

and shape; however, street tree diversity is to be attained citywide, even though it may not be attained on an individual street) to reduce the effect of loss of a tree species due to insect or disease outbreaks; ...

Impact on Affordable Housing

This petition may have an impact on the provision of affordable housing in the City of Gainesville, however, the impact can be minimized by transfer of residential density to other areas of an affected property.

Respectfully Submitted,



Ralph Hilliard
Planning Manager

RW: DM

Attachments



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April 26, 2002

Gainesville City Commission
City of Gainesville
200 East University Avenue
Gainesville, FL 32601

Re: Ad Hoc Committee on Wetland and Creek Regulations

Commissioners:

The Ad Hoc Committee on Wetland and Creek Regulations has completed its work and hereby transmits to the Gainesville City Commission changes we believe are necessary to the transmitted Conservation, Open Space and Groundwater Recharge Element of the City's Comprehensive Plan and proposed draft Land Development Regulations to implement the revised element. Overall, the policies of the transmitted element are sound and will result in enhanced protection for the wetlands of Gainesville.

Committee Process

The Ad Hoc Committee on Creeks and Wetlands began meeting on January 18, 2002 and completed its work at a meeting on April 26. We have met for approximately 25 hours during 12 meetings. In addition, the Committee took a field trip to view wetlands and mitigation projects. The members of the Committee are Richard Hamann, an attorney on the staff of the College of Law, who teaches and researches in the area of wetlands law, Dr. Thomas Crisman, Director of the Center for Wetlands at the University of Florida and an expert on wetlands ecology, and Dr. Walter A. Rosenbaum, a professor of political science with expertise in environmental policy. Dr. Mark Brown, who was also appointed, was unable to participate due to time limitations and resigned from the Committee. Thomas T. Ankersen, an attorney who directs the Conservation Clinic

at the College of Law, also resigned, but only so that he could work more effectively in support of the Committee's work. Mr. Ankersen and the two law students in the Conservation Clinic, Lisa Feurstein and Andrea Rozewicz, provided invaluable assistance and many hours of work. The Committee's work could not have been completed so quickly without the assistance of the Conservation Clinic. Many members of the public attended and participated in the meetings. Their contributions were helpful, appreciated and reflected in the final product. The support and assistance of City staff, especially Dean Mimms, John Wachtel and Margie Roland, must also be acknowledged.

The Committee's first task was to review the policies of the transmitted element. We determined that, although some revisions were needed, the policies were fundamentally sound. The Water Management Advisory Committee, the Plan Board and other groups that have worked to develop these policies over several years have done a good job. Based on that conclusion, we drafted a set of land development regulations intended to implement those policies in a way that would be consistent, as much as possible, with the Environmental Resource Permit (ERP) regulatory programs administered by the Florida Department of Environmental Protection (DEP), the St. Johns River Water Management District (SJRWMD) and the Suwannee River Water Management District (SRWMD). We believe the proposed LDRs accomplish that objective and recommend them for adoption. We wish to highlight several policy considerations, however, for your consideration.

Wetlands of Gainesville

Gainesville is rich in wetlands and surface waters. These areas are an important part of what makes Gainesville a unique and attractive community. They provide areas for recreation and the quiet enjoyment of open space. Wetlands help to attenuate downstream flooding and maintain the base flow of Gainesville's extensive network of creeks. Wetlands help to protect water quality by trapping sediments, nutrients and toxic substances. This function is particularly important because many of Gainesville's creeks discharge directly to the Floridan Aquifer, the regional drinking water supply. Many of Gainesville's creeks discharge to the San Felasco or Paynes Prairie State Preserves, or to Newnans Lake, another resource of great significance. Gainesville's wetlands and surface waters also provide important habitat for fish and wildlife. All of these resource values and functions can and should be retained in this area.

Although some of Gainesville's wetlands are of very high quality, many have been degraded by drainage, pollution and the impacts of surrounding uplands development. Gainesville's highest quality wetlands should be retained and protected against harmful activities. Some of Gainesville's degraded wetlands should be rehabilitated so that their structure and functions are restored to the community. It is not possible to restore all of Gainesville's wetlands, however. Some areas have been contaminated with pollutants, cut off from necessary sources of water or surrounded with such incompatible land uses that restoration is not feasible. Other areas can be developed if their functions as wetlands are replaced through wetlands mitigation and appropriate stormwater systems.

