

Submitted June 10, 2002  
Paula N. Stahmer

#000882

6/10/02

**To:** Ray Eubanks  
Community Programs Administration  
2555 Shumard Oak Drive  
Tallahassee, Florida 32399-2100

**From:** *Concerned Citizens Committee (CCC) of Gainesville, Florida*, on behalf of members of the Florida League of Conservation Voters, Greenspace Preservation Association, Glen Springs Preservation Association, Turkey Creek Neighborhood Associations, and numerous other citizens and residents of the City of Gainesville, Florida.

**Date:** January 21, 2002

- Re:**
- 1) Request for FS 163.3184(6) State Land Planning Agency (Agency) Review of Proposed Amendments to the City of Gainesville, Florida (City), Comprehensive Plan pertaining to the Conservation, Open Space, and Groundwater Recharge Area Element (Conservation Element), the Transportation Mobility Element (TME), and the Future Land Use Maps (FLUM).
  - 2) Request for any notices to which CCC members may be entitled which are issued by the Agency with respect to the City's Comprehensive Plan or related matters during this amendment process.
  - 3) Citizen comments and objections to proposed amendments of the Conservation Element, the TME, and the FLUM.

1) By this memorandum, the CCC transmits a request pursuant to FS 163.3184(6) for Agency review of the City's proposed Comprehensive Plan Amendments pertaining to the Conservation Element, the TME, and the FLUM. At least three members of the CCC are residents of the City and are "affected persons" within the meaning of that term as defined in FS 163.3184(1)(a).

The CCC has been advised by Mr. Jim Crews of the Florida Department of Community Affairs that receipt of this request at the above address by January 22, 2002, would constitute a timely filing of the review request.

2) The CCC also requests it be sent any notices to which it or its members may be entitled that may be issued by the Agency pursuant to actions taken with respect to the Agency's review of the City's proposed Comprehensive Plan Amendments as described above. Notice provided to Ms. Robinson, Ms. Deevey, or to Ms. Stahmer at their respective addresses noted below will be deemed as notice provided to all.

3) By this memorandum, the CCC transmits its comments and objections to the recently proposed amendments to the Conservation Element, the TME, and to the FLUM as recently transmitted during December, 2001, to the Agency by the City. The CCC is not in receipt of any notice or copy of the transmittal documents, and so cannot be more precise in characterizing the caption that may have been used by the City to transmit the City's proposed amendments,

**The documents attached to this letter should be substituted for documents previously submitted by the CCC, by cover letter dated January 18, 2002.** A copy of that cover letter is included for your information. This package is a more complete and amended submission. It duplicates all of the material previously provided.

The following documents are attached herewith:

- I. Due Process Issues.
- II. Addendum to Due Process Issues: Chronology of Significant Events, including selected documents referenced therein.
- III. Citizens Objections to the Proposed Amendments to the Conservation Element.
- IV. Addendum 1 to Conservation Element Comments: Wildlife Protection, including selected documents referenced therein.
- V. Addendum 2 to Conservation Comments: New Conflicts, including selected documents referenced therein.
- VI. Citizen Objections to the Proposed Amendments to the Transportation Mobility Element, including the FLUE and FLUM.
- VII. Addendum to the Transportation Mobility Element Comments.

It is assumed that the Agency has available to itself copies of the current Gainesville Comprehensive Plan, copies of the proposed amendments and copies of all documents referenced therein and/or relied upon, such as the Evaluation and Analysis Report of 1998, and the Data and Analysis Reports relevant to each Element.

The CCC files the attached comments and objections as a criticism of the procedural infirmities of the methodologies and process by which the City's proposed amendments were developed. Of particular concern to the CCC are (1) the City's failure to provide adequate and timely notice to the general public of pending major policy changes and actions in the evolution of the amended Comprehensive Plan, thereby voiding or obstructing meaningful citizen participation in the process; (2) direct conflicts between proposed amendments and allegedly supporting data, and/or, the complete lack of supporting data; and (3) repeated reliance upon vague and ambiguous language in lieu of clearly articulated policies, as required by law. While the CCC documents contain criticisms of the substantive policies, such discussion is pursued only to provide context for understanding the underlying flaws of methodology or process.

The CCC requests, on behalf of its constituent members, that the Agency return the proposed amendments to the City of Gainesville for revision in accord with the requirements of the law.

This request was prepared and submitted by the following members of the CCC:

Francine Robinson (Gainesville city resident)  
2501 NW 21<sup>st</sup> Avenue  
Gainesville, Florida 32605  
(352) 375-4140

Dian Deevey  
1702 SW 35<sup>th</sup> Place  
Gainesville, Florida 32608  
(352) 373-0181  
Email: diandv@bellsouth.net

Paula Stahmer (Gainesville city resident)  
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Gainesville, Florida 32607  
(352) 373-3958  
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Bonnie O'Brien (Gainesville city resident)  
2329 NW30th Terrace  
Gainesville, Florida 32605  
(352) 372-7991

Please feel free to contact any of the above named CCC members with questions or comments regarding the enclosed documents.

Respectfully submitted on behalf the CCC,

Paula H. Stahmer      1.21.02  
Paula H. Stahmer      Date

To: Ray Eubanks  
Community Programs Administration  
2555 Shumand Oak Drive  
Tallahassee, Florida 32399-2100

From: Concerned Citizens Committee (CCC) of Gainesville on behalf of the Florida League of Conservation Voters, Greenspace Preservation Association, Glen Springs Preservation Association, Turkey Creek Neighborhood Associations, and numerous other citizens of the City of Gainesville, Florida.

Date: January 18, 2002

Re: Citizen comments and objections to proposed amendments to the City of Gainesville Comprehensive Plan.

By this memorandum the CCC transmits its comments and objections to the recently transmitted proposed amendments to several elements of the City of Gainesville Comprehensive Plan. By way of phone discussion with Jim Crews of the Department of Community Affairs (DCA), the CCC was advised that these comments would be timely filed within the statutory requirements if received by DCA by January 22, 2002.

Attached, please find the following documents:

- I. Statement regarding due process and public participation in development of proposed amendments, including selected documents referenced therein (to be provided by separate cover).
- II. Citizens' Objections to the Proposed Amendments to the Conservation Element of the Comprehensive Plan, including selected documents referenced therein.
- III. Addendum to Conservation Element Comments: Wildlife Protection, including selected documents referenced therein.
- IV. Citizens' Objections to the Proposed Amendments to the Transportation Mobility Element of the Comprehensive Plan, including selected documents referenced therein.
- V. Addendum to Transportation Mobility Comments.

It is assumed that the DCA has available to itself, copies of the current Gainesville Comprehensive Plan, copies of the proposed amendments and copies of all documents referenced therein and/or relied upon, such as the Evaluation and Analysis Report of 1998, and the Data and Analysis Reports relevant to each element.

The CCC files the attached comments and objections as a criticism of the procedural infirmities of the methodologies and process by which the City's proposed amendments were developed. Of particular concern to the CCC are (1)

the City's failure to provide adequate and timely notice to the general public of pending major policy changes and actions in the evolution of the Comprehensive Plan, thereby voiding or obstructing meaningful citizen participation in the process; (2) direct conflicts between proposed amendments and allegedly supporting data, and/or, the complete lack of supporting data; and (3) repeated reliance upon vague and ambiguous language in lieu of clearly articulated policies, as required by law. While these documents contain substantial criticisms of the substantive policies, such discussion is pursued only in order to provide context for understanding the underlying flaws of methodology or process.

The CCC requests, on behalf of its constituent members, that the DCA return the proposed amendments to the City of Gainesville for revision in accord with the requirements of the law.

This document was prepared by the following members of the CCC:

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Please feel free to contact any of the above members with regard to questions or comments on the enclosed documents. When necessary, notice provided to Ms. Robinson, Ms. Deevey, or Ms. Stahmer will be deemed as notice provided to all.

## **I. DUE PROCESS ISSUES**

## I. DUE PROCESS ISSUES

### **Introduction.**

We include below a chronicle of attempts made by citizens to compel the City to engage in debate of many of the policies in the proposed comprehensive plan amendment, and to attend to the widely expressed preferences of concerned citizens. The introductory section that starts here is an overview of the more important due process issues raised by the procedures employed by the City to develop the amendments to the comprehensive plan elements. The chronology section is entitled "Addendum to Due Process Issues: Chronology of Significant Events." This Addendum has relevant documents attached to it.

### **Obligations regarding provision of due process.**

State law 163.3181 mandates that the public participate in the comprehensive planning process:

(1) It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. Towards this end, local planning agencies and local governmental units are directed to adopt procedures designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property. The provisions and procedures required in this act are set out as the minimum requirements towards this end.

(2) During consideration of the proposed plan or amendments thereto by the local planning agency or by the local governing body, the procedures shall provide for broad dissemination of the proposals and alternatives, opportunity for written comments, public hearings as provided herein, provisions for open discussion, communications programs, information services, and consideration of and response to public comments.

It is useful to distinguish two intervals in the process used in Gainesville: that preceding and that following April 9, 2001. This date is significant because it is the date on which three amended elements and the Future Land Use Map were scheduled for their first reading by the City Commission and transmittal to DCA. The elements are: Conservation, Open Space, and Groundwater Recharge Element (CE); Transportation Mobility Element (TME); and Future Land Use Element (FLUE).

### **Before April 9, 2001.**

During this interval, City agencies held a number of public meetings and some "workshops" on the three elements considered here, and on the map. The occurrence of the City's public hearings and workshops has been cited by the

City as evidence that the City and its planning agency have complied with the requirements of 163.3181 and 163.3184.

While they may have served an important communication function, these workshops and meetings did not provide, in and of themselves, meaningful forums for effective and informed citizen participation in the comprehensive plan amendment process.

The barriers to effective citizen participation included the following:

- a) No effective notice. The notice for the meetings and workshops held by the Plan Board or the Planning Department named the elements to be considered, but did not identify what policies in them were being considered for amendment, summarize the amendments under consideration or in any other way inform citizens regarding the proposed nature of the changes under consideration. Citizens who might otherwise have been interested in attending these meetings and workshops could not determine from the notice provided whether they were likely to be affected by the outcome, or even touched upon a matter that might interest or concern them.
- b) Little or no opportunity to comment on proposals. Most of these meetings consisted entirely or largely of presentations by staff on theories of “new urbanism”, and the advantages that could be realized if “new urbanist” ideas were applied in Gainesville. Citizens complained that in some cases no time was allowed for citizen comment or questions, and that too often offered questions were ignored or discouraged.
- c) Lack of detail. Citizens were not provided with the proposed language of the amendments to the comprehensive plan, which precluded informed discussion of them. Typically, alternative ways to amend the policies considered were not offered during these meetings. Attendees were not given an opportunity to offer alternative language, because discussions seldom got to the level of drafting language.
- d) Failure to compare different elements with one another. Workshops and meetings held during the preparation period did not provide the citizens with an opportunity to consider the way the different amended elements would interact.

Examination of the critiques we present here shows very clearly how significant these interactions are. For example, both the Transportation and Mobility Element and the Future Land Use Element have very serious flaws that are not apparent until the two are closely compared. The same is true of the Conservation, Open Space and Groundwater Recharge Element in relation to the Future Land Use Element. Our exercise has shown clearly that it is not possible to fully comprehend the effects of any single element if it is considered in



isolation from other elements. The piecemeal approach adopted by the City makes informed debate by citizens difficult.

It is instructive in this regard to compare the City's piecemeal amendment process to that employed by Alachua County for its 2001-2011 Comprehensive Plan Amendment process. All proposed amended elements of its plan were released during the spring of 2001, together with a published schedule of public transmittal hearings to be held from May through August 2001. During this period, all amendments were considered in detail within the context of all the other elements in the plan. No votes on any elements were scheduled until after all had been considered, compared, and debated.

The issue is not a matter of the fact or number of public meetings and workshops, but of the way they were conducted and the extent to which affected persons and the public at large received adequate notice of what was being addressed in these meetings. A notice that lists only the name of an element under consideration is insufficient to alert any person that they may be affected by the proceedings noticed.

The law clearly requires that citizens be given opportunities for full participation in the planning process, and this did not occur. For whatever reason, questions of the substance of the policies and their language were rarely, if ever, on the table.

We recognize that in the early stages of the plan amendment process, the amendments that are ultimately offered may be unknown to the City and its agents. Consequently full notice containing details of contemplated amendments or their potential impact on affected persons is precluded at early points in the process. Nor can the City offer opportunities to review and critique language that has not been written.

That being the case, the City cannot rely upon the fact of these early meetings as evidence that it has met its legal burden. Indeed, given the fact that the Data and Analysis Reports for the three elements of special concern were not completed until after these meetings and workshops were essentially completed, it is hard to see how concerned citizens could have constructively participated in the process prior to the releases of the DAR.\*

#### **April 9, 2001.**

The City had expected to approve and transmit the three elements and the FLUM at their regularly scheduled meeting. Copies of the elements were available for the public, but not of the DAR's (although they had been published two or more

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\* The dates for the DAR's are: Transportation Mobility Element, January 25, 2001; Conservation Open Space and Groundwater Element, January 31, 2001; Future Land Use Element, February 6, 2001.

months earlier). Citizens objected vigorously in regard to many substantive issues and to procedural issues.

Two critical due process issues were raised at this time and have been subsequently raised on many occasions. They concern notice and opportunity to be heard:

1. The amended comprehensive plan had never previously been available in its entirety, including those elements previously amended and transmitted and the final 4 items. Consequently, it had not previously been possible for citizens to read and study the entire plan, or to understand how the elements might work together to impact the future development of the city. Failure to provide such an opportunity in effect denied citizens of their right to comment intelligently on the actions of the Commission, or to understand the vote about to be taken.

2. The City had not broadly disseminated information about the major changes in the Comprehensive Plan amendments that could have profound effects on them and their environment. Citizens felt that they had a right to know what the Commission contemplated and to be consulted about the impacts. They were concerned because too many changes had been suddenly sprung on them, and were about to be adopted.

These points were raised at this time and repeatedly throughout the summer and fall, and are still being raised.

✓ In <sup>?</sup> of citizen objections, the FLUE was approved for transmittal on April 9, but the commission directed staff to change some provisions regarding TND's in single family residential land use categories, in response to one of the concerns raised by citizens.

There was a large citizen turnout at this meeting, and intense pressure for delays in the approval and transmittal process. The City Commission agreed to a special meeting during which at least one additional workshop would be scheduled to focus on the CE, the TME, and the FLUM.

### **After April 9, 2001**

Throughout the period between April 9 and December 10, 2001 workshops and meetings were held. Public opposition to many features of the City's proposed amended comprehensive plan steadily increased in that interval, especially with regard to the wetlands policies. Never-the-less, the City remained intransigent, and refused to engage in genuine debate on the substantive issues, or to allow citizens, with few exceptions, to affect critical policies.

At the end of this process, the Commission actually adopted a new policy that was far more offensive to the expressed citizen desires for protection of wetlands than the controversial one originally proposed. At no time did the Commission allow consideration of either of two alternative wetlands policies proposed by citizen groups (attached) contrary to the requirements of FS163.3181(2) quoted above. These two are attached to the Addendum to this section. Even though there were numerous workshops over this 8-month period, the December 10 meeting was the first real opportunity for citizens to attempt to engage the commission on the substantive issues in the two elements receiving their first reading.

### **Summary of Due Process Problems.**

Many of the policies in the proposed amendments are expressed in terms of qualitative judgments, and the public cannot determine what these policies mean, or how they are to be translated into land development regulations (LDR's).

Some policies direct the development of LDR's that will establish standards, elucidate criteria, define "appropriate" intensities or densities, specify transitions from one class of densities to another, and in some cases define "compatibility". There is minimal or no guidance as to what these standards, criteria, etc. shall be. This near total lack of guidance makes it impossible to write appropriate LDR's, as the comp plan provides only minimal clues as to how they should read.

Establishing these standards is the function of the comprehensive plan itself. The plan should contain meaningful and predictable standards for the use and development of land, as well as guidelines for the contents of detailed LDR's (9J-5.005). These are policy choices. The function of the comprehensive plan is to state the policy choices regarding applicable standards, criteria, compatibility, and so forth. The failure to do this constitutes a legal insufficiency of these Comprehensive Plan Policies as written. The City Commission is must make these policy decisions and put them in the comprehensive plan. These policies cannot be exported to the LDR's, which is what this plan attempts to do.

This failure to enunciate the proper policy decisions is a recurrent problem throughout these elements and, indeed, throughout virtually all amendments to the Gainesville Comprehensive Plan proposed for the 2001-2011 decade. These are due process issues, although substantive issues are clearly deeply involved. As written, these plan elements defy understanding, and thereby fail to provide adequate notice to affected persons as to the impact on their rights and obligations. Furthermore, the lack of clarity impedes the ability of interested or affected persons to exercise their legal right to participate in the plan development process.

More details of the City's failure to comply with the requirements of applicable state law provided in the Addendum and its attachments.

## **II.**

**Addendum to Due Process Issues:**

**Chronology of Significant Events**

## **Addendum to Due Process Issues: Chronology of Significant Events**

January 25, 2001: Data and Analysis Report for the Transportation Mobility Element (TME) completed.

January 31 2001: Data and Analysis Report for the Conservation, Open Space, and Groundwater Recharge Area Element (Conservation Element) completed.

February 6, 2001: Data and Analysis Report for the Future Land Use Element (FLUE) and Future Land Use Maps (FLUM) completed.

April 9, 2001: First Reading at a City Commission meeting for the proposed amendments to the Conservation Element, TME, and the FLUE, including the FLUM. *This was the first time the proposed policies and language were presented in their entirety to the public at large.* The texts of these elements had not been widely available.

Concerned citizens protested the short notice provided for reviewing complex policies and requested workshops on the policies and their implications.

The Commission agreed to schedule at least one workshop, date to be determined later.

Despite objections from citizens, the Commission adopted the FLUE on first reading and approved its transmittal, promising some revisions before a second reading. The Commission reserved action on the Conservation Element, TME, and FLUM.

April 10-May 31, 2001: In late April, a workshop was scheduled for May 31 on the Conservation Element, TME and FLUM. Despite repeated assurances during this entire interval, citizens encountered numerous obstacles in their attempts to obtain full copies of the Comprehensive Plan elements and their associated Data and Analysis Reports. Even when the City finally placed these documents on the City web site, they were inaccessible without a high-speed internet connection. Only as of the Friday before the May 31<sup>st</sup>-Thursday workshop, did the City produce CD's of these transmitted and pending amended comp plan elements and their associated DAR's. However, citizens requesting copies of this CD were required to provide the names of each person requesting or receiving a copy.

May 31, 2001: Public workshop on the proposed amendments to the three elements noted above, 6 PM to 9 PM. One hour was devoted to city staff presentation of an overview of the process and the proposed policies. Ten minutes each was allocated to each of the three individuals who had together requested the workshop (and each of whom represented citizen groups), and the remaining time was devoted to "open-mike" comments by citizens. Citizens requested more workshops because of the detail and complexity of material to be covered. City Commissioners attended this

workshop but did not participate in any discussions. Major concerns expressed by citizens included:

- a) limited public involvement in development of proposals;
- b) inadequate consideration of consequences of proposed policies;
- c) the use of vague and ambiguous language throughout the proposed amendments in lieu of clearly articulated policies;
- d) adverse impact of proposed policies on the environment, especially on city wetlands and trees;
- e) weakening of environmental protections in the CE;
- f) adverse impact of proposed land use and conservation policies on drinking-water sources and quality, on stormwater management, and on natural wildlife habitat;
- g) increase in permitted residential and commercial building densities without protections for existing neighborhoods;
- h) lack of definition and specificity in compatibility requirements and in buffers;
- i) conflicts between the proposed policies, and the findings in both the 1998 Evaluation and Analysis Report (EAR) and the 2001 Data Reports (DARs);
- j) lack of any supporting data and analysis for many proposed policies.

