

**PLANNING AND ZONING BOARD
MEETING MINUTES
CITY COMMISSION CHAMBERS
THURSDAY, JANUARY 11, 2024
6:00 P.M.**

Chair Fountain called the Planning and Zoning Board Meeting to order at 6:00 p.m. in the City Hall Chambers located at 120 E. Pomelo Street, Lake Alfred, Florida.

Board Members in Attendance: Chair Ike Fountain, Vice Chair Arnold (6:03 PM), Board Member Herb Nigg, Board Member Bancroft Fisher, Board Member Ron Pestone, Board Member Scott Gearhart, Board Member Gregg Rothberg, and Alternate Member Cathy Long.

Board Members Absent: None

Staff: Community Development Director Gus Karpas, Ameer Bailey, City Attorney Seth Claytor, City Clerk Linda Bourgeois, and City Planner Erika Tulloch.

Chair Fountain presented the December 14, 2023, Planning and Zoning Board Regular Meeting Minutes for approval.

Board Member Nigg made a motion to approve the December 14, 2023, Planning and Zoning Board regular meeting minutes. The motion was seconded by **Board Member Pestone**. The motion was unanimously approved.

A motion was made by **Chair Fountain** to amend the agenda moving business items number four and five to business items two and three on the agenda. The motion was seconded by **Board Member Gearhart**. The motion was unanimously approved.

The City Attorney reviewed the meeting procedures and swore in those in attendance providing testimony to the Planning and Zoning Board. There was no need for an interpreter.

Business Item No. 1

Election of Officers

Section 9.2.2.9.b of the Unified Land Development Code requires that the Board annually elect a chair and vice-chair, as provided for in the Rules and Procedures Resolution. The chair shall preside over the Board and shall have the right to vote. In the absence of the chair, the vice-chair shall perform the duties of the chair.

The City Attorney opened the floor for nominations of the Chair for 2024. **Board Member Nigg** nominated **Board Member Arnold**. There were no other nominations, and the floor was closed. **Board Member Arnold** accepted the nomination.

Board Member Nigg moved to appoint Brenda Arnold as the Chair for 2024. The motion was seconded by **Board Member Pestone**. The motion was unanimously approved.

Chair Arnold opened the floor for nominations for the Vice-Chair for 2024. Board Member Fountain nominated Board Member Gearhart. The floor was opened for any other nominations and Board Member Pestone nominated Board Member Nigg. Board Member Nigg declined the nomination. Board Member Gearhart accepted the nomination.

Board Member Fisher moved to appoint Board Member Gearhart as the Vice Chair for 2024. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

Business Item No. 2: FLU-0 3RD Street N
Business Item No. 3: Zoning- 0 3rd Street N

Applicants: Dale O'Neal

Requests: Future Land Use Assignments- approximately 0.28 ± acres from Conservation (CON) to approximately 0.28 ± acres of Urban Residential (URES).

Zoning District Assignments – approximately 0.28 ± acres from Conservation (CN) to approximately 0.28 ± acres of Residential Neighborhood – 2 (RN-2).

0 3rd Street N., east of 3rd Street and south of Midway Ave. Parcel: 262728-493500-011031.

Site: 0.28 ± ac

The site is currently an undeveloped parcel measuring 0.28 ± acres, located in the Highland subdivision. The subdivision was platted in 1915. The Plat identifies that the eastern half of the lot has wetlands as shown in Figure 1. The entire subdivision including this lot was originally zoned as Residential -1 (R-1). The property's Future Land Use and Zoning designations were amended to Conservation in 2006. The applicant now requests a change in the assignment of City FLU and Zoning districts back to residential. The applicant is requesting the zoning district of Residential Neighborhood-2 (RN-2) on 0.28±acres.

The applicant has requested the future land use assignments of Urban Residential (URES) and a zoning of Residential Neighborhood– 2 (RN-2). Staff has reviewed the applications and found that the requests are consistent with the surrounding uses, however, there are concerns regarding the number of wetlands on-site and therefore may not be consistent with the Future Land Use element of the Comprehensive Plan and the Unified Land Development Code (ULDC). Staff recommends that all the environmentally sensitive areas such as wetlands and floodplains be assigned to the Conservation Future Land Use and Zoning District and request additional information before final approval.

