

ORDINANCE 2005 - 64

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF NASSAU COUNTY, ORDINANCE NO. 91-04, AS AMENDED, PURSUANT TO THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT (CHAPTER 163, PART II, FLORIDA STATUTES); SPECIFICALLY RECLASSIFYING PROPERTY FROM LOW DENSITY RESIDENTIAL AND MEDIUM DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL AND COMMERCIAL ON THE FUTURE LAND USE MAP; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, empowers the Board of County Commissioners of Nassau County to prepare and enforce comprehensive plans for the development of the County; and

WHEREAS, Sections 163.3161 through 163.3215, Florida Statutes, the Local Government Comprehensive Planning and Land Development Regulation Act, empowers and requires the Board of County Commissioners of Nassau County to (a) plan for the County's future development and growth; (b) adopt and amend comprehensive plans or elements or portions thereof, to guide the future growth and development of the County; (c) implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations; and (d) establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of the Act; and

WHEREAS, the Nassau County Planning and Zoning Board has been established pursuant to Nassau County Ordinance No. 74-33; and

WHEREAS, pursuant to Section 163.3174(1), Florida Statutes, the Board of County Commissioners of Nassau County, by Ordinance No. 83-19, duly designated the Planning and Zoning Board as the Local Planning Agency for the unincorporated area of Nassau County; and

WHEREAS, on the 28th day of January, 1991, the Board of County Commissioners of Nassau County, Florida, did adopt Ordinance 91-04, an Ordinance Enacting and Establishing the Comprehensive Land Use Plan and the Future Land Use Map for the unincorporated portion of Nassau County, Florida; and

WHEREAS, Colleen Brauner and Charles Gressman, owners, seeks to reclassify land designated on the Future Land Use Map from Low Density Residential and Medium Density Residential to Medium Density Residential and Commercial; and

WHEREAS, the Nassau County Planning And Zoning Board held duly noticed public hearings to address the requested Amendment to the Future Land Use Map from Medium Density Residential to High Density Residential and recommended same to the Nassau County Board of County Commissioners on April 6, 2004; and

WHEREAS, the Board of County Commissioners held a transmittal hearing on October 11, 2004; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, the Board of County Commissioners transmitted

copies of the proposed Future Land Use Map Amendment to the Department of Community Affairs as the State Land Planning agency for written comment, and transmitted one (1) copy to each of the local government or governmental agencies in the State of Florida having filed with the Board of County Commissioners a request for a copy of the amended version of the Comprehensive Plan; and

WHEREAS, the Department of Community Affairs, by letter, has notified the County of its review of the proposed plan amendment and has offered specific recommendations in its Objections, Recommendations, and Comments Report on the proposed plan amendment; and

WHEREAS, the Board of County Commissioners of Nassau County held an initial adoption hearing on August 8, 2005, and subsequently continued said hearing until August 22, 2005, and further considered all oral and written comments received during the public hearing, as well as the Objections, Recommendations, and Comments Report of the Department of Community Affairs and the Responses to the report prepared by the Nassau County Growth Management Staff; and

WHEREAS, the Board of County Commissioners finds that the Objections, Recommendations, and Comments of the Department of Community Affairs will be adequately

addressed by existing development standards of Nassau County as well as impending County projects; and

WHEREAS, in exercise of its authority, the Board of County Commissioners has determined that the amendment on the Future Land Use Map of the Comprehensive Plan and the Reclassification of the land as set forth herein, is consistent with the overall Comprehensive Plan and Future Land Use Map, and the orderly development of Nassau County, Florida, and the specific area; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, public hearings have been held with due public notice having been provided, on the amended version of the Future Land Use Map amendment, reclassifying land designated Low Density Residential and Medium Density Residential to Medium Density Residential and Commercial, and with written advance notice of such public hearings having been provided to the State Land Planning Agency;

NOW, THEREFORE, BE IT ORDAINED this 22nd day of August, 2005, by the Board of County Commissioners of Nassau County, Florida, as follows:

1. **SECTION 1. PURPOSE AND INTENT.**

This Ordinance is enacted pursuant to the requirements of Chapter 163, Florida Statutes, and Chapter 9J-5, F.A.C. Specifically, the authority for this Ordinance is Section

163.3184, Florida Statutes. This Ordinance amends Ordinance 91-4, as amended.

