) A traffic study is required if the development is anticipated to generate more than 1,200 gross daily trips. If a traffic study is required, the traffic study analysis should be conducted following the procedures defined in Table 1: Traffic Study Requirements/Guidelines and Table 2: Traffic Study Assumptions.

(D) Both de minimus projects and projects requiring a traffic study shall provide, at a minimum, the following level of service calculations at each project access point during the p.m. peak hour:

(1) A determination of need and length of turn lanes at project driveways consistent with the city's Land Development Code; and

(2) A determination of need for traffic signals or other traffic control devices at project driveways.

(E) Traffic analysis shall be conducted consistent with Table 2: Traffic Study Assumptions and shall be prepared using generally accepted traffic analysis standards and guidelines.

(Ord. 998-08, passed 2-11-2008)

§ 5.04.02 METHODS OF COMPLIANCE.

(A) Where the capacity exists to serve the proposed development as shown by comparing existing and proposed levels of service, the project shall be found in compliance with the transportation level of service.

(B) Where there is an existing or anticipated deficiency, one of the following requirements shall be met:

(1) Improvements to the affected roadways will increase the capacity of the roadway(s) such that the level of service requirement shall be met on or before occupancy of the development (or where applicable the first phase of the development). Capacity shall be ensured through one of the following:

(a) Improvements are under construction at the time of application and are sufficient to maintain the adopted level of service. Where improvements are under construction, the level of service may be degraded during that period of time between occupancy of the development and completion of construction; the occurrence shall not constitute noncompliance;

(b) A contract has been executed for improvements necessary to maintain the adopted level of service. The schedule of the contract shall be reasonably expected to provide the capacity at the time of occupancy. However, the level of service may be degraded during that period of time between occupancy and completion of construction; the occurrence shall not constitute noncompliance; or

(c) Funds are budgeted and appropriated by the city, county or the FDOT for improvements necessary to maintain the adopted level of service. Funds shall be for actual construction and not for preliminary planning, design or engineering. The anticipated construction schedule shall be reasonably expected to provide the capacity at the time of occupancy or within two years following occupancy. The temporary degradation of level of service under this paragraph shall not constitute noncompliance.

(2) Where no improvements are to be provided as described in division (B)(1) above, the following methods may be used to maintain adopted level of service:

(a) The project owner or developer may provide the necessary improvements to maintain level of service. In such case the application shall include appropriate plans for roadways improvements, documentation that the improvements are designed to provide the capacity necessary to maintain the level of service and recordable instruments guaranteeing the construction. Documentation that improvements are designed to provide the necessary capacity shall be prepared and sealed by a professional traffic engineer, registered in the state. The provision of improvements shall be reasonably scheduled to provide the capacity at the time of occupancy; however, a temporary degradation of the level of service may be allowable and shall not constitute noncompliance. A temporary degradation may be allowable for a period not to exceed one year and may be allowable only if construction is taking place. Failure to meet this provision shall constitute violation of the development order and may result in cancellation of the development order and discontinuance of project construction and/or further occupancy.

(b) The developer may contribute funds to the city necessary to provide roadway improvements needed to maintain or achieve the adopted level of service. Contribution of funds shall result in an appropriate budget amendment by the city in order to implement the needed roadway improvements. Approval of the development project shall be delayed until all appropriate government action has occurred necessary to meet one of the requirements above.

(3) The proposed project may be altered such that projected level of service is no less than the adopted level of service.

(C) The proposed development shall dedicate necessary right-of-way for roadway improvements on adjacent roadways and within the project site.

(D) All roads and roadway improvements shall be constructed in compliance with standards and specifications of city regulations.

§ 5.04.03 PROPORTIONATE FAIR-SHARE TRANSPORTATION MITIGATION PROGRAM.

§ 5.04.03.01 PURPOSE AND INTENT.

Pursuant to Fla. Stat. Ch. 163.3177(10)(h), public facilities and services needed to support development shall be available concurrent with the impacts of the development. The Florida Administrative Rule implementing this statute, Rule 9J-5.0055, mandates the adoption of concurrency management systems by a local government to ensure that the level of service standards adopted through the Comprehensive Plan are maintained. Concurrency is a finding that the public facilities and services necessary to support a proposed development are available or will be made available, concurrent with the impact of development. The provisions of this article are designed to provide a systematic process for the review and evaluation of all proposed development for its impact on basic public facilities and services in order to meet the requirements of statutory concurrency requirements. The purpose of the proportionate fair-share option is to establish a method whereby the impacts of development on transportation facilities may be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair-Share Program, as required by and in a manner consistent with Fla. Stat. Ch. 163.3180(16). (Ord. 973-07, passed 3-12-2007)

§ 5.04.03.02 PROPORTIONATE FAIR-SHARE TRANSPORTATION MITIGATION PROGRAM.

(A) General requirements.

(1) The Proportionate Fair-Share (PFS) Transportation Mitigation Program shall only apply to developments in the city that have been notified of a lack of capacity to satisfy transportation concurrency.

(2) An applicant may choose to satisfy the transportation concurrency requirements of the city by making a proportionate fair-share contribution, pursuant to the following requirements:

(a) A determination by the city that the proposed development is consistent with the Comprehensive Plan and applicable land development regulations; and

(b) A determination by the city that the five-year schedule of capital improvements in the city capital improvement element (CIE) or county capital improvement program (CIP) or FDOT Work Program includes a transportation improvements) that, upon completion, will satisfy the requirements of the city transportation concurrency. The provisions of § 5.04.03.02(A)(3) may apply, at the discretion of the city, if a project or projects needed to satisfy concurrency are not presently contained within the city CIE, county CIP or FDOT Work Program.