The City Attorney spoke about the legislative and quasi-judicial procedures with the business items. He asked the realtor, a representative of Mr. O'Neal, if they were comfortable with tabling the item for an environmental assessment to be conducted. The realtor responded in the affirmative.

Board Member Nigg made a motion to table the future land use request until an environmental assessment was conducted. The motion was seconded by **Board Member Pestone**.

Chair Arnold opened the public hearing.

The following people spoke in opposition of changing the future land use and zoning.

Albertus Maultsby of 745 Lake Swoope Drive said he has been in the Highlands Community for ninety-three years. The subdivision is high in the middle and low around the edges. He said if the land were to be filled the other nearby homes would flood.

The City Attorney explained the criteria for Competent Substantial Evidence.

Kelly Drayton of 645 East Orange Avenue said she did not want it touched unless it was for the betterment of the community.

Board Member Rothberg disclosed he had personal knowledge of this item and spoke with the applicant's attorney. He asked the City Attorney if he needed to recuse himself from the vote. The City Attorney said he did not have a pecuniary interest in this matter and it would not be a conflict of interest.

Phyllis Miller of 190 MLK Street spoke about the hurricanes and the standing water in the area. She said it looks good when the sun is shining but it is wetland and not safe for the community. It's terrible and to build it up it will ruin the homes next to it. Don't do it.

Sylvia McCray of 625 N. 3rd Street said the engineers needed to look at this property because it is surrounded by industry that may cause more damage because it is mostly wetland.

A brief discussion ensued regarding the digital data versus the actual site visits.

Mary Neeley of 640 3rd Street said this was a horrible swamp area filled with alligators and snakes. She spoke about cars driving into the property while missing the curve and that the nearby homes were underwater now.

The City staff spoke about the City purchasing property near their site to help mitigate some of the flooding in the area.

Kelly Drayton said if you know this why did you sell it?

Information was shared about how each property owner had the right to ask and the City staff was not recommending approval.

Chair Arnold closed the public hearing.

The motion was restated.

Board Member Nigg made a motion for the Planning and Zoning Board to table the future land use request until an environmental assessment was conducted by the applicant. The motion was seconded by **Board Member Pestone**.

A roll call vote was conducted by the City Clerk.

Board Member Fisher	AYE
Vice Chair Gearhart	AYE
Board Member Nigg	AYE
Chair Arnold	AYE
Board Member Fountain	AYE

Board Member Pestone AYE
Board Member Rothberg AYE

The motion was unanimously approved.

The zoning request for 0 3rd Street was opened for consideration by the Chair.

Chair Arnold opened the public hearing.

Mary Neely of 635 3rd Street asked what they are planning to put there. She is against putting a residential unit and wants it to remain conservation.

Chair Arnold closed the public hearing.

Board Member Fountain made a motion for the Planning and Zoning Board to table the future land use request until an environmental assessment was conducted by the applicant. The motion was seconded by **Vice Chair Gearhart**.

A roll call vote was conducted by the City Clerk.

Board Member Fisher AYE
Vice Chair Gearhart AYE
Board Member Nigg AYE
Chair Arnold AYE
Board Member Fountain AYE
Board Member Pestone AYE
Board Member Rothberg AYE

The motion was unanimously approved.

Chair Arnold introduced the next business item for consideration.

Business Item No. 4

Background
Site Development Plan with Variances- Lake Alfred Pharmacy and Retail

Applicant: Karma Land & Development LLC
Requests: Site Development Plan with Variances
Location: 210 Lake Shore Way, north of Pomelo Street, east of CR 557,
and abutting both the north (Lake Shore Way) and south (Shinn
Blvd.) bound lanes of US 17/92, further described as parcel
262732-503000-017210.

The applicant, Karma Land & Development LLC, is requesting approval for a Site Development Plan with variances to construct a 4,600 +/- square feet multiple tenants building to house a pharmacy and other retail. Staff worked with the applicant to meet the specific requirements of the ULDC for this type of development within the Downtown Overlay District. In addition to the

Site Development Plan approval for the pharmacy use, the applicant is requesting a variance to Section 2.3.2.L.5. Parking, for additional parking spaces.

