

**AGENDA MINUTES
CITY COMMISSION MEETING
VENETIAN CENTER, 1 DOZIER COURT
MONDAY, MARCH 28, 2022 5:30 PM**

1. CALL TO ORDER

The City of Leesburg Commission held a regular meeting on Monday, March 28, 2022, at the Venetian Center. Mayor Pederson called the meeting to order at 5:39 p.m. with the following members present:

Commissioner Jimmy Burry
Commissioner John Christian
Commissioner Jay Connell
Mayor Mike Pederson

Commissioner Dan Robuck was absent. Also present were City Manager (CM) Al Minner, City Clerk (CC) J. Andi Purvis, City Attorney (CA) Grant Watson, the news media, and others.

INVOCATION

Commissioner Christian gave the invocation followed by the Pledge of Allegiance to the Flag of the United States of America.

Mayor Pederson informed the public that items 3.B.2 and 5.C.3 had been pulled from tonight's agenda.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

2. PROCLAMATIONS:

A. March 2022 Florida Bicycle Month

Mayor Pederson read the proclamation declaring March 2022 as Florida Bicycle Month.

B. April 2022 Water Conservation Month

Mayor Pederson read the proclamation declaring April 2022 as Water Conservation month for the City of Leesburg. Public Works Director, Cliff Kelsey, accepted the proclamation.

C. National Library Week April 3-9

Mayor Pederson read a proclamation declaring April 3rd through April 9th as National Library Week.

Leesburg's Library Director Lucy Gangone, Carolyn Pasquale, Vice-Chair, Library Advisory Board, and Lori Koechlein, Vice-President, Friends of the Library were present and accepted the proclamation.

3. PRESENTATIONS:

A. Employee Service Award Recognitions:

Five Years: Kevin Edwards, Police

Twenty Years: John Sommersdorf, Police

Twenty-five Years: Robert Hicks, Police and Scott Mack, Police

Twenty-nine Years: Gary Barrett, Police (Retirement)

Thirty Years: Kim Stewart, Police (Retirement)

Thirty-two Years: George Whittaker, Police (Retirement)

HRD Arriaga and **CM Minner** presented each employee with service awards in recognition of their years of service. They also recognized those retiring from the police department at the end of the month. **Mayor Pederson** thanked all the officers for their years of service to the city.

B. Main Street Complete Streets Design Update

This item was pulled from the agenda.

C. September 30, 2021 CAFR Review by MSL

Finance Director (FD) Williams, introduced Joel Knopp. Mr. Knopp is a partner with MSL CPA's & Auditors and is in attendance tonight to present the audit report.

Joel Knopp stated it was a pleasure to be here to go over the highlights of the audit and the results. There was a separate letter provided as part of the audit that went through some of their required communications. Referring to slides, he pointed out that under their required communications, if there were significant issues that they came across in the audit as far as a lack of cooperation from the city staff or any disagreements as it relates to the accounting treatments of items, they would be reported, but they received full cooperation. They received management representation as a conclusion of the audit that they provided with everything they requested. Jim Williams, Finance Director, was the individual assigned to oversee their services. Covering their reports, they audit a variety of areas of the city and, under particular standards, they look at internal controls. They are looking at compliance with contracts and grant agreements. The main report which you would find at the front of the document is their opinion on the financial statements as to whether the numbers are fairly presented and in accordance with generally accepted accounting principles, they gave an unmodified opinion, which means that the numbers are presented that way and that is a clean opinion. The last report on this slide is one related to internal controls over financial reporting and compliance and this is required by government audit standards, which every Florida municipality has to undergo this type of audit. There were no internal control findings and no compliance findings were identified. This is a good test and a good result for showing that the city maintains effective internal controls throughout the year. This is not something that you can makeup for at the end of the year when we come and do the audit, you have to maintain these types of controls consistently and the city has done that. With the city's major grants, which are for fiscal year

2021, the aviation related grants, as well as the Cares Act, they looked specifically at those grant dollars that were spent and the specific expenditures, as well as the controls over those expenditures. Those they call a deep dive into those types of grants and that was also an unmodified opinion and there were no control findings or compliance findings identified. The last two reports relate to the Florida Auditor General Rules and it is a report on investment compliance as well as a variety of other topics that the auditor general requires to be included and these were also clean reports with no findings.

With the general financial highlights, he pointed out that in governmental activities, the total assets deferred outflows were one hundred twenty seven million. The total liability is seventy-five million. The unrestricted net position did decrease from fiscal year 2020 and most of that relates to the long term other post-employment benefits liability that the city has to incur related to retiree health care benefits. The business type activities showed a continued improvement in the unrestricted net position of the equity. As you can see the un-restricting of that position, its percentage of total expenses was almost seventy-five percent. That is a very healthy equity number for the business type activities which are the enterprise funds of the city. The overall change in that position for both governmental and business type activities was positive for fiscal year 2021.

In the General Fund, he pointed out the ending fund balance and the unassigned fund balance, in particular, which is the discretionary fund balance of the city that stayed very stable at ten point nine million at the end of the year, which was almost forty percent of total expenditures and transfers out. Again, that is a good matrix of liquidity for the city. You would want to see it at around twenty to twenty-five percent, so the fact that you are at almost forty is a very healthy number. With the budget compliance for the general fund specifically, revenues were less than budget and this was primarily due to the American Rescue Plan dollars that will not be recognized until they are spent in fiscal year 2022 and forward. That also correlates to the savings over budget as it relates to expenditures which were less than budget by three point nine million. A positive budget variance of one point eight million for fiscal year 2021. A good result for the city for fiscal year 2021. He extended his gratitude to the finance director and his staff for all the assistance they received through the audit. It is a job well done as it relates to the conclusions they obtained.

4. PUBLIC COMMENTS:

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Issues brought up will not be discussed in detail at this meeting. Issues will either be referred to the proper staff or will be scheduled for consideration at a future City Commission Meeting. Comments are limited to three minutes.

There were no public comments offered.

5. CONSENT AGENDA:

Routine items are placed on the Consent Agenda to expedite the meeting. If the Commission/Staff wish to discuss any item, the procedure is as follows: (1) pull the item(s) from the Consent Agenda; (2) vote on remaining items with one roll call vote, (3) discuss each pulled item and vote by roll call

Commissioner Christian moved to adopt the Consent Agenda as presented and Commissioner Burry seconded the motion.

The roll call vote was:

Commissioner Christian	Yes
Commissioner Burry	Yes
Commissioner Connell	Yes
Mayor Pederson	Yes

Four yeas, no nays, the Commission adopted the Consent Agenda, as follows:
(Each item has its coordinated resolution number listed below the header.

A. CITY COMMISSION MEETING MINUTES:

- 1. Regular meeting held March 14, 2022**

B. PURCHASING ITEMS:

- 1. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute a contract amendment with Brightview Landscape Services, Inc. for landscape maintenance services along highway right of way where maintenance is the responsibility of the City, renewing the Agreement and accepting a cost adjustment; and providing an effective date.**

ADOPTED RESOLUTION 11,050

- 2. Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an Agreement with Greg Brown Painting, LLC for on call painting services at fixed unit prices; and providing an effective date.**

ADOPTED RESOLUTION 11,051

C. RESOLUTIONS

- 1. Resolution of the City Commission of the City of Leesburg, Florida, authorizing the Mayor and City Clerk to execute the Fifth (5th) Amendment to T-Mobile USA, Inc., Lease agreement with the addition of a back-up generator at the City's Water Tower facility at the Lake Square Mall; and providing an effective date.**

ADOPTED RESOLUTION 11,052

2. **Resolution of the City Commission of the City of Leesburg, Florida, authorizing the Mayor and City Clerk to execute a Landlord Consent to Assignment of Lease, between the City of Leesburg and 9020AB, LLC, for the property located at 32746 Echo Drive, Leesburg, Florida, 34788, at the Leesburg International Airport; and providing an effective date.**

ADOPTED RESOLUTION 11,053

3. **Resolution of the City Commission of the City of Leesburg, Florida, authorizing the City Commission to designate a preferred design concept for the East and West Main Street Complete Streets Concept Development Project; and providing an effective date.**

This item was pulled from the agenda.