Wetlands Mitigation

Members of the community have expressed concern about the use of compensatory mitigation to offset the loss of wetlands. There are many examples of unsuccessful wetlands mitigation, but there are also many successes. For mitigation to work it must be properly designed and implemented in an appropriate location. Mitigation onsite may, in some cases, not result in the creation, restoration, enhancement or preservation of high-quality wetlands because of incompatible adjacent land uses, altered hydrology, degraded water quality or other factors. In other cases onsite mitigation may be the best option for preserving and enhancing the sustainability of existing wetlands. Mitigation should be directed into locations where it will do the greatest good and can be ecologically sustainable. Similarly, the preservation of wetlands should only be required where the remaining wetlands can function as viable and sustainable parts of a larger watershed. Although the recommended LDRs provide for making these decisions on a case-by-case basis, we believe that more comprehensive planning on a basin-wide scale is required. One of the principal recommendations of the National Research Council, Committee on Mitigating Wetland Losses was that regulation and mitigation should be based on a watershed approach¹.

Recommendation for Basin Planning

We recommend that the City of Gainesville implement a program in cooperation with Alachua County and the St. Johns River and Suwannee River Water Management Districts to develop specific basin management plans for the

¹ National Research Council, Committee on Mitigating Wetland Losses, Compensating for Wetland Losses Under the Clean Water Act (2001)

principal surface water systems that originate in the City of Gainesville. Because the hydrologic and ecological boundaries of these systems extend outside of the City, it is imperative that planning be conducted jointly with the County and unconstrained by political boundaries. The Plan East Gainesville may provide an appropriate means for beginning that process in part of the area. The cooperative program of Gainesville Regional Utilities, Alachua County and the St. Johns River Water Management District to assess the water quality of creeks and wetlands in this area may also provide a point of beginning. The purpose of the planning should be to specifically identify wetlands of high value that should be preserved or enhanced, wetlands of low value that could be developed with appropriate mitigation, and areas where wetlands have been degraded that should be enhanced or restored through mitigation or other programs. The implementation of such a plan should result in actual improvement of the wetland and surface waters of this community. By identifying appropriate sites for wetlands mitigation within these basins, such planning could provide the basis for developing one or more local sites for mitigation banks or offsite regional mitigation. The availability of local mitigation sites would help to reduce the potential for conflict between local and state mitigation requirements.

Staffing Needs

Our recommendations are dependent on the City having sufficient trained staff to evaluate permit applications, the values and functions of wetlands and the adequacy of mitigation. Staffing may be provided internally or by contract.

Wetland Hydrology

The limited scope of our recommendations must also be understood. Many of the important functions provided by wetlands are hydrologic in nature. Although the draft LDRs provide for some consideration of hydrologic functions, it is our understanding that the stormwater ordinance requires the maintenance of hydrologic functions. In addition, we have considered the regulation of surface waters other than "wetlands" to only a limited extent. For example, we have recommended buffers to protect surface waters. Although state programs regulate wetlands and surface waters the same, the proposed LDRs are focused on wetlands alone.

State Preemption

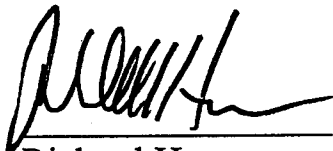
Finally, the proposed LDRs are intended to accommodate the limited and

confusing preemption of local authority adopted by the Florida Legislature². It relies on the state methodology for delineating wetlands and surface waters, Rule 62-340, F.A.C. The state is adopting a Unified Mitigation Assessment Methodology (UMAM) in draft Rule 62-345. Once it becomes effective, this rule must be used to determine the amount of mitigation required to offset the adverse impacts of a development activity. The draft LDRs would allow the City, however, to consider mitigation as a factor in determining whether a proposed development activity is clearly in the public interest. Once that decision is made, the UMAM should control the quantity of mitigation required, at least to the extent that it provides for mitigating those functions considered by the City.

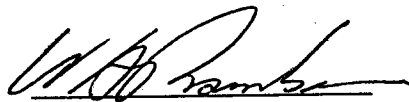
The City is not allowed to prevent the use of mitigation bank credits or an offsite regional mitigation project merely because they are not located within the City's political boundaries. Mitigation, however, must offset the adverse impacts of a development activity and that is most likely to be accomplished through mitigation in the same basin. The transmitted element and the proposed LDRs therefore require that mitigation occur within designated basins that extend into the unincorporated areas of Alachua County. The basins are depicted on a map that has been reviewed by the Committee. These requirements are based on sound science and policy. Developing the basin plans recommended above will help to ensure they are implemented.

With the approval of this letter of transmittal, the work of the Committee is concluded. We thank you for the opportunity to serve.

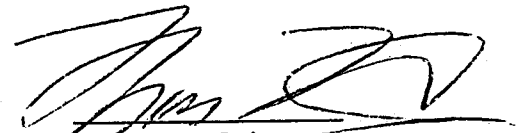
Sincerely,



Richard Hamann
Chair



Walter A. Rosenbaum,
Vice-Chair



Thomas Crisman

² Fla. Stat. §§373.4135(2), (4)&(6)(c) and 373.414(1)(b)(4), (c) & (18) (2001); CS/HB 1285, s.1 (2002 Regular Session).