



Planning and Zoning Board

AGENDA

Wednesday, October 11, 2023

6:30 P.M.

City Council Chambers

Notice to Visitors: All persons who desire to speak on any public hearing item must fill out an Oath Card, sign the card, and submit to one of the City Planners. Speakers will be heard in the order received by the Chairman. The applicant may make a brief rebuttal if necessary. Anyone who speaks is considered a witness. If you have photographs, sketches, or other documents, you must provide 9 copies to one of the City Planners for distribution to the board members. These items will be retained by the Board members, City Attorney and City Staff.

Purpose: The purpose of the Planning and Zoning Board is to provide recommendations to City Council about all matters that are development applications or staff initiatives relating to the City's comprehensive plan, known as the "Horizon 2030 Comprehensive Plan" and the City's Land Development Regulations found in Subpart B of the Municipal Code of Ordinances.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. MINUTES

Planning and Zoning Board Meeting of September 12, 2023

5. PUBLIC HEARING(S) –

a. Code Amendment to the Land Development Regulations – Chapter 98 Zoning, Adding regulations for accessory outdoor sales and dispensing machines in commercial zoning districts – (case #LDR-2023-09)

A revision to Chapter 98, Zoning to add regulations for shielding permitted outdoor product dispensing machines in the C-P (Commercial Parkway), C-1 (Low Density Commercial), C-2 (General Commercial), C-NH (Commercial New Haven), C-W (Commercial Wickham) and GTWY-I (Gateway Interchange) zoning districts.

Applicant: City of West Melbourne
Location: Citywide

The proposed code amendment will be acted upon by City Council with a recommendation from the Planning and Zoning Board.

6. PUBLIC COMMENTS

7. PLANNING DIRECTOR REPORTS

8. BOARD MEMBER REPORTS

9. ADJOURN

All persons wishing to be heard or to have their opinion known should appear in person at these hearings or send written comments to City staff. All persons and parties are hereby advised that if they should decide to appeal any decision made by the City with respect to any matter considered at the public meeting or hearing described in this notice, they will need a record of the proceedings, and for such purpose, said person or party may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286, Florida Statutes). In compliance with American with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City's ADA coordinator at 837-7774 at least 48 hours in advance of this meeting.



Planning and Zoning Board

MINUTES

September 12, 2023

1. CALL TO ORDER

Vice-Chairman Brothers called the meeting to order with the Pledge of Allegiance at 6:31 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Vice Chairman Rob Brothers
Board Member Vernon Anderson
Board Member Paul Bernkopf
Board Member Jim Liesenfelt
Board Member Anna Kapnoula

Absent: Chairman, Chris Jaudon
Board Member Jennifer Spagnoli
School Board Member Brightwell

Staff present: Planning Director Christy Fischer
Planner Cyndi Snay
City Attorney John Cary

Moved by Board Member Bernkopf, seconded Board Member Anderson to excuse Chairman Chris Jaudon and Board Member Jennifer Spagnoli from the September 12, 2023 board hearing. Motion passed 5-0.

4. MINUTES

Planning and Zoning Board Meeting of August 9, 2023

Moved by Board Member Kapnoula and seconded by Board Member Liesenfelt to approve the minutes as written. Motion passed 5-0.

5. HEARING(S) –

a. **Preliminary Plat – Sunrise Estates – St. Johns Heritage Parkway – (PP-2023-01)**

A request for preliminary plat approval for Sunrise Estates Subdivision, the proposed preliminary plat consists of 131 single-family residential detached lots and 124 townhome lots on 51.37 acres, more or less, located west of Interstate 95 and south of U.S. 192.

Applicant: Chris Ossa, Kimley-Horn and Associates, Inc. agent for Pulte Homes Company, LLC
Location: east side of St. Johns Heritage Parkway south of U.S. 192

Director Fischer stated that the following two items on the agenda were the items postponed from the August 9, 2023 hearing due to an advertising error.

Planner Cynthia Snay presented the Sunrise Estates Preliminary Plat request. She stated that the proposal is for 131 single-family detached lots and 124 townhouse lots on 51.37 acres of property by Pulte Homes Company LLC subject to an approved developer's agreement.

