



**CITY OF CLERMONT
PLANNING AND ZONING COMMISSION AGENDA
7:00 PM, Tuesday, December 2, 2014
City Hall – 685 W. Montrose Street, Clermont, FL**

**CALL TO ORDER
INVOCATION AND PLEDGE OF ALLEGIANCE
MINUTES**

Approval of the November 4, 2014 Planning and Zoning Minutes.

**REPORTS
NEW BUSINESS**

- | | |
|---|---|
| Item 1 - Dr. Jesus Perez Family and Cosmetic
Dentistry
Conditional Use Permit | Request for a a professional office to
occupy more than 3,000 square feet of
total
floor area in the Central Business
District. |
| Item 2 - Ordinance 2015-01
Land Development Code Amendment | Request to add Section 122-357
Sidewalk Café to Chapter 122
Zoning and amend Chapter 6, Section 6-
3 Consumption or Possession upon
Public Property; Penalty. |
| Item 3 - Ordinance 2015-02
Land Development Code Amendment | Request to amend Chapter 102, Section
102-23 Changeable Copy Signs. |

Discussion of Non-Agenda Items

ADJOURN

Any person wishing to appeal any decision made by the Planning and Zoning Commission at this meeting will need a record of the proceedings. For that purpose, such person 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 based.

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two (2) business days prior to the proceeding, he or she should contact the Planning and Zoning Department at 352-241-7302.

Please be advised that if you intend to show any document, picture, video or items to the Council or Board in support or opposition to any item on the agenda; a copy of the document, picture, video or item must be provided to the Recording Clerk for the City's records.

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The meeting of the Planning & Zoning Commission was called to order Tuesday November 4, 2014 at 7:00 p.m. by Chairman Nick Jones. Other members present were Herb Smith, Bernadette Dubuss, Harry Mason, and Tony Hubbard. Also in attendance were Barbara Hollerand, Development Services Director, Curt Henschel, Planning Manager, Dan Mantzaris, City Attorney, and Rae Chidlow, Planning Specialist.

MINUTES of the Planning and Zoning Commission meeting held October 7, 2014 were approved as written.

REPORTS

Chairman Nick Jones stated that the 10th season for the Florida Lakes Symphony will open Friday, November 14, 2014 at the Family Christian Center.

1. REQUEST FOR CONDITIONAL USE PERMITS

REQUEST: Heritage Hills Subdivision

APPLICANT: Lennar

Planning Manager Curt Henschel presented the staff report as follows:

The applicant is requesting to amend the existing conditional use permit (Resolution #2013-10) to allow for adjustments to the roadway connection points and to allow for a non-age restricted phase.

The existing resolution depicts road way connection points that connect the internal right-of-way to the proposed Hartle Road extension, which is currently undeveloped. Because Hartle Road is undeveloped and not programmed for construction, the applicant/developer is left with altering the connection points to the right-of-way. Currently, the site plan shows access to Hartle Road north of Hartwood Marsh Road. The new proposed plan shows the eastern portion on the project accessing directly to Hartwood Marsh Rd.

The applicant is also requesting to create a separate non-age-restricted portion of the project with 67 units. Currently, Heritage Hills is designated as age-restricted by the original approved Conditional Use Permit. Heritage Hills is also part of the Kings Ridge Development of Regional Impact (DRI), which also includes Kings Ridge, Legends, and their associated office, commercial and institutional use properties. Within this DRI development order, an equivalency matrix was created and approved by the state that allows for substitutions of uses within the DRI without further state and regional agency approval. This matrix allows for non-age-restricted homes to be substituted for previously approved commercial and age-restricted homes.

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Lennar has 106 approved age restricted units remaining of the 1,223 conditional use permit maximum allowable units. Using the equivalency matrix table, Lennar proposes to convert 106 age restricted units to 29 SFR units. In order to obtain a total of 67 SFR units, they need an additional 38 SFR units which can be obtained from 4,700 square feet of unused retail space.

This conversion and modification of the conditional use permit will allow Lennar to develop the former Phase 7 of Heritage Hills as a stand-alone community that is separated from Heritage Hills. Lennar has reassured the residents of Heritage Hills that Lennar does not plan to grant any access from the proposed community to the existing amenities of Heritage Hills. The site plans and related approvals have been revised in "Exhibit B and C" to eliminate any connections from Hartle Road to Heritage Hills. All previously approved changes from the conditional use permit amendments in 2009 and 2013 are included in the current proposed conditional use permit amendment.

The applicant has stated the request is based on three physical site characteristics that make it impractical for the new community area to be included in the age-restricted, gated community. These include a 200- foot-wide Duke Energy easement, Hartle Road, and two isolated wetlands all located between Phase 6 and the new community area. The applicant stated that these barriers create 220 feet to 550 feet of separation between the two developments and make a connection by an internal roadway system impractical to design.

Lennar held a community meeting with the residents on October 6, 2014 to address questions and concerns raised by the residents.

Staff recommends approval of the conditional use permit.

Milton Andrade, Project Manager for Lennar Homes, stated that he was present to answer any questions.

Commissioner Harry Mason asked if the 67 non-aged restricted lots will put Heritage Hills over the 80/20 rules for age restrictions.

Mr. Andrade stated that the 80/20 rule is determined on a community-by-community basis.

Commissioner Harry Mason asked about the Kings Ridge DRI as a whole, including all the communities.

Mr. Andrade stated that the 67 non-aged restricted lots would be 5% of non-age restricted for the whole community. He stated that this would be considered a separate community so that rule would not apply.

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Mr. Henschel stated that the 80/20 rule is on a community-by-community basis. He stated that if you were to add all the communities together they would already be at a third of non-age restricted lots and would already be over the requirements for the DRI.

Chairman Nick Jones asked that if the Commission recommended approval of the conditional use permit, would the non-age restrictions apply only to the eastern parcel.

Mr. Henschel stated that was correct.

City Attorney Dan Mantzaris stated that the 80/20 rule is calculated by each individual community.

Commissioner Harry Mason stated that he would like to have more specific wording stating that Heritage Hills shall not allow access for Phase 7.

Mr. Henschel suggested adding language to number 11 under section 1 of the conditional uses. He stated that it relates to number 12.

Commissioner Harry Mason asked to add that Phase 7 shall not have access to the clubhouse.

Ed Barnhill, 3743 Sanibel St., stated that he is one of the residents who does not want the third access into Heritage Hills from Hartle Road. He stated that a letter went out from Lennar that they will be putting the wall up along Hartle Road. He stated that they also agreed to put street lights at Heritage Hills Boulevard and Hartwood Marsh Road entrance.

Rob Bonin, Lennar Homes, stated that Lennar will provide a 6 foot pre-cast wall and 4 street lights at the entrance.

Commissioner Harry Mason moved to recommend approval of the conditional use permit with the additional language pertaining to the clubhouse access, wall, and street lights; seconded by Commissioner Tony Hubbard. The vote was unanimous to recommend approval for the conditional use permit.

