

## MINUTES

### Levy County Planning Commission

August 6, 2007

6:30 p.m.

The Levy County Planning Commission was called to order Chair Thad Barber. Mr. Ron Grant was unable to attend. Other members present were:

Thomas Harper

Vaughn Lee

Toni Collins

Also present was Development Director, Mr. Rob Corbitt and Planning Assistant, Mrs. Tina Horne and County Attorney, Anne Brown.

Chair Barber called for a motion to either approve or deny the minutes from May 7<sup>th</sup>, June 4<sup>th</sup>, June 11<sup>th</sup> and July 2<sup>nd</sup>, 2007 as presented. Mrs. Collins asked that the minutes from June 4<sup>th</sup>, 2007 be tabled until the next meeting. Chairman Barber again asked for approval for the remaining minutes as presented. Mrs. Collins motioned to approve the minutes from May 7<sup>th</sup>, June 11<sup>th</sup> and July 2<sup>nd</sup>, 2007. Mr. Lee seconded the motion. All members voted "aye." Motion carried.

Chair Barber called for the board to disclose any ex-parte communications related to the petitions being presented. There were none.

Chair Barber then called for anyone giving testimony for the petitions listed on the agenda to be sworn in by the county attorney. Attorney Brown officially swore in anyone that wished to speak or present themselves as an expert witness.

#### DISCUSSION: Planning Department

Mrs. Horne provided a form so that the board could update their e-mails. Mrs. Horne said there are times when she and Mrs. Benton has e-mailed the minutes, there has been some difficulty in everyone receiving them. Therefore in an attempt to alleviate any problems she and Mrs. Benton would like to make sure that they have the correct e-mail addresses and secondly wanted to make sure that everyone can open up the e-mail. Mrs. Horne said that Mrs. Benton and she have decided to continue sending the minutes via e-mail along with a hard copy in the packets if completed at the time of the mail out. If the minutes are not complete at that time, they will be e-mailed hopefully prior to the scheduled meeting. Mrs. Horne said that Mrs. Benton and she has asked for confirmation of receiving the e-mails in the past. Mrs. Horne said that when e-mails are sent her and Mrs. Benton was assuming they were being received, but apparently this was not always the case. Mrs. Horne asked the board if they would take a minute to send back a confirmation so that she and Mrs. Benton would know that they were received.

Mrs. Horne explained that the regular meeting for the month of September would fall on a holiday and asked for an alternative date. Mrs. Horne also explained to the board that

they would need to continue with the EAR workshops and the plan was to start reviewing the Future Land Use Maps and Municipal Service District Maps. Mrs. Horne stated that the new planner would not be available for the workshops but Bruce Day from the Withlacoochee Planning Council would attend and assist with the meeting. The board agreed to schedule the next regular meeting to include the beginning of the EAR workshop after the regular meeting on Tuesday, September 11, 2007 and to continue the EAR Workshop on Tuesday, September 25, 2007.

Chair Barber asked Development Director, Mr. Rob Corbitt to begin with his items.

#### TABLED BUSINESS:

**PETITION NO. CZ 2-07** Croft Land Surveying representing L.R. Boyette, petitioned the board for a Change of Zoning from "A/RR" Agriculture/Rural Residential (minimum parcel size 10 acres) to "RR" Rural Residential (minimum parcel size 3 acres), on a parcel of land located in Sections 19 and 20, Township 12S, Range 14E. Said parcel contains 245.69 acres more or less.

Mr. Jason Murphy of Croft Land Surveying, representing the applicant was present to discuss this petition.

Mr. Corbitt stated that this application was pursuant to LSA 07-05. Mr. Corbitt said that this application was heard by the Planning Commission approximately one month ago and was forwarded to the BOCC with a recommendation of denial. Mr. Corbitt stated that the board at their public hearing voted to transmit to the DCA.

Mr. Corbitt presented his staff report. Mr. Harper asked Mr. Corbitt if he based the compatibility of the change of zoning on the previous LSA (Large Scale Amendment) application. Mr. Corbitt stated that he based the compatibility factors on the fact that there are at least four other subdivisions that have tracts of equal to or larger in the general area. Mr. Corbitt explained that this petition would not be heard by the BOCC until and unless the objections, recommendations and comments are received from DCA. The application will then be addressed by the board who then could adopt the Large Scale Plan Amendment and then hear the Change of Zoning.

