CITY OF APOPKA
PLANNING COMMISSION
MEETING AGENDA
January 14, 2014
5:01 PM @ CITY COUNCIL CHAMBERS

I. CALL TO ORDER

If you wish to appear before the Planning Commission, please submit a "Notice of Intent to Speak" card to the Recording Secretary.

II. OPENING AND INVOCATION

III. ELECTION OF OFFICERS:

Chairperson

Vice-Chairperson

IV. APPROVAL OF MINUTES:

1 Approve minutes of the Planning Commission meeting held December 10, 2013, at 5:01 p.m.

V. PUBLIC HEARING:

VI. SITE PLANS:

1. REPLAT – Lester Ridge Subdivision owned by Meritage Homes of Florida, Inc., and located at 1786 Water Rock Drive. (Parcel ID No. 29-20-28-4750-00-650)

VII. OLD BUSINESS:

Planning Commission

Public

VIII. NEW BUSINESS:

Planning Commission

Public

IX. ADJOURNMENT:

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All interested parties may appear and be heard with respect to this agenda. Please be advised that, under state law, if you decide to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made, which record includes a testimony and evidence upon which the appeal is to be based. The City of Apopka does not provide a verbatim record.

In accordance with the American with Disabilities Act (ADA), persons with disabilities needing a special accommodation to participate in any of these proceedings should contact the City Clerk's Office at 120 East Main Street, Apopka, FL 32703, telephone (407) 703-1704, not later than five (5) days prior to the proceeding.

Backup material for agenda item:

1 Approve minutes of the Planning Commission meeting held December 10, 2013, at 5:01 p.m.

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON DECEMBER 10, 2013, AT 5:01 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan

ABSENT: Mallory Walters, Orange County Public Schools (Non-voting)

OTHERS PRESENT: Jay Davoll, P.E. – Community Development Director/City Engineer, David Moon, AICP - Planning Manager, Luke Classon, Chad Moorhead, Evan Chesney, Bob Holston, Aaron Adams, Matt Morris, Rob Vesely, Kim Prichard, Jimmy Dunn, Bryan Potts, Tom Sullivan, Victor Sutapaha, Travis Henegar, Cory Hopkins, Kimmerle Plagge, Jan Chesney, Nancy Poe, and Jeanne Green – Community Development Department Office Manager/Recording Secretary.

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

Chairperson Hooks asked that if anyone wanted to speak before the Planning Commission to fill out a Notice of Intent to Speak at Public Hearing form and submit it to the Recording Secretary, Ms. Green.

APPROVAL OF MINUTES: Chairperson Hooks asked if there were any corrections or additions to the November 12, 2013 minutes. With no one having any corrections or additions, he asked for a motion to approve the minutes of the Planning Commission meeting held November 12, 2013.

Motion: **Melvin Birdsong made a motion to approve the Planning Commission minutes from the November 12, 2013 meeting, and James Greene seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

The Commission agreed to rearrange the agenda and hear the Kimmerle Plagge variance request first.

VARIANCE – 2736 SHEILA DRIVE – KIMMERLE PLAGGE – David Moon, AICP, Planning Manager, stated this is a request to approve the variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.07(A) to allow installation of a swimming pool within a side yard. The owner is Kimmerle Plagge and the property is located at 2736 Sheila Drive in the Pitman Estates subdivision. The future land use is Residential Low Suburban (0-3.5 du/ac) and the zoning is R-1AA. The existing use is a single family residence. The tract size is 0.31+/- acre. This item is quasi-judicial and the staff report to be incorporated into the record.

Applicant requests to have a swimming pool installed within the side yard of the property located at 2736 Sheila Drive in Pitman Estates. Section 7.01.07 of the Land Development Code, as described below, prohibits location of swimming pools and its ancillary equipment within a side yard.

Mr. Moon stated that the applicable city code is Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.07(A) that reads "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."

<u>**SEVEN VARIANCE CRITERIA**</u> (The applicant's responses to the seven variance criteria are part of the minutes.) Criteria for demonstrating hardship relief are established in Section 10.02.02 of the Land Development Code. Seven variance criteria are listed under Subsection B. These seven criteria are listed below. A response to each of the seven criteria is provided below.

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.

   POSITIVE FINDING: Staff visited the subject property, reviewed aerial photographs, and plans of the subject property. After grading was completed during the home's construction, the rear yard was left with a steep grade. Based on a review of the situation by the City's building official, construction activity and grading within the rear yard and adjacent to the home creates a risk that may cause cracking or failure of the home foundation.

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

   POSITIVE FINDING: Other factors besides cost were taken into consideration regarding the proposed location of the pool site.

   1) Installation of the pool within the side yard places the entire pool area adjacent to the rear yard of the abutting residential lot. The residential lot east of the proposed side yard pool location and east of the public street, has its rear yard facing the proposed pool area. Staff recommends as a condition of the variance that a white, six-foot high vinyl fence be installed along the north side of the pool area. Applicant has proposed this within her pool plan. The fence will screen the pool from the public street. Conditions placed on the variance can assure that the pool and associated equipment remain behind a line aligned with the rear wall of the adjacent home to the south. A screen enclosure is not proposed, and a variance condition is proposed to prohibit a screen enclosure of the pool area.

   2) Applicant has obtained a letter of consent from the owner of the abutting lot which the proposed pool will face.

   3) Regarding the proposed pool location, Applicant has obtained a letter of approval from the Board of the Pittman Estates Homeowners Association.

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

   POSITIVE FINDING: Location of the pools will not cause any reduction of the driveway area or impede access to the garage. Therefore, a pool in the side yard will not reduce any on-site parking area.

4. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

   POSITIVE FINDING: With a condition that a fence must be installed to screen the pool area, and with a condition that the pool area cannot be screened, a pool located within the side yard will not alter the character of the area. The pool area will face rear yards of lots abutting to the south and west. Furthermore, the residential lot to the east has an opaque fence along its rear yard property line.

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.

   POSITIVE FINDING: The proposed pool location is oriented to the rear yards of the two abutting lots. Location of the proposed pool also is consistent with the existing and potential pool locations within the rear yards of lots to the south of the subject property. The intent of the code was to place pools at locations that assure the character of a neighborhood has a uniform appearance of a single family residential area with front yards and home fronts. Within the proximity of the subject site, several other lots can have pools within rear yards that face the front yards of other lots.

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

   POSITIVE FINDING: Current property owner is not the original owner who had the house constructed.

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.

   POSITIVE FINDING: Proposed pool location is situated behind the driveway and towards the rear of the house. An opaque screen fence is proposed to be installed to the south, east, and west side of the pool area. Enclosure of the pool area by a screen room is not proposed. The proposed pool location will not create any safety hazard concerns.

STAFF FINDINGS: Construction of a pool at the rear of the house may create a potential risk to damage the foundation of the home. Location of the pool within the proposed side yard location keeps the pool oriented to the rear yard of adjacent homes, and a fence will screen the pool area from the street. Staff supports the side yard pool location subject to the Planning Commission approving the following conditions:

1) A six foot high vinyl fence shall be installed at the perimeter of the pool area to screen it from the Public Street and adjacent properties.

2) The pool area shall be located west of the driveway, and construction of the pool shall not reduce any on-site parking area.

3) The pool shall not be enclosed by a screen structure.

The Development Review Committee supports the variance request to allow the installation of a swimming pool within the side yard at the property owned by Kimmerle Plagge and located at 2736 Sheila Drive in Pitman Estates Subdivision, subject to the three conditions listed in the Staff Findings.

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

Motion: **Ben Dreiling made a motion to approve the Kimmerle Plagge request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VII, Section 7.01.07(A) to allow installation of a swimming pool within a side yard for the property located at 2736 Sheila Drive, subject to the information and findings in the staff report; and Melvin Birdsong seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

VARIANCE – ADAMS BROTHERS CONSTRUCTION COMPANY, INC. – Mr. Moon stated this is a request to approve the variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article II, Section 2.02.15.F.3 to allow encroachment of a portion of a building into a rear yard setback by five (5) feet. The owner/applicant is Adams Brothers Construction Company, Inc., c/o Aaron W. Adams. The property is located south of East 13th Street, west of South Apopka Boulevard at 806 East 13th Street. The future land use is "County" Industrial and the Zoning is "County" C-3 and A-1. Amendments to the Future Land Use and Zoning are also being presented for recommendation to City Council to approve. The Future Land Use is proposed at "City" Industrial and the zoning is proposed for "City" I-1. The existing use is a steel fabrication facility. The tract size is 2.81+/- acres. This item is quasi-judicial and the staff report to be incorporated into the record.

The variance request addresses an encroachment of the rear corner of a proposed building or structure into the minimum 10 foot rear yard setback by 5 feet for the property located at 806 East 13th Street. The variance is only applicable to the portion of the proposed building or structure that encroaches into the rear yard setback along the rear lot line. The extent of the setback encroachment is illustrated in the site plans provided as part of the Exhibits.

Mr. Moon stated the applicable City Code is Code of Ordinances, Part III, Land Development Code, Article II, Section 2.02.15.F.3 which reads "Rear yard. Setback shall be a minimum of ten feet, except where rear lot lines abut a residential district, then all structures and outside storage areas shall be set back a minimum of 30 feet, measured from the property line or the distance of any required bufferyard, whichever is greater." There are industrial uses, a railroad right-of-way, and a church property abuts the rear property line of the subject site. No residential zoning or use occurs adjacent to the rear yard property line.

SEVEN VARIANCE CRITERIA (The applicant's responses to the seven variance criteria are part of the minutes.) When evaluating a variance application, the Planning Commission shall not vary from the requirements of the code unless it makes a positive finding, based on substantial competent evidence on each of the requirements set forth in Section 10.02.02.b. of the City's Land Development Code. These requirements are listed below with a response provided by the applicant.

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: They are due to an already approved setback from Orange County and a hardship due to us annexing into the City.

POSITIVE FINDING – A portion of the existing slab and manufacturing operation already encroaches into the ten foot rear yard setback. The applicant desires to construct a building to enclose the existing manufacturing facility. Development of the site occurred prior to annexation into the City on December 19, 2012, and followed Orange County standards and approvals.

