



GADSDEN COUNTY BOARD OF COUNTY COMMISSIONERS
PLANNING COMMISSION MEETING & PUBLIC HEARING
MINUTES

Thursday, May 14 , 2015

06:00 PM

Board of County Commissioners Meeting Room
7 East Jefferson St
Quincy, Florida

Present: Commissioner Regina Davis, At - Large Member, Chair
Commissioner Dr. Gail Bridges – Bright (arrived late)
Commissioner John Youmans
Commissioner Gerald McSwain
Commissioner David Tranchand
Commissioner Frank Rowan
Commissioner William Chukes
Commissioner Edward J. Dixon
Commissioner Marion Lasley
Commissioner Roger Milton, School Board Representative
David Weiss, County Attorney
Jill Jeglie, Principal Planner 11
Beryl H. Wood, Deputy Clerk

Absent: Commissioner Mari VanLandingham
Commissioner Malcolm Carter
Allara Gutcher, Planning & Community Development Director

1. PLEDGE OF ALLEGIANCE

Chair Davis called the meeting to order at 6:00 p.m. with a quorum and led in the Pledge of Allegiance to the U.S. flag.

2. INTRODUCTION OF MEMBERS/ROLL CALL

Each member present stated his or her name, district for which they are appointed for the record.

3. DISCLOSURES AND DECLARATIONS OF CONFLICT

There were no disclosures and declarations of conflict noted.

4. AMENDMENT OF AGENDA: (Addition of Election of Vice – Chair)

Chair Davis said she would like to add to the agenda the discussion of an election of a Vice – Chair.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER CHUKES, THE COMMISSION VOTED 9 - 0, BY VOICE VOTE, FOR THE ADDITION OF THE DISCUSSION OF A VICE – CHAIR TO 7B OF THE AGENDA.

5. PUBLIC HEARING (QUASI-JUDICIAL) Comfort Creek and Cottages of Comfort Creek Easement Vacation (VAC-2015-01) (Legislative) – A corrective action requesting that Gadsden County vacate conservation and drainage easements in the Comfort Creek and Cottages of Comfort Creek Minor Subdivisions.

Ms. Jeglie was sworn by the deputy clerk. She said that Penny Jane, LLC and Comfort Creek-Gadsden, LLC, the property owners, represented by Elva L. Peppers, Florida Environmental & Land Services, Inc., as agent; request approval of a petition to vacate conservation and drainage easements dedicated to Gadsden County pursuant to ‘Vacation of Rights-of-Way and Public Easement’, Subsection 7404, Gadsden County Land Development Code (LDC).

The easements are located over parcels approved as Comfort Creek Phase I and Cottages of Comfort Creek Phase I Minor Subdivisions (MSD), located on the north side of terminus of Reynolds Road at Lake Talquin, and as described by tax parcel identification numbers 5-0L-OR-0S-0000-20100-0100, 5-0L-OR-0S-20100-0200, 5-0L-OR-0S-20100-0300, 05-0L-OR-0S-20200-0300.

On April 5, 2006, a conceptual plan was approved for Comfort Creek Phase I and Phase II. The conceptual plan was for fifty-four (54) lot, clustered subdivision approved a reduction in lot size from the minimum five (5) acres required in Agricultural 1 to two (2) acres. In order to receive this reduction in lot size, 50% (227±acres) of the total 441± acres was to be preserved in conservation easement granted in favor of the County and dedicated by plat or deed restriction (Sub. 4103). A portion of the conservation easements are located over parcels to be owned by the Home Owners Association

(HOA) and the rear of lots. The conservation areas were to be undisturbed with the exception of recreational trails and a common (shared) boat house and dock with parking located on a Tract north of Tract C of Phase I. A variance (V-2006-01) to the maximum cul-de-sac length was granted.

Phase 11 has expired and is not owned by the applicants. Phase 1 of Comfort Creek MSD and the Cottages of Comfort Creek MSD were approved but not completed (Attachment #2). The roadway and stormwater facilities were not completed until 2014. Conservation and drainage easements were recorded in favor of the County prior to acceptance. The MSD approvals were extended due to the economic decline, foreclosure, and change of ownerships. The present owners are in the process of completing the subdivisions.

Analysis:

The approved Conceptual Plan required dedication of the 50% conservation area in an easement in favor of the County (Attachment #3). The original developers should have received BOCC approval to accept the easements prior to recording them. The drainage easements were always to be privately dedicated in favor of the HOA for maintenance. Since Phase 11 has expired and is under separate ownership, the roadway, conservation areas and drainage will only serve the MSD. Provided the vacation is granted, the conservation and drainage easements are to be recorded in favor of the HOA for each subdivision, as applicable. The conservation is to be owned by the HOAs (Attachment#2).

There is no benefit to the County to accept the easements. Access to the conservation easement is only for subdivision property owners. As recorded, it can be argued, that the County has accepted responsibility for the easements.

Financial Analysis

There is no financial benefit to the County.

Vacation of Rights –Of- Way and Public Easements (Subsection 7404)

The following apply to the consideration of the vacation of a public easement;

- A. Vacation Criteria: A proposal to vacate a right-of-way, plat, easement or other public place shall be conducted under the Type IV procedure with supplements or modifications required to comply with State law. A proposal to vacate a right-of-way, easement or other public place shall be filed on the appropriate application to the Board of County Commissioners. The County Commission shall make affirmative findings on the followings on the following criteria if the vacation is to granted:
1. The proposal is consistent with the Comprehensive Plan.
 2. The public interest will not be compromised by the vacation.
 3. The vacation will not prevent any property from having access to a public right-or way.
 4. The market value of abutting properties may not be substantially reduced without the consent of the owners of the affected properties, or unless provisions have been made to pay damages.
- B. Conditions Attached to Vacation: The following reservation or conditions may be attached to the approval of the vacation:
1. Retention of an easement for a public utility or other public service facility.
 2. Construction or removal of a County or other public service utility.
 3. Re-platting in or abutting the area to be vacated.
 4. Other matters related to any of the following:
 - a. The area to be vacated.
 - b. A remaining or relocated street area within or adjacent to the vacated property.
 - c. An area dedicated or reserved as a condition of the vacation.

She said the Planning & Community Development Staff finds that the vacation request complies with the criteria of Subsection 7404, as follows:

1. The proposal is consistent with the Comprehensive Plan.
2. The public interest will not be compromised by the vacation.
3. The vacation will not prevent any property from having access to a public right- of-way.
4. The market value of abutting properties may not be substantially reduced without the consent of the owners of the affected properties, or unless provisions have been made to pay damages.

Commissioner Lasley had various questions for Ms. Jeglie, she and Mr. Tranchand also voiced the maps supplied was too small to read.

Commissioner Dixon asked what benefit it would be to the county. Who is bringing it forward? The intention was never to turn over to homeowners. The access and property around is his concern.

Ms. Jeglie responded the County would not incur the cost of any maintenance, other than that, nothing else would change. As far as the deed, it never came to the county to for recording. They've discovered this since trying to finalize documents. She said this is a policy decision.

Commissioner Tranchand inquired does this property generate taxes?

Ms. Jeglie stated the easements, not the tracts. Right now it is the property owners that are responsible for the taxes.

Elva Peppers, sworn by the deputy clerk stated neither is a sub-division yet, it is still agricultural land. She said it was not platted, both are minor subdivisions. They are trying to wrap up because the previous owners went default and it resulted in a half built sub-division, it never went to final plat. The Conservation and the Drainage Easements are in favor of the County and it should be changed to the Homeowner's Association (HOA). The County benefit is not to have the expense of maintaining Conservation Easement. She said the Conservation Easements that are there will be there because; they are required at the point of the final subdivision.

Commissioner Dr. Bridges – Bright arrived at 6:19 pm to the meeting.

Commissioner Lasley said she had no problem with the drainage being transferred to the HOA. She asked did it exist. Is it possible to put a statement in, to preserve the conservation?

Ms. Peppers said the HOA does exist. She said they are right at the end and everything has to come together at once. She said this was one piece of the puzzle that the Planning Department wanted to straighten out. We do have an HOA in existence however; they are not responsible for anything yet because there is no subdivision until this is final. It is a legal entity that is doing nothing at this point.