2. REQUEST FOR CONDITIONAL USE PERMITS

REQUEST: East Ridge Village

APPLICANT: David Stimmell

Planning Manager Curt Henschel presented the staff report as follows:

The East Ridge Village Apartments project is a proposed multi-family development consisting of 103 apartments located just off the north side of Hooks Street and just west of Hancock Rd.

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The 11.5 acre parcel is part of the Hills of Clermont conditional use permit (Parcel #3) that was originally approved in 2001. Since then, several parcels have had conditional use permit amendments and many have never materialized. The existing conditional use permit Resolution 1208 allowed for this parcel to be converted from Single Family Residential to Commercial in July of 2001. The existing resolution 1208 specifically prohibits the use of multi-family on this parcel, along with several other prohibited uses.

The 11.5 acre parcel has had two parcels develop, one being a church facility on the corner of Hooks and Hancock, and the other parcel originally developed as a bank. This has left a 7 acre parcel in the middle that has been undeveloped. The applicant is proposing to change the allowable uses to include multifamily on this remaining 7 acre parcel.

In the original Hills of Clermont conditional use permit, densities were given to individual parcels. For example, the original multi-family that was approved to the south (Parcel #4) had a maximum density of 6.5 units per acre. This parcel never developed as multifamily and was developed as single family units (South Ridge Subdivision) equaling 2 dwelling units per acre. Parcel #2 was given a maximum density of 6 units per acre and remains undeveloped.

Since several parcels remain undeveloped and others were developed well under the maximum densities, the applicant is requesting a higher density for the proposed parcel. Calculated alone, 103 units on 7 acres equates to 14.7 units per acre, however, if calculated into the overall Hills of Clermont planned unit development (including open spaces and retention area) the total acreage would equal 8.6 acres, and the density would fall to 12 units per acre meeting the maximum allowable by the future land use.

Staff recommends approval of the conditional use permit.

David Stimmell, 902 Johns Pointe, Oakland, stated that the Planned Unit Development originally called for mixture of residential uses to go along with the commercial uses for this area. He stated that this property was originally scheduled for 164 units but they have only built 54 units. He stated that water and transportation improvements are in place, the site is to grade, and sidewalks are constructed. He stated that multi-family is a transition from single family to commercial. He stated that there is a four-lane road separating single family from this parcel. He stated that they plan to build workforce housing units. He stated that the rent is restricted to 30% of the median income. He stated that there are jobs, a bus stop, two schools, and shopping near this location.

Commissioner Harry Mason asked if there are two public access points to this property.

Mr. Henschel stated that there are three public access points to this property.

Commissioner Harry Mason moved to recommend approval of the conditional use permit; seconded by Commissioner Bernadette Dubuss. The vote was unanimous to recommend approval for the conditional use permit.

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3. REQUEST FOR CONDITIONAL USE PERMITS

REQUEST: Walmart

APPLICANT: Kimley-Horn and Associates, Inc.

Planning Manager Curt Henschel presented the staff report as follows:

The applicant is requesting an amendment to the existing Resolution #1316 to allow for an increase in building square footage. Currently the existing Wal-Mart located at 1450 Johns Lake Rd. is limited to 218,685 square feet (resolution 1316). The applicant is requesting to create 3,905 square foot expansion to the east side of the building. The proposed expansion will be for liquor sales that will not be accessible from inside the main building. Combining the existing allowable square footage of 218,685 and the proposed addition of 3,905 square feet, the new proposed building size will be limited to 222,590 square feet.

Staff recommends approval of the conditional use permit.

The applicant was not present.

Commissioner Harry Mason moved to postpone the Walmart application until the applicant is present. The motion failed due to lack of a second.

Commissioner Tony Hubbard moved to recommend approval of the conditional use permit; seconded by Commissioner Bernadette Dubuss. The vote was 4-1 to recommend approval for the conditional use permit, with Commissioner Harry Mason opposing.

4. REQUEST FOR LAND DEVELOPMENT CODE AMENDMENT

APPLICANT: Staff

Planning Manager Curt Henschel presented the staff report as follows:

The Florida Right to Medical Marijuana Initiative Amendment 2 is on the November 4, 2014 ballot in Florida as an initiated Constitutional Amendment. The measure, upon voter approval, would legalize medical marijuana.

The City of Clermont has prepared an ordinance that would provide definitions in the City's code for marijuana and marijuana dispensaries. The ordinance would regulate that a medical marijuana dispensary could locate only on properties with M-1 Industrial zoning, and would require a conditional use permit with restrictions as specified in the ordinance. The proposed ordinance, upon introduction, would move forward to a final hearing on November 12, 2014.

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Commissioner Harry Mason moved to recommend approval of the land development code amendment; seconded by Commissioner Bernadette Dubuss. The vote was unanimous to recommend approval for the land development code amendment.

Development Services Director Barbara Hollerand asked the Commission's opinion of changing the meeting start time from 7:00 pm to 6:00 pm.

Commissioner Harry Mason stated that 6:00 pm would be too early for the residents who work outside of Clermont.

Chairman Nick Jones, along with Commissioners Tony Hubbard and Bernadette Dubuss, prefer 6:00 pm. Commissioners Herb Smith and Harry Mason prefer the meeting to begin at 7:00 pm.

There being no further business, the meeting was adjourned at 8:05 pm.

Nick Jones, Chairman

ATTEST:

Rae Chidlow – Planning Specialist



CITY OF CLERMONT

AGENDA ITEM

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Meeting Date		
Tuesday, December 2, 2014		
Agenda Item Name		
Dr. Jesus Perez Family and Cosmetic Dentistry Conditional Use Permit		
Requested Action		
Move to recommend approval of Resolution No. 2014-40 to the City Council.		
Staff Report		
The applicant is requesting a Conditional Use Permit (CUP) to allow a professional office to occupy more than 3,000 square feet of total floor area in the Central Business District (CBD). Under Sec. 122-243 of the Land Development Code, the CBD zoning district permits a doctor's office, but not one 3,000 square feet or greater without a CUP. The applicant desires to construct a new two story professional office building for his dental practice. The proposed location is a vacant lot at the intersection of West Avenue and Juniata Street. The proposed building will be 6,110 square feet, including all porticos, stairs and storage areas. The air conditioned space of the lower floor will be 2,058 square feet and the upper floor will be 3,190 square feet, for a total of 5,248 square feet of conditioned floor space. The parking requirement, under Section 122-247 (c)(1), requires 1 parking space for 400 square feet of floor space. Based upon this requirement, the total number of spaces would be 13 parking stalls. The applicant has provided 13 parking stalls on the site plan. The applicant is seeking a variance for the landscaping requirement along one of parking stalls that abuts Juniata Street. The proposed doctor's office is consistent with the area as a whole and would provide the applicant with an opportunity to continue practicing in the downtown area while gaining a larger, modern facility. The applicant has been through site plan review with staff on the proposed project and multiple items have been addressed up to this point. The applicant and staff believe the project meets the LDC except for the one variance request and the CUP requirement. Therefore, staff recommends approval of this request.		
Legal Impact		
Additional Analysis		
Fiscal Impact Summary		
Fiscal Impact	Fund Number and Description	Available Budget Amount
Exhibits Attached (copies of original agreements)		
1. Resolution CUP RES 2014-40.docx		
2. CUP Conditions Perez CUP CONDITIONS.docx		

