

**CALHOUN COUNTY BOARD OF COUNTY COMMISSIONERS
PLANNING COMMISSION MEETING
JANUARY 9, 2018**

PRESENT AND ACTING:

**DANNY RAY WISE, CHAIRMAN
GENE BAILEY, VICE-CHAIRMAN
DARRELL MCDUGALD
DENNIS JONES
JERAL HALL**

**MATT FUQUA, ATTORNEY
CARLA A. HAND, CLERK OF COURT AND COUNTY COMPTROLLER
SARAH WILLIAMS, CLERK ADMINISTRATIVE ASSISTANT**

The meeting was called to order by Chairman Wise at 5:00 p.m., CT.

Ms. Vinette Godelia, with the law firm Hopping, Green & Sams, P.A. who represents Cholla Petroleum and Neal Land and Timber Company regarding the Comprehensive Plan amendment, stated there was a detailed presentation in October for the transmittal hearing regarding the proposed amendment. Ms. Godelia stated the materials were sent to the relevant State agencies for review. Ms. Godelia stated they coordinated with the Department of Environmental Protection (DEP) informally as they did not submit comments to the amendment; spoke with the Department of Economic Opportunity who issued a letter with no comments or objections to the amendment, and communicated with the Apalachee Regional Planning Council (ARPC) who did provide comments and recommendations for the amendment. Ms. Godelia stated the Board should have received these comments, and stated she has provided the Board a letter that was drafted and would be included with the package to respond to the comments from the ARPC with regard to certain functions of the way oil drilling works. Ms. Godelia stated a month after the comment period had closed, late comments were received from the Florida Fish and Wildlife Conservation Commission (FWC) and the letter also responds to the comments received from that agency as well. Ms. Godelia stated she has provided the Board with a letter from Spooner Petroleum indicating their agreement with the proposed amendment.

Ms. Godelia provided the Board with an updated version of the draft amendment showing the changes that have been made. Ms. Godelia stated after conversations with the DEP and looking at the comments suggested by the ARPC and the FWC, some changes were made to the amendment. Ms. Godelia explained the summary of the changes made for the Board. Ms. Godelia stated references were inserted regarding the State's Environmental Resource Program to make sure it is understood these requirements would be complied with in the permitting process. Ms. Godelia stated initially the word "shall" was used when discussing where development would be allowed regarding oil and gas production, particularly in wetlands and floodplains, which has been replaced with the word "may" so the Board of County Commissioners has the ability to determine whether a particular well approval would be granted. Ms. Godelia stated other language was added as well to deal with floodplain areas to address, in particular, concerns from the FWC. Ms. Godelia stated language was added about the designation of Apalachicola and Chipola Rivers being outstanding Florida waters and that priority would be understood by the County and maintained. Ms. Godelia stated they also added the requirement of a conditional use approval process for every proposed well, so it will be clear that no well can be drilled in

Calhoun County unless an applicant comes before the Board of County Commissioners for a Conditional Use Permit, and provides permits from the appropriate State and Federal agencies.

Chairman Wise called for public comment on the proposed Comprehensive Plan Amendment.

Ms. Georgia Ackerman, representing the Apalachicola Riverkeeper organization, provided the Board with a folder of handouts regarding the resolution passed by Apalachicola Riverkeeper, research on solar energy jobs, the Apalachicola Riverkeeper's recommended guidelines for the proposed amendment to the Comprehensive Plan, and information regarding the Jay, FL pipeline system spills and other spills around the country. Also included in the folder was a letter from their attorney, Robert N. Hartsell, P.A. regarding the amendment to the Comprehensive Plan and the recommended guidelines from the Apalachicola Riverkeeper. Ms. Ackerman stated the Apalachicola Riverkeeper supports solar farms and other sustainable forms of energy, and believes the economy should be stimulated in a way that does not jeopardize our natural resources. Ms. Ackerman stated the letter from their attorney outlines how the County can continue with a Comprehensive Plan that gives the best opportunity to maintain a clean environment. Ms. Ackerman asked the Board to carefully consider the list of fifteen (15) recommendations, as they would help to protect the County's natural resources. Ms. Ackerman asked the Board to table their decision on the Comprehensive Plan amendment, and meet with the Apalachicola Riverkeeper to discuss their recommendations.

There was no further public comment.

