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City of Gainesville
Significant Ecological Communities Protection Strategy
DRAFT Framework
March 20, 2009

INTRODUCTION

In 2000, the City Commission directed staff to consider additional environmental regulations to protect significant environmental features on remaining undeveloped parcels within the city. Staff evaluated all vacant parcels over 2 acres and ranked them ecologically from Low to Outstanding. The results of this study were presented in the 2001 Environmental Resources Report. In 2004, the Commission adopted code to create a Significant Ecological Communities (SEC) Overlay District, which requires additional environmental review and setbacks on High or Outstanding parcels that are rezoned into the district.

However, to date, only a handful of parcels have been rezoned into the District, and the City's methodology has come under legal challenge. The SEC Overlay District is not successfully achieving the Commissions' goal of protecting sensitive environmental features. The City's current SEC Overlay approach needs to be modified for the following reasons:

1. The environmental evaluations done for the 2001 Environmental Resource Report are not "competent and substantial evidence" as required to rezone properties into the Overlay District.
2. Parcels were evaluated in groups, but rezoning based on these evaluations has been challenged because aggregation of parcels is not addressed in the current SEC Overlay Ordinance (Chapter 30, Section 30-309).
3. The code language allowing a property to be excluded from the Overlay may place an unreasonable burden on landowners by requiring them to prove a subjective criterion does not exist on their property.
4. The current ordinance is not clearly written.
5. Significant ecological features may occur on properties not ranked as high or outstanding. These features receive no additional protection under the current ordinance.

Also, existing City land development code identifies environmental features that require specific set-backs or buffers, but additional environmental features are not adequately protected and should be added to City code (Table 1). Upon examination of current City codes, County codes, and procedures, the SEC Protection Committee recommends the following strategy.

RECOMMENDATION

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The SEC Protection Committee recommends a two-tiered strategy to protect significant ecological communities and features.

Tier 1: Parcels in County designated strategic ecosystems and annexed into the City

These are parcels annexed into the City of Gainesville (COG) and located within designated Alachua County strategic ecosystem boundaries (Figure 1). Given that the County's strategic ecosystem regulations are based on a published, accepted, and defensible environmental report, the City should adopt generally similar code requirements to maintain the integrity of the designated ecosystems.

Development within County strategic ecosystem boundaries would require an environmental assessment report, a management plan, and additional setbacks (Table 1), unless otherwise deemed unnecessary through City staff review. These protections would apply only to this tier of properties. Since strategic ecosystems are already designated in County regulations, property owners are familiar with these methods and regulations, furthermore, the County's strategic ecosystems are located in rural rather than urban areas. For these reasons it is anticipated that adoption of requirements generally similar to the County's will be most effective for resource protection as well as public support for future annexation of these areas.

Tier 2: All other parcels in the City

These are properties that are already within COG limits or that are annexed into COG limits but not within designated County strategic ecosystem boundaries (Figure 1). Protections for these properties will be applied on a parcel by parcel basis as landowners file for development permits. The existing city permit review process will remain with the addition of the revised list of protected features in Table 1 to the land development code. The additional setbacks, management plan, and environmental assessment report required for Tier 1 parcels will not apply to these properties. However, if during the application review process, City staff identifies significant environmental features, than an environmental assessment could be required.

A brief description of how the process will work is as follows:

1. **Parcels in County designated strategic ecosystems and annexed into the City:**
 - a. The developer must submit a development permit application as per the City's revised land development code (Table 1).
 - b. City staff will review the permit application with assistance from Nature Operations Division (NOD) staff if requested.
 - c. City staff will screen the parcel for protected features using GIS.
 - d. City staff will ground truth the parcel for significant environmental features.

- e. The developer will submit an environmental assessment report accompanied by a management plan as prepared by an environmental professional, unless otherwise deemed unnecessary by City staff review.
- f. City staff will review the environmental assessment report and management plan for accuracy and provide any development limitations in written comments to the developer and discuss as necessary.

