

**MINUTES OF THE REGULAR MEETING
OF THE LADY LAKE TOWN COMMISSION
LADY LAKE, FLORIDA**

October 19, 2015

The Regular Meeting of the Lady Lake Town Commission was held in the Commission Chambers at Lady Lake Town Hall, 409 Fennell Blvd., Lady Lake, Florida with Mayor Ruth Kussard presiding. The meeting convened at 6:00 p.m.

- A. CALL TO ORDER:** Mayor Ruth Kussard
- B. PROCEDURAL:** *Citizens are encouraged to participate in the Town of Lady Lake meetings. Speakers will be limited to three (3) minutes. Additional time may be granted by the Mayor. Citizen groups are asked to name a spokesperson and the Mayor, at his/her discretion, may allow longer than three minutes. Upon being recognized by the Mayor, please approach the dais, state your name and address, and speak into the microphone. The order of agenda items may be changed if deemed appropriate by the Town Commission. Please be respectful of others and put your cell phone on silent mode.*
- C. PLEDGE OF ALLEGIANCE** - Led by Joe Quinn
- D. INVOCATIONⁱ:** Moment of Silence
- E. ROLL CALL:** Tony Holden, Commissioner Ward 2
Dan Vincent, Commissioner Ward 3
Paul Hannan, Commissioner Ward 4
Jim Richards, Commissioner Ward 5
Ruth Kussard, Mayor/Commissioner Ward 1

STAFF MEMBERS PRESENT: Kris Kollgaard, Town Manager; Derek Schroth, Town Attorney; Thad Carroll, Growth Management Director; C.T. Eagle, Public Works Director; Captain Jason Brough, Police Department; Pam Winegardner, Finance Director; and Nancy Slaton, Deputy Town Clerk

F. PUBLIC COMMENTSⁱⁱ

Mayor Kussard asked if there were any comments at this time. There were no comments at this time.

G. PROCLAMATION:

1. Proclaiming the Week of October 23rd – 31st as Red Ribbon Week (Mayor Kussard/John Gionet, 3rd Young Marine Division)

Mayor Ruth Kussard read the proclamation proclaiming the week of October 23rd to the 31st as Red Ribbon Week which encourages Americans to wear a red ribbon to show their support for a drug-free environment.

H. CONSENTⁱⁱⁱ:

Mayor Kussard asked if there were any questions or comments on the Consent items.

2. Minutes – October 5, 2015 – Commission Meeting

3. Consideration of an Extension to the Sewer & Water Utility Agreement for Village Veranda at Lady Lake, LLC, to Provide for an Additional Six Months to Obtain a Building Permit and Reserve the Utility Capacity Already Purchased for the Development (Thad Carroll)

The background summary for this agenda item is on file in the Clerk's Office. It states that on April 6, 2015, the Town Commission approved the Sewer & Water Utility Agreement between the Town of Lady Lake and Village Veranda at Lady Lake, LLC ("Developer") in the amount of \$79,407.0, for the provision of 17 water equivalent residential units (ERUs) and 17 sewer ERUs, for the development of a 90 Bed Independent Living Facility, a 40 Bed Memory Care Facility, and 22,000 sq. ft. of commercial support uses to be developed in three phases.

Subject to the terms and conditions of the Sewer & Water Utility Agreement between the developer and the Town of Lady Lake executed on April 6, 2015, in Section 2, the language states: "Should Developer not obtain a building permit to initiate construction of the Developer's project noted above within 180 days of the date this Utility Agreement is approved by Commission, the capacity herein reserved will be forfeited and all money paid to reserve capacity shall also be forfeited. Should Developer fail to obtain a building permit within 180 days of the date this Utility Agreement is approved by Commission, Developer agrees to release any and all claims against the Town for a return of any of the money paid to reserve capacity."

At this time Village Veranda at Lady Lake, LLC is requesting an extension of the agreement for an additional six months to allow more time to finalize the construction plans and secure building permits for construction of the facility. Greg Beliveau of LPG Urban & Regional Planners, Incorporated has provided a letter dated October 6, 2015 requesting the extension and providing justification.

The site plan for the project was approved by the Town Commission on March 2, 2015, and all ERUs have been purchased for the project in the amount of \$79,407.00. The Town of Lady Lake has not increased the charges per ERU for sewer, water, or reuse since the execution of the original agreement. Failure to approve the extension will result in a forfeiture of the reserved capacity as well as all fees paid. Staff recommends approval of the amendment as presented.

Upon a motion by Commissioner Hannan and a second by Commissioner Richards, the Commission approved Consent Items #H-2 and #H3 by a vote of 5 to 0.

I. OLD BUSINESS: No old business.

J. NEW BUSINESS:

4. Consideration to Utilize Tree and Beautification Funds for the Purchase of Trees at the Town's Public Works Complex (C.T. Eagle)

Public Works Director C.T. Eagle gave the background summary for this agenda item (on file in the Clerk's office). He stated that in an effort to screen some of the larger structures in the Public Works Complex from surrounding neighboring properties, staff recommends the installation of six Sycamore trees and the necessary irrigation system to support the new trees.

Mr. Eagle reported that this item was brought before the Parks, Recreation and Tree Advisory Committee at their meeting on October 14, 2015, and they recommended approval with a vote of 5-0.

Town Manager Kris Kollgaard commented that a couple of residents in the area requested some trees be installed as screening for the facility.

Commissioner Hannan asked why Sycamore trees were chosen.

Mr. Eagle replied that they were chosen as they grow fairly quickly, are low maintenance, and have a higher canopy that allows easy access to mowing under and around them. He stated they also already have Sycamore trees in the area.

Upon a motion by Commissioner Richards and a second by Commissioner Vincent, the Commission approved the consideration to utilize Tree and Beautification Funds to purchase trees to install at the Town's Public Works Complex, to include installation of irrigation, by a vote of 5 to 0.

K. TOWN ATTORNEY'S REPORT:

5. Resolution No. 2015-108 – Final Reading – Variance Request - Tabled from 10/5/15 - Kevco Builders for Cezary & Patricia Fronczak – Requesting an After-the-Fact Variance Pursuant to the Provisions of Chapter 5, Section 5-4).C).4). to Increase the Maximum Impervious Surface Area from 35% to 42.8% of the Lot Size to Retain Concrete Improvements Already Made Such as Rear Patio Concrete Slab, Driveway, and Connecting Sidewalk – Located at 510 Dowling Circle (Wendy Then)

Town Attorney Derek Schroth read the resolution by title.

Growth Management Director Thad Carroll gave the background summary for this agenda item (on file in the Clerk's office). It states that the applicant, Bryan Smith Kevco, has filed a variance application on behalf of property owners Cezary & Patricia Fronczak from the provisions of Chapter 5, Section 5-4).c).4).E). of the Land Development Regulations (LDRs) which states that the maximum impervious surface within the RS-3 Zoning should not exceed 35%. The applicant proposes the impervious surface area (ISA) to be increased from **35%** to **42.8%** to be allowed to retain concrete improvements already constructed such as rear patio concrete slab, driveway, and sidewalk, constructed at 510 Dowling Circle (Alternate Key 3682904).

Mr. Carroll stated this item was formally heard at the Commission's October 5, 2015 meeting, and was tabled to gather more information. He stated that Keith Riddle of Riddle-Newman Engineering, Inc. has since submitted a letter regarding his opinion of the impervious surface ratio for this property, and it was handed out prior to the meeting. In it, Mr. Riddle states it is his opinion that the existing impervious surface on this lot will have no adverse impact to the lot or

adjacent lots; and will not have an adverse impact on the storm water system, and will not increase the chance of flooding. This letter has been included in the record.