3.	CUP Site Plan	CUP Site Plan.pdf
4.	CUP Map	Perez CUP Map.pdf
5.	Application	CUP Application.pdf
6.	Legal Ad	Perez CUP Legal AD.docx

**CITY OF CLERMONT
RESOLUTION NO. 2014-40**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CLERMONT, LAKE COUNTY, FLORIDA, GRANTING A
CONDITIONAL USE PERMIT TO ALLOW FOR A PROFESSIONAL
OFFICE GREATER THAN 3,000 SQUARE FEET IN THE CENTRAL
BUSINESS DISTRICT**

WHEREAS, the Planning and Zoning Commission of the City of Clermont, Lake County, Florida at a meeting held December 2, 2014 recommended approval of this Conditional Use Permit to allow for a professional office greater than 3,000 square feet in the Central Business District; at the following location:

LOCATION:

(Alt. Key 1615461) 912 West Avenue

The City Council deems it advisable in the interest of the general welfare of the City of Clermont, Lake County, Florida to grant this Conditional Use Permit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clermont, Lake County, Florida that:

This application for a Conditional Use Permit to allow for a professional office greater than 3,000 square feet in the Central Business District; be granted subject to the following conditions:

CONDITIONAL USE PERMIT CONDITIONS:

Section 1 - General Conditions

1. The conditions as set forth in this Conditional Use Permit shall be legally binding upon any heirs, assigns and successors in title or interest.
2. No further expansion of the use or additions to the facility shall be permitted except as approved by another Conditional Use Permit.
3. The property shall be developed in substantial accordance with the conceptual site plan dated 10/21/2014 and prepared by H.L. Bennett & Associates, Inc. Formal construction plans, incorporating all conditions stated in this permit shall be submitted for review and approved by the Site Review Committee prior to the issuance of a zoning clearance or other development permits. The conceptual site plans submitted with the Conditional Use Permit application are not the approved construction plans.

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RESOLUTION NO. 2014-40

4. No person, firm, corporation or entity shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building or structure, or alter the land in any manner within the boundary of the project without first submitting necessary plans, obtaining necessary approvals, and obtaining necessary permits in accordance with the City of Clermont Land Development Regulations and those of other appropriate jurisdictional entities.
5. The final Certificate of Occupancy shall not be issued until each of the stated conditions has been met.
6. If any of the stated conditions are violated, the applicant understands and agrees that the City Council may revoke this Conditional Use Permit by resolution.
7. The Conditional Use Permit must be executed and filed in the office of the City Clerk within 90 days of its date of grant by the City Council or the permit shall become null and void.
8. The applicant shall record in the Public Records of Lake County within 90 days of its date of approval by the City Council, a short-form version of this Conditional Use Permit as provided by the city or a form acceptable to the city, to provide notice to all interested parties, the assigns, successors and heirs of the developer/applicant and all future owners of the above-referenced property that the real property described above is subject to the terms and conditions of the Conditional Use Permit.
9. This permit shall become null and void if substantial construction work has not begun within two (2) years of the date this Conditional Use Permit is executed and signed by the permittee. "Substantial construction work" means the commencement and continuous prosecution of construction of required improvements ultimately finalized at completion.

Section 2 - Land Use

1. This permit is for a 6,110 square foot professional office building with air conditioned floor space of 5,248 square feet. The site may also be used for other permitted Central Business District (CBD) uses as indicated in Section 122-243 of the Land Development Code.

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DONE AND RESOLVED by the City Council of the City of Clermont, Lake County, Florida, this 9th day of December, 2014.

CITY OF CLERMONT

Gail Ash, Mayor

ATTEST:

Tracy Ackroyd, City Clerk

Approved as to form and legality:

Daniel F. Mantzaris, City Attorney

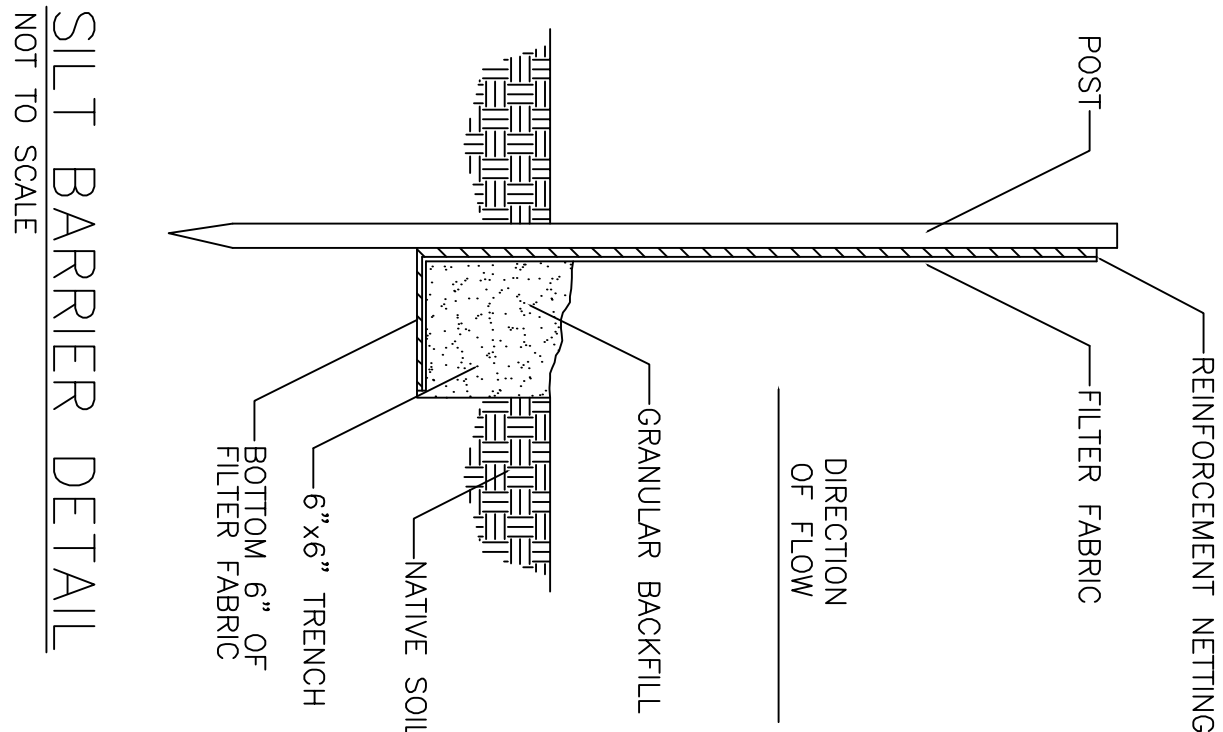
CUP CONDITIONS:

Section 1 - General Conditions

1. The conditions as set forth in this conditional use permit shall be legally binding upon any heirs, assigns and successors in title or interest.
2. No further expansion of the use or additions to the facility shall be permitted except as approved by another conditional use permit.
3. The property shall be developed in substantial accordance with the conceptual site plan dated 10/21/2014 and prepared by H.L. Bennett & Associates, Inc. Formal construction plans, incorporating all conditions stated in this permit shall be submitted for review and approved by the site review committee prior to the issuance of a zoning clearance or other development permits. The conceptual site plans submitted with the conditional use permit application are not the approved construction plans.
4. No person, firm, corporation or entity shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building or structure, or alter the land in any manner within the boundary of the project without first submitting necessary plans, obtaining necessary approvals, and obtaining necessary permits in accordance with the City of Clermont Land Development Regulations and those of other appropriate jurisdictional entities.
5. The final certificate of occupancy shall not be issued until each of the stated conditions has been met.
6. If any of the stated conditions are violated, the applicant understands and agrees that the City Council may revoke this conditional use permit by resolution.
7. The conditional use permit must be executed and filed in the office of the City Clerk within 90 days of its date of grant by the City Council or the permit shall become null and void.
8. The Applicant shall record in the Public Records of Lake County within 90 days of its date of approval by the City Council, a short-form version of this Conditional Use Permit as provided by the City or a form acceptable to the City, to provide notice to all interested parties, the assigns, successors and heirs of the developer/applicant and all future owners of the above-referenced property that the real property described above is subject to the terms and conditions of the Conditional Use Permit.
9. This permit shall become null and void if substantial construction work has not begun within two (2) years of the date of this conditional use permit is executed and signed by the permittee. "Substantial construction work" means the commencement and continuous prosecution of construction of required improvements ultimately finalized at completion.

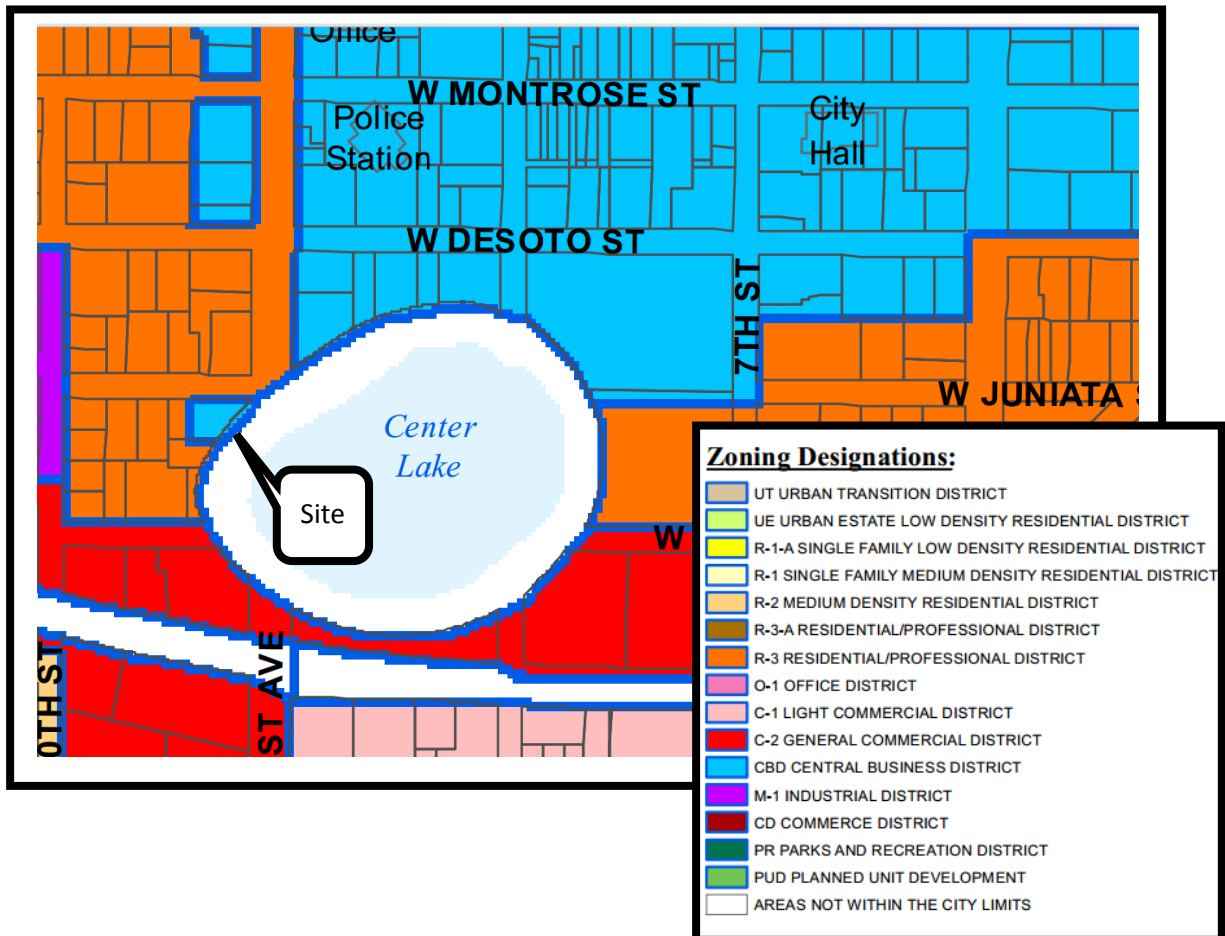
Section 2 - Land Use

1. This permit is for a 6,110 square foot professional office building with a conditioned floor space of 5,248 square feet. The site may also be used for other permitted CBD uses as indicated in Section 122-243 of the Land Development Code.



REVISIONS	
10	REVISED PER CITY COMMENTS 6/2/14

Dr. Jesus Perez Family and Cosmetic Dentistry - CUP





**CITY OF CLERMONT
CONDITIONAL USE PERMIT (CUP)
APPLICATION**

DATE: 11/17/14

FEE: _____

PROJECT NAME (if applicable): Jesus Perez Dental Office

APPLICANT: Jacare Properties, LLC

CONTACT PERSON: Jesus Perez

Address: 209 Lace Bark Ct.

City: Minneola State: Florida Zip: 34715

Phone: 352-394-5121 Fax: _____

E-Mail: jperezdmd@yahoo.com

OWNER: Jacare Properties, LLC

Address: 209 Lace Bark Ct.

City: Minneola State: Florida Zip: 34715

Phone: 352-394-5121 Fax: _____

Address of Subject Property: 912 West Ave., Clermont

General Location: State Road 50 to north on West Ave. to intersection
of Juniata Street, property is located @ the south west side of intersection.