4. **Resolution of the City Commission of the City of Leesburg, Florida, accepting and approving a plat for Lake Griffin Reserve, a subdivision of the City of Leesburg, Florida, being a portion of Sections 19 and 30, Township 19 South, Range 25 East, and Section 24, Township 19 South, Range 24 East, Lake County, Florida; and accepting and dedicating to the use of the public any easements or public places shown thereon as being dedicated to the public; and providing an effective date. (Lake Griffin Reserve)**

ADOPTED RESOLUTION 11,054

5. **Resolution of the City Commission of the City of Leesburg, Florida, accepting and approving a plat for Lake Griffin Reserve - Phase 2, a subdivision of the City of Leesburg, Florida, being a portion of Sections 19 and 30, Township 19 South, Range 25 East, and Section 24, Township 19 South, Range 24 East Lake County, Florida; and accepting and dedicating to the use of the public any easements or public places shown thereon as being dedicated to the public; and providing an effective date. (Lake Griffin Reserve - Phase 2)**

ADOPTED RESOLUTION 11,055

6. **Resolution of the City Commission of the City of Leesburg, Florida authorizing the Mayor and City Clerk to execute an Amendment to the**

Florida Gas Transmission FTS-1 Contract to provide Natural Gas transportation services; and providing an effective date.

ADOPTED RESOLUTION 11,056

**6. PUBLIC HEARINGS AND NON-ROUTINE ITEMS:
COMPREHENSIVE PLAN INFORMATION SIGN-UP SHEET (YELLOW)
AVAILABLE**

A. SECOND READING OF ORDINANCES

- 1. An Ordinance of the City of Leesburg, Florida, annexing certain real property consisting of approximately 18.5 +/- acres; and being generally located south of U.S. Highway 441 and east of Sunnyside Drive, lying in Section 33, Township 19 South, Range 25 East, Lake County, Florida; providing that said property so annexed shall be liable for its proportionate share of the existing and future indebtedness of said city; providing that such annexed property shall be subject to all laws and ordinances of said city as if all such territory had been a part of the City of Leesburg at the time of passage and approval of said laws and ordinances; providing that such annexed territory shall be placed in City Commission District 1; and providing an effective date. (Sunnyside Subdivision AX)**

DENIED ORDINANCE 22-07

CA Watson advised the mayor and commission that their firm has a conflict on these three particular items, so they made arrangements for Lindsay Holt, of Crawford, Modica & Holt, to provide legal advice and counsel to the City Commission to the extent necessary on these items. If it is okay, he would like to switch chairs and invite Attorney Holt to come up. **Mayor Pederson** stated that it would be perfectly fine and thanked him for notifying them.

Commissioner Burry introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Commissioner Christian made a motion to adopt the ordinance and Commissioner Burry seconded the motion.

Mayor Pederson requested comments from the Commission and the audience.

Commissioner Burry reminded everyone that a year and three months ago this same item was on the agenda for the City Commission and the vote that night was for the property to be brought into the city and the comp plan to be changed, but the PUD was turned down and then there was a reversal on the property and it was moved back out of the city. He does not want to talk about item three yet, but he is not for item one because of his position on item three. He will be voting no on that. **Mayor Pederson** chimed in that he would not be supporting this either. **Commissioner Connell** asked if the eighteen and a

half acres were part of the one thirty-nine acres that would be coming up.

Brent Spain, Theriaque & Spain, 1809 Edgewater Drive, Orlando, on behalf of the applicant addressed the commissioner's question about whether the eighteen and a half acres were part of the overall one hundred and thirty-nine acres. Yes. Also, they are asking if the Commission would support the staff's recommendation of approval for the annexation and they are asking for their support. **Mayor Pederson** said when mentioning staff support, he noted that the planning commission had a seven to zero vote against this development.

The roll call vote was:

Commissioner Burry	No
Commissioner Connell	No
Commissioner Christian	Yes
Mayor Pederson	No

One yea, three nays, the Commission denied the ordinance.

2. **An Ordinance amending the Future Land Use Map of the Comprehensive Plan of the City of Leesburg, changing the Future Land Use Map Designation of certain property containing 18.5 +/- acres from Lake County Rural to City of Leesburg Estate, for a property generally located south of U.S. Highway 441 and east of Sunnyside Drive as legally described in Section 33, Township 19 South, Range 25 East, Lake County, Florida; and providing an effective date. (Sunnyside Landing)**

DENIED ORDINANCE 22-08

Commissioner Burry introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Commissioner Christian made a motion to adopt the ordinance and Commissioner Burry seconded the motion.

Mayor Pederson requested comments from the Commission and the audience. There were none.

The roll call vote was:

Commissioner Connell	No
Commissioner Christian	Yes
Commissioner Burry	No
Mayor Pederson	No

One yea, three nays, the Commission denied the ordinance.

3. **An Ordinance of the City of Leesburg, Florida, changing the zoning on approximately 139 +/- acres from Lake County R-1 (Rural Residential) to City PUD (Planned Unit Development) to allow for a single-family residential subdivision for a property generally located south of U.S. Highway 441 and east of Sunnyside Drive, as legally described in Section 33, Township 19 South, Range 25 East, Lake County, Florida; and**

providing an effective date. (Sunnyside Landing PUD)

DENIED ORDINANCE 22-09

Commissioner Burry introduced the ordinance to be read by title only. CC Purvis read the ordinance by title only.

Commissioner Christian made a motion to adopt the ordinance and Commissioner Burry seconded the motion.

Mayor Pederson requested comments from the Commission and the audience.

Commissioner Burry wanted to make a few points on why he is opposed to this particular PUD. As he said before, this land was brought up for a PUD on December 21, 2020 and it was denied that night. That PUD was for one hundred and fifty-nine units. This PUD is requesting one hundred and sixty-four units. Some of the rationale for why that PUD was turned down was the first and foremost thing; the roads are substandard. There have been no substantial improvements to the roads and we already have a tremendous amount of traffic in that area. The second thing is that in 2004 there was an agreement between the City, the County, and the Sunnyside property owners and the intent of that agreement was that from the three-way stop at Sunnyside going from the west to the east, that portion of Sunnyside would bisect the northern section of dense development and the southern section would be reserved for larger estate development. This particular development is on the south side and it is more dense than what was agreed upon in that agreement. The third thing is that Sunnyside is a historically rural peninsula that is outside the current high density development corridors, like Highway 44 to the northeast, down US-27 and SR-33 to the south. We need to reserve some places for larger, nicer development. The fourth item Mayor Pederson pointed out is that the planning commission voted 7-0 to turn this down. **Mayor Pederson** commented that his issue with this development is the roads. The roads just do not support this much development. He knows at one point he heard the developer talking about improving the roads around the development, but this troubles him looking at the roads from the development all the way out to the major thoroughfares and highways. He wanted to explain why he is against this development.

Brent Spain, Theriaque & Spain, Orlando, stated he appreciates the opportunity to appear before the Commission on behalf of the applicant. They do have a PowerPoint presentation he would like to walk through for the record. Before proceeding, there were a couple of housekeeping matters to keep the record clear. He introduced the agenda packet into the record, which included the planning department's entire file. He then asked that a copy of the PowerPoint presentation be introduced into the record along with a copy of Greg Beliveau's professional resume.

