

City of Clermont
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PLANNING AND ZONING COMMISSION
April 7, 2015

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The meeting of the Planning & Zoning Commission was called to order Tuesday April 7, 2015 at 6:30 p.m. by Chairman Nick Jones. Other members present were Carlos Solis, Herb Smith, Judy Proli, Cuqui Whitehead, and Tony Hubbard. Also in attendance were Barbara Hollerand, Development Services Director, Curt Henschel, Planning Manager, John Kruse, Senior Planner, Jack Morgeson, City Attorney, Marivon Adams, Permit Tech, and Rae Chidlow, Planning Specialist.

MINUTES of the Planning and Zoning Commission meeting held March 3, 2015 were approved as written.

REPORTS

Commissioner Whitehead stated that the Educational Foundation of Lake County allows teachers to post special projects that they want to do. She stated that you can go to the web site and donate towards the projects.

Chairman Jones stated that the Lion's Club has a Golf Tournament fundraiser on May 16, 2015. He stated that on April 24, 2015 the Symphony Orchestra will be performing their last performance of the season.

Commissioner Solis stated that his band has become the artist of the week in Long Island, NY. He stated that they are artist of the month for Smooth Jazz Florida. He stated that their single made number 5 on the charts.

Development Services Director Barbara Hollerand stated that the Special Planning and Zoning meeting will be held on Monday, April 27, 2015 at 6:00 p.m. She stated that Items 11 and 12 have been withdrawn from the April 7 agenda.

1. REQUEST FOR LARGE-SCALE COMP PLAN AMENDMENT

REQUEST: To change future land use from Lake County Regional Commercial to City of Clermont Master Planned Development

APPLICANT: Staff (Plaza Collina)

Planning Manager Curt Henschel presented the staff report as follows:

This administrative request was originally scheduled to be heard by the Planning & Zoning Commission on March 3, 2015, but was tabled to the April 7 meeting to allow staff more time to draft the related conditional use permit.

This request is being heard concurrently with requests for annexation and a conditional use permit (CUP) for a planned unit development (PUD). The City is requesting annexation of the subject parcel as authorized by the utility agreement with the property owner. The Notice of Encumbrance to Annex with the City was executed on February 14, 2006. The property is

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currently vacant, but will be receiving water and sewer services from the City when developed. The property is approximately 142 acres.

The proposed map amendment will change the future land use from Lake County's Regional Commercial to the City's Master Planned Development designation. The property, currently zoned Planned Commercial District in Lake County, will become Urban Estate upon annexation.

A related request for a conditional use permit for a PUD will incorporate entitlements for the development secured under the existing Lake County PUD and the Development of Regional Impact (DRI) development order. The CUP for the PUD will rescind the DRI.

Upon approval by the City Council, the proposed amendment would be transmitted to the Florida Department of Economic Opportunity (DEO) and the reviewing agencies for review. DEO would then issue an Objections, Recommendations and Comments letter to the City, and the amendment would then be scheduled for a final public hearing in June.

Staff recommends approval of the transmittal of the large-scale comprehensive plan amendment to change the future land use from Lake County Regional Commercial to Master Planned Development in the City.

2. REQUEST FOR CONDITIONAL USE PERMIT

REQUEST: To allow a mixed use Planned Unit Development in the UE Urban Estate zoning district.

APPLICANT: Staff (Plaza Collina)

Planning Manager Curt Henschel presented the staff report as follows:

This administrative request was originally scheduled to be heard by the Planning & Zoning Commission on March 3, 2015, but was tabled to the April 7 meeting to allow staff more time to draft the conditional use permit.

The proposed request is to grant a conditional use permit (CUP) for a mixed-use planned unit development (PUD) with a retail shopping center and outparcels for restaurants and similar commercial uses along SR 50. This development, known as Plaza Collina, is currently approved in Lake County with 1,200,000 square feet of retail space and 200 residential units. Staff has reviewed the approved Development of Regional Impact (DRI) Development Order (Ordinance #2006-16) and the Lake County PUD (Ordinance # 2006-17) and has transferred over to the new CUP/PUD those conditions and the entitlements contained within the documents. The development will include one single-use commercial building not to exceed 187,000 square feet. New conditions require an amendment to the CUP for any additional retail structures over 100,000 square feet, more than two automotive dealerships, or any use that would require a CUP per the City code.