2. All other parcels in the City:

- a. The developer will submit a site plan with their development permit application as per the City's revised land development code.
- b. City staff will review the permit with assistance from NOD staff if requested.
- c. City staff will screen the parcel for protected features using GIS.
- d. City staff will ground truth the parcel for significant environmental features to verify the submitted site plan. If significant environmental features are found, a formal environmental assessment may be required.
- e. The developer will provide a revised permit application if necessary.
- f. Any development limitations will be provided in written comments to the developer and discussed as necessary.

SCHEDULE

The following steps will be taken if the recommendation is accepted to ensure that a new strategy will be implemented in a timely fashion. If the recommendation is not accepted, this schedule will need to be adjusted to account for the additional steps as previously outlined.

- 1. NOD staff will review and revise the strategy and the list of protected features as well as the standards of protection necessary (i.e. set-backs, buffer limits, etc.). (December 2008) – completed
- 2. The Committee will review the County's strategic ecosystem approach and modify City code to be generally similar as necessary to suit the City's needs. (December 18, 2008) – completed
- 3. The revised strategy and list of protected features will be discussed by the Committee and a final draft will be agreed upon. (December 22, 2008 – January 5, 2009) – completed
- 4. The final draft of the strategy will be provided to the City Attorney for comment. (January 5, 2009) – completed
- 5. The subcommittee will meet with the City Manager to discuss the strategy and revise as necessary. (January 8-9, 2009) – completed
- 6. The strategy will be discussed with selected stakeholders. (January 12-March 20, 2009) – in-progress
- 7. Staff will present the final version of the strategy to the CDC. (February 23-26, 2009) – completed
- 8. The subcommittee will revise the final draft of the strategy as necessary based on all comments/suggestions. (March, 2009) – in-progress

9. Staff will present the final version of the strategy at the City Commission meeting for approval. (April 16, 2009)
10. Staff will prepare the final approved version of the strategy based on CDC and Commission comments/approval. NOD staff will coordinate with Planning Department staff to finalize the revisions to the land development code (April/May 2009)
11. Planning Department staff will prepare a petition to the Plan Board to incorporate the strategy and new list of protected features into the city's land development code. (May/June 2009)
12. The Plan Board petition that will revise City Code will be submitted to the Commission for approval. (June/July 2009)

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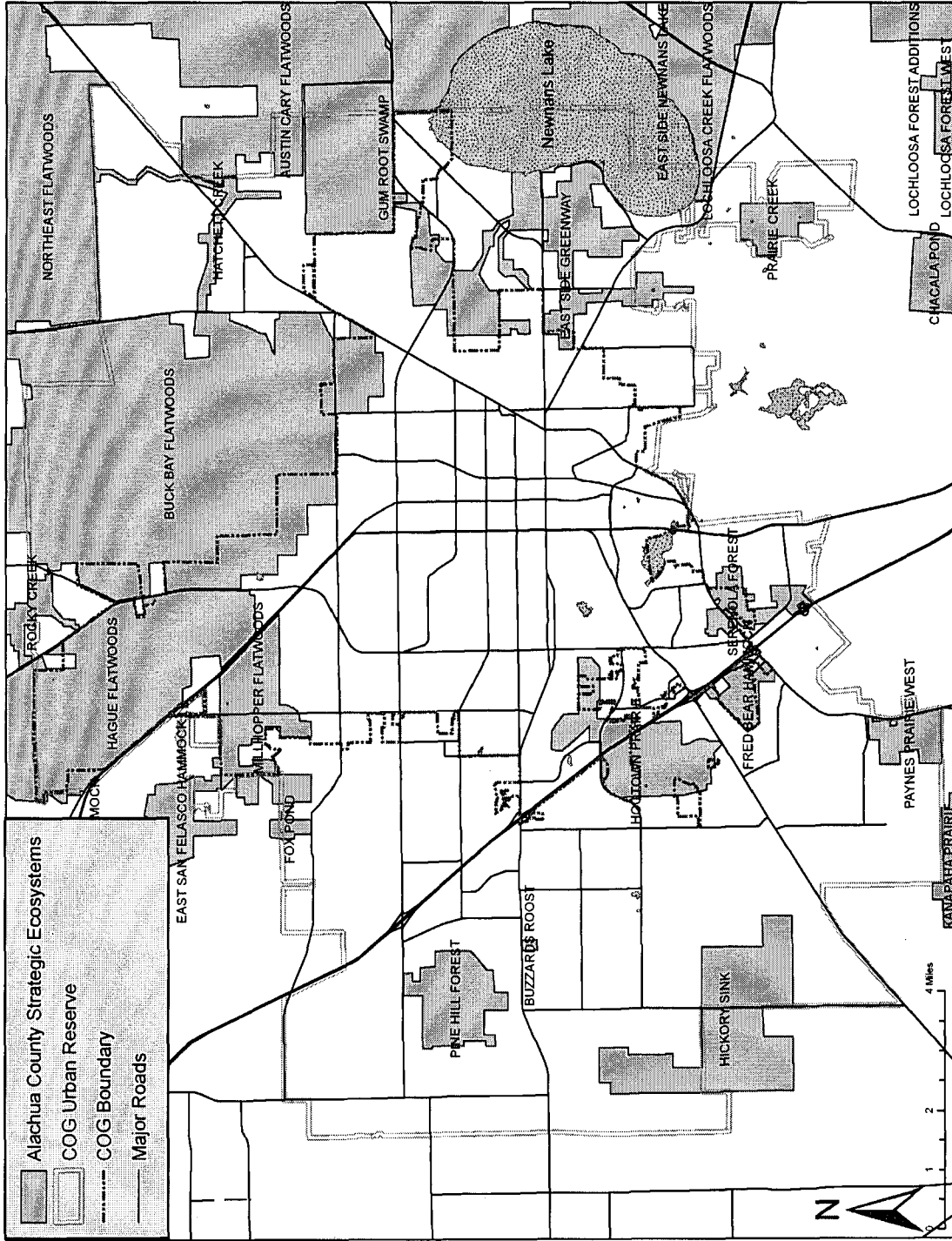