She provided a brief discussion on the platting process within the City of West Melbourne.

Ms. Snay described the project with an overview of the stormwater and accesses into the project as well as the landscape buffer along the eastern property line which was required in the developer's agreement.

Ms. Snay provided an overview of the traffic conditions in the area, indicating a southbound deceleration lane had been constructed by Brevard County in the vicinity of the project. She further stated that the traffic study has been submitted and is under review and required to be accepted prior to the Final Plat being approved by the City Council.

Ms. Snay indicated that the Preliminary Plat meets the requirements of the land development codes, all documents have been submitted and the plans meet the minimum code requirement for lot size, lot depth, and lot width.

Ms. Snay stated that the subdivision will be served by City of West Melbourne water and sewer service. The connection will be under the Melbourne Tillman Canal; stormwater is being reviewed by SJRWMD and FDEP; school concurrency has been met and emergency services will be provided by both City of West Melbourne for law enforcement services and Brevard County for fire services.

Staff recommended approval of the preliminary plat subject to the following five conditions:

1. Finalize construction drawings to comply with the City Codes, the conditions of the preliminary plat, and the requirements by outside governmental agencies.
2. Either install a segment of sidewalk along the internal roads and other locations as indicated in the engineering drawing or provide a performance bond, as they determine to this requirement as part of the final plat process.
3. Request the School Board's final school capacity determination prior to final plat approval.
4. Prior to the preliminary plat being presented to the City Council, the traffic study conclusions and any identified improvements must be accepted by the City.
5. Pay the City's recreation fee with the final plat submittal since public land will not be dedicated for a new park for this subdivision.

Vice-Chair opened the public hearing.

Mr. Chris Ossa, the representative for the applicant, addressed the board stating very minimal changes had been made from the plan approved by the developer's agreement.

Board Member Liesenfelt asked for the applicant to clarify what is being proposed for the recreation tract, including the size and intended uses within the tract.

Mr. Ossa explained that the uses for the recreation tract have not been finalized but the size is 0.74 acres.

Board Member Bernkopf requested that staff explain the intent of the first condition.

Director Fischer explained that this is a catch-all that requires that the final construction drawings satisfy all conditions recommended by staff and the board can propose additional conditions on the developer.

Board member Liesenfelt asked staff whether internal or external sidewalks are being bonded (condition 2). Director Fischer responded that this is for internal sidewalks. Staff will clarify that the sidewalks are internal to the subdivision.

Board member Liesenfelt questioned what is being proposed for sidewalks along the St. Johns Heritage Parkway.

Mr. Ossa responded by stating any portion of the existing 8-foot sidewalk along St. Johns Heritage Parkway impacted by the development will be required to be reconstructed as part of the access approvals with Brevard County. Mr. Ossa further stated that they had received temporary right-of-way approvals from Brevard County for the proposed construction entrance and they have to receive approval by the City prior to the final approval.

Board member Liesenfelt asked if under condition #5 the City can ensure that the developer has recreational uses in the tract and not just an empty field. Director Fischer stated the City cannot require the tract have active uses instead of passive recreational uses.

The vice-chair asked for public comment. No one spoke and the public hearing was closed. The discussion was moved back to the board.

Moved by Board Member Bernkopf, seconded by Board Member Kapnoula to recommend approval of the Sunrise Estates preliminary Plat subject to the following conditions:

1. Finalize construction drawings to comply with City Codes, the conditions of the preliminary plat, and the requirements by outside governmental agencies.
2. Either install a segment of sidewalk along the internal roads and other locations as indicated in the engineering drawing or provide a performance bond, as they determine to this requirement as part of the final plat process.
3. Request the School Board's final school capacity determination prior to final plat approval.
4. Prior to the preliminary plat being presented to the City Council, the traffic study conclusions and any identified improvements must be accepted by the City.
5. Pay the City's recreation fee with the final plat submittal since public land will not be dedicated for a new park for this subdivision.

Motion passed 4-1, with Board Member Liesenfelt being the dissenting vote.

