



**JEFFERSON COUNTY - PLANNING COMMISSION
MEETING AGENDA
435 W Walnut St. Monticello, FL 32344**

**October 14th, 2021
6:00 PM**

- 1. 6:00 pm- Call to Order, Invocation, Pledge of Allegiance**
- 2. Approval of Meeting Minutes - August 24th, 2021**
- 3. Public Hearing to Approve Additional Language - Private Property Rights**
- 4. Comments from the Public**
- 5. Comments from Planning Commissioners**
- 6. Adjournment**

From the manual "Government in the Sunshine Manual", page 40, paragraph C: Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, he or she may need to ensure that a verbatim record of the proceedings, is made, which record includes the testimony and evidence upon which the appeal is to be based.

Jefferson County Planning Commission
Meeting Minutes
August 24th, 2021

Commissioner Michael Schwier called to order at 6:02 pm.

Commissioner Roy Faglie led the opening prayer and Pledge of Allegiance to the Flag.

Physically in attendance: Commissioner Michael Schwier, Commissioner Bud Wheeler, Commissioner Roy Faglie, Commissioner John Floyd Walker, Commissioner Byron Arceneaux, Commissioner Kimberly Odom, Commissioner Jacqueline Seabrooks, County Coordinator Parrish Barwick, Attorney Scott Shirley, Planning Official and Interim County Coordinator Shannon Metty.

Agenda Item #2: Approval of Draft Minutes-August 12th, 2021, Meeting:

- Commissioner Faglie motioned to approve Minutes. Commissioner Seabrooks and Walker second motion. Motion passed with unanimous approval.

Agenda Item #3: Resubmission of Major Subdivision Application-Joseph Clayton:

- Attorney Shirley noted that he and Mr. George Reeves (attorney representing the landowner) have stipulated the agenda packet.
- Mrs. Metty reviewed the application submitted along with the new submission of the conceptual plan. She stated that her recommendation was to move forward with this project.
- Opening Questions from the Commission:
 - Commissioner Schwier asked if document pages 1 through 4 were supplemented? Mrs. Metty stated no, just 1 and 2. She added that all lots appear to be buildable based on the code, but she is unsure of lot 10.
 - Commissioner Schwier noted that the lots shown as buildable were in the floodplain. Mrs. Metty explained this was allowed.
 - Commissioner Arceneaux asked about the concern for the road? Attorney Shirley asked to please hold this comment until after the presentation.
- Presentation:
 - Mrs. Meredith Nagle, attorney representing the applicant, opened the discussion by reviewing the letter which was included in the agenda packet. She also stated that they have followed the code and have addressed the conditions which were laid out by the County staff. She added that her client wishes to be good neighbors and is available to answer any questions.
 - Attorney George Reeves, attorney representing the landowner, was not present at the previous meeting but has redrawn the plat map to reflect the buildable areas as previously requested.

- Attorney Reeves introduced Mr. Randy Rowell, land surveyor. He attested that he is a registered land surveyor licensed in the State of Florida. Under his direction his company prepared this plat to show the acreage of wetland and non-wetland. He reviewed the table on the map shown and explained that wetlands are not to be built in and the County has an 80-foot setback. He also noted that the map references the additional County setbacks, a templated home, well and septic system to help show the lots are buildable. He explained that the lots which were not buildable would be platted as recreational only.
- Open Discussion Between Board and Applicant Representatives:
 - Commissioner Schwier asked have lots 1 and 2 been assessed? Mr. Rowell stated not at this time but will be before the final plat is submitted.
 - Commissioner Faglie asked Mr. Rowell to explain “wetlands never to be disturbed.” Mr. Rowell stated that wetlands are un-buildable lands however timbering may be allowed.
 - Commissioner Faglie asked can digging occur in wetlands? Commissioner Arceneaux stated that the County code prohibits it, but the CORE could potentially allow with permitting.
 - Commissioner Faglie asked referring to the recreational lots, can you cut out food plots in the wetlands? Attorney Reeves stated that you potentially could, but this was beyond the subject at hand.
 - Commissioner Faglie asked about harvesting and planting of trees in the wetland. Mr. Rowell stated that timber could be harvested. Attorney Reeves explained that this was an allowable activity in the Land Development Code.
 - Commissioner Faglie clarified based on the above statements we are not totally preserving the wetlands. Attorney Reeves stated that the wetlands were preserved as far as residential development. Attorney Shirley added that the Department of Ag. has civil-culture activities that are routinely conducted.
 - Commissioner Arceneaux asked was there a reference to an 80-foot buffer in the table? Attorney Shirley stated that the buffer being referenced did not apply to this project.
 - Commissioner Schwier asked for clarification on the previous reference of recreational lots. Attorney Nagle stated that was before they learned of all lots having buildable acreage.
 - Commissioner Seabrooks asked for clarification as there were 28 lots in the previous application. Attorney Reeves stated that it was and is now being presented as 25 lots.
 - Commissioner Faglie, the recommendation mentions Ed Bishop Road, was that mentioned initially or added? Mrs. Metty explained that this road is believed to be passable and not in need of being widened but by adding the additional 20 foot the live oaks which line the road will then be protected by the County. Attorney Reeves added they are in agreement either way.