Before beginning, he wanted to hit a couple of the bullet points that are moot because the last time they were before the commission in December 2020 the matters were heard together. The first point is distinguishing between the annexation and the plan amendment, which the Commission just voted on along with the PUD. There are legislative decisions and quasi-judicial decisions. The first two decisions tonight that were voted on were legislative. They were subject to a different legal standard. Then we have the site specific rezoning, which is the third bullet point. An example of that would be a PUD or a site plan and those are what is called quasi-judicial zoning decisions. Those decisions must be based on "competent substantial evidence." The applicant will have the initial burden of demonstrating through competent substantial evidence that its request complies with the local government's adopted code criteria. The adopted code criteria is important because during these hearings you will hear a lot of varying, passionate testimony from folks. However, at the end of the day, it all comes down to whether or not the applicant has met the published criteria. One thing that constitutes competent substantial evidence

under Florida Law is the staff report. There was a staff report provided this evening by the planning department and in that staff report the professional land use recommendation by the Planning and Zoning Manager was for the approval of the PUD and that this is consistent with the city's comprehensive plan and the city's land development code. Now, what is not competent substantial evidence, generalized statements of opposition, something to the effect of "we just do not want this or we just do not think this is a good idea". He does not envy the position of the Commission tonight, especially with a room full of individuals. It is a difficult place to find yourselves when you have to make these types of decisions because they are not popularity polls. However, it comes down to the matter of the objective code criteria where technical expertise is required. The mayor mentioned the roads and the capacity of the roads. Traffic is an issue where expert testimony is generally required, as well as allegations of reduction in property values. Referring to a slide, he pointed out in the third bullet point, there is a quote from an appeal decision where the court indicated that lay witness speculations about traffic problems, light noise and property value reduction along with other unfavorable impacts are not competent substantial evidence under Florida Law. So, just to reiterate that the criteria they have to base their decision on tonight is the published criteria. He believes Commissioner Burry mentioned the Sunnyside Task Report. Referring to a slide, he stated that the previous City Attorney, Fred Morrison, had previously opined that the study report was never formally adopted by the City. That it was not adopted into the City's comprehensive plan and, in contrast to Lake County, who specifically incorporated that into their comprehensive plan, the City did not incorporate it into its land development code either. That City Attorney, Fred Morrison, opined that a study report which a prior commission did "quote on quote" approved by resolution is not binding on this current commission. In fact, the history of this property sort of bares that there used to be a PUD on this site and it was approved subsequent to that Sunnyside Report. He introduced Greg Beliveau and tendered his resume for the record. He asked that this Commission accept him as an expert in land use and land use planning.

City Attorney (CA) Holt, interjected and said that because we are moving into the quasi-judicial portion of the hearing, she would need to swear everyone in. She apologized if she was shaking up the typical proceeding of the meeting. She asked anyone who would be presenting information to the Commission to stand so she could swear them in. She instructed the public that if they came to the podium as part of the public comments, they would need to state their name and address for the record before making any comments to the Commission. As far as the question about an expert, she does not have a deep knowledge of the city, but she would prefer that he make a brief presentation to the Commission on what the intended witness qualifications are as an expert. He can then ask the Commission whether they would accept that testimony as expert testimony.

Attorney Spain replied that he would be happy to do so and he thanked her for the clarification. First he wanted to clarify a comment from Commissioner Burry that this proposal has more units than the proposal that came before the commission in December 2020. Several months ago, his client submitted a revised plan which reduced the units. It is the exact same number as the prior plan and that is one hundred and fifty-nine units. The major difference being that, in light of the citizens' concerns from December 2020 about the part of the project on the east side of Sunnyside Drive, they reduced that to only four lots. So, with the Commission's denial of the annexation and without the plan amendment, instead of having one hundred and fifty-nine units, the overall unit count was reduced to one hundred and fifty-five units. That is the current proposed unit count for the west side of Sunnyside Drive. He then instructed Mr. Beliveau to provide his qualifications for being an expert witness and asked to tender Mr. Beliveau as an expert in urban planning and land use. **Mayor Pederson** replied that it would be fine.

Greg Beliveau, LPG Urban & Regional Planners, Inc., stated the site in question was one hundred and thirty-nine acres, but it had been reduced down to one hundred and twenty acres on the west side of Sunnyside Drive. The current land use has existed since 2005. Referring to a slide, he pointed out the

green portion is estates, which allow up to four units per acre. The other portion of the property is conservation and it does not allow for density. The property on the east side is no longer valid, so he will ignore that portion of the exhibit. The property currently holds a PUD designation for zoning. However, the existing PUD zoning is no longer valid. He showed the revised PUD that was submitted a few months ago which showed the revised number. It showed the four lots on the eighteen acres that were equivalent to one of the five future land uses. It was done out of respect to the comments they heard originally, but that is no longer part of the package. Therefore, now they are just looking at the one hundred and fifty-five lots on the parent track. With the one hundred and fifty five lots on the parent track, they have eighty upland acres and one hundred and twenty total acres. They tried to be very precise within the PUD concept plan, outlining the uplands and the wetlands. They have twenty-four-point five acres of useable uplands for this project and that is why units are clustered. You will see other green areas that are useable by the residents for recreational purposes. They included very large buffers near the adjacent property owners in recognition that they are neighbors and they wanted to be good neighbors. For the lot sizes, they have fifty, sixty and eighty foot-sized lots. Forty-five percent would be eighty, forty-three percent would be fifty and twelve percent would be sixty feet. They also put the larger lots along Sunnyside Drive. He showed a slide of the total site which included the buffers. The buffered areas were important to put against the adjacent property owners and they also included open space in that area. They do have a few lots that abut adjacent property owners. There are a few homes that abut to two existing homes. However, there would be over three hundred feet between the new homes and the existing homes. The same would happen on the south side of the proposed project. The lots would include a large open space between new and existing houses on the south side. There would be three hundred and seventy-five feet between the houses with all the open space. They are proposing over two-point-four acres of open space between those homes. In the south, they would also have a water retention area. They would only have a few lots between the open space to the south and the old grove.

On the environmental report, they brought Jessica from Stillwater, who prepared that report. She actually went onsite and received several comments from the neighbors as to what they felt they had out there. Some of the comments were very interesting. There were discussions about how many eagles were onsite and it appears they have the entire southeastern eagle population residing on this property. However, from the last check they found out that they do not have any active eagles onsite. There was one there previously which was registered, but there is not one there now. They do have gopher tortoises, but every site that is developed nowadays has gopher tortoises. The report does state that they would have to do a sand skink analysis in the spring before the site is developed.

With the traffic study, the initial traffic study was done in 2019. It was found that they did not have any problems with their level of service. In fact, Sunnyside Drive and Sleepy Hollow could handle the traffic, but there were some things that needed to be done at the intersection. The traffic study was based on the original site plan and the two hundred and nineteen houses. That was the original design that Dr. Coe wanted. Since that time, they have done an updated traffic study. The new traffic study found that two traffic stations Sleepy Hollow and Sunnyside Drive, had a slight increase from the 2019 traffic count. The third traffic station had a decrease in the traffic count. They were surprised to see it was fifteen twenty-three, which was a decrease from 2019 of about sixteen hundred. When doing traffic analysis based on two hundred and nineteen units and you decrease it to one hundred and fifty-nine units, the average daily trips decreases by five hundred and sixty-six. That more than balances out and you will have a lesser impact on the traffic between Sunnyside Drive and Sleepy Hollow. Referring to a slide, he pointed out that the 2021 traffic volumes show there are four hundred and nineteen available traffic counts on Sleepy Hollow from US-441. On Sunnyside Drive, from Main Street, they have five hundred and seventy. On the other Sunnyside Drive from Sleepy Hollow, they have six hundred and four available. They carried over the future traffic volumes and capacities, looking at am and pm traffic volume, as well as future road volumes with this project included. That still showed available capacity on

Sleepy Hollow of two hundred and eighty three, Sunnyside Drive showed three hundred and seventy and the other Sunnyside Drive showed a traffic count going down to four hundred and ninety-four trips. That shows there is plenty of capacity on Sunnyside Drive and Sleepy Hollow for their project to be included.