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

Applicant's Response: No, it is based on an approved setback by Orange County. Documentation of this approval was submitted to the City.

POSITIVE FINDING – site was developed according to Orange County standards and approvals prior to annexation on December 19, 1012.

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

Applicant's Response: No. The setback is in the rear of the property that has no public streets.

POSITIVE FINDING

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: No, it will only increase the character and surrounding because of proposed improvement to the property.

POSITIVE FINDING

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: Yes, it is well within the code and property zoning.

POSITIVE FINDING -- Residential zoning or uses do not abut the rear property. No building or structure is located near that portion of the building or structure that does or will encroach the rear yard setback. Thus, the encroachment does not create any risk to public health or safety.

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

Applicant's Response: No.

POSITIVE FINDING -- Development of the site prior to annexation occurred under a different government jurisdiction.

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: No, we are only proposing a variance to the rear property setback from 10' to 5' that was already approve by Orange County.

POSITIVE FINDING -- Only that portion of the current structure that currently encroaches the rear yard setback, and that portion of a proposed building that will envelope said structure, are subject to the variance. Any other redevelopment of the site will occur consistent with the assigned minimum setback standards.

Mr. Moon stated that compliance with the City's minimum setback standard applicable to this property would require demolition of an existing structure. Staff determines that a reasonable hardship is placed on the property owner, as demonstrated by the existing development and conditions of the site.

Subject to City Council adoption of a request to assign the I-1 zoning category to the subject property, the Development Review Committee does not object to the variance request from Adams Brothers Construction Company, Inc. to allow encroachment of a portion of an existing structure and a proposed building into the rear yard setback by not more than 5 feet.

As the Future Land Use and Zoning applications have not yet been reviewed by the City Council, Planning Commission action to approve the variance request should be subject to City Council approval of said required applications.

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

Motion: **James Greene made a motion to approve the Adams Brothers Construction Company, Inc. request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article II, Section 2.02.15.F.3 to allow encroachment of a portion of a building into a rear yard setback by five (5) feet for the property located at 806 East 13th Street, subject to the information and findings in the staff report; and Ben Dreiling seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

COMPREHENSIVE PLAN - SMALL SCALE – FUTURE LAND USE AMENDMENT – ADAMS BROTHERS CONSTRUCTION COMPANY, INC. – Mr. Moon stated this is a request to recommend approval of the Small Scale Future Land Use change from "County" Industrial to "City" Industrial for the property owned by Adams Brothers Construction Company, Inc., c/o Aaron W. Adams. The property is located south of East 13th Street, west of South Apopka Boulevard at 806 East 13th Street. The existing Zoning is "County" C-3 and A-1 and the proposed zoning is "City" I-1. The existing maximum allowable development is 62,200 square feet and the proposed maximum allowable development is 62,200 square feet. The tract size 2.81 +/- acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

The subject parcel was annexed into the City of Apopka on December 19, 2012, through the adoption of Ordinance No. 2276. The proposed Small-Scale Future Land Use Amendment is being requested by the applicant. Pursuant to Florida law, properties containing less than ten acres are eligible to be processed as a small-scale amendment. Such process does not require review by State planning agencies.

A request to assign an I-1 zoning category to the Property is being processed in conjunction with this future land use amendment request for an Industrial designation. The zoning application covers approximately 2.81 acres. A development application has been submitted to the City, and the business owner intends to improve the site to enclose existing manufacturing operations within a building.

While the property is assigned a C-3 commercial land use designation by Orange County, the actual use of the property is consistent with industrial activities. Existing and proposed manufacturing activities are proposed to occur within a building within limited outdoor storage of materials and products.

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

The existing and proposed use of the property is consistent with the Industrial Future Land Use designation and the City's proposed I-1 Zoning designation. Site development cannot exceed the intensity allowed by the Future Land Use policies.

Because this Future Land Use Amendment assigns a "City" non-residential designation to the subject property, notification of Orange County Public Schools is not required.

he JPA requires the City to notify the County 30 days before any public hearing or advisory board. The City operly notified Orange County on November 15, 2013. An Industrial Future Land Use designation was assigned to the subject property by Orange County prior to its annexation. The proposed City Industrial Future Land Use Designation is comparable to the County designation.

The Development Review Committee finds the proposed amendment consistent with the Comprehensive Plan and recommends approval of the change in Future Land Use from "County" Industrial to "City" Industrial for the property owned by Adams Brothers Construction Company, Inc.

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

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

Motion: **James Greene made a motion to recommend approval of the Adams Brothers Construction Company, Inc. Future Land Use amendment from "County" Industrial to "City" Industrial for the property located at 806 East 13th Street, subject to the information and findings in the staff report; and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

CHANGE IN ZONING – ADAMS BROTHERS CONSTRUCTION COMPANY, INC. – Mr. Moon stated this is a request to recommend approval of the Change in Zoning from "County" C-3 and A-1 to "City" I-1 for the property owned by Adams Brothers Construction Company, Inc., c/o Aaron W. Adams. The property is located south of East 13th Street, west of South Apopka Boulevard at 806 East 13th Street. The existing use is a steel fabrication facility and will continue as such. The existing and proposed maximum allowable development is 62,200 square feet. The tract size 2.81 +/- acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

The subject parcel was annexed into the City of Apopka on December 19, 2012, through the adoption of Ordinance No. 2276. The proposed change of zoning is being requested by the applicant. In conjunction with state requirements, staff has analyzed the proposed future land use amendment zoning request and determined that adequate public facilities exist to support this land use change as depicted in the Zoning Report.

The proposed I-1 zoning designation is consistent with the proposed Industrial future land use designation and the existing use of the property. Site development cannot exceed the intensity allowed by the Future Land Use policies. Because this change of zoning represents a change to a non-residential designation, notification of 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 November 15, 2013.

The Development Review Committee recommends approval of the change in zoning from "County" C-3 and A-1 to "City" I-1 for the property owned by Adams Brothers Construction Company, Inc.

Chairperson Hooks stated that the Future Land Use and Zoning Changes bring the property into compliance with the City's Code.

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

Motion: **James Green made a motion to recommend approval of the Adams Brothers Construction Company, Inc. change of zoning from "County" C-3 and A-1 to "City" I-1 for property located at 806 East 13th Street, subject to the information and findings in the staff report; and Ben Dreiling seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

CHANGE IN ZONING – FAIRCLOTH FAMILY LTD. – Mr. Moon stated this is a request to recommend approval of the Change of Zoning from R-1A (Residential - 5 un/ac – 10,000 sq. ft. minimum lot size) to R-2 (Residential – 5 du/ac - 7,500 sq. ft. minimum lot size) for the property owned by Faircloth Family Ltd. The property is located west of S.R. 451 (f.k.a. S.R. 429), north of Lake Marshall Road. The existing use is planted pine and the proposed use is a residential subdivision with approximately 30 lots. The existing maximum allowable development is 31 residential units and the proposed maximum allowable development is 42 residential units. The tract size is 25.4 +/- acres. This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part of the minutes.

The subject property was annexed into the City of Apopka on July 18, 1990, through the adoption of Ordinance No. 622. The proposed zoning change is compatible with the character of the surrounding area. Based on a site survey, only 11.15 acres are developable of the 25.38 total acres. The remainder of the property lies within jurisdictional wetlands governed by the St. Johns River Water Management District.

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

The proposed R-2 rezoning is consistent with the Future Land Use Designation of Residential Low Density (up to five units per acre) that is assigned to the property. Site development cannot exceed the densities allowed by the Future Land Use policies. Development standards established for the R-2 zoning category requires a minimum lot area of 7,500 sq. ft. and 15,000 sq. ft. for a duplex. The Minimum living area requirement for Single-family dwelling units is 1,350 square feet and for a Duplex unit it is 1,350 square feet for the R-2 zoning district.

Mr. Moon stated that to the north of this property is Poe Reserve. The Poe Reserve Preliminary Development Plan proposed 82 single family lots within 26.3 +/- acres. Approximately half of the property is zoned R-1 residential and the other half is zoned R-3 residential. R-3 zoning category allows single family lots with a minimum lot width of 70 feet and a minimum lot area of 7,500 sq. ft., the entire project area proposes a minimum lot width of 75 feet and a minimum lot area of 8,000 sq. ft. – the standards for the R-1 zoning category.

The proposed rezoning will not increase above that which could have been developed under the zoning assigned to the property. A capacity enhancement agreement with OCPS is not necessary for the City to adopt this Change of Zoning.

The property is surrounded by properties that are within the City limits of Apopka; therefore the notice requirements in the JPA do not apply.

Based on the proposed development to the north and the lot sizes for that development, the Development Review Committee recommends approval of the change in Zoning from R-1A to R-2 for the parcel owned by Faircloth Family, Ltd. so long as the property develops as single family residential.

Mr. Moon stated that the Commission may hear some opposition to the R-2 zoning because it runs with the land, as does the R-3 zoning on the property to the north called Poe Reserve. Until a subdivision plan is platted there is the potential for duplexes on this property. There is nothing to prevent the Poe Reserve property owner changing their plans, as they have not been platted, to request the apartments or duplexes in the future. Poe Reserve has construction plans for single family residences and the applicant for the Faircloth property submitted a preliminary subdivision plan that, for the most part, mirrors their concept plan.

For information purposes, staff indicated concerns at the time of the Poe Reserve application regarding the R-3 zoning even though the plan is designed and conditions for development on that property are for R-1 zoning. Requests to the property owner to rezone their property to R-1 were declined because they want to retain their R-3 property rights. The Faircloth applicant was requested to zone their property a Planned Unit Development (PUD). PUD would allow that conditions would be established that would ensure that that only single family development could occur on the property but the applicant proceeded with the R-2 zoning.

Staff recommendation is for approval of the R-2 zoning with the applicant's intent to development single family residential on the Faircloth property.

