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*City of  
Gainesville*

Inter-Office Communication

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**TO:** City Plan Board

**DATE:** June 19, 2003

**FROM:** Planning Division Staff

**SUBJECT:** Petition 95TCH-02 PB. City Plan Board. Amend the City of Gainesville Land Development Code, Article VIII (Environmental Management) to implement adopted Gainesville Comprehensive Plan requirements for street trees, wetlands and surface waters.

**Recommendation**

Planning Division staff recommends approval of Petition 95TCH-02 PB.

**Explanation**

This petition was heard by the City Plan Board on October 17, 2002, and following public hearing, the Plan Board voted to continue the petition. Since that date, a challenge to the adopted Conservation, Open Space and Groundwater Recharge Element was filed and subsequently withdrawn, and the adopted comprehensive plan element took effect on April 8, 2003.

The Conservation, Open Space and Groundwater Recharge Element of the updated and adopted City of Gainesville 2000-2010 Comprehensive Plan made changes to street tree planting requirements with respect to species diversity, changes to buffer requirements for lakes, established minimum buffer requirements for wetlands (buffer requirements for wetlands were previously only in the Land Development Code), and established various policies with respect to offsite mitigation for wetlands that may be impacted by development. With respect to wetland mitigation, the adopted comprehensive plan has changed from a 'no net loss of wetland acreage and function on the subject property' modus operandi to one in which mitigation, in those cases where it could be approved only after meeting numerous applicable local and state regulatory requirements, including a public interest test, may occur off-site, and must be within the same sub-basin and basin unless it is demonstrated that the mitigation outside the sub-basin is more appropriate.

The proposed revisions (except for subsequent and mostly minor changes by staff) to the wetlands and surface waters regulations were developed by the Ad Hoc Committee on Wetland and Creek Regulations and presented to the City Commission on June 3, 2002. The April 26, 2002 transmittal letter (*Attachment A*) from the City Commission-appointed Ad Hoc Committee explains the overall recommendations of this then-existent committee.

The updated land development regulations, if approved, will implement the many new or substantially revised comprehensive plan policies regarding wetlands, several revised policies regarding creeks and lakes, and one revised policy regarding street trees. The proposed regulations end the general exemption in Sec. 30-304(a)(8) for stormwater management facilities, and establish criteria in Sec. 30-304(a)(9) that stormwater management facilities must meet before they can be exempted from the minimum buffer requirements for wetlands. The staff-proposed changes to Sections 30-304(a)(8) and (9) are needed to address deficiencies in current requirements for stormwater management facilities. Also proposed by staff is revision of Sec. 30-301(a)(1) to include creeks and lakes that are not currently delineated on the map entitled "Surface Waters and Wetlands District". Updated definitions for Sec. 30-23 are also proposed, as is elimination of Sec. 30-300 *Definitions*, which contains one outdated definition and one limited definition that is fully covered by the definition of development in Sec. 30-23.

The pertinent comprehensive plan policies are listed in the next section of this staff report (see "Consistency with the Goals, Objectives and Policies of the Comprehensive Plan"). The proposed land development regulations are attached (*Attachment B*). Also attached are two maps from the comprehensive plan: "Creeks, Lakes and Wetlands" is an adopted map in the Future Land Use Element; and the map entitled "Wetland Mitigation Basins" is from the Data & Analysis section of the Conservation, Open Space and Groundwater Recharge Element, and it delineates the four drainage basins in which approved wetland mitigation may be located.

(Note: The adopted comprehensive plan (Policy 1.1.5 of the Conservation Element) also requires the City to work with local, regional and state environmental agencies (including Alachua County and the St. Johns and Suwannee River Water Management Districts) to develop basin management plans that identify wetlands of special concern, disturbed wetlands, and appropriate sites for mitigation, but amendment of the Land Development Code is not needed to implement this requirement.)

#### **Consistency with the Goals, Objectives and Policies of the Comprehensive Plan**

The proposed revisions to the Code are consistent with the following goals, objectives and policies of the Conservation, Open Space and Groundwater Recharge Element:

##### **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 At a minimum the following standards and guidelines shall be used to protect environmentally sensitive resources identified in the Environmentally Significant Land and Resources map series within the Future Land Use Map Series. The City shall develop and adopt land development regulations that establish criteria for expansion of the minimum standards addressed below.
  - a. Creeks: Between 35 and 150 feet from the break in slope at the top of the bank, there is a rebuttable presumption that development is detrimental to the regulated creek. Development must conform to applicable provisions of the land development regulations which prohibit development within a minimum of 35 feet of the break in slope at the top of the bank of any regulated creek.
  - b. Wetlands: Developments containing wetlands must avoid loss of function or degradation of wetland habitat and/or wetland hydrology as the highest priority. Degradation or loss of function that is unavoidable shall be minimized, and the applicant must demonstrate that the project is clearly in the public interest, with final administrative approval by the city commission on appeal, if necessary. The City shall develop and implement land development regulations that at a minimum:
    1. Establish criteria that are at least consistent with the relevant criteria of Section 373.414(1), F.S. for determining whether the project is clearly in the public interest.
    2. Establish mitigation ratios for wetland preservation, enhancement, restoration and creation. The mitigation ratios shall be at least 5:1 (acreage of mitigation area to impacted area) for impacts to natural wetlands or wetlands created as part of a mitigation project; and shall be at least 1:1 for impacts to created wetlands (e.g., livestock watering ponds, borrow pits, drainage ditches, etc.) that were not created as part of a mitigation project. Should there be irreconcilable differences between the mitigation required by the City and that required by the state (water management district or FDEP), then the mitigation requirements of the state will prevail where there are irreconcilable differences.
    3. Wetland creation is presumed to be the least desirable mitigation strategy.
    4. Establish bonding, long-term monitoring and enforceable long-term maintenance requirements for wetland mitigation projects to ensure that all the negative impacts have been mitigated. Monitoring should be reviewed by the Alachua County Environmental Protection Department, the appropriate water management district, the University of Florida, or other appropriate monitoring agency or reviewing entity, with regulatory fees paid by the

permitted applicant. The mitigation plan must be approved prior to the initiation of the project.

