

**AT A WORKSHOP OF THE PLANNING COMMISSION HELD
IN AND FOR GADSDEN COUNTY, FLORIDA ON SEPTEMBER
19, 2019 AT 6 P.M., THE FOLLOWING PROCEEDING WAS
HAD, VIZ:**

Present: Libby Henderson District 3
Marion Lasley, District 5
Doug Nunamaker District 3
Lorie Bouie (arrived at 6:56 p.m.)
Tracey Stallworth, District 2

Absent: Steve Scott, School Board Representative
Regina Davis (arrived at 6:35 p.m.)
Antwon McNeill

Staff Present: David Weiss, County Attorney
Suzanne Lex, Growth Management Director
Jill Jeglie, Senior Planner
Muriel Straughn, Deputy Clerk

Chair Henderson announced the commission did not achieve a quorum. Therefore, it would proceed as a workshop only as which it would not conduct general business.

1. **Pledge of Allegiance**
2. **Introduction of Members & Roll Call**
3. **Approval of the Agenda**
4. **Disclosures and Declarations of Conflict**
5. **CHAPTER 4, Land Use Categories (Legislative) (LDR 2018-05)**

Growth Management Director Suzanne Lex noted that the definitions were distributed to the Commission at the last meeting on August 22, 2019. She recalled that the commissioners had asked her not to resend the hard copies. However, she pointed out that Attorney David Weiss had suggested some changes and she added them as an additional two pages and sent one full copy (with the additional two pages highlighted) to each of the commissioners.

She queried the commissioners to make certain that everyone had a “strike-thru & underlined” copy as well as a clean copy of the material in front of them. All members reported that they had the workshop materials.

Ms. Lex stated for the record that she sent the materials to the Web Master to be posted on the County website for the public eight days before the meeting. However technical issues with the website prevented it from getting posted. She also stated that in the future, she would ask the Web Master to make a notation on the website for the public to contact the

Planning Department when the materials are not available in the manner the County policy dictates.

Commissioner Lasley stated that the policy goals call for the material to be posted ten (10) days before a meeting.

Ms. Lex reported that a paid consultant was hired to update the Land Use Code. However, she was unable to finish the work by the end of the first year. Ms. Lex reported that the Planning Commission had given direction to staff to notate the method of approval along with the “uses” in the Code. She pointed out the references in Chapter 7 to the approval processes. (A – E have been reviewed by the Board already.)

She presented F, G, & H at this meeting.

Agriculture 1; Agriculture 2; and Agriculture 3 (as shown on the Future Land Use Map in the room) will become the zoning districts upon adoption of the changes currently being developed.

Section A – Introduction

Section B- now lists the allowable uses in the zoning districts. It references some uses that can be done in Ag 1, Ag 2, and Ag 3. Houses of worship; agritourism – new in the FL Statutes; commercial riding activities; solar farms in Ag 2 or 3 are listed as a special exception (subject to Citizen Bill of Rights).

Lex:

In Section B we have our Bulk Regulations through density through density and how much you can develop. I did suggest a change in this. That would be the immediate family exception provision – that you allow a minimum acreage size of 2.5 acres. (It is currently three acres.)

Bouie:

I don’t understand. If this is an exception for families, why is there a size? My concern more would be if they are able to put the appropriate waste disposal or something like that rather than an acreage size. I don’t understand the acreage size. For instance, if someone has five acres and four children. That means that only two children could have homes on the property.

Lex:

You are correct in the way that would apply the proposed density. Currently, in another section of our Land Development Code, we have a minimum of three acres standard. Why that three acres was chosen and how that was determined – whether it was scientific data or some sort of analysis of existing land use, I have no idea.

However, the way it was originally presented to you by the consultant, you could not do a family exception in Ag 1. I felt you should at least be able to do a family exception. If we were to work to reduce the family exception and the minimum lot size, you are talking about a well and septic on every property.

Bouie:

Not necessarily. I have sixteen acres and my well supplies three neighbors – one across the street and one on 10 acres in the back of my property.

Lex:

But we have to assume that if that is not going to be the case.

Bouie:

I mean, there are other means to assure that there are not two or three wells or whatever.

Lex:

That is correct and that is why I am asking if the board wants me to look at other minimum lot sizes. There was nothing in there. Before, it was blanket – if you had Ag 1, you could not have it. So, that may be even if somebody had six acres who could meet minimum lot size, they could not do it.

Lasley:

Why?

Lex:

It was a blanket, “You are not allowed to use the family exception in Ag 1. It did not recognize the fact that one parcel doesn’t necessarily have to be five acres.

Lasley:

Right and that is the case many times. I would bet that there are very few that are five acres.

Lex:

Some may be six. Again, you may have some at four. I was looking for a compromise.

Bouie:

I don’t know who the author is, so at this point, if you don’t tell me that you did it, I am – you don’t have to be defensive. My concern is not necessarily who wrote this. At one point, I did ask who the author is, but my concern is more to the point that there are homes next to me that have quarter acre lots that were done within the last 20 years. Now, I can’t do the same thing similarly because I bought the property thinking I could do the same thing as my neighbors were allowed to do. That is my concern. People will not be able to do “like” changes to their property as the neighbors have already accomplished. Not that long ago, the neighbors were able to do something, but I am not able to do it now. There is no scientific reason for them not to be able to do it.

Lex:

Again, I do not know where the acres came from. I did not

Bouie:

It is o.k. Can we say "in like manner." My neighbor was able to do it 20 years ago and there was no harm found in their ability to do it as a family exception. I am saying that a neighbor should be able to do what they did.

Lex:

I do not think you could use the reference "in like manner," however we do have a time allowance in rural residential with a minimum of one acre. Is that a direction that the Planning Commission would want me to consider? Again, I thought it was unreasonable as it was written. I tried to offer a compromise at least where in Ag 1 you should at least be able to do that family exception. I used the 2.5 acres. You do need to think about septic and well because we are going to assume that there will be a new septic and a new well on every property because we do not have evidence to the difference.

Bouie:

At that point I would expect there to be some code in reference the density of the property because you wouldn't be able to put a septic tank on just any property without it being tested. At that point, I would expect other codes to come into play. Likewise, with the well. That is the point where I would expect the County to know or have a set of standards that the property owners could go by. In essence, I am saying maybe not to put a number on it, but then allow for other codes or standards to regulate if there is a septic tank. You have to be tested to find the property even qualifies for a septic tank. If there is a well, I don't know what the scientific standards are, but there are standards that should govern whether or not a well should be placed on a piece of property.

Lex:

And we have no control on those two issues.

Bouie:

We can't set standards that recommend what is environmentally friendly for any given property.

Nunamaker:

What we do have in so far as septic's go is if it needs to be a raised mound, it has to be a minimum of three acres. I don't get it, but that is the way it is. We live here in Agriculture pretty much. If we lived in Ag 1 with five acres and you drop it down to 2.5 acres, and you have to have a raised mound, you still get hit.

Lex:

And that is in our Code. That goes to the point where we had a section in our code that says three acres. As Doug says, we don't know where that came from. I have no evidence that three acres is necessary for a mounded system. The Health Department regulates where and what type of septic system goes on a lot.

The Water Management District issues permits for wells. If the Board wants to consider a minimum lot size that is lower for the family exception, let me know and I can start to work with data that could support it or not.

Lasley:

I can tell you that a minimum of three acres came from David when the Land Development Code was rewritten at some point in the past. There was David that said that the mounded septic needed – if it failed, then you needed to put it somewhere else, then you would need another area for it. That is the reason that the three acres is the number that was used. At that time, it was based on research that the Planning Director did at the time.

Lex:

Jill, was that while you were here?

Lasley:

It was Bruce Ballister.

Jeglie:

That was way back.

Lex:

We are talking 15 years?

Straughn:

25.

Lex:

So, we should really revisit where the data is today, so that we can base our decision on scientific information. That is exactly why I asked the board. Give me what you want and that is what I will look for and go for it. I just do not like the arbitrary, "You cannot do it in Ag 1." That did not seem reasonable.