Vice-Chair asked for clarification from legal if the recommendation can be made referring to staff's conditions. Attorney Cary stated as the recommendations are written out, it is acceptable for the board members just indicated with staff's recommended conditions but would advised if additional conditions are required by the board he would advise that these conditions be verbalized.

b. Preliminary Plat – Space Coast Town Centre West Phase 1 – (PP-2023-02)

A request for preliminary plat approval for Space Coast Town Centre West Phase 1 Subdivision, the proposed preliminary plat consists of 1 new lot and 2 future development tracts on 73.68 acres, more or less, located on the west side of St. Johns Heritage Parkway (as opposed to Phase 1 on the east side), east of Simon Road and south side of U.S. 192.

Applicant: William Donley, Donley Consulting Group, LLC
Location: west side of St. Johns Heritage Parkway, south of U.S. 192

Director Fischer presented the preliminary plat request for Space Coast Town Centre West Phase 1 Subdivision.

Director Fischer described the difference between a preliminary plat and a final plat indicating that the preliminary plat requires two public hearings and the final plat is an action item only and does not require public hearings.

Director Fischer described the proposed plat, the lot layout, and the proposed infrastructure improvements.

Director Fischer indicated that the Space Coast Town Center developer at the time of the land dedication for St. Johns Heritage Parkway was granted specific driveway curb cuts onto St. Johns Heritage Parkway.

She also indicated that the proposed subdivision will not have any direct connections to Simon Road. Simon Road is an unimproved dirt road.

She reported that the project is consistent with the Land Development Regulations and that capacity is available to meet the needs of this development.

Staff recommended approval of the preliminary plat subject to the following five conditions:

1. Finalize construction drawings to comply with the City Codes, the conditions of the preliminary plat, and the requirements by outside governmental agencies.
2. Either install a segment of sidewalk along the internal roads and other locations as indicated in the engineering drawing or provide a performance bond, as they determine to this requirement as part of the final plat process.
3. Request the School Board's final school capacity determination prior to final plat approval.
4. If during the development of Lot 1, the vested trips for the overall Space Coast Town Center are exceeded, then another traffic study for Lot 1 will be required.
5. Pay the City's recreation fee with the final plat submittal since public land will not be dedicated for a new park for this subdivision.

Vice-Chair Brothers opened the public hearing.

William Donley addressed the board stating that they were available to answer any questions that the board might have. The Board had no questions for the applicant or owners.

As there were no further comments the public hearing was closed.

Moved by Board Member Anderson, seconded by Board Member Kapnoula recommend approval to City Council of the Space Coast Town Center West Phase 1 preliminary plat with the following conditions:

1. Finalize construction drawings to comply with the City Codes, the conditions of the preliminary plat, and the requirements by outside governmental agencies.
2. Either install a segment of sidewalk along the internal roads and other locations as indicated in the engineering drawing or provide a performance bond, as they determine to this requirement as part of the final plat process.
3. Request the School Board's final school capacity determination prior to final plat approval.
4. If during the development of Lot 1, the vested trips for the overall Space Coast Town Center are exceeded, then another traffic study for Lot 1 will be required.
5. Pay the City's recreation fee with the final plat submittal since public land will not be dedicated for a new park for this subdivision.

The motion passed 4-1, with Board Member Liesenfelt as the dissenting vote.

c. Space Coast Town Center 3rd Development Agreement Amendment to the master utility plan (GTWY-I – 2018-01)

A request for a revision to the approved Development Agreement for the Space Coast Town Center Utility Master Plan to revise the conceptual water and sewer utility master plan to relocate the utility line.

Applicant: Space Coast Town Centre I, LLC
Agent: Benjamin Hedrick, Esq,
Location: east side of St. Johns Heritage Parkway, south of U.S. 192

Director Fischer presented the Space Coast Town Center 3rd Development Agreement to the master utility plan.

Director Fischer stated that the proposed amendment retains all of the criteria and allowances of the current agreement. Ms. Fischer also stated that no wording of the development agreement is being changed only the master utility sheets of the agreement are being modified.

