

**MINUTES OF THE PLANNING COMMISSION MEETING HELD ON FEBRUARY 13, 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:** David Moon, AICP - Planning Manager, Richard Earp – City Engineer, Patrick Brackins – City Attorney, Bobby Howell – Senior Planner, Pamela Richmond – Senior Planner, Phil Martinez – Planner I, Jean Sanchez – Planner I, and Jeanne Green – Recording Secretary.

**OTHERS PRESENT:** Sandra Martinez, Denise Prescott, Michael Rowe, Nina Rowe, Carrie Wiercioch, Scott Hill, Mabel Brinkle, Jose Luccioni, Zurong Cai, Lisa Ramlal, Luke Classon, Kim Pritchard, Suzanne Kidd, Richard Wohlfarth, Teresa Sargeant, and Shirish Suchak

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

**WORKSHOP – Sunshine Law & Meeting Procedures** – Patrick Brackin, City Attorney, presented a video prepared by Cliff Shepard, Esq., entitled “Let the Sunshine In” on the Sunshine Law.

Mr. Brackin reviewed the Public Meetings Law; and procedures for Quasi-Judicial Hearings. A copy of the presentation has been made a part of the minutes.

In response to a comment by Ms. Laurendeau about an e-mail she had received regarding a project that will be coming before the Planning Commission in the future, Mr. Brackin stated that e-mails on this nature are public records. The recipient should not delete them and should forward them to the Clerk.

In response to a question by Mr. Sprinkle, Mr. Brackin stated that form at the back of the packet entitled “Affidavit of Annual Board Meeting Training” was there for the use of the Planning Commission but was not mandatory but helpful.

**APPROVAL OF MINUTES:** Chairperson Greene asked if there were any corrections or additions to the regular meeting minutes of January 9, 2018, at 5:30 p.m.

**Motion:** **Tony Foster made a motion to approve the Planning Commission minutes from the regular meeting held on January 9, 2018, at 5:30 p.m. and seconded by Jose Molina. 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 – CITY OF APOPKA; JAMES D. & DEBORAH M. LYDA; AND CITIZENS BANK OF FLORIDA** - Chairperson Greene stated this is a request to recommend approval of the Change of Zoning from Planned Unit Development, Mixed-EC, and I-1 to Planned Unit Development (Residential); and the PUD Master Plan/Preliminary Development Plan for the properties owned by City of Apopka; James D. & Deborah M. Lyda; and Citizens Bank of Florida, located south of Marshall Lake and west of SR 451.

Chairperson Greene stated this item is quasi-judicial and anyone giving testimony during a quasi-judicial hearing must be sworn in. He asked that all those who planned to speak during this hearing to stand and raise their right hand to be sworn in.

Attorney Brackins swore-in staff, petitioners, and affected parties for the quasi-judicial hearing item.

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

Carrie Wiercioch, 857 Marshall Lake Road, stated she is an affected party as she resides adjacent to the subject properties.

Kim Pritchard, 849 Marshall Lake Road, stated she is an affected party as she resides adjacent to the subject properties.

Sandra Martinez, 779 Cavan Drive, stated she is an affected party as she resides adjacent to the subject properties.

The Planning Commission unanimously agreed that Ms. Wiercioch, Ms. Pritchard, and Ms. Martinez are affected parties.

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 recommend approval of the Change of Zoning from Planned Unit Development, Mixed-EC, and I-1 to Planned Unit Development (Residential); and the PUD Master Plan/Preliminary Development Plan for the proposed Lake Marshall Subdivision, Phases 1 and 2, owned by the City of Apopka, James D & Deborah M. Lyda, and Citizens Bank of Florida and located south of Marshall Lake and west of SR 451. The applicant is Appian Engineering, LLC. The existing use is vacant land and the proposed use is a single family subdivision with 301 lots to be developed in two phases. The future land use designation is Low Density Residential, Mixed-Use. The tract size is 154.18 +/- acres.

The subject property is approximately 154.17 acres in size and is zoned PUD (Planned Unit Development), Mixed-EC (Mixed Employment Center) and I-1 (Restricted Industrial), and a has a future land use designation of Low Density Residential and Mixed-Use. The subject property is comprised of three parcels and is located south of Marshall Lake and west of SR 451. The owners of the properties are the City of Apopka, James D. and Deborah M. Lyda, and Citizens Bank of Florida. Of the 154.17 acres, the City of Apopka owns 103 acres, Citizens Bank of Florida owns 39.9 acres, and Mr. and Mrs. Lyda own 11.28 acres. The proposed change of zoning to PUD is being requested by a representative of the prospective developer, Royal Oak Homes who proposes to construct 301 single-family units in two phases on the three parcels.

In 2005, 83.28 acres of the property now owned by the City was originally proposed to be developed into a 90 unit single-family subdivision known as Lake Marshall Preserve. This development received City Commission approval and subsequently was never developed. In 2007, the City of Apopka purchased the property. In 2017 after an advertised bid process, Royal Oak Homes agreed to purchase the property from the City contingent upon City Commission approval of a PUD rezoning and Preliminary Development Plan for the proposed development.

The PUD Master Plan and Preliminary Development Plan propose development of the property in two phases as a private, gated residential community with a total of 301 single-family homes. The subject property is located south of Marshall Lake and west of SR 451. The surrounding properties consist primarily of single-family residential, and agricultural uses. The development is proposed to be accessed via Johns Road. Adjacent to the west of the subject property is the Breckenridge subdivision. A gated access for emergency vehicle access will be provided between the two subdivisions. This access point will only be for emergency vehicles. In response to the Breckenridge homeowners association, pedestrian access will not be permitted between the two subdivisions.

Lot Size.

Typical Lot Width	Number of units	Percentage of development	Typical lot area (minimum size)
55-feet	119	39%	7,425 square feet
60-feet	149	50%	8,100 square feet
75-feet	33	11%	10,875 square feet
<b>Total</b>	<b>301</b>	<b>100%</b>	

The developer is proposing 55-foot, 60-foot and 75-foot wide lots with a minimum average lot area of lots and 7,425 square feet for the 55-foot wide lots, 8,100 square feet for the 60-foot wide lots and 10,875 square feet for the 75-foot wide lots. The minimum lot depth is proposed at 135-feet. The minimum living area is proposed at 1,800 square feet in Phase 1 and 1,600 square feet in Phase 2. Both phases of the subdivision will be accessed via Johns Road. Johns Road will terminate at the main entrance of the development, which will be accessed via a gate. The developer will be dedicating a 0.27 acre portion of right-of-way along Johns Road to the City. The subdivision will consist of private roads and infrastructure that is owned and maintained by the homeowners association.