Henderson:

Then with the definition of the immediate family (I know we are not in definitions yet, but looking at that as a companion issue, it says now proposed solely as a homestead. What would prevent somebody with 5 kids from taking their property and giving it to them as a family exception, getting houses built and then all of a sudden, selling everything off as a subdivision that didn't have to go through the subdivision review. If we say, "solely as a homestead," that could change in six months.

Lasley:

From three years.

Nunamaker:

Yeah, they do have a stipulation on that.

Henderson:

They could do that, though.

Lasley:

It can be done once a year and you can do it four times maximum.

Henderson:

Where is that definition? It is not in the immediate family exception definition.

Lex:

No, it is not going to be in the definitions. It is going to be in the standards that regulate the division of that land for immediate family.

Henderson:

So, there is something. That is all I have concern over.

Lex:

But, in terms could the end result in ten years be that you had three of those houses that had been split as immediate family houses to be sold off in some sort of succession –

Henderson:

But it can't be done within six months.

Nunamaker:

It can't be done within three years.

Lex:

There is a homestead provision. There are two separate provisions in Florida Statutes. One is homestead and the other is family exception.

Bouie:

And that is in the Florida Statutes?

Lex:

There are references.

Lasley:

My concern here is that we are going to be creating the smaller and smaller lots that will have their own septic tanks. Then, these people in the county are going to come and go, they won't let me put a septic tank on my property because half of it is wetland and I have only 1.25 acres. It is going to be the same argument all over again in that I can't do what I want to on my property. You got to take some responsibility for finding out what the rules are before you get your check book out and pay for something. That is the normal way of doing business.

Bouie:

I agree. My situation when I bought the property and when I purchased it, what I wanted to do was allowed and then the rules were changed after I owned the property. If someone is going to build a home, the first thing they should do is check to see if they have water and sewer.

Lex:

What I will do is I will look back at some minimum standards related to current septic systems, a lot of changes have occurred in the past 2 decades. I agree about reducing lot sizes and increasing the number of well and septic throughout the county. If you see within the state the direction is to be moving away from such action and trying to create central sewer. If the Ag 1 provision, if you would like, we will get some lower standards in that Ag 1 provision and what a minimum lot size would be and that would govern across the board. I will look at research and data that will support that and bring it back to you.

Lasley:

The other thing is that this immediate family exception is for all residential property so it will be Rural Residential, Agriculture and whatever else.

Lex:

Right now, it is written as we are proposing it in the Agriculture district.

Bouie:

This is Ag 1, Ag 2 and Ag 3?

Lasley:

That is what is before us tonight, but aren't there also rural residential properties on there.

Lex:

Correct but we are going to be creating zoning for that and right now the zoning is 1 acre so if you are asking if we would be applying that special exception (family exception) in Rural Residential. Isn't it for Agricultural purpose only?

Lasley:

I have 4.3 acres of Rural residential Land.

Lex:

You could do that right now; you could create 4 lots. You can go down to 1 acre with those and this is only applying to the Ag 1, 2, and 3.

Lasley:

Make sure that whatever we write works for the system.

David Weiss approached the board and spoke about the family homestead. He read Florida Statute 163.3179. He said it told them exactly the people who qualify for this and it only applied once to any individual.

Lasley:

Does that mean only that grandparent can only get a piece of property once or the owner of the original tract can only do it once?

Mr. Weiss:

That's a good question. I thought about that before and I don't know the answer to that question. I would tend to say that it applies only once to the recipient but it is not real clear.

Lasley:

If it's to the original parcel owner, then our Code is wrong.

Mr. Weiss:

Right

Lex:

Our Code is written, I think, in the intent that it is you, the owner, and you want to have the land and give it to your heirs. We have chosen, in our Comprehensive Plan, to only allow it in Ag.

Nunamaker:

If I'm not mistaken, it still only applies to 3 acres minimum.

Lex:

It does.

Nunamaker:

So rural residential is a moot point.

Lex:

Currently as it is written and then as we move into zoning, we currently have in the Comp Plan, this is where you can do it in Ag 1-3 but there is a minimum lot size. When the zoning was proposed, Ag 1 was left out thinking that a lot would only be 5 acres. That is not the case, you may have a six acre, add one on. I looked at it differently thinking if you have a conforming 5-acre Ag 1 lot, that you should be able to do at least 1 family exception, that seemed to be more reasonable than a blanket provision. If the board would like to consider a lot size that is less, that would be consistent with the Comp Plan. I would make that recommendation with good scientific data. We have to have a minimum standard somewhere. It is not going to work for everybody. I want to base it on some sound data regarding the septic and water.

Lori Bouie:

I would like to see a smaller number considered and a separate issue, I would like to know that we have considered environmentally friendly standards so our smaller numbers support what is reasonable and what can be supported or permitted by agencies that would permit septic tanks and wells. If the State of Florida will permit a well at ½ acre and there could be 100 wells on 100 acres, then that is how we should determine our lot size so there is a basis other than when I come back in 20 years or my son comes back and says why did they do this?

Lasley:

Asking Ms. Bouie, Do you have Talquin water on the road where you are?

Bouie:

No

Lasley:

I'd like to find out how you got those ¼ acre lots, because that's not allowed. There is a distance separation between well, septic tank from that lot and same for the next lots too. All that was going to tell you something.

Lex:

Yes, it will limit. There will be limiting factors but currently we have a 3-acre minimum based upon data that is 25 years old. We introduced what I thought was a rather arbitrary statement in that you couldn't do it at all, even recognizing you have a conforming (1 lot with 6 acres) so you could. I asked for direction and you provided me direction. I will reach out to Water Management, the Department of Health and get the minimum standards within a lot and between parcels as well. Regardless of what happens there are going to be people who are going to get a fraction of a parcel that may not be buildable because of environmentally sensitive lands.

Nunamaker:

If you are talking about wetlands or something like that, that blows everything out of the water. My question about the 3 acres minimum, if you have a raised septic, it is put that in there because if a septic system fails, they are going to have to move it or replace it but if they move it, they aren't going to move it an acre or two away, it going to be close to the house. Three acres for a raised mound seems arbitrary and excessive to me.

Lex:

I have seen many smaller lots with mounded systems and the way I've seen it addressed is if there is a failure with the septic system, the tank or the drain, they are fixed, not moved. That is the approach I have seen in the past 2 decades.

Nunamaker:

You are not going to move it 2-3 acres away from the house.

Lex:

Right

Lasley:

My question is, if you pick 1-acre lot minimum for the family exception, you are talking about Ag 1 that didn't even have, arbitrarily, then allowed Ag 2 and 3 that same minimum way. I don't think it is good for the County to create a bunch of 1 acre lots on well and septic tanks.

Lex:

I think there is some valid concerns but the family exception can only be done once every year and then they can come back.

Jill Jeglie:

I think there is a limit this time around when it was adopted to 3, so you can create 4 parcels. If you had 5 children, that leaves 2 out of luck.

Lex:

Eventually they would be able to split that parcel in 2 other parcels. This has not been considered in terms of the full context of our zoning code. I wanted to bring this forward and get guidance and direction from you. I will go back and look at it and I think we do need to look; you do not want to take a 40-acre parcel and have 40, 1 acre lots. Is that the development pattern you want to encourage? There will have to be a standard across the board that is the minimum standard but is acceptable based upon data and then you consider it and we make a recommendation to the board but we need to look at all the other standards in the zoning code at the same time.

Bouie:

My concern is that the standards are based upon what is allowed and permissible. We have neighboring counties that have homes that you can reach out the window and touch your neighbors' hand. If they are able to do it there for a family, I know that other standards need to be put in place. I'm more concerned about a home being hurricane sustainable other than telling a family who has owned 40 acres for 200 years that they can't give it to their children and grandchildren. Whatever is permissible for a family, I think should be allowed. If someone has 40 grandchildren and they want to give each one of them an acre, if it is permissible, I think it should be allowed. I don't think we have the right to tell a family what they can do with their property.