She provided an overview of the Space Coast Town Center history.

Ms. Fischer confirmed that the density of the project will not be changing with the proposal. Ms. Fischer stated that the staff analysis indicated that the change to the master utility plan is still consistent with the comprehensive plan and with the development agreement. Ms. Fischer stated that the request is to change the crossing of the sewer and water lines from the southern project entrance by conducting a horizontal directional drill under St. Johns Heritage Parkway and crossing over to the western portion of the property.

The reason that this is being brought to the board is Staff feels that it is important that all changes be captured through a legal document which makes it is easier to maintain and control.

Director Fischer recommended that the 3rd Amendment to the Space Coast Town Center Development Agreement amending the Master Utility Plan be approved.

Vice-Chair Brothers asked staff if the crossings would be able to taken further South if properties are annexed. Director Fischer indicated that the water and sewer could be extended to the south.

Vice-Chair Brothers opened the public hearing. As there was no one to speak on this item the public hearing was closed.

Moved by Board Member Kapnoula, seconded by Board Member Anderson to recommend Approval of the Third Amendment to the 2019 “Space Coast Town Center” development agreement including the revised conceptual master plan with the utility modifications indicated on the utility plan sheets. Motion passed 5-0.

d. Development Agreement - RaceTrac – John Rodes and Ellis (DA-2023-02)

A re-hearing for a development agreement for a RaceTrac convenience store with gas pumps on 3.86+/- acres of property located at the southeast corner of John Rodes Blvd and Ellis Road from IND (Industrial) to COM (Commercial).

Applicant: RaceTrac Petroleum, Inc
Location: Southeast corner of John Rodes Blvd and Ellis Road

Director Fischer presented the revised Development Agreement to the proposed RaceTrac at John Rodes and Ellis Road. On July 18, 2023, the applicant requested that City Council postpone the Comprehensive Plan and Rezoning even though the Planning and Zoning Board had already reviewed the initial development agreement, sine changes were made to the document with traffic information, City Council requested that Staff bring the Development Agreement back for the board to review and provide a recommendation.

The proposed Development Agreement provides for the use limitation to a fueling station with a convenience store, requirements for landscaping, requiring the entire site to be landscaped according to the City of West Melbourne’s Landscape Code, an interlocal agreement with Melbourne, site parameters, addresses traffic (which was not previously available), and added some of the interchange commercial overlay requirements

Director Fischer indicated that the recommendation by staff has not changed. Director Fischer also stated that the Board would have to make the decision on whether to recommend approving or denying the Development Agreement.

Board Member Anderson asked staff to provide a reason that the project was being discussed again, as it appeared that not much had changed from the prior hearing. Director Fischer indicated that the traffic analysis had been submitted and that the City Council values the input from the Planning and Zoning Board.

The Board indicated that they were not reviewing the Traffic Study but rather staff review the findings of the Traffic Study, pointing out Page 4, Number 5, Page 5 the trip generation counts are updated and with staff’s recommended changes. The City’s Traffic Engineer analyzed the turn lane distances and the queuing of the turn lanes in all directions and made recommendations/comments.

The applicant’s representative, Tom Sullivan, GrayRobinson, addressed the Board and presented their rationale for supporting the RaceTrac project, stating, that the project is not a truck stop and that the updated Development Agreement clearly identifies that the only permitted use will be the service station, clearly delineating that truck stops were to be prohibited.

Mr. Sullivan provided an updated site plan for the site.

Mr. Sullivan requested that the traffic engineer present the traffic conclusions. Mr. Ayman H As-Saidi, 3101 Maguire Boulevard, Suite 5, Orlando, Florida. 32803, presented the traffic report to the board stating that the results of the study indicate the segment of Ellis Road is planned for future widening. Mr. As-Saidi stated that there are available funds to widen that road, but the funding has to be finalized for the future widening project. Mr. As-Saidi stated that this segment does not currently operate at an acceptable level of service. Mr. As-Saidi provided two future short-term fixes the applicant is proposing to accommodate RaceTrac:

the first is to add an additional dedicated southbound right-turn lane which does not exist today, and the second is to construct an eastbound dedicated right-turn lane, as a means to offset some of the traffic issues in the short term while the funding for the Ellis Road improvements is obtained and construction occurs. These two improvements are anticipated to reduce the intersection delay by 37%.

