

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Yarborough Ranch Preliminary Subdivision Plan Appeal – Geneva Citizens Association

**NAVILINE PROJECT NUMBER:** PZ23-3300002

**AGENDA DATE:** February 28, 2023

**BCC:** Public Hearing – Quasi Judicial – 1:30 ☒

**County Attorney Office Review:**

**..Title**

**Yarborough Ranch Preliminary Subdivision Plan Appeal** - Appeal of the Planning and Zoning Commission approval of the Preliminary Subdivision Plan for Yarborough Ranch subdivision containing 300 residential lots on 1,313.64 +/- acres zoned A-5, Rural and A-10, Rural located on the east side of Snow Hill Road, approximately ¼ mile south of Old Mims Road; (Geneva Citizens Association, Inc – Appellant) District2 - Zembower (**Mary Moskowitz, Project Manager**)

**..Department**

Development Services

**..Division**

Planning & Development Division

**..Authorized By**

Rebecca Hammock

**..Contact**

Mary Moskowitz – 407-665-7375

**..Motion/Recommendation**

1. Uphold the Planning and Zoning Commission approval of the Preliminary Subdivision Plan for the Yarborough Ranch subdivision; or

2. Overturn the Planning and Zoning Commission approval of the Preliminary Subdivision Plan for the Yarborough Ranch subdivision; or
3. Continue the request to a time and date certain.

### **..Background**

On December 7, 2022 the Planning and Zoning Commission approved the Preliminary Subdivision Plan (PSP) for the Yarborough Ranch subdivision containing 300 residential lots on 1,313.64 +/- acres located on the east side of Snow Hill Road, approximately ¼ mile south of Old Mims Road.

The Property has split Rural-5 (R-5) and Rural-10 (R-10) Future Land Use designations and split A-5 and A-10, Rural zoning classifications. The A-5 and A-10 zoning districts require a minimum lot size of five (5) and ten (10) acres, respectively; however, the A-5 and A-10 zoning districts allow for an optional cluster provision for subdivisions consisting of residences sited on one (1) acre lots. In the A-5 zoning district, the overall net density of the project, including the land contained in the open space easement, shall not exceed one (1) dwelling unit per five (5) net buildable acres. In the A-10 zoning district, the overall net density of the project of one (1) dwelling unit per ten (10) net buildable acres may be increased up to one (1) dwelling unit per five (5) net buildable acres by utilizing the clustering provisions. The density bonus may be awarded based on the amount of buildable land preserved as open space/conservation. A project can be authorized for a total of two (2) dwelling units for each eight (8) buildable acres of land that are to be preserved under an open space agreement.

As part of the approval on December 7, 2022, the Planning and Zoning Commission made a finding that by meeting the rural subdivision standards, as described in LDC Section 35.72, a special condition exists that necessitates block lengths that do not conform with LDC Section 35.63(b).

### **Appeal**

Section 35.13(e)(4) of the Seminole County Land Development Code, states that the decision of the Planning and Zoning Commission to approve a Preliminary Subdivision Plan may be appealed to the Board of County of Commissions.

In accordance with this section, staff received two (2) separate written petitions, appealing the Planning and Zoning Commission's decision to

approve the Yarborough Ranch PSP. This appeal was from Geneva Citizens Association, Inc (GCA).

Per LDC Sec. 1.12 appeals to the Board of County Commissioners shall be de novo.

The appeal claims the PSP violates specific requirements of the Seminole County Comprehensive Plan and Land Development Code. All applicable sections of the Comprehensive Plan and Land Development Code referenced herein and in the appeals are attached as Exhibit "C".

The written appeal is attached as Exhibit "A". A summary of the claims the appellant and the staff analysis of each claim are listed below in Staff Findings.

**Staff Findings:**

Appeal by the Geneva Citizens Association, Inc. (GCA) – Attached as Exhibit "A"

Appeal - Claim 1.

The GCA and other citizens attending the P&Z board meeting were not provided due process because they were prohibited from discussing Development Order 07-05500040 and the assertion that 300 units are allowable for the development on Tract 3 based upon the PSP and DO 07-05500040.