Figure 1. Alachua County Strategic Ecosystems in and around the City of Gainesville.

Table 1. Current City and County environmental regulations with recommended revisions to the City of Gainesville Land Development Code. Sources of information are from Alachua County Chapter 406-Unified Land Development Code and City of Gainesville Chapter 30-Land and Development Code.

Alachua County Regulations	City of Gainesville Regulations	COG Recommended Revisions
<p>§406.04: Requires assessment of natural and historic resources for all proposals with potential adverse impact to those features.</p>	<p>No assessment required, unless parcel is in Significant Ecological Communities overlay zoning district (§30-309) or is in area identified as Upland on Environmentally Significant Land and Resources map series (Policy 1.1.1 f, Conservation, Open Space and Groundwater Recharge Element, comprehensive plan).</p>	<p>An environmental assessment would be required of Tier 1 properties only. Environmental assessments of Tier 2 properties could be required based on staff review of protected features.</p>
<p>§§406.09—406.16: Trees and Native Vegetation. Landscaping regulations are in ch. 407. Not examined in detail.</p>	<p>§§30-251—30-266: Landscaping and Tree Management. Includes landscaping regulations corresponding to §§407.40—407.49 of county code. Tree Advisory Board is currently recommending revisions. Not examined in detail.</p>	<p>Score: Equal to the County's This would remain the same.</p>
<p>§§406.17—406.23: Significant Plant and Wildlife Habitat. Defined in ch. 410 as "Contiguous stands of natural upland plant communities which have been documented to support, and which have the potential to maintain, healthy and diverse populations of plants or wildlife." County or applicant must evaluate all parcels ≥ 2 acres for presence. Set-aside: up to 25% of upland area of parcel, permanently protected in Conservation Management Area (§§406.95—406.105).</p>	<p>Not currently defined in code. Possibly protected in Significant Ecological Communities overlay district (§30-309) says "number of viable FNAI natural communities found at parcel," "FNAI natural communities state rank," "condition of ecological processes found at parcel," and "typical species found at parcel" are bases for rezoning to the overlay district, and §30-309 says "sinkholes and other rare natural communities, as ranked by the Florida Natural Areas Inventory as G1/S1, G2/S2 or G3/S3...shall not be filled or otherwise disturbed." Set-aside: up to 10% of uplands not in other required buffers or setbacks.</p>	<p>Score: unknown Significant Plant and Wildlife Habitat. Defined as "Contiguous stands of natural upland plant communities which have been documented to support, and which have the potential to maintain, healthy, and diverse populations of plants or wildlife. Significant habitats are those that are ranked as S1, S2, or S3 by FNAI." Evaluation of a 50 foot buffer around all parcels ≥ 2 acres for presence. Evaluation of all parcels ≥ 2 acres for presence. Set-aside: up to 25% of uplands not in other required buffers or setbacks <i>Notation: Criteria will be further developed to determine the up to amount and to help guide the protection location. Criteria may be based on, but not limited to, connectivity of habitat, patch size, disturbance, and exotic species. The intention is to protect large, connected patches of habitat.</i></p>

