

1 **Section 1.** A new subsection (k) is created and added to Section 30-310 of the City

2 Code of Ordinances to read as follows:

3 (k) Optional binding resource determination process. Prior to the submittal of any
4 application listed in sec. 30-310 (c), an applicant may apply for an optional, binding
5 resource determination of regulated natural and archaeological resources. The purpose of
6 a resource determination is to assist the applicant in determining if and where regulated
7 natural and archaeological resources are present on the planning parcel prior to the
8 preparation of detailed development plans and site layouts. This determination does not
9 vest the applicant for any development rights that will be conferred as part of the final
10 development review and approval process, and any determinations made during the
11 resource determination review shall not be construed as an approval or denial or
12 agreement to approve or deny a development order associated with the planning parcel.

13 (1) Methodology Agreement. Prior to submitting an application for a binding
14 resource determination, the applicant and the city shall execute a methodology
15 agreement as set forth in Sec. 30-310(g) and establish specific calendar dates
16 when the on-site resources assessment will be conducted.

17 (2) Requirements for a pre-application resource determination. Upon execution of
18 the methodology agreement, the applicant may submit an application for a binding
19 resource determination on the form provided by the city. The application shall
20 include payment of the required review fee set forth in Appendix A of the city
21 code of ordinances, and a resources assessment per the data requirements of sec.
22 30-310.1 for a Level 1 review. Since the sole purpose of this binding resource

1 determination is to determine if and where natural and archaeological resources
2 are present on the planning parcel, the applicant shall not submit information
3 about proposed protection areas, impacts of proposed development, or proposed
4 measures to avoid, minimize, or mitigate impacts on regulated natural and
5 archaeological resources and the city will not review or make binding
6 determinations on any of the foregoing matters.

7 (3) Staff review. The city manager or designee will review the application for
8 completeness and request additional information as required if the application is
9 deemed incomplete. After review of the application, which may include a site
10 visit to the planning parcel, the city reviewer shall issue a written analysis of the
11 application. The written analysis shall provide a verbal description and graphic
12 depiction of the presence and location of significant natural communities, listed
13 species or listed species habitat, strategic ecosystem resources, significant
14 archaeological resources, Floridan aquifer high recharge areas, and significant
15 geological features; any comments or conditions associated with the written
16 analysis; and a recommendation to the city plan board.

17 (4) Board review. The planning and development services department shall submit
18 the written analysis to the city plan board.

19 a. Public hearing. The city plan board shall hold a public hearing on the
20 resource determination.

21 b. Notice. Notice shall be mailed at least ten days prior to the public hearing
22 to all property owners within 400 feet of the planning parcel. For this

1 purpose, the owner of property shall be deemed to be the person whose
2 name and address is listed in the latest ad valorem tax records provided by
3 the county property appraiser.

4 c. *City plan board action.*

5 1. In considering whether to approve or deny a binding resource
6 determination, the city plan board shall consider the evidence
7 presented in the public hearing, including the written analysis of
8 the city reviewer. The burden of presenting competent substantial
9 evidence in support of the application shall be upon the applicant.

10 3. Action on the application shall be one of the following:

11 a. Approval;

12 b. Approval subject to conditions; or

13 c. Denial, with a statement of the reasons for denial.

14 d. *Appeal of decision.* Any affected party may appeal the city plan board's
15 decision on an application for a binding resource determination to a
16 hearing officer. The procedure for the appeal shall be the same as is
17 provided in subsection 30-352.1(a) for appeals from decisions of the
18 development review board. Judicial review shall be available as provided
19 in section 30-352.1.

20 (5) *Approval length, expiration and resource preservation.* An approved resource
21 determination is valid for a period of two (2) years from the date of the final
22 decision of the plan board and is subject to the requirements set forth below. The

1 resource determination shall expire at the end of the two year period. No
2 extension shall be granted.

3 a. The resources assessment will be updated at the time of
4 development plan application review to determine the presence of
5 regulated sinkholes or listed species. This update is subject to the
6 payment of the update fee set forth in Appendix A of the city code
7 of ordinances.

8 b. Updates will be required at the time of development plan review if
9 changes have occurred on or adjacent to the planning parcel that
10 could alter the resource assessment. These changes include, but
11 are not limited to, flood, fire, major storm, or adjacent new
12 development that might impact the planning parcel and the
13 presence and location of the resources. This update is subject to
14 the payment of the associated fee in Appendix A of the city code of
15 ordinances.

16 c. During the two year period the resource determination is valid, the
17 applicant shall use best practices to preserve and protect any
18 regulated natural and archaeological resources on the planning
19 parcel.

20 d. Approval of the resource determination establishes only the
21 presence and location of the resources and does not exempt the

1 applicant from Level 1 review or Level 2 review, if applicable, at
2 the time of submittal of any application listed in Section 30-310(c).

3 **Section 2.** Section 30-353(e) is amended to read as follows:

4 (e) *Decisions of the board.* The city plan board has final decision authority in granting
5 special use permits, in accordance with Article VII, ~~and~~; making determinations for
6 nonpresumptive vested rights and concurrency, in accordance with Article III- ; and
7 making determinations on binding resource determinations in accordance with Section
8 30-310. All other final actions of the board are advisory to the city commission.
9 Advisory actions of the board shall not obligate the city.

10 **Section 3.** A new subsection is created and added to Section 30-353(f) to read as
11 follows:

12 **Sec. 30-353. City plan board.**

13
14 (f) *Functions, powers and duties.*

15 (16) The city plan board shall hear applications for optional binding resource
16 determinations.

17 ~~(16)~~(17)The board shall perform other lawfully assigned duties.

18 **Section 4.** Subsection (6) within the Land Development Code portion of Appendix A.
19 Schedule of Fees, Rates and Charges, of the City Code of Ordinances is amended as set forth
20 below. Except as amended herein, the remainder of Appendix A remains in full force and effect:

1 (6) Review of Surface Waters and Wetlands (Sec. 30-300) and Review of Regulated Natural
2 and Archaeological Resources (Sec. 30-310). Note: only one fee will be charged for reviewing
3 both surface waters and wetlands and regulated natural and archaeological resources.

4 a. Basic review.....no fee

5 b. Level 1 review500.00

6 c. Level 2 review2,100.00

7 d. Optional binding resource determination of regulated natural and archaeological
8 resources500.00

9 e. Optional binding resource determination update for regulated sinkholes and listed
10 species\$125.00

11 f. Optional binding resource determination update for changes that could alter the
12 presence and location of resources250.00

13 **Section 5.** It is the intention of the City Commission that the provisions of sections 1
14 through 4 of this ordinance shall become and be made a part of the Code of Ordinances of the
15 City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be
16 renumbered or relettered in order to accomplish such intentions.

17 **Section 6.** If any word, phrase, clause, paragraph, section or provision of this ordinance
18 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
19 finding shall not affect the other provisions or applications of the ordinance which can be given
20 effect without the invalid or unconstitutional provisions or application, and to this end the
21 provisions of this ordinance are declared severable.

1 **Section 7.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
2 such conflict hereby repealed.

3 **Section 8.** This ordinance shall become effective immediately upon final adoption.

4 **PASSED AND ADOPTED** this 6th day of March, 2014.

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EDWARD B. BRADDY, MAYOR

8 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

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KURT M. LANNON,
CLERK OF THE COMMISSION



NICOLLE M. SHALLEY,
CITY ATTORNEY

14 This ordinance passed on first reading this 20th day of February, 2014.

15 This ordinance passed on second reading this 6th day of March, 2014.