



DEVELOPMENT DEPARTMENT REPORT

The agenda request before City Council is an Ordinance amending the Land Development Code (LDC) Chapter 7 on Zoning. The agenda request is before the City Council because the Land Development Code (LDC) § 3.06.01.1 provides the Land Development Review Board (LDRB) shall recommend to the city council the adoption of ordinances promoting orderly development in conformance with the adopted Comprehensive Plan and at their February 20th, 2020 regular meeting the LDRB recommended the Council take action on this Ordinance. *The Development Department recommends the LDRB approve the staff recommendation.*

I. BACKGROUND

This agenda request is a companion to the agenda request amending Future Land Use Element Table FLU 1.3.3. The purpose of this agenda request is to allow the development of Kaiser University at the southeast corner of Main Street and US Highway 17. Presently, the Land Development Code does not list a university or college as an allowable use in the Highway Commercial (HC) and Downtown (D) zoning districts. This Ordinance amends those two zoning districts to allow as

a permitted use a university or college and it adds a definition for university or college.

II. PROPOSED ORDINANCE

Attachment A is an Ordinance of the City of New Port Richey, Florida amending the Land Development Code (LDC) Chapter 7, Zoning; amending LDC § 7.09.01 on permitted uses to allow within the Highway Commercial zoning district a university or college; amending LDC § 7.11.01 on permitted uses to allow within the Downtown zoning district a single university or college; amending LDC § 2.01.00 to add a definition of university or college; providing for conflicts; providing for severability; and providing for an effective date.

III. DATA & ANALYSIS

Land Development Code § 5.04.03 requires the staff report address, and the Land Development Review Board and City Council consider, two guidelines when making a recommendation on a Land Development Code amendment.

A. Section-by-section analysis. The Ordinance contains three (3) substantive sections and three (3) procedural sections (conflicts, severability, and effective date). This part of the staff report addresses the three (3) substantive sections.

1. *Section 1.* This section amends LDC § 7.09.01 on permitted uses to allow within the Highway Commercial (HC) zoning district “university and college.”

a. The need and justification for the change. Although this section allows private or public schools, LDC § 2.01.00 on definitions does not define that term or land use. Further, it is not uncommon to find the definition for that term limited to primary and secondary education schools. Thus, in order to ensure that a university or college is permitted in the HC zoning district, there is a need to amend the permitted uses section to expressly identify “university or college” as a permitted use. The justification for the amendment is that Kaiser University is purchasing from the City land that is zoned HC and D district and in order to allow them to operate a university on property with two zoning districts, an amendment to the HC zoning district is necessary.

b. Whether the proposed amendment implements or is consistent with the Comprehensive Plan, whether it is consistent with or implements other federal and state laws, and whether the proposed change is internally consistent with and furthers the purposes of the LDC. The companion agenda request, which amends the City’s Comprehensive Plan, Future Land Use Element (FLUE) Table FLU 1.1.3, proposes to allow within the Highway Commercial future land use category Public/Semi-public uses as a primary use. A university or college can be classified as a Public/Semi-public use and, therefore, the proposed amendment will be consistent with the Comprehensive Plan when the Comprehensive Plan amendment is adopted.

2. *Section 2.* This section amends LDC § 7.11.01 on permitted uses to allow within the Downtown zoning district

“university or college but restricted to one within the Downtown zoning district.”

- a. The need and justification for the change. Unlike the HC zoning district, the D zoning district does not list either a public or private school or a university or college as a permitted use. In order to allow a university to operate within the D zoning district, there is a need to amend the D zoning district permitted uses section to allow a university or college.