He provided a slide of the resolution regarding the density in the Sunnyside Study Area that was passed. He stated that everyone seemed to blame the previous City Manager, Ron Stock, for including the last sentence in that resolution. It is a catch-all phrase that allows the City Commission to do whatever they want in the Sunnyside area. Based on that sentence of the resolution, he provided the opinion of the previous City Attorney, Fred Morrison, where he explained in a proviso "except as otherwise determined by the City Commission and they passed for the first PUD (Planned Unit Development); there is a substantial body of law to the effect that a municipality cannot bind their police power." That was an excerpt from a Planning Commission meeting in August of 2020. Then, in December 2020, at the City Commission meeting, the previous City Attorney basically gave the same opinion to the City Commission. He responded by referring to the Sunnyside Task Force. "In his opinion, it is essentially the same as it was the last time it was implemented by way of resolution. This Commission has the authority, notwithstanding the Task Force report, to approve this if that is the desire of the Commission." In other words, it was up to the Commission if they wanted to pass it or not, regardless of the Task Force report.

With Sunnyside, they were informed that the area is rural in character and that the land use pattern is strictly all five acre tracks or better. There has been a trend in the Sunnyside area for over thirty to forty years with past subdivisions that exist south of Sunnyside Drive. Referring to a slide, he pointed out several subdivisions that they are told do not count because they have been there far too long. However, these subdivisions do exist and they have existed. These subdivisions have preexisting homes and some still have vacant lots available for sale. These subdivisions are equal to one unit per acre or greater than one unit per acre in density. These subdivisions do in fact exist. Referring to another slide, he showed an area outlined in red that is the proposed development. The green circles to the south and north are the subdivisions that predate them. They exist, so you cannot ignore them. There is a pattern of development that does exist in the Sunnyside area. Moving to another slide, he pointed out that the green area is wetlands. That shows that there are constraints to the development in that area. He showed that when you take out the wetlands, and look at the preexisting subdivisions, you can see where they basically developed, where the uplands existed and intermingled where the wetlands are. Therefore, we can see there are development patterns that occurred in the Sunnyside area which predate this Task Force. To a large degree, it predates a lot of things that were basically planning driven. One complaint he heard was their lot size. Their lots are not all fifty or sixty feet. He was looking at density. When looking at density, he was looking to see what the average density was for all the subdivisions. When you focus in on these areas and you look at the number of lots that are in these subdivisions, you can see the pattern. You can see that there are in fact subdivisions that are either at or close to one unit per acre or slightly over one unit per acre. There is one just west of the property line. It is part of a subdivision that was vacated and the west half still exists. The west half of it is now vacated and the east half is developed at two-point-two units per acre. That one is located at the southwest end of Sunnyside Drive.

When it comes to employment, they received information from the Urban Land Institute about who actually lives and works in Leesburg. Referring to a slide, Mr. Beliveau stated that the statistics show twenty-seven percent of Leesburg's workforce is in the professional category and seventy-three percent are in healthcare, education and services. Going further, about thirty-six percent of the workforce commutes each day into the city. That means they are commuting roughly thirty minutes to an hour every day just for work. The employment that occurs here in Leesburg, means that we have more jobs than we have people that live here. That is a good thing, but we also need to consider that we have a large employment center and not have enough people to feed that employment center. They have to drive to get here. That means we have a need for housing. The people that have the types of jobs that are being

created are in the seventy-three percent category, not in the twenty-seven percent category. He wishes we could build a subdivision that would address the five hundred thousand, six hundred thousand and million dollar homes. The truth is, that is not what the housing market is in Leesburg. He wished it was because Dr. Coe would build it for them.

Attorney Spain stated that concluded the initial presentation. They asked to reserve time for rebuttal to public comments. They respectfully requested that the Commission approve the PUD with the stipulation and condition that it not include the property to the east of Sunnyside Drive in light of the Commission's earlier vote. They respectfully submit, based on their presentation, the city staff report which included the agenda packet, the PUD that is consistent with the city's comprehensive plan and the city's land development code, it is also compatible with the surrounding pattern of development. As Mr. Beliveau indicated the road capacity is there. The traffic study evaluated greater impacts than what this project would have on it and, if you take into account, the lower number of units they now have. They even went a step further and updated all the traffic numbers which demonstrated that there would be adequate capacity on the roadways. They are ready to answer any questions the Commission may have and they do ask for some rebuttal time.

Commissioner Burry asked with regards to the neighborhoods that were pointed out with density. How many of those are actually in the city limits of Leesburg? **Mr. Beliveau** responded that he believed there were two. **Commissioner Burry** asked which ones. **Mr. Beliveau** replied that he believed one of them was the Meadows at Sunnyside. That may be the only one and all the other ones predate any of the rules and regulations. However, they do exist and they do establish a pattern. **Mayor Pederson** asked if he referenced the traffic being down from 2019 to 2020. **Mr. Beliveau** responded that one traffic station was down from 2019. **Mayor Pederson** asked if he could clarify more on that. **Mr. Beliveau** stated that one traffic station went down and two went up. **Mayor Pederson** wondered if he knew the reasoning for that. **Mr. Beliveau** replied that the numbers dropped some from Covid. Actually, all the station counts went down with Covid. Then they started climbing again, but for some reason, the third traffic station, which is at the intersection of Sunnyside Drive coming out from the south and Sunnyside Drive coming in from the east, that station went down from sixteen something to fifteen something. The residents could be driving up Tomato Hill or going up to Sleepy Hollow because those other stations only had marginal increases in the count. That is what the numbers say by the county and for that one station they dropped. They have been surprised with other projects throughout the county, where they have done traffic counts and the numbers are just not going up as fast as people thought they would be. **Mayor Pederson** said the basis of his question was that he suspected the numbers had gone down in 2020 due to Covid and that it would be fair to say that we will see a steady increase at this point and it will continue to climb in 2021. **Mr. Beliveau** replied that the updated traffic study was done in 2021. **Mayor Pederson** responded that he thought the traffic study was done in 2020. However, he wanted to be clear there was an impact from Covid. He then asked, and this was for the benefit of the crowd, if he could explain the width of the roads. What it would be for people that would travel on them, starting from the subdivision. **Mr. Beliveau** responded that he had another handout that they would like to go over during his rebuttal which included all that information. **Mayor Pederson** wanted to make sure that this would be addressed at that time. **Mr. Beliveau** answered it would be because there are some interesting trends in how the widths change and it changes when it gets to their project.

Zachary Broome Bowen & Schroth, 600 Jennings Ave, Eustis, stated he was retained by some of the local property owners. He wanted to address an issue that was glossed over earlier as there was a legislative decision before the Commission on whether to annex eighteen acres, and that was denied. One thing that came forward was that there would be fewer units and he wanted to point out that there would also be eighteen fewer acres. This is relevant because they had reduced their plan to four units on those eighteen acres. When you are talking about the density of this project, they took it from one hundred and

fifty-five or one hundred and sixty units on that total acreage to one hundred and twenty. That raised the gross and net density for this project. The gross and net density is very relevant because he heard there were only eighty acres of upland buildable property. That means they are talking about close to two units per acre. Without a PUD, they would not have the lawful ability to build in jurisdictional wetlands. The reason that is relevant and he cited Leesburg City Code, Section 25-274, a planned unit development relies on the underlining zoning district to establish basic development rights including permitted uses, permitted density and permitted intensity. That is just as relevant as the resolution about the Sunnyside Task Force, which included the proviso about changing things and the provision about how they did not submit something. It is under the same resolution, which explicitly says, that when staff are reviewing a development application they have to take into account the Sunnyside Task Force and render that staff report that they relied upon in saying there is competent substantial evidence. If the Commission were to vote, withdraw or cancel that resolution, that would be perfectly fine. However, it is his understanding that it has never happened. So, the application before the Commission tonight and the staff report did not take that into consideration.

