

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON JULY 12, 2016, AT 5:30 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: James Greene, Robert Ryan, Tony Foster, Linda Laurendeau, and Jose Molina

ABSENT: Melvin Birdsong, Roger Simpson, Orange County Public Schools (Non-voting)

OTHERS PRESENT: Mark Reggentin, AICP – Community Development Director, David Moon, AICP - Planning Manager, Andrew Hand, Esq., Rogers Beckett – Senior Projects Coordinator, Kyle Wilkes, AICP – Planner II, Robert Sargent – Public Information Officer, Michelle Tanner, Andrew McCowen, Gaile Plowden, Randy June, Redetha Armstrong, Wilbert Chisholm, Francina Boykin, Birthenia Cook, Robert Hafer, Anthony Call, Mike Wright, Suzanne Kidd, Jeff Dugly, Donna Mitchell, Theresa Sargent, and Jeanne Green – Community Development Department Office Manager/Recording Secretary.

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

APPROVAL OF MINUTES: Chairperson Greene asked if there were any corrections or additions to the special meeting minutes of June 28, at 5:30 p.m. minutes.

Motion: **Jose Molina made a motion to approve the Planning Commission minutes from the special meeting held on June 28, 2016, at 5:30 p.m. and seconded by Linda Laurendeau. Aye votes were cast by James Greene, Robert Ryan, Tony Foster, Linda Laurendeau, and Jose Molina (5-0).**

SWEARING-IN - Mr. Hand swore-in staff, the petitioners, and affected parties.

QUASI-JUDICIAL - CHANGE OF ZONING – EMERSON POINT PHASE II, LLC – Chairperson Greene stated this is a request to recommend approval of the Change of Zoning from R-3 (Residential) to C-1 (Retail Commercial) for property owned by Emerson Point Phase II, LLC, and located east of Marden Road, north of State Road 414.

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

Francina Boykin, 1484 Elderton Drive, Apopka, requested affected party status since her property abuts the proposed project. The Commission unanimously agreed to consider Ms. Boykin an affected party.

Gaile Plowden, Orlando Housing Authority, 390 N. Bumby Avenue, Orlando, stated they managed the Marden Meadows Subdivision that abuts the proposed projects. The Commission unanimously agreed to consider Orlando Housing Authority, c/o Ms. Plowden an affected party.

Chairperson Greene asked if the Commission members had any ex parte communications to divulge regarding this item. None.

Staff Presentation: Kyle Wilkes, AICP, Planner II, stated this is a request to recommend approval of

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the Change of Zoning from R-3 (Residential) to C-1 (Retail Commercial) for property owned by Emerson Point Phase II, LLC, and located east of Marden Road, north of State Road 414. The existing use is vacant land. The proposed use is a retail commercial development. The existing maximum allowable development is 518 units and the proposed maximum allowable development is 564,973 sq. ft. The tract size is 51.88 +/- acres.

The subject parcels were annexed into the City of Apopka on December 30, 1991 through Ordinance 694. The applicant is requesting the City to assign a zoning classification of C-1 (Retail Commercial) to the property, consistent with the proposed Commercial (Max. 0.25 FAR) future land use designation.

A request to assign a change of zoning to C-1 (Retail) is compatible to the adjacent zoning classifications and with the general character of abutting properties and surrounding area. The property owner is requesting the C-1 (Retail Commercial) zoning classification to accommodate the use of the property a retail commercial development. The subject properties abut a limited access highway (S.R. 414) with a planned interchange at Marden Road. City staff supports this change of zoning request subject to the construction of a highway interchange for S.R. 414 at Marden Road. This change of zoning application is being processed in conjunction with a large scale future land use amendment for Commercial (Max. 0.25 FAR). The proposed use is consistent with the proposed future land use, proposed zoning district and compatible with the general character of surrounding zoning and uses. A commercial retail zoning assigned to the subject property is consistent with recommendations within the Ocoee Apopka Road Small Area Study.

In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this land use change.

The existing and proposed use of the property is consistent with the Commercial (Max. 0.25 FAR) Future Land Use designation and the City's proposed C-1 (Retail Commercial) Zoning classification. Site development cannot exceed the intensity allowed by the Future Land Use policies.