Staff Recommendation:

The DOD allows the Development Director to approve an off-street parking reduction as a bonus to an applicant who provides Encouraged design standards. Any additional adjustments or alternatives to parking requirements not expressly provided in this Code must be submitted to the Planning Board for consideration and approval. The staff has reviewed the request and the associated documents and finds that the Site Development Plan with the parking variance requested is consistent with the requirements of:

- Lake Alfred Comprehensive Plan
- Lake Alfred Unified Land Development Code (ULDC)
- ULDC Section § 2.04.03.01 Downtown Overlay District (DOD)

Board discussion surrounded the state mandates for having marijuana with the location of the pharmacy and security, this request was not evaluated for a dispensary and if they requested it in the future, it would come back to the Planning and Zoning Board, and the proposed retail in the three bays. Further discussion was that the pharmacy would face Pomelo Street, the applicant's parking space request of 17 spaces, and the staff recommendation of the use, site plan, and alternate parking plan was for approval.

Director Bailey read the conditions into the record.

Conditions of Approval

1. The applicant to be permitted to construct a Pharmacy and commercial retail building located at 210 Lake Shore Way.
2. The site was NOT requested or evaluated for a Medical Marijuana Dispensary and therefore is not included in the approval.
3. The Site Development Plan may include a maximum of seventeen (17) parking spaces.
4. All parking spaces on-site will be required to be reviewed and approved by staff for compliance with all other ULDC requirements including striping and/or parking stops and include sufficient ADA-accessible spaces.
5. This approval shall only apply to the property bearing parcel ID # 262732-503000- 017210, located at 210 Lake Shore Way.
6. That the approval of this request shall not grant authority to alter other portions of this property, nor does it waive any permits, including building permits, that may be required by Federal, State, or County agencies that may have jurisdiction.
7. The applicant shall apply for, receive, and finalize the City of Lake Alfred construction plan approval as shown Site Development Plan by January 11, 2025, or this approval shall be void.

Board Member Pestone asked if there was a way to achieve this without the demolition of the building. He shared his concerns and said he would prefer to see the building salvaged. The building was moved to this site and is not in its original locations. The city staff and the Historical Society had the opportunity to go in and obtain artifacts. The site is not considered a Historical site and it is not covered by the protections in the code.

The City Attorney explained that the Planning and Zoning Board had the final decision and it would not be going to the City Commission.

Chair Arnold opened the public hearing.

Sharon Rice of 360 Sanford Street and owner of 240/260 Lakeshore Way said they wanted to know this would impact their business and it was shared the entrance into the pharmacy would use the same entrance as to her property however, the traffic would go around their building to enter into the parking lot of the pharmacy.

Chair Arnold closed the public hearing.

Board Member Fountain made a motion to approve the Pharmacy Use. The motion was seconded by **Board Member Nigg**.

A roll call vote was conducted by the City Clerk.

Board Member Fisher	AYE
Vice Chair Gearhart	AYE
Board Member Nigg	AYE
Chair Arnold	AYE
Board Member Fountain	AYE
Board Member Pestone	NAY
Board Member Rothberg	AYE

The motion carried by a majority vote.

Chair Arnold opened the public hearing on the site plan with the alternate parking plan and there were no members of the audience that came forward to speak. Chair Arnold closed the public hearing.

Board Member Fountain made a motion to approve the site plan with the alternate parking plan. The motion was seconded by **Board Member Nigg**.

A roll call vote was conducted by the City Clerk.

Board Member Fisher	AYE
Vice Chair Gearhart	AYE
Board Member Nigg	AYE
Chair Arnold	AYE
Board Member Fountain	AYE
Board Member Pestone	NAY

Board Member Rothberg AYE

The motion carried by a majority vote.

Chair Arnold introduced the next business item.

Business Item No. 5

Background:

Site Development Plan with Variances- CSI Cargo Inc.

Applicant: CSI Cargo, Inc

Requests: Site Development Plan with Variances

Location: 4858 US Highway 17/92 E., north of US Hwy 17/92, south of

Old Haines City / Lake Alfred Rd., and east of Government Center Blvd., further described as parcels 262726-000000- 012090.