Further background for this variance request is as follows:

During the construction of the single family residence at 510 Dowling Circle, certain concrete improvements were completed that originally were not part of the zoning clearance issued for the Single Family Residence project (Permit No. 15-0173) as it relates to concrete to be poured on the site. Upon submittal of an as-built survey to the Growth Management Department, it was determined that the total impervious surface area was increased to 6,634.38 sq. ft. within the 15,499.87 sq. ft. lot; yielding 42.8% of impervious surface area (concreted area) in the lot. At this time the applicant is requesting an increase of 7.8% of what is currently allowed under the RS-3 Zoning District.

As required of this application, a Justification Statement has been submitted. The applicant stated that the concrete flatwork was an oversight during construction, it's mostly within the setback, and all building codes have been followed. Further, the applicant stated that these improvements brings new tax roll for the Town and the final product is consistent with the quality of the homes built within this neighborhood. Additionally, the denial of the variance would create a hardship should the owner have to remove approximately 1000 sq. ft. of concrete; which would have to be redone with pavers and the finish wouldn't be the same. Lastly, the homeowners association is aware of the variance and has provided a letter of support/approval for the concrete improvements.

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 05, Township 18, Range 24, Lady Lake, Florida. The property is zoned “RS-3” Single Family Low Density (up to three dwelling units per acre), which permits the construction of these residential improvements. The Future Land Use Map designation for the site is SF-LD (Single Family Low Density).

Zoning/Future Land Use

Subject Property	RS-3- Single Family Low Density/ SF-LD
Zoning of Adjacent Properties	
West	RS-3- Single Family Low Density/ SF-LD
East	RS-3- Single Family Low Density/ SF-LD
North	RS-3- Single Family Low Density/ SF-LD
South	RS-3- Single Family Low Density/ SF-LD

Notices to inform the surrounding property owners (9) within 150' of the subject property of the proposed variance were mailed by certified mail return receipt on Monday, August 31, 2015 and the property was also posted the same day. There have been no objections received.

The Technical Review Committee (TRC) members individually reviewed the application for Resolution No. 2015-108 and provided comments on September 4, 2015 that determined the application complete and ready for transmittal to the Planning and Zoning Board and the Town Commission. The Planning and Zoning Board heard the application for Resolution No. 2015-108 at their regular meeting on Monday, September 14, 2015, and recommended approval by a 3-0 vote.

Mr. Carroll stated that on October 5, 2015, the Town Commission voted 4-0 to table Resolution No. 2015-108 to a date certain (10/19/2015) to allow for the submittal of an Engineering Report concerning drainage and flooding on the subject parcel, and potential effects to adjacent parcels, before the consideration of a final vote.

Commissioner Richards commended staff for catching this error by bringing up the original design which followed the 35% impervious surface ratio. He stated that this is a serious issue as excess impervious surface ratios can result in serious flooding over time. Commissioner Richards gave examples of flooding problems that occurred in Melrose, Massachusetts years ago when he worked there, and a problem that occurred 20 years ago in the Rio Grande area of The Villages where the system was not designed correctly and had to be fixed. He stated this house is in the flood zone on the FEMA maps and it is like a bowl in that area, and although the engineer does not feel it will be a problem, it should be on file and should be able to be pulled up. He stated the impervious surface area of other homes in the area should be looked at as well and someone needs to keep track of it.

Commissioner Holden stated he agreed with Commissioner Richards.

Mayor Kussard commented that she also agreed with Commissioner Richards that this should be kept on file with the engineer's report, and that if a problem does come up, the engineer would be called on to correct it.

Commissioner Hannan stated this request should not be delayed so that the owners can receive their C.O.

Mayor Kussard asked if there was any public comment on Resolution No. 2015-108, and hearing none, asked for a motion.