Nunamaker:

You have 5 kids, you are going to divide it up into 5 lots, there ought to be some other criteria that they have to follow like anybody else would have to follow for a 5 lot subdivision which would be a minor subdivision application and if it is more than 5 lots you have to do a major sub-division and it will have to be platted. Improvements and roads also go along with that. We can allow a family exception to be below the normal requirements but we still have other controls that we can insist upon.

Lasley:

The minor subdivision, the way it is written now, you can basically go in the office and set up a minor sub-division and we (the board) will never hear about it. The big kicker here is that somebody is going to have to get out their checkbook and pay for it and the deal here is that nobody wants to pay for it, they want it for free. They want it written in the Code, they want everything to be use by right, you can just go into the office, sign a paper and do it.

Bouie:

That is not what I'm trying to get anyone to have a pass on, I'm expecting there to be sense. I'm glad you brought that up and I'm expecting there to be permits that the County would have to issue and for the process to be a process and not just, I can go out there and give everyone one and they do whatever.

Lex:

You have a 2-prong issue here, the family exception many times they are coming into the office and they are doing that and that is an easy way for them to create that lot for their family using this allowance in the code. There are not the additional restrictions other than your normal environmental access. The additional conditions we would work out with platting.

If you do allow that family exception to go with a minimum lot size, as small as an acre, do you then say, you can do it, however, you must follow the processes as outlined in Chapter 6 for plats or subdividing of property. That will put an option to go with a larger size and not have to go through that whole process and not get as many plots or follow the process, which will be a major sub-division and you will be able to ensure about water and sewer.

Bouie:

Can that information be brought before us and could I look at what is brought before us and I could have a rough idea on what it was going to cost me to do that process?

Lex:

I can. Let's go on the basis of 5 per lot, and I will also show a 10-lot process.

Nunamaker:

Even in a 5-lot minor there is still excess requirements and stuff like that which I would like to address some other time. I would suggest if you have 40 acres and a grandparent has 40 grandchildren, we don't want to give them 40 lots just because it is a family exception. What we can do is if it is 40 acres in Ag 3 that means its 1 to 20. We will allow you to go less than 1 to 20 but were only going to make it 1 to 10 and if you are in Ag 2, it will be 1 to 5. In Ag 5 we will say 2 1/2. Now you are not allowing 40 pieces of property in 40 acres just because you have 40 grandchildren. Just a thought.

Lex:

The County has the option to create this regulation in their Comprehensive Plan.

Tracey Stallworth:

Is there any way we can find out what other counties are doing with family exemptions so we can see what is going on? If I own 40 acres and I leave it to my children, I want them to be able to do what they want with it, as long as it was in line with certain rules that are guiding them. If I have 40 grandchildren, I am leaving them something that was mine that I paid for with my own money and I would like to leave it to them as long as it is in line with scientific data, make sure there is no harm to the environment.

Lasley:

The reality is they could sell it and take the money and then do something, that is one option and the other thing, for Gadsden County, because of how it is zoned, with the minor sub-division you can create a minor sub-division but you create substandard lots if its Ag 10, you have to have enough property to be consistent with the dwellings per acre.

Lex:

I will try to find the balance between both as well as bring back the data on the environmental for the water and septic and then also look at neighboring counties and how they are addressing it.

Lasley:

We need to have comparable data which is basically rural residential homes not on central water and sewer.

Bouie:

What is permissible, what is allowable, what can satisfy the protection of the environment and yet allow people to use their property in a manner that satisfies them. I'm not giving them a "get out of the county free" pass, I'm saying set up standards that people can follow that will protect our environment and allow us to say that we have a culture. I go into Jackson County and all of the Rural homes are well maintained but then I don't know if rules say they can't use their property in a certain way. We have standards to say that there is permissible only one septic tank in $\frac{3}{4}$ of an acre and that's how I would like to justify it not just say 40, 1 acre lots cannot be on 40 acres.

Nunamaker:

You can with a major subdivision.

Lex:

That is a process you, Ms. Bouie are talking standard and Mr. Nunamaker is talking parcels and how can the two merge and that is important. I do not, at this time, rural residential is not something that we are even considering any changes to as regarding the family exception. That would be saying we are going to go back to our comp plan.

Bouie:

I'm only concerned about family exceptions and right now that is where my thoughts are.

Lex:

That is just in Agriculture and that is where it was going to be kept because that is the way it had been in Gadsden County for years.

Bouie:

If it is just for one home on 40 acres, we are basically deeding for the county that there won't be any taxes paid because you get Agriculture exemption. But if you had 10 homes out there you get some taxes paid, maybe.

Nunamaker:

I have contention with the flag lots. Flag lots would allow an easier process for even minor subdivisions to create some lots with properties immediately touching a public or private road. Chattahoochee, Greensboro, Gretna, Midway, Leon County, City of Tallahassee all allow them and I think we are missing out. It's a hinderance and has cost minor developers a lot of heartache and they have to jump through a lot of hoops and waste a lot of property that they don't have to sacrifice for private roads that have to be created. We need to take a look at it sometime in the near future. As long as you have property touching the road, it is a lot easier to get a loan than if you only have an easement. Banks don't like to borrow money on property with only an easement but if you have 20' touching the road you are good to go. It is an unnecessary burden.

Lasley:

If, for example, the family exception is changed to a minimal of 1 acre lots, does that become rural residential?

Lex:

No, it stays an Agriculture. With the family exception because in essence, it is rural residential, but the family exception only being allowed in the Agriculture zoning district, it would still be Agriculture.

Lasley:

There is a lot of Ag 2 land in the South, West and Northwest.

Lex:

I will bring back data regarding the existing land uses and looking at the acreage of how much land we have in each category. There are significant locations if you decide to go down to a minimum of 1 acre. You would want to go through the filing process and it would be a major sub-division and yes you would want to see development standards that would provide for access and provisions for protection of any environmental features as well. It would be a much bigger burden if you wanted to leave that property to your 40 grandchildren and that is a hinderance to people and they may decide they are going to go with a lot split that is going to be greater.

Bouie:

That would be there decision but if we put good information out there and they can use it, it is their decision. I have a problem with the County writing rules and restraining their decision. I would much rather it be based on permittable allowable uses rather than just pulling a figure out of the air. To me it limits the County on being able to receive taxes. There are counties in South Georgia that at one time had 40,000 citizens and now they have 8,000. Restrictions that they did not want "this kind" of neighbors so they put all these restrictions in place and now they have 8,000 citizens in one county. At one time Gadsden County was likely to have more citizens than Leon County and now, Leon County more than quadrupled their citizenship. We need to be mindful of what we are doing. Eventually we have to realize we need those tax dollars to pay the salary of some folks.

Lex:

You have given me my orders and I will move forward and look for data. I did not want to touch the residential part of this until we got through the Agriculture, I think the preservation of the Agriculture Community is very important in Gadsden County as well as the Family Exception Allowance that is in the Agriculture districts. Based on that, I will bring back just information on the Agriculture and what we look at with the family exception. Any other questions or directions?

Lasley:

How much of the Ag 1 property actually has an Agriculture exemption? I bet it is probably none of it because you have to have 10 acres.

Bouie:

When I mentioned the Agriculture exemption that was with the 40 acre and the 20 acre and if I have 20 acres it is very easy to qualify for Agriculture exemption. All I have to do is have an acre of something and say that I'm selling it and that qualifies me even though I may hold 20 acres. I wasn't saying every person who has property in the rural area is Agriculture exempt.

Lasley:

What I am getting at here is that basically the reality is that the Ag 1 property in Gadsden County really should be like another residential category instead of Agriculture because it is a little misleading based on what the Florida Statutes allow for an Agriculture exemption. If we settle down on a lot size for Ag 1, you can split your property in half, depending on how many acres you have. If you have 12 acres, you can do more, if you only have 4.5 acres, it is going to be tough to cut that in half. Those are all things that are going to come to your table because it is all going to happen. Every single scenario that you can dream up is going to come to your door and you are going to have deal with it. So, it will be good to fix it here and know how it is going to work.

