

**MINUTES
LAKE COUNTY
LOCAL PLANNING AGENCY
MAY 31, 2007**

The Lake County Local Planning Agency met on MAY 31, 2007 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:

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
Sean Parks	At-Large Representative
Cindy Barrow	School Board Representative

Members Absent:

David Jordan, Vice-Chairman	District 1
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Staff Present:

LeChea Parsons, Assistant County Attorney
Brian Sheahan, AICP, Chief Planner, Planning & Community Design
Francis Franco, Senior GIS Analyst, Planning & Community Design
Bill Gearing, Community Enhancement Coordinator, Community Services
Donna Bohrer, Public Hearing Coordinator, Planning & Community Design

Nadine Foley, Chairman, called the meeting to order at 9:02 a.m. and noted that a quorum was present. She confirmed that Proof of Publication was on file in the Comprehensive Planning Division and that the meeting had been noticed pursuant to the Sunshine Statute.

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MOTION by Michael Carey, SECONDED by Sean Parks to approve the March 28, 2007 meeting as submitted.

FOR: Foley, Schue, Carey, Kelly, Parks, Barrow, Zaneis
ABSENT: Jordan, Belflower
AGAINST: None
MOTION PASSED: 7-0

CHANGES TO THE AGENDA

Brian Sheahan, AICP, Chief Planner, said the City of Mt. Dora had not responded to their invitation to attend today's meeting.

FERNDALE POLICIES

Mr. Sheahan said after the presentation by the Friends of Ferndale (FOF) that staff would like to make their comments.

Sean Parks said because the FOF had worked so hard he would like them to have a sense of finality.

Fred Cranmer said the FOF were a group of citizens who cared about their community. He said they had reviewed the Mt. Plymouth-Sorrento Special Area Plan, developed their own planning profile and consulted with planners. These policies were drafted by a subcommittee of the FOF during meetings that were noticed in the community and the policies had been voted on by all present at a regular meeting of the FOF.

Mr. Cranmer said some redundancies were removed and some policies were combined to shorten the document. In order to avoid confusion, the references to "Special Area Plan" and "village" had been removed. Mr. Cranmer said these changes had been approved at last night's meeting. He gave copies of the policies to the LPA, stating that no substantive policy changes had been made.

In Policy 1.5.2, Mr. Cranmer said they had removed the term "smart growth" because of its urban connotation. He reviewed the policies briefly and compared them to those provided to the LPA previously.

Chairman Foley agreed with the removal of the term "village" because of the implication that Ferndale was incorporated.

Mr. Parks asked more information on the community involvement. Mr. Cranmer said they formed several years ago and had drafted a planning profile detailing how they would like Ferndale to look in the future. He realized the new Comprehensive Plan would be an opportunity to put their plan into effect, a subcommittee was formed and met weekly at a standard date, time and location to develop policies.

Cindy Barrow also complimented the work of Mr. Cranmer and the community. She asked LeChea Parsons, Assistant County Attorney, about possible annexations in the Ferndale area. Ms. Parsons said annexations were a prerogative of municipalities and

said the County's Comprehensive Plan could not prevent them. She added that involuntary annexations required the community residents to be notified. Mr. Cranmer said Ferndale wanted to remain rural and asked about possible language to support their position against annexation. Mr. Schue thought these policies would support the County's position to defend Ferndale from annexation if it chose to and noted there was not a Joint Planning Agreement (JPA) for this area.

Rob Kelly said the three storied height limitation in Policy 1.5.4 might be too high and he asked about the reference to square footage in Policy 1.5.6, Community Participation. Mr. Cranmer said they wanted to have smaller businesses. Mr. Parks suggested the inclusion of "most stringent language" policy could be a basis to contest annexation. Mr. Kelly thought the County should pursue annexation agreements.

Ms. Parsons discussed the process of public notice required during involuntary annexations and didn't believe the policy language under discussion would have any effect. She said the Board of County Commissioners (BCC) would decide whether or not to oppose an annexation.

Mr. Cranmer said they would like the County to support their position opposing annexation and their desire to remain rural. Chairman Foley thought the County's recognition of these communities was a major step towards supporting their goals. There was discussion regarding the County pursuing annexation agreements. Michael Carey stated that annexation was beyond their purview and he thought they should be careful about including language that might preclude an agreement between two entities. He did not believe such language should be included and he thought the community was capable of dealing with that issue should it arise.

Mr. Carey thanked Mr. Cranmer for his work, including the tours of Ferndale he had given.

Mr. Schue discussed language on preventing annexations. Ms. Parsons said those decisions are made by the BCC and she cautioned about exceeding the intent of the Comprehensive Plan. Mr. Schue and Mr. Kelly thought it was permissible to have policy commenting on the BCC's right to object to an annexation.

