

- (3) Individual lots, buildings, streets and parking areas, and any accessory structures and improvements located in the cluster open space, shall be situated to avoid the adverse effects of shadows, noise and traffic on the residents of the site and to minimize the area devoted to motor vehicles.
- (4) Cluster open space shall include any irreplaceable natural features located on the tract such as, but not limited to, stream beds and adjacent banks, wetlands, flood channels, floodplain areas, major tree groupings and individual trees of significant size.
- (5) ~~The suitability of cluster open space intended for scenic value shall be determined by its visibility from a significant number of units or buildings or streets.~~
- (6) The usability of cluster open space intended for recreation or public use shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the open space. Further, such space intended for recreation or public use shall be easily accessible to trail users including the elderly and handicapped, be integrated to form unbroken trail linkages between uses within the subdivision, and take advantage of opportunities to establish off-site linkages to nearby land uses, bikeways, sidewalks and greenways.
- (7) To the extent practical, lands designated for greenways or other forms of public ownership or access in the conservation, open space or recreation element shall be included as cluster open space as specified by subsection 30-187(o).
- (8) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between the development and the land. The Cluster Subdivision shall be designed using traditional neighborhood planning principals. Garage doors if forward facing must be set back at least 20 feet from the back of sidewalk. Sidewalks must be included on both sides of the street internal to the Cluster Subdivision.
- (9) To the extent practical, cluster open space shall contain designated surface water or upland environmental features.
- (10) When lots abut wetland and buffers, the developer/homeowner shall provide a 10-foot building construction setback from those designated areas for work area, to construct residential structures, including principal and accessory structures, so that the wetland and/or buffers areas are not disturbed during the construction process.

Revised 8/23/04  
Revised 10/28/04  
Revised 5/23/05  
Revised 8/11/05

**Petition 121TCH-05 PB**

City of Gainesville. Amend the Cluster Subdivision section of the City of Gainesville Land Development Code to establish criteria for classifying cluster subdivision as either environmental or infill, establishing minimum lot sizes, clarifying the cluster open space requirement and modifying the criteria for the review of cluster subdivisions.

Mr. Ralph Hilliard, City Planning Manager, was recognized. Mr. Hilliard noted that the board's packets also contained comments from the Builders Association of North Central Florida (BANCF). He explained that the petition involved an amendment to the Cluster Subdivision Ordinance of the City of Gainesville Land Development Code. He noted that over the last few years as cluster subdivisions have come before the board and the City Commission, concerns had been raised by the Commission and citizens about whether there was a benefit to clustering subdivisions. He noted that the concerns involved whether more was gained by clustering than was evident in a regular subdivision. Mr. Hilliard explained that the Cluster Subdivision Ordinance was implemented during a time when the City did not have many environmental regulations for creek and wetland protection. He noted that citizens also raised concerns with the size of lots in a cluster subdivision. He indicated that the City Commission had reviewed the petition, as had Commission appointed committees. He explained that there would be two classifications of cluster subdivisions, environmental, those properties with creeks, wetlands, or other natural resources that needed protection, and infill. Mr. Hilliard noted that one issue to be addressed was the impression that the City was encouraging development of every piece of vacant land to its maximum intensity. He stated that it was not so in single-family residential neighborhoods. He noted that staff was trying to make sure that any development was compatible. He explained that one requirement was that cluster subdivisions be a minimum of two acres instead of the current requirement of 40,000 square feet and the minimum lot size would be at least 75 percent of the minimum lot allowed by zoning. Mr. Hilliard noted that one aspect of the revised ordinance was that the cluster open space be over and above creeks, wetlands, and other environmental features, which would be protected anyway under existing environmental regulation. He indicated that drainage areas could not be included as open space, wetlands would have to be mitigated on site, and there would be greater protection for Heritage trees on the property. He explained that the applicant would have to provide evidence that the cluster better utilized the land than the standard subdivision. Mr. Hilliard noted that the ordinance requested that the applicant review design and layout of lots, and there were civic standards about garage doors being set back so cars parked in driveways did not protrude into sidewalks. He offered to answer any questions from the board.

