

**LEGISLATIVE #**

**110076B**



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**TO:** City Plan Board

**Item Number:** Old  
Business

**FROM:** Planning & Development Services Department  
Staff

**DATE:** March 24, 2011

**SUBJECT:** Petition PB-10-143 TCH, City of Gainesville. Amend the Land Development Code to add and update regulations for the protection of natural and archaeological resources. Delete Sections 30-309 & 30-309.1 of the Land Development Code, which pertain to the Significant Ecological Communities District.

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### Recommendation

Staff recommends approval of Petition PB-10-143 TCH.

### Petition Regulations Summary

This petition:

1. adds new definitions related to natural and archaeological resource protection;
2. amends the Nature Park District to include new buffering requirements for developments adjacent to a Nature Park;
3. adds review requirements for most development applications in order to determine the impacts on natural and archaeological resources;
4. specifies the level of review required for Basic, Level 1, and Level 2 review, and specifies review fees;
5. requires that parcels containing strategic ecosystems or significant natural communities not be disaggregated such that there is lesser natural resource protection;
6. sets requirements for natural and archaeological resources assessments;
7. sets further regulations for parcels with confirmed regulated natural or archeological resources (regulated resources include: significant natural communities, listed species, strategic ecosystems, Floridan aquifer high recharge areas, significant archaeological resources, and significant geological resources);
8. provides for conservation management areas and management plans;
9. establishes avoidance, minimization and monitoring requirements with respect to the regulated natural and archaeological resources;

10. amends the Relief and Enforcement provisions of Article VIII, Environmental Management; and,
11. Deletes the Significant Ecological Communities section of the Code (Sections 30-309 & 30-309.1).

### **Petition History**

The manner in which the City addresses the protection of significant ecological communities, particularly with respect to Alachua County-designated Strategic Ecosystems that have been annexed by the City, was referred to the Community Development Committee in October 2007. A staff team subsequently worked for approximately one year to determine how the Land Development Code protects significant ecological communities and how such protection relates to the City Commission's expressed desire to ensure protection of designated Strategic Ecosystems once they are annexed.

The Community Development Committee on February 26, 2009 voted to refer the staff recommendation to the City Commission, which reviewed the matter on April 16, 2009 and approved staff's recommendation that a petition proceed to the City Plan Board.

The Plan Board held a public hearing on September 24, 2009 and unanimously approved the petition. The City Commission heard the petition on December 3, 2009 and continued it to an unspecified later date. That petition (*PB-09-125. Legislative No. 090536*) is now deemed to be denied without prejudice (per Sec. 30-347.8 of the Land Development Code) because more than six months have passed since the Plan Board's report was filed with the City Commission.

Staff has since worked with the City Attorney's Office in developing the current petition (Petition PB-10-143 TCH), which was filed on December 13, 2010. The staff team recommends that the City focus on the preservation of significant natural communities and features through the normal development review process. Alachua County's land development regulations were used as the model for the proposed environmental regulations.

*Exhibit 1* (Timeline on Land Development Code Amendments to Protect Significant Environmental and Natural Resources) shows the exact timeline and background information (including meeting minutes) for all the prior meetings and referrals.

Since Petition PB-10-143 TCH was heard (and continued) by the Plan Board on February 2, February 24, and March 2, 2011, staff has continued to work with: the Parks, Recreation and Cultural Affairs Department; interested property owners and members of the development community; and the Alachua County Environmental Protection Department to refine the proposed code amendments pertaining to the protection of natural and archaeological resources.

Some of the major changes are:

- exemptions for parcels of record as of November 13, 1991 that are less than or equal to two acres;
- incorporation of the previously proposed Environmental Technical Review Manual into the proposed Land Development Code (LDC) regulations;
- clarification that transfer of development rights includes both density and intensity (residential and non-residential development rights);

- revisions of various definitions, including Strategic Ecosystems, Conservation management area, Significant natural community, Spring, Wetlands, and renaming (and revision) High aquifer recharge areas to Floridan aquifer high recharge areas;
- Expansion of purpose and intent section;
- revision of scope of review;
- expansion of list of exemptions;
- revision of level of review requirements;
- clarification of ground-truthing requirements;
- revision of section pertaining to the evaluation of Strategic Ecosystems;
- revision of off-site mitigation location;
- stating the purpose of buffer/fencing requirements at nature park boundaries; and
- expansion of petition to delete LDC Sections 309 & 309.1, pertaining to the Significant Ecological Communities District.

*Exhibit 2* is an information item that compares Alachua County regulations, City of Gainesville regulations, and provisions of the proposed amendments.

### **Discussion**

The staff-recommended additions to and updates of the Land Development Code are in *Exhibit 3* – Land Development Code Amendments for Natural and Archaeological Resource Protection. The proposed code amendments include provisions to protect not only strategic ecosystems, but other natural resources such as floodplains, groundwater (aquifer) recharge areas, and endangered, threatened, or listed species that are listed in Objective 2.4 and related Policies of the Conservation, Groundwater Recharge and Open Space Element of the Comprehensive Plan. The proposed amendments also include protections for archaeological resources in accordance with Goal 1 of the Historic Preservation Element of the Comprehensive Plan.

Under the proposed code amendments, new applications for development plan approval, for land use changes to Planned Use District (PUD), or for zoning changes to the Planned development (PD) district would be required to include a natural and environmental resources assessment. Applications required to include such assessment are for properties that: 1) are within or partly within the boundaries of Alachua County strategic ecosystems annexed into the City; 2) are within or partly within the boundaries of significant natural communities; or 3) are outside of the areas described in 1 and 2 but are determined by the city manager or designee to have a potential adverse impact on regulated natural or archaeological resources. The city manager or designee will evaluate the assessment and identify appropriate site designs and strategies for protection of the natural and archaeological resources.

