

ORDINANCE 2008 - 09

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING THE COMPREHENSIVE PLAN OF NASSAU COUNTY BY RECLASSIFYING APPROXIMATELY 25 ACRES NEAR THE NORTHEAST QUADRANT OF I-95 AND S.R. 200 FROM AGRICULTURAL (A) TO COMMERCIAL (C) ON THE FUTURE LAND USE MAP; CREATING A NEW POLICY 1.09.08 ACCEPTING THE APPLICANT'S VOLUNTARY PROFFER TO LIMIT DEVELOPMENT IN RESPONSE TO THE DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT; PROVIDING FOR SEVERABILITY; PROVIDING FOR FINDINGS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Nassau County adopted Ordinance 2002-08 which amended and revised the Comprehensive Plan of Nassau County on March 22, 2002; and

WHEREAS, Rickey H. Armstrong, owner, authorized Michael T. Schubert, applicant, to seek the reclassification of that 25+/- acre parcel of land described herein and designated on the Future Land Use Map from Agricultural (A) to Commercial (C); and

WHEREAS, the Nassau County Planning and Zoning Board, also in their capacity as Local Planning Agency, held a duly public hearing to address the requested amendment on October 3, 2006 and recommended approval; and

WHEREAS, the Board of County Commissioners held a transmittal hearing on February 26, 2007; and

WHEREAS, the Florida Department of Community Affairs issued an Objections, Recommendations and Comments Report on May 29, 2007; and

WHEREAS, the agents for the Applicant forwarded a response to the Objections, Recommendations and Comments Report on October 15, 2007; and

WHEREAS, pursuant to Sections 163.3187 and 125.66, Florida Statutes, public hearings have been held due public notice having been provided.

NOW, THEREFORE, BE IT ORDAINED THIS 28th DAY OF July, 2008, BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS.

This action complies with Chapter 163, Part II, Florida Statutes and Rule 9J-5, F.A.C. and is consistent with the goals, objectives and policies of the Nassau County Comprehensive Plan.

SECTION 2. PROPERTY RECLASSIFIED.

The real property described in this Section is reclassified from Agricultural (A) to Commercial (C) on the Future Land Use Map of Nassau County. The Growth Management Department is hereby authorized to amend the Future Land Use Map to reflect this reclassification upon the effective date of this Ordinance.

All that portion of the following described property lying north of the south line of a 100-foot easement for transmission lines recorded in O.R. 123, page 284 of the Public Records of Nassau County, Florida and containing approximately 25 acres:

PARCEL "A"

A PART OF THE E. WATERMAN GRANT, SECTION 39 TOWNSHIP 2 NORTH RANGE 26 EAST AND SECTION 44, TOWNSHIP 2 NORTH, RANGE 27 EAST, NASSAU COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE CENTERLINE INTERSECTION OF INTERSTATE 95 AND STATE ROAD NO. 200; THENCE NORTH 72°19'01" EAST ALONG THE CENTERLINE OF SAID STATE ROAD NO. 200, A DISTANCE OF 674.64 FEET; THENCE NORTH 17°40'59" WEST AT RIGHT ANGLES TO SAID STATE ROAD NO. 200, A DISTANCE OF 100 FEET TO A POINT IN THE NORTHERLY RIGHT OF WAY LINE OF SAID STATE ROAD NO. 200; THENCE SOUTH 72°19'01" WEST ALONG SAID RIGHT OF WAY, A DISTANCE OF 100.00 FEET TO THE END OF LIMITED ACCESS OF INTERSTATE 95; THENCE NORTHWESTERLY AND NORTHERLY ALONG THE EASTERLY RIGHT OF WAY LINES OF SAID INTERSTATE 95 THE FOLLOWING TWO COURSES: NORTH 61°00'37" WEST, A DISTANCE OF 186.26 FEET; THENCE NORTH 37°48'45" WEST, A DISTANCE OF 68.54 FEET FOR A POINT OF BEGINNING; THENCE ALONG SAID RIGHT OF WAY LINES OF INTERSTATE 95 THE FOLLOWING 5 COURSES: NORTH 37°44'00" WEST, A DISTANCE OF 425.08 FEET; THENCE NORTH 27°08'57" WEST, A DISTANCE OF 564.05 FEET; THENCE NORTH 16°40'23" WEST, A DISTANCE OF 250.03 FEET; THENCE NORTH 19°18'30" WEST, A DISTANCE OF 250.48 FEET; THENCE NORTH 16°35'35" WEST, A DISTANCE OF 470.31 FEET; THENCE NORTH 73°23'30" EAST, DEPARTING FROM SAID RIGHT OF WAY LINE, A DISTANCE OF 1172.74 FEET; THENCE SOUTH 16°36'59" EAST, A DISTANCE OF 2098.02 FEET TO THE INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SAID STATE ROAD NO. 200, SAID LINE ALSO BEING A CURVE NORTHWESTERLY AND HAVING A RADIUS OF 22,857.31 FEET; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY LINE, AN ARC DISTANCE OF 60.04 FEET AND BEING SUBTENDED BY A CHORD BEARING OF SOUTH 71°16'52" EAST AND A CHORD DISTANCE OF 60.04 FEET TO A POINT ON SAID CURVE; THENCE NORTH 16°34'40" WEST, DEPARTING FROM SAID RIGHT OF WAY, A DISTANCE OF 229.55 FEET; THENCE SOUTH 72°19'41" WEST, A DISTANCE OF 194.30 FEET; THENCE SOUTH 17°53'52" EAST, A DISTANCE OF 35.23 FEET; THENCE SOUTH 72°19'41" WEST, A DISTANCE OF 651.47 FEET TO THE POINT OF BEGINNING. CONTAINING 49.02 ACRES, MORE OR LESS.

SECTION 3. ADOPTING NEW POLICY 1.09.08

A new Policy 1.09.08 of the Future Land Use Element to the Nassau County Comprehensive Plan is hereby created and adopted and shall read as follows:

1.09.08 Notwithstanding the entitlements provided under this Comprehensive Plan, certain property owners have voluntarily proffered, and Nassau County does hereby accept, that subject to compliance with all applicable development standards and procedures that they agree to limit the yield of their property in accordance with the following schedule:

- a) Approximately 25 acres in Section 39, Township 2N, Range 26 East and Section 44, Township 2N, Range 27East located in the northeast quadrant of the interchange of Interstate 95 and S.R. 200 lying north of the electric transmission line easement recorded in O.R. 123 at page284. This property was the subject of CPA06-007 and is owned by Corporate Realty Advisors of Jacksonville Beach. Said parcel is limited to 250,000 square feet of shopping center, ITE Code 820 or an equivalent commercial use, or combination of uses, generating no more than 982 new p.m. peak hour trips (total trips minus pass-by trips).

SECTION 4. SEVERABILITY

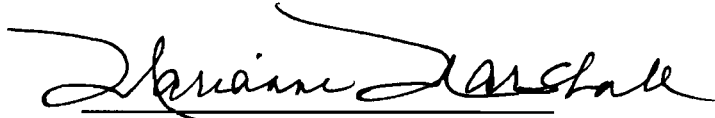
If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

SECTIIION 5. EFFECTIVE DATE

This Ordinance shall be filed with the Office of the Secretary of State. This Ordinance shall become effective upon the earlier of:

- i. The Department of Community Affairs issues a final order determining the adopted amendment is found to be in compliance; or
- ii. The Administration Commission issues a final order determining the adopted amendment to be in compliance.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



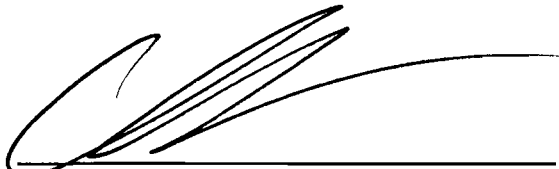
MARIANNE MARSHALL
Its: Chair

ATTEST AS TO CHAIR'S SIGNATURE:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form:



DAVID A. HALLMAN,
County Attorney



RECEIVED

SEP 19 2008

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS*"Dedicated to making Florida a better place to call home"*CHARLIE CRIST
GovernorTHOMAS G. PELHAM
Secretary

September 16, 2008

The Honorable Marianne Marshall
Chairwoman, Nassau County Board of Commissioner
Post Office Box 1010
Yulee, Florida 32025

Dear Chairwoman Marshall:

The Department has completed its review of Nassau County's comprehensive plan amendment adopted on July 28, 2008, by Ordinance No. 2008-09 (DCA No. 08-1). The Department has determined that the amendment meets the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance, as defined in Section 163.3184(1)(b), F.S. The Department is therefore issuing a Notice of Intent to find the plan amendment In Compliance. The Notice of Intent has been sent to the Fernandina Beach News Leader newspaper for publication on September 17, 2008.

