

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.**

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

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

**STAFF PRESENT:** James Hitt, FRA-RA – Community Development Director, David Moon, AICP - Planning Manager, Richard Earp – City Engineer, Jacob J. Schumer – City Attorney, Bobby Howell - Senior Planner, Jean Sanchez – Planner II, Phil Martinez – Planner I, and Jeanne Green – Recording Secretary.

**OTHERS PRESENT:** Lerome Granger, Shronda Granger, Nilsa Gonzalez, Ben Sayder, Jim Hall, James Hall, Sarah Maier, Jordan Draper, David Young, Curt Hall, Lynn Hall, Doug Carter, Kenneth Graves, Kent Greer, Annie Greer, Erika Hughes, Selby Weeks, Scott A. Glass, Rich Thometz, Rhonda McElroy, Chris Wrenn, Misty Jenkins, Jeff Welch, Daniel Padilla, Priscilla Torres, Mario Gomez, Luke Classon, Eric Wells, Teresa Sargeant

**OPENING AND INVOCATION:** Chairperson 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 regular meeting minutes of April 10, 2018, at 5:30 p.m.

**Motion:** **Tony Foster made a motion to approve the Planning Commission minutes from the regular meeting held on April 10, 2018, at 5:30 p.m. and seconded by Linda Laurendeau. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0).**

**QUASI-JUDICIAL – CHANGE OF ZONING – BRIDLE PATH SUBDIVISION -** Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” PD (ZIP) to “City” KPI-MU (Kelly Park Interchange Mixed Use) for the property owned by AHIFO-18, LLC and located West of Plymouth-Sorrento Road and east of SR 429, approximately one-half mile north of the intersection of Kelly Park Road and Plymouth-Sorrento 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. No one spoke.

Staff Presentation: Bobby Howell, AICP, Senior Planner, stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” PD (ZIP) to “City” KPI-MU (Kelly Park Interchange Mixed Use) for the property owned by AHIFO-18, LLC and located West of Plymouth-Sorrento Road and east of SR 429, approximately one-half mile north of the intersection of Kelly Park Road and Plymouth-Sorrento Road. The applicant is VHB, c/o Jim Hall. The existing use is vacant land, an abandoned two-story house and horse stables. The current land use is “County” Rural Settlement and the proposed future land use is “City” Mixed Use Interchange. The current zoning is “County” PD and the proposed zoning is “City” KPI-MU (Kelly Park Interchange Mixed Use). The proposed development is 152 single family homes. The tract size is 51 +/- acres.

The owner of the subject property is requesting a rezoning of 51 acres of property from Orange County

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

Planned Development (PD/ZIP) to Kelly Park Interchange Mixed-Use (KPI-MU), with a Neighborhood character zone to develop a single-family residential subdivision subject to the requirements of the Kelly Park Interchange Form Based Code. The subject property is comprised of two parcels and is located east of SR 429 and west of Plymouth-Sorrento Road, approximately one-half mile north of the intersection of Kelly Park Road and Plymouth-Sorrento Road. The owner of the properties is AHIFO-18, LLC.

**Development Profile:**

No. of residential lots:	152	single family homes, detached
Minimum lot width:	50	feet (all lots 50 feet wide)
Minimum lot depth:	100	Feet (all lots 100 feet deep)
Minimum lot size:	5,500	sq. ft. (all proposed\FBC has no minimum lot size)
Minimum house livable area:	1,200	sq. ft. (proposed\FBC does not address)

**Setbacks:**

Front:	Min. 15 ft – Max. 30 ft
Rear:	Min. 20 ft
Side:	Min. 5 ft
Garage:	Same as front
Overflow Parking	None
Driveway length:	Min. 15 ft – Max. 30 ft.
On-street parking:	None proposed
Max. number of floors:	Two
Parking:	Two space per house within the lot (enclosed or exterior; FBC does not require enclosed parking)

**Amenities:**

- Pool house with cabana; no parking
- Walking paths around stormwater ponds (developer proposes mulch\staff recommends established surface – concrete or asphalt)
- Regional Trails: two – along Plymouth-Sorrento Road, and internal along stormwater pond and wetland edges.

In accordance with the requirements of the Kelly Park Interchange Form Based Code, the owner has submitted a Master Plan in conjunction with the rezoning application detailing the development of 152 single-family homes on 51 acres. The property currently has a future land use designation of Orange County Rural Settlement. On May 16, 2018 the City Council will consider adoption of a large-scale future land use amendment for the subject property; which if approved, will change the future land use designation of the property from Orange County Rural Settlement, to City of Apopka Mixed Use Interchange, which is a consistent future land use category with the KPI-MU zoning designation. The property is located within the one-mile radius from the SR 429/Kelly Park Road interchange.

The Master Plan proposes development of the property with a total of 152 single-family homes on 50-foot by 110-foot wide lots and a minimum living area of 1,200 square feet. There are no minimum and maximum lot size and living area requirements in the Form Based Code. Notes provided on the Master Plan indicate the project may be developed in multiple phases, with each phase determined upon submittal of the Final Development Plan. The Master Plan details design of the proposed subdivision in accordance with the requirements of the Kelly Park Interchange Form Based Code, and the Neighborhood character zone, which primarily allows single-family homes as permitted uses. The surrounding properties consist of single-family residential and agricultural uses.

Access to the site is proposed via Plymouth-Sorrento Road. A dedication of a 30-foot wide strip for future right-of-way needs for Plymouth-Sorrento Road is detailed on the Master Plan. Behind this strip, a 30-foot area will be reserved for a landscape buffer along Plymouth-Sorrento Road. A wetland area exists in the northwest corner of the development. A spring is located within the wetland area. Per the Comprehensive Plan, a 300-foot buffer will be provided around the spring. Stormwater ponds are located in the southwestern corner of the site. Four-foot wide walking paths are provided around the perimeter of the ponds. 20-percent of the total site area will remain as open space in accordance with the requirements of the Form Based Code. Common recreation elements include a clubhouse with a pool, an internal trail system, preserved wetlands, upland buffers, and a park/stormwater facility.

The Master Plan details the design of the internal street system with public streets utilizing a walkable grid design, which is a fused grid design that includes varied street, sidewalk and pedestrian pathways throughout a development that links developments. Three roadway connections will be provided to allow cross-access to the properties to the north and south at such time they develop. A 10-foot wide trail will be constructed within the development, and connections to the properties to the north and south will be provided to facilitate development of a regional trail system. A cul-de-sac is provided in the southwestern corner of the site, adjacent to the park and stormwater pond, and is provided to accommodate trail connection and to create an open space corridor along stormwater pond system and wetland area.. Properties adjacent to the cul-de-sac will have access to the trail system which will allow pedestrian access to the common areas internal to the development. The developer will provide a 12-foot wide multi-purpose trail along the portion of the development abutting Plymouth-Sorrento Road to help facilitate the construction of the regional trail system.

That the zoning classification of the following described property be designated as Kelly Park Interchange Mixed-Use (KPI-MU), Neighborhood character zone, as defined in the Kelly Park Interchange Form Based Code, and with the following provisions:

1. Development of the property is subject to the requirements of the Kelly Park Interchange Form Based Code, Neighborhood character zone.
2. The architectural design of the buildings must be consistent with Section K.2.g, and Appendix A of the Kelly Park Interchange Form Based Code.
3. A 10-foot wide trail will be constructed within the development, connecting to future developments to the properties located to the north and south will be provided to facilitate development of a regional trail system, generally as shown on the Exhibit within the Staff Report. (Policy 20.19, FLUE; Sec. Q, FBC)
4. A 12-foot wide multi-purpose trail will be constructed along the portion of the development abutting Plymouth-Sorrento Road to facilitate the construction of a regional trail system. (Policy 20.19, FLUE; Sec. Q, FBC). The trail shall be placed in an easement or tract.
5. Perpetual easements dedicated to the City of Apopka shall be provided over the internal pedestrian pathways and trail networks to allow public access.
6. A minimum living area of 1,200 square feet shall be provided.
7. A development agreement shall address the extension of utilities, dedication of rights-of-way, and public access to regional trail facilities.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

The proposed use of the property is consistent with the Mixed-Use Interchange Future Land Use designation and is consistent with the Kelly Park Interchange Form Based Code.

A School Capacity Enhancement Agreement has been approved by OCPS. The location is served by the following schools: Zellwood Elementary, Wolf Lake Middle, and Wekiva High School. No development activity shall occur on the subject property until the developer has obtained a school concurrency mitigation agreement or letter from OCPS.

Pursuant to Section 7 of the Joint Planning Area agreement, Orange County was notified on April 3, 2018.

The Development Review Committee finds the proposed rezoning to Kelly Park Interchange Mixed-Use (KPI-MU), and assignment of a Neighborhood character zone consistent with the Comprehensive Plan and Kelly Park Interchange Form Based Code, and recommends approval of the Bridle Path Master Plan.

