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meeting

Creative Environmental Solutions, Inc

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October 8, 2001

Dean Mimms, Comprehensive Planning Chief
City of Gainesville
Community Development Department
P.O. Box 490, Station 11
Gainesville, FL 32602-0490

RE: Comprehensive Plan Wetlands Policies

Dear Mr. Mimms:

After seeing the debate last week on television and having had the time to go through the proposed wetland policies, Creative Environmental Solutions, Inc. (CES) would offer the City the following suggestions for changes to Policy 1.1.1, and Objectives 2.1 and 2.4.11.

Policy 1.1.1 b. (also relates to 1.1.1 b.1.)

This policy uses the phrase "clearly in the public interest". This concept should be defined and should include the notion that wetland mitigation can have a net positive effect in the context of the public interest test as defined in SJRWMD Applicants Handbook Section 12.2.3 page 12-7 (see attached). In addition, the City should adopt language similar to the St. Johns River Water Management District in Section 12.2.1.2 which states in part that when projects effect wetlands of minimal ecological value, and when the applicant can clearly demonstrate that the proposed mitigation far exceeds the value of a functionally degraded wetland system, the district will not implement design modifications to reduce or eliminate these impacts. There have been many examples in Alachua County where the developer proposed innovative mitigation that far exceeded the functional value of isolated and previously impacted wetland systems. Many times this mitigation is done off-site, sometimes in the same watershed and sometimes in adjacent watersheds. Other possible benefits include: improvements to water quality and regional wildlife benefits offered by the mitigation, financial benefits such as affordable housing, and positive effects on the local economy associated with the construction industry and other related economic sectors.

Policy 1.1.1 b.2.

Wetland mitigation ratios should be developed based upon existing water management district guidelines. If the City wishes to change mitigation ratios, they should be prepared to implement a functional assessment tool similar to the WRAP analysis currently used by the SFWMD and others, which enables reviewers to calculate the level of mitigation needed for a specific site based on habitat conditions. All five water management districts in Florida are tasked with coming up with a unified functional assessment tool for wetlands by January 2002. The City may want to wait to determine if this functional analysis will work for them before creating a method of analysis.

Policies 1.1.1 b.7. and 2.1.1

Requiring the applicant to perform all mitigation within the City limits will be difficult if not impossible. This policy would negate the use of wetland mitigation banks should one become available somewhere other than within the City limits. Wetland mitigation banks are widely recognized for restoring and conserving large areas of habitat while providing mitigation options to developers and government entities who may be constructing a wide range of projects including roadways, bridges and airports. CES strongly suggests that the City use the mitigation area description and boundaries as given in the SJRWMD Applicants Handbook, which are based on ecological rather than political boundaries.

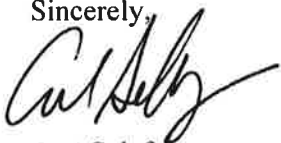
Policy 2.4.11

No net loss of wetlands *citywide* is unrealistic given the nature of development and the relative size and location of most of the incorporated areas. Again, the *drainage basin* concept should be utilized here. While CES encourages the use of the drainage basin concept, the identification of particular sub-drainage basins within the city limits that need retrofitting, substantial protection, and/or innovative mitigation within the basin is also supported. This would be an effective allocation of the resources of the City, County, developers or other associated parties, as it would allow them to target sites with the most need of restoration.

In addition, it should be noted that there are numerous creeks and wetland areas within Gainesville, such as Hogtown Creek where it flows below University Avenue, that have fallen into disrepair due to previous land management practices. It would be possible for the city to restore these ecosystems, place them in permanent conservation, and convert them into wetland or stream mitigation credits that could then be sold to pay for the cost of restoration efforts. Such an innovative project would bring benefits to wildlife and the public as listed above, while also solving the problem of improving these habitats from their current state of decline.

I hope these suggestions are helpful, should you have questions or require additional information please call.

