

ORDINANCE 2004-13

AN ORDINANCE AMENDING ORDINANCE 97-19, AS AMENDED, KNOWN AS THE NASSAU COUNTY ZONING CODE; SPECIFICALLY AMENDING ARTICLE 32, DEFINITIONS; ADDING ARTICLE 38, HISTORIC DESIGNATION; RENUMBERING ARTICLE 38 TO ARTICLE 39; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, Nassau County has made a valuable contribution to the history and development of the region, State and Nation; and,

WHEREAS, this contribution is physically demonstrated by archaeological sites, historical roads, landmarks and sites, buildings, structures, monuments and artifacts of significance that represent or reflect the social, economic, cultural, political and architectural history of the County; and,

WHEREAS, the historical and cultural foundations of the County, State and Nation should be preserved; and,

WHEREAS, the rich and unique heritage of historic properties in the County are an important legacy to be valued and conserved for present and future generations; and,

WHEREAS, it is in the best interests of Nassau County to identify, protect, enhance and promote archaeological and historic resources for the economic prosperity, educational benefit, cultural enrichment and general welfare of its citizens, and the public at large; and

WHEREAS, a study, "The Economic Benefits of Historic Preservation in Florida", commissioned by the Florida Department of State, Division of Historical Resources and the Historic Preservation Advisory Council concluded that 123,000 jobs were created and more than 3.7 billion dollars was spent by tourists in Florida due to historic preservation in 2000; and,

WHEREAS, Objective 1.04B and Objective 3.06 of the adopted Nassau County Comprehensive Plan requires the County to protect historical and archaeological resources; and,

WHEREAS, the Board of County Commissioners has determined that it is necessary to clarify what defines a historical or archaeological resource of significance; and,

WHEREAS, the Board of County Commissioners has determined that it is necessary to adopt regulations for historic designation in Nassau County.

NOW, THEREFORE, BE IT RESOLVED this 12 day of April, 2004, by the Board of County Commissioners of Nassau County that Ordinance 97-19 be amended as follows:

1. Article 32 Definitions

Archaeological site: A location that has yielded or may be likely to yield information important in history or prehistory.

Demolition: Any act that destroys in whole, or part, a site, building or structure.

Florida Master Site File: The state's clearinghouse for information on archaeological sites, historic structures, and field surveys for such sites. A combination of both paper and computer files. It is administrated by the Bureau of Archaeological Research, Division of Historical Resources, Florida Department of State.

Historic: All areas, districts, or sites containing property that is eligible for listing on the Florida Master Site File, National Register of Historic Places, or designation by a local government as historically, architecturally or archaeologically significant.

National Register of Historic Places: Established by Congress in 1935, the National Register of Historic Places is a listing of culturally significant buildings, structures, objects, sites and districts in the United States, and maintained by the U.S. Department of the Interior.

2. Article 38 Historic Designation

Section 38.01. Intent.

The intent of these regulations is to:

A. Protect and perpetuate the natural and cultural heritage of significant historic and/or archaeological sites and structures, including historic roads in the County;

- B. Enhance historic and archaeological resources, and their property value, for the benefit, education, and enjoyment of future generations;
- C. Protect the public interest in historic and/or archaeological sites, structures, or roadways from adverse activities, land uses, excavations, construction, destruction and other impacts and encroachments;
- D. Prevent the unnecessary removal of historic structures or archaeological artifacts;
- E. Stabilize and improve property values, while providing attractions to residents, tourists and visitors, a stimulus to business and industry and a mode to preserve the history of Nassau County; and,
- F. Implement the policies of Objective 1.04B of the Future Land Use Element and Objective 3.06 of the Housing Element of the adopted Nassau County Comprehensive Plan.

Section 38.02. Prohibited Activity.

- A. Within Nassau County, it shall be unlawful for any person, group, organization or agency to knowingly and/or willfully damage, alter, destroy, deface, renovate, relocate, excavate or otherwise disturb any historic or archaeological resource without prior and appropriate notification to Nassau County, and authorization from any additional County, State or federal regulatory agency with applicable jurisdiction as required.
 - 1. These regulations shall not be construed to prevent ordinary repairs or maintenance to a structure or site.

Section 38.03. Nominations, Designations and Appeals.

- A. Nominations. A The property owner, local County organization, the Board of County Commissioners or authorized agency of the U.S. Government and/or the State of Florida may nominate a property for historic designation. Any private property designated shall have the consent of the property owner.
 - 1. Nominations for historic designation shall be submitted to the Growth Management Department and shall be accompanied by any information necessary, as requested by the Growth Management Department, to investigate and comment on the nomination, and pursuant to Chapter 1A-46.0001, Florida Administrative

Code and Chapter 60.4, Code of Federal Regulations, as applicable and amended from time to time.