The request is for a non-residential zoning classification; 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 June 13, 2016.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding area, and recommends approval of the change in zoning from R-3 (Residential) to C-1 (Retail Commercial) for the property owned by Emerson Point Phase II LLC.

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.

ZONING REPORT:

Land Use & Traffic Compatibility: The subject property fronts and is accessed by a local roadway (Marden Road) and will have access to S.R. 414 once an interchange at Marden Road is constructed.

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Comprehensive Plan Compliance: The proposed C-1 (Retail Commercial) zoning is consistent with the City's Commercial (Max. 0.25 FAR) Future Land Use designation and with the character of the surrounding area and future proposed development. The C-1 (Retail Commercial) zoning classification is one of the acceptable zoning categories allowed within the proposed Commercial Future Land Use Designation. Development Plans shall not exceed the density allowed in the adopted Future Land Use Designation.

C-1 District Requirements:

Minimum Living Area:	NA
Minimum Site Area:	10,000 sq. ft.
Minimum Lot Width	100 ft.
Setbacks:	Front: 10 ft. (From property line)
	Rear: 10 ft. (30 ft. from residential)
	Side: 10 ft.
	Corner 15 ft.

Based on the above zoning standards, the subject parcels comply with code requirements for the C-1 (Retail Commercial) district.

Bufferyard Requirements: (1.) Areas adjacent to all road rights-of-way shall provide a minimum ten-foot landscaped bufferyard. (2.) Areas adjacent to agricultural and residential uses or districts shall provide a minimum six-foot-high masonry wall within a ten-foot landscaped bufferyard. (3.) Areas adjacent to nonresidential uses or districts shall provide a minimum five-foot landscaped bufferyard.

Allowable Uses: Any nonresidential permitted use in the PO/I or CN districts. Retail establishments, banks, savings and loan and other financial institutions. Bowling alleys, skating rinks, billiard parlors and similar amusement centers, provided such activities and facilities are enclosed within a sound-proof building. Churches and schools, day nurseries, kindergartens and other child care centers. Restaurants, hotels/motels, bed and breakfast facilities and other uses which are similar and compatible to the uses permitted herein which adhere to the intents of the district and which are not prohibited.

Petitioner Presentation: Michael Wright, Emerson Point Phase II, LLC, 1350 Orange Avenue, Suite 250, Winter Park, stated they concur with staff's recommendations. He stated a commercial retail zoning assigned to the subject property meets the recommendations in the Ocoee Apopka Road Small Area Study.

In response to questions by Mr. Molina, Mr. Wright stated that they are hoping to attract a grocery store or big box types stores such as Lowes or Walmart. He said a grocery store would be ideal as the area residents do not have easy access to that type of retail. He stated there would be no manufacturing on the site.

Affected Party Presentation:

In response to a question by Ms. Boykin, Mr. Moon stated there are no plans at this time to extend any roadways in the area.

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In response to a question by Birthenia Cook, 1615 South Hawthorne Avenue, Apopka, Mr. Wilkes stated that the change of zoning was only for the subject property.

In response to questions by Ms. Boykin, Mr. Wilkes stated that if the future land and zoning amendments are approved, the next step for the project is to prepare and submit for review a development plan. The code requires a six foot masonry wall to be installed between commercial and residential uses and landscaping buffers will also be required.

In response to questions by Ms. Boykin, Mr. Moon stated that main access to the project will be off of Marden Road. There will also be an interchange at Marden Road and State Road 414.

In response to questions by Mr. Foster, Mr. Moon stated there will be no road connection on the east side of the subject property. A traffic study will be required as part of the development plan review process.

In response to questions by Ms. Boykin, Mr. Reggentin stated that capacity for water, wastewater, and sewer is reviewed during the future land use amendment process. The City Engineer has stated there is capacity for the proposed project.

Ms. Plowden stated the Orlando Housing Authority would like to participate in any way they can to ensure that this is a quality project for everyone. They will be very interested in the traffic impacts, the buffering, and the access to the property.

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

Motion: Robert Ryan made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend adoption of the change of zoning from R-3 (Residential) to C-1 (Retail Commercial) for property owned by Emerson Point Phase II, LLC, and located east of Marden Road, north of State Road 414. Motion seconded by Tony Foster. Aye votes were cast by James Greene, Robert Ryan, Tony Foster, Linda Laurendeau, and Jose Molina (5-0). (Vote taken by poll.)