Staff recommended the Planning Commission find the proposed zoning and Master Plan consistent with the Comprehensive Plan and Land Development Code and Neighborhood Overlay District, and recommend to approve the rezoning of the subject parcels from Orange County Planned Development (PD/ZIP) to Kelly Park Interchange Mixed-Use (KPI-MU) and the KPC Neighborhood Overlay District, and approval of the Master Plan based on the findings and facts presented in the staff report, exhibits, and City Council approval of a Development Agreement.

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.

Ms. Laurendeau expressed concerns regarding the 1,200 sq. ft. living area. She said she would rather that they be the 1,500 sq. ft. as required by code.

Chairperson Greene suggested all of the walking paths be constructed of concrete or asphalt.

Jim Hall, HDSI, 1302 Osprey Avenue, Orlando, stated he represents the owners of the property. After a brief confirmation of staff's presentation, Mr. Hall stated that they would commit to the 1,500 sq. ft. living area.

In response to questions by Mr. Molina, Mr. Hall stated that increasing the living area to 1,500 sq. ft. will have not an effect on the number of homes, 152, being proposed. He said there will be a mix of one- and two-story homes on the 50 foot wide lots.

Mr. Moon stated in 1988, Governor Bob Martinez appointed the Wekiva River Task Force to recommend strategies to preserve the basin. As a result, the Florida Legislature passed the Wekiva River Protection Act that established the Wekiva River Protection Area. In 2002, the Wekiva River was included in the St. Johns River Water Management District's Surface Water Improvement and Management (SWIM) program. The purpose of this designation was to implement projects as needed to "preserve or restore the quantity and quality of water necessary to support thriving biological communities." In that same year, Governor Jeb Bush appointed the Wekiva Basin Task Force, followed by the Wekiva River Basin Coordinating Committee and environmentally conscience groups such as the Audubon Society and Friends of Lake Apopka. Their work culminated into the Wekiva Parkway and Protection Act of 2004 that identified the basin as high priority for protection. The Wekiva Parkway, when complete, will be a 25-mile toll road that will complete the beltway around metropolitan Orlando. Authorized in 2004 by the Wekiva Parkway and Protection Act (Chapter 369, Part III, F.S.), this expressway has been heralded as an example for transportation planning through the Wekiva River Basin, an environmentally sensitive area.

Mr. Moon stated that the interchange visioning plan focused higher densities to within a one-mile radius of the

intersection so that there is more open space to allow water to percolate.

Mr. Hall stated that in 1988 the Wekiva River Task Force determined that there should only be one intersection for the Wekiva Parkway. That intersection is at Kelly Park Road and Plymouth Sorrento Road.

In response to a question by Mr. Molina, Mr. Hall stated that there will be a trail up the hill next to the club house but due to the natural spring at the top of the hill there will be no other recreation amenities on that hill.

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 find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” PD (ZIP) to “City” KPI-MU (Kelly Park Interchange Mixed Use) subject to the following conditions: the minimum living area to be increased to 1,500 sq. ft. and all of the trails will be constructed using concrete or asphalt, for the property owned by AHIFO-18, LLC and located West of Plymouth-Sorrento Road and east of SR 429, approximately one-half mile north of the intersection of Kelly Park Road and Plymouth-Sorrento Road. Motion seconded by Roger Simpson. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**LEGISLATIVE – COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT** - Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from “County” Rural to “City” Residential Very Low Suburban (0 – 3.5 du/ac) for property owned by Lynn R. Fontaine and located at 4353 McDonald Gley Road.

Staff Presentation: Phil Martinez, Planner, stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from “County” Rural to “City” Residential Very Low Suburban (0 – 3.5 du/ac) for property owned by Lynn R. Fontaine and located at 4353 McDonald Gley Road. The existing and proposed use is a single family home. The current zoning is “County” A-1 and the proposed zoning is “City” RCE-2. This Future Land Use amendment request is being processed along with a request for change of zoning from “County” A-1 to “City” RCE-2 (Residential Country Estate). The existing and proposed maximum allowable development is 10 single family homes. The tract size is 5.2 +/- acres.

The subject parcel was annexed in the city on April 18, 2018 by Ordinance 2641. Presently, the subject property does not have a city future land use designation or zoning classification assigned. The applicant requests a future land use designation of “City” Residential Very Low Suburban.

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

*Future Land Use Element - Policy 3.1.c* - Very Low Density Suburban Residential - The primary use shall be residential dwelling units up to 2 dwelling units per acre, elementary schools; middle schools, high schools; supporting infrastructure of less than two acres, neighborhood parks.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

The proposed future land use change will result in an insignificant increase in the number of residential units by more than nine which could be developed at the subject property. Therefore, the property is exempt from school capacity enhancement per the School Interlocal Planning Agreement.

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 April 2, 2018.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Future Land Use Designation of Residential Very Low Suburban for the property owned by Lynn R. Fontaine, and located at 4353 McDonald Gley Road.

Staff recommended the Planning Commission find the proposed Future Land Use amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, and recommend approval of the change of Future Land Use Designation from “County” Rural to “City” Residential Very Low Suburban, subject to the findings of the Staff Report.

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

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

**Motion:** Jose Molina made a motion to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from “County” Rural to “City” Residential Very Low Suburban (0 – 3.5 du/ac) for property owned by Lynn R. Fontaine and located at 4353 McDonald Gley Road. Motion seconded by Tony Foster. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**QUASI-JUDICIAL – CHANGE OF ZONING** – Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” A-1 to “City” RCE-2 (Residential Country Estate) for property owned by Lynn R. Fontaine and located at 4353 McDonald Gley 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. No one spoke.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” PD (ZIP) to “City” KPI-MU (Kelly Park Interchange Mixed Use) for the property owned by AHIFO-18, LLC and located West of Plymouth-Sorrento Road and east of SR 429, approximately one-half mile north of the intersection of Kelly Park Road and Plymouth-Sorrento Road. The existing and proposed use is a single family home. The current zoning is “County” A-1 and the proposed zoning is “City” RCE-2. This Future Land Use amendment request is being processed along with a request for change of zoning from “County” A-1 to “City” RCE-2 (Residential Country Estate). The existing and proposed maximum allowable development is 1 single family home. The tract size is 5.2 +/- acres.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

Presently, the subject property has not yet been assigned a “City” zoning category. The applicant is requesting the City to assign a zoning classification of RCE-2 (Residential Country Estates) to the property.

The subject parcel was annexed into the city on April 18, 2018 by Ordinance Number 2641.

A request to assign a change of zoning to RCE-2 is compatible to the adjacent zoning classifications and with the general character of abutting properties and surrounding area. The change of zoning request is being processed in conjunction with a future land use amendment from “County” Rural to “City” Residential Very Low Suburban.

The existing and proposed use of the property is consistent with the proposed Residential Very Low Suburban (0-3.5 du / ac) Future Land Use designation.

The proposed future land use change will result in an insignificant increase (less than 9) in the number of residential units which could be developed at the subject property. Therefore, the property is exempt from school capacity enhancement per the School Interlocal Planning Agreement.

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 April 2, 2018.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from “County” A-1 to “City” RCE-2 for the property owned by Lynn R. Fontaine, and located at 4353 McDonald Gley Rd.

Staff recommended the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from “County” A-1 to “City” RCE-2 for the property owned by Lynn R. Fontaine, and located at 4353 McDonald Gley Rd.

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 did not have a presentation but was available for questions.

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

**Motion: Jose Molina made a motion to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” A-1 to “City” RCE-2 (Residential Country Estate) for property owned by Lynn R. Fontaine and located at 4353 McDonald Gley Road. Motion seconded by Linda Laurendeau. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)**

**LEGISLATIVE – COMPREHENSIVE PLAN – LARGE SCALE – FUTURE LAND USE AMENDMENT** - Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Large Scale Future Land Use Amendment from Rural Settlement (1 du/ac) to Mixed Use Interchange (0-5 du/ac) for property owned by Kent Greer and located South of West Kelly Park Road, East of Round Lake Road; and transmittal to the Florida Department of Economic Opportunity for review.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Large Scale Future Land Use Amendment from Rural Settlement (1 du/ac) to Mixed Use Interchange (0-5 du/ac) for property owned by Kent Greer and located South of West Kelly Park Road, East of Round Lake Road; and transmittal to the Florida Department of Economic Opportunity for review. The applicant is Hanover Land Company. The existing use is a single family home Agriculture – grazing. The current zoning is Agriculture and the proposed zoning is KPI-MU (Kelly Park Interchange Mixed Use) with Neighborhood Overlay Zone. The existing maximum allowable development is 7 residential units and the proposed maximum allowable development is 195 residential units. The tract size is 39.15 +/- acres.

The applicant requests a future land use designation of “City” Mixed Use Interchange. Presently, the applicant proposes a residential subdivision consisting of 139 single family lots.

Policy 20.9, Future Land Use Element of the Comprehensive Plan, requires that a Mixed Use Interchange future a land use designation must be assigned to the property.