Deviations. The applicant is requesting three deviations to the City’s required development standards. For a PUD master plan, a deviation from the City’s Land Development Code does not represent a variance but a development standard or zoning condition unique to and approved as part of the Planned Unit Development zoning. PUD’s are required to satisfy the requirements of the land Development Code unless the City Council finds that, based on substantial evidence, a proposed alternative development guideline is adequate to protect to the public health safety, and welfare. Any deviations must be consistent with the policies of the Comprehensive Plan.

1. Typical Lot Width Standard. The first deviation is to Land Development Code Section 2.02.18.D.11, which requires a minimum lot size within a PUD to be 70-feet in width, and to have a minimum site area of 7,500 square feet. In addition to 75-foot wide lots, the developer is proposing 60-foot and 55-foot wide lots with minimum lots sizes of 8,100 square feet and 7,425 square feet respectively.
2. Garage Standards. The second deviation requested is from Section 3.2.1 of the Development Design Guidelines which requires front-entry garages to be setback a minimum of thirty (30) feet from the front property line. The Master Plan provides a 25-foot setback for front entry garages. Based on the shape of the property and the lot yield that the applicant has indicated is necessary for financial feasibility, a 25-foot garage setback will potentially result in a larger back yard.
3. Architectural Design. The third deviation requested is from Section 3.2.1 of the Development Design Guidelines, an architectural appearance standard, which requires front entry garages to be flush with or behind the primary residential façade. The applicant is proposing three garage types – protruding, flush, and recessed. According to the applicant, side entry garages are not an option on 55-foot, 60-foot, and 75-foot wide lots. The applicant contends that providing the three garage options will help to break up the monotony of each home being offset the same distance from the sidewalk.

Justification for Deviations\Development Standard. The following justifications are provided for the three deviations that are proposed.

1. An improved recreation amenities package is proposed. The recreation package will consist of a cabana with restrooms, a swimming pool, a playground, and a mixed-use active field at a minimum. In addition the developer is dedicating a tract in Phase 1 adjacent to Marshall Lake as

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a Community Lake Park that will have a community dock, and a 1.03 acre open space tract across the street from this park. In the Phase 2 area, two tracts will be dedicated as a park/open space area, and a 15.12 acre Conservation area will also be dedicated.

2. Protection of Environmentally Sensitive Areas and Preservation of Open Space. The PUD master plan protects wetlands within the northwest and northeast corners of the project boundaries, containing approximately 19 acres within Tracts “K” and “L” of Phase I. Open space is preserved through approximately 15 acres within Tract “I” of Phase 2.
3. Abutting Site Characteristics. Fifty-foot landscape buffer. An existing 50-foot landscape buffer occurs along the western and northern project line within the Breckenridge plat. This buffer is noted as a tract on the Breckenridge plat. The Lake Marshall development will not be visible from the homes within Breckenridge and separation between the larger lots in Breckenridge and the smaller lots within Lake Marshall PUD will be provided. S.R. 451 (tollway) abuts a significant portion of the eastern project line, making the area less attractive for large lot residential development.
4. No other residential neighborhoods will be impacted by the development. The development abuts SR 451 to the east and Marshall Lake to the north. As mentioned above, a 50-foot wide landscape buffer will separate the Breckenridge development from the subject property. The development will not be visible from the surrounding properties.
5. The Master Plan proposes a diversity of lot sizes-- (55-feet, 60-feet, and 75-foot lot widths).
6. Access to the site is limited because of lake and wetland systems to the north and an odd shape parcel to the south. The southern end of the property is also blocked by a wetland system. Therefore, access to the property is severely limited, leaving Johns Road as the only reasonable access point without impact environmental sensitive areas.
7. The Master Plan proposes a gated development with private roads and infrastructure.

Transportation The traffic generated by this project will cause a reduced level of service at the intersection of Johns Road and Bradshaw Road and the intersection of Bradshaw Road and Ocoee Apopka Road. The intersection of Johns Road and Bradshaw Road will require the following roadway improvements to be constructed prior to the issuance of the 87th Certificate of Occupancy for Phase 1, Phase 2, or a combination of Phase 1 and Phase 2:

1. A 260- foot northbound left turn lane;
2. A 185-foot southbound right turn lane; and
3. A 150-foot eastbound turn lane.

The intersection of Bradshaw Road and Ocoee Apopka Road is projected to experience significant delays at the stop sign with the addition project traffic and committed traffic on both roadways. While existing conditions do not warrant a signal, the intersection may meet warrants in the future. It is recommended the Developer be required to conduct a signal warrant analysis for the intersection of Bradshaw Road and Ocoee Apopka Road prior to the issuance of the 251<sup>st</sup> Certificate of Occupancy. If the City determines a signal is warranted, the Developer will design and install a traffic signal at the intersection within a year of the issuance of the final Certificate of Occupancy.

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

- A. The uses permitted within the PUD district shall be single-family residential uses.
- B. Terms of Expiration for this PUD shall be as follows:

If a Final Development Plan associated with the PUD district has not been approved by the City within three years, and site development has not commenced within four years after approval of these Master Plan provisions, the approval of the Master Plan provisions will expire. At such time, the City Council may:

1. Permit a single six-month extension for submittal of the required Final Development Plan;
2. Allow the PUD zoning designation to remain on the property pending resubmittal of new Master Plan provisions and any conditions of approval; or
3. Rezone the property to a more appropriate zoning classification.

The proposed use of the property is consistent with the Low Density Residential and Mixed-Use Future Land Use designations and is consistent with the Land Development Code.

A capacity enhancement agreement with OCPS or a letter exempting the project from school capacity enhancement is required prior to submittal of a final development plan. An application for School capacity determination and a mitigation agreement has been submitted to OCPS by the application. A final development plan will not be approved by the City until such time the School Board approves a school capacity mitigation agreement.

Pursuant to Section 7 of the Joint Planning Area agreement, notification to Orange County is not required for a rezoning application as the subject parcels are not adjacent to unincorporated Orange County.

The Development Review Committee finds the proposed rezoning to Planned Unit Development (PUD), PUD Master Plan, and the Preliminary Development Plan consistent with the Comprehensive Plan and Land Development Code and recommends approval of the Lake Marshall Subdivision Planned Unit Development Master Plan and Preliminary Development Plan.

Staff recommended approval of the rezoning of the subject parcels from Planned Unit Development (PUD), Mixed-EC (Mixed Employment Center) and I-1 (Restricted Industrial) to Planned Unit Development/Residential (PUD), and approval of the PUD Master Plan/Preliminary Development Plan based on the findings and facts presented in the staff report and exhibits.

Petitioner Presentation: Luke Classon, Appian Engineering, 2221 Lee Road, Suite 17, Winter Park, stated he was in attendance on behalf of Appian Engineering and they represent the developer. We have design plans that are being reviewed at this time. There will not be access off of Marshall Lake Road. Access will be off of Johns Road and an emergency only access to the south through the existing Breckenridge development. He said he was available to answer any questions.