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Staff recommends approval of the conditional use permit for the Plaza Collina PUD.

Lee Arie, 17440 Cobblestone Lane, stated that there is no shortage of car dealerships in this area. He stated that a dealership is somewhere you visit every 4 to 5 years to make a purchase where as a restaurant you will visit more often. He stated that he was hoping to come out of his subdivision and see shops and restaurants, not dealerships. He stated that he would like to see the dealerships at the east end of the property if they have to accept having the dealerships.

Chairman Jones asked why the dealerships can't be on the east end.

Mr. Henschel stated that this is a request from Plaza Collina.

Attorney Rebecca Wilson, Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 N. Eola Drive, Orlando, stated that this is not a blank slate. She stated that there are some fixed points, so the light signal is already in place as well as the curb cut. She stated that staff agrees with the location of the dealerships because the City has negotiated with the property owner to create a gateway into the City. She stated that they chose to use the smaller pods for the dealerships.

Mr. Arie stated that auto dealers have cycles of business. He stated that Orlando is left with closed dealerships that are now large empty buildings, cracked asphalt, and weeds. He stated that there are about 20 possible customers for these types of real estate. He stated that restaurants come and go as well, but there is always another restaurant willing to open. He stated that they would like to have something pleasant to look at other than dealerships as they exit their subdivision. He stated that looking at the topography, he feels restaurants can be creative with vistas and cabanas to sit and eat your lunch, rather than having a dealership at that location.

Chairman Jones stated that he brings up a good point. He stated that they have to look at what will benefit the City and the community as a whole. He asked if the road will loop around to Old Highway 50.

Mr. Henschel stated that it is approved through Lake County, and they would still have to get involved with the location of the access points.

Commissioner Solis stated that if they move the dealership to the east end of the property, there would be more traffic in front of Magnolia Pointe.

Mr. Arie stated that they are willing to accept that risk rather than look at a dealership as they exit Magnolia Pointe.

Commissioner Proli stated that the east end of the property is a larger portion of the property. She asked it would be better if they put a hedge around the dealership so that you were looking at landscaping rather than rows of vehicles. She asked if they could only have one dealership, rather than two.

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Ms. Wilson stated that having two dealerships was a compromise with the city. She stated that if she has to move the dealerships to the east section of the property, she will go back to Lake County where she can have an unlimited number of dealerships. She stated that there are significant landscaping requirements along Highway 50. She stated that the roads are under construction now. She stated that they have tried to take the rights that they have with the County and combine them with the interests of Clermont. She stated that she understands the concerns of the neighbors, however they did their due diligence and found what they could do, and now she doesn't want to tell her client that they can't sell the property as it is approved now. She stated that they are already limiting the location of the dealerships.

Commissioner Smith asked if the City is removing the residential units.

Ms. Wilson stated that they are removing the statement that they have to get Lake County Schools concurrency for the existing units, but because these units are included in an approved DRI, they don't need concurrency. She stated that any additional units they will need to meet school concurrency.

Joe Buchman, 12817 Magnolia Pointe Blvd., stated that in the County ordinance there was language that included no auto dealerships, no 24-hour business, and no adult entertainment. He stated that this language has been removed and is under investigation. He stated that there is already an ordinance that states they can't put their vehicles in the right-of-way and they continue to do so. He stated that he is concerned that part of the property is for sale. He had the understanding that everything would be developed together. He stated that everyone wants something like Fowler's Grove, but there are no dealerships in Fowler's Grove. He asked what was going in the 187,000 square foot building. He stated they fought to keep Wal-mart out before and they will do it again. He stated that a Mazda dealership is going in on the south side of Highway 50 as well. He stated that that he doesn't have an issue with them putting the dealership on the backside along Old Highway 50.

Mr. Krauss, 13643 First Ave., he stated that he lives in the subdivision across from the east end of the property, so if they relocate the auto dealerships there, they will not be happy either. He stated that he agrees with having the entrance for the dealerships off Old Highway 50; however, he's not sure how that will work for the business.