The subject parcels are located within the one-mile radius from the Wekiva Parkway interchange at Kelly Park Road; and therefore is required to adhere to the Kelly Park Crossing Form Based Code. The properties are located within the Wekiva Parkway Interchange Vision Plan Area. Therefore, the property must comply with Objectives 18 – 20 and related policies within the Future Land Use Element of the Comprehensive Plan and the recently adopted Kelly Park Crossing Form-Based Code. The applicant’s request is consistent with the Mixed Use Interchange future land use designation and the Overlay District covering the property within the Vision Plan.

The proposed use of the property is compatible with the character of the surrounding area, is within one mile of the SR 429/Kelly Park Road interchange, and is consistent with the Mixed Use Interchange Land Use designation. City planning staff supports the FLUM amendment given the consistency with the Comprehensive Plan policies listed below and the intent of the Wekiva Parkway Interchange Vision Plan a (see Land Use Analysis below). Site development cannot exceed the intensity allowed by the Future Land Use policies.

#### *Future Land Use Element*

1. **Policy 3.1.r** The primary intent of the Mixed Use land use category is to allow a mixture of residential, office, commercial, industrial, recreation, institutional and public facilities uses to serve the residential and non-residential needs of special areas of the City. The mix of land uses may occur on a single parcel or multiple parcels ...

The designation of a mixed use category may occur only in certain areas of the city, including “land anticipated for inclusion within the Wekiva Parkway Interchange Land Use Plan...” These properties are within the 1-mile radius of the Wekiva Parkway Interchange depicted on the Wekiva Parkway Interchange Vision Plan Map located within the Future Land Use Element of the Apopka Comprehensive Plan.

2. **Policy 18.1** The City shall implement the Wekiva Parkway Interchange Vision Plan, which guides the location of a range of uses, such as residential, office, commercial, industrial, recreation, public and institutional, at various densities and intensities around the proposed interchange.

The proposed Mixed Use Future Land Use Designation allows for residential densities and non-residential uses and intensities to implement the Wekiva Parkway Interchange Vision Plan, consistent



with Objective 18 and related policies.

3. **Policy 18.2** Prior to rezoning any property within a one-mile radius of the interchange Study Area, the City shall amend its LDC to incorporate development standards that will implement the Vision Plan.

This future land use amendment does not include a corresponding proposed zoning category because the City has yet to adopt development standards or form-based code consistent with this policy. Future densities/intensities and design character for the subject properties will be regulated at the time of rezoning once Wekiva Parkway Interchange Vision Plan design standards and form-based code are adopted.

4. **Policy 20.4** Prior to approving the first development plan with the Wekiva Parkway Interchange vision Plan Area, the City shall adopt the Wekiva Parkway Interchange Form-Based Cod establishing the design and development standards for the Wekiva Parkway Interchange Vision Plan Area.

The subject properties will be required to comply with the above policy should the development submit a development plan to ensure consistency with the Comprehensive Plan and Wekiva Parkway Interchange Vision Plan.

5. **Policy 20.9** Development within the Wekiva Parkway Interchange Plan Area shall be assigned a Mixed-Use Interchange future land use designation and shall accomplish an overall mix of residential and non-residential uses as outline in Policy 3.1.r. Assignment of the Mixed-Use Interchange Land Use future land use designation shall require an amendment to the Comprehensive Plan.

The applicant's request for a Mixed Use future land use designation is consistent with this policy, as well as the intent of the Wekiva Parkway Interchange Vision Plan area, which intends to concentrate a mixture of land uses with varying densities and intensities within one mile of the Wekiva Parkway Interchange.

6. **Policy 20.3.** The annexation, land use change, and subsequent development of lands located within the Wekiva Parkway Interchange Plan Area for Apopka and the Wekiva Interchange Land Use Plan Overlay for the County shall be consistent with the adopted Interlocal Agreement between Orange County and the City of Apopka regarding Wekiva Interchange Land Use Plan Overlay.
7. **Objective 19 and 20, and their associated policies.** See objectives and policies within the supporting information.

#### *Transportation Element*

1. **Policy 4.2** The City of Apopka shall promote, through the implementation of programs such as mixed-use land development, projects that support reduced travel demand, short trip lengths and balanced trip demand.

The Mixed Use future land use designation allows for a mixture of land use types such as residential and non-residential, which promotes shorter trip lengths, concentrated development to reduce travel demand.

2. **Policy 3.1.r** The primary intent of the Mixed Use land use category is to allow a mixture of residential, office, commercial, industrial, recreation, institutional uses and public facilities uses...This mix of land uses may occur on a single parcel or multiple parcels in the form of: a permitted single use; a vertical combination of different permitted uses; or a horizontal mix of different permitted uses.

3. **Policy 4.2** The City of Apopka shall promote, through the implementation of programs such as mixed-use land development, projects that support reduced travel demand, shorter trip lengths and balanced trip demand.
4. **Objective 20 and associated Policies, Future Land Use Element.** Provided with the Supporting Information.

The properties are located within the boundaries of the Wekiva Parkway Interchange Vision Plan Area, making it subject to the Kelly Park Crossing Form-Based Code, Mixed- Use Interchange Zoning District and Neighborhood Overlay District. A copy of the Wekiva Parkway Interchange Vision Plan is provided with the support material.

An executed capacity enhancement agreement with Orange County Public Schools will be required prior to adoption of the future land use amendment.

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 9<sup>th</sup>, 2018. Notification has already occurred through the Second Amendment to the Joint Planning Agreement with Orange County government. The second amendment acknowledges that the City will assign a land use designation similar to the overlay district illustrated in the Wekiva Parkway Interchange Vision Plan.

The Development Review Committee recommends approval to transmit a change in Future Land Use to Mixed Use Interchange for the property owned by Kent Greer subject to the information and findings in the staff report.

Staff recommended the Planning Commission find the Future Land Use Designation consistent with the Comprehensive Plan and recommend a change in Future Land Use Designation to Mixed Use Interchange for the properties owned by Kent Greer subject to the information and findings in the staff report.

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

Sarah Maier, Dewberry, 800 N. Magnolia Avenue, Suite 1000, Orlando, stated she represents the owner and that they were in agreement with the staff report and she was available to answer any questions.

Chairperson Greene opened the meeting for public hearing.

Rhonda McElroy, 4704 West Kelly Park Road, expressed concerns regarding a subdivision being adjacent to her property.

Ms. Maier assured Ms. McElroy that they will work very closely with staff to ensure that any development will adhere to the City Codes.

Chairperson Greene suggested that Ms. McElroy participate in future meetings.

In response to comments by Lynn Hall, 4638 West Kelly Park Road, James Hitt, FRA-RA, Community Development Director advised that if any part of a property falls within the one-mile radius, the entire property can be developed using the KPI-MU standards. He added that property owners within 300 feet of the subject property will receive notices through the mail of any upcoming meetings.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

In response to a question by Ms. Hall, Chairperson Greene stated that the City Codes require all development to retain stormwater on their site.

Mr. Hitt stated that currently no plans have been submitted for this site.

Misty Jenkins, 4691 Round Lake Road, expressed her concern regarding the density within the one-mile radius of the interchange.

Mr. Moon stated that all properties in the vicinity of the Kelly Park Interchange having a Mixed-Use future land use designation are required to rezone to the Mixed-KPI zoning district or Planned Development (PD) prior to receiving any development approvals from the City. However, sites that are, wholly or in part, within one mile of the Kelly Park interchange are not eligible to rezone to PD and shall comply with the Kelly Park Interchange form-based standards.

Mr. Hitt stated that this property falls within the Neighborhood Overlay District and the density has already been approved for that district and is the least density available.

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

**Motion:** **Tony Foster made a motion to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from Rural Settlement (1 du/ac) to Mixed Use Interchange (0-5 du/ac) for property owned by Kent Greer and located South of West Kelly Park Road, East of Round Lake Road; and transmittal to the Florida Department of Economic Opportunity for review. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)**

**QUASI-JUDICIAL – CHANGE OF ZONING** – Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from Agriculture to R-1 (Single Family Residential) for the property owned by Laura R. Murphy and located at 359 W. Lester 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. No one spoke.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from Agriculture to R-1 (Single Family Residential) for the property owned by Laura R. Murphy and located at 359 W. Lester Road. The existing use is the Errol Equestrian Center and the proposed development is a single family subdivision with 52 lots. The current zoning is AG (Agriculture) and the proposed zoning is R-1 (Single Family Residential). The current maximum allowable development is 1 single family home and the proposed maximum allowable development is 69 single family homes. The tract size is 19.94 +/- acres.

The future land use, for the subject parcel, was amended on May 2, 2018 from “Agriculture” to “Residential Low Suburban”. The existing Future Land Use, “Residential Low Suburban” and the proposed zoning, “R-1”, are the same conditions as the nearby subdivision, “Rock Springs Estates”.

