

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, PLANNING AND ZONING**
2 **BOARD MEETING HELD JULY 28, 2009, 6:00 P.M., CITY HALL, 100 N. COUNTRY**
3 **CLUB ROAD**

4
5 **TAPE 1, SIDE A**

6 I. Call to Order

7 The meeting was called to order at 6:00 p.m.

8 II. Moment of Silence

9 III. Pledge of Allegiance

10 IV. Roll Call - Determination of a Quorum

11 The following members were present:

12 Dr. Robert Hawkins, Chairman
13 Vice Chairman Colleen Taylor
14 Member Sidney Miller
15 Member J.B. Cartmill, II
16 Member Mike Napier
17 Alternate Joe Schofield

18
19 City staff present were Juan (John) A. Omana, Jr., Community Development
20 Director; Gary Schindler, City Planner; Peter Schaffer, Planning Intern; and
21 Diana T. Adams, Administrative Secretary.

22
23 Also present who spoke were Mark Leidigh, Bettye Leidigh, Deanna Routh
24 Houston, Hazel Routh Madden and Charles David Hope-Gill. Tom Hart and
25 Corrine Wertz are noted as being present on the Quasi-Judicial Sign-In Sheet but
26 did not speak. It is also noted that there were others seated in the audience who
27 did not speak nor did they sign the Quasi-Judicial Sign-In Sheet.

28
29 V. Approval of Planning and Zoning Board Minutes - June 23, 2009

30
31 **MOTION:**

32
33 **Member Miller moved to approve the Minutes of the Planning and Zoning**
34 **Board meeting of June 23, 2009, as presented. Vice Chairman Taylor**
35 **seconded the motion, which carried unanimously.**
36

1 VI. Old Business

2
3 None

4
5 VII. New Business

6
7 A. 2007-RZ-05: Recommendation to the Mayor and City Commission for a change
8 in zoning from R-1AA (Single-Family Residential) to PUD (Planned Unit
9 Development) and Developer's Agreement, Preliminary and Final PUD, for
10 Crystal Lake Preserve located east and south of Timacuan and west of West
11 Crystal Lake, Lake Mary, Florida; Applicant: City of Lake Mary/Community
12 Development Department

13
14 Juan (John) A. Omana, Jr., Community Development Director, said, back in late
15 2008, approximately the November-December timeframe, the City Commission
16 and City Manager's Office directed staff to get together with the representatives
17 of the Crystal Lake Preserve Foundation organization, as well as members of the
18 Timacuan Homeowners Association, and form essentially an ad hoc committee
19 to address a number of issues and concerns that had been raised by the
20 Timacuan Association and the adjoining residents, as well as give the Leidighs
21 an opportunity to raise their concerns and issues. I believe we met three or four
22 times, Gary and I and the Committee, consisting roughly, I think, of maybe 13 to
23 15 people, some of them are out in the audience this evening, and I can tell you
24 that through that time, which culminated in a meeting in the month of June, we
25 were able to lay out a number of issues, concerns, which are addressed in the
26 Developer's Agreement that is before you this evening. So, I just wanted to give
27 you that little history before Mr. Schindler got into the basics of the PUD.

28
29 Mr. Omana then announced that there was a Quasi-Judicial Sign-In Sheet (see
30 attached) located at the back of the chambers for any interested party to sign in
31 order to be kept abreast of this item as it proceeds through the review process.

32
33 Gary Schindler, City Planner, presented Item A. and the related Staff Report. A
34 document entitled Crystal Lake Preserve Location Map was on the overhead
35 projector. He stated, in October of 2006, the land use was changed from Low
36 Density Residential to Public/Semi-Public and Conservation. The next step is the
37 zoning. The PUD Zoning was selected because it is a vehicle that allows great
38 flexibility, and the subject property, which is about 40 acres, is a piece of property
39 that needs its flexibility for it to be utilized to its fullest extent.