Legal Description (include copy of survey): _____

LOTS 1, 2, AND THE NORTH 100 FEET OF LOT 6, BLOCK 98, CITY OF CLERMONT,
ACCORDING TO THE MAP THEREOF RECORDED IN PLAT BOOK 8, PAGES 17 TO 23
INCLUDED, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.
PROPERTY SHOWN HEREON CONTAINS 0.35 ACRES MORE OR LESS.

Land Use (City verification required): Downtown MU

Zoning (City verification required): CBD central business district

**CITY OF CLERMONT
CONDITIONAL USE PERMIT (CUP)
APPLICATION**

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Detailed Description of request (What are you proposing to do and why is it appropriate for this location? Attach additional page is necessary.

Owner proposes to construct a total of 6,110 s.f. building (two-sty) with a total of 5,248 s.f. air conditioned area. The CBD zoning allows up to 3,000 s.f. A CUP is required since the threshold has been exceeded. The proposed site development plan shows that the site will comply with current land development code requirements.

Jesus Perez - president

Applicant Name (print)

Jacare Properties, LLC

Owner Name (print)

X

Applicant Name (*signature*)

X

Owner Name (*signature*)

* * * * * **NOTICE** * * * * *

IF THIS APPLICATION IS SUBMITTED INCOMPLETE OR INACCURATE, IT WILL BE SUBJECT TO A DELAY ON PROCESSING AND WILL NOT BE SCHEDULED UNTIL CORRECTIONS ARE MADE.

City of Clermont
Planning & Zoning Department
685 W. Montrose St.
P.O. Box 120219
Clermont, FL. 34712-021 9
(352) 394-4083 Fax: (352) 394-3542

LEGAL NOTICE

Notice is hereby given that the City of Clermont will consider a request for a Conditional Use Permit to allow for a professional office greater than 3,000 square feet of total floor space in the Central Business District at the following location:

LOCATION

Alt. Key 1615461
912 West Ave.

Vacant Lot located southwest of W. Juniata St. and West Ave.

A complete legal description may be obtained in the Development Services Department located at 685 W. Montrose Street, Clermont, FL 34711.

This request will be considered by the Planning & Zoning Commission on Tuesday, Dec. 2, 2014 at 7:00pm.

A public meeting to consider the request will be held before the City Council on Tuesday, Dec. 9, 2014 at 7:00pm.

All meetings will be held in City Hall located at 685 West Montrose Street.

All interested parties will be given an opportunity to express their views on this matter.

Please be advised that, under State law, if you should decide to appeal a decision made with respect to this matter, you will need a record of the proceedings, and may need to ensure that a verbatim record is made.

Tracy Ackroyd, MMC
City Clerk

Daily Commercial
November 28, 2014 and December 2, 2014



CITY OF CLERMONT

AGENDA ITEM

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Meeting Date		
Tuesday, December 2, 2014		
Agenda Item Name		
Ordinance 2015-01 Land Development Code Amendment		
Requested Action		
Move to recommend approval of Ordinance 2015-01 to City Council.		
Staff Report		
Staff is proposing changes to the Land Development Code to allow sidewalk cafés within the Central Business District. This ordinance allows for establishment of an outdoor sidewalk café use and consumption of alcoholic beverages associated with operators of a valid food and/or drink license and operating a restaurant. Movable tables and chairs on the sidewalk would be provided while maintaining ADA required access. This amendment to allow for a sidewalk café is confined to the area directly adjacent to the established business. The regulations and special restrictions are established and a permit is required for a sidewalk café. The outside use of the sidewalk garners the impression that Clermont's downtown is a vibrant community similar to those progressive communities already using similar codes. Open container allowances on the street for special events are still subject to approval by the City Council under normal requirements.		
Legal Impact		
Additional Analysis		
Fiscal Impact Summary		
Fiscal Impact	Fund Number and Description	Available Budget Amount
Exhibits Attached (copies of original agreements)		
1. Ordinance 2015-01 sidewalk cafe.doc		
2. Legal ad LDC amendments -sidewalk cafe.doc		

CITY OF CLERMONT
ORDINANCE No. 2015-01

AN ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY COUNCIL OF THE CITY OF CLERMONT, LAKE COUNTY, FLORIDA, ADDING TO THE CODE OF ORDINANCES, CHAPTER 122 ZONING; SECTION 122-357 SIDEWALK CAFÉ AND AMENDING CHAPTER 6 ALCOHOLIC BEVERAGES, SECTION 6-3 CONSUMPTION OR POSSESSION UPON PUBLIC PROPERTY; PENALTY; PROVIDING FOR CODIFICATION; SEVERABILITY; EFFECTIVE DATE; AND PUBLICATION.

WHEREAS, pursuant to the provisions of Chapter 163, Florida Statutes, the City of Clermont Planning and Zoning Commission, acting as the Local Planning Agency of the City, has held a public hearing on December 2, 2014 and following such hearing found this Ordinance to be in the best interest of the City of Clermont, and recommended that the City Council adopt this Ordinance; and

WHEREAS, the City Council of the City of Clermont desires to add Section 122-357 Sidewalk Café and amend Chapter 6 Alcoholic Beverages, Section 6-3 Consumption or possession upon public property; penalty; of the City of Clermont's Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Clermont, Florida as follows:

SECTION 1.

The City Council of the City of Clermont has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 163 and 166, Florida Statutes.

SECTION 2.

The Land Development Code of the City of Clermont Code of Ordinances is hereby adding to read as follows (note strikethrough indicates removed words and underlined indicates added):

Section 122-357. Sidewalk café.

1. Necessity and intent.
 - a. There is a need for regulations and standards for the existence and operation of sidewalk cafés to facilitate and ensure a safe environment in these areas.
 - b. The establishment of permit conditions and safety standards for sidewalk cafés is necessary to protect and promote the general health, safety and welfare of the residents of the City.

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ORDINANCE No. 2015-01

2. Sidewalk café authorized. Restaurant operators, eating and/or drinking establishments located within the CBD Central Business District are allowed to operate a sidewalk café that conforms to the requirements of this section and other applicable provisions of this code, and are hereby made exempt from the prohibition of conducting business within a public right-of-way of this Code.

3. Definitions. The followings words, terms, and phrases, when used in this section, shall have meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Permittee means the recipient of a sidewalks café permit under the terms and provisions of this section.

Sidewalk café means seating located on a sidewalk or pedestrian mall which is associated with an adjacent eating and/or drinking establishments where food or beverages are delivered for consumption on the premises. It is characterized by movable tables and chairs and may be shaded by umbrellas. Sidewalk cafés shall be permitted only as an accessory use to a licensed restaurant or food/drinking establishment.

