

MINUTES OF THE PLANNING COMMISSION SPECIAL MEETING HELD ON JULY 28, 2015, AT 5:01 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: James Greene, Melvin Birdsong, Tony Foster, Jeremiah Jaspon, Linda Laurendeau, and Pam Toler

ABSENT: Robert Ryan, Orange County Public Schools (Non-voting)

OTHERS PRESENT: R. Jay Davoll P.E. - Community Development Director/City Engineer, Cliff Shepard, Esq., Rogers Beckett - Special Projects Coordinate, Kyle Wilkes - Planner II, Mike Brown – Computer Support Specialist, Jimmy Crawford, Jose Cantero, Geoff Summit, Danna Hoffman, Carol Hoffman, Joyce Heck, Brenedette Hardy-Holt, Solomon Holt, Nicole Gargas, Anthony Call, Michael R. Cooper, Suzanne Kidd, and Jeanne Green – Community Development Department Office Manager/Recording Secretary.

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

SWEARING-IN - Ms. Green swore-in staff, the petitioners, and affected parties.

FINAL DEVELOPMENT PLAN - ELRO PROPERTIES, LLC - Chairperson Greene stated this is a request to recommend approval of the Final Development Plan for Elro Properties, LLC. The owner/applicant is Elro Properties, LLC and the Engineer is Ali Tehrani, P.E. The property generally located north of Marshall Lake Road and west of Bradshaw Road (511 Marshall Lake Road). (Parcel ID No. 09-21-28-0000-00-011)

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

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

Staff Presentation: R. Jay Davoll, P.E., Community Development Director/City Engineer stated that this is a request to recommend approval of the Final Development Plan – Elro Properties, LLC – Owner/applicant Elro Properties, LLC; Engineer Ali Tehrani, P.E., property located at 511 Marshall Lake Road (north of Marshall Lake Road and west of Bradshaw Road.) The land use is Industrial and the zoning is I-1. The existing use is vacant land and the proposed use is an Industrial Warehouse (18,000 S.F.) w/ Office Complex (11,340 sq. ft.). The overall site area is 26.64 +/- . The tract size for this project is 6.46 +/- acres and the proposed building size is 29,340 sq. ft.

The Elro Properties, LLC - Final Development Plan proposes a 29,340 square foot industrial warehouse and office complex. Prior to commencement of any clearing or grading of the subject property, a parcel split must be submitted to the Orange County Property Appraiser's office.

A total of 82 parking spaces are provided, of which four are reserved as a handicapped parking space. Access to the site is provided by a driveway cut along Bradshaw Road and Marshall Lake Road.

Design of the building exterior meets the intent of the City's Development Design Guidelines. Height of the building is presently 35 feet. The property owner has submitted a zoning application to allow maximum building height not to exceed 50 feet.

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Stormwater run-off and drainage will be accommodated by an off-site retention pond through a cross access easement agreement. The off-site stormwater management system will be designed according to standards set forth in the Land Development Code. All cross-access easement documents must be recorded prior to issuance of a certificate of occupancy.

A twenty-five foot landscape buffer is provided along Bradshaw Road and Marshall Lake Road. 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.

Total inches on-site:	176
Total number of specimen trees:	0
Total inches removed	132
Total inches retained:	44
Total inches required:	132
Total inches replaced:	171
Total inches post development:	215

The Development Review Committee (DRC) recommends approval of the Elro Properties, LLC – Final Development Plan and waiver request, 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.

Petitioner Presentation: Michael R. Cooper, Property Industrial Enterprises, LLC, 517 Cooper Oaks Court, Apopka, stated that they enhanced the landscaping for the project to reflect what is across the street at the Cooper Palms Sports Complex.

In response to a question by Mr. Jaspon, Mr. Cooper stated that the client is a large outfit from Africa who will be manufacturing the same type of aluminum clad panels that the outside of the building will be comprised of.

In response to a question by Mr. Foster, Mr. Cooper stated that access to and from the site will be on Bradshaw Road or Marshall Lake Road.

Affected Party Presentation: None.