The justification for allowing a university or college within the D zoning district is that it contributes toward the knowledge economy. The knowledge economy (or the knowledge-based economy) is the use of knowledge to create goods and services. In particular, it refers to a high portion of skilled workers in the economy of a locality, country, or the world, and the idea that most jobs require specialized skills. In particular, the main personal capital of knowledge workers is knowledge, and many knowledge worker jobs require a lot of thinking and manipulating information as opposed to moving or crafting physical objects. It stands in contrast to an agrarian economy (where the primary activity is subsistence farming for which the main requirement is manual labor) or an industrialized economy (which has mass production but where most jobs are relatively unskilled). Knowledge economy emphasizes the importance of skills in a service economy, the third phase of economic development, also called a post-industrial economy. It is related to the terms information economy, which emphasizes the importance of

information as non-physical capital, and digital economy, which emphasize the degree to which information technology facilitates trade. Further, economic theory suggests that universities located in the downtowns of cities should have greater commercial success than other universities because the former can take advantage of “factor markets,” local ecosystems that make available numerous means of production.

Universities and colleges perform two fundamental functions in the knowledge economy: producing human capital and creating new knowledge. While many of the contributions universities and colleges make to the knowledge economy are distributed widely, their educational and research activities also benefit the local region in which they are located. Universities with the greatest local economic impacts are generally those with the highest quality research programs. Knowledge-based firms want to locate near universities to tap into faculty who are on the leading edge of scientific breakthroughs. University scientists with a national reputation also are more likely to be able to attract venture capital, management, and the technical workers necessary to start new companies.

There also is a need for limiting the number of universities or colleges in the Downtown zoning district to one. The justification to limiting the number of universities or colleges to one is that the City has a rather small Downtown as measured by building size and a downtown needs a mix of land uses in order to

be vibrant. Kaiser University is proposing a 40,000 square foot building.

- b. Whether the proposed amendment implements or is consistent with the Comprehensive Plan, whether it is consistent with or implements other federal and state laws, and whether the proposed change is internally consistent with and furthers the purposes of the LDC. (FLUE) Table FLU 1.1.3, already allows within the Downtown future land use category Public/Semi-public uses as a primary use. Since a university or college can be classified as a Public/Semi-public use, the proposed amendment is consistent with the Comprehensive Plan.

3. *Section 3.* This section amends LDC § 2.01.00 on definition by adding a definition for “university or College.”

- a. The need and justification for the change. The LDC does not define the term or land use “university or college” and this section provides a definition for the land use.

- b. Whether the proposed amendment implements or is consistent with the Comprehensive Plan, whether it is consistent with or implements other federal and state laws, and whether the proposed change is internally consistent with and furthers the purposes of the LDC. (FLUE) Table FLU 1.1.3, already allows within the Downtown future land use category Public/Semi-public uses as a primary use. The proposed definition makes clear a university or college is a Public/Semi-public use

and, consequently, the proposed amendment is consistent with the Comprehensive Plan.

- B. Public notice.** Florida Statutes § 166.041(2) provides each ordinance shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.

Florida Statutes § 166.041(3) provides a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

The proposed Ordinance is in writing and it embraces a single subject, an amendment to Chapter 7 of the Land Development Code. The proposed Ordinance has been noticed in the Tampa Bay Times, a newspaper of general circulation within the City of New Port Richey, and a copy of the proof of publication is included within the February 20, 2020 LDRB agenda package. The notice states the date, time and place of the LDRB and City Council meetings, the ordinance titles, where the ordinance can be inspected, and advises that interested parties may appear at the meeting and be heard.

IV. ATTACHMENTS

Attachment A: Proposed Ordinance

V. FINDINGS AND CONCLUSIONS

Based upon the information contained in this Development Department Report, the following findings of fact and conclusions of law are offered:

- A. The LDC does not expressly allow a “university or college” in the Highway Commercial and Downtown zoning districts and the term or land use called “university or college” is not defined.
- B. A university or college can be defined as a type of Public/Semi-public use and the Comprehensive Plan’s Future Land Use Element allows Public-Semi-public uses in the Downtown but not the Highway Commercial future land use category. A companion ordinance is on the agenda that would allow within the Highway Commercial future land use category Public/Semi-public uses.
- C. The City has entered into an agreement with Kaiser University to sell property at the southeast corner of Main Street and US 17 for the purpose of constructing a 40,000 square foot university. The Future Land Use Map shows the property has two future land use categories, Downtown and Highway Commercial, and the Official Zoning District Map shows the property has two zoning districts, Downtown and Highway Commercial. There is a need to amend the Highway Commercial and Downtown zoning districts to allow a university or college as a permitted use and to define the term

or land use called “university or college”. The proposed Ordinance addresses those matters.

