

**AMELIA ISLAND TREE PRESERVATION WORKING GROUP**  
**NOVEMBER 13, 2020 – 10:00 A.M.**  
**VIRTUAL MEETING VIA GOTOMEETING.COM**

The Amelia Island Tree Protection Working Group Committee met virtually this 13<sup>th</sup> day of November 2020 at 1:00 p.m. via gotomeeting.com. Working group members present via Go To Meeting were Bruce Jasinsky, Chair and Local Planning Agency (LPA) representative; Nick Gillette, P.E., Gillette and Associates, Engineers; Early McCall, I.S.A. Certified Arborist; Arthur Herman, Amelia Tree Conservancy; and Sue Ann Alleger, Nassau County Planner. Absent were Taco Pope, County Manager, and Kelly Gibson, Senior Planner, City of Fernandina Beach. Potential contributors present were Thad Crowe, Planning Director, Margaret Kirkland, Amelia Tree Conservancy; Susan Gilbert, Senior Executive Legal Assistant; Doug Podiak, Public Works Director; Doug McDowell, Principal Planner; and Janet Wylie, Code Enforcement. Also present were Michael S. Mullin, County Attorney; Holly Coyle, Assistant Planning Director; Naomi Blaff, Planner I; John E. Baker via telephone; and Peggy Snyder and Heather Nazworth, recording secretaries.

Ms. Alleger explained that the Amelia Island Tree Protection Working Group was created by the Nassau County Planning and Zoning Board with a specific directive to conduct fact finding to present information to the Nassau County Planning and Zoning Board. The group will review the status document and will also discuss and review alternate language to be reviewed by the Planning and Zoning Board at a future date. She provided an update regarding the project of updating the draft, “ *Ordinance of the Board of County Commissioners of Nassau County, Florida Amending Article 37 of the Land Development Code, Natural Resource Protection; Specifically Rescinding the Current Section 37.02, Unincorporated Amelia Island Tree Protection and Replacement, Creating the Amelia Island Tree Commission, Creating the Amelia Island Tree Fund, Providing for the Amelia Island Tree Planting Program, Setting Minimum Tree Preservation and Replacement Standards, Defining a Specimen Tree; Amending Article 32 of the Land Development Code, Definitions; Providing for Penalty; Providing for Enforcement; Providing for Severability; Providing for Codification; and Providing an Effective Date.*” The goal is to finalize this draft ordinance and this meeting is being held in order to get closer to the final Ordinance.

Ms. Alleger explained that she has sent the working group members two status reports dated September 23, 2020 and November 4, 2020. The September 23<sup>rd</sup> version was intended to align this Section 7.02 more closely to the City of Fernandina Beach’s tree protection ordinance. At the most recent Tree Working Group meeting, PEO staff was asked to incorporate all suggested changes to date, reviewed the most recent draft (6-17-20), respond to comments and prepare the draft ordinance for final review. The November 4, 2020 status report was to update the graphic provided within the ordinance in order to show developers how to redo their tree protection plan.

Ms. Alleger reviewed the following suggested changes made to the draft as follows:

September 23, 2020 status report was used as the basis for get to the November 4, 2020 report:

- Section 37.02 (A)(13): Providing cooling comfort and beauty....
- Section 37.02 (A) (5)(d) - This is a big difference with the City of Fernandina Beach’s code. “A deviation from the minimum size requirements of the tree protection zone may be granted by the Nassau County Tree Commission upon submittal of an ISA certified arborist verification that no more than 25% of the Tree Protection zone will be impacted by construction disturbance.” The City of Fernandina Beach is at 50%.
- Section 37.02 (N)(a) - City of Fernandina Beach uses 6 foot minimum and 20 foot maximum. They match the County’s existing code.
- Section 37.02 (N)(5)(d) – The City of Fernandina Beach has a certified arborist. The County does not have one on staff.

The next status report Ms. Alleger referenced was November 4, 2020 with the following changes:

- Section 37.02 (F)(2) – Added missing language that was consistent with paragraph ahead. In the table: Type of Development, Limits of Disturbance was not mentioned in the previous table.
- Section 37.02 – Page 10 – Replacement figure 37-1 was reworked based upon 25%.

