

LEGISLATIVE #

110076E

Exhibit 3:

**Land Development Code amendments for Natural and Archaeological
Resource Protection**
City of Gainesville

Sec. 30-23. Definitions - is amended by adding new definitions and revising existing definitions as follows:

Archaeological site means a property or location which has yielded or may yield information on the City's history or prehistory, as generally evidenced by the presence of archeological resources.

Archaeological resources mean physical evidences of past human activity, as well as evidences of the effects of that activity on the environment, including but not limited to: monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned watercraft, engineering works, treasure troves, artifacts, or other sites, landforms, properties, objects or features with intrinsic archaeological value. Generally, this term applies to physical evidences equal to, or greater than, 50 years in age.

Bona fide agriculture and/or silviculture, means the good faith commercial agricultural and/or silvicultural use of the land determined by utilizing the factors outlined in Section 193.461, Florida Statutes.

Conservation easement means a legally enforceable land preservation agreement between a landowner and a charitable corporation, trust, or a governmental body or agency, as set forth in Section 704.06, Florida Statutes.

Conservation management area means those areas of land that will be set-aside, in perpetuity, for the protection of regulated natural or archaeological resources in order to fulfill obligations as set forth in Chapter 30.

Ecological integrity means the condition of an ecosystem whereby its natural communities and physical environments remain substantially intact, and key ecosystem processes such as nutrient cycles, succession, water levels and flow patterns, and the dynamics of sediment erosion and deposition, are functioning properly within the natural range of variability.

Ecological value means the value of functions performed by an ecosystem. These functions provide the habitat requirements for living organisms, support biological populations, and sustain species diversity.

Ecosystem means a dynamic complex of plant, animal, and micro-organism communities and their non-living environment that interacts as a functional unit.

Floridan aquifer high recharge areas mean those geographic areas where the Floridan aquifer system is vulnerable to degradation from stormwater runoff, or to contamination from land uses involved in the handling or storage of hazardous materials. These areas include stream to sink surface water basins, or areas that exceed 12 inches of aquifer recharge per year in the St. Johns River Water Management District, or have moderate to high recharge potential in the Suwannee River Water Management District, as depicted on the Floridan Aquifer Recharge Map in the Future Land Use Map Series of the City's Comprehensive Plan, or the Updated Floridan Aquifer Recharge Map in the GIS Map Library located at the Planning website, whichever is the more current.

Florida Natural Areas Inventory is a non-profit organization administered by Florida State University, dedicated to gathering, interpreting, and disseminating information critical to the conservation of Florida's biological diversity. Funding is provided through contracts and grants, which include work for the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, and other state and federal agencies.

FNAI Guide means the Florida Natural Areas Inventory (FNAI) Guide to the Natural Communities of Florida: 2010 edition, or most recent edition as updated. The Florida Natural Areas Inventory is a non-profit organization administered by Florida State University. The Inventory was founded in 1981 as a member of The Nature Conservancy's international network of natural heritage programs. The FNAI Guide identifies and describes natural community classification groups based on a combination of landscape position, vegetation, and hydrology.

Habitat means the physical and biological surroundings of an organism, with appropriate levels of the resources needed by a species for survival and/or reproduction.

Listed species means those species of plants and animals listed by federal or Florida law as endangered, threatened, or a species of special concern; and those species ranked as S1, S2, or S3 (all S3 plants; and only S3 animals that are breeding/nesting) by the Florida Natural Areas Inventory (FNAI).

Native plants mean all plant life that persists and reproduces in Florida without the influence of humans and that are thought to have been present in the region prior to A.D. 1500 (year of first documented European contact).

Natural community means a distinct and recurring assemblage of populations of plants, animals, fungi and microorganisms naturally associated with each other and their physical environment. For the purposes of this code, classification and nomenclature for natural communities shall follow the FNAI Guide. Natural communities do not include altered landcover types which are listed in Appendix 2 of the FNAI Guide.

Natural resources means the biological, physical, geological and hydrological components of the environment in the City of Gainesville.

Nature parks and public conservation/preservation areas means a publicly owned park which primarily provides resource-based recreation or environmental conservation. Refer to the park

~~inventory in the recreation element of the city comprehensive plan.~~ means those lands owned and managed by the City of Gainesville for the protection, preservation, and/or conservation of natural communities, as well as any other public park, preserve, or conservation areas, or the portion of those parks, preserves, or conservation areas, that are established to preserve natural communities. Nature parks and public conservation/preservation areas are shown in the Nature Parks and Public Conservation/Preservation Areas District Map that is maintained by the City's Planning and Development Services Department.

Planning parcel means a land area within the City's limits made up of the parcel on which development or alteration is proposed, and all contiguous parcels within the City's limits, under common ownership or control as of the date of application submittal. Common ownership or control means the contiguous parcels that are owned by the owner/applicant or by entities owned or controlled by the owner/applicant.

Regulated natural or archeological resource means any of the following: significant natural communities, listed species, strategic ecosystems, Floridan aquifer high recharge areas, significant archaeological resources, and significant geological resource features. Surface Waters and Wetlands, and Regulated trees, including Champion and Heritage Trees, are specifically excluded as they are regulated under separate provisions of this Code.

Significant adverse impact means direct contamination, alteration, or destruction, or that which contributes to the contamination, alteration, or destruction of a natural resource, or portion thereof, to the degree that its environmental benefits are or will be eliminated, reduced or impaired, such that the activity will cause long-term negative impacts on the natural resource.

Significant archaeological resources means those archaeological resources that are listed, or are eligible for listing, on the National Register of Historic Places.

Significant geological resources features means geological features which include, but are not limited to: point source features such as sinkholes, caves, spring heads, and limestone outcrops; lineal features such as lineaments, ridges, escarpments, and spring runs; and areal features such as steep slopes and springsheds.

Significant natural community means a natural community that exhibits ecological integrity, may be rare or provide functional connectedness within the landscape context, and can be maintained through appropriate management such as prescribed burning or alternate vegetation management methods, control and removal of exotic species, or hydrologic restoration. Significant natural communities often provide habitat for one or more rare plant and animal species, or contribute to the habitat requirements for animal species with large home ranges, or for migratory or colonial nesting species. Significant natural communities are those that are ranked as S1, S2, or S3 by the Florida Natural Areas Inventory (FNAI), as well as qualifying areas of natural communities (FNAI Guide) which are otherwise documented to exhibit the characteristics and functional values described above.

Silviculture means a process, following best management practices and/or accepted forest management principles, whereby the trees constituting forests are tended, harvested, and

reproduced.

Sinkhole means a funnel-shaped depression in the land surface, generally in a limestone region, caused by solution processes and often resulting in connection(s) with subterranean passages and groundwater systems.

Spring means water discharged as natural leakage or overflow from an aquifer through a natural opening in the ground. The term spring shall include karst windows, which are depression openings that reveal portions of a subterranean flow or the unroofed portion of a cave. It shall also include spring runs, whose flow is predominantly composed of spring discharge.

Springshed or spring recharge basin means those areas within ground and surface water basins that contribute to the discharge of a spring.

Steep slope means any ground surface having a slope greater than or equal to five percent.

Strategic ecosystems means the 47 ecosystem areas identified within the City of Gainesville and Alachua County, Florida, which were evaluated, described, and ranked in the KBN/Golder Associates Report, "Alachua County Ecological Inventory Project" (1996). Strategic ecosystems are generally larger natural resource areas that are intact, capable of restoration, and that require conservation or management to maintain reserves of biodiversity at the landscape, natural community, and species-specific level(s).

Surface water, designated means all regulated creeks, lakes, rivers, streams, springs, impoundments, wetlands and all other waters or bodies of water found on land surface generally delineated on the map entitled "Surface Waters and Wetlands District", and on file with the city department of planning and development services, the public works department and the clerk of the commission, as well as all other creeks and lakes ~~for which a federal, state, regional, or local agency asserts regulatory jurisdiction.~~ that are "surface waters" as defined in F.S. 373.019(19).

Upland, designated means ~~uplands delineated on the map entitled, "Map Displaying Uplands of Gainesville, Florida, regulated by Chapter 30, article VIII of the Gainesville Code," and on file with the city department of planning and development services and the clerk's office.~~

Uplands means all **land** areas that are neither wetlands nor surface waters.

Wetlands have the meaning as ascribed in ~~F.A.C. Rule 62.340.200(19)~~ F.S. 373.019(25). Wetlands means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and, under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress

domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

Wildlife corridor means a habitat linkage along which wide-ranging animals can travel, plants can propagate, genetic interchange can occur, and populations can move in response to environmental changes and natural disasters.

DIVISION 1. - GENERALLY

Sec. 30-250. - Purpose; objectives; environmental review.

~~(e) — *Environmental review.*~~

~~(1) — *Scope of review.* Consistent with the purpose and objectives of this section, the following types of applications shall be reviewed to determine whether the proposed development impacts an environmental feature of concern (defined below) and if so, whether the proposed development complies with the comprehensive plan, the Land Development Code and other applicable law with respect to environmental features of concern:~~

- ~~a. — Comprehensive plan amendments (including large scale and small scale development activity);~~
- ~~b. — Rezoning and amendments to zoning ordinances;~~
- ~~c. — Development plans (including minor plan, minor plan II, intermediate plan and major plan);~~
- ~~d. — Subdivisions/plats;~~
- ~~e. — Special use permits;~~
- ~~f. — Commercial tree removal permits; and~~
- ~~g. — Other development applications, including without limitation, special exceptions and variances.~~

~~For purposes of this section, environmental feature of concern shall mean any of the following: surface waters on site or adjacent; wetlands on site or adjacent; high aquifer recharge areas on site; significant ecological communities on site; listed species that are known or probably occur on site; karst features (caves, springs, sinkholes) known on site; other significant geological features on site; and significant uplands on site. Regulated trees, including Champion and Heritage Trees, are specifically excluded as they are regulated under division 2 of this article.~~

~~(2) *Reviewing authority.* The city manager or designee is authorized to conduct all environmental reviews pursuant to this section.~~

~~(3) *Level of review.* The level of environmental review shall be classified as follows:~~

a.—*Basic review.* All applications shall undergo basic review. Basic review shall consist of determining, from available data sources and site visits (where necessary), the potential presence of any environmental feature of concern. If the basic review indicates the presence of any environmental feature of concern, then a Level 1 review is required.

b.—*Level 1 review.* Level 1 review shall consist of more detailed review of the project data and the potential impacts identified in the basic review, including coordination with appropriate regulatory agencies, site visits and recommendation of modifications to the development proposal in order to avoid or minimize impacts to any environmental feature of concern. If during environmental review it is determined that a mitigation plan for impacts to environmental features of concern is required, then a Level 2 review is required.

c.—*Level 2 review.* Level 2 review shall consist of extensive review of the potential environmental impacts, including coordination with appropriate regulatory agencies, recommendation of modifications to the development proposal in order to avoid and minimize potential impacts; and review of and comment on the mitigation plan to address remaining impacts.

