

MEMORANDUM

TO: MAYOR AND CITY COMMISSION

FROM: CITY ATTORNEY'S OFFICE

DATE: October 15, 2018

RE: **Landstar Lakeland, Inc.'s Appeal of Planning and Zoning Board's Denial of Request to Modify the Morgan Creek Preserve Planned Unit Development**

Landstar Lakeland, Inc. (Owner) and Dave Carter of Carter Engineering (Applicant) have appealed the Planning and Zoning Board's August 21, 2018 decision to deny the Owner/Applicant's application to modify the Morgan Creek Preserve Planned Unit Development in order to relocate an existing stormwater pond and to allow for the construction of eight (8) new single-family detached homes on approximately 3.9 acres located along Lathloa Loop within the Morgan Creek Preserve subdivision. They have filed their appeal pursuant to Section 12.7.3 of the City's Land Development Code, which provides as follows:

12.7.3 APPEAL TO THE CITY COMMISSION

Any aggrieved or adversely affected party, as defined in Section 163.3215, Florida Statutes, may appeal a decision of the Planning and Zoning Board to the City Commission based upon one or more of the following grounds:

- a. the Planning and Zoning Board failed to properly follow adopted procedure or due process requirements;
- b. the Planning and Zoning Board failed to properly apply adopted standards or regulations;
- c. administrative staff failed to follow professional practice in performing technical analysis;
- d. no competent, substantial evidence was presented to the Planning and Zoning Board to support its decision; or
- e. new evidence has been discovered that, through the exercise of proper diligence, could not have been discovered prior to the public hearing before the Planning and Zoning Board.

The applicant shall file the appeal in writing with the City Attorney within thirty (30) calendar days of the Board's action, stating the specific reasons for the appeal. Failure to timely file an appeal meeting the criteria set forth herein shall constitute a waiver of the right to appeal. The City Attorney shall place an appeal meeting the criteria set forth herein on a City Commission agenda occurring within sixty (60) calendar days of receipt of the applicant's written appeal and shall cause public notice of the hearing on the appeal to be given in accordance with Sub-Section 12.6.1.1. An appeal may be scheduled beyond sixty (60) calendar days for good cause.

Upon consideration of the appeal, the City Commission shall first determine whether one or more of the above grounds for appeal exist. If the Commission does not find that at least one of the above grounds exists, the Commission shall deny the appeal and affirm the decision of the Planning and Zoning Board. If the Commission finds that one or more of the above grounds exist, the Commission shall then, at the same meeting, conduct a full public hearing on the merits of the case. The hearing may be continued by the Commission to a later date for good cause. At the hearing, the City Commission may consider both new testimony and evidence, as well as the record created before the Planning and Zoning Board. Following the hearing, the City Commission may:

- a. affirm the decision of the Planning and Zoning Board;
- b. remand the case to the Board for reconsideration; or
- c. reverse, in whole or in part, or modify the decision of the Board and direct staff to prepare an ordinance or other appropriate instrument granting relief in accordance with the Commission's direction.

Attached for your consideration in reviewing this matter are: (1) the Owner/Applicant's application to modify the PUD, (2) the proposed modified site development plan, (3) the Community and Economic Development staff recommendation, (4) minutes of the July 17, 2018 Planning & Zoning Board meeting, (5) minutes of the August 21, 2018 Planning & Zoning Board meeting, and (6) the Owner/Applicant's appeal. In addition, videos of both the July 17, 2018 Planning & Zoning Board meeting and August 21, 2018 meeting on this matter are available for viewing on the City's website. Written notice of the October 15, 2018 appeal hearing before the City Commission has been mailed to all Morgan Creek residents.

Attachments

CITY OF LAKELAND
PLANNING & ZONING BOARD
GENERAL APPLICATION

APPLICANT/AGENT NAME Landstar Lakeland, INC

STREET 4225 Morgan Creek Pkwy CITY Lakeland STATE FL ZIP 33811

PHONE (863)853-0063 FAX NA E-MAIL brianbiz99@gmail.com

SUBJECT PROPERTY

ADDRESS OR LOCATION 4225 Morgan Creek Pkwy, Lakeland, FL. 33811

PARCEL ID NUMBER(S) 232908139620001340

TOTAL ACRES 3.90 PRESENT FUTURE LAND USE DESIGNATION NA

PRESENT ZONING PUD 4818 CONTEXT DISTRICT NA

OWNER NAME Morgan Creek Preserve Residents' Association, Inc.

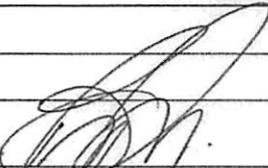
STREET 4225 Morgan Creek Pkwy CITY Lakeland STATE FL ZIP 33811

ACTION REQUESTED

- ANNEXATION
- SMALL SCALE FUTURE LAND USE
MAP AMENDMENT (< 10 acres) DESIGNATION(S) REQUESTED _____
- ZONING DISTRICT(S) REQUESTED _____
- CONDITIONAL USE FOR _____
- MODIFICATION TO PUD 4818
- COMPATIBILITY REVIEW FOR ACCESSORY DWELLING UNIT
- COMPREHENSIVE SIGN PLAN

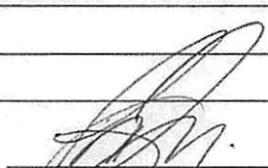
EXPLANATION OF REQUEST Relocate existing pond and construction of 8-9 single family homes or *Patio* homes.

JUSTIFICATION FOR REQUEST A reduction in the airport overflight zone would allow construction of homes within the PUD modification area. Lathloa Loop has main lines already installed. relocating the pond will allow new lot construction.


SIGNATURE OF APPLICANT

Brian Fraser
PRINT NAME

President/ Landstar Lakeland, Inc.
TITLE/ORGANIZATION


SIGNATURE OF LAND OWNER

Brian Fraser
PRINT NAME

VP-Morgan Creek Preserve Residents' Association, Inc.
TITLE/ORGANIZATION

REQUIRED ATTACHMENTS:

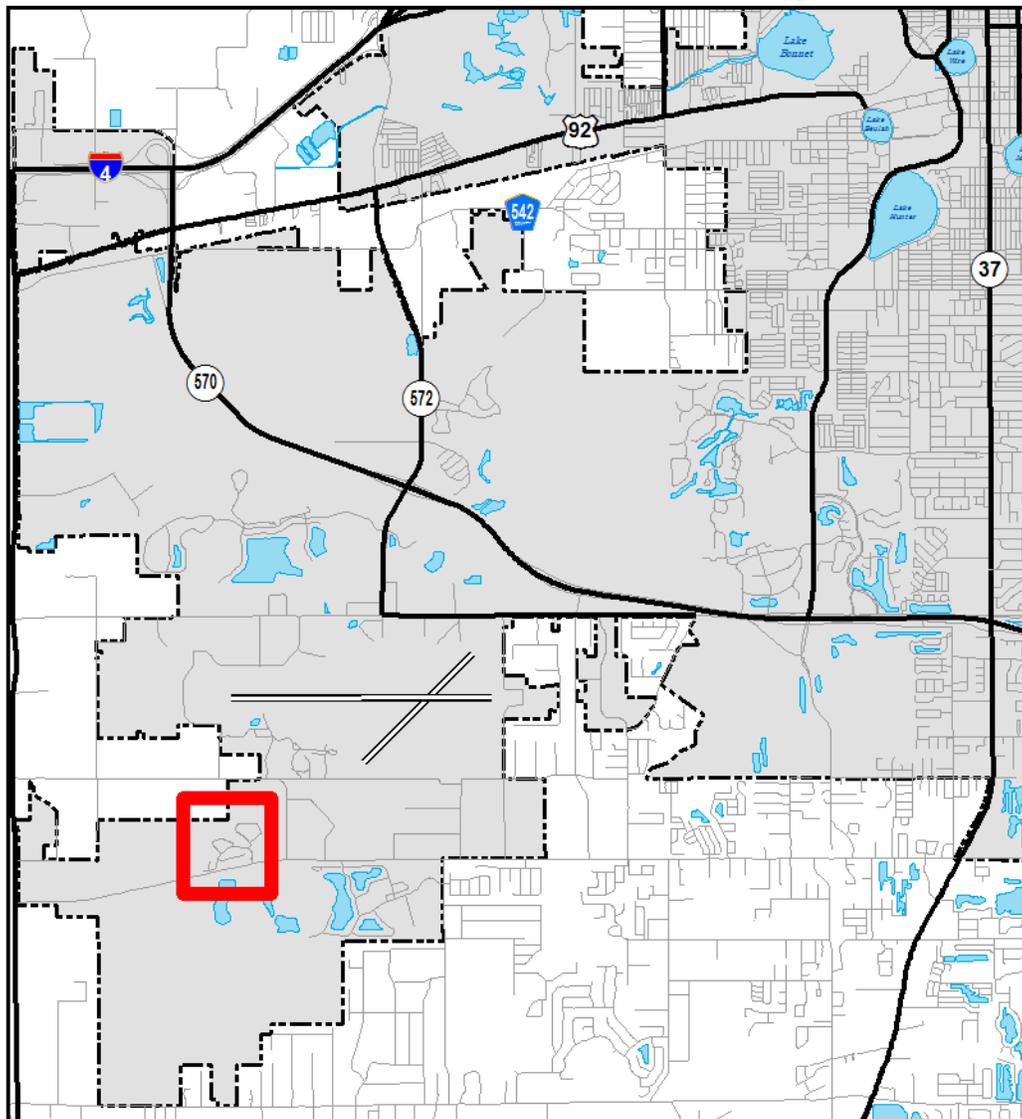
- APPLICATION FEE
- LEGAL DESCRIPTION OF SUBJECT PROPERTY
- PROOF OF OWNERSHIP (COPY OF DEED, TAX RECEIPT OR PROPERTY APPRAISER SHEET)
- DEVELOPMENT INFORMATION FOR NON-BINDING CONCURRENCY DETERMINATION
- SITE PLAN (FOR CONDITIONAL USE OR PUDs)
- CONCEPT REVIEW COMMENTS (FOR CONDITIONAL USE OR PUDs)
- TRAFFIC STUDY (SEE INSTRUCTIONS)

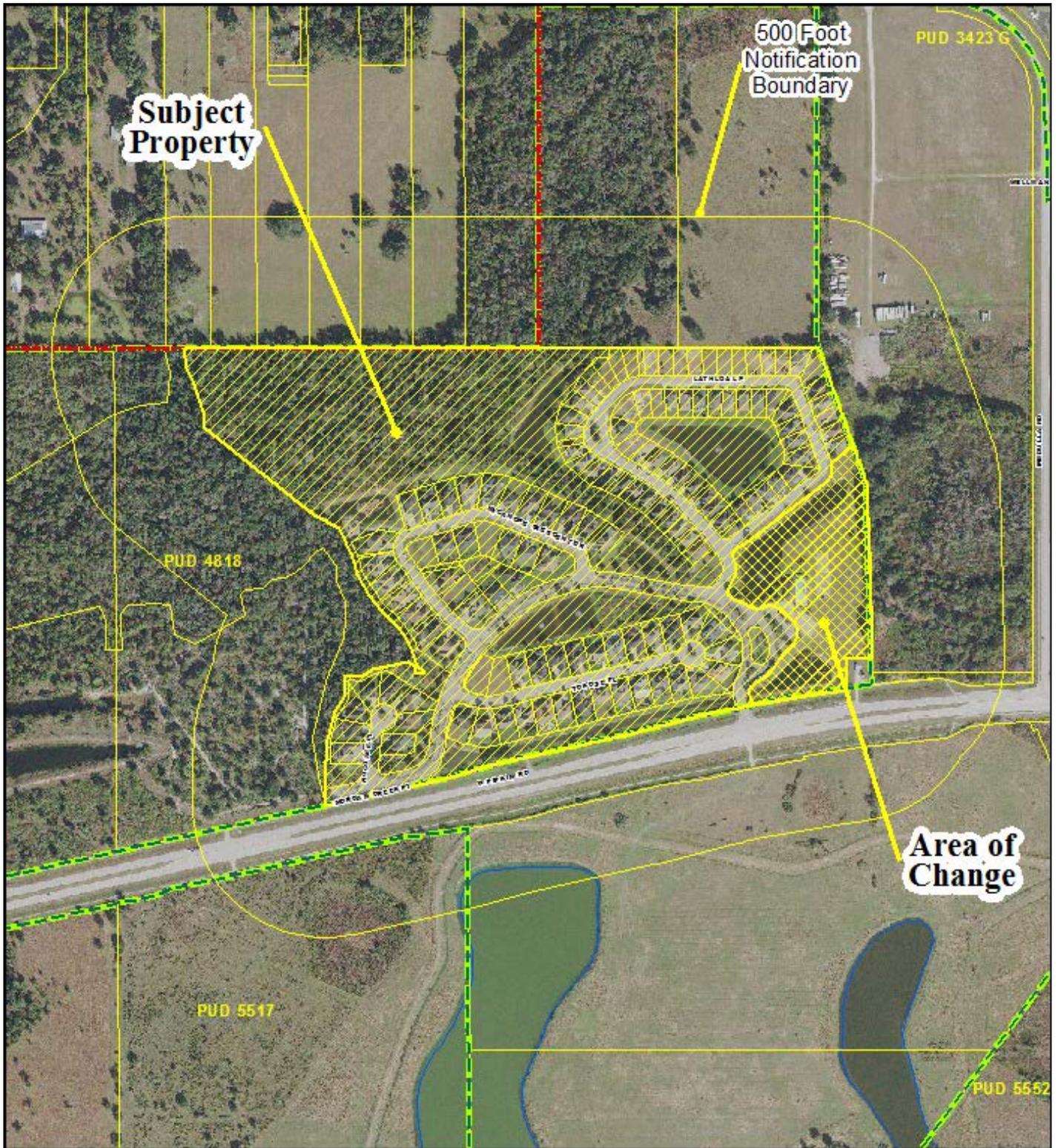


Community and Economic Development Staff Recommendation

Date:	August 6, 2018	Reviewer:	Joshua Cheney
Project No:	PUD18-015	Location:	4225 Morgan Creek Parkway
Owner:	Landstar Lakeland, Inc.		
Applicant:	Dave Carter, Carter Engineering		
Current Zoning:	PUD (Planned Unit Development)	Future Land Use:	RL (Residential Low), R (Recreation)
Context District:	SNH (Suburban Neighborhood)		
P&Z Hearing:	July 17, 2018	P&Z Final Decision:	August 21, 2018
Request:	Modification of an existing PUD (Planned Unit Development) to relocate an existing stormwater pond and to allow for the construction of eight new single-family detached homes, on approximately 3.9 acres located along Lathloa Loop within the Morgan Creek Preserve subdivision		