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

Motion: Pam Toler made a motion to recommend approval of the Final Development Plan for Elro Properties, LLC, subject to the conditions and information in the staff report. Tony Foster seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Jeremiah Jaspon, Linda Laurendeau, and Pam Toler (6-0). (Vote taken by poll.)

MASS GRADING PLAN - GOLDEN GEM ESTATES, PHASE 1 A - Mr. Greene stated this is a request to recommend approval of the Mass Grading Plan - Golden Gem Estates, Phase 1A, The owner/applicant is Cantero Holdings, LLC, c/o Jose Cantero. The engineer is GL Summit, c/o Geoffrey Summit, P.E. The

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property is generally located south of Kelly Park Road, north of the Ponkan Road and east of Golden Gem Road. (Parcel ID Nos.: 24-20-27-0000-00-097, 24-20-27-0000-00-98, 24-20-27-0000-00-100, 24-20-27-0000-00-101, 24-20-27-0000-00-102, 24-20-27-0000-00-100-103, 24-20-27-0000-00-104, 24-20-27-0000-00-105)

Chairperson Greene asked if there were any affected parties in attendance that wished to speak.

Danna Hoffman, 4311 Golden Gem Road, stated that his property is close to the subject property and expressed concerns regarding the property being used as a borrow pit or a landfill and the gopher tortoises.

The Commission unanimously agreed that Mr. Hoffman was an affected party.

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

Staff Presentation: Mr. Davoll stated that this is a request to recommend approval of the Mass Grading Plan for Golden Gem Estates, Phase 1A. The owner/applicant is Cantero Holdings, LLC, c/o Mr. Jose Cantero and the engineer is GL Summit., c/o Geoffrey Summit, P.E. The property is located south of Kelly Park Road, north of the Ponkan Road and east of Golden Gem Road. The existing use is planted pine and the proposed use is a single-family residential subdivision with 12 lots. The future land use is Rural Settlement (1du/ac) and the zoning is AG. The applicant has submitted a change of zoning application to change the zoning to AG-E. The existing maximum allowable development is 80 units and the proposed maximum allowable development is 12 units in Phase 1B. The tract size is 80.0 +/- Acres.

The proposed mass grading plan allows site grading to occur consistent with the ground elevations and contours established within the Golden Gem Estates - Phase 1B Preliminary Development Plan. All required permits from the St. Johns Water Management District and other state agencies must be obtained by the applicant prior to commencing any grading activities. Planted pine has already been harvested from the subject property, leaving few canopy trees.

There has been a temporary access easement agreement established with the abutting property owner to the east, granting direct access to Wekiva Parkway (S.R. 429) as illustrated on Sheet 4, of the Mass Grading Plan.

A habitat management plan was submitted by the applicant. Based on the results of this study, the developer must obtain approval from the Florida Department of Environmental Protection prior to commencing any grading or further site construction activity.

The planted pine located on this site is exempt from the arbor mitigation requirements and was harvested for silviculture purposes. Pine trees have already been harvested from the site. The applicant will be required to demonstrate the site meets this tree stock requirement on the final development plan or contribute into the tree bank mitigation program, if applicable.

Per city code, a six-foot brick wall within a ten-foot landscape buffer is required along Golden Gem Road; however, a brick wall will be out of character with the surrounding landscape and environment. In lieu of a brick wall, a 50-foot wide landscape buffer is proposed. The City owns acres to the south; the landfill is located to the west, and large lot residential uses occur to the south and north along Golden Gem Road. Further north along Golden Gem Road, the Wekiva Parkway Interchange Vision Plan Area is just to the north along Golden Gem Road, and it promotes a pedestrian-oriented development theme. Further, it is unreasonable to believe that a 12 lot residential development, which could be trailer homes, can financially support maintenance and replacement of a brick wall at such time it deteriorates or is damaged.

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No development activity beyond the grading activities approved within the Mass Grading Plan can occur until such time that a concurrency mitigation agreement or letter has been approved by OCPS. The applicant has applied to OCPS for this agreement. The developer has submitted a school capacity determination application to OCPS. The schools designated to serve this community are the following: Zellwood Elementary, Wolf Lake Middle and Apopka High School.