40
41 Mr. Schindler stated, now, as Mr. Omana said, we have reached the point where
42 we have residents from Timacuan saying, wait a minute. What is this going to do
43 to my community? And, we have the people who are associated with the Crystal

1 Lake Preserve saying, well, now, wait a minute. We need to get this in place.
2 And, we said, all right. Let's sit down at the table and let's discuss this and we
3 can arrive at a product that we believe will satisfy everyone. And, so, as Mr.
4 Omana said, what you have before you is that product. It is the product of almost
5 nine months of work and a lot of give and take on the part of everyone.
6

7 Mr. Schindler proceeded to highlight what the salient points are here. First of all,
8 he indicated to the overhead projector where the subject property is in
9 relationship to Timacuan. He explained that if you are going to drive to the
10 subject property, the only way you can get to it and stay dry is driving through
11 Timacuan. He said that it is accessible by boat, but unless you live on the lake,
12 technically, you cannot launch a boat. He stated that 99 percent of the people
13 who come to visit the subject property are going to be coming by vehicle
14 traversing through Timacuan.
15

16 Mr. Schindler explained that the way this has been structured is there is an
17 Ordinance with attachments to include the Master Plan, a big sheet that shows
18 the property, the aerial of it shows the soils, shows, very roughly, how it is going
19 to be laid out. He said, also included as exhibits are the Warranty Deed and the
20 Resolution, all important documents associated with the property. He read aloud
21 the following points in the Developer's Agreement (*the italicized words are*
22 *additional words he added while giving his presentation to the list given in the*
23 *Staff Report on page 3*):
24

- 25 • Transfer ownership of the subject property to the Crystal Lake Preserve,
26 Inc. *From the City to the non-profit corporation.*
- 27 • Educate the public about the ecology and the ecosystem of the subject
28 property, its flora and fauna and any other information which is
29 educational in nature and relates to the subject property. *The purpose of*
30 *the Preserve will be, one, conservation and, two, to educate the public*
31 *about the ecology and the ecosystem of the subject property.*
- 32 • At the discretion of the Crystal Lake Preserve, Inc., construct a program
33 building or covered shelter for educational purposes and ancillary facilities
34 including, but not limited to, ecological resource buildings, parking lot and
35 storm water retention/detention facilities. *It allows the Crystal Lake*
36 *Preserve Corporation to build certain structures as are needed and*
37 *desired for the education of the public.*
- 38 • Restriction regarding the type of vehicle and the parking of such vehicles
39 on streets within Timacuan. *It restricts the type of vehicle and the parking*
40 *of such vehicles so as not to impact, or as to cause as little impact as*
41 *possible, on the residents and the streets in Timacuan.*
- 42 • Visitation to the Preserve is restricted to 16 days a year, not to exceed 2
43 times per month.

- 1 • Buses are prohibited and passenger vehicles for visitors are restricted to a
2 maximum of 4 at any one time.
- 3 • A reverter clause, in case of failure of the Crystal Lake Preserve, Inc. to
4 comply with the provisions of the PUD agreement. *There is a reverter*
5 *clause that says that if at any time the nonprofit corporation should cease*
6 *to uphold the purpose of this, of the Preserve, that it would revert back to*
7 *the City and the City would then look for a new group to own and manage*
8 *the property.*
- 9 • A prohibition against the development of the subject property for
10 residential purposes.

11
12 Mr. Schindler concluded his presentation discussing the four rezoning criteria
13 listed in the Staff Report on pages 4 and 5. He stated, based on that criteria, the
14 proposed Preliminary/Final PUD Development Plan and Developer's Agreement
15 comply with the requirements of Section 154.61(E), which is the PUD section.

16
17 Chairman Hawkins asked what Sagana Point refers to at the top of the location
18 map on the overhead projector.

19
20 Mr. Schindler answered, that is the name of the little, historic, short street.

21
22 Member Napier questioned, we are looking at roughly 60 people a year using this
23 facility?

24
25 Mr. Schindler responded, that's correct. Now, that is visitors. There can be more
26 people who come there to work. For instance, if they have a workday where they
27 are going to take out exotics, there could be more people, but just for casual
28 visitors – because although this is a wilderness area, it requires a great deal of
29 work because the fire break needs to be maintained, exotics need to be
30 removed. There is a good bit of work, and from time to time there will be
31 workdays, but I am not the person to ask about that. But, you are right. There is
32 very low visitation.

33
34 Mr. Omana added, also, Mr. Chairman, it's important to note that under those
35 visitation rights, if you will, that visitation would be a function of an invitation from
36 the ownership group, the not-for-profits. They would have to invite you to the
37 facility. It is not an open area that anybody could just walk in.