(3) (a) The city may choose to allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Program by contributing to an improvement that, upon completion, will satisfy the requirements of the city transportation

concurrency, but is not contained in the five-year schedule of capital improvements in the city CIE, county CIP or FDOT Work Program where one of the following apply:

1. The city adopts, by resolution or otherwise, a commitment to add the improvement to the five-year schedule of capital improvements in the CIE no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the city's engineer or his or her designee and be determined to be financially feasible, to be consistent with the Comprehensive Plan and to be in compliance with the provisions of this code.

2. The county adopts, by resolution or otherwise, a commitment to add the improvement to the five-year schedule of capital improvements in its CIP no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the County Engineer or his or her designee and be determined to be financially feasible and the city must determine that the improvement is consistent with the city's Comprehensive Plan and in compliance with the provisions of this code.

3. The FDOT accepts a proportionate fair-share payment (as demonstrated by an executed agreement between the developer, the FDOT and the city) and the city determines the improvement is consistent with the city's Comprehensive Plan and in compliance with the provisions of this code.

4. If the funds allocated for the five-year schedule of capital improvements in the city CIE are insufficient to fully fund construction of a transportation improvement required to meet concurrency. The city may still enter into a binding proportionate fair-share agreement with the applicant authorizing construction of that amount of development on which the proportionate fair-share is calculated if the proportionate fair-share amount in the agreement is sufficient to pay for one or more improvements which will, in the opinion of the city, in consultation with the agency maintaining the facility, significantly benefit the impacted transportation system.

- (b) The improvement or improvements funded by the proportionate fair-share payment must be adopted into the five-year capital improvements schedule of the maintaining agency receiving the payment at their next annual capital improvements update.

- (4) Any improvement project proposed to meet the developer's fair-share obligation must meet design standards of the improved facility's maintaining agency.

- (B) Intergovernmental coordination.

- (1) Pursuant to policies in the intergovernmental coordination element of the city Comprehensive Plan, the city shall coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the city. An interlocal agreement may be established with other affected jurisdictions for this purpose.

- (2) In addition to the city and the applicant, proportionate fair-share agreements may include other maintaining agencies, including, but not limited to, Pasco County and FDOT. Proportionate fair-share payments for non-city facilities shall be made to the appropriate maintaining agency.

- (C) Application process.

(1) Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the Proportionate Fair-Share Program pursuant to the requirements of § 5.04.03.02(A).

(2) Prior to submitting an application for a proportionate fair-share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options and related issues. If the impacted facility is maintained by another party (e.g., Pasco County or FDOT) they will be notified and invited to participate in the pre-application meeting.

(3) Eligible applicants shall submit an application to the city that, at a minimum, includes the following:

- (a) Name, address and phone number of owner(s), developer and agent;
- (b) Copy of completed concurrency application and traffic impact analysis (TIA) (if a TIA was required);
- (c) Copy of the concurrency test results form; and
- (d) Description of requested proportionate fair-share mitigation method(s), including documentation of improvement cost estimates prepared, signed and sealed by a registered professional engineer.

(4) The city's engineer or his or her designee shall review the application and certify that the application is sufficient and complete within 14 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Transportation Mitigation Program as indicated in § 5.04.03.02(A), then the applicant will be notified in writing of the reasons for the deficiencies within ten business days of submittal of the application. If the deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed abandoned. The Director of Development or his or her designee, in his or her discretion, may grant an extension of time not to exceed 60 days to cure the deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.

(5) Proposed proportionate fair-share mitigation for development impacts to facilities on the FDOT Strategic Intermodal System (SIS) (as determined by a city approved traffic impact analysis) requires the concurrence of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.

(6) When a proportionate fair-share application is deemed sufficient, complete and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the city or the applicant with direction from the city and delivered to the appropriate maintaining parties (e.g., Pasco County or FDOT) for review, no later than 60 days from the date at which the applicant received the notification of a sufficient application and no fewer than 14 days prior to the Council meeting when the agreement will be considered.

(7) The city shall notify the applicant regarding the date of the Council meeting when the agreement will be considered for final approval. No proportionate fair-share agreement will be effective until approved by the Council.

(D) Determining proportionate fair-share obligation.

(1) Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land and construction and contribution of facilities.

(2) A development shall not be required to pay more than its proportionate fair-share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.

(3) The methodology used to calculate an applicant's proportionate fair-share obligation shall be as follows:

(a) "The cumulative number of p.m. peak hour peak direction trips from the proposed development expected to reach roadways during p.m. peak hour from the complete build out of a stage or phase being approved, divided by the change in the peak hour peak direction maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."; or

(b) Proportionate Fair-Share = $\frac{[(\text{Development Tripsi}) (\text{SV Increase}_i)] \times \text{Cost}_i}{\text{Where:}}$

Development Tripsi = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a concurrency deficiency.

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment per § 5.04.03.02(A).

Cost_i = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

(4) For the purposes of determining proportionate fair-share obligations, the city shall determine improvement costs based upon the actual cost of the improvement as obtained from the city CIE, the County's CIP or the FDOT Work Program. Where the information is not available, improvement cost shall be determined using a generally accepted engineering method approved by the city's Consultant Engineer or his or her designee or the city's Consultant Engineer or his or her designee with concurrence from the maintaining agency.

(5) If the city has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this section.

(6) If the city has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way shall be based on the fair market value established by an independent appraisal approved by the city and at no expense to the city. The applicant shall supply a drawing and legal description of the land and title insurance for the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the applicant is less than the city estimated total proportionate fair-share obligation for that development, then the applicant must also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of

donations of real estate intended to be used for the proportionate fair-share, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations.

(E) Impact fee credit for proportionate fair-share mitigation.

(1) Proportionate fair-share contributions to the city shall be applied as a credit against city impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the city's impact fee ordinance.

(2) City impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. City impact fees owed by the applicant will be reduced per the Proportionate Fair-Share Agreement. If the applicant's proportionate fair-share obligation is less than the development's anticipated city road impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining city impact fee amount to the city pursuant to the requirements of the city impact fee ordinance.

