

**PLANNING AND ZONING BOARD
WORKSHOP MINUTES
CITY COMMISSION CHAMBERS
MONDAY, SEPTEMBER 25, 2023
5:30 P.M.**

Chair Fountain called the Planning and Zoning Board Workshop to order at 5:33 p.m. in the City Hall Chambers located at 120 E. Pomelo Street, Lake Alfred, Florida.

Board Members in Attendance: Chair Ike Fountain, Board Member Herb Nigg, Board Member Ron Pestone, Board Member Scott Gearhart, Board Member Bancroft Fisher, Board Member Daley, and Alternate Board Member John Reinert. A quorum was present.

Board Members Absent: Vice-Chair Brenda Arnold and Alternate Member Cathy Long

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

Director Bailey began the presentation on the review and approval process and spoke about the Administrative Officials, the Development Review Board, and the Magistrates.

Board Member Nigg asked who is the City's Magistrate, and City staff responded and stated that the City currently had one Special Magistrate, Joseph Mawhinney, for Code Enforcement and Development Review Special Magistrate services.

Alternate Board Member Reinert asked about the Building Official, the Fire Marshal, the Planning Official, and the Floodplain Administrator, and Director Bailey provided the names of others.

Director Bailey continued and said it was spelled out in more detail in the Unified Land Development Code (ULDC) Section 9.2. The Florida Statutes 163.3174 identifies the Planning and Zoning Board as the local planning agency. The board advises and makes recommendations to the City Commission on applications, serves to provide interpretations, and considers the need for revisions and additions to the regulations. The Comprehensive Plan sets forth the City's goals, objectives, and policies, and the Land Development Code is the implementation tool for those goals, objectives, and policies.

Alternate Board Member Reinert said it says part of our responsibility is to review applications and technical review recommendations. He asked if anyone had ever had this come to the Planning and Zoning Board because he hadn't seen any of this come before the board and Director Bailey requested to continue and said that would become more apparent as we go along.

Board Member Pestone said it was the City Attorney who was supposed to be making the presentation and stated "you don't run the board, you present to the board. It's a problem that you really have and it is a conflict of interest for you to make the presentation because with every power that we don't have, that is the power that you have. I asked for the attorney, and the whole board asked for the attorney, and that has to be done, and if we can, I make a recommendation to cancel the meeting immediately. Can I get a second for that?"

Director Bailey asked the Chair if she may respond, please. **Chair Fountain** replied for her to go ahead. Director Bailey said as the Community Development Director she is responsible for this board. **Board Member Pestone** said "it is not your call."

Director Bailey continued and said she was the one responsible for the board and the presentations to the board. **Board Member Pestone** stated that he was leaving and **Alternate Board Member Reinert** encouraged him to stay and said let's be civil here just hold on.

Director Bailey said the second part was that the City Manager assigned staff the tasks. So we serve as the City Manager's staff and the City Manager has the City Attorney working on other projects and when I asked him, he said to proceed with the presentation as the board is the Directors responsibility and not the responsibility of the City Attorney. That is why she is presenting and lastly, the City Attorney is here to answer any questions, to confirm any interpretations, and if you have any questions, both of us are here to answer that.

Board Member Pestone said he was not going to sit here and Alternate Board Member Reinert said before you leave, Amee he is correct we did ask to have the presentation done by the City Attorney and asked if he was able to present or was not prepared to present.

City Attorney Claytor said, at the City Manager's discretion, he believed that he delegated that to the Director and he reviewed the PowerPoint and what is in the presentation is accurate. He said he believed that it answers the questions that were asked and he has time to fill in some of the gaps, if necessary, as related to some of those roles you have as board members whether it is quasi-judicial or legislative decisions.

Board Member Pestone said you make the presentations to the City Commission and **Director Bailey** said no sir the City Manager presents to the City Commission. **Board Member Pestone** said you call the balls and strikes, and I asked that you throw the balls and strikes here. Amee is qualified to do the job, and no one denies that, but she has a real problem staying in her lane. I wanted this to be really clear and come from you [City Attorney] and if it doesn't come from you, it's not what we wanted or what the board asked for and you are out of line.

Director Bailey said I am not out of line. **Board Member Pestone** stated that he was not sitting for her and Director Bailey said that is your choice. **Board Member Pestone** said "you cannot just do whatever you want to do Amee."

Alternate Board Member Reinert said as he understood, we as the Planning and Zoning Board, if there is something we want to change in the Unified Land Development Code, that is under our purview to submit to the City Commission that a change be made, is that correct, and the City Attorney said you can make recommendations based on your interpretation of the ULDC and other regulations/codes adopted legislatively by the City of Lake Alfred to make revisions that you feel are appropriate.