Upon a motion by Commissioner Hannan and seconded by Commissioner Holden, the Commission approved the final reading of Resolution No. 2015-108 by the following roll call vote:

HOLDEN	YES
VINCENT	YES
HANNAN	YES
RICHARDS	YES
KUSSARD	YES

6. Ordinance No. 2015-11 – Second/Final Reading – Rezoning – David Springstead – Rezoning 49 +/- Acres of Land Owned by Elijah Bailey, Jr., from Heavy Commercial (HC) to Planned Unit Development (PUD) – Located North of Lake Ella Road, and West of Hwy 27/441 (Thad Carroll)

Town Attorney Derek Schroth read the ordinance by title.

Growth Management Director Thad Carroll gave the background summary for this agenda item (on file in the Clerk’s office). He stated that this is the second and final reading, and that staff recommends approval. The applicant, David Springstead, has filed an application on behalf of the property owner, Elijah Bailey, Jr., to amend the zoning designation of property being 49 +/- acres, located north of Lake Ella Road and west of Hwy 27/441, referenced by Alternate Key #1282594, #1282608, and #3374916.

Mr. Carroll showed aerial views of the subject property and stated it is currently vacant. The applicant is requesting to rezone the properties to Planned Unit Development (PUD) to allow the following uses: General Retail, Office Use, Restaurants, Apartments, Condominiums, Hotels, Restaurant with Bar, and Medical Treatment Use. Attached is Exhibit “C”, detailing the proposed uses and buildings in their foreseen locations on the property. The existing and proposed zoning maps of this property were shown.

The property was formerly zoned Planned Unit Development (PUD) under Ordinance 2005-20, which provided entitlements for many of the same uses as provided by the current Heavy Commercial zoning under Ordinance No. 2011-19. The intent of Ordinance No. 2011-19 was to rezone the property in a manner that would allow it to be subdivided and marketed in a more flexible manner, as potential developers would have had to adhere to the PUD Ordinance 2005-20. At this time, the property owner has a potential buyer who would like to establish a variety of uses on the property, including apartments, which was removed as an approved use under the Heavy Commercial rezoning of Ordinance 2011-19. The Future Land Use designation of Commercial General – Retail Sales and Services (RET) is the appropriate designation for what the applicant is seeking by this rezoning request; therefore, a future land use map amendment is not needed. The zoning designation of the subject property and the adjacent property is as follows:

Zoning Designations

Subject Properties	Lady Lake - Heavy Commercial (HC)
Future Land Use of Adjacent Properties	
West	Lady Lake- Commercial Residential Single Family (RS-6)
East	Lady Lake – Heavy Commercial (HC)
North	Lady Lake – Heavy Commercial (HC)
South	Fruitland Park – Neighborhood Commercial (C-1)

Photos of the property and the posting was shown, as was the conceptual plan for the development.

Mr. Carroll reported that notices to inform the surrounding property owners (26) within 150’ of the property of the proposed rezoning were mailed by certified mail return receipt on Monday, August 31, 2015; the property was also posted the same day and again on September 28, 2015. He stated 25 of the 26 notices were returned as received and there have been no objections received to date, although there have been inquiries, and one person expressed concern over the impact apartments would have in the area.

Comments:

- The PUD may be developed in phases; however, parking, stormwater, and all other requirements of the site plan must be in place for each phase to stand alone.
- Site Plans will be required for each phase of the development.
- All development on the property will be served by Town Utilities.

Mr. Carroll reported the Technical Review Committee (TRC) members individually reviewed application for Ordinance No. 2015-11, provided on September 1, 2015, and determined the application to be complete and ready for transmittal to the Planning and Zoning Board. At the September 12, 2015 meeting, the Planning and Zoning Board voted 3-0 to forward Ordinance No. 2015-11 to the Town Commission with the recommendation of approval. At the October 5, 2015 meeting, the Town Commission voted 4-0 for approval of Ordinance No. 2015-11 upon first reading.

Mr. Carroll stated that David Springstead is present to answer any questions.

