

LEGISLATIVE #

120314A

ORDINANCE NO. 120314

An ordinance of the City of Gainesville, Florida, relating to regulated natural and archeological resources and regulated surface waters and wetlands; amending Section 30-182(c) Pre-application conference for concept review; amending Section 30-183(e) Design plat specifications; amending Section 30-190(c) and (i) Cluster subdivisions; amending Section 30-216 Requirements and evaluation of PD; amending Section 30-254(i) commercial tree removal permits; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, notice was given as required by law that the text of the Land Development Code of the City of Gainesville, Florida, be amended and a public hearing was then held by the City Plan Board on August 23, 2012; and

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a public hearing in the City Hall Auditorium, First Floor, City Hall, City of Gainesville; and

WHEREAS, public hearings were held pursuant to the notice described above at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Section 30-182(c)(2)e. of the Land Development Code is amended to read as follows. The remainder of Section 30-182 remains in full force and effect.

Sec. 30-182. - Pre-application conference.

(c) Concept review (Sketch drawing).

(1) The applicant may submit an application for the optional concept subdivision review. The concept review for subdivision of land shall be done by city staff. A sketch shall be submitted by the subdivider for the concept review.

(2) The sketch shall contain the following data:

- 1 a. Approximate tract boundaries;
- 2 b. Approximate location with respect to section lines;
- 3 c. Streets on and adjacent to the tract;
- 4 d. Proposed general street layout;
- 5 e. Environmental features including but not limited to significant topographical and
- 6 physical features including regulated surface waters and wetlands, regulated natural
- 7 and archaeological resources, creeks, uplands, lakes and wetlands, FEMA and
- 8 community determined flood plains, and heritage trees.
- 9 f. Generalized existing vegetation;
- 10 g. Proposed general lot layout and the total number of lots;
- 11 h. Existing buildings on the property;
- 12 i. Land use and zoning designation of the subject property; and
- 13 j. Generalized stormwater management plan.

14 (3) As far as may be practicable on the basis of a sketch, the reviewer will, without
 15 prejudice to the city, advise the subdivider of the extent to which the proposed subdivision
 16 conforms to the standards of this chapter and other applicable ordinances or statutes, and
 17 will discuss possible plat modifications necessary to secure compliance and whether a
 18 traffic study will be required.

19 The review schedule for concept subdivision plans shall follow the same submittal and review
 20 schedule for development plans.

21 **Section 2.** Section 30-183(e)(4) of the Land Development Code is amended to read as
 22 follows. The remainder of Section 30-183 remains in full force and effect.

23 **Sec. 30-183. - Design plat requirements and approval.**

24 (e) *Specifications.*

25 (4) If the proposed subdivision ~~contains~~ includes regulated surface waters or wetlands and
 26 located within the surface waters, wetlands, or uplands district, or regulated natural and
 27 archaeological resources, the subdivider shall be required to submit the following additional
 28 information for those areas designated:

- 29 a. ~~A vegetation overlay at the same scale as the design plat showing special protection~~
- 30 ~~species of plants and animals.~~

- 1 ~~ab.~~ A design plat showing buffer distances between the areas to be developed and
- 2 ~~designated surface water or upland environmental features~~ regulated surface waters
- 3 ~~and wetlands, and regulated natural and archaeological resources.~~
- 4 ~~be.~~ Square footage and percent of total subdivision tract to consist of impervious
- 5 surface.
- 6 ~~cd.~~ A description of strategies to protect or restore environmental features ~~and special~~
- 7 ~~protection species~~ on the subdivision tract.
- 8 ~~de.~~ Projected on-site and off-site water quality impacts to Outstanding Florida Waters,
- 9 OFW, which may result from the proposed subdivision.
- 10 ~~e.~~ Any required set-aside, conservation management area, or mitigation area.

11 **Section 3.** Section 30-190(c)(4) of the Land Development Code is amended to read as

12 follows. The remainder of Section 30-190 remains in full force and effect.

13 **Sec. 30-190. - Cluster subdivisions.**

14 (c) *Approval procedure; design standards; name.*

15 (1) Cluster developments shall be approved in accordance with the procedures established

16 for design plats and final plats under criteria provided in this article. Further, cluster

17 subdivisions involving attached housing in zoning districts that allow such housing types,

18 shall also secure development plan approval in accordance with article VII. Applications for

19 the approval of cluster subdivisions shall be processed in the same manner as design plats.