38
39 Member Napier asked, and this area where we say you can only enter from
40 Timacuan is gated now; correct?

41
42 Mr. Omana replied, no.

1 Mr. Schindler answered, no. It is not now, but it will be gated.
2

3 Member Cartmill questioned if Crystal Lake Preserve, Inc. has indicated that they
4 will build auxiliary structures on the subject property.
5

6 Mr. Schindler responded, yes. I think that in time they will. When structures are
7 mentioned, they are talking more like chickees, you know, thatched-roof
8 gazebos, and putting up information signs; you are looking at a Live Oak. You
9 know, you are looking at Crystal Lake Preserve. They are not looking at a
10 massive building program. More than likely what they will do is put up as few
11 buildings as possible, but as many as are needed for them to accomplish their
12 mission.
13

14 Member Miller said, I missed that point about gated. He questioned, what will be
15 gated?
16

17 Mr. Schindler replied, the Preserve is going to be gated.
18

19 Member Miller asked, completely fenced with a gate?
20

21 Mr. Schindler answered, it will be fenced on the north side and the west side.
22

23 Vice Chairman Taylor questioned if the reverter clause is referred to under 10.
24 Ownership Clause on page 6 of the 6/25/09 draft of the Developer's Agreement
25 wherein it says if the Foundation is no longer able to manage the property.
26

27 Mr. Schindler responded, that's correct.
28

29 Vice Chairman Taylor expressed her concern about the way that clause is
30 phrased; that there is really no performance standard other than is no longer able
31 to manage the property. She said, it doesn't seem like there is a strict
32 performance standard as to when the City can go in and say this is inappropriate
33 or the homeowners association could come and say that this is not working out
34 and is not being maintained because the maintenance – it's a little vague. How
35 does the City see that? Is no longer able – there is a big difference between
36 unable to and not doing it.
37

38 Mr. Schindler replied, well, first of all, we hope that we never have to. The City's
39 Parks Department is very qualified at maintaining and operating urban parks.
40 We're less well adapted at operating and maintaining wilderness areas.
41

42 Vice Chairman Taylor asked, so, it is the City that will be responsible for
43 maintaining and not the...

1 Mr. Schindler interposed answering, no, no. It will be the Crystal Lake Preserve
2 Foundation. It is the City's intent to transfer the deed to the Foundation. When
3 this goes to the City Commission, the City Attorney will review. Now, if you
4 would like to make any comments concerning – or recommendations concerning,
5 please do, and this will help her in her job.

6
7 Chairman Hawkins requested an individual come forward on behalf of Crystal
8 Lake Preserve and speak.

9
10 Mark Leidigh, President of Crystal Lake Preserve, 320 W. Lakeview Avenue,
11 Lake Mary, Florida 32746, came forward in favor of the proposed
12 rezoning/Preliminary and Final PUD.

13
14 Chairman Hawkins questioned Mr. Leidigh if he had anything to add to Mr.
15 Schindler's presentation.

16
17 Mr. Leidigh responded, it would probably be a better fit if you would shoot
18 questions at me. I'll try to respond to them.

19
20 Vice Chairman Taylor asked, could you maybe address maintenance and the
21 intent and the budget that would be required to do this and how you expect to,
22 kind of, financially afford to make payments?

23
24 Mr. Leidigh replied, sure, as best as I can. My parents bought that property and
25 donated it to the City in the Year 2000. I have done all the maintenance on that
26 property for the last nine years, every licking bit of it. So – you know, the tractor
27 work, the front-end loader, making the pass. The only thing we did not do was
28 the Forestry Department came through and helped us with the firebreak. And,
29 I'm well suited to do the maintenance. You know, the finances aren't a problem.
30 So – I don't know what else you would like me to tell you.

31
32 Vice Chairman Taylor answered, no – and I appreciate that. I believe that you
33 absolutely intend to do that.

34
35 Mr. Leidigh stated, and if the Board would like to go on the property, you know, I
36 will meet them there. I will take them out.