1.0 Location Maps





2.0 Background

2.1 Summary

Dave Carter, on behalf of Landstar Lakeland, Inc., requests a modification of an existing PUD (Planned Unit Development) to relocate an existing stormwater pond and to allow for the construction of eight new single-family detached homes, on approximately 3.9 acres located along Lathloa Loop within the Morgan Creek Preserve subdivision. A map of the subject property is included as Attachment “B.”

2.2 Subject Property

The subject property is part of a larger 7.2-acre parcel located within the Morgan Creek Preserve subdivision. The parcel has a Recreation (R) future land use designation and is shown on the approved site development plan as recreation and RV storage. The PUD conditions further limit the use of the parcel to a landscape maintenance building, swimming pool, tennis courts, mail pick up center and RV storage building/yard. In accordance with the PUD, the parcel presently consists of stormwater ponds and recreational facilities, including a clubhouse, swimming pool, open play field, playground equipment, basketball court, tennis court and associated parking.

2.3 Project Background

The applicant requests a modification of the PUD to allow for the relocation of a stormwater pond located on the northern edge of the subject parcel and the construction of eight single-family detached homes in its place. A portion of the existing pond will remain; however, with the approval of this request, most of it would be relocated to the east side of the parcel in the area which is currently designated as RV storage within the PUD. The proposed site development plan showing the reconfigured stormwater pond and eight new lots is included as new Attachment “C-3.”

Existing Uses of Adjacent Properties

Boundary	Existing Land Use	FLUM	Zoning	Context
North	Single-Family Residential	RL	PUD	SNH
South	West Pipkin Road	County	N/A	N/A
East	Lakeland Linder Regional Airport	BP	N/A	SSP
West	Single-Family Residential	RL	PUD	SNH

2.4 Attachments

Attachment A: Legal Description

Attachment B: Base Map of Subject Property

Attachment C: Approved Morgan Creek Preserve Conceptual Site Plan

Attachment C-1A: Approved Morgan Creek Preserve Phase III Site Plan

Attachment C-1B: Approved Morgan Creek Preserve Phase III Alternative Site Plan

Attachment C-2: Approved Recreation and Storage Facility/Runway Protection Zone (Delete)

Attachment C-2 Approved Park and Recreation Facilities (Renumbered)

Attachment C-3: Proposed Lathloa Loop Lot Expansion (New)

Attachment D: Approved Minimum Setbacks

Attachment E: Approved Pedestrian Circulation Plan

3.0 Discussion

The PUD zoning for the Morgan Creek Preserve community was originally approved in April 2004 and allows 355 single-family dwelling units with associated common recreation and park areas. The subject property was included as one of these areas and set aside for outdoor recreational uses. The PUD has been amended several times to add additional land and to modify development standards. A minor modification approved on September 20, 2005, allowed for the relocation of a previously approved clubhouse and tot lot onto the subject property (“under the Airport Overflight Zone”) along with the addition of an RV storage building/yard (Attachment “C-2”). Two months later, a plat for Morgan Creek Phase One consisting of 133 lots was recorded on November 28, 2005. On the plat, the subject property is designated as “Tract F Park and Common Area and Retention Area.” Associated Declaration of Restrictive Covenants were recorded on November 29, 2005. Development of this phase has proceeded in accordance with the plat, and since December 2005, all 133 lots have been issued building permits.

Standards within Article 7 of the Land Development Code require areas zoned as PUD to meet certain criteria related to use compatibility, environmental compatibility, site development and standards plan, assurances, maintenance provisions and unified control. Compatibility is defined by the LDC as, “In harmony with the surrounding land uses, context, building forms and environment.” The developer seeks to add eight single-family lots without increasing the total number of units for all combined phases. Therefore, there is no increase in the overall gross density of the project. Both the requested density and lot configuration proposed with this request are consistent with the surrounding residential development pattern which contains a mixture of 55’ to 75’ wide lots. The eight new lots are proposed on the south side of Lathloa Loop, across the street from existing homes. The existing homes in this segment of Lathloa Loop have a minimum lot width of 55 feet. Similarly, the proposed new lots are a minimum of 55 feet. All other development standards within the PUD, including setbacks, are not proposed to be changed and are therefore consistent with the approved PUD site development and standards plan.

The proposed pond reconfiguration and new home sites are environmentally compatible as they will meet all local and state stormwater requirements and result in no additional offsite stormwater runoff. Additional land use and environmental impacts that existed because of the Airport Overflight Zone have been diminished with the remapping of the overflight zone(s). At the time of the original PUD approval, the subject property was in the Runway Protection Zone (RPZ) of Lakeland Linder Airport within which Federal Aviation Administration (FAA) rules prohibit residential uses. Since then, the airport maps were revised and the subject property is now well outside of the RPZ as verified by the Polk County Transportation Planning Organization earlier this year. Although the property is located within the Approach Surface Limits of the airport, FAA rules do not prohibit residential uses within the area if buildings do not exceed a certain height threshold which is over a hundred feet above ground level. In addition, the developer executed an Avigation Agreement which is attached to the restrictive covenants and acknowledges the potential for airport impacts.

Public comment received at the public hearing and through e-mail and telephone communication relayed concerns about the perceived loss of recreation area. The approved PUD requires parks and recreation facilities in the form of a clubhouse on a minimum 20,000 square foot lot; two tot lots on minimum 5,000 square foot lots; and an area for active outdoor recreation on a minimum 65,000 square foot lot. The requested modification seeks to allow for the area which is currently being utilized as a stormwater pond on the subject parcel to be reconfigured with most of the pond being shifted to the east side of the subject parcel in the area currently approved for RV storage. As a result, there is no loss in active outdoor recreation area.

Beyond PUD criteria addressing physical compatibility and consistency are criteria related to assurances, maintenance provisions, and unified control. These items are all addressed in the recorded plat documents and related restrictive covenants. Together, the PUD and these documents ensure ongoing maintenance and control of common areas by the resident's association.

Finally, a significant amount of public comment was directed at the way in which the Morgan Creek Preserve Residents' Association is being managed and operated as it is still controlled by Landstar Lakeland, Inc. While the relationship between the developer and the residents is unquestionably strained and volatile, disagreements and/or differences of opinion between the two parties are not relevant to the request and have not been considered in the development of this recommendation. Likewise, it should not be a basis for any action taken by the Planning and Zoning Board related to this request.

3.1 Transportation and Concurrency

Overall, the request represents a small increase in density within this phase of the development along with a corresponding increase in trips. The eight proposed single-family dwelling units will generate an estimated 76 daily trips and 8 P.M. Peak Hour trips at buildout having a minimal impact on the surrounding street network. These trips are already accounted for in the overall project buildout and the required road improvements for Phase One have been constructed.

3.2 Comprehensive Plan Compliance

The Community Development Department reviewed this request for compliance with Lakeland Comprehensive Plan: 2010-2020 and it is our opinion that the request is consistent with the Comprehensive Plan. All roadway levels of service are acceptable. Other essential services are presently available to provide concurrency for the proposed use. Actual construction is subject to final concurrency determinations at the time of subdivision plan review.

4.0 Recommendation

4.1 Community Development Staff

The Community Development Department reviewed this request and recommends approval of the minor modification of PUD zoning. Letters of notification were mailed to 132 property owners within 500 feet of the subject property and we received 14 phone calls and 16 emails in opposition to this request.

4.2 The Planning & Zoning Board

It is recommended that the request for a minor modification of PUD zoning, as described above and in Attachments "A", "B," "C," "C-1A," "C-1B," "C-2," "C-3," "D," and "E," be approved subject to the amended and restated conditions below.

Ordinance 4547, as amended:

A. Land Use Intensity: PUD-30

B. Permitted Uses:

Tracts A, B, C, E, and F: Single family detached dwellings plus a clubhouse and common recreation and park facilities. ~~Permitted within the area under the Airport Overflight Zone in Tract A are a landscape maintenance building, swimming pool, tennis courts, mail pick up center and RV building/yard as illustrated in Attachment "C-2".~~

Tract D is a Conservation Area, use of which shall be limited to a recreational trail system and wildlife observation platforms.

C. Maximum Number of Dwelling Units:

Tracts A, B, C: 355 total

Tract F: Tract F shall be entitled to 58 total dwelling units as illustrated in Attachment "C-1A." Alternatively, this total may be increased to 74 units if the eastern portion of Tract F is developed as illustrated in new Attachment "C-1B" with a maximum of 60 units. The remaining 14 units shall be reserved for the western portion of Tract F and subject to modification of this PUD.

Tract E is reserved for future development. The maximum number of dwelling units in Tract E shall be subject to modification of this PUD.

D. Lot Mix:

A minimum of 46 percent of the combined total of lots in Tracts A, B, and C (165 lots) shall have a minimum lot area of 10,000 square feet. The remainder of the lots in Tracts A, B, and C (maximum 190 lots) shall have a minimum lot area of 5,500 square feet, as illustrated in Attachment "C."

Lots in Tract F shall have a minimum lot area of 6,000 square feet.

E. Development Regulations: Except as otherwise provided herein, development regulations shall be as follows. In accordance with RA-2/Suburban Neighborhood sub-district standards for 10,000 square foot lots except that the minimum lot width shall be 90 feet for corner lots and 75 feet for interior lots. In accordance with RA-4/Suburban_Neighborhood sub-district standards for 5,500 square foot and 6,000 square foot lots except that within Tracts A, B and C the minimum lot width shall be 60 feet for corner lots and 55 feet for interior lots. However, for any lots that are radial to cul-de-sacs or radial to the outside of curved streets, the minimum lot widths may be less than stated above, provided that each such lot abuts a street for a distance of not less than forty feet.

F. Minimum Building Setbacks: Minimum building setbacks shall be as illustrated in Attachment "D."

- G. Site Development Plan: The project shall be developed in general accordance with the conceptual site development plans included as Attachments "C," "C-1A," and "C-1B," "C-2" and "C-3." The lot arrangement shown is conceptual and subject to change.
- H. Unified Development of Tracts: Prior to the development of each respective tract illustrated on Attachment "C," an approved subdivision plat shall be required for the entire tract and a complete legal description provided.
- I. Parks and Recreation Facilities: Civic open space shall be provided in accordance with Article 3 of the Land Development Code and shall include:
1. A clubhouse on a minimum 20,000 square foot lot, two tot lots on minimum 5,000 square foot lots, and an area for active outdoor recreation on a minimum 65,000 square foot lot as illustrated in Attachments "C-2" and "C-3."
 2. A 25,400 square foot square as illustrated in Attachment "C-1B."
- J. Utilities:
- It is anticipated that the project will require improvements to off-site water and sanitary sewer lines and/or lift stations to meet concurrency. Determination of the specific improvements required will be made at the time of subdivision plat review for each phase.
- In response to the Southwest Florida Water Management District's Water Supply Plan and at the discretion of the Water Utilities Department, phases of the Morgan Creek Preserve development that have not undergone subdivision plat review as of August 1, 2006, shall install an independent reclaimed/reuse irrigation water distribution system to serve all lots and common areas within those phases.
- This is intended to meet the water management district's goal of reusing water and off setting the use of ground water. As the reuse system is developed, and at the discretion of the Water Utilities Department, the Morgan Creek independent irrigation system may be connected to the potable water system at one point of supply. Later, when the alternative source is available, the system can be connected to that and disconnected from the potable supply.
- K. Vehicle Access: The project shall be limited to two vehicle access points to W. Pipkin Road as illustrated in Attachment "C" and one access point on Medulla Road serving Tract F.
- L. Internal Roads: The internal collector road connecting the two Pipkin Road project entrances shall be constructed to City of Lakeland collector road standards. All other roads shall be built to City of Lakeland local street standards. Access to the western portion of Tract F shall be provided through the eastern portion of Tract F either through a formal cross-access agreement that is recorded with the Polk County Clerk of Courts or right-of-way dedication if accepted by the City Public Works Department.
- M. Pedestrian Circulation System: The project shall have a pedestrian circulation system of interconnected sidewalks and trails as illustrated in Attachment "E". The internal collector road shall have a combination sidewalk/bicycle path on at least one side having a minimum width of eight feet and which shall be separated from the roadway by a minimum five foot landscaped strip. Asphalt may be used to pave this facility. Trails may be surfaced with mulch or similar natural material where located within a wetland or where otherwise required by permitting

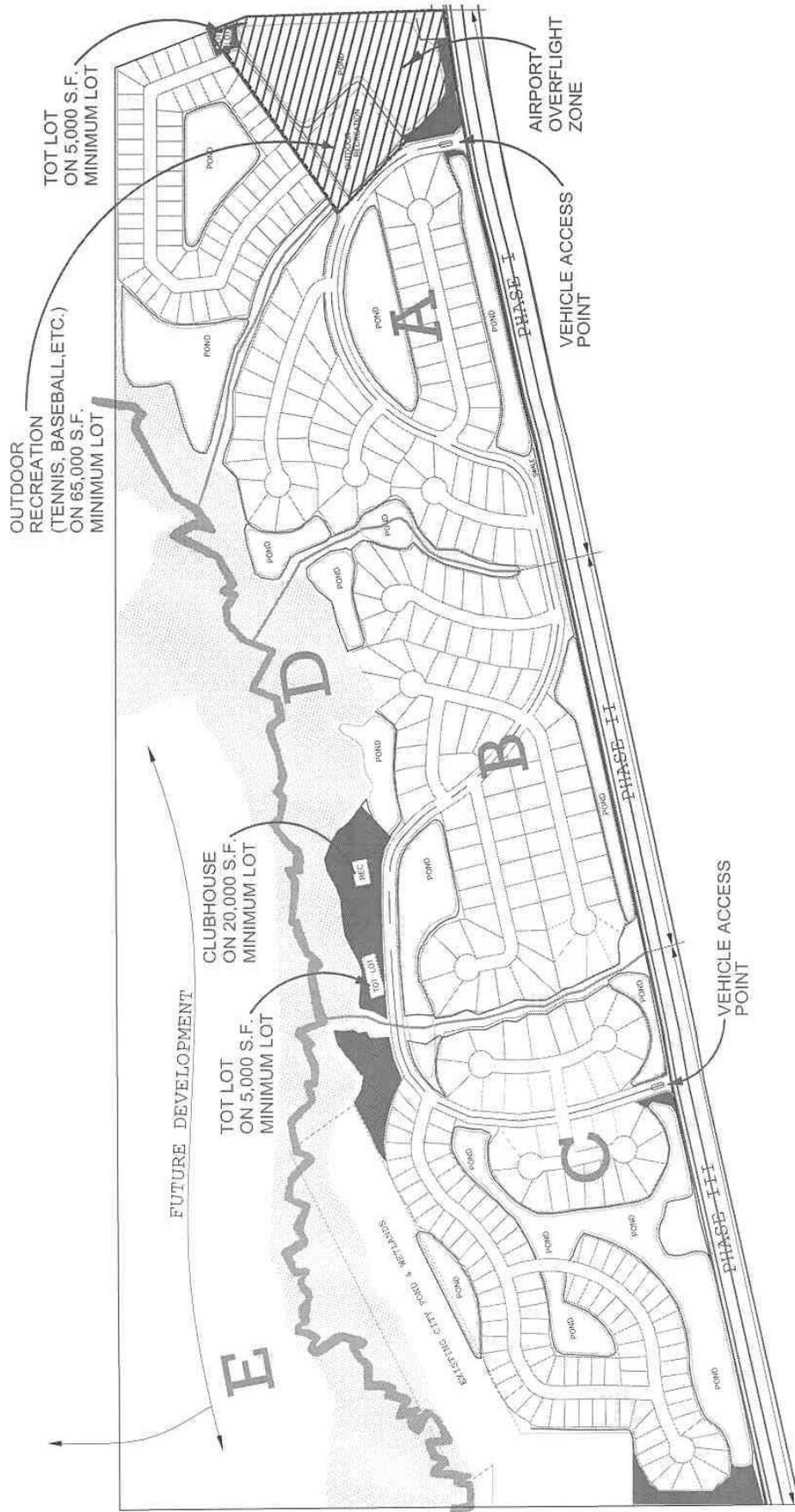
authorities. Where located outside of such areas, as atop retention pond banks or berms, trails shall be surfaced with a hard, all-weather material. Within Tract F, a sidewalk system shall be developed as shown in Attachment C-1B to provide access to the required square. A sidewalk shall be constructed along the Medulla Road project frontage, as approved by Polk County through its driveway permitting process.

- N. Street Lights: Street lights shall be ornamental and shall be on the Lakeland Electric approved list.
- O. Street Trees: The developer shall plant native tree species within the rights-of-way on both sides of project roadways on the ratio of one tree per fifty linear feet minimum.
- P. Road Improvements:
 - 1. Concurrent with the platting of the first phase, the following road improvements will be constructed:
 - a. Eastbound left turn lanes (approximately 340 feet each) and westbound right turn tapers at each project entrance on W. Pipkin Road.
 - b. The southbound approach to the intersection of S. Pipkin Road and W. Pipkin Road shall be expanded to include exclusive left and right-turn lanes, subject to final design.
 - 2. Concurrent with the platting of the eastern portion of Tract F, turn lane and/or other access improvements shall be constructed at the Medulla Road project entrance, as permitted by Polk County.
- Q. Inclusion of Project in Mass Transit District: Prior to the platting of the first phase, the applicant shall petition to have the entire project site, except for Tracts D and F, included within the boundaries of the Lakeland Area Mass Transit District (LAMTD). Prior to the platting of the eastern portion of Tract F, an annexation petition shall be submitted to LAMTD for consideration. Prior to platting of the western portion of Tract F, an annexation petition shall be submitted for the remainder of Tract F and all of Tract D.
- R. Avigation Agreement: Prior to the platting of the first phase, the applicant shall sign an Avigation Agreement prepared by the City of Lakeland.
- S. Homeowners Association: The project shall have one or more homeowners associations which shall be responsible for the maintenance of common areas.

ATTACHMENT "A"

Legal Description:

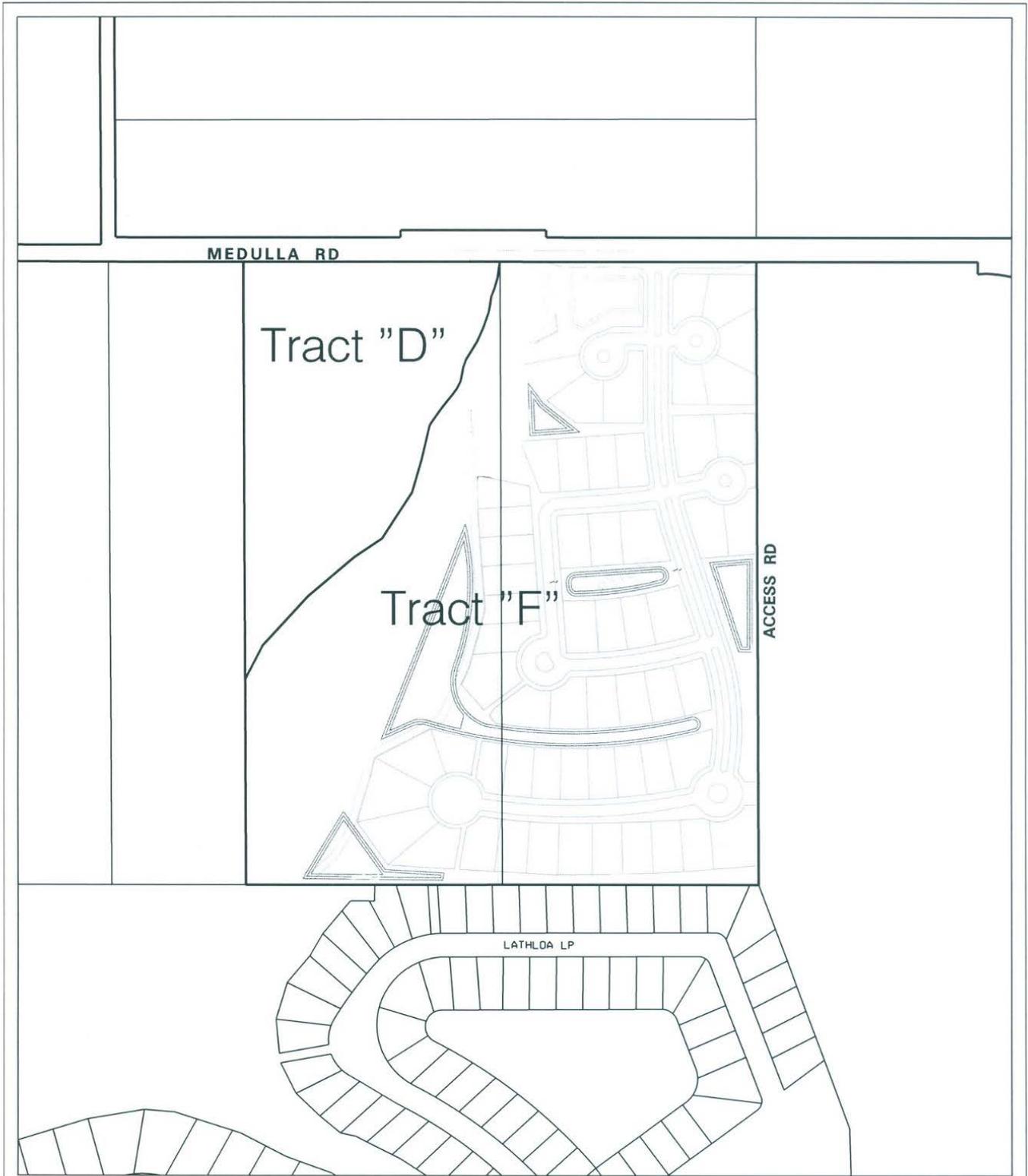
MORGAN CREEK PRESERVE PHASE ONE PB 134 PGS 50-51 SUBJECT TO CONSERVATION
EASEMENT PER OR 6108-886 TRACTS A B C D F G H J K L M & PRIVATE ROADS



LEGEND	
	Morgan Creek
	Open Area Landscaping
	Lot Lines & Roadways
	Ponds
	Preserve

Morgan Creek Preserve
Conceptual Site Plan

ATTACHMENT "C-1A"

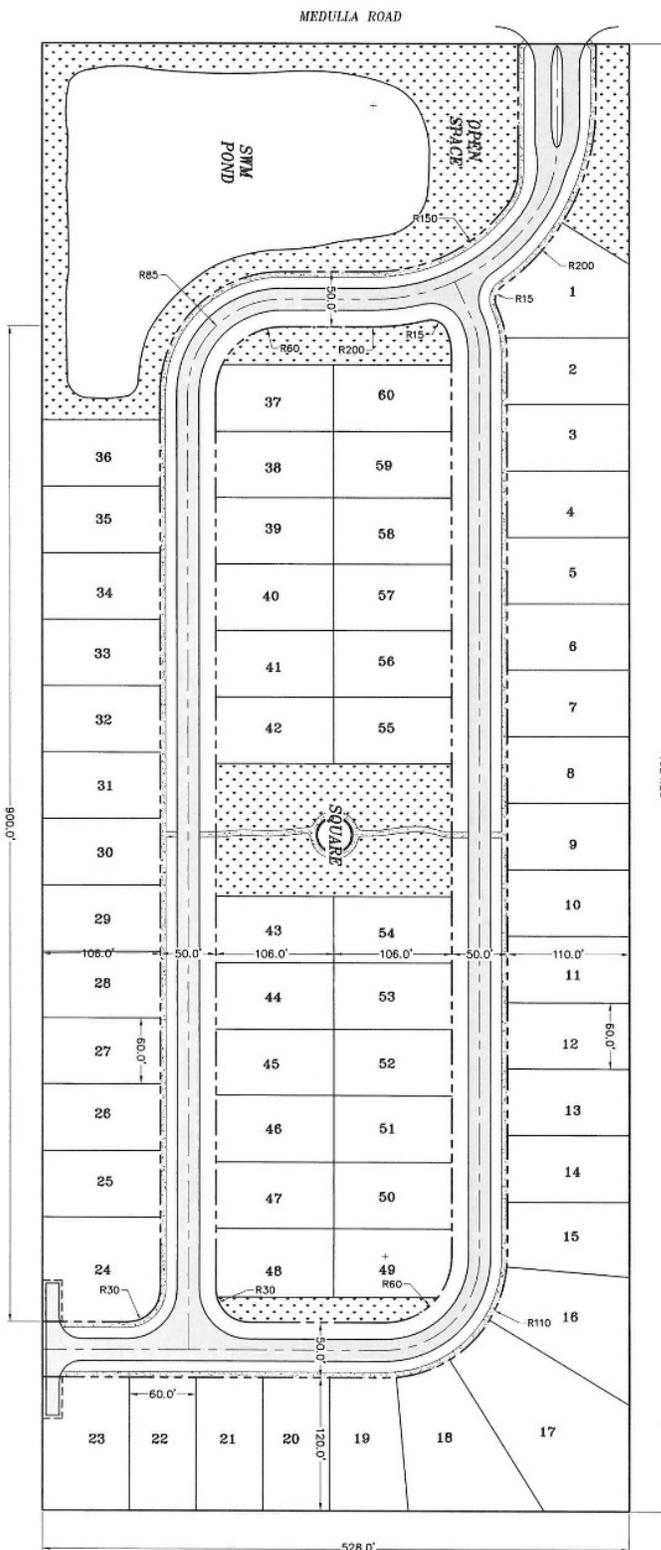


MORGAN CREEK PRESERVE PHASE III
(SITE PLAN)



ATTACHMENT "C-1B"

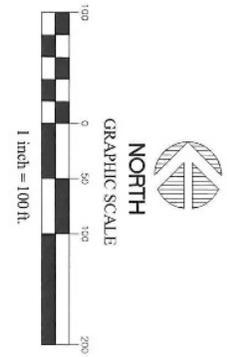
DATE: 04/22/2012 10:45 AM PROJECT: SAUNDERS MORGAN CREEK SUBDIVISION (17019) PRELIMINARY SITE PLAN
 PROFESSIONAL CERTIFICATE OF AUTHORIZATION #0376 COPYRIGHT © RIDGE PROFESSIONAL GROUP, INC.



