

**MINUTES OF THE TOWN OF LADY LAKE
REGULAR PLANNING AND ZONING BOARD MEETING
LADY LAKE, FLORIDA**

**December 8, 2014
5:30 p.m.**

The Planning and Zoning Board Meeting was held in the Town Hall Commission Chambers, 409 Fennell Blvd., Lady Lake, Florida.

CALL TO ORDER: John Gauder, Chairperson

PLEDGE OF ALLEGIANCE: John Gauder, Chairperson

ROLL CALL Gil Pierson, Member
 Mike McKenzie, Member
 Alfred Monteleone, Member
 William Sigurdson, Vice Chairperson/Member (arrived at 5:39 p.m.)
 John Gauder, Chairperson

STAFF MEMBERS PRESENT: Attorney Todd Mazenko, BRS Legal; Thad Carroll, Growth Management Director; Wendy Then, Town Planner; Kris Kollgaard, Town Manager; and Julia Wolfe, Staff Assistant to Town Clerk

Also Present: Commissioner Paul Hannan

OPEN FORUM:

Chairperson Gauder asked if anyone in the audience had any comments or questions. There were no comments or questions.

NEW BUSINESS:

1. **Approval of Minutes** – November 10, 2014 Regular Meeting

Upon a motion by Member Monteleone and a second by Member McKenzie, the Planning and Zoning Board approved the minutes of the Planning and Zoning Board Meeting of November 10, 2014 as presented by a vote of 4-0.

2. **Ordinance No. 2014-11 – A Request for Voluntary Contraction (De-Annexation) of the Town Boundary by De-Annexing +/- 3.18 Acres of Real Property – Located South of Lake Griffin Road and East of Dulgar Road at 224 Moore Place (Wendy Then)**

Thad Carroll, Growth Management Director, presented the background summary for this agenda item (on file in the Clerk's Office). He stated the applicants, Richard and Christine Stine, owners of property addressed as 224 Moore Place, have filed a request to voluntarily deannex their property from the Town of Lady Lake, which includes 3.18 ± acres of property. He stated the nearest Town residence on the south side via Lake Griffin Road is .66 miles away; the nearest residence Lake Griffin Road on the north side is .44 miles, and from Lake Griffin Road

via Dulgar Road/Moore Place is .25 miles. The applicants have provided a letter of justification, dated November 20, 2014, outlining their reasons for the request to deannex (see attached).

Aerial views of the property and photos of the property and postings were shown.

The Town annexed a portion of the subject property by Ordinance No. 84-18-(120) on December 3, 1984, and the remainder by Ordinance No. 90-28 on November 5, 1990. In 1990, the previous owners of this property requested to be annexed in because one of the owners was in poor health and was concerned about ambulance response. The property was sold to the Stine's in 2003, and they requested that the property be deannexed in 2004 because they were paying Town taxes but receiving no Town services. The Town denied the request in 2004 fearing that they would be setting precedent for subsequent deannexation requests; additionally, there were plans to extend water and sewer service as this was expected to be an area of large growth for the Town of Lady Lake. Another concern at the time they had made their prior request to deannex was that there would have to be a referendum vote to deannex the property. It has since been determined by Town Attorney Derek Schroth that no referendum vote is required as there is only one person in the area instead of the 15% of qualified voters required to request that it go on a referendum.

This property fails to meet the following criteria of Florida Statute 171.043 and is therefore eligible for municipal contraction (reasons as to how the property fails to meet the standard are noted in bold text):

2) Part or all of the area to be annexed must be developed for urban purposes. An area developed for urban purposes is defined as any area which meets any one of the following standards:

(a) It has a total resident population equal to at least two persons for each acre of land included within its boundaries. **The subject parcel has two residents and the property is 3.18 acres, this density does not achieve two persons per acre.**

(b) It has a total resident population equal to at least one person for each acre of land included within its boundaries and is subdivided into lots and tracts so that at least 60 percent of the total number of lots and tracts are one acre or less in size. **The subject property and the adjacent properties are equal, and in a majority of instances greater than, one acre in size.**

(c) It is so developed that at least 60 percent of the total number of lots and tracts in the area at the time of annexation are used for urban purposes, and it is subdivided into lots and tracts so that at least 60 percent of the total acreage, not counting the acreage used at the time of annexation for nonresidential urban purposes, consists of lots and tracts five acres or less in size. **In accordance with the definition below, the subject property and adjacent properties are not used intensively to qualify under this definition.**

F.S. 131.031 (10) "Urban purposes" means that land is used intensively for residential, commercial, industrial, institutional, and governmental purposes, including any parcels of land retained in their natural state or kept free of development as dedicated greenbelt areas.