5. Require off-site mitigation to be performed within the same sub-basin and basin (the basins are depicted on the map entitled Wetland Mitigation Basins that is on file with the Community Development Department and is in the Data & Analysis section of this comprehensive plan element) 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 established in the land development regulations (LDRs).-
6. Require that development shall not cause hydrological or wetland impacts off-site;
7. A minimum buffer distance of 35 ft. and an average buffer distance of 50 feet shall be required between the landward extent of any wetland or surface water and the developed area. Larger buffers may be warranted. The criteria for buffer expansion will be developed in the land development regulations;
8. Specify that the protections for wetlands shall be extended to all wetlands delineated in accordance with Section 62-340, F.A.C., regardless of whether they are currently mapped by the City of Gainesville;
9. Require review and approval of wetland mitigation projects by qualified professionals.
10. Outstanding Florida Waters, as listed in Section 62-302.700, F.A.C., shall have a minimum buffer of 200 feet. The City shall develop and implement land development regulations that establish appropriate setbacks for wetlands containing listed plant or animal species. Where these distance requirements preclude all economic development of a parcel, exceptions can be made upon approval by a majority of the city commission and with appropriate mitigation of wetland loss.
11. Wetlands damaged on or subsequent to the effective date of this policy shall either be restored to their original function and condition prior to such damage, at the owner's expense or mitigated for, pursuant to the mitigation requirements of this comprehensive plan element.

c. Lakes: Developments containing or adjacent to a natural lake (or lakes) must not adversely impact the condition of the lake. Dredge and fill shall be prohibited. Development shall be prohibited within 75 feet of the landward extent of a lake.

- d. Wellfields: Development must be consistent with Policies 2.3.2 and 2.3.3 of this Element.
- e. Major Natural Groundwater Recharge Areas: Development within this area must be consistent with Policies 2.3.3 and 2.3.5 of this Element.
- f. Upland Areas: Developments within an area identified as Upland must submit an ecological inventory of the parcel. Based on the inventory, development may be allowed on up to the maximum of 75 percent of the parcel.

1.1.2 The City shall use the environmentally significant properties inventory/ranking report to identify viable populations of native plant and animal species, environmentally significant areas, and unique geological or historic features that should be preserved, and show connectivity with other public lands and environmentally significant areas that should be maintained.

1.1.3 The City shall keep in force land development regulations that require new developments to dedicate land and easements, within federal constitutional guidelines, particularly for the creation of buffers along and around surface waters and natural reservations and to facilitate the development of greenways and other open space.

1.1.4 The City shall allocate a minimum of \$300,000 per year for the purchase and/or management of environmentally significant open space and of active and passive recreation sites.

1.1.5 The City shall work with local, regional and state environmental agencies (including Alachua County and the St. Johns and Suwannee River Water Management Districts) to develop basin management plans, which shall identify wetlands of special concern, disturbed wetlands, and appropriate sites for mitigation. The plans shall also consider those factors affecting the structure and functions of wetlands.

## **Goal 2**

**Mitigate the effects of growth and development on environmental resources.**

### **Objective 2.1**

Upon adoption of this Plan, existing levels of wetland acreage and functions within the listed basins (shown on the map entitled Wetland Mitigation Basins that is on file with the Community Development Department and is in the Data & Analysis section of this comprehensive plan element) shall be maintained to the extent feasible through the year 2010.

## Policies

- 2.1.1 The City shall continue to update, augment and maintain an inventory of wetlands, and adopt land development regulations designed to conserve wetland acreage and preserve natural functions within the listed basins (shown on the map entitled Wetland Mitigation Basins that is on file with the Community Development Department and is in the Data & Analysis section of this comprehensive plan element). When wetlands are unavoidably lost to development, mandatory mitigation shall be required to ensure no net loss of acreage and functions occurs. Mitigation location protocol shall follow Policy 1.1.1 b.5.
- 2.1.2 Each basin management plan shall include, if technically and scientifically justifiable, the creation of one or more local mitigation banks or offsite regional mitigation areas in accordance with Section 373.4135, F.S.
- 2.4.6 The City shall continue to have land development regulations for environmentally significant wetlands, lakes and regulated creeks that require:
  - a. Setbacks from regulated creeks, lakes and wetlands;
  - b. Prohibition of development that would cause erosion and sediment pollution to regulated creeks, lakes and wetlands;
  - c. No net increase in the rate of runoff from development sites adjacent to regulated creeks, lakes and wetlands;
  - d. Retention or detention of the first inch of runoff of developments adjacent to regulated creeks, lakes and wetlands, through on-site filtration;
  - e. Retention of vegetation integral to the ecological value of regulated creeks, lakes and wetlands;
  - f. Compliance with the City's adopted criteria for controlling sediment and erosion;
  - g. Allowance of a transfer of development intensity and density from lower to higher elevations of a site; and
  - h. Prohibition on the installation of all septic tanks.
- 3.1.2 The City shall adopt land development regulations for new development that require the following:
  - c. Species diversity in new plantings (no more than 50 percent of any one genus on any site plan except those within airport flight paths, or except for street tree plantings, which, on a given street should be uniform with respect to genus, size