NOTES:
 PROPERTY SIZE = 15.76 ACRES
 DENSITY = 3.81 UNITS / ACRE
 OPEN SPACE (NOT INCLUDING SWM POND) = 1.86 AC.; (80011 SF.)
 0.031 ACRES / UNIT (1340 SF / UNIT)

MINIMUM LOT SIZE:
 60' X 100'

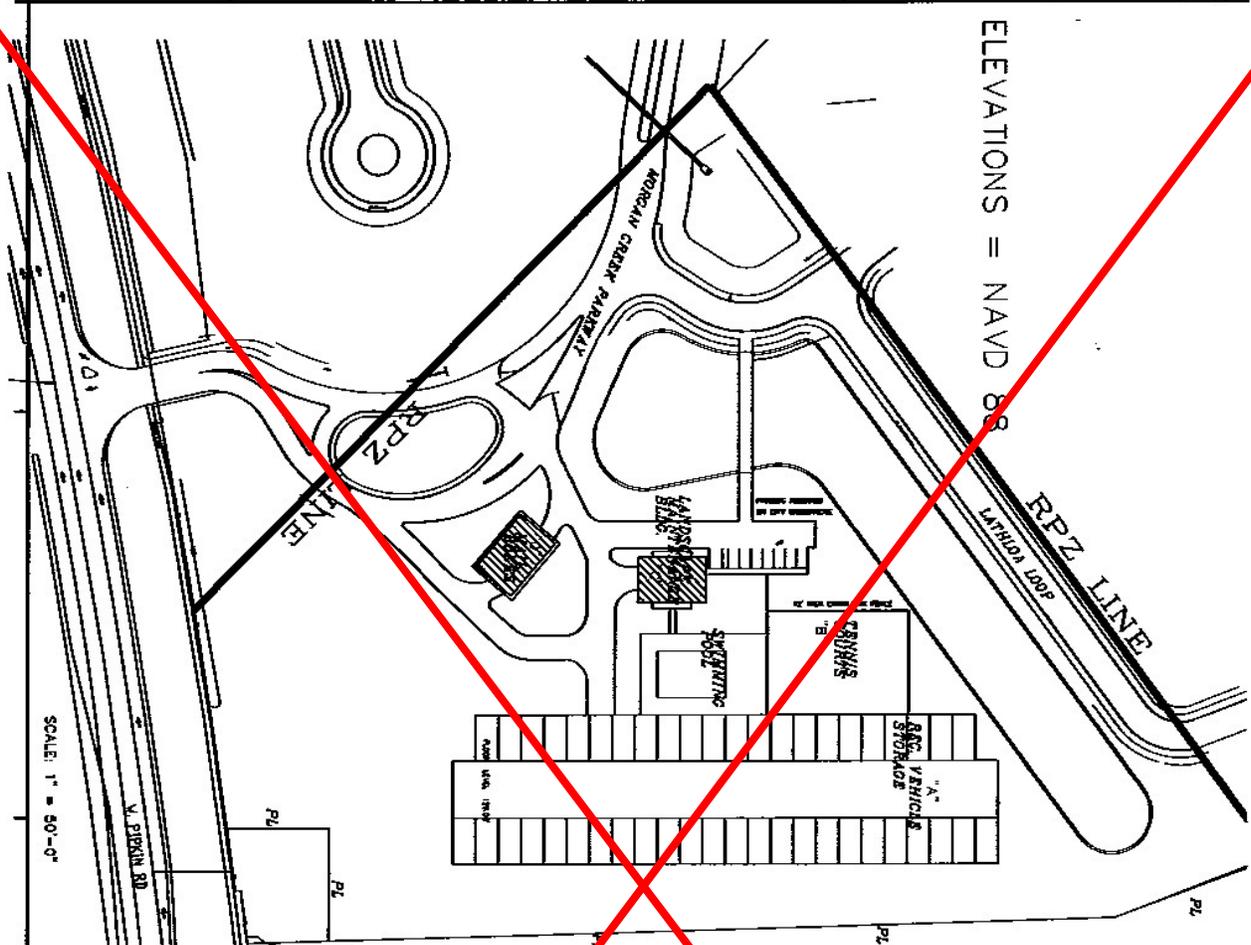
SETBACKS:
 FRONT: 20'
 REAR: 20'
 SIDE: 5'



THIS MAP IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION OR ANY OTHER PURPOSE WITHOUT THE WRITTEN APPROVAL OF THE ENGINEER OR ARCHITECT.

Project Title SAUNDERS MORGAN CREEK SUBDIVISION LAKELAND, FLORIDA	Prepared For LANDSEARCH LLC 5529 US HIGHWAY 98 N LAKELAND, FLORIDA	RIDGE PROFESSIONAL GROUP, INC. Land Development Design & Permitting Services 4425 U.S. Highway 92 East Lakeland, FL 33801 Phone: (888) 688-0205 Website: www.rpg-usa.com	Date: 04/22/2012
			Sheet Title PRELIMINARY SITE PLAN

ELEVATIONS = NAVD 88



SCALE 1" = 50'-0"

END OF PROPOSED 2000' RUNWAY 5 EXTENSION

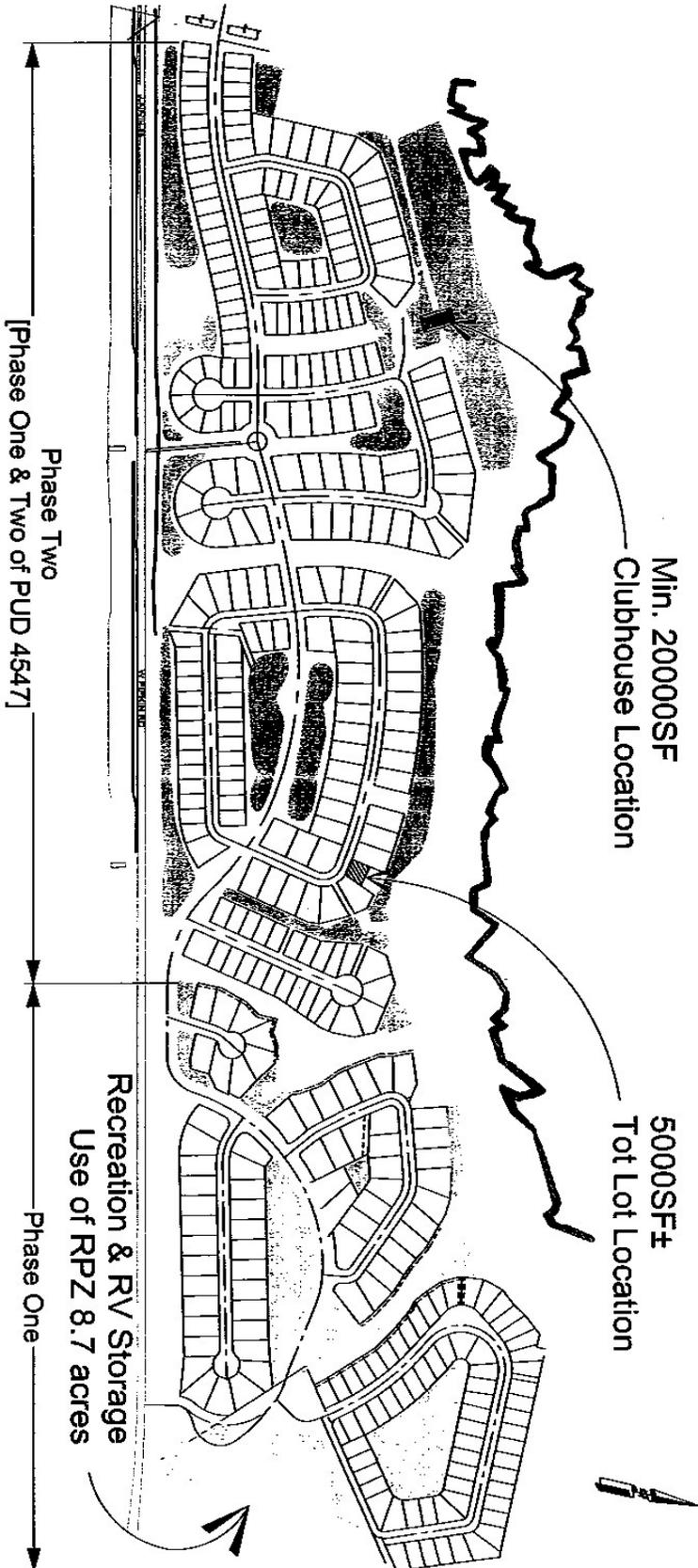
129.9 MSL NAVD 88

BUILDING	LATITUDE	LONGITUDE	FLOOR LEVEL	TOP LEVEL
RV STORAGE	27 52 13.7386"	82 01 50.4287"	128.12	148.12
TENNIS COURTS	27 52 13.7386"	82 01 50.4287"	128.12	138.62
LAWN CARE	27 52 13.7386"	82 01 50.4287"	128.12	138.62
MAIL BOXES	27 52 13.7386"	82 01 52.7030"	128.45	132.45

MORGAN CREEK PRESERVE
 A SUBDIVISION LOCATED IN SECTION 8, TOWNSHIP 29 SOUTH, RANGE 23 EAST.
 CITY OF LAKELAND
 POLK COUNTY, FLORIDA

B

LAKELAND LANDSTAR INC
 MORGAN CREEK PRESERVE
 PROPOSED RECREATION & STORAGE FACILITY
 RUNWAY PROTECTION ZONE
 RUNWAY 5/23 LAKELAND UNDER AIRPORT



POINT
 ENGINEERING, INC.
 REGISTERED PROFESSIONAL ENGINEER
 723 S. 71st Ave., Suite 102
 Lakeland, FL 33803
 www.point-enc.com
 Tel: (888) 882-1818
 Fax: (888) 882-0888

MORGAN CREEK PRESERVE
 PREPARED FOR:
 LANDSTAR LAKELAND, INC.
 PH-117 BAYSHORE DRIVE
 VANDOLVER, BRITISH COLUMBIA V0C 3H3
 PHONE: (604) 569-3488

TITLE
APPLICATION FOR:
Modification to PUD #4547

DATE	02/20/05

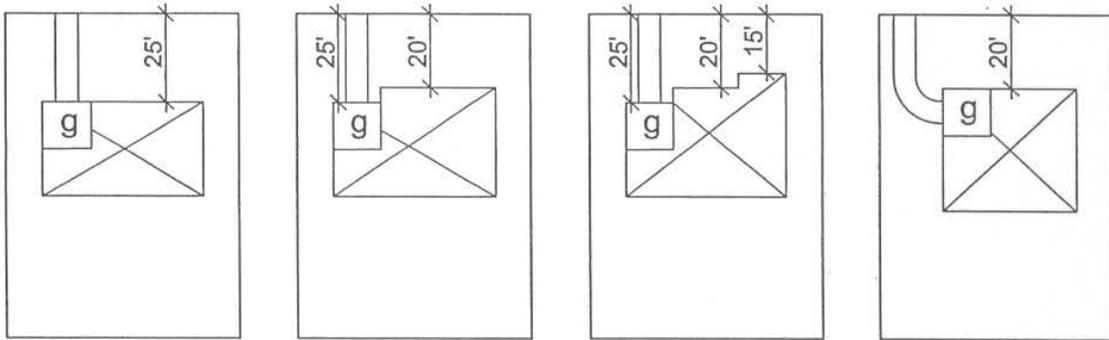
A

ATTACHMENT "D"

MORGAN CREEK PRESERVE MINIMUM BUILDING SETBACKS

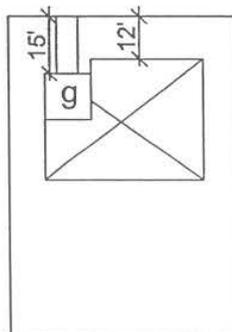
Front Yard Setbacks

For lots of 10,000 sq. ft. minimum, front yard setbacks shall conform to one of the following:



This permits the houses to be at varying minimum distances from the front property line, while maintaining a minimum of 25 ft. of driveway. Where the driveway enters from the side, the house may be sited 20 ft. back. Where the 15 ft. setback is selected, no more than 15% of the frontage may be so sited.

