

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON AUGUST 9, 2016, AT 5:30 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: James Greene, Robert Ryan, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, and Roger Simpson

ABSENT: 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, Teresa Sargeant, Suzanne Kidd, John M. Florio, John Townsend, Suzanne Sweeney, 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 meeting minutes of July 12, 2016, at 5:30 p.m. minutes.

Motion: **Melvin Birdsong made a motion to approve the Planning Commission minutes from the meeting held on July 12, 2016, at 5:30 p.m. and seconded by Jose Molina. Aye votes were cast by James Greene, Robert Ryan, Melvin Birdsong, Tony Foster, Linda Laurendeau, and Jose Molina (6-0).**

Roger Simpson arrived at 5:35.

LEGISLATIVE – LAND DEVELOPMENT CODE AMENDMENT – EX PARTE CONTACT - Chairperson Greene stated this is a request to recommend approval of an amendment to the City of Apopka Code of Ordinances, Part III, Land Development Code, Article 1, to adopt provisions to provide access to public officials of the City of Apopka regarding quasi-judicial matters.

Staff Presentation: Mark Reggentin, AICP, Community Development Director, stated this is a request to recommend approval of an amendment to the City of Apopka Code of Ordinances, Part III, Land Development Code, Article 1, to adopt provisions to provide access to public officials of the City of Apopka regarding quasi-judicial matters.

It has been the recent policy of the city to allow ex'parte communication between elected and appointed board members and the public. This policy is based upon the belief that the public should be able to voice their opinions on quasi-judicial matters to city officials prior to a public hearing on the issue. In order to address this concern on a state wide basis, the legislature enacted Section 286.0115 of the Florida Statutes to address a process for disclosure of ex'parte communications and without a presumption of prejudice.

During a review of the Land Development Code, it was discovered that Section 1.01.10 of the Land Development Code specifically prohibits ex'parte communications. Based upon the standing policy and practice of the city, ex'parte communications have been allowed following the procedures outlined in the statutes. To rectify this inconsistency, staff has prepared an amendment to the Land Development Code to address ex'parte communications, and disclosure procedures.

In response to questions and concerns by Ms. Laurendeau, Mr. Hand stated that the proposed amendment was taken directly from the statutes and allows due process for applicants. He added that, in addition to the Code, public officials would be subject to the ethics laws.

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 recommend approval of the amendment to the City of Apopka Code of Ordinances, Part III, Land Development Code, Article 1, to adopt provisions to provide access to public officials of the City of Apopka regarding quasi-judicial matters; and Linda Laurendeau seconded the motion. Aye votes were cast by James Greene, Robert Ryan, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, and Roger Simpson (7-0). (Vote taken by poll.)

LEGISLATIVE – LAND DEVELOPMENT CODE AMENDMENT - BUILDING HEIGHTS - Chairperson Greene stated this is a request to recommend approval of an amendment to the City of Apopka Code of Ordinances, Part III, Land Development Code, Article 2, Section 2.02.01 to allow building heights in excess of 35 feet when expressly permitted by Special Exception or Planned Unit Development.

Staff Presentation: Mr. Reggentin stated this is a request to recommend approval of an amendment to the City of Apopka Code of Ordinances, Part III, Land Development Code, Article 2, Section 2.02.01 to allow building heights in excess of 35 feet when expressly permitted by Special Exception or Planned Unit Development.

As Community Development staff has been reviewing the Land Development Code in anticipation of the update scheduled to begin in the next few months, one issue was discovered that could adversely affect economic development while the code is in the process of being updated. This issue is related to building height. Currently building height is limited to 35 feet except within the downtown overlay district. The downtown overlay district permits the following maximum building heights: single family residential uses - 35 feet; multi-family uses – 75 feet; and commercial or non-residential uses – 100 feet provided no residential uses or a residential zoning district is located within 200 feet. This distance is measured from property line to property line. Otherwise the maximum building height is 35 feet. This is a very common standard contained in codes from the late 1980's and early 1990's. It was primarily based upon the height that a ladder truck could reach. With the advent of modern building and fire codes, buildings have become much safer in relation to fire hazards.

Currently, in order to construct a building in excess of 35 feet, an applicant must rezone the property to Planning Unit Development (PUD) and go through a time consuming review and approval process. According to Community Development staff, development interests have approached the City to develop office buildings over 35 feet but did not move forward due to the process involved with a PUD application which may take several months. This represents lost opportunity.

To address this, staff is proposing an amendment to the Land Development Code to allow an applicant to request a special exception to height requirements. If building height is the only issue, an applicant can request a special exception and avoid the costly and time consuming PUD process. This will allow an applicant requesting non-residential development over 35 feet to have that issue addressed in an expeditious and straight forward fashion. The review criteria has

been developed to avoid potential adverse effects on surrounding properties.