Lex:

Predictability is the most important thing that we produce from this and we are working towards full consistency. If we do make changes, we are going to have to realize that it will affect other parts of our code and we want to make sure it is cohesive and consistent. I have heard a lot of information; I have to go work more on the Agriculture and more to look at with the family exception. I do want to note even though we are not in definitions, the family exception (I have heard this from the Board as well) they would like our definition to be broadened to include additional family members such as a niece or a nephew. That is going to be less restrictive than Florida Statutes and we cannot do that, we can make it more restrictive but we cannot make it less restrictive. What I have introduced in terms of the language is consistent with what is in the Florida Statute.

Lasley:

Your statement is you cannot broaden that.

Lex:

No

Lasley:

Ok, well.

Lex:

Just so you know, what is in there is what is allowed.

Bouie:

You made a comment earlier about preserving the Agriculture.

Lex:

Very much, you want to preserve the agricultural community within Gadsden County. That is the balance.

Bouie:

So how are we preserving the agricultural community?

Lex:

That is what I'm saying in terms of if you went and said all these properties could go to 1 acre lots, how many acres in Gadsden County do we have that are in Agriculture. How many total acres that could be then sub-divided into 1 acre lots? Would we then be preserving the Agriculture character of Gadsden County? I hear that is important as well to make farming sustainable. What can we do for our residents? Where is the balance?

Bouie:

If a property is not being farmed, to regulate that it must retain Agriculture status, is that our government's position, and who pays the taxes when we continue to regulate property to an Agriculture status.

Lex:

I think they should have regulations that will promote and support Agriculture uses, that is why you saw the Agriculture tourism language come into Florida Statutes. Long term recovery, we have been approached by the state, what can we do in terms of helping Gadsden County, supporting Agriculture uses has been one of the things that was also identified. That is a choice, you are basically saying you would give them allowance to do it. I could bring back information as well that would indicate that residential development actually cost the taxpayer more money than it brings in revenue for the local government, because of the services you need to provide.

Bouie:

I don't understand where that round table has been held that we would debate residents vs Agriculture status for the County. I love farming but am I in a position, as a government, to regulate that a county remains preserved with Agriculture. I think the county would better spend its round table time in educating and making certain that there was an educational base here so that our citizens can support this county whether it's through taxes or supporting a resourceful community that supports itself from within.

Nunamaker:

A lot of people like the rural community. We move into this rural area because we did not want to live downtown, we didn't want people right next to us. I think we have a right as citizens who want to live in a rural community and should be supported by our government.

Bouie:

We should be supported by our government, but I don't believe the government should regulate how our property is used. I want to own 200 acres but do I have the right to say, whoever is next to my 200 acres can't do what they want to do with their property? To a certain extent.

Nunamaker:

You have a right to petition them not to put in a 200 lot sub-division if you think it is in the wrong spot.

Bouie:

I'm okay with that. What I'm saying is our regulation as a County should be whatever is permissible and allowable by State statutes, not designing that we are going to permanently

regulate what happens to your 200 acres. I understand that we should have some guidelines, but then I see numbers and I don't want to get out of character, but some of my concern was with the family exception. I need to be better educated on how the County can achieve its pristine environment or however you want to characterize it but yet, not regulate what a family can do with their property 40 years from now, when I'm gone, I have no clue.

Nunamaker:

Let me address one other question that is concerning you about taxes. I could be crazy wrong, but I, thinking if you have \$200,000 house in a rural residential on a 1 acre lot, you are going to pay \$2,500 a year in taxes, just throwing out a number, and if you have a \$200,000 house on 5 acres in Ag 1, or a \$200,00 house in Ag 2 on 10 acres, you are going to pay the same amount of taxes except a little bit more because you have more acreage. The taxes commensurate with the value of the property, not the designation.

Bouie:

When I made that comment it was based on the 40-acre conversation I was having at that time. It was based on; would it better benefit the county to have 40 acres that were zoned Agriculture for Agriculture exemption with one house, or with a family that would like to put 8 houses out there better benefit the County. We were talking about 40 acres when I mentioned that. I am concerned about the tax base for this County. Not to get off task, but just staying focused on the family exemption and what we can do to better help persons that have this concern. I'm hearing from citizens and they say, "They tell me I can't give my grandchildren my property." People don't do anything; they sit there in misery and grandchildren thinking they can't get it and so eventually the property is going to be lost and sold for taxes anyway. That is what I am trying to address, that we do something user friendly for those persons that would like to share with their family.

Lex:

You can promote Agriculture uses in your community, you can include regulations that support that, it does not negate the fact that you would also then be looking at the family exception as well. I'm not saying one would rule out the other.

Bouie:

I'm ok. I love Agriculture, I would love for Gadsden County to have 1000 successful farmers but that should not be the reason we regulate the use of our property. If there is another property that the County Commission can help farmers come back, are those farmers who are not farming right now because we don't have a farmers market and they lost the ability to know that they can grow their crop produce and bring it to a central location where it would be farmed out to grocery stores. If the county could do that on a separate issue but let it not be the basis for regulating the use of privately owned property.

Lex:

By the way, the farmers market in Havana and in Quincy was one of the things we asked the State to help us with if there was any funding so we could reboot this effort.

Lasley:

Historically, in writing these codes and some of the major land use changes that were made down at the lake, they had all these stipulations that went along with it and one of them was

that there would be site-built homes because they had found, in looking at the tax base, that there were quite a few mobile homes (manufactured homes) and the tax base for those starts at a certain level and then just continues to go down. All this stuff is really great and it depends on what kind of structure is there as to whether or not it is really going to, in the long run, build up the tax base. The other thing is, when you are doing this research, you could gather some data on how other counties have dealt with the family exemption language.

Lex:

Yes, I will include that because that was what Mr. Stallworth had asked for was to bring back examples of what the other communities were doing.

Lasley:

I have some questions on the first page, 4-2. Question: second paragraph is, "For the protection of agriculture activities, the location of any Agriculture district shall be limited to the rural areas of the County, not adjacent to a City limit." That is not going to work, there is plenty of Agriculture property that is adjacent to Cities all around the County.

Lex:

I do remember you made that remark, so that will be addressed.

Lasley:

It's kind of, is what it is, right? Will you just strike the whole thing?

Lex:

I have a remove/revise comment for myself and I left it at that.

Lasley:

In B3 on the same page, Agritourism is used twice. Should it be Agrotourisim, are they interchangeable? Now onto #6, the 6 needs period after it. "Produce stands no greater than 2,000 square feet, which is 45'x45' in any of the zones. Ag1 (5 acres), 2 (10 acres) or 3 (20 acres). Add the word "Agriculture" before each category. The last sentence reads, "At a minimum 50% of the product sold is harvested on site. Put a S on the end of product. The word "on site" do we truly want to support this type of thing and can we say "locally" instead?

Bouie:

I also have a concern about 2,000 square feet.

Lex:

Again, these are things that Allara had done, and I had not revisited what had been developed there. As you get a larger farm, you may want to have a larger market. Do you want it to proportionately grow with the acreage? From 2 to 4 to 6? 60x100?

Bouie:

I don't have a size limit in mind, it is just a barn.

Lasley:
Well, it is a retail establishment.

Lex:
Do you want to look at standards and bring some back to you? Indoor and outdoor, there was no distinction made here. You do have produce stands that would then function both ways. I will change the locally and then look at standards elsewhere.

Bouie:
My concern there would be if its structurally sound. I would assume that would be found through its permit of being built and not necessarily what's the size of it. That's almost like saying that you cannot have a house larger than 2,000 square feet on 5 acres. I don't understand the limit. Why would you limit the size? If it is structurally sound and has been permitted to be built then why is there a restriction on size?

Lasley:
In the statement, and it goes down to #7. So, 5, 6 and 7 (need a period) houses of worship on a minimum of 1 acre, everything 7 and up is being stated as being an allowable use and if you want to do any of that on your property all you have to do is go talk to them in the office and we are never going to hear it.

Bouie:
My concern is why would we put a limit on the size of a produce stand?

Lex:
It just depends on what you build. If you don't want the limit then you make an allowance for more with a process that adds review to it.

Nunamaker:
What I was thinking aside from the traffic, it is technically a commercial venture. Pseudo-Commercial if not actual commercial. You have 2000 square feet of runoff occurring on this roof and it has to go somewhere, parking has to go somewhere, so now do we have to include a holding pond and other barriers.

Bouie:
Ok, but that would be permitted and addressed during the building permit phase.

Nunamaker:
Is it going to be treated as a commercial venture or a commercial development is what I am asking? Or is it going to be much less than that since it is local, homegrown, rural kind of scaled down version?

Lasley:
My thing is anything bigger than that, the neighbors might want to be able to have some input into that.

Bouie:
In the permit process, there are still standards for permitting for building of anything.

Lex:

You have your setback standards that would apply. A produce stand does not necessarily need to have a roof on it, and the Department of Agriculture uses are being supported. I've called them to find out what needs to get a permit because many people are doing things that believe they do not need a permit for.

Bouie:

That's where we would have a standard. I would rather have a \$10 permit to make people become aware of what the regulations are. I would rather you get a \$10 permit for a produce stand and then you are made aware that you have to be 50' away from the highway, not have lighting that offends neighbors or residential areas rather than have someone sit on the edge of the highway 3' from traffic passing by and get killed. I would rather have standards in place that is close to building permits even if you only do a \$10 permit so you can know what standards are than to say I can't have a stretch any larger than whatever size. That is like telling me I can own 5 acres, I'm in the right zone, I bought the 5 acres, you said I could build a house and when I decided I wasn't to build a 15,000 square foot home on 5 acres, you say no. I don't understand that. I can have 15,000 square foot home on 5 acres but a farmer can't have a 10,000-produce barn on 5 acres. I don't understand the limitation. I'm saying no size limitation, go through the permitting process or whatever, there needs to be a produce stand permit then we do the regulations for setback, runoff, whatever there is, but no size limits.

Lex:

So, they go through the commercial permitting process. Since you treat them like a commercial use, which would have site standards and access standards. You would be ensuring that it was handicapped accessible if they are going to be putting in anything with a roof and a door. Once you create a building, you are creating an ADA Commercial access. People are doing things without permits with intentions of support and do public functions on Ag. Uses that are not meeting ADA compliance and yet it is being built as Commercial use.

Lasley:

And you shut them down?

Lex:

Not from what they have told us.

Lasley:

The Ag department said that?

Lex:

They have not vetted this question. There has to be balance.

Lasley:

It is everything 1-7 is, the neighbors are not going to know anything about this until this shows up or the materials are delivered and they start building on it and they are not going to have any input. I feel we need to have a size limit that is acceptable for being approved in house.

Bouie:
I'm confused if this is this a produce stand?

Lex:
Yes, if it was a huge aluminum building.

Bouie:
I have to get my neighbors permission to build a 4,000 square foot home?

Lasley:
This property is allowed some homes to be built on them.

Henderson:
But how is that going to conflict with the fact that you can only have a barn that is ½ the square footage of your house in Rural residential but it does not apply to Agriculture.

Lex:
Trust me, I don't even want to touch the accessories uses. We are going to workshop the County before we ever define what your accessory uses in Agriculture will be.

Henderson:
Let's have everybody put in a produce stand.

Lex:
If you want to have a size and a basic size where somebody could open up and do something very simple and sell their produce, it is an as of right, then you set that minimum standard if you want to be able to allow them to do something greater that could have more impact with traffic and you want to ensure safety egress, you want some parking, it's going to be larger, then you say it comes through a process of review.

Lasley:
A variance.

Lex:
Not a variance as much as coming through as a development review level.

Bouie:
I strongly speak against the size limitations.

Lasley:
It's like allowing them commercial venture in the middle if an Agriculture area but it is a commercial application. They will be selling stuff and people are going to be coming in, it is not going to be different from the tractor store. At the size that is stated here, that somebody picked out, they can go in the office and *inaudible* Without the neighbors knowing anything about it. They won't know until they see the materials delivered and the structure is up. That is a gift in itself.

Lex:

And “as of right” use you basically want to allow people to have uses they can do, as of right, and then again you have thresholds with certain limits of development.

Bouie:

Ok, so if I put my 2100 square foot pole barn up to sell my produce, what are you going to do?

Lasley:

On down to 8, 9, 10, 11 on this list, Commercial feed lot, is that a place where they gather animals and plump them up? Is that what that is?

Lex:

Yes.

Lasley:

#9, Raising and breeding, needs a period. Raising and breeding or the rescue facilities of furbearing animals. That’s anything that I can think of that is furbearing.

Lex:

That is the way it was originally written, yes.

Henderson:

It does not cover alligators.

Lasley:

Number 11, 10 and 11 both need periods also. #11 is the solar farm. All three of those that I mentioned, the neighbors are going to be informed of that people want to do an activity and I’m fine with that. I wanted to discuss number 10 and Libby, if you could participate in this too. Commercial riding academies, livery or boarding stables or dog kennels in Ag2 and 3. I see driving through Ocala, I see all the beautiful farms and where they raise horses. To make the County more interesting, I think this would be, if not a use by right, a minor development review. Is that correct?

Lex:

Correct, that is not listed as a special exception. It is right in the middle between those other 3 special exceptions. I took what was there already and looked at what I thought would be uses that would have an impact that you would want to have additional review.

Lasley:

Can you clarify that is possibly the next level of review? A minor development review versus an administrative review.

Lex:

Yes. I will make that reference to the review in chapter 7.

Lasley:

You might want to switch those, put that as number 8 just for the hierarchy level.

Lex:

I might make it 9 because I may add a new number 7 for boarding in terms of size of produce stands.

Lasley:

The Riding academy and boarding stables, somewhere in reading in Chapter 2 there was some sort of an exclusion for boarding stables, and I can't remember what it was. My question is this, does this conflict with Chapter 2 definition for Agriculture?

Lex:

Nobody really looked at the consistency between some of the definitions and the other parts of the plan. These were introduced as necessary definitions but in review of them I am seeing that we really did not look and see, is this consistent with what is in the plan. We were trying to define what was in the plan, but was it consistent. I will go back to that because, for example, Commercial Feed Lots is not defined and yet it is referenced here. That is an additional definition that needs to be added.

Lasley:

Does that seem like a good Agriculture enterprise for Gadsden County? (#10)

Henderson:

I'm going to say yes.

Lex:

I'm going to say yes.

Lasley:

It is all going to work great as long as nobody oversteps their boundaries. The red flag is the dog kennel. I can see that being a problem on Ag 1 properties.

Henderson:

I don't know, go out between Havana and Tallahassee and it's probably the fanciest place you will ever see.

Lasley:

That's what I am saying. If they do it good, that's great and if they don't...

Lex:

Its only allowed in the way it is written in Ag 2 and 3. Won't even go on Ag 1.

Lasley:

Good point.

Lex:

I wanted to make sure you had some distance. I think that was reasonable and unfortunately, because right now for a land use change to do a kennel you have to go through a commercial land use change. There was a gentleman who contacted the Department and when he found out what he had to go through, he has now bought his property in Jefferson County and is breeding his dogs there and I would love to give them opportunities to do it here.

Nunamaker:

I have a neighbor in Ag 2, 9.5 acres. He has been there a couple years now and he brought in 20 dogs. He has ruined the neighborhood. We are rural, it is not like we have 20 or 50 people that are bothered by it but there are several families that are bothered by it and they just bought incisively and is that allowable in Ag 2? 20+ dogs in little cages.

Bouie:

Get your neighbors to raise alligators.

Lex:

I would look to other parts to the Code to try to see what the full set of regulations are regarding. In Ag 2, in the comp plan right now...

Jeglie

Right now, in the Land Development Code are silent as far as your pets and that is your personal animals. Now we are talking about if it is commercial, possibly putting some standards in.

Nunamaker:

So, there is nothing you can do about it?

Lex:

I don't know that, let me look into addressing that question, looking through all of Gadsden County's codes. It may be addressed in another section. We have a full section on animal control and I'm fairly familiar with it, but I have never had an issue regarding. I know what will happen if you bull does not stay in the fence but I've never looked at it in terms of limitations in the number of personal animals.

Lasley:

Have you called Code Enforcement?

Nunamaker:

Yes, we did, and they come out and say, what a nice group of dogs, I'd like to have one of these dogs. He was perfectly fine with it, but he does not live next door to it. It is really, really bad.

Stallworth:

What kind of dogs are they?

Nunamaker:

They are hog catching dogs. They take them out hunting and turn them loose and they go attack hogs.

Henderson:

That's going to be probably Catahoula hog dogs and that is not going to be a commercial venture. They are the guys hunting pack more than likely and it is probably personal.

Nunamaker:

Can they do that in this community so they are so obnoxious they ruin the sanctity of the entire community.

Henderson:

I don't know, that's a very good question.

Nunamaker:

We have lived there for 30 years in peace and quiet and now dogs howl, and with 20-25 dogs it is like a roar.

Henderson:

There is a reason my dad lived out on the nursery where nobody lived nearby.

Nunamaker:

One or two dogs barking is not a big deal, but when you have 20 or 30 it is like that multiplies the intensity.

Lex:

Let me look at that separately, As I've said, I think it is an animal control code, not a land development code. We do have an animal control section and a noise section.

Nunamaker:

Why wouldn't something this obnoxious be in our LDC? This is as obnoxious as you get, it ruins the entire sanctity of your peace and quiet in your neighborhood. I think it is a big deal.

Lex:

Again, let me look into it.

Nunamaker:

I appreciate that.

Lex:

I'm use to certain limitations on the number of domestic animals you can have, I do not think we have that. When did you call them?

Nunamaker:

A year, year and a half ago.

Lex:

Ok, so let me revisit that with my Code Enforcement Officer. We will get all our Codes. I much prefer to take a more holistic approach to that one issue than just trying to create a Land Development Code. I think kennels are important at use and a good use, but again, 10-20 acres and if you wanted standards for set-backs for such uses, you could introduce them saying it needed to be X amount of feet from the property so you have a buffer, those are things we could consider.

Nunamaker:

You are right here with raising, breeding, or rescue facilities for furbearing animals. This is what they are doing. They are raising and breeding.

Bouie:

Maybe it needs to be 20 acres since it is a nuisance on 10 acres.

Lasley:

I personally think we need to write some Code Enforcement Rules that can be enforced. If you do this, then we are going to do this to you, whatever that is. In Gainesville there is a clause that if you rent your house out, if the people who are living there get calls or the Code Enforcement goes there 3-5 times, you are not allowed to rent your house anymore.

Lex:

I am working on LDC, Code enforcement is a whole separate issue. I'm really trying to make sure that we do enforce our codes. This issue on 10 acres, having this many animals is a problem. Maybe it only needs to be allowed in Ag 3. Maybe you want to recommend we have buffered distances between properties. So, all those uses would be contained and buffered. Those are the recommendations you bring back to me, and if you would like that included from the board. Is that the direction you would like me to take now? I'm asking all of you.

Bouie:

Sounds good, if it a nuisance for him on 10 acres then it needs to be 20 acres and then there should be some penalty for not doing it.

Lasley:

If it is new, you are going to have the opportunity to weigh in on it.

Nunamaker:

Then again, maybe Code Enforcement is a better route with somebody who is a little more sympathetic.

Lasley:

Right, rather than grandfathered in because they were already there.

Henderson:

I know there are some people that would claim that horses are an obnoxious usage but I don't think you want to apply that to say only Ag 3 across the board, I think you can certainly have a horse facility on 10 acres that is not offensive to the neighbors.

Lex:

Yes, there are rescue facilities for horses on 10.

Henderson:

Mine are on 7 and my neighbors never give me close to, well I guess they are on one side of me.

Nunamaker:

I wish somebody would come by and tell us ours were a nuisance.

Lex:

A lot of changes, I will look at those. As I said again, I looked at process more than I looked at the actual content. That was what the consultant had brought forward. Then in Definitions, I tried to shorten this for you to make it easy by bringing to your attention only the things that I changed in the response instead of going back through them. Also identifying substantial changes that were made. I would like to go through just the bulleted list if everybody is good with that. And if there are additional definitions you would like us to go through then.

Lasley:

Are you moving on to definitions?

Lex:

Yes, were you done, I'm sorry. I figured we had gone through 11.

Lasley:

We have public out there.

Lex:

Actually, his comment on the 2.5 I listened to that and that is where it came from.

Don Stewart, 102 Timber Run, Havana, FL.

Thank you for the very thoughtful discussion that y'all are having on the family exemption and all of the different consequences. As Ms. Lex just said, I got drawn into the CBOR (Citizens Bill Of Rights) and part of that was some folks mistakenly thinking the CBOR was not allowing them to exercise a family exemption and so when I was here last time I raised the question, why is it 3 acres. If it is minimum 5 acres for Ag 1, those people should be able to access a special exception. That is how she came up with the 2 ½ acres. One other question came to my mind, how has this special exception been exercised in this County, if you could bring back that information. Along with what other counties are doing. Ms. Lasley, Ms. Bouie, Mr. Nunamaker, Mr. Stallworth, that is another thing I would like to know and the other comment is, when I raised the issue about Ag 1, I didn't know that was going to open up all of this possible extension to the other Agriculture and that sub-division. With all the tax consequences that have come up and things like that, so I will be interested to hear all of that information when Ms. Lex brings that back to you. As far as the barns and all that, thank you for that, it is an education and I don't have any comment on that.

Lex:

I'm not touching those accessory uses right now, there is a lot of work that needed to be done to that proposed chapter and it needs to get workshopped in the County to get input from people.

6. [CHAPTER 2, Definitions and Interpretations \(Legislative\) \(LDR 2018-06\)](#)

Lex:

The bulleted list, when I presented agenda item 11 at the August 22 meeting, it is the items listed in black font. There were a few more changes that I did make, and that is the strikethrough in the blue font, and I am referring to the attachment 1, to agenda item 6, which is Chapter 2 Definitions GCLDC. I'm just trying to wrap up the definitions right now and as we move through Zoning categories and move through the rest of the Code, we will finalize these definitions then to ensure consistency. I made a distinction between abut and abutting after looking through the Code and then David had made a comment too. We have language that uses adjacency, and it does not need to be touching the neighboring parcel, so there is no intervening lines, and if you are adjacent, you're not widely separated, but you may have a road or right of way and that would speak to buffering, an adjacent parcel, you would be buffered from an adjacent parcel for certain uses.

Nunamaker:

Why did you drop the language on abut and abutting, because properties do, in fact, abut right of ways, alleys, or easements?

Lex;

They do. If it is touching an easement then that is part of that adjacent property.

Nunamaker:

Let's drop easement for a minute and go to right of way. Properties that abut right of ways, why is that stricken?

Lex:

Because in the rest of our Code we used adjacent for right of ways and when we talk about adjacent parcels specifically with regards to right of way. If I'm going to build a certain use and there is a residential development adjacent to it, then you have to do buffering.

Nunamaker:

But adjacent specifically says parcels of land that are not widely separated, though perhaps they are not actually touching and which may be separated by a road, street, or easement. I don't see why it was stricken from abutting because many parcels abut driveways, private or public.

Lex:

I can change the other part of the Code. I did it because the rest of the Code uses adjacent when it talks about the roadway being an intervening part of the factor. That was the only reason. I was trying to at least make some consistency and it says adjacent parcels and would have to buffer to be adjacent across the street.

Nunamaker:

The reason I'm bringing that up, it goes back to the minor sub-division where any of the 5 lots, they don't use the word abutting but they say must access a public or private roadway, and it says, "and/or easement" so if it needs to abut a public road then that word should be in there defining what you can do with a minor sub-division lot, whether it is abutting a public or private roadway or not. The way it says accessing leaves it open to other interpretation and I need clarification on that.

Lex:

I think I also indicate that whole streets, right of ways, roads, as I indicated in my staff report, that section the Platting Section, and the...

Nunamaker:

My point is that a lot in the back can access a public roadway through an easement.

Lex:

Correct.

Nunamaker:

So, I'm wondering why easements are not allowed in minor sub-divisions.

Lex:

That was the platting, I said the sub-division part we need to come back to that as a section in and of itself. I think as well as the use of the word roads, right of ways, streets, and easements. There is no consistency throughout the Plan and we put these definitions out there but never really had consistency. I started to dabble but try to look for consistency and I'm finding more problems than solutions. Adjacent seemed to be the term that was more commonly used; however, we use the abutting in our definition. There wasn't any reference, there wasn't any adjacent that went with it. It doesn't really matter as long as we create consistency and its clear.

Nunamaker:

My only thing is that your adjacent definition restricts or excludes abutting, doesn't it? Doesn't your adjacent preclude abutting?

Lex:

It could be separated, yes. It would be separated by an easement.

Nunamaker:

It also does not include abutting. Your adjacent term does not include abutting a right of way, private or public. If I'm reading it right.

Lex:

It would maybe separate it, if its separated after we clarify it would be touching that right of way. If it is separated by the right of way, it is touching the right of way. That was the intent. If you want it clearer, I can make it clearer.

Nunamaker:

My point is if it is touching it is abutting anyways. All your adjacent language is anything but abutting if I'm understanding it correctly. I could be missing something. Parcels of land which are not widely separated, though perhaps they are not actually touching; and which may be separated by a road, street, or easement.

Lasley:

With that last, and which may be separated by road, street, and easement, would that be better put up in the abutting definition.

Lex:

That is what he wants. he wants it to be put back in there. It's the other part of the Code that I will go to, to make sure it is consistent. We talk about adjacency in the other part.

Nunamaker:

This is fine.

Lex:

It's one or the other, I don't care, it is just consistency is the only reason I did that.

Nunamaker:

We'll see how it plays out.

Lex:

Access, it had been duplicated and I have revised it to be more concise so it is very simple and straight forward. It is the legal right to enter and exit a property from a public or private road, access easement or other legal means.

Lasley:

What does "means" mean? That is vague to me. Would access be a better word, or other legal access is that what you want to say? The legal right to enter and exit property from a public or private street, access, easement or other legal...

Lex:

No, because if a property association wanted to create, in essence it would be a property association ownership of land. It may be a road and it may be used for that purpose. That was language provided by the attorney. David, would you? I mean I think that left the opportunity if they wanted to create. We had one example where they wanted to create a homeowner's association but all they would own is the road. That was their legal means for access they didn't really call it a right of way, but then they went back to creating the...

Nunamaker:

If I may interject quickly, you have access, legal. Legal is a matter of law. Access is a matter of fact so you may have matter of fact access to a piece of property but what makes it legal. That is a matter of law and you might have to go to court to have a legal definition. What I'm getting at is, maybe by access you mean a recorded access. Something that is actually recorded in a document, either a deed or a deeded access easement in a form of a legal description.

Lex:

I will discuss it with David because you do have those existing easements access that have to be recognized under Florida Law. Even though you've not legally created it because you have allowed that access through your property, it is recognized. That is a legal means of access under Florida Law.

Bouie:

But it can be denied if ownership is transferred.

Nunamaker:

Easements are funny animals. There's as many easement descriptions as there are dogs.

Attorney David Weiss:

What is important when we are looking at these, is thinking about the definitions in terms of the purpose behind it. What are we trying to do by defining these terms, we do not want to just stick a bunch of definitions in here just because. I think the intent of this legal access is to demonstrate, when you are looking at sub-dividing, do they have legal access to a public road. You can have legal access by several different means. I don't know that we want to necessarily limit that, we just want to say you must have some sort of legal access, whether you're abutting or adjacent and whether you have some sort of private easement right, there are all kinds of different ways you can have legal access. You might have legal access through a license but you wouldn't want to allow somebody to develop property on that basis because it could be revocable, but this may need a little tweaking but the purpose behind this definition is so that we can determine can you develop this property, do you have legal access to a public road.

Nunamaker:

My point being that you, being the people in the zoning building won't know unless it is recorded. Joe says, Hey, I've been using this road for 50 years, Bob has been letting me use it, I have legal access to it through oral testimony, but you not knowing that, if it's not recorded, you can't tell.

Weiss:

My thought would be that there may be a legal right to access that is not recorded but we don't want to limit a property owner by saying you have to show us a recorded right. We want the property owner to be able to show us evidence of any legal right, and if that takes them going to court to establish that they have a prescriptive right, then ok.

Nunamaker:

Then it turns into something you can read and acknowledge.

Weiss:

I agree, ultimately there needs to be some evidence of it but I don't know that we want to limit it so much as to say it has to be a recorded easement.

Lex:

If they have a prescriptive easement and they have been doing it for years, they have legal access but it may not be of issue to us at all but we would recognize that.

Weiss:

Well, you would need a court order to establish it. But you wouldn't necessarily have to report that court order. I mean you probably should, you would want to but I don't think that you have to in order for it to give you that legal right of access.

Bouie:

My concern is, because I can point out several pieces of property in Gadsden County where father and son own a piece of Agriculture property and when it was sold, the new owner didn't want to give the second homeowner access to the property. So, someone purchased a home that was land-locked.

Nunamaker:

It depends on how they were set up originally.

Bouie:

To your point, there is a need for some type of legal description in permitting and recognizing property, because then it becomes a Court issue and I have been harmed because the County allowed me to purchase a property that did not have access.

Lasley:

Are both of you comfortable with the words that have been struck, did you strike those because they seem to address the public record, the recording of some of these things when possible.

Weiss:

One of the things that I actually did, this is some of the changes that I have made. A couple of the things that I did when I was going through these definitions, a lot of them were pretty lengthy and pretty cumbersome and included a lot of permitted uses and things. My opinion is, you want your Definitions to be relatively in sync and pretty clean. And you want them to be definitions. You want to think about what the purpose of your definition and let's put it in there and anything that is starting to actually get outside of that and describe permitted uses or abuses or things, I find, I think that the stuff that was struck, to me, is not appropriate for a definition. I'm not saying that it doesn't need to go somewhere else, potentially, and you might move it to standards and different sections of the code. Long way of answering your question, I think yes, I think it makes sense to make it a relatively short. It is good to talk about these things because now that we are talking about it, maybe we do need to tweak it a little bit, I don't know. I don't think we need all the extra language in order to do that.

Lex:

So again, legal means, I think it can be documented and demonstrated and I've noted that everything to do with a street, a right, an access, a right of way, private roads, all of those issues, the Code needs to be looked at and we need to visit that consistently throughout the entire Code and there are many conflicts that exist.

Bouie:

The concern is, we understand your verbal explanation to us now, however, I won't remember in 20 years. There needs to be some regard. You are having everyday citizens come before us. I would not prescribe a lengthy, legal definition but a simple phrase like you just used would give a better explanation.

Henderson:

You are right in places where we are using the phrase "access" but I think for the Definition, the State had said it can be, by all legal means, I think the definition is fine, but elsewhere in the Code it probably needs to be clearer. It will be how it is used, but to define the word access a simple one is enough.

Bouie:

I'm still with simple, I'm not asking for more. She just made some key points that verbally, you are saying in the open but it's not in writing and so, you and I understand it because I worked with the Property Appraiser, but for the everyday Joe that wants to resolve an issue and rely on our documents, that's all I'm saying.

Lex:

You're right and it needs to come back in a comprehensive manner and we need to look at access and ties to rights, right-of-way's and streets, it needs to be, that needs to be a subject in and of itself at that workshop to insure consistency through the whole plan. That really was not done when some of these definitions were put together. We have a lot to chew to get this LDC cohesive and approved.