Score: Equal to the County's protection

Alachua County Regulations	City of Gainesville Regulations	COG Recommended Revisions
<p>§§406.24—406.31: Listed Plant and Animal Species Habitat. Ch. 410 defines “listed species” as “Those species of plants and animals listed as endangered, threatened, rare, or species of special concern by an official state or federal plant or wildlife agency, or the Florida Natural Areas Inventory (FNAI), includes species ranked as S1, S2, or S3.” County or applicant must evaluate all parcels ≥ 2 acres for presence. Set-aside: up to 25% of upland area of parcel, permanently protected in Conservation Management Area (§§406.95—406.105).</p> <p>§§406.32—406.39: Strategic Ecosystems. Adopts KBN/Golder 1996 report and map for boundaries, but specific location must be determined by ground-truthing. Requires assessment report as in §406.04 with 3 additional items. County reviews, determines whether Special Area Study is needed. Set-aside: up to 50% of upland area of parcel (presumably in Conservation Management Area) including other required buffers, with minimum density allowed in parts of strategic ecosystem outside set-aside.</p>	<p>Not currently defined in code. Possibly protected in Significant Ecological Communities overlay district: §30-309.1 says “listed species found at parcel” and “potential listed species that could be found at parcel” are bases for rezoning to the overlay district. Set-aside: up to 10% of uplands not in other required buffers or setbacks.</p> <p>Not currently defined in code. Two items are broadly similar: (1) Significant Ecological Communities overlay district, §309 and 30-309.1, requires a report and a set-aside of up to 10% of uplands not in other required buffers or setbacks. (2) Policy 1.1.1 Conservation, Open Space and Groundwater Recharge Element, comprehensive plan, says developments within an area identified as Upland [in the Environmentally Sensitive Lands and Resources map series] 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.”</p>	<p>Listed Plant and Animal Species. Defined as “Those species of plants and animals listed as endangered, threatened, or species of special concern by an official state or federal plant or wildlife agency.” Evaluation of all parcels for presence. Set-aside: up to 25% of uplands not in other required buffers or setbacks <i>Notation: Criteria will be further developed to determine the up to amount and to help guide the protection location. Criteria may be based on, but not limited to, listed species present, habitat needs of present species for breeding, nesting, and foraging, and habitat connectivity. The intention is to protect connected areas of habitat for the listed species.</i> Score: Equal to the County’s Strategic Ecosystems. Applies to Tier 1 properties only. Adopt the KBN/Golder 1996 report and map for designated Alachua County strategic ecosystems. Specific parcels will be determined by ground-truthing upon annexation and development permit requests. An environmental assessment will be required to accompany the development permit application. Set-aside: up to 49% of uplands not in other required buffers or setbacks. <i>Notation: Criteria will be further developed to determine the up to amount and to help guide the protection location. Criteria may be based on, but not limited to, type of habitat, condition of habitat, diversity of habitat/species, geological features present, ground/surface water protection, connectivity, and habitat patch size. The intention is to protect larger patches of quality habitat and their connectivity to preserve natural ecosystem functions while allowing some development. The location will be determined by an analysis of the quality and functions of the habitats within the proposed development area.</i> Score: 1% Less than the County’s so as not to have a “take” of the property</p>

