

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

**February 8, 2016
5:30pm**

The Planning and Zoning Board Meeting was held in the Town Hall Commission Chambers at 409 Fennell Blvd., Lady Lake, Florida. The meeting convened at 5:30 p.m.

CALL TO ORDER: John Gauder, Chairperson

PLEDGE OF ALLEGIANCE: John Gauder, Chairperson

ROLL CALL Michael McKenzie, Member
 Peter Chiasson, Member
 William Sigurdson, Vice Chair/Member
 John Gauder, Chairperson

STAFF MEMBERS PRESENT: Thad Carroll, Growth Management Director; Wendy Then, Town Planner; and Nancy Slaton, Deputy Town Clerk

Also Present: Attorney Sasha Garcia, BRS Legal; Mayor Ruth Kussard; Doug Wade of Wade Surveying, Inc.; and Daniel O’Neil

OPEN FORUM:

Chairperson Gauder asked if there were any comments or questions from the audience. There were no comments or questions.

NEW BUSINESS:

1. Approval of Minutes – January 11, 2016 Regular Meeting

Upon a motion by Member Chiasson and a second by Member Sigurdson, the Planning and Zoning Board approved the minutes of the Planning and Zoning Board Meeting of January 11, 2016 as presented by a vote of 4-0.

2. Ordinance No. 2016-08 – Annexation – Daniel O’Neil LLC & Prank Dejsubha – Annexing Four Lots Consisting of Approximately .59 +/- Acres of Land which are Located within Orange Blossom Gardens Unit 1, within Lake County, Florida (Alternate Keys 1482496, 1482208, 1482551, and 1768039) (Wendy then)

Town Planner Wendy Then presented the background summary for this agenda item (on file in the Clerk’s Office). She stated that the applicant, Daniel O’Neil, on behalf of the Daniel O’Neil LLC and Prank Dejsubha, has filed applications to annex properties consisting of four lots located north of Griffin Avenue and northeast of North Highway 27/441 within the Orange Blossom Gardens Subdivision Unit 1. The annexation application involves 0.59 +/- acres of property proposing a change from unincorporated Lake County into the Town of Lady Lake.

Ms. Then stated the four lots are spread out along two different roads and include the following addresses:

- 1016 Aloha Way- Lot 79
- 1005 Aloha Way- Lot 37
- 1305 Teakwood Lane- Lot 91
- 1311 Teakwood Lane- Lot 94

She stated the present use of the properties is an existing manufactured home at each site, and that staff recommends approval of this ordinance. A map of the area illustrating the location of the parcels was shown, as was an aerial view and photos of the postings of each property.

The subject properties lie in Section 06, Township 18 South, Range 24 East, in Lake County, Florida. Appropriate legal descriptions, a location map, and a sketch of the property have been included with the submitted application. All lots will be served by the Village Center Community Development District Central Water and Sewer System, as well as the District's Fire Department.

The annexation application was received on Monday, January 4, 2016 and has been reviewed and determined to be complete, satisfying the necessary criteria as required for annexation under statutory requirements. The application was found to meet the requirements of the Land Development Regulations (LDRs), as well as the adopted Comprehensive Plan, and is ready for transmittal to the Town Commission.

Ms. Then stated that notices to inform the surrounding property owners (45) within 150 feet of the properties proposed by annexation request were mailed Thursday, January 28, 2016. The properties were posted on Monday, February 1, 2016. She stated she received several inquiries from property owners while posting the properties, and there have been two phone inquiries as well. No objections or letters of support from surrounding property owners have been received.

Ms. Then reported that the Technical Review Committee (TRC) members individually reviewed application for Ordinance No. 2016-08, provided comments by January 14, 2016, and determined the application to be complete and ready for transmittal to the Planning and Zoning Board. The Town Commission is scheduled to consider Ordinance No. 2016-08 for first reading on Monday, March 7, 2016 at 6:00 p.m. and for second/final reading on Monday, March 21, 2016 at 6:00 p.m.