Attorney Fuqua read Ordinance 2018-01 amending the Land Development Code, Ordinance 2018-02 amending the Future Land Use Element of the Comprehensive Plan, and Ordinance 2018-03 amending the Conservation Element of the Comprehensive Plan by title. Attorney Fuqua noted in the discussion set forth, the applicant for the Comprehensive Plan amendment, Cholla Petroleum and Neal Land and Timber Company, is in favor of all three (3) ordinances, and the Apalachicola Riverkeeper is in opposition of all three (3) ordinances.

ORDINANCE #2018-01

AN ORDINANCE ADOPTING AN AMENDMENT TO THE CALHOUN COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida:

SECTION I. Purpose and Intent.

This Ordinance is enacted to amend the Calhoun County Land Development code as follows:

SECTION 3.13.00 of the County Land Development Code is hereby amended to include the following language;

9. Oil and gas exploration, development, and production subject to conditional use approval and state drilling and operating permits.

SECTION II. Conflicts

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Calhoun County Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

SECTION III. Severability.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV. Effective Date.

This Ordinance shall take effect upon its passage as provided by law.

- ❖ Commissioner McDougald made a motion to recommend approval of Ordinance 2018-01, amending the Land Development Code. Commissioner Bailey seconded the motion. Commissioner Bailey requested Attorney Fuqua read the ordinance in its entirety. Attorney Fuqua read Ordinance 2018-01 into the record. The motion passed 4-1. Commissioner Jones opposed.

ORDINANCE #2018-02

AN ORDINANCE AMENDING THE CALHOUN COUNTY COMPREHENSIVE PLAN, BY AND THROUGH PROCEDURES REQUIRED FOR LARGE-SCALE AMENDMENTS PURSUANT TO AUTHORITY UNDER STATE STATUTES SECTION 163.3184, SPECIFICALLY APPROVING CHANGES TO THE FUTURE LAND USE ELEMENT, AND PROVIDING FOR REPEAL OF ANY CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida:

WHEREAS, Chapter 125, Florida Statutes empowers the Board of County Commissioners of Calhoun 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 to (a) plan for the County's future development and growth; (b) adopt and amend comprehensive plans, or elements to portions thereof, to guide the future growth and development of the county; and

WHEREAS, pursuant to Section 163.3174(1), Florida Statutes, the Board of County Commissioners of Calhoun County have designated themselves as the Local Planning Agency for the unincorporated area of Calhoun County; and

WHEREAS, supporting data and analysis documentation was prepared as background and justification for the Comprehensive Plan amendment; and

WHEREAS, the Board of County Commissioners of Calhoun County, Florida, acting as the Local Planning Agency, has prepared the proposed amendment to the Calhoun County Comprehensive Plan, and held a public hearing on the proposed amendment on October 24, 2017 at 4:30 p.m. and recommended approval of the amendment to the Board of County Commissioners; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, on October 24, 2017 at 6:05 p.m., the Board of County Commissioners of Calhoun County, Florida, held a public hearing, with due public notice having been provided, on the adoption of Comprehensive Plan amendment; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, the Board of County Commissioners of Calhoun County, Florida, held a public hearing on January 9, 2018, at 6:00 p.m. on the adoption of an ordinance for the Comprehensive Plan amendment, with due public notice having been provided, to obtain public comment, and having considered all written and oral comments received, including the data collection and analysis packages and recommendations of the Local Planning Agency, and comments of the appropriate State agencies; and

WHEREAS, in exercise of its authority the Board of County Commissioners of Calhoun County, Florida, has determined it necessary and desirable to adopt the revised Comprehensive Plan amendment to encourage the most appropriate use of land, water and resources, consistent with the public interest; and deal effectively with future issues that may result from the use and development of land within Calhoun County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida, as follows:

Section 1. Purpose and Intent.

This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended;

Section 2. Calhoun County 2010-2025 Comprehensive Plan amendment.

THE CALHOUN COUNTY 2010-2025 COMPREHENSIVE PLAN IS HEREBY AMENDED specifically approving changes to the Future Land Use Element (see Exhibit A).

Section 3. Copy on File.

A certified copy of the enacting ordinance, as well as certified copies of the Calhoun County Comprehensive Plan as revised shall be filed with the Clerk of the Circuit Court of Calhoun County, Florida, and copies shall be made available to the public for a reasonable publication charge.

Section 4. Transmittal to Department of Economic Opportunity.

The Board of County Commissioners for Calhoun County, Florida has, pursuant to Section 163.3184, Florida Statutes, transmitted the amendment to the Calhoun County 2010-2025 Comprehensive Plan to the Department of Economic Opportunity for review and determination of Compliance of the Plan with the provisions of Chapter 163, Part II, Florida Statutes and has received no objections to the Ordinance.