Mr. Polshak indicated that he believed the redraft of the ordinance was good. He noted that the words "scenic vistas" had been stricken from the original language in two sections of the proposed changes.

Mr. Hilliard explained that there was a problem with defining "scenic vistas." He noted that the topography of Gainesville was mostly flat, and it was difficult to define the term.

Mr. Polshak noted that the words pertained to being inside the subdivision looking out. He asked about the views from outside the subdivision looking in. He cited a concern about view of subdivisions from adjacent City, County, or State parks.

Mr. Hilliard indicated that the language was written for the view out from within the subdivision. He pointed out that the new regulation would provide more open space to screen any views.

Mr. Polshek noted that Section 30-190 (d) had the language "lot sizes" added and "housing types" stricken. He asked why it should not state that "lot sizes and housing types" should be encouraged. He pointed out that it was a recommendation and not a requirement.

Mr. Hilliard explained that the language on "housing types" was stricken because there was only one housing type allowed in single-family districts, based upon the land use.

Mr. Polshek suggested that the language could state, "architectural design."

Mr. Hilliard indicated that he did not wish persons to read the ordinance and believe they could construct attached townhouses, when only detached units were allowed.

Mr. Polshek asked if Mr. Hilliard would be opposed to adding language on architectural design.

Mr. Hilliard indicated that he would not.

Mr. Polshek suggested that language be added to Section 30-190 (i) (8), to state that, "Garage doors if forward facing, must be set back at least 20 feet from the back of the sidewalk and shall not be forward of the front façade of the building."

Mr. Gold indicated that he did approve of the petition. He reviewed the list of environmental features and suggested that, if the cluster subdivision were brought up to standards, it would apply to a lot of development.

Mr. Hilliard explained that, if a developer came in with an environmental cluster subdivision request, the resource upon which the request was based would have to be identified and protected by open space. He agreed that it would probably apply to most lots in the City that could be subdivided.

Chair Cole asked which of the BANCF comments staff could agree upon.

Mr. Hilliard indicated that Comment 6 was the only one staff believed was appropriate, and it had already been addressed. Regarding BANCF Comment 7, he indicated that language on heritage trees was stated elsewhere, but there would be no cross-reference required if it were placed in the ordinance itself.

Chair Cole called for public comment on the petition.

Mr. Stuart Cullen, representing BANCF, was recognized. Mr. Cullen indicated that BANCF representatives met with staff on a monthly basis to review any changes in the LDRs, or changes in the other departments. He reviewed the changes BANCF wished to see in the proposed ordinance. Regarding Comment 1, he indicated that there was a problem with specific lot size reductions. He suggested that there be no restriction on lot size, and the proposed Section 30-390 (e) (2) be stricken. Regarding Comment 2, Mr. Cullen suggested the language allow for the abutting provision to be waived by a 25 or 35-foot adjacent buffer. Regarding Comment 3, he suggested that the purpose of the cluster was to protect environmental features and gain use of the remaining property. Regarding Comment 4, he requested that the requirement that wetlands be mitigated on site should be removed and the matter fall under the regular wetland regulations, which provided mitigation criteria.

Mr. Hilliard pointed out that, if a cluster subdivision was proposed to protect an environmental resource, there would be no need for the cluster if the environmental resource, a wetland, was destroyed and mitigated somewhere distant from the site. He explained that allowing off site mitigation would be destroying a wetland just to construct more units, not clustering to protect that wetland.

Regarding Comment 5, Mr. Cullen stated that drainage facilities should be included in cluster open space. He pointed out that aesthetically pleasing drainage facilities were permitted to be open space in other municipalities.

Mr. Polshek pointed out that many drainage facilities were fenced, and he did not see those as viable open space.