The City Attorney spoke about how the municipalities and counties are handcuffed slightly by the most recent legislation, Senate Bill 250, in particular as it provides for cities that are within the 100-mile area of either where Hurricane Ian or Hurricane Nicole hit, which clips, depending upon where you identify the point of landfall, Lake Alfred and therefore the City is prohibited from adopting any procedure, regulation, ordinance, or resolution that would be considered more restrictive or burdensome on development. SB 250 sunsets on October 1, 2024.

Board Member Pestone said he would like for it to be on the record that we asked for the City Attorney and it has not been made and that Amee took it upon herself to make her own recommendations to do what she wanted to do. There were three simple areas that clearly defined what our roles are advisory and decision-making. That is what I wanted done and that is what the

board asked for, and it is already ten of six and by the time she gets finished with the round-about, we will get nothing.

Director Bailey said if we proceed with the topic at hand, we will get through it and again, understand that Amee did not make this decision unilaterally. I have a City Manager

Board Member Pestone said "I know exactly how you are working; you are not that smart and I am not that dumb and I would like that put in the minutes, please."

Board Member Nigg asked for a recap of Senate Bill 250 asking if they had taken away the ability to do anything legislatively and Director Bailey said yes.

Information was shared about this being the vast majority of the State, there being multiple points of landfall, there were six points of landfall from the two hurricanes, the City wrote to the Federal Emergency Management Agency to get an official determination for Lake Alfred, and one of those points includes Lake Alfred. Further information shared was they essentially put a moratorium on home rule for the municipalities, Florida was Dillons Rule State until the 1960s when the State became a Home Rule State, and now the State has eroded those rights over time.

Board Member Pestone asked about the Conditional Use Tables 3.2.2 and said it is listed approximately 110 times that the Planning Board has decision-making authority.

Director Bailey [Table 3.1.4] said it determines on a particular type of review, who has the authority to review that application. She reviewed the ledger with "A" being Administrative Review, "B" being Planning and Zoning Board approval, and "C" being a Commission level of approval. She reviewed some examples of applications with schools and retail, explained when an application needed a higher level of review, and that it was the City Commission who determined what level of review each board or committee had when processing applications.

Board Member Pestone said that every place that has the "B" would be where we have decision-making authority and Director Bailey said correct.

Alternate Board Member Reinert said for clarification, for example, the daycare that can be administratively approved, if we wanted them to go to the Planning and Zoning Board then we can as a group, make a motion and send it to the City Commission for them to consider adopting a change to the ULDC.

Director Bailey said you could make a recommendation for it to be evaluated. City staff would then be directed to proceed. Your recommendation would be provided to the City Manager and the City Commission.

Board Member Pestone said it was his understanding, in the downtown, that Taco Bell did not come to the board and Director Bailey said correct. He asked why.

Director Bailey said because they are a commercial use in a commercial district, therefore, all the technical design standards are in the code and the staff is capable of conducting that technical review. **Board Member Pestone** said that restaurants, in this table, show that we have the authority to make that decision.

Alternate Board Member Reinert said in the downtown overlay district area the restaurant line is blank. He asked who does the approval when the information is missing. Director Bailey said

in this case it is a typographical error because again, the C-2 district allows restaurants in the downtown because it is a commercial district. It should have a dash if it is not allowed, and restaurants are allowed so she thinks it is a typo. It should not have been blank.

Board Member Pestone asked if it should have then come before them and Director Bailey said no commercial within a commercial district would not come before the board.

Director Bailey said there were two commercial businesses that came before the board which were a gas station and Ace Hardware. They came because they requested variances and she explained the reasons why. She provided an example of a pharmacy that may come before the board. **Board Member Pestone** questioned why the restaurant did not come before the board when there was not an indicator of the level of review and she reiterated that it was a typo in the document and that the district allows for restaurants in a commercial district. **Board Member Pestone** asked how the city knew they were in compliance with the code and Director Bailey said that is the function and role of the City's Technical Review Committee.

Alternate Board Member Reinert said he has been on this board for a year and he has never gotten anything from the Technical Review Committee (TRC) since you are the head of the committee how come we haven't gotten anything from the committee? **Director Bailey** said they would only receive reports from the TRC when the application rises to the occasion of needing to come to this board. You do not review everything the TRC reviews and if it warrants, then we start the application process, the staff review, and the TRC review. While I sign the documents, if the Public Works Department, the City Surveyor, or the City Attorney does not approve it, it does not get approved. Everyone has to approve their section of review for it to be approved.