The County was notified at the time of the land use amendment and rezoning application for this property, and coordination occurred with County planning staff regarding impact on adjacent parcels.

The Development Review Committee recommends approval of the Golden Gem Estates Ph.1A Mass Grading Plan for the property owned by Cantero Holding, LLC

The role of the Planning Commission for this development application is to advise the City Council to approve or deny based on the consistency with the Comprehensive Plan and Land Development Code.

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

In response to a question by Mr. Jaspon, Mr. Davoll stated that property was used for silvaculture and those trees have been removed. The applicant is now grading the property and selling the dirt for the S.R. 429 project.

In response to a question by Ms. Laurendeau, Mr. Davoll stated that the proposed AG-E zoning would prohibit the property from being used as a landfill.

In response to questions by Ms. Toler, Mr. Davoll stated that the AG zoning would allow mobile homes; however, the proposed change of zoning to AG-E would prohibit mobile homes. The applicant is requesting a 50' landscape buffer along Golden Gem Road.

Petitioner Presentation: Jimmy Crawford, Esq., 1201 W. Highway 50, Clermont, Florida, stated he was representing the owner. He said the proposed haul road from the subject property to the S.R. 429 location would not be disruptive to the local properties because the trucks would stay off of the surrounding roadways. He affirmed that the applicant has no intention of opening a landfill on the site and has no intention of installing mobile homes on the site. The lots are five (5) acres and the homes they are planning will be at least 2,000 square feet under air.

Affected Party Presentation: Danna Hoffman, 4311 Golden Gem Road, stated that his property is close to the subject property and he expressed concerns regarding the property being used as a borrow pit or a landfill and the gopher tortoises.

In response to a question by Mr. Foster, Mr. Crawford stated that he understood Mr. Hoffman's concern about the dirt being removed and then the property not being developed as what happened with the previous owner.

In response to a question by Mr. Foster, Mr. Hoffman stated that if the applicant does build the 12 homes he would have no objection to the project.

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Jose Cantero, Cantero Holdings, LLC, 12601 Avalon Road, Winter Garden, FL, stated that he is available to meet with the neighbors regarding their concerns. He stated that he is committed to building the twelve homes and assured the Commission that he has no intention of turning the property into any kind of landfill.

In response to concerns expressed by Carol Hoffman, 4311 Golden Gem Road regarding other property Mr. Cantero may be purchasing in the area and the fate of the gopher tortoises, Mr. Davoll stated that the only property being discussed is what is before the Commission.

Mr. Cantero stated that he is looking into purchasing the adjacent property to the north of this site; however, he does not believe that property will fit into this site. He added that they have hired an ecological consultant for the removal of the gopher tortoises.

Mr. Crawford stated that the State regulations only allow the relocation of gopher tortoises.

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

Motion: Linda Laurendeau made a motion to recommend approval of the Mass Grading Plan for Golden Gem Estates, Phase 1A, subject to the conditions and information in the staff report. Jeremiah Jaspon seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Jeremiah Jaspon, Linda Laurendeau, and Pam Toler (6-0). (Vote taken by poll.)

FINAL DEVELOPMENT PLAN - GOLDEN GEM ESTATES, PHASE 1B - Mr. Greene stated this is a request to recommend approval of the Final Development Plan for Golden Gem Estates, Phase 1B. The owner/applicant is Cantero Holdings, LLC, c/o Jose Cantero. The engineer is GL Summit, c/o Geoffrey Summit, P.E. The property is generally located south of Kelly Park Road, north of the Ponkan Road and east of Golden Gem Road. (Parcel ID Nos.: 24-20-27-0000-00-097, 24-20-27-0000-00-98, 24-20-27-0000-00-100, 24-20-27-0000-00-101, 24-20-27-0000-00-102, 24-20-27-0000-00-100-103, 24-20-27-0000-00-104, 24-20-27-0000-00-105)

Chairperson Greene asked if there were any affected parties in attendance that wished to speak. (Refer to the Golden Gem Estates, Phase 1A – Mass Grading Plan Request)

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

Staff Presentation: Mr. Davoll stated that this is a request to recommend approval of the Final Development Plan for Golden Gem Estates, Phase 1B. The owner/applicant is Cantero Holdings, LLC, c/o Mr. Jose Cantero and the engineer is GL Summit, c/o Geoffrey Summit, P.E. The property is located south of Kelly Park Road, north of the Ponkan Road and east of Golden Gem Road. The existing use is planted pine and the proposed use is a single-family residential subdivision with 12 lots. The future land use is Rural Settlement (1du/ac) and the zoning is AG. The existing maximum allowable development is 80 units and the proposed maximum allowable development is 12 units in Phase 1B. The tract size is 80.0 +/- Acres.