In response to questions by Chairperson Hooks, Mr. Moon stated that the preliminary plan submitted by Faircloth applicant would not fit the R-1 zoning designation. The lot width is consistent with the R-2 zoning. The lot sizes are actually similarly to those found in Poe Reserve. R-2 allows for a 7.5 side yard setback and R-1 and R-1A require a 10 foot side yard setback. R-2 minimum house size with the floor area is 1,350 square feet. R-1 it is 1,600 square feet. Poe Reserve was approved with a minimum living area of 1,500 square feet. The applicant for the Faircloth property has not submitted a minimum house size for that property.

In response to questions by Mr. Ryan, Mr. Moon said the front setbacks for R-1 and R-2 are 25 feet. They are also subject to the same garage setback. Front loaded garages must be set back 30 feet for both zoning districts. The difference is that with a lot width of 70 feet the width becomes tight for side-entry garages. At 75 feet it is still a little tight but it's easier to accomplish. Front-loaded garages have to be set back 30 feet and side-load garages have to be setback 25 feet.

In response to questions by Mr. Dreiling, Mr. Moon said that R-2 is the highest zoning district the plans submitted would fit. The side yard setback is 7.5 feet which, given the market today, that is desired by most home builders. Additionally, the St. Johns Water Management District requires homes that abut the lake have to be setback 50 feet and they are required to establish a 25 foot upland buffer outside of that line. That narrows down the property to attain their housing yield and the infrastructure improvements. Based on discussions with the property owner, they also request R-2 to obtain a higher yield so they can help fund the infrastructure improvements. They propose 70 foot wide lots. The lots could be wider. The R-2 zoning allows them to have a minimum lot width of 70 feet. Under R-1 zoning the minimum lot width is 75 feet, but they would lose a number of lots. The lots would be larger than those in Poe Reserve. The depth would remain the same regardless of whether the width is 70 foot or 75 foot. The lot width and the setbacks are the major issue for the applicant. In the case of rezoning, the Planning Commission has the responsibility is to make a recommendation to City Council. The Commission can make a recommendation to the City Council to approve or deny the R-2 zoning designation; or can recommend an R-1 zoning designation. That recommendation would be included in the staff report provided to City Council.

Chairperson Hooks stated that the route to go would be to recommend PUD. He stated he wanted to hear the applicant's reason for not going with a PUD; and a PUD would allow conditions that could restrict the development so that it does not evolve into multi-family housing or duplexes.

Mr. Moon stated that in the letter provided to the Commission from Mrs. Poe states that the minimum house size in Poe Reserve is 2,100 square feet. That is not was approved by City Council. She established a contract with the developer requiring the 2,100 square foot living area.

Luke Classon, IBI Group (Florida) Inc., 2300 Maitland Center Parkway, Suite 101, Maitland, stated he was the representative for the project. Stated that the reason they did not consider PUD zoning is that there is an extra step for a master plan that they would have to go through and it was more of a timing to get to the market issue.

In response to questions by Chairperson Hooks, Mr. Moon stated that the PUD requirements due establish the criteria for a master site plan. The City has allowed, in particular for smaller projects, for that requirement to be delayed to the preliminary subdivision plan. Then the application is called the Master Site Plan/Preliminary Subdivision Plan. At times the City has waived the master site plan requirements and accepted the Concept Plan as the tentative Master Site Plan. Based on some of the issues that Planning Commission has raised, the concept plan, regarding concerns with the house size, setbacks, lot size, could be addressed as development standards within the PUD ordinance. If the applicant agreed to the PUD zoning change, they may be delayed by one month if the Planning Commission requests to revisit the application.

In response to a question by Mr. Dreiling, Mr. Moon agreed that the applicant could bring a preliminary site plan as a Planned Unit Development. The applicant is requesting to change the zoning now but the Planning Commission could say that they want to continue this hearing until such time as the preliminary subdivision plan is submitted and review the subdivision plan in concert with the R-2 zoning. Going to the point of construction may delay that by a month or two.

In response to a question by Chairperson Hooks, Mr. Moon agreed that since the applicant has the preliminary development plan submitted now and if the Planning Commission recommends denial of the R-2 zoning and City Council agrees, if the applicant agrees to the PUD zoning and comes back next month they are not delayed at all.

Mr. Moon reiterated that the Planning Commission could recommend denial of the R-2 zoning and recommend approval of the PUD zoning. Additionally, if the Commission had any conditions they wanted established in the PUD it can recommend those conditions to the City Council.

In response to questions by Chairperson Hooks, Mr. Classon stated that their concern is in creating the development plan.

Chairperson Hooks expressed his concerns about either this developer or another developer building duplexes on this property if the zoning is changed to R-2.

Mr. Classon stated that they would be willing to write that they will not develop duplexes but the city attorney does not feel that gives legal recourse.

Mr. Moon stated that the city cannot establish conditions on a straight zoning. The city attorney's position is that you can only do that through PUD zoning.

In response to a question by Chairperson Hooks, Mr. Moon stated that if the Commission recommends approving the R-2 zoning, the city could not put in a condition that states that this applicant or any other applicant decides to build something other than single family residences the property reverts back to R-1. He stated that the Commission could recommend PUD zoning with the use limited to single family residential and no duplexes.

In response to a question by Mr. Classon, Mr. Moon stated that R-2 does not allow for multi-family development. It allows single family residential and duplexes. The development to the north allows multi-family. The only burden placed on the applicant with the PUD zoning versus the straight residential zoning is the PUD zoning requires 30% open space. Single family residential doesn't require that level. Due to the wetland area they will probably not be able to meet that 30% open space requirement.

Mr. Moon stated that typically water does not count as open space. Typically it is upland area.

In response to a question by Mr. Dreiling, Mr. Moon stated that the 30% open space requirement could be waived in the conditions of the PUD but would establish a precedence for future PUD to ask for waivers from that 30% open space requirement unless there is a hardship. In this case, the property abuts a water body and perhaps it could be a hardship based on the fact that it abuts wetlands and a lake.

Chairperson Hooks stated that in the future an argument could be made that the hardship was created by the City by making the applicant go to the PUD zoning.
In response to a question by Mr. Classon, Mr. Moon stated that the variance, if approved, would allow them to keep the same open space as R-2.

Mr. Moon stated that they are also restricted in the design opportunities because they are sandwiched between the highway and the lake.

Chairperson Hooks read the letter from Mrs. Nancy Poe who submitted a letter to the Planning Manager regarding the zoning request by the Faircloth Family from R-1A to R-2. The letter reads as follows: "Would you please incorporate this letter as part of the information provided to the Apopka Planning Commission regarding the above captioned property. As owner of the property adjoining this parcel to the north, I am in opposition of the rezoning of the Faircloth Family LTD property from R-1A to R-2. The reasons for my opposition are as follows: (a) the present zoning of R-1A requires a minimum 10,000 sq. ft. lot with a minimum of 85 feet in width at the front property line. R-2 greatly reduces this requirement to a minimum lot size of 7,500 sq. ft. with a minimum of 70 feet in width at the front property line; (b) R-1A only permit single family detach homes wherein R-2 allows for duplex units. The permitting of duplexes will significantly change the area along Marshall Lake which now consists of all single family detached homes; (c) Home sizes are another big concern. R-1A minimum home sizes require at least 1,600 sq. ft. whereas R-2 only requires a 1,350 sq. ft. single family/duplex; (d) my homestead is on Lake Marshall where I have lived for almost 30 years and I intend to continue to live here. The proposed development on my parcel (Poe Reserve) in which the preliminary site plans have been approved by the Planning Commission and the City Commission consists of all lots having to be at least 75 foot wide with single family detached homes. In addition, the homes will be required to have a minimum home size of 2,100 sq. ft. and a deed restriction disallowing any duplexes. The city has required a connection from my parcel being developed to the property requesting the rezoning. Had I'd been advised that the buyer for this property wanted to rezone to R-2 and that there would be a possibility of duplexes or smaller lots I would not have been so willing to agree. I hope you will consider all my concerns and deny the request for the rezoning, because it will not be consistent with the neighboring properties. I appreciate all your assistance in this matter. Sincerely, Nancy Poe"

Chairperson Hooks opened the meeting for public hearing.

Jimmy Dunn, June Engineering Consultants, Inc., 14 S. Main Street, Winter Garden, stated that he represents the developer that has Mrs. Poe's property under contract. He wanted it in the record that the homes in Poe Reserve will be restricted to a minimum of 2,100 square feet. He said that is a contractual obligation between the owner and the developer.

Evan Chesney, 841 Marshall Lake Road, Apopka, expressed his opposition to multi-family or duplexes on the subject property. Additionally, he stated that he would prefer as few houses as possible and larger sized homes.

Kim Pritchard, 849 Marshall Lake Road, Apopka, expressed her opposition to multi-family or duplexes on the subject property. She expressed concerns that if something happened and this development did not go through, if the property is zoned R-2, another developer could put duplexes on the property.

In response to question by Ms. Pritchard, Chairperson Hooks explained that both R-1 and R-2 allow 0-5 dwelling units; however, R-1 zoning has a minimum lot width of 75 feet and R-2 is a minimum lot width of 70 feet. He added that although the zoning allows up to five dwelling units per acre, the developer will not have enough room to do that due to the construction of roads, easements, and infrastructure on the property. The number of dwelling units is based on the future land use designation.

Mr. Dreiling pointed out that the current zoning of R-1A has a minimum lot width of 85 feet; R-1 is 75 feet; and R-2 is 70 feet.

In response to a question by Ms. Prichard, Mr. Ryan stated that the current zoning would allow 31 units and the proposed zoning would be 42 units.

Mr. Moon stated that the existing and proposed maximum allowable development was prepared by staff. Once the design standards were applied to the property, and taking into consideration the wetland setback, that analysis was prepared prior to receiving the information from the St. Johns River Water Management District. It appears that the maximum number of lots achievable is about 30 lots. It could be one more or one less.

In response to a question by Mr. Ryan, Mr. Moon stated that with the R-1A zoning, the developer would likely lose between two and four lots.

In response to questions by Ms. Pritchard, Chairperson Hooks stated that the R-1A zoning designation does not allow duplexes; and why the Commission will recommend the developer consider PUD zoning which would allow restrictions on the property to give them what they are asking for and to prevent them or anyone else from constructing duplexes. He stated that PUD stands for "Planned Unit Development."