4. Permit and application requirements.

a. It shall be unlawful for any person to operate a sidewalk café on any sidewalk or public right-of-way within the City without obtaining a permit as required by this article. Sidewalk cafés shall only be located where permitted by the City's Land Development Code. No person shall establish a sidewalk café on a public sidewalk unless such person has obtained a valid permit to operate that sidewalk café pursuant to this Code.

b. The Chief of Police or designee shall have the right to remove, after 24 hours notice, any tables, chairs and other objects on public property which are used in connection with a sidewalk café which do not have a permit, and shall have the right to immediately remove any tables, chairs or other objects on public property which impede pedestrian traffic or pose a threat to the public health, safety or welfare.

c. A permit for a sidewalk café shall be issued only to the operator of a valid food and/or drink license and operating restaurant who wishes to provide moveable tables and chairs on the sidewalk or pedestrian mall adjacent to the restaurant.

d. Application forms for permits to operate a sidewalk café are provided by the Development Services Department.

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- e. A scaled drawing of the café area shall be required with each sidewalk café permit application with measurements outlining the location, boundary, tables, chairs, barriers, stanchions, host or hostess stations, and other features.
 - f. A copy of a valid Business Tax Receipt to operate a food and/or drinking establishment in front of which the proposed sidewalk café will be located. The number of chairs or seats to be utilized for the sidewalk café must be included in the number of seats authorized by the license.
 - g. A copy of the state alcoholic beverage license and state approved site plan identifying the extension of this permit to the sidewalk where the café seating will operate as required by this Code.
5. Fees may be required as adopted by resolution of the City Council.
6. Standards and criteria.
- a. Sidewalk cafés shall be located in such a manner that a minimum width of four feet is maintained at all times as an unobstructed pedestrian path.
 - b. Sidewalk cafés are restricted to the usable sidewalk area and adjacent outdoor seating area of the licensed establishment to which the permit is issued or within the usable sidewalk area of the building where the validly licensed restaurant is located.
 - c. All tables, chairs, umbrellas, heaters, signs or other personal or business property will not be permitted within four feet of a pedestrian crosswalk or handicap corner curb cut.
 - d. The sidewalk café demonstrates that the café's seating will not obstruct vehicle passengers from exiting their cars with the placement of their curbside tables.
 - e. All furniture shall be stored inside the establishment whenever the business is closed.
7. Special restrictions.
- a. Sidewalk cafés shall not be allowed to operate during special events, unless authorized by the sponsoring event coordinator.

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- b. Sidewalk café operations may be required to cease immediately at the sole discretion of the City.
 - c. The sidewalk café permit is a license to temporarily use the City's sidewalks within the City's rights-of-way. It is not intended and shall not be constructed as an interest in the real property.
 - d. For the purpose of public safety, at any time after obtaining a sidewalk café permit, the permittee may be limited to use of non-breakable beverage containers after the Police Department receives complaints or there are observations for the need to amend the sidewalk café permit to impose the non-breakable beverage provision.
 - e. The permit covers the public sidewalk and right-of-way adjacent to the establishment. Tables and chairs on private property will be governed by other applicable regulations. No additional outdoor seating authorized pursuant to this Code shall be used for calculating seating requirements pertaining to applications for or issuance of an alcoholic beverage license for any establishment; nor shall the outdoor seating be used as the basis for computing required seating for restaurants and dining rooms, or as grounds for claiming exemption from such requirements under the provisions of any City ordinance or state law. However, additional outdoor seating authorized pursuant to this Code shall be included in determining required plumbing or accessibility fixtures or other fire and building code requirements.
 - f. Approval of a sidewalk café permit shall be conditioned upon obtaining the necessary state alcoholic beverage license and meeting all state alcoholic beverage requirements. The approved site plan by the state for the state alcoholic beverage license to allow service outside of the establishment must conform to the proposed site plan for the café seating and must be submitted with the application for a sidewalk café permit. All tables and chairs must not exceed the boundaries of the state alcoholic beverage plan and the sidewalk café plan.
8. Alcohol service.
- a. Sidewalks cafés are hereby made exempt from the prohibition on the sales and consumption of alcoholic beverages outside of a licensed building as provided by this Code.

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9. Liability and indemnification.

- a. Prior to the issuance of a permit, the applicant shall furnish a signed statement indemnifying the City, its officers and employees for any damages to property or injury to persons which may be occasioned by any activity carried under the terms of the permit.
- b. A permittee shall pay, and by its acceptance of a permit specifically agrees to pay, any and all damages or penalties which the City may be legally required to pay as a result of the permittee's operation or maintenance of a sidewalk café under this part, whether or not the acts or omissions complained of are authorized, allowed or prohibited by the City.
- c. A permittee shall also pay all expenses incurred by the City in defending itself with regard to any and all damages and penalties mentioned in subsection (a) above. These expenses shall include all out-of-pocket expenses, including a reasonable attorney's fee and the reasonable value of services rendered by any employee of the City.
- d. The permittee shall maintain, throughout the term of the permit, liability insurance insuring the City and the permittee with regard to all damages mentioned in Subsection (a) above caused by the grantee or its agents, in the minimum amounts of:
 - (1) Workers' and unemployment compensation insurance as provided by the laws of this state.
 - (2) One hundred thousand dollars for property damage, bodily injury, or death payable to any one person and \$2,000,000.00 for property damage, bodily injury or death when totaled with all other claims or judgments arising out of the same incident or occurrence.
 - (3) The insurance policies obtained by a permittee in compliance with this section shall be issued by a company or companies acceptable to the City and a current Certificate or Certificates of Insurance, along with written evidence of payment of all required premiums, shall be filed and maintained with the City during the term of the permit. The policies shall name the City as an additional insured and shall contain a provision that written Notice of Cancellation or reduction in coverage of the policy shall be delivered by registered mail to the City at least 30 days in advance of the effective date thereof.

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- (4) An applicant for a permit shall be required to submit evidence of liability insurance in the amount of \$1,000,000.00 covering injuries to members of the general public arising out of such permitted activities.

10. Revocation or suspension; emergencies.

- a. The approval of a sidewalk cafe permit is conditional at all times. A sidewalk café permit may be revoked or suspended if it is found that:

- (1) Any necessary business or health permit has been suspended, revoked or canceled.
- (2) The permittee does not have insurance which is correct and effective in the minimum amounts described in this section.
- (3) The permittee exceeds the approved number of seats by placing additional tables, chairs, et cetera, in or beyond the approved area.
- (4) The permittee has failed to correct violations of this Code or conditions of this permit within 24 hours of receipt of the Director's notice of such violations delivered in writing to the permittee.

- b. If the permittee fails to remove any tables, chairs and other objects related to sidewalk café within 48 hours of receipt of the Chief of Police or designee final notice of revocation or suspension, the Chief of Police or designee shall have the right to remove such objects.