(4)———*Review report.* Upon reviewing an application, the reviewing authority shall issue a written report that describes: the scope of the review conducted; the presence (or absence) of environmental features of concern; whether the proposed development complies with the comprehensive plan, the Land Development Code and other applicable law with respect to the environmental features of concern; the potential (or actual) impacts that the development will have on the environmental features of concern and the reviewing authority's recommendations to address the impacts.

(5)———*Review fees.* The fees for all reviews pursuant to this Section shall be as established and set forth in Appendix A, Schedule of Fees, Rates and Charges. The fee will cover up to three reviews within a two-year period for the same project. By way of example, a single project that is required to undergo Basic and Level 1 reviews due to three applications filed within a two-year period for a PD rezoning, a special use permit and a development plan will be charged one Level 1 review fee, not three Level 1 review fees. The fees shall be paid within five city working days of the date of written notice from the city that a Level 1 or Level 2 review is required. Failure to timely pay the review fees shall result in the application being deemed incomplete and returned to the applicant.

30-307. Nature park **and public conservation/preservation areas** district.

(a) *Application and administration.*

- (1) *Adoption of nature park and public conservation/preservation areas district.* The nature park and public conservation/preservation areas district is delineated on the map entitled “~~Map Displaying Public Nature Park Buffer Areas of Gainesville, Florida, Regulated by Article VIII of the Gainesville Code,~~” “Nature Parks and Public Conservation/Preservation Areas District Map” on file with the planning and development services department and the clerk’s office.

(2) *Applicability.* All areas within 400 feet of the boundary of a designated nature park and public conservation/preservation area are regulated pursuant to the provisions of this section.

(3) *Requirements and procedures.*

- a. *Development plan requirements.* Refer to Article VII, pertaining to development plan review process.
- b. *Building and lighting height limit.*
1. Maximum building height: 35 feet.
 2. Maximum lighting height: 45 feet.
 3. Maximum transmitter tower height: 80 feet.
- c. *Exterior lighting control.* All exterior lighting shall be shielded or directed away from the park. No exterior lighting shall cause illumination in excess of four-tenths footcandle measured at the park boundary. Buildings shall not be externally illuminated on the faces fronting the park, except that exterior lighting of building entrances, exits or loading docks is permitted. Downlights shall be used for area lighting instead of full globe lights or any similar type of light which illuminates in all directions.
- d. *Stormwater control.* Refer to ~~sub~~section 30-270(b) (2)d.
- e. *On-site transfer of development intensity and density.* In order to protect nature parks and public conservation/preservation areas, development intensity and density for building areas may be transferred from areas near the park to areas remote from the park within the same property or adjacent property under same ownership and zoning category.
- f. *Buffer/Fencing.* In order to avoid encroachment by invasive exotic plants, pets, livestock and fowl, and yard or trash debris, new development on parcels larger than 2 acres or new subdivisions must leave a buffer at least 25 feet in width extending from the boundary of the nature park and public conservation/preservation area to be left in a generally undisturbed native plant condition. Buffers must be maintained as common open space and not part of

lots. As an alternative, in lieu of providing the buffer, and where sufficient justification is presented, new development adjacent to a nature park and public conservation/preservation area may be required to install and maintain a fence along the property boundary, as determined at the time of development review, between the nature park and public conservation/preservation area and the development area.

- (b) *Expansion or alteration of existing uses.*
- (1) Whenever expansion of an existing structure, independently or cumulatively, accomplished after June 10, 1992, totals 2,000 square feet, or more than (20 percent of the gross square footage of the existing structure, whichever is less, the entire site shall be brought into compliance with this section. For the purposes of this subsection, repeated expansions or alterations of property, including the construction or erection of separate buildings or accessory structures, constructed over a period of time commencing after November 21, 1983, which meet the above threshold, shall comply with the provisions of this section.
 - (2) Any new use of property which alters the use of existing structures from a residential use to a nonresidential use, or any use of property which alters the use of property from one use to any other use, shall be required to meet all applicable requirements of this section. The city manager's designee shall determine the applicable requirements based on the character and orientation of the proposed mixed use development. For purposes of this subsection, nonresidential use shall mean any office, commercial, public, semipublic, institutional or industrial use, including motels and hotels.

~~(c) *Exemption.* Developments greater than 400 feet from the boundary of a designated nature park are exempt from the requirements of this section.~~

DIVISION 4. REGULATED NATURAL AND ARCHEOLOGICAL RESOURCES.

30-310. Generally.

(a) *Purpose and intent.* Natural and archeological resources within and around the City of Gainesville provide environmental and social benefits and functions, such as water quality improvement, flood storage and attenuation, erosion control, biological diversity, and groundwater recharge, along with recreational, aesthetic and educational opportunities for people. It is the purpose and intent of this section to:

- (1) Protect, conserve and restore natural and archaeological resources, and their environmental functions, which are of aesthetic, ecological, economic, educational, historical, recreational, or scientific value to the city and its citizens;

(2) Preserve the ecological values and functions of significant natural communities, in order to maintain and enhance the diversity and distribution of native plant and animal species, especially for species listed for protection by state and federal agencies;

(3) Conserve, enhance, and manage the ecological integrity of natural systems that have aesthetic, ecological, economic, educational, historical, recreational, or scientific value due to the interrelationships within the ecosystem and its natural communities, and among the populations of species within the communities;

(4) Promote connectivity and minimize fragmentation of natural systems, and to protect wetlands, floodplains, and associated uplands in a broad systems context through resource-based planning across multiple parcels rather than by individual parcel;

(5) Provide a greater degree of protection for Strategic Ecosystem resource areas in recognition that the larger resource areas within Strategic Ecosystems provide the broadest range of benefits, functions, and values listed above;

(6) Provide protection for Floridan aquifer high recharge areas, and for **archaeological and geological resources**, which are significant due to the interrelationships of natural or cultural resource values, characteristics, or due to unique hazards or vulnerabilities posed by developed land uses;

(7) Avoid loss or degradation of such benefits and functions, to minimize unavoidable degradation or loss of benefits and functions and to require sustainable mitigation that fully offsets any unavoidable loss or degradation of such benefits and functions; and

(8) Ensure that development activities that cause the unavoidable degradation or loss of benefits or functions provided by these resources are clearly in the public interest before approval of same.

(b) It is unlawful for any person to adversely impact any natural and archeological resource regulated under this chapter without first obtaining the required natural and archeological resources review and approval in accordance with these regulations. In addition to the protections indentified in these sections or pursuant to this code, there may be other regulations within the City of Gainesville Code of Ordinances and the Alachua County Code that are applicable, including but not limited to:

(1) Water quality code – Chapter 77, Alachua County Code

(2) Hazardous materials management code – Chapter 353, Alachua County Code

(3) Wellfield protection zone – City Land Development Code

(4) Surface waters and wetlands – City Land Development Code

(5) Landscape and tree management – City Land Development Code

(6) Historic preservation/conservation – City Land Development Code

(7) Stormwater management. – City Land Development Code

(c) Scope of review. The following types of applications shall be reviewed to determine whether proposed development impacts a regulated natural or archeological resource (defined in Sec. 30-23) and if so, whether the proposed development complies with the comprehensive plan, the Land Development Code and other applicable law with respect to regulated natural and archaeological resources:

(1) Future land use map amendments for parcels, excluding changes to Planned Use District (PUD), requires Basic Review only;

(2) Rezoning and amendments to rezoning ordinances, except for Planned Development (PD) rezoning, requires Basic Review only;

(3) Future land use map amendment to Planned Use District;

(4) Rezoning to Planned Development (PD);

(5) Development plans (including minor plan, minor plan II, intermediate plan and major plan);

(6) Subdivisions/plats;

(7) Special use permits; and

(8) Other development applications, excluding building permits, including but not limited to, special exceptions and variances.

(d) Methodology Agreement. A binding methodology agreement specifying the boundary of the planning parcel; boundary of proposed development; boundary of the geographic study area for resource assessment (if less than the full planning parcel); and the level of review shall be signed by the City and the owner/developer for all applications shown in (c)(1-8). The City Manager or designee may exempt applications from the Methodology Agreement requirement based on the following criteria:

(1) Size of parcel;

(2) Prior development of site;

(3) Exemptions shown in (e)(1-11);

(4) Amendments to the Future Land Use Map; and,

(5) Rezoning and amendment to rezoning ordinances.

(e) Exemptions: The following activities are exempt from review of impacts to regulated natural or archeological resources. Such activities may, however, require a permit or review under other applicable sections of the Land Development Code:

(1) Any parcel of record as of November 13, 1991, that is less than or equal to two (2) acres in size and does not include wholly or in part an archaeological site identified by a Florida Master Site file number, shall be exempt from compliance with the provisions of this ordinance.

(2) Ongoing bona fide agriculture and/or silviculture operations that are not part of an application listed in 30-310(c)(1-8) and that meet the provisions and criteria pursuant to F.S. Chapter 163.3162, the Agricultural Lands and Practices Act, or F.S. 823.14(6), the Right to Farm Act.

(3) Removal of invasive non-native vegetation on conservation lands. Projects for which a plan has been approved by a federal, state, or local agency or water management district for the removal of undesirable invasive or non-native vegetation on lands owned, controlled, or managed for conservation purposes, excluding vegetation in surface waters and wetlands.

