

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON JANUARY 9, 2018, AT 5:30 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Patrice Phillips, Roger Simpson, and John Sprinkle

ABSENT: Orange County Public Schools (Non-voting)

STAFF PRESENT: James Hitt, FRA-RA – Community Development Director, David Moon, AICP - Planning Manager, Richard Earp – City Engineer, Patrick Brackins – City Attorney, Phil Martinez – Planner I, and Jeanne Green – Recording Secretary.

OTHERS PRESENT: Peggy Dionne, Jamie Boerger, Denise Prescott, Eric Wills, Bryan Potts, Suzanne Kidd, Luke Classon, Teresa Sergeant, Tom Sullivan, Samantha Moore, Randall Stickney, Quintan Wilson

OPENING AND INVOCATION: Mr. Greene called the meeting to order and asked for a moment of silent prayer. The Pledge of Allegiance followed.

ELECTION OF OFFICERS:

Chairperson:

MOTION: Linda Laurendeau nominated James Greene as Chairperson of the Planning Commission and seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Patrice Phillips, Roger Simpson, and John Sprinkle (7-0).

Vice - Chairperson:

MOTION: Roger Simpson nominated Linda Laurendeau as Vice-Chairperson of the Planning Commission and seconded by Patrice Phillips. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Patrice Phillips, Roger Simpson, and John Sprinkle (7-0).

APPROVAL OF MINUTES: Chairperson Greene asked if there were any corrections or additions to the regular meeting minutes of December 12, 2017, at 5:30 p.m.

Motion: Linda Laurendeau made a motion to approve the Planning Commission minutes from the regular meeting held on December 12, 2017, at 5:30 p.m. and seconded by Roger Simpson. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Patrice Phillips, Roger Simpson, and John Sprinkle (7-0).

LEGISLATIVE - COMPREHENSIVE PLAN – LARGE SCALE – FUTURE LAND USE AMENDMENT – LAURA MURPHY - Chairperson Greene stated this is a request to find the proposed Future Land Use Designation consistent with the Comprehensive Plan; to recommend approval of the Large Scale Future Land Use Amendment from Agriculture (1 du/5 ac) to Residential Low Suburban (0-3.5 du/ac) for the property owned by Laura Murphy and located at 359 West Lester Road; and recommend transmittal to the Florida Department of Economic Opportunities for review.

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Staff Presentation: Phil Martinez, Planner I, stated this is a request to find the proposed Future Land Use Designation consistent with the Comprehensive Plan; to recommend approval of the Large Scale Future Land Use Amendment from Agriculture (1 du/5 ac) to Residential Low Suburban (0-3.5 du/ac) for the property owned by Laura Murphy and located at 359 West Lester Road; and recommend transmittal to the Florida Department of Economic Opportunities for review. The Applicant is AVEX Homes, c/o Eric Wills. The existing use is an equestrian center and the proposed development is a single family residential subdivision. The current zoning is AG and the proposed zoning is R-1 (Single Family Residential). The existing maximum allowable development is 1 dwelling unit and the proposed maximum allowable development is 69 single family homes. The tract size is 19.94 +/- acres.

The applicant intends to use the subject properties for a residential community with detached, single-family homes. Presently the subject property is assigned an Agriculture future land use designation and Agriculture zoning.

The proposed Large Scale Future Land Use Amendment is being requested by the owner/applicant. Pursuant to Florida law, properties ten acres or more are required to undergo review by State planning agencies.

A request to assign a Future Land Use Designation of Residential Low Suburban is as compatible or more compatible with the character of the existing land use in the vicinity. While the adjacent uses are agriculture-oriented, including the Avian Reconditioning Center to the east, subdivisions and vacant properties in all four cardinal directions have a future land use designation of Residential Low Suburban.

In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this land use change (see attached Land Use Report). Based on the findings of the Land Use report, the proposed FLUM amendment is compatible with the surrounding and nearby land uses and the character of the general area.

The existing and proposed use of the property is consistent with the Residential Low Suburban Future Land Use Designation.

School capacity determination must be completed with Orange County Public Schools prior to the adoption hearing for this Future Land Use Amendment application.

The JPA requires the City to notify before any public hearing or advisory board. The City properly notified Orange County on November 27, 2017.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding area, and recommends transmittal of the change in Future Land Use from Agriculture to Residential Low Suburban Density for the property owned by Laura Murphy.

Staff recommended that the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding area, and recommend transmittal of the Future Land Use Map designation from Agriculture to Residential Low Suburban Density to the Florida Department of Economic Opportunity.

This item is considered Legislative. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing.