Sincerely,



Carl Salafrio
Vice-President

12.2.2.4

Water quantity impacts to wetlands and other surface waters

Pursuant to paragraph 12.1.1(a), an applicant must provide reasonable assurance that the regulated activity will not change the hydroperiod of a wetland or other surface water, so as to adversely affect wetland functions or other surface water functions as follows:

- (a) Whenever portions of a system, such as constructed basins, structures, stormwater ponds, canals, and ditches, could have the effect of reducing the depth, duration or frequency of inundation or saturation in a wetland or other surface water, the applicant must perform an analysis of the drawdown in water levels or diversion of water flows resulting from such activities and provide reasonable assurance that these drawdowns or diversions will not adversely impact the functions that wetlands and other surface waters provide to fish and wildlife and listed species.
- (b) Increasing the depth, duration, or frequency of inundation through changing the rate or method of discharge of water to wetlands or other surface waters or by impounding water in wetlands or other surface waters must also be addressed to prevent adverse effects to functions that wetlands and other surface waters provide to fish and wildlife and listed species. Different types of wetlands respond differently to increased depth, duration, or frequency of inundation. Therefore, the applicant must provide reasonable assurance that activities that have the potential to increase discharge or water levels will not adversely affect the functioning of the specific wetland or other surface water subject to the increased discharge or water level.
- (c) Whenever portions of a system could have the effect of altering water levels in wetlands or other surface waters, applicants shall be required to monitor the wetland or other surface waters to demonstrate that such alteration has not resulted in adverse impacts; or calibrate the system to prevent adverse impacts. Monitoring parameters, methods, schedules, and reporting requirements shall be specified in permit conditions.

12.2.3

Public Interest Test

In determining whether a regulated activity located in, on, or over surface waters or wetlands, is not contrary to the public interest, or if such an

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activity significantly degrades or is within an Outstanding Florida Water, that the regulated activity is clearly in the public interest, the District shall consider and balance, and an applicant must address, the following criteria:

- (a) Whether the regulated activity will adversely affect the public health, safety, or welfare or the property of others (subparagraph 40C-4.302(1)(a)1., F.A.C.);
- (b) Whether the regulated activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats (subparagraph 40C-4.302(1)(a)2., F.A.C.);
- (c) Whether the regulated activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling (subparagraph 40C-4.302(1)(a)3., F.A.C.);
- (d) Whether the regulated activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity (subparagraph 40C-4.302(1)(a)4., F.A.C.);
- (e) Whether the regulated activity will be of a temporary or permanent nature (subparagraph 40C-4.302(1)(a)5., F.A.C.);
- (f) Whether the regulated activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of section 267.061, F.S. (subparagraph 40C-4.302(1)(a)6., F.A.C.); and
- (g) The current condition and relative value of functions being performed by areas affected by the proposed regulated activity (subparagraph 40C-4.302(1)(a)7., F.A.C.).

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The degree of impact to wetland and other surface water functions caused by a proposed system, whether the impact to these functions can be mitigated and the practicability of design modifications for the site, as well as alignment alternatives for a proposed linear system, which could eliminate or reduce impacts to these functions, are all factors in determining whether an application will be approved by the District. Design modifications to reduce or eliminate adverse impacts must be explored, as described in subsection 12.2.1.1. Adverse impacts remaining after practicable design modifications have been made may be offset by mitigation as described in subsections 12.3-12.3.8. An applicant may propose mitigation, or the District may suggest mitigation, to offset the adverse impacts caused by regulated activities as identified in sections 12.2 - 12.2.8.2. To receive District approval, a system cannot cause a net adverse impact on wetland functions and other surface water functions which is not offset by mitigation.

12.2.1.1

Except as provided in subsection 12.2.1.2, if the proposed system will result in adverse impacts to wetland functions and other surface water functions such that it does not meet the requirements of subsections 12.2.2 through 12.2.3.7, then the District in determining whether to grant or deny a permit shall consider whether the applicant has implemented practicable design modifications to reduce or eliminate such adverse impacts.