Board Member Pestone said since there was nothing here in the code, he thought it should have been the board's decision. He said the downtown was a very small commercial area and it is really important how it develops. He said the board has to do something other than zoning changes because this is something that affects all of us. He put his life savings in this downtown and if this is an oversight, he thinks we need to make a motion that the board should be able to consider it.

Board Nigg asked what level of review should be in the blank area and Director Bailey said it would be an administrative level of approval. The Technical Review Committee approves the project and she is the signatory on the documents. He continued and said, what if I wanted to build another dollar store in this town, then it would be approved by the TRC? If I was serving on a board and had a say if we needed three-dollar stores in town, he would have turned down two of them. The staff is concerned with the regulations but not what businesses we need.

Alternate Board Member Reinert said if we don't like what has been adopted and approved, we as the citizens – no disrespect but we do not work for Amee, the City Manager, or the City Attorney we work for the citizens. If see things we don't want like the houses that are nine feet apart, then we have to say we don't want that here. We can send a recommendation to the City Commission to consider amending the code.

The **City Attorney** said he was right. The way to address those issues would be to address those regulations and not the decision-making authority of the board because it is going to be quasi-judicial regardless of who makes the decision so long as the criteria is satisfied, they have the right, pursuant to the code, to certain types of uses in the downtown overlay. If you want to address the duplicity of certain types of establishments, then that is something you would want to attempt via regulation. He suggested coming up with a list of regulations that they would like to

amend, add, or delete, and by the time we get to October 1, 2024, that list will be long. We cannot do anything more likely than not until that point in time to address it.

Bancroft Fisher asked when a business is looking to open up or build in Lake Alfred, who do they go through to initially request that? **Director Bailey** said they typically come into the Community Development Department for evaluation of the location and the Chamber of Commerce.

Director Bailey said the city wants commercial business and the zoning districts say these are the things that we want to go in this district if they fall in those categories you are putting a huge hamper on that business to add that level of review to come to a board, the additional time it takes, that is why the City Commission made the decision that a commercial business in a commercial district should not have to go through different levels of review. As long as they meet the standards that the City Commission has established for that business to be there which addresses, stormwater, parking, and the facade of the building, it has all these criteria that the City Commission has put in place, and as long as they can meet what the City Commission has deemed appropriate for that business to be in the district.

Board Member Bancroft said if she had said that before that the City Commission put these things in place then it would have saved her a headache.

Director Bailey said she thought there was a disagreement about what some of the board members thought should come in front of the board versus what the City Commission deemed should come before the board. Ultimately, if you don't agree with that you, as a board, can make those recommendations for the City Commission to consider changing that level of review. The staff follows the guidelines put in place by the City Commission.

A motion was made by **Alternate Board Member Reinert** to continue the discussion at the end of the regular meeting. The motion was seconded by **Board Member Nigg** and unanimously approved.

Chair Fountain at 6:11 PM, recessed the workshop to be reconvened at the board members' comments section of the regular meeting.

At 7:11 PM, the Planning and Zoning Board meeting was adjourned and the Workshop was reconvened.

Chair Fountain opened the floor with the question of how we can work through the board's ability to make decisions.

Board Member Nigg said the City Attorney said to identify the regulatory changes.

The **City Attorney** said if you needed any interpretations, he would be more than happy to aid in that regard. Procedure as well as regulatory requirements.

Chair Fountain asked how we make that happen in the Sunshine. **Director Bailey** said we would have the discussions at a workshop and have you provide a list to the City staff so we can compile the list and present it to the board. She continued and said when they were amending the ULDC the board had sessions on each section of the code before it was presented to the City Commission. We can put them on the schedule as a workshop or we can stay late and put them

on as regular items. **Chair Fountain** said for the Board Members to send their information to the City staff so we can have another workshop at 5:30 PM at the next meeting.

Director Bailey said if they would like to take fifteen minutes, she could finish up the presentation.

Board Member Nigg said he wanted all of the commercial development to be reviewed by the Planning and Zoning Board and the second one is to have the board approve all substantive changes to a project after previous approval.

A discussion ensued about what substantive changes were, all land use and zoning do come before the board, and they were encouraged to go and listen to the audio recordings and read the minutes of the discussions that happened when the updated ULDC was developed.

Director Bailey said to have commercial development come back for review, in her opinion, she doesn't think it will be well received. If you are specific about specific uses, it will hold more weight. There were two years of meetings and reviews that went into the code.

Chair Fountain shared his story about his ongoing experience with trying to open a coffee shop on Havendale Blvd. and years later, he still doesn't have approval.

Alternate Board Member Reinert said we don't want to have another crane company downtown and **Director Bailey** shared the history of the downtown corridor, that code no longer allows for that use, they are considered a legal non-conforming use and if they ever leave, another crane company would not be able to open.