Ms. Then stated the Small Scale Future Land Use amendment and rezoning applications for these properties have been received concurrently and will be reviewed next. She stated that the applicant is present if there are any questions.

Chairperson Gauder asked if there were any comments or questions from the committee members or the audience, and hearing none, asked for a motion.

Upon a motion by Member Sigurdson, and a second by Member McKenzie, the Planning and Zoning Board recommended transmittal and approval of Ordinance No. 2016-08 to the Town Commission for consideration by the following roll call vote:

<i>MCKENZIE</i>	<i>YES</i>
<i>CHIASSON</i>	<i>YES</i>

SIGURDSON
GAUDER

YES
YES

3. Ordinance No. 2016-09 – Small Scale Future Land Use CP Amendment – Daniel O’Neil LLC & Prank Dejsubha – Small Scale Future Land Use Comprehensive Plan Amendment from Lake County Medium Urban Density to Lady Lake Manufactured Home High Density for Four Lots Consisting of Approximately .59 +/- Acres of Land which are Located within Orange Blossom Gardens Unit 1, within Lake County, Florida (Alternate Keys 1482496, 1482208, 1482551, and 1768039) (Wendy Then)

Town Planner Wendy Then presented the background summary for this agenda item (on file in the Clerk’s Office). She stated that the applicant, Daniel O’Neil, on behalf of the Daniel O’Neil LLC and Prank Dejsubha, has filed applications to annex properties consisting of four lots located north of Griffin Avenue and northeast of North Highway 27/441 within the Orange Blossom Gardens Subdivision Unit 1. The small scale amendment application involves 0.59 +/- acres of property proposing a change from Lake County Medium Urban Density to Lady Lake- Manufactured Home High Density (MH-HD)

Ms. Then stated that the four lots are spread out along two different roads and include the following addresses:

- 1016 Aloha Way- Lot 79
- 1005 Aloha Way- Lot 37
- 1305 Teakwood Lane- Lot 91
- 1311 Teakwood Lane- Lot 94

A map of the area and a future land use map were shown. Ms. Then explained that there are several enclaves in this area where one property may be in Lady Lake and another may be in Lake County jurisdiction.

The Small Scale Future Land Use Map Amendment application was received on Monday, January 4, 2016, and has been reviewed and determined to be complete, satisfying the necessary criteria as required to meet the requirements of the Land Development Regulations (LDRs) as well as the adopted Comprehensive Plan, and is ready for transmittal to the Town Commission.

Ms. Then reviewed the Concurrency Determination Statement as follows: The applicant wants to remove the existing manufactured homes on the above-mentioned lots and would like to construct similar size conventional site built homes. Ms. Then stated the proposal will cause no increase in services such as traffic, population or recreation and reviewed them as shown below.

Impact on Town services:

- Potable Water – No impact, lots are served by the Village Center Community Development District Central Water System.
- Sewer – No impact, lots are served by the Village Center Community Development District Central Sewer System.

- Schools – Not factored for project – no foreseen impact of students as the project is located within an active adult retirement community.
- Transportation – No impact, the existing home will be replaced with a new home. There will be no change in average daily trip generation.
- Parks & Recreation – The annexation, small scale future land use amendment, and the rezoning applications will not cause P&R Level of Service to be exceeded since the project is for the replacement of existing homes. Additionally, the Villages provides its residents with all park and recreation amenities.
- Stormwater – Project will be required to adhere to SJRWMD guidelines and Town of Lady Lake Floodplain Management Ordinance for parcels within Special Flood Hazard Areas.

Applications have been reviewed and determined to be complete. The applicant has submitted all appropriate material in compliance with the Land Development Regulations (LDRs) and the application is ready for transmittal to the Town Commission. Additionally, the application was reviewed and determined to be in compliance with the directives of the adopted Comprehensive Plan in accordance with the sought designation. A Concurrency Determination Statement has also been included as part of the Small Scale Comprehensive Plan Amendment Application, which the applicant submitted to explain expected impacts on Town Services.