Director Fischer requested that Mr. As-Saidi explain to the board what delay means. Mr. As-Saidi stated a delay is the timing of the cycle when a signal turns from green to red and back to green.

Board member Liesenfelt stated that is rare to see a LOS A or B. Director Fischer stated that a roadway is only typically LOS A when the road first opens up and it will never be the same again.

Mr. Michael Mullins, 200 Galleria Parkway, Atlanta Georgia, 30039, provided the Board with an update on the changes to the elevation. Mr. Mullins stated that they are proposing a one-of-a-kind building that will match the architecture within the City. Mr. Mullins also provided a brief description of the proposed landscaping.

Board member Anderson asked how the facility would prevent 18-wheel trucks from pulling in to obtain diesel fuel. Mr. Mullins indicated that this facility is for semi-truck fueling however there will be signage prohibiting overnight parking.

Director Fischer highlighted the code definition of a truck stop.

Board member Anderson asked Mr. As-Saidi if the 37% reduction in signal delays at the turn lane would improve the traffic flow at the intersection. Mr. As-Saidi explained how the analysis was obtained and the conclusions of the analysis. Director Fischer asked if the 37% would mean improvements with the delays. Mr. As-Saidi confirmed the delays would be improved. Board member Anderson asked Director Fischer when the improvements for Ellis Road are supposed to start. Director Fischer responded that it will depend on whether or not grant funding will be obtained, it is understood with the airport's political pressure, this route has been identified as a major project in the area.

No further comments from the public so the public hearing was closed.

Board member Liesenfelt stated that he appreciated that they agreed with the City's Engineer conclusions with regards to the turn lanes, make sure that the Development Agreement incorporates the definition of truck stop as adopted in the code, and the developer working with staff on the elevations.

Moved by Board Member Liesenfelt, seconded by Board Member Bernkopf to recommend that the Council **deny** the "RaceTrac" development agreement including the revised conceptual plan of the 3.86-acre property located near the southeast corner of John Rodes Boulevard and Ellis Road intersection as being inconsistent with the City's desires to maintain the current Industrial future land use designation and zoning. The motion passed 4-1, with Vice-Chair Brothers being the dissenting vote.

e. Code Amendment to the Land Development Regulations – Residential Community Driveway Separation Chapter 63 – (LDR-2023-07)

A revision to Chapter 63, Zoning Definitions, defining master residential development, and Chapter 74, to modify Sections 74-87, Entrance and Exit Driveways, and Chapter 86 amending Section 86-53 Access, and adding separation requirements.

Applicant: City of West Melbourne

Location Citywide

Director Fischer presented the request to amend Chapter 63 and Chapter 74 with regard to residential connectivity. She stated that the proposal is a revision of the residential connectivity to eliminate the ability to get around the code. She stated this proposal first was presented to City Council in order for staff to understand if the revision was the direction that the Council was looking for.

Director Fischer pointed out that there are very few vacant residential parcels within the City boundaries of a large size. She stated that the proposal provides a definition of Master Residential Development and provides for access management standards, subdivision design access standards, emergency access not being counted as an access, and additional driveways. Staff is recommending a minimum distance between access driveways based on the posted speed. The city will either regulate these accesses through the development agreement or by resolution.

Director Fischer stated that the proposal would not be retroactive.

Director Fischer recommended that the Board approve the amendments to Chapter 63 and Chapter 74 of the Land Development Code.

Vice-chair Brothers opened the public hearing, there being no further comments the public hearing was closed.

Moved by Board Member Bernkopf, seconded by Board Member Anderson to recommend Council approve the second reading of Ordinance No. 2023-21, revising city codes by defining master residential developments and adding residential community driveway separation requirements. Motion passed 5-0.

6. PUBLIC COMMENTS

No public comments

7. PLANNING DIRECTOR UPDATES

Director Fischer presented the Space Coast Economic Development Commission marketing survey, and provided an FDOT roadway improvement update.