(4) Vegetation in park land. Alteration of vegetation pursuant to an adopted management or restoration plan for government-maintained parks, recreation areas, wildlife management areas, conservation areas and preserves.

(5) Activities authorized by city-approved management plan. Activities consistent with a management plan adopted by, or reviewed and approved by the City of Gainesville, provided that the activities further the natural values and functions of the natural communities present. Examples of such activities include clearing firebreaks for prescribed burns or construction of fences.

(6) Existing utility installations, drainage or stormwater easements, and road right-of-way. Alteration of vegetation within an existing utility, drainage, or stormwater easement after installation, where the vegetation is interfering with services provided by a utility or alteration of vegetation within an existing road right-of-way for normal maintenance activities. Alteration associated with new construction, expansion of existing facilities, development activity at an existing site that extends beyond the existing easement area is not an exempt activity.

(7) Fencing and Firebreaks. The minimal removal of trees or understory necessary to construct a fence or wall, or to establish a firebreak, provided that:

- a. no regulated tree is removed.
- b. the path cleared for the fence does not exceed ten feet in width on either side.
- c. no equipment heavier than a one-ton pick-up truck is used.
- d. handheld outdoor power equipment or a standard farm tractor is used in clearing for the fence or installing the fence.
- e. no dredge or fill activity is required other than the installation of fence and wall materials, and
- f. navigational access will not be impaired by the construction.
- g. firebreaks established and maintained along each side of a fence or wall shall not exceed ten (10) feet in width, unless specified by an approved land management plan, by the local fire officer, or, if applicable, in Best Management Practices for Silviculture (2003), incorporated in Rule 51-

6.002, F.A.C.

(8) Survey or other required test. The necessary removal of vegetation by, or at the direction of, a State of Florida licensed professional surveyor and mapper, professional geologist, or professional engineer to conduct a survey or other required test, provided that no regulated tree is removed and the path cleared does not exceed ten (10) feet in width.

(9) Text Amendments. Text amendments to PD or PUD ordinances that are unrelated to development activity or location of development activity at the site, including items such as, but not limited to, changes in or additions of allowable uses, changes in the expiration dates, or changes in elevations or building facades.

(10) De minimis impact. Any development activity or application for development review that is of such low intensity as to have a de minimis impact on regulated natural and archaeological resources as determined by the City Manager or designee based on a professional review of the development site and application. This may include, but is not limited to, applications involving previously developed sites or small expansions at existing developed sites.

(11) Certain strategic ecosystems. Notwithstanding that a property is within, or partly within, a strategic ecosystem, it shall be exempt if any of the following apply:

- a. the property has County land use and zoning and will be reviewed under the County strategic ecosystems regulation; or
- b. the property has an active, approved development order or planned development ordinance as of the effective date of this ordinance.

(f) Levels of review. The level of resource review shall be classified as follows:

(1) Basic review. Unless exempt, all applications shown in (c)(1-8) shall undergo basic review. Basic review shall consist of determining, from available data sources and site visits (where necessary), the potential presence of any regulated natural or archaeological resource. If the Basic review indicates the presence of any regulated natural or archaeological resource, then a Level 1 review is required, except as provided in (c)(1) and (c)(2).

(2) Level 1 review. When the applicant has knowledge of the presence of any regulated natural or archaeological resource or if the basic review indicates the presence of any regulated natural or archaeological resource, then a Level 1 review is required and the applicant shall submit a written assessment of the natural and archaeological resources on the planning parcel. Level 1 review shall consist of a more detailed review of the project data and the potential impacts identified in the Basic review and as further identified in a natural resources assessment. Level 1 review may include, but is not limited to, coordination with appropriate regulatory agencies, site visits/ground-truthing and recommendation of modifications to the development proposal in order to avoid or

minimize impacts to any regulated natural or archaeological resource. If during review it is determined that a management plan for impacts to a regulated natural or archaeological resource is required or a mitigation plan is appropriate, then a Level 2 review is required.

(3) Level 2 review. Level 2 review shall consist of extensive review of the potential impacts, including coordination with appropriate regulatory agencies, recommendation of modifications to the development proposal in order to avoid and minimize potential impacts; review of and comment on the mitigation plan to address remaining impacts and review of the management plan.

(g) Staff Review. The city manager or designee is authorized to conduct all staff reviews pursuant to this section. The city manager or designee shall review and evaluate applications and resources assessments and make recommendations to the decision-making authority. Upon reviewing an application or resources assessment, the city manager or designee shall issue a written report that describes: the scope of the review conducted; the presence (or absence) of regulated natural or archaeological resources; the potential (or actual) impacts that the development will have on the regulated natural or archaeological resources; whether the proposed development is consistent with the Comprehensive Plan and complies with the Land Development Code and other applicable law with respect to the regulated natural or archaeological resources; appropriate site designs and strategies that maintain and protect the functions and values of the natural and archaeological resources recommendations to address the impacts. This written report may be issued in the form of technical review comments.

(h) Review fees. The fees for all reviews pursuant to this Section shall be as established and set forth in Appendix A, Schedule of Fees, Rates and Charges. The fee will cover up to three reviews within a two-year period for the same project. By way of example, a single project that is required to undergo Basic and Level 1 reviews due to three applications filed within a two-year period for a PD rezoning, a special use permit and a development plan will be charged one Level 1 review fee, not three Level 1 review fees. The fees shall be paid within five city working days of the date of written notice from the city that a Level 1 or Level 2 review is required. Failure to timely pay the review fees shall result in the application being deemed incomplete and returned to the applicant.

(i) Evaluation of planning parcel. The parcels involved in an application undergoing review to determine the presence of regulated natural and/or archaeological resources shall not be disaggregated, processed in piecemeal fashion, reviewed or developed in any manner that results in lesser natural resource protections than would otherwise be required if the planning parcel (as defined in section 30-23) was considered as part of the application. To this end, applications for parcels that contain, or potentially contain, regulated natural and/or archaeological resources shall include the following:

1. The applicant shall provide documentation identifying all properties within the City of Gainesville or other adjacent local government jurisdictions that are contiguous to the parcel being developed, and that are not separated by a public road, and that are under common ownership or control.

2. The applicant shall provide an assessment (commensurate with the requirements of Basic or Level 1 review) for the planning parcel prepared in accordance with the guidance and requirements set forth in Section 30-310.1.

3. Where regulated natural or archaeological resources are identified in the resources assessment, in order to proceed with development on the parcel, the applicant must demonstrate that developing the project on the parcel does not result in lesser protection of the regulated resources than would otherwise be required if the entire planning parcel were considered as part of the development proposal.

(j) *Limitations.* No more than 25% of the upland portion of a planning parcel may be required to be set aside for protection because it is significant natural community or listed species habitat. No more than 50% of the upland portion of a planning parcel may be required to be set aside for protection because it is strategic ecosystem. Upland areas required to be set aside pursuant to regulations for significant archaeological resources and significant geological resources and buffers of surface waters and wetlands may be counted in the calculation of the required set-aside area, however the extent of the set-aside area for protection of significant archaeological and significant geological resources and buffers of surface waters and wetlands shall not be reduced by this limitation.

30-310.1. Resources Assessment.

(a) A resources assessment, consistent with the Methodology Agreement specified in Section 30-310(d), shall be prepared by person(s) qualified in the appropriate fields of study, conducted according to professionally accepted standards, and based on data considered to be recent with respect to the resource.

(b) The assessment shall use and report professionally accepted scientific methodology specific for each natural and archaeological resource, in order to assess the actual and potential presence of natural and archaeological resources. The assessment shall include background research and analysis of available existing data, as well as ground-truthing and resource location by hand-held GPS, at a minimum accuracy of the sub-3 meter standard. Field surveys shall be conducted during the seasons, times of day, and field conditions under which each natural and archaeological resource characteristic would most likely be observed. If field surveys are not conducted, the city manager or designee may presume that the resource is present. The assessment shall include site-specific identification, mapping, and analysis of each natural and archaeological resource present on the site. Background research and analysis with aerial map review and ground-truthing of resources adjacent to, and up to 50 feet away from the site shall be required. However, this shall not require trespass on another owner's property. At a minimum, the following shall also be provided in the assessment:

(1) Cover letter and/or executive summary, including written explanation of the need and intent of the project, description of construction or alteration methodologies, and signed statement as to the likely presence of regulated natural or archaeological resources.

- (2) Maps of regulated natural and archaeological resources, drawn to scale, including a north arrow and scale, showing the following:
- a. Location of project site in relation to major roads or other readily identifiable landmarks, showing parcel boundaries with dimensions.
 - b. Existing roads, structures, wells, utilities, and other existing conditions and noteworthy features.
 - c. Identification of all regulated natural and archaeological resources, labeled by resource type.
 - d. General vegetation characteristics and quality.
 - e. General soil types.
 - f. Proposed location of protected conservation resources and open space.
 - g. Potential connections to existing green space, open space, trails, and adjacent preservation or conservation resources.
- (3) Data and analysis that includes assessment and evaluation of the following:
- a. Existing quality and characteristics of regulated natural or archaeological resources.
 - b. Impact of the proposal on each individual regulated natural and archaeological resource and on the ecosystems in which they function.
 - c. Proposed measures to protect regulated natural and archaeological resources, specifically addressing avoidance, minimization, or mitigation of impacts on regulated natural and archaeological resources.
 - d. Methods of stormwater pollution prevention.
- (4) Names, qualifications, and resumes of all personnel involved in the assessment, and their roles with respect to the assessment, shall be attached to the assessment as an addendum.
- (c) Additional data and analysis, as determined by the city manager or designee, may be required as appropriate to the complexity of the proposed activity and types of natural or archaeological resources identified. Such information may include but is not limited to:
- (1) Copies of historical and recent aerial photographs, topographic and other resource maps reviewed.