The proposed mass grading plan allows site grading to occur consistent with the ground elevations and contours established within the Golden Gem Estates-Phase 1B Preliminary Development Plan. All required permits from the St. Johns Water Management District and other state agencies must be obtained by the

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applicant prior to commencing any grading activities. Planted pine has already been harvested from the subject property, leaving few canopy trees.

The stormwater has been designed to meet City standards.

There has been a temporary access easement agreement established with the abutting property owner to the east, granting direct access to Wekiva Parkway (S.R. 429) as illustrated on Sheet 4, of the Mass Grading Plan.

A habitat management plan was submitted by the applicant. Based on the results of this study, the developer must obtain approval from the Florida Department of Environmental Protection prior to commencing any grading or further site construction activity.

The planted pine located on this site is exempt from the arbor mitigation requirements and was harvested for silviculture purposes. Pine trees have already been harvested from the site. The applicant will be required to demonstrate the site meets this tree stock requirement on the final development plan or contribute into the tree bank mitigation program, if applicable.

Per city code, a six-foot brick wall within a ten-foot landscape buffer is required along Golden Gem Road. However, a brick wall will be out of character with the surrounding landscape and environment. In lieu of a brick wall, a 50-foot wide landscape buffer is proposed. The City owns acres to the south; the landfill is located to the west, and large lot residential uses occur to the south and north along Golden Gem Road. Further north along Golden Gem Road, the Wekiva Parkway Interchange Vision Plan Area is just to the north along Golden Gem Road, and it promotes a pedestrian-oriented development theme. Further, it is unreasonable to believe that a 12 lot residential development, which could be trailer homes, can financially support maintenance and replacement of a brick wall at such time it deteriorates or is damaged.

No development activity beyond the grading activities approved within the Mass Grading Plan can occur until such time that a concurrency mitigation agreement or letter has been approved by OCPS. The applicant has applied to OCPS for this agreement. The developer has submitted a school capacity determination application to OCPS. The schools designated to serve this community are the following: Zellwood Elementary, Wolf Lake Middle and Apopka High School.

The County was notified at the time of the land use amendment and rezoning application for this property, and coordination occurred with County planning staff regarding impact on adjacent parcels.

Waiver Request #1: Section 2.02.02.F, LDC. Request to waive requirement for a 1,400 foot long, six foot high brick wall along Golden Gem Road. Applicant requests a waiver to allow a planted 50' landscape buffer in lieu of the construction of a screen wall. DRC supports this waiver request for the following reasons: (a) A homeowners association with only twelve homes is unlikely to financially maintain or replace a 1,400 foot long brick wall; (b) a 50 foot wide landscape buffer will be provided in lieu of a 10 foot wide buffer, and will suffice to provide sufficient screen and distance from the road, and residential setbacks will be measured from the buffer easement or tract line; and (c) an active landfill is located to the west of Golden Gem Road.

Waiver Request #2: Section 6.02.07, LDC. Request to waive the requirement for subdivision roadways to have "F" curb and closed drainage systems. Applicant requests a waiver to allow for the use of a "Rural" roadway section utilizing swale drainage and no raised curb. DRC supports the waiver because the character

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of the subdivision is large-lot and this waiver has been applied to other similar residential developments such as Bluegrass Estates.

