



**CITY COUNCIL MEETING
MASCOTTE, FLORIDA**

**MONDAY, JUNE 5, 2017
6:00 P.M.**

COUNCIL CHAMBERS **121 N. SUNSET AVE**
TEDDER-THOMAS MEMORIAL CIVIC CENTER **MASCOTTE, FLORIDA**

MINUTES

CALL TO ORDER: Mayor Krull called the June 5, 2017, Regular Council Meeting to order at 6:07 p.m.

INVOCATION/MOMENT OF SILENCE & PLEDGE OF ALLEGIENCE: Mayor Krull gave the invocation followed by Mayor Krull leading the Pledge of Allegiance.

ROLL CALL:

Present: Council Member Louise Thompson
Mayor Pro Tem Brenda Brasher
Mayor Barbara Krull
Council Member Sally Rayman
Council Member Steven Sheffield- Arrived at 6:25PM

Also Present: Jim Gleason, City Manager
Dolly Miller, Deputy City Manager/Finance Director
Randy Brasher, Fire Chief
Larry Walker, Public Services Director
Eric Pedersen, Police Chief
Maxwell Spann, City Planner
Stephanie Abrams, Assistant City Clerk
Michelle Hawkins, City Clerk
Andrew Hand, City Attorney

47 **1. A. Presentation: Florida Department of Transportation Update on State Road 50.**

48
49 Jack Freeman who works for Kittelson & Associates approached the podium to address council
50 and the audience. He stated that his firm was hired by the Florida Department of Transportation
51 for the Project Development and environment study of this project.

52
53 Jack Freeman had a PowerPoint for the presentation. He explained the project he went over the
54 PD&E study process, the project overview. Jack Freeman went over the proposed alternatives &
55 evaluation along with the schedule of this proposed project.

56
57 Jack Freeman thanked everyone for their time.
58

59 **2. A. Consent Agenda: Approval of Council Meetings Minutes for the May 1, 2017 council**
60 **meeting minutes.**

61
62 Mayor Krull opened the floor for public comments:
63 There were none.

64
65 *Mayor Pro Tem Brasher moved to approve the consent agenda as presented. Council*
66 *Member Rayman seconded the motion.*

67
68 *Motion Passed 5 to 0*

69
70 *Council Member Sheffield "Aye"*

71 *Mayor Pro Tem Brasher "Aye"*

72 *Council Member Thompson "Aye"*

73 *Council Member Rayman "Aye"*

74 *Mayor Krull "Aye"*
75

76 **3. A. Public Hearing: Final Reading and Adoption of Ordinance 2017-06-568 (Amending**
77 **City's Land Development Regulations for Chain Link Fences).**

78
79 City Attorney Hand read by title only Ordinance 2017-06-568:
80

81 **ORDINANCE 2017-06-568**

82 **AN ORDINANCE OF THE CITY OF MASCOTTE, FLORIDA,**
83 **AMENDING SECTIONS 3.20 AND 5.12 OF THE LAND DEVELOPMENT**
84 **CODE TO PROVIDING CLARIFICATION REGARDING CHAIN LINK**
85 **FENCES WITHIN THE CITY; PROVIDING FOR CONFLICTS,**
86 **SEVERABILITY, CODIFICATION, AND PROVIDING FOR AN**
87 **EFFECTIVE DATE.**

88
89 Mayor Krull opened the floor for public comments:

90 There were none.

91 *Mayor Pro Tem Brasher moved to approve the Final Reading and Adoption of*
92 *Ordinance 2017-06-568. Council Member Thompson seconded the motion.*

93
94 *Motion Passed 4 to 1*

95
96 *Council Member Thompson “Aye”*

97 *Mayor Pro Tem Brasher “Aye”*

98 *Council Member Sheffield “Nye”*

99 *Council Member Rayman “Aye”*

100 *Mayor Krull “Aye”*

101 **4. A. Planning: Conformance Review/Code Compliance Review 139 W. Myers Blvd.**
102 **(Barbershop/Cleaning Service):**

103
104 City Planner Max Spann approached the podium to address this item, he stated the
105 following:

106
107 **II. Background**

108 The applicant is proposing to open a barbershop and provide office space for Qualified Cleaners
109 (L17000014676) facility with an existing approximately 1334sf office building on the property. The site is
110 currently almost completely unpaved and has a chain-link fence to the west for security and property
111 definition. The fence was previously installed in compliance with the City’s fence code. The building on the
112 site meets the minimum commercial setback standards for the City and no work is planned to be completed
113 on the building as a portion of this application. The site had been in use as a residential rental and general
114 offices property prior to its unknown length vacancy. It is unknown whether a previous, formal approval
115 process for the Site Plan took place. This application does not propose to amend any previous approvals or
116 any facilities on site.

