



# Alachua County Development Review Committee Staff Report

**Project Number: (DR23-000002)**

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**Preliminary and Final Development Plan and Plat for Lerner Subdivision**

**SUBJECT:** Lerner Subdivision

**DESCRIPTION:** 4-lot rural agricultural subdivision on approximately 28 acres

**AGENT/APPLICANT:** eda consultants, Inc.

**PROPERTY OWNER:** Michael Lerner & Jimmy Banks

**PROPERTY DESCRIPTION:**

Location	16945 NW 110th Ave
Parcel Numbers	04008-003-005 & 04008-003-004
Land Use	Rural/Agriculture
Zoning	Agricultural (A)
Acreage	28.02

**CHRONOLOGY:**

Application Submittal	01/03/2023
Insufficiency Report Sent	01/20/2023
Application Resubmitted	03/06/2023
Sufficiency Determination	03/22/2023
Preliminary and Final Development Plan	04/06/2023
Hearing	

**STAFF RECOMMENDATION:** Recommend **approval** with conditions of the Preliminary and Final Development Plan for the Lerner subdivision. Recommend the DRC recommend approval of the plat to the BoCC.

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**DESCRIPTION OF PROPOSED PLAN:**

This application proposes a Preliminary and Final Development Plan for a 4-lot subdivision on approximately 28 acres in the Rural Agricultural area of the County.

Unified Land Development Code 407.76 *Subdivisions with no more than nine lots in the rural agricultural area* allows for DRC approval of the creation of a subdivision with a private, unpaved road in the rural/agricultural area. A parent parcel, existing as of October 2, 1991, shall not be divided into more than nine lots, including the residual, without having paved roads through the subdivision. Only one such subdivision shall be allowed per parent parcel. There has already been one split of the parent parcel, which created two lots and therefore only seven more lots can be created without providing a paved internal road. The development is proposing four lots, each of which are larger than 5 acres. Lot 4 includes an existing residence and Lots 1-3 will be eligible for new building permits upon recording of the plat. All of the lots will access NW 110<sup>th</sup> Avenue via an existing driveway and internal easements as shown on the development plan and plat. No new connections to NW 110<sup>th</sup> Avenue will be permitted for this development.

**CONSISTENCY ANALYSIS:**

Following is an analysis of the consistency of the proposed plan with the applicable policies of the Comprehensive Plan and Land Development Regulations.

**COMPREHENSIVE PLAN:**

**FUTURE LAND USE ELEMENT**

Future Land Use Objective 6.2 allows a maximum density of one dwelling unit per five acres in Rural Agriculture Land Use. The total project area contains, 28 acres which would allow for a maximum of five units. The project only proposes 4 lots, therefore the Lerner subdivision complies with the maximum density of the Rural Agriculture Future Land Use designation.

Policy 6.2.7 states that the DRC shall not authorize more than 150 lots smaller than eight acres in the Rural/Agriculture area in any calendar year except for lots that are clustered. Lots 1-3 of the subdivision will be less than eight acres, and Lot 4 will be 10 acres. As of the date of this hearing, this is the first subdivision application proposed within this calendar year for a total of four lots, with three of the lots less than 8 acres.

**UNIFIED LAND DEVELOPMENT CODE:**

**ZONING DISTRICT AND USE REGULATIONS**

The proposed development is located within the A (Agricultural) zoning district and the proposed residential use is allowed in the *Use Table, Article 2, Chapter 404* of the ULDC. The maximum gross residential density is 1 dwelling unit per 5 acres, and the minimum allowable lot size is 3 acres. Lerner Subdivision complies with this



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retained and managed under the same individual landowners as the associated lots. As a result, the draft CE includes four “grantors” with the recipient (“grantee”) of the CE being Alachua County. The CE will require approval by the BoCC and recording by the County Clerk’s Office prior to the authorization of the first construction permit for the next residential structure. This requirement is reflected as a condition of the FDP.

The CE and plat contain the following note specifying prohibited uses within the CMAs:

*Prohibited Uses. Any activity on or use of the Easement Area(s) inconsistent with this Conservation Easement is prohibited. Without limiting the generality of the foregoing and unless expressly authorized in writing and accordance by the Alachua County Environmental Protection Department, the following activities and uses are expressly prohibited:*

- a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.*
- b. Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.*
- c. Removal or destruction of trees, shrubs, or other native vegetation, except for removal of nuisance or exotic vegetation.*
- d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface.*
- e. Surface use except for purposes that permit the land or water areas to remain in their existing natural condition.*
- f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.*
- g. Acts or uses detrimental to such retention of land or water areas in their existing natural condition.*
- h. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.*
- i. Alteration of the Easement Area(s) unless prior written authorization by the Alachua County Environmental Protection Department.*
- j. Actions or activities that adversely affect listed species of plants or animals, as defined in Chapter 410 of the Alachua County Land Development Code.*

**OPEN SPACE**

Comprehensive Plan 2019-2040 Conservation and Open Space Element Policy 5.2.5

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states that after conservation requirements are met, Rural Agriculture Unpaved Subdivisions do not have to provide additional Open Space. The conservation areas associated with this site are established and identified to protect existing natural resources on and adjacent to the site and satisfy the conservation requirements, and no additional Open Space requirements apply.

**TREE PRESERVATION**

Retention of 20 percent of the existing canopy is required per ULDC 406.12(a)(3) *Tree Permitting*. Since Open Space is no longer required after the conservation requirements are met, tree canopy retention is shown on the proposed lots within the Conservation Management Areas. All trees within the CMAs on the parcels will be retained. The parcel contains 12.9 acres of tree canopy coverage, and 6.67 acres of tree canopy will be preserved within the CMAs. Retention of the trees within the 6.67 acres of CMAs satisfies the tree canopy requirements by demonstrating retention of approximately 52.7% of tree canopy coverage.

In order to convey that tree removal is prohibited within the CMAs, notes regarding certain activities within the Conservation Easement have been provided on the plat that state the following:

- c. Removal or destruction of trees, shrubs, or other native vegetation, except for removal of nuisance or exotic vegetation.*

**LANDSCAPING AND BUFFERING**

There is no landscaping required for this project. There are no stormwater management facilities that require landscaping. Additionally, ULDC 407.41(n) *Landscaping and planting plan objectives* exempts Rural/Ag subdivisions with unpaved roads from the requirement to provide 30 percent tree canopy coverage in 20 years.

**PUBLIC SCHOOL FACILITIES**

The Alachua County School Board staff has reviewed the proposed development for student impacts for compliance with the school concurrency management program in accordance with the Inter Local Agreement and determined that adequate school facilities are available in the affected School Concurrency Service Areas (SCSA). This project was determined by the School Board staff to be de-minimis, as three new lots generate less than one student station per school concurrency zone.

The School Board in accordance with their Policy 5120-Assignment Within District will determine specific school assignment for students living in the development area. Student Assignment Rules states “The Superintendent may assign or reassign students on a case by case basis to schools or programs located in or out of their assigned zone, for the health, safety, or welfare of the students, other students or staff.” No assurances are given that the assignments will be made to the most closely located, or currently zoned, facilities. The provision of services to students in the development area may require redrawing of attendance zone lines, reassignment and busing to facilities

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elsewhere in the District, the use of temporary facilities, and/or the relocation of specific educational programs.

**CONCURRENCY**

A Final Certificate of Levels of Service Compliance (CLSC) for all public facilities will be issued upon Final Development Plan Approval and will be valid for one year. Provided that construction has commenced within the allowable period, the project shall have reserved capacity for a period of no more than two years from commencement of construction.

**PLAT REQUIREMENTS**

For plat submittals, documents must meet standards in Section 407.83, and Sections 407.84 and 407.87 where applicable.

The plat document meets the minimum requirements set forth in Chapter 177 of Florida State Statutes and Chapter 402 Article 12 of the Unified Land Development Code of Alachua County.

**STATE AND FEDERAL PERMIT**

The issuance of a state or federal permit shall not obligate the County to grant approval of any local permit and shall not be deemed to satisfy the requirements of the ULDC. As well, the issuance of this permit does not indicate that Alachua County believes that the applicant has all federal and state permits necessary prior to commencing construction.

Because §125.022(4), F.S. makes it hard for local governments to coordinate their permitting activities with state and federal permitting agencies, the applicant is advised that conflict with a subsequently issued state or federal permit may cause a need to apply for an amendment to this development plan approval.

Upon approval of a development plan, the applicant shall obtain all required state and federal permits prior to commencement of the development. Upon issuance of a required state or federal permit, the applicant shall furnish a copy of such permit to the applicable County department.

**DEVELOPMENT PLAN EXPIRATION:**

According to Section 402.47(b), an approved Final Development Plan shall expire unless a complete application for a construction, building or other required permit has been accepted by the appropriate reviewing department within 12 months of the date of final approval and that such development is continuing in good faith. Applications for extension of time limit may be processed pursuant to Article 6 or Article 10 of Chapter 402 of the ULDC.

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**STAFF RECOMMENDATION**

Staff has found the proposed Preliminary and Final Development Plan and Plat to be consistent with the Comprehensive Plan and requirements of the Unified Land Development Code.

Staff recommends **approval with conditions** of the Preliminary and Final Development Plan for Lerner Subdivision.

**Staff recommends the DRC recommend approval** of the Plat to the BoCC for Lerner Subdivision.

**CONDITIONS**

1. A building permit shall not be issued until the applicant has recorded the Board-approved Conservation Easement in the public records of Alachua County regarding protection measures for the on-site Conservation Management Areas (CMAs 1-3B). A legal description of the CMA will be required for final site plan approval with a description of how the area will be permanently marked. The CMA boundaries will include associated signage as coordinated with ACEPD staff, and potentially fencing if determined necessary during construction. The markers and signs shall be installed prior to issuance of the initial certificate of occupancy (Chapter 406.103 ULDC).
2. The applicant shall obtain all required state and federal permits prior to commencement of the development. Upon issuance of a required state or federal permit, the applicant shall furnish a copy of such permit to the applicable County department.
3. Any utility changes that affect the approved development plan will require additional approvals by Alachua County subject to the Unified Land Development Code.
4. Prior to the installation of a new permanent irrigation system or substantial modification to an existing system, an irrigation plan must be submitted to and approved by the Alachua County Environmental Protection Department through the online Alachua County Irrigation Professional Portal. The irrigation system shall comply with Article II of Part II, Title 7, Chapter 79 of the Alachua County Code.