Waiver Request #3: Section 6.04.01., LDC. Request to waive the requirement for all development to connect to City water and sewer. Applicant requests a waiver to allow the use of individual lot wells and septic systems in lieu of connecting to the City system. DRC does not support this waiver because policy within the City's Comprehensive Plan requires that central water and sewer must be provided to the site, consistent with the intent of the outcome of regional actions emerging from the Wekiva River Basin Protection Study. While the Land Development Code allows for the use of septic tanks, the standard is inconsistent with the below Policies of the Comprehensive Plan:

Policy 1.5.5 - Infrastructure Element of the Comprehensive Plan states:

The permanent use of septic tanks shall only occur for residential developments and neighborhood commercial uses if the following conditions apply:

- a) the septic tanks serve a lot of one acre or larger in size;
- b) a residential development within the City that is located more than one mile from the City's wastewater collection system. The one-mile distance shall be measured from the nearest lot line where the facilities are located; and
- c) it can be demonstrated through soil analysis, subdivision layout, or the use of enhanced technology that comparable groundwater protection can be achieved with small lots.

Exceptions to this policy may be granted by the City for infill projects. For the purposes of this exception provision, infill development shall be considered the development of vacant or underutilized parcels within the City's urbanized areas which are already largely developed. Designation as an infill project shall be done at the sole discretion of the city's Community Development Department and in compliance with Policy 1.5.9.

Policy 1.5.9, Infrastructure Element of the Comprehensive Plan states:

“The use of septic tanks for new development may be undertaken on an interim basis, not to exceed five years, in cases where central sewer improvements necessary to serve the proposed development are scheduled for construction in the adopted Capital Improvements Program within that five year timeframe. The approval for and conditions of the use of septic tanks on an interim basis shall be at the sole discretion of the City.”

The Development Review Committee recommends approval of the Golden Gem Estates Ph.1A – Preliminary Development Plan for the property owned by Cantero Holding, LLC

The role of the Planning Commission for this development application, is to advise the City Council to approve or deny based on the consistency with the Comprehensive Plan and Land Development Code which includes the following items: (1.) Recommend approval of Waiver Request # 1; (2.) Recommend approval of Waiver Request # 2; (3.) Recommend denial of Waiver Request # 3; and (4.) Recommend approval of the Golden Gem Estates, Phase 1B, property owned by Cantero Holding, LLC.

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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.

Petitioner Presentation: Mr. Crawford stated that they were in agreement with staff's recommendations with the exception of Waiver #3. He stated that they meet the three requirements because their lots are five (5) acres in size; the proposed development is more than a mile from the nearest sewer and water lines; and a soil analysis of the site indicated that there would be comparable groundwater protection.

In response to questions by Mr. Jaspon, Mr. Davoll stated that currently the sewer lines are not within one mile of the site. He spoke with the Public Services Director who stated that before the end of the year the sewer lines will be within one mile of this property. He stated that, once the Preliminary Development Plan was approved, the applicant would need to submit the Final Development Plan for review, and if they have the appropriate permits, the turnaround time for review of the Final would be approximately six (6) months.

In response to questions by the Commission, Cliff Shepard, City Attorney, stated that Policy 1.5.9 states that the City Council has sole discretion for the approval and conditions of the use of septic tanks on an interim basis. He questioned the practicality of approving septic tanks and then requiring the applicant, at some later date, to connect to city sewer.

Mr. Crawford suggested the Commission approve Waiver Request No. 3 with the stipulation that it would be reconsidered at the time that Final Development Plan is submitted.

Chairperson Greene suggested the Commission recommend denial of Waiver Request No. 3 and, if the sewer lines are not within a mile of the site at the time of the Final Development Plan the applicant can ask for the waiver.

Mr. Jaspon stated that a wall would look better along Golden Gem Road rather than the wrought iron fencing the applicant is requesting. He stated that he went through Winter Garden over the weekend and was impressed with the beautiful walls around the subdivisions in that area.

Mr. Cantero stated that with only twelve homes in the proposed subdivision, having to maintain the road and the wall would be too costly to the home owners association. He stated that they were trying to provide the best product for property that is directly across from a Class III landfill. He stated that the 50' landscaping with the big trees would block the view of the landfill from the homeowners and would still look very nice. He stated that they would be replanting several trees on the south side of the property. He stated that from the outside, residents will see woods that are older than 20 years that will run along the entire frontage of the site.