- Commissioner Arceneaux asked will the County be required to maintain the roads once the development is completed? Attorney Shirley stated that the issue of continual road maintenance will be addressed by the BOCC.
- Attorney Reeves reminded the Board that the roads, which seem to be a big concern, are currently and have been County maintained roads which have not been kept to standard. His client has agreed to work with the County to bring the roads up to standard. He reminded the Board that the developer cannot at this time make a guarantee on the roads because the cost is unknown. However, he and his client understand that the final plat is contingent upon the road being upgraded. The County will determine the cost of the project and the developer will choose to move forward or withdraw from the project.
 - Commissioner Faglie noted that a good portion of the road is in the floodplain and will have a water issue. Attorney Reeves stated the developer was aware of this, as most of the county roads have this problem.
- Attorney Reeves addressed the Board by requesting approval to the BOCC based on Mrs. Metty's recommendation as well as the Land Development Code. He noted that if approval was not given, the denial needs to be explained in writing citing the provisions which were not met.

Agenda Item #4: Comments from the Public:

- Mischa Bishop, resident, reminded the Board of her previous concerns with the roads and trees and destruction of the natural environment. She then addressed Mrs. Metty and inquired will building plans be required? What about fire hydrants? Attorney Shirley stated that individuals will submit building plans at the time of construction to the Building Department and will have to adhere to the Florida Building Code. He also stated that fire hydrants were not required for this size and density. Mrs. Bishop then mentioned that we want to maintain our natural beauty in the community and not have another Tallahassee Ranch Club, will there be other restrictions on each parcel? Mrs. Metty stated that additional deed restrictions would be at the discretion of the developer. Mrs. Bishop then asked why Rayzor Creek was not shown on the survey. Mrs. Metty explained that it is not an official floodway and is not noted by FEMA. Mrs. Bishop closed by stressing the concern for Big Woods Road and how it has not been able to be maintained by the County thus far.

Agenda Item #5: Comments from the Planning Commission:

- Commissioner Odom recused herself from the vote due to conflict of interest as she works with Delta Land Surveyors.
- Commissioner Walker recused himself from the vote as he has been contacted for land. Attorney Shirley stated this was not grounds for dismissal.

- Commissioner Wheeler motion to deny with no explanation. Motion died for lack of second.
- Commissioner Faglie motion to approve following the recommendation of Mrs. Metty. Motion died for lack of second.
- Commissioner Seabrooks motion to approve and move forward to the BOCC with conditions made by staff. Commissioner Faglie second motion. Motion denied on a vote of 2 (Commissioners Schwier and Seabrooks)-3 (Commissioners Walker, Faglie and Wheeler). Attorney Reeves stated that a failed motion was not allowed based on the code, Attorney Shirley agreed.
- Commissioner Schwier asked for advice from Council. Attorney Shirley stated that the requirements from the code have been met, he advises to recall for another vote.
- Commissioner Wheeler motion to deny on the grounds that the County will not be able to keep up their end of the any agreement made pertaining to the roads. He added that the County cannot maintain what they have and by developing these properties it will destroy this area. Commissioner Schwier stated that these were not appropriate comments now were they reasons from the code, he added that the chapter and verse must be noted for a denial.
- Commissioner Schwier asked for Council to assist with clarifying a call for motion with citation to the legal authority for denial. Attorney Shirley stated that he knows of none at this time. He explained that the purpose of the Planning Commission is to exercise discretion when making new policies and to read and follow the code when enforcing those policies. He added that you don't have to like or dislike what is brought before you, you are to apply the code. The code cannot be changed without taking the proper steps to do so, this is unlawful. Many times, there are disagreements in opinions, but the purpose of the Planning Commission is to make an informed decision based on testimony and facts. He closed by stating that there has been no evidence for denial, aside from citizen statement of concerns-which is not evidence. On record, as there is an official court recorder present, he is confident that the evidence presented supports approval.
- Commissioner Schwier agreed with Attorney Shirley and called for a new motion.
- Commissioner Arceneaux motion to continue based on the road project agreement. Attorney Shirley stated that Mr. Parrish Barwick was present tonight to address these concerns. Commissioner Schwier asked if there was any additional input on the roads. Mr. Barwick gave his opinion of the current road situation. He added that due to the lack of usage, the road department chose not to maintain. He feels that the Big Woods Road could be stabilized and brought to standards. Commissioner Arceneaux asked about the potential for road abandonment based on the fact the County does not maintain it. Mr. Barwick explained that in the past any time a road abandonment was presented, it was shut down. He personally would agree with abandonment if the residents were to agree. Attorney Shirley clarified that to legally abandon a road, the

residents must initiate, not the County. Attorney Reeves added that if the County chooses to abandon the road while this application is active, the property owner will have grounds to sue. He reiterated the fact that the final plat is contingent upon bringing the roads to standard. If this board chooses to deny the applicant, the violated code must be cited. He pressed for a motion of approval. Motion for continuance died for lack of second.

