

LEGISLATIVE #

110076F

Exhibit 4:

Deletion of Sections 30-309 and 30-309.1, which pertain to the Significant Ecological Communities District

Sec. 30-309. Significant ecological communities district.

(a)

Purpose and intent. This section is established to codify standards to protect and restore significant ecological communities in the city while not eliminating all economically viable use of a parcel. The city hereby establishes a permit procedure for development of parcels that are located within this district. This section provides the standards and criteria by which applications for permits for development on these parcels are considered so as to provide enhanced protection to the environmental features of the parcels.

An important element of this section is the requirement that an environmental inventory be prepared as a condition for development approval. Such a requirement ensures identification of vital environmental communities on the property proposed for development, thereby increasing the likelihood that such communities will be protected or restored, and enabling use of a more customized set of regulations, instead of more generalized regulations that may not be appropriate for a given property.

(b)

Effect of classification. The significant ecological communities district is an overlay zoning district. It shall operate in conjunction with any underlying zoning district on the property. The regulations of the underlying zoning district, and all other applicable regulations, remain in effect and are further regulated by significant ecological communities district standards. If provisions of the significant ecological communities district standards conflict with the underlying zoning, the provisions of the significant ecological communities district standards shall govern and prevail.

(c)

Definitions. For purposes of this section and section 30-309.1 the following definitions apply:

Completeness is defined as the extent to which an ecological feature exhibits the species, physical structure, and ecological processes typical of that feature type.

Connectivity or connectedness is defined as the extent to which a parcel is adjacent to or near protected lands, and the degree to which intervening properties could hinder wildlife movement or other ecological processes that contribute to the overall health of the ecological community.

~~*Exemplary* is defined as a parcel having species composition and structure characteristic of an unusually high quality example of the natural community type in question.~~

~~*High water quality* is defined as a parcel contributing to aquifer recharge, water filtration, or flood control; or lacking substantial inputs of pollutants; or a combination of these.~~

~~*Manageability* is defined as the feasibility of carrying out any active management, which is necessary to maintain the natural values of the site.~~

~~*Nature-oriented human use potential* is defined as the extent to which amenities necessary for passive recreation (access, parking areas, trails, boardwalks) are present or can feasibly be developed on a site.~~

~~*Rarity* is defined as a parcel exhibiting the frequency of occurrence of a natural community or features in the state or within the City of Gainesville. State rankings come from the Florida Natural Areas Inventory's (FNAI) Guide to the Natural Communities of Florida (1990), Tracking List of Rare, Threatened, and Endangered Plants, Animals and Natural Communities of Florida (FNAI 2000), and Florida's Endangered Species, Threatened Species and Species of Special Concern, Official Lists (FWCC 2000). Rankings at the city level are based on the number of known occurrences within the city limits.~~

~~*Viability* is defined as the extent to which ecological processes necessary to maintaining the natural values of the site can persist over time.~~

~~*Vulnerability* is defined as a parcel facing the likelihood of degradation of natural values in the absence of protection or active management or likelihood of destruction due to human influence.~~

(d)

~~*Procedure for issuance of development order.* In order to obtain a development permit for any parcel within the district, an application for development permit shall include an environmental features report that is prepared for the parcel that is proposed for development. The report shall comply with the requirements stated in the Environmental Features Evaluation Policy Manual, which is adopted separately by resolution.~~

(e)

~~*Set-aside.* A set-aside of no more than ten percent of the total parcel area, in addition to areas required by Code or law for building setbacks from property lines, landscaping, parking, and stormwater management, or buffers required for surface waters and wetlands, heritage tree preservation, and utilities, may be required to enable the clustering of development on the parcel away from significant ecological features on the parcel. The exact amount and location of property to be set aside shall be determined by the appropriate reviewing board, city manager or designee on a site specific basis and~~

shall be based on objective criteria that the ecological feature(s) on the parcel require additional protection to remain ecologically viable, or to restore ecological function in addition to the intensity, density and design of the proposed development.

