

Minutes of the Regular Meeting of the City Commission of the City of Auburndale held November 18, 2024, at 7:00 p.m. in the Commission Room of City Hall, after having been properly advertised, with the following members present: Mayor Dorothea Taylor Bogert, Commissioners: Keith Cowie, Alex Cam, Jordan Helms, and Bill Sterling. Also, present were: City Manager Jeffrey Tillman, City Attorney Frederick J. Murphy Jr., City Clerk Brandon Henry, and Police Chief Terry Storie.

Mayor Dorothea Taylor Bogert declared a quorum present, and the Meeting was opened with prayer by Cody McGhee, Parks and Recreation Director, and a salute to the flag.

Motion by Commissioner Cowie, seconded by Commissioner Cam, to approve Minutes of the City Commission Meeting of November 4, 2024. Upon vote, all ayes.

City Manager Jeffrey Tillman thanked everybody who attended the Veteran's Day program. It kicks off our holiday season events.

Mayor Taylor Bogert asked if there was public comment on any item not on the agenda.

Pastor Curtis Johnson, 1019 Old Lake Alfred Road, announced a World AIDS/HIV Day event being hosted on December 1st, at 6:00 p.m. in the Downtown Park.

City Manager Tillman thanked Pastor Johnson.

1. ORDINANCE #1801 AMENDING THE FUTURE LAND USE MAP – EVEREST PROPERTY

Community Development Director Julie Womble presented a brief zoning history of the property. She presented a slide summarizing the Future Land Use amendment. She presented a slide depicting the Zoning amendment. Community Development Director Womble summarized the conditions placed by the Commission on first reading of Ordinance 1802 and were added to the proposed binding site plan. She summarized allowed and prohibited uses. The Zoning request is compatible with the requested Future Land Use of Medium Density Residential and is consistent with the City of Auburndale Comprehensive Plan and the Land Development Regulations.

The Planning Commission recommended approval of the proposed Future Land Use of Medium Density Residential and Zoning classification of Planned Development-Housing 2 (PD-H2) to the City Commission. (4-0, 09/10/2024). She noted that we received comments from the developer to the north regarding safety concerns on the access road.

City Manager Tillman said the proposed Ordinances were prepared by the Community Development Department and reviewed by the City Manager and City Attorney. The proposed Ordinances were approved on first reading November 4, 2024, and are being considered for second and final reading. Staff recommends approval of proposed Ordinance #1801 amending the Future Land Use Map and Ordinance #1802 amending the Official Zoning Map and proposed binding site plan.

City Attorney Frederick J. Murphy Jr. read Ordinance No. 1801 entitled: **AN ORDINANCE OF THE CITY OF AUBURNDALE, FLORIDA, AMENDING ORDINANCE NO. 752, THE COMPREHENSIVE PLAN OF THE CITY OF AUBURNDALE, FLORIDA, BY AMENDING THE FUTURE LAND USE MAP RECLASSIFYING 2 PARCELS OF LAND TOTALING +/- 32.39 ACRES FROM CITY OF AUBURNDALE FUTURE LAND USE CLASSIFICATION NEIGHBORHOOD ACTIVITY CENTER (NAC) TO CITY OF AUBURNDALE FUTURE LAND USE CLASSIFICATION MEDIUM DENSITY RESIDENTIAL; AND PROVIDING AN EFFECTIVE DATE (General Location: US Hwy 92 W. and Polk County Parkway),** by title only.

Motion by Commissioner Cam, seconded by Commissioner Cowie, to approve Ordinance #1801 amending the Future Land Use Map – Everest Property, as read on second and final reading by title only.

Mayor Taylor Bogert asked for public comment. There was no public comment.

Upon vote, all ayes.

2. ORDINANCE #1802 AMENDING THE OFFICIAL ZONING MAP – EVEREST PROPERTY

City Manager Tillman introduced Ordinance #1802.

City Attorney Frederick J. Murphy Jr. read Ordinance No. 1802 entitled: **AN ORDINANCE OF THE CITY OF AUBURNDALE, FLORIDA, AMENDING ORDINANCE NO. 764, THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF AUBURNDALE, FLORIDA, BY AN AMENDMENT TO THE ZONING MAP BY REZONING A PARCEL OF LAND TOTALING +/- 32.39 ACRES FROM PLANNED DEVELOPMENT-HOUSING 1 (PD-H1) (+/- 15.27 ACRES) AND PLANNED DEVELOPMENT-COMMERCIAL 1 (PD-C1) (+/- 17.12 ACRES) TO PLANNED DEVELOPMENT - HOUSING 2 (PD-H2); AND PROVIDING AN EFFECTIVE DATE (General Location: US Hwy 92 W. and Polk County Parkway),** by title only.