- (2) Land use and land cover classifications according to the Florida Land Use, Cover and Forms Classification System (FDOT), Florida Natural Areas Inventory (FNAI) Guide to the Natural Communities of Florida, or the Florida regional water management district systems.
- (3) Wetlands, surface waters, or 100-year floodplains identified by the National Wetlands Inventory, United States Geological Survey, Florida regional water management districts, Federal Emergency Management Agency, or the City Public Works Department.
- (4) Wildlife corridors, biodiversity hot spots, strategic habitat conservation areas, or element occurrences identified by the Florida Fish and Wildlife Conservation Commission, Florida Natural Areas Inventory, Florida Department of Environmental Protection, or North Central Florida Regional Planning Council.
- (5) Inventories of natural resources or archaeological sites within a planning parcel that includes additional lands under common ownership or control, or additional lands within a designated resource planning area.
- (6) For a proposal involving only a portion of a planning parcel, detailed assessments of areas more than 50 feet beyond the proposal boundary that are necessary to understand the scope of impact of proposed activities on areas not included in the proposal. However, this shall not require trespass on another owner's property.
- (7) A mitigation proposal, management plan, and/or monitoring plan, if applicable, pursuant to Section 30-310.4(c).
- (8) Field surveys of the natural communities and an inventory of the actual or potential presence of listed plant and animal species. The field survey shall be required prior to vegetation removal on any portion of a planning parcel where either direct or indirect impact to significant natural communities, listed species habitat, or strategic ecosystem is known or reasonably likely to occur. Applicants are encouraged to arrange a pre-application conference with City staff prior to undertaking a survey. The field survey shall be conducted as part of and in accordance with the requirements for a resources assessment and must also meet the following standards:
 - a. Non-destructive techniques designed to minimize disturbance of species shall be required, except where destructive or disruptive techniques (such as capture studies) are the preferred means to document species use given the size of the site and complexity of the resource.
 - b. The survey shall include detailed descriptions and maps indicating:
 1. Field methods, conditions, dates, times of day, observations and results.

2. Transect locations, where applicable.
3. Natural communities or habitats, including dominant species, as field checked across the site.
4. Representative color photographs taken at ground level.
5. Recent aerial photographs.
6. Actual and potential presence of listed plant and animal species, including indicators (sightings, signs, tracks, trails, rests, evidence of feeding, etc.), population estimates, and occupied habitat boundaries.
7. Professional opinions and conclusions regarding ecological value of the site.

c. The City shall be notified of the schedule for significant fieldwork and allowed the opportunity to observe or independently verify survey techniques. Results may be field verified by the City.

(9) Archaeological Surveys: Authorized investigations and reporting of archaeological resources shall, at a minimum, conform to Chapter 1A-46, Florida Administrative Code, and the provisions and standards contained in the "Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation," September 29, 1983, prepared under the authority of Sections 101(f), (g), and (h), and Section 110 of the National Historic Preservation Act of 1966, as amended. Maps of known archaeological sites are maintained by the Florida Department of State, Division of Historical Resources, Master Site File. Areas of known or probable archaeological resources have been modeled in Alachua County, "An Archaeological Survey of Unincorporated Alachua County, Florida" (Phase 1 and Phase 2), by Southeastern Archaeological Research, Inc., October 2001.

(10) Significant Natural Communities: The locations and general extent of natural communities and/or land cover types that potentially constitute significant natural communities have been mapped on a state-wide basis by public agencies and non-profit private organizations, available from the Florida Geographic Data Library.

a. The applicant and the City shall review and analyze applications using digital data sources, including but not limited to the following:

1. Florida Fish and Wildlife Conservation Commission maps of land cover, strategic habitat conservation areas, and biodiversity hot spots.
2. Florida Natural Areas Inventory maps of areas of potential conservation interest and element occurrences.

3. Water management district land cover maps.

4. Digital aerial photographic series.

b. Where map review indicates the likelihood of impact to significant natural communities, ground-truthing shall be used to identify the existence, scope and extent of the natural communities associated with the application. Significant natural communities shall be delineated based on consideration and assessment of at least the following factors:

1. Quality of native ecosystem.

2. Overall quality of biological diversity.

3. Wildlife habitat value.

4. Presence of listed species.

5. Proximity to other natural preserve areas and corridors.

6. Impact by prohibited and invasive non-native vegetation.

7. Habitat size that will support a viable population.

(11) Listed Species; Listed species include those species identified in 50 CFR 17.11 and 17.12, Endangered and Threatened Wildlife and Plants, F.A.C. 5B-40.0055, Regulated Plant Index, F.A.C. 68A-27, Rules Relating to Endangered or Threatened Species, and those identified as S1, S2, or S3 by the Florida Natural Areas Inventory. Descriptions of the natural communities or habitats with which these species are commonly associated are available in a variety of written and electronic formats.

a. The applicant and the City shall review and analyze applications using digital data sources, including but not limited to the following:

1. Florida Fish and Wildlife Conservation Commission maps of land cover, strategic habitat conservation areas, and biodiversity hot spots.

2. Florida Natural Areas Inventory maps of areas of potential conservation interest and element occurrences.

3. Water Management District land cover maps.

4. Digital aerial photographic series.

b. Where map review indicates the likelihood of listed species habitat, ground-

truthing shall be required in order to identify the existence, scope and extent of the listed species population(s) and habitats associated with the application. Listed species habitat shall be delineated based on consideration and assessment of at least the following factors:

1. Quality of native ecosystem.
2. Overall quality of biological diversity.
3. Habitat value.
4. Presence of listed species.
5. Location, density, and grouping characteristics of the listed species populations.
6. Proximity to other natural preserve areas and corridors.
7. Impact by prohibited and invasive non-native vegetation.
8. Habitat size that will support a viable population.

c. If the field survey identifies the presence of listed species or potentially occupied listed species habitat, the applicant shall submit a management plan to the City for review and approval that meets federal and state regulatory requirements for the species and affords appropriate protection of the listed species and its habitat(s). The management plan shall meet the requirements of Section 30-310.3(1) of this code. Where listed species are regulated by the state or federal government, the applicant shall submit to the City the state or federally approved habitat survey and associated management or mitigation plans prior to the issuance of a development order. The City shall consult and coordinate with other permitting agencies, as appropriate. All activities shall comply with applicable state and federal laws, regulations, performance standards, and management guidelines.

(12) Strategic Ecosystems: The specific location and extent of regulated strategic ecosystem resources shall be determined through ground-truthing using the KBN/Golder Associates report as a guide to determine the location and extent of the significant natural community or communities, or other natural resources, consistent with the pertinent site summary for the indicated areas as described in the KBN/Golder report. Those areas found not to contain regulated strategic ecosystem resources may be developed provided the ecological integrity of the strategic ecosystem as a whole will be sufficiently protected.

a. The following information shall be submitted with an application for

development within a strategic ecosystem.

1. All information required as part of a resources assessment:
2. General analysis of adjacent properties sufficient to provide resource context;
3. Ownership and use information, including parcel numbers and acreage, for all land under common ownership or control within the strategic ecosystem or contiguous to the proposed development site; and
4. All proposed protection and management strategies for the natural and archaeological resources on the site and on any properties under common ownership and control as identified in 3 above.

b. The City shall work with owners of agricultural and silvicultural lands to retain the ecological integrity and ecological value of strategic ecosystems through management plans and incentives. For bona-fide agricultural activities and/or silvicultural activities within strategic ecosystems, identification and verification of best management practices shall be required as specified as follows:

1. The most recent federal, state, and water management district best management practices (BMPs) shall be required, as applicable, for all agricultural and silvicultural activities including but not limited to the following:
 - i. Best Management Practices for Silviculture (2003), incorporated in Rule 5I-6.002, F.A.C., and available from the Florida Department of Agriculture and Consumer Services (FDACS).
 - ii. BMPs for Agrichemical Handling and Farm Equipment Maintenance (1998), published by FDACS and FDEP.
 - iii. Water Quality BMPs for Cow/Calf Operations (1999), published by the Florida Cattleman's Association.
 - iv. Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops (2005), available from FDACS.
 - v. Protecting Natural Wetlands: A Guide to Stormwater BMPs (1996), published by the U.S. EPA.

2. Where use of best management practices provides the basis for exemption to, or compliance with, any federal or state law or regulation, local regulation, code, or requirement, the owner or operator shall submit to the City a signed statement identifying and verifying the use of current

applicable best management practices. Alternatively, verification may be satisfied by participation in one or more of the following programs:

i. Non-silvicultural Activities: Notice of Intent filed with Department of Agriculture and Consumer Services as outlined in the Florida Administrative Code.

ii. Silvicultural Activities.

(a) Notice of Intent filed with Division of Forestry, as outlined in Rule 5I-6.004, Florida Administrative Code; or

(b) Certification by one of the following:

(1) Forest Stewardship Council;

(2) American Forest and Paper Association's Sustainable Forestry Initiative;

(3) American Forest Foundation's American Tree Farm System;

(4) Green Tag Forestry;

(5) Forest Stewardship Program; or

(c) Participation in one of the following cost-share programs:

(1) Conservation Reserve Program (CRP);

(2) Environmental Quality Incentives Program (EQIP);

(3) Wildlife Habitat Incentives Program (WHIP);

(4) Forest Land Enhancement Program (FLEP).

3. An agriculture/silviculture land use management plan shall be required before any agricultural or silvicultural activity occurs on land containing regulated strategic ecosystem resources that has not been used for bona-fide agriculture or silviculture within the last 20 years, in accordance with one of the following:

i. The agriculture/silviculture management plan shall provide for retention of the ecological integrity and value of the strategic ecosystem, and may include protection of resource areas through methods including but not limited to conservation easements or participation in a conservation program sponsored by the United States Department of Agriculture Natural Resources Conservation Service.

ii. The agriculture/silviculture management plan shall be submitted to the City of Gainesville for review and approval by

staff. Management plans not meeting the general template standards of this chapter will require review and approval through the development review process.

iii. The agriculture/silviculture management plan may be satisfied by any agricultural or silvicultural certification program's required management plan, provided it demonstrates that the ecological integrity and value of the strategic ecosystem resource is protected.