QUASI-JUDICIAL - CHANGE OF ZONING – APOPKA FARMS – Chairperson Greene stated this is a request to recommend approval of the Change of Zoning from Mixed-CC and R-1A (Residential) to Planned Unit Development (PUD/Mixed-CC/Residential) for property owned by Carter-Orange 67 Hwy 441 Land Trust (Apopka Farms) and located east of North Orange Blossom Trail, south of Chandler Estates Drive.

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. None.

Staff Presentation: David Moon, AICP, Planner Manager, stated this is a request to recommend approval of the Change of Zoning from Mixed-CC and R-1A (Residential) to Planned Unit

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Development (PUD/Mixed-CC/Residential) for property owned by Carter-Orange 67 Hwy 441 Land Trust and located east of North Orange Blossom Trail, south of Chandler Estates Drive. The existing use is vacant land. The proposed use is commercial and single-family residential development. The proposed maximum allowable development is 45,345 sq. ft. The tract size is 67.73 +/- acres.

The proposed change of zoning is being requested by the owner. The subject properties were annexed into the City via Ordinance 1651 on December 18, 2002. In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this zoning change. The applicant proposes to develop the property for a commercial and single-family residential development.

The proposed zoning and use is compatible with adjacent zoning districts and the general character of the surrounding area. Parcels abutting to the north are single-family residential. Properties to the south and west and are industrial in nature, with the current use as the Apopka Airport. Properties to the northwest of the subject properties have commercial land uses.

Apopka Farms is a mixed-use development with 101 single family residential lots on 61 acres and two neighborhood commercial sites within a 2.14 acre and 1.33 acre parcel. The residential phase is buffered from the commercial phase by a 100 to 125 buffer tract. Residential lots have a minimum lot width of 70 feet and a minimum lot size of 9,800 sq. ft. Minimum livable area for a house is 1,600 sq. ft. except for lots abutting Chandler Estates (Lots 31 to 47), which have a minimum livable area of 2,200 sq. ft., and Lots 4 through 17 at the southern entrance of the residential community, which have a minimum livable area of 2,000 sq. ft. For the commercial tracts, uses are limited to neighborhood commercial uses set forth with Sheet 8 of the Master Plan\PDP.

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

The PUD development conditions and standards, in addition to those listed in the PUD Master Plan, are:

- 1) Additional traffic calming devices shall be incorporated along internal road right-of-ways at the Final Development Plan and subject to approval by the city engineer.
- 2) Landscaping and trees located within the landscape islands placed within the road right-of-way must be approved by the City.
- 3) The HOA Code, Covenants, and Restrictions shall include disclosure statement regarding proximity of the residential community to an airport.

The existing and proposed use of the property is consistent with the Mixed Use Future Land Use designation and the City's proposed Planned Unit Development (PUD – Mixed Use Commercial/Residential) Zoning classifications. Site development cannot exceed the intensity allowed by the Future Land Use policies.

A capacity enhancement agreement with OCPS is required at the time of final plat.

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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 March 11, 2016.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and recommends approval of the change in zoning from Mixed-CC & R-1A to Planned Unit Development – Mixed Use Commercial/Residential to the PUD zoning and developments standards for the property owned by Carter-Orange 67 Hwy 441 Land Trust.

The recommended motion is to recommend approval of the change the zoning category from Mixed-CC & R-1A to Planning Unit Development – Mixed Use Commercial/Residential and to approve the Master Plan\ Preliminary Development Plan subject to the PUD conditions set forth in the staff report.

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

ZONING REPORT:

Land Use & Traffic Compatibility: The property has access to a Major Arterial roadway (Orange Blossom Trail). Internal roads connect with Orange Blossom Trail and to Chandler Estates Drive. Future land use designations and zoning categories assigned to properties to the north, south, east, and west is predominantly industrial and residential.

Comprehensive Plan Compliance: The proposed PUD – Mixed Use Commercial/Residential zoning is compatible with policies set forth in the Comprehensive Plan.

Allowable Uses: Single-family residential and neighborhood commercial uses as set forth within the Planned Unit Development Master Plan.

In response to a question by Mr. Ryan, Mr. Moon stated a similar project is Avion Point where there is a mix of single family, townhomes, and apartments.

Mr. Molina expressed his concerns regarding increased population growth causing impacts to traffic, water, reclaimed water, wastewater, and schools.