A property under common ownership located within a strategic ecosystem and/or significant natural community will not be reviewed in a piecemeal fashion that results in lesser protection of natural resources than if the property were reviewed as a whole. A master plan for protection of regulated natural or archaeological resources on the entire property may be required when development is proposed for part of the property. This resource master plan is subject to approval by the appropriate reviewing board.

The regulated natural and archaeological resources are proposed to be protected as follows:

*Nature Park District:* The ordinance amends the existing section 30-307 by adopting the nature park district that is delineated on a map maintained by the City's Planning and Development Services Department, and by adding buffer requirements for developments.

*Significant Natural Community:* Development proposed for all parcels greater than two or more acres in size shall be evaluated for the protection of significant natural communities prior to clearing, grading, or other alteration. A maximum of 25 percent of the upland portion of a planning parcel may be required to be set aside for protection due to significant natural communities. Significant natural communities include areas identified as *Uplands* in the Future Land Use Map Series of the City of Gainesville 2000-2010 Comprehensive Plan or the updated *Uplands* map in the GIS Map Library in the Planning & Development Services Department website. All listed species upland habitat areas and all upland buffers of regulated surface waters, wetlands, archaeological resources, and/or geological resources, shall take precedence in the calculation of this set-aside, and shall be applied toward the 25 percent maximum.

*Listed Species:* All proposed development shall be evaluated for the presence of listed species prior to clearing, grading, or other alteration of the proposal area. If the required habitat survey finds listed species or listed species habitat, a management plan that ensures protection shall be submitted to the City. A maximum of 25 percent of the upland portion of a parcel may be required to be set aside for protection due to the fact that it includes listed species habitat. All upland buffers of regulated surface waters, wetlands, archaeological resources, and/or geological resources, shall take precedence in the calculation of this set-aside for the area of overlap of the buffer with the listed species habitat, and shall be applied toward the 25 percent maximum.

*Strategic Ecosystems:* Development proposals, land use changes, or zoning changes for parcels that are within or partly within the boundaries of a strategic ecosystem within the City are subject to various requirements that closely match those of Alachua County's strategic ecosystem ordinance. Among the requirements is that a maximum of 50 percent of the upland portion of a planning parcel can be required to be preserved, unless the landowner provides consent for additional protection.

The larger resource areas within Strategic Ecosystems typically provide a broader range of benefits, functions and values, and thus warrant a greater degree of protection than other areas. This is due to the interrelationship of the size and scale of one or more landscape, natural community, or species characteristics in these areas, which promote connectivity, minimize fragmentation of natural systems, and protect wetlands, floodplains, and associated uplands in a broad systems context through resource-based planning.

(Note: There are approximately 10,215 GIS acres of Strategic Ecosystem within Gainesville city limits, and approximately 22,442 GIS acres of Strategic Ecosystem in Gainesville's designated Urban Reserve Area. See *Exhibit 5* for Strategic Ecosystems map.)

*Floridan Aquifer High Recharge Areas:* The environmental regulations establish stormwater protections and hazardous materials provisions for development activities in high aquifer recharge areas.

*Significant Archaeological Resources:* Applications for developments proposed in an area where archaeological resources are known or suspected will be required to perform surveys for archaeological resources before alteration of the property. Impacts to significant archaeological resources will be avoided, minimized, or mitigated.

*Significant Geological Features:* The environmental regulations establish protections for significant geological resources (e.g., sinkholes, caves, spring heads, limestone outcrops,

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lineaments, ridges, escarpments, spring runs, steep slopes, and springsheds). Protection strategies may include, but are not limited to, designated conservation management areas, and/or incorporation of a geologic feature as an aesthetic element. Minimum default buffer widths are established for sinkholes (average of 50 feet), caves, lineaments, ridges and escarpments (average of 75 feet), and for springs and significant geologic features within springsheds. Sinkhole management strategies are required. Protection provisions are also established for karst sensitive areas (where rock surfaces are within 10 feet of the land surface), lakes and ponds that are connected to the aquifer or to nearby springs, subsurface channels, and closed depressions.

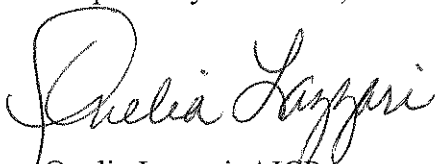
The proposed code amendments establish standards for the protection of conservation management areas, which are set-aside areas for the conservation of regulated natural and archaeological resources.

Management plans are required for development applications pertaining to annexed properties within a strategic ecosystem, and for development applications for properties located outside of strategic ecosystems that meet two of these three criteria: 1) contain regulated archaeological and natural resources greater than or equal to 5 acres in size; 2) contain at least one listed species; or 3) provide the opportunity for a wildlife corridor adjacent to a nature park, preserve, or conservation area.

The proposed code amendments also include provisions pertaining to avoidance of adverse impacts, minimization of such impacts, mitigation and monitoring, alternative compliance, and violations.

The proposed code amendments, if approved, will eliminate the need for the Significant Ecological Communities District (Sections 309 and 309.1 of the Land Development Code). Therefore, this petition includes deletion of Sections 309 and 309.1.

Respectfully submitted,



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Prepared by:



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Exhibits:

1. Timeline

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2. Table 1. Current City and County environmental regulations with recommended revisions to the City of Gainesville Land Development Code.
3. Land Development Code Amendments for Natural and Archaeological Resource Protection
4. Land Development Code Amendments to Delete Sections 30-309 and 30-309.1
5. Map – Strategic Ecosystems