(3) In addition to the area developed for urban purposes, a municipal governing body may include in the area to be annexed any area which does not meet the requirements of subsection (2) if such area either:

(a) Lies between the municipal boundary and an area developed for urban purposes, so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending services or water or sewer lines through such sparsely developed area. **There are no municipal services of water and sewer lines to the east, unincorporated lands, of the property, nor are there areas developed for urban purposes anticipated to be developed.**

(b) Is adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in subsection (2). **Urban purposes are not in existence along 60% of the external boundary. There are no abutting adjacent properties to the subject property; currently, adjacency is only being met via a water body.**

Mr. Carroll stated that there are currently no water and sewer services being provided to the Stine’s property; should these utilities ever be extended along Lake Griffin Road, the lines would not be within the 200 feet required by the Land Development Regulations to connect. Also, the Stine’s are getting no police services from the Town as the Lady Lake officers do not patrol near their property. Additionally, code enforcement officers have been confused in the past, under the belief that the subject property was unincorporated. Upon evaluation of the aforementioned facts and circumstances, staff is in agreement with the applicants that the property exhibits characteristics that are consistent with unincorporated areas.

The Future Land Use and Zoning of the property and adjacent properties are as follows:

Future Land Use

Subject Property	Lady Lake – Rural High Density, 1 dwelling unit per acre
Future Land Use of Adjacent Properties	
West	Lady Lake – Single Family Low Density, up to 3 du/acre
East	Lake County – Urban Low
North	Lake County – Urban Low
South	Lake County – Urban Low

Zoning

Subject Property	Agriculture Residential AG-1
Zoning of Adjacent Properties	
West	Lady Lake – Residential 3 du/ac (RS-3)
East	Lake County – Rural Residential (R-1)
North	Lake County – Rural Residential (R-1)
South	Lake County – Rural Residential (R-1)

Mr. Carroll reported that notices to inform the surrounding property owners (12) within 150’ of the subject property of the proposed variance were mailed by certified mail return receipt on Monday, December 1, 2014 and the property was also posted this same date. He stated that of the 12 notices sent out, eight return receipts were received back, and there have been no phone calls or written communication in favor or opposition, and only one inquiry by phone. He stated that staff recommends approval.

Mr. Carroll stated that at the November 17, 2014 Town Commission meeting, after discussion, it was the consensus of the Commissioners that they would be in favor of this deannexation. The Technical Review Committee (TRC) reviewed the application independently for deannexation and Ordinance No. 2014-11, and no comments were received. It was determined that the application was complete and ready for transmittal to the Planning and Zoning Board. The Town Commission is scheduled to consider Ordinance No. 2014-11 at first reading on Monday, December 15, 2014, and the second/final reading of the ordinance is scheduled for Monday, January 5, 2014.

Member McKenzie asked what effect the deannexation would have on the properties adjacent to the Stine's.

Mr. Carroll replied non-contiguous annexation is provided for under the Interlocal Service Boundary Agreement. He stated water and sewer has to be provided and certain parameters need to be met, and if they are to be annexed non-contiguously in the future, there are means for people beyond them to annex if they want to. Mr. Carroll stated there is nothing in the area between where their property is up to Lake Griffin that shows any indication of annexation toward the east.

Chairperson Gauder asked the property owner if he wished to speak on this matter.

Richard Stine stated he had no other comments, but would be glad to answer any questions the Board may have.

Chairperson Gauder asked if there was anyone in the audience who wished to speak on this matter. There was no one.