Motion: John Sprinkle made a motion to find the application consistent with the Apopka Comprehensive Plan and compatible with the character of the surrounding area; and to recommend approval of the Large Scale Future Land use amendment from Agriculture to Residential Low Suburban (0-3.5 du/ac) for the property owned by Laura Murphy and located at 359 West Lester Road; and recommend transmittal to the Department of Economic Opportunity. Motion seconded by Roger Simpson. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Patrice Phillips, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)

QUASI-JUDICIAL - CHANGE OF ZONING – GEORGE THUM, JR. AND PHILLIP & PEGGY DIONNE - Chairperson Greene stated this is a request to recommend approval of the Change of Zoning from “County” A-1 (Agriculture) and “City” AG (Agriculture) to “City” PO/I (Professional Office/Institutional) for the property owned by George Thum, Jr. and Phillip & Peggy Dionne located west of Jason Dwelley Parkway, south of West Kelly Park Road.

Attorney Brackens swore-in staff, petitioners, and affected parties for the quasi-judicial item to be discussed.

Chairperson Greene asked if there were any affected parties in attendance that wished to speak. No one spoke.

Chairperson Greene asked if the Commission members had any ex parte communications to divulge regarding this item. No one spoke.

Staff Presentation: David Moon, AICP, Planning Manager, stated this is a request to recommend approval of the Change in Zoning from “County” A-1 (Agriculture) and “City” AG (Agriculture) to “City” PO/I (Professional Office/Institutional) for the property owned by George Thum, Jr. and Phillip & Peggy Dionne located west of Jason Dwelley Parkway, south of West Kelly Park Road. The applicant is the Orange County Public Schools, c/o Tyrone Smith, AICP. The existing use is a single family residence. The proposed use is an elementary school. This Change of Zoning amendment request is being processed along with a request to change the Future Land Use Map designation from “County” Rural (0-1 du/10 ac) and “City” Agriculture (0-1 du/ 5 ac) to “City” Institutional/Public Use. The tract size is 15.17 +/- acres.

The subject properties were annexed into the City on November 16, 2005 via Ordinance 1787; and on June 21, 2017 via Ordinance 2573. The proposed Large Scale Future Land Use Amendment is being requested by the owner/applicant. Pursuant to Florida law, properties ten acres or more are required to undergo review by State planning agencies. The applicant requests the change of zoning to Professional Office/Institutional to accommodate a public elementary school. This change of zoning request is being processed in conjunction with a proposed future land use map amendment requesting Institutional/Public Use. The proposed use as an elementary school is permitted within the proposed FLU designation per FLU Policy 3.1.Q, Institutional/Public Use:

“Primary uses shall include public buildings and facilities. Existing public buildings and facilities and public education sites may be designated as institutional on the FLUM.”

In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this zoning change (see attached Zoning Report).

The existing and proposed use of the property is consistent with the proposed Institutional/Public Use Future Land Use designation and the City's proposed PO/I Zoning classifications. An elementary school is a permitted use within the Institutional/Public Use FLUM designation. Site development cannot exceed the intensity allowed by the Future Land Use policies.

Because this Change of Zoning represents a change to a non-residential underlying zoning classification, a capacity enhancement agreement with Orange County Public Schools is not required.

The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and recommends approval of the change in zoning from "County" A-1 (ZIP) and "City" AG (Agriculture) to "City" PO/I (Professional Office/Institutional).

Staff recommended that the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the change in zoning from "County" A-1 (ZIP) and "City" AG (Agriculture) to "City" PO/I (Professional Office/Institutional).

This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

In response to questions by Ms. Phillips, Jamie Boerger, Orange County Public Schools, explained that the proposed elementary school will be located between Wolf Lake Elementary and Zellwood Elementary. She went on to brief the Commission on the proposed schedule for the new elementary school. Design will occur in 2019, construction in 2020, and the planned opening in 2021.

Mr. Moon stated this proposed site is 15 +/- acres; and the prototype for the proposed school will be based on student enrollment in the area.

Petitioner Presentation: None.

Affected Party Presentation: None.

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing.

Motion: Roger Simpson made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend adoption of the change of zoning from "County" A-1 and "City" AG to "City" PO/I (Professional Office/Institution) for the properties owned by George Thum, Jr. and Phillip & Peggy Dionne located west of Jason Dwelley Parkway, south of West Kelly Park Road. Motion seconded by Jose Molina. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Patrice Phillips, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)

LEGISLATIVE - COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT – ZELLWOOD PROPERTIES, LLC - Chairperson Greene stated this is a request to find the proposed Future Land Use Designation consistent with the Comprehensive Plan; and to recommend approval of the Small Scale Future Land Use Amendment from

“County” Rural to “City” Commercial (Max. 0.25 FAR) for the property owned by Zellwood Properties, LLC and located at 1102 Hermit Smith Road.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed Future Land Use Designation consistent with the Comprehensive Plan; and to recommend approval of the Small Scale Future Land Use Amendment from “County” Rural to “City” Commercial (Max. 0.25 FAR) for the property owned by Zellwood Properties, LLC and located at 1102 Hermit Smith Road. The applicant is Tannath Design, Inc. The existing use is vacant land and the proposed use is a convenience store and gasoline station. This request is being processed along with a request to change the zoning classification from “County” A-1 (ZIP) to “City” Planned Unit Development (PUD/Commercial). The existing maximum development is a single family residence and the proposed maximum development is a 26,681 sq. ft. service station. The tract size is 2.45 +/- acres.