The next status report referenced was September 23, 2020:

- Section 37.02(A) – Purpose and Intent was expanded upon based on the City of Fernandina Beach and written by the board. (13) Providing cooling comfort and beauty for public spaces such as parks, rights-of-way and areas adjacent to right-of-way, sidewalks, and bicycle trails.
- Mr. Mullin referred to the heading for the ordinance where it states “creating the Amelia Island Tree Commission”. He explained that in the body beginning on page 3(c), it changes from the Amelia Island Tree Commission to the Nassau County Tree Commission. Ms. Alleger advised that the correct name is Nassau County Tree Commission. She explained the reason for the change being for future purposes off island for planting. Discussion followed regarding changing the makeup of the “commission” to include representatives living off island. Chair Jasinsky advised that initially, this working group was intended to address trees confined to Amelia Island with no intent of controlling all the trees in Nassau County. Ms. Alleger stated that the suggested name change was to differentiate from the Amelia Island Tree Conservancy and to clarify that the project was Nassau County sponsored. A lengthy discussion ensued. Mr. Mullin referred to Page 5(e) – Protected Trees and inquired if the committee had considered the State House Bill 1159. Ms. Alleger advised that the previous Planning Director had incorporated those changes. Mr. Mullin pointed out that if a diseased tree had to go and if the County required a permit, it would put the County in contravention of the Florida Statutes. The permit cannot trump the Florida Statutes. Mr. Mullin suggested adding language regarding the language from Florida Statutes. Ms. Alleger referred to Section 37.02 (F)(1)(a) Exempt Classification 1 noting that House Bill 1159 language was added.
- Section 37.02 (E) – Protected Trees (Page 5), Chair Jasinsky pointed out that under the definition for Specimen Trees, it was agreed that 41 inches would be the qualifying factor for a tree to be designated as a Specimen Tree. The last half of the paragraph contradicts that by stating that the Nassau County Specimen Tree threshold is determined to be 33% of the DBH of the most recent calendar year Florida Champion Live Oak as determined by the Florida Department of Agriculture and Consumer Services. He questioned what size the 33% would equate to. The State advised that Champion trees basically change all the time; not by diameter at breast height (DBH), but of the points associated with that tree. He inquired how a citizen would know the Champion Tree designation would be from year to year. The only tree Champion Tree designated in Nassau County is the one in the middle of Beech Street in Fernandina Beach. He advised that this ordinance is based upon protecting the Champion Trees. Mr. McCall agreed that he found three trees, each different heights, but expressed in the same circumference. He added that the goal was to have a set number, not make it nebulous amount tied to a Champion Tree. A lengthy discussion followed regarding the Champion Tree designation and what qualified a tree as a Champion or Heritage tree.
- Section 37.02(F)(b)(ii and iv) - Page 7 – Chair Jasinsky’s understanding was that any tree under 5 inches in diameter was exempt; however, another paragraph is added in that states “except in a grove or forest setting...” He inquired what qualifies as a forest setting or grove as there is no definition. Mr. McCall felt that they were getting too specific on what people can do with their land as far as property rights and noted that this whole section is about removing trees. Mr. Gillette stated that they have to clear underbrush to get surveyors in for roads, archeology, wetland, topographical, and tree surveys. Mr. Mullin expressed concern of not having “forest setting or grove” codified and there was consensus to remove that portion of the section. Mr. McCall also had an issue with the paragraph (iv) that states “Major and minor maintenance activities”. This

entire section is regarding removing trees; not pruning and is confusing as maintenance should not be an issue with this working group. Ms. Alleger felt that minor maintenance was important and should be placed somewhere in the ordinance as staff gets many telephone calls regarding tree maintenance and pruning. Mr. Mullin stated that this is identified in the best practices manual of the International Society of Arborists. He added that whenever an ordinance is developed, there must be a standard that will be enforced. A lengthy discussion followed regarding the inability of enforcement of paragraph iv. Mr. Mullin advised that an ordinance is not an educational tool. There was consensus to delete paragraph iv related to minor maintenance activities.