Affected Party Presentation: Refer to the Golden Gem Estates, Phase 1A – Mass Grading Plan Request. Mr. Hoffman had no additional comments or questions.

Chairperson Greene opened the meeting for public hearing.

Suzanne Kidd, 1260 Lexington Parkway, Apopka, stated that upon review of the preliminary development plan, the homes are to be 2,000 square feet and at least 30% of them would be non-stucco. It is her belief that anyone who could afford to purchase a five acre lot with a 2,000 square foot home would rather be connected to the City's water and sewer.

Mr. Davoll stated that the proposed AG-E zoning would require the homes to be 2,200 square feet.

Ms. Laurendeau stated that this area is in the Wekiva Study Area. The landscape buffer along Golden Gem Road will also help clean the air. She agreed with Ms. Kidd that anyone who could afford to purchase a five acre lot with a 2,000 square foot home would rather be connected to the City's water and sewer.

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

Motion: Tony Foster made a motion to recommend approval of Waiver Request No. 1 to allow a planted 50' landscape buffer in lieu of the construction of a screen wall for Golden Gem Estates, Phase 1A, subject to the conditions and information in the staff report. Linda Laurendeau seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, and Pam Toler; Jeremiah Jaspon voted nay (5-1). (Vote taken by poll.)

Motion: Tony Foster made a motion to recommend approval of Waiver Request No. 2 to allow for the use of a "Rural" roadway section utilizing swale drainage and no raised curb for Golden Gem Estates, Phase 1A, subject to the conditions and information in the staff report. Linda Laurendeau seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, and Pam Toler; Jeremiah Jaspon voted nay (5-1). (Vote taken by poll.)

Motion: Tony Foster made a motion to recommend denial of Waiver Request No. 3 to allow the use of individual lot wells and septic systems in lieu of connecting to the City system for Golden Gem Estates, Phase 1A, subject to the conditions and information in the staff report. Linda Laurendeau seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, and Pam Toler; Jeremiah Jaspon voted nay (6-0). (Vote taken by poll.)

Motion: Tony Foster made a motion to recommend approval of the Final Development Plan for Golden Gem Estates, Phase 1A, subject to the conditions and information in the staff report. Linda Laurendeau seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Linda Laurendeau, and Pam Toler; Jeremiah Jaspon voted nay (6-0). (Vote taken by poll.)

The meeting recessed at 6:05 p.m.

The meeting reconvened at 6:08 p.m.

FINAL DEVELOPMENT PLAN - MARDEN RIDGE APARTMENTS - Chairperson Greene stated this is a request to recommend approval of the Final Development Plan for Marden Ridge Apartments. The owner is Emerson Point Associates, LLLP. The Applicant is MMI Development, Inc., c/o Michael E. Wright, Esq. and the Engineer is GAI Consultants, Inc., c/o Anthony Call, P.E. The property is located Between S.R. 451 and Marden Road, south of Ocoee Apopka Road, and north of the Apopka Expressway. (Parcel ID No. 17-21-28-0000-00-029)

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

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Chairperson Greene asked if the Commission members had any ex parte communications to divulge regarding this item.

Staff Presentation: Mr. Davoll stated this is a request to recommend approval of the Final Development Plan for Marden Ridge Apartments, owned by Emerson Point Associates, LLLP. The Applicant is MMI Development, Inc., c/o Michael E. Wright, Esq. and the Engineer is GAI Consultants, Inc., c/o Anthony Call, P.E. The property is located Between S.R. 451 and Marden Road, south of Ocoee Apopka Road, and north of the Apopka Expressway. The land use is Residential Low (0-5 du/ac) and the zoning is R-2. The existing use is vacant land and the proposed use is a single-family subdivision with 48 lots. The proposed maximum allowable development is 2.73 units per gross acre. The tract size is 17.36 +/- acres.

The Marden Ridge Apartments, Phase 1B, Final Development Plan proposes 272 apartment units located on approximately 18.05 acres within 42.17 +/- acres site. The overall site is comprised of 6.43 acres being designated for Commercial (C-1) use and 35.74 acres of the property designated for Residential High (PUD/R-3) use. Development of the remaining 17.69 acres of residential land will occur at a later date through a separate Preliminary Development Plan application, as will development of the 6.43 acres of land assigned the C-1 commercial zoning category. The developer has proposed five (5), four (4) story buildings at approximately fifty-eight (58) feet in height; with a projected population of 784 people. The PUD/R-3 zoning district allows for the construction of apartments with a minimum living area of 750s.f. per unit.