Alan Hartle, 16191 Hillside Circle, Monteverde, stated that he is a native to this area. He recommended putting the dealerships on pod G, that has already been flattened. He stated that you will not hide a dealership with shrubbery. He stated that the property should be terraced like the rest of Clermont. He stated that the abandoned dealership has become a Sheriff's annex, because there is not much you can do with an abandoned dealership. He stated that more people want to see this property built like Fowler's Grove. He stated that everyone has to go to Fowler's Grove to eat something besides fast-food.

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Nick Pagano, 17353 Chateau Pine Way, asked what the impact going to Clermont. He asked how many people are going to come to the stores and restaurants where there is a dealership in the area.

Chairman Jones asked if the Plaza Boulevard is a dedicated right-of-way.

Mr. Henschel stated that the Plaza Boulevard is part of the Planned Unit Development.

Tim Staab, 12849 Magnolia Pointe Blvd., stated that his concern is that used tire stores come along with dealerships. He stated that if you look down Highway 50 where the closed up dealerships are, you will find tire stores.

Judy Phillips, 13438 Fountainbleau Dr., stated that Lake County Commissioner Sean Parks uncovered that language was removed from the ordinance regarding what was supposed to go at this location. She stated that there was supposed to be upscale shops. She stated that at the time they fought to keep Wal-mart out, the zoning C-1 Neighborhood Commercial and C-2 Community Commercial were not to be permitted. She stated that adult entertainment, gas stations, and dealerships were not permitted, but somehow this language was deleted. She stated that this agenda item should not move forward until they find out the answers.

Mr. Henschel stated that this was approved through the County. He stated that he has been working on this project for two months now and has not come across this issue.

Chairman Jones stated that the City is more stringent than the County so the City should move forward with this item.

Commissioner Whitehead stated that if the property is not annexed into the City, the County can do anything they want. She stated the City needs to annex this property so they can control what is allowed at this location.

Commissioner Whitehead moved to approve the large-scale comp plan amendment. The motion fails due to the lack of a second.

Commissioner Hubbard stated that he still has concerns about whether the public's comments that no dealerships are allowed at this location are true.

Ms. Wilson stated that her client purchased the property in 2010. She stated that the approvals were established in 2006. She stated that she did the due diligence for the purchase of this property. She stated that there are two documents that control this property, which consists of the Development Order and the Planned Unit Development, both adopted in 2006. She stated neither of the documents eliminates auto dealerships. She stated that the County staff and County attorney did not find documents that eliminate auto dealerships.

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Attorney Jack Morgeson stated that City Attorney Dan Mantzaris has looked into this issue and has not found anything that limits auto dealerships.

Commissioner Solis asked if the property can back out of the annexation. He asked if the City can annex the property and make the property owner start over with the Planned Unit Development.

Attorney Jack Morgeson stated that the property owners already have rights in the County jurisdiction. He stated that it would be better for the City to not annex, than it is for the City to take away the specific rights of the property owner that are already in place.

Chairman Jones stated that they have to remember that the City is the applicant in this situation. He stated that City sees it as an advantage to have this property in the City. He stated that they either need to vote in favor or deny the application.

Commissioner Proli stated that it is better to annex the property so that the City can control what is allowed on the property.

Chairman Jones stated that the issue is that the approvals have already been made. He stated that the City and the property owner have already been in negotiations. He stated that the City still has some leverage but the property owner has given up a lot of what they could have done by coming into the City.

Mr. Henschel stated that it is part of the utility agreement that the project shall be developed in accordance to Lake County approvals under their current Planned Unit Development.

Commissioner Whitehead moved to approve the large-scale comp plan amendment. The motion fails due to the lack of a second.

Commissioner Whitehead made a motion to recommend approval of the large-scale comp plan amendment; seconded by Commissioner Solis. The vote was 4-2 in favor of approval of the large-scale comp plan amendment, with Commissioners Hubbard and Smith opposing.

Mr. Henschel stated that when voting for the Planned Unit Development, Section 2 item 2 will be removed from the conditions.

Commissioner Whitehead moved to approve the Planned Unit Development. The motion fails due to the lack of a second.