Board Member Pestone said they had originally wanted to buy the packing plant but he couldn't get a mortgage and he had business problems. **Director Bailey** said the code wouldn't allow him to go there. **Board Member Pestone** said he knows the story because he knows the guy and that is how they came into existence. It is essential that we review all commercial properties of the downtown because it is the whole complexion of the city. He said his problem is with the code - he goes to almost all of the City Commission meetings - at one Commissioner meeting the transportation plan came up and it was told that we as a board had approved it. He said this was the meeting he got upset at because we only got this at the last minute. None of us read it.

Director Bailey said that is an incorrect statement because the board had it for three months.

Board Member Pestone said that was not true because it was given to us at the last moment. He managed to spend half of a day and part of a day while he was busy and nobody else on the board read it and then we approved it and that was why he was irritated that night. It was like we reviewed it, understood it, and approved it. He said he wanted to make sure that the same thing didn't happen with the zoning and the code. He said he thinks we should make a motion to look at what is going on downtown and to really look at restaurants.

Director Bailey said there are provisions in the code where someone comes in with uses, we never had considered and it is not in the code. It's not in the table so the staff has to look at what are the most similar types of uses and how they are used. There are discretionary determinations for uses not identified in the code at all.

Board Member Pestone said that the restaurant category is blank and not even listed in the code.

Chair Fountain said that the Planning and Zoning Board did receive the Transportation Master Plan three months prior to the presentation.

Director Bailey said that Board Member Pestone and Board Member Fisher had just joined the board.

Board Member Pestone asked if everyone had read it and Director Bailey said that was their purview but they did have it for three months.

City Attorney Claytor said if you want to find a way to address all commercial properties you would, unfortunately, be handcuffed by the same or similar restrictions that the staff would have because when the City adopted the manner in which the code would be enforced or administered it is a check the box analysis. Does it meet X, Y, and Z...check, check, check, and then go. You have to come up with regulatory requirements that are going to be applied universally. For any property located within a commercially zoned or commercial zoning designation, the regulations apply the same as it would for any other property located therein. He thinks the best thing to do – , not to undermine your authority with a motion, because we can't do anything for about eighteen months, is to start and look at these things. Let's go into the zoning code and find the perceived issues to see what you would like to see changed. Let's come up with a list and start working towards what that list might look like in draft form. That would be closer in time to when the legislative body could take time to look at it. With any change right now by adding another layer of review, is going to be more restrictive or burdensome.

Board Member Pestone said with restaurants, there is no review listed so why can't we just ask for it now?

Board Member Fisher said that based upon all of the things identified with the ULDC in respect to certain areas not being specific as far as who is responsible – we are hampering on review – his thing is if you want to do business here in Lake Alfred he thinks that all should be put on the table to the board in the first place we are all aware where everybody, based on the ULDC, can go in there and identify if it is. Who right now is the only person, entity, or department responsible for things that don't go through a process or another level of review?

The **City Attorney** said the code determines the level of review.

Alternate Board Member Reinert said that everything in the ULDC is set up – and it offends people that I word it this way – It is set up to where our body is merely with the staff presents us with something – we all know the requirements – they have made all of these requirements and so we need you to approve it so we can get it approved by the City Council. It's realistically how this code is designed, is to bring the Planning and Zoning Board, essentially, to just a rubber stamp. This is because it meets the standard that the staff built in the Unified Land Development Code, they worked with the applicant to make sure everything the applicant requested is in ULDC, and as long as it is in that stuff, we will never see it. It is only if something is outside of the norm will we see it. If we want to be a little more involved such as the Downtown Overlay District (DOD), he doesn't think it is beyond requesting that as something that comes under our purview. If you are going to have a business in the DOD it should at least be presented to the Planning and Zoning Board.

Board Member Fisher said he just thinks we need to be aware.

Director Bailey said we do have a list of projects, we are happy to if you want to see a list of what applications are in-house and being processed, I can present that every month as a part of your packet. It is a spreadsheet and she wanted to be clear, that just because it is on the list doesn't mean the board gets to choose for it to come before them.

Board Member Nigg said it needs to be formal and that is what we are talking about here, we are not talking about you choosing to do this. This board is asking for something that is formal and that says this is what will be done. You won't always be here.

Chair Fountain said what he is asking is for the ULDC to be presented so we can make it formal and come before us.

Board Member Nigg said yes, that is what I am asking for and the second part was that when substantive changes are made somebody on the staff is making the decision of whether or not it is substantive. Just like the Adams Estate saying they are not doing anything but I go out there and there are six machines digging a hill and that is where the fort is located, somewhere on that hill. But they don't know, that is why I said I've had enough of this garbage and I'm getting told six different stories. What I didn't do, was pick up the phone and call the State Archeological Office and tell them they are digging on a hill that has a fort. Director Bailey said that is because nobody knows where it is. He continued and said if he did do that, the project would stop right now. I am asking for cooperation and I think this board deserves respect and that some of this stuff is formal so we can look at it.

Director Bailey said he can call the state and the City calls the state. The reality of it is that don't know where the fort is and in 2015, we had a big presentation on where the possible locations were for Fort Cummings. We don't know and until it is found, any development has the right to come in and ask for the approvals and go through the process.

Board Member Nigg said we have the right to turn it down based on the fact that they haven't located the Fort.

Chair Fountain said we have the right to recommend that it be turned down.

Alternate Board Member Reinert said let's start with where we were before Board Member Pestone, Fisher, and Gearhart came on. We were going to be talking about the Board's By-Laws and changes that needed to be made. They were supposed to be brought back and we not ever presented.

Chair Fountain said from this Chair, I said that anything you wanted to be changed, turn it into the City and I asked the director if anything was sent in and the response was no. It was not pushed under the rug.

Alternate Board Member Reinert said that we were going to discuss it at the next meeting and then it was said that somebody would send an email. He said he thinks we need to have a list of the By-Laws and let's look over them for the next meeting and discuss any changes we might have done. We all have to have the list in front of us, especially since there are three new people on the board since that discussion started. Is that something we can get into the next meeting?

Director Bailey said she had provided the By-Laws multiple times to them and she will be happy to provide them again.

Board Member Pestone said can't you just be cooperative and just say yes, it is that simple. One final thing, I will stop, and I promise. When you go through this overlay and look at responsibilities, his concern is – I put my life savings in the downtown – one thing that can be built there if it fits the code, is adult entertainment. I don't want it in town, period.

The City Attorney said he would own that one because he would not recommend that the director address those provision(s) in the code when the ULDC was updated/revised.

Board Member Pestone said he wanted to be in a position to refuse it.

Director Bailey requested the Attorney to explain to the board, regardless as to whether anyone is happy with three, dollar stores, what this board or the City Commission could do about a fourth dollar store coming into a commercial district.

The City Attorney said we have to apply the code to any applicant and if they meet those requirements, it could be a dollar store or four McDonalds, the City must universally apply its code to each applicant. We can't tell them, based on the fact that it will be a McDonald's, that they cannot build there if the code allows for it. That is why he is saying that the changes that need to be made need to be regulatory.

Director Bailey said for example if you want to say there are to be no more dollar stores downtown, then you would have to say that there is no more commercial retail in downtown. You can't be specific about which business it is. You either allow all restaurants or no restaurants. You will either have carwashes or no carwashes. You will either allow the industrial manufacturing plant or you won't. We do not get to choose whether or not an individual business is allowed. It is categorized in groupings and if this board were to deny an applicant strictly because they don't like McDonalds and they like Chic-Fil-A then you are setting the City up for a lawsuit.

Chair Fountain said we cannot deny and **Director Bailey** said with all of the variances that come to this board they stop they don't go to the City Commission. There are things that stop here and if you were to deny Lineage Logistics just because you didn't like that particular type of business, you would set the City up for a lawsuit. That is the free market.

Board Member Fisher said as a citizen of the United States of America and military personnel, what you are saying is that we have a dinosaur system in place. That needs to be updated because there are plenty of places in this country that do have the right to deny business based on the quality of life for their residents. You need to go back and do your homework on the legalities of these things. It does not make any sense. He came and bought property in Lake Alfred because it had a small-town feel and I loved the way everything was. You can control how that happens.

Alternate Board Member Reinert said that is part of our job if we see something that needs to be changed then we need to make those recommendations. He thinks it starts at the By-Laws, let's look at that and then we can decide – like if we want dark skies and we pass it in the code – then we can make them do it.

Board Member Nigg said we already have that requirement but he is not sure it is being enforced. Read the ULDC.

Director Bailey said it may not be as stringent as you like and that is what you would look at to change.

Board Member Pestone requested for the By-Laws to be sent to them. He requested for the next meeting to discuss that. If we have them in advance, then we can think about them and decide what we want to do.

Alternate Board Member Reinert asked about development deadlines and the City Attorney said you are prevented from issuing if there is no applicable future land use and zoning for that property within the municipal boundaries. He is not aware of a statutory guideline that requires the City to assign a future land use and zoning but you won't be able to get certain development approvals or building permits.