Mrs. Lasley said is it possible to insert something so things won't be built on the conservation.

Ms. Peppers stated it was a Conservation Easement so there are specific rules where there are no cutting of trees and extensive list of items that aren't allowed.

Mrs. Lasley commented that information would have been helpful if it (Exhibit B of the Conservation Easement) had been included in their packets.

Ms. Jeglie read Exhibit B: Limitation on Conservation Easement Areas – Conservation Easement Areas is intended to provide habitat retention and natural open space. They are specifically protected by the Comprehensive Plan and the Land Development Code and certain permit approval and pre-permitting conditions. Lakefront Conservation Areas are also required to maintain overland flow, filtering of runoff between the development areas while providing for recreational views and enjoyment of the aquatic environment.

The following are prohibited activities in all Conservation Easement Areas created to compensate for clustering or created as part of the subdivision process to provide open space unless proposed clearing activity is specifically permitted to provide user base recreation and amenities.

1. Construction of residential buildings, sheds, garages, boat houses and other detached or free standing structures.
2. Dumping of trash, waste, construction materials, soils or other substance or material as landfill vehicles, or any other unsightly or offensive material.
3. Removal or destruction of trees except as approved by the Gadsden County Forester or its assigns, as recommended fire maintenance. Said preventative or restorative fire maintenance should be approved in writing by the County Forester and copies sent to the Growth Management Department, which is now Planning and Community Development.
4. Hand thinning of seedlings, underbrush and saplings is permitted to maintain recreational pathways.
5. Excavation, dredging, or removal of lone peak gravel, rock, soil or other material substance in such matter as to affect the surface.
6. Surface use, except for maintenance and access purposes, which are reasonable and necessary to affect inspection and recreation to implement and to implement best

management practices on the property. All access and excess paths or structures shall be subject to prior approval of Grantee.

7. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habit preservation.
8. Acts or uses that are detrimental to preservation of land or water areas.
9. Acts or uses detrimental to preservation of the structural integrity or physical appearance of sights or properties of historical, architectural and archeological or cultural significance. For Lake Front Conservation areas the following exceptions or additional conditions apply to lake front conservation areas:
 1. Boardwalks and pathways maybe installed to provide access.
 2. One small lawn area, not greater than 50 ft. in width, maybe installed between housing and lakefront provided that silk fencing or hay bales be installed as deemed necessary uphill of the high water line prior to disturbance. Said erosion control devices shall remain in place until the new growth is well established.
 3. Erosion control barriers shall be installed and maintained downhill from any residential or nonresidential development adjacent to any lake or flowing stream.
 4. Removal or destruction of trees larger than 8 inches in diameter measured at breast height shall be prohibited. Any removal of trees must be done by felling in place by hand tools. No tree thinning equipment larger than a hand portable chainsaw permitted. Harvesting equipment, whether track or tire mounted is not prohibited.
 5. FDEP permitted bulkheads, dock, and over the water boat houses are permitted.
 6. No deck or planked structure wider than 4 ft between the railings shall be installed.
 7. Structures existing at the time of the conservation easement recording included boat landings, bulkheads and docks are allowed to remain and be maintained.

Violations of the above may result in fines and penalties of up to \$500 per day as allowed by the Code of Ordinances of Gadsden County particularly grievance offenses may be referred to the Florida Department of Environmental Protection for additional enforcement or preemptive action.

Commissioner Dixon asked Ms. Jeglie to show County Easements on the map.

Ms. Jeglie said the Easements go over the tracts and lots.

Commissioner Tranchand asked are there homes out there now.

Ms. Jeglie stated the road is paved as a minor road. It was not required as a minor to be paved. There are no homes and the storm water is in place with approval for the system.

Commissioner Tranchand inquired about the deed restrictions and how property owners can use the property.

Ms. Jeglie said at this moment the lots aren't recorded.

Commissioner Youman asked once this is approved through the HOA, what will stop them in 2-3 years from seeking variance and be able to use the property.

Ms. Peppers said it's a Conservation Subdivision, the plat shows where the easements are. They are locked in place until the Conservation Easement is taken out of place.