Chair Barber asked for anyone in support or opposition to the petition. There were none.

#### QUESTIONS:

Jay Bushnell asked why the public was required to be sworn in at the Planning Commission meeting and not during BOCC meetings. Attorney Brown explained that an LSA is a legislative decision which does not require the public to be sworn in and this particular application is quasi-judicial which does require swearing in. Mr. Bushnell asked if the general public had the opportunity to participate in the future land use process and when will it take place. Mrs. Collins stated that the general public would be able to participate all throughout the process. She further stated that notification will be done and she hoped that he and many others will participate.

Annette Long asked what would happen if the Planning Commission voted to approve the application and the DCA had issues that the applicant would not be willing to address. Attorney Brown stated that it would always be subject to land use amendment. Attorney Brown briefly explained the process. Mrs. Long inquired on the percentages of small parcels versus large parcels. Mr. Corbitt stated that he did not have that information available.

Chair Barber closed the floor to discussion.

#### **ISSUES OF CONCERN:**

Mr. Harper stated that he did not think the proposed change of zoning would be consistent with the Comprehensive Plan.

After all discussion Chairman Barber called for a motion to this item. Mrs. Collins motioned to recommend denial to the Board of County Commissioners. Mr. Harper seconded the motion; motion carried. Chair Barber, Mrs. Collins and Mr. Harper voted "aye." Mr. Lee voted "ney." Motion carried.

#### **NEW BUSINESS:**

**PETITION NO. PP 8-07** Pardue Land Surveying representing R.D. Skelton and Ron St. John, petitioning the board for a Preliminary Plat of "**Lazy Oaks**," a subdivision located in the NE 1/4 of the NW 1/4, and the N 1/2 of the NE 1/4 of Section 19, Township 12S, Range 14E, in Levy County. Said parcel contains 117.03 acres more or less and is located within an "A/RR" Agriculture/Rural Residential zone.

Mr. Matt Munksgard of Pardue Land Surveying, representing the applicant was present to discuss this petition.

Mr. Corbitt stated that the proposed plat consisted of twelve lots ranging from a net 9.41 acres to 9.38 acres all fronting a paved road. Mr. Corbitt also stated that the applicant will subsequently be asking for a Variance from the block length.

Mrs. Collins noted that the application was for 156.5 acres (consisting of two parcels) and that the drawing indicated that the back 40 was divided off. Mrs. Carolyn Skelton explained that the application was for only a portion of the two parcels. Mr. Corbitt explained that prior to going to the board it will be corrected on the application to reflect a portion of one of the parcel numbers addressed on the application.

**PETITION NO. SVA 6-07** Pardue Land Surveying representing R.D. Skelton and Ron St. John, petitioning the board for a Subdivision Variance from Section 50-577 (4) (b) Block Length, on a parcel of land located in the NE 1/4 of the NW 1/4, and the N 1/2 of the NE 1/4 of Section 19, Township 12S, Range 14E, in Levy County. Said parcel contains 117.03 acres more or less and is located within an "A/RR" Agriculture/Rural Residential zone. (Lazy Oaks)

Mr. Matt Munksgard of Pardue Land Surveying, representing the applicant was present to discuss this petition.

Mr. Corbitt stated that the preliminary plat of "Lazy Oaks" received a recommendation of approval from the Plat Review Committee.

Chair Barber asked for anyone in support of or in opposition to the petition. There were none.

Chair Barber closed the floor to discussion.

After all discussion Chairman Barber called for a motion on the Variance. Mr. Harper motioned to recommend denial of the subdivision variance as presented. Mrs. Collins seconded the motion. Mr. Harper, Mrs. Collins and Chair Barber voted "aye." Mr. Lee voted "ney." Motion carried.

After all discussion Chairman Barber called for a motion on the Preliminary Plat. Mr. Lee motioned to recommend approval of the preliminary plat as presented. Motion died for lack of a second. Mrs. Collins motioned to recommend denial of the preliminary plat of "Lazy Oaks" as presented. Mr. Harper seconded the motion. Mrs. Collins, Mr. Harper and Chair Barber voted "aye." Mr. Lee voted "ney." Motion carried.

