

# Questions Surround Lease With Sweetbay

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Published: May 25, 2006

TEMPLE TERRACE - Even the staunchest supporters of redevelopment are scratching their heads after the latest round of debate in the effort to revitalize Temple Terrace's downtown core.

The city hopes to redevelop a 34-acre blighted shopping area, from Bullard Parkway and 56th Street south to the Hillsborough River, before the first loan payments come due in fall 2008. The city has spent more than \$22 million to purchase the property and thousands more on consultants trying to make the dream a reality.

As the plans move forward, residents and elected city leaders are facing a reality check.

Unicorp National Developments of Orlando has been promoting a New Urbanism-style development with multistory buildings fronting 56th Street, where people can live, work and shop. The pedestrian-friendly environment would be fostered by strategic landscaping and retail shops at ground level. Offices and residential spaces would occupy upper floors. Parking would be primarily behind buildings and in multilevel garages.

The first phase of the plan is threatened because Kash n' Karry/Sweetbay Supermarkets, citing economic concerns, is unwilling to build a store in the area using the New Urbanism model. The supermarket chain holds a lease on its store through 2044 that gives it the upper hand in redevelopment negotiations.

Three questions have dominated residents' discussions in the wake of the May 16 city council meeting, which was punctuated by Councilman Frank Chillura's motion to terminate the city's relationship with Unicorp.

Why didn't elected city leaders know the scope of the long-term lease held by Kash n' Karry/Sweetbay?

Why didn't city staff fully explain the ramifications of the lease when asked by council members - who contend that they asked the right questions - prior to the 2003 purchase of the shopping center that houses the Kash n' Karry store?

Why did Unicorp representatives state publicly that reaching a deal with the supermarket chain could be easily done, when in reality it has been a difficult negotiation that has altered the face of the project?

Public records show that the lease was mentioned as among the reasons two other developers, Trammel Crow and the Downtown Renaissance Alliance, dropped out of the Temple Terrace redevelopment project in June.

Unicorp hopes to make its case for staying on the redevelopment project following a presentation by Kash n' Karry/Sweetbay Supermarkets to the city council. The presentation is scheduled for 6:30 p.m. Wednesday at the Omar K. Lightfoot Recreation Center, 10901 N. 56th St.

Answers to the three questions vary depending upon who is weighing in and range from finger-pointing to shock at how the situation has unfolded.

"I think that the reason the city finds itself where it is, is because the people who are authorizing these expenditures are not spending their own money," said resident Ken Tozier, who is in a legal battle about his

business property in the community redevelopment area. "If it was their money, they would have taken it upon themselves to read the leases.

"They would have done whatever was necessary to make sure they would have covered all of the bases for catastrophe. Now they are going to blame staff; they are going to blame consultants."

Some former and current council members say they felt duped upon learning about the lease terms.

"I place a lot of the responsibility for this at the feet of the city attorney and the city manager," said resident Jerry King, who served on the city council during the negotiations to buy the Kash n' Karry plaza. "I do not feel the attorney laid [out details of the lease] very completely. [It bothers me] a great deal, especially the attorney. We did not have those leases provided to us. If we had, we might have been able to vote without screwing it up, as we have now."

Council members acknowledge they did not ask for copies of the Kash n' Karry lease that has come to dominate the redevelopment project.

Council members Frank Chillura, Linda Shattles and Ken Halloway also said they relied on advice from city staff to help determine whether buying the property was a good deal. Former Councilwoman Jo Jeter, who served during the negotiations, agreed.

"As far as the council double-checking and reading everything that comes before the council, I would think that unless you have nothing else to do, it would be unreasonable," she said. "I really think the city attorney should have read those and made it understood to us the way it was, and I don't recall that was done. I would think if we had been told that, we would have questioned it more."

City Attorney Ted Taub declined to comment for this story.

### **Benefit Of Hindsight**

Chillura said that if he had known details of the long-term lease, he probably would not have voted to buy the plaza.

However, that feeling is not shared by everyone on the council.

Shattles and Halloway said the shopping center was key to the redevelopment effort, and the purchase was a given regardless of the lease. Minutes from meetings of the Community Redevelopment Agency - made up of city council members and high-level city staff - prior to the purchase show a similar consensus among then-council members Mark Knapp, King and Jeter.

The fevered pitch of the redevelopment project may have clouded judgments, Jeter said.

"I guess, and I have to speak just for myself, I took it for granted that [Kash n' Karry was] so excited that we were going to have a new development there that there would be no problem," she said. "It was such a wonderful dream, and I felt it was going to come to fruition, and it just didn't. I feel a little bit sorry for the council people now."