In response to Mr. Molina's questions, Mr. Classon stated the deviation requesting the front setback be a minimum of 25-foot setback instead of the required 30 foot so that they can add that five feet to the back yard. He said they looked at large vehicles, such as an F-150 with a trailer hitch, that depth is less than 25 feet. Home buyers don't typically use their front yards, they normally play in the back. The minimum lot depth is 130 feet with a maximum of 140 feet. It is to increase the yield it is to increase the quality.

Mr. Classon explained that the deviation regarding garages is being requested because the applicant is proposing three garage types – protruding, flush, and recessed. Side entry garages are not an option on 55-foot, 60-foot, and 75-foot wide lots. Providing the three garage options will help to break up the

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monotony of each home being offset the same distance from the sidewalk.

Mr. Classon stated that no other residential neighborhoods will be impacted by the development. The development abuts SR 451 to the east and Marshall Lake to the north. As mentioned above, a 50-foot wide landscape buffer will separate the Breckenridge development from the subject property. The development will not be visible from the surrounding properties.

Mr. Classon said there are two entrances one is on Johns Road which is being extended to the west with a large landscaping feature for an entrance way that will be gated. The second access point will only be for residents; and there will be a locked emergency gate accessible through Breckenridge and will benefit both developments.

In response to questions by Ms. Laurendeau, Mr. Classon stated the setback is from the back of the sidewalk to the front point of the building must be 25 feet. With the 2-car garage, 4 parking stalls being provided. Two in the driveway and two in the garage. There is a potential for 5 if the buyer opts for the 3-car garage.

Affected Party Presentation:

Ms. Pritchard expressed her opposition to providing access to Marshall Lake to the 301 residences proposed in Lake Marshall Phases 1 & 2. She requested that motorized vehicles (boats, jet skis, etc.) not be permitted on the lake. She expressed concern with regard to the existence and condition of the ramp and dock on the property; and the impacts to the ecosystem of the lake.

Chairperson Greene stated that the Development Review Committee (DRC) is aware of providing access to Marshall Lake to the residences or the use of motorized vehicles on the lake.

In response to a question by Chairperson Greene, Ms. Pritchard stated she does not want anyone to have access to the lake.

In response to a question by Mr. Foster, Ms. Pritchard stated that she currently has access to the lake but does not want anyone else to have access.

Ms. Wiercioch stated that any new developments along the lake should not provide access to the lake. She stated the lake is too small and shallow for motorized vehicles. She expressed her opposition to providing access to Marshall Lake to the 301 residences proposed in Lake Marshall Phases 1 & 2. She requested that motorized vehicles (boats, jet skis, etc.) not be permitted on the lake. She expressed concern with regard to the existence and condition of the ramp and dock on the property; and the impacts to the ecosystem of the lake.

In response to questions by Ms. Martinez, Mr. Classon stated that the 50 foot natural landscape buffer between her home in Breckenridge and the retention pond in Lake Marshall would remain. There will only be a fence around the retention pond.

In response to questions by Chairperson Greene, Mr. Moon stated this plan is different from what was previously submitted because there are more properties included and the plan is more creative.

Mr. Classon stated that the emergency access on the south will be more beneficial to the Breckenridge community.

In response to question by Mr. Molina, Mr. Classon stated there is currently a concrete ramp and a dilapidated dock. The dock is going to be replaced.

Chairperson Greene opened the meeting for public hearing.

Mike Rowe, 651 Lake Doe Boulevard, opposed allowing access to the lake because it is too shallow and expressed concerns that trees along the lake would be removed.

Mr. Classon stated that they would not be making a connection to Lake Marshall. The area next to the lake has been designated as conservation area.

In response to a question by Chairperson Greene, Mr. Moon stated that staff was unable to find a state agency that makes a determination on whether a water body is navigable. He said that access to the lake would have to be determined by finding out who owns the lake. He stated the Planning Commission could direct staff to research who owns the lake and who has legal access.

Mr. Brackins stated that his office can look into that.

Scott Hill, 635 Lake Doe Boulevard, stated he lives right on the water. He stated that when the lake is dry you can walk across it. The lake is owned by multiple owners. There is a lot of wildlife. He stated that the St. Johns River Water Management District would be the entity to contact to find out if the lake is useable as is being proposed.

Nina Rowe, 651 Lake Doe Boulevard, expressed her opposition to allowing speed boats on the lake and the noise impact on the area. She stated that only those who live along the lake should have access.

Ms. Pritchard stated that she is not opposed to the development being proposed; but wants only the lots adjacent to the lake to have access.

In response to a question by Mr. Hill, Mr. Classon stated that at this time he does not have information regarding the proposed prices of the homes.

In response to a question by Ms. Laurendeau, Mr. Moon stated that it is not feasible to fence off the lake,

Mr. Simpson suggested that language be included in the HOA covenants and restrictions about access to the lake.

With no one else 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 change of zoning from Planned Unit Development, Mixed-EC, and I-1 to Planned Unit Development (Residential); and the PUD Master Plan/Preliminary Development Plan for the properties owned by City of Apopka; James D. & Deborah M. Lyda; and Citizens Bank of Florida and located south of Marshall Lake and west of SR 451. Motion seconded by Tony Foster. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, and Roger Simpson. Jose Molina and John Sprinkle voted no. (4-2). (Vote taken by poll.)

**LEGISLATIVE - COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT – IGLESIA GETSEMANI, INC.** - Chairperson Greene stated this is a request to find the proposed Future Land Use Designation consistent with the Comprehensive Plan; and to recommend approval of the Future Land Use amendment from “County” Commercial to “City” Commercial (Maximum of 0.25 FAR) for the property owned by Iglesia Getsemani, Inc. and located at 2575 West Orange Blossom Trail.

Staff Presentation: Phil Martinez, Planner I, stated this is a request to find the proposed Future Land Use Designation consistent with the Comprehensive Plan; and to recommend approval of the Future Land Use amendment from “County” Commercial to “City” Commercial (Maximum of 0.25 FAR) for the property owned by Iglesia Getsemani, Inc. and located at 2575 West Orange Blossom Trail. The existing use is a church with a single-family residence. The current zoning is “County” C-1 which is being processed at the same time as the future land use amendment to “City” C-1. The existing maximum allowable development is up to 187,350 sq. ft. and the proposed is up to 15,621 sq. ft. The tract size is 1.43 +/- acres. (Staff report incorporated into the record.)

The applicant intends to annex the existing house of worship and single family residence to unite this parcel with the abutting eastern parcel, which is located within the City’s jurisdiction and is used for a parking lot by the Church.

The annexation for the subject property was approved by the city council, for a second reading, on December 20, 2017 by ordinance 2613.

A request to assign a Future Land Use Designation of “Commercial” is compatible with the designations assigned to abutting properties. City parcels to the east share this same Future Land Use designation. The commercial uses act as a transition space between the residential neighborhood to the north and the arterial road, and an industrial park to the south. The FLUM application covers approximately 1.43 acres.

