

ORDINANCE NO. 2001 - 27

AN ORDINANCE PROVIDING FOR THE DESIGNATION BY ORDINANCE OF CANOPY/SCENIC ROADS LOCATED IN THE UNINCORPORATED AREAS OF NASSAU COUNTY, FLORIDA; PROVIDING FOR RESTRICTIONS FOR PROPERTY ABUTTING A ROAD AND A PROTECTION ZONE; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners finds that roads should be designated as scenic/canopy or portion of said roads; and

WHEREAS, the designation of scenic/canopy or portion of said roads will protect and enhance the natural corridors of the County; and

WHEREAS, the designation of said roads or portion of said roads will protect the natural beauty along the roads; and

WHEREAS, the Planning and Zoning Board has considered this Ordinance and finds it to be in the best interest of the citizens of the County; and

WHEREAS, the Board of County Commissioners, after a public hearing, concurs with the finding of the Planning and Zoning Board.

NOW, THEREFORE BE IT ORDAINED this 20th day of August, 2001, by the Board of County Commissioners of Nassau County, Florida, as follows:

1. Scenic/Canopy Road(s).

a. The Board of County Commissioners may designate roads or portion of said roads as Scenic/Canopy Roads based upon criteria set forth herein. The Public Works Director may recommend, based upon the criteria, that roads or portion of said roads be considered, or a petition of the lesser of either of fifty-one percent (51%) or two hundred (200) of the property owners abutting the road may request that a road be considered. Said petition shall be submitted to the Director of Public Works for review and comment, and a report made to the Board of County Commissioners. The criteria may include: (1) historic significance; (2) scenic criteria (including tree canopy); (3) ecological significance; (4) length and current width; (5) Land Use Map designation; (6) zoning of the property within the area; (7) traffic information.

b. The Director of Public Works or his designee shall cause a survey to be done of existing trees on the proposed roadway and zone, and present the survey to the Board of County Commissioners with the report based upon the criteria listed above. The survey shall meet the minimum technical standards of Chapter 472 of the Florida Statutes and Administrative Rules promulgated thereunder.

c. The Board of County Commissioners may designate said road by a separate Ordinance. Any Ordinance

proposing to designate a roadway shall be considered by the Planning and Zoning Board based upon due public notice. The Planning and Zoning Board shall make recommendations to the Board of County Commissioners. The Board of County Commissioners shall consider the recommendations pursuant to the procedural requirements of Ordinance 97-19, Zoning Code. The owners adjacent to the road shall be notified by certified mail by the Public Works Department at least twenty (20) days prior to the Ordinance's being considered. A copy of the survey shall be sent along with the notice.

2. Restrictions on Scenic/Canopy Roads.

a. The County shall not widen or increase the number of lanes on any of the County roads designated as Scenic/Canopy Roads.

b. Outdoor advertising signs shall be prohibited, except signs advertising residential developments or homes for sale or parcels of property immediately adjacent to the road or subdivision and entryway signs constructed in accordance with the County Sign Ordinance. On-premises commercial signs, excluding billboards, shall be allowed.

c. The erection of markers or signage indicating that the road is a scenic/canopy road or historic road shall only be accomplished at the direction

of the Public Works Director or his/her designee with the consent of the Board of County Commissioners.

d. Setting and posting of speed limits and warning of restricted roadway shoulders.

e. Setting of classes of vehicular travel, including weight and height limitations.

f. Limiting access and width of access.

g. Tree protection. No trees, except as identified in Florida's Most Invasive Species List, Category I, which have attained a diameter of eight inches (8") or more at a point four and one-half feet (4-1/2') above average ground level within the zone shall be removed, except as provided herein, and trees shall be identified by survey, which shall be attached to the Ordinance.

3. Scenic/Canopy Road Zone. The zone should be established by the Board of County Commissioners. The zone shall include the right-of-way as established by the Public Works Department and may include additional area of uniform width along the roadway based upon the zoning classification, including setback requirements, trees as depicted on the survey, and location of existing structures. The zone shall be set forth in the proposed Ordinance and included on the notification sent pursuant to

Paragraph 1(c). No development shall occur within the approved zone of the canopy road without the express approval of the Board of County Commissioners and a request for development shall be submitted to the Director of Public Works or his designee, and the Director or his designee shall provide a recommendation to the Board of County Commissioners. Said recommendation may contain conditions, and the recommendations shall be placed on the Board's agenda and the procedures utilized for consideration shall be as set forth in Paragraph 1(c).

4. Criteria for tree removal.

(a) The Director of Public Works or his/her designee shall recommend approval to the Board of County Commissioners of a permit for removal of a tree within the zone if the applicant demonstrates the presence of one or more of the following conditions:

i. Safety Hazard. Necessity to remove a tree which poses a safety hazard to pedestrians or other persons, buildings, or other property, or vehicular traffic, or which threatens to cause disruption of public services.

ii. Diseased or pest-infested trees. Necessity to remove a diseased or pest-infested tree to prevent the spread of the disease or pests.

iii. Good forestry practices. Necessity to reduce competition between trees.

iv. Reasonable and permissible use of property. Tree removal which is essential for reasonable and permissible use of essential improvements, resulting from:

1. Need for access immediately around the proposed structure for essential construction equipment, limited to a maximum width of twenty feet (20') from the structure.

