MINUTES
LAKE COUNTY
LOCAL PLANNING AGENCY
APRIL 30, 2008

The Lake County Local Planning Agency met on APRIL 30, 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:

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

Members Absent:

Rob Kelly	District 2

Staff Present:

Sanford A. Minkoff, County Attorney
Melanie Marsh, Deputy County Attorney
LeChea Parson, Assistant County Attorney
Gregg Welstead, Conservation & Compliance Director
Brian T. Sheahan, AICP, Planning & Community Design Director
Grant Wenrick, ASLA, Landscape Architect, Planning & Community Design
Donna Bohrer, Public Hearing Coordinator, Planning & Community Design

Nadine Foley, Chairman, called the meeting to order at 9:04 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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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING SECTION 14.17.07, LAKE COUNTY CODE, LAND DEVELOPMENT REGULATIONS, ENTITLED REQUEST FOR RELIEF; PROVIDING FOR CONSISTENCY WITH SECTION 70.51, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Melanie Marsh, Deputy County Attorney, said the purpose of this amendment is to delete the requirement that a property owner be notified of the special master process with every development order (DO) issued, or enforcement action commenced. She said this amendment does not change any other provision of the Code and will make the Land Development Regulations (LDRs) consistent with the Florida Statutes. Ms. Marsh said when a DO is denied, a staff member explains that the Special Master process is available. She added that the County receives numerous code enforcement complaints and the current regulation requires the County to notify individuals of the Special Master process, even if the complaint is not validated.

Peggy Belflower suggested some changes to language for clarity on page 2 and the addition of "… of the request for relief" after "A copy" in line 19 page 3.

MOTION by Michael Carey, SECONDED by Bill Benham to transmit this Ordinance to the Board of County Commissioners as modified with a recommendation of Approval.
FOR: Foley, Schue, Carey, Belflower, Benham, Zaneis
ABSENT: Kelly, Barrow
AGAINST: None
MOTION PASSED: 6-0

Keith Schue voiced concern that over-utilization of the Special Master process has been misused to allow Comprehensive Plan rules to be waived.

Lake Jem Farms Presentation

Tom Gardner said growers, such as Lake Jem Farms, have two important issues. The first is the species of turf grass and the second is problems with users including owners and maintenance workers. He discussed the major varieties of turf grass, the characteristics of each and the importance of Best Management Practices (BMPs). He noted that Lake Jem Farms has presented BMPs classes to the lawn maintenance community. He discussed the advantage of putting the right plant in the right place including soil types, amount of sunlight and level of use. Mr. Gardner said properly installed and maintained landscape can provide for the filtering of stormwater and prevention of erosion. He emphasized the importance of having the right irrigation systems.

Keith Truenow, Lake Jem Farms, said irrigation problems with turf grasses was a user-problem. He said that grass has "a job to do" and said there are many alternatives to restricting the amount or type of allowable sod.

There was discussion by members of the LPA regarding sod, native landscaping, irrigation practices, and water conservation.