Staff analysis:

At the Planning and Zoning (P&Z) meeting the Chair provided a statement at the beginning of the meeting to provide guidance for the attending public on the rules of public comments. The policy of Seminole County is to limit public comments to pertinent information about the item being presented.

In accordance with LDC Section 35.13, the PSP shall be reviewed by the P&Z for compliance with LDC Section 35.43.

The PSP for Yarborough Ranch is for the subdivision of Tract 3 of the Creek Side Acres plat. The plat for Creek Side Acres, the Development Order 07-05500040, and the Open Space Easement were approved together at a public

hearing on February 12, 2008 and are dependent on one another to remove the density from Tracts 1 and 2 in perpetuity, calculate and limit that density to 300 units based on acreage, and assign those existing available units to Tract 3. The documents are recorded in the Official Public Records as follows:

- Creek Side Acres Plat recorded at Plat Book 74, Page 1.
- Development Order recorded at OR Book 6928 Pages 1018-1026.
- Open Space Easement recorded at OR Book 6928 Pages 1027-1043.

Per LDC Section 1.12 (c), appeals from decisions of the BCC are subject to the terms of FS Section 163.3215. FS Section 163.3215 (4) states that an appeal must be filed by a petition for writ of certiorari filed in circuit court no later than 30 days following rendition of a development order decision of the local government. The appeal period for DO 07-05500040 has passed and no appeal was filed.

Appeal - Claim 2.

The PSP violates Part 57, because it amounts to a transfer of density without satisfying the requirements to do so.

Staff analysis:

Chapter 30, Part 57,

Per Seminole County Land Development Code Part 57 – Econlockhatchee River Protection Overlay Standards Classification

Section 30.1085(6) States:

Upland buffers from property which is assigned the conservation land use designation pursuant to the Seminole County Comprehensive Plan or the FP-1 or W-1 zoning classification pursuant to the Land Development Code of Seminole County or which has been designated a conservation area, conservation easement or similar property which averages fifty (50) feet in width with a minimum of twenty-five (25) feet in width shall be provided. Whenever determined to be feasible by the County, upland buffers shall connect with each other and with larger natural systems. Density or open space credits for upland buffers shall be encouraged and may be awarded in accordance with the

terms of this part. Upland buffers shall be established pursuant to the granting of conservation easements in accordance with Section 704.06, Florida Statutes, and on forms acceptable to the County.

**Section 30.1085(9) States:**

Rare upland habitats shall be preserved to maintain the essential characteristics and viability of the rare habitats. When determined to be feasible by the County, property which contains rare upland habitats should be connected to other communities through preservation of land as mitigation for wetland impacts which are authorized by law. Preserved rare upland habitats **shall be eligible for the award of density credits in accordance with the terms of this part.**

Per Section 30.1087, the Seminole County Natural Officer shall determine if a property is in any extent in the Econlockhatchee River Protection Zone (ERPZ). Based on a review of the Seminole County Land Development Regulations, a review of the St. Johns River Water Management District (SJRWMD) guidelines, and a site visit conducted on November 3, 2022, the Natural Resource Officer determined that the subject property is not located with the ERPZ.

Section 30.1088. – Density credits is an optional method of transferring for density credits for properties located within the Econlockhatchee River Protection Zone (ERPZ) or properties within Econlockhatchee River Protection Overlay that dedicated land for preservation as an upland buffer or as rare upland habitats may be utilized. **As determined by the Natural Resource Office, the subject property is not located within the ERPZ or has any rare upland habitats. For the upland buffers, the applicant opted not to utilize the density credits provisions.**

For the cluster provisions and density bonuses association with the Yarborough Ranch PSP, the property owner elected to utilize LDC Section 30.109 to develop a rural cluster subdivision and provide a perpetual open space easement instead of LDC Section 30.1088

Based on these findings, staff has determined that the provisions of LDC Section 30.1088, **including, but not limited to Sections 30.1088(d) and 30.1088(e),** are not applicable to the Yarborough Ranch PSP.

Appeal - Claim 3.

The appellant states the PSP violates the Seminole County Comprehensive Plan because the requirement of the following specific issues or policies have not been met, and in some cases ignored.