20

21 (2) Design standards for improvements shall be in accordance with the provisions and

22 regulations of this chapter.

23 (3) The name of a subdivision approved pursuant to this article shall be followed by the

24 words "cluster subdivision" which shall become and be made a part of its official name.

25 (4) Application for cluster subdivision will be classified as either environmental or infill

26 based on the following criteria:

27 *Environmental*— Development site must contain regulated surface waters and

28 wetlands, or regulated natural and archaeological resources, or it must be within a

29 planning parcel that includes regulated natural and archaeological resources. ~~be located~~

30 ~~in the Significant Ecological Communities Districts or have at least one or more of the~~

31 ~~following environmental features: wetlands, creeks, lakes, significant tree~~

32 ~~grouping/upland community, sinkholes, and/or endangered plants and animals species.~~

33 *Infill*—Cluster subdivision that provide for infill development where appropriate,

34 provide for better utilization of land, provide for zero lot line development, and/or

35 promote efficiency through design.

1

2 **Section 4.** Section 30-190 (i)(8) of the Land Development Code is amended to read as
3 follows. The remainder of Section 30-190 remains in full force and effect.

4 **Sec. 30-190. - Cluster subdivisions.**

5 (i) *Criteria for review of cluster subdivisions.* A cluster subdivision shall provide for better
6 utilization of land and for a total environment, which is improved over that which could be
7 achieved under standard regulations. The applicant must present evidence that the proposed
8 cluster subdivision utilizes the land better than a standard subdivision. If the city commission
9 finds that a subdivision will be improved by the reasonable modification of the location, design
10 or configuration of open space, building lots, streets and parking areas, the subdivision will be
11 modified or denied. The following criteria shall guide the city in review of the proposed
12 subdivision and in making any modifications thereof:

13 (1) Individual lots, buildings, streets and parking areas shall be designed and situated to
14 minimize alteration of the natural site features and topography. A minimum of 50 percent of
15 all heritage trees must be protected.

16 (2) Individual lots, buildings and other structures shall be arranged and situated to relate to
17 surrounding properties and to improve the view from, and the view of, buildings, lots and
18 structures.

19 (3) Individual lots, buildings, streets and parking areas, and any accessory structures and
20 improvements located in the cluster open space, shall be situated to avoid the adverse
21 effects of shadows, noise and traffic on the residents of the site and to minimize the area
22 devoted to motor vehicles.

23 (4) Cluster open space shall include any irreplaceable natural features located on the tract
24 such as, but not limited to, stream beds and adjacent banks, wetlands, flood channels,
25 floodplain areas, major tree groupings and individual trees of significant size.

26 (5) The usability of cluster open space intended for recreation or public use shall be
27 determined by the size, shape, topographic and location requirements of the particular
28 purpose proposed for the open space. Further, such space intended for recreation or public
29 use shall be easily accessible to trail users including the elderly and handicapped, be
30 integrated to form unbroken trail linkages between uses within the subdivision, and take
31 advantage of opportunities to establish off-site linkages to nearby land uses, bikeways,
32 sidewalks and greenways.

33 (6) To the extent practical, lands designated for greenways or other forms of public
34 ownership or access in the conservation, open space or recreation element shall be included
35 as cluster open space and dedicated as specified by subsection 30-187(o).

1 (7) Diversity and originality in lot layout and individual building design shall be
 2 encouraged to achieve the best possible relationship between the development and the land.
 3 Garage doors if forward facing must be set back at least 20 feet from the back of sidewalk
 4 and shall not be forward of the front facade of the building. Sidewalks must be included on
 5 both sides of the street internal to the cluster subdivision.

6 (8) To the extent practical, cluster open space shall contain regulated surface waters and
 7 wetlands, and set-asides of regulated natural and archaeological resources~~designated~~
 8 ~~surface water or upland environmental features.~~

9 (9) When lots abut wetlands or buffer areas, the property owner shall provide a ten-foot
 10 building construction setback from those areas for a construction work area, so that
 11 wetlands and buffer areas are not disturbed during any construction process.
 12

13 **Section 5.** Section 30-216(7) of the Land Development Code is amended to read as

14 follows. The remainder of Section 30-216 remains in full force and effect.

