MINUTES
LAKE COUNTY
LOCAL PLANNING AGENCY
MAY 22, 2008

The Lake County Local Planning Agency met on MAY 22, 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:

Jeffrey Schaffer	District 1
Rob Kelly	District 2
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

Members Absent:

Bill Benham	At-Large Representative

Staff Present:

Sanford A. Minkoff, County Attorney
LeChea Parson, Assistant County Attorney
Brian T. Sheahan, AICP, Planning & Community Design Director
Fred Schneider, PE, Engineering Director, Public Works
Ross Pluta, Engineer III, Public Works
Terrie Diesbourg, Zoning Director
Donna Bohrer, Public Hearing Coordinator, Planning & Community Design

Nadine Foley, Chairman, called the meeting to order at 9:30 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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MOTION by Michael Carey, SECONDED by Cindy Barrow to approve the January 16, 2008 minutes as corrected.
FOR: **Foley, Schue, Carey, Belflower, Barrow, Zaneis**
ABSENT: **Benham, Schaffer, Kelly**
AGAINST: **None**
MOTION PASSED: 6-0

MOTION by Michael Carey, SECONDED by Cindy Barrow to approve the January 17, 2008 minutes as submitted.
FOR: **Foley, Schue, Carey, Belflower, Barrow, Zaneis**
ABSENT: **Benham, Schaffer, Kelly**
AGAINST: **None**
MOTION PASSED: 6-0

MOTION by Michael Carey, SECONDED by Cindy Barrow to approve the January 24, 2008 minutes as submitted.
FOR: **Foley, Schue, Carey, Belflower, Barrow, Zaneis**
ABSENT: **Benham, Schaffer, Kelly**
AGAINST: **None**
MOTION PASSED: 6-0

MOTION by Michael Carey, SECONDED by Vicki Zaneis to approve the January 31, 2008 minutes as corrected.
FOR: **Foley, Schue, Carey, Belflower, Barrow, Zaneis**
ABSENT: **Benham, Schaffer, Kelly**
AGAINST: **None**
MOTION PASSED: 6-0

Brian T. Sheahan, AICP, Planning & Community Design Director, said Fred Schneider, Director of Engineering, Public Works would be presenting the Lot Grading Ordinance. He noted that proposed policies for the Florida Black Bear Scenic Byway had been provided to the LPA members.

Rob Kelly arrived at 9:09 a.m.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA, AMENDING SECTION 9.07.09, LAKE COUNTY CODE, APPENDIX E, LAND DEVELOPMENT REGULATIONS, ENTITLED LOT GRADING, SUBSTANTIALLY REWORDING SUCH SECTION; PROVIDING FOR GENERAL REQUIREMENTS; PROVIDING FOR EXEMPTIONS; REQUIRING LOTS IN SUBDIVISIONS WITH MASS GRADING PLANS TO BE GRADED IN ACCORDANCE WITH SUCH APPROVED PLANS; PROVIDING FOR SIMPLIFIED LOT GRADING APPROVAL; PROVIDING A REQUIREMENT FOR A LOT GRADING PLAN; ESTABLISHING A PROHIBITION ON LOT GRADING WITHOUT APPROPRIATE APPROVAL; AMENDING SECTION 14.14.03(C)(1)(j), LAKE COUNTY CODE, APPENDIX E, LAND DEVELOPMENT REGULATIONS, ENTITLED PLOT PLAN TO PROVIDE FOR ADDITIONAL ITEMS TO BE INCLUDED; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Schneider said copies of the existing lot grading Land Development Regulations (LDRs) and a highlighted copy of the draft ordinance had been provided to the LPA members. He briefly discussed his memorandum noting that the highlighted draft ordinance included those changes and the edits recommended by Peggy Belflower accepted by staff.

Mr. Schneider emphasized that this ordinance does not address commercial or industrial uses and said it applies only to platted residential lots. Mr. Sheahan said commercial and large scale projects at the subdivision level were permitted through the St. John River Water Management District (SJRWMD). Keith Schue said he had found only one reference to residential uses and there was discussion regarding to what this ordinance would apply.

The LPA agreed to change the title of 9.07.09 to “Single-Family and Duplex Lot Grading” and to add language from the adopted Comprehensive Plan after the word “Generally.”

In the fifth “WHEREAS” the LPA agreed to replace “to improve……Properties; and” with “for Single-Family and Duplex Lots.”

Jeffrey Schaffer arrived at 9:35 a.m.