2. The Growth Management Department shall review all nominations for historic designation, and provide additional information, comments and recommendations to the Board of County Commissioners.
3. The administrative, public notification procedures and fee schedule used for an application for rezoning, subject to the provisions herein and pursuant to Article 5 of these regulations, shall apply.
4. Upon nomination for historic designation involving human burial remains, all issued or pending permits pertaining to the affected portion of the subject property shall be suspended, and no new permits shall be issued or reinstated for a period of up to fifteen (15) consecutive days or until a final report is received from the State archaeologist or district medical examiner.

B. Designations. The Board of County Commissioners will hold public hearings to consider nominations for historic designation. The Board of County Commissioners may, upon a majority vote, designate an area, site, artifact, excavation, structure or other resource as historical, and regulated by the provisions herein. Any private property designated shall have the consent of the property owner. Such designation shall confer upon applicable structures or properties an acknowledgement of local historic significance.

1. The County shall develop a Historic Properties Survey of Nassau County, Florida, which shall be updated periodically. The Historic Properties Survey of Nassau County, Florida shall be administered and maintained by the Growth Management Department and Geographical Information Systems Department, in accordance with Policy 1.04B.01 of the Comprehensive Plan.

C. Appeals. Any person jointly or severally aggrieved by a decision of the Board of County Commissioners concerning the designation of historic resources within Nassau County may file an appeal in the Circuit Court, which serves the County in which the Board of County Commissioners is located. This appeal must be filed within thirty (30) days after the Board of County Commissioners has rendered its decision.

1. Upon any appeal of the Board's decision, the Board of County Commissioners may continue the suspension of

all activities and permits within that portion of the site associated with the historic or archaeological resources in question, pending a final decision or agreement between the Board and the subject property owner(s) or a rendering of a decision of appeal.

Section 38.04. Exemptions.

A. Duly authorized agents of the State of Florida or the federal government, or organizations authorized by the Board of County Commissioners conducting bona fide scientific surveys, investigations, excavations or explorations for the purpose of identification, protection, or exhumation of historical resources of Nassau County, may be exempted from the provisions of these regulations, provided such exemptions are deemed by the Board of County Commissioners to be in the best interest of the citizens of Nassau County, the State of Florida or the Nation.

B. In circumstances of emergency or impending disaster, the provisions herein shall in no way impede or restrict the performance or duties of any authorized emergency personnel with proper jurisdiction in Nassau County. In addition, the County Building Official will have the authority to issue emergency demolition and/or construction permits for any historic or potential historic resource that possesses an immediate or obvious threat to the health, safety and welfare of the citizens of Nassau County, subject to the approval of the Board of County Commissioners and in accordance with the provisions of the Florida Building Code.

1. Any designated historical resource that has been destroyed or damaged by a natural disaster, and is deemed by the County Building Official as an immediate threat or obvious threat to the health, safety and welfare of the citizens of Nassau County, may have its historic designation status rescinded upon a majority vote by the Board of County Commissioners.

Section 38.05. Archaeological Protection.

A. Archaeological Survey Requirement. Within Nassau County, any person(s), company, organization or government agency engaged or promoting activities which unearth, uncover, or otherwise reveal any suspected archaeological site, burial, artifact, or other remains, is required to notify the Nassau County Growth Management Department as to the nature, size and exact location of the suspected find.

B. The Growth Management Department will have authority to request from an Applicant/Developer an initial

archaeological survey by an authorized agency or qualified archaeologist before development occurs in any area known or documented to contain historic resources.

1. If the presence of historic resources is confirmed, all activities, permits and/or exemptions associated with that portion of the subject site will be temporarily suspended for a period of three (3) working days, or until initial site inspection, subsequent evaluation and site-release to continue work is issued by the Growth Management Department, whichever occurs first. However, following the initial site inspection, if human burial remains are found, the Growth Management Department will have authority to temporarily suspend for up to fifteen consecutive (15) days all activities, permits and/or exemptions concerning the subject site, or until a subsequent inspection and evaluation is conducted by a representative of a qualified agency with experience in archaeological identifications or the medical examiner. Any archaeological sites, artifacts, remains or other resources deemed "major" by an authorized agency or qualified archaeologist will be reported to the Board of County Commissioners, which will have the authority:

- a. To request that the property owner conduct a comprehensive scientific excavation and evaluation of the site by [and] under the direction of a bona fide archaeologist;
- b. To determine the nature, importance and possible preservation and/or protection of the known or suspected archaeological remains;
- c. To review for consistency all proposed mitigation procedures and potential adverse impacts to the subject site;
- d. To request that the property owner file a variance request to ensure archaeological protection of the site and reasonable use of the land by the property owner; or,
- e. To determine potential public acquisition for archaeological preservation.

