

**PLANNING AND ZONING BOARD
MINUTES
CITY COMMISSION CHAMBERS
THURSDAY, JULY 13, 2023
6:00 P.M.**

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

Chair Fountain provided the invocation followed by the Pledge of Allegiance.

Board Members in Attendance: Chair Ike Fountain, Vice-Chair Brenda Arnold, Board Member Herb Nigg, Board Member Ron Pestone, Board Member Wanda Daley, Board Member Bancroft Fisher, and Alternate Board Member John Reinert. A quorum was present.

Board Members Absent: Board Member Scott Gearhart and Alternate Member Cathy Long.

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

City Attorney Claytor reviewed the meeting procedures, swore in the staff and audience members providing testimony, and asked if there was a need for an interpreter. There was no need for an interpreter.

Chair Fountain presented the minutes from June 8, 2023, Planning and Zoning Board meeting for approval.

Board Member Nigg requested clarification on the motion on page three of the June 8, 2023, minutes.

After a brief discussion, it was agreed to add language for clarification to be reviewed by the City Attorney.

Board Member Nigg made a motion to approve the meeting minutes for June 8, 2023, with legal review by the City Attorney. The motion was seconded by **Vice Chair Arnold**. The motion was unanimously approved.

Board Member Pestone made a motion to have the City Attorney conduct a workshop at the August Planning and Zoning Board Meeting on the following sections of the Unified Land Development Code (ULDC) to review the decision-making and recommendatory authority of the Planning and Zoning Board.

- Article 2 – District Standards Section 2.3.2 Downtown Overlay District
- Article 3 – Use Provisions Section 3.1 Conditional Uses, 3.1.4, Use table Section 2.3.2
- Article 9 – Administration and Procedures – Section 9.2.2 Development Review Boards and Committees 2. Planning and Zoning board

A discussion ensued about the date, time, and format of the training. Board Member Pestone agreed to amend the motion to have the training from 5:30 PM to 6:00 PM on August 10, 2023. The motion was seconded by Alternate Board Member Reinert and unanimously approved.

Chair Fountain introduced the first item of business.

City Attorney Claytor provided an overview of the Standards of Review for the legislative and quasi-judicial actions.

Community Development Director Bailey presented the first item of business.

1.) Serdjenian Subdivision Future Land Use

Future Land Use
Map Amendment

Change the Future Land Use classification from approximately 25.13 ± acres of Polk County Agricultural/Residential Rural (A/RR) to 14.28 ± acres of Residential (RES) and 10.85 ± acres of Conservation (CON)

Zoning Map Amendment:

Change the Future Land Use classification from approximately 25.13 ± acres of Polk County Agricultural/Residential Rural (A/RR) to 14.28 ± acres of Vintage Residential Neighborhood (VRN) and 10.85 ± acres of Conservation (CN)

Location:

General Location: the SERDJENIAN SUBDIVISION, an area of twenty-five (25) parcels with addresses of 0-405 Fannies Path, 0- 525 Maultsby Lane, 0-323 Clark Road, and 319-323 Myers Lane, further described as South of Lake Alfred Road, west of Lynchburg Road, and east of Lake Mariana.

Site

25.13± acres

The City of Lake Alfred annexed twenty-five (25) parcels, right-of-way, and/or portions thereof, totaling approximately 27.7 ± acres of land from unincorporated Polk County on June 21, 2022, with Ordinance 1488-22. The Serdjenian subdivision currently has residential properties and

areas of wetlands and high-risk flood zone 'AE' associated with Lake Mariana totaling approximately 25.13 ± acres. Staff now request the assignment of City FLU and Zoning districts.

The director shared about the Serdjenian Special Election Referendum held in January for the annexation of the subdivision.

Alternate Board Member Reinert asked about the results of the election and the City Clerk said there were 21 eligible voters with ten ballots received. The election results were unanimous in favor of the annexation into the City.

The staff continued and shared about the water, sewer, transportation, solid waste, police, fire, recreation, and school impacts on the city.

Alternate Board Member Reinert asked what the current land use and zoning were and asked why we were proposing to exceed the one unit per five acres, and it was explained by the staff that there was not an exact match with the city's assignment and these were

the most consistent with the current land use and zoning categories. He then asked why they would have bought into this change and the staff said the subdivision was brought into the city for the city to provide services.

City Attorney Claytor said that, following an annexation, the City must assign the Future Land Use and Zoning designations for the annexed property. The proposal is the most consistent with the current Future Land Use and Zoning which was assigned by the County for the subject property.

Board Member Pestone asked how many structures were on this property and it was shared by the staff there were twenty-eight structures and there were individual vacant parcels. He asked if the residents had the ability to divide their parcels and it was shared by the staff that they were individual lots.

A discussion ensued about this area being an established subdivision, the larger parcels are in the floodplain and wetlands, city services are not offered in the rural areas, and the proposed VRN is the most consistent with four units per acre.

Alternate Board Member Reinert said the number of ballots mailed did not equal the number of structures and asked why and the Community Development Director explained that several of the properties were owned by two people and the rest were owned by other people.

Chair Fountain opened the public hearing.

Albertus Maultsby of 745 Lake Swoope Drive said he has been in Lake Alfred for ninety-two years. He said that Gapway Groves owned parcels and there were ten ballots returned in favor of annexation. He said the City provides better services than Polk County and he owned thirteen units and a few vacant lots. He said he did not want the City to stop Gapway Groves from having their cows on the property. He also said that he did not want to have the zoning allow for any hogs and chickens. He continued and said the City got it right because now they will have water, sewer, and paved roads. He shared about an agreement he had signed with Polk County that said he had to agree that he would never ask for anything. He wants to pass this property onto his children and concluded by saying if approved, you will help that area.

A discussion ensued about the rights of the farm animal owners to keep them as a legal non-conforming use until it is no longer a continued use. The staff offered to assist in an inventory of the existing animals.

The City Attorney spoke about the different Future Land Use and Zoning categories and said these appeared to be the lesser density and intensity for the area.

Margaret Myers of 1355 11th Street said they had a letter from the City and were told they were not allowed to vote. She addressed Mr. Maultsby and said that when her father lived out there, he would put lime down to keep the hogs out. She is in support of the livestock.

Alternate Board Member Reinert asked if she was a resident then why didn't she get to vote.

The staff explained the Florida Statutes had requirements for the property owners and the registered voters had to be the tenants that lived within the subdivision.

Albertus Maultsby said he did not vote.

The City Attorney said this is not germane to the decision of the Planning and Zoning Board for Future Land Use. He said the Board should determine if the recommended Future Land Use is consistent with the City's Comprehensive Plan and compatible with the City's ULDC.

Board Member Daley asked if the area were to develop with new housing could they have farm animals. The staff replied and said no.

Alternate Board Member Reinert asked Ms. Myers if her land was vacant what her concern was about the annexation, and if she had a vote, how would she have voted?

Margaret Myers said the reason behind the annexation was her concern and she did not answer on how she would have voted.

Eddie Myers of 575 Avenue L in Winter Haven spoke about the next door-neighbors having farm animals and said there was not a resident on their property because it was torn down by the County. He said we don't get to have them anymore. He believed the annexation was to seize the land.

Chair Fountain closed the public hearing.

The Community Development Director explained that if their property was on the outskirts of the subdivision, she would not have included the parcels for annexation. However, the City cannot create an enclave.

Board Member Reinert moved that the Planning and Zoning Board forward the request to assign the future land use of Residential (RES) on approximately 14.28± acres and Conservation (CON) on 10.85± acres to the City Commission with a recommendation of approval. The motion was seconded by Board Member Pestone and unanimously approved.

The Community Development Director presented the zoning request. She reviewed the surrounding uses and surrounding zoning. She said the staff's recommendation is to go from 25.13+/- acres in Polk County from Agricultural/Residential Rural to 14.28+/- acres of Vintage Residential Neighborhood (VRN) with 10.85+/- acres of Conservation (CN).

Chair Fountain opened the public hearing.

Eddie Myers of 575 Avenue L in Winter Haven pointed out his parcels on the zoning map and said if the city could not create an enclave, then what did the city do because it looked like the city created an enclave to him?

The City staff explained that the colors on the map surrounding his parcels were within the City limits and just had a different zoning category with higher density. The City Attorney explained what an enclave was to Mr. Myers.