With the PUD and the annexation of the property. That was done explicitly in the ordinance of annexation. The annexation of the one hundred and twenty acres that we are here for tonight was explicitly subject to the planned unit development conditions that the city imposed back in 2005. That was done by the previous City Attorney, Fred Morrison, it was prepared and recorded in OR Book 3059, Page 2133, and it explicitly incorporates the PUD conditions. If you go to that exhibit, the PUD conditions lay out that the residential development of the project being annexed would be a maximum of one hundred and twenty units at a gross density of one unit per acre and a net density of one-point-seven units per acre. The applicant is here tonight saying that their underlining zoning for this PUD application is PUD. However, that same PUD explicitly lays out that the density and intensities that inform the review of the current application has a much lower density and intensity than what they are proposing. The document also talks about if they fail to get that PUD implemented within twenty-four months, that PUD defaults back to estate. Again, that is a much lower density than they are currently asking for. He believes there was testimony about what rural estates would be in the city limits and that there is not a higher density than one to one. The applicant is way over that in gross and net. There was discussion about the width of lots. The reason for a PUD is to not analyze it like a vacuum and it should not be whatever the applicant feels like. It is tied back to the underlying standard and what the underlining intensity is in Rural Estate (RE-1), which is what their PUD would default back to under the 2005 PUD. The lot width would be one hundred feet and the lot depth would be one hundred and fifty feet. Even if they went down to R-1A, that is seventy by one hundred. You would have to go straight into R-1 to get fifty by ninety with lot width and lot use. That is not what this PUD is and that is very important for this consideration. A PUD is not whatever the developer feels like. It has to be tied back to something and its current underlying zoning. The PUD has a much lower intensity and a much lower density than what they are asking for. When hearing all the facts, the figures, evidence or testimony of an expert witness, you have to tie it back to what your own code requires for this project. What you heard from their expert was that with the one hundred and twenty acres they are asking to develop only eighty acres of the uplands. They are asking for one hundred and fifty units on eighty buildable acres and that is not consistent with the current code. It is not consistent with the PUD that was passed, which is the underlining zoning, and it was not consistent with their annexation. Leaving aside the Commission's ability to just ignore the resolution approving the Sunnyside Task Force, staff should have reviewed the Sunnyside Task Force density traffic studies when rendering a staff report on this project. Now for the eighteen acres that is gone. That was not annexed, so it was not included. They are now left with one hundred and twenty acres. They are asking for almost two units per acre in net density. The road issue goes to your own concurrency. A lot of jurisdictions allow you to simply deal with the roads later and we have heard before about kicking the can on other projects. However, you cannot do that here. Concurrency has to be met in order to approve this PUD. There were a lot of numbers thrown up, but it sounded like he said there were

a five hundred and sixty-six estimated additional trips. He was curious how there were four hundred remaining trips on one traffic study, but by 2024 that number goes up. Even with the addition of the five hundred and sixty-six. To him, it sounded like five hundred and sixty-six trips and there were only four hundred and forty left. That sounds like there are more trips than the traffic concurrency would allow. Going back to the big picture and what they applied for is not consistent with code. A PUD is not whatever you want it to be. It has to be consistent with the code. Based on what they have presented, theirs is not unless you throw out the PUD. They are here under the annexation ordinance. They are here under the entire history of the property which is not appropriate.

Murray Tucker, 6839 Tuskawilla, Leesburg, asked if there was a traffic engineer. **Mr. Beliveau** responded that there was not one present. **Mr. Tucker** replied that makes it a little hard to argue because the review stated there were six hundred and seventy-five trips an hour and that meant there would be one car every five point three-three seconds. He believes everyone has been to this property so they are aware of the two blind s-curves and the blind hill. There is also an area where you can only see about one hundred feet, so if there is a car coming up the hill on the other side of the road, that part of the road is less than fifteen feet wide with concrete curbing on each side. He was curious if that had been taken into consideration when that traffic study was done. Also, he did not see anything about house sizes. He wanted to know if they were still proposing fifty-foot lot sizes and sixteen hundred square foot homes. **PZD Miller** agreed. **Mr. Tucker** wanted to clarify if sixteen hundred square feet was under the roof and if it was heated and air-conditioned? **PZD Miller** replied that it would be heat and air conditioning. **Mr. Tucker** commented that a few of the comps that were brought up were getting into a blurry area when referring to density. Their biggest challenge has been that this is not a consistent subdivision with surrounding areas. A couple of comps provided were the Estates of Sunnyside and Arbormere. He asked if they knew how many fifty-foot lots there are in Arbormere. None. They range from half an acre to point-seventy-seven acres. This was the last development right before the Task Force and they still decided to go with the larger lots. The Meadows of Sunnyside are from point seven acres to one point two-five acres. Not a single fifty-foot lot, anywhere. He mentioned that he had brought a PowerPoint with him if the Commission would like him to go over it. **Mayor Pederson** replied that he could just proceed. **Mr. Tucker** continued heading north. They have Sunnyridge Court and those lots are all over one acre. Those homes are deed restricted between twenty three hundred and three thousand square feet-heat/air. The Estates of Sunnyside to the north are all five acre lots, deed restricted to thirty-eight hundred square feet homes with heat and air conditioning. Arbormere has half an acre to a little more than three quarter acre lots. The Meadows is three quarters to one and a quarter acre lots. Even Shady Dells, which was platted back in the 1920's, has no fifty-foot lot. That has been their biggest issue with this development. That a fifty-foot lot subdivision does not fit into this area. Putting that many houses in here just does not fit. He does not care, when it comes to the roads, how are you going to put six hundred and seventy-five cars on that road and not kill someone? You already have less than one hundred feet of vision going in a lot of directions. If you go around the corner and someone is on a bike or if someone is walking, they are going to get hit. Approving this is putting someone's life in danger. If he saw someone staggering to their car and if he did not call or do something about it and they hurt someone's family, he would not be able to live with himself. He is asking the Commission to do the same for him. Please do not put them in a predicament or a position where they are going to get someone hurt. He has made a note of appearing and he has a PowerPoint. If required, he would be happy to come back and go over more stuff, but he thinks the Commission gets the gist.

Attorney Spain stated by point of order and with this being a quasi-judicial hearing he would like to question Mr. Tucker. **CA Holt** stated that she had no objections to him cross examining the witness. That would be appropriate as it is quasi-judicial. **Attorney Spain** asked Mr. Tucker if he remembered giving his testimony regarding transportation. **Mr. Tucker** replied yes. **Attorney Spain** questioned if he was a transportation engineer. **Mr. Tucker** said no and that is why he asked if there was one present. **Attorney**

Spain then asked if he had any formal training in transportation engineering. **Mr. Tucker** said no. **Attorney Spain** questioned if he was a land use planner or if he had any professional training in land use planning. **Mr. Tucker** replied no. **Attorney Spain** stated that he had no further questions. **Mr. Tucker** remarked that he had been watching this from the beginning. Also, when the last big project came through, the one on Number 2 Road. They had the traffic engineer there, the planner there and the actual developer was there. When it went through planning and zoning, they raised questions and their representatives were right there to answer those questions and they could make changes. They talked with the property owners and they got things done. That project was changed several times. When it came before the commission, you did not like some things and those were changed. They even went out and met with the residents on Number 2 Road. The same thing with the Ostrander/Robuck PUD. Everyone was available to talk to there. There is nobody here that can do anything, no one is here that can change anything. It is just, here is what you are getting. That is where the frustration lies.

Mark Arney 7393 Sunnyside, stated that he is not an expert. However, his opinion should count since he resides right on the road between the two curves. Those curves are dangerous now and there is construction going on at a few of the houses further down Sunnyside. Literally, when there are big trucks coming around that curve, if you are not careful and you do not stop well ahead of them, they will come into your lane. In the mornings we have a lot of people jogging and walking, and that is just an accident waiting to happen. One thing he wanted to make clear, as it has not been mentioned yet. Yes, along the periphery of the development, the roads will be improved. There will be gutters and there will be sidewalks. However, it ends where the development ends on both sides. So, what will that create? Bottlenecks on each side. One of the worst bottlenecks will be when you are going down hill just past Camp Horizon towards the crest. When you come down that turn on Sunnyside Drive, where it is almost like a one-lane road, there will most definitely be bottlenecks there. There will also be accidents, so that is something to take into consideration. He has been following this project for a long time. The other parts of those roads are not planned to be improved. In fact, Lake County has pretty much stated that they are not going to improve them. That means you are going to have that bottleneck. Just for the record, when he testified before this Commission last year, he left a bunch of documents that showed when you have a concept plan, that is what it is, it is a concept plan. That concept plan gives the petitioner a lot of latitude to make changes. You may approve this, and then when they go to phase two or phase three, those homes go to fifty-foot lots as they have talked about, with a side lot size on each side of five feet that is only ten feet between the houses. That is right there in that documentation. The problem is you need a magnifying glass to read the fine print. He had to blow his way up and he has a pretty sophisticated Adobe Photoshop program. He is of the opinion that this is a disaster waiting to happen.