8. BOARD MEMBER REPORTS

No Board Member Reports.

9. ADJOURN

Vice-Chair Brothers adjourned the meeting at 7:55 p.m.

Vice-Chairman Brothers

Cynthia Snay, Planner

AGENDA ITEM



October 11, 2023, Planning & Zoning Board

Approval for Submittal by: _____ Christy Fischer, Planning Director
Prepared and Presented By: _____ Cynthia Snay, Planner

To: Honorable Members of the West Melbourne Planning and Zoning Board
Through: Christy Fischer, AICP, Planning Director
From: Cynthia Snay, Planner
Date: October 11, 2023

SUBJECT

Staff initiated code amendment requiring shielding of accessory outdoor sales and dispensing machines within the C-P (Commercial Parkway), C-1 (Low Density Commercial) District, C-2 (General Commercial) District; C-NH (Commercial New Haven), C-W (Commercial Wickham) and GTWY-I (Gateway Interchange) zoning districts and renumbering the remaining section of Division 9, Outdoor Sales.

RECOMMENDATION

The Planning and Economic Development Department recommends this motion:
Recommend that Council revise Section 98-1281, requiring shielding of accessory outdoor equipment and dispensing machines within the C-P (Commercial Parkway), C-1 (Low Density Commercial), C-2 (General Commercial), C-NH (Commercial New Haven), C-W (Commercial Wickham) and GTWY-I (Gateway Interchange) zoning districts.

FISCAL IMPACT

The City Clerk has budgeted \$150.00 for code amendment legal advertisement and codification of revised codes.

DISCUSSION

PROPERTY ADDRESS

Properties within the West
Melbourne city limits

APPLICANT/PROPERTY OWNER

City of West Melbourne

PUBLIC MEETING DATES

City Council
October 17, 2023, 1st Reading
November 14, 2023, 2nd Reading

LOCATIONS

This code change applies to those properties located with the C-P (Commercial Parkway); C-1 (Low Density Commercial); C-2 (General Commercial) District; C-NH (Commercial New Haven) and C-W (Commercial Wickham) and GTWY-I (Gateway Interchange District) zoning districts.

BRIEF SUMMARY OF THE REQUEST

During a recent review of a request to allow a service station within the Space Coast Town Center, staff realized that accessory outdoor dispensary facilities are not addressed in the Land Development Regulations. As such, staff is recommending that Section 98-1281 be amended to regulate the visual shielding of permanent accessory outdoor sales equipment.



STAFF RECOMMENDATION

APPROVE

APPROVE WITH CONDITIONS

DENY

Background —

In 2009, City Council adopted Ordinance No. 2009-69, revising Division 9 in the Supplementary District regarding outdoor sales. This ordinance revised the regulations of temporary accessory uses within the existing commercial zoning districts based on City Council's request. The ordinance did not include permanent outdoor accessory facilities.

In 2022, during the review of a proposed gasoline service station within the Space Coast Town Center, it was noted that outdoor sales equipment was not addressed, nor was the screening/shielding of these units. As such, a condition of the Board of Adjustment approval was that all outdoor accessory dispensary facilities be screened from public view. Conditional use was approved and with the next step, applicants questioned the definition of screening and proposed a landscape buffer consisting of sweet viburnum, at a height of 24 inches with an 18-inch spread without any other materials on the north and south side of the dispensing facility. Staff determined that the landscape buffer was not sufficient as it may not provide a solid opaque screen in the future especially if the business did not maintain the hedge. The hedge would have to be a consistent height hiding the facility and with no gaps pruned between the shrubs.

Staff's proposed revised code does not address stand-alone ice/water kiosks such as the Watermill Express kiosk in the Minton Corner shopping center. This type of use is permitted as a retail business in the City as long as it is contained within a building, and kiosks abide by a separate set of requirements. The difference between an ice kiosk and an outdoor ice cooler is that the kiosk generates ice and dispenses the ice as it is ordered and an ice container is an outside freezer that holds prepackaged ice for sale.