Chair Fountain closed the public hearing when no other members of the audience came forward to speak.

Alternate Board Member Reinert moved that the Planning and Zoning Board forward the request to assign the zoning of Vintage Residential Neighborhood (VRN) on approximately 14.28± acres and Conservation (CN) on 10.85± acres to the City Commission with a recommendation of approval. The motion was seconded by **Board Member Pestone**. The motion was unanimously approved.

Chair Fountain introduced the next business item for consideration.

Applicants: Tree O Groves

Requests:

Future Land Use
Map Amendment

Change approximately 21.53± acres from Heavy Commercial/Industrial (HCI) and approximately 18.62± acres of Conservation (CON) to 15.27± acres of Residential (RES) and 24.88± acres of Conservation (CON)

Zoning Map Amendment:

Change approximately 21.53 ± acres from Light Industrial (I-1) and approximately 18.62 ± acres Conservation (CN) to approximately 15.27± acres Vintage Residential Neighborhood (VRN) and 24.88± acres Conservation (CN)

Location:

General Location: north of Old Haines City Lake Alfred Road and HWY 17/92, west of Lake Lowery Road and southeast of White Road, Parcel 262727000000033050

Site

40.15± acres

Hearing Dates

July 13, 2023

Planning and Zoning Board

August 21, 2023

City Commission

September 7, 2023

City Commission-Adoption Hearing
Small Scale to DEO

Background:

The subject property totaling approximately 40± acres was annexed into the City on August 7, 2006, with Ordinance 1161-06. In 2010, the property was assigned the Future Land Use (FLU) classification of Industrial with Ordinances 1276-10. The future land use district was then changed to Heavy Commercial/Industrial and zoning district to light Industrial (I-1) with ULDC rewrite Ordinances in 2021 (1439, 1440, 1443 and 1444).

The city staff reviewed the differences in the request from the applicant and the staff recommendation.

- Applicant Acreage request
 - 15.27± acres Residential (RES)
 - 24.88± acres Conservation (CON)
- Staff Acreage recommendation
 - 13.04± acres Residential (RES)
 - 27.11± acres Conservation (CON)

The staff continued and shared about the water, sewer, transportation, solid waste, police, fire, recreation, and school impacts on the city. She said the staff recommendation is for the wetlands and floodplains, generally, to be put into conservation. The applicant has requested something slightly different and the board is allowed to consider those things and make those recommendations to the City Commission. The City Commission can approve impacts to the wetlands and floodplains and our code does allow for mitigation on-site to happen if those impacts are approved. She reviewed the staff's proposed line and the applicant's proposed line for conservation saying the bubble at the top is where the applicant says it would need in order for the connection from White Road. We have identified this area as a potential connector road in the Transportation Master Plan. She said the only reason the staff has not recommended approval of the applicant is that, generally, road access can be allowed in conservation and if you look along their western line, they do have a slight difference in the areas. There is a little over two acres difference from the staff recommendation and the staff recommendation is based on the current floodplain lines.

Board Member Nigg asked if the applicant owned the property of the east on Lake Lowery Road and the response was yes. He asked why the road was proposed to go across conservation land and it was shared by Director Bailey that the extension of White Road would allow for east-west movement and was identified city's long-range Transportation Master Plan recently adopted by the City Commission.

Bart Allen of Peterson and Myers of 255 E. Lemon Street, Lakeland, FL said he was representing Colter Land Development. This area is an extension, effectively, of the Lowery Hills Project and they were not proposing a road through the conservation area, it was a city staff request to accommodate the road for a potential future connection. He differs in his opinion, he can assure you, if he was on a greenfield site and wanted to run a conservation easement, he would have a difficult time getting staff support much less City Commission approval to do so. That is the reason why and said we can accommodate the City's request but it can't be conservation land use on that because we are required to plat that under conservation under the City's code and required to do a lot of things to protect that land. So, if we are to accommodate the City's request, and his client is willing to do so, that area needs to be residential rather than the floodplain. However, if the desire of the board and the City Commission is to keep it as conservation, we will not build a road to accommodate that and we will live with the line where it is on the floodplain as staff has proposed. The road is, in some part, a red herring, and a driver behind why there were the floodplain impacts that were proposed in this mapping.

He continued and said as part of that impact, there were 1.9+/- acres between their proposed line and the City's proposed line and 1.47 of that was to accommodate the road through the conservation area and to accommodate the stormwater pond for the road. There were .44 acres requested by the developer, in that scenario because we had to shift the lots around, at the south end, because we will need that for the impacts to shift and not lose the moment in order to accommodate the city's request. If you keep it as conservation, we will keep that in the envelope and all of our traffic will go out to Lake Lowery Road and would work just fine based on our traffic

study that we have completed for concurrency and things of that nature. It is your call, and I am not arguing for it one way or another, we will be happy to move forward in that direction. We will be happy either way but we are not requesting to build the road. He continued and said it was also important to point out where White Road ends and he is not aware of any other public right-of-way land that would provide us with a connection to Lake Lowery Road until another property owner cooperates, he does not know they can build a road that connects across someone else's property. There are a lot of moving parts and he is okay with their proposed line or the City's proposed line but there are ramifications with the City's line but either way is fine with us.

Board Member Nigg asked if this would be a public road across that property and the Community Development Director said yes and said as she understands any roads built within their subdivision will be public roads and Attorney Allen said that is correct.

Alternate Board Member Reinert requested clarification about if a road could go over conservation land.

Attorney Allen said there was a vast disagreement between the staff and them on that issue. He said he feels strongly that if he came before this board suggesting he was going to put a subdivision road through a conservation easement, I would not only not get staff support, but I would also not get a vote from this Planning Commission nor the City Commission. He said when he reads the Comprehensive Plan related to conservation, he understands it as (summarization) recreation activities, walking trails, and access to those activities. It does not say you can put public roads or public facilities, there is no residential, no commercial, or no industrial.

Board Member Pestone asked if this was the only location to connect to White Road and Director Bailey said this area would have the least amount of impacts to the floodplain and wetland. There is a dirt road that goes through there now as a connection between the citrus groves.

City Attorney Claytor said in this situation the board could vote either way and there be consistency with the Comprehensive Plan regardless of which side of the line you fall on. In the event that the board votes to recommend the City's proposed line, there might be disputes, as related to the interpretation of the Comprehensive Plan, and what might be considered a requirement that is otherwise something that may be argued as an exaction. He appreciates Attorney Allen's argument, noting that he is not saying he agrees with it, but he also understands exactly what they are asking for to have that area designated as residential in order to accommodate the City's request. If both parties agree to the road, it is a chicken-and-egg discussion because the road can go there regardless of how the future land use decision falls. It is worth noting that both avenues here are supported.

Board Member Fisher said what he was hearing is that if we don't agree to what they want then there won't be a road put in.

City Attorney Claytor said the developer will not agree to construct the road.

Attorney Allen said the reason for that is the issue is that the City is asking us to build a collector road through there and a collector road cross-section through the subdivision which dramatically increases the development costs and forces us to lose 5-8 lots if in that scenario. That is why we asked for the floodplain impacts on the south end to pick back up a few of those lots. If we don't provide the connection, and it becomes a normal subdivision road, then we don't have the loss of development potential. We are more than happy to accommodate the road however it is preferred

by the developer to designate that residential so that we won't have to worry about it as an issue in the conservation. We will move along and we will be happy or we can designate it as the City has requested and argue over the road later.

James Shinn of 1348 E. Lake Cannon Drive said he was the managing partner of Tree-O-Groves said they drive semis across the high ground through there and it is all Bahia grass with oak trees and a ditch. What they are requesting to do is not going to impact any wetland areas, it is a Bahia grass and is being mowed. It is not utilized as a conservation area and it has been that way for generations.

Director Bailey agreed with him and said it was a floodplain, there may be some small areas of wetlands but this area is a floodplain.

Alternate Board Member Reinert asked if we could put a road in a conservation area and Director Bailey replied that is staff's opinion. He then said he wanted facts, not opinions and Director Bailey said staff has approved other roads in conservation and floodplain areas and their interpretation is a safer one for the developer which is why the staff has presented it, we are kind of in the middle, she presented the line as to where it is because that is where we feel we would have presented the line which is normally for the floodplain and the wetlands. He said conservation is conservation, so why we would put a road in the conservation area?