Five minute break at 7:40 p.m., reconvene at 7:45 p.m.

**PETITION NO. SE 6-07** Tarmac America, LLC representing Plum Creek Timberlands, LP, petitioning the board for a Special Exception to allow a major mining operation to be considered in two Phases. This application being Phase I, to allow certain accessory uses in preparation for future major mining operations (limerock mine) on land adjacent to, and surrounding the test pit approved via SE 3-05, on a parcel of land located in the N ½ of the NE ¼, in Section 15, Township 16S, Range 16E, in Levy County. Said parcel contains 17.32 acres more or less and is located within an "F/RR" Forestry/Rural Residential zone.

Mr. Corbitt presented his staff report.

Mr. Jake Varn of Fowler White was present to represent Tarmac America, LLC. Mr. Varn explained that the request for the Special Exception was for the reconstructing/assembly of a drag line on a 100' x 100' slab. Mr. Varn explained that the major component of this project is the "tub" which requires continuous welding until the weld becomes complete. Mr. Varn said that the welding may take five to six weeks, 24 hours a day on a continuous basis.

Chair Barber asked for anyone in opposition to the petition. There were none.

Chair Barber asked for anyone in support. Mrs. Levaughn Robinson stated that she supported the project and was not affected by any noise, etc.

After all discussion Chair Barber called for a motion to this item. Mr. Harper recommended approval of the Special Exception to the Board of County Commissioners

subject to the conditions set forth by staff and subject to condition # 8 being modified. Mrs. Collins seconded the motion. All members voted “aye.” Motion carried.

**Staff Conditions with modification of # 8**

1. The approval of the Special Exception Use Permit is for the refurbishing of a large drag line consistent with the submitted site plan, and includes electrical service and the necessary support structures for employees and equipment as indicated on the submitted site plan.
2. Tarmac America, LLC (a.k.a. Titan America, LLC) acknowledges and agrees that Levy County’s approval of this “Special Exception” application for **Phase I**, in no way confers onto them or their assigns, any rights or privileges regarding future actions or approvals by Levy County that will be required in order to develop a limerock mine with a “Special Exception” application for **Phase II** on the subject property, adjacent property, surrounding property or any other property within unincorporated Levy County. Further, Tarmac America, LLC (a.k.a. Titan America, LLC) acknowledges and agrees the approval of this application for the requested accessory uses identified in the application for **Phase I** in no way acts to vest the applicant to any future uses of the property related to Major Mining, nor does it constitute an event or action by the County upon which a claim of equitable estoppel can be made.
3. The applicant shall be responsible for any damage to the publicly maintained portion of King Road caused by the accessory uses allowed by this “Special Exception” for Phase I, including but not limited to: the transport and set-up of mining equipment, traffic generated by equipment maintenance or employees reporting to or from work. The applicant shall comply with any access improvements deemed necessary or required by rules of the FDOT or Levy County Road Department.
4. Tarmac America, LLC (a.k.a. Titan America, LLC) acknowledges and agrees that Levy County’s approval of the use of King Road for transport and set-up of the large drag line, other equipment necessary to refurbish and assemble the large drag line, equipment maintenance and employee traffic associated with this “Special Exception” in no way confers onto them or their assigns, any rights or privileges regarding future actions or approvals by Levy County that may be required in order to develop a limerock mine on the subject property, adjacent property, surrounding property or any other property within unincorporated Levy County. Further, Tarmac America, LLC for the requested accessory uses identified in the application for **Phase I** in no way acts to vest the applicant to any future use of the public portion of King Road as related to any future application for Major Mining, nor does it constitute an event or action by the County upon which a claim of equitable estoppel can be made.
5. The applicant is prohibited to engage in any mining operations unless and until an application for Major Mining has been processed and approved by the Board of County Commissioners for **Phase II, Major Mining Operations** on the subject property, adjacent property, surrounding property or any other property in Levy County.