Many questions were posed by citizens at this workshop, but few answers were provided. That is, this workshop was not a debate of policies or alternatives to them.

Citizens pointed out that Alachua County had voluntarily scheduled a series of open workshops, from May through August, on all proposed amendments to the entire County Comprehensive Plan prior to scheduling any votes on any of the amendments. *The County had also provided notices to all landowners of record about the proposed changes in policies and the anticipated impact of such changes on their rights and obligations.*

At the end of this workshop, the Mayor acknowledged the need for more workshops.

A schedule for three workshops in June, July and August was announced sometime shortly after this workshop.

Minutes of these proceedings later provided by city staff failed to fully represent the range and nature of expressed citizen concerns and comments. The minutes included initial city responses to some of the questions, but many of these responses either missed or evaded the point. The responses failed to address a majority of the concerns.

June 20, 2001: Public workshop on the Conservation Element. Discussion between city staff and citizens, focused primarily on the proposed wetlands policy that would diminish existing city protections and allow for destruction of city wetlands. Three Commissioners attended at different times. Little comment from or participation by Commissioners. Majority public sentiment was in favor of preservation of city wetlands rather than the City proposal allowing destruction and off-site mitigation. Also, there was a clear public preference for mandating urban design policies that protected large trees in addition to, and distinguished from merely preserving tree canopy. City staff made notes of the language offered by citizens, but this language was not subsequently submitted to the City Commission at a regular meeting.

July 26, 2001: Public workshop. Continued discussion between City staff and citizens was primarily focused on wetlands policy, although the balance of other Conservation issues were also discussed. Overwhelming majority of citizens, including the CCC, supported changing the City's wetlands proposal to mandate preservation and restoration of all wetlands in the City. City staff stated that the proposed amendments affecting wetlands had been drafted by the City Water Management Advisory Board (WMAB), and that only the WMAB, or the City Commission could make any changes in it. Staff agreed to tell both bodies that citizens wanted changes, but declined to draft language reflecting these changes, stating that it was not their role to propose language. The citizens then raised the question of the utility of these workshops if their concerns were not being translated into alternative proposals that could be placed before the parties with authority to make changes. The question was not answered.

August 22, 2001: Public workshop. All Commissioners were in attendance. The discussion was primarily between city staff and citizens, and was focused on the FLUE. Little time remained available for discussion of the TME. No additional forum was ever provided in which the deficiencies of the TME could be discussed.

May through August: CCC members met with city staff on many occasions to discuss these issues. City staff made themselves readily available for these meetings. CCC members also addressed the City Commission at citizen comment time of regularly scheduled commission meetings. The CCC repeatedly brought up all the issues contained in these documents, including due process issues and substantive policy concerns. Commissioners typically rejected due process concerns, and responded to substantive concerns by saying that the problem mentioned would be taken care of in the LDR's that were yet to be written. The CCC's regular response was that the LDR's cannot go beyond policies expressed in a the comp plan, and failure to incorporate explicit standards cannot be cured by LDR's. Such LDR's cannot withstand legal challenge. These concerns were rejected.

September 4-7, 2001: CCC members, representing those who had originally requested public workshops at the April 9<sup>th</sup> Commission meeting, met with individual

commissioners about the wetlands policy. Both Commissioners Hanrahan and Nielson resolved to have a joint workshop with representatives holding a variety of views to discuss possible revisions to the City's proposed language.

September 17, 2001: Wetlands workshop with two City commissioners (Hanrahan and Nielson), several city staff, and about a dozen citizens (some who opposed, and some who supported the City's proposed wetlands policy) was held regarding the proposed wetlands policy and language that had remained unchanged since April. Both commissioners stated that they agreed that it was not necessary to destroy city wetlands in order to accommodate infill. Both commissioners also stated their commitment to preserving wetlands. This meeting was not recorded even though it was subject to the state Sunshine rules since two commissioners were present and discussed policy matters on which they would be voting in the future. Draft language was discussed and Commissioner Nielson stated that he thought differences could be reconciled at a later meeting that he would convene after working on the language himself.

Opponents of the city's proposed wetland policy were never contacted to participate in a follow-up meeting. It was later learned that Commissioner Nielson met privately with only two participants from the September 17<sup>th</sup> meeting, both of whom strongly supported drainage of wetlands and off-parcel mitigation.

September 24, 2001: During the citizen comment period of a regularly scheduled City Commission meeting, the CCC proposed language for amending the Conservation Element. This language was submitted jointly by the Florida League of Conservation Voters, Greenspace Preservation Association, and the Glen Springs Preservation Association, in support of a wetlands preservation-and-restoration-only policy. Copies of the proposed language were provided to the Commissioners and the public, and a statement explaining the policy was read into the record (copies attached). However, this proposed language was never placed on the agenda for discussion at any commission meeting even though it reflected the clear and increasingly wide public consensus favoring a wetlands preservation policy.

October 3, 2001: Submission by CCC of extended comments and questions regarding the Conservation Element (see attached memorandum dated October 3, 2001) to the clerk of the City Commission. The purpose of the submission was to provide in writing a summary of issues raised by the CCC and other concerned citizens between April 9 and early October, so that the Commission would have a written reference identifying issues that might otherwise become lost in the wetlands discussion. The CCC and other citizens did not regard city staff summaries and minutes of citizen comments throughout this period as fully representing the opinions and recommendations offered.

October 8, 2001: City Commission meeting during which many public comments were



received regarding the City's proposed wetlands policy. City staff transmitted a memo to the Commission that referenced a proposed wetlands policy submitted by the local chapter of the Sierra Club, a copy of which was included in the materials provided to the Commissioners and made available to the public at this meeting. The Sierra proposal would have mandated wetlands protections that were stronger than the much weaker city proposals. However, the language itself was never placed "on the table" for discussion at this or any subsequent meeting. The CCC did not endorse the Sierra language because it allowed for some destruction and mitigation.

October 15, 2001: Regularly scheduled Commission meeting. Commissioner Nielson submitted to the Commission six pages of proposed language for a wetlands policy, which he stated he had drafted *unilaterally*, and which supported destruction of city wetlands and allowed for off-site mitigation, including sites completely outside city limits. There was no discussion of the implications of the Nielson proposal, or a comparison with the pending proposal. A majority of the Commission voted to send the proposal to the city staff for formatting and stylistic changes consistent with the Comprehensive Plan. *This proposal had not previously been made available to the public, and was different from any of the proposals citizens had been discussing since April. This was the first time such a policy had even been mentioned during any of the workshops and meetings in which the wetlands policies were discussed since April 9<sup>th</sup>.* Several citizens protested the action, especially since citizen proposals in favor of preservation had never been placed on any Commission agenda for consideration or discussion.

October 24, 2001: City staff fax to the CCC a copy of their revisions of Commissioner Nielson's wetlands proposal. This revision deleted the out-of-city mitigation provisions in the Nielson proposal.

November 13, 2001: Regularly scheduled commission meeting during which a majority of the Commission voted to *replace* the pending city wetlands proposal with Commissioner Nielson's proposed language. Thus, with no public involvement, Commissioner Nielson's language became the official proposed amendment to the City's Conservation Element. Also without allowing meaningful public participation, a majority of the Commission approved Commissioner Nielson's reinstatement of his language permitting mitigation of destroyed city wetlands outside city limits. Commissioner Nielson announced (also for the first time in public, so far as the record shows) a proposed Blue Ribbon Committee to develop the LDR's to implement his proposed language. Commissioner Nielson also proposed a list of Committee members by name. A majority of the Commission voted to approve the formation of the Committee, and its membership. That procedure was contrary to established city process for creating advisory committees and for determining their membership. On this occasion there was no prior public notice, no announcement seeking applications from interested members of the public, no request for a show of qualifying credentials. Commissioner Nielson never explained why he adopted these unusual tactics, nor

did he explain the need for haste. While the Mayor was expressing some doubt about the propriety of the process, three commissioners (Hanrahan, Barrow, and Nielson) walked out of the meeting, leaving the Mayor in mid-sentence without a quorum and requiring the suspension of proceedings for at least ten minutes before the absent commissioners returned.

November 26, 2001: The Conservation Element was on the City Commission agenda for a First Reading. Because of intense citizen interest, the meeting room was overflowing with people prepared to speak to the issue, the large majority of whom opposed the proposed language. However, other agenda items delayed the Conservation Element. Although City staff began a presentation, the item was suspended to allow the Commission to address some time sensitive items. Because of a full agenda, the meeting had to be adjourned before public comments on the Conservation Element could be received. After a delay of five hours, the meeting was continued to the next evening, the 27<sup>th</sup>.

November 27, 2001: Continued commission meeting. There was again a high turnout of interested citizens wishing to speak to the wetlands issue. Once again, other items crowded the agenda, some of which were more time-sensitive than the Conservation Element. Citizens again waited until late in the evening. When the Conservation Element finally came up, Commissioner Hanrahan immediately called the question. Had her action succeeded, it would have precipitated an immediate vote on the approval and transmittal of the Element. The Mayor stated he believed such a move would be illegal because the item had been noticed for public hearing and the Commission could not refuse to allow public comment. The First Reading was continued to December 10<sup>th</sup>.

December 10, 2001: The Conservation Element was on the agenda, and there was, once more, a large attendance of citizens wishing to speak to the issue. Commissioner Hanrahan proposed a schedule for "improving the efficiency" of the proceedings by limiting the time per item according to the controversy it posed.

Thus, only fifty minutes were allotted for the entire Conservation Element including the new Nielson wetlands proposal that had never received public scrutiny. Even though there had been numerous workshops, and eight months had passed since citizens first requested opportunities to debate the issues, the December 10th meeting was the first real opportunity for citizens to attempt to engage the Commission on the substantive issues. It was the only opportunity for the Nielson proposal to be debated publicly. However, that was not to happen.

Citizens who had waited over ten hours through the previous two meetings were allowed only two to three minutes each to address all the concerns that citizens had raised, but which had not been addressed by the Commission, including:

- a) wetlands preservation versus destruction and mitigation;
- b) choices of mitigation;

- c) strained city resources for regulating and monitoring mitigation;
- d) adverse impacts on drinking water resources and pollution control;
- e) increased flooding and stormwater management problems caused by destruction of wetlands;
- f) adverse impacts on city creeks and waterways;
- g) diminished preservation of wildlife habitat and diversity;
- h) weakened city standards regulating hazardous and chemical materials and activities;
- i) weakened protection of trees and other plant species;
- j) conflicts between the proposed policies and the findings in both the EAR and DAR's.

A formal protest about the seeming indifference of some Commissioners for protocol and due process was lodged by one citizen who requested, in writing (copy attached), that some of these issues be addressed by the Commission.

### **Conclusion**

Citizens attempting over this long interval to affect the comprehensive plan that will guide development for the next decade have concluded that the City has not acted in good faith, especially with regard to the wetlands policy.

To: City Commissioners and Planning Staff

These pages complete the comments which you all received from us a few weeks ago regarding the Conservation Element of the Gainesville Comprehensive Plan.

The title of that submission was:

Preservation of our Natural Resources:  
Wetlands, Surface Waters, Air, Trees

The material included a limited number of suggested changes to policies. These pages include those items, plus suggested changes for the rest of the Element.

Thank you for your kind consideration of these pages that reflect the comments and requests of many citizens over many months.

Francine Robinson  
October 3, 2001

Goals and Policies Proposed for the Conservation Element  
of the Comprehensive Plan Based on Citizen Concerns,  
Comments and Requests  
City of Gainesville  
October 3, 2001

At the outset, we wish to state that Staff has been very responsive to our questions and requests for information. Further, we want to point out that Staff has made valiant efforts to capture all the many and complex issues raised and comments made at various meetings. Staff's proposed alternative language, however, does not yet reflect all the areas of concern and comment raised; particularly at the meetings at the Downtown Library, at Gainesville Regional Utilities and at Westside Park.

This document reflects the citizen comments made there on the various issues including hazardous materials, tree protection, surface waters, air quality, etc. Although overall there was less discussion of these subjects because of the concentration on wetlands, those issues were addressed line by line, at the July 26, 2001 workshop at Westside Park.

The following takes into account the April 9, 2001 draft, the September 13, 2001 changes and the alternative language proffered by Staff to reflect the citizen comments, requests and concerns expressed at the workshop held at Westside Park on July 26, 2001. The following also provides specifics that respond to the concerns raised during the many meetings and workshops held over this last year.

#### Goal 1

Establish and maintain an integrated and urban-defining open space network that protects and preserves significant environmental features.

#### Objective 1.1

Upon adoption of this Plan, the City shall protect all significant environmental lands and resources identified in the Environmentally Significant Land and Resources map series within the Future Land Use Map Series. The City shall continue to identify environmentally significant open space and recreation sites for acquisition.

#### Policies

1.1.1 All existing natural wetlands shall be preserved and protected from any alteration

that diminishes or destroys function.

- a.) Creation of new wetlands shall not be allowed as a substitute for the preservation of existing natural wetlands.
- b.) Wetlands damaged on or subsequent to the effective date of this policy shall be restored to their original state at the owner's expense.
- c.) Undisturbed buffers shall be maintained around wetlands according to the following schedule:
  - 1. Creeks and surface waters: 100 feet plus 2 feet for every 1% of slope. Slopes above 25% do not count for buffer width.
  - 2. Outstanding Florida Waters (OFW's): 200 feet.
  - 3. Areas with listed plant or animal species within 300 feet of surface waters and wetlands: 300 feet from wetlands.
- d.) Developments containing or adjacent to lakes, creeks and surface waters, and wetlands, shall not adversely impact the conditions of those bodies.

(1.1.1 a., b.,c. (from 4/9/01 and 9/13/01) to be removed)

- 1.1.2 Change two "shoulds" to "shalls": "features that shall be preserved" and "areas that shall be maintained".

#### Objective 2.1

Upon adoption of this Plan, existing natural wetlands of the City shall be preserved.

#### Policies

- 2.1.1 The City shall continue to update, augment and maintain an inventory of wetlands and adopt land development regulations that shall preserve existing natural wetlands.

Objective 2.2 The City shall improve the quality of stormwater entering City lakes and creeks by requiring development and redevelopment to meet the adopted water quality standards of this Element and the Stormwater Element.

#### Policies

- 2.2.1 The City's land development regulations shall continue to require storm-water quality treatment facilities for redevelopment of non-residential sites and the Central City District.

- 2.2.2 (crossed out 4/9/01 and 9/13/01) The City shall adopt land development

impervious  
and/or use

regulations that reduce the amount of impervious parking surface allowed within any environmentally significant area, as compared to impervious allowances outside these areas. In these areas, reduction of surface shall include reduction of required parking spaces

of pervious surfaces to prevent damage to environmentally significant areas and transition zones.

designs  
zones.

2.2.32 The City shall continue to use land development regulations that require state of the art stormwater quality and hazardous materials management

to prevent damage to environmentally significant areas and transition

2.2.43

a. Prohibits new chemical businesses, hazardous materials facilities, and underground storage tank systems from siting within the unconfined zone of the Floridan Aquifer.

b. Prohibit new chemical and hazardous materials facilities from siting within the primary, secondary and tertiary wellfield protection zones of the Murphree wellfield.

preserve

c. Requires new chemical businesses and hazardous materials facilities to maintain setbacks from surface waters, wells, and flood-plains that will

the water quality measured in 2001.

d. Requires stringent chemical and hazardous materials storage and containment designs, periodic monitoring, inspections, a management plan, fees and large, disincentive penalties for non-compliance.

2.2.54 The City shall continue to use land development regulation to supplement the standards of the applicable Water Management District to promote the natural cleansing of water in creeks. Such standards shall include:

f. Restoring previously channelized creeks identified for restoration by the City.

2.2.65 The City shall update, augment and maintain an inventory of altered creek segments identified for restoration.

Objective 2.3

meet The City shall only permit activities that preserve drinking water resources to meet the demands of population projected, at minimum, for the next 20 years.

2.3.1 The City shall continue to cooperate...and the Environmental Protection Agency (EPA), and shall work with the appropriate agencies to accomplish the following:

- a. Identify areas of pollution to surface waters and groundwater,
- b. Establish a monitoring program that provides an annual report describing present environmental conditions and cleanup status;
- c. Identify parties responsible for polluted areas, and require such parties to correct pollution problems.

2.3.2 The City shall allow...with the Murphree Wellfield Protection Code. New placement of septic tanks in the secondary and tertiary zone for non-residential uses shall also be prohibited.

2.3.3 New commercial septic tanks shall be prohibited.

(a. to be removed)

(b. to be removed)

2.3.4 The City shall regularly update its water conservation plan consistent with...regarding the nature of groundwater resources and the need to preserve protect them... and

2.3.5 Change "are to map" to "shall map". Change "protect such areas" to "preserve such areas".

2.3.7 Final development orders shall require, at minimum, compliance with septic tank rules....

Objective 2.4

The City shall amend its land development regulation, based on performance



standards keyed to the resources, that are necessary to preserve environmentally significant surface waters; major natural groundwater recharge areas; development

constraining soils; threatened or endangered... The adopted regulations shall be designed to preserve viable populations of these existing...

2.4.2 The City shall adopt land development regulations that preserve identified...

2.4.3 The City shall update and continue to use its guidelines... suitable for stormwater treatment that preserve highly diverse plant and animal habitats and that preserve the hydrological and ecological functions of related wetland areas.

2.4.4 ... Future road improvements and alignments shall avoid environmentally significant animal habitats.

2.4.6

c. No increase in the rate of runoff from development sites adjacent to regulated creeks, lakes and wetlands;

e. Retention of vegetation that contributes to the ecological value of regulated creeks, lakes and wetlands;

g. Allowance of a transfer of development intensity and density from lower to higher elevations of a site shall only occur when that greater density does not adversely affect the natural environment.

2.4.7 The City shall annually conduct an inventory of environmentally significant plants, animals, and habitats within at least two city-owned parks or open space parcels; prepare a list of plants, animals and habitats to preserve; and prepare a plan for the preservation of these plants and animals.

2.4.8 By 2002, Chemical control will be used only when non-chemical controls do not abate a pest problem. Chemical control efforts by the City to manage pest species shall only include use of chemicals that have been proven to be safe for wildlife and public health.

2.4.9 The City shall coordinate... to preserve environmentally significant vegetative communities... by submitting land development proposals...

2.4.10 (crossed out 4/9/01 and 9/13/01) By 2002, the City shall adopt land development regulations that include (1) a definition of environmentally significant open space and other categories of open space; and (2) regulations to preserve such open space.

2.4.1110 The City shall protect floodplains through land development regulations that at a minimum:

- c. Prohibit permanent structures in the flood channel, except for those necessary for flood control, and streets, bridges and utility lines that existed prior to 2001. Sanitary sewer lift stations shall be prohibited in the floodplain.
- f. Prohibit development that would cause or create soil erosion, stagnant water, and adverse impacts on existing flora and fauna.
- g. Limit flood channel uses to agriculture, recreation, lawns and gardens; and
- h. Limit floodplain uses to launching areas for boats and structures at least one foot above the 100-year flood elevation, in addition to those allowed in the flood channel.