Director Bailey said there is no statutory timeframe requirement in which we annex and then assign land use and zoning. **Alternate Board Member Reinert** said he remembered being told they could not table it to another meeting because they were statutorily obligated that it had to go to the City Commission and it was going to be heard whether we moved on it or not.

Chair Fountain said because it was on our agenda the City Attorney agreed and said that is a distinction and they have a right to a public hearing by the legislative body.

Director Bailey added that we also had an application and after they submitted the application, we had to process it.

Alternate Board Member Reinert said if the applicant says I want to do "X" with the property, and they have submitted an application, but there is no future land use or zoning, we are required to do that within a certain timeframe. What is that timeframe?

Director Bailey said there are no statutory requirements. When we went through the Land Development Code revisions, there were properties that were annexed for forty years that did not have municipal land use and zoning. They were shown on our map as no land use or no zoning. Our old code and the current code say that when we have not assigned land use or zoning, the City will automatically defer to the land use and zoning provided by the County. She provided an example. Once a property owner or applicant submits an application request, we are statutorily required to process it.

Board Member Pestone asked how many days the board has. **Director Bailey** said we have ninety days to process the application and Board Member Pestone clarified and said when it comes before the board we have to decide. What time frame do we have?

City Attorney Claytor said there is no statute that says the Planning and Zoning Board has to decide within a certain time. He said we cannot deny them due process of law.

Board Member Pestone said then we should be able to table it to the next meeting and to make a final decision and City Attorney Claytor said it was the City Commission who made the final decision.

Alternate Board Member Reinert said that is where the problem is because we are not allowed to table it because it has to go to the City Commission. He explained why he was asking the question saying there is a step, process, and timeline when these things have to be done.

Director Bailey said yes, there is a schedule. He continued and said if we know this is on a schedule why are we not getting the information on Friday at 9:00 PM for a meeting on Monday. He asked why we could not get the information in a timely fashion.

Board Member Nigg said if we have a lot on the agenda how about setting it up at the next meeting.

A brief discussion ensued regarding the Sunshine.

Chair Fountain said the City staff will be sending the by-laws and requested that everyone send the topics for discussion on the bylaws to the staff for the next meeting agenda. He mentioned to have a 5:30 PM workshop.

The City Attorney told the board to not “reply all” to any emails sent by staff.

Without any further business, the Planning and Zoning Board meeting was adjourned at 8:57 PM.

The next Planning and Zoning Board meeting is scheduled for October 12, 2023.

Respectfully submitted,

Linda Bourgeois, BAS, MMC, ADAC
City Clerk

**PLANNING AND ZONING BOARD
MEETING MINUTES
CITY COMMISSION CHAMBERS
MONDAY, SEPTEMBER 25, 2023
6:00 P.M.**

Chair Fountain called the Planning and Zoning Board meeting to order at 6:11 p.m. in the City Hall Chambers located at 120 E. Pomelo Street, Lake Alfred, Florida.

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

Board Members in Attendance: Chair Ike Fountain, Board Member Herb Nigg, Board Member Ron Pestone, Board Member Scott Gearhart, Board Member Bancroft Fisher, Board Member Daley, and Alternate Board Member John Reinert. A quorum was present.

Board Members Absent: Vice-Chair Brenda Arnold and Alternate Member Cathy Long.

Staff: Community Development Director Ameer 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. He continued and provided an overview of the Standards of Review for the Comprehensive Plan and rezoning, legislative action, and quasi-judicial action.

Chair Fountain presented the August 10, 2023, Planning and Zoning Board meeting minutes for consideration of approval.

Board Member Nigg made a motion to approve the Planning and Zoning Board meeting minutes for August 10, 2023. The motion was seconded by **Alternate Board Member Reinert**. The motion was unanimously approved.

Chair Fountain introduced the first two business items.

1. Agricultural and Labor Program, Inc. Future Land Use
2. Agricultural and Labor Program, Inc. Zoning

Applicants: City of Lake Alfred

Requests: Future Land Use - approximately 1.97± acres Mixed Use (MU).
Zoning District – approximately 1.97± acres Mixed-Use Corridor (C-2)

Location: 0 Lake Alfred Road., parcel: 262731-000000-044050; further described at the northeast corner of the intersection of Lake Alfred Rd and Adams Barn Rd, north of Lynchburg Rd.

Site: 1.97± ac

The property was voluntarily annexed into the City from unincorporated Polk County on July 24, 2023, with Ordinance 1522-23. The property is assigned Agriculture Residential Rural (A/RR) with unincorporated Polk County. The applicant is requesting the Future Land Use classification of Mixed Use (MU). The property is currently an undeveloped grove, east of Adams Barn Road and north of Lake Alfred Road. The property is not located in the Green Swamp Area of Critical States Concern (GSACSC). The surrounding uses of the subject property are a mixture of residential, commercial, waterbody, wetland, and vacant properties.