The meeting reconvened at 10:30 a.m. after a short break.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING THE LAKE COUNTY CODE APPENDIX E LAND DEVELOPMENT REGULATIONS; RENUMBERING AND AMENDING s. 3.11 RELATING TO NONCONFORMING DEVELOPMENT;DELETING SURPLUS NONCONFORMING PROVISIONS OF S. 6.13; ADDING DEFINITIONS TO CHAPTER II; REPEALING AND REWRITING IN ITS ENTIRETY s. 9.01 LANDSCAPING AND SITECLEARING STANDARDS; PROVIDING FOR PURPOSE, GENERAL REQUIREMENTS AND EXEMPTIONS; PROVIDING FOR WATERWISE AND FLORIDA FRIENDLY LANDSCAPING;PROVIDING GENERAL LANDSCAPING REQUIREMENTS; PROVIDING LANDSCAPE BUFFER REQUIREMENTS; PROVIDING INTERNAL LANDSCAPING FOR PARKING AREAS AND OTHER SITE AREAS; PROVIDING LANDSCAPE REQUIREMENTS FOR SINGLE FAMILY RESIDENTIAL AND DUPLEXES; PROVIDING FOR PROHIBITED PLANT SPECIES; REPEALING AND REWRITING IN ITS ENTIRETY s. 9.02 TREE PROTECTION; PROVIDING FOR TREE PROTECTION; PROVIDING FOR PROTECTED TREES; REQUIRING A TREE REMOVAL PERMIT; PROVIDING EXEMPTIONS TO TREE REMOVAL PERMIT REQUIREMENTS; PROVIDING CRITERIA FOR ISSUANCE OF TREE REMOVAL PERMITS; PROVIDING TREE REPLACEMENT REQUIREMENTS; PROVIDING FOR LOCATION OF TREE REPLACEMENT SITES; PROVIDING FOR VOLUNTARY PLANTING; PROVIDING REGULATIONS FOR HISTORIC TREES, SPECIMEN TREES, AND HERITAGE TREES; PROVIDING FOR TREE PROTECTION DURING CONSTRUCTION; AMENDING CHAPTER 14 ADMINISTRATION; AMENDING s 14.07.05 TO ADD LANDSCAPE REQUIREMENTS; AMENDING s 14.07.06 REGARDING ISSUANCE OF A CERTIFICATE OF OCCUPANCY; AMENDING s 14.08.00 REGARDING GUARANTEES AND SURETIES; AMENDING s 14.09.01 SITE PLAN SUBMITTAL REQUIREMENTS; AMENDING s 14.10.02 MASTER PARK PLAN SUBMITTAL REQUIREMENTS; AMENDING s 14.14.01 DEVELOPMENT PERMITS; AMENDING s 14.14.04 TREE REMOVAL PERMITS; PROVIDING FOR SEVERABILITY; INCLUSION IN THE CODE; AND AN EFFECTIVE DATE.

9.01.05 Landscape Buffer Requirements

Brian T. Sheahan, AICP, Planning & Community Design suggested beginning review of the Landscape Ordinance with item "B" Building Landscapes Other than Industrial. Keith Schue suggested adding an average buffer width to the minimum figure in Building Perimeter Landscaping item "i," to allow for more flexibility. There was discussion regarding the appropriate average width and the calculation of the building perimeter. The LPA agreed to require a minimum three (3) foot buffer, with a five (5) foot average or more in item "i." The LPA agreed with the amended language in item "ii" Minimum Tree Requirements as shown on the screen.

9.01.07 Landscape Requirements for Single Family Residential and Duplex Lots

Mr. Sheahan said staff was recommending changes to item "B" Other Landscaping Requirements so the required landscaping was not restricted to the 25 foot building perimeter. Grant Wenrick, ASLA, Landscape Architect said this would be more compatible with some of the Fire Wise recommendations. During discussion on this proposal, Mr. Schue voiced concern that this change could allow the requirements of item "B" to be fulfilled by the requirements in item "A" Canopy Tree Requirements. Mr. Minkoff said in this draft, the required trees in subdivision developments could be placed in common areas or right-of-ways (ROWs). Mr. Sheahan said this provision applied only to SFR lots, those in subdivisions and those that stand alone. The LPA agreed to add "Individual" to the title of Section 9.01.07. Mr. Sheahan said this section was intended to prevent entire lots of sod by requiring that an area equivalent to 35% of the first floor of a residence shall consist of plantings other than sod.

There was discussion on shrub requirements and Ms. Belflower suggested creating a separate shrub requirement. Mr. Schue remained concerned that there is a net loss of landscaping if general landscaping over the whole lot could also count for the former perimeter landscaping requirement. Cindy Barrow thought the commercial and residential landscaping requirements should not be the same and individual land owners should be able to decide if they wanted shrubs. Vicki Zaneis agreed and said shrubs can require special care. Bill Benham said this would still require that 35% of the building footprint would be planted in something other than sod and it allowed individual landowners more flexibility.

MOTION by Bill Benham, SECONDED by Cindy Barrow to approve Item "B" under Section 9.01.07 as written requiring that an area 35% of the building footprint shall be landscaped with plant material other than sod.

Mr. Schue suggested requiring either a smaller percentage of plant material other than sod in combination with not allowing the already required canopy trees to count toward the percentage or increasing the percentage required for trees and shrubs over the whole lot. Ms. Belflower suggested starting the first sentence in Item "B" with "In addition to canopy tree requirements…." Mr. Benham, as the maker of the motion, declined to amend the motion.