(13) Significant geological resource features: The purpose of management strategies for significant geological resource features is to protect water quality, hydrologic integrity, and ecological values associated with the feature and its hydrologic regime. Management strategies may include, but are not limited to, filling and development restrictions, buffers, runoff diversion, muck and debris removal, berm and weir construction, and filtration.

a. Sinkholes. Open sinkholes and sinkholes with stream inflow shall be identified and protected as conservation management areas in accordance with Section 310.3. The sinkhole shall be fully protected or restored as a natural area, and the applicant shall submit a plan that demonstrates the elimination of access and the restoration of the land to a natural condition, including stabilization of erosion channels, limiting drainage from non-natural areas, and restoration of buffer areas that have been disturbed. Where the applicant seeks to continue access or make improvements to existing access to a sinkhole, an applicant shall demonstrate the following in the management plan, or if access to the sinkhole is proposed after a management plan has been approved, a revised management plan must be submitted for review, demonstrating the following:

1. That there is a recreational or scientific benefit that the public derives from the retention or creation of access. If access exists, show that use of the area is such that closing the access would not be practical based on the current level of use.

2. That all sources of erosion or pollution within the sinkhole buffer and the sinkhole are mitigated to eliminate or reduce erosion and pollution to the lowest reasonable level.

3. That the access is the minimum needed to meet the needs. The route chosen shall be the least damaging and least vulnerable to erosion.

4. That a plan for the maintenance of the access, stormwater controls, waste collection, and landscaping has been submitted, approved by the City, and funded.

b. Other karst features and design considerations.

1. Closed depressions are areas where there is a significant probability that there are sand-filled sinkholes that have no surface indication. A professional geologic study may be required with the objective of locating any sinkholes that are not visible from the surface. If sinkholes are located, the study shall map all sinkholes and their buffers.

2. Where slopes greater than or equal to five percent are found adjacent to sinkholes and inflowing watercourses, existing vegetation shall be substantially retained to minimize erosion consistent with best management practices and surface water and wetland buffers. Development shall be designed to include retention of the natural character of watercourses, seepage slopes and buffers associated with significant geological features.

30-310.2. Regulation of Natural and Archeological Resources

If Basic and Level 1 review confirms the presence of a regulated natural or archaeological resource, then the planning parcel shall be further regulated as set forth in this section. The resources assessment report shall include the information listed in Section 30-310.1. Resources Assessment, and other information as specified in the Methodology Agreement, and be submitted to the City for approval prior to issuance of the development order. Density and/or intensity transfers within the planning parcel shall be allowed where set-asides for resource protection are required. In the instance where a regulated resource extends across a jurisdictional boundary with the county or another municipality, Section 30-310.2 shall only apply to the area within Gainesville city limits.

(a) Significant natural communities. This resource shall only be regulated on parcels greater than or equal to two (2) acres in size.

(1) On-site protection and set-aside limitations. Significant natural communities shall be preserved and protected on-site, as follows: A maximum of 25 percent of the uplands of a planning parcel shall be set-aside for protection of significant natural communities, unless the landowner provides consent for additional protection. The City shall work with the applicant to select that portion of the significant natural community or communities that will be included in the set-aside area, based on the limitations and factors identified in this code and the FNAI Guide. All uplands within listed species habitat areas, significant archaeological resource areas and/or significant geological resource features and associated buffers, and buffers of surface waters and wetlands, shall first be applied toward the 25 percent maximum.

(2) Alternatives to on-site protection. Alternatives to on-site protection of significant natural communities may be considered in the following circumstances:

a. When physical constraints of the parcel preclude maintenance of ecological integrity of preserved vegetation, given considerations as to size of the development site, habitat quality, connectivity, adjacent uses, and feasibility of management;

- b. When opportunities exist for long-term protection and management of significant natural communities of equal or greater habitat value than would have otherwise been protected; or
- c. When establishment of conservation management areas within a project would result in small, fragmented areas with limited ecological integrity and value compared to available alternatives.

(3) Standards for alternatives to on-site protection. If one or more of the circumstances identified above exists, an applicant may propose one or more of the following options, which shall be evaluated to determine whether the alternative provides better protection than on-site.

- a. The applicant may relocate existing vegetation to another portion of the site or establish a new area of native plants on another portion of the site, as part of an approved management plan; or
- b. The applicant may provide a conservation management area of at least two acres of comparable habitat area for every one acre of on-site significant habitat that would have otherwise required protection by this section; or
- c. An alternative mitigation plan or an alternative compliance plan as provided in this code, with establishment of a conservation management area and approved management plan, as applicable.

(b) Listed species

(1) On-site habitat protection and set-aside limitations. Listed species habitat shall be preserved and protected on-site, as follows: A maximum of 25 percent of the listed species habitat within uplands of a planning parcel shall be set aside for protection of listed species, unless the landowner provides consent for additional set-aside protection. The City shall work with the applicant to select that portion of the listed species habitat that will be included in the set-aside area, based on the limitations and factors identified in this code, recommendations of state or federal agencies with jurisdictional authority for the protection of listed species, and the FNAI Guide. All set-asides of upland areas within significant archaeological resources and/or significant geological resource features and buffers, and all buffers of surface waters and wetlands, shall be first applied in the calculation of the 25% maximum provided for the listed species set-aside.

(2) Alternatives to on-site habitat protection. Alternatives to on-site listed species habitat protection may be considered in the following circumstances:

- a. When scientific data demonstrates that on-site protection will not be conducive to the long-term health of the listed species or listed species habitat; or

- b. When evidence demonstrates that the protected habitat would be prohibitively difficult to manage adequately due to the management requirements of the habitat; or
- c. When protected areas would be less than the smallest minimum territorial requirements of identified species individuals, and cannot be connected with other protected areas which would result in sufficient territorial requirements; or
- d. When relocation of a listed species is recommended after consultation with the appropriate state or federal agency, provided that the listed species is relocated prior to any site modifications, in accordance with the city's development order and any authorizations required by a state or federal resource agency.

(3) Standards for alternatives to on-site habitat protection. If one or more of the circumstances identified above exists, an applicant may propose one of the following options, which shall be evaluated to determine whether the alternative provides better protection than on-site protection:

- a. For every one acre of on-site listed species habitat not protected, an off-site protection area shall provide two acres of comparable habitat as a conservation management area. The City may consider alternative mitigation proposals which provide equal or greater protection; or
- b. An alternative mitigation plan or an alternative compliance plan as provided in this code, with establishment of a conservation management area and approved management plan, as applicable.

(4) Special Design Standards. Development approval conditions may limit or preclude development of structures, impervious surfaces, and other uses within an appropriate distance of protected species and habitat, if necessary, for the continued viability of the listed species habitat as determined by State of Florida and federal standards if same exists, or by best professional practices based on species. Depending on the type of species, the following special design standards may be required adjacent to protected listed species habitat to minimize disturbance:

- a. A minimum setback of 25 feet from the protected listed species habitat may be required for construction activities. Clearing, grading, and filling may be prohibited within the setback area unless the applicant can demonstrate that vegetation within the protected area will not be damaged.
- b. Landscaping within required setbacks may require utilization of native plants that are compatible with existing native plant communities, soils, and climatic conditions.

- c. Habitat corridors may be required between protected habitat areas on-site, and between protected areas off-site, subject to the 25 percent set-aside limitation above.

(c) Strategic ecosystems.

(1) Evaluation of strategic ecosystems. These provisions apply to applications for planning parcels within or partly within the boundaries of a strategic ecosystem. The resources assessment shall evaluate whether the development proposal is sufficiently protective of the ecological integrity of the strategic ecosystem, and a finding shall be made by the City manager or designee as to whether the development proposal should be revised to sufficiently protect the strategic ecosystem resource in accordance with the provisions of this section. The specific location and extent of regulated strategic ecosystem resources shall be determined through ground-truthing using the KBN/Golder Associates report as a guide. The ground-truthing process shall be implemented as part of the development review process. Those portions of a planning parcel found not to contain regulated strategic ecosystem resources shall be eligible for development as part of a development plan, provided that the ecological integrity of the strategic ecosystem resources will be sufficiently protected. Transfer of density and intensity within the property to compensate for development use reductions caused by set-aside requirements shall be allowed. The following shall be considered in determining the location of the set-aside requirement for the strategic ecosystem resource:

- a. Features that define the strategic ecosystem;
- b. Areas critical for system connectivity, and significant natural community areas;
- c. Ability to implement and conduct management strategies;
- d. Protection and management of additional resources for all properties within the City's limits under common ownership and control within the strategic ecosystem; and
- e. If the planning parcel has a City land use or zoning designation, in whole or in part, of Conservation, the upland areas of the Conservation portion shall count toward meeting the strategic ecosystem set-aside requirements.

(2) Strategic ecosystem resources on less than 50 percent. Where the evaluated and delineated strategic ecosystem resource constitutes no more than 50 percent of the upland portion of the planning parcel, the entire delineated strategic ecosystem resource area shall be protected by set-aside.

(3) Strategic ecosystem resources on more than 50 percent. Where the evaluated and delineated strategic ecosystem resource constitutes more than 50 percent of the upland

portion of the planning parcel, development will be allowed subject to the following conditions:

- a. Mechanisms to coordinate management activities with adjacent resources in the strategic ecosystem shall be provided, and a management plan shall be required.
- b. Vegetation loss, grade change, and disturbance of the development site shall be minimized by careful site design fitted to the topography and soil; removal of vegetation shall be limited to only that necessary to develop the site.
- c. Access, infrastructure, stormwater management and utilities shall be sited with consideration to minimizing impacts across multiple properties, providing for wildfire mitigation, and maximizing opportunities for shared facilities such as common driveways, utility access, and building impact areas.
- d. The City shall work with the applicant to select that portion of the strategic ecosystem resources that will be included in the set-aside area, based on the provisions of this code. **However, no more than 50 percent of the upland portion of a planning parcel, may be required to be set-aside if it is within, or partly within, a strategic ecosystem unless the landowner provides consent.** No development or other adverse impact to the set-aside portion of the planning parcel shall be allowed, except where necessary to allow access where none is otherwise available. In such case, impact is allowed only in the least sensitive portion of the system and subject to mitigation requirements.
- e. Where impact is proposed in the remaining ground-truthed strategic ecosystem resource area outside the required set-aside, the following shall apply:
 - i. The applicant shall locate development on buildable area outside of the strategic ecosystem to the greatest extent practicable.
 - ii. Parcels, lots, building areas and driveways shall be configured to minimize overall impact to strategic ecosystem integrity.
 - iii. Subdivisions and non-residential development shall meet requirements for cluster subdivisions set forth in the Land Development Code, unless otherwise regulated by an adopted Planned Development ordinance.