After an assessment of the significant environmental feature(s) on the parcel, the appropriate reviewing board, city manager or designee shall apply the following criteria to determine if the aforesaid set-aside is necessary so that the natural communities, ecological processes, species and water quality are protected.

Criteria:

- (1) The vulnerability of the significant environmental feature(s) on the parcel;
- (2) The rarity of the significant environmental feature(s) on the parcel;
- (3) The connectivity related to the significant environmental feature(s) on the parcel;
- (4) The completeness of the significant environmental feature(s) on the parcel; and
- (5) The manageability of the significant environmental feature(s) on the parcel.

(f)

Heritage trees. A plan shall be prepared by the applicant for review and approval by the appropriate reviewing board, city manager or designee that will protect a majority of the high-value heritage trees on the property. High-value heritage trees are defined as those native species that are not Laurel Oaks, Water Oak, Sweetgum, Loblolly Pine, Slash Pine or Sugarberry. Development proposals that call for the removal of more than 50 percent of the high-value Heritage trees on the property shall mitigate the loss of said trees by preserving smaller than heritage size, high-value trees existing on the property. The total of diameter inches of high-value heritage trees destroyed shall be mitigated by preserving an equal number of diameter inches of smaller high-value trees. To protect the environmental features of the site, the plan shall provide for tree protection zones that are at least one foot in diameter for each inch of diameter at breast height of the tree. These barriers must meet the requirements of section 30-255.

(g)

Surface waters. In order to protect water quality, setbacks larger than those required in section 30-302 may be necessary. The criteria provided in subsection (e) above shall apply.

(h)

Protection of sinkholes and other rare natural communities. Sinkholes are ecologically valuable in that they provide a rapid means for water to flow from the surface to underground aquifers and because sinkholes often provide different temperature and moisture conditions from surrounding areas so support a distinct natural community of plants and animals, many of which are rare or endangered. For these reasons, it is in the interest of the community to protect sinkholes. Sinkholes and other rare natural communities, as ranked by the Florida Natural Areas Inventory as G1/S1, G2/S2, or G3/S3, found on the property and deemed worthy of protection, based on the following criteria and as recommended by the city manager or designee or appropriate reviewing board, shall not be filled or otherwise disturbed.

(1)

Criteria to identify ecologically valuable sinkholes:

a.

Documented occurrence of one or more sinkhole indicator species (see list below). Current or past existence of sinkhole-dependent species indicates that the environmental conditions capable of supporting a distinct sinkhole community are likely to exist at the site.

b.

Steep sides with areas of exposed, shaded limestone. Species that are dependent on sinkholes typically thrive in cooler, moister microhabitats that occur on shaded portions of sinkhole walls. Many sinkhole-associated plants grow directly on the limestone substrate, so exposed limestone is important.

c.

Intact vegetation surrounding the sinkhole. Natural vegetation surrounding the sinkhole acts as a buffer by intercepting rainfall, thereby reducing erosion of the sinkhole walls. In addition, the shade provided by surrounding vegetation may increase the likelihood that the sinkhole provides the temperature and moisture conditions required by sinkhole-dependent species.

d.

Limited human disturbance (such as dumping or erosion) to the sinkhole.

e.

Limited paving or development adjacent to or upslope from the sinkhole.

f.

Low likelihood of agricultural runoff into the sinkhole based on the surrounding environment.

g.

Open or rocky bottom in sinkhole. This indicates that there is little possibility for water to be filtered by passage through soil before entering underground aquifers.

(2)

Species associated with sinkholes and documented in Alachua County:

Animals		
Species	Common name	Status
<i>Desmognathus auriculatus</i>	Southern dusky salamander	
Plants		
Species	Common name	Status
<i>Adiantum capillus-venerus</i>	Venus' hair fern	
<i>Adiantum tenerum</i>	Brittle maidenhair	E
<i>Asplenium monanthes</i>	Single-sorus spleenwort	E
<i>Asplenium pumilum</i>	Dwarf spleenwort	E
<i>Asplenium verocundum</i>	Modest spleenwort	E
<i>Asplenium x curtissii</i>	Curtiss' spleenwort	
<i>Asplenium x heteroresiliens</i>	Morzenti's spleenwort	
<i>Blechnum occidentale</i>	Hammock fern	E
<i>Thelypteris reptans</i>	Creeping star hair fern	E

E = listed as endangered by the State of Florida

(f)

Clustering away from environmentally significant features

(1)

Single-family residential flexibility. To improve protection of significant ecological communities, single-family residential development may cluster as provided in section 30-190.