The subject property was annexed into the City on January 4th, 2021, with Ordinance 1450-20. The property was assigned the Heavy Commercial/ Industrial and Conservation Future Land Use and the Commercial Activity Center (C-3) and Conservation zoning districts on June 7, 2021, with Ordinances 1459-21 and Ordinance 1460-21 respectively. The property is not located in the Green Swamp Area of Critical States Concern (ACSC). The Site Development Plan dated July 22, 2022, was initially administratively approved on July 27, 2022.

During the site construction plan review, it was revealed that a wetland existed on-site and a wetland transitional zone or upland buffer would be impacted by the proposed Site Development Plan design. As a result, the applicant, CSI Cargo Inc., is requesting approval for a Site Plan Modification with variance for the proposed truck repair and parking facility. The commercial site is approximately 10± acres with approximately 8.203± developable acres.

The staff has worked with the applicant to reduce impacts on the environmentally sensitive areas of the development site. The applicant proposes to construct an 8,100± square feet vehicle parking storage and repair facility. The applicant is requesting variances to Section 7.3.2 Wetland Protection Zones to impact 0.29 acres of wetlands and to reduce the minimum fifty feet (50') wetland transitional zone or upland buffer to a minimum of twelve feet (12').

The staff has reviewed the proposed Site Development Plan and Variance requests and its associated documents and finds that it is consistent with the City of Lake Alfred Future Land Use Element of the Comprehensive Plan and the regulations of the Unified Land Development Code. The staff recommended approval of the requests with conditions.

The staff reviewed the meeting procedures, process, legal notices, and zoning regulations.

The Planning and Zoning Board members reviewed the letter by UES and spoke about that the historical aerial imagery of a wetland were not apparent until 2021, the Tippen Bay Wetland mitigation bank not being in Polk County, Florida, and that there was no evidence of any species located in the letter.

Board Member Nigg said we live here and it should be mitigated here.

The City staff reviewed the site plan.

Board Member Fountain asked about the buffer requirement of fifty-feet and wanted to know if the site plan encroached on the requirement in the code and the staff replied yes.

Chair Arnold opened the public hearing and seeing no one, she closed the public hearing.

The City staff read the conditions of approval into the record.

1. The applicant be permitted to construct a vehicle parking storage and repair facility at 4858 US Highway 17/92 E as shown on the Site Development Plan as provided in Exhibit "B".
2. The applicant be permitted to construct a vehicle parking storage and repair facility cold storage warehouse facility impacting 0.29 of wetlands and allowing a minimum twelve feet (12') wetland transitional zone or upland buffer with a 75' buffer on the south end of the wetlands.
3. These approvals shall only apply to CSI Cargo's vehicle parking storage and repair facility at 262726-000000-012090.
4. That the approval of this request shall not constitute a variance or additional waiver from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the ULDC.
5. The applicant shall apply for, receive, and finalize the City of Lake Alfred construction plan approval as shown Site Development Plan within a year of the City Commission approval, or this approval shall be void.

Board Member Fisher made a motion to deny the request based on environmental concerns. The motion was seconded by **Board Member Nigg**.

Chair Arnold opened the floor for board discussion.

Board Member Fountain said that the staff was recommending approval and the motion is to deny it. Is there something else that we missed or don't understand the work that has been proposed to mitigate the wetland?

When the staff looks at the wetland impacts, there are a couple of things we look at. The city is pretty strict on the wetland impacts. We look at connectivity to other wetlands and this particular wetland is not connected to any to or associated with the flood plains. In addition, it is .3 acres and the Uniform Mitigation Assessment Method (UMAM) evaluation and the environmental scientist said it was a 3.3 which is an extremely low score. An off-site mitigation would be extremely minimal. In this situation we are maintaining half the wetland and providing some buffering, while not great on the 12-foot side with the additional 75 foot, the other side does provide some protections of the floodplain and gives the wetland a larger area for water to flow to. Staff said that while not included in the packet, there is a letter that there were no endangered species found on the site.

Board Member Fountain said looking at the overall project it is about a quarter of an acre and they are proposing mitigation, the land is not operating as a true wetland if I am a property owner and I work with the City and the staff recommends approval. He tends to empathize with the property owner and would vote against denying. It wasn't a wetland, now it's a wetland, but doesn't function as a wetland.