Mr. Moon stated the City's Comprehensive Plan addresses those issues through goals, objectives and policies. The current plan takes the City out to 2030; however, every seven years the City has the option of amending the Comprehensive Plan. Next year will be the seventh year since it was last updated.

In response to a question by Mr. Foster, Mr. Moon stated the goals are tracked in a number of ways such as traffic studies, schools capacity agreements, etc.

In response to questions by Mr. Molina, Mr. Moon stated that Fire and Police services are not included in the Comprehensive Plan. They have their own Plans and they are updated during the budget process.

In response to a question by Ms. Laurendeau, Mr. Moon stated that there has been discussion to install a round-about in the project to assist in traffic calming.

Petitioner Presentation: Michelle Tanner, CPH Engineering, stated they concur with staff's recommendations.

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: Tony Foster made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend adoption of the change of zoning from Mixed-CC and R-1A (Residential) to Planned Unit Development (PUD/Mixed Use-CC/Residential) for property owned by Carter-Orange 67 Hwy 441 Land Trust (Apopka Farms), and located east of North Orange Blossom Trail, south of Chandler Estates Drive. Motion seconded by Robert Ryan. Aye votes were cast by James Greene, Robert Ryan, Tony Foster, Linda Laurendeau, and Jose Molina (5-0). (Vote taken by poll.)

QUASI-JUDICIAL - PRELIMINARY DEVELOPMENT PLAN – BINION RESERVE SUBDIVISION – Chairperson Greene stated this is a request to recommend approval of the Preliminary Development Plan and waiver requests for Binion Reserve Subdivision owned by Gail W. Brown. The applicant is Binion Reserve, c/o Rohland A. June. The engineer is June Engineering Consultants, Inc., c/o Jeffrey A. Sedloff, P.E. The property is located at 1078 South Binion Road.

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. None.

Staff Presentation: Rogers Beckett, Senior Projects Coordinator, stated this is a request to recommend approval of the Preliminary Development Plan and waiver requests for Binion Reserve Subdivision owned by Gail W. Brown. The applicant is Binion Reserve, c/o Rohland A. June. The engineer is June Engineering Consultants, Inc., c/o Jeffrey A. Sedloff, P.E. The property is located at 1078 South Binion Road. The proposed use is a 44 lot single family subdivision. The density is 2.05 units per gross acre. The tract size is 21.39 +/- acres.

The Binion Reserve Preliminary Development Plan proposes 44 single family lots and a 0.51 acre park within 21.39 +/- acres. The park will serve this residential community and will be owned and maintained by the homeowners association. A 30-foot wide landscape buffer with a wrought iron style fence provided along Binion Road. The minimum typical lot width is 85 feet with a minimum lot size of 10,000 square feet. The proposed minimum living area for the subdivision is 1,600 square feet as set forth in Chapter 2 of the Land Development Code.

The minimum setbacks applicable to this project are:

Setback	Min. Standard
Front	25'*

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Side	10'
Rear	20'
Corner	25'

*Front load garage shall be setback 30 feet.

Access: Ingress/egress for the development will be via full access from Binion Road.

Stormwater: The stormwater management system includes an on-site retention area. Stormwater ponds are located within Tract "A" and Tract "I". The stormwater ponds design meets the City's Land Development Code requirements.

Recreation: The developer is providing 0.51 acres (22,120 square-feet) of active and passive recreation space. Details of active and passive recreation equipment and facilities will be submitted with the final development plan.

Buffer/Tree Program: A ten-foot wide landscaped buffer easement is provided along the western project line adjacent to the S.R. 429 right-of-way with a vinyl fence or a viburnum hedge (which shall be maintained at a minimum height of six feet). A thirty-foot wide buffer tract with a wrought iron style fence and brick columns is provided along Binion Road.

The following is a summary of the tree replacement program for this project:

Total inches on-site:	8561
Total number of specimen trees:	156
Total specimen inches retained:	2055
Total inches replaced:	756
Total inches removed:	1953
Total inches retained:	4158
Total inches post development:	4914

No development activity or clearing or grading can occur until such time that a concurrency mitigation agreement has been approved by Orange County Public Schools (OCPS).