Mr. Shinn said the road all the way to I-4 and Lake Lowery Road were examples of roadways that were in a conservation area with floodplains and wetlands. That area is the narrowest passage and it is the real opportunity to make a decent crossing through there. He said Mr. Allen is proposing an easier path in order to accomplish this task.

Mr. Allen said his opinion is that the staff is proposing the line based on a map and not actual field conditions. He said if a field study was done it might be taken out of conservation. We are working off a modeled line that FEMA has created and, in his opinion, it can be justified to add it to residential and it won't be in a wetland. It would be on the edge of a potential floodplain and the project and road are not impacting any wetlands as we are staying well clear of the wetlands. If you go with the residential land use and zoning a lot of this goes away and we build a road and everyone moves on and it accomplishes the goals of the city, Mr. Shinn, and the developer. If we stay with conservation, he is concerned the road would never be permitted.

Director Bailey said that is why the staff is in the middle. She does not disagree with him but does not entirely agree with him and the staff would be fine if it were to follow the applicant's recommendation. Ultimately, whether they build the road, or we build the road, the goal is to have a road in here to have a regional connector.

Chair Fountain provided a recap of the discussion for clarification.

Board Member Pestone asked if we take the staff's recommendation and he decides not to build a road, what happens then Director Bailey said it kicks the conversation until it is time to build the road. It's like two acres of floodplain for a road and seems like a reasonable exchange.

Chair Fountain asked how many homes would be put in the .44 acres and Mr. Allen said it clips the corners of three lots. They are not even whole lots.

Director Bailey said we don't generally consider layouts at land use and zoning and the staff

would not look at where the road would go at this particular level. Their request makes sense and I am presenting what I am supposed to do.

Board Member Daley said asked if the builder would lose lots and the City Attorney said it was foreseeable that the developer could lose a number of lots by arranging their site plan to accommodate the requested road. How many lots is undeterminable at this point in time but it is foreseeable they may gain back a few of those lots with the applicant's request. Both the City's request and the Applicant's request are supported by the Comprehensive Plan and the future growth and development in that general area.

Board Member Nigg said, say we recommend approval to the City Commission for the staff recommendation and then the developer says, hey we are not building that road, the city can then still build that road across the public land, is that correct?

Director Bailey said she doesn't think it is a yes or no answer. It becomes a different process and a different scenario. It's easier for the City if the developer builds the road.

The City Attorney said it alters the site plan layout for the project so if the developer does not want to alter their site plan in order to accommodate the road that is the developer's decision. There could be a point of contention between the developer and the municipality as to whether the road can be required.

Chair Fountain opened the public hearing and seeing no one, he closed the public hearing.

Alternate Board Member Reinert that the Planning and Zoning Board forward the request to assign the Future Land Use of Residential (RES) on 15.27± acres and Conservation (CON) on 24.88± acres to the City Commission with a recommendation of approval. The motion was seconded by **Board Member Pestone**. The motion was unanimously approved.

Director Bailey presented and said the staff has reviewed the application and recommends that all the environmentally sensitive areas such as wetlands and high-risk flood zones be assigned to the Conservation Future Land Use and Zoning District.

- Applicant Acreage request
 - 15.27± acres Residential (RES)
 - 24.88± acres Conservation (CON)
- Staff Acreage recommendation
 - 13.04± acres Residential (RES)
 - 27.11± acres Conservation (CON)

Chair Fountain opened the public hearing. There were no members that came forward to speak to the Planning and Zoning Board and he closed the public hearing.

Alternate Board Member Reinert moved that the Planning and Zoning Board forward the request to assign the zoning of Vintage Residential (VRN) on 15.27± acres and Conservation (CON) on 24.88± acres to the City Commission with a recommendation of approval. Board Member Nigg seconded the motion. The motion was unanimously approved.

Public Comments:

There were no public comments.

Board Member Comments:

Board Member Nigg commented about the Comprehensive Plan and said he thought it was loose in identifying what was allowed in the conservation areas.

The next Planning and Zoning Board meeting is scheduled for August 10, 2023, at 5:30 PM.

Without any further business, the Planning and Zoning Board meeting was adjourned at 7:54 PM.

Respectfully submitted,



Linda Bourgeois, BAS, MMC, ADAC
City Clerk