

**MINUTES OF THE PLANNING COMMISSION MEETING HELD ON OCTOBER 21, 2014, AT 5:01 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.**

**MEMBERS PRESENT:** Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler

**ABSENT:** Orange County Public Schools (Non-voting)

**OTHERS PRESENT:** R. Jay Davoll, P.E. – Community Development Director/City Engineer, David Moon, AICP - Planning Manager, Cody Rodden, Michael Holmes, Robert Fritz, Bill Morris, David McBee, Jenny McBee, Lou Haubner, Diann Haubner, Thurston Squires, Shirley Squires, Bob Loomis, LeeAnn Belanger, John Cloran, Pichai Toochinda, Miranda Fitzgerald, David Stokes, Spring Thigpen, Steve Loomis, Steven Loomis, Roy L. Lester, Jill Cooper, Colleen Kelly, Les Hess, Larry Metzler, Ted McGovern, Chris DiRocco, Ed Velazquez, Jan Charles Potter, Mary Schwarberg, Crystal Lawrence, Mike Peronti, Connor Michael Peronti, Mary Smothers, Jerry Smothers, and Jeanne Green – Community Development Department Office Manager/Recording Secretary.

**OPENING AND INVOCATION:** Chairperson Hooks called the meeting to order and asked Melvin Birdsong to give the invocation. The Pledge of Allegiance followed.

**CHANGE OF ZONING – APPLY LANE HOLDINGS, LLC** – Chairperson Hooks stated that this item has been pulled from the agenda due to applicant not submitting all of the required documentation.

**APPROVAL OF MINUTES:** Chairperson Hooks asked if there were any corrections or additions to the September 9, 2014 minutes. With no one having any corrections or additions, he asked for a motion to approve the minutes of the Planning Commission meeting held on September 9, 2014.

**Motion:** **Melvin Birdsong made a motion to approve the Planning Commission minutes from the September 9, 2014 meeting, and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler (7-0).**

Chairperson Hooks asked if there were any corrections or additions to the October 14, 2014 minutes. With no one having any corrections or additions, he asked for a motion to approve the minutes of the Planning Commission meeting held on October 14, 2014.

**Motion:** **James Greene made a motion to approve the Planning Commission minutes from the October 14, 2014 meetings, and Mallory Walters seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler (7-0).**

**VARIANCE – LOOMIS FUNERAL HOME** – David Moon, Planning Manager, stated this is a request for approval of a variance of the City of Apopka Code of Ordinances, Part III, Land Development Code, Article VIII – Signs, Sections 8.04.02.C and 8.04.06.B.1 to allow a non-conforming sign (pole sign) to be replaced as a pole sign containing an electronic reader board. The owner is Loomis Funeral Home. The property is located at 420 West Main Street. The future land use is Commercial and the zoning is C-2. The existing and proposed use is a mortuary. The tract size is 0.75 +/- acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

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The applicant is requesting a variance to allow for an electronic (LED) reader board and to continue to use the existing pole site and to allow the size area of electronic reader board to exceed the maximum area allowed by the sign code.

The applicable city code for the variance request for the reuse of an existing sign pole is Section 8.04.02.C. that states that all freestanding signs shall be monument signs as regulated unless determined by the Planning Commission that hardships created by existing site conditions cause construction of a monument sign to be impractical or to create a potential hazard. The applicable city code for the variance request to be allowed to place an electronic reader board (LED) sign within a pole sign is Section 8.04.06.B.1 that states that pole signs are not allowed to hold or contain an electronic reader board.

The proposed electronic reader board is approximately 28 sq. ft. The total sign area is approximately 51.2 sq. ft., making the electronic reader board just over 55% of the total sign area. If approved the electronic reader board cannot be larger than the business sign.. Section 8.04.06.A.3., LDC, restricts the area of an electronic reader board to an area equal to or less than 50% of the total sign face.

When evaluating a variance application, the Planning Commission shall not vary from the requirements of the code unless it makes a positive finding, based on substantial competent evidence on each of the seven variance criteria. The applicant's response to the seven variance criteria are as follows:

1. There are practical difficulties in carrying out the strict letter of the regulation [in] that the requested variance relates to a hardship due to characteristics of the land and not solely on the needs of the owner.

Applicant Response: The practical difficulties that relates to a hardship due to the characteristics of the land is the fact we have a horseshoe type entrance and exit to our facility. In order to meet the City Code we would be forced to use a monument sign which would block the view, create a traffic issue and endanger our customers.

Staff Response: NEGATIVE FINDING - The site has a sufficient amount of space to construct a monument sign that would comply with Section 8.04.02.C of the code. The northwest frontage of the property along Orange Blossom Trail extends 85 feet from the eastern edge of the driveway to the property line. Furthermore, the variance applicant owns an additional 125 feet along Orange Blossom Trail.

2. The variance request is not based exclusively upon a desire to reduce the cost of developing the site.

Applicant's Response: This request has no effect on developing this site. We are keeping our existing sign pole and location, which has been the same now for over 28 years.

Staff Response: FINDING - Not applicable.

3. The proposed variance will not substantially increase congestion on surrounding public streets.

Applicant's Response: Because the previous sign, which has been in the same location for over 25 years, there is no substantial reason to feel that there will be an increase in congestion on surrounding street.

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Staff Response: POSITIVE FINDING: Variance will not cause congestion on the surrounding streets.

4. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

Applicant's Response: The Loomis family feels that this improvement to our location does not in any way diminish property values. It in fact compliments and improves our surrounding neighbors.

Staff Response: POSITIVE FINDING: The intent of the Sign Code requirement for a monument sign is to improvement appearance along roadways within Apopka. The sign code promotes a sign type and design to create and promote a desired character along roadways within Apopka.

5. The effect of the proposed variance is in harmony with the general intent of this code and the specific intent of the relevant subject area(s) of the code.

Applicant's Response: We believe that we are in harmony with the general intent of this code based on the city's sign ordinance... 8.04.02. Free standing signs for single and multiple occupancy development; if we choose to keep our pole sign have a sign allowance of 64 SF (which is 20% less than the 80 SF allowance to monument signs) and our new sign will be 19 SF less than that.

Staff Response: NEGATIVE FINDING: The electronic reader board exceeds 50% of the sign face area. The total sign area covering an area of approximately 51.2 sq.ft., and the electronic reader board is approximately 28.1 sq. ft. or 51% of the sign face area.

6. Special conditions and circumstances do not result from the actions of the applicant.

Applicant's Response: There are no special conditions or circumstances.

Staff Response: NEGATIVE FINDING – The integration of an electronic reader board may set a precedent for the continuation of legal non-conforming signs. If the variance is granted, the City may have to allow other existing pole signs to have electronic reader boards placed on them.

7. That the variance granted is the minimum variance which will make possible the reasonable use of the land, building or structure. The proposed variance will not create safety hazards and other detriments to the public.

Applicant's Response: This proposed variance will not create a safety hazard, in fact by following the code we feel that this would create an unsafe hazard to our citizens, specially our aging population, which is projected to double within the next five years.

Staff Response: NEGATIVE FINDING: A monument sign will impede the line of sight at the current sign location. The current pole sign stanchion will be used to support the sign and electronic reader board. However, sufficient land area occurs at the eastern half of the property frontage to accommodate a monument sign.

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The Development Review Committee finds no valid hardship exists to support the variance request to allow the use of an electronic reader board within a pole sign, or to allow an electronic reader board to exceed the 50 percent of the sign face area.

As per the Land Development Code, Article XI - 11.05.00.A. - The Planning Commission has been established as a citizen board to review and approve variances.

Staff's recommendation to the Planning Commission is to deny the following variance requests:

1. Section 8.04.02.C. Sign Code: All freestanding signs shall be monument signs as regulated unless determined by the Planning Commission that hardships created by existing site conditions cause construction of a monument sign to be impractical or to create a potential hazard. Note: if Planning Commission denies request for an electronic reader board on a pole sign, then request numbers 2 and 3 do not apply.
2. Place an electronic reader board (LED) sign within a pole sign. Section 8.04.06.B.1, Sign Code: Pole signs are not allowed to hold or contain an electronic reader board.
3. The sign area of the electronic reader board portion of the sign shall not exceed fifty percent of the total sign face.

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. The Planning Commission is delegated authority to make final action on this case, and may approve, deny, or approve with conditions based on the findings of fact presented at a public hearing.

Bob Loomis, Loomis Family Funeral Homes, 420 West Main Street, presented to the Commission members a booklet of information regarding the requested sign. He stated that his family has served the area for four generations. He said his family has served Apopka, very proudly, Rotarian, Past President, Past President of the Sertoma Club service to mankind to his mother working with the Women's Club. He said his family has always tried to uphold their professionalism and promote the City of Apopka in many ways. He stated that he feels the proposed sign is good for the City and where their business is located. He addressed the seven criteria outlined in the booklet that he presented to the Commission:

Criteria 1 – In staff's response it says that "The northwest frontage of the property along Orange Blossom Trail extends 85 feet from the eastern edge of the driveway to the property line" The driveway is two feet from our property line there. There is no way we can put a monument sign on that northwest corner.

Criteria 2 – Staff's response was that it was not applicable.

Criteria 3 – Staff's response was that this sign would not substantially diminish property values in, nor alter the essential character of the area surrounding streets. Mr. Loomis stated that this sign is over \$50,000 sign and the improvements will have a positive impact on our area.

Criteria 4 – Staff's findings were positive to the improvement to our location.

Criteria 5 – Mr. Loomis stated that earlier Mr. Moon mentioned in his presentation that the sign area was 55% but the staff report states that it is 51%. He said that the reason they chose the tear drop was to keep the sign very professional and classy. He said they are always promoting Apopka and making it a wonderful town. He said that if the Planning Commission would prefer that the tear

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drop shape (12.67 sq. ft.) incorporated into the sign, he is willing to square the top out which would be 22.75 sq. ft.

Mr. Loomis referenced a study done by the University of Nottingham that found that street level and monument advertisement signs were more of a distraction than raised pole signs. The research used eye movement tracking to measure the difference in street-level advertisement in terms of how they held the driver's attention.

Criteria 6 – Mr. Loomis stated that a lot of towns and municipalities have gone through the process of saying we want monument signs everywhere. They are beautiful and aesthetically pleasing but when you are on a five-lane highway with over 50,000 cars passing you a day, there monuments or street level signs create a huge distraction. These studies are from reputable entities such as the Highway Safety Manual from Washington DC, the United States Department of Transportation, and The AAA Foundation for Traffic Safety. All these reports come back saying that monument signs on high density, high traffic area create more of a hazard than they should and they are dangerous. He said the main obstacle with these monument or street level signs on the five lane highway is basically, referencing the Highway Safety Manual from Washington, DC, says that a driver's eye height is 3.5 feet when they are sitting in a car. The top of the car is 4.2 feet, pickup trucks are 7 feet. The height requirement for these monument signs or street level signs are 8 feet high. So now people are trying to find your sign, they can't see it, they are in traffic, trying to peek between cars coming at you and going with you to try to find a business creates a huge distraction. He suggested the City go back and revisit this and say that maybe on that corridor of a major highway running through the City that monument or street level signs is not the way to go. It's going to create a hazard. He said that in their business they deal a lot with the elderly and it's projected in the next five years that there are going to be over 5 million drivers 65 years and older. He said that he had been told that a driver had come to the City because one of the newly monument signs that was put on 441 created a distraction and caused him to have an accident.

Criteria 7 – Mr. Loomis said that on the west side of our property, the property line is two feet from our driveway. On the west side, the exact same thing exists. There's an egress or a driveway that runs right along the side of the funeral home. He said that they had purchased the property beside there because their intention is the build a canopy there. He said that most funeral homes line up their hearst and their family cars along side the chapel and we recently purchased the property beside us to do that. That driveway is going to be right out the side there. If we move that monument sign to that westerly side area we are going to be in the exact same scenario. That monument sign is going to impede and create another hazard. We can't move our sign. There is no other option for us because we want to grow and promote our business just like every other business wants to.

Mr. Loomis requested the Commission look over the handout and to take into consideration how he and his family treat the City and how they give a lot of their time by his mother being in the Women's Club, his brother being in Sertoma, or hisself being in Rotary and being a director of the Chamber. He said they always have the best interest of the City. He said that the proposed new sign is smaller than the existing sign. He said they are a funeral home and will not have flashing lights. This is a time and temperature sign. He said they are trying to be very professional and that he hopes the Commission will allow them to continue doing what they do.