Upon a motion by Member Monteleone, and a second by Member Pierson, the Planning and Zoning Board recommended transmittal and approval of Ordinance No. 2014-11 to the Town Commission for consideration by the following roll call vote:

<i>MCKENZIE</i>	<i>YES</i>
<i>MONTELEONE</i>	<i>YES</i>
<i>PIERSON</i>	<i>YES</i>
<i>SIGURDSON</i>	<i>YES</i>
<i>GAUDER</i>	<i>YES</i>

3. Resolution No. 2014-102 – A Resolution Granting a Variance to Authorize the Removal of Two Historic Trees in Accordance with Chapter 10, Section 10-4).F)., of the Town of Lady Lake Land Development Regulations, on Property Owned by Brian W. Warwick, Janet R. Varnell, and Ellen R. Robards – Located at 316 La Grande Blvd., within the Plaza Professional Center (Wendy Then)

Thad Carroll, Growth Management Director, presented the background summary for this agenda item (on file in the Clerk's Office). He stated that applicant Fran Dann-Akin, on behalf of property owners Brian W. Warwick, Janet R. Varnell, and Ellen Robards, submitted an application on February 3, 2014 for a variance in accordance with Chapter 10, Section 10-4).f). of the Land Development Regulations (LDRs) which states that on all properties, the removal of

historic trees shall require a variance from the Planning and Zoning Board and then the Town Commission.

Mr. Carroll stated the variance proposal was originally for the removal of one historic tree on the property, but at the March 17, 2014 Commission meeting, the Town Commission requested that an alternative plan be presented to determine whether that tree could be saved if the building or parking configuration were changed. At the April 7th meeting, Resolution No. 2014-102 was again continued to the April 21st meeting, and at the May 5, 2014 meeting, the item was tabled indefinitely to a date uncertain.

Aerial views of the property and photos of the property and postings were shown.

Mr. Carroll stated at this time, the property owners, Brian W. Warwick, Janet R. Varnell, and Ellen Robards, have submitted an alternative proposal for the development of a new building in the Plaza Professional Center which proposes the removal of two smaller historic trees in lieu of the prior proposal to remove one large historic tree. The property owners have elected to propose a change of the location of the building which requires the removal of a 45" live oak and a 42" live oak. The owners also reassessed the size of the prior tree and found that it is a tree with a 60" diameter.

Brian Warwick, property owner, has submitted a revised Justification Statement as to why the removal of the trees is necessary. When reviewing an application for a variance, the Planning and Zoning Board and the Town Commission shall consider the following requirements and criteria according to Chapter 3, Section 14 f) – Review criteria for variances in the Land Development Regulations:

1. No diminution in value of surrounding properties would be suffered.
2. Granting the permit would be of benefit to the public interest.
3. Denial of the permit would result in unnecessary hardship to the owner seeking it.
4. The use must not be contrary to the spirit of this Code.
5. Financial disadvantages and/or inconveniences to the applicant shall not of themselves constitute conclusive evidence of unnecessary and undue hardship and be grounds to justify granting of a variance.
6. Physical hardships such as disabilities of any applicant may be considered grounds to justify granting of a variance at the discretion of the Town Commission.

The subject property lies in Section 07, Township 18, South Range 24 East, in Lady Lake, Florida. The Future Land Use Map designation for the site is Commercial General-Retail Sales & Services (RET) and is zoned Planned Commercial (CP). The subject property is located at 316 La Grande Blvd., within the Plaza Professional Center (Alternate Key 3808678); within the town limits of the Town of Lady Lake, Florida. The application is complete and ready for review by the Planning and Zoning Board for their recommendation.

Mr. Carroll stated that notices to inform the surrounding property owners (19) within 150' of the subject property of the proposed variance were mailed by certified mail return receipt on Wednesday, November 26, 2014. In addition, the property was posted on Monday, December 1, 2014. He reported that of the 19 notices sent out, 13 return receipts were received back, and there have been no phone calls, e-mails or written statements thus far on the matter, and only one inquiry by phone.