In conjunction with state requirements, staff has analyzed the proposed amendment and determined that adequate public facilities exist to support this land use change (see attached Land Use Report). Based on the findings of the Land Use report, the proposed FLUM amendment is compatible with the surrounding and nearby land uses and the character of the general area.

The existing and proposed use of the subject property is consistent with the Commercial (max. 0.25 FAR) Future Land Use designation and the City’s proposed C-1 Zoning.

Because this request represents a change to a non-residential future land use designation and zoning classification, school capacity determination by Orange County Public Schools is not required.

The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on January 12, 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 Commercial for the property owned by Iglesia Getsemani Inc.

Staff recommended that 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.

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 compatible with the character of the surrounding area; and to recommend approval of the Small Scale Future Land use amendment from “County” Commercial to “City” Commercial (Maximum of 0.25 FAR) for the property owned by Iglesia Getsemani, Inc. and located at 2575 West Orange Blossom Trail. 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 - CHANGE OF ZONING – IGLESIA GETSEMANI, INC.** - Chairperson Greene stated this is a request to find the proposed Change of Zoning consistent with the Comprehensive Plan; and to recommend approval of the Change of Zoning from “County” C-1 (Commercial) to “City” C-1 (Commercial) for the property owned by Iglesia Getsemani, Inc. and located at 2575 West Orange Blossom Trail.

Attorney Brackins swore-in staff, petitioners, and affected parties for the quasi-judicial item to be discussed.

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 Change of Zoning consistent with the Comprehensive Plan; and to recommend approval of the Change of Zoning from C-1 (Commercial) to “City” C-1 (Commercial) for the property owned by Iglesia Getsemani, Inc. and located at 2575 West Orange Blossom Trail. The existing use is a church with a single-family residence. The current Future Land Use is “County” Commercial (3.0 FAR) and is being processed at the same time as the change of zoning to “City” Commercial (Max. 0.25 FAR). The existing maximum allowable development is up to 187,350 sq. ft. and the proposed is up to 15,621 sq. ft. The tract size is 1.43 +/- acres. (Staff report incorporated into the record.)

Presently, the subject property has not yet been assigned a “City” zoning category. The site is used as a church. The applicant is requesting the City assign a zoning classification of C-1 (Retail Commercial District) to the property. Abutting the eastern parcel line for the subject sites is a parcel that is owned by the same church, which is currently used as the parking lot.

The annexation of the subject property was reviewed and approved by the City Council, on December 20, 2017 through ordinance number 2613.

The place of worship, located on the subject property, is in unincorporated Orange County. The parking lot for this religious use is one parcel to the east, and the parcel is in the city limits. This parking lot has “City” C-1 zoning and Commercial Future Land Use. The existing zoning and Future Land Use designations of Iglesias’s parking lot will complement the zoning and Future Land Use designations for the place of worship.

A request to assign a change of zoning to C-1 (Retail Commercial District) 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” Commercial to “City” Commercial.

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The existing and proposed use of the property is consistent with the proposed Office (Max. 25% Floor Area Ratio) Future Land Use designation and the proposed City C-1 (Retail Commercial District) zoning classification. Site development cannot exceed the intensity allowed by the Future Land Use policies.

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 January 12, 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" C-1 to "City" C-1 for the property owned by Iglesia Getsemani, Inc., and located at 2575 W. Orange Blossom Trail.

Staff recommended that 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" C-1 to "City" C-1 for the property owned by Iglesia Getsemani, Inc.

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

Petitioner Presentation: None.

Affected Party Presentation: None.

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

**Motion:** Jose Molina made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend adoption of the change of zoning from "County" C-1 to "City" C-1 for the property owned by Iglesia Getsemani, Inc. and located at 2575 West Orange Blossom Trail. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (7-0). (Vote taken by poll.)

**QUASI-JUDICIAL - CHANGE OF ZONING – A. D. RAULERSON, SR. & A. D. RAULERSON, JR. AND CURTIS & KAREN PUMPHREY** - Chairperson Greene stated this is a request to find the proposed Change of Zoning consistent with the Comprehensive Plan; and to recommend approval of the Change of Zoning from "County" A-1 (Agricultural) to "City" Planned Unit Development (PUD) for the properties owned by A. D. Raulerson, Sr. & A. D. Raulerson; and Curtis & Karen Pumphrey and located north of Lester Road; west of Rock Springs Road.

Attorney Brackins swore-in staff, petitioners, and affected parties for the quasi-judicial item to be discussed.

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

Jose Luccioni, 25 E. Lester Road, stated that his property is adjacent to the subject property.

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The Planning Commission unanimously agreed that Mr. Luccioni is an affected party.

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

Staff Presentation: Jean Sanchez, Planner I, stated this is a request to find the proposed Change of Zoning consistent with the Comprehensive Plan; and to recommend approval of the Change of Zoning from “County” A-1 (Agricultural) to “City” Planned Unit Development (PUD) for the properties owned by A. D. Raulerson, Sr. & A. D. Raulerson; and Curtis & Karen Pumphrey and located north of Lester Road; west of Rock Springs Road. The applicant is Apopka Development II, LLC, c/o Richard C. Wohlfarth, P.E. The existing use on the Raulerson Parcel is warehousing and vacant land; and warehousing on the Pumphrey parcel. The potential development is a single-family development with a minimum lot width of 40 feet. The existing maximum allowable development under the current zoning is 11 dwelling units and the proposed development is 112 lots. The tract size is 23.14 +/- acres. (Staff report incorporated into the record.)

Presently, the subject property has not yet been assigned a “City” zoning category. The applicant is requesting the City assign a zoning classification of PUD (Planned Unit Development) to the property to accommodate lot widths smaller than the minimum required width of 70 feet through an alternative plan.

The subject properties were annexed into the City of Apopka on October 4, 2017, through the adoption of Ordinance No. 2595.

The intent of the PUD zoning ordinance is to accommodate lots that are smaller in width than the regularly required residential zoning districts. The narrowest lot width allowed in other City zoning districts is 70 feet in the R-2 and R-3 zoning districts.

The proposed development, San Sebastian Reserve, is a private and gated subdivision of 112 detached, single family homes. The site comprises of 23.2 acres, of which, 4.43 acres will be dedicated for recreation space. Residential lots have a minimum lot width of 40 feet and a minimum lot size of 4,400 square feet. Additional information, including the conceptual subdivision layout is displayed in the attached conceptual master plan.

A request to assign a change of zoning to PUD is compatible to the adjacent zoning classifications and with the general character of abutting properties and the surrounding area. East of the subject properties is an arterial road, Rock Springs Road, as well as commercially zoned properties. A mobile home park (Rock Springs Mobile Home Park) and a townhome community (Wekiva Park Townhomes) are located to the south of the subject properties. A single family subdivision, with 40 feet lot widths will act as a transitional use between the larger lot community to the north (Alexandria Place) and the other previously mentioned surrounding uses.