In response to question by Chairperson Hooks, Mr. Moon stated that the northeast corner and not the northwest corner of the property would be an appropriate place for a monument sign and the current location of the pole sign is not appropriate for a monument sign because of line of sight issues. He stated that he could not comment on a canopy and whether a monument sign would be

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appropriate on the northeast corner because a site plan has not been submitted for review. He said there are several recent projects such as Sams Club, RaceTracs, Aldi's, WaWas, Florida Hospital, and the Waffle House that located on major highways had their plans submitted by professional engineers and no one made the argument that the monument sign was less safe than a pole sign.

Chairperson Hooks opened the meeting for public hearing.

Chris DiRocco, 404 West Main Street, stated that he supports the applicant's request to use a pole sign with the electronic board reader. He stated that he thinks it is a wonderful idea and will enhance the neighborhood. He said the trend in the City is to use digital signage. The proposed sign is beautifully designed and he finds it to be aesthetically appealing. He said that anything at ground level will impede the line of sight.

With no one else wishing to speak, Chairperson Hooks closed the public hearing.

Chairperson Hooks reminded the Commission that they are the ones who put the sign code together and sent it to Council so they needed to be careful not to set a precedent with it and also with a variance request, the Planning Commission is the final authority. If the Commission grants it, it ends there, but if it is denied the applicant has appeal rights to the City Council.

Mr. Greene stated that the City may want to review the sign code to address the concerns Mr. Loomis raised; however, the request is significantly contrary to what is in the Sign Code and recommended that the Commission deny the request.

Chairperson Hooks stated that he likes the appearance of what is being presented and believes it would enhance the property; however, approving this request would create a Pandora's Box by becoming a precedence. He suggested that the City consider going back and reviewing this section of the Code.

**Motion: James Greene made a motion to deny the request for variance of the City of Apopka Code of Ordinances, Part III, Land Development Code, Article VIII – Signs, Sections 8.04.02.C and 8.04.06.B. to allow a non-conforming sign (pole sign) with an electronic reader board because the codes state that all freestanding signs shall be monument signs as regulated and the Planning Commission found that the hardships created by the existing site conditions do not cause construction of a monument sign to be impractical or to create a potential hazard, for property located at 420 West Main Street and owned by Loomis Funeral Home, and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler (7-0).**

Chairperson Hooks advised Mr. Loomis that, pursuant to the Land Development Code, he could appeal the decision through the City Council.

**COMPREHENSIVE PLAN - LARGE SCALE – FUTURE LAND USE AMENDMENT – METZLER FAMILY TRUST** – Mr. Moon stated this is a request to recommend approval of the Small Scale Future Land Use amendment from “County” Low Density Residential (0-4 du/ac) and “City” Residential Very Low Suburban (0-2 du/ac) to “City” Agriculture (1 du/5 ac) for the property owned by the Metzler Family Trust, c/o Larry Metzler. The property is located east of Vick Road, north of West Lester Road. The existing and proposed use is a container nursery. The existing maximum allowable development is 29 Units (5 ac. x 4 du/ac) plus (4.97 ac x 2 du/ac) and the

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proposed future land use would allow a maximum allowable development of 2 Units (9.97 x 1 du/5 ac). The tract size is 9.97 +/- acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

The subject parcels were annexed into the City of Apopka on March 18, 1998 for Parcel # 28-20-28-0000-00-075, through the adoption of Ordinance No. 1151 and on October 1, 2014 for Parcel # 28-20-28-0000-00-010, through the adoption of Ordinance No. 2380. The proposed Small-Scale Future Land Use Amendment is requested by the owner, who has operated a foliage nursery at this site for more than a decade and desires to continue to do so for many years. Changing the zoning to Agriculture will also help preserve future agriculture tax credits with the Orange County Property Appraiser's office.

A request to assign an Agriculture zoning category to the Property is being processed in conjunction with this FLUM amendment. The FLUM amendment application covers approximately 9.97 acres. The property owner intends to continue using the site for a container nursery.

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).

The existing and proposed use of the property is consistent with the Agriculture Future Land Use designation and the City's proposed AG Zoning designation. Site development cannot exceed the intensity allowed by the Future Land Use policies.

Staff has notified Orange County Public Schools (OCPS) of the proposed Future Land Use Map Amendment. The Future Land Use change to "City" Agriculture will generate fewer homes and thus fewer students for certain elementary, middle and high schools than can be anticipated from higher residential densities allowed by "County" Future Land Use of Low Density and the "City" Future Land Use of Very Low Suburban. This Future Land Use amendment is subject to school capacity enhancement review.

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 September 24, 2014.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and recommends approval of the change in Future Land Use from "County" Low Density Residential (0-4 du/ac) and City "Very Low Suburban) to "City" Agriculture for the property owned by the Metzler Family Trust.

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.

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

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**Motion:** Mallory Walters made a motion to recommend approval of the Small Scale Future Land Use Amendment from “County” Low Density Residential (0-4 du/ac) and “City” Residential Very Low Suburban (0-2 du/ac) to “City” Agriculture (1 du/5 ac) for the property owned by the Metzler Family Trust, c/o Larry Metzler and located east of Vick Road, north of West Lester Road, and the information and findings in the staff report. Motion seconded by Melvin Birdsong. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler (7-0).

**CHANGE IN ZONING – Metzler Family Trust** - Mr. Moon stated this is a request to recommend approval of the Change in Zoning “County” A-1 (ZIP) and “City” R-1AA to “City” AG for the property owned by the Metzler Family Trust, c/o Larry Metzler. The property is located east of Vick Road, north of West Lester Road. The existing and proposed use is a container nursery. The existing maximum allowable development under the current zoning is 39 Units and the proposed zoning would allow 2 Units. The tract size is 9.97 +/- acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

The subject parcels were annexed into the City of Apopka on March 18, 1998 for Parcel # 28-20-28-0000-00-075, through the adoption of Ordinance No. 1151 and on October 1, 2014 for Parcel # 28-20-28-0000-00-010, through the adoption of Ordinance No. 2380. The proposed Small-Scale Future Land Use Amendment is requested by the owner, who has operated a foliage nursery at this site for more than a decade and desires to continue to do so for many years. Changing the zoning to Agriculture will also help preserve future agriculture tax credits with the Orange County Property Appraiser’s office. Pursuant to Florida law, properties containing less than ten acres are eligible to be processed as a small-scale amendment. Such process does not require review by State planning agencies. Pursuant to Florida law properties containing less than ten acres are eligible to be processed as a small-scale amendment and does not require review by State planning agencies.

Staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this zoning change as depicted in the Zoning Report.

The proposed AG rezoning is consistent with the Future Land Use Designation of Agriculture (1 dwelling unit per 5 acres) that is assigned to the property. Minimum lot size for property assigned the AG zoning category is 5 acres.

The proposed rezoning will result in a decrease in the number of residential units which could be developed at the subject property, resulting in fewer students than anticipated from the current zoning. A capacity enhancement agreement with OCPS is not necessary because the impacts on schools will be less than that generated by the current zoning.

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 September 24, 2014.

The Development Review Committee recommends approval of the change in Zoning from “County” A-1 and “City” R-1AA to “City”AG for the parcel owned by Metzler Family Trust.

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.

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



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**Motion:** Mallory Walters made a motion to recommend approval of the Change in Zoning from “County” A-1 (ZIP) and “City” R-1AA to “City” AG for the property located east of Vick Road, north of West Lester Road, owned by the Metzler Family Trust, subject to the information and findings in the staff report; and James Greene seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Ben Dreiling, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler (7-0).

**CHANGE IN ZONING – Norman E. Sawyer** – David Moon, AICP, Planning Manager, stated this is a request to recommend approval of the Change in Zoning from “County” I-1/I-5 (ZIP) (Light Industrial) to “City” I-1 (Restricted Industrial), for the property owned by Norman E. Sawyer. The property is located north of 13<sup>th</sup> Street, east of Lambing Lane. The current Future Land Use is “City” Industrial. The existing and proposed maximum allowable development is 60,113 sq. ft. The proposed development is light industrial or commercial. No development plans have been submitted to the City. The tract size is 2.0 +/- acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

The subject property was annexed into the City of Apopka on January 16, 2008, through the adoption of Ordinance No. 2009. The proposed zoning change is compatible with the character of the surrounding area. As the Property is assigned a Future Land Use Designation of Industrial, the property owner desires to assign a compatible City zoning category. A city zoning category currently is not assigned to the Property. Prior to annexation into the City, the Property was assigned an I-1/I-5 zoning category by Orange County government.

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 proposed I-1 rezoning is consistent with the Future Land Use Designation of Industrial that is assigned to the property. Site development cannot exceed the densities or intensities allowed by the Future Land Use policies. Development standards for the proposed I-1 zoning category establish a minimum lot area standard of 15,000 sq. ft.

The proposed zoning is for a non-residential use. Therefore, a school capacity enhancement agreement 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 September 24, 2014.

The Development Review Committee recommends approval of the change in Zoning from “County” I-1/I-5 (ZIP) (Light Industrial) to “City” I-1 (Restricted Industrial) for the property owned by Norman E. Sawyer.

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.

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

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**Motion:** Mallory Walters made a motion to recommend approval of the Change in Zoning from “County” I-1/I-5 (ZIP) (Light Industrial) to “City” I-1 (Restricted Industrial) for the property located north of 13<sup>th</sup> Street, east of Lambing Lane, owned by Norman E. Sawyer, subject to the information and findings in the staff report; and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler (7-0).

**FINAL DEVELOPMENT PLAN (MINOR) – CIRCLE K – CLARCONA ROAD** – Jay Davoll, P.E., Community Development Director/City Engineer, stated this is a request to recommend approval of the Final Development Plan (Minor) for the Circle K to be located north of East Keene Road and west of Clarcona Road. The owner is Clarcona Keene Retail, LLC. The applicant/engineering firm is Florida Engineering Group, Inc., c/o Samir J. Sebaali, P.E. and Rick Abt, Project Manager. The existing use is vacant land and the proposed use in a retail center and convenience store with gas sales. The future land use is Commercial and the zoning is C-2. The tract size is 2.25 +/- acres. The proposed building size is 7,000 sq. ft. for the retail center and convenience store with a fuel station canopy of 5,040 sq. ft. containing 6 pumps and 12 fuel stations. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

The Circle K – (Minor) Final Development Plan proposes a 7,000 square foot retail center and convenience store with a fuel station canopy covering 5,040 square feet. A preliminary development plan is not required for a project of this size. The proposal will require parking areas, retention ponds for stormwater management, and landscaping. A retail center with convenience store and gas station are permitted uses within the C-2 commercial zoning district. Any future phases shall be approved as a separate development plan application.

The stormwater management system will be handled by two on-site dry retention ponds. The stormwater ponds have been designed to meet the City’s Land Development Code requirements.

The applicant has provided a detailed landscape and irrigation plan for the property. The planting materials and irrigation system design are consistent with the water-efficient landscape standards set forth in Ordinance No. 2069. A ten-foot wide buffer typically is provided adjacent to public right of ways.

Total inches on-site:	1,968
Total number of specimen trees:	0
Total inches removed:	1,968
Total inches retained:	0
Total inches required:	256.66
Total inches replaced:	255
Total inches post development:	255
Tree inches Deficit	101.66

The City’s Land development Code and Tree Bank policy permit the applicant to make a contribution to the City’s Tree Bank to mitigate the remaining deficient tree inches at \$10.00 per inch. The total amount required to be paid into the Tree Bank will be (\$1,016.60) dollars

Fifty-eight parking spaces are required per the City’s standards and sixty-four spaces are provided. There are two full access points proposed onto East Keene Road and Clarcona Road.

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Staff has found the proposed building and fuel station canopy elevations to meet the intent of the City's Development Design Guidelines. Copies of the exterior elevations, as proposed by the applicant, are attached.

A master sign plan was submitted by the applicant but not with sufficient time prior for DRC review prior to the Planning Commission hearing. The master site plan shall appear on the November 10 Planning Commission agenda.

The applicant is requesting a waiver from section 6.06.00(c)5 of the Land Development Code and the city approved Dumpster Enclosure Detail - Figure (601), which requires the use of brick or stone cap block on the exterior walls of dumpster enclosure. The applicant is proposing to use building materials compatible with the exterior of the building. Staff does not object to this waiver request.

The conditions of approval is that a master sign plan must be approved by the Planning Commission prior to issuance of a building permit.