Ms. Jeglie said they can reference Conservation Easement and they can put the legal description on each lot of the Conservation Easement.

Ms. Peppers said the Conservation Easement has a list of restrictions. She said the Conservation Easement is recorded unless it is removed and it can't be removed because it is a part of the subdivision requirements that it is in a Conservation Tract.

Commissioner Dixon stated he was not comfortable in what they are saying and what's being presented.

Attorney Weiss said that Conservation Easements typically are granted in perpetuity, that's the nature of a Conservation Easement. The land is also tax exempt and they can only be granted to certain entities. He said he was not sure if a HOA could accept a Conservation Easement. He said there is not a real problem with the County keeping the Conservation Easement if that's what you would like to do. The Drainage Easement is another story, I don't think the County wants to have a Drainage Easement for property it doesn't have any right - of - way. The County doesn't want to have any responsibility for the maintenance of the drainage in this private subdivision.

Commissioner Lasley voiced her concerns dealt with open space and conservation area on some of these lots. She said it would be real hard to protect. She asked if they do away with the clustering concept in the Code are these lots still going to remain Ag 1 in which case they are basically one house per 5 acres.

Ms. Jeglie said if the subdivision is finalized and recorded then it will remain as it is recorded. Phase 2 is under different ownership and that has expired and they have not extended it. If the owners of that property were to come in, they would have to come in under whatever Codes are in effect.

Commissioner McSwain asked had the applicant met all requirements.

Ms. Jeglie said the applicant has not recorded the subdivision prior to approval with the County they would need to be in compliance

Chair Davis asked for public comment and there was none.

Commissioner Chukes asked who would police easements.

Ms. Jeglie said the HOA.

Commissioner Dixon asked if it has no financial impact or impact period, why do it.

Chair Davis pointed out there where now 3 options, with the 2 listed approvals as stated, Denial and the last option of vacation of drainage easement only and keeping the conservations in the County.

Ms. Jeglie said the reason you are seeing this as a vacation is that if this particular property owner had owned the property in the beginning they would have come through this process to ask the County to accept it or not. While we are calling it a vacation, they are actually doing this to bring it through the process to see if the County wants to have the easement.

UPON MOTION BY COMMISSIONER TRANCHAND AND SECOND BY COMMISSIONER DR. BRIDGES – BRIGHT, THE COMMISSION VOTED 10 – 0, BY VOICE VOTE, FOR APPROVAL OF OPTION 3: VACATION OF DRAINAGE EASEMENT ONLY.

- 6. PUBLIC HEARING (Quasi-Judicial) – Cross Academy Charter School Variance (VA -2015-02)** – A public hearing to consider a variance request to Subsection 5404.C.2 Tree Protection Areas for the Crossroads Academy.

Ms. Jeglie, who had already been sworn, read comments into record. The Community and Economic Development Organization (CEDO), the property owner, represented by Al Gunn; and, Brad Begue of Barkley Consulting Engineers, Inc., as agent; request approval of a variance

to 5404.C.2 Tree Protection Area of the Gadsden County Land Development Code (LDC) to allow the removal of three (3) protected trees (20' or greater at diameter at breast height (dbh) to allow the expansion of the Crossroads Academy Charter School located at 470 Strong Road (Tax Parcel I.D. #3-20-2N-3W-0000-00221-0000) (Attachments #1 and #3). Upon approval, this variance repeals Final Order 2014-01.

At the May 15, 2014 public hearing, the Planning Commission voted to approve the Crossroad Academy Charter School Expansion Site Plan (5-4) contingent on the applicant demonstrating compliance with conditions and the requirement that the applicant obtain a variance for the removal of six (6) protected trees. A variance was granted by the Board of County Commissioners on August 5, 2014. The applicant chose not to proceed to the Board for site plan approval.

The applicant has submitted a redesigned site plan that relocates the proposed gymnasium and high school from the western side of the property to the eastern side. The stormwater pond has been reconfigured to eliminate the necessity of a proposed retaining wall. The total building area has been reduced from 61, 951 sf. to 57,550 sf.

Commissioner McSwain asked had the criteria been met.