Upon approval of this variance resolution, the applicant will have to continue with the Site Plan application process for approval of the improvements proposed at the remaining vacant lot. All landscaping buffer requirements and planting would have to be satisfied during this process.

Mr. Carroll stated that at the November 18, 2014 special meeting of the Town Commission, it was the consensus of the Commission that they were in favor of advancement of the conceptual presentation of alternative historic tree removals for the Plaza Professional Center as presented. The Technical Review Committee reviewed the application for Resolution No. 2014-102 and returned no comments regarding this application on Monday, December 1, 2014. The Town Commission will review the application for Resolution No. 2014-102 for final consideration at its regular meeting on Monday, December 15, 2014 at 6:00 p.m.

Vice Chairperson/Member Sigurdson suggested that if you align the new building with the face of the other two buildings and reduce the size of the building, the big tree might be saved.

Ed Abshier, the engineer for the site, stated that with this proposal, they found a new buyer who was willing to build two buildings with the smaller one in the back so the big tree could be saved. He stated the area is the most heavily treed commercial subdivision in Lady Lake and that there was no tree ordinance when the area was developed.

Chairperson Gauder asked if there was anyone in the audience who wished to speak on this matter.

Shirley Lennox introduced herself as the owner of Ocala Shores Realty and stated she brought the property at 936 Tarrson Blvd. a few years ago, and it was advertised as a historic site. She stated if any of the trees are allowed to be cut down, a slippery slope is being created for that area. She stated she paid more for a mobile home on the historic side than any mobile home that has ever been sold for in this county. Ms. Lennox stated she is prepared to buy the property as a cash sale for what it was purchased for. She stated the trees create noise abatement, shade, and the utility bills are less expensive. She also stated it is very dangerous getting out of the parking lot and it is impossible to turn around in that area.

Mr. Carroll clarified that the phone call staff received earlier was from Ms. Lennox.

Ms. Lennox stated the phone call had to do with something else and shade was never discussed.

Chairperson Gauder asked Ms. Lennox if the offer was made to the applicant.

Ms. Lennox stated she left a phone message for Fran Dann-Akin.

Fran Dann-Akin with Foxfire Realty stated she had been trying to market and sell this property for about four years, and it has been very difficult. She stated the owners of this property pay a maintenance fee to The Villages Property Owners Association, in addition to what they paid for it, and a great deal of money is tied up in the property.

Member McKenzie stated the Board needs to maintain their direction on whether to recommend the trees be allowed to be removed or not, not whether the property is sold or not.

Chairperson Gauder stated there are still those trees to be dispensed with if they sell the property.

Chairperson Gauder asked if there was anyone else in the audience who wished to speak on this matter. There was no one.

Member Pierson, with a second by Member Sigurdson, made a motion for the Planning and Zoning Board to recommend transmittal and approval of Resolution No. 2014-102 to the Town Commission, which failed by the following roll call vote:

<i>MCKENZIE</i>	<i>NO</i>
<i>MONTELEONE</i>	<i>NO</i>
<i>PIERSON</i>	<i>YES</i>
<i>SIGURDSON</i>	<i>YES</i>
<i>GAUDER</i>	<i>NO</i>

Attorney Todd Mazenko interjected that the Board may need to entertain another motion because nothing is being forwarded to the Commission.

Upon a motion by Member Monteleone, and a second by Member McKenzie, the Planning and Zoning Board recommended transmittal and denial of Resolution No. 2014-102 to the Town Commission, by the following roll call vote:

<i>MCKENZIE</i>	<i>YES</i>
<i>MONTELEONE</i>	<i>YES</i>
<i>PIERSON</i>	<i>NO</i>
<i>SIGURDSON</i>	<i>NO</i>
<i>GAUDER</i>	<i>YES</i>

CHAIRPERSON/MEMBERS' REPORT:

There were no comments or reports.

ADJOURN:

With nothing further to discuss, the meeting was adjourned at 6:05 p.m.

Julia Wolfe, Staff Assistant to Town Clerk

John Gauder, Chairperson

Minutes transcribed by Julia Wolfe, Staff Assistant to Town Clerk