The subject parcel was annexed into the City of Apopka on June 20, 2012, through Ordinance 2262. Presently, the subject property does not have a “city” future land use designation or “city” zoning classification assigned. The applicant requests a future land use designation of “city” Commercial.

The proposed use of the property is consistent with the Commercial Future Land Use designation. Site development cannot exceed the intensity allowed by the Future Land Use policies. Planning & Zoning staff determines that the below policies support a Commercial FLUM designation at the subject site:

Future Land Use Element

1. Policy 3.1.i

Commercial - Primary uses shall be for business, commerce, and convenience shopping which may be neighborhood or community oriented. The maximum floor area ratio shall be .25 gross floor area. Institutional land uses of less than five acres; and public facilities or utilities of less than five acres.

Planned Unit Development uses may include: (Policy 3.1.i)

1. All primary uses
2. All Special Exception uses
3. Multifamily Development of up to fifteen dwelling units per acre, when located within a primary use structure
4. Other uses deemed compatible with and complimentary to the other proposed master planned uses and the surrounding neighborhoods.

Because this request represents a change to a non-residential future land use designation and zoning classification, school capacity determination by Orange County Public Schools is not required.

The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on November 27th.

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The Development Review Committee finds the Commercial FLUM Designation to be compatible with the character of the surrounding area and consistent with the Comprehensive Plan, and recommends to approve a change in Future Land Use from “County” Rural to “City” Commercial for the property owned by Zellwood Properties, subject to the information and findings in the staff report.

Staff recommended the Planning Commission find the Commercial FLUM Designation to be compatible with the character of the surrounding area and consistent with the Comprehensive Plan, and recommend to approve a change in Future Land Use from “County” Rural to “City” Commercial for the property owned by Zellwood Properties, subject to the information and findings in the staff report.

This item is considered Legislative. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

Tom Sullivan, an attorney with Gray Robinson, 301 East Pine Street, Suite 1400, Orlando, stated he represents RaceTrac Petroleum, Inc. and they are the buyer of the property. He said the proposed convenience store/filling station will provide similar services as the two RaceTrac stations currently located within the City.

In response to questions by Mr. Simpson, Mr. Sullivan stated that they have held neighborhood meetings for other projects, and if approached would be willing to hold a neighborhood meeting for this project. He explained that if the station is named a “RaceTrac” it is corporate owned; and if it is named “Race Way” it is a franchise.

In response to questions by Mr. Molina, Mr. Sullivan stated that they have completed a traffic study and they meet the concurrency requirements and level of service standards.

Samantha Moore, EIT, RaceTrac Petroleum, Inc., 3225 Cumberland Boulevard SE, Suite 100, Atlanta, Georgia, confirmed that the intersection of Hermit Smith Road and Orange Blossom Trail is fully signalized.

In response to further questions by Mr. Simpson, Mr. Sullivan stated that they are aware of the two filling stations located in the same area. He said that the real estate team for RaceTrac identifies properties that are available for sale. He said the proposed RaceTrac will be a transitional use for the area; and the convenience store will be more of a neighborhood market that will also provide hot food.

Ms. Phillips stated that the two filling stations also provide hot food for the neighborhoods.

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing.

Motion: Jose Molina made a motion to find the application consistent with the Apopka Comprehensive Plan and compatible with the character of the surrounding area; and to recommend approval of the Small Scale Future Land use amendment from “County” Rural to “City” Commercial (Max. 0.25 FAR) for the property owned by Zellwood Properties, LLC and located at 1102 Hermit Smith Road. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle; and Patrice Phillips voted no. (6-1).

(Vote taken by poll.)

QUASI-JUDICIAL - CHANGE OF ZONING – ZELLWOOD PROPERTIES, LLC - Chairperson Greene stated this is a request to recommend approval of the Change of Zoning from “County” A-1 (Agriculture) to “City” Planned Unit Development (PUD/Commercial) for the property owned by Zellwood Properties, LLC, and located at 1102 Hermit Smith Road.

Attorney Brackens swore-in staff, petitioners, and affected parties for the quasi-judicial item to be discussed.