A request to assign a change of zoning to R-1 is compatible to the adjacent zoning classifications and with the

general character of abutting properties and surrounding area.

The existing and proposed use of the property is consistent with the proposed Residential Low Suburban (0-3.5 du / ac) Future Land Use designation.

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 April 2, 2018.

The applicant obtained a Capacity Enhancement Agreement (CEA) with Orange County Public Schools (OCPS) prior to the subject property's Future Land Use amendment on May 2, 2018. The applicant is required to obtain a concurrency mitigation agreement prior to adoption of the Final Development Plan. The applicable schools are Rock Springs Elementary, Apopka Middle School, and Apopka High School.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from Agriculture to R-1 for the property owned by Laura Murphy, and located at 359 W. Lester Road

Staff recommended the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from Agriculture to R-1 for the property owned by Laura Murphy, and located at 359 W. Lester Road, subject to City Council approval of Ordinance No. 2617.

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 did not have a presentation but was available for questions.

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

**Motion:** Roger Simpson made a motion to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from Agriculture to R-1 (Single Family Residential) for the property owned by Laura R. Murphy and located at 359 W. Lester Road. Motion seconded by Linda Laurendeau. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**LEGISLATIVE – COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT** - Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from "County" Rural to "City" Residential Low Suburban (0 – 3.5 du/ac) for property owned by Janine and Richard Edmondson located at 3904 Plymouth Sorrento Road.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from "County" Rural to "City" Residential Low Suburban (0 – 3.5 du/ac) for property owned by Janine and Richard Edmondson located at 3904 Plymouth Sorrento Road. The existing and proposed use is a single family home. The current zoning is "County" A-2 and the proposed zoning is "City" R-1AA. This Future Land Use amendment request is being processed along with a request for annexation and to change the

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

zoning classification from “County” A-2 to “City” R-1AA (Residential Single Family District). The existing maximum allowable development is 1 single family home and the proposed maximum allowable development is 2 single family homes. The tract size is 1.0 +/- acres.

The subject parcel was annexed in the city on April 18, 2018 by Ordinance 2640. Presently, the subject property does not have a “city” future land use designation or “city” zoning classification assigned. The applicant requests a future land use designation of “city” Residential Very Low Suburban.

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

*Future Land Use Element - Policy 3.1.c - Very Low Density Suburban Residential* - The primary use shall be residential dwelling units up to 2 dwelling units per acre, elementary schools; middle schools; supporting infrastructure of less than two acres, neighborhood parks.

The proposed future land use change will result in an insignificant increase (less than 9) in the number of residential units which could be developed at the subject property. Therefore, the property is exempt from school capacity enhancement per the School Interlocal Planning Agreement.

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 April 2, 2018.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Future Land Use Designation of Residential Very Low Suburban for the property owned by Janine and Richard Edmondson, and located at 3904 Plymouth Sorrento Road.

Staff recommended the Planning Commission find the proposed Future Land Use amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, and recommend approval of the change of Future Land Use Designation from “County” Rural to “City” Residential Very Low Suburban, subject to the findings of the Staff Report.

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

Petitioner did not have a presentation but was available for questions.

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 find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from “County” Rural to “City” Residential Low Suburban (0 – 3.5 du/ac) for property owned by Janine and Richard Edmondson located at 3904 Plymouth Sorrento Road. Motion seconded by Jose Molina. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

**QUASI-JUDICIAL – CHANGE OF ZONING** – Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” A-2 to “City” R-1AA (Residential Single Family District) for property owned by Janine and Richard Edmondson located at 3904 Plymouth Sorrento 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. No one spoke.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” A-2 to “City” R-1AA (Residential Single Family District) for property owned by Janine and Richard Edmondson located at 3904 Plymouth Sorrento Road. The existing and proposed use is a single family home. The current zoning is “County” A-2 and the proposed zoning is “City” R-1AA. This Future Land Use amendment request is being processed along with a request for annexation and to change the zoning classification from “County” A-2 to “City” R-1AA (Residential Single Family District). The existing maximum allowable development is 1 single family home and the proposed maximum allowable development is 2 single family homes. The tract size is 1.0 +/- acres.

Presently, the subject property has not yet been assigned a “City” zoning category. The applicant is requesting the City to assign a zoning classification of R-1AA (Single Family Residential) to the property.

The subject parcel was annexed into the city on April 18, 2018 by Ordinance Number 2641

A request to assign a change of zoning to R-1AA is compatible to the adjacent zoning classifications and with the general character of abutting properties and surrounding area. The change of zoning request is being processed in conjunction with a future land use amendment from “County” Rural to “City” Residential Very Low Suburban.

The existing and proposed use of the property is consistent with the proposed Residential Very Low Suburban (0-2 du / ac) Future Land Use designation.

The proposed future land use change will result in an insignificant increase (less than 9) in the number of residential units which could be developed at the subject property. Therefore, the property is exempt from school capacity enhancement per the School Interlocal Planning Agreement.

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 April 2, 2018.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from “County” A-2 to “City” R-1AA for the property owned by Janine and Richard Edmondson, and located at 3904 Plymouth Sorrento Rd.

Staff recommended the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from “County” A-2 to “City” R-1AA for the property owned by Janine and Richard Edmondson, and located at 3904 Plymouth Sorrento Rd.

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 did not have a presentation but was available for questions.

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

**Motion:** Roger Simpson made a motion to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” A-2 to “City” R-1AA (Residential Single Family District) for property owned by Janine and Richard Edmondson located at 3904 Plymouth Sorrento Road. Motion seconded by Linda Laurendeau. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**LEGISLATIVE – COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT – ZAXBY’S** - Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from “County” Commercial (Max. 3.0 FAR) to “City” Commercial (Max. 0.25 FAR) for property owned by SunTrust Bank and located at 920 East Semoran Boulevard.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from “County” Commercial (Max. 3.0 FAR) to “City” Commercial (Max. 0.25 FAR) for property owned by SunTrust Bank and located at 920 East Semoran Boulevard. The applicant is Casseaux, Hewett, and Walpole. The existing use is vacant land and the proposed use is a 4,055 sq. ft. commercial space. The current zoning is “County” R-2 and being processed along with a request to change the zoning classification to “City” C-1 (Retail Commercial). The existing maximum allowable development is 48,351 sq. ft. and the proposed maximum allowable development is 4,029 sq. ft. The tract size is 0.37 +/- acres.

The subject parcel was annexed in the city on April 18, 2018 by Ordinance 2642. Presently, the subject property does not have a “city” future land use designation or “city” zoning classification assigned. The applicant requests a future land use designation of “city” Commercial.

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

In the Future Land Use Element, Policy 3.1.i - Commercial - Primary uses shall be for business, commerce, and convenience shopping which may be neighborhood or community oriented. The maximum floor area ratio shall be .25 gross floor area. Institutional land uses of less than five acres; and public facilities or utilities of less than five acres.

The expansion of strip commercial areas shall be prohibited except in infill areas.

The proposed future land use change will result in an insignificant increase (less than 9) in the number of residential units which could be developed at the subject property. Therefore, the property is exempt from school capacity enhancement per the School Interlocal Planning Agreement.

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 April 2, 2018.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Future Land Use Designation of Commercial for the property owned by SunTrust Bank, and located at 920 E. Semoran Boulevard.

Staff recommended the Planning Commission find the proposed Future Land Use amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, and recommend approval of the change of Future Land Use Designation from "County" Commercial to "City" Commercial, subject to the findings of the Staff Report.

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

Petitioner did not have a presentation but was available for questions.

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

**Motion:** Roger Simpson made a motion to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Comprehensive Plan Small Scale Future Land Use Amendment from "County" Commercial (Max. 3.0 FAR) to "City" Commercial (Max. 0.25 FAR) for property owned by SunTrust Bank and located at 920 East Semoran Boulevard. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**QUASI-JUDICIAL – CHANGE OF ZONING – ZAXBY’S** - Chairperson Greene stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from "County" R-2 & "City" C-2 to "City" C-1 (Retail Commercial) for property owned by SunTrust Bank and located at 920 East Semoran Boulevard.

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

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

Staff Presentation: Mr. Martinez stated this is a request to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from "County" R-2 & "City" C-2 to "City" C-1 (Retail Commercial) for property owned by SunTrust Bank and located at 920 East Semoran Boulevard. The applicant is Casseaux, Hewett, and Walpole. The existing use is vacant land and the proposed use is a 4,055 sq. ft. commercial space. The current zoning is "County" R-2 and being processed along with a request to change the zoning classification to "City" C-1 (Retail Commercial). The existing maximum allowable development is 48,351 sq. ft. and the proposed maximum allowable development is 4,029 sq. ft. The tract size is 0.37 +/- acres.

Presently, the subject property has not been assigned a "City" zoning category. The applicant is requesting the City to assign a zoning classification of C-1 (Commercial Retail) to the property.

The subject parcel was annexed into the city on April 18, 2018 by Ordinance Number 2642.