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

Motion: **Ben Dreiling made a motion to recommend denial of the Faircloth Family Ltd. change of zoning from R-1A to R-2; and recommended approval of a change in zoning to Planned Unit Development (PUD/R-2) with the following conditions: (1) delay of the master site plan until the Preliminary Development Plan; (2) the residential use be limited to single family homes; (3) duplex structures are not allowed; (4) the open space standard assigned to R-2 zoning shall be allowed based on a hardship associated with the proximity of Lake Marshall and S.R. 451; and (5) except for the conditions previously recommended, the R-2 standards would apply, subject to the information and findings in the staff report; and James Greene seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, and Teresa Roper; and Robert Ryan voted no (5-1).**

CHANGE IN ZONING – ORANGE BLOSSOM APOPKA RV RESORT, INC. – Mr. Moon stated this is a request to recommend approval of the Change of Zoning from "County" A-1 to "City" Planned Unit Development (PUD – Campground/Commercial) for the property owned by Orange Blossom Apopka RV Resort, Inc., c/o Robert Vesely – KOA (Kampgrounds of America). The property is located south of West Orange Blossom Trail and north of Fudge Road. The existing and proposed use is a KOA RV park for 81 RVs or manufactured homes sites; RV/camper storage; one permanent residential unit for park owner/operator; associated accessory recreational structures and uses such as a swimming pool, shuffle board, etc. The existing maximum allowable development is 81 site RV/manufactured home sites; RV/Camper outdoor storage. The proposed maximum allowable development is the same as the existing in addition to any use allowed within the C-1 zoning category of 111,078 sq. ft. office or commercial uses. The tract size is 10.2 +/- acres. This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part

The subject property was annexed into the City of Apopka on January 16, 2008, through the adoption of Ordinance No. 2006. The proposed zoning change is requested by the applicant. While a Future Land Use designation of Mixed Use is assigned to the subject property, a City zoning category has not been assigned to the property. At this time the property owner is requesting that a City zoning category be assigned to the property to reflect the current use of the subject property.

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

The proposed rezoning will not increase the number of permanent residential uses presently occurring at the subject site. One permanent residential unit occurs at the site and is used by the owner or operator of the campground. A capacity enhancement agreement with OCPS is not necessary for the City to adopt this Change of Zoning.

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 November 8, 2013.

The Development Review Committee recommends approval of the change in Zoning from "County" A-1 to Planned Unit Development for the parcel owned by Orange Blossom Apopka RV Resort, Inc., subject to the PUD (Campground/Commercial) conditions as set forth in the Zoning Report.

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

Motion: **James Greene made a motion to recommend approval of the Orange Blossom Apopka RV Resort, Inc. change of zoning from "County" A-1 to "City" Planned Unit Development (PUD – Campground/Commercial) for the property located south of West Orange Blossom Trail and north of Fudge Road, subject to the information and findings in the staff report; and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

VARIANCE – RACETRAC PETROLEUM, INC. – 1652 EAST SEMORAN BOULEVARD AND 700 SOUTH ORANGE BLOSSOM TRAIL – Mr. Moon stated this is a request to approve the variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VIII, Sections 8.04.03 and 8.04.04 to allow an increase in the total allowable sign square footage area for wall signs; an increase in the total allowable sign area; and increase in the maximum allowed number of wall signs**.** The owner is RaceTrac Petroleum, Inc., c/o Tom Hardy. The properties are located at 1652 East Semoran Boulevard and 700 South Orange Blossom Trail. The future land use is Commercial and the zoning is C-2. The existing use is a convenience store and gas station. The tract size for 1652 East Semoran Boulevard is 2.02+/- acres and the tract size for 700 South Orange Blossom Trail is 2.84 +/- acres. These items are quasi-judicial and the staff reports are to be incorporated into the record.

Applicant requests to be allowed to increase the total number of wall signs from a maximum allowed number of four signs to seven signs; to increase the allowable wall sign area (square footage) from 200 square feet to 386 square feet; and to increase the Total Allowable Sign Area from 300 square feet to 486 square feet.

In response to a question by Mr. Ryan, Mr. Moon stated that Item "B" depicted on the building elevations is not a window. It is a sign cabinet that is actually screwed into the wall from the exterior.

1652 East Semoran Boulevard Current Site Signage	
	Area (sq. ft.)
Monument Sign	100
Wall Signs	
Tower "RaceTrac"	39.76
Front Wall Cabinet	60.00
Front Wall Total	99.76
Side Wall	
Tower "RaceTrac"	39.76
Marketing Case	60
	99.76
Total Wall Sign Area	199.52

Per Code

Max. Per Wall	100.00
Max. Per Building	200.00
Total Allowable Sign Area	300.00

Applicant's Additional Request	**Sq. Ft.**
Coffee/RaceTrac Sign	60.4
Yogurt Static Cling	66
Additional Side Wall Cabinet	60
Additional	
	186.4

700 South Orange Blossom Trail Current Site Signage	
	Area (sq. ft.)
Monument Sign	100
Wall Signs	
Tower "RaceTrac"	39.76
Front Wall Cabinet	60.00
Front Wall Total	99.76
Side Wall	
Tower "RaceTrac"	39.76
Marketing Case	60
	99.76
Total Wall Sign Area	199.52

Per Code

Max. Per Wall	100.00
Max. Per Building	200.00
Total Allowable Sign Area	300.00

Applicant's Additional Request	
Coffee/RaceTrac Sign	60
Yogurt Static Cling	66
Additional Side Wall Cabinet	60
Additional	
	186

Mr. Moon stated the applicable city codes of the Code of Ordinances, Part III, Land Development Code, Article VIII, are:

Section 8.04.03 (Wall and projecting signs for single- and multiple-occupancy developments) A.1 which reads: "For all single-occupancy development except for that addressed in subsection 2 below, the aggregate area for a wall sign shall not exceed two square feet in area for each foot of frontage of building displaying sign, provided no single building shall display more than four wall signs. But in no case shall there be more than two signs affixed on each building wall. Further, the total square footage of wall signs allowed shall not exceed 200 square feet, and any individual wall sign shall not exceed 100 square feet."

Section 8.04.04 (Window signs) which reads: "(1) Multiple-occupancy complexes and single-occupancy buildings or developments may select to have an electronic reader board or may select window signs as set forth in this section, but cannot use both. A window sign is only allowed if an electronic reader board sign, whether or not operational, has not been installed; (2) Window signs are not allowed within any window facing a residential zoning district located within 200 feet of that window; (3) Window signs may cover up to 25 percent of the window area of any single wall. Sign coverage within windows may be limited and may not achieve 25 percent based on the total allowable sign area achievable for the development. Coverage of any single window panel shall not exceed 60 percent of its area. Placement of signs on windows of an entrance door is not allowed except for hours of operation; (4) Exact duplicate or repetitive signs shall not appear on windows located within the same wall; (5) Any product, good, or service for which a local, state, or federal law restricts sales to adult-aged persons shall not appear in a window sign except for fireworks during dates such sale activities are allowed under Florida law; and (6) Promotional posters for civic events may be placed within windows of any zoning district, including CN. Promotional posters do not apply to the window space limitation set forth in subsection C above."

Section 8.04.00 (Permanent Signs) which reads: A. Total allowable sign area. The combined sign area for all permanent signs appearing or placed at any development or parcel shall be limited to and shall not exceed the total allowable sign area achievable for that development or parcel as determined by standards set forth in this article: 1. Total allowable sign area calculation. A summation of the maximum sign area achievable at any development parcel according to section 8.04.02 for freestanding signs; according to section 8.04.03 for wall signs, and according to section 8.04.06 for an electronic reader board. (Example: if section 8.04.03 allows a maximum freestanding sign area of 60 square feet, section 8.04.03 allows a maximum wall sign area of 100 square feet; and section 8.04.06 allows a maximum of 24 square feet for an electronic reader board, the total allowable sign area (TASA) is 184 square feet.); (2) The total allowable sign area for a development or parcel may be shared among those permanent sign types at a development or parcel, but the sign area for any permanent sign type cannot exceed the maximum allowed by applicable standards established for that permanent sign type. (Example: if the total allowable sign area for a development is 184 square feet, but section 8.04.06 limits the maximum area for a freestanding sign to 60 square feet, than the freestanding sign shall not exceed 60 square feet.); (3) Any total allowable sign area not applied to a freestanding, wall, or electronic reader board may be applied to other acceptable permanent signs such as a window sign, human sign, or sandwich board. Other restrictions in this article may further restrict the use of these permanent sign types; and B. It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, display or cause to be displayed, or substantially alter or reconstruct, or cause to be substantially altered or reconstructed, any signs other than exempt signs specifically exempted from this article, which do not conform to total allowable sign area and the following provisions."

SEVEN VARIANCE CRITERIA (The applicant's responses to the seven variance criteria are part of the minutes.) Criteria for demonstrating hardship relief are established in Section 10.02.02 of the Land Development Code. Seven variance criteria are listed under Subsection B. These seven criteria are listed below. A copy of the Applicant's response to these seven criteria is provided in the attached variance application. For most of the seven responses, city planning staff cannot find a positive finding that supports the need for a variance. A code amendment would be necessary to accommodate the applicant's request.

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: The circumstances giving rise to the practical difficulties for carrying out the regulation are unique, and there is likely no one else in a similar situation. RaceTrac completed its rezoning process during the same general time period that the City was revising its signage regulations. RaceTrac believed that the signage requested by this variance application was in compliance with the new signage regulations. RaceTrac only learned that the City did not agree with that interpretation during the construction process. We believe this was a legitimate misunderstanding between both parties. As a result, RaceTrac had to complete construction of the building and black out windows in which it had planned to place signage in order to receive a certificate of occupancy from the City. This resulted in practical difficulties and a hardship related to the appearance of the building not matching the way in which it was constructed. The blacked out windows are not aesthetically pleasing and the building would not have been constructed in this manner without the circumstances noted above.