(3) Major projects not included within the city's impact fee ordinance or created under § 5.04.03.02(A)(3)(a)-(d) which can demonstrate a significant benefit to the impacted transportation system may be eligible at the city's discretion for impact fee credits.

(4) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any city road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other location.

(F) Proportionate fair-share agreements.

(1) Upon City Council approval of a proportionate fair-share agreement (PFS Agreement) the applicant shall receive a city certificate of concurrency approval. Should the applicant fail to receive final site plan approval within 12 months of the execution of the PFS Agreement, then the PFS Agreement shall be considered null and void and the applicant shall be required to reapply if he or she elects to pursue his or her development.

(2) Payment of the proportionate fair-share contribution is due in full within 90 days of approval of the site plan or upon issuance of the building permit, whichever occurs first and shall be non-refundable. If the payment is submitted more than six months from the date of execution of the PFS Agreement, then the proportionate fair-share cost may, at the city's discretion, be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to § 5.04.03.02(D) and adjusted accordingly.

(3) All developer off-site improvements authorized under the ordinance codified in this section must be completed prior to issuance of a building permit or as otherwise established in a binding agreement that is accompanied by a security instrument acceptable to the City Attorney that is sufficient to ensure the completion of all required improvements within three years from the issuance of a building permit.

(4) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the final site plan approval or the final plat.

(5) Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.

(6) Applicants may submit a written request to withdraw from the Proportionate Fair-Share Agreement at any time prior to the execution of the Agreement.

(7) The city may enter into proportionate fair-share agreements for selected improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

(8) Projects not pursued during the pendency of a valid site plan and/or building permit shall be entitled to a credit of 85% of funds paid where the city has not constructed or entered into an agreement with a third party to construct the identified improvement which credit shall be applied to the proportionate share requirement of subsequent project(s); where the identified improvement has been constructed or committed to be constructed no credit shall be given except to the extent a new project would require the same improvements and then not to exceed 85% of the previous payment.

(G) Appropriation of fair-share revenues.

(1) Proportionate fair-share revenues received by the city shall be placed in the appropriate project account for funding of scheduled improvements in the city CIE or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the city, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived.

(2) In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would, in the opinion of the city, mitigate the impacts of development.

(3) Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan, the city may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT Transportation Regional Incentive Program (TRIP). Such coordination shall be ratified by the city through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.

(4) Where an applicant constructs a transportation facility that exceeds the applicant's proportionate fair-share obligation calculated under § 5.04.03.02(D), the city shall reimburse the applicant for the excess contribution using one or more of the following methods:

(a) An impact fee credit account may be established for the applicant in the amount of the excess contribution, a portion or all of which may be assigned and reassigned under the terms and conditions acceptable to the city;

(b) The excess capacity may be reserved by the city and an account may be established for the applicant for the purpose of reimbursing the applicant for the excess contribution with proportionate fair-share payments from future applicants on the facility;

(c) The city may compensate the applicant for the excess contribution through payment or some combination of means acceptable to the city and the applicant; or

(d) Impact fee credits must be utilized within five years from the date of acceptance by the city and reserved express capacity must be utilized consistent with the time limits for capacity reservations.

(H) Cross jurisdictional impacts. In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the city may enter into a cross jurisdictional impact agreement with one or more adjacent local governments or the Florida Department of Transportation, to address cross jurisdictional impacts of development on regional transportation facilities. The agreement shall identify the methodology for addressing cross jurisdictional transportation impacts. The city shall notify the applicant if the applicant's transportation concurrency determination is subject to assessing cross jurisdictional impacts and the applicant shall be subject to the requirements of the applicable cross jurisdictional impact agreement.

(Ord. 973-07, passed 3-12-2007)

§ 5.04.04 EXEMPTIONS FOR CONCURRENCY TEST.

(A) The following development orders and permits are exempt from this article and may commence development without applying for concurrency review:

- (1) Any addition to a residence;
- (2) Interior completion of a shell-only structure for uses with same or less intensity as identified on an approved site plan;
- (3) Interior renovations with equal or less impact on public facilities;
- (4) Accessory structure to a residence;
- (5) Storage addition to a nonresidential use;
- (6) Replacement structure except for a nonconforming use in accordance with land development code provisions on nonconforming uses;
- (7) Temporary construction trailers;
- (8) Wells and septic tanks;
- (9) Driveway or resurfacing, parking lot paving and similar paving projects (i.e. loading docks);
- (10) Re-roofing of structures;
- (11) Demolitions;
- (12) Occupational license for a change in tenant space similar to the previous business tenant in that space with equal or less impact on public facilities;
- (13) Single-family and duplex residences on lots which are platted;
- (14) The following conditional use category items:
 - (a) Public utility and service structures;
 - (b) Attached or detached guest house to a residence;
 - (c) Accessory parking for passenger vehicles when intended for a permitted adjacent commercial use;

(15) Change of use(s) which is determined by the city to cause less impacts on public facilities than the existing use;

(16) Accessory use to an existing use/structure which is determined by the city to cause no added impacts on public facilities;

(17) Minor plats that do not increase density or intensity; and

(18) Development that creates “de minimus” impact on public facilities.

(Ord. 973-07, passed 3-12-2007)

§ 5.04.05 LEVEL OF SERVICE STANDARDS FOR REQUIRED SERVICES AND FACILITIES.

The adopted level of service standards for those public facilities for which concurrency is required shall be as established in the city’s Comprehensive Plan, City Plan 2010, under the following cited policies:

Potable water: PUB 1-2-1

Sanitary sewer: PUB 2-4-1

Solid waste collection: PUB 3-2-3

Parks and recreation: REC 1-1-1

Drainage: PUB pg. 8

Roads: TRA 1-1-1

(Ord. 973-07, passed 3-12-2007)

PART 5.01.00 CONSISTENCY AND CONCURRENCY

§ 5.01.01 CONSISTENCY WITH COMPREHENSIVE PLAN.