- Issue FLU 1 Protection Neighborhoods
- Issue FLU 11 Protection of Rural Areas
- Policy FLU 11.1 Recognition of East Rural Area
- Policy FLU 11.4 Rural Cluster Development
- Policy FLU 11.14 Protection of Natural Resources
- Policy FLU 11.18 Rural Residential Cluster Subdivision Standards Consistent with Policy 11.4
- Policy FLU 11.19 Design Principles for Rural Neighborhoods in the East Rural Area, in General

The appellant provided no additional information on how the requirements have not been met.

Staff analysis:

- FLU 1 – Neighborhood Protection states “one Major Issue analyzed during the Evaluation and Appraisal Report (EAR) process of 2006 involved ensuring the viability of existing neighborhoods. . . In the Rural Areas, the concern focused upon preserving existing rural character and resistance to pressure to convert to suburban land use patterns . . . A number of protection techniques for the Rural Area and rural neighborhoods were identified as part of the Rural Character Plan completed in 2006. Recommendations from that study were used to shape policies in the Future Land Use Element and County Plan text amendments in 2008.”

The FLU Elements referred to in this Issue are incorporated into FLU Objective 11 Preserve Rural Lifestyles in Seminole County and the related policies. Staff finds that the PSP complies with the standards of these policies, specifically FLU 11.4 and FLU 11.18, additional information is provided later in this report.

- Issue FLU 11 relates to the protection of Rural Areas and in part addresses the creation of the East Rural Area and the Future Land Use designations of Rural -3, Rural -5, and Rural-10 and associated Rural zoning classifications for A-3, A-5, and A-10. As described in the

background of this staff report, the proposed project is consistent with the Future Land Designations of Rural-5 and Rural-10 and zoning classifications of A-5 and A-10.

- Policy FLU 11.1 states that the County shall “recognize East Seminole County as an area with specific rural character, rather than an area anticipated to be urbanized.” Furthermore, rural character is defined as those characteristics which convey a sense of rural lifestyle including agricultural uses and limited residential density at one (1) unit per net buildable acre or less. The required open space easement for the Yarborough Ranch PSP protects the ability to maintain agriculture or grazing uses. The overall net buildable acre is one (1) dwelling unit per 6.07 acres.
- Policy FLU 11.4 provides for Land Development Code provisions relating to Rural Clustering design. To support Policy FLU 11.4, the PSP includes a setback of ~~120 feet from~~ 200 feet from the centerline of Snow Hill Road, thereby providing additional open space adjacent to the road, and clustering the units to maximize open space within the development.
- Policy FLU 11.14 relates to the protection of natural resources. The Policy includes provisions for the protection of the Geneva Freshwater Lens by, in part, relying on small individual residential wells for the provisions of potable water and relying on properly install septic tanks for the primary system of wastewater disposal. This PSP will be utilizing individual residential wells and septic tanks.
- Consistent with Policy FLU 11.18 the proposed PSP provides a trail system that connects the open space to the residential lots. In addition, the lots are arranged in a contiguous pattern that minimizes impacts to natural features. The proposed PSP clusters the lots on Tract 3 while the land that makes up Tracts 1 and 2 is preserved as open space. In addition, the proposed subdivision on Lot 3 is further clustered as described above by locating lots outside and around the wetlands on the property.
- In accordance with the open space requirements of Policy FLU 11.19, the PSP was required to provide 40 acres of open space. The proposed PSP includes 234.28 acres of open space. As stated above, the lots are arranged in contiguous pattern that minimizes impacts to

natural features. By clustering the homes, road lengths to serve the subdivision are minimized and the open space is provided in a connected network.

Appeal - Claim 4.

The appellant states the PSP violates the Seminole County Land Development Code because the requirements of the specific sections listed below have not been met, and in some cases ignored.

- Sec 30.109 Optional Cluster Provisions
- Sec 30.111 Open Space Easement
- Sec 35.63 Blocks
- Part 54 Aquifer Recharge Overlay Zoning Classification
- Part 57 Econlockhatchee River Protection Overlay Standards Classification

The appellant provided no additional information on how the requirements have not been met.