A request to assign a change of zoning to C-1 is compatible to the adjacent zoning classifications and with the



**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

general character of abutting properties and surrounding area. The change of zoning request is being processed in conjunction with a future land use amendment from “County” Commercial to “City” Commercial.

The existing and proposed use of the property is consistent with the proposed C-1 (Commercial Retail) Future Land Use designation.

The proposed future land use change will result in an insignificant increase (less than 9) in the number of residential units which could be developed at the subject property. Therefore, the property is exempt from school capacity enhancement per the School Interlocal Planning Agreement.

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 April 2, 2018.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from “County” R-2 to “City” C-1 for the property owned by SunTrust Bank, and located at 920 E Semoran Blvd.

Staff recommended the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, recommending approval of the proposed Change of Zoning from “County” R-2 to “City” C-1 for the property owned by SunTrust Bank, and located at 920 East Semoran Blvd.

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 did not have a presentation but was available for questions.

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

**Motion:**        **Jose Molina made a motion to find the proposed amendment consistent with the Comprehensive Plan and recommend approval of the Change in Zoning from “County” R-2 to “City” C-1 (Retail Commercial) for property owned by SunTrust Bank and located at 920 East Semoran Boulevard. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)**

**VARIANCES – PLANNING COMMISSION RESPONSIBILITIES** – David Moon, AICP, Planning Manager, instructed the Planning Commission of their responsibilities regarding variance requests. Based on the information provided by the applicant at the hearing for the variance requested, the role of the Planning Commission must first determine that sufficient substantially competent information indicates “whether a need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property involved.” If so, then the Planning Commission must find that substantially competent information occurs to accept each of the seven variance criteria. Planning Commission has authority to take final action. Approve, deny, or approve with conditions. Pursuant to 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. Conditions may be established by the Planning Commission to reduce the impacts of the effects of the variance.

Mr. Moon summarized that the first step is for the Planning Commission to determine if a hardship exists, and

if so, has there been a positive finding of the seven criteria needed for granting a variance.

**QUASI-JUDICIAL - VARIANCE** - Chairperson Greene stated this is a request to approve a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.08 (H) to allow a corner lot fence closer to the property line than the required 25 feet for the property owned by Nilsa Gonzalez and located at 301 McCoy Village Court.

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

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

Staff Presentation: Mr. Martinez stated this is a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.08 (H) to allow a corner lot fence closer to the property line than the required 25 feet for the property owned by Nilsa Gonzalez and located at 301 McCoy Village Court. The land use is Residential Medium (0-10 du/ac) and the zoning is R-3. The existing and proposed use is as a single family residence. The tract size is 0.12 +/- acre.

The applicable City Code is 7.01.08.H Fences (shall include walls) that states fences may be permitted in any residential or office district; provided, that no fence or wall shall be erected or maintained within 25 feet from the property line on a corner intersection of street right-of-way. Fences or walls erected beyond the front building line shall be limited to a maximum height of four feet. A fence or wall shall be limited to a maximum height of eight feet in the rear and side yards.

**LIMITATIONS GRANTING VARIANCES:**

- A. *Initial determination.* The Planning Commission shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the zoning board of appeals shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the zoning board of appeals shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

Under no circumstances shall the Planning Commission grant a variance to permit a use not generally or by special exception permitted in this code or any use expressly or by implication prohibited by the terms of this code. Further, under no circumstance shall the zoning board of appeals offer or accept any negotiation to grant a variance in exchange for any other land use alterations on the affected parcel or any other parcel of land.

No nonconforming use of neighboring lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of the variance.

In response to the initial determination, staff's response is that the Lake McCoy Oaks Plat was recorded in September 1992, before the current Land Development Code was adopted and became effective. The lot width, lot area, and setbacks and yard requirements for the current Land Development Code (LDC) create conflicts with the plat established prior to the LDC's adoption in 1993.

**APPLICANT'S RESPONSE TO SEVEN VARIANCE CRITERIA:**

- B. *Required findings.* The zoning board of appeals shall not vary the requirements of any provision of this

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

code unless the board makes a positive finding, based on substantial competent evidence, on each of the following:

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:** Garbage thrown on my property. Residents allowing pets to eliminate on my property. People walking through my property.

**Staff Response:** The absence of a fence is allowing passerby's to devalue the property and overall neighborhood aesthetics. The placement of the house, and width of the lot make it impossible for the applicant to adhere to a 25 feet setback.

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

**Applicant's Response:** The request for a fence will not reduce cost to develop a site.

**Staff Response:** The site is already developed. It is a subdivision parcel with a home built in 1993.

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

**Applicant's Response:** Congestion will not be increased, as this is a dead end. No thru traffic.

**Staff Response:** A proposed fence will not increase congestion on a dead end street.

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:** Request will not diminish property values nor will it alter the character of the surrounding area.

**Staff Response:** The fence may prevent the previously discussed passerby's from leaving refuse on the property owner's side lawn.

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:** The proposed variance is in harmony with the general intent of the code.

**Staff Response:** The proposed fence meets all other stipulations in the City's Land Development Code.

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

**Applicant's Response:** My request is not due to my actions.

**Staff Response:** The property owner was not responsible for building the home with a 13 feet side setback.

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:** Will not create a safety hazard or a detriment to the public. Currently, the property opposite my home is surrounded by a six foot brick wall.

**Staff Response:** The proposed variance will be adequate for accommodating a side yard fence. While this is a corner lot at the entrance of the subdivision, the Development Review Committee has determined that the fence will not create an issue with visibility and public safety.

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. Foster, Mr. Martinez stated that the owner experienced damage to her fence during Hurricane Irma and when she applied for a fence permit it came to light that the fence was five feet from the property line.

Mr. Hitt stated that these are old homes and the fence would not extend beyond the front of the house.

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

**Motion:** Roger Simpson made a motion to determine a hardship does occur pursuant to Section 10.02.02.A, that the need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property owned by Nilsa Gonzalez and located at 301 McCoy Village Court. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**Motion:** Roger Simpson made a motion to approve a variance from Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.08 (H) to allow a corner lot fence closer to the property line than the required 25 feet for the property owned by Nilsa Gonzalez and located at 301 McCoy Village Court. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**QUASI-JUDICIAL - VARIANCE** - Chairperson Greene stated this is a request to approve a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article II, Section 7.01.07(A) to allow for a swimming pool to encroach within the side yard setback for the property owned by Lerome Antione Granger and located at 2173 Hunley Avenue.

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

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

Staff Presentation: Mr. Martinez stated this is a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article II, Section 7.01.07(A) to allow for a swimming pool to encroach within the side yard setback for the property owned by Lerome Antione Granger and located at 2173 Hunley Avenue.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

The future land use is Mixed-Use (Single Family Residential) and the zoning is Mixed-EC (Employment Center). The existing use is a Single Family Residence. The tract size is 0.16 +/- acre.

The applicant is requesting a variance from Section 7.01.07(A) – Swimming and wading pools and hot tubs, spas, and appurtenances thereto, including, but not limited to, pool decks or outside shell if no deck exists, security fences, screen enclosures without permanent roofs, and pumps, shall not be located within a required front or side yard, within five feet of any rear property line, or within any easement.

- *Applicant Request* - Allow swimming pool to encroach within required side setback.

Per Land Development Code Section 10.02.00, the Planning Commission must follow two steps to approve a variance:

Step 1: Section 10.02.02.A, Limitations on Granting Variances. The Planning Commission “shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property involved.” This is known as a physical hardship. If the Planning Commission makes this determination, then it must take action on the seven variance criteria set forth in Section 10.02.02.B.

Step 2: Section 10.02.02.B, Required Findings. Once a “physical hardship” has been determined, the Planning Commission shall not vary from the requirements of any provision of the LDC unless it makes a positive finding, based on substantial competent evidence, on the seven variance criteria.

**APPLICABLE CITY CODES:**

1. Section 7.01.07(A) – Swimming and wading pools and hot tubs, spas, and appurtenances thereto, including, but not limited to, pool decks or outside shell if no deck exists, security fences, screen enclosures without permanent roofs, and pumps, shall not be located within a required front or side yard, within five feet of any rear property line, or within any easement. Setbacks shall be measured from the edge of the deck or from the rim if it is an aboveground pool.

**Variance Hardship Determination (Step 1):** The first step of the variance determination process is to determine if a hardship occurs pursuant to Section 10.02.02.A, “whether the need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property involved.”

**Staff’s Response:** The Emerson Park community was platted according to the requirements and standards set forth in the current Land Development Code. Based on the shape of the lot, it exists as a rectangular lot with corners at 90 degree angles. The lot is only 55-feet wide. The house and the lot were in place at the time the property owner purchased the property.