The subject properties involve approximately 0.59 ± acres lies in Section 06, Township 18 South, Range 24 East, in Lake County, Florida. The Future Land Use of the adjacent properties is as follows:

Future Land Use

Subject Properties	Lake County Medium Urban Density
Future Land Use of Adjacent Properties	
West	Lake County – Medium Urban Density & Lady Lake- Manufactured Home High Density (MH-HD)
East	Lake County – Medium Urban Density
North	Lake County – Medium Urban Density & Lady Lake- Manufactured Home High Density (MH-HD)
South	Lake County – Medium Urban Density & Lady Lake- Manufactured Home High Density (MH-HD)

Comments:

- 1) Annexation and Rezoning Applications have been submitted concurrently with this Small Scale Future Land Use Amendment Application.
- 2) Project will be required to adhere to St. John’s River Water Management District guidelines and the Town of Lady Lake Floodplain Management Ordinance for parcels within Special Flood Hazard Areas.

Ms. Then stated that notices to inform the surrounding property owners (45) within 150' of the property of the proposed annexation were mailed on Thursday, January 28, 2016. The properties were posted on Monday, February 1, 2016.

Ms. Then reported that the Technical Review Committee (TRC) members individually reviewed application for Ordinance No. 2016-09, provided comments by January 14, 2016, and determined the application to be complete and ready for transmittal to the Planning and Zoning Board. She stated the Local Planning Agency is scheduled to consider Ordinance No. 2016-09 on Monday, March 7, 2016, at 5:45 p.m. The Town Commission is scheduled to consider Ordinance No. 2016-09 for first reading on Monday, March 7, 2016 at 6:00 p.m., and for second/final reading on Monday, March 21, 2016 at 6:00 p.m.

Ms. Then stated that the applicant is present if there are any questions.

Chairperson Gauder asked if there were any comments or questions from the committee members or the audience, and hearing none, asked for a motion.

Upon a motion by Member McKenzie and a second by Member Chiasson, the Planning and Zoning Board recommended transmittal and approval of Ordinance No. 2016-09 to the Town Commission for consideration by the following roll call vote:

<i>MCKENZIE</i>	<i>YES</i>
<i>CHIASSON</i>	<i>YES</i>
<i>SIGURDSON</i>	<i>YES</i>
<i>GAUDER</i>	<i>YES</i>

4. Ordinance No. 2016-10 – Rezoning – Daniel O’Neil LLC & Prank Dejsubha – Rezoning from Lake County Residential Medium (RM) to Lady Lake Mixed Residential Medium Density (MX-8) for Four Lots Consisting of Approximately .59 +/- Acres of Land which are Located within Orange Blossom Gardens Unit 1, within Lake County, Florida (Alternate Keys 1482496, 1482208, 1482551, and 1768039) (Wendy Then)

Town Planner Wendy Then presented the background summary for this agenda item (on file in the Clerk’s Office). She stated that the applicant, Daniel O’Neil, on behalf of the Daniel O’Neil LLC and Prank Dejsubha, has filed applications to annex properties consisting of four lots located north of Griffin Avenue and northeast of North Highway 27/441 within the Orange Blossom Gardens Subdivision Unit 1. She stated the rezoning application involves 0.59 +/- acres of property proposing a change from Lake County Residential Medium (RM) to Lady Lake- Mixed Residential Medium Density (MX-8).

Ms. Then stated the four lots are spread out along two different roads and include the following addresses:

- 1016 Aloha Way- Lot 79
- 1005 Aloha Way- Lot 37
- 1305 Teakwood Lane- Lot 91
- 1311 Teakwood Lane- Lot 94

A map of the area and a map showing the zoning of the parcels and surrounding properties were shown.