NEGATIVE FINDING:

(a) A commercial building is allowed a maximum number of four wall signs and no more than two per wall face. Four wall signs are currently installed on the building – two on the front and two on the side. This standard was in place prior to the sign code update in 2011. RaceTrac participated in many of the public hearings and workshops conducted during the sign code review by the Sign Committee, Planning Commission, and City Council. RaceTrac was aware of the sign code's existence at the time its development application was submitted to the Community Development Department. As indicated in the RaceTrac Final Development Plan documents, at the time it was presented to the Planning Commission, stated signs are to be reviewed and approved separate from the site plan and must comply with the sign code.

(b) Architectural renderings submitted during DRC review of the application gave the appearance that windows were to be installed on the side and front of the building. At time of construction it was evident that sign cabinets were attached to the wall instead of installation of windows.

(c) DRC Staff Report dated October 11, 2011 states that signage is to be permitted separately and thus is not part of the final development plan approval. Waivers requested by the applicant to City Council did not include additional wall signage to include the wall sign cabinets.

(d) Additional wall signage will cause the store to exceed a maximum of 200 square feet of wall signage by 186 square feet and the Total Allowable Sign Area of 300 square feet by the same square footage.

In summary, staff did not identify hardship that warrants a variance from the sign code.

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

Applicant's Response: RaceTrac would simply like to add signage in the blacked out window areas where it was originally designed and constructed to be located prior to the City's determination during the construction process that the signage was inconsistent with the new signage regulations.

NEGATIVE FINDING: The window areas described in the applicant's response are not windows but wall sign cabinets or walls in front of interior customer service areas. The sign cabinets are attached to the wall by screws. A survey of other recently constructed RaceTrac stores reveals that that same building was constructed without sign cabinets, leaving a wall. The sign cabinets can be easily removed and replaced with brick or stone face to match the buildings. Applicant's request for a variance is not associated with the cost of development; it is specifically related to the issue of having additional wall signs and wall sign area that the City has not allowed other businesses to have. The request is not associated with a hardship variance and should be processed as an amendment to the City's sign code.

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

Applicant's Response: The requested variance relates to signage that is designed to identify with customers who are already on the site, and would not increase traffic congestion.

POSITIVE FINDING: Signage is intended to attract customers to the store. However, customers visiting the store are typically pass-by trips on their way to other destinations. The variance request will not create congestion or additional noticeable vehicle trips on abutting streets.

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 RaceTrac project as a whole has been a significant enhancement to the area and required a significant financial commitment by RaceTrac. Approval of the requested variance to replace the blacked out windows with signage will only further enhance the aesthetics of the site and, as a result, the surrounding area.

NEGATIVE FINDINGS: The request has the potential to grant one business relief from the sign code that was not granted to other businesses. Approval of the variance risks establishing a precedent that may have to be granted to other businesses that desire more wall signs and additional sign area above the current sign code standards.

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: Approval of the requested variance would be in harmony with the general intent of the Code. The signage Code was revised for a number of reasons, including providing sufficient visibility for businesses. We believe that the blacked out windows are an unintended consequence of the interpretation of the signage regulations, and adding signage to those blacked out areas is consistent with the general intent of the Code.

NEGATIVE FINDING: Approval of the variance risks establishing a precedent that may have to be granted to other businesses that desire more wall signs and additional sign area above the current sign code standards.

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

<u>Applicant's Response</u>: The unusual circumstances giving rise to the need for this variance relate to legitimate confusion regarding the new signage regulations. RaceTrac believed that the signage requested pursuant to this variance application was permitted by the new regulations and its zoning approval process, and only learned of the City's interpretation disallowing the signage during the construction process.

NEGATIVE FINDING: The sign code applicable to the applicant's variance request was established and in effect long before the final development plan was submitted. DRC staff reports provided to the applicant stated and repeated that signage was approved as a separate permit. RaceTrac participated at workshops and hearings regarding the proposed sign code, and was aware of existing and proposed sign codes. Requests were made to the Planning Commission and City Council regarding waiver\variances for other sign issues (i.e., corporate striping of the fuel station canopy and signage on the building awnings.) City Council allowed the striping on the fuel station canopy but did not allow the signage on the awnings.

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.

<u>Applicant's Response</u>: Approval of this variance would be the minimum possible to address the appearance of the blacked out windows by adding signage only in those blacked out areas.

NEGATIVE FINDING: The alleged windows are not windows but sign cabinets affixed to the exterior wall. The requested signage is not a hardship, as the sign cabinets can be removed. These sign cabinets were not installed at other new RaceTrac stores that were constructed in Central Florida. Granting this variance does not prevent the applicant from requesting additional signage under similar arguments. Other business owners likely will use the same arguments as this applicant.

Staff does not support the applicant's variance request, determining that a legitimate hardship does not exist**.** The applicable sign codes were in effect at the time RaceTrac submitted a final development plan application. RaceTrac also participated at workshops and hearings regarding the sign code update. Approval of the requested variance will establish a precedent that will allow other business to request the same equal protection of the laws.

The Development Review Committee objects to the variance request to provide additional wall signage in excess of standards set forth in Section 8.04.03.A, Wall Signs, and 8.04.00A, Total Allowable Sign Area, of the Land Development Code.

Furthermore, the applicant fails within the variance application to identify the actual number of additional signs requested for the building or per wall, fails to identify the additional wall signage, and fails to identify the additional total allowable sign area. Numbers appearing in the Staff Report were obtained from previous submittals and requests made to City staff, but which were denied. Applicant also fails to identify within the application the sign code reference for which relief is requested. In the event the sign cabinet is interpreted to be a window, the proposed signs to not comply with Section 8.04.04, Window Signs, as the proposed signs exceed the maximum allowed window coverage.

In response to a question by Ms. Roper, Mr. Moon stated that the original architectural rendering was very similar to what you see here, but there were signs in what appeared to be windows. There was indication that light was coming through that area of the building as well as on the other side.

Mr. Dreiling stated that he recalled when this was originally presented it appeared that the window was wrapped [illegible]h a sign of a coffee cups.

Mr. Moon stated the awnings had the coffee cups and the Planning Commission asked that those not be installed. Then RaceTrac appealed that to the City Council. City Council did not agree to the coffee cups but allowed for the deviation for the corporate stripping on the fuel canopy.

Mr. Dreiling stated that when this was first presented to the Planning Commission, it was his understanding that these were windows and not sign boxes.

Chairperson Hooks opened the meeting for public hearing.

Tom Sullivan, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 North Eola Drive, Orlando, stated he was attending on behalf of RaceTrac on these items. He stated that they were fine with having the two items discussed at one time. He stated that the following people from RaceTrac was also in attendance: Cory Hopkins, Travis Henegar, Victor Sutapaha, and Bryan Potts. The Commission is familiar with both of the projects that came through in 2011. Both of the stores are doing well and we very much appreciate the City's support of both the projects. We hope that the City uses both of the projects as assets to the City and use them in a positive life including the aesthetic appearance. These two stores are RaceTrac's absolutely newest prototype. They are the 6,000 square foot stores which the 6,000 square feet is the size of the convenience store building. That particular model offers different product offerings, different features including the marketing cases dimension. Those are not part of the prior iterations. They sort of came about when RaceTrac undertook quite an extensive process in developing the 6,000 square foot model. These two stores, quite frankly, in Central Florida are the very first to actually come out of the ground. We do respectfully disagree with staff on findings in their report. On page four of the report, under the applicant's response, under the hardship criteria, that is really the circumstances from our perspective. When we prepared the application we wanted to be careful to put in that we think that there is a legitimate misunderstanding here that led to this issue. RaceTrac was developing the new prototype in 2011. There was a lot of work prior to that and culminated in 2011 in terms of finalizing it which coincidentally when the City was working on revisions to the sign ordinance. He said that while he was not in attendance at the hearing, after speaking with others who had that, yes, the canopy stripping was discussed and we appreciated the City's support on that. He said the coffee mug on the awnings was definitely discussed and there wasn't sufficient support on that. He said his understanding was that this particular type of sign was not discussed. That was not intentional subterfuge on our part, it was just that there was a lot being discussed at that time, a light wasn't shown on that particular issue at the time the projects went through the approval process. He stated that two or three weeks before the Certificate of Occupancy (CO) was to be issued on the first one of these stores, staff came out and said this was not consistent with the code, but we had submitted building plans that had been approved. We submitted some items to the Council when we came through the process that we thought were consistent with what we were constructing. We submitted to the City what we planned to do all along. He felt that there was a disconnect on being picked up in the process and it came up later in the process. He said that the reason he is highlighting this is this is what it all boils down to. We talked about different types of signage and different parts of it that, to him, are not key to the bottom line which is that we built these stores. We constructed them believing we could do this or we wouldn't have constructed them that way. Some of the other jurisdictions that were shown as examples quite honestly some of those aren't the 6,000 square feet model because RaceTrac built a lot of these stores that aren't that particular model so the marketing cases were never a part of those plans, but the ones where we didn't include the marketing cases we knew early on in dealing with whatever municipality or local government that they were not permitted. There are examples of where we have done them. We wouldn't have built it if we didn't think we could do this. In a similar point, we came through with a PUD application earlier this year on the older RaceTrac store on North U.S. 441 and we are not asking for this signage on that store because now we understand what the requirements are. We don't view this as a code change issue, we view it as specific circumstances as it relates to these two stores so that is why we thought it was appropriate to file these variance applications and ask for help with them and we are only talking about these blacked out signs. Our employees will get questions on the blacked out signs. It doesn't look as good as we think it could. He said that at the top of page 5 of the staff report that there was language in the staff report that the signage was reviewed and approved separately. He said he didn't disagree with any of that. He presented an e-mail that they received from the City dated November 14, 2011 forwarding the agenda packet. He said on the November 16, 2011, agenda both of these stores final development plans staff report, site plan, building elevations were presented and that was the agenda where revised sign code was adopted. In this package there is a section of this submittal, in an e-mail forwarded to me that the City provided to us at that time, that did show some of the marketing cases. He said we showed this on the elevations but did not shine a major light on it. They did not intend to not show a major light on it but that was what was shown.