Table 1: FLU & Zoning Request Summary

FLU Categories	Zoning Categories	Existing	Proposed	Difference
Mixed Use (A/RR)		1.97 ± ac	0	-1.97± ac
Applicant's Request				
Mixed Use (MU)	Mixed Use Corridor 2 (C-2)	0	1.97± ac	+ 1.97± ac

The City staff reviewed the compatibility, public facilities and services, potable water, wastewater, solid waste, traffic/transportation, airports, police and fire, recreation, school impacts, and environmental conditions.

Staff worked with the applicant regarding the future land use assignments of Mixed Use (MU) district assignments. Staff finds the request consistent with the surrounding uses, the Future Land Use element of the Comprehensive Plan, and the Unified Land Development Code (ULDC).

The transition from Agriculture Residential Rural (A/RR) to Mixed Use is consistent with other sites surrounding the subject properties. Therefore, the staff recommends approval of the request to assign the future land use classifications of Mixed Use (MU) on 1.97± acres and the request to assign the zoning districts of Mixed-Use Corridor (C-2) on 1.97± acres. The applicant was in attendance.

A discussion ensued about the maximum development envelope, the ability to have residential in a Mixed-Use Future Land Use if it could meet the development standards, there being criteria in the code for parking and stormwater, and the recontouring of the land in that area.

Director Bailey reviewed the land use and zoning categories of the ULDC with the Planning and Zoning Board.

Alternate Board Member Reinert said he did not have a problem with the future land use however, it was the zoning that he had questions about.

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

Alternate Board Member Reinert moved that the Planning and Zoning Board forward the request to assign the future land use of Mixed Use (MU) on 1.97± acres to the City Commission with a recommendation of approval. The motion was seconded by **Chair Fountain** and unanimously approved.

Board Member Nigg asked about the two different figures in the table and Director Bailey said because with the land use, we are required to provide the maximum, which is 47, and the zoning requested is the twelve units per acre which is 24.

Alternate Board Member Reinert asked if there was any reason C-1 was not chosen for the zoning. The main reason is the adjacent property which is zoned C-2 and the corners of the property are generally the most intensive use. He said one of the adjacent properties is a C-1. The staff said that the village center at Auburndale is almost identical to our C-2.

Information was shared that the City works with the property owners, the applicant's zoning request is compatible with the surrounding properties, the planning and zoning board recommendation to the City Commission could be something other than C-2, the option to vote to deny, and then the City Commission would ultimately decide the matter.

The City Attorney said that this zoning request is quasi-judicial. For quasi-judicial hearings and/or review, the burden of proof is on the applicant to establish that the request for rezoning is consistent with the comprehensive plan, compatible with the City's ULDC, and establish that the requested zoning designation is consistent and in-scale with surrounding real property. In this instance, City staff has reviewed the application and found that the request is consistent with the City's comprehensive plan. As such, the applicant has satisfied its burden of proof and, as a result, the burden of proof shifts to the government. If the board were to vote to recommend denial, the board would have to prove that the requested rezoning does not accomplish a legitimate public purpose. Stated differently, the board would need to establish, by competent substantial evidence, that the rezoning does not meet the criteria of the code and is adverse to the public.

Alternate Board Member Reinert said the staff did all the work for the applicant to push it right on through. We are rubber-stamping this one guys.

Chair Fountain said all cards are on the table, do you see a better zoning for this piece of property?

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

Board Member Reinert moved that the Planning and Zoning Board forward the request to assign the future land use of Mixed Use (MU) on 1.97± acres to the City Commission with a recommendation of approval. The motion was seconded by **Board Member Nigg** and unanimously approved.

A discussion ensued about the Adams Estate and the upgrades to the entrance for access, roadway improvements, the Estate constructing cottages or houses, the citrus trees removed from the land, and prior approval for a six-story hotel.

Board Member Gearhart said he said they had rentals on the property along with a wedding venue and didn't think they would want to develop the land.

Information was shared that they had cleared the grove but were not moving dirt. There will be a stormwater system near the roadway.

Board Member Nigg spoke about his involvement with the Lake Alfred Historical Society, Fort Cummings being somewhere in the area, while the land is being cleared, they are keeping an eye

out for the remnants of the actual fort, and two developments may ride on where the fort is located.

Chair Fountain introduced the next two business items.

- 3. Tree O Groves (White Road) – Future Land Use
- 4. Tree O Groves (White Road) - Zoning

Applicant: Tree O Groves

Requests:

Future Land Use

Map Amendment
Agriculture/

Change approximately 204.1± acres from Polk County

Residential Rural (A/RR) to 58.8 ± acres Residential (RES) and approximately 145.3 ± acres of Conservation (CON).