The rezoning application was received on Monday, January 4, 2016, and has been reviewed and determined to be complete satisfying the necessary criteria as required. The application was found to meet the requirements of the Land Development Regulations (LDRs) as well as the adopted Comprehensive Plan, and is ready for transmittal to the Town Commission.

The subject properties lie in Section 06, Township 18 South, Range 24 East, in Lake County, Florida. Appropriate legal descriptions, a location map, and a sketch of the property have been included with the submitted application. All lots will be served by the Village Center Community Development District Central Water and Sewer System, as well as the District’s Fire Department. The zoning designation of the subject properties and adjacent properties are as follows:

Zoning

Subject Property	Lake County Residential Medium (RM)
Zoning of Adjacent Properties	
West	Lake County Residential Medium (RM) Lady Lake- Mixed Residential Medium Density (MX-8)
East	Lake County Residential Medium (RM)
North	Lake County Residential Medium (RM) Lady Lake- Mixed Residential Medium Density (MX-8)
South	Lake County Residential Medium (RM) Lady Lake- Mixed Residential Medium Density (MX-8)

Notices to inform the surrounding property owners (45) within 150 feet of the properties proposed by annexation request were mailed Thursday, January 28, 2016, and the properties were posted on Monday, February 1, 2016.

Ms. Then reported that the Technical Review Committee (TRC) members individually reviewed application for Ordinance No. 2016-10, provided comments by January 14, 2016, and determined the application to be complete and ready for transmittal to the Planning and Zoning Board. The Town Commission is scheduled to consider Ordinance No. 2016-10 for first reading on Monday, March 7, 2016 at 6:00 p.m., and for second/final reading on Monday, March 21, 2016 at 6:00 p.m.

Ms. Then stated that the applicant is present if there are any questions.

Chairperson Gauder asked if there were any comments or questions from the committee members or the audience, and hearing none, asked for a motion.

Upon a motion by Member Chiasson and a second by Member McKenzie, the Planning and Zoning Board recommended transmittal and approval of Ordinance No. 2016-10 to the Town Commission for consideration by the following roll call vote:

<i>MCKENZIE</i>	<i>YES</i>
<i>CHIASSON</i>	<i>YES</i>
<i>SIGURDSON</i>	<i>YES</i>
<i>GAUDER</i>	<i>YES</i>

5. Resolution No. 2016-101 – Variance Request – Douglas C. Wade – Variance From Chapter 16, Article III, Section 16-85, Section 503, 1., to Allow the Lowest Floor of the Home Structure to Remain at the Base Flood Elevation Plus One Foot or 65.0 Feet Rather than the Required One and a Half Feet or 65.5 Foot Elevation (Alternate Key No. 1732484) (Wendy Then)

Growth Management Director Thad Carroll presented the background summary for this agenda item (on file in the Clerk's Office). He stated that the applicant, Douglas C. Wade, has filed a variance application on behalf of property owners the Villages of Lake – Sumter, Inc., from the provisions of Chapter 16, Article III, Section 16-85, Section 503, 1., to allow the lowest floor of the home structure to remain at the base flood elevation plus one foot or 65.0 feet, rather than the required 1 ½ feet or 65.5 foot elevation. He stated the property is addressed as 1004 Nell Way (Alternate Key #1732484).

Mr. Carroll stated the house has been completed and has been issued a Temporary Certificate of Occupancy pending the outcome of this application; should the variance be granted, the Permanent Certificate of Occupancy will be issued. He stated the house has been sold since the time of application and the new owners are Mr. and Mrs. Brown.

A map of the location was shown, as were photos of the structure on the property and the posting of the property.

Member Chiasson stated this item concerned him as staff defers to the Planning and Zoning Board for a recommendation and staff has not taken a position. He asked if the Town has a responsibility to inspect at various stages during construction and if the Town should have caught this before it became a completed structure.

Mr. Carroll replied that standard operating procedures include a slab inspection, and it was his understanding that an elevation certificate was not furnished for the finished slab.