2. Archaeological sites designated as "minor" by an authorized agency or qualified archaeologist shall receive salvage excavation prior to development recommencing.

B. Excavations. All subsequent excavations, removals, preservations, designations, displays or mitigations concerning a potential, known, or designated archaeological site, must be approved by the Board of County Commissioners upon recommendation by the Growth Management Department and/or the appropriate state or federal authorities.

1. All approved excavations shall be in strict accordance with the recommendations, permits, approvals or authorizations of the Board of County Commissioners and/or any appropriate state or federal agency with jurisdiction.

C. Human Burials. According to Chapter 872, Florida Statutes, it is a third degree felony for persons who willfully and knowingly disturb any human burial remains. Any person who knows or has reasons to know that an unmarked human burial is being unlawfully disturbed, destroyed, defaced, mutilated, removed, excavated or exposed shall immediately notify the local law enforcement agency with jurisdiction in the area where the unmarked human burial is located. Persons with knowledge of the disturbance who fail to notify the local law enforcement agency will be guilty of a misdemeanor of the second degree. All subsequent actions concerning the subject human burial shall be in compliance with Chapter 872, Florida Statutes.

Section 38.06. Historic Properties, Sites and Structures.

A. Minimum Criteria for Designation. Any historic resource included or eventually added to the Historic Properties Survey of Nassau County, Florida, the National Register of Historic Places, Florida Master Site File, or any other appropriate and recognized existing or future survey by an authorized agent of the local, state or federal government, shall be subject to the provisions herein. All deletions, additions or amendments to the Historic Properties Survey or other authorized surveys, maps or lists shall be subject to the processes, criteria, reviews and approvals as outlined in these regulations.

B. The following minimum criteria shall be utilized when evaluating a structure, district, site or other resource for designation as an historic resource or for inclusion in the Historic Properties Survey.

1. The considered historic resource must be a minimum of fifty (50) years old and contain significant character, interest, or value as part of the historical, cultural, aesthetic and architectural heritage of Nassau County, its municipalities, the

surrounding counties, the state, or the nation. General evaluation criteria shall include the significance and association of the building with the way of life or activities of a major person, location, event, family, business or institution recognized as important to the county, its municipalities, the surrounding counties, the state, or the nation; or

2. The considered historic resource displays the historical, political, cultural, economic or social trends of community history; or
3. The considered designation displays unique and/or distinguishing characteristics of an architectural style, design period, method of construction, detail, craftsmanship or material; or
4. The considered historic resource is a historic or outstanding work of a prominent architect, designer, engineer, builder or landscape architect; or
5. The site, building or structure meets the historic development standards as defined by, and listed in the regulations of, and criteria for, the National Register of Historic Places, as prepared by the U.S. Department of the Interior, under the Historic Preservation Act of 1966, as amended

Section 38.07. Nonconforming Historic Properties.

The Planning and Zoning Board, pursuant to Section 5.50 and subject to the provisions herein, may grant a variance for the reconstruction, rehabilitation or restoration of structures listed, eligible for listing or classified as contributing to a district listed on the National Registry of Historic Places, or the Florida Master Site File. The variance shall be the minimum necessary to protect the historic character and design of the structure. No variance shall be granted if the proposed construction, rehabilitation, or restoration will cause the historic character or design of the structure to be degraded or destroyed.

Section 38.08. Enforcement.

- A. Any person(s), agencies, or companies who carry out or cause to be carried out any work, activity, or disturbance in violation of this ordinance shall be required to restore the subject historic resource or disturbed portion of the site either to its former appearance and/or condition prior to the violation, or in accordance with the recommendations of the Board of County Commissioners.

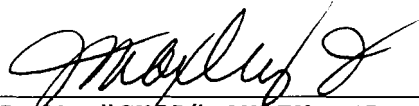
3. This ordinance shall take effect upon receipt in the Secretary of State's office.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



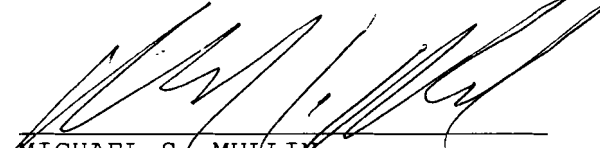
FLOYD L. VANZANT
Its: Chairman

ATTEST:



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

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN