

Nassau County is potentially steamrolling toward a lengthy and expensive legal battle with Riverstone Properties after the Nassau County Board of County Commissioners decided Monday to stand firm with its 45-foot height limit for buildings in unincorporated Amelia Island.

Conflict ensued after county commissioners passed an ordinance limiting building heights to 45 feet in unincorporated areas of Amelia Island last year. Riverstone rebuked the county's decision as the developer announced plans to construct 11 highrise condominium towers, each 85 feet tall, across 50 acres on the south end of the island.

In response to this ordinance approval, Riverstone filed a lawsuit through its legal counsel, Rogers Towers, on June 25, 2021. The developer invoked the Bert Harris Property Rights Act, which protects property owners if they believe their land is inordinately burdened, resulting in a reduction of value. Riverstone asserted the land value would be \$72 million if allowed the 85-foot exception; however, the Nassau County Property Appraiser currently lists it at \$44 million market value with an assessed value of \$28 million.

The developer also claimed this ordinance will reduce the number of oceanfront properties and eliminate units with "premium oceanfront views." Riverstone's lawsuit seeks \$27 million compensation to account for property value lost with a 45-foot building height restriction.

"The Bert Harris Act is relatively new, and any new law is going to be subject to all sorts of lawsuits to ferret out its interpretation," resident Bonita Gardner said Monday. "The interpretation that is being proffered by the Riverstone group is basically one that challenges hundreds of years of law with respect to zoning. Zoning ordinances have always allowed local communities and municipalities to govern the way we want our communities to look."

This month, a proposed settlement agreement with Riverstone began circulating in which the county expressed its desire to "avoid the expense, delay, risk and uncertainty of lengthy litigation" and agreed with Riverstone that the maximum building height for permitted structures on the property is 85 feet.

Despite its stance in the proposal, the county reached out to attorney Susan Erdelyi regarding the Bert Harris Act claim and the different ways Nassau County can approach Riverstone's threat. " (The Bert Harris Act) is a law that I think it's important to say was a creature of the Florida Legislature," Erdelyi said. "It's a pretty aggressive law to protect the rights of private property owners to the detriment of local government."

County Attorney Denise May proposed four options to the commissioners at Monday's meeting. The two most prominent routes were to either accept the settlement offer as is (option one) or accept the settlement offer, but maintain the county's 45-foot ordinance (option three).

Commission Chairman Aaron Bell spoke before public comments to share his stance on how the county should handle Riverstone's legal threats.

"This is in my commission district," he said. "I do understand the concern of folks who live here. I live there. I cannot and will not support the settlement, and my vote will be for option three where the county tells Riverstone to pound sand and see you in court."

Lyn Pannone, founder of the Amelia Tree Conservancy, orchestrated a grassroots operation with other Nassau County residents after seeing the proposed settlement agreement. The group of concerned residents sought legal counsel from land use and governmental attorneys at Gray Robinson, who subsequently determined Riverstone's case lacked merit and "could be easily beaten by the county."

"We understand that you are nervous about a potential lawsuit, but we also understand that your constituents, the same people who voted for you, are dead set against this settlement as proposed," Pannone said.

The residents argued there would be no property value lost if Riverstone developed 35 luxury single-family homes instead of the proposed 11 towers.

"Riverstone can still come away a winner. The recent appraisal from Mike Wilson, a licensed certified appraiser with 40 years' experience in Northeast Florida, clearly shows that single-family luxury homes would earn Riverstone as much profit as high-rise condos," Pannone said.

Monday night's commissioners meeting saw hundreds in attendance with dozens of speakers expressing concern over the preservation of Amelia Island's "unique, natural ambiance."

Marian Phillips, a former Fernandina Beach City Commission contender, stressed how important this land is for the "worker bees" of Nassau County.

"I was a teenager when the (Amelia Island) Plantation came in and took away our rights to access that beach, and as long as I have breath in my body, I'm going to ask that we protect those rights so that I can continue to go down on that beach," Phillips said. "To me, the end of the island is one of the most beautiful places we have. When you go to Jacksonville and you come home that way, it's very relaxing to look over there and see those trees and you know that you're home."

Another major concern among residents is the inevitable influx of traffic if Riverstone builds condos on the south end of the island.

"I live off Scott Road. Traffic has gotten so horrendous on A1A that I can sit at the stop sign 15 minutes sometimes before I can get a window to get out," Fernandina Beach resident Jack Booth said. "I've been going to the south end fishing at the rocks for more years than I'd like to even count. It's one of the few places locals can go and it not be packed with tourists. . Our availability to the beach has shrunk."

Chadd Charland of Keep Nassau Beautiful recited a portion of Nassau County's Vision Statement 2032 to remind commissioners of their commitment to help the county grow while maintaining its character and natural splendor.

"When it comes to this Riverside (sic) development, you don't have to make a decision. All you have to do is follow your Vision Statement, and it's right out there in the hallway with the hundreds of other people who are sitting out there with me," Charland said. "What's on the line here is more than a way of life, community, trees, turtles, birds and two-lane roads versus four-lane roads. This is a question of representative democracy and whether or not you believe in that system of government."

Two hours into Monday's meeting, Bell paused public comment to begin discussion among commissioners. District 1 Commissioner John Martin quickly made a motion to approve option three, defending the county's 45-foot building height restriction. District 5 Commissioner Klynt Farmer seconded the motion.

District 4 Commissioner Thomas Ford spoke in favor of settling with Riverstone to avoid a potential loss in court and owing the developer \$27 million plus attorney fees. Ford was especially concerned about how his constituents would react if there was any financial burden placed on residents in West Nassau County.

District 3 Commissioner Jeff Gray expressed similar concerns, but honed in on the recent increase in personal expenses due to gas inflation and rising living costs.

"Things are getting expensive. People that have a lot of money, it may not affect them as much. People that live on fixed income, social security . their first priority is pay their electric bill, pay their doctor bills, buy their medicine, pay for this gas that's almost \$4.50 per gallon," Gray said. "It's the taxpayers' dollars that we're talking about here. It could be in jeopardy of a lawsuit."

The commissioners voted 3-2 to go with option three and accept Riverstone's offer while maintaining Nassau County's 45-foot building height ordinance. Ford and Gray were the two dissenting votes.  
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