- D. The proposed Ordinance will be consistent with Land Development Code § 5.04.03 when the companion Comprehensive Plan amendment becomes effective.
- E. The Ordinance has been properly noticed.

VI. ALTERNATIVE ACTIONS

The LDRB has one of the following alternative actions at its disposal:

- A. Enter the Development Review Report and all competent substantial evidence presented at the hearing into the record and forward the record to the Council with a recommendation the Ordinance be adopted as submitted.
- B. Enter the Development Review Report and all competent substantial evidence presented at the hearing into the record, amend the record to support changes, and forward the record to the Council with a recommendation the Ordinance be adopted with changes, such as:
 - 1. Allowing more than one university or college in the Downtown zoning district; or
 - 2. Allowing a university or college in the Downtown zoning district but not the Highway Commercial zoning district; or
 - 3. Allowing a university or college in the Highway Commercial zoning district but not the Downtown zoning district.

- C. Enter the Development Review Report and all competent substantial evidence presented at the hearing into the record and forward the record to the Council with a recommendation the Ordinance be denied because a university or college is not a suitable land use in either the Downtown or Highway Commercial zoning districts.
- D. Enter the Development Review Report and all competent substantial evidence presented at the hearing into the record and forward the record to the Council with a recommendation the Ordinance be continued until such time as additional information is brought back to support.

VII. RECOMMENDED ACTION

- A. Recommendation. The Development Department Director recommends the Land Development Review Board enter the Development Review Report and all competent substantial evidence presented at the hearing into the record, and forward the record to the Council with a recommendation the Ordinance be adopted as submitted.
- B. Land Development Review Board (LDRB) action. Director Hahn read the title of the Ordinance into the record and made a PowerPoint Presentation summarizing the proposed changes, which included allowing as a permitted use in the Highway Commercial zoning district a university or college and allowing as a permitted use in the Downtown zoning district a single university or college. Mr. Hahn noted the limitation to a single university or college in the Downtown zoning district was to ensure the continued integrity of downtown as a commercial and

not public/semi-public area. At the conclusion of the presentation, Mr. Hahn subsequently requested the LDRB move to recommend to the City Council the proposed Ordinance be adopted and stated he would entertain any questions.

The LDRB questioned why the ordinance limited the Downtown zoning district to a single university or college. Director Hahn responded that the limitation was to maintain the commercial character of the Downtown zoning district. He noted that if in the future another university or college wanted to be located in this zoning district and it was determined that a university or college was suitable, this restriction could be deleted. The LDRB also discussed whether the definition of university or college should be amended to require accreditation but the LDRB determined the language should remain as is. There being no further LDRB deliberations or questions, the Chairman opened the floor to the public.

There being no further comments from the public, the Chairman closed the floor and requested the LDRB begin their deliberations. Mr. Parillo moved to approve the staff report, which motion was seconded by Mr. Smallwood and which passed unanimously 5-0.

- C. City Council action. This Ordinance is scheduled for first reading before the City Council at their duly noticed March 3rd, 2020 public hearing and for second reading and adoption at their duly noticed March 17th, 2020 public hearing.