The Development Review Committee recommends approval of the Circle K - Final Development Plan, subject to the findings of this 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 questions by Chairperson Hooks, Mr. Davoll stated that there would be retail space for other users as well as the convenience store. The gasoline pumps would be located at the front of the convenience store on the south side of the property. This project does not fall within the Ocoee Apopka Road Small Area Study.

In response to a question by Ms. Toler, Mr. Davoll stated that the fuel tanks are typically underground and are regulated by the State.

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

**Motion:** Melvin Birdsong made a motion to recommend approval of the Circle K to be located north of East Keene Road, west of Clarcona Road Final Development Plan; and the waiver request to allow the applicant to use building materials compatible with the exterior of the building, subject to the condition of approval that a master sign plan be approved by the Planning Commission prior to the issuance of a building permit and the information and findings in the staff report. Mallory Walters seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, Teresa Roper, Robert Ryan, and Pamela Toler (7-0).

**OLD BUSINESS:**

**Planning Commission:**

**FINDINGS OF FACT - CHANGE IN ZONING/MASTER SITE PLAN/PRELIMINARY DEVELOPMENT PLAN – FLORIDA LAND TRUST #111 – ZDA AT SANDPIPER, LLC –**

Hooks: Old Business. All right, David.

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Mr. Moon: Chairman, Planning Commission, I'm David Moon, Planning Manager, with the Community Development Department. This case is not unfamiliar to the Planning Commission. You held a hearing on September 9<sup>th</sup> at which time the Planning Commission, based on the evidence presented thereat made a recommendation to City Council to deny. On September 17<sup>th</sup>, City Council held a hearing and directed the Planning Commission to rehear the case and form a statement of findings if it further determines that it is... further takes the position to deny the request to change the zoning to PUD as well as its Master Site Plan. Based on discussions with the attorney's office regarding this hearing, he states that the Planning Commission needs to hear from the public regarding information and testimony regarding this application as well as that from the applicant. Based on the direction from City Council the Planning Commission is to, if it chooses to deny, based on the information presented at this hearing as well as the September 9<sup>th</sup> hearing which is reflected in the meeting minutes for that hearing date, a Findings of Fact to Deny is necessary in order to proceed to City Council. What is a Finding of Fact? Finding of Fact is a decision or opinion arrived by the Planning Commission regarding the issues related to the facts that are submitted for decision by the Planning Commission at a public hearing. The facts that are submitted should be based on competent substantial evidence related to a relationship to the Comprehensive Plan, Land Development Code, and other City ordinances. General issues related to public health, safety, and welfare can be considered. One general issue is the topic of compatibility. If the motion is to deny then there is a need to reference the facts supporting your decision. Examples would be reference to a City code or policy or under a determination of non-compatibility a general term as to why the Planning Commission finds it not compatible with the adjacent communities or the character of the surrounding area. This application is a request to assign a PUD zoning. Under Planned Unit Development, it does allow flexibility in the design so long as it creates an equal or greater development design than that that would be required under straight zoning. So the intent of Planned Unit Development offers the applicant the ability to offer some differences from the current code. Now the issue with compatibility, under Florida Statute 163.3164, the definition of compatibility means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time so as that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. That's right out of the State statutes that the 2014 State statutes. Now regarding the history of this project. It's not a factor in the decision that should be made this evening; however, there's repeat questions though of the history of approval of this project and we do also have a new Planning Commissioner that is starting this evening. So I do need to give a little background on the property as well as an explanation of its history. This property was annexed into the City on September 17, 2008. At that hearing date, a preliminary development plan was also presented to City Council, that the annexation hearing was the City Council hearing, the preliminary development plan was unanimously approved by the City Council with a condition that the final development plan further consider flooding issues and tree protection that were brought up by the public during the hearing. This preliminary development plan

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expired on March of 2009. Prior to City Council holding that hearing on the preliminary development plan, the Land Development Review Board conducted a hearing on August the 8<sup>th</sup>, 2008, at which it recommended to approve the preliminary development plan by a vote of five to one. The dissenting vote was Mallory Walters and the Chairman at the time was the existing Chairman. At the time those hearings occurred, and following the annexation, a City land use designation and zoning had not yet been assigned to the property. Per Florida Statutes, regarding annexations and the relationship to the future land use and zoning, as well as the comprehensive plan and development regulations, the statutes in 2007 and 2008 stated that if an area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in full force and affect until the municipality adopts a comprehensive plan amendment that includes the annexed area. Thus in 2008 when the Planning Commission made a recommendation at a vote of 5 to 1 and the City Council recommended to approve the preliminary development plan, it do so by finding the plan to be consistent with the county's comprehensive plan and city's... I'm sorry the county's comprehensive plan and the county's land development code. In 2011, the City adopted a future land use designation of Very Low Suburban to the subject property. Very Low Suburban allows for a density up to two units per acre. The county's designation was Low Density Residential up to four dwelling units per acre. At that time, the City assigned a future land use designation, based on Florida Statutes, any review of development plans for that property are to be consistent with the City's Land Development Code and Comprehensive Plan and any other development related ordinances that the City may have adopted. Therefore, any decision made by the Planning Commission this evening regarding this application should not reference what the Board of County Commissioners may or may not have done because in 2008 the review was based on the county's codes. Tonight's application is based on consistency with the City's comprehensive plan and land development code. Based on the hearing on September the 9<sup>th</sup> before the Planning Commission, the Development Review Committee recommendation was that the application was consistent with the Comprehensive Plan... the City's Comprehensive Plan and the City's Land Development Code. In addition, the Development Review Committee found that it was compatible with the character of the surrounding area subject to two objections within the plan related to buffering and the sidewalk that was missing along Sandpiper Street. The staff presentation from the September 9<sup>th</sup> meeting is carried forward to this evening so I'm not going to repeat the application and the presentation from the last hearing. The staff presentation is reflected in the minutes. So our new commissioner understands the request is to assigned a City zoning of Planned Unit Development to 58.23 acres for a property located south of Sandpiper Street, west of Ustler... east of Ustler Road, and generally west of Thompson Road. The maximum number of units proposed are 49 single family residential lots. The minimum livable area of the house is 49... is 2,000 square feet. The density for the property is approximately 1.0 dwelling units per acre and that's based on the developable acreage of 48.4 acres.

Hooks: And once again, I will point out to you that that is backwards. You did the math backwards. It's like that .92.

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Moon: The....

Hooks: 49 dwelling units in 48 acres does not equal one point something. You did the math backwards.

Moon: If there are....

Hooks: There 49 lots and 48 acres...

Moon: Right.

Hooks: You can't have one acre per lot.

Moon: I did the math. I believe that calculation is correct. If there are 400 lots in 100 acres, that's 4 units per acre. So we have...

Walters: Get your calculator out.

Moon: We have more lots than we do have... we have more homes than we have acres.

Hooks: Which means there can't mean one acre per lot. Not the other way around.

Moon: The... Since the question has been asked, although the comment was raised that the decision was made by the Board of County Commission should not be taken into consideration, I am going to point out some general differences between the proposed plan and that which was previously approved by the City Council with a recommendation from the Planning Commission. In the 2008 plan, which I will show in a second, there are three lots located at the western end of the Sandpiper property. Two join at this location and one along Ustler. Those three lots were moved to the interior of the property. Primarily on the north side of Lake McCoy. There are one... this is one additional lot along Lake McCoy. The lot widths are less wide than they were in the previous plan. These are, I believe, 70... 75 to 80 feet side; however, in this plan, there is the condition that no more than fifteen feet can be cleared from the rear yard down to the lake side. So these homes will be screened by the existing natural vegetation... that vegetation along the lake. On the interior of the property the lots that are abutting Oak Pointe, in this plan the house is 50 feet from the property line. In the 2008 plans there were 30 feet from the property line. The current plan proposes a 30 foot conservation easement in which no swimming pools or fences or accessory structures can be located within that 30 feet. The previous plans required a brick wall. There was no condition on accessory uses so swimming pools could have been... screened swimming pools could have been as close as 10 feet from the south property line. Now a swimming pool has to be a minimum of 30 feet from the south property line. This also applies to the eastern lots where the house has to be at least 40 feet from the property line with a 30 foot buffer. Previously this was only 20 feet with a 10 foot buffer and brick wall. Along the

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eastern portion of the property, is the same number of lots and the lots are consistent with the size of the 2008 plans with the exception of these interior lots which are 80 feet wide instead of 90 feet. The reason for that was to move the homes further to the north from Oak Pointe. One change that has been presented at this meeting that wasn't discussed at the first hearing before the Planning Commission is along Sandpiper Road. This won't be straight but unfortunately I can't rotate this, but from the northeastern corner to the stormwater pond, which is east of the entrance, there is a 10 foot landscape tract which was previously proposed; however, there is a 6 foot shrub within that 10 foot buffer with a canopy tree planted every 35 feet. That's to occur behind these lots along Sandpiper Street within the eastern side of the project. In addition to that, there is a country style tri-rail fence that will extend from the northeast of the project to the point where the open space area starts at its western end. Similar to the staff presentation on the 9<sup>th</sup> of September, staff recommends a sidewalk along Sandpiper Street all the way to Ustler to accommodate the pedestrian traffic that will be generated by Sandpiper. Particularly the elementary school students and middle school students that are assigned to Dream Lake and Apopka Middle School. They are in the walking distance requirement and will not be bused to those schools so we believe it is a public safety issue to provide that sidewalk. That completes my presentation on the... any changes that have occurred from the last presentation and provide information regarding the City Council's direction to prepare a finding of fact if the recommendation is to deny. The staff recommendation has not changed since the last meeting other than DRC does support the applicant's proposal for the new buffer along Sandpiper. Staff still... DRC still request that the Planning Commission, in its motion if you decide to approve, that you require that sidewalk along Sandpiper Street. That concludes my presentation and I'll address any questions you may have.

Hooks: Just now you mentioned canopy trees along Sandpiper. What's a canopy tree?

Moon: Canopy tree typically is a deciduous tree that is going to provide shade. A palm tree...

Hooks: Okay.

Moon: ... would not be considered a canopy tree.

Hooks: There are power lines running down there. There's no point in putting in trees to have Duke Energy come in and take them half out. What's the point? If we are going to make them put trees in and just to watch Duke Energy come by six months later and cut them all out, what's the point? Why do we keep doing that? Anyway, that's just a whole other issue. Compatibility from the DRC. What is their definition of compatible? Why did they determine that this development is compatible with the surrounding area. How did they come to that conclusion?

Moon: Well, based on the information that was presented at the last hearing, a review was presented of the residential communities in the surrounding area and determined that

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there were lot sizes and house sizes that were compatible with that which is being proposed. I can go over that again. The lot widths that are proposed within this application....

Hooks: How many lots did you find that were compatible with the surrounding subdivisions? And which subdivisions did you look at? Let's start with across the street on the north side of Sandpiper. Were any of those....

Moon: Lot widths of 110 feet are compatible with the lots widths to the ....

Hooks: Let's talk about acreage....

Moon: south....

Hooks: Let's talk about acreage.

Moon: Okay.

Hooks: How many lots across the street, north of Sandpiper, have any lots comparable to this subdivision to the north?

Moon: They are larger. They are under the low density residential designation which doesn't prevent them from applying to the County for higher density.

Hooks: Okay, but we are trying to decide compatibility here. So everything to the north is significantly larger.

Moon: Residential is considered compatible if residential in our land use... future land use chart within the Land Development Code PUD is a compatible zoning category with the very low residential subdivision. When we go to the other surrounding neighborhoods....

Hooks: You said the DRC found this compatible with the surrounding neighborhoods. That's how you came to your decision to recommend approval.

Moon: That includes neighborhoods besides the abutting neighborhoods.

Hooks: Name one. I came prepared tonight, David. I hope you all did. On the north side the smallest lot on Sandpiper is 1.33 acres. It goes from there all the way to 15.51 acres. There is nothing in this development that's compatible with that. And if you want to go to the south I've got that too. The average lot size in Oak Point Estates, not including Wekiva Landing which are larger even, but just these lots that abut this property the average lot size is 1.24 acres. The smallest is a half-acre.



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Moon: I'll have to defer to the minutes from the last meeting when we look at the character of the area. We have all these residential subdivisions which abut and within proximity....

Hooks: They don't abut.

Walters: They don't.

Moon: ...across the road.