Section 5. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 6. Severability.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 7. Effective Date.

Pursuant to Section 163.3184, Florida Statutes, this Ordinance and the amended version of the Calhoun County 2010-2025 Comprehensive Plan shall not become effective until the 21 day period for affected parties to file a petition has expired and the Ordinance has been officially filed with the Secretary of State.

EXHIBIT A
FUTURE LAND USE ELEMENT¹

Policy 9.4.1

Purpose: To provide land for timber, row crop farming and related agriculture and compatible activities. The agriculture land use category, accounts for about 86% of the land area in Calhoun County and includes mainly timberlands. Other land uses include cropland, pasture land, and other agricultural uses in large scale land holdings. The lands are primarily timber production holdings.

[density omitted]

Uses: Agricultural activities, livestock, aquaculture, agricultural/farm dwelling units, single family residential units, agricultural support services, structures and facilities, vacant land, places of worship, public facilities and grounds, public utilities, oil and gas exploration, development, and production, and neighborhood commercial where activities are compatible with adjacent land uses and are adequately buffered.

- ❖ Commissioner Bailey made a motion to recommend approval of Ordinance 2018-02, amending the Comprehensive Plan. Commissioner McDougald seconded the motion. Commissioner Bailey requested Attorney Fuqua read the ordinance in its entirety. Attorney Fuqua read Ordinance 2018-02 into the record. The motion passed 4-1. Commissioner Jones opposed.

ORDINANCE #2018-03

AN ORDINANCE AMENDING THE CALHOUN COUNTY COMPREHENSIVE PLAN, BY AND THROUGH PROCEDURES REQUIRED FOR LARGE-SCALE AMENDMENTS PURSUANT TO AUTHORITY UNDER STATE STATUTES SECTION 163.3184, SPECIFICALLY APPROVING CHANGES TO THE FUTURE CONSERVATION ELEMENT, AND PROVIDING FOR REPEAL OF ANY CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida:

WHEREAS, Chapter 125, Florida Statutes empowers the Board of County Commissioners of Calhoun 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 to (a) plan for the County's future development and growth; (b) adopt and amend

comprehensive plans, or elements to portions thereof, to guide the future growth and development of the county; and

WHEREAS, pursuant to Section 163.3174(1), Florida Statutes, the Board of County Commissioners of Calhoun County have designated themselves as the Local Planning Agency for the unincorporated area of Calhoun County; and

WHEREAS, supporting data and analysis documentation was prepared as background and justification for the Comprehensive Plan amendment; and

WHEREAS, the Board of County Commissioners of Calhoun County, Florida, acting as the Local Planning Agency, has prepared the proposed amendment to the Calhoun County Comprehensive Plan, and held a public hearing on the proposed amendment on October 24, 2017 at 4:30 p.m. and recommended approval of the amendment to the Board of County Commissioners; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, on October 24, 2017 at 6:05 p.m., the Board of County Commissioners of Calhoun County, Florida, held a public hearing, with due public notice having been provided, on the adoption of Comprehensive Plan amendment; and

WHEREAS, pursuant to Section 163.3184, Florida Statutes, the Board of County Commissioners of Calhoun County, Florida, held a public hearing on January 9, 2018, at 6:00 p.m. on the adoption of an ordinance for the Comprehensive Plan amendment, with due public notice having been provided, to obtain public comment, and having considered all written and oral comments received, including the data collection and analysis packages and recommendations of the Local Planning Agency, and comments of the appropriate State agencies; and

WHEREAS, in exercise of its authority the Board of County Commissioners of Calhoun County, Florida, has determined it necessary and desirable to adopt the revised Comprehensive Plan amendment to encourage the most appropriate use of land, water and resources, consistent with the public interest; and deal effectively with future issues that may result from the use and development of land within Calhoun County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Calhoun County, Florida, as follows:

Section 1. Purpose and Intent.

This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended;

Section 2. Calhoun County 2010-2025 Comprehensive Plan amendment.

THE CALHOUN COUNTY 2010-2025 COMPREHENSIVE PLAN IS HEREBY AMENDED specifically approving changes to the Conservation Element (see Exhibit A).

Section 3. Copy on File.

A certified copy of the enacting ordinance, as well as certified copies of the Calhoun County Comprehensive Plan as revised shall be filed with the Clerk of the Circuit Court of Calhoun County, Florida, and copies shall be made available to the public for a reasonable publication charge.