However, the County should note that the transportation data and analysis, which was submitted with the adopted amendment, was not professionally acceptable. In particular, the use of a five percent significance test to determine if deficient roadways need improvements included in the five-year schedule of capital improvements is unacceptable. The County should coordinate closely with the Florida Department of Transportation, District 2, and this Department to ensure that the transportation analysis in future amendments is professionally acceptable. Nevertheless, the Department was able to determine, through the use of other data and analysis, that there were no transportation deficiencies within the next five years.

Please be advised that Section 163.3184(8)(c)2, F.S., requires a local government that has an Internet site to post a copy of the Department's Notice of Intent on the site within five days after receipt of the mailed copy of the agency's Notice of Intent.

Please note that a copy of the adopted Nassau County comprehensive plan amendment and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at Nassau County's Office of Growth Management, 96161 Nassau Place, Yulee, Florida, 32097.

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0731 (f) ♦ Website: www.floridadca.com

♦ COMMUNITY PLANNING 850-498-1750 (p) ♦ 850-488-0709 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7599 (p) ♦ 850-921-0023 (f) ♦

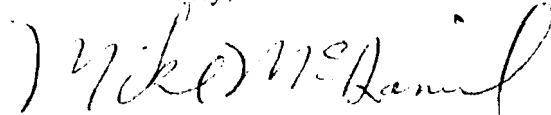
The Honorable Marianne Marshall
September 16, 2008
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The Department's Notice of Intent to find a plan in compliance shall be deemed to be final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the Notice of Intent pursuant to Section 163.3184(9), F.S. No development orders, or permits for development, dependent on the amendment, may be issued or construction commence before the plan amendment takes effect.

If this in compliance determination is challenged by an affected person, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), F.S. If you choose to attempt to resolve this matter through mediation, you must file the request for mediation with the administrative law judge assigned by the Division of Administrative Hearing. The choice of mediation will not affect the right of any party to an administrative hearing.

If you have any questions, please contact Jeannette Hallock-Solomon, Senior Planner, Division of Community Planning, at (850) 922-1809.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike McDaniel". The signature is fluid and cursive, with a large initial "M" and "D".

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/jhs

Enclosure: Notice of Intent

cc: Mr. Walter Fufidio, Planning Director, Nassau County
Mr. Ed Lehman, Growth Management Director, Northeast Florida Regional Council
Mr. Thomas Hill, Growth Management Administrator/DRI Coordinator, FDOT, District 2

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND
NASSAU COUNTY
COMPREHENSIVE PLAN AMENDMENT
IN COMPLIANCE
DOCKET NO. 08-1-NOI-4501-(A)-(I)

The Department gives notice of its intent to find the Amendment to the Comprehensive Plan for Nassau County, adopted by Ordinance No. 2008-09 on July 28, 2008, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Nassau County Comprehensive Plan Amendment and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Nassau County Growth Management Office, 96161 Nassau Place, Yulee, Florida 32097

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Amendment to the Nassau County Comprehensive Plan is In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice, and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and a copy mailed or delivered to the local government. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

If a petition is filed, other affected persons may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Sub-section 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.



Mike McDaniel, Chief
Office of Comprehensive Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

20809
CPL 10/10/07

LARGE SCALE COMPREHENSIVE PLAN AMENDMENT PROCESS

1. Growth Management – once application is approved by BOCC for transmittal, Growth Management will send to State for review (ORC Report)
2. Once received, Growth Management submits to BOCC for approval.
- X 3. Once approved for adoption, OK to assign ordinance number, but hold. The effective date is when it is found to be in compliance with the State. Growth Management will send to DCA, copy us, for review to be found in compliance. I think it's a 60 day process.
4. Once found in compliance, Growth Management will forward a copy of the compliance letter to Clerk Services/BOCC to follow thru with letters to the State and MuniCode advising that it has been found to be in compliance.

Need original
3 cut pages to
Growth Management