Mayor Taylor Bogert asked for public comment.

Lee Saunders, 5529 US 98 N, Lakeland, thanked the City for the ability to voice their concerns. He thanked City staff for their assistance. He said they are proposing a 100-room hotel, two restaurants, 83-slip floating home marina, and 69-space recreational vehicles. He said they are almost 50% done with plans, and have been in that process for a little over a year. The easement has been in place since 2012, along with the residential component on the planned development – predating most of current City staff and their ability to address these issues before they arose. He said they are here tonight to address these issues now. He knows this is a very complex issue. He said if you have ever tried to back out of a parking space at a Chick-fil-A or a Buc-ee's during a busy time, you know how hard that is. Unfortunately, the plan before the Commission today is proposing just that. These 24 driveways will be backing out onto a road that is designed for twice the speed or more of a parking lot. He said they feel that is a public safety issue and something that needs to be addressed. Typically you do not have a commercial site access through a residential component as we see here. Those 24 driveways will propose a public safety hazard. He said that is not just their opinion, but also the opinion of their traffic engineer. He said while they do acknowledge there is an existing planned development, and they do not want to impede on anybody's rights, they think there is a safety and property rights issue. He said what they propose is a frontage road that would still serve all their units, and limit access from 24 points to four points – and would just require a minor modification for setbacks. He said they think it would enhance public safety, address their issues, and provide a better product similar to what the City has in the Lake's District – and not in any way take away any rights of the applicant's ability to develop the land. He defers to Dan Lewis. He would like to reserve any time to rebut or answer questions. He thanked the Commission.

Dan Lewis, 600 Lake Jessie Drive, Winter Haven, passed out several handouts to the Commission (attached). He said he is here to follow-up with the traffic situation. He has a letter he received from their traffic engineer. He does not believe this binding site plan meets the City's code. One of the items is how closely the driveway accesses are onto a collector road, as well as the collector road itself. Section 12.2.1, states that streets serving commercial developments or subdivisions, and accessory parking areas, shall be planned to connect with arterial collector roads so as to not generate traffic on minor streets nor provide principal access through residential developments. That is a key element in this project. He said they do not have a problem with the residential, but they definitely have a problem with people backing out onto this road that is part of their property rights. The solution would be a frontage drive and the driveways would come off that. The units would have to be pulled back except for the one he highlighted, which is about the right place. That would happen on both sides of the road. You would have the collector road, a clear area, utilities/streetlights, sidewalk, a small buffer, and basically a frontage road type access – which you see all the time in townhouse developments. He said their concern is

that it damages their ability to sell the property or to even operate should someone buy the property. He would like the ability to respond to the applicant's comments.

Chad Brooker, Traditions Engineering, 900 Orchard Springs Drive, Winter Haven – representing the Planned Development amendment, said he knows this has been an ongoing issue as far as safety and access. He said they take it seriously. He said they have reviewed the plan to implement different protocols and aspects to the drive. He said this is not a collector road. It is an access drive – the road to access the development is US 92. This is all just a private maintained drive. It has been widened to 24 feet as requested to maintain adequate access due to some of the sizes of vehicles such as recreational vehicles that are going to navigate it. That said, it is a drive. He said they have taken into consideration the safety aspects and we are open to looking at things like crosswalks, lighting, and reduced speeds. We would probably put in some speed humps to enhance safety. He said they did receive the sketch today from the property owners to the north. He reviewed it. He said the hardship that it puts on them is that they cannot fit what they need to fit. They would end up losing a unit or two or the valuable recreational space for the Assisted Living Facility site by having to shift everything back. He said what they have provided here is sufficient for safety measures. This is not irregular. It is something you do see in a mixed-use development around the state and around Polk County. Ultimately, the Everest Village is a mixed-use development with two commercial sites and a residential site, and you have property to the north that is a commercial site – like Lakeside Village. You drive through Lakeside Village and its access road – you have on street parking all over whether parallel or perpendicular. He said it is not out of the ordinary for this request. We will keep speed low, which improves safety – add lighting, signage, and crosswalks, all the things that were mentioned in the notes. He said he thinks what they have provided is adequate for both their property and the property to the north.