James Littleton 31620 Sun Valley Road, stated he resides in a private driveway, on the first curve. He cannot count how many cars have not missed that curve. Last year there was one car that did not make it and it went fifty feet into the woods. They also took out Mr. Anderson's mailbox. The Commission needs to consider a schoolbus and a truss truck trying to make that curve at the same time. One of them is not going to make it. Regular traffic mixed in with heavy equipment is going to be a nightmare.

David Hedrick 7146 Sunnyside Drive, stated he resides just down from that curve everyone is talking about. Just today, he almost hit a school bus coming around that curve. School buses have to come across the road. They have to go in both lanes. If you do not see that bus on time, it gets very close. The speech today was very good. They touched on a lot of good points. They even pulled on a few shirt strings on how to draw some more people into Leesburg to help the community out. However, it all comes down to somebody making a profit. The people around that development are not making profits. We have to live there. He has been there a year and a half now and he has seen one development already go in and another one going in now. He has been watching the wildlife habitat disappear. They watched one gentleman where they are putting in the development now dumping dirt back into the everglades. They

actually watched him do it. They are actually removing the habitat. The animal stress out there is getting worse. They can see it around the neighborhood. You talk about only having one bald eagle to worry about. There should be about ten. We should not be getting rid of our habitat and losing our animals out there. We have a jewel out there and you want to make it a tight dense area so someone can make a profit. He understands that, presently, in today's congress, there is a bill they are trying to sneak through as an attachment. Where they are trying to take all the zoning out of the States' hands. The federal government now wants to do all the zoning for everybody. He hopes it does not pass and that it gets kicked out. He is very fearful that this state will turn into another California, which is where he escaped from.

Ruthann Blom 417 Sunnyside, said she has been following this project as long as they have been there. She has always asked for an independent traffic study. She realized that these gentlemen had the County do the last traffic study, but we still needed an independent traffic study. Anybody can say what they are prompted to say. She questions this traffic study. Period. She believes that either the Commission or the County, from what she has heard, avoid all feelings towards the roads. Someone should run an independent traffic study.

Attorney Spain stated that before Mr. Beliveau comes backup to address the traffic comments. He wanted to go through a few of the remarks made. The council for some of the neighbors made a comment about density. In this arena, depending on which jurisdiction you are in, it could be net density or gross acreage. Depending on how that is calculated, you could get a different number. That gentleman kept saying net, but what he did not indicate was that the city calculates density based on gross acreage. The suggestion that we are somehow hiding the ball or doing something inappropriate because the net density is going to be "x." The code requires density to be calculated on the gross acreage and we are complying with that criteria. There were comments regarding the prior PUD from 2005. Throughout this process and back in 2020, City Attorney, Morrison, opined that the PUD was essentially irrelevant because it had expired. The only reason it was relevant is from a historical standpoint and the timing of its adoption shows that the Task Study Report is not binding on the Commission because the Commission that adopted that resolution was the same commission that approved that PUD. The same thing was done with the annexation agreement and that was referenced and fully performed. If you read it, it says they are not obligated to annex the property, but the city did annex the property. The parent track is located in the city. They are between a rock and a hard place because they are trying to develop a site that is in the city which has a lot of stringent requirements being imposed on their clients. One of which is to run central water and sewer lines to the property, which is extremely cost-prohibitive. So, the suggestion that they should develop it all at one to three or one to five, he submits that there are no projects that he is aware of at one to three or one to five where the developer is running central water and sewer lines.

Regarding the density as a whole, he knows everyone should be familiar with the Thousand Friends of Florida. He was involved in a highly contested project in Orange County where the Thousand Friends of Florida policy director testified that two dwelling units per acre were actually rural in character. That came from the Thousand Friends of Florida, which is a Steward of Smart Growth and the Protection of Rural Areas. There were remarks about the size of the lots in the PUD and there was a reference to the code about how you have to look at the underlying zoning district. The section that was referenced actually deals with planned development overlays. That reference relies upon the underlying zoning district to establish the basic development rights and they are a PUD. The city's planner testified at the Planning and Zoning meeting and it is also in the minutes of the agenda packet, that the same issue came up at the Planning and Zoning hearing. PZD Miller confirmed that there were no minimum lot size requirements as the neighborhood attorney indicated. The same thing goes for the square footage. There was mention about the square footage and sixteen hundred square feet not being big enough for this area. He is not aware of any requirement in the code imposing a square footage requirement in order to insure

compatibility. There are minimum square footage requirements in the PUD and they vary depending upon how big the lot is. If it is a fifty, sixty or an eighty-foot lot, the square footage goes up, but again he was unaware of that being a published criterion. There is a strength in this city in having diversified housing options. Quite frankly, there is nothing wrong with a sixteen hundred square foot house. There was a reference to someone making a profit. He was sure everyone in the room would strive to make a profit from whatever they were doing. Whether they work at a corner store or if they are an attorney, a doctor, or a school teacher. When we all stood up at the beginning of the meeting for the pledge of allegiance, it was a founding principle that he would submit to this country, where, if you work hard and do your best, anything is possible in this country. So the suggestion that someone may make a profit off this is a bit misplaced. There was testimony regarding curves in the area and one of the huge wins of this project is that one of the curves borders this project. He could pull up a slide that shows it, but part of this project is that they are dedicating additional right of way in order to soften that curve. It would actually improve the situation that would not be improved in the absence of their client's contribution. Lastly, there was a remark about traffic studies. He knows that everyone is very familiar with this, but he does not go out and do the traffic studies. They are done by licensed transportation engineers. They are then submitted to the city or the county for review. In light of the fact that they are county roadways, nothing happened differently. In this instance, that traffic study was reviewed and it was signed off. There were conditions in the proposed PUD regarding traffic improvements that they would have to make along their frontage, and they are certainly agreeable to them. It will improve the situation out there. That, absent this development, as a resident indicated, will not get improved. So, it is a win-win, but the suggestion that the traffic study was flawed simply because a layperson does not agree with it or thinks an outside third party should look at it. One was done and they have a fiduciary duty. It was sent for review by the city and county.

Mr. Beliveau handed out a packet to the Commission which outlined photos taken from Sunnyside Drive where Sleepy Hollow intersects Sunnyside Drive. Referring to the handouts, the first handout showed the view going east. As it progressed, going east, it showed several locations of what had been done. What you will notice from his experience is that Sunnyside Drive is one of the better county roads he has encountered. Especially compared to Number Two Road, or even some of the other county roads in Minneola, Groveland or Mascotte. If you look at Sunnyside Drive, there is sixty-six feet of right of way. They have pavement widths and an actual striped center line. If you were to drive around the county, there are a lot of county roads that do not even have a striped center line. You are blessed with a road that has a striped center line. The pavement conditions on Sunnyside Drive are actually very good compared to some of the road conditions he has seen around Lake County. Shawn Parks, of Oakland County, is even aware of how behind they are in maintaining the county roads. However, this road is actually fair. It is in good condition compared to a lot of the other county roads. Going to the next slide, he showed Sunnyside going east. **Commissioner Burry** questioned at the last meeting whether he remembers the county rating the roads. He wondered what Sunnysides roads were rated. **Mr. Beliveau** said they do rate the roads, but he did not ask what they were rated for. He asked if the Commission noticed which sections of Sunnyside Drive were repaved. They repaved the eastern section just at the intersection of where both Sunnysides meet. They also paved the eastern loop and the southern loop and then they got around the bottom and stopped. He noted that on the last slide they would know why. He showed different segments of the road and their conditions, including the sight conditions. He showed the first curve and how it had a good line of sight going through. He pointed out how you would be able to see oncoming traffic from both directions. He then showed a slide for the second curve heading south where the road conditions and shoulders are not that frayed and that they are in a solid shape. When you come to the second curve, you have a good line of sight in both directions. He showed a slide heading east towards their proposed site and where the asphalt changes. The pavement stays consistent and you still have the center strip, but the coloring of the pavement changes. On the next slide, he pointed out the arrow that he drew in the lower right next to the right of way which showed the change in pavement