ATTACHMENT A

PROPOSED ORDINANCE

ORDINANCE NO. 2020-

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA AMENDING LAND DEVELOPMENT CODE (LDC) CHAPTER 7, ZONING; AMENDING LDC § 7.09.01 ON PERMITTED USES TO ALLOW WITHIN THE HIGHWAY COMMERCIAL ZONING DISTRICT A UNIVERSITY OR COLLEGE; AMENDING LDC § 7.11.01 ON PERMITTED USES TO ALLOW WITHIN THE DOWNTOWN ZONING DISTRICT A SINGLE UNIVERSITY OR COLLEGE; AMENDING LDC § 2.01.00 TO ADD A DEFINITION OF UNIVERSITY OR COLLEGE; PROVIDING FOR CONFLICTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes § 163.3202(1) requires each county and each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 29th, 1989, the City Council adopted Ordinance Number 1203, which Ordinance approved the City's Comprehensive Plan; and

WHEREAS, on November 19th, 1991, the City Council adopted Ordinance Number 1268, which ordinance enacted the City's Land Development Code (LDC); and

WHEREAS, LDC Chapter 7 addresses zoning and LDC § 7.11.00 addresses the Downtown zoning district; and

WHEREAS, in the exercise of its authority, the City Council has determined that in order to encourage the most appropriate use of land, water and resources consistent with the public interest and to deal effectively with issues that may result from use and development of land within the Downtown zoning district, it is necessary to amend the City's LDC; and

WHEREAS, this Ordinance amends LDC § 7.11.01 on permitted uses to allow a single university or college to locate within the Downtown zoning district and amends LDC § 2.01.00 to add a definition of university or college; and

WHEREAS, the Development Department has prepared a staff report in accord with LDC § 5.04.02 to support adoption of the ordinance and concludes the ordinance is consistent with the requirements of that section, which staff report is incorporated herein by reference; and

ATTACHMENT A

PROPOSED ORDINANCE

WHEREAS, at the duly noticed Land Development Review Board (LDRB) regular public hearing held on February 20th, 2020, the LDRB sitting as the Local Planning Agency considered the Development Department staff report and recommendation and all competent substantial evidence presented at the hearing, and forwarded the record to the City Council with a recommendation the Ordinance be approved as submitted; and

WHEREAS, at the duly noticed City Council regular public hearing held on March 3rd, 2020, the City Council on first reading considered the Development Department and LDRB staff report and recommendations and all competent substantial evidence presented at the hearing, and approved the Ordinance; and

WHEREAS, at the duly noticed City Council regular public hearing held on March 17th, 2020, the City Council on second reading considered the evidence presented at first reading and all competent substantial evidence presented at the hearing, and adopted the Ordinance.

NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

Section 1. Land Development Code Section 7.09.00 is amended as set forth below:

7.09.00 - Highway Commercial Zoning District.

In the highway commercial zoning district, no minimum lot size is specified for commercial establishments, since floor space requirements differ widely, being dependent upon the size and nature of the businesses involved.

7.09.01 Permitted uses

In the Highway Commercial District, the following land uses are permitted:

1. Theaters, businesses and professional offices, private or public schools, university or college, auto sales, repair and service establishments;
2. Any retail or wholesale business not specifically restricted or prohibited under this code;
3. Manufacturing and/or industrial business operations which are not prohibited under the provisions of this section;
4. Churches, synagogues, temples or similar places of worship and their accessory uses;
5. Restricted personal service uses;
6. Urban agriculture (indoor crop production prohibited);
7. Medical marijuana treatment center dispensing facility;
8. Beer gardens, tap rooms, brewpubs, nanobreweries, microbreweries and breweries; and

ATTACHMENT A

PROPOSED ORDINANCE

9. All uses which further the adopted comprehensive plan, upon approval by the development review committee. The applicant shall demonstrate that the use is consistent with the comprehensive plan.

Section 2. Land Development Code Section 7.11.00 is amended as set forth below:

7.11.00 - Downtown Zoning District.

The intent of the Downtown Zoning District, is to recognize the importance of the downtown area, both economically and historically to the City of New Port Richey. Further, the land use category is intended to encourage and promote the redevelopment of the downtown area as the city's financial, commercial, governmental, cultural, recreational and professional center. The preservation and rehabilitation of the existing historical structures is of significance to the City of New Port Richey. Infill construction shall be compatible with and enhance the architectural style of the downtown area. The Downtown Zoning District is intended to serve as a focal point of the community pride and interest.