Zoning Map Amendment:

Change approximately 204.1 ± acres Alfred from Polk County Agriculture/ Residential Rural (A/RR) to 58.8 ± acres Vintage Residential Neighborhood (VRN) and approximately 145.3 ± acres of Conservation (CN).

Location:

General Location: 0 Lake Lowery Road and 0 White Road., parcels: 262721-000000-011000, 262721-000000-013000, 262722-000000-041000, and 262722-000000-042030; further described as east and west of White Rd and Arbuthnot Ln, west of Lake Lowery Rd, and east of CR 557.

Site

204.1± acres

The subject properties totaling approximately 204.1± acres were voluntarily annexed into the City on July 24, 2023, with Ordinances 1520-23 and 1521-23. The subject properties are located at 0 Lake Lowery Road and 0 White Road.

Table 1: FLU & Zoning Request Summary

FLU Categories	Zoning Categories	Existing	Proposed	Difference
Agriculture Residential Rural (A/RR)		204.1 ± ac	0	-204.1± ac
Applicant's Request				
Residential (RES)	Vintage Residential Neighborhood (VRN)	0	58.8± ac	+ 58.8± ac
Conservation (CON)	Conservation (CN)	0	145.3±	+145.3± ac

The City has worked with the property owners to determine the future land use and zoning designation that best meets the intended use of the property and that is compatible with the surrounding area. The properties are currently an undeveloped grove with wetlands and associated areas of "AE" flood zone. The properties are located in the Green Swamp Area of Critical States Concern (GSACSC).

The City staff reviewed the compatibility, public facilities and services, potable water, wastewater, solid waste, traffic/transportation, airports, police and fire, recreation, school impacts, and environmental conditions.

The applicant has requested the Future Land Use assignments of Residential (RES) and Conservation (CON) and the Zoning District assignments of Vintage Residential Neighborhood (VRN) and Conservation (CN). Staff has reviewed the application and recommends that all the environmentally sensitive areas such as wetlands and floodplains be assigned to the Conservation Future Land Use and Zoning District.

Staff believes the request is consistent with other sites surrounding the subject properties, and the Future Land Use element of the Comprehensive Plan and the Unified Land Development Code (ULDC). Therefore, staff recommends approval to assign the future land use classifications of Residential (Res) on 58.8± acres and Conservation (CON), on 145.3± acres and the request to assign the zoning districts of Vintage Residential Neighborhood (VRN) on 58.8± acres and Conservation (CN), on 145.3± acres. The County is evaluating Lake Lowery Road for widening and improvements for Old Haines City/Lake Alfred Road. The applicant was not in attendance.

There were no board member comments.

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

Board Member Reinert moved that the Planning and Zoning Board forward the request to assign the future land use of Residential (RES) on 58.8± acres and Conservation (CON) on 145.3± to the City Commission with a recommendation of approval. The motion was seconded by **Board Member Pestone** and unanimously approved.

Board Member Nigg commented that the four units per acre were better than six units per acre.

Chair Fountain opened the public hearing and seeing no one, 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 Neighborhood (VRN) on 58.8± acres and Conservation (CN), on 145.3± acres to the City Commission with a recommendation of approval. The motion was seconded by **Board Member Gearhart** and unanimously approved.

Board Member Comments:

Alternate Board Member Reinert said he would like to have the board review the comprehensive plan where the requirement is to have a park within a 15-minute walk. Would you let your kids walk fifteen minutes to get to a park? Would you walk a 15-minute walk to a park? He said that is entirely too far.

Director Bailey shared the School Board standards of not providing a bus to school if you live within a two-mile radius of the school. There is an expectation that a child can walk two miles to school.

Alternate Board Member Reinert asked about the repairs to the amenities at Lions Park. It was shared the boat dock damaged by Hurricane Ian was being replaced.

A discussion ensued about the Parks and Recreation Master Plan being available on the City's website, the fertilizer plant was under contract but not yet purchased, the Phase I and Phase II environmental studies, and the ability of the City to apply for federal funding to clean up the property.

Board Member Pestone said the City was getting the property at a great price and commended the City Manager for his negotiating skills.

At 7:11 PM, the Planning and Zoning Board meeting was adjourned and the Workshop was reconvened.

Without any further business, the Planning and Zoning Board meeting was adjourned at 8:57 PM.

The next Planning and Zoning Board meeting is scheduled for October 12, 2023.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda Bourgeois".

Linda Bourgeois, BAS, MMC, ADAC
City Clerk