In response to a question by Mr. Foster, Mr. Reggentin stated that he has been with the City for a few months and there have not been any requests for buildings over 35 feet; however, he has been informed by staff that there has been requests in the past.

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 amendment to the City of Apopka Code of Ordinances, Part III, Land Development Code, Article 2, Section 2.02.01 to allow building heights in excess of 35 feet when expressly permitted by Special Exception or Planned Unit Development; and Jose Molina seconded the motion. Aye votes were cast by James Greene, Robert Ryan, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, and Roger Simpson (7-0). (Vote taken by poll.)

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

QUASI-JUDICIAL – MASTER PLAN/PRELIMINARY DEVELOPMENT PLAN – EMERSON NORTH TOWNHOMES – Chairperson Greene stated this is a request to recommend approval of the Master Plan/Preliminary Development Plan for Emerson North Townhomes. The owner/applicant is Pulte Group, c/o Doug Hoffman. The engineer is Donald W. McIntosh Associates, Inc., c/o John T. Townsend, P.E. The property is located at 1701 Ocoee Apopka 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. Mr. Ryan stated that he had e-mailed two questions to Mr. Moon, who responded that he would answer them during his presentation.

Staff Presentation: David Moon, AICP, Planning Manager, stated this is a request to recommend this is a request to recommend approval of the Master Plan/Preliminary Development Plan for Emerson North Townhomes. The owner/applicant is Pulte Group, c/o Doug Hoffman. The engineer is Donald W. McIntosh Associates, Inc., c/o John T. Townsend, P.E. The property is located at 1701 Ocoee Apopka Road. The future land use is Mixed-Use (0-15 du/ac) and the zoning is Mixed-EC. The existing use is planted pine and the proposed use is a residential townhome community with 136 units and a future public right-of-way. The tract size is 21.42 +/- acres. 17.1 +/- acres for the residential community and 4.24 +/- acres for the East Harmon Road right-of-way. The density is 7.95 units per acre.

The Emerson North Townhomes Master Plan/Preliminary Development Plan is a two phase project proposing 136 townhome units with 3.12 +/- acres of active and passive recreation and open space within a 17.1 +/- acre site. The Mixed-EC zoning designation requires a minimum of 2.565 acres for parks and open space for this residential community to be owned and maintained by the homeowners' association. All internal roads will be private streets also maintained by the homeowners' association. The project entrances will be gated. The proposed living area for the townhomes is 1,530 sq. ft. which exceeds the 1,350 sq. ft. minimum requirement and the 1,500 sq. ft. aggregate for the Mixed-EC zoning designation.

The minimum setbacks applicable to the project are:

Setback	Min. Standard
Perimeter	25'
Front	50'*
Side	20'*
Rear	50'*
*Distance between structures.	

Exterior elevations of all proposed homes must be reviewed by the Community Development Department prior to issuance of a building permit. Exterior home elevations must meet the intent of the City's Development Design Guidelines.

Ingress/egress for the development will be via two access points from Harmon Road. The western access/gate will become available at the time East Harmon Road is extended to the west.

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

The developer is providing over 3.12 acres of active and passive recreation space when only 2.565 acres is required. The applicant is proposing a swimming pool with a cabana (400 +/- sq. ft.) and a tot lot within the active recreational space. Per Section 2.02.20.H.4a of the Land Development Code, developments made up of less than 300 units shall be required to construct a minimum total of 2,000 sq. ft. of facility or facilities for a Neighborhood Activity Center. This facility will be one of the following: meeting halls; recreation facilities such as a gazebo, covered pavilions, etc. The Master Plan/Preliminary Development Plan provides only a 400 sq. ft. cabana which is 1,600 sq. ft. short of the 2,000 sq. ft. required by the Code.

Buffers provided are consistent with the Land Development Code. The planted pine is exempt from the arbor requirements and will be harvested for silviculture purposes.

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

Total inches on-site:	15,277
Total number of specimen trees:	2
Total specimen inches retained:	0
Total inches replaced:	1,033
Total inches removed:	1,606
Total inches retained:	1,441
Total inches post development:	2,474

The developer must obtain approval from the Florida Department of Environmental Protection prior to commencing any site construction activity regarding protection and relocation of any identified protected species. A habitat management plan must be submitted with the Final Development Plan.

No development activity, 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 applications for this property. Coordination occurred with County planning staff regarding impact on adjacent parcels. Orange County also receives a copy of the Development Review Committee agenda.

CONDITIONS OF APPROVAL:

1. A developer's agreement must be approved by City Council to address the conveyance of land to the City of Apopka for the future Harmon Road right-of-way extension. The right-of-way shall be sufficient to provide a two-lane divided highway with a multi-use trail on the south side of the road.
2. A minimum of 2,000 sq. ft. shall be provided in the form of a meeting house, gazebo, covered pavilion, etc., or as allowed by Section 2.02.20.H.4 – Neighborhood Activity Center of the Land Development Code.

