

CASE # RZ-19-07-019

Commission District: #3

GENERAL INFORMATION

APPLICANT	Max Sabeti, New Earth Properties, LLLP
APPELLANT	Mike Alderman
OWNER	May Luke
HEARING TYPE	Planning and Zoning Commission Appeal
REQUEST	R-1A (Single-Family Dwelling District) to R-2 (Residential District)
LOCATION	754 N. Forsyth Road; generally west of N. Forsyth Road, east of Dennis Avenue, south of Curtis Street, and north of Heather Road
PARCEL ID NUMBER	22-22-30-0000-00-027 and 22-22-30-0000-00-134
TRACT SIZE	31.51 gross acres
PUBLIC NOTIFICATION	The notification area for this public hearing was 500 feet [Chapter 30-40(c)(3a) of the Orange County Code requires 300 feet]. Three hundred ninety-seven (397) notices were mailed to those property owners in the mailing area. A community meeting was held on October 14, 2019 at Forsyth Woods Elementary School, and is summarized on page 5 of this report.
PROPOSED USE	Fifty-Four (54) Detached Single-Family Residential Dwelling Units

STAFF RECOMMENDATION

PLANNING

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-2 (Residential District) zoning, subject to the following restriction:

- 1) Development shall be limited to a maximum of fifty-four (54) single-family dwelling units.

IMPACT ANALYSIS

Land Use Compatibility

The R-2 (Residential District) zoning would allow for development that is compatible with the character of the surrounding area and would not adversely impact adjacent properties.

Comprehensive Plan (CP) Consistency

The underlying CP Future Land Use Map (FLUM) designation of the subject property is Low Medium Density Residential (LMDR). The proposed R-2 (Residential District) zoning is consistent with the Low Medium Density Residential FLUM designation and the following Comprehensive Plan provisions:

FLU1.4.1 states Orange County shall promote a range of living environments and employment opportunities in order to achieve a stable and diversified population and community.

FLU1.4.2 states that Orange County shall ensure that land uses changes are compatible with and serve existing neighborhoods.

GOAL FLU2 states that Orange County will encourage urban strategies such as infill development, coordinated land use and transportation planning, and mixed-use development, which promote efficient use of infrastructure, compact development and an urban experience with a range of choices and living options.

FLU8.1.1 states that the zoning and future land use correlation shall be used to determine consistency with the Future Land Use Map. Land use compatibility, the location, availability and capacity of services and facilities, market demand, and environmental features shall also be used in determining which specific zoning district is most appropriate. Density is restricted to the maximum and minimum allowed by the Future Land Use Map designation regardless of zoning.

OBJ FLU8.2 states that compatibility will continue to be the fundamental consideration in all land use and zoning decisions.

FLU8.2.1 states that land use changes shall be required to be compatible with existing development and development trend in the area. Performance restrictions and/or conditions may be placed on property through the appropriate development order to ensure compatibility. No restrictions or conditions shall be placed on a Future Land Use Map change.

FLU8.2.11 states that compatibility may not necessarily be determined to be a land use that is identical to those uses that surround it. Other factors may be considered, such as the design attributes of the project, its urban form, the physical integration of a project and its function in the broader community, as well its contribution toward the Goals and Objectives in the CP. The CP shall specifically allow for such a balance of considerations to occur.

SITE DATA

Existing Use	Undeveloped Land
Adjacent Zoning	N: R-3 (Multiple-Family Dwelling District) (1974), R-1A (Single-Family Dwelling District) (1957) E: R-2 (Residential District) (1988) W: R-1A (Single-Family Dwelling District) (1957) S: A-2 (Farmland Rural District) (1957) <i>*No zoning restrictions apply to the above zoning districts</i>
Adjacent Land Uses	N: Single-Family Residences, Undeveloped land E: Conservation Land W: Single-Family Residences S: Single-Family Residences

R-2 (RESIDENTIAL DISTRICT) DEVELOPMENT STANDARDS

One-Family Dwelling

Min. Lot Area:	4,500 sq. ft.
Min. Lot Width:	45 ft.
Max. Height:	35 ft.
Min. Living Area:	1,000 sq. ft.

Building Setbacks:

<i>Front:</i>	20 ft.
<i>Rear:</i>	20 ft.
<i>Side:</i>	5 ft.

Two Dwelling Units

Min. Lot Area:	8,000 sq. ft. / 9,000 sq. ft.
Min. Lot Width:	80 ft. / 90 ft.
Max. Height:	35 ft.
Min. Living Area:	500 sq. ft. / 1,000 sq. ft.

Building Setbacks:

<i>Front:</i>	20 ft.
<i>Rear:</i>	20 ft.
<i>Side:</i>	5 ft.