Commissioner Hannan commented that Building A is close to the road and he would like to see it further back from the road like the Oakwood Smokehouse and the paint store.

Mr. Springstead replied that the building was placed at the building set-back requirement. He stated this building will have parking in the rear for maximum exposure to the highway versus parking in the front for the paint store and Oakwood.

Mr. Carroll also reported that the front set-back per this Memorandum of Agreement is a minimum of 50' from the highway, which this follows.

Mayor Kussard asked if the proposed widening of US Highway 27/441 was considered.

Mr. Springstead replied that he has talked with the FDOT and has received the widening plans for this highway. He stated the FDOT is adding lanes in this area, but will not take additional right-of-way from their side of the property, and this was considered when laying out the buildings.

Mayor Kussard asked if there was any public comment on Ordinance No. 2015-11, and hearing none, asked for a motion.

Upon a motion by Commissioner Hannan and seconded by Commissioner Richards, the Commission approved Ordinance No. 2015-11 – Second/Final Reading – Rezoning 49 +/- Acres of Land Owned by Elijah Bailey, Jr., from Heavy Commercial (HC) to Planned Unit Development (PUD) – Located North of Lake Ella Road, and West of Hwy 27/441, by the following roll call vote:

HOLDEN	YES
VINCENT	YES
HANNAN	YES
RICHARDS	YES

KUSSARD

YES

7. Ordinance No. 2015-14 – Second/Final Reading – Amending Ch. 10.5, Pensions & Retirements, Art. III; Modification of Investment Allocation for Police Pension Plan (Kris Kollgaard)

Town Manager Kris Kollgaard requested that this ordinance be tabled to the November 2, 2015 meeting at 6 p.m. as Mr. West of The Bogdahn Group was unable to attend this evening's meeting.

It was the consensus of the Commissioners that this item be tabled to the November 2, 2015 Commission meeting.

M. TOWN MANAGER'S REPORT:

Town Manager Kris Kollgaard stated staff would like the Commissioners to attend a 5:30 p.m. meeting on November 2nd, prior to the regular Commission meeting. She stated this meeting will be a quick demonstration of the Surface Pro 3 tablet for the Commissioners' consideration prior to it being brought forward for approval.

The Commissioners agreed to this meeting.

Ms. Kollgaard reminded everyone that Government Day will be held on Saturday, November 7, 2015 from 10 a.m. to 1 p.m. at the Eisenhower Regional Recreation Center. She stated the Town will have representatives present.

N. MAYOR/COMMISSIONER'S REPORT:

There were no comments or reports.

O. PUBLIC COMMENTS^{iv}

Mayor Kussard asked if anyone in the audience would like to speak on any item.

- Joe Quinn of 633 Rainbow Blvd. stated that he was gone for 6 ½ weeks and he was amazed to see all the new homes that have been started in Silver Lake during his absence. He stated the elevation of these homes seem to be much higher, but he feels it will be beautiful when it is all done. Mr. Quinn commented it would be nice if the Town could use any influence possible to speed up the foreclosure process so that unsightly vacant properties can be fixed up.

P. ADJOURN: The meeting was adjourned at 6:24 p.m.

Kristen Kollgaard, Town Clerk

Ruth Kussard, Mayor

Minutes transcribed by Nancy Slaton, Deputy Town Clerk

ⁱ Any invocation that may be offered before the official start of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker.

ⁱⁱ This section is reserved for members of the public to bring up matters of concern or comments. It is not limited to items on the agenda and it is open to any concern or comments that the public may have.

ⁱⁱⁱ All items listed under consent are considered routine by the Town Commission and will be enacted by one motion. There will be no separate discussion of these items unless a Town Commissioner so requests, in which event the item will be removed from the consent agenda and considered in its normal sequence.

^{iv} This section is reserved for members of the public to bring up matters of concern or comments. It is not limited to items on the agenda and it is open to any concern or comments that the public may have.