For lots of 5,500 sq. ft. minimum, the front yard setback shall be 12 ft. minimum from the front property line, with the driveway at a setback of 15 ft. minimum.

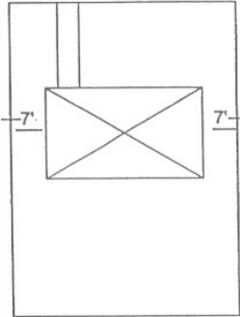


MORGAN CREEK PRESERVE

MINIMUM BUILDING SETBACKS *continued*

Side Yard Setbacks

For lots of 10,000 sq. ft. minimum, side yard setbacks shall conform to (-) the following:



The minimum distance between houses shall be 14 ft.

The minimum distance from the property line shall be 7 ft.

For lots of 5,500 sq. ft., the side yard setback shall be a minimum of 5 ft.

For all corner lots, flanking side yard setbacks shall be equal to the front yard setback selected. A corner lot shall mean a lot with frontage onto two streets.

Back Yard Setbacks

For lots of 10,000 sq. ft. minimum, back yard setbacks shall conform to one of the following:

- Where the average depth of the lot is 135 ft. or more, the minimum setback shall be 35 ft., with 50% of the rear of the house permitted to reduce to at 30 ft.
- Where the average depth of the lot is 125 ft. to 135 ft., the minimum setback shall be 30 ft., with 50% of the rear of the house permitted to reduce to at 25 ft.
- Where the average depth of the lot is 120 ft., the minimum setback shall be 25 ft., with 50% of the rear of the house permitted to reduce to 20 ft.

For lots of 10,000 sq. ft. minimum, where the lot does not back onto another lot, back yard setbacks shall conform to one of the following:

- Where the average depth of the lot is 135 ft. or more, the minimum setback shall be 30 ft., with 50% of the rear of the house permitted to reduce to at 25 ft.
- Where the average depth of the lot is 125 ft. to 135 ft., the minimum setback shall be 25 ft., with 50% of the rear of the house permitted to reduce to at 20 ft.
- Where the average depth of the lot is 120 ft., the minimum setback shall be 20 ft., with 50% of the rear of the house permitted to reduce to 15 ft.

For lots of 5,500 sq. ft. minimum, the minimum back yard setback shall be 20 ft.

For lots of 5,500 sq. ft. minimum, where the lot does not back onto another lot, the minimum back yard set back shall be 18

MORGAN CREEK PRESERVE

MINIMUM BUILDING SETBACKS *continued*

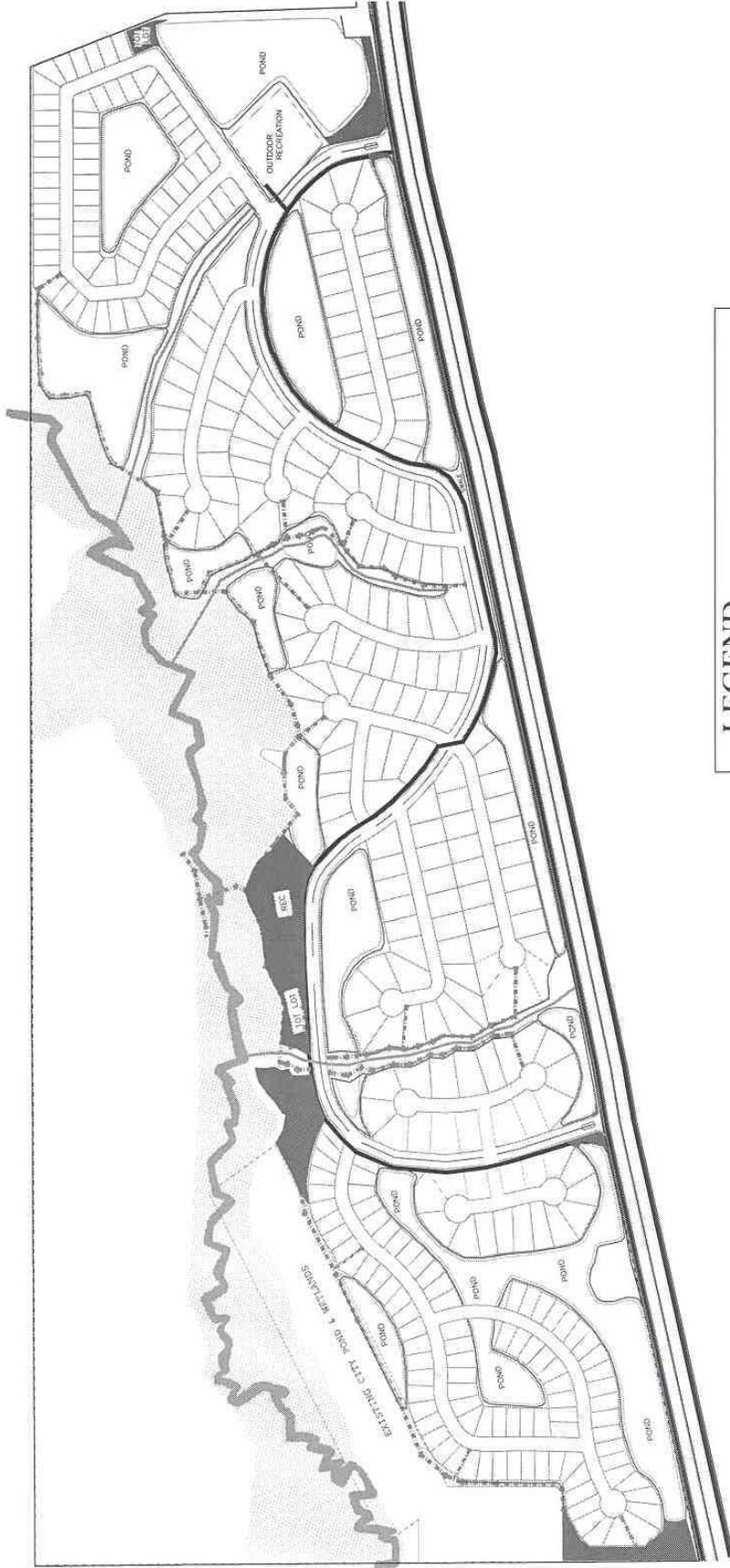
Pools

Swimming pools shall be setback from the property line to the edge of water by a minimum of 9 ft. for side or rear yards. Screen enclosures shall be setback by 5 ft. from side or rear property lines.

Site Coverage

For lots of 10,000 sq. ft. minimum, site coverage shall not exceed 38%.

For lots of 5,500 sq. ft. minimum, site coverage shall not exceed 47%.



LEGEND	
	Morgan Creek
	Lot Lines & Roadways
	Ponds
	Preserve
	Pedestrian Walking Trails in hard and soft surface as appropriate
	Combined Pedestrian Sidewalk and Bicycle Path minimum 8 ft. wide hard surface

Morgan Creek Preserve
Pedestrian Circulation Plan

MINUTES

Planning & Zoning Board
City Commission Chambers
Tuesday, July 17, 2018
8:30 a.m.

The City of Lakeland Planning and Zoning Board met in Regular Session on Tuesday, July 17, 2018 in the City Commission Chambers. Stephanie Franklin (Chair), Andrew Snyder (Vice-Chair), Larry Durrence, Brent Burris, Glenn Higgins, Leigh Ann Lutz and Lyle Philipson were present. Community and Economic Development Department staff Teresa Maio, Planning Manager; Chuck Barmby, Transportation Manager; Matthew Lyons, Principal Planner; Todd Vargo, Senior Planner; Joshua Cheney, Senior Planner; Philip Searce, Senior Planner; and Brandy Gillenwater, Secretary were present. Assistant City Attorney Palmer Davis was also present. Community and Economic Development Department Director Nicole Travis made a brief introduction.

PUBLIC HEARING

(Note: Items 1-3 were reordered on the agenda the day of the hearing.)

ITEM 1: PUD (Planned Unit Development) zoning to allow a 7,500-square foot single-tenant retail use (variety store) on property located at 4105 Lakeland Highlands Road. Owner: Dilip A. & Raju R. Amin. Applicant: Sloan Engineering Group. (PUD18-010)

Teresa Maio stated the applicant requested a continuance after the item was noticed by the City and requested that the agenda be reordered.

Steve Sloan, Sloan Engineering, 150 S. Woodlawn Avenue, Bartow, stated he would like to formally request the Board to continue the case.

Stephanie Franklin stated the Board will allow public comment to be heard by those in attendance.

Glenn Higgins made a motion for approval of the applicant's request for a continuance. Andrew Snyder seconded the motion and it passed 6-0 (Larry Durrence was not in attendance to vote for this item).

Thomas Weybright, 2136 Deerfield Drive, stated his home is located next to the subject property. Mr. Weybright asked members in the audience who would be opposed to the project to stand and 16 members stood. Mr. Weybright stated he is concerned about the additional traffic and the safety of the children in the area, the view from his property, and the general safety of the area.

In response to Mr. Weybright, Teresa Maio stated the architectural elevations were included in the property owner notification letters to give the neighbors an idea of what the proposal could look like but they are only one possible design.

Samer Fidy, 2128 Deerfield Drive, stated if the proposal is approved the area will turn into a rental area and he will sell his home.

Glenn Higgins made a motion for approval of the applicant's request for a continuance. Andrew Snyder seconded the motion and it passed 6-0 (Larry Durrence was not in attendance to vote for this item).

ITEM 2: Compatibility review to allow for the conversion of an existing detached garage to an accessory dwelling unit on property located at 217 Hunter Street. Owner: Timothy Strawbridge. Applicant: Rodda Construction Inc. (ADU18-005)

Phillip Scearce stated the subject property is located at the northeast corner of Hunter Street and south New York Avenue, and is located within the Dixieland Historic District. The request is to convert an existing 540 square foot detached garage into an accessory dwelling unit. The Design Review Committee of the Historic Preservation Board recommended approval of the project and elevations.

Tim Strawbridge, 217 Hunter Street, stated he would like to have the accessory dwelling unit to care for extended family members.

In response to Larry Durrence, Mr. Strawbridge stated the existing driveway would be used for the accessory dwelling unit. Matt Lyons stated the parking requirement will further be met by on street parking.

Glenn Higgins stated he supports the project.

Phillip Scearce presented recommended conditions to the Board.

Glenn Higgins made a motion for approval of staff's recommendation. Andrew Snyder seconded the motion and it passed 7-0.

ITEM 3: Modification of an existing PUD (Planned Unit Development) to relocate an existing stormwater pond and to allow for the construction of eight new single-family detached homes on approximately 3.9 acres located along Lathloa Loop within the Morgan Creek Preserve subdivision. Owner/Applicant: Landstar Lakeland, Inc. (PUD18-015)

Joshua Cheney stated the subject property is located on the north side of W. Pipkin Road at the intersection of Morgan Creek Parkway and Lathloa Loop. The applicant is requesting a minor modification to the existing PUD (Planned Unit Development) to modify the existing site development plan to allow for the relocation of an existing stormwater pond (located in the common area from the north side of the property to the east side of the property) to allow for the addition of eight lots to be developed with single-family residential homes. The request also includes the allowance for the construction of an additional parking area and a five-foot sidewalk around the proposed stormwater pond to connect to the proposed parking area to the existing parking area and other amenities.

John Hall, 5600 US Highway 98 North, introduced himself and David Carter.

David Carter, Carter Engineering, 137 5th Street Northwest, Winter Haven, stated the Morgan Creek project is a large development that is being developed in phases. During meetings with City staff and SWFMD no technical issues were found with reshaping the retention pond that exists on the subject property. The proposed density will be under the maximum allowed in the current PUD and the proposed lot sizes of 100 feet by 55 feet and are consistent with the minimum lot requirements and similar to most of the lots in this section of the development. Capacity exists for all utilities and the infrastructure will be easily directed to the new lots. The pond will stay similar in size and the view of the pond at the entrance to the community pond will remain. The location of the clubhouse and pond were originally considered to be within an airport runway protection zone for the Lakeland Linder Airport, and the construction of residences was prohibited in this area. This restriction has been lifted.