Mr. Carroll reviewed a depiction of the flood plain showing that many properties are subject to the requirement to be built at one and a half feet above base flood elevation. He stated that during the construction of the single family residence when the home was staked for construction, the field crew made a calculation error when setting the finished floor elevation benchmark. It was inadvertently set at elevation 65.0' instead of the design elevation of 66.0'. The Town of Lady Lake requires the finish floor elevation of the lowest floor of any home or structure to be 18 inches above the Base Flood Elevation of 64.0, which would put the lowest elevation at 65.5'. A copy of the survey and elevation certificate was shown.

Member Chiasson asked if the certificate stated the home would be built at 65.5'.

Mr. Carroll replied that the Town's requirement on the application stated that the structure needed to be built at 18" above base flood elevation, but the certificate was furnished after the home was completed. He stated that the building official should require checking flood during the course of inspection, although the elevation certificate was not on site at the slab inspection.

As required of this application, a Justification Statement has been submitted. The applicant contends that the home which is completely finished is built on an established subdivision lot and

meets all building setbacks. The lot size limits the placement of the home as it could not be relocated in any manner. Further, he states that the variance needs to be granted as to this is a finished home. The raising of the home six inches would not be feasible. This variance is needed to obtain the Certificate of Occupancy.

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 06, Township 18, Range 24, in Lady Lake, Florida. The property is zoned “MX-8” Mixed Residential Medium Density (up to 8 dwelling units per acre.

Zoning

Subject Property	Mixed Residential Medium Density (MX-8)
Zoning of Adjacent Properties	
West	Lake County Residential Medium (RM)
East	Lake County Residential Medium (RM)
North	Lake County Residential Medium (RM)
South	Lake County Residential Medium (RM)

Mr. Carroll reviewed staff’s comments as follows:

While the Floodplain Administrator (Wendy Then) cannot support a variance to the floodplain ordinance based upon a condition of human error, there are a few elements of the case that staff has acknowledged that support the applicant’s position.

1. Our ordinance mirrors Lake County’s ordinance requiring the 18” minimum above the base flood elevation for the finished floor within the 100 year floodplain; however, it is the jurisdiction’s discretion as to where this is set. Our neighbor, Marion County has a requirement of just 12” above the BFE, as they feel that is adequate.

Member Chiasson clarified that Marion County feels that 12” is adequate and the Town feels that 18” is better. He asked if the reason for this is to insure that if there is a 100 year flood, the property will not sustain damage.

Mr. Carroll replied that is correct and the Town’s requirement is a little more stringent and is consistent with Lake County’s. He stated that as long as the structure is above the flood elevation, it is okay with NFIP (FEMA), no matter how many inches above it is. Mr. Carroll explained that the Town mirrored Lake County’s requirements when the Town’s flood plain ordinance was

adopted for purposes of a higher level of protection and to be consistent with Lake County. He stated this property is located on the outer fringes of the flood plain and would be encroached on in the latter stages of a flood event should it occur.

Member Chiasson asked, in the event of a flood, would the Town be liable for damages in any way because the Town did not adhere to its own standard.

Mr. Carroll replied that the Town would not be liable because it has met the NFIP requirement and minimum base flood elevation, and the property owner was made aware prior to sale and has full disclosure that the home has been built in the flood plain, that a variance would be required, and that flood insurance will be required if there is a mortgage.

Attorney Sasha Garcia weighed in that the Town has met the standards and the concern is noticed to any future homeowners because the variance will be recorded and will come out in any title searches that are done in the future.

2. If in fact a flood event does occur, only the occupant of the home and their personal property would be affected; unlike other variance types (like setback encroachments toward a right-of-way); additional hazards will not be created for others if granted.

Member Chiasson asked why staff did not make a recommendation.

Mr. Carroll replied that variances are typically based on events regarding the property and should not be granted based on economic hardship. He stated staff cannot support this variance based on an oversight or mistake as the only way to remedy this situation if the variance is not granted is to tear down the home. He also stated that Wendy Then is the Town's Flood Plain Administrator and enacted the flood ordinance for the Town of Lady Lake, and to support something that goes against the ordinance is a conflicting position.