7.11.01 Permitted uses

A building or premises shall be used only for the following purposes:

- (1) Apparel stores, including consignment;
- (2) Antique shops;
- (3) Art studios and galleries;
- (4) Bakeries;
- (5) Banks and financial institutions;
- (6) Barber and beauty shops;
- (7) Bed and breakfast operation as regulated under Section 7.23.00 et seq. of this Code. Such use may be allowed only upon approval for a special exception by the city council in accordance with this Code;
- (8) Bookstore/stationery stores/newsstand;
- (9) Beer gardens, taprooms and brewpubs;
- (10) Business and professional offices;
- (11) Card shops;
- (12) Copying services;
- (13) Convention and conference centers;
- (14) Dance studios;
- (15) Dental labs;
- (16) Dental office;
- (17) Florist shops;
- (18) Fruit and vegetable markets;
- (19) Gift shops;
- (20) Governmental offices;
- (21) Grocery stores;

ATTACHMENT A

PROPOSED ORDINANCE

- (22) Hardware stores;
- (23) Health clubs;
- (24) Hobby and collectable shops;
- (25) Home furnishing stores (new merchandise only);
- (26) Hotels;
- (27) Hypnotherapy (by a state licensed health care professional or supervised by same);
- (28) Ice cream/confectionary;
- (29) Jewelry stores and repair;
- (30) Laundry and dry cleaning shops;
- (31) Locksmith shops;
- (32) Massage salons;
- (33) Medical office;
- (34) Medical supply stores (includes repair of electric-powered equipment sold on site);
- (35) Mobile vendors. Such vendors must be permitted uses under the Downtown District and must comply with section 7.11.07;
- (36) Museums;
- (37) Musical instrument sales;
- (38) News publishers;
- (39) Office supply stores;
- (40) Package sales of wine and malt beverages;
- (41) Parking garages and lots;
- (42) Parks and recreation facilities;
- (43) Pet stores;
- (44) Performing arts and cultural center;
- (45) Photography stores and studios;
- (46) Places of worship;
- (47) Repair shop (other than motor vehicles, motorized watercraft and other motorized equipment);
- (48) Residential uses. Such residential use must follow the requirements of the MF 14 zoning district. The maximum residential density permitted in this district shall be consistent with the applicable future land use category;
- (49) Restaurants, grills, cafes, taverns and similar eating and drinking establishments, but excluding drive-in restaurants;
- (50) Shoe stores and repair shops;
- (51) Single-family dwellings with customary accessory uses as regulated in the city's R-1, R-2 and R-3 zoning classifications;
- (52) Spa;
- (53) Sporting goods and rental/repair stores;
- (54) Tailor shops;
- (55) Theaters;
- (56) Travel agencies; and

ATTACHMENT A

PROPOSED ORDINANCE

(57) University or college but restricted to one within the Downtown zoning district;
and

(57 8) Urban agriculture (indoor crop production prohibited).

Section 3. Land Development Code Section 2.01.00 on Definitions is amended as set forth below

University or college: A public/semi-public use where public or private post-secondary courses in multiple disciplines (such as general, business, professional, religious and scientific) are offered and where completion of the courses result in the receipt of an associate, bachelors, masters or doctoral degrees.

Section 4. Conflicts. All Ordinance or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Severability. If any section, subsection, sentence, clause, provision or other part of this Ordinance is held invalid for any reason, the remained of this Ordinance shall not be affected thereby but shall remain in full force and effect.

Section 6. Effective date. This Ordinance shall be effective immediately upon its adoption.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 3rd day of March, 2020 and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this 17th day of March, 2020.

ATTEST:

CITY OF NEW PORT RICHEY, FLORIDA

Judy Meyers, CMC, City Clerk

Rob Marlowe, Mayor – Councilmember

(SEAL)

APPROVED AS TO LEGAL FORM AND CONTENT

Timothy P. Driscoll, City Attorney