117 Specific issues regarding this application current and historical issue shall be reviewed pursuant to the
118 City’s current codes and the following issues:

- 119 1. Is the use allowed in the PUD-DM FLU and Zoning designation?
120 2. Does the lot meet the minimum size requirements for the district?
121 3. Are there any instances of Non-Conformities?
122 4. Is there adequate ADA parking and access to the office including traffic created by the Cleaners?
123 5. Is there adequate lighting pursuant to the proposed hours of operation for the health safety and
124 welfare of all patrons?

125
126 **III. Analysis**

- 127 1. The proposed commercial use is allowed in non-residential areas within the Future Land Use
128 designation and Zoning designation pursuant to Table 3-2A (aka Beauty Salon).
129 2. Based on reviewable records, the site was originally improved 1947. The following is an excerpt from
130 the City’s Code Table 3-1 regarding the PUD-DM district standards:
131 *4 du/ac to 12 du/1 ac and 4.0 FAR. Setbacks are determined by the PUD process in the*
132 *plan, elevations and developer’s agreement approval. Because there is flexibility in a*

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PUD for setbacks, no specific setbacks are delineated in this table. However, the City will use the residential and commercial applicable non-PUD setbacks as a guide for development projects in a PUD. A market study is required for commercial projects in excess of 10,000 square feet.

Since the project was approved and built quite some time prior to the current codes adoption, and since there is no request for site modifications other than the addition of parking area materials at this time to the site it should be deemed that the site meets the historical standard for site size. The site is under the required minimum size for a General Commercial lot in the City (1ac). There is currently one (1) existing structure on-site: the main building houses an office and enclosed storage. The following table gives the pertinent site specifications:

	Allowed	Existing	Total Remaining
FAR	4.0FAR	1.2%	N/A
Impervious Surface Area	N/A	0.0	N/A
ISR	N/A	9.8%	N/A
Height	50'	22'-0"	N/A

- 143 3. Nonconformance (Section 3.20 of the Land Development Code)
- 144 A) *Not Applicable to this Application.*
- 145 B) *Intent:* Because of adoption of this Land Development Code, or amendments that may later be
 146 adopted, there may exist nonconforming lots, uses of land and structures, and structures which were
 147 lawful before this Code was passed or amended, but which would be prohibited, regulated or restricted
 148 under the terms of this Code or future amendment. It is the intent of this Code to permit these
 149 nonconformities to continue in their present condition subject to the following requirements but not to
 150 encourage their survival.
- 151 C) *Not Applicable to this Application.*
- 152 D) *Enlargement, Increase, or Extension of Nonconforming Uses Prohibited:* Where, at the effective date
 153 of adoption or amendment of this Code, lawful use of land or buildings exists which would not be
 154 permitted under the regulations imposed by this Code such uses may be continued so long as they
 155 remain otherwise lawful, provided:
- 156 1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area
 157 of land than was occupied at the effective date of adoption or amendment of this Code;
 - 158 2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel
 159 other than that occupied by such use at the effective date of adoption or amendment of this Code;
 - 160 3) No additional structure, not conforming to the requirements of this Code shall be erected in
 161 connection with such nonconforming use of land.

162 **As the Non-Conformance is not related to the use of the land (which is commercial), this**
 163 **specific provision does not apply to this Application.**

164 E) *Not Applicable to this Application.*

165 F) *Not Applicable to this Application*

166 G) *Nonconforming Structures:* Where a lawful permitted structure exists at the effective date of adoption
167 or amendment of this Code that could not be built under the terms of this Code by reason of restrictions
168 on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the
169 structure, such structure may be continued so long as it remains otherwise lawful, subject to the
170 following provisions:

171 1) *Damage and Replacement/Repair.* If a nonconforming structure is damaged to an extent that the
172 costs of repair or replacement would exceed fifty (50) percent of the appraised value immediately
173 prior to the date of destruction of the damaged structure, then the damaged structure can be
174 repaired or replaced only in accordance with the provisions of this Code. This subsection does not
175 apply to structures used for single-family residential purposes.

176 2) *Buildings Shall Be Maintained.* Minor repairs to the routine maintenance of property where
177 nonconforming situations exist are permitted and encouraged. Work may be done at a cost not
178 exceeding fifty (50) percent of the appraised value of the building, and provided that the cubic
179 content of the building as it existed at the time of passage or amendment of this Chapter shall not
180 be increased. Routine repairs and maintenance of nonconforming structures or uses on fixtures,
181 wiring or plumbing, or on the repair or replacement of walls shall be permitted. Nothing in this Code
182 shall be deemed to prevent the strengthening or restoring to a safe condition of any building, or
183 part thereof declared to be unsafe by any Public Official charged with protecting the public safety
184 upon order of such Official.