The LPA agreed to the following:

- To retain “Immediately” in item “ii”
- To change “may” to “shall” in Item “c”
- Changes discussed by the LPA to “iii”
- To add “during construction” to “iv”

During discussion regarding item "a" under Exempt Activities, Mr. Schneider said this ordinance was drafted to address issues that have arisen frequently and said the listed activities had not been a problem. Mr. Schue was concerned with item "f" which exempted any impervious surface on lots greater than one-half acre as long as a twenty (20) foot offset was maintained along the property line. Mr. Schneider said grading issues have generally not occurred on larger lots, and that it was the grading on small lots that were creating the problems. Sanford Minkoff, County Attorney, said staff was seeking a balance between regulating significant issues and not requiring unnecessary permit and inspection fees on family homes. He suggested the LPA could either increase the set back or eliminate the exemption. There was discussion regarding the degree of slopes and the setback distance. Mr. Schaffer said the "no earthwork takes place in the set back areas" addresses the slope issue. He said it was his experience that a 20 foot set back with no earthwork was sufficient and he thought this was a very reasonable exception. Some LPA members remained concerned about potential slopes. Mr. Schaffer said this exemption would not create a stormwater issue. Mr. Sheahan said he agreed and noted that the subdivision grading plan would address significant changes in topography. Mr. Schue said that an exemption for ½ acre lots was arbitrary because the slope and distance of a house next to the property line was the issue, not the total size of the lot. He gave an example of large lot that could be many acres in size but have a house located near the property line which could impact a neighboring landowners just as much as if it were located on a small lot. Chairman Foley suggested resolving this issue with a motion.

MOTION by Jeffrey Schaffer, SECONDED by Michael Carey to accept item "f" as presented with the deletion of "on a lot greater than one-half (1/2) acre."

Mr. Kelly said he did not agree with this exemption because he believed the natural grade could create an issue. Mr. Schaffer said runoff issues were created by point discharges which would not occur with this set back. Mr. Kelly suggested including a slope requirement and Mr. Schaffer said a 2:1 horizontal-vertical slope on a small lot would not create a problem in residential areas.

PUBLIC COMMENT

Jim Bible, Showcase Homes, said regulations regarding subdivisions have been strengthened, noting that developers must submit plans that show every lot and it's grading plus the drainage patterns throughout the development. He discussed the potential cost to individual homeowners for permits, grading plans and surveys to add on a small screened room. He said impervious limits are set for each lot on the subdivision plan.

FOR:	**Foley, Carey, Schaffer**
ABSENT:	**Benham**
AGAINST:	**Schue, Kelly, Belflower, Barrow, Zaneis**
MOTION FAILED:	**3-5**

MOTION by Rob Kelly, SECONDED by Keith Schue to remove item "f" the exemption regarding "additional impervious area of any size on a lot greater than one half acre…in the set back area" from this Ordinance.
FOR: **Foley, Schue, Belflower, Barrow, Zaneis, Kelly**
ABSENT: **Benham**
AGAINST: **Carey, Schaffer**
MOTION PASSED: 6-2

There was discussion that substituting the term "off-set" in place of "set back" was intended to reduce confusion.

There was discussion about whether exemptions were necessary for uses that should not affect lot grading, such as those appearing in item "a."

MOTION by Keith Schue, SECONDED by Peggy Belflower to delete item "a" under Exempt Activities which included a list of exemptions beginning with "Portable spas."
FOR: **Foley, Schue, Carey, Belflower, Barrow, Zaneis, Schaffer, Kelly**
ABSENT: **Benham**
AGAINST: **None**
MOTION PASSED: 8-0

Mr. Kelly asked about the 200 square foot exemption mentioned in Mr. Schneider's memorandum to Mr. Sheahan. Mr. Schneider said Public Works had written a memorandum to the County Manager's office regarding the 200 square foot exemption because staff did not believe it was necessary to put permit fees in place to pay for inspections on 200 square foot additions to impervious surfaces.

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

After some discussion regarding the term "earthwork" and how it should be defined, the LPA reached a consensus to change "earthwork" to "grading." In response to a question from Mr. Kelly regarding why staff had used the term "earthwork," Mr. Schneider said the definition of earthwork included the excavation of or piling of dirt. The LPA agreed to use the phrase "lot grading and earthwork."

Mr. Schaffer suggested including "any permitted improvement that does not increase the impervious surface area" as the first item under Exempt Activities. Mr. Kelly suggested adding "and does not change the existing grade." The LPA supported this change by consensus.

The LPA agreed to delete the exemption for "elevated decks and pole barns without slabs" since these uses should not affect grading.

The LPA discussed the importance of not allowing the grading of individual lots to be in conflict with the mass grading plan. Michael Carey was concerned because the SJRWMD accepted "as built" letters from engineering firms without inspections. Mr. Schneider said there were consequences if "as built" letters were not accurate. He said most of the problems they have encountered occur after the engineer signs off the grading plan. He said because staff was requiring more detailed grading plans, he thought many of those problems were in the past.