(d) Floridan aquifer high recharge areas. The following requirements apply to development on parcels within Floridan aquifer high recharge areas to ensure both short and long-term protection

of the aquifer and groundwater resources

(1) Existing facilities that handle or store hazardous materials.

- a. Existing facilities shall meet the requirements of Alachua County's Hazardous Materials Management Code.
- b. Corrective action to retrofit or upgrade facilities that handle or store hazardous materials consistent with standards applicable to new facilities shall be required when existing facilities are proposed to be modified. Development review and permitting activities for modification/expansion of existing facilities shall include careful evaluation and implementation of engineering and management controls, setbacks and buffers, and monitoring.

(2) New facilities that handle or store hazardous materials. New development that involves handling or storing of hazardous materials may be prohibited in Floridan aquifer high recharge areas unless it can be demonstrated that the materials, in the quantity and/or solution stored or the conditions under which it is to be stored, do not pose a hazard to human health or the environment. If permitted, such activities shall be subject to the general requirements, siting prohibitions, storage facility standards, secondary containment and monitoring requirements contained in Alachua County's Hazardous Materials Management Code.

(e) Archaeological resources

(1) Generally. Except as otherwise expressly provided in this Section, no development activity involving ground disturbance shall occur on a property containing known or probable archaeological resources. Parcels identified as containing known or probable archaeological resources shall require site specific surveys and analyses for archaeological resources prepared in accordance with the standards referenced in this code.

(2) Standards for protection of archaeological resources. Development on parcels identified as containing known or probable archaeological resources shall be conditioned, based on recommendation from an archaeological resource-trained professional, to protect the resource, including but not limited to, insuring proper archaeological investigation prior to development and construction. Where appropriate, avoidance, minimization, and mitigation (Sec. 30-310.4) of adverse impacts on significant archaeological resources shall be required as appropriate to the scale and significance of the resource.

(3) The discovery of unmarked human remains or burials during development activity, or other activity, is governed by Sections 872.02 and 872.05, Florida Statutes.

(f) Significant geological resource features.

(1) Protection strategies. It is recognized that strategies for protection of significant geological resource features vary based on the unique characteristics of the resource and require specific tailoring to address diverse geometries, connections to surface water and ground water, habitat functions and values, and the dynamics of natural systems processes. Such strategies required by the City may include, but are not limited to, the following:

- a. Significant geological resource features shall be designated and protected as conservation management areas. Significant geological resource features that are capable of being managed on-site shall be identified on development proposals and protected during construction and after development.
- b. Features may be incorporated as aesthetic elements into the development project design.
- c. Natural topographic features may be retained through lot layout and infrastructure siting.
- d. Stormwater management facilities shall be located outside the immediate drainage area associated with sinkholes and other similar karst geological formations, where practicable; and be designed to avoid and minimize impacts of stormwater discharge to the resource area and its characteristic features. The drainage area is the local geographic area which contributes surface water runoff to the resource area, and the management objective is to limit impervious surfaces and design drainage systems so as to ensure that sediments or contaminated water do not reach the sinkhole, solution cavities, or other similar direct conduits to groundwater.
- e. Buffers. The buffer areas around sinkholes or other karst surficial features are intended to protect the resource and groundwater by providing areas where surface or subsurface flows are preserved or restored to a natural condition. Buffers shall be required around significant geologic resources in order to maintain natural context, edge vegetation, and structural protection. In the absence of scientific information which demonstrates that another buffer width is appropriate, the following default buffer widths shall be applied:
 - i. Sinkholes: an average of 50 feet, but no less than 35 feet away from the outermost closed contour.
 - ii. Caves, lineaments, ridges, and escarpments: an average of 75 feet, but no less than 50 feet, away from the outermost contour associated with the feature.
 - iii. Springs, and significant geological resource features located within springsheds: an average of 150 feet, but no less than 100 feet, away

from the outermost contour associated with the feature.

- e. In instances where geological resource features function as habitats for listed species, special protection will be provided in consideration of the habitat characteristics and requirements of the species.
- f. Use of best management practices may be required to minimize erosion and maintain water quality, as provided in the Alachua County Water Quality Code
- g. Alternatives to on-site protection may be considered when physical constraints of the parcel preclude maintenance of the integrity of the resource, based on considerations such as size of the development site, resource quality, connectivity to the Floridan aquifer, adjacent uses, or feasibility of management.

30-310.3. Conservation management areas and management plans.

(a) Identification of conservation management areas. The extent of land to be protected within a conservation management area shall include the regulated natural or archaeological resource area(s) which have been evaluated and delineated through the resources assessment, consisting of required set-asides, buffers, setbacks and linkages that preserve the natural system functions of the resource(s), except where limited by the Land Development Code. Conservation management areas shall be designed and maintained in areas with generally intact vegetation, including canopy, understory and groundcover where applicable, in functional, clustered arrangement, with logical contiguous boundaries to eliminate or minimize fragmentation to the greatest extent practicable. Where alternative sites exist on-site, the site or sites selected shall be the best suited to preserve ecological integrity, maximize use by wildlife and maintain the long-term viability of significant natural communities. The selection shall be based upon the following:

- (1) Function and value of natural and archaeological resources;
- (2) Quality and condition of natural and archaeological resources;
- (3) Protectability and manageability;
- (4) Size and shape, avoiding enclaves of development or areas fragmented by development, and providing, where appropriate, adequate buffers from the secondary impacts of development and adequate wildlife corridors;
- (5) Contiguity with adjacent existing natural communities, functional wetland system, floodplain, or habitat corridor;
- (6) Existing species population sizes and life history requirements;

- (7) Proximity and accessibility to other populations of the same species;
- (8) Compatibility of conservation with adjacent land uses; and
- (9). Recommendations from the Florida Fish and Wildlife Conservation Commission and other appropriate agencies.

(b) *Uses of Conservation Management Areas.* The use of conservation management areas shall be limited to that which is compatible with protection of the ecological integrity of the regulated natural or archaeological resources. The following uses may be permitted as part of an approved management plan, provided they do not adversely affect natural and archaeological resource function and ecological integrity:

- (1) Nature trails (mulched walking paths, elevated wooden walkways);
- (2) Low-intensity, passive recreational activities such as wildlife viewing and hiking;
- (3) Scientific and educational activities (interpretive trails and signage, observation points);
- (4) Site investigative work such as surveys, soil logs, and percolation tests;
- (5) Scenic, archaeological, wildlife, or scientific preserves;
- (6) Ongoing agricultural and/or silvicultural activities that:
 - a. Are consistent with the protection of the regulated natural and archaeological resource(s) identified on the site for protection under the management plan; and
 - b. To the extent consistent with the protection of such resources, follow certification programs or Best Management Practices.

- (7) Single-family residential dwellings established as part of an approved management plan;
- (8) Constructing fences where no fill activity is required; and
- (9) Other uses demonstrated to be compatible with regulated natural and archaeological resource protections as outlined in the management plan.

(c) *Prohibited Activities.* Activities that are prohibited within conservation management areas, unless part of an approved management plan, include the following:

- (1) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

- (2) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (3) Removal or destruction of native vegetation;
- (4) Excavation, dredging, or removal of soil, rock, or other material substance in such manner as to affect the surface;
- (5) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
- (6) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation;
- (7) Acts or uses detrimental to such retention of land or water areas; and
- (8) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.
- (9) Wastewater and stormwater discharges to conservation management areas are generally prohibited. However, discharges may be allowed only in surface waters, wetlands, and significant geologic features if the following criteria are satisfied:
 - a. The quantity, timing, and quality of discharge maintains or improves water quality, biological health, and function of the natural ecosystem;
 - b. Downstream waters are not affected by nutrient loading;
 - c. The project owner or responsible entity prepares and implements a maintenance and monitoring plan acceptable to the City;
 - d. The project owner or responsible entity corrects any failures in design or operation of the wastewater and/or stormwater system that cause degradation of water quality, biological health, or the function of the natural ecosystem;
 - e. The owner or responsible entity posts a performance bond or similar financial guarantee to assure implementation of maintenance and monitoring in compliance with the Land Development Code; and
 - f. Treatment is provided in accordance with the requirements of the Land Development Code and the requirements of the appropriate water management district.

(d) Conservation management areas location. Conservation management areas shall be located in one or a combination of the following configurations:

(1) Common open space; or

(2) Entirely within the boundaries of a single individual lot.

(e) Boundary Marking and Protection. Prior to and during parcel alteration, the conservation management area boundaries shall be clearly marked and appropriately protected as follows:

(1) Physical barriers shall be installed around the outer extent of the set aside portion of conservation management areas as necessary to prevent disturbance by individuals and equipment. Protective barriers must be installed and approved prior to commencement of permitted activities and maintained in place until activities are complete;

(2) Erosion and turbidity control measures shall be required in order to prevent runoff of turbid water into conservation management areas; and

(3) The owner or responsible entity shall completely restore any portion of a protected conservation management area damaged during the activity. Certificates of occupancy or completion shall not be issued until restoration activity has been completed.

(f) Permanent protection of conservation management areas. Conservation management areas shall be permanently protected in perpetuity using a legal instrument that runs with the land, in a form acceptable to the City, and duly recorded in the Public Records of Alachua County, which assures the preservation and maintenance of the conservation management area. The preferred legal instrument shall be a conservation easement in accordance with Section 704.06, Florida Statutes, which restricts the use of the land in perpetuity to conservation uses, or other uses consistent with conservation, and is expressly enforceable by the City. Other forms of dedication may be considered by the City if comparable protection is demonstrated which assures the preservation and maintenance of the conservation management area in accordance with the approved management plan. Development approval may be issued subject to the recording of the approved legal instrument; however, issuance of construction and building permits shall be withheld until proof of recordation is provided to the City. A boundary or special purpose survey certified by a professional land surveyor registered in the State and meeting minimum technical standards adopted pursuant to Section 472.027, Florida Statutes, is required for the establishment and dedication of the Conservation Management Area.