This is a staff-initiated request to amend Section 98-1281, revising regulations for permanent accessory uses in C-P, C-1, C-2, C-N, C-W, and GTWY-1 zoning districts.

Staff Analysis—

As mentioned, the City has addressed temporary accessory uses in the Land Development Regulations under Section 98-1281, but did not address permanent outdoor sales and equipment (i.e. ice dispensary machines, propane tank dispensary machines). As this type of equipment is bulky and unsightly, Staff is recommending that the City address the placement and screening within Section 98-1281 (see Attachment 1) as follows:

1. Apply to all mechanical outdoor product dispensing facilities that are external to the building.
2. Require that solid walls or similar facades like the main building surround the front and rear of the dispenser.

The code revisions also update **Sec. 98 – ~~1281-1282~~** to include three other zoning districts in the description of where temporary accessory uses are allowed. The code now includes the C-NH (Commercial New Haven), C-W (Commercial Wickham), and GTWY-I (Gateway Interchange) zoning districts.

Lastly, since a new set of regulations are created in Section 98-1281, the existing codes are renumbered as follows:

- Sec. ~~98-1282~~ 98-1283. - Permits required.
- Sec. 98-~~1283~~ 1284. - Conditions for issuance of permit.
- Sec. 98-~~1284~~ 1285. - Revocation of permit.
- Sec. 98-~~1285~~ 1286. - Assignability of permit.
- Sec. 98-~~1286~~ 1287. - Administration of permit.

Code Comparisons: Staff researched the codes from other adjacent local governments and found that most communities do not address the shielding of outdoor dispensing facilities and equipment.

Municipality	Code Number	Criteria
Fort Walton Beach, FL	5.01.13	Requires machines to be placed in a rear or side yard, fully concealed from public view, and enclosed with a solid fence, solid wall, or landscaping. The machines must be maintained in a neat, orderly, dust-free, and safe manner. In addition, the machinery can not be located within any required buffer or landscaped area, stormwater management area, easement, required parking spaces, driveway or parking aisle, or loading space.
City of Sanibel	126-1029	Service areas, HVAC, generators, trash containers, dumpsters, and other commercial equipment shall be screened from view from adjacent residential uses and environmentally sensitive spaces, off-street parking, and common public space.
City of Melbourne		Not Addressed
Brevard County	62-2100.5	Ancillary uses exempt from standards
Titusville		Not addressed
Daytona Beach	5.3	Allows fuel/oil/bottled gas distribution as an accessory use to convenience stores, grocery stores, retail sales establishments, gas stations, and mobile/manufactured home parks. No standards for screening were provided.
City of Palm Bay		Not Addressed

Staff also consulted with the City’s fire consultant to determine if there were any prohibitions under the National Fire Code (NFPA 58, Liquefied Petroleum Gas Code, Chapter 10, Building or Structures Housing LP-Gas Distribution facilities.) Screening of these outdoor machines, is partially permitted, however, according to Section 6.5.4.2, but the enclosure must be designed with a fire protection analysis. The City’s fire consultant stated that in order to have adequate air flow of potentially flammable substances the shield must be open on two sides.

As a result of the fire consultant’s information, staff determined at least two sides of the external accessory walled area must remain open.

Conclusion:

The land development regulations do not address permanent outdoor accessory sales equipment with the commercial zoning districts. Section 98-1281 is proposed to regulate temporary outdoor accessory dispensing facilities within the C-P, C-1, C-2, C-NH, C-W, and GTWY-I zoning districts. Addressing the placement and shielding of permanent outdoor accessory dispensing facilities will provide the proposed amendments will ensure clarity and consistency of implementation of the Land Development Regulations regarding the placement and shielding of permanent outdoor accessory dispensing facilities.

Public Notice:

The public hearing for the code change was advertised on Brevard County's designated publicly accessible website, <https://brevard.fl.column.us>, on September 28, 2023.

RECOMMENDATION

Staff recommends that the Planning and Zoning Board make this motion:

Recommend that Council approve the requested Zoning code revisions to address permanent outdoor dispensing facilities and equipment within the C-P, C-1, C-2, C-NH, C-W, and GTWY-I zoning districts.