Hooks: They do not abut. They may be in proximity across another road but they do not abut. The properties along Thompson Road range from 1.13 acres to 1.30 acres on the east side of their property. They don't abut anything smaller than an acre. So I don't see how in the world you all came up that this was compatible with the surrounding area. To the north, to the east, to the west, to the south. If you want to go down to the southwest to Camelot which is Sir Arthur Court. The average lot size in that subdivision is 1.21 acres. There's nothing anywhere close to this. If you want to go across the street on Ustler, those lots range from 1.84 acres to almost 3 acres, 2.98 acres on Ustler to the east of this property. So there is nothing compatible about it and why DRC came up with this being compatible is beyond me but we're going to have a talk about it tonight. I want to make a point of record for the... for those of you who are here.

Moon: Staff presentation complete or do you have further questions?

Hooks: I'm done.

Ryan: Yes, I have a question...

Hooks: Anybody else? All right go ahead, Bob.

Ryan: In 2008 the City Council approved 49 lots. Is that correct?

Moon: That is correct.

Ryan: But they were larger lots.

Moon: They were generally in the same size as the lot that are proposed now with the exception of the lake front lots which are generally smaller. As they were... the applicant moved the three lots from Ustler and western Sandpiper to that location and then there are a few lots at the eastern end of the cul-de-sac that are 10 feet less...

Ryan: But on average...

Moon: Ten feet less in width to accommodate the buffer along the south property line adjacent to the...

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Ryan: I understand, but on average their smaller now. Right?

Moon: On average?

Ryan: The average lot sizes smaller than what they approved in 2008. The City Council.

Moon: The... The lot size... the typical lot size, yes would be slightly smaller; however, the density of the property is also less than what it is when the Council reviewed it and the other form of this board reviewed it in 2008. There is an additional 2.5 acres that was added to this project at the northwest corner that were at that 2008 that were left... that were owned by the same property owner but left out of the project.

Ryan: And what was the ....

Moon: That property recently annexed in the City and was pulled into the project. So from that standpoint this... the density of this project is slightly less than what it was.

Ryan: And what was the minimum living area in 2008?

Moon: In 2008, in the approved plans the minimum living area was 3,000 square feet. In the current plans, it's 2,000 square feet. Based on the zoning category that would typically be assigned to this site, the largest zoning category is around.... for straight zoning is around 1,800 square feet. The applicant agreed to increase that to 2,000 square feet. A survey was conducted for the residential homes in the surrounding, abutting land on the north side of Sandpiper, and to the south in Oak Point, there's homes abutting Sandpiper within Oak Point that are 2,200 square feet. There are homes on the north side of Sandpiper across the street that are 1,900 square feet. There are some homes that are larger but there is a diversity that typically ranges from 1,900 to 5,000 square feet. The 5,000 square foot homes represent a small portion of the homes that abut Sandpiper.

Ryan: I think there is a big difference between 3,000 square feet and 2,000 square feet. I also agree with you that there needs to be a sidewalk along Sandpiper.

Hooks: All right, any other from the Board?

Roper: I have a question.

Hooks: Okay.

Roper: Just for my clarification, and you might have covered this already and excuse me if you did, how do you determine compatibility? What do you look at? Is that a definition that's been defined in the Code somewhere?

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**Moon:** We follow the state definition. There isn't a definition of compatibility within the Land Development Code or Comprehensive Plan. So we refer to the general terminology of compatibility as well as that which is in the Florida Statutes. We look at the future land use designations assigned to adjacent properties; we look at the density of the property; we look at the impact on water and sewer and transportation. We evaluate the character of the subdivision design and what that, in the typical, general area of the project. We review the Comprehensive Plan for consistency with the required policies ranging from the future land use, conservation elements, transportation element, housing element, recreation.. so forth. And in the Land Development Code there's a chart that lists the zoning categories that are compatible with each of the land use categories and the zoning categories. And PUD is considered compatible with the very low suburban and, yes, we look at the general lot sizes that are in the area. We don't look at the value of the homes. That's not an issue of compatibility from the Land Development Code and Comprehensive Plan perspective. Lot size is not an indication of the value of the home. There are 25 acre parcels in the Apopka area or abutting areas that have trailer homes on them and 25 acres is a good size lot. And we... there are homes in the Orlando area that are 5,000 square foot lots that are worth half a million dollars on a 5,000... 6,000 square foot lot and there are homes that are 200,000 square feet that are on a half-acre... \$200,000 on a half-acre property. So it's a diversity. It depends on the market. It also depends on the home builder and also depends on what the homebuilder believes they can market in a particular area plus a number of other categories. But values of a home isn't an issue that staff takes into consideration. It's a long answer but there are a lot of factors that go into consideration of... for compatibility determination.

**Hooks:** Jim?

**Greene:** Yes, I know in our meeting in September, it certainly seemed to me that the subdivision immediately to the south and immediately to the north had much larger lot sizes on average and larger house sizes on average. I think it is difficult to say that the smaller subdivision proposed here is compatible and I would think there is a significant likelihood that it would have an adverse impact of the value of the subdivisions directly to the south and to the north. I don't know if that constitutes a statement of facts but that seems to me to be a realistic likelihood.

**Hooks:** I'm clearly opposed as we heard from this Commission, this particular development. I am not opposed to this piece of property being developed that's characteristic to the surrounding area and I don't think anybody here is either. They understand that's is going to happen. This is clearly not it so I would like to work as we have done in the past to come to some compromise on what is compatible with the surrounding area that all these people can enjoy and Mr. Goldberg can enjoy as well. I think there is some middle ground somewhere in here.

**Moon:** The only other piece of information that I can provide is that staff looked at the development characteristics of the surrounding area, through aerial photos going back from 2008 to 2014 and the development characteristics in the area have not

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changed one bit. At that time there was a recommendation to approve 49 units on similar size lots. The character of the area has not changed. So from that perspective....

Hooks: But the land use went... cut in half. There was a reason that the land use went from 4 to 2. From the County to the City. So... and you keep referring back to the County's approval of this project and you told us that we can't do that. Now let's stay consistent. Either we can or we can't.

Moon: I am not referring to the County codes and policies, I am referring to the density of the property which hasn't changed and the characteristics of the surrounding area.

Hooks: I agree. The characteristics of this...

Moon: They haven't changed.

Hooks: The characteristics of the surrounding area, and I pointed out to you, Oak Pointe Estates, the average lot size is 1.24 acres and that includes some lots that are half acre. That's the smallest in there and this development that's almost the largest in it. That's not compatible and across the street there are two acres, just slightly less than two acres and above. That's not compatible. And that's our statement of fact. The fact is on the lots to the north of this proposed development on Sandpiper, let me get my right piece of paper here, excluding the fifteen acre lot, I'll take that out, for consistency sake. That's.. excuse the data. The average lot size across the street and along Ustler and Tanglewilde is 1.93 acres. Okay. And I took out the fifteen acre lot that would skew that data. The average lot size on Sir Arthur Court, which is called Camelot Subdivision, is 1.21 acres. That is on the southwest bottom side of the lake... Lake McCoy. The average lot size is Wekiva Landing, which is a spur off of Oak Pointe Estates, is 1.63 acres. These are the statement of facts. The Oak Pointe Estate subdivision the average lot size is 1.24 acres. That is a statement of fact. These are the facts that show that this particular proposed development is not compatible with the surrounding area and the characteristics of the neighborhoods that abut it. There is just no comparison.

Moon: My suggestion to the Planning Commission is that you proceed with the public hearing portion...

Hooks: I intend to.

Moon: to listen to the evidence and testimony then make your determination based on the information provided at the hearing as well as that provided by staff. That completes my presentation.

Hooks: Thank you. All right. Yes, ma'am?

Fitzgerald: I am representing the applicant...

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Hooks: Give us your name and address. We're glad to see you. Who's got the green... green...

Fitzgerald: Nice to see you too.

Hooks: Oh, you're flashing it at yourself?

Fitzgerald: My name....

Hooks: Somebody is targeting you already.

Fitzgerald: My name is Miranda Fitzgerald. I'm an attorney with Lowndes, Drosdick, Doster, Kantor & Reed law firm, 215 North Eola Drive, in Orlando, representing the owner of the property, Alan Goldberg, who is here with me. Alan is a representative of the Trust that owns the property. And I haven't appeared.... I haven't done anything in the City of Apopka for years and so what I thought I would do, and I don't know any of you personally, and because of that what I would like to do is give you some credentials. Let you know a little bit about me and primarily because this is a quasi-judicial hearing and I'll talk a little bit about that in a minute but if I may I would like to give the clerk a copy of my resume and I have copies for each of you.

Hooks: Sure. David, we are going to run over the 6:30 time limit. I don't know what we need to do about the people that's coming...

Davoll: They are going to wait outside.

Hooks: Okay. Are they going.... Is somebody outside?

Davoll: They already know that this could have run over...

Hooks: Okay.

Davoll: So they were going to wait outside.

Hooks: Thank you.

Green: Excuse me. Is the door unlocked? Can people get in?

Officer: That should be able to.

Green: Okay.

Hooks: Thank you. Sorry.

Green: Thank you.

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Fitzgerald: As I said, this a quasi-judicial hearing. Anytime you're dealing with zoning unlike comprehensive planning, but when you are dealing with zoning that's quasi-judicial. That... that has a meaning that's important and it means, as David has already said, that your decision... your recommendation this evening and ultimately the decision the City Commission is... has got to be based on competent substantial evidence. The staff report that you've received is always deemed to be competent substantial evidence. It's prepared by professionals. They know what they're doing. It's.... If your decision is supported by that staff report that staff report is going to be deemed as competent substantial evidence in the record. Testimony from neighbors, neighboring property owners, may or may not be deemed to be competent substantial evidence. It really depends on what the topic is that is being discussed and whether there is some kind of special expertise that they have to talk about it. For example, to talk about traffic issues you really... just because you sit in traffic every day doesn't mean that you're really qualified to talk about whether the roads operate at an adequate level of service. If you talk about the fact that you see an eagle flying over the property periodically doesn't necessarily mean that your competent... have the credentials to talk about whether there are listed species on the property for example. And similarly, testimony from an attorney, such as myself, is not competent substantial evidence unless there is some expertise there and that is the reason I wanted to show you my resume. I've... For thirty-five years my practice has been limited to land use, zoning, annexations, comprehensive plans. Every manner of land use that you can probably think of and I have been qualified to testify as an expert before several circuit courts in Florida and will be testifying to you tonight not only as a representative of the owner but because of that special expertise that I have I would like to be considered to have some expertise in the matters that I am going to be talking about. So let me start. What I would like to do, and Mr. Chairman, I heard your comments. What I would like to do is kind of start at the back end. As David has said, we have had a lot of discussion with neighbors since the last hearing that you had and I was not here at that time but I have read the minutes, we've had some changes. We've had discussions with some of the neighboring property owners and I want to hand out if I can some proposed or revised conditions should you choose to agree to recommend this project. So what... what we've done... David, can we get the plan back up there. I don't what you all are working from to make that happen. Anyway what we've.... Thank you. Handy little gizmos there. So what has happened, you all have read the staff report that has been presented. And one correction that we need to make right at the outset, and I'm sure this is not going to make the Chairman happy, but we're going to say it anyway. The actual minimum... the minimum.. the smallest lot that is proposed in this subdivision or plan as 11,691 square feet. The staff report actually says that the minimum is 12,800 square feet. I just wanted to point out that that is not correct.

Hooks: What did you say it was?

Fitzgerald: It's 11,691 square feet. The largest lot is 29,600. Slightly over 29,600. So it's a blend. A mix of sizes. But I wanted to make that correction. On average the lot

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sizes are 18,000 + square feet in this plan. David had talked about the... the tri-rail fence, the second condition... addition here is the tri-rail fence with dense landscape buffer to reach six feet in height within two years. I didn't put in this document that you all are looking at where that is located but David went over that when he gave his presentation. It's not the entire frontage on Sandpiper but it's the eastern portion before you get to the retention pond. I think that's right, David, correct?

Moon: Yes.