(A) No development activity may be approved unless it is found that the development is consistent with the city's Comprehensive Plan and that the provision of certain public facilities will be available at the prescribed levels of service concurrent with the impact of the development on those facilities.

(B) If a development proposal is found to meet all the requirements of this code, it shall be presumed to be consistent with the Comprehensive Plan in all respects except for compliance with the concurrency requirements. City staff, public officials or any citizen may, however, question the consistency of a development proposal with the Comprehensive Plan. If a question of consistency is raised, the Site Plan Review Committee shall make a determination of consistency or inconsistency and support that determination with written findings.

§ 5.01.02 LEVEL OF SERVICE MAINTENANCE REQUIREMENTS.

(A) In order to establish that the concurrency requirements of Fla. Stat. Ch. 163, Part II and Rule 9J-5.055, Florida Administrative Code, have been met, this section describes the requirements for maintaining the level of service adopted in the city's Comprehensive Plan. In general, state law requires that no development be approved for which services and facilities are not available concurrent with development. It is the intent of this section to describe those level of service requirements for each system.

(B) This section provides the basis for determining level of service compliance required, for the purposes of reviewing and approving applications for development approval.

PART 5.02.00 POTABLE WATER LEVEL OF SERVICE

The potable water subelement of the city's Comprehensive Plan contains the following level of service requirements for the distribution of potable water:

Minimum average daily flow	200 gal per dwelling unit
Minimum peak daily flow	300 gal per dwelling unit
Pressure of development	As required by ISO for specific types

§ 5.02.01 METHODS OF COMPLIANCE.

An application for a proposed development approval or a building permit shall indicate that one of the following requirements has been met:

(A) Capacity exists at the site to serve the project or the first phase of the project. Determination of the existence of capacity shall be based upon estimated demand by the project, consideration of other approved but not built developments to be served by the same facility in the same time period and total capacity of the facility; or

(B) Capacity will exist at the site at the time of occupancy of the project based upon plans for expansion of capacity. Capacity shall be ensured through one of the following:

- (1) The existence of valid contracts for construction; or
- (2) The existence of funds budgeted and appropriated for construction.



STAFF REPORT

To: City Council
From: Audrey McGuire, Historic Preservation Specialist & Community Planner
RE: USE-0005-21_Conditional Use (Nick Apartments)
Date: March 9, 2022

1. BACKGROUND & INFORMATION

Application for a conditional use submitted by D32 Invest, LLC to exceed the height threshold of the R4 (Multi-Family Residential) zoning district, for the proposed construction of 4-story apartments on 10.63 acres of real property generally located at 6655 Fort King Road. The current zoning of the subject property permits a density of up to 20 dwelling units per acre.

APPLICANT OWNER:	Nick Apartments, LLC (D32 Invest, LLC) 7988 Via Dellagio Way, Suite 206, Orland, FL 32819
LOCATION:	6655 Fort King Road
PARCEL TAX ID #:	03-26-21-0010-02000-0010
ACREAGE:	10.63 Acres MOL
CURRENT LAND USE:	Vacant/Undeveloped
FLU CLASSIFICATION:	RU (Residential Urban, 7.5 to 20 du/ga)
ZONING DESIGNATION:	R4 (Multi-Family Residential, Max. 20 du/ga)
PROPOSED DENSITY:	144 Units (approximately 13.5 du/ga)

2. DATA & ANALYSIS

Height Regulations (LDC Subsection 7.01.01.04) Applicants are requesting to exceed the 2-story (30-foot) height limitation of the R4 zoning district to construct 4-story apartment buildings. A 4-story building falls under the classification of a "mid-rise structure," defined by the Land Development Code (LDC), Subsection 7.01.01.04 as buildings of 3 to 5 stories inclusive. Mid-rise structures may be permitted, exceeding the height limitations of a zoning district, as a conditional use, subject to the following:

- A. Mid-rise structures, when permitted, may be erected to a height not exceeding 75 feet if the building is set back from each setback line at least one additional foot for each 2 feet of building height above 30 feet.
- *The minimum setback of the R4 zoning district is 30 feet in the front, 10 feet on the sides and 15 feet in the rear. The conceptual site plan provided by the applicants (see Attachment) shows the required minimum setbacks with the increase required by this condition.*
- B. In no case shall a structure exceed the height limitations determined to protect the approach and clear air zones established for the Zephyrhills Municipal Airport, as currently adopted or subsequently amended.
- *All applicants for site development / construction plan approvals and permits are required by City Ordinance to complete the FAA's online notice criteria tool. Verification from the FAA that a project is not of concern or a possible obstruction is required to be provided to the city prior to the issuance of any permits. Should a project be determined to be of concern, the FAA will require an extended review process on their end. The subject 4-story buildings proposed in this application for conditional use are not expected to be of concern as there is an existing 4-story building on the property immediately to the south of the subject property.*
- C. Compliance with Resolution # 147 (attached) is required.
- *City Resolution No. 147 primarily pertains to the allowance of mid-rise structures and additional conditions related to the Fire Department. All plans shall meet the adopted building code and fire code standards, as well as any additional standards which may be required by Pasco County Fire Rescue.*

Conditional Use Requirements (LDC Part 11.10.00)