**Seven Variance Criteria Findings (Step 2):** If the Planning Commission accepts the hardship in Paragraph A. above, the second step is to make a finding on the seven criteria below. The Planning Commission must make a positive finding, based on substantial competent evidence, on each of the following seven criteria:

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’s Response:** 7.01.07(A) states that swimming pools "shall not be located within

a required front or side yard, within five feet of any property line, or within any easement." The shape of my home makes it seem as though I am proposing to place a swimming pool on the side of my home. The pool will technically be placed in the rear yard, but it would extend beyond the wall of the home. In addition, my home is surrounded by a privacy fence. Please see Picture A-1. The blue section shows the approved area for the pool which has been drawn over the concrete driveway, etc. The red outline shows my proposed pool. Please see Picture A-2 which displays a picture of the back yard. A concrete driveway is located on the other side of the left side of the fence, which would make it impossible to build a pool according to the blue section outline in Picture A-1.

**Staff's Response:** The rear yard is defined per Land Development Code Section 1.08.13 as yard extending across the rear of a lot between the side lot lines and being a minimum horizontal distance between the rear lot line and the principal building or any projections thereof. And side yard is defined as a yard between the main building and the side line of the lot, and extending from the front lot line to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof. Diagram A, in the staff report showed the rear and side yard setbacks on this lot as defined by the Land Development Code.

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

**Applicant's Response:** There is no reduction in the cost of the pool by receiving the approval of the variance.

**Staff's Response:** No objection.

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

**Applicant's Response:** The proposed pool will be for our private use and will be enclosed with a privacy fence.

**Staff's Response:** No objection.

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:** Swimming pools often increase property values by approximately 7%. There are a few pools in the neighborhood. In addition, the pool will be enclosed with a privacy fence.

**Staff's Response:** City staff does not hold professional expertise to address property values.

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:** I believe that the proposed variance is in harmony with the general intent of the code in that the pool will be located towards the back of my home and it will be enclosed with a privacy fence.

**Staff Response:** Section 7.01.07(A) of the Land Development states that swimming pools

shall not be located within a required side yard. It is the position of Staff that the proposed pool location does not meet the intent of the Code regarding swimming pools. Therefore, Staff does not support this variance request.

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

**Applicant's Response:** I have not changed the plot layout or the outside of the home to produce a special circumstance.

**Staff Response:** Lots within Emerson Park with 55' lot widths were not intended to have swimming pools due to spatial constraints posed by lot sizes. A club house and community pool area is accessible to all residents of the community.

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:** The proposed pool will be built to Code and will be enclosed with a privacy fence.

**Staff Response:** No objection.

Staff has not received or identified sufficient substantially competent information to determine that a hardship exists.

If Planning Commission approves the Variance, staff recommended the following language: "Approve a variance from Section 7.01.07(A), Land Development Code, to allow a swimming pool to encroach within the required side yard but shall no portion of the pool or its associated deck shall be placed closer than seventy (70') feet from the front lot line, and a six foot high fence shall screen the pool from Hunley Avenue and Shackley Place and abutting lots."

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 petitioner, Lerome Granger, explained how his lot is configured and implored the Planning Commission to approve his request for a variance.

In response to a question by Mr. Foster, Mr. Granger stated that the HOA has approved his request and his neighbor does not have a problem with the proposed placement of the pool.

In response to a question by Mr. Sprinkle, Mr. Moon stated that major issue is the side yard. The code does not permit pools in side yards. He stated that there is also a utility easement running through the side yard.

In response to a question by Mr. Simpson, Mr. Granger said the HOA letter approving the pool was provided to staff.

Ms. Laurendeau said the HOA approval letter was included in the staff report.

In response to a comment by Ms. Laurendeau, Mr. Granger stated that to offset the slope they would be installing a retention wall.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

In response to a question by Mr. Simpson, Mr. Hitt stated that typically pools are not located in the side yard. They are installed and shielded in the back of the house.

In response to a question by Mr. Molena, Mr. Hitt stated the back property line is located 70 feet from the front property line.

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

**Motion:** Jose Molina made a motion to determine a hardship does occur pursuant to Section 10.02.02.A, that the need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property owned by Lerome Antione Granger and located at 2173 Hunley Avenue. Motion seconded by Tony Foster. Aye votes were cast by Tony Foster, Jose Molina, Roger Simpson, and John Sprinkle. No votes were cast by James Greene and Linda Laurendeau. (4-2). (Vote taken by poll.)

**Motion:** Jose Molina made a motion to Approve a variance from Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.08 (H) to allow a corner lot fence closer to the property line than the required 25 feet for the property owned by Article II, Section 7.01.07(A) to allow for a swimming pool to encroach within the side yard setback for the property owned by Lerome Antione Granger and located at 2173 Hunley Avenue. Motion seconded by Tony Foster. Aye votes were cast by Tony Foster and Jose Molina. No votes were cast by James Greene, Linda Laurendeau, Roger Simpson, and John Sprinkle (2-4). (Vote taken by poll.) Motion Failed.

**Motion:** Jose Molina made a motion to Approve a variance from Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.08 (H) to allow a corner lot fence closer to the property line than the required 25 feet for the property owned by Article II, Section 7.01.07(A) to allow for a swimming pool to encroach within the side yard setback subject to the inclusion of a screen room for the property owned by Lerome Antione Granger and located at 2173 Hunley Avenue. Motion seconded by Tony Foster. Aye votes were cast by Tony Foster, Jose Molina, and Roger Simpson. No votes were cast by James Greene, Linda Laurendeau, and John Sprinkle (3-3). (Vote taken by poll.) Motion Failed.

**QUASI-JUDICIAL - VARIANCE** - Chairperson Greene stated this is a request to approve a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.08 (H) to allow a corner lot fence closer to the property line than the required 25 feet for the property owned by Priscilla Torres and Daniel Padilla located at 549 Keyhold Loop.

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

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

Staff Presentation: Mr. Martinez stated this is a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.08 (H) to allow a corner lot fence closer to the property line than the required 25 feet for the property owned by Priscilla Torres and Daniel Padilla located at 549 Keyhold Loop. The future land use designation Residential Low Suburban (0-3.5 du/ac) and the zoning is R-1. The existing and proposed use a single family Residence. The tract size is 0.33 +/- acre



**APPLICABLE CITY CODE:**

**7.01.08 Fences (shall include walls)**

- H. Fences may be permitted in any residential or office district; provided, that no fence or wall shall be erected or maintained within 25 feet from the property line on a corner intersection of street right-of-way. Fences or walls erected beyond the front building line shall be limited to a maximum height of four feet. A fence or wall shall be limited to a maximum height of eight feet in the rear and side yards.

**LIMITATIONS GRANTING VARIANCES:**

- C. *Initial determination.* The [Planning Commission] shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the [Planning Commission] shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the [Planning Commission] shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

Under no circumstances shall the [Planning Commission] grant a variance to permit a use not generally or by special exception permitted in this code or any use expressly or by implication prohibited by the terms of this code. Further, under no circumstance shall the [Planning Commission] offer or accept any negotiation to grant a variance in exchange for any other land use alterations on the affected parcel or any other parcel of land.

No nonconforming use of neighboring lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of the variance.

**Staff Response:** Staff has not identified or received any substantially competent information to demonstrate that a need for the variance arises out of the physical surrounding, shape, topographical condition, or other physical or environmental conditions that are unique to this corner lot. Corner lots similar to this occur throughout the City of Apopka.

**APPLICANT’S RESPONSE TO SEVEN VARIANCE CRITERIA:**

- D. *Required findings.* The [Planning Commission] shall not vary the requirements of any provision of this code unless the board makes a positive finding, based on substantial competent evidence, on each of the following:
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 measurements requested for the proposed variance of our fence installation will not create any practical difficulties or break any regulations. Any smaller measurements will give an awkward and unbalanced look to our new home and to the specified corner. We have also requested a double door from Mossy Oak Fence (Mr. Terry Fox), on the corner side for easy entrance/exit of our lawnmower. Mr. Fox has all the exact measurements in our application showing that it will be fair for the land that we acquired in our purchase, but also fair to the Rock Springs Estates community and to the City of Apopka. I have photos to prove that there are no threats and no

visibility issues for drivers turning to and from that corner. The corner is also not in an intersection. In the photos, the wooden stick with the orange flag next to the crape myrtles that we will be planting is the marking of where the fence will go.

**Staff Response:** Staff does not find a hardship for this variance application.

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

**Applicant's Response:** This proposed variance is not based on the desire to reduce cost of development of this corner and property. It will actually increase its development value which will add presence and attractiveness to the property, the lot, the street and the residential complex of Rock Springs Estates.

**Staff Response:** The site is already developed. It is a subdivision parcel with a home built in 2017.

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

**Applicant's Response:** The proposed variance will definitely not increase congestion on the surrounding public streets for it will not affect or alter any visibility or safety issues for drivers and pedestrians. The traffic pattern view for drivers driving to and from that corner will be clear and in compliance with all regulations.

**Staff Response:** A proposed fence will not increase congestion on this circular street.

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 proposed variance will most definitely not diminish property values, nor alter the essential character of the area surrounding site. On the contrary, it will add value for it will make the property more complete and attractive.

