

ORDINANCE NO. 2016-05

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA ENACTING A MORATORIUM ON THE DEVELOPMENT OF SERVICE STATIONS ALONG MINTON ROAD; SPECIFICALLY PROVIDING FOR AN AREA IMPACTED, TEMPORARY MORATORIUM IMPOSED, EXEMPTIONS, EXTENSION OF MORATORIUM, AND SUNSET PROVISIONS; PROVIDING FOR SEVERABILITY; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2015 the City Council directed staff to initiate a zoning in progress to review appropriate locations, restrictions, and need assessment for future service stations in light of the approval and construction of six new gas stations since 2014; and

WHEREAS, a Cumberland Farms service station opened on Minton Road in March 2016, a Wawa service station will soon open near the intersection of Minton Road and New Haven Avenue, and it is too soon to assess the impacts of these new facilities; and

WHEREAS, also in 2015, the City Council directed that staff study and promote the creation of a community core, or town center like atmosphere, along Minton Road to support investments in the West Melbourne Community Park by the public and by the non-profit organizations, Field of Dreams and Promise in Brevard; and

WHEREAS, the residents of West Melbourne have also expressed a desire that a community core, town center like atmosphere, should be created; and

WHEREAS, a planning process is well under way to develop a shared specialized area plan of the desired future of the community core area, including a shared understanding of what uses should be permitted; and

WHEREAS, the City Council has identified service stations as a use that might be inconsistent and incompatible with the town center plan on Minton Road; and

WHEREAS, public knowledge that the government has made, or is about to make, studies to alter existing land use controls frequently triggers development activity that may frustrate planning efforts; and

WHEREAS, the City requires time to review, consider, modify, process for adoption, and implement regulations pertaining to the proposed town center plan, and it would be destructive to that exercise if parties seeking to evade the operation thereof should be permitted to enter upon a course of development which might progress so far as to undermine or defeat in whole or in part the ultimate execution of the plan; and

WHEREAS, a temporary moratorium is an important land-use planning tool as a means of preserving the status quo while formulating a more permanent development strategy; and

WHEREAS, a temporary moratorium on new service stations will protect the planning process and permit a democratic discussion and participation by citizens and developers in drafting long-range land use plans for the town center that would be on Minton Road in the segment of roadway from Helen Street to the I-95 overpass; and

WHEREAS, a temporary moratorium on new service stations will deter the establishment of uses that, though currently allowed with a conditional use permit in several zoning districts along Minton Road, would or might be inconsistent with needs ultimately identified by planning studies and may become non-conforming; and

WHEREAS, the planning, initiation, construction, or modification of service stations during the formulation and implementation of regulations regarding the establishment of a community center will cause immediate harm to the public health, safety, welfare, community aesthetics, orderly development and planning, and the City's ability to promote a community center; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Melbourne, Brevard County, Florida, as follows:

Section 1. Findings. That the foregoing "Whereas" clauses are hereby ratified and incorporated as findings of the City Council and the legislative intent of this ordinance.

Section 2. Area Impacted. For the purposes of this ordinance, the area impacted shall be all lands with frontage on Minton Road, from the Minton Road overpass at Interstate 95 on the south to Helen Street on the north.

Section 3. Temporary Moratorium Imposed. During the time that this moratorium is in effect, and within the area impacted, there shall be a moratorium upon the acceptance, processing, and approval of applications for development permits and development orders concerning the planning, permitting, initiation, or construction of service stations including, but not limited to, the issuance of any conditional use approval, building permit, rezoning, variance, site plan, subdivision, or development order of any kind whatsoever authorizing the development of a new service station. The moratorium shall be in effect for one (1) year from the effective date of this ordinance, unless extended as described in Section 5 of this ordinance.

Section 4. Exemptions. This moratorium shall not affect the continued processing of applications for which a completed application with fees paid was received prior to the effective date of this ordinance.

Section 5. Extension of Moratorium. Notwithstanding the time limit on the moratorium herein established, in the event that the City Council of the City of West Melbourne finds that additional time is needed to review and adopt land development regulations related to the creation of a community center along Minton Road, then the term of this moratorium may be extended by up to an additional one-hundred eighty (180) day period by subsequent ordinance.

Section 6. Sunset Provisions. This ordinance shall sunset and be effectively repealed on May 3, 2017 unless a majority vote of the City Council of the City of West Melbourne determines that conditions warrant extension of the moratorium as described in Section 5 of this ordinance.

Section 7. Severability. That the provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, such decision shall not affect the validity of the remaining terms, provisions, clauses, sentences, or sections of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 8. Effective Date. That this ordinance shall become effective immediately upon its adoption by the City Council on second reading.

PASSED AND ADOPTED by the City Council of the City of West Melbourne, Brevard County, Florida, this 3rd day of May, 2016.



Sue Frank

SUE FRANK, CITY CLERK

Hal Rose

HAL J. ROSE, MAYOR

Reviewed as to form and content:

Morris Richardson

Morris Richardson, City Attorney

1ST READING: April 19, 2016
2ND READING: May 3, 2016