texture. That is right at their property line. At this point, it gets narrower and the curve has absolutely no line of sight. You cannot see behind or around that curve. They have talked to the county about providing more right of way so that the curve would be less acute. They would like to make that curve bend more to the right and make the curve more gradual, so that the curve line can actually be grounded. That way, when people come from the south, they can see around the curve better. Looking at the last slide, he drew in two x's where the difference in the asphalt types are. Where the x is one at the top left, and looking towards the right, just past the x in the lower right, that represents the entire length of their property line. According to the conditions in the PUD and the conditions made by Lake County, they have to make improvements along that entire stretch of the road in between the two x's. They are still under a requirement to donate right of way on the parent track and that shows in the records. It is also shown in the county records, so if approved, they are on the hook to improve Sunnyside in front of the parent track, including the improvements to the entrance, the right turn lane, the entry feature coming in off Sunnyside and the softening of the curve. It would be equal to or better than the stretch of Sunnyside Drive approaching the development from the west. There was a comment about a misconception of the number that was provided on the five hundred and sixty-six. That five hundred and sixty-six was a reduction, not an increase, because they went from two hundred and nineteen units to one hundred and fifty-nine. They now have one hundred and fifty-five, so that does reduce traffic. Therefore, we will have less of an impact on Sunnyside Drive and not more. There will be fewer trips than originally proposed. That is a given because we now have fewer units. That is one reason why we have more trips available to Sunnyside Drive and Sleepy Hollow after the change from before. There were also discussions about density gross versus net, with one hundred and twenty acres. The gross density is one point two nine. It is not one-point-one as it was before. It bumped it to one point two nine if you use the eighty acres only. However, Leesburg has always used gross, they have never used net. In every PUD Leesburg has ever approved, they have always approved gross. That is how it has always been done, so they would be one-point-two-nine. Even if they used net, it would be one-point-nine, and that is still under two. Another thing he found interesting was when he took all these Google pictures, there were only two cars on the road. **Commissioner Burry** pointed out that Mr. Beliveau made a comment that the roads were not frayed and asked if he could explain what he meant by that. **Mr. Beliveau** replied that if you look at Sunnyside Drive and the quality of the asphalt, you do not see that many cracks, nor do you see many potholes. The road is in pretty good condition. **Commissioner Burry** said, referring to a rendering that he meant how people drive on the grass. **Mr. Beliveau** commented that the shoulder is still in pretty good shape. If you look at the shoulder in front of Dr. Coe's property, the shoulder there is in very bad shape. **Commissioner Burry** stated that, as he understood it, all the shoulders are really bad. When you start at picture number one, you can see where people are driving off all the roads, regardless. **Mr. Beliveau** remarked that these roads are not in bad shape. He suggested driving around the county to look at the roads because these roads are in very good shape.

Mayor Pederson stated that earlier he questioned the width of the roads. He asked if he could clarify what the width of the roads would be that they are proposing for the development and what the other roads are in the Sunnyside area. **Mr. Beliveau** responded that within the PUD those roads would be built to meet city specifications of fifty feet right of way. With the overlay that has to meet county specifications. That overlay has to be ten or twelve feet of travel lanes with twenty-four feet of pavement. The existing pavement varies in size, anywhere from eighteen feet to almost nineteen feet. **Mayor Pederson** remarked that he heard a lot of traffic numbers. He asked if he could help him better understand the traffic numbers before and after this development? **Mr. Beliveau** responded by referring to a drawing. The top volumes were before the project and the bottom chart was after the project. The top volume shows that Sleepy Hollow has a capacity of six hundred and seventy-five trips. It also shows in 2024 an available capacity of three hundred and twenty five. That is without this Sunnyside PUD. Looking at the next chart, that includes their project and the available capacity after their project, shows two hundred and eighty-three. That means, after their project on Sleepy Hollow, there would still be two hundred and eighty-three available trips. The same thing goes for Sunnyside Drive. There is a future

volume available of five hundred and twenty seven after their development and three hundred and seventy. The third station, which was the one that had the reduction, there were five hundred and ninety-eight available and after the Sunnyside project there were four hundred and ninety-four available. That is what the report shows before and after the project. **Mayor Pederson** stated he was looking for two simple numbers. He wanted to know what the traffic was for today and what it would be in 2024. He wanted to be able to compare the two. **Mr. Beliveau** replied that is a problem because the traffic studies are based on peak hours and not total volume. That is why you are seeing these numbers versus the total volume of two thousand and something versus their reduction in the number of five hundred and sixty-six. They do everything based on peak hours. Peak hours are evaluated in both directions, and that is why the math is the way it is. You always look at what capacity is available and if it is a plus or a minus. If it is a minus, that means you have blown the capacity and there is no capacity left. If the number is an accessible number, that means there is capacity available for the next project. Now they know that after their PUD, if it is approved, another project or the vacant lots can be developed without a problem because there is a level of service still available. They know this will not hurt the road system from a level of service in a negative way. In other words, the county says when you get to six hundred and seventy-five cars, stop. You cannot add anymore cars to Sleepy Hollow. You have hit your maximum number of cars and you cannot go any further. The traffic study engineers that run these models put it through computers. Once the computer spits out the information, they send it to other professionals to evaluate. They are then sent to the county, the city, and even some MPO's and the Regional Planning Councils for review. However, they are reviewed by professionals who determine their validity.

Ms. Blom stated that was her point. They are taking this study based on what the petitioner is saying. They as residents need more clarity. It makes a difference between what algorithm you put in and what criteria you put in to measure the study. In Sleepy Hollow, there is currently a new subdivision being built and was that traffic taken into consideration in this traffic study? She believes that they need an independent traffic study that encompasses the criteria that make the most sense for the existing Sunnyside residents, let alone the safety of the people that will be moving into the development, should it pass.

Attorney Spain added, regarding traffic studies, they are not reinventing the wheel; this is an accepted practice. We have all seen this. Whether it is the county, the MPO, or city staff, there is a methodology that the traffic engineers have to submit. Typically, they do that in advance and the methodology gets signed off and handed in. He has done many projects and there is usually an issue with traffic studies where someone wants another intersection analyzed or they think something is understated or overstated. However, the folks reviewing them are professionals and they would flag it. They do not have some vested interest in the project. That is their job. Whether it is the county or the city, they are guardians of local government. Again, there are people who think this is madness or fuzzy math, but there is a method to the madness and these folks are highly skilled at doing this. The traffic studies as Mr. Beliveau walked through indicates that there is a level of service available. If anything, the traffic study over stated the impact of this development because originally, it was at a much higher density. From when that traffic study was done, they have reduced the number of units in their project. In closing, he wanted to circle back to his opening remarks. Where, under Florida law, the burden falls on the applicant to come forward and demonstrate that they meet the city's published criteria for project approval through competent substantial evidence which includes staff reports and staff testimony. It also includes expert testimony, which was demonstrated and heard this evening by Mr. Beliveau. He does not envy the position of the Commission because matters do get emotional. He has represented neighbors, developers and local governments. However, at the end of the day, the Commission's role is to determine whether this project meets the city's published criteria. He respectfully submits that this evening they have heard competent substantial evidence and that they do meet the city's published criteria. We have also heard remarks which are completely legitimate by the folks expressing that they do not like this project or that they