**Staff Response:** The proposed fence, in accordance with the home owner's association guidelines, will not diminish property values.

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:** The effect of the proposed variance is in harmony with the general intent of this code for the property has a larger lot than some of the other homes and it's also a corner home. The corner side is twice as large as the other side next to our neighbor. For that reason, the fence location requested on the corner side needs to be wider to balance out the look of the fence and the property. It will not alter the relevant subject area of the space. The proposed variance is only on the wider side of the property which is the corner side. The location of the fence will be in harmony with the spacing area.

**Staff Response:** The proposed fence meets all other stipulations in the City's Land Development Code.

Land Development Code, Section 7.01.08 Fences (Shall include walls), B. No fence or wall shall be erected in any district within an area at any corner street intersection that will obstruct visibility at the site [sight] distance line.

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

**Applicant's Response:** Special conditions & circumstances do not result from our actions as applicants. One side of the property is 17 ½ feet and the corner side is 35 feet. This is why the proposed variance requested for the fence needs to be wider on the corner side due to their difference in sizes (See property blueprint provided).

**Staff Response:** The property owner was not responsible for building the home in its current placement.

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:** The variance granted is the minimum variance requested to have a sturdy 95 mph wind fence that not only meets the requirements of the county, but will allow reasonable use of the land in the community and in our property. The measurements requested in our application are precise and fair. It will add value and beauty to our property as well as to the surrounding homes around the neighborhood. In addition, it will provide privacy to our new property but will not create any safety hazards or other detriments to the public.

**Staff Response:** The proposed variance will be adequate for accommodating a side yard fence. While this is a corner lot at the entrance of the subdivision, the Development Review Committee has determined that the fence will not create an issue with visibility and public safety.

Based on the information provided by the applicant at the hearing for the variance requested, Planning Commission must first determine that sufficient substantially competent information indicates “whether a need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property involved.” If so, then the Planning Commission must find that substantially competent information occurs to accept each of the seven variance criteria.

Planning Commission has authority to take final action. Approve, deny, or approve with conditions.

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. Conditions may be established by the Planning Commission to reduce the impacts of the effects of the variance.

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.

Daniel Padilla, 549 Keyhold Loop, stated that they were requesting the variance so that, for aesthetic reasons, they wanted to have 17 feet of fenced yard on either side of their house. He stated that, if granted, the placement of the fence would not create an issue with visibility and public safety and he had planted crepe myrtles.

After several minutes of discussion between staff, the applicants, and the Planning Commission, no hardship could be found to justify granting the requested variance.

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 determine a hardship does not occur pursuant to Section 10.02.02.A, that the need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property owned by Priscilla Torres and Daniel Padilla located at 549 Keyhold Loop. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**QUASI-JUDICIAL - VARIANCE** – Chairperson Greene stated this is a request to approve a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article II, 2.02.18 (E) to allow a corner lot house 27.9 feet from the property line, 30 feet is required for property owned by DR Horton, c/o Christopher Wren, c/o DR Horton, Inc. and located at 1686 Spinfisher 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. No one spoke.

Staff Presentation: Mr. Martinez stated this is a request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article II, 2.02.18 (E) to allow a corner lot house 27.9 feet from the property line, 30 feet is required for property owned by DR Horton, Inc., c/o Christopher Wren, and located at 1686 Spinfisher Drive. The future land use is Residential Estates (0-1 du/ac) and the zoning is PUD (Planned Unit Development). The existing and proposed use is a single family residence. The tract size is 0.33 +/- acre .

2.02.18 Planned Unit Development (PUD) - E. Development Standards for Residential PUDs - 1a. “The PUD master plan shall identify the maximum residential density, type of development, maximum height limitations, minimum lot size and living area. Types of residential construction may be intermixed as long as adopted residential densities are compatible and height limitations are not exceeded.”

The City Council, at their meeting on June 5, 2002, adopted Ordinance 1435 for the change of zoning to PUD (Planned Unit Development) and the Master Plan. The Master Plan indicates that the required building setbacks are as follows:

Front	30 ft
Side	10 ft
Rear	35 ft
Corner	30 ft

**LIMITATIONS GRANTING VARIANCES:**

*E. Initial determination.* The [Planning Commission] shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the [Planning Commission] shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the [Planning Commission] shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

Under no circumstances shall the [Planning Commission] grant a variance to permit a use not

generally or by special exception permitted in this code or any use expressly or by implication prohibited by the terms of this code. Further, under no circumstance shall the [Planning Commission] offer or accept any negotiation to grant a variance in exchange for any other land use alterations on the affected parcel or any other parcel of land.

No nonconforming use of neighboring lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of the variance.

**Staff Response:** The subject single family home encroaches 2.1 feet into the corner lot setback based on a special corner lot set back of 30 feet for the Rock Springs Ridge Planned Unit Development. Typically, a perimeter buffer wall for a larger residential development is not placed in easement; it is placed in a tract. Had this been the case, the tract would serve as side lot line, and the required setback would be ten feet, not 30. In such case the residential home would be in compliance with the side yard setback.

**APPLICANT’S RESPONSE TO SEVEN VARIANCE CRITERIA:**

*F. Required findings.* The [Planning Commission] shall not vary the requirements of any provision of this code unless the board makes a positive finding, based on substantial competent evidence, on each of the following:

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 variance request is for an existing home constructed by DR Horton on lot 1086 in Rock Springs Ridge. The home is currently under contract with a buyer who is amenable to the setback encroachment. The building plot plan, provided to the City of Apopka prior to building permit issuance, shows the side setback encroachment and was approved.

**Staff Response:** The building permit and the foundation survey, for the subject property, depicts an encroachment on the corner lot setback. Staff missed the special PUD setback with a 30 foot corner lot setback versus a twenty-five foot corner setback, approving the building permit and foundation survey with that encroachment. This has led to the construction of the house and an “after-the-fact” variance application.

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

**Applicant’s Response:** This request is not based solely off of a desire to reduce cost. The home is completed and under contract with a potential resident. Development cost is not the reason for the setback encroachment.

**Staff Response:** The site is already developed.

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

**Applicant’s Response:** The proposed variance has no impact on traffic congestion, as it is for a single family home on a single family lot.

**Staff Response:** The allowance of variance for a single family home setback will not substantially increase congestion.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

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 proposed variance will not diminish property values in or alter the character of the area. The 2' side corner setback exposure is towards Jason Dwelley Parkway, and is mitigated for with the existing masonry wall.

**Staff Response:** Staff finds that the two feet encroachment, allowing 27.9 feet from the side of the house to the property line, will not diminish property values. Traditional residential zoning districts allow a twenty five corner setback.

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:** The effect of the proposed setback variance is in harmony with the general intent of the code in that a significantly larger corner setback is provided, and that the setback encroachment is minimal in nature and could be considered de minimus impact to the existing required setback.

**Staff Response:** Staff agrees with the applicant's response.

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

**Applicant's Response:** Approval of the variance request does not create special conditions or circumstances.

**Staff Response:** City staff made the error of approving the building permit and foundation survey showing the corner lot setback encroachment. The applicant was not responsible for the circumstances of this variance application.

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:** The proposed variance, if granted, will not create safety hazards or other detriments to the public, and will only allow for reasonable use of land and building.

**Staff Response:** The proposed variance is sufficient for the use of this property, a single family house. Staff does not recognize any safety hazards with the proposed setback.

Based on the information provided by the applicant at the hearing for the variance requested, Planning Commission must first determine that sufficient substantially competent information indicates "whether a need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property involved." If so, then the Planning Commission must find that substantially competent information occurs to accept each of the seven variance criteria.

Staff's recommendation to the Planning Commission was to approve a variance of 2.1 feet for the corner lot setback standard for property at 1686 Spinfisher Drive.

Planning Commission has authority to take final action. Approve, deny, or approve with conditions.

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

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. Conditions may be established by the Planning Commission to reduce the impacts of the effects of the variance.

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.

Chris Wrenn, DR Horton, Inc., 6200 Lee Vista Boulevard, Suite 400, Orlando, stated that they have a cash buyer for the property who currently resides out-of-state. It came to light during the closing process that when the property was initially surveyed the foot print of the home encroached into the setback by 2.1 feet due to it being a corner lot. In order to obtain the Certificate of Occupancy, a variance must be granted to allow the building to encroach into the setback or the house would need to be demolished and rebuilt.

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

**Motion:** Jose Molina made a motion to determine a hardship does occur pursuant to Section 10.02.02.A, that the need for the proposed variance arises out of the physical surroundings, shape topographical conditions, or other physical or environment conditions that are unique to the specific property owned by DR Horton, Inc., c/o Christopher Wren and located at 1686 Spinfisher Drive. Motion seconded by Linda Laurendeau. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**Motion:** Linda Laurendeau made a motion to approve a variance from Apopka Code of Ordinances, Part III, Land Development Code, Article II, 2.02.18 (E) to allow a corner lot house 27.9 feet from the property line, 30 feet is required for property owned by Christopher Wren, c/o DR Horton, Inc. and located at 1686 Spinfisher Drive. Motion seconded by Jose Molina. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**QUASI-JUDICIAL – FINAL DEVELOPMENT PLAN – CARTER ELECTRIC** - Chairperson Greene stated this is a request to recommend approval of the Final Development Plan for property owned by Carter Land Development, LLC c/o Douglas Carter and located on the southwest corner of Marshall Lake Road and Bradshaw 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. No one spoke.