- A. The proposed conditional use will not adversely affect or contribute to the deterioration of life or property values in the immediate neighborhood.
- *The proposed construction of 4-story mid-rise structures are consistent with other multi-family developments in the immediate neighborhood and along this block of Fort King Road. It is not anticipated the construction of 4-story mid-rise structures would adversely affect or contribute to the deterioration of quality of life or property values in the neighborhood.*
- B. The proposed conditional use is consistent with the character of and existing land use patterns in the surrounding area.
- *The proposed construction of 4-story mid-rise structures is not out of scale or character with the surrounding developed area, which includes Summerset Apartments (a 4-story complex) immediately to the south of the subject property; and Fort King Colony (a 3-story complex) immediately to the east. The mobile home park to the north will be buffered and separated from the proposed apartment buildings by the existing wetland/pond area, a new stormwater pond, and landscape buffering (see attached conceptual site plan).*
- C. The proposed conditional use will not create or excessively increase traffic or parking congestion or otherwise affect public safety.
- *The City requires traffic studies to be submitted at the time of site development plan review. The applicants have submitted a traffic methodology report which has been approved by the*

city's traffic engineering consultants, Kimley-Horn and shows anticipated gross daily trips of less than 1,200 which requires a De Minimus traffic study to assess alternate traffic control. The installation of turn lane(s) on Fort King Road has been recommended by the Planning Commission.

- D. The site upon which the proposed conditional use is to be located has suitable drainage, access, ingress and egress, off-street parking and loading areas.
 - *The subject site is proposed to have 2 ingress/egress points onto Fort King Road. Common parking is proposed throughout the complex at a rate of 2 parking spaces per dwelling unit (consistent with LDC minimum requirements for residential projects). Wetland setbacks will be provided and additional stormwater retention is proposed on the northern piece of the property. A drainage report is under review by Kimley-Horn (the city's consultants).*
- E. The site upon which the proposed conditional use is to be located has or may have screening or buffering to prevent interference with the enjoyment of surrounding areas.
 - *Perimeter buffer/screening will be provided as required by the LDC. The applicants are proposing tree preservation along Fort King Road, the existing wetland area and the southern piece of the property which will be worked into the overall landscape plan. No interference with the enjoyment of the area is expected.*
- F. The proposed site meets applicable requirements of the zoning district in which it is located.
 - *The subject site is approximately 10.68 acres, exceeding the minimum lot area requirements of 6,000 square feet for the R4 zoning district. The proposed density of approximately 13.5 units per gross acre (144 total units) is consistent with allowed density of 20 units per acre in the R4 zoning district. The applicants have submitted site development plans which are currently undergoing review by city staff to ensure compliance with all land development code regulations.*
- G. Any existing or proposed signs or lighting will not adversely affect surrounding areas or vehicular traffic.
 - *Proposed signage shall be consistent with the city's standards as outlined in the LDC Article VIII at the time of permitting. Parking lot and pedestrian lighting shall be designed not to spill onto adjacent roadways or properties, and will be approved at the time of site development plan review, if consistent with LDC minimum requirements.*
- H. The proposed conditional use will not interfere with or adversely affect the health, safety or welfare of the surrounding community area.
 - *There is no indication that the proposed conditional use to exceed the height limitations of the zoning district will negatively impact the health, safety or welfare of the surrounding community.*

3. RECOMMENDATION

Site Plan Review Committee – The SPRC recommended approval of the conditional use to exceed the height limitations of the R4 zoning district at its regularly scheduled monthly meeting on January 1, 2022.

Planning Commission – The Planning Commission recommended approval of the conditional use, with the condition that turn lanes be added to Fort King, at its regularly scheduled meeting on February 15, 2022.

REGULAR COUNCIL MEETING

A Regular Council Meeting was held on March 28, 2022 at 6:00 p.m. in the Council Chambers of City Hall.

President Knight called the meeting to order. Roll call was taken. Present were members Kenneth Burgess, Alan Knight, Charles Proctor, Lance Smith, Jodi Wilkeson and Mayor Whitfield. City Manager William Poe and City Attorney Matthew Maggard were present.

Staff present: Police Chief Derek Brewer, Public Works Director Shane LeBlanc, Planning Director Todd Vande Berg, IT Director Mike Panak, Airport Manager Nathan Coleman, Building Official Bill Burgess, Finance Director Ted Beason, Public Information Officer Kevin Weiss, Senior Planner Rodney Corriveau, Historic Preservation Specialist and Community Planner Audrey McGuire, GIS Technician and Community Planner Kevin Kelley, Water Superintendent C.J. Funnell, Water Treatment Plant Operator Eric Martin, Water Treatment Plant Operator Cody Bowden, Water Treatment Plant Operator Trainee Tommy Sheffler and City Clerk Lori Hillman.

Alan Knight asked for a moment of silence for the people of Ukraine prior to delivering the Invocation. The Pledge of Allegiance followed.

1. MAYOR

1.1 Water Conservation Proclamation

City Clerk Lori Hillman read aloud a Water Conservation Proclamation that was presented to John Bostic by Mayor Whitfield.

1.2 Presentation of Plant Operations Excellence Award

Mayor Whitfield presented a 2021 Plant Operations Excellence Award to Utilities Director John Bostic, Water Superintendent C.J. Funnell, Water Treatment Plant Operator Eric Martin, Water Treatment Plant Operator Cody Bowden and Water Treatment Plant Operator Trainee Tommy Sheffler in recognition of outstanding operation through dedicated professionalism.

1.3 Tartan Day Proclamation

City Clerk Lori Hillman read aloud a Tartan Day Proclamation that was presented to Cliff McDuffie by Mayor Whitfield.

2. CONSENT ITEMS

2.1 Amendment No. 1 Nieman Electric Motor Co. Agreement No. 41-22-06

2.2 Amendment No. 1 Ferguson Enterprises, Inc. Piggyback Agreement No. 41-21-23

2.3 Infotect Design Solutions Inc. Agreement No. 41-22-12 Piggyback with Tampa-Hillsborough County Expressway Authority for General Information Technology Network Support Services

2.4 Approval of B.R.W. Contracting, Inc. Change Order No. 1 for Reclaimed Water Pipeline Extension – Phase I

Lance Smith moved to approve the Consent Items. Seconded by Jodi Wilkeson. Motion passed unanimously.