2. **SECTION 2. PROPERTY RECLASSIFIED.**

The real property described in Section 3 is reclassified from Low Density Residential and Medium Density Residential to Medium Density Residential and Commercial on the Future Land Use Map of Nassau County.

3. **SECTION 3. OWNER AND DESCRIPTION.**

The land reclassified by this Ordinance is owned by Colleen Brauner and Charles Gressman, and is described as follows

See Exhibit "A" attached hereto and made a part hereof by specific reference.

4. **SECTION 4. SEVERABILITY.**

If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

5. **SECTION 5.**

The Objections and Recommendations of the Department of Community Affairs are set forth in the attached Exhibit "B" and have been addressed by the Board of County Commissioners and the responses that are adopted are set forth in Exhibit "B".


6. SECTION 6. EFFECTIVE DATE.

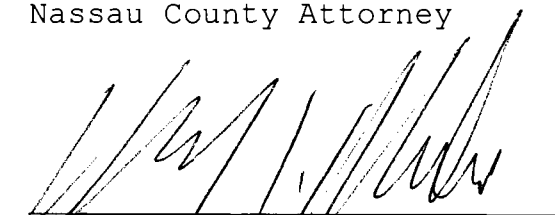
This Ordinance shall be filed with the Department of Community Affairs after adoption by the Board of County Commissioners. This Ordinance shall become effective upon notification by the Department of Community Affairs that the amendment is found to be in compliance, and upon receipt of the official notification by the Department of Community Affairs, this Ordinance shall become effective upon its being filed in the Office of the Secretary of State.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


ANSLEY N. ACREE
Its: Chairman

ATTEST:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk
Approved as to form by the
Nassau County Attorney


MICHAEL S. MULLIN

LEGAL DESCRIPTION

(OVERALL PARCEL)

August 2, 2004

A PORTION OF SECTION 16 AND A PORTION OF THE FRANCIS WOODS DONATION, SECTION 42, TOWNSHIP 2 NORTH, RANGE 25 EAST, NASSAU COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SAID SECTION 42; THENCE SOUTH 89°05'58" WEST, ALONG THE NORTHERLY LINE OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SAID SECTION 42, A DISTANCE OF 658.63 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°05'58" WEST, ALONG THE NORTHERLY LINE OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SAID SECTION 42, A DISTANCE OF 1253.93 FEET TO INTERSECT THE SOUTHERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD (A 100 FOOT RIGHT-OF-WAY) NOW ABANDONED; THENCE SOUTH 42°40'34" WEST, ALONG SOUTHERLY RIGHT-OF-WAY LINE OF SAID SEABOARD COASTLINE RAILROAD, A DISTANCE OF 1240.19 FEET; THENCE SOUTH 33°27'18" EAST A DISTANCE OF 2186.56 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE SEABOARD AIRLINE RAILROAD (A 120 FOOT RIGHT-OF-WAY) NOW ABANDONED AND THE NORTHEASTERLY CORNER OF THE LANDS OF CHARLES L. & LINDA J. GRESSMAN DESCRIBED IN OFFICIAL RECORD BOOK 1077, PAGE 1320 OF THE PUBLIC RECORDS OF NASSAU COUNTY, FLORIDA; THENCE SOUTH 26°23'54" EAST, ALONG THE EASTERLY LINE OF LAST SAID LANDS, A DISTANCE OF 377.68 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 200 (A-1-A) A VARIABLE WIDTH RIGHT-OF-WAY AS SHOWN ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION NO. 74040-2528 ON SHEETS 14 & 15 OF 46; THENCE ALONG SAID RIGHT-OF-WAY LINE OF STATE ROAD NO. 200 (A-1-A) THE FOLLOWING EIGHT COURSES; (1) NORTH 66°53'34" EAST A DISTANCE OF 858.44 FEET; (2) NORTH 23°06'26" WEST A DISTANCE OF 9.84 FEET; (3) NORTH 66°53'34" EAST A DISTANCE OF 32.81 FEET; (4) NORTH 23°06'26" WEST A DISTANCE OF 43.05 FEET; (5) NORTH 48°26'14" WEST A DISTANCE OF 207.33 FEET; (6) NORTH 66°53'34" EAST A DISTANCE OF 564.42 FEET; (7) SOUTH 23°06'26" EAST A DISTANCE OF 240.29 FEET; (8) NORTH 66°53'34" EAST A DISTANCE OF 709.76 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF GRESSMAN ROAD (A VARIABLE WIDTH RIGHT-OF-WAY) AS NOW LAID OUT AND IN USE; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES; (1) NORTH 15°11'31" WEST A DISTANCE OF 133.00 FEET; (2) NORTH 32°07'29" WEST A DISTANCE OF 276.73 FEET; THENCE SOUTH 67°45'15" WEST A DISTANCE OF 339.10 FEET TO THE SOUTHEASTERLY CORNER OF THE STATE OF FLORIDA HIGHWAY MAINTENANCE FACILITY; THENCE ALONG THE