- Section 37.02 (F)(2) Page 8 – Protected Trees Removed as Part of New Development defining Areas of Construction and Limits of Disturbance. Ms. Alleger explained that Limits of Disturbance was added back into the table as part of the calculation and was defined above the table on page 8. Mr. Mullin advised that Limits of Disturbance should be moved to the definitions section. The group discussed the locations of the disturbance areas on the Figure 37-1 and the tree protection zone ratios.
- Section 37.02 (F)(8) Page 12 – For the health of existing and new trees, proposed fill for green space in new developments shall be limited to the minimum amount necessary to provide positive drainage flow..... Ms. Alleger explained that best management practices allows fill temporarily over trees. She explained that the committee must decide whether no fill will be allowed or the only minimum amount necessary. Mr. McCall explained that a method arborists use to protect the tree roots is to put in a bed of mulch and remove it after construction. Mr. Mullin inquired who would enforce this and what standards would be used without hiring an arborist. Mr. McCall pointed out that all the soils in this coastal area are all similar; sandy soil with similar salt texture. He stated that the point of paragraph 8 is to get a top soil that is similar and does not require all this testing which is known as native fill. Ms. Alleger will change the verbiage.
- Section 37.02 (K) – Preservation Credits (Page 16) – Ms. Alleger explained that she highlighted this text since it did not agree with the City of Fernandina Beach's. Mr. McCall pointed out the error in the percentage rates. 1.15% should read 115% credit, etc. – the diameter of the tree plus 15%.
- Section 37.02(G)(3) - Page 13 – Mr. McCall stated that there is an error in this paragraph. “Botantic” should be changed to “botanical” and also to remove “approximate drip-line tree protection zone” as drip-lines are no longer used anymore.
- Section 37.02 (G)(3) page 14 – Mr. McCall explained that the need to remove the “no more than 40% of any one genus”. There was consensus to leave this paragraph as stated currently in the Land Development Code (LDC).
- Section 37.02 (K)(3)(d) Page 17 – Trees which provide for enhanced public shade for sidewalks, streets, parks, and other public space shall be given a 25% increase in credits. This will be required to be changed to 125%. There was consensus to make this paragraph consistent with paragraph K above.
- Section 37.02(N)(5)(b)(i) Page 20 – Tree protection zones (TPZs) – Onsite placement of posts for the barricades shall be directed by an ISE certified arborist to protect the health of the tree(s). Ms. Alleger noted that because of a problem of placement not being done correctly, there is no enforcement. Mr. Mullin inquired why this was included in the ordinance if it cannot be enforced. He suggested to add the language that “this placement must be shown on the DRC approved plan as approved by a certified arborist. “
- Section 37.02(N)(5)(d) – Page 20 – A deviation from the minimum size requirement of the tree protection zone ...if the strict application this rule will result in the unnecessary destruction of protected trees which can otherwise be preserved through application of best management practices. Consultation with an ISA certified arborist is required to determine proper measure to ensure protection of the tree during construction activities.” Mr. Mullin clarified that Mr. McCall would certify the plan that is approved and the details will be copied to staff. The County reserves

the right to impose upon the applicant the minimum fee necessary to cover the expense of having a third-party arborist review the submittal.

- Section 37.02 (U) – Page 26 – Specific Penalties – Ms. Alleger wanted to bring to the working group’s attention the inconsistencies between the City of Fernandina Beach and Nassau County’s penalties.
- Section 37.02 (T) Page 25-26 – Penalties – Mr. Gillette pointed out that the City of Fernandina Beach has had an island tree ordinance for single family lots forever. This is the first time the County is going to have one that is applicable to single family lots that are existing. He referred to paragraph 11 under paragraph U where the penalty is \$15,000.00. Ms. Alleger explained that this references healthy specimen trees. Discussion followed. Mr. Mullin explained that they will have to change paragraph 11 as the \$15,000.00 is the Code Enforcement statute where it finds that the tree was irreversible or irreplaceable. Mr. Mullin will change that language to add compliance with Florida Statutes.

Chair Jasinsky pointed out that when they first started with the working group, he thought there was language in the ordinance where pine trees were excluded and the ordinance was dealing with preserving the canopy trees on Amelia Island. Ms. Alleger stated that this was referenced in Section 37.04.

Ms. Kirkland referenced Section 37.02 (N)(2) related to the colored ribbon coding system for tree identification. She pointed out that many times trees have been cut that were not supposed to be, both in the City and the County. She felt that communication with the public was key. Anytime anyone in the public sees a ribbon on a tree, they call County staff or the Amelia Island Tree Conservancy. Ms. Alleger clarified that at the March meeting, tree ribbons were discussed in depth and it was decided to limit the colors to two colors: white for tree inventory or survey; and pink would be “do not cut”. Mr. McCall felt that if the ribbon contained was printed with “do not cut this tree”, it may have saved the two infamous trees cut in Amelia Bluff and on Sadler at the hotel site. He suggested that before a developer starts any lot clearing, they must make sure that the protected trees are well identified. Next, the replacement rule was discussed and will be 80/20 for all trees greater than 5 inches diameter. Ms. Alleger stated that anything you have to disrupt will be part of the calculations.

Ms. Alleger stated that her last day with the County will be December 4, 2020. She was hoping to get this draft ordinance completed by the end of the year. Mr. McDowell advised that the December 15, 2020 meeting of the Planning and Zoning Board has an advertising deadline by the end of this week. Ms. Alleger advised that the draft ordinance has not been through legal review as yet. She suggested that the working group plan to hold another meeting in the beginning of January 2021.

There being no further business, the meeting adjourned at 12:15 p.m.