6. Tarmac America, LLC (a.k.a. Titan America, LLC) shall obtain any and all necessary permits from any affected state agency necessary for the development of the work yard and the sandblasting and painting of any equipment.
7. Tarmac America, LLC (a.k.a. Titan America, LLC) shall pursue with due diligence the state and/or federal permits or approvals necessary for their large scale mining operation. Tarmac America, LLC (a.k.a. Titan America, LLC) shall submit a completed application for the Special Exception Use Permit required to perform major mining operations on the subject property, adjacent property, surrounding property or any other property located within unincorporated Levy County on no later than January 31<sup>st</sup>, 2009, **or** within 90 days of the issuance of the state and/or federal permits required for the proposed large scale mining operation on the subject property, adjacent property, or surrounding property.
8. Days and hours of operation shall be 7:00 a.m. to 7:00 p.m. Monday through Saturday, excluding Federal Holidays. **Exception:** Welding operations that require continuous work efforts to affect the desired results, such as those that are required for the assembly of the tub (i.e., the main body of the drag line on which the cab or turret rests).

#### OTHER BUSINESS:

Ordinance for a proposed amendment to Chapter 50, Levy County Land Development Code to revise Section 50-676 (former 50-776), and to create new section relating to criteria and standards for special exceptions for electric generating facilities, and to amend other related sections for definition of essential public utility and extend length of time for permits for temporary asphalt and concrete plants.

Mr. Corbitt stated that the board members were provided the latest copy of the code changes that have been requested by both staff and Progress Energy. Mr. Corbitt stated that Progress Energy had a slide show presentation for the proposed amendment to Chapter 50, of the Land Development Code.

Present to discuss the ordinance amendment were Mr. Roger Simms, Mr. Greg Beauchamp, Gail Simpson, Rose Fagler, Suzanne Ennis, Ethel Hammer and Tom Ashburn.

Mr. Simms gave a brief introduction regarding the Land Development Code Text Amendment for electric generating facilities as a special exception.

Mrs. Hammer (land use planner) stated that the amendments being requested are to allow electric generating facilities as a special exception in the F/RR district. In summary Mrs. Hammer stated that the proposed text amendment will create a new special exception for electric generating facilities in the F/RR district only. The proposed special exception criteria and standards have been modeled on existing Levy County requirements. The proposed amendment will modify definitions and other provisions consistent with the new special exception criteria. The text amendment will create an extensive, site specific, public hearing review process to evaluate in full detail the impacts and mitigation design

features of a proposed electric generating facility. And the proposed amendment will be consistent with the Comprehensive Plan.

Chair Barber asked for anyone in support of or in opposition to the petition. There were none.

Mrs. Annette Long asked if Progress Energy would be required to have all state and federal permits prior to construction beginning. Mr. Corbitt said yes, that all state and federal permits will be required prior to construction.

Chair Barber closed the floor to discussion.

After all discussion Chairman Barber called for a motion to this item. Mrs. Collins motioned that the proposed amendment to Chapter 50 of the Levy County Land Development Code revise sections 50-1 “Definitions,” 50-776 “Use Regulations,” 50-938 “Open Space,” 50-996 “Temporary Uses” and to create a new Section 50 related to special exceptions for electric generating facilities. And finding that it is consistent with the Comprehensive Plan and recommends approval. Mr. Harper seconded the motion. All members voted “aye.” Motion carried.

Mr. Harper stated that in lieu of the LSA’s that have been recently approved for transmittal and their inconsistency with the Comprehensive Plan, he has taken the liberty to speak with his commissioner and asked if the other board members have done the same. Mrs. Collins said that a long time member of the board once told her not to become discouraged when the board did not agree with the vote of the Planning Commission, because frequently they see the larger picture. Mr. Harper said he was asking if the vision of the comprehensive plan was to promote a more intense development outward from the cities. Mr. Corbitt said that there was a questionnaire sent out so that the board could accurately weed through and define what exactly is the vision for Levy County. Mr. Corbitt stated that as far as he knew, it was not complete and that he has not seen it. Mr. Corbitt also stated that in his opinion, the vision has not changed.

There being no further business for the Levy County Planning Commission, the meeting was adjourned.

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Chairman