PERIMETER OF LAST SAID LANDS THE FOLLOWING THREE COURSES; (1) SOUTH 67°45'15" WEST A DISTANCE OF 709.94 FEET; (2) NORTH 00°56'29" WEST A DISTANCE OF 697.46 FEET; (3) NORTH 64°09'22" EAST A DISTANCE OF 581.52 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF GRESSMAN ROAD (A 30 FOOT RIGHT-OF-WAY AS NOW LAID OUT AND IN USE); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES; (1) NORTH 66°47'47" WEST A DISTANCE OF 44.03 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 164.69 FEET; (2) THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°24'58" AN ARC DISTANCE OF 32.81 FEET AND A CHORD BEARING NORTH 61°05'18" WEST A DISTANCE OF 32.76 FEET; THENCE SOUTH 64°09'51" WEST A DISTANCE OF 120.26 FEET; THENCE SOUTH 89°17'50" WEST A DISTANCE OF 537.28 FEET; THENCE NORTH 00°04'03" EAST A DISTANCE OF 401.34 FEET; THENCE SOUTH 85°14'20" EAST A DISTANCE OF 133.40 FEET; THENCE NORTH 01°16'53" WEST A DISTANCE OF 342.07 FEET; THENCE SOUTH 85°14'20" EAST A DISTANCE OF 56.17 FEET; THENCE NORTH 01°17'16" WEST A DISTANCE OF 661.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 111.269 ACRES MORE OR LESS.

EXHIBIT B

Nassau County response to the Department of Community Affairs, Objections, Recommendations and Comments Report, for Nassau County Proposed Amendment 2004-2 (DCA 04-2).

Proposed Future Land Use Map (FLUM) Amendment CPA04-009

Background:

CPA04-009 proposes to change the Future Land Use Map designation on 111 acres from Low Density Residential (more than 1 up to 2 dwelling units/acre) and Medium Density Residential (more than 2 up to 3 dwelling units/acre) to Medium Density Residential and Commercial. The property is located in the northwest quadrant of the intersection of SR200 and Gressman Road, approximately two (2) miles east of Callahan. Under the current FLUM designations, the subject property could yield up to 234 residential units; under the proposed FLUM designations, the subject property could yield up to 281 residential units along with 17.5 acres of commercial development.

I. Consistency with Rule 9J-5, Florida Administrative Code, (F.A.C.) and Chapter 163, Florida Statutes (F.S.)

A. Objection: Transportation - The amendments have not demonstrated the availability of existing, committed and planned transportation facilities for the proposed densities and intensity. The analysis for the 111-acre amendment site was not based on the maximum density and intensity of the proposed land uses. Neither of the analyses were broken down to a short term and long term analysis consistent with Rule 9J-5.019(3), F.A.C. The analyses include planned and programmed improvements but did not identify the sources of funding for the improvements and when the improvements are scheduled for construction. The analysis for the 24.5-acre amendment site identified segments as operating below the adopted LOS but did not identify the specific planned or programmed improvements that would address the LOS concern.