185 3) For purposes of subsection 1) and 2) above, "cost" of maintenance, repair, or replacement shall
186 mean the fair market value of the materials and services necessary to accomplish such
187 maintenance, repair, or replacement. "Cost" shall mean the total cost of all such intended work,
188 and no person may seek to avoid the intent of subsection 1) and 2) by doing such work
189 incrementally.

190 4) The "appraised value" shall mean either the appraised value for property tax purposes, updated as
191 necessary by the increase in consumer price index since the date of last valuation, or the valuation
192 determined by a professionally recognized property appraiser.

193 5) Should such structure be moved for any reason for any distance whatever, it shall thereafter
194 conform to the regulations of the district in which it is located after it is moved.

195 6) A structure having a nonconforming setback may be added onto providing the addition is not
196 proposed on the side of the structure having a nonconforming setback or the addition is on the side
197 of the structure having the nonconforming setback and the addition maintains the required setback.

198 **This is the most important subsection related to this Application. The building does not comply**
199 **with the minimum size requirements of the zoning district (1,500sf). Any replacement structure**
200 **requested in the future may be similar in nature to the existing structure and may be expanded**
201 **in size. However, the expansion must not cause a further Non-Conformance. For example, if**
202 **one of the Non-Conformities is the front yard setback, the new structure must not increase a**
203 **violation of the front yard setback.**

204 H) *Not Applicable to this Application*

205 I) *Not Applicable to this Application*

206 J) *Not Applicable to this Application*

207 K) *Abandonment or Discontinuance of Nonconforming Use or Structure:* If a nonconforming use or
208 structure is either (1) abandoned or (2) discontinued for a continuous period of more than one (1) year,
209 any and every future use of the building, structure, or land shall be in conformity with the provisions of
210 the Land Development Code. Neither the intention of the owner nor that of any other person or entity to
211 use a building, structure, or land for any nonconforming use shall be taken into consideration in
212 interpreting and construing "discontinuance" as used in this subsection. Non-conforming use of
213 property stays with the land use, not with the ownership of the land.

214 **Under Subsection L (below), the City is not obligated to require a building that is too small be**
215 **expanded to meet the minimum building size requirement.**

216 L) *Interpretation:*

217 1) Nothing in this section shall prohibit the City from ordering compliance in nonconformity situations
218 with all other provisions of the Land Development Code and applicable building codes and safety
219 related codes.

220 2) Nothing in this Code shall be interpreted as authorization for or approval of the continuation of any
221 illegal use of a building, structure, or land that was in violation of any ordinance in effect at the time
222 of the passage of this ordinance. The casual, intermittent, temporary, or illegal use of land, building
223 or structure shall not be a basis to establish the existence of a nonconforming use.

224 3) A lawful building permit issued for any building or structure prior to the enactment of this ordinance,
225 the construction of which is in conformity with approved site plans, if applicable, and building plans
226 shall not be affected by this ordinance if the building or structure is built in full compliance with the
227 Code as it existed at the time of the issuance of the building permit. However, if such building or
228 structure does not conform to the provisions of this Land Development Code which cause such
229 planned building, structure or use to be nonconforming or noncomplying, then it shall be
230 nonconforming by applying this ordinance to the building, structure or use.

231 4) *Effect of actual building construction.* To avoid undue hardship, nothing in this Article shall be
232 deemed to require a change in plans, construction or designated use of any building on which
233 actual construction was lawfully begun prior to the effective date of adoption or amendment of the
234 land development regulations and upon which actual building construction has been diligently
235 carried on. "Actual construction" is hereby defined to include the placing of materials in permanent
236 position and fastened in a permanent manner, except that, where demolition or removal of an
237 existing building has been substantially begun preparatory to rebuilding, such demolition or
238 removal shall be deemed to be "actual construction," provided that work shall be diligently carried
239 on until completion of the building involved.