In response to Brent Burris, Mr. Carter stated the property on the east of the subject property is owned by the airport.

In response to Mr. Burris, Mr. Carter stated the amount of density proposed will be below the total allowed for the project.

In response to Mr. Burris, Mr. Carter stated the roadway, and water and sewer currently exists for further development on the site.

In response to Mr. Burris, Mr. Hall stated the benefit of the proposal is an increase of \$22,000.00 per year in increased assessments to the homeowner's association for the community. The association is currently close on the budget after a natural disaster related cost for the repair of damage to entrance gates to the community. The restriction of the overflight zone was removed from the area. Had the overflight zone restriction not initially been in place during the planning phase the area would have been planned for development in the original plan. In the community, where more than 300 lots are allowed, only 133 have been developed. The original pond was planned for 12,000 cubic feet but is 36,000 cubic feet in size after the developer used part of the fill during development.

In response to Mr. Burris, Teresa Maio stated Runway Five currently exists. Maps and FAA regulations in Polk County map out certain prohibitions within certain distances from runways both horizontally and vertically. The Transportation Planning Organization creates the maps which are adopted by the Joint Airport Zoning Board (JAZB). The maps previously included the area in the proposal in a restricted over flight zone. The maps have changed and this area has been removed from the restriction.

In response to Mr. Burris, Mr. Hall stated he is not sure there is a requirement to disclose the flight zone to new buyers in the area. Ms. Maio stated regardless of the overflight zone boundaries a condition that was adopted within the current PUD required the applicant to sign an aviation agreement acknowledging the proximity to the airport. Mr. Hall stated this information is provided to each new home owner at their closing.

In response to Andrew Snyder, Mr. Hall stated 52 lots are approved for phase two and will be built to the west of phase one, and phase three may be constructed on the north area of the subject property.

In response to Mr. Snyder, Mr. Hall stated residents in the phase one and phase two areas would initially utilize the existing clubhouse, and phase two will eventually have the use of a second clubhouse, play area and pool once they are constructed.

In response to Mr. Snyder, Mr. Hall stated the development of phase two will have access to W. Pipkin Road.

In response to Leigh Ann Lunz, Mr. Hall stated phase two will have 220 homes. Ms. Maio stated the PUD is not distinguished by phases but by Tracts A, B, and C on the adopted site development plan and is approved for 355 homes. Phase three is in two tracks located north of phase one.

In response to Ms. Lunz, Ms. Maio stated the allowance of homes on the property includes phases two and three for a total of 355 homes.

In response to Ms. Lunz, Mr. Hall stated the lot sizes of the planned lots are 100 feet by 55 feet, 5,500 square feet which is typical of the existing lots on Lathloa Loop.

In response to Lyle Philipson, Mr. Hall confirmed the PUD established a number of predetermined lots and lot sizes for all three phases. Ms. Maio stated the current conditions require that 54 percent of lots be a minimum of 5,500 square feet and 46 percent of lots required to be a minimum of 10,000 square feet. Mr. Hall stated the requirement for the minimum of 5,500 square feet is for 190 lots.

In response to Larry Durrence, Ms. Maio stated the City is part of JAZB and is aware of map changes; the maps were revised in 2017. The JAZB is adopting the revised maps. Mr. Hall stated no extensions are planned for the runway that would impact the subject property.

In response to Mr. Hall, Ms. Maio stated a petition and letters of opposition were entered into the case file.

Ray Feldwick, 4342 Tokose Place, stated 82 households have signed the petition protesting the proposal and some have made their opposition known by phone. The proposed changes are not compatible with the original PUD as the proposed homes were not platted in the original PUD. The proposal does not fit in with the description of the community. The estimated six percent increase in monies to be gained by the home owner's association is not substantial enough to justify the proposed changes. Phase two of the development has been in litigation since 2014, a case management conference has been ordered by Judge Combee in August 2018. Mr. Feldwick asks that the Board does not approve the modification prior to the status of the lawsuit is settled.

Beverly Humphries, 4604 Lathloa Loop, stated the change in the PUD would represent an unreasonable material breach in the original sales contract to the residents of Lathloa Loop facing the proposed new development as a major selling point was a view of the pond that would be obstructed by new homes. Her home has views of water from almost every window, some views would be obstructed by the proposal. Each homeowner paid a \$15,000 to \$30,000 premium for these particular lots on Lathloa which are zoned differently than homes not facing the pond. The proposed homes will decrease the quality of life throughout the community.

Corey Odom, 4620 Lathloa Loop, stated the developer recently deeded the subject property to himself from the residents of Morgan Creek Preserve. The proposal would cause a loss of greenspace and no other greenspace will exist in the neighborhood, the pond is established and contains lots of wildlife, and storage for recreational vehicles was required in the original PUD on the site.

Thomas Milthailer, 4608 Lathloa Loop, stated the original PUD allowed space for RV storage and mentioned concerns about the developer proposing to lease spaces to the public for profit as well as the company created by Mr. Hall whose operation is listed with the address of the Morgan Creek Preserve Clubhouse.

Stacey Coroza, address prohibited by disclosure, stated her family moved to Lakeland for the small-town feel, amenities and conveniences of a large city.

Lynn Lutton, address prohibited by disclosure, stated her family moved to the area one month ago from Orlando to retire at Morgan Creek Preserve. She believes that the proposal would diminish the integrity of the community, and is concerned about flooding in the community without the retention pond as it exists currently.

Jeff Brumbaugh, 4358 Tokose Place, is concerned that the developer will not build a second pool or clubhouse or entrance to the community to accompany the second phase of development.

Jamie Nicholson, 4625 Lathloa Loop, stated his home would have been flooded during Hurricane Irma if the subject property were different at the time and the proposed parking lot would become his side yard.

Mr. Feldwick, read the petition submitted by the residents in opposition to the project into the record. The petition is available in the case file.

Mr. Hall stated the pond will not be eliminated but relocated; the proposed parking lot was designed as an amenity for the residents; phase three would probably not be built; 355 lots in phases one and two have already been approved, and the applicant would like to relocate some of the lots into a different area of the PUD. He added that the PUD would need to be revised if the developer did not intend to build a second clubhouse. Mr. Hall also discussed information brought up concerning lot fees and other topics that are currently being reviewed within the ongoing litigation.

In response to Mr. Durrence, Mr. Hall stated he has no knowledge of the developer promising a view to home buyers.

In response to Mr. Durrence, Ms. Maio stated the original site plan adopted with the PUD depicts specific areas shown for clubhouse amenities.

In response to Mr. Philipson, Ms. Maio stated the site development plan depicts the minimum 20,000 square foot club house location to be built in phase two and a 5,000 square foot tot lot to fulfill the open space requirement in addition to the area that is being discussed.

In response to Mr. Durrence, Ms. Maio stated the RV storage area was depicted in the site development plan adopted within the PUD.

Several members of the audience raised their hands in positive response to the question posed by Mr. Durrence concerning RV storage in a presentation within the original PUD.

In response to Mr. Burris, Mr. Hall stated the subject property being reviewed for the proposed eight additional lots is a combination of land and a portion of the retention pond.

In response to Mr. Burris, Mr. Hall stated the proposed lots would possibly use the fill dug from the existing land area.

In response to Mr. Burris, Mr. Hall stated the applicant would propose to relocate the aquatic vegetation established in the pond which would allow for little growth in time for aquatic vegetation. Most of the bank of the pond is open space and the relocation of the pond and vegetation has been reviewed by SWFMD,.

In response to Ms. Maio, Mr. Hall stated the applicant intends to relocate the existing oak trees from the development site to the new pond location and would be replaced if they could not be relocated.

Andrew Snyder, Stephanie Franklin and Larry Durrence asked questions concerning the cost of the land transfer and land removal process, the rental and utilities paid to the home owner's association, and real estate services as they related to the benefit of home owners.

Mr. Durrence recommended a continuance of the hearing. Ms. Maio explained the hearing process and recommended a continuance to August or September to allow staff the opportunity to review the issues that have been presented during the public hearing. Mr. Hall stated the court hearing in August is a case management hearing related to the ongoing litigation and a resolution may not be made at that hearing.

Glenn Higgins made a motion for a one month continuance, Andrew Snyder seconded the motion and it passed 7-0.

Mr. Burris requested to reopen the motion to revise the motion, the motion did not carry for a lack of a second of the motion.

ITEM 4: Application of LD (Limited Development) zoning and a conditional use to allow for the development of an athletic complex for Florida Southern College on approximately 23.2 acres generally located on the east side of Lakeland Highlands Road across from the Glendale Wastewater Treatment Plant. Owner: E. Edward Jr. & Mary Ann Holloway. Applicant: Florida Southern College. (ZON18-005/CUP18-007)

Todd Vargo stated the subject property is located across the street from the Glendale Wastewater Treatment Plant and is adjacent to Holloway Park. The property was not assigned a zoning designation when it was annexed into the City. The requested zoning district and conditional use permit would allow for an athletic complex. The athletic complex includes multi-use practice fields, a track and field complex and support facilities such as parking, restrooms and concessions.

V. Terry Dennis, Florida Southern College, 111 Lake Hollingsworth Drive, stated the college has previously rented space for athletic use on New Jersey Road but this has been inadequate and the lot is within a residential area. The subject property will accommodate a full field for lacrosse practice.

In response to Stephanie Franklin asks, Mr. Dennis stated portable restrooms would be on site during this first phase of development.

In response to Larry Durrence, Mr. Dennis stated the Holloway Park will be accessible to the subject property on the north; the main entrance to Holloway Park will include a new east-west road from the original entrance on Lakeland Highlands Road, and the sites will work together during large events for transportation.

In response to Brent Burris, Teresa Maio stated there are portions of the surrounding area with Limited Development (LD) zoning that are under the ownership of the Holloway Park Foundation and the Holloway Park is a private park. Zoning was not assigned to the property to the south of the subject property.

ITEM 5: Modification of the existing Special Public Interest (SPI) zoning district overlay for Florida Southern College to allow classrooms and administrative offices for an early childhood learning lab and teaching program for pre-school aged children on property located at the northwest corner of Frank Lloyd Wright Way and Jefferson Avenue. Owner: Florida Southern College. Applicant: City of Lakeland. (SPI18-001)

Matt Lyons stated the request is a City initiated application to amend the existing SPI (Special Public Interest) overlay over Florida Southern College. The SPI is the document that regulates future development and expansion of the Florida Southern College campus and was last amended in 2012. The subject property is at the northwest corner of Jefferson Avenue and Frank Lloyd Wright Way and just west of the Roberts Academy, and is approximately .51 acres in area consisting of three vacant residential lots. Within the zoning overlay the property is within Sub District C, the residential scale buffer on the perimeter of the Florida Southern College campus. The proposed change would incorporate the property into the same sub-district as Roberts Academy, sub-district E, allowing for an early learning lab. Roberts Academy is a private transitional school for children with learning disabilities and is operated by Florida Southern College. A proposed two-story building would be 34 feet in overall height with approximately 18,000 square feet in space.

In response to Stephane Franklin, Matt Lyons stated the total square footage is 18,000.

Teresa Maio stated the effect of modifying the SPI would adopt a specific site plan for the property.

V. Terry Dennis, Florida Southern College, 111 Lake Hollingsworth Drive, stated the property was acquired by Florida Southern College in 2016 and the demolition of the former home on the site was approved by the Historic Preservation Board. Florida Southern has traditionally operated a school for younger children through Roberts Academy in two different areas on campus, the proposal will house the smaller children and some college age students in one location. The count for early learning students will grow by 20 to 25 students.

Tim Wagoner, the Lunz Group, 58 Lake Morton Drive, stated the setbacks follow 30-foot front, 20-foot side, and 25-foot rear setbacks. The southwest portion of the building will be used primarily by college students and faculty whereas the early learning center will be on the southeast portion. Both the first and second floors will consist of the early learning lab, public entry and faculty offices.

In response to Larry Durrence, Mr. Wagoner stated the applicant will attempt to keep as many trees on the site as possible, and a wooden privacy fence currently exists on the property and would be maintained or replaced as needed. The applicant will supplement the vegetation with a landscape buffer. Matt Lyons stated the typical buffer requirement next to a residence would be a six-foot-high view blockage fence or wall and a seven-and-a-half-foot wide landscape strip with trees. Teresa Maio stated the SPI overlay adds requirements to the underlying zoning. Mr. Dennis stated the applicant may ask for approval for eight-foot fencing in the future. Discussion ensued.

In response to Mr. Durrence, Mr. Dennis stated there will be no increase in trips for college aged students and faculty, and any additional impact on traffic will come from the early learning program with an addition of 20 to 25 students. Hours of operation on full days will be from 9:00 am to 3:30 pm, half days and three or five day schedules will be offered so attendance by the students will be staggered. The existing pickup/drop-off process at Roberts Academy will remain at the Roberts Academy and a shuttle will transport students to and from the subject property.

In response to Stephanie Franklin, Mr. Dennis stated the outdoor space at Roberts Academy will be used for the subject property and a courtyard playground will be constructed on the subject property.