ATTACHMENT

1. Ordinance No 2023-22

ORDINANCE NO. 2023-22

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 98 ZONING, SECTION 98-1281, CREATING REGULATIONS FOR PERMANENT ACCESSORY USES IN C-P, C-1, C-2, C-NH, C-W, AND GTWY-I ZONING DISTRICTS PROVIDING FOR THE SHIELDING OF ANCILLARY OUTDOOR PRODUCT DISPENSING FACILITIES FOR THE C-P, C-1, C-2, C-NH, C-W, AND GTWY-I ZONING DISTRICTS AND PROVIDING REGULATIONS FOR TEMPORARY ACCESSORY USES IN THE C-NH, CW AND GTWY-I ZONING DISTRICTS AND RENUMBERING THE REMAINING SECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2009, the City Council adopted Ordinance No. 2009-69, amending the Outdoor Sales codes of the Land Development Regulations; and

WHEREAS, the Planning Department has received inquiries on the city mechanisms would require to shield outside dispensing facilities; and

WHEREAS, Division 9 of the Supplementary District addresses outdoor temporary sales but does not address permanent outdoor ancillary uses; and

WHEREAS, outdoor dispensing facilities are bulky and unsightly and should be shielded from public view; and

WHEREAS, the City wishes to provide regulations requiring that any commercial facility that has ancillary outdoor sale dispensing facilities be shielded from public view.

BE IT ORDAINED by the City Council of the City of West Melbourne, Brevard County, Florida, that:

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

Section 2. Additional criteria for permanent accessory use in Article 5, Division 9- shall be amended to revise, and read as set forth below and subsequent sections renumbered:

Sec. 98-1281. – Permitted as permanent accessory uses in C-P, C-1, C-2, C-NH (Commercial New Haven), C-W (Commercial Wickham), and GTWY-I (Gateway Interchange zoning districts.

All exterior mechanical outdoor product dispensing facilities (i.e., ice machines, propane tank dispensers, movie rental vending machines, and the like) are required to be shielded with:

- a. A material consistent in type and color as the primary building.
- b. Minimum shield material height shall be six feet.
- c. Material shall be opaque and shall shield the view from the front and rear.

Sec. 98 – ~~4284-1282~~. - Permitted as temporary accessory use in C-P, C-1, ~~and~~ C-2, C-NH (Commercial New Haven), C-W (Commercial Wickham), and GTWY-1 (Gateway Interchange zoning districts).

(a) Outdoor retail sales of goods, exclusive of alcoholic beverages, shall be deemed to be an allowable temporary accessory use in the C-P, C-1, ~~and~~ C-2, C-NH, C-W, and GTWY-1 zoning districts only after an outdoor retail sales permit for each sales event has been obtained from the city.

(b) The requirements of this division shall be applicable to such outdoor retail sales.

Sec. ~~98-1282-98-1283~~. - **Permits required.**

Sec. ~~98-1283~~ 1284. - **Conditions for issuance of permit.**

Sec. ~~98-1284~~ 1285. - **Revocation of permit.**

Sec. ~~98-1285~~ 1286. - **Assignability of permit.**

Sec. ~~98-1286-1287~~. - **Administration of permit**

Section 3. Severability. 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 4. Conflict with Other Ordinances. The provisions of this ordinance shall supersede any provision of existing ordinances in conflict herewith to the extent of said conflict.

Section 5. Inclusion in Code. It is the intention of the City Council of the City of West Melbourne that the provisions of this ordinance and **Exhibit “A”** hereto shall be made a part of the City of West Melbourne Code of Ordinances and the sections be renumbered to accomplish such intention.

Section 7. Effective Date. This ordinance shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of West Melbourne,
Brevard County, Florida, this _____ 2023.

HAL J. ROSE, MAYOR

ATTEST:

Cynthia Hanscom, City Clerk

Reviewed as to form and content:

John Cary, City Attorney

1st READING: October 17, 2023
2nd READING: November 14, 2023