Minutes from the CRA meetings from 2002 and 2003, at which elected leaders discussed purchasing the property, include several references to questions raised by Chillura, Shattles, King and Mayor Joe Affronti about whether the city knew enough about the leases and the property to safely move forward with the purchase. The minutes describe questions and points made by those in attendance but generally do not offer a verbatim account of the discussions.

In January 2002, Taub told the CRA that the property purchase was complicated, according to the records, when asked by Chillura what would happen if a tenant with an existing lease did not want to participate in the redevelopment project. Taub said it was impossible to tell any tenant that space could be made for it in the redevelopment area until a developer was onboard.

In April 2002, Affronti asked whether the city had reviewed all of the leases held by tenants in the plaza. City Manager Kim Leinbach said the city had a list of the leases, their length, the ones targeted for a buyout and the ones recommended for relocation. When Chillura again questioned the city's plan in the event a tenant refused to participate, Leinbach said eminent domain might be an option, according to the records.

This year, the Florida Legislature passed a bill removing a CRA's ability to utilize eminent domain.

During a Feb. 4, 2003, CRA meeting, then-Redevelopment Director Matt Shannon warned CRA members that Kash n' Karry's lease extended through 2014, that the company planned to stay there "for a very long time" and that "It might be financially prohibitive" to buy out its lease, according to the minutes.

Members also were provided with a memo dated Feb. 4, 2003, from then-Finance Director Lee Huffstutler that outlined the terms of all of the leases in the plaza prior to the purchase, according to city records. It included details of the Kash n' Karry lease and the fact that renewal options extended through 2044.

It's difficult to recall how well the leases were explained to the council, said Mike Delk, former community services director in Temple Terrace and the current planning director for the city of Clearwater. One memory is clear: The council's main objective was to buy the property, he said.

"My recollection is, as a matter of public policy, the city wanted to acquire the property. When you acquire property, you are provided with copies of the leases," he said. "I think we were aware, the lease was what it was. I think the city had a number of staff people involved and did a fair amount of due diligence."

### **Few Options Remain**

Regardless of where they stand, residents and city officials agree that Temple Terrace has to move forward and try to resolve the lease situation. As it stands, Kash n' Karry's contract gives it veto power over tenants around its store and control over the front parking lot and a vacant rear parcel.

Redevelopment Director Ralph Bosek said the lease governs about 50 percent of the property in the shopping area. Unicorp partner Lee Maher told the council May 16 that Sweetbay has agreed to give up its lease if it can build a boxy store with a frontage parking lot and a clear view to 56th Street in the redevelopment area. Sweetbay's requirements would preclude the street-front buildings inherent to New Urbanism design.

Bosek, who was hired in fall 2003, did not participate in the negotiations to buy the shopping plaza for about \$5.1 million. He said he is turning his attention away from the past and trying to look toward the future. Leinbach agreed and said he is not interested in blaming anyone. If the city wants to sell the property, he will help make that happen, he said.

"I want to point out the importance of the purchase of the Kash n' Karry plaza. Without the purchase, we would not be anywhere near as far along with the redevelopment as we actually are," Bosek said. "Our real estate consultants tell us that shopping center is worth a lot more than we paid for it. That purchase was a very strategic purchase."

The blame game aside, there remains the question of whether Unicorp made a commitment to the city that it ultimately could not keep.

Bosek, Chillura and Councilwoman Glenda Venable say it did. That sentiment is echoed by resident Grant Rimbey, who is president of Citizens for the Revitalization of Temple Terrace.

"This is all the more troubling because Unicorp was selected largely based on their previous close relationship with Kash n' Karry, which seemingly got us nowhere," Rimbey said in a written statement.

### **On The Defensive**

In an interview Monday, Maher defended Unicorp's commitment to the project.

"That is so untrue. We are trying as diligently as we can to make this an urban center," he said of allegations that Unicorp made false promises about delivering a New Urbanism-style community and reaching an agreement with Sweetbay. "We are trying to make the city happy, and we're trying to make the tenants happy. We are working and have been working as diligently as we can and spending tons of money on the city of Temple Terrace."

Maher said Unicorp has negotiated four prior deals with Sweetbay. The company's initial interest in building a New Urbanism-style store in Temple Terrace's redevelopment area was quashed by Sweetbay's corporate headquarters, Maher said. The latest plan is a compromise.

"We are trying as hard as we can to please them," he said. "This was a tenant who is willing to relocate and rebuild. We just changed the drawings."

As for the city council's surprise at the lease terms, Maher said he wonders why this discussion is happening so late in the redevelopment process.

"I am amazed that the [council members] were not aware of the terms of this lease," he said. "This is not like we walked in last week. I have to tell you both the city manager and Ralph Bosek knew about it and they have tried so diligently to make this deal work."