Three Dwelling Units

Min. Lot Area:	11,250 sq. ft.
Min. Lot Width:	85 ft. (attached units only)
Max. Height:	35 ft.
Min. Living Area:	500 sq. ft. per dwelling unit

Building Setbacks:
Front: 20 ft.
Rear: 30 ft.
Side: 10 ft.

Four or More Dwelling Units

Min. Lot Area: 15,000 sq. ft.
Min. Lot Width: 85 ft.
Max. Height: 35 ft.
Min. Living Area: 500 sq. ft. per dwelling unit

Building Setbacks:
Front: 20 ft.
Rear: 30 ft.
Side: 10 ft.

Intent, Purpose, and Uses

The intent and purpose of the R-2 residential district is as follows:

- (1) To provide for the development of single-family detached and attached dwelling units containing a maximum of four (4) units per residential building within areas designated in adopted county development plans and policies for low-medium and medium density residential development.
- (2) To encourage the development of attached dwelling units in a manner compatible with the detached dwellings permitted in single-family residential districts when and where adequate access and public service are available.
- (3) To establish standards for low-medium and medium density residential development adequate to protect the public health, safety, and general welfare.

Specific uses shall be identified by the letter “P” in the use table set forth in Section 38-77 of the Orange County Code

SPECIAL INFORMATION

Subject Property Analysis

The subject property is located at 754 N. Forsyth Road; generally located west of N. Forsyth Road, east of Dennis Avenue, south of Curtis Street, and north of Heather Road. Through this request, the applicant is seeking to rezone the subject property to R-2 (Residential District) to allow for the development of approximately fifty-four (54) detached single-family residential dwelling units. The subject property contains two parcels totaling 31.51 gross acres, however roughly eighteen (18) acres in the center of the property are submerged in an area that appears to have been a borrow pit created around 1970. The applicant has indicated that while there will be a unified Home Owners Association that includes all fifty-four (54) lots, there would conceptually

be one row of homes with access along Dennis Avenue and Heather Road, and another row of homes which will have access from a cul-de-sac off N. Forsyth Road.

The single-family residences surrounding the subject property are zoned R-1A and range in width from 100' to 130'. While those lots immediately surrounding the subject property are not platted, there are several single-family subdivisions on R-2 zoned properties in the area, such as the Ebans Preserve subdivision to the southeast and the Grenadier Woods Subdivision to the west, each of which include 40' to 45' wide lots. The parcel to the east of the subject property was rezoned from R-1A (Single-Family Dwelling District) to R-2 (Residential District) in 1988 as part of the larger 54 acre rezoning including the C-3 (Wholesale Commercial District) area to the north. However, the 32-acre R-2 property is designated as conservation land on the Forsyth Commerce Center Plat approved in May of 2019. Additional development in the area includes Forsyth Woods Elementary School to the north, and Colonial High School to the southwest.

State of Florida Notice

Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

Community Meeting Summary

A community meeting was held on October 14, 2019 at Forsyth Woods Elementary School, which was attended by thirty-six (36) area residents. At the meeting, the residents expressed concerns that the proposed R-2 zoning would allow for much smaller lots that would not be compatible with the existing R-1A lots on Dennis Avenue and Heather Road. Residents were also concerned this rezoning would create a precedent for higher density development in the area. Other concerns included traffic and slow emergency response times in the area, the possibility that a future developer could change the request to townhomes or multi-family, and safety related to the large borrow pit in the center of the site.

Rural Settlement

The subject property is not located within a Rural Settlement.

Joint Planning Area (JPA)

The subject property is not located within a JPA.

Overlay District Ordinance

The subject property is not located within an Overlay District.

Airport Noise Zone

The subject property is located within Airport Noise Zones "D" and "E". New residential development in Airport Noise Zone "E" requires a waiver of claim to be executed

between the applicant and the Greater Orlando Aviation Authority for lot-splits and subdivisions. New residential development in Airport Noise Zone "D" requires a waiver of claim to be executed between the applicant and the Greater Orlando Aviation Authority for lot-splits and subdivisions. In addition, sound level reduction (SLR) design standards are required which may be achieved by any suitable combination of building design, choice of building materials and execution of construction details in accordance with established architectural and acoustical principles.

Environmental

There are hydric soils on this site and the appearance of a borrow pit. A Conservation Area Determination (CAD) is needed to determine the amount of net developable area. Until wetland permitting is complete (actual acreages to be determined in that process that includes the conservation area determination and conservation area impact permit) the net developable acreage is only an approximation. The developable acreage is the gross acreage less the wetlands and surface waters. The buildable area is the gross acreage less the wetlands and less protective buffer areas if required to prevent secondary wetland impacts and surface waters. The applicant is advised not to make financial decisions based upon development within the wetland or the upland protective buffer areas. Any plan showing development in a wetland or protective upland buffer area without Orange County and other jurisdictional governmental agency wetland permits is speculative and may not be approved. Density calculation has to be based upon the net developable acreage. In order to include new Class I, II and III conservation areas in the density and Floor Area Ratio calculations, the parcels shall have an approved Conservation Area Determination (CAD) and an approved Conservation Area Impact permit from the Orange County Environmental Protection Division.