PUBLIC COMMENT
Jon Pospisil suggested exempting shared driveways from the five (5) foot property line set back. He asked about homes with crawl spaces and the finished floor elevation and suggested using "steeper" in reference to grading slopes.

Mr. Schaffer agreed that using "steeper" made the grade of slopes easier to understand.

Mr. Schue asked about the simplified lot grading provisions of the ordinance, including why they had been drafted and how it would work. Mr. Schneider said the County wanted to have some control without over-regulating or requiring expensive and unnecessary land surveys from homeowners. He said the County would still be conducting inspections but they did not believe grading plans were necessary in every circumstance. There was discussion about requiring benchmarks. Mr. Schneider said the intent of benchmarks had been to provide a starting point when checking relative elevations and said benchmarks were no longer really necessary. He said lot grading plans could be required if construction was inconsistent with the plan submitted to the County. There was discussion regarding what a simplified grading plan consisted of and there was a consensus of the LPA to remove the benchmark references.

The LPA agreed with Mr. Schaffer's suggestion to add "the approximate changes in elevation shall be included on the plot plan" at the end of paragraph "D" under simplified lot grading approval.

There was discussion about common driveways, which are commonly split along the property line and if a lot grading plan should be submitted. Mr. Schneider said because common driveways are generally part of new construction they would be included in the mass grading subdivision plan.

PUBLIC COMMENT
Jon Pospisil said two adjoining lot owners could agree to have a common driveway.

Jim Bible said common driveways are being required along some roads in order to reduce the number of driveway cuts.

Mr. Schaffer said common driveways and common approaches were different and he thought common driveways could be exempted from grading plans. There was consensus of the LPA to not include the language on common driveways.

The meeting reconvened at 1:27 p.m. after a break for lunch. Peggy Belflower was not present for the afternoon portion of the meeting.

The LPA agreed to title Section "E" Lot Grading Plan Requirements and to have two separate items underneath, one for lot grading impacts to wetlands and flood plains and another for exemptions and simplified lot grading approval.

After some general discussion regarding concerns about seawalls, illegal dumping and mass grading, Mr. Sheahan said there was sufficient basis in the current Comprehensive Plan and the 2025 to support Land Development Regulations (LDRs) on those subjects.

Mr. Schaffer said the Federal Housing Agency (FHA) has a classification system defining grading types and he suggested that lot grading plans should reference the type of FHA grading that is being planned.

Jeffrey Schaffer left the meeting at 2:17 p.m.

The LPA agreed to limit the change of grade in residential developments to no more than ten (10) feet at any location and to locate this additional language in Section 9.07.09.A.

The LPA discussed limiting the height of retaining walls to five (5) feet and requiring a minimum of five (5) feet between retaining walls used in terracing. The LPA agreed with the language shown on the screen in item "4" regarding graded slopes and retaining walls.

The LPA agreed with the language under "Lot Grading Plan Requirements" stating that the FHA grading type shall be shown on lot grading plans.

The LPA agreed in "a" under item 4 lot grading plan to replace "in an acceptable manner and" with "to." There was consensus of the LPA with item "b" stating that filling or cutting should not exceed the 4:1 slope within five (5) feet of property line.

The LPA agreed with Mr. Schneider's suggestion in the amendment section to substitute "relative elevation changes" in the language relating to "assumed elevations" and "benchmarks."

The LPA discussed the paragraph beginning with "For stormwater drainage…" which is shown as a strike-through. LeChea Parson said that paragraph had been struck through because it was made duplicative by the lot grading plan submission requirements.

The LPA reconvened after a short break at 3:40 p.m. Cindy Barrow left the meeting during the break.

PUBLIC COMMENT

Jon Pospisil suggested excluding residences with crawl spaces from the two (2) feet finished floor elevation requirement in item "b" under the simplified lot grading section.

Mr. Schneider suggested the change in grade should be applicable only within the footprint of the structure, which would accommodate homes constructed on foundations other than concrete slabs.

The LPA agreed that under Simplified Lot Grading, that in the first item, there would be no grading within the five (5) foot setback from the property line and in the second item, the setback would be ten (10) feet.

PUBLIC COMMENT

Jon Pospisil discussed shared driveways and he thought language should be written to make it easier to build shared driveways.

The LPA discussed shared driveways, shared approaches and what would be an appropriate allowable length. Mr. Schue said he thought the issue was if there was a hydrological or drainage concern regarding lengthy imperious shared driveway running along a property line. Mr. Schneider said it was important for landowners to agree to share the drive and said generally easements are granted for joint use driveways. The LPA agreed with the language regarding shared driveways under simplified lot grading approval.