The staff said the board could make additional recommendations or conditions of approval. Suggestions for consideration were that the city request mitigation by properly vegetating the wetland with wetland species, and/or if required to mitigation by the Southwest Florida Water Management District that the mitigation will be required to be onsite.

A discussion ensued regarding recommending the company mitigate it here in Lake Alfred and treating it like a wetland.

The City Attorney said another option for the board would be to consider tabling the item in order to provide the applicant with an opportunity to present its environmental specialist in order to testimony as related to those issues.

Ammat Goshe a representative of the property owner said they have been working with the director and team for a couple of years on this project. Finding this wetland, while attempting to get permits to break ground the Environmental Specialist concluded that the previous owner used crushed asphalt and that is what caused the water to seep out and now classify this as a wetland. He spoke about the proposed construction, property grading, and the desire to mitigate that portion of the property.

Board Member Fountain spoke about requiring them to perform the mitigation on site and **Board Member Nigg** said it was not enough but was in favor of them treating it as a wetland with planting plants as well as mitigation.

A roll call vote was conducted by the City Clerk on a motion to deny.

Board Member Fisher	NAY
Vice Chair Gearhart	NAY
Board Member Nigg	NAY
Chair Arnold	NAY
Board Member Fountain	NAY
Board Member Pestone	NAY
Board Member Rothberg	NAY

The motion failed.

City staff recommended a motion to modify the conditions of approval with the vegetative mitigation to occur within the existing wetland and additional wetland buffer based on our guidance in Article 7.3.5.

Board Member Fountain made the motion to modify the conditions of approval to add the vegetative mitigation to occur within the existing wetland and additional wetland buffer based on our guidance in Article 7.3.5. **Board Member Rothberg** seconded the motion.

A roll call vote was conducted by the City Clerk.

Board Member Fisher	AYE
Vice Chair Gearhart	AYE
Board Member Nigg	AYE
Chair Arnold	AYE
Board Member Fountain	AYE
Board Member Pestone	AYE
Board Member Rothberg	AYE

The motion was unanimously approved.

Business Item No. 6.
Bylaws Discussion

- Transition Schedule
- Membership
 - Definition Members
 - Regular
 - Alternate
- Vacancies
- Quorum and Voting
- Motions

The city staff presented and said the City Commission decided the board composition would be a five-member board with up to two alternates. It also created a transition plan to get there.

The floor was opened for a discussion regarding the alternates and when they could do such things as participate and vote.

The City has always allowed for the alternates to participate, to sit at the dais, but couldn't make a motion or vote on a motion unless there was a board member absence. The staff has always encouraged the alternates to come and participate for experience.

Board Member Pestone commented and said he thought the alternates should be able to participate in the discussion and opined that the City Commission made a mistake in not appointing Alternate Board Member Reinert. He mentioned the 3-business days discussion and it was shared by the staff the change was incorporated into the proposed amendments on page eight.

A discussion ensued regarding the City Commission having the authority to change the Unified Land Development Code, and the purpose of the By-Laws which the Planning and Zoning Board has authority over as long as there are no conflicts with the Code or State Law.

Board Member Nigg asked as the By-Laws stand now, can the alternates make a motion and the staff said they cannot make a motion. He continued and wanted to have considered that the alternates should be the first in line to be a regular member when there is a vacancy.

The City Attorney said that the City Commission has the sole authority to appoint members and amend the City's ULDC. You may vote to make a recommendation to the City Commission.

The Director said if it is confusing to the board to have things in the By-Laws that they do not have the authority to change, then the staff's recommendation would be to take those things out of the By-Laws. She reviewed the purview of the City Commission.

Board Member Pestone spoke about how the alternates were volunteers who spent a lot of time here with us and felt they should be considered first.

Board Member Pestone made a motion to recommend to the City Commission that an alternate board member should be the first to fill the position of a regular board member [section 9.3]. **Board Member Nigg** seconded the motion.

The director asked the City Attorney for a clarification saying the minutes can be presented to the City Commission and we can ask that those be included in a City Commission agenda packet however, she doesn't know if we can add a City Commission agenda item without the City Manager's approval. It's not customary that recommendations proceed straight from the board to the City Commission's agenda.

Alternate Board Member Long said she had been on the board for over two years and there have been a lot of members brought in over her and she asked what she had to do in order to be considered as a regular member. She agrees she should have the opportunity to be on the board.