Mr. Sheahan discussed the following staff comments:

- Other County departments commented on the previous draft but this draft was not available for their review.
- Without a local service agreement, staff agreed with the County Attorney that the County has little recourse to prevent annexation.
- The proposed boundary of Ferndale includes an area within Montverde's proposed JPA.
- Regulation of building heights by actual height instead of the number of stories.
- In Policy 1.5.7, there was not sufficient analysis to support the Open Space requirement and preliminary research found "perpetual agriculture easement" used only when land is preserved by a government entity.

- Zonings can only be conditioned within a Planned Unit Development (PUD).
- Policy 1.5.8, Potable Water and Sanitary Sewer. Utilities are already regulated in the Comprehensive Plan.
- The reference to “high intensity livestock” conflicted with the Agriculture Land Protection Act.
- Policy 1.5.16, Preservation of Tree Canopy. The County is prohibited from interfering in any way with electric transmission line maintenance. Ms. Parsons added that electric companies can not be required to notify the County of their transmission line maintenance.
- Policy 1.5.19 is a LDR issue and the County already has sign regulations similar to these.
- Public Works said direction from the BCC would be needed before Rt. 561A could be designated as a local scenic highway and at this time no background or data and analysis exists to support this designation.
- Policy 1.5.14, View Shed, Ms. Parsons said the communication tower policy may conflict with the County’s LDRs. Mr. Sheahan said local governments can not require stealth towers because in some circumstances it is not feasible. There was discussion about making this a “whenever possible” instead of an absolute.

The meeting reconvened at 10:50 a.m. after a short break.

PUBLIC COMMENT

Ed Mitchell asked the LPA to consider the wishes of the Ferndale residents and to disregard what any city would like.

Amber Dickerson, Green Consulting Group, said she represented both the Town of Montverde and the City of Minneola. She had based her comments on the earlier draft policies and said she had just received this most recent draft. She handed out a map and a document titled “General Ferndale Policy Issues.”

Although the Town Council had not been able to review the Ferndale proposed policies, she made the following general comments:

- It has not been policy of the BCC to interfere with annexations. The Town’s draft JPA map was presented to the County in November of 2000 and it has not changed. She said the FOF policies would affect the future land use within the proposed Town of Montverde planning area. She noted that the County had put the JPA on hold, not Montverde.
- Utility providers have the right to provide utilities within their recognized service areas.
- The Policies would afford Ferndale more notice and review of proposed development than incorporated entities having JPAs with the County.
- The rural density of one dwelling unit per five acres is inconsistent with the existing zoning.
- Policy terminology is vague and many policies would be appropriate in LDRs.

Charles LaLone said JPA and utility service areas were not the same. He thought

building height should be limited to 26-27 feet. He said the higher standard of notice was important to the residents, he supported annexation agreements and thought Rt. 561A within Ferndale should be protected. He said the residents want a high standard for growth and preservation, particularly for wildlife.

Neal Singh said he had recently purchased land in the Ferndale area. The current future land use designation is Suburban but now this area has a lower proposed density. He thought the LPA should defer their decision at this time.

Robert Hamilton said he was developing a private gated community. He is currently waiting for Water Management District (WMD) approval and has preliminary County approval. He was concerned about the proposed policies protecting view sheds interfering with the gating and fencing of his development.

There was discussion on this issue including the different fence types.

Vaughn Roberts said he opposed annexation. He suggested developing language stating that the community of Ferndale opposed any annexation and that the County recognizes their position.

Clyde Roundtree said he had resided in Ferndale for a long time and that those residents were part of the County. He thought zero lot line developments had destroyed Lake County's beauty and that they were cemeteries for wildlife and natural vegetation. He said Ferndale residents do not want that type of development and they want to keep their wildlife.

Wayne Nichols, Town of Montverde, City Clerk, said the Town didn't necessarily disagree with what Ferndale wanted to do. He had reviewed the policies available prior to the meeting and didn't think it was fair if those policies were voted on at this time because they had not been available for review until now. He said Montverde does not have a history of annexation, that they were the first municipality to request a JPA and said it was the County that hadn't moved forward. He said the Town has policies similar to those requested by the FOF. He said incorporated entities such as the Town and the County have certain rights, as do property owners and said their 180 District is a legal entity. He questioned how Ferndale policies would be funded.

In response to Sean Parks' question if the major issue for Montverde was the overlapping area, Mr. Nichols said transition was another issue. During discussion on the overlap area, Mr. Nicholas said the JPA area boundary was drawn to include an area for potential development twenty five years into the future. He said some of those landowners have discussed annexation with Montverde. He thought there could be legal issues with some of these policies.

Mr. Carey referred to the LPA's earlier stated intention that no land owner rights would be adversely affected by their work and noted some issues raised by individual land owners have not yet been addressed. Mr. Sheahan said the LPA would review those land

owners requests after completion of the initial review of the FLUM.