BUSINESS ITEMS

3. PUBLIC HEARING

3.1 First Reading **RESOLUTION NO. 790-22 - "A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS RELATED TO HEIGHT; APPROVING A CONDITIONAL USE TO EXCEED THE HEIGHT LIMITATIONS OF THE R4 (MULTI-FAMILY RESIDENTIAL) ZONING DISTRICT ON PARCEL NO. 03-26-21-0010-02000-0010; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; AND PROVIDING AN EFFECTIVE DATE."**

City Attorney Matthew Maggard read Resolution No. 790-22 by title. Historic Preservation Specialist and Community Planner Audrey McGuire said the applicant is requesting a four story building on the west side of Fort King Road, directly north of the existing four story

Summerset Apartments. The current height limitations are two story or 30 feet in the R4 zoning district. The City's Land Development Code (LDC), Subsection 7.01.01.04, allows for heights in excess of the maximum established for the zoning district to be considered as a conditional use for mid-rise structures between three and five stories. A four story mid-rise structure requires an increase in the setback of one additional foot for each additional two feet of building height above 30 feet and the applicant has provided a concept plan with the required setbacks. The applicant will submit information to the Federal Aviation Administration (FAA) to make sure the proposed buildings do not exceed the height limitations determined to protect the approach and clear zones of the Zephyrhills Municipal Airport. Staff has reviewed the conditional use and applicable zoning district standards as well as suitable access, drainage, parking, and screening / buffering of the site and found no adverse effects to the health, safety and welfare to the surrounding community. Four (4) conditions were added to Resolution No. 790-22 to include screening and buffering enhancements, the creation of a Conservation Easement on the wetlands and storm water areas, turn lanes on Fort King Road into the proposed site and turn lane improvements at the intersection of Fort King Road and Eiland Blvd. Staff recommended approval.

Councilman Burgess stated his position in opposition of all conditional use and variances moving forward until he receives additional information. He said he understands these items can be approved on a project by project basis but is concerned that approval will facilitate more requests. He said the City increased units per acre from 14 to 20 a few years ago to conform with market conditions and proposed reverting back to 14 units per acre. He said the City's height requirement are in conflict with the 20 units per acre allowed and the City is sending mix messages.

Historic Preservation Specialist and Community Planner Audrey McGuire stated the developer's initial plan was approved for 166 two story townhome units. The proposed project is for 144 four story apartments units which equates to 13.4 units per acre.

Councilwoman Wilkeson said she prefers the proposed concept over the original design. She said the rendering depicts open space between the four story apartment buildings and the Valleydale Community to the north. She said the developer is entitled to 166 units per acre and are proposing 144 units, which is less density. She said the benefit of allowing a taller building is the ability to negotiate for increased buffering, improved landscaping plans, screening for parking and turn lanes.

Councilman Smith said the City needs market rate apartments for young people and employees to live local.

Councilman Proctor said he has approved every conditional use that has come before Council but is concerned with solving serious issues prior to moving forward.

City Attorney Matthew Maggard said from a legal standpoint, the developer is requesting to change code and they are not entitled to a conditional use. He said if Council approves a conditional use, it will not set precedent in his opinion from a legal perspective. He reminded Council although there are concerns with future water use and growth, the conditional use is strictly for height. A formal site plan will be brought to Council at a future date for final approval.

Spoke from the floor: Civil Engineer Christine Hall - EXO Limited - 4776 New Broad Street, Suite 100 - Orlando, Florida 32814

Christine was available to answer questions and stated the developer has agreed to transportation upgrades and will visit a school bus stop on site.

A public hearing was held and the following individuals spoke from the floor: Margaret Coughlin of 6772 Erin Circle in Zephyrhills, Florida read aloud a prewritten letter (attached to minutes) in opposition to Nick Apartments; Randy York of 6764 Erin Circle in Zephyrhills, Florida read aloud a prewritten letter (attached to minutes) in opposition to Nick Apartments; Kevin Bahr of 37545 Sky Ridge Circle in Dade City, Florida said he is on the Planning Commission and approved the height for this conditional use and said he appreciates the developer lowering the density. He said it is time for the City to dictate what they will allow and thanked Council for what they do and the decisions they are facing.

City Manager William Poe clarified comments made during the Public Hearing. He said not all residents of Valleydale received letters about the proposed project as only those residents living within 400 feet of the proposed development are required to receive notification. The gopher tortoises and wetlands will be addressed in accordance with the environmental plan. The onsite bus stop will be a conversation with the developer's engineer and the Pasco County School Board in coordination with their transportation department. He said a comment was made that the density would double if the developer was allowed to build a four story building and said that was not the case. He said the original plan was approved for 166 two story townhome units and the proposed plan is for 144 four story apartment units. The density and the number of cars will not increase.

Lance Smith moved to approve Resolution No. 790-22 with conditions. Seconded by Jodi Wilkeson. Motion passed 3-2, opposed Kenneth Burgess and Charles Proctor.

3.2 First Reading RESOLUTION NO. 791-22 - "A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS RELATED TO HEIGHT; APPROVING A CONDITIONAL USE TO EXCEED THE HEIGHT LIMITATIONS OF THE R4 (MULTI-FAMILY RESIDENTIAL) ZONING DISTRICT ON PARCEL NO. 35-25-21-0010-04400-0000; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; AND PROVIDING AN EFFECTIVE DATE."

City Attorney Matthew Maggard advised the developer has requested to postpone this item to April 25, 2022.

Councilwoman Wilkeson moved to postpone Resolution No. 791-22 to April 25, 2022. Seconded by Lance Smith. Motion passed unanimously.