The director said when she was appointed as an alternate, she was appointed to a three-year term as an alternate. She has the same opportunity to apply for the regular member consideration, and that is a request that can be made. The director apologized to Ms. Long if she failed to let her know she could make that request as a part of the list of candidates.

Board Member Rothberg said he asked the director if everyone had the same information and that the appointment was going to be on the agenda and was told yes. He said it would have been nice if everyone had stayed or attended an interview by the City Commission. He opined he was selected because he was there to answer the questions they had. He recommended each board member attend the City Commission appointment meeting.

The City Attorney read Section 9.2.2.C.2.(c) and said the code does not expressly provide for the timing of the presentation to the City Commission, but the recommendation, at some point, will need to be presented to the City Commission.

Chair Arnold opened the floor for public comment and seeing no one in the audience, she closed the floor to public comments.

Board Member Pestone said the motion intended to include the reference to the appropriate Unified Land Development Code section and it was added to the motion.

A roll call vote was conducted by the City Clerk.

Board Member Fisher	AYE
Vice Chair Gearhart	AYE
Board Member Nigg	AYE
Chair Arnold	AYE
Board Member Fountain	AYE
Board Member Pestone	AYE
Board Member Rothberg	AYE

The motion was unanimously approved.

Board Member Fisher commented that he also came on the board before the alternates as well.

The Planning and Zoning Board By-Laws discussion continued and Board Member Nigg brought up the discussion of establishing term limits. The term limits for the Chair and Vice Chair are able to be amended in the By-Laws and was voted down by the Planning and Zoning Board Members.

Board Member Nigg said he wasn't referring to the Chair and Vice-Chair he is wanting to see general term limits on the board members' terms. This will give somebody else a chance to serve on this board.

A board discussion ensued and the board said they were in favor of some type of term limits, however wanted to leave that term limit at the discretion of the City Commission.

Board Member Nigg made a motion to recommend that the City Commission determine term limits for the Planning and Zoning Board Members in section 9.3 of the Unified Land Development Code. The motion was seconded by **Board Member Pestone**. The motion was unanimously approved.

There were no members in the audience.

A roll call vote was conducted by the City Clerk.

Board Member Fisher	AYE
Vice Chair Gearhart	AYE
Board Member Nigg	AYE
Chair Arnold	AYE
Board Member Fountain	AYE
Board Member Pestone	AYE
Board Member Rothberg	AYE

The motion was unanimously approved.

The discussion continued and focused on the rotation of the alternate members for serving when a regular member is absent.

Board Member Fountain made a motion to retain the decorum that we had with the alternates to engage in the debates but not vote or make motions. He then added, when we have the ability to have two alternate members, that they rotate in the order in which sits first and then the one that sits second. **Board Member Pestone** seconded the motion.

The staff shared that in the new language, there is not a requirement for any alternates and that will be at the discretion of the City Commission.

Board Member Fountain clarified the rotation was to be alternated monthly based on who served the previous meeting.

A roll call vote was conducted by the City Clerk.

Board Member Fisher	AYE
Vice Chair Gearhart	AYE
Board Member Nigg	AYE
Chair Arnold	AYE
Board Member Fountain	AYE
Board Member Pestone	AYE
Board Member Rothberg	AYE

The motion was unanimously approved

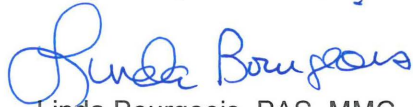
Board Member Fisher asked why the City Commission downsized the Planning and Zoning Board. The staff said the City Commission approved that at the last meeting and when we presented the information on membership to the Planning and Zoning Board, based upon the comparisons of other local municipalities, the staff recommended a reduction. The Planning and Zoning Board recommended all members become regular members with no alternates. It was presented to the City Commission and they chose to go with five members and up to two alternate members. The transition schedule was reviewed with the board members.

Board Member Fountain moved to adjourn. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

The next Planning and Zoning Board meeting is scheduled for February 8, 2024.

Without any further discussion, the Planning and Zoning Board meeting was adjourned at 8:30 PM.

Respectfully submitted,



Linda Bourgeois, BAS, MMC, ADAC
City Clerk