2.4.1211 The City's land development regulations shall preserve environmentally significant lands and resources, at minimum, by:

- c. Establishing and providing setback and parking standards;
- d. Preserving wetlands by prohibiting drainage, ditching or dredging;

2.4.1312 At a minimum, preservation strategies for significant natural communities shall include:

- a. Requiring preservation of native upland natural communities;
- b. Installation of native vegetation landscaping and removal of invasive trees and shrubs only where it will not jeopardize natural communities;
- c. Setbacks in 1.1.1.

## Objective 2.5

The City shall continue existing programs and institute new programs necessary to improve and maintain air quality levels which comply, at minimum, with county, state, and national ambient air quality standards.

2.5.1 Adopt citywide regulations restricting or prohibiting the burning of plastics, particularly with regard to local government, institutional, or commercial incineration. (Refer to Solid Waste for additional incineration policies.)

2.5.2 (crossed out 4/9/01 and 9/13/01) By 2005, the City shall make available a general information brochure describing known radon hazards in the City.

~~2.5.32~~ The City shall encourage non-auto transportation choice by adopting new programs and strategies to encourage public mass transit use, bicycling, walking and higher urban development densities near activity centers, satellite parking lots and mixed land uses.

## Objective 2.6

The City shall continue to promote and practice energy and natural resource conservation in order to reduce negative impacts on the environment. This shall include pollution prevention. The City shall also promote and practice conservation by reducing energy consumption and demand. To accomplish this, the City shall incorporate energy saving, natural resource preservation, and pollution prevention policies in this Element and other elements of the Comprehensive Plan (such as Solid Waste, Future Land Use, and Traffic Circulation and Transportation Mobility).

2.6.1 By 2003, the City shall amend the Comprehensive Plan to include an Energy Element.

2.6.1 (crossed out 4/9/01 and 9/13/01) The City shall continue to provide customers with education and incentive to encourage reduced energy consumption, natural resource conservation and pollution prevention.

## Goal 3

Improve urban spaces through preservation and enhancement of the urban forest. Maintain

the City's commitment to preservation of the urban forest and street trees as a defining feature of our community.

### Objective 3.1

After January 2002, the total percentage of tree canopy and coverage within the City shall not fall below the 1992 percentage of tree canopy, as estimated by an independent consultant to be retained by the City. At minimum, the methods developed by the Florida Division of Forestry shall be used, except in the event of significant natural catastrophe (disease, or insect epidemic, or storm).

### Policies

- 3.1.1 By 2002, establish a tree-planting program whereby the City shall plant at least 400 trees of 3 inch diameter or more at chest height (or 650 trees of 2 inch diameter or more at chest height) within City limits annually, and encourage developers and citizens to plant at least 600 trees annually. At least 75% of the trees should be native to North Florida.
- 3.1.2 The City shall adopt land development regulations for new development that require the following:
  - a. Use of native and drought tolerant plants ("xeriscape") and a reduction in the amount of turf area;
  - b. Energy conservation through a 5% increase in tree and shrub canopy over the 1992 Landscape Ordinance canopy requirement to shade buildings and pavements;
  - c. Use of pervious paving materials adjacent to landscape strips and islands to provide greater rooting volume for trees and shrubs; and
  - d. Species diversity in new plantings (no more than 50 percent of any one genus citywide, or on any site plan except those within airport flight paths) to reduce the effect of loss of a tree species due to insect or disease outbreaks.
  - e. A plan for the removal of invasive trees and shrubs shall be submitted

no later than the time of final development review.

3.1.43 The City shall continue to require that removal of regulated trees (as identified by the Gainesville Landscape Ordinance) and those that are not subject to development plan approval shall be mitigated by on-site planting or an exaction of rigorously enforced disincentive fees. Heritage and Champion trees shall not be removed.

3.1.54 By 2003, the City shall prepare and adopt tree-lined streetscape guidelines which require the preservation and establishment...right-of-way for trees shall be implemented. All trimming...that must be pruned.

3.1.6 (crossed out 4/9/01 and 10/13/01) In support of Policy 3.1.5, the City, shall, by June 2002 identify important street segments (to be known as "Gateway Streets") where a reduction in visual obtrusiveness of infrastructure would be desirable.

3.1.7 (crossed out 4/9/01 and 9/13/01) By 2002, the City shall prepare a plan for the establishment and preservation of tree lined streets. This plan shall give priority to high visibility Gateway Streets and important activity center segments, as well as segments included on the Metropolitan Planning Organization (MTPo) Transportation Improvement Plan.

3.1.85 The City shall remove invasive trees and shrubs from its rights-of-way and property only when those trees and/or shrubs directly threaten species native to North Florida. Private property owners should be informed of the benefits of removing invasive vegetation.

3.1.7 The City shall adopt land development regulations that preserve Heritage and Champion trees as an important community resource.  
(9/13/01)

- a. In order to preserve Heritage and Champion trees, variances from land development regulations shall be used;
- b. The unlawful destruction of a Heritage or Champion tree shall be subjected to large and severe penalties including withdrawal of permits for that site.
- c. Setbacks shall be measured outward from the dripline. construction barriers shall be substantial enough to withstand the accidental impact of mobile equipment.

#### Goal 4

Provide ongoing monitoring of environmental resources and eliminate current pollution problems and potential point sources of pollution.

##### Objective 4.1

By June 2002, The City shall actively participate in an environmental quality monitoring program designed to identify problems and trends in local air, surface water, groundwater, and plant and animal habitat quality. This program shall also be used to evaluate the effectiveness of protective regulations.

4.1.1. The City shall work with the Alachua County Environmental Protection Department and other appropriate agencies and/or organizations to design and implement a comprehensive and ongoing monitoring program for Gainesville's environmental resources. This program should have at least an urban area scope and shall produce a "state of the environment" report, at minimum, annually.

##### Objective 4.2

By 2003, the City shall identify pollution problems by responsible parties and shall establish strategies to correct, eliminate or assist in the correction or elimination of these problems. In consideration of the importance of water quality of the creeks in our community, priority shall be given to the quality of water entering Sweetwater Branch, Tumblin' Creek and Hogtown Creek which transmits water directly into the Floridan Aquifer through Alachua Sink.

4.2.1 By December 2003, the City shall work with FDNR, St Johns Water Management

District and Alachua County to prepare a plan which at minimum will be consistent with NPDES permitting to ensure that water discharged by Sweetwater Branch, into Paynes Prairie will be discharged in a manner that will support the management objectives of FDNR and City objectives regarding protection of the Floridan Aquifer System. These plans shall also ensure the safe discharges of

Tumblin' Creek and Hogtown Creek.

4.2.2 (original was crossed out in 4/9/01 and 9/13/01)) The City shall comply with  
State Pollution control requirements at the former Gainesville Airport Landfill and  
Burn Site described in the Solid Waste Element.

4.2.3 (original was crossed out in 4/9/01 and 9/13/01) By 2004, the City shall develop  
and implement a correction plan for identified point sources of air pollution from city  
owned facilities.

4.2.2 The City shall coordinate with the Alachua County...and other governmental  
entities  
relevant in identifying pollution problems and providing documentation and other  
assist- assistance in the correction and elimination of pollution problems, including  
environ- ance in cases where sanctions may be imposed for violations of applicable  
mental regulations.

## MEMORANDUM

**To:** The Commission, City of Gainesville  
The City Manager  
The Planning Staff

**From:** Bonnie O'Brien for the Glen Springs Preservation Association  
Francine Robinson for the Florida League of Conservation Voters  
Paula Stahmer for the Greenspace Preservation Association

**Date:** October 5, 2001

**Re:** Proposed Wetlands Policy for the City of Gainesville Comprehensive Plan

Attached is the proposed policy on wetlands supported by the above-named organizations. This policy differs from the previous one submitted to the Commission jointly with the Suwanee-St. Johns Sierra Club on September 22, 2001. The primary distinction is that we have withdrawn support for any policy that permits destruction and so-called "mitigation" of our natural wetlands.

After a careful analysis of the available scientific research and applicable law, there appears to be no substantiation for the argument that Gainesville needs to allow destruction and mitigation of irreplaceable wetlands for reasons of either necessity or law. Furthermore, it became increasingly apparent that the adoption of a mitigation policy only invites confusion: devising such a regulatory structure is itself a Byzantine process, fraught with opportunities to defeat the purported purpose of minimizing destruction; and the administration of such a policy would also be subject to abuse and beyond city resources. The City of Gainesville has frequently acknowledged that it is dependent upon the Alachua County staff for most environmental standards and monitoring.

Most saliently, the proponents of a destruction/mitigation standard argue that it is necessitated by a concern for protecting the environment from impending development. But this argument stands reason on its head: we must have infill to protect the environment, so we must destroy the environment to have infill. Equally significant, the evidence is not there that we even need the land that is supporting wetlands for development.

It is the continued pressure of development that makes more urgent the task of preserving what very strained environmental resources are remaining to us. Our habits of consumption have diminished the margin for error such that we can no longer presume there is a way to "buy" our way out of our mistakes. The National Academy of Sciences' report on wetland mitigation policy makes clear that there are a lot of theories, and elaborate, expensive schemes, but no proven substitute to preserving existing wetlands.



Submitted by

**Glen Springs Preservation Association, and  
Greenspace Preservation Association, and  
Florida League of Conservation Voters**  
for inclusion in the  
**Conservation, Open Space and Groundwater Recharge Element  
of the City of Gainesville 2000-2010 Comprehensive Plan**

**Whereas**, natural wetlands are the source and protector of our drinking water; and

**Whereas**, the National and State chapters of the Sierra Club, the Florida League of Conservation Voters, and many other environmental, scientific, and public interest organizations advocate the preservation and restoration of natural wetlands; and

**Whereas**, in July, 2001, the National Academy of Sciences published a report which found that artificial wetlands do not duplicate the ecological functions of the natural wetlands that were destroyed; and

**Whereas**, increasing development in the City of Gainesville threatens its remaining natural resources, including wetlands, which are vital to the health, safety and welfare of the City;

**Now, therefore**, the following policies are recommended:

**Goal:** All existing wetlands shall be preserved and protected from any alteration that diminishes or destroys function.

**Policies:**

1. Creation of new wetlands shall not be allowed as a substitute for the preservation of existing wetlands.
2. Wetlands damaged on or subsequent to the effective date of this policy shall be restored to their original state at the owner's expense.
3. Developmental activity shall not be authorized in wetlands or wetland buffers.
4. Undisturbed buffers shall be maintained around wetlands according to the following schedule:
  - i. creeks and surface waters: 150 feet, or the following: 100 feet plus 2 feet for every 1% of slope. Slopes above 25% do not count for buffer width;
  - ii. Outstanding Florida Waters: 200 feet;
  - iii. areas with listed plant or animal species within 300 feet of surface waters and wetlands: 300 feet from the wetlands.
5. In the event that applicable law compels the City to permit the destruction of or damage to wetlands and/or wetland buffers, the owner of the property containing such wetlands and/or wetland buffers shall be required to provide appropriate mitigation for the destruction and/or damage, such mitigation to be determined by the City Commission on a case-by-case basis.

City of Gainesville Public Hearing 2000-2010 Comprehensive Plan

Conservation, Open Space and Groundwater Recharge Element

GOALS, OBJECTIVES AND POLICIES

**THE GOAL**

To preserve, enhance and restore the City's natural resources to ensure long-term environmental quality. Conservation of natural resources is vital to the future well-being, health and welfare of the City and ensures that the needs of future generations can be met.

**A. Surface Water Objectives and Policies**

**Objective 1.** Major water systems in Gainesville include streams, ponds, creeks, lakes, and natural wetlands which comprise the surface waters. In order to protect the quality and quantity of water within these systems, the City shall regulate development activities to protect natural water-cleansing features and prevent discharges of contaminants from urban, agricultural and silvicultural land uses. It is the City's objective to preserve the functional integrity of our natural resources in order to protect these environmental services and values for the future and to maintain natural resources that are free from pollution and degradation in order to provide a safe and healthy environment for the residents of the City of Gainesville.

**a. Creeks**

The natural functions of creeks shall be protected so that flood carrying and flood storage capacity is maintained and the health and safety of the public is protected.

Policy 1-1: The City shall improve implementation, monitoring and enforcement of the creek ordinance.

Policy 1-2: Natural vegetation that occurs along creeks shall be maintained including enhanced setbacks sufficient to prevent damage to the creek and to preserve water quality. Harvesting, cutting and clearing activities shall be restricted except to remove exotic weeds. Development regulations shall provide specific standards for these activities.

**b. Wetlands:**

Natural wetlands of the City of Gainesville shall be preserved, protected and restored such that the natural structure and function of these valuable resources are maintained and enhanced. Undisturbed buffers sufficient to insure this shall be required.

- Policy 2-1: Natural wetlands have been identified and mapped as part of Environmentally Significant Land and Resources within the Future Land Use Map Series. Delineation of natural wetlands shall use methods consistent with those used by Alachua County EPD and FDEP. Only public works projects may qualify for mitigation if the City Commission determines they are necessary for the public health and welfare.
- Policy 2-2: The City shall prohibit dredge and fill of natural wetlands. Structural and hydrologic alterations shall be prohibited. The intent of this policy is to maintain and preserve water quality and quantity and to protect wildlife habitat.
- Policy 2-3: The natural hydrologic character of surface waters shall be maintained. Sheet flows such as those found in floodways and those which connect wetlands with other wetlands and surface waters shall be protected and enhanced.

FLORIDA STATUTE §163.3181

TO: Honorable Mayor, City of Gainesville  
City Commissioners  
City Attorney

FROM: Everett Wilcox, 2911 NW 30th Terrace, Gainesville, FL 32605

SUBJECT: Lack of Compliance with F.S. §163.3181

DATE: December 10, 2001

Florida Statute §163.3181, "Public Participation in the Comprehensive Planning Process; Intent; ..." states that "It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. Towards this end..., local governmental units are directed to adapt procedures designed to provide effective public participation in the public planning process [emphasis added].

I, and other members of the general public, have watched and participated in the city's proceedings regarding the wording and eventual transmittal of the 2001-2010 conservation element of the City of Gainesville's comprehensive plan, with great disbelief and to no effect. Numerous important wording changes proposed by myself and others have been ignored; the only changes which have been incorporated into the proposed final wording have been those sought by developers and others with a vested interest in destroying our natural wetlands, quality of life, water quality, and scenic beauty of Gainesville. I do not represent any special interest. I am merely a lifelong Gainesville resident who will suffer the effects of the actions being taken by a majority of our commission.

I am including examples of several events over the last few months in order to substantiate this Objection.

- 1) During the July 26, 2001 workshop held at Westside Park, several workshop participants requested that the language allowing mitigation be stricken. Planning staff requested a standing vote of those who supported this wording deletion; 28 of 31 workshop participants (over 90%) stood in favor of disallowing mitigation in the conservation element of the City of Gainesville's 2001-2010 Comprehensive Plan. This dramatic expression of the will of the people has been given absolutely no effect and has been completely dropped.
- 2) Moreover, at a November 13, 2001 city commission meeting, the city commission approved by a 4-1 vote (Mayor Bussing dissenting) the insertion of substituted language drafted by Commissioner Nielsen the preceding Sunday and not promulgated to the public until the beginning of discussion of the item at this same meeting. Members of the public expressed concerns, asking them to slow down, pointing out that the public had not even had time to review beyond the

proposed wetlands language, etc. I objected to this protocol and lack of public participation when a commissioner drafts final language at home, then expecting the public to review wording changes during the course of the meeting itself. Not only did commissioner Nielsen's language continue to include the mitigation language previously objected to, it went even further to allow off-site and even outside-the-city mitigation. This is weakening, even sabotaging, our current level of wetlands protection. When the Mayor was addressing my complaints, three of the commissioners (Hanrahan, Nielsen, & Barrow) disrupted the meeting by walking out. THEREFORE, I HEREBY DEMAND THAT THE MOTION APPROVING COMMISSIONER NIELSEN'S SUBSTITUTED WORDING BE RESCINDED.

- 3) In a further display of contempt for public participation, at the November 27th continuation of the November 26th city commission meeting, commissioner Hanrahan called the question to transmit this element to the DCA in Tallahassee, even though the staff report from the previous day had not been finished and no final public comment had been taken in spite of the fact that members of the audience had been sitting for over nine (9) hours over two days awaiting public comment. Fortunately, our Mayor objected. Note that this was the first time that the final unified proposal had been received, including Planning Board Recommendations, staff recommendations, and final wetlands (and other) policy. The majority of our commission has become a handmaiden to developers and others who stand to profit while ignoring the majority of its electorate, in clear violation of the statutory intent of Florida law.

The majority of our commission has been oblivious to the repeated concerns expressed unequivocally by independent citizens. I would appreciate a responsive and complete acknowledgement of these concerns as well as the deletion of the mitigation language as overwhelmingly requested by the public.

Sincerely,



Everett Wilcox

**III.**

**Citizens Objections**

**to the**

**Proposed Amendments to the Conservation Element**

MEMO:

To:

Department of Community Affairs  
State of Florida

From:

Citizens of Gainesville, Florida  
(as identified in attached cover letter)

Citizens' Objections  
January 18, 2002

Re: the City of Gainesville Proposed Amendments to the  
Conservation Element of the Comprehensive Plan

The following citizens' comments take into account as sources: the Evaluation and Appraisal Report (EAR) of June 25, 1998; the Data and Analysis Report on the Conservation Element (DAR) of January 2001; the National Academy of Sciences Wetlands Report of July 6, 2001; Alachua County Comprehensive Plan; Alachua County Comprehensive Plan Fact Sheet, Community Forum, December 5, 2001.

A. Conservation Element

Objections:

Re: Wetlands Policies

The wetlands policies proposed by the City of Gainesville in the Conservation Element transmitted to your Department are incompatible with many of the stated goals and are in conflict with much of the research and data of the City's EAR and DAR. The attached maps demonstrate clearly that the wetlands mitigation policies threaten those stated goals of wildlife and habitat protection.

A comparison of the Wetlands and Ecological Areas Maps indicate that

many of the highest concentrations of wildlife habitat fall within the wetland areas. Thus the preservation of existing, natural wetlands is essential in carrying out the stated aims of wildlife and habitat protection. (Comprehensive Plan, Maps 6, 9, 10, and 11) However, the City proposal, as will be shown below, will allow destruction of these wetland areas despite the stated objectives in the EAR, DAR and in the Conservation Element to protect these habitat areas.

The DAR states that the wetlands in the city are "an important component of the ecology of the urban area". (Page 14)

Within city limits, wetlands cover approximately 3,370 acres. 289 of these wetlands are at least one acre in size. (DAR, Page 48)

In July of 2001, the National Research Council of the National Academy of Sciences, issued a report in the scientific journal, Science, titled "Wetlands Restoration: Recreated Wetlands No Match for Original". The article states that existing, natural wetlands cannot be duplicated. (Science, Volume 293, July 6, 2001, Page 25) Furthermore, the New York Times of June 27, 2001 reported that improper monitoring of mitigation projects resulted in the loss of wetlands.

The City's own DAR notes the following:

"The value of creeks, lakes, and wetlands is not necessarily a function of size. For example, temporary wetlands less than one-half acre in size may serve as habitat for a large and diverse population of species, especially if the wetland is remote from other wet areas. In addition, many species can only survive in smaller wetlands which exhibit characteristics that are not found in larger wetland systems (such as periodic dry periods, lower energy levels, etc.)." (DAR, Page 61)

"Surface waters can be grouped into 'drainage basins'...Because much of the surface water flow of each basin is contained within the basin, much of the movement of animals, plants, pollution, and stormwater is relatively contained within each basin. As a result, each basin can be considered to have a unique ecological, hydrological, and geological identity that should be evaluated separately from other basins." (DAR, Page 48)

The importance of preserving and protecting our wetlands at the site where they



naturally occur has become even more important to this community. From the DAR: "The predominant direction of groundwater flow under the city now appears to be toward the northeast and the wellfield's expanding cone of depression." This clearly indicates that our Murphree Wellfield water is recharged by the aquifer under our city which flows into the city wells as water is pumped out. The DAR makes it clear that our drinking water source comes from the recharge capabilities within our city. (DAR, Page 30)

Map #4 from the DAR Map Series, Environmentally Significant Land and Resources, shows that the recharge rate to the Floridan Aquifer from the area within the City of Gainesville is more than 12 inches per year. This, according to the city's own data, equals one-half million gallons a day of recharge per square mile within the city. The City of Gainesville is identified in the DAR as a major natural groundwater recharge area. (Map #4 attached)

The St. Johns River Water Management District (SJRWMD) has declared the entire district a "water resource caution area" in recognition that within recent history all parts of the district have been subject to a declaration of water shortage. Recent predictions by the District that Central Florida will be subject to an overall water shortage within the next five years have been reported widely in the media.

The value of wetlands has been widely documented: to filter and purify water, protect against flooding, and provide specialized habitat for wildlife. The need for increased development has not been shown to justify the sacrifice of these natural resources. The EAR indicates that amendments to Rule 9J5 of the Florida Administrative Code call for "protecting wetlands and their natural functions. This to be accomplished through a comprehensive planning process that includes consideration of the types, values, functions sizes, conditions and locations of wetlands and based on supporting data and analysis. Incompatible future land uses that are incompatible with the protection and conservation of wetlands and wetland function are to be directed away from wetlands." (EAR, Page 5)

Despite all the data and information available, as partly indicated above, the wetlands policies in the proposed City of Gainesville Comprehensive Plan 2001 do not reflect the City's own findings proffered in the DAR, the EAR and the findings of the National Academy of Science. Indeed, deletions of existing Comprehensive Plan language and some additions of new language weaken existing environmental protection of our water resources.

For example, Policy 1.1.1 (b) purports to protect wetlands, but in fact, the language is so vague as to be legally unenforceable. Unless the Comprehensive Plan language is adequately specific, the subsequent Land Development Regulations can be challenged.

Policy 1.1.1 (b) (2) is included although, according to the National Academy of Sciences, there is no scientific evidence or justification for allowing the "creation" of wetlands. Alachua County rejected "creation" of wetlands as a form of mitigation allowable under its Comprehensive Plan. Despite repeated requests by citizens, the City did not provide scientific basis or rationale to support "creation" as a policy.

Policy 1.1.1 (b) (3) proposes that wetland mitigation projects be monitored and enforced. As the NAS reported, the inadequate monitoring of mitigation projects is one of the basic reasons for loss of wetlands acreage. In our own city, there is no personnel to oversee mitigation projects. Nor is there any requirement to demonstrate actual functioning of the mitigation project before there is destruction of an irreplaceable natural, existing wetland. In this regard, the City repeatedly stated an anticipated reliance on Alachua County and SJWMD resources even though both entities acknowledge insufficient staffing to meet even current levels of responsibility.

Policy 1.1.1 (b) (6) Destroying wetlands in the high recharge areas within our city limits, for possible "mitigation" elsewhere, does not protect the natural resources already existing in Gainesville. Vague language such as "adjacent sub-basin" does not clearly define or delineate this concept. It should be noted that nowhere in any of the proposed amendments to any of the elements of the Gainesville Comprehensive Plan did the City address the potential impact of this policy on drinking water resources, flooding, stormwater management, or the economic costs to the community. (In regard to this, see DAR, Page 101)

Policy 1.1.1 (b) (8) needs to conform to Alachua County wetlands standards that require a 75-foot buffer for wetlands. Unless the Gainesville Comprehensive Plan language specifies this level of protection, the Land Use Regulations can be challenged. (Alachua County Comprehensive Plan, Conservation and Open Space, Page 14)

Policy 1.1.1 (b) (11) Minimally, the City should conform to Alachua County

water resource standards. Surface waters and wetlands that contain listed plant or animal species are required to have a buffer of 300 feet. (Alachua County Comprehensive Plan, Conservation and Open Space, Page 14) As noted above, this policy conflicts with conservation policies regarding habitat protection.

Policy 1.1.1 (b) (12) The Comprehensive Plan itself needs to contain specific standards for wetlands protection. As with other provisions, this language is too vague for enforcement and fails to establish the policy standards that must be articulated in a Comprehensive Plan .

We therefore respectfully request that the City be required to revise its proposed wetlands policies to conform with both the data contained in the EAR, DAR, and with the other objectives and policies contained elsewhere in the Comprehensive Plan. (Policies 1.1.1 through 2.1.1)

It is instructive to note that Alachua County, in partnership with United States Geologic Survey, Water Management Districts, Gainesville Regional Utilities and other willing participants will identify, map and study high aquifer recharge areas in Alachua County over the next four years. (Alachua County Comprehensive Plan Fact Sheet, Community Forum, December 5, 2001).

The City should be obliged to predicate any wetlands policy on the results of that study. In the meantime, the City should be required to refrain from implementing any policies that may allow the destruction of wetlands that could later be deemed to have been vital to the city's drinking water resources.

#### Re: Hazardous Materials and Other Toxics

The hazardous materials and other toxics policies proposed in the Conservation Element are inconsistent with goals stated in the DAR.

The DAR points out the potential health and economic costs of contamination in Gainesville. (Page 101) The DAR also states that the city needs to establish an environmental quality monitoring program. Because there is no comprehensive monitoring program, it is not yet known:

- \*whether new regulations are necessary, or whether existing regulations should be modified or abandoned;
- \*whether there is strong legal justification for regulations should they be challenged in court;
- \*whether certain natural features (such as air quality) is improving or being degraded;
- \*whether pollution at contaminated sites is being contained, or whether the pollution is migrating off site. (DAR,Page 99)

Although these aspects comprise numerous unknowns, the City has proceeded with a number of policies that weaken current standards re: hazardous materials and other toxics. Nor are there adequate policies for standards to preserve and/or improve air, soil and water quality.

The magnitude of the city's contamination problem is demonstrated by the following figures:

- \*7,851,961 pounds of hazardous wastes were generated by Large Quantity Generators in 1996 (DAR, Page 100)
- \*27 Abandoned Dumps and Known and Potential Hazardous Waste Sites within the city, as of November 2000 (DAR,Page 98, Map 16)
- \*More than 155 petroleum contaminated sites within the city (DAR, Page 96)

The Koppers Wood Treatment facility is a federally-designated Superfund Site located within the City of Gainesville. The subterranean toxic plume from this facility has been slowly migrating toward our wellfields. A federally-designated Brownfield Site is in the process of being "decontaminated" for a local park project. There are 42 point source pollution problems (known and potential) within the city. (DAR, Map 8)

In view of all these data and information, it is especially important to assure that our Hazardous Materials policies reflect the need to **prevent** future contaminations as well as the need to **remove** existing toxic contaminants.

We therefore request that Policies 2.2.2, 2.2.3, 2.3.1c be revised to be made consistent with DAR goals:

### Policy 2.2.2

Proposes the deletion of: "state of the art quality and hazardous materials management designs to prevent damage to environmentally significant areas and transition zones". Substitution of "best management practices for stormwater management" weakens existing standards and is contrary to the findings of the EAR and DAR.

### Policy 2.2.3

Deletes regulation of chemical businesses from the Plan. Chemical businesses may generate products that do not technically qualify as Hazardous or Toxic Materials but may cause pollution. Phosphate or nitrate manufacture come to mind as just two examples. Again, this is inconsistent with findings in the EAR and DAR that delineate the hydrologic and environmental fragility of the Gainesville area. (DAR, Maps 4, 8, 16; Comprehensive Plan, Maps 5, 9, 10, 11)

### Policy 2.2.3a

Does not prohibit new, hazardous materials facilities from siting within the unconfined zone of the Floridan Aquifer. Prohibits only "certain" hazardous materials facilities from siting there thus weakening the existing Plan and doing so with a vague, undefined term. Such a policy is not consonant with the City's own findings in the EAR and DAR regarding Gainesville's particular vulnerability to pollution. (DAR, Maps 4, 8, 16; Comprehensive Plan, Maps 5, 9, 10, 11)

### Policy 2.2.3b

Excludes the tertiary protection zone of the Murphree Wellfield from the prohibition of siting hazardous materials facilities there. Permits vehicular fuel storage in the secondary protection zone. Again, a policy that is not supporting the aims of water resource protection as set forth in the EAR and DAR. (See DAR Map 4)

### Policy 2.2.3c

Re: siting of hazardous materials facilities, the vague term - "large setbacks" - (from surface waters, wells, and floodplains) is used instead of specific numbers as are used in other sections of the Plan. Such vague standards are unenforceable and therefore do not afford protection.

Policy 2.2.3d

General wordings of "periodic monitoring", "inspections", and "penalties for non-compliance", etc. are not specific enough to ensure that those involved will comply. This non-specificity leaves room for legal challenges to the Land Use Regulations. (See critique above for 2.2.3c)

Policy 2.3.1c

Requires parties responsible for polluted areas to **mitigate** pollution problems. Requiring parties to **eliminate** the problem would better serve the DAR goals of protecting health, the quality of air and water, property values, etc. (DAR, Page 101) The cumulative impact of many "mitigated" pollution problems may be a problem in itself. Elimination of pollution problems is most consonant with DAR concerns.

Policy 2.5.1 "restricting or prohibiting the burning of plastics" should be strengthened to prohibit the burning of plastics without the weakening word "restricting", since the toxicity of burning plastics is well-known. This would improve the air and water quality and thus the physical and economic health of the community, as pointed out by the DAR. (Page 101)

Policy 2.5.2

Deletes making available a general information brochure describing known radon hazards in the city. This brochure is necessary for citizens to address the problem. Again, this weakening is not consistent with the DAR's concerns about the physical and economic health of the community. (Page 101)

Only when the DAR-indicated environmental quality program (DAR, Page 99) is carried out, will policies be based on demonstrated data and information. It is the obligation of the City to devise and implement policies in accord with this finding.

Re: Energy

The following policies make it more difficult for citizens to respond to the energy problems that are generally conceded to be increasing worldwide.



Policy 2.6.1

Deletion of the following section of the existing Comprehensive Plan: "By 1992, after completion of the Local Energy Engineer Program (LEEP), **the City shall amend the Comprehensive Plan to include an Energy Element** unless it is deemed unnecessary". The City has chosen not to develop an Energy Element.

Policy 2.6.1

Deletion of "reduced energy consumption" and substituting "natural resource conservation" makes that specific goal less clear to the community. Once again, the DAR goals of protection of the physical and economic health of the community are not reflected in these policies.

Re: Surface Waters, Stormwater Recharge,  
Trees, Air Quality

As with the Wetlands, Hazardous Materials, and Energy segments addressed in the foregoing pages, these four sections are also in need of being made compatible with the EAR, the DAR and other pertinent documents; and indeed with many other goals in the Conservation Element.






Should you wish to have any additional information and/or comments on these four categories or others, please call on us.





# ENVIRONMENTALLY SIGNIFICANT LAND & RESOURCES

## Floridan Aquifer Recharge

### St. Johns River Water Management District

-  > 12 inches/year
-  8-12 inches/year
-  4-8 inches/year
-  0-4 inches/year
-  Discharge

### Suwannee River Water Management District

-  Moderate to High Recharge Potential
-  Moderate Recharge Potential

### District Dividing Line

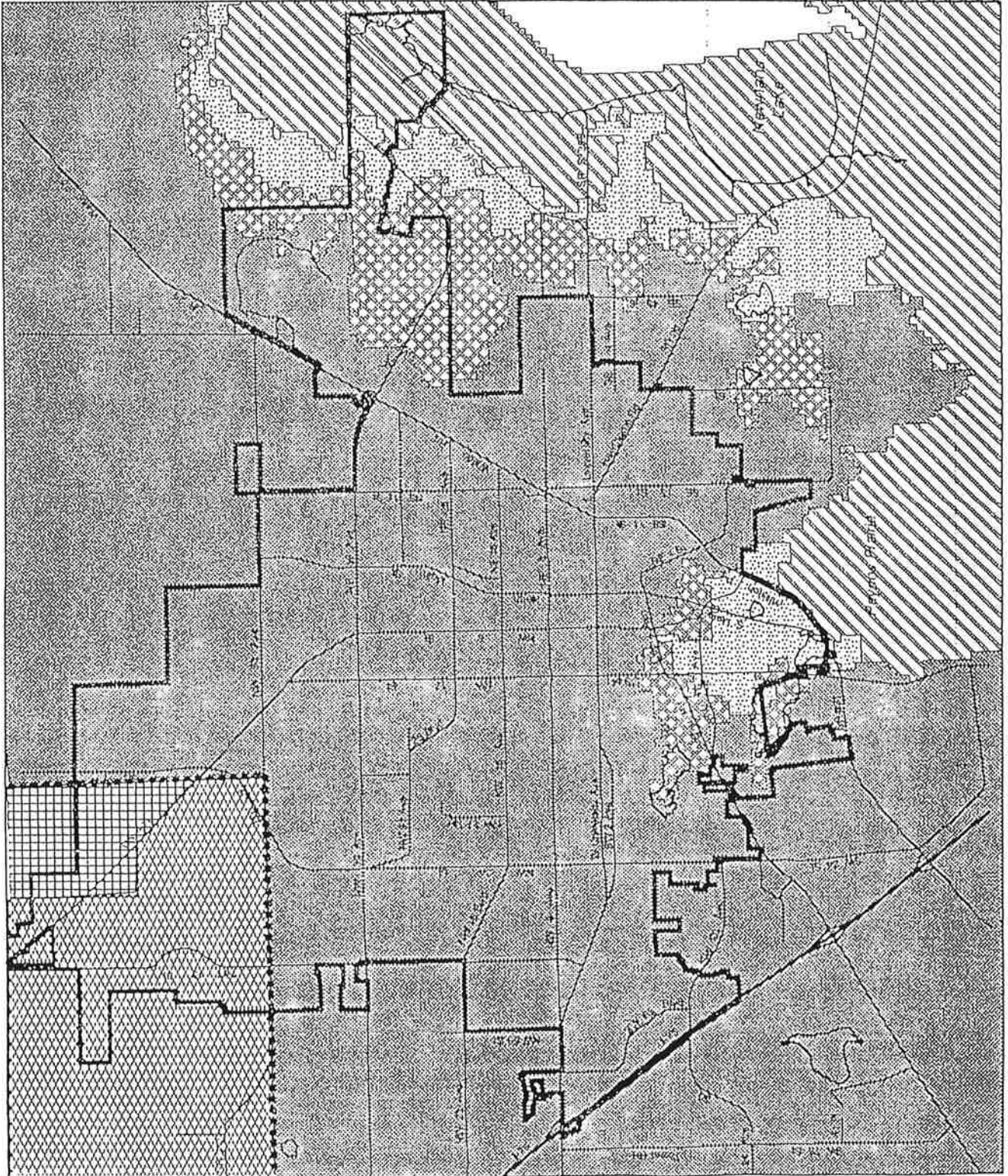
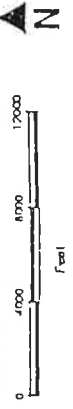
### Gainesville City Limits

Notes: Methods for presenting recharge information varied between Districts and is reflected in the legend.

Data from SRWMD was not available for translations. Areas are approximate only. Data from SJRWMD is a digital translation of the District's files.

## City of Gainesville, Florida

Prepared by the  
Department of Community Development  
November 2000





# ABANDONED DUMPS AND POTENTIAL HAZARDOUS WASTE SITES

## Legend

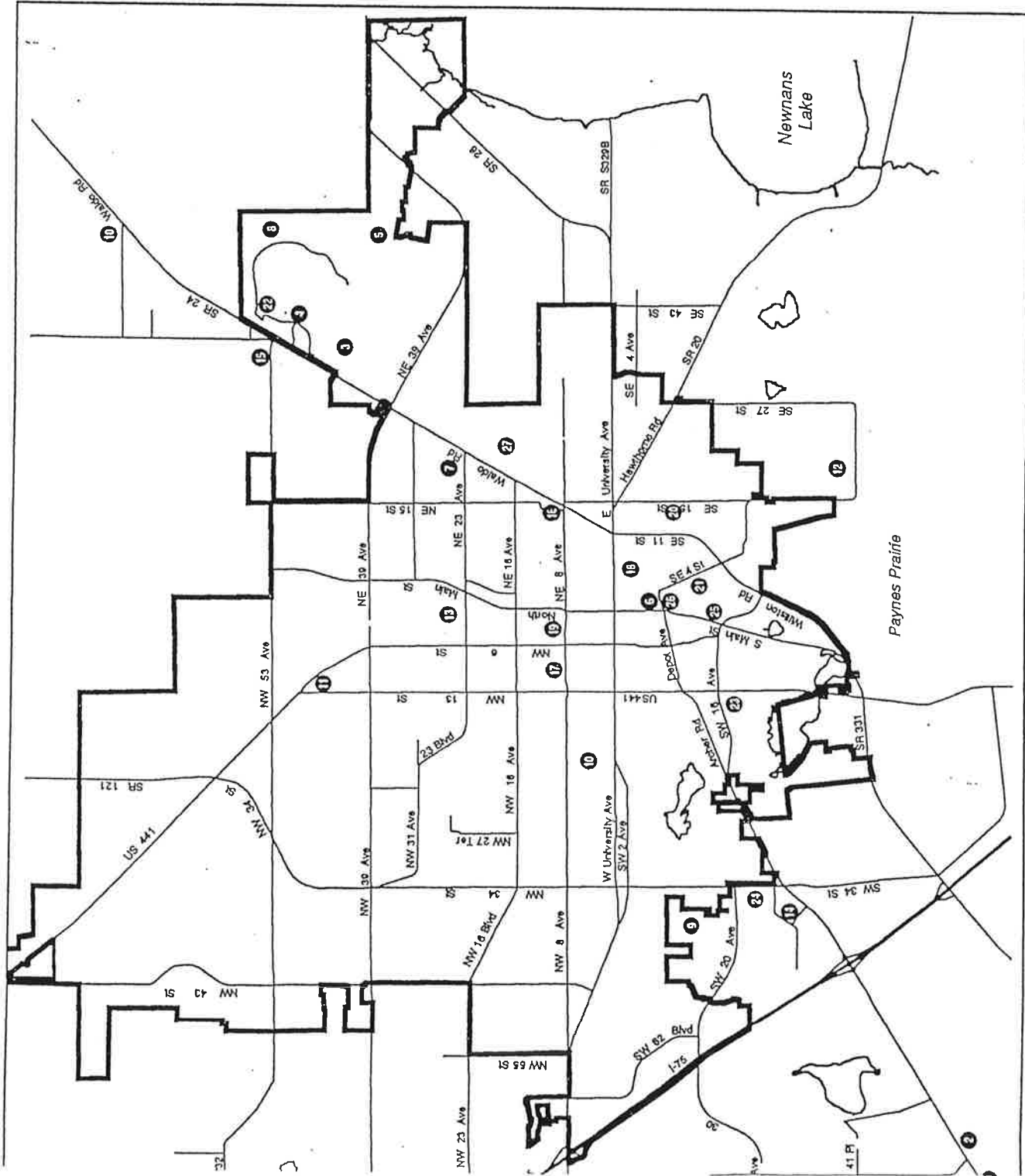
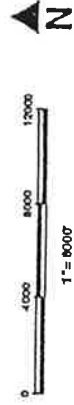
### ● Site Locations

- 1 Southwest Landfill
- 2 Chem Corporation (Zirtech)
- 3 Flying Colors
- 4 Former Gainesville Airport Landfill and Burn Site
- 5 Gainesville Gas/People Roofing
- 6 Hope Electric
- 7 PCR, Inc. (formerly SCM)
- 8 University of Florida Landfill
- 9 Fairbanks Sandpit
- 10 Farmers Mutual
- 11 Feagles Fill Dirt
- 12 Cabool/Koppers
- 13 Vital Industries
- 14 Citizens Field (Old Dump)
- 15 Cuten Jones (Old School Site)
- 16 Old City Dump (NE of WRTT)
- 17 Old City Dump (Gainesville Shopping Center)
- 18 Williams City Dump (Old Lincoln High (Old Dump))
- 19 City of Gainesville - RTS
- 20 Job Corps
- 21 Amoco
- 22 Rip/ABC Research
- 23 Synergistics
- 24 Gator Ice
- 25 Tacschale

Sources: Florida Department of Environmental Regulation, Jacksonville and Gainesville Offices, June 1990.  
 Alachua County Office of Environmental Protection, June 1997, February 1999.