37
38 Vice Chairman Taylor said, my concern -- and you have to forgive me. I'm a
39 lawyer, so, you know, I'm a working-scenario type. I get paid to do that. But,
40 when we are talking about something that is in perpetuity, you know, we are
41 talking about something that is going to outlast all of us...

42
43 Mr. Leidigh interjected, saying, including myself.

1 Vice Chairman Taylor stated, unfortunately. ...what is the plan then as far as
2 ability to maintain? Because this is something that we would be doing for -- well
3 long after you and me.
4

5 Mr. Leidigh responded, well, if we can't handle the job, or if the City felt in the
6 future, Seminole Audubon would be next in line to do the -- to take the duties
7 over of the property, is what we anticipate.
8

9 Chairman Hawkins asked, does there need to be some kind of performance
10 standard on the Preserve's behalf or the City's behalf on when either of those
11 two things should happen?
12

13 Mr. Leidigh replied, I -- yeah, that is kind of a hard question to answer because
14 we may have different views on the performance -- are you talking about the
15 performance of maintaining the property?
16

17 Chairman Hawkins answered, yeah. He questioned, if the City doesn't think --
18 who determines...
19

20 Mr. Leidigh interposed, responding, yeah. I understand. Well, the City has had a
21 chance for nine years to do the maintenance and they haven't. So, I have done it
22 all, and as soon as this, hopefully, is a done deal in the near future -- you know,
23 we are going to widen the firebreak because we don't think it is quite wide
24 enough for safety, and other than the firebreak, you know, the paths are pretty
25 easy to maintain. You take a bush hog on a tractor and keep them down so they
26 can walk on them. It is not a piece of property for motorized vehicles to hotrod
27 around and whatnot. You know, it is supposed to be really quiet, wildlife
28 oriented. So, it is really not that hard for me to do that, you know, or even if I had
29 to hire somebody if I wasn't able to do it, and we may get the State Forestry to
30 help us on widening that firebreak. If not, we'll do it ourselves, farm it out. Does
31 that kind of answer what you need?
32

33 Chairman Hawkins answered affirmatively.
34

35 Vice Chairman Taylor asked, would it be something that -- and, again, not
36 specifically addressed to you but to the perpetuity issue, would it be something
37 that the Preserve would be willing to -- maybe have a yearly inspection -- kind of
38 have it triggered by either a yearly inspection by the City Parks or upon complaint
39 of, you know, a homeowners association or something? And, again, not because
40 of anything you would intend to do but somebody else.
41

42 Mr. Leidigh replied, sure. I wouldn't have a problem with that personally. This is
43 my mother, Bettye, and she evidently has something she wants to say.

1 Bettye Leidigh, 336 Lakeview Avenue, Lake Mary, Florida 32746, also came
2 forward in favor of the proposed rezoning/Preliminary and Final PUD. She said,
3 my husband, Darrell, and I purchased that property, and since all this has
4 transpired, if the City feels that they can't take care of the property, we have
5 established the Foundation. There are officers, I have directors, and as far as –
6 it should continue on. I think that was the thing you were concerned with. Some
7 of my officers are here in the audience. There is Deanna Houston and Ken Bell.
8 Some of the others couldn't make it, but we have others. And, if I can answer
9 any questions, I'd be glad to.

10
11 Chairman Hawkins opened the hearing to public comment.

12
13 Deanna Routh Houston, 750 Sagana Point, Lake Mary, Florida 32746, also came
14 forward in favor of the proposed rezoning/Preliminary and Final PUD. She stated
15 that the subject property actually belonged to her grandfather who also owned
16 300 acres of Timacuan, which he lost in the Florida Land Bust. She said, one of
17 the goals of our family is to keep that as natural as possible, which has been so
18 important as we have seen the amazing growth of Lake Mary. The City Planners
19 have done a good job; we have got our diagonal of parks, just this downtown, but
20 to have something natural this close is a very valuable thing. So, my parents and
21 my aunt sold this at a huge loss considering the market in 2000, I think it was,
22 and that was their retirement money, but they took a loss so that the Leidighs
23 could give it to the City so the City would keep it. The City hasn't been able –
24 and they have tried, but they haven't been able to, budget-wise, manpower-wise,
25 et cetera, to follow the stipulations that were in that transfer. That is why I have
26 been a member of this board to say we want to keep this in perpetually because
27 we have seen parks disappear around the country and we want Lake Mary to
28 have something because you guys will change, I'm going to change,
29 governments change all the time, and we would like to have as good a chance as
30 possible to have the generations after us have something a little natural of what
31 Florida was closer to our homes.