Based on the lack of demonstration of availability of transportation facilities the proposed amendment has not demonstrated internal consistency with the comprehensive plan including Future Land Use Element Policy 1.01.04 requiring supporting infrastructure be considered in adopting comprehensive plan amendments; Traffic Circulation Element 2.01.01 and Objective 2.01 and Policy 2.02.03 and 2.06.05 which set transportation levels of service and require these levels of service be maintained and coordinated with land use decisions.

Recommendation: Provide data and analysis demonstrating the necessary improvements to address the transportation impacts of the proposed development and demonstrate the necessary roadway improvements needed are in the appropriate capital improvements plan. Roadway improvements within the County or the City of Callahan should also be reflected on the appropriate Traffic Circulation Map. Base the analysis on the amount of development proposed in the future land use map amendment. Because the county has such a high intensity standard for the commercial land use it distorts the true transportation need. The county should consider a new intensity standard for the commercial land use that is reflective of the character of commercial development the county seeks. The county might also consider different intensities for different types of commercial land uses. If the County intends to rely on

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developer-funded improvements for the necessary transportation facilities to support the proposed land use amendment, then the executed development agreement must be submitted along with the amendment. Regardless of the entity responsible for the transportation facility, the future land use map should be coordinated and based upon existing or the planned availability of supporting transportation facilities.

Nassau County's Response:

CPA04-009: The Future Land Use Map currently designates this 111 acre tract as a combination of Low Density Residential (99.5 acres) and Medium Density Residential (11.7 acres), which could allow the development of up to $(99.5 \times 2) + (11.7 \times 3) = 234$ dwelling units. The applicant requests a change to a combination of Medium Density Residential (93.7 acres) and Commercial (17.5 acres), which could allow the development of up to $(93.7 \times 3) = 281$ dwelling units. This results in the addition of up to 47 homes and 17.5 acres of commercial development.

Staff's favorable recommendation on the proposed change reflects the fact that the Gressman Road / SR200 intersection is positioned to evolve into a commercial node / activity center. Existing commercial development centered at this intersection as well as past FLUM amendments and rezonings to commercial have provided the basis for this evolution. Such a commercial expansion is endorsed by the Comprehensive Plan, which seeks to expand the amount of land designated for commercial and industrial development in the interest of economic development. If this intersection is to evolve into an activity center, the medium density residential designation provides an appropriate transition from the commercial activity along SR200 to the low density residential areas to the north and west. Other properties surrounding this intersection to the northeast and south currently carry the Medium Density Residential designation.

In terms of transportation infrastructure availability, this site is currently well-served by SR200. The segment which adjoins the subject property is operating well below the adopted Level of Service, with some 1,800 trips currently available. In the short term, the subject property has adequate transportation infrastructure. In the long term, SR200 is soon to be widened to four (4) lanes in this area. Right-of-way has already been acquired and construction is slated to begin within the next two (2) years.

DCA expressed concerns over the County's current intensity standard for commercial land uses. The current LDR project includes assessment of the County's commercial development standards and will recommend reductions in intensity.

B. Objection: Availability of Public Facilities - The amendments have not demonstrated the availability of facilities and services for the proposed increased densities and intensities.

The data and analysis for the 112-acre amendment site included a letter from the Town of Callahan indicating a willingness to serve the site for water and wastewater. However, the assessment for the demand of water and wastewater was not based on the maximum allowable buildout of the site, in

particular the commercial development. Furthermore, the data and analysis is inconsistent on whether the Town of Callahan or the Jacksonville Electric Authority will serve this site.

The data and analysis for the 24.5 acre amendment site identified the demand for water and wastewater from the proposed land use and included a letter from JEA explaining what would need to be done to hook up to their water and wastewater facilities.

Neither of the analyses assessed the availability of existing, planned or programmed facilities to serve the site. Based on the lack of demonstration of availability of public facilities the amendment has not demonstrated internal consistency with the comprehensive plan including Future Land Use Element Policies 1.01.04, 1.01.07, 1.02.05B, that require the coordination of the provision of public facilities with the future land use map, and Public Facilities Element Policies 4.01.01, 4.01.02, 4.02.01, and 4.02.02 that set the LOS standards for water and sewer facilities and require distribution of these facilities.