CITIZEN COMMENTS

MAYOR ANNOUNCEMENTS – N/A

CITY MANAGER ANNOUNCEMENTS – N/A

CITY ATTORNEY ANNOUNCEMENTS – N/A

CITY COUNCIL COMMENTS – Councilwoman Wilkeson commended Main Street on their recent downtown market and community art project in Transplant Park, and advised the Rotary Club had a great turnout for their Rotary Reading in the Park. She said serving as a councilmember is not an easy job and thanked fellow Councilmembers for working hard to protect the interests of the City, residents and business owners.

Councilman Proctor said tonight's decision was not an easy decision. He has never been against growth but feels the City needs to address some serious issues.

Councilman Smith said this was a difficult decision and respects everyone's opinion on Council. He acknowledged Main Street for doing a great job.

Councilman Burgess said he is a big believer in discussing issues. He acknowledged Main Street for the continuous activity on 5th Avenue and said Hercules Park and the Little But Loud venue discussed at the CRA Meeting will be great additions to the City.

Councilman Knight said when Council makes a decision like this evening, Council receives flack because everyone wants to go back to 1960 but those days are gone.

4. NOTED ITEMS

4.1 March 7, 2022 Council/Planning Commission Workshop Minutes

4.2 Mary Cypert Proclamation

4.3 Provide reconfiguration Flight Inspection of the PAPI on Runway 01 through Department of Transportation Federal Aviation Administration Agreement 41-22-13

Meeting adjourned: 7:19 p.m.
Submitted by Lori Hillman

Attachments: Valleydale Opposition Letters - Margaret Coughlin / Randy York

PLEASE SUBMIT THIS LETTER TO THE PLANNING COMMISSION AND CITY
COUNCIL AND HAVE COMMENTS READ INTO THE RECORD

SUBJECT: NICK APARTMENTS #03-26-21-0010-02000-0010

As one of many fulltime Valleydale residents of Zephyrhills, my concerns for this registered project proposal are as follows:

Valleydale is a resident owned community. Each household is a member of the Association. An equal owner of the land. Not all owners received a letter regarding this proposal. Only owners near the proposed site received letters and this proposal effects all owners who use Fort King Road. We all should have received the notice letters.

I heard at one time this property in question contains a gopher tortoise habitat and considered a wet land.? Is that true? I know they are protected under State Law Regulations.

I do not want another multifamily housing established on Fort King Road.

It is already a hazard for our residents on this road. Emergency vehicles cannot get through when vehicles are in both lanes of this road.

We have this year we have already noticed an increase in vehicles (heading for Eiland Blvd.) often backed up in front of our park entrance with the result of delay entering Fort King Road due to the amount of traffic and the lights on Eiland Blvd.

There are two school bus stops on this road as well as a transit bus stop as well creating delays.

The chance of fire or other emergency responses multiply when such multifamily residents exist. How are the cars going to move off the road to allow emergency vehicles through? That puts all residents at risk.

With all the traffic, I am sure due to the backups accidents will happen. Such as people cutting into the bank entrance off Eiland Blvd. to miss the traffic light, people exiting and turning into the other multifamily apts. Or all going and coming from the fitness center, the bushel-stop during traffic light changes and not to mention, the VA Clinic traffic that will develop soon.

It was my understanding we did not receive letters because this project it would not affect us, but it is now and will grow worse.

Our tiny part of Fort King Road is already congested and additions like this will decrease safety for current residents of Zephyrhills. I do not think these proposed changes will make any Improvements to our lives. We pay taxes and are proud of the downtown changes made and the growth of our city.

Focus should be made to cleanup areas at all the entrances to our city that need changes to present a progressive, clean, growing city and compliment the downtown. We all want a city to be proud of.

Regards,
Maggie Coughlin, 6772 Erin Circle

March 28, 2022

Re: Nick Apartments 03-26-21-0010-02000-0010

Please submit this letter to the Planning Commission and City Council, and have comments read into the record of public testimony

Dear Planning and Zoning Department,

We, the undersigned residents of Valleydale RO Association, located at 37501 Martindale Avenue, Zephyrhills, want to express our opposition to the approval of a zoning variance "building height increase" proposed for Parcel No. 03-26-21-0010-02000-0010 by D32 Invest, LLC for Nick Apartments located at approximately 6655 Fort King Road.

After viewing the conceptual project plans which show three "four-story" apartment structures/parking lots and related amenities and buildings, we feel the project is too dense for the property size and surrounding area. Some serious concerns are listed below.

- Entering and exiting Valleydale Park already proposes significant wait times, and more importantly, oftentimes dangerous traffic conditions. Increasing the density of this project from a 2-story height to a 4-story height greatly multiplies the number of cars entering/exiting and traveling on this section of Fort King Road.
- Parking areas for the project would be significant at 2 stories. Doubling the number of units will necessitate creating more impermeable surface, more storm water runoff, tighter parking spaces, less usable open space, and a less attractive project overall. Other road issues that will undoubtedly surface are the need for sidewalks along Fort King Road, potential school bus stops, and pedestrian safety measures. These issues need further discussion and an action plan.
- Traffic noise and light pollution generated from three large buildings needs to be addressed.
- There are no details concerning adequacy landscape buffers around the entire project, which and how many historic oak trees would/could be preserved, and generally how the overall appearance of the project, as experienced from Valleydale Park, will be considered and addressed.

We respectfully ask that the commission deny the height variance and maintain the currently permitted 2-story zone. Alternatively, if the commission approves the 4-story variance, we ask that the number of buildings be reduced to two, but preferably one. We also ask that a high growing, coniferous evergreen tree border be placed around the entire northwestern portion of the project.