The term "modification" shall not be construed as including the alternative of not implementing the system in some form, nor shall it be construed as requiring a project that is significantly different in type or function. A proposed modification which is not technically capable of being done, is not economically viable, or which adversely affects public safety through the endangerment of lives or property is not considered "practicable." A proposed modification need not remove all economic value of the property in order to be considered not "practicable." Conversely, a modification need not provide the highest and best use of the property to be "practicable." In determining whether a proposed modification is practicable, consideration shall also be given to the cost of the modification compared to the environmental benefit it achieves.

12.2.1.2

The District will not require the applicant to implement practicable design modifications to reduce or eliminate impacts when:

- a. the ecological value of the functions provided by the area of wetland or other surface water to be adversely affected is low, based on a site

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specific analysis using the factors in subsection 12.2.2.3, and the proposed mitigation will provide greater long term ecological value than the area of wetland or other surface water to be adversely affected, or;

- b. the applicant proposes mitigation that implements all or part of a plan that provides regional ecological value and that provides greater long term ecological value than the area of wetland or other surface water to be adversely affected.

12.2.1.3

Should such mutual consideration of modification and mitigation not result in a permissible system, the District must deny the application. Nothing herein shall imply that the District may not deny an application for a permit as submitted or modified, if it fails to meet the conditions for issuance, or that mitigation must be accepted by the District.

12.2.2

Fish, Wildlife, Listed Species and their Habitats

Pursuant to paragraph 12.1.1(a), an applicant must provide reasonable assurances that a regulated activity will not impact the values of wetland and other surface water functions so as to cause adverse impacts to:

- (a) the abundance and diversity of fish, wildlife and listed species; and
- (b) the habitat of fish, wildlife and listed species.

In evaluating whether an applicant has provided reasonable assurances under subsection 12.2.2, de minimis effects shall not be considered adverse for the purposes of this subsection.

As part of the assessment of the impacts of regulated activities upon fish and wildlife, the District will provide a copy of all notices of applications for standard general, individual, and conceptual approval permits which propose regulated activities in, on or over wetlands or other surface waters to the Florida Game and Fresh Water Fish Commission for review and comment. In addition, the District staff may solicit comments from the Florida Game and Fresh Water Fish Commission regarding other applications to assist in the assessment of potential impacts to wildlife and their habitats, particularly with regard to listed wildlife species. Where proposed activities have a potential to impact listed marine species, the District will provide a copy of

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Wetland Rapid Assessment Procedure

Existing Conditions Proposed Conditions (WRAP)

Application Number	Project Name	Date	Evaluator	Wetland Type
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Land Use	FLUCCS Code	Description:	Wetland Acreage
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Wildlife Utilization (WU)	Wetland Canopy (O/S)	Wetland Ground Cover (GC)
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Habitat Support / Buffer

Buffer type (Score) X (% of area) =Sub Totals

Buffer type	(Score)	X (% of area)	=Sub Totals
TOTAL			

Field Hydrology (HYD)

WQ Input & Treatment (WQ)*

* The value of WQ is obtained by adding the TOTAL scores of Land use Category and Pretreatment category then dividing by 2

Land use Category (LU)

Land use Category (Score) X (% of area) =Sub Totals

Land use Category	(Score)	X (% of area)	=Sub Totals
(LU) TOTAL			

Pretreatment Category (PT)

Pretreatment Category (Score) X (% of area) =Sub Totals

Pretreatment Category	(Score)	X (% of area)	=Sub Totals
(PT) TOTAL			

WRAP Score

Field Notes:

Wildlife Utilization (WU)

Wetland Canopy (O/S)

Wetland Ground Cover (GC)

Habitat Support / Buffer

Field Hydrology (HYD)

WQ Input & Treatment (WQ)