In response to Ms. Franklin, Mr. Dennis stated wheelchair bound children would be dropped off at front door. Mixed aged children will be utilizing stairs and elevators that separate students by age.

Bobby Baum, Cumberland Neighborhood Association, 1045 Cumberland Street, stated he is concerned about the increased traffic and requests a crosswalk to be added across Frank Lloyd Wright Way and Jefferson Avenue. Chuck Barmby stated staff is considering a crosswalk at Frank Lloyd Wright Way and Jefferson Avenue.

GENERAL MEETING

ITEM 6: Review minutes of the June meeting.

Stephanie Franklin commented on the recently approved land use and zoning (LUS18-001/PUD18-006/ZON18-004) for the Webster Avenue Warehouse. She noting having seen two large semis parked back to back at 4:05 pm on Webster Avenue, and asked for someone to monitor traffic in the area. Teresa Maio stated Code Enforcement can enforce compliance in the area with the conditions that were approved by the Board if there is a violation.

Glenn Higgins made a motion for approval of the minutes from the June meeting. Andrew Snyder seconded the motion and it passed 7-0.

ITEM 7: Overview of Administrative Adjustments approved from January to June.

Teresa Maio stated every six months the staff summarizes administrative approvals to apprise the board of the exceptions to the LDC that are approved administratively.

ITEM 8:

Election of new officers.

**Current officers: Stephanie Franklin, Chair
Andrew Snyder, Vice-Chair
Cindy Green, Secretary**

Teresa Maio chaired the meeting for this item. She informed the Board that Cindy Green has left the Board and has left a vacancy for the Secretary position on the Board. Glenn Higgins volunteered to act as the Board Secretary.

**New officers: Stephanie Franklin, Chair
Andrew Snyder, Vice-Chair
Glenn Higgins, Secretary**

Andrew Snyder made a motion for approval of the slate of officers as presented. Larry Durrence seconded the motion and it passed 7-0.

ITEM 9: Report of City Commission action on Planning and Zoning Board recommendations.

Teresa Maio reviewed the recent actions of the City Commission.

ITEM 10: Director's Report.

Teresa Maio reviewed the new cases for the August hearing.

ITEM 11: Audience.

There were no comments from the audience.

ITEM 12: Adjourn.

There being no further discussion, the meeting was adjourned at 11:40 am.

Respectfully Submitted,

Stephanie Franklin, Chair

Andrew Snyder, Vice-Chair

MINUTES

Planning & Zoning Board
City Commission Chambers
Tuesday, August 21, 2018
8:30 a.m.

The City of Lakeland Planning and Zoning Board met in Regular Session on Tuesday, August 21, 2018 in the City Commission Chambers. Stephanie Franklin (Chair), Andrew Snyder (Vice-Chair), Larry Durrence, Glenn Higgins, Leigh Ann Lunz and Lyle Philipson were present. Community and Economic Development Department staff Teresa Maio, Planning Manager; Chuck Barmby, Transportation Manager; Tom Wodrich, Chief Planner; Matthew Lyons, Principal Planner; Todd Vargo, Senior Planner; Joshua Cheney, Senior Planner; and Brandy Gillenwater, Secretary were present. Assistant City Attorney Palmer Davis was also present.

PUBLIC HEARING

ITEM 1: PUD (Planned Unit Development) zoning to allow a floor coating company within an existing building located at 805 Kathleen Road. Owner: Herbert Hamic Sr. Applicant: JSK Consulting. (PUD18-016)

Joshua Cheney stated the subject property is located on the east side of Kathleen Road, north of Pear Street. JSK Consulting is representing Alafia Coatings who would like to relocate their existing business from Highway 60 in Mulberry to the subject property on Kathleen Road.

Matthew Johnson, JSK Consulting, 5904 Hillside Heights Drive, stated Alafia Coating is looking to relocate to the subject property.

In response to Glenn Higgins, Mr. Johnson stated the existing building will be renovated and additional landscaping and parking will be added to the property.

In response to Teresa Maio, Mr. Johnson stated the applicant does not intend to store materials or work outside the building.

In response to Stephanie Franklin, Mr. Johnson stated some parking will be for trucks hauling equipment with one entrance/exit to the subject property with additional landscaping.

In response to Ms. Maio, Mr. Johnson stated the trip generation would be similar to what is currently expected for the existing auto repair business on site.

Ms. Maio stated the request is for a PUD as the intended use is a hybrid of light industrial and retail as the company performs work offsite, and a concept plan has been reviewed by the Development Review Team.

In response to Ms. Maio, Mr. Cheney stated the request would require a site plan review because of the change in use. The site will be used for office and shop uses and most materials will be staged offsite where the work is being done.

In response to Glenn Higgins, Ms. Maio stated the Land Development Code use list is antiquated and staff determined the impacts of the existing use and that of the proposed use to be similar.

In response to Larry Durrence, Ms. Maio stated no additional construction would be completed on the site.

ITEM 2: Changes in future land use designation from Business Park (BP), Mixed Commercial Corridor (MCC), and Residential Medium (RM) to Recreation (R); changes in zoning from RA-4 (Single-Family) and I-2 (Medium Industrial) to LD (Limited Development), and application of a conditional use to allow a private park on approximately 165 acres generally located south of US Highway 92, north of George Jenkins Boulevard, and west of Kathleen Road. Owner: Multiple. Applicant: Bonnet Springs Park. (LUL18-001) (ZON18-008) (CUP18-010)

Tom Wodrich stated the request is to reduce the intensity of prior uses on the subject property. The subject property is located south of US Highway 92 and north of George Jenkins Boulevard, and is proposed to be converted into a park. The site is being cleared of exotic vegetation and garbage, and is being remediated from years of heavy industrial uses. The request is for Recreation (R) future land use and LD (Limited Development).

Bill Tinsley, 4501 Clemons Road, stated the property was acquired to develop into a 180-acre park. The land has not been maintained and was used to repair steam engines. Many of the neighboring residents are descendants of the workers of the former railyard that existed on the site. The proposed urban park is intended to connect northwest Lakeland to downtown Lakeland. The entrance to the park will be located on George Jenkins Boulevard and vehicles that visit the site will remain on the eastern section of the property. An approximately two-mile-long circulator road will connect the four zones of the park. Several amenities will be available including the Explorations V Children's Museum, canopy walks, a restaurant, and an open space for large, outdoor events. Lake Bonnet will aid in the cleansing process of the area. The park has been privately funded and will be maintained as a public park under private leadership.

In response to Glenn Higgins, Mr. Tinsley stated the first phase of the plan is due to open in December of 2020.

In response to Lyle Philipson, Mr. Tinsley stated the operation will have retail revenue. Residential support will come from the projects that are planned to be constructed on the former Florida Tile site. The revenue for the park will be generated from the restaurant, rental of activities, and big events.

In response to Mr. Philipson, Mr. Tinsley stated the City would not pay for the park.

In response to Larry Durrence, Mr. Tinsley stated a pedestrian pathway will connect the park to the residential area on Kathleen Road. A 1,600-foot berm will be developed between the industrial property and the park. The City has planned a pedestrian connection at the area known as five points at Lake Beulah where a lot of pedestrian and bicycle traffic currently exists.

In response to Mr. Durrence, Mr. Tinsley stated the concurrency data is compiled from daily use not special event activities. The Florida Department of Transportation is considering options for transportation during large events.

In response to Mr. Durrence, Mr. Tinsley stated the City is considering transit including school bus trips at the park.

In response to Ms. Franklin, Mr. Tinsley stated the entrance will be constructed at the intersection at George Jenkins Boulevard and Sloan Avenue. Discussion ensued.

Audrey Figgs, 241 N. Crescent Avenue, stated she has lived in the area for 28 years and represents the Crescent Heights subdivision and that the area has been neglected by the City of Lakeland. She does not want to pay higher taxes on the property she owns in the area and the neighborhood does not have sanitary sewer.

Eric Greenhow, Sloan Avenue, is concerned that the proposed zoning change will negatively affect future construction on the lot he owns in the area. Teresa Maio stated staff would contact Mr. Greenhow regarding the zoning of his property.

ITEM 3: Change in context district, from Suburban Neighborhood (SNH) to Suburban Special Purpose (SSP) on two parcels with a total of 165.31 acres located north of I-4 and south of State Road 33. Owner: Ruthven I-4 LLC. Applicant: City of Lakeland. (ZON18-009)

Matthew Lyons stated the request applies to a piece of property located north of I-4 and south of State Road 33, about a mile and a half east of the I-4 and Hwy 33 interchange. The currently vacant property was zoned PUD (Planned Unit Development) in 2007 for future warehouse development. The PUD allows for I-2 (Medium Industrial) uses. The context district of Suburban Neighborhood (SNH) was applied to the property in 2013 which is typically used for residential developments with setbacks and lot coverages that are appropriate for residential developments. The more appropriate classification for the property is Suburban Special Purpose (SSP) with setbacks and lot coverages for industrial parks and is consistent with the Green Swamp Area of Critical Concern. The proposal will not affect the entitlements of the property owner.

GENERAL MEETING

ITEM 4: Review minutes of the July meeting.

Lyle Philipson made a motion for approval of the minutes from the July meeting. Andrew Snyder seconded the motion and it passed 6-0.

ITEM 5: Modification of the existing Special Public Interest (SPI) zoning district overlay for Florida Southern College (Ordinance 5164) to allow classrooms and administrative offices for an early childhood learning lab and teaching program for pre-school aged children on property located at the northwest corner of Frank Lloyd Wright Way and Jefferson Avenue. Owner: Florida Southern College. Applicant: City of Lakeland. (SPI18-001)

Matthew Lyons stated the subject property is currently vacant and is located within the Biltmore Cumberland Historic District at the northwest corner of Jefferson Avenue and Frank Lloyd Wright Way. A large single-family home and accessory dwelling unit previously existed on the subject property until 2017 when the property was acquired by Florida Southern College and the structures were demolished. The lot is located near the Roberts Academy and will have similar uses such as classroom space and office space. A two story building is proposed to be constructed on the property and specific conditions regarding the pickup and drop off of students are required.

Chuck Barmby stated the requirement for the proposed building is that student drop off and pick up activities will occur at Roberts Academy and students will be shuttled between the buildings. Pedestrian crossing concerns voiced by the community brought about a review of the area and a complete plan will be reviewed during site plan review.

Leigh Ann Lunz recused herself from the vote. Glenn Higgins made a motion for approval of the recommendation. Larry Durrence seconded the motion and it passed 5-0.

ITEM 6: Application of LD (Limited Development) zoning and a conditional use to allow for the development of an athletic complex for Florida Southern College on approximately 23.2 acres generally located on the east side of Lakeland Highlands Road across from the Glendale Wastewater Treatment Plant. Owner: Holloway Park Foundation Inc. Applicant: Florida Southern College. (ZON18-005/CUP18-007)

Todd Vargo stated zoning was not applied to the property when it was annexed into the City. The athletic complex is to be developed in two phases with the first phase being a multipurpose practice field and parking areas; and the second phase will be a track and field complex with concession, lockers and restrooms.

In response to Glenn Higgins, Mr. Vargo stated other recreational facilities exist in the area.

Glenn Higgins made a motion for approval of the recommendation. Andrew Snyder seconded the motion and it passed 6-0.

Todd Vargo stated the second condition of approval concerning the access easement can be deleted as the property has been purchased by Florida Southern College.

Glenn Higgins made a motion to amend the motion to remove condition two. Larry Durrence seconded the motion and it passed 6-0.

Larry Durrence made a motion for approval of the recommendation with the removal of condition two. Andrew Snyder seconded the motion and it passed 6-0.

ITEM 7: Minor modification of an existing PUD (Planned Unit Development) to relocate an existing stormwater pond and to allow for the construction of eight new single-family detached homes, on approximately 3.9 acres located along Lathloa Loop within the Morgan Creek Preserve subdivision. Owner: Landstar Lakeland Inc. Applicant: Dave Carter. (PUD18-015)

Palmer Davis stated several details regarding a lawsuit between the property owner and residents were heard during the previous hearing and the Board should base their decisions regarding the PUD modification only on whether the request is compatible with the Land Development Code and the surrounding area.

Joshua Cheney stated the subject property is located within the Morgan Creek Subdivision, has a Recreation (R) future land use designation and is allocated for recreation and RV storage. In compliance with the PUD, the parcel presently consists of stormwater ponds and recreational facilities including a clubhouse, swimming pool, and open playfield. The request is for a modification to the PUD allowing for the repositioning of the stormwater pond located on the northern edge of the subject parcel in order to construct eight new single-family attached homes in its place. The developer seeks to add additional homes without increasing the total density of the project.

In response to Stephanie Franklin, Glenn Higgins stated after his visit to the site he determined that the proposed homes would not be compatible with the existing development in the subject area and the property values would decrease. Larry Durrence stated building new homes in front of the existing homes would transfer the value of the waterfront view to the new homeowners when the existing homeowners

paid premiums for the lots on which their homes were built. Lyle Philipson stated any changes to the layout should have been shown to the homeowners before the property was purchased.

