

LEGISLATIVE #

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**Responses to Gainesville-Alachua County Association of REALTORS comments/questions
on Natural and Archaeological Resources Ordinance**

Questions for Commission

- **Has the City considered the full economic burden that the Amendment will place on private land owners? If so, what are estimated total additional costs that the Amendment will impose, directly and indirectly, on development proposals of various sizes and types? What is the impact the Amendment will have on the housing costs, and the local housing market?**

Response:

The proposed regulations are expected to have little to no adverse economic impact on the great majority of private land owners in the City, particularly on owners of developed parcels, as the ordinance provisions are not cost-burdensome, and the regulated natural resource types will generally not be present on these parcels. With provisions for exemptions, preservation of development rights, and mitigation options, the regulations would have a no impact on 93% of properties in the City, and a relatively small impact on a very few large parcels on the City's periphery. The regulations will encourage infill and redevelopment of the urban core of the City and in older, developed suburban commercial centers such as the Oaks Mall area, and further Gainesville's unique economic attraction as a city which is developed in balance with its natural assets. National recognition of Gainesville's "liveability" has been attributed, in part, to its relationship to its natural surroundings, which, in turn, serves to sustain and enhance the local housing market.

- **Can you provide an estimated total number of lots that would be affected by the Amendment's protections for "THE 6" ("THE 6" referenced in the Background section, bullet 7)?**

Response:

The total number of privately owned lots that potentially would be subject to the proposed regulations is 1,255 parcels (3.3% of the total number of parcels in City limits) if the lot size exemption is set at the proposed 2 acres or less, or 508 parcels (1.3%) if the lot size exemption is set at 5 acres or less. Ground-truthing at sites during the development review process will further reduce these numbers significantly.

- **How will the City accommodate expected short term and longer term housing and commercial growth demands despite the highly restrictive effect of the Amendment?**

Response:

The proposed regulations are not anticipated to have a highly restrictive effect on housing and growth demands. Many opportunities for growth will continue to exist, both in the expansion of the City on its periphery, and through infill redevelopment of the urban core and older, developed suburban areas.

- **Please clarify the Amendment's density/intensity-transfer provisions. Have you given any thought to allowing Transfer of Development Right (TDR) between parcels? Since Alachua County already accommodates a TDR, will the City consider using that as an outline to create a TDR for the City?**

Response:

At this time, the proposed regulations provide only for the transfer of density and intensity within the same planning parcel being evaluated under the development application as a means of compensation for development use reductions which are caused by the requirement for set-aside(s). The unit number/amount of density/intensity available for transfer will be calculated on the basis of the density/intensity allowed by right for the established zoning district in which the parcel is located, and only for the specific area of the required set-aside attributable solely to the proposed regulations.

- **Explain the justification for requiring the dedication of as much as 50% of the upland area of private property to public use as a condition to allowing any development of that parcel? Have you considered alternate approaches to the protection of natural and archaeological resources that would not place such an unfair burden on private property owners?**

Response:

In order to achieve the purpose and intent of these regulations, it is provided that up to 50% of the uplands of the planning parcel may be required for set-aside only in the strategic ecosystem areas. The maximum of 50% upland set-aside is consistent with the Alachua County land development regulations which apply to surrounding unincorporated lands, and which were

enacted and implemented for regulatory protection of the strategic ecosystem resources identified under the proposed City code. For all areas not within strategic ecosystems, the maximum set-aside is up to 25% of the upland areas on which the resources are located. The required set-aside would not normally be dedicated to public use, but would remain in private use and ownership, subject to protective provisions specified by conservation easement, and under the control and management of the land owner or management entity, in accordance with a management plan proposed by the applicant and approved by the City. Alternate approaches to preservation and protection of these natural and archaeological resources have been pursued through both public and private initiatives for conservation, such as by acquisition for parks and other natural areas, but programs of this type are typically beyond the function and scope of the City regulatory code. Many areas in and around Gainesville which contain the types of resources identified for protection under the proposed code have been acquired in response to the accelerating loss of these sensitive and already very diminished resources. The burden on the very few private property owners of the larger parcels which contain these resources may be ameliorated, if not fully offset, through the exercise of several mechanisms provided in the regulations. These include avoidance [Sec. 30-310.4(a)], density/intensity transfer rights (30-310.2), alternative compliance options (Sec. 30-310.5), and mitigation alternatives for unavoidable impacts to the regulated resource [Sec. 30-310.4(c)]. Such mitigation alternatives consist of on-site and off-site resource-based mitigation, and fee-in-lieu of land.

- **Has consideration of the City’s potential exposure to takings claims as a result of the application of the land dedication and fee-in-lieu requirements of the Amendment, and whether the City has budgeted for the defense of such claims.**

Response:

Due consideration has been given to potential issues regarding takings claims which might arise in response to implementation of the set-aside and mitigation requirements. The proposed regulations have been carefully drafted to provide for the preservation of development rights and assurance of full use of private property required by law, while meeting the purpose of regulating impacts to natural and archaeological resources as found to be in the public interest. The City Attorney’s Office has been fully involved in the process of drafting the regulations and the takings claim issue.

- **Please make clear what “ground-truthing” entails. What is the estimate of the actual cost of the “ground-truthing” on a per lot or per acre basis?**

Response:

Ground-truthing entails the inspection and survey work, if applicable, conducted on the land surface of a property to identify/verify the presence and location of regulated resources. Costs of ground-truthing are variable, depending on the physical characteristics of the property, and on the types and extent of natural and archaeological resources actually or potentially present. Generally, the more rigorous and costly field surveys for listed species or archaeological resources are costs which already exist for land development, as these resources are regulated by existing state and federal law. Additional on-the-ground surveys for strategic ecosystem, natural community, and geological resources are typically not costly and may be conducted relatively quickly during walking surveys associated with routine due diligence and surface water/wetland delineation efforts. The potential presence of these types of resources is easily established through existing public GIS sources, so ground-truthing effort is minimal in many cases. Estimates of costs for performing environmental assessment ground-truthing may be obtained from local consulting firms.

- **Please make the KBN/Golder Associates report readily available.**

Response:

The KBN/Golder Associates report has been posted under the heading “Alachua County Ecological Inventory Project (KBN/Golder Associates Report 1996)” on the City’s Planning website at <http://www.cityofgainesville.org/GOVERNMENT/CityDepartmentsNZ/PlanningDepartment/tabid/244/Default.aspx>.

- **Why is there no indication of what standards are to be used by the city manager in evaluating whether to approve modifications to a management plan?**

Response:

Proposals for modifications to a management plan would be evaluated by the City Manager or designee and modification requests would be granted if consistent with and not contrary to the technical findings and decision record of the original application approval.

- **Can the 25% set-aside count toward the fulfillment of the strategic ecosystem set-aside if the two areas do not completely coincide, or is there the possibility that on a particular site there will be a required set-aside of greater than 50%.**

Response:

The set-aside areas would have to be configured for maximum resource protection, but the combined total would be limited to 25%, except when a strategic ecosystem is involved, in which case the combined total would be limited to 50%. This total set-aside combination would potentially consist of any qualifying uplands of the six resource types specified in these regulations, but would also have to include any upland buffers of surface waters and wetlands. These upland buffers of surface waters and wetlands would be figured into the combined sum (along with the six resource types of the proposed regulations) as the first component of the sum [Sec. 30-310(j)].