Section 4. Transmittal to Department of Economic Opportunity.

The Board of County Commissioners for Calhoun County, Florida has, pursuant to Section 163.3184, Florida Statutes, transmitted the amendment to the Calhoun County 2010-2025 Comprehensive Plan to the Department of Economic Opportunity for review and determination of Compliance of the Plan with the provisions of Chapter 163, Part II, Florida Statutes and has received no objections to the Ordinance.

Section 5. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 6. Severability.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 7. Effective Date.

Pursuant to Section 163.3184, Florida Statutes, this Ordinance and the amended version of the Calhoun County 2010-2025 Comprehensive Plan shall not become effective until the 21 day period for affected parties to file a petition has expired and the Ordinance has been officially filed with the Secretary of State.

EXHIBIT A
CONSERVATION ELEMENT

MINERAL RESOURCES

MINING

OBJECTIVE 8A: Mining activity shall be regulated to ensure no adverse effect upon the quality of air, groundwater, surface water and wildlife.

Policy 8.1: A mining operation water use plan must be prepared and approved before new mining operations are permitted.

Policy 8.2: A minimum 50 foot natural setback shall be established and maintained for all mining activities. In addition, the County may require a vegetative or structural buffer between mining activities and adjacent existing and future uses.

Policy 8.3: A reclamation plan shall be approved by the County before mining activities are permitted.

Policy 8.4: The natural function of wetlands, and flood plains of the Chipola River and Apalachicola River shall be protected by prohibiting mining in 100 year flood plain areas, wetlands and within 100 feet of the Apalachicola River.

OIL AND GAS EXPLORATION, DEVELOPMENT, AND PRODUCTION

OBJECTIVE 8B: Oil and gas exploration, development, and production shall be regulated consistent with state and federal permitting requirements.

Policy 8.5: In those areas of the County where oil and gas exploration, development, and production facilities are an allowable use, such use shall be subject to all applicable regional, state and federal requirements for drilling, production, and transportation. Drilling, operations, site design and stormwater management activities are regulated by the Florida Department of Environmental Protection (FDEP). The requirement shall be deemed satisfied upon issuance of the applicable FDEP permits, **in compliance with Part IV of Chapter 373, F.S., Chapter 62-330 Florida Administrative Code and the criteria established in Chapter 62C-25 through 62C-30, Florida Administrative Code, as those rules exist as of January 9, 2018, the adoption date of this amendment to the County's Comprehensive Plan.**

Policy 8.6: Notwithstanding other provisions of the Comprehensive Plan and the Land Development Code, oil and gas exploration, development, and production is permitted subject to the following requirements:

- a. ~~May Shall~~ be allowed in or near wetlands where activities and/or development mitigates any unavoidable impacts to wetlands consistent with state and federal standards as determined by the appropriate state and federal agencies through FDEP or the United States Army Corps of Engineers;
 - b. ~~May Shall~~ be allowed in the floodplain and shall comply with the Calhoun County Floodplain Management Ordinance. **To the extent development is proposed in the floodplain, the applicant shall demonstrate that proposed development, including well heads and onsite storage, will be designed to operate safely in the floodplain.** Further, the storage of crude oil, or the use or storage of the drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas, which are regulated under chapter 377, Florida Statutes, may be allowed in the floodplain.
 - c. ~~May Shall~~ be allowed in high or prime aquifer recharge areas subject to review by the Northwest Florida Water Management District **for appropriate safeguards to protect aquifer zones.** The developer shall provide documentation demonstrating coordination during the conditional use review process.
 - d. **May be allowed where activities and/or development provides the highest protection to the Apalachicola and Chipola Rivers, state designated Outstanding Florida Waters, in conformance with the Florida Department of Environmental Protection's policy under section 62-302.700 Florida Administrative Code.**
 - e. **Shall be subject to the conditional use review requirements of the Land Development Code.**
- ❖ Commissioner Bailey made a motion to recommend approval of Ordinance 2018-03, amending the Comprehensive Plan. Commissioner McDougald seconded the motion. Commissioner Bailey requested Attorney Fuqua read the amendment to the Comprehensive Plan into the record. Attorney Fuqua read the amendments in Ordinance 2018-03 into the record. The motion passed 4-1. Commissioner Jones opposed.

There being no further discussion, the meeting adjourned at 5:37 p.m., CT.

Danny Ray Wise
DANNY RAY WISE, CHAIRMAN

ATTEST:

Carla A. Hand
CARLA A. HAND, CLERK