Fitzgerald: We have made a commitment to the residents in the Wekiva Preserve subdivision not to have less than 2,200 square foot house. They asked for that. They also asked, and we've agreed, that this will be a gated community. There is some... In the earlier draft there was... that was left to be kind of an option. Something to be decided later. We've gone ahead and made the commitment that it will be a gated community and any language that's in the staff report or otherwise that would be inconsistent with gating we are asking to have that changed so that it will be a gated community. And then also in negotiation with the Wekiva Preserve owners we've agreed that at least 500 square feet of driveway pavers per house or, as an alternative, side loaded or court yard entries for each house. And that decision would be made on a house by house basis by the builder at the time of construction. We've asked for, and we are in disagreement with staff on this, and I just want to point this out, we've asked to have an internalized sidewalk. We have sidewalks along all of the streets in the development but we've asked to have an internalized sidewalk that would go... let me find my graph here. Can we switch to an overhead? How do I do that? Let me just.. there it is. That's better. So I just wanted to show you... So the idea would be to connect the internal roads with an additional road that would come up in this... a walkway... up to the corner of Ustler and Sandpiper and that way all of the students, all of the people that are living in this development could have internal sidewalk to this corner. There is already a sidewalk on the other side of Sandpiper and our thought was we can provide for the residents in this community internally that would be our preference and so we would make that request. The... We've also heard concern last time and from reading the minutes there's concerns just about traffic on Sandpiper. Staff agrees, our traffic consultant agrees, that the roads in the area operate at satisfactory levels of service. They operate appropriately. It's not creating a degraded condition of the road network but if it would help and if the City would approve it, we would be willing to install stop lights... there's already stop lights going....

Hooks: Stop signs or stop lights?

Fitzgerald: Not stop lights, I said the wrong... stop signs. Sorry. Stop signs here but to make this kind of a four-way stop at Ustler and Sandpiper just to slow traffic down. Cause again there was quite a bit of concern expressed last time about that. So those... those... I'll come back to these at the end but I wanted to next just go through... I was going to go a little bit into the history but I don't think I really need to do that. You've heard a lot about that and I know time is precious. So let me... let me do

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this, let me go to comments from the last from the minutes of the last meeting and doing that I want to show... I want to show you two graphics. I don't know if I can put these up... let me show one first and then I'll put the other one up because I think this, at least from my perspective, interesting. What you're looking at here, this property.... It won't show up...yeah, there we go... This property is the property that we are talking about tonight. All the property on this graphic in yellow is in the City of Apopka. Every bit of the property in white on this map is in unincorporated county. So all of the neighbors that you heard from during your last meeting, neighbors to the south, neighbors to the north, a few neighbors to the east, are not city residents, and to the extent that that makes any difference in your mind, I think it's important and I want to tell you why I think it's important. It's one thing to say that we want to you be compatible, we want you to be consistent with the neighbors to the south and to the north that are in unincorporated county. Those properties are developed under county standards. They were developed a long time ago. The County regulations to the north have that as agricultural property. Just by its terms, agricultural are larger lots. To the south the Oak Water Estates area developed in the County. It's R-1AAAA. The minimum lot size that could have been developed in that subdivision is one-half acre and the reason has nothing to do, I mean realistically, had nothing to do with really saving trees, or making it pretty, or anything else. The reason you have a minimum of one-half acre lots is because there is no sewer in that area. Orange County did not provide sewer service to any of these areas in northwest Orange County. Doesn't exist. And so to get sewer service you have to annex into cities. And so one of the revenue streams, candidly, that the City of Apopka has, is its utilities and so what this project is bringing to the City, not only is tax revenue because you have the additional ad valorem tax, but you also are going to get sewer revenues and water revenues. And I don't know, I've tried to find out, I don't know if the Oak Water Estates people are on City water or County water or if they have wells. I don't have the answer to that but I am sure they don't have sewer. And this property has to have sewer. That changes the economics because when you have to install sewer lines and extend sewer lines that adds a cost. And so to have larger lots and sewer lines on top of that, which benefit the City, it just... it adds... it adds to the price. It doesn't make it as... it makes the houses more expensive and so on a square footage basis any of the houses that are developed in this property are going to cost more today. Prices are coming up again and they are going to be more expensive. So we have... the other thing that troubles me a bit is because we have county residents in large lots subdivisions approved in the county, coming to the City and saying we want you to duplicate exactly what we have and more and, you know, if you don't do that we don't want you to be approved. So they are telling the City, yes, you install the sewer system, yes you gets revenues, but we don't want you to maximize those revenues. We want you to have large lots and where you could have smaller lot we don't want you to do that. We want you to have larger lots and in fact, your comp plan, the City's Comprehensive Plan, says that there is a need during the planning horizon for the comp plan that the City of Apopka will need 41,005 new single family residential units and 7,493 new multi-family units during the planning period of your comp plan. You are not going to achieve that if you force people to have 1.3 acre lots. It is just not going to happen. And so...



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Hooks: Explain that. I don't quite understand why you're saying that. What do you mean we have to have? To do what? What's that?

Fitzgerald: Your comprehensive plan... first off let me back up a little bit. When the City, when any jurisdiction, adopts a comprehensive plan what that plan is, it's a long range look of population needs, demographics, what it is that the city is planning for as it goes out on the planning horizon. And in looking at the future your.... The housing element that is in your comprehensive plan says to satisfy the demand that is projected to be coming to the City of Apopka reasonably they expect that the City is going to need to approve and have available 41,005 new single family residences in the planning horizon and that goes out to 2030. It's not happening tomorrow. It's a long range plan but it's still a lot of houses. And so I understand that the people in the neighborhood bought into an area that was rural. A lot of west Orange County, Northwest Orange County has been rural for years. That fact is changing. I mean it is becoming more urbanized. All you have to do is go down 441, 436. Any of the areas. It is more urbanized today and it's nice that there are enclaves and areas like Oak Water Estates because that provides an alternative lifestyle. It's a lifestyle that will attract people looking for those large lot subdivisions. Looking for that area but it isn't everybody. Not everybody can afford that. Not everybody wants that lifestyle. Not everybody wants the huge yards that you have to maintain and the huge pool that you have to maintain. More and more, the demographics are that you want a pretty large house but you want them on smaller lots because of the maintenance cost is so much less if you don't have the yard guy coming every week and the pool guy coming every week. So again, just demographics have changed by making the commitment for 2,200 square foot lots... houses on an average lot size that will be 18,000 square feet, we do think this is compatible and we think it's... it's particular compatible to the areas that already annexed into the City. Let me show you a couple of those. The... This is Wekiva Preserve. It's a gated community. This will be a gated community. This is R-1AAA lots in the City. The R-1AAA lots, it's interesting, because the City's lot sizes are larger than the County lot sizes. So when this was approved in the County the County's R-1AAA lot size, under their standard zoning, is 14,520 square feet. The City's is 16,000 square feet so the R-1AAA is what... is what this property has. Again this has... the is R-1AAAA. The City's doesn't even have an R-1AAAA category. It's not apples to apples at all between the City categories and the County categories. The City categories are generally larger. The County's R-1AAAA, which is Oak Water, is a minimum half-acre lots and, as the Chairman said, there are some lots that are half-acre in there and you can't have them less than a half-acre because they are on septic tanks. So that was... that was the driver that made that subdivision what it is today. The City is requiring this property to have sewers. We don't have the option of having septic tanks. Even... Even if we went to half-acre lots or one-acre lots, the City would not let us develop those lots on anything other than sewer. So we cannot do septic and that is a cost and it is also a benefit to the environment not to have leaking septic tanks over time. So under any circumstance irrespective of what's in the code, and I know there was a lot some concern because the staff reports talks about minimum lot sizes, minimum

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house size based on the R-1A code in the City which in R-1A is only a 10,000 square foot minimum but the PUD that we are doing trumps that. Nothing.. Nothing... where the code has one condition on the same topic and the PUD has another condition on the topic, every day the PUD condition is going trump the code. So as I said earlier we've got one lot in this project that is 11,000.... Whatever I said.... 11,691 square feet all the way up to 29,600 square feet. The average 18,000 square feet for this development that is in the City that's on sewer. We've talked... another... Another big issue that the... at the meeting the last... before I... before I want to leave.... Before I want to say one more thing about sewer lines because I think it's really important. The only way that a City grows its tax base is to annex. It can also raise its millage, it could do that, but that's not generally very popular with the existing residents in the City. So your way of raising revenues in a City is annexation. And when you have a development and you have a utility system. You're getting revenue off of your utility systems. And you have a development that is going to extend sewer lines farther into unincorporated county territory that opens up more of an opportunity in the future for the City to annex additional land and grow the city, grow the city's tax base. And there will be, I am sure, eventually, some of this land, maybe not Oak Water Estates, but some of the agricultural lands that is up in this area is likely to annex into the City and because of this property you now have the opportunity for that annexation and you have the opportunity to have additional sewer revenues that you wouldn't have unless somebody else came in and extended those sewer lines. The house size... we've already talked a little bit about the house size, was also a big issue at your last meeting. At that point the issue before you was whether 2,000 square feet was going to be adequate. The City's standard is 1,800? David is that right?

Moon: The maximum that we have in that category is 1,800.

Fitzgerald: 1,800. So that's the maximum...

Moon: For straight zoning.

Fitzgerald: For straight zoning. So we started at 2,000. Many of the homeowners thought that was inadequate. We've increased it to 2,200. That's on the table today for your consideration. Very, very few of the houses in the area were built to minimum house size. And so I think when you see those minimums in code. I mean, just look at... I don't know where you all live but I mean if you look at your own subdivisions when you have those minimums in single family residential housing areas, generally the buyers come in and want the dormer on the house or they want the added on bonus room or they want something more than just the minimum. So it's not... I would say it's probably rare that you would ever have a majority of the very minimum house sizes in any kind of a mix of a subdivision. I want to talk a little bit.... Just a little bit about house value. We touched on that a bit. There was some concerns about. I'm not an appraiser but I do know that you can go to... you can look at what houses are selling for today on Zillow and other things. The houses in this community will start, the lowest price is expected to be \$250,000 and on the lake front lots, they are

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expected to be \$400,000 to \$500,000 as a start. These are not... these are not starter homes. These are not going to be kids right out of college that are, you know, have their first job and are going to get their first house. That is not going to be who lives in these houses. So value, we think, is certainly going to be comparable to what is there and that goes into my view that's part of compatibility. It's lot size, it's whether you are dealing with apples to apples. Is the infrastructure the same? Is there a benefit to the City to have lots that are smaller that generate more utility revenue for the City? And can those lots be compatible with the houses that are reasonable sized along with everything else. And as far as the homeowners in Oak Water, may this would be... I could.... Well let me just skip with this graphic because I can just... it's not quite... too many papers... if I can find it quickly.... This one might be a little bit better. So here you can.. is that clear enough or is it my eyes?... little out of whack... Anyway. So this... I think... hopefully you can see this... this says R-1AAAA. That's the county's half-acre standard lot size recognizing that a number of these lots are larger because they go into the lake. All of these lots are lake bottom, part of the lot is the lake bottom. So that's where you get your huge lot acreages for the property in the County that are immediately south of this. Part of the commitment on the project is to have a 30 foot City conservation easement along the south boundary and I was driving through the neighborhood today before the hearing because I wanted to see the homes and I wanted to see the property. And it is amazingly dense. I mean.. you... it is... I mean it's... you can't see anything. If this buffer stays, as it will, it is a complete... complete buffer to everything on this side. Again the buffer will not extend around the lake edge but as David said, every one of the... there are eight lake front lots... they get 15 feet each to clear on their boundary. So that is not going to be intrusive to the neighbors across the lake. They are still going to see a heavy vegetated area as they look out. But that buffer will stay. There's not going to pools in it. There won't be accessory buildings in it. It will remain as it is and it is very dense. The other trees... want to talk about this too... trees were a big issue the other night at the September hearing. People were very concerned. They didn't want trees to be... they didn't want this property to be clear cut. They didn't want mass grading done and one of the commitments that's reported in the staff report is that will not happen. The lots will be selectively cleared. You all have a very stringent tree ordinance. So on a site by site, lot by lot basis the goal is going to be preserve as many trees as possible and so as part of this project, part of the development, fifteen acres here is being established as a park for the neighborhood. And for... and again driving on Ustler today, incredible dense vegetation here. And I was... I was pretty impressed and there is a huge house.. right here... I don't know how big that house is but its giant. It's a really big house and I was thinking to myself, they are not hear. They're not complaining. They know they are not going to see anything that's in this development because that area is so dense and it will stay that way. It's open space. It's to be used for recreation. It will be selectively cleared but the buffer along the south edge, 30 feet, preservation, in the City, and the reason I'm making the distinction here, that is not going to be a St. Johns River Water Management District type of conservation easement. It's not wetlands but we will give an easement... a conservation easement to the City as an upland conservation area. Let me just touch real quick on wildlife. That was another

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issue. There is only one protected species on this property. It's gopher tortoises. Those are virtually everywhere. I mean they are listed as a listed protected species but their just... I don't... I think I've had one site in as long as I've been doing land use that didn't have gopher tortoises but they will be relocated onto the park property that is going to be retained an open space. We talked a little bit about traffic as well and it does, as your staff report has indicated and our traffic engineer has indicated, traffic is not an issue for this development. It operates... the roads operate... will continue to operate at adequate satisfactory levels of service and the owner of the property has offered to install stop signs if the City thinks that would be beneficial to keep traffic more controlled on Sandpiper. So with that, Mr. Chairman, I would just wrap up. I would very much appreciate your consideration of approval... recommendation for approval of this. I know there are a lot of issues and I know you have concerns. We think this is the right thing for the City. We certainly know there is a market for it. It's not one of those things... there was some fear expressed at the last hearing.. well what happens if these guys go away and it doesn't develop. There is a tremendous demand right now. I'm seeing it in my business and I'm, you know, across... I'm sure you're seeing it too with just the number of applications that you're probably getting, but this will develop and it will be developed very nicely and it will be compatible with the neighborhood and we would appreciate your support. Thank you very much.