2. Limited access to the building site essential for reasonable use of construction equipment.

3. Essential grade changes. Essential grade changes are those grade changes needed to implement safety standards common to standard engineering or architectural practices, and reference to a text where such standards are found shall be required.

4. Location of driveways, buildings, or other permanent improvements. Driveway aisles shall be consistent with other applicable standards.

(b) The Board of County Commissioners shall approve or deny a permit request, and said request shall be considered at a regularly scheduled meeting of the Board of County Commissioners. Notice shall be provided to property

owners within the zone in the same manner as set forth in Paragraph 3.

(c) The individual(s) requesting the permit shall pay an application fee of one hundred fifty dollars (\$150.00) and shall be responsible for notifying the property owners, and the cost of the advertisement(s).

5. The Board of County Commissioners, when approving removal of any tree or trees within the zone, shall amend the Ordinance designating the Zone, and in such amending Ordinance shall direct the Public Works Director to amend (or cause an amendment to be made to) the GPS survey of the zone, updating and showing the location of the trees permissibly removed, all remaining trees protected, and including the location of any mitigation trees arising from or in connection with a tree removal. No liability or fine shall be levied for trees removed from within the zone if the official survey of the zone is not maintained current within thirty (30) days of amending action by the Board of County Commissioners.

6. Canopy road tree protection zone tree or vegetation removal applications.

a. Required Information. All permits for removal or relocation of trees, or for pruning management, within the canopy road tree protection zone (unless such

activity is permitted under an approved general permit, shall be obtained by making application to the Director of Public Works or his/her designee.

b. Mitigation requirements. The permit application for removal of trees or vegetation in the canopy road tree protection zone must be accompanied by a mitigation plan which shall include, at a minimum, the following:

i. An analysis documenting the purpose that necessitates the tree removal and explaining why the project cannot be modified to avoid the need for tree removal.

ii. An analysis of the canopy road section to be impacted by the proposed activity within the canopy road tree protection zone. The analysis shall include a narrative description of the affected roadway section together with other material helpful in assessing the impact of the intrusion of the existing canopy road effect. Such characteristics as under-brush density and species composition, tree species and size distribution, high bank areas, and capacity shall be included as appropriate.

iii. A replanting and management plan designed to mitigate the visual and vegetation impacts.

c. Inspection. Prior to determination on a permit application, the Director of Public Works or his/her designee, or its designee, shall conduct an on-site inspection.

7. Traffic safety regarding canopy road designation. Traffic safety on the designated canopy road shall be promoted by the utilization of speed control devices and by limiting truck traffic to local delivery trucks and setting speed limits. The Director of Public Works or his designee shall provide speed control devices and signage restrictions as deemed necessary.

8. Traffic Directional Signs. The Director of Public Works or his/her designee may recommend to the Board of County Commissioners that traffic, other than local vehicular traffic, be routed on canopy roads subject to the requirements in Paragraph 6 and upon providing information that:

a. The road has been previously utilized for non-local traffic.

b. The routing of other than local traffic does not create safety concerns or adversely affect the Canopy Road.

c. There is a need and necessity to route other than local traffic.

d. Said recommendations shall be placed on the Board's agenda and considered at a meeting commencing at 6:00 p.m.

9. Appeal. Any decision of the Director of Public Works or his designee that does not require approval of the Board of County Commissioners may be appealed to the Board of County Commissioners. Any and all such appeals shall be in writing and provided to the County Coordinator's office at least fourteen (14) days prior to the next regularly scheduled Board of County Commissioners' meeting. Said appeal shall be placed on the agenda for consideration by the Board of County Commissioners.

10. Violation. Any person, firm, or corporation who refuses to comply with or violates any section of this Ordinance shall be punished according to law, and upon conviction for such offenses, shall be punished by a fine, not to exceed Five Hundred Dollars (\$500.00), or for tree removal not to exceed Five Hundred Dollars (\$500.00) per tree, or by imprisonment, not to exceed sixty (60) days in the County Jail, or both. Each day of continued non-compliance or violation shall constitute a separate offense.

11. Severability. If any section, sentence, clause, phrase, or word of this Ordinance is for any reason held or

declared to be unconstitutional, inoperative, or void, such holding of invalidity shall not effect the remaining portions of this Ordinance.

12. Conflict. In the event of conflict between this Ordinance and other County Ordinances as adopted, this Ordinance shall prevail.

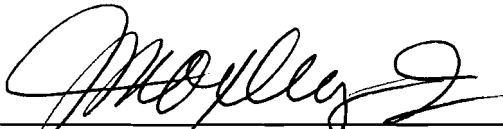
13. Effective Date. This Ordinance shall become effective upon its being filed in the office of the Secretary of State.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



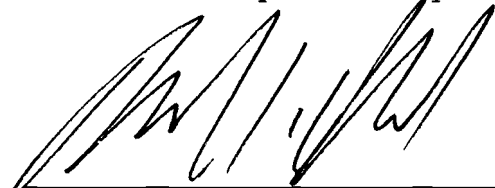
MARIANNE MARSHALL
Its: Chairman

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

h/anne/ords/canopy-road