FOR: **Foley, Carey, Belflower, Barrow, Benham, Zaneis**
ABSENT: **Kelly**
AGAINST: **Schue**
MOTION PASSED: 6-1

MOTION by Peggy Belflower, SECONDED by Keith Schue to add the first sentence in Item "B" with "In addition to canopy tree requirements…." in Section 9.01.07 and lowering the percentage to 30%.

Ms. Zaneis said she believed it should be simpler and said requiring more plants was not always a good thing. Mr. Schue remained concerned that the trees already required in item "A" should not be allowed to satisfy the requirements in item "B."

FOR: **Schue, Belflower**
ABSENT: **Kelly**
AGAINST: **Foley, Carey, Barrow, Benham, Zaneis**
MOTION FAILED: 2-5

Mr. Wenrick said staff was recommending allowing property owners to remove 1-3 trees once every three (3) years without a permit. He said this was a one-time allowance in a three (3) year period and did not apply to required trees. He said this was intended to not burden landowners with the tree removal fees and process. The LPA did not support this exemption. Mr. Schue said enforcement would be difficult because there would be no record determining if the tree being removed without a permit was one of the three allowed within the three year period.

The meeting reconvened at 1:00 p.m. after a lunch break.

The LPA reviewed comments received from the St. Johns River Water Management District (SJRWMD). Mr. Sheahan said all plants on the invasive list, category 1 & 2, will be put on the prohibited plant list. In Section 9.01.03.C Water Efficiency and Well-Designed Irrigation item "iv," the LPA agreed to add "soil-moisture sensors" and the word "functioning" to item "iv." The LPA agreed to add "encourage" to item "4" under "D" Irrigation under Plant Materials in Section 9.01.04.

9.02.04 Exemptions to Tree Removal Permits
Mr. Minkoff said the language stating that Counties are prohibited from regulating agriculture and silviculture was taken directly from the Florida Statutes and the relevant statutes were shown on the screen. Mr. Schue said this reads as though the Army Corp of Engineers and the U.S. Environmental Protection Agency (EPA) were exempt from landscape regulations. Mr. Sheahan said those agencies regulate storm water and wetlands.

There was discussion regarding the Plant List and Mr. Sheahan noted that staff would amend the list as needed.

PUBLIC COMMENT
Jon Pospisil said identifying native plants was not always easy and he thought perhaps there should be a "good faith" exemption for honest errors by home owners who believed that what they had planted was a native plant.

Mr. Sheahan discussed the information sources on which the Plant List is based. Mr. Minkoff said landscaping plants required by this ordinance would be subject to review by the County and those errors should be caught at that time.

The LPA agreed to remove "and Site Clearing" from the title of Section 9.01.00.

Section 9.01.05.A General Buffer Requirements
Mr. Schue said he thought there were inconsistencies in items, "i" through "iii." Mr. Minkoff said "i" and "ii" require full buffers and said "iii" was intended to address sites with multiple buildings built at the same time. The LPA agreed to strike the last sentence in item "iii."

9.02.02 Tree Removal Permit
Mr. Schue asked about changes made in the new ordinance regarding Prohibition, Separate Violations and Re-vegetation from the previous draft ordinance. Mr. Minkoff said he had suggested these changes and he said violations of the code are resolved in the special master process. He said the County does not have separate violation counts; there is not a separate penalty for cutting down three (3) trees as opposed to cutting down one (1) tree. He said the County does not use the criminal code to enforce any part of the LDRs and that all code cases go through the special master process. Mr. Schue said he