In response to a question by Ms. Roper, Mr. Davoll stated that the elevations that were shown at that time are in the current meeting packet.

In response to a question by Ms. Roper, Mr. Sullivan stated that the sign cabinets are noted as Item “A.” on the elevation.

Mr. Sullivan acknowledged that the signage was approved separately but what he was trying to say was that they did try to be upfront about what they wanted to do. It became an issue during the construction process. He reiterated that if they would not have been allowed to have the sign cabinets, they would not have built the stores as they are. He stated that they would like to finish out what the original intent was for the building. There is a portion in the report that those areas on the buildings could be filled in with brick or stone. These market cases are a part of the façade so it is not as simple as filling it in with brick or stone. He said that they really don’t want to do that and would simply like to fill them up with the signage that we had originally planned to put in there. He said that one thing that confused him in the report is on the bottom of page 6 where it says, “the sign code applicable to the applicant’s variance request was established and in affect long before the final development plan was submitted. He said all the development plan, site plan, everything to build both these projects was part of the same agenda package that went to City Council on November 16, 2011 which is the same agenda that the sign ordinance was on. He stated he is not sure why that is in the staff report other than maybe some confusion but the point is we legitimately, the sign code came together at the last second we were part of that discussion, this was an issue that we were not on the same page with the City till well after those hearings and well after we got into our construction process and we’re just asking some relief on that. He said they dug through their files on this to establish a timeline. He said he has a separate e-mail from the City saying that both of those development plans were approved on December 14, 2011 which was shortly after those hearings took place. On page 7 of the report the City Council did allow stripping on the canopy and did not allow signage on the awnings which was the coffee mug conversation, but again this particular signage was not brought up as part of that discussion. He reiterated that the stores shown earlier were not the same as the 6,000 square foot model. Where we had a clear understanding of the code upfront we constructed them accordingly. In conclusion, we believe this was an honest mistake and miscommunication. We are not pointing any fingers at the City, we were part of the process too but there was honestly a dis-connect there between the requirements of that brand new, at that time, sign ordinance and our brand new prototype. We’re simply asking for your support to put signage in those already existing marketing cases. We are not talking about any other signage on the site to be clear and Mr. Moon made a fair point that the application wasn’t ultra specific on sizing and things like that because we just included photographs of the existing blacked out windows because that is all we are talking about. Again they are already built and there already. We honestly think that both of those would look better without the blacked out windows and just put some signage in them and we think this is a unique situation and meets the City’s variance criteria. He said with regard to the precedence concern these are two unique situations. They happened at the same time, the sign code got passed, our new prototype went through and got approved. He does not believe that this would be a precedence. These are already existing windows. Again we just want to fill up with what they were designed to be.

Chairperson Hooks stated that the Sign Ordinance Committee that established the sign ordinance, which he was the chairperson of that as well and RaceTrac participated quite regularly in those discussions so for them to now say they did not understand that, that is absolutely not true. They were in the middle of the discussion in establishing the sign ordinance. They specifically debated this particular issue during that discussion with the sign committee before the revised sign code came to the Planning Commission and subsequently to the City Council. If there was a disconnect it was within RaceTrac itself and not between RaceTrac and the City. For them to have you tell us that they believed that they were in compliance when they put those up there, they knew darn well they were not in compliance with that because we had already established the maximum square footage signage and they knew what it was when they submitted those plans. He stated that he believes they were somewhat deceptive in submitting those plans and making those items look like windows when in fact they were not windows. It goes back past the discussions with the Planning Commission and City Council. It goes back to discussions that RaceTrac employees had with the Sign Committee and establishing that code. They contributed more than anybody else in that discussion and one of the things they helped us with during that discussion was the digital signs for the gas prices. They were very helpful in that process to help us establish and understand what gas stations needed for that sign code and it was developed primarily based on information they provided us. He reiterated that they were helpful but that they were less than honest with this particular issue on those sign cases. That was never going to be allowed and they knew that in the discussion at the sign committee level before it ever got to City Council. To site that number one item is not a hardship of their doing, it was their doing. They put those up there when they knew they were not going to be allowed. They did it with the first one and then built the other and did it again even though they knew between the two that might be an issue.

Mr. Sullivan stated he respects where Chairperson Hooks is coming from. He pointed out that the store were constructed virtually simultaneously. He said one was six weeks ahead of the other. He said he can't say he was a part of the discussions but he wanted to say is that one of the things that may seem a little bit counterintuitive on the surface is that the people, even though they are senior people that were part of the sign committee discussion, RaceTrac is a big company and there are all kinds of different folks involved with tweaking that prototype many different times down the track. He said he doesn't know how long the sign committee met before it was finally approved. This prototype underwent a number of changes during the time the building permit was pulled so what he was saying that he respects Chairperson Hook's perspective on it but he thought that on these particular signs there was a little bit of a lack of understanding that these were going to count towards that requirement. He said that is his understanding of how it unfolded.

Chairperson Hooks stated that Sign Committee met for a year. He said he agreed that the disconnect was probably with the company. He said he understands that it is a huge company and that is probably where the disconnect happened and not between the company and the City on that issue. He said whether or not they were deceptive, he didn't know, it just appears that way because of the way it transpired. What matters is that the sign code ordinance was developed with a maximum sign allowance with their input all along the way. They disagreed with us all along the way on those particular issues and we worked with them on the monument sign. They helped us with that but on that particular issue we had a disagreement and they knew that. The people that were here were representing RaceTrac at the time.

In response to a question by Mr. Sullivan, Chairperson Hooks said the disagreement was on the total allowable sign issue.

Mr. Sullivan said that what strikes him is that once we had the new store design and in the cases where we knew it wasn't allowed in the code we didn't construct them that way.

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

Motion: **James Greene made a motion to deny the RaceTrac Petroleum, Inc. request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VIII, Sections 8.04.03 and 8.04.04 to allow an increase in the total allowable sign square footage area for wall signs; an increase in the total allowable sign area; and increase in the maximum allowed number of wall signs for the property located at 1652 East Semoran Boulevard, subject to the information and findings in the staff report; and Robert Ryan seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

Motion: **James Greene made a motion to deny the RaceTrac Petroleum, Inc. request for variance of the Apopka Code of Ordinances, Part III, Land Development Code, Article VIII, Sections 8.04.03 and 8.04.04 to allow an increase in the total allowable sign square footage area for wall signs; an increase in the total allowable sign area; and increase in the maximum allowed number of wall signs for the property located at 700 South Orange Blossom Trail, subject to the information and findings in the staff report; and Robert Ryan seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

FINAL DEVELOPMENT PLAN/PLAT – CLEAR LAKE LANDINGS, PHASES 1 AND 2 – Jay Davoll, P.E., Community Development Director/City Engineer, stated this is a request to recommend approval of the Revised Final Development Plan/Plat for the Clear Lake Landings, Phases 1 and 2. The owner is Jen Florida XV, LLC, c/o Robert A. Jerman. The applicant/engineer is Madden, Moorhead & Glunt, Inc., c/o Chadwyck H. Moorhead, P.E. and Nicole Martin. The property is at 2597 Lust Road. The future land use is Residential Low (0-5 du/ac) and the Zoning is R-1. The existing use is vacant land and the proposed use is a single family subdivision with 142 lots. The tract size is 87.92 +/- acres and the density is 5 units per gross acre. This item is quasi-judicial and the staff report to be incorporated into the record.

The Clear Lake Landings Final Development Plan/Plat proposes the development of 142 single family residential lots and a 0.74 acre park. The park will serve this residential community and will be owned and maintained by the homeowners association. The community will be gated and all internal streets are private.

The minimum typical lot width is 75 feet with a minimum lot size of 8,000 square feet. The proposed minimum living area for the subdivision is 1,500 square feet as set forth in Chapter 2 of the Land Development Code. The minimum setbacks applicable to this project are:

Setback	Min. Standard
Front	25’
Side	10’
Rear	20’
Corner	25’

Ingress/egress for the development will be via full access from Binion Road and Lust Road. The retention ponds have been designed to meet the City’s Land Development Code requirements. The developer is providing a 0.74 acre (32,400 sq. ft.) active and passive recreation area. Recreation facilities and equipment will be proposed with the Final Development Plan application. A habitat management plan was submitted by the applicant. Based on the results of this study, the developer must obtain approval from the Florida Department of Environmental Protection prior to commencing any site construction activity.

Buffers are provided consistent with the Land Development Code except where addressed within the Waiver Request. A fifteen-foot wide buffer is proposed along both Binion Road and Lust Road with a six-foot high brick or masonry wall. Wall design must be approved by the Community Development Department prior to issuance of a building permit.

The following is a summary of the tree replacement program:

Total inches on-site:	4,385
Total number of specimen trees:	18
Total inches removed:	3,952
Total inches replaced:	3,982
Total Inches (Post Development):	4,415

No development activity can occur, nor a plat recorded, until such time that a concurrency mitigation agreement has been approved by OCPS.

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

Elevations for residential structures were not submitted with the Final Development Plan application. Prior to approval of any building permit, exterior elevations must be accepted by the Community Development Department for consistency with the Development Design Guidelines.

WAIVER/VARIANCE REQUEST:

1. Wall Waiver. Applicant requests waiver of Land Development Code, Section 2.02.05.H.2 that requires a wall and five foot buffer adjacent to lands assigned an Agriculture zoning category or use. A parcel at the southwest corner of the proposed subdivision is zoned County A-2, Agriculture. However, this property is located within the City and is planned for non-agriculture development. Staff has had discussion with that property owner regarding a proposed residential development for that the abutting property.

In response to a question by Chairperson Hooks, Mr. Davoll stated that when the property to the north is rezoned residential a wall would not be required.

The applicant withdrew their request for a five-foot variance from the 30-foot front yard setback for a front-loaded garage to allow a front yard setback of 25 feet.

The Development Review Committee (DRC): (1) does not recommend approval of the five foot variance to reduce the front yard setback for a front-loaded garage from 30 feet to 25 feet; (2) recommends approval the wall and buffer waiver adjacent to lands assign an Agriculture zoning category; and (3) recommends approval of the Clear Lake Landings - Final Development Plan/Plat, subject to the findings of this staff report.