Hooks: Thank you.

Fitzgerald: I would like to reserve a little time for rebuttal, Mr. Chairman, if I may.

Hooks: Sure. One of the things that you mentioned in your report is that there was a demand for this type of subdivision and I agree that there is. We've seen it and we've planned for it. We've got some developments that are coming before the City, one after this, with Florida Hospital. That whole area is being looked at for those types of single family homes and Kelly Park Crossing will be another one and we just...

Fitzgerald: Right.

Hooks: approved a Small Lot Overlay to accommodate some of these smaller homes and there is a demand for larger homes on smaller lots. I give you that. But there's still also a demand, as Mr. Haubner pointed out last month at the meeting, that the calls to his office are for "Do you have some acre lots or two acre lots." Not "Do you have a small lot with a 4,000 square foot home or 6,000 square foot home" that... he says he is not getting those kinds of calls but he is getting for acreage and, you know, we have development on the north side of Apopka "Bluegrass Estates" that have very expensive homes in there and, to my knowledge, they are all sold. There aren't any vacant homes in there so there's also a demand, although much smaller, for that type of development and I could see this being similar to that development with larger lots. That... I'm going.... I'm here to represent the people and I don't care if they are county or city. That is immaterial to me and I want to hear from them. You say you have met with them and have come to these terms. I will point out that on the

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minimum lot size and the average lot size. Nothing's changed. Those are exactly as they were... The point... the 18,000 average that's what it is last month when we talked so that's not changed. The minimum lot of 11,691, that is exactly the same as last month so that hadn't changed either. I want to open up public hearing for anybody else who wants to speak. And first, before we get started, I'll go over those who have turned in sheets to speak and the first I have is Colleen Kelly and this is in no particular order. So if Colleen would come up and give us your name, please, and your address and make your comments. We've got four minutes setup on the timer set. I'm going to try not to go by that. What we don't want to hear is what you told us last month. I already heard all that. We're going to take that into consideration again, but if you all have met with the developer and have come to some consensus, I'd like to hear about that. I'm... I'm with you'all. I'm here to help you all and like I... like I can say I think we can leave here tonight with some compromise if you all haven't already accomplished that. You may have. So go ahead.

Kelly: Hi. My name is Colleen Kelly. I live at 918 Palm Oak Drive in the Wekiva Preserve subdivision. I just... I talked with one of our Board members and she is going to be speaking with the conditions that she has made with Mr. Goldberg. But I wanted to speak on, Mr. Hooks, is what you talked about with the trees that they want to put in on Sandpiper. I agree one hundred percent with you they shouldn't put canopy trees there. I was a code enforcer for 21 years with the City of Orlando and one of the jobs that I had was doing landscape inspections. And the City of Orlando's code has what they call canopy trees and understory trees. Canopy trees are large oak trees, large sycamore trees, sweetgum trees. Stuff like that. Yet the understory trees which are your crepe myrtles, your wax myrtles, and holly trees and stuff like that. And when they wanted to change out a tree plan, they had to do it two for one. So instead of putting the canopy trees along there, what they should do is maybe put in two to one or three to one understory trees, the crepe myrtle type of whatever like that. And I think that there should be a minimum or a minimum sized canopy tree that should be left in the subdivision like a 22 inch caliper or something like that. I'm not sure what caliper is on the property because I haven't... I don't feel it's my right to walk on that property.

Hooks: Right, right, right.

Kelly: But that's what I wanted to talk about was the trees basically.

Hooks: Okay.

Kelly: And what you can do.

Hooks: Thank you. The... I agree with you on the tree issue. I like the canopy trees over the roads but if the power companies are going to come cut them in half, there's no point. They look worse than if you just put up understory trees or whatever. All right, who were you referring to that is going to give us a presentation?

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- Kelly: Crystal.
- Hooks: What's your name?
- Lawrence: Crystal Lawrence.
- Hooks: All right. Let me get to yours and let me hear what you've got to say and then we can go from there. Okay. Fire away.
- Peronti: I'm going to walk her down.
- Hooks: Sure. You can hold her hand.
- Lawrence: I need it. My name is Crystal Lawrence. I live at 842 Palm Oak Drive.
- Peronti: Michael Peronti, 865 Palm Oak Drive.
- Lawrence: I'm here on behalf of the Board of Directors of Wekiva Preserve. We are a gated community of 73 homes. We have an average home size of a little over 2,900 square feet. We are located in the City of Apopka on the corner of Sandpiper and Ustler. Due to our proximity and the fact that we are located within the City, the homes in the proposed development will be direct comparables for homes sales within our community. In an effort to protect our home values we will not oppose and we will support the proposed development provided homes be a minimum of 2,200 square feet. The community remains gated and the provision for public roads be removed and each lot will have a minimum 500 square feet of pavers or courtyard side-entry driveways. The only thing that I would like to add that I wasn't going to say was, if any of you have driven down Sandpiper and seen the condition of the property and the way it is now, it's become a dumping ground. And it's not doing anything for our property values. We have no way to bring people into our subdivision that's astatically pleasing. If they come down Sandpiper they see this property that has abandoned homes. It's being used as a dumping ground. If they come down Ustler the side of Ustler opposite of use is County where there's very little enforcement. So we, for all those reasons, and in an effort to protect our home values are going to support this development.
- Hooks: Okay, thank you.
- Peronti: Thank you.
- Hooks: All right, Mary Schwarberg, on Sir Arthur Court.
- Schwarberg: I was hoping I wouldn't be first. Hi, I'm Mary Schwarberg. I live on Sir Arthur Court.
- Hooks: 519.

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Schwarberg: 519 Sir Arthur Court. I live on the bottom side. I do face the trees, that I very much do appreciate and I think there were some of the neighbors that were here before that are on the other side of Ustler. Something I am concerned about is the four-way stop. I walk my dog down Ustler around 5:30 and there's a tremendous amount of traffic that makes a left hand turn to go down to the post office where there is a light where they can get out and turn left onto Park. I know that some here are very much interested in getting that four-way stop but I do think it is going to increase the amount of traffic going down Ustler and onto Tanglewilde and Tanglewilde is not a safe road. So I think that if you're going to put a four-way stop in there we need to consider putting a stop light in on Park so that traffic will continue down that direction to make that left hand turn. The other thing that I'm concerned about, reading through some of the documents in the last month, when we talk about two acres or two homes per acre. Why aren't we talking about lot sizes? And I personally, I do not represent anybody else here, if we could get to a half acre lot size I'd be very appreciative. I think it would keep my home, which is nearly an acre, it would keep the value there and I do... One other thing, is that I bought my home about a year and a half ago. And when my husband and I were looking we looked for a year to find a home that did have a larger lot that we could build on because the essence of the area that it's in we could make that home larger and add more square footage onto it and that's something I think there is a market for. It might not be a large market but there definitely is a market and you cannot find a home like that. We took a 1973 home, gutted it, and put \$70,000 into so far and we have a lot more to go. There are people out there that... God, I would have loved... loved to buy a home that would have been a half-acre in that beautiful area that I didn't have to do that and pay more than what you're going to have to... what you would ask for... for a home on a half-acre lot. So I that's... that's all I have. Thanks.

Hooks: Thank you. Lou Haubner is next.

Haubner: Lou Haubner, 140 East First Street, Apopka, Florida. I live in the City and I live on Tanglewilde which is near this property. Number one I would like to ask exactly how many acres is actually developable of that property? With all the easements and conservation, well not conservation easements. We haven't gotten to that point yet, but all the easements and so forth that go through it. I'm wondering how much real developable acreage is there.

Hooks: Forty-eight point 4 acres.

Haubner: Okay, the real thing is that when we say two units per acre what we are really saying is the city approved low density suburban. Which is zero to two acres or two units per acre. So I would like to see it be zero but I would go along with half a house per acre or maybe even one. But that is one thing I think you need to consider is the zoning. The low density residential is zero to two, not two, zero to two. I'm not sure I would want to live in a gated community with trees around it and a wooden fence across the front. I think probably they need to put one of those dog wires around it and when you step on that dog wire you get electrocuted. I'm not sure a gated

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community is a place for a buffer zone. And the second thing, I'm not sure you can put a walkway through a conservation area. They keep saying they are going to donate this property to the City along the lake. Well, who is going to take care of it? Is the City going to take care of or is the home owners going to take care of it? You got a fifteen foot right-of-way through that if you build a house there. Well those... sooner or later those are going to get wider and wider and wider cause, you know, they sell a lot of RoundUp and pretty soon you want to see the lake. If you buy a lake front house for half a million dollars probably want to see the lake. I would. So I probably start clearing there secretly without anybody knowing it. And the third thing. They talk about that fifteen acres, I think it is on the east...or the west side and I talked to the developer or one of the representatives for the developer, recently and I asked him, I said "Are you going to turn that into a conservation area? Well, who is that land going to belong to? That fifteen acres? Is it going to be deeded to the City? Is it going to be deeded to the community? Or is it going to be turned into a conservation area?" And I'm sure you are aware what a conservation area is. You can't do anything with your property from here to eternity if you give it to a conservation area. You can't put a walkway through it. If there is a bike path through there now or where people ride four-wheelers, you have to put it back into its original state as it was in the early 1900's. Before it can be turned into a conservation area and you certainly can't put a walkway through it. So those are some of the points that I wanted to hit and I think we need to look at the Comp Plan and look at the two units an acre and the square footage of the houses. There's a lot of negatives to this development so. Appreciate your time.

Hooks: Thank you. Jill Cooper.

Cooper: I'm Jim Cooper. I live at 954 Oak Point Circle, on Lake McCoy. I support the decision last month to reject the proposed zoning change. The first speaker said that the reason I have a large lot is that part of my land goes underwater. That is incorrect. I have a half-acre when the water is at its highest. If the lake dries up, it becomes two acres. I believe the average lot sizes that Mr. Hooks referenced are correct and those are all above water. You were incorrect when you said that my lot is large because it goes underwater. I'm just a little surprised that Mr. Goldberg sent a speaker to say that I was not competent to stand up here and speak to you and that my voice doesn't matter. Even though my property directly abuts the new neighborhood. As Mr. Hooks mentioned in the mission statement of the P&Z, one of the roles is to speak for the stakeholders. I am a stakeholder. I can see this property out of every window across the back of my house. I also thought that the definition of a PD was to give some flexibility to give the developer to work with the neighborhoods to come up with something that was consistent. Even though I live a few feet outside of the city limits, I am an Apopkan. I've lived here for thirty years. You spoke about taxes, I work for twenty-two years in the city limits. I shop here. I live here. I'm trying to stay very professional and positive but I'm just appalled that the speaker would come up and suggest that the citizens voice shouldn't be heard. Thank you for understanding the importance of choosing the proper density for this area. The density will determine the lot size, the house size, the setbacks, the future



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house size if someone wants to expand their home as a family grows, and most importantly the number of mature trees that can be saved and therefore the character of the neighborhood. We look forward to a new development on Sandpiper that takes more consideration of the character and consistency and lot sizes of the existing neighborhood. Thank you.

Hooks: Thank you. Mary Smothers. Mary Smothers.

Smothers: Mary Smothers, 1005 East Sandpiper Street. Several things that I just want to kind of mention in light of what Jill just said. Being an Apopkan for a very long time, I have lived in the house that we live in now for 36 years along with my husband and family. But my husband's an Apopkan from way, way back. He's been here 71 years. Almost from birth. His never lived in the City limits. His always been in Apopka. We fill like step children with those kind of comments. You know, like, you really don't belong here, but we live here, we shop here. We go to church here and everything we do is basically around Apopka. Centered in Apopka. So that kind of hurts. Hits kind of low. I thought Mr. Land said... Mr. Moon said, excuse me, Mr. Moon said that there was going to be a sidewalk on the south side of Apopka... of Sandpiper Street? Did you not say that?