Chair Davis said all conditions have been met.

Commissioner Tranchand said this makes more sense than the last application presented by the applicant.

Chair Davis called for public comment.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER TRANCHAND, THE COMMISSION VOTED 10 – 0, BY VOICE VOTE, TO APPROVE OPTION 1 AS STATED BELOW:

OPTION:

1. Recommend that the Board Chair sign Variance Resolution #V-2015-02 (Attachment #5) to approve the Crossroads Academy Charter School Variance Request (V-2015-02) from Subsection 5404.C.2 to allow the removal of three (3) protected trees totaling 81" at dbh with the following conditions and to repeal Final Order V-2014-01:
 - d. As proposed by the applicant, eighty-one (81") caliper inches of trees will be replanted in the required buffer; and,

- e. All plantings will be those naturally occurring in Gadsden County and evergreen as necessary to meet the 70% opacity and the 100% opacity and six (6) foot minimum height within three (3) years as required by Subsection 5302 of the LDC; and,
- f. Replacement trees shall be maintained by the property owner for at least two (2) years after the issuance of a certificate of occupancy as required by Subsection 5404 of the LDC.
- g. Provide written authorization from Community Economic Development Organization (CEDO) (property owner) that Al Gunn is now the legal representative.
The Planning Commission adopts the findings presented by the Planning & Community Development Department and the applicant's agent as demonstrated compliance with all the criteria of Subsection 7301.C of the LDC.

6. PUBLIC HEARING (Quasi –Judicial) – Crossroad Academy Expansion Site Plan (SP-2015-02) (Quasi-Judicial) – A public hearing to consider a site plan for the phased expansion of the charter school.

Ms. Jeglie read comments into record, her sworn testimony stated that the property owner, Community and Economic Development Organization of Gadsden County, Inc. (CEDO), represented by Al Gunn, Crossroad Academy Charter School, applicant; and Brad Begue, P.E. with Barkley Consulting Engineers, Inc. has requested and submitted for conceptual/preliminary site plan as described below;

- The subject property is located at 470 Strong Road, on the southwest side of the intersection of Strong and Frances Kelly Roads, 2100± feet east of Highbridge Road (CR 268) (Tax ID #3-20-2N-3W-0000-00221-0000) (Attachment #1).
- The proposed site is located on 12.29± acre parcel within Urban Services Area (5:1) future land use category. (Attachment #1).
- The applicant requests consideration of approval for a conceptual/preliminary site plan (Class 20 for the phased expansion of the existing school. Phase I will include a 12,150 square foot (sf.) gymnasium, 12, 568 sf. High school, an expansion of the existing stormwater pond and system, a bus loop on to Frances Kelly Road, reconfigured driveways and a parking lot; Phase 2 will include a 2,280 sf. Music room and a 3,200 sf. Pre-k building (Attachment #2).
- In 2007, the Board granted a variance to reduce the sidewalk requirement to require a sidewalk only on Strong Road to Frances Kelly Road (V-2009-03).

- On May 15, 2014, the Planning Commission recommended approval (5-4) of a site plan to expand Crossroad Academy. This plan was never revised to be heard by the BOCC. This site plan replaces the 2014 plan.
- On September 2, 2014, the Board granted a variance to allow the removal of eight (8) protected trees (V02014-01). Variance application (V-2015-02) requests only three (3) protected trees to be removed and repeals Final Order V-2014-01.

Chair Davis asked about suggested modifications.

Commissioner Dr. Bridges -Bright questioned the signage.

Mrs. Jeglie said they had not yet requested a variance for the signage.

Commissioner Lasley said the neighbors should not have to hear the dumpsters being dumped when Waste Management does their route. Other concerns mentioned were lighting, traffic and signage.

Ms. Jeglie said the adjacent land use is Industrial.

Mr. Begue said all public traffic is off of Strong Road. He said the loop on Frances Kelly Road is designated only for buses, not open to the public. He said as far as the adjacent residents, he said they intend to plant heavily in between the gymnasium and the residents to provide opacity so that headlights aren't shining into people's windows. The area with dumpster would remain where it is so, that it could be easily accessible to Waste Management, they are able to use the loop.