32
33 Hazel Routh Madden, 299 Lake Shore Drive, Lake Mary, Florida 32746, also
34 came forward in favor of the proposed rezoning/Preliminary and Final PUD. She
35 stated that she has lived at 299 Lake Shore Drive for 32 years. She said, until
36 this land was sold and these wonderful people decided to maintain it, I lived in a
37 perfect fear of the four-wheelers setting the place on fire. And, since they have
38 owned this, there has been no four-wheelers there, and it is a wonderful,
39 beautiful place and I think that it should be kept for posterity's sake just like it is
40 so that other people can enjoy it. That is what we would prefer to have done, but
41 thank goodness we have prevented it from being burned to the ground.

1 Charles David Hope-Gill, 849 Eagle Claw Court, Lake Mary, Florida 32746, came
2 forward. He stated that he just entered the chambers and was not informed
3 about this meeting at all. He said, it is just off-the-cuff without knowing. He
4 questioned, as far as this Crystal Lake Preserve, I don't know – have you gone
5 through the – what you plan to do? Did we miss all that?
6

7 Chairman Hawkins answered, yes.
8

9 Mr. Hope-Gill stated, yeah, we missed all that.
10

11 Chairman Hawkins informed Mr. Hope-Gill that it is available in the packet; that
12 he could get a copy from Mr. Schindler.
13

14 Mr. Hope-Gill said, as I understand – well, okay. Let me just ask a question
15 before I state my position, or what I think my position is. He asked, are you
16 planning to make this available to the public, or is it going to be just, like, for UCF
17 or other educational institutions?
18

19 Chairman Hawkins responded, it will be available by invitation from The
20 Foundation to groups or people they choose to invite. So, no, it is not open to
21 the public to where the public can just drive up there and use it; no.
22

23 Mr. Hope-Gill stated, all right. Okay. In that case – because what was basically
24 promised was that it would be open at least for advancing the education of
25 wildlife and other aspects.
26

27 Chairman Hawkins said, it is. It will be open 16 days a year, no more than two
28 days a month, but it will be open by invitation. So, it is available to the public, but
29 just not as a typical park.
30

31 Mr. Hope-Gill stated, right. There won't be busloads of school children.
32

33 Chairman Hawkins said, exactly. Exactly.
34

35 Mr. Hope-Gill stated, okay. That is basically – I just wanted to head off – since
36 you were curtailing any further discussion. I just wanted to make sure that I
37 didn't leave things.....
38

39 Chairman Hawkins said, yes. Somebody has done a lot of work on this, a lot of
40 good work.
41

42 Mr. Hope-Gill stated, yeah. Yeah. It sounds good. Okay. I'm sorry for
43 interrupting. Thank you.

1 Chairman Hawkins said, okay. No. That's fine.

2
3 There being no further public comment, Chairman Hawkins closed that portion
4 and entertained board discussion and/or a motion.

5
6 Chairman Hawkins commented, I think this is a great place, great idea, great
7 planning. I don't have anything negative at all to say about it.

8
9 Member Miller commented, it appears that the resistance to it has faded. He
10 questioned, I assume it will be posted for No Trespassing?

11
12 Mr. Leidigh replied, there is going to be a chain-link fence 10' off of the Timacuan
13 residents' property on the north and west and then there will be the gate, and the
14 rest of it is on the water, basically, so it doesn't need a fence there.

15
16 Chairman Hawkins stated, well, his question was, is it going to be posted No
17 Trespassing. In other words, if it is posted and somebody trespasses, they can
18 be arrested.

19
20 Member Miller commented, the second time they can be arrested.

21
22 Mr. Leidigh said, there is a provision for signage on the property. They will have
23 to jump the fence to be on the property unless they came by boat, but the
24 residents of Timacuan will be right there to the right of the entrance and I think
25 they will help keep a good eye on it. I don't think that is going to be a problem.

26
27 Chairman Hawkins commented, they can cut the fence. A chain-link fence is
28 easy to cut.