Lee Saunders, 5529 US 98 N, Lakeland, said he appreciates Mr. Brooker's thoughts on it. You do not have to take his opinion on it, you can take the opinion of a respected traffic study and engineering firm that says that is not a safe movement to back into a road. And while it is a private road, every road in Auburndale at this point is a private road – regardless of its function whether it is residential or serving a commercial site such as this. He said he would challenge everybody to find a place where you are serving that kind of commercial intensity through a commercial subdivision.

Motion by Commissioner Cowie, seconded by Commissioner Cam, to approve Ordinance #1802 amending the Official Zoning Map – Everest Property, as read on second and final reading by title only.

Commissioner Cowie said he appreciates both of their comments tonight. He spoke with the City Manager since the last meeting, because he expressed at the previous meeting his concerns with the road – and having that many drives backing out. Plus his concern that people would be buying those duplexes not knowing what is going to come behind it. That is on them to buy it. But at the end, when these developments are created, the developers leave and City staff and the Commission have to answer questions later on. In talking with the City Manager, his questions were about the access roads and what ability does the Commission have to implement or require access roads within the site plan. Do we have the ability to say what we want, such as creating a frontage road or something of that nature?

Community Development Director Womble answered the Commission does have the ability to put conditions on the property. You are not taking away the entitlement for residential which they had since 2012. Conditions, just like we put on other Planned Developments (such as lot sizes, setbacks, reductions) – you are allowed to ask for safety measures or something that would reduce the connection points. She said she is not an engineer, so she would refer to the City's consulting engineer for some guidance on what that should look like.

Commissioner Cowie said that was going to be his follow-up question. He knows that staff reviews the plans to make the recommendation on the ordinance. But the engineer has not reviewed this?

Community Development Director Womble answered no. They review plats and drainage plans. That would happen at construction or when this is platted – but not at this stage.

Commissioner Cowie asked how we would have the engineer review this plan, to see if there are other ways to draw it that would give both parties what they are looking for and address some of the concerns that were brought up.

City Manager Tillman said if we want the engineer to look at this, it will need to be tabled tonight to be able to allow for that review. One of the things that Mr. Brooker brought up was that he may lose lots. As far as any conditions that the Commission may require, you could not take anything away or they could not lose any entitlements. They can build 24 units as it stands, and we have to be mindful of what requirements may take away from their property entitlements. And so that is why we want to review this more if that is something the Commission wants to consider.

Community Development Director Womble said that our engineer may look at this and the traffic study and in talking to the engineer of the development, there may be multiple ways to reduce access points that staff is not knowledgeable on. Using our engineer and tabling the item tonight would be the suggestion of staff.

City Attorney Murphy said he concurs with staff's recommendation in terms of tabling it. We want to be careful as the City Manager has noted. The property owner and applicant have gone through the process. We have recommendations from our local planning agency and staff. They have already made certain concessions as noted at the hearing on November 4th. As far as the technical memorandum, he and staff have not had the chance to review it, and presumably the applicant as well. In the spirit of cooperation and staff's desire to accomplish the Commission's objectives and to work with all the landowners and applicants (not to unduly delay anything) he suggested tabling it to a date certain as soon as reasonably possible. The statutes that he is aware of and that applies here requires a decision within 180 days of when the applicant's application was deemed complete. Based on discussions with Mrs. Womble, he understands that we are within that time period, but we do not want to unduly delay the applicant, nor create any issues – unintended or otherwise. He said to be mindful that the property owners and applicants have rights.

Commissioner Cowie asked City Attorney Murphy to confirm his opinion that tabling the motion is within the Commission's rights?

City Attorney Murphy answered yes.

Commissioner Cowie said he would be in favor of tabling this item.

Commissioner Helms, Sterling, and Cam said they agreed.

Mayor Taylor Bogert said she agrees. We received new information and she respects their presentations. We know this is going to be a problem. It may not be a problem for them right now, it is going to be a big problem – and she is concerned about that. Is it going to be properly disclosed that this will be commercial? Those are issues they have to address legally, not the Commission, but we can foresee this will be a problem. She would want the Commission to table this and come back. She would want the City Attorney to read through the technical memorandum since it is saying there are code violations. He will make that call. The engineer will make that call as well.

Motion by Commissioner Cowie, seconded by Commissioner Cam, to table Ordinance 1802.

City Attorney Murphy recommended the motion to table be to the Commission's December 16th meeting at 7 p.m., so it is noticed to a date and time certain. That will give staff and the applicant opportunity to further review what has been discussed and presented this evening.

Community Development Director Womble said she believes that will be sufficient time for staff to talk to the City's engineer. She appreciates the professionalism of the developer and how he has worked with the conditions. It will give staff ample time to advertise.