(g) Plat and plan notations. The boundaries of designated conservation management areas, including any required buffers, shall be clearly delineated on development plans, plats, and deed restrictions, and a legal description of the boundaries shall be included.

(h) Field markers. Permanent survey markers using iron or concrete monuments to delineate the boundary between conservation management areas and contiguous land shall be set, according to current survey standards. Markers shall be installed prior to issuance of the initial certificate of occupancy or other final approval, and shall be maintained by the owner in

perpetuity.

(i) *Signage.* The perimeter of conservation management areas shall be permanently identified with City approved signs that identify the area as protected conservation area. Signage that is required by another governmental agency and also meets the City requirements may be used.

(j) *Rezoning.* Conservation management areas may, with landowner approval, be rezoned to a conservation zoning category through a City-initiated or a landowner-initiated rezoning process.

(k) *Management requirements for conservation management areas.* Conservation management areas shall be maintained in compliance with the provisions of this code, the conservation easement, the approved management plan, and the following standards. If a management plan is required, the scope of maintenance shall be specified in the management plan. The owner or responsible entity shall not be held responsible for maintenance which exceeds this scope due to external causes, such as through disasters or other events beyond the control of the responsible entity.

(1) Unless otherwise agreed by the City, the cost and responsibility of managing the conservation management area shall be borne by the owner or responsible entity.

(2) Management shall maintain or enhance the ecological value of the conservation management area and support the protection and maintenance of the identified resource. Management shall include, but not be limited to, the following minimum requirements:

a. Non-native vegetation shall not be introduced into the conservation management area. Invasive, non-native vegetation shall be eliminated or controlled to a level of noninterference with the growth of native vegetation according to specific goals of the approved management plan. Removal shall be accomplished through ecologically sound techniques, including but not limited to, manual removal, hand-held power equipment, and prescribed burning. Control of non-native trees which are in use as a nesting site shall be postponed until the nesting season is over. All non-native vegetative debris must be disposed of outside of the conservation management area.

b. Dead trees that are not a hazard to humans and that provide habitat for wildlife shall remain in the conservation management area.

c. Where non-native vegetation is removed, replacement with appropriate native species may be required if specified in the conservation easement and/or approved management plan.

d. Fencing may be required to control access to the conservation

management area.

- (3) If the conservation management area is not maintained in accordance with the conservation easement and/or approved management plan, the City may assume responsibility of maintenance and may charge the property owners or responsible entity a fee to cover the actual cost of administration and maintenance. The City may perform such work itself or may contract with a third party to do so.

(1) Management plan. A management plan for a conservation management area shall be required for all development applications involving properties within, or partly within, a strategic ecosystem or properties that meet 2 of the following 3 criteria: contains regulated natural or archaeological resources greater than or equal to 5 acres in size; contains at least one listed species; or provides the opportunity for a wildlife corridor adjacent to nature parks and public conservation/preservation areas.

- (1) The management plan shall be prepared at the expense of the applicant by person(s) qualified in the appropriate fields of study, and conducted according to to professionally accepted standards. The management plan shall include the following:
- a.. Description of goals and objectives based on type of natural resources to be managed;
 - b. Description of all proposed uses, including existing and any proposed physical and access improvements;
 - c. Description of prohibited activities within buffers or set-aside areas;
 - d. Descriptions of ongoing activities that will be performed to protect, restore, or enhance the natural resources to be protected. These may include:
 - i. Removal or control of invasive non-native vegetation and debris;
 - ii. Replanting with native plants as necessary;
 - iii. Provision for listed species habitat needs, including restricting, at appropriate times, intrusions into sensitive foraging, breeding, roosting, and nesting areas;
 - iv. Fencing or other institutional controls to minimize impact of human activities on wildlife and vegetation, such as predation by pets;
 - v. Prescribed burning, thinning, or comparable activities performed in an environmentally sensitive manner to restore or maintain habitat;

- vi. Cooperative efforts and agreements to help promote or conduct certain management activities, such as cleanups, maintenance, public education, observation, monitoring, and reporting;
 - vii. Any additional measures determined to be necessary to protect and maintain the functions and values of conservation areas in conjunction with wildfire mitigation;
 - viii. Schedules, estimated costs, staffing requirements, and assignments of responsibility for specific implementation activities to be performed as part of the management plan, and identification of means by which funding will be provided;
 - ix. Performance standards with criteria for assessing goals and objectives;
 - x. Five-year monitoring plan with schedule and responsibility;
 - xi. Ownership and entity responsible for management activities;
 - xii. Provision for changes to be reviewed and approved by the City;
 - xiii. Contingency plans for corrective measures or change if goals are not met.
- (2) The management plan shall be submitted for staff review and approval by the appropriate decision making authority, and shall comply with the provisions of this code. The management plan shall be specifically enforceable by the City.
 - (3) Modifications to an approved management plan that do not result in lesser protection of the resource(s) present may be allowed, subject to approval by the city manager or designee.
 - (4) The existence of the management plan shall be noted on plans and plats, covenants and restrictions, conservation easements and other documents as appropriate to the type of development and manner of protection provided.
 - (5) The property owner or responsible entity shall provide financial responsibility assurance to maintain and manage the conservation management area.

30-310.4. Avoidance, Minimization, Mitigation, and Monitoring. Development approval shall only be granted for activities that are located, designed, constructed, and maintained to avoid, minimize, and, where necessary, mitigate adverse impacts on regulated natural and archaeological resources, consistent with these sections. Fulfillment of the set-aside requirement shall constitute full compliance with avoidance, minimization, and mitigation related to the

upland resources area of the set-aside, except as provided in 30-310.2(c)(3)e.

(a) *Avoidance.* Avoidance of loss of the environmental and social benefits and functions of natural and archeological resources is of the highest priority. The owner shall avoid loss of natural and archeological resources by implementing practicable design alternatives to minimize adverse impacts to natural and archeological resources. Specific measures for avoidance which will be required prior to authorization of any adverse impact may include, but are not limited to, the following:

- (1) Limiting the scope, degree or magnitude of the proposed activity;
- (2) Using appropriate and best available technology;
- (3) Sensitive site design, siting of facilities, and construction staging activities;
- (4) Exploring alternative on-site locations to avoid or reduce impacts of activities;
- (5) Scheduling proposed activities at times of minimum biological activity to avoid periods of migration, rearing, resting, nesting and other species-specific cycles and activities;
- (6) Managing the access to conservation management areas, such as fencing designed to separate wildlife and pets or to exclude humans from sensitive denning or breeding area; and
- (7) Preserving and providing perimeter buffering around archaeological sites in order to maintain the security and integrity of the resources. This may include, if necessary, alteration to the proposed development plan.

(b) *Minimization.* Where an applicant proves it cannot avoid impacts to regulated natural and archaeological resources due to an extraordinary hardship owing to conditions peculiar to the land or structure and not the result of the actions of the applicant, the following measures may be required to minimize impacts to regulated natural and archeological resources:

- (1) Minimum setbacks for clearing of native plants adjacent to regulated natural resources, or for construction of impervious surfaces greater than 100 square feet in base coverage;
- (2) Limiting native plants removal to the minimum necessary to carry out the proposed activity or to meet fire hazard standards. Protection of tree crowns and root zones may be required for all trees planned for preservation;
- (3) Roads and other development features located to follow existing topography and minimize cut and fill;
- (4) Designing stormwater to maximize overland flow through natural drainage systems

and grassed overland (roadside and lot line) swales; multi-purpose use of stormwater management systems; use across or for multiple properties;

(5) Using performance-based treatment systems, or siting septic tanks and drainfields to prevent discharges that adversely impact the environmental quality of regulated natural and archaeological resources;

(6) Adaptive use of archaeological landforms or properties consistent with preservation of their archaeological character; and

(7) Other reasonable protective measures necessary to minimize adverse effects may be required depending on conditions specific to a particular site.

(c) *Mitigation.* Where an applicant proves that development activities cause or will cause impacts to regulated natural and archaeological resources and cannot be avoided or minimized, and after consideration of any extraordinary hardship owing to conditions peculiar to the land or structure and not the result of the actions of the applicant, mitigation shall be required to provide compensation for the loss of all functions and values of the impacted resources. In the case of archaeological resources, mitigation may include, but is not limited to, allowing an opportunity for the acquisition of fee or less-than-fee interest in the archaeological resource by a governmental unit, an organization, or by any other entity committed to the preservation, restoration, or rehabilitation of the resource(s).

(1) The requirement for the protection of a mitigation area of comparable resource type shall be based on the following criteria:

a. A replacement ratio of one to one for physical access when no other physical access is available and impact is in the least sensitive portion of the resource for the limited purpose of providing access to the parcel.

b. Except as provided in (c)(1)a., a replacement ratio of two to one for impacts to regulated strategic ecosystem resources.

c. Except as provided in (c)(1)a. and (c)(1)b., a replacement ratio of two to one for impacts to regulated natural and archaeological resources; however, the City Manager or designee may reduce the ratio to one to one for parcels less than or equal to 5 acres which do not include regulated strategic ecosystem resources and when an extraordinary hardship is caused by the small parcel size and/or configuration and owing to conditions that are not the result of actions by the applicant.

(2) *Mitigation Type and Location*

a. Resource-based mitigation. Resource-based mitigation may be provided on-site or adjacent to the site, or off-site. The order in which mitigation will be considered shall be:

i. On-site restoration or enhancement. An applicant may mitigate for impacts on-site by conducting resource restoration or enhancement on the planning parcel, species relocation within the planning parcel, if applicable, or other measures to restore the quality, function and value of the resource. The establishment of a conservation management area and/or conservation easement, acceptable to the City or other entity acceptable to the City may be required to ensure the continued viability of the area to be restored or enhanced.

ii. Off-site preservation. The applicant may provide off-site mitigation through the preservation of land through off-site dedication, transfer of fee or less-than-fee simple title to a land conservation agency, non-profit conservation organization, or other entity approved by the City. Areas designated as conservation management areas for mitigation under this chapter shall not be used as credit towards mitigation for other projects or environmental features or trees or wetlands. Mitigation of impacts to a regulated listed species or its habitat that is required by a State or federal agency (such as the water management districts) shall be applied towards off-site mitigation if it is for the same development project and meets the following requirements:

(a) Off-site protection sites shall meet all appropriate size, site selection and design, protection, ownership and maintenance, and other provisions of this Chapter applicable to on-site conservation management areas. Fencing may be required to control access to the mitigation area.