Chairperson Greene asked if there were any affected parties in attendance that wished to speak. No one spoke.

Chairperson Greene asked if the Commission members had any ex parte communications to divulge regarding this item. No one spoke.

Staff Presentation: Mr. Moon stated this is a request to recommend approval of the Change in Zoning from “County” A-1 (Agriculture) to “City” Planned Unit Development (PUD/Commercial) for the property owned by Zellwood Properties, LLC, and located at 1102 Hermit Smith Road. The applicant is Tannath Design, Inc. The existing use is vacant land and the proposed use is a convenience store and gasoline station. This request is being processed along with a request to change the future land use from “County” Rural to “City” Commercial. The existing maximum development is a single family residence and the proposed maximum development is a 26,681 sq. ft. service station. The tract size is 2.45 +/- acres.

Presently, the subject property has not yet been assigned a “City” zoning category. The applicant is requesting the City to assign a zoning classification of PUD (Planned Unit Development) to the property.

The subject property was annexed into the City of Apopka on June 20, 2012, through the adoption of Ordinance No. 2262. The intent of the PUD zoning was to restrict uses on a Gateway Property. A master site plan accompanies the PUD zoning application.

A request to assign a change of zoning to PUD is compatible to the adjacent zoning classifications and with the general character of abutting properties and surrounding area. The change of zoning request is being processed in conjunction with a future land use amendment from “County” Rural to “City” Commercial.

The PUD Development and Zoning Conditions: That the zoning classification of the following described property be designated as Planned Unit Development (PUD), as defined in the Apopka Land Development Code, and with the following Master Plan provisions subject to the following zoning provisions:

A. The uses permitted within the PUD district shall be: all such uses permitted within the C-1 Commercial zoning category and automobile service stations unless as otherwise listed as a prohibited use below. Automobile service stations are a permissible use within the C-2 zoning category. Other than automobile service stations, no other C-2 zoning district permissible or special exception use is allowed within the PUD. Uses also prohibited within this PUD site and the Master Plan are:

1. Drugstore and sundry stores (which includes medical marijuana dispensaries)
2. Boarding or rooming house(s);

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3. Outdoor storage or display of merchandise (including vending machines other than fuel stations and air pumps)
- B. The requisite Master Plan shall be submitted with or as part of the Preliminary Development Plan application.
- C. If a Final Development Plan associated with the PUD district has not been approved by the City within three years after approval of these Master Plan provisions, the approval of the Master Plan provisions will expire. At such time, the City Council may:
1. Permit a single six-month extension for submittal of the required Final Development Plan;
 2. Allow the PUD zoning designation to remain on the property pending resubmittal of new Master Plan provisions and any conditions of approval; or
 3. Rezone the property to a more appropriate zoning classification.

The existing and proposed use of the property is consistent with the proposed Commercial (Max. 25% Floor Area Ratio) Future Land Use designation and the City's proposed Planned Unit Development Zoning classification. Site development cannot exceed the intensity allowed by the Future Land Use policies.

The proposed zoning category of PUD\Commercial will not create any additional impact on student enrollment at public schools.

The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on November 27, 2017.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from "County" A-1 to "City" PUD for the property owned by Zellwood Properties LLC, and located at 1102 Hermit Smith Road.

Staff recommended that the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, and recommends approval of the proposed Change of Zoning from "County" A-1 to "City" PUD (Commercial) for the property owned by Zellwood LLC, and located at 1102 Hermit Smith Road, subject to the PUD Development and Zoning Conditions provided in the Staff Report.

This item is considered Quasi-Judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

In response to a question by Mr. Simpson, Mr. Moon stated that the public hearing notice requirements for the Planning Commission and City Council meetings were met for this project; and included a public hearing notice ad placed in the Apopka Chief; certified letters were mailed to all owners of property within 300 feet of the proposed site; and the property was posted.

Petitioner Presentation: Mr. Sullivan stated he was available to answer any questions from staff or the Planning Commission.

In response to a question by Mr. Foster, Mr. Sullivan stated that public hearing notices were mailed on December 22, 2017.

Affected Party Presentation: None.

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing.

Motion: Roger Simpson made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend adoption of the change of zoning from “County” A-1 (Agriculture) to “City” Planned Unit Development (PUD/Commercial) for the property owned by Zellwood Properties, LLC and located at 1102 Hermit Smith Road. Motion seconded by Linda Laurendeau. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Patrice Phillips, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)

OLD BUSINESS: None.

NEW BUSINESS: None.

ADJOURNMENT: The meeting was adjourned at 6:15 p.m.

/s/

James Greene, Chairperson

/s/

James K. Hitt, FRA-RA
Community Development Director