Staff analysis:

- Pursuant to Seminole County Land Development Code Section 30.109 Optional Cluster Provision, on February 12, 2008, Seminole County issued Development Order # 07-05500040 (DO). The DO provided for a perpetual open space easement to be executed encumbering 1,017+/- upland acres on Tract 1 and Tract 2 of the Creek Side Acres plat. This open space easement was recorded on February 13, 2008. The DO allowed for the development of Tract 3 as a subdivision with a maximum of 300 units on one (1) acre minimum lots, with an additional 40 acres of Open Space/Conservation on Tract 3. The proposed subdivision has 232.92 acres of Open/Space Conservation on Tract 3, that will be preserved in an open space easement.
- Note 3 on Sheet C035 of the PSP states all remaining open space shall be preserved in perpetuity through the use of an open space easement in compliance with Seminole County LDC Sec. 30.111.
- Per Seminole County Land Development Code Chapter 35. Sec. 35.63 (b):



Block length. Block length shall not exceed fourteen hundred (1,400) feet nor be less than five hundred (500) feet between intersecting streets, except that the planning and zoning commission may, where special conditions exist, approve blocks of greater length.

The intent of this section is to mitigate possible negative impacts to transportation and life safety access associated with the dense land use patterns of urban residential neighborhoods.

However, the intent of the rural cluster development standards is to minimize disturbance to environmentally sensitive areas and preserve open space through a contiguous design pattern. Therefore, rural cluster developments create a special condition in which the block length standards typically associated with urban developments does not apply.

As part of the approval on December 7, 2022, the Planning and Zoning Commission made a finding that by meeting the rural subdivision standards, as described in LDC Section 35.72, a special condition exists that necessitates block lengths that do not conform with LDC Section 35.63(b).

- Per Section 30.1024 of the Land Development Code, Part 54. – Aquifer Recharge Overlay Zoning Classification is established within the unincorporated area of Seminole County consisting of the most effective recharge area as herein determined by data provided by the United States Geological Survey, the Soil Conservation Service and the St. Johns River Water Management District. According to Seminole County maps, staff finds that the areas where development is proposed within the Yarborough Ranch PSP is in a poor recharge area and not located within the Aquifer Recharge Overlay.

According to Seminole County maps, a small area of the north west portion of the Yarborough Ranch PSP is located within the Aquifer Recharge Overlay. This area is in a conservation tract and there is no proposed development with the Aquifer Recharge Overlay. Therefore, staff finds that the development standards in LDC Part 54 – Aquifer Recharge Overlay Zoning Classification are not applicable since no development is proposed within the Aquifer Recharge Overlay.

- Section 30.1085- **Part 57 Econlockhatchee River Protection Overlay Standards Classification** provides for specific land development regulations related to development activity within the Econlockhatchee River Basin. These requirements include - providing a threatened and endangered species report; the use of native plants species in landscape design; wet detention treatment systems; establishing peak discharge rates not to exceed pre-development peak discharge rates for mean twenty-four (24) hour storm event; and providing an archaeological report. These provisions will be provided at the time of final engineering review.

In addition, the proposed PSP provides the required fifty (50) foot average, twenty-five (25) foot wetland buffer between proposed stormwater management systems and conservations easements.

### **Conclusion:**

The Yarborough Ranch PSP meets the applicable development requirements of the Seminole County Land Development Code and the Seminole County Comprehensive Plan, including the rural cluster development standards of FLU 11.4, FLU 11.18 and LDC Section 30.109; therefore the decision to approve the Yarborough Ranch PSP should be upheld.

### **..Staff Recommendation**

Recommend the Board of County Commissioners uphold the decision by the Planning and Zoning Commission to approve the Preliminary Subdivision Plan for Yarborough Ranch subdivision.

### **..Board Date**

02/28/2023

### **Attachments:**

Exhibit A – GCA Appeal

Exhibit B – Staff Report for the December 7, 2022 Planning and Zoning Meeting and minutes (cover page only for hard copy review)

Exhibit C – LDC and Comp Plan Sections (not attached for hard copy)

Map - Aquifer Recharge Overlay