## City of Gainesville Gainesville, Florida

Prepared by the  
Department of Community Development  
November 2000



**IV. Addendum 1 to  
Conservation Element Comments:  
Wildlife Protection**

#### **IV. Addendum 1 to Conservation Element Comments: Wildlife Protection**

Goals in the Conservation Element include protecting significant flora and fauna, and especially threatened or endangered species or species of special concern. But the policies will not insure protections for the extremely diverse and valuable wetland habitats within the city, because the essential habitats are not recognized in the wetlands policies. Wetlands are critical habitats for many species, but the wetlands policies provide no guidance for land development regulations that could protect these important habitats. Nothing in the relevant policies requires consideration of the habitat value of wetlands, and no priorities for their preservation are established in the amendments to the Conservation Element.

A careful examination and comparison of four maps\* in the Conservation Element DAR hints at the critical role wetlands play in preserving and protecting wildlife:

- Map 6 Environmentally Significant Land & Resources
- Map 9 Ecological Inventory
- Map 10 Significant Ecological Communities
- Map 11 Significant Flora and Fauna

All these maps are hard to read, and the congruence of significant flora and fauna, wetlands, and significant ecological communities is not readily perceived by comparing them with each other. A very careful examination reveals that many of the important mapped features are concentrated in wetlands.

This congruence is better depicted on two additional maps we also include: Biological Hotspots, and Priority Wetlands. Though not part of the map series included in the Gainesville Comprehensive Plan, these two are derived from the same source as many of the latter (the digital map series provided by the Florida Geographic Digital Laboratory at the University of Florida) using data supplied by the Florida Game and Freshwater Fish Commission. Details of the sources of these maps are included attached to this Addendum. Metadata files can be found online at the FGDL web site.

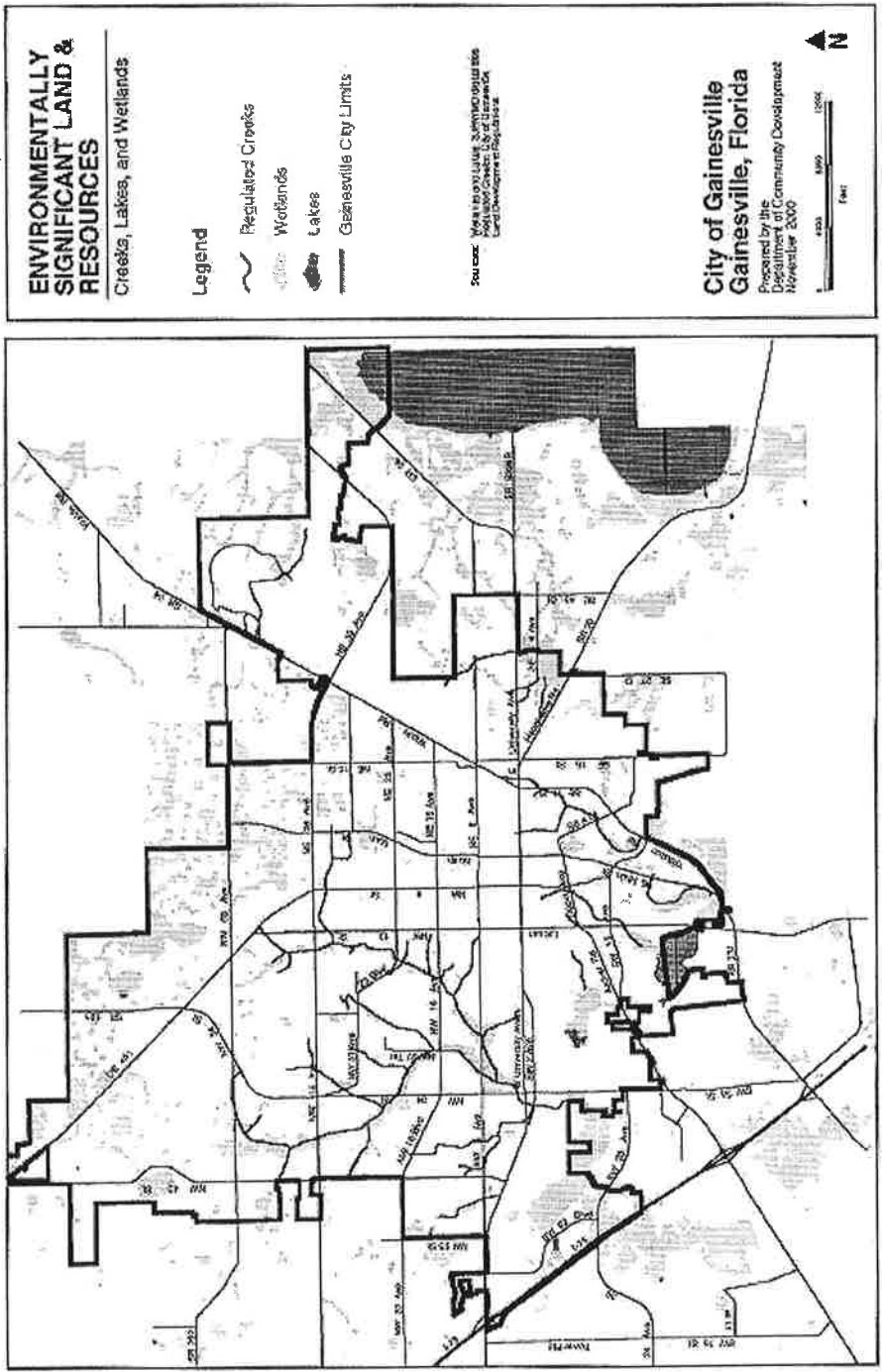
The Biological Hotspots and Priority Wetlands maps show important biological features are largely clustered in wetlands.

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\* All six maps mentioned in this Addendum are attached.



Map 6







Map 10

# SIGNIFICANT ECOLOGICAL COMMUNITIES

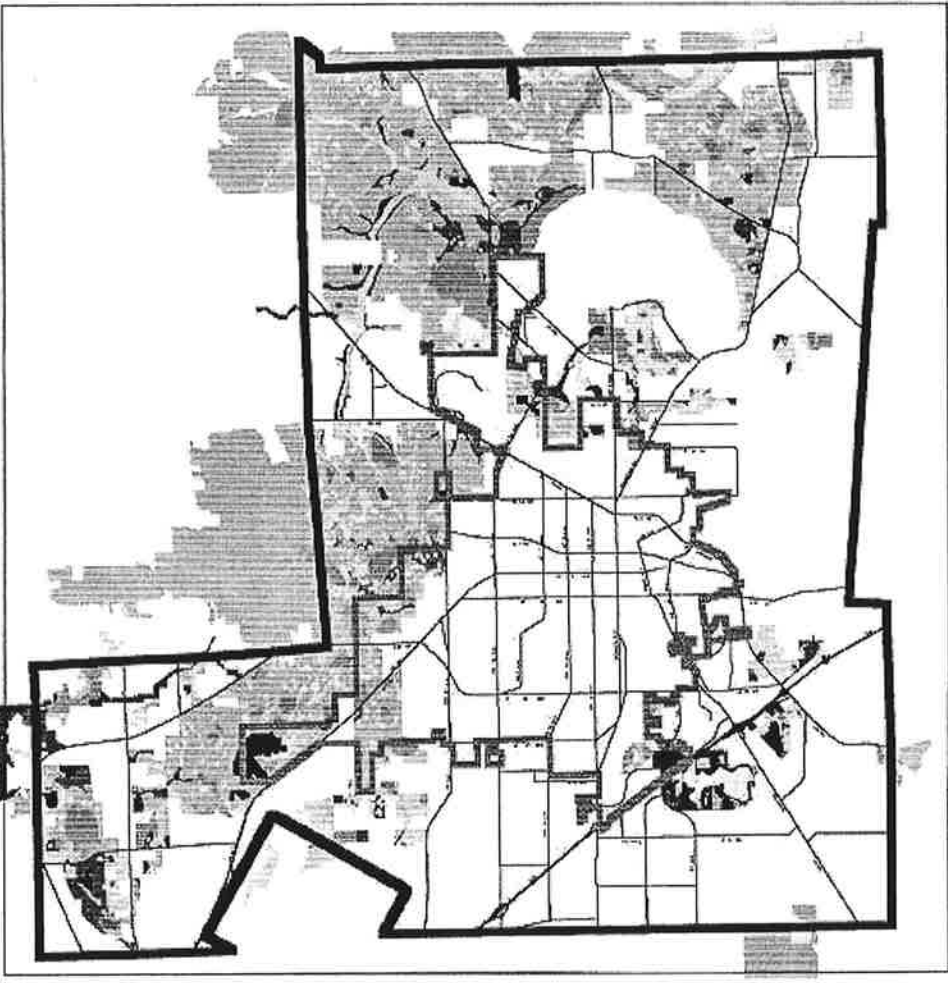
## Legend

### Ecological Inventory

- 11 Freshwater Swamp
- 12 Freshwater Marsh
- 13 Freshwater Wetland
- 14 Freshwater Wetland
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- 17 Freshwater Wetland
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- 100 Freshwater Wetland

- Project Boundary
- City of Gainesville

City of Gainesville  
Department of Community Development  
November 2009





Map 11

**SIGNIFICANT  
FLORA & FAUNA**  
Rare & Endangered  
Species Survey

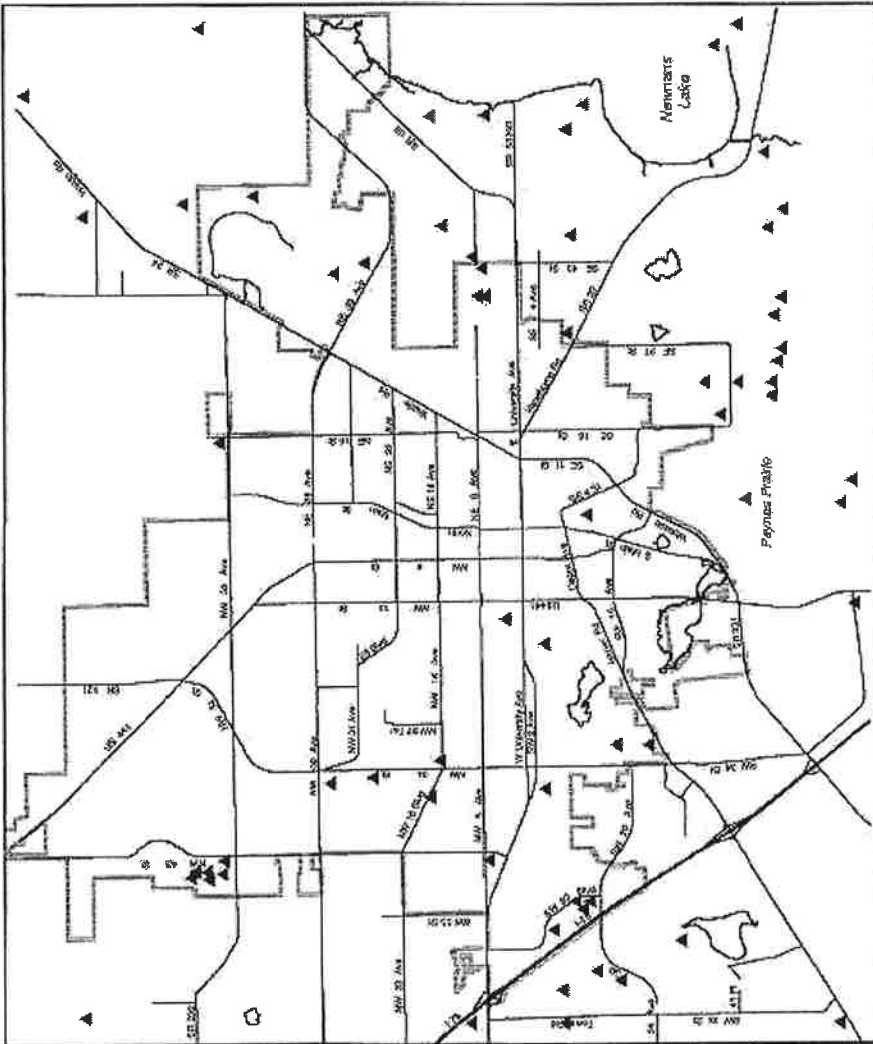
**Legend**

- ▲ General distribution of Rare & Endangered Species.
- Gainesville City Limits

Source: Florida Natural Areas Inventory

**City of Gainesville  
Gainesville, Florida**

Prepared by the  
Department of Community Development  
November 2000





**BIODIVERSITY  
HOT SPOTS  
IN THE VICINITY  
OF GAINESVILLE, FL**

Gainesville City  
Limits



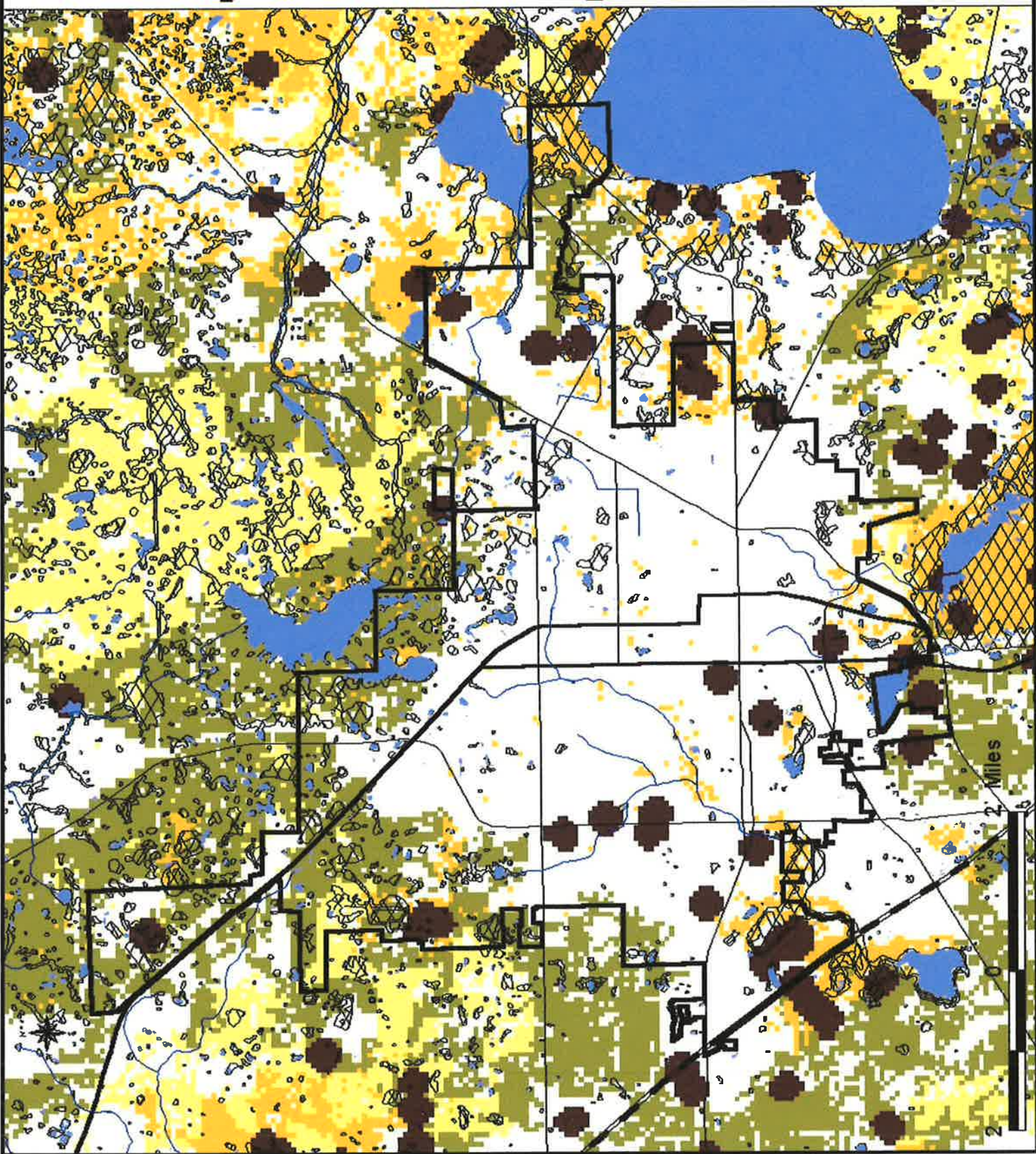
FDOT Major Roads  
Interstate  
U.S. Road  
State Road