thought there should be consistency regarding enforcement of the code and that when violations occur, action be taken to re-vegetate. Staff noted that the re-vegetation requirement is in the new ordinance. Mr. Schue and Ms. Belflower thought each tree should be considered a separate violation. Mr. Minkoff said these violations were not subject to the criminal code. Mr. Schue thought the penalty should relate to the code violation as opposed to the "cost of doing business." Mr. Minkoff said the law requires the County to allow someone to come into compliance and said the special master process is not punitive. Several LPA members were concerned about the removal of the separate violation language. Mr. Sheahan said this was a legal matter and explained that the fees for violations were adopted each year by the BCC in a separate ordinance. Mr. Minkoff said when codes are violated, there has to be an opportunity to become compliant with the code. He said that in these cases, the compliance would consist of getting a more expensive after-the-fact tree removal permit and replanting if required by the code. If remediation is not possible, then a recommendation is made to have them come into compliance which could include fines. He said the only time a criminal penalty would be considered is if the County could prove that the tree removal was intentional. There was discussion about not allowing mature trees to be replaced by seedlings and making sure there are consequences to these code violations. Chairman Foley said she thought it needed to be as clear as possible that there is enforcement in those cases where trees were removed without a permit. Mr. Minkoff said language regarding separate violations had now been restored, in section 9.01.03 Violations. However, he said the special master process requiring remediation could not be changed. The LPA agreed with the language shown on the screen as 9.02.03 allowing for separate violations for each tree removed without a permit.

There was discussion regarding the changes made to item "8" titled Re-Vegetation Required under 9.01.04. Mr. Minkoff said the time frame had to be tied to the expiration date of the DO because development orders can be under development for up to two (2) years and re-vegetation can't be required until site work is complete. There was agreement to add 9.02.03 Violations, language as shown on the screen.

The meeting reconvened at 3:17 p.m. after a short break.

After discussion regarding 9.01.04.1 Plant Materials, item 13, the LPA agreed to the changes shown on the screen.

9.01.04 General Landscaping Requirements
Mr. Schue said he thought the language in item "F" Pruning was not as strong as in the previous draft. Mr. Minkoff said some trees are pruned to obtain a certain look, not just for health and vigor. There was discussion that some of the language was included in other provisions of the ordinance.

Mr. Minkoff said the staking requirement from the previous draft was covered in item "3." After some discussion on item "a" Quality, the LPA agreed with the changes shown on the screen regarding plant material not on the Plant List but not prohibited; and that the Plant List was not intended to be a comprehensive list of allowed plants. During a

discussion on plant suitability, Mr. Schue questioned how such a determination would be made and who would be making those decisions.

MOTION by Keith Schue, SECONDED by Peggy Belflower to require that any plant material not contained on the plant list and not prohibited by Section 901.08 shall be shown to be a suitable plant by qualified landscape professional at the County.
FOR: Schue, Belflower, Zaneis
ABSENT: Kelly
AGAINST: Foley, Carey, Barrow, Benham
MOTION FAILED: 3-4

Cindy Barrow left the meeting at 4:00 p.m.

There was discussion regarding appropriate spacing for Canopy Trees.

MOTION by Vicki Zaneis, SECONDED by Bill Benham to draft wording regarding adequate tree spacing to ensure the health and longevity of the trees.

Ms. Zaneis said she was more concerned with trees being planted too close together than too far apart. Mr. Sheahan said if a specific spacing requirement was added to the specified distance and the specified number of trees then there would be circumstances in which there would not be enough room to accommodate the required plantings. Mr. Sheahan said this would allow for more flexibility in the landscape design. Mr. Schue was concerned that the removal of these numbers could allow distances between plantings to be great enough that there would be no requirement at all in some circumstances such as around buildings and retention areas.

MOTION to call the question by Bill Benham, SECONDED by Michael Carey.
FOR: Foley, Carey, Belflower, Benham, Zaneis
ABSENT: Kelly, Barrow
AGAINST: Schue
MOTION PASSED: 5-1

VOTE ON THE MOTION
FOR: Foley, Carey, Benham, Zaneis
ABSENT: Kelly, Barrow
AGAINST: Schue, Belflower
MOTION PASSED: 4-2

There was discussion regarding changing the language in this draft, including the removal of the requirement that shrubs be planted between trees and language relating to berms.

Mr. Minkoff said staff had spent a considerable amount of time on this ordinance and said they were once again offering to meet with individual LPA members to review the

ordinance in detail to make clear what was changed and why, which would allow a more efficient use of time. Ms. Belflower and Mr. Schue said they would be scheduling time to meet with staff.

The Chair continued the meeting to May 9, 2008.

Donna R. Bohrer	Keith Schue
Public Hearing Coordinator	Secretary