Commissioner Hubbard made a motion to recommend approval of the Planned Unit Development, but remove Section 2 item 4; seconded by Commissioner Smith. The vote fails 3-3 with Chairman Jones and Commissioners Solis and Whitehead opposing.

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Attorney Jack Morgeson stated that the Commissioners have heard testimony that there are no limitations from Lake County allowing auto dealerships. He stated that by not allowing auto dealerships, this will present a potential problem for the City for overly constricting an owner's property right. He stated that he advises not recommending that.

Commissioner Whitehead asked if one of the pods is under contract with an auto dealership already.

Ms. Wilson stated that pod B is currently under contract with Don Mealey Chevrolet. She stated that they have agreed to be annexed pursuant to their entitlements. However, if restricted to no dealerships, she said her client will not be annexed, and they will build the dealerships in Lake County.

Commissioner Whitehead made a motion to recommend approval of the Planned Unit Development; seconded by Commissioner Solis. The vote fails 3-3 with Commissioners Smith, Hubbard and Proli opposing.

Commissioner Hubbard made a motion to recommend denial of the Planned Unit Development; seconded by Commissioner Smith. The vote fails 3-3 with Chairman Jones and Commissioners Solis and Whitehead opposing.

3. REQUEST FOR CONDITIONAL USE PERMIT

REQUEST: To allow for office use in the R-3-A Residential/Professional zoning district.

APPLICANT: Don Kirby

Senior Planner John Kruse presented the staff report as follows:

The applicant is requesting a conditional use permit (CUP) to allow for an office use in an existing building located at 176 East Highland Ave. The property is zoned R-3-A Residential/Professional district. Under Sec. 122-164 (a) (1) of the Land Development Code, the R-3-A zoning district may allow this type of use through a conditional use permit.

The applicant desires to use the existing building, which was previously used for a daycare facility, for a professional office. The building is approximately 1,600 square feet of conditioned floor space with 10 parking stalls provided onsite. This exceeds the requirements for parking.

Staff believes that the office use is compatible with the uses in the surrounding area. Several office uses currently exist along Highland Avenue and have received CUPs for office use. This building was also previously used for a real estate office prior to being converted to a daycare facility. Based upon the information presented, staff recommends approval of this request. Don Kirby, 16545 Spring Park Dr., stated that he is purchasing this building to operate a permitting business. He stated that he is a retired Building Official and helps people get permits. He stated that he will be using this location as his office with 7 or 8 employees.

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Christy Clark, 12150 Lakeshore Dr., stated that she represents the sellers of this property. She stated that she hopes to see this conditional use permit pass and a new business open in Clermont.

Commissioner Proli made a motion to recommend approval of the conditional use permit; seconded by Commissioner Whitehead. The vote was unanimous to recommend approval.

4. REQUEST FOR CONDITIONAL USE PERMIT

REQUEST: To allow a school facility in the C-2 General Commercial zoning district.

APPLICANT: Land of Lakes Montessori School

Planning Manager Curt Henschel presented the staff report as follows:

The applicant is requesting to allow a private school facility within the C-2 General Commercial zoning district. School facilities are designated as requiring a conditional use permit within the C-2 zoning district.

The applicant is proposing a 7,200-square-foot building with two playgrounds for a Montessori School to be located at the corner of Oakley Seaver Drive and Sandy Grove Avenue.

The proposed school will provide space for 120 students, ages 3-10 (pre-K through 5th grade), 12 teachers and three staff members. School hours are Monday through Friday, starting at 8 a.m. and ending at approximately 4 p.m.

The school has proposed a long internal driveway to stack students' arrivals and departures, and it has also developed a staggered starting time for students (based on age) to prevent traffic issues.

Ignacio Quintana, 1136 Callaway Circle, stated that he was present to answer any questions.

Commissioner Solis moved to recommend approval of the conditional use permit; seconded by Commissioner Whitehead. The vote was unanimous to recommend approval.

5. REQUEST FOR LARGE-SCALE COMP PLAN AMENDMENT

REQUEST: To change future land use from Lake County Regional Commercial to City of Clermont Commercial

APPLICANT: Staff (Don Mealey)

Senior Planner John Kruse presented the staff report as follows:

This administrative request is being heard concurrently with requests for annexation and rezoning. The City is requesting annexation of the subject parcel as authorized by the utility agreement with the property owner. The agreement with the City was executed on May 27, 2003.