Regarding Comment 7, Mr. Cullen suggested that the regular landscape ordinance should be referenced and should guide the matter of heritage tree protection. Regarding Comment 8, he requested that the term "traditional neighborhood planning principals," be stricken. He indicated that it was not defined and proposed a design guideline. Regarding Comment 9, he requested that the regular sidewalk requirements be referenced. Regarding the discussion of architectural design, he noted that it was not, as yet, part of the Land Development Code. He requested that the language not go into the Cluster Subdivision Ordinance.

Mr. Polshek pointed out that the language did not require a variety of architectural design, but did encourage it. He noted that Mr. Cullen represented one small component of the public realm in the community. He explained that there was a large body of citizenry that may not have realized that the petition was critical because it seemed relatively obscure.

Mr. Gold pointed out that Mr. Cullen represented the Builders Association and the regulation was being created for building construction.

Chair Cole requested that Mr. Hilliard address the BANCF comments.

Mr. Hilliard, speaking to lot size, explained that if a site had environmental resources, there could not be as many lots in that subdivision if it was developed under the standard subdivision regulation. He pointed out that, the lot sizes in the proposed Cluster Subdivision Ordinance would allow more lots than would be allowed in a standard subdivision.

Mr. Gold noted that if lots were too small, neighborhood values would not be protected, especially if there were much larger lots nearby. He suggested that 75 percent of a standard lot size was acceptable.

Mr. Polshek indicated that he supported staff's language on lot sizes.

Mr. Hilliard indicated that if a developer wished to place a 35-foot buffer around a development, it would be acceptable, however, there should be no variance allowed in that buffer. He noted that the current Code allowed variances for buffers. Regarding BANCF Comment 3, he pointed out that, under the current Code, environmental features, including wetlands, had to be protected. He explained that the question involved the benefit of allowing more units to be clustered and developed, than would be allowed under a standard

subdivision. He pointed out that the only benefit under the current regulation was a little better design and a little more open space.

Mr. Gold suggested that the proposed regulation was the crux of the entire ordinance, and the board should support protect the environmental feature as well as requiring additional open space.

Mr. Tecler suggested that if the board wished to require specific lot sizes as proposed by staff, they should also allow the environmental features to count as open space.

Mr. Polshk pointed out that the result of requiring specific lot sizes and more open space was simply a slightly lower bottom line in the development. He further suggested that there were not many cases where the regulation would be burdensome.

Mr. Hilliard requested that Mr. Mimms answer as to whether the Comprehensive Plan would allow mitigation to be required on site.

Mr. Mimms indicated that he believed that mitigation on site could be required under the Comprehensive Plan, however, he believed that when a high standard of environmental protection was involved, a wetland mitigated off site might be of better quality than a severely impacted wetland on site. He pointed out that wetlands should not be impacted, but if there was a situation where all the environmental professionals indicated that the wetland was of extremely low quality, the land development regulations did not require avoidance.

Mr. Hilliard agreed that off site mitigation could be allowed if it was proven that the wetland was severely degraded. He explained that it was important that no one be permitted to mitigate a good wetland.

Mr. Polshk asked if Mr. Hilliard was concerned that there would be a problem over the determination of what was actually a degraded wetland.

Mr. Mimms explained that there were criteria and existing language in the wetlands ordinance under avoidance through minimization.

Mr. Hilliard agreed that it was existing Code, but he was concerned that the Code was not working. He pointed out that people in the City were mitigating out at Payne's Prairie, so the citizens within the City were losing the small wetlands and green space. He stated that if a building had to be squeezed in, the wetland would be sacrificed and mitigated.

Mr. Gold pointed out that there had been a great deal of discussion on the matter, and many people in the community did not support off site mitigation.

Mr. Tecler suggested that in the long term, it might be better to save larger areas than small ones.

Mr. Polshk pointed out that even a degraded wetland was open space and in the contained area of the City. He noted that, even if a wetland were degraded, it would still be a place where there were no structures. He explained that wetlands could be restored and restoration might be less expensive than off site mitigation.