Wetlands  
Lakes  
Streams

GFC Biodiversity  
Hot Spots

- 3-4 FOCAL SPECIES
- 5-6 FOCAL SPECIES
- 7 OR MORE FOCAL SPECIES

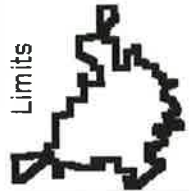
SPECIES OCCURRENCE RECORD





**PRIORITY WETLANDS**  
IN THE VICINITY OF GAINESVILLE, FL

Gainesville City Limits



FDOT Major Roads  
Interstate  
U.S. Road  
State Road  
County Road

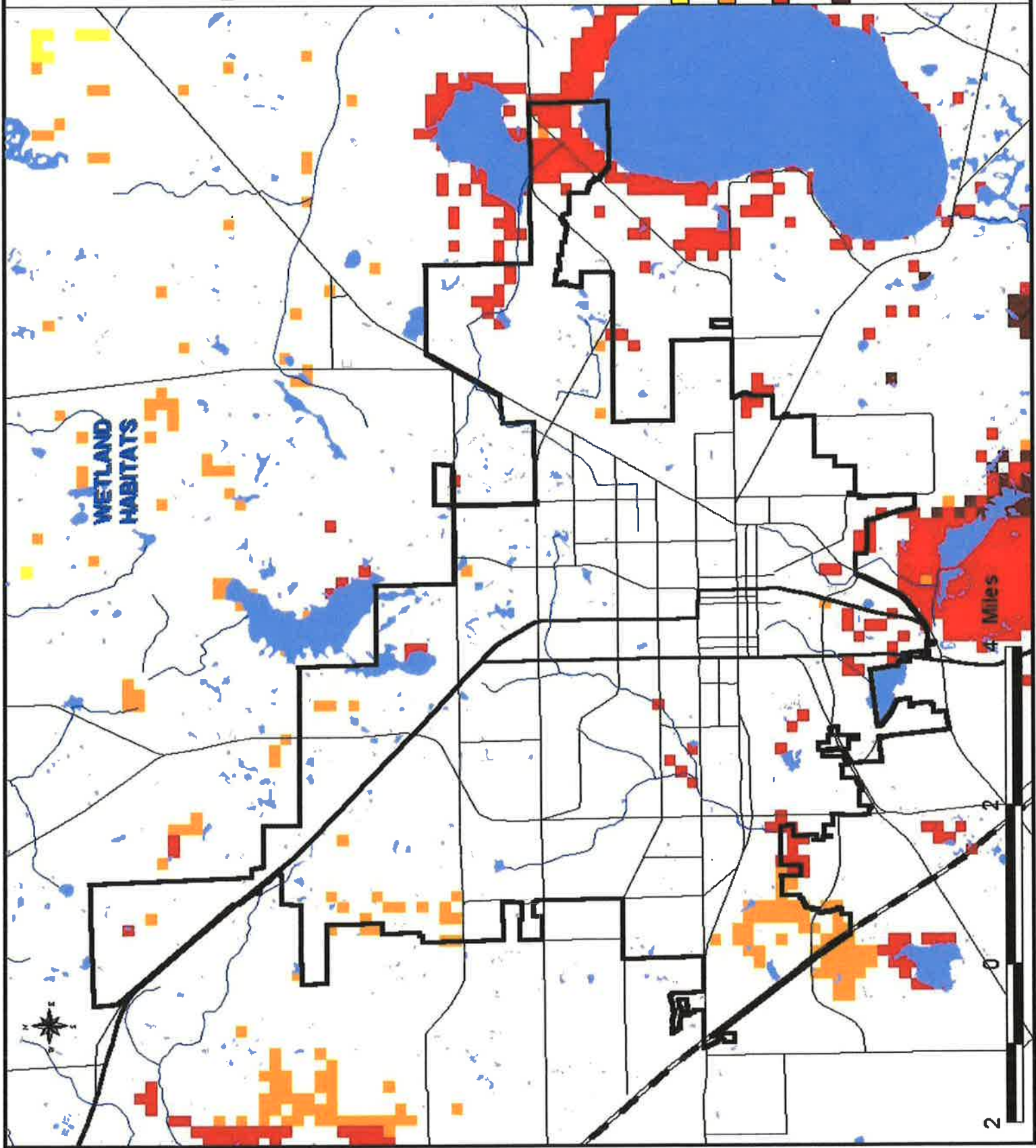
Lakes

Streams

GFC Priority Wetland Habitats

- 1-3 FOCAL SPECIES IN WETLAND AREAS
- 4-6 FOCAL SPECIES IN WETLAND AREAS
- 7-9 FOCAL SPECIES IN WETLAND AREAS
- 10-12 FOCAL SPECIES IN WETLAND AREAS

DATE OF MAP PRODUCTION: JUNE 27



**WETLAND HABITATS**

4 Miles

2

0

2

## **Sources of Data on the Biodiversity Hotspots Map and the Priority Wetlands Map**

These maps were obtained from the UF Florida Geographical Data Library CD's that are available for the county and for the state. The sources of the information on these maps are listed in the metadocuments associated with each map. They can be downloaded from the FDGL web site at: <http://www.fgdl.org/>. The metadata documents for these two maps are attached.

Both of the maps were developed by the Florida Game and Freshwater Fish Commission, using landsat photos and other geological and geographical information, the advice of ecologists, wetlands specialists, and other scientific sources. These maps show the approximate location of biologically important habitats, but they cannot be viewed as definitive descriptions of the soils and other features on specific parcels of land in the city. On-site examinations are needed to establish the characteristics of individual plots. This is also the case with all the maps of soil and wetlands features and other natural features in the Gainesville Comprehensive Plan Conservation Element and the associated Data and Analysis document.

There appears to be a possible error in a feature just north of the city boundary which is shown as a lake on many of our maps, but is in fact a wetland. We have not had time to correct this problem, which occurs outside the existing city boundary. Our base map contains the city boundaries and major streets, wetlands from the National Wetlands Inventory, and lakes and streams from the USGS.

### **Biodiversity Hot Spots**

This map shows uplands areas where there are focal species that identify important plant and animal habitats. This map was taken from the UF FDGL digitized map series. The original data were supplied by the Florida Fish and Game Commission. This is a "hot spot" data set representing biological diversity. It was created by aggregating of predictive habitat maps for wading birds, important natural communities, and 44 focal species. It also includes the location of sitings of important species and of the location of ecological communities. The full metadata document for this map is attached.

The mapping project distinguished areas in terms of the number of focal species of concern likely to be present in each natural community within the mapped region. A focal species is one that is representative of a ecological system containing many species of plants and animals. The more focal species that are present, the richer and more diverse the ecological community is.

The mapped spots indicate the occurrence of focal species within an area of approximately 100 acres or less. Actually, the location of the habitats of the focal species is in general much more precise than this, as these are constrained by the

locations of wetlands and soil types, which are more precisely mapped than the 100-acre figure suggests. The original data set does not identify which species were observed in the locations marked on this map. A useful reference for this map is: Cox, J., Kautz, R., Maclaughlin, M., and T. Gilbert. 1994. Closing the Gaps in Florida's Wildlife Habitat Conservation System. Office of Environmental Services, Florida Game and Freshwater Fish Commission.

The focal species used to generate the maps are:

American Crocodile  
American Oystercatcher  
American Swallow-tailed Kite  
Atlantic and Gulf Salt Marsh Snakes  
Audubon's Crested Caracara  
Beach Mice  
Black-whiskered Vireo  
Bobcat  
Bog Frog  
Cuban Snowy Plover  
Florida Black Bear  
Florida Burrowing Owl  
Florida Grasshopper Sparrow  
Florida Panther  
Florida Sandhill Crane  
Florida Scrub Jay  
Florida Scrub Lizard  
Fox Squirrels  
Gopher Tortoise  
Limpkin  
Mangrove Cuckoo  
Mottled Duck  
Pine Barrens Treefrog  
Piping Plover  
Red-cockaded Woodpecker  
Seaside Sparrows  
Short-tailed Hawk  
Snail Kite  
Southeastern American Kestrel  
Southern Bald Eagle  
White-crowned Pigeon  
Wild Turkey  
Wilson's Plover

Other data also used in defining hot spots included:

Areas supporting globally rare plant species

Bat maternity and winter roosting caves  
Coastal communities  
Gap Analysis  
Pine rocklands  
Prairie birds  
Sandhill communities  
Scrub communities  
Scrub communities  
Tropical Hardwood Hammock Communities  
Wetlands important to Wading Birds

### **Priority Wetlands Habitats**

This map shows the same kind of data as the Biological Hot Spots map, except these are confined to wetlands. It is labeled "priority wetlands" but is important to note that the priorities are assigned in terms of the wildlife habitat the wetlands represent, and not in terms of the utility of the wetlands for the important wetlands functions of storing flood water, or removing pollution from surface water.

The data on this map are from the same source as the data on the Biodiversity Hotspots map described above. The species used to generate the map are the Wetland-dependent species of vertebrates listed as endangered, threatened species of species of special concern by the Florida Game and Freshwater Fish Commission listed on the metadata document in the attachment.

**V. Addendum 2 to  
Conservation Element Comments:  
New Conflicts**

## **V. Addendum 2 to Conservation Element Comments: New Conflicts**

The City made changes in the amended Conservation Element, the Transportation Element, and in the Future Land Use Element in November, shortly before transmittal of the Conservation and Transportation Mobility Element amendments transmitted in December.

The most important change is the revised and highly controversial wetlands policy introduced by one Commissioner (Commissioner Nielson) late in the process, and approved by the Commission on November 13 for incorporation in the transmitted element. Also included in that transmittal was a new version of the FLUE.

The new wetlands Policy 1.1.1. (b) 5 and 6 conflict with the new FLUE Objective 2.1. The Conservation Element Policy 1.1.1 (b) 5 and 6 read:

5. Require off-site mitigation to be performed within the same sub-basin and basin in which the impact occurred, unless it is shown that mitigation outside the sub-basin is more appropriate. The order of preference for the location of the mitigated area(s) in relation to the impacted areas will be:

- a. In the same basin and sub-basin
- b. In an adjacent sub-basin within the basin;
- c. In an adjacent sub-basin outside the basin; and
- d. In an adjacent basin;

6. Require mitigation to be performed within the city limits of Gainesville or the adjacent sub-basin;

FLUE Objective 2.1 reads:

Upon adoption of this Plan, existing citywide levels of wetlands acreage and functions within City limits shall be maintained through the year 2010.

Some of the controversy over wetlands policies throughout the summer concerned where mitigation projects (created or restored wetlands) are to be located. The 1991-2001 Comprehensive Plan theoretically allows mitigation, but only on the same parcel of land containing the destroyed wetland. The effect has been that developers have had no incentive to destroy wetlands because they must mitigate the destruction on the same parcel, so wetlands have been preserved. The original (April 9) version of the 2001-2011 Policy provided for mitigation outside the parcel where the destroyed wetland is located, but mandated that mitigation had to occur within city limits.

The Nielson policies approved as a substitute for the April 9 policies on November 13, introduced for the first time the concept of mitigation outside the city limits. This last-minute substitution allows mitigation to occur off the parcel in question, and even outside the city limits in adjacent basins or sub-basins. Citizen objections included the worry that mitigation outside a basin could lead to serious flooding inside the basin where the wetlands had been destroyed, and also that the policy as a whole would lead to extensive wetlands destruction and consequent increase in pollution problems and to reduction of the recharge of the surficial and deep aquifers. The public opposition to the City proposal of April 9 and subsequently to that of Com. Nielson was based on widespread citizen preference for mandating preservation of all existing wetlands throughout the city.

Goal 2.1 listed above says that wetlands functions must be maintained within city limits, and this would seem on the face to preclude mitigation at sites outside city limits.

Additional points about the new wetlands policy are:

1. The removal of wetlands in the city and the mitigation of this loss in a different basin or sub-basin will inevitably increase runoff in the original sub-basin. The City has not acknowledged that flooding effects could be an issue and has not considered the financial impacts to be expected from increased requirements for stormwater facilities.

Development in many parts of the city, where most of the vacant land lies, will also strongly impact stormwater requirements because large areas of hydric soils occur in many of these locations—soils that satisfy academic definitions of wetlands, but are no longer legally classified as such. (Compare the appended map of hydric soil distributions with City maps in Figures 12 and 13 in the Conservation Element DAR.)

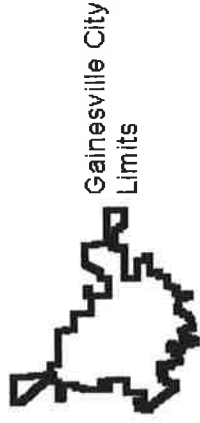
The financial impact will be to increase the requirement for stormwater facilities. This financial impact is not discussed in this element, nor in the Capital Improvement Element, or in the Stormwater Element. (The latter also lack reference to the requirements for extensive infrastructure investments upon which the City based its December 1999 proposal to designate most of the city as a TCEA.)

Most of the comments in the main body of the Citizen Comments on Proposed Amendments to the Conservation Element of the Comprehensive Plan remain applicable to the policies incorporated in this change document.



# WET SOILS

IN THE VICINITY  
OF GAINESVILLE, FL



FDOT Major Roads - 1998 - ALACHUA



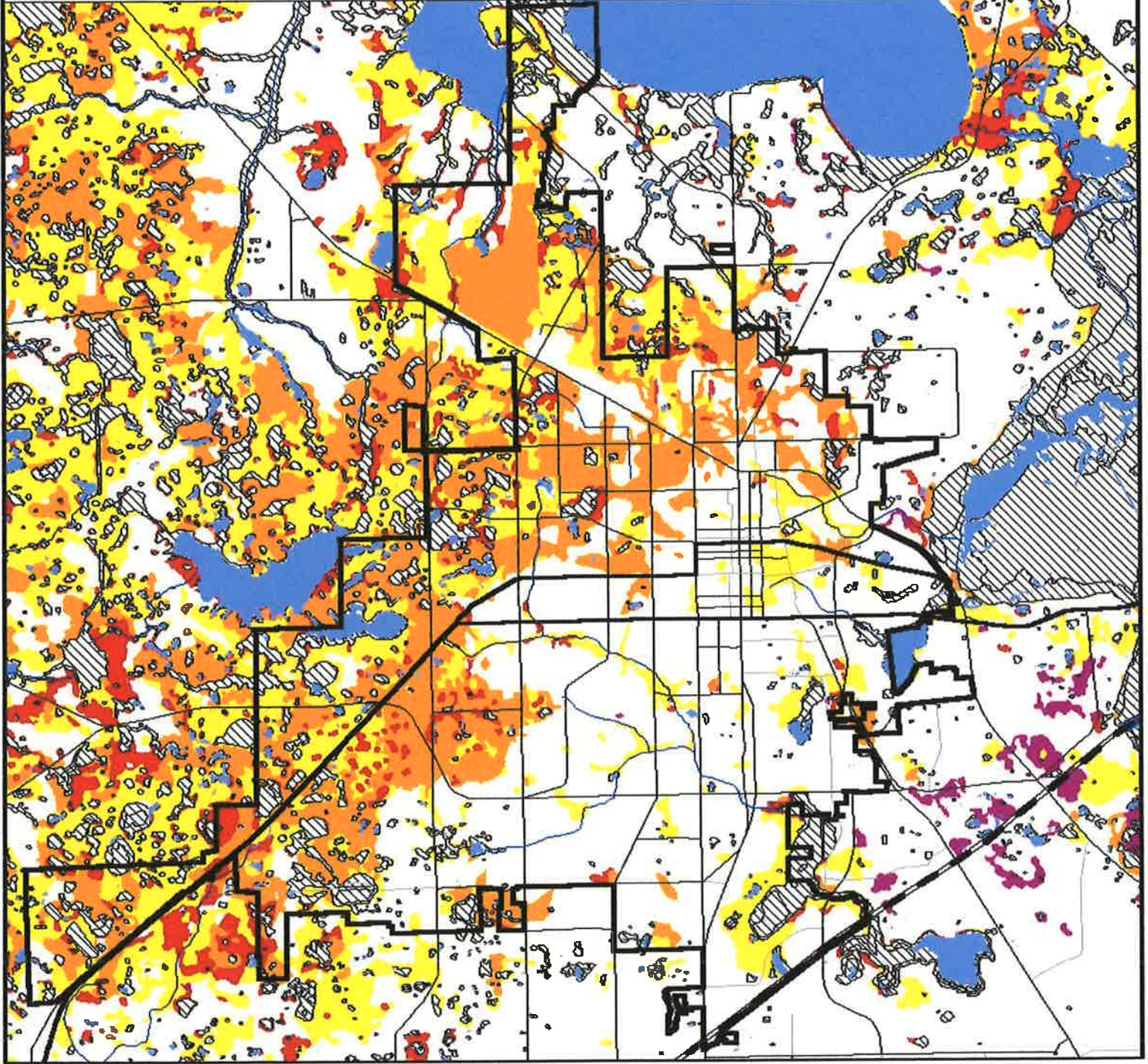
Streams

Lakes

Wetlands

Soils unsuitable for building

- 1-High water table 5 or fewer months per year
- 2-High water table 6 or more months per year
- 3-Water Table above the surface, severe ponding
- 4-Shrink swell clay and ponding.



SOURCES FOR HYDROGRAPHY:

USFWS NATIONAL WETLANDS INVENTORY,  
DATA COMPILED FROM 1971-1992

USGS 1:24000 HYDROGRAPHY,  
DATA AUTOMATED 1994

DATE OF MAP PRODUCTION: JULY 2, 2001



## SOURCES OF DATA ON WET SOILS MAP

Dian Deevey  
July 25, 2001

These maps were obtained from University of Florida Geographical Data Library which supplies CD's containing digitized maps for every county in the state, and for the state as a whole. The sources of the information on these maps can be downloaded from the FDGL web site at:

<http://www.fgdl.org/fgdl/docs/metadata/html/aqdril.htm>

It is important to note that all the base digital maps from which this map was constructed or developed from photos, soil surveys, and other kinds of geographical and related information and have, for the most part, not been checked with ground truth. These maps show the location of important features, but they cannot be viewed as definitive descriptions of the soils and other features on specific parcels of land in the city. On-site examinations are needed to establish the characteristics of individual plots. This is also the case with all the maps shown in the Comprehensive Plan and the Data and Analysis and other documents associated with the plan.

Specific maps used to construct the wet soils map and the source of the coded information on them are described below, except for the base map of the city boundary, major streets and highways, the location of wetlands and of lakes and creeks. These were taken from various sources identified at the web site above. There appears to be a possible error in a feature just north of the city boundary which is shown as a lake on many of our maps, but is in fact a wetland on many other maps. Our base map contains the city boundaries and major streets, wetlands from the National Wetlands Inventory, and lakes and streams from the USGS.

Our soils map was compiled from a map of all the kinds of soils in Alachua County, which is also on the CD available in the FDGL series. The data were supplied by the US Department of Agriculture and are also shown in the Alachua County Soil Survey. The Soil Survey contains information about the limitations of specific soils for urban development. Limitations on these uses may include slope, wetness, or potential for corrosion of concrete or steel and other features.

We considered only soils whose urban uses were limited on account of wetness, and within this category we selected only soils that are classified as "severely limited" for building homes without basements, commercial buildings or roads.

To compile this map, we used Tables 10 and 16 from the Alachua County Soil Survey to select the soils shown on this map. Table 10 identifies soils that are severely limited for urban use and we selected the soils from this table whose limitations related to wetness. These were then assigned to one of four categories using the information in Table 16, according to the following scheme: (1) soils with the water table within one foot of the surface for 1 to 5 months in every year were classified together; (2) soils that have the water table within one foot of the surface 6 or more months per year; (3) all soils that have the water table above the surface for any time during the year and are subject to flooding after rain; and (4) all soils that have shrink-swell features were classed together, even though many exhibited additional wetness features that limit their use for urban development. It will be noted that most but not all of the soils subject to ponding are in the areas identified as "wetlands" on our base map.

**VI. Citizen Objections to the Proposed  
Amendments to the  
Transportation Mobility Element of the  
Comprehensive Plan  
(Including the FLUE and the FLUM)**

## **VI. Citizen Objections to the Proposed Amendments to the Transportation Mobility Element of the Comprehensive Plan (Including the FLUE and the FLUM)**

This document discusses problems in achieving the goals of the Transportation Mobility Element (TME), most of which relate to conflicts between it and the Future Land Use Element (FLUE), and to the failure of the FLUE to propose a pattern of land uses that will be conducive to the development of a rational and efficient public transit system. Given the strong connection between land use and transportation, it is not surprising that shortcomings in the FLUE present obstacles. It will not be possible to reach the chief TME goal of achieving transportation choice, given the serious deficiencies in the FLUE.

The points addressed are:

Problem 1: There are no specifications of transportation capacity goals or target land use intensities/densities.

Problem 2: No transit route corridors are designated.

Problem 3: The public transit system does not provide genuine transportation choice in most of the area it serves, but this problem is not addressed.

Problem 4. Lack of concrete public transit service capacity-and-use goals; the City promises only to "strive".

Problem 5. Transportation system capacities are not closely linked to land use densities and intensities, and no phased approach to this linkage is proposed.