240 **Any proposed new structures must comply with any current building code requirements and**
241 **must be placed and/or constructed through the building permit process. However, the City is**
242 **not obligated to require a building be enlarged to bring it into compliance.**

243 **IV. Staff Recommendation**

244 Based on the information above, the Staff finds the request to allow the opening of a Barbershop and office
245 for Qualified Cleaners at 139 W. Myers Blvd. is technically complete and recommends approval subject to

246 the following conditions. The application does appear to meet the provisions of the Land Development
247 Code criteria required to open a conforming use on an existing lot based upon the staff report. The
248 Recommended Conditions of Approval are listed below:

- 249 1. The Applicant shall provide adequate ADA access and parking on the site consisting of one (1)
250 space and an unobstructed path with required markings and signage prior to receipt of Business
251 Tax Receipt. An inspection shall be performed by the required City staff and the Building Official.
- 252 2. The Applicant shall turn into the Building Official, permit plans related to the parking area
253 additions. Additionally, the applicant shall be allowed no more than one (1) 25' opening
254 onto W. Myers Blvd. The access-way shall adhere to all City and related Agency standards
255 as required during the Building Official's review for permit.
- 256 3. The Applicant shall submit for a FDOT Driveway Permit from FDOT.

257
258 Mayor Krull opened the floor for public comments:
259 There were none.

260
261 *Council Member Thompson moved to approve the conformance review/code*
262 *compliance review for 139 W. Myers with the staff recommendation. Council Member*
263 *Sheffield seconded the motion.*

264
265 *Motion Passed 5 to 0*

266
267 *Council Member Sheffield "Aye"*

268 *Mayor Pro Tem Brasher "Aye"*

269 *Council Member Thompson "Aye"*

270 *Council Member Rayman "Aye"*

271 *Mayor Krull "Aye"*

272

273 **5. A. Public Comments:**

274

275 There were none.

276

277 **6. A. City Manager: Civic Center-Non-Profit and Pavilion Rentals:**

278

279 City Manager Gleason handed out a paper for council showing the breakdown of the
280 rentals, he stated that he wanted to bring up the rates for the rentals he stated that 50% of
281 the rentals have been non-profits. With the cost of just the cleaning company, he felt that
282 the tax payers shouldn't be left to pay the cost of maintaining the civic center.

283 City Manager Gleason stated that he thinks we are one of the cheapest in town, so he
284 would like to bring some rates back to council to review, and perhaps look at changing
285 the rental fees.

286 Mayor Pro Tem Brasher would like to see what other cities are charging for the rentals
287 the city needs to have the fees to where it covers the cost of maintaining the building.

288 Council is okay with staff bringing back fess of other cities at a future council meeting.

289 **6. B. City Manager: Council Meeting Days:**

290
291 City Manager Gleason stated that our city charter states that we need to have at least one
292 council meeting a month. Right now we are set up for the first and third Monday of the
293 month.

294
295 City Manager Gleason stated that currently have a few months a year that we only have
296 one meeting a month due to holidays.

297
298 City Manager Gleason stated that he wanted to see if council would be interested in
299 entertaining the thought of going to one meeting a month, and having the meeting on the
300 first Tuesday of the month, and leave the third Tuesday if we need to have another
301 council meeting.

302
303 Mayor Pro Tem Brasher stated that she really likes the idea; she doesn't like having
304 meetings on Mondays. The rest of council agreed.

305
306 Council agreed with going to one meeting a month the first Tuesday of the month at
307 6:30pm, and this will begin with the August 1, 2017 meeting.

308
309 Mayor Krull opened the floor for public comments:
310 There were none

311
312 *Council Member Rayman motioned that the council meetings will be on the first*
313 *Tuesday of the month starting at 6:30pm, which will take effect at the August 1, 2017*
314 *council meeting. Council Member Thompson seconded the motion.*

315
316 *Motion Passed 5 to 0*

317
318 *Council Member Thompson "Aye"*

319 *Mayor Pro Tem Brasher "Aye"*

320 *Council Member Sheffield "Aye"*

321 *Council Member Rayman "Aye"*

322 *Mayor Krull "Aye"*

323

324 **6C. City Manager: Dissolution of Community Redevelopment Area (CRA):**

325

326 City Manager Gleason stated that he would like to bring back to council a possible
327 resolution or ordinance to dissolve the CRA. He stated that in the past the CRA fund was
328 in the negative, and he sees that it may be in the positive side this coming year, but not by
329 much.

330

331 City Manager Gleason explained how the CRA fund works to council and how it is a
332 restricted fund.

333

334 There was a consensus by council to have staff bring back a resolution or ordinance
335 dissolving the CRA.

336

337 **7. A. City Attorney:**

338

339 City attorney had nothing to report at this time.

340

341 **8. A. City Council:**

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345 **Council Meeting Adjourned at 7:28PM.**

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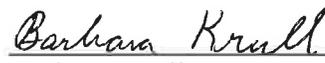
353 ATTEST:

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356


Michelle Hawkins, City Clerk


Barbara Krull, Mayor