would prefer the property stay in its current vacant state for as long as they live in the area. He understands that but, that is not part of the published criteria for this review. They have demonstrated in the densities that they are compatible. They have demonstrated through traffic studies that the road capacity is there. In fact, to the extent that there are additional improvements that need to be made to Sunnyside Drive, because only a portion of the loop has been done. That missing connection, or almost ninety percent of that, would be completed by the developer if this is approved. In Section 8 of the proposed PUD ordinance, it holds his client's feet in the fire on transportation improvements. He did not hear one individual site a specific code criteria that they did not comply with. Nor did he hear a policy from the comprehensive plan. He understands that folks might not like the project, but that is not the standard that the city applies as a role as a quasi-judicial decision maker. Essentially, you have your judge hat on in this type of proceeding. This is not a legislative proceeding where you have a lot more discretion and you can say "we do not want to expand in a certain direction". The closest someone came to citing a code criteria was the neighbors' counsel, who cited the general PD code section. However, he indicated in his rebuttal that section referred to a PD overlay district, which is not what they are seeking approval for. They are seeking a planned development approval with a standalone zoning classification in and of itself. They are respectfully asking for approval. They understand that the Commission exercised their legislative discretion not to annex the eighteen and half acres and not to approve the plan amendment, but the remainder of the parent track is already in the city. They have come before the Commission with a revised PD plan. They have added buffers that certain Commissioners asked for during the last go round in December 2020. They put them between their project and the existing residential homes, which Mr. Beliveau walked through. Most of the lots do not abut any existing residential, they abut conservation and wetlands. The ones that do abut property are very limited and there are hundreds and hundreds of feet between them. Again, he respectfully asked for their approval, so they could move forward and bring a wonderful project into the City of Leesburg.

Attorney Broome questioned if he could cross examine the expert witness based on the rebuttal testimony and argument of counsel. He wanted to know if the city would allow that. **CA Holt** responded that the public is an actual party to the quasi-judicial, so they do not have the opportunity to cross-examine. The Commission could allow additional public comment, but they do not have the standing for cross examination. **Attorney Broome** asked if a notice of appearance would modify that because they did file a notice of appearance. **CA Holt** stated that she had not seen their notice of appearance. She does not believe there has been any decision or a motion by the council to accept him as an intervening party. In her opinion, the neighbors who are there would be public comment. **Mayor Pederson** said, based on the attorney's opinions, he would have to say no. **Attorney Broome** asked if he could make a general statement. **Mayor Pederson** said yes. **Attorney Broome** said that the application was filed with an existing land use zoning as a PUD and much was made to the fact that the PUD is irrelevant. The issue before the Commission would be what is the legal entitlement density and intensity that they are coming before you to modify. Is it for the existing PUD or the initial application?

Mr. Tucker said he wanted to touch on something that Mr. Spain brought up. With costs being prohibited and one per three and one per five, due to the restrictions being placed. He asked Commissioner Burry, do you live on Secretariat Trail and do you have city water and sewer? **Commissioner Burry** replied that he actually lives on Sunnyside Drive. **Mr. Tucker** said that he did not know what they had. Whether they were in the city or not, but those are five acre lots. He also did not know if they had city water or septic tanks. There are other areas that are more inline with those types of homes than this area. Perhaps the city could work with the applicant and work out something like they did on Secretariat Trail, where they can do the larger lots and make them more cost effective. It seemed to him there should be something they could work out.

David Hedrick wanted to rebut the comment the lawyer had to say about profits. He agrees that in

democracy and capitalism, profits are good, and people should strive for that. He has no problems with that except for drug dealers and pimps who try to maximize their profits too. That does not mean it is right.

James Littleton 61620 Sun Valley Road, stated that the first corner they have to go by gets missed a lot. Just as an example, on one side of that corner a guy had to put up concrete posts because people kept hitting them and leaving. They did not stay there after hitting them. He had to keep chasing them down. There was another one where a guy's fence post was hit way up from the corner and they ran into the corner fence. Now, they put up a big pole, so people miss that corner a lot. To get to that corner, you have Sleepy Hollow Road and you have to turn left and right on 441. On Tomato Hill Road, you can only turn right. You cannot go back to Leesburg. Fern Drive is the same way, you can only turn right. That is where the Harley Davidson shop is at. You cannot go back to Leesburg. Then to get to Leesburg, you have to run on Sunnyside Drive, then at the forks you have to go towards East Main. That is the only way to get out of there. So, for this subdivision to be put in, he assumes two thirds of the people would go to Sleepy Hollow Road. There is housing being put on that road now and there is another development going in there too. They made the subdivision on the corner of Old Tavares Road and Sleepy Hollow and now they are working on the back grove where the old grove used to be along the woods. Now Mironda Homes is doing one just after the subsidized housing for the three-story apartment buildings. There is a lot of work going on on Sleepy Hollow Road. He does not know how many more cars are going to be added when this is all said and done. On his corner in the am and pm, if you have one hundred and fifty houses and two cars per house, that is three hundred cars twice a day making that curve. There are a lot of cars.

Commissioner Burry mentioned that the Sunnyside Trails development which is contiguous to this development are five acre lots in the City of Leesburg. He also said that we should not get hung up on traffic studies and the number of trips. He asked that everyone look at the pictures, look at where the tires are rolling off the roads. It is pretty obvious that people drive off the roads quite frequently. Whether we talk about trips being the number and there being more trips, we still have a road where people are driving in the grass quite frequently and you can see that in pretty much every picture.

The roll call vote was:

Commissioner Christian	Yes
Commissioner Burry	No
Commissioner Connell	Yes
Mayor Pederson	No

Two yeas, two nays, the Commission denied the ordinance.

CA Holt pointed out that a tie vote is an effective denial. **Mayor Pederson** thanked her for that clarification.

B. FIRST READING OF ORDINANCES

1. None

C. NON-ROUTINE ITEMS

1. None

7. INFORMATIONAL REPORTS:

The following reports are provided to the Commission in accordance with the Charter/Ordinances. No action required.

A. Financial Reports as of January 2022

Mayor Pederson asked if there were any comments regarding this report. There were no comments.

8. CITY ATTORNEY ITEMS:

Mayor Pederson welcomed the new City Attorney, Grant Watson from Stone & Gerken to his first meeting. **CA Watson** stated it was an honor to be working with everyone. He was looking forward to a great working relationship with everyone. He thanked them for the opportunity. **Mayor Pederson** then thanked CA Holt for her assistance. He said that we all learned a little more tonight and we will be swearing in our speakers from now on.

9. CITY MANAGER ITEMS:

CM Minner commented that he asked the Mayor to pull the FDOT/Main Street Complete Streets Concept items because the wrong presentation was mistakenly inserted into the packet. The presenter wanted to wait. It will be put back on the next agenda. He also welcomed the new City Attorney, Grant Watson.

10. ROLL CALL:

Commissioner Christian asked the City Manager, because he knows we approved it, but on West Main Street there is an airplane repair shop which looks more like an airplane junkyard. He wanted to know if we could do anything with fencing or setbacks, because it looked terrible.

Commissioner Burry thanked CA Holt for her assistance and welcomed CA Watson. He is looking forward to working with him.

Commissioner Connell had no comment.

Mayor Pederson commented that he had previously brought up the Venetian Gardens. He drives there all the time and sees the Venetian Center, which looks great and he loves Pat Thomas. Everything is looking great. He has made comments on the building and he does not want to get into that tonight. He has also made comments on the retention pond and the fencing, but someone else brought this to his attention and now he is noticing it. The baseball field across the street on the northeast corner still has a net up. He does not believe anyone is still playing baseball there anymore, it is just beatification there. He had some citizens make a recommendation and ask that we take that down. He thought this would be the appropriate environment to bring that up. **Commissioners** agreed for it to be taken down. **Mayor Pederson** commented that it would make a few people happy.

CC Purvis reminded everyone that the next commission meeting would be returning to City Hall.

11. ADJOURN:

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE HUMAN RESOURCES DEPARTMENT, ADA COORDINATOR, AT 728-9740, 48 HOURS IN ADVANCE OF THE MEETING.

F.S.S. 286.0105 "If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need a record of the proceedings, and that for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." The City of Leesburg does not provide this verbatim record.

The meeting adjourned at 7:53 p.m.