- c. If a permittee is found in violation of the codes and given a written citation on three occasions in a single year as identified as the beginning date of the permit issuance, the sidewalk café permit shall be suspended for a period of time or revoked as determined by the Chief of Police or designee, effective immediately upon receipt of a third violation. In addition, if the Chief of Police or designee believes that a permittee has engaged or is engaged in conduct warranting the suspension or revocation of the permit, the Chief of Police or designee shall serve the permittee by certified mail or hand delivery at his business address as disclosed in the application for the permit or at the permitted premises, a written administrative complaint which affords reasonable notice of facts or conduct which warrant the intended action. The permittee shall be given adequate opportunity to request an administrative hearing before the Code Enforcement Board unless the chief of police or designee finds that an emergency condition exists involving serious danger to public health, safety or welfare, in which case advance notice and hearing shall not be required. In the case of an emergency

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suspension or revocation, the permittee shall immediately be advised of the Chief of Police or designee's action and afforded a prompt post-suspension or revocation hearing in accordance with the procedures set forth in this Code. Appeals of applications or café seating plans rejected by the City may be heard by the Planning and Zoning Commission for either upholding the decision of the Chief of Police, further revising and approving the plan or approving the submitted plan.

Chapter 6 - ALCOHOLIC BEVERAGES

Section 6-3. Consumption or possession upon public property; penalty.

~~It shall be unlawful for any person to drink or to have an open container of any alcoholic beverage including, but not limited to, liquor, beer or wine, upon any municipal public building or property, including athletic or sport facilities, whether owned or leased, or borrowed by the City and upon any adjacent related grounds including viewing and parking areas; and any street, alley or sidewalk of the City. The City Council may grant exceptions from this section for special activities in designated facilities.~~

- (a) Generally. It shall be unlawful for any person to consume any alcoholic beverage, including beer and wine, upon any City-owned parks and beaches, City property or street, alley or sidewalk of the City. This section shall not apply to any City owned property which is subject to a management contract, or sidewalk cafés. For those properties, alcohol consumption shall be governed by rules established jointly by the managing entity and the City Manager. Further, this section shall not apply to those portions of the above named properties included within the boundaries established by the City Council for a special event for which permission to consume alcoholic beverages is given in conjunction with the permission for the event. In addition, the City Council shall have the right to limit the type of alcoholic beverage to be consumed when granting any such permit.
- (b) Carrying open containers. It shall be unlawful for any person to carry an opened bottle, can or other container containing an alcoholic beverage, including beer and wine, upon any City parks, City beaches, City property or street, alley or sidewalk of the City, provided that this subsection shall not apply to the interior of any vehicle driven upon the ways or property of the City. Further, this section shall not apply to those portions of the above named properties included within the boundaries established by the City Council for a special event for which permission to carry open containers of alcoholic beverages is given in conjunction with the permission for the event, or sidewalk cafés. In addition, the City Council shall have the right to limit the type of alcoholic beverage to be consumed when granting any such permit. In no event will consumption occur directly from glass containers.

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- (c) Permits; procedure. Notwithstanding Subsections (a) and (b) of this Section, permits for the consumption of alcoholic beverages in parks and recreation areas may be obtained by application to the City Manager or the City Manager's designee in accordance with the following procedure:
- (1) A person seeking issuance of a permit shall file an application stating the following:
- a. The name, address and age of the applicant.
 - b. The name and address of the person or association sponsoring the activity, if any.
 - c. The day and hours for which the permit is desired.
 - d. The park or portion thereof for which the permit is desired.
 - e. Any other information reasonably necessary to a determination as to whether a permit should be issued.
 - f. Variances required from park rules.
- (2) A use permit shall issue if the City Manager determines:
- a. The proposed activity or use of the park will not unreasonably interfere with or detract from the general public's enjoyment of the park.
 - b. The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - c. The proposed activity or uses that are reasonably anticipated will not include violence, crime or disorderly conduct.
 -
 - d. The proposed activity will not entail extraordinary or burdensome expense or police operation by the City.

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- e. The facilities desired have not been reserved for other use on the date and hour requested in the application.

- (d) Appeal. Within ten days after the receipt of an application the City Manager shall inform an applicant in writing of the City Manager's decision to grant or deny a permit. For denial, the notification shall include the reason for the denial. Any person denied a permit shall have the right to appeal to the City Council by serving written notice thereof on the City Clerk within five working days of such refusal. A copy of the notice of appeal, the application, and the reasons for the City Manager's refusal shall immediately be forwarded by the Clerk to the City Council.

- (e) The City Council shall rule on the appeal within ten days from the receipt of the appeal by the City Clerk or at its first meeting after the appeal, whichever is later. The decision of the City Council shall be final. The appeal to the City Council shall be de novo.

- (f) Compliance with park rules. A permittee shall be bound by all park rules and all applicable ordinances fully as though such were inserted in such permits.

- (g) Insurance requirements. An applicant for a permit shall be required to submit evidence of liability insurance in the amount of \$1,000,000.00 covering injuries to members of the general public arising out of such permitted activities.

- (h) Revocation. The City Council shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance or upon good cause shown.

- (i) Penalties. A violation of this section shall constitute a second degree misdemeanor and shall be punishable in accordance with state statutes prescribing punishment for a second degree misdemeanor as of the date of the infraction.

CITY OF CLERMONT
ORDINANCE No. 2015-01

PASSED AND ADOPTED by the City Council of the City of Clermont, Lake County, Florida on this 13th day of January, 2015.

CITY OF CLERMONT

Gail Ash, Mayor

ATTEST:

Tracy Ackroyd, City Clerk

Approved as to form and legality:

Daniel F. Mantzaris, City Attorney

LEGAL NOTICE

Notice is hereby given that the City of Clermont will consider the enactment of the following proposed ordinance. All interested parties will be given an opportunity to express their views on this matter.

ORDINANCE NO. 2014-01

An Ordinance of the Code of Ordinances of the City Council of the City of Clermont, Lake County, Florida, adding to the Code of Ordinances, Chapter 122, Zoning, Section 122-357 Sidewalk Café and amending Chapter 6 Alcoholic Beverages, Section 6-3 Consumption or Possession upon Public Property; Penalty; Providing for codification, severability; effective date; and publication.

This ordinance will be considered by the Planning & Zoning Commission on Tuesday, December 2, 2014 at 7:00 P.M.

A public meeting to consider the ordinance will be held before the City Council on Tuesday, January 13, 2014 at 7:00 p.m. for final enactment.

All meetings will be held in City Hall, located at 685 West Montrose Street.

This ordinance is available for public inspection in the office of the City Clerk, 685 W. Montrose Street, Monday through Friday between the hours of 8:00 A.M. and 5:00 P.M.

Please be advised that, under State law, if you should decide to appeal a decision made with respect to this matter, you will need a record of the proceedings, and may need to ensure that a verbatim record is made.