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The property is improved and is receiving water and sewer services from the City of Clermont. The property, approximately 16.74 acres, has been developed as an auto dealership, Don Mealey Chevrolet.

The proposed map amendment will change the future land use from Lake County's Regional Commercial to the City's Commercial. The related rezoning request will change the zoning from Urban Estate (currently Planned Commercial District in Lake County) to the City's C-2 General Commercial zoning classification.

Upon approval by the City Council, the proposed amendment would be transmitted to the Florida Department of Economic Opportunity (DEO) and the reviewing agencies for review. DEO would then issue an Objections, Recommendations and Comments letter to the City, and the amendment would then be scheduled for a final public hearing in June.

Staff recommends approval of the transmittal of the large-scale comprehensive plan amendment to change the future land use from Lake County Regional Commercial to Commercial in the City.

Commissioner Whitehead moved to recommend approval of the large-scale comp plan amendment; seconded by Commissioner Smith. The vote was unanimous to recommend approval.

6. REQUEST FOR REZONING

REQUEST: To change the zoning from UE Urban Estate to C-2 General Commercial

APPLICANT: Staff (Don Mealey)

Senior Planner John Kruse presented the staff report as follows:

The proposed rezoning is from Urban Estate (currently zoned Lake County's Planned Commercial District) to the City's C-2 General Commercial zoning classification. The related request for a comprehensive plan amendment would change the future land use from Lake County's Regional Commercial to the City's Commercial designation.

Staff recommends approval of the rezoning to C-2 General Commercial.

Commissioner Whitehead moved to recommend approval of the rezoning; seconded by Commissioner Smith. The vote was unanimous to recommend approval.

7. REQUEST FOR SMALL-SCALE COMP PLAN AMENDMENT

REQUEST: To change future land use from Lake County Regional Commercial to City of Clermont Commercial

APPLICANT: Staff (Nissan)

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Senior Planner John Kruse presented the staff report as follows:

This administrative request is being heard concurrently with requests for annexation and rezoning. The City is requesting annexation of the subject parcel as authorized by the utility agreement with the property owner. The Notice of Encumbrance to Annex with the City was executed on December 5, 2011. The property is improved and is receiving water and sewer services from the City of Clermont. The property, approximately 7.7 acres, has been developed as an auto dealership, Clermont Nissan.

The proposed map amendment will change the future land use from Lake County's Regional Commercial to the City's Commercial. The related rezoning request will change the zoning from Urban Estate (currently Planned Commercial District in Lake County) to the City's C-2 General Commercial zoning classification.

Staff recommends approval of the future land use map amendment from Lake County Regional Commercial to Commercial in the City.

Commissioner Proli moved to recommend approval of the small-scale comp plan amendment; seconded by Commissioner Smith. The vote was unanimous to recommend approval.

8. REQUEST FOR REZONING

REQUEST: To change the zoning from UE Urban Estate to C-2 General Commercial

APPLICANT: Staff (Nissan)

Senior Planner John Kruse presented the staff report as follows:

The proposed rezoning is from Urban Estate (currently zoned Lake County's Planned Commercial District) to the City's C-2 General Commercial zoning classification. The related request for a comprehensive plan amendment would change the future land use from Lake County's Regional Commercial to the City's Commercial designation.

Staff recommends approval of the rezoning to C-2 General Commercial.

Commissioner Whitehead moved to recommend approval of the rezoning; seconded by Commissioner Solis. The vote was unanimous to recommend approval.

9. REQUEST FOR SMALL-SCALE COMP PLAN AMENDMENT

REQUEST: To change future land use from Lake County Regional Commercial to City of Clermont Commercial

APPLICANT: Staff (Honda)

Senior Planner John Kruse presented the staff report as follows:

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This administrative request is being heard concurrently with requests for annexation and rezoning. The City is requesting annexation of the subject parcel as authorized by the utility agreement with the property owner. The Notice of Encumbrance to Annex with the City was executed on July 15, 2008. The property is improved and is receiving water and sewer services from the City of Clermont. The property, approximately 9.34 acres, has been developed as an auto dealership, Headquarter Honda.