Lex:

Adverse Impact

That was another, I revised the definition to apply to on-site and off-site impacts. That was in response to a comment made by the Board.

Lasley:

You have a space in there that doesn't need to be there. In Adverse Impacts, in the middle it starts with "this includes, but is not limited to the quality, quantity, hydrodynamics, surface area, species composition, living resources, aesthetics or usefulness for human or natural uses " and then it goes on until almost the end of the paragraph, it's like, can we get two sentences out of that. I also think that you can say, "this includes" and then scratch the rest of that line, the whole next line, and the whole next line up to "uses". Look at that and see if it reads like you want it to say. I need to go back to Active Recreation.

Active Recreation, these activities include but are not limited to, and you list these things, that's not really the definition of active recreation because it is things like ATV's in the woods and mud bogging and stuff like that. There is another application there that is not even being addressed.

Lex:

I'm going to move to get all recreation definitions together. Active Recreation, when you look at all of the resources online, that is consistent with the definition of what it is for

Active Recreation. It is associated with a structured facility. I know we don't think of passive recreation as hunting, but that is the way it is listed in the definitions.

Lasley:

I don't want you to create any loopholes for activities that are degrading to the environment. For example, the ATV's and Mud Bogging. I don't want those to not have a place to be in our Code. I know it says that it includes these activities, but is not limited, so as long as when something like that comes to you, you go, I know that fits inactive, I know it's not listed but that is where it fits.

Lex:

We will just go with the examples, that way you don't have a loop-hole, if mud bogging is a problem in terms of that use.

Lasley:

Again, it doesn't fit into that definition "requires the use of special facilities" and it doesn't, necessarily. Some of these activity fields in the Agriculture fields don't require any facilities.

Lex:

I guess I'm not following you.

Lasley:

You go out to Dog Town there is a field out there where there is no facilities and they play all weekend long, but they are organized. I think we know what passive recreation is, but as long as everything else is active, I'm okay with that. There is more to it than that is what I'm saying.

Lex:

We worked on this Recreation issue and this was a response to the Recreational Category so that we clearly had some standards between active and passive recreation in that district.

Lasley:

Maybe if you take all these Recreation definitions and when you put them all together it will be really easy to see what works and what doesn't work when they are lined up one after another.

Lex:

This is just going through the bullets on what you gave me feedback on and some of the issues David brought up. There is a lot of definitions that were created and there is a lot of work that needs to be done.

Alcoholic Beverage

It is recommended the spelling and spacing corrections and I deleted the "or" as defined in the Florida Statutes. That was a reference that was recommendation by David.

Assisted Living Facility

It said that also had additional information that is not necessary. It referred to other Sections of other uses in the Code that we defined, but it is not necessary. I went with what we find in Florida Statutes.

Automobile Graveyard

We added that definition reference made in Florida Statutes regulating junk yards.

Bed & Breakfast

It was a duplicated definition. I also went back and looked at what Florida Statute says now, and it allows 15 rooms, we had 10. We can be more restrictive but I went with consistency with Florida Statute.

Lasley:

If you would take the Automobile Graveyard, the junk yard, there are five different things that all relate to that sort of thing and somehow you can put them all together in the Definitions so instead of having to remember what one particular thing was called, because they are alluding to the same kind of thing. I will come in and see you about these.

Lex:

I understand what you are saying. As we look at these as a whole, and that was exactly what my point was at the end of my report, there are many things we need to look at as a whole. Right now, we have them alphabetized, that is how they were given to us. We do want to look at is the big picture, so I don't have a problem with that and for Recreation we will move everything to using Recreation as the front if we can find a common term that would capture all those uses and we can list them that way. I understand your point. There is a lot of back and forth that does have to occur.

Lasley:

The other one that I can see right here is Bar, tavern, cocktail lounge and night clubs. They all somehow need to be either put the Definition one place and then reference all those other names or something.

Lex:

I wanted to look and see how we are looking at those uses in the Code. That was important to me when we defined them. I did not touch that one. That was one David said, "you should revisit."

Convenience Store

Those were grammatical.

Domestic Animal

Further revised to define what is a domestic animal and not list types. If you forget one, does that mean you cannot do it. David wanted to know if he could have a pet alligator. That was specifically what he commented on when he said get rid of the list of types.

Henderson:

I have veterinarians that are furious when they find out the technicians can do surgery because somebody, somewhere made a definition in the statute and listed the 4 things that

require a Veterinarian to do, which means everything else is open. I'm very against listing types if you can avoid making lists because that means statutory interpretation principals mean that everything else is free game.

Lex:

I hunted really hard to find something that captured and reflected that term, but again, do not list types and we will be doing more removing that as we go forward. There are two changes that I did not bring them in the same discussion,

Endangered Species

It was rather lengthy, and in addition to the fact, it was not consistent with what we had with listed species. I have made those changes so both recognized the same for Administrative Code and they used the Florida Natural Areas Inventory (FNAI) reference as well. We got rid of the listing of all the types.

Henderson:

Commissioner Bouie says she has to go and I'm not far behind her, so I wanted to make sure we had given you input.

Lex:

Family Conveyance and Exception

Additional changes required; we have already talked about. I made some clarifications that were brought up in Food truck that has to be defined.

Hazardous substance

I did include the additional use of the material for consistency with Federal Law as recommended by David.

Heavy Industrial:

There was a lot of discussion about that. We moved mining out of the definition of heavy industrial.

Listed Species

I have referenced that already to be consistent with the way we reference endangered species.

Everything following on Page 4 of Attachment 1 were from recommendations that were made when the Board reviewed this Workshop in July. The additional thing that David brought up was that in the Industrial Category, we allow power generating facilities. Its listed there as a Special Exception, however, it is not defined. We have this definition of Solar as a power generating. I did not try to define it, I just wanted to let you know it is something that is important that we look at because it is a concern that was brought up at this meeting in terms of Electrical Generating Facilities and the impacts they can have in a community.

That includes my presentation and my changes to definitions. Any other questions?

Henderson:

I want to thank you all for your hard work, this is the kind of stuff that plowing through it, it becomes, I think, increasingly important down the road, but it sure isn't any fun.

Lex:

In groups, as we come back, instead of going through every single little thing, I want to fix the things that are related to what we are discussing and look to be consistent. We never really looked for consistency in some of this stuff.

Henderson:

That is so important. In 20 years, it will really matter. It may matter sooner.

Lex:

I've heard all of your concerns tonight and I have a lot of research. You are not going to see any workshop items at the next meeting. You have 3 or 4 public hearings coming up, so I request attendance.

Henderson:

That leads me to another question. Do we know if there is a chance that we will have any appointed members before the 10th?

Lex:

I have my agenda item for the October 1st meeting, I confirmed some information that I wanted to include.

Henderson:

I'm out of town the 10th, but at this point, the way we sit, one person gone, we can't do anything. I am out of town for work on a meeting I cannot change. I come back on the 10th but I have no idea what time.

Lex:

The question is, the board takes action on October 1st, we have applicants and they say yes, we're good. We have our ad written; we have not sent it to be posted yet. I will stress to the Board on the 1st that we need an appointment and Regina's At Large ends next month and that is another consideration we need the Board to take into account so when they get all the applications they also know that they can consider one At Large if they want to. They would then be all done at once and I will provide them this information again for the 4th time and hope they would take initiative for any vacancies left.

Next meeting date changed from 10/10/2019 to 10/17/2019

GENERAL BUSINESS

7. **Planning Commissioner Questions and Comments**
8. **Comments from Director and Planners**
9. **ADJOURNMENT**

Gadsden County Planning Commission
September 19, 2019 Workshop

Workshop ended at 8:25 pm

NEXT MEETING DATE IS October 17, 2019 at 6:00 p.m.

LIBBY HENDERSON, Vice-Chair

ATTEST:

NICHOLAS THOMAS, Clerk