Tracy Ackroyd, MMC
City Clerk

Daily Commercial
November 25, 2014 and December 30, 2014



CITY OF CLERMONT

AGENDA ITEM

Page 1 of 1

Meeting Date		
Tuesday, December 2, 2014		
Agenda Item Name		
Ordinance 2015-02 Land Development Code Amendment		
Requested Action		
Move to recommend approval of ordinance 2015-02 to City Council.		
Staff Report		
Staff is proposing changes to the Land Development Code to allow for electronic signage on monument signs. This ordinance allows for the use of electronic message and number signage within the 25 percent of the permitted sign areas. Previous requirements established for numbers typically associated with gas stations are still in effect, but can now be applicable to messages. This ordinance also allows for electronic monument signs for public service announcements. An example is the possible use of a Downtown & Waterfront district monument sign at SR 50 and 8th Street for announcements of downtown events (Farmers Market, Music on Montrose/Food Trucks, Light Up Clermont, triathlons, rowing events, etc.) and at the Clermont Arts & Recreation Center (ARC) off U.S. 27. These signs would allow for better announcement capability for City-sponsored or approved events. Amber alerts or public safety announcements could also be issued.		
Legal Impact		
Additional Analysis		
Fiscal Impact Summary		
Fiscal Impact	Fund Number and Description	Available Budget Amount
Exhibits Attached (copies of original agreements)		
1. Ordinance 2015-02 digital signs.docx		
2. Legal ad LDC amendments -digital signs.doc		

CITY OF CLERMONT
ORDINANCE No. 2015-02

AN ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY COUNCIL OF THE CITY OF CLERMONT, LAKE COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 102 SIGNS; SECTION 102-23 CHANGEABLE COPY SIGNS; PROVIDING FOR CODIFICATION; SEVERABILITY; EFFECTIVE DATE; AND PUBLICATION.

WHEREAS, pursuant to the provisions of Chapter 163, Florida Statutes, the City of Clermont Planning and Zoning Commission, acting as the Local Planning Agency of the City, has held a public hearing on December 2, 2014 and following such hearing found this Ordinance to be in the best interest of the City of Clermont, and recommended that the City Council adopt this Ordinance; and

WHEREAS, the City Council of the City of Clermont desires to amend Chapter 102 Signs, Section 102-23 Changeable Copy Signs; of the City of Clermont's Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Clermont, Florida as follows:

SECTION 1.

The City Council of the City of Clermont has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 163 and 166, Florida Statutes.

SECTION 2.

The Land Development Code of the City of Clermont Code of Ordinances is hereby adding to read as follows (note strikethrough indicates removed words and underlined indicates added):

Section 102-23. Changeable copy signs.

Changeable copy signs shall be regulated under the following guidelines. This section ~~shall not include~~ electronic message boards ~~and the like, which are prohibited under this chapter.~~ Such signs shall be permitted in the following manner:

- (1) A changeable copy sign shall not comprise not more than 25 percent of the permitted sign area, except as described in this section.
- (2) Motor Vehicle service stations and convenience stores with gasoline pumps may utilize up to 50 percent of permitted sign area for changeable prices of gasoline only.

CITY OF CLERMONT
ORDINANCE No. 2015-02

- (3) Movie theaters and other performance or entertainment facilities may utilize up to 80 percent of permitted sign area for display of names of films, plays or other performances currently showing. Such changeable copy areas shall be included as part of the permitted sign area.
- (4) Changeable copy signs shall be allowed only ~~prohibited~~ for commercial, office, and industrial zoning districts. ~~and Residential zoning districts may use non-electronic changeable copy signs~~ uses except for changes in tenant listing.
- (5) Use of changeable copy signs as part of permitted wall sign area is prohibited, except as described in subsection (3) of this section.
- (6) Electronic message and number changeable copy signage:
 - a. Freestanding monument signs are permitted electronic message and number changeable copy for a message, price section, temperature or time only. Such electronic copy area shall be for static display only. Flashing, animated coursing and the appearance of any movement other than an instantaneous change from one message, price, temperature or time to another are explicitly prohibited.
 - b. Electronic message and number changeable copy (LED or similar) signage displays shall not have the capability to have dynamic displays even if not used. Only one (1) continuous LED (or similar) display area for numbers only is allowed on a sign face, and may include the time or temperature. Multiple copy signs adjacent to each other are permissible in a sign face.
 - c. Time duration. The changeable copy message and numbers for price, time or temperature may change no more than once every ten (10) seconds.
 - d. Only the letters and numbers themselves may be lit with the remaining background non-lit or black. No neon or similar lighting shall be permitted in conjunction with a sign using electronic ~~number~~ changeable copy signage.
 - e. Brightness or glare shall be controlled to avoid distractions to vehicular traffic, pedestrian, and adjoining properties. Adjustments shall be made upon written request from the City.
 - f. All electronic copy ~~number~~ signs shall be installed with an ambient light monitor.
 - g. Dimmer control electronic ~~number~~-changeable copy signs must have an automatic dimmer control that automatically adjusts the sign's brightness in direct correlation with ambient light conditions.

CITY OF CLERMONT
ORDINANCE No. 2015-02

- h. Brightness. No electronic ~~number~~ changeable copy sign shall exceed a brightness level of 0.3 foot candles above ambient light conditions, as measured using a foot candle (Lux) meter at a preset distance depending on sign area. The measurement distance shall be calculated with the following formula: The square root of the product of the sign area times 100. Example: $\sqrt{(30 \text{ square feet} \times 100)}$ 54 feet.
- i. Electronic changeable copy monument signage used only for public service announcements may be a maximum 36 square feet in commercial, office, industrial zoning districts. Location and setback requirements shall be determined by the Site Review Committee in accordance with safety and visibility codes.

CITY OF CLERMONT
ORDINANCE No. 2015-02

PASSED AND ADOPTED by the City Council of the City of Clermont, Lake County, Florida on this 13th day of January, 2015.

CITY OF CLERMONT

Gail Ash, Mayor

ATTEST:

Tracy Ackroyd, City Clerk

Approved as to form and legality:

Daniel F. Mantzaris, City Attorney

LEGAL NOTICE

Notice is hereby given that the City of Clermont will consider the enactment of the following proposed ordinance. All interested parties will be given an opportunity to express their views on this matter.

ORDINANCE NO. 2015-02

An Ordinance of the Code of Ordinances of the City Council of the City of Clermont, Lake County, Florida, amending the Code of Ordinances, Chapter 102, Signs, Section 102-23 Changeable Copy Signs; Providing for codification, severability; effective date; and publication.

This ordinance will be considered by the Planning & Zoning Commission on Tuesday, December 2, 2014 at 7:00 P.M.

A public meeting to consider the ordinance will be held before the City Council on Tuesday, January 13, 2015 at 7:00 p.m. for final enactment.

All meetings will be held in City Hall, located at 685 West Montrose Street.

This ordinance is available for public inspection in the office of the City Clerk, 685 W. Montrose Street, Monday through Friday between the hours of 8:00 A.M. and 5:00 P.M.

Please be advised that, under State law, if you should decide to appeal a decision made with respect to this matter, you will need a record of the proceedings, and may need to ensure that a verbatim record is made.

Tracy Ackroyd, MMC
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