The change of zoning request is being processed in conjunction with a future land use amendment from “County” Rural to “City” Commercial. On February 21, 2018, the City Council will vote on Ordinance 2600, which proposes to change the future land use of the subject properties from “County” Residential Low Density to “City” Residential Medium Low.

Deviations: The applicant is requesting two deviations to the City's development standards. For a PUD master plan, a deviation from the City's Land Development Code does not represent a variance but a development standard or zoning condition unique to and approved as part of the PUD zoning.

1. Typical lot width standard. The applicant is requesting a deviation from Land Development Code Section 2.02.18(D)(11) requiring the minimum single family lot size within a PUD to be a minimum of 70 feet in width unless City Council finds that a proposed alternative development is adequate to protect public health, safety and welfare based on substantial evidence. The plan shows a minimum 40-foot wide single family lot with lot size minimum of 4,400 square feet.

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2. Number of canopy trees required per single family lot. Due to size of each lot and size of canopy trees at its maturity, the applicant is also requesting a deviation from Section 3.6 of the Development Design Guidelines that requires a minimum of three trees on each lot. The plan shows two trees on each lot with varying types including oak, red maple and crepe myrtle. In lieu of
3. Garage standard/architectural design. The second deviation is Section 3.2.1 of the Development Design Guidelines that require front-entry garages to be setback a minimum of 30 feet from the property line. Two models of the four typical lot detail on the plans show that one lot layout is 25 feet from the property line and another shows 28 feet from the property line. The applicant asserts that the variation garage setbacks provides a visual break along the streetscape.

Justification for Deviation. The following justifications are provided for the three deviations that are proposed:

1. Lot Width and Size. The Master Plan provides an enhanced recreation/amenities package. The amenities include a cabana, gazebo, swimming pool, playground, dog park and mail kiosk. In addition, landscape buffers are provided adjacent to the Alexandria Place residential community. Such buffer is not required next to abutting single family residential development if a minimum 70-foot wide lot were provided.
2. Lot Tree Planting Requirement. With a minimum lot size of 4,400 square feet and a minimum lot width of 40 feet, insufficient lot area occurs with the lot to plant the required three canopy trees. As alternative, one canopy and one understory tree, or only two canopy trees (depending on the lot) will be planted, and the other required tree will be planted within the landscape buffers, park areas, or other open space within the project site. Additional trees beyond the requirements of the buffer areas are provided, particularly on the northern perimeter of the site to account for the number of trees required for each lot. The plan also shows additional on-street parking throughout the community to off-set the reduced garage setback for those lots with 25' and 28' setbacks
3. Due to the shape of the overall site as well as the provision of buffers adjacent to existing residential community, compliance with a minimum open space area of 30%, the provision of over-flow parking areas, and more so because of a confined typical lot depth of 110 feet, the Master Plan offers a 25 foot long driveway instead of the required 30-foot long driveway. Also, typical lot depth at 110 feet combined with the ground floor area of some of the proposed house plans restricts available pace within a 4,400 square foot lot to accommodate a 30-foot long driveway. Further, the San Sebastian residential community is planned as a gate, private community.

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

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

- A. The uses permitted within the PUD district shall be: single family homes and associated accessory uses or structures consistent with land use and development standards established for the R- 1 zoning category except where otherwise addressed in this ordinance.
- B. If a Final Development Plan associated with the PUD district has not been approved by the City within three years after approval of these Master Plan provisions, the approval of the Master Site Plan/PDP provisions will expire. At such time, the City Council may:
  1. Permit a single six-month extension for submittal of the required Final Development Plan;
  2. Allow the PUD zoning designation to remain on the property pending resubmittal of new Master Site Plan provisions and any conditions of approval; or

3. Rezone the property to a more appropriate zoning classification.

C. The following PUD development standards shall apply to the development of the subject property:

1. Exhibit "F" describes the development standards applicable to this PUD/PDP Master Site Plan.
2. Unless otherwise addressed within the PUD development standards, the R-1 zoning standards will apply to the subject property.

The existing and proposed use of the property is consistent with the proposed Residential Medium Low (0-7.5 du/ac) Future Land Use designation and the proposed Planned Unit Development Zoning classification. Site development cannot exceed the intensity allowed by the Future Land Use policies.

A capacity enhancement agreement with Orange County Public Schools (OCPS) or a letter exempting the project from school capacity enhancement is required prior to submittal of a final development plan. An application for School Capacity Determination and a mitigation agreement has been submitted to OCPS by the application. A final development plan will not be approved by the City until such time the School Board approves a school capacity mitigation 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 January 12, 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" PUD for the property owned by A.D Raulerson, Sr. & A.D. Raulerson, Jr. and Curtis and Karen Pumphrey, and located north of Lester Road and west of Rock Springs Road.

Staff recommended that the Planning Commission find the proposed amendment consistent with the Comprehensive Plan and compatible with the character of the surrounding areas, and recommends approval of the proposed Change of Zoning from "County" A-1 to "City" PUD (Commercial) for the property owned by A.D Raulerson, Sr. & A.D. Raulerson, Jr. and Curtis and Karen Pumphrey, and located north of Lester Road and west of Rock Springs Road, subject to the PUD Development and Zoning Conditions provided in the staff report.

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

Petitioner Presentation: Richard C. Wohlfarth, P.E., Wohlfarth Consulting Group, LLC, 246 N. Westmonte Drive, Altamonte Springs, stated he represents Apopka Development II, LLC. With regard to the requested deviations they would be providing enhanced recreation amenities. He stated that the minimum lot area will be 1,660 sq. ft. and the maximum will be 2,700 sq. ft. Except for one two-story single family lot, they are requesting a deviation of the required lot width of 70' to be 40'. The home prices are expected to range from \$200,000 to \$300,000. There is an additional 50 parking spaces in an overflow parking area.

In response to a question by Ms. Laurendeau, Mr. Wohlfarth stated that the original plans were too dense for the area so they came up with an alternative that provides a transition from the mobile home park and the properties to the north.

In response to questions by Mr. Molina, Mr. Wohlfarth stated there will be two gated entrances off of Lester Road. The cul-de-sacs have been designed to accommodate emergency vehicles.

In response to a question by Mr. Simpson, Mr. Wohlfarth stated they would be providing a traffic study that will provide that the level of service requirements are met. The distance between the traffic signal on Lester and this project is approximately 800 ft. to 1,000 ft.

Affected Party Presentation: In response to a question by Mr. Luccioni, Mr. Wohlfarth stated there will be a PVC fence installed adjacent to his property.

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 add a condition to require an emergency access to the properties owned by A. D. Raulerson, Sr. & A. D. Raulerson; and Curtis & Karen Pumphrey and located north of Lester Road; west of Rock Springs Road.**

Motion died due to the lack of a Second.

**Motion: Tony Foster made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend adoption of the change of zoning from "County" A-1 (Agricultural) to "City" Planned Unit Development (PUD) for the properties owned by A. D. Raulerson, Sr. & A. D. Raulerson; and Curtis & Karen Pumphrey and located north of Lester Road; west of Rock Springs Road. Motion seconded by Roger Simpson. Aye votes were cast by James Greene, Tony Foster, Linda Laurendeau, Roger Simpson, and John Sprinkle. Jose Molina voted no. (5-1). (Vote taken by poll.)**

Due to a previous engagement, Tony Foster left the meeting at 7:38 p.m.

**QUASI-JUDICIAL - CHANGE OF ZONING – TGINF, LLC** - Chairperson Greene stated this is a request to find the proposed Change of Zoning consistent with the Comprehensive Plan; and to recommend approval of the Change of Zoning from "County" A-1 (Agricultural) to "City" Planned Unit Development (PUD) for the properties owned by A. D. Raulerson, Sr. & A. D. Raulerson; and Curtis & Karen Pumphrey and located north of Lester Road; west of Rock Springs Road.

Attorney Brackins swore-in staff, petitioners, and affected parties for the quasi-judicial item to be discussed.

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 Change of Zoning consistent with the Comprehensive Plan; and to recommend approval of the Change of Zoning from "C-1 (Retail Commercial) to R-3 (Residential Multi-Family) for the property owned by TGINF, LLC and located at 501 Old Dixie Highway. The existing use is woodlands and the proposed use is townhomes. The maximum allowable development is 171,294 sq. ft. Commercial Use and the proposed maximum allowable development is 117 Dwelling Units (92 proposed on Preliminary Development Plan). The tract size is 15.7 +/- acres.

The subject parcel was annexed into the City of Apopka on December 17, 2003 through the adoption of Ordinance 1619.

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A request to assign a change of zoning to R-3 (Residential Multiple-Family District) is compatible with the adjacent zoning classifications and with the general character of abutting properties and surrounding area. The proposed townhome subdivision will act as a transitional use between the commercial properties on Old Dixie Highway and West Orange Blossom Trail and the single family residential subdivision to the north. The property owner is requesting the R-3 zoning classification for the development of a proposed townhome subdivision. This use is consistent with the proposed Residential Medium Low Future Land Use Designation. The proposal to rezone the property to R-3 (Residential Multiple-Family District) is compatible with the general character of the surrounding zoning and uses.

The change of zoning application covers approximately 15.73 acres.

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

The proposed use of the property is consistent with the Residential Medium Low (0-7.5 d/u per acre) Future Land Use designation and with the proposed R-3 zoning classification. Site development cannot exceed the intensity allowed by the Future Land Use policies.

A capacity enhancement agreement and/or school mitigation agreement with OCPS or a letter exempting the project from school capacity enhancement is required prior to submittal of a final development plan.

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 January 12, 2018.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan. The Development Review Committee recommends adoption of the change in zoning from C-1 (Commercial) to R-3 (Residential Multiple Family), subject to the adoption of the associated large scale future land use amendment, for the property owned by TGINF, LLC.

Staff recommended the Planning Commission find the proposed rezoning consistent with the Comprehensive Plan and Land Development Code and to recommend a change of zoning from C-1 (Commercial) to R-3 (Residential Multiple Family), for property owned by TGINF, LLC, subject to the adoption of the associated large scale future land use amendment.

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

Petitioner Presentation: None.

Affected Party Presentation: None.

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

**Motion:** Roger Simpson made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend approval of the change of zoning from “C-1 (Retail Commercial) to R-3 (Residential Multi-Family) for the property owned by TGINF, LLC and located at 501 Old Dixie Highway. Motion seconded by John Sprinkle. Aye votes were cast by James Greene, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (5-0). (Vote taken by poll.)

**LEGISLATIVE - COMPREHENSIVE PLAN – SMALL SCALE – FUTURE LAND USE AMENDMENT – VBRO ENTERPRISES, INC.** - Chairperson Greene stated this is a request to find

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the proposed Future Land Use Designation consistent with the Comprehensive Plan; and to recommend approval of the Small Scale Future Land Use Amendment from “County” Low Density Residential (0-4 du/ac) to “City” Commercial (Max. 0.25 FAR) for the property owned by VBRO Enterprises, Inc. and located at 41 E. Lester Road.

Staff Presentation: Mr. Martinez stated this is a request to find the proposed Future Land Use Designation consistent with the Comprehensive Plan; and to recommend approval of the Small Scale Future Land Use Amendment from “County” Low Density Residential (0-4 du/ac) to “City” Commercial (Max. 0.25 FAR) for the property owned by VBRO Enterprises, Inc. and located at 41 E. Lester Road. The applicant is Burkett Engineering, c/o William E. Burkett, P.E. The existing use is a single family residence. The potential development is 9,119 sq. ft. commercial use. The current zoning is “County” A-1 and the proposed zoning is “City” Planning Unit Development (PUD/Commercial Neighborhood). The proposed zoning is being processed at the same time of the small scale future land use amendment. The existing maximum allowable development is 3 dwelling units and the proposed is up to 9,119 sq. ft. of commercial use. The tract size is 0.83 +/- acres.

A request to assign a Future Land Use Designation of “Commercial” is compatible with the designations assigned to abutting properties. The FLUM application covers approximately 0.84 acre. Combined with the parcel to the east and several other parcels along the west side of Rock Springs Road, this parcel is proposed to be developed as a small commercial retail plaza. A proposed zoning of Planned Unit Development will tailor the site to appropriate commercial and office uses compatible to residential development further to the west along Lester Road. This proposed shopping plaza will be located at the northwest corner of Lester Road and Rock Springs Road.

The adjacent properties to the east, face an arterial road have a “Commercial” Future Land Use designation. The Wekiva Plaza Shopping Center is approximately a half mile south of the subject property.

In conjunction with state requirements, staff have analyzed the proposed amendment and determined that adequate public facilities exist to support this land use change (see attached Land Use Report). Based on the findings of the Land Use report, the proposed FLUM amendment is compatible with the surrounding and nearby land uses and the character of the general area.

The proposed zoning of the subject property, “Commercial Neighborhood” is consistent with the Commercial (max. 0.25 FAR) Future Land Use designation.

Because this request represents a change to a non-residential future land use designation and zoning classification, school capacity determination by Orange County Public Schools is not required.

The JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City properly notified Orange County on January 12, 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 Office for the property owned by VBRO Enterprises, Inc., and located at 41 East Lester 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” Low Density Residential 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.



Bill Burkett, Burkett Engineering, 105 E Robinson St, Orlando, stated he was available to answer any questions.

Chairperson Greene opened the meeting for public hearing.

In response to a question by Mr. Luccioni, Mr. Moon stated that buffer requirements would be addressed at the time the preliminary development plan is submitted.

With no one else 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 compatible with the character of the surrounding area; and to recommend approval of the Small Scale Future Land use amendment from “County” Low Density Residential (0-4 du/ac) to “City” Commercial (Max. 0.25 FAR) for the property owned by VBRO Enterprises, Inc. and located at 41 E. Lester Road. Motion seconded by Roger Simpson. Aye votes were cast by James Greene, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle. (5-0). (Vote taken by poll.)

**QUASI-JUDICIAL - CHANGE OF ZONING – VBRO ENTERPRISES, INC.** - Chairperson Greene stated this is a request to recommend approval of the Change of Zoning from “County” A-1 (Agriculture) to “City” Planned Unit Development (PUD/Neighborhood Commercial) for the property owned by VBRO Enterprises, Inc. and located at 41 E. Lester Road.

Attorney Brackins swore-in staff, petitioners, and affected parties for the quasi-judicial item to be discussed.

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 recommend approval of the Change in Zoning from “County” A-1 (Agriculture) to “City” Planned Unit Development (PUD/Neighborhood Commercial) for the property owned by VBRO Enterprises, Inc. and located at 41 E. Lester Road. The applicant is Burkett Engineering, c/o William E. Burkett, P.E. The existing use is a single family residence. The potential development is 9,119 sq. ft. commercial use. The current zoning is “County” A- 1 and the proposed zoning is “City” Planning Unit Development (PUD/Commercial Neighborhood). The proposed zoning is being processed as the same time of the small scale future land use amendment. The existing maximum allowable development is 3 dwelling units and the proposed is up to 9,119 sq. ft. of commercial use. The tract size is 0.83 +/- acres. (Staff report incorporated into the record.)

The applicant desires to combine six small parcels at the northwest corner of North Rock Springs Road and Lester Road into a small commercial or office shopping center. For the five parcels abutting Rock Springs Road, “City” CN (Neighborhood Commercial) is currently assigned to each. For the sixth parcel, which fronts Lester Road and which was recently annexed into the City, the zoning is “County” A-1.

The intent of the PUD (Planned Unit Development) zoning request is to allow a restaurant at the intersection of E. Lester Road and N. Rock Springs Road. Restaurants are prohibited in the current CN zoning category. A request to rezone to C-1 (Retail Commercial District), to accommodate a restaurant, would potentially allow undesirable uses such as motels, laundry facilities, and outside storage of merchandise, equipment or commodities.

A request to assign a change of zoning to PUD, for commercial use, is compatible with the adjacent zoning classifications and with the general character of abutting properties and surrounding area. The subject properties have 500 linear feet of frontage along Rock Springs Road, an arterial road. Other commercial properties, such as the Wekiva Plaza Shopping Center, are in the vicinity of the subject property.

The applicant has voluntarily agreed to restrict the type of commercial uses that may be incompatible for allocation that serves as a gateway into an area dominated by existing and future residential neighborhoods along Lester Road, from Rock Springs Road to Plymouth-Sorrento Road.

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

A. The uses permitted within the PUD district shall be:

1. All permitted uses listed in the PO/I (Professional Office/Institutional) and CN (Commercial Neighborhood) district, except those listed as prohibited below.
2. Restaurants, with or without outdoor seating, including fast-casual restaurants. Fast-casual restaurant is defined as an establishment whose principal business is the sale of food or beverage that is made to order, for consumption within the building, or off the premises as carryout orders. The principal method of operation includes, but is not limited to, the following characteristics: food or beverages may be served in non-disposable container; Limited table service may be available. Order and pay at the counter. The food is made fresh and is either brought to the table by a server or the customer is called back to the counter. Price points are generally higher than fast food. Food is perceived to be higher quality and healthier than food from standard fast food restaurants. May have drive-through service as allowed by the development design standard in Paragraph C.
3. Adult day care, not to exceed 7,000 square feet net floor area.
4. Retail businesses, except those listed as prohibited.
5. Banks.
6. Coffee Shops.
7. Other uses which are similar and compatible to the uses permitted herein which adhere to the intent of the district and which are not prohibited as specified in this code. Use determination shall be based upon the community development director's recommendation.

B. The uses prohibited within the PUD district shall be:

1. Tobacco Store
2. Laundromat businesses
3. Veterinary and pet grooming facilities
4. Motorized Vehicle Service Stations

5. New or used motorized vehicle sales
  6. Plumbing Shops
  7. Appliance Stores
  8. Tattoo/Piercing Parlors
  9. Adult entertainment as defined in section 10-98 of the Apopka Municipal Code
  10. Auto title loan, paycheck advance facilities, and other "personal credit institutions"
  11. Pawn shops.
  12. Employment agencies.
  13. Modular, mobile and pre-fab home display and sales.
  14. Mini-warehouse and self-storage facilities.
  15. Outside storage of supplies, materials, equipment, merchandise, and activities.
  16. Motorized Truck stops or terminal as defined by this code.
  17. Flea markets (indoor and outdoor).
  18. Motorized automotive and transportation related businesses including new and used retail automotive part stores, mechanic shops, new and used car sales, boat sales, vehicle rental, etc.
  19. Bail bonds businesses.
  20. Blood banks, blood donor stations, plasmapheresis facilities, or other similar bio-donating uses; provided however, that this prohibition shall not include the practice of the following duly licensed professionals: physicians, dentists, orthodontists or pharmacists, or other health care practitioners, which may perform incidental bio-donating functions and procedures; provided, further, however, that this prohibition shall not apply to bona fide blood drives and similar events conducted by non-profit blood banks for a non-commercial purpose.
  21. Soup kitchens; provided however, that this prohibition shall not apply to the bona fide charitable activities of bona fide churches, synagogues, mosques and other places of worship that are occupied and in operation on the effective date of this ordinance.
  22. Outdoor parks and recreational areas.
  23. Bowling alleys, skating rinks, billiard parlors and similar amusement centers.
  24. Assisted Living Facilities.
- C. Development Design Standards for this PUD, in addition to the Development Design Standards set forth in the Land Development Code (LDC) shall be as follows:
1. Drive through restaurants shall be limited to one drive aisle and no more than one menu board.

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2. Drive through establishments without food and beverage sales are limited to two service drive aisles.
3. The development must have a unified architectural theme.
4. The development shall have a plaza or prominent architectural feature at the corner of Rock Springs Road and Lester Road. Examples include: statue, fountain, corner entrance, clock tower)
5. Outdoor seating encouraged at restaurant(s).
6. The development must have at least two separate buildings, each building shall have a footprint not greater than 15,000 square feet floor area.
7. Driveways must be at least 50 feet away from the southeastern corner of the development.
8. Building frontage along Rock Springs Road and Lester Road must resemble store fronts with windows and either faux or real entrances.
9. If any conflict occurs between the above design standards and the LDC, the above standards shall apply.

**D. Terms of Expiration for this PUD shall be as follows:**

If a Final Development Plan associated with the PUD district has not been approved by the City within three years, and site development has not commenced within four years after approval of these Master Plan provisions, the approval of the Master Plan provisions will expire. At such time, the City Council may:

1. Permit a single six-month extension for submittal of the required Final Development Plan;
2. Allow the PUD zoning designation to remain on the property pending resubmittal of new Master Plan provisions and any conditions of approval; or
3. Rezone the property to a more appropriate zoning classification.

**E. The requisite Master Plan shall be submitted with or as part of the Preliminary Development Plan application.**

The proposed Planned Unit Development zoning of the property is consistent with the proposed Commercial (Max. 25% Floor Area Ratio) Future Land Use designation. Site development cannot exceed the intensity allowed by the Future Land Use policies.

The proposed rezoning will not generate any residential development and, thus, will not have an impact on public schools.

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 January 12, 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 and "City" CN to "City" PUD for the property owned by VBRO Enterprises, Inc., and located at 41 E. Lester Road, 2038 Rock Springs Road, 2030 Rock Springs Road, 2022 Rock Springs Road, 2014 Rock Springs Road, and 2006 Rock Springs 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 “County” A-1 and “City” CN to “City” PUD for the property owned by VBRO Enterprises, Inc., subject to the PUD development and zoning standards within the Staff Report.

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

Petitioner Presentation: Mr. Burkett said he was available to answer any questions.

Affected Party Presentation: None.

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

**Motion:** Jose Molina made a motion to find the application consistent with the Apopka Comprehensive Plan and Land Development Code, and recommend adoption of the change of zoning from “County” A-1 (Agriculture) to “City” Planned Unit Development (PUD/Neighborhood Commercial) for the property owned by VBRO Enterprises, Inc. and located at 41 E. Lester Road. Motion seconded by Roger Simpson. Aye votes were cast by James Greene, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (5-0). (Vote taken by poll.)

**QUASI-JUDICIAL - VARIANCE – BELVEDERE ESTATES, INC.** - Chairperson Greene stated this is a request to approve a variance of Apopka Code of Ordinances, Part III, Land Development Code, Sections 2.02.01(A) and 2.02.06(G)(1)(c) “Rear yards shall be a minimum of 20 feet” to allow a deck to extend within the required rear-yard setback for the property owned by Belvedere Estates, Inc., c/o Shirish Suchak and located at 1586 Golfside Village Boulevard.

Attorney Brackins swore-in staff, petitioners, and affected parties for the quasi-judicial item to be discussed.

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: David Moon, AICP, Planning Manager, provided an introduction to the variance process. He said that the Land Development Code, Section 10.02.00, states the Planning Commission must follow two steps to approve a variance. Section 10.02.02.A, states the 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. Section 10.02.02.B provides the 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.

Ms. Sanchez stated this is a request to approve a variance of Apopka Code of Ordinances, Part III, Land

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Development Code, Sections 2.02.01(A) and 2.02.06(G)(1)(c) “Rear yards shall be a minimum of 20 feet” to allow a deck to extend within the required rear-yard setback for the property owned by Belvedere Estates, Inc., c/o Shirish Suchak and located at 1586 Golfside Village Boulevard. The existing use is a single family residence. The future land use is Residential Low and the zoning is R-3. The tract size is 0.14 +/- acres or 6,094 sq. ft.

Applicable City Codes:

1. Section 2.02.01(A) – Single-family development shall meet the requirements set forth in the R-2 zoning district.
2. Section 2.02.06(G)(1)(c) – Rear yards shall be a minimum of 20-feet.

The applicant’s request is to allow placement of a deck to expand within the required 20-foot rear yard setback.

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.”

***Applicant’s Response.*** Due to the existing size of the rear yard setback, it currently does not allow for a reasonable size deck.

***Staff Response.*** No objection. This single family home was built in 1989. Errol Golfside Village was possibly approved without having established setback standards that do not address accessory uses. The current Land Development Code was adopted in 1993. Errol Golfside Village subdivision plat was recorded in 1981.

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:*** Due to the existing size of the rear yard setback, it currently does not allow for a reasonable size deck.

***Staff’s Response:*** No objection.

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

***Applicant’s Response:*** The proposed variance incurs a cost of construction.

***Staff’s Response:*** No objection.

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

***Applicant’s Response:*** The proposed variance will not increase congestion on the surrounding streets. The extension of the deck will not create special conditions and circumstances.

**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:** The extension of the deck should increase the property value.

**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:** The effect of the approval of the requested extension of the deck within the required rear yard setback would allow more time spent outside and enjoy the entire property.

**Staff Response:** No objection.

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

**Applicant's Response:** The deck extension will be completed in compliance with the rest of the Code. The extension of the existing deck does not affect Golfside Village Boulevard or create safety hazards.

**Staff Response:** No objections.

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 deck extension would allow for more relaxation in the outdoors.

**Staff Response:** No objections.

Based on the information provided by the applicant at the hearing for the variance requested, the role of the Planning Commission is to 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. The Planning Commission has authority to take final action. It may approve, deny, or approve with conditions.

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 questions by Mr. Molina, Mr. Moon stated that the home will back up to an undeveloped area that is part of a proposed assisted living facility. He said the deck will be raised with four columns supporting the structure.

In response to a questions by Mr. Molina, Mr. Suchak stated a contractor will build the deck. The highest

elevation will be 10 to 11 feet from the ground. Plans will be provided as the time the building permit is submitted.

Petitioner Presentation: None.

Affected Party Presentation: None.

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

**Motion:** Roger Simpson made a motion to determine that sufficient substantially competent information has been provided that a hardship occurs pursuant to the City of Apopka Code of Ordinances, Part III, Land Development Code, 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 property owned by Belvedere Estates, Inc., c/o Shirish Suchak and located at 1586 Golfside Village Boulevard. The Motion was seconded by John Sprinkle. Aye votes were cast by James Greene, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (5-0). (Vote taken by poll.)

**Motion:** Jose Molina made a motion to approve the variance of Apopka Code of Ordinances, Part III, Land Development Code, Sections 2.02.01(A) and 2.02.06(G)(1)(c) “Rear yards shall be a minimum of 20 feet” to allow a deck to extend within the required rear-yard setback for the property owned by Belvedere Estates, Inc., c/o Shirish Suchak and located at 1586 Golfside Village Boulevard. The Motion was seconded by Roger Simpson. Aye votes were cast by James Greene, Linda Laurendeau, Jose Molina, Roger Simpson, and John Sprinkle (5-0). (Vote taken by poll.)

**OLD BUSINESS:** None.

**NEW BUSINESS:** None.

**ADJOURNMENT:** The meeting was adjourned at 8:08 p.m.

/s/

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James Greene, Chairperson

/s/

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James K. Hitt, FRA-RA  
Community Development Director