Staff Presentation: Jean Sanchez, Planner II, stated this is a request to recommend approval of the Final Development Plan for property owned by Carter Land Development, LLC c/o Douglas Carter and located on the southwest corner of Marshall Lake Road and Bradshaw Road. The engineer is Klima Weeks Civil Engineering, Inc., c/o Selby G. Weeks, P.E. The future land use is Industrial (0.03 FAR) and the zoning is I-1 (Restricted Industrial). The existing use is vacant land and the proposed use is an office (8,837 sq. ft.) and warehouse (4,132 sq. ft.). The total building size is 12,969 sq. ft. The tract size is 13.02 +/- acres.

Carter Electric, Inc. is an electrical contractor specializing in commercial, industrial, and high voltage construction that is adding a location in the City of Apopka. The 12,969 square feet building will be used as an

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

office and warehouse.

A total of 71 parking spaces will be provided (50 required by code), three of which are reserved as a handicapped parking space.

Access to the site is provided by a single driveway curb cut on Marshall Lake Road located west of Bradshaw Road.

The height of the proposed building is 24'8", below the maximum allowable height of 35'. Staff has found the proposed building elevations to be in accordance with the City's Development Design Guidelines.

The stormwater management system includes an on-site retention area, on the southern portion of the site. The stormwater pond design meets the City's Land Development Code requirements.

As part of the development plan approval, a 10-foot wide landscaping buffer and black vinyl coated chain link fence will screen the outdoor work area from adjacent properties. The viburnum hedges shall be allowed to grow to and maintained at 6 feet in height. The plan also shows sabal palms and viburnum hedges surrounding the dumpster enclosure area. The plan also shows a mixture of elms, crepe myrtles and viburnum hedges within the 25' landscaping buffer along Marshall Lake Road. Live oaks are located in the western and eastern buffers and elms are placed in each parking landscape island. Bald cypress trees surround the retention pond on the southernmost point of the project site's 10-foot wide landscape buffer. The buffer includes a lustrum hedge along both roads and twelve oak trees within the buffer. The applicant has provided a detailed landscape and irrigation plan for Carter Electric that complies with the requirements of the City's Land Development Code. 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:	95
Total inches removed	84
Total inches retained:	11
Total inches added:	174
Total inches post development:	195

The Development Review Committee recommends approval of the Carter Electric Final Development Plan, subject to the findings of the staff report

Staff recommended the Planning Commission find the Carter Electric Final Development Plan consistent with the Land Development Code and Comprehensive Plan, and recommend approval of Carter Electric Final Development Plan, subject to the findings of the staff report

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.

Petitioner did not have a presentation but was available for questions.

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



**Motion:** Roger Simpson made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend approval of the Final Development Plan for the Carter Electric property owned by property owned by Carter Land Development, LLC c/o Douglas Carter and located on the southwest corner of Marshall Lake Road and Bradshaw Road. Motion seconded by Linda Laurendeau. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**QUASI-JUDICIAL – FINAL DEVELOPMENT PLAN – CHURCH’S CHICKEN** - Chairperson Greene stated this is a request to recommend approval of the Final Development Plan for the property owned by CHC-845 S Orange Blossom Trail Apopka FL LLC and located at 845 South Orange Blossom Trail.

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: Ms. Sanchez stated this is a request to recommend approval of the Final Development Plan for CHC-845 S Orange Blossom Trail Apopka FL LLC and located at 845 South Orange Blossom Trail.

Petitioner did not have a presentation but was available for questions.

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

**Motion:** Roger Simpson made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend approval of the Final Development Plan for the Church’s Chicken property owned by CHC-845 S Orange Blossom Trail Apopka FL LLC and located at 845 South Orange Blossom Trail.. Motion seconded by Jose Molina. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**QUASI-JUDICIAL – PUD MASTER PLAN/FINAL DEVELOPMENT PLAN – RACETRAC** - Chairperson Greene stated this is a request to recommend approval of the PUD Master Plan/Final Development Plan for property owned by Zellwood Properties, LLC, and located on the northwest corner of Hermit Smith Road and US 441.

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

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

Staff Presentation: Mr. Howell stated this is a request to recommend approval of the PUD Master Plan/Final Development Plan for property owned by Zellwood Properties, LLC, and located on the northwest corner of Hermit Smith Road and US 441. The applicant/engineer is Tannath Design, Inc., c/o Bryan Potts, P.E. The future land use is Commercial and the zoning is PUD (Planned Unit Development/Commercial). The existing use is vacant land and the proposed use is a gas Station with 18 fueling stations and a 5,411 sq. ft. convenience store. The tract size 2.53 +/- acres.

The applicant/engineer is Tannath Design, Inc., c/o Bryan Potts, P.E. The future land use is Commercial and

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

the zoning is PUD (Planned Unit Development/Commercial). The existing use is vacant land and the proposed use is a gas Station with 18 fueling stations and a 5,411 sq. ft. convenience store. The tract size 2.53 +/- acres.

The applicant has submitted a PUD Master Plan/Final Development Plan for a RaceTrac gas station with 16 fueling stations and an associated 5,411 square foot convenience store. The subject property is located at the northeast corner of the intersection of Hermit Smith Road and US 441. The subject property is approximately 2.53 acres in size and is zoned Planned Unit Development.

A total of 35 parking spaces will be provided for the convenience store, and 16 parking spaces will be provided at the fueling station for a total of 55 parking spaces. Two parking spaces are reserved as a handicapped parking spaces.

Access to the site is provided via a full access point located on Hermit Smith Road, and a right in/right out on US 441. A 240-foot right turn lane leading into the site from US 441 will be constructed concurrent with site construction.

Using ITE Trip Generation Rates, 9<sup>th</sup> Edition, the estimated project trip generation is 731 net new daily trips daily trips, 52 a.m. and 62 p.m. net new peak hour trips. The development is adding a 240-foot right deceleration lane at the access driveway on US 441.

The architectural elevations provided for the convenience store propose a one story building with architectural design elements including awnings, windows with glazing, eifs, and a watermark and stone veneer provided around the perimeter of the building. The fueling station will be covered with an awning. Stone veneer that matches the stone veneer provided around the perimeter of the convenience store will be provided around the perimeter of the support columns of the fueling station. The building exhibits high quality architectural elements that are required in the Development Design Guidelines.

Stormwater run-off and drainage will be accommodated onsite with a dry stormwater retention pond that is located behind the convenience store building.

The adjacent properties to the north and west have Agricultural zoning. Per the Land Development Code, a 6-foot block wall is required to be provided between commercial and agricultural uses. A wall is provided along the northern property boundary and approximately one-quarter of the western property. The wall is not provided along the entire western property line to allow for future cross-access between the subject property and the property to the west at such time that property develops. Landscaping including Live Oaks, Bald Cypress, Holly, and Bahia sod is provided in this location.

The applicant has provided a detailed landscape and irrigation plan that complies with the requirements of the City's Land Development Code. The planting materials and irrigation system design are consistent with the water-efficient, Florida-friendly landscape standards set forth in Ordinance No. 2069.

The applicant has agreed to a tree mitigation payment of \$2,769.41 to mitigate existing trees that are proposed to be removed.

Total inches on-site:	365
Total inches removed	277
Total inches retained:	88
Total inches added:	81.5
Total inches post development:	169.5

**MINUTES OF THE PLANNING COMMISSION REGULAR MEETING HELD ON MAY 8, 2018, AT 5:30 P.M.**

The Development Review Committee recommends approval of the RaceTrac Final Development Plan, subject to the findings of the staff report

Staff's recommendation to the Planning Commission was to find the RaceTrac Master Plan\Final Development Plan consistent with the Land Development Code and Comprehensive Plan, and recommend approval of the RaceTrac Hermit Smith Road Master Plan\Final Development Plan, subject to the findings of the staff report

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.

Petitioner did not have a presentation but was available for questions.

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 find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend approval of the PUD Master Plan/Final Development Plan for the RaceTrac property owned by Zellwood Properties, LLC, and located on the northwest corner of Hermit Smith Road and US 441. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (6-0). (Vote taken by poll.)

**OLD BUSINESS:** None.

**NEW BUSINESS:** Tony Foster announced his resignation from the Planning Commission following the May 22, 2018 meeting.

**ADJOURNMENT:** The meeting was adjourned at 8:10 p.m.

/s/

---

James Greene, Chairperson

/s/

---

James K. Hitt, FRA-RA  
Community Development Director