15 **Sec. 30-216. - Requirements and evaluation of PD.**

16 The PD report shall address each item in the subsections below. In considering a proposed PD for
 17 approval, the city plan board and the city commission shall evaluate the proposal in consideration
 18 of these criteria:

19 (1) Conformance with the PD objectives and the comprehensive plan. No development
 20 plan may be approved unless it is consistent with the objectives set forth in section 30-
 21 211(b), and the city's comprehensive plan, future land use map and concurrency
 22 management system.

23 (2) Concurrency. The proposed PD must meet the level of service standards adopted in the
 24 comprehensive plan. Proof of meeting these standards shall exist in the form of a certificate
 25 of concurrency exemption, certificate of preliminary or final concurrency (as applicable at
 26 the particular review stage), or certificate of conditional concurrency reservation.

27 (3) Internal compatibility. All land uses proposed within a PD must be compatible with
 28 other proposed uses; that is, no use may have any undue adverse impact on any neighboring
 29 use, based on the streetscape, treatment of pedestrian ways and circulation, motor vehicle
 30 circulation, and the separation and buffering of parking areas and sections of parking areas;
 31 the existence or absence of, and the location of, focal points and vistas, open spaces, plazas,
 32 recreational areas and common areas, and use of existing and proposed landscaping; use of
 33 the topography, physical environment and other natural features; use and variety of building
 34 setback or build-to lines, separations and buffering; use and variety of building groupings,
 35 building sizes, architectural styles, and materials; variety and design of dwelling types;
 36 particular land uses proposed, and conditions and limitations thereon; and any other factor

1 deemed relevant to the privacy, safety, preservation, protection or welfare of any proposed
2 use within the PD.

3 (4) External compatibility. All land uses proposed within a PD must be compatible with
4 existing and planned uses of properties surrounding the PD; that is, no internal use may
5 have any avoidable or undue adverse impact on any existing or planned surrounding use,
6 nor shall any internal use be subject to undue adverse impact from existing or planned
7 surrounding uses. An evaluation of the external compatibility of a PD should be based on
8 the following factors: adjacent existing and proposed uses, design of the development,
9 traffic circulation, and density and intensity.

10 (5) Intensity of development. The residential density and intensity of use of a PD shall be
11 compatible with (that is, shall have no undue adverse impact upon) the physical and
12 environmental characteristics of the site and surrounding lands, and they shall comply with
13 the policies and density limitations set forth in the comprehensive plan. Within the
14 maximum limitation of the comprehensive plan, the permitted residential density and
15 intensity of use in a PD may be adjusted upward or downward in consideration of the
16 following factors: the availability and location of public and utility services and facilities;
17 the trip capture rate of development; and the degree of internal and external connectedness
18 of streets.

19 (6) Usable open spaces, plazas and recreation areas. Usable open spaces, plazas and
20 recreation areas provided within a PD shall be evaluated based on conformance with the
21 policies of the comprehensive plan and the sufficiency of such areas to provide appropriate
22 recreational opportunities, protect sensitive environmental areas, conserve areas of unique
23 beauty or historical significance, enhance neighborhood design, and encourage compatible
24 and cooperative relationships between adjoining land uses.

25 (7) Environmental constraints. The site of the PD shall be suitable for use in the manner
26 proposed without hazards to persons either on or off the site from the likelihood of
27 increased flooding, erosion or other dangers, annoyances or inconveniences. Condition of
28 soil, groundwater level, drainage and topography shall all be appropriate to the type, pattern
29 and intensity of development intended. The conditions and requirements of article VIII,
30 environmental management, ~~including surface water, gateway, nature park, greenway,~~
31 ~~uplands, and wellfield overlay districts,~~ must be met.

32 (8) External transportation access. A PD shall be located on, and provide access to, a
33 major street (arterial or collector) unless, due to the size of the PD and the type of uses
34 proposed, it will not adversely affect the type or amount of traffic on adjoining local streets.
35 Access shall meet the standards set in article IX, additional development standards, and
36 chapter 23, streets, sidewalks, and other public places. Connection to existing or planned
37 adjacent streets is encouraged. The trip generation report shall be signed by a professional
38 engineer registered in the state when there is a difference between the traffic report provided
39 by the petitioner and the concurrency test.