Approval of this plan does not constitute approval of a permit for the construction of a boat dock (including: boardwalks or observation piers in wetlands or in wetland buffer areas) or a boat ramp. Any person desiring to construct a boat dock or boat ramp within this county shall first apply for a permit prior to the installation. A boat dock shall require additional permitting under Chapter 15, Article IX, Construction of Boat Dock Ordinance and a boat ramp shall require additional permitting under Chapter 15, Article XV, Boat Ramps and either permit requires action by the Board of County Commissioners.

Prior to any dewatering activities occurring on site, the applicant shall obtain approval of the dewatering plans from the local Water Management District and the Florida Department of Environmental Protection. The applicant/developer shall provide copies of the dewatering notices of approval to the Orange County Environmental Protection Division, Attention: NPDES Program.

Any miscellaneous garbage, waste and construction debris or demolition debris, or waste material found on site during clearing and grading shall be properly disposed of off-site according to the solid waste and hazardous waste regulations.

Transportation / Access

This project is located within the Orange County Alternative Mobility Area. The following is a list of alternative modes within a 1/2 mile project area:

- Orange County (non-continuous) maintained sidewalks along the property frontage on N. Forsyth Road from Yucatan Drive to E. Colonial Drive
- State maintained sidewalks / bike path along E. Colonial Drive from N. Goldenrod Road to N. Semoran Boulevard
- LYNX bus link #104 E. Colonial Drive / UCF with four (4) bus stops within the project area

A mobility analysis may be required for this project.

Code Enforcement

There are no active Code Enforcement cases on the subject property.

Utilities

Water:	Orlando Utilities Commission	
Wastewater:	Orange County Utilities	An 8-inch gravity main is located at the intersection of Heather and Forsyth, 4-inch forcemain at the intersection of Forsyth and Ebans.
Reclaim Water:	Orange County Utilities	Not Currently Available

Schools

The applicant has received a formal School Capacity Determination from Orange County Public Schools (OCPS) that indicates that this project is vested for 54 single-family residential dwelling units. A Capacity Enhancement Agreement will not be required for this request.

Parks and Recreation

Orange County Parks and Recreation staff has reviewed this request, but did not identify any issues or concerns.

Neighborhood Services

This property is located within the Azalea Park Safe Neighborhood area.

Specific Project Expenditure Report and Relationship Disclosure Form

The original Specific Project Expenditure Report and Relationship Disclosure Form are currently on file with the Planning Division.

ACTION REQUESTED

Planning and Zoning Commission (PZC) Recommendation – (October 17, 2019)

Make a finding of consistency with the Comprehensive Plan and recommend APPROVAL of the requested R-2 (Residential District) zoning, subject to the following restriction:

- 1) Development shall be limited to a maximum of fifty-four (54) single-family dwelling units.

PLANNING AND ZONING COMMISSION (PZC) PUBLIC HEARING SYNOPSIS

The staff report was presented to the PZC with the recommendation that they make a finding of consistency with the Comprehensive Plan and recommend approval of the requested R-2 (Residential District) zoning, subject to one (1) restriction. Staff indicated that three hundred ninety-seven (397) notices were sent to property owners extending beyond 600 feet surrounding the property, and that staff had received two (2) responses in opposition to the request and zero (0) in favor. The responses in opposition cited concern that the proposed smaller and larger number of lots would negatively impact the rural character of the existing neighborhood and would not be compatible. The applicant was present and agreed with the staff recommendation. Several residents were present and spoke in opposition of the request.

Discussion ensued regarding this history of the borrow pit. Several residents indicated that the property had been taken through eminent domain and that there were legal agreements prohibiting any future development on the property. Staff indicated that there was no history of public ownership of the property and that no documents could be located that placed any sort of development restrictions on the property. Further discussion related to concerns that the proposed R-2 lot sizes would be inconsistent with the existing adjacent residential lots. A motion was made by Commissioner Fernandez, and seconded by Commissioner Spears to deny the request. The motion failed. Subsequently, a motion was made by Commissioner Cantero, and seconded by Commissioner Spears to recommend approval. The motion carried on a 7-2 vote.

Motion / Second

Jose Cantero / Gordon Spears

Voting in Favor

Jose Cantero, Gordon Spears, Diane Velazquez, Yog Melwani, Carlos Nazario, Jimmy Dunn, and Mohammed Abdallah

Voting in Opposition

Eddie Fernandez and JaJa Wade

Absent

None