Alachua County Regulations	City of Gainesville Regulations	COG Recommended Revisions
<p>§§406.40—406.51: Surface Waters and Wetlands. Requires natural resource assessment for all parcels that include surface waters and wetlands. County verifies jurisdictional lines or accepts state-approved lines. Set-aside: feature itself plus upland buffers that are determined case by case, from 50' average for wetlands < 0.5 acre to 150' for Outstanding Florida Waters. Many wetlands will have 75' buffer. Surface waters, wetlands, and buffers permanently protected in Conservation Management Area (§§406.95—406.105). Mitigation permitted in some restricted circumstances (4 criteria in §406.47(a)). Some exemptions.</p>	<p>§§30-301—30-304: Surface Waters and Wetlands District. Defines regulated creeks and lakes as those on a map plus others that are “waters in the state,” and regulated wetlands as all those delineated according to state rule. Set-aside: feature itself plus upland buffer. Buffers: for creeks, 35’—150’ from “break in slope at the top of the bank”; for lakes, 75’ from landward extent; for wetlands, 50’ average, 35’ minimum; for Outstanding Florida Waters, 200’ minimum. Mitigation allowed under some circumstances less restrictive than county). Some exemptions.</p>	<p>This would remain the same.</p> <p>Score: Less than the County’s because wide buffers are impractical in an urban area and these protections are the minimum expected to give long-term protection.</p>
<p>§§406.52—406.57: 100-year Floodplains. Not examined in detail.</p> <p>§§406.58—406.59: High Aquifer Recharge Areas. Defined as “areas... where stream-to-sink surface water basins occur, and areas where the Floridan aquifer system is designated as unconfined or semi-confined.” County is revising this definition now. Prohibits certain uses involving hazardous materials in these areas and requires certain design standards for stormwater basins.</p>	<p>§§30-280—30-293: Flood Control District. Not examined in detail.</p> <p>Not currently defined in code. Possibly protected in Significant Ecological Communities overlay district: §30-309.1 says “waters... protection provided by...” is a... for rezoning to the overlay district, and §30-309.2 defines “high water quality” as “a parcel contributing to aquifer recharge.” Set-aside: up to 10% of uplands not in other setback or buffers.</p>	<p>This would remain the same.</p> <p>Score: unknown</p> <p>High Aquifer Recharge Areas. Defined as “areas... where stream-to-sink surface water basins occur, and areas where the Floridan aquifer system is designated as unconfined or semi-confined.” Prohibit use of hazardous materials in these areas and require stormwater basin design standards. Set-aside: up to 10% of adjacent uplands not in other buffers or setbacks</p> <p><i>Notation: Criteria will be further developed to determine the up to amount. Criteria may be based on, but not limited to, type of habitat, quality of habitat, diversity of habitat, type of recharge area, quality of recharge area, and type of soils. The intention is to protect the water quality that enters the recharge areas.</i></p> <p>Score: Greater than the County’s</p>
<p>§§406.60—406.65: Wellfield Protection. Defines three protection zones for public wellfields and adopts Murphree wellfield protection zones in ch. 355. Prohibits certain uses in primary, secondary, and tertiary protection zones. Incorporates state standards for protection of other public, limited use, and private wells.</p>	<p>§30-305: Wellfield District. Adopts county requirements for Murphree well field and prohibits new septic tanks in commercial, institutional and industrial districts in primary and secondary protection zone.</p>	<p>This would remain the same.</p> <p>Score: Equal to the County’s</p>