Commissioner Cowie withdrew his motion to approve Ordinance 1802.

Motion by Commissioner Cowie, seconded by Commissioner Helms, to table Agenda Item No. 2, Ordinance 1802, to be considered at the December 16th City Commission meeting. Upon vote, all ayes.

3. ORDINANCE #1803 AMENDING GENERAL EMPLOYEES PENSION TRUST PLAN

City Manager Tillman said the proposed Ordinance amends Section 27, Deferred Retirement Option Plan (DROP), of the General Employees' Pension Trust Fund. The interest rate for the DROP in the Florida Retirement System increased to 4% on July 1, 2023. In June 2024, the City Commission approved the same change to the Firefighters' Pension Trust Fund Plan and the Police Officers' Pension Trust Fund Plan.

The actuary of the plan, Foster & Foster, issued a letter indicating that there are no costs associated with the adoption of the proposed Ordinance. A Business Impact Statement was also completed by City Staff for the proposed Ordinance stating that there was no direct economic impact on private, for-profit businesses and no businesses were impacted.

The proposed Ordinance was prepared by the Pension Plan Attorney for the plan, Klausner, Kaufman, Jensen & Levinson, and reviewed by the Finance Director, City Manager and City Attorney. The proposed Ordinance was approved on first reading November 4, 2024, and is being considered for second and final reading.

The General Employees' Pension Board recommended approval of the Ordinance – 07/23/2024. Staff recommends approval of the proposed Ordinance amending the General Employees' Pension Plan.

City Attorney Frederick J. Murphy Jr. read Ordinance 1803 entitled: **AN ORDINANCE OF THE CITY OF AUBURNDALE FURTHER AMENDING THE RESTATED DEFINED BENEFIT RETIREMENT INCOME PLAN FOR EMPLOYEES OF CITY OF AUBURNDALE, FLORIDA, ADOPTED AND RESTATED PURSUANT TO ORDINANCE NO. 1640; AMENDING SECTION 27, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE**, by title only.

Mayor Taylor Bogert asked for public comment. There was no public comment.

Motion by Commissioner Sterling, seconded by Commissioner Cam, to approve Ordinance #1803 amending the General Employees' Pension Plan, as read on second and final reading by title only. Upon vote, all ayes.

4. ORDINANCE #1804 AMENDING FISCAL YEAR 2023-2024 ANNUAL BUDGET

City Manager Tillman said in accordance with Florida Statutes, adopted auditing practices, and on the recommendation of the City's Auditor, the City needs to amend by Ordinance the Fiscal Year 2023-2024 Annual Budget to properly appropriate for revenue and expenditures that may exceed budgeted amounts. As provided by Ordinance No. 1026, the level of budgetary control for the City's Annual Budget is at the Fund Level. Events occur during each fiscal year, which were not anticipated at the time of budget approval. The proposed Ordinance amends the Fiscal Year 2023-2024 Budget to reflect the collection of unanticipated revenue and appropriation for unanticipated expenditures.

City Manager Tillman presented and summarized a table depicting the proposed budget amendment.

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The proposed Ordinance was prepared by the Finance Director and reviewed by the City Manager and City Attorney. If approved on first reading, the proposed Ordinance will be presented for second and final reading on December 2, 2024. Staff recommends approval of the Budget Amending Ordinance #1804.

City Attorney Frederick J. Murphy Jr. read Ordinance 1804 entitled: **AN ORDINANCE OF THE CITY OF AUBURNDALE AMENDING ORDINANCE NO. 1756 AMENDING APPROPRIATIONS OF FUNDS FOR THE FISCAL YEAR 2023 - 2024 BUDGET**, by title only.

Mayor Taylor Bogert asked for public comment. There was no public comment.

Motion by Commissioner Helms, seconded by Commissioner Sterling, to approve Ordinance #1804 amending the Fiscal Year 2023-2024 Annual Budget, as read on first reading by title only. Upon vote, all ayes.

City Manager Tillman thanked staff for their presentations tonight. The next Commission meeting on December 2nd will be Family Night, so he requests everybody arrive several minutes early to allow for introductions.

Mayor Taylor Bogert wished everybody a Happy Thanksgiving. She is grateful for staff, the Commission, and the City.

The Meeting was adjourned at 7:39:51 p.m.

I HEREBY CERTIFY that the foregoing Minutes are true and correct.

A handwritten signature in blue ink, appearing to read "Brandon Henry", written over a horizontal line.

Brandon Henry, City Clerk