The design of the building exterior meets the intent of the City's Development Design Guidelines.

The developer has proposed 544 parking spaces which meet the City's Land Development Code.

Pursuant to the Land Development Code, Section 6.03.02, the number of parking spaces required for Residential dwelling units, single-family, duplex, multifamily is 2 spaces per dwelling unit.

Ingress/egress for the development will be via two (2) full access points from Marden Road.

The stormwater management system includes on-site retention ponds. The developer has provided three (3) dry retention ponds designed to meet the City's Land Development Code requirements.

The developer is proposing 2.98 acres (129,809 sq. ft.) of passive and active recreation space. Some of the proposed amenities: clubhouse (6,183s.f.), swimming pool and tot lot. At the time of the final development plan application, details of active and passive recreation equipment and facilities will be submitted for the City's review.

A habitat management plan was submitted by the applicant. Based on the results of this study, the developer must obtain approval from the Florida Department of Environmental Protection prior to commencing any site construction activity.

The developer is proposing 12.89 acres of open space to meet the thirty (30) percent PUD zoning standards.

The planted pine located on this site is exempt from the arbor mitigation requirements and was harvested for silviculture purposes. The maximum tree stock formula requires a total of 2,752 tree inches to be replanted onto the site. The applicant will be required to demonstrate the site meets this tree stock requirement on the final development plan or contribute into the tree bank mitigation program.

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No development activity can occur until such time that a concurrency mitigation agreement or letter has been approved by OCPS. The applicant has applied to OCPS for this agreement. The schools designated to serve this community are the following: Wheatley Elementary, Wolf Lake Middle and Apopka High School.

The County was notified at the time of the land use amendment and rezoning application for this property, and coordination occurred with County planning staff regarding impact on adjacent parcels.

The applicant is requesting a waiver to install a six-foot high wrought iron fence between brick columns for the perimeter wall, erected inside a ten foot landscaped buffer along Marden Road and State Road 451.

Waiver Request No. 1: The applicant is requesting a waiver from LDC 2.02.07.H.1a, which requires a six-foot-high brick, stone or decorative block finished wall to be placed within a 10 foot wide buffer adjacent to Marden Road, erected inside a minimum ten-foot landscaped bufferyard. The applicant is proposing a six-foot high wrought iron fence between brick columns with additional landscaping adjacent to external roads. DRC reviewed the waiver request and can support it because the nearest building is setback at least 60 feet from the road; additional landscaping is provided; the apartment buildings are 58 feet high and four stories, preventing a wall from screening buildings form adjacent properties; and the parking lot will be screened by the buffer landscaping. Attached illustrations provided by the applicant support the DRC recommendation.

Waiver Request No. 2: The applicant is requesting a waiver from LDC 2.02.07.H.1a, which requires a six-foot-high brick, stone or decorative block finished wall adjacent to S.R. 451, erected inside a minimum ten-foot landscaped bufferyard. The applicant is requesting to eliminate portions of the perimeter fencing along the western property boundary, in lieu of an earth berm with landscaping. DRC reviewed the waiver request and can support it because S.R. 451 is elevated and additional landscaping and a berm are provided. Attached illustrations provided by the applicant support the DRC recommendation.

The Development Review Committee recommends approval of the Marden Ridge Apartments, Phase 1B, Final Development Plan subject to the information and comments in the staff report for the property owned by Emerson Point Associates, LLLP.

The Planning Commission, at its meeting on July 14, 2015, tabled the Marden Ridge Apartments, Phase 1B, Final Development Plan until the July 28, 2015 meeting.

The role of the Planning Commission for this development application is to advise the City Council to approve or deny based on consistency with the Comprehensive Plan and Land Development Code which includes the following items:

1. Recommend approval of Waiver Request number 1.
2. Recommend approval of Waiver Request number 2.
3. Recommend approval of the Marden Ridge Apartments, Phase 1B, property owned by Emerson Point Associates, LLLP.