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 REQUESTS:

- 1.) Section 2.02.05.H.1 - Developments shall provide a minimum six-foot high brick, stone or decorative block finished wall adjacent to all external roadways, erected inside a minimum ten-foot landscaped bufferyard. The applicant is requesting the City waive the requirement for a brick wall along S.R. 429 in lieu of a six-foot high white vinyl fence or a viburnum hedge (which will be maintained at a minimum height of six feet).

Applicant's Justification: The subdivision is elevated above S.R. 429 and should not require a brick wall for noise abatement.

Staff Response: The portion of the western property line are elevated about the S.R. 429

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highway by five to ten feet (from Lot 9 through Lot 15) and close to grade with S.R. 429 for the northern portion (from Lot 16 to 20). Distance between the pavement of S.R. 429 and the subject property line ranges from 70 feet to 160 feet. Staff does not object to the applicant's waiver request. The landscape buffer includes the canopy trees shown within the landscape plan.

- 2.) Section 2.02.05.H.1 - Developments shall provide a minimum six-foot high brick, stone or decorative block finished wall adjacent to all external roadways, erected inside a minimum ten-foot landscaped bufferyard.

Applicant's Justification: A thirty-foot wide landscaped buffer with a wrought-iron style fence and brick columns is requested along Binion Road. Section 2.02.05.H.1 allows up to fifty percent of the wall to be a wrought-iron style fence. The applicant is requesting the wrought-iron fence comprise the entire wall length but the buffer width will be increased from a minimum width of ten feet to thirty feet.

Staff Response: Binion Road connects Magnolia Park, a county park along Lake Apopka, to Lust Road, the entrance to the Lake Apopka North Shore Wilderness Drive. A wider, more plushly landscaped roadside buffer will better promote a more natural and landscape appearance leading up to the entrance to the Wilderness Drive. Staff does not object to the applicant's waiver request to increase the length of the wrought-iron style fence from fifty percent to one hundred percent of the buffer length.

The Development Review Committee recommends approval of the Binion Reserve Subdivision - Preliminary Development Plan, subject to approval of the waiver of the brick wall requirement along S.R. 429 and Binion Road subject to the findings of the staff report.

The recommended motion is to recommend to approve the Binion Reserve Subdivision Preliminary Development Plan and the wall waiver requests subject to the alternatives.

The role of the Planning Commission for this development application is to advise the City Council to approve, deny, or approve with conditions based on 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.

Mr. Ryan expressed his opposition to the installation of vinyl fencing.

Ms. Laurendeau suggested installing the aluminum fencing with columns around the perimeter of the project.

Mr. Moon stated that the Expressway Authority has installed a five foot security chain-link fence along S.R. 429.

Petitioner Presentation: Randy June, June Engineering Consultants, Inc., 32 West Plant Street, Winter Garden, stated that in lieu of a brick wall they are requesting either six foot high vinyl fencing or a viburnum hedge that would be maintained at a minimum height of six feet.

In response to a question by Mr. Molina, Mr. June stated that the residents will probably want to put up their own fences. There may be a maintenance issue with regard to any space between the Expressway Authority's fence along S.R. 429, an aluminum fence, and then the resident's fence.

Affected Party Presentation: None.

Chairperson Greene opened the meeting for public hearing.

In response to a question by Suzanne Kidd, 1260 Lexington Parkway, Apopka, Mr. June stated that there will be a left turn lane into the project, but there will not be a right turn in with a deceleration lane. He stated that any road improvements would go through Orange County for permitting. A right turn lane is not a requirement for this project.

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

Motion: Robert Ryan made a motion to find the Binion Reserve Subdivision Preliminary Development Plan is consistent with the Comprehensive Plan and Land Development Code; to recommend approval of the Preliminary Development Plan; the wall waiver requests subject to a viburnum hedge be placed along S.R. 429 and maintained at a minimum height of six feet; and subject to the findings in the staff report for the property owned by Gail W. Brown and located at 1078 South Binion Road. The motion was seconded by Tony Foster. Aye votes were cast by James Greene, Robert Ryan, Tony Foster, Linda Laurendeau, and Jose Molina (5-0). (Vote taken by poll.)

OLD BUSINESS: None.

NEW BUSINESS: None.

ADJOURNMENT: The meeting was adjourned at 6:36 p.m.

/s/

James Greene, Chairperson

/s/

Mark Reggentin, AICP
Community Development Director