Mr. Mimms indicated that he agreed with the staff recommendation in the revised Cluster Subdivision Ordinance. He pointed out that it was not always necessary to restore a degraded wetland, but it could be enhanced and there would still be an open space amenity.

Mr. Hilliard, speaking to BANCF Comment 5, noted that the original language did allow for well-designed stormwater facilities to count as cluster open space, and they could become an amenity. He indicated that he did not have a problem with the language proposed by Comment 5.

Mr. Polshek indicated that it would be acceptable as long as it was not a fenced stormwater facility.

Mr. Cullen suggested that Section 30-190 (g) (2) read as written (without strikethrough), except changing the word "or" in the last sentence to "and."

Mr. Polshek suggested that culverts and storm drains should not be considered open space area. He requested that the prohibition of fences be added to the language.

Mr. Hilliard agreed. Regarding BANCF Comment 7, he he clarified that a minimum of at least 50 percent of a heritage trees must be protected.

Mr. Cullen requested that it be specified that saving 50 percent of heritage trees would be for an environmental cluster, not an infill cluster'.

Regarding BANCF Comment 8, Mr. Hilliard agreed that "traditional neighborhood planning principals" was difficult to define.

Mr. Polshek suggested that "traditional neighborhood planning principals" were definable. He noted that there was an overlay district that did define such issues and they would be an amenity to any subdivision. He indicated that it was disingenuous not to allow the language to remain.

Chair Cole suggested that the petition be passed to the City Commission with the comments that all board members did not agree with the removal of the text on "traditional neighborhood planning principals."

Mr. Cohen indicated that he agreed with Mr. Polshek on retaining the language for traditional neighborhood planning principals.

Mr. Polshek indicated that he could agree to remove the language on traditional neighborhood planning principles if Section 30-190 (d) could read, "Within cluster subdivisions, a variety of lot sizes and architectural typology shall be encouraged. He stated that he simply wanted to encourage diversity.

Chair Cole, speaking to BANCF Comment 9, indicated that he did not believe it would be redundant.

Mr. Cullen pointed out that in larger subdivisions, sidewalks were not necessarily required on both sides of the street.

Mr. Hilliard indicated that staff would stand by the recommendation. He pointed out that removing the requirement for sidewalks on both sides of the road would move even further from traditional neighborhood planning.

<u>Motion By:</u> Mr. Gold	<u>Seconded By:</u> Mr. Gold
<p><u>Moved to:</u> Approve Petition 121TCH-05 PB with board modifications as recorded including those as presented by the Builders Association of North Central Florida.</p> <ol style="list-style-type: none"><li>1. Add language for architectural typology to Section 30-190 (d).</li><li>2. Section 30-190 (i) (8) — Strike the words, "...neighborhood planning principles."</li><li>3. Section 30-190 (i) (8) — "Garage doors if forward facing, must be set back at least 20 feet from the back of the sidewalk and shall not be forward of the front façade of the building." (<i>Reference BANCF Comment 8</i>).</li><li>4. As an option, amend Section 30-190 (e) to allow a 35-foot buffer around the subdivision to which no variance will be permitted. (<i>Reference BANCF Comment 2</i>)</li><li>5. Section 30-190 (g) (2) ...ponds with side slopes that must be stabilized by artificial means. Drainage facilities that utilize existing topography, have side slopes that are stabilized by sod, grass, or other plantings <u>and</u> <del>or</del> provide a recreational or aesthetic amenity to the development may be included towards meeting cluster open space requirements. (<i>Reference BANCF Comment 5</i>)</li><li>6. Section 30-190 (g) (2) — Add a provision that prohibits fenced drainage areas from being counted as cluster open space.</li><li>7. Section 30-190 (i)(1) — Specify that the 50 percent of heritage trees to be saved would be in the environmental cluster. (<i>Reference BANCF Comment 7</i>)</li></ol>	<p><u>Upon Vote:</u> Motion Carried 5 – 0 Ayes: Cohen, Gold, Tecler, Polshek, Cole</p>