Mr. Davoll stated that 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.

In response to questions by Mr. Ryan, Mr. Davoll stated that if the property to the north is not developed there would not be a wall. He stated that if the property was rezoned to Commercial the onus of putting up a wall would fall on the commercial site. When the property is rezoned residential, the wall would need to be a 5' brick wall. The applicant is installing a wall along Binion Road.

Mr. Moon stated that if development to the west is determined to be incompatible with this project, the Planning Commission or City Council could require a wall. For instance, if the property owner to the west put in a roadway adjacent to this subdivision then the City would require a buffer and a 6' brick wall adjacent to this community.

Chairperson Hooks opened the meeting for public hearing.

Chad Moorhead, Madden, Moorhead & Glunt, Inc., 431 E. Horatio Avenue, Suite 260, Maitland, stated he is the engineer for the project and that he was available to answer any questions the Commission may have.

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

Motion: **James Greene made a motion to recommend approval of the Clear Lake Landings, Phases 1 and 2 request for waiver of Land Development Code, Section 2.02.05.H.2 that requires a wall and five foot buffer adjacent to lands assigned an Agriculture zoning category or use; and Ben Dreiling seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

Motion: **James Greene made a motion to recommend approval of the Clear Lake Landings, Phases 1 and 2 Final Development Plan/Plat, subject to the information and findings in the staff report; and Ben Dreiling seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

FINAL DEVELOPMENT PLAN/PLAT – MAUDEHELEN, PHASES 3 AND 4 – Mr. Davoll stated this is a request to recommend approval of the Final Development Plan/Plat for Maudehelen, Phases 3 and 4 subdivision. The owner is GK Maudehelen, LLLP. The applicant/engineer is Morris Engineering and Consulting, LLC, c/o Matthew J. Morris, P.E. The property is located at 455 South Binion Road. The future land use is Residential Low (0-5 du/ac) and the zoning designation is R-2. The existing use is vacant land and the proposed use is a single family subdivision with a total of 63 lots. The tract size is 22.35 +/- acres and the existing density is 2.13 units per gross acre. The proposed density for Phase 3 is 2.73 units per gross aces and for Phase 4 the density is 2.15 units per gross acre. This item is quasi-judicial and the staff report to be incorporated into the record.

The Maudehelen, Phases 3 & 4 Final Development Plan/Plat proposes the development of 48 single family residential lots in Phase 3 and 15 single family residential lots in Phase 4. There are two recreation areas incorporated into the combined Maudehelen, Phases 1, 2, 3 and 4. A park in Tract 6 of Phase 1 has an area of 59,200 square feet and another park in Tract 5 of Phase 1 has an area of 63,075 square feet. The parks will serve the entire residential community and will be owned and maintained by the homeowners association.

The minimum typical lot width in Phase 3 is 80 feet and in Phase 4 is 70 feet. Phase 3 has a minimum lot size of 9,200 square feet and Phase 4 has a minimum lot size of 7,500 square feet. The proposed minimum living area for both phases is 1,800 square feet as set forth in Chapter 2 of the Land Development Code.

Phase 3		Phase 4	
Total # of Lots:	48	Total # of Lots:	15
Min. Lot Size:	9,200 sq. ft.	Min. Lot Size:	7,500 sq. ft.
Min. Lot Width:	80'	Min. Lot Width:	70'
Min. Living Area:	1,800 sq. ft.	Min. Living Area:	1,800 sq. ft.

e minimum setbacks applicable to this project are:

Setback	Min. Standard
Front	25’
Side	15’
Rear	20’
Corner	25’

Ingress/egress for the development will be via South Binion Road. The retention ponds have been designed to meet the City’s Land Development Code requirements. The developer has provided two active and passive recreation areas totaling 122,275 square feet. A habitat management plan was submitted by the applicant. Based on the results of this study, the developer must obtain approval from the Florida Department of Environmental Protection prior to commencing any site construction activity.

Buffer/Tree Program and Landscaping: Buffers are provided consistent with the Land Development Code. A ten-foot wide buffer is proposed along South Binion Road with a six-foot high brick or masonry wall. Wall design must be approved by the Community Development Department prior to issuance of a building permit.

The following is a summary of the tree replacement program:

Total inches on-site:	912
Total number of specimen trees:	3
Total inches removed:	414
Total inches replaced:	1,385
Total Inches (Post Development):	1,883

No construction activity can occur, nor a plat recorded, until such time that a concurrency mitigation agreement has been approved by Orange County Public Schools.

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

The Development Review Committee recommends approval of the Maudehelen, Phases 3 & 4 - Final Development Plan/Plat, subject to the findings of this staff report.

Mr. Davoll stated that 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.

Chairperson Hooks opened the meeting for public hearing.

Matt Morris, Morris Engineering and Consulting, LLC, 15608 29th Street East, Parrish, Florida 34219, stated he is the engineer for the project and that he was available to answer any questions the Commission may have.

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

Motion: **Ben Dreiling made a motion to recommend approval of the Maudehelen, Phases 3 and 4 Final Development Plan/Plat, subject to the information and findings in the staff report; and James Greene seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

FINAL DEVELOPMENT PLAN/PLAT – SCHOPKE ESTATES – Mr. Davoll stated this is a request to recommend approval of the Final Development Plan/Plat for the Schopke Estates. The owner is Day Real Estate, LLC, c/o Susu Markel. The applicant/engineer is Madden, Moorhead & Glunt, Inc., c/o Chadwyck H. Moorhead, P.E. The property is located at 2400 Schopke Road. The future land use is Residential Low (0-5 du/ac) and the zoning designation is R-1A. The existing use is vacant land and the proposed use is a single family subdivision with 37 lots. The proposed minimum lot size is 11,050 square feet. The proposed minimum lot width is 85 feet. The proposed minimum living area is 1,600 square feet. The tract size is 19.6 +/- acres and the density is 2.13 units per gross acre. This item is quasi-judicial and the staff report to be incorporated into the record.

The SCHOPKE ESTATES Final Development Plan proposes the development of 37 single family residential lots and a 0.42 acre park. The park will serve this residential community and will be owned and maintained by the homeowners association.

The minimum typical lot width is 85 feet with a minimum lot size of 11,050 square feet. The proposed minimum living area for the subdivision is 1,600 square feet as set forth in Chapter 2 of the Land Development Code. The minimum setbacks applicable to this project are:

Setback	Min. Standard
Front	25’
Side	10’
Rear	20’
Corner	25’

Front-entry garages must be setback 30’ from the front lot line.

Ingress/egress for the development will be via Schopke Road. Internal roads are public streets. Ten feet along the front of project site is dedicated to Schopke Road right-of-way. The retention ponds have been designed to meet the City’s Land Development Code requirements. The developer is providing a 0.42 acre (18,295 sq. ft.) active and passive recreation area. Recreation facilities and equipment will be proposed with the Final Development Plan application. Details of the recreation equipment shall be included in the Final Development Plan. A habitat management plan was submitted by the applicant. Based on the results of this study, the developer must obtain approval from the Florida Department of Environmental Protection prior to commencing any site construction activity.

Elevations for residential structures were not submitted with the Final Development Plan application. Prior to approval of any building permit, any exterior elevations must be accepted by the Community Development Department for consistency with the Development Design Guidelines.

Buffer/Tree Program and Landscaping: Buffers are provided consistent with the Land Development Code. A twenty-foot wide buffer is proposed along Schopke Road with a six-foot high brick or masonry wall. No wrought-iron fence is allowed within the Schopke Road buffer.

The following is a summary of the tree replacement program:

Total inches on-site:	2,880
Total number of specimen trees:	2
Total inches removed:	1,418
Total inches replaced:	1,420
Total Inches (Post Development):	2,882

No development activity can occur, nor shall a plat be recorded, until such time that a concurrency mitigation agreement has been approved by OCPS.

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

The Development Review Committee recommends approval of the Schopke Estates - Final Development Plan/Plat, subject to the findings of the staff report.

Mr. Davoll stated 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.

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

Motion: **Melvin Birdsong made a motion to recommend approval of the Schopke Estates Final Development Plan/Plat, subject to the information and findings in the staff report; and Teresa Roper seconded the motion. Aye votes were cast by Steve Hooks, Melvin Birdsong, Ben Dreiling, James Greene, Teresa Roper, and Robert Ryan (6-0).**

OLD BUSINESS:

Planning Commission: None.
Public: None.

NEW BUSINESS:

Planning Commission: Based on concerns expressed by Commission members at the last meeting regarding public access to e-mail, Chairperson Hooks stated that he spoke with Chief Administrative Officer Richard Anderson who stated that the only notifications the Commission members receive via e-mail are regarding the Planning Commission. If anyone wants those records they would come to the City for them.

Public: None.

ADJOURNMENT: The meeting was adjourned at 6:59 p.m.

____
Steve Hooks, Chairperson

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

Backup material for agenda item:

1. REPLAT – Lester Ridge Subdivision owned by Meritage Homes of Florida, Inc., and located at 1786 Water Rock Drive. (Parcel ID No. 29-20-28-4750-00-650)

CITY OF APOPKA
PLANNING COMMISSION

_X_PUBLIC HEARING
___SPECIAL REPORTS
___PLAT APPROVAL
_X_OTHER: Replat

MEETING OF: January 14, 2014
FROM: Community Development
EXHIBITS: Vicinity Map
Replat

PROJECT: **LESTER RIDGE SUBDIVISION REPLAT**

Request: **RECOMMEND APPROVAL OF LESTER RIDGE SUBDIVISION REPLAT**

SUMMARY:

OWNERS:	Meritage Homes of Florida, Inc.
APPLICANT:	JJL Properties, LLC
ENGINEER:	June Engineering Consultants, Inc.
LOCATION:	North of Lester Road and east of Rogers Road;
LAND USE:	Residential Low Suburban (0-3.5du/ac)
ZONING:	R-1
EXISTING USE:	Platted single-family residential subdivision with 102 lots
PROPOSED USE:	Re-plat of a portion of the Lester Ridge Plat; affecting right-of-way and lots along Water Rock Drive and Gray Stone Drive
TRACT SIZE:	4.143 +/- Acres
DENSITY:	not applicable

DISTRIBUTION

Mayor Land
Commissioners (4)
CAO Richard Anderson
Community Dev. Dir.
Finance Dir.
HR Director
IT Director
Police Chief
Public Ser. Dir (2)
City Clerk
Fire Chief

ADDITIONAL COMMENTS:

After Planning Commission reviewed this replat application on November 12, 2013 but prior to City Council review, the applicant identified new site information that must be included in the replat. The revised replat addresses site information regarding a retaining wall and associated changes related thereto.