Commissioner Dixon asked why they are making the school jump through hoops over trees.

Chair Davis called for public comment and there was none.

UPON MOTION COMMISSIONER DR. BRIDGES –BRIGHT AND COMMISSIONER LASLEY, THE COMMISSION VOTED 10 – 0, BY VOICE VOTE, FOR APPROVAL OF OPTION 1: THE CROSSROAD ACADEMY CHARTER SCHOOL EXPANSION CONCEPTUAL/PRELIMINARY SITE PLAN (SP-2015-02) CONDITIONED ON DEMONSRTATION OF THE COMPLIANCE WITH THE LDC AS INDICATED IN PART C ABOVE AND THE APPROVAL BY THE BOARD OF CONTY COMMISSIONERS OF A VARIANCE TO REMOVE THE PROTECTED TREES.

7. PUBLIC HEARING (Legislative) – Transmittal of the Future Land Use Element (CPA-2015-01) – Recommended transmittal of the Final Draft of Goals.

Ms. Jeglie read comments into record. This hearing is required to offer a recommendation to the BOCC for the transmittal of the revised Future Land Use Element (FLUE) to the Department of Economic Opportunity for review as a more concise, understandable and defensible document which will provide certainty regarding the allowable development within each land use category, and to the future growth of Gadsden County.

Commissioner Lasley said there was no change to the mining language.

Public comment

Ed Allen of Lake Talquin said he was having a problem with the Planning Director and mining lobbyist making decisions on the Mining Policy. He voiced his recommendations opposition on the Ear Amendments on which he provided the Commission with a handout on FLUE Policy 1.15.

Darrin Taylor, 215 S. Monroe St. Suite Sec. Tallahassee, FL 32302 stated they are in support of the language that is before you and asked that it move forward.

Larry Ganus 2174 Frank Smith Rd, referenced typos are on page 13 and 15, second paragraph under item number a, the fourth line down (should read **converted to** a lift station) and on page 15 item b, next to the last line (should read importance of protecting environmental resources on **or** in close proximity, instead of **an**.) He also noted the map amendments weren't on county website.

Chair Davis suggested Mr. Taylor along with Staff and the Commission said look at this and make sure this is what they want mining that which is listed.

Ms. Jeglie said they wouldn't hold anything up if they chose to table.

Commissioner Tranchand voiced they need the minutes from last meeting or draft copy from now on.

Deputy Clerk Wood said she would provide a draft copy and they could also visit the Clerk's website for audio and notes. She explained the Director has a policy in place for the minutes, where she reviews before placing on the agenda, which will result in a delay at times, depending upon the length of the meetings.

UPON MOTION BY COMMISSIONER DIXON AND SECOND BY COMMISSIONER TRANCHAND, THE COMMISSION VOTED 10 – 0, BY VOICE VOTE, TO TABLE THIS DISCUSSION TO THE NEXT MEETING.

7b. Vice – Chair (Election)

Chair Davis asked for nominations for the Vice – Chair position that had to be vacated by former Commissioner Edward Allen due to illness.

Commissioner Dr. Bridges – Bright nominated Commissioner Dixon and it was seconded by Commissioner McSwain.

UPON MOTION BY COMMISSIONER DR. BRIDGES – BRIGHT AND SECOND BY COMMISSIONER MCSWAIN, THE COMMISSION VOTED 10 – 0, BY VOICE VOTE, VOTED COMMISSIONER DIXON AS THE VICE – CHAIRMAN FOR THE 2015 YEAR.

Commissioner Edward Dixon was voted the new Vice – Chair taking the place of former Commissioner Edward Allen.

8. Public Comment

There were no additional public comments.

9. Planning Commission Comments

There were no additional Planning Commission comments.

10. Director’s Comment

There were no additional Director’s comments.

ADJOURNMENT

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE CHAIR
DECLARED THE MEETING ADJOURNED AT 7:35 P.M.**

GADSDEN COUNTY, FLORIDA

REGINA DAVIS, CHAIR

ATTEST:

**BERYL H. WOOD, DEPUTY CLERK
For NICHOLAS THOMAS, CLERK
Gadsden County, Florida**