(b) Off-site conservation management areas shall be located in the following order of priority:

1. Within the City of Gainesville city limits;

2. Within the City of Gainesville urban reserve area;

3. Within other municipalities or the unincorporated area of Alachua County outside of the City of Gainesville urban reserve area.

b. Fee-in-lieu of land. As a last resort alternative, if on- or off-site preservation of land for mitigation is not feasible, the City may allow contribution of a fee-in-lieu of land to the City's environmentally sensitive land acquisition fund, under which the City shall purchase or manage land to protect natural resources in accordance with standards of this Land Development Code. Where fee-in-lieu of land is allowed, the cash payment shall be equivalent to 150% of the average per acre-appraised market value, at the time of permit application, multiplied by the

number of acres of regulated natural or archaeological resource for which mitigation is required, plus estimated total cost of management required to establish the viability of that type of resource.

(3) Submittal of proposal. A mitigation proposal shall be submitted in conjunction with the resources assessment required under section 30-310.1. The mitigation proposal shall require the same assessment and specify the same details for mitigation areas as required for areas with natural or archaeological resources that are otherwise protected. The cost and timing of any monetary contribution or off-site acquisitions shall be specified. The mitigation proposal must meet the following general mitigation standards, and shall be evaluated based on an assessment of the natural functions and values of both the proposed impact areas and the proposed mitigation areas. The mitigation proposal shall be acceptable only where it is determined that the mitigation will fully offset the loss of the functions and values of the regulated resource. The following characteristics shall be included in the mitigation proposal:

a. The hydrologic, soil, slope, and other basic characteristics of the proposed project must be adequate to achieve proposed project goals;

b. The mitigation area must be at least as well established and sustainable as the existing regulated natural or archaeological resource it is intended to replace;

c. The size of the mitigation area shall be based on the quality of habitat or vegetation on both the area of impact and the area of proposed mitigation.

(4) A management plan shall be required in accordance with section 30-310.3(l), and shall include contingency plans for corrective measures or change if goals are not met. The management plan shall generally provide for, but not be limited to, the following:

a. Where plantings are required, success shall be measured by maintenance of at least 80 percent survivorship of all plantings. Semiannual replanting shall be required to maintain required survivorship.

b. Elimination and/or control of non-native invasive vegetation shall meet goals specified in the approved management plan.

c. Monitoring reports of the status of the mitigation area shall be submitted to the city manager or designee no less than annually. Indicators appropriate to the resource shall be tracked and evaluated. Such indicators may include water quality chemistry, number of surviving plantings and any plantings made to maintain required survivorship. The final report for release of performance guarantee shall include, at a minimum, the following:

i. Discussion of the projected relative success or failure of the project in

mitigating for lost natural resource area value and function;

ii. Analysis of measures undertaken during the project that contributed to success;

iii. Analysis of problems encountered during the project that decreased success;

iv. Recommendations to increase the success of similar, future projects; and

v. Summary of data collected.

(5) Management and monitoring. For all mitigation projects, the City shall require management and monitoring for a minimum of three (3) years. This period may be extended as necessary, based on the complexity of the resource or type of mitigation proposed, in order to demonstrate substantial establishment and success of mitigation. Management and monitoring shall comply with the provisions of this code and with the approved mitigation management plan.

(6) Performance guarantee. A performance guarantee shall be required in an amount equal to 110 percent of the estimated cost of mitigation, management and monitoring activities, to ensure the adequate monitoring and long-term viability of mitigation activities. The guarantee shall be provided for the duration of the time period required for maintenance and monitoring, but in no case less than three (3) years.

a. Execution. The performance guarantee shall be executed by a person with a bona-fide legal interest in the parcel. The performance guarantee shall be kept in full force until all obligations are satisfied.

b. Form of guarantee. The guarantee shall comply with section 30-302.1(1) of the city code of ordinances.

c. Certification. Within six months of the completion of the period established for management and monitoring, the applicant shall submit a final report that details and certifies compliance with the requirements of this section.

30-310.5. Alternative compliance. An applicant may submit a proposal for alternative compliance which varies from the strict application of these natural and archeological resource regulations to accommodate an extraordinary hardship or to utilize innovative design or an environmental master plan. Requests for alternative compliance from any natural or archaeological resource provision shall be reviewed and decided by the body or official responsible for reviewing and taking action on a development application. An alternative compliance plan shall be approved only upon a finding that it fulfills the intent and purposes of the City of Gainesville's Comprehensive Plan and of these regulations as well as, or more

effectively than, adherence to the strict requirements of these regulations. When granted, the alternative compliance shall be the minimum deviation from the requirements necessary to permit reasonable use or access. Mitigation may be required as a condition of granting the alternative compliance.

(a) *Extraordinary hardship.* The applicant shall have the burden of demonstrating the existence of an extraordinary hardship due to unique site characteristics and the reasons for alternative compliance. The application shall set forth facts demonstrating each of the following:

- (1) That the applicant did not create their own hardship by taking actions that makes the property unable to be developed. Diminished value or inconvenience, or lack of due diligence, is not considered extraordinary hardship.
- (2) There are no feasible on-site alternatives to the proposal. Feasible on-site alternatives include, but are not limited to:
 - a.. Reduction in density or intensity;
 - b. Reduction in scope or size;
 - c. Change in timing, phasing, or implementation; or
 - d. Layout revision or other innovative site design considerations.

(b) *Innovative design.* The applicant shall have the burden of demonstrating that an innovative site design may be utilized that better protects regulated natural and archaeological resources. The application shall set forth facts demonstrating that the proposed innovative design can be shown to protect regulated natural and archaeological resources and will not jeopardize the ecological integrity of those resources on or adjacent to the proposed property.

(c) *Environmental master plan.* The applicant shall have the burden of demonstrating that an alternative environmental master plan may be utilized that better protects regulated natural and archaeological resources. The application shall set forth facts demonstrating that the proposed plan can be shown to protect regulated natural and archaeological resources and will not jeopardize the ecological integrity of those resources on or adjacent to the proposed property. If approved, the environmental master plan may supercede the management plan requirement for conservation management areas as required in Section 30-310.3 (I).

DIVISION 4. 5. RELIEF AND ENFORCEMENT

Sec. 30-~~310~~311. Relief for reasonable or beneficial use.

Sec. 30-~~311~~312. Violations, enforcement and penalty.

(b) *Surface waters and wetlands district; natural and archeological resources.* The city manager or designee shall be responsible for the enforcement of these regulations. Should any person violate the provisions of the surface waters and wetlands or the natural and archeological resources sections of this chapter, in addition to the provisions, requirements, and penalties stated at article X, division 4, of this chapter, the city will

require appropriate corrective measures be taken by the violator. In the event the violation is not corrected by the violator, the city may, depending upon the severity of the violation, take the following actions:

- (1) a. For a violation of any condition imposed pursuant to a permit or for a violation of the provisions of the surface waters and wetlands or the natural and archeological resources sections of this chapter, the city manager or designee may revoke, in whole or in part, any permit issued pursuant to this Code. In the event the city manager or designee chooses to revoke a permit, written notice of the intent of the city manager or designee to revoke such permit shall be provided to the property owner, setting forth the specific reasons for the revocation. The property owner shall have the right to appear before the city manager at a time and date specified in such notice to show cause why the permit issued to the owner should not be immediately revoked.
 - b. If the city manager or designee determines to revoke a permit issued pursuant to this Code, after the notice and appearance procedure as provided in subparagraph a., above, the property owner shall immediately cease all work on the site until the violation is corrected or mitigated. The property owner shall have the right to appeal the administrative decision of the city manager to the board of adjustment and shall show cause why the permit issued to the owner should be reinstated.
- (2) If the city manager or designee determines an imminent risk to the environment or natural and archeological resources exists due to a violation of conditions imposed pursuant to the permit or due to a violation of the provisions of the surface waters and wetlands or the natural and archeological resources sections of this chapter, the city manager or designee may issue a cease and desist order for any and all development on the site. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a violation of this Code for any person to fail to or refuse to comply with a cease and desist order issued once written notice of the cease and desist order is delivered by hand delivery or by certified mail, return receipt requested, to the person to whom the permit is issued or, in the absence of a permit, to the owner of the property.
- (3) For any site where work has commenced and a permit has not been obtained but is required pursuant to this Code, the city manager or designee may issue a cease and desist order for any and all development on the site. Any person receiving such an order for cessation of operations shall immediately comply with the requirements thereof. It shall be a

violation of this Code for any person to fail to or refuse to comply with a cease and desist order issued once written notice of the cease and desist order is delivered by hand delivery or by certified mail, return receipt requested, to the person to whom the permit is issued or, in the absence of a permit, to the owner of the property.

- (4) In the event of failure to comply with the revocation of a permit or a cease and desist order or in the event of failure to comply with the surface waters and wetlands or the natural and archeological resources sections of this chapter or in the event a violation of these sections is occurring in the absence of a city-issued permit, the city manager may request the city attorney's office seek injunctive relief in a court of equitable jurisdiction so that the property owner will cease any and all activity on the site.
- (5) The city manager or designee may enter into consent agreements, assurances or voluntary compliance documents establishing an agreement with any property owner responsible for noncompliance. Such documents shall include specific action to be taken by the property owner to correct the noncompliance within the time period as specified in the document. Such documents may provide for judicial enforcement.
- (6) The remedies provided in this section shall not be exclusive, and are in addition to any other remedies available to the county, state or federal government; and the city may seek whatever remedies are authorized in this Code or available in law against any person or entity for violating the surface waters and wetlands or the natural and archeological resources sections of this chapter.