Cindy Barrow suggested they review the policies without legal issues. Mr. Parks said he would like the residents of Ferndale to have some resolution. There was discussion regarding staff's concern that the document under consideration is not the same as the one posted on the website.

The meeting reconvened at 12:58 p.m. after a lunch break. Chairman Foley noted that there was no representative present from the City of Mt. Dora and said the LPA would proceed to hear Mr. Ray's comments.

**Lisa Rutzebeck property re: disputed FLUC
William A. Ray, AICP, Bowyer-Singleton & Assoc., Inc.**

Bill Ray, Senior Project Manager, said when the original 1993 FLUM was drawn, a mapping error occurred when a water body was not properly delineated. He said the maps he was referencing were County maps and had not been altered in any way. He described how the original maps were created with the technology available at that time. He made the following points:

- The color white was used for two future land uses; wetlands and waterbodies were designated with "white" as was "Rural Conservation."
- Wetlands and lakes were shown as closed polygons.
- Exhibit 2A showed that the eastern edge of the wetlands was not mapped.
- Exhibit 3A had an aerial overlay which showed the land use and the eastern edge of the water body.
- Exhibit 4A shows the Rt. 561 logo on the aerial map and that the land under question was not wetlands, floodplains or marginal soils and do not meet the criteria for the assigned future land use.

Mr. Ray said current mapping shows this area as uplands and because the wetland had not been shown as a closed polygon, a Rural Conservation Land Use is shown. Mr. Ray listed the criteria for the Rural Conservation land use and said this area did not meet those criteria. The 561 corridor was identified as Rural Conservation.

Mr. Parks asked if they were asking to have this area designated Transitional. Mr. Ray said they were not asking for any change to the wetlands area or the area meeting the criteria for Rural Conservation, they are asking only that the intent of the original mapping be followed.

Mr. Kelly asked about ownership and development plans for this area. He didn't think the evidence was compelling enough to change future land use in the Green Swamp. Mr. Ray said this was the only area in which the entire boundary of wetland/lake had not been designated.

Mr. Sheahan said it was staff's position that Mr. Ray had a valid argument although in his opinion it was not conclusive. He said to his knowledge there was no development

request for this area pending with the County, although he said that would not be relevant because this decision should be based on data.

Mr. Carey asked if this was all the evidence available. Mr. Sheahan said they have pretty well exhausted the County's records. In reference to Mr. Ray's comments, he said Rebecca Jetton, who had been the Department of Community Affairs' (DCAs) Green Swamp Coordinator, may have additional information if this doesn't predate her tenure with DCA.

Mr. Parks asked staff to explain how changing mapping to a digital format could have created this error. Francis Franco, Senior GIS Analyst, said it was likely an error had occurred, although they can not be absolutely sure. He said the technology available at that time could have created this type of error. He said staff could not confirm the intent of the mapping.

Mr. Schue said he did not agree with Mr. Ray's comments regarding the Rt. 561 symbol. Ms. Belflower asked Mr. Franco about an error related to the 561 logo and he said there was no land use assigned under that logo. Mr. Ray said he anticipated getting in touch with Ms. Rebecca Jetton

MOTION by Rob Kelly, SECONDED by Peggy Belflower to retain the current assigned future land use on this property.

Mr. Parks said he would not support the motion without input from Ms. Jetton. He said mapping errors do occur. Mr. Ray said the issue was that this particular symbol was not mapped as the others and an underlying land use was never mapped. Mr. Kelly disagreed and said Mr. Ray wanted them to change a 15 year old map because he represented the land owner who wanted to increase the density. Mr. Ray acknowledged he was representing a client. However, he stated that his first goal as a planner was to represent the public, and he disputed the implication that he was trying to circumvent the law or the intent of the Plan or his profession. Mr. Kelly said he was not questioning Mr. Ray's professionalism. Mr. Carey disagreed with the representation that just because someone is a paid professional that their argument is fallacious. He said he could not vote on this motion because additional facts may be available later.

PUBLIC COMMENT

Lisa Rutzebeck said she had been a real estate and development broker in Lake County for thirty years. She said when this property was purchased fifteen year ago the seller had a County letter stating that the future land use on this property was Transitional. She said they had requested timeliness studies in the past but it was only recently that they were told the future land use was not Transitional. She said in the meantime the letter had disappeared although the previous owner was willing to testify in court.

There was discussion regarding the letter Ms. Rutzebeck claimed had been sent to Mr. Ladd and the effort by staff to locate it. Ms. Barrow asked if all efforts to find this letter

had been exhausted and Mr. Sheahan said he had no personal knowledge of such a letter or a request for a copy of that letter. Ms. Barrow asked if there would be a record of the owner making a request for timeliness before a County board. Mr. Sheahan said all public meeting have minutes taken and they would be available on the County website. Ms. Belflower asked Ms. Rutzebeck if a public records request had been served on the County. Ms. Rutzebeck described her efforts to obtain a copy of the letter. Ms. Belflower said it sounded like no public records request had been served and suggest to Ms. Rutzebeck to serve a public records request to the County Attorney.