29
30 Member Cartmill asked, is the general feeling that the neighborhood is in support
31 of this?

32
33 Mr. Omana answered, we had at the ad hoc committee the President of the
34 Timacuan Homeowners Association, Mr. Mike Annichiarico, as well as additional
35 representatives of the HOA and residents, and although I will not speak for them,
36 I can tell you that we sat around those tables right there in this very room
37 (indicating) and ironed out the differences. So, the item that you see before you
38 is a culmination of those issues.

39
40 Mr. Schindler added, and, also in addition to sending out notices to everyone
41 within 300 feet, I know that Mr. Annichiarico has published a blurb about this in
42 the Timacuan Newsletter, plus he sent out e-blasts to all the Timacuan residents
43 that have e-mail. So, we have gone far beyond the minimum in making sure that

1 people are aware of tonight and then the two upcoming City Commission
2 meetings.

3
4 Vice Chairman Taylor commented, I think this is great. I applaud the efforts of
5 everyone, their financial and time commitments. In the Ownership Clause, I
6 would prefer more specificity rather than less such as – because right now the
7 reversion only refers to managing the property, but doesn't really say whether
8 that is in regard to landscaping, maintenance or abiding by the Developer's
9 Agreement. The reversion clause should have some specificity that if they can't
10 abide by the Developer's Agreement – again, considering this could be 30 years
11 from now – or fail to maintain the property to City standards – and, maybe that is
12 on a once a year inspection by City Parks or upon complaint by the Homeowners
13 Association or somebody else. Just because we don't know what could happen
14 in 30 years. I think those are things to be considered by the City Attorney and
15 the City Commission when going for the final.

16
17 Mr. Schindler assured Vice Chairman Taylor that these Minutes will accompany
18 the Staff Report to the City Commission; that the City Attorney will have her
19 comments.

20
21 **MOTION:**

22
23 **Vice Chairman Taylor moved to recommend approval to the Mayor and City**
24 **Commission the request by the City of Lake Mary/Community Development**
25 **Department for a change in zoning from R-1AA (Single-Family Residential) to**
26 **PUD (Planned Unit Development) and Developer's Agreement, Preliminary**
27 **and Final PUD, for Crystal Lake Preserve located east and south of Timacuan**
28 **and west of West Crystal Lake, Lake Mary, Florida, consistent with staff's**
29 **Findings of Fact and incorporating the Board Member's comments by**
30 **reference herein. Member Napier seconded the motion.**

31
32 Member Miller asked, before we vote on this, all we are doing with that comment is
33 asking the Commission to look at that and see if they think it is best to do that?

34
35 Chairman Hawkins answered, right. Let the City Attorney look at that.

36
37 **The motion carried unanimously.**

38
39 Mr. Omana announced that this item will move forward to the City Commission's
40 August cycle; that staff will notify the Foundation and the residents of that time.

41
42 VIII. Community Development Director's Report

1 Juan (John) A. Omana, Jr., Community Development Director, reported on actions
2 taken at the July 9, 2009, City Commission meeting.

3 IX. Other Business

4 Juan (John) A. Omana, Jr., Community Development Director, invited the P & Z
5 Board members to attend a workshop where ACI, the City's consultant on the
6 Downtown, will be presenting the plans on the expansion of the Downtown, on
7 August 6, 2009, at 5:00 p.m., City Hall Commission Chambers. He noted that the
8 Local Planning Agency is going to be invited as well. (It is noted that this was reset
9 to August 20, 2009).

10 X. Reports of Other Members

11 Member Miller questioned whose maintenance responsibility is it with the City
12 concerning where water always stands near a curb in Timacuan where it goes
13 around towards a storm drain.

14
15 Juan (John) A. Omana, Jr., Community Development Director, responded, that
16 would be a function of the City's Public Works Department. It also depends on the
17 source of the water and the specifics of the street in question.

18
19 Gary Schindler, City Planner, added, if you will contact Bruce Paster, Public Works
20 Director, at 407-585-1450.

21
22 XI. Adjournment

23
24 The meeting was adjourned at 6:36 p.m.

25
26
27
28
29
30
31

Dr. Robert Hawkins, Chairman

Diana T. Adams, Administrative
Secretary