The proposed map amendment will change the future land use from Lake County's Regional Commercial to the City's Commercial. The related rezoning request will change the zoning from Urban Estate (currently Planned Commercial District in Lake County) to the City's C-2 General Commercial zoning classification.

Staff recommends approval of the future land use map amendment from Lake County Regional Commercial to Commercial in the City.

Commissioner Whitehead moved to recommend approval of the small-scale comp plan amendment; seconded by Commissioner Proli. The vote was unanimous to recommend approval.

10. REQUEST FOR REZONING

REQUEST: To change the zoning from UE Urban Estate to C-2 General Commercial

APPLICANT: Staff (Honda)

Senior Planner John Kruse presented the staff report as follows:

The proposed rezoning is from Urban Estate (currently zoned Lake County's Planned Commercial District) to the City's C-2 General Commercial zoning classification. The related request for a comprehensive plan amendment would change the future land use from Lake County's Regional Commercial to the City's Commercial designation.

Staff recommends approval of the rezoning to C-2 General Commercial.

Gail Harris, 17535 Jefferson St., stated that she is about 75 feet from the Honda dealership. She stated that if the City annexes this property, she is asking that they are made to follow the ordinances pertaining noise and unloading trucks.

Mr. Krauss, 13643 First Ave., asked if the properties being annexed into the City will have to follow the City ordinances.

Commissioner Hubbard moved to recommend approval of the rezoning; seconded by Commissioner Smith. The vote was unanimous to recommend approval.

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11. REQUEST FOR LARGE-SCALE COMP PLAN AMENDMENT

REQUEST: To change future land use from Lake County Regional Commercial to City of Clermont Commercial

APPLICANT: Staff (Napleton)

This item was withdrawn.

12. REQUEST FOR REZONING

REQUEST: To change the zoning from UE Urban Estate to C-2 General Commercial

APPLICANT: Staff (Napleton)

This item was withdrawn.

13. REQUEST FOR LARGE-SCALE COMP PLAN AMENDMENT

REQUEST: To change future land use from Lake County Regional Commercial to City of Clermont Commercial

APPLICANT: Staff (East Towne Center)

Senior Planner John Kruse presented the staff report as follows:

This administrative request is being heard concurrently with requests for annexation and rezoning. The City is requesting annexation of the subject parcel as authorized by the utility agreement with the property owner. The agreement with the City was executed on February 13, 2003. The property is improved and is receiving water and sewer services from the City of Clermont. The property, approximately 13.8 acres, has been developed as a shopping center with two outparcels.

The proposed map amendment will change the future land use from Lake County's Regional Commercial to the City's Commercial. The related rezoning request will change the zoning from Urban Estate (currently Planned Commercial District in Lake County) to the City's C-2 General Commercial zoning classification.

Upon approval by the City Council, the proposed amendment would be transmitted to the Florida Department of Economic Opportunity (DEO) and the reviewing agencies for review. DEO would then issue an Objections, Recommendations and Comments letter to the City, and the amendment would then be scheduled for a final public hearing in June.

Staff recommends approval of the transmittal of the large-scale comprehensive plan amendment to change the future land use from Lake County Regional Commercial to Commercial in the City.

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Commissioner Whitehead moved to recommend approval of the large-scale comp plan amendment; seconded by Commissioner Solis. The vote was unanimous to recommend approval.

14. REQUEST FOR REZONING

REQUEST: To change the zoning from UE Urban Estate to C-2 General Commercial

APPLICANT: Staff (East Towne Center)

Senior Planner John Kruse presented the staff report as follows:

The proposed rezoning is from Urban Estate (currently zoned Lake County's Planned Commercial District) to the City's C-2 General Commercial zoning classification. The related request for a comprehensive plan amendment would change the future land use from Lake County's Regional Commercial to the City's Commercial designation.

Staff recommends approval of the rezoning to C-2 General Commercial.

Commissioner Hubbard moved to recommend approval of the rezoning; seconded by Commissioner Smith. The vote was unanimous to recommend approval.

There being no further business, the meeting was adjourned at 8:45 pm.

Nick Jones, Chairman

ATTEST:

Rae Chidlow – Planning Specialist