Respectfully submitted,

Royce and Randy York
6764 Erin Circle

[Handwritten signatures and names of residents:]
Margaret Loughlin, Joan Ruppert, Lisa, Carol York, May, Sue Blakeslee, Doug Blakeslee, (SEE REVERSE), Linda Duffin, Pat Robinson, Karen Higgins, Bonnie Lewis, Judy Mahony, Sandy Tarbell, Randy A. York, Royce and Randy York, and several others.

Richard Gough

Rico Adler

Carol Smiron

Peter Smith

Carol LaCourse

Bary LaCourse

JoAnn Walls

Dean Walls

Gene McName

Al + Holly Schave

George + Libby Ketchum

Sandra R. Hauner

Don K 94

Catherine Shipley

Henry Finley

Jean Ochensider

Larry Lunn

Dyinda Price

Thomas Price

Lela MacLeod

Cheri Wade

Ann Stranger

~~Donald T. Kuch~~

Mary Webster

Ruth Peterson

Nancy Deal

Elizabeth Ketchum

George Keator

Margaret Johnson

Michael

Sandra Rendall

Margaret Summers

Linda A. Corson

Clayton Bess

Don A. Corson

Pam M'Lann

Linda Blodgett

Rose Henry

Sandra K. Corson

Richard Z. Zann

4

RESOLUTION NO. 778-21

**A RESOLUTION RELATED TO HEIGHT; APPROVING A
CONDITIONAL USE TO EXCEED THE HEIGHT
LIMITATIONS OF THE ZONING DISTRICT IN THE
ZEPHYR COMMONS SHOPPING CENTER ON PROPERTY
ZONED R4, MULTI-FAMILY RESIDENTIAL; FINDING
CONFORMITY WITH THE COMPREHENSIVE PLAN;
AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, an application was filed by SF Zephyr Commons Outparcels LP for a conditional use to exceed the height limitations of the R4 zoning district to allow four-story mid-rise apartment buildings to be located on property within Zephyr Commons with the parcel ID no. 35-25-21-0010-00700-0000; and

WHEREAS, the subject property zoning is R4 (Multi-Family Residential) which allows up to 20 units per gross acre of land and a maximum height of two stories; and

WHEREAS, the City of Zephyrhills Land Development Code, Subsection 7.01.01.04 allows for heights in excess of the zoning district to be considered as a conditional use in accordance with the following:

1. Mid-rise structures (between three and five stories) may be erected if all applicable conditional requirements of a conditional use are met; and
2. Mid-rise structures, when permitted, may be erected to a height not exceeding 75 feet if the building is set back from each setback line at least one additional foot for each additional two feet of building height above 30 feet; and
3. In no case shall a structure exceed the height limitations determined to protect the approach and clear air zones established for the Zephyrhills Municipal Airport, as currently amended or subsequently adopted.

WHEREAS, the application for a conditional use to exceed the height limitations of the zoning district has been found to be in compliance with the requirements of Subsection 7.01.01.04 and the conditional requirements of a conditional use outlined in Part 11.10.00 of the City of Zephyrhills Land Development Code; and

WHEREAS, the granting of a conditional use shall be subject to the following:

1. The holder of a conditional use permit shall be authorized to utilize the site or location of the use only in a manner specified in the written approval and conditions specified therein. Any substantial expansion, alteration or change in the conditional use authorized by the written approval must be reviewed by City Council in the same manner in which the original conditional use was reviewed.
2. An expansion, alteration or change of a conditional use shall be deemed to exist where a substantial modification of the standards provided for in number 1 above, results from activity associated with the conditional use or a substantial change of circumstances or conditions arise.
3. The conditions and stipulations shall become part of the written approval and must be informed to and followed by the applicant or any successor in interest.
4. The conditional use shall run with the subject property.
5. The applicant shall obtain an approved site development plan and necessary permits from the Building Department, and shall pay all related impact fees.
6. The applicant shall be permitted to construct multi-family apartments to a height not exceeding four stories in accordance with the standards of Subsection 7.01.01.04 of the City of Zephyrhills Land Development Code pertaining to mid-rise structures.

7. The applicant shall construct the multi-family apartments in accordance with the City of Zephyrhills Land Development Code, Building Code, and any applicable codes, ordinances, and policies adopted by the City.

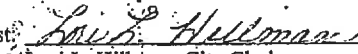
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ZEPHYRHILLS, FLORIDA:

- Section 1. The foregoing findings are incorporated herein by reference and made a part thereof.
- Section 2. The application to exceed to the height limitations of the R4 zoning district for the construction of mid-rise apartments, not to exceed a height of 4 stories, on property with the parcel ID no. 35-25-21-0010-00700-0000 is hereby approved.
- Section 3. The conditional use is approved for the benefit of the applicant and applicant's successors and/or assigns and for the use as specified within the application only, subject to the conditions herein. The character or benefit of this conditional use shall not change but may be transferred without City Council approval by resolution.
- Section 4. The City Council does hereby expressly find that the provisions of this resolution are in conformity with the Comprehensive Plan of the City of Zephyrhills, as amended.

This Resolution No. 778-21 shall run with the subject property and shall inure to the benefit of and be binding upon SF Zephyr Commons Outparcels LP and its successors and assigns. All references to "applicant" herein shall mean SF Zephyr Commons Outparcels LP and its successors and assigns.

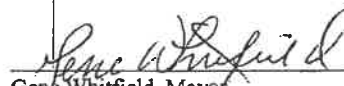
The foregoing Resolution No. 778-21 was read and passed, following a public hearing, in an open and regular meeting of the City Council of the City of Zephyrhills, Florida, on this 28th day of June, 2021.

Attest:


Lori L. Hillman, City Clerk


W. Alan Knight, Council President

The foregoing Resolution No. 778-21 was approved by me this 28th day of June, 2021.


Gene Whitfield, Mayor

Approved as to legal form and legal content
for the sole reliance of the City of Zephyrhills


Matthew E. Maggard, City Attorney