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 Mr. Jaspon, Mr. Davoll stated that having a wrought iron fence with a double row of landscape adjacent to the parking lot would provide additional security.

In response to a question by Chairperson Greene, Mr. Davoll stated that the development directly across the street uses the wrought iron fencing with brick columns.

In response to a question by Mr. Foster, Mr. Davoll stated the buildings in the development across the street are one-story and the proposed apartment buildings will be four-story.

Petitioner Presentation: Anthony Call, GAI Consultants, Inc., 618 E. South Street, Suite 700, Orlando, stated that this was the same request brought before the Commission at their July 14, 2015, meeting with the exception of the requests for two waivers. The first waiver request is to allow a six-foot high wrought iron fence between brick columns with additional landscaping adjacent to Marden Road; and the second waiver request is to allow them to eliminate portions of the perimeter fencing along the western property boundary (S.R. 451), in lieu of an earth berm with landscaping.

In response to questions by Ms. Toler, Mr. Davoll stated that whether the wall is required or the fence allowed, it will run the entire length of the property adjacent to Marden Road. He stated that the wrought iron fence is allowed around retention ponds in single family residence projects. The proposed wrought iron fencing with the brick columns would make it easier to the police to check on the property.

In response to a comment by Mr. Foster, Mr. Davoll stated that works to balance the higher standards that the City wants with the needs of developers. Staff looks at a project from the character of the land and what the approved land use is for a property.

Mr. Jaspon expressed his concerns regarding the number of developers requesting the use of wrought iron fences rather than constructing walls. He is concerned about continuing to allow developers waivers. He stated that they should continue to work to improve the City.

Affected Party Presentation: None.

Chairperson Greene opened the meeting for public hearing. With no one wishing to speak, Chairperson Greene closed the public hearing and asked the members of the Commission to vote.

Motion: Linda Laurendeau made a motion to recommend approval of the waiver request to allow a six-foot high wrought iron fence between brick columns with additional landscaping adjacent to Marden Road. Tony Foster seconded the motion. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau; Melvin Birdsong, Jeremiah Jaspon and Pam Toler voted nay. (3-3). *Motion Failed.*

Motion: Jeremiah Jaspon made a motion to recommend denial of the waiver request to allow a six-foot high wrought iron fence between brick columns with additional landscaping adjacent to Marden Road. Melvin Birdsong seconded the motion. Aye votes were cast by Melvin Birdsong, Jeremiah Jaspon and Pam Toler; Tony Foster, James Greene and Linda Laurendeau voted nay. (3-3). *Motion Failed.*

Discussion ensued.

Motion: Jeremiah Jaspon made a motion to recommend denial of the waiver request to allow a six-foot high wrought iron fence between brick columns with additional landscaping adjacent to Marden Road. Melvin Birdsong seconded the motion. Aye votes were cast by Melvin Birdsong, Tony Foster, Jeremiah Jaspon and Pam Toler; James Greene and Linda Laurendeau voted nay. (4-2). (Vote taken by poll.)

Motion: Linda Laurendeau made a motion to recommend approval of the waiver request to eliminate portions of the perimeter fencing along the western property boundary where there is an earthen berm with landscaping (S.R. 451). Jeremiah Jaspon seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Jeremiah Jaspon, Linda Laurendeau, and Pam Toler (6-0). (Vote taken by poll.)

Motion: Jeremiah Jaspon made a motion to recommend approval of the Final Development Plan for Marden Ridge Apartments, subject to the findings and information in the staff report and the waiver recommendations of the Planning Commission. Melvin Birdsong seconded the motion. Aye votes were cast by James Greene, Melvin Birdsong, Tony Foster, Jeremiah Jaspon, Linda Laurendeau, and Pam Toler (6-0). (Vote taken by poll.)

OLD BUSINESS: None.

NEW BUSINESS: None.

ADJOURNMENT: The meeting was adjourned at 6:37 p.m.

/s/

James Greene, Chairperson

/s/

R. Jay Davoll, P.E.
Community Development Director