- Commissioner Schwier called for a new motion.
- Commissioner Seabrooks recalled her previous motion to approve and move forward to the BOCC with conditions made by staff. Commissioner Faglie second motion stating let the BOCC handle. Motion brought to a vote, vote was unclear, called for show of hands. Motion passed 5 (Commissioners Schwier, Faglie, Seabrooks, Arceneaux, Walker)-1 (Commissioner Wheeler) with 1 abstention (Commissioner Odom).

Commissioner Walker restated that he did not feel the roads will withhold future development. Commissioner Faglie reiterated that he feels the road will disturb the wetlands and will have an adverse effect on the area.

Commissioner Walker motioned to adjourn; Commissioner Seabrooks second motion. Commissioner Schwier adjourned meeting at 7:11pm.

Respectfully submitted,



Renee Long
Jefferson County Planning Assistant

ORDINANCE NO-2021-102121-02

AN ORDINANCE OF JEFFERSON COUNTY, FLORIDA AMENDING ITS COMPREHENSIVE PLAN 2525; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR PURPOSE; PROVIDING FOR ADOPTION OF A PROPERTY RIGHTS ELEMENT AS A PART OF THE JEFFERSON COUNTY COMPREHENSIVE PLAN 2025; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: AUTHORITY

The authority for the enactment of this ordinance is Sections 163.3184, 163.3177(6)(i)1, and 125.66, Florida Statutes.

SECTION 2: FINDINGS OF FACT

WHEREAS, pursuant to the requirements of the Community Planning Act, Chapter 163, Part II, Florida Statutes, (formerly the Local Government Comprehensive Planning and Land Development Regulation Act of Chapter 163, Part II, Florida Statutes, and former Chapter 9J-5, Florida Administrative Code) (hereinafter "Community Planning Act") Jefferson County has adopted and has in effect the Comprehensive Plan 2025 (Comprehensive Plan); and

WHEREAS, Section 163.3177(6)(i)1, Florida Statutes, requires the Jefferson County Comprehensive plan 2025 to include a Property Rights Element; and

WHEREAS, Section 163.3177(6)(i)1, Florida Statutes, provides that a local government may adopt its own Property Rights Element or use the Statement of Rights that is provided in the statute; and

WHEREAS, the Jefferson County Board of County Commissioners had determined that utilizing the Statement of Rights as its Property Rights Element is sufficient to satisfy the statutory mandate in Section 163.3177(6)(i)1, Florida Statutes, and recognize, protect and respect the property rights of the owners of real property in the County; and

WHEREAS, Jefferson County respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, Jefferson County respects the rights of all people to participate in land use planning processes; and

WHEREAS, after due public notice, a public hearing has been conducted by the Jefferson County Planning Commission in its role as the Local Planning Agency, which has recommended that the requested amendment be approved; and

WHEREAS, after due public notice, the Board of County Commissioners has held two public hearings, has procedurally complied with the Community Planning Act, and has determined that using the Statement of Rights Provided in the statute is in the best interest of furthering the public health, safety and welfare.

SECTION 3: PURPOSE

The purpose of this Ordinance is to adopt an amendment to the Jefferson County Comprehensive Plan 2025 to incorporate therein a Property Rights Element.

SECTION 4: AMENDMENT TO THE JEFFERSON COUNTY COMPREHENSIVE PLAN TO ADOPT PROPERTY RIGHTS ELEMENT

Jefferson County hereby adopts the Statement of Rights set forth in Section 163.3177(6)(i)1, Florida Statutes, as its Property Rights Element, which statement is attached hereto as Exhibit “A” and incorporated herein by reference.

SECTION 5: SEVERABILITY

If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 6: EFFECTIVE DATE

As provided in Section 163.3184(3)(c)4, Florida Statutes, this Ordinance shall become effective 31 days after the state land planning agency notifies Jefferson County that the plan amendment package is complete, unless this Ordinance timely challenged, in which case this Ordinance does not become effective until either the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in

compliance. Promptly following receipt of such notice or final order, a copy of this Ordinance shall be filed with the Secretary of State.

PASSED AND ADOPTED on Second Reading by the Jefferson County Board of County Commissioners this ____ day of September, 2021.

BOARD OF COUNTY COMMISSIONERS
JEFFERSON COUNTY, FLORIDA

BY: _____
Stephen Walker
Chairman, Board of County Commissioners

ATTESTED BY:

Kirk Reams
Clerk of Courts

APPROVED AS TO FORM AND SUBSTANCE:

Scott Shirley
County Land Use Attorney

Exhibit "A"

[Note: underscoring indicates additions of new language to the Jefferson County Comprehensive Plan]

PROPERTY RIGHTS ELEMENT

Section 163.3177(6)(i)1, Florida Statutes (2021):

In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decision making. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decision making:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.