40 (9) Internal transportation access. Every dwelling unit or other use permitted in a PD shall

1 have access to a public street either directly or by way of a private road, pedestrian way,
 2 court or other area which is either dedicated to public use or is a common area guaranteeing
 3 access. Permitted uses are not required to front on a dedicated public road. Private roads and
 4 other accessways shall be required to be constructed so as to ensure that they are safe and
 5 maintainable.

6 (10) Provision for the range of transportation choices. Sufficient off-street and on-street
 7 parking for bicycles and other vehicles, as well as cars, shall be provided. The requirements
 8 of article IX, division 2, shall be used as a guide only. Parking areas shall be constructed in
 9 accordance with such standards as are approved by the city commission to ensure that they
 10 are safe and maintainable and that they allow for sufficient privacy for adjoining uses.
 11 When there is discretion as to the location of parking in the project, it is strongly
 12 encouraged that all motor vehicle parking be located at the rear or interior side of buildings,
 13 or both. The design of a PD should, whenever feasible, incorporate appropriate pedestrian
 14 and bicycle accessways so as to provide for a variety of mobility opportunities. Connection
 15 to all sidewalks, greenways, trails, bikeways, and transit stops along the perimeter of the PD
 16 is required. Where existing perimeter sidewalks do not exist, sidewalks shall be provided by
 17 the development.

18 **Section 6.** Section 30-254 (i)(6)(b) of the Land Development Code is amended to read as
 19 follows. The remainder of Section 30-254 remains in full force and effect.

20 **Sec. 30-254. - Permits for tree removal.**

21 (i) *Commercial tree removal permits.* Commercial tree removal permits may be granted for the
 22 removal of trees associated with forestry management, tree harvest and other similar commercial
 23 purposes in accordance with the requirements of this subsection.

24 (6) *Action on application.* Upon receipt of a completed application and following the
 25 notice period specified above, or after the permit has been granted after a hearing under
 26 subsection (i)(5), the city manager, or designee, will issue the commercial tree removal
 27 permit, except as may be modified below, with the following conditions:

28 a. Unless otherwise specified herein, trees will be removed according to best
 29 management practices, as specified in "A Landowner's Handbook for Controlling
 30 Erosion from Forestry Operations," published by the state department of agriculture
 31 and consumer services, division of forestry, or subsequent manuals on file with the
 32 public works department.

33 b. No regulated tree shall be removed and no logging road shall be constructed:

- 34 1. Within 35 feet of the break in slope at the top of the bank of any creek;
- 35 2. Within 35 feet of the landward extent of a lake or wetland; or

1 3. Within a designated conservation management area, ~~the delineated~~
2 ~~boundaries of uplands as defined by this chapter.~~

3 This requirement may be waived where crossing of the creek by a bridge is
4 necessary to access the property where trees are to be removed. Such waiver shall
5 be limited to the area necessary to construct the bridge. For the purposes of this
6 subsection, creeks shall be those identified by the surface water district provisions
7 of article VIII.

8 c. Following removal of the trees granted by the permit, the petitioner shall within
9 18 months provide for reforestation of the site by one of the following means:

10 1. Where forestry or other agricultural use of the property is to continue in the
11 conservation or agriculture districts, pine seedlings or other forestry or
12 agricultural crops, including pasture, may be planted.

13 2. Where forestry use is to be abandoned or in districts where it is not a
14 permitted use, replacement of trees shall be required as per section 30-260. This
15 requirement may be waived when an adequate number of trees of appropriate size
16 and species remain on-site to meet this requirement and are certified by the city
17 manager or designee to be in good health and free from damage caused by harvest
18 operation which may result in the death of the tree.

19 d. All invasive nonnative tree species listed in subsection 30-251(7)(g) may be
20 required to be removed from the property.

21 **Section 7.** It is the intention of the City Commission that the provisions of Sections 1
22 through 6 of this ordinance shall become and be made a part of the Code of Ordinances of the
23 City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be
24 renumbered or relettered in order to accomplish such intentions.

25 **Section 8.** If any word, phrase, clause, paragraph, section or provision of this ordinance
26 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
27 finding shall not affect the other provisions or applications of this ordinance that can be given
28 effect without the invalid or unconstitutional provision or application, and to this end the
29 provisions of this ordinance are declared severable.