Hooks: That's their suggestion.

Moon: Yes, that's the recommendation.

Smothers: It's what?

Hooks: That's his recommendation.

Smothers: Okay. That sounds good. I like that idea. Because now the children won't have to cross Sandpiper, go all the way down to the corner on Ustler, and cross Sandpiper back. So that sidewalk is a good proposal. The sidewalk going through the west end of the property is not a good proposal. It's more direct but if that's like, was mentioned that if that stays into the original land that it is now, swampy, woody, overgrowth, Mr. Harmon said at the last meeting, coming from his police background, he was concerned about the safety of children going through something like... even if it's a nice sidewalk. Not only do we have wildlife and critters like that but he was more concerned about the two-legged critters like mankind that could harm our children. Could be hiding out and harm our children. So that, even though it is a nice idea to get the children closer to the school, it was... there's a lot of concerns there. Many things came to my mind as people were talking here, but I did want to tell you that just today after 4:00 I got in my hands the first part of a traffic study. And for this area... that area. There will be more to come probably to do traffic lights and things but it will be here. As soon as I get it I'll get into the hands of the City, but I will just read the bottom line here of these. Because it's hour by hour. So over a 24 hour period traffic study. So I'm just going to read a couple of them for you. North Park Avenue and Sandpiper Street. The actual daily total Park Avenue and Sandpiper was 28,008. Sandpiper Street at Park was 2,370 in one day's

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time. That's why it was proposed that we have maybe a traffic light there at that so we don't go around to Tanglewilde like I've been doing for years. Thompson Road and Sandpiper. Thompson Road the actual daily count or total 6,548. Sandpiper Street and Thompson Road was 2,561 cars or automobiles. Ustler Road and Welch Road. Ustler Road at Welch is 420. That's today. Don't know what it will be if we get another whole bunch of people. A whole bunch of homes. I think the reason for that low number is if you go up there you can only turn right because it's almost impossible to turn left. Especially at certain times of the day. Welch Road 15,176 have already gone up and down Welch Road in a day's time. These are the exits for the development if they, once they get there. Ustler Road and Sandpiper Road. Ustler Road is having 1,241 cars a day. Sandpiper at Ustler 4,548 cars a day at this time. That's October. I'll get more information on their study in the near future and get it into everybody's hands that need it or want it. So I understand that this property was designed... or was proposed to have a maximum of 49 homes. That's maximum. That's like a speed limit, you know. The maximum speed is 65 let's all do 75 or 80, you know. That's the maximum but that doesn't mean we can't go under it. Now if we took those three homes.... I think it was three homes that was kind of dug out of the Ustler end and instead of squeezing them into the other, if we just drop those off, we still have a probably lot size, and a house size, that, I think we could live with. I think that would extend that just a little bit because you've squeezed those properties down now to add those other few homes back into your 49 count as well as squeezing them back up because of the buffer on the south side of the property and that squeezing them down again. So I'd love to see the larger homes and larger lots and we've talked about that and I know you've heard enough about it so I just wanted to be sure and give you, though, this traffic report that I just got today at 4:00 and just take that into consideration as your making your final decision.

Hooks: Thank you.

Smothers: Thank you.

Hooks: Les Hess. Yes, sir.

Hess: I'll try to be brief. I think the most important issue is that the density is not compatible with abutting properties.

Greene: Could you give us your name and address?

Hess: I'm sorry. My name is Les Hess. I live at 578 Wekiva Landing Drive. I appreciate the Chair's comments about the city versus county. I'm sure one day I'll be in the City of Apopka as Apopka is expanding. There's something unseemly when what has happened is that the County denied the application or at least put into it certain requirements that were unacceptable and so the developer goes to the City. Now when it comes to the City, he starts complaining about the cost of sewers and tries to pit city versus county. So that seems inappropriate and unseemly to me. This isn't a

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park on the west end. It's a swamp. Okay. I'm concerned about saving the large trees. You've heard a lot about that. I just wanted to highlight that and the last thing I want to mention is these buffer zones. I think it was Mr. Haubner spoke my mind when he talked about what's going to happen. The 30 foot area on the south side that is supposed to keep the south houses from this development from being right in the existing ones. The people who live there, unless we put up some kind of wire fence or something, they are going clean it up. They are going to clean up back into the woods behind their house and the 30 foot buffer zone is going to go away. And likewise on the lake, unless there is some barrier there, there's not going to be a policeman there or even a zoning or code enforcement person saying you can't RoundUp this you can't cut down that tree. It's just going to disappear with time. So the big picture is that this density is too much and to reduce that density would reduce much of the resistance. Most of us agree that something needs to be done with this property, but something more appropriate. Thank you.

Hooks: Before you leave, cause you're my last one. Have you got a recommendation on density?

Hess: Pardon me?

Hooks: Have you got a recommendation on density that your neighbors are....

Hess: No.. no, sir.

Hooks: Okay.

Hess: I did want to mention that the... the Wekiva Preserve who came up with some specifics...

Hooks: Right.

Hess: ...is not an abutting property.

Hooks: Right.

Hess: Thank you.

Hooks: Yes. All right, I got... have a couple of comments and then... yes, please come back. The traffic study that was referenced actually indicates that the roads are no at capacity. That this is not going to be a significant impact to the capacity of the roads and that's the report that you are eventually going to get on those numbers that you just presented. So that's not going to help your cause at all, but the four or five hundred traffic generated by this subdivision, as proposed, will have an effect on congestion and again I would like to get us through this tonight so that we can... as a Commission can make a recommendation to the City Council on something that we can approve. That we can agree on and its certainly does not appear that I'm going to

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ask you specifically who in the world did you'all talk to that you came to these conclusions that they were okay with it and don't tell me that its Wekiva Preserve because they don't abut this property.

Fitzgerald: They abut at the corner. I mean its...

Hooks: They abut on the corner.

Fitzgerald: contiguous on the corner and they are not in the city.

Hooks: They abut on a corner that is undevelopable.

Fitzgerald: They're in the City as well. All right, I'm going to...

Hooks: Okay.

Fitzgerald: I didn't make comments when the neighbors were up there. I'm again, Miranda Fitzgerald. Just to make a couple of closing comments. First off on the buffer. The owners of the property immediately to the south, the estate property, appointed a committee that agreed to the 30 foot buffer in lieu of a wall. We were doing that in conjunction, working cooperatively, with the neighbors to the immediately to the south. All of the lots, I left my point back at my chair, but all of the lot where lots abut lots with the 30 foot buffer in between they match exactly 110 feet across that back property line. Again there is a 30 foot swath of trees in between but those lot lines are the same dimension, so I'm going to hand this to the Clerk for the record. This is the... this is a letter from Mike Corban, who's one of the homeowners in the subdivision to the south. An overwhelming majority voted in favor of a 30 foot untouched natural buffer with the existing trees, vegetation and fence. We hope that it would become a separate parcel deeded to the new HOA. That is exactly what's proposed. We would like to begin referring to this buffer as Forever Green Zone or parcel. That's the buffer that is going to be dedicated to the homeowners association with a conservation easement over it to the City. The City will have enforcement rights over that buffer. So it's not going to be owned by the individual lot owners. It would be owned by the association. Again the City having enforcement rights through a conservation easement.

Hooks: Do you... Is that a document that is signed by somebody other than Mr. Corban?

Fitzgerald: It's a... It was an e-mail to Mr. Alan Goldberg from Mike Corban.

Hooks: Okay. And I am going to throw right back to you what you threw at us at the very beginning. Unless you've got a signed petition by other... all those people that he said... that is immaterial to me. Was one person's agreement... one person's agreement with what you said and so far I've heard nobody else agree to that and, you know, he's not an expert... you say he could be an expert witness but his not. He claims he represents those people but unless there is a signed petition with other

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signatures, means nothing. Its hearsay.

Fitzgerald: I understand your point of view. I wasn't in those meetings. Meetings were held, as I understand it, Mr. Goldberg participated, I didn't. So he can come up and address that, but let me make just a couple of more... couple of additional points. There was comments about the fifteen acres on the west side. That is not all wetlands. It is not proposed to be donated to the City. It is going to be conveyed to homeowners association. It's wetlands, its uplands, it will be open space and a park area. So it is... again... you're not prohibited from crossing or putting a trail through there or a sidewalk through there although I understand the position preference.

Hooks: I think what he was referring to is you indicated that they would dedicate it as a conservation area. In order to do that you have to take it back to its natural state. So then you could not build anything in there.

Fitzgerald: No... only... only...

Hooks: So I'm assuming you misspoke about donating it as a conservation area.

Fitzgerald: No, no, no. There are a lot of different types of conservation... if you're giving a conservation easement to a water management district or to the state... to a state agency...

Hooks: Right, right.

Fitzgerald: That's not the kind of conservation easement I'm talking about. I'm talking about....

Hooks: That.. that.

Fitzgerald: I'm talking about a conservation easement donated to the City.

Hooks: Yeah, that was my point.

Fitzgerald: Okay. And then I didn't... honestly, I did not mean to offend anybody in the audience. The situation is that when you're dealing with quasi-judicial hearings is that it is evidentiary based and you do have to have some knowledge. It doesn't mean that people can't talk about their houses. They can talk about astitics, they can talk about... it didn't say they couldn't talk about lot sizes or anything else. I said when you are talking about traffic, when you're talking about list of species, when you're talking about things that you have to have some experience with that's where it becomes..

Hooks: I think when they were offended was when you insinuated because they were not in the city limited they didn't matter. That's what offended them.

Fitzgerald: Well they don't pay tax to the City.

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Hooks: Okay.

Fitzgerald: They may shop in the City. They pay sales tax. But, you know, I understand. But I think, again, when you are talking about compatibility and when you are talking about zoning and when you are talking about comp planning. Every jurisdiction has their own and you have your comp plan. You have your city vision and it doesn't incorporate the white areas of the map. It's what the City sees as a vision for its area. I'm just pointing that out.

Hooks: Understand.

Fitzgerald: And, let me introduce... I'm just going to give one other letter we got. This is letter signed by, I'm hoping I can read this correctly, looks like Shane Rattel, R-a-t-t-e-l, "would like area to completed. It has been an eyesore for many years. I have reviewed plans and feel comfortable with project. It's inevitable someone will develop the area" from 920... She lives at 925 East Sandpiper Street in Apopka. [Unintelligible]

Green: Thank you.

Ryan: Steve, can we take a five minute break?

Hooks: Sure. Don't everybody go to the same restroom cause it's not that big. All right, lets adjourn for about ten minutes and we'll come back and try to iron this out.

Break: 7:19 p.m.

Reconvened: 7:24 p.m.

Hooks: Reconvene. We're going to pick it up where we left off. Did you have something else?

Fitzgerald: Yes, just very shortly. Mr. Chairman, just to wrap up. To take one thing off the table. I've just spoken to Mr. Goldberg. We will concede on the sidewalk issue and either development the sidewalk, put the sidewalk in on Sandpiper, or pay into the sidewalk fund and then again and I would like to just reiterate the proposed conditions that I gave you earlier. We'd like to stick with those with the exception of the sidewalk would appreciate your recommendation for approval.

Hooks: Okay. I want to make a couple of comments before we try to.... Yes, Lou, go ahead.

Haubner: Lou Haubner, 140 East First Street, Apopka. Two things. Number one the letters that they submitted was the community develop... community boards agreed to a 30 foot buffer, I think, or a 20 foot buffer whatever it might be... a buffer. They did not agree to 49 lots. That letter didn't say anything about approving the subdivision, keep that in mind, it only approved the buffer.

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Hooks: Right.

Haubner: Second thing, I would like to see a sidewalk put in, and Shirley came up with this idea, all the way up to Park Avenue. Either the City put it in or the developer put it in. Not only to Ustler Road. That might be a thought. Third thing, I would like to see them go to... When we talk about 2,200 square foot house, is that under roof? Does that include the garage?

Hooks: Typically, under air, right?

Moon: Livable area. Heat and air.

Haubner: So we're talking about a, probably, a 2,700 square foot under roof, 2,200 living area.

Hooks: Right.

Haubner: And I have no problem with that. I would like to raise it, maybe, to 2,500, but I would propose that they go to at least 22,000 square feet on the lot size and come back with a new development plan. Thank you.