Mr. Carroll stated that staff feels the facts of the case meet the national standards, but they happen to be six inches short of the Town's requirements. However, he stated he feels what has been done on the property meets the intent of what NFIP requires and that granting this variance would create no liability issues for the Town.

3. The owner is aware that the home is built below the Town's requirement and is willing to obtain the necessary flood insurance to cover the structure, even if the cost is a bit greater as a result of the 6" deviation.
4. The home and freeboard elevation (are above the BFE) are above the required standards for FEMA.

Mr. Carroll stated that the variance application was received on Monday, January 18, 2016, and has been reviewed and determined to be complete. The application was found to meet the requirements of the Land Development Regulations (LDRs) and is ready for transmittal to the Planning and Zoning Board. He reported that notices have been mailed to inform the surrounding property owners (22) within 150 feet of the subject property, and the property was posted on Monday, February 1, 2016. There have been no objections or letters of support from surrounding property owners received to date. Mr. Carroll stated that he spoke with the property owner at time of posting and he was fully aware of the variance process required and was familiar with the process.

Mr. Carroll reported that the Technical Review Committee (TRC) members individually reviewed the application for Resolution No. 2016-101 and determined the application complete and ready for transmittal to the Planning and Zoning Board and the Town Commission. The Town Commission is scheduled to consider the application for Resolution No. 2016-101 for final consideration at their special meeting on Wednesday, February 17, 2016.

Member Chiasson clarified for purposes of record that council states there is no current or future potential liability to the Town if the variance is granted.

Attorney Sasha Garcia replied that this is the purpose of the variance and why code allows for them, and if the Town needs to deviate, there is a proper record for it. She stated again that this would be recorded for public record and will be part of any future title search. Ms. Garcia stated the current homeowner has knowledge and any future homeowners will have knowledge through the title search process. She stated there should be no liability for the Town as everyone has been notified through this process, as well as any future homeowners.

Vice Chairperson/Member Sigurdson asked if the flood plain map is based on a contoured elevation. He asked what the elevation of the street adjacent to this street is as it is not in the flood plain.

Mr. Carroll replied that this elevation is based on the maps produced by NFIP and on a 64' elevation. He stated the adjacent street is in a Zone X and has no flood elevation requirements.

Doug Wade of Wade Surveying introduced himself and explained this was an inadvertent error that his field crew made. He stated the elevation was to be set at 66', six inches above the Town's standard of 65.5', but a one foot calculation error made by the field crew did not get caught until the final flood elevation was required. He stated he made the Town and the homeowner aware of the mistake right away and that checks have been put in place to prevent this from happening in the future.

Mr. Wade stated the homeowner can complete a LOMA exemption request to FEMA as it meets all requirements for that and the property could be taken out of a flood zone. He stated the flood maps are not made to contours and that he is not sure how they are conceived, but this is why ground elevations are done on each property.

Chairperson Gauder asked if there were any comments or questions from the audience, and hearing none, asked for a motion.

Upon a motion by Member Sigurdson and a second by Member McKenzie, the Planning and Zoning Board recommended transmittal and approval of Resolution No. 2016-101 to the Town Commission for consideration by the following roll call vote:

<i>MCKENZIE</i>	<i>YES</i>
<i>CHIASSON</i>	<i>YES</i>
<i>SIGURDSON</i>	<i>YES</i>
<i>GAUDER</i>	<i>YES</i>

CHAIRPERSON/MEMBERS' REPORT:

Chairperson Gauder asked if the members had any comments. There were no comments.

ADJOURN: *With nothing further to discuss, the meeting was adjourned at 6:06 p.m.*

Nancy Slaton, Deputy Town Clerk

John Gauder, Chairperson

Minutes transcribed by Nancy Slaton, Deputy Town Clerk