Mr. Kelly said he had reviewed the joint LDRs between Clermont and the County, and he suggested changing the name of this ordinance back to lot grading so additional regulations could be included regarding cuts in mass grading plans for subdivisions and perhaps commercial grading. Chairman Foley said she didn't believe that regulations regarding commercial grading cuts and mass grading for subdivisions should be mixed together in one ordinance. Mr. Schue said it had been the stated position of staff that this ordinance should address only single family and duplex lots because mass grading for subdivisions was regulated by other agencies. Mr. Kelly said the County does not have cut or fill criteria and said it was the desire of the community in Clermont to prevent the destruction of hills/topography. He said the City of Clermont did not allow elevation changes in excess of ten (10) feet. Chairmen Foley said staff had brought this ordinance forward to address problems that had occurred on single family and duplex lots because there are no grading regulations for individual residential lots.

The LPA discussed concerns with mass grading, including requesting that the BCC direct staff to draft a mass grading ordinance. Mr. Schneider said there have been numerous problems regarding the grading of single-family lots and the resulting impact on the neighboring property. He said staff had been directed to draft an ordinance regulating the grading of single-family lots by the BCC but staff had not been asked to address mass grading issues. Mr. Schue said he thought the natural topography of open space should be preserved within any grading plan. Mr. Kelly repeated that the County does not have a mass grading ordinance at this time. Chairman Foley said she would prefer sending this ordinance to the BCC and then writing a letter recommending that a mass grading ordinance be written. Mr. Kelly remained concerned about the amount of time that would take and thought perhaps nothing would be done. Mr. Schue questioned whether

this ordinance as amended already addressed issues beyond the grading of single family-duplex lots. Ms. Parson noted that the LDRs define lot grading as applicable to individual residential lots and said that definition would have to be changed if the ordinance was expanded.

Chairman Foley said it was her preference to make a recommendation to the BCC regarding mass grading. Mr. Kelly said including additional language in the ordinance would be a recommendation and said this was an opportunity to address more than single family residential lots. Chairman Foley said additional regulations included in this ordinance should be pointed out to the BCC.

Mr. Kelly said he would like to limit mass grading changes to ten (10) feet and stated that the site design should fit the topography instead of grading the site to fit the design.

Mr. Schneider noted that there would be many issues to consider when drafting an ordinance to regulate mass grading. He said he thought the main concern was the lack of a limitation on the amount of elevation change. He said he understood that there was a bigger issue relating to mass grading but this ordinance was drafted to address the serious issues experienced by the County related to grading of single family-duplex lots. He said there are other regulations addressing many of the issues related to mass grading. Mr. Schneider suggested that if the LPA wished to address the issue of limiting mass grading changes, that Lot Grading become item "B" and then "A" would be titled Mass Grading and it would include a maximum ten (10) foot elevation change. Mr. Sheahan said other provisions in the code related to mass grading, but there was not a mass grading section.

The LPA agreed to change the title of 9.07.09 to read "Grading" and that letter "A" would be titled "Mass Grading." Mr. Schue was concerned about the use of retaining walls, within open space areas and the depth of retention ponds. There was discussion regarding the amount of detail being proposed. Ross Pluta, Engineer, noted that retaining walls are very expensive and consequently developers will avoid using them if possible. The LPA agreed to include language stating that retaining walls shall be discouraged.

Mr. Schue suggested including commercial sites and the LPA agreed to include a fifteen (15) foot limitation on grade changes for commercial uses, which is consistent with the regulations of the Clermont Joint Planning Area.

MOTION by Keith Schue to include subdivisions and site plans in 9.07.09.A Mass Grading.
MOTION withdrawn by Keith Schue.

MOTION by Rob Kelly, SECONDED by Keith Schue to transmit the ordinance regarding Section 9.07.09, titled Grading to the Board of County Commissioners as amended with a recommendation of approval.

Mr. Schue asked about editing the "WHEREAS" language in the ordinance. Mr. Sheahan said that related to the history of the ordinance and was generally edited by staff. He said staff would address changes to the numbers and lettering of the ordinance.

FOR: **Foley, Schue, Carey, Zaneis, Kelly**
ABSENT: **Benham, Barrow, Schaffer, Belflower**
AGAINST: **None**
MOTION PASSED: 5-0

MOTION by Rob Kelly, SECONDED by Vicki Zaneis to request the chairman of the LPA to write a letter to the Board of County Commissioners (BCC) requesting that staff proceed with a mass grading ordinance.
FOR: **Foley, Schue, Carey, Zaneis, Kelly**
ABSENT: **Benham, Barrow, Schaffer, Belflower**
AGAINST: **None**
MOTION PASSED: 5-0

The Chair continued the meeting at 5:30 p.m.

Donna R. Bohrer	Keith Schue
Public Hearing Coordinator	Secretary