Recommendation: Revise the analysis using the adopted LOS standards adopted in the comprehensive plan. Maximum buildout under the proposed land use should be used for all of the assessments. As discussed earlier in this report, the County should consider evaluating the intensity standard for its commercial land use. Include the permitted capacity of the facilities along with the current consumption and any capacity that may have been committed to future development. Demonstrate that sufficient capacity will remain to serve the potential development. The data and analysis with the amendment should demonstrate how the facilities are planned and how they are coordinated with the proposed development. If the public facilities are not the financial responsibility of the County, then documentation should be provided demonstrating that the public facilities needed to support the future land use map amendment are in the capital improvements plans of the responsible entity. If the County intends to rely on developer-funded improvements to support the proposed land use amendments, then the executed development agreement must be submitted along with the amendment. Regardless of the entity responsible for the public facilities, the future land use map should be considered and based upon existing or the planned availability of supporting public facilities.

Nassau County's Response:

CPA04-009:

In addition to the comments above, this proposal is questioned by DCA as to who will provide water and sewer to the development. It remains unclear at this point as to whether or not the Town of Callahan will have adequate capacity to serve the proposed development. It is also clear that at this point, JEA is not equipped to deliver service to the subject property. As is stated in the Policies governing Public Facilities in the Comprehensive Plan, determinations of demand and service provision must be made prior to development activity. At the time a specific proposal is made for the development of the subject property, such an assessment must be made. To develop under the density proposed, water and sewer will be required, and development will not be permitted to proceed without resolution of the question of water and sewer provision.

C. Objection: Consistency with the State Comprehensive Plan

The proposed amendments are not consistent with the following goals and policies of the State Comprehensive Plan:

Water Resources (8) Goal and Policies (b) 5., 10., and 12

- Ensure that new development is compatible with existing local and regional water supplies.
- Protect surface and groundwater quality and quantity in the state.
- Eliminate the discharge of inadequately treated wastewater and stormwater runoff into the water of the state.

Land Use (16) Goal and Policies (b) 1., 2., and 6

- Promote state programs, investments, and development and redevelopment activities which encourage efficient development and occur in areas which will have the capacity to service new population and commerce.
- Develop a system of incentives and disincentives which encourages a separation of urban and rural land uses while protecting water supplies, resource development, and fish and wildlife habitats.
- Consider, in land use planning and regulation, the impact of land use on water quality and quantity; the availability of land, water, and other natural resources to meet demands; and the potential for flooding.

Public Facilities (18) Goal and Policies (b) 7

- Encourage the development, use, and coordination of capital improvement plans by all levels of government.

Transportation (20) Goal and Policies (b) 9., and 13

- Ensure that the transportation system provides Florida's citizens and visitors with timely and efficient access to services, jobs, markets, and attractions.
- Coordinate transportation improvements with state, local, and regional plans.

Plan Implementation (26) Goal and Policies (b) 7

- Ensure the development of strategic regional policy plans and local plans that implement and accurately reflect state goals and policies and that address problems, issues, and conditions that are of particular concern in a region.

Nassau County's Response:

- These amendments to the Comprehensive Plan should not be considered inconsistent with the State's goals for Water Resources. Service to the properties affected by these amendments will be required, and such service will be subject to the appropriate regulatory reviews to ensure public health and environmental safety.
- Staff finds the proposed amendments uphold State Comprehensive Plan goals and policies which relate to Land Use. Both the areas involved have been assessed for their appropriateness, in light of the Nassau County Comprehensive Plan, for proposed densities and intensities – fostering higher densities in areas which are well-served to support such a population and clustering activity centers where public facilities exist to support them.
- Through ongoing planning efforts with JEA, the County is involved in the capital improvements planning for water and sewer facilities in Nassau County.
- Through its concurrency program, Nassau County actively assesses the transportation system upon which County residents rely. Since joining the Northeast Florida MPO, the County has become actively involved with regional transportation planning efforts; the County continues to work closely with FDOT in assessing development activity and their impacts on State highways.

- Nassau County continues to improve its involvement in regional affairs and planning efforts as evidenced by participation with the MPO, improved coordination with the Regional Council and continuing consultation with FDOT on development impacts.