

**MINUTES  
LAKE COUNTY  
LOCAL PLANNING AGENCY  
JANUARY 31, 2008**

The Lake County Local Planning Agency met on JANUARY 31, 2008 at 9:00 a.m. in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida. The Lake County Local Planning Agency considers comprehensive planning issues including amendments to Lake County's Comprehensive Plan and the Land Development Regulations.

**Members Present:**

David Jordan, Vice-Chairman	District 1
Rob Kelly	District 2
Michael F. Carey	District 3
Peggy Belflower	District 4
Nadine Foley, Chairman	District 5
Keith Schue, Secretary	At-Large Representative
Vicki Zaneis	At-Large Representative
Cindy Barrow	School Board Representative
Vacant	At-Large Representative

**Members Absent:**

None

**Staff Present:**

LeChea Parson, Assistant County Attorney  
Brian T. Sheahan, AICP, Planning & Community Design Director  
Grant Wenrick, Landscape Architect, Planning and Community Design  
Donna Bohrer, Public Hearing Coordinator, Planning & Community Design

Nadine Foley, Chairman, called the meeting to order at 9:10 a.m. and noted that a quorum was present. She confirmed that Proof of Publication was on file in the Planning and Community Design Division and that the meeting had been noticed pursuant to the Sunshine Statute.

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Brian T. Sheahan, AICP, Planning & Community Design Director, said applications were being accepted for the vacancy on the LPA. He said that copies of Mr. Bible's comments on behalf of the home builders had been provided to the LPA members. He said a list of action items for the Future Land Use Element (FLUE) was being compiled and asked members to provide a list of topics they wanted to discuss or review before transmittal. Mr. Sheahan discussed staff's landscape ordinance presentation before the Board of County Commissioners (BCC) and said the BCC supported the LPA's changes. He said the BCC wants to proceed with design standards regarding Commercial and Planned Unit Development (PUD). He noted that the BCC wanted to move ahead with the Land Development Regulations (LDR) changes they had requested. The LPA discussed the priority of LDR changes and the need to complete the Comprehensive Plan. Mr. Sheahan said the design standards ordinance would not be ready for several months.

Rob Kelly said he wanted to confirm that the consultants would be providing information regarding the cutoff points for improved parcels that were included or excluded when calculating the amount of land available for development. Mr. Sheahan said that was on the consultant's list of issues to address.

Vicki Zaneis said she would be attending her first Affordable Housing Committee meeting next week.

Peggy Belflower asked if the Department of Community Affairs' (DCA) response on the Wekiva Ordinance would be available so revisions could be included in the 2025 Plan. Mr. Sheahan said it should be received in sufficient time and said the 2025 Plan would be consistent with the Wekiva Ordinance.

### **LANDSCAPE ORDINANCE**

The LPA discussed some of the comments made at the BCC workshop.

Ms. Belflower asked about allowing 20% of landscape to be high water use. Grant Wenrick, Landscape Architect, Planning and Community Design said this high water use percentage was consistent with the Water Management Department (WMD) regulations and said it begins to limit water use. Chairman Foley said grouping landscape plants in compatible irrigation zones would facilitate the use of more native plants and reduce landscape irrigation. Mr. Wenrick said this percentage was fairly restrictive and it was also enforceable.

Keith Schue asked about the percentage of native plants and Ms. Zaneis said the LPA had agreed on 50% initially with a later increase to 75%. Mr. Sheahan said native plant nurseries would need time to grow sufficient plant material.

Ms. Belflower said the BCC had discussed fencing and she noted that chain link fencing was not prohibited but it would no longer be allowed to meet wall or buffer requirements in this Ordinance as drafted.

Mr. Schue commented on the discussion about littoral plantings, and he thought this issue should be addressed in the future. Staff said those regulations would be appropriate for Chapter 6.

The LPA began their review of the Landscape Ordinance with 9.02.04 Exemptions to Tree Removal Requirements.

The LPA agreed to add “new rights-of-ways” to Item “B” regarding existing rights-of-ways and to include item 3 which requires the County Manager or designee be noticed of tree removals on County approved projects.

The LPA agreed to insert language into item “D” language beginning with “unless a wetland tree...”

Mr. Schue suggested deleting item “E” regarding tree exemptions for single family lots of less than one (1) acre. Mr. Wenrick said this would allow homeowners to remove trees less than three inches in diameter provided they are not part of the required trees. Mr. Kelly thought that issue had been included in item “D.” The LPA agreed to delete item “E” because it was now duplicative, to change the numbering and lettering in this section and to add “Exemptions” and “Hazardous Trees” as shown on the screen.

The LPA agreed to add “Agricultural Exemptions” as item “C.”

David Jordan arrived at 10:25 a.m.

The LPA agreed with Ms. Belflower’s comments on “Hazardous Trees.” Staff said it will draft language, maintaining the intention of the LPA.

The LPA agreed with staff’s recommendation to delete paragraph “H” because mining issues are regulated in another section of the Code.

The meeting reconvened at 10:48 a.m. after a short break.

During discussion on 9.02.05 Criteria for Issuance of Tree Removal Permit, item 7, titled “Thinning of trees,” the LPA agreed to add language exempting “non-Bona fide silviculture...” from the first sentence. The LPA agreed to add language stating that tree thinning shall not exceed the maximum clearing allowed in this section. There was discussion about requiring Best Management Practices (BMPs) from a government agency or the National Tree Care Industry Association.

The LPA discussed 9.02.06 Replacement Requirements and agreed to change the threshold for tree sampling to 50 acres, to require sampling of each vegetative community and to reserve the right of the County to require additional tree sampling. The LPA agreed to delete item “H” Under item “D” titled “Landscape Credit.”

The importance of protecting areas used for off-site mitigation was discussed and the LPA agreed that mitigation sites shall be “county conservation or park property” and to delete the sentence regarding possible clearing of the recipient site.

Mr. Schue discussed the proposed mitigation fund, stating he thought developers should be required to mitigate on site and that the County should not have the responsibility for a mitigation fund. Chairman Foley said she thought it was a good option because there may be County-owned properties that could benefit from restoration. There was concern that it could be easier to pay into a fund than to mitigate on site. Mr. Sheahan said the BCC supported this option as long as it was an option of last resort. Ms. Zaneis said high mitigation costs would encourage developers to find mitigation sites and said if they could not then the money could benefit the County. There were concerns about how these funds would be spent, and whether it would be spent on planting trees. Mr. Sheahan suggested that staff draft language during the lunch break to address these concerns and said in his experience mitigation funds have been used to remove exotics from public lands, for replanting, restoration and the purchase of environmentally sensitive land. He said the Code could limit the use of this fund. Mr. Carey said he supported staff’s suggestion. Mr. Schue did not want to see the County use these funds to cover their own landscaping expenses. Mr. Kelly questioned if it was possible to define a “last resort.”

There was agreement to have staff draft language and the meeting reconvened at 1:20 p.m. after a break for lunch. David Jordan and Cindy Barrow were absent from the afternoon portion of the meeting.

The LPA began discussion of the draft language and Mr. Schue said that a fund was not necessary because tree mitigation could be done on an alternative site. Mr. Sheahan said there could be circumstances in which purchasing additional land for tree mitigation was not possible. Mr. Schue suggested requiring documentation explaining why on-site and alternative site mitigation was not possible. Mr. Sheahan suggested requiring three (3) estimates for the cost of tree installation and maintenance and said a contribution of three (3) times the estimate could be required for the mitigation fund. Mr. Kelly thought that would adequately de-incentivize mitigation contributions and it would also help to cover the costs to the County. Mr. Schue remained concerned that these funds should not be used to subsidize some other government function. Ms. Zaneis said it might be better that the mitigation money be spent by the County, than improper mitigation plantings, which could disturb a particular habitat. Mr. Carey was concerned about assessing a three (3) times cost figure on individuals that were sincerely attempting to meet the tree mitigation requirement. In addition, he said he would rather have mitigation funds used by the County as deemed appropriate. Mr. Sheahan said requiring on site mitigation could lead to situations where the replacement trees were not able to survive. Chairman Foley said there was an existing structure to ensure mitigation funds were properly spent. Ms. Parson explained that the County has similar funds with specific restrictions placed on their use. The LPA agreed to support the establishment of a Tree Mitigation Fund. Mr. Carey disagreed with setting mitigation contributions at three (3) times the cost. The LPA agreed with the Tree Mitigation Fund language shown on the screen.

During discussion regarding Guarantee of Survival, the LPA agreed that trees replacing those that die during the first year shall also be subject to the one year survival requirement from the replanting date.

The LPA agreed to add language stating that the owner of any designated historic tree shall ensure its long term health.

The LPA discussed how to define and designate Specimen Trees including automatic designation of trees that reach a specific size threshold and an application for unique trees. Mr. Schue suggested requiring the tree survey to show all specimen and historic trees including those that are to be protected. Mr. Wenrick said removal of specimen trees was not prohibited but the replacement requirements were higher.

Because of a contradiction in the draft tree survey language stating historic trees to be removed shall be shown on the survey and other language stating historic trees shall not be removed, Mr. Schue suggested allowing an exemption to be granted by the BCC. He noted that the draft specimen tree requirements were now more stringent than those of historic trees and said other parts of the code allow specimen trees to be removed. The LPA discussed specimen tree protection and asked staff to draft language regarding champion trees.

The meeting reconvened after a short break.

### **PUBLIC COMMENTS**

Jim Bible, representing Showcase Homes, thought some provisions of this ordinance would transfer some responsibility for enforcement of plant replacement from property management firms to the County and he noted that enforcement can be difficult. Mr. Wenrick said those situations would become a code enforcement issue and added that most of the “die-off” occurs in the first year when many plants were under guarantee. The County’s one year inspection program was discussed and it was noted that Code Enforcement is currently responsible for enforcing regulations, such as lawn mowing.

Mr. Bible said the draft language on monoculture would limit plant types to two species. Mr. Wenrick agreed and suggested language be amended to set a maximum percentage for any one species.

Mr. Bible said he hoped a cost analysis would be done because he believed some of these regulations could be expensive and he voiced concern about the cost to businesses when upgrades to landscaping were required. Mr. Sheahan said this portion of the ordinance was more liberal than the current regulations and it should reduce the number of variances required of businesses. The LPA discussed additional landscaping required by additions to structures. Landscape requirements for single family residences were discussed, particularly on lots one (1) acre or larger, and having the regulations consistent with the LPA’s intention.

There was discussion regarding the number of trees required and how those requirements would impact smaller lots and lots with septic systems. Mr. Wenrick said the intent had been to decrease the amount of turf and to increase the amount of native shrubs, and said the numbers could be adjusted.

Mr. Bible asked about the fencing requirements because the County doesn't issue fencing permits. Mr. Sheahan agreed that permits are not required for fencing. Ms. Parson asked how this could be enforced if individuals were not required to get a fence permit. Mr. Wenrick said chain link fencing was permitted around retention ponds and said along right-of-ways, other screening material could be required. Mr. Kelly said they did not want chain link fencing to be considered screening material and Mr. Schue thought this could be written in the code. The LPA agreed with draft language, as shown in 7.b under Zoning Based Buffering and Landscape Requirements.

Mr. Bible asked about buffer requirements along arterial roadways and Mr. Sheahan referred to language exempting single-family residences that are not in a platted subdivision. Mr. Wenrick said in an effort to protect the owners of smaller rural lots from adjacent denser developments, staff had developed thresholds for buffering between residential uses. Mr. Kelly said buffering along right-of-ways should be required in subdivisions unless the lots are larger. Mr. Schue suggested requiring buffers in the urban FLUCs. The LPA agreed to exempt Single Family Residential lots, not in platted subdivisions that have A, AR and RA zoning from buffer requirements along the right-of-ways and to include this language under item "B" Landscape Requirements.

Mr. Bible was concerned that new landscaping requirements could increase water use and he discussed how difficult it was to educate homeowners about the proper care of landscaping, including water use. The LPA discussed allowing temporary irrigation because when the recommended drought resistant/native plants were established they would not need irrigation. The LPA agreed to edit item "I" Irrigation, making it clear that individual single family lots are not required to have an irrigation plan.

#### **PUBLIC COMMENT**

Jon Pospisil thought chain link fencing was appropriate in some instances, particularly to address safety issues. He thought the 50 acre threshold for tree sampling should be reduced to the original five acres (5) because of the cost and he suggested the tree survey include specimen and historic trees.

After some discussion, the LPA decided to retain the 50 acre threshold.

Mr. Pospisil expressed concern that the current draft language under Guarantee of Survival could be interpreted to prohibit the removal of prohibited trees and also said it could encourage the removal of trees. There was discussion about which trees should be protected in the Guarantee of Survival and the LPA agreed that required and replaced trees should be protected in this section.

The LPA agreed to edit 9.01.02, titled “Applicability and Additions to Existing Development,” making the section applicable to additions to structures, parking places, and accessory structures, and setting an applicability threshold.

Vicki Zaneis left the meeting at 5:13 p.m. The Chair continued the meeting until February 4, 2008.

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Donna R. Bohrer  
Public Hearing Coordinator

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Keith Schue  
Secretary