Problem 6. Many inadequacies are present in the FLUE and are barriers to achieving the goals in the TME.

Problem 7. There is nothing in the FLUE that effectively constrains densities and/or intensities in a way that prevents continued development of commercial and residential populations of medium and higher densities on the urban fringe, or anywhere else.

Problem 8. Failure to address realistically the limitations of even the best transit systems.

**Problem 1.** There is no specification of the capacity goals of any segments of the transportation system, nor are there target densities for the service areas those segments are supposed to serve. There is no blueprint for a phased approach to achieving the goal of a rational and efficient transportation system.

Common sense suggests that the TME should identify transportation corridors and capacities, and the FLUE should distribute land uses along those corridors with densities that match the transportation capacities. We do not find this.

TME Objective 1.2 directs the future land use map designations to promote transportation objectives with suitable densities in "appropriate" locations, while Policy 1.2.1 calls for higher residential densities and non-residential intensities near and within neighborhood centers and within transit route corridors:

"Objective 1.2

Ensure that future land use map designations promote transportation objectives by designating residential development of sufficient density in appropriate locations to support transportation choice.

1.2.1 The City's future land use map shall remain consistent with transportation choice strategies such as: retaining higher residential densities and non-residential intensities near and within neighborhood (activity) centers and within transit route corridors; car-oriented land uses primarily outside of areas oriented toward transportation choice; mixed use designations in appropriate locations; and centrally located community-serving facilities."

**Problem 2.** No "transit route corridors" are designated in the FLUE or in the TME. Although higher densities in neighborhood centers are encouraged in many places in the FLUE, the centers themselves are not named or specified on a map. (See, for example, policies under objectives 1.2, 1.3, 1.4, and Goals 2 and 4.) Targets for densities that are "appropriate" to "transportation choice" are urged for redeveloped neighborhood centers, but numeric densities or density targets are not specified in either the FLUE or the TME.

**Problem 3.** The TME identifies a public transit system that purportedly serves large areas of the TCEA, but actually the service provided is seriously inadequate relative to the stated goal of reducing auto use. The TME Data and Analysis Report (DAR) contain maps and tables that show a large transit system that serves most of the major trip attractors and generators. Map 7 shows that large areas of the city lie within 1/4 mile of a transit route, while Table 4 (Main Bus Service, by Route, September 2000, p 43) shows that 17 bus routes serve most of the major trip generators and attractors in the city.

However, examination of Table 5 (Main Bus Frequency and Service Span, March 1999, p 45)\* shows that only two of these routes have bus trip frequencies of 10 minutes during peak travel hours, and 20 minutes during off peak hours. Whether buses are used by riders in lieu of their personal cars depends on the frequency and convenience of the service, and the time it takes to make the needed trip. According to the DAR:

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\* This map and these tables are appended to this document.

In October 1985, the North Central Florida Regional Planning Council cited a study calling for 10-minute frequency (headways) during peak periods and 20-minute frequency off-peak. Calthorpe calls for 15-minute frequency throughout the day. See Table 5 for current frequencies of F4 and RTS buses. (DAR p 35).

The two routes that have these desirable headways are Route 9, which serves only the University, has frequent service, and involves short trips, and Route 11 which serves downtown, the Health Department, and three schools. The latter operates from 6:00 AM to 7:57 PM.

Service cuts have been either implemented in the areas shown in Map 7 in the last year, or are planned, due to serious budget problems that have arisen in that interval.

One must conclude that the existing transit system will not attract enough riders to substitute for even a small proportion of the auto trips in most of the city until headways are greatly reduced. Clearly, few of the areas shown within 1/4 mile of existing bus routes are suitable for development at the increased densities and intensities of use urged in the FLUE. (The FLUE strategies and policies that relate to transportation issues appear to be inadequate in a number of additional ways, and are discussed in more detail below.)

**Problem 4.** Lack of concrete public transit service capacity-and-use goals; the City promises only to "strive".

The TME transit service policies relating to new developments within the TCEA (the increases in densities and intensities of use urged in redeveloped neighborhood centers) do not promise a transit system appropriate to their needs. Objective 3 lists an important goal, but the policies express only the intention of the city to "strive" to achieve a transportation system with the characteristics needed to support increased densities and intensities of use proposed in the FLUE. One would like to see policies that describe sensible steps toward the objective, but they are absent.

#### Objective 3.1

Design the City Regional Transit System (RTS). to strike a balance between the needs of those who are transit-dependent, and the need to become a viable service designed for the substantially larger market of those who have a choice about using the bus. Viable service shall be supported by ensuring that the bus system serves major trip generators and attractors such as the UF campus and neighborhood (activity) centers, and that employment and housing are adequately served by safe, pleasant and convenient transit stops, while also providing for the transportation-disadvantaged.

Policy 3.1.1 The City shall strive to increase the amount of land designated for multi-

family development, when appropriate, on the Future Land Use Map near important transit stops along arterials and collectors.

Policy 3.1.2 The City shall strive to link its land use and transportation planning by establishing neighborhood (activity) centers as “transit-oriented developments.” Ideally, transit hubs will evolve into having a 24-hour a day presence, and a sense of place and community.

#### Objective 3.2

Increase transit ridership. Strive to carry 8 million riders per year by 2005 and 10 million riders per year by 2010. [Note: 10 million riders represents only a doubling current ridership. It is a significant increase in service, but even if achieved it will not greatly reduce personal auto travel.]

Policy 3.2.1 The City shall strive for a residential density of at least 8 units per acre for developments in areas that are or will be served by frequent transit. The City shall strive for an average net residential density of up to 6 du/acre citywide.

Policy 3.2.3 The City shall strive to provide main bus service within ¼ mile of 80 percent of all medium and high density residential areas identified designated on the Future Land Use Map of the Comprehensive Plan, and within the RTS service area as shown in Transportation Map Series.

[As noted above, being within 1/4 mile of a bus route (or, more important, a bus stop) will not insure effective transportation choice to the users of those medium and high density residential areas. It is the quality of the service (bus frequency and trip length) that counts.]

**Problem 5.** Transportation system capacities are not closely linked to land use densities and intensities, and no phased approach to this linkage is proposed. Neither the Transportation Mobility Element nor the Future Land Use Element prioritizes areas within the huge TCEA in terms of the available or future planned transit service. It is clearly necessary to match the allowed land use densities and intensities to the available public transit, and to shape the future development in ways that realize the goal of efficient public transit. This can be achieved in one of two ways which tie land use densities and intensities to the provision of transportation choices that will effectively serve those uses in ways that reduce the use of private automobiles.

One way to tie use densities/intensities to transit capacity would be to apply public transit LOS's explicitly to the allowed densities and intensities of land use. The city has eliminated concurrency requirements for roadways in virtually its entire area, and it is not clear that they have substituted any other meaningful restrictions. The proposed amended comprehensive plan urges a shift from auto to other forms of transport, but development is not tied in to the provision of a transit system that will substitute for autos. Even without explicit LOS's for public

transit, it seems likely that LDR's could be devised to achieve the same object. But the proposed amended comp plan elements do not restrict the land use densities/intensities with public transit criteria or other rules that will function like transit LOS's.

A second way consists of designating public transit corridors, locating them on a map, and then identifying on the same map the areas within reasonable distance of the bus stops, where appropriate land use densities/intensities can be located. Providing the bus frequencies and operating times needed on these corridors to properly serve the land uses in its service area should then be a goal.

At first glance, this second approach would appear to be the one employed in the Gainesville Comprehensive Plan, but detailed examination reveals serious flaws, many of which are discussed above. Development should be allowed at the higher densities and intensities only after the suitable public transit system is available, but this is not done.

It should be noted that the second scheme described above also requires identifying areas that will never have easy access to attractive public transit, and ensuring that these areas remain in low density land uses. This will minimize the auto transportation required by these areas. Designating low density areas is fully as important as designating high density ones.

Neither technique is employed in the comprehensive plan. Nothing in either the Transportation and Mobility Element or the Future Land Use Element indicates how development is to be guided to achieve this objective.

Unless corrected, these failures will lead to islands of high land use densities and intensities all over the TCEA, stranded in places where adequate transit service is not available (and may never be available.) The result will be massive congestion, pollution, traffic accidents and serious exacerbation of all the problems the new urbanist features of the comprehensive plan are supposed to cure.

**Problem 6.** Inadequacies of the FLUE in achieving the goals in the TME.

The chief problems are that: (1) the FLUE does not identify nor locate the neighborhood centers that are supposed to be redeveloped to play an essential role in achieving the goal of reducing sprawl; it does not specify the boundaries of these centers, nor transition zones between them and surrounding land uses, nor any other spatial boundaries affecting neighborhood centers; (2) the FLUE calls for land development regulations but does not provide explicit criteria, or standards, or any other meaningful guidelines for their content; (3) neither the FLUE nor the FLUM provide significant limits or constraints on land use densities or intensities.

Specific policies that reflect these problems follow:

A. Many policies are expressed in terms of qualitative judgments, and the public cannot determine what these policies mean, or how they are to be translated into land development regulations (LDR's). Confusing judgment terms are underlined in the following examples:

Policy 1.2.3 The City should encourage mixed use development, where appropriate.

Policy 1.2.4 The City should reduce or eliminate minimum parking requirements, where appropriate.

Policy 1.2.11 The City should continue to allow home occupations in all residential areas provided they do not generate excessive traffic and parking.

Policy 1.3.1 When feasible, neighborhood centers should be designed to include a gridded, interconnected street network lined with street-facing buildings and buildings at least 2 stories in height.

Policy 1.5.8 The land use map should designate appropriate areas for multi-family residential development in close proximity to neighborhood centers and important transit routes. When appropriate and in a way not detrimental to single-family neighborhoods, the City should encourage the establishment of residential, retail, office, and civic uses within 1/4-mile of the center of neighborhood centers as an effective way to reduce car trips and promote transit, walking, and bicycling.

Policy 3.6.2 Wherever possible, the natural terrain, drainage, and vegetation of the city should be preserved with superior examples contained within parks or greenbelts.

Policy 3.6.3 To the extent feasible, all development shall minimize alteration of the existing natural topography.

B. Some policies direct the development of LDR's that will establish standards, elucidate criteria, define "appropriate" intensities or densities, specify transitions from one class of densities to another, and in some cases define "compatibility". There is minimal or no guidance as to what these standards, criteria, etc. shall be. This near total lack of guidance makes it impossible to write appropriate LDR's, as the comp plan provides only minimal clues as to how they should read.

Establishing these standards is the function of the comprehensive plan itself. The plan should contain meaningful and predictable standards for the use and development of land, as well as guidelines for the contents of detailed LDR's. The primary function of the comprehensive plan is to state the policy choices regarding applicable standards, criteria and so forth. The failure of the FLUE to do this constitutes a legal insufficiency of these Comprehensive Plan Policies as written.



This failure is a recurrent problem throughout the FLUE and, indeed, throughout virtually all amendments to the comprehensive plan proposed for the 2001-2011 decade.

Policies with this problem include the following (problem sections underlined):

Policy 1.2.2 The City should use design standards in the land development code to ensure that higher densities are livable .

Policy 2.1.1.a The City should consider the unique function and image of the area through design standards, guidelines and design review procedures as appropriate for each redevelopment area.

Policy 4.1.1 contains the descriptions of the different land use categories. Virtually all of them direct the development of LDR's to, among other things, "determine gradations of density", "determine specific uses and performance measures", "specify criteria" of one kind or another. A careful reading of this entire section provides too many examples to enumerate here. We attach an addendum in which the whole policy is reprinted, and where problem sections are underlined and discussed. In no case is any guidance given as to how these standards, criteria, determinations, etc. should be framed, and what they should ensure. The local citizen or landowner reading this ambiguous language has no idea what the resulting LDR's are likely to contain, or how their legal rights and obligations will be affected by them.

It is appropriate to note here that the mixed-use categories described in Policy 4.1.1 that allow residential and non residential uses mention compatibility, and require compatibility between the different uses, but do not indicate how compatibility is to be determined. Compatibility questions are dodged everywhere in the FLUE.

It is also important to note that the density and intensity of land uses in these mixed use categories are not included in Policy 4.1.1. They are to be governed by design standards to be written as LDR's. (See the attached Addendum for other problems with Policy 4.1.1)

**Problem 7.** There is nothing in the FLUE that effectively constrains densities and/or intensities in a way that prevents continued development of commercial and residential populations of medium and higher densities on the urban fringe, or anywhere else.

The EAR and the TME Data and Analysis Report (DAR) both mention the problem represented by the development of student apartments and other high density developments at or near the urban fringe.

For example, consultant David Rusk noted critically that "...much of the growth in the student population in recent decades has been accommodated in garden apartment complexes on the outskirts of the city itself." (EAR, page 9).

This is considered a problem that needs to be addressed by the proposed amendments to the Comprehensive Plan. However, there is little in the FLUE that prevents further developments of this type, or that precludes the continued migration of student-oriented housing toward the fringe. The reasons for this include the following:

1) The FLUE encourages increasing residential and commercial uses in neighborhood centers and up to one quarter to one half mile from their centers. The FLUE does not indicate where these neighborhood centers are, but at least 4 of them are near the urban fringe. The FLUM does not designate the centers as such, nor locate the "transition" zones, or provide buffers in the form of low density zones around them. If the FLUE is approved as written, one result is likely to be that significant concentrations of multifamily residences and of commercial and possibly even industrial land uses will be developed at or near the city boundary. These will increase demand for auto travel, and make provision of a rational and efficient public transit system even more difficult than it already is.

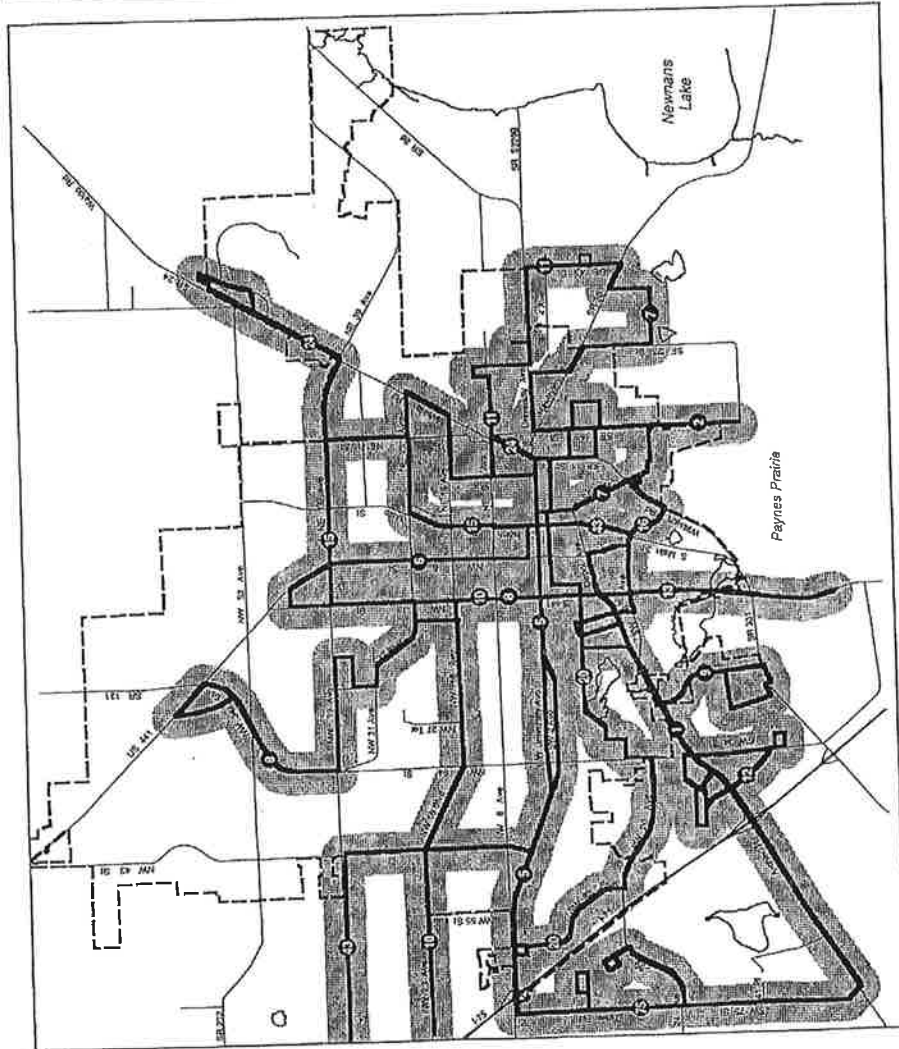
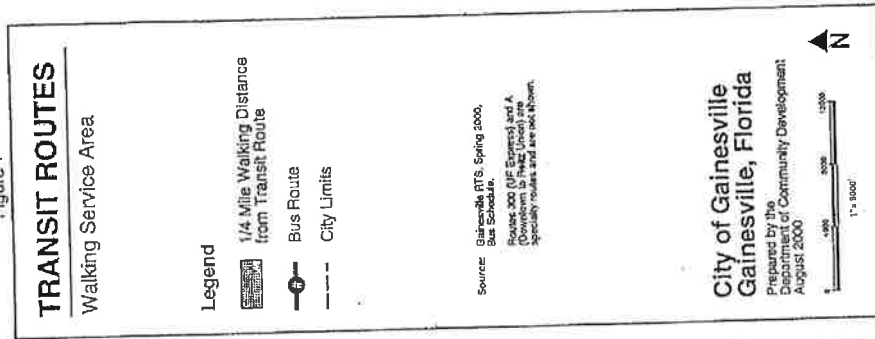
2) The FLUE provides two mechanisms for inserting developments with increased densities into existing land use categories. These are PUD's and Traditional Neighborhood Developments (TND's). Both are allowed in all land use categories (although the City has indicated it may remove TND's from some residential categories). Provided petitioners satisfy the applicable LDR's, requests for TND's or PUD's will be will be approved. No specific limits on the densities and intensities in TND's or PUD's are included in the FLUE. Densities and/or intensities in both kinds of development are not constrained by the densities and intensities of the underlying land use categories. Both may combine any combination of residential densities and any intensities of non-residential uses, so both offer routes for injecting these uses into underlying categories where non-residential uses are otherwise precluded, and densities limited. Thus, these developments are avenues by which such non-residential uses can be imported into any area within the city boundaries. The only restrictions would appear to be those that guard the shores of lakes and creeks.

Problem 8. Failure to address realistically the limitations of even the best transit systems.

There is another very troubling feature of this entire scheme which we do not consider in detail here. It is generally recognized that even the best public transit system is used for only a small proportion of total trips in its service area. This means that increasing density/intensity of land use will always increase the

need for auto travel, no matter where in the city these increases occur. Nothing in either the FLUE or the TME reveals recognition of these facts.