**Ms. Belflower withdrew her second.
Keith Schue seconded Mr. Kelly's motion.**

Chairman Foley and Mr. Ray discussed the criteria for the GSACSC future land uses based on soil types, topography, vegetation, floodplains and wetlands. The Transition and Ridge designations are based on natural features. The other land use designations are based on geographic boundaries, Section, Township and Range (STR) lines and the potentiometric high of the Floridan aquifer.

Mr. Schue discussed the issues surrounding the Rt. 561 symbol and the missing letter regarding the confirmation of the land use. Mr. Kelly said the prior LPA decision to not change any future land uses in the GSACSC may make his motion redundant. He thought this was a big issue, because this change could make the density one dwelling unit per acre.

Rob Kelly withdrew his motion, Keith Schue withdrew his second.

There was discussion about the land owner making a public records request for the claimed letter, and that an effort should be made to document the dates and times of the meetings referred to by Ms. Rutzebeck.

Mr. Sheahan said because the adopted future land uses are not parcel based, there may have been a determination made regarding the boundary. However, he wasn't aware of any circumstance where an entire parcel would be designated by a particular land use where it had a split future land use category (FLUC). Mr. Ray said if it was determined that a mapping error was made there would be two future land uses on this parcel. He discussed Comprehensive Plan policies allowing parcels with two land uses to blend those uses up to 1320 feet. Mr. Schue said in this circumstance the issue was the science supporting the land use. Mr. Kelly said he wanted to see the original science. Mr. Ray said there had been no field location work done at the time of the original Plan, that the boundaries were approximate and had been drawn off aerial maps.

Mr. Sheahan said Mr. Quinn from the City of Mt. Dora was not able to stay but had asked him to tell the LPA that the City appreciated their invitation, however, they made their comments in their letter. Chairman Foley questioned if the future land use was clearly understood by the City. Ms. Barrow suggested sending a letter to the City Council

explaining that particular future land use so the record would be clear.

MOTION by Cindy Barrow, SECONDED by Michael Carey to send a letter to the City Council of Mt. Dora explaining the future land use.

Mr. Parks said because this has become a sensitive issue he would like to see the letter before it is sent. There was agreement to review the letter at Monday’s LPA meeting.

FOR: Foley, Schue, Carey, Kelly, Parks, Barrow, Zaneis, Belflower
ABSENT: Jordan
AGAINST: None
MOTION PASSED: 8-0

The meeting reconvened after a short break at 2:30 p.m.

FERNDALE POLICIES

Mr. Schue suggested adding language to Objective 1.5 to support the desire of the Ferndale residents to remain in the unincorporated County and not be annexed. The annexation language in the Intergovernmental Coordination Element was discussed. Mr. Schue suggested adding annexation language to protect other communities with special planning projects and the Rural Protection Areas (RPA). The annexation language in the Future Land Use Element (FLUE) policies regarding the Rural Land Use Series was discussed. Mr. Sheahan said Ferndale will be part of the Rural Land Use Series. Ms. Barrow thought the language discussed earlier should be used, stating that the residents of Ferndale want to discourage annexation.

There was discussion about the use of “shall” as opposed to “may” and that the DCA will ask for a timeline when the word “shall” is used.

MOTION by Sean Parks, SECONDED by Cindy Barrow to accept the language as shown on the screen.

FOR: Foley, Schue, Carey, Kelly, Parks, Barrow, Zaneis, Belflower
ABSENT: Jordan
AGAINST: None
MOTION PASSED: 8-0

There was consensus with the language shown on the screen in Policy 1.5.1A, Annexation Agreements. In response to staff’s question about mapping, there was agreement to map the Ferndale area on the FLUM and the Overlay map.

There was consensus to add “office” to Item 1 in Policy 1.5.2 of the Ferndale Policies.

There was discussion on the Development Plan Approval and Community Participation policies. Mr. Cranmer thought it was important to obtain information on proposed projects and changes to regulations that would affect their community, so the community

could make their opinions known before it is too late. He said they had made these additional requests because most citizens were not aware of public notices.

There was discussion about increasing public awareness of development proposals, and how to notify the public after staff has had an opportunity to review the applications. Mr. Sheahan suggested increasing the timeline on notice for all applications, and said the application form could be placed on the County website when it was determined to be sufficient. The LPA agreed to his suggestion and there was a consensus to include similar policy for the remainder of the County.

There was discussion regarding the priority of the agenda items for Monday's meeting.

The Chair adjourned the meeting at 4:30 p.m.

Donna R. Bohrer
Public Hearing Coordinator

Keith Schue
Secretary