In response to Mr. Philipson, Palmer Davis stated the Board should only analyze the compatibility of the proposal.

In response to Ms. Lunz, Teresa Maio stated the eight lots would have been allowed without the Runway Protection Zone in place when the property was initially developed.

Glenn Higgins made a motion for denial of the recommendation. Andrew Snyder seconded the motion and it passed 5-1. Leigh Lunz opposed.

ITEM 8: Plat approval for Lakes at Laurel Highlands Phase 2B generally located east of Airport Road and north of Winston Park Boulevard. (SUB17-009)

Joshua Cheney stated a plat of Phase 2B of the Lakes at Laurel Highlands has been submitted by American Surveying and Mapping Incorporated. The plat consists of 152 lots on 51.86 acres generally located east of Airport Road and south of Winston Park Boulevard. The plat has been reviewed by all departments and is conforming with the City's subdivision regulations within the Land Development Code. Staff recommended approval of the plat.

In response to Andrew Snyder, Chuck Barmby stated the north Parkway Frontage road will be completed with the completion of Phase 3. Teresa Maio stated a concept plan will be reviewed during the next DRT meeting for Phase 2A.

In response to Mr. Snyder, Mr. Barmby stated the Waring Road and Drane Field Road intersection is a priority of the Polk Transportation Planning Organization. The Florida Department of Transportation is currently looking at available funding for the intersection, the review will be available in October.

Glenn Higgins made a motion for approval of the recommendation. Andrew Snyder seconded the motion and it passed 6-0.

ITEM 9: Report of City Commission action on Planning and Zoning Board recommendations.

Teresa Maio reviewed the recent actions of the City Commission.

ITEM 10: Director's Report.

Teresa Maio reviewed the new cases for the September hearing.

ITEM 11: Audience.

There were no comments from the audience.

ITEM 12: Adjourn.

There being no further discussion, the meeting was adjourned at 10:04 am.

Respectfully Submitted,

Stephanie Franklin, Chair

Glenn Higgins, Secretary

**CITY OF LAKELAND
CITY COMMISSION**

APPEAL: PROJECT NO. *PUD 18-015*

**OWNER/APPLICANT’S APPEAL OF CITY OF LAKELAND
PLANNING & ZONING BOARD’S AUGUST 21, 2018 DECISION
& DENIAL OF APPLICATION**

COMES NOW, Owner, Landstar Lakeland, Inc., and Applicant, Dave Carter of Carter Engineering, (hereinafter together: “LANDSTAR/CARTER”), pursuant to Section 12.7.3, City of Lakeland Land Development Code, and Section 163.3215, Florida Statutes, and file this Appeal of the City of Lakeland Planning & Zoning Board’s August 21, 2018, Decision & Denial of Application to the City of Lakeland City Commission, (and *request that this Appeal be heard before the City Commission on September 17, 2018*) as follows:

Background

1. The subject project, PUD 18-015, is an application on the part of LANDSTAR/CARTER for a minor-modification of an already existing Planned Unit Development (“PUD”) to, as set forth in the City of Lakeland Community and Economic Development Staff Recommendation, “relocate an existing storm water pond and to allow for the construction of eight [(8)] new single-family detached homes [*(of effectively the very same lot size/density as those currently in existence directly in front of/across the street from the proposed/applied for homes)*], on approximately 3.9 acres located along Lathloa Loop within the Morgan Creek Preserve subdivision”. (Emphasis added.)

2. At the discretion of the Director of Community Development, such an

application for minor modification of a PUD can either be administratively approved by the Director of Community Development or such an application for minor modification of a PUD can be referred to the Planning & Zoning Board (along with a Staff Recommendation from Community and Economic Development). In this instance, the Director of Community Development referred the application for minor modification to the Planning and Zoning Board for public hearing on July 17, 2018.

3. At the Planning and Zoning Board hearing on July 17, 2018, the vast majority of any testimony and/or evidence presented by all of those individuals/nearby residents who were/are in opposition to LANDSTAR/CARTER's application and who spoke at the hearing ("the OPPOSITION") constituted, in summary, the following: (1) that we just don't want homes to replace the storm water pond; for the very few residents living directly across the street from the subject property: we'd rather look out our front doors/windows/yards at a pond than at homes; the pond is prettier than homes; (2) for the very few residents living directly across the street from the subject property: we thought we were going to have the pond in front of us forever/into perpetuity; (3) the owner, LANDSTAR, is involved in a pending lawsuit dealing and related to another portion of the overall development and we think this will have an impact on whether LANDSTAR will continue to be in control or whether the homeowners association will be in control of the development; (4) for the very few residents living directly across the street from the subject property (without any expert testimony and/or credible proof): that either this minor modification will diminish the value of our homes and/or we purchased our homes at an added premium due to the storm water pond being located directly in front of us; and (5) we think LANDSTAR and its representative(s) is/are a bad guy/people and that he/they are taking advantage of us and/or are simply doing bad things to us.

4. However, as part of all of the OPPOSITION's

testimony/evidence/arguments above, conspicuously, alarmingly and very importantly, the OPPOSITION did not present any actual and/or credible testimony and/or evidence to prove that the applied for minor modification was/is inconsistent with the City of Lakeland Comprehensive Plan and/or Land Development Code, including whether it would be incompatible, etc.

5. On August 21, 2018, the Planning and Zoning Board voted 5-1 denying LANDSTAR/CARTER’s application for the minor modification (even though the Community and Economic Development Staff presented and relayed their recommendation for approval of the application to the Planning and Zoning Board).

ARGUMENT

6. The gist of all the testimony/evidence/arguments made by the OPPOSITION, as summarily set forth in paragraph 3 above, were/are *red-herrings and completely irrelevant* to the issue before the Planning and Zoning Board, which is: whether the applied for minor modification is consistent with the City of Lakeland Comprehensive Plan (along with the Land Development Code), including, in particular, whether the applied for minor modification is compatible. Pursuant to Section 1.6, “Definitions”, of the City of Lakeland Land Development Code –and- Policy 8D of the Future Land Use Element of the City of Lakeland Comprehensive Plan, “*Compatible*” is defined as follows: “*In harmony with the surrounding land uses, context, building forms and environment.*” (Emphasis added.)

7. There was absolutely no actual and/or credible evidence disputing that the applied for modification (*8 homes of effectively the very same lot size/density as those currently in existence directly in front of/across the street from the proposed/applied for homes*) was/is “[i]n harmony with the *surrounding* land uses, context, building forms and

environment”. (Emphasis added.) For that matter, given what is being proposed by LANDSTAR/CARTER, even from a subjective perspective, it simply cannot/could not ever be said, *at least with any shred of credibility*, that the minor modification with 8 homes of effectively the very same lot size/density as those currently in existence directly in front of/across the street from the proposed/applied for homes, is not “in harmony with the *surrounding* land uses, context, building forms and environment”. (Emphasis added.)

8. The applied for minor modification is *compatible* pursuant to the City of Lakeland Comprehensive Plan (and Land Development Code), and there was no substantial, competent evidence to prove or show that the applied for minor modification was/is incompatible.

9. In a desperate attempt to persuade the Planning and Zoning Board, the OPPOSITION effectively turned the analysis and consideration of the Planning and Zoning Board away from any true analysis and consideration of compatibility and/or relevant criteria of the Comprehensive Plan, to other completely irrelevant matters that may or may not be appropriate in a separate venue (e.g., a courtroom), but certainly was/is not appropriate before the Planning and Zoning Board and the consideration they are to be limited to and legally charged to engage in and address.

10. As to the OPPOSITION’s testimony/evidence/argument, as summarized above in paragraph 3, ‘that we just don’t want homes to replace the storm water pond; for the very few residents living directly across the street from the subject property, we’d rather look out our front doors/windows/yards at a pond than at homes; the pond is prettier than homes’: Such testimony/arguments do not address “compatibility” and is a red-herring and is irrelevant. The question for the Planning and Zoning Board is not whether or not nearby residents “like” what is being proposed. The question for the Planning and Zoning Board is whether what is being

proposed is “[i]n harmony with the *surrounding* land uses, context, building forms and environment”. (Emphasis added.)

11. As to the OPPOSITION’s testimony/evidence/argument, as also summarized above in paragraph 3: ‘that for the very few residents living directly across the street from the subject property, we thought we were going to have the pond in front of us forever/into perpetuity’: First, such testimony/argument is not relevant for purposes of the Planning and Zoning Board’s consideration, does not address “compatibility” and is a red-herring. *If* any resident actually believes they were legally misled by the developer and/or a builder (which LANDSTAR otherwise wholeheartedly denies) for purposes of the storm water pond being in place for perpetuity, then a court of law is the appropriate venue to determine and/or provide a remedy for such; the Planning and Zoning Board does not have the authority or purview to consider and determine whether such occurred and is not at all suited to make any such extreme determination. Moreover, even if the Planning and Zoning Board did have the authority and purview to consider such and make such determination, there was no credible/reliable evidence offered by the OPPOSITION to show or prove that any such legal misrepresentation occurred. (The most accurate conclusion one could come to given the testimony presented is that some of the residents, at best, *assumed* the storm water pond would be in place for perpetuity. Nothing more was offered to suggest otherwise.)

12. As to the OPPOSITION’s testimony/evidence/argument, as also summarized above in paragraph 3, ‘that the owner, LANDSTAR, is involved in a pending lawsuit dealing and related to another portion of the overall development and we think this will have an impact on whether LANDSTAR will continue to be in control or whether the homeowners association will be in control of the development’: First, such testimony/argument is not relevant for purposes of the Planning and Zoning Board’s consideration, does not address “compatibility” and is a

red-herring. Moreover, as has also been substantiated by the City Attorney's Office in the meantime and since the July 17, 2018, hearing, the referenced pending lawsuit: is unrelated to the property upon which the 8 applied for homes are to be constructed; is a "money-damages" case and is, therefore, not directed at LANDSTAR's ownership status of the development/Morgan Creek Preserve and the property therein; and is so far unrelated to this applied for minor-modification that to involve the pending lawsuit in the analysis and consideration of the applied for minor-modification would be to do so upon wholly inappropriate speculation.

13. As to the OPPOSITION's testimony/evidence/argument, as also summarized above in paragraph 3, 'for the very few residents living directly across the street from the subject property (without any expert testimony and/or credible proof), that either this minor modification will diminish the value of our homes and/or we purchased our homes at an added premium due to the storm water pond being located directly in front of us': First, such testimony/argument is not relevant for purposes of the Planning and Zoning Board's consideration, does not address "compatibility" and is a red-herring. Furthermore, no real-estate/appraisal related expert testified to any negative impact on the value of any of the existing homes; without any such expert testimony, such testimony/evidence/argument otherwise is not credible and not valid. Moreover, there was no credible/reliable evidence offered by the OPPOSITION to show or prove at all that an added premium was paid due to the storm water pond being located directly in front of a very few of the residents' homes.

14. As to the OPPOSITION's testimony/evidence/argument, as also and finally summarized above in paragraph 3, 'we think LANDSTAR and its representative(s) is/are a bad guy/people and that he/they are taking advantage of us and/or are simply doing bad things to us': Such testimony/argument is not relevant for purposes of the Planning and Zoning Board's

consideration, does not address “compatibility” and is a red-herring. *If* any resident actually believes that LANDSTAR took advantage of him/her and/or did bad things to him/her, and as a result cause him/her damage, then a court of law is the appropriate venue to determine and/or provide a remedy for such; the Planning and Zoning Board does not have the authority or purview to consider and determine whether such occurred and is not at all suited to make any such extreme determination.

Conclusion

Based upon all of the foregoing, and pursuant to Section 12.7.3, City of Lakeland Land Development Code and Section 163.3215, Florida Statutes, the decision of the Planning and Zoning Board of August 21, 2018, denying LANDSTAR/CARTER’s application for minor-modification to the subject PUD, should be REVERSED by the City Commission since, *inter alia*:

*”the Planning and Zoning Board failed to properly apply adopted standards or regulations [(i.e., the Planning and Zoning Board failed to base their consideration and decision on the only appropriate issue before them: whether the applied for minor modification is consistent with the City of Lakeland Comprehensive Plan (along with the Land Development Code), including whether such applied for minor modification is “compatible” as limited to and defined by the City of Lakeland Comprehensive Plan and Land Development Code)]” (Section 12.7.3(b), Land Development Code);

*”no competent, substantial evidence was presented to the Planning and Zoning Board to support its decision” (Section 12.7.3(d), Land Development Code); and

*LANDSTAR/CARTER “will suffer an adverse effect to an interest protected or furthered by the local government [(City of Lakeland)] comprehensive plan...” (Section

12.7.3, Land Development Code –and- Section 163.3215(2), Florida Statutes).

Thus, the City of Lakeland City Commission should REVERSE the decision of the Planning and Zoning Board that denied LANDSTAR/CARTER’s application for minor modification to the subject PUD, and enter an Order consistent therewith and GRANTING LANDSTAR/CARTER’s application for the minor modification and any such other approvals consistent therewith.

GEOHAGAN, P.A.

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