Figure 7



**Table 4: Main Bus Service, by Route, September 2000**

Route Name and No.	Attractor/generator served	Round trip mileage on route per hour	No. of buses that are wheelchair accessible
1. Butler Plaza to Downtown	Butler Plaza Alachua General Hospital Downtown Plaza University of Florida Shands at UF VA Medical Center	9.5	1
2. Downtown to Robinson Heights	Downtown Williams Elementary Lincoln Middle Prairie View Elementary	8.2	1
5. Oaks Mall to Downtown via University Ave.	N. Fl Regional Medial Ctr. Oaks Mall University of Florida Westgate Plaza SFCC, downtown campus Downtown	10.9	1
6. Downtown to Gainesville Mall via 6th Street	Downtown SFCC, downtown campus Stephen Foster Elementary Gainesville Mall	12.2	1
7. Downtown to Eastwood Meadows	Downtown Eastside High School	15.9	1
8. Pine Ridge to Shands at UF via NW 13th Street	Gainesville Mall Shands at UF Gainesville High School University of Florida	17.9	1
9. Lexington Crossing to McCarty Hall	University of Florida	7.4	1
10. SFCC to Downtown via NW 16th Avenue/University Avenue	SFCC Millhopper Square University of Florida SFCC, downtown campus Downtown	16.7	1
11. Eastwood Meadows to Downtown via University Ave.	Downtown Health Department Duval Elementary Loften High School Lake Forest Elementary	11.7	1
12. Campus Club to McCarty Hall via Archer Rd.	Butler Plaza University of Florida	7.9	1
13. One Stop Career Center to Museum Rd./ Newell Dr. via SW 13th St.	University of Florida Shands at UF City College	6.0	1

Mental Health/One Stop			
15. Downtown to NW 23 <sup>rd</sup> Ave & NW 6 <sup>th</sup> St	Center for Independent Living Stephen Foster Elementary Family Service Rawlings Elementary Downtown	14.7	1
16. Newell Dr./Museum Rd. to Sugar Hill via SW 16th Ave.	University of Florida Shands at UF Winn Dixie on Main	5.6	1
20. Oaks Mall to McCarty Hall via SW 20th Ave.	Oaks Mall N. Fl Regional Medial Ctr. Kash & Karry Plaza University of Florida	13.2	1
24. Downtown to Job Corps	Downtown Health Department HRS Rawlings Elemntary Family Service Gainesville Regional Airport Job Corps	17.1	1
43. SFCC to Downtown via NW 43rd Street	SFCC Timber Village Shops Millhopper Square Westgate Plaza University of Florida Shands at UF P.K. Yonge Downtown	26.7	1
75. Butler Plaza Oaks Mall via 75th Street	N. Fl Regional Medial Ctr. Oaks Mall Tower Center Tower Hill Office Park Butler Plaza	26.2	1

Source: Gainesville RTS, September 2000.

**Table 5: Main Bus Frequency and Service Span, March 1999**

Route #	Route Description	Revenue Ml.	Revenue Hrs	Operating Cost	Vehicles Req. (W)		Frequency		Service Span (Weekdays)	Driv. FT/P
					Peak	Off Peak	Peak	Off Peak		
1	Vet Mem. Pk to Newell Dr./Mus. Rd.	32,422	2,176	\$83,776	2	1	30	60	5:45 am - 9:44 pm	4
2	Downtown to Robinson Heights	22,089	1,364	\$52,495	1	1	30	30	6:30 am - 7:57 pm	2
4	Shands to Downtown (Shuttle)	13,761	1,529	\$58,867	1	1	30	30	6:00 am - 9:28 pm	3
5	Oaks Mall to Downtown	30,947	2,691	\$103,604	2	2	30	30	6:00 am - 9:27 pm	5
6	Gainesville Mall to Downtown	14,244	1,261	\$48,529	1	1	60	60	6:30 am - 6:57 pm	2
7	Downtown to Eastwood Meadows	22,640	1,415	\$54,478	1	1	60	60	6:00 am - 7:57pm	2
8	Pine Ridge to Shands	43,700	2,526	\$97,251	2	2	30	30	6:12 am - 8:13 pm	4
9	Lexington Crossing to McCarty Hall	35,392	3,291	\$126,704	3	2	15	20	6:45 am - 9:12 pm	6
10	SFCC to Downtown	21,328	1,270	\$48,876	1	1	60	60	7:00 am - 6:58pm	2
11	Eastwood Meadows to Downtown	16,281	1,346	\$51,802	1	1	60	60	6:30 am - 7:57 pm	2
12	Campus Club to McCarty Hall	39,577	3,423	\$131,786	3	2	15	20	6:30 am - 9:17 pm	6
13	Job Serv to Newell Dr./Musuem Rd.	22,590	2,017	\$77,655	2	1	15	30	6:28 am - 8:45 pm	4
15	Downtown to Gainesville Mall	19,178	1,279	\$49,222	1	1	60	60	6:30 am - 6:58 pm	2
16	Newell Dr./Museum Rd. to Sugar Hill	23,502	2,026	\$78,001	2	1	15	30	6:45 am - 8:45 pm	4
20	Oaks Mall to McCarty Hall	44,369	3,729	\$143,547	4	2	15	30	6:15 am - 9:15 pm	7
24	Downtown to Job Corps	23,631	1,415	\$54,478	1	1	60	60	6:00 am - 7:57 pm	2
43	SFCC to Downtown	30,440	2,230	\$85,855	2	2	60	60	6:00 am - 7:58pm	4
75	Vet. Mem. Park to Oaks Mall	37,878	2,140	\$82,390	2	1	30	60	5:45 am - 8:43 pm	4
101	Lexington Express to Reitz Union	8,330	595	\$22,908	1	-	30	30	7:10-11:30,2:24-5:08	1
<b>Subtotal</b>		<b>502,296</b>	<b>37,720</b>	<b>1,452,220</b>	<b>33</b>	<b>25</b>				<b>66</b>
118,119,127,128	Park-N-Ride	33,600	3,360	\$129,360	3	3	10	10	7:00 am - 7:30 pm	6
120	Family Housing	8,232	840	\$32,340	1	1	30	30	7:00 am - 5:30 pm	1
121, 122	Fraternity Row	15,392	1,480	\$56,980	1	1	15	15	7:00 am - 5:30 pm	3
123, 124, 126	Commuter Lot	16,120	2,600	\$100,100	3	3	10	10	7:00 am - 7:15 pm	5
100	UF Express. Oaks Mall to The Hub	12,760	1,160	\$44,660	3	-	15	15	6:20-9:15a-3:08-6:16p	2
<b>Subtotal</b>		<b>86,104</b>	<b>9,440</b>	<b>\$363,440</b>	<b>11</b>	<b>8</b>				<b>17</b>
300	Later Gator A (Reitz Union to DT)	7,742	842	\$32,398		3	10	10	9:30pm-3:20am	5
301	Later Gator B (Lex Pk to Reitz Union)	-	-	-		2	15	15	9:30pm-3:00am	-
302	Later Gator C (Cps Club-Reitz Union)	-	-	-		2	20	20	9:30pm-3:00am	-
303	Later Gator D (Oaks Mall-Reitz)	-	-	-		2	20	20	9:30pm-3:00am	-
<b>Subtotal</b>		<b>7,742</b>	<b>842</b>	<b>\$32,398</b>		<b>9</b>				<b>5</b>
61, 62, 63	ADA Complemt Paratransit Service				2	1				3
<b>Totals</b>		<b>596,142</b>	<b>48,002</b>	<b>\$1,848,058</b>	<b>46</b>	<b>43</b>				<b>91</b>

**Regular Service:**

Number of Weekday Service = **80**  
 Number of Saturday Service = **18**  
 Number of Holiday Service = **5**  
 Total Number of Days = **103**

**Night Service**

Number of Weekday Service = **32**  
 Number of Saturday Service = **17**  
 Number of Holiday Service = **2**  
 Total Number of Days = **51**

**Peak Hrs:**

Route 1: 5:45-10:42 a.m. & 2:45 - 6:42 p.m.  
 Route 9: 6:45-11:30 a.m. & 2:20 - 6:30 p.m.  
 Route 12: 6:30-11:30 a.m. & 2:15 - 6:30 p.m.  
 Route 13: 7:45-11:40 a.m. & 2:30 - 6:10 p.m.  
 Route 16: 7:45 - 11:40 a.m. and 2:30 - 6:10 p.m.  
 Route 20: 7:15 - 10:30 a.m. and 2:15 - 6:30 p.m.  
 Route 75: 6:15 - 10:45 a.m. and 2:45 - 6:45 p.m.

**Notes:**

PNR, CL (1 Bus After 6:00 pm)

Operating Costs are based on a rate of \$38.5/Rev. Hour

Source: Gainesville RTS, March 1999.

**VII. Addendum to the  
Transportation Mobility Element Comments:  
FLUE Issues**



regulations shall allow home occupations; accessory units in conjunction with single -family dwellings; and bed-and-breakfast establishments within certain limitations.

Residential Medium -Density (8 -30 units per acre). This land use classification shall allow single - family and multi -family development at densities from 8 to 30 dwelling units per acre. Lots that existed on November 13, 1991 and that are less than or equal to 0.5 acres in size shall be exempt from minimum density requirements. This category shall also allow traditional neighborhoods and uses on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. Wherever land uses are mixed, careful design will be required in order to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale. The land shown as Residential Medium -Density on the Future Land Use Map identifies those areas within the City of Gainesville that, due to topography, soil conditions, surrounding land uses and development patterns, are appropriate for single -family, traditional neighborhood , and medium -intensity multi -family development. Land development regulations shall determine gradations of density and specific uses. Land development regulations shall specify criteria for the siting of appropriate medium -intensity residential facilities to accommodate special need populations and appropriate community -level institutional facilities such as places of religious assembly, public and private schools other than institutions of higher learning, and libraries. Land development regulations shall allow home occupations within certain limitations.

Residential High -Density ( 8-100 units per acre). This category shall allow single-family and multi-family development at densities from 8 to 100 dwelling units per acre. Lots that existed on November 13, 1991 and that are less than or equal to 0.5 acres in size shall be exempt from minimum density requirements. This category shall also allow traditional neighborhoods and uses on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. The land shown as Residential High -Density on the Future Land Use Map identifies those areas within the City of Gainesville that, due to topography, soil conditions, surrounding land uses and development patterns, are appropriate for high -intensity multi - family development, traditional neighborhood development , and secondary retail and office uses scaled to serve the immediate neighborhood. The intensity of secondary retail and office use cannot exceed 25 percent of the residential floor area, except as may be allowed by traditional development overlay ordinances. Land development regulations shall determine gradations of density, specific uses, percentage of floor area and maximum floor area appropriate for secondary uses. Single family shall be an allowable use . Land development regulations shall specify the criteria for the siting of high -intensity residential facilities to accommodate special need populations and appropriate community level institutional facilities such as places of religious assembly, public and private schools other than institutions of higher learning, and libraries. Land development regulations shall allow home occupations within certain limitations.

Mixed-Use Residential (up to 75 units per acre). This residential district provides for a mixture of residential and office uses. This category shall also allow traditional neighborhoods and uses on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. Office uses that are complementary to and secondary to the residential character of the district may be allowed. An essential component of the district is orientation of structures to the street and the pedestrian character of the area. Office uses located within this district should be scaled to

serve the immediate neighborhood and pedestrians from surrounding neighborhoods and institutions. Land development regulations shall set the district size; appropriate densities (up to 75 dwelling units per acre); the distribution of uses; appropriate floor area ratios; design criteria; landscaping, pedestrian, transit, and bicycle access; and street lighting. Land development regulations shall specify the criteria for the siting of public and private schools, places of religious assembly and community facilities within this category when designed in a manner compatible with the adoption of a Special Area Plan for that area. The intensity of office use cannot exceed more than 10 percent of the total residential floor area per development, except as may be allowed by Traditional Development overlay ordinances .

Mixed-Use Low Intensity (10 -30 units per acre). This category allows a mix of residential and non-residential uses such as standard lot single -family houses, small -lot single -family houses, duplex houses, townhouses (attached housing), accessory dwelling units, group homes, multi –family housing (if compatible in scale and character with other dwellings in the proposed neighborhood), offices scaled to serve the surrounding neighborhood, retail scaled to serve the surrounding neighborhood, public and private schools, places of religious assembly and other community civic uses, traditional neighborhoods and uses on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. There is a 5-story height limit. Buildings in this category shall face the street and have modest (or no) front setbacks.

This category should not be used to extend strip commercial development along a street. Land development regulations shall ensure a compact, pedestrian -friendly environment for these areas, and provide guidelines or standards for the compatibility of permitted uses.

Mixed Use Low Intensity (10 -30 units per acre). This category includes a mixture of residential, office and retail uses scaled to serve the needs of the surrounding neighborhood. This category has been applied to commercial development to enhance the flexibility of these low intensity areas. It is not expected that these areas shall be expanded significantly during this planning period; creation of strip development is not intended. Public and private schools, places of religious assembly and community facilities shall be appropriate in this category. Residential development from 8 to 30 units per acre shall be permitted. Land Development Regulations shall ensure a compact, pedestrian -friendly environment for these areas; provide guidelines for the compatibility of permitted uses; and ensure that such areas do not serve overlapping market areas of other designated low activity centers. Floor area ratios in this district shall not exceed 2.00, except in a special area plan, where there shall be no floor area ratio maximum. The intensity of development on property covered by a special area plan shall be regulated by the Urban Design Standards that include building height, build -to lines, setback requirements and building coverage to determine intensity of use instead of a maximum floor area ratio.

Mixed-Use Medium-Intensity ( 12 14-30 units per acre). This category allows includes a mixture of residential, office, business and light industrial uses concentrated in mapped areas. This category shall also allow traditional neighborhoods and uses on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. Public and private schools, institutions of higher learning, places of religious assembly and community facilities shall be appropriate in this category. Such development shall function as a neighborhood ( activity ) center serving multiple neighborhoods. It is not expected that these areas shall be expanded significantly during this planning period. Land development

regulations shall ensure a compact, pedestrian environment for these areas; provide guidelines for the compatibility of permitted uses; and ensure that such areas do not serve overlapping market areas of other designated medium -intensity neighborhood (activity ) centers. Residential development from 12 14 to 30 units per acre shall be permitted. Intensity will be controlled, in part, by adopting a 5 -story height limit. Buildings in this category shall face the street and have modest (or no) front setbacks. Floor area ratios in this district shall not exceed 2.00.

***[Note: What else will control intensity?]***

Mixed-Use High-Intensity (up to 150 units per acre). This category includes a mixture of residential, office, business uses and light industrial uses concentrated in mapped areas. This category shall also allow traditional neighborhoods and uses on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. Public and private schools, institutions of higher learning, places of religious assembly and community facilities shall be appropriate in this category. Such development shall function as an activity center serving the urban area. When in accord with all other land use regulations, residential densities up to 150 units shall be permitted. Land development regulations shall be prepared to ensure the compact, pedestrian character of these areas. Buildings in this category shall face the street and have modest (or no) front setbacks. Floor area ratios in this district shall not exceed 10.00.

Office. The Office land use category identifies areas appropriate for office and residential uses. This category is intended to identify appropriate areas for professional and service uses, hospital and medical uses, compound and residential uses, and appropriate ancillary uses. Office designations shall be applied to compact office development ; office designations shall not encroach in viable residential areas nor expand strip development. Residential uses in office districts shall be designed as new in-town development infill, mixed use, live-work, compound use or shall accommodate existing residential development within the district. Densities shall not exceed 20 units per acre. Land development regulations shall determine the appropriate scale of uses; and the specific criteria for the siting of private schools and churches. Intensity will be controlled by adopting a 5 -story height limit, requiring buildings to face the street, and modest build-to lines, instead of a maximum floor area ratio. Floor area ratios in this district shall not exceed 2.00, except in a special area plan, where there shall be no floor area ratio maximum.

***[Note: does the preceding indicate the allowed intensity of use adequately and unambiguously, or is it left up to the petitioner's architect?]***

The intensity of development on property covered by a special area plan shall be regulated by the Urban Design Standards that include building height, build -to lines, setback requirements and building coverage to determine intensity of use instead of a maximum floor area ratio.

Commercial. The Commercial land use category identifies those areas most appropriate for large scale highway -oriented commercial uses , and, when designed sensitively, residential uses . Land development regulations shall determine the appropriate scale of uses.

***[How is appropriateness of scale measured?]***

This category is not appropriate for neighborhood centers . Intensity will be controlled by adopting a 5 -story height limit, requiring buildings to face the street, and build -to lines of 5 - 20 feet, instead of a maximum floor area ratio. Floor area ratios in this district shall not exceed 2.00, except in a special area plan, where there shall be no floor area ratio maximum. The intensity of development on property covered by a special area plan shall be regulated by the Urban Design Standards that include building height, build-to lines, setback requirements and building coverage to determine intensity of use instead of a maximum floor area ratio.

***[Note: How will these urban design features regulate intensity of development?]***

Industrial. The Industrial land use category identifies those areas appropriate for manufacturing, fabricating, distribution, extraction, wholesaling, warehousing, recycling and other ancillary uses, and, when designed sensitively, retail, office, service, and residential uses, when such non - industrial uses are no more than 25 percent of the development floor area, or when part of a Brownfield redevelopment effort . Land development regulations shall determine the appropriate scale of uses and consider the externalities of such uses. Intensity will be controlled by adopting a 5-story height limit, and requiring buildings to face the street. Intensity of use shall not exceed a maximum lot coverage of 80 percent.

Education. This category identifies appropriate areas for public and private schools and institutions of higher learning when located outside of neighborhood centers (activity centers).

Land development regulations shall address compatibility with surrounding uses and infrastructure needs, except in a special area plan, where there shall be no floor area ratio maximum. The intensity of development on property covered by a special area plan shall be regulated by the Urban Design Standards that include building height, build -to lines, setback requirements and building coverage to determine intensity of use instead of a maximum floor area ratio. Floor area ratios in this district shall not exceed 5.00.

***[Note: How will compatibility be defined and by whom?]***

Recreation. This category identifies appropriate areas for public and private leisure activities. Land development regulations shall address the scale, intensity and buffering of structures and outdoor improvements. This category shall meet the appropriate intensities of use as established by the Park Design and Function Standards adopted in the Recreation Element.

Conservation. This category identifies areas environmentally unsuited to urban development, permanent buffers between land uses, areas used for passive recreation and nature parks. Privately held properties within this category shall be allowed to develop at single -family densities of 1 unit per 5 acres. Land development regulations shall determine the appropriate scale of activities, structures and infrastructure that will be allowed.

Agriculture. This category identifies existing lands which are expected to continue in agricultural production and ancillary uses. Land development regulations shall allow single family densities of 1 unit per 5 acres. It is not expected that lands designated for urban uses will be converted to agricultural production.

Public Facilities. This category identifies administrative and operational governmental functions such as government offices, utility facilities and storage facilities. Maximum lot coverage in this district shall not exceed 80 percent.

Planned Use District. This category is an overlay land use district which may be applied on any specific property in the City. The land use regulations pertaining to this overlay district shall be adopted by ordinance in conjunction with an amendment to the Future Land Use Map of this comprehensive plan. The category is created to allow the consideration of unique, innovative or narrowly construed land use proposals that because of the specificity of the land use regulations can be found to be compatible with the character of the surrounding land uses and environmental conditions of the subject land. This district allows a mix of residential and non-residential uses and/or unique design features which might otherwise not be allowed in the underlying land use category. This category shall allow traditional neighborhoods and uses on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. Each adopting PUD overlay land use designation shall address density and intensity, permitted uses, traffic access by car, foot, bicycle, and transit, and trip generation and trip capture, environmental features and, when necessary, buffering of adjacent uses. Planned Development zoning shall be required to implement any specific development plan under a PUD.

***[Note: There is no guidance regarding how the development review board or the commission should judge the adequacy of the specific features in a PUD proposed by a petitioner.]***

In the event that the overlay district has been applied to a site and no planned development zoning has found approval by action of the City Commission within 18 months one year of the land use designation, the overlay land use district shall be deemed null and void and the overlay land use category shall be removed from the Future Land Use Map, leaving the original and underlying land use in place.

***It seems clear that the term "appropriate" throughout this policy is used to avoid choices.***