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<p>§§406.76—406.79: Historic Structures and Sites. Not examined in detail.</p>	<p>§30-112: Historic preservation/conservation. Not examined in detail.</p>	<p>This would remain the same.</p>
<p>§§406.80—406.84: Archaeological Resources. Not examined in detail.</p>	<p>§30-112: Historic preservation/conservation. Not examined in detail.</p>	<p>Score: unknown This would remain the same.</p>
<p>§§406.85—406.88: Paleontological Resources. Defines significant resources as including “scientifically significant fossil finds, as well as those resources determined to be significant in the field,” but excludes some common fossils like isolated sharks’ teeth. Encourages notifying County Manager or Florida Museum of Natural History of finds during construction so that Museum personnel will investigate “in a manner that minimizes disruption to the construction activity.”</p>	<p>Not currently defined in code.</p>	<p>Score: unknown Archaeological and Paleontological Resources. Defined as “Scientifically significant artifacts and fossils of pre-Columbian dating, excluding common fossils such as isolated sharks’ teeth.” Will follow state requirements as necessary and encourage the landowner to notify the State of Florida Department of Historical Resources and submit the find to their database.</p>
<p>§§406.89—406.94: Significant Geological Features. Defined as including “point source features such as sinkholes, caves, and limestone outcrops; lineal features such as lineaments, ridges, escarpments, and springs; and areal features such as steep slopes and springheds.” Set-aside: feature itself plus buffer. Buffers: for sinkholes, 50’ average, 35’ minimum from outermost closed contour; for caves, lineaments, ridges, and escarpments, 75’ average, 50’ minimum from outermost contour; for springs and significant geological features within springheds, 150’ average, 100’ minimum from outermost contour. Features (and buffers?) preserved in Conservation Management Areas (§§406.95—406.105). Mitigation allowed in some circumstances.</p>	<p>Not currently defined in code. “Ecologically valuable sinkholes” are protected in Significant Ecological Communities overlay district. Set-aside: Sinkhole itself; up to 10% of uplands outside of other setbacks and buffers.</p>	<p>Score: Equal to the County’s Significant Geological Features. Defined as “a point source feature such as a sinkhole, cave, and springhead as well as a linear feature such as a spring-run.” Set-aside: feature itself plus buffer. Buffers: sinkholes = 50’ average, 35’ minimum from outermost closed contour caves = 75’ average, 50’ minimum from outermost closed contour springheads and spring-runs = 150’ average, 100’ minimum from outermost closed contour</p>
		<p>Score: Equal to the County’s</p>

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<p>§§406.106—406.109: Preservation Management Areas. Applies provisions of ch. 406 to natural and historic resources in public and private preservation area. Adopts provisions of §405.33 for land within 660' of preservation areas. Set-aside: buffer at least 100' from preservation-area boundary.</p>	<p>§30-307: Nature Park District. Sets limits on building and lighting height in parcels adjacent to nature parks.</p>	<p>Nature Park District. Defined as "City of Gainesville owned lands that are listed in the City Code of Ordinances Chapter 18, Section 18-18(b)." Buffer: 25' minimum left in a natural condition. Developer must install and maintain a 6' black vinyl, chain-link fence between the park and the development. Limitations on building and lighting height within 400' as currently indicated in code. Score: Less than the County's, but other limitations are greater</p>
<p>§406.110: Requires a management plan for all development applications involving properties with 4 or more acres of regulated natural or historic resources, and maybe for properties with less than 4 acres if impact is proposed.</p>	<p>No management plan required for any project.</p>	<p>A management plan would be required of Tier 1 properties only, which would be included with the environmental assessment that will accompany the development permit application. Management plans of Tier 2 properties could be required based on staff review or environmental assessment of protected features. Score: Equal to the County's This would remain the same.</p>
<p>Heritage and Champion Trees. Covered in §§406.09—406.16: Trees and Native Vegetation. Landscaping regulations are in ch. 407. Not examined in detail.</p>	<p>Heritage and Champion Trees. Protections consistent with Chapter 30, Section 30-257 and 30-258.</p>	<p>Score: unknown This would remain the same.</p>
<p>Outstanding Florida Waters. Covered in §§406.40—406.51: Surface Waters and Wetlands. Requires assessment for all parcels. County verifies jurisdictional lines or accepts state approved lines. Set-aside: feature itself plus upland buffers from 50' average for wetlands < 0.5 acre to 150' for Outstanding Florida Waters. Many wetlands will have 75' buffer. Surface waters, wetlands, and buffers permanently protected in Conservation Management Area (§§406.95—406.105). Mitigation permitted in some restricted circumstances. Some exemptions.</p>	<p>Outstanding Florida Waters. Buffer: 200 feet in accordance with Chapter 30, Section 30-302(c).</p>	<p>Score: Greater than the County's This would remain the same.</p>
<p>Floodplains and Flood Channels. Covered in §§406.52—406.57: 100-year Floodplains. Not examined in detail.</p>	<p>Floodplains and Flood Channels. Protections consistent with Chapter 30, Section 30-280 to 30-293.</p>	<p>Score: unknown</p>