Hooks: Thank you. Anybody else want to speak? Yes, ma'am. We'll get this public hearing out of the way and then we'll negotiate. Try to.

McBee: Hi, Jenny McBee, I live at 609 Oak Pointe Ridge Court in Apopka. One thing that keeps being said that is not true, I live on that southern border. It is not for every house a one to one, like your looking out your yard and you're going to see one new house. I've seen the lot... what's projected. I will look at two and a half houses. I currently look at one. My neighbor, one down from me, he will look at three. So it is not... there... it is true that some of them... some of the southern border lots will look one to one. What the lady was saying but not all of them. And I do live in the neighborhood. I've been to the board members. My husband... the board meetings. My husband and I are now members as large on the Board but it wasn't... we were presented with choices and everyone on that southern border did get to vote. I do think that was a legitimately done thing, you know, Mr. Goldberg did for... but these were our choices, either do the 30 foot buffer, which that letter somewhere did say we want something in front of that 30 foot buffer to assure that it doesn't just get gone somehow. We have a big row of bushes. We want something so that you can't intrude into it easily. But the way it was presented to us, "if you vote for a fence or a wall, that means we're going to have to come clear cut back here to get our concrete, or whatever, to build the wall or fence. We're going to have to come a lot closer and we're going to have to cut a lot more trees down. So it wasn't like, we loved this idea. It was like do you cut your right arm off or left arm off. So that's what it really was.

Hooks: Okay, thank you.

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McBee: And if...

Hooks: Go ahead.

McBee: One last thing. If we're talking about how many houses, at the last Board meeting, and I don't speak for the whole board, but just, there have been comments, we want the development but we would be a lot more at ease if we could have less homes in there on a bigger lots. If we could get down to ten houses I think you wouldn't get a big argument.

Hooks: Yeah, I'm sure you wouldn't. Yes, ma'am.

O'Connor: Hi, my name is Ellen O'Connor, I'm at 1032 Oak Pointe Circle which is in Oak Water Estates. Two... Just points of questions, I'm not sure who to pose it to, but that what is there any requirement for the developer to do any type of tree study. Is there any type of analysis of that that goes into that or what is the City's position on that. And then the second question that I have is that we do live on the lake, there is movement of water if you live in that area or your familiar with area on the north side of Sandpiper. There is a flow of water that goes onto the north side of Sandpiper. You know, when it's dry it looks like a pasture, but is not it's actually a lake area.

Hooks: Right.

O'Conner: So where does that factor into what's being done in this development/

Hooks: I'll let David or Jay address both of those.

Davoll: Well, the drainage portion is, she is correct, there is a large system that was studied many years ago, that comes through there and the area she is speaking of on the north is actually Lake Coroni and it is a dry lake half the year. But that is accommodated for in the requirements and they will not be sending any more water off site. What is currently going off site from the properties and yes, there is an extensive tree survey that required with Final Development Plan and most of you know about our tree requirements. One clarification while I'm speaking. Several times it has been brought about the intersection of Sandpiper and Ustler and some possible changes to the configu.... Or, you know, the...

Hooks: You're going to tell me that it's county.

Davoll: Yes, I am. The County would have to approve any changes to the current configuration or the current signage at that intersection.

Hooks: All right. I figured as much. All right anybody else? Mary, make it quick we need to get out of here.



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Smothers: I agree, let's go home. Those who can't... those who can. I failed to tell you that this Traffic Study was done by the Orange County Traffic Engineering department. I didn't come up with it and by pulling it out of the air.

Hooks: I understand.

Smothers: Moving the gopher tortoises to the west end. Which is mostly swamp even though there are some dry lands as well. How are you going to get them to stay there? If you put them in the wetlands they're going to drown. They don't like wetland. If they are on the dry land aren't they going to march right back where they came from?

Hooks: That's another whole.... Let's just worry about lot sizes and get this thing done. All right, here we have before us ten lots to 49 lots and of course everybody is going to like ten lots except... I understand but these people aren't going to like it and it's not financially viable for them and we understand that. Again, I think we all agree that something is eventually going to develop there and we need to accommodate it. I'm not convinced yet that 49 lots at the size that's been presented is that development yet and I was hoping you all would come and tell me or tell us a little bit about what you would be satisfactory with. Lou suggested 22,000 square feet which is just shy of a half-acre lot. That would put them down to about 40 lots, I think, if I did my math correctly. Forty, forty-one lots versus 49. Just show me your hands. Are you agreeable with that? Okay. Mr. Goldberg, the ball is in your court. Are you agreeable to half-acre lots?

Goldberg: No.

Hooks: I'm going to close the public hearing. We'll bring it back to the Board and we've got a couple of alternatives that we can do for City Council. We can give them the statement of facts that they want which is what I laid out in the beginning of the meeting on the compatibility issue with the surrounding area. There is no way it's compatible with the surrounding area. Whether it's in City or County is immaterial. The acreage doesn't match up. The land use doesn't match up with what is available to him to develop. We can do that and just recommend that they deny this project as it is requested of us. Secondly, we can go forward and recommend to City Council that they approve the project under this, this, this, this conditions under PUD, we have that right. So we can suggest to City Council we recommend approval if they're minimum half-acre lots in the developable area that's been presented with all stipulations that the staff has asked for in their recommendations from staff, and incorporate that. What's your discussion? Let's hear some discussion from the Commission about that.

Greene: In essence, and I think I can go along with what you're saying, in essence the City Council asked us for a statement of fact. Why we found it unacceptable and to me it was primarily lot size and house size. I think we can say, based on the subdivision to the south, that we should have a minimum lot size of a half-acre to be compatible with that. You could argue, I suppose, for something larger to go between what's on

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the south and what's on the north but since they are both on the same side of Sandpiper I think you could justify a minimum lot size of a half-acre. We could go to the Council with the statement of fact that we found it incompatible with that area because the lots were not at least a half-acre and if they were a half-acre we would have or could have approved it. I don't know if we want to mix it up that way.

Ryan: How many lots would there be if it were half-acre?

Hooks: About forty. Forty, forty-one under the same developable area I'm guessing.

Ryan: That fifteen acres is not developable. Is that the problem?

Hooks: Right. I didn't make that determination. That's what was presented to us is that it's not developable.

Ryan: Is that correct?

Davoll: As was before, they had some lots in that fifteen acres. This proposal they came to us now was moving the lots out of that fifteen acres and putting them into the larger area.

Ryan: Why did...

Walters: But why?

Davoll: So they could...

Ryan: What is their advantage. I don't understand.

Davoll: To what?

Ryan: To move them out of the fifteen acres and make the lots smaller.

Davoll: You would have to ask the applicant that. I mean, we review what is provided before us. I mean setting aside the fifteen acres undisturbed was something staff looked as being more favorable.

Birdsong: Mr. Chairman?

Hooks: Yes.

Birdsong: So we're saying basically that, I mean from what I'm hearing, that if they utilize some of that fifteen acres, I'm just speaking, then they could feasibly, actually make the lot sizes a half-acre more easily and they not lose per say on the potential houses that they want to build. Is that a yes or no.. or...

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- Hooks: I don't know what it's been determined its not developable. So I can't answer that.
- Davoll: Part of it might be because of the sewer and the water and getting utilities to it may increase the cost. Those type of activities. The last survey that we had, I think, upstairs showed there is more higher ground than everybody wants to believe in that area. So there would be possibility of developing it but the cost possibly of running water and sewer to lots within that area because all the other areas is more concentrated. You have to be able to get all the utilities and services in there.
- Hooks: Any other comments? I would like us to do two things. We want to stick with what we recommended last month, then we just provide this statement of facts of the lot sizes of the abutting properties and let City Council do what they want to with that. We're... and again, contrary to what's in the package, we don't approve or disapprove this. We only recommend approval or disapproval to the City Council. They get paid the big bucks to deny or approve. That's not our job. We only recommend. The second part of that is I would like us to recommend to City Council that we could stand to approve a subdivision here if it were a minimum half-acre lots, 2,500 square feet... whatever we want to throw in there saying based on the same criteria of the PUD if it were this that we would recommend that you approve it and then they can act on whatever they want to do. That is strictly up to City Council. So I'm open to whatever you'all want to do. You'all in favor of how we would recommend it?
- Birdsong: How would we support that?
- Hooks: Is anybody....
- Ryan: Mr. Arrowsmith stated that he wanted to know what happened to the agreement in 2009 from the draft here. It's not the same agreement as 2009 though.
- Hooks: It's not the same because the land use has changed from County to City. It went from 4 to 2 dwelling units per acre on the land use. Their plan expired that they had approved with the County. So when they came into the City they essentially didn't have a plan that was approved and still don't to this day. But again I am not telling a developer that he cannot develop what he wants to put in there within reason. I just believe that this is unreasonable to go from acre plus lots to quarter acre and more in this subdivision. Quarter, third acre and some half acres in this plan.
- Greene: Could we just explain that our reason for disapproval was the small lots size and we would recommend approval half-acre minimum lots sizes?
- Ryan: What about the square footage of the houses and the sidewalk in the front on Sandpiper.
- Hooks: That's part of the City's recommendation and I would go along with that if we were to approve that at larger lot sizes, or recommend approval of that.

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Roper: Are we going to recommend that they have larger houses, somebody mentioned 2,500 square foot. I don't understand the significance between raising it from 2,200 to 2,500. You're talking about 300 square foot and a lot of people, in my experience, want a house between 2,000 and 2,500 square foot. I don't think it matters so much to the value of the house if you built the house to certain standards. And if our thinking is that you're going to have more yard per house then to have a minimum of 2,200 versus 2,500 allows the capability of doing that.

Hooks: I'm good with 2,200. I mean that is what they agreed to. So what do you all want to do? Do you all want to...

Birdsong: Mr. Chairman, I like what you stated in the second half give up the half-acre and then when they said about the sidewalks on Sandpiper and, but, like what we discussed 2,200 square foot under roof if would actually be about 2,600, 2,700 square feet but how do we need to do the wording in order to make a proper motion?

Hooks: All right.. all right. I think I hear you. Let's do this. Let's give the City Council a statement of facts and why we choose to recommend that they disapprove the plan as it's been presented. The fact is that the average lot size in this development as proposed is 0.41 acres. That's fact. The average lot size to the southwest if 1.21 acres. The average lot size to the immediate south of the property is 1.63 acres and including... included in that is... well, I misspoke. That's not right. To the Immediate south the average lot size is 1.24 and including Wekiva Landing which is part of that subdivision, by all, anybody would consider that, you come into the same entrance is 1.63 acres. The average lot size excluding the 15 to 15.5 acre lot to the north and along Ustler and on Thompson Road, the properties that abut the property is 1.93 acres, therefore we do not believe that the proposed development is compatible and characteristic of the surrounding area and so we would have a motion that we, based on those facts, do not recommend approval of this particular development. Is there a motion to that affect?

Walters: So moved.

Hooks: There's a motion, is there a second?

Ryan: Second.

Hooks: Second. Any discussion? All in favor indicate by saying aye.

Hooks: Aye.

Walters: Aye.

Birdsong: Aye.

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Green: Aye.

Ryan: Aye.

Toler: Aye.

Hooks: Any opposed?

Roper: No.

Hooks: One opposed. Terry? All right. All right. I would further recommend, and it's... of course up to you all again, that we advise City Council that we would approve proposed subdivision as its laid out with the staff report, with the staff recommendations, with the proposed revised conditions of the developer, if the minimum lot size was a half-acre.

Greene: I'll make that motion.

Hooks: All right. There's a motion that we tell City Council... advise City Council we're and advisory capacity that we could recommend approval if the minimum lot size was half-acre in the subdivision with everything else to remain the same, including the staff recommendations on the sidewalk, the proposed and new revised conditions of approval that the developer presented to us tonight. So there is a motion from Jim Greene, is there a second?

Birdsong: Second.

Hooks: Motion seconded by Melvin. Any discussion? All in favor indicate by saying aye.

Hooks: Aye.

Walters: Aye.

Birdsong: Aye.

Green: Aye.

Ryan: Aye.

Toler: Aye.

Roper: Aye.

Hooks: All right. That's unanimous. All right, so this meeting... portion of the meeting is adjourned. Thank you for your patience.

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**Public: None.**

**NEW BUSINESS:**

**Planning Commission: None.**

**Public: None.**

**ADJOURNMENT:** The meeting was adjourned at 7:45 p.m.

/s/ \_\_\_\_\_  
Steve Hooks, Chairperson

/s/ \_\_\_\_\_  
R. Jay Davoll, P.E.  
Community Development Director