The Development Review Committee recommends approval of the Emerson North Townhomes Master Plan/Preliminary Development Plan, subject to City Council approval of a Developer's Agreement, the provision of a minimum 2,000 sq. ft. of Neighborhood Activity Center, and subject to the findings in the staff report.

The recommended action is to find the Emerson North Townhomes Master Plan/Preliminary Development Plan consistent with the Comprehensive Plan and Land Development Code and recommend approval of the Master Plan/Preliminary Development Plan, subject to City Council approval of a Developer's Agreement, the provision of a minimum 2,000 sq. ft. of Neighborhood Activity Center, and subject to the findings in the staff report.

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

Mr. Ryan expressed concerns with the 20 foot front setback and residents not being able to park an oversized vehicle, like an F-150 pickup truck, in front of the garage.

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: Doug Hoffman, Pulte Homes, 4901 Vineland Road, 5th Floor, Orlando, stated that they had built the same type of product in the Dr. Phillips area, Casselberry, and Seminole County. The townhomes will have two to three bedrooms. The living area will range from 1,540 square feet to 1,700 square feet. Each townhome will have at least two parking spaces. He stated that the 20 foot setback is the typical depth for parking space in front of a garage.

In response to questions by Mr. Ryan, Mr. Hoffman stated that half of the townhomes will have two to three bedrooms and noted that the third bedroom could be used as a den or a bedroom. He stated that due to the configuration of the lot, the density is tight. He added that the code requires they provide 34 overflow parking spaces and they are providing 88.

John Townsend, P.E., Donald W. McIntosh Associates, 2200 Park Avenue North, Winter Park, stated that this would be a gated community and the street would be private. He said they are providing the City with an 80 foot right of way to the north of the property for the proposed widening of Harmon Road.

In response to a question by Mr. Ryan, Mr. Moon stated that the configuration of the site is tight;

however, between this meeting and the City Council meeting, staff will go back and review the possibility of increasing the front setback.

Mr. Townsend stated that they would be willing to move the sidewalks two feet closer to the street if the City would allow it.

Mr. Moon stated that the City Engineer would have to review that possibility to see what impacts that would have on utilities, drainage, etc.

Affected Party Presentation: None.

Chairperson Greene opened the meeting for public hearing.

Suzanne Sweeney, 246 East 2nd Street, Apopka, expressed her concerns regarding the possibility of people parking on the grass if they did not have enough room in their driveway; the size of the garages and the lack of storage space. She suggested that the developer consider 2 ½ car garages to accommodate parking and storage.

Mr. Hoffman stated that there are provisions in the homeowner association documents that will address the uses of the garages and the required upkeep of the property.

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

Mr. Ryan recommended the Commission table this item until staff has a chance to go back and review the front setback.

Mr. Greene stated that was not necessary since the Commission, if they so choose, could make their recommendation to City Council to require an increase in the front setback to accommodate larger vehicles. Then it would be City Council's decision as to whether to approve the project with that condition.

Motion: Chairman Green made a motion to find the Emerson North Townhomes Master Plan/ Preliminary Development Plan is consistent with the Comprehensive Plan and Land Development Code; to recommend approval of the Emerson North Townhomes Master Plan/Preliminary Development Plan subject to: City Council approval of a Developer's Agreement; the provision of a minimum 2,000 sq. ft. of Neighborhood Activity Center; and subject to the findings in the staff report for the property owned by Pulte Group, c/o Doug Hoffman and located at 1701 Ocoee Apopka Road.

Motion died due to lack of a second.

Motion: Tony Foster made a motion to find the Emerson North Townhomes Master Plan/ Preliminary Development Plan is consistent with the Comprehensive Plan and Land Development Code; to recommend approval of the Emerson North Townhomes Master Plan/Preliminary Development Plan subject to: City Council approval of a Developer's Agreement; the provision of a minimum 2,000 sq. ft. of Neighborhood Activity Center; and the condition for the provision of a 22 foot front setback to accommodate parking of large vehicles, such as F-150s, in the driveways; and subject to the findings in the staff report for the property owned by Pulte Group, c/o Doug Hoffman and located at 1701 Ocoee Apopka Road. The motion was seconded by Linda Laurendewau. Aye votes were cast by James Greene, Robert Ryan, Melvin Birdsong, Tony Foster, Linda Laurendeau, Jose Molina, and Roger Simpson (7-0). (Vote taken by poll.)

MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON AUGUST 9, 2016, AT 5:30 P.M.

OLD BUSINESS: None.

NEW BUSINESS: Mr. Foster assured Ms. Sweeney that the homeowners association would be responsible for the upkeep of the property.

ADJOURNMENT: The meeting was adjourned at 6:24 p.m.

/s/

James Greene, Chairperson

/s/

Mark Reggentin, AICP
Community Development Director