The original replat of the Lester Ridge Plat was necessary to address inconsistencies between location of recently constructed Water Rock Drive, the construction plans, and the record plat. The replat does not create any change in the number of residential lots established within the Lester Ridge Plat.

SCHOOL CAPACITY REPORT:

Re-plat application does not create any additional residential lots, resulting in no additional impacts to public schools.

ORANGE COUNTY NOTIFICATION:

As the replat does not create any additional residential lots, nor creates impacts on any County utilities or road, notification of the County is not necessary.

PUBLIC HEARING SCHEDULE:

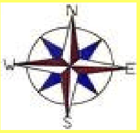
Planning Commission - January 14, 2014, 5:01 p.m.
City Council – February 5, 2014, 1:30 p.m.

RECOMMENDED ACTION:

The **Development Review Committee** recommends approval of the LESTER RIDGE REPLAT, subject to the findings of this staff report.

Note: 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.

Application: Lester Ridge Subdivision – Re-Plat
Owners: Meritage Homes of Florida, Inc.
Applicant: JJL Properties, LLC
Engineer: June Engineering Consultants, Inc.
Parcel I.D. No.: 29-20-28-0000-00-008, 29-20-28-0000-00-024 & 29-20-28-0000-00-042
Total Acres: 4.143 +/- acres

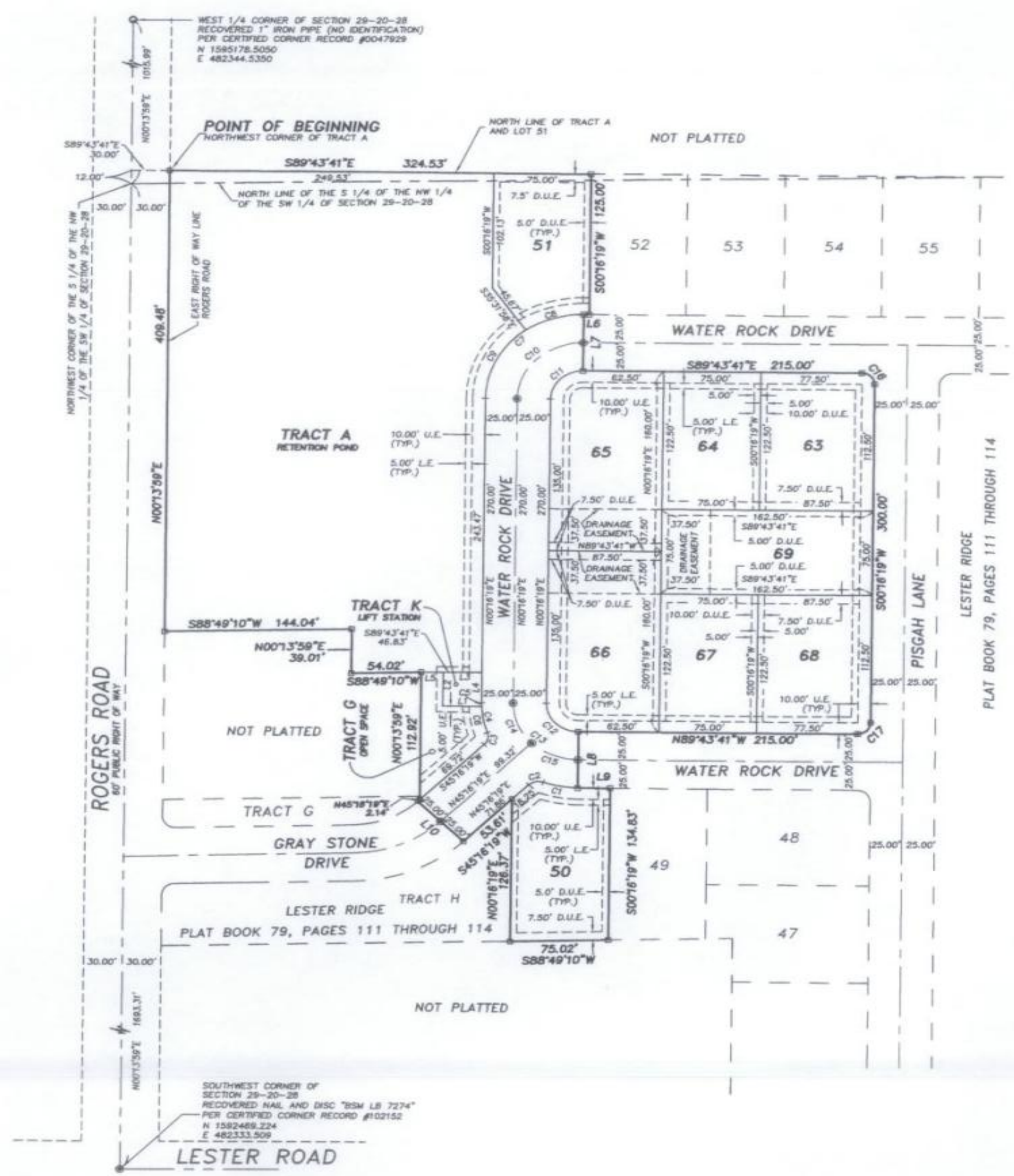


VICINITY MAP

PLAT BOOK	PAGE

LESTER RIDGE REPLAT

A PART OF SECTION 29, TOWNSHIP 20 SOUTH, RANGE 28 EAST
AND BEING A REPLAT OF A PORTION OF LESTER RIDGE
AS RECORDED IN PLAT BOOK 79, PAGES 111 THROUGH 114, ALL LYING IN THE
CITY OF APOPKA, ORANGE COUNTY, FLORIDA



LEGEND

Δ	CENTRAL ANGLE
R	RADIUS LENGTH
L	ARC LENGTH
T	TANGENT LENGTH
CB	CHORD BEARING
CH	CHORD LENGTH
PC	POINT OF CURVATURE
PT	POINT OF TANGENCY
PRC	POINT OF REVERSE CURVE
PCC	POINT OF COMPOUND CURVE
RP	RADIUS POINT
PI	POINT OF INTERSECTION
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
(R)	RADIAL
O.R.	OFFICIAL RECORDS BOOK
PG.	PAGE
P.B.	PLAT BOOK
℄	CENTERLINE
L.B.	LICENSED BUSINESS
D.E.	DRAINAGE EASEMENT
U.E.	UTILITY EASEMENT
D.U.E.	DRAINAGE & UTILITY EASEMENT
L.E.	LANDSCAPE EASEMENT
(TYP.)	TYPICAL
R/W	RIGHT OF WAY
PCP	PERMANENT CONTROL POINT
PRM	PERMANENT REFERENCE MONUMENT
—+—	DENOTES CHANGE IN DIRECTION

GRAPHIC SCALE

(IN FEET)
1 inch = 60 ft.

NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

NOTES:

- ⊡ DENOTES SET PERMANENT REFERENCE MONUMENT, A 4"x4" CONCRETE MONUMENT "PRM LB 7274", UNLESS NOTED OTHERWISE.
- ◉ DENOTES SET PERMANENT CONTROL POINT, A NAIL AND DISC "PCP LB 7274", UNLESS NOTED OTHERWISE.

LINE TABLE

LINE	BEARING	LENGTH
L1	S89°43'41"E	30.08'
L2	S00°16'19"W	30.00'
L3	S89°43'41"E	30.00'
L4	N00°16'19"E	26.53'
L5	S89°43'41"E	16.83'
L6	N89°43'41"W	4.40'
L7	S00°16'19"W	50.00'
L8	S00°16'19"W	50.00'
L9	S89°43'41"E	25.00'
L10	N44°43'41"W	50.00'

CURVE TABLE

CURVE	CENTRAL ANGLE	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	20°41'03"	75.00'	27.08'	S79°23'09"E	26.93'
C2	65°41'03"	10.00'	11.46'	S78°06'51"W	10.85'
C3	65°41'03"	10.00'	11.46'	N12°25'47"E	10.85'
C4	20°41'03"	75.00'	27.08'	S10°04'13"E	26.93'
C5	2°39'11"	75.00'	3.47'	S01°03'16"E	3.47'
C6	18°01'52"	75.00'	23.60'	S11°23'48"E	23.51'
C7	90°00'00"	75.00'	117.81'	S45°16'19"W	106.07'
C8	35°48'17"	75.00'	46.87'	S72°22'11"W	46.11'
C9	54°11'43"	75.00'	70.94'	S27°22'11"W	68.33'
C10	90°00'00"	50.00'	78.54'	S45°16'19"W	70.71'
C11	90°00'00"	25.00'	39.27'	S45°16'19"W	35.36'
C12	90°00'00"	25.00'	39.27'	S44°43'41"E	35.36'
C13	90°00'00"	50.00'	78.54'	S44°43'41"E	70.71'
C14	45°00'00"	50.00'	39.27'	S22°13'41"E	38.27'
C15	45°00'00"	50.00'	39.27'	S67°13'41"E	38.27'
C16	90°00'00"	10.00'	15.71'	N44°43'41"W	14.14'
C17	90°00'00"	10.00'	15.71'	N45°16'19"E	14.14'

BISHMAN SURVEYING AND MAPPING, INC.
20 S. MAIN STREET, SUITE 210
WINTER GARDEN, FL 34787
CERTIFICATE OF AUTHORIZATION
LB 7274
Phone No. 407.905.8877
Fax No. 407.905.8875
www.bishmansurveying.com