(2)

Non-single-family flexibility. Development that is not single-family residential development may be planned to reduce any required setbacks (except for setbacks from surface waters as provided herein), street widths, parking, or landscaping requirements if, in the opinion of the city manager or designee, or appropriate reviewing board, such reductions are necessary to improve protection of significant ecological communities through clustering away from such communities. This provision does not permit or allow any violation of any applicable code or change to the existing land use or zoning of the property.

(f)

~~*Administrative remedy.* Any property owner who believes that a specific decision of the appropriate reviewing board, city manager, or designee, rendered under this section has resulted in a taking of the property in violation of law, or is otherwise entitled to compensation under law, shall file an appeal within 30 days of the decision with the clerk of the commission. The city commission shall hear the appeal within 60 days of filing the appeal unless an extension is timely filed, in writing, by the property owner with the clerk of the commission. In this event, the property owner shall be automatically granted a 60-day extension. At the hearing before the city commission, the property owner has the burden to show how or in what respect the specific decision results in a taking or other remedy entitling the owner to payment of compensation under the law. In support of such appeal, the property owner shall submit any plans for the development of the property and show how or in what respect the specific decision results in a taking or other entitlement to payment of compensation to the owner. Additionally, the property owner shall submit, at least 30 days prior to the hearing, a bona fide, valid appraisal that supports the appeal and demonstrates the loss of fair market value to the property. The city shall have an opportunity to rebut any evidence offered by the property owner. At the conclusion, the city commission shall have the power to grant relief and to overturn any specific decision in order to avoid a taking of the property or the payment of compensation to the owner. The action of the city commission shall constitute final administrative action under this section.~~

~~(Ord. No. 3777, § 1, 6-10-92; Ord. No. 3911, § 10, 10-4-93; Ord. No. 960060, § 24, 6-8-98; Ord. No. 020967, § 1, 11-8-04)~~

Sec. 30-309.1. Rezoning to significant ecological communities district.

(a)

~~*Criteria used to evaluate parcels for rezoning.* The following criteria are used by the city to evaluate the appropriateness of imposing this overlay district on properties:~~

~~Size of parcel;~~

~~Number of viable FNAI natural communities found at parcel;~~

~~FNAI natural communities state rank;~~

~~Condition of ecological processes found at parcel;~~

~~Typical species found at parcel (based on Guide to Natural Communities in FL);~~

~~Invasive, non-native species found at parcel;~~

~~Connectedness of parcel;~~

~~Water quality protection provided by parcel;~~

~~Listed species found at parcel;~~

~~Potential listed species that could be found at parcel; and~~

~~Management potential of parcel.~~

(b)

~~*Exclusion from rezoning criteria.* Should the owner believe that the property should not be rezoned to this classification, the property owner has the burden of demonstrating to the city commission, at the time of rezoning, that at least four of the following seven criteria do not exist on the parcel:~~

~~Rarity or exemplary;~~

~~Vulnerability;~~

~~High water quality (either through recharge, surface waters or wetlands);~~

~~Connectedness;~~

~~Viability (with most ecological processes intact);~~

~~Manageability; and~~

~~Nature-oriented human use potential.~~

(e)

~~*Notification.* Should the city decide, based upon the criteria stated in subsection (a), to rezone a property for inclusion on the significant ecological communities district map, the city will notify the property owner(s) by letter that their property may be affected by these regulations and will initiate a petition to rezone the property within this district.~~

~~*(Ord. No. 020697, § 2, 11-8-04)*~~